



# State Water Resources Control Board



Alan C. Lloyd, Ph.D.  
Agency Secretary

Division of Water Rights  
1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
P.O. Box 2000 ♦ Sacramento, California 95812-2000  
Fax: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)

Arnold Schwarzenegger  
Governor

October 12, 2005

To: Enclosed List of Participants

## LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT ENFORCEMENT HEARING, SAN BERNARDINO COUNTY—REQUIREMENTS FOR THE SUBMITTAL OF EVIDENCE

In accordance with the State Water Resources Control Board's (State Water Board) Notice of Public Hearing, dated September 19, 2005 (Notice), enclosed is a List of Participants who have submitted a Notice of Intent to Appear and indicated their intent to appear and present evidence and/or cross-examine witnesses at the above subject hearing. The hearing is scheduled to commence on November 8, 2005. Also enclosed, please find a copy of the response letter by the State Water Board dated September 30, 2005 to Ms. Sylvia Illman.

As instructed in item 3 of the Notice's attachment entitled, "Information Concerning Appearance at Water Right Hearings," no later than **noon on Tuesday, October 18, 2005**, each participant shall serve a copy of its Notice of Intent to Appear on each of the participants identified on the service list and shall also serve on the State Water Board and the participants on the service list a statement of service that indicates the manner of service.

As instructed in item 4 of the Notice's attachment, each participant shall, no later than **noon on Tuesday, October 18, 2005**:

- serve one copy of all of the participant's written testimony, statements of qualifications, exhibits, and a complete list of exhibits on each of the other participants designated on the enclosed List of Participants. Participants whose e-mail addresses are listed on the enclosed service list have agreed to accept electronic service, pursuant to the rules specified in the Hearing Notice. Each participant shall include a statement of service, which indicates the manner of service on the other participants.
- submit nine paper copies or five paper copies and one electronic copy of all written testimony, statements of qualifications, exhibits, and a complete list of exhibits to the State Water Board. These documents shall be received by the State Water Board by the above deadline, together with a statement of service indicating the manner and date of service on the other participants.

If you have any questions, please email me at [rmora@waterboards.ca.gov](mailto:rmora@waterboards.ca.gov), or call me at (916) 341-5387.

Sincerely,

Ruben Mora  
Water Resources Control Engineer

*California Environmental Protection Agency*

LIST OF PARTICIPANTS TO EXCHANGE INFORMATION  
LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT ENFORCEMENT HEARING

**(Note: the participants whose e-mail addresses are listed below agreed to accept electronic service, pursuant to the rules specified in the Notice of Public Hearing.)**

Eric L. Garner  
BEST BEST & KRIEGER LLP  
P.O. Box 1028  
Riverside, CA 92502-1028  
*Rep: Lake Arrowhead Community  
Services District*

Robert E. Donlan  
ELLISON, SCHNEIDER & HARRIS, L.L.P.  
2015 H Street  
Sacramento, CA 95814  
[red@eslawfirm.com](mailto:red@eslawfirm.com)  
*Rep: Lake Arrowhead Country Club*

Dana Heinrich, Senior Staff Counsel  
State Water Resources Control Board  
1001 I Street, 22<sup>nd</sup> Floor [95814]  
P.O. Box 100  
Sacramento, CA 95812-0100  
[DHeinrich@waterboards.ca.gov](mailto:DHeinrich@waterboards.ca.gov)  
*Rep: State Water Board Prosecutorial Team*

Mary Ann Dickinson, Executive Director  
California Urban Water Conservation Council  
455 Capitol Mall, Suite. 703  
Sacramento, CA 95814  
*Rep: CA Urban Water Conservation Council*

Bill Roberts  
Bill Roberts Consulting Services  
P.O. Box 50-198  
Lake Arrowhead, CA 92352  
*Rep: Bill Roberts Consulting Services*

Marjorie M. Mikels  
201 N. First Ave.  
Upland, CA 91786

Steven M. Kennedy  
BRUNICK McELHANEY & BECKETT  
P.O. Box 6425  
San Bernardino, CA 92412  
[skennedy@bbmblaw.com](mailto:skennedy@bbmblaw.com)  
*Rep: Mojave Water Agency*

