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## State Water Resources Control Board

### **AMENDED NOTICE OF PUBLIC HEARING**

The State Water Resources Control Board  
Administrative Hearings Office  
will hold a public hearing  
on the proposed revocation of  
Public Water System Permit No. 2018-03-017 issued to  
**Bloomingcamp Water System (System No. 5000435).**

The **Public Hearing** will commence on

**April 19, 2023, at 9:00 a.m.**

The Pre-Hearing Conference and Public Hearing will be held by Zoom teleconference.

Please access Zoom by using the link:

<https://waterboards.zoom.us/j/97973190018?pwd=Z3pQaDIsNUFaYWVpQ0xHZTNpV1hOZz09>

with Meeting ID: 979 7319 0018 and Passcode: 599315

Or by calling in at:

+16694449171,,97973190018#,,,,\*599315# US

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 August 17, 2022, the Deputy Director for the State Water Resources Control Board (State Water Board or Board) Division of Drinking Water (Division), issued a Notice of Intent to Revoke Domestic Water Supply Permit No. 2018-03-017 (Notice of Intent), issued to Bloomingcamp Water System, System No. 5000435 (Bloomingcamp Water System, Bloomingcamp, or Respondent). The Division sent the Notice of Intent to Bloomingcamp Water System by letter dated August 17, 2022. The letter notified

Bloomingcamp of the right to request a hearing to contest the allegations in the Notice of Intent.

The State Water Board is authorized under the California Safe Drinking Water Act (Health & Saf. Code, division 104, part 12, chapter 4 (Safe Drinking Water Act)), to revoke a public water system permit when a water system is not complying with its permit, the Safe Drinking Water Act, or any regulation, standard, or order issued or adopted pursuant to the Safe Drinking Water Act. (Health & Saf. Code, § 116625, subd. (a).)

Health and Safety Code section 116555, subdivision (a)(1), requires any person who owns a public water system to ensure that the system complies with primary and secondary drinking water standards. Section 64418 and 64418.8 of title 22 of the California Code of Regulations provides the requirements for a public water system to use point of use treatment devices (POUs) in lieu of centralized treatment and the circumstances in which such a public water system is in violation of a maximum contaminant load (MCL). Section 64431 of title 22 of the California Code of Regulations sets the MCL for nitrate at 10 milligrams per liter (mg/L).

### Bloomingcamp Water System

Bloomingcamp Water System is located at 10528 Highway 120, Oakdale, California, in the unincorporated area of Stanislaus County adjacent to the City of Oakdale. The Notice of Intent states that Bloomingcamp Water System consists of one well, one pressure tank, five POUs, and the distribution system. The system serves a shop, two residences, one mobile home, an apple press room, a bakery, and two public restrooms. Bloomingcamp Water System is classified as a transient water system with seven connections, serving a population of six permanent residents, four employees, and at least 25 patrons 60 days out of the year.

Before January 1, 2022, Stanislaus County Department of Environmental Resources, Division of Environmental Health (DER) had regulatory oversight of Bloomingcamp Water System.

DER issued Compliance Order DER-18R-008 (Compliance Order) to Bloomingcamp Water System on May 4, 2018, for violation of Health and Safety Code section 116555, subdivision (a)(1) and section 64431 of title 22 of the California Code of Regulations because water produced by Bloomingcamp Water System's well exceeded the MCL for nitrate. Among other directives, the compliance order directed Bloomingcamp to comply with the MCL for nitrate by April 10, 2021. DER issued amendments to the compliance order on April 5, 2019; May 14, 2019; and August 11, 2020. On June 13, 2019, Bloomingcamp filed a petition for reconsideration of the Compliance Order.

On July 12, 2019, DER issued Citation DER-19C-003 to Bloomingcamp Water System for failure to comply with the nitrate MCL, conditions of Permit No. 2018-03-017, and directives in the Compliance Order and its amendments. The citation imposed an

administrative penalty on Bloomingcamp of \$12,000. On August 6, 2019, Bloomingcamp filed a petition for reconsideration of the citation and financial penalty.

On July 7, 2020, the State Water Board denied Bloomingcamp's petitions for reconsideration of the Compliance Order and Citation DER-19C-003 in Order DW 2020-0002.

Regulatory oversight of Bloomingcamp Water System transferred to the Division on January 1, 2022. On May 4, 2022, the Division issued Citation No. 01-10-22C-004 to Bloomingcamp Water System for failure to comply with the terms of Permit No. 2018-03-017; the Compliance Order and the third amendment to the Compliance Order; Citation DER-19C-003; Health and Safety Code section 116555, subdivision (a)(1); and title 22 of the California Code of Regulations, sections 64431, 64418, subdivision (a)(6), and 64418.8, subdivision (a)(3).

