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## State Water Resources Control Board

### **STATUS CONFERENCE ORDER AND NOTICE OF MEDIATION**

The State Water Resources Control Board  
Administrative Hearings Office  
issues this order and 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.

#### **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 orders in this proceeding.

On April 29, 2020, the AHO held a pre-hearing conference. On June 29, September 24, and November 6, 2020, March 26, July 22 and December 16, 2021, and February 2 and August 30, 2022, the AHO held status conferences. This order follows the August 30, 2022 status conference.

#### **STATUS CONFERENCE ORDER**

Documents in the AHO’s files indicate the following statuses of Solvang’s water-right Permit 15878, petition for extension of time, and petition for change in authorized point of diversion. Files with copies of these documents are in the AHO-FTP folder for this proceeding. (Some of these documents are in the Hearing Documents sub-folder within that folder.)

Current Water-Right Permit Terms. The Board’s Division of Water Rights (“Division”):  
(a) issued water-right Permit 15878 on Application A022423 on August 25, 1969; and  
(b) issued an Order Approving a New Development Schedule, Change in Points of Diversion, Place of Use and Amending the Permit on July 7, 1981.

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

Petition for Extension of Time. (a) Solvang filed a petition for extension of time for water-right Permit 15878 on May 7, 2015; and (b) Solvang's attorneys filed a letter with the AHO on August 7, 2020, stating that Solvang was withdrawing this petition. The AHO's October 2, 2020 Status Conference Order and Notice of New Status Conference confirmed that the AHO will not conduct any further proceedings on this petition.

Petition for Change. (a) Solvang filed a petition for change of the authorized points of diversion in Permit 15878 on May 7, 2015; (b) the Division issued a public notice of this petition on March 24, 2016; (c) Solvang's attorneys filed a request to modify the requested changes of authorized points of diversion on August 7, 2022; and (d) Solvang's attorneys filed a letter with the AHO on September 18, 2020, which included a table titled "City of Solvang, River Wells – Annual Operation Plan." This letter referred to this table as a "discussion draft for a potential City River Wells Operation Plan for all current and future City River Wells."

On or before **September 30, 2022, at 1:00 pm**, Solvang shall file a statement with the AHO that: (a) confirms that the above descriptions of current permit terms for water-right Permit 15878 are correct, or that identifies the additional Division orders that have modified these terms; (b) states whether or not Solvang wants to include the September 18, 2020 table titled "City of Solvang, River Wells – Annual Operation Plan" in its pending change petition; and (c) describes any other amendments that Solvang has made or wants to make to its pending change petition. The undersigned hearing officer has included the preceding clause (c) so all parties will be informed about any additional amendments that Solvang may make to its pending change petition. This order is not a ruling on whether or not the AHO will consider any such additional amendments during the hearing. As necessary, the AHO hearing officer conducting the hearing will rule on whether or not the hearing will consider such additional amendments.

Protests to Solvang's Petition for Change. On April 25, 2016, the following parties filed protests to Solvang's petition for change and petition for extension of time: (a) National Marine Fisheries Service ("NMFS"); (b) California Trout; (c) Alisal Guest Ranch; and (d) Santa Ynez River Water Conservation District, Improvement District No. 1 ("Improvement District No. 1"). The Bureau of Reclamation filed a letter to the Division regarding these petitions, and then sent an e-mail to Division staff on December 20, 2016, which stated that Reclamation intended its letter to be a letter of comment, and not a formal protest.

On September 22, 2021, attorneys for Alisal Guest Ranch and Improvement District No. 1 sent letters to the AHO, which transmitted copies of an August 9, 2021 Protest Dismissal and Coordinated Operations Agreement, and stated that these parties were conditionally withdrawing their protests, on the conditions that the Board's decision or order on Solvang's change petition is consistent with, and not in conflict with, this agreement, and does not adversely affect these parties' rights. During the August 30, 2022 status conference, the attorneys for these parties confirmed that: (a) implementation of this agreement does not require any Board actions; and (b) subject to

the conditions stated in these conditional withdrawals, this agreement resolves these protests.

If NMFS, California Trout or California Department of Fish and Wildlife (“CDFW”) believes that, if the AHO holds a hearing on Solvang’s change petition, then the AHO should consider any issues beyond those stated in the NMFS and California Trout protests, then they shall file a statement listing such additional issues with the AHO on or before **September 30, 2022, at 1:00 pm**. The undesignated hearing officer is making this order so all parties will be informed about issues other parties may ask the AHO to consider during a hearing on Solvang’s change petition. This order is not a ruling on whether or not the AHO will consider any issues beyond those raised in the NMFS and California Trout protests during such hearing. As necessary, the AHO hearing officer conducting the hearing will rule on whether or not the hearing will consider such additional issues.

Parties shall make the filings described in the preceding paragraphs by e-mail to the AHO at [adminhrгоffice@waterboards.ca.gov](mailto:adminhrгоffice@waterboards.ca.gov), with the e-mail addresses of all people on the service list for this proceeding listed in the e-mail’s cc line.

### **NOTICE OF MEDIATION**

During the August 30, 2022 status conference, no party objected to the planned mediation described on page 3 of the AHO’s August 10, 2022 Notice of New Status Conference, Proposed Mediation, and Planned Pre-Hearing and Hearing Schedule.

The AHO will proceed with this mediation, which will be among Solvang, NMFS, California Trout and CDFW. The goal of this mediation will be for some or all of these parties to negotiate and sign an agreement that will resolve some or all of the issues raised by the NMFS and California Trout protests to Solvang’s change petition, and potentially other issues raised by the parties. Evidence Code sections 1115-1128 will apply to this mediation. Alan Lilly will be the AHO hearing officer conducting this mediation.

If a hearing on Solvang’s change petition is necessary, then Nicole Kuenzi will be the AHO hearing officer for the hearing. At the conclusion of the mediation, Mr. Lilly will advise Ms. Kuenzi whether or not the mediation resolved the pending issues and whether or not representatives of the parties to the mediation signed any settlement agreement. Mr. Lilly will not disclose to Ms. Kuenzi or any other AHO hearing officer or staff member any confidential evidence, communications or writings made during the mediation that are inadmissible or not subject to discovery under Evidence Code sections 1115-1128.

Date: Sept. 2, 2022

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

Enclosure:

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

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