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4 Principal, California Water Research
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6
7 **BEFORE THE**
8 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

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

JOINDER IN NATURAL RESOURCES
DEFENSE COUNCIL ET AL.'S
OPPOSITION TO DEPARTMENT OF
WATER RESOURCES'S MOTION FOR
RECONSIDERATION OF RULING ON
HEARING SCOPE

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16 Deirdre Des Jardins, principal at California Water Research ("California Water
17 Research"), hereby joins in and incorporates in full the Opposition to Department of Water
18 Resource's ("DWR") March 26, 2018 Motion for Reconsideration of Rulings on Hearing Scope,
19 filed on March 28, 2018 by Natural Resources Defense Council et al. California Water
20 Research incorporates by reference the Natural Resources Defense Council et al.'s opposition
21 and all documents and evidence filed in support thereof. For the reasons set forth therein,
22 DWR's motion for reconsideration should be denied.

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24 California Water Research further argues that the State Water Resources Control Board is
25 not proposing to adopt any numeric interior Delta flow requirements in the Phase 2 Update to the

1 Bay-Delta Water Quality Control Plan. The October 4, 2017 Final Scientific Basis Report
2 (Exhibit SWRCB-103) states:

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

7 (Section 5.5, p. 5-48.)

8 Thus if DWR’s motion to limit the scope of the WaterFix hearing is granted, the effect
9 might be delegation of *all* interior Delta flow requirements and export limits to determination by
10 a future process, dominated by Federal agencies, under the Trump administration. As Ron
11 Stork testified for Friends of the River yesterday, there has been a change in priorities with the
12 current administration, and the Board’s federal partners may not be as reliable as previous
13 administrations.

14 The Board must also ensure that any actions in adopting Delta flow criteria are consistent
15 with the priority of water rights in the Sacramento and San Joaquin Valleys and the Delta. The
16 Racanelli decision (*United States v. State Water Resources Control Board* (1986) 182 Cal.App.3d
17 82) did not provide for preferential treatment of diversions by the State Water Project and
18 Central Valley Project. The decision simply over-ruled the Board’s setting of water quality
19 standards at “only at a level which could be enforced against the projects.” Water Code section
20 85086, subdivision (c)(2) requires the Board to consider flow criteria which can be enforced
21 against the projects in this proceeding.

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24 Dated April 3, 2018

Respectfully submitted,

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Deirdre Des Jardins
Principal, California Water Research

1 **STATEMENT OF SERVICE**

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3 **CALIFORNIA WATERFIX PETITION HEARING**
4 **Department of Water Resources and U.S. Bureau of Reclamation**
5 **(Petitioners)**

6 I hereby certify that I have this day submitted to the State Water Resources
7 Control Board and caused a true and correct copy of the following document(s):

8 **JOINDER IN OPPOSITON OF**
9 **NATURAL RESOURCES DEFENSE COUNCIL ET. AL.**

10 to be served by Electronic Mail (email) upon the parties listed in the Current Service List
11 for the California Water Fix Petition Hearing, dated March 26, 2018, posted by the State
12 Water Resources Control Board at
13 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml

14 *Note: In the event that any emails to any parties on the Current Service List are
15 undeliverable, you must attempt to effectuate service using another method of service, if
16 necessary, and submit another statement of service that describes any changes to the
17 date and method of service for those parties.*

18 I certify that the foregoing is true and correct and that this document was executed on
19 April 3, 2018.

20 Signature:



21 Name: Deirdre Des Jardins
22 Title: Principal, California Water Research

23 Party/Affiliation:
24 Deirdre Des Jardins

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27 Santa Cruz, California 95060

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