
State Water Resources Control Board

NOTICE OF NEW STATUS CONFERENCE DATE

The State Water Resources Control Board
Administrative Hearings Office
will hold a Status Conference
on the pending application (A029657) of

The County of San Joaquin

for a permit to appropriate water from the
South Fork American River at the Freeport Regional Water Authority Facility
on the Sacramento River

**The Status Conference will be held on
March 16, 2021, beginning at 9:30 a.m.**

via Zoom teleconference.

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/

NEW STATUS CONFERENCE DATE

The AHO issued a Notice of Status Conference on January 5, 2021, setting the status conference in this matter for February 16, 2021, beginning at 9:30 a.m. On February 3, 2021, the AHO received a request from San Joaquin County (County) to delay the status conference until April 15, 2021, or a later date. North San Joaquin Water Conservation District supported the County’s request and no party opposed the request to delay the status conference.

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

The AHO is postponing the status conference in this matter until **March 16, 2021, beginning at 9:30 a.m.**, and postponing the associated deadline to file Notices of Intent to Appear and status conference statements until **March 9, 2021**. Based on the County's letter of February 3, 2021, the County may have been delayed in its receipt of the Notice of Status Conference and recently retained new counsel to represent it in this matter. An initial status conference will likely be productive, however, even if the County is not yet able to provide complete answers to issues (3) and (4), identified below. The AHO may set a subsequent status conference (or status conferences) if the County or other parties need to supplement their responses to the issues.

In its letter of February 3, 2021, the County asked for clarification whether the AHO will take action "relevant to" Application 29657 at the status conference. The purpose of this initial status conference is to receive information from the County about whether it intends to continue to pursue Application 29657, receive information from the protestants about whether they intend to maintain their protests, and discuss a schedule for the County to submit any additional information necessary for the Board to act on Application 29657. This basic information is necessary for the AHO to determine whether and when a public hearing in this matter would be appropriate. After the status conference, the AHO may issue an order setting a schedule for the County to submit additional information and may issue a notice of public hearing on Application 29657.

STATUS CONFERENCE

The AHO will circulate the Zoom teleconference information to each person or entity who files a Notice of Intent to Appear (NOI, discussed below). Because of the current COVID-19 crisis, no in-person appearances will be allowed. The status conference will be electronically recorded by Zoom teleconference. The hearing officer will prepare a status conference order after the conference. The AHO will not retain a court reporter for the status conference. Any party may arrange for a court reporter at his, her, or its own expense.

The status conference will address the following issues:

- (1) Does the County still want to pursue Application 29657?
- (2) Does each of the protestants want to maintain his, her, or its protest to Application 29657?
- (3) What is the status of each action item on the application-development schedule? The action items include:
 - a. Development of a project-specific Environmental Impact Report,
 - b. Negotiation for the right to use the Freeport Diversion Facility as the point of diversion for the project, and
 - c. Resolution of protests.

- (4) Should the AHO schedule a public hearing to consider whether the State Water Board should cancel, reject, or deny Application 29657 under Water Code section 1276 or section 1335, or California Code of Regulations, title 23, sections 683 or 840? If so, when should the hearing be held?
- (5) Any other procedural issues raised by the participants.

PROHIBITION ON EX PARTE COMMUNICATIONS

All parties are prohibited from having any *ex parte* communications with any members of the AHO hearing team. (See Wat. Code, § 1110, subd. (c); Gov. Code, §§ 11430.10- 11430.80.) For a discussion of *ex parte* communications regarding State Water Board members, see "Ex Parte Questions and Answers," available on the State Water Board's website at:

http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf. These rules regarding *ex parte* communications apply to all members of the AHO hearing team.

If any party wants to communicate with the AHO at any time regarding any procedural or substantive issue related to these proceedings, including the status conference, then that party shall make such communication to the AHO by e-mail or letter. The party shall serve all other parties on the service list with copies of the communication and include a proof of service demonstrating such service with the written communication to the AHO. A party may provide this proof of service through a formal proof of service or by other verification. For e-mails, the verification shall be a list of the e-mail addresses of the parties or their representatives in an electronic mail "cc" (carbon copy) list. For letters, the verification shall be a list of the names and mailing addresses of the other parties listed on the service list in the cc portion of the letter. The service list for this proceeding is attached to this notice.

Please do not attempt to communicate by telephone or in person with any AHO team member regarding any procedural or substantive issue concerning this proceeding. If oral communications with any members of the AHO team are necessary to discuss any procedural or substantive issue, then the AHO will set up a conference call in which representatives of all parties may participate. Any party may request such a conference call at any time using the written communications protocols described above.

