

State Water Resources Control Board

NOTICE OF PUBLIC HEARING AND PRE-HEARING CONFERENCE

The State Water Resources Control Board
Administrative Hearings Office
will hold a Public Hearing on a proposed Cease and Desist Order and an Administrative
Civil Liability Complaint against

Agustin Antonio Merodio and Juan Merodio

The **Public Hearing** will begin on

July 17, 2025, at 9:00 a.m.

The pre-hearing conference will begin on

June 3, 2025, at 9:30 a.m.

Representatives of parties will receive individual invitations to join each scheduled
meeting by e-mail from Zoom.

**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: bit.ly/aho-youtube**

LANGUAGE SERVICES AND ACCESSIBILITY

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 as soon as possible for the pre-hearing conference, and no later than **July 3, 2025, by for the hearing:**

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

Comuníquese con nosotros para solicitar servicios lingüísticos o información en su idioma:

ਆਪਣੇ ਭਾਸ਼ਾ ਵਿੱਚ ਭਾਸ਼ਾ ਸੇਵਾ ਅਤੇ/ ਟੈਕਸਟ ਬਾਝ ਕਰਨ ਲਈ ਸਭ ਨਾਲ ਸਪਰਕ ਕਰ:

Makipag-ugnayan sa amin para humiling ng mga serbisyo sa wika at/o impormasyon sa iyong wika:

Txuas lus rau peb los thov cov kev pab cuam txhais lus thiab/los sis cov ntaub ntawv ua koj hom lus:

[Bit.ly/LanguageAccessForm](https://bit.ly/LanguageAccessForm) | AdminHrgOffice@waterboards.ca.gov

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.

BACKGROUND

On March 25, 2025, staff of the Division of Water Rights (Division) of the State Water Resources Control Board (State Water Board or Board) issued an Administrative Civil Liability Complaint (ACL Complaint) and a Draft Cease and Desist Order (Draft CDO) against Agustin Antonio Merodio and Juan Merodio (Merodios or Respondents) based on an inspection of property identified as Lake County APN 122-251-010-000 (Property). (ACL Compl., ¶ 8; Draft CDO, ¶ 6.) The Draft CDO and ACL Complaint allege that the Merodios own the Property. (*Ibid.*) The Property is in the Rocky Creek-Cache Creek Watershed, which is a tributary of Cache Creek. (ACL Compl., ¶ 9; Draft CDO, ¶ 7.)

Staff of the Division, California Department Fish and Wildlife, and Lake County Sheriff's Office inspected the Property on April 29, 2022. (ACL Compl., p. 4, ¶ 15¹; Draft CDO, ¶ 12.) Division staff sent copies of the ACL Complaint and Draft CDO to the Merodios by letter dated March 25, 2025. On March 27, the AHO received a request for hearing by e-mail from Juan Merodio.² The e-mail attaching the hearing request form states that Juan Merodio requests an "in person hearing." It is unclear whether this request means Mr. Merodio would like to appear at a hearing at a physical location at a Water Board office or virtually, by Zoom webinar. While the AHO generally conducts its proceedings virtually on Zoom, the hearing officer will hear argument about the nature of the Merodios' "in person" request during the upcoming pre-hearing conference.

Staff from the AHO acknowledged this hearing request on April 4, 2025, and on May 12 sent a follow-up e-mail to those names and e-mail addresses on the attached service list, and sent a letter by U.S. Mail to the Merodios, requesting any status updates on this proceeding. AHO staff have received no responses to this May 12 request.

The Draft CDO and ACL Complaint state that during the April 29, 2022, inspection, Division staff observed that the sole source of water on the Property was an onstream reservoir (POD1/POS2)³ on an unnamed stream tributary to Rocky Creek. (ACL Compl.,

¹ The ACL Complaint contains paragraphs numbered 1-21 on pages 1 through 5, and then on page 6, under the heading "Alleged Violations," the paragraphs are numbered starting from paragraph 15 through 18, and then on page 22, the paragraph numbering resumes at paragraph 22. Where this notice cites to paragraphs identified as 15 through 18, we have added page numbers to assist with locating the cited paragraph.

² The ACL Complaint and Draft CDO identify Agustin Antonio Merodio and Juan Merodio as the property owners subject to enforcement action. The hearing officer presumes the hearing request from Juan Merodio was made on behalf of both named parties because the AHO is aware of no individual settlement or other action between Agustin Antonio Merodio and the Office of Enforcement. Therefore, it is the hearing officer's understanding that Juan Merodio and Agustin Antonio Merodio have both requested this hearing.

