
State Water Resources Control Board

NOTICE OF TRANSMITTAL OF PROPOSED ORDER

The State Water Resources Control Board
Administrative Hearings Office
held a public hearing on the
draft cease and desist order and revised report of investigation
issued by the Assistant Deputy Director of the
Division of Water Rights Permitting & Enforcement Branch
under Water Code section 1831
to BlueTriton Brands, Inc.
(successor by name change to Nestlé Waters North America, Inc.)

On May 11, 2021, an attorney representing BlueTriton Brands, Inc. filed a request for hearing on the draft cease and desist order and revised report of investigation described above with the Administrative Hearings Office (“AHO”) of the State Water Resources Control Board (“State Water Board” or “Board”).

On July 8, 2021, the AHO issued a Notice of Hearing and Pre-Hearing Conference in this proceeding. On November 11, 2021, the AHO issued a revised notice of hearing.

The AHO held its public hearing in this proceeding by Zoom teleconference on 16 days between January 10 and May 23, 2022. The AHO held a site visit on February 16-17, 2022.

The AHO prepared a draft proposed order and circulated it to the parties for their review and comments on April 21, 2023. The AHO transmitted the final proposed order in this proceeding to the Clerk of the Board on May 26, 2023. To limit file sizes, the AHO divided this proposed order for that transmittal into the following three files: (a) proposed order and Appendix A; (b) figures 1-8; and (c) figures 9-16 and table 1.

The following files are enclosed with this notice: (a) file of the AHO’s May 26, 2023 transmittal memorandum to the Clerk of the Board; (b) file of the proposed order and Appendix A; and (c) file showing the changes from the April 21, 2023 draft proposed order to the May 26, 2023 final proposed order.

Because the file sizes are very large, the files of figures 1-8 and figures 9-16 and table 1 that were transmitted to the Clerk of the Board are not enclosed with this notice. The AHO has asked the Board’s Division of Information Technology to post these files to this AHO webpage:

https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/bluetriton_brands_nestle.html. In the meantime, copies of the 2023-04-21 files with the same figures and table can be accessed on this same webpage. There are no differences between the figures and table that were enclosed with the April 21, 2023 draft proposed order and figures and table that were enclosed with the May 26, 2023 final proposed order that was transmitted to the Clerk of the Board and will be posted to this webpage.

Pursuant to Water Code section 1114, subdivision (c)(4), any interested party may submit a written request to the Clerk of the Board describing which of the actions authorized by subdivision (c)(2) of section 1114 the party requests the Board to take, including an explanation of the reasons for the party's request. Any such request must be submitted within 31 days of the date of this notice, that is by **June 26, 2023**. (Water Code section 1114 specifies a 30-day deadline for these requests. Because 30 days from May 26, 2023 is June 25, 2023, which is a Sunday, this deadline is extended to Monday, June 26, 2023.)

Any party submitting such a request shall transmit it by U.S. Mail and e-mail to:

Courtney Tyler, Acting Clerk of the Board
State Water Resources Control Board
P. O. Box 100
Sacramento, CA 95812
EXEC-BoardClerk@Waterboards.ca.gov

Any party submitting such a request shall, at the same time, transmit copies of the request by e-mail to everyone's e-mail address listed on the attached service list and to the AHO at adminhrqoffice@waterboards.ca.gov.

The AHO plans to ask the State Water Board to consider adopting this proposed order during the Board's July 18, 2023 meeting. The AHO will send parties to this proceeding copies of the agenda of this Board meeting when the Clerk of the Board posts it, which normally is 10 days before the meeting. The agenda will describe the process for appearing at the Board meeting to make oral comments, and will specify the deadline for submitting any slides or other documents that the party will use to accompany the party's oral comments.

May 26, 2023
Date

s/s ALAN B. LILLY
Alan B. Lilly
Senior Hearing Officer

Enclosures:

- Service List (copies of this notice and enclosures sent by e-mail only)
- May 26, 2023 memorandum from Alan Lilly to Courtney Tyler
- May 26, 2023 proposed order and Appendix A
- May 26, 2023 draft of proposed order and Appendix A, showing changes from April 21, 2023 draft

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

Kathleen Miller
P.O. Box 944209
Sacramento, CA 94244-2090
kathleen.miller@wildlife.ca.gov
*Attorney 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
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
service@greenfirelaw.com

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

Lisa Belenky
John Buse
1212 Broadway, Suite 800
Oakland, CA 94612
lbelenky@biologicaldiversity.org
jbuse@biologicaldiversity.org
*Attorneys 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

Administrative Hearings Office
adminhrгоffice@waterboards.ca.gov

People submitting only policy statements:

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

Jody Isenberg
League of Women Voters of the San
Bernardino Area
P.O. Box 3925
San Bernardino, CA 92413
betsy.starbuck@gmail.com
jodyleei@aol.com
watermarx55@hotmail.com

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

Mary Ann Dickinson
P.O. Box 5404
Blue Jay, CA 92317
maryann@dickinsonassociates.com

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

Steve Loe
Southern California Native Freshwater
Fauna Working Group
33832 Nebraska St.
Yucaipa, CA 92399
stevelo01@gmail.com

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

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

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