
State Water Resources Control Board

NOTICE OF PUBLIC HEARING, STATUS CONFERENCE, AND PRE-HEARING CONFERENCE

The State Water Resources Control Board
Administrative Hearings Office
will hold a status conference, pre-hearing conference, and public hearing on the
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 be held on
February 28, 2025, at 9:00 a.m.**
and will be held by Zoom teleconference.

**The Pre-Hearing Conference will be held on
January 26, 2026, at 9:00 a.m.**
and will be held by Zoom teleconference.

**The Public Hearing will begin on
February 9, 2026, at 9:00 a.m.**
**and continue as necessary on Mondays, Tuesdays, Thursdays, and Fridays
through February 27, 2026,**
and will be held by Zoom teleconference.

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

Please access Zoom by using the link:
<https://waterboards.zoom.us/j/93905925322?pwd=bJJG0a5aFuB3Hs2u0rnwtITKLxQj8T.1>
with Meeting ID: 939 0592 5322 and Passcode: 315361
Or by calling in at:
+16699009128,,93905925322#,,,,*315361# US (San Jose)

Interested members of the public who would like to watch this hearing without participating may do so through the Administrative Hearings Office YouTube channel at: <https://www.youtube.com/@swrcbadministrativehearing728/featured>.

LANGUAGE SERVICES

The hearing will be offered in English. To request translation of a written document, interpretation services for the hearing or sign language services, please use one of the following options by January 26, 2026.

- Submit a [Language Services Request online](#)
- Call (916) 341-5254
- E-mail languageservices@waterboards.ca.gov

ACCESSIBILITY

Users of a Telecommunications Device for the Deaf (TDD) may contact the California Relay Service at (800) 735-2929 or the teletype (TTY) voice line at (800) 735-2922.

PURPOSE OF HEARING; HEARING ISSUES

The purpose of this hearing is for a hearing officer in the State Water Resources Control Board's Administrative Hearings Office (AHO) to receive evidence and arguments relevant to the following hearing issue and non-exhaustive list of sub-issues below:

1. What are the appropriate public trust protection measures required to balance North Gualala Water Company's needs with the needs of instream resources?
 - a. What protections are needed for Central Coast Coho, Northern California steelhead, and red- and yellow-legged frog, particularly in low flow periods?
 - b. What protections are necessary to ensure consistency with the North Coast Streams Policy (including any request for exemption)?
2. What protection measures are feasible and appropriate given the needs of the Gualala community and the hydrology of the North Fork Gualala River?
3. Are there protection measures other than bypass flow requirements or limits on the rate and timing of water diversions that the State Water Board should consider in evaluating potential flow-based conditions on North Gualala Water Company's diversions?

The State Water Board will issue a preliminary ruling based upon the evidentiary record developed during the hearing. Parties to the proceeding may submit exhibits and testimony relevant to the issues above to be considered during the hearing:

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. All the protests raised concerns regarding the effects of NGWC's water diversions on fishery resources in North Fork Gualala River.

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.

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.

PROCEEDINGS BEFORE THE ADMINISTRATIVE HEARINGS OFFICE

On November 5, 2024, the AHO held a status conference in connection with NGWC's petitions and application. Representatives from NGWC, CDFW, and Coast Action Group. The parties discussed the prospects for resolving protests, a hearing schedule, the scope of the hearing, and other procedural issues raised by the parties. After the status conference, NGWC informed the AHO that some counsel and witnesses would not be available for a hearing until October 2025.

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

The hearing officer will hold a status conference on the date and at the time listed on the first page of this notice. The primary goal of the status conference is for the parties to provide an update on their efforts to achieve a negotiated resolution of their dispute(s) over the effect of NGWC's diversions on public trust resources and appropriate protection measures. NGWC shall meet and confer with the other parties and file a status conference statement on **February 24, 2025**; other parties may, but are not required to, file status conference statements by the same deadline. The AHO strongly encourages the parties to file joint status conference statements.

PRE-HEARING CONFERENCE

The hearing officer will hold a pre-hearing conference on the date and at the time listed on the first page of this notice. The goal of the pre-hearing conference is to ensure that the hearing proceeds in an orderly and expeditious manner, and to provide an opportunity for limited oral argument on pre-hearing motions and evidentiary objections as deemed necessary by the hearing officer. The pre-hearing conference will **not** include discussion of the merits of any hearing issues other than procedural matters. Following the pre-hearing conference, the hearing officer may issue a procedural ruling letter and modify the hearing procedures or issues set forth in this notice in whole or in part.

To participate in the pre-hearing conference, please use the Zoom teleconference information provided on the first page of this notice. No in-person appearances will be

allowed for this pre-hearing conference. All parties intending to participate in the evidentiary portion of this hearing are strongly encouraged to participate in the pre-hearing conference, and to jointly submit pre-hearing conference statements.

