

1 SOMACH SIMMONS & DUNN
 A Professional Corporation
 2 DANIEL KELLY, ESQ. (SBN 215051)
 MICHAEL E. VERGARA, ESQ. (SBN 137689)
 3 LAUREN D. BERNADETT, ESQ. (SBN 295251)
 500 Capitol Mall, Suite 1000
 4 Sacramento, California 95814-2403
 Telephone: (916) 446-7979
 5 Facsimile: (916) 446-8199

6 Attorneys for Petitioner/Plaintiff BYRON-
 BETHANY IRRIGATION DISTRICT

7

8 BEFORE THE

9 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

10

<p>11 ENFORCEMENT ACTION ENF01949 12 DRAFT CEASE AND DESIST ORDER REGARDING UNAUTHORIZED 13 DIVERSIONS OR THREATENED UNAUTHORIZED DIVERSIONS OF WATER 14 FROM OLD RIVER IN SAN JOAQUIN COUNTY</p>	<p>SWRCB Enforcement Action ENF01951 and ENF01949</p> <p>REBUTTAL TESTIMONY OF GREG YOUNG</p>
<p>15 In the Matter of ENFORCEMENT ACTION 16 ENF01951 – ADMINISTRATIVE CIVIL LIABILITY COMPLAINT REGARDING 17 UNAUTHORIZED DIVERSION OF WATER FROM THE INTAKE CHANNEL TO THE 18 BANKS PUMPING PLANT (FORMERLY ITALIAN SLOUGH) IN CONTRA COSTA 19 COUNTY</p>	

SOMACH SIMMONS & DUNN
 A Professional Corporation

20 I, Greg Young, submit this written testimony on behalf of Byron Bethany Irrigation
 21 District (BBID) and West Side Irrigation District (WSID) in the above-referenced
 22 enforcement actions. I have personal knowledge of the facts stated herein and could
 23 testify competently thereto if called as a witness, except as to matters stated on my
 24 information and belief, and as to such matters, I am informed the same to be true.

25 1. I previously prepared written testimony dated January 18, 2016. I
 26 understand that my written testimony has been entered into evidence as BBID392.
 27 BBID392 includes a summary of my experience and qualifications, and BBID248 is a
 28 copy of my professional resume.

1 2. At the request of the districts, I have reviewed the written testimony of the
2 following Prosecution Team witnesses: Kathy Mrowka (WR-7), Brian Coats (WR-9), and
3 Jeff Yeazell (WR-11). This rebuttal testimony addresses certain statements set forth in
4 WR-9 and WR-11. Because this testimony was written in narrative form, without
5 paragraph numbers, it was necessary to create annotated versions of the testimony with
6 page numbers for reference purposes as follows:

7 Annotated Coats – Exhibit WSID 0171

8 Annotated Yeazell – Exhibit WSID 0172

9 **Inconsistencies Between Explanations of and Actual Water Availability Analyses**

10 3. Overall, the Prosecution Team’s witnesses focused on justifying the water
11 availability analyses used as a basis for the May 1 and June 12 curtailment notices. In
12 many instances, however, the Prosecution Team’s explanations of the appropriate way
13 to conduct water availability analyses are inconsistent with the water availability
14 analyses that apparently formed the basis for issuance of the curtailment notices. For
15 instance, Mr. Coats, in discussing the legal classifications of various types of water
16 supplies, states: “[t]he key word here is “natural,” as “stored” or “imported” water is not
17 subject to priority allocation. When water is stored or imported from another watershed,
18 the entity that stored or imported the water has the paramount right to that water.
19 Therefore, while a water shortage notice may have been issued, an entity with stored or
20 imported water may use that water since it is not considered “natural” flow.” (WSID0171,
21 ¶¶ 9). Consistent with Mr. Coats’s statement, I previously identified water demands
22 included in the State Water Resources Control Board’s (SWRCB) water availability
23 analysis supporting the June 12 notice that were met with stored water (e.g. BBID392,
24 ¶¶ 16, 17, 19). As Mr. Coats acknowledges, such demands should not be included
25 when allocating the “natural” supply because the water supply used to meet these
26 demands was stored water.

