

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

ATTORNEY OR PARTY WITHOUT ATTORNEY REQUESTING SUBPOENA (name, address, and telephone no.): STEPHAN C. VOLKER (CSB #63093) ALEXIS E. KRIEG (CSB #254548) JAMEY M.B. VOLKER (CSB #273544) 1633 University Avenue Berkeley, California 94703 Tel: 510/496-0600  REPRESENTING: PCFFA/IFR	FOR STATE WATER BOARD USE ONLY				
TITLE OF THE PROCEEDING: <p align="center"><b>HEARING REGARDING CHANGES IN WATER RIGHTS OF DWR AND RECLAMATION FOR THE CALIFORNIA WATERFIX PROJECT</b></p>					
<table style="width:100%; border: none;"> <tr> <td style="width:50%; border: none;"><input type="checkbox"/> SUBPOENA</td> <td style="width:50%; border: none;"><input type="checkbox"/> RE HEARING</td> </tr> <tr> <td style="border: none;"><input checked="" type="checkbox"/> SUBPOENA DUCES TECUM</td> <td style="border: none;"><input type="checkbox"/> RE DEPOSITION</td> </tr> </table>		<input type="checkbox"/> SUBPOENA	<input type="checkbox"/> RE HEARING	<input checked="" type="checkbox"/> SUBPOENA DUCES TECUM	<input type="checkbox"/> RE DEPOSITION
<input type="checkbox"/> SUBPOENA	<input type="checkbox"/> RE HEARING				
<input checked="" type="checkbox"/> SUBPOENA DUCES TECUM	<input type="checkbox"/> RE DEPOSITION				

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name): **Wendy Bogdan, Department of Fish and Wildlife**

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this proceeding as follows unless you make special agreement with the person named in item 3:

a. Date: <b>March 19, 2018</b>	Time: <b>9:30 a.m.</b>
b. Address: <b>via electronic submittal to WaterFix Hearing ftp site</b>	

2. AND YOU ARE:

- a.  Ordered to appear in person. (Wat. Code, § 1080; Gov. Code, § 11450.10; Cal. Code Regs., tit. 23, § 649.6(a).)
- b.  Not required to appear in person if you produce the records described in the accompanying affidavit in compliance with Evidence Code sections 1560 and 1561. (Wat. Code, § 1080; Gov. Code, § 11450.10(b); Cal. Code Regs., tit. 23, § 649.6(a).)
- c.  Ordered to appear in person and to produce the records described in the accompanying affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records is required by this subpoena. The procedure authorized by subdivision (b) of section 1560, and sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena. (Wat. Code, § 1080; Gov. Code, § 11450.10; Cal. Code Regs., tit. 23, § 649.6(a).)

3. IF YOU HAVE ANY QUESTIONS ABOUT WITNESS FEES OR THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name: <b>Alexis Krieg</b>	b. Telephone number: <b>510/496-0600</b>
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(Gov. Code, § 11450.20(a); Code Civ. Proc., § 1985.2.)

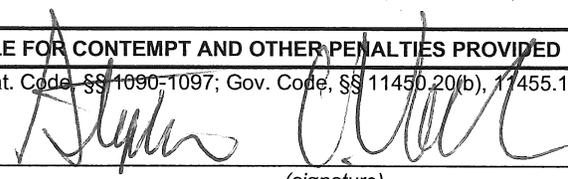
4. WITNESS FEES: You are entitled to witness fees and mileage actually traveled, both ways, as provided by law. Request them from the person who serves this subpoena or from the person named in item 3. (Wat. Code, §§ 1081, 1083, 1084; Gov. Code, §§ 11450.40, 68070 et seq.; Code Civ. Proc., §§ 1986.5, 2065.)

5. If you object to the terms of this subpoena, you may file a motion for a protective order including a motion to quash with the hearing officer assigned to your case. Motions must be made within a reasonable period after receipt of the subpoena, and shall be made with written notice to all parties, with proof of service upon all parties attached. In response to your motion, the hearing officer may make an order quashing the subpoena entirely, modifying it, or directing compliance with it, or may make any order needed to protect the parties or witnesses from unreasonable or oppressive demands, including unreasonable violations of the right to privacy. (Gov. Code, § 11450.30.) (Send motions to: The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.)

