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Secretary for
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State Water Resources Control Board

Executive Office

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Arnold Schwarzenegger
Governor

NOTICE OF PUBLIC HEARING

Golden State Water Company

San Dimas Canyon Tributary to San Gabriel River in Los Angeles County

The State Water Resources Control Board will hold a
Public Hearing on

Proposed Revocation of License 2329 (Application 1483)

The **Public Hearing** will commence on
Monday, January 26, 2009, at 9:00 a.m.

in

the Coastal Hearing Room
Joe Serna, Jr./Cal-EPA Building
1001 I Street, Second Floor
Sacramento, CA

PURPOSE OF HEARING

The purpose of this hearing is for the State Water Resources Control Board (State Water Board or Board) to receive evidence relevant to determining whether License 2329 (Application 1483) should be revoked because the Licensee has ceased to use water granted under the license in an authorized place of use in accordance with License 2329 and has failed to observe the terms and conditions in the license.

BACKGROUND

Section 1675 of the Water Code provides: "If at any time after a license is issued, the board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to such useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the board, after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to section 1675.1, may revoke the license and declare the water to be subject to appropriation in accordance with this part." (Wat. Code, § 1675.) In addition, Water Code section 1241 provides: "When the person entitled to the use of water fails to use beneficially all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of five years, such unused water may revert to the public and shall, if reverted, be regarded as unappropriated public water." (Wat. Code § 1241.)

California Environmental Protection Agency

The State Engineer (predecessor to the State Water Board) issued License 2329 on November 10, 1941 to the San Dimas Water Company (Licensee). The license authorizes the Licensee to divert 7 cubic feet per second (cfs), with an annual limit of 1,720.5 acre-feet (af), from April 1 to December 31 each year from San Dimas Canyon for irrigation and domestic use. The license was assigned to California Cities Water Company on February 14, 1966. The license was subsequently assigned to Golden State Water Company (formerly named Southern California Water Company) (Licensee) on May 3, 1990.

On August 13, 2007, the State Water Board's Division of Water Rights (Division) issued a Notice of Proposed Revocation based on facts indicating that the Licensee has not applied all of the water to beneficial use for at least five consecutive years, and the Licensee has not observed the condition of the license specifying the place of use of water under the license. In the Notice of Proposed Revocation, the Division concludes that Licensee's water right should be revoked pursuant to Water Code section 1675, and that the unused water should revert to the public and be regarded as unappropriated public water pursuant to Water Code section 1241.

A copy of the Notice of Proposed Revocation is enclosed with this notice and can be found on the Division's website at: <http://www.waterrights.ca.gov/Hearings/gswc.html>

By letter dated September 3, 2007, the Licensee requested a hearing on the proposed revocation.

KEY ISSUE

Has Licensee ceased to use water granted under the license in an authorized place of use in accordance with License 2329, and failed to observe the terms and conditions in the license, such that License 2329 should be revoked?

HEARING OFFICER AND HEARING TEAM

State Water Board Vice Chair Gary Wolff, Ph.D., will preside as hearing officer over this proceeding. Other members of the State Water Board may be present during the hearing. State Water Board staff hearing team members will include Matthew Bullock, Staff Counsel; and Ernest Mona and Jean McCue, Water Resource Control Engineers. The hearing team is supervised by Charles Lindsay, Hearings Unit Chief; Les Grober, Hearings and Special Programs Manager; and Victoria Whitney, Division Chief. The hearing team and their supervisors will assist the hearing officer and other members of the State Water Board throughout this proceeding.

SEPARATION OF FUNCTIONS

A staff prosecutorial team will be a party in this hearing. State Water Board prosecutorial team members will include David Rose, Staff Counsel; and Katherine Mrowka, Senior Water Resource Control Engineer. The prosecution team is supervised by James Kassel, Assistant Division Chief.

The prosecution team is separated from the hearing team, and is prohibited from having *ex parte* communications with the hearing officers, other members of the State Water Board, and members of the hearing team regarding substantive issues and controversial procedural

issues within the scope of this proceeding. This separation of functions also applies to the supervisors of each team.

