



# State Water Resources Control Board

## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor • Sacramento, California 95814 • (916) 341-5359  
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000  
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.  
For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.*

**Gray Davis**  
Governor

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## NOTICE OF PUBLIC HEARING

**The State Water Resources Control Board will hold a hearing to augment the administrative record and to reconsider Water Right Decision 1644 in light of additional specified evidence as directed by the Yuba County Superior Court. Water Right Decision 1644 addresses fishery protection and other water right issues on the lower Yuba River between Englebright Reservoir and Marysville.**

**The hearing will commence on Thursday, June 5, 2003, at 9:00 a.m. and continue if necessary on Friday, June 6, 2003 at 9:00 a.m. at the Joe Serna Jr./Cal/EPA Building Coastal Hearing Room-Second Floor 1001 I Street, Sacramento**

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### SUBJECT OF THE HEARING

Water Right Decision 1644 (Decision 1644) addresses fishery resources and water right issues in the lower Yuba River between Englebright Reservoir and Marysville. In litigation challenging Decision 1644, the Yuba County Superior Court concluded that additional evidence should be considered that was not in the State Water Resources Control Board (SWRCB) administrative record at the time Decision 1644 was adopted in 2001.<sup>1</sup> The purpose of this hearing is to consider the additional evidence specified by the Yuba County Superior Court in accordance with the peremptory writ of mandate issued by the court on May 5, 2003.

### BACKGROUND

Following extensive evidentiary hearings in 1992 and 2000, on March 1, 2001, the SWRCB adopted Water Right Decision 1644 which addresses fishery resource and water right issues on the lower Yuba River. On May 17, 2001, the SWRCB adopted Order WR 2001-08 which amended several provisions of Decision 1644 and dismissed the pending petitions for

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<sup>1</sup> The SWRCB adopted Decision 1644 on March 1, 2001 and amended the decision by Water Right Order WR 2001-08 on May 17, 2001. Decision 1644 and Order WR 2001-08 can be found at the SWRCB Division of Water Rights' web-site: [www.waterrights.ca.gov/hearings/D-1644ReconsiderationHearing.htm](http://www.waterrights.ca.gov/hearings/D-1644ReconsiderationHearing.htm). Unless otherwise noted, references in this notice to Decision 1644 refer to Decision 1644 as amended by Order WR 2001-08.

reconsideration. Following adoption of Decision 1644, several parties to the proceeding filed lawsuits challenging the decision. Those suits were consolidated before the Yuba County Superior Court under the title Browns Valley Irrigation District vs. State Water Resources Control Board (Yuba County Superior Court Case No. CV PT 01-0000224).

As a preliminary matter prior to trial in the consolidated litigation challenging Decision 1644, the Court considered motions to augment the administrative record that were filed by Yuba County Water Agency (YCWA) and by the South Yuba River Citizens League and a coalition of conservation organizations (SYRCL). The motion to augment the record filed by YCWA referred to depositions of three former or present SWRCB staff members, declarations of two biologists, and a declaration of the general manager of YCWA. The motion to augment the record filed by SYRCL referred to a report of the California Energy Commission to the California Senate Energy Committee on January 28, 2003, on the electrical energy supply and usage situation and revised electrical energy projections.<sup>2</sup> In an "Order After Hearing" (Order) filed on May 5, 2003, the Court granted the motions of YCWA and SYRCL to augment the record. The Order states that "the Court does not herein purport to limit or control the method by which the [SWRCB] receives the evidence that is the subject of the [YCWA and SYRCL] motions." The Order also states: "the Court's ruling is expressly without prejudice to the Board's determination of the admissibility of the specific documents offered by [SYRCL]. That is to say the Board shall consider the supply/usage evidence, but may require the evidence to be presented by means other than the documents submitted in conjunction with the [SYRCL] Request/Motion."

In accordance with the conclusions set forth in the Court's Order, the Court entered a Judgment and a Writ of Mandate (Writ) that directs the SWRCB to vacate its approval of Decision 1644, remands Decision 1644 to the SWRCB, and directs the SWRCB to reconsider Decision 1644 in light of the judgment of the Court. The Writ directs the SWRCB to file a return with the Court not later than 66 days after service of the Writ and to therein advise the Court of the SWRCB's compliance with the terms of the Writ or the reasons why the SWRCB has failed to comply.

