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15 Attorneys for South Delta Water Agency

16 Additional Counsel Listed Separately

17 **STATE WATER RESOURCES CONTROL BOARD**

18 PUBLIC HEARING TO DETERMINE
19 WHETHER TO ISSUE A CEASE AND
20 DESIST ORDER AGAINST THE WEST
21 SIDE IRRIGATION DISTRICT

22 **DECLARATION OF JEANNE ZOLEZZI
23 IN SUPPORT OF MOTION FOR
24 CONTINUANCE**

25 I, Jeanne Zolezzi, declare that the following is based on my personal knowledge:

- 26
- 27 1) I am a shareholder with the law firm of Herum\Crabtree\Suntag, Attorneys of record for
28 The West Irrigation District (“WSID”).
 - 2) In July of 2015 WSID, along with several other parties, filed lawsuits in response to
curtailments issued by the State Water Resources Control Board (“State Board.”) The
State Board filed for a Petition for Coordination of the various actions. Relevant portions
of the State Board’s Petition for coordination are attached hereto as **(Exhibit A)**. Relevant
portions of the State Board’s Memorandum of Points and Authority in support of the
petition for coordination are attached hereto as **(Exhibit B)**. Relevant portions of the
Coordination Order are attached hereto as **(Exhibit C)**.

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State Board bases its enforcement action against WSID. On October 12, 2015 the State Board's Prosecution Team sent an e-mail indicating that the "initial" materials responsive to WSID's PRA request could be obtained at the State Board's office but also noted that the Prosecution Team was in the process of reviewing several thousand additional potential responses electronic e-mail communication records. On October 15, 2015 the Prosecution Team sent additional communication indicating that it was still reviewing a large number of electronic e-mail records.

- 4) The State Board's Advisory Team did not respond to WSID's PRA request until October 30, 2015 and indicated that disclosures would be made "over the next month".
- 5) Almost immediately after receiving witness lists WSID, and other parties, began communicating with Prosecution Team to schedule the necessary depositions. However, this effort was initially delayed by the Prosecution Team's filing of a Motion for Protective Order which sought to prohibit the taking of any depositions until after submittal of witness testimony. After the Prosecution Team's motion was denied WSID continued to work diligently to schedule the necessary depositions. Presently, there are eleven depositions scheduled from November 12 through December 7, 2015. WSID is still waiting to receive available dates in order to schedule additional deposition of Prosecution Team witnesses.

I declare under PENALTY OF PERJURY under the laws of the State of California that the above is true and correct to the best of my knowledge and if called as a witness would testify competently there to.

Date: November 5, 2015



JEANNE ZOLEZZI, ESQ.

1 Additional Counsel:

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10 Central Delta Water Agency

11 JEANNE M. ZOLEZZI – SBN: 121282
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18 Attorneys for Petitioner
19 The West Side Irrigation District
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EXHIBIT A

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8 *Water Resources Control Board, et al.*

*Exempt From Filing Fees Under
Government Code § 6103*

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO
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13

14 **THE WEST SIDE IRRIGATION
DISTRICT; CENTRAL DELTA WATER
15 AGENCY; SOUTH DELTA WATER
16 AGENCY; WOODS IRRIGATION
COMPANY,**

17 Petitioner and Plaintiff,

18 v.

19 **CALIFORNIA STATE WATER
20 RESOURCES CONTROL BOARD;
THOMAS HOWARD, EXECUTIVE
21 DIRECTOR OF CALIFORNIA STATE
22 WATER RESOURCES CONTROL
23 BOARD; and DOES 1 THROUGH 100,
INCLUSIVE.,**

24 Respondent and Defendant.
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Case No. 34-2015-80002121

**CALIFORNIA STATE WATER
RESOURCES CONTROL BOARD'S
PETITION FOR COORDINATION TO
JUDICIAL COUNCIL RE:**

**FIVE CASES INVOLVING THE SAME
LEGAL ISSUES REGARDING:**

**"NOTICE OF UNAVAILABILITY OF
WATER AND NEED FOR IMMEDIATE
CURTAILMENT" ISSUED JUNE 12, 2015**

Dept: 24
Judge: Hon. Shellyanne W. L. Chang
Trial Date: Not Set
Action Filed: June 29, 2015

1 7. This petition for coordination is brought on the ground that coordinating the five
2 related cases before one judge will promote the ends of justice as required by Code of Civil
3 Procedure sections 404 and 404.1. Namely, the cases should be coordinated because (a) the cases
4 all share common questions of fact and law that predominate and is significant to the litigation;
5 (b) coordination would advance the convenience of the parties and counsel because they would
6 not have to appear in different counties; (c) the cases are all in an early stage of litigation -- all
7 five cases were filed between June 18 and 25, 2015; (d) coordination would promote the efficient
8 utilization of judicial facilities and manpower; (e) coordination before one judge will remove the
9 strain of these complex related cases from the calendars of the courts before which the cases are
10 still pending; and (f) coordination will avoid the risk of duplicative and inconsistent rulings,
11 orders, or judgments.

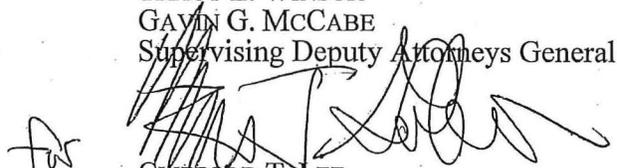
12 8. The State Water Board does not request a hearing on this petition for coordination,
13 but the State Water Board would welcome a hearing if the Judicial Council were to conclude that
14 a hearing would be useful.

