

February 1, 2019

State Water Resources Control Board  
Division of Water Rights  
Attn: Mara Irby and Lily Weaver  
1001 I Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

Re: In the Matter of Administrative Civil Liability Complaint Issued Against G. Scott  
Fahey and Sugar Pine Spring Water, LP

Dear Ms. Irby and Ms. Weaver:

There appears to be a big misunderstanding.

In a letter dated January 31, 2019, the Turlock and Modesto Irrigation Districts express support for the Prosecution Team's Opposition to Fahey's Motion to Dismiss based on the sole premise that the Water Exchange Agreement ("WEA") between the Districts and Fahey did not grant Fahey any pre-1914 water rights. Fahey agrees with that premise. At no time has Fahey ever suggested, inferred or argued that Fahey acquired pre-1914 water rights through the WEA. Fahey merely pointed out in his Motion to Dismiss the simple facts that (1) MID/TID/CCSF and Fahey are parties to the WEA; (2) the WEA was incorporated into Fahey's post-1914 Permits pursuant to Water Code section 1706; (3) the WEA allows Fahey to divert water from the Tuolumne River year-around even when its flow is < 2,350 CFS; and (4) the Permits therefore legally authorize water to be diverted by Fahey during curtailment so long as MID/TID/CCSF are allowed to divert. For those reasons, Fahey expressed the logical conclusion in his Motion to Dismiss that "Fahey's water that is at issue here was procured under a water exchange agreement with pre-1914 water appropriators, and so that water is outside of the Board's jurisdiction." That is not a claim by Fahey that he has any pre-1914 water rights.

I hope this clears up any misunderstanding.

Sincerely,



Glen C. Hansen

GCH/wj

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Division of Water Rights **Via Email and U.S. Mail**  
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