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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

9

10 CALIFORNIA DEPARTMENT OF)
WATER RESOURCES,)
11)
Plaintiff,)
12)
v.)
13)
ALL PERSONS INTERESTED IN THE)
14 MATTER of the Authorization of Delta)
Program Revenue Bonds, etc.,)
15)
Defendants)
16 _____)

Case No. 34-2020-00283112

**AMENDED ANSWER OF HOWARD
JARVIS TAXPAYERS ASSOCIATION TO
PLAINTIFF'S VALIDATION COMPLAINT**

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1 Defendant Howard Jarvis Taxpayers Association (HJTA), on behalf of its
2 California taxpayer members (Taxpayers) answers the allegations in the unverified
3 Complaint for Validation filed by plaintiff Department of Water Resources (DWR) as
4 follows:

5 Paragraph 1. Admitted.

6 Paragraph 2. Admitted.

7 Paragraph 3. This is a statement of policy, opinion or legal conclusion.
8 Taxpayers lack information or belief sufficient to determine the truth thereof, and on that
9 basis the allegations are denied.

10 Paragraph 4. Admitted.

11 Paragraph 5. This is a statement of policy, opinion or legal conclusion.
12 Taxpayers lack information or belief sufficient to determine the truth thereof, and on that
13 basis the allegations are denied.

14 Paragraph 6. This is a statement of policy, opinion or legal conclusion.
15 Taxpayers lack information or belief sufficient to determine the truth thereof, and on that
16 basis the allegations are denied.

17 Paragraph 7. Admitted.

18 Paragraph 8. Admitted.

19 Paragraph 9. Admitted.

20 Paragraph 10. Admitted.

21 Paragraph 11. Admitted.

22 Paragraph 12. Admitted.

23 Paragraph 13. Taxpayers lack information or belief sufficient to determine the
24 truth thereof, and on that basis the allegations are denied.

25 Paragraph 14. Taxpayers deny that the Department has approved, planned and
26 constructed one "integrated system" as "the Project" since 1960. Otherwise, Taxpayers
27 admit.

1 Paragraph 15. Ambiguous as to “the Project” (see Taxpayers’ denial in response
2 to Paragraph 14). The statutes speak for themselves. Taxpayers otherwise lack
3 information or belief sufficient to determine the truth thereof, and on that basis the
4 allegations are denied.

5 Paragraph 16. The statutes speak for themselves. Taxpayers otherwise lack
6 information or belief sufficient to determine the truth thereof, and on that basis the
7 allegations are denied.

8 Paragraph 17. Ambiguous as to “the existing Project” and “Project water” (see
9 Taxpayers’ denial in response to Paragraph 14). Taxpayers lack information or belief
10 sufficient to determine the truth thereof, and on that basis the allegations are denied.

11 Paragraph 18. Ambiguous as to “Project water” (see Taxpayers’ denial in
12 response to Paragraph 14). Taxpayers lack information or belief sufficient to determine
13 the truth thereof, and on that basis the allegations are denied.

14 Paragraph 19. Ambiguous as to “Project water” and “the Project aqueduct
15 system” (see Taxpayers’ denial in response to Paragraph 14). Taxpayers lack
16 information or belief sufficient to determine the truth thereof, and on that basis the
17 allegations are denied.

18 Paragraph 20. The statute speaks for itself. Taxpayers otherwise lack
19 information or belief sufficient to determine the truth thereof, and on that basis the
20 allegations are denied.

21 Paragraph 21. The statute speaks for itself. Taxpayers otherwise lack
22 information or belief sufficient to determine the truth thereof, and on that basis the
23 allegations are denied.

24 Paragraph 22. The statute speaks for itself. Taxpayers otherwise lack
25 information or belief sufficient to determine the truth thereof, and on that basis the
26 allegations are denied.

27 Paragraph 23. The statute speaks for itself. Taxpayers otherwise lack

1 information or belief sufficient to determine the truth thereof, and on that basis the
2 allegations are denied.

3 Paragraph 24. Ambiguous as to “Project water” (see Taxpayers’ denial in
4 response to Paragraph 14). This is a statement of policy, opinion or legal conclusion.
5 Taxpayers lack information or belief sufficient to determine the truth thereof, and on that
6 basis the allegations are denied.

7 Paragraph 25. Taxpayers lack information or belief sufficient to determine the
8 truth thereof, and on that basis the allegations are denied.

