



State Water Resources Control Board

August 18, 2014

VIA ELECTRONIC MAIL

STORNETTA FAMILY TRUST AND NEWTON DAL POGGETTO (TRUSTEE)
C. Scott Kirk
Spaulding McCullough & Tansil LLP
90 South E. Street, Suite 200
Santa Rosa, CA 95404
Kirk@smlaw.com

Dear Mr. Kirk:

WRITTEN TESTIMONY REGARDING WATER RIGHT HEARING ON DRAFT CEASE AND DESIST ORDER AND ADMINISTRATIVE CIVIL LIABILITY - STORNETTA FAMILY TRUST AND NEWTON DAL POGGETTO (TRUSTEE), NAPA COUNTY – SCHEDULED TO COMMENCE ON SEPTEMBER 2, 2014

In your [Notice of Intent to Appear](#), submitted on June 26, 2014 for the above subject hearing, you listed two witnesses that you plan to call to testify at the hearing: Gary Kiser and Newt Dal Poggetto. The State Water Resources Control Board (State Water Board or Board) received written testimony from you titled "Declaration of Gary Kiser" for Mr. Kiser ([DalPoggetto Exhibit 1](#)). The Board, however, did not receive any written testimony for Mr. Dal Poggetto. The subject of Mr. Dal Poggetto's testimony is listed on the Notice of Intent to Appear as "Use of land, property, history of pond."

As instructed in Section 6 of the May 22, 2014 [Notice of Public Hearing](#)'s attachment entitled, "Information Concerning Appearance at Water Right Hearings," "*Exhibits include written testimony, statements of qualifications of expert witnesses, and other documents to be used as evidence. Each party proposing to present testimony on factual or other evidentiary matters at the hearing shall submit such testimony in writing.¹ Written testimony shall be designated as an exhibit, and must be submitted with the other exhibits. Oral testimony that goes beyond the scope of the written testimony may be excluded.*"

If Mr. Dal Poggetto does intend to present evidence, you must submit his written testimony as soon as possible and prior to the hearing and serve copies of the testimony on Ms. West of the Prosecution Team.

¹ A party is not required to present evidence as part of a case-in-chief. Parties not presenting evidence as part of a case-in-chief will be allowed to participate through opening statements, cross-examination, and rebuttal, and may also present closing statements or briefs, if the hearing officers allow these in the hearing.

All written testimony and other exhibits submitted to the State Water Board should be addressed as follows:

Division of Water Rights
State Water Resources Control Board
Attention: Jean McCue

By Mail: P.O. Box 2000, Sacramento, CA 95812-2000
By Hand Delivery: Joe Serna, Jr.-Cal/EPA Building
1001 I Street, 2nd Floor, Sacramento, CA 95814
By Fax: (916) 341-5400
By Email: wrhearing@waterboards.ca.gov
With Subject of "**Dal Poggetto Draft CDO and ACL
Hearing**"

If you have any noncontroversial procedural questions, please contact me at (916) 341-5351 or by email at Jean.McCue@waterboards.ca.gov or Carlos Mejia at (916) 341-5184 or by email at Carlos.Mejia@waterboards.ca.gov.

Sincerely,



Jean McCue
Hearings Unit

ec: State Water Resources Control Board:
Carlos Mejia, Staff Counsel
Office of Chief Counsel
Carlos.Mejia@waterboards.ca.gov

ec: Yvonne West, Senior Staff Counsel
Office of Enforcement
Yvonne.West@waterboards.ca.gov

John O'Hagan, Assistant Deputy Director
Permitting and Enforcement Section
Division of Water Rights
John.O'Hagan@waterboards.ca.gov

Enclosure: Service List

**DRAFT CEASE AND DESIST ORDER AND
AND ADMINISTRATIVE CIVIL LIABILITY HEARING –
STORNETTA FAMILY TRUST AND
NEWTON DAL POGGETTO (TRUSTEE)**

SCHEDULED TO COMMENCE ON SEPTEMBER 2, 2014

**SERVICE LIST OF PARTICIPANTS TO EXCHANGE INFORMATION:
(JULY 7, 2014)**

PARTICIPANTS TO BE SERVED WITH WRITTEN TESTIMONY, EXHIBITS, AND OTHER DOCUMENTS. (Note: The participants listed below agreed to accept electronic service, pursuant to the rules specified in the hearing notice.)

STORNETTA FAMILY TRUST AND
NEWTON DAL POGGETTO (TRUSTEE)
C. Scott Kirk
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Kirk@smlaw.com

DIVISION OF WATER RIGHTS PROSECUTION
TEAM
Yvonne West, Senior Staff Counsel
State Water Resources Control Board
Office of Enforcement
1001 I Street, 16th Floor
Sacramento, CA 95814
Yvonne.West@waterboards.ca.gov