
State Water Resources Control Board

NOTICE OF PUBLIC HEARING

The State Water Resources Control Board
Administrative Hearings Office
will hold a public hearing
on a proposed Cease and Desist Order
and an Administrative Civil Liability Complaint
against

Maria and Bruno Lenta.

The **Public Hearing** will commence on

July 13, 2023, at 9:00 a.m.

and will be held by Zoom teleconference.

Please access Zoom by using the link:

[https://waterboards.zoom.us/j/92981765899?pwd=Z1kvdGZoRTQrY3JJZTNuUaUdOTVB
UQT09](https://waterboards.zoom.us/j/92981765899?pwd=Z1kvdGZoRTQrY3JJZTNuUaUdOTVB
UQT09)

with Meeting ID: 929 8176 5899 and Passcode: 677325

or by calling in at:

+16699009128,,92981765899#,,,,*677325# 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/

BACKGROUND

On December 1, 2022, Jule Rizzardo, Assistant Deputy Director for the State Water Resources Control Board (State Water Board or Board) Division of Water Rights (Division) Enforcement Section, issued an administrative civil liability complaint (ACL Complaint) and draft cease and desist order (Draft CDO) against Maria and Bruno Lenta (Respondents), based on an inspection of the property identified as Lake County

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Assessor Parcel Numbers (APNs) 013-045-090-000 and 013-045-160-000 (collectively referred to as the Property). The Division sent copies of the ACL Complaint and Draft CDO to Respondents by letter dated December 1, 2022. On January 12, 2023, Respondents requested a hearing in this matter by e-mail to the AHO.

The Draft CDO and ACL Complaint state that on April 19, 2022, and September 1, 2022, staff of the Division of Water Rights, California Department of Fish and Wildlife, and Lake County conducted an inspection of the Property, for which Maria and Bruno Lenta are the owners of record. The Draft CDO and ACL Complaint state that staff observed cannabis plants growing on the Property and diversion of water to irrigate cannabis plants. The Draft CDO and ACL Complaint state that staff observed diversion of water to storage in an onstream reservoir (POD5) from an unnamed stream tributary to Bucksnot Creek, which is tributary to Putah Creek, and diversion of water to off-stream storage from an unnamed spring (POD2) that is also tributary to Bucksnot Creek.

Cannabis Cultivation Policy

On October 17, 2017, the State Water Board adopted the Cannabis Cultivation Policy. (See State Water Board Resolution No. 2017-0063.) The Board updated the Cannabis Cultivation Policy on February 5, 2019, and the updates went into effect on April 16, 2019.¹ The Cannabis Cultivation Policy contains “principles and guidelines for diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows.” (Wat. Code, § 13149, subd. (a).) The purpose of the Cannabis Cultivation Policy is to ensure that the diversion of water and discharge of waste associated with cannabis cultivation does not have a negative impact on water quality, aquatic habitat, riparian habitat, wetlands, and springs. (Cannabis Cultivation Policy, April 16, 2019, p. 7.) Attachment A to the Cannabis Cultivation Policy contains diversion and discharge requirements for cannabis cultivation activities.

Draft Cease and Desist Order

Water Code section 1831 authorizes the State Water Board to issue a cease and desist order when the Board determines that any person is violating, or threatening to violate, any of the requirements listed in subdivision (d) of section 1831. The violations or threatened violations for which the Board can issue a cease and desist order include: unauthorized diversions of water subject to Division 2 of the Water Code as prohibited in Water Code section 1052 (Wat. Code, § 1831, subd. (d)(1)); diversion or use of water for cannabis cultivation when a license is required but has not been obtained under Chapter 6 (commencing with section 26060) or Chapter 7 (commencing with section 26070) of Division 10 of the Business and Professions Code (Wat. Code, § 1831, subd. (d)(6)(A)); and diversion of water for cannabis cultivation when the diversion is not in compliance with an applicable limitation or requirement established by the State Water

¹ More information about the Board’s Cannabis Cultivation Policy is available at https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_policy.html.

Board or the Department of Fish and Wildlife under Water Code section 13149 (Wat. Code, § 1831, subd. (d)(6)(B)).

