



500 CAPITOL MALL, SUITE 1000, SACRAMENTO, CA 95814
OFFICE: 916-446-7979 FAX: 916-446-8199
SOMACHLAW.COM

July 21, 2015

Andrew Tauriainen, Attorney III
State Water Resources Control Board
Office of Enforcement
1001 I Street, 16th Floor
Sacramento, CA 95814

Re: California Public Records Act Request

Dear Mr. Tauriainen:

Pursuant to the California Public Records Act, California Government Code section 6250 et seq., on behalf of Byron-Bethany Irrigation District (BBID), I hereby request copies of all public records prepared, received, owned, used, or possessed by the State Water Resources Control Board or its staff (collectively referred to herein as SWRCB), relating in any way to Enforcement Action ENF01951 – ADMINISTRATIVE CIVIL LIABILITY COMPLAINT REGARDING UNAUTHORIZED DIVERSION OF WATER FROM THE INTAKE CHANNEL TO THE BANKS PUMPING PLANT (FORMERLY ITALIAN SLOUGH) IN CONTRA COSTA COUNTY (ENF01951). I request all public records as defined in Government Code section 6252(e), which include any “writing” as defined in Government Code section 6252(g)¹.

The public records requested in this letter include, but are not limited to:

1. All public records related in any way to ENF01951.
2. All public records related in any way to the SWRCB’s June 12, 2015 “Notice of Unavailability of Water and Need for Immediate Curtailment for Those Diverting Water in the Sacramento-San Joaquin Watersheds and Delta with a Pre-1914 Appropriative Claim Commencing During or After 1903.”
3. All public records related in any way to the statement in the SWRCB’s June 12, 2015 “Notice of Unavailability of Water and Need for Immediate Curtailment for Those Diverting Water in the Sacramento-San Joaquin

¹ “Writing” means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

Watersheds and Delta with a Pre-1914 Appropriative Claim Commencing During or After 1903” that “there is insufficient water in the system to service” the claims of right affected by the Notice.

4. All public records related in any way to the determination by the SWRCB that, as of June 12, 2015, there was insufficient water to satisfy BBID’s pre-1914 appropriative water right.
5. All public records, from January 1, 2015 through July 20, 2015, between anyone at the SWRCB and anyone outside of the SWRCB related in any way to BBID’s diversion of water and/or ENF01951.
6. All public records, from January 1, 2015 through July 20, 2015, between anyone at the SWRCB and any member of the press, including, but not limited to any newspaper, radio or television broadcast organization related in any way to BBID’s diversion of water and/or ENF01951.
7. All public records, from January 1, 2015 through July 20, 2015, between anyone at the SWRCB and anyone at the California Department of Water Resources (DWR) regarding BBID’s diversion of water and/or ENF01951.
8. All public records, from January 1, 2015 through July 20, 2015, between anyone within the SWRCB’s Enforcement Section and any other employee or member of the SWRCB regarding BBID’s diversion of water and/or ENF01951.
9. All public records, from January 1, 2015 through July 20, 2015, between anyone at the SWRCB and anyone at the (DWR) regarding the availability of water in the Sacramento-San Joaquin watersheds and/or the California Delta.
10. All public records related in any way to the “Exceptions to Curtailment” provided for in the SWRCB’s June 12, 2015 “Notice of Unavailability of Water and Need for Immediate Curtailment for Those Diverting Water in the Sacramento-San Joaquin Watersheds and Delta with a Pre-1914 Appropriative Claim Commencing During or After 1903.”
11. All public records, from September 1, 2014 through July 20, 2015 related in any way to water availability and any attempt or strategy by the SWRCB to maintain water in any lake, reservoir, or other impoundment in the Sacramento-San Joaquin watershed.
12. All public records, from January 1, 2015 through July 20, 2015, related in any way to water right curtailments and/or water availability. This request also seeks all writings related in any way to the timing or implementation of water

right curtailments and/or notices of unavailability of water under any basis of right.

13. All public records, from January 1, 2015 through July 20, 2015, related in any way to water storage levels in any CVP or SWP storage facility.
14. All public records, from September 1, 2014 through July 20, 2015, related in any way to any agreement for voluntary curtailments or voluntary reductions in diversions. This request also seeks all writings related in any way to the SWRCB's agreement to exercise its enforcement discretion to not take action against any water right holder, diverter, or user of water.
15. All public records related in any way to the Order of the Sacramento Superior Court, dated on or about July 10, 2015, in the matter of *The West Side Irrigation District et al. v. State Water Resources Control Board et al.*, Sacramento Superior Court Case No. 34-2015-800002121. This request includes any internal communications regarding the Court's Order and any communications between any SWRCB employees and anyone outside of the SWRCB.
16. All public records related in any way to the SWRCB's July 15, 2015 PARTIAL RESCISSION OF APRIL, MAY AND JUNE 2015 CURTAILMENT NOTICES AND CLARIFICATION OF STATE WATER BOARD's POSITION RE: NOTICES OF UNAVAILABILITY OF WATER FOR THOSE DIVERTING WATER IN THE SACRAMENTO RIVER WATERSHED, SAN JOAQUIN RIVER WATERSHED AND DELTA, AND SCOTT RIVER.
17. All public records, from January 1, 2013 through July 20, 2015, related in any way to any errors in or comments on the SWRCB's demand analysis or water availability analysis used in determining water availability. This request includes, but is not limited to, comments from engineering and/or water modeling consultants, DWR, or other stakeholders.
18. All public records between the SWRCB and any of the State Water Project Contractors or their representatives related in any way to water right curtailments or water availability, including, but not limited to, the State Water Contractors' Complaint Against Unlawful Diversion of State Water Project Stored Water Supplies, dated on or about June 16, 2015.
19. All public records between the SWRCB and DWR or its representatives related in any way to water right curtailments or water availability, including, but not limited to, the State Water Contractors' Complaint Against Unlawful

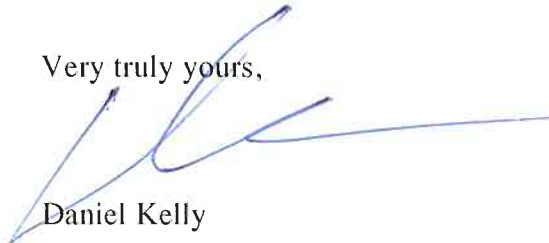
State Water Resources Control Board
Re: Public Records Act Request
July 21, 2015
Page 4

Diversion of State Water Project Stored Water Supplies, dated on or about
June 16, 2015.

Pursuant to California Government Code section 6253.9, I hereby request that any record that is available in electronic format be provided in electronic format. If any computer programming services are necessary to export the data files into the requested format, and the SWRCB intends to charge for such costs pursuant to Government Code section 6253.9(b), please advise me of such costs immediately.

Please contact me within ten (10) days to let me know if the SWRCB has the requested public records. Should you contend that any of the requested records must be withheld, then under Government Code section 6255 please provide a written response detailing the basis for withholding the record(s). My email address is:
dkelly@somachlaw.com.

Very truly yours,



Daniel Kelly

cc: Michael A.M. Lauffer, Chief Counsel, State Water Resources Control Board
(via electronic mail michael.lauffer@waterboards.ca.gov)
Rick Gilmore, General Manager, Byron-Bethany Irrigation District
(via electronic mail r.gilmore@bbid.org)