



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

# State Water Resources Control Board

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## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
P.O. Box 2000 ♦ Sacramento, California 95812-2000  
Fax: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger  
*Governor*

## NOTICE OF PUBLIC HEARING

The State Water Resources Control Board will hold a  
**Hearing to Determine Whether to Revoke  
Permit 16764 (Application 23418) of  
Rancho Murieta Community Services District**

**Unnamed Stream Tributary to the Cosumnes River in Sacramento County**

**Commencing at 9:00 a.m. on Tuesday, April 18, 2006**

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

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### SUBJECT OF HEARING

The purpose of this hearing is for the State Water Resources Control Board (State Water Board or Board) to receive evidence relevant to determining whether Permit 16764 (Application 23418) of Rancho Murieta Community Services District (District) should be revoked for failure to commence, prosecute with due diligence, and complete the work necessary to appropriate water and put the authorized water to beneficial use as contemplated in the permit in accordance with the Water Code.

### BACKGROUND

Water Code sections 1410–1410.2 provide that when the State Water Board determines that any person has failed to commence, prosecute with due diligence, and complete the work necessary to apply the water to beneficial use as contemplated in a permit and in accordance with the Water Code and rules and regulations of the Board, the Board may issue a notice of proposed revocation. The State Water Board may revoke a permit only after notice and an opportunity for hearing. Such notice shall be by certified mail, and shall inform the Permittee that he or she may request a hearing within 15 days after the date of receiving the notice. The notice shall contain a statement of facts and information upon which the proposed revocation is based. Unless the State Water Board receives a timely written request for a hearing, the State Water Board may revoke a permit without a hearing. In the case of the proposed revocation to be considered in this hearing, the respondent requested a hearing.

The State Water Board issued Permit 16764 (Application 23418) on September 16, 1975 to Bank of America, N.T. & S.A. as Corporate Co-trustee of the Pension Trust Fund for Operating Engineers. The State Water Board assigned Permit 16764 to Rancho Murieta Properties, Inc. on September 12, 1986, and subsequently to the District on January 14, 1988. Permit 16764 authorizes the diversion of up to 130 acre-feet per annum to be collected in a reservoir for recreational and stockwatering purposes. The permit authorizes collection of water to storage from November 1 of each year to May 31 of the succeeding year. Under the original terms of the permit, the Permittee was required to complete construction work on or before December 1, 1980, and make complete application of the water to the proposed use on or before December 1, 1990. To date, the Division of Water Rights (Division) has approved two Orders approving a new development schedule and amending the permit. The first Order, dated September 14, 1982, extended the time to complete construction work to December 1, 1986. The second Order, dated February 17, 1988, extended the time to complete construction to December 31, 1992 and the time to complete application of water to full beneficial use to December 31, 1995.

On March 23, 2000, the Division sent a "Notice of Proposed Revocation" of water right Permit 16764 to the District for failure to build the permitted project and to put water to beneficial use. The District filed a petition for extension of time, dated April 7, 2000, to complete the project. Following a meeting, requests for additional information from the Division, and additional correspondence between the Division and the District, on March 30, 2001, the District requested the Division to assign Permit 16764, which authorized construction of Peralta Reservoir, to another lake (Laguna Lake) because it is "probably not feasible" to build Peralta Reservoir at the authorized location.

On July 13, 2005, the Division sent the enclosed Notice of Proposed Revocation for Permit 16764 to the District, which alleges that, to date, the Permittee has not begun construction of the project authorized under the permit; has failed to adequately respond to the Division's requests for information necessary to process the 2000 time extension petition; has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 16764; and has not made beneficial use of the water as contemplated in the permit.

By letter dated July 27, 2005, the District requested a hearing.

### **KEY ISSUE**

Should the State Water Board revoke Permit 16764 (Application 23418) in accordance with Water Code Section 1410 for failure to commence and prosecute with due diligence the construction of the project and put the water to beneficial use as contemplated in the permit?

### **ABOUT THIS HEARING**

In this hearing, there will be a staff prosecutorial team who will be a party in the hearing. The prosecutorial team members will be Kathy Mrowka, Senior Water Resource Control Engineer, and Erin Mahaney, Staff Counsel. The prosecutorial team is separated by an ethical wall from

the hearing team, 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 proceeding. The hearing team consists of the Board members and the staff assisting the Board members with the hearing.

