



State Water Resources Control Board

TO: ALL PARTIES

FROM: Nicole L. Kuenzi
Hearing Officer
ADMINISTRATIVE HEARINGS OFFICE

DATE: December 30, 2022

SUBJECT: SEPARATION OF FUNCTIONS FOR THE HEARING ON THE PROPOSED REVOCATION OF THE BLOOMINGCAMP WATER SYSTEM PERMIT NO. 2018-03-017

On October 24, 2022, the Executive Director of the State Water Resources Control Board (State Water Board or Board) assigned the proposed revocation of the Bloomingcamp Water System's Permit No. 2018-03-017 by the Division of Drinking Water to the Administrative Hearings Office (AHO) to conduct a hearing and prepare a proposed order. This memorandum describes the separation of Board staff in the proceeding according to function as members of the Hearing Team or members of the Prosecution Team, and describes the prohibition on ex parte communications while this proceeding is pending.

SEPARATION OF FUNCTIONS

Staff of the State Water Board who are participating in a prosecutorial function in this proceeding (Prosecution Team) will be separated from other staff of the State Water Board who are advising the hearing officer or Board Members in this proceeding (Hearing Team). Members of the Prosecution Team will not discuss this matter with the hearing officer, the Board Members, or any State Water Board staff involved in this proceeding in an advisory capacity.

AHO Hearing Officer Nicole Kuenzi will preside over the public hearing in this proceeding. 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.

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

The State Water Board Prosecution Team will include attorneys in the Board's Office of Enforcement, attorneys in the Board's Office of Chief Counsel, and management and staff in the Division of Drinking Water. On November 7, 2022, the AHO sent an e-mail to the parties which directed the Prosecution Team to identify its members. The members of the Prosecution Team identified by Ms. Heather Jidkov in her e-mail response of November 10, 2022, are as follows:

Darrin Polhemus, Deputy Director, Division of Drinking Water

Daniel Newton, Assistant Deputy Director, Division of Drinking Water

Kim Hanagan, Section Chief, Northern California, Division of Drinking Water

Bhupinder Sahota, Senior Sanitary Engineer, Stockton District, Division of Drinking Water

Gena Farley, Water Resources Control Engineer, Stockton District, Division of Drinking Water

Matthew Carr, Attorney IV, Office of Chief Counsel

Nicole DiCamillo, Attorney IV, Office of Chief Counsel

Heather Jidkov, Attorney III, Office of Enforcement

It is the understanding of the AHO Hearing Officer that Laura Mooney, Attorney III, Office of Enforcement, will not be participating on the Prosecution Team even though she was identified in Ms. Jidkov's e-mail. If Ms. Mooney will be participating as a member of the Prosecution Team, the Prosecution Team should notify the AHO.

PROHIBITION ON EX PARTE COMMUNICATIONS

While this proceeding is pending, *ex parte* communications between any party, party representative, or interested person, including any member of the Prosecution Team, and any member of the Hearing Team, 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.)

The AHO has posted a discussion of *ex parte* communications on the AHO's webpage at

https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2021/2021-07-06_webpage_faq.pdf. (See response to FAQ 16.)

If any party wants to communicate with any member of the Hearing Team at any time while this proceeding is pending regarding any procedural or substantive issue, including any issue regarding the pre-hearing conference, hearing procedures or filing of documents, then that party shall make such communication in writing (by e-mail or

letter) and serve all other parties with copies of the communication and include a proof of service demonstrating such service of the written communication to the AHO. A party may provide this 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 in the cc portion of the letter. If the AHO receives any communication regarding this proceeding that is addressed to the AHO, a Board member, or any other member of the Hearing Team, then the AHO will file a copy of the communication in the appropriate folder within the AHO-FTP folder for this proceeding.