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CWFhearing@waterboards.ca.gov via email and delivery at hearing

Hearing Chair Tam Doduc
Hearing Officer Felicia Marcus
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

RE: Policy statement by Snug Harbor Resorts, LLC located on a peninsula off Ryer Island, on Steamboat Slough, and a potentially impacted business of the North Delta region.

Dear Hearing Chair Doduc and Hearing Officer Marcus:

Thank you for this opportunity to provide a general policy statement regarding the proposed "WaterFix" project, which represents a substantial change of use of Sacramento River flows in the Sacramento San Joaquin Delta. As you know, for over 100 years the California State Water Resources Control Board (Water Board) and its predecessors have been tasked with allocating water supplies, both available supplies and unavailable. The issues you face as persons on the 2016 Water Board are the same as those before you have faced. And each time, those before you have fallen under pressure to grant conditioned rights to surplus water that does not exist, which has resulted in unrealistic expectations of water deliveries that cannot be met without taking fresh water away from someone else or some other area of the State. Are you going to perpetuate the problem or help bring about permanent fair solution? Based on the documentation provided so far by WaterFix proponents, the water quality and water quantity problem shifts location and actually exacerbate the problems. Do you even have the option or capability to say "no"?

Specifically, you are being asked to allow water contractors to divert water from the Sacramento River in the North Delta region, which would result in taking that water flow from the riparian water rights holders downstream of the proposed intakes along the Sacramento River and its tributaries. The Sacramento River is estimated to have 23,282 million cubic meters (Mm³) mean annual natural runoff¹, but Water Board has allowed 35,336 Mm³ claims of water right diversions off the Sacramento River and its tributaries, not including claims for hydropower generation. (152% conditional over-

¹ 100 Years of California's water rights system: patterns, trends and uncertainty by Theodore E Grantham and Joshua H Viers <http://iopscience.iop.org/article/10.1088/1748-9326/9/8/084012/pdf>

allocation of Sacramento River flows north of the Delta) Granting the request to divert more Sacramento River away from the normal flows through the Delta literally takes the fresh water away from riparian water rights holders², and hands it to water contractors for purely economic reasons, without just compensation. The main issue is how *much* water is diverted, not just *how* that water is taken, either by tunnels or surface conveyance. If permission is granted to build new intakes and tunnels, or divert more Sacramento River water using surface conveyance, there would be substantial negative impacts to all individuals and landowners located downstream in the Delta that are unacknowledged in the documentation presented to date by WaterFix proponents. I wish to emphasize that what matters is how *much* water is diverted, not just *how* it is diverted. Contrary to publicity documents, WaterFix is not simply a request to change a point of diversion. It's function would be to redefine water rights priorities which could result by application in the elimination of effective riparian water rights in California.

Also at issue is riparian water *quality*. Diversion of too much quantity of fresh water affects quality of water left in the Delta, and over time, also quality of the Delta and Bay area drinking water aquifers. You are being asked to grant petitioners right to divert higher freshwater quality without regard to the degradation of drinking water quality in the Delta downstream of the proposed diversion locations. For that matter, Water Board has already been allowing too much diversion from the Sacramento River watershed because degradation of Delta and Bay Area drinking water aquifer can be shown to have a marked decline starting around 2005, as the CALFED projects were being implemented. There have been many different efforts related to Sacramento River flow diversions, including CALFED, BDCP efforts, which used many different computer models for estimating in-Delta flows and available outflows. Only two of those computer models are of focus in the current WaterFix documentation, even though there are other models, such as the ones used for the 2015 USBR³ hearing on transfer of water rights, which appear to use more current or measurable data.

What can be shown since implementation of CALFED projects⁴ is a striking decline in the Delta drinking water aquifer, a striking decline in aquatic native fish species, and lack of any evidence showing the proposed alternate intake techniques and restoration experiments even function as represented. Assumptions of flows into and out of the Delta to the bay have been estimated, challenged, revised and I do not think anyone would say there has been an accurate accounting of Sacramento River inflows and diversions into and within the Delta over the last fifteen years. It is frankly quite premature to consider granting any new points of diversion from the Sacramento River when the diversions already granted have done so much water quality and environmental damage in the Delta region. It only makes common sense to decline to allow any new diversion points, any new conveyance alternatives whatsoever, until there is an accurate, measurable and provable baseline of actual Delta inflows and outflows necessary to protect riparian water quantity and water quality rights, and to protect the native aquatic fish species in all natural waterways of the Delta, at a minimum.

Finally, if you can't measure it and you can't count it, you should not promise to give it away either. There can be no doubt, based on the testimony you will see and hear, that measuring of flows in and out of the Delta is a major issue and unresolved problem. The Delta is being drained of its fresh water, and the results to the ecosystem, navigation, recreation and drinking water quality is already seen. As noted in a 2008 SWRCB presentation, "Inappropriate inconsistency can result in inequitable treatment, no common understanding of key water quality and water rights goals, and difficulty in

² Map of Water Rights associated within the Legal Delta:

http://www.swrcb.ca.gov/water_issues/programs/delta_watermaster/delta_map/

³ Long-Term Water Transfers. 05/01/2015: http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=18361

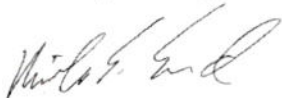
⁴ <http://ecoatlas.org/regions/ecoregion/bay-delta>

achieving a meaningful evaluation of outcomes"⁵. A review of documentation generated between 2008 and 2016 will show you inappropriate inconsistency has increased, not resolved. Inconsistency of data used is one of the primary issues that must be resolved before decisions are made.

The maps with links attached at the end of this letter are provided to give the reader easy access to the referenced materials without having to go onto the internet. However, I cannot represent that the data or online resources are correct or display accurate data, and the information is provided as a reference example only.

Please do not give in to the pressure to grant revised points of diversion or additional diversion from the Sacramento River without first being sure you are provided with accurate current data, and without first being sure the short and long impacts to residents, recreation, agriculture and businesses and landowners are known and fully mitigated.

Respectfully submitted,



Nicole S. Suard, Esq. Managing Member, Snug Harbor Resorts, LLC

Attachments: reference maps and data

⁵Slide 26 of 33 http://www.swrcb.ca.gov/water_issues/hot_topics/strategic_plan/docs/2008_2012/020608.pdf