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TOWNTOWN COURTHOUSE  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

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8

9  
10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF SACRAMENTO

12 CALIFORNIA DEPARTMENT OF  
WATER RESOURCES,

13 Plaintiff,

14 vs.  
15

16 ALL PERSONS INTERESTED IN THE  
MATTER of the Authorization of Delta  
Program Revenue Bonds, the Issuance, Sale  
17 and Delivery of Delta Program Revenue  
Bonds Series A, Series B and Subsequent  
18 Series, the Adoption of the Delta Program  
Revenue Bond General Bond Resolution  
19 and the Supplemental Resolutions Providing  
for the Issuance of Delta Program Revenue  
20 Bonds, and the Proceedings Related  
There to,

21 Defendants.  
22

**FILED BY FAX**

Case No. 34-2020-00283112

Assigned for all purposes to:  
Honorable Christopher Krueger, Department 31

**CITY OF YUBA CITY'S ANSWER TO  
COMPLAINT**

Action Filed: August 6, 2020

23 **INTRODUCTION**

24 Through this action the California Department of Water Resources (DWR) seeks to  
25 validate its August 6, 2020 decision to incur an unlimited amount of public debt, in the form of  
26 revenue bond financing, for the design, construction and operation of massive new water  
27 diversion facilities on the Sacramento River, including a new tunnel that would extend over  
28 40 miles south to connect to new and/or existing State Water Project (SWP) facilities in the south

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1 Sacramento-San Joaquin River Delta (collectively, the “Delta Tunnel”). DWR’s August 6, 2020  
2 decision provides for imposition of part of that unlimited debt on SWP contractors located north  
3 of the proposed Delta Tunnel, including the City of Yuba City (Yuba City), who would not  
4 benefit from the proposed conveyance facilities.

5 To protect its interests and those of its citizens and the environment, and preserve its  
6 claims and rights of action, defendant Yuba City responds to and answers DWR’s Complaint for  
7 Validation (Complaint) of its Delta Tunnel revenue bond resolutions as follows:

8 **ANSWER TO COMPLAINT FOR VALIDATION**

9 1. Answering Paragraph 1, Yuba City avers that Paragraph 1 consists of legal  
10 conclusions to which no response is required. To the extent a response is required, Yuba City  
11 lacks sufficient information and belief to admit or deny the allegations therein and on that basis  
12 denies all allegations in Paragraph 1.

13 2. Answering Paragraph 2, Yuba City admits the allegations therein.

14 3. Answering Paragraph 3, Yuba City avers that Paragraph 4 consists of legal  
15 conclusions to which no response is required. To the extent a response is required, Yuba City  
16 lacks sufficient information and belief to admit or deny the allegations therein and on that basis  
17 denies all allegations in Paragraph 3.

18 4. Answering Paragraph 4, Yuba City lacks sufficient information and belief to admit  
19 or deny the allegations therein and on that basis denies all allegations in Paragraph 4.

20 5. Answering Paragraph 5, Yuba City lacks sufficient information and belief to admit  
21 or deny the allegations therein and on that basis denies all allegations in Paragraph 5.

22 6. Answering Paragraph 6, Yuba City avers that Paragraph 6 consists of legal  
23 conclusions to which no response is required. To the extent a response is required, Yuba City  
24 lacks sufficient information and belief to admit or deny the allegations therein and on that basis  
25 denies all allegations in Paragraph 6.

26 7. Answering Paragraph 7, Yuba City admits that DWR is and was at all times  
27 mentioned in DWR’s Complaint a department of the Natural Resources Agency of the State of  
28 California existing and operating under the constitution and laws of the State. Answering the

1 remainder of Paragraph 7, Yuba City avers that Paragraph 7 consists of legal conclusions to  
2 which no response is required. To the extent a response is required, Yuba City denies all  
3 allegations in Paragraph 7 not expressly admitted herein.

4 8. Answering Paragraph 8, Yuba City admits the allegations therein.

5 9. Answering Paragraph 9, Yuba City admits the allegations therein.

6 10. Answering Paragraph 10, Yuba City admits the allegations therein.

7 11. Answering Paragraph 11, Yuba City admits the allegations therein.

8 12. Answering Paragraph 12, Yuba City admits the allegations therein.

9 13. Answering Paragraph 13, Yuba City avers that Paragraph 13 consists of legal  
10 conclusions to which no response is required. To the extent a response is required, Yuba City  
11 lacks sufficient information and belief to admit or deny the allegations therein and on that basis  
12 denies all allegations in Paragraph 13.

13 14. Answering Paragraph 14, Yuba City admits that DWR operates, manages and  
14 oversees facilities which store, transport, and deliver water to urban and agricultural water  
15 agencies throughout the State. Answering the remainder of Paragraph 14, Yuba City lacks  
16 sufficient information and belief to admit or deny the allegations therein and on that basis denies  
17 all allegations in Paragraph.

18 15. Answering Paragraph 15, Yuba City avers that Paragraph 15 consists of legal  
19 conclusions to which no response is required. To the extent a response is required, Yuba City  
20 denies all allegations therein.

21 16. Answering Paragraph 16, Yuba City avers that Paragraph 16 consists of legal  
22 conclusions to which no response is required. To the extent a response is required, Yuba City  
23 denies all allegations in Paragraph 16.

24 17. Answering Paragraph 17, Yuba City admits the allegations therein.

25 18. Answering Paragraph 18, Yuba City admits the allegations therein.

26 19. Answering Paragraph 19, Yuba City admits the allegations therein.

27 20. Answering Paragraph 20, Yuba City avers that Paragraph 20 consists of legal  
28 conclusions to which no response is required and the statute speaks for itself. To the extent a

1 response is required, Yuba City denies all allegations in Paragraph 20.

2 21. Answering Paragraph 21, Yuba City avers that Paragraph 20 consists of legal  
3 conclusions to which no response is required and the statute speaks for itself. To the extent a  
4 response is required, Yuba City denies all allegations in Paragraph 21.

5 22. Answering Paragraph 22, Yuba City avers that Paragraph 22 consists of legal  
6 conclusions to which no response is required and the statute speaks for itself. To the extent a  
7 response is required, Yuba City denies all allegations in Paragraph 22.

8 23. Answering Paragraph 23, Yuba City avers that Paragraph 23 consists of legal  
9 conclusions to which no response is required and the statute speaks for itself. To the extent a  
10 response is required, Yuba City denies all allegations in Paragraph 23.

11 24. Answering Paragraph 24, Yuba City lacks sufficient information and belief to  
12 admit or deny the allegations therein and on that basis denies all allegations in Paragraph 24.

