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10 Attorneys for State Water Contractors

11
12 **BEFORE THE**
13 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

14 ENFORCEMENT ACTION ENF01949 -
15 DRAFT CEASE AND DESIST ORDER
REGARDING UNAUTHORIZED OR
16 THREATENED UNAUTHORIZED
17 DIVERSIONS OF WATER FROM OLD RIVER
IN SAN JOAQUIN

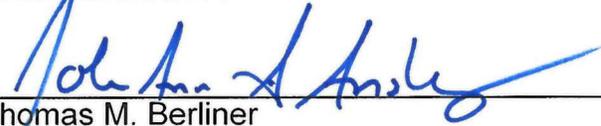
STATE WATER CONTRACTORS'
RESPONSE TO BYRON-BETHANY
IRRIGATION DISTRICT'S NON-
RESPONSIVE OPPOSITION TO
MOTION TO QUASH SUBPOENA
DUCES TECUM

18 In the Matter of ENFORCEMENT ACTION
19 ENF01951 - ADMINISTRATIVE CIVIL
LIABILITY COMPLAINT REGARDING
20 UNAUTHORIZED DIVERSION OF WATER
FROM THE INTAKE CHANNEL TO THE
21 BANKS PUMPING PLANT (FORMERLY
ITALIAN SLOUGH) IN CONTRA COSTA
22 COUNTY

1 State Water Contractors ("SWC") submit this brief response to Byron-Bethany
2 Irrigation District's ("BBID") opposition submitted on March 10, 2016 to SWC's motion to
3 quash subpoena duces tecum, or, in the alternative, motion for protective order. SWC
4 motion was for the subpoena served on the State Water Contractors. (See SWC Motion,
5 pp. 1:1-8 and 2:21-23.) However, BBID's opposition seemingly argues about the motions
6 the State Water Resources Control Board already ruled on in its order dated March 9,
7 2016, in particular the subpoena duces tecum to CH2M Hill. For example, the opposition
8 states that SWC is moving to quash subpoenas issued to CH2M (BBID Opposition, p 2: 10-
9 11.) and "Furthermore the subpoena is not directed to the SWC." (BBID Opposition, p.
10 7:25). Further, the subpoena attached to the Declaration of Theresa Barfield in support of
11 BBID's Opposition as Exhibit C, and described in the Opposition at p. 7:6-12, is the now-
12 vacated subpoena duces tecum to CH2M Hill but not the subpoena duces tecum to SWC
13 that is the subject of SWC's motion to quash, or, in the alternative, motion for protective
14 order. (See Ansley Declaration in support of SWC Motion, ¶ 2, Exhibit 1 [subpoena duces
15 tecum to SWC].) To the extent the opposition to the SWC request is somehow construed
16 as a request for the State Water Resources Control Board to reconsider its previous March
17 9, 2016 request, the SWC object as it is improper to ask for reconsideration of a decision in
18 an opposition to a separate subpoena duces tecum.

19
20 Dated: March 11, 2016

DUANE MORRIS LLP

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22 By: 

Thomas M. Berliner
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Attorneys for State Water Contractors

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1 **PROOF OF SERVICE**

2 I am a resident of the state of California, I am over the age of 18 years, and I am not
3 a party to this lawsuit. My business address is Duane Morris LLP, One Market Plaza,
Spear Tower, Suite 2200, San Francisco, California 94015-1127.

4 On March 11, 2016, I served the following document(s):

- 5 **1. STATE WATER CONTRACTORS' RESPONSE TO BYRON-BETHANY**
6 **IRRIGATION DISTRICT'S NON-RESPONSIVE OPPOSITION TO MOTION TO**
QUASH SUBPOENA DUCES TECUM

7 on the interested party(ies) in this action in the following manner:

8 **BY E-MAIL:** On the March 11, 2016, at San Francisco, California, I caused the foregoing
9 document(s) to be served by e-mail transmission to the e-mail address(es) set forth below,
10 as last given by that person on any document which he or she has filed in the cause and
11 served on the party making the service. The document(s) was(were) transmitted by e-mail
12 from a computer in the offices of Duane Morris. The e-mail transmission(s) was(were)
13 reported as delivered to the party(ies) at the indicated e-mail address(es), and no
14 undeliverable message from the recipient's server was received by the sender of the e-
15 mail. A copy of the e-mail transmission confirmation(s) is(are) attached hereto.

16 **SEE ATTACHED SERVICE LIST**

17 I declare under penalty of perjury under the laws of the State of California that the foregoing
18 is true and correct. Executed on March 11, 2016, at San Francisco, California.

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20 _____
21 Kristin Jerome
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**SERVICE LIST OF PARTICIPANTS
THE WEST SIDE IRRIGATION DISTRICT
CEASE AND DESIST ORDER HEARING**

PARTIES

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