The Draft CDO alleges that Respondents are violating and are threatening to violate the prohibition in Water Code section 1052, subdivision (a), against the unauthorized diversion of water, by diverting water to storage in an onstream reservoir (POD5) located on an unnamed tributary to Bucksnot Creek without an appropriative water right.

The Draft CDO alleges that Respondents are violating and are threatening to violate Water Code section 1831, subdivision (d)(6)(A), by diverting or using water for commercial cannabis cultivation without a required license from the Department of Cannabis Control under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code.

The Draft CDO alleges that Respondents are violating and are threatening to violate Water Code section 1831, subdivision (d)(6)(B), by diverting water for cannabis cultivation during the forbearance period between April 1 through October 31 of each calendar year in violation of the Cannabis Cultivation Policy.

The Draft CDO would order Respondents to cease and desist any diversions from the unnamed creek, which is tributary to Bucksnot Creek, to seasonal storage in the onstream reservoir and cease and desist any use of water stored in the onstream reservoir until Respondents obtain an appropriative water right that authorizes Respondents' diversion, storage, and use of this water. The Draft CDO would also order Respondents to cease and desist any diversion and use of water for cannabis cultivation until Respondents obtain a commercial cannabis license from the Department of Cannabis Control.

The Draft CDO would require Respondents to submit a compliance plan if Respondents intend to seasonally store water or cultivate cannabis on the Property. If Respondents intend to divert water for cannabis cultivation, the Draft CDO requires the compliance plan to describe the actions that Respondents will take to ensure that a commercial cannabis license is obtained before Respondents divert or use any water for cannabis cultivation and to avoid diversions for irrigation of cannabis during the forbearance period in the Cannabis Cultivation Policy from April 1 through October 31. If Respondents intend to divert water to storage, the Draft CDO requires the compliance plan to include a timeline for Respondents to obtain an appropriative water right that would authorize this diversion and storage of water.

Administrative Civil Liability Complaint

1. Alleged failure to file statements of diversion and use.

Water Code section 5101 requires each person who diverts water to file with the Board a statement of water diversion and use in the succeeding year.² Water Code section 5107, subdivision (c)(1), authorizes the State Water Board to impose administrative civil liability on any person who is required to file a statement under section 5101 and fails to do so. The Board may impose administrative civil liability in the amount of \$1,000 per violation plus \$500 per day for each additional day on which the violation continues if the person fails to file a statement within 30 days after the Board has called the violation to the person's attention. (Wat. Code, § 5107, subd. (c)(1).)

The ACL Complaint alleges that Respondents violated section 5101 by failing to submit a statement of diversion and use for (1) water diverted to storage in the onstream reservoir at POD5 in 2020, for which Respondents were required to file a statement of diversion and use by July 1, 2021, and (2) water diverted at POD2 in 2021, for which Respondents were required to file a statement of diversion and use by April 1, 2022 (collectively, **Violation 1**).

2. Alleged unauthorized diversion or use of water.

Water Code section 1052, subdivision (a), provides that the diversion or use of water subject to Division 2 of the Water Code, other than as authorized in Division 2 of the Water Code, is a trespass. Water Code section 1052, subdivision (b), authorizes the State Water Board to impose administrative civil liability on any person or entity committing a trespass under subdivision (a). (Wat. Code, § 1052, subd. (c) & (d).) The Board may impose liability of \$500 per day for each day in which the unauthorized diversion or use occurs. (*Id.* at subd. (c)(2).) If the diversion or use occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions, the Board may impose liability of \$1,000 per day for each day in which the unauthorized diversion or use occurs and \$2,500 for each acre-foot of water diverted or used in excess of the diverter's water rights. (*Id.* at subd. (c)(1).)

² Senate Bill 155, which went into effect on September 23, 2021, modified the water use reporting period and deadlines. Before the effective date of Senate Bill 155, the deadline for diverters to file a statement of water diversion and use was July 1 of the succeeding year. Senate Bill 155 established a new reporting deadline based on the standard water year (October 1 through September 30). Beginning October 1, 2021, every diverter must file a report with the State Water Board for water diverted and used during a water year (October 1 through September 30) by February 1 of the succeeding year. For water diverted and used between January 1, 2021, and September 30, 2021, the bill established a transition period in which diverters were required to file a report of diversion and use by April 1, 2022.