Pursuant to the direction of the Court as expressed in the Order and the Writ, the SWRCB will conduct a hearing to augment the record with the evidence specified by the Court. The SWRCB has previously conducted extensive evidentiary hearings on fishery and water right issues on the lower Yuba River and has compiled a lengthy evidentiary record regarding issues addressed in Decision 1644. The purpose of this supplemental hearing is limited to providing parties to the water right hearings that led to adoption of Decision 1644, and parties to the subsequent litigation, an opportunity to present the evidence specified by the Court, conduct cross-examination on the subjects addressed by that evidence, present relevant rebuttal evidence to the evidence referred to by the Court, and present arguments regarding the significance of the additional evidence with respect to the SWRCB's reconsideration of Decision 1644.

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<sup>2</sup> The Court order states that the SWRCB may choose to consider the depositions of the three staff members or consider live testimony from the deponents. Similarly, with respect to the fishery population and water demand and usage evidence presented in the declarations submitted by YCWA, the order states that the SWRCB may consider the declarations submitted by YCWA, live testimony, or otherwise receive evidence on those issue in any manner permitted by law.

**KEY ISSUES**

1. Do the depositions of the former or present SWRCB staff members Mike Meinz, Alice Low and Andrew Sawyer (dated October 10, 2002, October 11, 2002, and December 23, 2002, respectively) present evidence establishing that any party to the proceedings leading to Decision 1644 was denied a fair hearing or due process of law in those proceedings?
2. Should Decision 1644 be revised based on the evidence on fishery issues presented in the declaration of William Mitchell dated March 11, 2003, and the declaration of Paul Bratovich dated March 13, 2003?
3. Should Decision 1644 be revised based on the evidence on water demand and usage presented in the declaration of Curt Aiken dated March 13, 2003?
4. Should Decision 1644 be revised based on the evidence regarding present and projected electrical energy supply and demand conditions as reported in the report of the California Energy Commission to the California Senate Energy Committee on January 28, 2003 (and the accompanying press release)?

**HEARING PARTICIPATION**

IF YOU WANT TO TAKE PART IN THIS HEARING you should carefully read the enclosure entitled "Information Concerning Appearance at Water Right Hearing". 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 on or before 4:00 p.m. on Friday, May 30, 2003. Participation in the evidentiary portion of the SWRCB's proceedings to reconsider Decision 1644 is limited to the parties to the evidentiary proceedings preceding adoption of Decision 1644 and parties to the subsequent litigation regarding the decision.

The additional documents that the SWRCB proposes to include in the record pursuant to the Court's order are identified on the Staff List of Exhibits attached to this hearing notice. Parties to the hearing are not required to serve copies of those documents on the SWRCB or other parties to the hearing. Any objections related to the admissibility of the documents on the Staff List of Exhibits or objections related to limitations on use of those documents will be addressed by the SWRCB at the hearing. Relevant rebuttal evidence may be offered at the hearing pursuant to the applicable provisions of the SWRCB's regulations. (California Code of Regulations, Title 23, section 648 et seq.)

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## PARKING, ACCESSIBILITY AND SECURITY

The enclosed map shows the locations of the Joe Serna Jr./Cal EPA Building and public parking sites in Sacramento. The Joe/Serna Jr. Cal EPA Building is accessible to persons with disabilities.

Due to enhanced security precautions at the Cal/EPA Building located at 1001 I Street, Sacramento, all visitors are required to sign in prior to attending any meeting. Sign-in and badge issuance occur in the Visitor and Environmental Services Center, which is located just inside and to the left of the building's public entrance. Depending on their destination and the building 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 cards. 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 the hearing room.

## IF YOU HAVE ANY QUESTIONS

SWRCB Chairman Arthur G. Baggett, Jr., is expected to be the hearing officer presiding over this proceeding. In the event of Mr. Baggett's absence from any portion of the hearing, another member of the SWRCB will preside over the hearing. SWRCB hearing team members will be Senior Staff Counsel Dan Frink, Water Resources Control Engineer Ernest Mona and Environmental Scientist Andy Fecko. *Ex parte* communications with members of the Board or SWRCB staff on the hearing team regarding substantive or controversial procedural matters involved in the hearing are prohibited during the pendency of this proceeding. (Gov. Code §§11430.10-11430.80.) Communications regarding routine non-controversial procedural matters (See Gov. Code §11430.20, subd. (b)) should be directed to Dan Frink at (916) 341-5189 or Ernest Mona at (916) 341-5359.



