

**Proposed FINAL  
Advisory Committee Operating Rules  
North Bay Selenium Total Maximum Daily Load Process  
Version 3 - January 23, 2008**

1 **EXECUTIVE SUMMARY** *(see attached Operating Rules for full descriptions)*  
2

3 **Section 1: Background:** San Francisco Bay is listed under section 303(d) of the Clean Water Act as  
4 impaired for selenium. In 2007 the Water Board initiated work to develop a selenium TMDL for North  
5 Bay segments to address the impairment in order to attain water quality standards. The Water Board  
6 intends to develop this TMDL in a highly collaborative manner, which involves working closely with  
7 affected and interested stakeholders and with public agencies such as USGS, U.S. EPA, and the State  
8 Water Board. To support the TMDL development the Water Board has established a North Bay  
9 Selenium TMDL Advisory Committee (Advisory Committee).  
10

11 **Section 2: Purpose and Process:** The Advisory Committee will meet at specified times corresponding  
12 to the key phases of the TMDL development and contribute feedback to the Water Board on the scope of  
13 work and results of technical analysis. The specific purpose of the Advisory Committee is to:  
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15

- 16 • Receive stakeholder driven, interest-based input / advice about the Board’s preparation of the North  
17 Bay Selenium TMDL, and
- 18 • Identify levels of agreement amongst diverse stakeholders on the direction and approach of the  
19 North Bay Selenium TMDL.  
20

21 **Section 3: Membership:** The Advisory Committee will be a reasonably representative, ad-hoc, cross-  
22 section of stakeholders most directly involved with North Bay selenium issues. It is essential that  
23 Members (and their Alternates when necessary) attend all meetings. Members should strive to inform  
24 the facilitator within 5 days of a meeting that they can not attend. The Advisory Committee and/or the  
25 Water Board may decide to add additional members with different perspectives. Any Member may  
26 withdraw from the Advisory Committee at any time. Those withdrawing will be asked to communicate  
27 to the Advisory Committee the reasons for withdrawal and to maintain the integrity of the ground rules  
28 and the process once they have left.  
29

30 **Section 4: Roles and Responsibilities:** The Advisory Committee will have five primary  
31 responsibilities:  
32

- 33 • Review background policy and technical-level information about North Bay selenium conditions  
34 and selenium TMDL activities,
- 35 • Provide stakeholder perspectives on items reviewed, and on the overall North Bay selenium TMDL  
36 process,
- 37 • Advise the Water Board on the selection of technical review specialists that will work on behalf of  
38 the Advisory Committee,
- 39 • Collectively identify topics of agreement and disagreement regarding the development of the  
40 TMDL, and
- 41 • Work in good faith with other stakeholders to identify any potential options for agreement regarding  
42 the development of the TMDL,  
43

44 **Section 5: Decision Making:** The Advisory Committee will function in a collaborative, consensus-  
45 seeking manner. Decisions made by the Advisory Committee will take the form of a recommendation to  
46 the Water Board, its staff, and other agency participants with decision authority. The consensus rule is  
47 based on principles of “consensus with accountability”. All Members will try to reach consensus. In the  
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1 event a Member must reject a proposal, that Member is encouraged to provide a counter proposal that  
2 attempts to achieve their interest and the interests of the other Members. The Advisory Committee will  
3 not vote and will not identify numeric “winners and losers” on key topics. Rather, the Advisory  
4 Committee will make reasonable attempts at each meeting (and between meetings) to find mutually  
5 acceptable approaches regarding the future selenium TMDL however, these attempts should not occur at  
6 the expense of timely progress. The Advisory Committee will use straw polls to assess the degree of  
7 preliminary support for an idea, before being submitted as a formal proposal for final consideration by  
8 the Advisory Committee. The Advisory Committee will use the following three levels to indicate a  
9 Member’s degree of support for any recommendation being considered. The Advisory Committee will  
10 have reached consensus if all Members are at the ‘Thumbs Up’, or Thumbs Sideways’ levels of  
11 agreement.  
12

