
State Water Resources Control Board

SIXTH AMENDED NOTICE OF PUBLIC HEARING AND PROCEDURAL RULING

The State Water Resources Control Board
Administrative Hearings Office is holding
a Public Hearing on the pending Petitions for Change of Water Right
Permits 16478, 16479, 16481, and 16482
(Applications 5630, 14443, 14445A, and 17512, respectively) of the

Department of Water Resources.

The evidentiary portion of the Public Hearing
will resume on August 12,
and will continue on August 13, 14, 18, & 25,
and September 2, 5, 9, 10, 11, 15, 18, 19, 22, 29, & 30,
and October 1, 6, 9, 10, 14, & 15, 2025.

All hearing days begin at 9:00 a.m., unless otherwise indicated,
and will be held by Zoom Webinar. Representatives of parties will receive an individual
invitation to join the hearing by e-mail from Zoom.

The hearing on August 12 will begin at 9 a.m. to hear any remaining policy statements
from interested parties. The evidentiary portion of the hearing on August 12 will not
begin before 1 p.m.

**Interested persons must register in advance
to join the hearing on August 12 by Zoom.**

**Parties or 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:

This hearing will be conducted 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 at least **two weeks before the hearing date**:

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

PURPOSE OF HEARING

The State Water Resources Control Board (State Water Board or Board) Administrative Hearings Office (AHO) is conducting a public hearing about the Delta Conveyance Project. The purpose of the hearing is to gather evidence that the State Water Board will consider to determine whether to approve change petitions filed by the Department of Water Resources (DWR or Petitioner) to add two new points of diversion and rediversion to water right Permits 16478, 16479, 16481, and 16482 (Applications 5630, 14443, 14445A, and 17512, respectively) (SWP Permits) and, if so, terms and conditions the Board should include in the amended permits.

BACKGROUND

On February 22, 2024, the State Water Board's Division of Water Rights (Division) received petitions for change from DWR to add two new points of diversion and points of rediversion to water right Permits 16478, 16479, 16481, and 16482, which are associated with the State Water Project (SWP). The proposed new points of diversion and points of rediversion would consist of screened intakes 2.3 miles apart located on the lower Sacramento River between Freeport and Sutter Slough. The proposed new intakes are part of the Delta Conveyance Project, which would allow DWR to divert water from the Sacramento River in the northern portion of the Sacramento-San Joaquin Delta Estuary (Delta) and convey the water through a tunnel to existing water distribution facilities in the southern Delta. A more detailed description of the Delta Conveyance Project and the associated petitions for change can be found in the July 31, 2024 Notice of Public Hearing.

This hearing is being conducted in accordance with the procedural requirements in the July 31, 2024 Notice of Public Hearing as amended by subsequent rulings and notices.

REVISIONS TO HEARING DATES

The AHO has cancelled the hearing day on August 25, 2025, and scheduled additional hearing days on September 18, 19, and 22 and October 14 and 15, 2025.

POLICY STATEMENTS

The AHO will hear any remaining policy statements from interested members of the public on **August 12, 2025**, starting at 9 a.m. This portion of the hearing continues the presentation of policy statements that began on February 18 and continued on May 19. As reflected in the July 31, 2024 Notice of Hearing, 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.

Advance registration will be necessary to participate in the hearing by Zoom Webinar on August 12. The AHO will circulate a Registration Form and instructions for participating in the hearing by Zoom approximately 2 weeks in advance of August 12. The AHO will send this information to the service list and persons who previously registered to present a policy statement and provided an e-mail address, but who did not provide an oral statement.

PROCEDURAL RULING

Joint Request for Additional Cross-Examination Days

On June 6, the Protestants submitted a joint request for additional days to cross-examine the witnesses that were to appear on June 10 and 11 to testify about the supplemental information requested by the AHO about historical use under the SWP Permits. DWR produced these witnesses pursuant to the hearing officer's directive in the February 28, 2025 Third Amended Notice of Hearing. The Protestants request an additional opportunity to question these witnesses because of the "short two week period for parties' review of DWR's testimony," which DWR submitted to the AHO on May 27, and "the additional benefit of allowing parties to tailor their questions based on DWR's responses to the AHO's questions." (2025-06-06 Letter to Presiding Hearing Officer re Joint Request, pp. 1-2.) On June 10 and 11, I allowed Protestants to cross-examine DWR's witnesses and did not impose time limits on that cross-examination. Given the Protestants' opportunity to cross-examine DWR's witnesses, I **deny** Protestants' joint request, **without prejudice**.