Debbie Irvin  
Clerk to the Board

Date: 23 May 2003

Enclosures

**Mailing List**  
**Lower Yuba River Proceedings**

**(Revised May 8, 2003)**

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

California Sportfishing Protection Alliance  
c/o Mr. Jim Crenshaw, President  
1248 East Oak Ave., Apt D.  
Woodland, CA 95776

Browns Valley Irrigation District  
c/o Mr. Ryan Bezerra  
Bartkiewicz, Kronick & Shanahan  
1011 Twenty-Second Street  
Sacramento, CA 95816-4907

Water Resources Control Board Staff  
c/o Mr. Daniel N. Frink  
Senior Staff Counsel  
P.O. Box 2000  
Sacramento, CA 95812-2000

South Yuba Water District  
c/o Mr. Paul R. Minasian  
Minasian, Spruance, Baber, Meith,  
Soares & Sexton, LLP  
P.O. Box 1679  
Oroville, CA 95965

Brophy Water District  
c/o Mr. Daniel F. Gallery  
Attorney at Law  
926 J Street, Suite 505  
Sacramento, CA 95814

Cordua Irrigation District  
c/o Mr. Paul R. Minasian  
Minasian, Spruance, Baber, Meith,  
Soares & Sexton, LLP  
P.O. Box 1679  
Oroville, CA 95965

Western Water Company  
c/o Mr. Scott Morris  
Kronick, Moskovitz,  
Tiedemann & Girard  
400 Capitol Mall, 27th Floor  
Sacramento, CA 95814-4417

California Department of Water Resources  
c/o Mr. David A. Sandino, Staff Counsel  
1416 Ninth Street, Room 1138-2  
P.O. Box 942836  
Sacramento, CA 94236-0001

National Marine Fisheries Service  
c/o Mr. James Bybee  
Northern California Habitat Manager  
777 Sonoma Avenue  
Santa Rosa, CA 95404

South Yuba River Citizens League  
216 Main Street  
Nevada City, CA 95959

California Department of Fish and Game  
c/o William Cunningham, Esq.  
Department of Justice  
Office of the Attorney General  
P.O. Box 944255  
Sacramento, CA 94244-2550

Mr. Walter Cook  
Attorney at Law (ret)  
42 Northwood Commons  
Chico, CA 95973-7214

Pacific Gas & Electric Company  
c/o Mr. Richard Moss  
P.O. Box 7442  
San Francisco, CA 94120-7442

Western Aggregates, Inc.  
c/o Mr. Mike Mills  
Downey, Brand, Seymour & Rohwer  
555 Capitol Mall, 10<sup>th</sup> Floor  
Sacramento, CA 95814

Hallwood Irrigation Company  
c/o Don Huckins  
439 Center Street  
Yuba City, CA 95991

U.S. Department of the Interior  
c/o Mr. Alf Brandt, Assistant Regional Solicitor  
Regional Solicitors Office  
Pacific Southwest Region  
2800 Cottage Way, E-1712  
Sacramento, CA 95825-1890

Charlton Bonham  
Trout Unlimited  
828 San Pablo Ave., Suite 208  
Albany, CA 94706