13 25. Answering Paragraph 25, Yuba City lacks sufficient information and belief to  
14 admit or deny the allegations therein and on that basis denies all allegations in Paragraph 25.

15 26. Answering Paragraph 26, Yuba City admits that DWR issued a Notice of  
16 Preparation on January 15, 2020, for a proposed Delta conveyance facility. Answering the  
17 remainder of Paragraph 26, Yuba City avers that Paragraph 26 contains legal conclusions to  
18 which no response is required. To the extent a response is required, Yuba City denies all  
19 allegations in Paragraph 26 not expressly admitted herein.

20 27. Answering Paragraph 27, Yuba City lacks sufficient information and belief to  
21 admit or deny the allegations therein and on that basis denies all allegations in Paragraph 27.

22 28. Answering Paragraph 28, Yuba City denies that the design and physical  
23 characteristics of any Delta conveyance facilities are not yet determined. Answering the  
24 remainder of the first sentence of Paragraph 28 and the second and third sentences of  
25 Paragraph 28, Yuba City lacks sufficient information and belief to admit or deny the allegations  
26 therein and on that basis denies those allegations. Answering the remainder of Paragraph 28,  
27 Yuba City avers that Paragraph 28 consists of legal conclusions to which no response is required.  
28 To the extent a response is required, Yuba City denies all allegations in the remainder of

1 Paragraph 28.

2 29. Answering Paragraph 29, Yuba City avers that Paragraph 29 consists of legal  
3 conclusions to which no response is required. To the extent a response is required, Yuba City  
4 denies all allegations in Paragraph 29.

5 30. Answering Paragraph 30, Yuba City avers that Paragraph 30 consists of legal  
6 conclusions to which no response is required. To the extent a response is required, Yuba City  
7 denies all allegations in Paragraph 30.

8 31. Answering Paragraph 31, Yuba City avers that Paragraph 31 consists of legal  
9 conclusions to which no response is required. To the extent a response is required, Yuba City  
10 denies all allegations in Paragraph 31.

11 32. Answering Paragraph 32, Yuba City avers that Paragraph 32 consists of legal  
12 conclusions to which no response is required. To the extent a response is required, Yuba City  
13 denies all allegations in Paragraph 32.

14 33. Answering Paragraph 33, Yuba City avers that Paragraph 33 consists of legal  
15 conclusions to which no response is required. To the extent a response is required, Yuba City  
16 denies all allegations in Paragraph 33.

17 34. Answering Paragraph 34, Yuba City avers that Paragraph 34 consists of legal  
18 conclusions to which no response is required. To the extent a response is required, Yuba City  
19 denies all allegations in Paragraph 34.

20 35. Answering Paragraph 35, Yuba City avers that Paragraph 35 consists of legal  
21 conclusions to which no response is required. To the extent a response is required, Yuba City  
22 denies all allegations in Paragraph 35.

23 36. Answering Paragraph 36, Yuba City avers that Paragraph 36 consists of legal  
24 conclusions to which no response is required. To the extent a response is required, Yuba City  
25 denies all allegations in Paragraph 36.

26 37. Answering Paragraph 37, Yuba City admits that Chapter 2 of the Central Valley  
27 Project Act encompasses Sections 11200 through 11295 of the Water Code. Answering the  
28 remainder of Paragraph 37, Yuba City avers that Paragraph 37 consists of legal conclusions to

1 which no response is required and the statute speaks for itself. To the extent a response is  
2 required, Yuba City denies all allegations in Paragraph 37 not expressly admitted therein.

3 38. Answering Paragraph 38, Yuba City avers that Paragraph 38 consists of legal  
4 conclusions to which no response is required and the statute speaks for itself. To the extent a  
5 response is required, Yuba City denies all allegations in Paragraph 38.

6 39. Answering Paragraph 39, Yuba City avers that Paragraph 39 consists of legal  
7 conclusions to which no response is required and the statute speaks for itself. To the extent a  
8 response is required, Yuba City denies all allegations in Paragraph 39.

9 40. Answering Paragraph 40, Yuba City avers that Paragraph 40 consists of legal  
10 conclusions to which no response is required and the statute speaks for itself. To the extent a  
11 response is required, Yuba City denies all allegations in Paragraph 40.

12 41. Answering Paragraph 41, Yuba City avers that Paragraph 41 consists of legal  
13 conclusions to which no response is required. To the extent a response is required, Yuba City  
14 denies all allegations in Paragraph 41.

15 42. Answering Paragraph 42, Yuba City avers that Paragraph 42 consists of legal  
16 conclusions to which no response is required. To the extent a response is required, Yuba City  
17 denies all allegations in Paragraph 42.

18 43. Answering Paragraph 43, Yuba City avers that Paragraph 43 consists of legal  
19 conclusions to which no response is required and the statute speaks for itself. To the extent a  
20 response is required, Yuba City denies all allegations in Paragraph 43.

21 44. Answering Paragraph 44, Yuba City avers that Paragraph 44 consists of legal  
22 conclusions to which no response is required and the statute speaks for itself. To the extent a  
23 response is required, Yuba City denies all allegations in Paragraph 44.

24 45. Answering Paragraph 45, Yuba City avers that Paragraph 45 consists of legal  
25 conclusions to which no response is required and the statute speaks for itself. To the extent a  
26 response is required, Yuba City denies all allegations in Paragraph 45.

27 46. Answering Paragraph 46, Yuba City admits that resolution designated No. DWR-  
28 DPRB-1, dated August 6, 2020, and titled "Delta Program Revenue Bond General Bond

1 Resolution” (Resolution) is attached as Exhibit 1 to DWR’s Complaint, and that the document  
2 speaks for itself. As to the remainder of Paragraph 46, Yuba City denies all allegations in  
3 Paragraph 46 not expressly admitted herein.

4 47. Answering Paragraph 47, Yuba City admits that the Resolution defines the “Delta  
5 Program” as stated in Paragraph 47. Answering the remainder of Paragraph 47, Yuba City lacks  
6 sufficient information and belief to admit or deny the allegations therein and on that basis denies  
7 all allegations in Paragraph 47 not expressly admitted herein, and further responds that the  
8 Resolution speaks for itself.

9 48. Answering Paragraph 48, Yuba City admits that Section 203 is included in the  
10 Resolution as stated in Paragraph 48. Answering the remainder of Paragraph 48, Yuba City avers  
11 that Paragraph 48 consists of a legal conclusion to which no response is required. To the extent a  
12 response is required, Yuba City denies all allegations in Paragraph 48, and further responds that  
13 the Resolution speaks for itself.

14 49. Answering Paragraph 49, Yuba City avers that Paragraph 49 consists of a legal  
15 conclusion to which no response is required. To the extent a response is required, Yuba City on  
16 that basis denies all allegations in Paragraph 49, and further responds that the Resolution speaks  
17 for itself.

