



STATE WATER RESOURCES CONTROL BOARD

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EDMUND G. BROWN JR. GOVERNOR

MATTHEW RODRIGUEZ SECRETARY FOR ENVIRONMENTAL PROTECTION

State Water Resources Control Board

STATE WATER RIGHTS SACRAMENTO

October 24, 2014

**VIA HAND DELIVERY AND E-MAIL**

Mr. Michael Buckman  
Division of Water Rights  
State Water Resources Control Board  
1001 I Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814  
[wrhearing@waterboards.ca.gov](mailto:wrhearing@waterboards.ca.gov)

**RE: STORNETTA – DAL POGGETTO DRAFT CDO AND ACL HEARING –  
DIVISION OF WATER RIGHTS PROSECUTION TEAM'S  
CLOSING BRIEF AND PROOF OF SERVICE**

Dear Mr. Buckman:

The Division of Water Rights Prosecution Team submits three hard copies and one electronic copy (via e-mail) of the attached Closing Brief for the Stornetta – Dal Poggetto Draft CDO and ACL hearing. Also attached is a proof of service stating that one complete electronic copy of these documents was served today, October 24, 2014, before 12:00 noon via e-mail on Mr. C. Scott Kirk.

Sincerely,

Yvonne M. West  
Senior Staff Counsel  
Office of Enforcement

- Attachments: 1. Closing Brief  
2. Proof of Service

cc: (Via E-Mail Only)

Mr. C. Scott Kirk  
[Scott@cscottkirk.com](mailto:Scott@cscottkirk.com)

Mr. Newton Dal Poggetto  
[NDalPoggetto@aol.com](mailto:NDalPoggetto@aol.com)

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS  
2009 OCT 24 AM 11:21Z  
SACRAMENTO

10 **Attorney for the Division of Water Rights Prosecution Team**

11 **BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

12 In the Matter of: )  
13 )  
14 **Draft Cease and Desist Order and ) Prosecution Team's**  
15 **Administrative Civil Liability against ) Closing Brief**  
16 **Stornetta Family Trust and )**  
17 **Newton Dal Poggetto (Trustee) )**  
18 \_\_\_\_\_ )

19 **I. INTRODUCTION**

20 The State Water Resources Control Board (State Water Board), Division of Water Rights  
21 (Division), Prosecution Team (Prosecution Team) submits this closing brief in the matter of  
22 whether to impose Administrative Civil Liability (ACL) and whether to issue a Cease and Desist  
23 Order (CDO) against Stornetta Family Trust and Newton Dal Poggetto (as Trustee) (referred to  
24 hereafter as Dal Poggetto). The relevant circumstances in this case, as discussed below in more  
25 detail, justify imposing a significant ACL amount for past violations and adopting the proposed  
26 CDO in order to protect the integrity of the water rights regulatory program, gain compliance, and  
27 deter future non-compliance.

28 **II. AUTHORITY AND ARGUMENT**

**A. THE STATE WATER BOARD SHOULD IMPOSE ADMINISTRATIVE CIVIL LIABILITY UPON DAL POGGETTO FOR TRESPASS AND FAILURE TO FILE A STATEMENT OF DIVERSION AND USE.**

It is well established that unless a diverter has a riparian right, or has perfected an appropriate right prior to December 19, 1914, then the water use is subject to the statutory appropriation

1 procedures set forth in division 2 of the Water Code (commencing with section 1000). (State  
2 Water Board Order 2001-22 at p. 25-26, citing Wat. Code, §§ 125, 1201.) The diversion or use of  
3 water subject to statutory appropriation procedures without the necessary authorization from the  
4 State Water Board is a trespass for which the State Water Board is authorized to impose  
5 administrative liability. (Wat. Code, § 1052, subs. (a) & (b).)

6  
7 Furthermore, Water Code section 5101 requires with limited exception the filing of a statement  
8 of diversion and use (Statement) with the State Water Board prior to July 1 of the succeeding year.  
9 (Wat. Code, § 5101.) The failure to file a Statement for a diversion that occurs after January 1,  
10 2009 is subject to enforcement through the imposition of an administrative civil liability of up to  
11 \$1,000, plus \$500 per day for each additional day on which the failure to file continues past 30 days  
12 after the State Water Board has called the violation to the attention of that person. (Wat. Code, §  
13 5107, subs. (b) & (c)(1)).