15 9. This petition for coordination is based on the accompanying Memorandum of Points
16 and Authorities, the Declaration of Deputy Attorney General Clifford T. Lee, the exhibits
17 attached thereto, and the Request for Judicial Notice filed concurrently in support of this petition
18 for coordination.

19
20 Dated: July 7, 2015

Respectfully Submitted,

21 KAMALA D. HARRIS
22 Attorney General of California
23 TRACY L. WINSOR
24 GAVIN G. MCCABE
25 Supervising Deputy Attorneys General

26 
27 CLIFFORD T. LEE
28 Deputy Attorney General
*Attorneys for Defendants and Respondents
State Water Resources Control Board, et al*

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EXHIBIT B

1 KAMALA D. HARRIS
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8 *Water Resources Control Board, et al.*

*Exempt From Filing Fees Under
Government Code § 6103*

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO

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14 **THE WEST SIDE IRRIGATION
DISTRICT; CENTRAL DELTA WATER
15 AGENCY; SOUTH DELTA WATER
16 AGENCY; WOODS IRRIGATION
COMPANY,**

17 Petitioner and Plaintiff,

18 v.

19
20 **CALIFORNIA STATE WATER
RESOURCES CONTROL BOARD;
21 THOMAS HOWARD, EXECUTIVE
DIRECTOR OF CALIFORNIA STATE
22 WATER RESOURCES CONTROL
BOARD; and DOES 1 THROUGH 100,
23 INCLUSIVE.,**

24 Respondent and Defendant.
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Case No. 34-2015-80002121

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
CALIFORNIA STATE WATER
RESOURCES CONTROL BOARD'S
PETITION FOR COORDINATION TO
JUDICIAL COUNCIL RE:**

**FIVE CASES INVOLVING THE SAME
LEGAL ISSUES REGARDING:**

**"NOTICE OF UNAVAILABILITY OF
WATER AND NEED FOR IMMEDIATE
CURTAILMENT" ISSUED JUNE 12, 2015**

Dept: 24
Judge: Hon. Shellyanne W. L. Chang
Trial Date:
Action Filed: June 29, 2015

- 1 2. Management of a large number of witnesses or a substantial amount of documentary
evidence;
- 2
- 3 3. Management of a large number of separately represented parties;
- 4 4. Coordination with related actions pending in one or more courts in other counties,
states, or countries, or in a federal court; or
- 5 5. Substantial postjudgment supervision.

6
7 (*Id.*) California Code of Civil Procedure section 404.1 further states that “coordination of civil
8 actions sharing a common question of fact or law is appropriate if one judge hearing all of the
9 actions for all purposes in a selected site or sites will promote the ends of justice taking into
10 account:

- 11 1. Whether the common question of fact or law is predominating and significant to the
litigation;
- 12 2. The convenience of parties, witnesses, and counsel;
- 13 3. The relative development of the actions and the work product of counsel;
- 14 4. The efficient utilization of judicial facilities and manpower;
- 15 5. The calendar of the courts;
- 16 6. The disadvantages of duplicative and inconsistent rulings, orders, or judgments; and
- 17 7. The likelihood of settlement of the actions without further litigation should
18 coordination be denied.

19 (Code Civ. Proc. § 404.1.)

ARGUMENT

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21 Coordination of the five related cases is appropriate for a number of reasons. First, three of
22 the cases have been ordered out of San Joaquin and Stanislaus County Superior Courts and
23 referred to the Judicial Council for re-assignment to a judge for all purposes from a neutral
24 county. (RJN, Exs. 5-7.) Counsel for the respective parties agree that the fourth case, currently
25 pending in Contra Costa County Superior Court, should be referred to the Judicial Council for
26 transfer. (Lee Declaration, Ex. 3.) Second, these cases raise complex issues of law in light of a
27 severe drought that cannot be expected to let up any time before the next rainy season, if then.
28 Third, the cases all raise parallel causes of action, most of which are legally identical since they

EXHIBIT C

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California, County of San Joaquin	39201500326421 CUWMSTK	Banta-Carbona Irrigation District v. California State Water Resources Control Board, et al.
Superior Court of California County of Stanislaus	2015807	Patterson Irrigation District v. California State Water Resource Control Board, et al.
Superior Court of California, County of Stanislaus	2015366	San Joaquin Tributaries Authority, et al. v. California State Water Resources Control Board

Pursuant to Code of Civil Procedure section 404.5 and rule 3.515, pending the determination of whether coordination is appropriate, the coordination motion judge may stay any action being considered for, or affecting an action being considered for, coordination.

Pursuant to rule 3.524, the clerk of each court in which an included action is pending is directed to file this order in the included action. Also pursuant to rule 3.524, all documents required to be submitted to the coordination motion judge must be transmitted to the court address designated below:

Presiding Judge of the Superior Court
of California, County of Alameda
1225 Fallon Street,
Oakland, CA 94612

Pursuant to rule 3.511, a copy of every notice of opposition, application for stay order, stay order, notice of hearing on the petition, and order granting or denying coordination must be transmitted to the Chair of the Judicial Council at the following address:

Chair, Judicial Council of California
Attn: Appellate Court Services
(Civil Case Coordination)
455 Golden Gate Avenue, 5th Floor
San Francisco, CA 94102-3688