

## State Water Resources Control Board

DECEMBER 21, 2020

In reply refer to:  
CID 5983

Mr. Kevin M. O'Brien  
Downey Brand LLP  
621 Capitol Mall, 18<sup>th</sup> Floor  
Sacramento, CA 95814  
[kobrien@downeybrand.com](mailto:kobrien@downeybrand.com)

Dear Mr. O'Brien:

### COMPLAINT AGAINST BUENA VISTA WATER STORAGE DISTRICT REGARDING DIVERSION FROM KERN RIVER IN KERN COUNTY

The State Water Resources Control Board, Division of Water Rights (Division) received your complaint dated August 9, 2019, alleging that Buena Vista Water Storage District had abandoned water rights, forfeited water rights, violated Section 1052 of the Water Code, and committed waste and unreasonable use. Buena Vista responded to the complaint by submitting a response (enclosed) to the Division dated November 26, 2019.

The complaint disputes the manner in which Buena Vista exercises its pre-1914 claim at the second point of diversion on Kern River. Recognizing the complex and legal issues presented in your complaint, and its overlap with the Fully Appropriated Stream determination and pending permitting processes, the Division has notified the State Water Board's Administrative Hearings Office (AHO) regarding your concerns about Kern River entitlements at the second point of diversion. The AHO will schedule a hearing in the near future to address water availability with respect to the Kern River applicants. The Division expects that the AHO hearing will clarify factual issues related to second point entitlements, provided the Hearing Officer is granted a host of cooperative participants. Notwithstanding the AHO process, you are not precluded from seeking remedies through a court of competent jurisdiction.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

The Division has dismissed the complaint and will take no further action in its regard. Dismissal of the complaint will not preclude you from filing another complaint in the future if additional information to support the allegations becomes available.

If you have any questions, please contact me at [roberto.cervantes@waterboards.ca.gov](mailto:roberto.cervantes@waterboards.ca.gov) or by phone at (916) 322-6795. Written correspondence should be addressed as follows: State Water Resources Control Board, Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,



Robert. Cervantes, P.E.  
Program Manager - Enforcement  
Division of Water Rights

Enclosure: Buena Vista Water Storage District's Preliminary Response to Kern  
Water Bank Authority's Complaint (7 pg.)

cc: Mr. Tim Ashlock, General Manager  
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