14  
15 **1. The Prosecution Team has presented substantial evidence which establishes that the  
16 reservoir located on property owned and operated by Dal Poggetto is a trespass.**

17 The reservoir in question is located in Napa County on property that is owned by the Stornetta  
18 Family Trust (Property) for which Mr. Newton Dal Poggetto is the trustee and has control over the  
19 use of the reservoir and Property. (WR-11; WR-7; Hearing Transcript (HT), p. 13:5-6.)  
20 Substantial evidence and testimony submitted in this proceeding by both parties establishes that: (1)  
21 the reservoir collects jurisdictional surface water (W-R 1, p. 4; WR- 3, pp. 2,3; WR- 8, p. 3 (USGS  
22 Map Showing reservoir on intermittent stream); WR-11, p. 2 (Allegation 10); WR-14, p. 3; WR-15,  
23 p. 2 (Allegation 10); and HT, pp. 34:16-35:8.); (2) that the reservoir provides water during times  
24 and in quantities when water would not otherwise be available to the Property (WR-3, p 3; WR-11,  
25 p. 2-3 (Allegations 10, 11); WR-14, pp. 1-2, figs. 2-39 (water in reservoir but no flow in the  
26 unnamed stream at the time of inspection).); and (3) that water has been and is still used for  
27 beneficial uses, such as stock watering, fishing, and other recreation. (WR-14, pp. 2-3, figs. 41, 54,  
28

1 55, and 90 (documenting evidence of stock, empty troughs, and disrepair of well and piping); HT,  
2 pp. 92-93, 96 (Mr. Dal Poggetto testimony about reservoir being stocked with fish, visiting  
3 Property for party, leasing the Property for stock and Property not having power to provide water  
4 from the groundwater well).)

5 **a) The reservoir is a diversion of water subject to the prohibition against**  
6 **unauthorized diversion and use of water.**

7 The collection of water in an onstream reservoir is a diversion explicitly included in the  
8 definition of “diversion” provided in Water Code section 5100, subdivision (c). Furthermore after  
9 1914, the impoundment of water in a reservoir for a later beneficial use is an appropriation of water  
10 that is subject to the State Water Board’s permit and licensing requirement. (*People v. Shirokow*  
11 (1980) 26 Cal.3d 301; *Lux v. Haggin* (1886) 69 Cal. 255.) While Dal Poggetto has a riparian right  
12 to surface streams that run through the Property, a riparian right to use water in a stream that abuts  
13 the riparian property does not include the right to store flow for later use or the right to flow that is  
14 not naturally available in the stream. (*id.*) Dal Poggetto does not have an appropriative water right  
15 for the reservoir. (WR-11& WR-17, p. 2 (Allegation 7).)

17 **b) The Division made a reasonable attempt to provide notice of violations prior to**  
18 **issuing formal enforcement.**

19 On August 18, 2011, Division Enforcement Staff sent Dal Poggetto a letter entitled “Notice  
20 of Potential Unauthorized Diversion and Use of Water, and Failure to File a Statement of Water  
21 diversion and Use for Diversion of Water in Napa County” (Notice Letter). (WR-5, p. 6.) Division  
22 Enforcement Staff sent over 350 substantially similar notice letters during the Division’s north  
23 coast unauthorized reservoir investigation. (WR-1, p. 2.) The Notice Letter was addressed to  
24 “NEWTON DALPOGETTO” and sent to 555 Crest Way Sonoma, CA 95476-3465 and listed the  
25 correct Napa County assessor’s parcel number for the Property. (HT, p. 54;4-17; WR-6, p. 3, 2<sup>nd</sup>  
26 column, 7<sup>th</sup> address down.) Mr. Dal Poggetto testified that this is his correct home address. (HT, p.  
27  
28

1 86;19-23.) Mr. Porzio testified to the fact that the letter was presumed delivered because it was not  
2 returned to the State Water Board. (HT, p. 54;16-19.)

3 Contrary to Mr. Dal Poggetto's assertions that he does not use his residential address, it is  
4 the address that he provided to the Napa County Assessors' office as Trustee for the Stornetta  
5 Family Trust and it is the address that the County Assessor uses for official correspondence related  
6 to the Property (such as tax bills and property value assessment notifications). (WR-7; WR-9; WR-  
7 10; HT, p. 66:6-9.) Furthermore, the Notice Letter was appropriately addressed to Newton Dal  
8 Poggetto (not the Newton Dal Poggetto Successor Trust) and there was nothing on the envelope  
9 that would lead Mr. Dal Poggetto to believe that it was intended for any other person or entity but  
10 himself. (HT, p. 54;7-17.) Prior to sending out the ACL Complaint and proposed CDO, Mr.  
11 Porzio attempted to locate alternative contact information for Mr. Dal Poggetto. (HT, p. 69:6-9.)