NOTICES OF INTENT TO APPEAR

Any person or entity that wants to participate in the hearing 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.

HEARING SCHEDULE AND DEADLINES

Deadlines / Schedule	Dates and Times
Deadline for filing NOIs and status conference statements.	February 24, 2025, at 11:59 pm
Status conference date and time.	February 28, 2025, at 9:00 am
Deadline to submit case-in-chief evidence and optional opening briefs (15-page limit).	October 3, 2025, at 11:59 pm
Deadline to submit evidentiary objections to case-in-chief evidence.	October 24, 2025, at 11:59 pm
Deadline to submit rebuttal evidence.	December 19, 2025, at 11:59 pm

Deadline to submit evidentiary objections to rebuttal evidence.	January 7, 2026, at 11:59 pm
Deadline to file pre-hearing conference statements, witness PowerPoint presentations, and (optional) written policy statements from interested persons.	January 21, 2026, at 11:59 pm
Pre-hearing conference date and time.	January 26, 2026, at 9:00 am
Public hearing begins.	February 9, 2026, at 9:00 am
Deadline to submit closing briefs (30-page limit).	March 27, 2026, at 11:59 pm

SUBMITTALS OF DOCUMENTS TO AHO AND OTHER PARTIES

All documents submitted to the AHO shall be addressed and submitted by one of the following methods:

Method	Address
By e-mail (preferred method for documents other than exhibits):	AdminHrgOffice@Waterboards.ca.gov With "North Gualala" in the subject line
By Mail:	State Water Resources Control Board Administrative Hearings Office P.O. Box 100 Sacramento, CA 95812-0100
By Hand-Delivery:	Joe Serna Jr. CalEPA Building Administrative Hearings Office 1001 I Street Sacramento, CA 95814
By uploading to FTP (exhibits):	All participants must submit exhibits by uploading them to the State Water Board's FTP site.

Please see the part of this notice below titled "PROCEDURES FOR THIS WATER RIGHT HEARING" for more information regarding hearing procedures, submission of documents, and proofs of service.

DIVISION OF WATER RIGHTS PUBLIC RECORDS

The AHO has copied documents, from the public records the State Water Board's Division of Water Rights Records Unit has maintained, that may be relevant to this proceeding. The AHO has included 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 listed in Section 8 below. The parties may review the Division of Water Rights Records Unit's public files and may submit as exhibits copies of other relevant documents in these files.

The AHO may mark some or all of the documents that it has filed in the AHO-FTP folder for this hearing as exhibits and will circulate an exhibit identification list which may be found in the FTP folder for this hearing.

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/

HEARING LIVE-STREAM AND RECORDING

The pre-hearing conference and hearing will be live-streamed through the AHO's YouTube channel, accessible by clicking on the link provided below. The live-stream will consist of a morning session and an afternoon session. To view the morning session, click the link identified as "morning." The morning session will conclude at the lunch break. To view the afternoon session, click the link identified as "afternoon." The afternoon session will begin after the lunch break.

After the conclusion of the hearing, a recording of the morning and afternoon YouTube live-stream sessions will be available on the AHO's YouTube channel. These recordings will include automatic captions for accessibility.

The live-stream and recordings may be accessed at the following link by clicking on Live and Videos, respectively:
<https://www.youtube.com/@swrcadministrativehearing728/featured>.

PROHIBITION ON EX PARTE COMMUNICATIONS

While this proceeding is pending, *ex parte* communications between any party, party representative, or interested person and any member of the Hearing Team or State Water Board member are prohibited. *Ex parte* communications include any type of communication regarding this proceeding that occurs between a party or interested person and the hearing officer, a member of the hearing team, or a State Water Board member without notice and an opportunity for all parties to participate. (See Wat. Code, § 1110, subd. (c); Gov. Code, §§ 11430.10-11430.80.) Additional information about *ex parte* communications is in response number 16 of the AHO's FAQ posted at

www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2022/aho-faq.pdf.

If any party 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 regarding this proceeding, including any issue regarding the pre-hearing conference, hearing procedures or filing of documents, then that party shall make such communication in writing (by e-mail or letter) and serve all other parties with copies of the communication and include a proof of service demonstrating such service of 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 or their representatives in the cc portion of the letter.

If the AHO receives any substantive or potentially controversial procedural 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 State Water Board's FTP folder for this proceeding.

Please do not attempt to communicate by telephone or in person with AHO staff or any Hearing Team member regarding this proceeding, because other parties would not be able to participate in such communications. If oral communications with any members of the 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.

PROCEDURES FOR THIS WATER RIGHT HEARING

The following procedures apply to this hearing. The hearing officer may amend these procedures before, during or after the hearing, as appropriate and at the hearing officer's discretion.

