

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:)	Complaint No. R4-2008-0069-M
)	Mandatory Minimum Penalty for
)	Violation of California Water Code § 13376
City of Burbank)	and
Burbank Water Reclamation Facility)	Order No. R4-2006-0085
Burbank, California)	(NPDES No. CA0055531)

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) § 13385, subdivisions (h) & (i) is issued to the City of Burbank (hereinafter Permittee) based on a finding of violations of waste discharge requirements prescribed in Order No. R4-2006-0085 (NPDES No. CA0055531, CI No. 4424).

The Interim Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds the following:

1. The Permittee owns the Burbank Water Reclamation Facility (hereinafter facility) and contracts with United Water Service to operate the facility. The facility, a tertiary wastewater treatment plant is located at 740 North Lake Street in Los Angeles County. The wastewater is susceptible to exceeding the temperature limitation as well as containing coliform, oil and grease (O&G), total residual chlorine (TRC), turbidity, and other pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.). The wastewater flows to the Burbank Western Channel, tributary to the Los Angeles River, a navigable water of the United States.
2. On November 9, 2006, the Regional Board adopted Order No. R4-2006-0085 which serves as NPDES permit number CA0055531. Order No. R4-2006-0085 prescribes waste discharge requirements to the Permittee for the discharge of treated wastes from the facility. Order No. R4-2006-0085 is set to expire October 10, 2011.
3. On April 1, 2010, the Regional Board adopted Order No. R4-2010-0058 amending Order No. R4-2006-0085. Order No. R4-2010-0058 is effective May 21, 2010 through October 10, 2011. All violations being considered in Complaint No. R4-2008-0069-M occurred prior to the effective date of the amendment, Order No. R4-2010-0058.
4. Order No. R4-2006-0085, effective December 29, 2006 through October 10, 2011, includes the following effluent limitations for oil and grease (O&G), temperature, total residual chlorine (TRC), coliform and turbidity (Part I.A. pages 30-37):

July 29, 2010

Constituent	Unit of Measure	Discharge Limitations	
		Daily Maximum	Monthly Average
O&G	mg/L	15	10
Temperature	°F	86	--
TRC	mg/L	0.1	--
Coliform	MPN/100 mL	(a) 7-day median = 2.2 MPN/100 mL, (b) 30-day period = not to exceed 23 MPN/100 mL in > 1 sample	
Turbidity	NTU	(a) Daily Average = 2 NTU (b) Not to exceed 5 NTU > 5 percent of time (72 minutes) in 24 hours	

mg/L = milligrams/liter, MPN/100 mL = Most Probable Number/ 100 milliliters, NTU = Nephelometric Turbidity Units,
°F = degrees Fahrenheit

5. Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.
6. Among the provisions in the Permittee's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit monthly NPDES self-monitoring reports to the Regional Board pursuant to the authority of CWC § 13383.
7. On September 30 2008, the Chief Deputy Executive Officer of the Regional Board issued the Permittee Settlement Offer No. R4-2008-0069-M to participate in the Expedited Payment Program (Settlement Offer). The Settlement Offer included a Notice of Violation notifying the Permittee of thirty-two (32) violations that occurred between February 2007 through January 2008, twenty-nine (29) of which are subject to mandatory minimum penalties.
8. Since issuance of Settlement Offer No. R4-2008-0069-M, Regional Board staff have dismissed one (1) violation and the Permittee has reported five (5) additional violations between July 2009 through March 2010.
9. Thirty-six (36) violations of Order No. R4-2006-0085 were noted in the Permittee's self-monitoring reports during the period February 2007 through March 2010. These violations include effluent limit exceedances for oil and grease (O&G), temperature, total residual chlorine (TRC), coliform and turbidity. The violations are identified in Exhibit "A" attached hereto and incorporated herein by reference.
10. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2) "a serious violation is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more.

Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants.”

11. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.
12. The maximum amount of administrative civil liability assessable pursuant to CWC § 13385(c) is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

YOU ARE HEREBY GIVEN NOTICE THAT:

13. The Interim Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$87,000 for the violations which occurred during the February 2007 through March 2010 monitoring periods cited in Exhibit “A”. Refer to Exhibit “A” for the calculation of the amount of mandatory minimum penalty.
14. The Permittee may waive the right to a hearing and pay the recommended civil liability. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return it to the Regional Board by 5:00 pm on **August 30, 2010**. If the hearing is waived, a check in the amount of \$87,000 (payable to the State Water Pollution Cleanup and Abatement Account) must be received by the Regional Board by 5:00 pm on **August 30, 2010**.
15. If the Regional Board does not receive a waiver and full payment of the recommended penalty by **August 30, 2010**, the Complaint will be heard before the Regional Board or Regional Board Hearing Panel pursuant to California Water Code §§ 13228.14 and 13323. The Notice of Public Hearing contains that date, time, location, and specific procedures of the scheduled hearing of this matter.
16. If a hearing on this matter is held, the Regional Water Board will consider whether to affirm, reject, or modify (i.e. increase the proposed civil liability above the mandatory minimum) the proposed civil liability, or whether to refer the matter to the Attorney General for assessment of judicial civil liability.
17. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to “actions” and “special proceedings” and are contained in the California Code of Civil Procedure apply to judicial proceedings, not administrative proceeding. See *City of Oakland v. Public Employees’ Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
18. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the

Permittee's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.

19. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
20. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.



Samuel Unger, P.E.

Interim Executive Officer

Los Angeles Regional Water Quality Control Board

July 29, 2010

Ms. Jennifer Fordyce
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814
(916) 324-6682
jfordyce@waterboards.ca.gov

Untimely objections will be deemed waived. Procedural objections about the matters contained in this notice will not be entertained at the hearing. Further, except as otherwise stipulated, any procedure not specified in this hearing notice will be deemed waived pursuant to section 648(d) of Title 23 of the California Code of Regulations, unless a timely objection is filed.

3. Any issues outside the scope of those described in section C.2, above, that cannot be resolved by stipulation shall be brought to the attention of the Legal Advisor to the Hearing Panel, as set forth in section C.2, by **5:00 pm on September 28, 2010** if possible, and if not possible, then at the earliest possible time with an explanation about why the issue could not have been raised sooner.

IX. QUESTIONS

If you have any questions about this Notice of Public Hearing, please contact as appropriate, the Case Manager of the Prosecution Team, or the Legal Advisor to the Hearing Panel as described above.

Date: July 29, 2010

WAIVER FORM

FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R4-2008-0069-M

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the City of Burbank (hereinafter "Permittee") in connection with Administrative Civil Liability Complaint No. R4-2008-0069-M (hereinafter the "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

- (OPTION 1: Check here if the Permittee waives the hearing requirement and will pay the recommended liability.)*
- a. I hereby waive any right the Permittee may have to a hearing before the Regional Water Board.
 - b. I certify that the Permittee will remit payment for the civil liability imposed in the amount of **\$87,000** by check that references "ACL Complaint No. R4-2008-0069-M" made payable to the "*Cleanup and Abatement Account*". Payment must be received by the Regional Water Board by **August 30, 2010** or this matter will be placed on the Regional Board's agenda for a hearing as initially proposed in the Complaint.
 - c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period expires. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Interim Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Permittee having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
 - d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Permittee to further enforcement, including additional civil liability.

- (OPTION 2: Check here if the Permittee waives the 90-day hearing requirement in order to engage in settlement discussions.)*** I hereby waive any right the Permittee may have to a hearing before the Regional Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Permittee will promptly engage the Regional Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Permittee requests that the Regional Water Board delay the hearing so that the Permittee and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(Print Name and Title)

(Signature)

(Date)