18 50. Answering Paragraph 50, Yuba City avers that Paragraph 50 consists of a legal  
19 conclusion to which no response is required. To the extent a response is required, Yuba City  
20 denies all allegations in Paragraph 50, and further responds that the Resolution speaks for itself.

21 51. Answering Paragraph 51, Yuba City avers that Paragraph 51 consists of legal  
22 conclusions to which no response is required. To the extent a response is required, Yuba City  
23 denies all allegations in Paragraph 51, and further responds that the Resolution speaks for itself.

24 52. Answering Paragraph 52, Yuba City avers that Paragraph 52 consists of legal  
25 conclusions to which no response is required. To the extent a response is required, Yuba City  
26 denies all allegations in Paragraph 52, and further responds that the Resolution speaks for itself.

27 53. Answering Paragraph 53, Yuba City lacks sufficient information and belief to  
28 admit or deny the allegations therein and on that basis denies all allegations in Paragraph 53, and

1 further responds that the Resolution speaks for itself.

2 54. Answering Paragraph 54, Yuba City avers that Paragraph 54 consists of legal  
3 conclusions to which no response is required. To the extent a response is required, Yuba City  
4 denies all allegations in Paragraph 54, and further responds that the Resolution speaks for itself.

5 55. Answering Paragraph 55, Yuba City admits that a resolution designated  
6 No. DWR-DPRB-2, dated August 6, 2020, and titled "First Supplemental Resolution Providing  
7 for the Issuance of Delta Program Revenue Bond, Series A" (First Supplemental Resolution) and  
8 a resolution designated No. DWR-DPRB-3, dated August 6, 2020, and titled "Second  
9 Supplemental Resolution Providing for the Issuance of Delta Program Revenue Bonds, Series B"  
10 (Second Supplemental Resolution) (First Supplemental Resolution and Second Supplemental  
11 Resolution collectively referred to as "Delta Program Revenue Bond Resolutions") are attached  
12 as Exhibits 2 and 3, respectively, to DWR's Complaint, and that the documents speak for  
13 themselves. As to the remainder of Paragraph 55, Yuba City lacks sufficient information and  
14 belief to admit or deny the allegations therein and on that basis denies all allegations in  
15 Paragraph 55 not expressly admitted herein.

16 56. As to Paragraph 56, Yuba City lacks sufficient information and belief to admit or  
17 deny the allegations therein and on that basis denies all allegations in Paragraph 56, and further  
18 responds that the Resolution and First Supplemental Resolution speak for themselves.

19 57. As to Paragraph 57, Yuba City admits that the First Supplemental Resolution  
20 contains Section 1304 as written, and further responds that the First Supplemental Resolution  
21 otherwise speaks for itself.

22 58. As to Paragraph 58, Yuba City avers that Paragraph 58 consists of legal  
23 conclusions to which no response is required. To the extent a response is required, Yuba City  
24 denies all allegations in Paragraph 58, and further responds that the Resolution and First  
25 Supplemental Resolution speak for themselves.

26 59. As to Paragraph 59, Yuba City lacks sufficient information and belief to admit or  
27 deny the allegations therein and on that basis denies all allegations in Paragraph 59, and further  
28 responds that the Resolution and Second Supplemental Resolution speak for themselves.



1           60.    As to Paragraph 60, Yuba City admits that the Second Supplemental Resolution  
2 contains Section 1704, and further responds that the Second Supplemental Resolution speaks for  
3 itself.

4           61.    As to Paragraph 61, Yuba City lacks sufficient information and belief to admit or  
5 deny the allegations therein and on that basis denies all allegations in Paragraph 61, and further  
6 responds that the Second Supplemental Resolution speaks for itself.

7           62.    As to Paragraph 62, Yuba City avers that Paragraph 62 consists of legal  
8 conclusions to which no response is required. To the extent a response is required, Yuba City  
9 denies all allegations in Paragraph 62.

10          63.    As to Paragraph 63, Yuba City avers that Paragraph 63 consists of legal  
11 conclusions to which no response is required. To the extent a response is required, Yuba City  
12 denies all allegations in Paragraph 63, and further responds that the statute speaks for itself.

13          64.    As to Paragraph 64, Yuba City admits that the principal office of DWR is located  
14 in Sacramento, California. Answering the remainder of Paragraph 64, Yuba City avers that  
15 Paragraph 64 consists of legal conclusions to which no response is required and the statute speaks  
16 for itself. To the extent a response is required, Yuba City denies all allegations in Paragraph 64.

17          65.    As to Paragraph 65, Yuba City avers that Paragraph 65 consists of legal  
18 conclusions to which no response is required. To the extent a response is required, Yuba City  
19 denies all allegations in Paragraph 65, and further responds that the statutes speak for themselves.

20          66.    As to Paragraph 66, Yuba City avers that Paragraph 66 consists of legal  
21 conclusions to which no response is required. To the extent a response is required, Yuba City  
22 denies all allegations in Paragraph 66.

23          67.    As to Paragraph 67, Yuba City avers that Paragraph 67 consists of legal  
24 conclusions to which no response is required. To the extent a response is required, Yuba City  
25 denies all allegations in Paragraph 67.

26          68.    As to Paragraph 68, Yuba City lacks sufficient information and belief to admit or  
27 deny the allegations therein and on that basis denies all allegations in Paragraph 68.

28          69.    As to Paragraph 69, Yuba City avers that Paragraph 69 consists of legal

1 conclusions to which no response is required. To the extent a response is required, Yuba City  
2 denies all allegations in Paragraph 69.

3 70. As to Paragraph 70, Yuba City lacks sufficient information and belief to admit or  
4 deny the allegations therein and on that basis denies all allegations in Paragraph 70.

5 71. As to Paragraph 71, Yuba City avers that Paragraph 71 consists of legal  
6 conclusions to which no response is required. To the extent a response is required, Yuba City  
7 lacks sufficient information and belief to admit or deny the allegations therein and on that basis  
8 denies all allegations in Paragraph 71.

9 72. Answering Paragraph 72, Yuba City re-alleges and incorporates by reference each  
10 and every response set forth in Paragraphs 1 through 71 above.

11 73. Answering Paragraph 73, Yuba City denies all allegations therein.

12 74. Answering Paragraph 74, Yuba City denies all allegations therein.

13 75. Answering Paragraph 75, Yuba City denies all allegations therein.

14 76. Answering Paragraph 76, Yuba City denies all allegations therein.

15 77. Answering Paragraph 77, Yuba City denies all allegations therein.

