

Farwell Jensen, Jane@Waterboards

From: Jeanne Zolezzi <JZOLEZZI@herumcrabtree.com>
Sent: Thursday, February 04, 2016 4:31 PM
To: Tauriainen, Andrew@Waterboards; Mona, Ernie@Waterboards; dkelly@somachlaw.com; jonathan.knapp@sfgov.org; red@eslawfirm.com; jennifer@spalettalaw.com; ngmplcs@pacbell.net; dantejr@pacbell.net; McGinnis, Robin C.@DWR; rjmorat@gmail.com; vkincaid@olaughlinparis.com; lwood@olaughlinparis.com; Herrick, John @aol.com; dean@hprlaw.net; smorris@swc.org; towater@olaughlinparis.com; kharrigfeld@herumcrabtree.com; Janelle Krattiger; dohanlon@kmtg.com; Akroyd, Rebecca@KMTG; pwilliams@westlandswater.org
Cc: Riddle, Diane@Waterboards; Kuenzi, Nicole@Waterboards; Buckman, Michael@Waterboards; Farwell Jensen, Jane@Waterboards; McCue, Jean@Waterboards; Kauba, Amy@Waterboards; Bourgeois, Deborah@Waterboards
Subject: RE: Byron-Bethany Irrigation District and The West Side Irrigation District Hearing: Procedural Ruling

Follow Up Flag: Follow up
Flag Status: Flagged

The West Side Irrigation District is confused by the Prosecution Team's objection. As noted, the Hearing Officers' February 1 ruling stated that "WSID may, however, identify an alternate witness as necessary to authenticate the exhibits referenced in Ms. Harrigfeld's testimony." WSID identified such an "alternate witness" in the form of Board Member Jack Alvarez. The documents introduced by Mr. Alvarez, and his testimony regard them, is essential for WSID's defense.

Furthermore, the Prosecution Team is not prejudiced by this testimony. Many of the exhibits have been introduced by the Prosecution Team themselves. In addition, WSID finds disingenuous the Prosecution Team's allegation that they "would have sought discovery of Mr. Alvarez's records and possibly his deposition had he previously been identified as a witness". In fact, the Prosecution Team has sought all Mr. Alvarez's records through subpoena of the district, and those have been produced. Further, the Prosecution Team informed WSID several months ago that it did not intend to depose any of WSID's witnesses until after witness testimony was submitted.

Jeanne M. Zolezzi



Jeanne M. Zolezzi
Attorney-at-Law

T: 209.472.7700 \ F: 209.472.7986
5757 PACIFIC AVENUE, SUITE 222 STOCKTON, CA 95207
www.herumcrabtree.com \ jzolezzi@herumcrabtree.com

Connect to Us:  

CONFIDENTIALITY NOTICE: This communication and any accompanying attachment(s) are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication or accompanying document(s) is strictly prohibited, and the message should be immediately deleted with any attachment(s). Moreover, any such inadvertent disclosure shall not compromise or waive the attorney-client privilege or confidentiality as to this communication or otherwise. If you have received this communication in error, please contact the sender immediately by return electronic mail or by telephone at (209) 472-7700. Thank you.

From: Tauriainen, Andrew@Waterboards [mailto:Andrew.Tauriainen@waterboards.ca.gov]

Sent: Wednesday, February 03, 2016 3:57 PM

To: Mona, Ernie@Waterboards; dkelly@somachlaw.com; Jeanne Zolezzi; jonathan.knapp@sfgov.org; red@eslawfirm.com; jennifer@spalettalaw.com; ngmplcs@pacbell.net; dantejr@pacbell.net; McGinnis, Robin C.@DWR; rjmorat@gmail.com; vkincaid@olaughlinparis.com; lwood@olaughlinparis.com; Herrick, John @aol.com; dean@hprlaw.net; smorris@swc.org; towater@olaughlinparis.com; Karna Harrigfeld; Janelle Krattiger; dohanlon@kmtg.com; Akroyd, Rebecca@KMTG; pwilliams@westlandswater.org

Cc: Riddle, Diane@Waterboards; Kuenzi, Nicole@Waterboards; Buckman, Michael@Waterboards; Farwell Jensen, Jane@Waterboards; McCue, Jean@Waterboards; Kauba, Amy@Waterboards; Bourgeois, Deborah@Waterboards

