

NOTICE OF INTENT TO APPEAR

STANFORD VINA RANCH IRRIGATION COMPANY plans to participate in the following water right hearing:

Draft Cease and Desist Order
Against
Stanford Vina Ranch Irrigation Company

scheduled to commence
Monday, December 8, 2014, at 9 a.m.
and continue, if necessary, on Tuesday, December 9, 2014 at 9 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.

SEE OBJECTIONS TO AND RESERVATION OF RIGHTS ATTACHED.

Name	Subject of Proposed Testimony	Estimated Length of Direct Testimony	Expert Witness (Yes/No)
Curtis Milliron	Measurement of water diversions and water operations of Deer Creek Irrigation District for June 5 to June 15, 2014. A Subpoena will be issued.	1.5 hours	Possible expert testimony
Scott Willems	Service of Order of Curtailment	1 hour	No
David Rose	Failure and refusal to provide public records requested. A Subpoena will be issued.	2 hours	Yes
Dee Jennings Hill	Service of Curtailment Order	½ hour	No
Nancee Murray	The proposed Stanford Vina and Deer Creek Irrigation District MOU dated 5-27-2014 proposing bypass flow of less than 50 cfs up to 6-14-2014. The Final Deer Creek Irrigation District MOU provides for far less than 50 cfs bypass flows in the June 6-11 period. A Subpoena will be issued.	2 hours	No

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Name	Subject of Proposed Testimony	Estimated Length of Direct Testimony	Expert Witness (Yes/No)
Barbara Evoy	<p>The SWRCB orders 50 cfs bypass flow.</p> <p>California Department of Fish & Wildlife changes bypass flow to reduce by 1 cfs for each 1 cfs less than 100 cfs measured at USGS gauge. How did the SWRCB Order get changed? Why did the June 5 Curtailment Order conflict with the Order or Agreement with Deer Creek Irrigation District?</p> <p>Representations by CA DFW and NMFS regarding need for Emergency Regulations proposed to avoid hearings and evidentiary requirements and avoid takings claims, and representations as to why SWRCB should undertake regulations and Order in conjunction with and accompanying NMFS claims as CA DFW responsibility for screens and fish ladders.</p> <p>A Subpoena will be issued.</p>	1-1/2 hours	Yes
Most knowledgeable person in regard to failure of Department of Fish & Wildlife to respond to Public Records Request of Stanford Vina Ranch Irrigation Company.	<p>Examination in regard to contents of documents, including requests to SWRCB for bypass flows, actions to change bypass flow Emergency Order, and number of fish observed in 2014.</p> <p>A Subpoena will be issued.</p>	2 hours	No
Most knowledgeable person at NMFS in regard to motivation for failure to comply with Freedom of Information Request for Documents made by Stanford Vina Ranch Irrigation Company	<p>Coordination of actions and claims by NMFS and California Department of Wildlife with SWRCB to achieve takings and suppress assertion of rights.</p>	2 hours	No.
Most knowledgeable person or persons working for or representing Deer Creek Irrigation District with knowledge of the measurement practices, diversion practices and facilities used by Deer Creek ID and landowners of Deer Creek ID during the period May 24 through June 20, 2014 to measure water and divert water.	<p>A Subpoena will be issued for their appearance and for all documents, memorandums or readings in regard to measurement or limits upon diversions during this period.</p>	2 hours	No.

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Name, Address, Telephone Number and Fax Number of Attorney or other Representative:

Signature:  Dated: November 10, 2014

Name: Paul R. Minasian, Esq., Minasian, Meith, Soares, Sexton & Cooper, LLP

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OBJECTIONS TO CEASE & DESIST ORDER PROCEEDING
AND RESERVATION OF RIGHTS

1. The Stanford Vina Ranch Irrigation Company (SVRIC) reserves (i) the right to call additional witnesses and examine them and documents within their control and provide for evidence, and (ii) the right to provide testimony from the above-named parties, and in addition, other persons who will be called either in direct evidence presentations or rebuttal evidence presentations on the above-described subject or other topics. The statement of issues of this proceeding is so indefinite that it cannot be told what evidence will be relevant to the Prosecution Team's presentations, and it would therefore be a violation of due process to prevent such further presentations by SVRIC and provide reasonable time and schedule alterations of the hearing for the designation, preparation, and presentation of those witnesses and the evidence they may provide.

2. SVRIC specifically reserves and preserves any and all of its rights, claims and procedural remedies including, without excluding others, the following:

2.1 All rights to assert and claim that the Emergency Regulations, the procedures for adoption and implementation of the Emergency Regulations, and any Curtailment Order were invalid, void, and violated the rights of the SVRIC, and continue to do so. Without exclusion of others, SVRIC reserves its rights asserted in the filed Superior Court action brought to uphold and declare its claims, conditional rights and rights to reasonable compensation, writ of mandate and injunction, and its rights to attorneys' fees and costs, and no waiver or estoppel of those claims shall arise from any action, statement, omission to act, or appearance in this proceeding.

