State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterboards.ca.gov/waterrights

PROTEST–PETITION REQUESTING CHANGES IN WATER RIGHTS OF THE DEPARTMENT OF WATER RESOURCES FOR THE DELTA CONVEYANCE PROJECT

PETITION

APPLICATION(S)	5630	**PERMIT(S)**	16478	**LICENSE**	N/A
	14443		16479		N/A
	14445A		16481		N/A
	17512		16482		N/A

Via email to:
DCP-WR-Petition@waterboards.ca.gov
David.Steffenson@water.ca.gov

California Water Impact Network (CWIN) submits this protest to the above-referenced Petition for Change in Water Rights (Petition) of the Department of Water Resources (DWR), for the reasons explained in the supplemental statement below. DWR's Director's February 22, 2024 letter submitting the Petition dated February 15, 2024 concedes that approval of the Petition is "necessary to allow for the implementation" of DWR's Delta Conveyance Project. *Id*., p. 1. DWR revised its submittal on February 27, 2024 after making technical corrections. CWIN has carefully reviewed the Petition and documents referenced therein prior to preparing this Protest.

Address, email address and phone number of protestant or authorized agent:

Roger B. Moore (State Bar Number 159992)
LAW OFFICE OF ROGER B. MOORE
337 17th Street, Suite 211
Oakland, CA 94612
(510) 548-1401
rbm@landwater.com

Adam Keats (State Bar Number 191157)
LAW OFFICE OF ADAM KEATS, PC
303 Sacramento Street, 2nd Floor
San Francisco, CA 94111
(415) 964-0070
adam@keatslaw.org

Max Gomberg
Board Secretary, California Water Impact Network
2225 South Carmelina Avenue
Los Angeles, CA 90064
(310) 496-1117
maxgombergca@gmail.com

Carolee Krieger
President and Executive Director,
California Water Impact Network
2225 South Carmelina Avenue
Los Angeles, CA 90064
(310) 496-1117
Caroleekrieger7@gmail.com

This Protest is based on the following CONSIDERATIONS:

- The Petition will not be within the State Water Resources Control Board's jurisdiction ☑
- The Petition would not best serve the public interest ☑
- The Petition will be contrary to law ☑
- The Petition will have an adverse environmental impact ☑

State facts which support the foregoing allegations.

Supporting facts are in the attached supplemental statement and documents referenced therein.

Under what conditions may this protest be disregarded and dismissed? (Conditions should be of a nature that the petitioner can address and may include mitigation measures.)

If all of the concerns raised in the attached supplemental statement are fully addressed, this protest may be disregarded and dismissed. Should the Board proceed to consider the merits of the Petition, CWIN does not anticipate that its protest is likely to be resolved without a water rights hearing. Nonetheless, progress on the issues CWIN has raised in the supplemental statement could narrow the matters for consideration. CWIN is willing to engage in good faith efforts to resolve the objections it has raised. That discussion could include further consideration of alternatives and mitigation to address the adverse environmental and economic impacts of granting the Petition.

SUPPLEMENTAL STATEMENT OF PROTESTANT CALIFORNIA WATER IMPACT NETWORK

Overview

Protestant California Water Impact Network (CWIN) opposes the above-noted Petition filed by the Department of Water Resources (DWR), which cannot be lawfully granted and would harm ratepayers and the environment. CWIN is a California non-profit public benefit organization whose purpose is the protection and restoration of fish and wildlife resources, scenery, water quality, recreational opportunities, agricultural uses, and other natural environmental resources and uses of California's rivers and streams, including the Bay-Delta, its watershed and groundwater. CWIN's statewide membership has a strong interest in avoiding harm of the Petition, which DWR concedes would affect a vast area from Plumas County in the north to San Diego County in the south.

