

1 DANIEL J. O'HANLON, State Bar No. 122380  
REBECCA R. AKROYD, State Bar No. 267305  
2 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation  
3 400 Capitol Mall, 27th Floor  
Sacramento, California 95814  
4 Telephone: (916) 321-4500  
Facsimile: (916) 321-4555

5  
6 Attorneys for San Luis & Delta-Mendota Water  
Authority

7 JON D. RUBIN, State Bar No. 196944  
General Counsel  
8 SAN LUIS & DELTA-MENDOTA WATER AUTHORITY  
400 Capitol Mall, 28th Floor  
9 Sacramento, CA 95814  
Telephone: (916) 321-4519  
10 Facsimile: (209) 826-9698

11 Attorney for San Luis & Delta-Mendota Water  
Authority

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BEFORE THE

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CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

16

17 In re State Water Resources Control Board  
Petition Requesting Changes in Water Rights  
18 of the Department of Water Resources and  
U.S. Bureau of Reclamation for the California  
19 WaterFix Project.

**SAN LUIS & DELTA-MENDOTA WATER  
AUTHORITY'S OBJECTIONS TO PART  
1B PARTIES' CASES IN CHIEF**

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21

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23

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25

26

27

28

**TABLE OF CONTENTS**

**Page**

1

2

3 I. INTRODUCTION..... 1

4 II. BACKGROUND..... 1

5 III. LEGAL STANDARDS..... 1

6 A. Relevance ..... 2

7 B. Expert Testimony ..... 2

8 C. Inadmissible Lay Person Opinion ..... 2

9 D. Foundation..... 3

10 E. Probative Value and Undue Consumption of Time ..... 3

11 F. Hearsay ..... 3

12 G. Testimony Regarding Questions of Law..... 3

13 IV. ARGUMENT ..... 4

14 A. Exhibits of AquAlliance, CSPA , et al. .... 6

15 1. Testimony of Barbara Vlamis (Exhibit No. AQUA-1) ..... 6

16 2. Testimony of Jim Brobeck (Exhibit No. AQUA-3) ..... 8

17 3. Testimony of Kit H. Custis (Exhibit No. AQUA-5) ..... 10

18 B. Exhibits of Antioch ..... 10

19 1. Testimony of Ron Bernal (Exhibit No. Antioch-100)..... 10

20 2. Testimony of Susan Paulsen (Exhibit No. Antioch-200) ..... 11

21 C. Exhibits of ARWA – American River Water Agencies Group..... 12

22 1. Testimony of Craig Addley (Exhibit No. ARWA-201) ..... 12

23 D. Exhibits of BALMD, et al. (Delta Flood Control Group) ..... 13

24 1. Testimony of Gilbert Cosio (Exhibit No. DFCG-1) ..... 13

25 E. Exhibits of Brentwood ..... 15

26 1. Testimony of Susan Paulsen (Exhibit No. Brentwood-100) ..... 15

27 F. Exhibits of BWGWD – Biggs-West Gridley Water District ..... 16

28 1. Testimony of Eugene Massa, Jr. (Exhibit No. BWGWD-1)..... 16

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

G. Exhibits of CDWA et al. – South Delta Water Agency, et al. ....16

1. Testimony of Linda Turkatte (Exhibit No. SDWA-42) .....16

2. Testimony of Terry Pritchard (Exhibit No. SDWA-92) .....17

3. Testimony of William “Chip” Salmon (Exhibit No. SDWA-111) .....17

4. Testimony of Mark Bacchetti (Exhibit No. SDWA-121) .....18

5. Testimony of Dr. Jeffrey Michael (Exhibit No. SDWA-134).....18

6. Testimony of Dante Nomellini, Sr. (Exhibit No. SDWA-151).....19

H. Exhibits of Clifton Ct. ....21

1. Testimony of Sheldon Moore and Suzanne Womack (Exhibit No. CCLP-21) .....21

I. Exhibits of COSJ, et al. – County of San Joaquin, et al. ....22

1. Testimony of Linda Turkatte (Exhibit No. SJC-002) .....22

J. Exhibits of CSPA, et al. – California Sportfishing Protection Alliance .....23

1. Testimony of Bill Jennings (Exhibit No. CSPA-2).....23

2. Testimony of Chris Shutes (Exhibit No. CSPA-4) .....25

3. Testimony of G. Fred Lee (Exhibit No. CSPA-6).....26

4. Testimony of Thomas Cannon (Exhibit No. CSPA-8) .....28

K. Exhibits of CWD – Carmichael Water District.....30

1. Testimony of Steve Nugent (Exhibit No. CWD-1).....30

L. Exhibits of CWIN – California Water Impact Network .....31

1. Testimony of Arve Sjovold (Exhibit No. CWIN-2).....31

2. Testimony of Ed Whitelaw (Exhibit No. CWIN-5) .....32

M. Exhibits of Deirdre Des Jardins .....34

1. Testimony of Deirdre Des Jardins (Exhibit No. DDJ-108).....34

N. Exhibits of EBMUD.....34

1. Testimony of Eileen M. White (Exhibit No. EBMUD-151).....34

Testimony of Benjamin Bray (Exhibit No. EBMUD-152) .....35

2. Testimony of Xavier J. Irias (Exhibit No. EBMUD-153).....36

1	O.	Exhibits of Folsom .....	38
2		1. Testimony of Marcus Yasutake (Exhibit No. Folsom-1).....	38
3	P.	Exhibits of Friant Water Authority and Participating Members .....	39
4		1. Testimony of Fergus Morrissey (Exhibit No. FWA-58).....	39
5		2. Testimony of Sean Geivet (Exhibit No. FWA-70) .....	39
6		3. Testimony of William Luce (Exhibit No. FWA-79).....	40
7	Q.	Exhibits of GCID – Glenn-Colusa Irrigation District .....	41
8		1. Testimony of Thaddeus Bettner (Exhibit No. GCID-2).....	41
9	R.	Exhibits of Islands, Inc. ....	42
10		1. Testimony of Erik Ringelberg (Exhibit No. II-24) .....	42
11		2. Testimony of Tom Hester (Exhibit No. II-40) .....	42
12		3. Testimony of Bradley Lang (Exhibit No. II-43) .....	43
13	S.	Exhibits of LAND – Local Agencies of North Delta, Bogle Vineyards/DWLC, Diablo Vineyards/DWLC, Stillwater Orchards/DWLC, Islands, Inc., San Joaquin County, San Joaquin County Flood Control and Water Conservation District, Mokelumne River Water and Power Authority, and Daniel Wilson .....	44
14			
15			
16		1. Testimony of Daniel Wilson (Exhibit No. LAND-20) .....	44
17		2. Testimony of Richard Elliot (Exhibit No. LAND-25) .....	45
18		3. Testimony of Russell Van Loben Sels (Exhibit No. LAND-30) .....	46
19		4. Testimony of Josef Tootle (Exhibit No. LAND-35).....	46
20	T.	Exhibits of North Delta CARES/Barbara Daly.....	47
21		1. Testimony of Barbara Daly (Exhibit No. NDC-4).....	47
22		2. Testimony of Mark Pruner (Exhibit No. NDC-6).....	48
23		3. Testimony of Richard Marshall (Exhibit No. NDC-8) .....	49
24		4. Testimony of Steve Haze (Exhibit No. NDC-10) .....	50
25		5. Testimony of Nicky Suard (Exhibit No. NDC-21) .....	50
26	U.	Exhibits of North Delta Water Agency & Member Districts.....	51
27		1. Testimony of Gary Kienlen (Exhibit No. NDWA-3).....	51
28		2. Testimony of Shankar Parvathinathan (Exhibit No. NDWA-5) .....	52

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. Testimony of Melinda Terry (Exhibit No. NDWA-7) .....53

4. Testimony of Steve Mello (Exhibit No. NDWA-9) .....54

5. Testimony of Tom Slater (Exhibit No. NDWA-10).....55

V. Exhibits of PCFFA/IFR – Pacific Coast Federation of Fishermans  
Associations and Institute for Fisheries Resources .....56

1. Testimony of Deirdre Des Jardins (Exhibit No. PCFFA-81).....56

2. Testimony of Patricia Schifferle (Unlabeled PCFFA Exhibit) .....57

W. Exhibits of PCWA.....58

1. Testimony of Einar Maisch (Exhibit No. PCWA-20).....58

X. Exhibits of RTD – Restore the Delta .....60

1. Testimony of Tim Stroshane (Exhibit No. RTD-10) .....60

2. Testimony of Barbara Barrigan-Parrilla (Exhibit No. RTD-20) .....63

3. Testimony of Michael Machado (Exhibit No. RTD-30).....64

4. Testimony of Esperanza Vielma (Exhibit No. RTD-40).....65

5. Testimony of Gary Mulcahy (Exhibit No. RTD-50).....67

6. Testimony of Ixtzel Reynoso (Exhibit No. RTD-60).....67

7. Testimony of Roger Mammon (Exhibit No. RTD-70) .....68

8. Testimony of Xuily Lo (Exhibit No. RTD-80) .....68

Y. Exhibits of Roseville .....69

1. Testimony of Richard Plecker (Exhibit No. Roseville-1) .....69

Z. Exhibits of Sacramento, City of .....70

1. Testimony of James Peifer (Exhibit No. CITYSAC-1) .....70

2. Testimony of Pravani Vandeyar (Exhibit No. CITYSAC-6) .....71

3. Testimony of Bonny L. Starr (Exhibit No. CITYSAC-8).....73

AA. Exhibits of Sacramento Regional County Sanitation District .....73

1. Testimony of Christoph Dobson (Exhibit No. SRCSD-2) .....73

BB. Exhibits of Sacramento Suburban Water District .....74

1. Testimony of Robert Roscoe (Exhibit No. SSWD-1) .....74

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CC. Exhibits of SCWA – Sacramento County Water Agency.....74

1. Testimony of Forrest Williams (Exhibit No. SCWA-3) .....74

2. Testimony of Michael Peterson, P.E. (Exhibit No. SCWA-19).....76

DD. Exhibits of San Juan Water District .....76

1. Testimony of Shauna Lorance (Exhibit No. SJWD-1) .....76

EE. Exhibits of Save the California Delta Alliance, et al.’s Case-in-Chief .....78

1. Testimony of Janet McCleery (Exhibit No. SCDA-22) .....78

2. Testimony of Michael Guzzardo (Exhibit No. SCDA-24) .....79

3. Testimony of Frank Morgan (Exhibit No. SCDA-25) .....80

4. Testimony of Erik Ringelberg (Exhibit No. SCDA-33) .....80

5. Testimony of Tom Burke (Exhibit No. SCDA-35).....81

6. Testimony of Michael Brodsky (Exhibit No. SCDA-48) .....81

FF. Exhibits of South Valley Water Association.....82

1. Testimony of Daniel Vink (Exhibit No. SVWA-4) .....82

GG. Exhibits of Tehama-Colusa Canal Authority & Water Service Contractors  
in Its Service Area .....83

1. Testimony of Jeffrey P. Sutton (Exhibit No. TCCA-1) .....83

HH. Exhibits of Sacramento Valley Water Users.....84

1. Testimony of Walter Bourez (Exhibit No. SVWU-100).....84

V. CONCLUSION .....86

1 **I. INTRODUCTION**

2 The San Luis & Delta-Mendota Water Authority (“Water Authority”) objects to the written  
3 testimony submitted by various parties as part of their cases in chief for Part 1B of the California  
4 WaterFix change petition hearing, as described in further detail below. For these reasons, the Water  
5 Authority requests that the Hearing Officers exclude the testimony, or portions of the testimony, of  
6 specific witnesses.

7 It is the Water Authority’s understanding that once a party has filed written objections to  
8 particular testimony, the party need not repeat the objections at any subsequent point in the California  
9 WaterFix proceeding in order to preserve and maintain the objections. The Water Authority submits  
10 these written objections in reliance on that understanding, while also reserving the Water Authority’s  
11 right to expand upon or further explain its objections or make new objections at the time the parties  
12 move the State Water Board to admit the proposed testimony and exhibits into evidence.

13 **II. BACKGROUND**

14 On September 1, 2016, the parties who had indicated their intent to present cases in chief in  
15 Part 1B of the California WaterFix hearing submitted written testimony and exhibits to support their  
16 cases in chief. The Hearing Officers have defined the key issue for Part 1B of the hearing as whether  
17 “the proposed changes [will] cause injury to any municipal, industrial or agricultural uses of water,  
18 included associated legal users of water.” (Oct. 30, 2015 Notice of Petition and Public Hearing, p.  
19 11.) A number of parties have submitted protests to the proposed changes that allege injury. For  
20 these parties, it is their burden to establish they have a legal right to the water involved, and that the  
21 proposed changes will interfere with that legal right. (See, e.g., Order WR 93-2, 1993 WL 53053, at  
22 \*4 (Jan. 21, 1993); Decision 1651, 2012 WL 5494093, at \*14 (Oct. 16, 2012); Order WR 89-8, 1989  
23 WL 97133, at \*12 (Apr. 20, 1989).) Protestants must rebut the evidence of no injury presented by the  
24 Petitioners or explain why that evidence is unpersuasive. (See Decision 1651, 2012 WL 5494093, at  
25 \*19; Order 95-14, 1995 WL 573329, at \*11 (Sept. 6, 1995).)

26 **III. LEGAL STANDARDS**

27 The California WaterFix hearing is governed by chapter 4.5 of the Administrative Procedure  
28 Act (commencing with section 11400 of the Government Code), sections 801-805 of the Evidence

1 Code, and section 11513 of the Government Code. (Cal. Code Regs., tit. 23, § 648(b); see also Oct.  
2 30, 2015 Hearing Notice, Enclosure D.) The listed provisions set requirements for admissible  
3 evidence including regarding relevance, expert testimony, hearsay evidence, and foundation.

4 **A. Relevance**

5 Government Code section 11513(c) states: “Any relevant evidence shall be admitted if it is the  
6 sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs,  
7 regardless of the existence of any common law or statutory rule which might make improper the  
8 admission of the evidence over objection in civil actions.” Under this standard, “the evidence must be  
9 relevant and reliable.” (*Aengst v. Board of Medical Quality Assurance* (1980) 110 Cal.App.3d 275,  
10 283.) The Hearing Officers have indicated that Part 1 of the California WaterFix hearing is limited to  
11 addressing effects of the Change Petition on municipal, industrial, and agricultural (human) uses of  
12 water, including associated legal users of water. Below, the Water Authority presents objections to  
13 proposed testimony that is not relevant to, or not reliable, or both.

14 **B. Expert Testimony**

15 Evidence Code section 801 provides that “[i]f a witness is testifying as an expert, his testimony  
16 in the form of an opinion is limited to such an opinion as is: (a) Related to a subject that is sufficiently  
17 beyond common experience that the opinion of an expert would assist the trier of fact; and (b) Based  
18 on matter (including his special knowledge, skill, experience, training, and education) perceived by or  
19 personally known to the witness or made known to him at or before the hearing, whether or not  
20 admissible, that is of a type that reasonably may be relied upon by an expert in forming an opinion  
21 upon the subject to which his testimony relates, unless an expert is precluded by law from using such  
22 matter as a basis for his opinion.” Testimony from any “expert” witness is thus limited. Any  
23 testimony beyond the scope described in Evidence Code section 801 or based on improper material,  
24 e.g. speculation, is objectionable. (See *Cooper v. Takeda Pharmaceuticals America, Inc.* (2015) 239  
25 Cal.App.4th 555, 577; *Roscoe Moss Co. v. Jenkins* (1942) 55 Cal.App.2d 369, 380.)

26 **C. Inadmissible Lay Person Opinion**

27 Additional limits apply to the testimony of those witnesses who have submitted testimony as  
28 lay persons, and who are not being identified as expert witnesses. Lay witness testimony is “limited to



1 such an opinion as is permitted by law, including but not limited to an opinion that is: (a) Rationally  
2 based on the perception of the witness; and (b) Helpful to a clear understanding of his testimony.”  
3 (Evid. Code, section 800; see SWRCB Order WR 83-2, 1983 WL 17600, at \*2 (Feb. 17, 1983).) Any  
4 lay witness testimony that is unsupported by either the witness’s perception or expertise is  
5 objectionable.

6 **D. Foundation**

7 Evidence Code section 803 allows the Hearing Officers to “exclude testimony in the form of  
8 an opinion that is based in whole or in significant part on matter that is not a proper basis for such an  
9 opinion.” Testimony submitted for Part 1A lacks foundation when the underlying factual basis has  
10 not been submitted or is improper. (See *Lockheed Litigation Cases* (2004) 115 Cal.App.4th 558, 564.)

11 **E. Probative Value and Undue Consumption of Time**

12 Government Code section 11513(f) provides the Hearing Officers with “discretion to exclude  
13 evidence if its probative value is substantially outweighed by the probability that its admission will  
14 necessitate undue consumption of time.” Below, the Water Authority describes objections to  
15 proposed testimony for which any probative value is outweighed by disproportionate time that it will  
16 take to present that evidence.

17 **F. Hearsay**

18 Government Code section 11513(d) provides that “[h]earsay evidence may be used for the  
19 purpose of supplementing or explaining other evidence but over timely objection shall not be  
20 sufficient in itself to support a finding unless it would be admissible over objection in civil actions.”  
21 The State Water Resources Control Board (“Water Board”) has noted that it cannot base a finding  
22 upon hearsay “unless it corroborates non-hearsay evidence.” (See, e.g., Order WR 2004-0004, 2004  
23 WL 367585, at \*16 (Feb. 19, 2004).) Below, the Water Authority objects to hearsay evidence.

24 **G. Testimony Regarding Questions of Law**

25 Neither lay person nor expert witnesses may testify regarding questions of law, including an  
26 application of the law to facts. (See *Summer v. A.L. Gilbert Co.* (1999) 69 Cal.App.4th 1155, 1185-  
27 1187.) Any witness testimony that directly addresses questions of law is objectionable.

1 **IV. ARGUMENT**

2 The Water Authority objects to either portions, or the entirety, of specified testimony  
 3 submitted by various parties, on multiple grounds. The testimony objected to, and the bases for the  
 4 objections, are provided in detail, below, for each witness’s testimony. The table below identifies the  
 5 testimony objected to:

<b>Exh. No.</b>	<b>Witness</b>	<b>Portions of Exhibit Objected To</b>
AQUA-1	Barbara Vlamis	pp. 3-6, 8, 7-10, 11, 12, 13-14
AQUA-3	Jim Brobeck	pp. 2, 3, 4, 5
AQUA-5	Kit H. Custis	Entire exhibit
Antioch-100	Ron Bernal	pp. 8:19-23, 8:24-9:2, 9:3-6, 9:7, 9:10-14
Antioch-200	Susan Paulsen	p. 3:14-16
ARWA-201	Craig Addley	pp. 3:24-25, 4:10-12, 6:23-7:5, 7:13-21, 7:22-8:17
DFCG-1	Gilbert Cosio	pp. 7:17-22, 8:10-13, 8, 9, 10:2-4, 11:13-15
Brentwood-100	Susan Paulsen	p. 2:12-14
BWGWD-1	Eugene Massa, Jr.	p. 5:20-24
SDWA-42	Linda Turkatte	Entire exhibit
SDWA-92	Terry Pritchard	p. 12:15-26
SDWA-111	William “Chip” Salmon	p. 2:4-6
SDWA-121	Mark Bacchetti	p. 4:5-7
SDWA-134	Dr. Jeffrey Michael	pp. 3-7, 10-11, 11-20
SDWA-151	Dante Nomellini, Sr.	pp. 3:1-4, 13:16-21:10, 21:11-30:27, 31:1-38:12, 39:5-8, 39:9-43:10
CCLP-21	Sheldon Moore and Suzanne Womack	pp. 3, 4
SJC-002	Linda Turkatte	Entire exhibit
CSPA-2	Bill Jennings	pp. 6-7, 7, 10, 10-19, 19-24, 24-26, 30
CSPA-4	Chris Shutes	pp. 10, 20, 22
CSPA-6	G. Fred Lee	pp. 12, 13, 17, 19
CSPA-8	Thomas Cannon	pp. 3:19-4:8, 4:18-19, 4:19-5:3, 5:8-10, 6:12-13, 6:16-18, 7:10-13
CWD-1	Steve Nugent	pp. 4:16-20, 5:23-6:3, 6:3-5
CWIN-2	Arve Sjovold	pp. 2-3, 4-5, 6
CWIN-5	Ed Whitelaw	pp. 2, 3, 3-4, 5
DDJ-108	Deirdre Des Jardins	Entire exhibit
EBMUD-151	Eileen M. White	p. 13:7-21
EBMUD-152	Benjamin Bray	p. 23:12-24
EBMUD-153	Xavier J. Irias	Entire exhibit
Folsom-1	Marcus Yasutake	p. 4, ¶ 23
FWA-58	Fergus Morrissey	Entire exhibit
FWA-70	Sean Geivet	Entire exhibit
FWA-79	William Luce	Entire exhibit
GCID-2	Thaddeus Bettner	pp. 5:18-6:8
II-24	Erik Ringelberg	p. 8:10-13
II-40	Tom Hester	pp. 4:22-26, 5:11-13, 6:10-15
II-43	Bradley Lang	pp. 2:28-3:1, 3:26-28
LAND-20	Daniel Wilson	pp. 2:3-11, 2:13-14, 2:14-16, 2:17-19
LAND-25	Richard Elliot	pp. 3:6-9, 3:16
LAND-30	Russell Van Loben Sels	p. 3:20-24

<b>Exh. No.</b>	<b>Witness</b>	<b>Portions of Exhibit Objected To</b>
LAND-35	Josef Tootle	pp. 3:24-25, 5:20-22, 6:8-10, 10:3-6
NDC-4	Barbara Daly	pp. 3, 3-4
NDC-6	Mark Pruner	pp. 2, 3
NDC-8	Richard Marshall	pp. 1, 2
NDC-10	Steve Haze	Entire exhibit
NDC-21	Nicky Suard	p. 1
NDWA-3	Gary Kienlen	pp. 4:13-16, 4:17-5:1, 5:12-15, 7:12-16, 8:21-9:14, 11:13-27, 13:16-21
NDWA-5	Shankar Parvathinathan	pp. 2:24-3:2
NDWA-7	Melinda Terry	pp. 4:2-5, 4:21-25, 5:9-16, 8:5-8
NDWA-8	Steve Mello	pp. 4:24-5:3, 5:6-9, 6:6-7, 7:8-10, 11:1-4
NDWA-10	Tom Slater	pp. 3:13-16, 3:20-22, 4:3-5, 4:6-8
PCFFA-81	Deirdre Des Jardins	Entire exhibit
Unlabeled PCFFA Exhibit	Patricia Schifferle	Entire exhibit
PCWA-20	Einar Maisch	pp. 19:16-20, 20:22-28, 22:6-9, 22:17-24, 22:24-3:1, 23:2-6
RTD-10	Tim Stroshane	pp. 2:9-18, 3:21-4:14, 7:11-8:6, 8:14-22, 9:9-13, 11:13-12:26, 15:1-5, 19:15-20:23, 21:1-24:11, 29:18-25, 30:16-36:18, 27:12-21, 37:23-38:2, 38:9-10, 38:7-41:2
RTD-20	Barbara Barrigan-Parrilla	pp. 31-40
RTD-30	Michael Machado	pp. 7:19-23, 9:27-10:2, 11:24-27, 12:1-6, 12:7-18
RTD-40	Esperanza Vielma	pp. 6:1-7, 6:25-7:2, 7:9-13, 8:23-9:4
RTD-50	Gary Mulcahy	Entire exhibit
RTD-60	Ixtzel Revnoso	pp. 5:1-5, 7:8-11
RTD-70	Roger Mamon	Entire exhibit
RTD-80	Xuily Lo	Entire exhibit
Roseville-1	Richard Plecker	pp. 15, ¶ 54 and 17, ¶¶ 65-66
CITYSAC-1	James Peifer	pp. 9:16-20, 9:21-10:2, 10:16-21, 11:21-25, 12:18-20, 12:20-24
CITYSAC-6	Pravani Vandeyar	pp. 4:16-23, 7:12-15, 9:9-12, 9:19-25, 5:11-19, 6:27-7:11, 7:15-21, 9:12-17, 8:8-12, 9:25-10:2, 10:18-14:1
CITYSAC-8	Bonny L. Starr	pp. 5:25-6:3, 14:4-7, 16:1-9, 20:16-20, 21:5-11, 21:20-23, 23:6-9, 23:10-13, 23:14-23, 23:24-28, 7:6-10, 21:24-22:2, 22:3-7, 22:8-12, 24:2-7
SRCSD-2	Christoph Dobson	pp. 6:9-7:9, 7:12-16
SSWD-1	Robert Roscoe	p. 5, ¶ 27
SCWA-3	Forrest Williams	pp. 10:10-23, 10:28-11:4, 11:5-7, 11:12-15, 12:6-16
SCWA-19	Michael Peterson	pp. 12:24-26, 13:3-14:7, 14:9-23, 14:22-15:3, 15:5-14
SJWD-1	Shauna Lorange	pp. 9, ¶ 38 and 14, ¶ 58
SCDA-22	Janet McCleery	Entire exhibit
SCDA-24	Michael Guzzardo	Entire exhibit
SCDA-25	Frank Morgan	Entire exhibit
SCDA-33	Erik Ringelberg	pp. 2:9-10, 2:15-16, 2:22-24
SCDA-35	Tom Burke	p. 2:22-25
SCDA-48	Michael Brodsky	Entire exhibit

Exh. No.	Witness	Portions of Exhibit Objected To
SVWA-4	Daniel Vink	pp. 2:27-3:2; 3:3-20; 3:21-4:27; 5:2; 5:8-10; 5:20-21; 7:20-23
TCCA-1	Jeffrey P. Sutton	pp. 6:17-22, 7:19-23, 7:24-8:14
SVWU-100	Walter Bourez	pp. 1-2, ¶¶ 6-7, p. 3, ¶ 8, p. 3, ¶¶ 9-11, pp. 3-4, ¶¶ 12-13, pp. 4-5, ¶¶ 17-18, p. 5, ¶ 19

**A. Exhibits of AquAlliance, CSPA , et al.**

**1. Testimony of Barbara Vlamis (Exhibit No. AQUA-1)**

The Water Authority objects to the testimony of witness Barbara Vlamis on the grounds that it is an inadmissible lay person opinion, lacks foundation, is irrelevant, is hearsay evidence and is an inadmissible opinion regarding a question of law.