16 78. Answering Paragraph 78, Yuba City denies all allegations therein.

17 79. Answering Paragraph 79, Yuba City denies all allegations therein.

18 80. Answering Paragraph 80, Yuba City denies all allegations therein.

19 81. Answering Paragraph 81, Yuba City denies all allegations therein.

20 82. Answering Paragraph 82, Yuba City denies all allegations therein.

21 83. Answering Paragraph 83, Yuba City denies all allegations therein.

22 84. Answering Paragraph 84, Yuba City denies all allegations therein.

23 85. Answering Paragraph 85, Yuba City denies all allegations therein.

24 86. Answering Paragraph 86, Yuba City denies all allegations therein.

25 87. Answering Paragraph 87, Yuba City denies all allegations therein.

26 88. Answering Paragraph 88, Yuba City denies all allegations therein.

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**AFFIRMATIVE DEFENSES – FACTUAL BACKGROUND**

1  
2 89. On or about July 21, 2017, DWR adopted Resolution No. DWR-CWF-1, titled  
3 “California WaterFix Revenue Bond General Bond Resolution” (WaterFix Bond Resolution).  
4 This Resolution defines the project, California WaterFix, as “the units described in Project Order  
5 No. 40.”

6 90. Project Order No. 40, adopted by DWR on or about July 21, 2017, in turn  
7 provided that California WaterFix would consist of:

8 “[1] Three north Delta Intakes with fish screens along the east bank  
9 of the Sacramento River between Clarksburg and Courtland with  
box conduits, sedimentation basins, gates and a drop structure;

10 “[2] A single-bore tunnel connecting two of the intakes and the  
11 intermediate forebay;

12 “[3] A single-bore tunnel between the final intake and the  
intermediate forebay;

13 “[4] An intermediate forebay on the Glannville Tract;

14 “[5] An outlet structure to convey water from the intermediate  
15 forebay into each main tunnel bore via a vertical shaft;

16 “[6] Two 40-foot-inside-diameter tunnels between the Intermediate  
17 forebay and two 4,500 cfs pumping plants leading to a modified  
Clifton Court Forebay;

18 “[7] Modifications to the Clifton Court Forebay;

19 “[8] Connections and control structures to the Banks and Jones  
pumping plants;

20 “[9] A permanent, operable gate where the San Joaquin River and  
21 Old River diverge; and

22 “[10] Associated, related and appurtenant facilities, including, but  
not limited to, electric transmission lines and roads.”

23 91. On July 21, 2017, DWR certified an environmental impact report (EIR) for the  
24 California WaterFix pursuant to the California Environmental Quality Act (CEQA) and approved  
25 the project.

26 92. On May 14, 2018, DWR announced the formation of the Delta Conveyance  
27 Design and Construction Authority (DCA), a joint powers authority consisting of SWP  
28 contractors deputized by DWR “to staff, design, contract, construct and finance the California

1 WaterFix project.” (See DWR 5/14/18 blog at [https://water.ca.gov/News/Blog/2018/May-](https://water.ca.gov/News/Blog/2018/May-18/Delta-Conveyance-Design-and-Construction-Authority-Announced)  
2 [18/Delta-Conveyance-Design-and-Construction-Authority-Announced.](https://water.ca.gov/News/Blog/2018/May-18/Delta-Conveyance-Design-and-Construction-Authority-Announced)) The DCA operates  
3 pursuant to a Joint Exercise of Powers Agreement (JEPA) with DWR first adopted in 2018. The  
4 Metropolitan Water District of Southern California (MWD) holds two of the four board member  
5 seats of the DCA.

6 93. In July of 2018, DWR released a Draft Supplemental EIR/EIS (DSEIR) that  
7 evaluated changes to the Project design and construction, including relocating project components  
8 to Bouldin Island. MWD owns over 20,000 acres of land that fell within the California WaterFix  
9 alignment, including Webb Tract, Bacon Island, and Bouldin Island, as well as portions of  
10 Holland Tract. The DSEIR was never certified.

11 94. Also, on July 10, 2018, the MWD Board of Directors approved increased funding  
12 from 25.9 percent to up to 64.6 percent of the overall capital cost of the California WaterFix.

13 95. On May 2, 2019, following statements by Governor Gavin Newsom that he did not  
14 support the California WaterFix but did support a single-tunnel delta conveyance project, DWR  
15 formally withdrew its approval for California WaterFix and its certification of the EIR and issued  
16 an accompanying statement of its intention to “begin a renewed environmental review and  
17 planning process for a smaller, single tunnel project . . . .” (See DWR 5/2/2019 News Release at  
18 [https://water.ca.gov/News/News-Releases/2019/May/State-Withdraws-WaterFix-Approvals.](https://water.ca.gov/News/News-Releases/2019/May/State-Withdraws-WaterFix-Approvals))

19 96. On May 7, 2019, DWR formally rescinded the WaterFix Bond Resolution. DWR  
20 also withdrew Project Order 40.

21 97. DWR and the DCA amended the JEPA in June of 2019 to reflect the change from  
22 California WaterFix to a single tunnel conveyance project—the Delta Tunnel that comprises  
23 DWR’s Delta Program. The June 2019 JEPA amendment included an initial contribution by  
24 DWR of more than \$19 million towards tunnel planning efforts, to be repaid by the SWP  
25 contractors, and a budget of more than \$348 million in expected expenditures towards Delta  
26 Tunnel planning and implementation through May of 2022. DWR and the DCA have amended  
27 the JEPA multiple times since June 2019 to increase DWR’s financial contribution to the  
28 engineering design of the new Delta Tunnel project to more than \$43 million. Despite provisions

1 in the JEPA requiring the SWP contractors to reimburse DWR for its contributions, and Delta  
2 Reform Act requirements that the water contractors pay the cost of Delta Program planning and  
3 construction, no such reimbursements or financial contributions have occurred since  
4 August 2019. DWR's funding commitments for the most recent version of the Delta Tunnel  
5 project, and its decision to authorize the sale of bonds in an unlimited amount for planning,  
6 design, construction and operation of such project, are made on top of the hundreds of millions of  
7 dollars already expended by DWR, federal and SWP contractors and particularly MWD, in  
8 furtherance of a Delta Tunnel project in its current and former iterations.