DWR recognizes its Petition is necessary to proceed with the Delta Conveyance Project (DCP). The DCP is the latest of DWR's attempts, following voters' 1982 defeat of the Peripheral Canal, to add a harmful new isolated Delta conveyance facility to the existing State Water Project (SWP). Producing no new water supply while worsening a SWP system that has elicited judicial criticism for "paper water" contract amounts far exceeding its reliable supply, the DCP, if allowed to operate, would remove even more scarce water from the Sacramento River and a Delta watershed that the State Water Resources Control Board has already found to be heavily oversubscribed. Moreover, because serious questions remain whether the DCP can ever be lawfully operated, the DCP may well end up as a multibillion dollar stranded asset and a monument to hubris and greed.

Far from meeting 21st-century needs such as climate resiliency and emergency preparedness while protecting water supply, quality, and equity, the DCP would divert needed resources from less damaging alternatives DWR refused to study. The burden of proof is on DWR, as Petitioner, to document the Petition's consequences for people and resources, and to prove that "the change will not operate to the injury of any legal user of the water involved." (Wat. Code, § 1702.) DWR has not, and cannot, meet that burden. As detailed below, the Petition is not within the Board's jurisdiction, would not best serve the public interest, is contrary to law, and would have major adverse environmental impacts. CWIN also believes that the Board's Administrative Hearings Office must take certain actions described below to fulfill its statutory mandate for providing a neutral, fair, and efficient forum (Water Code § 1110).

DWR's Petition avoids major relevant evidence presented in related proceedings. That includes, but is not limited to, comments of CWIN and others on DWR's Draft Environmental Impact Report (Draft EIR) and Final EIR for the DCP, and CWIN's January 18, 2024 comments to the Board on 2023 Draft Report and Supplemental Environmental Document (SED) prepared to support the Board's pending consideration of "Phase 2" updates to the Bay-Delta Water Quality Control Plan. CWIN also intends to present evidence for its arguments against the Petition as part of an anticipated adjudicatory proceeding, which will further underscore DWR's failure to meet its burden of proof. CWIN requests that the Board reject the Petition with prejudice.

Explanation of State Water Board Duties and Responsibilities

The duties and responsibilities of the State Water Resources Control Board (Board) include those established in law and those established by Gubernatorial directive and by the Board itself. Its legal responsibilities span state and federal law relating to the public trust and environmental

protection, water rights, water quality, and water conservation and use, as codified in statutes pertaining to groundwater management and urban water use standards. The Board, as a recipient of federal funds, is also responsible for upholding Title VI of the Civil Rights Act of 1964. Its policy duties include its commitments to racial equity, tribal protections, and climate change response. Those duties are supplemented by other state actions, such as the Governor's formal acknowledgement of harms to native peoples caused by white settlers[1] and state policies to reduce impacts from climate change.

These duties and responsibilities are relevant to this proceeding for two reasons: 1) the public interest cannot be served and the public trust cannot be protected without comprehensive analysis; and 2) the DCP impacts the state's largest watershed and provides water to two-thirds of the state's population, and the consequences of its construction would be experienced statewide. Therefore, when developing the record for this proceeding, the Board must take a holistic view and allow for evidence on the multi-dimensional nature of the public interest, the public trust, and policy direction provided in the state constitution, statutes, and case law.

The Petition is Not Within the Board's Jurisdiction, and Cannot Be Lawfully Granted, Due to DWR's Reliance on Expired Rights.

Failing to disclose key limits in its above-referenced water rights permits, DWR has disabled its Petition from establishing "that the proposed change(s) will neither in effect initiate a new right nor injure any other legal user of water." (23 California Code of Regulations [CCR], § 791(a).) The permits at issue earlier required completion of construction of specific diversion projects by December 1, 1980, and the application of water allotted under the permits to full beneficial use by December 1, 1990. Under extensions DWR petitioned for and received, these Permits required DWR to complete construction, such as that now sought for a conveyance, by December 31, 2000 [Term 6], and put the water allocated to DWR under the permits (10,350 cubic feet per second) to full beneficial use no later than December 31, 2009 [Term 7]. With these deadlines expired, DWR lacks the water rights needed for the Board to approve the Petition. Instead of merely requiring "change," as DWR assumes, Petition would "in effect initiate a new right" under 23 CCR § 791(a).