Specifically, the Water Authority objects to Ms. Vlamis’s testimony regarding groundwater conditions in the Sacramento Valley, contained in Pages 3-6 of the testimony (AQUA-1, at pp. 3-6.). This testimony is an inadmissible lay person opinion because there is no foundation showing that Ms. Vlamis has personal knowledge of such groundwater conditions, nor is there foundation showing that Ms. Vlamis is qualified to provide an expert opinion on groundwater conditions.

In addition, the Water Authority objects to Ms. Vlamis’s testimony that “The increased likelihood of groundwater substitution transfers under the WaterFix will deplete water tables, increase costs to groundwater dependent homes, farms, and businesses, cause more losses to rivers and streams upstream of pumping, mobilize polluted plumes, and impact terrestrial habitat downstream that is essential for wildlife, including special status species, refuges, recreation, tourism, and local economies that benefit from tourism.” (AQUA-1, at p. 8.) This testimony is an inadmissible lay person opinion because it is speculative and there is no foundation showing that Ms. Vlamis has personal knowledge of such groundwater conditions, nor is there foundation showing that Ms. Vlamis is qualified to provide an expert opinion on groundwater conditions. Ms. Vlamis’s opinion regarding increased likelihood of groundwater substitution transfers is also speculative and there is no foundation showing the basis for her assumption regarding future conditions.

The Water Authority also objects to Ms. Vlamis’s testimony regarding projects that Ms. Vlamis believes should have been considered in the environmental review of the WaterFix project, contained in Pages 7-10 of the testimony. (AQUA-1, at pp. 7-10.) This testimony is irrelevant and is

1 an inadmissible lay person opinion. The adequacy of the environmental review for the WaterFix  
2 project is not relevant to the current issue of the change petition’s potential effects on legal users of  
3 water. In addition, there is no foundation showing that Ms. Vlamis has qualified expertise to provide  
4 an opinion regarding the legal adequacy of the environmental review.

5 The Water Authority also objects to Ms. Vlamis’s testimony that “The depletion of streamflow  
6 and the interaction between streams, rivers, and groundwater all seemed ripe for study since our laws  
7 require disclosure, documentation, analysis, and avoidance of impacts. I finally had it pounded into  
8 my head that this was not going to happen almost a decade ago. It is an important factual story” and  
9 the testimony that follows on Page 11 regarding Ms. Vlamis’s communications with DWR and  
10 Reclamation. (AQUA-1, at p. 11.) This testimony is irrelevant because Ms. Vlamis’s prior  
11 communications with DWR and Reclamation are not relevant to the current issue of the change  
12 petition’s potential effects on legal users of water.

13 The Water Authority also objects to Ms. Vlamis’s testimony that “The 2014 work of Mr.  
14 Custis made it clear what the historic and current trends are in AquAlliance Exhibit 62. In addition,  
15 DWR’s own consultant demonstrated that the impacts are significant. Peter Lawson of CH2MHILL  
16 wrote in a 2010 memo to DWR, ‘The effect of groundwater substitution transfer pumping on stream  
17 flow, when considered as a percent of the groundwater pumped for the program, is significant. The  
18 impacts were shown to vary as the hydrology of the periods following the transfer program varied.  
19 The three scenarios presented here estimated effects of transfer pumping on stream flow when dry,  
20 normal, and wet conditions followed transfer pumping. Estimated stream flow losses in the five-year  
21 period following each scenario were 44, 39, and 19 percent of the amount of groundwater pumped  
22 during the four month transfer period.’ The results of the model run was the best prediction available  
23 to Applicants and suggested caution above all else, even though they are preliminary and the model  
24 subject to modification. Instead of implementing this conservative result from 2010 that used a model  
25 the Applicants rely on for other analysis, the Applicants continue to use a 12 or 13 percent deduction  
26 for streamflow and may be causing considerable legal injury to other users and the environment.”  
27 (AQUA-1, at p. 12.) This testimony is irrelevant. The Water Board will not be approving any water  
28 transfers as part of the change petition proceeding. Therefore, Ms. Vlamis’s testimony regarding

1 stream losses from groundwater substitution water transfers is irrelevant to the current issue of the  
2 change petition’s potential effects on legal users of water.

3 The Water Authority also objects to Ms. Vlamis’s testimony regarding land subsidence,  
4 contained on Pages 13-14 of the testimony. (AQUA-1, at pp. 13-14.) This testimony is irrelevant and  
5 is also an inadmissible lay person opinion. Testimony regarding alleged land subsidence impacts is  
6 not relevant to the current issue of the change petition’s potential effects on legal users of water. In  
7 addition, this testimony is an inadmissible lay person opinion because there is no foundation  
8 establishing that Ms. Vlamis has personal knowledge of land subsidence, nor is there foundation  
9 establishing that Ms. Vlamis has the expertise to provide an expert opinion on this subject.

10 Based on the foregoing, the Water Authority objects to the following testimony of Barbara  
11 Vlamis:

- 12 • AQUA-1, at pp. 3-6, 8, 7-10, 11, 12, 13-14

13 **2. Testimony of Jim Brobeck (Exhibit No. AQUA-3)**

14 The Water Authority objects to the testimony of witness Jim Brobeck on the grounds that it is  
15 an inadmissible expert opinion, lacks foundation, is irrelevant, and is hearsay evidence.

16 Specifically, the Water Authority objects to Mr. Brobeck’s testimony that “In other words,  
17 existing demands on the aquifer system are creating an unsustainable aquifer imbalance that will  
18 impact groundwater dependent family farms, urban forests and streamflow that sustains fisheries.”  
19 (AQUA-3, at p. 2.) This testimony is irrelevant and lacks foundation. Current conditions regarding  
20 aquifers is irrelevant to the current issue of the change petition’s potential effects on legal users of  
21 water. In addition, this testimony lacks foundation because there is no foundation showing the current  
22 conditions of the aquifers or the relationship between aquifer conditions and the alleged impacts.

23 In addition, the Water Authority objects to Mr. Brobeck’s testimony that “Valley Oak trees  
24 were once a dominant feature of Central Valley landscapes. Declining groundwater levels and land  
25 use conversion have eliminated the majority of Valley Oak woodlands, but the botanical  
26 characteristics of the species provides us with a model of urban forestry that does not require using  
27 scarce water supplies for irrigation. Urban tree canopy cover results in air quality improvements and  
28 can help local governments in meeting federal clean air standards. Air quality is a concern for all local

1 governments but it is a particular challenge in urban areas where cities and regions struggle to meet air  
2 quality standards. Trees are capable of removing a variety of pollutants from the air. In addition to  
3 these physical benefits, trees also offer significant social, cultural, and spiritual services in urban  
4 areas. The social importance of trees is clearly evidenced by their power and pervasiveness as spiritual  
5 and cultural icons.” (AQUA-3, at p. 3.) This testimony is irrelevant and lacks foundation. The  
6 “social, cultural, and spiritual services” of trees is not relevant to the current issue of the change  
7 petition’s potential effects on legal users of water. In addition, this testimony lacks foundation  
8 because there is no foundation showing what, if any, relationship there is between groundwater levels,  
9 Valley Oak trees, and air quality.

10 The Water Authority also objects to Mr. Brobeck’s testimony that “The Nature Conservancy  
11 analysis indicates that increased demand on aquifer can decrease surface water flows and thereby  
12 cause injury to people that have long-standing rights to divert surface water by depriving them of  
13 water.” (AQUA-3, at p. 4.) This testimony is an inadmissible opinion regarding a legal question and  
14 is also hearsay evidence. The question of injury to legal users of water is a legal question to be  
15 decided by the State Water Board. In addition, this testimony is hearsay evidence because it relies on  
16 hearsay statements as the sole basis to prove the truth of the asserted opinion.

17 The Water Authority also objects to Mr. Brobeck’s testimony that “These streams are  
18 important in the life cycle of salmon which are an important fish to both recreational and commercial  
19 fisherpeople. According to Dr. Paul Maslin, ‘Nonnatal rearing of juvenile chinook salmon was  
20 documented in several intermittent tributaries to the Sacramento river. The data suggests that juvenile  
21 chinook rearing in the tributaries grew faster and were heavier for their length than those rearing in the  
22 mainstem. Faster growing fish smolt earlier...Juvenile chinook entering the tributaries early in the  
23 year, such as winter and spring run, probably derive the most benefit from tributary rearing.’ The  
24 precarious status of the winter/spring run salmon in the region requires attention to what are now  
25 intermittent streams, a critical natural habitat that is dependent on groundwater for baseflow. Humans  
26 have been consuming salmon since time immemorial. Salmon are undeniably a food source of the  
27 highest nutritional value. Depriving humans who eat salmon and humans who fish for salmon of this  
28 precious opportunity, especially native people to whom salmon are central to identity, is injurious to

1 the highest degree.” (AQUA-3, at pp. 4-5.) This testimony is irrelevant and lacks foundation.  
2 Alleged impacts to salmon are not relevant to the current issue of the change petition’s potential  
3 effects on legal users of water. In addition, there is no foundation showing a relationship between the  
4 change petition and tributaries to the Sacramento River. This is also an inadmissible lay person  
5 opinion because there is no foundation showing that Mr. Brobeck has personal knowledge or expertise  
6 regarding fish biology.

7 Based on the foregoing, the Water Authority objects to the following testimony of Jim  
8 Brobeck:

- 9 • AQUA-3, at pp. 2, 3, 4, 5.

### 10 3. Testimony of Kit H. Custis (Exhibit No. AQUA-5)

11 The Water Authority objects to and moves to strike the testimony of witness Kit Custis  
12 contained in Exhibit No. AQUA-5 on the grounds that it is irrelevant.

13 The testimony of Kit Custis is regarding the impacts of water transfers. This testimony is  
14 irrelevant because it is not relevant to the current issue of the potential effect of the change petition on  
15 legal users of water. By approving the change petition, the State Water Board will not approve any  
16 transfers. Instead, any transfers will be separately approved by the Board, and any injury to legal users  
17 of water from water transfers will be the subject of those separate proceedings.

18 Based on the foregoing, the Water Authority objects to and moves to strike Exhibit No.  
19 AQUA-5.

## 20 B. Exhibits of Antioch

### 21 1. Testimony of Ron Bernal (Exhibit No. Antioch-100)

22 The Water Authority objects to the testimony of witness Ron Bernal on the grounds that it  
23 lacks foundation, is irrelevant and is an inadmissible opinion regarding a question of law.

24 Specifically, the Water Authority objects to Mr. Bernal’s testimony that “The impacts  
25 expected from the WaterFix Project include . . .Chloride levels above 250 ppm for longer periods of  
26 time that under present operations.” (Antioch-100 at p. 8:19-23.) This testimony lacks foundation  
27 because there is no foundation showing the basis for the opinion that the project would result in  
28 Chloride levels above 250 ppm for longer periods.



1 In addition, the Water Authority objects to Mr. Bernal’s testimony that “The impacts expected  
2 from the WaterFix Project include . . . Bromide levels above 50, 100 and 300 ug/L for longer  
3 durations than under present operations.” (Antioch-100 at p. 8:24-9:2.) This testimony lacks  
4 foundation because there is no foundation showing the basis for the opinion that the project would  
5 result in Bromide levels above 50, 100 and 300 ug/L for longer durations.

6 The Water Authority also objects to Mr. Bernal’s testimony that “The impacts expected from  
7 the WaterFix Project include . . . Increased treatment costs over present conditions.” (Antioch-100 at  
8 p. 9:3-6.) This testimony lacks foundation because there is no foundation showing the basis for the  
9 opinion that the project would result in increased treatment costs over present conditions.

10 The Water Authority also objects to Mr. Bernal’s testimony that “The impacts expected from  
11 the WaterFix Project include . . . Increased purchases of substitute water over present conditions.”  
12 (Antioch-100 at p. 9:7.) This testimony lacks foundation because there is no foundation showing the  
13 basis for the opinion that the project would result in Increased purchases of substitute water.

14 The Water Authority also objects to Mr. Bernal’s testimony that “Presently, the City is being  
15 impacted by the WaterFix Project because DWR has not yet offered Antioch mitigation from the  
16 WaterFix Project comparable to that granted CCWD in the 2016 CCWD Agreement, as required by  
17 Section 10 [of] the 1968 Agreement between the City and DWR.” (Antioch-100 at p. 9:10-14.) This  
18 testimony is irrelevant, and in an inadmissible opinion regarding a question of law. The issue of what  
19 is required under the 1968 agreement is not relevant to the issue of the effect of the project on legal  
20 users and uses of water. The issue of what the 1968 Agreement requires is a question of law.

21 Based on the foregoing, the Water Authority objects to the following testimony of Ron Bernal:

- 22 • Antioch-100 at pp. 8:19-23, 8:24-9:2, 9:3-6, 9:7, 9:10-14.

23 **2. Testimony of Susan Paulsen (Exhibit No. Antioch-200)**

24 The Water Authority objects to the testimony of witness Susan Paulsen on the grounds that it  
25 incorporates hearsay evidence.

26 The Water Authority objects to Exhibit 202, which is incorporated by reference in Exhibit 200  
27 at 3:14-16, as hearsay. (Antioch-200, at p. 3:14-16.)

28 Based on the foregoing, the Water Authority objects to the following testimony of Susan

1 Paulsen:

2 • Antioch-200, at p. 3:14-16.

3 **C. Exhibits of ARWA – American River Water Agencies Group**

4 **1. Testimony of Craig Addley (Exhibit No. ARWA-201)**

5 The Water Authority objects to the testimony of witness Craig Addley on the grounds that it is  
6 an inadmissible expert opinion and lacks foundation.

7 Specifically, the Water Authority objects to Mr. Addley’s testimony that “The California  
8 WaterFix operations would provide inadequate carryover storage in those years when EOS storage is  
9 extremely low.” (ARWA-201, at p. 3:24-25.) This testimony lacks foundation because there is no  
10 foundation showing what Mr. Addley considers to be “extremely low” EOS storage and there is no  
11 foundation establishing what constitutes “inadequate carryover storage.”

12 In addition, the Water Authority objects to Mr. Addley’s testimony that “The differences in the  
13 modeling/operations assumptions have large relative impacts on the water supply security of  
14 American River water users.” (ARWA-201, at p. 4:10-12.) This testimony lacks foundation because  
15 there is no foundation showing what the impacts “on water supply security” are that Mr. Addley is  
16 referring to. There is also no foundation showing what are differences in modeling/operations  
17 assumptions that Mr. Addley is referring to.

18 The Water Authority also objects to Mr. Addley’s testimony that “If other California WaterFix  
19 deliveries were held static (e.g., Delta water quality and Delta exports) as depicted in the Petitioners’  
20 evidence and testimony, the primary potential operational solution to comply with 2009 BO RPA  
21 would be to greatly increase draw-down of Folsom Reservoir storage compared to modeled storage.  
22 Conservatively, assuming only 50% of the approximately 422 TAF of the water came from Folsom  
23 Reservoir, the results would still have a very large impact on Folsom Reservoir storage. This adverse  
24 effect on Folsom storage is illustrated in Figure 4 of Exhibit ARWA-202.” (ARWA-201, at p. 6:23-  
25 7:5.) This is an inadmissible expert opinion because it is speculative and lacks foundation. Mr.  
26 Addley is speculating regarding what potential operations may occur. There is no foundation showing  
27 what “potential operational” solutions are available to Reclamation. There is also no foundation  
28 showing the basis for the 422,000 acre-feet number that Mr. Addley is presenting.

1 The Water Authority also objects to Mr. Addley’s testimony that “As demonstrated in my  
2 technical memorandum (Exhibit ARWA-202), those operations result in extremely low EOS Folsom  
3 Reservoir storage that would cause injury to American River water user diversions in dry years and  
4 would not include adequate carryover storage to protect against the second year of a drought  
5 sequence. The injury could be greatly exacerbated given that the California WaterFix operations  
6 disclosed at Shasta Reservoir would need to be modified (e.g., storage increased to comply with the  
7 2009 BO RPA) and would require additional water releases from Folsom Reservoir; these WaterFix-  
8 related operational changes would result in further injury to American River water users in many  
9 years.” (ARWA-201, at p. 7:13-21.) This testimony lacks foundation. There is no foundation  
10 showing the bases for Mr. Addley’s operational assumptions regarding how Reclamation would meet  
11 regulatory obligations. There is also no foundation showing what assumptions Mr. Addley is using  
12 regarding what constitutes “adequate carryover storage.” Mr. Addley conclusion regarding injury to  
13 water users is therefore speculative and unsupported by the record.

14 The Water Authority also objects to Mr. Addley’s testimony of conclusions at pages 7 and 8 of  
15 the testimony. (ARWA-201, at pp. 7:22-8-17.) Mr. Addley’s conclusions lack foundation and are not  
16 supported by the material which Mr. Addley relies on. As described above, there is no foundation  
17 showing the bases or assumptions for Mr. Addley’s conclusions regarding potential operations and  
18 possible injury. Mr. Addley’s conclusions are therefore inadmissible expert opinion that is speculative  
19 and lacks foundation.

20 Based on the foregoing, the Water Authority objects to the following testimony of Craig  
21 Addley:

- 22 • ARWA-201, at pp. 3:24-25, 4:10-12, 6:23-7:5, 7:13-21, 7:22-8-17.

23 **D. Exhibits of BALMD, et al. (Delta Flood Control Group)**

24 **1. Testimony of Gilbert Cosio (Exhibit No. DFCG-1)**

25 The Water Authority objects to the testimony of witness Gilbert Cosio on the grounds that it  
26 lacks foundation and is irrelevant.

27 Specifically, the Water Authority objects to Mr. Cosio’s testimony that “Recently, two DWR  
28 flood protection programs, the Non-Urban Levees Evaluation (NULE) and the Flood System Repair

1 Project (FSRP) have identified 106 sites in the North Delta that levees are in need of improvement or  
2 repair. The recommended repairs are either to control seepage or to repair erosion. The sites have been  
3 described as "serious" or "critical" in the FSRP. Thirty-five (35) of these sites are along the main stem  
4 of the Sacramento River in the region where WaterFix intakes are proposed to be constructed.  
5 (DFCG-1, at p. 7:17-22.) This testimony lacks foundation. There is no foundation establishing the  
6 source for the referenced levee information, nor is there foundation showing where the referenced 35  
7 sites are located with respect to the WaterFix intakes.

8 In addition, the Water Authority objects to Mr. Cosio's testimony that "In my experience in the  
9 Delta, I have seen many things happen that defy standard engineering theory and practice that should  
10 be considered prior to completing design of the WaterFix facilities and included as mitigation  
11 requirements in permits issued by state and federal agencies." (DFCG-1, at p. 8:10-13.) This  
12 testimony lacks foundation. There is no foundation establishing what are the "many things" that Mr.  
13 Cosio believes should be considered, nor is there foundation establishing the relationship between Mr.  
14 Cosio's experiences in the Delta with the design of the WaterFix facilities.

15 The Water Authority also objects to Mr. Cosio's testimony that "Several years ago a  
16 subdivision was under construction in Contra Costa County. The developer was required to construct  
17 a levee, and that work involved densification of the foundation. This densification process produced  
18 ground vibrations similar to pile driving. Approximately 3 miles from the project a sandy levee  
19 experienced consolidation and the foundation of two structures on the levee cracked due to the  
20 vibrations. In addition, the project construction area experienced an increase in the number of beaver  
21 dens, which often occur in areas where the beaver can find fractures in a levee that are easier to  
22 penetrate, compared to levees that are uniformly compacted and more resistant to their industrious  
23 digging. In my experience, the combined effects of densification and pile driving create opportunities  
24 for interior levee cracking, which substantially increases the likelihood of levee failure." (DFCG-1, at  
25 p. 8.) The Water Authority also objects to similar testimony regarding construction impacts, at Pages  
26 10 and 11 of the testimony. (DFCG-1, at pp. 10:2-4, 11:13-15.) This testimony is irrelevant and lacks  
27 foundation. The impacts associated with construction activities are irrelevant to the current issue of  
28 the change petition's potential effects on legal users of water. This testimony also lacks foundation

1 because there is no foundation establishing the relationship between the referenced event and the  
2 WaterFix project.

3           The Water Authority also objects to Mr. Cosio’s testimony that “Following are local levee  
4 conditions that provide insight into the type of circumstances and impacts that I anticipate may occur  
5 during construction of the WaterFix project: . . .In the North Delta, seepage is a major concern due to  
6 the sand and gravel levee foundation. For years on Grand Island we monitored a particular seepage  
7 site that would be wet during high water and dry up after the water went down. In 2006, during what  
8 has been described as a 10-year flood, the seepage forces caused water to flow with such intensity that  
9 the water was expressed as an artesian flow shooting about 6-inches in the air landward of the levee  
10 toe. After the river receded, artesian flow did not stop, saturating the soils to the point that the ground  
11 in the area became unfarmable. The only recourse was to acquire an easement from the landowner and  
12 build a large and expensive seepage berm to permanently control the seepage. What happened to  
13 knock this area out of historic equilibrium is unknown and could not be predicted.” (DFCG-1, at p.  
14 9.) This testimony is irrelevant and lacks foundation. The costs or land impacts associated with  
15 seepage are irrelevant to the current issue of the change petition’s potential effects on legal users of  
16 water. This testimony also lacks foundation because there is no foundation establishing the  
17 relationship between the referenced event and the WaterFix project.

18           Based on the foregoing, the Water Authority objects to the following testimony of Gilbert  
19 Cosio:

- 20           •       DFCG-1, at pp. 7:17-22, 8:10-13, 8, 9, 10:2-4, 11:13-15.

21           **E.       Exhibits of Brentwood**

22                   **1.       Testimony of Susan Paulsen (Exhibit No. Brentwood-100)**

23           The Water Authority objects to the testimony of witness Susan Paulsen on the grounds that it  
24 is hearsay evidence.

25           Specifically, the Water Authority objects to Ms. Paulsen’s testimony that “Additional details  
26 of my opinions are provided in the report entitled, ‘Report on Effects of the Proposed California  
27 WaterFix Project on Water Quality at the City of Brentwood,’ (Exhibit Brentwood-102).”  
28 (Brentwood-100, at p. 2:12-14.) This testimony is hearsay evidence because it offers the hearsay

1 Exhibit Brentwood-102 to prove the truth of the testimony of Ms. Paulsen.

2 Based on the foregoing, the Water Authority objects to the following testimony of Ms.  
3 Paulsen:

- 4 • Brentwood-100, at p. 2:12-14

5 **F. Exhibits of BWGWD – Biggs-West Gridley Water District**

6 **1. Testimony of Eugene Massa, Jr. (Exhibit No. BWGWD-1)**

7 The Water Authority objects to the testimony of witness Eugene Massa, Jr. on the grounds that  
8 it is an inadmissible lay opinion and incorporates hearsay.

9 Specifically, the Water Authority objects to Eugene Massa, Jr.’s testimony that “[b]ased upon  
10 the expert work of and testimony by MBK Engineers that has been submitted on behalf of the  
11 Sacramento Valley Water Users (which includes BWGWD), it is my understanding that with the  
12 WaterFix Project constructed and operating, there would be injury to BWGWD and other legal users  
13 of water.” (BWGWD-1 at 5:20-24.) This testimony is hearsay because it relies on a statement by  
14 someone other than the witness to establish the truth regarding modeling runs analyzing impacts of the  
15 project. In addition, Mr. Massa’s related conclusion is inadmissible lay person opinion because there  
16 is no foundation showing that Mr. Massa has personal knowledge or expertise regarding modeling of  
17 project operations or potential impacts to BWGWD or other legal users of water.

18 Based on the foregoing, the Water Authority objects to the following testimony of Eugene  
19 Massa Jr.:

- 20 • BWGWD-1, at p. 5:20-24.

21 **G. Exhibits of CDWA et al. – South Delta Water Agency, et al.**

22 **1. Testimony of Linda Turkatte (Exhibit No. SDWA-42)**

23 The Water Authority objects to the entire testimony of witness Linda Turkatte and moves to  
24 strike the testimony on the grounds that it is irrelevant and will result in undue consumption of time.

25 Ms. Turkatte testimony provides an extensive discussion of present conditions in the Delta and  
26 the occurrence of algal blooms. This testimony is irrelevant to the issues of the potential effects of the  
27 project on legal uses and users of water. In addition, consideration of this extensive testimony  
28 regarding current conditions would result in undue consumption of time in this proceeding.

1 Based on the foregoing, the Water Authority objects to the testimony of Linda Turkatte in  
2 Exhibit No. SDWA-42.

3 **2. Testimony of Terry Pritchard (Exhibit No. SDWA-92)**

4 The Water Authority objects to the testimony of witness Terry Pritchard on the grounds that it  
5 is it is an inadmissible expert and lay opinion and lacks foundation.

6 The Water Authority objects to Mr. Pritchard’s testimony that “In addition it should be noted  
7 that local farmers have reported ‘salt damage’ to their crops immediately after the first or second  
8 irrigation of the season, even when the applied water is below the 0.7 EC standard. They report seeing  
9 a “white” residue on the ground and stressed or even dying seedlings. Not having investigated these  
10 particular occurrences, I cannot of course absolutely determine the cause. However, the circumstances  
11 in the southern Delta suggest that the initial irrigation(s) pushed the salts already in the soil to the root  
12 and to the surface causing both the plant damage and the residue. I mention this as it illustrates the  
13 delicate balance of salt control in the southern Delta. Given this severe problem, it is clear that any  
14 new salts resulting from the WaterFix project should be assumed to cause injury to local agricultural  
15 interests.” (SDWA-92, at p. 12:15-26.) This testimony is an inadmissible expert opinion because it is  
16 based on speculation. Mr. Pritchard is not familiar with the causes of the referenced “salt damage”  
17 and his speculation regarding those causes makes his opinion regarding “injury” to local agricultural  
18 interests unreliable. In addition, Mr. Pritchard’ opinion regarding “injury to local agricultural  
19 interests” lacks foundation because there is no foundation showing the effect of increased salts on a  
20 particular crop.

21 Based on the foregoing, the Water Authority objects to the following testimony of Terry  
22 Pritchard:

- 23 • SDWA-92, at p. 12:15-26.

24 **3. Testimony of William “Chip” Salmon (Exhibit No. SDWA-111)**

25 The Water Authority objects to the testimony of witness William “Chip” Salmon on the  
26 grounds that it is an inadmissible lay person opinion, lacks foundation and is hearsay.

