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## State Water Resources Control Board

### **NOTICE OF STATUS CONFERENCE**

The State Water Resources Control Board  
Administrative Hearings Office  
will hold a Status Conference on  
Pending Petitions for Change and Extension of Time for Permit 14853  
(A021883) and Pending Water Right Application A031792 of

#### **North Gualala Water Company.**

for a permit to appropriate water from  
the North Fork Gualala River in Mendocino County.

**The Status Conference will begin on  
November 5, 2024 at 9:00 a.m.**  
and will be held by Zoom teleconference.

Representatives of parties and other people who want to participate in this status conference may access these Zoom teleconferences by using the following link and call-in information:

<https://waterboards.zoom.us/j/93905925322?pwd=bJJG0a5aFuB3Hs2u0rnwtITKLxQj8T.1>

Call-in number: 1-669-900-9128

Meeting ID: 939 0592 5322 and Passcode: 315361

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

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

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E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

## **BACKGROUND**

North Gualala Water Company (NGWC) holds water right permit 14853 (A021883) to divert water from the North Fork Gualala River. It is the primary source of water for the residents of the town of Gualala and neighboring areas. The permit contains minimum bypass flow requirements that are rarely met, which led to the State Water Board issuing an Administrative Civil Liability Complaint and a draft Cease and Desist Order (ACL/CDO) in 2008. As part of a 2009 settlement agreement in response to the ACL/CDO, NGWC filed application A031792. During the processing of the application, NGWC also filed a petition to change the place of use and Term 9 of Permit 14853, and a petition for an extension of time for permit 14853.

The application was filed on July 21, 2009, and publicly noticed on May 6, 2010. Protests against the application alleging environmental impacts were received from the California Department of Fish and Wildlife (CDFW), the Coast Action Group, Trout Unlimited, and Jerome Lucey. The petitions for extension of time and change were filed on October 19, 2010 and July 13, 2018, respectively, and were publicly noticed together on January 30, 2019. Protests against the petitions alleging environmental impacts were received from CDFW, the National Marine Fisheries Service, Coast Action Group, and Jerome Lucey. None of the protests against the application or petitions have been resolved.

During the processing of the application and petitions, NGWC has conducted studies regarding the instream flow requirements for the North Fork Gualala River in order to determine the appropriate bypass flow requirements. CDFW has raised concerns regarding the methods and results of NGWC's studies and has conducted their own studies. There is significant disagreement regarding the approach for determining the appropriate bypass flow requirements as well as the results of completed studies.

The State Water Resources Control Board is the Lead Agency for compliance with the California Environmental Quality Act. Uncertainty regarding the appropriate bypass flow requirements has contributed to delays regarding the preparation of an environmental document for the project. In addition, the water availability analysis for the application requires an understanding of the instream flow needs for fishery resources.

All the protests raised concerns regarding the effects of NGWC's water diversions on fishery resources in North Fork Gualala River. Consideration of evidence relevant to identifying appropriate bypass flow requirements for NGWC's water diversions may resolve or narrow most or all of the concerns of protestants.

### **Assignment to the Administrative Hearings Office**

Water Code section 1112, subdivision (c)(2), provides that the Board may assign an adjudicative hearing, in whole or in part, to the AHO.

On August 7, 2024 Erik Ekdahl, Deputy Director of the Division of Water Rights (Division), transmitted a memorandum to Eric Oppenheimer, Executive Director of the State Water Board, recommending the State Water Board assigned the pending petitions and application to the AHO.

On August 19, 2024, the Board's Executive Director, Eric Oppenheimer, partially assigned Application 21883 to the AHO for further proceedings based on the Division's recommendation.

### **HEARING OFFICER AND HEARING TEAM**

AHO Hearing Officer Sam Bivins will preside over any hearing in this matter. Other members of the AHO may be present and assist the hearing officer throughout these proceedings. The hearing officer and other AHO staff members may consult with staff of the Board's Division of Water Rights and the Board's Office of Research, Planning, and Performance, attorneys in the Board's Office of Chief Counsel, members of the executive management of the State Water Board, and State Water Board members, to discuss or deliberate on matters relevant to this proceeding.

### **STATUS CONFERENCE AND STATUS CONFERENCE STATEMENTS**

The AHO hearing officer will hold a status conference on the date and at the time specified on the first page of this notice by Zoom teleconference. No in-person appearances will be allowed. The status conference will be held and 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 the party's own expense.

During the status conference, the AHO hearing officer will discuss the following issues with the parties' representatives:

1. What specific issues regarding fishery resources and bypass flows should the AHO's hearing process address?
2. The potential for a negotiated resolution of the parties' dispute over the effect of NGWC's diversions on fishery resources and appropriate bypass flows.
3. The parties' interest in engaging in an alternative dispute resolution process, whether through the AHO or privately.
4. When and for how long should the AHO schedule a hearing in this matter?
5. Are there any other issues the AHO should consider before scheduling a hearing in this matter?

The parties are strongly encouraged to meet and confer and submit status conference statements addressing these issues by **October 29, 2024 at 11:59 p.m.** Parties who wish to submit status conference statements shall file the status conference statement with the AHO and serve copies of it on the other parties listed in the attached service list by the deadline listed below. The AHO will post the statements on the Water Board AHO-FTP site in the folder for this matter.

