



**Terry Tamminen**  
*Secretary for  
Environmental  
Protection*

# State Water Resources Control Board

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## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5347  
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000  
FAX: 916.341.5400 ♦ www.waterrights.ca.gov



**Arnold Schwarzenegger**  
*Governor*

## NOTICE OF PUBLIC WATER RIGHT HEARING

**The State Water Resources Control Board will hold a Hearing on Proposed Revocation of Water Right Permit 20405 (Application 29396) held by Peter Norrbom for Diversion or Use of Water from an Unnamed Stream Tributary to Agua Caliente Creek thence Sonoma Creek in Sonoma County**

The hearing will commence on Tuesday, October 26, 2004 at 10:00 a.m.

at

**Joe Serna, Jr./Cal-EPA Building  
1001 I Street, Second Floor Room 230  
Sacramento, CA**

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### SUBJECT OF THE HEARING

The purpose of this hearing is for the State Water Resources Control Board (SWRCB) to receive evidence on whether the SWRCB should revoke water right Permit 20405 held by Peter Norrbom.

### BACKGROUND

On December 26, 1989, the SWRCB issued Permit 20405 to Peter Norrbom (Permittee). The permit authorizes the storage of 14.8 acre-feet per annum from October 1 of each year to April 30 of the succeeding year. The purpose of use is frost protection and irrigation. The permit requires that construction be commenced within two years of December 26, 1989, the date the permit was issued, and completed by December 31, 1993. The permit also requires that the Permittee complete application of the water to the proposed use on or before December 31, 1994.

On November 25, 2003, Division of Water Rights staff issued a Notice of Proposed Revocation of Permit 20405 (Notice). Grounds for the proposed revocation of Permit 20405 cited in the Notice were the failure of the Permittee to: (1) appropriate water under Permit 20405 within the terms of the permit, (2) provide requested information and execute a Memorandum of Understanding (MOU) for the preparation of appropriate California Environmental Quality Act (CEQA) documentation, and (3) diligently pursue the Petition For Extension of Time. The Notice included in substance the following allegations:

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*California Environmental Protection Agency*

- Annual progress reports were filed by the Permittee with the SWRCB for 1990, 1991, 1993 and 1995.
- The progress report for 1993 indicated that construction had not commenced. The annual progress report filed by the Permittee for 1995, stated the following: “ABAONDONED [sic] PLANS FOR PROJECT CONSTRUCTION OF DAM & RESERVOIR.”
- With the exception of the 1990 progress report, none of the progress reports showed that any water had been used. In addition, the claim to have used water under the permit in 1990 is inconsistent with the fact that the Permittee never constructed the storage reservoir.
- The Permittee has not submitted annual progress reports for the years 1996 to the present.
- On January 21, 2000, the Permittee filed a petition for extension of time (petition) within which to develop the project and apply the water to the proposed use. The Division published a notice of the petition on March 17, 2000. One protest was received, filed by the National Marine Fisheries Service and claiming potential harm to the steelhead fishery. The protest was accepted by the Division on September 20, 2000.
- By certified letter dated November 19, 2002, the Division advised Permittee that the review and processing of the Permittee’s petition must comply with the provisions of CEQA, and that before the Division could act on the petition, the SWRCB as lead agency under CEQA must complete the appropriate environmental documentation pursuant to a signed MOU. The letter requested the Permittee to inform the Division within 30 days whether the Permittee intended to continue the water right permit petition process. The Division informed the Permittee that if he failed to respond within 30 days, the Division would assume that he no longer wanted an extension of time and would proceed to revoke the permit. If Permittee wished to proceed with the processing of the petition, Permittee was instructed to complete and sign an MOU for the preparation of CEQA documentation within 60 days of the date of the letter.
- The Permittee has neither responded to the Division’s November 19, 2002 certified letter nor otherwise provided the Division with the requested information. By failing to respond to the Division’s request for information and enter into an MOU for the preparation of CEQA documentation in support of the petition, the Permittee failed to diligently pursue the petition.

