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24 Mokelumne River Water and Power Authority

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BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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

**PROTESTANTS LAND ET AL. AND SAN
JOAQUIN COUNTY ET AL.'S
JOINDER TO CITY OF ANTIOCH'S
MOTION TO CONTINUE – MOTION FOR
CONTINUANCE OF PART 2 AND
RECONSIDERATION OF REOPENING OF
PART 1**

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Attorney for Protestants County of San Joaquin,
San Joaquin County Flood Control and
Water Conservation District, and
Mokelumne River Water and Power Authority

1 Protestants Local Agencies of the North Delta, Bogle Vineyards / Delta Watershed
2 Landowner Coalition, Diablo Vineyards and Brad Lange / Delta Watershed Landowner
3 Coalition, Stillwater Orchards / Delta Watershed Landowner Coalition and Protestants County
4 of San Joaquin, San Joaquin County Flood Control and Water Conservation District, and
5 Mokelumne River Water and Power Authority (collectively, "Protestants") hereby join in the City
6 of Antioch's Motion to Continue – Motion for Continuance of [Part] 2 and Reconsideration of
7 Reopening of Part 1, filed on January 26, 2018 ("Antioch's Motion").

8 As participants in Part 1 and Part 2, we are concerned that the Department of Water
9 Resources and the Bureau of Reclamation ("Petitioners") are now providing a different
10 description of the proposed operational scenario than was presented in Part 1. In addition to
11 different volumes of exports from the south Delta (see Antioch's Motion, Figure 1, p. 4),
12 operational scenario CWF H3+ also includes different exports from the proposed north Delta
13 intakes (see Exhibit A). For instance, north Delta exports would be significantly greater in
14 February, March and June, than under either operational scenario H3 or H4. (See Exhibit A
15 and Antioch's Motion, Figure 1, p. 4.)

16 These changes to the previously presented project that is allegedly subject to affect the
17 split previously presented by Petitioners between diversions in the north and south Delta
18 presented by Petitioners in Part 1. (See Exhibit B, DWR-5 errata, slide 44 [DWR Long-Term
19 Average Annual Total North and South Delta Combined CVP/SWP Diversions].) In addition,
20 for the month of October, diversions in both the south and the north Delta would increase
21 under H3+ as compared to H3 and H4. This additional removal of freshwater from the Delta,
22 particularly in drier years, would raise significant concerns regarding commensurate increases
23 in salinity as well as increasing the incidence of harmful algal blooms, among other issues
24 addressed in Part 1 testimony by both Petitioners and Protestants. It is also unclear how these
25 changes from the modeling scenarios presented in Part 1 would change water held in storage
26 that would be available for release to protect water quality for senior water users in the Delta,
27 as well as water quality standards.

1 In summary, we agree with Antioch that there are major differences in between the
2 previously presented operational scenarios (H3 and H4) and the currently presented CWF H3+
3 operational scenario that would change hydrological and water quality impacts throughout the
4 Delta from what Petitioners presented in Part 1. With respect to the Part 1 issue of injury to
5 users of water, Protestants must be afforded the opportunity to respond to the effects of CWF
6 H3+ on water users. While the Hearing Officers have stated that certain Part 1 issues may be
7 revisited in Part 2, it is not practical or fair for Protestants to address such a substantial change
8 in the proposed petition “within the scope of cross examination or rebuttal.” (See November 8,
9 2017 Ruling, p. 3; see also Part 2 Pre-Hearing Conference Transcript, October 19, 2017, pp.
10 17-25 [discussing related concerns with changes in modeling presented by Protestants in the
11 hearing].) In addition, by only by presenting evidence in Part 1 that was focused on the
12 impacts of H3 and H4 on users of water (and not CWF H3+), Petitioners have failed to “include
13 sufficient information to demonstrate a reasonable likelihood that the proposed change will not
14 injure any other legal user of water.” (Wat. Code, § 1701.2, subd. (d).)

15 For these reasons, Protestants join in Antioch’s motion and request that Part 1 be
16 reopened, and Part 2 be stayed, so that Petitioners and Protestants can address the Part 1
17 hearing issues in context of the currently proposed operational scenario, CWF H3+.

