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3 **CALIFORNIA DEPARTMENT OF WATER  
RESOURCES**

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8 BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD  
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10 HEARING IN THE MATTER OF  
11 CALIFORNIA DEPARTMENT OF WATER  
RESOURCES AND UNITED STATES  
12 BUREAU OF RECLAMATION REQUEST  
FOR A CHANGE IN POINT OF  
13 DIVERSION FOR CALIFORNIA WATER  
FIX  
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**CALIFORNIA DEPARTMENT OF  
WATER RESOURCES' OBJECTIONS  
TO NORTH DELTA CARES WRITTEN  
TESTIMONY AND EXHIBITS  
SUBMITTED BY PROTESTANTS IN  
SUPPORT OF PART 1B CASE IN  
CHIEF AND any RELATED  
JOINDERS**

15 **I. INTRODUCTION**  
16

17 California Department of Water Resources ("DWR") submits the following  
18 objections, motion to strike testimony and/or exclude testimony to North Delta Cares  
19 (NDC) filings which include written testimony and qualifications of Barbara Daly, Mark  
20 Pruner, Richard Marshall, Steve Haze and Nicky Suard; nine exhibits which include  
21 pages from the 2015 RDEIR/SDEIR, simulation pictures, recreational and well maps.

22 Because much of the testimony presented by the additional witnesses and  
23 Declarants are irrelevant and cumulative DWR requests testimony be excluded or  
24 portions therein stricken. DWR concurrently with this Response submits Master  
25 Objections related to issues raised by multiple parties which will be referenced in this  
26 document. Those issues include testimony making legal arguments, submitting policy  
27 statements that are not evidence to support a claim of injury, requests this proceeding  
28

1 determine real property or economic damages and rearguing processes outside the  
2 scope of this hearing like the Delta Plan, EIR/EIS adequacy, Biological Assessment  
3 and/or re-consultation.

## 4 **II. OBJECTIONS**

### 5 **A. Testimony of Barbara Daly**

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7 Barbara Daly's (Daly) qualifications appear to be based on her work with a Delta  
8 tour service, as a marina owner and co-chair of the North Delta Cares organization. Her  
9 testimony summarizes her family life in Clarksburg. She claims her family is *"likely to be*  
10 *damaged by the disintegration in the water quality caused by seepage or a potential*  
11 *breach in our water well due to the construction of the California Water Fix"* and *"The*  
12 *property I live on may also be jeopardized through the construction of the coffer dam*  
13 *because the flow in the river will increase in velocity and scour the levee in front of our*  
14 *house causing serious erosion and potential flooding."* Nothing in the testimony provides  
15 specific details about the likely damages to personal or real property. These claims are  
16 outside the scope of this hearing. Please refer to DWR's Master Objections related to  
17 filing a state claim and property acquisition related the California Water Commission's  
18 role and the courts. Additionally, she does not qualify as an expert to testify to water  
19 quality, modeling or potential flood impacts. She appears to challenge the conclusion of  
20 these impacts in the BDCP/California Water Fix REDIR/SDEIS without providing  
21 conflicting evidence. Nevertheless the validity of CEQA/NEPA analysis is not part of this  
22 hearing.

23  
24 Daly's testimony then introduces NDC's panel members, addressed individually  
25 below. Mark Pruner's (Pruner) qualifications consist of five general bullets regarding his  
26 status as an attorney and activities with Delta groups including the Clarksburg Fire  
27 Protection Board. His testimony appears to be focused on operations of the local Fire  
28 District. *"The District is of the opinion that CA WaterFix will lower the water table of its*

1 *well during the term of the construction phase....”* He provides no evidence to support  
2 this assertion nor does he acknowledge the analysis provided by the Petitioners and  
3 commitments to mitigate any impacts. Both Daly and Pruner are focusing on economic  
4 damages outside the scope of this hearing. Please refer to DWR’s Master Objections  
5 detailing what issues are before the Board related to a change petition and requirements  
6 of Protestants to prove any alleged injuries.

7  
8 **B. Testimonies of Richard Marshall and Steven Haze**

9 Next NDC provides testimony of Richard Marshall who is the manager of the North  
10 Delta Water Agency and farmer in Clarksburg. His testimony amounts to a policy  
11 statement. Please refer to DWR’s Master Objections, Section \_\_\_\_). The last witness  
12 proposed by NDCs is Steven Haze. Mr. Hazes has a BA in Applied Economics who  
13 submits testimony related to the alternatives analyzed in the BDCP EIR/EIS, cost issues,  
14 the California Water Action Plan, concept of highest and best use; statements about the  
15 need for more modeling and options for leveraging the existing infrastructure. He concludes  
16 with odd statements that Calsim II should be a smart grid and the Petition should  
17 address the supply versus demand water budget imbalances. Mr. Haze’s vague  
18 statements are irrelevant and incomprehensible.

19  
20 **C. Testimony of Nicky Suard**

21 Submitted as part of NDC’s case-in-chief is a witness, Nicky Suard, who represents  
22 herself in another case, Snug Harbor. Objections to her testimony, besides just  
23 duplicative, are as follows: (1) unqualified to render opinions about changes in water  
24 flows, water quality, water levels and terrestrial habitat. She states in part, *“I believe it*  
25 *can be shown that a major cause of the groundwater degradation is the many soil*  
26 *borings, channel bench installations, restoration sites and other actions under the*  
27 *CALFED/BDCP process.”* Similar to the other testimony submitted on behalf of NDC her  
28 testimony amounts to a policy statement and not direct evidence.

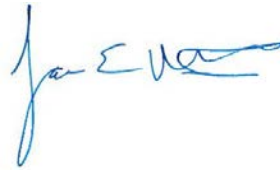
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**III. CONCLUSION**

For the reasons stated above and in DWR’s Master Objections filed concurrently, the Protestant NDC’s case-in-chief includes pages of irrelevant testimony and supporting documents that should be excluded from this hearing in most part as detailed above.

Dated: September 21, 2016

CALIFORNIA DEPARTMENT OF WATER  
RESOURCES



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