



MEETING AGENDA

KELSO STORMWATER ADVISORY COMMITTEE

DATE: January 30, 2013
TIME: 4:00 pm – 5:00 pm
LOCATION: Kelso City Hall, Suite 203

Old Business

- 1) April 25, 2012 Meeting minutes

New Business

- 1) New officers vote
- 2) New Phase II Municipal Stormwater Permit
 - LID Stormwater BMPs;
 - LID Land Use Requirements;
 - IDDE and O&M Program Requirements;
 - Regional Stormwater Monitoring Program Option and Funding
 - Regional Status and Trends Monitoring project
 - Appeal of the Permit
- 3) Stormwater Management Manual for Western Washington



Kelso Stormwater Advisory Committee Meeting
January 30, 2013 @ 4:00 p.m.
City Hall Conference Room 203
203 S. Pacific Ave.

Attendees:

1. Don Linn
2. Alicia Nichols
3. SW 2
4. Vanmely
5. Timy Waves
6. Jim Engled
7. [Signature]
8. Steve Warner
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____



Engineering Phone 360-423-6590
Fax 360-423-6591
Operations Phone 360-423-5730
Fax 360-423-8196

CITY OF KELSO

Public Works Department
203 S. Pacific Ave., Suite 205
PO Box 819
Kelso, WA 98626

Stormwater Advisory Committee Meeting

April 25, 2012

Call to Order:

Michael Dyer called the meeting to order at 4:10 p.m., at City of Kelso City Hall, 203 S. Pacific Ave., Conference Room 203.

Those present were as follows:

Advisory Committee Members:

Gloria Nichols
Steffanie Taylor
Michael Dyer
Tim Wines
Gary Fredricks

Staff:

Van McKay, City of Kelso
Nina Caulfield, City of Kelso

Excused Absences:

Dan Howell
Don Lemmons

Approval of Minutes:

Gary Fredricks made the motion, seconded by Steffanie Taylor to approve the minutes of January 25, 2012. Motion carried, all in favor.

New Business:

1. **KSAC Vice President**

Term is for one year, moving into the President chair next year, for one year. Steffanie Taylor nominated Gloria Nichols for Vice President chair, seconded by Tim Wines. Motion carried, all in favor.

2. **City of Kelso Comment Letters to Ecology on Permit and Manual**

Letter was sent out on February 3rd, 2012. Highlighted points:

- A. We like the idea of the Stormwater Regulations, but we don't have a ton of money to be able to implement what they are proposing. For example the one acre threshold that Ecology is proposing to remove and reduce. This would require more oversight by the City regarding plan and site reviews and inspections. A comment was submitted in the letter requesting that the one acre threshold not be changed.
- B. Low Impact Development – Longview and Kelso worked together to create a credit based system which makes it easier for them to meet the Stormwater requirements.
- C. Other detailed comments were more for clarification such as the time line for allowing us more time to draft new Ordinances and implement the permit requirements. Suggestion was sent to extend the timeline to the end of the permit in 2017.

The final version of the permit, with all comments integrated, will be out in July.

3. Habitat Status and Trends Monitoring for Lower Columbia Region

In the Puget Sound area, Ecology worked with the local agencies to create a monitoring plan and are working to implement that. But in Southwest Washington they took a long time to try to get us in the process of what we would do for a regional monitoring plan. But that has not been enacted yet. Josh Johnson with the City of Longview got with Clark County and the Lower Columbia Fish Recovery Board for a \$190,000 grant to hire a consultant to look at the whole area to come up with a regional monitoring plan. They have a deadline of one year. We are hoping that Ecology accepts this plan.

4. Citywide Catch Basin Cleaning Project

The City of Kelso is out of compliance with inspecting and cleaning our catch basins due to our reduced street crew. We needed the assistance from an outside firm. We put the project out to Bid, and the apparent low bidder was PR Worth who has subcontracted with Jacob Environmental Services with a bid of \$28,000. Concerns were raised about the low bid and if the company could really do the work for that amount. Van McKay had a meeting with them yesterday and they were very confident that they will be able to complete the job at that price. Once this project is done, we will be able to monitor them better and determine the ones that need cleaned more often. The City has around 1300 total catch basins. The sediment that will be removed is what catches the heavy metals, like zinc and copper, which pollutes our water.

