

BEFORE THE STATE WATER RESOURCES CONTROL BOARD OF THE STATE OF CALIFORNIA

ATTORNEY OR PARTY WITHOUT ATTORNEY REQUESTING SUBPOENA (<i>name, address, and telephone no.:</i>) Andrew Tauriainen, SBN 214837 SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 (916) 341-5445	FOR STATE WATER BOARD USE ONLY
REPRESENTING: Division of Water Rights Prosecution Team	
TITLE OF THE PROCEEDING: <p align="center"><i>In re: the Matter of Administrative Civil Liability Complaint Against Byron-Bethany Irrigation District</i></p>	
<input type="checkbox"/> SUBPOENA	<input type="checkbox"/> RE HEARING
<input checked="" type="checkbox"/> SUBPOENA DUCES TECUM	<input type="checkbox"/> RE DEPOSITION

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (*name*): **Byron-Bethany Irrigation District**

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this proceeding as follows unless you make special agreement with the person named in item 3:

a. Date: November 13, 2015	Time: 12:00 noon
b. Address: via electronic submittal (see attached Addendum)	

2. AND YOU ARE:

- a. Ordered to appear in person. (Wat. Code, § 1080; Gov. Code, § 11450.10; Cal. Code Regs., tit. 23, § 649.6(a).)
- b. Not required to appear in person if you produce the records described in the accompanying affidavit in compliance with Evidence Code sections 1560 and 1561. (Wat. Code, § 1080; Gov. Code, § 11450.10(b); Cal. Code Regs., tit. 23, § 649.6(a).)
- c. Ordered to appear in person and to produce the records described in the accompanying affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records is required by this subpoena. The procedure authorized by subdivision (b) of section 1560, and sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena. (Wat. Code, § 1080; Gov. Code, § 11450.10; Cal. Code Regs., tit. 23, § 649.6(a).)

3. IF YOU HAVE ANY QUESTIONS ABOUT WITNESS FEES OR THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name: Andrew Tauriainen	b. Telephone number: (916) 341-5445
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(Gov. Code, § 11450.20(a); Code Civ. Proc., § 1985.2.)

4. WITNESS FEES: You are entitled to witness fees and mileage actually traveled, both ways, as provided by law. Request them from the person who serves this subpoena or from the person named in item 3. (Wat. Code, §§ 1081, 1083, 1084; Gov. Code, §§ 11450.40, 68070 et seq.; Code Civ. Proc., §§ 1986.5, 2065.)

5. If you object to the terms of this subpoena, you may file a motion for a protective order including a motion to quash with the hearing officer assigned to your case. Motions must be made within a reasonable period after receipt of the subpoena, and shall be made with written notice to all parties, with proof of service upon all parties attached. In response to your motion, the hearing officer may make an order quashing the subpoena entirely, modifying it, or directing compliance with it, or may make any order needed to protect the parties or witnesses from unreasonable or oppressive demands, including unreasonable violations of the right to privacy. (Gov. Code, § 11450.30.) (Send motions to: The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.)

DISOBEDIENCE OF THIS SUBPOENA MAY CAUSE YOU TO BE LIABLE FOR CONTEMPT AND OTHER PENALTIES PROVIDED BY LAW

(Wat. Code, §§ 1090-1097; Gov. Code, §§ 11450.20(b), 11455.10-11455.20.)

Dated: 10/29/2015

Andrew Tauriainen
(signature)

Name: Andrew Tauriainen

Title: Attorney for Prosecution Team



Unless issued by an attorney pursuant to Code of Civil Procedure, Section 1985, subdivision (c), the original subpoena is embossed with this seal.

(See reverse for Endorsement on Subpoena, if used, and Proof of Service)

PROOF OF SERVICE OF SUBPOENA

(Gov. Code, § 11440.20; Code Civ. Proc., §§ 1987, 1987.5, 1988, 1989, 2015.3, 2015.5.)

