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17 EAST BAY MUNICIPAL UTILITY DISTRICT

18 BEFORE THE
19 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

21 HEARING IN THE MATTER OF
22 CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
23 BUREAU OF RECLAMATION REQUEST
24 FOR A CHANGE IN POINT OF
DIVERSION FOR CALIFORNIA WATER
25 FIX

OPENING STATEMENT OF EAST BAY
MUNICIPAL UTILITY DISTRICT
(Hearing Part 2)

1 The East Bay Municipal Utility District (“EBMUD”) submits this Opening
2 Statement in Part 2 of this water rights hearing before the State Water Resources
3 Control Board (“State Water Board”) on the Joint Change Petition (“Change Petition”)
4 filed on August 26, 2015 by the California Department of Water Resources (“DWR”) and
5 United States Bureau of Reclamation (“USBR”) (collectively, “Petitioners”). The Change
6 Petition seeks to add points of diversion and rediversion in furtherance of the project
7 commonly known as the California WaterFix Project (“Project”).

8 Overview

9 The Project will pose a threat of mortality to Mokelumne River anadromous
10 fisheries over multiple stages of the fish life-cycle, if the Change Petition is approved on
11 the terms proposed by Petitioners. Projected increased openings of the Delta Cross
12 Channel (“DCC”) in the fall up-migration period would impact the Mokelumne-origin fall
13 run Chinook adult salmon population. And projected increased South Delta pumping
14 during the critical Spring outmigration window would impact juvenile Mokelumne-origin
15 Chinook and steelhead. These impacts would each unreasonably affect the Mokelumne
16 River fisheries ecosystem and public trust resources. EBMUD will present testimony
17 explaining why the Project may cause these impacts and proposing conditions to avoid
18 or mitigate them.

19 Injury to Mokelumne-Origin Fall Run Adult Chinook Salmon Fishery

20 EBMUD will present the testimony of Jose D. Setka, the Manager of EBMUD’s
21 Fisheries and Wildlife Division. Mr. Setka will summarize EBMUD’s decades-long
22 fisheries program on the Mokelumne River, which includes a comprehensive suite of
23 flow and non-flow measures as well as extensive ecosystem monitoring. EBMUD
24 implements the program in partnership with the California Department of Fish and
25 Wildlife and United States Fish and Wildlife Service. Mr. Setka will explain the
26 program’s successes. He will then summarize the fishery impacts to Mokelumne-origin
27 fall run Chinook salmon caused by DCC openings in the October–November up-
28 migration period. Mr. Setka will describe previous efforts by agencies to try to address

1 those impacts through closure of the DCC in critical Fall periods. He will then review the
2 Petitioner’s documentation that shows increased openings of the DCC under the Project
3 during the critical October–November up-migration period. If increased DCC openings
4 are allowed to occur during those months, the Project would cause significant,
5 additional fisheries impacts to migrating adult Mokelumne salmon. Mr. Setka will
6 propose a condition to avoid or mitigate these fishery and public trust impacts and
7 request that the State Water Board include the condition in any approval of the Change
8 Petition.

9 **Injury to Outmigrating Juvenile Mokelumne River Salmonids**

10 Michelle L. Workman, EBMUD’s Supervising Fisheries Biologist, will present
11 testimony describing the Project’s potential impacts to outmigrating Mokelumne-origin
12 juvenile fall run Chinook salmon and Central Valley steelhead. Ms. Workman will
13 explain how pumping at Jones and Banks Pumping Plants (“South Delta Facilities”)
14 entrains natural and hatchery origin juvenile salmonids migrating from the Mokelumne
15 River to the ocean, and how that pumping delays outmigration, increasing the exposure
16 of fish in the interior Delta to predation, unscreened diversions, and poor water quality.
17 She will use data from modeling runs performed by Petitioners for this hearing to
18 explain the potential for Project operations to result in increased diversions at the South
19 Delta Facilities during the crucial April–May outmigration period. Ms. Workman will
20 explain how increased South Delta diversions during those months would impact fish
21 and lead to additional mortality. Ms. Workman will propose conditions to avoid or
22 mitigate the Project’s impacts to juvenile Mokelumne River Chinook and steelhead.

23 Finally, EBMUD’s modeling expert, Dr. Benjamin S. Bray, will provide brief
24 written testimony. Dr. Bray assisted Ms. Workman with the modeling-related aspects of
25 her testimony. He will be available on EBMUD’s Part 2 witness panel.

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