HEARING PARTICIPATION

IF YOU WANT TO TAKE PART IN THE EVIDENTIARY HEARING, you should carefully read the enclosure entitled "Information Concerning Appearance at Water Right Hearings." As stated in that enclosure, everyone wishing to present evidence at the hearing must submit a **Notice of Intent to Appear**, which must be **received** by the State Water Board no later than the deadline listed below. Within one week after the deadline for Notices of Intent to Appear, the State Water Board will mail out a list of those who have indicated a desire to participate in the hearing and a copy of all Notices of Intent to Appear that were timely received by the State Water Board. The list is provided in order to facilitate exchange of written testimony, exhibits and witness qualifications in advance of the hearing. Only parties and other participants who are authorized by the hearing officer will be allowed to present evidence. Copies of witnesses' proposed **testimony, exhibits, lists of exhibits, and qualifications** must be **received** by the State Water Board and served on each of the parties who have indicated their intent to appear, no later than the deadline listed below.

12 Noon, Tuesday, December 2, 2008

Deadline for receipt of Notice of Intent to Appear.

12 Noon, Monday, January 12, 2009

Deadline for receipt and service of witnesses' proposed testimony, exhibits, lists of exhibits, and qualifications.

IF YOU HAVE ANY QUESTIONS

During the pendency of this proceeding, and commencing no later than the issuance of this notice, there shall be no *ex parte* communications between State Water Board members or State Water Board hearing team staff and any of the other participants, including members of the prosecution team regarding substantive or controversial procedural matters within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) Questions regarding non-controversial procedural matters (Gov. Code, § 11430.20, subd. (b)) should be directed to Staff Counsel Matthew Bullock at (916) 341-5164, or by e-mail to mbullock@waterboards.ca.gov.


PARKING, ACCESSIBILITY AND SECURITY

The enclosed maps show the location and parking for the Joe Serna Jr./Cal-EPA Building in Sacramento. The Joe Serna Jr./Cal-EPA Building is accessible to people with disabilities. Individuals who require special accommodations at the Joe Serna Jr./Cal-EPA Building are requested to contact Catherine Foreman, Office of Employee Assistance, at (916) 341-5881.

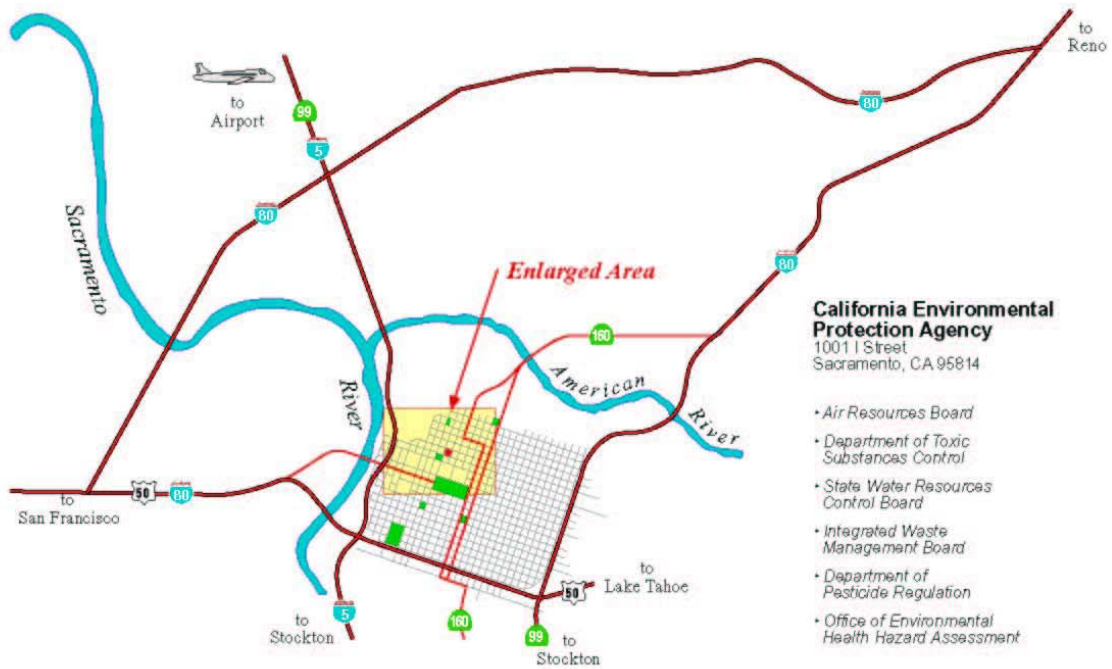
Due to enhanced security precautions at the Cal-EPA Headquarters Building, all visitors are required to register with security staff prior to attending any meeting. To sign in and receive a visitor's badge, visitors must go to the Visitor and Environmental Services Center, located just inside and to the left of the building's public entrance. Depending on their destination and the building's security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state

or federal identification card. Depending on the size and number of meetings scheduled on any given day, the security check-in could take up to fifteen minutes. Please allow adequate time to sign in before being directed to the hearing.

