

**From:** [Reisch, Scott H.](#)  
**To:** [Grey, Brian@Waterboards](mailto:Grey, Brian@Waterboards)  
**Cc:** [Letton, Ben@Waterboards](mailto:Letton, Ben@Waterboards); [Tarantino, William F.](#)  
**Subject:** Fox's Requests re Proposed CAOs  
**Date:** Wednesday, June 22, 2022 11:01:33 AM  
**Attachments:** [Fox Requests re Proposed CAOs.pdf](#)

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EXTERNAL:

Brian: As discussed, please see attached.

Regards,  
Scott

**Scott H. Reisch**

Partner

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June 22, 2022

By: Electronic Mail

Brian Grey, PG  
Engineering Geologist  
Lahontan Water Board - Region 6  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, CA 96150  
brian.grey@waterboards.ca.gov

**Re: Request for Comments – Cleanup and Abatement Orders for the LTLW, Former Big O Tires and Former Norma’s Cleaners Sites**

Dear Brian:

As we discussed yesterday afternoon, on behalf of Fox Capital Management Corporation (“Fox”), I am writing regarding the Proposed Cleanup and Abatement Orders (“Proposed CAOs”) published by the Lahontan Regional Water Quality Control Board (“Regional Board”) on June 16, 2022, for the Lake Tahoe Laundry Works site (“Proposed LTLW CAO”), the former Big O Tires site (“Proposed Big O Tires CAO”), and the former Norma’s Cleaners site (“Proposed Norma’s Cleaners CAO”). In particular, I am writing to request that (1) the Regional Board provide copies of the supporting documents referenced in the Proposed LTLW CAO; and (2) the Regional Board extend the comment period for all three Proposed CAOs. The basis for Fox’s requests is set forth below.

The Proposed LTLW CAO references exhibits and depositions from the *City of Modesto v. The Dow Chemical Company* litigation, 19 Cal.App.5th 130 (2018), as well as other exhibits that are not attached to the Proposed LTLW CAO. The Proposed LTLW CAO indicates that “[d]ue to the voluminous nature of this evidence, [the exhibits] are not attached here, but maintained in Lahontan Water Board files and available upon request.” Proposed LTLW CAO, Staff Report at n. 4. Fox respectfully requests copies of all documents relied upon by the Regional Board so that it can fully understand the basis for the Regional Board’s proposed actions and can respond appropriately.<sup>1</sup>

Second, Fox requests an extension of time to submit comments on each of the Proposed CAOs. The Proposed CAOs discuss complex technical and legal issues, and would impose millions of dollars of costs on the named parties. Collectively, the Proposed CAOs total over 700 pages (583 of them devoted to the LTLW site), not including all of the documents and exhibits cited by the Regional Board. Fox has been named as a discharger in the Proposed LTLW CAO and has a long-standing interest in the former Big O Tires and former Norma’s Cleaners sites, which are known contributors to the

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<sup>1</sup> Fox has access to a number of the documents listed in Section 9.2. of the Staff Report (e.g., those submitted to the Regional Board by its consultant) but to very few of the 69 documents listed in Section 9.1. We would be pleased to work with you to determine the most efficient way for Fox to access all relevant documents.

Brian Grey, PG  
Lahontan Water Board - Region 6  
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regional plume described by the Regional Board. On numerous occasions in the past, Fox and its consultant have submitted comments to the Regional Board regarding the former Big O Tires and former Norma's Cleaners sites and have made important contributions to the public's understanding of these sites and their impact on groundwater contamination in South Lake Tahoe.

As an additional grounds for the requested extension, I note that I will be in trial in Colorado district court from July 11-22, 2022, as will Fox's consultant, Andrew Safford of EKI Environment & Water. Both Mr. Safford and I have worked on the LTLW site for more than 15 years. Given the upcoming trial, we will not be able to devote significant time to reviewing and responding to the Proposed CAOs until the end of July 2022 at the earliest.

It is difficult for Fox to estimate how long it will need to respond to the Proposed CAOs without knowing the size, content, completeness or complexity of the additional documents relied upon by the Regional Board. Based on the information provided to date and the Regional Board's description of the additional documents as "voluminous," Fox requests an extension until the later of (a) September 19, 2022, and (b) 60 days from the date the Regional Board provides the additional documents. Fox reserves the right to seek a further extension once the Regional Board has made the additional documents available. Because all three Proposed CAOs are interrelated, Fox's request applies equally to all of them.

In the cover letter to each of the Proposed CAOs, the Regional Board has stated that the Proposed CAOs will be finalized "within the year." The modest extension sought by Fox would not interfere with the Regional Board's timetable.

We sincerely appreciate the Regional Board's consideration of these issues and look forward to a productive dialogue with the Regional Board on the issues raised in the Proposed CAOs.

Respectfully submitted,



Scott H. Reisch

cc: Ben Letton, Assistant Executive Officer  
William Tarantino, Morrison Foerster (Counsel for Seven Springs Limited Partnership)