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October 22, 2015

Tam M. Doduc
Hearing Officer
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: BBID ACL

Dear Hearing Officer Doduc:

This letter discusses legal issues that Central Delta Water Agency, South Delta Water Agency, and West Side Irrigation District request to have addressed in pre-hearing briefing.

We cannot determine the initial list of legal issues until after we have conducted discovery and received all of the PRA documents. This list may also expand after we see the Prosecution Team witness statements.

Currently known legal issues include the following:

1. Whether there has been proper separation of functions at the Board for purposes of the enforcement proceeding.
2. The jurisdiction of the Board to regulate pre-1914 appropriative water rights through curtailment.
3. Whether the BBID diversions involved unappropriated water subject to Water Code Section 1052.
4. The effect of the legal obligations of the State Water Project and Central Valley Project on the water availability determinations.
5. The lack of evidence of injury to a prior right holder.
6. The implications of Water Code Section 7075 and *Butte Canal & Ditch Co. v. Vaughn* (1858) 11 Cal. 143 on water availability determinations.

Very truly yours,



Jennifer L. Spaletta
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cc: Service list of participants in WSID CDO Hearing