27 4. Another example of an inconsistency between the Prosecution Team’s
28 justification of the SWRCB’s water availability analyses and the actual analyses is found

1 in Mr. Coats's testimony concerning the water use data that the SWRCB obtained from
2 water users during 2015. Mr. Coats states: "*The Informational Order was issued to the*
3 *largest water users in the Sacramento River, San Joaquin River and Sacramento-San*
4 *Joaquin Delta, and also required monthly reporting of 2015 use, due early the month*
5 *following any diversions, as a check against the use of their 2014 demand in our 2015*
6 *analysis.*" (WSID0171, ¶ 56, emphasis added.) Mr. Coats acknowledges that the
7 SWRCB requested and obtained actual diversion information monthly throughout 2015
8 as a check against the included 2014 demand information listed for each water right
9 holder reporting under the information order. The SWRCB, however, did not use the
10 monthly reporting of 2015 use. I previously explained that this information was available
11 and should have been used by the SWRCB when preparing the various water availability
12 analyses because it would have more accurately reflected water demands for 2015.
13 Specifically, the April and May 2015 information would have been available for the
14 analysis used to support the June 12 notice. (See BBID392, ¶¶ 15, 19, 22, 23, 24, 25.)
15 Yet, the SWRCB did not use this information for the purpose articulated above by Mr.
16 Coats.

17 5. Furthermore, the only evidence I could find that the SWRCB performed any
18 "check" of 2014 demand values using the 2015 monthly demand data submitted per the
19 water right holders is in WR-54, as referenced by Mr. Coats. (See WSID0171, ¶ 69.)
20 Upon inspecting the graphic and notes that accompany WR-54, I noted the inclusion of a
21 green solid and dashed line marked as "Adjusted Senior Demand" (hereafter "Adj. SD")
22 that was significantly below the prior representation of Senior Demand, even in May.
23 The accompanying notes to the graphic explain that: "*Adjusted Senior Demand (solid*
24 *green line) is the change in demand from the 2014 demand to the 2015 demand through*
25 *September as reported by diverters subject to the 2015 Information Order. If the line is*
26 *below the top of the shaded Riparian/Pre-14 demand area, a decrease in demand by the*
27 *Information Order diverters is indicated.*" Thus, this particular green solid line is
28 purported to represent actual demands as reported monthly throughout 2015 by users

1 per the information order requirement. Therefore, the green solid line in May, which is
2 well below the "shaded Riparian/Pre-14 demand," represents the actual reported
3 diversion in May 2015 and should have been incorporated into the water availability
4 analysis to support the June 12 notice. Moreover, all of the Adj. SD values reported for
5 May would have been prior to the June 12 notice curtailing senior demands to 1903.
6 Finally, the SWRCB's use of the 2015 data in WR-54 was too late for the purpose of
7 considering whether the SWRCB had an accurate picture of demand at the time it issued
8 the May 1 and June 12 curtailment notices because the analysis depicted by WR-54 was
9 completed in October 2015. It does not appear that the SWRCB attempted to include
10 the 2015 data obtained through the information orders in any prior water availability
11 analysis. Without using the available 2015 data, the SWRCB's supply and demand
12 analyses that led to the May 1 and June 12 notices was far less accurate than it could
13 have been had the 2015 data been used.

14 **Inaccuracies in the Justification of the SWRCB's Water Availability Analyses**

15 6. The Prosecution Team's witnesses rely on WR-54 to justify the curtailment
16 notices. This reliance, however, is misguided. Mr. Coats states: "*Looking hindsight at*
17 *WR-54, which is an October 30, 2015 graph of the Sacramento River watershed with*
18 *proportional Delta demand, we see that the daily FNF supply trended in the pre-1914*
19 *demand levels from May through August. Since the actual daily FNF supply beginning in*
20 *May 2015 and continuing through August 2015 was not sufficient to satisfy all pre-1914*
21 *reported demands, this graph confirms that there was not enough natural flow to satisfy*
22 *WSID's post-1914 demand from May 1 onwards.*" (WSID0171, ¶ 69.) As discussed
23 below, the SWRCB's comparison of daily FNF to the represented demands is incomplete
24 because it does not represent the full array of water supplies available, and is inaccurate
25 because it overstates the demands. Or, said another way, it includes demands that are
26 met by supply sources that are not included in daily FNF values because these sources
27 are not part of the "natural" flow.

