

1 Dustin C. Cooper (SBN 245774)  
2 Emily E. LaMoe (SBN 232485)  
3 MINASIAN, MEITH, SOARES,  
4 SEXTON & COOPER, LLP  
5 1681 Bird Street  
6 Post Office Box 1679  
7 Oroville, California 95965-1679  
8 Telephone: 530.533.2885  
9 Facsimile: 530.533.0197

10 Attorneys for BUTTE WATER DISTRICT and  
11 RICHVALE IRRIGATION DISTRICT

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

13 Hearing in the Matter of California )  
14 Department of Water Resources and United ) **RESPONSE TO CALIFORNIA**  
15 States Department of the Interior, Bureau of ) **DEPARTMENT OF WATER**  
16 Reclamation Request for a Change in Point of ) **RESOURCES OBJECTIONS TO JOINT**  
17 Diversion for California WaterFix, ) **WATER DISTRICTS BOARD WRITTEN**  
18 ) **TESTIMONY AND EXHIBITS**  
19 ) **SUBMITTED BY PROTESTANTS IN**  
20 ) **SUPPORT OF PART 1B CASE IN CHIEF**  
21 ) **AND RELATED JOINDERS**  
22 )  
23 )  
24 )

25 **INTRODUCTION**

26 On September 21, 2016, the California Department of Water Resources (DWR) filed  
27 objections to the Joint Water Districts Board Written Testimony and Exhibits submitted by  
28 protestants Butte Water District (BWD) and Richvale Irrigation District (RID). The objections  
raised are without merit. Testimony from the general managers of the protestant districts and the  
manager of the Joint Water Districts Board is clearly relevant and admissible to this proceeding.

29 **LEGAL AND PROCEDURAL BACKGROUND**

30 On August 30, 2016, protestants BWD and RID submitted the written testimony of  
31 Donnie Stinnett, Sean Earley, and Mark Orme, along with documentary evidence in support of  
32 their case. BWD and RID are also members of the Sacramento Valley Water Users and in such  
33 capacity submitted expert evidence of Walter Bourez and Dan Easton of MBK Engineers.

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1 ARGUMENT

2 DWR objects to Stinnett’s testimony on the basis that Stinnett “does not provide any  
3 details or facts that support a showing of injury to the Joint Water Districts and instead refers to  
4 the testimony of MBK Engineers for the injury suffered by the districts from the WaterFix  
5 Project.” (Page 2, lines 6-9.) DWR objects to the testimony of Orme and Earley on the basis  
6 that “their testimony does not offer specific details or facts to show how the CWF will injure use  
7 of water under these water rights.” (Page 2, lines 22-24.) DWR then summarily concludes that  
8 in the absence of testimony regarding the injury, the testimony is irrelevant and should be  
9 excluded. Neither objection is founded.

10 California Water Code section 1702 requires a petitioner to establish that the change will  
11 not operate to the injury of any legal user of water involved. Evidence offered during a  
12 proceeding for a petition for change is admitted in accordance with Government Code section  
13 11513, which provides that relevant evidence be admitted if “it is the sort of evidence on which  
14 responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the  
15 existence of any common law or statutory rule which might make improper the admission of the  
16 evidence over objection in civil actions.” (Gov. Code, § 11513, subd. (c).) Protestants  
17 introduced evidence through the testimony of Stinnet, Orme, and Earley to establish that RID  
18 and BWD, as members of the Joint Water Districts, are legal users of the water involved in the  
19 proposed change. This testimony is clearly relevant to the proceeding at hand. RID and BWD,  
20 as members of the Sacramento Valley Water Users, introduced evidence through the expert  
21 testimony of Walter Bourez and Dan Easton of MBK Engineers. This, too, speaks directly to the  
22 matter at issue. DWR seems to suggest that each individual witness must speak to all elements at  
23 issue in order to establish relevance. There is no legal basis for this assertion. Protestants can  
24 demonstrate their standing and injury through multiple witnesses.

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For the foregoing reasons, protestants BWD and RID respectfully request that DWR's objections be overruled in its entirety.

DATED: October 24, 2016

Respectfully submitted,

MINASIAN, MEITH, SOARES,  
SEXTON & COOPER, LLP

By:   
EMILY E. LaMOE

Attorney for BUTTE WATER DISTRICT  
and RICHVALE IRRIGATION DISTRICT,  
Members of the JOINT WATER DISTRICTS  
BOARD

**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):

**RESPONSE TO CALIFORNIA DEPARTMENT OF WATER RESOURCES OBJECTIONS  
TO JOINT WATER DISTRICTS BOARD WRITTEN TESTIMONY AND EXHIBITS  
SUBMITTED BY PROTESTANTS IN SUPPORT OF PART 1B CASE IN CHIEF  
AND RELATED JOINDERS**

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 October 6, 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:**

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|  | 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 & Sheldon Moore, Clifton Court, L.P., 3619 Land Park Drive, Sacramento, CA 95818: |
|--|---|

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|--|---------------------------------|
|  | <b>Method of Service:</b> _____ |
|--|---------------------------------|

I certify that the foregoing is true and correct and that this document was executed on October 25, 2016.

  
\_\_\_\_\_  
TRACY WILD  
Title: Secretary to Emily E. LaMoe  
Party/Affiliation: Counsel for Anderson-Cottonwood  
Irrigation District  
Minasian, Meith, Soares, Sexton & Cooper, LLP  
1681 Bird Street/Post Office Box 1679  
Oroville, CA 95965-1679