



**Linda S. Adams**  
Secretary for  
Environmental Protection

# State Water Resources Control Board

## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
P.O. Box 2000 ♦ Sacramento, California 95812-2000 ♦ Fax 916.341.5400  
♦ www.waterboards.ca.gov/waterrights ♦



**Arnold Schwarzenegger**  
Governor

**DEC 24 2010**

In Reply Refer to:  
MLS:S016198

Nelly Mussi and Rudy M Mussi Investment LP  
c/o Dante Nomelini  
Nomelini, Grilli & McDaniel  
P.O. Box 1461  
Stockton, CA 95201-1461

Dear Mr. Nomelini:

**WITHDRAWAL OF THE DRAFT CEASE AND DESIST ORDER AGAINST NELLY MUSSI AND RUDY M. MUSSI INVESTMENTS -- PARCELS 131-070-02, 131-070-12, AND 131-070-13**

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) has received and reviewed your January 14 and February 18, 2010 letters requesting the draft Cease and Desist Order against Nelly Mussi and Rudy M. Mussi Investments (Mussi) be revoked and the hearing cancelled.

To agree with withdrawing the draft Cease and Desist Order and support cancellation of the pending hearing, the Division's Prosecution Team needs sufficient evidence supporting a valid basis of right for Mussi's property. To that end, your letter of February 18, 2010 included copies of indentures dated September 25, 1897 from John Herd to J. L. Blossom, and May 24, 1911 from J. L. Blossom to Azores Dairy Company, regarding the parcel of land known as the Blossom Ranch. The Blossom Ranch property extended on the east from the High Ridge Cross Levee west to Whiskey Slough, and on the south from the southerly section lines of Sections 14, 15, and 16, T1N, R5E, MDB&M north to the Honker Lake Levee. The Blossom Ranch property encompassed current San Joaquin County Assessor's Parcel Numbers 131-070-02, 131-070-12, and 131-070-13. The indentures include statements indicating that water rights and rights of way to Whiskey Slough were retained for irrigation purposes. The statements in the 1911 indenture regarding rights to the use of water from Whiskey Slough have been passed forward in the subsequent parceling of the lands of the Blossom Ranch.

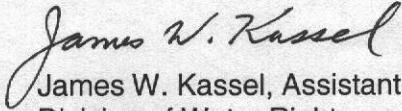
The Division's Prosecution Team concludes that the original Blossom Ranch property was contiguous to Whiskey Slough, and therefore would enjoy a riparian right to the natural flow of Whiskey Slough. Based on these indentures and subsequent property documents, the Division's Prosecution Team concludes that a riparian right to the natural flow of Whiskey Slough was preserved for Mussi's property by reservation after severance and by subsequent continuous physical connection to Whiskey Slough. The Delta Watermaster has reviewed the documents for this matter and concurs with this finding. As a result, the Division accepts Mussi's Statement of Water Diversion and Use for these parcels and the Division's Prosecution Team hereby withdraws the draft Cease and Desist Order dated December 28, 2009. By copy of this letter, the hearing team is advised that the draft Cease and Desist Order is withdrawn and that the Division's Prosecution Team does not intend to go forward with any prosecution of this action. The Prosecution Team has not made a finding as to any pre-1914 rights claimed by Mussi or the availability of natural flow in Whiskey Slough.

*California Environmental Protection Agency*

DEC 24 2010

If you have any questions regarding the matter, please call John O'Hagan at (916) 341-5368.

Sincerely,



James W. Kassel, Assistant Deputy Director  
Division of Water Rights

cc: Nelly Mussi  
7217 Howard Road  
Stockton, CA 95206-9682

Rudy and Tony Mussi  
3580 Muller Road  
Stockton, CA 95206

bcc: DWR Hearing Unit  
Delta Watermaster