³ POD is an abbreviation of point of diversion. The Draft CDO states that POS is an abbreviation for point of storage, although POS is typically an abbreviation for place of storage.

pp. 3-4, ¶¶ 13a, 15; Draft CDO, ¶ 12.) The Draft CDO and ACL Complaint state that Division staff additionally observed that water diverted and stored at POD1/POS2 was pumped into a water storage tank (POS3) and subsequently moved to another water storage tank (POS1) where the water was then used to irrigate approximately 300 cannabis plants (POU1)⁴ and for domestic use at a residence (POU2). (ACL Compl., p. 6, ¶¶ 16, 18a.; Draft CDO, ¶¶ 13, 17b.)

The ACL Complaint and Draft CDO allege that on August 10, 2022, Division staff attempted to deliver by certified mail a notice of violation and inspection report to Agustin Antonio, which was unsuccessful. (ACL Compl., p. 4, ¶ 17; Draft CDO, ¶ 14.) Staff made a second attempt to deliver a notice of violation and inspection report to the same address on November 30, 2022, which attempt was successful. (*Ibid.*) In April and May 2023, Juan Merodio contacted Division staff and expressed a commitment to addressing the alleged violations. Division staff state that they are not aware of any corrective actions taken by the Merodios through March 19, 2025. (ACL Compl., p. 5, ¶ 18; Draft CDO, ¶ 15.)

Water Code section 1112, subdivision (a)(1), provides that an AHO hearing officer shall preside over hearings on ACL complaints issued under Water Code section 1055.⁵ The AHO hearing officer's proposed order in this matter will be issued under Water Code section 1114, subdivision (c)(1).

Cannabis Cultivation Policy

On October 17, 2017, the State Water Board adopted the Cannabis Cultivation Policy. (See State Water Board Resolution No. 2017-0063.) The Board updated the Cannabis Cultivation Policy on February 5, 2019, and the updates went into effect on April 16, 2019.⁶ The Cannabis Cultivation Policy contains "principles and guidelines for diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows." (Wat. Code, § 13149, subd. (a).) The purpose of the Cannabis Cultivation Policy "is to ensure that the diversion of water and discharge of waste associated with cannabis cultivation does not have a negative impact on water quality, aquatic habitat, riparian habitat, wetlands, and springs." (Cannabis Cultivation Policy, April 16, 2019, p. 7.) Attachment A to the Cannabis Cultivation Policy contains diversion and discharge requirements for cannabis cultivation activities.

⁴ POU is an abbreviation for place of use.

⁵ Water Code section 1114, subdivision (b), provides that the AHO hearing officer shall adopt a final order in proceedings under Water Code section 1847 or 5107. While this proceeding is for administrative civil liability under these statutory provisions, it also includes alleged violations under Water Code section 1052. Because this proceeding is not solely for administrative civil liability under sections 1847 and 5107, the AHO is conducting this proceeding under Water Code section 1114, subdivision (c)(1).

⁶ More information about the Board's Cannabis Cultivation Policy is available at https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_policy.html

Draft Cease and Desist Order

Water Code section 1831 authorizes the State Water Board to issue a cease and desist order when the Board determines that any person is violating, or threatening to violate, any of the requirements listed in subdivision (d) of section 1831. The violations or threatened violations for which the Board can issue a cease and desist order include the prohibition against the unauthorized diversion or use of water set forth in Water Code section 1052 (Wat. Code, § 1831, subd. (d)(1)), diversion or use of water for cannabis cultivation when a license is required but has not been obtained under Chapter 6 (commencing with section 26060) or Chapter 7 (commencing with section 26070) of Division 10 of the Business and Professions Code (*id.*, subd. (d)(6)(A)), and the diversion or use of water for cannabis cultivation that is not in compliance with an applicable limitation or requirement established by the Board under Water Code section 13149. (*Id.*, subd. (d)(6)(B).)

The Draft CDO alleges that the Merodios are violating and are threatening to violate Water Code section 1831, subdivision (d)(1), by diverting or using water without authorization from an unnamed tributary to Rocky Creek to storage in an onstream reservoir without an appropriative water right. (Draft CDO, ¶ 17.)

The Draft CDO also alleges that the Merodios are violating and are threatening to violate Water Code section 1831, subdivision (d)(6)(A), by diverting or using water for commercial cannabis cultivation without a required license from the Department of Cannabis Control under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code (DCC license). (Draft CDO, ¶ 18.)⁷

The Draft CDO would order the Merodios to cease and desist any diversions and use of water from the unnamed tributary to Rocky Creek for cannabis cultivation until the Merodios obtain a DCC license, which incorporates the requirement to obtain a water right pursuant to Business and Professions Code section 26060.1, subdivision (a)(2)(A). (Draft CDO, ¶ 20.1.)

