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Arnold Schwarzenegger
Governor

October 13, 2009

To: Enclosed Service List

PETITIONS TO REVISE THE DECLARATION OF FULLY APPROPRIATED STREAM SYSTEM OF THE KERN RIVER IN KERN AND TULARE COUNTIES

On September 25, 2009, I issued a letter addressing several procedural issues that were raised during the September 24, 2009, pre-hearing conference.

It seems that there has been some confusion as to how much time the parties were requesting to present their cases-in-chief. As I understood from the pre-hearing conference, the North Kern Water Storage District, City of Shafter, Buena Vista Water Storage District, Kern Water Bank Authority and Kern County Water Agency (North Kern Petitioners) agreed to consolidate testimony and file most exhibits jointly. The North Kern Petitioners likewise agreed to conduct direct and cross-examination of witnesses jointly. Each participant would give a separate opening statement and closing statement.

I imposed the following time limits on the parties' presentations per my understanding that this was what was agreed upon:

Direct Testimony – as requested at the pre-hearing conference, for oral summaries of direct testimony, the North Kern Petitioners and the City of Bakersfield will be allowed 20 minutes per witness, not to exceed 90 minutes total.

The Kern County Water Agency has suggested that its intention, or at least its understanding of what was agreed upon at the pre-hearing conference, was that the North Kern Petitioners would have 90 minutes to together present the direct testimony of their overlapping witnesses¹, and then each have 20 minutes for each additional individual witness listed on each party's Notice of Intent to Appear (NOI). Per each party's NOI:

- North Kern Water Storage District indicated that it intends to call 5 witnesses, at 20 minutes for each witness.
- Kern Water Bank Authority indicated that it intends to call 4 witnesses, at 20 minutes each.
- Kern County Water Agency indicated that it intends to call 7 witnesses, at 20 minutes each.
- City of Shafter indicated that it intends to call 3 witnesses, at 20 minutes each.
- Buena Vista Water Storage District indicated that it intends to call 5 witnesses, at 20 minutes each.

¹ The overlapping witnesses on the North Kern Petitioners' Notices of Intent to Appear are Marc Van Camp, Dan Easton and Darren Cordova.

Despite the fact that this intention on the part of the North Kern Petitioners was not clearly conveyed during the pre-hearing conference, allowing the parties this time does not appear to prejudice any other parties or to adversely affect the hearing schedule. Therefore, the North Kern Petitioners will have 90 minutes to together present the direct testimony of their overlapping witnesses, and each have 20 minutes for each additional individual witness listed on each party's NOI. Due to this change, I expect each party to strictly adhere to these time limits. Please be advised that the purpose of oral testimony is to summarize or emphasize written testimony, and written testimony shall not be read into the record. I will leave it up to the North Kern Petitioners to determine the order for their presentations, consistent with my September 25, 2009 letter, and encourage the North Kern Petitioners to have this issue worked out prior to beginning the presentation of cases-in-chief.

Sincerely,



Arthur G. Baggett, Jr.
Board Member