

June 26, 2023

Sent by US Mail and Electronic Mail

Courtney Tyler
Acting Clerk of the Board State Water Resources Control Board
PO Box 100, Sacramento, CA 95812
EXEC-BoardClerk@Waterboards.ca.gov

RE : Comments on Notice of Transmittal of Proposed Cease and Desist Order
Regarding Blue Triton Brands (INV 8217)

Dear Distinguished Members of the Water Board,

The Save Our Forest Association, Inc.,(SOFA), is submitting these comments on behalf of its Board and members in support of the proposed order. Since 1989 SOFA has worked tirelessly as a non-profit 501 (3)(c) corporation to maintain the quality of life in the San Bernardino Mountains and protect the mountain ecosystems. We have collaborated with the USFS, State of California, County of San Bernardino and local public agencies. SOFA has worked since 2014 with former US Forest Service Wildlife Biologist Steve Loe, and water researcher Amanda Frye on public trust concerns, the USFS Special Use Permit, and water rights issues surrounding the water diversions by BlueTriton Brands (and its predecessors) from our San Bernardino National Forest. Our organization has also collaborated with and strongly supports the work of the Story of Stuff Project on the Proposed Order.

We urge the Water Board to adopt the proposed order in its entirety and without revision pursuant to your authority under Water Code section 1114, subdivision (c) (2)(A). Mr. Alan Lilly, the Administrative Hearing Officer, has been particularly deliberate in reviewing all submitted evidence into the record and created a strong foundation for the proposed order. The proposed order is sustained by a weighty and redundant historical record that should prevail under any court challenge, if presented.

The protection of the headwaters and ecosystem of Strawberry Canyon are still at risk given the limitations of the proposed order. The BlueTriton unauthorized water diversions have altered what once was a historically healthy perennial stream supporting many now threatened and endangered species. BlueTriton (and its predecessors) have refused to reduce their diversions in response to historic drought conditions and increased wildfire risk to our mountain community. The Save Our Forest Association, Inc., appeals to the Water Board to direct staff to initiate a new enforcement action addressing the harm to public trust resources, the ceasing of diversion of water from springs 10, 11, and 12, and also to assess penalties against BlueTriton Brands and its predecessors in interest.

Nestle Waters North America and BlueTriton Brands have gone to great lengths in marketing their Arrowhead Spring Water to the public and to demonstrate to regulators that it is “spring water”. Full page color advertisements in the Los Angeles Times for weeks on end were placed to convince the readers of the spring water purity and natural source conditions. BlueTriton Brands continues these declarations on their web site to this very day.

As the President of SOFA, I have led many hikes from Hwy 18 in Rimforest to the headwater spring identified by the USFS, and to the tunnel, borehole complexes. Conditions at the headwater spring with a mere seep have been photographically documented and entered into evidence in the AHO Proceedings. Diverting the flows from the headwater spring sources into the delivery pipeline downstream across public lands has created serious ecological consequences in Strawberry Canyon and into the Bunker Hill Basin which supports over 700,000 persons living in the San Bernardino Area, and which has been in an overdraft condition for years. These public trust issues warrant further action from the Water Board so that “the Enforcement Section may investigate such diversions and, if it deems it appropriate, prepare a new draft-cease-and-desist order regarding those diversions.” (Proposed Order, page 87).

Springs 10, 11 and 12 were well documented in the hearing to be historic natural springs contributing to flows in Strawberry Creek, and subject to Board oversight as all other springs covered in the proposed cease and desist order.

Summary:

The Save Our Forest Association, Inc., Board of Directors and its supporting members strongly recommend that the proposed order be adopted in its entirety as is. Furthermore, SOFA urges that the Water Board direct staff to act now with the information gathered through the investigation and hearing process to complete the investigation of public trust needs, unauthorized and unreasonable use of springs 10, 11 and 12, while imposing penalties for the unlawful diversions. Enforcement of the proposed order to the greatest extent possible could include continuous well monitoring, timing of any water diversions for riparian rights, best management practices for diversions and restoration of springs to their natural state.

Sincerely,

Hugh A. Bialecki, DMD
President, Save Our Forest Assoc., Inc.