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## State Water Resources Control Board

### NOTICE OF STATUS CONFERENCE

The State Water Resources Control Board  
Administrative Hearings Office  
will hold a status conference on  
the petitions for partial assignment of State-Filed Applications 12919 and 12920  
and  
Water-Right Applications 12919C and 12920B of

### **Mendocino County Russian River Flood Control and Water Conservation Improvement District.**

**The Status Conference will begin on  
November 2, 2021, at 9:00 am**

and will be held by Zoom teleconference.

You may participate in the Zoom teleconference by using the link:  
<https://waterboards.zoom.us/j/92710898515?pwd=OFhVNSsxbG5wSW5GaVdWeVpFdE5BQT09> with Meeting ID 927 1089 8515 and Passcode 531454  
or by calling in at +16699009128,,92710898515#,,,,\*531454# 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, accessible by clicking on “Watch AHO Hearings” at:**  
[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/)

### **BACKGROUND**

On February 28, 2003, the State Water Resources Control Board (State Water Board) Division of Water Rights (Division) received petitions for partial assignment of state-filed Applications 12919 and 12920 and accompanying water-right Applications 12919C and 12920B from Mendocino County Russian River Flood Control and Water Conservation Improvement District (Mendocino District). The Mendocino District filed amended water-right Applications 12919C and 12920B on June 5, 2007.

### **State-Filed Applications 12919 and 12920**

The State Department of Finance filed state-filed Applications 12919 and 12920 on January 28, 1949, pursuant to Water Code section 10500. Each application sought a

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

permit to appropriate 200,000 acre-feet per annum (afa) by storage in Coyote Valley Reservoir (also known as Lake Mendocino) and 550 cubic feet per second (cfs) by direct diversion from the East Fork Russian River for use in portions of Mendocino and Sonoma Counties. The United States Army Corps of Engineers completed construction of Coyote Valley Dam and Reservoir and associated diversion facilities on the East Fork Russian River in 1958, with a storage capacity of 122,500 acre-feet (Coyote Valley Project).

On November 14, 1955, the State Department of Finance assigned portions of Applications 12919 and 12920 in the amounts of 122,500 afa by storage and 335 cfs by direct diversion to Sonoma County Flood Control and Water Conservation District (Sonoma District). The assignment designates the portions of the applications assigned to the Sonoma District as Applications 12919A and 12920A. On December 26, 1956, the Sonoma District reassigned a portion of the applications to the Mendocino District.

On October 24, 1961, the State Water Rights Board adopted Decision 1030 which approved issuance of Permits 12947 (Application 12919A) and 12948 (Application 12920A) to the Sonoma and Mendocino Districts. The permits authorized direct diversion of 212 cfs and diversion to storage in Lake Mendocino of 122,500 afa. Permits 12947 and 12948 authorized the diversion and storage of the same water – the only material difference between the two permits was that Permit 12947 authorized municipal, industrial, domestic, and recreational use while Permit 12948 authorized irrigation and domestic use. Decision 1030 provided that the export of water from the Russian River Valley diverted under the permits was subject to diversion and beneficial use of up to 10,000 afa within the Russian River Valley in Sonoma County and 8,000 afa within the service area of the Mendocino District.

Water Right Order 74-30 divided Permit 12947 into separate permits: Permit 12947A (Application 12919A) held by the Sonoma District and Permit 12947B (Application 12919B) held by the Mendocino District. Water Right Order 74-30 also added irrigation as an authorized purpose of use under Permits 12947A and 12947B and revoked Permit 12948 as unnecessary. Permit 12947A authorized direct diversion of 92 cfs and diversion to storage of 122,500 afa. Permit 12947B authorized direct diversion of 53 cfs and diversion to storage of 122,500 afa. The order limited the total amount of water that may be diverted to storage in Lake Mendocino under Permits 12947A and 12947B to 122,500 afa. The order further limited the combined amount of direct diversion and diversion of water from storage to 37,544 acre-feet per year under Permit 12947A and 8,000 acre-feet per year under Permit 12947B. Finally, the order maintained the condition that export of water from the Russian River Valley diverted under Permit 12947A is subject to diversion and beneficial use of up to 10,000 afa by users within the Russian River Valley in Sonoma County (10,000 afa reservation).

On September 21, 2017, the Division issued License 13898, confirming the beneficial use of water by the Mendocino District under Permit 12947B. License 13898 authorizes direct diversion of 28 cfs and diversion to storage of 82,600 afa. The license limits the combined direct diversion and diversion of water from storage to 7,940 afa.

