

October 22, 2015

Via Electronic Mail

Tam M. Doduc, Hearing Officer
State Water Resources Control Board
Division of Water Rights
1001 I Street, 2nd Floor
Sacramento, CA 95814

Re: **BBID ACL HEARING (ENF01951)**
Revised Witness List and List of Legal Issues

Dear Hearing Officer Doduc:

As requested by your October 2, 2015 letter following the pre-hearing conference in the ENF01951, attached please find BBID's revised witness list for the hearing in ENF01951. In addition, BBID provides the following list of legal issues that should be briefed and ruled upon prior to the hearing in ENF01951:

- Whether the State Water Resources Control Board has the authority to curtail pre-1914 appropriative water rights.
- Whether Water Code section 1052 applies to water diverted under pre-1914 appropriative and/or riparian water rights.

The determination of these issues may obviate the need to continue with the evidentiary hearing in ENF01951. BBID will also file a Motion to Dismiss the proceedings in ENF01951 based on numerous grounds, including the failure to maintain required separation between the prosecution team and decision makers on water availability and water right curtailments, among other things.¹

Very truly yours,


Daniel Kelly
General Counsel, Byron-Bethany Irrigation District

DJK:yd

cc: See attached Service List

¹ This motion is consistent with the argument by the SWRCB before the Court, where it argued: "Additionally, as previously discussed, petitioners have adequate alternative remedies, such as moving the Board to disqualify members of the prosecution or hearing team, or moving to recuse any allegedly biased Board member." (SWRCB's Amended Consolidated Opposition to Ex Parte Applications, filed September 17, 2015, at p. 7.) As the SWRCB has taken the position that such a motion is an administrative remedy, BBID intends to seek such relief.