

# CHAPTER 11 – Public Hearing

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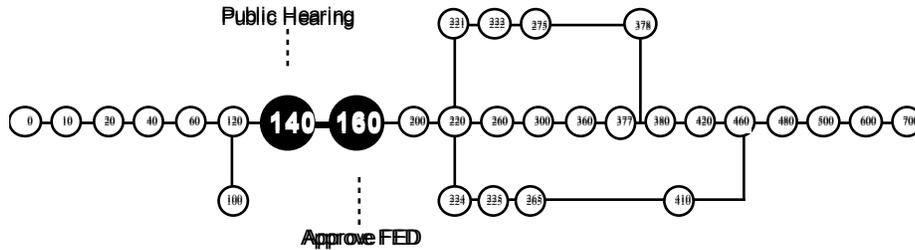
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# CHAPTER 11 – Public Hearing



This chapter discusses the project development workflow tasks between Milestones 140 and 160. For details on these tasks, see the *Project Development Workflow Tasks Manual*.

## ARTICLE 1 The Hearing Process

### Purpose

The purpose of the hearing process is to obtain public comment and to ensure that transportation decisions are consistent with the goals and objectives of federal, State, and local entities. Public hearings are required for most projects with significant impacts. They provide a forum for discussing project need, major issues, alternative locations, and design features, and the potential social, economic, and environmental effects related to each.

### Hearings Conducted by Other Agencies

When hearings for State highway projects are conducted by other agencies, Caltrans procedures must be followed. However, when the work on the State highway is incidental to the local improvements, the other agency may follow its own procedures, if there is no federal involvement.

### Community Involvement

The public hearing represents the formal stage of community involvement: a process which began during the earliest phases of a transportation project and is intended to identify issues, goals, objectives, values, and concerns related to the project. The most productive interaction with the public and with other agencies takes place in informal meetings, conferences, and direct correspondence, rather than through formal hearings. The overall community involvement process is discussed in [Chapter 22](#).

## **PDT Determines Strategy**

The project development team (PDT) should develop a community involvement plan for informal meetings and contacts with potentially interested parties. For information regarding whom to contact, size of groups, details of presentation, how to make contact, etc., see [Chapter 22](#).

## **Applicability**

A public hearing (or the “opportunity for a public hearing”) is required for any projects that:

- Require significant right of way.
- Require substantial changes to the layout, the function of connecting roadways or facility being improved.
- Have a significant adverse impact on abutting real property.
- Have a significant environmental, economic, social, or other effect.
- Federal Highway Administration (FHWA) determines that it would be in the public interest (projects with federal-aid funding or requiring federal permits only).

Public hearing applicability varies according to project category, as defined in [Chapter 8](#), Section 5. The following stipulations apply:

### Category 1 and 2 Projects

Compliance with the requirements of the public hearing process is required; it may be achieved with either a scheduled hearing or a “Notice of Opportunity.”

Note: A scheduled hearing must be held for Category 1 Route Adoption hearings.

### Category 3 and Category 4A Projects

Except for categorically exempt, Category 3 projects, compliance with the public hearing process is usually required. Compliance may be achieved by a scheduled hearing or “Notice of Opportunity.” Waiving the public hearing process for projects in Categories 3 and 4A requires written approval from the District Director. The waiver should include the project development team’s rationale for foregoing a public hearing or “Notice of Opportunity.” A waiver can only be granted if there is no federal involvement or if the project is a Federal Categorical Exclusion under National Environmental Protection Act (NEPA).

### Category 4B Projects

Compliance with the public hearing process is not normally required; however, the PDT should weigh the effects of the project very carefully. Even though the reconstruction is taking place within the existing right of way, impacts of sufficient magnitude may make it prudent to provide a public hearing or “Notice of Opportunity.” Final determination is made by the District Director. If a federal environmental document is required, the public hearing process is required.

### Category 5 Projects

Compliance with the public hearing process is not required.