- 13
- 14 *Thumbs Down: I do not agree with the proposal. I feel the need to block its adoption*  
15 *and propose an alternative.*
- 16 *Thumbs Sideways: I may not be enthusiastic about it, but I can accept the proposal.*
- 17 *Thumbs Up: I think this proposal is the best choice of the options available to us.*  
18

19 **Section 6: Communications:** Members are expected to follow and support basic communication  
20 recommendations and protocols as described in the full Operating Rules.  
21

22 **Section 7: Ground Rules:** The personal integrity, values, and legitimacy of the interests of each  
23 Member and public participant will be respected by other participants. The motivations and intentions of  
24 participants will not be criticized. All Members, the facilitator, agency staff, and public participants of a  
25 meeting agree to:  
26

- 27
- 28 • Arrive promptly to all meetings,
  - 29 • Stay for the duration of the entire meeting,
  - 30 • Minimize actions that could be distracting to Advisory Committee discussions,
  - 31 • Participate in a problem-solving approach based on respectful and constructive dialogue,  
32 where the interests of all Members and public are considered in developing proposals and  
33 recommendations,
  - 34 • Openly discuss issues with others who hold diverse views; acknowledge and seek  
35 clarification of others’ perspectives; and verify assumptions when necessary,
  - 36 • Actively participate in respectful conversations,
  - 37 • Keep commitments once made, and
  - 38 • When appropriate, distinguish between personal vs. organizational perspectives (i.e. for an  
39 organization that a member represents).  
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1  
2 **Section 1: Background**  
3

4 San Francisco Bay is listed under section 303(d) of the Clean Water Act as impaired for selenium. In  
5 2007 the Water Board initiated work to develop a selenium TMDL for North Bay segments to address  
6 the impairment in order to attain water quality standards. The Water Board intends to develop this  
7 TMDL in a highly collaborative manner, which involves working closely with affected and interested  
8 stakeholders and with public agencies such as USGS, U.S. EPA, and the State Water Board. To support  
9 the TMDL development the Water Board has established a North Bay Selenium TMDL Advisory  
10 Committee (Advisory Committee).  
11

12  
13 **Section 2: Purpose and Process**  
14

15 The Advisory Committee will meet at specified times corresponding to the key phases of the TMDL  
16 development and contribute feedback to the Water Board on the scope of work and results of technical  
17 analysis. The specific purpose of the Advisory Committee is to:  
18

- 19 • Receive stakeholder driven, interest-based input / advice about the Board's preparation of the  
20 North Bay Selenium TMDL, and  
21
- 22 • Identify levels of agreement amongst diverse stakeholders on the direction and approach of the  
23 North Bay Selenium TMDL.  
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25 2.1 - Milestones and Timeframes  
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27 The Advisory Committee will convene in December 2007. Subsequent to the December 2007 meeting,  
28 the Advisory Committee is expected to meet three more times during calendar year 2008 (tentatively  
29 targeted for: March, August, and December [California Environmental Quality Act (CEQA) Scoping  
30 Meeting] ). This initial schedule is subject to change based on input from the Advisory Committee.  
31

32 2.2 - Advisory Committee Activities  
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34 The Advisory Committee is tentatively expected to conduct the following activities.  
35

36 December 2007  
37

- 38 • Review and discuss proposed Committee management, structure, decision-rules, etc,
- 39 • Discuss initial project materials,
- 40 • Review and discuss proposed project schedule and meeting purposes,
- 41 • Discuss current stakeholder perspectives about selenium and related topics, and
- 42 • Discuss project approach and any potential adjustments.  
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45 April 2008  
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- 47 • Revisit stakeholder discussions in Meeting 1 and follow up on action items,  
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- Review and discuss the source analysis report and toxicological assessment,
- Discuss the revised selenium conceptual model/ impairment assessment, and
- Discuss project approach and any potential adjustments.

August 2008

- Review and discuss technical analysis and modeling,
- Review and discuss preliminary selenium load allocation proposals, and
- Discuss project approach and any potential adjustment.

