

Snyder, Clint@Waterboards

From: Pulupa, Patrick@Waterboards
Sent: Tuesday, April 07, 2015 4:23 PM
To: West, Yvonne@Waterboards; tmh@thomasmherman.com
Cc: Altevogt, Andrew@Waterboards; Snyder, Clint@Waterboards; Sherrell, Roy@Waterboards; Chris Cordes (cordeschristopher@yahoo.com); 'Eddie Axner' (eddieaxner@att.net); Douglas Wright (dwright@wrightnashlaw.com)
Subject: Ruling from Advisory Team on Request for Hearing Delay: Administrative Civil Liability Complaint R5-2015-0520

Mr. Herman and Ms. West,

The Central Valley Water Board's Advisory Team has received your request to delay the hearing to adjudicate the Administrative Civil Liability (ACL) Complaint that was issued by the Board's Prosecution Team to Mr. Cordes, Mr. Axner, and Eddie Axner Construction. This hearing is currently scheduled for the Board's June meeting. The Board's Advisory Team has also received an objection to this request from the Board's Prosecution Team.

The Board's Advisory Team has construed your request as an objection to the Hearing Procedure issued concurrently with the ACL Complaint (found at http://www.swrcb.ca.gov/centralvalley/board_decisions/tentative_orders/baker_ridge/bakerridge_aclc_hp.pdf), and understands that your request was made so that you could "properly prepare effective representation of Mr. Cordes."

The Board's Advisory Team, after consulting with the Board Chair, hereby denies this request to delay the hearing. The Board's Advisory Team notes that matters of this complexity are frequently handled by the Board under timelines that are often shorter than those proposed in the Hearing Procedure.

Please be aware that today's decision by the Board's Advisory Team will mean that the following deadlines will continue to apply to this proceeding:

April 16, 2015: The Board's Prosecution Team must submit all information required under "Submission of Evidence and Policy Statements" as delineated in the Hearing Procedure.

May 6, 2015: Deadline for all remaining Designated Parties (in this case, Mr. Cordes, Mr. Axner, and Eddie Axner Construction) to submit all information required under "Submission of Evidence and Policy Statements" as delineated in the Hearing Procedure.

May 13, 2015: Deadline for both the Prosecution Team and all Designated Parties to submit rebuttal evidence, evidentiary objections, and requests for additional time.

May 14, 2015: Deadline for the Prosecution Team to submit a Summary Sheet. If comments are received from Interested Parties (i.e., parties *other* than the Prosecution Team, Mr. Cordes, Mr. Axner, and Eddie Axner Construction), this is the deadline to submit responses to those comments.

June 4/5: Hearing

In addition, the Board's Advisory Team has not received any requests for Designated Party status from anyone. Therefore, the Designated Parties in this proceeding are limited to: the Board's Prosecution Team, Mr. Cordes, Mr. Axner, and Eddie Axner Construction, Inc.

Yours,

Patrick Pulupa, Counsel to the Board's Advisory Team

Patrick Pulupa, Attorney III
State Water Board Office of Chief Counsel
1001 I St, PO Box 100, Sacramento, CA 95812

Snyder, Clint@Waterboards

From: West, Yvonne@Waterboards
Sent: Tuesday, April 07, 2015 11:35 AM
To: Pulupa, Patrick@Waterboards
Cc: Creedon, Pamela@Waterboards; Laputz, Adam@Waterboards; Altevogt, Andrew@Waterboards; Snyder, Clint@Waterboards; Sherrell, Roy@Waterboards; Chris Cordes (cordeschristopher@yahoo.com); 'Eddie Axner' (eddieaxner@att.net); Douglas Wright (dwright@wrightnashlaw.com); tmh@thomasmherman.com
Subject: Objection and Request for Ruling from Hearing Team on Request for Hearing Delay
Attachments: Cordes, Water Board Extension Letter.pdf

Mr. Palupa:

The Prosecution Team objects to the attached request for extension filed by Mr. Herman on behalf of Mr. Christopher Cordes to delaying the hearing concerning Administrative Civil Liability (ACL) Complaint R5-2015-0520 currently scheduled for June 4th and 5th. Mr. Cordes has been on notice of the water quality issues with his property since at least January 24, 2015 when he received the draft Clean Up and Abatement Order. The request for delay is vague and does not provide sufficient justification for a delay. In addition, the other parties named in the ACL complaint have not submitted a waiver to the right to a hearing within 90 days.

