

## Farwell Jensen, Jane

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**From:** Buckman, Michael@Waterboards  
**Sent:** Tuesday, April 21, 2015 4:04 PM  
**To:** John A. Holdredge; Tauriainen, Andrew@Waterboards  
**Cc:** Mona, Ernie@Waterboards; Molly Meroney; Mrowka, Kathy@Waterboards; Olson, Samantha@Waterboards; Farwell Jensen, Jane; Riddle, Diane@Waterboards; Grober, Les@Waterboards; Evoy, Barbara@Waterboards  
**Subject:** RE: Flocchini Draft CDO and ACL Hearing: Request to Extend Exhibits/Testimony Submittal Deadline

Good Afternoon,

Thank you both for your responses.

With regards to the Prosecution Team's request that a definitive date be set for submittal of their rebuttal, the Prosecution Team may submit its rebuttal testimony at its discretion prior to the hearing as the hearing officers have not set advanced submittal deadlines for rebuttal testimony. As a reminder, pursuant to Section 9c. (ORDER OF PROCEEDING) of the [April 20<sup>th</sup> hearing notice](#) attachment:

"c. **Rebuttal:** After all parties have presented their cases-in-chief and their witnesses have been cross-examined, the hearing officers will allow parties to present rebuttal evidence. Rebuttal evidence is new evidence used to rebut evidence presented by another party.

Rebuttal testimony and exhibits need not be submitted prior to the hearing, although the hearing officers may require submittal of rebuttal testimony and exhibits before they are presented in order to improve hearing efficiency. Rebuttal evidence is limited to evidence that is responsive to evidence presented in connection with another party's case-in-chief, and it does not include evidence that should have been presented during the case-in-chief of the party submitting rebuttal evidence. It also does not include repetitive evidence. Cross-examination of rebuttal evidence will be limited to the scope of the rebuttal evidence."

Also, the hearing team acknowledges the parties agreement to limit Flocchini Estates to the witnesses listed in the April 20 revised Notice of Intent.

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**From:** John A. Holdredge [mailto:JHoldredge@gearylaw.com]  
**Sent:** Tuesday, April 21, 2015 2:47 PM  
**To:** Tauriainen, Andrew@Waterboards  
**Cc:** Mona, Ernie@Waterboards; Molly Meroney; Mrowka, Kathy@Waterboards; Buckman, Michael@Waterboards; Olson, Samantha@Waterboards; Farwell Jensen, Jane; Riddle, Diane@Waterboards; Grober, Les@Waterboards; Evoy, Barbara@Waterboards  
**Subject:** Re: Flocchini Draft CDO and ACL Hearing: Request to Extend Exhibits/Testimony Submittal Deadline

All- that's absolutely fine with me. Thanks. JAH.

Sent from my iPhone

On Apr 21, 2015, at 2:36 PM, "Tauriainen, Andrew@Waterboards" <[Andrew.Tauriainen@waterboards.ca.gov](mailto:Andrew.Tauriainen@waterboards.ca.gov)> wrote:

The Prosecution Team notes that Flocchini Estate now has two weeks to review the Prosecution Team's submittals and tailor its testimony and exhibits accordingly. The Prosecution Team hereby requests that, rather than submitting additional testimony and exhibits along with Flocchini on May 4, it be allowed to submit rebuttal testimony and exhibits no later than Monday, May 11, 2015, at noon. Although relatively unusual in water rights enforcement hearings, staggered submittal deadlines are common in regional board and court proceedings. Allowing the Prosecution Team rebuttal here would not prejudice Flocchini Estate, and would counter any prejudice against the Prosecution Team created by allowing Flocchini to prepare its testimony and exhibits in response to the Prosecution Team's April 20 submittals.

The Prosecution Team also requests that Flocchini Estates be limited to the witnesses listed in the April 20 revised Notice of Intent. The Notice of Intent was due April 6.

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**From:** Mona, Ernie@Waterboards  
**Sent:** Tuesday, April 21, 2015 10:53 AM  
**To:** John A. Holdredge; Molly Meroney; Tauriainen, Andrew@Waterboards; Mrowka, Kathy@Waterboards  
**Cc:** Buckman, Michael@Waterboards; Olson, Samantha@Waterboards; Farwell Jensen, Jane; Riddle, Diane@Waterboards; Grober, Les@Waterboards; Evoy, Barbara@Waterboards  
**Subject:** Flocchini Draft CDO and ACL Hearing: Request to Extend Exhibits/Testimony Submittal Deadline

Ladies and Gentlemen:

Hearing Staff have advised the Hearing Officers (Spivy-Weber and Moore) of the details of Flocchini Estate's April 20, 2015 request to extend the April 20, 2015 [noticed](#) deadline for submittal of testimony and exhibits. Flocchini Estate's new counsel, Mr. John A. Holdredge, requested **14 extra days** to prepare and submit any necessary amendments to the list of witnesses and exhibits that were timely filed by the April 20<sup>th</sup> deadline.

The Hearing Officers have granted Flocchini Estate's request more time, with the understanding that the Prosecution Team will also be afforded the additional time to supplement, if it chooses to do so, its timely submittal of exhibits and testimony. Therefore, the new deadline for submittal of testimony and exhibits is **Monday, May 4, 2015, at noon**. The documents submitted on April 20<sup>th</sup> can now be viewed at the [Project Website](#).

I would like to remind the parties of the time limits set forth for the presentation of each party's case-in-chief, under Section 9 (ORDER OF PROCEEDING) of the Attachment (INFORMATION CONCERNING APPEARANCE AT WATER RIGHT HEARINGS) to the [April 20<sup>th</sup> hearing notice](#). The specified times limits will be imposed to ensure that the hearing is conducted as efficiently as possible. Please adjust your proposed testimony, accordingly, to adhere to those specified time limits.

If you have any questions, please contact me....Thanks

**Ernest Mona**

[State Water Resources Control Board](#)  
[Division of Water Rights](#)  
[Hearings and Special Programs Section](#)

(916) 341-5359

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