18 Respectfully submitted,

19 Dated: January 26, 2018

SOLURI MESERVE,
A LAW CORPORATION

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21 _____
22 Osha R. Meserve
23 Attorneys for Protestants
24 Local Agencies of the North Delta
25 Bogle Vineyards / Delta Watershed Landowner
26 Coalition
27 Diablo Vineyards and Brad Lange / Delta Watershed
28 Landowner Coalition
Stillwater Orchards / Delta Watershed Landowner
Coalition

1 Dated: January 26, 2018

FREEMAN FIRM,


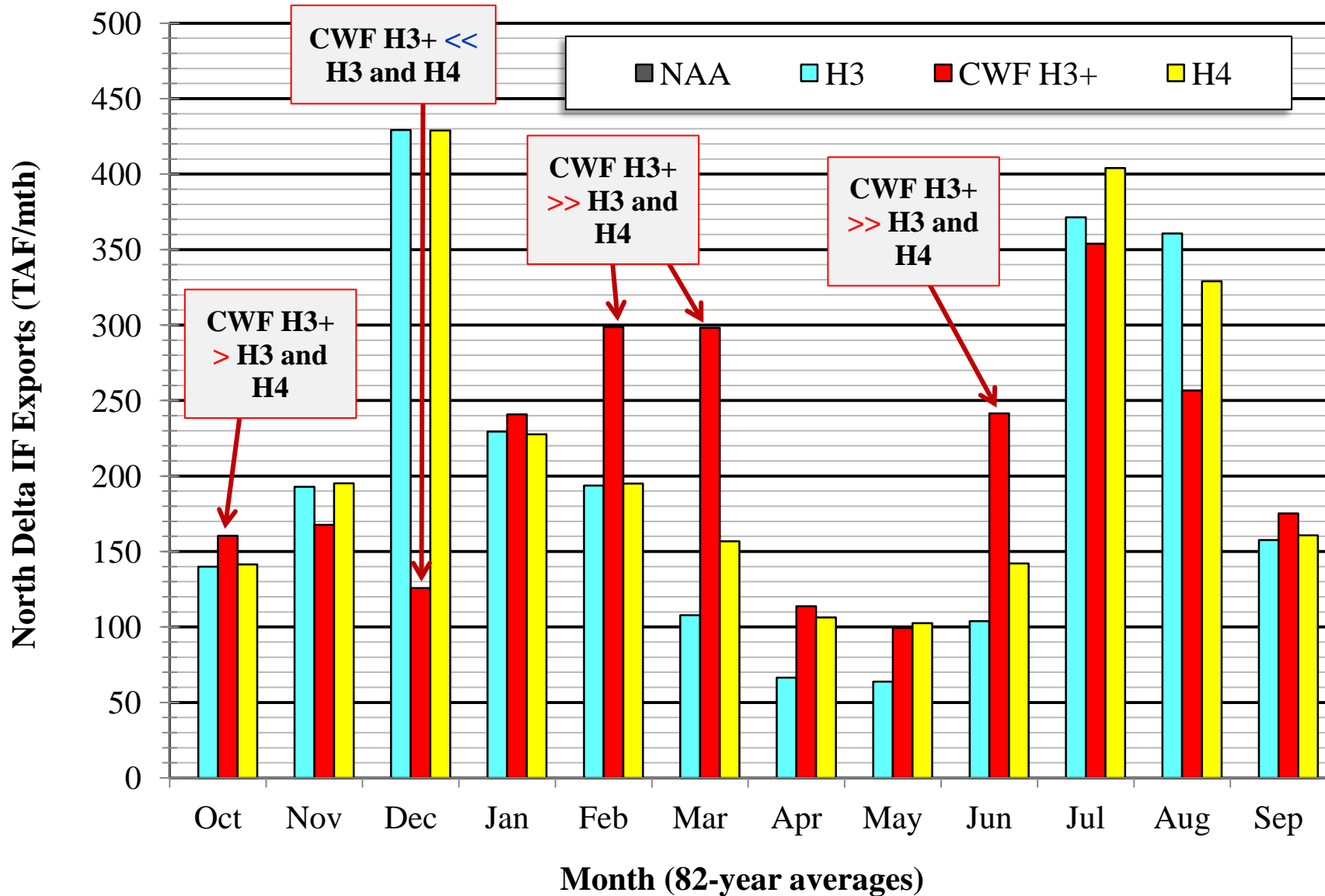
2
3 By: 
4 Thomas H. Keeling
5 Attorneys for Protestants County of San Joaquin,
6 San Joaquin County Flood Control and Water
7 Conservation District, and
8 Mokelumne River Water and Power Authority
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EXHIBIT A