5. Draft Stormwater Management Plan and Geodatabase

This has come in in the last few weeks. We are working on implementing a GIS system for our City. We gathered the as-built information on the manholes and their pipes, slopes, the material they are made out of. We gave the information to Gibbs and Olson to do the modeling and plan draft. They then tested this information with an artificial rainstorm to find weaknesses. They ran the 25 and 100 year events. Van now has to visit the sites that failed to see how this would impact the City. The final document with prioritize the project we need to complete and when.

The Geodatabase part of the contract is going quite well. We now have detailed storm system information at our fingertips. This information will be available to the public on request per location. The entire database will not be available for public use.

6. General Discussion

- EPA Audit of WSDOT. EPA invited Ecology to learn how to audit other permittees. They are also looking into Ecology and how they are implementing their permit. Results of the audit were a few findings.


- Education in the schools to meet the permit requirements. After discussion with several school officials, we might enhance our Interlocal Agreement, to make it easier to do Public Outreach.

Next Meeting:

Committee discussed and agreed the next meeting shall be held August 29, 2012.

Meeting adjourned at 4:52 pm.

Approved:



Michael Dyer, Chairperson

for 
Nina Caulfield, Recording Secretary

Terms of Office and Timetable

Date	Chair Term	Vice-Chair Term	Member 2-year term	Member 2-year term			
May 2008							
June	Steffanie Taylor One and a half years Term ends Dec. 31, 2009	Tim Wines One and a half years Term ends Dec.31, 2009	Steffanie Taylor Tim Wines Gloria Nichols Don Lemmons Two and a half years Term ends Dec. 31, 2010	James Amaral/Dylan Olson			
July				Gary Fredricks Dan Howell			
August				One and a half years			
September				Term ends Dec. 31, 2009			
October							
November							
December							
January 2009							
February				Tim Wines One year Term begins Jan 1, 2010 and ends Dec. 31, 2010	Dan Howell One year Term begins Jan 1, 2010 and ends Dec. 31, 2010	Steffanie Taylor Tim Wines Gloria Nichols Don Lemmons Two years Term begins Jan. 1, 2010 and ends Dec. 31, 2011	Gary Fredricks Dan Howell
March							Student Member: Mike Dyer
April							Two years
May							Term begins Jan. 1, 2010 and ends Dec. 31, 2011
June							
July							
August							
September							
October							
November							
December							
January 2010							
February	Dan Howell One year Term begins Jan. 1, 2011 and ends Dec. 31, 2011	One year Term begins Jan. 1, 2011 and ends Dec. 31, 2011	Steffanie Taylor Tim Wines Gloria Nichols Don Lemmons Two years Term begins Jan. 1, 2011 and ends Dec. 31, 2012				
March							
April							
May							
June							
July							
August							
September							
October							
November							
December							
January 2011							
February	Mike Dyer One year Term begins Jan 1, 2012 and ends Dec. 31, 2012	Gloria Nichols One year Term begins Jan 1, 2012 and ends Dec. 31, 2012	Steffanie Taylor Tim Wines Gloria Nichols (Industrial Permittee position open) Two years Term begins Jan. 1, 2012 and ends Dec. 31, 2013				
March							
April							
May							
June							
July							
August							
September							
October							
November							
December							
January 2012							
February	Gary Fredricks One year Term begins Jan 1, 2013 and ends Dec. 31, 2014	Steffanie Taylor One year Term begins Jan 1, 2013 and ends Dec. 31, 2014	Steffanie Taylor Tim Wines Gloria Nichols (Industrial Permittee position open) Two years Term begins Jan. 1, 2013 and ends Dec. 31, 2015				
March							
April							
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December							
January 2013							
February	One year Term begins Jan 1, 2014 and ends Dec. 31, 2015	One year Term begins Jan 1, 2014 and ends Dec. 31, 2015	Steffanie Taylor Tim Wines Gloria Nichols (Industrial Permittee position open) Two years Term begins Jan. 1, 2014 and ends Dec. 31, 2016				
March							
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JAN 17 2013