On December 22, 2003, the Permittee submitted a letter requesting a hearing in response to the Notice. The Permittee acted in accordance with Water Code section 1410.1 that a written request for a hearing signed by or on behalf of the Permittee is delivered or mailed to the Board within 15 days after receipt of the notice.

On February 25, 2004, the Division Chief acknowledged the receipt of the Permittee’s letter requesting a hearing and informed him that it was forwarded to the Division’s Hearing Unit for scheduling of a hearing.

On April 6, 2004, Shawn T. McCammon, legal counsel for the Permittee, responded to the Division Chief's letter and alleged that the delays and inappropriate filings for Permit 20405 were due to the fact that the person who served both as the designated agent for service of notices and also as the original engineer retained by the Permittee died, perhaps as early as 1997, unbeknownst to the Permittee.

On May 3, 2004, the Division responded to Mr. McCammon and reiterated the guidance provided in its November 19, 2002 letter to the Permittee on the information and evidence required to demonstrate that significant steps were being taken to complete the petition process for extension of time for water right Permit 20405 (Application 29396). Neither the Permittee nor his legal counsel has responded to the Division's May 3, 2004 letter or provided the Division with the requested information.

### **KEY ISSUES**

The SWRCB's decision whether to revoke Permit 20405 (Application 29396) will be based upon the record developed at the hearing. The Permittee, the Division's Prosecution Team, and any other interested parties should submit exhibits and testimony responsive to the issue of whether Permit 20405 should be revoked:

1. **Did Peter Norrbom fail to comply with the terms and conditions of Permit 20405?** Did Peter Norrbom apply the water authorized under Permit 20405 to beneficial use as contemplated in the permit and in accordance with the Water Code?
2. **Has Peter Norrbom been in compliance with Water Code section 1390?** Water Code section 1390 provides that "A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer."
3. **Did Peter Norrbom fail to diligently pursue the Petition for Extension of Time for Permit 20405?** Did Peter Norrbom fail to respond to the Division's request for information and enter into an MOU for the preparation of CEQA documentation in support of the petition?

### **ABOUT THIS HEARING**

In this hearing, the Division of Water Rights will be represented by a prosecution team who will be a party to the hearing. The prosecution team will consist of Ross Swenerton, Senior Engineer, and Dana Differding, Staff Counsel. The prosecution team is separated from the hearing team by

an ethical wall, and is prohibited from having *ex parte* communications with members of the hearing team regarding substantive issues and controversial procedural issues within the scope of this hearing.

SWRCB Member Nancy Sutley will preside as hearing officer over this proceeding. Other Board members may be present during the hearing. SWRCB hearing team members will be Barbara Katz, Senior Staff Counsel, and Kyriacos Kyriacou, Water Resources Control Engineer. The hearing staff will assist the hearing officer and the other members of the SWRCB during the hearing.

### **HEARING PARTICIPATION**

IF YOU WANT TO TAKE PART IN THIS HEARING, you should carefully read the enclosure entitled "Information Concerning Appearance at Water Right Hearings." As stated in that enclosure, parties intending to present evidence at the hearing must submit a **Notice of Intent to Appear**, which must be **received** by the SWRCB no later than **noon on Thursday, September 16, 2004**.

To facilitate exchange of testimony, exhibits and witness qualifications, on or about **Tuesday, September 21, 2004**, the SWRCB will mail out a list of those parties who have indicated an intent to participate in the hearing.

Copies of witnesses' proposed testimony, exhibits, list of exhibits, and qualifications must be **received** by the SWRCB and served on each of the parties who have indicated their intent to appear, no later than **noon on Thursday, October 7, 2004**.

### **PARKING, ACCESSIBILITY, AND SECURITY**

The enclosed maps show the location of the Joe Serna Jr./Cal/EPA Building and public parking sites in Sacramento. The Joe Serna Jr./Cal/EPA Building Room 230 is accessible to persons with disabilities.