9 98. On January 15, 2020, DWR issued a Notice of Preparation (NOP) for a draft EIR  
10 for the Delta Tunnel (which DWR has termed the "Delta Conveyance Project"). The NOP states  
11 that new facilities for the proposed Delta Tunnel project "include, but are not limited to, the  
12 following": (1) intake facilities on the Sacramento River between Freeport and the confluence  
13 with Sutter Slough with fish screens, sedimentation basins, and ancillary facilities; (2) up to two  
14 tunnel reaches to connect the intakes to an Intermediate Forebay; (3) a single tunnel from the  
15 Intermediate Forebay, located along the tunnel corridor between the intakes and the pumping  
16 plant, to a Southern Forebay, located near the existing Clifton Court Forebay; (4) a pumping plant  
17 located at the Southern Forebay; and (5) two connecting south tunnel reaches as part of the  
18 proposed "South Delta Conveyance Facilities," which would connect the Southern Forebay to the  
19 Banks Pumping Plant and potentially the Jones Pumping Plant. The NOP further states that the  
20 single main tunnel will follow "one of two potential optional corridors," the Central Tunnel  
21 Corridor and the Eastern Tunnel Corridor. The Central Tunnel Corridor runs south through  
22 Staten, Bouldin, and Bacon Islands, and closely resembles the California WaterFix configuration.  
23 The Eastern Corridor runs south through Canal Ranch Tract and Terminus Tract, to Lower  
24 Roberts Island, and westerly to Lower Jones Tract.

25 **FIRST AFFIRMATIVE DEFENSE**

26 **(Failure to State a Claim)**

27 99. Yuba City re-alleges and incorporates by reference paragraphs 1-98 above as  
28 though set forth fully herein.



1 Revenue Bond Resolutions”), as alleged more specifically below in Yuba City’s Sixth  
2 Affirmative Defense.

3 **THIRD AFFIRMATIVE DEFENSE**

4 **(Lack of Subject Matter Jurisdiction)**

5 103. Yuba City re-alleges and incorporates by reference paragraphs 1-102 above as  
6 though set forth fully herein.

7 104. As a separate Third Affirmative Defense, Yuba City is informed and believes and  
8 thereon alleges that the acts alleged in the Complaint violate Water Code section 85089 (a  
9 provision of the Delta Reform Act) because they do not rely exclusively on revenues from  
10 persons or entities that contract to receive water from the SWP and the federal Central Valley  
11 Project (CVP). Specifically, the Delta Program Revenue Bond Resolutions, in addition to relying  
12 on revenues from SWP contractors, contemplate receipt of revenues “from any other legally  
13 available source.” DWR is otherwise required to rely exclusively on contractor revenues  
14 pursuant to Water Code section 85089. Because the Delta Program Revenue Bond Resolutions  
15 do not rely exclusively on revenues from persons or entities that contract to receive water from  
16 the SWP and the federal CVP, DWR does not have authority to adopt the Delta Program Revenue  
17 Bond Resolutions, nor issue bonds pursuant to them, and the acts alleged in the Complaint exceed  
18 DWR’s legal authority and/or are ultra vires. Therefore, there is no basis for DWR to bring this  
19 validation action under Code of Civil Procedure section 860, and this Court lacks subject matter  
20 jurisdiction.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 **(Lack of Subject Matter Jurisdiction)**

23 105. Yuba City re-alleges and incorporates by reference paragraphs 1-104 above as  
24 though set forth fully herein.

25 106. As a separate Fourth Affirmative Defense, Yuba City is informed and believes and  
26 thereon alleges that the acts alleged in the Complaint violate the “beneficiary pays” principle in  
27 Water Code section 85089 because DWR is required to rely exclusively on revenues paid by the  
28 water users who benefit from the Delta Tunnel, and instead, the Delta Program Revenue Bond

1 Resolutions rely, in part, on revenue from contractors located north of the proposed conveyance  
2 facilities who will not benefit from the Delta Tunnel. Because the Bond Resolutions rely on  
3 revenue from contractors who will not benefit from the Delta Tunnel, DWR does not have  
4 authority to adopt the Bond Resolutions or issue bonds pursuant to them, and the acts alleged in  
5 the Complaint exceed DWR's legal authority and/or are ultra vires. Therefore, there is no basis  
6 for DWR to bring this validation action under Code of Civil Procedure section 860, and this Court  
7 lacks subject matter jurisdiction.

8 **FIFTH AFFIRMATIVE DEFENSE**

9 **(Lack of Subject Matter Jurisdiction)**

10 107. Yuba City re-alleges and incorporates by reference paragraphs 1-106 above as  
11 though set forth fully herein.

12 108. As a separate Fifth Affirmative Defense, Yuba City is informed and believes and  
13 thereon alleges that DWR does not have authority to construct the Delta Program as a "unit" of  
14 the CVP (as the CVP is defined in Water Code sections 11200-11295). Because DWR does not  
15 have authority to construct the Delta Program as a unit of the CVP, DWR does not have authority  
16 to adopt the Delta Program Revenue Bond Resolutions or issue bonds for construction of the  
17 Delta Program, and the acts alleged in the Complaint exceed DWR's legal authority and/or are  
18 ultra vires. Therefore, there is no basis for DWR to bring this validation action under Code of  
19 Civil Procedure section 860, and this Court lacks subject matter jurisdiction.

20 **SIXTH AFFIRMATIVE DEFENSE**

21 **(Violation of CEQA)**

22 109. Yuba City re-alleges and incorporates by reference paragraphs 1-108 above as  
23 though set forth fully herein.

24 110. A party may bring a CEQA challenge in its opposition to a validation action  
25 separate from any mandamus petition. (*County of Imperial v. Superior Court* (2007)  
26 152 Cal.App.4th 13, 40.) Accordingly, as a separate Sixth Affirmative Defense, Yuba City  
27 alleges that DWR's adoption of the Delta Program Revenue Bond Resolutions violated CEQA  
28 (Pub. Resources Code, § 21000 et seq.), and thus this Court cannot provide DWR the relief it



1 requests to validate: (1) DWR's authority to adopt and approve the Delta Program Revenue Bond  
2 Resolutions; (2) DWR's authority to review, plan, engineer, design, acquire and construct Delta  
3 Program conveyance facilities as a unit of the CVP (as the CVP is defined in Water Code  
4 sections 11200-11295); (3) DWR's authority to authorize the issuance of Delta Program Revenue  
5 Bonds in accordance with the terms of the Delta Program Revenue Bond Resolutions; (4) DWR's  
6 authority to pledge revenues from the Delta Program for the repayment of the Delta Program  
7 Revenue Bonds; or (5) DWR's authority to apply Delta Program Revenue Bond proceeds to Delta  
8 Program planning and constructions costs. In adopting the Delta Program Revenue Bond  
9 Resolutions, DWR approved more than a mere funding mechanism; it in fact approved a  
10 "project" without the requisite environmental review under CEQA. Moreover, DWR's approval  
11 of the Delta Program Revenue Bond Resolutions creates irreversible bureaucratic and financial  
12 momentum behind the Delta Tunnel facilities that constrain or prevent DWR from objectively  
13 considering the environmental consequences of the design and construction of the facilities,  
14 including the possibility of modifying the project or not proceeding with the project at all, as  
15 required by CEQA. (See Pub. Resources Code, § 21000 et seq.)

