

MEETING PROCEDURE

PROPOSED WATERSHED-WIDE WASTE DISCHARGE REQUIREMENTS FOR TIMBER HARVEST PLAN ACTIVITIES CONDUCTED BY SCOTIA PACIFIC COMPANY, SALMON CREEK CORPORATION, AND THE PACIFIC LUMBER COMPANY IN THE ELK RIVER AND FRESHWATER CREEK WATERSHEDS (DRAFT RESOLUTION NO. R1-2006-0038, DRAFT ORDER NO. R1-2006-0039; DRAFT RESOLUTION NO. R1-2006-0040, DRAFT ORDER NO. R1-2006-0041)

Persons wishing to participate in the May 8, 2006 meeting on the proposed Watershed-wide Waste Discharge Requirements (WWDRs) should read the following procedure carefully. The meeting procedure contains detailed requirements, many of which require action in advance of the meeting date. Failure to adhere to the meeting procedure may affect your ability to participate in the meeting.

TYPES OF MEETING PARTICIPANTS

Participants at the meeting consist of several entities:

Vice Chair

The Vice Chairman of the Regional Water Board, John Corbett, will preside over the proceedings on the WWDRs. Mr. Corbett will, in consultation with the WWDR Advisory Team (Advisory Team) and Board members, make all procedural determinations concerning the conduct of the proceedings. The full Board may, in its discretion, review significant procedural determinations.

Advisory Team

The Advisory Team consists of Regional Water Board staff members and counsel: Catherine Kuhlman, Executive Officer; Jean Lockett, Executive Secretary; David Evans, Senior Water Resource Control Engineer, Southern Cleanups Unit; David Hope, Staff Environmental Scientist and Registered Professional Forester, Timber Harvest Division; Philip Wyels, Assistant Chief Counsel; and Erik Spiess, Staff Counsel. The Advisory Team is not a “designated party” and the statements of its members do not constitute “evidence.” The purpose of the Advisory Team is to assist the Regional Water Board in its evaluation of the evidence and in its decisionmaking concerning the WWDRs.

Designated Parties

Parties may present evidentiary testimony, and are subject to cross-examination. Parties may also cross-examine other parties’ witnesses. Because of the complexity of their participation, parties receive more time to address the Regional Water Board and cross-examine witnesses.

The following participants are designated as parties for proceedings on the WWDRs:

1. North Coast Regional Water Quality Control Board WWDR Issuance Team (Issuance Team);¹

¹ The Issuance Team consists of: Luis Rivera, Assistant Executive Officer; Robert Klamt, Chief of the Timber Division; Mark Neely, Senior Engineering Geologist, Timber Division, Special Projects Unit; Special Projects Unit staff (David Kuszmar, Water Resource Control Engineer, Matthew Buffleben, Water Resource Control Engineer, Adona White, Water Resource Control Engineer, and Joelle Geppert, Water Resource Control Engineer); and Sheryl Schaffner, Senior Staff Counsel.

2. Scotia Pacific Company, Salmon Creek Corporation, and The Pacific Lumber Company (collectively PALCO);
3. Freshwater Creek and Elk River Watersheds Land, Ranch and Property Owners, Residents and Managers (Owners);
4. California Forestry Association (CFA);
5. Humboldt Watershed Council (HWC);
6. Environmental Protection Information Center (EPIC); and
7. Elk River Residents Association (ERRA).

Interested Persons

All others besides the above-listed designated parties are considered “interested persons.” Interested persons may present non-evidentiary policy statements that will be heard first, prior to the presentations by the parties. Interested persons are not entitled to present evidence.

DESIGNATED PARTIES

Direct Testimony, Evidence and Argument

Designated parties were required to have submitted all comments in writing by March 24, 2006.² At the conclusion of the April 24-25, 2006 hearing, the Board passed a Motion that allowed the parties to submit limited additional comments.³ **Presentations at the meeting, made either orally or in visual aids, may summarize or explain written comments received by those deadlines or late written comments accepted by the Board Vice Chair, but shall not add new comments.** Designated parties wishing to use visual aids (e.g., handouts, computer presentations) at the meeting must comply with the below procedure for “visual aids.”

Rebuttal

Rebuttal testimony, evidence and arguments shall be limited to responses to written comments submitted by the parties on April 27th. **Rebuttal is not an opportunity to raise new issues.** The Vice Chair will have the discretion to strike any rebuttal testimony, evidence or legal argument that does not comply with this requirement, including “rebuttal” materials that do not respond to direct testimony or that should have been submitted as direct testimony/evidence/argument.