EXHIBIT "A"
Violation Summary

Pipe	Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
002	02/20/07	Feb 07	>23>2x in 30 days	Total Coliform	280	23	MPN	--	--	Chronic	(i)1	\$0
002	03/18/07	Mar 07	>23>2x in 30 days	Total Coliform	110	23	MPN	--	--	Chronic	(i)1	\$0
002	04/16/07	Apr 07	>23>2x in 30 days	Total Coliform	350	23	MPN	--	--	Chronic	(i)1	\$0
002	05/01/07	May 07	>23>2x in 30 days	Total Coliform	1,300	23	MPN	--	--	Chronic	(i)1	\$3,000
002	05/06/07	May 07	>23>2x in 30 days	Total Coliform	40	23	MPN	--	--	Chronic	(i)1	\$3,000
002	07/09/07	Jul 07	>23>2x in 30 days	Total Coliform	30	23	MPN	--	--	Chronic	(i)1	\$3,000
002	07/13/07	Jul 07	Daily Maximum	TRC	1.8	0.1	mg/L	2	1700	Serious	(h)1	\$3,000
002	07/20/07	Jul 07	Daily Maximum	TRC	0.3	0.1	mg/L	2	200	Serious	(h)1	\$3,000
002	07/25/07	Jul 07	Maximum	Temperature	87	86	°F	--	--	Chronic	(i)1	\$3,000
002	07/26/07	Jul 07	Maximum	Temperature	87	86	°F	--	--	Chronic	(i)1	\$3,000
002	07/27/07	Jul 07	Maximum	Temperature	87	86	°F	--	--	Chronic	(i)1	\$3,000
002	07/30/07	Jul 07	>23>2x in 30 days	Total Coliform	50	23	MPN	--	--	Chronic	(i)1	\$3,000
002	08/03/07	Aug 07	Maximum	Temperature	87	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/04/07	Aug 07	Maximum	Temperature	87	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/12/07	Aug 07	Maximum	Temperature	87	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/12/07	Aug 07	>23>2x in 30 days	Total Coliform	30	23	MPN	--	--	Chronic	(i)1	\$3,000
002	08/13/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/14/07	Aug 07	Maximum	Temperature	89	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/15/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/16/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/17/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/18/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/19/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/20/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/21/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/28/07	Aug 07	Maximum	Temperature	87	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/29/07	Aug 07	Maximum	Temperature	89	86	°F	--	--	Chronic	(i)1	\$3,000

EXHIBIT "A"
Violation Summary

Pipe	Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
002	08/30/07	Aug 07	Maximum	Temperature	89	86	°F	--	--	Chronic	(i)1	\$3,000
002	08/31/07	Aug 07	Maximum	Temperature	88	86	°F	--	--	Chronic	(i)1	\$3,000
002	09/05/07	Sep 07	Daily Maximum	O&G	45	15	mg/L	1	200	Serious	(h)1	\$3,000
002	09/05/07	Sep 07	Daily Maximum	O&G	2,428	1,100	lbs/day	1	121	Serious	(h)1	\$3,000
002	07/26/09	Jul 09	7 Day Median	Total Coliform	4.0	2.2	MPN	--	--	Chronic	(i)1	\$0
002	07/27/09	Jul 09	7 Day Median	Total Coliform	4.0	2.2	MPN	--	--	Chronic	(i)1	\$0
002	02/06/10	Feb 10	Maximum	Turbidity	>5 (212 min.)	5	NTU	--	--	Chronic	(i)1	\$0
002	02/09/10	Feb 10	Maximum	Turbidity	>5 (225 min.)	5	NTU	--	--	Chronic	(i)1	\$0
002	03/05/10	Mar 10	Daily Maximum	TRC	4.0	0.1	mg/L	--	--	Serious	(h)1	\$3,000
											Total	\$87,000

**HEARING PANEL OF THE
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

320 W. 4th Street, Suite 200
Los Angeles, California 90013
(213) 576-6600

ACLC No. R4-2008-0069-M

NOTICE OF PUBLIC HEARING

**TO CONSIDER AN ADMINISTRATIVE CIVIL LIABILITY COMPLAINT AND
PROPOSE RECOMENDATIONS**

<u>DISCHARGER</u>	<u>DISCHARGE LOCATION</u>	<u>RECEIVING WATER</u>
City of Burbank	Burbank Water Reclamation Facility 740 North Lake Street Burbank, CA	Burbank Channel

Administrative Civil Liability Complaint (“ACLC”) No. R4-2008-0069-M alleges that City of Burbank violated Order No. R4-2006-0085 by failing to comply with the effluent limits during the period February 2007 through March 2010. During this time, thirty-six (36) violations of Order No. R4-2006-0085 were noted in the Permittee’s self-monitoring reports. Out of the thirty-six (36) effluent limit violations, twenty-nine (29) are subject to mandatory minimum penalties. As stated in the ACLC, Regional Board staff, represented by the Regional Board Staff Prosecution Team (Prosecution Team), recommends that a penalty of \$87,000 be assessed against City of Burbank for these violations.