12  
13  
14 **c) The Division is not required to provide notice prior to issuance of liability for the  
ongoing unauthorized diversion and use of water.**

15 Mr. Dal Poggetto asserts that he did not receive the Notice Letter. (HT, pp. 72:12-72:14,  
16 79:12-79;15.) Nevertheless, the Division took reasonable actions to provide prior notice to Dal  
17 Poggetto and is under no legal obligation to provide such notice prior to issuing the ACL complaint  
18 and proposed CDO. (see generally Wat. Code §§ 1052, 1055, 5100, 5106, & 5107.) In fact, the  
19 legislature specifically authorizes the imposition of \$1,000 in liability for failure to file a Statement  
20 without any prior notice of the violation. (Wat. Code § 5107, subs. (b) & (c)(1).) Dal Poggetto's  
21 claimed ignorance of the applicable water rights law does not impose an obligation on the Division  
22 to provide notice prior to enforcing long standing water rights laws. (People v. Shirokow 26 Cal3d  
23 301 [holding that impoundment of water in an onstream reservoir is a diversion subject to 1052 and  
24 that after 1914 the State Water Board appropriative permit and license process is the sole means of  
25 obtaining an appropriative right for such a diversion].) Furthermore, ignorance of the law is not an  
26 excuse. (*People ex rel. State Air Resources bd. V. Wilmshurst* (1999) 68 Cal.App.4<sup>th</sup> 1332, 1346  
27  
28

1 [finding that ignorance of the law does not excuse violations, even if a particular defendant lacks  
2 the legal research skills to find the law].)

3 **d) The Prosecution Team engaged in good faith settlement discussions prior to and**  
4 **after requesting a hearing in this matter.**

5 Settlement discussions between the Prosecution Team and Dal Poggetto are confidential in  
6 accordance with Evidence Code section 1152. The Prosecution Team engaged in and even sought  
7 to initiate good faith settlement discussion with Mr. Kirk (Dal Poggetto's Attorney), before  
8 requesting a hearing date, after a hearing had been schedule, and even up to the days immediately  
9 preceding the hearing. Mr. Kirk's continued mischaracterization of the Prosecution Team's  
10 position in those discussions is inaccurate and disingenuous.

11 **e) The evidence offered concerning involvement of the local soil conservation is**  
12 **irrelevant and inadmissible and cannot be relied upon by the State Water Board.**

13 Assuming that the Local Soil Conservation District did construct the reservoir, the current  
14 owner of the Property (Dal Poggetto) is still responsible for complying with water rights  
15 regulations for the ongoing diversion and use of water. Furthermore, the construction of a reservoir  
16 "for soil conservation purposes only," does not convey a right to Dal Poggetto to continue to store  
17 and then use the waters captured by the reservoir. (*Meridian, LTD. V. City and County of San*  
18 *Francisco*, 13 Cal.2d 424, 449-450.)

19  
20 Dal Poggetto submitted a declaration from Mr. Kiser that states that he was employed by  
21 the Soil Conservation District in Sonoma County and that the reservoir was constructed "without  
22 personal involvement of the property owner."<sup>1</sup> (Dal Poggetto - Exhibit C.) The Prosecution Team  
23 understands and has empathy for Mr. Kiser's declining health and ultimate passing. Mr. Kiser's  
24 declaration, however, is lacking sufficient foundation and substance to elevate his statement to the  
25 type of relevant evidence which a responsible person would rely upon. (Gov. Code § 1151, subd.  
26

27  
28 <sup>1</sup> Prosecution Team timely objected to the declaration of Mr. Kisler and testimony of Mr. Dal Poggetto (about  
statements made by Mr. Kisler) as inadmissible hearsay. (HT, pp. 77:20-78:14; Evid. Code, § 1200.)