16 111. A "project" subject to CEQA is defined as "an activity which may cause either a  
17 direct physical change in the environment, or a reasonably foreseeable indirect physical change in  
18 the environment, and which is . . . [a]n activity directly undertaken by any public agency." (Pub.  
19 Resources Code, § 21065.) "The creation of government funding mechanisms or other  
20 government fiscal activities," does not qualify as a project for purposes of CEQA only if such  
21 mechanisms or activities "do not involve any commitment to any specific project which may  
22 result in a potentially significant physical impact on the environment." (Cal. Code Regs., tit. 14,  
23 § 15378(b)(4).)

24 112. CEQA requires that, prior to making a commitment to approve or undertake a  
25 project, state agencies fully consider the project's environmental effects and identify ways to  
26 avoid or reduce environmental harm, including incorporating those means into the project design  
27 as alternatives or mitigation measures. (Pub. Resources Code, §§21000(g), 21081(a)(1); Cal.  
28 Code Regs., tit. 14, § 15002(a).) As part of this review, an agency must objectively consider the

1 possibility of modifications to the project, including the selection of the no-project alternative –  
2 essentially a decision against proceeding with the project. (Cal. Code Regs., tit. 14,  
3 § 15126.6(e).) This analysis serves dual purposes: (a) to inform the agency’s decision makers  
4 about the environmental consequences of a proposed project compared to other options; and  
5 (b) to provide transparency and assurance to the public that the agency considered, and avoided to  
6 the extent feasible, adverse environmental impacts of the project. (*Ibid.*)

7       113. To achieve these purposes, CEQA requires that this environmental review of a  
8 project, including the consideration of alternatives and selection of effective mitigation measures,  
9 occur *before* a lead agency has committed to a project. The goals of CEQA are frustrated when  
10 an agency commits itself to a particular project at a stage where it precludes itself from  
11 considering changes to that project that could lessen the environmental impacts of the project.  
12 Committing to a project in advance of environmental review allows EIRs to become post-hoc  
13 rationalizations to support decisions already made. (*Laurel Heights Improvement Assn v. Regents*  
14 *of University of California* (1988) 47 Cal.3d 376, 394; see also *Save Tara v. City of West*  
15 *Hollywood* (2008) 45 Cal.4th 116, 132.) CEQA rejects this approach, and cautions that allowing  
16 “bureaucratic and financial momentum” to build up behind a project can “provid[e] a strong  
17 incentive to ignore environmental concerns.” (*Save Tara, supra*, 45 Cal.4th at p. 135 [quoting  
18 *Laurel Heights Improvement Assn, supra*, 47 Cal.3d at p. 395].)

19       114. Although the Complaint states that “[t]he design and physical characteristics of  
20 any . . . Delta conveyance facilities are not yet determined, nor has the Department approved a  
21 project for implementation” (Complaint, ¶ 28), the relevant consideration for determining a public  
22 agency’s commitment to a project is, instead, an examination of “the totality of the circumstances  
23 and the practical effect of the public agency’s action on its ability and willingness to modify or  
24 reject the proposed project.” (*City of Irvine v. County of Orange* (2013) 221 Cal.App.4th 846,  
25 857, citing *Save Tara, supra*, 45 Cal.4th at pp. 132–133, 136, 138; see also *City of Irvine, supra*,  
26 221 Cal.App.4th a p. 865 [holding that “[t]he amount of detail or the advanced stage of the  
27 project’s design . . . covers only part of the analysis for determining whether an agency’s action  
28 constitutes an approval under CEQA”].)

1           115. The NOP issued by DWR is a thinly-veiled reimagining of the California  
2 WaterFix conveyance project. The Delta Tunnel project described in DWR’s NOP is in no  
3 significant way—other than the single main tunnel—different from the California WaterFix, as  
4 emphasized by the identical intake locations and sizing (3,000 cubic feet per second each) and  
5 Central Tunnel Corridor alignment option, which follows the location and arrangement of  
6 California WaterFix facilities.

7           116. Because the NOP describes a project that is essentially the same as the WaterFix in  
8 terms of facilities, it presents the same essential concerns with respect to physical environmental  
9 effects. The proposed project as described in the NOP, if approved and constructed, will impact  
10 the Delta’s residents, public facilities, and businesses in myriad and far-reaching ways. The  
11 residents and communities of the Delta will bear a disproportionate burden of the likely numerous  
12 significant unavoidable environmental impacts, which will benefit only agricultural and urban  
13 water users south of the Delta. The proposed water infrastructure facilities will slow or prevent  
14 the realization of the Delta National Heritage Area’s agricultural tourism, recreation and historic  
15 preservation goals that are critical to maintaining the “Delta as a Place.” These impacts are in  
16 direct contravention of the State’s 2020 Water Resilience Portfolio, which states that Delta  
17 conveyance facilities are intended to “protect water quality, and improve aquatic habitat  
18 conditions while limiting local impacts.” (See 2020 Water Resilience Portfolio at  
19 [https://waterresilience.ca.gov/wp-content/uploads/2020/07/Final\\_California-Water-Resilience-](https://waterresilience.ca.gov/wp-content/uploads/2020/07/Final_California-Water-Resilience-Portfolio-2020_ADA3_v2_ay11-opt.pdf)  
20 [Portfolio-2020\\_ADA3\\_v2\\_ay11-opt.pdf](https://waterresilience.ca.gov/wp-content/uploads/2020/07/Final_California-Water-Resilience-Portfolio-2020_ADA3_v2_ay11-opt.pdf), p. 42, item 19.1.)

21           117. The design of the Delta Tunnel is within the authority of the DCA, whose Board of  
22 Directors is comprised of two MWD members out of a total of four members. It is undisputed  
23 that MWD is aligned with DWR in this validation action and other such relevant approvals for the  
24 resulting Delta Tunnel project. Notably, MWD is responsible for 64.6 percent of the overall  
25 capital cost of the resulting Delta project and owns property directly within the path of the  
26 proposed Central Tunnel Corridor – specifically, Bouldin Island, which was also incorporated  
27 into the project design in DWR’s DSEIR. DWR has already committed \$43.2 million to the DCA  
28 since June of 2019 without securing financing.