**NOTICES OF INTENT TO APPEAR; UPDATED SERVICE LIST**

Any person or entity that wants to participate in this status conference must file a Notice of Intent to Appear (NOI), using the form attached to this notice, with the AHO before the deadline listed below.

If the AHO does not receive an NOI from NGWC before the deadline specified below, then the AHO may transmit a proposed order to the Board that would cancel Application 30166 without conducting a hearing.

After the status conference, the AHO will issue a status conference order and an updated service list, which the AHO will use for future notices in this proceeding. The AHO will include in this updated service list only the people and entities that have filed an NOI or otherwise have advised the AHO that they want to be on the service list for this proceeding. If you want to continue to receive AHO notices regarding this proceeding, then you must advise the AHO in writing, using one of the methods listed below, that you want to continue to receive AHO notices regarding this proceeding. You do not need to send copies of your request to the other parties.

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. Parties that do not agree to accept electronic service will experience delays in receiving documents by U.S. Mail from the AHO and other parties.

**NOI AND STATUS CONFERENCE DEADLINES AND SCHEDULE**

<b>Deadlines / Schedule</b>	<b>Dates and Times</b>
Deadline for filing NOIs and optional status conference statements, with proofs of service.	<b>October 29, 2024, at 11:59 pm</b>
Status conference date and time.	<b>November 5, 2024, at 9:00 am</b>

## **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):

<b>Method</b>	<b>Address</b>
By Email (preferred method)	<a href="mailto:AdminHrgOffice@waterboards.ca.gov">AdminHrgOffice@waterboards.ca.gov</a> with subject line "North Gualala Water Company"
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

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.

## **AHO WEBPAGE AND NOTICES**

Subject to legal limitations, including the requirements for internet website accessibility in Government Code section 11546.7, the AHO will post all of its notices and other AHO documents regarding these proceedings on the AHO's internet webpage at [https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/)

Any interested person or entity may sign up to receive all AHO notices at [https://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.html](https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html)

## **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 conference, a recording of the YouTube live-stream of the conference 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-g8l-C7Nig/videos?view=57m>

### **ADMINISTRATIVE RECORD**

The AHO has copied documents from the public records the State Water Board's Division of Water Rights has maintained that may be relevant to this proceeding. The AHO has included these documents in the initial administrative record for this proceeding. The AHO has posted files of these documents on the FTP site in the folder for this hearing. Instructions on how to access the FTP site are on the AHO's webpage at:

[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/2021/2021-07-09\\_ftp\\_sites.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2021/2021-07-09_ftp_sites.pdf).

### **PROHIBITION ON EX PARTE COMMUNICATIONS**

As discussed in the AHO's August 23, 2024, Notice of Assignment, all parties are prohibited from having any *ex parte* communications with any members of the AHO hearing team. (See Wat. Code, §§ 1110, subd. (c), 1113; Gov. Code, §§ 11430.10-11430.80.) The AHO has posted a discussion of *ex parte* communications on the AHO's webpage at:

[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/2021/2021-07-06\\_webpage\\_faq.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2021/2021-07-06_webpage_faq.pdf). (See response to FAQ 16.)

If any party or interested person wants to communicate with any member of the hearing team, or any Board member, at any time while this proceeding is pending regarding any procedural or substantive issue related to this proceeding, then that party or interested person shall make such communication in writing (by e-mail or letter) and serve all parties listed on the service list for this proceeding with copies of the communication and include a proof of service demonstrating such service of the written communication to the AHO. Until the AHO issues an updated service list, parties should use the service list attached to this notice. 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 or their representatives in the cc portion of the letter. Any such communication shall be sent to the AHO by e-mail to [AdminHrgOffice@waterboards.ca.gov](mailto:AdminHrgOffice@waterboards.ca.gov), or by letter addressed to:

State Water Resources Control Board  
Administrative Hearings Office  
P.O. Box 100  
Sacramento, CA 95814-0100

If the AHO receives any communication regarding this proceeding that is addressed to the AHO, a Board member, or any other member of the hearing team, then the AHO will file a copy of the communication in the appropriate folder within the AHO-FTP folder for this proceeding.

Please do not attempt to communicate by telephone or in person with any AHO hearing team member regarding any procedural or substantive issue concerning this proceeding, because other parties would not be able to participate in such communications. If oral communications with any members of the AHO hearing 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.

October 4, 2024

/s/ Sam Bivins  
Sam Bivins, Hearing Officer

Attachments:

- Attachment 1 - Notice of Intent to Appear (Blank Form)
- Attachment 2 - Service List

**ATTACHMENT 1**

**NOTICE OF INTENT TO APPEAR**

I/we, \_\_\_\_\_ (name of participant) plan to participate in the November 5, 2024 status conference regarding North Gualala Water Company's Pending Petitions for Change and Extension of Time for Permit 14853 (A021883) and Pending Water Right Application A031792.

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: \_\_\_\_\_



## ATTACHMENT 2

### SERVICE LIST

Kristin B. Peer  
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BKS Law Firm, PC  
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### ***By U.S. mail only:***

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