
State Water Resources Control Board

NOTICE OF STATUS CONFERENCE

The State Water Resources Control Board
Administrative Hearings Office
will hold a status conference for hearing **Phase 1B**
on the applications of

**North Kern Water Storage District and City of Shafter (Application 31673),
City of Bakersfield (Application 31674),
Buena Vista Water Storage District (Application 31675),
Kern Water Bank Authority (Application 31676),
Kern County Water Agency (Application 31677), and
Rosedale-Rio Bravo Water Storage District (Application 31819)**

for permits to appropriate water from the Kern River system.

**The status conference will be held on
July 7, 2022, at 1:00 p.m.**
and will be held by Zoom teleconference.

Representatives of parties and other people who want to participate in this status conference may access the Zoom teleconference by using the following link and call-in information:

Please access Zoom by using the link:
[https://waterboards.zoom.us/j/96462043798?pwd=UUVRakpLSVI5eFpqNDhaVEY2MWh4UT09with Meeting ID: 964 6204 3798 and Passcode: 134735](https://waterboards.zoom.us/j/96462043798?pwd=UUVRakpLSVI5eFpqNDhaVEY2MWh4UT09withMeetingID:96462043798andPasscode:134735)

or by calling in at:
+16699009128,,96462043798#,,, *134735# US (San Jose)

Interested members of the public who would like to watch this hearing without participating may do so through the Administrative Hearings Office YouTube channel, accessible by clicking on “Watch AHO Hearings” at:
https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/

On January 12, 2022, the State Water Resources Control Board's (State Water Board or Board) Administrative Hearings Office (AHO) issued a Notice of Pre-Hearing Conference and Notice of Public Hearing, Phase 1B, in the matter of the Kern River Applications, on the pending applications of North Kern Water Storage District and City of Shafter (Application 31673), City of Bakersfield (Application 31674), Buena Vista Water Storage District (Application 31675), Kern Water Bank Authority (Application 31676), Kern County Water Agency (Application 31677), and Rosedale-Rio Bravo Water Storage District (Application 31819) for permits to appropriate water from the Kern River system.

The AHO held a pre-hearing conference on February 1 and issued a Pre-Hearing Conference Order and Amended Notice of Public Hearing and Pre-Hearing Conferences on February 9, 2022. The AHO held a pre-hearing conference on March 1, issued a pre-hearing conference ruling on March 18, and held a third pre-hearing conference on April 21.

The AHO held the case-in-chief portion of the Phase 1B hearing on May 2 through May 10, 2022. The AHO held the rebuttal portion of the Phase 1B hearing on June 20 through June 23, 2022.

STATUS CONFERENCE

The status conference will address the scope of surrebuttal, and hearing dates and associated deadlines for presentation of surrebuttal evidence, in hearing Phase 1B of this proceeding.

On June 17, the AHO issued a procedural ruling on evidentiary motions filed by the parties (the AHO issued a corrected ruling on June 29). In that ruling, I stated that I intend to schedule surrebuttal in the Phase 1B hearing. I also identified rebuttal testimony that the parties might respond to in surrebuttal:

1. Mr. Young's rebuttal testimony. (KCWA-032.)
2. Dr. Howe's rebuttal testimony and associated technical analyses. (Buena Vista-1100, -1102, -1103, & -1105.)
3. Mr. Unruh's rebuttal testimony. (TLBWSD-100-C.)
4. Paragraphs 32 and 33 of Dr. Davids' rebuttal testimony. (KWBA-151, pp. 15 & 16, ¶¶ 32 & 33.)
5. Mr. Torres' rebuttal testimony. (KWBA-600.)
6. Corrections to Ms. Boissevain's rebuttal testimony. (KWBA-252.)

In accordance with my June 17 ruling, as corrected on June 29, I will allow the parties to present surrebuttal evidence that responds to the rebuttal testimony identified above. I may also allow parties to present surrebuttal evidence in response to other rebuttal evidence. I will not, however, allow parties to present surrebuttal evidence that is duplicative or would have more appropriately been presented during the case-in-chief or rebuttal portions of the hearing. I also encourage the parties to focus on the following

questions raised during the rebuttal portion of the Phase 1B hearing, in which I have particular interest:

1. How should the AHO and the Board consider License 11521 when determining whether water is available for appropriation on the Kern River system?
2. Does Ms. Boissevain agree with any portion of Dr. Howe's rebuttal testimony or technical memorandum that addresses her technical analysis and testimony?
3. Does Dr. Davids agree with any portion of Dr. Howe's rebuttal testimony or technical memorandum that addresses his technical analysis and testimony?

The following are questions raised during the case-in-chief or rebuttal portions of the Phase 1B hearing in which I have a particular interest, but which may or may not be appropriate topics for surrebuttal:

4. If Dr. Davids' methodology to analyze the "upper-ranges of theoretical Kern River diversions for irrigation within the current BVWSD Service Area as of December 19, 1914," is applied to all lands owned by Miller & Lux irrigated by diversions from the Kern River below Second Point as of December 19, 1914 (including lands north of Wasco Road), what are the upper-ranges of those theoretical Kern River diversions? What are the upper-ranges of those theoretical Kern River diversions if Dr. Howe's "corrections" to Dr. Davids' methodology are applied to this analysis?
5. Are any portion of Buena Vista's Second Point water rights riparian rather than appropriative rights?

During the status conference, I will ask the parties whether the parties should be allowed to and would want to present evidence relevant to these two additional questions during the surrebuttal phase.

Parties intending to present surrebuttal evidence shall meet and confer before the status conference to discuss and attempt to agree on the topics on which the parties propose to present surrebuttal evidence. Each party shall file a status conference statement indicating the topics, if any, on which it proposes to present surrebuttal evidence, or some or all of the parties may submit a joint status conference statement addressing the topics on which they propose to present surrebuttal evidence. This joint status conference statement may indicate any disagreement among the parties about appropriate topics for surrebuttal. Parties may also suggest dates for the surrebuttal portion of the Phase 1B hearing and deadlines for submission of surrebuttal evidence and other relevant deadlines in their status conference statements.

Parties shall file their status conference statements with the AHO, and serve copies of it on the other parties listed in the attached service list, by **July 6, at 12 p.m.** After the deadline to submit status conference statements, the AHO will post the statements on the Water Board AHO FTP site (FTP site) in the folder for this matter.

Date: June 29, 2022

SIGNATURE ON FILE
Nicole Kuenzi, Hearing Officer

Attachments:
-Service List

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