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Staff Counsel
2 Department of Fish and Game
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3 Sacramento, California 95814
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6 STATE OF CALIFORNIA
7 STATE WATER RESOURCES CONTROL BOARD
8

9 In the Matter of:)
10 Hearing Regarding Water Right Application) DEPARTMENT OF FISH AND GAME'S EX
11 30166 of El Sur Ranch) PARTE APPLICATION FOR ORDER
12) SHORTENING TIME FOR NOTICE AND
13) SERVICE OF MOTION TO QUASH
14) NOTICES OF DEPOSITIONS OF KIT
15) CUSTIS, DEBORAH HILLYARD, AND
16) ROB TITUS AND FOR PROTECTIVE
17) ORDER TO LIMIT DISCOVERY
18)
19 [Filed Concurrently With: (1) Memorandum of
20 Points and Authorities and (2) Proposed
21 Order]

22 Hearing Date: TBA
23 Time: TBA
24 Place: Sacramento
25

19 **NOTICE IS HEARBY GIVEN** that at a date to be determined by the State Water
20 Resources Control Board (SWRCB), at the office of the SWRCB, located at 1001 I Street,
21 Sacramento, California, the Department of Fish and Game (Department) will apply, ex parte, for
22 an order shortening the time for notice and service of its Motion to Quash Notice of Depositions
23 of Kit Custis, Deborah Hillyard, and Rob Titus and for Protective Order to Limit Discovery in
24 the above captioned matter. The Ex Parte application will be based on the grounds that the
25 Department will incur substantial hardship if the normal time for service is required. Substantial
hardship will occur due to the fact that Mr. James J. Hill III (Applicant) has noticed the

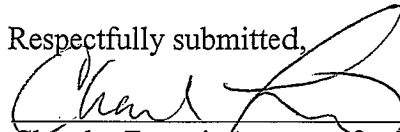
1 depositions of three Department employees to begin May 25, 2011 and conclude June 3, 2011.

2 A determination must be made on the Department's Motion to Quash Notice of Depositions and
3 for a Protective Order on or before May 20, 2011 in order for the Department to be able to
4 prepare for the depositions if the SWRCB determines they will proceed. The requirement that
5 the motion should be filed and served twenty-one day's prior to the hearing date for the motion
6 will result in the Department's Motions to Quash Notices of Depositions and for a Protective
7 Order not being heard until after the date when the depositions are planned to commence.
8 Therefore, the typical notice requirement will result in the Department's motion not being heard
9 until the issue is moot.

10 The Department waives the right to hearing on this application in the event that SWRCB
11 determines that a hearing is not necessary for its decision on this application, and that decision
12 occurs before May 20, 2011.

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14 Dated: May 13, 2011

15 Respectfully submitted,

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17 Chandra Ferrari, Attorney for Department
18 of Fish and Game
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9 In the Matter of:)

10 Hearing Regarding Water Right Application)

11 30166 of El Sur Ranch)

) MEMORANDUM OF POINTS AND
) AUTHORITIES IN SUPPORT OF
) DEPARTMENT OF FISH AND GAME'S EX
) PARTE APPLICATION FOR ORDER
) SHORTENING TIME FOR NOTICE AND
) SERVICE OF MOTION TO QUASH
) NOTICES OF DEPOSITIONS OF KIT
) CUSTIS, DEBORAH HILLYARD, AND
) ROB TITUS AND FOR PROTECTIVE
ORDER TO LIMIT DISCOVERY

[Filed Concurrently With: (1) Ex Parte
Application and (2) Proposed Order]

Hearing Date: TBA
Time: TBA
Place: Sacramento

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21 **I.**

22 **INTRODUCTION**

23 The Department hereby applies, ex parte, for an order shortening the time for notice and
24 service of its Motion to Quash Notices of Depositions of Kit Custis, Deborah Hillyard, and Rob
25 Titus and for a Protective Order to Limit Discovery in the above captioned matter.

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II.

LEGAL FRAMEWORK

The California Code of Civil Procedure requires that a motion and supporting papers be served and filed at least twenty-one calendar days before the date of the hearing on the motion. (Cal. Code Civ. Proc. § 1005(b).) Shorter time frames are allowed if warranted. (Id.)

III.

ARGUMENT

The Applicant for the above-captioned water right application, Mr. James J. Hill III, noticed depositions for three Department employees scheduled to commence May 25, 2011 and conclude June 3, 2011. A determination must be made on the Department's Motion to Quash Notices of Depositions and for a Protective Order to Limit Discovery on or before May 20, 2011, in order to inform the Department (and other parties to this proceeding) whether or not the discovery proceedings will commence.

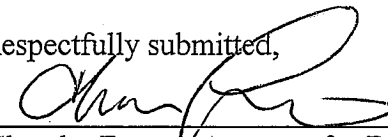
The requirement that the motion should be filed and served twenty-one day's prior to the hearing date for the motion will result in the Department's Motions to Quash Notices of Depositions and for a Protective Order not being heard until after the date when the depositions are planned to commence. Therefore, the typical notice requirement will result in the Department's motion not being heard until the issue is moot and the Department has already expended financial and personnel resources complying with the Notices of Depositions. A hearing date on or before May 20, 2011 is warranted to provide the Department's experts with adequate time to prepare for the depositions and the document production demands should the Department's motions be denied.

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IV.
CONCLUSION

For the foregoing reasons, the Department requests that SWRCB grant this application for an order shortening the time for notice and service of its Motion to Quash the Notices of Depositions and for a Protective Order to Limit Discovery.

