
State Water Resources Control Board

PRE-HEARING CONFERENCE RULING

The State Water Resources Control Board
Administrative Hearings Office
Issues this pre-hearing conference ruling
for **Phase 1B** of the hearing 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.

BACKGROUND

On January 12, 2022, the AHO issued a Notice of Pre-Hearing Conference and Notice of Public Hearing, Phase 1B (January 12 Phase 1B Hearing Notice) in the matter of the Kern River Applications. The AHO held a pre-hearing conference on February 1, 2022, and issued a pre-hearing conference ruling and amended notice of public hearing on February 9, 2022 (February 9 Pre-Hearing Conference Ruling and Amended Hearing Notice). The AHO held another pre-hearing conference on March 1, 2022. This ruling follows the March 1 pre-hearing conference.

PRE-HEARING CONFERENCE RULING

Cross-Examination: Each party shall have the right to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the witnesses' direct testimony. (Gov. Code, § 11513, subd. (b).) The hearing officer is not requiring parties to identify the topics for cross-examination of a witness in advance of the hearing.

Opening and Closing Briefs: Opening briefs shall be no more than 20 pages double-spaced, in a font size not smaller than 12 points. The parties will have the opportunity to file closing briefs. The hearing officer will set a deadline and page limits for closing briefs at a later time.

Time Limits for Case-in-Chief Testimony: The hearing officer will allow each party two hours to present the oral summaries of written testimony of all of the party's witnesses. The hearing officer may allow additional time for oral summaries of testimony if the testimony is productive and assists the hearing officer.

Summaries of Written Testimony: The hearing officer encourages all parties to prepare and submit as a separate exhibit for each witness a set of slides that summarize each witness's testimony. During the hearing, the party may use the exhibit with the slides to facilitate each of the party's witness's oral summary of his or her written proposed testimony. The parties must label the slides for each witness as a separate exhibit and submit it by the exhibit submittal deadline.

Exhibit Numbering: Each party should label exhibits in the Phase 1B Hearing with a short version of the party's name and a unique number. The exhibit numbers may be sequential or may be non-sequential if the ordering is reasonable and assists with the organization of the exhibits. Those parties that submitted exhibits in Phase 1A should begin numbering exhibits in Phase 1B starting with a number greater than the last number used by the party to identify an exhibit in Phase 1A. No exhibit number should be used to designate more than one exhibit in any of the phases of this proceeding, regardless of whether the exhibit is accepted into the evidentiary record. Similarly, no exhibit should be designated by more than one exhibit number by the same party in any of the phases of this proceeding, regardless of whether the exhibit is accepted into the evidentiary record. Parties that seek to include portions of the Phase 1A Hearing record in the evidentiary record for the Phase 1B Hearing should use the same exhibit identification number used in Phase 1A to designate the exhibit.

Exhibit Hard Copies: Each party shall submit **one** hard copy of its exhibits to the AHO at the address provided in the Hearing Notice. Parties are not required to submit hard copies of exhibits that exceed 100 pages in length.

Exhibits from State Water Board Public Records: Parties seeking to offer documents from the State Water Board's public records into the evidentiary record should submit these documents as exhibits following the procedures for the submission of exhibits. Parties may object to the acceptance of any exhibit, including documents from the State Water Board's public records, by filing a written motion by the deadline of April 18 (see the February 9 Pre-Hearing Conference Ruling). In general, documents that were in the State Water Board's public records before the AHO issued a notice of hearing will not require sponsoring testimony to be admitted into evidence if the document appears to be relevant to the hearing issues and the authenticity of the document is not reasonably in question.

Expert Reports: Expert witnesses may present their technical analyses in memoranda that are exhibits to their written testimony rather than including all of their opinions within their line-numbered written testimony.

Potential for In-Person Hearing: At this time, the hearing officer does not intend to hold any portion of the Phase 1B hearing in person or with an option for in-person appearances. If any party objects to the AHO conducting all or any portion of the Phase 1B hearing remotely by Zoom teleconference, the party should submit a motion in writing to the AHO that clearly states the party's objection, the reason for that objection, and a specific proposal for structuring the hearing to address the party's concern.

INCORPORATION OF PRIOR NOTICES AND RULINGS

Except as explicitly stated in this order, all other provisions in the January 12 Phase 1B Hearing Notice and the February 9 Pre-Hearing Conference Ruling remain in effect.

Date: March 18, 2022

SIGNATURE ON FILE
Nicole Kuenzi, Hearing Officer

Attachments:
-Service List

SERVICE LIST

Sent by e-mail only:

Adam Keats
Law Office of Adam Keats
303 Sacramento St., 2nd Floor
San Francisco, CA 94111
adam@keatslaw.org
*Attorney for Public Interest Groups
(Bring Back the Kern, Kern River
Parkway Foundation, Kern Audubon
Society, Kern-Kaweah Sierra Club,
Panorama Vista Preserve, Center for
Biological Diversity, and CalTrout)*

John Buse
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612
jbuse@biologicaldiversity.org

Amanda Cooper
Walter "Redgie" Collins
California Trout, Inc.
701 South Mount Shasta Blvd.
Mount Shasta, CA 96067
acooper@caltrout.org
rcollins@caltrout.org

