



California Regional Water Quality Control Board

Central Coast Region



Alan C. Lloyd, Ph.D.
Agency Secretary

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895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

February 23, 2005

CERTIFIED MAIL: 7004 1350 0002 2199 0566

Steven L. Hoch
Hatch & Parent, A Law Corporation
11911 San Vicente Boulevard, Suite 350
Los Angeles, CA 90049

DAVID PIERSON/GOLDIE LANE PROPERTY – SAN LUIS OBISPO COUNTY

Mr. Hoch:

We are writing in response to your January 14, January 25, and February 4, 2005 letters regarding the above referenced subject, and to expand on our January 27, 2005 letter concerning the availability of documents.

We disagree that we failed to advise Mr. Walter of the outcome of the Regional Board proceedings of December 2, 2004 or failed to provide him with a copy of our December 9, 2004 letter relaying that outcome. Mr. Walter was the addressee on the December 9, 2004 letter (copy enclosed). The December 9, 2004 letter was sent certified mail to Mr. Walter. The receipt was signed for by M. Forest at 679 Monterey Street in San Luis Obispo. Mr. Pierson was sent a copy of the December 9, 2004 letter along with his check for \$25,500 as was stated in the December 9 letter.

Your argument that Porter Cologne Section 13323(d) precludes the Regional Board from withdrawing the ACL after Mr. Pierson sent his check & signed the waiver is incorrect. §13323(d) states:

"Orders imposing administrative civil liability shall become effective and final upon issuance thereof, and are not subject to review by any court or agency except as provided by Sections 13320 and 13330."

You are stating that the proposed settlement & waiver has somehow become a final "order" of the Regional Board which cannot be reviewed. This is incorrect. The proposed settlement was a staff proposal to settle an ACL; your client was informed that if he did indeed want to settle by payment, that the proposed settlement would be taken to the Regional Board for approval/disapproval. The Regional Board disapproved the settlement. You also stated that an ACL complaint becomes a "final order" and is unreviewable 30 days after it is issued. This is incorrect. An ACL complaint is not an order of the Regional Board; it is a complaint, analogous to a complaint in a civil action. It is the order of the court, or the order of the Regional Board after a hearing, which is final and subject to review within 30 days by an appellate body.

With respect to granting a continuance to the March, 2005 Regional Board hearing, there is no active complaint issued to your client and consequently no hearing has been scheduled. A continuance is not necessary at this time. We will inform you when a complaint is issued and when the related hearing is scheduled.

California Environmental Protection Agency



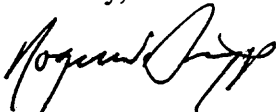
Pierson ACL
July 8, 2005 Meeting
Attachment No. 22

It seems premature to be discussing subpoenas and depositions when your client has not been issued an active complaint. However, for the record, please be aware that the issuance of a complaint will be at the discretion of and by the Executive Officer of the Regional Board staff. The attorney representing staff in the matter will be Steven H. Blum. After the complaint is issued and the hearing is scheduled, all procedural and evidentiary (i.e. discovery) issues will be handled through Lori Okun, the attorney representing the Regional Board in its role as adjudicator. Your January 25, 2005 letter has been forwarded to Ms. Okun.

In our January 27, 2005 letter we stated that it was possible that some documents would be available only in electronic format and therefore we would provide such documents on a CD. We have since determined that all relevant documents are contained in the hard files and a CD will not be necessary. However, a CD containing all relevant photographs will be available upon request as we stated in our January 25, 2005 letter. The files we provide for your review will not include "attorney client confidential communication" documents, or documents that are part of the deliberative process.

Mr. Blum can be contacted at (916) 341-5177, Ms. Okun can be contacted at (916) 341-5165, and our lead staff person in the matter, Bruce Paine, can be contacted at (805) 542 4782.

Sincerely,



Roger W. Briggs
Executive Officer

CC: David Pierson
Lori Okun
Steven H. Blum

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California Environmental Protection Agency





California Regional Water Quality Control Board Central Coast Region



Terry Tamminen
Secretary for
Environmental
Protection

Arnold Schwarzenegger
Governor

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December 9, 2004

CERIFIED MAIL
RETURN RECEIPT REQUESTED
7004 1350 0002 2200 6877

William S. Walter
679 Monterey Street
San Luis Obispo, CA 93401

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT – DAVID PIERSON, CRESTON, SAN LUIS OBISPO COUNTY

Mr. Walter:

During the Regional Board proceedings on December 2, 2004, the Regional Board directed staff to withdraw Administrative Civil Liability Complaint No. R3-2004-0110 issued to your client Mr. David Pierson and reissue Mr. Pierson a new complaint with a proposal for a higher amount of liability. Complaint R3-2004-0110 is hereby withdrawn. The check that Mr. Pierson submitted in response to the Complaint will be returned to him with his copy of this letter. We expect to issue the new complaint in late January 2005, with the related public hearing scheduled for March 25, 2005.

Should you have questions, please contact Bruce Paine at (805) 542-4782 or Chris Adair at (805) 549-3761.

Sincerely,

Roger W. Briggs
Executive Officer

CC:

David Pierson
P.O. Box 1833
Rancho Santa Fe, CA 92067

California Environmental Protection Agency



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Jennifer Soloway
OCC, SWRCB

S:\Storm Water\Construction\San Luis Obispo Co\319357, Pierson, Crest\ACL - 04.Letter re. Rejection of Complaint