1. I served this subpoena subpoena duces tecum and supporting affidavit by:

personally delivering a copy to the person served as follows:

a. Person served (name):	b. Date of delivery:
c. Address where served:	d. Time of delivery:
e. Witness fees and mileage both ways (check one): (1) <input type="checkbox"/> were paid. Amount: \$ _____ (2) <input type="checkbox"/> were not paid. (3) <input type="checkbox"/> were tendered to the witness's public entity employer as required by Government Code § 68097.2. The amount tendered was \$ _____	f. Fees for service. Amount: \$ _____

- delivering true copies thereof by certified mail, return receipt requested, to the address as shown below.
 delivering true copies thereof enclosed in a sealed envelope to a messenger for immediate personal delivery to the address as shown below.

Address where served: *Served via electronic mail to the attached Service List in accordance with the Hearing Notice procedures*

2. I certify that I received this subpoena subpoena duces tecum for service on _____ Date

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on:
 Date 10/29/2015 at (place) Sacramento, California Signature *[Signature]*

(For California sheriff, marshal, or constable use only)
 I certify that the foregoing is true and correct and that this certificate is executed on:
 Date 10/29 at (place) _____, California Signature _____

NOTE: IF THIS SUBPOENA IS ISSUED IN CONNECTION WITH A HEARING IN AN ADJUDICATIVE PROCEEDING UNDER GOVERNMENT CODE § 11400 ET SEQ., THE ATTORNEY OR PARTY WITHOUT AN ATTORNEY REQUESTING THIS SUBPOENA MUST PROVIDE A COPY OF THE SUBPOENA TO EVERY PARTY IN THE HEARING, AND FILE A COPY WITH THE STATE WATER RESOURCES CONTROL BOARD. THE COPY PROVIDED TO THE STATE WATER RESOURCES CONTROL BOARD MUST BE ACCOMPANIED BY A CERTIFICATE OF SERVICE LISTING THE NAMES AND ADDRESSES OF PARTIES WHO WERE PROVIDED COPIES IN ACCORDANCE WITH GOVERNMENT CODE § 11440.20. (Gov. Code, § 11440.20; Cal. Code Regs., tit. 23, § 648.4(c).) (Send to: The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.)

ENDORSEMENT ON SUBPOENA IN A PROCEEDING OTHER THAN AN ADJUDICATIVE PROCEEDING

Pursuant to Water Code §1086 and upon affidavit of _____ (copy attached) showing that the testimony of the witness ordered by the subpoena to appear is material and necessary to this proceeding, it is required that said witness attend this proceeding.

Dated: _____ (signature)
 Name: _____
 Title: _____
State Water Resources Control Board

NOTE: This ENDORSEMENT is required if the subpoena is in connection with a proceeding other than a hearing under Government Code § 11400 and the witness is being compelled to testify at a location that is both out of the witness's county of residence and 150 miles or more from the witness's place of residence. (Wat. Code, § 1086; Cal. Code Regs., tit. 23, § 649.6(c).)

**SERVICE LIST OF PARTICIPANTS
BYRON-BETHANY IRRIGATION DISTRICT
ADMINISTRATIVE CIVIL LIABILITY HEARING
(09/02/15; Revised 09/10/15; Revised 10/06/16)**

