

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2011-0512

IN THE MATTER OF

V & O AUTO DISMANTLING  
SACRAMENTO COUNTY

This Complaint is issued to V & O Auto Dismantling (hereafter Discharger) pursuant to California Water Code (CWC) section 13399.33(c) and (d), which authorizes the imposition of Administrative Civil Liability, and CWC section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of State Water Board Order WQO 97-03-DWQ (NPDES General Permit CAS000001).

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) finds the following:

1. On 17 April 1997, the State Water Resources Control Board adopted Water Quality Order 97-03-DWQ (NPDES General Permit CAS000001), *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities* (hereafter "General Permit").
2. The General Permit requires that the operators of certain classifications of industrial facilities<sup>1</sup> apply for coverage under the General Permit, and generally requires the operators to (a) eliminate unauthorized non-storm water discharges, (b) develop and implement a Storm Water Pollution Prevention Plan, and (c) perform monitoring of storm water discharges.
3. The Discharger operates an auto dismantling facility which is classified as "Motor Vehicle Parts, Used" and is identified with Standard Industrial Classification (SIC) number 5015. This category of industrial facility is required to obtain coverage under the General Permit.
4. Provision E.1. of the General Permit states that "all facility operators seeking coverage by [the] General Permit must submit a [Notice of Intent] for each of the facilities they operate." On 2 June 2006, the Discharger submitted a Notice of Intent for coverage under the General Permit, and was assigned WDID Number 5S34I020261.
5. Section B of the General Permit contains Monitoring and Reporting Requirements. Item 14 of Section B requires all facility operators to submit an annual report to the Executive Officer of the Board by 1 July of each year. The annual report must include, but is not limited to, a summary of visual observations and sampling results, an evaluation of the visual observation and sampling and analysis results, laboratory reports, an annual

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<sup>1</sup> Facilities that discharge storm water associated with industrial activity requiring coverage under the General Permit are listed by category in 40 Code of Federal Regulations Section 122.26(b)(14) and Attachment 1 of the General Permit.

comprehensive site compliance evaluation report, and if necessary, an explanation of why a facility did not implement any activities required by the General Permit.

6. The Discharger failed to submit its 2008/2009 annual report by the 1 July 2009 deadline. The Discharger also failed to submit its 2009/2010 annual report by the 1 July 2010 deadline.
7. On 23 July 2009, the Executive Officer issued a Notice of Noncompliance to the Discharger by mail. The Notice informed the Discharger that the Executive Officer had not received the Discharger's 2008/2009 annual report by 1 July as required by the General Permit, and described the penalties for the Discharger's noncompliance.
8. On 3 September 2009, the Executive Officer issued the Discharger a second Notice of Noncompliance by certified mail, return receipt requested. The Second Notice again described the Discharger's failure to timely submit the 2008/2009 annual report as required by the General Permit, and described the penalties for the Discharger's noncompliance. Board staff received the return receipt for the Second Notice, which indicated that the Discharger received the Notice.
9. On 19 August 2010, the Executive Officer issued the Discharger a Notice of Noncompliance by certified mail, return receipt requested, for failure to submit the 2009/2010 annual report. The Notice informed the Discharger that the Executive Officer had not received the Discharger's 2009/2010 annual report by 1 July 2010 as required by the General Permit, and described the penalties for the Discharger's noncompliance. Board staff received the return receipt for the Notice, which indicated that the Discharger received the Notice.
10. On 30 September 2010, the Executive Officer issued the Discharger a second Notice of Noncompliance by certified mail, return receipt requested. The Second Notice again described the Discharger's failure to timely submit the 2009/2010 annual report as required by the General Permit, and described the penalties for the Discharger's noncompliance. Board staff received the return receipt for the Second Notice on 30 September 2010.
11. In addition to the notices described above, Board staff has repeatedly contacted or tried to contact the Discharger and/or the Discharger's representative. Phone messages were left for the Discharger on 22 July 2010 and 9 August 2010. A site inspection was performed at the facility on 12 August 2010 to confirm that the Discharger was still in business. The door was locked at the time of the inspection with no one present on site. On 21 September 2010, staff spoke with the Discharger over the phone and sent electronic copies of the annual report forms that day. The Discharger stated he would fill out the forms and return them. The Discharger also stated that a fire had occurred next door and that they had not been operating. On 9 November 2010, Board staff performed another inspection. Staff confirmed that a fire occurred on 10 March 2010 next door to the facility. The Discharger stated the annual reports had been burned by the fire and were not available during the inspection. However, the Discharger stated that the annual reports were in electronic format and they would be submitted shortly.

