



Linda S. Adams
*Secretary for
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State Water Resources Control Board



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Arnold Schwarzenegger
Governor

REVISED

NOTICE OF PUBLIC INFORMATIONAL PROCEEDING

**To Develop Flow Criteria for the Delta Ecosystem
Necessary to Protect Public Trust Resources**

**The Proceeding will commence on
Monday, March 22, 2010, at 9:00 a.m.**
and continue, if necessary, on
March 23, and 24, 2010, at 9:00 a.m.

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

CHANGE TO ORIGINAL NOTICE ISSUED ON DECEMBER 16, 2009

Please note that the changes described below do not change the scope of the public informational proceeding or procedural requirements as originally noticed, unless expressly noted herein. This revised notice contains the following changes:

- **change in deadline or format for submittal of written introductions, Witness Identification Lists, written testimony, exhibits, and Exhibit Identification Lists;**
- **identification of topic-based discussion panels;**
- **removal of oral summaries of exhibits from the Order of Proceeding -- there will be no oral summary of written testimony;**
- **removal of requirement that witnesses swear or affirm the truth of testimony;**
- **preliminary identification of the information State Water Resources Control Board (State Water Board) staff intends to rely upon for the introductory presentation;**
- **clarification of the process for interested persons to submit questions; and**
- **change in procedures for closing comments-- the procedures regarding closing comments will be determined during the proceeding**

The December 16, 2009 Notice remains in effect except for the changes made to the seven sections described below. The original notice is available on the State Water Board website at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/delta_flow/docs/notice121609.pdf

- 1) The revised deadline for receipt for written summaries, Witness Identification Lists, written testimony, exhibits, and Exhibit Identification Lists is **Tuesday, February 16, 2010, by 12:00 Noon.**

Participants should use the Witness Identification List attached to this revised notice instead of the Witness Identification List attached to the December 16, 2009 notice.

- 2) Section 5, on page A-2 of Attachment A to the December 16, 2009 notice is superseded by the following paragraphs:

WRITTEN SUMMARIES: Participants should submit a concise written summary outlining the participant's responses to the key issue and associated questions contained in the notice of informational proceeding and other relevant information. The written summary should describe how the participant's exhibits and their witness' testimony support this information. Participants are encouraged to limit their summaries to no more than 5 pages in length.

As discussed below, the revised notice focuses the informational proceeding on topic-based panel discussions. It is, therefore, critical that written summaries convey participant's key points to the State Water Board and clearly state recommended flow criteria, if possible. An electronic copy and six paper copies of each participant's or group's written summary are due by **12 Noon on Tuesday, February 16, 2010.**

- 3) Section 6, on page A-3 of Attachment A to the December 16, 2009 notice is superseded by the following paragraph:

WITNESSES/PRESENTERS: Participants who wish to call witnesses to answer questions regarding written exhibits must submit an electronic copy of their Witness Identification Lists by **12 Noon on Tuesday, February 16, 2010.** The Witness Identification List must identify the name of each witness who will answer questions on the participant's behalf and the panel(s) on which the witness should appear. The State Water Board may change suggested panel participation as appropriate. Witnesses should be made available only to answer questions--there will be no oral summary of written testimony.

- 4) Section 7, beginning on page A-3 of Attachment A to the December 16, 2009 notice is superseded by the following paragraphs:

WRITTEN TESTIMONY AND OTHER EXHIBITS: Exhibits include written testimony and supporting documents. Each participant proposing to present testimony on scientific information shall submit such testimony in writing. Written testimony shall be designated as an exhibit, and must be submitted with the other exhibits. Any person who submits written testimony must submit an exhibit containing a statement of their qualifications. Each participant shall submit to the State Water Board an electronic copy and six paper copies of each exhibit by **12 Noon on Tuesday, February 16, 2010**. With the testimony and exhibits, each participant must submit to the State Water Board a completed electronic copy of their Exhibit Identification List.

The exhibit requirements contained in Section 7a-7e of the December 16, 2009 notice remain unchanged.

- 5) Section 9, on page A-4 of Attachment A to the December 16, 2009 notice is superseded by the following paragraphs:

Optional - QUESTIONS ON WRITTEN TESTIMONY AND EXHIBITS: Following posting of written testimony and exhibits on the State Water Board's website, interested persons will have **two weeks** to submit written questions on other participants' written testimony and exhibits to the State Water Board. Any interested person, and not just proceeding participants, may submit questions on the written testimony or exhibits. Although there are no page limits on questions, to ensure that the proceeding proceeds expeditiously, interested persons should prioritize their questions by identifying the top 10 questions concerning each participant's testimony and exhibits.

An electronic copy of written questions should be submitted to the State Water Board **within two weeks** of notification of availability of written testimony and exhibits on the State Water Board's website. The electronic copy should be submitted in Microsoft Office Excel 2003 format, using the template provided on the State Water Board website at the following URL:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/questiontemplate.xls

The questions will promptly be posted on the State Water Board's website for review by all participants. State Water Board members and staff will consider these questions and will ask questions that are useful to inform the proceeding. Persons with similar information are requested to submit joint questions.

- 6) Section 10, Closing Comments on page A-4 of Attachment A to the December 16, 2009 notice is rescinded. Procedures regarding closing comments will be determined during the proceeding.
- 7) Section 12, beginning on page A-5 of Attachment A to the December 16, 2009 notice is superseded by the following:

ORDER OF PROCEEDING: The State Water Board will follow the Order of Procedure specified in California Code of Regulations, title 23, section 649.3.

Opening Statement by State Water Board: A State Water Board member will summarize the subject matter and purpose of proceeding, as well as procedures to be used.

Technical Introduction: The State Water Board will invite selected authors of staff exhibits to participate in the informational proceeding. The group will present scientific information relevant to this proceeding. This group is not, and should not be construed as the final word on the topic. The experts do not speak for the Board, nor do they represent the Board's viewpoint on the subject. A preliminary list of documents that the State Water Board staff intends to rely upon for the introductory presentation is available on the State Water Board website at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/documents.pdf

Topic-based Panel Discussions: To assist participants in preparing exhibits and testimony for the proceeding, the following organization of topical panels is proposed. The State Water Board may modify this organization of panels based on exhibits and written testimony received by February 16, 2010. The following panels were recognized at the pre-proceeding conference and in subsequent participant comment letters as having relevance to the informational proceeding.

State Water Board members or staff may direct questions to individual panel participants or entire panels. Participants are directed to identify witnesses to participate on the following panels. Though participants are expected to truthfully and correctly portray their scientific judgment and information presented, participants will not be required to swear or affirm that the information they will present is true and correct.

Panel 1) Hydrology: Possible topics include historic and recent flow conditions and importance of sources of inflow

Panel 2) Pelagic fish: Possible topics include flow-habitat relationships for various life stages and related food web interactions

Panel 3) Anadromous fish: Possible topics include flow-habitat relationships for various life stages and related food web interactions

Panel 4) Other stressors: Possible topics include water quality (temperature, contaminants, dissolved oxygen) and invasive species

Panel 5) Hydrodynamics: Possible topics include timing of flow, reverse flow, particle residence time, operations, and location of X2

IF YOU HAVE ANY QUESTIONS

Questions regarding this proceeding should be directed to Phillip Crader, Senior Environmental Scientist, at (916) 341-5438 or pcrader@waterboards.ca.gov.

January 29, 2010

Date



Jeanine Townsend
Clerk to the Board