9 Paragraph 26. Taxpayers admit that on January 15, 2020, the Department
10 issued a Notice of Preparation. The CEQA Guidelines speak for themselves.
11 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
12 and on that basis the allegations are denied.

13 Paragraph 27. Taxpayers lack information or belief sufficient to determine the
14 truth thereof, and on that basis the allegations are denied.

15 Paragraph 28. Taxpayers lack information or belief sufficient to determine the
16 truth thereof, and on that basis the allegations are denied.

17 Paragraph 29. Taxpayers admit that the legal validity of the Department’s
18 proposed issuance of revenue bonds is the sole subject of this validation action.
19 Except as admitted, the allegations are denied.

20 Paragraph 30. Admitted.

21 Paragraph 31. Admitted.

22 Paragraph 32. Admitted.

23 Paragraph 33. This is a statement of policy, opinion or legal conclusion. The
24 regulation speaks for itself. Taxpayers otherwise lack information or belief sufficient to
25 determine the truth thereof, and on that basis the allegations are denied.

26 Paragraph 34. This is a statement of policy, opinion or legal conclusion. The
27 regulation speaks for itself. Taxpayers otherwise lack information or belief sufficient to

1 determine the truth thereof, and on that basis the allegations are denied.

2 Paragraph 35. This is a statement of policy, opinion or legal conclusion. The
3 regulation speaks for itself. Taxpayers otherwise lack information or belief sufficient to
4 determine the truth thereof, and on that basis the allegations are denied.

5 Paragraph 36. Ambiguous as to “the Project” (see Taxpayers’ denial in response
6 to Paragraph 14). This is a statement of policy, opinion or legal conclusion. The statutes
7 speak for themselves. Taxpayers otherwise lack information or belief sufficient to
8 determine the truth thereof, and on that basis the allegations are denied.

9 Paragraph 37. The statutes speak for themselves. Taxpayers otherwise lack
10 information or belief sufficient to determine the truth thereof, and on that basis the
11 allegations are denied.

12 Paragraph 38. The statute speaks for itself. Taxpayers otherwise lack
13 information or belief sufficient to determine the truth thereof, and on that basis the
14 allegations are denied.

15 Paragraph 39. Ambiguous as to “the Project” (see Taxpayers’ denial in response
16 to Paragraph 14). The statute and case law speak for themselves. Taxpayers
17 otherwise lack information or belief sufficient to determine the truth thereof, and on that
18 basis the allegations are denied.

19 Paragraph 40. This is a statement of policy, opinion or legal conclusion. The
20 statute speaks for itself. Taxpayers otherwise lack information or belief sufficient to
21 determine the truth thereof, and on that basis the allegations are denied.

22 Paragraph 41. Ambiguous as to “Project facilities” (see Taxpayers’ denial in
23 response to Paragraph 14). This is a statement of policy, opinion or legal conclusion.
24 The statutes speak for themselves. Taxpayers otherwise lack information or belief
25 sufficient to determine the truth thereof, and on that basis the allegations are denied.

26 Paragraph 42. Ambiguous as to “Project facilities” (see Taxpayers’ denial in
27 response to Paragraph 14). This is a statement of policy, opinion or legal conclusion.

1 The statutes speak for themselves. Taxpayers otherwise lack information or belief
2 sufficient to determine the truth thereof, and on that basis the allegations are denied.

3 Paragraph 43. This is a statement of policy, opinion or legal conclusion. The
4 statute speaks for itself. Taxpayers otherwise lack information or belief sufficient to
5 determine the truth thereof, and on that basis the allegations are denied.

6 Paragraph 44. This is a statement of policy, opinion or legal conclusion. The
7 statute speaks for itself. Taxpayers otherwise lack information or belief sufficient to
8 determine the truth thereof, and on that basis the allegations are denied.

9 Paragraph 45. This is a statement of policy, opinion or legal conclusion. The
10 statute speaks for itself. Taxpayers otherwise lack information or belief sufficient to
11 determine the truth thereof, and on that basis the allegations are denied.

12 Paragraph 46. Admitted.

13 Paragraph 47. Admitted.

14 Paragraph 48. Admitted.

15 Paragraph 49. This is a statement of policy, opinion or legal conclusion.
16 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
17 and on that basis the allegations are denied.