12. To date, the Executive Officer has not received the Discharger's 2008/2009 or 2009/2010 annual reports.

### REGULATORY CONSIDERATIONS

13. CWC section 13399.31(b) states: *The regional board shall notify each discharger [that has failed to submit an annual report as required by the General Permit] with regard to its noncompliance and penalties therefore.*
14. CWC section 13399.31(c) states: *If a discharger to which a notice is sent pursuant to subdivision (b) fails to submit the annual report ... to the regional board within 30 days from the date on which the notice is sent, the executive officer of the regional board shall send a second notice to that discharger.*
15. CWC section 13399.31(d) states: *If a discharger to which a notice is sent pursuant to subdivision (c) fails to submit the annual report ... to the regional board within 60 days from the date on which the notice is sent pursuant to subdivision (b), the regional board shall impose the penalties described in subdivision (c) of Section 13399.33*
16. CWC section 13399.33(c) requires the Board to impose administrative civil liability in an amount that is not less than one thousand dollars (\$1,000) for the failure to submit an annual report as required by the General Permit. CWC section 13399.33(d) requires that the Board recover the staff costs incurred in attempting to obtain that report.
17. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
18. For the non-submittal of the 2008/2009 annual report, the Discharger is alleged to have violated the General Permit for 555 days (from 1 July 2009 to 7 January 2011). The total maximum liability for this violation pursuant to Section 13385 of the Water Code is \$5,550,000.
19. For the non-submittal of the 2009/2010 annual report, the Discharger is alleged to have violated the General Permit for 190 days (from 1 July 2010 to 7 January 2011). The total maximum liability for this violation pursuant to Section 13385 of the Water Code is \$1,900,000.
20. The total maximum liability for both violations pursuant to Section 13385 of the Water Code is \$7,450,000.
21. Based on the findings set forth herein, the Discharger is subject to a minimum of \$1,000 in civil liability for failure to submit the 2008/2009 annual report and a minimum of \$1,000 in civil liability for failure to submit the 2009/2010 annual report. The total minimum penalty is \$2,000.

22. In pursuing this enforcement action, approximately \$5,925 in staff costs were incurred, as shown in Attachment A to this Complaint.
23. Issuance of this Administrative Civil Liability Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

**V & O AUTO DISMANTLING IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **seven thousand nine hundred twenty five dollars (\$7,925)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **6/7/8 April 2011**, unless the Discharger does one of the following by **7 February 2011**:
  - a) Waives the hearing by completing the attached waiver form (checking off the box next to Option 1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **seven thousand nine hundred twenty five dollars (\$7,925)**;or
  - b) Requests to engage in settlement discussions by checking off the box next to Option #2 on the attached waiver form, and returns it to the Board along with a letter describing the issues to be discussed. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing; or
  - c) Requests a delay by checking off the box next to Option #3 on the attached waiver form, and returns it to the Board along with a letter describing the amount of additional time requested and the rationale. It remains within the discretion of the Central Valley Water Board to approve the extension.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. If this matter proceeds to hearing, the Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.
5. Further failure to comply with the General Permit beyond the date of this Complaint may subject the Discharger to further administrative civil liability, and/or other enforcement actions, including but not limited to referral to the Attorney General.

*Original signed by Frederick Moss for*  
\_\_\_\_\_  
PAMELA C. CREEDON, Executive Officer

7 January 2011  
\_\_\_\_\_

DATE

Attachment: Waiver Form  
Attachment A: Staff costs

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent V & O Auto Dismantling (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2011-0512 (hereafter 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. The person who has been issued a complaint may waive the right to a hearing."

**(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **seven thousand nine hundred twenty five dollars (\$7,925)** by check that references "ACL Complaint R5-2011-0512" made payable to the *Waste Discharge Permit Fund*. Payment must be received by the Central Valley Water Board by **7 February 2011**.
- 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 a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger 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 Discharger to further enforcement, including additional civil liability.

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

**(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

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(Print Name and Title)

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(Signature)

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(Date)

**ATTACHMENT A  
 ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2011-0512  
 V & O AUTO DISMANTLING, SACRAMENTO COUNTY**

**Staff costs to obtain compliance:**

Staff position	Task	Estimated hours	Estimated Cost
Asst Exec Officer	Review case and documents	0.75	\$112.50
Attorney	Review case, edit documents	3.5	\$525
Exec Officer	Review case	0.5	\$75
Office Tech	Mail documents	0.25	\$37.50
Program Manager	Review case, edit documents	4.5	\$675
Senior Geologist	Review case, edit documents	4	\$600
Staff Scientist	Notifications to Discharger	5	\$750
Staff Scientist	Inspections	5	\$750
Staff Scientist	Review enforcement case	1	\$150
Staff Scientist	Prepare enforcement documents	12	\$1800
Staff Scientist	Internal meetings with management	2	\$300
Staff Scientist	Finalize documents	1	\$150
<b>Total</b>		<b>39.5</b>	<b>\$5,925</b>

Note: Staff costs are based on an average rate of \$150 per hour, as directed by the State Water Board Office of Enforcement

Central Valley Regional Water Quality Control Board

HEARING PROCEDURE  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
R5-2011-0512

ISSUED TO  
V & O AUTO DISMANTLING  
SACRAMENTO COUNTY

SCHEDULED FOR 6/7/8 APRIL 2011

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

**Background**

The Executive Officer has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code (CWC) sections 13323 and 13399.33(c) and (d) to V & O Auto Dismantling, (Discharger) alleging that the Discharger violated State Water Board Order WQO 97-03-DWQ (NPDES General Permit CAS000001) by failing to submit annual monitoring reports by 1 July 2009 and 1 July 2010.

