



# State Water Resources Control Board



**Linda S. Adams**

Secretary for  
Environmental Protection

## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300

P.O. Box 2000 ♦ Sacramento, California 95812-2000

Fax: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)

**Arnold Schwarzenegger**

Governor

April 14, 2009

### VIA ELECTRONIC MAIL

TO: ENCLOSED SERVICE LIST

### **SERVICE LIST OF PARTICIPANTS TO EXCHANGE INFORMATION: WATER RIGHT HEARING REGARDING A PETITION FOR CHANGE IN THE PLACE OF USE FOR CERTAIN WATER RIGHTS OF THE DEPARTMENT OF WATER RESOURCES AND BUREAU OF RECLAMATION - SCHEDULED TO COMMENCE ON APRIL 27, 2009**

In accordance with the State Water Resources Control Board's (State Water Board) Notice of Public Hearing (Notice), dated March 30, 2009, regarding the above subject hearing, enclosed is a Service List of Participants who have submitted a Notice of Intent to Appear (NOI) and who have indicated intent to participate in the above-referenced hearing. Copies of the NOIs are attached. Also attached are copies of submitted Protests.

As noted in the March 30<sup>th</sup> hearing notice, **all listed participants to the hearing must attend the pre-hearing conference scheduled to commence on Thursday, April 16, 2009 at 1:00 p.m.** A teleconference line will be available for participants that would prefer not to travel to Sacramento for this relatively short meeting. Please contact Jane Farwell at [jfarwell@waterboards.ca.gov](mailto:jfarwell@waterboards.ca.gov) or (916) 341-5349, no later than **10:00 a.m., Thursday, April 16, 2009** to obtain the teleconference line number and password. The teleconference line is only for the use of the participants. The conference will be webcast for the public to view. Failure to attend the pre-hearing conference may result in exclusion from participation in the hearing.

As instructed in Section 4 of the March 30<sup>th</sup> Notice's attachment entitled, "Information Concerning Appearance at Water Right Hearings," each participant shall submit to the State Water Board either: seven paper copies of each of its exhibits or five paper copies and one electronic copy of each of its exhibits no later than **12 Noon, Wednesday, April 22, 2009**. Please see Section 5 of the Notice's attachment for details regarding electronic submissions. With exhibits, each participant must submit to the State Water Board and serve on the other participants a completed "Exhibit Identification Index". Please submit the "Exhibit Identification Index" to the State Water Board in either Microsoft Word or Excel format. **All of the required copies must be received by the noon, April 22, 2009, deadline.** Each participant shall also serve a copy of each exhibit on every participant on the service list. Participants may serve those participants who agree to electronic service with an electronic copy of exhibits. For this hearing, all participants have agreed to accept electronic service of hearing-related materials.

*California Environmental Protection Agency*

USBR/DWR POU Petition Hearing  
Service List of Participants  
April 14, 2009

-2-

All written testimony and other exhibits submitted to the State Water Board should be addressed as follows:

Division of Water Rights  
State Water Resources Control Board  
Attention: Jane Farwell  
P.O. Box 2000  
Sacramento, CA 95812-2000

Email: [wrhearing@waterboards.ca.gov](mailto:wrhearing@waterboards.ca.gov)  
With Subject of "USBR/DWR Place of Use Petition Hearing"

The NOIs and other documents related to this hearing will also be posted on the Division of Water Rights website at:

[http://www.waterrights.ca.gov/Hearings/docs/usbr\\_dwr/index.html](http://www.waterrights.ca.gov/Hearings/docs/usbr_dwr/index.html)

If you have any questions regarding this letter, please contact me at (916) 341-5359 or by email at [emona@waterboards.ca.gov](mailto:emona@waterboards.ca.gov).

Sincerely,



Ernest Mona  
Hearings and Special Projects

Enclosures

**HEARING REGARDING A PETITION FOR CHANGE IN THE PLACE OF USE FOR CERTAIN  
WATER RIGHTS OF THE DEPARTMENT OF WATER RESOURCES AND BUREAU OF  
RECLAMATION - SCHEDULED TO COMMENCE ON APRIL 27, 2009**

**SERVICE LIST OF PARTICIPANTS  
(Revised April 14, 2009)**

**PARTICIPANTS TO BE SERVED WITH WRITTEN TESTIMONY, EXHIBITS AND OTHER DOCUMENTS.** (Note: The participants listed below agreed to accept electronic service, pursuant to the rules specified in the hearing notice.)

<p><b>CALIFORNIA DEPARTMENT OF WATER RESOURCES</b> c/o Erick D. Soderlund 1416 North Street, Room 1104 Sacramento, CA 95814 <a href="mailto:esoderlu@water.ca.gov">esoderlu@water.ca.gov</a></p>	<p><b>UNITED STATES BUREAU OF RECLAMATION</b> c/o Amy L. Aufdemberge 2800 Cottage Way Sacramento, CA 95825 <a href="mailto:AMY.AUFDEMBERGE@sol.doi.gov">AMY.AUFDEMBERGE@sol.doi.gov</a></p>
<p><b>SAN LUIS AND DELTA-MENDOTA WATER AUTHORITY</b> c/o Jon D. Rubin Diepenbrock Harrison 400 Capitol Mall, 18th Floor Sacramento, CA 95814 <a href="mailto:jrubin@diepenbrock.com">jrubin@diepenbrock.com</a></p>	<p><b>WESTLANDS WATER DISTRICT</b> c/o James Snow Westlands Water District P. O. Box 6056 Fresno, CA 93703 <a href="mailto:JSnow@KMTG.com">JSnow@KMTG.com</a></p>
<p><b>COUNTY OF SAN JOAQUIN, SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</b> c/o DeeAnne Gillick P.O. Box 20 Stockton, CA 95201-3020 <a href="mailto:dgillick@neumiller.com">dgillick@neumiller.com</a> <a href="mailto:tshephard@neumiller.com">tshephard@neumiller.com</a></p>	<p><b>(PROTESTANT) PUBLIC TRUST ALLIANCE</b> c/o Michael Warburton Room 290, Bldg. D, Fort Mason Center San Francisco, CA 94123 <a href="mailto:michael@rri.org">michael@rri.org</a></p>
<p><b>(PROTESTANT) CALIFORNIA WATER IMPACT NETWORK</b> c/o Julia R. Jackson P.O. Box 148 Quincy, CA 95971 <a href="mailto:julia.r.jackson@gmail.com">julia.r.jackson@gmail.com</a></p>	<p><b>(PROTESTANT) CALIFORNIA SALMON AND STEELHEAD ASSOCIATION</b> c/o Bob Baiocchi P.O. Box 1790 Graeagle, California 96103 <a href="mailto:rbaiocchi@gotsky.com">rbaiocchi@gotsky.com</a></p>
<p><b>(PROTESTANT) DEFENDERS OF WILDLIFE</b> c/o Joshua Basofin 1303 J Street, Suite 270 Sacramento, CA 95691 <a href="mailto:jbasofin@defenders.org">jbasofin@defenders.org</a></p>	<p><b>(PROTESTANT) CALIFORNIA SPORTFISHING PROTECTION ALLIANCE</b> c/o Michael B. Jackson P.O. Box 207 Quincy, CA 95971 <a href="mailto:mjatty@sbcglobal.net">mjatty@sbcglobal.net</a></p>

USBR/DWR POU Petition Hearing  
Service List of Participants  
April 14, 2009

-2-

<p><b>(PROTESTANT)</b> <b>SOUTH DELTA WATER AGENCY, CENTRAL DELTA WATER AGENCY, LAFAYETTE RANCH</b> c/o John Herrick 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 <a href="mailto:jherrlaw@aol.com">jherrlaw@aol.com</a></p>	<p><b>SANTA CLARA VALLEY WATER DISTRICT</b> c/o Joan Maher Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118 <a href="mailto:jmaher@valleywater.org">jmaher@valleywater.org</a></p>
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**HEARING REGARDING A PETITION FOR CHANGE IN THE PLACE OF USE FOR  
CERTAIN WATER RIGHTS OF THE DEPARTMENT OF WATER RESOURCES AND  
BUREAU OF RECLAMATION - SCHEDULED TO COMMENCE ON APRIL 27, 2009**

**SUBMITTED NOTICES OF INTENT TO  
APPEAR (NOI)**

**NOTICE OF INTENT TO APPEAR**

DEPT. OF WATER RESOURCES plans to participate in the water right hearing regarding:  
(name of party or participant)

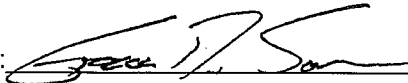
**USBR/DWR PLACE OF USE PETITION HEARING  
scheduled to commence  
April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition.
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
John Lehigh	PROTECT OPERATIONS	30 minutes	YES
Steve Ford	BIOLOGICAL EFFECTS	30 minutes	YES

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature:  Dated: 04/13/09

Name (Print): ERICK D. SODERLUND

Mailing Address: 1416 NINTH STREET, Room 1104  
SACRAMENTO, CA 95814

Phone Number: (916) 653-8826 Fax Number: (916) 654-9822

E-mail Address: esoderlu@water.ca.gov

**NOTICE OF INTENT TO APPEAR**

U.S. Dept. of Reclamation wants to participate in the water right hearing regarding:  
(name of party or participant)

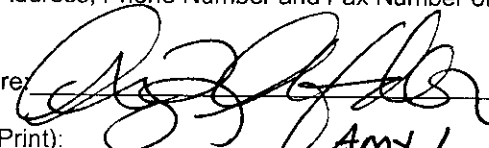
**USBR/DWR PLACE OF USE PETITION HEARING  
scheduled to commence  
April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition.
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
RON MILLIGAN	INFORMATION IN SUPPORT OF CONSOLIDATED USE PETITION	20 MIN.	

