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Subject: HEARING WILL TAKE PLACE AS SCHEDULED

I have been directed by the Hearing Officer, Art Baggett, to let all of you know that the hearing scheduled for September 24 and 25 will take place. Protest settlement discussions between parties should not result in the parties imposing conditions on the SWRCB. It is appropriate that the protestants ask for conditions that are within the petitioners' abilities to implement regardless of the SWRCB's concurrence or action. Here, the parties are insisting that the Board be a party to the agreement. This is not appropriate or acceptable. The parties have not settled with each other so there is no settlement agreement for the SWRCB to review or to determine whether to agree to its terms. We have received nothing from the Department of Fish and Game that shows that they have settled with the parties. Further, NMFS has not unconditionally settled with the other parties. NMFS "requires additional clarification and agreement from the SWRCB to allow NMFS to dismiss its protest." There is no meeting of the minds, which is required for an agreement, if NMFS is looking to the SWRCB for clarification of the agreement. Therefore, the hearing set for September 23 and 24 will take place as scheduled. The new deadline for submitting written testimony and exhibits is noon, Friday, September 7, 2007. There will be no pre-hearing conference. The Hearing Officer has also decided to authorize the Carmel River Steelhead Association to participate as a party to the hearing. Please contact me if you have any questions. Barbara Katz

CC: Baggett, Jr., Arthur G. ; Farwell, Jane; Lindsay, Larry; Mona, Ernie; Whitney, Vicky