<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>Byron Bethany Irrigation District Daniel Kelly Somach Simmons & Dunn 500 Capitol Mall, Suite 1000, Sacramento, CA 95814 dkelly@somachlaw.com</p>
<p>Patterson Irrigation District Banta-Carbona Irrigation District The West Side Irrigation District Jeanne M. Zolezzi Herum\Crabtree\Suntag 5757 Pacific Ave., Suite 222 Stockton, CA 95207 jzolezzi@herumcrabtree.com</p>	<p>City and County of San Francisco Johnathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 jonathan.knapp@sfgov.org</p> <p>Robert E. Donlan Ellison, Schneider & Harris LLP 2600 Capitol Ave, Suite 400 Sacramento, CA 95816 (916) 447-2166 red@eslawfirm.com</p>
<p>Central Delta Water Agency Jennifer Spaletta Spaletta Law PC PO 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>California Department of Water Resources Robin McGinnis, Attorney PO Box 942836 Sacramento, CA 94236-0001 robin.mcginis@water.ca.gov</p>
<p>Richard Morat 2821 Berkshire Way Sacramento, CA 95864 rjmorat@gmail.com</p>	<p>San Joaquin Tributaries Authority Valeri Kincaid O'Laughlin & Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95814 vkincaid@olaughlinparis.com</p>
<p>South Delta Water Agency John Herrick, Esq. 4255 Pacific Ave., Suite 2 Stockton, CA 95207 jherrlaw@aol.com</p>	<p>State Water Contractors Stefani Morris, Attorney 1121 L Street, Suite 1050 Sacramento, CA 95814 smorris@swc.org</p>

1 ANDREW TAURIAINEN, SBN 214837
2 OFFICE OF ENFORCEMENT
3 STATE WATER RESOURCES CONTROL BOARD
4 1001 I Street, 16th Floor
5 Sacramento, California 95812-0100
6 Telephone: (916) 341-5445
7 Facsimile: (916) 341-5896
8 E-mail: andrew.tauriainen@waterboards.ca.gov

9 Attorney for the Division of Water Rights Prosecution Team

10 BEFORE THE STATE WATER RESOURCES CONTROL BOARD

11 STATE OF CALIFORNIA

12 In the Matter of:
13 ADMINISTRATIVE CIVIL LIABILITY
14 COMPLAINT AGAINST BYRON-BETHANY
15 IRRIGATION DISTRICT

16) ADDENDUM TO SUBPOENA *DUCES*
17) *TECUM*

18) California Water Code § 1080; California
19) Government Code § 11450.10; Cal. Code
20) Regs., tit. 23, § 649.6(a)
21)
22)
23)
24)

25 TO: **BYRON-BETHANY IRRIGATION DISTRICT**
26 **Daniel Kelly**
27 **500 Capitol Mall, Suite 1000**
28 **Sacramento, CA 95814**
29 **dkelly@somachlaw.com**

NOTICE:

- 30 () You are served as an individual.
- 31 () You are served as (or on behalf of) the person
- 32 doing business under the fictitious name
- 33 of _____.
- 34 (X) You are served on behalf of: Byron-Bethany Irrigation District

1 Pursuant to California Water Code section 1080, California Government Code section 11450.10 ,
2 and California Code of Regulations, title 23, section 649.6, subdivision (a).

3 **I. SUBPOENA FOR RECORDS AND DOCUMENTS**

4 **BYRON-BETHANY IRRIGATION DISTRICT (BBID) IS COMMANDED** to produce the
5 papers, books, records, and documents that are in BBID's possession or under BBID's control, as
6 described below and in connection with the above-titled proceeding, by **noon, November 13,**
7 **2015.** Please send the documents to: Andrew Tauriainen, Staff Counsel III, Office of
8 Enforcement, State Water Resources Control Board, 1001 I Street, 16th Floor, Sacramento,
9 California 95814. You may email electronic records to Andrew.Tauriainen@waterboards.ca.gov,
10 or deliver all records via mail or courier on a suitable electronic storage device, or make electronic
11 records available to download via the Internet.

12 BBID may seek the advice of an attorney in any matter connected with this subpoena, and
13 should consult its attorney promptly so that any problems concerning the production of documents
14 may be resolved within the time required by this Subpoena. Failure to comply with the commands
15 of this Subpoena will subject BBID to the proceedings and penalties provided by law.

