



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

NOAA General Counsel Office,
Southwest Section
501 W. Ocean Blvd., Suite 4470
Long Beach, CA 90802
Telephone: (562) 980-4075
Fax: (562) 980-4084

February 27, 2012

Attention: Ms. Jane Farwell
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

Re: Notice of Public Hearing to Review U.S. Bureau of Reclamation Water Rights Permits
11308 and 11310 (Applications 11331 and 11332), Phase 2

Dear Ms. Farwell:

NOAA's National Marine Fisheries Service (NMFS) is responding to the State Water Resources Control Board's (Board) subject Notice, issued January 23, 2012, in which the Board provided that it would hold a hearing to determine whether the Final Environmental Impact Report for the Consideration of Modifications to U.S. Bureau of Reclamation's (Reclamation) Water Right Permits 11308 and 11310 to Protect Public Trust Values and Downstream Water Rights on the Santa Ynez River below Bradbury Dam (Final EIR) should be entered into the administrative record for Phase 2 of the Cachuma hearing. NMFS previously participated in the Phase 2 hearing for this matter, and NMFS intends to participate and present rebuttal evidence in the upcoming hearing. As instructed in the subject Notice, NMFS is identifying its intended rebuttal witnesses and attaching outlines for their testimony along with evidence of the qualifications of each witness.

NMFS intends to call the following rebuttal witnesses to testify at the hearing. Peter Alagona is only available until 3:00 p.m. on the first scheduled day of the hearing, March 29, 2012. Therefore, NMFS respectfully requests that he be scheduled to testify in time to leave by then.

Peter Alagona
Darren Brumback
Penny Ruvelas
Mark Capelli

In addition, NMFS intends to offer the following rebuttal evidence in connection with the testimony of the following rebuttal witnesses.



Peter Alagona – Alagona, P.S., S.D. Cooper, M. Stoecker, and P. Beedle. 2011. Documenting the Historic Distribution of Steelhead and Rainbow Trout (*Oncorhynchus mykiss*) in the Santa Ynez River Watershed, Santa Barbara County, California.

Mark Capelli – National Marine Fisheries Service. 2011. Southern California Steelhead Recovery Plan. Southwest Region, Protected Resources Division, Long Beach, California. Available at: http://swr.nmfs.noaa.gov/recovery/SC_Steelhead/

Finally, NMFS concurs with the request of the Environmental Defense Center in its letter to the Board dated January 9, 2012, that all parties be allowed to submit a supplemental closing brief in the matter. As described in that letter, the Board's EIR has undergone significant revisions since parties submitted closing briefs in 2004, and the format of the pending hearing does not otherwise provide an opportunity to clearly explain how the evidence presented at this hearing relates to the case-in-chief of the party.

If you have any questions regarding this letter, please contact me at (562) 980-4075.

Sincerely,



Dan Hytrek, Attorney-Advisor
NOAA General Counsel Office
Southwest Section
501 W. Ocean Blvd., Suite 4470
Long Beach, CA 90802
(562) 980-4075
Representing the National Marine Fisheries
Service

Attchs:

NMFS Rebuttal Witness, Alagona, Outline and Qualifications
NMFS Rebuttal Witness, Brumback, Outline and Qualifications
NMFS Rebuttal Witness, Ruvelas, Outline and Qualifications
NMFS Rebuttal Witness, Capelli, Outline and Qualifications
Statement of Service

cc:

Service List