On January 17, 2014, Governor Brown issued Executive Order B-14-2014 proclaiming a State of Emergency in California due to drought conditions. On April 7, 2017, Governor Brown issued Executive Order B-40-17, which lifted the drought emergency except in Fresno, Kings, Tulare, and Tuolumne Counties. On May 10, 2021, Governor Newsom proclaimed a State of Emergency due to drought conditions in certain watersheds and counties in California, including Lake County.

The ACL Complaint alleges that Respondents violated Water Code section 1052 by diverting water to storage in an onstream reservoir at POD5 without authorization under an appropriative water right (**Violation 2**). The ACL Complaint alleges that Respondents diverted water to storage without authorization on the following twelve dates:

December 2, 2014*	December 17, 2020
December 10, 2015*	December 26, 2020
October 25, 2016*	December 28, 2020
November 16, 2017	December 31, 2020
November 29, 2018	January 4, 2021
December 1, 2019	October 24, 2021*

(Dates designated with an * occurred during an executive drought proclamation.)

3. *Alleged violation of the Cannabis Cultivation Policy.*

Water Code section 1847, subdivision (b)(1), authorizes the State Water Board to impose administrative civil liability on any person or entity that violates a principle, guideline, or requirement established by the board under Water Code section 13149. The Board may impose administrative civil liability for a violation in an amount not to exceed the sum of \$500, plus \$250 for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the Board has called the violation to the attention of that person, and \$2,500 for each acre-foot of water diverted or used in violation of the applicable requirement.

The ACL Complaint alleges that Respondents diverted and used water in violation of the Cannabis Cultivation Policy by:

- a. Diverting water during the surface water forbearance period (from April 1 through October 31) at POD2 as observed during the site inspections on April 19 and September 1, 2021 (Cannabis Cultivation Policy, Attachment A, Section 2, Term 66) (**Violation 3**);
- b. Failing to plug, block, disconnect, or otherwise make the diversion intake at POD2 inoperable during the surface water forbearance period between April 1 and October 31, as observed during the site inspections on April 19 and September 1, 2021 (*Id.*, Term 77) (**Violation 4**);

- c. Failing to install separate measuring devices to quantify diversion from POD2 to and from storage facilities as observed during the site inspection on September 1, 2021 (*Id.*, Term 81) (**Violation 5**);
- d. Failing to install and maintain a measuring device for surface water diversions from POD2 and maintain daily diversion records as observed during the site inspections on April 19 and September 1, 2021 (*Id.*, Term 82) (**Violation 6**);
- e. Failing to use a water storage system equipped with a float valve or equivalent device to shut off diversion when the storage system is full on ten to twelve storage systems, as observed during the site inspections on April 19 and September 1, 2021 (*Id.*, Term 92) (**Violation 7**);³
- f. Failing to install devices to prevent entrapment of wildlife in six water storage tanks, as observed on April 19, 2021, and five water storage tanks as observed on September 1, 2021 (*Id.*, Term 93) (**Violation 8**); and
- g. Failing to maintain daily records of water used for irrigation of cannabis as observed during the site inspections on April 19 and September 1, 2021 (*Id.*, Term 98) (**Violation 9**).

4. *Alleged diversion or use of water for cannabis cultivation without a cannabis cultivation license.*

Water Code section 1847, subdivision (b)(4), authorizes the State Water Board to impose administrative civil liability on any person or entity that diverts or uses water for cannabis cultivation for which a license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code. The ACL Complaint alleges that Respondents diverted and used water for commercial cannabis cultivation without a required license from the Department of Cannabis Control (**Violation 10**).

The ACL Complaint states that the maximum potential liability for all of the alleged violations (**Violations 1-10**) is \$27,000:

Violation 1	\$2,000	(\$1,000 per violation x 2 alleged violations)
Violation 2	\$8,000	(\$1,000 per day x 4 days of alleged violations during a drought emergency + \$500 per day x 8 days of alleged violations)
Violation 3	\$1,000	(\$500 per violation x 2 alleged violations)
Violation 4	\$1,000	(\$500 per violation x 2 alleged violations)
Violation 5	\$ 500	(\$500 per violation x 1 alleged violation)

³ Although the ACL Complaint states that the Division alleges twelve violations of this requirement (one for each storage system lacking a requisite device), the description of Violation 7 in the ACL Complaint references only ten storage facilities.