Rebuttal does not have to be submitted in writing. Any written rebuttal material (including rebuttal evidence, and rebuttal testimony or argument that a designated party wishes to present in writing) must be submitted in a handout using the visual aid procedures below.

Cross-Examination

The parties had the opportunity to conduct cross-examination at the April 24-25, 2006 hearing. Additional cross-examination will therefore not be permitted except at the discretion of the Vice Chair.

² Should the WWDRs be substantially and substantively revised by the Issuance Team (as directed by the Regional Water Board), the Regional Water Board may allow additional written submittals that address those changes. If additional written materials are to be allowed, the Regional Water Board will notify all parties and interested persons.

³ As defined in the April 12, 2006 Hearing Procedure, “comments” means collectively testimony, evidence, and argument.

Redirect and Recross

Each designated party may, at the proper time, request permission to conduct redirect or recross examination of a witness(es). The scope of such examination will be strictly limited to new issues raised during cross-examination or redirect respectively. Redirect and recross will be allowed only at the discretion of the Vice Chair.

Visual Aids

Designated parties may wish to use handouts, computer presentations, or other visual aids. All visual aids must be submitted in advance so that they are received by Jean Lockett and all other designated parties no later than **5:00 p.m. on May 5, 2006**, as explained below:

A. Handouts. Designated parties wishing to use handouts must do the following:

1. **Fifteen paper copies** must be provided to Jean Lockett to ensure that members of the Board and Advisory Team receive one.
2. Each set of handouts shall be accompanied by a cover memorandum. The memorandum shall list each item of the handout and state one of the following: (1) the location of the item in the Regional Water Board file; (2) by whom it was previously submitted as evidence to the Regional Water Board; or (3) that it is new material being submitted as rebuttal.
3. Each set of handouts and accompanying cover memorandum shall also be sent to the designated parties, preferably via email using the Email Service List.

B. Computer Presentations. The Regional Water Board has a laptop computer and digital projector for delivering computer presentations (e.g., PowerPoint). A copy of the presentation (either in native format or a commonly available alternative) shall be provided to the designated parties, preferably via email using the Email Service List. If the presentation is too large to email, designated parties may be sent a paper copy (via fax or mail). To enable the presentation to be uploaded onto the laptop, Jean Lockett must receive a copy in native format. If too large to email, a compact disk (CD-ROM) or digital video disk (DVD) is also acceptable. Regardless of which method is chosen a copy of the presentation must be received by Jean Lockett and the designated parties by the above deadline.

C. Other Visual Aids. If a designated party desires to present material visually at the May 8, 2006 meeting via another method (e.g., slides, overhead projector, videotape), please contact Jean Lockett at (707) 576-2307 (jlockett@waterboards.ca.gov) **on or before May 2, 2006**.

Objections to visual aids on the grounds they inappropriately contain new evidence will be timely only if raised at the beginning of the meeting on May 8, 2006.

Witness Lists

The witness lists submitted for the April 24-25, 2006 hearing will govern the May 8, 2006 meeting. Rebuttal witnesses are not exempt from this requirement.

INTERESTED PERSONS

Oral Presentations

Interested persons may present a short, non-evidentiary policy statement that will be heard first, prior to the presentations by the parties. A policy statement may include (1) the policy views and position of the speaker, (2) non-expert analysis of evidence that already has been presented, or (3) argument concerning the contents of draft WWDRs or associated materials.

At the discretion of the Vice Chair, questions may be addressed to interested persons for the purpose of clarifying their statements. However, such persons shall not be subject to cross-examination and may not cross-examine hearing witnesses or interested parties.

Because of the complexity and controversy associated with this matter, time to speak is limited. Nevertheless, the Board will provide an opportunity for interested persons to present policy statements on this item. **Redundancy is to be avoided.** Up to one hour will be provided at the commencement of the proceedings for interested persons to present policy statements. Each interested person will receive a maximum of **3 minutes** to make a policy statement, but that time may be significantly reduced depending on the total number of persons wishing to speak.

Persons desiring to address the Board as interested persons on May 8th **must sign up or submit a speaker card in advance of the beginning of the item.** For efficiency, persons are encouraged to submit their request in advance of the day they wish to speak. To sign up in advance, send an email request to Jean Lockett (jlockett@waterboards.ca.gov). Provide in the email the following:

1. Name (persons who wish to remain anonymous contact Jean Lockett by phone)
2. Group, agency, or interest on whose behalf you are appearing.
3. General topic of the policy statement you plan to present.