Due to enhanced security precautions at the Cal/EPA Headquarters Building, all visitors are required to register with security prior to attending any meeting. To sign in and receive a visitor's badge, visitors must go to the Visitor and Environmental Services Center, located just inside and to the left of the building's public entrance. Depending on their destination and the building's security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current drivers license, military identification card, or state or federal identification card. Depending on the size and number of meetings scheduled on any given day, the security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

**IF YOU HAVE ANY QUESTIONS**

During the pendency of this proceeding and commencing no later than the issuance of this notice, there will be no *ex parte* communications between SWRCB members or SWRCB hearing team staff and any of the participants regarding substantive issues within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) Questions regarding non-controversial procedural matters should be directed to Mr. Kyriacou at (916) 341-5347 or Ms. Katz at (916) 341-5192.

ORIGINAL SIGNED BY

Debbie Irvin  
Clerk to the Board

Date: August 31, 2004

Enclosures

## **Interested Persons List**

Shawn T. McCammon  
McCarthy & Rubright, LLP  
Attorneys at Law  
P.O. Box 190  
Red Bluff, CA 96080-0190

Steve McCarthy  
McCarthy & Rubright, LLP  
Attorneys at Law  
P.O. Box 190  
Red Bluff, CA 96080-0190

Dr. Stacy Li  
National Marine Fisheries Service  
777 Sonoma Avenue, Room 325  
Santa Rosa, CA 95404-6528

Ms. Linda Hanson  
Department of Fish and Game, Region 3  
P.O. Box 47  
Yountville, CA 94599

Mr. Robert W. Floerke, Regional Manager  
Department of Fish and Game, Region 3  
P.O. Box 47  
Yountville, CA 94599

Mr. Larry Week, Chief  
Native Anadromous Fish and Watershed Branch  
Department of Fish and Game  
1416 Ninth Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

Ms. Nancee Murray, Staff Counsel  
Department of Fish and Game  
Office of the General Counsel  
1416 Ninth Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

Dana Differding  
Office of Chief Counsel  
State Water Resources Control Board  
101 I Street, 22<sup>nd</sup> Floor  
P.O. Box 100  
Sacramento, CA 95812

**Mandatory Hearings Mailing List  
Peter Norrbom Revocation**

California Farm Bureau Federation  
c/o William Du Bois  
Natural Resources Consultant  
11th & L Building, Room 626  
Sacramento, CA 95814

Nino J. Mascolo  
Southern California  
Edison Company  
2244 Walnut Grove Avenue  
Rosemead, CA 91770

U.S. Fish & Wildlife Service  
Ecological Division  
2800 Cottage Way, Room E1803  
Sacramento, CA 95825

Stetson Engineering  
c/o Ali Shahrwody  
2171 E. Francisco Blvd., Suite K  
San Rafael, CA 94901

U.S. Bureau of Reclamation  
c/o John Renning MP-440  
2800 Cottage Way  
Sacramento, CA 95825

Bartkiewicz, Kronick  
& Shanahan  
c/o Alan B. Lilly  
1011 Twenty-Second Street  
Sacramento, CA 95816-4907

Calif. Fisheries Restoration Foundation  
c/o Martin Seldon  
1146 Pulora Court  
Sunnyvale, CA 94087-2331

City Attorney's Office – PUC Team  
City and County of San Francisco  
1390 Market Street, Suite 418  
San Francisco, CA 94102

U.S. Fish & Wildlife Service  
Ventura Fish & Wildlife Office  
2493 Portola Road, Suite B  
Ventura, CA 93003

Ms. Nancee Murray, Senior Staff Counsel  
California Department of Fish & Game  
Office of General Counsel  
1416 9th Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