Violation 6	\$1,000	(\$500 per violation x 2 alleged violations)
Violation 7	\$6,000	(\$500 per violation x 12 alleged violations)
Violation 8	\$5,500	(\$500 per violation x 11 alleged violations)
Violation 9	\$1,000	(\$500 per violation x 2 alleged violations)
Violation 10	\$1,000	(\$500 per violation x 2 alleged violations)
TOTAL	\$27,000	

Water Code section 1055.3 provides that, in determining the amount of civil liability, the Board shall take into consideration all relevant circumstances, including, but not limited to: (a) the extent of harm caused by the alleged violation; (b) the nature and persistence of the alleged violation; (c) the length of time over which the alleged violation occurred; and (d) the corrective actions, if any, taken by the violator. The ACL Complaint recommends that after considering these factors, the Board should impose administrative civil liability in the amount of **\$27,000**.

Administrative Hearings Office Proceedings

Water Code section 1112, subdivision (a)(1) and (a)(2), provides that an AHO hearing officer shall preside over hearings on ACL Complaints issued under Water Code section 1055 and any notice of proposed cease and desist order issued under Water Code section 1834. After the hearing, the AHO hearing officer will prepare a proposed order and transmit it to the Clerk of the Board under Water Code section 1114, subdivision (c)(1).⁴

PURPOSE OF HEARING AND HEARING ISSUES

The AHO will hold a public hearing to receive evidence and arguments relevant to the following hearing issues:

Draft CDO Hearing Issues:

1. Is the State Water Board authorized to issue a cease and desist order against the Respondents under Water Code section 1831, subdivisions (d)(1), (d)(6)(A), and (d)(6)(B)?
 - a. **Water Code section 1831, subdivision (d)(1):** Did the Respondents violate or threaten to violate the prohibition in Water Code section 1052,

⁴ Water Code section 1114, subdivision (b), provides for the AHO hearing officer to adopt a final order in proceedings for administrative civil liability under Water Code section 1847 or 5107. While this proceeding is about an administrative civil liability complaint under these statutes, it also is for a proposed cease and desist order under Water Code section 1831. Because this proceeding is not solely under sections 1847 and 5107, the AHO is conducting this proceeding under Water Code section 1114, subdivision (c)(1).

subdivision (a), against the unauthorized diversion or use of water subject to Division 2 of the Water Code? Did Respondents divert or threaten to divert water to seasonal storage in an onstream reservoir without an appropriate water right?

- b. **Water Code section 1831, subdivision (d)(6)(A):** Did the Respondents divert or use, or threaten to divert or use, water for cannabis cultivation when a license is required but had not been obtained under Chapter 6 (commencing with section 26060) or Chapter 7 (commencing with section 26070) of Division 10 of the Business and Professions Code?
 - c. **Water Code section 1831, subdivision (d)(6)(B):** Did the Respondents divert or use, or threaten to divert or use, water for cannabis cultivation when the diversion was not in compliance with an applicable limitation or requirement established by the State Water Board or the Department of Fish and Wildlife under Water Code section 13149? Did Respondents divert or threaten to divert water for cannabis cultivation during the forbearance period between April 1 through October 31 in violation of the Cannabis Cultivation Policy?
2. If so, should the State Water Board issue a cease and desist order against the Respondents and what terms and conditions should be included in the order?

ACL Complaint Hearing Issues:

3. **Water Code section 5107, subdivision (c)(1) (Violation 1):** Does Water Code section 5107, subdivision (c)(1), authorize the State Water Board to impose administrative civil liability on Respondents for failure to file a statement of diversion and use under section 5101?
- a. Did the Respondents violate Water Code section 5101 by failing to submit a statement of diversion and use for water diverted to storage in the onstream reservoir at POD5 in 2020, for which Respondents were required to file a statement of diversion and use by July 1, 2021?
 - b. Did the Respondents violate Water Code section 5101 by failing to submit a statement of diversion and use for water diverted at POD2 in 2021, for which Respondents were required to file a statement of diversion and use by April 1, 2022?
4. **Water Code section 1052, subdivision (b) (Violation 2):** Does Water Code section 1052, subdivision (b), authorize the State Water Board to impose administrative civil liability on Respondents for violation of the prohibition in Water Code section 1052, subdivision (a), against the unauthorized diversion or use of water subject to Division 2 of the Water Code?

