
State Water Resources Control Board

STATUS CONFERENCE RULING AND NOTICE OF STATUS CONFERENCE

The State Water Resources Control Board
Administrative Hearings Office
will hold a Status Conference on
pending Application 30166 filed by

EI Sur Ranch

for a permit to appropriate water from
the Big Sur River in Monterey County.

**The Status Conference will be held on
March 23, 2023, at 1:00 p.m.**

The status conference will be held by Zoom teleconference.

You may participate in the Zoom teleconference by using the link:

<https://waterboards.zoom.us/j/97355727363?pwd=ZlIkWTllcmhCUVRtTUdwNVg0T0lOQT09>

Meeting ID: 973 5572 7363

Passcode: 496267

or by calling in at: +16699009128,,97355727363#,,,,*496267# US (San Jose)

**Interested members of the public who would like to watch the status conference
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/

BACKGROUND

On July 27, 1992, James J. Hill III (Applicant) filed water-right Application 30166 on behalf of El Sur Ranch with the State Water Resources Control Board's (State Water Board or Board) Division of Water Rights (Division) for a permit to appropriate water from the Big Sur River in Monterey County. The Applicant amended Application 30166 in November and December 2005, October 2006, and June 2011. The current application is for a water-right permit that would authorize diversion of water at a rate not to exceed 5.84 cfs, with an annual maximum of 1,320 acre-feet, a maximum 20-year rolling average of 1,087 acre-feet per year, a seasonal limit of 676 acre-feet from July 1 through October 31, and a monthly limit for July, August, September, and October of 203 acre-feet per month. Additional information about this proceeding is in the AHO's May 23, 2022 Notice of Status Conference.

The State Water Board held a public hearing on Application 30166 in June and July 2011. On December 9, 2021, the Board's Executive Director assigned Application 30166 to the State Water Board's Administrative Hearings Office (AHO). The AHO held status conferences in this matter on June 30, 2022; August 23, 2022; September 8, 2022; October 4, 2022; and February 1, 2023.

PROCEDURAL RULING

In accordance with the status conference held on February 1, 2023, the hearing officer sets the following deadlines:

1. The Applicant shall submit to the Division of Water Rights, with copies to the AHO and the service list, a petition for change and amended Application 30166 that reflects the Applicant's current proposed project, by **March 3, 2023**.
2. The Applicant shall retain a consultant by **March 3, 2023**, to revise the 2011 proposed Final Environmental Impact Report prepared by Atkins North America, Inc. for the Division of Water Rights (2011 uncertified FEIR) to address potential impacts of the current proposed project.
3. The Applicant shall provide for a representative of the consultant it has retained to participate in the status conference set for **March 23, 2023**.

At this time, the hearing officer expects that the consultant retained by the Applicant will prepare an initial draft of a new or revised environmental review document under CEQA to address changes to the Applicant's proposed project reflected in the amendments to Application 30166. The prohibition against ex parte communications does not extend to communications between the Applicant and the consultant, and the consultant may communicate with the Applicant as necessary to develop an initial draft of a new or revised environmental review document. The prohibition against ex parte communications shall apply to communications between the consultant and the AHO hearing officer and State Water Board members, as well as AHO staff, staff of the Division of Water Rights, and State Water Board executive management. Any such

communications should be made either in writing, with a copy sent to the service list for this proceeding, or orally during a noticed status conference in which all interested parties have the opportunity to participate. The AHO hearing officer intends to schedule regular status conferences for this purpose.

During the status conference on February 1, 2023, Mr. Shutes asked the hearing officer for more information about the notice and protest process that the AHO intends to follow after the Applicant files its petition for change and amended Application 30166. The hearing officer will provide additional information before the March 23 status conference about the actions that the AHO will take, or require the Applicant to take, to provide notice of the petition and amended application, and the process for interested parties to submit protests on the petition and amended application. The hearing officer will discuss this process with representatives of the Applicant and other parties during the status conference.

STATUS CONFERENCE

The AHO hearing officer will hold a status conference on **March 23, 2023, at 1:00 p.m.** by Zoom teleconference. No in-person appearances will be allowed. The status conference will be held and electronically recorded by Zoom teleconference. The AHO will not retain a court reporter for the status conference. Any party may arrange for a court reporter at the party's own expense.

The status conferences will be live streamed through the Administrative Hearings Office YouTube channel, accessible by clicking on the link provided below. After the conclusion of the conference, a recording of the YouTube live-stream of the conference 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-g8l-C7Nig/videos?view=57m>

During the status conference, the hearing officer will discuss the following issues with the Applicant and a representative of the consultant retained by the Applicant to develop a new or revised environmental document. The hearing officer will also invite comments from representatives of the interested parties who participate in the status conference.

1. What type of new environmental document or revision to the 2011 uncertified FEIR does CEQA require to address changes to the Applicant's proposed project as reflected in the amendments to Application 30166?
2. What are the initial procedural steps to develop this new document or revision to the 2011 uncertified FEIR?
3. What is a proposed timeline for the consultant to develop this new document or revision to the 2011 uncertified FEIR?

The hearing officer also intends to discuss this notice and protest process for the Applicant's petition for change and amended application with representatives of the Applicant and other parties during the status conference.

Parties do not need to file status conference statements. If any party wants to file a status conference statement, the party shall file the status conference statement with the AHO and serve copies of it on the other parties listed in the attached service list. The AHO will post the statements on the Water Board AHO-FTP site in the folder for this matter.

DEADLINES AND SCHEDULE

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| Deadline for Applicant to submit amended application and change petition to Division of Water Rights. | March 3, 2023. |
| Deadline for Applicant to retain a consultant to develop a new or revised environmental document. | March 3, 2023. |
| Status conference. | March 23, 2023, at 1:00 p.m. |

February 28, 2023

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

Enclosures:
- Service List

SERVICE LIST
Updated February 28, 2023

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