
San Francisco Bay Regional Water Quality Control Board

HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

NO. R2-2020-1028

ISSUED TO

PARAM DHILLON AND AMANDEEP DHILLON

Assessor Parcel Number 0052-160-090

Vallejo

Solano County

HEARING SCHEDULED FOR NOVEMBER 18, 2020

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 Assistant Executive Officer of the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) has issued an Administrative Civil Liability Complaint (Complaint) pursuant to California Water Code section 13323 against Param and Amandeep Dhillon (Discharger) alleging that it has violated Water Code section 13267 by failing to submit an acceptable report of activities conducted on the Property, and failing to submit a report for a wetland delineation at the Property. The Complaint proposes that a civil liability in the amount of \$81,700 be imposed as authorized by Water Code section 13268(b)(1).

Purpose of Hearing and Hearing Procedure

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint. At the hearing, the Regional Water Board will consider whether to issue an administrative civil liability (ACL) order assessing the liability proposed in the Complaint, or a higher or lower amount, reject the proposed liability, or refer the matter to the Attorney General for judicial enforcement.

An agenda for the Regional Water Board meeting will be issued at least 10 days before the meeting and posted on the Regional Water Board's website (<http://www.waterboards.ca.gov/sanfranciscobay/>). The Regional Board has adopted the Zoom platform to conduct this hearing remotely. For instructions on how to participate in the remote hearing via Zoom, please check the following webpage 10 days before the scheduled hearing date and follow its directions, including the section on filling out a speaker card and obtaining a Zoom password:

https://www.waterboards.ca.gov/sanfranciscobay/board_info/remote_meeting/

The hearing will be conducted in accordance with this Hearing Procedure. The Regional Water Board Advisory Team has directed the use of these standardized hearing procedures for the adjudication of such matters. A copy of the general procedures governing adjudicatory hearings before the Regional Water Board may be found at Title 23 of the California Code of Regulations (CCR), Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or 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 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to the hearing.¹

The procedures and deadlines herein may be amended by the Advisory Team at its discretion. **Any objections to this Hearing Procedure must be received, preferably via email, by Yuri Won of the Advisory Team by SEPTEMBER 8, 2020, or they will be waived.**

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 generally may not submit evidence, cross-examine witnesses, or be subject to cross-examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include 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 Regional Water Board, its staff or others, at the discretion of the Regional Water Board.

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

- (1) The Regional Water Board Prosecution Team

¹ Pursuant to Executive Order N-63-20, issued May 7, 2020, Government Code section 11440.30, which would otherwise prohibit a presiding officer from conducting hearings by electronic means upon objection of party, is suspended if the following conditions are met:

- a) Each participant in the hearing has an opportunity to participate and to hear the entire proceeding while it is taking place and to observe exhibits;
- b) A member of the public who is otherwise entitled to observe the hearing may observe the hearing using electronic means;
- c) The presiding officer satisfies all requirements of the American with Disabilities Act (ADA) and the Unruh Civil Rights Act.

These conditions are satisfied because the hearing will be conducted via Zoom. The Zoom platform allows parties to participate in and hear the entire proceeding and to observe and share exhibits. Additionally, the hearing will be live-streamed using Cal-Span, YouTube, or similar internet-based streaming service to allow the public to observe the hearing. To date, no request for ADA-related accommodations has been received.

- (2) Param and Amandeep Dhillon, referred to as the Discharger
2225 Ralmar Avenue, East Palo Alto, California 94303; dhillonx@yahoo.com;
(650) 444-1234)

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party (who have not been designated as parties above) must request party status by submitting a request, preferably by email, to Yuri Won of the Advisory Team (copying the existing designated parties) by 5:00 p.m. on SEPTEMBER 8, 2020. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Water Board affect the person), 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, preferably by email, by the Advisory Team, the person requesting party status, and all parties by 5:00 p.m. on SEPTEMBER 14, 2020. The parties will be notified by 5:00 p.m. on SEPTEMBER 17, 2020, in writing whether the request has been granted or denied.

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 Regional Water Board (Prosecution Team) have been separated from those who will provide advice to the Regional Water Board (Advisory Team). Members of the Advisory Team and the Prosecution Team are:

Advisory Team:

Yuri Won, Staff Counsel
yuri.won@waterboards.ca.gov, (510) 622-2491

Michael Montgomery, Executive Officer
michael.montgomery@waterboards.ca.gov, (510) 622-2314
1515 Clay Street, Suite 1400, Oakland, CA 94612

Primary Contact: Yuri Won

Prosecution Team:

