
State Water Resources Control Board

March 26, 2018

VIA ELECTRONIC MAIL

To: Enclosed Service List of Participants

RULING ON KARUK TRIBE AND KLAMATH RIVERKEEPER'S MOTION TO FILE JOINT BRIEF

Background

The State Water Resources Control Board (State Water Board or Board) held an adjudicative hearing from November 13 through 16, 2017 regarding a draft order issued by the Division of Water Rights against Douglas and Heidi Cole and Marble Mountain Ranch (collectively, Respondent). At the close of the hearing, I issued a bench ruling that authorized parties to file closing briefs in lieu of oral closing statements and set preliminary due dates and page limits for closing briefs. The Division of Water Rights Prosecution Team filed motions requesting modification of the bench ruling on November 19 and 22. On November 27, I issued a revised ruling that expanded page limits and modified the due date for closing briefs. On February 27, 2018, the hearing team issued an announcement to inform parties that the deadline for closing briefs is March 29, 2018, at noon, set a final page limit of 25 pages, and set certain formatting requirements.

My prior rulings related to closing briefs did not address the possibility of joint briefs by multiple parties. The Karuk Tribe and Klamath Riverkeeper (collectively, Moving Parties) timely filed a motion requesting leave to submit a joint brief on March 22, 2018, after contacting State Water Board staff to determine the appropriate procedure. In their motion, the Moving Parties propose to submit a single brief of not more than 25 pages by the March 29 deadline. The Moving Parties explain that interests are sufficiently aligned such that submitting a joint brief will avoid redundancy and repetition that would otherwise result with the filing of two separate briefs. In addition, the Moving Parties represent that they contacted Respondent's counsel regarding the motion and that Respondent's counsel indicated they do not oppose this motion provided that the Karuk Tribe and Klamath Riverkeeper are not seeking to expand the 25-page limit through filing a joint brief. No party has filed an objection to the motion.

Legal Analysis

Adjudicative proceedings before the State Water Board are governed by title 23, division 3, chapter 1.5, article 2 of the California Code of Regulations; chapter 4.5 of the Administrative Procedure Act (commencing with section 11400 of the Government Code); sections 801 through 805 of the Evidence Code; and section 11513 of the Government Code. (Cal. Code Regs., tit. 23, § 648, subd. (b); see also *id.*, subds. (c)–(d).) Adjudicative proceedings are conducted in the manner most suitable to the particular case with a view toward securing relevant information expeditiously without unnecessary delay and expense to the parties and to

the Board. (*Id.*, § 648.5, subd. (a).) Parties may be allowed to present closing statements or closing briefs. (*Id.*, subd. (d).) The hearing officer has discretion to modify the order of proceeding for good cause. (*Id.*, subd. (a).)

Discussion

The Moving Parties attest that their interests sufficiently align that submitting a joint brief will avoid redundancy and repetition. They propose to comply with the page limits and other requirements established for briefs submitted by individual parties. No party has objected to the motion, and nothing in the record indicates that any party will be prejudiced if the State Water Board grants the motion. Allowing the Moving Parties to submit a joint brief will avoid redundancy and repetition.

Conclusion

For the foregoing reasons, the Karuk Tribe and Klamath Riverkeeper have demonstrated good cause to file a joint brief. Accordingly, the motion to file a joint brief is granted. The joint brief shall not exceed 25 pages, double-spaced, in 12-point Arial font, consistent with the closing brief page limits and formatting requirements described in the February 27, 2018 announcement. Closing briefs, including the joint brief, are due by **noon on Thursday, March 29, 2018**, and shall comply with the service and submission requirements described in the February 27 notice.

Sincerely,

ORIGINAL SIGNED BY

Steven Moore, State Water Board Vice-Chair
Marble Mountain Ranch Project Hearing Officer

Enclosure: Service List