

# State Water Resources Control Board

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## Executive Office

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November 17, 1999

To: [Enclosed Mailing List](#)

HEARING ON PETITION FOR EXTENSION OF TIME FILED BY THE CITY OF SAN LUIS OBISPO REGARDING SALINAS RESERVOIR (APPLICATION 10216, PERMIT 5882)

The hearing identified above adjourned on October 18, 1999. Only those items that were offered and accepted into evidence during the hearing are part of the hearing record at this time. The hearing record will close with the submission of reply briefs by 4:00 p.m. on January 10, 2000. Since the hearing was adjourned, the State Water Resources Control Board (SWRCB) received two additional exhibits from Patrick Maloney and the California Sportfishing Protection Alliance (CSPA) and discovered that CSPA did not adequately identify one of the exhibits. These issues will be handled as follows.

### **Exhibit of Patrick Maloney**

**Submitted:** October 28, 1999

**Type of Material:** Protest of Application 30532

Mr. Maloney submitted two exhibits during the course of the hearing. Mr. Maloney indicated that his second exhibit, referenced on page 687 of the transcripts, would consist of two items. The first item is the April 17, 1999 letter protesting Application 30532. The second item, which was not submitted during the hearing, is the protest of Application 30532. Before declaring the second exhibit to be complete, Mr. Maloney needed to reproduce and distribute to the parties as required by the Hearing Notice the entire second exhibit. Mr. Maloney has now indicated that all parties have been provided with

a copy of the entire exhibit. Mr. Maloney's exhibits were accepted into evidence during the hearing. Accordingly, please refer to the protest as Maloney, Exhibit 2, Attachment.

### **Exhibit of CSPA (Testimony of Otto Schmidt)**

**Submitted:** October 25, 1999

**Type of Material:** Document titled "Steelhead and Salmon Migrations in the Salinas River"

Mr. Schmidt appeared at the hearing as a witness for CSPA. The above exhibit, based on observations of Harold A. Franklin, was offered into evidence during the course of Mr. Schmidt's testimony on October 13, 1999. This exhibit was not accepted into evidence due to an objection by the City of San Luis Obispo (City). The City objected on the basis that there was no witness available to authenticate the exhibit.

At that time, I indicated that I would consider accepting the exhibit if a foundation could be established. Neither Mr. Schmidt nor CSPA did so prior to the close of the hearing on October 18.

A copy of the exhibit signed by Mr. Harold A. Franklin was received by the SWRCB on October 25, 1999. With his signature, Mr. Harold A. Franklin affirmed the accuracy of the material in the exhibit. It is unclear whether Mr. Schmidt provided all parties with copies as instructed during the hearing and as required by the Hearing Notice. Augmenting the record after the hearing has adjourned requires a written request to myself with the appropriate number of copies distributed to the SWRCB and the other parties. The parties may then have an opportunity to object to the exhibit. Because Mr. Schmidt is a witness for CSPA, it is CSPA's responsibility to inform the SWRCB whether it intends to submit this exhibit and to distribute the exhibit to the parties, with the appropriate number of copies to the SWRCB. We will take no action on this matter unless we are informed, by November 24, 1999, that CSPA wants to submit the exhibit and has distributed it to the parties. Should CSPA take this action, then the parties will have until December 3, 1999 to file any objections to the exhibit with the SWRCB. A ruling on the admissibility of the exhibit will then follow.

### **Exhibit of CSPA**

**Submitted:** October 18, 1999

**Type of Material:** Written material subpoenaed from the records of the SWRCB regarding the live stream permit

condition.

The material was obtained from the files for Application 10216 and includes Decision 1585 of the SWRCB (Decision 1585 is a decision on 25 applications on tributaries to the Salinas River between

Salinas Dam and the Nacimiento River). No exhibit number was identified and the material was not listed on the CSPA exhibit list. The material was submitted during the hearing, the parties received copy of it, and no objections to the exhibit were lodged during the hearing. We are designating this material as CSPA Exhibit NN.

As a reminder, closing briefs for the hearing are due by 4:00 p.m. on December 20, 1999; reply briefs are due by 4:00 p.m. on January 10, 1999.

Katherine Mrowka is the staff person presently assigned to this matter. If you require further assistance, Ms. Mrowka can be contacted at (916) 657-1951.

Sincerely,

*/s/ by*

John Brown

Board Member

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