### Category 6 Projects

Compliance with the public hearing process is not required for emergency opening and restoration work. Permanent replacement work must be assigned the proper project category and applicable requirements should be satisfied.

### Category 7 Projects

Public hearing process requirements for federal-aid projects on highways under local agency jurisdiction and not classified as Category 5 or 6 comply with the items listed at the beginning of this topic “Applicability” and are discussed more fully in the [\*Local Assistance Procedures Manual\*](#).

## **Title VI Compliance Documentation**

A Memorandum to File should be written for each formal contact. It should cover such items as where the meeting was held, who initiated it, how attendees were notified, who attended the meeting (by agency, organization, or group), content of presentations, questions and responses, conclusions drawn, etc. The attendance and concerns of minority, disadvantaged, and low mobility groups must be carefully documented to comply with Title VI of the *Civil Rights Act of 1964*.

## **Community Involvement Documentation**

Informal contacts should be documented. This documentation should be used to determine how many hearings to hold; it also provides ongoing input into the project study process.

A brief summary of community involvement activities will need to be discussed at hearings. It should also be included in handout materials and in the Coordination Section of the environmental document.

### **Authorization to Hold Public Hearing**

The authorization for a hearing is normally obtained by the approval of the draft project report, which must contain the recommendation to proceed with a hearing.

### **Open Forum or Formal Hearing**

The District Director decides whether to hold a formal hearing or an open forum hearing. The decision is based on the recommendation of the PDT.

Open forum hearings are preferred to formal hearings, because they result in greater and more balanced input and are less likely to result in confrontational situations.

Formal hearings may be preferred where there is an indication that effective citizen involvement has resolved critical issues, or where there is a strong public expectation of a formal hearing. See Articles 7 and 8 for a description of the two types of public hearings.

### **Coordination with DED Availability**

A hearing, if required, is held before committing to any alternative being considered. Public circulation and notification requirements vary depending on the type(s) of documents (California Environmental Quality Act [CEQA] and NEPA) and level of environmental documentation. The following types of draft environmental documents (DED) have specific requirements that can be found in greater detail in the [Standard Environmental Reference \(SER\)](#).

#### Draft Initial Study/Negative Declaration (IS/ND) - CEQA

CEQA does not require formal hearings at any stage of the environmental review process for an IS/ND or IS/mitigated negative declaration (MND). However, CEQA does require public notice of the intent to adopt an ND or MND. As a matter of Caltrans policy, the Notice of Intent to Adopt an ND or MND must be published in the local paper. A draft IS/ND or IS/MND must be made available to the public for comment for a minimum of 30 days. For more information, see [Standard Environmental Reference](#) Volume 1, Chapter 35.

### Draft Environmental Assessment (EA) - NEPA

When a public hearing is held as part of the application for federal funds, the draft EA shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The notice of the public hearing in local newspapers must announce the availability of the draft EA, where it may be obtained or reviewed, as well as information on how and where to submit comments. Comments must be submitted in writing within 30 days of the availability of the draft EA unless Caltrans determines, for good cause, that a different period is warranted. For further information, see [Standard Environmental Reference](#) Volume 1, Chapter 31.

### Draft Environmental Impact Report (DEIR) - CEQA

A DEIR must be available to the public for comment for a minimum of 45 days. Notice of the public hearing must be published in a prominent location in the newspaper, other than in the legal notices section. In practice, the Notice of Availability of the DEIR and Notice of Public Hearing or Notice of Opportunity for Public Hearing are often combined into one notice. This avoids duplication of effort and expense. See [Standard Environmental Reference](#) Volume 1, Chapter 36 for details.