Unresolved problems with DWR's now-expired time for construction and beneficial use also leave the Board unable to determine that what DWR proposes will not "injure any other legal user of water." (23 CCR § 791(a).) Due to DWR's long-acknowledged failure to meet the last approved deadlines and the Board's inaction following protests to DWR's last-filed petition to extend, DWR's water rights permits have a formidable "cold storage" problem that is also the subject of pending litigation. Enabling DWR to keep its permitted water rights in such "cold storage" is not only unlawful, but harmful to the public trust and the public interest. (See *California Trout, Inc. v. State Water Resources Control Board* (1989) 207 Cal.App.3d 585, 618.)

In its last Petition to Permit Time Extension, filed with the Board on December 31, 2009, DWR recognized it had not and could not meet the already-extended deadline for full beneficial uses in its water rights permits. DWR sought, but never received, another extension through 2015. DWR nonetheless confirmed in later reports that it anticipated seeking further delays even past 2015 to facilitate its then-proposed Delta conveyance. DWR did not complete environmental review in support of its further extension request.

[1] Executive Order N-15-19, June 18, 2019.

In 2010, CWIN, among others, filed protests opposing any further time extension for DWR. Protestants raised these objections, among others:

- DWR failed required due diligence. (Wat. Code, §§ 1395, 1396, 1397; 23 CCR §§ 840, 844.)
- A further extension could adversely affect other water rights and violate Delta protection laws (Wat. Code, § 12200-12205.)
- DWR failed to explain how much water can be put to a beneficial use.
- DWR failed to state the maximum amounts of water it had annually directly diverted and diverted to storage under each water right.
- DWR's own actions led to its failure to timely put water to beneficial use. (Cal. Code Regs., tit. 23, §§ 840, 844.)
- DWR's requested extension would harm the public trust and not be in the public interest. (Wat. Code, §§ 1243; 1243.5.)
- DWR did not comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. ["CEQA"].).
- DWR's requested extension of time would violate permit conditions and numerous other legal requirements, such as the federal Clean Water Act, Porter-Cologne Water Quality Control Act, Fish and Game Code section 5937, multiple provisions of the Water Code, and article X, section 2 of the California Constitution.

The Board never granted DWR any further extension to 2015 or any other date. It did not make a final decision on DWR's 2009 Petition to Extend or resolve the legal objections in the 2010 protests, grounds that would also prevent any later attempt by DWR to resurrect its expired permits. Further, the Board has recognized that DWR, like the Bureau of Reclamation, did not meet the beneficial use deadlines in its water rights permits. (Delta Conveyance Project Final EIR Volume 2, Chapter 4, Table 4-2, pp. 245-246.) Without any further extension, the Board has observed, "SWP and CVP exports, with or without approval of the new proposed points of diversion, are limited to the maximum amount of water put to beneficial use before the deadlines to maximize use contained in the permits. (See Wat. Code, §§ 1397, 1610.5; Cal. Code Regs., tit. 23, § 844.)" (*Id*.)

Whether or not DWR might have pursued a "separate petition" to extend time (Cf. Final EIR, Comment Response 533-130), DWR filed its change petition without doing so. In a letter dated March 15, 2024, CWIN disputed the Board's ability to proceed with DWR's purported change petition based on its expired rights, an issue also raised in pending litigation. On April 19, 2024, the Board sent parties to this proceeding a notice confirming it is not planning to process and resolve either DWR's 2009 Petition or the related protests. It is now clear DWR lacks the water rights for the Board to consider DWR's change petition. Rather than proceeding with a futile petition premised on expired rights, further attempts by DWR to address its lack of timeliness, if any, should be returned for consideration of DWR's lack of diligence, and referred to the licensing section for an evaluation of the amounts put to beneficial use before the deadline expired.

