

Frank Melbourn - RE: TCAO R9-2010-0002; Stipulation Re: Discovery and Cleanup Team's Motion for Relief From Discovery Cut Off

From: <Kelly.Richardson@LW.com>
To: <CHagan@waterboards.ca.gov>, <CCarrigan@waterboards.ca.gov>
Date: 8/10/2010 5:07 PM
Subject: RE: TCAO R9-2010-0002; Stipulation Re: Discovery and Cleanup Team's Motion for Relief From Discovery Cut Off
CC: <raymond.parra@baesystems.com>, <jvhandmacher@bvmm.com>, <marco@coastlaw...>

Ms. Hagan:

Thank you for the quick response to our communication regarding the stipulation. In drafting Section 6 of the stipulation, we had envisioned this possible outcome – that the Presiding Officer would not agree to an appeal for any discovery issues. We concluded that, if the Presiding Officer will not take an appeal, or does not overturn Mr. Gallagher's decision regarding discovery, then his decision will be final. For that reason, it does not appear to me that we need to revise section 6. Tim Gallagher's decision regarding potential discovery disputes, if any, would be final. I have spoken with a number of the parties (including Coastkeeper and the Port District), as well as Mr. Gallagher, and I believe that they have agreed with my interpretation. If any party disagrees, please raise it now and we can discuss a revision to Section 6 as soon as possible.

Please do not hesitate to contact me if you have any questions. Thanks.

Kelly

Kelly E. Richardson

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From: Catherine Hagan (George) [mailto:CHagan@waterboards.ca.gov]
Sent: Tuesday, August 10, 2010 3:10 PM
To: Cris Carrigan
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Subject: TCAO R9-2010-0002; Stipulation Re: Discovery and Cleanup Team's Motion for Relief From Discovery Cut Off

To the Designated Parties:

I am responding on behalf of Presiding Officer King who has reviewed both the Cleanup Team's motion filed August 6 and the parties' stipulation. The final discovery schedule does not require ongoing involvement by the presiding officer in resolving discovery disputes beyond August 23, 2010, yet the terms of the stipulation submitted by the designated parties would require ongoing involvement beyond that date. The presiding officer is unwilling to consider or resolve discovery disputes beyond the August 23, 2010 discovery deadline established in the final discovery schedule. However, if the designated parties wish to revise paragraph 6 of the stipulation to make Tim Gallagher the final arbiter of discovery disputes among the parties after August 23, 2010, the stipulation is acceptable and the presiding officer agrees that the Cleanup Team's motion is moot.

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>>> Cris Carrigan 8/10/2010 1:33 PM >>>

Presiding Officer King; Attached is a Stipulation Regarding Discovery entered into today by all of the Designated Parties to the above-referenced proceeding. The Cleanup Team believes the Stipulation is self-effectuating under Code of Civil Procedure section 2024.060 and, accordingly, that it moots the Cleanup Team's Motion for Relief from Discovery Deadline for Depositions Only. We apologize for any inconvenience caused by the Parties' inability to reach the agreements memorialized by this Stipulation last week, but felt that we needed to make our Motion by August 6 to ensure that the hardships outlined in my declaration in support of the motion were not realized in the event agreement could not be reached. In any event, the Cleanup Team is pleased that all of the Designated Parties have reached agreement on a quick and orderly way to complete discovery for this proceeding.

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