### Draft Environmental Impact Statement (DEIS) - NEPA

A DEIS must be available for a minimum of 45 days. FHWA regulations require that public hearings be held for all projects that will have a significant environmental, social, or economic effect. However, it is not mandatory that a public hearing be held after the issuance of the DEIS. Where Caltrans determines it is advisable to hold a public hearing to provide information and take comment on the DEIS, the draft document must be made available for a minimum of 15 days prior to the hearing, and the DEIS must be available at the hearing. The hearing must be publicly noticed. If no hearing is held, a notice must be placed in a newspaper advising that the DEIS is available for review and informing the public regarding how copies may be obtained and where comments are to be sent. For further information see [Standard Environmental Reference](#) Volume 1, Chapter 32.

For information specific to combined NEPA and CEQA DEDs, see [Standard Environmental Reference](#) Volume 1, Chapter 37.

## **Notify Division of Design (DOD) and FHWA**

As soon as hearing arrangements are finalized, the district should notify the Division of Design, Attention: Public Hearing and FHWA by memo. DOD will, in turn, notify the CTC and various Headquarters offices.

## **Noncontroversial Projects May Use Notice of Opportunity**

A “Notice of Opportunity” for a public hearing may be used to satisfy the requirement for a hearing if the project is noncontroversial and a hearing request is unlikely. This can be determined by analysis of comments received from the public or local agencies or through prior contacts and information meetings. If the project is being processed with an environmental impact statement (EIS), the FHWA liaison engineer should be contacted before proceeding with a “Notice of Opportunity.”

The overriding consideration when federal funding or federal permits are involved are the items listed above under Applicability. Even if there is no environmental document, if one of those items is involved, the need for at least a Notice of Opportunity is triggered.

## **Withdrawal of Hearing Request**

When few requests for a hearing are received after publication of a “Notice of Opportunity,” district personnel should meet with the parties to explain the project and answer any questions. If the questioning parties are satisfied, they may be asked to withdraw the request for a hearing in writing. The proceedings should be carefully documented and made a part of the project record. If the requesting parties do not withdraw the request, the district must proceed with a public hearing.

## **Requirements for New Hearings**

The PDT must continually assess changes in project location, design features, and affected area. A new hearing or “Notice of Opportunity” is required whenever there has been:

- A substantial change from the proposal discussed in the previous hearing or in the “Notice of Opportunity.”
- Substantial, unanticipated changes in the affected area (land use, local plans, goals, objectives, attitudes, etc.).
- An unusually long lapse of time since the last hearing.

- Identification of significant social, economic, or environmental effects not previously considered.

## **ARTICLE 2      Public Notices and Publicity**

### **Purpose**

Public notices and publicity inform the public on transportation project proposals and notify the public of their opportunity to participate in the hearing process.

### **Non-English Provisions**

In all cases where non-English speaking people are affected by a proposal, the project development team (PDT) will determine if the language barrier is sufficient to warrant special publicity in the language of those affected.

### **Newspaper Requirements**

Each public hearing notice must be published in English in a newspaper having a general circulation in the vicinity of the proposed project, as well as in any foreign language and community newspapers with a substantial circulation in the area.

Each notice must be published in a prominent location in the newspaper other than in the legal notices section.

### **Publishing Two Hearing Notices**

A hearing notice or a “Notice of Opportunity” for a draft environmental impact statement (DEIS) must be published at two distinct times. This is also true when one of these notices is combined with a DEIS availability notice. The first notice should be published when the DEIS is circulated. The second notice should be published approximately one week prior to the hearing or the deadline for requesting a hearing. When a DEIS availability notice is published more than 45 days prior to the hearing, publication of two separate hearing notices is required.

### **Consult Public Affairs Office**

Where widespread public involvement is desired and public notices will be supplemented by news releases, the district public affairs office should be requested to provide assistance.

## **Scope of Publicity**

The amount and extent of publicity given to a hearing will depend on the magnitude and complexity of the proposal, as well as on local opinion of the proposal. Special groups, such as minority, disabled, or economically disadvantaged groups, may need special publicity efforts. If a proposal is controversial, and particularly if litigation is expected, it is important to make everyone aware of Caltrans' intentions. In such circumstances, the publicity should be substantial.