27 The Water Authority objects to Mr. Salmon’s testimony that “Since the early 2000’s, I have  
28 noticed an increasing and substantial damage to the crops resulting from salinity. This problem has

1 been verified by representatives of the Ag Extension Service and by a laboratory analysis done by my  
2 fertilizer representative at Wilbur Ellis Fertilizer (Formally John Taylor Fertilizer).” (SDWA-111, at  
3 p. 2:4-6.) This in an inadmissible lay person opinion because there is no foundation showing that Mr.  
4 Salmon has personal knowledge regarding the cause of any observed damage to crops. This testimony  
5 is also hearsay to the extent it seeks to rely on the representations made by someone other than the  
6 witness.

7 Based on the foregoing, the Water Authority objects to the following testimony of William  
8 “Chip” Salmon:

- 9 • SDWA-111 at p. 2:4-6.

10 **4. Testimony of Mark Bacchetti (Exhibit No. SDWA-121)**

11 The Water Authority objects to the testimony of witness Mark Bacchetti on the grounds that it  
12 is an inadmissible lay person opinion and lacks foundation.

13 The Authority objects to Mr. Bacchetti’s testimony that “This ecosystem is a very delicately  
14 balanced ecosystem and even minor changes will drastically affect water quality, especially in the  
15 south delta.” (SDWA-121, at p. 4:6-7.) This is an inadmissible lay person opinion because there is no  
16 foundation showing that Mr. Bacchetti has personal knowledge or expertise regarding ecosystem  
17 dynamics or water quality effects.

18 Based on the foregoing, the Water Authority objects to the following testimony of Mr.  
19 Bacchetti:

- 20 • SDWA-121, at p. 4:6-7,

21 **5. Testimony of Dr. Jeffrey Michael (Exhibit No. SDWA-134)**

22 The Water Authority objects to the testimony of witness Dr. Jeffrey Michael on the grounds  
23 that is an inadmissible expert opinion, lacks foundation and irrelevant.

24 The Water Authority objects to Section I of Dr. Michael's testimony (pages 3 to 7) to the  
25 extent Dr. Michael expresses opinion about the effects of changes in salinity on plants, or leaching  
26 factors in soils. (SDWA-134, at pp. 3-7 [see, e.g., 3:3-4, 4:21-22].) Dr. Michael is an economist; he is  
27 not qualified to express opinions about the effects of salinity on plants or leaching factors in soils.

28 The Water Authority further objects to Section I of Dr. Michael's testimony as irrelevant to



1 Part 1, because it does not connect supposed economic impacts to any particular water right holder.  
2 Instead, it relates to supposed gross economic impacts to Delta farmers as a whole. It therefore is  
3 impossible to tell whether any allegedly affected farmer will suffer a diminution in water quality  
4 below the level to which he or she is legally entitled.

5 The Water Authority objects to Section IIA (pages 8 to 10) and Section IIC (page 11) of Dr.  
6 Michael's testimony as irrelevant and based on speculation. (SDWA-134, at pp. 8-10, 11.) The  
7 potential effect of construction of WaterFix project on future policy decisions regarding investment in  
8 levees in the Delta is irrelevant to the legal injury inquiry that is the subject of Part 1 this hearing.  
9 And, that effect is based on speculation.

10 The Water Authority objects to Section IIB (pages 10 to 11) of Dr. Michael's testimony,  
11 regarding potential effects of construction on recreation oriented businesses, as irrelevant to Part 1 of  
12 this hearing.

13 The Water Authority objects to Section III (pages 11 to 20) of Dr. Michael's testimony,  
14 regarding the supposed economic infeasibility of the WaterFix project, as irrelevant to Part 1 of this  
15 hearing. (SDWA-134, at pp. 11-20.)

16 Based on the foregoing, the Water Authority objects to the following testimony of Dr.  
17 Michael:

- 18 • SDWA-134, at pp. 3-7, 8-10, 11, 11-20,

19 **6. Testimony of Dante Nomellini, Sr. (Exhibit No. SDWA-151)**

20 The Water Authority objects to the testimony of witness Dante Nomellini, Sr. on the grounds  
21 that it is irrelevant, in an inadmissible opinion regarding a question of law, and lacks foundation.

22 Specifically, the Water Authority objects to Mr. Nomellini's testimony that "The  
23 environmental review for BDCP and now the California Water Fix has been orchestrated to justify the  
24 new Sacramento River Intakes and the Isolated Conveyance Facility. Such action reflect bad faith and  
25 have resulted in inadequate disclosure and analysis of impacts, alternatives and mitigation." (SDWA-  
26 151, at p. 3:1-4.) This testimony is irrelevant and is also an inadmissible opinion regarding a question  
27 of law. The adequacy of the environmental review documents is not relevant to the current issue of  
28 the change petition's potential effect on legal users of water. In addition, the adequacy of the

1 environmental review documents is a question of law.

2         The Water Authority also objects to Mr. Nomellini’s testimony in the section discussing how  
3 allegedly the “The State and Federal agencies with public trust responsibilities including the State  
4 Water Resources Control Board have failed to uphold such trust.” (SDWA-151, at pp. 13:16-21:10.)  
5 This testimony is irrelevant and is an inadmissible opinion regarding a question of law. Mr.  
6 Nomellini’s arguments regarding alleged past failure to uphold the public trust are not relevant to the  
7 issue of the change petition’s potential effects. In addition, Mr. Nomellini’s opinion regarding public  
8 trust responsibilities in an inadmissible opinion regarding a question of law.

9         The Water Authority also objects to Mr. Nomellini’s testimony in the section discussing how  
10 allegedly “The responsibility for mitigation for the CVP and SWP adverse impacts and the affirmative  
11 obligations to legal users of water and to fish and wildlife should not be shifted to others. The  
12 proposed changes illegally shift such burden and violate the obligations so as to harm legal users of  
13 water within and upstream of the Bay-Delta.” (SDWA-151, at pp. 21:11-30:27.) This testimony lacks  
14 foundation and is an inadmissible opinion regarding a question of law. There is no foundation  
15 showing what the referenced “CVP and SWP adverse impacts” are. Nor is there any foundation  
16 showing what the referenced “harm to legal users” is. In addition, Mr. Nomellini’s opinions regarding  
17 legal responsibilities, obligations, and burdens are inadmissible opinions regarding questions of law.

18         The Water Authority also objects to Mr. Nomellini’s testimony in the section discussing how  
19 allegedly “The BDCP/Water Fix has unreasonably defined purposes and need to constrain Delta  
20 ecosystem improvements to alternatives which convert agricultural land to habitat rather than reduce  
21 SWP and CVP export of water needed to provide adequate water flow and quality” (SDWA-151, at  
22 pp. 31:1-38:12.) This testimony is irrelevant because the issues of purpose and need and alternatives  
23 are issues under CEQA and NEPA and are not relevant to the current issue of the change petition’s  
24 potential effect on legal users of water.

25         The Water Authority also objects to Mr. Nomellini’s testimony that “The resulting degradation  
26 in quality from the proposed changes and related mitigation injures legal users in the Delta by  
27 increasing salinity in the water supply thereby limiting reuse, increasing treatment costs and adding  
28 salinity to the soil thereby inhibiting plant growth. The increase in methyl mercury, microcystis,

1 boron and other harmful constituents creates a danger to human and animal health both in the  
2 channels, on the farm and in the urban areas, and contaminates the land and potentially the safety of  
3 crops for human consumption.” (SDWA-151, at p. 39:5-8.) This testimony is an inadmissible lay  
4 person opinion, lacks foundation, and is an inadmissible opinion regarding a question of law. There is  
5 no foundation showing that Mr. Nomellini has personal knowledge or qualified expertise regarding  
6 water quality or regarding human and animal health. There is no foundation showing the bases for  
7 Mr. Nomellini’s opinions regarding the effects of the proposed changes on water quality. In addition,  
8 Mr. Nomellini’s opinion regarding injury to legal users of water is an inadmissible opinion regarding a  
9 question of law.

10 The Water Authority also objects to Mr. Nomellini’s testimony in the section discussing  
11 allegedly how “The Adverse Impacts To Legal Users Cannot Be Adequately Evaluated At This Time  
12 Due To The Lack Of Description And Analysis Of The Project and Its Operations” (SDWA-151, at  
13 pp. 39:9-43:10.) This testimony is an inadmissible lay person opinion and lacks foundation. There is  
14 no foundation showing that Mr. Nomellini has personal knowledge or qualified expertise regarding  
15 the adequacy of the project description or the analyses of the project and its operations.

16 Based on the foregoing, the Water Authority objects to the following testimony of Mr.  
17 Nomellini:

- 18 • SDWA-151 at pp. 3:1-4, 13:16-21:10, 21:11-30:27, 31:1-38:12, 39:5-8, 39:9-43:10

19 **H. Exhibits of Clifton Ct.**

20 **1. Testimony of Sheldon Moore and Suzanne Womack (Exhibit No.  
21 CCLP-21)**

22 The Water Authority objects to the testimony of witnesses Sheldon Moore and Suzanne Moore  
23 Womack (collectively, “Moore”) on the grounds that it is an inadmissible lay person opinion and is  
24 irrelevant.

25 The Water Authority objects to Moore’s testimony that “We know our water quality is bad  
26 now. However when the new north diversions take 9,000 cfs, we believe that the salinity and turbidity  
27 of our water will be worse. We know that any remaining land at Clifton Court, L.P. will be affected by  
28 poor water quality.” (CCLP-21, at p. 3.) This is an inadmissible lay person opinion because there is

1 no foundation establishing that Moore has personal knowledge regarding the potential water quality  
2 effects of the change petition. Nor is there foundation showing that Moore has qualified expertise on  
3 the subject of water quality.

4 The Water Authority also objects to Moore’s testimony that “Once the CVP and SWP were  
5 fully operational and pumping 10,000 cfs and then 15,000 cfs, things changed dramatically. We found  
6 that turbidity and the changes in water levels caused by SWP and CVP operations drove up our  
7 pumping costs and caused our pumps to burn out. Our pumps’ maintenance and replacement have cost  
8 us over \$255,000 since 1984 (CCLP17.) Electrical costs to run the pumps have skyrocketed. Our  
9 farmers spend tens of thousands of dollars on electricity every year. Our floodgates ran without any  
10 electricity. The true cost of changing diversion points were never born by SWP or CVP. Our costs for  
11 the CVP and SWP’s moving our diversion points continue to adversely affect us today over half a  
12 century later.” (CCLP-21, at p. 4.) This is an inadmissible lay person opinion because there is no  
13 foundation establishing that Moore has personal knowledge regarding the potential turbidity or water  
14 level effects of the change petition. Nor is there foundation showing that Moore has qualified  
15 expertise on the subject of hydrodynamics.

16 Based on the foregoing, the Water Authority objects to the following testimony of Sheldon  
17 Moore and Suzanne Moore Womack:

- 18 • CCLP-21, at pp. 3, 4.

19 **I. Exhibits of COSJ, et al. – County of San Joaquin, et al.**

20 **1. Testimony of Linda Turkatte (Exhibit No. SJC-002)**

21 The Water Authority objects to the entire testimony of witness Linda Turkatte and moves to  
22 strike the testimony on the grounds that it is irrelevant and will result in undue consumption of time.

23 Ms. Turkatte testimony provides an extensive discussion of present conditions in the Delta and  
24 the occurrence of algal blooms. This testimony is irrelevant to the issues of the potential effects of the  
25 project on legal uses and users of water. In addition, consideration of this extensive testimony  
26 regarding current conditions would result in undue consumption of time in this proceeding.

27 Based on the foregoing, the Water Authority objects to the testimony of Linda Turkatte in  
28 Exhibit No. SJC-002.

1           **J.       Exhibits of CSPA, et al. – California Sportfishing Protection Alliance**

2                   **1.       Testimony of Bill Jennings (Exhibit No. CSPA-2)**

3           The Water Authority objects to the testimony of witness Bill Jennings on the grounds that it is  
4 an inadmissible lay person opinion, lacks foundation, is irrelevant, is an inadmissible opinion  
5 regarding a question of law, and is hearsay evidence.

6           Specifically, the Water Authority objects to Mr. Jennings’ testimony that “The August 2010  
7 SWRCB report, titled Development of Flow Criteria for the Sacramento-San Joaquin Delta  
8 Ecosystem, found that ‘the best available science suggests that current flows are insufficient to protect  
9 public trust resources’ (SWRCB- 25, p.2) and that ‘recent Delta flows are insufficient to support  
10 native Delta fishes for today’s habitats’ (p. 5). It recommended flow criteria crafted as percentages of  
11 unimpaired flows of: ‘75% of unimpaired Delta outflow from January through June; 75% of  
12 unimpaired Sacramento River inflow from November through June; and 60% of unimpaired San  
13 Joaquin River inflow from February through June’ (p. 5). While the SWRCB deemed these flows as  
14 necessary to protect public trust resources, they have not been subjected to a full public trust balancing  
15 with other beneficial uses.” (CSPA-2, at pp. 6-7.) This testimony is irrelevant because it is not  
16 relevant to the current issue of the change petition’s potential effects on legal users of water.

17           In addition, the Water Authority objects to Mr. Jennings’ testimony that “Regardless of what  
18 happens in this proceeding, future flows and water quality criteria will inevitably be increased and  
19 strengthened over criteria that have proven to be seriously deficient and which have led to significant  
20 degradation of water quality and public trust resources. Where pollutants are already identified as  
21 impairing beneficial uses, such as electrical conductivity, water quality is already degraded and users  
22 of water are already injured.” (CSPA-2, at p. 7.) This testimony is an inadmissible opinion regarding  
23 questions of law and is also speculative and lacks foundation. The question of what constitutes injury  
24 to a legal user of water is a question of law. Mr. Jennings’ opinion regarding future changes to water  
25 quality criteria is speculative and lacks foundation. There is no foundation showing how or to what  
26 extent existing water quality criteria are deficient.

27           The Water Authority also objects to Mr. Jennings’ testimony that “I assisted EWC in the  
28 preparation of its comments on the RDEIR/SDEIS. To simplify matters and avoid extensive cut and

1 paste, I incorporate CSPA-18, pages 53-76 into my testimony, as if contained herein. [¶] I prepared  
2 CSPA-19 (CSPA comments on the Chapter 8 of the EIR/EIS (SWRCB- 4) that addressed the  
3 improper uses of modeling and best professional judgment, reliance upon inadequate data sets and the  
4 numerous analytical deficiencies related to water quality parameters). To simplify matters and avoid  
5 extensive cut and paste, I incorporate CSPA-19, pages 16-50 into my testimony, as if contained  
6 herein.” (CSPA-2, at p. 10.) This testimony is hearsay evidence. Mr. Jennings’ incorporation of  
7 exhibits CSPA-18 and CSPA-19 is hearsay evidence because it relies on hearsay statements to prove  
8 the truth of the matters asserted therein.

9         The Water Authority also objects to Mr. Jennings’ testimony contained in the section titled  
10 “WaterFix Modeling is Technically Deficient and Not Based Upon Best Available Science” contained  
11 in Pages 10-19 of the testimony. (CSPA-2, at pp. 10-19.) This testimony is an inadmissible lay  
12 person opinion. There is no foundation showing that Mr. Jennings has personal knowledge regarding  
13 the WaterFix modeling, nor is there foundation establishing that Mr. Jennings is qualified as an expert  
14 on modeling.

15         The Water Authority also objects to Mr. Jennings’ testimony contained in the section titled  
16 “Adaptive Management is an Excuse to Defer Difficult Decision” contained in Pages 19-24 of the  
17 testimony. (CSPA-2, at pp. 19-24.) This testimony is an inadmissible lay person opinion and is  
18 irrelevant. There is no foundation showing that Mr. Jennings has personal knowledge regarding  
19 ecology and adaptive management principles, nor is there foundation establishing that Mr. Jennings is  
20 qualified as an expert on this subject. Mr. Jennings’ testimony is also irrelevant because Mr.  
21 Jennings’ opinion regarding adaptive management is not relevant to the current issue of the change  
22 petition’s potential effects on legal users of water.

23         The Water Authority also objects to Mr. Jennings’ testimony contained in the section entitled  
24 “The Public Trust is Pertinent to Part One of this Hearing” contained in Pages 24-26 of the testimony.  
25 (CSPA-2, at pp. 24-26.) This testimony is irrelevant because Mr. Jennings’ opinions regarding the  
26 public trust are not relevant to the current issue of the change petition’s potential effects on legal users  
27 of water.

28         The Water Authority also objects to Mr. Jennings’ testimony that CSPA’s “injury will be

1 exacerbated by construction and operation of CWF.” (CSPA-2, at p. 30.) This testimony is an  
2 inadmissible opinion regarding a question of law. The issue of injury to a legal user of water is a  
3 question of law to be determined by the State Water Board.

4 Based on the foregoing, the Water Authority objects to the following testimony of Bill  
5 Jennings:

- 6 • CSPA-2, at pp. 6-7, 7, 10, 10-19, 19-24, 24-26, 30

7 **2. Testimony of Chris Shutes (Exhibit No. CSPA-4)**

8 The Water Authority objects to the testimony of witness Chris Shutes on the grounds that it is  
9 an inadmissible opinion regarding a question of law, hearsay evidence, irrelevant, and lacks  
10 foundation.

11 Specifically, the Water Authority objects to Mr. Shutes’s testimony that “CSPA lacks the  
12 expertise to dig into modeling code, and lacks the resources to hire a consultant with such expertise. It  
13 is beyond my current personal expertise and resources to dig into even the model output for CWF  
14 from the CalSim II modeling that DWR provided in May to parties in the CWF hearing. For my  
15 testimony regarding reservoir operations, I therefore rely on the written and oral testimony of DWR  
16 and the Bureau in this proceeding, on statements their representatives made on cross examination in  
17 this proceeding, and on documentation and analysis that DWR and the Bureau have provided in their  
18 NEPA and CEQA documents in support of CWF and its predecessor, the “Bay-Delta Conservation  
19 Plan” (BDCP). From these combined sources, I believe it is possible to draw inferences about why  
20 CWF will injure legal users of water that in some cases were not discernible from the NEPA and  
21 CEQA documentation alone.” (CSPA-4, at p. 10.) This testimony is an inadmissible opinion  
22 regarding a question of law. The question of whether the change petition will injure legal users of  
23 water is a legal question to be determined by the State Water Board.

24 In addition, the Water Authority objects to Mr. Shute’s testimony that “Increased risk in  
25 reservoir management under CWF will increase the frequency of temporary urgency change petitions,  
26 whose implementation will injure legal users of water.” (CSPA-4, at p. 20.) This testimony is an  
27 inadmissible expert opinion because it is speculative and is an opinion regarding a question of law.  
28 Mr. Shute’s opinion that the frequency of temporary urgency change petitions will increase is

1 speculative and lacks foundation. Mr. Shute’s opinion regarding injury to legal users of water is an  
2 inadmissible opinion regarding a question of law. The question of whether the change petition will  
3 injure legal users of water is a legal question to be determined by the State Water Board.

4 The Water Authority also objects to Mr. Shute’s testimony that “While the impact of risky  
5 water management on instream uses is not the subject of Part 1 of the WaterFix hearings, one cannot  
6 dismiss instream uses entirely because impacts to those uses are often the mechanism through which  
7 low storage in SWP and CVP north-of-Delta reservoirs initially stress the system and ultimately cause  
8 injury to legal users of water. Sacramento River water temperatures and the management of the Shasta  
9 Reservoir to preserve its cold-water pool during 2014 and 2015 are recent obvious examples.”  
10 (CSPA-4, at p. 22.) This testimony is irrelevant and lacks foundation. Testimony regarding instream  
11 uses is not relevant to the current issue of the change petition’s potential effects on legal users of  
12 water. In addition, there is no foundation showing that reservoir operations in 2014 and 2015 are  
13 related to the WaterFix change petition.

14 Based on the foregoing, the Water Authority objects to the following testimony of Chris  
15 Shutes:

- 16 • CSPA-4, at pp. 10, 20, 22

17 **3. Testimony of G. Fred Lee (Exhibit No. CSPA-6)**

18 The Water Authority objects to the testimony of witness G. Fred Lee on the grounds that it  
19 lacks foundation, is irrelevant and is hearsay evidence.

20 Specifically, the Water Authority objects to Mr. Lee’s testimony that “It is clear that the SJR  
21 DWSC at Turner Cut has high pollutant concentrations/loads that are drawn into the Central Delta  
22 primarily via Turner Cut. The Sacramento River is also drawn into the Central Delta at Turner Cut  
23 where it mixes with the SJR DWSC water. The operation of the proposed WaterFix northern intake  
24 diversion of Sacramento River will reduce the volume/flow of Sacramento River presently available to  
25 dilute the pollutants derived from the SJR DWSC water that enters the Central Delta. The net result is  
26 that with the proposed WaterFix north diversion, the pollutants in Turner Cut will have an increased  
27 adverse impact on Central Delta water quality beneficial uses.” (CSPA-6, at p. 12.) The Water  
28 Authority also objects to the testimony that “The DWR/USBR evaluation of ‘water quality impacts’ of



1 the proposed WaterFix project fails to discuss the fact that the tunnel diversion will at times deprive  
2 the Central Delta of several thousand cfs of Sacramento River water that currently dilutes the SJR  
3 flow and its pollutant loads that enters the Central Delta at Turner and Columbia Cuts.” (CSPA-6, at  
4 p. 12.) This testimony lacks foundation. There is no foundation establishing the pollutant  
5 concentrations/loads that are referenced, nor is there a foundation showing the relationship between  
6 those pollutants and Sacramento River flows.

7 In addition, the Water Authority objects to Mr. Lee’s testimony that “The DWR/USBR  
8 assessment of “Delta water quality impacts” that will be caused by the WaterFix relied on model  
9 predictions of exceedance of water quality standards (objectives) for EC at current water quality  
10 monitoring locations in the Delta. That approach is not reliable for assessing current water quality in  
11 the Delta, much less for evaluating the anticipated impact of altering the amount of Sacramento River  
12 water that enters the Delta channels.” (CSPA-6, at p. 13.) This testimony is an inadmissible expert  
13 opinion because it is based on hearsay evidence that Mr. Lee summarizes in his testimony. Mr. Lee’s  
14 opinion is based on the hearsay evidence of research published by USGS scientists, that is offered as  
15 the sole support for Mr. Lee’s opinion regarding the reliability of modeled water quality impacts.

16 The Water Authority also objects to Mr. Lee’s testimony that “The reduction in dilution of  
17 phosphorus concentration in the Central Delta leads to impaired water quality and adverse  
18 impacts/injuries to the public/users of Central Delta waters. Such uses that stand to be adversely  
19 impacted include fishing, boating, swimming, aesthetic quality of water, owing to increased algae and  
20 aquatic plants, odors, low DO, ag intake screens plugging, sediment toxicity, floating scum, and other  
21 effects of phosphorus and flow alterations.” (CSPA-6, at p. 17.) This testimony is irrelevant and is an  
22 inadmissible expert opinion because it is based on hearsay evidence. The allegations of impacts to  
23 recreational uses is irrelevant to the current issue of the change petition’s potential effects on legal  
24 users of water. In addition, Mr. Lee’s opinion regarding water quality impacts is based on hearsay  
25 evidence that Mr. Lee summarizes in his testimony. Mr. Lee’s opinion is based on the hearsay  
26 evidence of comments submitted by the ISB and a presentation by Dr. Erwin van Nieuwenhuysse.

27 The Water Authority also objects to Mr. Lee’s testimony that “It is well known that relying  
28 only on the exceedance of a limited number of water quality objectives, as has been done by the DWR

1 and USBR in evaluating the impact of the North Delta Sacramento River diversions, is highly  
2 unreliable for evaluating the impact of the diversion on water quality/beneficial uses of the Delta.”  
3 (CSPA-6, at p. 19.) This testimony lacks foundation. There is no foundation establishing the bases  
4 for Mr. Lee’s opinion that relying on exceedances to evaluate water quality impacts is “highly  
5 unreliable.”

6 Based on the foregoing, the Water Authority objects to the following testimony of G. Fred  
7 Lee:

- 8 • CSPA-6, at pp. 12, 13, 17, 19

9 **4. Testimony of Thomas Cannon (Exhibit No. CSPA-8)**

10 The Water Authority objects to the testimony of witness Thomas Cannon on the grounds that it  
11 is an inadmissible expert opinion and lacks foundation.

12 Specifically, the Water Authority objects to Mr. Cannon’s testimony that “A new LTOLTO  
13 BO will likely have new conditions to further protect salmon in the Sacramento River below Shasta. A  
14 probable consequence of these consultations is that less water supply will be available from Trinity  
15 and Shasta Reservoirs. Water supply releases from Shasta will be further constrained by the need to  
16 sustain the cold-water pool in the reservoir. The ability of the CVP to meet Sacramento River  
17 contractor demands will remain uncertain. The ability to meet CVP water demands in the Delta as  
18 well as flow requirements for water temperature in the lower Sacramento River (e.g., Basin Plan water  
19 quality objectives) and Delta outflow is questionable. The potential adverse effects of reduced Shasta-  
20 Trinity water supply on salmon and sturgeon are significant. The future ability of the Shasta-Trinity  
21 Division to meet water supply demands of the WaterFix is therefore in question.” (CSPA-8, at p.  
22 3:19-4:8.) This is an inadmissible expert opinion because it is speculative and lacks foundation. Mr.  
23 Cannon speculates regarding a possible future biological opinion and the consequences of future  
24 endangered species consultations. There is no foundation showing the bases for Mr. Cannon’s  
25 predictions regarding possible future consultations.

26 In addition, the Water Authority objects to Mr. Cannon’s testimony that “WaterFix demands  
27 may aggravate the already compromised Oroville and Folsom water supplies.” (CSPA-8, at p. 4:18-  
28 19.) This is an inadmissible expert opinion because it is speculative and lacks foundation. Mr.

1 Cannon speculates regarding how WaterFix may affect Oroville and Folsom water supplies. There is  
2 no foundation showing the bases for Mr. Cannon’s predictions regarding these possible effects.

3 The Water Authority also objects to Mr. Cannon’s testimony that “Projected WaterFix water  
4 supply benefits from these reservoirs are likely overestimated. Further constraints on the Feather and  
5 American reservoirs are likely from a new LTO BO. The potential effects on beneficial uses in these  
6 two rivers from the WaterFix are likely underestimated.” (CSPA-8, at pp. 4:19-5:3.) This is an  
7 inadmissible expert opinion because it is speculative and lacks foundation. Mr. Cannon speculates  
8 regarding a possible future biological opinion and the consequences of future endangered species  
9 consultations. There is no foundation showing the bases for Mr. Cannon’s conclusion that effects on  
10 the Feather and American rivers are underestimated.