⁷ The Draft CDO provides at paragraph 1, titled “Summary of Determinations,” that the Merodios are “violating or threatening to violate requirements set forth in Water Code section 1831, subdivisions (d)(1) and (d)(6)(A)-(B).” However, under the section titled “Violations and Threatened Violations,” the Draft CDO states that based on the “facts and information described above...the Diverters are violating or threatening to violate a requirement described in Water Code section 1831, subdivision (d)(1)” and in “...Water Code section 1831, subdivision (d)(6)(A).” (Draft CDO, ¶¶ 17-18.) The Draft CDO omits any reference to violations under Water Code section 1831, subdivision (d)(6)(B) in these paragraphs. The hearing officer presumes that the inclusion of subsection (B) in the first paragraph of the Draft CDO, under “Summary of Determinations,” without additional reference to this provision in the enumerated violations in paragraphs 17 and 18, was in error. Accordingly, the hearing officer will limit the applicable violations to those sections of the Water Code stated in paragraphs 17 and 18 of the Draft CDO. If the Prosecution Team wishes to amend its Draft CDO, please serve a copy of the amended draft CDO to all parties before the scheduled pre-hearing conference.

Additionally, the Draft CDO would order the Merodios to, within 30 days of the adoption of the CDO, submit a draft compliance plan to the Division for review and approval. The Draft CDO would require the draft compliance plan to detail the actions the Merodios will take to apply for the necessary appropriative water rights for all diversions. Further, to the extent the Merodios intend to continue cannabis cultivation activities at the Property, the compliance plan must also demonstrate the DCC license application, State Water Board General Waste Discharge Requirements enrollment, Fish and Game Code section 1600 compliance, and installation of adequate water storage to enable the Merodios to avoid diverting during the forbearance period required by the Cannabis Cultivation Policy. (Draft CDO, ¶ 20.2.)

Administrative Civil Liability Complaint

The ACL Complaint alleges that the Merodios: (1) failed to file statements of diversion and use, (2) diverted or used water without authorization, and (3) violated the Cannabis Cultivation Policy.

1. Alleged failure to file statements of diversion and use

Water Code section 5101 requires each person who diverts water to file with the Board a statement of water diversion and use in the succeeding year.⁸ Water Code section 5107, subdivision (c)(1), authorizes the State Water Board to impose administrative civil liability on any person who is required to file a statement under section 5101 and fails to do so. The Board may impose administrative civil liability in the amount of \$1,000 per violation plus \$500 per day for each additional day on which the violation continues if the person fails to file a statement within 30 days after the Board has called the violation to the person's attention. (Wat. Code, § 5107, subd. (c)(1).)

The ACL Complaint alleges on pages 6-7, paragraphs 15 through 18 that the Merodios violated section 5101 by failing to submit a statement of diversion and use for alleged unauthorized diversion or use of water occurring at POD1/POS2 occurring after December 31, 2020, but before October 1, 2021. The ACL Complaint additionally alleges that the Merodios failed to file a statement within 30 days after receiving a Notice of Violation/Inspection Report, which brought the violation to the Merodios'

⁸ Senate Bill 155, which went into effect on September 23, 2021, modified the water use reporting period and deadlines. Before the effective date of Senate Bill 155, the deadline for diverters to file a statement of water diversion and use was July 1 of the succeeding year. Senate Bill 155 established a new reporting deadline based on the standard water year (October 1 through September 30). Beginning October 1, 2021, every diverter must file a report with the State Water Board for water diverted and used during a water year (October 1 through September 30) by February 1 of the succeeding year. For water diverted and used between January 1, 2021, and September 30, 2021, the bill established a transition period in which diverters were required to file a report of diversion and use by April 1, 2022.

attention. As a result, the ACL Complaint alleges 723 continuing days of violation. **(Violation 1)**

2. Alleged unauthorized diversion or use of water

Water Code section 1052, subdivision (a), provides that the diversion or use of water subject to Division 2 of the Water Code, other than as authorized in Division 2 of the Water Code, is a trespass. Water Code section 1052, subdivision (d), authorizes the State Water Board to impose administrative civil liability on any person or entity committing a trespass under subdivision (a). (Wat. Code, § 1052, subd. (d) (3).) The Board may impose liability of \$500 per day for each day in which the unauthorized diversion or use occurs. (*Id.* at subd. (c)(2).) If the diversion or use occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions, the Board may impose liability of \$1,000 per day for each day in which the unauthorized diversion or use occurs and \$2,500 for each acre-foot of water diverted or used in excess of the diverter's water rights. (*Id.* at subd. (c)(1).)

On May 10, 2021, Governor Newsom issued a Proclamation of a State of Emergency in certain watersheds and counties in California, including Lake County.⁹ In July 2021, Governor Newsom issued Executive Order N-10-21, affirming that a state of emergency existed in Lake County on May 10, 2021, due to severe drought conditions.¹⁰

The ACL Complaint alleges in paragraph 23 through 25 that the Merodios violated Water Code section 1052, subdivision (c)(1)(A) by diverting water to storage in an onstream reservoir at POD1/POS2 and using water to irrigate cannabis at POU1 and for domestic use at POU2 without authorization of an appropriative water right during the drought conditions identified in subdivision (c)(1)(A). The ACL Complaint alleges that these violations occurred in three discrete segments totaling 67 days: (1) from May 10, 2021, to August 31, 2021, for 27 days, (2) from October 1, 2021, to April 29, 2022, for 25 days, and (3) from October 1, 2022, to March 30, 2023, for 15 days.

