

McCue, Jean@Waterboards

From: pjmlaw@gmail.com on behalf of PJM Law <pjmlaw@pacbell.net>
Sent: Friday, January 04, 2013 10:14 AM
To: Unit, Wr_Hearing@Waterboards
Cc: Groody, Kathleen@Waterboards; Olson, Samantha@Waterboards; Buckman, Michael@Waterboards; DWR Roger Masuda; Nancy Isakson (nisakson@mbay.net); Norman C. Groot (norm@montereycfb.com); Kevin Piearcy (Pumph20101@hotmail.com); Kevin M. O'Brien (kobrien@downeybrand.com); Rose, David@Waterboards; daladjem@downeybrand.com
Subject: MCWRA Proposed Revocation Hearing
Attachments: SuppIntent1-13.pdf

This is a response to Jean McCue's email communication of December 21, 2012. Enclosed is a proposed supplemental Notice of Intent to Appear for your consideration (it still recites the original hearing dates for sake of consistency). If it meets the procedural requirements, please so supplement the prior Notice. If staff still considers it insufficient, please give me a call or email so we can discuss how else we can meet the procedural thresholds. I can also travel to Sacramento to meet with designated staff if that is staff's preference.

The contemplated evidence and testimony are straightforward. Our clients' use of any live witnesses is to authenticate or admit existing documentation already in the files of the SWRCB (e.g., statements of water diversion and/or one or more prior Orders or decisions germane to the Salinas Valley) or otherwise typically readily admissible (e.g., a judgment binding the MCWRA). The submitted Notice of Intent to Appear identified a subset of the evidence contemplated (the easiest to authenticate, using ewrims) that should not require any live testimony. If such documentary evidence cannot be readily admitted, then it may be necessary to use expert witness and percipient witness testimony to reach the same content. Much will depend on whether other parties and SWRCB staff stipulate to admission and/or authentication or if the proffer of evidence will itself become a contested matter.

We are not attempting to list the actual evidence at this time as the Exhibit lists are not yet due. (Nor are we addressing any possible rebuttal evidence and testimony. Water Rights Hearing Information 9(c)).

Please advise if further action or clarification is required.

Thomas Virsik

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**SUPPLEMENTAL
NOTICE OF INTENT TO APPEAR**

ORRADRE, ET AL plans to participate in the water right hearing regarding
(name of party or participant)

**Monterey County Water Resources Agency
Proposed Revocation Hearing
Permit 11043 (Application 13225)**

**Scheduled to commence
Monday, January 28, 2013
at 9:00 a.m.**

Check all that apply:

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we decline electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing. (*if parties dispute the authentication/admissibility of records in the SWRCB files and other public and judicially noticeable evidence)

NAME	SUBJECT OF PROPOSED TESTIMONY	LENGTH	EXPERT
<i>Supplemented per SWRCB 12/21/12 request</i>			
Custodians of records of or others who can authenticate SWRCB files and/or Court files	Authentication and/or admissibility of SWRCB and other public records reflecting Orradre (including predecessors) water use, entitlements, history, etc. and court actions binding MCWRA	10 minutes (unless stipulations obviate any need for live testimony)	
* If documentary evidence is unacceptable, testimony of Mary Orradre and/or Ali Shahroody (or designee) of Stetson Engineers	Percipient and/or expert witness testimony on history, use, hydrology, etc. of water use and basis of use.	*20 minutes each	*Yes (as to Stetson Engineers)

(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: _____ /s/ _____ Dated: January 3, 2013

Name (Print): Thomas S. Virsik

Mailing

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