



Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board



Arnold Schwarzenegger
Governor

Office of Chief Counsel
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(916) 341-5161 ♦ FAX (916) 341-5199 ♦ <http://www.waterboards.ca.gov>

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

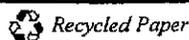
Your email to Celeste Cantu, Executive Director of the State Water Resources Control Board (State Water Board) has been referred to me for a response. You are requesting that Richard Katz, one of the two Board Members assigned as hearing officers for the Lake Arrowhead Enforcement Hearing, recuse himself 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.

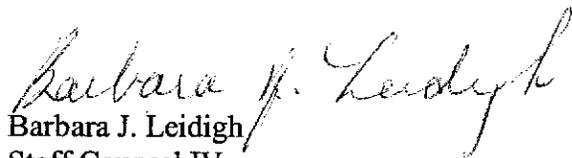
Ms. Sylvia Illman

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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)

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