- 1. HEARING PROCEDURES:** The AHO will conduct this hearing according to the procedures for hearings set forth in California Code of Regulations, title 23, sections 648-648.8, 649.6 and 760. Copies of these regulations are posted on the State Water Board's website: www.waterboards.ca.gov/laws_regulations. If there is any conflict between any provision of this notice and any provision of these regulations or any applicable statute, then the provision of the regulation or statute shall apply to this hearing.

Consistent with California Code of Regulations, title 23, section 648.5, unless the hearing officer determines otherwise before or during the hearing, each party may make an opening statement, present witnesses and exhibits, cross-examine opposing parties' witnesses, impeach any witness, rebut adverse evidence, and subpoena, call and examine an adverse party or witness as if that witness were under cross-examination. The hearing officer may allow parties to present closing arguments or submit closing briefs. These procedures are described in more detail in section 10. The hearing officer may issue rulings regarding these procedures before or during the hearing.

The AHO encourages parties with common interests to work together to make unified presentations and to take other actions to make the hearing process more efficient.

Parties may file any requests for exceptions to these hearing procedures in writing with the AHO and must serve any such requests on the other parties. To provide time for parties to respond, the hearing officer normally will not rule on procedural requests filed in writing until at least five days after receiving the request, unless the hearing schedule requires an earlier ruling.

- 2. SETTLEMENTS:** In water right permitting matters, the parties normally include the applicant or petitioner and protestants. The applicant or petitioner and protestants may engage in private settlement discussions, and may, or may not, include any other persons in those discussions.

No representative of the AHO or the Hearing Team will participate in such settlement discussions. If the parties or their representatives sign a written settlement agreement, then they shall promptly file a copy of the signed agreement with the AHO.

Although the hearing officer may authorize other persons to participate in the hearing as parties, such authorizations do not necessarily allow those persons to

participate in any settlement discussions between the applicant or petitioner and protestants in water right permitting matters.

The State Water Board, or the Executive Director under State Water Board Resolution No. 2012-0061, may issue an order approving a settlement agreement between the applicant or petitioner and some or all of the protestants in water right permitting matters even if other parties to the proceeding have not approved the settlement agreement. The hearing officer normally will give all parties opportunities to comment on any settlement agreement submitted to the AHO before the AHO transmits a proposed order approving the settlement agreement to State Water Board or Executive Director, unless all parties to the hearing or their representatives have signed the settlement agreement.

3. **PARTIES:** As provided in California Code of Regulations, title 23, section 648.1, subdivision (b), **NGWC, CDFW, Coast Action Group, NOAA, Trout Unlimited, the National Marine Fisheries Service, and Jerome Lucey** are parties to this proceeding.

Each person or entity that wants to participate in the hearing must file a Notice of Intent to Appear, as described in section 5. The hearing officer may allow a person or entity not identified as a party in this notice to participate in the hearing as a party if the person or entity timely files a Notice of Intent to Appear and identifies good cause. (See Cal. Code Regs., tit. 23, § 648.1, subd. (a) & (b).) Except for parties identified in this notice, a person or entity that wants to participate as a party must include an attachment to the Notice of Intent to Appear demonstrating good cause as to why the hearing officer should allow the person or entity to participate in the hearing as a party rather than as an interested person presenting a policy statement. In determining whether the person or entity has demonstrated good cause, the hearing officer will consider, among other potentially relevant factors, whether the person's or entity's legal rights, duties, privileges, or immunities may be substantially affected by the proceeding and whether the interests of justice and the orderly and prompt conduct of the proceeding may be impaired by allowing the intervention.

The hearing officer may impose limitations on any party's participation in the hearing. (See Gov. Code, § 11440.50, subd. (c).) The hearing officer also may designate persons or entities that do not file timely Notices of Intent to Appear as parties, for good cause shown and subject to appropriate conditions. Except as specifically provided in this notice or by ruling of the hearing officer, the hearing officer will allow only parties to present evidence, make objections, examine witnesses, and file closing briefs.

Although representation is not required, a party without an attorney should consider hiring one if the hearing involves complex legal issues. Some attorneys provide legal services free of charge ("pro bono assistance"). The AHO maintains a list of attorneys who may provide pro bono assistance before, during, and after the hearing on the AHO's webpage under the heading "AHO Procedures & FAQs".

4. POLICY STATEMENTS BY INTERESTED PERSONS: As provided in California Code of Regulations, title 23, section 648.1, subdivision (d), the hearing officer normally will allow interested persons who are not designated as parties to present or submit non-evidentiary policy statements. Interested persons should submit any written policy statements in accordance with the hearing schedule set forth above. The hearing officer will not permit a person or entity that appears and presents only a policy statement to make objections to parties' exhibits or testimony, offer evidence, conduct cross-examination, make legal arguments, or otherwise participate in the evidentiary hearing. The AHO will not add such persons or entities to the service list.

