PROSECUTION TEAM EVIDENCE LIST

The following items are evidence for the Central Valley Regional Water Quality Control Board hearing regarding Administrative Civil Liability Complaint No. R5-2011-0551, Bettencourt and Sons Dairy, Stanislaus County. This matter is scheduled to be heard at the 19/20 July 2011 Central Valley Water Board Hearing Panel. This list consists of evidence not already attached or included in Administrative Civil Liability Complaint No. R5-2011-0551.

Item	Title of Document	Location
1	Copy of request for service, Stanislaus County Sheriff	Bettencourt & Sons Dairy public file
2	Copy of US Postal Service Track & Confirm re attempts to deliver certified copy of ACL Complaint	Bettencourt & Sons Dairy public file
3	History for Failure to File dated 12/14/09	Bettencourt & Sons Dairy public file

STANISLAUS CO.
SHERIFF'S OFFICE
CIVIL DIVISION

Item Number 1

05/20/2011 000000
#4172 1:51PM TEIXEIA ****

#11002828
S/C $35.00

***TOTAL $35.00
CHECK1 $35.00
CHANGE $0.00

COUNTY OF STANISLAUS
SHERIFF

11-2828

INSTRUCTIONS FOR SERVICE OF PROCESS

signed instructions by the Plaintiff representing him/her self or the Attorney of Record
Civil Procedure Code 262.

Court Case # N/A

Sheriff's File # 11 - 002828

CENTRAL VALLEY RWQCB (Plaintiff/Petitioner) vs. LENO BETTENCOURT (Defendant/Respondent)

The Sheriff of Stanislaus County is hereby instructed to serve:

[ ] Claim of Plaintiff and Order
[ ] Claim of Defendant and Order
[ ] Summons and Complaint
[ ] Summons and Complaint Unlawful Detainer [ ] CCP 415.46
[ ] Summons and Petition
[ ] Order to Show Cause
[ ] Temporary Restraining Order [ ] Immediate Moveout
[ ] Notice to Pay Rent (3 Day)
[ ] Notice to Terminate (30 Day)
[ ] Subpoena [ ] Duces Tecum
[ ] Subpoena Re: Deposition
[ ] Order of Examination
[ ] Order After Hearing
[ ]
[/] Other Summons + ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

2011 MAY 20 PM 2 3

BY THE AUTHORITY OF THE ACCOMPANYING WRIT OR CIVIL PROCESS, YOU ARE HEREBY INSTRUCTED TO PERFORM SERVICE UPON:
(Please Type or Print Legibly)

Name of party(s) to be served LENO BETTENCOURT

Home address 5731 DOWNIE RD, DENAIR CA 95316-9722

Work address

Physical Description: Male [ ] Female [ ] Age Date of Birth 01/1960 Race

Height Weight Hair Eyes Desc. of Car:

Unique Characteristics(scars, marks, tatoos, etc.)

[ ] Violent [ ] Threats to police officers [ ] Involved with gangs [ ] or drugs

[ ] Weapons on premises [ ] Known to carry a weapon [ ] Dogs on property

Special instructions (best hours for service, any additional info that would be of assistance, etc.)

Do not Sub-Serve

NOTICE: ALL COMMUNICATION, REFUNDS AND COLLECTIONS WILL BE MADE TO THE NAME AND ADDRESS LISTED BELOW

DATE 5-19-2011

ADDRESS 11020 SUN CENTER DRIVE #200

ELLEN HOWARD SBN 274077
(attorney for Plaintiff or plaintiff, if no attorney)

RANCHO CORDOVA CA 95670
(city, zip code)

(signature of attorney for plaintiff or plaintiff, if no attorney)

916-341-5677
(telephone number where you may be reached between 8 am & 5 pm)

NOTE: THE SHERIFF IS ENTITLED TO HIS FEE FOR SERVICE, WHETHER OR NOT THE SERVICE IS SUCCESSFUL (GOVT CODE 26738.) THE LAW ALLOWS THE SERVICE OF PROCESS BETWEEN THE HOURS OF 6:00 A.M. AND 10:00 P.M.

