

CENTRAL VALLEY WATER QUALITY CONTROL BOARD  
SUPPLEMENTAL HEARING PROCEDURE  
**CLEANUP AND ABATEMENT ORDER R5-2015-XXXX**  
**FOR**  
**E&B NATURAL RESOURCES MANAGEMENT**  
**GOV'T LEASE, POSO CREEK OIL FIELD**  
**KERN COUNTY**

The Central Valley Water Board has the authority to issue Cleanup and Abatement Orders (CAOs) and to require the submittal of technical and monitoring reports pursuant to Water Code sections 13304 and 13267, respectively. The Board's Prosecution Team has issued a Tentative CAO to E&B Natural Resources Management (E&B). The Tentative CAO would require that E&B assess potential water quality impacts at its petroleum production wastewater discharge facility in Kern County, and, if necessary, implement corrective actions to address those impacts. The Board has scheduled a hearing to consider the matter on the following date:

DATE: June 4 and 5, 2015  
PLACE: Central Valley Water Board Offices  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-6114

At the hearing, the Central Valley Water Board will receive testimony regarding the issuance of the Tentative CAO. After considering the evidence, the Board may issue the Tentative CAO as proposed, issue the Tentative CAO after modifying the Tentative CAO based on the evidence and testimony received, decline to issue an Order, or continue the hearing to a later date. The Board's Meeting Agenda will set the specific date of the hearing. The Meeting Agenda will be posted at least ten days before the meeting on the Board's website, at the following address:

[http://www.waterboards.ca.gov/centralvalley/board\\_info/meetings](http://www.waterboards.ca.gov/centralvalley/board_info/meetings)

To ensure a fair hearing, the Board staff and attorneys that have issued the Tentative CAO (the "Prosecution Team") have been separated from the Board staff and attorneys that will provide legal and technical advice to the Board (the "Advisory Team"). Members of the Board's Prosecution Team have not communicated with the members of the Central Valley Water Board or the Board's Advisory Team regarding any substantive matter at issue in the proceeding.

The Board's Prosecution Team issued a Hearing Notice on 6 April 2015 that accompanied the Tentative CAO (the "Hearing Notice"). The Hearing Notice set deadlines applicable to the proceeding. This Supplemental Hearing Procedure contains additional provisions to ensure the fairness and orderly conduct of the proceeding.

**I. Hearing Participants**

Participants in the Tentative CAO hearing are considered either "Designated Parties" or "Interested Persons."

Designated Parties are the primary participants in the hearing. Designated Parties may submit evidence, may offer witnesses to testify at the hearing, are allowed to cross-examine adverse witnesses, and are subject to cross-examination.

Interested Persons are those persons that have an interest in the outcome of the hearing, but who are not the primary participants in the hearing. Interested persons typically include members of the public as well as advocacy groups. Interested persons may present policy statements to the Board, but may not generally present evidence (photographs, eyewitness testimony, etc.). Interested Persons are not subject to cross-examination.

In this instance, the Hearing Notice allowed Interested Persons to submit evidence for this proceeding, provided that such evidence was received by **noon on 27 April 2015**. No evidence was received from any Interested Persons. Although no Interested Person has submitted evidence, Interested Persons may still speak at the hearing, provided that their statements are not evidentiary in nature.

At the hearing, both Designated Parties and Interested Persons may be asked to respond to questions from the Board, staff, or others, at the discretion of the Board Chair.

The following participants have been designated as Designated Parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. E&B Natural Resources Management

Anyone else who wished to participate in the hearing as a Designated Party was required by the Hearing Notice to submit a request to be so designated by **27 April 2015**. No such requests were received by the Board.

<b>CONTACT INFORMATION: PRIMARY CONTACTS</b>	
<b>BOARD ADVISORY TEAM</b>	
Pamela Creedon, Executive Officer Central Valley Water Board 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Phone: (916) 464-4839 <a href="mailto:Pamela.Creedon@waterboards.ca.gov">Pamela.Creedon@waterboards.ca.gov</a>	Patrick Pulupa, Attorney III State Water Board, Office of Chief Counsel P.O. Box 100 Sacramento, CA 95812 Phone: (916) 341-5189 <a href="mailto:Patrick.Pulupa@waterboards.ca.gov">Patrick.Pulupa@waterboards.ca.gov</a>
<b>BOARD PROSECUTION TEAM*</b>	
Ron Holcomb, Engineering Geologist Central Valley Water Board 1685 E Street Fresno, California, 93706 Phone: (559) 445-6050 <a href="mailto:Ronald.Holcomb@waterboards.ca.gov">Ronald.Holcomb@waterboards.ca.gov</a>	Julie Macedo, Attorney IV State Water Board, Office of Enforcement P.O. Box 100 Sacramento, CA 95812 Phone: (916) 323-6847 <a href="mailto:Julie.Macedo@waterboards.ca.gov">Julie.Macedo@waterboards.ca.gov</a>
<b>E&amp;B NATURAL RESOURCES MANAGEMENT</b>	
Michael Finch, Vice President E&B Natural Resources Management <a href="mailto:mfinch@ebresources.com">mfinch@ebresources.com</a>  Jennifer Brady, Environmental Compliance Coordinator E&B Natural Resources Management <a href="mailto:jbrady@ebresources.com">jbrady@ebresources.com</a>  Shams Hasan, HSE Manager E&B Natural Resources Management <a href="mailto:shasan@ebresources.com">shasan@ebresources.com</a>	Loren J. Harlow, Esq. Baker, Manock & Jensen, PC 5260 N Palm Ave, 4 <sup>th</sup> Floor Fresno, CA 93704 Phone: (559) 432-5400 <a href="mailto:lharlow@bakermanock.com">lharlow@bakermanock.com</a>

\*The Board's Prosecution Team also includes: Clay Rodgers, Assistant Executive Officer; Doug Patteson, Supervising Water Resources Control Engineer; and Dane Johnson, Senior Engineering Geologist.