28 7. Mr. Yeazell also approvingly references exhibit WR-54 where he indicates

1 that this graphic was developed using the same methodologies “*undertaken to develop*
2 *two key water availability analyses and resulting graphs used to support Division staff’s*
3 *recommendation to issue the May 1 and June 12, 2015, notices of water unavailability.*”
4 (WSID0172, ¶ 58.)

5 8. Upon my review of WR-54, and the associated Excel file used to produce
6 the graphic (WR-55), I have three primary conclusions: (1) the methodology used to
7 develop WR-54 is NOT the same as that used to develop WR-48 (the graph used to
8 support the June 12 notice), or WR-47 (the graph used to support the May 1 notice); (2)
9 the representation of Adj. SD in WR-54 supports my prior conclusion that the SWRCB
10 should have included 2015 information order data when preparing the water availability
11 analyses for the May 1 and June 12 notices, and (3) the analysis for WR-54, even with
12 its flaws, indicates that there was sufficient water for WSID and BBID to divert under
13 their respective rights during the time periods at issue in the enforcement actions.

14 9. First, the methodology presented in WR-55 is different in at least one
15 fundamental manner. Unlike the water availability analyses performed for the May 1 and
16 June 12 notices (hereafter the “prior WAAs”), the analysis in WR-55 adjusts Delta senior
17 demands. No adjustment to Delta senior demands was made in the prior WAAs. In
18 WR-55, the adjustment reduces Delta senior demands to only 60% of the sum of
19 monthly diversion values presented in the WRUDS data tab (for WR-55, the WRUDS
20 data tab is named “WRUDS 2015-08-28,” a naming convention I understand to mean
21 that the water rights data reflects the data set as of August 28, 2015). In contrast, the
22 prior WAAs did not adjust Delta senior demand. Rather, the prior WAAs adjusted supply
23 to account for return flows, but only adjusted one of the two representations of supply.
24 Return flows are water diverted by the Delta water right holder, then returned to Delta
25 channels and available for diversion by the same or other right holder (as allowed per
26 various applicable laws and statutes). In the prior WAAs, the adjustment was made by
27 adding the equivalent of 40% of Delta senior demand to only the Bulletin 120 monthly
28 forecast FNF value (reflected, for example in WR-48, as a single point in each month

1 from May through September, connected by dashed lines). In the prior WAAs, however,
2 only the Bulletin 120 monthly forecast FNF values were adjusted. There was no
3 equivalent adjustment to the daily FNF. In WR-54, the notes state: "*Return flows were*
4 *removed from the demand as follows: For the Delta contribution excluding diversion in*
5 *the Delta south of Mossdale Bridge, an assumed 40% of the prorated Riparian and Pre-*
6 *14 demand was used as return flow, and subsequently removed from the demand. This*
7 *adjustment was not applied to the demand in November, with the assumption that the*
8 *irrigation season has ended.*" From reviewing WR-55, it is apparent that the WRUDS
9 data summed to represent Delta senior demands was multiplied by 60% to reduce these
10 demands. For instance, the June pre-1914 Delta demand value of 40,391 acre-feet was
11 multiplied by 60% prior to a further adjustment to "prorate" the Delta demands (this latter
12 step was similar to prorated calculations made in prior WAAs). Thus, the 40,391 acre-
13 feet was reduced to reflect a Delta pre-1914 demand of 24,234.6 acre-feet for June.
14 (This value is included within the calculation that included other values, see the tab in
15 WR-55 labeled "Demand Summary" Row 20, Column E, but is not displayed, as the
16 formula further multiplies by a prorating value.) As the notes in WR-54 state, the
17 adjustment was made to account for return flow.

18 10. The inconsistent handling of return flows in WR-54 results in an inflated
19 Adj. SD value. The Adj. SD in WR-54 is comprised of prorated Delta senior demands
20 and Sacramento River Basin senior demands. The prorated Delta senior demands were
21 calculated by reducing the amount of water diverted by the "return flows," as discussed
22 in my prior paragraph. However, a similar adjustment for return flows was not made for
23 the Sacramento River Basin demands reflected in WR-54 (San Joaquin demands were
24 not included in the WR-55 analysis and thus not represented on WR-54). This
25 inconsistent handling of demands is inappropriate. Either all senior demands should be
26 modified to reflect return flows or none should be. If the SWRCB maintained the
27 methodology it had used in the prior WAAs, adjustments would have been made to the
28 supply representations, thereby presenting a comparable set of analyses between WR-

1 55 and the prior WAAs.