FOSTER PEPPER PLLC

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Website: www.eluhwa.gov

STATE OF WASHINGTON
ENVIRONMENTAL AND LAND USE HEARINGS OFFICE

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Physical Address: 1111 Israel Rd. SW, Tumwater, WA 98501

January 16, 2013

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Assistant Attorney General
Transportation and Public Construction Div.
P O Box 40113
Olympia WA 98504-0113

Re: **PCHB NOS. 12-097c**
PHASE II MUNICIPAL STORMWATER APPEALS

Dear Parties:

Enclosed is a Pre-Hearing Order in the above matter. Please read over the Order carefully for filing dates and requirements.

If you have any procedural questions, please feel free to contact the staff at the Environmental and Land Use Hearings Office at 360-664-9160.

Sincerely,

Joan Marchioro, Presiding
Administrative Appeals Judge

JM/jb/P12-097c
Encl.

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid or via delivery through State Consolidated Mail Services to the parties of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED 1/16/13, at Tumwater, WA

RECEIVED
JAN 17 2013
FOSTER PEPPER PLLC

POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

CITY OF AUBURN, CITY OF
BAINBRIDGE ISLAND, CITY OF
BURLINGTON, CITY OF DES MOINES,
CITY OF EVERETT, CITY OF KENT,
CITY OF ISSAQUAH, CITY OF MOUNT
VERNON, CITY OF RENTON, CITY OF
SEATAAC, CITY OF SNOQUALMIE, CITY
OF SUMNER, all municipal corporations of
the State of Washington; COWLITZ
COUNTY; and KING COUNTY, political
subdivisions of the State of Washington,

Appellants,

and

CITIES OF KIRKLAND, KELSO,
SAMMAMISH, CAMAS, LONGVIEW,
LYNNWOOD, POULSBO, BREMERTON,
BOTHHELL and FERNDAL; and STATE
OF WASHINGTON, DEPARTMENT OF
TRANSPORTATION

Appellant Intervenors,

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Respondent.

and

PUGET SOUNDKEEPER ALLIANCE,
ROSEMERE NEIGHBORHOOD
ASSOCIATION,

Respondent Intervenors.

PCHB No. 12-097c

PRE-HEARING ORDER

1 The cities of Auburn, Bainbridge Island, Burlington, Des Moines, Everett, Kent,
2 Issaquah, Mount Vernon, Renton, Seatac, Snoqualmie, Sumner, Kirkland, Kelso, Sammamish,
3 Camas, Longview, Lynnwood, Poulsbo, Bremerton, Bothell and Ferndale, and Cowlitz County
4 (referred to as the Coalition of Government Entities or Coalition) filed an appeal of the Western
5 Washington Phase II Municipal Stormwater Permit (Phase II Permit) issued by the Department
6 of Ecology (Ecology) on August 1, 2012, with an effective date of August 1, 2013. King County
7 filed a separate appeal of the Phase II Permit. Puget Soundkeeper Alliance, Washington
8 Environmental Council and Rosemere Neighborhood Association (collectively Puget
9 Soundkeeper) moved to intervene in the Coalition's appeal as respondents. The cities of
10 Kirkland, Kelso, Sammamish, Camas, Longview, Lynnwood, Poulsbo, Bremerton, Bothell and
11 Ferndale moved to intervene and join the Coalition appellants. The State of Washington,
12 Department of Transportation (WSDOT) petitioned to intervene in the Coalition's appeal. On
13 November 7, 2012, the presiding officer issued Order Consolidating Appeals and Granting
14 Motions to Intervene.

