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Office of the Chief Counsel
2 California Department of Water Resources
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5 Attorney for CALIFORNIA DEPARTMENT OF
6 WATER RESOURCES

7
8 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

9
10 **In the matter of the Draft Cease and Desist**
11 **Order issued to The West Side Irrigation**
12 **District, Enforcement Action ENF01949;**

13 **and**

14 **In the Matter of the Administrative Civil**
15 **Liability Complaint issued to**
16 **Byron-Bethany Irrigation District,**
17 **Enforcement Action ENF01951.**

DECLARATION OF ROBIN MCGINNIS
IN SUPPORT OF CALIFORNIA
DEPARTMENT OF WATER
RESOURCES' BRIEF IN OPPOSITION
TO MOTIONS IN LIMINE

18 I, Robin McGinnis, declare:

19 1. I submit this declaration in support of the California Department of Water Resource's
20 ("DWR's") brief in opposition to the motions in limine filed by Byron-Bethany Irrigation District
21 ("BBID"), Central Delta and South Delta Water Agencies (jointly, "CDWA"), The West Side
Irrigation District ("WSID"), and Banta-Carbona and Patterson Irrigation Districts.

22 2. I have personal knowledge of the facts stated in this declaration and, if called upon to
23 testify, could and would competently testify thereto.

24 3. I am an attorney at law licensed to practice in the State of California, and am an
25 Attorney at DWR, which is a party to the above-referenced enforcement actions.

26 4. On October 22, 2015, DWR submitted a letter explaining its view that the issues the
27 Board should consider at the BBID hearing should be limited to those listed in the ACL
28 Complaint and should not be enlarged, the nature of the alleged violation defines the scope of the

1 hearing, and enlarging the scope of the hearing to include water quality, priority of rights, and
2 Delta hydrodynamics was unnecessary. A true and correct copy of the letter is Exhibit A hereto.

3 5. On September 2, 2015, DWR submitted a Notice of Intent to Appear (“NOI”) in
4 ENF01951 indicating that Paul Marshall would be an expert witness and testify regarding
5 “Effects of Delta Diversions,” which was uncontested. A true and correct copy of the NOI is
6 Exhibit B hereto.

7 6. On October 2, 2015, DWR submitted an NOI in ENF01949 indicating that Mr.
8 Marshall would be an expert witness and testify regarding “Effects of Delta Diversions,” which
9 was uncontested. A true and correct copy of the NOI is Exhibit C hereto.

10 7. BBID, CDWA, and WSID noticed the deposition of Mr. Marshall for November 24,
11 2015, which was later cancelled. True and correct copies of the Notices of Deposition are
12 Exhibits D–F hereto.

13 8. On December 7, 2015, I notified the parties via e-mail that DWR produced
14 documents in response to the Notices of Deposition on December 7, 2015 using its online file
15 transfer system. A true and correct copy of the e-mail is Exhibit G hereto.

16 9. On January 19, 2016, DWR submitted Amended Notices of Intent to Appear
17 indicating that it would participate in the hearing on cross-examination, which were uncontested.
18 True and correct copies of the Amended NOIs are Exhibit H hereto.

19 10. On February 22, 2016, DWR submitted its rebuttal testimony and exhibits relied on.

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

22 Executed this 4th day of March, 2016 in Sacramento, California.

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1 **SERVICE LISTS (VIA E-MAIL)**

2 **PARTIES**
3 **THE WEST SIDE IRRIGATION DISTRICT**
4 **CEASE AND DESIST ORDER HEARING**

4 Division of Water Rights 5 Prosecution Team 6 Andrew Tauriainen, Attorney III 7 SWRCB Office of Enforcement 8 1001 I Street, 9 16th Floor 10 Sacramento, CA 95814 11 Andrew.Tauriainen@waterboards.ca.gov	The West Side Irrigation District Jeanne M. Zolezzi Karna Harrigfeld Janelle Krattiger Herum\Crabtree\Suntag 5757 Pacific Ave., Suite 222 Stockton, CA 95207 jzolezzi@herumcrabtree.com kharrigfeld@herumcrabtree.com jkrattiger@herumcrabtree.com
10 Westlands Water District 11 Daniel O'Hanlon 12 Rebecca Akroyd 13 Kronick Moskovitz Tiedemann & Girard 14 400 Capitol Mall, 27th Floor 15 Sacramento, CA 95814 16 dohanlon@kmtg.com 17 rakroyd@kmtg.com 18 Philip Williams of Westlands Water District 19 pwilliams@westlandswater.org	South Delta Water Agency John Herrick, Esq. Dean Ruiz 4255 Pacific Ave., Suite 2 Stockton, CA 95207 jherrlaw@aol.com dean@hprlaw.net
17 Central Delta Water Agency 18 Jennifer Spaletta 19 Spaletta Law PC 20 PO Box 2660 21 Lodi, CA 95241 22 jennifer@spalettalaw.com 23 Dante Nomellini and Dante Nomellini, Jr. 24 Nomellini, Grilli & McDaniel 25 ngmplcs@pacbell.net 26 dantejr@pacbell.net	City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 jonathan.knapp@sfgov.org
23 San Joaquin Tributaries Authority 24 Valerie Kincaid 25 O'Laughlin & Paris LLP 26 2617 K Street, Suite 100 27 Sacramento, CA 95814 28 vkincaid@olaughlinparis.com towater@olagghlinparis.com	State Water Contractors Stephanie Morris 1121 L Street, Suite 1050 Sacramento, CA 95814 smorris@swc.org

1	Byron Bethany Irrigation District	
2	Daniel Kelly	
3	Somach Simmons & Dunn	
4	500 Capitol Mall, Suite 1000	
	Sacramento, CA 95814	
	dkelly@somachlaw.com	

<p>PARTIES</p> <p>BYRON-BETHANY IRRIGATION DISTRICT</p> <p>ADMINISTRATIVE CIVIL LIABILITY HEARING</p>
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8	Division of Water Rights	Byron Bethany Irrigation District
9	Prosecution Team	Daniel Kelly
10	Andrew Tauriainen, Attorney III	Somach Simmons & Dunn
11	SWRCB Office of Enforcement	500 Capitol Mall, Suite 1000,
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	andrew.tauriainen@waterboards.ca.gov	

13	Patterson Irrigation District	City and County of San Francisco
14	Banta-Carbona Irrigation District	Jonathan Knapp
15	The West Side Irrigation District	Office of the City Attorney
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<p>Richard Morat 2821 Berkshire Way Sacramento, CA 95864 rjmorat@gmail.com</p>	<p>San Joaquin Tributaries Authority Valerie Kincaid O'Laughlin & Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95814 vkincaid@olaughlinparis.com towater@olaughlinparis.com lwood@olaughlinparis.com</p>
<p>South Delta Water Agency John Herrick, Esq. 4255 Pacific Ave., Suite 2 Stockton, CA 95207 jherrlaw@aol.com</p> <p>Dean Ruiz, Esq. Harris, Perisho & Ruiz, Attorneys at Law 3439 Brookside Road, Suite 210 Stockton, CA 95219 dean@hprlaw.net</p>	

Exhibit A

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



October 22, 2015

VIA E-MAIL

Division of Water Rights
State Water Resources Control Board
Attention: Jane Farwell-Jensen
P.O. Box 2000
Sacramento, California 95812-2000

Re: Concise Statement of Legal Issues in the Matter of Alleged Unauthorized Diversion by Byron-Bethany Irrigation District

Dear Ms. Farwell-Jensen:

This is in reply to Hearing Officer Tam Doduc's invitation in her October 2, 2015 letter to the parties to identify and submit concise statements of legal issues that they would like to address in prehearing briefs. The California Department of Water Resources (DWR) submits the following statement.