16 **A. DEFINITIONS**

17 The capitalized terms listed below, as used in this Addendum to Subpoena *duces tecum*,
18 are defined as follows:

19 1. The terms "BYRON-BETHANY IRRIGATION DISTRICT" "BYRON-BETHANY" and "BBID"
20 mean Byron-Bethany Irrigation District, an Irrigation District formed pursuant to Division 11 of the
21 California Water Code, and anyone working on its behalf, including but not limited to, its officers,
22 employees, agents, contractors, consultants, and representatives.

23 2. The terms "YOU" or "YOUR" mean BYRON-BETHANY IRRIGATION DISTRICT.

24 3. The terms "COMMUNICATION" or "COMMUNICATIONS" mean any occurrence whereby
25 data, expressions, facts, opinions, thoughts, or other information of any kind is transmitted in any
26 form including, but not limited to, any conversation, correspondence, discussion, electronic mail,
27 meeting, memorandum, message, note, or posting or other display on the Internet or the World
28 Wide Web.

29 4. The terms "RELATING TO" or "RELATE TO" shall be construed in the broadest possible

1 sense and shall mean, without limitation, pertaining to, regarding, concerning, comprising,
2 constituting, in connection with, reflecting, respecting, referring to, stating, describing, recording,
3 noting, embodying, containing, mentioning, studying, analyzing, discussing or evaluating.

4 5. The term "DOCUMENT" or "DOCUMENTS" encompasses all documents, things, property
5 and/or electronic materials within the scope of section 2031.010 of the California Code of Civil
6 Procedure, and includes all WRITINGS as defined in section 250 of the California Evidence Code,
7 and shall include, but not be limited to, any kind of written, graphic or recorded matter, however
8 produced or reproduced, of any kind or description, whether sent or received or neither, including
9 originals, copies and drafts and both sides thereof, and including but not limited to paper, books,
10 letters, photographs, posters, objects, tangible things, correspondence, telegrams, cables,
11 facsimiles, telex messages, confirmations, account statements, receipts, billing statements,
12 memoranda, notes, notations, work papers, transcripts, minutes, reports, and recordings of
13 telephone or other conversations, or other conversations, or in conferences or other meetings,
14 affidavits, statements, opinions, reports, studies, analysis, evaluations, financial statements,
15 prospectuses, circulars, certificates, press releases, annual reports, quarterly reports, magazine
16 or newspaper articles, manuals, contracts, agreements, statistical records, journals, desk
17 calendars, appointment books, diaries, lists, tabulations, summaries, sound recordings, computer
18 printouts, data processing input and output, electronic mail, all records of communications
19 recorded or encoded onto magnetic or computer disks, diskettes, audio and video tapes or any
20 other media, all records kept by electronic, photographic, or mechanical means, and things similar
21 to any of the foregoing, however denominated, dated, produced, generated or received.

22 6. The term "STATE BOARD" means the State Water Resources Control Board.

23 7. The terms "DIVERT" or "DIVERSION" shall mean any water taken by BBID from the
24 Intake Channel to the Banks Pumping Plant (formerly Italian Slough) in Contra Costa County, or
25 from any other source, under any claim of right and through any means.

26 8. The terms "AND" and "OR" have both conjunctive and disjunctive meanings.

27 9. All references to a "YEAR" refer to a calendar year.

28 10. Definitions for industry or trade terms contained herein are to be construed broadly.

29 Where the industry or trade definition set forth herein does not coincide precisely with YOUR

1 definition, the question, inquiry or production request should be responded to or answered by
2 using the definition that YOU apply and/or recognize in YOUR usage of the term, and YOUR
3 should further document YOUR definition in the response. Non-industry or non-trade definitions
4 should be applied as defined herein.

5 **B. INSTRUCTIONS**

6 1. Unless otherwise indicated, the time period covered by this subpoena is from
7 **June 1, 2015 to up to five days before YOUR full compliance with this subpoena.** Any
8 documents RELATING TO this time period are to be produced, regardless of whether the
9 documents came into existence before or during this period.

