

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,

Plaintiffs, No. CIV S-90-0520 LKK JFM P

vs.

ARNOLD SCHWARZENEGGER,
et al.,

Defendants. ORDER

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This matter came on for telephonic hearing at 2:00 p.m. on June 14, 2006 on defendants' oral motion to stay this court's June 12, 2006 order determining that material set forth in a privilege log filed by defendants is not privileged and requiring defendants to forward the material to the Special Master and to counsel for plaintiffs not later than close of business on June 14, 2006. Michael Bien, Esq., and Thomas Nolan, Esq., participated as counsel for plaintiffs. Lisa Tillman, Deputy Attorney General, Rochelle C. East, Supervising Deputy Attorney General, and Frances T. Grunder, Senior Assistant Attorney General, participated as counsel for defendants. The Special Master also participated in the telephonic conference.

The court has considered the record and the arguments of the parties. Defendants seek to raise the so-called deliberative privilege. The argument fails to acknowledge that it is the deliberative process that is in issue. Put directly, the court requires the PBC's in part to

1 determine whether the State's deliberative process is frustrating the ability of the State to comply
2 with the court's orders. For that reason and for the reasons stated on the record at the time of the
3 hearing, and good cause appearing, IT IS HEREBY ORDERED that:

- 4 1. Defendants' motion to stay this court's June 12, 2006 order is denied;
- 5 2. Defendants shall produce the required material to the Special Master under
seal not later than close of business on June 14, 2006;
- 6 3. The Special Master's report to be filed on June 21, 2006 shall be filed under
seal; and
- 7 4. Absent a stay of this court's June 12, 2006 order by the United States Court of
Appeals for the Ninth Circuit, the court will, by June 21, 2006, order the material and the Special
Master's report produced to plaintiffs.

12 DATED: June 14, 2006.



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14 LAWRENCE K. KARLTON
15 SENIOR JUDGE
16 UNITED STATES DISTRICT COURT
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