

Attachment 2  
Notice of Public Hearing Template Explanation  
1/31/08

The following explains the actions and rationale defined in the Notice of Public Hearing template.

The timeline extends for 90 days. The template calls out certain actions by certain days with DAY 1 being the first day and DAY 90 being the hearing date.

DAY 1. The Administrative Civil Liability Complaint (ACLC) is served on the Discharger and other parties. A complaint must be heard within 90 days of service on the party.<sup>1</sup> Notice of the Hearing must be given at least ten days prior to the hearing date since the matter will be heard by a Board Hearing Panel.<sup>2</sup>

DAY 30. Persons that wish to comment on or object to the proposed action, or submit evidence to the Hearing Panel, must do so by this date. This allows sufficient time for the Case Manager to include the comments in the preliminary Hearing Panel binder. Also, this serves as the 30 day public comment period on any “proposed settlement action,”<sup>3</sup> in case the Discharger agrees to pay the proposed fine without a hearing.

DAY 40. The Prosecution Team sends the parties the preliminary Hearing Panel binder which contains the documentary evidence and summaries of the testimony that supports the Prosecution Team’s case. This gives the Discharger the specific evidence that the Prosecution Team is primarily relying upon to support the allegations in the complaint. Notably, the Discharger and any interested persons may review the file prior to transmittal of the Hearing Binder either through an informal request of staff or formally through the Public Records Act.

DAY 45. Any person wishing to become a party must request party status by this day. By this time, interested persons have had 45 days to read the complaint and determine whether the current parties adequately represent the person’s interest.

DAY 61. The Discharger and other parties must submit to the Case Manager any additional documents or evidence they want the Hearing Panel to consider and a summary of the testimony the Discharger intends to present. Also, the parties must indicate how much time they need to present their cases. The Discharger has had three months to review the complaint and 11 days to see what evidence will be used by the Prosecution Team.

DAY 61. Also by this date, parties must file objections about any procedures to be used or not used in this hearing, any documents or evidence proposed to be submitted by the

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<sup>1</sup> Water Code section 13323, subdivision (b).

<sup>2</sup> Bagley-Keene Open Meeting Act.

<sup>3</sup> Title 40, Code of Federal Regulations, Part 123.27(d)(2)(iii).

Prosecution Team, or any other matter set forth in the hearing notice. The parties have seen the evidence that the Prosecution Team will be relying on to support its complaint.

DAY 70. Any party or interested person who wants the Prosecution Team to bring certain documents from the case file must submit a request to the Prosecution Team case manager by this date. This allows the Prosecution Team enough time to find the document(s) and put them into the final Hearing Panel binder or otherwise ensure they are available for use at the hearing. Many facilities' files are voluminous, and staff will generally bring to the hearing only the documents staff believes to be pertinent to the specific allegations in the ACLC. The remainder of the file is generally incorporated by reference into the administrative record.

DAY 80. The final Hearing Panel binder is served on the parties and sent to the Hearing Panel. This is to comply with the Bagley-Keene Open Meetings Act which requires that an agenda and meetings materials be made public ten days prior to the meeting. This allows the Prosecution Team to incorporate public comments, the Discharger's evidence, and the Prosecution Team's rebuttal evidence into this final binder. The amount of time each party has to present its case will also be set forth.

DAY 90. The Hearing Panel convenes the hearing on the complaint. A complaint must be heard within 90 days of service on the party.<sup>4</sup>

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<sup>4</sup> Water Code section 13323, subdivision (b).