Policy statements are not subject to the pre-hearing requirements for testimony or exhibits, except that interested persons who want to make oral policy statements during the hearing are requested to file a Notice of Intent to Appear, using the form in this notice (Attachment 1), indicating an intent to make only a policy statement. The hearing officer may impose time limits on presentations of oral policy statements or oral summaries of written policy statements.

The AHO requests that interested persons and entities who file written policy statements with the AHO serve copies of their statements on all parties before the person or entity presents such statements or summaries of them during the hearing. See section 8 for details regarding electronic submittals of documents.

5. NOTICES OF INTENT TO APPEAR AND WITNESS LISTS: As provided in California Code of Regulations, title 23, section 648.4, all people and entities that want to participate in the hearing as parties must file a Notice of Intent to Appear, using the form in this notice (Attachment 1), with the AHO before the deadline specified in this notice. The AHO may interpret a failure to file a Notice of Intent to Appear by this deadline as a decision not to appear. In matters regarding water right applications, the requirement to file a Notice of Intent to Appear by the deadline is a request for additional information pursuant to Water Code sections 1334 and 1703.3. In matters regarding water right petitions, the requirement to file a Notice of Intent to Appear by the deadline is a request for additional information pursuant to Water Code section 1703.5. In such matters, the Board may cancel an application, petition or protest if the applicant, petitioner or protestant does not file a Notice of Intent to Appear by the deadline.

As discussed in the preceding section, the AHO requests that any interested person who will not be participating as a party and will be presenting only a non-evidentiary oral policy statement or oral summary of a written policy statement file a Notice of Intent to Appear before the deadline and specify in the notice that the person only will be presenting an oral policy statement or summary.

Parties that do not intend to present cases-in-chief but want to cross-examine witnesses or present rebuttal testimony should so indicate on their Notices of Intent

to Appear.¹ A party that decides not to present a case-in-chief after having submitted a witness list should notify the AHO and the other parties as soon as possible.

Parties that are not willing to accept electronic service of hearing documents must check the appropriate box on the Notice of Intent to Appear. Because service of documents to such parties normally will be by U.S. Mail, such parties will experience delays in receiving hearing documents.

The AHO will maintain a current service list (Attachment 2) with the names of parties and their contact information for each person or entity that has submitted a Notice of Intent to Appear or asked to be on the updated service list and will post this service list on the State Water Board's FTP site in the folder for this proceeding. The service list will indicate if any party is not willing to accept electronic service.

6. WRITTEN PROPOSED TESTIMONY AND OTHER EXHIBITS: Exhibits include all written proposed testimony, statements of qualifications of expert witnesses, summary slides, and other documents to be submitted as evidence.

Exhibits also may include copies of Board decisions and orders that parties want to cite in their legal briefs and that are not posted on the Board's website at this link: www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/. Parties should not submit copies of Board decisions and orders that the Board has posted on its website, and parties may cite such decisions and orders in their legal briefs without submitting copies of them as exhibits.

As provided in California Code of Regulations, title 23, section 648.4, subdivision (c), each party that wants to offer testimony into evidence shall submit written proposed direct testimony of each witness by the deadline for filing exhibits. The hearing officer will not permit a witness to give oral testimony that goes beyond the scope of the witness's written proposed testimony absent good cause. Each party shall designate each of its witness's written proposed testimony as a separate exhibit. A witness does not need to sign their proposed testimony. After each witness takes the oath, the hearing officer or legal counsel for the party that called the witness will ask the witness to confirm that their written proposed testimony is their testimony for the hearing.

Each party must submit all of its witnesses' written proposed testimony with the party's other exhibits before the exhibit filing deadline. A party who offers expert testimony must submit an exhibit containing a statement of each expert witness's

¹ The hearing officer will allow parties not presenting evidence as cases-in-chief to participate through opening statements, cross-examination, and rebuttal, and to present closing statements or briefs if the hearing officer allows other parties to present such closing statements or briefs.

qualifications, in addition to a separate exhibit with the expert witness's written proposed testimony.

The AHO strongly encourages each party to prepare and submit as a separate exhibit for each witness a set of slides that summarize each witness's testimony.

During the hearing, the party may use the exhibit with the slides to facilitate each of the party's witness's oral summary of their written proposed testimony. The parties must label the slides for each witness as a separate exhibit and submit it by the exhibit submittal deadline.

Parties are required to submit rebuttal testimony and exhibits to the AHO by the deadline indicated in this notice. See section 10, part c. for more information about rebuttal evidence.

The AHO may prepare and circulate an Excel spreadsheet containing a list of the documents in the administrative record, saved in the State Water Board's FTP folder for this proceeding, that the hearing officer will consider moving into the evidentiary record during the hearing. These documents are AHO exhibits. The AHO will post this list in the AHO-FTP folder for this proceeding and notify the parties of the posting of this list at the time the AHO moves the parties' uploaded exhibits into the downloads folder (see section 8). The hearing officer may update or supplement this list during the hearing. Parties should not submit copies of AHO exhibits when submitting their own exhibits, and parties may cite the AHO exhibits in their legal briefs without submitting copies of them as exhibits.