The Prosecution Team asks for a ruling on Mr. Herman's request for delay in accordance with the schedule provided in the Hearing Procedures for this matter. If the Advisory Team desires, the Prosecution Team is available for further discussion on this issue with all the parties.

Thank you,

Yvonne West
Attorney IV
Office of Enforcement
State Water Resources Control Board
1001 I.St., Sacramento, CA 95814
Phone: (916) 322-3626
Fax: (916) 341-5896
YWest@waterboards.ca.gov

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Thomas M. Herman

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April 3, 2015

VIA E-MAIL: clint.snyder@waterboards.ca.gov
george.day@waterboards.ca.gov

AND FIRST CLASS MAIL

Clint Snyder
Central Valley Regional Water Quality Control Board
364 Knollcrest Drive, Suite 205
Redding, CA 96002

George Day
Central Valley Regional Water Quality Control Board
364 Knollcrest Drive, Suite 205
Redding, CA 96002

Re: Christopher Cordes; Administrative Civil Liability Complaint R5-2015-0520; Waiver of 90-day Hearing Requirement and Rationale for Extension

Dear Mr. Snyder and Mr. Day:

I am an attorney who was retained yesterday by Christopher Cordes to represent him regarding the above captioned matter. Accompanying this letter is a waiver form executed by me on behalf of Mr. Cordes electing Option 2, waiving the 90-day hearing requirement and requesting an extension of the hearing date. Following is my rationale for an extension.

Mr. Cordes contacted me promptly after receiving the Complaint by certified mail to inquire about representation. I asked him to send me retainer funds by mail prior to engaging myself in his matter. I received his check yesterday afternoon. It was mailed to me via priority mail express. I immediately began reviewing the documents related to his matter on your web site and discovered the deadline of today for requesting additional time. This morning I attempted to contact Yvonne West, Senior Staff Counsel, but she was unfortunately unavailable. I then called your Redding office and spoke with a helpful staff person named Tre who instructed me to e-mail the waiver and rationale to you. I have not yet completed my review of the related documents and have not had any opportunity to visit the site. In order to properly advise Mr. Cordes regarding his options in response to the Complaint, I need additional time to bring myself up to speed. Mr. Cordes and I have both proceeded diligently in making this response.

I request at least another thirty days and more preferably another ninety days to properly prepare effective representation of Mr. Cordes. I have spoken with attorney Doug Wright who represents Eddie Axner and Eddie Axner Construction, Inc., and understand that they would not oppose a continuance. Please let me know if you need any additional information from me in order to approve an extension. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas M. Herman".

Thomas M. Herman

TMH:th

accompanying document: Waiver Form

cc: client via e-mail

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am Christopher Cordes, Eddie Axner, Eddie Axner Construction, Inc., or a duly authorized to represent thereof (hereafter Dischargers) in connection with Administrative Civil Liability Complaint R5-2015-0520 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Dischargers waives the hearing requirement and will pay in full.)

- a. I hereby waive any right the Dischargers may have to a hearing before the Central Valley Water Board.
- b. I certify that the Dischargers have remitted payment for the proposed civil liability in the full amount of **\$297,400** by check/s that references "ACL Complaint R5-2015-0520" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **3 April 2015**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Dischargers having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Dischargers to further enforcement, including additional civil liability.

(OPTION 2: Check here if the Discharger/s waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger/s may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger/s requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger/s may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

For Eddie Axner:

(Print Name and Title)

(Signature)

(Date)

For Eddie Axner Construction, Inc.:

(Print Name and Title)

(Signature)

(Date)

For Christopher Cordes:

THOMAS M. HERZMAN

(Print Name and Title)

ATTORNEY FOR CHRISTOPHER
CORDES: Thomas M. Herzman

(Signature)

4-3-15

(Date)