
Central Valley Regional Water Quality Control Board

TO: Central Valley Water Board Advisory Team
Pamela C. Creedon
Adam W. Laputz
Patrick Pulupa

FROM: Central Valley Water Board Prosecution Team
Andrew Altevogt, Lead Prosecutor

CC: Larry W. and Shireen I. Slate

DATE: 3 November 2014

SUBJECT: SUPPLEMENTAL INFORMATION SUBMITTAL FOR THE LARRY W. AND SHIREEN I. SLATE (SLATE) ADMINISTRATIVE CIVIL LIABILITY COMPLAINT (ACLC) R5-2014-0564

By this memorandum, the Prosecution Team is transmitting supplemental information gathered for the subject Administrative Civil Liability Complaint.

Slate did not submit any written comments regarding the subject ACL Complaint. There will therefore be no rebuttal statement provided by the Prosecution Team.

Receipt of Policy Statement, Evidence, and Witness List by Slate

On 7 October 2014, the Prosecution Team provided copies of the Policy Statement, Evidence, and Witness List for the subject Complaint to Larry and Shireen Slate. The copies were provided via regular mail and email. Copies of the first page of the transmittal, the USPS certified mail receipt signed by Shireen Slate, and the email transmittal are enclosed.

Phone Call with Larry Slate

On 1 October 2014, Prosecution Team member Brett Stevens called Larry Slate (see Exhibit 19) to notify him that ACLC R5-2014-0564 was being placed for consideration before the Board during the December 4th or 5th 2014 Board hearing. Mr. Slate stated that his poor health would prohibit him from attending the hearing. Mr. Slate was told both that he could request for the matter to be heard at a later date, and that he could submit a written statement to the Board for their consideration.

On 30 October 2014, Prosecution Team member Brett Stevens called Larry Slate to discuss the upcoming Board hearing for the subject Complaint. Mr. Stevens conveyed the following information to Mr. Slate:

- Mr. Slate was asked if he intended to appear at the hearing. He again said that his poor health would preclude him from attending the hearing. Mr. Stevens then reminded Mr. Slate that he may submit a written statement concerning the Board's consideration of the Slate ACL Complaint;
- Mr. Slate was notified that David & Linda Davis have retained counsel to represent them at their December Board hearing, which involves similar issues as Slate's.

Original signed by:

Andrew Altevogt, Lead Prosecutor
Assistant Executive Officer

Enclosures: 7 October 2014 Email to Advisory Team and Discharger
Certified Mail Receipt

Stevens, Brett@Waterboards

From: Stevens, Brett@Waterboards
Sent: Tuesday, October 07, 2014 2:33 PM
To: shireenanlarry@yahoo.com; Creedon, Pamela@Waterboards; Pulupa, Patrick@Waterboards; Landau, Ken@Waterboards; Laputz, Adam@Waterboards; Landau, Ken@Waterboards
Cc: Altevogt, Andrew@Waterboards; Karkoski, Joe@Waterboards; Kaplowitz, Naomi@Waterboards; Tauriainen, Andrew@Waterboards; Kulesza, Dana@Waterboards
Subject: Larry W. & Shireen I. Slate ACL Complaint: Submission of Evidence and Policy Statement
Attachments: 141007_Slate_Memo_PolicyStatement_EvidenceList_WitnessList.pdf; 1.pdf; 2.pdf; 7.pdf; 9.pdf; 12.pdf; 13.pdf; 14.pdf; 15.pdf; 16.pdf; 17.pdf; 18.pdf; 19.pdf

To Mr. Slate and the Advisory Team:

The Prosecution Team's Policy Statement, Evidence List, and Witness List are attached for the subject ACL Complaint. A hard copy of these documents will be provided to Mr. Slate via USPS certified mail.

Andrew A., Adam, and Patrick, please let me know if you would like a hard copy of the attached documents.

Please contact the Prosecution Team if you have any questions.

Brett Stevens
Senior Environmental Scientist
Compliance & Outreach Unit
Irrigated Lands Regulatory Program
Central Valley Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

(916) 464-4642
Stevens, Brett@Waterboards



Central Valley Regional Water Quality Control Board

TO: Central Valley Water Board Advisory Team
Pamela C. Creedon
Adam W. Laputz
Patrick Pulupa

FROM: Central Valley Water Board Prosecution Team
Andrew Altevogt, Lead Prosecutor

CC: Larry W. and Shireen I. Slate

DATE: 7 October 2014

SUBJECT: POLICY STATEMENT, EVIDENCE, AND WITNESS LIST FOR THE LARRY W. AND SHIREEN I. SLATE (SLATE) ADMINISTRATIVE CIVIL LIABILITY COMPLAINT (ACLC) R5-2014-0564

By this memorandum, the Prosecution Team is transmitting its Policy Statement, Evidence, and Witness List for the Slate Administrative Civil Liability Complaint.

Policy Statement

On 11 July 2014, the Advisory Team provided the Prosecution Team with comments on the David L. & Linda M. Davis Trust and William R. Sinks, et al. proposed settlements. The issues and facts in the Slate ACLC are similar to the aforementioned proposed settlements. Therefore, this Policy Statement addresses, in part, concerns raised in that letter and our understanding that this case is primarily about the appropriateness of the factors used by the Prosecution Team in determining the proposed penalty. The facts of this case are not disputed by the Slates. In determining an appropriate penalty, the Prosecution Team attempted to answer the question - "What is the proper application of the Enforcement Policy Penalty Calculation Methodology?"

Although the Penalty Calculation Methodology is rather detailed and provides fairly clear guidance, answering this question is not as straightforward as it might seem at first glance. For "Non-Discharge Violations", there are a number of factors used to calculate the penalty, most of which include some amount of judgment. In addition, typical "Non-Discharge" violations include failure to conduct monitoring or provide reports, so there are not the precedents or examples available as a reference for violations alleged in this case - failure to get required regulatory coverage.

The Prosecution Team took what it felt was a reasoned approach in applying the Penalty Calculation Methodology, while leaving room for the Board to make adjustments in this case and future related cases. Absent prior similar cases or other Board direction, the Prosecution Team felt it was appropriate to apply the factors in this case, as well as the Davis case also being considered at the December board meeting, in a similar manner (specific discussion of the Penalty Calculation Factors is provided on the following pages). In taking this approach, the Prosecution Team hopes to glean from the board's deliberations some guidance as to how to

U.S. Postal Service CERTIFIED MAIL RECEIPT
Postage \$
Certified Fee
Return Receipt Fee
Restricted Delivery Fee
Total Postage & Fees \$
Sent To: LARRY W. & SHIREEN I. SLATE
8760 VOORHEES ROAD
LE GRAND, CA 95333

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

LARRY W. & SHIREEN I. SLATE
8760 VOORHEES ROAD
LE GRAND, CA 95333

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Shireen Slate Addressee

B. Received by (Printed Name) C. Date of Delivery
Shireen Slate

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7013 1710 0002 3644 6559