11 The Water Authority also objects to Mr. Cannon’s testimony that “Future adjustments to D-  
12 1641 and LTO BO related to these effects will likely affect projected water supply benefits of the  
13 WaterFix.” (CSPA-8, at p. 5:8-10.) This is an inadmissible expert opinion because it is speculative  
14 and lacks foundation. Mr. Cannon speculates regarding a possible future changes to a biological  
15 opinion and D-1641. There is no foundation showing the bases for Mr. Cannon’s conclusion  
16 regarding the nature of any such possible future adjustments or how they may affect projected water  
17 supply benefits.

18 The Water Authority also objects to Mr. Cannon’s testimony that “Such reductions in outflow  
19 would occur primarily in winter and spring and would represent a significant impact to the Bay’s  
20 water quality and beneficial uses. The potential effect on winter-spring outflow to the Bay is  
21 substantial with respect to many Bay beneficial uses.” (CSPA-8, at p. 6:12-13.) This opinion lacks  
22 foundation. There is no foundation showing what changes Mr. Cannon expects to occur to water  
23 quality, nor is there foundation showing what beneficial uses Mr. Cannon is referring to and what  
24 effects Mr. Cannon expects to those beneficial uses.

25 The Water Authority also objects to Mr. Cannon’s testimony that “Looking more closely at  
26 Delta inflow at Freeport over the past five dry years (2012-2016), one can envision how the WaterFix  
27 tunnels even with bypass rules from Dec-Jun could chop off a substantial portion of winter-spring  
28 uncontrolled flow pulses.” (CSPA-8, at p. 6:16-18.) This is an inadmissible expert opinion because it

1 is speculative and lacks foundation. Mr. Cannon speculates regarding how WaterFix diversions could  
2 affect flow pulses. There is no foundation showing what changes in flow pulses Mr. Cannon expects  
3 under the project, nor does the testimony provide a basis for Mr. Cannon opinion regarding effects on  
4 flow pulses.

5 The Water Authority also objects to Mr. Cannon’s testimony that “In conclusion, the above-  
6 described effects of the WaterFix would have multiyear consequences to all beneficial uses in the  
7 Central Valley and Bay-Delta. The effects will be widespread and significant involving all aspects of  
8 the Valley-Bay-Delta ecosystem, including water supply and water quality.” (CSPA-8, at p. 7:10-13.)  
9 This is an inadmissible expert opinion because it lacks foundation and is not supported by the material  
10 which Mr. Cannon relies on. There is no foundation showing what qualifies as a “significant” effect  
11 on the ecosystem. There is no foundation showing which beneficial uses Mr. Cannon is referring to or  
12 how Mr. Cannon expects the WaterFix diversions to affect those beneficial uses.

13 Based on the foregoing, the Water Authority objects to the following testimony of Thomas  
14 Cannon:

- 15 • CSPA-8, at pp. 3:19-4:8, 4:18-19, 4:19-5:3, 5:8-10, 6:12-13, 6:16-18, 7:10-13.

16 **K. Exhibits of CWD – Carmichael Water District**

17 **1. Testimony of Steve Nugent (Exhibit No. CWD-1)**

18 The Water Authority objects to the testimony of witness Steve Nugent on the grounds that it is  
19 an inadmissible lay opinion, lacks foundation, incorporates hearsay, and includes inadmissible legal  
20 conclusions.

21 Specifically, the Water Authority objects to Steve Nugent’s testimony that “[g]iven the  
22 documented groundwater contamination underlying CWD, surface supplies from the American River  
23 remain critical to the CWD’s longevity to (1) to make up for supplies limited by the contamination;  
24 and (2) reduce hydrogeological gradients that affect contaminant movement that an over-reliance on  
25 groundwater pumping might create.” (CWD-1 at 4:16-20.) This is an inadmissible lay person opinion  
26 because there is no foundation showing that Mr. Nugent has personal knowledge or expertise  
27 regarding groundwater contamination. There is no foundation showing that groundwater  
28 contamination underlies CWD.

1 In addition, the Water Authority objects to the testimony that “[b]ased upon the expert work of  
2 and testimony by MBK Engineers that has been submitted on behalf of the Sacramento Valley Water  
3 Users, it is my understanding that the modeling conducted by Petitioners to determine whether the  
4 WaterFix Project would cause injury to CWD and other legal users of water, is inadequate to  
5 ultimately answer this question.” (CWD-1 at 5:23-6:3.) This testimony is hearsay because it relies on  
6 a statement by someone other than the witness to establish the truth regarding modeling runs  
7 analyzing impacts of the project. In addition, Mr. Nugent’s related conclusions are inadmissible lay  
8 person opinion because there is no foundation showing that Mr. Nugent has personal knowledge or  
9 expertise regarding modeling of project operations or potential impacts to CWD water supplies.

10 The Water Authority also objects to the testimony that “...Petitioners have not met their  
11 burden of showing that the WaterFix Project will not cause injury to CWD and other legal uses of  
12 water.” (CWD-1 at 6:3-5.) The testimony is an inadmissible legal conclusion regarding whether  
13 Petitioners have met their burden in this proceeding.

14 Based on the foregoing, the Water Authority objects to the following testimony of Steve  
15 Nugent:

- 16 • CWD-1, at pp. 4:16-20, 5:23-6:3, and 6:3-5.

17 **L. Exhibits of CWIN – California Water Impact Network**

18 **1. Testimony of Arve Sjovold (Exhibit No. CWIN-2)**

19 The Water Authority objects to the testimony of witness Arve Sjovold on the grounds that it is  
20 irrelevant, lacks foundation, and is an inadmissible lay person opinion.

21 Specifically, the Water Authority objects to Mr. Sjovold’s testimony regarding the alleged  
22 costs to water users in Santa Barbara to pay for the Water Fix project, contained on Pages 2 and 3 and  
23 also Pages 4, 5 and 6 of the testimony. (CWIN-2, at pp. 2-3, 4-5, 6.) The costs to water users is  
24 irrelevant because it is not relevant to the current issue of the potential effects of the change petition  
25 on legal users of water.

26 In addition, the Water Authority objects to Mr. Sjovold’s testimony regarding alleged flaws  
27 with the Water Year Index, contained on Page 3 of the testimony. This is an inadmissible lay person  
28 opinion because there is no foundation showing that Mr. Sjovold has personal knowledge regarding

1 the Water Year Index and there is no foundation showing that Mr. Sjovold has the qualified expertise  
2 to provide an opinion on this topic.

3 The Water Authority also objects to Mr. Sjovold’s testimony regarding the Water Year Index  
4 and regarding CALSIM II and DSM2 modeling, contained on Page 6 of the testimony. This is an  
5 inadmissible lay person opinion because there is no foundation showing that Mr. Sjovold has personal  
6 knowledge regarding the Water Year Index or CALSIM II or DSM2 modeling, and there is no  
7 foundation showing that Mr. Sjovold has the qualified expertise to provide an opinion on this topic.

8 Based on the foregoing, the Water Authority objects to the following testimony of Arve  
9 Sjovold:

10 CWIN-2, at pp. 2-3, 4-5, 6.

11 **2. Testimony of Ed Whitelaw (Exhibit No. CWIN-5)**

12 The Water Authority objects to the testimony of witness Ed Whitelaw on the grounds that it is  
13 an inadmissible expert opinion, lacks foundation, is irrelevant, and is an inadmissible opinion  
14 regarding questions of law.

15 Specifically, the Water Authority objects to Mr. Whitelaw’s testimony that “[i]n economic  
16 terms, injury would materialize as increases in cost or decreases in benefit. For example, the change in  
17 point of diversion would lead to higher costs for farmers or municipalities in the Delta region if they  
18 would have to cope with decreases in water quality or quantity.” (CWIN-5, at p. 2.) This testimony is  
19 an inadmissible opinion regarding questions of law. This testimony also lacks foundation. The  
20 question of what constitutes injury to a legal user of water is a question of law to be determined by the  
21 State Water Board. This testimony also lacks foundation because there is no foundation showing what  
22 are the expected changes in water quality or quantity and what are the associated “higher costs.”

23 In addition, the Water Authority objects to Mr. Whitelaw’s testimony that “To address the  
24 rule’s requirement to show that the proposal would spare all legal users of water from injury, the  
25 petitioners should have described the proposal’s causal sequence of effects and substantiated the  
26 underlying explanations of the effects. They also should have substantiated the risks and uncertainties  
27 associated with these effects. Moreover, they should have evaluated these effects on all of the other  
28 legal users in the Delta region.” (CWIN-5, at p. 3.) This testimony is an inadmissible expert opinion

1 because there is no foundation showing that Mr. Whitelaw is qualified on the subject of analyses of  
2 impacts to legal users of water. This testimony is also an inadmissible opinion regarding the legal  
3 question of what constitutes injury to a legal user of water.

4 The Water Authority also objects to Mr. Whitelaw’s testimony regarding the “tools” that Mr.  
5 Whitelaw believes should have been utilized to analyze the change petition’s point of diversion,  
6 contained on Pages 3-4 of the testimony. (CWIN-5, at pp. 3-4.) This testimony is an inadmissible  
7 expert opinion because there is no foundation showing that Mr. Whitelaw is qualified on the subject of  
8 analyses of water quality or water supply impacts.

9 The Water Authority also objects to Mr. Whitelaw’s testimony that “Based on our review of  
10 Petitioners' testimony, I find they did not show that their proposal would not ‘injure any other legal  
11 users of water.’ Instead, they propose to rely on adaptive management. Their proposal to rely on  
12 adaptive management suffers from four fatal errors, any one of which is sufficient to render their  
13 proposal to use adaptive management irrelevant to the matter at hand. First, their Adaptive  
14 Management Plan ignores the ‘other legal users of water.’ Second, the petitioners don't understand  
15 ‘uncertainty,’ neither the concept nor its consequences, and they compound this gap in their  
16 knowledge by assuming, implicitly and incorrectly, risk neutrality among the other legal users of  
17 water. Third, they ignore the state of the science in developing adaptive management programs. By  
18 doing so, they fail to design a program that would be likely to produce successful outcomes given  
19 ecological and institutional factors at play in the Bay- Delta. Fourth, they fail to detail a sufficient,  
20 long-term funding plan for their Adaptive Management Program.” (CWIN-5, at p. 5.) This testimony  
21 is an inadmissible expert opinion because there is no foundation showing that Mr. Whitelaw is  
22 qualified on the subject of adaptive management, ecology, or hydrology. This testimony is also an  
23 inadmissible opinion regarding the legal question of what constitutes injury to a legal user of water.

24 Based on the foregoing, the Water Authority objects to the following testimony of Ed  
25 Whitelaw:

- 26 • CWIN-5, at pp. 2, 3, 3-4, 5.

27  
28

1           **M.     Exhibits of Deirdre Des Jardins**

2                   **1.        **Testimony of Deirdre Des Jardins (Exhibit No. DDJ-108)****

3           The Water Authority objects to and moves to strike the testimony of witness Deirdre Des  
4 Jardins contained in Exhibit No. DDJ-108 on the grounds that it is an inadmissible lay person opinion  
5 and is hearsay evidence.

6           The testimony of Deirde Des Jardins provides an opinion regarding CALSIM II modeling.  
7 This testimony is an inadmissible lay person opinion because there is no foundation showing that  
8 Deirde Des Jardins has personal knowledge of CALSIM II modeling. Nor is there any foundation  
9 establishing that Deirde Des Jardins is qualified to provide an expert opinion regarding CALSIM  
10 modeling.

11           In addition, those portions of the testimony that are quotes or descriptions of opinions of  
12 experts are hearsay evidence because they are statements by someone other than the witness being  
13 offered to prove the truth of the matter asserted in those statements.

14           Based on the foregoing, the Water Authority objects to and moves to strike Exhibit No. DDJ-  
15 108.

16           **N.     Exhibits of EBMUD**

17                   **1.        **Testimony of Eileen M. White (Exhibit No. EBMUD-151)****

18           The Water Authority objects to a portion of this testimony on the grounds it lacks foundation,  
19 is speculative, is irrelevant to this proceeding, is beyond the witness’s expertise, and the probative  
20 value of which, if any, would unnecessarily consume undue time. The objected to portion of Ms.  
21 White’s testimony regards alleged possible physical effects and damage from construction and  
22 operation of Petitioners’ planned WaterFix facilities if this Petition is granted to EBMUD’s current  
23 Mokelumne Aqueduct pipelines. (See EBMUD-151 at p. 13:7-21.) Ms. White’s testimony of the  
24 alleged possible physical effects to EBMUD facilities is irrelevant because it does not regard injury to  
25 EBMUD’s exercise of its water rights as a result of granting the Petition, but rather speculates on  
26 future effects to EBMUD’s existing facilities.

27           In previous decisions, the State Water Resources Control Board has dismissed protests based  
28 on alleged effects such as those discussed in Ms. White’s testimony as non-cognizable and beyond the



1 scope of the proceeding and the injury to legal user of water inquiry; this Board has stated that these  
2 issues are more appropriately addressed in other forums if any such future damages arise. (See e.g.,  
3 SWRCB Decision-713 at p. 8 [“protestants’ apprehension that injury may result from some future  
4 failure of the applicant’s dam is an insufficient bar to approval of the application.”]; SWRCB  
5 Decision-645 at p. 5 [“application can not be disapproved upon assumption that faulty operation or  
6 failure of the applicant’s diversion or other works will result in injury to downstream vested rights.”];  
7 SWRCB Decision-1043 at p. 3 [dismissing protest to application to appropriate water because alleged  
8 interference of applicant’s proposed dam with a similar dam proposed by protestant was not  
9 cognizable].) Similarly, testimony regarding future potential physical effects of the WaterFix  
10 facilities are irrelevant to the inquiry here and unfounded because they improperly assume that  
11 Petitioners will construct or operate the WaterFix facilities in a negligent or illegal manner if this  
12 Petition is approved. As the Board’s previous decisions have established, such assumed and  
13 speculative future effects are not properly examined in this water rights proceeding, and if any such  
14 effects do occur in the future, then EBMUD may seek redress for damages in other forums. (See e.g.,  
15 SWRCB Decision-1011 at p. 3 [“Since damages to property of the nature are compensable by court  
16 action, this protest should be and is dismissed”].)

17 Furthermore, while Ms. White describes the EBMUD facilities in general, she provides no or  
18 insufficient foundation to support her opinions regarding potential effects of the WaterFix facilities on  
19 the EBMUD facilities. Ms. White provides no specific details and construction plans or engineering  
20 schematics of either EBMUD’s facilities or Petitioners’ proposed twin tunnel facilities – or how they  
21 might affect each other – rendering Ms. White’s opinions without foundation and speculative.

22 Based on the foregoing, the Water Authority objects to the following testimony of Eileen M.  
23 White:

- 24 • EBMUD-151, at p. 13:7-21.

25 **Testimony of Benjamin Bray (Exhibit No. EBMUD-152)**

26 The Water Authority objects to portions of this testimony on the grounds that it is irrelevant,  
27 contains hearsay, speculation, lacks foundation, and is outside the witness’s expertise.

28 Mr. Bray relies on past modeling for the Bay-Delta Conservation Plan (BDCP) to support his

1 assertion that tidal marsh restoration could mitigate reverse flow events at Freeport. (EBMUD-152 at  
2 p. 23:12-24.) This portion of the testimony is hearsay regarding the alleged results of another  
3 modeling effort for the BDCP. The testimony also lacks foundation because Mr. Bray provides no  
4 explanation of the parameters and process used for the BDCP modeling effort he is discussing.  
5 Furthermore, Mr. Bray’s statements regarding the alleged effects of tidal marsh restoration on river  
6 flows are beyond his area expertise and apparently based solely on the BDCP model studies that he  
7 fails to explain, further rendering them speculative and without foundation, because Mr. Bray nowhere  
8 establishes or claims any experience in Delta hydrodynamics or effects of tidal restoration on  
9 estuarine hydrodynamics.

10 Based on the foregoing, the Water Authority objects to the following testimony of Benjamin  
11 Bray:

- 12 • EBMUD-152 at p. 23:12-24.

13 **2. Testimony of Xavier J. Irias (Exhibit No. EBMUD-153)**

14 The Water Authority objects to and moves to strike this testimony in its entirety on the  
15 grounds it lacks foundation, is speculative, is irrelevant to this proceeding, is beyond the witness’s  
16 expertise, and the probative value of which, if any, would unnecessarily consume undue time.

17 Mr. Irias’s testimony regards alleged possible physical effects and damage from construction  
18 and operation of Petitioners’ planned WaterFix facilities if this Petition is granted to EBMUD’s  
19 current Mokelumne Aqueduct pipelines and an alleged future EBMUD project to construct and  
20 operate a large tunnel underneath the Delta, which Mr. Irias calls the “EBMUD Delta Tunnel.”  
21 EBMUD diverts water from the Mokelumne River and Mr. Irias nowhere identifies any change to  
22 EBMUD’s exercise of its Mokelumne River water rights from granting the Petition. Mr. Irias’s  
23 testimony of the alleged possible physical effects to EBMUD facilities is irrelevant because it does not  
24 regard injury to EBMUD’s exercise of its water rights as a result of granting the Petition, but rather  
25 speculates on future effects to EBMUD’s existing facilities and a nonexistent EBMUD tunnel that is  
26 years from construction – if it ever is constructed.

27 Mr. Irias’s testimony regarding future potential physical effects of the WaterFix facilities are  
28 irrelevant to the inquiry here and unfounded because they improperly assume that Petitioners will

1 construct or operate the WaterFix facilities in a negligent or illegal manner if this Petition is approved.  
2 As the Board’s previous decisions have established, such assumed and speculative future effects are  
3 not properly examined in this water rights proceeding, and if any such effects do occur in the future,  
4 then EBMUD may seek redress for damages in other forums. (See, e.g., SWRCB Decision-1011 at p.  
5 3 [“Since damages to property of the nature are compensable by court action, this protest should be  
6 and is dismissed”].)

7 Put plainly, in this proceeding Mr. Irias and EBMUD may not assume that Petitioners will  
8 construct or operate substandard facilities that will damage EBMUD’s facilities and EBMUD may not  
9 complain of alleged impacts to a nonexistent facility (i.e., the EBMUD Delta Tunnel).

10 Furthermore, while Mr. Irias describes the EBMUD facilities with some detail, he provides no  
11 or insufficient foundation to support his opinions regarding potential effects of the WaterFix facilities  
12 on the EBMUD facilities. First, there is insufficient foundation to demonstrate that the so-called  
13 EBMUD Delta Tunnel will ever be constructed, and therefore any alleged effects to it are unfounded  
14 and pure speculation. While EBMUD’s Mokelumne Aqueduct does currently exist in the form of  
15 pipelines across the Delta, Mr. Irias resorts to gross generalizations of possible effects that are again  
16 highly speculative and without foundation. Mr. Irias provides no specific details and construction  
17 plans or engineering schematics of either EBMUD’s facilities or Petitioners’ proposed twin tunnel  
18 facilities, rendering Mr. Irias’s opinions without foundation and speculative.

19 Mr. Irias also is unqualified to opine on the construction and operation of Petitioners’ proposed  
20 facilities and provides no testimony demonstrating expertise in design, engineering, construction, and  
21 maintenance of physical water facility infrastructure equivalent to the Petitioners’ proposed facilities.  
22 He does not state he has ever worked or assisted in design or construction of any such facilities. He  
23 also provides no testimony establishing that he has any special knowledge of structural mechanics,  
24 potential soil disruption, soil settlement, sink holes, and electrical interference from regarding large  
25 water infrastructure facilities.

26 Finally, delving into the physical engineering, design, and construction details of EBMUD’s  
27 current and future facilities and Petitioners’ planned facility would unnecessarily consume an undue  
28 amount of time in this proceeding and is unnecessary given that other forums such as CEQA and

1 NEPA exist to analyze and address these issues.

2 **O. Exhibits of Folsom**

3 **1. Testimony of Marcus Yasutake (Exhibit No. Folsom-1)**

4 The Water Authority objects to the testimony of witness Marcus Yasutake on the grounds that  
5 it is inadmissible lay witness opinion testimony, lacks foundation, is speculative, and incorporates  
6 hearsay.

7 Specifically, the Water Authority objects to Marcus Yasutake’s testimony that “...Folsom and  
8 the others who depend on the M&I intake pipe would have water supply problems because the intake  
9 pipe becomes unsafe to use when there is not enough water in the reservoir above it. When the lake  
10 level is at 330 ft. msl, or about 89,000 acre-feet of water in storage, the existing pumping plant could  
11 incur damaging vortices because too little water would be present above the dam’s M&I raw water  
12 intake. When there is not enough water above the intake to take the place of the water that is being  
13 pumped out, pumping through the intake causes a vortex of air to form, which has a cyclone-like  
14 shape and depth. Because of the vortex, air could be carried into the pipe and ultimately reach the  
15 pumps themselves. Air in the pumps causes cavitation, which in turn causes destructive shock waves  
16 to the pump impellers. Because of these risks, the M&I raw water intake pipe at Folsom Lake  
17 becomes unusable when the reservoir level drops too low, even if the intake is still submerged. Exhibit  
18 Folsom-19, ‘Increasing Water Supply Pumping Capacity at Folsom Dam, January 1996, ESA  
19 Consultants, Inc.’ discusses this phenomenon.” (Folsom-1 at p. 4, ¶ 23.) This is inadmissible lay  
20 person opinion because there is no foundation showing that Mr. Yasutake has personal knowledge or  
21 expertise regarding potential damage to the M&I intake pipe, and it is speculative that the project  
22 would cause the intake pipe to become unsafe or unusable. The testimony is hearsay because it relies  
23 on a statement by someone other than the witness to establish the truth regarding usability of the M&I  
24 intake pipe.

25 Based on the foregoing, the Water Authority objects to the following testimony of Marcus  
26 Yasutake:

- 27 • Folsom-1 at p. 4, ¶ 23.

28

1           **P. Exhibits of Friant Water Authority and Participating Members**

2                   **1. Testimony of Fergus Morrissey (Exhibit No. FWA-58)**

3           The Water Authority objects to the entire testimony of witness Fergus Morrissey on the  
4 grounds that it is irrelevant, lacks foundation, and that its probative value, if any, would be  
5 substantially outweighed by the undue and unnecessary consumption of time in this proceeding.

6           Mr. Morrissey’s testimony does not include any discussion of alleged injuries related to  
7 granting the Petition that is the subject of this proceeding on any legal user of water. Instead, the  
8 witness solely focuses on a description of Friant Division CVP contractor Orange Cove Irrigation  
9 District, its operations, and “efforts taken by the District to respond to water shortages in the Friant  
10 division in recent years, and the impacts of these shortages on the District and its water users.”  
11 (FWA-58 at p. 1.)

12           The events and actions the witness discusses were caused by severe drought and Reclamation’s  
13 operational decisions in 2014 and 2015. None of these events and actions are related to the instant  
14 Petition and are therefore irrelevant and their introduction would unnecessarily waste time. To the  
15 extent the witness’s testimony implies that some relationship between Reclamation’s past operations  
16 and those proposed if the Petition is granted, Mr. Morrissey’s testimony contains absolutely no  
17 discussion supporting any alleged or implied causal relationship between Reclamation’s operations in  
18 2014 and 2015 and CVP operations if the Petition is granted, rendering this testimony speculative and  
19 without foundation.

20                   **2. Testimony of Sean Geivet (Exhibit No. FWA-70)**

21           The Water Authority objects to the entire testimony of witness Sean Geivet on the grounds that  
22 it is irrelevant, lacks foundation, and that its probative value, if any, would be substantially  
23 outweighed by the undue and unnecessary consumption of time in this proceeding.

24           Mr. Geivet’s testimony does not include any discussion of alleged injuries the granting of the  
25 Petition may have on any legal user of water. Instead, the witness solely focuses on a description of  
26 several Friant Division CVP contractors, their operations, and “the actions taken by the Managed  
27 Districts in response to the Friant Division water shortage in 2014 and 2015, and the impacts of that  
28 water shortage on the Managed Districts and their growers.” (FWA-70 at p. 1.) The testimony goes

1 on to discuss several Friant Division contractors, their farming operations, their groundwater supplies,  
2 and various actions (including water transfers and fallowing) that these districts undertook to cope  
3 with the drought conditions and low CVP allocations in 2014 and 2015.

4 The events and actions the witness describes resulted from a severe drought and Reclamation's  
5 operational decisions in 2014 and 2015. None of these events and actions are related to the instant  
6 Petition and are therefore irrelevant and their introduction would unnecessarily waste time. To the  
7 extent the witness's testimony implies that some relationship between Reclamation's past operations  
8 and those proposed if the Petition is granted, Mr. Geivet's testimony contains absolutely no discussion  
9 supporting any alleged or implied causal relationship between Reclamation's operations in 2014 and  
10 2015 and CVP operations if the Petition is granted, rendering this testimony speculative and without  
11 foundation.

### 12 3. Testimony of William Luce (Exhibit No. FWA-79)

13 The Water Authority objects to the entire testimony of witness William Luce on the grounds  
14 that it is irrelevant, lacks foundation, and that its probative value, if any, would be substantially  
15 outweighed by the undue and unnecessary consumption of time in this proceeding.

16 Mr. Luce's testimony does not include any discussion of alleged injuries granting the Petition  
17 may have on any legal user of water. Instead, the witness solely focuses on a description of several  
18 Friant Division CVP contractors, their operations, and "Reclamation's decision to allocate no water to  
19 the Friant Division in 2014 and 2015, Reclamation's release of water from Millerton Lake during  
20 those years for delivery to the Exchange Contractors, and the impact of those actions on Friant  
21 Division water users." (FWA-79 at p. 1.) The testimony goes on to discuss the history of the Friant  
22 Division, the Exchange Contracts, and very general Friant Division operations. The testimony does  
23 not regard any alleged injury from granting the Petition, but instead focuses on CVP operations in  
24 2014 and 2015 under current regulatory and water rights parameters:

25 As shown on Exhibits FWA-81 and FWA-82, in 2014 and 2015 Reclamation released  
26 water from Millerton Lake for delivery to the Exchange Contractors at Mendota Pool.  
27 During those years, at times more water was released from Millerton Lake and  
delivered to the Exchange Contractors than would have been available to them from  
the natural flow of the San Joaquin River.