The issues the State Water Resources Control Board (Board) should consider at the hearing should be limited to those listed in the Administrative Civil Liability (ACL) Complaint and should not be enlarged. The Board issued the ACL Complaint to Byron-Bethany Irrigation District (BBID) pursuant to Division 2, sections 1052 and 1055 of the Water Code. The purposes of Division 2 of the Water Code are: (1) to further the constitutional policy in favor of beneficial use and against waste and unreasonable use of the waters of the state; and (2) to be for the welfare and benefit of the people of the state and for the improvement of their prosperity and their living conditions.¹ To carry out these purposes, the Board may investigate, take testimony, and determine whether water appropriations are legal.² Thus, the issues the Board should consider at a hearing should be limited to the alleged violation and how it relates to the purposes of Division 2 of the Water Code.

The nature of the alleged violation defines the scope of the hearing. The proper issues before the Board at this hearing are whether there was: (1) a trespass according to section 1052; and (2) the relevant circumstances regarding the amount of civil liability as described in section 1055.3. Enlarging the scope of the hearing to include water quality, priority of rights, and Delta hydrodynamics will include extensive discovery and the presentation of technical evidence. While these issues are appropriate for the Board to consider, they should be considered during a planning process where all of the

¹ Water Code, section 1050.

² Water Code, section 1051.

Jane Farwell-Jensen

October 22, 2015

Page 2

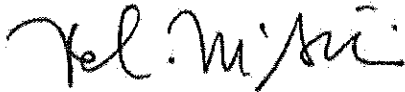
affected parties can submit information instead of in an enforcement action against one party. Also, enlarging the scope of enforcement hearings such as this one may hinder the Board's ability to administer water rights in a timely manner. In ongoing litigation brought by BBID and The West Side Irrigation District (WSID), among others, against the Board,³ the Santa Clara County Superior Court issued an order denying motions to stay, explaining that

...both BBID and WSID will have the opportunity to present evidence at the administrative enforcement hearing regarding their respective rights to the water before a tribunal that is required to be impartial, fair and neutral, and has the specific expertise to adjudicate these issues.

(See Exhibit A, Order After Hearing on September 22, 2015.) Accordingly, the issues before the Board should be limited to enforcement.

DWR appreciates the opportunity to submit this statement. If you have any questions or need additional information, please contact me at (916) 657-5400 or robin.mcginnis@water.ca.gov. Thank you.

Sincerely,



Robin McGinnis, Attorney
Office of the Chief Counsel
Department of Water Resources

cc: Attached Service List (via e-mail)

³ California Water Curtailment Cases (JCCP 4838), Santa Clara County Superior Court Case Number 1-15-CV-285182.

**SERVICE LIST OF PARTICIPANTS
BYRON-BETHANY IRRIGATION DISTRICT
ADMINISTRATIVE CIVIL LIABILITY HEARING**

PARTIES	
<p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 andrew.tauriainen@waterboards.ca.gov</p>	<p>Byron Bethany Irrigation District Daniel Kelly Somach Simmons & Dunn 500 Capitol Mall, Suite 1000, Sacramento, CA 95814 dkelly@somachlaw.com</p>
<p>Patterson Irrigation District Banta-Carbona Irrigation District The West Side Irrigation District Jeanne M. Zolezzi Herum\Crabtree\Suntag 5757 Pacific Ave., Suite 222 Stockton, CA 95207 jzolezzi@herumcrabtree.com</p>	<p>City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 jonathan.knapp@sfgov.org</p> <p>Robert E. Donlan Ellison, Schneider & Harris L.L.P. 2600 Capitol Avenue, Suite 400 Sacramento, CA 95816 (916) 447-2166 red@eslawfirm.com</p>
<p>Central Delta Water Agency Jennifer Spaletta Spaletta Law PC PO Box 2660 Lodi, CA 95241 jennifer@spalettalaw.com</p> <p>Dante Nomellini and Dante Nomellini, Jr. Nomellini, Grilli & McDaniel ngmplcs@pacbell.net dantejr@pacbell.net</p>	<p>California Department of Water Resources Robin McGinnis, Attorney PO Box 942836 Sacramento, CA 94236-0001 robin.mcginis@water.ca.gov</p>
<p>Richard Morat 2821 Berkshire Way Sacramento, CA 95864 rimorat@gmail.com</p>	<p>San Joaquin Tributaries Authority Valerie Kincaid O'Laughlin & Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95814 ykincaid@olaughlinparis.com lwood@olaughlinparis.com</p>

**SERVICE LIST OF PARTICIPANTS
BYRON-BETHANY IRRIGATION DISTRICT
ADMINISTRATIVE CIVIL LIABILITY HEARING**

<p>South Delta Water Agency John Herrick, Esq. Dean Ruiz, Esq. 4255 Pacific Ave., Suite 2 Stockton, CA 95207 jherriaw@aol.com</p> <p>Dean Ruiz, Esq. Harris, Perisho & Ruiz 3439 Brookside Road, Suite 210 Stockton, CA 95219 dean@hprlaw.net</p>	<p>State Water Contractors Stefani Morris, Attorney 1121 L Street, Suite 1050 Sacramento, CA 95814 smorris@swc.org</p>
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Exhibit A

to DWR's Oct. 22, 2015 letter

Exhibit A

E-FILED

Sep 24, 2015 3:32 PM

David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
Case #1-15-CV-285182 Filing #3-76879
By R. Walker, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

Coordination Proceeding
Special Title (Rule 3.550)

**CALIFORNIA WATER CURTAILMENT
CASES**

JUDICIAL COUNCIL
COORDINATION PROCEEDING
NO. 4838¹

**ORDER AFTER HEARING ON
SEPTEMBER 22, 2015**

**(1) Petition by The West Side
Irrigation District ("West Side") for
Stay of State Water Resources
Control Board (SWRCB)
Proceedings; (2) Motion by
Petitioner/Plaintiff Byron-Bethany
Irrigation District (BBID) to Stay or
Enjoin the SWRCB's Enforcement
Action Issued on July 20, 2015**

¹ Included Actions: (1) Byron-Bethany Irrigation District v. California State Water Resources Control Board, Superior Court of California, County of Contra Costa, Case No. N150967; (2) The West Side Irrigation District v. California State Water Resources Control Board, Superior Court of California, County of Sacramento, Case No. 34201580002121; (3) Banta-Carbona Irrigation District v. California State Water Resources Control Board, Superior Court of California, County of San Joaquin, Case No. 39201500326421 CU WMSTK; (4) Patterson Irrigation District v. California State Water Resources Control Board, Superior Court of California, County of Stanislaus, Case No. 2015307; (5) San Joaquin Tributaries Authority v. California State Water Resources Control Board, Superior Court of California, County of Stanislaus, Case No. 2015366.

