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*George G. Logan*

Attorney At Law  
 2889 Alabama St.  
 Atwater, California 95301  
 Tel (209) 357-3064  
 Fax (209) 357-0940

Fax  \_\_\_\_\_  
 Mail  \_\_\_\_\_  
 Express Mail  \_\_\_\_\_

September 14, 2009

Executive Director  
 California Transportation Commission  
 P.O. Box 942873, Mail Station 52  
 Sacramento, CA 94273-0001

Re: 06-Ker-46-KP 6.7/7.8, EA 353419, Parcel 85925-1A,2,3,4,5  
 Berrenda Mesa Water District; and

Re: 06-Ker-46-KP 6.7/9.7, EA 353419, Parcel 85919-1A, 1B,2,3,4,5  
 Berrenda Mesa Water District

The hearings set for October 14<sup>th</sup> in the above-referenced parcels are duplicate of the hearings held on June 10, 2009, which resulted in the adoption of Resolutions No. C-20129 and C-20130. Pursuant to these resolutions, the Department of Transportation (DOT) has filed a condemnation action against the Berrenda Mesa Water District.

At the previous hearing the DOT withheld pertinent information regarding the District's pumping plant located in the proposed right-of-way and did not ask the Commission to make any findings regarding this plant. We raised this omission in court which led to this new hearing.

The DOT could easily avoid the necessity of taking the District's plant by placing the new lanes to the south of the existing lanes. There is a man-made creek which parallels the highway on the south side but new lanes could be located south of the creek to avoid disturbance of this alleged environmentally sensitive facility.

A southerly alignment would necessitate crossing the creek at its westerly upstream leg but the DOT's alignment necessitates crossing at the creek's easterly downstream leg so there would be no more disturbance of the creek by either alignment. The District tried to make this point at the last hearing but the Commission accepted, without questions, the unsupported assertions by the DOT that more environmental damage would be caused by crossing the western leg. It is hoped that a more critical inquiry will be made by the Commission at the new hearing.

The DOT has offered to pay for the relocation of this pumping plant at a location and to the specifications of its choosing, but this is totally unacceptable to the District. The District should be able to pick the time, place and manner of

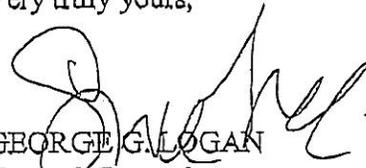
Exhibit D

Executive Director  
California Transportation Commission  
September 14, 2009  
Page Two

replacing the capacity of the plant. A potential capacity replacement would be a reservoir to serve replacement lands. Absent a no-strings payment of the relocation costs, the DOT should leave the plant alone and choose the southerly route.

Please deliver a copy of this letter to all members of the Commission.

Very truly yours,

  
GEORGE G. LOGAN  
General Counsel  
Berrenda Mesa Water District

 -D.O.T. Attn: Larry Steelman, Senior Right of Way Agent  
 -Alice Ramsey, Attorney for State of CA  
-Berrenda Mesa Water District