Bob Baiocchi  
P.O. Box 1790  
Graeagle, CA 96103

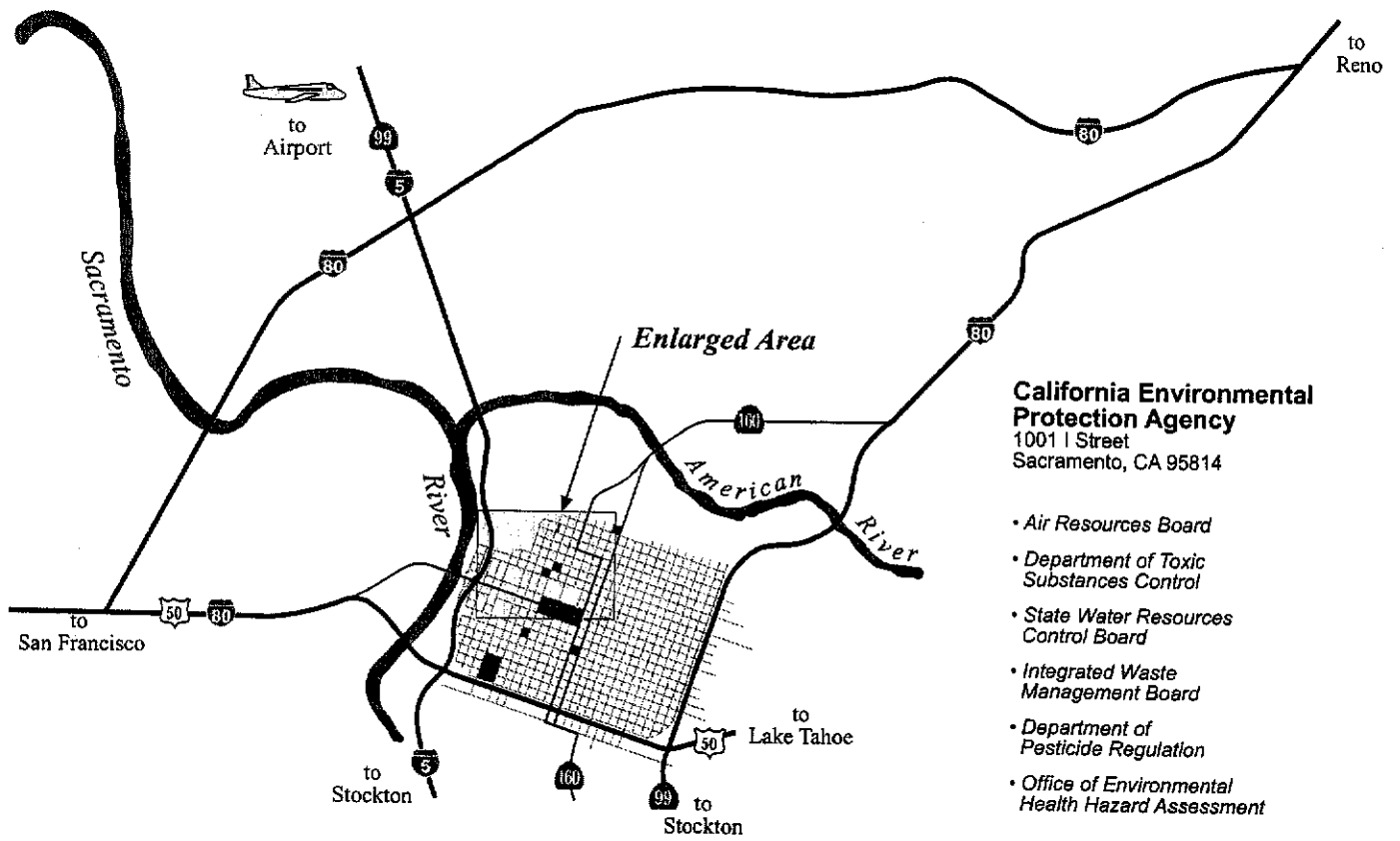
Harold Kruger  
Appeal Democrat  
P.O. Box 431  
Marysville, CA 95901-0431