The Petition is Not Within the Board's Jurisdiction, and Cannot Be Lawfully Granted, Due to DWR's Omission of Needed Information.

A change petition must clearly and accurately describe the action sought, while also including "sufficient information to demonstrate a reasonable likelihood that the proposed change will not injure any other legal user of water," and all information "reasonably available" to the Petitioner concerning "the extent, if any, to which fish and wildlife would be affected by the change, and a

statement of any measures proposed to be taken for the protection of fish and wildlife in connection with the change." (Wat. Code, § 1701.2.) It must include "[t]he existing and the proposed diversion, release and return flow schedules if stored water is involved or if the streamflow regime will be changed." (23 CCR § 794(a)(6).)

Due to critical omissions in DWR's application, the Petition lacks this required information and cannot be lawfully granted. The DCP's operations and diversion facilities have not been adequately defined, nor have their complete consequences been analyzed for other water users. That is also the case for "adaptive management" scenarios that may later modify project operations. DWR has not made clear commitments matching assumptions about operations used in modeling.

The Petition relies on conclusory assumptions about protection of beneficial uses in DWR's Final EIR, the subject of litigation challenges by CWIN and others. Separately from these challenges, the Petition does not provide the information and analysis needed for the Board's determinations. Modeling runs DWR used to assess impacts and compare alternatives do not match features of the project. Modeling in DWR's EIR does not meaningfully evaluate or disclose conditions of operation. The DCP's Draft Environmental Impact Statement (EIS) did not even provide operational analysis, and federal review and decision-making remains pending. The Petition fails to evaluate impacts of project operation under a Temporary Urgency Change Petition (TUCP), or in connection with other planned changes that may expand reliance on water transfers. The Petition also fails to analyze cumulative operation of the project along with other planned facilities, such as the Sites Reservoir Project pending before the Board in a separate petition.

DWR's deficient project information and lack of accurate operational analysis is critical. The Petition involves water rights for the SWP, whose "huge gap" between contract allocation amounts and the half or less that can be reliably delivered risks reliance on "paper water," worth "little more than a wish and a prayer." (*Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.3d 892, 909, 914-915.) DWR has never placed in beneficial use the amounts claimed in its Petition (Cf. DWR Supplemental Information, p. 1.) DWR's claimed maximum diversion of over 4.8 million acre-feet per year without the changes sought (*Id.*, p. 2) is contrary to DWR's historical records. These records never reached that amount, averaging half or less, without even accounting for further future reductions related to climate change.

In light of these deficiencies, the Board cannot determine that the proposed change will not injure any other legal user of water, that it would not harm fish and wildlife, or that it would serve the public interest, comply with the law, or avoid adverse environmental impacts. The Board likewise cannot conclude DWR has provided all information "reasonably available" about "the extent, if any, to which fish and wildlife would be affected by the change, and a statement of any measures proposed to be taken for the protection of fish and wildlife in connection with the change."

Approving the Petition Would Not Serve the Public Interest.

Understanding the public interest broadly entails evaluating the interests of different groups of people and organizations. The Board is aware, based on current and past hearings and proceedings, that there are foundational disagreements as to whose interests should be prioritized when it comes to the SWP. It is also well documented that the environment and people whose lives and livelihoods benefit from healthy rivers have suffered tremendously. The Board must construe the public interest as that which broadly benefits the public and advances equity goals and

commitments for groups that have historically been excluded from public interest considerations. Otherwise, the interests being protected will only further existing societal inequities.