The Notice of Intent proposes revocation of Permit No. 2018-03-017 because Bloomingcamp Water System has allegedly: continued to fail to comply with the MCL for nitrate, in violation of the directive in the Compliance Order, conditions of Permit No. 2018-03-017, Health and Safety Code section 116555, subdivision (a)(1), and title 22 of the California Code of Regulations, section 64431; failed to meet the requirements for using POU's in lieu of centralized treatment to comply with MCLs under title 22 of the California Code of Regulations sections 64418 and 64418.8; failed to implement an approved corrective action plan to address exceedances of the MCL for nitrate; and failed to provide reports and take corrective actions required by the Compliance Order, amendments to the Compliance Order, and Citation No. 01-10-22C-004.

#### Administrative Hearings Office Proceeding

Water Code section 1110 established the Administrative Hearings Office (AHO) within the State Water Board. Water Code section 1112, subdivision (c)(2), provides that the State Water Board may assign adjudicative hearings to the AHO. Subdivision (c)(3) of this section provides that an AHO hearing officer may perform additional work requested by the Board.

On October 24, 2022, the State Water Board's Executive Director issued a memorandum assigning the proposed revocation of Bloomingcamp's Public Water System Permit No. 2018-03-017 to the AHO for a hearing and preparation of a proposed order. On December 30, 2022, the AHO issued a Notice of Public Hearing, which set a hearing in the matter for March 3, 2023.

The AHO conducted a pre-hearing conference on January 26, 2023. Representatives for Bloomingcamp and the Prosecution Team participated in the conference. On February 2, 2023, Bloomingcamp filed a motion for continuance of the hearing. On February 14, 2023, the Prosecution Team filed an opposition to the motion. The AHO hearing officer issued a Notice of Continuation of Hearing on February 17, 2023, which ruled, in part, on Bloomingcamp's motion for continuance and continued the hearing to

a date on or after April 10, 2023. On March 13, 2023, the AHO hearing officer issued a procedural ruling letter on Bloomingcamp's motion for continuance which set a hearing in this matter for April 19, 2023.

On February 14, 2023, Bloomingcamp filed a motion to disqualify Laura Mooney as a member of the Prosecution Team and to exclude from the proceeding any work produced by Ms. Mooney. In the alternative, Bloomingcamp sought recusal of the hearing officer. On February 17, 2023, the Prosecution Team filed an opposition to Bloomingcamp's motion to disqualify. On March 13, 2023, the AHO hearing officer issued a procedural ruling letter denying Bloomingcamp's motion to disqualify.

## **PURPOSE OF HEARING AND HEARING ISSUES**

The AHO will hold a public hearing to receive evidence and arguments relevant to the proposed revocation of Permit No. 2018-03-017. The purpose of this hearing is for a hearing officer in the AHO to receive evidence and arguments relevant to the following questions:

- 1) Did Bloomingcamp Water System violate the Safe Drinking Water Act or a regulation issued pursuant to the Act?
  - a. Did Bloomingcamp Water System violate Health and Safety Code section 116555?
  - b. Did Bloomingcamp Water System violate section 64431 of title 22 of the California Code of Regulations?
  - c. Did Bloomingcamp meet the requirements for using point of use treatment devices in lieu of centralized treatment for the purpose of complying with MCLs under sections 64418 and 64418.8 of title 22 of the California Code of Regulations?
  - d. Did Bloomingcamp Water system violate the MCL for nitrate and is it continuing to violate the MCL for nitrate?
- 2) Did Bloomingcamp violate any of the conditions of Permit No. 2018-03-017?
  - a. Did Bloomingcamp violate Condition 3 of Permit No. 2018-03-017, which prohibits changes, additions, or modifications to the sources or treatment in the conditions of the permit unless an amended water permit is obtained?
  - b. Did Bloomingcamp violate Condition 4 of Permit No. 2018-03-017, which requires all water supplied by Bloomingcamp Water System for domestic purposes to meet all MCLs and Action Levels established by the California Department of Public Health?
- 3) Did Bloomingcamp Water System violate Compliance Order DER-18R-008 or any of its amendments?
- 4) Did Bloomingcamp Water System violate Citation DER-19C-003 or Citation No. 01-10-22C-004?

- 5) Is the State Water Board authorized to revoke Bloomingcamp Water System's Domestic Water Supply Permit No. 2018-03-017? If so, should the State Water Board revoke Bloomingcamp Water System's Domestic Water Supply Permit No. 2018-03-017?

## **ADMINISTRATIVE RECORD**

The AHO hearing officer's proposed order in this matter will be based upon evidence and arguments in the administrative record. Parties may submit additional evidence and make arguments based on the evidence during the hearing relevant to the hearing issues outlined above.