2 11. Second, the WR-54 graphic depicts the Adj. SD as a value that reflects
3 actual 2015 diversions as reported by water users as part of the information order
4 requirements. This graphic includes 2015 reported diversions from numerous water right
5 holders beginning in March and continuing through September. As WR-54 depicts,
6 actual 2015 demand was lower than the original Senior Demand depicted in the graphic,
7 and also depicted in WR-47 and WR-48, the graphics used for the May 1 and June 12
8 notices (as the latter would be, if WR-48 were only displaying the Sacramento and
9 prorated Delta demands). In this respect, the SWRCB clearly overstated Senior
10 Demands at the time it issued the curtailment notice(s). If the SWRCB had included, at
11 a minimum, the actual 2015 diversion values for March, April, and May, as part of the
12 analysis leading to the June 12 notice, it would have generated a more accurate
13 representation of senior demands and likely led to a different conclusion regarding water
14 availability.

15 12. Third, Mr. Coats's apparent purpose for citing WR-54 was to provide
16 further evidence that the SWRCB's May curtailment notice was appropriate. Mr. Coats
17 states: "*Looking hindsight at WR-54, which is an October 30, 2015 graph of the*
18 *Sacramento River watershed with proportional Delta demand, we see that the daily FNF*
19 *supply trended in the pre-1914 demand levels from May through August. Since the*
20 *actual daily FNF supply beginning in May 2015 and continuing through August 2015 was*
21 *not sufficient to satisfy all pre-1914 reported demands, this graph confirms that there*
22 *was not enough natural flow to satisfy WSID's post-1914 demand from May 1 onwards.*"
23 (WSID0171, ¶ 69.) However, simply by looking at the Adj. SD (solid green line) during
24 the month of May and the first half of June, the daily FNF exceeds Adj. SD. Mr. Coats's
25 statement regarding daily FNF being insufficient to satisfy pre-1914 reported demands,
26 starting in May, is incorrect. Furthermore, if demands are not further adjusted to (a)
27 remove those met by stored water (see BBID392, ¶¶ 16, 17, 19), (b) remove those on
28 tributaries where no supply is included (see BBID392, ¶ 37), and (c) remove those that

1 may exceed the available supply on the FNF watercourses (see BBID392, ¶¶ 36), the
2 comparison of demands to daily FNF is inaccurate and misleading.

3 13. Even absent these further adjustments, the representation that there was
4 not adequate supply to serve WSID during May is not justified by WR-54 or the
5 associated data in WR-55. To meet WSID's May demand, and that of senior post-1914
6 water right holders, there needed to be 559 cfs of supply available in May above the
7 quantity necessary to satisfy senior demands. (See BBID392, ¶¶ 44-45; BBID274;
8 BBID385.) Using the daily FNF data from WR-55 (Column Q, Rows 74 through 104, on
9 the tab labeled "Chart Data"), the average daily FNF during May was 8,085 cfs. As
10 depicted in WR-55 (Column U, Rows 74 through 104, on the tab labeled "Chart Data"),
11 the May Adj. SD was 7,287 cfs. The difference between these values is 798 cfs, which
12 would have been sufficient to meet the 559 cfs needed in May to enable WSID to divert.

13 14. Rather, WR-54 and WR-55, with the representation of Adj. SD, and even
14 with the aforementioned demand and supply characterization flaws and modified
15 methodology, do not support assertions made by the Prosecution Team witnesses
16 regarding the adequacy of the WAAs and the propriety of the curtailment notices issued
17 on May 1 and June 12.