The ACL Complaint alleges in paragraphs 23 through 24 and 26 that the Merodios violated Water Code section 1052, subdivision (c)(2) by diverting water to storage in an onstream reservoir at POD1/POS2 and using water to irrigate cannabis at POU1 and for domestic use at POU2 without authorization of an appropriative water right outside of the drought conditions identified in subdivision (c)(1)(A). The ACL Complaint alleges that this violation occurred from September 1, 2020, to May 9, 2021, for 11 days of violation. **(Violation 2)**

⁹ The May 2021 Proclamation is available at: <https://www.gov.ca.gov/wp-content/uploads/2021/05/5.10.2021-Drought-Proclamation.pdf>

¹⁰ The July 2021 Executive Order is available at: <https://www.gov.ca.gov/wp-content/uploads/2021/07/7.8.21-Conservation-EO-N-10-21.pdf>

3. *Alleged violations of the Cannabis Policy*

Water Code section 1847, subdivision (b)(1), authorizes the State Water Board to impose administrative civil liability on any person or entity that violates a principle, guideline, or requirement established by the Board under Water Code section 13149. The Board may impose administrative civil liability for a violation in an amount not to exceed the sum of \$500, plus \$250 for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the Board has called the violation to the attention of that person, and \$2,500 for each acre-foot of water diverted or used in violation of the applicable requirement.

The ACL Complaint alleges in paragraphs 30 through 36 that the Merodios diverted and used water in violation of the Cannabis Cultivation Policy by:

- a) Failing to plug, block, disconnect, or otherwise make the diversion intake at POD1/POS2 inoperable during the surface water forbearance period between April 1 and October 31, as observed during the site inspection on April 29, 2022 (Cannabis Cultivation Policy, Attachment A, Section 2, Term 77) (**Violation 3**);
- b) Failing to comply with the onstream reservoir prohibition requirements by storing water in POD1/POS2, as observed during the site inspection on April 29, 2022 (*Id.*, Term 79) (**Violation 4**);
- c) Failing to install separate storage systems for water diverted for cannabis irrigation or otherwise install separate measuring devices to quantify diversion from POD1/POS2 to and from storage facility POS3 for use at POU1 to irrigate cannabis and domestic use at POU2, as observed during the site inspection on April 29, 2022 (*Id.*, Term 81) (**Violation 5**);
- d) Failing to install and maintain a measuring device at or near POD1/POS2 for surface water diversions as observed during the site inspection on April 29, 2022 (*Id.*, Term 82) (**Violation 6**);
- e) Failing to install and maintain a measuring device for the onstream reservoir at POD1/POD2, as observed during the site inspection on April 29, 2022 (*Id.*, Term 83) (**Violation 7**);
- f) Failing to use water storage tanks at POS1 and POS3 with a float valve or equivalent device to shut off diversions when the storage system is full, as observed during the site inspection on April 29, 2022 (*Id.*, Term 92) (**Violation 8**); and
- g) Failing to maintain daily records of water used for irrigation of cannabis, as observed during the site inspection on April 29, 2022 (*Id.*, Term 98) (**Violation 9**).

4. *Alleged diversion or use of water for cannabis cultivation without a cannabis cultivation license*

Water Code section 1847, subdivision (b)(4), authorizes the State Water Board to impose administrative civil liability on any person or entity that diverts or uses water for cannabis cultivation for which a license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) of Division 10 of the Business and Professions Code. The ACL Complaint alleges in paragraphs 37 and 38 that the Merodios diverted and used water for commercial cannabis cultivation without a required license from the Department of Cannabis Control (**Violation 10**).

5. *Maximum and pursued liability*

The ACL Complaint states that the maximum potential liability for the alleged violations (**Violations 1-10**) is \$439,500:

Violation 1	\$362,500	\$1,000 per violation + (\$500 per day 30 days after the Board called the violation to the person's attention x 723 days of alleged violations)
Violation 2	\$72,500	(\$1,000 per day x 67 days of alleged violations during a drought emergency) + (\$500 per day x 11 days of alleged violations)
Violation 3	\$500	\$500 per violation x 1 alleged violation
Violation 4	\$500	\$500 per violation x 1 alleged violation
Violation 5	\$500	\$500 per violation x 1 alleged violation
Violation 6	\$500	\$500 per violation x 1 alleged violation
Violation 7	\$500	\$500 per violation x 1 alleged violation
Violation 8	\$1,000	\$500 per violation x 2 alleged violations
Violation 9	\$500	\$500 per violation x 1 alleged violation
Violation 10	\$500	\$500 per violation x 1 alleged violation
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TOTAL	\$439,500	

Water Code section 1055.3 provides that, in determining the amount of civil liability, the Board shall take into consideration all relevant circumstances, including, but not limited to: (a) the extent of harm caused by the alleged violation; (b) the nature and persistence of the alleged violation; (c) the length of time over which the alleged violation occurred; and (d) the corrective actions, if any, taken by the violator.

