
State Water Resources Control Board

NOTICE OF NEW STATUS CONFERENCE, PROPOSED MEDIATION, AND PLANNED PRE-HEARING AND HEARING SCHEDULE

The State Water Resources Control Board
Administrative Hearings Office
issues this notice
regarding the pending petition for change of
the City of Solvang

for water-right Permit 15878 (Application A022423),
which authorizes diversions of water from the Santa Ynez River (underflow)
in Santa Barbara County.

**The new Status Conference will be held on
August 30, 2022, beginning at 1:30 pm.**

Anyone participating in this hearing shall use the following Zoom meeting link:
<https://waterboards.zoom.us/j/92643445567?pwd=Q3N4QVhsVnhhSTJ0V3JYaHlaaGFJQT09> with Meeting ID: 926 4344 5567 and Passcode: 345742
or call-in information:
+16699009128,,92643445567#,,,,*345742# US (San Jose)

Any person interested in observing this status conference without participating may do so by accessing the Live Stream on the AHO YouTube channel with the following link: <https://www.youtube.com/channel/UCM-gmipRyd7Nw-g8l-C7Nig/videos?view=57>. If this link does not work, then any interested person may use the above Zoom meeting link to observe this status conference.

On a later date, if the disputed issues in this proceeding have not been resolved, the Administrative Hearings Office will issue a separate notice of the pre-hearing conference and hearing, with information regarding how to participate in the pre-hearing conference and hearing and how to observe the pre-hearing conference and hearing without participating.

BACKGROUND

On March 30, 2020, the Administrative Hearings Office (“AHO”) of the State Water Resources Control Board (“State Water Board” or “Board”) issued a Notice of Public Hearing and Pre-Hearing Conference Call regarding the petitions filed by the City of Solvang (“Solvang”) for change and extension of time for water-right Permit 15878 (Application A0022423). The background facts, applicable statutes, hearing issues and previously proposed pre-hearing and hearing schedules are described in the March 30, 2020 notice and in the subsequent pre-hearing conference and status conference notices and orders.

As discussed in the October 2, 2020 Status Conference Order and Notice of New Status Conference, Solvang withdrew its petition for extension of time on August 7, 2020. This proceeding now concerns only Solvang’s water-right change petition, as modified by Solvang on August 7, 2020, and protests to that petition.

On April 29, 2020, the AHO held a pre-hearing conference. The AHO held status conferences on: June 29, September 24, and November 6, 2020; March 26, July 22 and December 16, 2021; and February 2, 2022. This notice follows the February 2, 2022 status conference.

STATUS CONFERENCE

The AHO will hold a new status conference in this proceeding on the date and at the time listed on the first page of this notice. During this status conference, the hearing officer will discuss the following issues with the parties’ representatives:

1. What is the status of settlement discussions between representatives of Solvang, the National Marine Fisheries Service (“NMFS”), the California Department of Fish and Wildlife (“CDFW”) and California Trout, Inc. (“Cal-Trout”) regarding the issues raised by NMFS’s and Cal-Trout’s protests to Solvang’s water-right change petition?
2. Are there any other issues that need to be resolved for the Board to be able to adopt an order on Solvang’s petition?
3. Does any party have any comments on the planned mediation described in this notice?
4. Does any party have any comments on the planned pre-hearing and hearing schedule described in this notice?
5. Are there any other issues that any of the parties want to address during the status conference?

The parties do not need to file any new status conference statements, but may if they want to. Any party that wants to file a new status conference statement shall file it by e-mail to the AHO at adminhrgoffice@waterboards.ca.gov on or before **August 23, 2022, at 1:00 pm**, and shall include all the e-mail addresses in the service list for this proceeding in the e-mail's cc line.

Because of the relatively short notice and potential schedule conflicts, all attorneys do not need to participate in this status conference, but I request that at least one representative per party participate. I request that participants participate in the status conference by both video and audio, if possible. If this is not possible, then I will allow audio-only participation.

The AHO will not order a court reporter for this status conference. Any party may order a court reporter at that party's own expense.

PLANNED MEDIATION

If there are any unresolved issues associated with NMFS's and Cal-Trout's protests to Solvang's water-right change petition, or any other unresolved issues that need to be resolved for the Board to be able to adopt an order on Solvang's change petition, then I plan to conduct a mediation among all parties that have unresolved issues. I will serve as the mediator for the mediation. My planned schedule for this mediation is:

- **Oct. 18, 2022, 1:30 pm**: first mediation meeting
- **Nov. 1, 2022**: deadline for parties to file confidential mediation statements with mediator
- **Nov. 8-10, 2022**: subsequent mediation meetings

This mediation and all documents concerning it will be subject to Evidence Code sections 1115-1128. All mediation documents will be filed directly with me, and will not become public documents or parts of the administrative record for this proceeding.

After the new status conference described in this notice, if I decide to proceed with the mediation, I will prepare and circulate a separate notice regarding the mediation.

If this mediation does not result in a settlement agreement that resolves the pending issues that need to be resolved for the Board to be able to adopt an order on Solvang's water-right change petition, then I will assign this proceeding to AHO hearing officer Nicole Kuenzi for pre-hearing proceedings, the hearing, and preparation of the proposed order, and I will not discuss with her any of the confidential statements made, or confidential documents submitted, to me during the mediation process.

PLANNED PRE-HEARING AND HEARING SCHEDULE

If the mediation does not resolve the pending issues, then Ms. Kuenzi plans to issue a new notice of pre-hearing conference and hearing in approximately December 2022, containing a schedule with approximately the following dates.

February 2023: pre-hearing conference.

March 2023: deadline for all parties to file exhibits (including written proposed testimony and summary slides) and exhibit identification indices for their cases in chief with AHO.

April 2023: deadline for all parties to file rebuttal exhibits (including written proposed rebuttal testimony and summary slides) and exhibit identification indices with AHO.

May 2023: hearing and site visit.

June 2023: deadline for parties to file written closing briefs with AHO.

The new notice of pre-hearing conference and hearing will identify the hearing issues, which will include all pending issues not resolved through mediation that must be resolved for the Board to be able to adopt an order on Solvang's petition.

The new notice of pre-hearing conference and hearing will contain requirements, and specify procedures, similar to the requirements and procedures in the March 30, 2020 Notice of Public Hearing and Pre-Hearing Conference Call.

Except as explicitly stated in this order and notice, all provisions of the prior notices and orders described in the first two paragraphs of this order and notice remain in effect.

Date: Aug. 10, 2022

/s/ ALAN B. LILLY
Alan B. Lilly, Presiding Hearing Officer

Enclosure:

-Service List (all service by e-mail only)

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