18 Paragraph 50. Admitted.

19 Paragraph 51. Admitted.

20 Paragraph 52. This is a statement of policy, opinion or legal conclusion.
21 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
22 and on that basis the allegations are denied.

23 Paragraph 53. Admitted.

24 Paragraph 54. Admitted.

25 Paragraph 55. Admitted.

26 Paragraph 56. Admitted.

27 Paragraph 57. Admitted.

1 Paragraph 58. Admitted.

2 Paragraph 59. Admitted.

3 Paragraph 60. Admitted.

4 Paragraph 61. This is a statement of policy, opinion or legal conclusion.

5 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
6 and on that basis the allegations are denied.

7 Paragraph 62. Admitted.

8 Paragraph 63. Admitted.

9 Paragraph 64. Admitted.

10 Paragraph 65. Admitted.

11 Paragraph 66. This is a statement of policy, opinion or legal conclusion. The
12 statutes and case law speak for themselves. Taxpayers otherwise lack information or
13 belief sufficient to determine the truth thereof, and on that basis the allegations are
14 denied.

15 Paragraph 67. The statute speaks for itself. Taxpayers deny that publication in
16 only Sacramento County would provide notice to interested parties.

17 Paragraph 68. This is a statement of policy, opinion or legal conclusion.
18 Taxpayers admit that the proposed publication of summons in all 58 counties will
19 provide constructive notice to newspaper subscribers, but deny that newspaper
20 publication alone is effective notice in today's society where a diminishing percentage of
21 the public subscribes to a newspaper.

22 Paragraph 69. Taxpayers admit that the Court should order publication of the
23 summons as proposed in Paragraph 68, but deny that such publication will most likely
24 give notice to persons interested in these proceedings.

25 Paragraph 70. This is a statement of policy, opinion or legal conclusion.

26 Paragraph 71. Admitted.

27 Paragraph 72. Taxpayers repeat and incorporate by this reference their

1 responses to Paragraphs 1 through 71 above.

2 Paragraph 73. This is a statement of policy, opinion or legal conclusion. The
3 statute speaks for itself. Taxpayers otherwise lack information or belief sufficient to
4 determine the truth thereof, and on that basis the allegations are denied.

5 Paragraph 74. This is a statement of policy, opinion or legal conclusion.
6 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
7 and on that basis the allegations are denied.

8 Paragraph 75. This is a statement of policy, opinion or legal conclusion.
9 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
10 and on that basis the allegations are denied.

11 Paragraph 76. This is a statement of policy, opinion or legal conclusion.
12 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
13 and on that basis the allegations are denied.

14 Paragraph 77. Ambiguous as to “the Project” (see Taxpayers’ denial in response
15 to Paragraph 14). This is a statement of policy, opinion or legal conclusion. Taxpayers
16 otherwise lack information or belief sufficient to determine the truth thereof, and on that
17 basis the allegations are denied.

18 Paragraph 78. This is a statement of policy, opinion or legal conclusion.
19 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
20 and on that basis the allegations are denied.

21 Paragraph 79. This is a statement of policy, opinion or legal conclusion.
22 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
23 and on that basis the allegations are denied.

24 Paragraph 80. This is a statement of policy, opinion or legal conclusion.
25 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
26 and on that basis the allegations are denied.

27 Paragraph 81. This is a statement of policy, opinion or legal conclusion.

1 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
2 and on that basis the allegations are denied.

3 Paragraph 82. This is a statement of policy, opinion or legal conclusion.
4 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
5 and on that basis the allegations are denied.

6 Paragraph 83. Admitted.

7 Paragraph 84. Admitted.

8 Paragraph 85. Admitted.

9 Paragraph 86. This is a statement of policy, opinion or legal conclusion.
10 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
11 and on that basis the allegations are denied.

12 Paragraph 87. This is a statement of policy, opinion or legal conclusion.
13 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
14 and on that basis the allegations are denied.

15 Paragraph 88. This is a statement of policy, opinion or legal conclusion.
16 Taxpayers otherwise lack information or belief sufficient to determine the truth thereof,
17 and on that basis the allegations are denied.

