

John Herrick

Attorney at Law
4255 Pacific Avenue, Suite 2
Stockton, CA 95207
Telephone (209) 956-0150
Fax (209) 956-0154
E-mail: Jherrlaw@aol.com

March 26, 2010

Via E-Mail dheinrich@waterboards.ca.gov

Dana Heinrich, Esq.
Senior Staff Counsel
State Water Resources Control Board
Office of Chief Counsel
P. O. Box 100
Sacramento, CA 95812-0100

Re: Water Right Hearing Regarding Adoption fo Draft CDO against Gallo, Dunkel, Mussi, and Pak and Young

Dear Ms. Heinrich:

I am in receipt of your letter dated March 16, 2010, which responded to my letter of March 10, and Mr. Petruzzelli's letter, also of March 10. I am not addressing the issue of MID et. al., seeking to participate in the resolution of proposed CDO's or other water right investigations. I believe it is clear that there is not only no authority for such participation, but it would be improper for a third party to insert itself into such proceedings/activities.

This letter does address the issue of ex parte communications. From your response I understand that the Board members claim they have had no substantive discussions with representatives of MID et. al. regarding the spccific matters now before the Board, but that an attorney from Mr. Petruzzelli's law firm did have a number of meetings/discussions with Board member Baggett regarding southern Delta water rights in general. This allegedly occurred before the current CDO notices went out. This does not appear to resolve the issue.

In order to fully vet the issues and facts, we need to know the name of the person from Mr. Petruzzelli's office who met/discussed with Board member Baggett, the days and times they met/discussed, the duration of the meetings/discussions, and the specific topics covered. It is possible, if not likely that the discussions included a review of the Wee Report previously submitted by the San Joaquin River Group Authority. That Report includes specifics on the very properties which are included in the first CDO hearings. Any discussion of those specifics must be fully disclosed.

Dana Heinrich, Esq.
March 26, 2010
Page Two

Board member Baggett, as well as the other Board members, must be willing to disclose his/their various meetings and discussions with Mr. Petruzzelli's office. I therefore again request that the calendars and phone records of the Board members be produced, along with those of Mr. Petruzzelli (and of course Mr. O'Laughlin), so that we can see to what extent Mr. Petruzzelli's office converses with Board member Baggett, or others.

I don't see how any hearing on these CDO's can be conducted before we know the answers to the above. In addition, I believe settlement on all three are likely, so that we will not be materially affecting the Board's rush to scrutinize in-Delta diverters.

Please call me if you have any questions or comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Herrick". The signature is written in a cursive style with a large initial "J".

JOHN HERRICK