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State Water Resources Control Board

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Arnold Schwarzenegger
Governor

MAY 16 2008

To: Enclosed Service List of Participants

PROCEDURAL ISSUE INVOLVING CONSIDERATION OF A CEASE AND DESIST ORDER AGAINST CALIFORNIA AMERICAN WATER (CAL AM): REQUEST BY ROBERT BAIOCCHI TO TESTIFY IN THE PENDING PROCEEDING VIA TELEPHONE

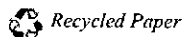
During the March 19, 2008 pre-hearing conference Mr. Robert Baiocchi requested that he, as a disabled person, be permitted to testify via telephone during the hearing. Mr. Baiocchi did not provide information as to the nature or extent of his disability. Co-Hearing Officer Art Baggett indicated he was inclined to authorize Mr. Baiocchi to offer his testimony via a deposition and inquired if the parties, and others appearing before the hearing officers, had an objection to the proposed procedure. Mr. Baiocchi did not comment on the offer to present his testimony by deposition. Instead, he renewed his request that he be permitted to testify by telephone. The discussion then moved on to other matters. The purpose of this letter is to address Mr. Baiocchi's request.

We are tentatively inclined to grant Mr. Baiocchi's request to testify via telephone, subject to the following conditions. First, Mr. Baiocchi must submit a declaration to the State Water Resources Control Board describing the nature and extent of his disability and explain why the disability precludes travel and testimony in Sacramento. Further, it is assumed that Mr. Baiocchi's request is limited to his testimony only, and that the other witnesses listed in the Notice of Intent to Appear (NOI) for the California Salmon and Steelhead Association (Association) would appear in Sacramento to testify. Finally, it is also assumed that an agent or representative of the Association present at the hearing in Sacramento will take the lead role for representing the Association, including presenting the Association's case-in-chief and cross-examining witnesses.

Before granting Mr. Baiocchi's request, we will provide the other participants to this proceeding the opportunity to raise any objections. The reasons for the objections shall be clearly stated and include an explanation of how the participant would be prejudiced by allowing Mr. Baiocchi to testify by telephone. If objection is made to testimony by telephone, the person raising the objection shall at the same time raise any objection they may have to allowing Mr. Baiocchi to testify by deposition. That person shall also explain why the opportunity to take a deposition would not adequately address any problems that might result from allowing telephone testimony.

Mr. Baiocchi must submit his declaration, and participants must file their objections, no later than 12:00 noon on Friday, May 23, 2008. Finally, Mr. Baiocchi and the other witnesses listed on the NOI shall comply with the requirement that testimony be submitted in writing as provided in the March 5, 2008 Notice of Hearing and in the Rulings on Procedural Issues dated May 13, 2008.

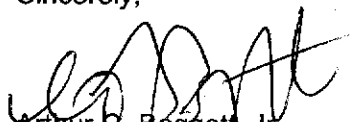
California Environmental Protection Agency




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Should you have further questions in this matter, please contact Paul Murphey, Division of Water Rights Hearings Unit, (916) 341-5435, or PMurphey@waterboards.ca.gov; or Buck Taylor, Office of Chief Counsel, (916) 341-6304, or BGTaylor@waterboards.ca.gov.

Sincerely,



Arthur G. Baggett, Jr.
Board Member and Hearing Officer



Gary Wolff, P.E., Ph.D.
Vice Chair and Hearing Officer

Enclosure

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