Michael Fife  
HATCH & PARENT  
21 East Carrillo Street  
Santa Barbara, CA 93101  
[mfife@hatchparent.com](mailto:mfife@hatchparent.com)  
*Rep: Arrowhead Lake Association*



# State Water Resources Control Board



Alan C. Lloyd, Ph.D.  
*Agency Secretary*

**Office of Chief Counsel**  
1001 I Street, 22<sup>nd</sup> Floor, Sacramento, California 95814  
P.O. Box 100, Sacramento, California 95812-0100  
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ <http://www.waterboards.ca.gov>

Arnold Schwarzenegger  
*Governor*

September 30, 2005

Ms. Sylvia Illman  
P.O. Box 5858  
Blue Jay, CA 92317-5858

Dear Ms. Illman:

## LAKE ARROWHEAD ENFORCEMENT HEARING: ALLEGED CONFLICT OF INTEREST

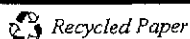
Your email to Celeste Cantu, Executive Director of the State Water Resources Control Board (State Water Board) has been referred to me for a response. You are requesting that Richard Katz, one of the two Board Members assigned as hearing officers for the Lake Arrowhead Enforcement Hearing, recuse himself from presiding over the hearing. For the reasons set forth below, the facts alleged in your e-mail do not require or support Mr. Katz recusing himself from the proceeding.

You cite three sets of information as bases for your request. First, you point out that Mr. Katz received a political campaign contribution in May 1998 in the amount of \$5000 from Cadiz Land Company. You point out that Mr. Marvin Shaw, who is currently the General Manager of the Lake Arrowhead Community Services District (Arrowhead), formerly was a vice-president of Cadiz. Second, you state that Mr. Shaw sent a letter to Mr. Katz dated July 12, 2005. Third, you state that Mr. Katz taught a college course at some unspecified time and asked his students to research and write a paper on the Cadiz project.

The political contribution you cite was made in 1998. The political campaign contribution appears to have been made and reported in accordance with applicable California laws, since the information you provide appears to come from a disclosure filed with the Secretary of State's office.

Under Government Code section 84308, a political contribution of more than \$250 received from a party or participant in the hearing within the preceding twelve months before the hearing or within three months after the date of a final decision would be cause for disqualification. Since the contribution was made more than seven years ago, however, the passage of time alone means that Government Code section 84308 does not require disqualification. Further, the contribution

*California Environmental Protection Agency*



came from the Cadiz Land Company, not from Arrowhead, and not from Mr. Shaw personally. There also is no indication that Mr. Shaw was the agent of Cadiz in making the contribution. Accordingly, even if the contribution had occurred within the preceding twelve months, there would be no clear connection between this proceeding and the campaign contribution.

Further, there is no evidence to suggest that Mr. Katz's receipt of a campaign contribution from Cadiz in 1998 is a basis for disqualification due to prejudice, bias, or interest under the California Administrative Procedure Act with respect to Arrowhead's claim of water rights. (Gov. Code, § 11425.40.) Arrowhead and Cadiz are not the same entity. The fact that a former employee of Cadiz is now an employee of Arrowhead does not establish that Mr. Katz has a bias, prejudice, or interest with respect to Arrowhead.

The letter you mention dated July 12, 2005, from Mr. Shaw to Mr. Katz does not address the subject of or issues in the Lake Arrowhead Enforcement Hearing. Instead, it addresses the subject of water recycling and indirect potable reuse of water. Mr. Katz takes the lead on a variety of water issues for the State Water Board. Of note, he had recently chaired the recycled water task force. In light of this expertise, Mr. Shaw's letter logically was addressed to Mr. Katz. Mr. Katz signed a response letter that was prepared by the staff of the State Water Board outlining the current actions regarding indirect potable reuse of water. Nothing in this letter demonstrates any bias, prejudice, or interest by Mr. Katz in the proceeding on the Lake Arrowhead Enforcement Hearing.

Your statement that Mr. Katz taught a college course in which his students researched and wrote papers on the Cadiz project likewise is not adequate to establish a bias, prejudice, or interest by Mr. Katz in the proceeding on the Lake Arrowhead Enforcement Hearing.

For all the foregoing reasons, none of the information alleged in your e-mail require Mr. Katz to recuse himself from the Lake Arrowhead Enforcement Hearing.