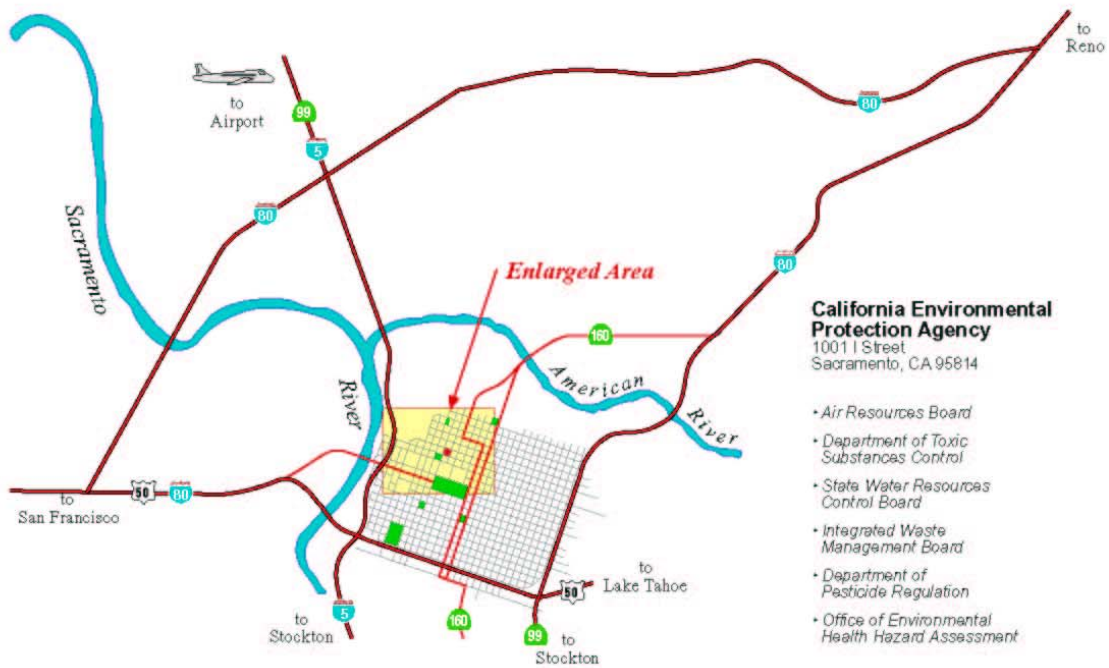
Mr. Larry Week, Chief  
Native Anadromous Fish and Watershed Branch  
California Department of Fish & Game  
1416 9th Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

California Environmental  
Protection Agency  
c/o Terry Tamminen  
Secretary for Environmental Protection  
1001 I Street, 25<sup>th</sup> Floor  
Sacramento, CA 95814

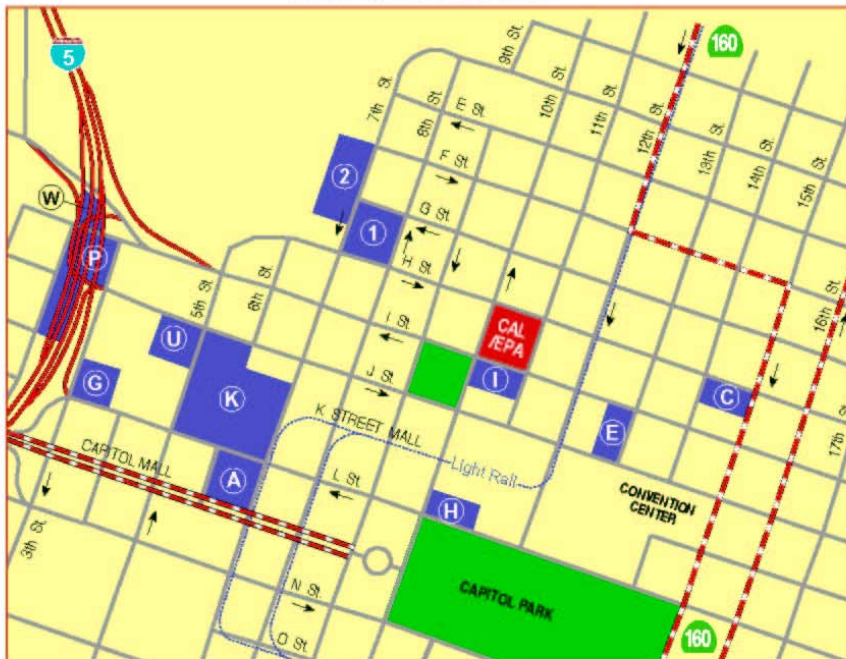
City of Los Angeles  
c/o Mr. David R. Pettijohn  
Department of Water & Power  
Water Resources Business Unit  
111 North Hope Street, Rm 1460  
Los Angeles, CA 90012

