
State Water Resources Control Board

STATUS CONFERENCE ORDER AND NOTICE OF NEW STATUS CONFERENCE AND PLANNED HEARING SCHEDULE

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.

**The new Status Conference will be held on
December 16, 2021, beginning at 9:00 am.**

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://youtu.be/UqRiikaAtd0>. If this link does not work, then any interested person may use the Zoom meeting link listed in the following paragraph to observe this status conference.

Anyone participating in this hearing may use the following Zoom meeting link:
<https://waterboards.zoom.us/j/92643445567?pwd=Q3N4QVhsVnhhSTJ0V3JYaHlaaGFJQT09>

with Meeting ID: 926 4344 5567 and Passcode: 345742

or the following call-in information:
+16699009128,,92643445567#,,,,*345742# US (San Jose)

**A Pre-Hearing Conference is scheduled to begin on
February 2, 2022, at 9:00 a.m.**

**The Public Hearing is scheduled to begin on
March 21, 2022 at 9:00 a.m.
and to continue as necessary
on March 22-25, 2022,
beginning each day at 9:00 a.m.**

A site visit is scheduled to be held on March 29, 2022.

**The Public Hearing is scheduled to continue, for rebuttal evidence,
on April 19-22, 2022.**

Additional hearing days may be scheduled.

On a later date, 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 orders.

On April 29, 2020, the AHO held a pre-hearing conference. On June 29, September 24, and November 6, 2020, and March 26 and July 22, 2021, the AHO held status conferences. This order and notice follow the July 22, 2021 status conference.

The July 2, 2021 letter from Solvang’s attorney to the AHO stated, in Table 1.0-2 on page 10, that the anticipated date when the Solvang City Council will consider a California Environmental Quality Act (“CEQA”) Addendum to the February 2014 Environmental Impact Report (“EIR”) for the City’s 2011 Master Plan Update for Solvang’s water-right change petition (described in the July 2, 2021 letter from Solvang’s attorney to the AHO on pp. 6-9, and referred to in this order and notice as the “CEQA Addendum”) is sometime in “Late Fall 2021.”

STATUS CONFERENCE ORDER

October 1, November 1 and December 1, 2021 and January 2, 2022: On or before each of these dates, Solvang shall file a report with the AHO, and e-mail copies of the report to everyone on the attached service list. Each report shall describe: (a) any signed settlement agreements regarding the above petitions; (b) the status of Solvang’s work on the CEQA Addendum; and (c) Solvang’s schedule for completing the CEQA Addendum and for the Solvang City Council’s consideration of it. Solvang shall include copies of any signed settlement agreements and any approved CEQA Addendum with the appropriate report.

January 2, 2022: Pursuant to Water Code section 1701.3, the AHO requests that Solvang submit to the AHO, on or before January 2, 2022, the documents required for Solvang's CEQA compliance for Solvang's petition to change water-right Permit 15878. If Solvang does not submit these documents by this date, then the AHO will schedule a hearing to consider adoption of a proposed order that, if adopted by the Board, would cancel this change petition pursuant to Water Code section 1701.4.

PLANNED PRE-HEARING AND HEARING SCHEDULE

Considering Solvang's proposed schedule for completing the CEQA Addendum, and to facilitate the parties' planning, scheduling, preparation of written testimony and exhibits, and other pre-hearing work, the AHO is advising the parties now of the following planned schedule for this proceeding. If the AHO proceeds with this planned schedule, then the AHO will issue a notice of pre-hearing conference and hearing in January 2022 or earlier.

February 2, 2022: pre-hearing conference.

March 7, 2022: 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.

March 21-25, 2022: hearing on parties' cases-in-chief.

March 29, 2022: site visit.

April 8, 2022: deadline for all parties to file rebuttal exhibits (including written proposed rebuttal testimony and summary slides) and exhibit identification indices with AHO.

April 19-22, 2022: hearing on rebuttal evidence.

May 27, 2022: deadline for parties to file written closing briefs with AHO.

PLANNED HEARING ISSUES

The purpose of the hearing, as planned by the hearing officer at this time, is for the hearing officer to receive evidence regarding the following issues. The notice of pre-hearing conference and hearing may contain amendments or supplements to these issues.

- 1) Should the State Water Board approve Solvang's petition to change water-right Permit 15878?
 - a) Would the State Water Board's approval of this petition result in injury to any other legal user of water?