1           118. Therefore, while DWR suggests it merely seeks “to confirm [the] public agency’s  
2 legal authority to undertake a proposed financing” (Complaint, ¶ 66), the totality of the  
3 circumstances demonstrate DWR’s continued commitment to proceed with substantially the same  
4 Delta Tunnel project that it has been pursuing, and funding, for well over a decade. As evidenced  
5 by the detailed proposal of the Delta Tunnel facilities in the NOP and the proposed facilities’  
6 striking similarity to the California WaterFix, and emphasized by DWR’s determination stated in  
7 the recitals of the Resolution that “the public interest and necessity require the carrying out of the  
8 Delta Program . . . .” (Complaint, ¶ 52), the environmental effects that could result from adoption  
9 of the Delta Program Revenue Bond Resolutions are not conceptual, diffuse, or speculative.  
10 DWR has demonstrably committed itself to a course of action with respect to specifically  
11 identified Delta conveyance facilities that will have devastating environmental impacts, and so  
12 unlawfully adopted the Delta Program Revenue Bond Resolutions without conducting the  
13 requisite environmental review and public participation required for a “project” pursuant to  
14 CEQA.

15           119. Moreover, while DWR is under no legal obligation to pursue validation under  
16 Code of Civil Procedure Section 860, it does so now with the intention of relying on such  
17 validation to incur unlimited financial obligations in furtherance of a well-defined project despite  
18 the legal requirement that ongoing CEQA review requires that it, as the CEQA lead agency, leave  
19 open the meaningful possibility that the project design may, or should, be substantially modified,  
20 or rejected outright. As the Complaint admits, quoting from the Resolution, “[t]he aggregate  
21 principal amount of Bonds which may be executed, authenticated and delivered under this  
22 Resolution is *not limited* . . . .” (Complaint, ¶ 48, emphasis added). DWR seeks court approval  
23 to borrow an unlimited amount of money to pay for the Delta Tunnel, on top of its previous  
24 expenditures in furtherance of the current and former Delta Tunnel facilities. The DCA recently  
25 estimated that the Delta Tunnel project would cost \$15.9 billion, and possibly over \$21 billion,  
26 before accounting for the costs of issuing bonds and repaying interest, indicating the possible  
27 extent of the financial commitment DWR authorized in adopting the Delta Program Revenue  
28 Bond Resolutions. Considering the totality of the circumstances, DWR’s efforts to proceed under

1 the Delta Program Revenue Bond Resolutions constitute more than a mere step in securing  
2 funding, and create additional bureaucratic and financial momentum behind the Delta Program  
3 that will constrain or prevent DWR from objectively considering the environmental consequences  
4 of the project design.

5 120. DWR's adoption of the Delta Program Revenue Bond Resolutions violated  
6 CEQA. Thus, the Court cannot provide DWR the relief it requests to validate DWR's authority  
7 to pledge revenues from the Delta Program for the repayment of the Delta Program Revenue  
8 Bonds.

9 **SEVENTH AFFIRMATIVE DEFENSE**

10 **(Lack of Specificity)**

11 121. Yuba City re-alleges and incorporates by reference paragraphs 1-120 above as  
12 though set forth fully herein.

13 122. As a separate Seventh Affirmative Defense, Yuba City alleges that the Delta  
14 Program Revenue Bond Resolutions fail to specify the statutory requirement that the costs of the  
15 environmental review, planning, design, construction, and mitigation required for the  
16 construction, operation, and maintenance of the Delta Program facilities, as well as full mitigation  
17 of property tax or assessments levied by local governments or special districts for land used in the  
18 construction, location, mitigation, or operation of the Delta Program facilities, must be fully paid  
19 for by persons or entities that contract to receive water from the SWP and the federal CVP, or a  
20 joint powers authority representing those entities; and fails to confirm that repayment of the  
21 bonds will not use revenues obtained in a manner inconsistent with the California Constitution  
22 from property taxes levied without a public vote. This Court cannot validate DWR's authority to  
23 pledge revenues from the Delta Program for the repayment of the Delta Program Revenue Bonds,  
24 because DWR has failed to ensure that specified revenues can be collected for repayment of  
25 bonds in a manner consistent with the California Constitution, and because such relief would  
26 eliminate the public's opportunity to challenge bonds issued for any amount as a violation of  
27 Propositions 13, 26, or 218.

28 123. The Resolution states that DWR "shall charge and collect amounts under the

1 Water Supply Contracts sufficient to return the costs of the Delta Program for which Bonds have  
2 been authenticated and delivered . . . .” (Resolution, § 805.) The Complaint further states that  
3 “the amount of bonds which may be executed, authenticated and delivered under this Resolution  
4 is *not limited*.” (Complaint, ¶ 48, emphasis added.)

5 124. Existing SWP Water Supply Contracts rely on property taxes, among other  
6 revenue sources, to repay the costs of revenue bonds for construction of units of the “project” as  
7 defined by the Central Valley Project Act, Water Code section 11100 et seq. The Water Supply  
8 Contracts, and state law, require that property taxes be increased if a SWP contractor fails to  
9 otherwise provide adequate payment under Water Supply Contracts. (Wat. Code, § 11652 [SWP  
10 contractors “shall, whenever necessary, levy upon all property in the state agency not exempt  
11 from taxation, a tax or assessment sufficient to provide for all payments under the contract”].)

12 125. The California Constitution, as amended by Propositions 13, 26, and 218, places  
13 limits on applicable increases in property taxes, including requirements of a public vote. (Cal.  
14 Const., art. XIII A, § 1(a); Cal. Const., art. XIII C, § 2(d); Cal. Const., art. XIII D, § 3.)  
15 Specifically, the California Constitution prohibits the imposition of ad valorem property taxes  
16 greater than 1 percent of the value of the property without a public vote.

17 126. DWR’s Delta Program Revenue Bond Resolutions do not specify the amount of  
18 revenues to be collected, and therefore do not limit DWR’s ability to impose charges on SWP  
19 contractors that exceed their otherwise available revenues (a situation that could occur if, for  
20 example, revenues decline from decreased water usage due to conservation, or economic  
21 instability resulting from widespread nonpayment of water bills by ratepayers, such as occurred  
22 during the Great Recession and is now occurring as a result of the COVID-19 pandemic). Under  
23 these circumstances, it is entirely foreseeable that SWP contractors would be required to levy  
24 assessments on real property within their service area that exceed 1 percent of the assessed value  
25 of such property in order to satisfy DWR’s revenue bond debt.