**DISOBEDIENCE OF THIS SUBPOENA MAY CAUSE YOU TO BE LIABLE FOR CONTEMPT AND OTHER PENALTIES PROVIDED BY LAW**

(Wat. Code, §§ 1090-1097; Gov. Code, §§ 11450.20(b), 11455.10-11455.20.)

Dated: March 2, 2018

  
 \_\_\_\_\_  
 (signature)

Name: Stephan C. Volker

Title: Attorney



Unless issued by an attorney pursuant to Code of Civil Procedure, Section 1985, subdivision (c), the original subpoena is embossed with this seal.

(See reverse for Endorsement on Subpoena, if used, and Proof of Service)

1 STEPHAN C. VOLKER (CSB #63093)  
ALEXIS E. KRIEG (CSB #254548)  
2 JAMEY M.B. VOLKER (CSB #273544)  
LAW OFFICES OF STEPHAN C. VOLKER  
3 1633 University Avenue  
Berkeley, California 94703  
4 Tel: 510/496-0600  
Fax: 510/845-1255

5 Attorneys for Protestants  
6 PACIFIC COAST FEDERATION OF FISHERMEN'S  
ASSOCIATIONS, and INSTITUTE FOR  
7 FISHERIES RESOURCES

8  
9 **BEFORE THE**  
10 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

11 HEARING REGARDING PETITION FILED  
BY THE DEPARTMENT OF WATER  
12 RESOURCES AND U.S. BUREAU OF  
RECLAMATION REQUESTING CHANGES  
13 IN WATER RIGHTS FOR THE CALIFORNIA  
WATERFIX PROJECT

ADDENDUM TO SUBPOENA DUCES  
TECUM TO THE CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE  
AND AFFIDAVIT

14  
15 **TO THE CUSTODIAN OF RECORDS FOR THE CALIFORNIA DEPARTMENT OF FISH**  
16 **AND WILDLIFE, BY AND THROUGH ITS GENERAL COUNSEL, WENDY BOGDAN:**

17 Pursuant to the provisions of Water Code section 1080 and 1100, Government Code sections  
18 11450.10-11450.50 and Code of Civil Procedure sections 1985 and 1987, the California Department of  
19 Fish and Wildlife is commanded to provide the following documents, communications, and electronic  
20 data, as described below and in connection with the above-titled proceeding, by 9:30 am on March 19,  
21 2018. Please make the electronic records available to download via the internet, or via the WaterFix  
22 hearing ftp site, or send the records via certified mail on a suitable electronic storage device to the Law  
23 Offices of Stephan Volker, 1633 University Avenue, Berkeley, California 94703. The Law Offices of  
24 Stephan Volker will also provide a hard drive to the California Department of Fish and Wildlife on  
25 request. Please notify Alexis Krieg at [akrieg@volkerlaw.com](mailto:akrieg@volkerlaw.com) regarding your method of compliance  
26 with this subpoena.

27 //

28 //

1 I. DEFINITIONS

2 The terms listed below, as used in this subpoena duces tecum, are defined as follows:

3 1. The terms "person" or "persons" mean natural persons, partnerships, corporations,  
4 businesses, state or federal agencies, public or private water agencies, joint powers authorities, or other  
5 forms of governmental or legal entities.

6 2. The term "CDFW" means the California Department of Fish and Wildlife, and each person  
7 acting or purporting to act on its behalf, including but not limited to, its former or present officers,  
8 employees, agents, contractors, consultants, and representatives.

9 3. The terms "you" or "your" mean "CDFW."

10 4. The term "DWR" means the California Department of Water Resources, and each person  
11 acting or purporting to act on its behalf, including but not limited to, its former or present officers,  
12 employees, agents, contractors, consultants, and representatives.

13 5. The term "Reclamation" means the United States Bureau of Reclamation, and each person  
14 acting or purporting to act on its behalf, including but not limited to, its former or present officers,  
15 employees, agents, contractors, consultants, and representatives.

16 6. The term "control" means control, custody, or possession in the broadest sense possible  
17 under Code of Civil Procedure section 2031.010.