1 The above-entitled matter came on for hearing on Tuesday, September 22, 2015 at 3:30
2 p.m. in Department 1, the Honorable Peter H. Kirwan presiding. The appearances are as stated
3 in the record. The Court, having read and considered the supporting and opposing papers, and
4 having heard and considered the arguments of counsel, and good cause appearing therefore,
5 makes the following order:

6 Plaintiff Byron Bethany Irrigation District ("BBID") moves to stay or enjoin the State
7 Water Resources Control Board's ("SWRCB") Enforcement Action. Similarly, West Side
8 Irrigation District ("WSID") moves to stay SWRCB's Enforcement Action brought separately
9 against WSID.

10 In their papers and at the above-referenced hearing, both WSID and BBID ("Plaintiffs")
11 argue that this Court has concurrent jurisdiction with SWRCB over water rights disputes and
12 the doctrine of primary jurisdiction yields to the rule of exclusive jurisdiction because the
13 current litigation was filed before SWRCB filed its Enforcement Actions. In addition,
14 Plaintiffs argue that under equitable principles, the Court should issue a stay because the
15 Enforcement Actions are infected by "fruits of the poisonous tree," since they are based on
16 information obtained from the improper Curtailment Notices and the SWRCB is continuing to
17 rely on the conclusions it prematurely reached about water availability. Plaintiffs further argue
18 that the Curtailment Notice was coercive because it led the recipient to believe they are no
19 longer allowed to divert, and that decision was made without any pre-deprivation hearing.
20 SWRCB's attempt to cure the Curtailment Notice did not cure the due process problems,
21 because it was still based upon SWRCB's prior finding of unavailability and that fines could be
22 imposed based upon this prior finding.

23 BBID and WSID also argue that because there is concurrent jurisdiction and their
24 actions were filed first, the Court actions have priority over the enforcement actions brought by
25 the SWRCB and therefore must be stayed pursuant to *People v. Garamendi v. American*
26 *Autoplan, Inc.* (1993) 20 Cal. App.4th 760. Plaintiffs argue that under this authority, the
27 remedy to enforce exclusive concurrent jurisdiction is a mandatory stay or injunction of the
28 second action (i.e. the SWRCB action).

1 In opposition, SWRCB argues that a stay is not available as CCP 1094.5(g) only
2 authorizes a stay of the operation of a final administrative order or decision and since there has
3 been no final decision on the enforcement actions, a stay is improper because Plaintiffs have
4 not exhausted their administrative remedies. SWRCB further argues that the Curtailment
5 Notices do not make a final determination regarding unavailability and that Plaintiffs will have
6 a full and fair opportunity to present evidence on this issue at the time of the Enforcement
7 Hearing. SWRCB argues that the primary authority relied upon by Plaintiffs' in their moving
8 papers (*National Audubon Society v. Superior Court (1983) 33 Cal.3rd 419*) was
9 distinguishable as it involved private parties as opposed to a case brought directly against the
10 State Agency. According to SWRCB, the rationale for the decision in *National Audubon*
11 finding concurrent jurisdiction was that there are statutory provisions allowing courts to seek
12 referee services in disputes involving private parties and that SWRCB cannot provide a referee
13 when it is an actual party to the dispute. SWRCB further argues that even if there was
14 concurrent jurisdiction, the doctrine of primary jurisdiction would compel the Court to defer to
15 the SWRCB enforcement proceedings because of the special competence of the SWRCB and
16 the need for resolution of these issues under a regulatory scheme².

17 **Analysis:** Addressing some of the points raised above, the Court finds that Plaintiffs'
18 reliance on *Garamendi* for a mandatory stay or injunction in the immediate case is misplaced.
19 In *Garamendi*, the Court of Appeal likened an exclusive concurrent jurisdiction defense to a
20 plea in abatement, which is codified in the demurrer statute at Cal. Code Civ. Proc. 430.10(c)
21 [another action pending]. A plea in abatement is a way to demur *to the second action* in order
22 to have it stayed *by the second court*. The demurring party tells the *second court*, "There is a
23 prior action pending, and thus, you must stay this action." Consistent with this, in *Garamendi*,
24 the issue of exclusive concurrent jurisdiction was presented *to the second court*.

25 In contrast, the immediate case does not involve a second court in a traditional plea
26 abatement setting. If BBID and WSID go to the SWRCB and ask it to stay the Enforcement
27

28 ² The arguments summarized above do not represent the entirety of those raised in the papers.

1 Actions, it will likely be denied. This matter is more tantamount to a motion for injunctive
2 relief because the Plaintiffs are asking the Court to enjoin a party from doing something, i.e.
3 the SWRCB's Enforcement Actions from going forward.

4 In their Reply papers and at the hearing, Plaintiffs' counsel argued that SWRCB was
5 seeking penalties during a time period which preceded the Revised Curtailment Notice
6 suggesting that a final determination of unauthorized diversion of water had already taken
7 place (by BBID). At the hearing, BBID's counsel cited *SJCBC LLC v. Horwedel*, a Sixth
8 Appellate District case involving nuisance abatement compliance orders by the City of San
9 Jose against medical marijuana facilities. The trial court held that the collectives should have
10 exhausted administrative remedies, but the Sixth Appellate District held that this was not
11 possible without risking penalties for noncompliance. "Under the Code provisions cited above,
12 a nuisance abatement compliance order issued by the director is not necessarily the final
13 administrative determination concerning whether there was a violation of the Code—i.e., a
14 nuisance—and whether the person charged with the violation failed to comply with the order
15 and correct it. Under certain circumstances, an administrative board will conduct a hearing,
16 review the compliance order, and make a determination on those issues that is final and
17 thereafter subject to judicial review. However, the person who receives a compliance notice
18 cannot challenge it immediately by seeking an administrative review hearing. Only the
19 director can initiate a hearing. Thus, if a person disagrees with the order, he or she cannot
20 comply under protest and then initiate an administrative review. The person must take a risk of
21 noncompliance and then wait for the director to initiate a hearing. Then, and only then, can the
22 person administratively challenge the order and seek to have it rescinded." (*SJCBC LLC v.*
23 *Horwedel* (2011) 201 Cal. App. 4th 339, 347-348.) "[W]e note that where, as here, an
24 administrative procedure to review compliance notices exists but cannot be initiated by a party
25 receiving such a notice, and where, as here, the person who can initiate the administrative
26 process does not do so, application of the Doctrine would not serve any of the policies it was
27 intended to promote: it would not bolster administrative autonomy; permit the administrative
28 review board to resolve factual issues, apply its expertise, and exercise statutorily delegated

1 remedies; mitigate damages; or promote judicial economy. [Citation.] On the other hand,
2 applying the Doctrine here would allow the director to issue nuisance abatement notices
3 prohibiting activity by a lessee and then insulate the notices from administrative and judicial
4 review by obtaining the lessor's compliance with the abatement order. We do not believe the
5 Doctrine was designed or intended to shield administrative actions from any review."
6 (*Horwedel, supra*. 201 Cal.App.4th at p. 350.)

