

LJM/RU

STATE WATER RESOURCES
CONTROL BOARD

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October 20, 2005

BY FAX: 916-341-5621, 916-341-5400

Mr. Arthur G. Baggett, Jr.
Board Member
State Water Resources Control Board
And
Barbara Leidigh
Staff Attorney
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, CA 95814

Post Office Box 100
Sacramento, California 95812

And

Mr. Ruben Mora
State Water Resources Control Board
P.O. Box 2000
Sacramento, California 95812-2000

Re: Lake Arrowhead Community Services District Enforcement Hearing
Desist Order No. 262.31-18 and Leave to Appear and Participate

Dear Mr. Baggett, Jr.

I have been directed by Ms. Barbara Leidigh to write to you directly with copies to individuals named as on the "proof of service" for interested parties. Those names appear below in the cc.

I am the Original Complainant in the above-entitled action. I have on record for the life of this action, approximately three years. I was present at the lake inspection attended by your investigator.

I have been on your service list for that entire period. I have obtained from your office three file boxes of materials in preparation of the supplemental brief which your office requested from me. I am mentioned in every pleading and proposed opinion rendered.

On September 21, I received from the LACSD a copy of the Notice of Hearing. On September 24th I immediately faxed to the number on the Notice, care of Ruben Mora, my Notice of Intent. A copy is attached.

Thereafter I left a message for Mr. Mora, and subsequently for Ms. Barbara Leidigh, thereafter speaking with her about the procedure for a participant to subpoena documents and witnesses for the hearing in case I needed them as part of my participation. Ms. Ledigh kindly sent me a pdf of the requisite subpoena to use. It was clear at the time that I understood that she understood that I was a participant. A non-participant would have no use for a subpoena.

However, on October 14th, I learned that communications have been going out to other "participants" in this case with no copies to me. After writing the attached letter on October 14, 2005 and finally reaching Mr. Mora, I discovered from him that your office has no record of my filing a Notice of Intent.

I contacted Ms. Barbara Leidigh who informed me that since she has no record of my wanting to appear that I must seek permission from you to appear with copies of that request to the service list that she has provided.

Therefore I am humbly asking that you allow me to appear.

I have sent the requisite Notice of Intent in a timely fashion on September 24, 2005 to the requisite address 12 day before the due date. I do note that it was sent on a Saturday immediately receipt of the Notice of the Hearing on September 21, 2005.

I have no idea why your office is unable to locate my faxed Notice. It could be that due to the speed of the Notice as well as the fact that it was sent on a weekend, that may have affected its being filed in this case. I do note that it appears that multiple addresses and faxes are being used by some of the attorneys in this case...and that many materials are not being routed through Mr. Mora. Perhaps the multiple addresses affected the delivery. I don't know: all I know is that I faxed it to the required address in a timely fashion.

My conversations with Ms Ledigh and her responsive emails sending me copies of subpoenas, certainly support the fact that I was led to believe that I was considered an acknowledged participant. Only a participant could and would use a subpoena.

Be that as it may, if the fact that you are unable to find my notice in your records is going to affect my ability to participate, then please consider the following:

I was the

- 1) original complainant;
- 2) the original participant in briefs,
- 3) a named interested party in all findings by the SWRCB staff
- 4) an interested party in all service lists
- 5) Probably as a Board member the most knowledgeable independent percipient participant in litigation on the "key issues" of: what modifications if any should be made in the proposed CDO, and the appropriateness of the proposed fines.

It is bad enough that the District is bringing the entire Board of Directors (except me) along with numerous ancillary staff (10-15) who *have nothing to do with the issues involved and are not witnesses* on a two day all expense paid vacation in Sacramento at the public's expense. On the other hand, I have been told to pay my own expenses.

The suggestion from Ms. Leidigh that I will be excluded from participation because she cannot find the Notice of Intent imposes a severe penalty.

Even if you were to find based on your failure to locate my early fax of Notice to the listed fax number, that you and the other litigants did not have the specific notice provided by the Notice of Intent—there is absolutely no prejudice or harm to any party by my making a full appearance. I have been known, and my positions clearly stated as a matter of record for almost three years.

Clearly LACSD believes that I am a participant. It has been excluding me from meetings on the SWRCB issues for two years and as late as October 11th, sent me a copy of a cover letter containing its amended Notice of Intent directly to Ms. Deligh, not to Ruben Mora.

As indicated in my Notice of Intent, although I hope and seek to fully participate, it will be limited to opening and closing statements: in all probability waiving putting in any case in chief, and relying on merely cross examination. I will be using only the exhibits and witnesses of the other participants, with the exception of Mr. Shaw (if he is not called by the others, he will be present) and Ms. Carol Banner who has stated that she will be present and is the self appointed representative of all Developers in the area and the advocate of a Pro Unbridled Growth policy.

I am perfectly capable of participating in this manner in an economic and professional manner. I have made my living as a trial attorney for thirty years: licensed to practice in NY and California, working as a prosecutor of the Brooklyn DA's Office, then the Los Angeles City Attorneys Office and finally as a defense civil litigator for the Los Angeles City Attorney.

Thank you very much for your time. I am also sending herewith my list of exhibits which is none other than what is produced by others and my list of witnesses along with a brief statement as to what I expect to elicit in the way of testimony: either through direct or cross.

Please notify me of your decision as soon as reasonably possible. Unlike other District employees, officers and board members, I am travelling on my dollar and not that of the constituents and must confirm my travel arrangements.

Yours,



Ted Heyck

Attorney at Law

Rep: Ted Heyck, ratepayer, LACSD water user, property owner and recreational user in Arrowhead Woods, member of ALA.

cc:

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Attachments:

Copy of Notice of Intent
Brief Summary of the content of the Policy Statement (also contained in Notice of Intent)