The ACL Complaint recommends that after considering these factors, the Board should impose administrative civil liability in the amount of \$29,500:

Violation 1	\$10,000	Reduced by \$352,500
Violation 2	\$15,000	Reduced by \$57,500
Violation 3	\$500	No Modification
Violation 4	\$500	No Modification
Violation 5	\$500	No Modification
Violation 6	\$500	No Modification
Violation 7	\$500	No Modification
Violation 8	\$1,000	No Modification
Violation 9	\$500	No Modification
Violation 10	\$500	No Modification
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TOTAL	\$29,500	

PURPOSE OF HEARING; HEARING ISSUES

The purpose of this hearing is for an AHO hearing officer to receive evidence and arguments relevant to the following hearing issues and sub-issues below:

Draft CDO Hearing Issues:

1. Should the Board adopt a cease and desist order against the Merodios, and if so, what terms and conditions should be included in that order?
 - a. **Water Code section 1831, subdivision (d)(1)**: Did the Merodios violate or threaten to violate the prohibition in Water Code section 1052, subdivision (a), against the unauthorized diversion or use of water subject to Division 2 (sections 1000 – 1851) of the Water Code? Did the Merodios divert or threaten to divert water to seasonal storage in an onstream reservoir without an appropriative right?
 - b. **Water Code section 1831, subdivision (d)(6)(A)**: Did the Merodios divert or use, or threaten to divert or use, water for cannabis cultivation when a license is required but had not been obtained under Chapter 6 (commencing with section 26060) or Chapter 7 (commencing with section 26070) of Division 10 of the Business and Professions Code?

ACL Complaint Hearing Issues:

2. Should the Board impose administrative civil liability against the Merodios based on violations of Water Code sections 5101, 1052, and 1847, and if so, what should be the amount of civil liability?
 - a. **Water Code section 5101 (violation 1):** Did the Merodios violate Water Code section 5101 by failing to file a Statement of Water Diversion and Use for water diversions and uses occurring after December 31, 2020, and before October 1, 2021?
 - i. If the Merodios violated Water Code section 5101, were there additional days of continuing violation, and if so, how many?
 - b. **Water Code section 1052, subdivision (a) (violation 2):** Did the Merodios violate Water Code section 1052, subdivision (a), by diverting water to seasonal storage in an onstream reservoir without an appropriative water right?
 - i. If the Merodios violated Water Code section 1052, subdivision (a), how many of those violations, if any, occurred during a period for which the Governor had issued a proclamation of a state of emergency based on drought conditions in Lake County?
 - c. **Water Code section 13149 (Violations 3-9):** Did the Merodios violate any principles, guidelines, and requirements established by the Water Board under Water Code section 13149?
 - ii. Did the Merodios violate Attachment A, Section 2, Term 77 of the Cannabis Cultivation Policy for failing to plug, block, disconnect, or otherwise make the diversion intake inoperable during the surface water forbearance period (April 1 through October 31)?
 - iii. Did the Merodios violate Attachment A, Section 2, Term 79 of the Cannabis Cultivation Policy for failing to comply with the onstream reservoir prohibition requirements?
 - iv. Did the Merodios violate Attachment A, Section 2, Term 81 of the Cannabis Cultivation Policy for failing to install separate storage systems for water diverted for cannabis irrigation or otherwise install separate measuring devices to quantify diversion to and from each storage facility?
 - v. Did the Merodios violate Attachment A, Section 2, Term 82 of the Cannabis Cultivation Policy for failing install and maintain a measuring device for surface water diversions?

- vi. Did the Merodios violate Attachment A, Section 2, Term 83 of the Cannabis Cultivation Policy for failing to install and maintain a measuring device for an onstream reservoir?
- vii. Did the Merodios violate Attachment A, Section 2, Term 92 of the Cannabis Cultivation Policy for failing to use water storage tanks with a float valve or equivalent device to shut off diversions when the storage system is full?
- viii. Did the Merodios violate Attachment A, Section 2, Term 98 of the Cannabis Cultivation Policy by failing to maintain daily records of water used for irrigation of cannabis?
- d. **Chapter 6 (commencing with Section 2606) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code:** Did the Merodios violate Chapter 6 (commencing with Section 2606) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code, for diverting and using water for cannabis cultivation without having obtained a Department of Cannabis Control commercial cannabis license?
- e. In determining the amount of civil liability, how should the State Water Board consider the following factors identified in Water Code section 1055.3?
 - i. The extent of harm caused by the alleged violation;
 - ii. The nature and persistence of the alleged violation;
 - iii. The length of time over which the alleged violation occurred;
 - iv. The corrective actions, if any, taken by the violator; and
 - v. Any other relevant circumstances.

