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18 **IN THE UNITED STATES DISTRICT COURT FOR THE**
19 **EASTERN DISTRICT OF CALIFORNIA**

20 AQUALLIANCE; CALIFORNIA
SPORTFISHING PROTECTION ALLIANCE;
21 CALIFORNIA WATER IMPACT
NETWORK; CENTRAL DELTA WATER
22 AGENCY; SOUTH DELTA WATER
AGENCY,

23 Petitioners and Plaintiffs,

24 v.

25 THE UNITED STATES BUREAU OF
RECLAMATION; SAN LUIS & DELTA-
26 MENDOTA WATER AUTHORITY; U.S.
DEPARTMENT OF THE INTERIOR; DAVID
27 BERNHARDT, in his official capacity; and
DOES 1 – 100,

28 Respondents and Defendants.

Case No.

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF; PETITION FOR WRIT
OF MANDATE

(National Environmental Policy Act, 42 U.S.C.
§ 4321 *et seq.*; Administrative Procedure Act, 5
U.S.C. §§ 701 *et seq.*; California Environmental
Quality Act, Cal. Pub. Resources Code §§
21167, 21168, 21168.5; Cal. Code Civ. Proc. §§
1060, 1085, 1088.5, 1094.5)

1 Petitioners and Plaintiffs AquAlliance, California Sportfishing Protection Alliance,
2 California Water Impact Network, Central Delta Water Agency and South Delta Water Agency
3 (collectively, “Plaintiffs” or “Petitioners”) hereby allege as follows:

4 **I. INTRODUCTION**

5 1. This is a civil suit brought pursuant to the National Environmental Policy Act
6 (“NEPA”), 42 U.S.C. §§ 4321 et seq., the Administrative Procedure Act (“APA”), 5 U.S.C. §§
7 701 et seq., and the California Environmental Quality Act (“CEQA”), Public Resources Code §§
8 21000 et seq..

9 2. This action is brought by several California water resource management and
10 conservation organizations to challenge defendants’ environmental review and approval of a
11 2019-2024 5water transfer program to move water from sellers located upstream of the
12 Sacramento/San Joaquin Delta (“Delta”) to willing buyers south of the Delta (the “Project”).
13 These water transfers would drain both surface and groundwater resources from the Sacramento
14 River and San Joaquin River watersheds, imposing significant and irreversible threats to the
15 people and sensitive species that rely on these water resources and associated aquatic and riparian
16 habitats.

17 3. The Project will likely have devastating impacts to the Delta. The Delta faces
18 interrelated problems of inadequate water supplies, instream flow deficits, water quality
19 impairments, and degraded aquatic habitats. This Project would worsen those existing problems
20 by further reducing freshwater flows into the Delta.

21 4. The Project would also have detrimental effects on groundwater by relying in part
22 on “groundwater substitution” for these transfers with an inaccurate characterization of existing
23 conditions, and wholly ineffective mitigation measures. These adverse groundwater effects will, in
24 turn, adversely affect connected surface water and habitats.

25 5. This action arises following the District Court’s judgment in 2018 vacating and
26 setting aside a similar but distinct 10-year water transfer program and associated environmental
27 documents originally approved in 2015. Following the District Court’s vacatur, USBR and
28 SLDMWA assessed the Project in a Revised Environmental Impact Statement/Environmental

1 Impact Report (“EIS/EIR”) prepared for both NEPA and CEQA purposes. However, the EIS/EIR
2 only attempts to minimally rectify past adjudicated mistakes, rather than informing the public of
3 the Project’s real impacts. USBR and SLDMWA have failed to provide an accurate description of
4 the Project, made nakedly unenforceable promises about operation of the Project, failed to account
5 for a plethora of new information and changed circumstances that have come about since
6 environmental review for the ten-year transfer program was evaluated, and doubled down prior
7 analytical deficiencies.

8 6. Simply put, it is not 2015, and much has changed since then. The current proposed
9 Project is markedly different than the one originally contemplated over five years ago, having
10 been significantly changed in scope. California and the Project area are not as they were when
11 environmental analysis for the original project was conducted, yet the EIS/EIR has flagrantly
12 cobbled together pieces of the invalidated 2015 EIS/EIR interwoven with fragmented updates
13 from the 2019 EIS/EIR. The conditions the original project was evaluated against no longer exist.

14 7. As a result of these numerous and compounding deficiencies, the Project put forth
15 by the Defendants poses a significant threat to the Delta, Sacramento Valley, and water resources
16 in California, and the public is left uninformed of these impacts.

17 **II. JURISDICTION AND VENUE**

18 8. This Court has jurisdiction pursuant to 28 U.S.C § 1331 (federal question), 28
19 U.S.C § 1346 (United States as defendant), 28 U.S.C § 2201 (declaratory relief), 28 U.S.C § 2202
20 (injunctive relief), and the APA, 5 U.S.C. §§ 701-706.

