

State Water Resources Control Board

ATTACHMENT B INFORMATION YOU NEED TO KNOW IF YOU ARE GOING TO REQUEST A HEARING

REQUESTING A HEARING AND HEARING PARTICIPATION

If you have received an **Administrative Civil Liability Complaint (ACL Complaint)** and wish to request a hearing, you must submit a written request for a hearing within twenty (20) days of receiving the ACL Complaint. The written request for a hearing must be submitted to Michael Buckman, Hearings Unit Supervisor, with a copy to the Prosecution Team as further described below.

If you request a hearing, it will likely be scheduled for one of the following dates: **February 22, February 23, March 3, or March 4, 2016***. If you have a conflict with any or all of the above hearing dates, within 20 days of receipt of the ACL Complaint as part of your request for a hearing you must indicate on which hearing date(s) you have a conflict and the nature of the conflict. An alternative hearing date will only be provided for the most compelling reasons. Upon receiving a request for hearing, the Hearings Unit will provide you with a hearing notice that either confirms one of the above hearing dates and times or provides an alternative date.

Please note that in addition to requesting a hearing, you must submit a **Notice of Intent to Appear** to the Hearing Unit and Prosecution Team at the addresses provided below no later than **12:00 pm (noon) on January 27, 2016**. Forms for submitting a hearing request and Notice of Intent to Appear are available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/russian_trib/index.shtml, and should be addressed as described below.

If you have received an ACL Complaint and do not request a hearing or request a hearing but fail to submit a Notice of Intent to Appear by the deadline (noon on January 27, 2016), the State Water Board can choose not to hold a hearing and an order may be issued imposing the amount of civil liability proposed in the ACL Complaint that you have received, without further notice.¹

Within one week after the deadline for filing Notices of Intent to Appear, the Hearings Unit for the State Water Board's Division of Water Rights will mail out a list of those parties who wish to participate in your hearing and a copy of all Notices of Intent to Appear that the State Water Board timely received. The list is provided in order to facilitate exchange of written testimony, exhibits and witness qualifications in advance of the hearing. Only parties and other participants who are authorized by the State Water Board will be allowed to present evidence. Copies of witnesses' proposed testimony, exhibits, lists of exhibits, qualifications, and statement of service must be **received** by the State Water Board **and served** on the Prosecution Team and any additional parties who have indicated their intent to appear, no later than **12:00 pm (noon) on Friday, February 12, 2016***.

HEARING OFFICER AND HEARING TEAM

A State Water Board Member who will preside as the Hearing Officer for this proceeding will be identified in the hearing notice. A quorum of the State Water Board may be present during the hearing. A Hearing Team will assist the Hearing Officer by providing legal and technical advice. The Hearing Team members will also be identified in the hearing notice.

SEPARATION OF FUNCTIONS

State law prohibits employees or representatives of an agency that is a party, or other interested persons outside the agency, (i.e., other parties to the hearing) from having *Ex Parte* communications with members of the State

¹ Dismissal is permitted by Cal. Code Regs. tit. 23, § 648.1(c), which provides "persons who fail to comply with the procedural requirements specified in the hearing notice for participation as parties in a proceeding may be dismissed as parties to the proceeding."

Water Board and members of the Hearing Team. *Ex Parte* communications are communications between one of the parties and the Hearing Team without participation or notice to the other party regarding substantive issues and controversial procedural issues within the scope of the proceedings. (Gov. Code, §§ 11430.10-11430.80.) Accordingly, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the State Water Board (Prosecution Team) have been separated from those who will provide legal and technical advice to the State Water Board (Hearing Team). This separation of functions also applies to the supervisors of each team.

The Prosecution Team will be a party to this hearing and will be composed of: John O'Hagan, Assistant Deputy Director for Water Rights; Erin Ragazzi, Water Quality Certification and Public Trust Section Manager; Marianna Aue, Attorney III; and Daniel Schultz, Public Trust Unit Chief.

Members of the Prosecution Team have not had (and will not have) communications regarding the substance or merits of the proceeding with any member of the State Water Board or Hearing Team without all parties to the proceeding being present or copied on the communication.

SUBMITTALS TO THE HEARING TEAM AND THE PROSECUTION TEAM

All documents, including Notices of Intent to Appear, written testimony, and other exhibits, submitted to the State Water Board's Hearing Team should be addressed as follows:

	Division of Water Rights State Water Resources Control Board Attention: Michael Buckman, Hearings Unit Supervisor
By Mail:	PO Box 2000, Sacramento, CA 95812-2000
By Hand Delivery:	Joe Serna Jr.-Cal/EPA Building, Records Unit 1001 I Street, 2 nd Floor, Sacramento, CA 95814
By Email:	wrhearing@waterboards.ca.gov With Subject of " Russian River Tributaries Failure to Submit Information of Water Diversion and Use Hearing "

Copies of all documents submitted to the State Water Board must be provided to the Prosecution Team and should be addressed as follows:

	Attention: Marianna Aue, Attorney III, Office of Chief Counsel 1001 I Street, 22 nd Floor, Sacramento, CA 95814
By Mail:	1001 I Street, 22 nd Floor, Sacramento, CA 95814
By Hand Delivery:	Joe Serna Jr.-Cal/EPA Building, Records Unit 1001 I Street, 2 nd Floor, Sacramento, CA 95814
By Email:	Marianna.Aue@waterboards.ca.gov

ALL HAND DELIVERED SUBMITTALS must be date and time stamped by the Division of Water Rights' Records Unit on the second (2nd) floor of the Joe Serna, Jr. Cal/EPA Building at the above address prior to or at the submittal deadline. Persons delivering submittals must first check in with lobby security personnel on the first floor. Hand delivered submittals that do not have a timely date and time stamp by the Division of Water Rights' Records Unit will be considered late and may not be accepted by the Hearing Officer.

IF YOU HAVE QUESTIONS REGARDING THE HEARING OR SETTLEMENT

If you have questions please contact State Water Board staff by phone at: (916) 322-8422 or by email at: rr_tribs_emergency_reg@waterboards.ca.gov. Please leave a message and your contact information. Staff will respond to your inquiry on the same day or on the next business day. You may be directed to a member of the Hearing Team or Prosecution Team depending on the nature of your question.

* The hearing dates and deadlines provided in this document are intended to give you advance notice of the dates that would be in a subsequent hearing notice if you were to submit a request for hearing. In the unlikely event that any of the hearing dates and/or deadlines provided in this document conflict with or are inconsistent with information provided in a subsequent hearing notice, then please adhere to the hearing notice dates.