Article 11 of chapter 4.5 of the Administrative Procedure Act and chapter 3 of division 2 of the Water Code govern subpoenas in adjudicative proceedings before the State Water Board. (Gov. Code, §§ 11450.05-11450.50; Wat. Code, §§ 1075-1106.) A subpoena may be issued to compel a witness to attend a hearing. (Gov. Code, § 11450.10; Wat. Code, § 1080.) A subpoena may also require a witness to bring documents, electronically stored information, or other evidence to the hearing. (Gov. Code, § 11450.20, subd. (a); Code Civ. Proc., § 1985, subd. (a).) In the case of the production of a party, a subpoena is not required if written notice requesting attendance of the witness is served on the party's attorney in accordance with section 1987 of the Code of Civil Procedure. (Gov. Code, § 11450.50.) A person served with a subpoena or a written notice requesting a witness to appear may object to the terms of the subpoena or notice by a motion for a protective order. (*Id.*, § 11450.30, subd. (a).) The hearing officer has discretion to resolve any objection subject to any appropriate terms and conditions. In addition, the hearing officer may issue any order that is appropriate to protect the parties or the witness from unreasonable or oppressive demands. (*Id.*, § 11450.30, subd. (b).)

If the Protestants seek to further question DWR's witnesses after consideration of the testimony elicited on June 10 and 11, Protestants may issue a written notice requesting the attendance of the witness. If DWR opposes the request, DWR may object. I will resolve the objection subject to appropriate terms and conditions, including conditions that may be necessary to ensure that the scope of questioning is relevant to the issues presented in this proceeding.

Joint Motion to Extend Deadlines for Protestants' Cases-in-Chief

On June 9, Protestants filed a joint motion to extend the deadlines for submission of Protestants' case-in-chief exhibits to the AHO by six weeks from July 11 until August 22. The Protestants claim that such an extension is necessary to avoid prejudice because of the addition of hearing days to complete DWR's case-in-chief, hearing days on the supplemental information submitted by DWR, delays in DWR's submission of the

supplemental information, motions filed by the State Water Contractors in pending litigation, and the ceremonial period for the Delta Tribes that occur in July and August. On June 16, the Delta Tribal Environmental Coalition (DTEC) supplemented the request by e-mail and raised current events as an additional basis for the requested postponement. (2025-06-16 DTEC email to AHO.)

DWR opposes any extension of the deadline. (2025-06-09 DWR email to AHO; 2025-06-18 DWR email to AHO.)

Protestants have been on notice that they would be required to submit case-in-chief evidence in this proceeding since July 31, 2024, when the AHO issued the initial hearing notice. The initial hearing notice imposed a deadline of December 4, 2024, for submission of case-in-chief exhibits. The AHO subsequently vacated that deadline and in the Third Amended Hearing Notice issued on February 28, 2025, set a deadline of July 11 for submission of Protestants' case-in-chief testimony and exhibits. DWR submitted the majority of its case-in-chief exhibits, including testimony, on January 21. DWR supplemented this evidence on February 21 with additional exhibits and testimony related to the incidental take permit for the project. Protestants will have had 140 to 171 days to consider and respond to DWR's testimony and other case-in-chief evidence in preparing their cases-in-chief. The AHO also selected the July 11 deadline in anticipation that additional hearing days might be necessary to complete testimony and cross-examination of DWR's witnesses, and to allow at least 30 days for Protestants to consider any testimony elicited on cross-examination before submitting their own cases-in-chief.¹

Finally, this submission of evidence by Protestants is neither the only nor last opportunity for Protestants to consider and respond to DWR's case-in-chief evidence. The AHO decided to stagger the submission of evidence in this proceeding by the Petitioner and the Protestants to "focus the evidence presented and, thereby ... enhance the efficiency of the proceeding" — which purpose will not be furthered by delaying the process. (November 18, 2024 Amended Hearing Notice, p. 8.) The primary opportunity for Protestants to submit evidence in response to DWR's case-in-chief will be in rebuttal, not in its submission of evidence on July 11. There is no possibility that the Protestants will be prejudiced if they are unable to fully respond to DWR's case-in-chief by the deadline for submission on July 11 because Protestants essentially have a second bite at the apple during the rebuttal phase.

For these reasons, I **deny** the motion for extension of the deadline for submission of case-in-chief evidence.

¹ Although the AHO scheduled 10 additional hearing days overall, the net increase was 5 ½ hearing days because the AHO cancelled 4 ½ hearing days for various reasons as the hearing progressed.