18 **Incorrect Data /Quality Control**

19 15. Upon inspection, I am unable to reproduce some values represented in
20 WR-55 and used to develop the associated graphic. For instance, on the tab labeled "IO
21 2015 Adjustments" the reported 2015 monthly riparian and pre-1914 diversion values
22 are summarized for "Sacramento," "Delta," and "Delta South of Mossdale" areas. This
23 data would have originated from the related tabs in WR-55 labeled
24 "2015_riparian_actual" and "2015_pre1914_actual." Using the sort feature within each
25 tab for the column labeled "Area," I separately selected each of the three areas and
26 reviewed the monthly summations in the last row of data. The summed 2015 riparian
27 values for each area matched the monthly riparian values listed in the IO 2015
28 Adjustments tab for Rows 26, 27, and 28. However, for the pre-1914 values, only those

1 for the "Delta South of Mossdale" matched. The summed values for the "Sacramento"
2 and "Delta" areas both were higher than reported on the IO 2015 Adjustments tab in
3 Rows 36 and 38. As the values in these rows are not linked, there is a likelihood that
4 something in the underlying data within the "2015_pre-1914_actual" tab may have been
5 adjusted after data was initially copied from one tab to another. This discrepancy raises
6 questions about the overall quality control process in place for the extensive data sets
7 used to make and justify significant water availability determinations.

8 16. Upon further inspection of some of the data presented in WR-55, it also
9 appears the SWRCB did not adjust the 2015 reported demands for the Turlock Irrigation
10 District (hereafter "TID") for statement S013848. For the 2014 TID reported data, the
11 SWRCB reduced the reported values by 50%. (See BBID392, p. 16; BBID295). While
12 the original values for 2014, as discussed in my prior testimony, closely match those
13 reported by TID for 2015, the SWRCB did not reduce the 2015 reported values in a
14 similar manner as the monthly demand values for S013848 are presented on the
15 "2015_pre-14_actual" tab in WR-55. Although TID values are not included in the WR-54
16 graphic because they originate in the San Joaquin area (which was excluded for the
17 prorated analysis in WR-54), not adjusting them in the same fashion as done when
18 representing the senior demand values (e.g. the orange shaded monthly values in WR-
19 48 include adjusted TID values) represents additional mistakes and inconsistencies with
20 the reported water rights data. While this exclusion from WR-54 may be used as a
21 counter argument that the adjustment to TID was not warranted and would have no
22 affect on WR-54, it would have an effect if the SWRCB had prepared a graphic similar to
23 WR-54 for the entire watershed, as was done for the June 12 notices. This point is
24 important because Mr. Yeazell indicates that WR-54 was developed using the same
25 methodologies "*undertaken to develop two key water availability analyses and resulting*
26 *graphs used to support Division staff's recommendation to issue the May 1 and June 12,*
27 *2015, notices of water unavailability.*" (See WSID0172, ¶ 58.). If the same methodology
28 for the June 12 notice were used, the TID values would have been adjusted. Further, if

1 a similar graphic to WR-54 were produced for the full watershed, the represented Adj.
2 SD value (i.e., the “green line” showing actual use) would be overstated if the TID
3 demands were not modified in the same manner as the prior WAAs.

4 17. Another example of the prior WAAs including incorrect demand data is
5 represented by Mr. Yeazell’s description of how he developed the water availability
6 analysis for the June 12 notice. As Mr. Yeazell states: “[t]o begin building the
7 supply/demand graph, I created a new Excel workbook and copied a snapshot of the
8 ‘WRUDS 2015-06-15’ worksheet from the ‘20150615_info_order_demand.xlsx’
9 workbook (Exhibit WR-51) as it existed at the time of analysis (June 9, 2015) into it. This
10 worksheet is named ‘WRUDS 2015- 06-09.’” (WSID0172, ¶ 44). My understanding of
11 Mr. Yeazell’s explanation is that the demand data that existed in the Excel worksheet
12 titled WRUDS 2015-06-15 on June 9, 2015 was copied from
13 “20150615_info_order_demand.xlsx” into a new Excel workbook and labeled as
14 “WRUDS 2015-06-09.” However, based upon my review of the Prosecution Team’s
15 exhibits and their files submitted as part of the October public records act request, I have
16 been unable to identify a workbook similar to “20150615_info_order_demand.xlsx” (WR-
17 51) that was saved on or just prior to June 9, 2015, when Mr. Yeazell testified he “copied
18 a snapshot” of the data. Apparently, the SWRCB has no record of the entire (40+
19 Megabyte [MB]) version of the WRUDS 2015-06-15 database as it existed when Mr.
20 Yeazell copied a snapshot. The SWRCB only has the 18± MB version as it was copied
21 and pasted as “WRUDS 2015-06-09” and used for the June 10 supply and demand
22 analysis workbook (“20150610_sacsjcombined.xlsx”). They must have failed to save the
23 WRUDS database, and then it later got overwritten on June 15, 2015. A tab with the
24 name WRUDS 2015-06-09 is part of the “20150610_sacsjcombined.xlsx” workbook, as
25 stated by Mr. Yeazell. (See WR-77.) Reviewing information on the tab labeled “Senior
26 Demand Summary” in WR-77, I compared the values in WR-77 with the Excel workbook
27 of the same name (“20150610_sacsjcombined.xlsx”) that was included in the SWRCB’s
28 response to the October public records act request. Both WR-77 and the file named