Ramirez Irrigation District  
P.O. Box 1765  
Marysville, CA 95901

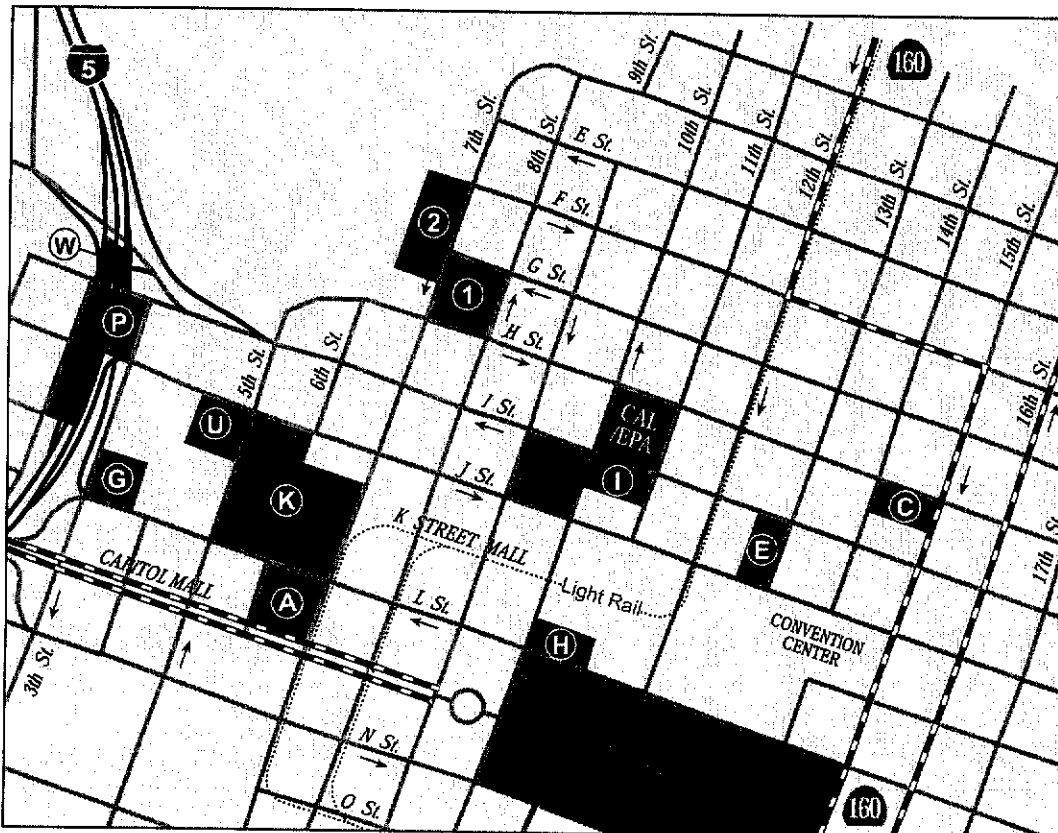
Mike Tucker  
National Marine Fisheries Service  
650 Capitol Mall  
Sacramento, CA 95814

Cesar Blanco  
U.S. Fish and Wildlife Service  
4001 N. Wilson Way  
Stockton, CA 95205

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**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.)

**INFORMATION CONCERNING APPEARANCE AT**  
**WATER RIGHT HEARING**

The following procedural requirements will apply to this hearing and will be strictly enforced by the SWRCB.

1. **HEARING PROCEDURES GENERALLY:** The generally applicable procedures for water right hearings are 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 Resources Control Board (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/). Due to the limited purpose of this hearing to reconsider Decision 1644 in light of the additional evidence specified by the Yuba County Superior Court, the generally applicable procedures will be modified as described in the preceding hearing notice and this enclosure to the notice. (See Cal. Code Regs., tit 23, §§ 648(d) and 648.5.)
2. **PARTIES:** The parties to this hearing will be limited to the parties to the evidentiary hearings preceding adoption of Decision 1644 and the parties to the litigation regarding Decision 1644 in Yuba County Superior Court. Any party who intends to participate in the evidentiary hearing shall submit a Notice of Intent to Appear, in accordance with the requirements stated below. Persons who present only policy statements, either orally or in writing, will not be considered a party to the hearing and 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:** Each party intending to participate in the hearing must submit to the SWRCB ten copies of a written Notice of Intent to Appear (form enclosed). The notice must state the name and address of the attorney or other representative of the party, the name of each witness who the party intends to call to testify, and the subject of the proposed testimony. The notice must be received by the SWRCB by 4:00 p.m. on Friday, May 30, 2003.
4. **EXHIBITS IDENTIFIED ON STAFF LIST OF EXHIBITS:** As explained in the hearing notice, the Yuba County Superior Court has directed the SWRCB to reconsider Decision 1644 in light of evidence presented in several specified documents. For purposes of identification, these documents will be identified as shown on the attached Staff List of Exhibits. Parties to the hearing are not required to serve copies of the documents on the Staff List of Exhibits on other parties. The depositions of three SWRCB staff members taken by counsel for YCWA were taken under oath and were subject to cross-examination by any counsel involved in the litigation who chose to attend. Therefore, the three depositions will be treated as testimony for purposes of this proceeding.

