

From: Berry, Charles <c_berry@ci.lompoc.ca.us>
Sent: Thursday, July 8, 2021 3:23 PM
To: Samir J. Abdelnour <SAbdelnour@hansonbridgett.com>
Cc: Christine Wong <cwong@algcorp.com>; Chon, Dong Hyun <d_chon@ci.lompoc.ca.us>; Moore, Julie <JMoore@ci.lompoc.ca.us>; Joseph Pannone <jpannone@awattorneys.com>; Melissa M. Malstrom <MMalstrom@hansonbridgett.com>; Elliott Ripley <ERipley@algcorp.com>
Subject: RE: [EXTERNAL] Lompoc Kidney Center

*** EXTERNAL SENDER ***

Good afternoon, Samir, et al,

Thank you for your latest comments, although we are a bit taken aback by them. We thought we were moving forward toward a meaningful resolution for this significant public safety matter, but your emails of June 7 and 15, 2021, appear to be showing Lompoc Artificial Kidney Center (LAKC) is taking a step or two backward. Even with that being said, we will make one more attempt to provide a path for that needed resolution without the need to process the appeals. While not responding point-by-point to your comments, the below provides a complete response to them.

First and foremost, to date, LAKC has failed to meet, completely, the conditions previously communicated through our emails dated April 15 and May 14, 2021, respectively, for dissolving the need to complete the processing of LAKC's subject appeals. Based on all the foregoing, the City provides the following-response:

1. LAKC is obligated to comply with discharge permit I-013, issued on May 7, 2019; the permit is, has been and continues to be in full force during the appeal period. LAKC has been in non-compliance since issuance of discharge permit I-013. An appeal of a notice of violation does not relieve LAKC of its ongoing obligations to comply with its discharge permit.
 - a. It is LAKC's sole responsibility to demonstrate to City's satisfaction how changes in its

We remain hopeful this matter can be amicably resolved; but time is running short to ensure the City is in compliance with its obligations under the Clean Water Act.

Thank you,

C.J.

From: Samir J. Abdelnour <SAbdelnour@hansonbridgett.com>
Sent: Thursday, June 10, 2021 1:24 PM
To: Berry, Charles <c_berry@ci.lompoc.ca.us>
Cc: Christine Wong <cwong@alcorp.com>; Chon, Dong Hyun <d_chon@ci.lompoc.ca.us>; Moore, Julie <JMoore@ci.lompoc.ca.us>; Pannone, Joseph <jpannone@awattorneys.com>; Melissa M. Malstrom <MMalstrom@hansonbridgett.com>
Subject: RE: [EXTERNAL] Lompoc Kidney Center

Thank you.

Samir J. Abdelnour

Partner

Hanson Bridgett LLP

(415) 995-5869 Direct

(415) 995-3581 Fax

SAbdelnour@hansonbridgett.com



This communication, including any attachments, is confidential and may be protected by privilege. If you are not the intended recipient, any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or email, and permanently delete all copies, electronic or other, you may have.

The foregoing applies even if this notice is embedded in a message that is forwarded or attached.

From: Berry, Charles <c_berry@ci.lompoc.ca.us>
Sent: Tuesday, June 8, 2021 2:50 PM
To: Samir J. Abdelnour <SAbdelnour@hansonbridgett.com>
Cc: Christine Wong <cwong@alcorp.com>; Chon, Dong Hyun <d_chon@ci.lompoc.ca.us>; Moore, Julie <JMoore@ci.lompoc.ca.us>; Pannone, Joseph <jpannone@awattorneys.com>; Melissa M. Malstrom <MMalstrom@hansonbridgett.com>
Subject: RE: [EXTERNAL] Lompoc Kidney Center

Samir,

City responds as follows:

The hearing will be continued to the August 3, 2021 meeting to accommodate Dr. Kamal. The City is in disagreement with LAKC's responses and reserves right to comment and will do so via follow-up email.

Regards,

C.J. Berry
Utility Director
City of Lompoc
100 Civic Center Plaza
Lompoc, CA 93436
805-875-8299
c_berry@ci.lompoc.ca.us



From: Samir J. Abdelnour <SAbdelnour@hansonbridgett.com>

Sent: Monday, June 7, 2021 4:12 PM

To: Berry, Charles <c_berry@ci.lompoc.ca.us>

Cc: Christine Wong <cwong@algcorp.com>; Chon, Dong Hyun <d_chon@ci.lompoc.ca.us>; Moore, Julie <JMoore@ci.lompoc.ca.us>; Pannone, Joseph <jpannone@awattorneys.com>; Melissa M. Malstrom <MMalstrom@hansonbridgett.com>

Subject: RE: [EXTERNAL] Lompoc Kidney Center

C.J.,

LAKC responds to your May 14, 2021 email as follows:

1. LAKC proposes to bypass the current water softener in its dialysis treatment process, if doing so will ensure that LAKC's discharges to the City sewer system comply with applicable limits. Although bypassing the water softener does not impact the safety or effectiveness of dialysis treatment, it will result in greater discomfort for patients receiving the treatment. It will also result in increased costs to LAKC for more frequent replacement of the filters used during the reverse osmosis exchange process. However, the increased cost of replacing filters more frequently is still lower than the cost to upgrade to a new water softener, and LAKC must prioritize devoting its financial resources toward providing life-sustaining care to its patients. LAKC disagrees that it is required to request a modification to the permit to bypass its water softener, as use of the water softener is not required under the permit issued by the City on May 8, 2019, and in any event, the parties dispute about whether the permit has taken effect

remains unresolved.

2. The Lompoc Municipal Code defines “Composite sample” as “a **series of grab samples** collected at equal intervals and combined proportional to flow, . . . , or a **series of equal volume grab samples** taken at varying time intervals, in order to determine the average pollutant concentration during the compositing period.” (MC 13.16.030) LAKC has arranged to rent a Composite Portable Sampler that will collect a 24-hour “test” composite sample in compliance with MC 13.16.030. Due to the ongoing COVID-19 pandemic, scheduling this test sample collection has taken longer than expected, and because of continued and worsening vandalism issues in Lompoc that have directly impacted LAKC, we have had to devote additional resources to address security issues related to the 24-hour collection period. Once the test sample collection has been completed, we will provide additional information as requested by the City on the viability of this method for future composite sample collection. In addition, LAKC is currently obtaining proposals for installation of a flow and conductivity meter on the lateral sewer line, as requested by the City.
3. See response 2.
4. LAKC proposes to defer further discussion on this issue until we finish working through the issues in items 1 and 2 above.

LAKC requests that the June 15, 2021 appeal hearing be further continued as the parties continue working toward resolution of these issues. In addition, LAKC CEO Dr. Bindu Kamal will be away from June 11-20 and will not be available to attend the appeal hearing on June 15.

Thank you,
Samir

Samir J. Abdelnour

Partner

Hanson Bridgett LLP

(415) 995-5869 Direct

(415) 995-3581 Fax

SAbdelnour@hansonbridgett.com