The AHO uses the State Water Board's File Transfer Protocol (FTP) site to make AHO administrative record files available to interested parties and the public. 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 Folder."

To access the AHO-FTP download folder, please submit an e-mail request to the AHO at [AdminHrgOffice@Waterboards.ca.gov](mailto:AdminHrgOffice@Waterboards.ca.gov) with "Request for AHO ftp password" in the subject line. After receiving the e-mail request, the AHO will send a reply e-mail with a password to access the download account. It is not necessary to include any other parties in the cc line for such an e-mail request.

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. Only AHO personnel may upload files to this folder. The AHO will post each party's hearing exhibits, exhibit identification indices and legal briefs, if applicable, 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 order). The documents in this folder will be the AHO's administrative record for this proceeding.

## **HEARING OFFICER AND HEARING TEAM**

Nicole Kuenzi, a hearing officer in the State Water Board's Administrative Hearings Office, will be the hearing officer for this proceeding and will prepare a written order, according to the requirements outlined in Water Code section 1114, subdivision (b)(1), within 90 days after the matter is submitted for decision. She may be assisted in an advisory capacity by other AHO staff, attorneys in the Board's Office of Chief Counsel, and staff of the Division of Drinking Water. These Board staff, Hearing Officer Kuenzi, and members of the executive management of the State Water Board may advise the State Water Board members about a final decision in this matter. All of these individuals, including the State Water Board members, are part of the Hearing Team in this proceeding.

## **PROSECUTION TEAM**

A State Water Board staff Prosecution Team 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 Drinking Water. Members of the Prosecution Team are identified in the memorandum from Hearing Officer Kuenzi regarding Separation of Functions for the hearing on the proposed revocation of the Bloomingcamp Water System Permit No. 2018-03-017 (Separation of Functions Memorandum), which is attached to this notice. Members of the Prosecution Team also include Laura Mooney, Attorney III, Office of Enforcement.

## **PROHIBITION ON *EX PARTE* COMMUNICATIONS AND SEPARATION OF FUNCTIONS**

While this proceeding is pending, *ex parte* communications between parties and members of the Hearing Team are prohibited. *Ex parte* communications are any type of communication that occurs between a party or interested person and the hearing officer or a member of the Hearing Team without notice and an opportunity for all parties to participate.

Please do not attempt to communicate by telephone with any AHO hearing officer or member of the Hearing Team 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](mailto:adminhrgoffice@waterboards.ca.gov) or by letter to the AHO and serve all other parties with copies of the communication.<sup>1</sup>The party shall include a proof of service through a formal proof of service or by other verification.<sup>2</sup>

Staff of the State Water Board on the Prosecution Team will maintain a separation from other staff of the State Water Board who are on the Hearing Team, while this proceeding is pending. Like all other parties, the Prosecution Team is prohibited from having any *ex parte* communications with any members of the Hearing Team. (See Wat. Code, § 1110, subd. (c); Gov. Code, §§ 11430.10-11430.80.)<sup>3</sup> More information about separation of functions in this proceeding is in the Separation of Functions Memorandum attached to this notice.

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<sup>1</sup> The AHO's mailing addresses are provided in Item 6, below.

<sup>2</sup> 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.

<sup>3</sup> 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](http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf).

## **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:

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

More information about this proceeding may be accessed on the AHO's Internet webpage by clicking on "Drinking Water Permitting Matters."

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

For general information about AHO proceedings, an AHO Frequently Asked Questions (FAQs) page is posted at [https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/procedures.html](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/procedures.html).

The AHO maintains a list of attorneys who may agree to provide pro bono legal assistance to parties without counsel. This list is available at [https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/2021/pro\\_bono\\_aho.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2021/pro_bono_aho.pdf).

## **SCHEDULE AND DEADLINES**

Deadline for filing and service of any submittals of proposed testimony or exhibits before the hearing (optional).	<b>April 12, 2023, 12:00 p.m.</b>
Hearing date and time.	<b>April 19, 2023, 9:00 a.m.</b>
Deadline for parties to file closing briefs with the AHO.	<b>May 10, 2023, 12:00 p.m.</b>

## **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, and 649.6. 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. If the parties sign a written settlement agreement, the Respondent shall notify the AHO in writing that the parties have signed a written settlement agreement and that the Respondent withdraws her request for a hearing.

**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 proposed testimony and other documents to be submitted as evidence. There is no requirement for any party to submit any written proposed testimony or exhibits before the hearing, but a party may do so. Any party that wants to submit written 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 deciding to submit exhibits before the hearing must file with the AHO both the exhibits and an Exhibit Identification Index, which is a list of exhibits in 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. Respondent's exhibits should be numbered Respondent-1, Respondent-2, etc.