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature:  Dated: 4/13/09

Name (Print): AMY L. AUFDEMBERGE

Mailing Address: 2800 COTTAGE WAY  
SACRAMENTO, CA 95825

Phone Number: (916) 978-5688 Fax Number: (916) 978-5674

E-mail Address: Amy.Aufdemberge

**NOTICE OF INTENT TO APPEAR**

**SANTA CLARA VALLEY WATER DISTRICT** plans to participate in the water right hearing regarding:  
(name of party or participant)

**USBR/DWR PLACE OF USE PETITION HEARING**  
scheduled to commence  
**April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition. \*
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
<i>Cindy Kao</i>	<i>Consolidated SWP/CVP Place of Use</i>		

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: *Joan G. Maher* Dated: April 13, 2009

Name (Print): Joan Maher

Mailing: Santa Clara Valley Water District  
Address: 5750 Almaden Expressway  
San Jose, CA 95118

Phone Number: ( 408 ) 265-2607 Fax Number: ( 408 ) 979-5640  
*2652600*

E-mail Address: jmaher@sevwd.dst.ca.us valleywater.org

\*Currently, the Santa Clara Valley Water District is coordinating with the San Luis & Delta-Mendota Water Authority on presentation of evidence. The District reserves the right to amend its Notice of Intent to Appear after the Prehearing Conference.



**NOTICE OF INTENT TO APPEAR**

**SAN LUIS & DELTA-MENDOTA  
WATER AUTHORITY**

plans to participate in the water right hearing regarding:  
(name of party or participant)

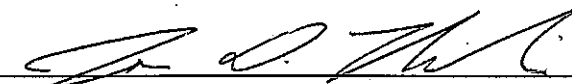
**USBR/DWR PLACE OF USE PETITION HEARING  
scheduled to commence  
April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition.
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.\*

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
Frances Mizuno	water supply conditions, Transfers/Exchanges	20 minutes	Yes
James Snow	Operations/Water Supply Conditions	20 minutes	Yes
Cindy Kao	Transfers/Exchanges	20 minutes	Yes
William Harrison	Transfers/Exchanges	20 minutes	Yes
Richard Moss	Transfers/Exchanges	20 minutes	Yes

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature:  Dated: April 13, 2009

Name (Print): Jon D. Rubin

Mailing: Diepenbrock Harrison  
Address: 400 Capitol Mall, 18th Floor  
Sacramento, CA 95814

Phone Number: ( 916 ) 492-5000 Fax Number: ( 916 ) 446-4535

E-mail Address: jrubin@diepenbrock.com

\*SLDMWA is seeking to coordinate testimony with other hearing participants in order to minimize duplication of evidence. Therefore, in addition to the witnesses listed above, SLDMWA reserves the right to amend its Notice of Intent to Appear after the Prehearing Conference.

**NOTICE OF INTENT TO APPEAR**

County of San Joaquin, San Joaquin County Flood Control and Water Conservation District  
\_\_\_\_\_ plans to participate in the water right hearing regarding:  
(name of party or participant)

**USBR/DWR PLACE OF USE PETITION HEARING  
scheduled to commence  
April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
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- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: Dee Anne Gillick Dated: April 13, 2009

Name (Print): DeeAnne Gillick

Mailing: P.O. Box 20  
Address: Stockton, CA 95201-3020

Phone Number: (209) 948-8200 Fax Number: (209) 948-4910

E-mail Address: dgillick@neumiller.com AND tshephard@neumiller.com

**NOTICE OF INTENT TO APPEAR**

**SOUTH DELTA WATER AGENCY, CENTRAL DELTA WATER AGENCY, and LAFAYETTE RANCH** plans to participate in the water right hearing regarding:  
(name of party or participant)

**USBR/DWR PLACE OF USE PETITION HEARING**  
scheduled to commence  
**April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition.
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature:  Dated: 4/13/09

Name (Print): JOHN HERRICK, ESQ.

Mailing Address: 4255 Pacific Avenue, Suite 2, Stockton, CA 95207

Phone Number: (209) 956-0150 Fax Number: (209) 956-0154

E-mail Address: jherrlaw@aol.com

**NOTICE OF INTENT TO APPEAR**

WESTLANDS WATER DISTRICT plans to participate in the water right hearing regarding:  
(name of party or participant)

**USBR/DWR PLACE OF USE PETITION HEARING  
scheduled to commence  
April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition. \*
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: *James Snow* Dated: April 13, 2009

Name (Print): James Snow

Mailing: Westlands Water District  
Address: P. O. Box 6056  
Fresno, CA 93703

Phone Number: ( 559 ) 224-1523 Fax Number: ( 559 ) 241-6277

E-mail Address: JSnow@KMTG.com

\*Westlands Water District is coordinating with the San Luis & Delta-Mendota Water Authority on presentation of evidence. The District reserves the right to amend its Notice of Intent to Appear after the Prehearing Conference.

STATE WATER RESOURCES  
 CONTROL BOARD  
 2009 APR 13 PM 12:04  
 DIVISION OF WATER RESOURCES

**NOTICE OF INTENT TO APPEAR**

MICHAEL WARBURTON plans to participate in the water right hearing regarding:  
 (name of party or participant)  
PUBLIC TRUST ALLIANCE

**USBR/DWR PLACE OF USE PETITION HEARING  
 scheduled to commence  
April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition.
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: Michael Warburton Dated: 4/13/09  
 Name (Print): MICHAEL WARBURTON, PUBLIC TRUST ALLIANCE  
 Mailing Address: Rm. 290, Bldg. D, Fort Mason Center  
SAN FRANCISCO, CA 94123  
 Phone Number: (510) 644-0752 Fax Number: ( )  
 E-mail Address: michael@pti.org

**NOTICE OF INTENT TO APPEAR**

California Water Impact Network plans to participate in the water right hearing regarding:  
(name of party or participant)

**USBR/DWR PLACE OF USE PETITION HEARING  
scheduled to commence  
April 27, 2009**

STATE OF CALIFORNIA  
2009 APR 13 AM 8:44  
RECEIVED

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition.
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
Tim Stroschane	Application not in public interest, resulting in unreasonable harm to fishs, wildlife, application inadequate as a matter of law	20 min	yes
Tom Stokley		20 min	yes

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: Julia R. Jackson Dated: April 12, 09

Name (Print): Julia R. Jackson

Mailing Address: P.O. Box 148

Quincy, CA 95971

Phone Number: (530) 283-6406 Fax Number: (530) 283-0416

E-mail Address: julia.r.jackson@gmail.com

2009 APR 13 AM 8:43  
MOUNTAIN VIEW

**NOTICE OF INTENT TO APPEAR**

California Sportfishing Protection Alliance plans to participate in the water right hearing regarding:  
(name of party or participant)

**USBR/DWR PLACE OF USE PETITION HEARING  
scheduled to commence  
April 27, 2009**

- I/we also have protested the USBR/DWR Place of Use Petition
- I/we intend to participate in the evidentiary portion of the hearing regarding the USBR/DWR Place of Use Petition.
- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
Bill Jennings	Application not in public interest Application would result in unreasonable harm to fish & wild life.	20 min	yes
	Application inadequate as a matter of law.		
Lynn Barria	Injury to water right	20 min	No.

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: Michael B. Jackson Dated: April 12, 2009  
Name (Print): MICHAEL B. JACKSON

Mailing Address: Box 207, Quincy, CA. 95971

Phone Number: (530) 283-1007 Fax Number: (530) 283-4999

E-mail Address: mjatty@sbcglobal.net

2009 APR 13 AM 11:45  
 DW/AG/REGISTRATION  
 SIGNATURE

Joshua Basofin / Defenders of Wildlife **NOTICE OF INTENT TO APPEAR**  
 plans to participate in the water right hearing regarding:  
 (name of party or participant)

Duck/Bureau petition to consolidate places of use  
 Scheduled for April 27, 2008

I/we intend to present a policy statement only:

I/we plan to call the following witnesses to testify at the hearing:

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
<u>IBD</u>	<u>IBD</u>	<u>IBD</u>	<u>IBD</u>

(If more space is required, please add additional pages or use reverse side)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: [Signature] Dated: 4/13/09

Name (Print): Joshua Basofin

Mailing Address: 1303 J st, Ste 270  
Sacramento, CA 95691

Phone Number: (916) 313-5800 x108 Fax Number: (916) 313-5812

E-mail Address: jbasofin@defenders.org





Mailing address: P.O. Box 1790, Graeagle, California 96103

Phone: 530.836.1115

Fax Number: None (use e-mail address)

E-Mail Address: [rbaiocchi@gotsky.com](mailto:rbaiocchi@gotsky.com)

Exhibits: None (State and Federal Statutes are Not Required to be Submitted)

**HEARING REGARDING A PETITION FOR CHANGE IN THE PLACE OF USE FOR  
CERTAIN WATER RIGHTS OF THE DEPARTMENT OF WATER RESOURCES AND  
BUREAU OF RECLAMATION - SCHEDULED TO COMMENCE ON APRIL 27, 2009**

## **SUBMITTED PROTESTS**

State of California  
State Water Resources Control Board  
DIVISION OF WATER RIGHTS  
P.O. Box 2000, Sacramento, CA 95812-2000  
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

# PROTEST – (Petitions)

## BASED ON INJURY TO VESTED RIGHTS

Protests based on Environmental or Public Interest Considerations should be completed on other side of this form

APPLICATION \_\_\_\_\_ PERMIT 16478 etc. LICENSE \_\_\_\_\_

I, (We,) Central Delta Water Agency, South Delta Water Agency, and  
Lafayette Ranch <sup>11315 etc.</sup>  
Name of protestant

of See Attached have read carefully  
Post Office address of protestant

a notice relative to a petition for  change or  extension of time.

under APPLICATION \_\_\_\_\_ of DWR and USBR  
State name of petitioner

to appropriate water from SEE ATTACHED.  
Name of source

It is desired to protest against the approval thereof because to the best of \_\_\_\_\_ information and belief the  
proposed change will result in injury to \_\_\_\_\_ as follows: \_\_\_\_\_  
my or our  
me or us State the injury which will result to you (see NOTE below)

Protestant claims a right to the use of water from the source from which petitioner is diverting, or proposes to divert, which right is based on: \_\_\_\_\_  
Prior to application, notice posted, use begun prior to 12/19/14, riparian claim, or other right

Please provide application, permit or license numbers or statement of diversion and use numbers, which cover your use of water, or state 'none' \_\_\_\_\_. The extent of present and past use of water by protestant or his predecessors in interest from this source is as follows: \_\_\_\_\_  
State approximate date first use made, amount used, time of year when diversion made, the use to which water is put

Where is YOUR DIVERSION POINT located? \_\_\_\_\_ ¼ of \_\_\_\_\_ ¼ of Section \_\_\_\_\_  
Describe location with sufficient accuracy that position thereof relative to that of petitioner may be determined.

T. \_\_\_\_\_, R. \_\_\_\_\_, \_\_\_\_\_ B. & M. Is this point downstream from petitioner's point of diversion? YES  NO   
If Yes, explain: \_\_\_\_\_

Under what conditions may this protest be disregarded and dismissed? \_\_\_\_\_  
State conditions which will relieve protest, or if none, so state.

A true copy of this protest has been served upon the petitioner \_\_\_\_\_  
personally or by mail

Date: 4/13/09  
Protestant(s) or Authorized Representative sign here

*Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.*

(NOTE: Attach supplemental sheets as necessary)

1 **JOHN HERRICK, ESQ., S.B. #139125**  
Attorney at Law  
2 4255 Pacific Avenue, Suite 2  
Stockton, CA 95207  
3 Telephone: (209) 956-0150  
Fax: (209) 956-0154  
4

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6 235 East Weber Avenue  
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7 Stockton, California 95201  
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10 3439 Brookside Road, Suite 210  
Stockton, CA 95210  
11 Telephone: (209) 957-4254  
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12

Attorney for Protestants  
13 SOUTH DELTA WATER AGENCY,  
CENTRAL DELTA WATER AGENCY  
14 and LAFAYETTE RANCH  
15

16 STATE OF CALIFORNIA

17 STATE WATER RESOURCES CONTROL BOARD

18 In the matter of DWR and USBR  
19 Petition to Consolidate Certain  
20 Places of Use

**PROTEST OF PETITION**

21 The CENTRAL DELTA WATER AGENCY, a body politic and corporate of the State of  
22 California, SOUTH DELTA WATER AGENCY, a body politic and corporate of the State of  
23 California, and LAFAYETTE RANCH, a California corporation, herein protest the above-named  
24 Petition Requesting Change in Place of Use for Certain Water Rights of the Department of Water  
25 Resources and the Bureau of Reclamation and in support of this Protest respectfully allege and state  
26 as follows:

27 **BACKGROUND**

28 Protestant SOUTH DELTA WATER AGENCY (hereinafter referred to as SDWA") is a body

1 politic and corporate of the State of California created by Chapter 1089 of the Statutes of 1973 of  
2 the State of California (South Delta Water Agency Act). The boundaries of SDWA are described  
3 in Section 9.1 of the South Delta Water Agency Act (Stats. 1973, c. 1089). The area included within  
4 SDWA is located within the Sacramento-San Joaquin Delta as defined in California Water Code  
5 Section 12220 and is generally referred to as the southern Delta. The purposes and powers of the  
6 SDWA are set forth in Article 4 of the South Delta Water Agency Act. The principal purposes of  
7 SDWA are to protect the water supply of the lands within its boundaries against intrusion of ocean  
8 salinity and to assure those lands a dependable in-channel supply of water of suitable quality  
9 sufficient to meet present and future needs.

10       Regarding the areas within its boundaries, SDWA is a partial successor in interest of the  
11 Delta Water Agency, a body politic and corporate of the State of California.

12       The area within the boundaries of SDWA is approximately 148,000 acres in size, is primarily  
13 devoted to agriculture and is dependent on the in-channel water supply in the southern Delta for  
14 irrigation water and other beneficial uses. The in-channel water supply in the southern Delta is  
15 principally dependent upon the inflow of the San Joaquin and Sacramento River systems to the Delta  
16 for its source of water.

17       Protestant SDWA's boundaries encompass some municipal use, but mostly agricultural  
18 diversions. These diversions represent both riparian and appropriative rights. The United States  
19 Bureau of Reclamation, California Department of Water Resources, and the State Water Resources  
20 Control Board have all previously assumed that all lands within the Delta lowlands are riparian to  
21 the channels of the Delta (see Central Valley Project California, Delta Lowlands Service Area  
22 Investigations January 1964). Attached hereto is a 1964 USBR listing of then current permit holders  
23 indicating that virtually all land within the South Delta has appropriative water rights. The  
24 SWRCB's records contain the current information. The Agency's authorizing statutes in  
25 combination with Delta Protection Act (Water Code § 12200 et seq.) require that sufficient water  
26 of sufficient quality be maintained in the Delta channels to support current and future beneficial uses.

27       Protestant CENTRAL DELTA WATER AGENCY ("CDWA") is a political subdivision of  
28 the State of California created by the California Legislature under the Central Delta Water Agency

1 Act, chapter 1133 of the statutes of 1972. The CDWE came into existence under this act in 1974.  
2 The CDWA encompasses approximately 120,000 acres in within the San Joaquin County, all of  
3 which is within the Sacramento-San Joaquin Delta, also known as the "San Francisco Bay-Delta  
4 Estuary" or the "Bay Delta" (the "Delta"). The lands within the CDWA jurisdiction ate primarily  
5 agricultural but also contain recreational developments and significant wildlife habitat areas. The  
6 lands within the CDWA jurisdiction are dependent upon the water supply in the channel of the Delta  
7 ("in-channel" water supply) for irrigation and other beneficial uses. The CDWA's in-channel water  
8 supply is dependent upon the flow and quality of both the Sacramento and San Joaquin River  
9 systems, which are the principle focus of the BDCP process, as explained below. All of the lands  
10 within the CDWA are contiguous to the channels within the CDWA and/or to the underground flow  
11 of water of those channels. The water rights pertaining to those lands are riparian. In some  
12 instances, however, the water rights are also covered by permits and licenses for appropriation.  
13 There may be some instances of pre-1914 filings. The water rights of those lands in every case  
14 known to Plaintiffs are considered "prior vested" water rights in relationship to the water rights of  
15 the United States Bureau of Reclamation and Department of Water Resources. CDWA is  
16 empowered to assist landowners to protect and assure a dependable supply of water of suitable  
17 quality sufficient to meet personal and future needs.