## **II. Hearing Time Limits**

The following time limits apply to the hearing: each Designated Party will have a **combined 30 minutes** to present evidence and testimony, to cross-examine adverse witnesses, and to provide a closing statement. Interested Persons will have **3 minutes** to present their statements.

Participants who would like additional time must submit a request to the Advisory Team so that it is received no later than the deadline listed on the "Important Deadlines" page of this Supplemental Hearing Procedure. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. A timer will be used, but will not run during Board questions and the responses to such questions, or during discussions of procedural issues.

## **III. Documents in Evidence and Availability of Board Files**

The Board's Prosecution Team maintains a file containing the Tentative CAO and all related documents at the Central Valley Water Board's office at 1685 E Street in Fresno. Other submittals received in accordance with the Hearing Notice will be added to the file unless the Board rules to exclude them. The file is available to the public and may be inspected or copied during regular business hours. Scheduling an appointment to review the file by contacting the Prosecution Team in advance is not required, but calling ahead will help ensure timely access to these documents. Documents will also be posted online at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/index.shtml](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml)

Although the website is updated regularly, to ensure access to the latest information, you may contact the Prosecution Team for assistance in obtaining copies.

## **IV. Submittal of Evidence**

The Hearing Notice required that all persons wishing to comment on this item must submit testimony, evidence, if any, and/or comments in writing to the Central Valley Water Board no later than by **noon on 27 April 2015**. Written materials submitted after this date will not be accepted and will not be incorporated into the administrative record absent a ruling by the Board Chair.

**Prohibition on Surprise Evidence:** In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair may exclude material that is not submitted in accordance with this Supplemental Hearing Procedure and the Hearing Notice. Excluded material will not be considered by the Board.

## **V. Miscellaneous Matters**

**Summary Sheet and Tentative CAO:** The Prosecution Team will prepare a summary agenda sheet (Summary Sheet) for the Board in advance of the Hearing. The Summary Sheet shall clearly state that it was prepared by the Prosecution Team, shall summarize the ongoing controversies involved in the proceeding, and shall summarize the positions taken by each of the Designated Parties. The Prosecution Team may also draft a revised Tentative CAO for the Board's consideration, which shall be substantively based on the initial Tentative CAO, but which but may contain revisions reflecting the evidence submitted after the Tentative CAO was issued.

**Presentations:** Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of previously submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony should be available at the hearing to affirm that the testimony is true and correct, and should be available for cross-examination. A witnesses' failure to appear may result in the submitted testimony being treated as hearsay.

Prohibition on Ex Parte Contacts: Any communication regarding the Tentative CAO that is directed at the Board members or the Advisory Team by a participant in the hearing and that is not made in a manner open to all other persons is considered an "ex parte" contact. In order to maintain the impartiality of the Board, all "ex parte" contacts are prohibited. Communications regarding non-controversial procedural matters are not considered ex parte contacts and are not restricted.

Applicable Regulations: The regulations governing adjudicatory hearings before the Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available online at: <http://www.waterboards.ca.gov>. Copies of these regulations will be provided upon request. Any procedures not provided by this Hearing Procedure are not applicable to this hearing. Except as provided in Section 648(b) and herein, Chapter 5 of the California Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

## **VI. Questions**

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

### **IMPORTANT DEADLINES**

*All submittals must be emailed to the following list of contacts (hard copies are not required):*

Board Advisory Team: Pamela Creedon – [Pamela.Creedon@waterboards.ca.gov](mailto:Pamela.Creedon@waterboards.ca.gov)

Patrick Pulupa – [Patrick.Pulupa@waterboards.ca.gov](mailto:Patrick.Pulupa@waterboards.ca.gov)

Board Prosecution Team: Ronald Holcomb – [Ronald.Holcomb@waterboards.ca.gov](mailto:Ronald.Holcomb@waterboards.ca.gov)

Doug Patteson - [Doug.Patteson@waterboards.ca.gov](mailto:Doug.Patteson@waterboards.ca.gov)

Clay Rodgers – [Clay.Rodgers@waterboards.ca.gov](mailto:Clay.Rodgers@waterboards.ca.gov)

Julie Macedo – [Julie.Macedo@waterboards.ca.gov](mailto:Julie.Macedo@waterboards.ca.gov)

E&B Resources: Michael Finch – [mfinch@ebresources.com](mailto:mfinch@ebresources.com)

Jennifer Brady – [jbrady@ebresources.com](mailto:jbrady@ebresources.com)

Shams Hasan – [shasan@ebresources.com](mailto:shasan@ebresources.com)

Loren J. Harlow – [lharlow@bakermanock.com](mailto:lharlow@bakermanock.com)

All submittals will be promptly placed on the Board's website for the benefit of all Interested Parties.

6 April 2015	<ul style="list-style-type: none"><li>▪ Prosecution Team issues Tentative CAO</li></ul>
Noon on 27 April 2015	<ul style="list-style-type: none"><li>▪ Deadline to request “Designated Party” status</li><li>▪ Remaining Designated Parties’ (including the Discharger’s) deadline to submit all information required under IV. Submittal of Evidence, Legal and Technical Arguments or Analysis, and Policy Statements</li><li>▪ Interested Persons’ written statements are due.</li></ul>
13 May 2015	<ul style="list-style-type: none"><li>▪ Deadline to submit requests for additional time.</li></ul>
15 May 2015	<ul style="list-style-type: none"><li>▪ Prosecution Team submits Summary Sheet and revised Tentative CAO (if necessary)</li></ul>
4/5 June 2015	Hearing