28 ///

1 As a result, many acres of orchards and vineyards in the Friant Division dies or were  
2 removed, and many acres intended for annual crops were not planted. In addition,  
3 because recharge from the application of water to crops was diminished or in some  
4 areas nonexistent, groundwater elevations fell within the Friant Division. As a result,  
several small towns that rely on groundwater had little or no water available and a  
number of wells used for domestic and agricultural purposes went dry. (FWA-79 at p.  
6.)

5 As the above quote establishes, the events and actions the witness describes and the referenced  
6 exhibits numbers FWA-81 and FWA-82 that regard Millerton Lake release patterns and flows in the  
7 San Joaquin River relate to Reclamation’s operational decisions in 2014 and 2015 under the existing  
8 regulatory regime and Reclamation’s current water rights. None of these events and actions are  
9 related to the instant Petition and are therefore irrelevant and their introduction would unnecessarily  
10 waste time. To the extent the witness’s testimony implies that some relationship between  
11 Reclamation’s past operations and those proposed if the Petition is granted, Mr. Geivet’s testimony  
12 contains absolutely no discussion supporting any alleged or implied causal relationship between  
13 Reclamation’s operations in 2014 and 2015 and CVP operations if the Petition is granted, rendering  
14 this testimony speculative and without foundation.

15 **Q. Exhibits of GCID – Glenn-Colusa Irrigation District**

16 **1. Testimony of Thaddeus Bettner (Exhibit No. GCID-2)**

17 The Water Authority objects to the testimony of witness Thaddeus Bettner on the grounds that  
18 it is an inadmissible lay person opinion, incorporates hearsay, and lacks foundation.

19 Specifically, the Water Authority objects to Thaddeus Bettner’s testimony that “[b]ased upon  
20 the expert work of and testimony by MBK Engineers..., it is my understanding that with the WaterFix  
21 Project constructed and operating, there is an increased risk of injury to GCID and other legal users of  
22 water. In particular, the Bureau would have more opportunities to divert water at the proposed new  
23 North Delta intakes, including water that was previously stored in Shasta Reservoir. As such, if the  
24 Bureau is able to remove more stored water with the WaterFix Project in place, and carryover storage  
25 water levels in Shasta Reservoir are lower than they otherwise would be without the project, the  
26 Bureau could be required to operate Shasta Reservoir in a manner that requires lower releases in order  
27 for the Bureau to meet regulatory requirements (including maintenance of Shasta Reservoir's  
28 coldwater pool). This could adversely impact the Bureau's performance of its Sacramento River

1 Settlement Contract obligations to GCID. In addition, MBK Engineers' analysis indicates that there  
2 would likely be a more frequent occurrence of Term 91 water right curtailments than would otherwise  
3 occur in the absence of the WaterFix Project.” (GCID-2 at 5:18-6:8.) This testimony is hearsay  
4 because it relies on a statement by someone other than the witness to establish the truth regarding  
5 modeling runs analyzing impacts of the project. In addition, Mr. Bettner’s related conclusions are  
6 inadmissible lay person opinion because there is no foundation showing that Mr. Bettner has personal  
7 knowledge or expertise regarding modeling of project operations or potential impacts to GCID or  
8 other legal users of water.

9 Based on the foregoing, the Water Authority objects to the following testimony of Thaddeus  
10 Bettner:

- 11 • GCID-2, at pp. 5:18-6:8.

12 **R. Exhibits of Islands, Inc.**

13 **1. Testimony of Erik Ringelberg (Exhibit No. II-24)**

14 The Water Authority objects to the testimony of witness Erik Ringelberg on the grounds that it  
15 lacks foundation.

16 The Water Authority objects to Mr. Ringelberg’s testimony that “If operational constraints to  
17 protect Delta smelt remain, and are indeed on of the project purposes, the sustained operation of the  
18 North Delta diversions would institutionalize permanent drought-like flow conditions, and therefore  
19 high EC levels in the Delta.” (II-24, at p. 8:10-13.) This testimony lacks foundation. Mr.  
20 Ringelberg’s testimony does not provide a basis for the conclusion that operation of the North Delta  
21 diversions “would institutionalize permanent drought-like flow conditions,” nor does Mr. Ringelberg  
22 explain what constitutes “drought-like flow conditions.”

23 Based on the foregoing, the Water Authority objects to the following testimony of Mr.  
24 Ringelberg:

- 25 • Exhibit II-24, at p. 8:10-13.

26 **2. Testimony of Tom Hester (Exhibit No. II-40)**

27 The Water Authority objects to the testimony of witness Tom Hester on the grounds that it is  
28 an inadmissible lay person opinion, is an inadmissible opinion regarding a question of law, and lacks



1 foundation.

2 Specifically, the Water Authority objects to Mr. Hester’s testimony that “Islands, Inc. is also  
3 concerned about subsidence of the lands affected by the proposal. Island’s Inc.’s properties on Ryer  
4 Island are already below sea level. It is an accepted fact that the groundwater beneath Ryer Island is  
5 hydrogeologically connected directly to the flows of the Sacramento River.” (II-40, at p. 4:22-26.)  
6 This is an inadmissible lay person opinion because there is no foundation showing that Mr. Hester has  
7 either personal knowledge or qualified expertise regarding land subsidence or hydrogeology.

8 In addition, the Water Authority objects to Mr. Hester’s testimony that “The priority of Island  
9 Inc.’s water rights as a riparian right is established through the voluminous documents recently  
10 submitted to the State Water Resources Control Board.” (II-40, at p. 5:11-13.) This is an inadmissible  
11 opinion regarding the question of law of the priority of riparian water rights.

12 The Water Authority objects to Mr. Hester’s testimony that “Farmers, such as Islands, Inc. will  
13 have to reconsider the types of crops they grow and in most case will have to eliminate high dollar  
14 crops in favor of those that are more drought tolerant and less sensitive to salinity. The effect will be  
15 to lessen to eliminate the amount of profit necessary to keep the farms economically viable.” (II-40, at  
16 p. 6:10-15.) This testimony lacks foundation. There is no foundation showing the bases for Mr.  
17 Hester’s opinions regarding assumed changes in water quality or regarding resulting changes in  
18 farming practices.

19 Based on the foregoing, the Water Authority objects to the following testimony of Tom Hester:

- 20 • Exhibit No. II-40, pp. 4:22-26, 5:11-13, 6:10-15.

21 **3. Testimony of Bradley Lang (Exhibit No. II-43)**

22 The Water Authority objects to the testimony of witness Bradley Lang on the grounds that the  
23 testimony lacks foundation and the witness lacks expertise to support the testimony.

24 The Water Authority objects to Mr. Lang’s testimony that “In the long term, we believe the  
25 amounts of water that would be diverted in the Tunnels would seriously impair our ability to continue  
26 exercising our senior water rights and producing high quality grapes in the north Delta.” (Exh. II-43,  
27 at p. 3:26-28.). Mr. Lang’s conclusions regarding the effects of the petition’s proposed changes lack  
28 foundation. Mr. Lang does not provide a basis for his belief that changes proposed in the petition

1 would “seriously impair” the ability to exercise senior water rights and produce high quality grapes.

2 The Water Authority also objects to Mr. Lang’s testimony that “In particular, we are  
3 concerned that the diversions would impose permanent drought conditions in the northern Delta.”  
4 (Exh. II-43, at p. 2:28-3:1.) This testimony lacks foundation. Mr. Lang does not provide basis for his  
5 concern that changes proposed in the petition “would impose permanent drought conditions in the  
6 northern Delta.”

7 Based on the foregoing, the Water Authority objects to the following testimony of Bradley  
8 Lang:

9 • Exh. II-43, at pp. 2:28-3:1, 3:26-28.

10 **S. Exhibits of LAND – Local Agencies of North Delta, Bogle Vineyards/DWLC,**  
11 **Diablo Vineyards/DWLC, Stillwater Orchards/DWLC, Islands, Inc., San**  
12 **Joaquin County, San Joaquin County Flood Control and Water Conservation**  
13 **District, Mokelumne River Water and Power Authority, and Daniel Wilson**

14 **1. Testimony of Daniel Wilson (Exhibit No. LAND-20)**

15 The Water Authority objects to the testimony of witness Daniel Wilson on the grounds that it  
16 lacks foundation and lacks expertise.

17 The Water Authority objects to Mr. Wilson’s testimony that “Changes to water quality  
18 downstream of the proposed intakes are also a serious concern. (See, e.g., DWR-66, pp. 4-6  
19 [discussing 18-19% increase in EC at Emmaton in July and August for all scenarios].) In addition, the  
20 DWR is already proposing dams on Sutter and Steamboat Sloughs during low flow years. If that was  
21 combined with pulling up to 9,000 cfs out of the Sacramento River, it is clear to me that this will  
22 interfere with our ability to continue to irrigate our orchards with high quality water and produce high  
23 quality fruit.” (LAND-20, at p. 2:3-11.) This testimony lacks foundation and lacks expertise to  
24 support the conclusion regarding water quality impacts. No foundation is provided for Mr. Wilson’s  
25 opinion that proposed operations “will interfere with our ability to continue to irrigate our orchards  
26 with high quality water and produce high quality fruit.” Testimony does not provide supporting  
27 expertise for witness’s opinion regarding water quality impacts.

28 The Water Authority also objects to Mr. Wilson’s testimony that “The modeling is inadequate  
and inaccurate by its very nature” (LAND-20, at p. 2:13-14) and that “The Petitioners have made

1 clear the modeling is for comparative purposes only, and cross-examination has revealed serious  
2 problems with even relying on modeling for comparative purposes.” (LAND-20, at p. 2:14-16.) The  
3 testimony does not establish that Mr. Wilson has expertise regarding modeling. The testimony lacks  
4 foundation regarding the bases for Mr. Wilson’s opinions regarding the modeling.

5 The Water Authority also objects to Mr. Wilson’s testimony that “we know the export water  
6 interests will use all the power they have to take as much water as possible regardless of the impacts  
7 on us.” (LAND-20, at p. 2:17-19.) The testimony lacks foundation regarding the bases for Mr.  
8 Wilson’s opinion regarding the actions of “export water interests.”

9 Based on the foregoing, the Water Authority objects to the following testimony of Daniel  
10 Wilson:

- 11 • LAND-20, at pp. 2:3-11, 2:13-14, 2:14-16, 2:17-19.

12 **2. Testimony of Richard Elliot (Exhibit No. LAND-25)**

13 The Water Authority objects to the testimony of witness Richard Elliot on the grounds that it  
14 lacks foundation, is an inadmissible lay witness opinion, and is hearsay.

15 The Water Authority objects to the testimony that “Other water users are also underneath  
16 Intake #5 as well. For instance, the Wurster’s ranch would be taken by the project, and his water rights  
17 would also be made unusable on whatever may remain of his lands after the project was built.  
18 (LAND-57, Intake #5; see also Policy Statement of John Wurster.)” (LAND-25, at p. 3:6-9.) The  
19 testimony is hearsay because it relies on a statement by someone other than the witness to establish the  
20 truth regarding water rights and impacts of the project.

21 The Water Authority also objects to the testimony that “We have a right to this water quality  
22 under both pre-1914 and riparian rights . . .” (LAND-25, at p. 3:16.) The testimony is an  
23 inadmissible legal conclusion regarding the nature of water rights. There is also no foundation  
24 showing the validity of these water rights, or the basis and potential limitations on possible rights to a  
25 specific quality of water under these claimed rights.

26 Based on the foregoing, the Water Authority objects to the following testimony of Richard  
27 Elliot:

28 ///

- 1           •       LAND-25, at pp. 3:6-9, 3:16.

2                   **3.        Testimony of Russell Van Loben Sels (Exhibit No. LAND-30)**

3           The Water Authority objects to the testimony of witness Russell Van Loben Sels on the  
4 grounds that it lacks foundation and is an inadmissible lay witness opinion.

5           The Water Authority objects to Mr. Van Loben Sel’s testimony that “In addition, the example  
6 discussed above highlights the fact that there are many other diversions and irrigation systems that the  
7 project would injure other than those directly under the footprint of the Tunnels/Intakes. Many other  
8 water users who depend on RD water delivery and/or drainage systems will also be adversely affected.  
9 Those other injuries have not been addressed in the evidence submitted by the Petitioners thus far.”  
10 (LAND-30, at p. 3:20-24.) There is no foundation showing what the effects of the project would be  
11 on the referenced diversions and irrigation.

12           Based on the foregoing, the Water Authority objects to the following testimony of Russell Van  
13 Loben Sels:

- 14           •       LAND-30, at p. 3:20-24.

15                   **4.        Testimony of Josef Tootle (Exhibit No. LAND-35)**

16           The Water Authority objects to the testimony of witness Josef Tootle on the grounds that it  
17 lacks foundation, and is an inadmissible expert opinion.

18           Specifically, the Water Authority objects to Mr. Tootle’s testimony that “This obstruction  
19 could affect both water availability as well as water quality.” (LAND-35, at p. 3:24-25.) This is an  
20 inadmissible expert opinion because the testimony does not establish that Mr. Tootle has qualified  
21 expertise regarding water quality. In addition, the opinion lacks foundation because Mr. Tootle does  
22 not identify the basis for his opinion that the project may impact ground water quality.

23           In addition, the Water Authority objects to Mr. Tootle’s testimony that “Given the complex  
24 and sensitive nature of Delta groundwater flow patterns and their critical importance to legal users of  
25 water within the Delta, the potential for injury resulting from the proposed extensive use of slurry  
26 walls is particularly high.” (LAND-35, at p. 5:20-22.) This is an inadmissible expert opinion because  
27 the testimony does not establish that Mr. Tootle has qualified expertise regarding what is important to  
28 legal users of water within the Delta. In addition, the opinion lacks foundation because Mr. Tootle

1 does not identify the basis for his opinion with respect to: (1) the “sensitivity” of groundwater flow  
2 patterns; and (2) the importance of the flow patterns to legal users of water within the Delta.

3 The Water Authority also objects to Mr. Tootle’s testimony that “Mitigating the potential  
4 temporary construction-phase interference with, or alteration of, groundwater resources by  
5 constructing permanent barriers to groundwater flow may prevent a temporary injury, but may just as  
6 likely create a permanent injury.” (LAND-35, at p. 6:8-10.) This is an inadmissible expert opinion  
7 because the testimony does not establish that Mr. Tootle has qualified expertise regarding “injury” to  
8 water rights. In addition, this opinion is inadmissible as an opinion regarding a question of law.

9 The Water Authority also objects to Mr. Tootle’s testimony that “The second factor is that  
10 more problems tend to arise with the construction of larger diameter tunnels. The technical reasons for  
11 this are well understood, and there are many actual examples, such as the Eisenhower Tunnels on I-70  
12 in Colorado and the Alaskan Way Viaduct Replacement Tunnel in Seattle.” (LAND-35, at p. 10:3-6.)  
13 This testimony is inadmissible expert opinion because it is speculative regarding potential problems  
14 with construction. The testimony also lacks foundation because there is no foundation showing the  
15 technical reasons for the asserted likelihood of more problems with larger diameter tunnels, or why  
16 those reasons are applicable to the proposed tunnels for this project.

17 Based on the foregoing, the Water Authority objects to the following testimony of Josef  
18 Tootle:

- 19 • LAND-35, at pp. 3:24-25, 5:20-22, 6:8-10, 10:3-6.

20 **T. Exhibits of North Delta CARES/Barbara Daly**

21 **1. Testimony of Barbara Daly (Exhibit No. NDC-4)**

22 The Water Authority objects to the testimony of witness Barbara Daly on the grounds that it is  
23 an inadmissible lay person opinion that lacks foundation, is irrelevant, and is an inadmissible opinion  
24 regarding questions of law.

25 Specifically, the Water Authority objects to Ms. Daly’s testimony that “I am personally a legal  
26 user of water in the Delta for the last 25 years and myself and my family are likely to be damaged by  
27 disintegration in the water quality caused by seepage or a potential breach in our water well due to the  
28 construction of the California WaterFix.” (NDC-4, at p. 3.) The Water Authority also objects to the

1 testimony that “I believe that water quality of the well through which we obtain potable water for  
2 drinking, showering and daily needs will be seriously compromised during at least the construction  
3 phase and most probably the operational phase of the California WaterFix.” (NDC-4, at p. 3.) This is  
4 an inadmissible lay person opinion that lacks foundation. There is no foundation showing that Ms.  
5 Daly has personal knowledge or qualified expertise regarding potential water quality or regarding the  
6 California WaterFix project.

7           In addition, the Water Authority objects to Ms. Daly’s testimony that “The property I live on  
8 may also be jeopardized through the construction of the coffer dam because the flow in the river will  
9 increase in velocity and scour the levee in front of our house causing serious erosion and potential  
10 flooding. This would make conditions in my residence unfit for continued habitation due to water  
11 contamination potentials and the risk of flood damage. Poor air quality and ongoing excessive noise  
12 pollution are also serious issues. The strong vibrations from pile driving would have the potential of  
13 causing liquifaction of the levee and/or misalignment of our water well in addition to compromising  
14 the foundational structure of our home. These factors would cause injury to myself and my family and  
15 result in the loss of our home, while making much of the North Delta virtually uninhabitable.” (NDC-  
16 4, at p. 3.) This testimony is irrelevant to the current issue of the change petition’s potential effects on  
17 legal users of water.

18           The Water Authority also objects to Ms. Daly’s testimony regarding each person on the North  
19 Delta CARES witness panel and their testimony, contained on Pages 3 and 4 of the testimony. NDC-  
20 4, at p. 3.) This testimony is hearsay evidence of statements by someone other than the witness being  
21 offered to prove the truth of the allegations asserted.

22           Based on the foregoing, the Water Authority objects to the following testimony of Barbara  
23 Daly:

- 24           •       NDC-4, at pp. 3, 3-4.

25           **2.       Testimony of Mark Pruner (Exhibit No. NDC-6)**

26           The Water Authority objects to the testimony of witness Mark Pruner on the grounds that it is  
27 an inadmissible lay person opinion, lacks foundation, and is irrelevant.

28           Specifically, the Water Authority objects to Mr. Pruner’s testimony that “Among other things,

1 CA WaterFix, at proposed Pump Station No. 2, and surrounds, proposes to de-water the site in a  
2 manner which will negatively affect surrounding groundwater wells, including the District's well by  
3 lowering ground water levels, altering ground water flows and altering ground water quality in both  
4 temporary and permanent ways.” (NDC-6, at p. 2.) The Water Authority also objects to the testimony  
5 that “The District is of the opinion that CA WaterFix will lower the water table of its well during the  
6 term of the construction phase of the project to such a point that the District may need to spend  
7 approximately \$5000 or more to retro-fit its well to reach water at the lowered water table.  
8 Additional funds (estimated to be \$20,000 or more) may be required to bring water back to current  
9 water quality standards because of the CA WaterFix project.” (NDC-6, at p. 3.) This testimony is  
10 irrelevant and is an inadmissible lay person opinion that lacks foundation. The potential effects of  
11 construction of the California WaterFix project are not relevant to the current issue of the change  
12 petition’s potential effect on legal users of water. This testimony is also an inadmissible lay person  
13 opinion because there is no foundation showing that Mr. Pruner has either personal knowledge or  
14 qualified expertise regarding hydrology, hydrogeology, or water quality.

15 Based on the foregoing, the Water Authority objects to the following testimony of Mark  
16 Pruner:

- 17 • NDC-6, at pp. 2, 3.

18 **3. Testimony of Richard Marshall (Exhibit No. NDC-8)**

19 The Water Authority objects to the testimony of witness Richard Marshall on the grounds that  
20 it is an inadmissible lay person opinion and lacks foundation.

21 Specifically, the Water Authority objects to Mr. Marshall’s testimony that “The present  
22 proposal will not have sufficient water available to feed it in most years. This fact, based upon DWR  
23 sources, leads those of us who have a senior water right and riparian water rights to conclude that the  
24 only way these tunnels can be filled is to divert water from the senior and riparian right holders. This  
25 will not happen.” (NDC-8, at p. 1.) This testimony is an inadmissible lay person opinion and lacks  
26 foundation. There is no foundation showing that Mr. Marshall has either personal knowledge or  
27 qualified expertise regarding the water availability for the California WaterFix project.

28 In addition, the Water Authority objects to Mr. Marshall’s testimony that “As water

1 availability decreases, farms will have more difficult times being profitable. As profits drop, jobs are  
2 lost. As jobs are lost ancillary businesses lose customers and the incumbent profits. As businesses  
3 fail, less jobs are available. All this points to less population in the Delta. Currently there are about  
4 1,500 people just in the Clarksburg postal area. When the population drops, causing mostly young  
5 people and their families to relocate, there are fewer children in the communities and the schools.  
6 Currently River Delta School District struggles to find funding to attract good teachers and staff. With  
7 less student population comes less funding for the school which paints a dismal picture for the  
8 school.” (NDC-8, at p. 2.) This testimony is irrelevant and lacks foundation. The economic impacts  
9 of decreased water availability are not relevant to the current issue of the change petition’s potential  
10 effects of legal users of water. There is also no foundation showing the relationship between the  
11 change petition and any decrease in water availability.

12 Based on the foregoing, the Water Authority objects to the following testimony of Richard  
13 Marshall:

- 14 • NDC-8, at pp. 1, 2.

15 **4. Testimony of Steve Haze (Exhibit No. NDC-10)**

16 The Water Authority objects to and moves to strike the testimony of witness Steve Haze  
17 contained in Exhibit No. NDC-10 on the grounds that it is irrelevant and lacks foundation.

18 Mr. Haze’s testimony provides his opinion regarding California WaterFix based upon a  
19 number of financial, technical, socioeconomic and environmental factors. The factors discussed in  
20 Mr. Haze’s testimony are irrelevant to the current issue of the change petition’s potential effects on  
21 legal users of water. In addition, the testimony lacks foundation because there is no foundation  
22 showing that Mr. Haze has either the personal knowledge or qualified expertise regarding the details  
23 of the California WaterFix project, or economics or environmental sciences.

24 Based on the foregoing, the Water Authority objects to and moves to strike the testimony of  
25 witness Steve Haze contained in Exhibit No. NDC-10.

26 **5. Testimony of Nicky Suard (Exhibit No. NDC-21)**

27 The Water Authority objects to the testimony of witness Nicky Suard on the grounds that it is  
28 an inadmissible lay person opinion that lacks foundation.



1 Specifically, the Water Authority objects to Ms. Suard’s testimony that “I believe that it can  
2 be shown that a major cause of the groundwater degradation is the many soils borings, channel bench  
3 installations, restoration sites and other actions under the CALFED/BDGP process. It is a known fact  
4 that disturbance of soils can affect shallow drinking water aquifers. In addition, due to the low flows  
5 from the Sacramento River into the Delta, and Steamboat Slough in particular, aquifer recharge did  
6 not occur, further exasperating the situation. Decline in drinking water quality of wells in the North  
7 Delta have coincided with the increase of exports from the Delta, and increase of diversions of  
8 Sacramento River water north of the Delta.” (NDC-21, at p. 1.) This testimony is an inadmissible lay  
9 person opinion that lacks foundation. There is no foundation showing that Ms. Suard has either  
10 personal knowledge or qualified expertise regarding groundwater quality or regarding the hydrology  
11 and hydrodynamics of the Delta.

12 Based on the foregoing, the Water Authority objects to the following testimony of Nicky  
13 Suard:

- 14 • NDC-21, at p. 1.

15 **U. Exhibits of North Delta Water Agency & Member Districts**

16 **1. Testimony of Gary Kienlen (Exhibit No. NDWA-3)**

17 The Water Authority objects to the testimony of witness Gary Kienlen on the grounds that it  
18 includes inadmissible legal opinion and is irrelevant.

19 Specifically, the Water Authority objects to Gary Kienlen’s testimony that “[b]ecause the  
20 water quality benefits afforded by the 1981 Contract are dependent upon a sufficient supply of water  
21 to hold back the intrusion of salt water from the San Francisco Bay, these benefits are, in my opinion,  
22 inseparable from the water supply benefits of the 1981 Contract.” (NDWA-3 at 4:13-16.) The  
23 testimony an inadmissible opinion regarding questions of contract law and should be excluded.  
24 NDWA will have an opportunity to present its legal arguments and conclusions in future briefing.

25 In addition, the Water Authority objects to Mr. Kienlen’s testimony regarding his  
26 interpretation of the 1956 Cooperative Study Program and the 1963 Delta Uplands Investigations.  
27 (NDWA-3 at 4:17-5:1, 5:12-15.) The witness’s testimony regarding the historical treatment of certain  
28 lands as riparian is not relevant to the issue of injury to legal users of water from the change proposed

1 by Petitioners.

2 The Water Authority also objects to Mr. Kienlen’s testimony that “[t]he release of water by  
3 DWR to offset SWP operations and meet the 1981 Contract water quality standards ensures a water  
4 quality that will be suitable for beneficial purposes within NDWA. The 1981 Contract water quality  
5 standards and the release of water by DWR, pursuant to the 1981 Contract, are intended to maintain a  
6 gradient or variation in water quality similar to that which occurs without the operation of the SWP  
7 and CVP.” (NDWA-3 at 7:12-16.) The testimony an inadmissible opinion regarding the meaning of  
8 NDWA’s 1981 contract and should be excluded. NDWA will have an opportunity to present its legal  
9 arguments and conclusions in future briefing.

10 The Water Authority also objects to Mr. Kienlen’s testimony regarding Exhibits NDWA-13-  
11 27, maps and charts prepared by MBK to identify water quality compliance locations, water quality  
12 standards, and mean EC. (NDWA-3 at 8:21-9:14.) The testimony is hearsay because it relies on  
13 statements by someone other than the witness to establish the truth regarding water quality  
14 compliance, standards, and mean EC.

15 The Water Authority also objects to Mr. Kienlen’s summary of the testimony and analysis  
16 prepared by Walter Bourez and MBK Engineers. (NDWA-3 at 11:13-27, 13:16-21.) The testimony is  
17 hearsay because it relies on statements by someone other than the witness to establish the truth  
18 regarding the DSM2 modeling conducted by DWR and Reclamation for the Biological Assessment for  
19 California WaterFix.

20 Based on the foregoing, the Water Authority objects to the following testimony of Gary  
21 Kienlen:

- 22 • NDWA-3 at 4:13-16, 4:17-5:1, 5:12-15, 7:12-16, 8:21-9:14, 11:13-27, and 13:16-  
23 21.

