

MEMORANDUM

To: Regional Managers
Water Allocation Bureau
Resource Protection Bureau
Adjudication Bureau

Application Processing No. 43

From: Norman C. Young *NCY*

RE: SCHEDULING AND CONDUCT OF CONFERENCES AND HEARINGS

Date: December 27, 1988

Associated with reorganization will be a shift in responsibilities some of which are immediate and some of which will evolve over a period of time. One such responsibility is in connection with water right hearings.

Hearings on protested water right applications is a function of Water Allocation Bureau. Pending decisions on matters already heard, however, in most cases should be completed by the original hearing officer(s) for efficiency reasons.

As Water Allocation Bureau evolves into the hearing process, some aspects of the hearing procedure will be changed. More specifically, past experience has shown that many matters set for conference and/or hearing often are resolved in a conference forum without the need for a hearing. Matters which can not be resolved in a conference often can not immediately go to hearing, since the parties often are not prepared, do not have their evidence or witnesses available or simply did not understand what a hearing involves.

In order to determine which matters require a hearing, the regional supervisor should schedule a conference with the involved parties not later than 60 days of receipt of the protest. In some cases, a prior field visit will resolve a protest.

If a matter can not be resolved by a field visit or at a conference, the regional supervisor should, when possible, formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses and advise the parties of the procedure which will be followed at the hearing to be scheduled. A state

office representative then will conduct the hearing together with the regional supervisor.

Hopefully, this procedure will allow the department to more effectively use its personnel in the screening and hearing of contested matters.

With respect to appeals, or requests for rehearing in connection with proposed decisions or decisions, the state office will assign a hearing officer which may or may not be the same hearing officer who first heard the matter.

Water Allocation Bureau will set up a callup/action file to expedite the drafting and issuance of decisions once the record has closed. The goal the department should obtain is to issue the proposed decision within 30 days after the record closes.

In order to facilitate the scheduling of hearings, the regions may use the following time frames as a general guide:

Northern Region - Week of each month with the first Monday.

Southern Region - Week of each month with the second Monday.

Eastern Region - Week of each month with the third Monday.

Western Region - Week of each month with the fourth Monday.