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## State Water Resources Control Board

### **PROCEDURAL RULING AND NOTICE OF ADDITIONAL HEARING DAY**

The State Water Resources Control Board  
Administrative Hearings Office  
has commenced a public hearing  
on the petition for change filed by  
**the City of Solvang**

for water-right Permit 15878 (Application 22423),  
which authorizes diversions of water from the Santa Ynez River (underflow)  
in Santa Barbara County.

The public hearing began on  
November 6, 2023, and continued on November 8 and 9,  
and December 4, 6 and 13.

**The hearing will continue on  
January 19, 2024, beginning at 9 a.m.**

Representatives of parties and other people who want to participate in 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/92786481140?pwd=b2xXK2ErbTdyenh3ZTFUUEJvSHdZQT09> with Meeting ID: 927 8648 1140 and Passcode: 786867

or by calling in at: +16699009128,,92786481140#,,,,\*786867# US (San Jose)

**Interested members of the public who would like to watch this hearing without participating may do so through the Administrative Hearings Office YouTube channel at:**

<https://www.youtube.com/@swrcbadministrativehearing728/streams>

## **PROCEDURAL RULING**

This procedural ruling follows from the hearing that began on November 6, and continued on November 8 and 9, and December 4, 6, and 13.

The hearing officer has scheduled an additional hearing day on January 19, 2024, starting at 9:00 a.m. On that day, the hearing officer will allow presentation of surrebuttal witnesses whose written testimony addresses: (1) CDFW-125, which was utilized by Mr. Bivins while conducting cross-examination of Mr. Custis, (2) the concept of a subsurface capillary zone and its applicability to the Santa Ynez River and its underflow, or (3) the depth of subsurface water levels at which the underflow is disconnected from surface flow in the Santa Ynez River in relevant reaches of the river.

If any party other than Solvang intends to call a surrebuttal witness on January 19, that party shall submit an amended NOI to the AHO and the service list identifying the surrebuttal witness by **January 3, 2024**. Any surrebuttal witness must be a witness who the party previously identified as a witness and who has previously testified in this proceeding. Solvang has already identified Mr. Nicely as a surrebuttal witness.

All parties must submit any surrebuttal testimony to the AHO in writing by **January 11, 2024**. Although Solvang submitted surrebuttal testimony by Mr. Nicely on December 22, because Solvang submitted this testimony before the hearing officer set the later deadline, Mr. Nicely may revise his surrebuttal testimony, if appropriate, and submit any revised surrebuttal testimony by January 11, 2024.

The hearing officer will also receive offers of exhibits into the evidentiary record from all parties during the hearing on January 19. The hearing officer has directed the parties to orally raise any hearsay objections to exhibits at the time the exhibits are offered into evidence during the hearing. Any party raising a hearsay objection orally during the hearing should also submit those objections in writing to the AHO by the end of the day (11:59 p.m.) on **January 26, 2024**. Parties may respond to any hearsay objections in writing by the deadline for submission of closing briefs, which responses are not subject to the page limits for closing briefs.

The deadline for submission of closing briefs is extended until the end of the day (11:59 p.m.) on **February 15, 2024**. The hearing officer is also revising the page limits for closing briefs initially set in the October 26, 2023 Amended Notice of Public Hearing. Solvang's closing brief shall be a maximum of 50 pages, double-spaced, in a font size not smaller than 12 points. The fisheries entities' (CDFW, Cal Trout, and NMFS) closing briefs shall each be a maximum of 25 pages double-spaced, in a font size not smaller than 12 points. The closing briefs submitted by the Parent District, ID No. 1, and Alisal Guest Ranch shall each be a maximum of 25 pages, double-spaced, in a font size not smaller than 12 points. CCRB's closing brief shall be a maximum of 35 pages, double-spaced, in a font size not smaller than 12 points. For citations to hearing testimony, please identify the hearing date of the recording, indicate morning or afternoon, and include citations to the hour, minute and second of the beginning and end of the part of

the hearing recording that is posted in the AHO-FTP folder. For citations to hearing exhibits, please cite to the names and numbers of the exhibit files that are posted on the AHO-FTP page for this hearing.

Solvang and the other parties who raised objections to the admission of exhibits based on collateral estoppel stated in an e-mail to the hearing officer on December 26, 2023, that they do not think that separate briefing of the issue is necessary and intend to include any such arguments in their closing briefs. The hearing officer will discuss with the parties on January 19 whether any further opportunity for parties to respond in writing to any arguments addressing collateral estoppel is necessary or appropriate. The hearing officer will defer ruling on the evidentiary objections based on collateral estoppel until after the submittal of closing briefs.

### **HEARING SCHEDULE AND DEADLINES**

<b>Deadlines / Schedule</b>	<b>Date and Time</b>
Deadline for parties to file amended NOI identifying any surrebuttal witnesses.	<b>January 3, 2024, by 11:59 p.m.</b>
Deadline for parties to submit any written surrebuttal testimony.	<b>January 11, 2024, by 11:59 p.m.</b>
Hearing day.	<b>January 19, 2024, at 9:00 a.m.</b>
Deadline for parties to file hearsay objections in writing with the AHO.	<b>January 26, 2024, by 11:59 p.m.</b>
Deadline for parties to submit closing briefs and responses to hearsay objections.	<b>February 15, 2024, by 11:59 p.m.</b>

Date: December 29, 2023

/s/ Nicole Kuenzi  
Nicole Kuenzi  
Presiding Hearing Officer

Attachment:  
-Service List

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