North Delta (IF) Exports

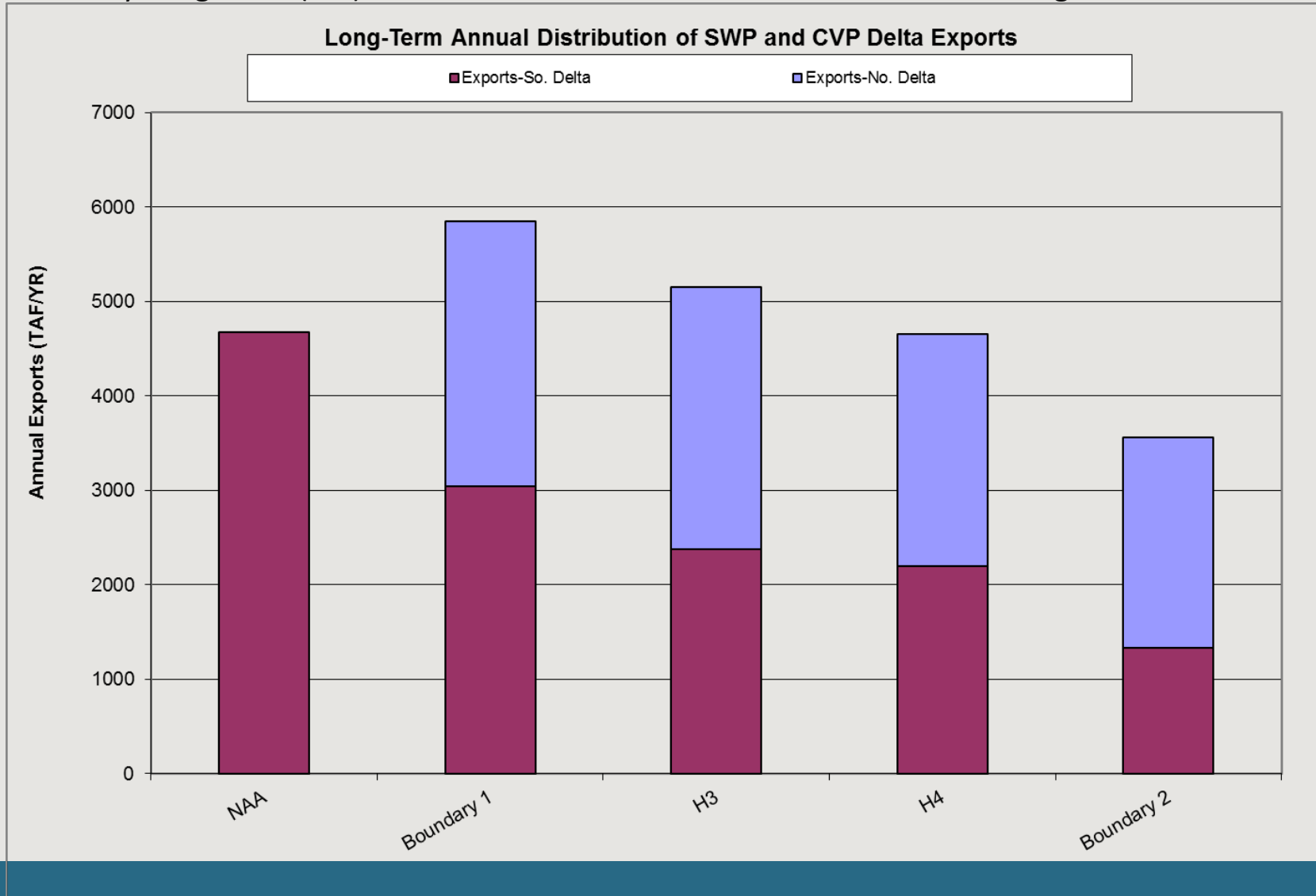


Total SWP and CVP north Delta exports averaged for each month for water years 1922-2003. The data plotted are from the Alternative 4A Scenarios H3 and H4, and the new version of the project for Part 2 (CWF H3+.) Note that there are no north Delta exports for the Biological Assessment No-Action Alternative. These CALSIM II output data were submitted by the Petitioners in Part 1 and Part 2 of this hearing.



EXHIBIT B LONG-TERM AVERAGE ANNUAL TOTAL NORTH AND SOUTH DELTA COMBINED CVP/SWP DIVERSIONS

Early Long-Term (ELT) alternatives are simulated with 2025 climate change & sea level rise



1 **STATEMENT OF SERVICE**

2 I hereby certify that I have this day, January 26, 2018, submitted to the State Water
3 Resources Control Board and caused a true and correct copy of the following document:

4 **PROTESTANTS LAND ET AL. AND SAN JOAQUIN COUNTY ET AL.'S**
5 **JOINDER TO CITY OF ANTIOCH'S MOTION TO CONTINUE – MOTION FOR**
6 **CONTINUANCE OF PART 2 AND RECONSIDERATION OF REOPENING OF PART 1**

7 to be served **by Electronic Mail** (email) upon the parties listed in Table 1 of the **Current**
8 **Service List** for the California WaterFix Petition Hearing, dated January 24, 2018 posted by
9 the State Water Resources Control Board at
10 [https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_water](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_water_fix/service_list.shtml)
11 [fix/service_list.shtml](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_water_fix/service_list.shtml)

12 I certify that the foregoing is true and correct and that this document was executed on
13 January 26, 2018.

14 Signature:  _____

15 Name: Mae Ryan Empleo

16 Title: Legal Assistant for Osha R. Meserve
17 Soluri Meserve, A Law Corporation

18 Party/Affiliation:

19 Local Agencies of the North Delta

20 Bogle Vineyards / Delta Watershed Landowner Coalition

21 Diablo Vineyards and Brad Lange / Delta Watershed
22 Landowner Coalition

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