State Water Board Member Arthur Baggett, Jr., will preside as hearing officer over this proceeding. Other Board members may be present during the hearing. State Water Board staff hearing team members will include Barbara Katz, Senior Staff Counsel, and Jean McCue, Water Resource Control Engineer. The hearing staff will assist the hearing officer and the other members of the State Water Board 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 State Water Board no later than **noon on Thursday, March 16, 2006**.

To facilitate exchange of testimony, exhibits and witness qualifications, on or about **Tuesday, March 21, 2006**, the State Water Board 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 State Water Board and served on each of the parties who have indicated their intent to appear, no later than **noon on Friday, March 31, 2006**.

### **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 Sierra Hearing Room 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 staff 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 driver's 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 shall be no *ex parte* communications between State Water Board members or State Water Board hearing team staff and any of the other participants regarding substantive or controversial procedural matters within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) Questions regarding non-controversial procedural matters (Gov. Code, § 11430.20, subd. (b)) should be directed to Barbara Katz at (916) 341-5192, or Jean McCue at (916) 341-5351.

March 2, 2006

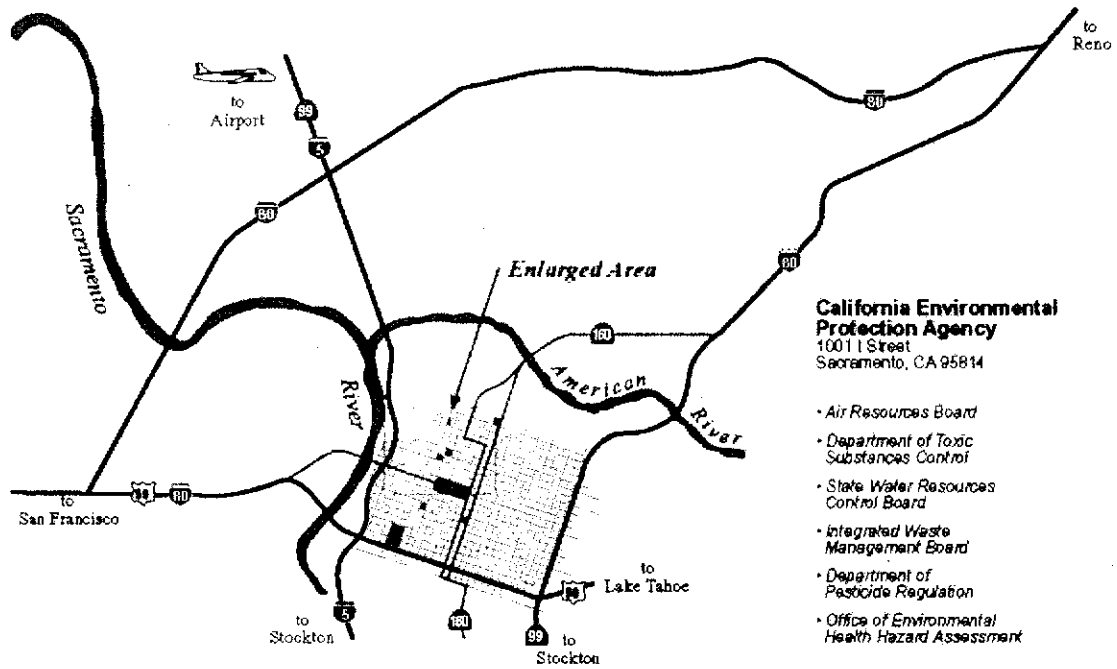
Date



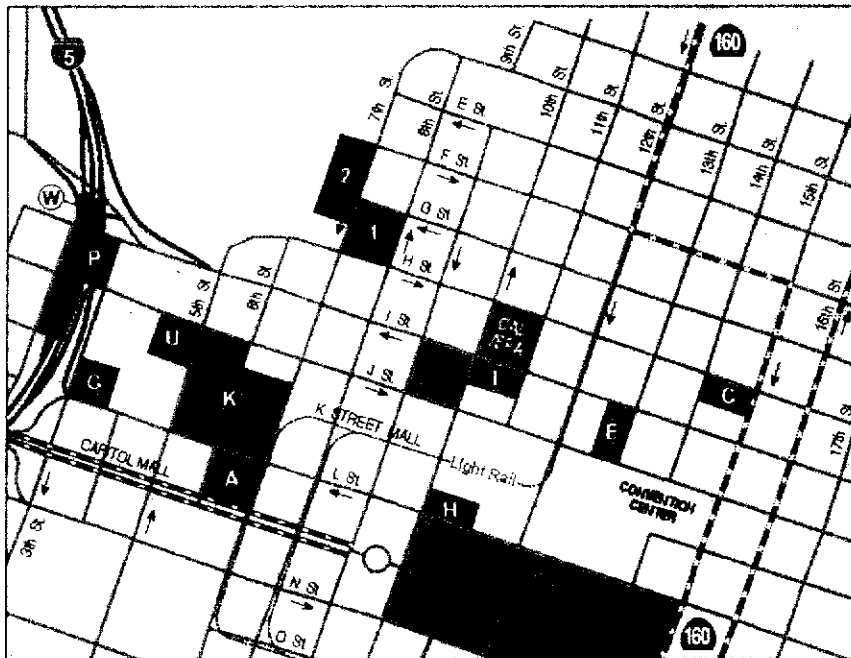
Song Her  
Clerk to the Board

Enclosures

## Enclosure 1



### 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 (14th & L)
- Lot I (14th & L, 11th & I)
- Lot K (4th & J/L, 7th & K)
- Lot P (2nd & I)
- Lot U (5th & J)
- Lot W (2nd & I St.)

**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

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In the Matter of Permit 16764 (Application 23418)

**Rancho Murieta Community Services District**

**NOTICE OF PROPOSED REVOCATION**

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SOURCE: Unnamed Stream tributary to Cosumnes River thence Mokelumne River