7 In the immediate case, it is important to note that the motions before the Court are to
8 stay the Enforcement Actions, not to dismiss this Court action. *Horwedel* involved a case
9 where the trial court barred the association's petition for failing to exhaust administrative
10 remedies that were not available to the petitioners. In reversing, the Court of Appeal concluded
11 that nuisance abatement notices prohibiting activity should not be insulated from
12 administrative or judicial review by obtaining compliance with the notice. Here, there is no
13 request to dismiss or bar judicial review of the actions taken by SWRCB. The request is to
14 stay and/or enjoin an administrative hearing by a state agency. Clearly, this Court has
15 authority to review any final decisions made by the SWRCB once they are made. *Horwedel*
16 does not go as far as to mandate a stay of the administrative proceeding. In addition, it remains
17 somewhat unclear as to whether a private party can initiate an administrative proceeding in
18 response to a curtailment notice as opposed to the facts in *Horwedel* where only the Director of
19 City Planning could initiate the administrative review.

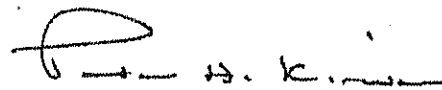
20 While the Court acknowledges the many points raised by Plaintiffs, there are sound
21 policy reasons for allowing the administrative process to proceed. The exhaustion doctrine is
22 principally grounded on concerns favoring administrative autonomy, administrative expertise
23 and judicial efficiency (i.e. overworked courts should decline to intervene in an administrative
24 dispute unless absolutely necessary.) *State Farm Fire and Casualty Co. v. Superior Court*
25 (1996) 45 Cal.App.4th 1093. The primary jurisdiction doctrine advances two related policies:
26 it enhances court decision-making and efficiency by allowing courts to take advantage of
27 administrative expertise, and it helps assure uniform application of regulatory laws. *State Farm*
28 *Fire and Casualty Co., supra*. 45 Cal. App.4th at Pg. 1111-1112. In the instant case, both

1 BBID and WSID will have the opportunity to present evidence at the administrative
2 enforcement hearing regarding their respective rights to the water before a tribunal that is
3 required to be impartial, fair and neutral, and has the specific expertise to adjudicate these
4 issues. "When, as here, an administrative agency conducts adjudicative proceedings, the
5 constitutional guarantee of due process of law requires a fair tribunal. [Citation.] A fair
6 tribunal is one in which the judge or other decision maker is free of bias for or against a party.
7 [Citations.] Violation of this due process guarantee can be demonstrated not only by proof of
8 actual bias, but also by showing a situation 'in which experience teaches that the probability of
9 actual bias on the part of the judge or decisionmaker is too high to be constitutionally
10 tolerable.' [Citation.] [¶] Unless they have a financial interest in the outcome [citation],
11 adjudicators are presumed to be impartial [citation]." (*Morongo Band of Mission Indians v.*
12 *State Water Resources Control Board* (2009) 45 Cal.4th 731, 737.) To the extent that the
13 Plaintiffs claim the process is procedurally deficient (i.e. biased or pre-determined), they will
14 have the opportunity to raise those issues to the Court, but there simply is not enough evidence
15 at this point for the Court to reach that conclusion.

16 For the reasons set forth above, the respective Motions to Stay and/or Enjoin the
17 Enforcement Actions are **DENIED**. The Court is mindful of the fact that special
18 considerations need to be made and careful coordination and management is necessary to avoid
19 duplicity, preserve resources and avoid inconsistent rulings. The Court is confident that this
20 can be accomplished while still allowing the issues before the SWRCB to be adjudicated.

21 SO ORDERED.

22
23 Dated: September 24, 2015



24 Honorable Peter H. Kirwan
25 Judge of the Superior Court
26
27
28

Exhibit B

NOTICE OF INTENT TO APPEAR

Department of Water Resources plans to participate in the water right hearing regarding
(name of party or participant)

Administrative Civil Liability
against
Byron-Bethany Irrigation District

scheduled to commence
**Wednesday, October 28, 2015 and continue, if necessary,
on October 29 and 30, 2015
at 9:00 a.m.**

1) Check only one (1) of the following:

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we plan to call the following witnesses to testify at the hearing. (Fill in the Following Table)

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
Paul Marshall	Effects of Delta Diversions	One hour	Yes

(If more space is required, please add additional pages or use reverse side.)

2) Fill in the following information of the Participant, Party, Attorney, or Other Representative:

Name (Print): Robin McGinnis, Attorney

Mailing Address: P.O. Box 942836, Sacramento, CA 94236-0001

Phone Number: (916) 657-5400 Fax Number: ()

E-mail: robin.mcginnis@water.ca.gov

Optional:

- I/we decline electronic service of hearing-related materials.

Signature:  Dated: 9/2/15

Exhibit C

NOTICE OF INTENT TO APPEAR

California Department of Water Resources _____ plans to participate in the water right hearing regarding (name of party or participant)

Draft Cease and Desist Order
Against
West Side Irrigation District

The Public Hearing will commence on
Thursday, November 12, 2015 and continue, if necessary,
on November 13 and 16, 2015
at 9:00 a.m.

1) Check only one (1) of the following:

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we plan to call the following witnesses to testify at the hearing. (Fill in the Following Table)

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
Paul Marshall	Effects of Delta Diversions	20 minutes	Yes

(If more space is required, please add additional pages or use reverse side.)

2) Fill in the following information of the Participant, Party, Attorney, or Other Representative:

Name (Print): Robin McGinnis, Attorney

Mailing Address: P.O. Box 942836, Sacramento, CA 94236-0001

Phone Number: (916) 657-5400 Fax Number: ()

E-mail: robin.mcginis@water.ca.gov

Optional:

- I/we decline electronic service of hearing-related materials.

Signature: *Rob. McGinnis* Date: 10/2/15

Exhibit D

1 SOMACH SIMMONS & DUNN
A Professional Corporation
2 DANIEL KELLY, ESQ. (SBN 215051)
MICHAEL E. VERGARA, ESQ. (SBN 137689)
3 500 Capitol Mall, Suite 1000
Sacramento, California 95814-2403
4 Telephone: (916) 446-7979
Facsimile: (916) 446-8199

5
6 Attorneys for Petitioner/Plaintiff BYRON-
BETHANY IRRIGATION DISTRICT

7
8 BEFORE THE
9 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

10
11 In the Matter of:

12 Alleged Unauthorized Diversion of Water By
Byron-Bethany Irrigation District.

SWRCB Enforcement Action ENF01951

13 NOTICE OF DEPOSITION OF PAUL
MARSHALL AND REQUEST FOR
14 PRODUCTION OF DOCUMENTS
(Wat. Code, § 1100)

15
16 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

17 PLEASE TAKE NOTICE THAT, under to Water Code section 1100 and Code of Civil
18 Procedure section 2025.210 et seq., YOU ARE HEREBY NOTIFIED that attorneys for Byron
19 Bethany Irrigation District (BBID) will take the deposition of **Paul Marshall on November 24,**
20 **2015 at 9:30 a.m.** Said deposition will take place at the offices of **Somach Simmons & Dunn,**
21 **500 Capitol Mall, Suite 1000, Sacramento, California 95814.**

22 The deposition of Paul Marshall is in regards to the following:

- 23 1. The effect of Delta diversions;
24 2. State Water Project operations in June 2015;
25 3. The operation of Clifton Court forebay and related facilities;
26 4. Deponent's interaction with State Water Resource Control Board staff/employees
27 regarding water availability in 2015.