Whitnie Henderson  
Association of California Water Agencies  
910 K Street, Suite 100  
Sacramento, CA 95814-3577

Roger W. Briggs  
Executive Officer  
RWQCB, Central Coast Region (3)  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401



**Parking Lot Locations**



**Parking Lot Locations**

- Lot 1 (7th & G St.)
- Lot 2 (7th & G St.)
- Lot A (7th & Capitol)
- Lot C (14th & H St.)
- Lot G (3rd & L)
- Lot H (10th & L)
- Lot I (10th & I, 11th & I)
- Lot K (6th & J/L, 7th & K)
- Lot P (2nd & I)
- Lot U (5th & J)
- Lot W (2nd & I St.)



## Enclosure 1

### INFORMATION CONCERNING APPEARANCE AT WATER RIGHT HEARINGS

The following procedural requirements will apply and will be strictly enforced for purposes of the above-mentioned hearing.

1. **HEARING PROCEDURES GENERALLY:** The hearing will be conducted in accordance with the procedures for hearings set forth at California Code of Regulations, title 23, sections 648-649.6 and 760, as they currently exist or may be amended. A copy of the current regulations and the underlying statutes governing adjudicative proceedings before the SWRCB is available upon request or may be viewed at the SWRCB's web site: [http://www.swrcb.ca.gov/water\\_laws/](http://www.swrcb.ca.gov/water_laws/).

Each party has the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even if that matter was not covered in the direct examination, impeach any witness, rebut adverse evidence, and subpoena, call and examine an adverse party or witness as if under cross-examination. The hearing officer may extend these rights to a non-party participant or may limit the participation of a non-party participant.

Any requests for exceptions to the procedural requirements specified in this notice shall be filed in writing. To provide time for other participants to respond, the hearing officer will rule on procedural requests filed in writing no sooner than fifteen days after receiving the request, unless an earlier ruling is necessary to avoid disrupting the hearing.

2. **PARTIES:** The parties are Peter Norrbom, the Division's prosecution team, and any other persons or entities authorized by the hearing officer to participate in the hearing as parties. Only parties and other participants who are authorized by the hearing officer will be allowed to present evidence. A person or entity that appears and presents only a policy statement will not be allowed to participate in other parts of the hearing. The rules for policy statements are discussed below.
3. **NOTICE OF INTENT TO APPEAR:** Participants in this hearing must file two copies of a Notice of Intent to Appear, which must be **received** by the SWRCB no later than **noon on Thursday, September 16, 2004**. Failure to submit a Notice of Intent to Appear and exhibits in a timely manner may be interpreted by the SWRCB as intent not to appear.

The Notice of Intent to Appear must state: (1) the name and address of the participant, (2) the name of each witness who will testify on the participant's behalf, (3) a brief description of the proposed testimony, and (4) an estimate of the time (not to exceed 20 minutes) that the witness will need to present a brief oral summary of the witness' testimony. The witness' testimony must be submitted in writing as described in Section 4

below. Participants who do not intend to present a case-in-chief but who may wish to cross-examine witnesses or present rebuttal should so indicate on the Notice of Intent to Appear. Participants who decide not to present a case-in-chief after having submitted a Notice of Intent to Appear should notify the SWRCB and the other participants as soon as possible.