ADMINISTRATIVE RECORD

The AHO hearing officer's proposed order and the Board's decision in this matter will be based upon evidence and arguments in the administrative record. The AHO may add additional documents, in addition to any exhibits the parties submit to the administrative record. The following documents currently are in the AHO administrative record for this matter:

- (1) March 25, 2025, ACL Complaint;
- (2) March 25, 2025, Draft Cease and Desist Order;
- (3) March 25, 2025, letter to Agustin Antonio and Juan Merodio from the Division,
- (4) March 27, 2025, Juan Merodio's email to the AHO requesting a hearing,
- (5) March 31, 2025, Juan Merodio's email to the AHO,
- (6) March 31, 2025, Juan Merodio's Hearing Request Form,

- (7) April 4, 2025, AHO email to service list,
- (8) April 4, 2025, AHO letter to Juan Merodio acknowledging hearing request,
- (9) April 4, 2025, AHO Proof of Service,
- (10) May 12, 2025, AHO email to Service List, and
- (11) May 12, 2025, AHO letter to Service List.

The parties may submit additional evidence and make arguments based on the evidence during the hearing concerning the hearing issues outlined above.

HEARING OFFICER AND HEARING TEAM

Hearing Officer Megan Knize will preside during the hearing in this matter. The hearing officer will be assisted in an advisory capacity by State Water Board staff from the AHO. The hearing officer for this proceeding will prepare a written proposed order and transmit the written proposed order to the Clerk of the State Water Board (for the Board's consideration) within 90 days after the matter is submitted for decision.

PROSECUTION TEAM

A Prosecution Team composed of State Water Board staff will be a party to this hearing. The Prosecution Team will be comprised of attorneys from the State Water Board's Office of Enforcement and staff from the State Water Board's Division of Water Rights Enforcement Section.

PRE-HEARING CONFERENCE

The AHO will conduct a pre-hearing conference on June 3, 2025 at 9:30 a.m. No in-person appearances will be allowed. The pre-hearing conference will be held and electronically recorded by Zoom teleconference.

Unless modified by the hearing officer, the hearing dates, procedures, and deadlines identified in this Hearing Notice shall apply to the hearing and pre-hearing proceedings in this matter. During the pre-hearing conference, the AHO hearing officer will discuss with the parties whether she should modify any of the procedures or key hearing issues identified in the Hearing Notice.

The Prosecution Team shall file a pre-hearing conference statement by May 30, 2025, at 11:59 p.m. addressing the following issues:

1. Whether the schedule and deadlines for hearing participation set forth below should be adjusted in any way;
2. Whether the Prosecution Team has a preference for in-person or virtual hearing by Zoom;
3. Prospects for settlement;
4. An estimate of the number of witnesses the Prosecution Team intends to present, and the anticipated length of their oral testimony; and
5. Any other topics the Prosecution Team wishes to address.

The Merodios may also file an optional pre-hearing conference statement no later than May 30, 2025, at 11:59 p.m.

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:

E-mail (preferred method for documents other than exhibits):

AdminHrgOffice@Waterboards.ca.gov

By Mail:

State Water Resources Control Board Administrative Hearings Office

P.O. Box 100 Sacramento, CA 95812-0100

Hand Delivery or Overnight Delivery:

Joe Serna Jr. CalEPA Building Administrative Hearings Office

1001 I Street Sacramento, CA 95814

By uploading to the File Transfer Protocol (FTP) (Preferred method for exhibits):

All participants must submit exhibits by uploading them to the State Water Board's FTP site. The State Water Board's FTP site may be accessed at

<https://ftp.waterboards.ca.gov/>.

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.

The AHO has added to the State Water Board's FTP site:

- (1) March 25, 2025, ACL Complaint;
- (2) March 25, 2025, Draft Cease and Desist Order;
- (3) March 25, 2025, letter to Agustin Antonio and Juan Merodio from the Division,
- (4) March 27, 2025, Juan Merodio's email to the AHO requesting a hearing,
- (5) March 31, 2025, Juan Merodio's email to the AHO,
- (6) March 31, 2025, Juan Merodio's Hearing Request Form,
- (7) April 4, 2025, AHO email to service list,
- (8) April 4, 2025, AHO letter to Juan Merodio acknowledging hearing request,
- (9) April 4, 2025, AHO Proof of Service,
- (10) May 12, 2025, AHO email to Service List, and
- (11) May 12, 2025, AHO letter to Service List.

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 6 below.

PROHIBITION ON *EX PARTE* COMMUNICATIONS; SEPARATION OF FUNCTIONS

While this proceeding is pending, *ex parte* communications between any party, party representative, or interested person and the hearing officer, any member of the hearing

team, or any 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 bit.ly/aho-faq. (See response to FAQ 16.)