**6. SUBMISSIONS OF EXHIBITS:** The AHO prefers that participants that decide to submit exhibits before the hearing do so by uploading the exhibits in electronic form to the State Water Board's FTP site. The AHO will provide each party a unique account to upload the party's documents for this hearing approximately one week before the deadline to file exhibits. These accounts are referred to in this hearing notice as the "Parties' Upload Folders." Only the party may upload files to the party's folder, and only the AHO may view, transfer, and download files from this folder.

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 the Download 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 documents that the party has submitted and a separate electronic folder of any documents the AHO has renamed or renumbered, in the administrative record folder.

If a party cannot upload exhibits to the FTP site, then the party may serve its exhibits on the other parties by mail by the optional exhibit filing deadline specified in this notice.

The party may mail paper copies of all its exhibits to the AHO at:

State Water Resources Control Board  
Administrative Hearings Office  
P. O. Box 100  
Sacramento, CA 95812-0100

Alternatively, a party may send paper copies of its exhibits to the AHO by overnight delivery to:

Joe Serna Jr. CalEPA Building  
State Water Resources Control Board  
Administrative Hearings Office  
1001 I Street  
Sacramento, CA 95814

**7. 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 key 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 60 minutes total for all witnesses for each party**).
  - Cross-examination of the party's witnesses (**60 minutes total for all of 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.

d. **Closing statements (5 minutes per party)**

**8. HEARING LOGISTICS:** Parties should participate in the hearing by both audio and video through the Zoom meeting link if possible. If this is not possible, then the hearing officer will accept audio-only participations.

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 a file of the recording on the AHO-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.

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.

During the hearing, please be respectful and patient. Parties should raise a hand on-screen to get the hearing officer's attention. To reduce acoustic background noise, please remain on mute unless speaking. If other devices are tuned into the meeting, please turn off the speaker volume on those devices. Other participants will be able to see each party's name, depending on the party's Zoom account settings. Other participants may also see the last three digits of a party's phone number unless the party has called in anonymously. During the hearing, AHO staff may add designations of participants' names to the Zoom display.

If a party's device freezes, please notify staff at [adminhrгоffice@waterboards.ca.gov](mailto:adminhrгоffice@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. 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.

**9. CLOSING BRIEFS:** Any party that wants to file a post-hearing closing brief shall file it on or before **May 10, 2023, at 12:00 p.m.** Each closing brief shall be a maximum of 15 pages double-spaced, in a font size not smaller than 12 points. For citations to hearing testimony, please include citations to the date, hour, minute and second of the beginning and end of the part of the hearing recording that is being cited. Please cite to the hearing recordings posted on the AHO-FTP site, not to the recordings posted on the

AHO's YouTube site. 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. After the deadline for filing closing briefs, the AHO will file all closing briefs in the AHO-FTP folder for this proceeding.

March 14, 2023  
Date

/s/ Nicole L. Kuenzi  
Nicole L. Kuenzi  
Hearing Officer

Enclosures:

- Service List

**SERVICE LIST**  
**Updated March 14, 2023**

**By e-mail only**

Darrin Polhemus  
[darrin.polhemus@waterboards.ca.gov](mailto:darrin.polhemus@waterboards.ca.gov)

Matthew K. Carr  
[Matthew.Carr@Waterboards.ca.gov](mailto:Matthew.Carr@Waterboards.ca.gov)

Nicole DiCamillo  
[Nicole.DiCamillo@Waterboards.ca.gov](mailto:Nicole.DiCamillo@Waterboards.ca.gov)

Heather Jidkov  
[Heather.Jidkov@Waterboards.ca.gov](mailto:Heather.Jidkov@Waterboards.ca.gov)

Daniel Newton  
[Daniel.Newton@waterboards.ca.gov](mailto:Daniel.Newton@waterboards.ca.gov)

Bhupinder Sahota  
[Bhupinder.Sahota@waterboards.ca.gov](mailto:Bhupinder.Sahota@waterboards.ca.gov)

Gena Farley  
[Gena.Farley@Waterboards.ca.gov](mailto:Gena.Farley@Waterboards.ca.gov)

Matthew Steinberg  
[m\\_steinberg@sbcglobal.net](mailto:m_steinberg@sbcglobal.net)

Matthew Emrick  
[matthew@mlelaw.com](mailto:matthew@mlelaw.com)

Reid Johnson  
[rj.jol2@gmail.com](mailto:rj.jol2@gmail.com)

Administrative Hearings Office  
[adminhrgoffice@waterboards.ca.gov](mailto:adminhrgoffice@waterboards.ca.gov)