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California Water Index Futures Contracts/Chicago Mercantile Exchange: Food and Water Watch Petition to the U.S. Commodity Futures Trading Commission for Suspension

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Food and Water Watch (“F&W”) and 138 other organizations submitted a December 20th Petition to the United States Commodity Futures Trading Commission (“CFTC”) asking that the Chicago Mercantile Exchange’s (“CME”) California Water Index Futures (“Water Index Futures”) be suspended.

The request for a hearing is made pursuant to Section 5c(c)(5)(C)(ii) of the Commodity Exchange Act (“CEA”).

The CME is typically described as a global derivatives market place. It is an organized exchange for trading futures and options. Sectors include agriculture, energy, stock indices, foreign exchange, interest rates, metals, real estate and weather.

The CME is regulated by the CFTC which oversees all commodities and derivatives contracts in the United States. The CFTC is responsible for oversight of brokers and merchants, conducts risk surveillance of derivatives trades, and investigates market manipulation and other abusive trade practices.

In 2020 California Water Futures (i.e., water index futures) began trading on the CME. A future can be described as contract which requires the compensated seller to provide a good to the buyer at some point in the future. The buyer is paying to lock in the right to buy such good (in this case a California water right) at a certain price.

The Water Index Futures are self-certified by CME.

F&W describes the index as a benchmark for the cash price for the exchange of water allocations in California. Further, it is stated to be updated weekly. A futures contract encompasses 10 acre-feet of water, up to a maximum of two years.

F&W argues in support of an order barring the buying and selling of the referenced future contracts that:

- They are not consistent with the CEA definition of “commodity”
- They relate to the trading of water entitlements not authorized under California law
- The trading is susceptible to manipulation and thus contrary to CFTC’s Core Standard 3 (referencing what is described as the “thin and opaque” underlying market involving any water entitlement trades that do occur in California)

- They are contrary to public interest because allegedly:
- Allowing them reads the CEA in a way that undermines public trust obligations
- Prices for water could be driven up
- Price impacts would be most acutely felt by those who are worse off (referencing small farmers)

A copy of the F&W Petition can be downloaded [here](#).