

State Water Resources Control Board

August 4, 2022

Public Hearing on Prosecution Team’s Draft Cease-and-Desist Order to BlueTriton Brands, Inc.: Hearing Officer’s Ruling on BlueTriton Brand’s August 3 Request to Continue Deadline to File Closing Briefs

On July 26, 2022, BlueTriton Brands, Inc. (“BlueTriton”) filed an e-mail request to continue the deadline for the parties to file their closing briefs in this proceeding, which the May 26 Post-Hearing Order had set for August 1, 2022, at 1:00 p.m. No party opposed this request, and, on July 28, 2022, AHO Hearing Officer Nicole Kuenzi, acting on my behalf, extended this deadline to August 5, 2022, at 1:00 pm.

On August 3, 2022, BlueTriton filed a request for a further extension of this filing deadline. BlueTriton’s new request notes that the State Water Board did not meet in closed session during its August 2 meeting to discuss this proceeding, although the Board’s agenda for this meeting had stated that the Board might hold such a closed session meeting. BlueTriton requests an open-ended extension of the deadline for filing closing briefs until after the State Water Board rules on BlueTriton’s pending motion to the Board to stay the AHO’s proceeding and to direct the AHO to issue a final proposed order on BlueTriton’s pending motion to the AHO for judgment.

On August 3, 2022, Amanda Frye sent the AHO an e-mail that, among other things, stated that she opposed BlueTriton’s request for further continuance.

Neither I nor anyone else within the AHO is involved in the State Water Board’s processing of BlueTriton’s motion to the Board, and we do not know when the Board may rule on this motion or what its ruling may be. Considering these circumstances, I conclude that the post-hearing process in the AHO proceeding should move forward without any further delays. I therefore deny BlueTriton’s request for further continuance. The deadline for parties to upload their closing briefs to their Upload Accounts (described on pages 17-18 of the November 17, 2021 hearing notice), using the same method that they used to upload their hearing exhibits, remains **August 5, 2022, at 1:00 p.m.** The deadlines for all other actions described in the AHO’s May 26, 2022 Post-Hearing Order also remain unchanged.

Some parties have advised the AHO that they have had problems uploading files to their AHO upload accounts. If any party cannot upload the party’s closing brief to the party’s AHO upload account, then that party shall e-mail the party’s closing brief to the AHO’s e-mail address, adminhrgoffice@waterboards.ca.gov, without including anyone on the cc line.

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

After the deadline for filing closing briefs has passed, AHO staff will move all closing briefs and associated e-mails to the Hearing Documents folder within the AHO-FTP folder for this proceeding and advise the parties that the AHO has done this.

August 4, 2022

/s/ ALAN B. LILLY

Alan B. Lilly

Presiding Hearing Officer

Administrative Hearings Office

Enclosure: Service List (copies sent by e-mail only)

SERVICE LIST

Representatives of participating parties:

Kenneth Petruzzelli
John Prager
Office of Enforcement, State Water
Resources Control Board
801 K St., 23rd Floor
Sacramento, CA 95814
Kenneth.Petruzzelli@Waterboards.ca.gov
John.Prager@Waterboards.ca.gov
*Attorneys for Division of Water Rights
Prosecution Team*

Robert E. Donlan
Christopher M. Sanders
Shawnda M. Grady
Hih Song Kim
Patty Slomski
Ellison Schneider Harris & Donlan L.L.P.
2600 Capitol Avenue, Suite 400
Sacramento, California 95816
red@eslawfirm.com
cms@eslawfirm.com
sgrady@eslawfirm.com
ps@eslawfirm.com
HihSong.Kim@BlueTriton.com
Attorneys for BlueTriton Brands

Rita P. Maguire
P.O. Box 60702
Phoenix, Arizona 85082
rmaguire@azwaterlaw.com
Attorney for BlueTriton Brands

Nancee Murray
Kathleen Miller
P.O. Box 944209
Sacramento, CA 94244-2090
nancee.murray@wildlife.ca.gov
kathleen.miller@wildlife.ca.gov
*Attorneys for California Department of
Fish and Wildlife*

Steve Loe
33832 Nebraska St.
Yucaipa, CA 92399
steveloe01@gmail.com

Meredith E. Nikkel
Samuel E. Bivins
Holly E. Tokar
Downey Brand LLP
621 Capitol Mall, 18th Fl.
Sacramento, CA 95814
mnikkel@downeybrand.com
sbivins@downeybrand.com
htokar@downeybrand.com
*Attorneys for San Bernardino Valley
Municipal Water District*

Rachel Doughty
Christian Bucey
Michael O'Heaney
Erica Plasencia
Paul Kibel
Story of Stuff Project
Greenfire Law, PC
P.O. Box 8055
Berkeley, CA 94704
rdoughty@greenfirelaw.com
cbucey@greenfirelaw.com
michael@storyofstuff.org
eplasencia@greenfirelaw.com

Laurens H. Silver, Esq.
PO Box 667
Mill Valley, CA 94942
larrysilver@earthlink.net
Attorney for Sierra Club

Lisa Belenky
1212 Broadway, Suite 800
Oakland, CA 94612
lbelenky@biologicaldiversity.org
*Attorney for Center for Biological
Diversity*

Amanda Frye
12714 Hilltop Drive
Redlands, CA 92373
amandafrye6@gmail.com

Hugh A. Bialecki, DMD
Save Our Forest Association, Inc.
PO Box 2907
Blue Jay, CA 92317
habialeckidmd@gmail.com

People submitting only policy statements:

Kristopher Anderson, Esq.
Association of California Water
Agencies
980 9th St. Suite 1000
Sacramento, CA 95814
krisa@acwa.com

betsy.starbuck@gmail.com
jodyleei@aol.com
watermarx55@hotmail.com

Mary Ann Dickinson
P.O. Box 5404
Blue Jay, CA 92317
maryann@a4we.org

Jennifer Capitolo
California Water Association
601 Van Ness, Suite 2047
San Francisco, CA 94102
jcapitolo@calwaterassn.com

Steve Loe
Southern California Native Freshwater
Fauna Working Group
33832 Nebraska St.
Yucaipa, CA 92399
steveloe01@gmail.com

David J. Guy
Northern California Water Association
(NCWA)
455 Capitol Mall, Suite 703
Sacramento, CA 95814
dguy@norcalwater.org

Anthony Serrano
7517 Mt. McDuffs Way
Highland, CA 92346
anthonyaserrano@gmail.com

Henry A. Frye
387 Flanders Road
Coventry, CT 06238
henryfrye6@gmail.com

Jody Isenberg
League of Women Voters of the San
Bernardino Area
P.O. Box 3925
San Bernardino, CA 92413

People who have asked to be on service list:

Joshua S. Rider
Staff Attorney
Office of the General Counsel, USDA
joshua.rider@usda.gov

Joe Rechsteiner
District Ranger-Front Country Ranger District
San Bernardino National Forest
joseph.rechsteiner@usda.gov

Robert Taylor
Forest Hydrologist
San Bernardino National Forest
robert.taylor2@usda.gov