
State Water Resources Control Board

PRE-HEARING CONFERENCE RULING AND AMENDED NOTICE OF PUBLIC HEARING AND PRE-HEARING CONFERENCES

The State Water Resources Control Board
Administrative Hearings Office
will hold pre-hearing conferences and a public hearing, **Phase 1B**,
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.

**The pre-hearing conferences will be held on
March 1 and April 21, 2022, at 9:00 am
and will be held by Zoom teleconference.**

**The public hearing, Phase 1B, will begin on
May 2, 2022, at 9:00 am
and continue on May 3 through 6, May 9 and 10, and June 20 through 24,
at 9:00 am,
and additional days as necessary.**

The public hearing will be held by Zoom teleconference.

Representatives of parties and other people who want to participate in this pre-hearing conference or this hearing may access these Zoom teleconferences by using the following link and call-in information:

Please access Zoom by using the link:
<https://waterboards.zoom.us/j/94898947896?pwd=SXNrZ3lQeFZwM2liaiBMakpHbGFTUT09> with Meeting ID: 948 9894 7896 and Passcode: 609008

or by calling in at:
+16699009128,,94898947896#,,,,*609008# US (San Jose)

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

Interested members of the public who would like to watch this hearing without participating may do so through the Administrative Hearings Office YouTube channel, accessible by clicking on “Watch AHO Hearings” at:
https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/

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 Phase 1B Hearing Notice set a pre-hearing conference for February 1, 2022, at 9:00 a.m. and a public hearing, Phase 1B, to begin on March 15, 2022, and continue on March 16, 17, and 18 and April 5 and 6.

On January 25, 2022, the AHO vacated the hearing dates on March 15 through 18 and associated filing deadlines at the request of the applicants and Kern Delta Water District.

On February 1, 2022, the AHO held a pre-hearing conference.

PRE-HEARING CONFERENCE RULING

Amended Hearing Dates, Pre-Hearing Conference Dates, and Associated Deadlines:

The AHO vacates the hearing dates on April 5 and 6 and sets new hearing dates and associated deadlines. The AHO will conduct the **case-in-chief portion of the Phase 1B Hearing on May 2-6, 9, and 10, starting at 9:00 a.m.**, and additional days as necessary. The AHO will conduct the **rebuttal portion of the Phase 1B Hearing on June 20-24, starting at 9:00 a.m.**, and additional days as necessary.

The AHO will hold **pre-hearing conferences on March 1 at 9:00 a.m. and April 21 at 9:00 a.m.** New procedural deadlines associated with the amended hearing dates and pre-hearing conference dates are included in the table in this notice titled “Hearing Schedule and Deadlines.”

Written Evidentiary Motions: Parties may file written motions in limine or similar evidentiary motions with respect to case-in-chief evidence with the AHO before April 18, 2022, at 12 p.m. Parties must submit all evidentiary motions regarding case-in-chief evidence, in writing, by this deadline. After this deadline, the hearing officer will accept only those evidentiary motions that could not have been anticipated and submitted by the deadline. Parties may file written responses to any evidentiary motions before April 25, 2022, at 12 p.m.

Parties may file written motions in limine or similar evidentiary motions with respect to rebuttal evidence with the AHO before June 6, 2022, at 12 p.m. Parties must submit all evidentiary motions regarding rebuttal evidence, in writing, by this deadline. After this deadline, the hearing officer will accept only those evidentiary motions that could not

have been anticipated and submitted by the deadline. Parties may file written responses to these motions before June 13, 2022, at 12 p.m.

Rebuttal Evidence: All parties shall file any rebuttal exhibits with the AHO by May 23, 2022, at 12:00 p.m. Rebuttal evidence is limited to evidence that is responsive to evidence presented with another party's case-in-chief. To demonstrate compliance with this requirement, each party shall list, in each part of the party's rebuttal testimony, the evidence presented in another party's case-in-chief to which that part of the rebuttal testimony responds.

Opening Briefs: Parties may submit opening briefs. The deadline for parties to file opening briefs is April 25, 2022, by 12 p.m. Unless modified by the hearing officer, opening briefs shall be no more than 15 pages double-spaced, in a font size not smaller than 12 points.