- a. Did Respondents violate Water Code section 1052, subdivision (a), by diverting water to seasonal storage in an onstream reservoir without an appropriate water right?
 - b. If so, on how many days did Respondents divert water to seasonal storage in an onstream reservoir without an appropriate water right?
 - c. How many of those days, if any, occurred during a period for which the Governor had issued a proclamation of a state of emergency based on drought conditions?
5. **Water Code section 1847, subdivision (b)(1) (Violations 3-9):** Does Water Code section 1847, subdivision (b)(1), authorize the State Water Board to impose administrative civil liability on Respondents for violation of a principle, guideline, or requirement established by the board under Water Code section 13149?
- a. Did Respondents violate Attachment A, Section 2, Term 66 of the Cannabis Cultivation Policy by diverting water during the surface water forbearance period (from April 1 through October 31)?
 - b. Did Respondents violate Attachment A, Section 2, Term 77 of the Cannabis Cultivation Policy by failing to plug, block, disconnect, or otherwise make a diversion intake inoperable during the surface water forbearance period between April 1 and October 31?
 - c. Did Respondents violate Attachment A, Section 2, Term 81 of the Cannabis Cultivation Policy by failing to install separate storage systems for water diverted for cannabis irrigation and water diverted for any other beneficial uses or separate measuring devices to quantify diversion to and from each storage facility?
 - d. Did Respondents violate Attachment A, Section 2, Term 82 of the Cannabis Cultivation Policy by failing to install and maintain a measuring device for surface water diversions and maintain daily diversion records?
 - e. Did Respondents violate Attachment A, Section 2, Term 92 of the Cannabis Cultivation Policy by failing to use water storage tanks equipped with a float valve or equivalent device to shut off diversion when the storage system is full?
 - f. Did Respondents violate Attachment A, Section 2, Term 93 of the Cannabis Cultivation Policy by failing to secure storage tank openings to prevent entry and entrapment of wildlife?

- g. Did Respondents violate Attachment A, Section 2, Term 98 of the Cannabis Cultivation Policy by failing to maintain daily records of water used for irrigation of cannabis?
 - h. If Respondents violated the Cannabis Cultivation Policy, how many violations occurred?
6. **Water Code section 1847, subdivision (b)(4) (Violation 10):** Does Water Code section 1847, subdivision (b)(2), authorize the State Water Board to impose administrative civil liability on Respondents for diverting or using water for commercial cannabis cultivation when a license is required but has not been obtained under Chapter 6 (commencing with section 26060) of Division 10 of the Business and Professions Code?
- a. Did Respondents divert or use water for commercial cannabis cultivation when a license was required under Chapter 6 (commencing with section 26060) of Division 10 of the Business and Professions Code?
 - b. Did Respondents have a commercial cannabis license under Chapter 6 (commencing with section 26060) of Division 10 of the Business and Professions Code?
7. If the State Water Board has the authority to impose administrative civil liability against Respondents, should the State Water Board impose administrative civil liability and what is the appropriate amount of any administrative civil liability? In determining the amount of civil liability, how should the State Water Board consider the following factors identified in Water Code section 1055.3?
- a. The extent of harm caused by the alleged violation;
 - b. The nature and persistence of the alleged violation;
 - c. The length of time over which the alleged violation occurred;
 - d. The corrective actions, if any, taken by the violator; and
 - e. Any other relevant circumstances.

ADMINISTRATIVE RECORD

The AHO hearing officer's proposed order in this matter will be based upon evidence and arguments in the administrative record. The AHO may add documents, in addition to the parties' exhibits, to the administrative record. The hearing officer will consider whether to move these and other documents in the administrative record into the evidentiary record during the hearing. Parties may submit additional evidence and make arguments based on the evidence during the hearing concerning the hearing issues listed above.