7. EXHIBIT FORMATTING AND ORGANIZATION: A party submitting evidence must file with the AHO both the exhibits and an Exhibit Identification Index, which is a list of exhibits in Microsoft Excel format.

Each party should label exhibits with a short version of the party's name and sequential numbers. For example, North Gualala Water Company exhibits should be numbered NGWC-1, NGWC-2, etc., Coast Action Group's exhibits should be numbered CAG-1, CAG-2, etc., and CDFW's exhibits should be numbered CDFW-1, CDFW-2, etc. Do not use any sub-letters like 1a, 1b, etc. for exhibit numbers.

Each party should number each paragraph of each witness's written testimony sequentially, 1, 2, 3, etc. (This paragraph numbering will make it easier for the hearing officer and representatives of other parties to ask each witness questions about their written testimony.) Witnesses should not use any sub-paragraph letters like 1a, 1b, etc. in their written testimony. A witness may include headings like "Background," "Introduction," etc. for different sections of the witness's proposed written testimony, but should not number or letter these headings and should not re-start the paragraph numbering in each section.

Each party must submit to the AHO the exhibits and exhibit identification indices for this hearing before the deadline specified in this hearing notice. The AHO may treat

a party's failure to submit exhibits before this deadline as a waiver of the party's right to submit exhibits for the hearing and a waiver of the party's status as a party.

- a. The AHO requests that documents such as written proposed testimony, motions, written comments, and briefs shall be submitted to the AHO on pleading paper (with each line numbered in the left margin) using 12-point font and one-inch margins. If pleading paper is not available, the documents described above shall be double-spaced. For either format, the party shall sequentially number the paragraphs in the written testimony.
- b. Parties submitting exhibits based on complex technical analyses also must submit sufficient information so that a qualified independent expert could reproduce the results.

Parties submitting exhibits based on models or technical studies (such as reports, recommendations, or requirements) also must submit sufficient information to clearly identify and explain the logic, assumptions, development, and operation of the models or studies, so that a qualified independent expert could reproduce the model or technical study and use it to obtain the same results.

- c. The hearing officer normally will exclude exhibits that rely on unpublished technical documents unless the hearing office has admitted the unpublished technical documents into evidence.
- d. Parties submitting large-format exhibits such as maps, charts, and other graphics shall provide the originals for the hearing record in a form that can be folded to 8 ½ x 11 inches. Parties also shall file, for the hearing record, a reduced copy of a large-format original exhibit. The hearing officer will determine whether the large-format version or the reduced copy, or both, will be admitted into evidence.
- e. Documents uploaded by the parties normally must be in Adobe Portable Document Format (PDF), except that spreadsheets may be submitted in Microsoft Excel format, slide presentations may be submitted in Microsoft PowerPoint format, and exhibit identification indices must be submitted in Microsoft Excel format.
- f. If a party wants to submit an exhibit in any other format, then the party shall submit a written request to the hearing officer, and serve copies of the request on all other parties on the service list, at least 14 days before the deadline for submitting exhibits. The request shall describe the other format, explain what software is necessary for the hearing officer and other parties to be able to review the exhibit in that format, and explain why the party believes it is appropriate for the party to submit the exhibit in that format. The hearing officer normally will rule on such requests before the exhibit submittal deadline.

8. SUBMISSIONS OF DOCUMENTS AND FTP FOLDERS: To expedite the exchange of documents, reduce paper use, and lower the cost of participating in the hearing, all participants must submit hearing documents in electronic form unless the hearing officer authorizes submission of exhibits in different formats.

The State Water Board's FTP site may be accessed at <https://ftp.waterboards.ca.gov/>. All parties may use the shared account on this site to access and download documents in the administrative record for this hearing. This shared account is referred to in this notice as the "AHO-FTP Download Folders". The AHO will provide each party a unique account to upload the party's documents for this hearing. These accounts are referred to in this hearing notice as the "Parties' Upload Folders".

a. AHO-FTP Download Folder:

The AHO will create a folder for this proceeding on the State Water Board's FTP site. The folder for this proceeding will contain all administrative record documents related to this proceeding and may contain various subfolders, including subfolders for background documents and hearing documents. This folder is referred to in this notice as the "AHO-FTP folder for this proceeding." Only AHO personnel may upload files to this folder. The AHO will post each party's hearing exhibits, exhibit identification indices and closing briefs to this folder promptly after each filing deadline. The AHO may add other administrative record documents to this folder during this proceeding (including recordings of hearings, correspondence, and the AHO's proposed order). The documents in this folder will be the AHO's administrative record for this proceeding. Anyone may download documents from the AHO-FTP Download Folder for any proceeding, including this proceeding, at any time.