In order to expedite the exchange of information and lower the cost of participating in the hearing, the SWRCB encourages participants to submit written policy statements, written opening statements, written testimony, exhibits, and Exhibit Identification Indexes to the SWRCB in electronic form. In addition, participants may exchange the foregoing documents in electronic form. Hearing participants are not required to submit these documents in electronic form or accept electronic service; however, those who choose to submit these documents electronically must comply with the requirements described in section 5, below. If you are willing to accept electronic media service in lieu of receiving hard copies of items, please check the appropriate box on the Notice of Intent to Appear.

The SWRCB will mail a service list of parties to exchange information to each hearing party who has submitted a Notice of Intent to Appear. Hearing participants who intend to make only policy statements are not required to exchange information and will not receive testimony or exhibits from the parties. The service list will indicate which participants agreed to accept electronic service. No later than **noon on Monday, September 27, 2004**, 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 SWRCB and the participants on the service list a statement of service that indicates the manner of service. If there is any change in the hearing schedule, only those persons or entities that have filed a Notice of Intent to Appear will be informed of the change.

4. **WRITTEN TESTIMONY AND OTHER EXHIBITS:** Exhibits include written testimony, statements of qualifications of expert witnesses, and other documents to be used as evidence. Each participant proposing to present testimony on factual or other evidentiary matters at the hearing shall submit such testimony in writing.<sup>1</sup> Written testimony shall be designated as an exhibit, and must be submitted with the other exhibits. Oral testimony that goes beyond the scope of the written testimony may be excluded. A participant who proposes to offer expert testimony must submit an exhibit containing a statement of the expert witness's qualifications.

Each participant shall submit to the SWRCB either: four paper copies of each of its exhibits or three paper copies and one electronic copy of each of its exhibits. Each participant shall also serve a copy of each exhibit on every participant on the service list. Participants may serve those parties who agree to electronic service with an electronic copy of exhibits. Participants must serve paper copies of exhibits on those participants who do not agree to electronic service.

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<sup>1</sup> The hearing officer may make an exception to this rule if the witness is adverse to the participant presenting the testimony and is willing to testify only in response to a subpoena or alternative arrangement. In such a case, the hearing officer may allow presentation of the oral direct testimony without requiring written testimony.

With its exhibits, each participant must submit to the SWRCB and serve on the other participants a completed Exhibit Identification Index. If possible, each participant should submit to the SWRCB and serve on the other participants an electronic copy, as well as a paper copy of the Exhibit Identification Index. Please see Section 5 for details regarding electronic submissions.

A statement of service with manner of service indicated shall be filed with each participant's exhibits. The exhibits and indexes for this hearing, and a statement of service, must be **received** by the SWRCB by **noon on Thursday, October 7, 2004**, and served on the other participants on or before that date.

The following requirements apply to exhibits:

- a. Exhibits based on technical studies or models shall be accompanied by sufficient information to clearly identify and explain the logic, assumptions, development, and operation of the studies or models.
  - b. The hearing officer has discretion to receive in evidence by reference relevant, otherwise admissible, public records of the SWRCB and documents or other evidence that have been prepared and published by a public agency, provided that the original or a copy was in the possession of the SWRCB before the notice of the hearing is issued. (Cal. Code Regs., tit. 23, § 648.3.) A participant offering an exhibit by reference shall advise the other participants and the SWRCB of the titles of the documents, the particular portions, including page and paragraph numbers, on which the participant relies, the nature of the contents, the purpose for which the exhibit will be used when offered in evidence, and the specific file folder or other exact location in the SWRCB's files where the document may be found.
  - c. A participant seeking to enter in evidence as an exhibit a voluminous document or database may so advise the other participants prior to the filing date for exhibits, and may ask them to respond if they wish to have a copy of the exhibit. If a participant waives the opportunity to obtain a copy of the exhibit, the participant sponsoring the exhibit will not be required to provide a copy to the waiving participant. Additionally, such exhibits may be submitted to the SWRCB in electronic form, using a file format readable by Microsoft Office 2000 software.
  - d. Exhibits that rely on unpublished technical documents will be excluded unless the unpublished technical documents are admitted as exhibits.
5. **ELECTRONIC SUBMISSIONS:** Participants are encouraged to submit the following documents to the SWRCB in electronic form: written opening statements, written policy statements, written testimony, exhibits, and Exhibit Identification Indexes. In addition, the foregoing documents may be served electronically on those participants who have agreed to accept electronic service. Paper copies of all other documents must be submitted to the SWRCB and served on the other parties, unless the hearing officer specifies otherwise.