## **The Mendocino District's Petitions and Applications**

The Mendocino District's amended water-right Applications 12919C and 12920B seek permits to appropriate water from the East Fork of the Russian River by direct diversion at Coyote Valley Dam and withdrawal of stored water from the west shore of Lake Mendocino. Application 12919C seeks a permit to appropriate 53 cfs by direct diversion and up to 2,600 afa by diversion to storage, with a total combined limit on direct diversion and diversion to storage of 2,600 afa, for municipal, industrial, and domestic uses. Application 12920B seeks a permit to appropriate 53 cfs by direct diversion and up to 3,400 afa by diversion to storage, with a total combined limit on direct diversion and diversion to storage of 3,400 afa, for irrigation, domestic, flood control, frost protection, and heat control uses. The place of use for both applications include Lake Mendocino, Southern Mendocino County from Coyote Valley Dam to the county line in the Russian River Valley, and Redwood Valley.

The water that the Mendocino District seeks to appropriate pursuant to these applications is in addition to the amounts of direct diversion and withdrawal of water stored in Lake Mendocino authorized under License 13898. The Mendocino District asserts that 6,000 afa of firm yield from the Coyote Valley Project is available for appropriation in addition to water beneficially used under Permit 12947A (up to 37,544 afa) and License 13898 (up to 7,940 afa), and water necessary to supply the 10,000 afa reservation.

The Division issued a public notice of the petitions and applications on July 29, 2008, and received numerous comment letters and protests. The Division facilitated discussions between the Mendocino District and the protestants to attempt to resolve the protests, but the parties were unable to reach agreement.

## **ASSIGNMENT TO THE ADMINISTRATIVE HEARINGS OFFICE**

Water Code section 1110 established the Administrative Hearings Office (AHO) as an independent organizational unit within the State Water Board. Water Code section 1112, subdivision (c)(2), provides that the Board may assign an adjudicative hearing to the AHO.

On March 5, 2021, Erik Ekdahl, Deputy Director of the Division of Water Rights, transmitted a memorandum to Eileen Sobeck, Executive Director of the State Water Board, recommending the State Water Board assign the pending petitions and applications to the AHO. On March 9, 2021, Ms. Sobeck transmitted a memorandum to Alan Lilly, Presiding Hearing Officer of the AHO, assigning, in whole, the petitions and applications to the AHO for further proceedings and an adjudicative hearing, pursuant to Water Code section 1112, subdivision (c)(2).

## **HEARING OFFICER AND HEARING TEAM**

Hearing officer Nicole Kuenzi, from the State Water Board's Administrative Hearings Office, will preside over any hearing in this matter. Other members of the AHO may be present and assist the hearing officer throughout these proceedings, with the exception of Alan Lilly, Presiding Hearing Officer of the AHO, who will not participate in this matter. No member of the AHO hearing team will discuss any substantive or major procedural issues, including any controversial procedural issue, regarding the petitions or applications with Mr. Lilly.

## **STATUS CONFERENCE**

The AHO hearing officer will hold a status conference on the date and at the time specified on the first page of this notice by Zoom teleconference. No in-person appearances will be allowed. The hearing officer will prepare a status conference order or hearing notice after the conference. The AHO will not retain a court reporter for the status conference. Any party may arrange for a court reporter at his, her, or its own expense. The AHO will address the following issues during the status conference:

1. Does the Mendocino District still want to pursue its petitions for partial assignment of State-Filed Applications 12919 and 12920 (Petitions) and its accompanying water-right Applications 12919C and 12920B (Applications)?
2. Does the Mendocino District intend to amend the Petitions or Applications?
3. What is the status of the Mendocino District's preparation of a water availability analysis to support the Applications?
4. What is the status of the Mendocino District's preparation of environmental documentation under CEQA if necessary for the Board's consideration of the Petitions and Applications?
5. What is the status of any other actions by the Mendocino District that are necessary for the State Water Board to act on the Petitions and Applications?
6. Does each of the protestants still want to pursue its protests to the Petitions and Applications?
7. What is the status of the Mendocino District's actions to attempt to resolve the pending protests to the Petitions and Applications?
8. Should the AHO schedule a public hearing to consider the Petitions and Applications? If so, when should the hearing be held?

9. Are there any other issues that any participant would like to discuss? If so, what are these issues?

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

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

After the status conference, the AHO will issue a status conference order or hearing notice 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 matter. If you want to continue to receive AHO notices regarding this proceeding and are not filing an NOI, 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.

**STATUS CONFERENCE STATEMENTS AND SCHEDULE**

On or before the deadline listed below, the Mendocino District shall submit and serve a status conference statement that separately addresses each of the status conference issues listed above. Any other participant in the status conference may submit a written status conference statement that addresses the status conference issues listed above. The participants also may include in their status conference statements discussions of any other issues they believe are relevant.

**NOI and Status Conference Schedule**

Deadline for filing NOIs and status conference statements.	<b>October 26, 2021, 12:00 pm</b>
Status conference date and time.	<b>November 2, 2021, 9:00 am</b>

After the filing deadline for status conference statements, the AHO will post the participants' status conference statements in the AHO-FTP folder described below.

