

2015 AUG -6 PM 2:41

DIV OF WATER RIGHTS
SACRAMENTO

August 6, 2015

Via Electronic Mail and Hand Delivery

Kathy Mrowka, Manager
Enforcement Section
State Water Resources Control Board
Division of Water Rights
Records Unit
1001 I Street, 2nd Floor
Sacramento, CA 95812

Re: Enforcement Action ENF01951

Dear Ms. Mrowka:

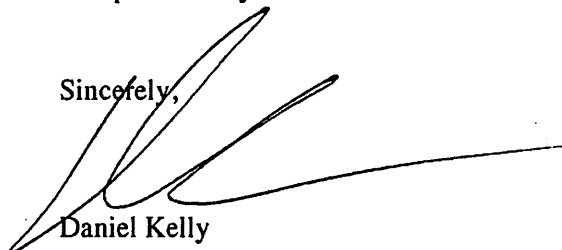
This letter is submitted on behalf of the Byron-Bethany Irrigation District (BBID). Pursuant to the instructions contained in the State Water Resources Control Board's (SWRCB) July 20, 2015 letter regarding ENF01951, BBID hereby informs the SWRCB that BBID disagrees with the facts and allegations set forth in the SWRCB's Administrative Liability Complaint (ACL), and requests a formal hearing before the SWRCB.

In addition, as you are aware, BBID filed an action in Contra Costa Superior Court challenging the SWRCB's June 12, 2015 Curtailment Notice and finding of unavailability of water sufficient to satisfy BBID's pre-1914 water right. That case is pending in the Alameda County Superior Court where the Honorable Evelio Grillo will hear the SWRCB's Petition for Coordination. That petition seeks to coordinate the various challenges to the SWRCB's curtailment-related activities. BBID's lawsuit, which was filed prior to the SWRCB issuing ENF01951, involves the same issues raised by ENF01951. As such, the facts and controversy surrounding BBID's rights to water and the SWRCB's curtailment-related activities are pending in the BBID judicial action. Once BBID's challenge to the SWRCB's curtailment of BBID's water rights is assigned to a judge for all purposes, BBID intends to move that court for the removal of the ENF01951 SWRCB proceedings from the SWRCB so that the allegations raised by the SWRCB can be tried in a judicial forum.

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In any event, to the extent the SWRCB is permitted to proceed with its enforcement action notwithstanding BBID's pending legal challenge to the SWRCB's actions, BBID intends to request to conduct extensive pre-hearing discovery via subpoenas and subpoenas duces tecum as provided by Section 649.6 of Title 23 of the California Code Regulations.

Sincerely,

A handwritten signature in black ink, appearing to be 'Daniel Kelly', written over the word 'Sincerely,'. The signature is stylized and extends to the right.

Daniel Kelly

DK:yd

cc: John O'Hagan, Assistant Deputy Director, Division of Water Rights (*via-email*)
Andrew Tauriainen, Attorney III, Office of Enforcement (*via-email*)
Michael A.M. Lauffer, Chief Counsel, SWRCB (*via-email*)
Rick Gilmore, General Manager, BBID (*via-email*)