If any party believes that the AHO should add documents to, or remove any documents from, this folder for this proceeding, then the party may file a request to the hearing officer for such action (by e-mailing the request to the AHO e-mail inbox), and shall transmit copies of the request to all other parties on the service list. The hearing officer will issue rulings or take other actions on such requests as the hearing officer deems appropriate.

b. Parties' Upload Folders:

The AHO will create a separate upload account for each party that files a Notice of Intent to Appear as a party for this hearing, so that the party may upload the party's exhibits and other documents to the folder for that account. In most cases, these accounts will be specific for each party and each hearing and the AHO will close the accounts for each hearing after the hearing and related proceedings have been completed.

Only the party may upload files to the party's folder, and only the AHO may view, transfer and download files from this folder. After the applicable filing deadline, AHO staff will move documents uploaded by each party to the administrative record in the AHO-FTP Download Folder for the proceeding, so all other parties may view and download the documents.

Each party shall upload its exhibits and Exhibit Identification Index to the party's folder on the State Water Board's FTP site before the exhibit filing deadline specified in this notice. A party that uploads hearing documents to the FTP site does not need to serve copies of the documents on the other parties, except that, if another party has not agreed to accept electronic service of documents, then the party uploading hearing documents to the Board's FTP site also shall serve paper copies of all such documents on that other party and shall file a proof of this service with the AHO. When a party has uploaded all of the party's exhibits to the Board's FTP site, the party or party's representative shall send an email the AHO at AdminHrgOffice@Waterboards.ca.gov, with copies to the other parties on the service list, notifying the AHO and the other parties that the party has uploaded the documents.

After the exhibit filing deadline, the AHO will move all filed exhibits and Exhibit Identification Indices from the parties' Upload Folders to the administrative record folder and advise the parties that these documents are available for downloading from that folder. The AHO may rename or renumber exhibits that do not have proper exhibit names or numbers. If the AHO does this, then the AHO may create an electronic folder of unaltered documents that the party has submitted and a separate electronic folder of any documents the AHO has renamed or renumbered, in the AHO-FTP Download folder.

If a party cannot upload exhibits to the FTP site, then the party may send two paper copies of all its exhibits to the AHO by mail or overnight delivery to:

By Mail:	By Hand or Overnight Delivery:
State Water Resources Control Board Administrative Hearings Office P. O. Box 100 Sacramento, CA 95812-0100	Joe Serna Jr. CalEPA Building State Water Resources Control Board Administrative Hearings Office 1001 I Street Sacramento, CA 95814

The deadline for filing paper copies, in lieu of electronically filing the exhibits, is the same as the exhibit filing deadline specified in this notice.

9. PRE-HEARING CONFERENCE: The hearing officer will conduct a pre-hearing conference before the hearing to discuss the pre-hearing and hearing schedules, the scope of the hearing, the status of any protests, and any other appropriate procedural issues. This notice states the date and time of the pre-hearing conference. The hearing officer may issue notices of subsequent pre-hearing conferences. The hearing officer may issue a pre-hearing conference order after each pre-hearing conference.

10. ORDER OF PROCEEDING: The hearing officer will follow the order of proceedings specified in California Code of Regulations, title 23, section 648.5, unless the hearing officer decides to modify the order of proceeding before or during the hearing.

- a. **Policy Statements:** The hearing officer will allow interested persons to present oral policy statements and oral summaries of written policy statements at the start of the hearing before the presentations of cases-in-chief. Each oral policy statement or oral summary of written policy statements shall not exceed 5 minutes. The hearing officer may impose a shorter time limit based on the number of interested persons who request to make an oral presentation.
- b. **Presentation of Cases-In-Chief:** Each party that so indicates in its Notice of Intent to Appear may present a case-in-chief addressing the key issues in this hearing notice. Each case-in-chief will consist of an opening statement, if the party decides to make one, and oral summaries of the witnesses' written proposed testimony. The hearing officer then will allow other parties to cross-examine the witnesses. The hearing officer may allow re-direct examination and re-cross examination of the witnesses. The hearing officer will decide whether to accept the party's exhibits into evidence upon the party's request or motion after completion of all examinations of the party's witnesses.
 - i. **Opening Statements:** At the beginning of each party's case-in-chief, the party or the party's attorney or other representative may make an opening statement that briefly and concisely states the objectives of the case-in-chief, the major points that the proposed evidence is intended to establish, and the relationship between the major points and the key issues. A party may submit a written opening brief by the deadline listed above and then, if desired, may provide an oral summary of the written opening statement. A party should include any policy-oriented statements in the party's opening statement.