The Petition, which supports a Delta tunnel project that would reduce the amount of freshwater flows into and through the Delta and would have other devastating impacts noted below, is contrary to the public interest. DWR has failed to support its Petition with sufficient information to conclude that the DCP is capable of achieving its SWP reliability objectives, or even that if can be lawfully operated. Beyond that, DWR's assumption that bolstering SWP reliability is the paramount objective[2] not only distorts the Delta Reform Act's "coequal goals," but is a way to erase the interests of the environment and marginalized groups, including tribes, Delta communities, and fisherfolk whose livelihoods have been decimated as fish populations have declined.

The Board must evaluate other aspects of the public interest. These include ratepayer interests in communities that receive SWP water, and what reliability means in a changing climate. Rate increases for the DCP will harm low-income communities already struggling with increasing water bills.[3] Neither the applicant nor the Metropolitan Water District of Southern California (MWD), its largest contractor, has produced a current and comprehensive economic analysis to estimate costs, financing, and rate increases, without which the Board cannot weigh benefits and costs and equity issues associated with cost allocation. Prior to holding hearings, the Board must order DWR to submit an updated project cost estimate. Alternatively, the Administrative Hearing Officer must hire technical experts in environmental economics to ensure a complete administrative record. CWIN anticipates presenting evidence that granting the Petition would harm the economy as well as the environment, while diverting needed resources from more effective and equitable alternatives DWR has refused to consider.

The Board must also assess other options within its authority to support reliable water supplies for communities served by the SWP. That includes a strong urban conservation regulation; action under the Sustainable Groundwater Management Act to prevent damage to groundwater basins while reducing SWP allocations to unsustainable and damaging agricultural uses, including those on contaminated land; and continuing to support responsible local supplies that reduce reliance on SWP imports, including recycled water and stormwater.

Another way to assess the public interest is through a review of law and intent language. The public interest is codified in the state constitution as the will of the voters and in law via their representatives in the legislature.[4] The Board must evaluate these expressions of the public interest in their totality; any selective interpretation would amount to bias in contravention of the neutral and fair hearing requirements. CWIN contends that when viewed as a whole, the state's

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[2] Delta Conveyance Project CEQA Findings of Fact and Statement of Overriding Considerations, page 5-2.

[3] As the Board's extended water debt relief program illustrates, there remains hundreds of millions of outstanding debt more than four years since the beginning of the COVID-19 pandemic. See: https://www.waterboards.ca.gov/arrearage_payment_program/, accessed May 6, 2024.

[4] Relevant language includes the right to fish (Article I, Section 25) and the prohibition on wasteful and unreasonable use (Article X, Section 2) from the state constitution, along with statutes containing clear policy directives, including: the Delta Reform Act (Water Code, Division 35), the Sustainable Groundwater Management Act (Water Code, Division 6, Part 2.74), and the Urban Water Use Objectives (Water Code Chapter 9). Moreover, there is relevant language in the Fish and Game Code relating to reservoir operations (Fish & Game Code, Division 6, Part 1, Chapter 3, Article 2).

legal frameworks show clearly that a healthy environment is in the public interest. The DCP, which would cause adverse environmental impact, does not support a healthy environment and is therefore not in the public interest.

To ensure that it can establish a complete record on what constitutes the public interest, the Administrative Hearing Officer must do all the following:

- Hire technical experts, as authorized by Water Code 1111(a).The public interest is broad and complex, and the Board does not have staff with all the appropriate qualifications, including expertise in history, philosophy, political science, environmental economics, and fish population and climate change modeling
- Allow for the inclusion of evidence pertaining to the public interest, including but not limited to public opinion polling, methodologies for evaluating social welfare, economic analyses, and evidence of disparate impacts to members of the public
- Allow for testimony regarding legislative intent for relevant statutes and constitutional provisions.

Approving the Petition Would Be Contrary to the Public Trust and Other Requirements of Law.

