

Jeanne M. Zolezzi
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July 7, 2015

VIA ELECTRONIC MAIL

Mr. Tom Howard
State Water Resources Control Board
P.O. Box 2000
Sacramento, California 95812-2000
Email: thoward@waterboards.ca.gov

Re: The West Side Irrigation District/Curtailment Certification Form

Dear Mr. Howard:

This office represents The West Side Irrigation District (District). The District submitted its Curtailment Certification Form on May 13, 2015 notifying the State Water Resources Control Board (State Water Board) that the District would cease diverting pursuant to its Water Right License 1381 (Application 301) which was issued on September 29, 1933, with a priority date of April 17, 1916. The District's Curtailment Certification noted that it would continue to pump accretion and tile drain return flows into the District's intake, up to 14 cubic feet per second (cfs) under its agreement with the City of Tracy, and water pursuant to a third parties pre-1914 right. The District assumed based on these alternate water sources that it could survive this horrific drought year and based upon this assumption decided to execute the requested Curtailment Certificate Form.

However, much to the District's shock and contrary to the District's assumption based upon sound legal reasoning and historical actions, the District received a water inquiry letter from the State Water Board challenging the District's ability to utilize the City of Tracy wastewater. The letter claims that neither District nor the City has a basis of right to the water and that a petition pursuant to Water Code section 1211 was required to be approved by the State Water Board prior to the District's diversion of this supply. The water inquiry letter threatens fines of \$1,000 per day and \$2,500 per acre foot of water pumped. The District categorically disagrees with both the factual and legal premises contained in the correspondence from the State Water Board, but was deprived of an opportunity to present these factual and legal premises at a noticed public hearing before the State Board. After many torturous communications with staff, it is exceedingly apparent that the State Water Board will not entertain modifying its extreme and unprecedented position.

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On Friday June 12, 2015, the District received an announcement from the State Water Board that it had, in yet another unprecedented action, illegally curtailed any water right holder claiming a 1903-1914 water right. The effect of this unprecedented and illegal act is to deprive the District of water to maintain the District growers' permanent crops and will cause devastating damage to the District's growers. The announcement completely eviscerates the District's factual and legal predicate for executing the Certificate. The District was unaware of any legal or historical precedent for such an extreme action and therefore reasonably assumed that the State Board would follow legal and historic precedent in administering water rights and would not seek to exercise rights and power that were not granted to the State Board by the enabling statute.

As such, the District hereby notifies the State Water Board that it hereby immediately rescinds the Curtailment Certification and reserves the right, at sometime in the future when the situation warrants such action, to commence the absolute minimum pumping required to sustain the permanent crops throughout the District.

Should you have any questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeanne Zolezzi". The signature is written in a cursive, flowing style.

JEANNE M. ZOLEZZI
Attorney-at-Law

JMZ:pg