- ii. **Oral Summaries of Written Testimony:** All witnesses presenting testimony shall appear at the hearing. Before testifying, all witnesses shall swear or affirm that the written and oral testimony they will present will be true and correct. A witness shall not read written proposed testimony into the record, but instead shall just provide a summary. A witness provides their direct testimony when they confirm that a designated exhibit is their testimony. The purpose of this part of the hearing is for the witness to briefly summarize their testimony. The hearing officer will not allow witnesses to provide oral direct testimony on matters not in their written proposed testimony. The hearing officer may establish time limits for parties to present oral summaries of their witnesses' written testimony.
 - iii. **Cross-Examination:** The hearing officer will permit other parties to cross-examine a party's witnesses on the witnesses' written submittals, oral summaries and clarifying testimony, and other relevant matters even if they are not covered in the direct testimony. (Gov. Code, § 11513, subd. (b).) If a party presents multiple witnesses, the hearing officer will decide whether the party's witnesses will be cross-examined individually or as a panel or panels. Ordinarily, only a party or the party's representative will be permitted to cross-examine a witness, but the hearing officer may allow a party to designate a person technically qualified in the subject being considered to cross-examine a witness. The hearing officer may establish time limits for the cross-examination of witnesses.
 - iv. **Re-Direct and Re-Cross Examination:** The hearing officer may allow re-direct and re-cross examination of each party's witnesses. Any re-direct examination and re-cross examination permitted may not exceed the scope of the cross-examination and the re-direct examination, respectively. The hearing officer may establish time limits for any permitted re-direct and re-cross examination.
 - v. **Hearing Officer's Questions:** Consistent with California Code of Regulations, title 23, section 648.5, subdivision (b), the hearing officer may ask any witness questions, and may cross-examine any witness, at any time.
- c. **Rebuttal:** After all parties have presented their cases-in-chief and their witnesses have been cross-examined, the hearing officer will allow parties to present rebuttal evidence. Rebuttal evidence is new evidence used to rebut evidence another party has presented in its case-in-chief.

Parties must submit rebuttal testimony and exhibits to the AHO by the deadline stated in this notice. Written rebuttal testimony must specify the previously submitted testimony that is being rebutted. The hearing officer normally will limit cross-examination of witnesses offering rebuttal evidence to the scope of the rebuttal evidence.

- d. **Closing Statements and Legal Arguments:** The hearing officer has set a schedule for the parties to file written closing briefs. The parties shall follow the procedures described above for uploading exhibits to the parties' folders on the State Water Board's FTP site when they upload their closing briefs. Each party shall mail a paper copy of its closing brief to any party that has not agreed to accept electronic service of documents and shall indicate this service in a proof of service filed with the AHO. No party may attach any documents of an evidentiary nature to the party's closing brief unless the hearing officer already has admitted the document into evidence or the document is the subject of an offer of proof made during the hearing. After the deadline for filing closing briefs, the AHO will file all closing briefs in the AHO-FTP folder for this proceeding.

11. RULES OF EVIDENCE: Government Code section 11513 shall apply to all evidence offered during the hearing. Consistent with Government Code section 11513, subdivision (d), a party may use hearsay evidence to supplement or explain other evidence, but over timely objection such evidence will not be sufficient by itself to support a finding unless the evidence would be admissible over objection in a civil action.

12. COURT REPORTER: The AHO will not order a court reporter for any status conferences, pre-hearing conferences, or hearings in this proceeding. Any interested party may order a court reporter at the party's own expense. Any party that arranges for a court reporter and intends to submit the reporter's transcript to the AHO should inform the court reporter that court reporter's transcripts submitted to the AHO will become public documents upon submission and that the AHO will file them in the AHO-FTP folder for this proceeding. However, even if the AHO files such transcripts, the AHO's official records of this proceeding will be the audio+video recordings described in the following paragraphs and not the reporter's transcripts.

13. OFFICIAL RECORD: The official administrative record for this proceeding will be all the electronic files that the AHO has saved in the AHO-FTP folder this proceeding.

The official record of any part of this proceeding, such as a conference or hearing, is the audio-plus-video recording file of that part of the proceeding. For convenience, citations in written briefs to parts of this proceeding may cite the reporter's transcript rather than the portions of the audio-plus-video recordings of those parts of this proceeding if a party has retained a court reporter and submitted the reporter's transcript to the AHO.

14. TELECONFERENCE HEARING: The AHO is conducting this hearing by Zoom teleconference. The AHO may conduct limited portions of the hearing as a hybrid hearing, during which parties, witnesses, or interested persons may appear by Zoom teleconference or in person at a physical location at the CalEPA building at 1001 I Street, Sacramento, California. The AHO will record all status conferences, pre-hearing conferences, and hearings and will post an audio-plus-video file and a Zoom-generated transcript of each such proceeding, if available, in the AHO-FTP folder for this proceeding.