Any documents submitted or served electronically must be in Adobe™ Portable Document Format (PDF), except for Exhibit Identification Indexes, which must be in a version

supported by Microsoft Excel 2000 (preferred) or Word 2000. Electronic submittals to the SWRCB of documents less than 5 megabytes in size may be sent via electronic mail to: [WrHearing@waterrights.swrcb.ca.gov](mailto:WrHearing@waterrights.swrcb.ca.gov) with a subject of “**Peter Norrbom Revocation**”. Electronic submittals to the SWRCB of documents greater than 5 megabytes in size should be sent by regular mail in PDF format on compact disk (CD™) media. Electronic service on participants shall be in the same format as submittals to the SWRCB, and should be submitted to the other participants by mail on CD.

Participants who agree to electronic service may request that specific documents be provided to them in paper copy. Requests should be made to the participant who submitted the document, not to the SWRCB. Participants who receive such a request shall provide a paper copy of the requested document within five days of the date the request is received. The SWRCB will post a list of all exhibits submitted for the hearing on its website at <http://www.waterrights.ca.gov/hearings>.

6. **ORDER OF PROCEEDING:** The SWRCB member serving as hearing officer will follow the Order of Proceedings specified in California Code of Regulations, title 23, section 648.5. Participants should take note of the following additional information regarding the major hearing events.

- a. **Policy Statements:** Pursuant to California Code of Regulations, title 23, section 648.1, subdivision (d), the SWRCB will provide an opportunity for presentation of nonevidentiary policy statements or comments by interested persons who are not participating in the hearing. Policy statements will be heard at the start of the hearing, immediately after the hearing officer identifies the parties and other participants. Policy statements are subject to the following provisions in addition to the regulation:
  - i. Policy statements are not subject to the prehearing requirements noted above for testimony or exhibits, except that persons wishing to make policy statements are requested to file a Notice of Intent to Appear, indicating clearly an intent to make only a policy statement.
  - ii. The SWRCB requests that policy statements be provided in writing before they are presented. Please see Section 5, above, for details regarding electronic submittal of policy statements. Oral summaries of the policy statements will be limited to five minutes or such other time as established by the hearing officer.
- b. **Presentation of Cases-In-Chief:** Each participant may present a case-in-chief addressing the key issues identified in the hearing notice. The case-in-chief will consist of any opening statement provided by the participant, oral testimony, introduction of exhibits, and cross-examination of the participant’s witnesses. The hearing officer may allow redirect examination and recross examination. The hearing officer will decide whether to accept the participant’s exhibits in evidence upon a motion of the participant after the case-in-chief has been completed.

- i. **Opening Statements:** At the beginning of a case-in-chief, the participant or the participant’s attorney may make an opening statement briefly and concisely

stating the objectives of the case-in-chief, the major points that the proposed evidence is intended to establish, and the relationship between the major points and the key issues. Oral opening statements will be limited to 20 minutes per participant. A participant may submit a written opening statement. Please see section 5, above, for details regarding electronic submittal of written opening statements. Any policy-oriented statements by a participant should be included in the participant's opening statement.