18 Paragraphs 89 through 94. Taxpayers deny that plaintiff is entitled to the
19 prayed-for relief.

20 **AFFIRMATIVE DEFENSES**

21 **First Affirmative Defense**

22 Neither the “Delta Program Planning” nor the “Delta Program Construction” are
23 part of the Central Valley Project. Accordingly, neither the “Delta Program Planning
24 Costs” nor the “Delta Program Construction Costs,” nor the bonds proposed for
25 validation herein are voter-approved indebtedness under California Constitution Article
26 XIII A, section 1(b)(1) or *Goodman v. County of Riverside* (1983) 140 Cal.App.3d 900,
27 910. Article XIII A, section 1(a) applies, unaffected by this validation action.

1 **Second Affirmative Defense**

2 To the extent the bond resolutions authorize debt in excess of available revenue, voter
3 approval is necessary under California Constitution Article XVI, section 1.

4 **PRAYER**

5 WHEREFORE, defendant HJTA prays for relief as follows:

6 1. That plaintiff's proposed authority under the Central Valley Project Act
7 to build a new Delta water conveyance tunnel as "part of" the formerly approved Central
8 Valley Project be not validated;

9 2. That plaintiff's proposed issuance and sale of bonds for the
10 construction of a new Delta water conveyance tunnel **without** voter approval be
11 declared invalid;

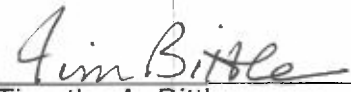
12 3. That Judgment be entered in favor of defendant HJTA;

13 4. For costs of suit, including reasonable attorney fees.

14 DATED: October 15, 2020.

15 Respectfully submitted,

16 JONATHAN M. COUPAL
17 TIMOTHY A. BITTLE
18 LAURA E. DOUGHERTY

19 
20 Timothy A. Bittle
21 Counsel for Defendant
22 Howard Jarvis Taxpayers Association

23 **VERIFICATION**

24 I, Timothy A. Bittle, declare:

25 I am one of the attorneys of record for defendant **Howard Jarvis Taxpayers**
26 Association in this action. I am authorized to verify this complaint on behalf of the
27 Association.

The responses and defenses contained in the attached Answer are true of my

1 own knowledge, except as to matters stated on information or belief, and as to those
2 matters I believe them to be true.

3 I certify, upon penalty of perjury under the laws of the State of California, that the
4 foregoing is true and correct and that this verification was executed on the date shown
5 below in the City of Vacaville, California.

6 DATED: October 15, 2020.

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8 Timothy A. Bittle

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1 **PROOF OF SERVICE**

2 ***California Department of Water Resources v. All Persons Interested***
3 **No. 34-2020-00283112**

4 I, Kiaya Heise, declare:

5 I am employed in the County of Sacramento, California. I am over the age of 18
6 years and not a party to the within action. My business address is: 921 11th Street, Suite
7 1201, Sacramento, California, 95814.

8 On October 15, 2020, I served the following document(s):

9 **AMENDED ANSWER OF HOWARD JARVIS TAXPAYERS ASSOCIATION TO**
10 **PLAINTIFF'S VALIDATION COMPLAINT**

11 on the interested person or persons at the addresses listed below:

12 Michael Weed
13 Orrick, Herrington & Sutcliffe LLP
14 400 Capitol Mall, Suite 3000
15 Sacramento, CA 95814
16 Tel: (916) 447-9200
17 E: mweed@orrick.com

Marcia Scully
Robert Horton
Bryan M. Otake
Metropolitan Water District of Southern
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700 N. Alameda Street
Los Angeles, CA 90012
Tel: (213) 217-6327
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rhorton@mwdh2o.com
botake@mwdh2o.com

16 Spencer Kenner
17 Christopher Martin
18 California Department of Water
19 Resources
20 Office of the Chief Counsel
21 1416 Ninth Street
22 Sacramento, CA 95814
23 Tel: (916) 653-5791
24 E: Spencer.Kenner@water.ca.gov;
25 Christopher.Martin@water.ca.gov

*Attorneys for Defendant and Real Party
in Interest*


Attorneys for Plaintiffs

23 **X BY MAIL:** On the date listed above, I enclosed the documents in a sealed
24 envelope or package addressed to the interested parties at their respective addresses listed
25 above and deposited the sealed envelopes with the United States Postal Service, with the
26 postage fully prepaid. The envelope or package was placed in the mail at Sacramento,
27 California.

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 15, 2020, at Sacramento, California.

SIGNED: 
Kiaya R. Heise