The other documents shown on the Staff List of Exhibits may be subject to limitations on the use of hearsay evidence unless a witness appears to authenticate the document and to



respond to cross-examination regarding the content. With respect to the written declarations, it would be appropriate for the declarants to appear to authenticate the declarations under oath, to present a brief oral summary of the content of the declarations if they desire, and to be available for cross-examination on the content of the document by other parties to the proceeding. With respect to the report by the California Energy Commission, it would be appropriate for a witness with knowledge of the facts discussed in the report to authenticate the document under oath, to present a brief oral summary of the document, and to be available for cross-examination by other parties to the proceeding. Oral testimony that goes beyond the scope of the declarations or the California Energy Commission report may be excluded.

5. **RECORD FROM PRIOR PROCEEDINGS RELATED TO DECISION 1644:** The administrative record of the SWRCB's previous proceedings related to Decision 1644, as compiled and filed with the Yuba County Superior Court will be part of the record before the SWRCB in this supplemental hearing.
  
6. **ADDITIONAL EXHIBITS AND REBUTTAL EVIDENCE:** In view of the extensive administrative record that presently exists and the limited number of additional documents identified in the court Order and Writ remanding this matter to the SWRCB, the SWRCB does not anticipate receiving numerous other documents in the record. However, parties to the hearing will have the opportunity to present relevant rebuttal evidence in response to the evidence that the Court has directed the SWRCB to consider. Rebuttal evidence is not required to be submitted in writing, nor are rebuttal testimony and exhibits required to be submitted prior to the hearing. (Cal. Code Regs., tit. 23, §648.4(f).) The following requirements apply to any additional exhibits:
  - a. 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 party offering an exhibit by reference shall advise the other parties and the SWRCB of the titles of the documents, the particular portions, including page and paragraph numbers, on which the party relies, the nature of the contents, the purpose for which the exhibit is offered into evidence, and the specific file folder or other exact location in the SWRCB's files where the document may be found.
  
  - b. Exhibits that rely on unpublished technical documents will be excluded unless the unpublished technical documents are admitted as exhibits.
  
7. **ELECTRONIC SUBMISSIONS:** Paper copies of all documents must be submitted to the SWRCB and served on the other parties, unless the hearing officer specifies otherwise. However, parties are encouraged to also submit the following documents to the SWRCB in electronic form: written opening statements (if any), written policy statements (if any), written testimony (if any), and any exhibits not identified on the Staff List of Exhibits. Any documents submitted or served electronically must be in

Adobe™ Portable Document Format (PDF). 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 the subject of the transmittal designated as “**Supplemental Yuba River Hearing.**” The SWRCB will post a list of the documents submitted for the hearing on its website at <http://www.waterrights.ca.gov/hearings/D-1644ReconsiderationHearing.htm>

8. **ORDER OF PROCEEDING:** The hearing will be conducted in accordance with the following order of proceeding subject to the discretion of the hearing officer to make adjustments as appropriate at the time of the hearing. The time limits specified below may be changed by the hearing officer upon a showing of good cause.
  - a. **Policy Statements:** Pursuant to California Code of Regulations, title 23, section 648.1, subdivision (c), the SWRCB will provide an opportunity for presentation of non-evidentiary policy statements or comments by interested persons who are not parties to the hearing on matters relevant to the subject of 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. 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. (See Section 7, above, for details regarding electronic submittal of policy statements.) Oral summaries of written policy statements will be limited to five minutes or such other time as established by the hearing officer.
  - b. **Opening Statements of Parties:** Each party may make an opening statement briefly and concisely stating the major points that the party believes the evidence establishes, and the relationship between the major points and the key issues. For purposes of this proceeding, oral opening statements will be limited to 15 minutes per participant. A party may submit a written opening statement. Please see section 7, above, for details regarding electronic submittal of written opening statements. Any policy-oriented statements by a party should be included in the party’s opening statement.
  - c. **Presentation of Testimony and Exhibits:** YCWA may present testimony of witnesses to authenticate and summarize the declarations of Mr. Bratovich, Mr. Aikens, and Mr. Mitchell as shown on the Staff List of Exhibits. SYRCL may present testimony with respect to the electrical energy issues addressed in the California Energy Commission report as shown on the List of Staff Exhibits. Other parties may present relevant rebuttal testimony and exhibits. Witnesses shall swear or affirm that the written and oral testimony they will present is true and correct. Written testimony or declarations shall not be read into the record. Written testimony or a written declaration affirmed by a witness is direct testimony. Witnesses who have submitted declarations will be allowed up to 15 minutes to summarize or emphasize the information in their declaration on direct examination, but the oral summary shall not go beyond the scope of the declaration. A witness or witnesses called by SYRCL to testify regarding the California Energy Commission report identified in the Staff List of Exhibits will be allowed up to 15 minutes to