21 9. This Court has supplemental jurisdiction over state law claims pursuant to 28
22 U.S.C. § 1367(a) because the state law claims are related to the federal law claims and form part
23 of the same case or controversy. Such state law claims include a claim under the California
24 Environmental Quality Act, Public Resources Code §§ 21000 et seq., and California Code of Civil
25 Procedure §§ 1060, 1085, 1088.5, and 1094.5.

26 10. Venue is appropriate in the Eastern District of California pursuant to 28 U.S.C. §
27 1391(e) because defendant USBR is located in Sacramento County, and a substantial part of the

28

1 events or omissions giving rise to the claims alleged in this Complaint occurred and will continue
2 to occur in this judicial district.

3 11. This complaint is timely filed within any and all applicable statutes of limitations.

4 **III. INTRADISTRICT ASSIGNMENT**

5 12. Pursuant to Local Rule 120(d), intradistrict assignment of this matter to the
6 Sacramento, Redding, or Fresno Divisions of the Court would be appropriate in that the events or
7 omissions which give rise to Plaintiffs' claims occurred, are occurring, and/or will occur in Butte,
8 Colusa, Fresno, Glenn, Kings, Merced, Placer, Sacramento, San Benito, San Joaquin, Santa Clara,
9 Shasta, Stanislaus, Sutter, Tehama, Yolo, and Yuba Counties.

10 **IV. PARTIES**

11 13. Petitioner and Plaintiff AQUALLIANCE is a California Public Benefit Corporation
12 organized to protect waters in the northern Sacramento River's watershed to sustain family farms,
13 communities, creeks and rivers, native flora and fauna, vernal pools, and recreation. AquAlliance
14 has approximately 637 members who rely on Sacramento Valley groundwater for their livelihoods
15 and live, recreate and work in and around waters of the State of California, including the
16 Sacramento River, its tributaries, and the Sacramento-San Joaquin River Bay Delta ("Bay Delta").
17 AquAlliance's mission is to defend northern California waters and to challenge threats to the
18 hydrologic health of the Sacramento River watershed. AquAlliance is especially focused on
19 confronting the escalating attempts to divert more and more water from the northern Sacramento
20 River hydrologic region to other parts of California.

21 14. Petitioner and Plaintiff CALIFORNIA SPORTFISHING PROTECTION
22 ALLIANCE ("CSPA") is a non-profit public benefit corporation organized under the laws of the
23 State of California with its main office in Stockton, California. CSPA has approximately 2000
24 members who live, recreate and work in and around waters of the State of California, including the
25 Sacramento River, San Joaquin River, the Delta, Suisun Bay and San Pablo Bay. CSPA is
26 dedicated to the preservation, protection, and defense of the environment, the wildlife and the
27 natural resources of all waters of California. To further these goals, CSPA actively seeks federal
28 and state agency implementation of the Act and other laws and, where necessary, directly initiates

1 enforcement actions on behalf of itself and its members. CSPA has been actively engaged in
2 proceedings relating to the environmental impact of the SWP as well as the federal Central Valley
3 Project (“CVP”).

4 15. Petitioner and Plaintiff CALIFORNIA WATER IMPACT NETWORK (“C-WIN”)
5 is a California non-profit public benefit organization with its principal place of business in Santa
6 Barbara, California. C-WIN’s organization purpose is the protection and restoration of fish and
7 wildlife resources, scenery, water quality, recreational opportunities, agricultural uses, and other
8 natural environmental resources and uses of the rivers and streams of California, including the
9 Bay-Delta, its watershed and its underlying groundwater resources. C-WIN has members who
10 reside in, use, and enjoy the Bay-Delta and inhabit and use its watershed. They use the rivers of
11 the Central Valley and the Bay-Delta for nature study, recreation, and aesthetic enjoyment. C-WIN
12 and its members have been involved in the administrative proceedings that have been provided to
13 date for the EIR/EIS, each discussed, below, including providing written comments.

14 16. Petitioner and Plaintiff CENTRAL DELTA WATER AGENCY (“CDWA”) is a
15 political subdivision of the State of California created by the California Legislature under the
16 Central Delta Water Agency Act, chapter 1133 of the statutes of 1973 (Wat. Code, Appendix, 117-
17 1.1, et seq.), by the provisions of which CDWA came into existence in January of 1974. CDWA’s
18 boundaries are specified in Water Code Appendix section 117-9.1 and encompass approximately
19 120,000 acres, which are located entirely within both the western portion of San Joaquin County
20 and the “Sacramento-San Joaquin Delta” as defined in California Water Code section 12220.
21 While the lands within the agency are primarily devoted to agriculture, said lands are also devoted
22 to numerous other uses including recreational, wildlife habitat, open space, residential,
23 commercial, and institutional uses. CDWA is empowered to “sue and be sued” and to take all
24 reasonable and lawful actions, including to pursue legislative and legal action, that have for their
25 general purpose either: (1) to protect the water supply of the lands within the agency against
26 intrusion of ocean salinity; and (2) to assure the lands within the agency a dependable supply of
27 water of suitable quality sufficient to meet present and future needs. The agency may also
28 undertake activities to assist landowners and local districts within the agency in reclamation and

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