15 A pre-hearing conference was held on November 29, 2012. Administrative Appeals
16 Judge Joan Marchioro presided for the Board. Attorneys John Nelson and Lori Terry Gregory
17 represented Appellant Coalition and the Appellant-Intervenor cities; Senior Deputy Prosecuting
18 Attorney Joseph Rochelle represented Appellant King County; Senior Counsel Ronald Lavigne
19 and Assistant Attorney General Tom Young represented Respondent Department of Ecology;
20 Assistant Attorneys General Stephen Klasinski and Kimberly Frinell represented Appellant-

21

1 Intervenor WSDOT; attorney Janette Brimmer represented Respondent-Intervenor Puget
2 Soundkeeper. Based on the conference, the Board enters the following Pre-Hearing Order:

3 **I. HEARING**

4 The hearing in this matter is set for **March 24 – April 10, 2014**, commencing at **9:00**
5 **a.m.**, at the Board's office in Tumwater, Washington. Parties shall be prepared to proceed to
6 hearing on that date. The Board will not conduct the hearing on March 28 or April 4, 2014.

7 **II. MEDIATION AND SETTLEMENT**

8 The parties are encouraged to undertake settlement efforts. The parties shall file joint
9 status reports, through Appellants' attorneys, apprising the Board of settlement possibilities in
10 the case by **November 15, 2013 and January 15, 2014**. The parties were informed that the
11 Environmental and Land Use Hearings Office offers no-cost mediation services. If the parties
12 desire to use these services they should telephone or send a written request to the Environmental
13 and Land Use Hearings Office.

14 **III. LEGAL ISSUES**

15 A. Phase II Appeal Legal Issues: Pursuant to the Board's request, the parties submitted a
16 consolidated list of legal issues. Based upon the submittals of the parties and discussion during
17 the pre-hearing conference, the following legal issues will govern the present appeal:

18 1. Whether Permit Condition S1.A.2 and the definition of urbanized area is
19 unreasonable, unjust, unlawful, and/or impracticable.

20 4. Whether the LID performance standard referenced in the Permit, Appendix 1
21 and/or the Manual, which adds control of flow durations between 8% of the 2-year storm
and 50% of the 2-year storm to the existing flow control standard (control between 50%
of the 2-year to the 50-year flow) on the basis that this requirement for management for

1 stormwater is unreasonable, unjust, unlawful, impracticable, and/or economically
2 burdensome.

3 6. Whether the LID provisions in the Permit and Appendix 1, and references in the
4 Permit and Appendix 1 to the Manual are unreasonable, unjust, unlawful, and/or
5 impracticable because Ecology failed to conduct a sufficient economic evaluation, cost-
benefit analysis, or otherwise failed to adequately evaluate and consider the economic
and/or environmental impacts and costs of these requirements on Coalition members,
their citizens, and/or businesses.

6 7. Whether Permit Condition S5.C.3.c.i, which requires permittees to field screen
7 40% of their municipal separate storm sewer system by December 31, 2017 and 12% of
8 their municipal separate storm sewer system each year thereafter, is vague and
ambiguous, unreasonable, unjust, unlawful, and/or impracticable.

9 8. Whether eliminating the one-acre threshold in Permit Condition S5.C.4 is
unreasonable, unjust, unlawful, and/or impracticable.

10 10. Whether provisions of Permit Condition S5.C.5 regarding catch basin
11 inspections is unreasonable, unjust, unlawful, and/or impracticable.

12 11. Whether Permit Condition S8.A that requires reporting of stormwater-related
13 studies conducted by the permittee and stormwater-related investigations conducted by
other entities reported to the permittee is vague and ambiguous, unreasonable, unjust,
unlawful, and/or impracticable.

14 12. Whether Permit Condition S8 is vague and ambiguous, unreasonable, unjust,
unlawful, and/or impracticable for one or more of the following reasons:

- 15 a. Said condition does not describe the regional stormwater monitoring plan;
16 b. Said condition does not state how the data and information collected by Ecology
will be used; and/or
17 c. Said condition does not state what happens when there is a surplus or debt in
funding.