## **Methods for Publicizing Hearings**

Some of the ways to publicize an upcoming hearing include:

- Required paid hearing notices.
- Flyers or bulk-rate circulars distributed to residents.
- Notices on bulletin boards in public places (city halls, libraries, supermarkets, etc.).
- Television and radio.
- Distribution of notices through schools and service clubs.
- Indication in the draft environmental document (DED) that a hearing will be held.

## **Public Notices Format**

Notices should be simple, eye-catching, readable, and informative. All explanations and descriptions should be easily understood by the local readers. Use local identifiers for project limits rather than engineer stations or post miles.

The basic format and content for Caltrans' public notices is shown in [Appendix HH](#). The portions of the numbered paragraphs shown in italics are to be modified as appropriate for the particular environmental document type or public hearing process required and then inserted into the basic format shown in the example.

## **Three Standard Columns Wide**

Each notice must be at least three standard newspaper columns wide and of an adequate length to balance the ad properly. The minimum length should be six to seven inches. For lengthy projects, consider running the notice across the page to avoid compressing the map to an unreadable scale.

## **Public Notices Content**

- **Date, Time, and Place of Hearing**  
Public hearing notices or combined hearing/DED availability notices must specify the hearing date – time – place and the date the comment period ends.
- **Discussion Topics**
  - Tentative schedules for right of way acquisition.
  - Tentative schedules for construction.
  - Relocation Assistance Programs.
- **Procedures for Public Submissions**  
The notices must state that written statements and exhibits may be submitted up to 30 days after the hearing (10 days is the minimum; longer periods for controversial proposals) and must describe the procedure for the submissions. The closing date must be definitely stated but in no case will the closing date be earlier than the end of the circulation period for the DED.
- **Schematic Map**  
Each notice must have a schematic map showing the project limits. Schematic representations of major design features and alternatives should be shown to the extent practicable.
- **Identify Project Alternatives with Impacts**  
Each notice must identify any alternatives that impact wetlands or historic properties or encroach upon base floodplains.
- **Identify Material Available for Inspection**  
Each notice must state that maps, drawings, the DED, and other pertinent information will be available for inspection and copying at the nearest district office or some other convenient location in the vicinity of the proposed project.

## **Available Material for Inspection**

Project base maps of all alternatives under consideration showing right of way impacts, drawings, and retouched photographs, the DED, technical engineering and environmental reports, and other pertinent information should be made available for inspection and copying at the nearest district office and at some other convenient location in the vicinity of the proposed project.

## **Notice of Joint Hearing with Other Federal Agencies**

The National Environmental Policy Act (NEPA)/404 Memorandum of Understanding (MOU) concurrent process provides for a joint NEPA/Corps 404 hearing, if appropriate. The DED circulation and public hearing notice must be closely coordinated with the Corps 404 public notice. The potential for joint hearings with other federal agencies that have requirements for a public hearing should also be explored.

## **Procedures for Requesting a Hearing**

Each “Notice of Opportunity” must explain the procedure for requesting a hearing and state the deadline for doing so. The deadline should not be earlier than the end of the circulation period for the DED. The notice may also state that if there are no requests for a hearing Caltrans will proceed with the design as planned.

## **Mailing the Notification**

At or prior to the first general publication of public hearing notices and combined hearing/DED availability notices, certain affected parties should receive a mailed notification of the hearing. As long as it contains a satisfactory map and adequate project data, this notification may take the form of a postcard, a letter, or a copy of the actual public hearing notice. The mailing should include the following agencies or groups:

- Appropriate news media.
- California State Resources Agency.
- Recreation and planning agencies.
- Appropriate representatives of the US Department of the Interior and the Department of Housing and Urban Development.
- Others shown on Caltrans’ Public Involvement Notification List (see the *Standard Environmental Reference*, Chapter 4, Exhibit 1).
- Other groups, agencies, or individuals who by nature of their function, interest, or responsibility may be interested in or affected by the proposal.