authenticate and summarize the information in the report. The hearing officer may allow redirect examination and recross examination of witnesses. The documents identified in the Staff List of Exhibits will be admitted as evidence in this proceeding, but a document may be subject to restrictions on its use if no witness is presented to authenticate the document and to respond to cross examination. The hearing officer will decide whether to accept other exhibits in evidence upon a motion of the party offering the exhibits.

- d. **Cross Examination**: Cross examination of a witness will be permitted on the party's written submittals, the witness's oral testimony, and other matter relevant to the issues to be addressed at this hearing. If a party presents multiple witnesses, the hearing officer will decide whether the party's witnesses will be cross examined as a panel. Cross examiners will be limited to 30 minutes 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. Ordinarily, only a party or the party's representative will be permitted to examine a witness, but the hearing officer may allow a party 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.
  - e. **Rebuttal**: Following the testimony and cross examination of witnesses presented by YCWA and SYRCL regarding the documents specified in the Staff List of Exhibits, the hearing officer will allow parties to present rebuttal evidence. Rebuttal testimony and exhibits need not be submitted prior to the hearing. Rebuttal evidence will be limited to evidence that is responsive to evidence presented by another party. It does not include repetitive evidence. Cross-examination of rebuttal evidence will be limited to the scope of the rebuttal evidence.
  - f. **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 parties to file briefs, ten copies of each brief shall be submitted to the SWRCB, and one copy shall be served on each of the other parties on the service list. A party 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 party filing a brief shall file a statement of service with the brief, indicating the manner of service.
  - g. **Large Format Exhibits**: Parties 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, parties may supply, for the hearing record, a reduced copy of a large format original if it is readable.
9. **AUDIO-VISUAL EQUIPMENT**: Parties who require Audio-Visual Equipment for their presentations should contact the Division of Water Rights by June 2, 2003, to make arrangements with staff.

10. **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 staff and any of the participants in the proceeding 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).)
11. **RULES OF EVIDENCE:** Relevant 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.
12. **SUBMITTALS TO THE SWRCB:** Notices of Intent to Appear and any other submittals for this proceeding should be addressed as follows:

Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

**Attn: Ernest Mona**

**Phone: (916) 341-5359 Fax: (916) 341-5400**

**Email: [WrHearing@waterrights.swrcb.ca.gov](mailto:WrHearing@waterrights.swrcb.ca.gov)**

or

**Email: [emona@waterrights.swrcb.ca.gov](mailto:emona@waterrights.swrcb.ca.gov)**

## STAFF LIST OF EXHIBITS

The following documents will be designated as staff exhibits in this proceeding:

1. Deposition of Mike Mainz dated October 10, 2002. (exhibit by reference)
2. Deposition of Alice Low dated October 11, 2003. (exhibit by reference)
3. Deposition of Andrew Sawyer dated December 23, 2002. (exhibit by reference)
4. Declaration of William Mitchell in Support of Petitioner's Motion to Admit New Evidence (dated March 11, 2003).
5. Declaration of Paul Bratovitch in Support of Petitioner's Motion to Admit New Evidence (dated March 13, 2003).
6. Declaration of Curt Aiken in Support of Petitioner's Motion to Admit New Evidence (dated March 13, 2003).
7. Report of the California Energy Commission to the California Senate Energy Committee on January 28, 2003, titled "California's Electricity Supply and Demand Balance Over the Next Five Years (and the accompanying press release).

## NOTICE OF INTENT TO APPEAR

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

**SUPPLEMENTAL HEARING ON LOWER YUBA RIVER**  
 Scheduled for June 5, 2003, continuing if necessary on June 6, 2003

- 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) *

\*A statement of qualifications for any expert witness for whom a statement of qualifications has not previously been submitted in the SWRCB proceedings on the Lower Yuba River should be identified as an exhibit and attached.

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: \_\_\_\_\_