November 3, 2008
Date


Jeanine Townsend
Clerk to the Board

Enclosures



Parking Lot Locations



Parking Lot Locations

- Lot 1 (7th & G St.)
- Lot 2 (7th & G St.)
- Lot A (7th & Capitol)
- Lot C (14th & H St.)
- Lot G (3rd & L)
- Lot H (10th & L)
- Lot I (10th & I, 11th & I)
- Lot K (6th & J/L, 7th & K)
- Lot P (2nd & I)
- Lot U (5th & J)
- Lot W (2nd & I St.)

SURNAME

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 2329 (Application 1483)

Southern California Water Company

NOTICE OF PROPOSED REVOCATION

SOURCE: San Dimas Canyon tributary to San Gabriel River

COUNTY: Los Angeles

You are hereby notified, pursuant to Water Code section 1675 et seq., that the State Water Resources Control Board (State Water Board) is proposing to revoke License 2329 because the Licensee has ceased to use the water granted under the license in an authorized place of use in accordance with License 2329 and therefore has failed to observe the terms and conditions in the license.

The facts and information upon which the proposed revocation is based are as follows:

1. The State Engineer (predecessor to the State Water Board) issued License 2329 on November 10, 1941 to the San Dimas Water Company (Licensee). The license authorizes the Licensee to divert 7 cubic feet per second (cfs), with an annual limit of 1,720.5 acre-feet (af) from April 1 to December 31 each year from San Dimas Canyon for irrigation and domestic use.
2. The license was assigned to California Cities Water Company on February 14, 1966. The license was subsequently assigned to Southern California Water Company (Licensee) on May 3, 1990.
3. The Division conducted an inspection of the project on April 18, 1990. The report of inspection states that water was diverted from the Licensee's diversion dam and conveyed to irrigate a 105-acre golf course. The water was diverted at a concrete diversion dam by gravity into a 10-inch steel pipeline to the golf course pond; then the water was pumped from the pond for sprinkler irrigation of the golf course. The capacity of the limiting section was 1.5 cfs. The flow on April 18, 1990 was 0.5 cfs. No other diversion facilities were identified in the inspection report.

The inspection report used water diversion data from the Main San Gabriel Basin Watermaster Report, for the period 1972 to 1989, Recordation No. 1902157, State No. 1N/9W - 25. Diversions can be made only when there are releases from San Dimas Reservoir, which is a flood control reservoir owned by the Los Angeles County Flood Control District (Flood Control District). The inspection report estimates the maximum diversion rate as 0.8 cfs. Division staff calculated that this was equivalent to annual use of 300 af.

4. The Division's April 18, 1990 inspection confirmed that the only location where surface water appropriated under License 2329 is used is the golf course. The golf course, however, is not in the place of use of License 2329, and there is no active petition to add the golf course to the place of use. Consequently, no water is being placed to use as authorized under the license.
5. The Division requested, by letter dated March 25, 1993, that a petition for change be filed because the 105-acre golf course was not in the licensed place of use.

SURNAME

Alm 4-26-07 / 11X 4/26/07 [Signature] 5/25/07 Russell 6/16/07 [Signature] 7/13/07 VAD 8/19/07