18 7. The terms "communication" or "communications" mean any occurrence whereby data,  
19 expressions, facts, opinions, thoughts, or other information of any kind is transmitted in any form  
20 including, but not limited to, any correspondence, electronic mail, meeting, conversation,  
21 memorandum, message, note, or web conference on the Internet.

22 8. The terms "relating to" or "related to" shall be construed in the broadest possible sense and  
23 shall mean, without limitation, pertaining to, regarding, concerning, comprising, constituting, in  
24 connection with, reflecting, respecting, referring to, stating, describing, recording, noting, embodying,  
25 containing, mentioning, studying, analyzing, discussing or evaluating, and as defined in Black's Law  
26 Dictionary (5th ed. 1979), p. 1158.

27 9. The terms "document" or "documents" encompass all physical and/or electronic documents  
28 within your control and include all writings as defined in section 250 of the California Evidence Code,

1 and shall include, but not be limited to technical, legal, and other memoranda, opinions, summaries,  
2 notes, work documents, spreadsheets, powerpoints, reports, studies, analyses, evaluations, manuals,  
3 schematics, plans or other engineering drawings, maps, contracts, agreements, document repositories  
4 and things similar to any of the foregoing, whether sent or received, including drafts.

5 10. The term “electronic data” shall include, but not be limited to, data sets, computer code,  
6 input and output parameter sets, and linked data or metadata.

7 11. The term “publicly distributed” refers to the publication or publicly noticed distribution of  
8 a document, communications, or electronic data as defined herein, via the internet, or other method of  
9 access available to the general public. This term does not include documents only available on internet  
10 sites with passcodes or on inspection in offices.

11 12. The term “WaterFix Project” encompasses the project known as the WaterFix, the Bay  
12 Delta Conservation Plan, and the Delta Habitat Conservation and Conveyance Program, including any  
13 new State Water Project (“SWP”) diversion, conveyance, and storage facilities in the Sacramento  
14 Delta. The term “WaterFix Project” also encompasses the planning for operation of said new facilities  
15 in coordination with the existing SWP and Central Valley Project (“CVP”) facilities.

16 13. Definitions for water industry or regulatory process terms contained herein are to be  
17 construed broadly. Where the water industry or regulatory definition set forth herein does not coincide  
18 precisely with your definition, the question, inquiry or production request should be responded to or  
19 answered by using the definition that you apply and/or recognize in your usage of the term, and you  
20 should further document your definition in the response. Non-industry or non-regulatory process  
21 definitions should be applied as defined herein.

## 22 II. INSTRUCTIONS

23 1. The time period covered by this subpoena is from the dates indicated below, up to five days  
24 before your full compliance with this subpoena. All documents, communications and electronic data  
25 relating to this time period, and not publicly distributed as of the date of this subpoena are to be  
26 produced, regardless of whether the documents came into existence before or during this period.

27 2. Your response to the subpoena should include a declaration or affidavit, pursuant to section  
28 1561 of the Evidence Code. It should state that a diligent search for all requested documents,

1 communications and electronic data has been conducted and that the affiant or declarant oversaw the  
2 search or otherwise monitored and reviewed the search sufficiently to be able to represent under oath  
3 that such a search was conducted. It should be signed under oath by the person most knowledgeable  
4 about the documents, communications and electronic data and your efforts to comply with the  
5 subpoena. If different people are the most knowledgeable about portions of the search each should sign  
6 an affidavit or declaration identifying the category in the request for documents, communications and  
7 electronic data for which that person is the most knowledgeable.

8         3. Unless otherwise indicated, for any document, communications, or electronic data stored in  
9 a computer, including all electronic mail messages, you should produce the document,  
10 communications, or electronic data in the original electronic file format in which it was created,  
11 together with instructions and all other materials necessary to use or interpret the data. Electronic mail  
12 messages should be provided, even if only available on backup or archive. Computer files, other than  
13 those with common file extensions (e.g., .doc, .docx, .xls, .xlsx, .pdf, .zip, etc.) should be accompanied  
14 by (a) an identification of the software needed to open and view the documents or (b) a copy of the  
15 software needed to open and view the document.