1 "20150610_sacsjcombined.xlsx" provided in October appear to be two copies of the
2 same workbook. At the time of the early June analysis, the demand data copied from an
3 apparently undocumented version of WR-51 did not include adjustments to the two
4 Feather River Settlement Contractors, as was requested by the consulting firm MBK,
5 whereas the Excel worksheet titled "WRUDS 2015-06-15" in WR-51 does include the
6 MBK adjustments.

7 18. Mr. Yeazell also states: "*[t]he version used for the water availability*
8 *analysis associated with the June 12, 2015, Water Unavailability Notices is named*
9 *'20150615_info_order_demand.xlsx' (Exhibit WR-51 is a true and correct copy).*"
10 (WSID0172, ¶ 8). This is the same file name given in the related testimony quoted
11 above. (See WSID0172, ¶ 44). I reviewed the demand information for the Feather River
12 Contractors on the tab labeled "WRUDS 2015-06-15" in the Excel workbook that is WR-
13 51, specifically the demand for the Joint Water Districts Board (S000480) and the
14 demand for Western Canal Water District (S000925). The values included in WR-51 for
15 these two statements do NOT match the values for these same water right holders in
16 WR-77. The values in WR-77 do not include the adjustments, whereas the values in
17 WR-51 do. Thus, Mr. Yeazell's statement cited at the beginning of this paragraph is
18 incorrect and further illustrates concerns about the quality control review.

19 19. Mr. Yeazell's testimony included a section titled "Quality Control Review"
20 (WSID0172, ¶¶ 12-20). Mr. Yeazell only explains his efforts to adjust data to correct for
21 errors such as over reporting, power-only diversions, and duplicates. In my opinion, an
22 adequate quality control review for such an important determination as resulted from
23 these prior WAAs would have included detailed assessment by a senior manager of (1)
24 which demands to adjust and/or remove and the basis for such modifications, (2)
25 formulas developed in the worksheets to perform various functions, (3) the practical use
26 of historic reported water rights data, and (4) the selection of curtailment dates based on
27 selection of values from WAA "pivot tables" (e.g. the choice of 1902 as an indicator of
28 the separation from sufficient/insufficient supplies shown as the "pre-14 demand through

1 1902" dashed line on WR-48). It does not appear that there was any quality control
2 review performed by others within the SWRCB to review the steps undertaken by Mr.
3 Yeazell to correct, modify or otherwise include/exclude specific water rights data.

4 20. Mr. Coats offers nothing further with respect to the SWRCB's quality
5 control measures, other than to make the unsupported statements that the SWRCB
6 sought stakeholder comments and public input. (See WSID0171, ¶¶ 61, 62.) According
7 to Mr. Coats, the public was asked to provide critical quality control review via invitation
8 when the SWRCB "posted its water right demand data on its website...". There is no
9 evidence, however, that the SWRCB conducted direct stakeholder outreach or invited
10 the public to undertake such important quality control review tasks. In preparing its prior
11 WAAs, the SWRCB staff should have specifically contacted the top 20 or 40 water rights
12 holders to specifically review their 2015 actual diversions, 2015 forecasted diversions,
13 and anticipated sources of water for 2015. This targeted outreach should have been
14 undertaken for an analysis that was to be used to determine potential water rights
15 curtailment notices.

