

1 OSHA R. MESERVE (SBN 204240)
2 PATRICK M. SOLURI (SBN 210036)
3 SOLURI MESERVE, A LAW CORPORATION
4 510 8th Street
5 Sacramento, California 95814
6 Telephone: (916) 455-7300
7 Facsimile: (916) 244-7300
8 Email: osha@semlawyers.com
9 patrick@semlawyers.com

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11 Attorneys for Protestant Friends of Stone Lakes National
12 Wildlife Refuge

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15 **BEFORE THE**
16 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

17 HEARING IN THE MATTER OF
18 CALIFORNIA DEPARTMENT OF WATER
19 RESOURCES AND UNITED STATES
20 BUREAU OF RECLAMATION
21 REQUEST FOR A CHANGE IN POINT OF
22 DIVERSION FOR CALIFORNIA WATER FIX

23 **TESTIMONY OF SCOTT H. FINLEY**
24 **FRIENDS OF STONE LAKES NATIONAL**
25 **WILDLIFE REFUGE**

I. INTRODUCTION

I am the President of the Friends of Stone Lakes National Wildlife Refuge (“Friends”, formerly known as the Stone Lakes National Wildlife Refuge Association). The Friends is a membership-based California nonprofit public benefit corporation organized in 1994 for the purposes of protecting, promoting and enhancing the Stone Lakes National Wildlife Refuge (“Stone Lakes NWR” or “Refuge”), which will be severely and adversely affected by the unmitigated impacts associated with the construction and operation, including the diversion of waters, associated with the proposed Delta Tunnel’s Project (a.k.a. “California WaterFix”). I am submitting this testimony solely on behalf of the Friends.

I have been on the Board of Directors of this organization since 2012. I am an attorney licensed to practice in California and Alaska (though currently retired and inactive). Prior to retiring, I was employed for over twenty (20) years by local public agencies within the greater Sacramento region, with a practice emphasis on environmental and land use planning law.

II. TESTIMONY

The Friends are, and have been, actively involved in protecting the Refuge by providing interpretive, environmental, and conservation education programs, materials, publications, and facilities for the benefit of the general public and assisting the Refuge with scientific, research, natural resource, and conservation projects. As well as advocating on behalf of the Refuge in the Project proceedings, the Friends have advocated on behalf of protecting the resources of the Refuge in local governmental venues for many years.

Friends submitted comments on the 2013 Draft EIR/EIS, the 2015 Partially Recirculated Draft EIR/Supplemental Draft EIS (“RDEIR/SDEIS”), and the 2016 Final EIR/EIS (“FEIR/S”) for the Project, as well as comments specifically addressed to concerns about the State Department of Fish and Wildlife’s authority to issue an Incidental Take Permit for the Project. In these comments, Friends expressed concern that the lead agencies had not adequately demonstrated that Preferred Alternative 4A would satisfy the “zero-take” standard required by the Fully Protected Species statute or would “minimize and fully mitigate” take of CESA-listed species that utilize the Refuge.

1 The Refuge was established in 1994, becoming the 505th refuge in the National Wildlife
2 Refuge System. The Refuge boundary was established at approximately 18,000 acres. The
3 U.S. Fish and Wildlife Service currently manages approximately 6,500 acres within the
4 boundary area. The Refuge is located within the Beach-Stone Lakes Basin in southern
5 Sacramento County and is within the Sacramento-San Joaquin Delta ecoregion. It is located
6 south of the community of Freeport, generally between I-5 and the former Southern Pacific
7 Sacramento-Walnut Grove Railroad right of way, extending approximately to Snodgrass
8 Slough and Twin Cities Road. The Refuge is managed according to the Stone Lakes National
9 Wildlife Refuge Comprehensive Conservation Plan. (FSL-6.)

10 The Refuge is located proximate to rapidly expanding urbanizing areas and was
11 established to serve as an important wildlife refuge area that helps to bridge the gap between
12 the Cosumnes River Preserve to the southeast and the Vic Fazio Yolo Basin Wildlife Area to
13 the northwest. Because of the adverse effects of urbanization, the Refuge was determined to
14 be one of the six most threatened refuges in the nation in 2005 by the National Wildlife Refuge
15 Association in its annual Report on the State of the System. (See FSL-7.)