Evidentiary Objections

As I articulated during the hearing on June 10, the following deadlines apply to DWR's offer of exhibits into the evidentiary record, the filing of any objections by the Protestants, and DWR's responses to those objections:

- **July 1** – Deadline for DWR to submit an offer of its exhibits into the evidentiary record. The offer shall be in writing (but need not be more formal than an e-mail submission) and shall identify the exhibits by number (or number range) offered into evidence, including identification of any revised exhibits.
- **July 25** – Deadline for parties to submit any objections to DWR's offer of exhibits into the evidentiary record. Objections should be concise and submitted in table format. Parties shall submit objections as a PDF document and as a Word document, in landscape orientation, that contains a column for responses to the objection and a column for the hearing officer's ruling. The following linked document includes an example of an evidentiary objection table: [Procedural Ruling on Evidentiary Motions \(Sites\)](#).
- **August 8** – Deadline for DWR to respond to any evidentiary objections. Responses shall be included in the evidentiary objection tables and submitted both as a PDF document and as a Word document.

Deadline to Propose and Respond to Site Visit Dates and Itinerary

Protestants request to schedule a site visit and propose a three-day itinerary in their joint submittal of May 27. Because the originally proposed dates were not feasible, the AHO requests updated proposed dates for a site visit and any other amendments to the proposed itinerary or additional details about the proposal (pursuant to the discussion held during the hearing on June 10) to be jointly submitted by the Protestants by **July 18**. The AHO is circulating a digital survey to the service list to obtain an estimate of the number of individuals who would like to attend each day of the proposed site visit and will share those results with the parties. Parties may submit comments on or objections to the proposal by **July 25**.

Submission of Exhibits

Exhibits submitted by each party shall include the exhibit number on each page of the document. Parties should label exhibits with a short version of the party's name and sequential numbers. Parties that submitted exhibits for the purpose of cross examination of DWR's case-in-chief witnesses shall submit their case-in-chief exhibits beginning with the next sequential number to their cross-examination exhibits.

Each party should number each paragraph of each witness's written testimony sequentially, 1, 2, 3, etc. This numbering of paragraphs 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 with their exhibits a new or updated exhibit identification index by the deadline for submission of exhibits.

Request for Information About Claimed Water Rights

The AHO requests that parties claiming a risk of injury to or interference with water rights from approval of the DWR's petitions for change submit the following supporting information about their claimed rights if not already submitted with the party's protest:

1. Identification of each type of water right claimed (a water right permit or license issued by the State Water Board with a permit or license number, riparian right, pre-1914 appropriative right, overlying groundwater right, appropriative groundwater right, federal reserved right, etc.). For water rights other than permits or licenses issued by the State Water Board, as applicable, provide the priority date, maximum authorized rate and amount of diversion and storage, point of diversion, place of use, and purpose of use; and
2. Documentation or other evidence sufficient to demonstrate the validity and scope of the claimed rights as described in response to (1), if such documentation is not already available on the Board's electronic Water Right Information Management System (eWRIMS). The AHO particularly requests that tribes claiming federal reserved rights or other tribal water rights submit copies of any official records or other evidence that may support and document the claimed rights, such as, an executive order reserving lands and associated water rights.

HEARING SCHEDULE AND DEADLINES

Deadlines / Schedule	Date and Time
Deadline for DWR to submit written offer of exhibits into the evidentiary record.	July 1, 2025.
Deadline for Protestants to submit case-in-chief exhibits, exhibit identification indices, and proposed permit terms or statement of no appropriate conditions for approval. Deadline for Petitioner to submit any additional case-in-chief exhibits.	July 11, 2025.
Deadline for DWR to submit additional information in response to AHO's May 23, 2025 request, as revised on June 19, 2025.	July 11, 2025.
Deadline to submit proposed dates for site visit and any amendments to proposed itinerary.	July 18, 2025.
Deadline for responses to proposed dates for site visit and proposed itinerary.	July 25, 2025.
Deadline for evidentiary objections to DWR's offer of exhibits.	July 25, 2025.

Deadline for responses to evidentiary objections.	August 8, 2025.
Hearing continues with any remaining policy statements presented by Zoom Webinar only.	August 12, starting at 9:00 a.m.
Hearing continues with remaining parties' cases-in-chief.	August 12, starting at 1 p.m., and August 13, 14, 18, and September 2, 5, 9, 10, 11, 15, 18, 19, 22, 29, & 30, and October 1, 6, 9, 10, 14, & 15, starting at 9:00 a.m.

Date: June 20, 2025



Nicole L. Kuenzi
Presiding Hearing Officer
Administrative Hearings Office

Attachments:

- Attachment 1 - Service List

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