Dated: May 13, 2011

Respectfully submitted,

Chandra Ferrari, Attorney for Department
of Fish and Game

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3 Sacramento, California 95814
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6 STATE OF CALIFORNIA

7 STATE WATER RESOURCES CONTROL BOARD
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9 In the Matter of:)

10 Hearing Regarding Water Right Application)
11 30166 of El Sur Ranch)

) [PROPOSED] ORDER GRANTING THE
) DEPARTMENT OF FISH AND GAME'S
) GAME'S EX PARTE APPLICATION FOR
) ORDER SHORTENING TIME FOR NOTICE
) AND SERVICE OF MOTION TO QUASH
) NOTICES OF DEPOSITIONS OF KIT
) CUSTIS, DEBORAH HILLYARD, AND
) ROB TITUS AND FOR PROTECTIVE
) ORDER TO LIMIT DISCOVERY

[Filed Concurrently With: (1) Ex Parte
Application and (2) Memorandum of Points
and Authorities]

Hearing Date: TBA
Time: TBA
Place: Sacramento

20
21 Good cause appearing,

22 IT IS ORDERED that the Department of Fish and Game's Motion to Quash Notices of
23 Depositions of Kit Custis, Deborah Hillyard and Rob Titus and for a Protective Order to Limit
24 Discovery are to be heard at a time determined by the State Water Resources Control Board, but
25 on or before May 20, 2011.

EX PARTE APPLICATION FOR ORDER SHORTENING TIME FOR NOTICE AND SERVICE OF
MOTION TO QUASH NOTICES OF DEPOSITIONS AND FOR PROTECTIVE ORDER

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Dated:

Charles Hoppin
Hearing Officer

Tam Doduc
Hearing Officer

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Staff Counsel
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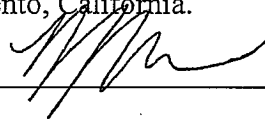
9 In the Matter of:)
10 Hearing Regarding Water Right Application) CERTIFICATE OF SERVICE
11 30166 of El Sur Ranch)
12)
13)
14)

15 _____
16 I am a resident of the State of California and over the age of eighteen years, and not a party to the
17 within action. My business address is the Office of General Counsel, Department of Fish &
18 Game, 1416 Ninth Street, Suite 1341, Sacramento, California, 95814. On May 13, 2011, I served
the following documents:

19 DEPARTMENT OF FISH AND GAME'S EX PARTE APPLICATION FOR ORDER
20 SHORTENING TIME FOR NOTICE AND SERVICE OF MOTION TO QUASH NOTICES
OF DEPOSITIONS OF KIT CUSTIS, DEBORAH HILLYARD, AND ROB TITUS AND FOR
21 PROTECTIVE ORDER TO LIMIT DISCOVERY; MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEROF AND PROPOSED ORDER

22 by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid,
23 in the United States mail at Sacramento, California, addressed as set forth below in the attached
Service List.

1 I declare under penalty of perjury under the laws of the State of California that the above
2 is true and correct. Executed on May 13, 2011, at Sacramento, California.



3 _____
4 Megan Penick

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**HEARING REGARDING WATER RIGHT APPLICATION 30166 FILED BY EL SUR RANCH
(BIG SUR RIVER) – MONTEREY COUNTY**

**SCHEDULED TO COMMENCE ON
JUNE 16, 2011**

**SERVICE LIST
(March 1, 2011)**

PARTICIPANTS TO BE SERVED WITH WRITTEN TESTIMONY, EXHIBITS AND OTHER DOCUMENTS. (Note: The participants listed below agreed to accept electronic service, pursuant to the rules specified in the hearing notice.)

<p>EL SUR RANCH c/o Janet Goldsmith & Tom Berliner Kronick, Moskovitz, Tiedmann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 jgoldsmith@kmtg.com tmberliner@duanemorris.com (916) 321-4500</p>	<p>CALIFORNIA DEPARTMENT OF FISH & GAME c/o Kevin Takei & Chandra Ferrari 1416 Ninth Street, 12th Floor Sacramento, CA 95814 KTakei@DFG.ca.gov CFerrari@DFG.ca.gov (916) 653-3715</p>
<p>TROUT UNLIMITED c/o Brian Johnson 2239 5th Street Berkeley, CA 94710 bjohnson@tu.org (510) 528-4772</p>	<p>CENTER FOR BIOLOGICAL DIVERSITY & VENTANA WILDNERNESS ALLIANCE c/o Adam Lazar 351 California Street, # 600 San Francisco, CA 94104 alazar@biologicaldiversity.org (415) 436-9683</p>
<p>WERNER MOTZEL c/o Alexander Hubbard Hubbard & Hubbard, LLP 400 Camino Aguajito Monterey, CA 93940 AFHUBB@aol.com (831) 372-7571</p>	<p>LORRI LOCKWOOD P.O. Box 264 Big Sur, CA 93920 lorribigsur@aol.com (831) 667-2564</p>

Big Sur River Hearing
Service List

- 4 -

March 1, 2011

<p>CALIFORNIA SPORTFISHING PROTECTION ALLIANCE c/o Michael Jackson P.O. Box 207 Quincy, CA 95971 mjattv@sbcglobal.net (530) 283-1007</p>	<p>CARMEL RIVER STEELHEAD ASSOCIATION c/o/ Brian LeNeve P.O. Box 1012 Carmel, CA 93921 bjleneve@att.net (831) 624-8497</p>
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