18 Protestant LAFAYETTE RANCH is a California corporation which owns approximately 340  
19 acres on Union Island in San Joaquin County. This acreage abuts Middle River and is located within  
20 Sections 35 of Township 1 North, Range 5 East, Mount Diablo Base and Meridian. Protestant  
21 LAFAYETTE RANCH farms said property which has in the past included row crops and alfalfa.  
22 Such land is riparian to Middle River, and Protestant also has appropriative rights under license 3677  
23 (Application #11694). The land has been under irrigation for most of the past century. Protestant  
24 is already being damaged by reduced water flows and quality from the San Joaquin River and may  
25 suffer further injury in reduced crop values and impaired land as further alleged herein if the Petition  
26 is granted.

27 The Protestants have read the notice of the Petition to Change and may be contacted at the  
28 address listed on Protest form.





1 cost of operating irrigation pumps is increased.

2 **CURRENT STATUS OF UPSTREAM WATERSHEDS**

3 The operation of the Friant Unit of the Central Valley Project (“CVP”) severs the hydraulic  
4 connection between the upper San Joaquin River and the lower San Joaquin River and Sacramento-  
5 San Joaquin Delta (“Delta”) for much of the year. The Friant Unit stores and diverts water from the  
6 upper San Joaquin River for delivery to places such as Kern County which is outside the watershed  
7 of the San Joaquin River.

8 These diversions and deliveries reduce the average annual flow into the Delta by  
9 approximately 544-943 TAF, with reductions in April-September of 347-526 TAF. This decrease  
10 in flow deprives downstream riparian and senior appropriators of water at times when there is  
11 inadequate supply, quality, and level for their beneficial needs.

12 In addition, the Friant Unit makes no downstream releases towards meeting Water Quality  
13 Objectives for Agricultural Beneficial Uses on the San Joaquin River or in the Delta as set forth in  
14 the 1995 Water Quality Control Plan. This results in the burden of meeting such Objectives being  
15 shifted to New Melones Dam/Reservoir which is incapable of meeting those Objectives on a regular  
16 and sustained basis.

17 Further, the operation of the Friant Unit deprives the San Joaquin River below Friant Dam  
18 of sufficient flow to sustain indigenous fisheries, including anadromous fish, especially that portion  
19 of the river above the Mendota pool.

20 The operation of the CVP causes other adverse effects in the South Delta. The operation of  
21 the CVP export pumps in the Delta substantially decreases the height of the water levels, especially  
22 the low tide level to the point where local syphons and pumps are sometimes incapable of operating.  
23 Although other factors affect channel morphology, only the export pumps decrease the height of the  
24 water.

25 The operation of the CVP and State Water Project (“SWP”) export pumps also alter the flow  
26 in the channels creating reverse flows and stagnant zones. This results in insufficient flushing of  
27 Delta waters and the concentration of all constituents, including municipal effluent and salts from  
28 upstream return flows.



1 addition, the Bureau has refused to continue settlement negotiations with SDWA regarding the issue  
2 of San Joaquin River flows. [Issues of flows, quality, channel levels, reverse flows, etc., were raised  
3 in the suit SDWA brought in 1982 against USBR & DWR.] Thus, the prior vested rights of SDWA  
4 members are not fully protected. In addition, said change and additional use by Petitioners may at  
5 times be made when there is no net downstream flow in the channels of the southern Delta or when  
6 there is subsurface but not surface hydraulic continuity between the point of diversion and the  
7 Protestants, thus further damaging and violating prior vested rights or Protestants. Reservation of  
8 Board jurisdiction over said Petition would not prevent present and immediate damage to prior  
9 vested rights by said proposed changes of use.

10 Although the tidal barrier program in the southern Delta can address some of the harm caused  
11 by the State and Federal projects, those barriers are not allowed to operate at all times needed. The  
12 barrier project is also subject to State and Federal funding.

13 The system is currently over-committed and unable to provide all legal users with the amount  
14 of water desired or needed, and granting the Petition will decrease the supply. This will necessarily  
15 cause harm to other legal users. Pursuant to the requirements of the Water Code, the Petition cannot  
16 be granted if such harm will occur.

17 The continued flows of the San Joaquin River System and the Sacramento River System, and  
18 their respective tributaries, uninterrupted and without diminution by the proposed diversions for  
19 which the above Petition has been made, is essential to the continued prosperity and welfare of the  
20 owners and operations of land in the San Joaquin and Sacramento River Delta Area, and to the  
21 individual Protestants.

### 22 **PROTEST AGAINST PETITION**

23 The Protestants, being convinced of injury to themselves and others owners of land lying  
24 within the Delta Area if the proposed changes are granted due to injury to the water supply of the  
25 lands within its boundaries, protest the granting of the same upon the following grounds, to-wit:

- 26 (a) The proposed changes will result in the Petitioners increasing the amount of water  
27 they will use as they propose to capture, store, and later use or release for  
28 downstream use an amount of water greater than they would have absent the change.

- 1 (b) The proposed changes have not been subject to any adequate CEQA review and thus  
2 cannot be granted.
- 3 (c) The Petitioners' analysis does not accurately evaluate the actual changes in  
4 downstream flows because the operations used in the analysis do not reflect actual  
5 or likely Petitioner operations.
- 6 (d) The proposed changes will decrease flows at times of the year when downstream  
7 riparians and senior right holders have insufficient water to divert. In addition, those  
8 decreased flows will adversely affect the flushing of salts from Delta lands at times  
9 when there is sufficient water for diversion needs.
- 10 (e) The analysis of the proposed changes fails to examine the project as a whole, rather  
11 it sets forth a piecemeal analysis which masks the effects.
- 12 (f) The analysis of the proposed changes does not address the SWRCB's conclusions in  
13 D-1641 regarding how changes in operations can adversely affect legal users.
- 14 (g) The Proposed changes constitute a violation of Water Code §§ 1392 or 1629, which  
15 adversely affect the availability of water for the environment and other potential  
16 water users.
- 17 (h) That the proposed changes or additional diversion, if permitted, will contribute to  
18 reducing and altering the direction of the natural flows in the rivers, channels, canals  
19 and sloughs in the Delta Area, thereby reducing the quantity of irrigation water  
20 available and adversely affecting the distribution of good quality water available in  
21 the Delta and tributary area.
- 22 (k) The proposed changes or additional diversion, by reducing the water supply in the  
23 channels, rivers, canals, and sloughs in the Delta Area will endanger the remaining  
24 water supply by (i) permitting the incursion of salt water from San Francisco Bay,  
25 and (ii) by permitting a deterioration in the quality of the water in the rivers,  
26 channels, canals, and sloughs in the Delta Area and upstream as a result of the  
27 drainage from lands upstream to the Delta Area and the lack of adequate downstream  
28 flow to dilute and flush those drainage salts.


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- (l) The proposed changes or additional diversion, if permitted, will constitute an infringement upon and a violation of water and property rights of the individual Protestant and of owners and operators of lands in the SDWA and of lands lying generally within the Delta Area.
- (m) The approval of the proposed changes or additional diversion and increased consumptive use would violate sections 12230 through 12232, sections 12200-12205, and 1200, et seq. of the Water Code.
- (n) The proposed changes or additional diversion and resulting increase in consumptive use would reduce the downstream flow of the San Joaquin River into the Delta and at times prevent downstream flow through Delta channels and past lands of the individual protestant, and lands within the Agency.
- (o) The approval of the change or additional diversion and resulting increase in consumptive use would be detrimental to the public interest, be in violation of and detrimental to the uses protected by the public trust, and cause damage to the environment.

WHEREFORE, Protestants pray that the Petition be denied unless and until comprehensive conditions to protect downstream beneficial uses are adopted:

Respectfully submitted,

Dated: April 13, 2009

  
\_\_\_\_\_  
JOHN HERRICK, Attorney for Protestants

1 PROOF OF SERVICE BY MAIL

2 STATE OF CALIFORNIA )  
3 ) ss.  
4 County of San Joaquin )

5 I am a citizen of the United States and a resident of the County of San Joaquin. My  
6 business address is 4255 Pacific Avenue, Suite 2, Stockton, California 95207. I am over the  
7 age of eighteen years and not a party to the within entitled action. I am readily familiar with  
8 the practice of the Law Office of John Herrick for collection and processing of  
9 correspondence for mailing with the United States Postal Service. In the ordinary course of  
10 business of the Law Office of John Herrick, correspondence is deposited with the United  
11 States Postal Service the same day as it is collected and processed.

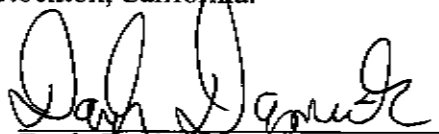
12 On Aril 13, 2009, I served the within **PROTEST OF PETITION** on the interested  
13 parties in said action, by placing a true copy thereof enclosed in a sealed envelope with  
14 postage thereon fully prepaid, and placed for collection and mailing on said date to be  
15 deposited with the United States Postal Service following ordinary business practices at  
16 Stockton, California, addressed as follows:

17 **Department of Water Resources**  
18 **c/o Robert B. Cooke, Chief**  
19 **State Water Project Analysis Office**  
20 **P. O. Box 942836**  
21 **Sacramento, CA 94236-0001**

22 **United States Bureau of Reclamation**  
23 **c/o Ron Milliegan, Operations Manager**  
24 **Central Valley Operations Offide**  
25 **3310 El Camino Avenue, Suite 300**  
26 **Sacramento, CA 95825**

27 I declare under penalty of perjury under the laws of the State of California that the  
28 foregoing is true and correct.