10 2. YOUR response to the subpoena should include a declaration or affidavit. It should state
11 that a diligent search for all requested DOCUMENTS has been conducted and that the affiant or
12 declarant was in charge of the search or otherwise monitored and reviewed the search sufficiently
13 to be able to represent under oath that such a search was conducted. It should be signed under
14 oath by the person most knowledgeable about the DOCUMENTS and YOUR efforts to comply
15 with the subpoena. If different people are the most knowledgeable about portions of the search
16 (e.g., one person is most knowledgeable about DOCUMENTS contained in computer media and a
17 different person is most knowledge about DOCUMENTS contained on paper) each should sign an
18 affidavit or declaration identifying the category in the request for DOCUMENTS for which that
19 person is the most knowledgeable.

20 3. Unless otherwise indicated, for any DOCUMENT stored in a computer, including all
21 electronic mail messages, YOU should produce the DOCUMENT in the original electronic file
22 format in which it was created (e.g., Microsoft email should be provided in its original format,
23 which would have the .pst suffix, not in a tif file; spreadsheets should be in their original file form,
24 such as an Excel file and word-processed DOCUMENTS should be in their original file format,
25 such as a Word or WordPerfect file), together with instructions and all other materials necessary
26 to use or interpret the data. Electronic mail messages should be provided, even if only available
27 on backup or archive tapes or disks. Computer media should be accompanied by (a) an
28 identification of the generally available software needed to open and view the DOCUMENTS or
29 (b) a copy of the software needed to open and view the DOCUMENT. Note, however, that if a

1 print-out from a computer DOCUMENT is a non-identical copy of the electronic form in which it
2 was created (non-identical by way of example but not limitation, because it has a signature,
3 handwritten notation, or other mark or attachment not included in the computer DOCUMENT),
4 both the electronic form in which the DOCUMENT was created and the original print-out should
5 be produced.

6 4. For each DOCUMENT contained in an audio or video medium, YOU should provide the
7 tape, disk, or other device from which the audio or video can be played and the transcript of the
8 DOCUMENT.

9 5. For all DOCUMENTS for which YOU do not produce in the original, as defined in Evidence
10 Code section 255, YOU may submit copies (black and white copies if the original was in black and
11 white, color copies if the original was in color, and, if the original was in electronic format, in the
12 same electronic medium as the original) in lieu of original DOCUMENTS provided that such
13 copies are accompanied by an affidavit of an officer of BBID stating that the copies of all types of
14 DOCUMENTS are true, correct, and complete copies of the original DOCUMENTS. If there is in
15 YOUR possession, custody or control no original, but only a copy or photographic record thereof,
16 then YOU should produce a true and legible copy of each such DOCUMENT. The accompanying
17 affidavit should state that the DOCUMENT is only a copy or photographic record and not the
18 original.

19 6. If a DOCUMENT is responsive to this subpoena and is in YOUR control, but is not in
20 YOUR possession or custody, in addition to obtaining and producing the DOCUMENT, identify the
21 person who had possession or custody of the DOCUMENT, their telephone number and current
22 business and residence addresses.

23 7. If any DOCUMENT subpoenaed is no longer in YOUR possession, custody, control, or
24 care, YOU should provide a written statement identifying the DOCUMENT with specificity, stating
25 whether it is lost or missing, has been destroyed, has been transferred to others, or has otherwise
26 been disposed of. The written statement should also identify the person who disposed of the
27 DOCUMENT, explain the circumstances and authorization for the disposition and the approximate
28 date of the disposition of the DOCUMENT. If there are no DOCUMENTS responsive to a
29

1 document request, as to each such document request, YOU should include a statement to that
2 effect in the accompanying declaration or affidavit.

3 8. DOCUMENTS provided in response to this subpoena should be complete and, unless
4 privileged, unredacted, submitted as found in YOUR files (e.g., DOCUMENTS that in their original
5 condition were stapled, clipped, attached as a "post-it," or otherwise fastened together shall be
6 produced in the same form).