6. The Licensee submitted a Petition for Change dated May 5, 1994, to reduce the place of use to the 105-acre golf course and change the purposes of use to irrigation and groundwater basin recharge. The letter accompanying the petition requested that the change in place of use for the golf course be approved for 1.0 cfs, with an annual limit of 300 af and the remainder of the right be used for groundwater recharge.
7. The Division's September 26, 1994 letter advised the Licensee that the Division intended to partially revoke License 2329. The Division stated that due to non-use of water, License 2329 should be reduced to a maximum diversion rate of 1.0 cfs, with an annual limit of 300 af, as set forth in the Division's December 10, 1992 letter.
8. Public notice of the petition for change in the place of use was circulated on October 11, 1995. No protests were received.
9. By letters dated July 21, 1998, August 31, 1998 and November 16, 1998, Division staff requested that the Licensee submit: (a) a completed questionnaire Supplement to WR 1 (5/96) and (b) engineered maps for the petition. The Licensee was also advised of the petition deficiencies by letters dated March 16, 2005 and November 22, 2005. The Licensee did not submit the requested material. Accordingly, on March 20, 2006, the petition for change was cancelled pursuant to Water Code section 1701.4.
10. The Main San Gabriel Basin Watermaster records show that the diversion works covered by Recordation 1902157 was used to divert 203.92 af from July 1, 2005 to June 30, 2006 and 254.53 af from July 1, 2006 to March 31, 2007.
11. Licensee has not applied water to beneficial use in an authorized place of use under License 2329 for at least five consecutive years when water was available to Licensee.
12. License 2329 contains a condition that states as follows: "Reports shall be filed promptly by licensee on appropriate forms which will be provided for this purpose..." Licensee is not currently in compliance with License 2329 because Licensee has not submitted the triennial Reports of Licensee since the triennial report for 1989, 1990, and 1991. Licensee has not documented that water has been put to beneficial use since 1991.
13. Section 1675 of the Water Code provides: "If at any time after a license is issued, the board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to such useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the board, after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to section 1675.1, may revoke the license and declare the water to be subject to appropriation in accordance with this part." (Wat. Code, § 1675.)
14. Water Code section 1241 provides: "When the person entitled to the use of water fails to use beneficially all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of five years, such unused water may revert to the public and shall, if reverted, be regarded as unappropriated public water." (Wat. Code § 1241.)

Based on the above facts, the Division concludes that:

Licensee has not applied all of the water to beneficial use for at least five consecutive years. Further, Licensee has not observed the condition of the license specifying the place of use of water under the license. Licensee's water right should, therefore, be revoked pursuant to Water Code section 1675. The unused water should revert to the public and be regarded as unappropriated public water pursuant to Water Code section 1241.

Application 1483
License 2329

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As required by Water Code section 1675.1, you are hereby notified that the State Water Board will revoke License 2329, based on the above facts and conclusions, unless a written request for a hearing, signed by or on behalf of the Licensee, is delivered or mailed to the State Water Board's Division of Water Rights at the address listed on the cover letter within 15 days after receipt of this notice.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: **AUG 13 2007**

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INFORMATION CONCERNING APPEARANCE AT WATER RIGHT HEARINGS

The following procedural requirements will apply and will be strictly enforced:

1. **HEARING PROCEDURES GENERALLY:** The hearing will be conducted in accordance with the procedures for hearings set forth at California Code of Regulations, title 23, sections 648-648.8, 649.6 and 760, as they currently exist or may be amended. A copy of the current regulations and the underlying statutes governing adjudicative proceedings before the State Water Board is available upon request or may be viewed at the State Water Board's web site: http://www.waterboards.ca.gov/laws_regulations.

Each party has the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even if that matter was not covered in the direct examination, impeach any witness, rebut adverse evidence, and subpoena, call and examine an adverse party or witness as if under cross-examination. The hearing officer may extend these rights to a non-party participant or may limit the participation of a non-party participant.

Any requests for exceptions to procedural requirements shall be filed in writing with the State Water Board and served on the parties. To provide time for other participants to respond, the hearing officer will rule on procedural requests filed in writing no sooner than fifteen days after receiving the request, unless an earlier ruling is necessary to avoid disrupting the hearing.

2. **PARTIES:** The parties are the Golden State Water Company and the Prosecution Team for the State Water Board. Other persons or entities may participate as authorized by the hearing officer. Only parties and other participants who are authorized by the hearing officer will be allowed to present evidence.

A person or entity that appears and presents only a policy statement will not be allowed to make objections, offer evidence, conduct cross-examination, make legal argument or otherwise participate in the evidentiary hearing. The rules for policy statements are discussed below.

3. **NOTICE OF INTENT TO APPEAR:** Participants in this hearing must file either an electronic copy or a paper copy of a Notice of Intent to Appear, which must be **received** by the State Water Board no later than **the deadline prescribed in the Hearing Notice**. Failure to submit a Notice of Intent to Appear and exhibits in a timely manner may be interpreted by the State Water Board as intent not to appear.