16 Since 2005, the threats to the Refuge have not decreased—if anything, they have
17 increased. Already, approximately 450 acres that were originally envisioned to be part of the
18 refuge have urbanized. Abutting the Refuge to the east is the City of Elk Grove, one of the
19 most rapidly urbanizing areas in the Sacramento region. These adjacent development
20 pressures result in additional human-caused disturbance to the Refuge, such as the loss of off-
21 site foraging habitat for vulnerable species such as the Greater Sandhill Crane, the likelihood
22 of diminished water quality runoff from urban areas into the Refuge, and the chance for
23 transmission of invasive species. Now, in addition to all of these threats from the east, the
24 Refuge is also threatened by the Delta Tunnels project immediately to the west. (See LAND-3
25 and LAND-120 [showing proposed project in relation to Refuge and Elk Grove].)

26 The Refuge is located entirely within the 100-year flood zone. Before European
27 settlement, the flooded basin area during winter could extend from lower Morrison Creek to the
28 Mokelumne River, and supported tens of thousands of migratory birds, as well as elk,

1 pronghorn and grizzly bear. The Refuge is part of the Pacific Flyway and is an important
2 stopover area for migrating birds during the spring and fall, and provides important wintering
3 habitat for waterfowl and other birds. Only about 10 percent of the original pre-European
4 settlement Central Valley wetlands still remain, so any amount which is still available for use by
5 migratory and wintering birds is critical to their well-being.

6 In addition to wetlands, the Refuge has a diversity of vegetative communities, including
7 grasslands, riparian forest, and valley oak woodland. This diverse vegetation provides habitat
8 for a range of birds, reptiles, mammals, amphibians and invertebrates. Over 200 species of
9 birds have been sighted on the Refuge, and approximately 90 have been recorded as
10 breeding. Grasslands provide foraging areas for bird-of-prey, including Swainson's Hawk,
11 black-shouldered (white-tailed) kites, golden eagles, great horned and barn owls, and
12 American kestrels, and are important for white-fronted geese, Canada geese and Ross's
13 geese. Waterfowl and shorebirds birds make extensive use of the managed wetlands both
14 during migration and for winter.

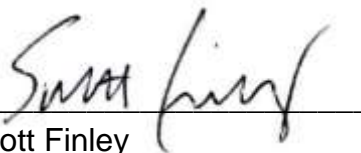
15 In particular, the Refuge, and adjacent public and private lands, provide important
16 wintering habitat for both greater and lesser sandhill cranes. The cranes arrive from the
17 northeast in September and October, and depart northward in March and April. Several
18 hundred greater sandhill cranes have been seen feeding and resting in various parts of the
19 managed wetlands and pasturelands within the Refuge boundaries.

20 In addition to providing wildlife with quality habitat and their environmental needs, the
21 Refuge provides an opportunity for environmental education and interpretation, and access for
22 wildlife observation and hunting. In 2011, a public access area was developed adjacent to the
23 Refuge Headquarters at 1624 Hood-Franklin Road and a handicapped-accessible trail with
24 environmental interpretation was constructed. The Friends support a program to provide
25 transportation for school children to the Refuge and sponsors the "Nature Bowl", an
26 environmental-themed competition, for local schools each spring at the Headquarters site.
27 Thousands of adults and children visit the Refuge each year to view and enjoy the birds and
28 other wildlife.

1 **III. CONCLUSION**

2 The Friends have a long-standing record of advocating for and supporting the best
3 interests of the Refuge, and are extremely concerned about the direct and indirect adverse
4 impacts to the Refuge that would arise from the construction of the proposed Delta Tunnels,
5 including the tunnel intakes, which are located directly west of the northern portion of the
6 Refuge, and the proposed forebay, which is located with the Refuge project boundaries directly
7 north of Twin Cities Road. The Friends are also extremely concerned about the likelihood of
8 mortality to sandhill cranes from the proposed additional transmission lines, which will transect
9 the Refuge. The Friends believe that the impacts of the Project, including such impacts as
10 construction truck traffic, will be extremely detrimental to the welfare of a number of species
11 utilizing the Refuge, including the potential take of State-listed species, and will result in
12 degradation of the Refuge resources.

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14 Executed on the 30th day of November, 2017, at Sacramento, California.

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16 
17 Scott Finley

18 **REFERENCES**

19 National Wildlife Refuge Association. 2005. State of the System - 2005 Focus: Beyond the
20 Boundaries. (Excerpt). [FSL-7]
21 U.S. Fish & Wildlife Service and Stone Lakes National Wildlife Refuge. 2007. Stone Lakes
22 National Wildlife Refuge Comprehensive Conservation Plan. (Excerpt). [FSL-6]
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