Please do not attempt to communicate by telephone with any AHO hearing officer or staff member regarding this hearing, because other parties would not be able to participate in such communications. If any party wishes to communicate with the AHO at any time regarding any issue related to this proceeding, including any issue regarding hearing procedures or filing of documents, please communicate by e-mail to AdminHrgOffice@waterboards.ca.gov or by letter to the AHO and serve all other parties with copies of the communication.¹¹ The party shall include a proof of service through a formal proof of service or by other verification.¹²

The Prosecution Team is separated from the AHO hearing team. Like all other parties, the Prosecution Team is 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.)¹³ These rules regarding *ex parte* communications apply to all members of the AHO hearing team.

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 notices and other documents regarding these proceedings on the AHO's Internet webpage: https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/

The AHO webpage has information about accessing the AHO's YouTube channel to watch live broadcasts or past recordings of hearings.

For general information about AHO proceedings, an AHO Procedures and Frequently Asked Questions (FAQs) page is available, with links to an Attorney List for Pro Bono Representation, a guide to Preparing for Your Hearing, and FAQs at: https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/procedures.html.

¹¹ The AHO's mailing addresses are provided in Item 6, below.

¹² All references to "proof of service" in this document refer to either a formal proof of service or a list of the parties and the addresses of them or their representatives in an e-mail "cc" (carbon copy) list or the cc portion of a letter.

¹³ 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.

The AHO has also prepared a memorandum with information about how the AHO resolves a matter if (1) the Division withdraws the ACL Complaint in the matter, (2) the parties settle, or (3) the AHO holds a hearing. A copy of this memorandum is available at:

https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2020-07-10_aho-dwr_processes_memo.pdf.

HEARING SCHEDULE AND DEADLINES

Deadline for Prosecution Team to file pre-hearing conference statement	May 30, 2025, 11:59 p.m.
Deadline for Merodios to file pre-hearing conference statement (optional)	May 30, 2025, 11:59 p.m.
Pre-hearing conference	June 3, 2025, 9:30 a.m.
Deadline for filing and service of any submittals of proposed testimony or exhibits before the hearing (optional)	July 2, 2025, 4:00 p.m.
Hearing date and time	July 17, 2025, 9:00 a.m.

HEARING LIVE-STREAM AND RECORDINGS

The hearing will be live streamed through the Administrative Hearings Office YouTube channel, accessible by clicking on the link: bit.ly/aho-youtube

UPDATES TO SERVICE LIST

If any party or interested person on the service list wants to change any of their information in the current service list, the party or interested person should submit this information by e-mail to adminhrгоffice@waterboards.ca.gov. The party or interested person does not need to send copies of the e-mail to the service list.

PROCEDURES FOR THIS HEARING

The following procedures apply to this hearing. The hearing officer may amend these procedures before, during or after the hearing as she deems appropriate.

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 proceeding.

2. SETTLEMENTS: The Prosecution Team and the Respondent may engage in private settlement discussions, and may, or may not, include any other persons in those discussions. No representative of the AHO will participate in such settlement discussions.

3. 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 non-evidentiary policy statements during the hearing.

4. TESTIMONY AND OTHER EXHIBITS: Exhibits include all written testimony and other documents to be submitted as evidence. There is no requirement for any party to submit any proposed testimony or exhibits before the hearing, but a party may do so. Any party that wants to submit proposed testimony or exhibits before the exhibit filing deadline listed above may do so by following the procedures described in Item 6, below. Any party submitting written proposed testimony before the hearing still must produce the actual witness or witnesses to verify the written proposed testimony, provide a summary of it, and be available for cross-examination, during the hearing.

5. 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 Word or Excel format. A sample is attached to the end of this document.

Each party should label exhibits with a short version of the party's name and sequential numbers. For example, the Prosecution Team's exhibits should be numbered PT-1, PT-2, etc., and the Merodios' exhibits should be numbered Merodio-1, Merodio-2, etc.

6. SUBMISSIONS OF DOCUMENTS: If a party chooses to submit exhibits before the hearing, that party shall upload those exhibits to the State Water Board's FTP site 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 "State Water Board FTP Download Folder". The AHO will provide each party with 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. State Water Board Download Folder:

The AHO has created a folder for this proceeding on the State Water Board's FTP site. The folder for this proceeding contains all administrative record documents related to this proceeding and may contain various subfolders, including subfolders for background documents and hearing documents. Only AHO personnel may upload files to this folder. The AHO will post each party's

hearing exhibits, exhibit identification indices and any closing briefs (as required by the hearing officer) to this folder promptly after each applicable 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 include the AHO's administrative record for this proceeding. Anyone may download documents from the State Water Board 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 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.

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 State Water Board's Download folder.

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

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.

7. 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.