2020-1010L

Item Number 2

UNITED STATES POSTAL SERVICE

Home | Help | Sign In

Track & Confirm FAQs

Track & Confirm

Search Results

Label/Receipt Number: **7009 1410 0002 1421 8369**
Service(s): **Certified Mail™**
Status: **Notice Left**

We attempted to deliver your item at 9:32 am on May 06, 2011 in DENAIR, CA 95316 and a notice was left. You may arrange redelivery by visiting www.usps.com/redelivery or calling 800-ASK-USPS, or may pick up the item at the Post Office indicated on the notice. If this item is unclaimed after 15 days then it will be returned to the sender. Information, if available, is updated periodically throughout the day. Please check again later.

Detailed Results:

- **Notice Left, May 06, 2011, 9:32 am, DENAIR, CA 95316**
- **Arrival at Unit, May 06, 2011, 7:03 am, DENAIR, CA 95316**

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. Go >

Track & Confirm

Enter Label/Receipt Number.

Go >

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History for Failure to File
12/14/09

Failed to File December 2008 and July 2009 reports

5731 Downie Rd, Denair (Bettencourt & Sons Dairy) – Early settlement offer will name owner (Lino Bettencourt) only. Dairy was owned by Lino Bettencourt at the time the December 08 and July 09 reports were due. It is unknown if the facility was operating at the time the December 2008 paperwork was due. The facility was; however, vacant at the time the July 2009 paperwork was due. Staff was under the impression that the facility was closed and would not be a dairy again. In September 2009 we were notified that the owner wished to reopen the facility as a dairy. Inspections following this notification verified that the dairy was operational again.

The July 08 paperwork was received 23 days late and was substantially incomplete. The December 2008 and July 2009 paperwork has not been received as of 14 December 2009. Fall 2008 fees have not been paid. **Dairy is currently active.**

Notice attempts:

- 2/10/09 – Daniel Davis inspected the facility. The facility was vacant. There were not animals present.
- 3/4/09 – A letter was sent to Mr. Bettencourt requesting a status on the dairy. A response was not received.
- 3/9/09 – A Potential Administrative Civil Liability letter for failure to submit the December 2008 paperwork was sent by certified mail to Mr. Bettencourt.
- 3/9/09 – Staff was informed that Mr. Bettencourt had moved from this facility to another dairy in Los Banos.
- 4/7/09 – Charlene Herbst was contacted by Terry Espinola of Century 21. He indicated that the property was for sale but didn't know if it would be sold as a dairy.
- 9/24/09 – Steven Bettencourt contacted Neena Moitoso by phone regarding information on how to reopen the facility as a dairy. Mr. Bettencourt indicated that they had intended to close the dairy, but now wished to operate again.
- 10/7/09 – A Notice of Violation was sent to Mr. Bettencourt by certified mail outlining the missing paperwork for the July 2009 Annual Report and the missing items from the July 2008 Annual Report. According to the Post Office, the certified letter was noticed on 10/9/09 but was never picked up.
- 12/3/09 – Daniel Davis and Gilberto Corral inspected the facility a second time. The dairy was operating and currently has 120 milk cows.

Issues:

- Lino Bettencourt does not speak much English; therefore, may not have understood the requirements or the letters received from staff.
- According to staff, Mr. Bettencourt's son indicated that the mortgage on the dairy has not been paid for several months. Staff expects that the dairy may be foreclosed on soon.
- The NOV that was sent in October 2009 was not received by Mr. Bettencourt, according to the USPS Track and Confirm. According to USPS, notice was left for Mr. Bettencourt but the letter was not picked up. To date, the letter has not been returned to the Board. The NOV will need to be remailed to Mr. Bettencourt before enforcement can move forward.
- The October NOV only discussed the missing July paperwork. It did not include the missing December 08 paperwork. An NOV for the December paperwork may be necessary.