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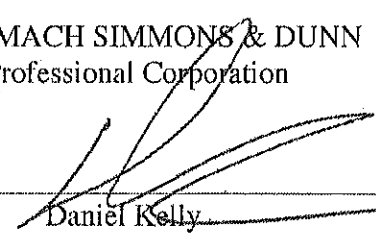
YOU ARE FURTHER NOTIFIED THAT:

The Deponent, Paul Marshall is required to produce at said deposition the documents, records or other materials as set forth in Attachment A to this deposition notice.

Dated: November 9, 2015

SOMACH SIMMONS & DUNN
A Professional Corporation

By: _____


Daniel Kelly

Attorneys for Petitioner/Plaintiff BYRON-
BETHANY IRRIGATION DISTRICT

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PROOF OF SERVICE

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.

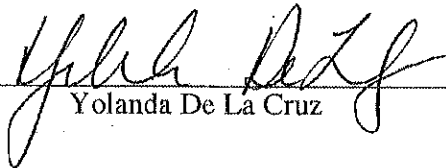
On November 9, 2015, I served the following document(s):

**NOTICE OF DEPOSITION OF PAUL MARSHALL
AND REQUEST FOR PRODUCTION OF DOCUMENTS**

X (via electronic mail) by causing to be delivered a true copy thereof to the person(s) and at the email addresses set forth below:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 9, 2015 at Sacramento, California.


Yolanda De La Cruz

**SERVICE LIST OF PARTICIPANTS
 BYRON-BETHANY IRRIGATION DISTRICT
 ADMINISTRATIVE CIVIL LIABILITY HEARING
 (Revised 9/2/15; Revised: 9/11/15)**

SOMACH SIMMONS & DUNN
 A Professional Corporation

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<p><u>VIA ELECTRONIC MAIL</u></p> <p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 andrew.tauriainen@waterboards.ca.gov</p>	<p><u>VIA ELECTRONIC MAIL</u></p> <p>Byron-Bethany Irrigation District Daniel Kelly Somach Simmons & Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 dkelly@somachlaw.com</p>
<p><u>VIA ELECTRONIC MAIL</u></p> <p>Patterson Irrigation District Banta-Carbona Irrigation District The West Side Irrigation District Jeanne M. Zolezzi Herum\Crabtree\Suntag 5757 Pacific Avenue, Suite 222 Stockton, CA 95207 jzolezzi@herumcrabtree.com</p>	<p><u>VIA ELECTRONIC MAIL</u></p> <p>City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 jonathan.knapp@sfgov.org</p>
<p><u>VIA ELECTRONIC MAIL</u></p> <p>Central Delta Water Agency Jennifer Spaletta Law PC P.O. Box 2660 Lodi, CA 95241 jennifer@spalettalaw.com</p> <p>Dante John Nomellini Daniel A. McDaniel Dante John Nomellini, Jr. NOMELLINI, GRILLI & MCDANIEL 235 East Weber Avenue Stockton, CA 95202 ngmplcs@pacbell.net dantejr@pacbell.net</p>	<p><u>VIA ELECTRONIC MAIL</u></p> <p>California Department of Water Resources Robin McGinnis, Attorney P.O. Box 942836 Sacramento, CA 94236-0001 robin.mcgininis@water.ca.gov</p>
<p><u>VIA ELECTRONIC MAIL</u></p> <p>Richard Morat 2821 Berkshire Way Sacramento, CA 95864 rmorat@gmail.com</p>	<p><u>VIA ELECTRONIC MAIL</u></p> <p>San Joaquin Tributaries Authority Tim O'Laughlin Valerie C. Kincaid O'Laughlin & Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95816 towater@olaughlinparis.com vkinaid@olaughlinparis.com</p>

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<u>VIA ELECTRONIC MAIL</u>	<u>VIA ELECTRONIC MAIL</u>
South Delta Water Agency John Herrick Law Offices of John Herrick 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 Email: Jherrlaw@aol.com	State Water Contractors Stefani Morris 1121 L Street, Suite 1050 Sacramento, CA 95814 smorris@swc.org

ATTACHMENT A

DOCUMENTS TO BE PRODUCED

1. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the California Department of Water Resources, concerning or relating to the State Water Resources Control Board's determination of water availability in the Sacramento and San Joaquin River Watersheds and the Delta for 2015
2. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the California Department of Water Resources, concerning or relating to water right curtailments in 2015.
3. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the California Department of Water Resources, concerning or relating to the diversion of water by Byron Bethany Irrigation District in 2015.
4. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the California Department of Water Resources, concerning or relating to the operation of Clifton Court forebay and related facilities in June 2015.
5. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the California Department of Water Resources, concerning or relating to any inspections, aerial or otherwise, of lands or facilities within the Byron-Bethany Irrigation District during the 2015 irrigation season. This request includes all WRITINGS regarding aerial inspection or observation of Byron-Bethany Irrigation District facilities via helicopter or other vehicle.
6. All WRITINGS as that term is defined in California Evidence Code section 250, in the possession or control of the California Department of Water Resources, concerning or relating to the source of water in Clifton Court forebay during June 2015 and the source of water diverted by the California Department of Water Resources at Banks Pumping Plant in June 2015.

If any document is withheld under a claim of privilege or other protection, please provide a privilege log containing the following information with respect to such documents: (a) an identification of the document with reasonable specificity and particularity, including its nature (memorandum, letter, etc.), title, and date; (b) the parties, individuals, and entities that the communication is between or references; (c) the exact nature of the privilege asserted; and (d) all of the facts upon which your claim of privilege is based or which supports said claim of privilege.

Exhibit E

1 JENNIFER L. SPALETTA (SBN 200032)
DAVID GREEN (SBN 287176)
2 SPALETTA LAW PC
Post Office Box 2660
3 Lodi, California 95241
Jennifer@spalettalaw.com
4 T: 209-224-5568
F: 209-224-5589

5 Attorneys for Central Delta Water Agency

6 S. DEAN RUIZ (SBN 213515)
7 HARRIS, PERISHO & RUIZ
3439 Brookside Road, Suite 210
8 Stockton, CA 95219
9 Telephone: (209) 957-4254
Facsimile: (209) 957-5338

10 Attorney for South Delta Water Agency

11
12 **STATE WATER RESOURCES CONTROL BOARD**

13 IN RE THE MATTERS OF
14 WEST SIDE IRRIGATION DISTRICT
15 CEASE AND DESIST ORDER
HEARING
16 AND
17 BYRON BETHONY IRRIGATION
18 DISTRICT ADMINISTRATIVE CIVIL
19 LIABILITY HEARING

**NOTICE OF TAKING DEPOSITION
OF PAUL MARSHALL**

Date: November 24, 2015

Time: 9:30 a.m.

Location: 500 Capitol Mall, Suite 1000,
Sacramento, CA 95814

20 TO PAUL MARSHALL OF THE DEPARTMENT OF WATER RESOURCES, AND HIS
21 ATTORNEY OF RECORD:

22 PLEASE TAKE NOTICE pursuant to California Water Code section 1100 and California
23 Code of Civil Procedure Section 2025.220 that Parties Central Delta Water Agency (“CDWA”)
24 and South Delta Water Agency (“SDWA”) will conduct the deposition of Paul Marshall of the
25 Department of Water Resources (“Deponent”) on November 24, 2015, at 9:30 a.m. at 500 Capitol
26 Mall, Suite 1000, Sacramento, CA 95814, before a certified shorthand reporter and/or notary
27 public duly authorized by laws of the State of California to administer oaths.
28

1 If, for any reason, the taking of said deposition is not completed on November 24, 2015,
2 the deposition will be continued, at the option of the noticing party, on November 25, 2015 at
3 9:30 a.m. at the same place until completed. Notice is further given that under Code of Civil
4 Procedure Section 2025.330 the deposition testimony may be recorded by video technology.