- ii. **Oral Testimony:** All witnesses presenting testimony shall appear at the hearing. Before testifying, witnesses shall swear or affirm that the written and oral testimony they will present is true and correct. Written testimony shall not be read into the record. Written testimony affirmed by the witness is direct testimony. Witnesses will be allowed up to 20 minutes to summarize or emphasize their written testimony on direct examination.<sup>2</sup> Each participant will be allowed up to two hours total to present all of its direct testimony.<sup>3</sup>
  - iii. **Cross-Examination:** Cross-examination of a witness will be permitted on the party's written submittals, the witness' oral testimony, and other relevant matters. If a participant presents multiple witnesses, the hearing officer will decide whether the participant's witnesses will be cross-examined as a panel. Cross-examiners initially will be limited to one hour per witness or panel of witnesses. The hearing officer has discretion to allow additional time for cross-examination if there is good cause demonstrated in an offer of proof. Any redirect examination and recross examination permitted by the hearing officer will be limited to the scope of the cross-examination and the redirect examination, respectively. Witnesses may be cross-examined on relevant subjects that are not covered in the direct testimony. (Gov. Code, § 11513, subd. (b).) Ordinarily, only a participant or the participant's representative will be permitted to examine a witness, but the hearing officer may allow a participant to designate a person technically qualified in the subject being considered to examine a witness. SWRCB members and the SWRCB's counsel may ask questions at any time, and the SWRCB members and staff may cross-examine any witness.
- c. **Rebuttal:** After all participants have presented their cases-in-chief and their witnesses have been cross-examined, the hearing officer will allow participants to present rebuttal evidence. Rebuttal evidence is new evidence used to rebut evidence presented in another participant's case-in-chief. Rebuttal testimony and exhibits need not be submitted prior to the hearing. Rebuttal evidence is limited to evidence that is responsive to evidence presented in a case-in-chief, and it does not include evidence that should have been presented during the presenter's case-in-chief. It also does not include repetitive evidence. Cross-examination of rebuttal evidence will be limited to the scope of the rebuttal evidence.

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<sup>2</sup> The hearing officer may allow additional time for the oral direct testimony of the witness if the witness is adverse to the participant presenting the testimony and the hearing officer is satisfied that the participant could not produce written direct testimony for the witness.

<sup>3</sup> The hearing officer may, for good cause, approve a party's request to use more than two hours total to present direct testimony during the party's case-in-chief.

- d. **Closing Statements and Legal Arguments**: At the close of the hearing or at other times if appropriate, the hearing officer may allow oral arguments or set a schedule for filing briefs or closing statements. If the hearing officer authorizes the participants to file briefs, four copies of each brief shall be submitted to the SWRCB, and one copy shall be served on each of the other participants on the service list. A participant shall not attach a document of an evidentiary nature to a brief unless the document is at the time in the evidentiary hearing record or is the subject of an offer of the document in evidence. Every participant filing a brief shall file a statement of service with the brief, indicating the manner of service.
- e. **Large Format Exhibits**: Participants submitting large format exhibits such as maps, charts, and other graphics shall provide the original for the hearing record in a form that can be folded to 8 ½ x 11 inches. Alternatively, participants may supply, for the hearing record, a reduced copy of a large format original if it is readable.
7. **EX PARTE CONTACTS**: During the pendency of this proceeding, commencing no later than the issuance of the Notice of Hearing, there will be no *ex parte* communications between SWRCB members or SWRCB hearing team staff and any of the participants regarding substantive issues within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) Communications regarding non-controversial procedural matters are permissible, but ordinarily should be directed to SWRCB staff, not SWRCB members. (Gov. Code, § 11430.20, subd. (b).)
8. **RULES OF EVIDENCE**: Evidence will be admitted in accordance with Government Code section 11513. Hearsay evidence may be used to supplement or explain other evidence, but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action.
9. **SUBMITTALS TO THE SWRCB**: Notices of Intent to Appear, written testimony and other exhibits submitted to the SWRCB should be addressed as follows:

Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000, Sacramento, CA 95812-2000  
Attn: Kyriacos Kyriacou  
**Phone: (916) 341-5347**  
**Fax: (916) 341-5400**  
**Email: [WrHearing@waterrights.swrcb.ca.gov](mailto:WrHearing@waterrights.swrcb.ca.gov)**  
**With Subject of “Peter Norrbom Revocation”**



**Exhibit Identification Index**

Participant \_\_\_\_\_

Exhibit No.	Description	Status as Evidence		
		Introduced	Accepted	By Official Notice