7 9. Each DOCUMENT produced pursuant to this subpoena should be identified according to
8 the category in the subpoena to which it is responsive. In lieu of indicating on each DOCUMENT
9 the category to which it is responsive, on the date set for production, YOU may instead provide an
10 index if YOU provide it in both paper and in electronic form (such as a computerized spreadsheet
11 in Excel or a Word or WordPerfect document set up in a table format) of all DOCUMENTS YOU
12 produce, as long as this index shows by document control number the request(s) to which each
13 DOCUMENT or group of DOCUMENTS is responsive. Responsive DOCUMENTS from each
14 person's files should be produced together, in one box or in consecutive boxes, or on one disk or
15 consecutive disks. Mark each page of a paper DOCUMENT and each tangible thing containing
16 audio, video, computer, or other electronic DOCUMENTS (e.g. cassette, disk, tape or CD) with
17 corporate identification and consecutive document control numbers (e.g., S.I.. 00001, S.I. CD
18 001, S.I. audio tape 001). Number each box of DOCUMENTS produced and mark each with the
19 name(s) of the person(s) whose files are contained therein, the requests(s) to which they are
20 responsive, and the document control numbers contained therein.

21 10. For data produced in spreadsheets or tables, include in the declaration or affidavit the
22 identification of the fields and codes and a description of the information contained in each coded
23 field.

24 11. The document requests contained in this subpoena shall be deemed to include a request
25 for all relevant DOCUMENTS in the personal files, including but not limited to files contained on
26 laptops, handheld devices, home computers and home files of all YOUR officers, employees,
27 accountants, agents and representatives, including sales agents who are independent
28 contractors, and unless privileged, attorneys.

1 12. If any DOCUMENTS are withheld from production based on a claim of privilege, provide a
2 log under oath by the affiant or declarant, which includes each DOCUMENT'S authors,
3 addressees, date, a description of each DOCUMENT, all recipients of the original, and any
4 copies, and the request(s) of this subpoena to which the DOCUMENT is responsive. Attachments
5 to a DOCUMENT shall be identified as such and entered separately on the log. For each author,
6 addressee, and recipient, state the person's full name, title, and employer or firm, and denote all
7 attorneys with an asterisk. To the extent the claim of privilege relates to any employee, agent,
8 representative, or outside attorney, identify the person's name, division, and organization. Include
9 the number of pages of each DOCUMENT and in the description of the DOCUMENT, provide
10 sufficient information to identify its general subject matter without revealing information over which
11 a privilege is claimed. For each DOCUMENT withheld under a claim that it constitutes or contains
12 attorney work product, also state whether YOU assert that the DOCUMENT was prepared in
13 anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial on which the
14 assertion is based. Submit all non-privileged portions of any responsive DOCUMENT (including
15 non-privileged or redactable attachments) for which a claim of privilege is asserted (except where
16 the only non-privileged information has already been produced in response to this instruction),
17 noting where redactions in the DOCUMENT have been made. DOCUMENTS authored by outside
18 lawyers representing YOU that were not directly or indirectly furnished to YOU or any third-party,
19 such as internal law firm memoranda, may be omitted from the log.

20 13. Whenever necessary to bring within the scope of this subpoena DOCUMENTS that might
21 otherwise be construed as outside its scope, the use of the verb in any tense shall be construed
22 as the use of that verb in all other tenses, and the singular shall include the plural, and vice versa,
23 so as to make this subpoena broadly inclusive.

24 **C. DOCUMENTS TO BE PRODUCED**

25 This subpoena commands production of the original of each and every DOCUMENT now
26 or at any time in the possession, custody or control of YOU without regard to the person(s) by
27 whom or for whom said DOCUMENTS were prepared, including, but not limited to, all
28 DOCUMENTS in the personal, business, or other files of all present or former officers, directors,
29

1 trustees, agents, employees, attorneys, and accountants of BBID, which RELATES TO any of the
2 following subjects:

3 1. All DOCUMENTS and COMMUNICATIONS RELATING TO the DIVERSION of
4 water by BYRON-BETHANY IRRIGATION DISTRICT during the period June 1 through
5 September 30, 2015, including, but not limited to, daily and monthly DIVERSION amounts.