## **Maintain Notification List**

The districts will establish and maintain a notification list upon which any federal agency, local official, public advisory group or agency, civic association, community group, or individual may enroll to receive notices of proposals in a specified area. Particular effort should be made to seek out and enroll minority leaders and

representatives of economically disadvantaged and low mobility groups as well as other organizations that represent individuals/groups with disabilities.

### **Clippings to DOD and FHWA**

As proof of publication, each notice will be sent to the Division of Design, Attention: Public Hearing, and the Federal Highway Administration (FHWA), as soon as it is published. DED availability notices and final environmental impact statement (EIS) approval notices will be sent to the Division of Environmental Analysis and the FHWA.

Proof of publication should include a clipping or clear copy of the notice published in the major newspaper, along with a list of the other publications used. The list should include each publication's name and the publication date. The listing should identify foreign language and community newspapers.

## **ARTICLE 3      Map Showings**

### **Timing**

If a formal hearing, rather than open forum hearing is being held, it is generally a good idea to have a map showing prior to the hearing (or opportunity). Due to the lengthy nature of project studies, the map showing may be the first time some people become aware of the proposal. The purpose of the map showing is to provide the public with a preview of the proposal: allowing an opportunity to view the maps and data and to participate in questions and answers on an individual and unhurried basis.

### **Public Notification Methods**

Notification of the map showings may be by separate news releases, paid advertisements, or by inclusion in the Notice of Hearing (or opportunity). The notification should clearly state the location and time of the map showing.

### **Administrative Guidelines**

- Schedule more than one day and extend from the day into the evening hours.
- Locate in areas convenient to those affected. This may require more than one showing, held at different locations. In such a case, the use of a mobile van should be considered. —Is the site easily found?—Is adequate parking available nearby?

- Consider facility size and accessibility, particularly for the physically challenged or aged. Temperature control is also important, since it is difficult to maintain interest and composure in an abnormally hot or cold room.
- Staff personnel should be acquainted with the area and the proposal. There is no substitute for the understanding and familiarity of a “native.”
- Provide appropriate functional experts: right of way, environmental, engineers, etc. Specific problems may dictate the use of specialists.
- Provide appropriate foreign language speaking personnel and interpreters for the deaf, as necessary.
- Supply a sufficient number of adequate maps and handout materials, such as draft environmental document (DED), Relocation Assistance Program booklets, planning process booklets, etc. Visitors may wish to take the materials home.

## **ARTICLE 4      Briefings and Rehearsals**

### **Briefing for District Management**

Before setting a date for the formal hearing, the project development team (PDT) should bring district management up to date on studies, likely reactions to the draft environmental document (DED), possible litigation or controversies, etc. The briefing is a good time to make a recommendation to the District Director for the presiding officer at the public hearing.

### **Rehearsals**

One or more rehearsals should be conducted two to three weeks prior to a hearing or at the beginning of a series of meetings where controversy is expected. An audience of non-engineering personnel or those who have participated in a recent district hearing should participate in a dry run: asking questions, making statements, and reviewing and commenting on exhibits and handouts. Hearing room and exhibit area conditions should be simulated as closely as possible, including the time of day, in order to verify the visibility of slides and exhibits, seating arrangements, etc., and to eliminate as many problems as possible prior to the actual hearing.

## **ARTICLE 5     Hearing Room Arrangements**

### **Location**

The location selected should be close to the project area and should be easily accessible to those expected to attend.

### **Room Size**

The room should be large enough to accommodate the expected attendance. It is better to have a large room only partially used than to have people unable to get into the meeting room—particularly for controversial proposals. Open forum hearings require less room than formal hearings. Availability of space for those with disabilities should not be overlooked.

### **Schedule**

Hearings should be scheduled at times convenient to those involved. Open forum hearings should start at mid-afternoon and run until 8:00 p.m. Since most people work during the day, the evening is the most convenient time for them to attend a formal hearing. Therefore, formal public hearings should be held after 7:00 p.m., unless there are extenuating circumstances. Written approval for an exception to an evening meeting must be obtained from the District Director.