16 **Misleading Comparison of Daily FNF to Adjusted FNF Forecast**

17 21. The Prosecution Team's witnesses further attempt to justify the May 1 and
18 June 12 notices based on comparisons of the plotted daily FNF to the plotted Bulletin
19 120 FNF forecast values (hereafter "Forecast FNF"). For example, Mr. Coats states:
20 *"We also use the daily FNF values, which are calculated separately from the B120*
21 *monthly values, to verify that the B120 monthly forecasts are appropriate. As you can*
22 *see in WR-52, which is an analysis from August, 2015, that incorporates the monthly*
23 *values for June, the combined Sacramento-San Joaquin graph shows a B120 forecast*
24 *point for June and the daily FNF line above the B120 point for the first half of the month*
25 *and below for the latter half of the month, averaging out close to the B120 value. This*
26 *showed us that DWR's monthly B120 forecasts were appropriate when issuing the water*
27 *unavailability notices in April through June of 2015, including the May 1 and June 12*
28 *Notices."* (WSID0171, ¶¶ 45). This statement is incorrect and misleading.

1 22. The daily FNF in WR-52 presents only the reported FNF for each day
2 through August 15, 2015 for ten FNF stations, while the Forecast FNF represents an
3 adjusted value that includes the forecasted full natural flow for the same (or similar) ten
4 FNF stations, plus estimated FNF for minor streams, return flows from the "San Joaquin
5 Watershed" (see WR-52 accompanying notes), and 40% Delta return flow (as calculated
6 based on monthly Delta senior demand values). The "FNF Adjustments" tab in WR-77
7 indicates that the forecast values from Bulletin 120 were adjusted upward by the
8 following: May = 2,026 cfs, June = 2,252 cfs, July = 1,940 cfs, and August = 1,474 cfs.
9 As a result of these adjustments, the plotted monthly value representing Forecast FNF
10 values on WR-52 for May through July are about 2,000 cfs higher than the actual
11 forecast values reported in Bulletin 120. However, the daily FNF values have no
12 adjustment. Thus, Mr. Coats erroneously concludes that the representation of June's
13 daily FNF above the Forecast FNF for the first half of the month and below for the
14 second half supports the SWRCB's conclusions that there was insufficient water
15 available for those water right holders that received water unavailability notices in 2015.
16 If the SWRCB had adjusted the daily FNF values, a different conclusion would have
17 been apparent.

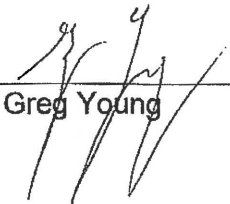
18 23. Finally, on WR-48, the SWRCB included a data point in June labeled "June
19 Adjusted 50% FNF Forecast With DWR's 6/8/15 Updates" (hereafter "the June Updated
20 Forecast"). This same point was not included in WR-52. The June Updated Forecast is
21 approximately 2,000 cfs higher than the originally plotted Forecast FNF value for June.
22 The notes accompanying the graphic on WR-48 do not explain the source of the June
23 Updated Forecast nor provide any discussion as to why it is significantly greater than the
24 original adjusted FNF forecast value (derived from the May Bulletin 120). If the June
25 Updated Forecast was included on WR-52, accompanied by updates for the remaining
26 months, it is probable that Mr. Coats would be unable to make his statement that "*B120
27 forecasts were appropriate when issuing the water unavailability notices*".

28 24. In summary, my review of the testimony of Mr. Coats and Mr. Yeazell does

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

not change any of my conclusions stated in my prior written testimony (BBID392).
Rather, many of the Prosecution Team witnesses' statements further support my prior
conclusions that the data analyzed for the May 1 and June 12 notices overstated
demands and understated available supplies, resulting in erroneous conclusions
regarding water availability.

I declare under penalty of perjury under the laws of the State of California that the
facts recited above are true and correct. Executed this 22 day of February 2016 at
SACRAMENTO, California.

By: 
Greg Young

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.

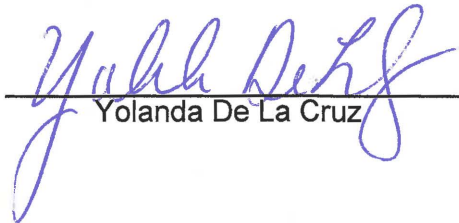
On February 22, 2016, I served the following document(s):

REBUTTAL TESTIMONY OF GREG YOUNG

X (via electronic mail) by causing to be delivered a true copy thereof to the person(s) and at the email addresses set forth below:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 22, 2016 at Sacramento, California.