Pursuant to Water Code section 13228.14, a Hearing Panel consisting of three or more members of the California Regional Water Quality Control Board, Los Angeles Region (“Regional Board”) will convene a hearing to hear evidence, determine facts, and to propose a recommendation to the Regional Board about resolution of the ACLC.

This notice sets forth procedures to be used by hearing panels of the Regional Board and outlines the process to be used at this hearing.

I. HEARING DATE AND LOCATION

Date: October 27, 2010
Time: 9:00 A.M.
Place: The State of California

Public Utilities Commission Hearing Room, 5th Floor
320 W. 4th Street
Los Angeles, California 90013

II. AVAILABILITY OF DOCUMENTS

The ACLC and other documents concerning the subject of the ACLC are available for inspection and copying between the hours of 8:00 a.m. and 5:00 p.m. at the following address:

California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Arrangements for file review and/or obtaining copies of the documents may be made by contacting the Case Manager of the Prosecution Team (identified in section V below). Comments received, the Prosecution Team's proposed Hearing Panel Report and Order, and other subsequent relevant documents will be available as they are received or generated.

The entire file will become a part of the administrative record of this proceeding, irrespective of whether individual documents are specifically referenced during the hearing or contained in the Hearing Panel binder. However, the entire file might not be present at the hearing. Should any parties or interested persons desire that the Prosecution Team bring to the hearing any particular documents that are not included in the Hearing Panel binder, they must submit a written or electronic request to the Case Manager of the Prosecution Team (identified in section V below) so that it is received by **5:00 pm on October 7, 2010**. The request must identify the documents with enough specificity for the Prosecution Team to locate them. (Documents in the Hearing Panel binder will be present at the hearing.)

III. NATURE OF HEARING

This will be a formal adjudicative hearing pursuant to section 648 *et seq.* of Title 23 of the California Code of Regulations. Chapter 5 of the California Administrative Procedure Act (commencing with section 11500 of the Government Code) relating to formal adjudicative hearings does not apply to adjudicative hearings before the Regional Board, except as otherwise specified in the above-referenced regulations.

IV. PARTIES TO THE HEARING

The following are the parties to this proceeding:

1. City of Burbank
2. Regional Board Staff Prosecution Team

All other persons who wish to participate in the hearing as a designated party shall request party status by submitting a written or electronic request to the Legal Advisor to the Hearing Panel identified in section VIII below so that it is received by **5:00 pm on September 13, 2010**. All requests for designation as a party shall include the name, phone number, and email address of the person who is designated to receive notices about this proceeding. The request shall also include a statement explaining the reasons for their request (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), and a statement explaining why the parties designated above do not adequately represent the person's interest. The requesting party will be notified before the hearing whether the request is granted. All parties will be notified if other persons are so designated.

V. COMMUNICATIONS WITH THE PROSECUTION TEAM

The California Administrative Procedure Act requires the Regional Board to separate prosecutorial and adjudicative functions in matters that are prosecutorial in nature. A Prosecution Team, comprised of Regional Board enforcement and other staff, will serve as the complainant in the proceedings and is a designated party. The Case Manager over this matter, who will coordinate the efforts of the Prosecution Team, is Mr. Russ Colby, Staff Environmental Scientist. Ms. Mayumi Okamoto, Staff Counsel from the State Water Resources Control Board's Office of Enforcement will advise the Prosecution Team prior to and at the panel hearing. Neither Ms. Okamoto nor the members of the Prosecution Team will be advising the Regional Board in this matter or have engaged in any substantive conversations regarding the issues involved in this proceeding with any of the Board Members or the advisors to the hearing panel (identified below).

Any communication with the Prosecution Team prior to the hearing should be directed to the Case Manager:

Mr. Russ Colby
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
(213) 620-6373
rcolby@waterboards.ca.gov

VI. PUBLIC COMMENTS AND SUBMITTAL OF EVIDENCE

A. Submittals By Parties.

Not later than **September 7, 2010**, the Prosecution Team will send the parties a preliminary Hearing Panel binder containing the most pertinent documents related to this proceeding and a PowerPoint presentation, which summarizes the evidence and testimony that the Prosecution Team will present and rely upon at the hearing.