26 127. DWR’s Complaint seeks to obligate SWP contractors to levy such future property  
27 taxes to repay Delta Tunnel facility bonds of an unlimited amount without assured compliance  
28 with the California Constitution. Specifically, two-thirds of the voters in each of the SWP Water

1 Contractor service areas that seek to impose property taxes in excess of 1 percent of the assessed  
2 value of property would have to approve such an imposition in an election of any property tax  
3 subject to the constitutional voting requirement. However, if the Court were to grant DWR the  
4 relief it requests, voters in SWP water contractor service areas would be precluded from  
5 challenging the costs of paying for the Delta Program, even if their local water purveyor  
6 increased property taxes above 1 percent of the assessed value of their property without a public  
7 vote. Indeed, under the SWP contracts, and Delta Program Revenue Bond Resolutions, such a tax  
8 increase is reasonably foreseeable, if not inevitable, because the contractors obligated to repay the  
9 charges DWR imposes are expressly required to levy property taxes to repay SWP facility bonds.

10 128. This Court cannot provide DWR with the requested confirmation of authority to  
11 pledge revenues from and apply the proceeds of the Delta Program Revenue Bonds without  
12 assurances that the revenues can be collected in a manner consistent with the California  
13 Constitution or that a property tax assessment resulting from DWR's imposition of Delta Program  
14 Revenue Bond charges on SWP contractors can be challenged.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 **(Lack of Specificity)**

17 129. Yuba City re-alleges and incorporates by reference paragraphs 1-128 above as  
18 though set forth fully herein.

19 130. As a separate Eighth Affirmative Defense, Yuba City alleges that DWR has failed  
20 to comply with Water Code section 11701 by omitting from the Delta Program Revenue Bond  
21 Resolutions any estimate of the cost of the Delta Program or any estimate of the amount to be  
22 raised by the Delta Program Revenue Bonds or other sources. Because DWR seeks to construct  
23 the Delta Program as a "unit" of the CVP, it is required pursuant to Water Code section 11701 to  
24 "prepare preliminary costs estimates, an estimate of the amount required to be raised for those  
25 purposes by the issuance of bonds, and statement of the probable amount of money, property,  
26 materials, or labor, if any, to be contributed from other sources in aid thereof," and to "adopt a  
27 resolution . . . authorizing the issuance of bonds for the purpose of obtaining funds in an amount  
28 not in excess of that estimated to be required for those purposes." While DWR acknowledges this

1 statutory obligation in its Complaint (see Complaint, ¶¶ 45, 50, 52, 58), DWR does not comply  
2 with the mandate by including any such estimates, but rather, merely parrots the statute in the  
3 recitals of its adopted Resolution: “the Department hereby adopts this Resolution . . . authorizing  
4 the issuance of revenue bonds for the purpose of obtaining funds in an amount not in excess of  
5 that estimated to be required for [the carrying out of the Delta Program] . . . .” (Complaint, ¶ 52.)  
6 The assurance DWR provided in the Resolution that it “will commence the acquisition and  
7 construction phase, if any, of the Delta Program *only after all conditions precedent to such*  
8 *acquisition and construction established by law* have been satisfied” (emphasis added), is not  
9 sufficient justification for its failure to provide the specified estimates in accordance with the law.  
10 (Complaint, ¶ 53.)

11 131. DWR’s adoption of the Delta Program Revenue Bond Resolutions violated Water  
12 Code section 11701, and thus, the Court cannot provide DWR the relief it requests to validate  
13 DWR’s authority to adopt and approve the Delta Program Revenue Bond Resolutions, nor to  
14 pledge revenues for repayment of the Delta Program Revenue Bonds pursuant to the Delta  
15 Program Revenue Bond Resolutions.

16 **NINTH AFFIRMATIVE DEFENSE**

17 **(Reservation of Defense)**

18 132. Yuba City re-alleges and incorporates by reference paragraphs 1-131 above as  
19 though set forth fully herein.

20 133. Yuba City reserves all other defenses that may potentially become available as a  
21 result of information developed during the case.

22 **PRAYER**

23 WHEREFORE, Yuba City prays as follows:

24 A. That DWR’s proposed authority under the CVP Act to construct the Delta  
25 Program as a “unit” of the CVP not be validated.

26 B. For a determination that it is premature for DWR to request, or for this Court to  
27 adjudge, validation of revenue bonds to finance capital costs for the Delta Program, DWR’s  
28 resolutions adopted in connection with those bonds, and the pledge of revenues for their



1 repayment.

2 C. That DWR take nothing by its Complaint.

3 D. That facts and law as alleged herein by Yuba City be determined as alleged in  
4 favor of Yuba City.

5 E. If, and to the extent a judgment of validation is entered, Yuba City requests that  
6 such Judgment be limited in scope, and against validation, with an affirmative determination as to  
7 the legal and factual issues set forth herein, in favor of Yuba City.

8 F. The Court deny DWR's request for an order for costs incurred herein.

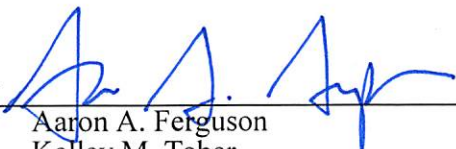
9 G. That Yuba City be awarded costs and reasonable attorney's fees as authorized by  
10 Code of Civil Procedure section 1021.5 and/or to the extent otherwise allowed by any provision  
11 of California statutory law or any common law doctrine recognized in California.

12 H. Such other and further relief as the Court may deem just and proper.

13  
14  
15 SOMACH SIMMONS & DUNN

16  
17 DATED: October 30, 2020

18 By

  
\_\_\_\_\_  
Aaron A. Ferguson  
Kelley M. Taber  
Michelle E. Chester, Attorneys for Defendant  
CITY OF YUBA CITY

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PROOF OF SERVICE  
(State of California)

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.

On October 30.2020, I served the following document(s):

**CITY OF YUBA CITY'S ANSWER TO COMPLAINT**

XX BY MAIL: On all parties in said action listed below, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Somach Simmons & Dunn, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Sacramento, California.

\_\_BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by-email or electronic transmission, I caused the document(s) to be sent from e-mail address mbracha@somachlaw.com to the persons at the e- mail addressed listed in the Service List. I did not receive, within a reasonable time after the transmission, an electronic message or other indication the transmission was unsuccessful.

\_\_BY CAUSING TO BE PERSONALLY DELIVERED: By causing to be personally delivered a true copy thereof to the person and at the address set forth below.

\_\_BY CERTIFIED-MAIL, RETURN RECEIPT REQUESTED: On the parties in said action, in accordance with Code of Civil Procedure §1013a(3), by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Somach Simmons & Dunn, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Sacramento, California.

\_\_BY OVERNIGHT DELIVERY SERVICE: Via Federal Express addressed to the person at the address set forth below:

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*Attorneys for Defendant HOWARD  
JARVIS TAX PAYERS ASSOCIATION*

I declare under penalty of perjury that the foregoing is true and correct. Executed on  
October 30, 2020 at Sacramento, California.

  
Michelle Bracha