

Farwell Jensen, Jane

From: Buckman, Michael@Waterboards
Sent: Tuesday, June 30, 2015 3:32 PM
To: John A. Holdredge; Tauriainen, Andrew@Waterboards; O'Hagan, John@Waterboards
Cc: Hensley, Cindy D.@Waterboards; Olson, Samantha@Waterboards; Farwell Jensen, Jane; AndrewFlocchini@gmail.com; Evoy, Barbara@Waterboards; Mrowka, Kathy@Waterboards; Paula Whealen (pwhealen@wbecorp.com)
Subject: RE: Flocchini Estate LLC and Andrew J. Flocchini - Settlement Agreement

Ladies and Gentlemen:

On May 28, 2015, the State Water Resources Control Board (State Water Board) received a joint request from the Division of Water Rights Prosecution Team (Prosecution Team) and the representative for the Flocchini Estate, LLC (Flocchini) to postpone the **Monday, June 1, 2015** hearing regarding the Flocchini Estate enforcement matter (ENF00179), based on a proposed settlement agreement (dated May 28, 2015) entered into by the parties. On May 29, 2015, the State Water Board issued a [Notice of Postponement](#) for the June 1st hearing and provided additional notice to the parties that the proposed "settlement agreement does not, however, take effect unless and until approved by the State Water Board's Executive Director pursuant to Government Code section 11415.60."

On June 11, 2015, Flocchini requested a modification to the proposed settlement agreement to allow for a payment schedule. The Prosecution Team responded to the requested modification on June 13, 2015. In light of this correspondence, it appears that there is some disagreement between the parties about the terms of the agreement. Therefore, the State Water Board will allow the parties an opportunity to resolve any outstanding issues by **July 15, 2015**. The State Water Board's Executive Director will hold in abeyance his consideration of the proposed settlement agreement pending any amended agreement submitted by the July 15th deadline.

Finally, the State Water Board's Hearing Team reminds the parties that, in this currently postponed water right enforcement hearing proceeding, the Prosecution Team is prosecuting Flocchini for an alleged violation. Thus, the Prosecution Team and Flocchini, who is the subject of the proposed enforcement action, may at their discretion engage in private settlement discussions. Due to the separation of functions, the State Water Board's Hearing Team cannot participate in settlement discussions. During the pendency of this currently postponed hearing proceeding, there shall be no *ex parte* communications regarding substantive or controversial procedural matters within the scope of the proceeding between State Water Board members or hearing team members and any of the other participants, including members of the prosecution team. (Gov. Code, §§ 11430.10-11430.80.)

Further notification will be provided when the hearing is either rescheduled or cancelled.

Michael Buckman
Senior Environmental Scientist
Hearings Unit Chief, Division of Water Rights
State Water Resources Control Board
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From: John A. Holdredge [<mailto:JHoldredge@gearylaw.com>]
Sent: Sunday, June 14, 2015 2:25 PM
To: Tauriainen, Andrew@Waterboards; Buckman, Michael@Waterboards; O'Hagan, John@Waterboards
Cc: Hensley, Cindy D.@Waterboards; Olson, Samantha@Waterboards; Farwell Jensen, Jane;
AndrewFlocchini@gmail.com; Evoy, Barbara@Waterboards; Mrowka, Kathy@Waterboards; Paula Whealen
(pwhealen@wbecorp.com)
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First, I want to thank Mr. Tauriainen for his approach. Stated simply, the combined costs of compliance and this payment are quite significant, hence the request by Mr. Flocchini. He is simply trying to ensure he can meet all the obligations, and therefore requested this accommodation, and appreciates your consideration thereof.

JAH

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From: Tauriainen, Andrew@Waterboards <Andrew.Tauriainen@waterboards.ca.gov>
Sent: Saturday, June 13, 2015 10:43 AM
To: Buckman, Michael@Waterboards; O'Hagan, John@Waterboards
Cc: Hensley, Cindy D.@Waterboards; Olson, Samantha@Waterboards; Farwell Jensen, Jane;
AndrewFlocchini@gmail.com; Evoy, Barbara@Waterboards; John A. Holdredge; Mrowka, Kathy@Waterboards; Paula
Whealen (pwhealen@wbecorp.com)
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The Prosecution Team is not aware of any evidence, in the record or otherwise, that would indicate an inability to pay the full liability in accordance with Paragraph 4 of the Settlement Agreement. The Settlement Agreement is a negotiated agreement between the Prosecution Team and Mr. Flocchini and his team, and this request represents a material modification. Nevertheless, if the Executive Director determines that a payment schedule is appropriate, the Prosecution Team will not object, provided that all other terms and conditions are retained and Mr. Flocchini continues to waive his right (and that of Flocchini Estate LLC) to request reconsideration of the approving order.

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From: Buckman, Michael@Waterboards
Sent: Friday, June 12, 2015 2:29 PM
To: Tauriainen, Andrew@Waterboards; O'Hagan, John@Waterboards
Cc: Hensley, Cindy D.@Waterboards; Olson, Samantha@Waterboards; Farwell Jensen, Jane; AndrewFlocchini@gmail.com; Evoy, Barbara@Waterboards; John A. Holdredge (JHoldredge@gearylaw.com); Mrowka, Kathy@Waterboards; Paula Whealen (pwhealen@wbecorp.com)
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Andrew and John,

Would you please provide us with your feedback on the request from Ms. Whealen. The hearing team was not involved in the settlement negotiations. As noted by Ms. Whealen in her letter, this request would change a term of the proposed settlement agreement which is currently pending approval. We will be awaiting your feedback.

Thank you,

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From: Paula Whealen [<mailto:pwhealen@wbecorp.com>]
Sent: Thursday, June 11, 2015 5:43 PM
To: Olson, Samantha@Waterboards; Farwell Jensen, Jane
Cc: Andrew Flocchini; Tauriainen, Andrew@Waterboards; Evoy, Barbara@Waterboards; John A. Holdredge
Subject: Flocchini Estate LLC and Andrew J. Flocchini - Settlement Agreement
Importance: High

Please see attached letter in regards to the subject matter.

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