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VIA ELECTRONIC MAIL ONLY

Frances Spivy-Weber, Hearing Officer
Tam Doduc, Hearing Officer
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: West Side Irrigation District Draft CDO and Byron Bethany Irrigation District Draft
ACL Hearings

Dear Hearing Officers:

The South Delta Water Agency ("SDWA") was a signatory to Ms. Zolezzi's letter of November 23, 2015 and continues to support a combined proceeding to address the fundamental issue of water availability. As such, SDWA supports a consolidated Byron Bethany Irrigation District ("BBID") and West Side Irrigation District ("WSID") hearing for Phase I commencing on March 21, 2015. However, SDWA objects to the suggested scope of Phase I as proposed by the Prosecution Team, the State Water Contractors ("SWC") and the Department of Water Resources ("DWR").

The scope of Phase I cannot be focused on a determination of the adequacy of the methodology used by the State Water Board to curtail BBID's and WSID's rights to divert. Such approach presupposes the adequacy of the methodology and places the burden on BBID and WSID to prove otherwise. That is completely improper. The Prosecution Team is the moving party and has initiated specific enforcement proceedings against BBID and WSID through which specific violations of the Water Code are alleged. As a matter of law, common sense, and equity, the Prosecution Team bears the initial and ultimate burden to prove each element. As such, the Prosecution Team must prove that after considering **all** available sources of water at BBID and WSID's points of diversion during the relevant time periods, there was insufficient water available for BBID and WSID to divert relative to their respective priorities.

If the Prosecution Team cannot meet its burden, it would seem the methodology used by the State Water Board would be deemed inadequate. Regardless, the purposes of the proceedings are not and cannot be to inform the State Board as to the adequacy of the mythology it employed. While that may be a by-product of the proceedings, their purpose is to allow the parties accused of violating

the water code to require the Prosecution Team to prove its case(s). If the Prosecution Team, on behalf of the State Water Board, is interested in determining the adequacy of the methodology used, the enforcement proceedings should be dismissed and the methodology should be the focus of a comprehensive, stakeholder based peer review process which would be a much more efficient use of limited resources for all concerned.

Very Truly Yours,

HARRIS, PERISHO & RUIZ



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