

# THOMAS H. TERPSTRA

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December 14, 2012

Ellen Howard  
Staff Counsel, Office of Enforcement  
State Water Resources Control Board  
1001 "I" Street  
Sacramento, California 95814

Re: Administrative Civil Liability Complaints R5-2012-0561 and R5-2012-0564

Dear Ms. Howard:

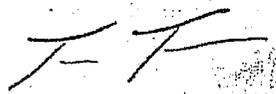
This is to advise that the undersigned has been retained as legal counsel for Henry J. Tosta, dba Henry Tosta Dairy, Henry J. Tosta Jr. Family Limited Partnership, and Henry J. Tosta Trust with respect to Administrative Civil Liability Complaint R5-2012-0561, and will also serve as legal counsel for Henry J. Tosta, dba Reeve Road Heifer Ranch in connection with Administrative Civil Liability Complaint R5-2012-0564. With respect to each such Complaint, my client waives his right to a 90 day hearing, and wishes to engage in settlement negotiations with the Central Valley Water Board. Notwithstanding his election and commitment to engage in settlement discussions, my client vigorously disputes the factual and legal bases upon which the Complaints are predicated, and further, without limitation, alleges that the proposed penalty(s) are both unwarranted and improperly calculated.

Given the fact that I was retained only this afternoon, and in light of the pending holiday season, I would respectfully request that any such settlement discussions be initiated no sooner than the week of January 14, 2013.

I have enclosed the executed Waiver of 90 Day Hearing forms for your files. Thank you for your anticipated cooperation in this matter.

Very truly yours,

Law Office of Thomas H. Terpstra



Thomas H. Terpstra  
Attorney-at-Law

THT:rr

Enclosures

HENRY J. TOSTA, dba HENRY TOSTA DAIRY, REEVES ROAD HEIFER RANCH and  
ECHEVERRIA BROTHERS DAIRY GENERAL PARTNERSHIP  
SAN JOAQUIN COUNTY

WAIVER OF 90-DAY HEARING REQUIREMENT FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

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

1. I am duly authorized to represent Henry J. Tosta (Owner and Operator) dba Henry Tosta Dairy and Henry J. Tosta Trust (Owner), (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2012-0561 (hereinafter the "Complaint");
2. 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" with the Complaint;
3.  (Check here if the Discharger will waive its right to a hearing and accept the proposed liability amount of two hundred thirty nine thousand five hundred sixty three dollars (\$239,563). I hereby waive any right the Discharger may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint; and  
I certify that the Discharger will be liable for \$239,563 in full.

The Discharger shall remit payment, by check, which will contain a reference to "ACL Complaint R5-2012-0561" and will be made payable to the "State Water Resources Control Board Cleanup and Abatement Account". Payment must be received by the Central Valley Water Board by 14 December 2012 or this matter will be placed on the Central Valley Water Board's agenda for adoption at the 31 January/1 February 2013 Central Valley Water Board meeting.

I understand that payment of the \$239,563 in full is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

-or-

4.  (Check here if the Discharger will waive the 90-day hearing requirement, but wishes to engage in settlement negotiations. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.) I hereby waive any right the Discharger may have to a hearing before the Regional Water Board within 90 days after service of the complaint but reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is not waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.

-or-

5.  (Check here if the Discharger will waive the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Regional Water Board within 90 days after service of the complaint but reserve the ability to request a hearing in the future. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

ACL Complaint R5-2012-0564

HENRY J. TOSTA, dba HENRY TOSTA DAIRY, REEVES ROAD HEIFER RANCH and  
ECHEVERRIA BROTHERS DAIRY GENERAL PARTNERSHIP  
SAN JOAQUIN COUNTY

6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

THOMAS H. TERPSTRA, ATTORNEY

(Print Name and Title)

T-H

(Signature)

12/14/12

(Date)

WAIVER OF 90-DAY HEARING REQUIREMENT FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

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2. 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" with the Complaint;
3.  (Check here if the Discharger will waive its right to a hearing and accept the proposed liability amount of one million, one hundred forty thousand seven hundred and thirteen dollars (\$1,140,713)). I hereby waive any right the Discharger may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint; and

I certify that the Discharger will be liable for \$1,140,713, in full.

The Discharger shall remit payment, by check, which will contain a reference to "ACL Complaint R5-2012-0561" and will be made payable to the "State Water Resources Control Board Cleanup and Abatement Account". Payment must be received by the Central Valley Water Board by 14 December 2012 or this matter will be placed on the Central Valley Water Board's agenda for adoption at the 31 January 2013/1 February 2013 Central Valley Water Board meeting.

I understand that payment of the \$1,140,713 in full is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

-or-

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THOMAS H. TERPSTRA, ATTORNEY  
(Print Name and Title)



(Signature)

12/14/12

(Date)