The AHO uses the State Water Board's File Transfer Protocol (FTP) site to make AHO administrative record files available to interested parties and the public. The State Water

Board's FTP site may be accessed at <https://ftp.waterboards.ca.gov/>. All parties may use the shared account on this site to access and download documents in the administrative record for this hearing. This shared account is referred to in this notice as the "AHO-FTP Download Folder."

To access the AHO-FTP download folder, please submit an e-mail request to the AHO at AdminHrgOffice@Waterboards.ca.gov with "Request for AHO ftp password" in the subject line. After receiving the e-mail request, the AHO will send a reply e-mail with a password to access the download account. It is not necessary to include any other parties in the cc line for such an e-mail request.

The AHO will create a folder for this proceeding on the State Water Board's FTP site. The folder for this proceeding will contain all administrative record documents related to this proceeding and may contain various subfolders, including subfolders for background documents and hearing documents. Only AHO personnel may upload files to this folder. The AHO will post each party's hearing exhibits, exhibit identification indices and legal briefs, if applicable, to this folder promptly after each filing deadline. The AHO may add other administrative record documents to this folder during this proceeding (including recordings of hearings, correspondence and the AHO's order). The documents in this folder will be the AHO's administrative record for this proceeding.

HEARING OFFICER AND HEARING TEAM

Nicole Kuenzi, the Presiding Hearing Officer with the State Water Board's Administrative Hearings Office, will be the hearing officer for this proceeding and will prepare a written proposed order and transmit it to the Clerk of the State Water Board for the Board's consideration within 90 days after the matter is submitted for decision. Other AHO staff may be present and may assist the hearing officer during the hearing and throughout this proceeding.

PROSECUTION TEAM

A State Water Board staff Prosecution Team will be a party to this hearing. The Prosecution Team will be comprised of attorneys from the State Water Board's Office of Enforcement and staff from the State Water Board's Division of Water Rights Enforcement Section.

PROHIBITION ON *EX PARTE* COMMUNICATIONS AND SEPARATION OF FUNCTIONS

While this proceeding is pending, ex parte communications between parties and members of the AHO hearing team are prohibited. Ex parte communications are any type of communication that occurs between a party or interested person and the hearing officer or a member of the hearing team without notice and an opportunity for all parties to participate.

Please do not attempt to communicate by telephone with any AHO hearing officer or staff member regarding this hearing, because other parties would not be able to participate in such communications. If any party wishes to communicate with the AHO at any time regarding any issue related to this proceeding, including any issue regarding hearing procedures or filing of documents, please communicate by e-mail to adminhrgoffice@waterboards.ca.gov or by letter to the AHO and serve all other parties with copies of the communication.⁵ The party shall include a proof of service through a formal proof of service or by other verification.⁶

The Prosecution Team is separated from the AHO hearing team. Like all other parties, the Prosecution Team is prohibited from having any ex parte communications with any members of the AHO hearing team. (See Wat. Code, § 1110, subd. (c); Gov. Code, §§ 11430.10-11430.80.)⁷

AHO WEBPAGE AND NOTICES

Subject to legal limitations, including the requirements for Internet website accessibility in Government Code section 11546.7, the AHO will post all of its notices and other AHO documents regarding these proceedings on the AHO's Internet webpage: https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/.

More information about this proceeding may be accessed on the AHO's Internet webpage by clicking on "Water-Right Enforcement Matters - Cannabis" and then on the folder with the name of the Respondents.

The AHO webpage has information about accessing the AHO's YouTube channel to watch live broadcasts or past recordings of hearings and pre-hearing conferences.

For general information about AHO proceedings, an AHO Frequently Asked Questions (FAQs) page is posted at https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/procedures.html.

The AHO maintains a list of attorneys who may agree to provide pro bono legal assistance to parties without counsel. This list is available at https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2021/pro_bono_aho.pdf.

⁵ The AHO's mailing addresses are provided in Item 6, below.

⁶ All references to "proof of service" in this document refer to either a formal proof of service or a list of the parties and the addresses of them or their representatives in an e-mail "cc" (carbon copy) list or the cc portion of a letter.

⁷ For a discussion of ex parte communications regarding State Water Board members, see "Ex Parte Questions and Answers," available on the State Water Board's website at: http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf.