8. 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 policy statements at the start of the hearing before the presentations of cases-in-chief. **Oral policy statements and oral summaries of written policy statements will be limited to 5 minutes.**
- b. **Presentation of Cases-In-Chief:** Each party may present a case-in-chief addressing the issues in the hearing notice. The hearing will proceed in the following order:
 - Party's opening statement (**5 minutes per party**).
 - Summaries of the party's witnesses' written proposed testimony or presentation of the party's oral testimony (**no more than 30 minutes total for all witnesses for each party**).
 - Cross-examination of the party's witnesses (**30 minutes total for all the other party's witnesses**).
 - Re-direct examination and re-cross examination of the party's witnesses, if allowed by the hearing officer.
 - Questions from the hearing officer. (These questions may occur at any time, but normally will be after all other parties have completed their cross-examinations of a party's witnesses).

- Submitting exhibits into evidence, with opportunities for objections by other parties.
- c. **Presentations of Parties' Rebuttal Evidence:** After all parties have presented their cases-in-chief, the hearing officer may allow parties to submit rebuttal exhibits and testimony. Rebuttal evidence is new evidence used to rebut evidence another party has presented in its case-in-chief. It does not need to be submitted before the hearing.
- d. **Closing Statements (5 minutes per party).** The hearing officer may allow oral closing arguments or may set a schedule for the parties to file written closing briefs.

9. HEARING LOGISTICS: The AHO is conducting this hearing by Zoom teleconference. New users of Zoom may want to review Zoom's support guide: <https://support.zoom.us/hc/en-us/categories/200101697>.

The AHO will not order a court reporter for the hearing. Any interested party may order a court reporter at the party's own expense. The AHO will record the hearing and post audio-plus-video files of the hearing on the State Water Board's FTP site as part of the administrative record for this matter. Parties should test their devices' video and audio functions before the start of the hearing or pre-hearing conference.

The hearing will be conducted by Zoom Webinar. The AHO has registered each person on the service list for the proceeding as an "Attendee" of the AHO hearing using the e-mail address on the service list. The Zoom Webinar service will generate an individual link for each Attendee which will allow the Attendee to join the hearing. The Zoom service will send an e-mail containing the link to the e-mail address used to register the Attendee.

This link is specific to the named person and should not be shared with other users. The same link cannot be used to access the hearing on more than one device. If you are a party representative who is on the service list and you have not received an individual link for the hearing at least 24 hours prior to the start of the hearing, please first check your junk or spam mail folders, and then e-mail the AHO at: adminhrgoffice@waterboards.ca.gov

Parties should plan to call into the hearing at least 10 minutes before the scheduled hearing time to ensure the party can resolve any technical issues before the hearing begins. Parties will initially be in a virtual waiting room and will be admitted to the hearing by a member of the AHO office. When speaking, please turn the video on and unmute the microphone by clicking on the symbols in the lower left-hand side of the Zoom window.

To join the hearing, participants should click the individual "Join" link sent by e-mail by the Zoom service. Participants will not be able to use a phone line to call in to the hearing. AHO staff will admit Attendees into the virtual hearing room, which will be

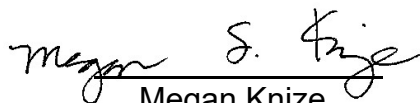
referred to by the Zoom software as a webinar. Attendees will be able to see and hear video tiles of the hearing officer and other AHO staff but will not be able to turn on their own camera or microphone features when the hearing begins. The hearing officer will call for appearances from each of the parties. When the hearing officer calls for the appearance of the representative or representatives of a party, AHO staff will either allow the representatives' microphones to unmute or the representatives should raise their virtual "Zoom" hand to identify themselves for AHO staff. Once unmuted, the representative shall identify him or herself and AHO staff will then elevate the Attendee to a "Panelist." Panelists may unmute their own microphone, activate their own video, and take other actions as necessary to participate in the hearing.

During the hearing, AHO staff may change the status of participants who are not actively involved in that portion of the hearing to "Attendee" status. An Attendee may raise his or her virtual "Zoom" hand to gain the attention of the hearing officer and the hearing officer will call on the representative and unmute the representative's microphone. If you do not plan to speak during that day's hearing, please do not attend the Zoom Webinar and instead view the livestream of the hearing on the AHO's YouTube channel.

If the device you are using freezes, please notify staff at AdminHrgOffice@waterboards.ca.gov 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.

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.

May 27, 2025
Date


Megan Knize
Hearing Officer

Attachments:

- Attachment 1 - Exhibit Identification Index
- Attachment 2 - Service List

ATTACHMENT 1

EXHIBIT IDENTIFICATION INDEX

[illegible]

ATTACHMENT 2 SERVICE LIST

By U.S. Mail:

Agustin Antonio Merodio
Juan Merodio
2712 Gallop Drive
Santa Rosa, CA 95407

By E-mail:

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