2.2 SVRIC and its shareholders have been severely prejudiced in their ability to prepare for this proceeding by the concerted and apparently intentionally organized effort of the California Department of Fish and Wildlife and the State Water Resources Control Board itself to

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refuse to comply with and produce for copying documents and materials requested by SVRIC pursuant to the California Public Records Act. As a result of being unable to obtain these documents, or any of them, in a reasonable time after the demands were submitted on June 27, 2014, SVRIC will be unable to present a full and adequate defense to the claims and assertions of this hearing regarding the claimed threatened violation or past violation of the State Water Resources Control Board Emergency Regulations or the Notice of Curtailment purportedly issued and effective without personal service upon the SVRIC agent for service of process on or after June 5 until well after June 11, 2014.

2.3 If the purpose of this hearing (which is not an “issue” noted in the official Notice) is to attempt to establish a number of acre feet of water purportedly diverted by the SVRIC in violation of the 50 cfs bypass requirement (or some lesser bypass requirement because of the actions and undertakings of California Department of Fish and Wildlife), the proceedings may not result in any such determination. The ability of SVRIC to comply with any order was so compromised by the diversions and changes in diversion measurement by Deer Creek Irrigation District, with the participation of the California Department of Fish and Wildlife, that SVRIC could not proximately cause the failure of gauge readings to reflect a 50 cfs bypass. Because no adequate or accurate notice of those facts or issues is provided for this hearing and no access to public records has been provided as described above, SVRIC believes and asserts that no factual determination of quantities of water claimed to have been diverted by SVRIC during any period that a claimed curtailment notice of the SWRCB was claimed to be in effect can be a proper issue for findings as a result of the hearing. SVRIC further reserves all objections that any *res judicata* or evidentiary presumptions arise from any SWRCB Board determinations or statements at this hearing or rulings made as to quantities of water diverted from Deer Creek in light of the SWRCB Board staff itself obstructing the obtaining of public records to properly present evidence upon those subjects.

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2.4 If the SWRCB Prosecuting Team does not produce direct evidence of exactly which diverters on the whole of the Deer Creek system diverted amounts in excess of their authorized amounts and instead is relying upon a difference in the gauge readings at the USGS station located above the Stanford Vina and Deer Creek Irrigation District diversions, the Linehan diversion, and the multiple deep wells that pull and extract water from the Deer Creek System between the USGS gauge and the CDEC gauge, in order to infer that Stanford Vina must have taken more water than the curtailment notices permitted, notice is given that such evidence will be objected to as prejudicial and counter to law and public policy. The system of water rights provides for the rule of priority to apply in curtailment notices. Unless the Prosecuting Team can produce evidence that all post-1914 appropriative right holders and pre-1914 water right holders located above the USGS gauge curtailed in total their diversions between June 5 and June 12 and that riparians above the USGS gauge curtailed or were ordered to curtail in proportion to their riparian rights as the curtailment order purported to apply to Stanford Vina, the inference that Stanford Vina must be threatening or have accomplished a violation of the Curtailment Order is impermissible. Notice is given that if the Prosecuting Team does not produce evidence of the curtailments or lack of curtailments by all other water right holders, including the filing or non-filing of curtailment receipts by other appropriative right holders, by riparian right holders, or by pre-1914 right holders located above the USGS gauge, the evidence will be insufficient both as a matter of law and public policy in regard to enforcement of the priority system and in regard to an inference to support a Cease and Desist Order.

2.5 SVRIC has offered to stipulate that this proceeding either be postponed until after the determination of the legality and enforceability of the Emergency Order and Regulations of the SWRCB is determined in the Superior Court action filed by SVRIC, and any subsequent appeal, or alternatively and in addition, SVRIC has agreed to stipulate to abide by the existing outstanding Curtailment Orders reserving all of its rights and claims until such time as a Court determination is made in regard to the legality and effect of the Board's actions and the damages caused thereby. The

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issuance of a Cease and Desist Order to SVRIC without admission or determination that any violation has occurred in the past or is threatened to occur, which Cease and Desist Order will be in effect until such time as Court determinations are made on the issues presented in the Superior Court action, would make this proceeding unnecessary. SVRIC reserves the right to utilize those offers as evidence that the failure of the SWRCB to accept such a compromise is evidence that the costs and burdens placed upon SVRIC by this proceeding are intentional and for the purposes of harassing and depriving the SVRIC and its shareholders of their property and rights without due process of law. Those offers of procedural resolution designed to reduce the costs and load to both the public and SVRIC shall not be deemed to be in the course of settlement negotiations and shall not be precluded from being presented as evidence in any administrative or Court proceeding.

2.6 SVRIC reserves its right to claim and recover the costs of participating in this hearing as costs, attorney fees and expert witness fees incurred in the course of defending the violation of its constitutional rights to property and right to due process in the taking of property pursuant to CCP Section 1036, and its right to obtaining compensation for administrative proceedings brought and conducted in an arbitrary, capricious and unlawful manner pursuant to Government Code section 800.