NOTICES OF INTENT TO APPEAR

Any person or entity who wants to participate in this status conference must file a Notice of Intent to Appear (NOI), using the form in this notice, with the AHO before the deadline listed below. The AHO encourages parties to agree to accept electronic service (by e-mail) of all documents regarding this proceeding. If a party is not willing to do this, then the party may check the appropriate box on the NOI form. If this box is not

checked, then the AHO will assume that the party agrees to accept electronic service.

If the AHO does not receive an NOI from the Applicant indicating the Applicant's intent to participate in the status conference before the deadline specified below, the AHO may transmit a proposed order to the Board that would cancel Application 29657 without holding a hearing. If the AHO does not receive an NOI from any protestant, the AHO may transmit a proposed order to the Board that would cancel that protestant's protest.

STATUS CONFERENCE STATEMENTS

On or before the deadline listed below, each participant shall submit and serve a status conference statement that separately addresses each of the status conference issues listed above that the participant wants to address. The participants also may include in their status conference statements discussions of any other issues they believe are relevant. Parties with common interests may file joint status conference statements.

NOI and Status Conference Deadlines and Schedule

Deadline for filing NOIs and status conference statements, including proofs of service.	March 9, 2021, 4:00 pm
Status conference date and time.	March 16, 2021, 9:30 am

SUBMITTAL OF DOCUMENTS TO AHO AND OTHER PARTIES

All documents submitted to the AHO, including NOIs and status conference statements, shall be addressed and submitted by one of the following methods (with proofs of service, as discussed above):

By Email:	AdminHrgOffice@waterboards.ca.gov With Subject Line " San Joaquin County Application A29657 "
By Mail:	State Water Resources Control Board Administrative Hearings Office P. O. Box 100 Sacramento, CA 95812-0100
By Hand Delivery (see instructions below):	Joe Serna Jr. CalEPA Building Administrative Hearings Office c/o Water Rights Records Unit 1001 I Street, 2nd Floor, Room 114 Sacramento, CA 95814

Service of documents by hand-delivery may be more difficult or delayed due to building or office closures during the COVID-19 pandemic. Please plan ahead if you wish to

hand deliver documents. Any hand-delivered submittals must be date-and-time stamped by the Division of Water Rights Records Unit personnel before the submittal deadline. Persons delivering submittals to the Records Unit must first check in with CalEPA Building lobby security personnel on the first floor of the CalEPA Building and obtain authorization to go to the Water Rights Records Unit on the second floor.

STATUS CONFERENCE LIVE-STREAM AND RECORDING

The status conference will be live streamed through the Administrative Hearings Office YouTube channel, accessible by clicking on the link provided below. After the conclusion of the hearing, a recording of the YouTube live-stream sessions will be available on the Administrative Hearings Office YouTube channel. These recordings will include automatic captions for accessibility.

The live-stream and recordings may be accessed at the following link:
https://www.youtube.com/channel/UCM-gmipRyd7Nw-g8I-C7Nig?view_as=subscriber

In addition to the YouTube live recording, the AHO will make Zoom recordings (video+audio and audio-only) and Zoom transcripts of the status conference and will include these Zoom recordings and transcripts in the administrative record.

February 8, 2021

SIGNATURE ON FILE

Nicole L. Kuenzi
Hearing Officer

Enclosures:

- Notice of Intent to Appear Form
- Service List



State Water Resources Control Board

NOTICE OF INTENT TO APPEAR FORM

_____ (name of participant) plans to participate in the status conference regarding the San Joaquin County Application 29657.

Scheduled to begin on March 16, 2021

Name (type or print):

Represented party (if applicable):

Mailing Address:

Telephone Number:

E-mail Address:

Optional:

I/we decline electronic service of hearing-related materials.