Cleet Carlton, Technical Staff
cleet.carlton@waterboards.ca.gov, (510) 622-2374

Agnes Farres, Technical Staff
agnes.farres@waterboards.ca.gov, (510) 622-2401

Brian Thompson, Section Leader
brian.thompson@waterboards.ca.gov, (510) 622-2422

Keith Lichten, Section Leader
keith.lichten@waterboards.ca.gov, (510) 622-2380

Bill Johnson, Division Chief
bill.johnson@waterboards.ca.gov, (510) 622-2354

Thomas Mumley, Assistant Executive Officer
thomas.mumley@waterboards.ca.gov, (510) 622-2395

Lisa McCann, Assistant Executive Officer
lisa.mccann@waterboards.ca.gov, (510) 622-2441

1515 Clay Street, Suite 1400, Oakland, CA 94612

Dan Kippen, Staff Counsel
dan.kippen@waterboards.ca.gov, (916) 323-6848

State Water Resources Control Board, Office of Enforcement 801 K Street, 23rd Floor,
Sacramento, CA 95814

Vaneeta Chintamaneni, Staff Counsel
vaneeta.chintamaneni@waterboards.ca.gov, (916) 341-5279

State Water Resources Control Board, Office of Enforcement 801 K Street, 23rd Floor,
Sacramento, CA 95814

Primary Contact: Cleet Carlton

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. Members of the Prosecution Team may have acted as advisors to the Regional Water Board in other, unrelated matters, but they are not advising the Regional Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional 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 Regional Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional 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.

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 30 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement and each interested person shall have three 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, preferably by email, to the Advisory Team so that it is received no later than OCTOBER 29, 2020, by 5:00 p.m. Additional time may be provided at the

discretion of the Advisory Team (prior to the hearing) or the Regional Water Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted 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 Regional Water Board to consider. Evidence and exhibits already in the public files of the Regional Water Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of designated party members, title and/or role, and contact information (email addresses, addresses, and phone numbers).
4. 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 qualifications of each expert witness.
5. (Discharger only) If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Water Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit, preferably by email, a copy of the above information not already included in or with the Complaint to Yuri Won of the Advisory Team and other designated parties no later than OCTOBER 9, 2020, by 5:00 p.m.

The remaining designated parties shall submit, preferably by email², a copy of the above information to Yuri Won of the Advisory Team and other designated parties no later than OCTOBER 19, 2020, by 5:00 p.m.

Any designated party who would like to submit information that rebuts the information previously submitted by other designated parties shall submit, preferably by email, a copy to Yuri Won of the Advisory Team and the other designated parties no later than OCTOBER 29, 2020, by 5:00 p.m. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them, preferably by email, to Yuri Won of the Advisory Team and each designated party no later than SEPTEMBER 28, 2020, by 5:00 p.m. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

² Please note that the Water Board's email capacity is less than 50 megabytes for each email.

For all submissions, the Advisory Team may require hard copies for those submittals that are either lengthy or difficult and expensive to reproduce.

In accordance with Title 23, CCR, Section 648.4, the Regional Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional 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 Regional Water Board and will not be included in the administrative record for this proceeding. PowerPoint and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team 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.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code section 13228.15. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted, preferably by email, to Yuri Won of the Advisory Team, with a copy to all other designated parties, no later than OCTOBER 29, 2020.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection, preferably by email, to Yuri Won of the Advisory Team and all other designated parties no later than OCTOBER 29, 2020, by 5:00 p.m. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Water Board's office. Due to the COVID-19 emergency and the Governor's Executive Order N-33-20, in-person file reviews are by appointment only and subject to public health guidelines. Alternatively, you may contact Cleet Carlton of the Prosecution Team for copies. 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 Regional Water Board Chair.

Questions

Questions concerning this proceeding may be addressed to Yuri Won of the Advisory Team.

IMPORTANT DEADLINES

Note: The Regional Water Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the Discharger waives that requirement.

These deadlines apply to all cases upon issuance of the Complaint whether or not the 90-day hearing requirement is waived.

AUGUST 28, 2020	Prosecution Team issues the Complaint to Discharger
SEPTEMBER 8, 2020	Deadline for objections, if any, to this Hearing Procedure
SEPTEMBER 8, 2020	Deadline for requests for designated party status
SEPTEMBER 14, 2020	Deadline for oppositions to requests for designated party status
SEPTEMBER 17, 2020	Advisory Team issues decision on requests for designated party status, if any
SEPTEMBER 28, 2020	Discharger's deadline for waiving right to hearing
SEPTEMBER 28, 2020	Interested persons deadline for submission of written non-evidentiary policy statements

These deadlines apply to cases scheduled to be heard by the Regional Water Board (actual dates are subject to change if the 90-day hearing requirement is waived).

OCTOBER 9, 2020	Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements"
OCTOBER 19, 2020	Remaining designated parties' deadline for all information required under "Submission of Evidence and Policy Statements"
OCTOBER 29, 2020	All designated parties' deadline for rebuttal information, evidentiary objections, and requests for a pre-hearing conference or additional time, if any
NOVEMBER 18, 2020	Regional Water Board Hearing