
State Water Resources Control Board

July 7, 2021

Re: Kings River FAS Hearing – Procedural Ruling in Hearing Phase 1A

TO ALL PARTIES:

On December 2, 2020, the Administrative Hearings Office (AHO) of the State Water Resources Control Board (State Water Board or Board) issued a Notice of Public Hearing and Pre-Hearing Conference on two pending petitions to revoke or revise the Declaration of Fully Appropriated Stream Systems with respect to the Kings River System and related issues raised in a complaint filed by Semitropic Improvement District of Semitropic Water Storage District (Semitropic) against Kings River Water Association (KRWA) and its member units. The AHO conducted Phase 1A of this hearing on June 2, 3, 4, 17, and 18, to address the threshold question of whether there is evidence tending to show that Licenses 11517 and 11521 should be revoked or a violation of a requirement described in Water Code section 1831, subdivision (d), is occurring or threatening to occur.

On June 29, after the close of the evidentiary hearing in Phase 1A, Semitropic submitted to the AHO a “Declaration of Ali Taghavi” and revised versions of rebuttal exhibits Semitropic-109 through Semitropic-111. Semitropic’s cover letter states that the declaration and revised exhibits address differences in the presentation of data by water year in the KRWA Watermaster Reports and the presentation of data by calendar year in KRWA’s revised Reports of Licensee and exhibit KRWA-37 which Dr. Taghavi “had not accounted for.” (Letter from Sam Bivens, Downey Brand, to Hearing Officer Nicole Kuenzi, AHO (June 29, 2021).) Semitropic requests that the AHO replace the original exhibits Semitropic-109 through Semitropic-111 in the evidentiary record with the revised exhibits submitted by Semitropic on June 29. KRWA and the Upper River Districts oppose the request.

I deny Semitropic’s request to substitute in the evidentiary record for Phase 1A the revised exhibits submitted on June 29 for the original exhibits Semitropic-109 through Semitropic-111. The AHO has completed the evidentiary hearing for Phase 1A of this proceeding. Absent reopening the evidentiary portion of the hearing, other parties will have no opportunity to respond to or cross-examine Semitropic’s witnesses about the revised exhibits. Furthermore, Phase 1A of this hearing is a preliminary proceeding. If the AHO decides that there is sufficient evidence to support a notice for a hearing Phase 1B, Semitropic will have an opportunity to re-address the data in the KRWA

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

Watermaster Reports, KRWA's revised Reports of Licensee, and exhibit KRWA-37, and all other parties will have an opportunity to respond.

Revised exhibits Semitropic-109 through Semitropic-111 and the Declaration of Ali Taghavi dated June 29, 2021, are not accepted into the evidentiary record for Phase 1A.

Sincerely,

SIGNATURE ON FILE

Nicole L. Kuenzi
Hearing Officer
Administrative Hearings Office

SERVICE LIST

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