Subject: RE: Byron-Bethany Irrigation District and The West Side Irrigation District Hearing: Procedural Ruling

WSID this morning submitted the attached Revised Notice of Intent to Appear listing Jack Alvarez as a witness. Mr. Alvarez has not been listed on any of WSID's witness lists before today. Aside from the first two introductory paragraphs, and a page number reference in the sixth paragraph, Mr. Alvarez's written testimony is identical to Ms. Harrigfeld's. Mr. Alvarez purports to be a member of the WSID Board of Directors and, like Ms. Harrigfeld, describes himself as "very familiar with [WSID's] jurisdictional area, facilities, water right and operations." As with Ms. Harrigfeld, the Prosecution Team would have sought discovery of Mr. Alvarez's records and possibly his deposition had he previously been identified as a witness. The Prosecution Team's objections to Ms. Harrigfeld's testimony apply to Mr. Alvarez's testimony, amplified by the fact that today's submittal cuts off the Prosecution Team from over two weeks more potential discovery time.

More importantly, WSID ignores the Hearing Officers' February 1 ruling striking Ms. Harrigfeld's testimony, and that "WSID may, however, identify an alternate witness as necessary to authenticate the exhibits referenced in Ms. Harrigfeld's testimony." In light of this ruling, the Prosecution Team requests that the Hearing Officers strike Mr. Alvarez's testimony from the record in its entirety.

In order to prevent the need for similar future objections, the Prosecution Team is willing to stipulate to the authenticity of the exhibits referenced in Mr. Alvarez's testimony, WSID0001 through WSID0026. The Prosecution Team made a similar offer to WSID's counsel while the Prosecution Team's previous objections were pending, but received no substantive reply. As part of this offer, the Prosecution Team requests that the Hearing Officers prohibit WSID from identifying any alternate case-in-chief witnesses for any purpose. This includes re-adding David Kaiser, as the Prosecution Team and WSID have previously agreed that Mr. Martinez may replace Mr. Kaiser on WSID's witness list. Likewise, the Prosecution Team does not agree to stipulate to any of the facts alleged in any of the relevant exhibits.

Andrew Tauriainen, Attorney III
State Water Resources Control Board
Office of Enforcement
1001 I Street, 16th Floor
Sacramento, CA 95814
tel: (916) 341-5445
fax: (916)341-5896
atauriainen@waterboards.ca.gov

***CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

From: Mona, Ernie@Waterboards

Sent: Monday, February 01, 2016 9:53 AM

To: Tauriainen, Andrew@Waterboards; dkelly@somachlaw.com; jzolezzi@herumcrabtree.com; jonathan.knapp@sfgov.org; red@eslawfirm.com; jennifer@spalettalaw.com; ngmplcs@pacbell.net; dantejr@pacbell.net;

McGinnis, Robin C.@DWR; rjmorat@gmail.com; ykincaid@olaughlinparis.com; lwood@olaughlinparis.com; Herrick, John @aol.com; dean@hprlaw.net; smorris@swc.org; towater@olaughlinparis.com; kharrigfeld@herumcrabtree.com; jkrattiger@herumcrabtree.com; dohanlon@kmtg.com; Akroyd, Rebecca@KMTG; pwilliams@westlandswater.org
Cc: Riddle, Diane@Waterboards; Kuenzi, Nicole@Waterboards; Buckman, Michael@Waterboards; Farwell Jensen, Jane@Waterboards; McCue, Jean@Waterboards; Kauba, Amy@Waterboards; Bourgeois, Deborah@Waterboards
Subject: RE: Byron-Bethany Irrigation District and The West Side Irrigation District Hearing: Procedural Ruling

To Parties

Ladies and Gentlemen:

Attached is a procedural ruling addressing matters raised by the Division of Water Rights Prosecution Team (Prosecution Team) regarding electronic service by way of online storage; The West Side Irrigation District's (WSID) amended Notice of Intent to Appear; the motions filed by Byron-Bethany Irrigation District (BBID) and WSID on January 25, 2016; and other related matter.

Ernest Mona

[State Water Resources Control Board](#)

[Division of Water Rights](#)

[Hearings and Special Programs Section](#)

(916) 341-5359