16         4. For all documents, communications, or electronic data for which you submit copies  
17 (physical or electronic copies if the original was on paper, and, if the original was in electronic format,  
18 in the same electronic medium as the original) such copies should be accompanied by an affidavit  
19 stating that the copies of all types of documents, communications, or electronic data are true, correct,  
20 and complete copies of the original documents, communications, or electronic data. If there is in your  
21 possession, custody or control no original, but only a copy thereof, then you should produce a true and  
22 legible copy of each such document, communication, or electronic data, in the form in which it is  
23 maintained.

24         5. If any documents, communications, or electronic data are responsive to this subpoena and  
25 are in your control, but are not in your possession or custody, in addition to obtaining and producing the  
26 document, identify the person who had possession or custody of the document, and that person's  
27 telephone number and current business and residence addresses.

28         6. If any documents, communications, or electronic data subpoenaed are no longer in your

1 possession, custody, control, or care, you should provide a written statement identifying the documents,  
2 communications, or electronic data with specificity, stating whether they are lost, missing, destroyed,  
3 transferred to others, or otherwise disposed of. The written statement should also identify the person  
4 who transferred or disposed of the documents, communications, or electronic data, explain the  
5 circumstances and authorization for the transfer or disposal, and the approximate date of the  
6 disposition.

7 7. All documents, communications, or electronic data provided in response to this subpoena  
8 should be complete and unredacted, submitted as found in your files.

9 8. All documents, communications, or electronic data produced pursuant to this subpoena  
10 should be identified according to the category in the subpoena to which it is responsive. In lieu of  
11 indicating on each document, communications, or electronic data the category to which it is responsive,  
12 on the date set for production, you may instead provide an index if you provide it in electronic form  
13 (such as a computerized spreadsheet in Excel or a Word or WordPerfect document set up in a table  
14 format) of all documents you produce, as long as this index shows the request(s) to which the  
15 documents, communications, or electronic data are responsive. Responsive documents from each  
16 person's files should be produced together, in electronic file directories, if provided as an electronic  
17 file, or in boxes, if provided as paper copies. Indicate in the responses the request(s) to which they are  
18 responsive.

19 9. For documents produced in spreadsheets or tables, include in the declaration or affidavit  
20 the identification of the fields and codes and a description of the information contained in each coded  
21 field.

22 10. The requests contained in this subpoena shall be deemed to include a request for all  
23 relevant documents, communications, or electronic data in the personal files of all your officers,  
24 employees, agents and representatives, including independent contractors

25 11. Whenever necessary to bring within the scope of this subpoena documents,  
26 communications, or electronic data that might otherwise be construed as outside its scope, the use of  
27 the verb in any tense shall be construed, as the use of that verb in all other tenses, and the singular shall  
28 include the plural, and vice versa, so as to make this subpoena broadly inclusive.

1 **III. DOCUMENTS TO BE PRODUCED**

2 **A. WATERFIX PROJECT**

3 1. All documents and electronic data under CDFW's control related to changes to the  
4 WaterFix Project, since the Acting Director for DWR signed the Incidental Take Permit for the  
5 WaterFix Project on July 27, 2017 (Exhibit SWRCB-107, p. 232), not publicly distributed.

6 2. All documents and communications under CDFW's control related to the WaterFix  
7 Project's compliance with the California and/or Federal Endangered Species Acts, and the SWP's and  
8 CVP's compliance with the California and/or Federal Endangered Species Acts, since the Acting  
9 Director for the DWR signed the Incidental Take Permit for the WaterFix Project on July 27, 2017  
10 (Exhibit SWRCB-107, p. 232), not publicly distributed.

11 **B. REINITIATION OF CONSULTATION ON THE COORDINATED LONG-TERM  
12 OPERATION OF THE CENTRAL VALLEY PROJECT AND THE STATE WATER  
PROJECT**

13 1. All documents and electronic data under CDFW's control related to the reinitiation of  
14 consultation on the coordinated long-term operation of the CVP and the SWP, since the Director of  
15 CDFW signed the Memorandum of Understanding for the Reinitiation of Consultation on the  
16 Coordinated Long-Term Operation of the CVP and the SWP on December 21, 2016, including, but not  
17 limited to, potential CVP and SWP long-term operations with the WaterFix North Delta diversions.

18 2. All communications between CDFW and Reclamation under CDFW's control related to  
19 the reinitiation of consultation on the coordinated long-term operation of the CVP and SWP, since the  
20 acting Director of DWR signed the incidental take permit for the WaterFix Project on July 27, 2017  
21 (Exhibit SWRCB-107, p. 232), including, but not limited to, information related to potential California  
22 and/or Federal Endangered Species Act compliance for the long-term operations of the SWP and CVP  
23 with the WaterFix Project's North Delta Diversions.

24 3. All communications between CDFW and DWR under CDFW's control related to the  
25 reinitiation of consultation on the coordinated long-term operation of CVP and SWP, since the acting  
26 Director of DWR signed the incidental take permit for the WaterFix Project on July 27, 2017 (Exhibit  
27 SWRCB-107, p. 232), including, but not limited to, potential California and/or Federal Endangered  
28 Species Act compliance for the long-term operations of the SWP and CVP with the WaterFix North

1 Delta diversions.

2 **C. STATE WATER RESOURCES CONTROL BOARD**

3 1. All communications between CDFW and staff or Board members of the State Water  
4 Resources Control Board ("SWRCB"), and all documents shared with staff or Board members of the  
5 SWRCB, related to the SWRCB's WaterFix Water Right Change Petition Hearing, the WaterFix  
6 Project, or SWRCB permit terms for the SWP and CVP, under CDFW's control, since the WaterFix  
7 Water Right Change Petition application was submitted to the SWRCB on August 26, 2015. Exhibit  
8 SWRCB-1. These communications include, but are not limited to, communications which may contain  
9 attorney-client communications and/or attorney work product. Any communications withheld on the  
10 grounds of privilege should be identified, and the basis for the privilege explained and documented, in a  
11 privilege log.

12 2. All communications related to withdrawal by CDFW as a Party to the WaterFix Hearing,  
13 under CDFW's control, since the WaterFix Water Right Change Petition application was submitted on  
14 August 26, 2015. These communications include, but are not limited to, communications which may  
15 contain attorney-client communications and/or attorney work product. Any communications withheld  
16 on the grounds of privilege should be identified, and the basis for the privilege explained and  
17 documented, in a privilege log.

18 Dated: March 2, 2018

19   
20 \_\_\_\_\_  
21 Stephan Volker  
22 Attorney for Protestants  
23 PACIFIC COAST FEDERATION OF FISHERMEN'S  
24 ASSOCIATIONS, and INSTITUTE FOR FISHERIES  
25 RESOURCES  
26  
27  
28

1                   **AFFIDAVIT IN SUPPORT OF SUBPOENA DUCES TECUM TO THE CALIFORNIA**  
2                   **DEPARTMENT OF FISH AND WILDLIFE**

3 I, Stephan Volker, do declare as follows:

4                   I am an attorney admitted to practice law in the State of California and an attorney of record in  
5 the Hearing. The following matters are within my personal knowledge, and if called as a witness, I  
6 could competently testify thereto. Based on information and belief, as described below, the requests for  
7 production of the three categories of documents described in the foregoing Addendum to the Subpoena  
8 Ducus Tecum are reasonable and necessary for the Hearing, and the documents requested are under the  
9 control of CDFW.

10                  1. DWR and Reclamation signed the WaterFix Water Right Change Petition application on  
11 August 25, 2015. Exhibit SWRCB-1. The application referred to information in the Partially  
12 Recirculated Draft Environmental Impact Report (“EIR”)/Environmental Impact Statement (“EIS”) for  
13 compliance with statutory and regulatory requirements. *Id.* At the time Petitioners signed this  
14 application, they were in the process of revising the Partially Recirculated Draft EIR/EIS.

15                  2. The WaterFix Water Right Change Petition application is required under statute to  
16 “[i]nclude all information reasonably available to the petitioner, or that can be obtained from the  
17 Department of Fish and Wildlife, concerning the extent, if any, to which fish and wildlife would be  
18 affected by the change, and a statement of any measures proposed to be taken for the protection of fish  
19 and wildlife in connection with the change.” Water Code § 1701.2(c).

20                  3. As detailed below, there is evidence that DWR and Reclamation have not provided  
21 complete and accurate information for Part 2 of the WaterFix Water Right Change Petition Hearing on  
22 the current proposed engineering design, proposed construction, and potential operations of the  
23 WaterFix Project, or potential measures to be taken for the protection of fish and wildlife in connection  
24 with the change.

25                  4. Westlands Water District reportedly voted on September 19, 2017 not to participate in the  
26 WaterFix Project as currently proposed.

27                  5. Santa Clara Valley Water District reportedly voted on October 17, 2017 for a resolution  
28 which stated in part, “[g]iven that Westlands Water District and certain other agriculture districts have

1 declined to participate in the WaterFix Project, we are supportive of a lower-cost, scaled-down, and  
2 staged project.”

3 6. DWR has stated that it is considering phased implementation of the WaterFix Project, but  
4 has yet to provide protestants with detailed information about the phased implementation process.

5 7. CDFW is consulting with DWR on environmental compliance for the WaterFix Project and  
6 was reported by the County of Sacramento et al., to have been in a meeting with DWR on January 26,  
7 2018 at which materials regarding proposed project changes were shown to CDFW personnel but then  
8 collected and taken away.

9 8. CDFW is a trustee agency for fish and wildlife in the State of California (Fish and Game  
10 Code § 1802), yet CDFW withdrew as a party from Part 2 of the WaterFix Hearing, and objected to a  
11 subpoena for witnesses to testify on CDFW’s public trust recommendations to the State Water  
12 Resources Control Board (“SWRCB”) in 2010, for reasons which are unexplained.

13 9. The October 4, 2017 Final Phase 2 Scientific Basis Report states:

14 [t]he interior Delta flow requirements for Old and Middle River reverse flows, export  
15 limits, and DCC gate closures would be determined and based on monitoring of fish  
16 presence and a consultation process involving staff from the fisheries agencies, DWR,  
and Reclamation, with the addition of the State Water Board.

17 Exhibit SWRCB-103, Section 5.5, p. 5-48. This SWP and CVP permit term proposal was not in the  
18 SWRCB’s October 2016 Working Draft Scientific Basis Report. The Working Draft Scientific Basis  
19 Report discussed scientific evidence relating to correlations between fish populations and flows, and  
20 had specific numeric flow recommendations.

21 10. The proposal to delegate determination of all numeric objectives for interior Delta flows  
22 regulating diversions of the SWP and CVP to the adaptive management process is essentially the same  
23 as that proposed by DWR and Reclamation in their September 8, 2017 filing in the WaterFix Hearing  
24 (p. 2.) If there was an agreement made with CDFW outside of the WaterFix Hearing, it is relevant to  
25 the Board’s process for consideration of “appropriate Delta flow criteria.”

26 11. Based on the above considerations, it appears likely that CDFW has significant information  
27 on changes to engineering design, proposed construction, and proposed operations for the WaterFix  
28 Project, and changes to environmental compliance requirements for the WaterFix Project, not provided

1 for the WaterFix Water Right Change Petition Hearing. This information is relevant and necessary to  
2 the Hearing, and is also required under statute and regulation for Change Petitions. Water Code §  
3 1701.2(c), (e); 23 C.C.R. § 794(a)(6), (8), (9).

4 12. The WaterFix Final EIR/EIS was published over a year ago on December 22, 2016, but  
5 Reclamation has not signed a Record of Decision for the EIS.

6 13. On December 29, 2016 DWR signed a Memorandum of Understanding with Reclamation  
7 to initiate a concurrent NEPA process to determine long-term coordinated operation of the CVP and  
8 SWP, and the Reinitiation of Consultation on Long Term Operations with CDFW, the United States  
9 Fish and Wildlife Service and the National Marine Fisheries Service.

10 14. On December 29, 2017, Reclamation published a Notice of Intent to Prepare an  
11 Environmental Impact Statement on the Revisions to the Coordinated Long Term Operation of the CVP  
12 and SWP and Related Facilities in Volume 82, no. 249 of the Federal Register. The notice stated that  
13 Reclamation would be considering “Modified operations of the CVP and SWP *with and without new or*  
14 *proposed facilities including possible requests to modify environmental and regulatory requirements,*  
15 and sharing of water and responsibilities in the Delta.” *Id.* at p. 61790 (emphasis added).

16 15. Minutes of the February 14, 2017, stakeholder meeting on Reclamation’s Reinitiation of  
17 Consultation contain statements by Reclamation that “there is a basic assumption that if the project  
18 period extends to 2070, then Water Fix may be operable and this project would have to consider/model  
19 according to Water Fix impacts on CVP/SWP.”

20 16. Reclamation has not submitted any information to the WaterFix Water Right Change  
21 Petition Hearing regarding new operational scenarios that Reclamation is considering as part of its  
22 NEPA review of Revisions to the Coordinated Long Term Operations of the CVP and SWP and  
23 Related Facilities. Reclamation has also provided no operations or CVP management witnesses for  
24 Part 2 of the WaterFix Hearing to testify or be cross-examined on proposed CVP operations.

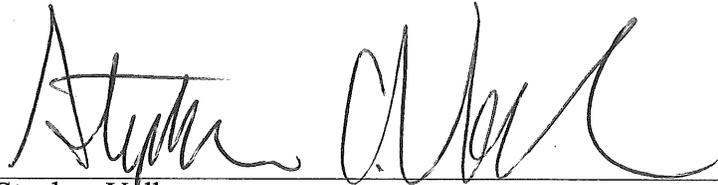
25 17. DWR and CDFW are participating as NEPA cooperating agencies in the Reinitiation of  
26 Consultation on the Coordinated Long-Term Operation of the CVP and SWP.

27 18. Based on the above considerations, it appears likely that CDFW has significant information  
28 on long-term proposed operations for the CVP and SWP, which may include the WaterFix Project, and

1 potential changes to environmental compliance requirements for the CVP and SWP, not provided for  
2 the WaterFix Water Right Change Petition Hearing. This information is relevant and necessary to the  
3 Hearing and is also required under statute and regulation for Change Petitions. Water Code §  
4 1701.2(c), (e); 23 C.C.R. § 794(a)(6), (8), (9).

5 I declare under penalty of perjury pursuant to the laws of California that the foregoing is true and  
6 correct. Executed this 2nd day of March, 2018, in Berkeley, California.

7  
8 By:



9  
10 Stephan Volker  
11 Attorney for Protestants  
12 PACIFIC COAST FEDERATION OF FISHERMEN'S  
13 ASSOCIATIONS, and INSTITUTE FOR FISHERIES  
14 RESOURCES  
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) <b>STEPHAN C. VOLKER   SBN: 63093</b> <b>STEPHAN C. VOLKER, LAW OFFICES OF</b> <b>1633 University Ave Berkeley, CA 947031424</b>  TELEPHONE NO.: (510) 496-0600   FAX NO. (510) 845-1225   E-MAIL ADDRESS (Optional): tfuss@volkerlaw.com ATTORNEY FOR (Name): PCFFA/IFR:	FOR COURT USE ONLY
<b>None</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: , CA BRANCH NAME:	Hearing Date: 3/19/2018      Room: Hearing Time: 9:30 AM      Dept:
PLAINTIFF: HEARING REGARDING CHANGES IN WATER RIGHTS OF DWR, etc.  DEFENDANT:	CASE NUMBER:  N/A
<b>PROOF OF SERVICE</b>	Ref. No. or File No.:

AT THE TIME OF SERVICE I WAS AT LEAST 18 YEARS OF AGE AND NOT A PARTY TO THIS ACTION  
**I SERVED COPIES OF THE FOLLOWING DOCUMENTS:**

**SUBPOENA DUCES TECUM FOR THE STATE WATER RESOURCES BOARD; ADDENDUM TO SUBPOENA DUCES TECUM TO THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE AND AFFIDAVIT; STATEMENT OF SERVICE**

**PARTY SERVED: CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

**PERSON SERVED: BY SERVING MARY LOUM - ATTORNEY**

**DATE & TIME OF DELIVERY: 3/2/2018  
 2:44 PM**

**ADDRESS, CITY, AND STATE: 1416 9th St Ste 1341  
 Sacramento, CA 95814-5515**

**PHYSICAL DESCRIPTION: Age: 35+      Weight: 180      Hair: BLONDE  
 Sex: Female      Height: 5'9"      Eyes:  
 Skin: WHITE      Marks:**

**MANNER OF SERVICE:**  
 Personal Service - By personally delivering copies.

Fee for Service: \$ 80.00  
 County: SACRAMENTO  
 Registration No.: 2015-73  
 River City Process Service, Inc.  
 901 H Street, Suite 207  
 Sacramento, CA 95814  
 (877) 446-2051



I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on March 2, 2018.