5 CDWA and SDWA request that Deponent bring and have for production, inspection, and
6 copying at the time and place of the deposition the following documents, or copies of said
7 documents, if the originals are not in his possession, custody, or control. Electronic form
8 documents are preferred and can be produced on a removable drive.

9 The term "DOCUMENTS," as used herein, is as defined by California Evidence Code
10 section 250, and includes any writing, book, document, or other thing and includes the originals
11 and non-identical copies (e.g., because handwritten or "blind" notes may appear thereon) of all of
12 the following: (a) all writings of any kind, including, but not limited to, letters, telegrams,
13 memoranda, reports, studies, calendar and diary entries, notes, recordings, records of meetings
14 and conversations, tabulations, analyses, statistical or other accumulations of information, raw
15 and refined data, drawings graphs, surveys, charts, view graphs and other illustrations of any
16 kind, including all drafts of any such writing; (b) photographs, films, slides, and other
17 photographic material of any kind, including sound recordings; (c) bills, contracts, invoices,
18 brochures, advertisements, certificates, checks, transcripts, and other mechanical, magnetic, and
19 electronic records of any kind, including sound recordings; (d) all documents stored in or
20 retrievable by computer; (e) any other data compilations not covered by (a) through (d) herein.

21 If any DOCUMENT is withheld under a claim of privilege or other protection, please
22 provide the following information with respect to such DOCUMENTS: (a) an identification of
23 the DOCUMENT with reasonable specificity and particularity, including its nature (memo, letter,
24 etc.), title, and date; (b) the parties, individuals, and entities that the communication is between or
25 references; (c) the exact nature of the privilege asserted; and (d) all of the facts upon which your
26 claim of privilege is based or which supports said claim.

27 The DOCUMENTS requested do not include any DOCUMENTS previously produced.
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DOCUMENTS TO BE PRODUCED

1. All DOCUMENTS related to the State Water Resources Control Board’s determination of water availability for 2015 related to diversions under WSID’s License No. 1381.
2. All DOCUMENTS related to the analysis of which sources of supply to include in the water availability analysis for 2015.
3. All DOCUMENTS related to the analysis of which items of demand to include in the water availability analysis for 2015.
4. All DOCUMENTS related to the impact that WSID’s diversions of water pursuant to License 1381 had on the State Water Project (“SWP”) and/or Central Valley Project (“CVP”) (collectively, the “Projects”) in May through October 2015.
5. All DOCUMENTS related to threatened or actual injury to senior water right holders or Project rights that influenced the determination of water availability in 2015.
6. All DOCUMENTS comprising or related to communications between you and any representative, employee or agent of the California Department of Water Resources (“DWR”) regarding water availability or curtailment in 2015.
7. All DOCUMENTS comprising or related to communications between you, or any representative, employee or agent of DWR and any representative, employee or agent of the State Water Resources Control Board (“State Water Board”) regarding water availability or curtailment in 2015.
8. All DOCUMENTS comprising or related to communications between you, or any representative, employee or agent of DWR and any representative, employee or agent of the State Water Contractors (“SWC”) regarding water availability or curtailment in 2015.


- 1 9. All DOCUMENTS comprising or related to water availability analysis that you, or any
2 representative, employee or agent of DWR, created, reviewed or commented on during 2014
3 or 2015.
- 4 10. All DOCUMENTS related to the "Effects of Delta Diversions" as that phrase is defined for
5 purposes of DWR's Notice of Intent to Appear filed in the WSID CDO Hearing.
- 6 11. All DOCUMENTS related to DWR's determinations of flow into the Delta during 2015 and
7 the sources of that flow.
- 8 12. All DOCUMENTS showing the amount of water that flowed into DWR storage facilities for
9 each day in 2015.
- 10 13. All DOCUMENTS showing the amount of water that DWR diverted to storage for each day
11 in 2015.
- 12 14. All DOCUMENTS showing the amount of water that DWR released from storage for each
13 day in 2015.
- 14 15. All DOCUMENTS showing how much of the water DWR released from or bypassed through
15 its storage facilities in 2015, by day, was not stored water.
- 16 16. All DOCUMENTS showing the purpose for each release of stored water by DWR during
17 2015.
- 18 17. If water was released from storage by DWR for multiple purposes during 2015, all
19 DOCUMENTS showing the purpose which was controlling the total amount of the release, by
20 day.
- 21 18. All DOCUMENTS showing the amount of water that DWR exported from the Delta daily in
22 2015.
- 23 19. All DOCUMENTS showing the source of all water that DWR exported from the Delta daily
24 in 2015.
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- 1 20. All DOCUMENTS related to DWR's analysis of Delta outflow during 2015.
- 2 21. All DOCUMENTS related to DWR's analysis of consumptive use in the Delta during 2015.
- 3 22. All DOCUMENTS related to residence time of water in the Delta during 2015.
- 4 23. All DOCUMENTS related to travel time for water released from storage reservoirs to the
- 5 Delta export facilities during 2015.
- 6

7 All of the above requests should be construed to request only those DOCUMENTS that have not
8 previously been produced and to request non-duplicative production of documents. In addition,
9 the above requests should be construed to be limited to those DOCUMENTS which relate to
10 water availability decisions for the Sacramento and San Joaquin River watersheds and Delta.
11

12 To the extent the responding party believes the information can be provided in summary form
13 to avoid unnecessary production of documents, the responding party should contact the requesting
14 party to meet and confer as to an agreement on a limited initial production.
15

16 Dated: November 11, 2015

SPALETTA LAW PC

By: _____
JENNIFER L. SPALETTA

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Exhibit F

1 JEANNE M. ZOLEZZI SBN 121282
KARNA E. HARRIGFELD SBN 162824
2 HERUM\CRABTREE\SUNTAG
5757 Pacific Avenue, Suite 222
3 Stockton, California 95207
jzolezzi@herumcrabtree.com
4 T: 209-472-7700
F: 209-472-7986

5 Attorneys for The West Side Irrigation District

6
7 **STATE WATER RESOURCES CONTROL BOARD**

8 IN RE THE MATTERS OF
9 THE WEST SIDE IRRIGATION
10 DISTRICT CEASE AND DESIST
ORDER HEARING
11 AND
12 BYRON BETHONY IRRIGATION
13 DISTRICT ADMINISTRATIVE CIVIL
LIABILITY HEARING

**NOTICE OF TAKING DEPOSITION
OF PAUL MARSHALL**

Date: December 2, 2015
Time: 9:30 a.m.
Location: 500 Capitol Mall, Suite 1000,
Sacramento, CA. 95814

14
15 TO PAUL MARSHALL, AND HIS ATTORNEY(S) OF RECORD:

16 PLEASE TAKE NOTICE pursuant to California Water Code section 1100 and California
17 Code of Civil Procedure Section 2025.220 that Party The West Side Irrigation District (“**WSID**”)
18 will conduct the deposition of Paul Marshall (“**Deponent**”) on December 2, 2015, at 9:30 a.m. at
19 500 Capitol Mall, Suite 1000, Sacramento, CA 95814; before a certified shorthand reporter and/or
20 notary public duly authorized by laws of the State of California to administer oaths.