December 2008 (CEQA Scoping Meeting)

- Identify public issues and concerns,
- Describe CEQA review process,
- Review and discuss TMDL implementation options,
- Review and discuss technical peer review results, and
- Discuss project approach and any potential adjustments.

**Section 3: Membership**

No stakeholder group can ever be completely inclusive. Time, budget, and size considerations mandate that a stakeholder group must be a representative cross-section of interests rather than a comprehensive collection of all parties. The Advisory Committee will be a reasonably representative, ad-hoc, cross-section of stakeholders most directly involved with North Bay selenium issues. Table 1 presents Committee Members (Members) and membership rationale.

**Table 1 – Advisory Committee Membership**

WSPA	Representative of key dischargers of wastewater to North Bay
Bay Area Clean Water Agencies	Representative of key dischargers of wastewater to North Bay
Fairfield Suisun Sewer District	Representative of key dischargers of stormwater to North Bay
BayKeeper	Leading water quality advocate for Bay Area
Clean Water Action	Leading water quality advocate for Bay Area. Also represents environmental justices advocacy / interests
Ducks Unlimited	Leading conservation advocate; focused non-profit, non-public agency research of environmental effects to waterfowl and other migratory avian species
CA Department of Fish and Game	State natural resources trustee. Landowner and discharger of waters to the Bay
US Fish and Wildlife Service	Federal natural resources trustee. Landowner and discharger of waters to the Bay
West County Toxics Coalition	Local advocacy group / environmental justice interests
US Environmental Protection	Federal Agency with final approval authority of the

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1 Agency, Region 9	TMDL
2 San Francisco Bay Regional Water	State agency directly responsible to lead and oversee
3 Quality Control Board	development of the TMDL
4 CA State Water Resources Control	State Board with state-level final approval authority over
5 Board	Basin Plan Amendments (including a TMDL)

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7 3.1 - Addition of Members  
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9 During the course of its work, the Advisory Committee and/or the Water Board may decide it is in the  
10 best interest of the process to add additional members with different perspectives. If this occurs, the  
11 following is a general procedure to add new members.  
12

- 13 1. Any Member and Water Board staff may suggest the need for a new member and may suggest a  
14 stakeholder type, specific organization, and/or specific individual to be added. When suggesting  
15 the addition, the proposing Member will provide a written rationale to the Advisory Committee  
16 for the suggestion. The rationale will include, but not be limited to:
  - 17 • Reason for proposed addition,
  - 18 • Benefits to the Advisory Committee process and North Bay Stakeholders,
  - 19 • Implications / challenges to the Advisory Committee process and Stakeholders
- 20 2. The Advisory Committee will discuss the proposal and will make a recommendation based on  
21 the decision-process described in this document.  
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27 3.2 – Member Alternates.  
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29 As the proposed Advisory Committee is ad-hoc by definition, and based on the intended limited number  
30 of times the Committee will meet, it is unlikely that the members will need to establish alternates.  
31 Should a Member not be available to attend one of the four meetings, they are encouraged to find a  
32 replacement and to contact the facilitator in advance (see below). Consistency and “institutional  
33 memory” will be a key to successful outcomes. The use of alternates and rotating participants should be  
34 avoided.  
35

36 3.3 – Member Attendance  
37

38 Members have a very important responsibility representing the interests of similar stakeholders. The  
39 input provided by the Advisory Committee (in concert with general public input) may have far reaching  
40 impacts on the future of selenium conditions in the North Bay. In that context, it is essential that  
41 Members (and their alternates when necessary) attend all meetings. Members should strive to inform  
42 the facilitator within 5 days of a meeting that they can not attend.  
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44 3.4 – Member Withdrawal  
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46 Any Member may withdraw from the Advisory Committee at any time. Those withdrawing will be  
47 asked to communicate to the Advisory Committee the reasons for withdrawal and to maintain the  
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1 integrity of the ground rules and the process once they have left. Members that must withdraw are asked  
2 to provide as much advance notice to the facilitator and Advisory Committee as feasible.  
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4 **Section 4: Roles and Responsibilities**  
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6 This section describes the specific roles of the Advisory Committee and the expected roles of  
7 participants related to the Advisory Committee.  
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9 4.1 – Advisory Committee Members  
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11 Non-Regulatory Members – Non-regulatory Members represent the interests of similar and associated  
12 stakeholders in the North Bay. To do so, said Members are expected to communicate with, and be  
13 informed by their similar and associated stakeholders. The Advisory Committee will have five primary  
14 responsibilities:

- 15 • Review background policy and technical-level information about North Bay selenium  
16 conditions and selenium TMDL activities,
- 17 • Provide stakeholder perspectives on items reviewed, and on the overall North Bay selenium  
18 TMDL process,
- 19 • Advise the Water Board on the selection of technical review specialists that will work on  
20 behalf of the Advisory Committee,
- 21 • Collectively identify topics of agreement and disagreement regarding the development of the  
22 TMDL, and
- 23 • Work in good faith with other stakeholders to identify any potential options for agreement  
24 regarding the development of the TMDL,  
25

26  
27 Regulatory Advisory Committee Members – Regulatory Members will have similar responsibilities as  
28 Non-Regulatory Members. They will also be responsible for defining and describing legal conditions  
29 (statutes, regulations, policies, guidelines, etc.) that must be followed in the TMDL process. Regulatory  
30 Members will ensure to express the role they are filling during Committee discussions (i.e. regulatory  
31 advise, technical feedback, affected stakeholder, etc) so that all participants have clarity on the variable  
32 roles and influences that regulatory organizations play.  
33

34 4.2 – Advisory Committee Facilitator: The facilitator (and support staff) will be a neutral advisor to the  
35 Advisory Committee. He/she will:  
36

- 37 • Facilitate each Advisory Committee meeting,
- 38 • Prepare draft and final meeting agendas,
- 39 • Prepare draft and final meeting summaries,
- 40 • Work with individual Members, and subsets of the full Advisory Committee to address, discuss,  
41 and resolve any issues,
- 42 • Maintain a project record, and
- 43 • Ensure the Advisory Committee is considering all public viewpoints provided during public  
44 comments periods of meetings  
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1 4.3 - TetraTech, Inc.: - Tetra Tech will provide neutral technical support to the process including the  
2 Advisory Committee, as directed by the Water Board, and as contracted with WSPA. Activities will  
3 include:  
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- 5 • Primarily data collection, including the identification, characterization, and quantification of
- 6 selenium sources/activities and loads,
- 7 • Preparation of a database of water, sediment, and biota selenium concentration data collected in
- 8 the North Bay, and
- 9 • Development of eight Technical Memoranda.

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12 4.4 - Contributing Organizations: Some organizations may be expected to provide informational  
13 technical assistance to the process through presentations, workshops, etc. These may include staff from  
14 the California Office of Environmental Health Hazard Assessment, US Geological Survey, US Fish and  
15 Wildlife Service, and others as appropriate.  
16

17 4.5 - Technical Review Specialists: In addition to services provided by TetraTech, technical review  
18 specialists will be convened. The Water Board will propose technical specialists that are highly  
19 qualified, experienced, and respected experts in fields related to selenium loading in the Bay. The  
20 Advisory Committee will propose any revisions as warranted and the Water Board will seek to appoint  
21 all proposed technical specialists. Specialists may include individuals from academia, US Fish and  
22 Wildlife Service, National Marine Fisheries Service, and others as appropriate. Technical specialists  
23 will:  
24

- 25 • Review TetraTech documents,
- 26 • Review related materials,
- 27 • Respond to Advisory Committee inquiries for insights and technical advice, and
- 28 • Advise the Advisory Committee on technical topics related to the selenium TMDL.