The Notice of Intent to Appear must state: (1) the name and address of the participant; (2) the name of each witness who will testify on the participant's behalf; (3) a brief description of each witness' proposed testimony; and (4) an estimate of the time (not to exceed 20 minutes) that the witness will need to present a brief oral summary of their testimony. The witness's testimony must be submitted in writing as described in section 4 below. Participants who do not intend to present a case-in-chief but wish to cross-examine witnesses or present rebuttal should so indicate on the Notice of Intent to Appear. Participants who decide not to present a case-in-chief after having submitted a Notice of Intent to Appear should notify the State Water Board and the other participants as soon as possible.

In order to expedite the exchange of information and lower the cost of participating in the hearing, the State Water Board encourages participants to submit written policy statements, written opening statements, written testimony, exhibits, and an Exhibit Identification Index to the State Water Board in electronic form. In addition, participants may exchange the foregoing documents in electronic form. Hearing participants are not required to submit these documents in electronic form or accept electronic service; however, those who choose to submit these documents electronically must comply with the requirements described in section 5, below. If you are willing to accept electronic media service in lieu of receiving hard copies of items, please check the appropriate box on the Notice of Intent to Appear.

The State Water Board will mail a service list of parties to exchange information to each person who has submitted a Notice of Intent to Appear. The service list will indicate which participants agreed to accept electronic service. If there is any change in the hearing schedule, only those persons or entities that have filed a Notice of Intent to Appear will be informed of the change.

4. **WRITTEN TESTIMONY AND OTHER EXHIBITS:** Exhibits include written testimony, statements of qualifications of expert witnesses, and other documents to be used as evidence. Each participant proposing to present testimony on factual or other evidentiary matters at the hearing shall submit such testimony in writing.¹ Written testimony shall be designated as an exhibit, and must be submitted with the other exhibits. Oral testimony that goes beyond the scope of the written testimony may be excluded. A participant who proposes to offer expert testimony must submit an exhibit containing a statement of the expert witness's qualifications.

Each participant shall submit to the State Water Board either: seven paper copies of each of its exhibits; or five paper copies and one electronic copy of each of its exhibits. **All electronic and paper copies must be received by the State Water Board no later than the deadline stated in the hearing notice.** Each participant shall also serve a copy of each exhibit on every participant on the service list. Participants may serve those parties who agree to electronic service with an electronic copy of exhibits. Participants must serve paper copies of exhibits on those participants who do not agree to electronic service. Hearing participants who intend to make only policy statements are not required to exchange information and will not receive copies of written testimony or exhibits from the parties.

With its exhibits, each participant must submit to the State Water Board and serve on the other participants a completed Exhibit Identification Index. If possible, each participant should submit to the State Water Board and serve on the other participants an electronic copy, as well as a paper copy of the Exhibit Identification Index. Please see section 5 for details regarding electronic submissions.

A statement of service with manner of service indicated shall be filed with each participant's exhibits. The exhibits and indexes for this hearing, and a statement of service, must be **received** by the State Water Board and served on the other participants no later than the deadline prescribed in the Hearing Notice.

¹ The hearing officer may make an exception to this rule if the witness is adverse to the participant presenting the testimony and is willing to testify only in response to a subpoena or alternative arrangement. In such a case, the hearing officer may allow presentation of the oral direct testimony without requiring written testimony.

The following requirements apply to exhibits:

- a. Exhibits based on technical studies or models shall be accompanied by sufficient information to clearly identify and explain the logic, assumptions, development, and operation of the studies or models.
 - b. The hearing officer have discretion to receive in evidence by reference relevant, otherwise admissible, public records of the State Water Board and documents or other evidence that have been prepared and published by a public agency, provided that the original or a copy was in the possession of the State Water Board before the notice of the hearing is issued. (Cal. Code Regs., tit. 23, § 648.3.) A participant offering an exhibit by reference shall advise the other participants and the State Water Board of the titles of the documents, the particular portions, including page and paragraph numbers, on which the participant relies, the nature of the contents, the purpose for which the exhibit will be used when offered in evidence, and the specific file folder or other exact location in the State Water Board's files where the document may be found.
 - c. A participant seeking to enter in evidence as an exhibit a voluminous document or database may so advise the other participants prior to the filing date for exhibits, and may ask them to respond if they wish to have a copy of the exhibit. If a participant waives the opportunity to obtain a copy of the exhibit, the participant sponsoring the exhibit will not be required to provide a copy to the waiving participant. Additionally, such exhibits may be submitted to the State Water Board in electronic form, using a file format readable by Microsoft Office 2003 software.
 - d. Exhibits that rely on unpublished technical documents will be excluded unless the unpublished technical documents are admitted as exhibits.
 - e. Participants submitting large format exhibits such as maps, charts, and other graphics shall provide the original for the hearing record in a form that can be folded to 8 ½ x 11 inches. Alternatively, participants may supply, for the hearing record, a reduced copy of a large format original if it is readable.
5. **ELECTRONIC SUBMISSIONS:** Participants are encouraged to submit the following documents to the State Water Board in electronic form: written opening statements; written policy statements; written testimony; exhibits; and Exhibit Identification Indexes. In addition, the foregoing documents may be served electronically on those participants who have agreed to accept electronic service. Paper copies of all other documents must be submitted to the State Water Board and served on the other parties, unless the hearing officer specifies otherwise.

Any documents submitted or served electronically must be in Adobe™ Portable Document Format (PDF), except for Exhibit Identification Indexes, which may be in a version supported by Microsoft Excel or Word. Electronic submittals to the State Water Board of documents less than 11 megabytes in total size (incoming mail server attachment limitation) may be sent via electronic mail to: wrhearing@waterboards.ca.gov with a subject of "Golden State Water Company Proposed Revocation Hearing." Electronic submittals to the State Water Board of documents greater than 11 megabytes in total size should be sent by regular mail in PDF format on compact disk (CD™) media. Electronic service on participants shall be in the same format as submittals to the State Water Board, and should be submitted to the other participants by mail on CD.

Participants who agree to electronic service may request that specific documents be provided to them in paper copy. Requests should be made to the participant who submitted the document, not to the State Water Board. Participants who receive such a request shall provide a paper copy of the requested document within five days of the date the request is received. The State Water Board will post a list of all exhibits submitted for the hearing on its website at: <http://www.waterrights.ca.gov/Hearings/gswc.html>

6. **ORDER OF PROCEEDING:** The State Water Board member serving as hearing officer will follow the Order of Proceedings specified in California Code of Regulations, title 23, section 648.5. Participants should take note of the following additional information regarding the major hearing events. The time limits specified below may be changed by the hearing officer, at his discretion, as a result of the pre-hearing conference.
 - a. **Policy Statements Within the Evidentiary Hearing:** Pursuant to California Code of Regulations, title 23, section 648.1, subdivision (d), the State Water Board will provide an opportunity for presentation of non-evidentiary policy statements or comments by interested persons who are not hearing participants. Policy statements will be heard at the start of the hearing, immediately after a hearing officer identifies the parties and other participants. Policy statements are subject to the following provisions in addition to the regulation:
 - i. Policy statements are not subject to the pre-hearing requirements noted above for testimony or exhibits, except that persons wishing to make policy statements are requested to file a Notice of Intent to Appear, indicating clearly an intent to make only a policy statement.
 - ii. The State Water Board requests that policy statements be provided in writing before they are presented. Please see section 5, above, for details regarding electronic submittal of policy statements. Oral summaries of the policy statements will be limited to five minutes or such other time as established by the hearing officer.
 - b. **Presentation of Cases-In-Chief:** Each participant may present a case-in-chief addressing the key issues identified in the hearing notice. The case-in-chief will consist of any opening statement provided by the participant, oral testimony, introduction of exhibits, and cross-examination of the participant's witnesses. The hearing officer may allow redirect examination and recross examination. The hearing officer will decide whether to accept the participant's exhibits in evidence upon a motion of the participant after the case-in-chief has been completed.
 - i. **Opening Statements:** At the beginning of a case-in-chief, the participant or the participant's attorney may make an opening statement briefly and concisely stating the objectives of the case-in-chief, the major points that the proposed evidence is intended to establish, and the relationship between the major points and the key issues. Oral opening statements will be limited to 20 minutes per participant. A participant may submit a written opening statement. Please see section 5, above, for details regarding electronic submittal of written opening statements. Any policy-oriented statements by a participant should be included in the participant's opening statement.