- b) Would the State Water Board's approval of this petition unreasonably affect any fish, wildlife or any other instream beneficial use?
 - c) Would the State Water Board's approval of this petition be in the public interest?
 - d) If the State Water Board approves this change petition, then what new terms or conditions, if any, including any operations plans, should the State Water Board add to Permit 15878 when it approves the petition? The hearing officer invites all parties to submit proposed new permit terms and conditions, including proposed operations plans, as hearing exhibits.
- 2) What are the estimated surface-water flows that have occurred and would occur, by month and water-year type, at relevant points along the Santa Ynez River upstream of, adjacent to and downstream of Solvang's existing and proposed points of diversion under each of the following scenarios: (a) existing (baseline) conditions that have occurred during the past several years under different water-year types; (b) conditions that are likely to occur if the State Water Board denies Solvang's change petition; and (c) conditions that are likely to occur if the State Water Board grants Solvang's change petition?
- 3) What environmental conditions (including fish and related aquatic habitat conditions, groundwater conditions and levels, and other relevant environmental conditions) have occurred, and are likely to occur, under each of the three scenarios described in the preceding issue?
- 4) Are the Final EIR and Addendum that Solvang has prepared and certified for the proposed project described in the Final EIR and Addendum sufficient under CEQA for the State Water Board to act on these petitions as a CEQA Responsible Agency? (See CEQA Guidelines, § 15096.) If not, what additional CEQA documents are necessary and what entity should prepare them?

The AHO encourages parties that agree on hydrological information concerning issue 2) to file joint exhibits with this information, even if the parties file separate exhibits regarding other issues.

The 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.

STATUS CONFERENCE

The AHO will hold a status conference in this matter on December 16, 2021, beginning at 9:00 am. During the status conference, the hearing officer will discuss the status of Solvang's CEQA Addendum and the planned pre-hearing conference, hearing issues and hearing schedule.

The hearing officer requests that participants participate in the status conference by both video and audio, if possible. If this is not possible, then the hearing officer will allow audio-only participation.

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: Sept. 2, 2021

SIGNATURE ON FILE
Alan B. Lilly, Presiding Hearing Officer

Enclosure:

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

SERVICE LIST

B. Tilden Kim
Richards Watson Gershon
350 South Grand Ave., 37th Floor
Los Angeles, CA 90071
tkim@rwglaw.com
Attorney for City of Solvang

Stephanie Osler Hastings
Jessica L. Diaz
Brownstein Hyatt Farber Schreck, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101
SHastings@bhfs.com
jdiaz@bhfs.com
Attorneys for Alisal Guest Ranch

Gary M. Kvistad
Brownstein Hyatt Farber Schreck, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101
Gkvistad@bhfs.com
Attorney for Santa Ynez River Water
Conservation District, ID No. 1

Elisabeth L. Esposito
Brownstein Hyatt Farber Schreck, LLP
1415 L Street, Suite 800
Sacramento, CA 95814
Eesposito@bhfs.com
Attorney for Santa Ynez River Water
Conservation District, ID No. 1

Laurie K. Beale
NOAA Office of General Counsel
GCNW, 7600 Sand Point Way NE
Seattle, WA 98115
laurie.beale@noaa.gov
Attorney-Advisor for NOAA Fisheries

Darren Brumback, Fisheries Biologist
NOAA Fisheries
501 West Ocean Blvd., Suite 4200
Long Beach, CA 90802
darren.brumbback@noaa.gov

Maggie Hall
Linda Krop
California Trout
Environmental Defense Center
906 Garden Street
Santa Barbara, CA 93101
mhall@environmentaldefensecenter.org
lkrop@environmentaldefensecenter.org
Attorneys for California Trout

Steven M. Torigiani
Brett A. Stroud
Young Wooldridge, LLP
1800 30th St., 4th Floor
Bakersfield, CA 93314
storigiani@youngwooldridge.com
bstroud@youngwooldridge.com
Attorneys for Santa Ynez River Water
Conservation District

Paeter Garcia, General Manager
Santa Ynez River Water Conservation
District, ID No. 1
P.O. Box 157
Santa Ynez, CA 93460
pgarcia@syrwd.org

Nancee Murray
Lena Germinario
Office of General Counsel
California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
Nancee.murray@wildlife.ca.gov
lena.germinario@wildlife.ca.gov
Attorneys for California Department of
Fish and Wildlife