The City of Burbank is required to submit:

- 1) Any additional documents or evidence the Party wants the Hearing Panel to consider,
- 2) A summary of any testimony the Party intends to present, and
- 3) A statement regarding how much time the Party needs to present the case

to the attention of the Case Manager of the Prosecution Team (as identified above) so that it is received by **5:00 pm on September 28, 2010**. The Prosecution Team shall have the right to present additional evidence in rebuttal of matters submitted by any other party.

The Prosecution Team will send to the Hearing Panel and the parties a final Hearing Panel binder no later than **October 15, 2010**.

B. Submittals By Interested Persons.

Persons who are not designated as parties above, that wish to comment upon or object to the proposed ACLC, or submit evidence for the Hearing Panel to consider, are invited to submit them in writing to the Prosecution Team (as identified above). To be evaluated and responded to by the Prosecution Team, included in the final Hearing Panel binder, and fully considered by the Hearing Panel in advance of the hearing, any such written materials must be received by **5:00 pm on August 30, 2010**. If possible, please submit written comments in Word format electronically to rcolby@waterboards.ca.gov. Interested persons should be aware the Regional Board is entitled to settle this matter without further notice, and therefore a timely submittal by this date may be the only opportunity to comment upon the subject of this ACLC. If the hearing proceeds as scheduled, the Hearing Panel will also receive oral comments from any person during the hearing (see below).

VII. HEARING PROCEDURES

Adjudicative proceedings before the Hearing Panel generally will be conducted in the following order:

- Opening statement by Hearing Panel Chair
- Administration of oath to persons who intend to testify
- Prosecution Team presentation
- Discharger presentation
- Designated parties' presentation (if applicable)
- Interested persons' comments
- Prosecution Team rebuttal
- Questions from Hearing Panel
- Deliberations (in open or closed session)
- Announcement of recommendation to the Regional Board

While this is a formal administrative proceeding, the Hearing Panel does not generally require the cross examination of witnesses, or other procedures not specified in this notice, that might typically be expected of parties in a courtroom.

Parties will be advised by the Hearing Panel after the receipt of public comments, but prior to the date of the hearing, of the amount of time each party will be allocated for presentations. That

decision will be based upon the complexity and the number of issues under consideration, the extent to which the parties have coordinated, the number of parties and interested persons anticipated, and the time available for the hearing. The parties should contact the Case Manager by **5:00 pm on September 28, 2010** to state how much time they believe is necessary for their presentations (see Section VI.A above). It is the Regional Board's intent that reasonable requests be accommodated.

Interested persons are invited to attend the hearing and present oral comments. Interested persons may be limited to approximately five (5) minutes each, for their presentations, in the discretion of the Chair, depending on the number of persons wishing to be heard. Persons with similar concerns or opinions are encouraged to choose one representative to speak.

For accuracy of the record, all important testimony should be in writing, and delivered as set forth above. The Hearing Panel will include in the administrative record written transcriptions of oral testimony or comments made at the hearing.

VIII. COMMUNICATIONS WITH THE HEARING PANEL

A. Ex Parte Communications Prohibited.

As an adjudicative proceeding, Regional Board members and their advisors may not discuss the subject of this hearing with any person, except during the public hearing itself, except in the limited circumstances and manner described in this notice. **Any communications to the Regional Board, Hearing Panel, or Hearing Panel Advisors before the hearing must also be copied to the Prosecution Team and other Party(ies), as identified above.**

B. Hearing Panel Advisors.

The Hearing Panel will be advised before and during the hearing by Ms. Rebecca Chou, and a Legal Advisor, Ms. Jennifer Fordyce, Staff Counsel for the Regional Board. Neither Ms. Chou nor Ms. Fordyce have exercised any authority or discretion over the Prosecution Team, or advised them with respect to this matter.

C. Objections to manner of hearing and resolution of any other issues.

1. Parties or interested persons with procedural requests different from or outside of the scope of this notice should contact the Case Manager at any time, who will try to accommodate the requests. Agreements between a party and the Prosecution Team will generally be accepted by the Hearing Panel as stipulations.

2. Objections to (a) any procedure to be used or not used during this hearing, (b) any documents or other evidence submitted by the Prosecution Team, or (c) any other matter set forth in this notice, must be submitted in writing and received by the Legal Advisor to the Hearing Panel (identified below) by **5:00 pm on September 28, 2010**: