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PACIFIC COAST FEDERATION OF FISHERMEN’S ASSOCIATIONS
7 and INSTITUTE FOR FISHERIES RESOURCES

8 BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

9 HEARING REGARDING PETITION FILED BY) **JOINDER OF PACIFIC COAST**
THE DEPARTMENT OF WATER) **FEDERATION OF FISHERMEN’S**
10 RESOURCES AND U.S. BUREAU OF) **ASSOCIATIONS AND INSTITUTE FOR**
RECLAMATION REQUESTING CHANGES IN) **FISHERIES RESOURCES IN REQUEST**
11 WATER RIGHTS FOR THE CALIFORNIA) **FOR RECONSIDERATION OF RULING**
WATERFIX PROJECT) **ON PART 2 SUR-REBUTTAL BY LAND,**
12) **ET AL.**
13)
14)
15)

16 Protestants Pacific Coast Federation of Fishermen’s Associations (PCFFA) and Institute for
17 Fisheries Resources (IFR) hereby join in the September 11, 2018 “Request for Reconsideration of Ruling
18 on Part 2 Sur-Rebuttal” filed by Local Agencies of North Delta, et al. That request is incorporated fully
19 as if set forth herein. PCFFA and IFR provide the following additional argument and requests.

20 **PUBLIC DRAFT AND FINAL SUPPLEMENTAL EIR/EIS**

21 1. The Board’s adoption on September 10, 2018 of an accelerated hearing schedule requiring
22 the submission of written sur-rebuttal testimony and exhibits by noon on September 17, 2018 conflicts
23 with the public’s – and the Board’s – right and duty under the California Environmental Quality Act,
24 Public Resources Code section 21000 et seq. (“CEQA”) to consider the information in the Public Draft
25 Supplemental EIR/EIS and the Final Supplemental EIR/EIS before taking action on the CPOD
26 application by Petitioners U.S. Bureau of Reclamation (“Reclamation”) and California Department of
27 Water Resources (“DWR”). The Public Draft Supplemental EIR/EIS was not released by DWR until July
28 18, 2018, and Reclamation has yet to approve its release of the NEPA portion of this document to the

1 public. This document should be provided as an exhibit to these proceedings, preferably by this Board,
2 and the parties should be allowed to present testimony and exhibits regarding its adequacy. Protestants
3 should be allowed to submit sur-rebuttal testimony respecting both the Public Draft Supplemental
4 EIR/EIS and, following its certification by DWR and Reclamation, the Final Supplemental EIR/EIS. If
5 Reclamation revises the Public Draft then the revised document must be made an exhibit and be subject
6 to the parties' sur-rebuttal testimony and exhibits. PCFFA and IFR are informed that the Final
7 Supplemental EIR/EIS may not be released until late this year or 2019.

8 HEARING TRANSCRIPTS

9 2. Protestants should not be required to submit their Part 2 sur-rebuttal testimony and
10 exhibits until such time as they have had an adequate opportunity to review hearing transcripts of the
11 rebuttal testimony, including cross-examination. Those transcripts are not yet available. Therefore this
12 Board should not fix a deadline for Protestants' submittal of Part 2 sur-rebuttal testimony until those
13 transcripts are available. PCFFA and IFR request that the parties be allowed 21 days to review those
14 transcripts before any deadline for submission of sur-rebuttal testimony.

15 SUSPENSION OF PROCEEDINGS

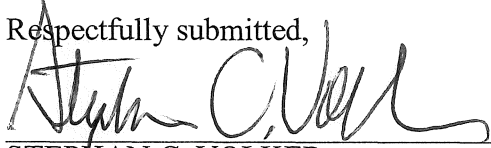
16 3. PCFFA and IFR are informed that Petitioners will not be able to circulate the Final
17 Supplemental EIR/EIS for review by Protestants by any date certain, and possibly not until 2019. This
18 Board has previously ruled that this Hearing would not proceed until the Bureau of Reclamation's formal
19 NEPA review process has been *completed*. (See, e.g., Rulings dated October 30, 2015 at p. 2, January 15,
20 2016 at pp. 2-3 and February 11, 2016 at pp. 5-6.) Petitioners' counsel Mr. Mizell represented to the
21 Board on August 31, 2018 that due to the "complexities of the interaction between the state and federal
22 processes" his "safest estimate [for a date by which the Bureau of Reclamation's NEPA process would be
23 complete] would be early December [2018]" . . . "subject to a wide set of . . . variation . . . on how . . . the
24 Petitioners work out their environmental documentation." Accordingly, since the Petitioners have failed
25 to provide this Board with any date certain by which required NEPA compliance documents will be
26 completed, or even to confirm that those documents would be completed this year, this Board should
27 suspend these proceedings until such time as the Petitioners provide that information – and their Final
28 Supplemental EIR/EIS – for review by this Board and the Protestants.

1 CONCLUSION

2 For each of these reasons, PCFFA and IFR respectfully request reconsideration of this Board's
3 September 10, 2018 Ruling.

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5 Dated: September 13, 2018

6 Respectfully submitted,



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9 PACIFIC COAST FEDERATION OF FISHERMEN'S
10 ASSOCIATIONS and INSTITUTE FOR FISHERIES
11 RESOURCES
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