From:	Okamoto, Mayumi@Waterboards
To:	"Miliband, Wes A."; Deeringer, Andrew@Waterboards; Castanos, Kristen T.; Cho, Juliet; Knight, Nickolaus@Waterboards
Cc:	Pulupa, Patrick@Waterboards
Bcc:	Altevogt, Andrew@Waterboards; Wyels, Wendy@Waterboards; Hold, Howard@Waterboards; Childs, Guy@Waterboards
Subject:	RE: Follow-up to 1/7/16 call
Date:	Friday, January 08, 2016 4:40:00 PM

The Prosecution Team will stipulate to using the methodology proposed by the Advisory Team, for purposes of determining economic benefit, as described in the January 7, 2015 email to the Parties.

Thanks and have a great weekend.

-Mayumi

Mayumi E. Okamoto, Attorney III
Office of Enforcement
State Water Resources Control Board
1001 I Street, 16th Floor
Sacramento, California 95814
Direct: (916) 341-5674
Fax: (916) 341-5284

From: Miliband, Wes A. [mailto:wes.miliband@stoel.com]
Sent: Friday, January 08, 2016 9:57 AM
To: Deeringer, Andrew@Waterboards; Castanos, Kristen T.; Cho, Juliet; Okamoto, Mayumi@Waterboards; Knight, Nickolaus@Waterboards
Cc: Pulupa, Patrick@Waterboards
Subject: RE: Follow-up to 1/7/16 call

Good morning, Advisory Team and Prosecution Team,

Morning Star agrees to stipulate as set forth below in Mr. Deeringer's email.

Best regards,
Wes

Wesley A. Miliband | STOEL RIVES LLP
Direct: (916) 319-4676 | Mobile: (949) 232-9731

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From: Deeringer, Andrew@Waterboards [mailto:Andrew.Deeringer@Waterboards.ca.gov]

Sent: Thursday, January 07, 2016 3:20 PM
To: Miliband, Wes A.; Castanos, Kristen T.; Cho, Juliet; Okamoto, Mayumi@Waterboards; Knight, Nickolaus@Waterboards
Cc: Pulupa, Patrick@Waterboards
Subject: Follow-up to 1/7/16 call

Good afternoon Counselors,

This email is intended to memorialize the outcome of today's conference call concerning the production of documents in the Morning Star ACL matter. The Advisory Team is encouraging the parties to explore the possibility of stipulating on the issues of "ability to pay" and "economic benefit," which would allow the hearing to focus on the legal and factual issues about which the board members are most likely to have questions. The stipulations would, in concept, be as follows:

- **Ability to pay**: Morning Star would stipulate its ability to pay the currently proposed penalty of $1.5 million. At the hearing, it is possible that the board members may wish to revise the penalty upwards of $1.5 million. If that were to occur, it would open the door to receiving evidence regarding Morning Star's ability to pay.
- **Economic benefit**: Prior to entering into any formal stipulation, the parties would informally agree on a formulation for economic benefit that compares the as-built expansion to the most likely alternative expansion scenario. Agreeing on a final number in the formal stipulation would likely require some preliminary research and further discussion regarding the costs associated with the alternative expansion. Given the time remaining before the scheduled hearing date, and the fact that economic benefit is used solely to calculate a minimum penalty, such agreement would aim merely for a number that the parties can agree reflects a reasonable approximation of the alternative scenario, not engineer's precision.

Counsel for Morning Star will notify the persons on this email by EOB Monday, January 11th, whether Morning Star is amenable to stipulating "ability to pay" as described above. Counsel for both parties will notify the persons on this email by EOB Monday, January 11th whether their respective clients are amenable to starting the process of stipulating "economic benefit" as described above. The latter notification will not commit either party to ultimately stipulating economic benefit; only exploring it further in good faith.

If, by EOB Monday, it appears that one or both stipulations are not possible, shortly thereafter the Advisory Team will issue a response, which may take the form of either a ruling on Morning Star's Request for Reconsideration or an alternative resolution.

As always, please feel free to reply all with any questions or clarifications you may have for me.

Respectfully,

Andrew

Andrew S. Deeringer
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