EXECUTED on April 13, 2009. at Stockton, California.

29   
30 Dayle Daniels

State of California  
 State Water Resources Control Board  
**DIVISION OF WATER RIGHTS**  
 P.O. Box 2000, Sacramento, CA 95812-2000  
 Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

RECEIVED  
 2009 APR 13 AM 8:44  
 DIVISION OF WATER RIGHTS

## PROTEST – (Petitions)

**BASED ON ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS**

Protests based on Injury to Vested Rights should be completed on other side of this form

APPLICATION   X   PERMIT \_\_\_\_\_ LICENSE \_\_\_\_\_

I, (We,) California Water Impact Network (C-WIN)  
Name of protestant

of P.O. Box 148, Quincy, CA 95971 have read carefully  
Post Office address of protestant

a notice relative to a petition for  change or  extension of time.

under APPLICATION all listed of USBR/DWR Place of Use Petition Hearing  
State name of petitioner

to appropriate water from the San Francisco Bay/Delta export project pumps  
Name of source

It is desired to protest against the approval thereof because to the best of our information and belief:  
my or our

the proposed change/extension will

- (1) not be within the State Water Resources Control Board's (SWRCB) jurisdiction
- (2) not best serve the public interest
- (3) be contrary to law
- (4) have an adverse environmental impact

State facts, which support the foregoing allegations The vagueness of the petition to change the place of diversion makes it impossible to determine the environmental effects on Endangered Species, Fish and Wildlife, and water quality and instream uses of water. Further, it is impossible to determine the time periods and amounts of water that will be exported from the Delta, or where and by whom the water will be used. This petition lacks any significant environmental review and relies on the Governor's Drought Declaration in Feb. 2009, which was legally defective at the time it was issued and based on weather conditions that have since changed.

Under what conditions may this protest be disregarded and dismissed? none  
State conditions that will relieve protest, or if none, so state

A true copy of this protest has been served upon the petitioner mail  
Personally or by mail

Date April 12, 2009 Julian R Jackson  
Protestant(s) or Authorized Representative sign here

**Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.**

(NOTE: Attach supplemental sheets as necessary)

**Wr\_Hearing Unit - USBR/DWR Place of Use Hearing**

---

**From:** "Bob Baiocchi" <[rbaiocchi@gotsky.com](mailto:rbaiocchi@gotsky.com)>  
**To:** <[wrhearing@waterboards.ca.gov](mailto:wrhearing@waterboards.ca.gov)>  
**Date:** 4/13/2009 10:32 AM  
**Subject:** USBR/DWR Place of Use Hearing  
**CC:** "Jane Farwell" <[JFarwell@waterboards.ca.gov](mailto:JFarwell@waterboards.ca.gov)>, "Stuart Seaborn" <[Stuart.Seaborn@disabilityrightsca.org](mailto:Stuart.Seaborn@disabilityrightsca.org)>

---

**State of California****Before the State Water Resources Control Board**

**The California Salmon and Steelhead Association hereby file a protest against the proposed Change Petition filed by DWR and the USBR. The State Water Project has adversely affected salmon, steelhead, and striped bass at the State Pumos in the Bat Delta Estuary.**

**The California Salmon and Steelhead Association are part owners of the public trust salmon, steelhead, and striped bass resources of California. The representative of the California Salmon and Steelhead Resources is Bob Baiocchi, Executive Director and Water Rights and Fisheries Consultant.**

**The California Department of Water Rights holds water right permits to store and divert the state's water. The US Bureau of Reclamation holds water right permits to store and divert the state's water. Their water rights are shown below.**

**There is documented evidence that the California Department of Water Resources has harmed salmon, steelhead, and striped bass at the State Pumps. The evidence is part of the public records and the SWRCB is aware of the fish losses at the State Pumps.**

**This protest is based on all applicable state and federal statutes.**

**Relief Requested: Mitigate and significantly reduce the harm and damages to salmon, steelhead, and striped bass species caused by the State Water Project at the State Pumps in the Bay Delta Estuary.**

**This protest cannot be forward to the representatives of the CDWR and USBR because their e-mail addresses were not included in Notice of Petition by the SWRCB. Advise me of their e-mail addresses and I will forward a copy of this protest et al.**

**Respectfully Submitted**

**Bob Baiocchi  
Executive Director  
Water Rights and Fisheries Consultant  
California Salmon and Steelhead Association  
E-Mail Address: [rbaiocchi@gotsky.com](mailto:rbaiocchi@gotsky.com)**

**Dated: April 13, 2009**



State of California  
 State Water Resources Control Board  
**DIVISION OF WATER RIGHTS**  
 P.O. Box 2000, Sacramento, CA 95812-2000  
 Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

2009 APR 13 AM 8:43  
 DIVISION OF WATER RIGHTS  
 SACRAMENTO, CALIFORNIA

# PROTEST – (Petitions)

**BASED ON ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS**  
 Protests based on Injury to Vested Rights should be completed on other side of this form

APPLICATION   X   PERMIT \_\_\_\_\_ LICENSE \_\_\_\_\_

I, (We,) California Sportfishing Protection Alliance (CSPA)  
Name of protestant

of P.O. Box 207, Quincy, CA 95971 have read carefully  
Post Office address of protestant

a notice relative to a petition for  change or  extension of time.

under APPLICATION all listed of USBR/DWR Place of Use Petition Hearing (set for April 27, 2009)  
State name of petitioner

to appropriate water from the San Francisco Bay/Delta export project pumps  
Name of source

It is desired to protest against the approval thereof because to the best of our information and belief:  
my or our

the proposed change/extension will

- (1) not be within the State Water Resources Control Board's (SWRCB) jurisdiction
- (2) not best serve the public interest
- (3) be contrary to law
- (4) have an adverse environmental impact

State facts, which support the foregoing allegations The vagueness of the petition to change the place of diversion makes it impossible to determine the environmental effects on Endangered Species, Fish and Wildlife, and water quality and instream uses of water. Further, it is impossible to determine the time periods and amounts of water that will be exported from the Delta, or where and by whom the water will be used. This petition lacks any significant environmental review and relies on the Governor's Drought Declaration in Feb. 2009, which was legally defective at the time it was issued and based on weather conditions that have since changed.

Under what conditions may this protest be disregarded and dismissed? none  
State conditions that will relieve protest, or if none, so state

A true copy of this protest has been served upon the petitioner mail  
Personally or by mail

Date: April 12, 2009

Richard B. Jackson  
Protestant(s) or Authorized Representative sign here

**Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.**

(NOTE: Attach supplemental sheets as necessary)

LL/EM

State of California  
State Water Resources Control Board  
DIVISION OF WATER RIGHTS  
P.O. Box 2000, Sacramento, CA 95812-2000  
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

2009 APR 13 AM 11:43  
DIVISION OF WATER RIGHTS

# PROTEST - (Petitions)

**BASED ON ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS**  
Protests based on Injury to Vested Rights should be completed on other side of this form

**APPLICATION** See attached    **PERMIT** See attached    **LICENSE** See attached

I, (We,) Joshua Basofin  
Name of protestant

of Defenders of Wildlife, 1303 J Street, Suite 270, Sacramento, CA 95814 have read carefully  
Post Office address of protestant

a notice relative to a petition for  change or  extension of time.

under APPLICATION Attached of California Department of Water Resources and United States Bureau of Reclamation  
State name of petitioner

to appropriate water from Sacramento-San Joaquin Delta  
Name of source

It is desired to protest against the approval thereof because to the best of our information and belief:  
my or our

the proposed change/extension will

- (1) not be within the State Water Resources Control Board's (SWRCB) jurisdiction
- (2) not best serve the public interest
- (3) be contrary to law
- (4) have an adverse environmental impact

State facts, which support the foregoing allegations See attached.