Approving the Petition, and thereby enabling the DWR's proposed Delta tunnel project, would violate multiple requirements of law beyond those noted above. In proceedings on the Petition, CWIN expects to focus heavily on several:

1. It does not conform to the co-equal goals and other requirements of the 2009 Delta Reform Act (Wat. Code, § 85054), and would thwart achievement some of the Act's core objectives. These include Delta ecosystem protection and enhancement (*id.*), the statewide policy mandating reduced reliance on the Delta for California's future water needs (Wat. Code, § 85021), and protection of the Delta as a unique place. (Wat. Code, § 85022.)
2. It would entail wasteful and unreasonable use of water and an unreasonable method of diversion, in contravention Article X, Section 2 of the state constitution.
3. It would violate the state's affirmative duty to take the public trust into account and protect it whenever feasible.

As noted above, environmental protection is not one of DWR's goals for construction of the DCP. By defining the project as strictly about reliability, DWR foreclosed alternatives that could have met the Delta Reform Act's co-equal goals requirements. The project supported in the Petition is contrary to both the spirit and the letter of the law. It would decimate rather than achieve Delta ecosystem protection and enhancement. It would exacerbate rather than reduce reliance on the Delta for future water needs, and harm rather than protect the Delta as a unique place. The only way DWR could remedy these legal deficiencies would be to restart the CEQA process with a different project purpose and design, and consideration of different alternatives.

The DCP is also in violation of the constitutional prohibition on wasteful and unreasonable use of water and unlawful methods of diversion. The Legislature has recognized that "[t]he Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable." (Wat. Code, § 85001(a).) Reports of the Board, among others, confirm that the Delta water is heavily oversubscribed and that existing policies have been inadequate to

protect it. The Petition, however, aims to add a new conveyance facility to increase or maintain water deliveries for wasteful uses in both agricultural and urban areas served by the SWP.[5]

Granting the change Petition to include the DCP would continue or compound unreasonable diversions and damaging agricultural uses in the SWP, even as it harms both agriculture and water quality in the Delta and elsewhere. Moreover, while records of the SWP's urban suppliers--including its largest, MWD—show that conservation is not only feasible, but cost-effective, the Board's documents in its urban conservation rulemaking also show there is still significant inefficient (e.g., wasteful) water use occurring within the service areas of urban water suppliers that receive SWP water, including MWD.[6]

Approving the Petition would also violate DWR's and the Board's public trust duties, including the duty to protect trust resources and to mitigate and/or avoid harm to trust resources when feasible. (*National Audubon Society v. Superior Court* 1983 33 Cal.3d 420, 446.) There is no feasible way to avoid or mitigate harm to the public trust if the DCP is built and operated as planned.

Other violations of law would also result. For example:

1. The changes sought by DWR in its Petition are directed to construction and operation of a new isolated Delta conveyance that has not been lawfully designated as a facility of the State Water Project under the Burns-Porter Act (Wat. Code, § 12930, et seq.) or other laws.
2. Approving the Petition would violate beneficial uses and water quality objectives, contrary to both the State Board's requirements and the federal Clean Water Act, which requires protection of the most sensitive beneficial uses as the standard by which all beneficial uses are protected. (USEPA regulations, 40 CFR §131.11).
3. Tunnel operation made possible through the petition would violate the Endangered Species Act, including the creation of jeopardy conditions, for example, by reducing through-Delta survival rates of listed winter-run and spring-run Chinook salmon, and creating jeopardy conditions while failing to contribute to the species recovery. (ESA, Section 9.)
4. By enabling the two new diversions along the lower Sacramento River in the north Delta and reducing Delta inflow, approving the Petition would be contrary to the Delta Protection Act of 1959 and other watershed protections. (Wat. Code, §§ 12200-12205.)

