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9 BEFORE THE  
10 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD  
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12 Hearing on the Matter of California  
Department of Water Resources and  
13 United States Bureau of Reclamation  
Request for a Change in Point of  
14 Diversion for California WaterFix.  
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California Sportfishing Protection Alliance  
Et al.'s Motion to Stay or Continue  
WaterFix Part 2 Hearing

- 16  
17 1. On March 28, 2018, DWR announced to the Hearing Officers that they had changed their  
18 conceptual design for the WaterFix project. See Exhibit A attached.  
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20 2. The announced changes included:  
21 a. The tunnels would be moved to different locations that were mostly undisclosed,  
22 potentially affecting Delta water rights holders other than the ones taking part in the two-year  
23 WaterFix hearing;  
24 b. Tunnel shaft locations were moved to areas that have no geotechnical data to support their  
25 locations;  
26 c. Tunnel muck storage locations were re-located to sites that have the potential to harm fish  
27 and wildlife species;  
28

1 d. The new terminal forebay for the tunnels was moved without disclosure of potential legal  
2 injury to other water users, and to environmental impacts on fish, wildlife and other public trust  
3 assets;

4 e. Two new canal segments were added to the project that have the potential to harm other  
5 legal users of water and fish and wildlife;

6 f. New power line routes were added that have the potential to affect avian species.

7 3. These changes in the conceptual design are the second major change in the engineering  
8 design for the WaterFix project since the November 30, 2017 deadline for written presentation  
9 required for Part 2 testimony. The first proposed change was the announcement by DWR's  
10 management that they were considering either a one tunnel alternative to the proposed WaterFix  
11 project or a staged two tunnel alternative instead of the two tunnel project described in the change  
12 petition that is portrayed in the WaterFix testimony for both Part 1 and Part 2.

13 4. In the first announcement of potential change to the project, DWR revealed that the  
14 project changes were substantive enough to require further environmental review to support the  
15 changed project. DWR admitted as much in their opposition to the first motion by Sacramento  
16 County to stay these hearings. (Opposition to Motion to Stay Proceedings.) "DWR will prepare  
17 supplemental environmental documentation for the WaterFix project."  
18

19 5. DWR expects to release the Supplemental E.I.R in draft form in June of 2018 with the  
20 final E.I.R to be issued in October of 2018. (DWR Opposition to Motion to Stay at page 3, 1. 25-  
21 26).

22 6. DWR now admits that it has changed the conceptual design for the WaterFix project again  
23 in substantive ways, thereby potentially negating much of the testimony filed November 30,  
24 2017, by CSPA et. al. and other protestants. These changes will require new testimony and ample  
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1 time for all of us to examine the environmental effects of the changes caused by the two revisions  
2 of the WaterFix project.


3 7. The protestants to the WaterFix project are prejudiced by the changes in the project. We  
4 cannot determine the parameters of the present project, which has changed in so many ways since  
5 our testimony in both Part 1 and Part 2. The constantly changing project description does not  
6 meet the standards for change petitions outlined in the Water Code and the California Code of  
7 Regulations. The new environmental review may or may not be consistent with the previous  
8 environmental documentation for the WaterFix hearing. The testimony previously given by the  
9 proponents of the project will have to be amended. The testimony of the protestants will also  
10 have to be amended. The Supplemental Environmental Review will need to be finished in  
11 October before the SWRCB itself will know whether or not there are additional direct and  
12 cumulative environmental impacts, and therefore cannot determine whether there are  
13 unreasonable effects on fish and wildlife, public trust assets in the Central Valley watershed, and  
14 whether the WaterFix project will be in the public interest of the people of California.

15 8. In the few days between the release of the conceptual plan changes announced by DWR  
16 and the filing of this motion, both the Los Angeles Times and the Sacramento Bee have written  
17 articles indicating that the Metropolitan Water District of Southern California has decided not to  
18 fund the dual tunnel version of the California WaterFix. Jeffrey Kightlinger, Metropolitan's  
19 Executive Director, says that the Metropolitan will not pay for the full WaterFix project and that  
20 they now support a one tunnel project or staged implementation of the project, with an expanded  
21 one tunnel project followed in some number of years by the construction of the second tunnel.  
22 Neither of these options is the same as the present WaterFix project for change in point of  
23 diversion. Both of these options are not presently supported by the existing environmental  
24 documentation or the present hearing testimony. The present testimony admitted during part 1 of  
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1 the hearing has to be amended. Part 2 testimony likewise needs to be amended. Witnesses will  
2 need to be recalled to testify on new facts about the altered project. Due process is important for  
3 substantive reasons and is a Constitutional right for all parties in an administrative hearing.

