
State Water Resources Control Board

VIA ELECTRONIC MAIL

February 8, 2019

Diane G. Kindermann
Glen C. Hansen
Abbott & Kindermann, LLP
2100 21st Street
Sacramento, CA 95818
dkindermann@aklandlaw.com
ghansen@aklandlaw.com

Bart Barringer
Law Offices of Mayol & Barringer
P.O. Box 3049
Modesto, CA 95353
bbarringer@mblaw.com

Dear Ms. Kindermann and Messrs. Hansen and Barringer:

DRAFT ORDER ADOPTING CEASE AND DESIST ORDER AND IMPOSING ADMINISTRATIVE CIVIL LIABILITY – G. SCOTT FAHEY AND SUGAR PINE SPRING WATER, LP – DEADWOOD SPRING AND THREE UNNAMED SPRINGS TRIBUTARY TO TUOLUMNE RIVER, TUOLUMNE COUNTY

Enclosed is a draft order in which the State Water Resources Control Board (State Water Board or Board) proposes to issue a cease and desist order (CDO) and impose administrative civil liability (ACL) against G. Scott Fahey and Sugar Pine Spring Water, LP (collectively, Fahey). In the draft order, the Board 1) admits certain documents identified by Fahey into evidence as new exhibits, 2) denies Fahey's motions to dismiss, 3) requires Fahey to cease and desist the unauthorized diversion and use of water and take certain corrective actions within a specified time schedule, and 4) imposes administrative civil liability against Fahey in the amount of \$215,000. Of this amount, \$50,000 would be due immediately and the remaining \$165,000 would be indefinitely suspended if Fahey successfully completes the required corrective actions. A copy of this letter, the draft order, the proposed new exhibits, and any written comments received regarding the draft order will be posted on the website dedicated to the Fahey CDO and ACL hearing:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/fahey/

FELICIA MARCUS, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

The State Water Board will consider adopting the draft order at its Board meeting tentatively scheduled for **Tuesday, April 2, 2019, at the CalEPA headquarters building at 1001 I Street in Sacramento**. The Board will issue a public notice of this meeting at least ten days in advance.

All interested persons and parties to the proceeding will have the opportunity to comment on the draft order at the State Water Board meeting. Comments should be limited to the general acceptability of the draft order or possible technical corrections. Parties may not introduce evidence at the Board meeting.

Interested persons and parties are encouraged to submit their comments in writing. **Written comments concerning the draft order must be received by the State Water Board by noon on Monday, March 11, 2019.**

Written comments are to be addressed and submitted to:

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-0100

You may also submit your comments to Ms. Townsend by fax at (916) 341-5620, by email at commentletters@waterboards.ca.gov, or by hand delivery to the following location:

Jeanine Townsend, Clerk to the Board
Executive Office
State Water Resources Control Board
CalEPA Headquarters
1001 I Street, 24th Floor
Sacramento, CA

Couriers delivering comments must check in with lobby security and have them contact the Executive Office on the 24th floor at (916) 341-5600.

Please include the subject line, "**COMMENT LETTER – 4/2/19 BOARD MEETING: FAHEY CDO & ACL HEARING.**" Any faxed or emailed items must be followed by a mailed or delivered hard copy with an original signature.

During the pendency of this proceeding, there shall be no *ex parte* communications regarding substantive or controversial procedural matters within the scope of the proceeding between State Water Board members or hearing team members and any of the other participants, including members of the prosecution team. (Gov. Code, §§ 11430.10-11430.80.)

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If you have any non-controversial procedural questions, please contact Mara Irby, Staff Environmental Scientist, at (916) 322-6794 or by email at Mara.Irby@waterboards.ca.gov, or Lily Weaver, Staff Counsel, at (916) 341-5184 or by email at Lily.Weaver@waterboards.ca.gov.

Sincerely,

ORIGINAL SIGNED BY

Mara Irby, Staff Environmental Scientist
Hearings Unit, Division of Water Rights

Enclosures: Draft Order
Proposed Exhibit Fahey-88 (Johnson Memo)
Proposed Exhibit Fahey-89 (Jopson Memo)
Proposed Exhibit Fahey-90 (CSWC Signature Pages)

cc: Service List