1 (c.) Furthermore, Mr. Kirk deprived the Prosecution Team of an opportunity to interview Mr.  
2 Kiser early in this process, when his health was not so dire, by ignoring the Prosecution Team's  
3 request to provide contact information for Mr. Kiser. (WR-29 [Exhibit 3 of Dal Poggetto's initial  
4 submittals], p. 2 last sentence in first paragraph.) Without an opportunity to interview or cross-  
5 examine Mr. Kiser, the meaning of his statement remains unclear. It is possible that Mr. Kiser  
6 simply meant that the Stornetta's were not involved in the actual physical construction of the  
7 reservoir. Subsequent testimony by Mr. Dal Poggetto concerning a conversation he had with Mr.  
8 Kiser provides no insight or clarity into the meaning of Mr. Kiser's declaration. (HT, pp. 77:20-  
9 78:14.)  
10

11 **2. The Prosecution Team has also presented substantial evidence demonstrating Dal**  
12 **Poggetto failed to file a statement of diversion and use.**

13 Dal Poggetto's impoundment and storage of water in the onstream reservoir is a diversion  
14 for which a Statement is required. (Wat. Code, § 5101.) Dal Poggetto did not timely file an initial  
15 Statement for diversions made in either 2009 or 2010 and has not contested this allegation or  
16 provided evidence to the contrary. (WR-11 & WR-17, p. 2 (Allegation 7).) Dal Poggetto was  
17 informed of the need to file a Statement in the initial ACL Complaint and Notice of Proposed CDO  
18 which Dal Poggetto received on March 27, 2012 and still has not filed a Statement. (WR-11, and  
19 WR-12.)  
20

21 The exception to Statement filing requirement in Water Code section 5101, subdivision (b),  
22 is limited to registered stockponds. Accordingly, the fact that Dal Poggetto has just recently  
23 applied for a stockpond registration does not absolve Dal Poggetto of the legal requirement to file a  
24 Statement for diversions that occurred prior to the application being approved.

25 **B. THE STATE WATER BOARD SHOULD IMPOSE THE PROPOSED LIABILITY OF**  
26 **\$22,800 AGAINST DAL POGGETTO.**

27 **1. The Prosecution Team Appropriately Considered the Relevant Circumstances when**  
28 **Recommending the Proposed Liability.**

1 The prosecution team conservatively estimated economic benefit gained from Dal Poggetto's  
2 unauthorized reservoir then applied a disincentive factor to quantify the extent/potential of harm,  
3 nature and persistence of violation, length of time over which the violation occurs, and corrective  
4 actions, if any, taken. (WR-11 & WR-15, pp. 3-4; WR-1, pp. 5-7; and HT, pp. 46:22-50:25.) Staff  
5 cost were conservatively estimated and added to the proposed liability in accordance with the  
6 Policy. (WR-11, pp. 3-4; WR-1, pp. 5-7; HT, pp. 46:22-50:25; and WR-28, p. H-3). Dal Poggetto  
7 did not challenge the Prosecution Team's consideration of the relevant factor in reaching the  
8 recommended liability amount, presumably because of Dal Poggetto's position that any liability is  
9 unjustified and that these proceedings are "a waste of time." (HT, pp. 72:4, 83:19-83:21.)

11 **a) Prosecution Team correctly considered economic benefit derived from the**  
12 **unauthorized diversion and use of water.**

13 The Prosecution Team submitted evidence and testimony concerning economic benefit  
14 gained from the trespass violation during the last three years of violation, including avoided costs,  
15 and conservatively estimates economic benefit at \$3,914. (WR-1, Testimony of Aaron Miller, p. 5;  
16 WR-11 & WR-15, pp. 3-4; HT, pp.48:2-48:9.) At a minimum, Dal Poggetto received an economic  
17 advantage over other legitimate water diverts in the area by avoiding the costs of buying water or  
18 pumping groundwater from a well, acquiring an appropriate water right, and forgoing the cost of  
19 annual water right fees. (*id.*) The calculation of economic benefit was based in part on estimates of  
20 evaporative loss from the reservoir and pumping costs for replacing evaporative losses from  
21 groundwater as a legal and available alternate source. (*id.*) The evaporative loss number used by  
22 the Prosecution Team did not include any loss of water due to stockwatering. (WR1, p. 5; WR-11  
23 & 15, pp. 3-4 p.5; HT, p. 47:6-47:25.)