COUNTY: Sacramento

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You are hereby notified, pursuant to Water Code sections 1410 – 1410.2 that the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), is proposing to revoke Permit 16764 because the Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 16764, and has not made beneficial use of the water as contemplated in the permit.

- A. The facts and conclusions upon which the proposed revocation is based are as follows:
1. The State Water Board issued Permit 16764 on September 16, 1975 to Bank of America, N.T. & S.A. as Corporate Co-trustee of the Pension Trust Fund for Operating Engineers. The permit authorizes the water right holder to divert 130 acre-feet per annum to be collected to storage from November 1 of each year to May 31 of the succeeding year for recreational and stockwatering purposes of use. The time to complete construction ended on December 1, 1980, and the time to complete application of water to full, beneficial use ended on December 1, 1990.
  2. The Division approved a time extension by Order dated September 14, 1982, which extended the time to complete construction work to December 1, 1986.
  3. Permit 16764 was assigned to Rancho Murieta Properties, Inc. on September 12, 1986.
  4. The permit was assigned to Rancho Murieta Community Services District (District or Permittee) on January 14, 1988.
  5. A second time extension was approved by Order dated February 17, 1988, which extended the time to complete construction to December 31, 1992 and the time to complete application of water to full, beneficial use to December 31, 1995.
  6. On March 23, 2000, the Division issued a Notice of Proposed Revocation (NPR) to the District based on the District's failure to build the permitted project and to put water to beneficial use.
  7. In the 1999 Progress Report by Permittee, dated March 31, 2000, the District stated that it has not commenced construction of the reservoir and beneficial use of water. In its 2000 report, date-

stamped December 28, 2001, the District stated that it had not commenced use of water. It did not give an estimated date of completion of construction.