It does not appear that you served copies of your request on the people on the mailing list for the hearing. In the absence of service on the other parties your request for Mr. Katz's recusal is in effect an *ex parte* communication. Requests for changes in a noticed adjudicative hearing such as the Lake Arrowhead Enforcement Hearing must be provided to all parties so that the other parties have an opportunity to respond. (Gov. Code, § 11430.50.) We will develop a service list for the hearing after we receive all of the notices of intent to appear on October 6, 2005, and shortly afterward we will send a copy of this letter and your request to all participants in the hearing. A copy of your emails has been made a part of the record for the hearing and a copy is attached to this letter.

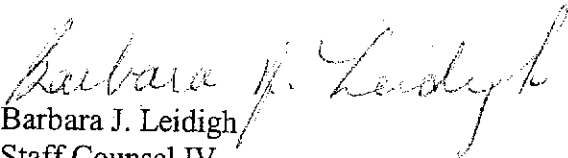
Ms. Sylvia Illman

- 3 -

September 30, 2005

If you have questions, you may contact me at (916) 341-5161.


Sincerely,

  
Barbara J. Leidigh  
Staff Counsel IV

Enclosure (copy of emails)

cc: Service list (after established)

*California Environmental Protection Agency*

 Recycled Paper

**From:** Celeste Cantu  
**To:** Chuck NeSmith; Chuck Rich; Kgirsa@aol.com  
**Date:** 9/27/05 11:33AM  
**Subject:** Re: conflict of interest

Thank you for your email. I need some more information however. What issue before the State Water Board is this regarding?

Thank you,

Celeste Cantú, Executive Director  
State Water Resources Control Board  
1001 I Street, Floor 25  
Sacramento, CA 95814  
Ph: (916) 341-5615  
e-mail: ccantu@waterboards.ca.gov  
website: www.swrcb.ca.gov

>>> <Kgirsa@aol.com> 9/26/2005 10:52:45 PM >>>  
CADIZ LAND COMPANY, INC. ID Number 495274 Race/District  
City RANCHO CUCAMONGA State CA Occupation  
Amount \$ 5,000.00 Trans Date 05/28/98 Trans Through Date  
Filed Date 05/29/98 Doc # 2236  
ATZ, RICHARD ID Number 080135 Race/District State Senate  
District 20 City SYLMAR State CA Party Democrat  
KATZ, RICHARD ID Number 080135 Race/District State Senate District  
20 City SYLMAR State CA Party Democrat

Looks like we have a conflict of interest. I would like to have Mr Katz  
recuse himself or I will take this information to the press.

Sylvia

**CC:** Michael Lauffer

**From:** Celeste Cantu  
**To:** Michael Lauffer  
**Date:** 9/27/05 3:33PM  
**Subject:** Fwd: Re: conflict of interest

fyi

Celeste Cantú, Executive Director  
State Water Resources Control Board  
1001 I Street, Floor 25  
Sacramento, CA 95814  
Ph: (916) 341-5615  
e-mail: ccantu@waterboards.ca.gov  
website: www.swrcb.ca.gov

>>> <Kgirsa@aol.com> 9/27/2005 2:04:12 PM >>>  
Ms. Cantu'

Thank you for your interest and response. The issue that I am referring to is an upcoming SWRCB hearing regarding Lake Arrowhead Community Service District water rights, that is to be held on November 8 & 9 of 2005. Mr. Katz is one of the Director representing your State Agency. I am requesting that Mr. Katz recuse himself from this meeting due to his involvement's and relationship with the Cadiz project. My previous e-mail to you showed several conflict of interests. Mr. Marvin Shaw was the prior vice-president of the Cadiz project/land development. I also have in my possession a letter that Mr. Shaw sent to Mr. Katz dated on July 12, 2005. Mr. Katz also taught a college course and asked his pupils to research and write a paper on the Cadiz Project.

I am very uncomfortable having Mr. Katz preside over this hearing, especially since we have so much government corruption this day and age. Mr. Katz also seems to be a personal friend of ex Senator James Brulte as is Mr. Marvin Shaw.

If you need further information regarding this matter, please feel free to contact me.

Thank you

Sylvia Illman  
909-336-7330