The Complaint proposes that an administrative civil liability in the amount of \$7,925 be imposed. A hearing is currently scheduled to be conducted before the Central Valley Water Board during its 6/7/8 April 2011 meeting.

**Purpose of Hearing**

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Central Valley Water Board meeting agenda. The meeting will be held at

11020 Sun Center Drive, Suite 200, Rancho Cordova, California.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Central Valley Water Board's web page at:

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

## **Hearing Procedure**

The hearing will be conducted in accordance with this Hearing Procedure. This Hearing Procedure has been approved by the Central Valley Water Board Chair in model format, and is subject to further revision by the Central Valley Water Board's Advisory Team or the Board Chair. A copy of the general procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at: <http://www.waterboards.ca.gov> or will be made available upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648, subdivision (b) and herein, Chapter 5 of the Administrative Procedures Act (commencing with Gov't Code § 11500) does not apply to this hearing.

**ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE CENTRAL VALLEY WATER BOARD'S ADVISORY TEAM NO LATER THAN 21 JANUARY 2011 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.**

The Discharger shall contact the Prosecution Team to try to resolve objections regarding due dates, the hearing date and hearing time limits BEFORE submitting objections to the Advisory Team.

## **Hearing Participants**

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff or others, at the discretion of the Central Valley Water Board.

The following participants are hereby designated as parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. V & O Auto Dismantling

## **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received no later than 5 p.m. on **27 January 2011**, by the Advisory Team attorney (contact information listed below). The request shall include an explanation of the basis for status as a designated party (i.e., how the issues to be addressed in the hearing and the potential actions by the Central Valley Water Board affect the person, and the need to

present evidence or cross-examine witnesses), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all other parties by 5 p.m. on **7 February 2011**. The parties will be notified by 5 p.m. on **16 February 2011** whether the request has been granted or denied.

### **Primary Contacts**

#### **Advisory Team:**

Kenneth Landau, Assistant Executive Officer  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670  
Phone: (916) 464-4726  
klandau@waterboards.ca.gov

Alex Mayer, Staff Counsel  
State Water Resources Control Board, Office of Chief Counsel  
Physical Address: 1001 I Street, Sacramento, CA 95814  
Mailing Address: P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 322-3622; fax: (916) 341-5199  
amayer@waterboards.ca.gov

#### **Prosecution Team:**

Pamela Creedon, Executive Officer  
Frederick Moss, Assistant Executive Officer  
Wendy Wyels, Environmental Program Manager  
Steve Rosenbaum, Senior Engineering Geologist  
Robert Ditto, Environmental Scientist  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670  
Phone: (916) 464-4835; fax: (916) 464-4645  
wwyels@waterboards.ca.gov

Ann Carroll, Staff Counsel  
State Water Resources Control Board, Office of Enforcement  
Physical Address: 1001 I Street, Sacramento, CA 95814  
Mailing Address: P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 322-3227; fax: (916) 341-5896  
acarroll@waterboards.ca.gov

#### **Discharger:**

Paul Ivanyuk  
V & O Auto Dismantling  
3440 Sunrise Boulevard  
Rancho Cordova, CA 95742  
Phone: (916) 276-8103  
e-mail: voparts@yahoo.com

### **Separation of Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Valley Water Board (Prosecution Team) have been separated from those who will provide advice to the Central Valley Water Board (Advisory Team). Members of the Advisory Team are: Mr. Kenneth Landau and Mr. Alex Mayer. Members of the Prosecution Team are: Ms. Pamela Creedon, Mr. Frederick Moss, Ms. Wendy Wyels, Mr. Steve Rosenbaum, Mr. Robert Ditto, and Ms. Ann Carroll. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Pamela Creedon regularly advises the Central Valley Water Board in other, unrelated matters, but is not advising the Central Valley Water Board in this proceeding. Ann Carroll is an attorney with the State Water Resources Control Board's Office of Enforcement and has not advised the Central Valley Water Board on any matter. Other members of the Prosecution Team act or have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

### **Ex Parte Communications**

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Central Valley Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested person on the one hand, and a Central Valley Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

The following communications to the Advisory Board must be copied to all designated parties: Objections to this Hearing Procedure; requests for modifications to this Hearing Procedure; requests for designated party status, or objections thereto; and all written evidence, legal argument or policy statements from designated parties. This is not an all-inclusive list of ex parte communications.