18 13. Whether the Permit definitions of "outfall," "receiving waters," "municipal
19 separate storm sewer system," and "MS4" are unreasonable, unjust, unlawful, and/or
impracticable.

20 14. Whether the inclusion of "interflow" in the Permit definition of "stormwater" is
21 unreasonable, unjust, unlawful, and/or impracticable.

1 15. Whether Ecology acted unreasonably, unjustly, or unlawfully by failing to
2 conduct a sufficient economic analysis or cost-benefit analysis, or by otherwise failing to
3 adequately evaluate and consider the economic impacts and/or costs of the Permit on the
4 regulated community, including Coalition members, their citizens, and businesses that are
5 impacted and affected by the Permit.

6 B. Legal Issues Consolidated With Phase II Appeals: The parties agreed that several of
7 their issues related to issues raised in the Phase I Municipal Stormwater Permit appeals, PCHB
8 Nos. 12-093, -094, -095, -096 and -100. In order to ensure consistency between the cases and
9 promote judicial efficiency, the parties requested that those issues be consolidated with the Phase
10 I Permit appeal. The following legal issues are consolidated with the Phase I Permit appeal and
11 shall be governed by the deadlines set forth in the Pre-Hearing Order issued in that case on
12 November 8, 2012:

13 2. Whether Special Condition S5.C.4 of the 2013-18 Phase II NPDES Municipal
14 Stormwater Permit for Western Washington (the "Permit"), and references in those
15 conditions to Appendix 1 and the 2012 Stormwater Management Manual for Western
16 Washington ("the Manual") contain requirements that are unlawful, unjust, unreasonable,
17 and/or impracticable for one or more of the following reasons:

- 18 a. Said provisions interfere or conflict with land use planning, the Growth
19 Management Act (chapter 36.70A RCW), vesting, and/or other governmental functions;
- 20 b. Said provisions impose burdensome and unreasonable new requirements;
21 and/or
- c. Said provisions impose economic burdens on Coalition members to an extent
 that renders the provisions impracticable and unreasonable.

 3. Whether Low Impact Development ("LID") provisions contained in
 Conditions S5, S5.C.1, S5.C.2, S5.C.3, S5.C.4, and/or S5.C.5 of the Permit, Appendix 1,
 the Manual, and/or documents referenced by or incorporated into the Permit, Appendix 1
 and/or the Manual, are unlawful, unjust, unreasonable, and/or impracticable for one or
 more of the following reasons:

- a. The provisions interfere and/or conflict with land use planning, the Growth
 Management Act (chapter 36.70A RCW), vesting and/or other governmental functions;
- b. Said provisions impose burdensome and unreasonable new requirements;

1 c. Said provisions rely on unproven technologies with potentially unintended
consequences;

2 d. Said provisions adversely affect the economic health of Coalition members
and their communities; and/or

3 e. Said provisions impose economic burdens on Coalition members to an extent
4 that renders the provisions impracticable and unreasonable.

5 5. Whether provisions in the Permit, Appendix 1, and corresponding references
6 to the Manual are unreasonable, unjust, unlawful, and/or impracticable with regard to
7 provisions that apply to the use of porous pavement for roadway projects.

8 9. Whether the provisions in Permit Condition S5.C.4.g, which require
9 participation in watershed-scale stormwater planning led by a Phase I County under the
10 Phase I Municipal Stormwater Permit, are unreasonable, unjust, unlawful, and/or
11 impracticable.

12 16. Whether provisions in the Permit and Appendix 1 that reference the Manual
13 are unreasonable, unjust, unlawful, and/or impracticable because there was no
14 opportunity for meaningful review and comment afforded Coalition members because the
15 draft Permit and draft Manual were issued at the same time and, in certain instances,
16 referenced future guidance that was not drafted or available for review.