4  
5 9. CSPA et. al. again requests the SWRCB to grant us and the other protestants our rights in  
6 this hearing under both the United States and California Constitutions and laws. The appropriate  
7 first step is to stay the present hearing until both the protestants and the SWRCB can rely on a  
8 fixed WaterFix project description and determine how to respond procedurally and substantively  
9 to the new WaterFix project, whatever it may turn out to be. To do otherwise wastes precious  
10 time and money and leads only to years of delay and litigation for all parties.

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14 Date: April 3, 2018

  
MICHAEL B. JACKSON  
Attorney for CSPA, CWIN, AquAlliance

## **Exhibit A**



# DESIGN REFINEMENTS PROPOSED

## To Minimize Impacts, Improve Performance and Reduce Costs

Design improvements are being proposed to minimize impacts of the WaterFix project on local communities and the environment. The proposed changes build on past modifications that significantly reduced the project's footprint and costs. The new optimizations also seek to minimize impacts on Delta wetlands and the natural environment.

The proposed optimizations will be subject to environmental review as a part of the forthcoming Supplemental Environmental Impact Report expected in Spring 2018.

### KEY BENEFITS OF THE NEWLY PROPOSED OPTIMIZATIONS



Significantly reduces wetland impacts



Reduces impacts to salmon and smelt at the Clifton Court Forebay



Reduces the number of power poles and lines required which improves aesthetics, reduces impacts to birds, and minimizes the need for power facilities near the town of Courtland, while also eliminating the need to relocate large 230 kV and 500 kV transmission lines



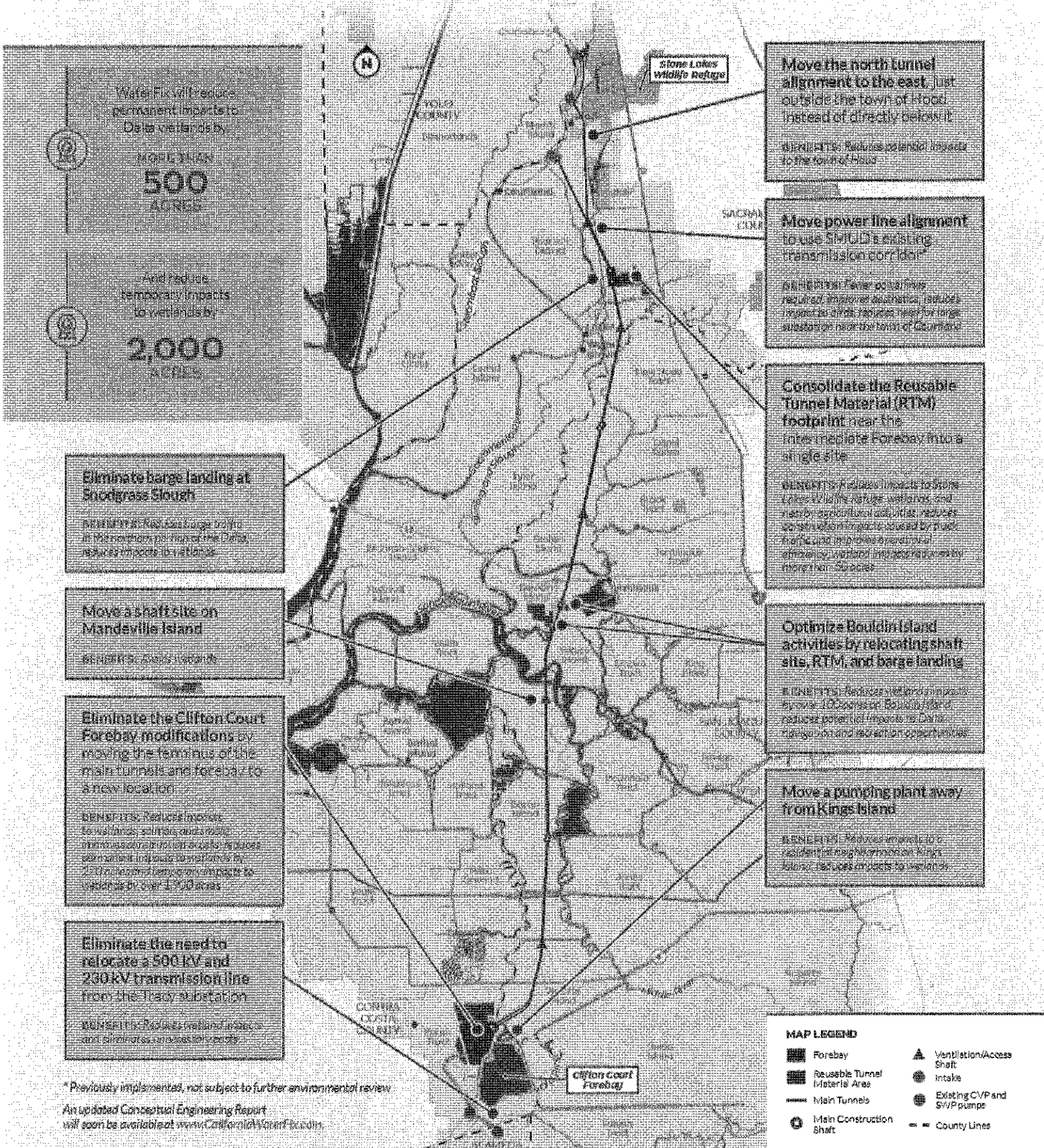
Consolidates the reusable tunnel material (RTM) footprint to minimize impacts to Stone Lakes Wildlife Refuge and nearby agricultural lands