## 29 **Section 5: Decision Making**

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32 To the extent feasible, the Advisory Committee will function in a collaborative, consensus-seeking  
33 manner. The group will provide advice (whether in consensus or as discrete viewpoints) about the  
34 direction of the North Bay TMDL. They will use the following decision-making model to come to  
35 Committee conclusions. However, any decision made by the Advisory Committee will take the form of  
36 a recommendation to the Water Board, its staff, and other agency participants with decision authority.  
37 The consensus decision rule is based on principles of “consensus with accountability”. Consensus with  
38 accountability asks all Members to try to reach consensus. In the event a Member must reject a  
39 proposal, that Member is encouraged to provide a counter proposal that legitimately attempts to achieve  
40 their interest and the interests of the other Members. The Advisory Committee will not vote and will not  
41 seek to identify numeric “winners and losers” on key topics. Rather, the Advisory Committee should  
42 make reasonable attempts at each meeting (and between meetings) to find mutually acceptable  
43 approaches regarding the future selenium TMDL however, these attempts at consensus should not occur  
44 at the expense of timely progress. More specifically (and in support of the proposed purpose), the group  
45 should try to identify topics where there is existing agreement and should also spend a reasonable  
46 amount of time identifying where agreement can take place on key items. That said, attempts to reach  
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1 agreement / consensus can not be unwieldy and unduly time consuming as such agreements are at best,  
2 advisory and non-binding.  
3

4 In seeking consensus on an interim or final recommendation, Members will voice their opinions with  
5 specific proposals along the way, rather than waiting until a final recommendation has been developed.  
6 At all times, Members will seek to ensure that they are providing input on a decision commensurate to  
7 their prescribed role and constituency regarding the Bypass.  
8

9  
10 Straw Polls: The Advisory Committee will use straw polls to assess the degree of preliminary support  
11 for an idea, before being submitted as a formal proposal for final consideration by the Advisory  
12 Committee. Members may indicate only tentative approval for a preliminary proposal without fully  
13 committing to its support.  
14

15 Draft and Final Recommendations: The Advisory Committee will use the following three levels to  
16 indicate a Member's degree of approval and support for any recommendation being considered and to  
17 determine the degree of consensus. The goal is for all Members to be in the 'Thumbs Up', or Thumbs  
18 Sideways' levels of agreement. The Advisory Committee will be considered to have reached consensus  
19 if all Members are at those two levels.  
20

21		
22	<i>Thumbs Down:</i>	<i>I do not agree with the proposal. I feel the need to block</i>
23		<i>its adoption and propose an alternative.</i>
24	<i>Thumbs Sideways:</i>	<i>I may not be enthusiastic about it, but I can accept the</i>
25		<i>proposal.</i>
26	<i>Thumbs Up:</i>	<i>I think this proposal is the best choice of the options</i>
27		<i>available to us.</i>
28		

29 In the event of interest-based disagreements, each meeting record will identify the respective sentiments  
30 and the Water Board will weigh the various options provided to them through the Advisory Committee's  
31 discussions.  
32

33 Absence When Decisions Are Made. If a Member cannot attend an Advisory Committee meeting and  
34 can not identify an Alternate, they are encouraged to communicate their views (in writing) on any issues  
35 or pending discussions to the facilitator prior to that meeting.  
36

37 **Section 6: Communications**  
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39 This section describes expectations about how Advisory Committee Members will communicate.  
40

41 6.1 - Internal Communication  
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- 43 • Members are encouraged to openly communicate their perspectives on issues under  
44 consideration. It is incumbent on each Member to state the interests of the organization or  
45 constituency they represent. Voicing these interests is essential to enable meaningful  
46 dialogue and full consideration of issues. After a recommendation is made, Members will be  
47 expected to not undermine the Committee's work  
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- Related to above, and in support of a transparent process, Advisory Committee meetings should be the sole venue to conduct discussions between the Board and stakeholders regarding issues, concerns, suggestions about TMDL process documents.
- Members will freely exchange documents and other information, excluding privileged or confidential information.

6.2 – External Communication

- Members are free to discuss the work of the Advisory Committee with general stakeholders outside of meetings and with members of other related planning efforts. Members should neither characterize the positions and views of, nor should they ascribe motives or intentions to the statements or actions of other Members. No Member will work to undermine the Advisory Committee’s work.
- Members are encouraged to solicit input and participation from their broader stakeholder constituencies / organizations. Methods to do this may include but not be limited to:
  - Email and/or postal mail inquiries to constituents,
  - Topic-specific meetings that can be used to address and assess a focused topic of Advisory Committee discussions,
  - Encouragement to attend future related public meetings

6.3 - Information Publication

Materials will be prepared / provided on a regular basis to support the Advisory Committee process. These may include the following materials and general schedules for development and distribution.