24 **2. Testimony of Shankar Parvathinathan (Exhibit No. NDWA-5)**

25 The Water Authority objects to the testimony of witness Shankar Parvathinathan on the  
26 grounds that it lacks foundation.

27 Specifically, the Water Authority objects to Mr. Parvathinathan’s testimony that “As detailed  
28 in the Testimony of Walter Bourez submitted in this proceeding (Exhibit SVWU-100), there are

1 serious questions about the validity of the operational assumptions for WaterFix that are embedded in  
2 the CalSim 11 modeling. Since the DSM2 modeling, in effect, tiers off the CalSim 11 modeling with  
3 respect to assumed CV-P/SWP operations, any flaws in the CalSim 11 modeling will be carried  
4 forward into the DSM2 modeling.” (NDWA-5, at pp. 2:24 – 3:2.) This testimony lacks foundation  
5 because there is no foundation showing the relationship between the CalSim II modeling and the  
6 DSM2 modeling. There is also no explanation of how any flawed assumptions for CALSIM modeling  
7 affect DSM2 modeling.

8 Based on the foregoing, the Water Authority objects to the following testimony of Shankar  
9 Parvathinathan:

- 10 • NDWA-5, at pp. 2:24 – 3:2.

### 11 3. Testimony of Melinda Terry (Exhibit No. NDWA-7)

12 The Water Authority objects to the testimony of witness Melinda Terry on the grounds that it  
13 is an inadmissible opinion regarding questions of law.

14 Specifically, the Water Authority objects to Ms. Terry’s testimony that “The crux of the 1981  
15 Contract is a guarantee by the State of California that, on an ongoing basis, DWR will ensure through  
16 the operation of the SWP that suitable water of specified quality will be available to satisfy all  
17 agricultural and other reasonable and beneficial uses in all channels within NDWA’s boundaries.”  
18 (NDWA-7, at p. 4:2-5.) The Water Authority also objects to the testimony that “Recognizing the  
19 importance of protecting water quality for beneficial uses, if the water quality in the NDWA channels  
20 falls below the water quality standards specified in the 1981 Contract, then the State is required to: (i)  
21 cease all diversions to storage in SWP reservoirs; (ii) release stored water from SWP reservoirs; (iii)  
22 cease all export by the SWP from the Delta channels; (iv) or any combination of these. (1981  
23 Contract, Article 12.)” (NDWA-7, at p. 4:21-25.) This testimony is an inadmissible opinion  
24 regarding the legal question of the terms and interpretation of the referenced 1981 Contract.

25 In addition, the Water Authority objects to Ms. Terry’s testimony that “A 1998 Memorandum  
26 of Understanding between NDWA and DWR (Exhibit DWR-308) specifically relates to the water  
27 right permit changes at issue in the WaterFix petition . . . the 1998 agreement specifies that DWR is  
28 responsible for providing SWP water supplies to achieve any flow or salinity objectives imposed by

1 the 1995 Delta Water Quality Plan that would otherwise apply to water users in the NDWA.”  
2 (NDWA-7, at p. 5:9-16.) This testimony is an inadmissible opinion regarding the legal question of the  
3 terms and interpretation of the referenced 1998 Memorandum of Understanding.

4 The Water Authority also objects to Ms. Terry’s testimony that “Based on DWR’s  
5 aforementioned contractual obligations to operate the SWP to comply with water supply and quality  
6 assurances in the 1981 Contract and the testimony provided by NDWA’s witnesses, it is the position  
7 of NDWA that the WaterFix as currently proposed will cause injury to legal users of water within  
8 NDWA.” (NDWA-7, at p. 8:5-8.) This testimony is an inadmissible opinion regarding the legal  
9 question of the terms and interpretation of the referenced 1981 Contract, as well as the legal question  
10 of what constitutes injury to legal users of water.

11 Based on the foregoing, the Water Authority objects to the following testimony of Melinda  
12 Terry:

- 13 • NDWA-7, at pp. 4:2-5, 4:21-25, 5:9-16, 8:5-8.

#### 14 4. Testimony of Steve Mello (Exhibit No. NDWA-9)

15 The Water Authority objects to the testimony of witness Steve Mello on the grounds that it is  
16 an inadmissible lay person opinion, an inadmissible opinion regarding questions of law, and lacks  
17 foundation.

18 Specifically, the Water Authority objects to Mr. Mello’s testimony that “Before the CVP and  
19 SWP began withholding much of the Sacramento River system’s high winter and spring flows, the  
20 Delta channels stored sufficient fresh water to sustain water quality in the north Delta throughout and  
21 often beyond the irrigation season. Since the CVP and SWP commenced operations, however, the  
22 Delta functions more like a flowing stream and, as a result, relatively minor decreases in outflow can  
23 have a serious impact on north Delta water quality and water surface elevations.” (NDWA-9, at pp.  
24 4:24-5:3.) This is an inadmissible lay person opinion because there is no foundation showing that Mr.  
25 Mello has either personal knowledge or qualified expertise regarding hydrology, water quality or  
26 Delta hydrodynamics.

27 In addition, the Water Authority objects to Mr. Mello’s testimony that “While I am not an  
28 attorney, my understanding is that the 1981 Contract is a guarantee by the State of California that, on

1 an ongoing basis, it will ensure that suitable water will be available in the northern Delta for  
2 agriculture and other beneficial uses.” (NDWA-9, at p. 5:6-9.) This is an inadmissible opinion  
3 regarding the question of law of the terms and interpretation of the referenced 1981 Contract.

4 The Water Authority also objects to Mr. Mello’s testimony that “The siphon systems within  
5 NDWA were designed with historic water surface elevations in north Delta channels as a base line.”  
6 (NDWA-9, at p. 6:6-7.) This testimony lacks foundation. There is no foundation showing what are  
7 the referenced “historic water surface elevations,” nor is there foundation showing that Mr. Mello has  
8 personal knowledge of such historic water surface elevations.

9 The Water Authority also objects to Mr. Mello’s testimony that “Use of water degraded by salt  
10 compounds, even over a short period of time, degrades the long-term productivity of the ground.”  
11 (NDWA-9, at p. 7:8-10.) This is an inadmissible lay person opinion because there is no foundation  
12 showing that Mr. Mello has either personal knowledge or qualified expertise regarding water quality  
13 or agro-economics. There is also no foundation showing what qualifies as “water degraded by salt.”

14 The Water Authority also objects to Mr. Mello’s testimony that “If the proposed Project will  
15 result in lower water surface elevations within NDWA (as I believe it will, based on the testimony of  
16 MBK Engineers and DWR’s own witnesses), farmers within NDWA must be made whole of all  
17 economic losses suffered as a result of the operation of the proposed Project . . .” (NDWA-9, at p.  
18 11:1-4.) This testimony is an inadmissible lay person opinion because there is no foundation showing  
19 that Mr. Mello has either personal knowledge or qualified expertise regarding hydrology, modeling, or  
20 economics.

21 Based on the foregoing, the Water Authority objects to the following testimony of Steve  
22 Mello:

- 23 • NDWA-9, at pp. 4:24-5:3, 5:6-9, 6:6-7, 7:8-10, 11:1-4.

24 **5. Testimony of Tom Slater (Exhibit No. NDWA-10)**

25 The Water Authority objects to the testimony of witness Tom Slater on the grounds that it is an  
26 inadmissible lay person opinion and lacks foundation.

27 Specifically, the Water Authority objects to Mr. Slater’s testimony that “based on my many  
28 years of observing the hydrodynamics of the northern Delta, I have serious concerns that the lower

1 water surface elevations that will result from operation of the proposed Project intakes will induce  
2 more sea water to intrude into the northern Delta particularly in dry years.” (NDWA-10, at p. 3:13-  
3 16.) The Water Authority also objects to the testimony that “In addition, the lower water surface  
4 elevations that would be caused by Project diversions would adversely affect how much fresh water  
5 would be available to fee the sloughs and channels referenced above.” (NDWA-10, at p. 4:6-8.) This  
6 testimony is an inadmissible lay person opinion because there is no foundation showing that Mr.  
7 Slater has either personal knowledge or qualified expertise regarding hydrodynamics or regarding the  
8 Project’s potential effect on water surface elevations.

9 In addition, the Water Authority objects to Mr. Slater’s testimony that “Based on my  
10 experience as a farmer, once wine grapes are irrigated with salt water (or salt water is introduced into  
11 the water table), the plants will typically die and land values will decline rapidly.” (NDWA-10, at p.  
12 3:20-22.) This testimony lacks foundation. There is no foundation regarding what water quality  
13 qualifies as “salt water.”

14 The Water Authority also objects to Mr. Slater’s testimony that “From the standpoint of a  
15 Delta farmer, if we are dealing, for example, with a 40 percent increase in EC during a critically dry  
16 year, the impact on crops-particularly permanent crops-could be devastating.” (NDWA-10, at p. 4:3-  
17 5.) This testimony lacks foundation. There is no foundation showing what qualifies as an “impact”  
18 on a crop, nor is there foundation showing which “permanent crops” are being referenced.

19 Based on the foregoing, the Water Authority objects to the following testimony of Tom Slater:

- 20 • NDWA-10, at pp. 3:13-16, 3:20-22, 4:3-5, 4:6-8

21 **V. Exhibits of PCFFA/IFR – Pacific Coast Federation of Fishermans Associations**  
22 **and Institute for Fisheries Resources**

23 **1. Testimony of Deirdre Des Jardins (Exhibit No. PCFFA-81)**

24 The Water Authority objects to and moves to strike the testimony of witness Deirdre Des  
25 Jardins contained in Exhibit No PCFFA-81 on the grounds that it is an inadmissible lay person  
26 opinion and is hearsay evidence.

27 The testimony of Deirdre Des Jardins covers the topics of climate change, sea level rise due to  
28 climate change, changes in hydrology due to climate change, climate "shifts," and alleged CALSIM II

1 modeling flaws. This testimony is an inadmissible lay person opinion because there is no foundation  
2 showing that Deirdre Des Jardins has personal knowledge of the subject matter covered in the  
3 testimony. Nor is there any foundation establishing that Deirdre Des Jardins is qualified to provide an  
4 expert opinion on the topics of climate change, likely sea level rise, hydrology, climate shifts, or  
5 CALSIM modeling.

6 In addition, those portions of the testimony that are quotes or descriptions of opinions of  
7 experts are hearsay evidence because statements by someone other than the witness are being offered  
8 to prove the truth of the matter asserted in those statements.

9 Based on the foregoing, the Water Authority objects to and moves to strike Exhibit No.  
10 PCFFA-81.

## 11 2. Testimony of Patricia Schifferle (Unlabeled PCFFA Exhibit)

12 The Water Authority objects to this testimony in its entirety and the admissibility of all  
13 exhibits listed in Ms. Schifferle’s testimony on the grounds they lack foundation, are irrelevant, are  
14 hearsay, and that their probative value, if any, would be substantially outweighed by the undue and  
15 unnecessary consumption of time in this proceeding.

16 Ms. Schifferle’s testimony states “based on my personal knowledge that the following exhibits  
17 are true and correct copies of documents they purport to be and were authored or issued by the persons  
18 or agencies shown.” (Testimony of Patricia Schifferle at p. 1.) The testimony then lists 39 exhibits  
19 (i.e., PCFFA-23 through PCFFA-61 inclusive), which include various emails, reports, memorandums,  
20 letters, and other documents and files. The testimony provides no facts or explanation of how and  
21 from where Ms. Schifferle obtained each of these exhibits or how she has acquired her claimed  
22 knowledge in the authenticity and source of each of these exhibits. As such her testimony lacks the  
23 necessary foundation to support her claimed knowledge of each of these exhibits and lacks the  
24 necessary foundation to support the admission of all of these exhibits. PCFFA-23 through PCFFA-61  
25 are all further objected to as hearsay.

26 Furthermore, PCFFA exhibits numbers 23 through 61 are a hodgepodge of documents  
27 regarding issues unrelated to the Petition and the scope of inquiry in this proceeding. For example,  
28 PCFFA-23 is a 1994 report discussing State Water Project financing; PCFFA-24 is a nine year old

1 memorandum regarding the execution of a few interim CVP water service contracts whose terms  
2 expired over 5 years ago; PCFFA-25 through PCFFA-43 are emails regarding analysis of the Bay  
3 Delta Conservation Plan; PCFFA-44 is an architectural and engineering contract task order; PCFFA-  
4 46 regards survival of salmonids in the Delta; PCFFA-52 is a December 2014 letter from the Kern  
5 County Water Agency to DWR regarding obligations for payment of various task orders; PCFFA-58  
6 and PCFFA-59 are indecipherable handwritten notes; PCFFA-60 is a comment letter related to the  
7 California WaterFix EIS/EIR; and PCFFA-61 is an excel spreadsheet apparently related to preparation  
8 of some EIS or EIR. These exhibits regard issues beyond those that are the subject of this proceeding  
9 or part, including issues related to effects on fish and wildlife and other environmental effects, issues  
10 regarding CEQA and NEPA compliance or document preparation, and financing and political issues.  
11 The other PCFFA exhibits not expressly summarized in this paragraph are more of the same or similar  
12 documents and are also objected to on the same grounds. Ms. Schifferle provides no statement of how  
13 any of these exhibits are relevant to this proceeding at all, or how they relate to injury to any legal user  
14 of water that is the specific focus of this part of the proceeding. Exhibits PCFFA-23 through PCFFA-  
15 61 are therefore inadmissible as irrelevant and further because any probative value, if any, would be  
16 substantially outweighed by unnecessary consumption of time.

17 **W. Exhibits of PCWA**

18 **1. Testimony of Einar Maisch (Exhibit No. PCWA-20)**

19 The Water Authority objects to the testimony of witness Einar Maisch on the grounds that it  
20 lacks foundation, is inadmissible lay witness opinion, is speculative, includes inadmissible legal  
21 conclusion, and incorporates hearsay.

22 Specifically, the Water Authority objects to Einar Maisch’s testimony that “[a]lthough  
23 Reclamation has been operating to the RPA [in the 2009 BiOp re Lower American River flows],  
24 recent history has shown that water supply reliability and the LAR require additional protections. As  
25 we have seen in this recent drought, Folsom Reservoir water levels can fall to levels that deplete the  
26 cold water pool and result in thermally unsuitable water temperatures and very low flows that have  
27 caused harm to the species of LAR.” (PCWA-20 at 19:16-20.) This is an inadmissible lay person  
28 opinion because there is no foundation showing that Mr. Maisch has personal knowledge or expertise



1 regarding CVP operations or harm to species in the lower American River.

2           In addition, the Water Authority objects to Mr. Maisch’s testimony that “[t]o protect against  
3 Folsom Reservoir being driven to extremely low storage year after year, and to dead pool in drought  
4 years, like PCWA has done with the MFP, we need measures to ensure Folsom Reservoir is  
5 maintained at storage levels that provide safe water supplies in single year droughts and carryover  
6 water supply in Folsom Reservoir to protect against the second year of a drought sequence such as  
7 1976-1977, or longer drought sequences as we just experienced.” (PCWA-20 at 20:22-28.) This is an  
8 inadmissible lay person opinion because there is no foundation showing that Mr. Maisch has personal  
9 knowledge or expertise regarding minimum storage levels that “provide safe water supplies” and there  
10 is no foundation showing what levels “provide safe water supplies.”

11           The Water Authority also objects to Mr. Maisch’s testimony that “[i]f current export  
12 restrictions due to potential environmental impacts at the existing south Delta diversion site are  
13 eliminated by virtue of adding a second point of diversion upstream as planned, Reclamation will no  
14 doubt further increase water exports, at the further expense of upstream water supply reliability in dry  
15 years.” (PCWA-20 at 22:6-9.) This is an inadmissible lay person opinion because there is no  
16 foundation showing that Mr. Maisch has personal knowledge or expertise regarding CVP operations,  
17 and it is speculative to opine regarding Reclamation’s operations in this manner.

18           The Water Authority also objects to Mr. Maisch’s testimony that “[b]ased upon the work of  
19 and testimony by MBK Engineers..., it is my understanding that, with the WaterFix project  
20 constructed and operating, Reclamation will have more opportunities to divert water at the new North  
21 Delta intakes, including natural flows and water that was previously stored in Folsom Reservoir. It is  
22 also my understanding, based upon the testimony submitted on behalf of the City of Roseville and the  
23 American River Water Agencies (ARWA), that the capacity of the municipal intakes at Folsom Dam  
24 diminishes as water levels decline.” (PCWA-20 at 22:17-24.) The testimony is hearsay because it  
25 relies on statements by someone other than the witness to establish the truth regarding modeling runs  
26 analyzing impacts of the project and testimony regarding municipal intakes at Folsom Dam.

27           The Water Authority also objects to Mr. Maisch’s testimony that “...if Reclamation is able to  
28 remove more stored water with the WaterFix project, and water levels in Folsom Reservoir reach

1 dangerously low levels as they have in the past, PCWA’s water rights will be injured because water  
2 diverted under PCWA’s water rights cannot be re-diverted at Folsom Reservoir as it has historically  
3 been diverted, and because PCWA will be unable to receive water provided for in its various contracts  
4 with Reclamation.” (PCWA-20 at 22:24-23:1.) There is no foundation showing the project will  
5 preclude PCWA from re-diverting water at Folsom Reservoir or receiving water under its various  
6 contracts with Reclamation, or that, if PCWA’s access to water in Folsom Reservoir is limited, the  
7 terms of PCWA’s contracts would give rise to an injury, whether legally cognizable or not.

8 The Water Authority also objects to Mr. Maisch’s testimony that “taking into account the  
9 overarching goal of the WaterFix project to attenuate the existing disparity between North of Delta  
10 and South of Delta CVP M&I allocations, it is likely that a balancing of allocations resulting from the  
11 WaterFix project would result in injury to the American River Division CVP M&I contractors,  
12 compounding the issues regarding low water levels at the municipal intakes of Folsom Reservoir.”  
13 (PCWA-20 at 23:2-6.) The testimony is an inadmissible legal conclusion regarding the “overarching  
14 goal” of the project and whether injury is likely as a result of that goal.

15 Based on the foregoing, the Water Authority objects to the following testimony of Einar  
16 Maisch:

- 17 • PCWA-20, at pp. 19:16-20, 20:22-28, 22:6-9, 22:17-24, 22:24-23:1 and 23:2-6.

18 **X. Exhibits of RTD – Restore the Delta**

19 **1. Testimony of Tim Stroshane (Exhibit No. RTD-10)**

20 The Water Authority objects to the testimony of witness Tim Stroshane on the grounds that is  
21 irrelevant, an inadmissible opinion regarding questions of law, an inadmissible expert opinion, is  
22 hearsay evidence, and lacks foundation.

23 Specifically, the Water Authority objects to Mr. Stroshane’s testimony that “It is my  
24 understanding that the Delta Reform Act of 2009 (the Act) mandates that: ‘The policy of the State of  
25 California is to reduce reliance on the Delta in meeting California’s future water supply needs through  
26 a statewide strategy of investing in improved regional supplies, conservation, and water use  
27 efficiency.’ (C.W.C. Sec. 85021.) This section of my testimony provides evidence that both the Bay  
28 Delta Conservation Plan (BDCP) and California WaterFix documents failed to analyze the project’s

1 compliance with this policy. In addition, we present evidence that the purpose of the California  
2 WaterFix project is intended to maintain present export levels of Delta water to meet California’s  
3 future water needs and, with adjusted operational modeling assumptions, even increase total exports,  
4 contrary to the state’s Delta policy.” (RTD-10, at p. 2:9-18.) This testimony is irrelevant and is an  
5 inadmissible opinion regarding a question of law. Mr. Stroshane’s opinion regarding compliance with  
6 Water Code section 85021 is irrelevant to the current issue of the change petition’s potential effects on  
7 legal users of water. In addition, this testimony is an inadmissible opinion regarding the legal  
8 question of the legal effect of Water Code section 85021.

9 In addition, the Water Authority objects to Mr. Stroshane’s testimony regarding the findings  
10 and conclusions of an independent modeling report provided to various upstream and Delta water  
11 users by MBK Engineers and Daniel Steiner (MBK/Steiner), which is contained on Pages 3-4 of the  
12 testimony and refers to RTD-143. (RTD-10, at pp. 3:21 – 4:14.) This is hearsay evidence as Mr.  
13 Stroshane is offering statements by someone other than the witness, from the MBK report, as the sole  
14 basis for his opinion that the MBK modeling “represents an increase in exports with the Petition  
15 Facilities, with more apparently realistic operational assumptions built into their modeling, averaging  
16 about 200 TAF annually.” This is also inadmissible expert opinion because there is no foundation  
17 establishing that Mr. Stroshane is qualified to provide an expert opinion regarding modeling of CVP  
18 and SWP operations.

19 The Water Authority also objects to Mr. Stroshane’s testimony that in the section entitled  
20 “Water Right Order 2009-0061 provides no precedent for approval of the Petition” at Pages 7 and 8 of  
21 the testimony. (RTD-10, at pp. 7:11-8:6.) This testimony is an inadmissible opinion regarding the  
22 question of law of whether Water Right Order 2009-0061 provides precedent for approval of the  
23 change petition.

24 The Water Authority also objects to Mr. Stroshane’s testimony that “It is my understanding,  
25 based on this evidence, that this change to having more Sacramento River water at the two pumping  
26 plants would improve water quality at the pumping plants because the quality of San Joaquin River  
27 water is generally poorer than that of Sacramento River water. The San Joaquin’s high salt load is due  
28 partly to recirculation of present San Joaquin River water exported to the San Joaquin River basin in

1 the Delta Mendota Canal, as well as to salts native to western San Joaquin Valley soils. (RTD-138, p.  
2 34, Table 5, pp. 32-36.) In addition, concentrations of a number of other pollutants are high in the San  
3 Joaquin, impairing the river’s water quality. (RTD-104, pp. 3-48 to 3-50, addressing salinity, nitrates,  
4 phosphates, ammonia, trace metals, and pesticides.)” (RTD-10, at pp. 8:14-22.) This testimony is an  
5 inadmissible expert opinion because there is no foundation showing that Mr. Stroshane is qualified as  
6 an expert on water quality or hydrodynamics.

7 The Water Authority also objects to Mr. Stroshane’s testimony that “For purposes of water  
8 rights licensing, these two projects are now complete and have applied water to beneficial use  
9 throughout their present service areas. There are no good causes for which SWRCB has reason to  
10 extend time on these permits to enable further development of Central Valley and other watershed  
11 resources.” (RTD-10, at pp. 9:9-13.) This testimony is an inadmissible opinion regarding the  
12 question of law of whether there is good cause to extend time under water right permits.

13 The Water Authority also objects to Mr. Stroshane’s testimony in the section entitled “Petition  
14 Facilities and points of diversion are not described in existing water rights” contained in Pages 11-12  
15 of the testimony. (RTD-10, at pp. 11:13-12:26.) This testimony is irrelevant because there is no  
16 question regarding whether the petition facilities or points of diversion are in the existing water rights.

17 The Water Authority also objects to Mr. Stroshane’s testimony that “Water Code Section 1396  
18 requires that use of water for beneficial purposes for which each project facility was constructed shall  
19 proceed with due diligence in accordance with the Water Code and within the time period specified in  
20 the permits for the project. It is my opinion that the exhibits cited herein from available public records  
21 support a finding that the SWP and CVP have succeeded at completing their projects and putting  
22 water to full beneficial use.” (RTD-10, at p. 15:1-5.) This testimony is an inadmissible opinion  
23 regarding the question of law of due diligence under Water Code section 1396.

24 The Water Authority also objects to Mr. Stroshane’s testimony regarding legislative  
25 authorization and funding for the California Water Fix, contained on Pages 19-24 of the testimony.  
26 This testimony is irrelevant because authorization and funding are not relevant to the current issue of  
27 the potential effects of the change petition on legal users of water.

28 The Water Authority also objects to Mr. Stroshane’s testimony regarding modeling results and

1 water quality impacts contained in Pages 29-41 of the testimony. (RTD-10, at pp. 29:18-25, 30:16-  
2 36:18, 37:12-21, 37:23-38:2, 38:7-41:2.) This testimony is an inadmissible expert opinion because  
3 there is no foundation establishing that Mr. Stroshane is qualified to provide an expert opinion  
4 regarding modeling, water quality, hydrology, or hydrodynamics.

5 The Water Authority also objects to Mr. Stroshane’s testimony “Petition Facilities would alter  
6 flows to such a degree that water quality would be degraded to the point of injury to agricultural  
7 irrigation and drinking water uses in the Delta.” (RTD-10, at p. 38:9-10.)

8 Based on the foregoing, the Water Authority objects to the following testimony of Mr.  
9 Stroshane:

- 10 • RTD-10, at pp. 2:9-18, 3:21 – 4:14, 7:11-8:6, 8:14-22, 9:9-13, 11:13-12:26, 15:1-5,  
11 19:15-20:23, 21:1-24:11, 29:18-25, 30:16-36:18, 37:12-21, 37:23-38:2, 38:9-10,  
38:7-41:2.

12 **2. Testimony of Barbara Barrigan-Parrilla (Exhibit No. RTD-20)**

13 The Water Authority objects to the testimony of witness Barbara Barrigan-Parrilla on the  
14 grounds that it is an inadmissible expert opinion, lacks foundation, and is hearsay evidence.

15 Specifically, the Water Authority objects to Barbara Barrigan-Parrilla’s testimony in the  
16 section entitled “Threats to Environmental Justice Communities Beneficial Uses from Petition  
17 Facilities” contained in Pages 31- 40 of the testimony. (RTD-20, at pp. 31-40.) Ms. Barrigan-  
18 Parrilla’s opinions regarding threats to beneficial uses are inadmissible expert opinions because there  
19 is no foundation showing that Ms. Barrigan-Parrilla has the qualified expertise to provide an opinion  
20 regarding water quality impacts. Ms. Barrigan-Parrilla relies on the testimony of Tim Stroshane to  
21 form her opinions regarding potential water quality impacts but Ms. Barrigan-Parrilla does not have  
22 the expertise to evaluate the modeling or water quality analysis at issue in this proceeding. Ms.  
23 Barrigan-Parrilla relies on hearsay evidence of statements by someone other than the witness as the  
24 basis for her opinion regarding potential impacts to beneficial uses

25 Based on the foregoing, the Water Authority objects to the following testimony of Barbara  
26 Barrigan-Parrilla:

- 27 • RTD-20, at pp. 31-40.