### **Parking**

Adequate parking is an important element of site selection, since poor parking availability discourages attendance. Staff cars should be parked away from the entrance so the most convenient parking is available for the public. Parking for individuals with disabilities should also be available at the site.

### **Public Transportation**

Try to select a site near public transportation and publicize the public transportation access in the public notices.

## **Acoustics**

While acoustics are usually not a major problem, they may be if a large building, such as a fair building or a gymnasium, is chosen for a formal hearing. If the audience is unable to hear properly, the usefulness of the hearing is greatly diminished.

## **Entrance**

In large complexes, such as local community centers or schools, the hearing room may be difficult to find. Directional signs should be placed that lead from the main points of access to the hearing room. Wherever there is a possibility of going the wrong way, a sign should be placed giving the proper direction.

The entrance should be set up so that all attendees enter through a single area. This makes it easier to assure that everyone receives appropriate information and directions.

The entrance should be attended by district personnel throughout the hearing and handouts should be given to those entering the hearing room.

# **ARTICLE 6 Presiding Officers**

## **Selecting a Presiding Officer**

Presiding officers are responsible for conducting formal hearings and are not used at open forum hearings. The presiding officer may or not be an employee of Caltrans. Caltrans hearing officers are likely to be familiar with the transportation project as well as with the Caltrans hearing process; in addition, no formal arrangements are required for their services.

On the other hand, non-Caltrans hearing officers may appear to be more impartial, since they are not responsible for answering questions about the proposal nor are they expected to take sides. They may more successfully limit testimony of a repetitive or irrelevant nature during long hearings.

Impartiality may be attained by using either a non-Caltrans State employee or a Caltrans employee from a district not directly connected with the proposal or the responsible branch. The presiding officer does not make presentations or answer questions, but refers matters to appropriate staff members.

## **Hearings Conducted by Caltrans**

The District Director selects presiding officers for hearings conducted by Caltrans. As a general policy, outside presiding officers should be considered wherever projects may become controversial, are located in a sensitive area or area of critical concern, or are or may become the subject of litigation.

State Personnel Board procedures require that a State employee be used whenever an appropriate classification exists and personnel are available. Unless an exception is granted (see below), request the assignment of outside hearing officers from:

Calendar Clerk  
Department of General Services  
Office of Administrative Hearings  
501 J Street, Suite 230  
Sacramento, CA 95814-2326

Arrangements may be made by phoning the Calendar Clerk at CALNET, 473-0619 or 485-4926. Requests for assignment should be made at least four to six weeks prior to the hearing.

Exception Process—If the hearing could be better handled by a prestigious member of a local community, requests for exception to the above procedure should be made through the district personnel office, early enough to allow assignment of a General Services hearing officer if the exception request is denied by the State Personnel Board. Such requests must clearly state the reasoning for an exception.

## **Hearings for Local Projects**

Where another agency is conducting the hearings on a project affecting State highways, that agency will select the presiding officer and make arrangements regarding compensation, etc. The district should be prepared to make a recommendation to the local agency regarding a presiding officer, especially where the agency has little experience with Caltrans' processes.

## **Letter of Confirmation**

Once the outside presiding officer has accepted, a letter of confirmation should be sent as soon as possible (see [Appendix HH](#)). The letter should provide details of hearing arrangements, prehearing meetings, and any other information that may be helpful. Such information may include project handouts, environmental documents,

assessments of the probable attitude of the hearing audience, identification of controversial issues, and any other information that will allow the presiding officer to operate more effectively.

### **Briefing the Presiding Officer**

Prior to the hearing, the presiding officer should be briefed on the meeting room arrangements and organization, suggested order of speakers, time limitations and constraints, suggested opening remarks, identity of staff persons responsible for each particular technical area, suggested closing remarks, etc.

