

From: Larry Lindsay
To: crivera@somachlaw.com; ssomach@somachlaw.com
CC: Groody, Kathleen; Kassel, Jim; Lauffer, Michael; Mona, Ernie; O'Haga...
Date: 1/10/2012 8:51 AM
Subject: Hearing Regarding License 659 - Morongo Band of Mission Indians

Mr. Somach,

This email is in response to your letter to me dated January 6, 2012.

The Hearing Officer, Board Chairman Hoppin, declines to conduct a settlement conference in this matter. Board-member moderated settlement conferences are not among the identified practices in either California Code of Regulations, title 23, section 648.6, or article 5, commencing with Government Code section 11420.10, of chapter 4.5 of the Administrative Procedure Act. With all parties' consent and waiver, there may be circumstances where it would be lawful and appropriate to have a Board member facilitate a settlement conference. No such showing has been made in this matter. Nevertheless, the Board does encourage settlements, and nothing precludes you from meeting with the prosecution team to either reach a settlement or agree to stipulations of fact that could expedite the hearing.

With regard to your request for a pre-hearing conference, the Board generally finds that a pre-hearing conference is not necessary for a hearing with a small number of parties and a limited set of issues. However, upon a showing of cause, the Hearing Officer will consider conducting a pre-hearing conference after we have received Notices of Intent to Appear.

I note that you will not be available February 5-25, 2012 and "after May 2012." The hearing has been set for April 25, 2012 and if necessary it will continue on April 26.

The hearings staff intends to release the formal hearing notice shortly. It will include due dates for both Notices of Intent to Appear and witness exhibits and testimony. I anticipate that exhibits and testimony will be due in late March.

If you have any non-controversial procedural questions, please call me at (916) 341-5358. You may also contact the lead staff member for this hearing, Kathleen Groody, at (916) 341-5354 or Michael Lauffer, the Board's Chief Counsel, at (916) 341-5183. Mr. Lauffer is directly advising the hearing team and hearing officer until Dana Heinrich returns from leave in March. For other questions, I request you send them by email and copy Ms. Samantha Olson, the attorney for the prosecution team.

Larry

Charles L. Lindsay, PE
Chief of the Bay Delta Unit
Division of Water Rights

(916) 341-5358