Yolanda De La Cruz

**SERVICE LIST OF PARTICIPANTS
BYRON-BETHANY IRRIGATION DISTRICT
ADMINISTRATIVE CIVIL LIABILITY HEARING**
(Revised 9/2/15; Revised: 9/11/15)

SOMACH SIMMONS & DUNN
A Professional Corporation

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<p><u>VIA ELECTRONIC MAIL</u></p> <p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 andrew.tauriainen@waterboards.ca.gov</p>	<p><u>VIA ELECTRONIC MAIL</u></p> <p>Byron-Bethany Irrigation District Daniel Kelly Somach Simmons & Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 dkelly@somachlaw.com</p>
<p><u>VIA ELECTRONIC MAIL</u></p> <p>Patterson Irrigation District Banta-Carbona Irrigation District The West Side Irrigation District Jeanne M. Zolezzi Herum\Crabtree\Suntag 5757 Pacific Avenue, Suite 222 Stockton, CA 95207 jzolezzi@herumcrabtree.com</p>	<p><u>VIA ELECTRONIC MAIL</u></p> <p>City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 jonathan.knapp@sfgov.org</p>
<p><u>VIA ELECTRONIC MAIL</u></p> <p>Central Delta Water Agency Jennifer Spaletta Law PC P.O. Box 2660 Lodi, CA 95241 jennifer@spalettalaw.com</p> <p>Dante John Nomellini Daniel A. McDaniel Dante John Nomellini, Jr. NOMELLINI, GRILLI & MCDANIEL 235 East Weber Avenue Stockton, CA 95202 ngmplcs@pacbell.net dantejr@pacbell.net</p>	<p><u>VIA ELECTRONIC MAIL</u></p> <p>California Department of Water Resources Robin McGinnis, Attorney P.O. Box 942836 Sacramento, CA 94236-0001 robin.mcginnis@water.ca.gov</p>
<p><u>VIA ELECTRONIC MAIL</u></p> <p>Richard Morat 2821 Berkshire Way Sacramento, CA 95864 rmorat@gmail.com</p>	<p><u>VIA ELECTRONIC MAIL</u></p> <p>San Joaquin Tributaries Authority Tim O'Laughlin Valerie C. Kincaid O'Laughlin & Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95816 towater@olaughlinparis.com vkincaid@olaughlinparis.com</p>

**SERVICE LIST
WEST SIDE IRRIGATION DISTRICT
CEASE AND DESIST ORDER HEARING**

<p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 andrew.tauriainen@waterboards.ca.gov</p>	<p>The West Side Irrigation District Jeanne M. Zolezzi Karna Harringfeld Janelle Krattiger Herum\Crabtree\Suntag 5757 Pacific Avenue, Suite 222 Stockton, CA 95207 jzolezzi@herumcrabtree.com kharringfeld@herumcrabtree.com jkrattiger@herumcrabtree.com</p>
<p>State Water Contractors Stefani Morris 1121 L Street, Suite 1050 Sacramento, CA 95814 smorris@swc.org</p>	<p>Westlands Water District Daniel O'Hanlon Rebecca Akroyd Kronick Moskowitz Tiedemann & Girad 400 Capitol Mall, 27th Floor Sacramento, CA 95814 dohanlon@kmtg.com rakroyd@kmtg.com</p> <p>Phillip Williams of Westlands Water District pwilliams@westlandswater.org</p>
<p>South Delta Water Agency John Herrick Law Offices of John Herrick 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 Email: jherriaw@aol.com</p>	<p>Central Delta Water Agency Jennifer Spaletta Law PC P.O. Box 2660 Lodi, CA 95241 jennifer@spalettalaw.com</p> <p>Dante Nomellini and Dante Nomellini, Jr. NOMELLINI, GRILLI & MCDANIEL ngmplcs@pacbell.net dantejr@pacbell.net</p>
<p>City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 jonathan.knapp@sfgov.org</p>	<p>San Joaquin Tributaries Authority Valerie C. Kincaid O'Laughlin & Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95816 vkincaid@olaughlinparis.com</p>
<p>Byron-Bethany Irrigation District Daniel Kelly Somach Simmons & Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 dkelly@somachlaw.com</p>	<p>California Department of Water Resources Robin McGinnis, Attorney P.O. Box 942836 Sacramento, CA 94236-0001 robin.mcginnis@water.ca.gov</p>