New users of Zoom may want to review Zoom's support guide: <https://support.zoom.us/hc/en-us/categories/200101697>. Parties should test their devices' video and audio functions before the start of the hearing or pre-hearing conference. At the lower left-hand side of the Zoom window is a microphone and a video camera symbol. If there is a red line across the symbols, your microphone is on mute and video camera is off.

Please plan to call into the video conference at least 10 minutes before the scheduled hearing or pre-hearing conference time to ensure you can resolve any technical issues before the hearing or pre-hearing conference begins. You will initially be in a virtual waiting room and will be admitted to the hearing by a member of the AHO.

Please ensure that your Zoom username correctly identifies the speaker's name and represented party.

When you speak, please turn your video on and unmute your microphone by clicking on the symbols in the lower left-hand side of the Zoom window. During the hearing, please be respectful and patient, raising your hand on-screen to get the hearing officer's attention. To reduce acoustic background noise, please remain muted if you are not speaking. If you have other devices that are tuned into the meeting, please turn off the speaker volume of those devices. Other participants will be able to see your name, depending on your Zoom account settings. Other participants may also see the last three digits of your phone number unless you have called in anonymously. During the hearing, AHO staff may add designations of participants' names to the Zoom display.

To facilitate a clear understanding of who is speaking, the hearing officer will ask each person to identify themselves as necessary during the teleconference hearing. The hearing officer prefers that parties participate by both audio and video through the Zoom meeting link. If this is not possible, then the hearing officer will accept audio-only participation.

If the device you are using freezes, please notify staff at [AHO or special e-mail address] or by calling (916) 341-6940 and leaving a voicemail message and restart the device. AHO staff will be monitoring the e-mail inbox and voicemail and will notify the hearing officer. If restarting the device does not work, try calling into the hearing using the phone number provided with the Zoom meeting information on the first page of this notice.

In lieu of participating by Zoom, anyone may watch past or present AHO hearings at the following link: <https://www.youtube.com/@swrcbadministrativehearing728/featured>. Parties watching AHO hearings by this method will not be able to participate in the hearing, and will not be identified to anyone else.

December 9, 2024

/s/ Sam Bivins
Sam Bivins, Hearing Officer

Enclosures:

- Notice of Intent to Appear Form
- Service List

ATTACHMENT 1

NOTICE OF INTENT TO APPEAR

I/we, _____ (please print), plan to participate in the hearing or conference indicated below:

Name of Hearing/Pre-Hearing Conference/Status Conference:

Date of Hearing/Pre-Hearing Conference/Status Conference:

My/our intended participation during the hearing or conference is:

- Ask questions or provide comments during the pre-hearing conference
- Provide testimony and/or cross-examination questions during the hearing

(Please also complete Request Party Status if your party is not on the Service List for this proceeding)

- Provide a policy statement at the start of the hearing (You need to fill out an NOI if the hearing officer directs this. In general, an NOI for a policy statement is preferred but not required).
- Listen to the hearing (this may be done on YouTube using the information on page 1-2 of the hearing notice. You do not need to fill out an NOI if you wish to listen but not speak during the hearing or conference)

Please fill in the following information of the participant, party, attorney, or other representative:

Your Name (type or print): _____

Name of Represented Party (if applicable): _____

E-mail address: _____

Optional:

Please fill out this section ONLY if you decline electronic (e-mail) service of hearing-related materials. If you desire electronic service, then do not check this box.

- I decline electronic service of hearing-related materials.

Your Name (type or print): _____

Mailing Address: _____

Telephone Number: _____

ATTACHMENT 2

SERVICE LIST

Kristin B. Peer
Holly J. Jacobson
Maggie Foley
BKS Law Firm, PC
1600 K Street, Suite 4A
Sacramento, CA 95814
kbp@bkslawfirm.com
hjj@bkslawfirm.com
mef@bkslawfirm.com
Counsel for North Gualala Water
Company

North Gualala Water Company
P. O. Box 1000
Gualala, CA 95445
legal.ngwc@gmail.com

Coast Action Group
Alan Levine
126 Steiner Court
Santa Rosa, CA 95404
alevine@mcn.org

Monty Larson
David Manthorne
Stephen Puccini
Department of Fish and Wildlife
monty.larson@wildlife.ca.gov
david.manthorne@wildlife.ca.gov
stephen.puccini@wildlife.ca.gov

Rick Rogers
NOAA Fisheries
West Coast Region
777 Sonoma Ave, Room 325
Santa Rosa, CA 95404
Rick.Rogers@noaa.gov

Nicholas F. Bonsignore, P.E.
Wagner & Bonsignore Consulting Civil
Engineers
2151 River Plaza Drive, Ste. 100
Sacramento, CA 95833
nbonsignore@wbecorp.com

Jerome P. Lucey
66 Manderly Road
San Rafael, CA 9490