8. By letter dated April 4, 2000, the District submitted to the Division a Petition for Extension of Time, dated April 7, 2000, which estimated that construction would begin in 2008. In the petition, the District stated that construction work had not begun within the time allowed by the permit because development in Rancho Murieta had been slower than expected, but that the lake would be needed to meet water demands. The District also requested a hearing on the proposed revocation if the Division was unable to withdraw the NPR.
9. On May 2, 2000, Division staff met with District representatives to discuss the proposed revocation. Division staff informed the District that Permit 16764 authorizes non-consumptive use and that the District's reason for delay was tied to the subdivision's development and consumptive use. Division staff informed the District's representatives that the revocation process would be suspended to allow the District to provide more information justifying the extension of time.
10. By letter dated July 7, 2000, the District responded to questions raised in the May 2, 2000 meeting with Division staff. The District stated that it expected to use the reservoir to serve the recreational needs of planned residences when they were built. The District did not provide a timeline for proceeding with the project.
11. On October 4, 2000, the Division informed the District that the Division was prepared to proceed with revocation unless the District assured the Division that it would rapidly take certain actions, including preparing (1) environmental documentation for the project, (2) a plan that discusses the community need, location, purpose of the project, and timing of the development and construction of the project, and (3) a timeline for the development of the community plan, environmental documentation, and construction of the reservoir, that is approved by the District's Board of Directors. The Division requested the District to advise the Division within 30 days as to whether it would proceed with the project, and if so, to provide additional information (including a work plan) to the Division within 60 days.
12. On November 3, 2000, the District requested the Division to accept the time extension petition and allow the District "a reasonable period of time, perhaps a year" to submit a work plan and other items. The District also noted that the Community of Rancho Murieta is a master-planned development and that Permit 16764 was one of the water rights needed for the proposed development of the community. To date, the District has not submitted the information requested on October 4, 2000.
13. The Division responded by letter dated January 25, 2001, and noted that the District's permit, which provided for non-consumptive stock watering and recreational usage, could not be used for consumptive uses such as domestic, irrigation, or municipal uses. The Division stated that processing of the petition was contingent on receiving (1) a memorandum of understanding for the development of an environmental document by April 1, 2001, and (2) the work plan identified in the Division's letter of October 4, 2000 by January 1, 2002. To date, the Division has not received the requested information.
14. On March 30, 2001, the District requested the Division to assign Permit 16764, which authorizes construction of Peralta Reservoir, to another lake (Laguna Lake). The District stated that a developer intends to build a residential area where the reservoir was to be located and that the developer did not include the reservoir in the development plan. The District further noted: "As originally located in the original permit granted in 1969, Peralta Reservoir is sited in the only oak tree savannah in the parcel. Given the current environmental constraints in developing in or near oak trees, *construction of the reservoir is not only not practical but also probably not feasible.*" (Italics added.)

15. On April 22, 2004, the Division received an unsigned Progress Report by Permittee for 2003 from the District, with the box for requesting revocation checked. On December 30, 2004, Division staff requested that the District complete a Revocation Request form. The District advised the Division, by letter dated January 12, 2005, that the revocation box was incorrectly marked on the progress report and that it did not wish to revoke the permit.

B. Based on the facts herein and conclusions below, the Division concludes that cause exists for revocation of Permit 16764 pursuant to Water Code section 1410, subdivision (a).

1. Permit 16764 was issued in 1975 and, to date, Permittee has not begun construction of the project authorized under the permit.
2. Permittee has failed to adequately respond to the Division's requests for information necessary to process the 2000 time extension petition.
3. Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 16764.
4. Permittee has not made beneficial use of the water as contemplated in the permit.

As required by Water Code section 1410.1, you are notified that unless a written request for a hearing signed by or on behalf of the Permittee is delivered or mailed to the State Water Board within 15 days after receipt by the Permittee of this notice, the State Water Board may act upon the proposed revocation of the permit without a hearing. Any request for a hearing may be made by delivering or mailing the request to the State Water Board at the following address: Division of Water Rights, P. O. Box 2000, 1001 I Street, Sacramento, CA 95812-2000.

Based on the above facts and conclusions, the Division will revoke Permit 16764 unless the Division receives a written request for hearing within the time period specified above.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Victoria A. Whitney, Chief  
Division of Water Rights*

Dated: 7/13/2005



## 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 State Water Board is available upon request or may be viewed at the State Water Board's web site: [http://www.waterboards.ca.gov/water\\_laws/index.html](http://www.waterboards.ca.gov/water_laws/index.html).

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 the Rancho Murieta Community Services District, the Division of Water Rights' Prosecutorial 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 State Water Board no later than **noon on Thursday, March 16, 2006**. Participants who submit a Notice of Intent to Appear electronically must also submit an original, signed copy. Facsimile and electronic mail copies cannot be used in lieu of a signed and dated original copy of the Notice of Intent to Appear. Failure to submit a Notice of Intent to Appear and exhibits in a timely manner may be interpreted by the State Water Board 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 State Water Board 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 State Water Board encourages participants to submit written policy statements, written opening statements, written testimony, exhibits, and Exhibit Identification Indexes to the State Water Board 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 State Water Board 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 Friday, March 31, 2006**, 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. 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 State Water Board either: six paper copies of each of its exhibits or four 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

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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.

of exhibits. Participants must serve paper copies of exhibits on those participants who do not agree to electronic service.