## **SUBMITTAL OF DOCUMENTS TO AHO AND OTHER PARTIES**

All documents submitted to the AHO, including NOIs and status conference statements, shall be addressed and submitted by one of the following methods (with proofs of service, as discussed above):

By Email:	<a href="mailto:AdminHrgOffice@waterboards.ca.gov">AdminHrgOffice@waterboards.ca.gov</a> With Subject Line “ <b>Mendocino Petitions and Applications</b> ”
By Mail:	State Water Resources Control Board Administrative Hearings Office P. O. Box 100 Sacramento, CA 95812-0100
By Hand Delivery (see instructions below):	Joe Serna Jr. CalEPA Building Administrative Hearings Office c/o Water Rights Records Unit 1001 I Street, 2nd Floor, Room 114 Sacramento, CA 95814

Service of documents by hand-delivery may be more difficult or delayed due to building or office closures during the COVID-19 pandemic. Please plan ahead if you wish to hand deliver documents. Any hand-delivered submittals must be date-and-time stamped by the Division of Water Rights Records Unit personnel before the submittal deadline. Persons delivering submittals to the Records Unit must first check in with CalEPA Building lobby security personnel on the first floor of the CalEPA Building and obtain authorization to go to the Water Rights Records Unit on the second floor.

## **AHO WEBPAGE AND NOTICES**

Subject to legal limitations, including the requirements for internet website accessibility in Government Code section 11546.7, the AHO has posted and will post all AHO notices and other AHO documents regarding these proceedings on the AHO’s internet webpage at

[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/)

Any interested person or entity may sign up to receive all AHO notices at

[https://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.html](https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html)

## **STATUS CONFERENCE LIVE-STREAM AND RECORDING**

The status conference will be live-streamed through the Administrative Hearings Office YouTube channel, accessible by clicking on the link provided below. After the conclusion of the hearing, a recording of the YouTube live-stream sessions will be available on the Administrative Hearings Office YouTube channel. These recordings will include automatic captions for accessibility.

The live-stream and recordings may be accessed at the following link:  
[https://www.youtube.com/channel/UCM-gmipRyd7Nw-g8I-C7Nig?view\\_as=subscriber](https://www.youtube.com/channel/UCM-gmipRyd7Nw-g8I-C7Nig?view_as=subscriber)

### **ADMINISTRATIVE RECORD**

The AHO has copied documents from the public records maintained by the State Water Board's Division of Water Rights Records Unit relevant to this proceeding and has included them in the initial administrative record. The AHO has posted files of these documents to the State Water Board's FTP site. Instructions regarding how to access the AHO folder on this FTP site are on the AHO's webpage at:

[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/2020\\_05\\_05\\_notice\\_ftp2.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2020_05_05_notice_ftp2.pdf)

In addition to the YouTube live recording, the AHO will make a Zoom recording of the status conference and will include this recording in the administrative record.

Any interested person or party may contact the Division of Water Rights Records Unit by e-mail at [DWR@waterboards.ca.gov](mailto:DWR@waterboards.ca.gov) or by telephone at (916) 341-5300 to make arrangements to review and copy documents in the Division's public files relevant to this proceeding. If the AHO holds a hearing in this matter, then interested parties may submit as hearing exhibits copies of documents in these files.

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

As discussed in the AHO's May 4, 2021 Notice of Assignment, all parties are prohibited from having any ex parte communications with any members of the AHO hearing team. (See Wat. Code, §§ 1110, subd. (c), 1113; Gov. Code, §§ 11430.10-11430.80.) For a discussion of ex parte communications regarding AHO hearing officers and staff, see the response to FAQ 18 of the AHO FAQs, which are posted at: [https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/2021/2021-07-06\\_webpage\\_faq.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2021/2021-07-06_webpage_faq.pdf).

If any party or interested person wants to communicate with the AHO regarding a procedural or substantive issue related to this proceeding, then the party or interested person shall make the communication in writing, and, except as otherwise stated in this notice, shall serve all parties listed on the service list for this proceeding with copies of the communication, and shall include a proof of service demonstrating such service with the written communication to the AHO.

Any such communication shall be sent to the AHO by e-mail to [AdminHrgOffice@waterboards.ca.gov](mailto:AdminHrgOffice@waterboards.ca.gov), or by letter addressed to:

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

A party or interested person may provide the 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 listed on the service list in the cc portion of the letter. Until the AHO issues an updated service list, parties should use the service list attached to this notice.

Please do not attempt to communicate by telephone or in person with AHO staff or any AHO hearing team member regarding these proceedings, because other parties would not be able to participate in such communications. If oral communications with members of the AHO hearing team are necessary to discuss a procedural or substantive issue, 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.

Date: August 20, 2021

SIGNATURE ON FILE  
Nicole Kuenzi, Hearing Officer

Attachments:  
- Service List



## SERVICE LIST

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Santa Rosa, CA 95404

Department of the Army  
San Francisco District, Corps of  
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450 Golden Gate Ave., 4<sup>th</sup> Floor  
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