17 17. Whether provisions in the Permit that require the use of Ecology documents
18 and a Manual, which Ecology characterizes as guidance, are unreasonable, unjust,
19 unlawful, and/or impracticable when those documents and Manual are used in the Permit
20 as regulatory requirements with no reasonable, feasible, or practicable alternatives
21 available to permittees, the community, or businesses that are also regulated or affected
by the Permit's requirements.

18 18. Whether Special Condition S5.C.4.g of the Permit is unreasonable, unlawful,
19 inequitable, and inconsistent with the responsibilities placed on Phase I county permittees
20 by the Phase I Permit, because it does not require Phase II permittees to equitably and on
21 a pro-rata basis share in the Phase I county jurisdictions' costs of, and efforts in,
developing watershed-scale stormwater plans that are required of the Phase I county
permittees.

19 IV. MOTIONS

20 A. Dispositive Motions: Dispositive motions shall be filed and served by **January 6,**

21 **2014.** Opposing parties shall have **14 days from the date received for response,** and the

1 moving party will have **10 days from receipt of the response for reply**. For dispositive
2 motions, responses, and replies, **an original and four (4) copies** of the pleading and supporting
3 documents shall be filed with the Presiding Officer. **All copies and attachments shall be three-**
4 **hole punched.**

5 B. Non-Dispositive Motions: **Responses** to any non-dispositive motion shall be filed
6 and served **five days from receipt of the motion** by the non-moving party. The moving party
7 shall then have **three days from receipt of the response to file and serve a reply**. For non-
8 dispositive motions, responses, and replies, **an original and one (1) copy** of the pleading and
9 supporting documents shall be filed with the Presiding Officer. **All copies and attachments**
10 **shall be three-hole punched.**

11 C. Oral Argument Not Required. Motions will be decided based on the written record,
12 unless oral argument is requested by a party and granted by the Presiding Officer. At the parties'
13 request, argument may be held by telephone with the parties arranging the connections.

14 V. WITNESSES AND EXHIBITS

15 The parties submitted preliminary witness and exhibit lists.

16 A. Expert Witnesses: Preliminary designation of expert witnesses and a summary report
17 of each expert witness's qualifications and proposed testimony shall be served on the parties by
18 **September 20, 2013.**

19 A final designation of expert witnesses shall be served on the parties and filed with the
20 Board by **December 1, 2013**. A summary report of the qualifications and proposed testimony of
21 the expert witnesses shall also be served on the parties by **December 1, 2013**; provided however,

1 if the summary report is not revised and is the same as the report served on April 10, the party
2 may state this in writing to the other parties in lieu of serving the same report.

3 Expert pre-filed testimony shall be served on the parties and filed with the Board by
4 **March 3, 2014**. The parties shall provide the Board with **an original and four (4) copies** of the
5 expert testimony. **All copies and attachments shall be three-hole punched.** At hearing, the
6 experts shall testify by *summarizing* their respective written testimony including qualifications,
7 opinions and basis of the opinions, and thereafter shall be available for cross-examination and re-
8 direct. A witness's expertise shall be established by resume offered as an exhibit.

9 B. Final Witness List: Final lists of witnesses shall be served on the parties and filed
10 with the Board by **March 10, 2014**. **An original and four (4) copies** shall be filed. Any witness
11 listed in final lists may be called by any party. The party calling a witness has the responsibility
12 to ensure his/her attendance at the hearing. A witness's expertise shall be established by resume
13 offered as an exhibit.

14 C. Final Exhibit List and Exhibit Exchange: By **March 3, 2014**, the parties shall
15 exchange lists of the exhibits intended to be used at the hearing. Parties shall then provide copies
16 of the exhibits to the other parties (if requested) in 2 working days, confer, try to reach
17 agreement on exhibits' authenticity and admissibility, and eliminate duplicate exhibits. Final
18 exhibit lists shall also be filed with the Board and served on the other parties by **March 10, 2014**.
19 **An original and four (4) copies** shall be filed. All exhibits must be introduced in connection
20 with a witness' testimony or referred to in argument. Parties are asked to submit into evidence
21

1 only those portions of voluminous documents actually being referred to or relied upon by a
2 witness.