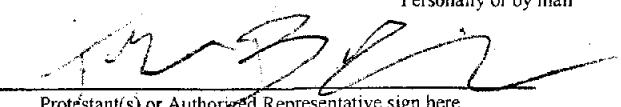
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Under what conditions may this protest be disregarded and dismissed? See attached  
State conditions that will relieve protest, or if none, so state

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A true copy of this protest has been served upon the petitioner by mail.  
Personally or by mail

Date April 13, 2009

  
Protestant(s) or Authorized Representative sign here

**Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.**

(NOTE: Attach supplemental sheets as necessary)

**Protest of California Department of Water Resources ("DWR") and United States Bureau of Reclamation ("Bureau") Petition to Consolidate Places of Use**

Application: 5630, 14443, 17512, 17514A DWR

Permit: 16478, 16479, 16481, 16482, 16483 DWR

U.S. Bureau of Reclamation License and Permits for the Central Valley Project

Application Numbers: 23, 234, 1465, 5638, 13370, 13371, 5628, 15374, 15375, 15376, 16767, 16768, 17374, 17376, 5626, 9363, 9364, 9366, 9367, 9368, 15764, 22316

Permit Number: 273, 11315, 11316, 11885, 11886, 11887, 11967, 11968, 11969, 11970, 11971, 11972, 11973, 12364, 12721, 12723, 12735, 12726, 12727, 12860, 15735

License Number: 1986

2009 APR 13 AM 11:45  
LAW OFFICE OF JAMES HANSEN  
1000 MARKET STREET, SUITE 1000  
SAN FRANCISCO, CA 94102  
415.774.1111

---

**State facts, which support the foregoing allegations**

DWR and the Bureau have filed a petition to consolidate places of use ("Petition"). This change to the above-referenced outstanding licenses would allow the transfer of water from the Central Valley Project ("CVP") to the State Water Project ("SWP") places of use and vice versa. Such changes will enable full operation of the 2009 Drought Water Bank ("DWB"). DWR and the Bureau filed the petition pursuant to section 1701 of the Water Code, which requires that a petition to change authorized places of use "include all information reasonably available to the petitioner, or that can be obtained from the Department of Fish and Game, concerning the extent, if any, to which fish and wildlife would be affected by the change, and a statement of any measures proposed to be taken for the protection of fish and wildlife in connection with the change." CA Water Code § 1701. The State Water Resources Control Board ("Water Board") also retains independent public trust authority to protect fish and wildlife in its water right permitting duties.

DWR and the Bureau have failed to address the following potential impacts to fish and wildlife in the Petition:

1. The DWB is likely to adversely affect the giant garter snake (*Thamnophis gigas*) ("GGS"), a listed threatened species under the federal Endangered Species Act ("ESA") and California Endangered Species Act ("CESA"). GGS is largely dependent on flooded rice fields in the project area, thousands of acres of which will be fallowed under the DWB. Greg Hansen has conducted GGS surveys for several years. In recent years, he has found approximately 300 individuals in the Sacramento Valley and only 1-3 individuals in the San Joaquin Valley. (Greg Hansen *pers. comm.* 2008). The major distinguishing characteristic between the two geographic regions is that the San Joaquin Valley lacks drainage canals with adjacent flooded rice fields. The abundance of Giant Garter Snakes in areas with this feature suggests that the combination of drainage canals and rice fields provides significant habitat value for the Giant Garter Snake. (Greg

Hansen *pers. comm.* 2008). Continued fallowing of rice fields in the proposed project area will lead to fragmenting of this crucial habitat and a decimation of the Giant Garter Snake population similar to what has been observed in the San Joaquin Valley.

2. The DWB is likely to adversely affect salmonids, including Central Valley Winter-run Chinook and Spring-run Chinook, which are listed as endangered and threatened, respectively, under the ESA. According to a DWR report, groundwater extraction in the Sacramento Valley may reduce stream flow, an essential habitat condition for these fisheries:

Groundwater seepage from the Sacramento Valley into the Sacramento and Feather rivers is a major contributor to in-stream flow. Increases in groundwater extraction without coordinated recharge efforts could reduce or reverse this seepage, causing depletion of in-stream flow.<sup>1</sup>

DWB project actions, including groundwater substitution transfers, may affect listed salmonids in the Sacramento River and tributaries through stream flow reduction. Anecdotal evidence indicates that groundwater substitution transfers executed during the 1994 Drought Water Bank resulted in mortality to salmonids in the Sacramento River and tributaries. DWR and the Bureau have not included information in the Petition about impacts to the above-referenced salmonids, nor included proposals to safeguard these species during operation of the DWB.

3. Changes to pumping regimes in the Sacramento-San Joaquin Delta may affect salmonids, Delta smelt, and Longfin smelt. DWR and the Bureau have not included information regarding these changes to project operations and the potential to impact fisheries.

Information regarding the above impacts to fish and wildlife is reasonably and readily available to DWR and the Bureau. The two agencies have consulted with the Department of Fish and Game (“DFG”) and the United States Fish and Wildlife Service (“USFWS”) regarding potential impacts to GGS and salmonids as a result of DWB operations. Moreover, DWR and the Bureau have undergone NEPA and CEQA compliance for the DWB. This information is also conspicuously absent from the Bureau’s Environmental Assessment (“EA”) and Finding of No Significant Impact (“FONSI”). See attached comments.

---

### **Under what conditions may this protest be disregarded and dismissed?**

This protest may be dismissed if the State Water Board places the following conditions upon the permits and licenses affected by the petition:

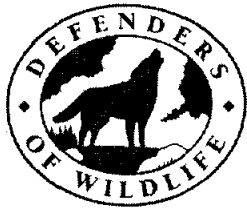
- 1 Full mitigation, including compensatory mitigation with a land acquisition program, for GGS as a result of crop idling transfers requiring the fallowing of rice fields where GGS are present.

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<sup>1</sup> McManus, Dan et al. Sacramento River Basinwide Water Management Plan. California Department of Water Resources’ Northern District, January 2003, page 13.

- 2 A comprehensive environmental assessment, including a monitoring program, of potential impacts to salmonids resulting from groundwater pumping in the North Sacramento Valley under the DWB.
- 3 A description of the changes to CVP and SWP operations as a result of the place of use consolidation and DWB implementation, including a proposal for complying with the current Biological Opinion for Smelt and the forthcoming Biological Opinion for Salmon.





**California Office**

1303 J Street, Suite 270 | Sacramento, CA 95814 | tel 916.313.5800 | fax 916.313.5812  
www.defenders.org

DATE WITH PREVIOUS  
CONTROL NUMBER  
2009 APR 13 AM 11:45  
SACRAMENTO  
SACRAMENTO

**By Email and US Mail**

March 19, 2009

Ms. Becky Victorine  
Bureau of Reclamation  
2800 Cottage Way, MP-410  
Sacramento, CA 95825  
rvictorine@mp.usbr.gov

Re: Comments on Draft EA/FONSI for 2009 Drought Water Bank

Dear Ms. Victorine:

The following comments are submitted by Defenders of Wildlife ("Defenders") pursuant to the public review provisions set forth in the National Environmental Policy Act ("NEPA") and associated regulations. 40 C.F.R. 6.203. Federal agencies are required to involve the public, to the extent practicable, in preparing environmental assessments. 40 C.F.R. 1501.4(b). The Bureau of Reclamation ("BOR"), as lead federal agency for the proposed 2009 Drought Water Bank ("DWB"), is charged with fully considering public comments on the Environmental Assessment ("EA") and Finding of No Significant Impact ("FONSI") for the above-referenced project. Substantial evidence shows that the 2009 Drought Water Bank ("DWB") will have significant environmental impacts if implemented as described in the EA. Therefore, Defenders remains opposed to the DWB until the project is altered or its impacts are fully mitigated.

Defenders is a national, not-for-profit conservation organization with more than 440,000 members, including approximately 75,000 members and supporters who reside in California. Defenders is dedicated to the protection of all native wild animals and plants in their natural communities. Defenders has advocated for heightened protection of aquatic, wetland and riparian habitats along with resident species, including the Giant Garter Snake, Chinook salmon and Steelhead trout. Defenders' 75,000 members residing in California regularly use the wildlife refuges, recreation areas and private lands within the relevant "zone of interest" - the Northern Sacramento Valley - for wildlife viewing. These members will be adversely affected and aggrieved by the proposed project actions because populations of certain wildlife species, namely Giant Garter Snake, Chinook salmon and Steelhead trout, will be reduced. *City of Los Angeles v. National Highway Traffic Safety Admin.*, 912 F.2d 478, 483 (D.C. Cir. 1990).

In summary, the DWB will likely have significant environmental impacts on the Giant Garter Snake (*Thamnophis gigas*), a listed threatened species under the federal Endangered Species Act ("ESA") and California Endangered Species Act ("CESA"). The Giant Garter Snake is largely dependent on flooded rice fields in the project area, thousands of acres of which will be fallowed pursuant to the EA. The DWB will also significantly impact

**National Headquarters**

1130 17th Street, N.W.  
Washington, D.C. 20036-4604  
tel 202.682.9400 | fax 202.682.1331

Winter-Run and Spring-Run Chinook salmon, which are listed as endangered and threatened, respectively, under the ESA. Groundwater substitutions will almost certainly reduce streamflow in upper Sacramento River tributaries, such as Deer Creek and Butte Creek, which are hydrologically connected to Sacramento Valley aquifers. Therefore, BOR is required to prepare an environmental impact statement (“EIS”) for the project. 42 USC § 4332(C); 40 C.F.R. 1501.4(a)(1). A FONSI must explain why the proposed project will not have a significant effect on the human environment. 40 C.F.R. 1508.13. Substantial evidence indicates that the proposed transfers will impact the Giant Garter Snake and Chinook salmon through reduction of habitat. Therefore, BOR is required to prepare an EIS.