Reduces potential impacts to the town of Hood and a residential neighborhood on Kings Island



**DESIGN REFINEMENTS & PROPOSED MODIFICATIONS**



WaterFix will reduce permanent impacts to Delta wetlands by

MORE THAN  
**500**  
ACRES

And reduce temporary impacts to wetlands by

**2,000**  
ACRES

**Eliminate barge landing at Snodgrass Slough**

**BENEFITS:** Reduces barge traffic in the northern portion of the Delta, reduces impacts to wetlands.

**Move a shaft site on Mandeville Island**

**BENEFITS:** Reduces wetlands.

**Eliminate the Clifton Court Forebay modifications by moving the terminus of the main tunnels and forebay to a new location**

**BENEFITS:** Reduces impacts to wetlands, saltwater intrusion, and improves operational flexibility. Reduces permanent impacts to wetlands by 770 acres and temporary impacts to wetlands by over 1,700 acres.

**Eliminate the need to relocate a 500 kV and 230 kV transmission line from the Tracy substation**

**BENEFITS:** Reduces wetland impacts and eliminates unnecessary costs.

**Move the north tunnel alignment to the east, just outside the town of Hood, instead of directly below it**

**BENEFITS:** Reduces potential impacts to the town of Hood.

**Move power line alignment to use SMOG's existing transmission corridor**

**BENEFITS:** Reduces wetlands required to improve alignment, reduces impacts to birds, reduces need for large substation near the town of Colusa.

**Consolidate the Reusable Tunnel Material (RTM) footprint near the Intermediate Forebay into a single site**

**BENEFITS:** Reduces impacts to Stone Lakes Wildlife Wetlands and nearby agricultural activities, reduces construction impacts caused by multiple sites, improves operational efficiency, wetland interconnectivity by more than 30 acres.

**Optimize Bouldin Island activities by relocating shaft sites, RTM, and barge landing**

**BENEFITS:** Reduces wetland impacts by over 100 acres on Bouldin Island, reduces potential impacts to Delta navigation and recreation opportunities.

**Move a pumping plant away from Kings Island**

**BENEFITS:** Reduces impacts to residential neighborhood on Kings Island, reduces impacts to wetlands.

**MAP LEGEND**

- Forebay
- Reusable Tunnel Material Area
- Main Tunnels
- Main Construction Shaft
- Ventilation/Access Shaft
- Intake
- Existing CVP and SVP pumps
- County Lines

\* Previously implemented, not subject to further environmental review

An updated Conceptual Engineering Report will soon be available at [www.CaliforniaWaterFix.com](http://www.CaliforniaWaterFix.com)