HEARING SCHEDULE AND DEADLINES

Deadline for filing and service of any submittals of proposed testimony or exhibits before the hearing (optional)	July 6, 2023, 12:00 pm
Hearing date and time	July 13, 2023, 9:00 am

PROCEDURES FOR THIS WATER RIGHT HEARING

The following procedures apply to this hearing. The hearing officer may amend these procedures before, during or after the hearing as she deems appropriate.

- 1. HEARING PROCEDURES:** The AHO will conduct this hearing according to the procedures for hearings set forth in California Code of Regulations, title 23, sections 648-648.8, 649.6 and 760. If there is any conflict between any provision of this notice and any provision of these regulations or any applicable statute, then the provision of the regulation or statute shall apply to this proceeding.
- 2. SETTLEMENTS:** The Prosecution Team and the Respondents may engage in private settlement discussions, and may, or may not, include any other persons in those discussions. No representative of the AHO will participate in such settlement discussions. If the parties sign a written settlement agreement, the Respondents shall notify the AHO in writing that the parties have signed a written settlement agreement and that the Respondents withdraws her request for a hearing.
- 3. POLICY STATEMENTS BY INTERESTED PERSONS:** As provided in California Code of Regulations, title 23, section 648.1, subdivision (d), the hearing officer normally will allow interested persons who are not designated as parties to present non-evidentiary policy statements during the hearing.
- 4. TESTIMONY AND OTHER EXHIBITS:** Exhibits include all written proposed testimony and other documents to be submitted as evidence. There is no requirement for any party to submit any written proposed testimony or exhibits before the hearing, but a party may do so. Any party that wants to submit written proposed testimony or exhibits before the exhibit filing deadline listed above may do so by following the procedures described in Item 6 below. Any party submitting written proposed testimony before the hearing still must produce the actual witness or witnesses to verify the written proposed testimony, provide a summary of it, and be available for cross-examination, during the hearing.
- 5. EXHIBIT FORMATTING AND ORGANIZATION:** A party deciding to submit exhibits before the hearing must file with the AHO both the exhibits and an Exhibit Identification Index, which is a list of exhibits in Excel format. A sample is attached to the end of this document.

Each party should label exhibits with a short version of the party's name and sequential numbers. For example, the Prosecution Team's exhibits should be numbered PT-1, PT-2, etc. Respondents' exhibits should be numbered Respondent-1, Respondent-2, etc.

6. SUBMISSIONS OF EXHIBITS: The AHO prefers that participants that decide to submit exhibits before the hearing do so by uploading the exhibits in electronic form to the State Water Board's FTP site. The AHO will provide each party a unique account to upload the party's documents for this hearing approximately one week before the deadline to file exhibits. These accounts are referred to in this hearing notice as the "Parties' Upload Folders." Only the party may upload files to the party's folder, and only the AHO may view, transfer, and download files from this folder.

After the exhibit filing deadline, the AHO will move all filed exhibits and Exhibit Identification Indices from the parties' Upload Folders to the administrative record folder and advise the parties that these documents are available for downloading from the Download Folder. The AHO may rename or renumber exhibits that do not have proper exhibit names or numbers. If the AHO does this, then the AHO may create an electronic folder of documents that the party has submitted and a separate electronic folder of a y documents the AHO has renamed or renumbered, in the administrative record folder.

If a party cannot upload exhibits to the FTP site, then the party may serve its exhibits on the other parties by mail by the optional exhibit filing deadline specified in this notice.

The party may mail paper copies of all its exhibits to the AHO at:

State Water Resources Control Board
Administrative Hearings Office
P. O. Box 100
Sacramento, CA 95812-0100

Alternatively, a party may send paper copies of its exhibits to the AHO by overnight delivery to:

Joe Serna Jr. CalEPA Building
State Water Resources Control Board
Administrative Hearings Office
1001 I Street
Sacramento, CA 95814

7. ORDER OF PROCEEDING: The hearing officer will follow the order of proceedings specified in California Code of Regulations, title 23, section 648.5, unless the hearing officer decides to modify the order of proceeding before or during the hearing.