### **Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined **25** minutes to present evidence (including evidence presented by witnesses called by the designated party), cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations,

and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received by 5:00 p.m. on **16 March 2011**. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Central Valley Water Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments or legal argument require extra time, and why the Discharger could not adequately provide the testimony, comments or legal argument in writing before the hearing.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

### **Submission of Evidence and Policy Statements**

**Case in Chief:** The Prosecution Team, the Discharger and each other designated party must submit the following information in writing in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Board members will generally not receive copies of materials incorporated by reference, and the referenced materials are generally not posted on the Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony. (This information is not required for rebuttal witnesses or rebuttal testimony.)
4. The qualifications of each expert witness, if any. (This information is not required for rebuttal witnesses.)

The Prosecution Team's information must include the legal and factual basis for its claims against each Discharger; a list or attached copy of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the complaint or Staff Report; and the witness information required under items 3-4 for all witnesses, including staff.

The Prosecution Team shall submit one hard copy and one electronic copy to Kenneth Landau and one electronic copy to Alex Mayer. Each other designated party shall submit 3 hard copies and one electronic copy to Kenneth Landau and one electronic copy to Alex Mayer. Kenneth Landau and Alex Mayer must receive all submissions no later than 5:00 p.m. on the applicable due date under Important Deadlines, below.

**Rebuttal:** Any designated party that would like to submit written evidence, legal analysis or policy statements to rebut the information previously submitted by other designated parties shall submit 3 hard copies and one electronic copy of their rebuttal information to Kenneth

Landau and one electronic copy of the information to Alex Mayer so that they are received by 5 p.m. on the due date under Important Deadlines, below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other designated parties' submissions. Rebuttal shall be limited to the scope of the materials previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

Copies: Board members will receive copies of all materials submitted in hard copy or electronic format. The Board's copies will be printed in black and white from the designated parties' electronic copies. Designated parties who are concerned about print quality of all or any part of their written materials should submit a high-resolution pdf or provide an extra nine paper copies for the Board members. For items with voluminous submissions, Board members may receive copies electronically only. Electronic copies are also posted on the Board's website.

Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy and mailing center. However, the Board will not reject materials solely for failure to provide electronic copies.

Other Matters: By **22 March 2011**, the Prosecution Team shall prepare a summary agenda sheet ("buff sheet") for this item to be included in the Board members' agenda package and posted on the internet. The buff sheet shall clearly state that it was prepared by the Prosecution Team. The Prosecution Team shall provide a copy of the buff sheet to all parties by mail or email.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by **22 March 2011**. Interested persons do not need to submit written comments in order to speak at the hearing.

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 Central Valley Water Board may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will not be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. Designated parties must provide the Advisory Team with a printed copy of such materials at or before the hearing, for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

### **Evidentiary Documents and File**

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA. This file shall be considered part of the official administrative record

for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line 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 web page is updated regularly, to assure access to the latest information, you may contact Wendy Wyels (contact information above).

### **Questions**

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

### **IMPORTANT DEADLINES**

(Note: The Advisory Team will generally adhere to this schedule unless the discharger submits a waiver and it is accepted.)

All required submissions must be received by 5:00 p.m. on the due date.

7 January 2011	Prosecution Team issues ACL Complaint to Discharger and Advisory Team and publishes Public Notice
21 January 2011	Objections due on proposed Hearing Procedure
27 January 2011	Deadline for submission of request for designated party status.
7 February 2011	Deadline for opposition to request for designated party status.
7 February 2011	Discharger's deadline for submitting signed form to waive right to hearing within 90 days.
16 February 2011	Advisory Team issues decision on requests for designated party status, if any.
16 February 2011	Prosecution Team's deadline for submission of all information required under "Evidence and Policy Statements," above.
8 March 2011	Remaining Designated Parties' (including the Discharger's) deadline for submission of all information required under "Evidence and Policy Statements," above.
8 March 2011	Prosecution Team submits an electronic copy to Kenneth Landau and Alex Mayer of all documents cited in the complaint or Staff Report, unless previously submitted.
16 March 2011	Requests for additional hearing time (see Hearing Time Limits, above).
18 March 2011	All Designated Parties shall submit any rebuttal evidence, written rebuttal to legal argument and/or written rebuttal to policy statements; and all evidentiary objections to other Designated Parties' submittals.
22 March 2011	Prosecution Team's deadline to submit the buff sheet
22 March 2011	Interested persons' comments are due.
1 April 2011	If <i>new</i> rebuttal evidence or argument is submitted, deadline for designated parties to submit any requests for additional time at the hearing to respond to the rebuttal.
6/7/8 April 2011:	Hearing