Nicholas Jacobs & Michelle Chester
Somach, Simmons & Dunn
500 Capitol Mall, Suite 1000
Sacramento, CA 95814
njacobs@somachlaw.com
mchester@somachlaw.com
*Attorneys for Kern County Water
Agency*

Amelia T. Minaberrigarai
3200 Rio Mirada Drive
Bakersfield, CA 93308
ameliam@kcwa.com
Attorney for Kern County Water Agency

Kevin M. O'Brien
David E. Cameron
Downey Brand LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814
kobrien@downeybrand.com
dcameron@downeybrand.com
jhughey@downeybrand.com
colmstead@downeybrand.com
*Attorneys for Kern Water Bank
Authority*

Eric L. Garner
Patrick D. Skahan
Best & Krieger LLP
300 South Grand Ave., 25th Floor
Los Angeles, CA 90071
eric.garner@bbklaw.com
patrick.skahan@bbklaw.com
Attorneys for City of Shafter

Isaac St. Lawrence
McMurtrey, Hartsock & Worth
2001 22nd Street, Suite 100
Bakersfield, CA 93301
isaac@mhwlegal.com
*Attorney for Buena Vista Water
Storage District*

Ryan Bezerra
Holly Jacobson
Bartkiewicz, Kronick & Shanahan
1011 22nd Street
Sacramento, CA 95816
rsb@bkslawfirm.com
hjj@bkslawfirm.com
*Attorneys for Buena Vista Water
Storage District*

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

Attachment 1

Colin L. Pearce
Jolie-Anne Ansley
B. Alexandra Jones
Duane Morris LLP
Spear Tower, One Market Plaza, Suite
2200
San Francisco, CA 94105-1127
clpearce@duanemorris.com
jsansley@duanemorris.com
bajones@duanemorris.com
Attorneys for City of Bakersfield

Virginia A. Gennaro
City Attorney's Office
City of Bakersfield
1600 Truxtun Avenue, Fourth Floor
Bakersfield, CA 93301
vgennaro@bakersfieldcity.us

Scott K. Kuney
Young Wooldridge, LLP
1800 30th Street, Fourth Floor
Bakersfield, CA 93301
skuney@youngwooldridge.com
kmoen@youngwooldridge.com
bstroud@youngwooldridge.com
mbasharaheel@youngwooldridge.com
*Attorney for North Kern Water Storage
District*

Richard Diamond
General Manager
North Kern Water Storage District
P.O. Box 81435
Bakersfield, CA 93380
rdiamond@northkernwsd.com

Jennifer Spaletta
Spaletta Law PC
P.O. Box 2660
Lodi, CA 95241
jennifer@spalettalaw.com
diana@spalettalaw.com
*Attorney for Rosedale Rio-Bravo
Water Storage District*

Gail Delihant
Western Growers Association
1415 L Street, Suite 1060
Sacramento, CA 95814
gdelihant@wga.com

Robert E. Donlan
Craig A. Carnes, Jr.
Ellison Schneider Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
red@eslawfirm.com
cac@eslawfirm.com
Attorneys for Kern Delta Water District

Richard Iger
Steven L. Teglia, General Manager
L. Mark Mulkay, Water Resources
Manager
Kern Delta Water District
501 Taft Highway
Bakersfield, CA 93307
richard@kerndelta.org
steven@kerndelta.org
mulkay@kerndelta.org

Jack Pandol
900 Mohawk Street, Suite 220
Bakersfield, CA 93309
jpandolsr@grapery.biz

Tim Ashlock
Engineer-Manager
Buena Vista Water Storage District
P.O. Box 756
Buttonwillow, CA 93206
tim@bvh2o.com

Jonathan Parker
General Manager
Kern Water Bank Authority
5500 Ming Avenue, Suite 490
Bakersfield, CA 93309
jparker@kwb.org

Attachment 1

Thomas Nassif
Western Growers Association
17620 Fitch Street
Irvine, CA 92614
tnassif@wga.com

Gabriel Gonzalez
City Manager
City of Shafter
336 Pacific Ave.
Shafter, CA
ggonzalez@shafter.com

Michael James
Director of Public Works
City of Shafter
336 Pacific Avenue
Shafter, CA 93263
mjames@shafter.com

Dan Bartel
Rosedale-Rio Bravo Water Storage
District
P.O. Box 867
Bakersfield, CA 93302
dbartel@rrbwsd.com

Nancee Murray
Annette Tenneboe
Kathleen Miller
California Department of Fish and
Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
nancee.murray@wildlife.ca.gov
annette.tenneboe@wildlife.ca.gov
kathleen.miller@wildlife.ca.gov

Art Chianello
Kristina Budak
City of Bakersfield
Water Resources Department
1000 Buena Vista Road
Bakersfield, CA 93311
achianel@bakersfieldcity.us
kbudak@bakersfieldcity.us

Peter Kiel
Law Office of Peter Kiel
P.O. Box 422
Petaluma, CA 95953-422
pkiel@cawaterlaw.com
*Attorney for Tulare Lake Basin Water
Storage District*

Aubrey Mauritson
Ruddell Stanton Bixler & Evans LLP
1102 N. Chinowth St.
Visalia, CA 93291-4113
amauritson@visaliaalaw.com
*Attorney for Tulare Lake Basin Water
Storage District*