28

1                                   **3.        Testimony of Michael Machado (Exhibit No. RTD-30)**

2           The Water Authority objects to the testimony of witness Michael Machado on the grounds that  
3 it is an inadmissible expert opinion, an inadmissible opinion regarding questions of law, and lacks  
4 foundation.

5           Specifically, the Water Authority objects to Mr. Machado’s testimony that “At the time the  
6 DESP was completed and adopted, neither the tunnels facilities of the BDCP (announced by the state  
7 in 2012) nor California WaterFix (announced in 2015) had yet been formally proposed. Consequently,  
8 the DESP considered an ‘isolated conveyance’ proposal which, like the Petition facilities, was  
9 described as dual conveyance. In either case, however, broad salinity changes in the Delta would be  
10 similar.” (RTD-30, at p. 7:19-23.) This testimony lacks foundation. There is no foundation showing  
11 what the referenced “isolated conveyance proposal” consisted of, nor is there foundation showing that  
12 the proposal considered by the DESP is similar to the California WaterFix project. Therefore, there is  
13 no foundation for the conclusion that salinity changes in the Delta would be “similar.”

14           In addition, the Water Authority objects to Mr. Machado’s testimony that “These estimates of  
15 crop revenue and job losses based on the DESP methodology represent broadly the magnitude of  
16 economic injury to agricultural water rights holders, and the larger impact on total jobs in the Delta  
17 region and California that would result from changes to flow and water quality resulting from  
18 California WaterFix.” (RTD-30, at pp. 9:27-10:2.) This testimony lacks foundation. There is no  
19 foundation establishing that the DESP methodology “broadly” represents effects of the California  
20 WaterFix. There is also no foundation explaining the relationship between economic injury and injury  
21 to legal users of water.

22           The Water Authority also objects to Mr. Machado’s testimony that “Yes, removal of fresh  
23 Sacramento River water at new intakes in the north Delta can reasonably be expected to injure  
24 agricultural uses of water in the Delta, including those diverting and using water directly from Delta  
25 channels to irrigate crops.” (RTD-30, at p. 11:24-27.) The Water Authority also objects to the  
26 testimony that “Yes, new points of diversion will alter water flows in a manner that causes injury to  
27 agricultural uses of water, particularly in the south Delta. The Delta Economic Sustainability Plan  
28 analyzed impacts reflecting changes in salinity to Delta farmers' crop choices based on a broad change

1 in flows that would trigger salinity increases of varying levels.” (RTD-30, at p. 12:1-6.) This  
2 testimony is an inadmissible opinion regarding the question of law of what constitutes “injury” to  
3 legal agricultural users of water. This testimony lacks foundation because there is no foundation  
4 showing that the DESP impacts analysis applies to the California WaterFix project.

5 The Water Authority also objects to Mr. Machado’s testimony that “Yes, the new points of  
6 diversion will alter water quality by increasing salinity generally in Delta channels in a manner that  
7 will injure agricultural uses of water.” (RTD-30, at p. 12:7-18.) This testimony is an inadmissible  
8 opinion regarding the question of law of what constitutes “injury” to legal agricultural users of water.  
9 This is also an inadmissible expert opinion because there is no foundation showing that Mr. Machado  
10 is qualified to provide an expert opinion regarding the water quality impacts of a change in point of  
11 diversion.

12 Based on the foregoing, the Water Authority objects to the following testimony of Michael  
13 Machado:

- 14 • RTD-30, at pp. 7:19-23, 9:27-10:2, 11:24-27, 12:1-6, 12:7-18.

15 **4. Testimony of Esperanza Vielma (Exhibit No. RTD-40)**

16 The Water Authority objects to the testimony of witness Esperanza Vielma on the grounds that  
17 that it is irrelevant, an inadmissible lay person opinion, lacks foundation, and is hearsay evidence.

18 Specifically, the Water Authority objects to Ms. Vielma’s testimony that “Mr. Marsh further  
19 stated to me that should the Petition Facilities be constructed and operated he is concerned that water  
20 quality would be compromised and the restaurant would lose focus for all of the locavores (locally-  
21 oriented people who prefer to eat and drink locally grown foods and wines). The restaurant would lose  
22 access to its locally grown sources and therefore its focus. In addition, prices would increase, which  
23 could detrimentally affect visitation and business. Loss of business due to water quality effects could  
24 result further in job losses if his business had to close. (RTD-403.)” This testimony is irrelevant and is  
25 inadmissible lay person opinion and hearsay evidence. Alleged economic impacts are not relevant to  
26 the current issue of the change petition’s potential effects on legal users of water. In addition, this  
27 testimony is hearsay evidence of statements by someone other than the witness.

28 In addition, the Water Authority objects to Ms. Vielma’s testimony that “Mr. Sil expressed

1 concern to me that if the Petition Facilities are constructed and operated, Delta water quality near  
2 downtown Stockton will be diminished. Currently, he stated, the water hyacinth problem causes a bad  
3 odor in the entire area and a horrendous eyesore. I am concerned that if the tunnels go through it will  
4 make doing business and attracting new investors to our eBeer technology at TAPS Bar & Grill  
5 impossible to sell. (RTD-404.)” (RTD-40, at pp. 6:25-7:2.) The Water Authority also objects to the  
6 testimony that “If local farmers are affected by the tunnels, then so will local food businesses be  
7 affected, since local purchases would be reduced and prices will increase. Mr. Sil added that he would  
8 have to pass the higher cost for local food on to his customers, and that any loss of agricultural jobs  
9 would directly reduce the size of his customer base at TAPS as well. (RTD-404.)” (RTD-40, at p. 7:9-  
10 13.) This testimony is irrelevant and is inadmissible lay person opinion and hearsay evidence.  
11 Alleged secondary economic impacts are not relevant to the current issue of the change petition’s  
12 potential effects on legal users of water. In addition, this testimony is hearsay evidence of statements  
13 by someone other than the witness.

14 The Water Authority also objects to Ms. Vielam’s testimony that “Mr. Rhea stated that visitors  
15 can also enjoy a Delta cruise. However, with the Tunnels project he said that ‘outstanding recreational  
16 opportunities’ will cease to exist with an infestation of toxic algal blooms and water hyacinth. (RTD-  
17 405.) 32. Rhea also said he is very concerned that the Delta tunnels would harm a myriad of water  
18 users, fisheries, and species due to degraded water quality. The tunnels, he said, will weaken our local  
19 tourism economy which depends on healthy water ways. (RTD-405.) He stated that what tunnels  
20 proponents call water supply reliability is really giving people in other parts of California the good  
21 water quality, while destroying water quality for Stockton. Diverting the Sacramento River leaves a  
22 greater concentration of the San Joaquin River water in the Delta-that’s polluted water loaded with  
23 selenium, boron, bromides, and salt, he added.” (RTD-40, at pp. 8:23-9:4.) This testimony is  
24 irrelevant and is inadmissible lay person opinion and hearsay evidence. Alleged economic impacts to  
25 recreation are not relevant to the current issue of the change petition’s potential effects on legal users  
26 of water. In addition, this testimony is hearsay evidence of statements by someone other than the  
27 witness.

28 Based on the foregoing, the Water Authority objects to the following testimony of Esperanza



1 Vielma:

- 2 • RTD-40, at pp. 6:1-7, 6:25-7:2, 7:9-13, 8:23-9:4.

3 **5. Testimony of Gary Mulcahy (Exhibit No. RTD-50)**

4 The Water Authority objects to and moves to strike the testimony of witness Gary Mulcahy on  
5 the grounds that it is irrelevant.

6 Mr. Mulcahy’s testimony is regarding the history of the Winnemem Wintu tribe, salmon  
7 species, and historical water projects. Mr. Mulcahy’s testimony is focused on instream flows and fish,  
8 and is therefore not relevant to the current issue of the change petition’s potential effects on legal users  
9 of water.

10 Based on the foregoing, the Water Authority objects to and moves to strike the testimony of  
11 Gary Mulcahy in Exhibit No. RTD-50.

12 **6. Testimony of Ixtzel Reynoso (Exhibit No. RTD-60)**

13 The Water Authority objects to the testimony of witness Ixtzel Reynoso on the grounds that it  
14 lacks foundation, is hearsay evidence and is an inadmissible lay person opinion.

15 Specifically, the Water Authority objects to Mr. Reynoso’s testimony that “I then asked her  
16 what would happen to her family if a suitable water supply was no longer available to the farmers her  
17 parents work for. She took a second to find words: ‘We would probably, I don’t know, we would be  
18 even more broke than we are now, I guess. We wouldn’t have any income.’ We moved on to the next  
19 question. ‘Would you be able to afford a place in Sacramento if your family would be forced out of  
20 their home due to the lack of work and water? How would it affect your education?’ I asked. Angelica  
21 shook her head: ‘No, I would have to cut down my classes in order to work, they [her parents] would  
22 expect me to work in order to provide for my siblings.’” (RTD-60, at p. 5:1-5.) This testimony is  
23 hearsay evidence and lacks foundation. Mr. Reynoso is offering hearsay evidence of statements made  
24 by someone other than the witness to prove the truth of his testimony. In addition, there is no  
25 foundation establishing what is the relationship between the change petition and the alleged impacts  
26 described in the testimony.

27 In addition, the Water Authority objects to Mr. Reynoso’s testimony that “The environmental  
28 justice community will lose its livelihood if the flows of the Delta are compromised, their education

1 will be detrimentally impacted, their hopes and dreams will be stalled, their wells will no longer pump  
2 drinkable water, and their jobs and homes will be lost.” (RTD-60, at p.7:8-11.) This testimony is an  
3 inadmissible lay person opinion, is hearsay evidence and lacks foundation. There is no foundation  
4 showing that Mr. Reynoso has personal knowledge or expertise regarding Delta flows or regarding  
5 water quality or economics of the Delta. In addition, this testimony is hearsay evidence of statements  
6 by someone other than the witness.

7 Based on the foregoing, the Water Authority objects to the following testimony of Ixtzel  
8 Reynoso:

- 9 • RTD-60, at pp. 5:1-5, 7:8-11.

10 **7. Testimony of Roger Mammon (Exhibit No. RTD-70)**

11 The Water Authority objects to and moves to strike the testimony of witness Roger Mammon  
12 contained in Exhibit No. RTD-70 on the grounds that it is irrelevant and is an inadmissible lay person  
13 opinion that lacks foundation.

14 Mr. Mammon’s testimony is regarding his opinions regarding the ecological decline of the  
15 Delta and regarding his experiences and observations as a fisherman and hunter in the Delta. (RTD-  
16 70.) Mr. Mammon’s opinions regarding the change petition’s potential effects on recreational uses in  
17 the Delta is not relevant to the current issue of the change petition’s potential effects on legal users of  
18 water. In addition, the testimony is an inadmissible lay person opinion because there is no foundation  
19 showing that Mr. Mammon has personal knowledge or qualified expertise regarding the change  
20 petition’s potential effects on water quality in the Delta.

21 Based on the foregoing, the Water Authority objects to and moves to strike the testimony of  
22 Roger Mammon contained in Exhibit No. RTD-70.

23 **8. Testimony of Xuily Lo (Exhibit No. RTD-80)**

24 The Water Authority objects to and moves to strike the testimony of witness Xuily Lo  
25 contained in Exhibit No. RTD-80 on the grounds that it is irrelevant and is an inadmissible lay person  
26 opinion that lacks foundation.

27 Ms. Lo’s testimony is regarding her opinions regarding her experiences and observations as a  
28 fisherwoman. (RTD-80.) Ms. Lo’s opinions regarding the change petition’s potential effects on fish

1 species and recreational uses in the Delta is not relevant to the current issue of the change petition’s  
2 potential effects on legal users of water. In addition, the testimony is an inadmissible lay person  
3 opinion because there is no foundation showing that Ms. Lo has personal knowledge or qualified  
4 expertise regarding the change petition’s potential effects on water quality or fish species in the Delta.

5 Based on the foregoing, the Water Authority objects to and moves to strike the testimony of  
6 Xuily Lo contained in Exhibit No. RTD-80.

7 **Y. Exhibits of Roseville**

8 **1. Testimony of Richard Plecker (Exhibit No. Roseville-1)**

9 The Water Authority objects to the testimony of witness Richard Plecker on the grounds that it  
10 is inadmissible lay opinion, lacks foundation, and is speculative.

11 Specifically, the Water Authority objects to Richard Plecker’s testimony that “[t]hrough the  
12 Cal Water Fix project, Reclamation proposes to make voluntary, discretionary changes to the CVP,  
13 which will, in one out of every 20 years, draw Folsom Reservoir down to a level where Reclamation  
14 has deemed it would be unsafe to divert water through the M&I intake.” (Roseville-1 at p. 15, ¶ 54.)  
15 The testimony lacks foundation because there is no foundation showing the basis for characterizing  
16 the proposed changes as “voluntary” and “discretionary” or for characterizing a potential drawdown  
17 level as “unsafe.”

18 In addition, the Water Authority objects to Mr. Plecker’s testimony that “[i]f deliveries of  
19 water from Folsom Reservoir or the lower American River north of the river were significantly  
20 reduced as a result of reduced storage in the reservoir, then a significant amount of demand that  
21 currently is served by that water presumably would have to be met through increased groundwater  
22 pumping in the region.” (Roseville-1 at p. 17, ¶ 65.) This is inadmissible lay person opinion because  
23 there is no foundation showing that Mr. Plecker has personal knowledge or expertise regarding the  
24 impact of reductions on groundwater pumping, and it is speculative that the project would  
25 “significantly reduce[]” deliveries and result in “increased groundwater pumping.” For similar  
26 reasons, the Water Authority objects to Mr. Plecker’s testimony at Roseville-1 at p. 17, ¶ 66.

27 Based on the foregoing, the Water Authority objects to the following testimony of Richard  
28 Plecker:

- Roseville-1, at pp. 15, ¶ 54 and 17, ¶ 65, ¶ 66.

**Z. Exhibits of Sacramento, City of**

**1. Testimony of James Peifer (Exhibit No. CITYSAC-1)**

The Water Authority objects to the testimony of witness James Peifer on the grounds that it is an inadmissible lay opinion, lacks foundation, and incorporates hearsay.

Specifically, the Water Authority objects to James Peifer’s testimony that “my understanding is that even if [CVP and SWP] operational criteria remain unchanged at this time, according to the testimony of highly-credible experts submitted in this proceeding, the CWF is very likely to cause the Projects to be operated differently than existing and historical practices in order to meet a central CWF objective of increasing capacity for exports south of the Delta.” (CITYSAC-1 at 9:16-20.) The testimony is hearsay because it relies on a statement by someone other than the witness to establish the truth regarding likely CVP and SWP operations. This is inadmissible lay person opinion because there is no foundation showing that Mr. Peifer has personal knowledge or expertise regarding modeling of CVP and SWP operations.

In addition, the Water Authority objects to Mr. Peifer’s testimony that “...Sacramento is concerned that after completion of the CWF Folsom and Nimbus Dams will be operated in a way that reduces the amount of American River water available for diversion by Sacramento pursuant to its water rights and water rights settlement contract, particularly during dry periods when inflow into the reservoirs is reduced. This would occur if CWF facilities are used to facilitate increased annual releases from Folsom and Nimbus Dams for export south of the Delta, which also would reduce year-end carryover storage; and also could occur if CWF facilities are used to change the timing of Folsom and Nimbus Dam releases, even if the annual release volume is not increased.” (CITYSAC-1 at 9:21-10:2.) This is inadmissible lay person opinion because there is no foundation showing that Mr. Peifer has personal knowledge or expertise regarding CVP and SWP operations, and it is speculative that project facilities would be operated in the manner described.

The Water Authority also objects to Mr. Peifer’s testimony that “analysis [prepared by Sacramento] identified that the SRWTP intake begins losing its peak pumping capacity of 160 mgd when the Sacramento River drops below elevation 8.0-ft, and that pumping capacity is reduced to 140

1 mgd when the river elevation reaches a minimum river elevation of 1.5-ft at the I Street gauge.  
2 Elevation 1.5 is correlated with a flow of approximately 6,000 to 6,500 cfs passing the flow  
3 monitoring gauge located on the Sacramento River approximately at the western end of I Street (the I  
4 St station).” (CITYSAC-1 at 10:16-21.) The testimony is hearsay because it relies on a statement by  
5 someone other than the witness to establish the truth regarding the SRWTP intake.

6 The Water Authority also objects to Mr. Peifer’s testimony that “[i]mplementation of the CWF  
7 could reduce the water available for Sacramento’s wholesale water supply customers, most notably  
8 the Sacramento Suburban Water District (SSWD), because the Projects, and specifically Folsom  
9 Reservoir, might be operated to drawdown storage and otherwise reduce lower American River flows  
10 so as to change the timing and volume of releases and trigger Hodge Flow Conditions more  
11 frequently.” (CITYSAC-1 at 11:21-25.) This is inadmissible lay person opinion because there is no  
12 foundation showing that Mr. Peifer has personal knowledge or expertise regarding CVP and SWP  
13 operations, and it is speculative that the CVP and SWP would be operated in the manner described.  
14 For the same reason, the Water Authority objects to Mr. Peifer’s testimony at CITYSAC-1 at 12:18-  
15 20.

16 The Water Authority also objects to Mr. Peifer’s testimony that “[reduced water supply  
17 availability] would also result in reduced water sales and revenue to Sacramento’s water utility, which  
18 results in economic injury because Sacramento’s operating and maintenance (O&M) costs for its  
19 water supply and distribution system consist primarily of fixed costs that do not decrease in direct  
20 proportion to decreased water sales.” (CITYSAC-1 at 12:20-24.) This is inadmissible lay person  
21 opinion because there is no foundation showing that Mr. Peifer has personal knowledge or expertise  
22 regarding economic impacts to Sacramento and it is speculative that such injuries would occur.

23 Based on the foregoing, the Water Authority objects to the following testimony of James  
24 Peifer:

- 25 • CITYSAC-1, at pp. 9:16-20, 9:21-10:2, 10:16-21, 11:21-25, 12:18-20, and 12:20-  
26 24.

27 **2. Testimony of Pravani Vandeyar (Exhibit No. CITYSAC-6)**

28 The Water Authority objects to the testimony of witness Pravani Vandeyar on the grounds that

1 it is an inadmissible lay opinion, lacks foundation, and incorporates hearsay..

2           Specifically, the Water Authority objects to Pravani Vandeyar’s testimony that summarizes the  
3 proposed testimony of Bonny L. Starr. (CITYSAC-6 at 4:16-23, 7:12-15, 9:9-12, 9:19-25.) The  
4 testimony is hearsay because it relies on a statement by someone other than the witness to establish the  
5 truth regarding potential water quality impacts.

6           In addition, the Water Authority objects to the significant portion of Mr. Vandeyar’s testimony  
7 that includes conclusions regarding modeling of impacts on water temperature, the importance of  
8 water temperature for municipal water supply, and the impacts of increases in water temperature.  
9 (CITYSAC-6 at 5:11-19, 6:27-7:11, 7:15-21, 9:12-17.) This is inadmissible lay person opinion  
10 because there is no foundation showing that Mr. Vandeyar has personal knowledge or expertise  
11 regarding modeling of impacts on water temperature, the importance of water temperature, or the  
12 impacts of increases in water temperature. To the extent Mr. Vandeyar also draws legal conclusions  
13 regarding the significance of water temperature on Petitioners’ burden to show no injury, it is also  
14 inadmissible legal conclusion regarding whether the Petitioners can meet their burden in this  
15 proceeding with regard to temperature analysis.

16           The Water Authority likewise objects to Mr. Vandeyar’s related testimony regarding the  
17 effects of increased residence time and its impacts to water quality of municipal supply. (CITYSAC-6  
18 at 8:8-12, 9:25-10:2.) This is inadmissible lay person opinion because there is no foundation showing  
19 that Mr. Vandeyar has personal knowledge or expertise regarding residence time increases and the  
20 impacts of the same.

21           The Water Authority also objects to the portions of Mr. Vandeyar’s testimony that discuss  
22 impacts to the water quality of the American and Sacramento River source waters. (CITYSAC-6 at  
23 10:18-14:1.) This is inadmissible lay person opinion because there is no foundation showing that Mr.  
24 Vandeyar has personal knowledge or expertise regarding water quality impacts, and Mr. Vandeyar’s  
25 testimony regarding resulting operations and maintenance costs and capital improvement costs are  
26 speculative.

27           Based on the foregoing, the Water Authority objects to the following testimony of Pravani  
28 Vandeyar:

- 1           •       CITYSAC-6, at pp. 4:16-23, 7:12-15, 9:9-12, 9:19-25, 5:11-19, 6:27-7:11, 7:15-21,  
2                   9:12-17, 8:8-12, 9:25-10:2, and 10:18-14:1.

3                   **3.       Testimony of Bonny L. Starr (Exhibit No. CITYSAC-8)**

4           The Water Authority objects to the testimony of witness Bonny L. Starr on the grounds that is  
5 irrelevant, is inadmissible lay opinion, lacks foundation, and is speculative.

6           Specifically, the Water Authority objects to Bonny Starr’s testimony regarding potential water  
7 quality, water temperature, and residence time impacts from new project intakes to Sacramento  
8 municipal supply. (CITYSAC-8 at 5:25-3, 14:4-7, 16:1-9, 20:16-20, 21:5-11, 21:20-23, 23:6-9,  
9 23:10-13, 23:14-23, 23:24-28.) This is inadmissible lay person opinion because there is no foundation  
10 showing that Ms. Starr has personal knowledge or expertise regarding water quality impacts.

11           The Water Authority also objects to Ms. Starr’s testimony regarding the potential for increased  
12 treatment requirements. (CITYSAC-8 at 21:24-22:2, 22:3-7, 22:8-12, 24:2-7.) This is inadmissible  
13 lay person opinion because there is no foundation showing that Ms. Starr has personal knowledge or  
14 expertise regarding the effect of changes on treatment requirements, and it is speculative whether  
15 changes could result in increased treatment requirements and what requirements could be imposed.

16           Based on the foregoing, the Water Authority objects to the following testimony of Bonny  
17 Starr:

- 18           •       CITYSAC-8 at 5:25-3, 14:4-7, 16:1-9, 20:16-20, 21:5-11, 21:20-23, 23:6-9, 23:10-  
19                   13, 23:14-23, 23:24-28, 7:6-10, 21:24-22:2, 22:3-7, 22:8-12, 24:2-7.

20           **AA.   Exhibits of Sacramento Regional County Sanitation District**

21                   **1.       Testimony of Christoph Dobson (Exhibit No. SRCSD-2)**

22           The Water Authority objects to the testimony of witness Christoph Dobson on the grounds that  
23 it is irrelevant.

24           Specifically, the Water Authority objects to Christoph Dobson’s testimony regarding the South  
25 Sacramento County Agriculture and Habitat Lands Recycled Water (“South County Ag”) Program.  
26 (SRCSD-2 at 6:9-7:9.) This testimony is irrelevant because the South County Ag Program has not  
27 been approved or finalized and appears unrelated to the current issue of injury to legal users of water.

28           In addition, the Water Authority objects to Mr. Dobson’s testimony regarding City of Elk

1 Grove Phase II Expanded Irrigation. (SRCSD-2 at 7:12-16.) This testimony is likewise irrelevant  
2 because the expanded irrigation has not been funded and appears unrelated to the current issue of  
3 injury to legal users of water.

4 Based on the foregoing, the Water Authority objects to the following testimony of Christoph  
5 Dobson:

- 6 • SRCSD-2 at 6:9-7:9 and 7:12-16.

7 **BB. Exhibits of Sacramento Suburban Water District**

8 **1. Testimony of Robert Roscoe (Exhibit No. SSWD-1)**

9 The Water Authority objects to the testimony of witness Robert Roscoe on the grounds that it  
10 is inadmissible lay opinion, lacks foundation, and is speculative.

11 Specifically, the Water Authority objects to Robert Roscoe’s testimony that “agencies that  
12 currently obtain much of their water supplies from Folsom Reservoir may be forced to pump more  
13 groundwater as the reservoir supplies become less reliable. This effect may occur not only in years  
14 when the reservoir is projected to be drained to 100,000 acre-feet or lower. This effect would occur  
15 because, as reservoir supplies become less reliable, water agencies would be less likely to invest in the  
16 facilities necessary to use them and instead would be more likely to invest in more reliable  
17 groundwater supplies.” (SSWD-1 at 5, ¶ 27.) This is inadmissible lay person opinion because there is  
18 no foundation showing that Mr. Roscoe has personal knowledge or expertise regarding the impact of  
19 water supply reductions on groundwater pumping, and it is speculative that the project would result in  
20 increased groundwater pumping.

21 Based on the foregoing, the Water Authority objects to the following testimony of Robert  
22 Roscoe:

- 23 • SSWD-1 at 5, ¶ 27.

24 **CC. Exhibits of SCWA – Sacramento County Water Agency**

25 **1. Testimony of Forrest Williams (Exhibit No. SCWA-3)**

26 The Water Authority objects to the testimony of witness Forrest Williams on the grounds that  
27 it lacks foundation, is speculative, and incorporates hearsay.

28 Specifically, the Water Authority objects to Forrest Williams’ testimony that summarizes



1 analysis performed by the East Bay Municipal Utility District (“EBMUD”) regarding the potential for  
2 reverse flow event impacts to the Freeport Regional Water Project (“FRWP”) intake. This testimony  
3 is hearsay because it relies on statements by someone other than the witness to establish the truth  
4 regarding potential impacts to the FRWP intake and impacts of the project. (SCWA-3 at 10:10-23.)

5 In addition, the Water Authority objects to Forrest Williams’ testimony that “[s]ignificant  
6 reverse flow events which cause the shut down of the FRWP intake may require SCWA to shift to  
7 using its groundwater supplies. These shifts to the use of groundwater from the South American  
8 Subbasin could result in an unplanned use of groundwater that may disrupt SCWA’s conjunctive use  
9 plans for groundwater from the South American Subbasin.” (SCWA-3 at 10:28-11:4.) There is no  
10 foundation showing that reverse flow events will cause the shut down of the FRWP intake, and it is  
11 speculative that any shut down would require SCWA to shift to using its groundwater supplies or  
12 could disrupt SCWA’s conjunctive use plans for groundwater.

13 The Water Authority also objects to the testimony “increased FRWP intake shut downs result  
14 in a loss of Aerojet remediated groundwater flowing past the FRWP intake and unavailable for capture  
15 and return to beneficial use in the South American Subbasin.” (SCWA-3 at 11:5-7.) There is no  
16 foundation showing that increased FRWP intake shut downs result in a loss of Aerojet remediated  
17 groundwater flowing past the FRWP intake.

