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August 27, 2015

Daniel Kelly
Somach, Simmons & Dunn
500 Capital Mall, Suite 1000
Sacramento, CA 95814

RE: CALIFORNIA WATER CURTAILMENT CASES
Judicial Council Coordination Proceeding, Case No. 4838

Dear Mr. Kelly:

I am writing in response to your letter of August 21, 2015 regarding the pending administrative civil liability proceeding against the Byron-Bethany Irrigation District. While the State Water Resources Control Board (State Water Board) takes no position at the present time on the merits of the administrative civil liability complaint, I can confirm for you that the State Water Board does not intend to stay or remove from calendar the pending enforcement proceeding.

As stated in the meet-and-confer letter sent by the Attorney General's Office to all counsel on August 19, 2015, any effort to enjoin this enforcement proceeding would be improper given that the State Water Board has not taken any final agency action on the administrative civil liability complaint. Moreover, section 526, subdivision (b)(4) of the Code of Civil Procedure prohibits an injunction "to prevent the execution of a public statute by officers of the law for the public benefit." (Code Civ. Proc., § 526, subd. (b)(4).) The pending proceedings are in furtherance of such a public statute. (Wat. Code, §§ 1050-1055.)

Your August 21, 2015, letter incorrectly suggests that the State Water Board "recognize[d] that the pending enforcement actions . . . may be 'changed circumstances' that warrant amended pleadings." The August 19, 2015, letter speaks for itself and we refer you to it for the State Water Board's position regarding amended pleadings. The State Water Board respectfully submits that judicial economy and efficiency would be best served in this matter if the parties would pursue the administrative proceedings until such time as there is a final agency decision. At such a time, the decision would be ripe for judicial review by any aggrieved party.

Finally, I reiterate my request in my August 19, 2015, letter, to which your August 21 letter refers, that you let me know whether your client intends to file an amended

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petition/complaint. As you know, this is a threshold issue that should be resolved in connection with the case management conference that will be held before the Coordination Trial Judge.

Sincerely,



CLIFFORD T. LEE
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

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