

11911 San Vicente Boulevard, Suite 350
Los Angeles, CA 90049
Telephone: (310) 500-4600
Fax: (310) 500-4602



Steven L. Hoch

Direct Dial: (310) 500-4611
SHoch@HatchParent.com

January 25, 2005

By Federal Express

Mr. Roger Briggs
Water Resource Control Engineer
Central Coast Regional Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401



Re: Goldie Lane Property/Mr. David Pierson

Dear Mr. Briggs:

We have not yet heard back from you concerning our letter of January 14, 2005 and this letter should not be construed as a waiver of our contention therein. As set forth therein, we believe that with the tender of the fines levied against Mr. Pierson, this matter is complete and closed. However, in an abundance of caution we write so as to notify you of this request for continuance of the proposed hearing of March 25, 2005.

Mr. Pierson is a 70 year old gentlemen who has been portrayed as some type of villainous, heinous destroyer of the environment. He has been villified publicly to the point of absurdity in certain special interest newspapers regarding this matter. He did not deserve the treatment he received. His only fault was that he tried to do what the RWQCB wanted him to do, but it was apparently not enough. As a result of the extensive erosion control procedures employed on his site, the concerns of the RWQCB should have been abated as these procedures were successful in stemming sediment erosion into the Huer Huero Creek and the blueline streams of concern. Further, after a review of this matter, it is our belief that there was significant actions and misrepresentations on the part of certain RWQCB staff that should be heard in a public forum in order that a full, fair and impartial hearing on this matter can take place. In this regard, the record needs to be set straight that:

- On more then one occasion, RWQCB staff were told of significant and blatant errors in their investigations and reports, yet failed to correct them;
- On one occasion, RWQCB staff informed my client's representatives that the only reason they were taking these actions and avoiding other properties with more significant erosion problems was that "someone" was complaining about

Pierson ACL
July 8, 2005 Meeting
Attachment No. 20

Mr. Roger Briggs

January 25, 2005

Page 2

them.

- On one occasion, one RWQCB staff member told my client's representative that they were instructed "to come out here and bring back a Complaint."

Most importantly, the record needs to be made clear that my client took actions as requested even though this property was never going to be developed by him. It was in fact to be used for agricultural purposes, as many of his other local properties are. At no time was there ever any development plans filed, building permits sought or any other step taken in that regard. Mr. Pierson only desired to sub-divide the property so that the parcels could be deeded to his children. Nonetheless, the RWQCB failed to accept this fact and by compounding misstatements about my client, his intentions and actions, acted in an arbitrary and capricious manner and did not afford him the fair and equitable treatment any citizen of this state must receive at the hands of public officials.

In order that we can gather the necessary evidence to defend this matter appropriately, a delay in the hearing is sought. During this time, we intend to expeditiously perform the following:

1. Obtain necessary documentation from the RWQCB.

A request for documents under the California Records Act was sent to Ms. Sue Gerdson on January 12, 2005. We have not received any word from Ms. Gerdson concerning any timeline on obtaining these documents. If your office can be of assistance in moving this process along, that would be greatly appreciated.

2. Obtain necessary documentation from the CDF Public Information department.

A request for documents under the California Records Act was sent to the appropriate person within the CDR on January 14, 2005. We have not received any word from CDF concerning any timeline on obtaining these documents. We may be asking for the issuance of a subpoena regarding these records if compliance cannot be made quickly.

3. Documents will have to be obtained from the San Luis Obispo County Planning and Building Department. A request under the California Records Act will be going out shortly. Again, we may be asking for the issuance of a subpoena regarding these records if compliance cannot be made quickly.

4. Obtain subpoenas to take the depositions of the following persons:

A. Ryan Lodge

B. Jennifer Bidding

C. Brad Hagermann



- D. Bruce Paine
- E. Art Trinidad
- F. Sarah Christie
- G. Michael Ryan

We have already ascertained the whereabouts of Mr. Lodge, Ms. Bidding, Mr. Hagerman and Mr. Paine. We believe Mr. Trinidad remains an employee of San Luis Obispo County, and we believe Mr. Ryan is in the City of San Luis Obispo.

Your correspondence to our client of December 12, 2004 threatens the issuance of a new Administrative Civil Liability Complaint to be set for a hearing on March 25, 2005. Obviously, given the above, there is no possible way for Mr. Pierson to take the appropriate steps to defend himself by the date of the hearing. Further, it is also clear that an evidentiary hearing is required so that the underlying issues relating to the "record" and actions by the RWQCB can be adequately addressed before the RWQCB determines what action it now may take. As such, and in accord with the Administrative Procedures Act (APA), such a hearing must be held. In this instance an evidentiary hearing for determination of facts is required for this decision. (Govt.C. 11410.10, 11410.20(a).) "Agency" would include the RWQCB. Govt.C. §11405.30. A "decision" is "an agency action of specific application that determines a legal right, duty, privilege, immunity, or other legal interest of a particular person." Govt.C. §11405.50. (Emphasis added). That clearly applies in this matter. Further, coverage by the APA extends to formal adjudicative proceedings conducted under Chapter 5. Govt.C. 11500 *et seq.*; Govt.C. §§11410.50, 11501(c); Govt.C. §11405.20. The hearing presently scheduled qualifies as an adjudicative proceeding. See 23 CA ADC § 648(a).

We would like to hear from you on these issues at your earliest convenience.

Very truly yours,



Steven L. Hoch
For HATCH & PARENT
A Law Corporation

SLH:slh

cc: Mr. David Pierson
Ms. Robin Lewis