Order of Proceeding: The hearing will begin at 9 a.m. on May 2, 2022. The hearing will begin with opening statements or policy statements by any party or interested person who will not be presenting a case-in-chief. These opening statements or policy statements are limited to five minutes. The hearing officer will then address any pending evidentiary motions or other procedural matters before moving to the parties' cases-in-chief. Each party may make an opening statement of no more than five minutes before presenting its case-in-chief witnesses. Kern Water Bank Authority will be the first party to present its case-in-chief.

The hearing officer may limit oral summaries of testimony of any witness if the testimony is repetitive or does not further the hearing officer's understanding of the issues, or as necessary to complete the hearing within the available time. The hearing officer may allow additional time for oral summaries of testimony if the testimony is productive and assists the hearing officer.

Cross-examination may be conducted by individual witness or by witness panels at the hearing officer's discretion. To facilitate the use of documents for cross-examination, please e-mail any documents not already submitted as an exhibit to AdminHrgOffice@waterboards.ca.gov or upload the documents to the party's assigned upload folder on the State Water Board FTP site before beginning cross-examination.

Parties should expect that presentation of rebuttal evidence will occur in the same order as presentation of cases-in-chief, although the hearing officer may, at her discretion, reorder parties or individual witnesses.

Phase 1A Record and Exhibits: Parties that seek to include portions of the Phase 1A Hearing record in the evidentiary record for the Phase 1B Hearing should identify those exhibits or other documents or files from the Phase 1A Hearing record in the party's Phase 1B exhibit identification index. Parties should use the same exhibit identification number used in Phase 1A to designate the exhibit, for example: AHO-1, North Kern-2, or Bakersfield-3. Parties may oppose the inclusion of any portion of the record from the

Phase 1A Hearing by filing an evidentiary motion in accordance with the deadlines in this notice.

Each party should label exhibits in the Phase 1B Hearing with a short version of the party's name and sequential numbers. Those parties that submitted exhibits in Phase 1A, should begin numbering exhibits in Phase 1B sequentially starting with the number immediately after the last number used by the party to identify an exhibit in Phase 1A.

HEARING SCHEDULE AND DEADLINES

Deadlines / Schedule	Date and Time
Deadline for filing optional pre-hearing conference statements.	February 25, 2022, 12:00 p.m.
Pre-hearing conference.	March 1, 2022, 9:00 a.m.
Deadline for all parties to file exhibits, exhibit identification indices, and optional amended NOIs with AHO.	April 4, 2022, 12:00 p.m.
Deadline for parties to file written evidentiary motions.	April 18, 2022, 12:00 p.m.
Deadline for filing optional pre-hearing conference statements.	April 18, 2022, 12:00 p.m.
Pre-hearing conference.	April 21, 2022, 9:00 a.m.
Deadline for parties to file responses to written evidentiary motions.	April 25, 2022, 12:00 p.m.
Deadline for parties to file opening briefs.	April 25, 2022, 12:00 p.m.
Phase 1B Hearing for presentation of cases-in-chief.	May 2-6, 9, & 10, 2022, 9:00 a.m., and additional dates as necessary.
Deadline for all parties to file rebuttal exhibits and exhibit identification indices with AHO.	May 23, 2022, 12:00 p.m.
Deadline for parties to file written evidentiary motions.	June 6, 2022, 12:00 p.m.
Deadline for parties to file responses to written evidentiary motions.	June 13, 2022, 12:00 p.m.
Phase 1B Hearing for presentation of rebuttal.	June 20-24, 2022, 9:00 a.m., and additional dates as necessary.

PRE-HEARING CONFERENCES

The pre-hearing conferences will address procedural or evidentiary matters raised by the parties or the hearing officer.

Parties do not need to file pre-hearing conference statements. If any party wants to file a pre-hearing conference statement, then the party shall file the pre-hearing conference statement with the AHO, and serve copies of it on the other parties listed in the attached service list, by the deadline in this notice. After the deadline to submit pre-hearing

conference statements, the AHO will post the statements on the Water Board AHO FTP site (FTP site) in the folder for this matter.

INCORPORATION OF JANUARY 12 PHASE 1B HEARING NOTICE

Except as explicitly stated in this order, all other provisions in the January 12 Phase 1B Hearing Notice remain in effect and the hearing issues identified in the January 12 Phase 1B Hearing Notice remain unchanged.

Date: February 9, 2022

SIGNATURE ON FILE
Nicole Kuenzi, Hearing Officer

Attachments:
-Service List

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