25 In addition to the avoided costs considered by the Prosecution Team, Mr. Dal Poggetto  
26 testified to the fact that the Stornetta Family Trust benefited financially from being able to lease the  
27 Property year round for stock for \$3,000 and more recently \$6,000 per year. (HT, pp. 93:17-93:23.)  
28

1 The well on the Property does not currently have electricity and presumably the cattle would not  
2 have water for several months during the year if it weren't for the Reservoir. (HT, p. 96:6-96:11.)  
3 Even with an inoperable well, the Property is still able to be leased for stock because of the water  
4 source provided by the unauthorized reservoir. (HT, pp. 93:17-93:23.) This additional economic  
5 advantage should be considered by the State Water Board when imposing liability. (WR-28, H-2.)  
6

7 **b) The Prosecution Team correctly applied a disincentive factor.**

8 Mr. Miller testified to the use of a disincentive factor to quantify other relevant  
9 circumstance in this matter including, extent of harm/potential for harm, nature and persistence of  
10 violation, length of time over which the violation occurs, and corrective action, if any, taken. (WR-  
11 1, pp. 5-7; HT, pp. 48:11-49:16.) The extent of harm caused by the unauthorized diversion and use  
12 is unknown and has not been quantified for this case. (*id.*) The potential for harm, however, was  
13 considered by the Prosecution Team. (*id.*) Mr. Miller's testified to the fact that the Napa River  
14 watershed contains the threatened Central California Coastal Steelhead trout fishery and that  
15 unauthorized diversion have been shown to contribute to the cumulative impact of reducing water  
16 supplies and habitat for the fishery. (WR-1, pp. 5-7; HT, pp. 48:15-20; WR-28, pp 8-11.)  
17

18 The fact that the reservoir in question has been in place since before 1980 is uncontested.  
19 The persistent nature of this violation was also considered when reaching a proposed penalty.  
20 (WR-1, p.6; HT, p. 48:21-48:23.) Dal Poggetto argues that the fact that this violation has been  
21 occurring for a significant period of time should be seen as a reason not to impose any penalty.  
22 (HT, pp. 74:8-74:21.) Such a conclusion, however, would amount to imposing a statute of  
23 limitation where there is not one or upholding a prescriptive right to water as against the state  
24 which the courts have already found would be in violation of public policy. (*City of Oakland v.*  
25 *Public Employee's Retirement System* (2002) 95 Cal.App.4<sup>th</sup> 29, 48 [Civil Statute of Limitation not  
26 binding on administrative proceedings] ; *People v. Shirokow* (1980) 26 Cal.3d 301) Furthermore,  
27  
28

1 the Prosecution Team only considered the last 3 years of violations when determining the liability  
2 proposed. (WR1, pp. 4-5; HT, p. 46:3-5.)

3 **c) Liability should also be imposed for Dal Poggetto's failure to file a Statement.**

4 The State Water Board can also impose liability on Dal Poggetto for failure to file a  
5 Statement at \$1,000 for the initial violation plus \$500 per day for each day past 30 days from when  
6 Dal Poggetto was given notice of the need to file a Statement. (Wat. Code, § 5107, subds. (b) &  
7 (c)(1).) Here, the proposed liability only seeks \$1,000 in liability for the initial failure to file a  
8 Statement violation. The \$1,000 in liability for failure to timely file a Statement is justified due to  
9 the duration of the violation, to deter future non-compliance, and to be consistent with past failure  
10 to file statement enforcement actions issued by the State Water Board. (WR-28, Policy, p. H-2,  
11 Deterrent amount section [The civil liability should be set at a level that will deter future  
12 noncompliance of the violator or others in the same regulated community]; see Order WR 2012-  
13 0024-DWR, Order WR 2012-0025, and Order WR 2013-0023-EXEC.) The State Water Board  
14 could also consider additional liability of up to \$500 a day for each day past April 26, 2012 that Dal  
15 Poggetto has failed to file a Statement. (Wat. Code, § 5107, subds. (b) & (c)(1).)

16  
17  
18 **d) The Prosecution Team conservatively estimated Staff Costs incurred up to  
19 issuance of the ACL complaint and notice of proposed CDO and considered those  
20 costs when determining the proposed liability.**

21 In accordance with the Policy, the Prosecution Team conservatively estimated staff cost for  
22 the initial investigation, reviewing the existing project and developing the enforcement document at  
23 \$2,200. (WR-1, pp. 6-7; WR-11 & WR-15, p. 4; HT, p. 50:14-21.) The Policy provides that the  
24 administrative civil should at a minimum be set at a level that recovers economic benefit plus staff  
25 costs. (WR- 28, Policy, H-3, Staff Costs section.) In addition, the State Board should consider that  
26 staff costs have increased as this action proceeded to hearing. (see *In the Matter of The Vineyard*  
27 *Club, Inc.*, Order WR 2008-0015 and *In the Matter of Lake Arrowhead Community Services*  
28 *District*, Order WR 2006-0001. )

1 e) The Prosecution Team has submitted sufficient evidence to establish Dal  
2 Poggetto's ability to pay the proposed liability.