- ii. **Oral Testimony:** All witnesses presenting testimony shall appear at the hearing. Before testifying, witnesses shall swear or affirm that the written and oral testimony they will present is true and correct. Written testimony shall not be read into the record. Written testimony affirmed by the witness is direct testimony. Witnesses will be allowed up to 20 minutes to summarize or emphasize their written testimony on direct examination.² Each participant will be allowed up to two hours total to present all of its direct testimony.³
- iii. **Cross-Examination:** Cross-examination of a witness will be permitted on the party's written submittals, the witness' oral testimony, and other relevant matters. If a participant presents multiple witnesses, a hearing officer will decide whether the participant's witnesses will be cross-examined as a panel. Cross-examiners initially will be limited to one hour per witness or panel of witnesses. The hearing officer has discretion to allow additional time for cross-examination if there is good cause demonstrated in an offer of proof. Any redirect examination and recross-examination permitted by a hearing officer will be limited to the scope of the cross-examination and the redirect examination, respectively. Witnesses may be cross-examined on relevant subjects that are not covered in the direct testimony. (Gov. Code, § 11513, subd. (b).) Ordinarily, only a participant or the participant's representative will be permitted to examine a witness, but a hearing officer may allow a participant to designate a person technically qualified in the subject being considered to examine a witness. State Water Board members and the State Water Board's counsel may ask questions at any time, and the State Water Board members and staff may cross-examine any witness.
- c. **Rebuttal:** After all participants have presented their cases-in-chief and their witnesses have been cross-examined, the hearing officer will allow participants to present rebuttal evidence. Rebuttal evidence is new evidence used to rebut evidence presented in another participant's case-in-chief. Rebuttal testimony and exhibits need not be submitted prior to the hearing. Rebuttal evidence is limited to evidence that is responsive to evidence presented in a case-in-chief, and it does not include evidence that should have been presented during the presenter's case-in-chief. It also does not include repetitive evidence. Cross-examination of rebuttal evidence will be limited to the scope of the rebuttal evidence.
- d. **Closing Statements and Legal Arguments:** At the close of the hearing or at other times if appropriate, the hearing officer may allow oral arguments or set a schedule for filing briefs or closing statements. If the hearing officer authorizes the participants to file briefs, five copies of each brief shall be submitted to the State Water Board, and one copy shall be served on each of the other participants on the service list. A participant shall not attach a document of an evidentiary nature to a brief unless the document is at the time in the evidentiary hearing record or is the subject of an offer of the document in evidence. Every participant filing a brief shall file a statement of service with the brief, indicating the manner of service.

² The hearing officer may allow additional time for the oral direct testimony of the witness if the witness is adverse to the participant presenting the testimony and the hearing officer is satisfied that the participant could not produce written direct testimony for the witness.

³ The hearing officer may, for good cause, approve a party's request to use more than two hours total to present direct testimony during the party's case-in-chief.

7. **EX PARTE CONTACTS:** During the pendency of this proceeding, commencing no later than the issuance of the Notice of Hearing, there shall be no *ex parte* communications between either State Water Board members or State Water Board hearing team staff and supervisors, and any of the other participants, including the members of the prosecution team and their supervisors, regarding substantive or controversial procedural issues within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) Communications regarding non-controversial procedural matters are permissible and should be directed to staff on the hearing team, not State Water Board members. (Gov. Code, § 11430.20, subd. (b).) A document regarding *ex parte* communications entitled "Ex Parte Questions and Answers" is available upon request or from our website at:
http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf.
8. **RULES OF EVIDENCE:** Evidence will be admitted in accordance with Government Code section 11513. Hearsay evidence may be used to supplement or explain other evidence, but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action.

NOTICE OF INTENT TO APPEAR

_____ plans to participate in the water right hearing regarding
(name of party or participant)

Proposed Revocation Hearing

**Golden State Water Company
San Dimas Canyon Tributary to San Gabriel River
in Los Angeles County
License 2329 (Application 1483)**

**scheduled for
January 26, 2009**

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we agree to accept electronic service of hearing-related materials.
- I/we plan to call the following witnesses to testify at the hearing.

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative:

Signature: _____ Dated: _____

Name (Print): _____

Mailing Address: _____

Phone Number: () _____ Fax Number: () _____

E-mail: _____