If you do not have access to email, you may convey the above information to Ms. Lockett by telephone (707) 576-2307.

Persons may also submit a speaker card on the day they plan to speak. Speaker cards will be accepted only until the beginning of the item. **No speaker cards will be accepted after the beginning of the item.**

Visual Aids

Interested persons may use handouts as a part of their presentations, but must adhere to the following procedures. An interested person must provide **fifteen paper copies** of each handout to Jean Lockett so that those copies are received no later than **5:00 p.m. on May 5, 2006**. Interested persons wishing to use another form of visual aid besides handouts must contact Jean Lockett (jlockett@waterboards.ca.gov) or (707) 576-2307 **no later than May 2, 2006**.

CONDUCT OF MEETING

At the beginning of the hearing, the Vice Chair will hear objections (if any) by designated parties to visual aids.

Following the resolution of those objections, interested persons will have the opportunity to present policy statements. Up to one hour will be allocated to receive these statements in accordance with the procedures discussed above.

Designated parties may (in accordance with the Order of Proceedings) present opening statements, summarize previous written submittals via non-witnesses or direct testimony from witnesses; present rebuttal testimony/argument; at the discretion of the Chair, cross-examine witnesses and present redirect and recross; and present closing statements. Time allocations (one-third of the allocation for the April 24-25, 2006 hearing) are as follows:

1.	Issuance Team	50 minutes
2.	PALCO	50 minutes
3.	Owners	17 minutes
4.	CFA	17 minutes
5.	HWC/EPIC/ERRA ⁴	33 minutes

Each party may allocate its time for its opening statement; direct and rebuttal testimony; authorized cross-examination, redirect and recross; and closing in any way it desires.

Board members and members of the Advisory Team may ask questions at any time. Time spent by a party answering these questions will not count against the party's total allocation.

All witnesses who testify at the hearing, or who are present and have submitted written testimony, may be subject to authorized cross-examination by other designated parties. Cross-examination is not limited to matters covered in direct testimony or written submissions.

Each designated party's representatives will have an opportunity to present a summary of that party's direct and rebuttal testimony/argument. The summary need not be presented by a witness. Parties may use part of their oral presentation at the hearing to respond to policy statements by interested persons.

After each designated party completes its summary of testimony and argument, each of that party's witnesses may be subject to authorized cross-examination by all other designated parties.

Following authorized cross-examination by all other designated parties, each party may request the opportunity to conduct redirect examination of its witnesses. The scope of redirect will be strictly limited to new issues raised during cross-examination. Redirect will be allowed only at the discretion of the Vice Chair.

Following any permitted redirect of a witness, all other designated parties may request the opportunity to recross-examine the witness. The scope of recross will be strictly limited to new issues raised during redirect. Recross will be allowed only at the discretion of the Vice Chair.

Each designated party will have an opportunity to present a closing statement.

⁴ While HWC, EPIC and ERRA are separate and distinct parties, they agreed to combine their time allocations.

The Vice Chair may rule inadmissible or out-of-order testimony and cross-examination that is irrelevant, repetitive, or disruptive of the orderly conduct of the hearing.

ORDER OF PROCEEDINGS

The following order of proceedings will govern the May 8, 2006 meeting. The purpose of this meeting will be to consider revisions to the WWDRs proposed by the Advisory Team made in response to direction given by the Board at the April 24-25, 2006 hearing and to consider adoption of the WWDRs. Testimony and comments will be received orally, but must be germane to the proposed revisions to the WWDRs. Written submittals will be limited to visual aids that comply with the Visual Aid procedure above.

1. Open Item (Vice Chair reads procedure)
2. Opportunity for Designated Parties to Present Objections to Visual Aids
3. Policy Statements by Interested Persons (time limit - 1 hour)
4. Advisory Team Introduces Revisions
5. Issuance Team Presentation on Revisions/Rebuttal
6. PALCO Presentation on Revisions/Rebuttal
7. Owners Presentation on Revisions/Rebuttal
8. CFA Presentation on Revisions/Rebuttal
9. HWC/EPIC/ERRA Presentation on Revisions/Rebuttal
10. HWC/EPIC/ERRA Closing
11. CFA Closing
12. Owners Closing
13. PALCO Closing
14. Issuance Team Closing
15. Board Member/Advisory Team Questions, Close of Public Meeting, Deliberations and Decision-making