3 In some situations it is appropriate to consider ability to pay when setting a liability amount  
4 and ability to pay is limited by a diverter's revenues and assets. (WR-28, Policy, p. H-3, Ability to  
5 pay section.) The Prosecution Team submitted evidence that the value of the Property is in excess  
6 of the proposed liability. (WR-24.) Furthermore, Dal Poggetto has not claimed an inability to pay  
7 the proposed liability.

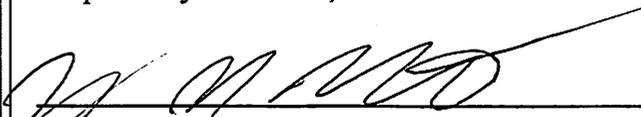
8 **C. THE STATE WATER BOARD SHOULD ADOPT THE CEASE AND DESIST ORDER**  
9 **AS PROPOSED.**

10 The State Water Board can issue a CDO when "any person is violating or threatening to  
11 violate" prohibitions against the unauthorized diversion or use of water provided in Water Code  
12 section 1052. (Wat. Code § 1831, subd. (d).) Dal Poggetto has been given notice and ample  
13 opportunity to take steps toward coming into compliance and has not filed a Statement and only  
14 recently submitted a stockpond registration application. Even though Dal Poggetto has stated a  
15 wiliness to comply, Dal Poggetto's actions and testimony have demonstrated an unwillingness to  
16 take action unless legally compelled to do so. Furthermore, the capacity of the reservoir could  
17 render it ineligible for stock pond registration or subject to additional conditions. (HT, p. 51:23-  
18 52:19.) The proposed CDO is necessary to provide firm and enforceable deadlines for bringing the  
19 reservoir into compliance, and to discourage future unauthorized diversion and use of water.

20 **III. CONCLUSION**

21 For the reasons detailed above, the Prosecution Team recommends issuing an administrative  
22 civil liability order imposing the proposed liability of \$22,800 and the cease and desist order as  
23 proposed to bring Dal Poggetto into compliance with Statement filing requirements, ensure due  
24 diligence in bringing the Reservoir into compliance, and to discourage future unauthorized  
25 diversion and use.

26 Respectfully submitted,

27   
28 Yvonne M. West  
Attorney for the Division of Water Rights  
Prosecution Team

Date: October 24, 2014

1 **AFFIDAVIT AND PROOF OF SERVICE**

2 I, Barbara K. Neal, declare that I am over 18 years of age. I am employed in Sacramento County at  
3 1001 I Street, Sacramento, CA 95814. My mailing address is 1001 I Street, 16<sup>th</sup> Floor, Sacramento, CA 95814.

4 On this date, I served the within document:

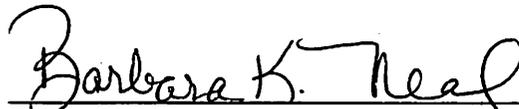
5 **DIVISION OF WATER RIGHTS**  
6 **PROSECUTION TEAM'S CLOSING BRIEF**

7

8 X	<b>BY PERSONAL DELIVERY:</b> I caused three true and correct hard copies of the document(s) to be personally served on Mr. Michael Buckman or another qualified person in Mr. Buckman's office located at Water Rights Records Unit at 1001 I Street, 2 <sup>nd</sup> Floor, Sacramento, CA 95814 and one electronic copy via e-mail to Mr. Buckman at <a href="mailto:wrhearing@waterboards.ca.gov">wrhearing@waterboards.ca.gov</a> on October 24, 2014 before 12:00 noon.
9 X	<b>BY ELECTRONIC MAIL TO:</b> I caused one true and correct copy of the document(s) to be sent to Mr. C. Scott Kirk via e-mail at <a href="mailto:scott@cscottkirk.com">scott@cscottkirk.com</a> on October 24, 2014 before 12:00 noon.

10  
11  
12

13 I certify and declare under penalty of perjury under the laws of the State of California that the  
14 foregoing is true and correct and that this document was executed on October 24, 2014 at Sacramento,  
15 California.

16  
17 

18 Barbara K. Neal  
19 Senior Legal Typist  
20 Office of Enforcement