6 2. ALL DOCUMENTS and COMMUNICATIONS RELATING TO the DIVERSION of
7 water by BBID pursuant to BBID's claimed pre-1914 appropriative water right (Statement Number
8 S021256) during the period June 1 through September 30, 2015, including, but not limited to, the
9 daily and monthly DIVERSION amounts.

10 3. ALL DOCUMENTS and COMMUNICATIONS RELATING TO any contract or
11 agreement between BBID and the California Department of Water Resources ("DWR") regarding
12 the DIVERSION of water at BBID's point or points of DIVERSION in effect during the period June
13 1, 2015, through September 30, 2015.

14 4. ALL DOCUMENTS and COMMUNICATIONS RELATING TO the reporting by BBID
15 to DWR or to any agents, employees, attorneys, and accountants of DWR, RELATING TO the
16 DIVERSION of water during the period June 1, 2015, through September 30, 2015, including, but
17 not limited to, daily DIVERSION amounts.

18 5. ALL DOCUMENTS and COMMUNICATIONS RELATING TO water supply
19 agreements or contracts to supply water to BBID or to property within BBID's boundaries at any
20 time during the period June 1, 2015, through September 30, 2015, made between BBID and any
21 other party or parties, including, but not limited to, Carmichael Water District, Contra Costa Water
22 District, and South San Joaquin Irrigation District.

23 6. ALL DOCUMENTS and COMMUNICATIONS RELATING TO the DIVERSION of
24 water by BBID pursuant to any water supply agreements or contracts to supply water to BBID or
25 to property within BBID's boundaries at any time during the period June 1, 2015, through
26 September 30, 2015, including daily, weekly, and monthly DIVERSION amounts.

27 7. ALL DOCUMENTS and COMMUNICATIONS RELATING TO water supply
28 agreements or contracts for BBID to supply water to any other party or parties at any time during
29 the period June 1 through September 30, 2015, made between BBID and any other party or

1 parties including, but not limited to, Contra Costa County Airport and Mountain House Community
2 Services District.


3 8. ALL DOCUMENTS and COMMUNICATIONS RELATING TO the DIVERSION of
4 water by BBID pursuant to any water supply agreements or contracts for BBID to supply water to
5 any other party or parties at any time during the period June 1, 2015, through September 30,
6 2015, including daily, weekly, and monthly DIVERSION amounts.

7 9. ALL DOCUMENTS and COMMUNICATIONS RELATING TO the delivery of water
8 by BBID to property within BBID's boundaries, for any purpose or use including, but not limited to,
9 irrigation, industrial, municipal or domestic, during the period June 1, 2015, through September
10 30, 2015, including the total amount of water delivered during the period, the amount of water
11 delivered each day during the period, the recipients of the water, the total amount of water
12 delivered to each recipient during the period, and the amount of water delivered on a daily basis
13 to each recipient during that period.

14 10. ALL DOCUMENTS and COMMUNICATIONS RELATING TO the delivery of water
15 by BBID to property outside of BBID's boundaries, for any purpose including, but not limited to,
16 irrigation, municipal or domestic, during the period June 1 through September 30, 2015, including
17 the total amount of water delivered during the period, the total amount of water delivered each
18 day during the period, the recipients of the water, the total amount of water delivered to each
19 recipient during the period, and the amount of water delivered on a daily basis to each recipient
20 during that period.

21 11. ALL DOCUMENTS and COMMUNICATIONS RELATING TO any agreements
22 between BBID and any other party, including, but not limited to the United States Bureau of
23 Reclamation ("Reclamation") or DWR, to wheel water through water facilities owned or controlled
24 by any other party including, but not limited to, Reclamation or DWR, at any time during the period
25 June 1, 2015, through September 30, 2015.