With its exhibits, each participant must submit to the State Water Board and serve on the other participants a completed Exhibit Identification Index. If possible, each participant should submit to the State Water Board 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 State Water Board by **noon on Friday, March 31, 2006**, 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 State Water Board 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 State Water Board 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 State Water Board 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 State Water Board'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 State Water Board 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 State Water Board 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 State Water Board 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 State Water Board of documents less than 5 megabytes in size may be sent via electronic mail to: [WrHearing@waterboards.ca.gov](mailto:WrHearing@waterboards.ca.gov) with a subject of "Rancho Murieta CSD Hearing". Electronic submittals to the State Water Board 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 State Water Board, 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 State Water Board. 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 State Water Board 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 State Water Board 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 State Water Board 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 a 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 State Water Board 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, a 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 a 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 a hearing officer may allow a participant to designate a person technically qualified in the subject being considered to examine a witness. State Water Board

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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.

members and the State Water Board's counsel may ask questions at any time, and the State Water Board 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.
  - d. **Closing Statements and Legal Arguments:** At the close of the hearing or at other times if appropriate, a hearing officer may allow oral arguments or set a schedule for filing briefs or closing statements. If a hearing officer authorizes the participants to file briefs, four copies of each brief shall be submitted to the State Water Board, 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 shall be no *ex parte* communications between either State Water Board members or State Water Board hearing team staff and any of the other participants regarding substantive issues within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) Communications regarding non-controversial procedural matters are permissible, and should be directed to the State Water Board staff attorney on the hearing team, not State Water Board members. (Gov. Code, § 11430.20, subd. (b).) A memorandum regarding *ex parte* communications is available upon request or from our website at [http://www.waterboards.ca.gov/water\\_laws/index.html](http://www.waterboards.ca.gov/water_laws/index.html)
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 STATE WATER BOARD:** Notices of Intent to Appear, written testimony and other exhibits submitted to the State Water Board should be addressed as follows:

**Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000, Sacramento, CA 95812-2000  
Attn: Jean McCue  
Phone: (916) 341-5351  
Fax: (916) 341-5400  
Email: [WrHearing@waterboards.ca.gov](mailto:WrHearing@waterboards.ca.gov)  
With Subject of "Rancho Murieta CSD Hearing"**

**NOTICE OF INTENT TO APPEAR**

\_\_\_\_\_ Plan(s) to participate in the water right hearing regarding:  
(name of party or participant)

Rancho Murieta CSD, Proposed Revocation Hearing, Permit 16764 (A23418), Sacramento County  
Scheduled for  
Tuesday, April 18, 2006

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Phone Number: ( ) \_\_\_\_\_ Fax Number: ( ) \_\_\_\_\_

E-mail Address: \_\_\_\_\_





**Rancho Murieta Community Services  
District Hearing Notice Mailing List**

Daniel F. Gallery  
Law Office of Daniel F. Gallery  
Re: Rancho Murieta CSD  
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PO Box 1050  
Rancho Murieta, CA 95683

Rancho Murieta Community Services Dist.  
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555 Capitol Mall, 9<sup>th</sup> Floor  
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Kathy Mrowka  
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State Water Resources Control Board  
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c/o William Du Bois  
Natural Resources Consultant  
11th & L Building, Room 626  
Sacramento, CA 95814

Nino J. Mascolo  
Southern Calif 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 Sharoody  
2171 E. Francisco Blvd., Suite K  
San Rafael, CA 94901

U.S. Bureau of Reclamation  
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  
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U.S. Fish & Wildlife Service  
Ventura Fish & Wildlife Office  
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Ventura, CA 93003

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  
Calif Department of Fish & Game  
1416 9th Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

California Environmental  
Protection Agency  
c/o Dr. Alan Lloyd  
Secretary for Environmental Protection  
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Sacramento, CA 95814

James Peters  
Peters Shorthand Reporting Corporation  
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City of Los Angeles  
c/o Mr. David R. Pettijohn  
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Water Resources Business Unit  
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Whitnie Henderson  
Association of Calif Water Agencies  
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Calif Department of Fish and Game  
Sacramento Valley and Central Sierra  
Region 2  
1701 Nimbus Road, Suite A  
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