### **The EA/FONSI does not contain adequate mitigation measures for Giant Garter Snake**

The ESA imposes both substantive and procedural requirements on all federal agencies to carry out programs for the conservation of listed species and to insure that their actions are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. 16 U.S.C. § 1536. *See NRDC v. Houston*, 146 F.3d 1118, 1127 (9th Cir. 1998) (action agencies have an “affirmative duty” to ensure that their actions do not jeopardize listed species and “independent obligations” to ensure that proposed actions are not likely to adversely affect listed species). BOR’s Environmental Assessment and Biological Assessment must determine the baseline status of the Giant Garter Snake in the project area and assess whether the project actions will adversely affect the species. 50 C.F.R. 402.12(a).

The Giant Garter Snake is listed as threatened under the ESA. The life history of the Giant Garter Snake suggests that areas which experience summer flooding and winter drying provide optimal habitat.<sup>1</sup> The most abundant feature in the snake’s range currently exhibiting these characteristics is flooded rice fields. The snake has used flooded rice fields for breeding from July to August when the need for an inundated area with crop cover is highest (Greg Hansen *pers. comm.* 2008). Indeed, flooded rice fields have become such an important alternative habitat that, without them, the species would be at serious risk of extinction (Greg Hansen *pers. comm.* 1994). Habitat degradation and fragmentation continues to compromise existing populations of the Giant Garter Snake.

Wylie and Amarello conducted a study of Giant Garter Snakes in the Colusa Basin Drainage Canal in Reclamation District 108. When they initiated the project in 2003, all adjacent fields on the south bank of the study site were actively growing rice. While many other areas were drained during the summer when snakes were active, rice fields remained flooded during this important time for Giant Garter Snakes. In 2004 and 2006, Wylie and Amarello found that many Giant Garter Snakes captured in the drain eventually migrated to the rice fields. In 2006, most of the fields on the south bank of Colusa Drain were dry or being converted to wetlands and the only remaining rice fields were south of the study area. Wylie

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<sup>1</sup> Czech, Brian 2006. Complexities of Conservation: the Giant Garter Snake, *Endangered Species Bulletin*, Vol. XXXI No. 3, p. 33.



and Amarello concluded that the lack of rice fields as suitable summer habitat adjacent to the drain could have accounted for decreased populations of the snake in that area.<sup>2</sup>

Hansen conducted Giant Garter Snake surveys for several years. In recent years, he has found approximately 300 individuals in the Sacramento Valley and only 1-3 individuals in the San Joaquin Valley. (Greg Hansen *pers. comm.* 2008). The major distinguishing characteristic between the two geographic regions is that the San Joaquin Valley lacks drainage canals with adjacent flooded rice fields. The abundance of Giant Garter Snakes in areas with this feature suggests that the combination of drainage canals and rice fields provides significant habitat value for the Giant Garter Snake. (Greg Hansen *pers. comm.* 2008). Continued fallowing of rice fields in the proposed project area will lead to fragmenting of this crucial habitat and a decimation of the Giant Garter Snake population similar to what has been observed in the San Joaquin Valley.

According to some estimates, Giant Garter Snakes rely on rice fields for approximately 50% of their aquatic habitat needs. Given that approximately 300 Giant Garter Snakes have been found during preceding years in drainage canals and rice fields in the Northern Sacramento Valley, where the project area is located, *any* significant reduction in the area, much less the 67,260 acres of proposed fallowing, can be expected to adversely affect Giant Garter Snakes residing in the project area through reduction of habitat.

BOR should assess these potential impacts and develop a mitigation program to compensate for reduced Giant Garter Snake habitat. BOR has proposed in the 2009 Drought Water Bank Biological Assessment ("BA") to increase the block sizes of idled crop acreage from 160 acres to 320 acres. Page 6-6 of the Environmental Water Account EIR/EIS, upon which the DWB mitigation program is predicated, lists a 160 acre limitation on idled rice parcels as a mitigation measure to protect Giant Garter Snake. The unexplained reversal of this mitigation measure in the BA is arbitrary and not based on sound science. An undated report by Glenn Wylie and Michael Casazza describes the results of a Giant Garter Snake monitoring study which tracked the home range of the species in the Colusa National Wildlife Refuge. According to the report:

Analysis of movements showed home ranges that varied from 1-35 ha with an average of 18 ha... This reduced movement also means snakes were less exposed to mortality factors such as predators and vehicles... One individual... was killed by a predator (likely an otter) shortly after it was released with its radio implant.

The 18 hectare average home range calculates to 44.5 acres, which is substantially smaller than the 320 acre blocks proposed for fallowing. Even the high end of the home range reported in the study, 35 hectares, or 86.5 acres, is markedly smaller. This study presents substantial evidence indicating that the snake's home range is between 40 and 90 acres, and

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<sup>2</sup> Wylie, G. and Amarello, M., 2006, Results of 2006 Monitoring for Giant Garter Snakes (*Thamnophis gigas*) For the Bank Protection Project on the Left Bank of the Colusa Basin Drainage Canal in Reclamation District 108, Sacramento River Bank Protection Project, Phase II, Prepared for Environmental Planning Section, U.S. Army Corps of Engineers, Sacramento District, p. 13.

that forcing it to travel farther than this range may result in mortality. BOR must explain the removal of the block size limitation as a mitigation measure. BOR must also explain why the change in block size will not result in a take of Giant Garter Snake or adversely affect the species pursuant to 16 USC § 1536 and 50 C.F.R. 402.12(a).

The BA does not include a baseline status of the Giant Garter Snake in the project area. As the BA states (section 6), "very little data exists on the distribution and occurrence of the Giant Garter Snake in ricelands." Without a baseline status of the species, BOR is simply shooting in the dark to develop appropriate mitigation measures. The project contemplates fallowing 20 percent of total active rice fields in Butte, Glenn, Colusa, Sutter and Yolo Counties, where Giant Garter Snakes are known to persist. As stated in the BA (section 6), the implementation of 320-acre block sizes will very likely adversely affect the Giant Garter Snake by forcing many individuals "to relocate elsewhere." It is expected that "some will successfully relocate, and that some may be lost to predation or other forms of mortality caused by loss of foraging opportunities, either through competition with other individuals or loss of body condition and failure to thrive, particularly young snakes."

The monitoring program and effects study proposed by BOR in the EA will undoubtedly help determine the baseline status of the Giant Garter Snake in the Sacramento Valley and contribute to overall understanding of the effects of crop idling programs on the species. However, such actions do not fully mitigate the take of Giant Garter Snake that will result if the project is implemented as proposed. The limitation of block sizes to 160 acres must be reinstated. The overall amount of fallowed acreage in the project area must be reduced to significantly less than 20 percent. Finally, a compensatory mitigation program is required to fully mitigate the take and U.S. Fish and Wildlife Service ("USFWS") must determine in a biological opinion the amount of habitat to be acquired.

#### **The EA/FONSI does not contain an adequate cumulative effects analysis**

A lead agency must prepare an EIS, rather than an EA/FONSI, for proposed actions for which it is reasonable to anticipate cumulatively significant impacts. 40 C.F.R. 1508.25(c). Cumulative effects result from incremental impacts of a proposed action when coupled with other past, present and foreseeable future actions. Cumulative effects can result from individually minor but collectively significant actions over a period of time. 40 C.F.R. 1508.7. In *Fritiofson v. Alexander*, the 5<sup>th</sup> Circuit used the following factors to determine whether the Army Corps of Engineers should have included a cumulative impacts assessment in its EA: (1) the area in which the effects are expected to occur, (2) the potential impacts, (3) other actions in the area expected to have impacts, (4) the impacts of these other actions, and (5) the overall impact that can be expected if the individual impacts are allowed to accumulate. 772 F.2d 1225 (5<sup>th</sup> Cir. 1985). BOR should have conducted this cumulative effects assessment and it must be done to comply with NEPA. The proposed water transfers clearly will have cumulative effects on the Giant Garter Snake, as they will occur in the same area and cumulatively reduce available habitat.

The DWB transfers will have cumulative and aggregate effects on the Giant Garter Snake. As stated in the BA (section 8), “repeated episodes of dewatering may result in reduced survivorship or fecundity...[and] fallowing of rice fields not related to the proposed project may not only temporarily remove suitable habitat, but may adversely affect reproduction, recruitment, and survival long term.” These effects must be assessed through a comprehensive EIS. To determine the scope of an EIS, a federal agency must consider the type of action, alternatives and impacts. Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts, should be discussed in the same impact statement. 40 CFR 1508.25(a)(2). Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. 40 CFR 1508.25(a)(3). The proposed water transfers are cumulative in that they will have aggregate impacts on the Giant Garter Snake through land fallowing. They are also similar in that they are proposed for the same geographic area and during the same year.<sup>3</sup> Therefore, BOR must draft a programmatic EIS with a comprehensive scope that assesses the cumulative effects of *all* proposed water transfers in the area, regardless of whether the transfer is included in the DWB.

