
State Water Resources Control Board

August 29, 2017

VIA ELECTRONIC MAIL

TO: ENCLOSED SERVICE LIST OF PARTICIPANTS

SERVICE LIST OF PARTICIPANTS: Delbert Lehr and Jeff Lehr - Hearing to determine whether to issue a Cease and Desist Order

IMPORTANT NOTE: On August 28, 2017, the Hearing Team received notice that an agreement in principle to resolve the matter of the Draft Lehr CDO had been reached by the parties (i.e., the Division of Water Rights Prosecution Team and Delbert, Donna, and Jeff Lehr). The parties requested that the hearing dates and all associated deadlines be postponed for 60 days. On August 28, 2017, the Hearing Officer approved this request.

Enclosed is the Service List of Participants who have submitted a Notice of Intent to Appear (NOI) form and who indicated intent to participate in the above-referenced hearing. A copy of the most recently received NOI form from each party is attached.¹ The NOI forms and other documents related to this hearing are posted on the Division of Water Rights's project-dedicated website:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/lehr_cdo/index.shtml.

Reminder of Time Limits

Although the hearing and exhibit deadline are temporarily postponed, in the event a settlement is not finalized, we remind parties of the existing time limits. The enclosure to the July 8, 2017 [Notice of Public Hearing](#) (Notice), INFORMATION CONCERNING APPEARANCE AT WATER RIGHT HEARINGS, specified the following time limits for parties (see pp. 5-6):

- **Opening Statements:** 20 minutes.
- **Direct Oral Testimony:** 20 minutes per witness per party and cumulative limit of 1 hour for all of a party's direct testimony. As parties must submit all direct evidence in writing prior to the hearing, oral testimony serves to highlight or explain the key points in the evidence already submitted.²
- **Cross-Examination:** Initial limit of 1 hour per party per witness or witness panel.

¹ Please note that on August 24, 2017, the Hearing Officer disqualified Mike Thrush from providing direct testimony in Delbert, Donna, and Jeff Lehr's case-in-chief.

² The hearing officers may make an exception to this rule if the witness is adverse to the party presenting the testimony and is willing to testify only in response to a subpoena or alternative arrangement.

Requests for Additional Time

The hearing officer may, for good cause, approve a party's request for additional time to present direct testimony during the party's case-in-chief. For example, the hearing officers may allow additional time for the oral direct testimony of the witness if the witness is adverse to the party presenting the testimony and the hearing officers are satisfied that the party could not produce written direct testimony for the witness. The hearing officers also have discretion to allow additional time for cross-examination if there is good cause demonstrated in an offer of proof. These limits remain in force and effect.

Ex Parte Communications

I would like to remind the parties that *ex parte* communications with State Water Board members or members of the Hearing Team are prohibited. Therefore, any communication concerning substantive or controversial procedural issues relevant to this hearing must be copied to all parties on the enclosed service list.

Questions regarding non-controversial procedural matters should be directed to Attorney Andrew Deeringer at (916) 322-3575, or by email to Andrew.Deeringer@waterboards.ca.gov, or Mara Irby at (916) 322-6794, or by email at Mara.Irby@waterboards.ca.gov.

Sincerely,

Mara Irby

Mara Irby
Environmental Scientist
Hearings Unit

Enclosures: Service List of Participants
Notices of Intent to Appear

SERVICE LIST OF PARTICIPANTS
Delbert Lehr and Jeff Lehr
Cease and Desist Order Hearing
List created August 29, 2017

PARTIES

THE FOLLOWING **MUST BE SERVED** WITH WRITTEN TESTIMONY, EXHIBITS AND OTHER DOCUMENTS. (All have AGREED TO ACCEPT electronic service, pursuant to the rules specified in the hearing notice.)

<p>DIVISION OF WATER RIGHTS Prosecution Team Catherine Hawe, Attorney I State Water Resources Control Board Office of Enforcement 801 K Street, 23rd Floor Sacramento CA 95814 catherine.hawe@waterboards.ca.gov kenneth.petruzzelli@waterboards.ca.gov</p>	<p>DELBERT LEHR AND JEFF LEHR Paul R. Minasian, Esq. Minasian, Meith, Soares, Sexton & Cooper P.O. Box 1679 Oroville, CA 95965 pminasian@minasianlaw.com</p>
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NOTICE OF INTENT TO APPEAR

The Division of Water Rights Prosecution Team plans to participate in the water right hearing regarding:

Draft Cease and Desist Order
Against
Delbert Lehr and Jeff Lehr

The Public Hearing will commence on
Wednesday, September 27, 2017 at 9:00 a.m.
and continue, if necessary, on
September 28, 2017

1) Check only one of the following:

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we plan to call the following witnesses to testify at the hearing. (Fill in the table below.)


Witness Name	Subject Of Proposed Testimony	Estimated Length of Direct Testimony	Expert Witness (Yes/No)
Janelle Heinzler	Investigation and drafting of Draft CDO	20 minutes	Yes
Laura Lavallee	Regulatory and compliance background	20 minutes	Yes
Mike Thrush	Relationship between Sierra Pacific Industries and Lehrs	20 minutes	Yes

(If more space is required, please add additional pages or use reverse side.)

2) Fill in the following information of the Participant, Party, Attorney, or Other Representative:

Name (Print): Catherine Hawe, Attorney I, Office of Enforcement
Mailing Address: State Water Resources Control Board
801 K St., 23rd Floor, Sacramento, 95814
Phone Number: 916-322-3538 Fax Number: 916-341-5896
E-mail: Catherine.Hawe@waterboards.ca.gov
Kenneth.Petruzzelli@waterboards.ca.gov

I/we decline electronic service of hearing-related materials. **[PT accepts electronic service]**

Signature:  Dated: August 11, 2017

FIRST AMENDED NOTICE OF INTENT TO APPEAR

Delbert Lehr, Donna Lehr and Jeff Lehr plans to participate in the water right hearing regarding
(name of party or participant)

Draft Cease and Desist Order
Against
Delbert Lehr and Jeff Lehr

The Public Hearing will commence on
Wednesday, September 27, 2017 at 9:00 a.m.
And continue, if necessary, on
September 28, 2017

1) Check only one of the following:

- I/we intend to present a policy statement only.
 I/we intend to participate by cross-examination or rebuttal only.
 I/we plan to call the following witnesses to testify at the hearing. (Fill in the table below.)

Witness Name	Subject of Proposed Testimony	Estimated Length of Direct Testimony	Expert Witness (Yes/No)
Delbert Lehr	Industrial use of water in logging.	.75 hr (3/4)	Yes
Jeff Lehr	Location where water used and Riparian use.	.75 hr (3/4)	Yes
Sierra Pacific Industries	Most Knowledgeable Witness Mike Thrush-Forester for Sierra Pacific Industries	1.50 hr (1 ½) With permission of Hearing Officer	Yes

(If more space is required, please add additional pages or use reverse side.)

2) Fill in the following information of the Participant, Party, Attorney, or Other Representative:

Name (Print): Paul R. Minasian, Esq.; Minasian, Meith, Soares, Sexton & Cooper

Mailing

Address: P.O. Box 1679, Oroville, CA 95965

Phone Number: (530) 533-2885

Fax Number: (530) 533-0197

E-mail: pminasian@minasianlaw.com

Optional:

- I/we decline electronic service of hearing-related materials.

Signature: 

Date: 8/15/17

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