- Preliminary draft materials are for discussion purposes.
- Public notice of meetings will take place within 2 calendar weeks of a meeting and will be communicated by the Water Board through the project website and other methods.
- Preliminary Advisory Committee meeting agendas and meeting materials will be provided to the Advisory Committee at least 5 business days before each meeting.
- Meeting summaries will be prepared by the facilitator within 2 calendar weeks of each meeting. Summaries will identify the meeting participants, major issues discussed, recommendations made, and actions to be taken. Members will have 5 business days to review summaries and provide comments to the facilitator (and Advisory Committee if desired). The facilitator will revise summaries and send a final version to the Advisory Committee and public distribution channels within 2 additional business days. Any conflicts between 2 or more summary reviews will be resolved by the facilitator with the Members in question.
- Related data in support of Advisory Committee efforts may be periodically available. All participants are encouraged to contribute and share information that helps inform discussions

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1 and clarify questions of fact. As appropriate, support materials that explain, interpret or  
2 analyze data or policies should also be provided.  
3

4 6.4 - Media.  
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6 Members are not prohibited from speaking with journalists but must indicate that they are providing  
7 their individual perspectives and are not speaking for the Advisory Committee. Members should neither  
8 characterize the positions and views of any other party nor should they ascribe motives or intentions to  
9 the statements or actions of other Members.  
10

11 **Section 7: Ground Rules**  
12

13 The personal integrity, values, and legitimacy of the interests of each Member and public participant  
14 will be respected by other participants. The motivations and intentions of participants will not be  
15 criticized.  
16

17 All Members, the facilitator, agency staff, and public participants of a meeting agree to:  
18

- 19 • Arrive promptly to all meetings,
- 20 • Stay for the duration of the entire meeting,
- 21 • Minimize actions that could be distracting to Advisory Committee discussions,
- 22 • Participate in a problem-solving approach based on respectful and constructive dialogue,  
23 where the interests of all Members and public are considered in developing proposals and  
24 recommendations,
- 25 • Openly discuss issues with others who hold diverse views; acknowledge and seek  
26 clarification of others' perspectives; and verify assumptions when necessary,
- 27 • Actively participate in respectful conversations,
- 28 • Keep commitments once made, and
- 29 • When appropriate, distinguish between personal vs. organizational perspectives (i.e. for an  
30 organization that a member represents).  
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33 7.1 - Participation and Observation by Members of the Public.  
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35 All Advisory Committee meetings are open to the public and observers are welcome. All public  
36 participants are expected to abide by the Ground Rules described above. Periods for public comment  
37 will be scheduled into each meeting. Public participants are encouraged to provide input to Members  
38 before or after the meetings, as well as during breaks, to ensure that all issues of concern to the public  
39 are considered in the Advisory Committee's discussions.  
40

41 7.2 – Items Outside of Advisory Committee Responsibilities  
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43 In the course of the Advisory Committee's work, items will be identified by Members and/or the public  
44 that are important to the North Bay region but that are outside the responsibilities of the Advisory  
45 Committee and/or the public agencies represented on the Advisory Committee. These topics will be  
46 recorded in meeting summaries and the facilitator and appropriate other parties should collectively do  
47 everything feasible to direct these persons to the most appropriate source to address their topic.  
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1 However, these topics will not be allowed to impede specific Advisory Committee tasks regarding the  
2 selenium TMDL.  
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4 7.3 - Amending Operating Rules  
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6  
7 The Advisory Committee may amend these Operating Rules by following the same decision rule set  
8 forth above. Amendments may be proposed by the Members during or between meetings. The proposal  
9 will be agendized for discussion and possible action, using the consensus decision rule process, at the  
10 next meeting, or through email and/or conference call communication if feasible and appropriate.  
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