### **Memo from Presiding Officer**

The presiding officer should be asked to send the district an informal memo that describes the officer's reactions to the hearing process. Such a request should clearly state that both the memo and its contents are at the discretion of the presiding officer. Items for comment include: prehearing activities, hearing room organization, presentations, exhibits, answers to questions, suggestions for improvements, general concerns regarding the proposal, etc.

## **ARTICLE 7      Open Forum Hearings**

### **Staff Conduct**

Caltrans staff members should remain cordial and professional, no matter how heated the discussion becomes at the public hearing. Even the slightest display of anger or insult, no matter how well justified, will negatively impact both Caltrans and the project. In preparing for a hearing, staff should be told that there is a rule: "You may not get angry."

### **Caltrans' Preferred Format**

Open forum hearings generally result in better communication with affected interests than do formal hearings. Open forum hearings provide an opportunity to discuss projects and proposals in a less emotional atmosphere. By allowing a less formal interaction between Caltrans staff and the public, it tends to reduce the number of questions that must be answered formally in the hearing record. For these reasons, the open forum is Caltrans' preferred hearing format.

However, a formal hearing may be used if a small attendance is expected and relatively few items of controversy will be discussed.

### **Definition**

Open forum hearings are informal meetings where members of the public may meet individually with Caltrans staff members to discuss proposed projects or proposals. They resemble map showings or open houses, except that formal testimony is taken by a certified court reporter or statements for the record are handwritten/recorded on electronic media. Presentations are shown on open captioned videotape, or material is presented in exhibits and handouts.

Members of the public may drop in at their convenience, generally from mid-afternoon through evening hours, to look at displays, watch presentations, ask questions, discuss proposals, and make formal statements.

### **Advance Notice of Hearing Format**

When the hearing is an open forum, all affected parties must be provided advance notice that such a format will be used.

### **Discussion-Based Room Setup**

Discussion areas should be distributed about the hearing room. The areas may be organized by functional disciplines (e.g., environmental, right of way, and design) or by project alternatives, with several disciplines available to discuss each. Separate stations for special issues may also be used. A station for public comments should be clearly marked.

### **Interaction Between Staff and Public**

Interaction is central to the concept of open forum hearings. Staff members should fully understand the project or proposal, since questions will often be highly detailed. Members of the public are likely to ask the same question of different staff members. Even slightly different answers may result in distrust. Care should be taken not to mislead members of the public into thinking that the most popular alternative will be chosen.

## **Staffing**

Caltrans' district management and staff, including the project manager and project engineer, should attend the hearing. The district should designate and clearly identify the individual in charge of the hearing.

## **Facility**

A facility should be chosen that is adequately sized for the anticipated audience. In general, an open forum hearing will not require as much space as a formal hearing, since people are able to come and go throughout the hearing.

## **Greetings**

Members of the public should be welcomed at the door, asked to sign in, given handouts, and advised of the nature of the open forum hearing. Members of the public should be directed to make formal statements to the certified court reporter, but that questions should be directed to Caltrans staff. This will reduce the number of necessary written responses to questions and shorten the comment process.

## **Presentations**

Open forum presentations should be on open captioned videotape. Live presentations can result in confrontational situations. For more information, refer to Article 9, "Presentations."

## **Handouts**

Handouts should be provided as people enter the hearing room. The handouts should be easily understood and clearly describe the format of the open forum hearing. (See Article 11, "Handouts.") Related documents (draft environmental document [DED], etc.) should be clearly marked and available for inspection in a prominent place. Handouts and related documents should be made available in alternative formats or by using alternative methods, if requested.

## **Exhibits**

Exhibits should be very accessible to the meeting participants and take into account accommodations necessary to make the meeting accessible to individuals with disabilities. They should be set up at least one hour before the hearing. Staff

members should be available to answer questions and give assistance. For more information, refer to Article 10, “Exhibits.”

### **Public Comments**

Members of the public should be advised that questions will be answered informally by staff, but that questions entered into the record through the court reporter, or tape recorder, or in writing will be answered in writing and entered into the official hearing record.