Approving the Petition Would Create Adverse Environmental Impacts

The discussion above highlights some of the immense adverse environmental impacts from the Petition, but there is more. As documented in the Board's own scientific basis report, current levels of diversions are harming the environment.[7] The DCP would maintain current levels of unsustainable diversions and potentially allow for even greater diversions during dry years,

[5] FEIR, Page 6-48. "Average annual SWP Table A deliveries are expected to increase under the long-term average, dry water years, and critical years for all project alternatives."
[6] See: https://www.waterboards.ca.gov/conservation/regs/docs/2023/isor-for-ab668-sb606.pdf, and https://www.waterboards.ca.gov/conservation/water-use-explorer/, accessed May 6, 2024.
[7] See: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/2022/201710-bdphaseII-sciencereport.pdf, Chapter 1.2.2, accessed May 6, 2024.

guaranteeing additional harm.[8] No mitigation measures can overcome the impacts from unreasonable diversions of freshwater flows.

For reasons extensively documented in comments by CWIN and others on DWR's EIR and the Army Corps of Engineers' EIS, DWR's change petition for the DCP would also create numerous significant adverse environmental impacts and related violation of laws, such as: Failure to Analyze the Impacts on Surface Water, Water Supply, Groundwater, Water Quality, and Air Quality; Failure to Analyze a Reasonable Range of Alternatives; Inadequate Analysis of Climate Change; Inadequate Quantification of Water Available for Diversion and Export. These unresolved impacts are compounded by DWR's other deficiencies noted in comments and pending petitions,[9] such as: Unlawful Piecemealing; Defective Findings; Failure to Provide Cost-Benefit Analysis; Failure to Consider Reasonably Foreseeable Indirect Physical Changes in the Environment; Failure to Include Worst-Case Analysis in the EIR; and Failure to Provide Full Environmental Disclosure.

The Petition Omits Analysis of Infeasible Mitigation

The Petition omits key analysis that would highlight the infeasibility of much of the mitigation DWR has relied upon to address environmental impacts of the DCP. The Petition lacks any complete assessment of DCP cost and lacks both the present ability and any comprehensive plan to cover project financing and pay for the extensive mitigation needed to address environmental impacts of the DCP. In January 2024, a trial court ruling denied DWR's request to validate bond resolutions that could be used to fund the Tunnel.[10] The court found that DWR's bond resolutions exceeded DWR's lawful authority and rejected DWR's claim to almost unlimited authority.

Conclusion

For the foregoing reasons, the Petition must be denied. As it considers the DCP petition, the Board should also reflect on its institutional legitimacy. Rather than giving preferential treatment to DWR and discarding its commitments to the public trust and public interest, and to marginalized communities and the environment, the Board must ensure compliance with the law and act consistently with its mission to preserve, enhance, and restore the quality of California's water resources for the benefit of present and future generations.

Dated: May 13, 2024

LAW OFFICE OF ROGER B. MOORE



Roger B. Moore
Attorney for California Water Impact Network

[8] See Note 5.

[9] See, e.g., *Sierra Club et al. v. California Department of Water Resources* (Sacramento County Superior Court, Case No. No. 24WM000008) and related actions filed therein (24WM000006, 24WM000009, 24WM000011, 24WM000012, 24WM000014, 24WM000017, 24WM000062.)

[10] Final Statement of Decision and Judgment filed on January 16, 2024 in *Sierra Club, et al. v. California Department of Water Resources* (Sacramento County Superior Court)(appeal pending).

PROOF OF SERVICE

I, **Roger B. Moore**, hereby declare under penalty of perjury as follows:

I am over the age of 18 years and am not a party to the within proceeding. My business address is 337 17th Street, Suite 211, Oakland, CA, 94612. On May 13, 2024, I served the following documents by electronically transmitting a copy via email, and mailing a hard copy via United States mail from Oakland, California, to the following recipients:

Attn: Delta Conveyance Project Change Petition Staff
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA, 95812-2000
DCP-WR-Petition@waterboards.ca.gov

California Department of Water Resources
c/o David J. Steffenson
P.O. Box 899
Sacramento, CA 95812-0899
David.Steffenson@water.ca.gov

Executed on May 13, 2024, at Oakland, California .



Roger B. Moore