21 If, for any reason, the taking of said deposition is not completed on December 2, 2015, the
22 deposition will be continued, at the option of the noticing party, on December 3, 2015 at 9:30
23 a.m. at the same place until completed. Notice is further given that under Code of Civil Procedure
24 Section 2025.330 the deposition testimony may be recorded by video technology.


25 WSID requests that Deponent bring and have for production, inspection, and copying at
26 the time and place of the deposition the following documents, or copies of said documents, if the
27 originals are not in his possession, custody, or control. Electronic form documents are preferred
28 and can be produced on a removable drive.

- 1 3. All documents related to correspondence or communications with the State Water Resources
2 Control Board regarding the hydrologic data used in producing "full natural flow" or
3 "unimpaired runoff calculations" or similar calculations to determine water availability for
4 2015.
- 5 4. All documents related to correspondence or communications with the State Water Resources
6 Control Board regarding the use of "full natural flow" or "unimpaired runoff calculations" or
7 similar calculations to determine water availability for 2015.
- 8 5. All documents related to the analysis of which sources of supply to include in the water
9 availability analysis for 2015.
- 10 6. All documents related to correspondence or communications with the State Water Resources
11 Control Board regarding which sources of supply to include in the water availability analysis
12 for 2015.
- 13
- 14

15 All of the above requests should be construed to request only those documents that have not
16 previously been produced. In addition, the above requests should be construed to be limited to
17 those documents which relate to water availability decisions for the Sacramento and San Joaquin
18 River watersheds and Delta.

19
20 Dated: November 6, 2015

HERUM\CRABTREE\SUNTAG

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22 By: 
23 Jeanne M. Zolezzi


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PROOF OF SERVICE

I am employed in the County of San Joaquin; my business address is 5757 Pacific Avenue, Suite 222, I am over the age of 18 years and not a party to the foregoing action. On October 28, 2015, I served a true and correct copy of The West Side Irrigation District's Notice of Taking Deposition of Paul Marshall by ELECTRONIC MAIL (email) by sending the document to the persons at the email addresses listed on the following pages.

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



Dated: November 4, 2015

JEANNE M. ZOLEZZI

**SERVICE LIST OF PARTICIPANTS
THE WEST SIDE IRRIGATION DISTRICT
CEASE AND DESIST ORDER HEARING
(October 8, 2015)**

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p>	<p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 andrew.tauriainen@waterboards.ca.gov</p>	<p>The West Side Irrigation District Jeanne M. Zolezzi Karna Harrigfeld Janelle Krattiger Herum\Crabtree\Suntag 5757 Pacific Ave., Suite 222 Stockton, CA 95207 jzolezzi@herumcrabtree.com kharrigfeld@herumcrabtree.com jkrattiger@herumcrabtree.com</p>
<p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p>	<p>State Water Contractors Stefani Morris, Attorney 1121 L Street, Suite 1050 Sacramento, CA 95814 smorris@swc.org</p>	<p>Westlands Water District Daniel O'Hanlon Rebecca Akroyd Kronick Moskovitz Tiedemann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 dohanlon@kmtg.com rakroyd@kmtg.com Phillip Williams of Westlands Water District pwilliams@westlandswater.org</p>
<p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p>	<p>South Delta Water Agency John Herrick, Esq. 4255 Pacific Ave., Suite 2 Stockton, CA 95207 jherlaw@aol.com</p>	<p>Central Delta Water Agency Jennifer Spaletta Spaletta Law PC PO Box 2660 Lodi, CA 95241 jennifer@spalettalaw.com Dante Nomellini and Dante Nomellini, Jr. Nomellini, Grilli & McDaniel ngmpics@pacbell.net dantejr@pacbell.net</p>
<p>18</p> <p>19</p> <p>20</p>	<p>City and County of San Francisco Johnathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 jonathan.knapp@sfgov.org</p>	<p>San Joaquin Tributaries Authority Valeri Kincaid O'Laughlin & Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95814 vkincaid@olaughlinparis.com</p>
<p>21</p> <p>22</p>	<p>California Department of Water Resources Robin McGinnis, Attorney PO Box 942836 Sacramento, CA 94236-0001 robin.mcgininis@water.ca.gov</p>	<p>Byron Bethany Irrigation District Daniel Kelly Somach Simmons & Dunn 500 Capitol Mall, Suite 1000, Sacramento, CA 95814 dkelly@somachlaw.com</p>
<p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>Courtesy copy Hearing Team: Hearing Officer Frances Spivy-Weber Frances.Spivy-Weber@waterboards.ca.gov Ernest Mona Ernie.Mona@waterboards.ca.gov Michael Buckman Michael.Buckman@Waterboards.ca.gov</p>	<p>Nicole Kuenzi Nicole.Kuenzi@Waterboards.ca.gov Diane Riddle Diane.Riddle@Waterboards.ca.gov Jean McCue Jean.McCue@waterboards.ca.gov</p>

(October 8, 2015)

Parties

THE FOLLOWING **MUST BE SERVED** WITH WRITTEN TESTIMONY, EXHIBITS AND OTHER DOCUMENTS. (All have AGREED TO ACCEPT electronic service, pursuant to the rules specified in the hearing notice.)

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DIVISION OF WATER RIGHTS Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 Andrew.Tauriainen@waterboards.ca.gov	THE WEST SIDE IRRIGATION DISTRICT Jeanne M. Zolezzi Karna Harrigfeld Janelle Krattiger Herum\Crabtree\Suntag 5757 Pacific Ave., Suite 222 Stockton, CA 95207 izolezzi@herumcrabtree.com kharrigfeld@herumcrabtree.com jkrattiger@herumcrabtree.com
STATE WATER CONTRACTORS Stephanie Morris 1121 L Street, Suite 1050 Sacramento, CA 95814 smorris@swc.org	WESTLANDS WATER DISTRICT Daniel O'Hanlon Rebecca Akroyd Kronick Moskovitz Tiedemann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 dohanlon@kmtq.com rakroyd@kmtq.com Philip Williams of Westlands Water District pwilliams@westlandswater.org
SOUTH DELTA WATER AGENCY John Herrick, Esq. Dean Ruiz 4255 Pacific Ave., Suite 2 Stockton, CA 95207 jherrlaw@aol.com dean@hprlaw.net	CENTRAL DELTA WATER AGENCY Jennifer Spaletta Spaletta Law PC PO Box 2660 Lodi, CA 95241 jennifer@spalettalaw.com Dante Nomellini and Dante Nomellini, Jr. Nomellini, Grilli & McDaniel ngmplcs@pacbell.net dantejr@pacbell.net
CITY AND COUNTY OF SAN FRANCISCO Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 jonathan.knapp@sfgov.org	SAN JOAQUIN TRIBUTARIES AUTHORITY Valeri Kincaid O'Laughlin & Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95814 vkincaid@olaughlinparis.com