- a. **Policy Statements:** The hearing officer will allow interested persons to present policy statements at the start of the hearing before the presentations of cases-in- chief. **Oral policy statements and oral summaries of written policy statements will be limited to 5 minutes.**
- b. **Presentation of Cases-In-Chief:** Each party may present a case-in-chief addressing the key issues in the hearing notice. The hearing will proceed in the following order:
 - Party's opening statement (**5 minutes per party**)
 - Summaries of the party's witnesses' written proposed testimony or presentation of the party's oral testimony (**no more than 60 minutes total for all witnesses for each party**).
 - Cross-examination of the party's witnesses (**60 minutes total for all of the other party's witnesses**).
 - Re-direct examination and re-cross examination of the party's witnesses, if allowed by the hearing officer.
 - Questions from the hearing officer. (These questions may occur at any time, but normally will be after all other parties have completed their cross- examinations of a party's witnesses.)
 - Submitting exhibits into evidence, with opportunities for objections by other parties.
- c. **Presentations of parties' rebuttal evidence:** After all parties have presented their cases-in-chief, the hearing officer may allow parties to submit rebuttal exhibits and testimony.
- d. **Closing statements (5 minutes per party)**

8. HEARING LOGISTICS: Parties should participate in the hearing by both audio and video through the Zoom meeting link if possible. If this is not possible, then the hearing officer will accept audio-only participations.

The AHO will not order a court reporter for the hearing. Any interested party may order a court reporter at the party's own expense. The AHO will record the hearing and post a file of the recording on the AHO-FTP site as part of the administrative record for this matter. Parties should test their devices' video and audio functions before the start of the hearing.

Parties should plan to call into the hearing at least 10 minutes before the scheduled hearing time to ensure the party can resolve any technical issues before the hearing begins. Parties will initially be in a virtual waiting room and will be admitted to the hearing by a member of the AHO office. When speaking, please turn the video on and unmute the microphone by clicking on the symbols in the lower left-hand side of the Zoom window.

During the hearing, please be respectful and patient. Parties should raise a hand on-screen to get the hearing officer's attention. To reduce acoustic background noise, please remain on mute unless speaking. If other devices are tuned into the meeting, please turn off the speaker volume on those devices. Other participants will be able to see each party's name, depending on the party's Zoom account settings. Other participants may also see the last three digits of a party's phone number unless the party has called in anonymously. During the hearing, AHO staff may add designations of participants' names to the Zoom display.

If a party's device freezes, please notify staff at adminhrgoffice@waterboards.ca.gov or by calling (916) 341-6940 and leaving a voicemail message and restart the device. AHO staff will be monitoring the e-mail inbox and voicemail and will notify the hearing officer. If restarting the device does not work, try calling into the hearing using the phone number provided with the Zoom meeting information on the first page.

May 26, 2023
Date

/s/ Nicole L. Kuenzi
Nicole L. Kuenzi
Presiding Hearing Officer

Enclosures:

- Exhibit Identification Index
- Service List

SERVICE LIST

State Water Resources Control Board Office of Enforcement

Heather Jidkov
Heather.Jidkov@waterboards.ca.gov

State Water Board Division of Water Rights

Taro Murano
Taro.Murano@waterboards.ca.gov

Jule Rizzardo
Jule.Rizzardo@waterboards.ca.gov

Stormer Feiler
Stormer.Feiler@waterboards.ca.gov

Department of Fish and Wildlife

Kursten Sheridan
Kursten.Sheridan@wildlife.ca.gov

Corrine Gray
Corrine.Gray@wildlife.ca.gov

Craig Weightman
Craig.Weightman@wildlife.ca.gov

Matt Jones
Matthew.Jones@wildlife.ca.gov

Doug Willson
Douglas.Willson@wildlife.ca.gov

Kyle Stoner
Kyle.Stoner@wildlife.ca.gov

Department of Cannabis Control

Caitlin Lynch
Caitlin.Lynch@cannabis.ca.gov

Tabatha Chavez
Tabatha.Chavez@cannabis.ca.gov

Central Valley Regional Water Quality Control Board

Jason Schroeder
Jason.Schroeder@waterboards.ca.gov

County of Lake

Craig Wetherbee
Craig.Wetherbee@lakecountyca.gov

Bruno and Maria Lenta

ualamaria@gmail.com
springmountainog@gmail.com