18 The Water Authority also objects to the testimony that “...SCWA may lose the portion of its  
19 dry-year CVP supply that might otherwise be available for its division during the time that a similar  
20 shut down occurs.” (SCWA-3 at 11:12-15.) There is no foundation showing that SCWA may lose  
21 any portion of its dry-year CVP supply, and it is speculative to testify that the project could cause  
22 SCWA to do so.

23 The Water Authority also objects to the testimony that “[r]everse flow events requiring the  
24 shutdown of the FRWP intake cause consequential effects to downstream SCWA treatment and  
25 distribution facilities, resulting in increased labor and planning requirements.” (SCWA-3 at 12:6-16.)  
26 There is no foundation showing that the project will cause the shutdown of the FRWP intake, or that  
27 FRWP intake shut downs cause “consequential effect” to SCWA facilities, and it is speculative that  
28 any shut down would result in increased labor and planning requirements.

1 Based on the foregoing, the Water Authority objects to the following testimony of Forrest  
2 Williams:

- 3 • SCWA-3, at pp. 10:10-23, 10:28-11:4, 11:5-7, 11:12-15, and 12:6-16.

4 **2. Testimony of Michael Peterson, P.E. (Exhibit No. SCWA-19)**

5 The Water Authority objects to the testimony of witness Michael Peterson on the grounds that  
6 it lacks foundation, includes inadmissible lay witness opinion testimony, and incorporates hearsay.

7 Specifically, the Water Authority objects to Michael Peterson’s testimony that “[t]he MBK  
8 Report concludes that the modeling performed by DWR and Bureau is flawed and does not accurately  
9 represent the SWP and CVP, as they would be operated . . . .” (SCWA-19, at 12:24-26.) The  
10 testimony is hearsay because it relies on a statement by someone other than the witness to establish the  
11 truth regarding modeling runs analyzing impacts of the project.

12 In addition, the Water Authority objects to the testimony that “[b]ased upon the modeling by  
13 MBK Engineers, as documented in the MBK Report . . . it is my understanding that the with the  
14 WaterFix project constructed and operating, the following impacts to SVWU water supplies could  
15 occur... Reduction in CVP Deliveries[;] Increased Frequency of Term 91 Curtailments[;] Reduction  
16 in Carryover Storage in Folsom Reservoir[;] Specific Two-Year Period . . . .” (SCWA-19, at 13:3-  
17 14:7.) At pages 14:9-23, 14:22-15:3, and 15:5-14, Mr. Peterson similarly summarizes the reports and  
18 testimony of third parties and makes conclusions based on the same. In each instance, the summary  
19 portion is hearsay, and the conclusions are inadmissible lay person opinion because there is no  
20 foundation showing that Mr. Peterson has personal knowledge or expertise regarding modeling of  
21 project operations or potential impacts to SVWU water supplies, or that if any of these impacts occur,  
22 the terms of SCWA’s contracts would give rise to an injury, whether legally cognizable or not.

23 Based on the foregoing, the Water Authority objects to the following testimony of Michael  
24 Peterson:

- 25 • SCWA-19, at pp. 12:24-26, 13:3-14:7, 14:9-23, 14:22-15:3, and 15:5-14.

26 **DD. Exhibits of San Juan Water District**

27 **1. Testimony of Shauna Lorance (Exhibit No. SJWD-1)**

28 The Water Authority objects to the testimony of witness Shauna Lorance on the grounds that it

1 is inadmissible lay witness opinion testimony, lacks foundation, is speculative, and incorporates  
2 hearsay.

3           Specifically, the Water Authority objects to Shauna Lorance’s testimony that “...SJWD and  
4 the other agencies that depend on the M&I intake pipe would have water supply problems because the  
5 intake pipe becomes unsafe to use when there is not enough water in the reservoir above it. When the  
6 lake level is at 330 feet above msl, or about 89,000 acre-feet of water in storage, the existing pumping  
7 plant could incur damaging vortices because too little water would be present above the dam’s M&I  
8 raw water intake. When there is not enough water above the intake to take the place of the water that  
9 is being pumped out, pumping through the intake causes a vortex of air to form, which has a cyclone-  
10 like shape and depth. Because of the vortex, air could be carried into the pipe and ultimately reach the  
11 pumps themselves. Air in the pumps causes cavitation, which in turn causes destructive shock waves  
12 to the pump impellers. Because of these risks, the M&I raw water intake pipe at Folsom Lake  
13 becomes unusable when the reservoir level drops too low, even if the intake is still submerged. Exhibit  
14 Folsom-19, ‘Increasing Water Supply Pumping Capacity at Folsom Dam, January 1996, ESA  
15 Consultants, Inc.’ discusses this phenomenon.” (SJWD-1 at p. 9, ¶ 38.) This is inadmissible lay  
16 person opinion because there is no foundation showing that Ms. Lorance has personal knowledge or  
17 expertise regarding potential damage to the M&I intake pipe, and it is speculative that the project  
18 would cause the intake pipe to become unsafe or unusable. The testimony is hearsay because it relies  
19 on a statement by someone other than the witness to establish the truth regarding usability of the M&I  
20 intake pipe.

21           In addition, the Water Authority objects to Ms. Lorance’s testimony that “...if Cal Water Fix  
22 drew Folsom Reservoir down to the point where the M&I intake were deemed unsafe and diversions  
23 had to be taken through the E-Pump at a rate of 70 cfs, the maximum volume of water that could be  
24 delivered in one year for both SJWD and Roseville would be 50,711 acre feet. (This assumes inflow  
25 sufficient to keep Folsom Reservoir’s level at or above 309 feet above msl, or 53,858 acre-feet of  
26 storage; as noted above, the E-Pump itself cannot be used if the Reservoir drops below that level, and  
27 additional emergency measures would have to be implemented to ensure continued deliveries to  
28 Roseville and SJWD.)” (SJWD-1 at p. 14, ¶ 58.) This is inadmissible lay person opinion because

1 there is no foundation showing that Ms. Lorance has personal knowledge or expertise regarding the  
2 capacity of the M&I intake pipe, and it is speculative whether and what type emergency measures  
3 would be required under the circumstances described.

4 Based on the foregoing, the Water Authority objects to the following testimony of Shauna  
5 Lorance:

- 6 • SJWD-1 at pp. 9, ¶ 38 and 14, ¶ 58.

7 **EE. Exhibits of Save the California Delta Alliance, et al.’s Case-in-Chief**

8 **1. Testimony of Janet McCleery (Exhibit No. SCDA-22)**

9 The Water Authority objects to and moves to strike the testimony of witness Janet McCleery  
10 on the grounds that it is irrelevant, an inadmissible lay person opinion, and lacks foundation.

11 Specifically, the Water Authority objects to Ms. McCleery’s testimony that “We understand  
12 that the effects of the tunnels on ‘recreation’ are scheduled for part II of the hearings. Many of the  
13 activities that make Discovery Bay what it is, taken in isolation, might be considered as recreation.  
14 However, Discovery Bay is a freshwater boating community. Our culture, societal values, economy,  
15 and entire way of life depend on the health of our bays, which are fed by and connected to Indian  
16 Slough and Kellogg Creek.” (SCDA-22, at p. 1:14-18.) This testimony is irrelevant because the issue  
17 of the project’s potential effects on recreation is not relevant to the current issue of injury to legal  
18 users of water. The Water Authority moves to strike the entirety of Ms. McCleery’s testimony as  
19 irrelevant based irrelevance for the same reason.

20 The Water Authority also objects to Ms. McCleery’s testimony that “If the tunnels go into  
21 operation, water temperatures will increase in Discovery Bay, circulation will decrease, and conditions  
22 will cause blue-green algae to be a pervasive problem in Discovery Bay. Pets will die. It is difficult, if  
23 not impossible, to fence off the water—and doing so would destroy our community in any event. In  
24 addition to all the other community destroying effects of the tunnels, blue-green algae will give an  
25 additional incentive for pet lovers to move away from Discovery Bay.” (SCDA-22, at p. 3:3-8.) This  
26 testimony is inadmissible lay person testimony because it is speculative and lacks foundation. There  
27 is no foundation showing that Ms. McCleery has personal knowledge regarding potential effects on  
28 water temperatures, water circulation or blue-green algae. Witness does not have expertise with

1 respect to water quality, hydrology of the Delta, or conditions that may result in a pervasive algae  
2 problem.

3         The Water Authority also objects to Ms. McCleery’s testimony that “The bays will become  
4 brackish or polluted as the result of removing the fresh water upstream in Sacramento so that it cannot  
5 flow through the Delta and through our bays.” (SCDA-22, at p. 3:9-11.) The Water Authority also  
6 objects to the testimony that “If the tunnels go in, the problems will be exacerbated, because the  
7 fresher Sacramento River water will not be allowed to flow down through our community, and our  
8 economy will be even more impacted.” (SCDA-22, at p. 3:18-20.) This testimony is inadmissible lay  
9 person testimony because it is speculative and lacks foundation. There is no foundation showing that  
10 Ms. McCleery has personal knowledge regarding potential effects on water quality or economics. Ms.  
11 McCleery does not have expertise with respect to water quality or hydrology of the Delta.

12         Based on the foregoing, the Water Authority objects to the testimony of Janet McCleery  
13 contained in Exhibit No. SCDA-22 and moves to strike the testimony.

14                     **2. Testimony of Michael Guzzardo (Exhibit No. SCDA-24)**

15         The Water Authority objects to and moves to strike the testimony of witness Michael  
16 Guzzardo on the grounds that it is irrelevant and is an inadmissible lay person opinion.

17         The testimony of Mr. Guzzardo is a lay person opinion regarding the impacts to cultural  
18 values, home prices, commercial real estate and commercial rents, and marine-based businesses. This  
19 testimony is irrelevant at this time because it is not relevant to the present issue of the change  
20 petition’s potential effects on legal users of water.

21         In addition, the Water Authority objects to Mr. Guzzardo’s testimony that “Diverting water at  
22 the upstream location will degrade water quality in Discovery Bay, cause increases in invasive weeds,  
23 increases in toxic algae, and turn the bays of Discovery Bay from their current fresh water condition  
24 into brackish and salt water.” (SCDA-24, at 1:9-11.) This testimony is inadmissible lay person  
25 testimony because it is speculative and lacks foundation. There is no foundation showing that Mr.  
26 Guzzardo has personal knowledge regarding water quality, aquatic weeds, toxic algae, or hydrology of  
27 the Delta.

28         Based on the foregoing, the Water Authority objects to the following testimony of Michael

1 Guzzardo contained in Exhibit No. SCDA-24 and moves to strike the testimony.

2 **3. Testimony of Frank Morgan (Exhibit No. SCDA-25)**

3 The Water Authority objects to and moves to strike the testimony of witness Frank Morgan on  
4 the grounds that is irrelevant and is an inadmissible lay person opinion.

5 The testimony of Mr. Morgan is a lay person opinion regarding the impacts to cultural values,  
6 home prices, commercial real estate and commercial rents, and marine-based businesses. This  
7 testimony is irrelevant at this time because it is not relevant to the present issue of the change  
8 petition’s potential effects on legal users of water.

9 The Water Authority also objects to Mr. Morgan’s testimony that “I believe that the tunnels  
10 will make the algae much worse. Summers are getting hotter and it seems like that is going to  
11 continue. Less fresh water and warmer Delta waters because of the tunnels will certainly exacerbate  
12 the blue green algae issue because it is precisely the continuous flow of fresh water that keeps the  
13 Delta flushed out and the delicate exo system balanced.” (SCDA-25, at 6:7-10.) This testimony is  
14 inadmissible lay person testimony because it is speculative and lacks foundation. There is no  
15 foundation showing that Mr. Guzzardo has personal knowledge regarding water quality, hydrology of  
16 the Delta, or blue-green algae.

17 Based on the foregoing, the Water Authority objects to and moves to strike the testimony of  
18 Frank Morgan contained in Exhibit No. SCDA-25.

19 **4. Testimony of Erik Ringelberg (Exhibit No. SCDA-33)**

20 The Water Authority objects to the testimony of witness Erik Ringelberg on the grounds that it  
21 lacks foundation. The Water Authority also objects to the consideration of Mr. Ringelberg’s  
22 testimony as an expert opinion, because no statement of qualifications or expertise is provided.

23 The Water Authority objects to the following conclusions in Mr. Ringelberg’s testimony as  
24 lacking foundation: (1) “The nutrient load of waters in and around Discovery Bay will increase.”  
25 (SCDA-33, at p. 2:15-16); (2) “Although not addressed at all in the Petition (DWR 1-3) the project is  
26 likely to create localized flow conditions that are likely to significantly exacerbate algal and aquatic  
27 weed growth.” (SCDA-33, at p. 2:9-10) ; and (3) “Reducing the amount of Sacramento River water  
28 that flows through the Delta and into and around the area surrounding Discovery Bay will also alter

1 water temperatures, likely resulting in warmer water and fewer incidences of very cold water.”  
2 (SCDA-33, at p. 2:22-24.) The testimony does not identify the bases for these conclusions, nor does  
3 the testimony present the information relied on to form these conclusions.

4 Based on the foregoing, the Water Authority objects to the following testimony of Mr.  
5 Ringelberg:

- 6 • SCDA-33, at pp. 2:9-10, 2:15-16, 2:22-24.

7 **5. Testimony of Tom Burke (Exhibit No. SCDA-35)**

8 The Water Authority objects to the testimony of witness Tom Burke in Exhibit SCDA-35 on  
9 the grounds that it lacks foundation.

10 Specifically, the Water Authority objects to Mr. Burke’s testimony that “If diversions are  
11 shifted to the proposed NDD, this dilution effect will be reduced or eliminated. This will result in a  
12 higher nutrient loads for waters in and around Discovery Bay. All things being equal, higher nutrient  
13 loads can lead to algal blooms which reduce dissolved oxygen and lead to degradation of water  
14 quality. This is a qualitative analysis.” (SCDA-35, at p. 2:22-25.) Mr. Burke’s “qualitative analysis”  
15 is based on the assumption that “all things being equal” in particular area, however, no information is  
16 provided in the testimony regarding whether “all things” are equal in the referenced area. Thus, there  
17 is no basis for the conclusion that that water quality would degrade.

18 Based on the foregoing, the Water Authority objects to the following testimony of Mr. Burke:

- 19 • SCDA-35, at p. 2:22-25.

20 **6. Testimony of Michael Brodsky (Exhibit No. SCDA-48)**

21 The Water Authority objects to and moves to strike the testimony of witness Michael Brodsky  
22 on the grounds that it is an inadmissible opinion regarding questions of law.

23 Mr. Brodsky is an attorney and his testimony consists of numerous opinions and conclusions  
24 regarding questions of law such as what constitutes injury to legal user of water and the requirements  
25 of particular statutory provisions. This testimony is an inadmissible opinion regarding questions of  
26 law and should be excluded. Mr. Brodsky will have an opportunity to present his legal arguments and  
27 conclusions in future briefing.

28 Based on the foregoing, the Water Authority objects to and moves to strike the testimony of

1 Michael Brodsky contained in Exhibit No. SCDA-48.

2 **FF. Exhibits of South Valley Water Association**

3 **1. Testimony of Daniel Vink (Exhibit No. SVWA-4)**

4 The Water Authority objects to this testimony on the grounds it contains inadmissible legal  
5 conclusions, lacks foundation, is irrelevant, speculative, beyond the witness's expertise, and its  
6 probative value, if any, would be substantially outweighed by undue consumption of time.

7 Mr. Vink's testimony that "These contracts were entered into under Section 9(d) of the Federal  
8 Reclamation Act of 1939 and establish a permanent, contractual right to the stated water quantities,"  
9 (SVWA-4 at pp. 2:27-3:2), is a legal conclusion regarding interpretation of these contracts and also  
10 lacks foundation and is beyond the witness' expertise.

11 Mr. Vink's testimony regarding the Exchange Contract (SVWA-4 at p. 3:3-20) contains  
12 inadmissible legal conclusions on issues of law (e.g., contract interpretation and enforcement), lacks  
13 foundation, and is beyond the witness's expertise.

14 Mr. Vink's testimony regarding the nature, purpose and interpretation of Article 3(n) of  
15 protestants' water supply contracts (i.e., SVWA-4 at pp. 3:21-4:27.), contains inadmissible legal  
16 conclusions on issues of law (e.g., contract interpretation and enforcement), lacks foundation, and is  
17 beyond the witness's expertise.

18 Mr. Vink's testimony that "All water received by protestants from the CVP is put to beneficial  
19 use," (SVWA-4 at p. 5:2.), is an inadmissible legal conclusion on an issue of law, lacks foundation,  
20 and is beyond the witness's expertise.

21 Mr. Vink's testimony that "approving the Petition without appropriate terms and conditions  
22 could seriously undermine the reliability of CVP water supplies for Friant Division contractors,"  
23 (SVWA-4 at p. 5:8-10), lacks foundation, is irrelevant, and is speculative because Mr. Vink only  
24 discusses overall CVP operations and decisions by Reclamation regarding those operations and  
25 nowhere explains how granting the Petition would affect those operational decisions to the detriment  
26 of protestants. For instance, Mr. Vink states "In 2014 and 2015 the CVP decided to satisfy Exchange  
27 Contractor demands by making releases from Millerton, rather than using Delta supplies," (SVWA-4  
28 at p. 5:20-21), but this statement lacks foundation, is irrelevant, and is speculative because he never



1 explains how or why Reclamation made these decisions in 2014 and 2015, and he never explains or  
2 demonstrates how granting the Petition relates to those actions.

3 Mr. Vink’s testimony that “Although Petitioner’s modeling indicates the Exchange Contractors  
4 will receive full contract amounts in all year types, Petitioner’s modeling is incapable of producing a  
5 run where Exchange Contractor demands are satisfied from a non-Delta source, such as the San  
6 Joaquin River, as occurred in 2014 and 2015,” (SVWA-4 at p. 7:20-23), lacks foundation and is  
7 beyond the witness’s expertise because Mr. Vink has no professional training or experience in water  
8 project operations modeling and he provides no explanation of the basis of his conclusions regarding  
9 the modeling conducted to support the Petition.

10 Based on the foregoing, the Water Authority objects to the following testimony of Mr. Vink:

- 11 • SVWA-4, at pp. 2:27-3:2, 3:3-20, 3:21-4:27, 5:2, 5:8-10, 5:20-21, 7:20-23.

12 **GG. Exhibits of Tehama-Colusa Canal Authority & Water Service Contractors in**  
13 **Its Service Area**

14 **1. Testimony of Jeffrey P. Sutton (Exhibit No. TCCA-1)**

15 The Water Authority objects to the testimony of witness Jeffrey Sutton on the grounds that it  
16 lacks foundation, is irrelevant, is speculative and includes inadmissible legal conclusions.

17 Specifically, the Water Authority objects to Jeffrey Sutton’s testimony that “[t]he Petition does  
18 not demonstrate that the proposed changes would not adversely affect any legal user of the water  
19 involved, and specifically the water service contractors within TCCA’s service area because: (i)  
20 neither the Petition nor the evidence submitted by DWR and Reclamation describe any definite  
21 operation plan for the CVP and the SWP with the proposed new points of diversion, and (ii) there is  
22 no analysis of the potential effects of the proposed Cal WaterFix project on the Coordinated  
23 Operations Agreement.” (TCCA-1 at 6:17-22.) The testimony is an inadmissible legal conclusion  
24 regarding whether Petitioners have met their burden in this proceeding, and there is no foundation  
25 showing that Petitioners have or have not analyze effects of the project on the Coordinated Operations  
26 Agreement.

27 In addition, the Water Authority objects to Mr. Sutton’s testimony that “[t]o the extent that the  
28 reduced deliveries to water service contractors within TCCA’s service area are made in order to

1 increase these supplies to users outside the area of origin, the proposed project will result in injury to  
2 the entities within TCCA’s service area. (See *State Water Resources Control Bd. Cases* (2006) 136  
3 Cal.App.4th 674, 758.)” (TCCA-1 at 7:19-23.) The testimony an inadmissible opinion regarding  
4 questions of area of origin law and should be excluded. TCCA will have an opportunity to present its  
5 legal arguments and conclusions in future briefing.

6 The Water Authority also objects to Mr. Sutton’s testimony regarding possible impacts to  
7 water service contractors within TCCA’s service area “if DWR and Reclamation were to operate the  
8 SWP and the CVP to divert and re-divert water at the proposed new points of diversion.” (TCCA-1 at  
9 7:24-8:14.) The testimony lacks foundation showing how or why the listed impacts might occur, does  
10 not explain or give examples of what “physical limitations” might result, and is speculative. The  
11 included testimony regarding potential impacts from new Delta flow criteria is also irrelevant, as the  
12 identified impacts would not be an injury from the change proposed by Petitioners.

13 Based on the foregoing, the Water Authority objects to the following testimony of Jeffrey  
14 Sutton:

- 15 • TCCA-1 at 6:17-22, 7:19-23, and 7:24-8:14.

16 **HH. Exhibits of Sacramento Valley Water Users**

17 **1. Testimony of Walter Bourez (Exhibit No. SVWU-100)**

18 The Water Authority objects to the testimony of witness Walter Bourez on the grounds that it  
19 is hearsay evidence, irrelevant, and would result in undue consumption of time if considered.

20 Specifically, the Water Authority objects to Mr. Bourez’s testimony in Paragraphs 6 and 7  
21 summarizing the findings contained in Exhibit SVWA-109, which is a report on California Water Fix  
22 Boundary Analysis Modeling. (SVWU-100, at pp. 1-2, ¶¶ 6-7.) This testimony is hearsay evidence  
23 because statements of someone other than the witness contained in SVWA-100 to prove the truth of  
24 the statements made in Mr. Bourez’s testimony.

25 In addition, the Water Authority objects to Mr. Bourez’s testimony in Paragraph 8 describing  
26 Exhibit SVWU-108, which is a report regarding an example operation of California Water Fix.  
27 (SVWU-100, at p. 3, ¶ 8.) This testimony is hearsay evidence because it offers statements by  
28 someone other than the witness, contained in SVWA-108, to prove the truth of the statements made in

1 Mr. Bourez's testimony.

2 The Water Authority also objects to Mr. Bourez's testimony in Paragraphs 9-11. (SVWU-100,  
3 at p. 3, ¶¶ 9-11.) This testimony summarizes the review done by MBK Engineers of the Bay Delta  
4 Conservation Plan modeling. Consideration of Mr. Bourez's testimony regarding review of the prior  
5 modeling would result in undue consumption of time.

6 The Water Authority also objects to Mr. Bourez's testimony in Paragraphs 12 and 13.  
7 (SVWU-100, at pp. 3-4, ¶¶ 12-13.) This testimony summarizes the findings contained in Exhibit  
8 SVWA-102, which is a report on review of the Bay Delta Conservation Plan modeling. This  
9 testimony is hearsay evidence because it incorporates statements by someone other than the witness,  
10 contained in SVWA-102, to prove the truth of the statements made in Mr. Bourez's testimony.

11 The Water Authority also objects to Mr. Bourez's testimony in Paragraphs 17 and 18.  
12 (SVWU-100, at pp. 4-5, ¶¶ 17-18.) This testimony summarizes the findings contained in Exhibit  
13 SVWA-104, which is technical comments on coordinated long-term operation of the Central Valley  
14 Project and State Water Project Draft Environmental Impact Statement. This testimony is irrelevant  
15 because the operations described in that draft Environmental Impact Statement are not the relevant  
16 operations for the California Water Fix project. This testimony is also hearsay evidence because it  
17 incorporates statements by someone other than the witness contained in SVWA-104 to prove the truth  
18 of the statements made in Mr. Bourez's testimony.

19 The Water Authority also objects to Mr. Bourez's testimony in Paragraph 19. (SVWU-100, at  
20 p. 5, ¶ 19.) This testimony describes Exhibit SVWA-107, which is a report on modeling done for the  
21 draft biological assessment for Water Fix. This testimony is hearsay evidence because it offers the  
22 statements of someone other than the witness, from Exhibit SVWA-107, to prove the truth of the  
23 statements made in Mr. Bourez's testimony.

24 Based on the foregoing, the Water Authority objects to the following testimony of Walter  
25 Bourez:

- 26 • SVWU-100, at pp. 1-2, ¶¶ 6-7, p. 3, ¶ 8, p. 3, ¶¶ 9-11, pp. 3-4, ¶¶ 12-13, pp. 4-5, ¶¶  
27 17-18, p. 5, ¶ 19.

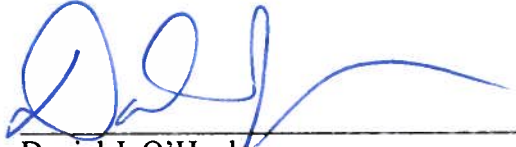
28

1 **V. CONCLUSION**

2 For the reasons explained above, the Water Authority objects to the Hearing Officers'  
3 consideration of the evidence discussed herein.

4 Dated: September 21, 2016

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation

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6  
7 By:   
8 Daniel J. O'Hanlon  
9 Attorneys for San Luis & Delta-Mendota Water  
10 Authority  
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**STATEMENT OF SERVICE**

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

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

San Luis & Delta-Mendota Water Authority's Objections to Part 1B Parties' Cases in Chief

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

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/service\\_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml):

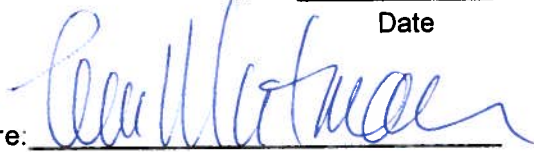
*Note: In the event that any emails to any parties on the Current Service List are undeliverable, you must attempt to effectuate service using another method of service, if necessary, and submit another statement of service that describes any changes to the date and method of service for those parties.*

**For Petitioners Only:**

	<p>I caused a true and correct <b>hard copy</b> of the document(s) to be served by the following method of service to Suzanne Womack &amp; Sheldon Moore, Clifton Court, L.P., 3619 Land Park Drive, Sacramento, CA 95818:</p> <p><b>Method of Service:</b> _____</p>
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I certify that the foregoing is true and correct and that this document was executed on September 21, 2016

Date

Signature: 

Name: Terri Whitman

Title: Legal Secretary

Party/Affiliation: SLDMWA

Address: 400 Capitol Mall, 27th Floor

Sacramento, CA 95814