Signature: _____

Date: _____

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

AMENDED SERVICE LIST
Updated February 8, 2021

By U.S. Mail or E-Mail (if listed):

Barbara A. Brenner
White Brenner LLP
1414 K Street, 3rd Floor
Sacramento, CA 95814
barbara@whitebrennerllp.com

Kelley Taber
Somach Simmons & Dunn
500 Capitol Mall, Suite 1000
Sacramento, CA 95814
ktaber@somachlaw.com

Kirin Virk
San Joaquin County Counsel
44 N. San Joaquin St., Suite 679
Stockton, CA 95202
kirk@sjgov.org

Andrew Hitchings
Somach Simmons & Dunn
500 Capitol Mall, Suite 1000
Sacramento, CA 95814
ahitchings@somachlaw.com

Fritz Buchman
Kris Balaji
Matt Zidar
San Joaquin County Dept. of Public Works
Attn: Director of Public Works
P.O. Box 1810
Stockton, CA 95201
fbuchman@sjgov.org
kbalaji@sjgov.org
mzidar@sjgov.org

Sacramento County Water Agency
827 7th Street
Sacramento, CA 95814

Robert B. Maddow
Bold, Polisner, Maddow, Nelson & Judson
2125 Oak Grove Road, Suite 210
Walnut Creek, CA 94598
rmaddow@bpmnj.com

Bob Baiocchi
California Salmon and Steelhead
Association
P.O. Box 1790
Graegle, CA 96103
rbaiocchi@gotsky.com

Douglas E. Coty
Bold, Polisner, Maddow, Nelson & Judson
2125 Oak Grove Road, Suite 210
Walnut Creek, CA 94598
dcoty@bpmnj.com

Warren Truitt
Save the American River Association, Inc.
P.O. Box 277638
Sacramento, CA 95827-7638

Joshua Basofin
Defenders of Wildlife
1303 J Street, Suite 270
Sacramento, CA 95814

Freeport Regional Water Authority
9240 Laguna Spring Dr., Suite 100
Elk Grove, CA 95758

Bridget Gibbons
California Department of Fish and Wildlife
1701 Nimbus Road
Rancho Cordova, CA 95670
Bridget.Gibbons@wildlife.ca.gov

Nancee Murray
California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
Nancee.Murray@wildlife.ca.gov

Richard Woodley
Regional Resource Manager
Bureau of Reclamation –
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825-1898

Nancy Quan
Chief Program Development, Water
Supply, & Transfers
California Department of Water
Resources
P.O. Box 942836
Sacramento, CA 94236

Ronald Stork
Friends of the River
909 20th Street
Sacramento, CA 95814
rstork@friendsoftheriver.org

Chris Shutes
California Sportfishing Protection Alliance
1608 Francisco St.
Berkeley, CA 94703
blancapaloma@msn.com

William Jennings
California Sportfishing Protection Alliance
3536 Ranier Avenue
Stockton, CA 95204
deltakeep@me.com

Michael Jackson
California Sportfishing Protection Alliance
P.O. Box 207
Quincy, CA 95971
mjatty@sbcglobal.net

El Dorado Water & Power Authority
3932 Ponderosa Road, Suite 200
Shingle Springs, CA 95682

Bradley J. Herrema
Brownstein Hyatt Farber Schreck
21 E. Carrillo St.
Santa Barbara, CA 93101
bherrema@bhfs.com

Rebecca Akroyd
San Luis & Delta-Mendota Water
Authority
1331 Garden Highway, 2nd Floor
Sacramento, CA 95833
Rebecca.Akroyd@sldmwa.org

Joseph Byrne
State Water Contractors
1121 L Street, Suite 1050
Sacramento, CA 95814
Joseph.Byrne@bbklaw.com

Kern County Water Agency
P.O. Box 58
Bakersfield, CA 93302-0058
ameliam@kcwa.com

Jon Rubin
Westlands Water District
P.O. Box 6056
Fresno, CA 93703
JRubin@WWD.ca.gov

Cliff W. Schulz
Kronick, Moskovitz, Tiedemann, & Girard
400 Capitol Mall, Suite 2700
Sacramento, CA 95814

Joseph Schofield
Sacramento Municipal Utility District
P.O. Box 15830
Sacramento, CA 95852-0830
Joe.Schofield@smud.org

South Delta Water Agency
4255 Pacific Avenue, Suite 2
Stockton, CA 95207

California Water Service Company
1720 North First Street
San Jose, CA 95112-4598

Jeanne Zolezzi
Herum Crabtree Suntag
5757 Pacific Avenue, Suite 222
Stockton, CA 95207
jzolezzi@herumcrabtree.com

John Herrick
1806 W. Kettleman Ln., Suite L
Lodi, CA 95242
JHerrlaw@aol.com

Jennifer Spaletta
Spaletta Law PC
P.O. Box 2660
Lodi, CA 95241
jennifer@spalettalaw.com

Mel Lytle, Ph.D.
City of Stockton, Municipal Utilities Dept.
11373 N. Lower Sacramento Rd.
Lodi, CA 95242
Mel.lytle@stocktonca.gov