

Law Offices of
S. JACK CHEVLEN

5902 Deerland Court
San Jose, California 95124-6575
Telephone (408) 369-8000
Facsimile (408) 369-8200
E-mail: JackChevlen@ChevlenLaw.com

September 24, 2015

VIA E-MAIL Elizabeth.Wells@Waterboards.ca.gov
& FIRST CLASS USPS MAIL

Elizabeth Wells
California Regional Water Board
San Francisco Bay Water Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: California Regional Water Quality Control Board
San Francisco Bay Region
Complaint No. R2-2015-1012
Administrative Civil Liability In the Matter of
Mr. Frank Hamed
Violation of Site Cleanup Requirements
Former Velcon II Property, 1761 Junction Avenue,
San Jose, Santa Clara County
WDID 2 438510N01

My file no: 3470

Dear Ms. Wells:

This letter is a brief reply to the Prosecution's Team letter of September 22, 2015 whereby they consent to Mr. Hamed's request for a time extension but object to Mr. Hamed's request for a prehearing conference.

I need not address the issue of the request to extend the hearing date since the Prosecution Team has no objection to this request.

However, with respect to the Prosecution Team's objection to Mr. Hamed's request for a prehearing conference the Prosecution Team's letter of September 22, 2015 states, in part, "...The purpose of a prehearing conference in agency adjudication is to clear away procedural issues and is a means for efficient case management. Prehearing conferences do not resolve central issues that should be decided by the Water Board."

The Prosecution Team's above quoted statement misstates the purpose of a prehearing conference. The purpose of a prehearing conference is to do much more than clear away procedural issues.

Pursuant to Government Code §11511.5(b) a prehearing conference may deal with one or more of the following matters "... (3) clarification of issues... (12) any other matters as shall promote the orderly and prompt conduct of the hearing..."

Government Code §11511.5(e) states "The administrative law judge shall issue a prehearing order incorporating the matters determined at the prehearing conference. The administrative law judge may direct one or more of the parties to prepare a prehearing order."

As succinctly demonstrated above the purpose of a prehearing conference goes far beyond clearing away procedural issues.

The Prosecution Team's letter of September 22, 2015 at Page 3 identifies seven (7) different issues requested by Mr. Hamedì to be addressed at a prehearing conference and at the bottom of Page 3 states "The Prosecution Team will address the above issues in its 'Submission of Evidence and Policy Statements' as required by the Hearing Procedure..."

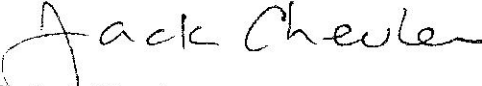
At a minimum Frank Hamedì does not want to rely on the representation the Prosecution Team will address the central issues identified on Page 3, Paragraphs (b), (e), (g), (h) and its subparagraphs, (i), (j) and (m) in its letter dated September 22, 2015 in its Submission of Evidence and Policy Statements.

Rather, Frank Hamedì again at a minimum requests he have the answers to these questions from the Prosecution Team through a prehearing conference and order thereon.

The denial of Mr. Hamedì's request for a prehearing conference will certainly prejudice Mr. Hamedì.

The granting of a prehearing conference will not in any manner whatsoever prejudice the Prosecution Team.

Very truly yours,


S. Jack Chevlen

SJC:db

Cc via mail & e-mail: Brian Thompson, Section Leader – Brian.Thompson@waterboards.ca.gov

Cc via mail & e-mail: Paul Ciccarelli, Staff Counsel – Paul.Ciccarelli@waterboards.ca.gov

Cc e-mail only: Client