Exhibit G

McGinnis, Robin C.@DWR

From: McGinnis, Robin C.@DWR
Sent: Monday, December 07, 2015 3:35 PM
To: Mona, Ernie@Waterboards; Kuenzi, Nicole@Waterboards; Tauriainen, Andrew@Waterboards; 'jzolezzi@herumcrabtree.com'; kharrigfeld@herumcrabtree.com; 'jkrattiger@herumcrabtree.com'; 'smorris@swc.org'; 'dohanlon@kmtg.com'; Akroyd, Rebecca@KMTG; 'pwilliams@westlandswater.org'; Herrick, John @aol.com; 'dean@hprlaw.net'; 'jennifer@spalettalaw.com'; ngmplcs@pacbell.net; 'dantejr@pacbell.net'; 'jonathan.knapp@sfgov.org'; 'vkincaid@olaughlinparis.com'; 'dkelly@somachlaw.com'; 'jonathan.knapp@sfgov.org'; 'rjmorat@gmail.com'; Farwell Jensen, Jane; 'lwood@olaughlinparis.com'; 'red@eslawfirm.com'; 'wrhearing@waterboards.ca.gov'
Subject: WSID Draft CDO Hearing & BBID ACL Hearing: DWR Production of Documents
Attachments: McGinnis, Robin C.@DWR shared »12-7-15 DWR Document Production« with you; McGinnis, Robin C.@DWR shared »8-14-15 DWR Response to BBID PRA Request« with you; McGinnis, Robin C.@DWR shared »12-7-15 Nemeth Document Production« with you

Hello,

Attached please find e-mails that contain links to DWR's production of documents in response to the Notices of Deposition of Paul Marshall and Stephen Nemeth and the Requests for Production of Documents that are included therein that were submitted by The West Side Irrigation District, ByronBethany Irrigation District, and Central and South Delta Water Agencies. The links will expire on May 1, 2016. Please let me know if you have any trouble accessing the documents.

Robin

Robin McGinnis
Attorney
Office of the Chief Counsel
Department of Water Resources
Direct: (916) 657-5400
robin.mcginnis@water.ca.gov

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McGinnis, Robin C.@DWR

From: McGinnis, Robin C.@DWR via d3_theme <webmaster@water.ca.gov>
Sent: Monday, December 07, 2015 3:27 PM
To: McGinnis, Robin C.@DWR
Subject: McGinnis, Robin C.@DWR shared »12-7-15 DWR Document Production« with you



Hey there,

just letting you know that McGinnis, Robin C.@DWR shared **12-7-15 DWR Document Production** with you.
[View it!](#)

The share will expire on May 1, 2016.

Cheers!

--

d3_theme - Your data your way!
<https://d3.water.ca.gov>

McGinnis, Robin C.@DWR

From: McGinnis, Robin C.@DWR via d3_theme <webmaster@water.ca.gov>
Sent: Monday, December 07, 2015 3:26 PM
To: McGinnis, Robin C.@DWR
Subject: McGinnis, Robin C.@DWR shared »8-14-15 DWR Response to BBID PRA Request« with you



Hey there,

just letting you know that McGinnis, Robin C.@DWR shared **8-14-15 DWR Response to BBID PRA Request** with you.

[View it!](#)

The share will expire on May 1, 2016.

Cheers!

--

d3_theme - Your data your way!

<https://d3.water.ca.gov>

McGinnis, Robin C.@DWR

From: McGinnis, Robin C.@DWR via d3_theme <webmaster@water.ca.gov>
Sent: Monday, December 07, 2015 3:27 PM
To: McGinnis, Robin C.@DWR
Subject: McGinnis, Robin C.@DWR shared »12-7-15 Nemeth Document Production« with you



Hey there,

just letting you know that McGinnis, Robin C.@DWR shared **12-7-15 Nemeth Document Production** with you.

[View it!](#)

The share will expire on May 1, 2016.

Cheers!

--

d3_theme - Your data your way!

<https://d3.water.ca.gov>

Exhibit H

Farwell Jensen, Jane@Waterboards

From: McGinnis, Robin C.@DWR
Sent: Tuesday, January 19, 2016 11:07 AM
To: Unit, Wr_Hearing@Waterboards
Cc: Tauriainen, Andrew@Waterboards; jzolezzi@herumcrabtree.com; kharrigfeld@herumcrabtree.com; jkrattiger@herumcrabtree.com; Stefanie Morris; dohanlon@kmtg.com; Akroyd, Rebecca@KMTG; pwilliams@westlandswater.org; Herrick, John @aol.com; S. Dean Ruiz; Jennifer Spaletta; ngmplcs@pacbell.net; dantejr@pacbell.net; jonathan.knapp@sfgov.org; vkincaid@olaughlinparis.com; dkelly@somachlaw.com; red@eslawfirm.com; rjmorat@gmail.com; lwood@olaughlinparis.com; Kuenzi, Nicole@Waterboards; ernie.mona@waterboards.ca.gov; Farwell Jensen, Jane
Subject: BBID/WSID Hearings
Attachments: DWR Amended NOI- BBID Hearing 1-19-16.pdf; DWR Amended NOI- WSID Hearing 1-19-16.pdf

Hello,

Attached please find California Department of Water Resources' (DWR's) Amended Notices of Intent to Appear (NOI) in the BBID and WSID hearings. The NOIs that DWR filed previously indicated that it would submit a case-in-chief at each hearing. DWR now intends to participate by cross-examination and/or rebuttal only. Thank you.

Robin

Robin McGinnis
Attorney
Office of the Chief Counsel
Department of Water Resources
Direct: (916) 657-5400
robin.mcginis@water.ca.gov

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**AMENDED
NOTICE OF INTENT TO APPEAR**

California Department of Water Resources plans to participate in the water right hearing regarding
(name of party or participant)

Administrative Civil Liability
against
Byron-Bethany Irrigation District

1) Check only one (1) of the following:

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we plan to call the following witnesses to testify at the hearing. (Fill in the Following Table)

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

2) Fill in the following information of the Participant, Party, Attorney, or Other Representative:

Name (Print): Robin McGinnis, Attorney

Mailing Address: PO Box 942836, Sacramento, CA 94236-0001

Phone Number: (916) 657-5400 Fax Number: ()

E-mail: robin.mcginis@water.ca.gov

Optional:

- I/we decline electronic service of hearing-related materials.

Signature:  Dated: 1/19/16

**AMENDED
NOTICE OF INTENT TO APPEAR**

California Department of Water Resources plans to participate in the water right hearing regarding
(name of party or participant)

Draft Cease and Desist Order
Against
West Side Irrigation District

1) Check only one (1) of the following:

- I/we intend to present a policy statement only.
 I/we intend to participate by cross-examination or rebuttal only.
 I/we plan to call the following witnesses to testify at the hearing. (Fill in the Following Table)

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

2) Fill in the following information of the Participant, Party, Attorney, or Other Representative:

Name (Print): Robin McGinnis, Attorney

Mailing

Address: PO Box 942836, Sacramento, CA 94236-0001

Phone Number: (916) 657-5400

Fax Number: ()

E-mail: robin.mcginis@water.ca.gov

Optional:

- I/we decline electronic service of hearing-related materials.

Signature: 

Date: 1/19/16