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VIA EMAIL AND US MAIL

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Re: ACL and CDO re Mike Passalaqua and Peder Hoy

Dear Ms. Mrowka and Mr. Tauriainen:

Request for Hearing

This office was just retained to represent Peder Hoy for purposes of assisting Mr. Hoy in responding to the ACL and CDO re Mike Passalaqua and Peder Hoy mailed on October 29, 2015. The ACL and CDO are based on (1) an alleged failure to respond to a May 5, 2015 informational order, and (2) alleged unlawful diversions from the Tuolumne River in 2014 and 2015. (Please note that we do not represent Mike Passalaqua. I understand that he just recently received the October 29, 2015 letter and is obtaining separate counsel.)

For clarity, also please note that Mr. Hoy owns the following parcels of property: APNs 017-045-018, 028.

This letter provides information to address the Board's concerns and hopefully resolve this matter without the need for a hearing. If early resolution or settlement is not possible, *Peder Hoy hereby requests a hearing on both the CDO and ACL.*

Informational Order

Mr. Hoy responded to the informational order on July 2, 2015. I have attached a copy of his submittal, using the temporary tracking number (UN000870) he was directed to use by the SWRCB. (Exhibit A).

Please note that Mr. Hoy is 79 years old and has no prior experience with water rights reporting. He was not advised by an attorney or a water rights specialist when he submitted the response on July 2nd. He did not understand how to respond to the request and also did not understand that he had to respond monthly thereafter.

We are working with Mr. Hoy to gather all of the information necessary to provide an additional response to the information order.

It appears there was a prior Statement reporting number associated with his property and point of diversion (Statement S006287) from a prior owner (Exhibit B). *We would appreciate direction from you as to whether we should provide the additional requested information using the temporary tracking number (UN000870), by filing a new Statement, by activating the prior Statement S006287, or through some other means.*

Documents Supporting the Riparian Right

The Information Order also requested documents supporting the riparian right. We are providing some of those documents with this letter.

The majority of Mr. Hoy's property has riparian rights as a result of (1) obtaining the riparian rights at the date of patent, and (2) lack of severance of that right over time.

Our initial research indicates there are four federal patents that relate to the Hoy property known as APNs 017-045-018, 028. Three of these patents appear to cover lands that were riparian at the date of patent. But the patent that covers the portion of the property located in the northeast quarter-section of Section 17, the 1863 patent, does not appear to have included riparian rights. Exhibit C contains the four patents.

In addition to pumping water from the Tuolumne River, Mr. Hoy receives irrigation water from Modesto Irrigation District to irrigate a portion of his property in the northeast quarter-section of Section 17.

We have requested copies of chain of title documents to confirm the lack of severance of the riparian right over time of Mr. Hoy's property and are awaiting those documents. However, the initial review of title history indicates the property was originally parceled in approximately 1945, at which time an easement for irrigation ditches from the river to the current place of use was confirmed in order to preserve the riparian right. This ditch easement is documented in a 1951 survey, attached as Exhibit D.

We also pulled from your office a copy of the SWRCB file for the license that serves Mr. Hoy's property (A005269). The SWRCB file materials show that Mr. Hoy's property was part of a larger parcel that was contiguous to the Tuolumne River as of the 1926 date of the water right application. See Exhibits E (1926 Water Right Application), and F (1926 Property Map). The water right application also confirms the claim of riparian rights for the property. See Exhibit E

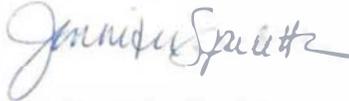
at page 3. It appears that the subdivision of land that created the current Hoy parcels occurred after 1926, and after the irrigation system from the Tuolumne River to these parcels was already installed and operating, further evidencing at least an implied reservation of the riparian rights for the Hoy parcel.

Conclusion and Request for Documents

Again, I anticipate this matter can be resolved quickly without the need for a hearing. To facilitate early resolution, *I am requesting that you provide a copy of any non-privileged documents related to the investigation leading up to this ACL/CDO, including any staff reports, patents, historic research, emails or any other documents that contain information relied on by your office for the ACL/CDO. This is a formal request for information in the pending enforcement proceeding and under the Public Records Act. Electronic submission of information is preferred.*

Please let me know if you have any questions about this letter.

Very truly yours,



JENNIFER L. SPALETTA
Attorney-at-Law

Enclosure
cc: client