### **BOR must prepare an EIS for the project**

The National Environmental Policy Act (NEPA) requires federal agencies to prepare an EIS for any proposed action “significantly affecting the quality of the human environment.” Whether a proposed action significantly affects the quality of the human environment is determined by considering the *context* and *intensity* of the action and its effects. 40 C.F.R. 1508.27. The term “context” refers to the affected environment in which the proposed action would take place. The significance of a proposed action must be assessed based on the physical situation of the proposed action’s specific location and take into account the entire affected region and society as a whole. 40 C.F.R. 1508.27(a). The term “intensity” refers to the severity of a proposed action’s impact on the environment. In determining an impact’s intensity, the CEQ NEPA Regulations, 40 C.F.R. 1508.27(b), require federal agencies to consider several factors, including the following:

- **Controversy:** Federal agencies should consider “the degree to which effects on the quality of the human environment are likely to be highly controversial” when determining whether impacts are significant. Controversy may take the form of local opposition to the action, environmental protection groups’ interest in the effects on resources, or expert disagreement. In this instance, many environmental protection groups have expressed opposition. Additionally, there is expert disagreement concerning the appropriateness of the 320 acre blocks and the distance Giant Garter Snakes can travel to relocate.
- **Cumulative Effects:** Federal agencies must determine whether a proposed action is related to other actions with individually insignificant but cumulatively significant impacts. As stated above, the cumulative effects analysis in the EA is insufficient because it does not assess potential rice field fallowing outside the DWB.

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<sup>3</sup> All of the transfers are proposed for the 2009 irrigation season.

- **Endangered Species Effects:** Federal agencies must consider potential adverse impacts to listed species in the project area. The potential for the DWB to adversely affect Giant Garter Snakes *strongly* militates towards preparation of an EIS.

### **BOR must consult with NMFS on potential adverse affects to salmonids**

Central Valley Winter-run Chinook are listed as endangered and Spring-run Chinook are listed as threatened. According to a DWR report, groundwater extraction in the Sacramento Valley may reduce stream flow, an essential habitat condition for these fisheries:

Groundwater seepage from the Sacramento Valley into the Sacramento and Feather rivers is a major contributor to in-stream flow. Increases in groundwater extraction without coordinated recharge efforts could reduce or reverse this seepage, causing depletion of in-stream flow.<sup>4</sup>

DWB project actions, including groundwater substitution transfers, may affect listed salmonids in the Sacramento River and tributaries through stream flow reduction. Anecdotal evidence indicates that groundwater substitution transfers executed during the 1994 Drought Water Bank resulted in mortality to salmonids in the Sacramento River and tributaries. In addition, BOR has not assessed whether SWP/CVP operational changes during the transfer period will affect listed species in the Sacramento/San Joaquin Delta, such as Delta Smelt and Longfin Smelt.

BOR claims that the proposed DWB transfers will be incorporated within the consultation for the Continued Long-term Operations of the CVP/SWP, and no further consultation is required. However, the ESA requires that federal agencies consult on each separate action. 16 U.S.C. § 1536(a)(2); 50 C.F.R. 402.14(a). The facilitation of transfers from the Sacramento Valley to users south of the Delta is an entirely separate action from the continued long-term operations of the SWP/CVP. Therefore, BOR must initiate an independent consultation with the National Marine Fisheries Service ("NMFS") for the DWB.

Finally, the Letter of Concurrence issued by NMFS and dated December 23, 2003 found that EWA project actions are unlikely to affect Winter-run Chinook, Spring-run Chinook and Central Valley Steelhead. This letter is obsolete because it relates to project actions undertaken through the EWA rather than the DWB. Because the DWB's environmental setting and individual transfers are different from those listed in EWA documents, BOR cannot appropriately rely on this concurrence letter.

### **Conclusion**

The EA/FONSI proposed for the DWB is unwarranted. NEPA requires preparation of a programmatic EIS when similar and cumulative actions will likely result in environmental impacts. In this case, overwhelming evidence demonstrates that several water transfers and the

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<sup>4</sup> McManus, Dan et al. Sacramento River Basinwide Water Management Plan. California Department of Water Resources' Northern District, January 2003, page 13.

resulting rice field fallowing in Butte, Glenn, Colusa, Sutter and Yolo Counties will significantly and adversely impact the Giant Garter Snake through habitat reduction. In addition, groundwater extractions will reduce streamflow for listed salmonids. BOR must prepare an EIS and initiate separate formal consultations with USFWS and NMFS.

\* \* \*

Defenders requests all NEPA notices for the above-referenced project. The requested notices should be mailed to Defenders' office at the address listed above.

Defenders appreciates BOR's commitment to maintaining the viability of sensitive species while facilitating water transfers during this challenging time. We look forward to assisting BOR in conducting a comprehensive environmental analysis of the DWB.

Sincerely,



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Joshua Basofin  
California Representative  
Defenders of Wildlife

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

2009 APR 13 PM 12:04
DIVISION OF WATER RIGHTS
SACRAMENTO

PROTEST - (Petitions)

BASED ON ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS
Protests based on Injury to Vested Rights should be completed on other side of this form

APPLICATION 3/20/09 petition PERMIT LICENSE

I, (We,) Michael Warburton and Public Trust Alliance
Name of protestant

of Rm. 290, Bldg. D, Fort Mason Center, San Francisco, CA 94123
Post Office address of protestant have read carefully

a notice relative to a petition for change or extension of time.

under APPLICATION of Department of Water Resources, Bureau of Reclamation
State name of petitioner

to appropriate water from California Waters
Name of source

It is desired to protest against the approval thereof because to the best of our information and belief:
ry or our

the proposed change/extension will

- (1) not be within the State Water Resources Control Board's (SWRCB) jurisdiction
(2) not best serve the public interest
(3) be contrary to law
(4) have an adverse environmental impact

State facts, which support the foregoing allegations Public experience with these parties (eg. possible consequences of Monterey Agreement and intractable pollution resulting from CVP project on West Side of San Joaquin and illegal privatization of California waters) indicates that public control of water resources may be at risk.

Under what conditions may this protest be disregarded and dismissed? satisfaction that public rights will be protected and applicants intend to comply with law - assurance of continuing supervision of trust resources and transparency of process.

A true copy of this protest has been served upon the petitioner California DWR and US Bureau of Reclamation
Personally or by mail

Date 4/13/09
Michael Warburton
Protestant(s) or Authorized Representative sign here

Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.

(NOTE: Attach supplemental sheets as necessary)

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

PROTEST - (Petitions)

BASED ON INJURY TO VESTED RIGHTS

Protests based on Environmental or Public Interest Considerations should be completed on other side of this form

APPLICATION 3/20/09 petition PERMIT LICENSE

I, (We,) Michael Warburton and Public Trust Alliance
Name of protestant

of Rm. 290, Bldg. D, Fort Mason Center, San Francisco, CA 94123
Post Office address of protestant have read carefully

a notice relative to a petition for change or extension of time.

under APPLICATION 3/20/09 of California DWR and US Bureau of Reclamation
State name of petitioner

to appropriate water from California Waters
Name of source

It is desired to protest against the approval thereof because to the best of our information and belief the
my or our

proposed change will result in injury to us as follows: transfers will be facilitated that damage trust resources in
me or us State the injury which will result to you (see NOTE below)

Protestant claims a right to the use of water from the source from which petitioner is diverting, or proposes to
divert, which right is based on: public rights pursuant to California Constitution and Public Trust Doctrine
Prior to application, notice posted, use begun prior to 12/19/14, riparian claim, or other right

Please provide application, permit or license numbers or statement of diversion and use numbers, which cover
your use of water, or state 'none' all. The extent of present and past use of water by protestant or his
predecessors in interest from this source is as follows: all beneficial uses of trust resources from statehood

State approximate date first use made, amount used, time of year when diversion made, the use to which water is put

Where is YOUR DIVERSION POINT located? 1/4 of 1/4 of Section
Describe location with sufficient accuracy that position thereof relative to that of petitioner may be determined.

T., R., B. & M. Is this point downstream from petitioner's point of diversion? YES NO
If Yes, explain:

Under what conditions may this protest be disregarded and dismissed? satisfaction that
parties will comply with law and supervise in public interest
State conditions which will relieve protest, or if none, so state

A true copy of this protest has been served upon the petitioner DWR and Bureau of Reclamation (by mail)

Date: 3/13/09
Protestant(s) or Authorized Representative sign here

Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such
further time as may be allowed.

(NOTE: Attach supplemental sheets as necessary)