Signature: \_\_\_\_\_  
**AUSTIN X DANIELS**

**PROOF OF SERVICE**

**PROOF OF SERVICE OF SUBPOENA**

(Gov. Code, § 11440.20; Code Civ. Proc., §§ 1987, 1987.5, 1988, 1989, 2015.3, 2015.5.)

1. I served this  subpoena  subpoena duces tecum and supporting affidavit by:

personally delivering a copy to the person served as follows:

a. Person served (name): <i>Mary Loum (Attorney for Dept. of Fish &amp; Wildlife)</i>	b. Date of delivery: <i>3.2.18</i>
c. Address where served: <i>1416 9th Street, Suite 1341, Sacramento, CA 95814</i>	d. Time of delivery: <i>2:44 P.M.</i>
e. Witness fees and mileage both ways (check one):  (1) <input type="checkbox"/> were paid. Amount: \$ _____ (2) <input checked="" type="checkbox"/> were not paid. (3) <input type="checkbox"/> were tendered to the witness's public entity employer as required by Government Code § 68097.2. The amount tendered was \$ _____	f. Fees for service.  Amount: \$ _____

- delivering true copies thereof by certified mail, return receipt requested, to the address as shown below.  
 delivering true copies thereof enclosed in a sealed envelope to a messenger for immediate personal delivery to the address as shown below.

Address where served: \_\_\_\_\_

2. I certify that I received this  subpoena  subpoena duces tecum for service on *3.2.18* Date

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on:

<i>March 2, 2018</i>	<i>Sacramento</i>	<i>[Signature]</i>
Date	at (place)	Signature
, California		

*(For California sheriff, marshal, or constable use only)*

I certify that the foregoing is true and correct and that this certificate is executed on:

Date	at (place)	Signature
, California		

**NOTE: IF THIS SUBPOENA IS ISSUED IN CONNECTION WITH A HEARING IN AN ADJUDICATIVE PROCEEDING UNDER GOVERNMENT CODE § 11400 ET SEQ., THE ATTORNEY OR PARTY WITHOUT AN ATTORNEY REQUESTING THIS SUBPOENA MUST PROVIDE A COPY OF THE SUBPOENA TO EVERY PARTY IN THE HEARING, AND FILE A COPY WITH THE STATE WATER RESOURCES CONTROL BOARD. THE COPY PROVIDED TO THE STATE WATER RESOURCES CONTROL BOARD MUST BE ACCOMPANIED BY A CERTIFICATE OF SERVICE LISTING THE NAMES AND ADDRESSES OF PARTIES WHO WERE PROVIDED COPIES IN ACCORDANCE WITH GOVERNMENT CODE § 11440.20. (Gov. Code, § 11440.20; Cal. Code Regs., tit. 23, § 648.4(c).) (Send to: The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.)**

**ENDORSEMENT ON SUBPOENA IN A PROCEEDING  
OTHER THAN AN ADJUDICATIVE PROCEEDING**

Pursuant to Water Code §1086 and upon affidavit of \_\_\_\_\_ (copy attached) showing that the testimony of the witness ordered by the subpoena to appear is material and necessary to this proceeding, it is required that said witness attend this proceeding.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_  
State Water Resources Control Board

**NOTE: This ENDORSEMENT is required if the subpoena is in connection with a proceeding other than a hearing under Government Code § 11400 and the witness is being compelled to testify at a location that is both out of the witness's county of residence and 150 miles or more from the witness's place of residence. (Wat. Code, § 1086; Cal. Code Regs., tit. 23, § 649.6(c).)**