

CHRISTOPHER J. NEARY
cjneary@pacific.net

JENNIFER M. O'BRIEN
jennifer_m_obrien@yahoo.com

NEARY AND O'BRIEN

ATTORNEYS AT LAW

110 SOUTH MAIN STREET, SUITE C
WILLITS, CALIFORNIA 95490

FAx: (707) 459-3018
WWW.CJNEARY.COM

(707) 459-5551

May 6, 2013

Via E-Mail Only

Dear Mr. Mona, Mr. Buckman, Mr. Jacobsen, and Mr. Lily

In light of the Division's May 1, 2013 Petition for leave to reopen the evidence and submit a technical report The Division, Intervener Sonoma County Water Agency and Millview stipulated on May 3rd as follows:

- (1) That Millview would have until May 10 to either file an opposition to the Division's Petition for Leave, or advise the Board and the parties that there is no opposition to the motion;
- (2) That if Millview did not oppose the Division's Petition for Leave to submit additional evidence that the deadline for filing briefs would be extended to May 20.
- (3) That if Millview decided to oppose the Division's motion, then the deadline for filing briefs would be extended for ten days after the SWRCB rules on the Division's Petition.

After we entered into this stipulation and before we could present it to the Board we received an email late Friday afternoon from Michael Buckman which adopted stipulation numbered one above. However, Mr. Buckman also shortened the time for filing briefs to May 14th and imposed a new requirement that if any party wished to file any additional evidence under the three additional topics mentioned in Mr. Mona's e-mail of April 22, 2013 that such evidence be submitted by May 10th.

First, the proposal to shorten the time for filing of the brief to May 14 is not workable for my office as after we entered into the stipulation I made some scheduling decisions which are not reversible to accommodate the notion that the brief would not be due until May 20 at the earliest.

Secondly, Mr. Mona's e-mail of April 22 indicating the three topics that the board wished to be addressed in the brief did not invite submission of additional evidence. However, Mr. Buckman's e-mail of late Friday provided Millview with one and one half business days to

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marshall such evidence. In that evidence will require consultation with technical consultants by Millview and further that the augmenting evidence is not necessarily in the custody of Millview, but rather the custody of Masonite Corporation now located in Florida, it is not feasible on such short notice to have a deadline of May 10 to marshall, and produce evidence prior to the time that the briefs are formulated.

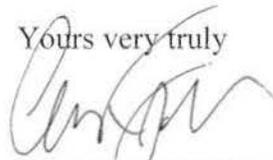
While Millview is willing to abide by the schedule in the stipulation described above, a suddenly emerging deadline for Millview to produce any further evidence on the three topics as opposed to just discussing the existing evidence in the closing brief is not workable or agreeable.

It is requested that the stipulation be approved. In that context, the undersigned is presently inclined not to contest the Division's Petition, but the matter has to be discussed with the client and with Masonite's attorney. As for submission of additional evidence by Millview it is requested that Millview have until at least May 14 to marshall and produce any further evidence.

However, Mr. Buchman's e-mail of Friday by treating the Petition to submit additional evidence itself as a submission on the additional topic, implies that Millview would be required to submit additional evidence by way of Petition. This creates something of a problem in that it will be unclear until separate action is taken on any petitions as to how the briefs should handle the evidence, the record being in potential flux.

Therefore, I propose by this letter that a subsequent hearing be conducted limited to the presentation of evidence on the additional topics requested by the Board and that the closing briefs be submitted following the close of evidence and finalization of the record. Although there would be a delay, the delay would be enable the three topics to be addressed in isolation, with ability to lay a foundation for any additional evidence, to consider evidentiary objections to the evidence, to allow cross examination of the any testimony relating to the matter and orderly process. This I believe is preferable to an ad hoc process which is now unfolding which is not contiguous to a solid administrative record fair to all parties.

Yours very truly



CHRISTOPHER J. NEARY

Cjn/LWS

cc. Tim Bradley, Millview
Jan Goldsmith