

State Water Resources Control Board

Executive Office

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November 10, 1999

To: [Attached Mailing List](#):

Dear Sir or Madam:

PUBLIC HEARING ON PETITIONS TO REVISE DECLARATION OF FULLY APPROPRIATED STREAMS TO ALLOW FOR PROCESSING TWO APPLICATIONS TO APPROPRIATE WATER FROM THE SANTA ANA RIVER

By notice dated September 10, 1999, the State Water Resources Control Board (SWRCB) advised interested parties that it would hold a hearing on two petitions to revise the Declaration of Fully Appropriated Streams (Declaration) in order to allow for processing two water right applications on the Santa Ana River. The notice stated that parties who intend to participate in the hearing on December 7 and 8, 1999, must submit a Notice of Intent to Appear to the SWRCB by November 5, 1999.

The Board has received Notices of Intent to Appear from 16 parties who intend to present evidence at the hearing and an additional five parties have either provided written policy statements or will appear at the hearing to present a policy statement. In accordance with the hearing notice, parties who intend to present evidence must submit six copies to the SWRCB and serve one copy on each of the parties included on the attached List of Parties to Exchange Information by November 19, 1999. Parties who intend to present only a policy statement are not required to exchange information.

As stated in the hearing notice, testimony must be submitted in writing, but witnesses will be given an opportunity to present a brief oral summary of their written testimony at the hearing. Parties are reminded that each witness should limit the oral summary of his or her written testimony to a maximum of 20 minutes. Presentation of each party's entire case in chief should not exceed two hours.

By letter dated October 26, 1999, representatives of San Bernardino Valley Water Conservation District, Bear Valley Mutual Water Company, East Valley Water District and the City of Redlands requested a continuance of the SWRCB hearing. The letter requests a continuance in order to allow time for various water users in the Santa Ana River Basin to negotiate an agreement with petitioner San Bernardino Valley Municipal Water District regarding the exercise of current and prospective water rights. The letter states that progress is being made in ongoing negotiations and requests a six-month continuance in the SWRCB hearing.

By letter dated November 3, 1999, counsel for two of the petitioners in the present proceeding, the San Bernardino Valley Water Conservation District and Western Municipal Water District, stated that his clients oppose the requested continuance. The petitioners argue that an SWRCB decision on revision of the Declaration will not affect the ability of the petitioners and other parties to continue negotiations regarding the nature and extent of the water rights which petitioners seek to acquire.

The purpose of the present proceeding before the SWRCB is not to decide if petitioners' water right applications should be approved nor is it to determine specific conditions to be included in water right permits if permits were to be issued. Rather, the purpose of the present proceeding is to determine if changed conditions make it appropriate for the SWRCB to accept the petitioners' water right applications for processing. If the SWRCB concludes that the applications should be accepted for processing, interested parties will be notified and given an opportunity to file protests against the applications. SWRCB action on the petitions to revise the Declaration would not prevent interested parties from continuing to negotiate with the petitioners regarding any concerns they may have about the projects described in the petitioners' water right applications. To the contrary, Water Code section 1333, specifically provides that a water right applicant and a party who has filed a protest against the application shall have 180 days for negotiations to resolve the issues raised in the protest. Upon a showing of good cause, the SWRCB may allow additional time for negotiations.

Thus, even if the petitions to revise the Declaration are approved, parties who oppose the projects described in the petitioners' water right applications would have at least an additional 180 days to attempt to resolve their concerns through negotiations. Any SWRCB hearing on the merits of protested water right applications would not be scheduled until after expiration of the period for resolving protests through negotiations. It is unnecessary to continue the hearing scheduled for December 7 and 8, 1999, in order to allow adequate opportunity for negotiation among interested parties. Therefore, the request for a continuance is denied.

If any party has further questions regarding the upcoming hearing, please contact Katherine Mrowka of the Division of Water Rights at (916) 657-1951 or Dan Frink of the Office of Chief Counsel at (916) 657-2104.

Sincerely,

/s/ by

Arthur Baggett

Board Member and Hearing Officer

cc: See next page

cc: Other Interested Parties ([See attached list](#))

Mr. D. Burnell Cavender

San Bernardino Valley Water

Conservation District

P.O. Box 1839

Redlands, CA 92373-0581

bcc: Dan Frink, OCC

Kmrowka/egonzales

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