26
27 Date: 10/29/2015



Andrew Tauriainen
Attorney for the Prosecution Team
Office of Enforcement
State Water Resources Control Board

1 ANDREW TAURIAINEN, SBN 214837
2 OFFICE OF ENFORCEMENT
3 STATE WATER RESOURCES CONTROL BOARD
4 1001 I Street, 16th Floor
5 Sacramento, California 95812-0100
6 Telephone: (916) 341-5445
7 Facsimile: (916) 341-5896
8 E-mail: andrew.tauriainen@waterboards.ca.gov

9 Attorney for the Division of Water Rights Prosecution Team

10 BEFORE THE STATE WATER RESOURCES CONTROL BOARD

11 STATE OF CALIFORNIA

12 In the Matter of:
13 ADMINISTRATIVE CIVIL LIABILITY
14 COMPLAINT AGAINST BYRON-BETHANY
15 IRRIGATION DISTRICT

16)
17) AFFIDAVIT IN SUPPORT OF SUBPOENA
18) *DUCES TECUM*

19) California Water Code § 1080; California
20) Government Code § 11450.10; Cal. Code
21) Regs., tit. 23, § 649.6(a)
22)
23)
24)
25)
26)

27 **I, Andrew Tauriainen, declare as follows:**

28 1. I am an attorney for the State Water Resources Control Board (State Water
29 Board), Office of Enforcement. I am counsel for the Division of Water Rights Prosecution Team in
the above-entitled matter. I have personal knowledge of all facts stated in this declaration and, if
called as a witness, could and would testify competently under oath.

2. The Assistant Deputy Director, Division of Water Rights, issued an Administrative
Civil Liability Complaint (ACLC) against the Byron-Bethany Irrigation District (BBID) on July 20,
2015, alleging that BBID violated Water Code section 1052 which prohibits the unauthorized
diversion or use of water, and diverted water from June 13 through June 25, 2015, a period in
which State Water Board staff had determined that no water was available to serve BBID's
claimed pre-1914 appropriative water right..

3. On August 19, 2015, the Division of Water Rights Hearing Team issued a Notice of
Public Hearing and Pre-Hearing Conference, scheduling the hearing on the ACLC matter for
October 28, 2015, and continuing the hearing if necessary on October 29 and 30, 2015. The

1 Hearing Officer held a Pre-Hearing Conference on September 25, 2015, during which she
2 indicated that she would consider various requests by a number of parties to reschedule the
3 hearing and evidentiary submittal deadlines. On October 2, 2015, the Hearing Officer issued a
4 letter postponing the hearing until March 21, 2016, and postponing the evidence and witness
5 submittal deadlines to January 18, 2016, with rebuttal evidence and witness submittals due
6 February 22, 2016.

7 4. Good cause exists for the production of the documents described in the Subpoena
8 *Duces Tecum* and Addendum, served herewith, because the documents requested concern the
9 issues outlined in the ACLC and are required in order to determine whether BBID violated Water
10 Code section 1052 by illegally diverting water. The requested documents specifically concern
11 BBID's diversions of water from the Intake Channel to the Banks Pumping Plant (formerly Italian
12 Slough), and its diversions of water pursuant to water supply contracts, including those claimed by
13 BBID in submittals to the Division of Water Rights pursuant to Order WR 2015-0002-DWR (Order
14 for Additional Information dated February 4, 2015).

15 5. The documents and information requested in the Subpoena *Duces Tecum* and
16 Addendum, served herewith, are within BBID's possession and/or within BBID's control, as they
17 concern BBID's diversions and deliveries of water, including the basis of right for the diversions
18 and the amounts diverted.

19 I declare under penalty of perjury under the laws of the State of California that the foregoing is
20 true and correct.

21
22
23 Date: 10/29/2015



Andrew Tauriainen
Office of Enforcement
State Water Resources Control Board