3 When meeting with the Presiding Officer prior to the commencement of the hearing, each
4 party shall have available **an original and four (4) copies** of its exhibits and exhibit lists which
5 shall identify those stipulated to by the parties, and spaces for indicating whether each exhibit
6 was offered, admitted, or excluded. Each exhibit shall be pre-marked by tab for identification
7 (A-1, A-2, etc., for appellant; R-1, R-2, etc., for respondent), and so identified on the exhibit
8 lists. All oversized exhibits shall be marked with the case number. The number given to an
9 exhibit does not limit the order of its introduction at hearing. Any exhibit listed by one party
10 may be introduced by another party. Voluminous exhibits (over 100 pages) shall be three-hole
11 punched for the convenience of the Board.

12 VI. DISCOVERY

13 A. Completion of Discovery: The parties have agreed to complete discovery by
14 **January 13, 2014**, except for witnesses identified for the first time in the final witness list.
15 These witnesses may be deposed after the discovery cut-off date. If formal discovery is pursued,
16 parties should pay particular attention to the time requirements of the superior court civil rules
17 with regard to interrogatories, depositions, etc. Discovery requests shall be served sufficiently
18 ahead of the discovery deadline so that the opposing party has the response time allowed by
19 these rules. (For example, responses to interrogatories are typically due thirty (30) days after
20 service. See CR 33.) Depositions, interrogatories, requests for production or inspection, requests
21 for admission and the responses shall not be filed with the Board. It is the initiating party's

1 responsibility to maintain the original together with answers to interrogatories and to make them
2 available for the proceedings, as necessary.

3 B. Discovery Disputes: The parties shall endeavor to resolve any discovery disputes
4 without involving the Board. Any motions to compel discovery must be filed and served by the
5 discovery cut-off date. An original and one (1) copy of discovery motions and supporting
6 documents must be filed with the Presiding Officer. Any party filing a discovery motion shall
7 also file a proposed order and shall accompany such filing with an affidavit reciting efforts to
8 resolve the discovery dispute.

9 VII. BRIEFS

10 Pre-Hearing Briefs are required. They shall be filed and served no later than **March 17,**
11 **2014**, with an **original and four (4) copies** for the Board (copies to be filed the same day the
12 brief is filed). Briefs are limited to fifteen pages absent an order granting a motion to lengthen.
13 If a citation is made to a case other than a Board Decision, Wn. App. or Wn.2d case, a complete
14 copy of the referenced citation must be filed with the Board.

15 VIII. COMMUNICATION

16 COMMUNICATION/CONTACT: All correspondence and filings with the Board shall
17 be sent to the attention of the Presiding Officer with copies sent at the same time to all other
18 parties. There shall be no *ex parte* contact with the Presiding Officer or other member of the
19 Board (contact by one party in the absence of the other party).

20 The Board does not accept e-mail correspondence directed to the presiding officer.
21

Due date	Description
November 15, 2013 and January 15, 2014	Joint Status Reports due
September 20, 2013	Preliminary Expert Witness Designation and Reports must be served on parties
December 1, 2013	Final Expert Witness Designation must be filed and served. Expert Reports must be served on parties
January 6, 2014	Dispositive Motions must be filed
January 13, 2014	Discovery cutoff
March 3, 2014	Expert testimony must be filed and served
March 3, 2014	Final Exhibit Exchange
March 10, 2014	Final Witness Lists due
March 10, 2014	Final Exhibit Lists due
March 17, 2014	Prehearing Briefs due
March 24 – April 10, 2014	Hearing dates

The Board will schedule a final status conference prior to hearing to address final hearing matters, motions in limine, time allocations/time management, and other relevant matters.

SO ORDERED this 16th day of January, 2013.

POLLUTION CONTROL HEARINGS BOARD



 JOAN M. MARCHIORO, Presiding
 Administrative Appeals Judge