Individuals wishing to make public comments may:

- Make oral comments to a certified court reporter or tape recorder.
- Drop written comments into a comment box.
- Write to a designated Caltrans staff member. Districts should provide an addressed, postage-stamped comment card or sheet for this purpose.

### **Debriefing**

Soon after the open forum hearing (preferably the next day), Caltrans staff members that attended the hearing should meet to identify issues or ideas that were discussed at the hearing but may not have ended up in the public record transcript. This is important since most of the hearing is conducted informally by staff members.

## **ARTICLE 8      Formal Hearings**

### **Staff Conduct**

Caltrans staff members should remain cordial and professional, no matter how heated the discussion becomes at the public hearing. Even the slightest display of anger or insult, no matter how well justified, will negatively impact both Caltrans and the project. In preparing for a hearing, staff should follow the rule: “You may not get angry.”

### **Preliminary Considerations**

The conduct of formal hearings will vary, depending on who is conducting the hearing (Caltrans, local agency, or joint team) and who is presiding over the hearing (Caltrans staff member or outside officer). This discussion is directed primarily to a formal Caltrans hearing with an outside presiding officer. If a hearing is being conducted by others, project team members should be available for questions. Team

personnel should also assist in presentations and participate in other portions of the hearing, as required.

### **Try to Reduce Tensions in Advance**

Formal hearings tend toward confrontation. Everything possible should be done to reduce tensions in advance of the hearing. If individuals are likely to make emotional presentations, informally speak with them in advance, provide them with information about the hearing, and discuss the issues.

### **Room Setup**

Generally, formal hearings are held in large rooms, with the hearing officer and panel at the front, facing the audience. It is best to place the microphone for public comment on a table and allow those testifying to sit down. As necessary, accommodations should be provided for individuals with disabilities.

### **Placement of Presiding Officer and Hearing Panel**

The presiding officer conducts the hearing and maintains order. The officer must be readily identifiable, and should be seated in a prominent location. It is neither necessary nor desirable for the hearing panel to be within whispering distance. The presiding officer should, therefore, be seated away from the panel and slightly elevated, if possible. The hearing panel should be seated at the same level as the audience and should be visible to all members of the audience.

If the room is darkened for slide presentations, small table lights should be provided for the presiding officer and the panel.

The number of district and local agency personnel seated in front and facing the audience should be carefully controlled. Since most staff members speak infrequently during the hearing, consideration should be given to having only one or two responsible district and local agency staff seated up front. The remaining hearing panel should be seated in the front row of audience seats where they will be easily available for introductions, presentations, and answering of questions.

### **Exhibits**

Exhibits (See Article 10) should be readily accessible to the meeting participants and take into account accommodations necessary to make the meeting accessible to

individuals with disabilities. Consider placing them in a separate lobby where they may be viewed before, during, and after the hearing.

Exhibits should be set up at least one hour before the hearing. Project personnel should be available to answer questions and give assistance. Many questions will be answered this way before the hearing even begins. These answers are often more meaningful to the public. Good exhibits and displays can help individuals answer many of their own questions.

### **Audio Equipment**

Audio equipment should be in place and checked out before beginning the hearing. Equipment malfunctions are disturbing, disruptive, and unnecessary.

The microphone used by the public should be placed at a table such that the speakers can be seated while addressing the panel. As necessary, accommodations should be provided for individuals with disabilities.

### **Seating**

If seating is not fixed, chairs should be arranged so that rows do not contain more than five or six seats. This allows people wishing to speak or leave the room to do so without having to disturb too many others.

### **Consider Refreshments**

If the hearing is expected to be lengthy, it may be appropriate to provide refreshments.

### **Ushers**

Sufficient personnel should be on hand to staff the entrance adequately, assist and answer questions at exhibits, distribute and gather comment cards, etc., and assist the presiding officer and the hearing panel.

Ushers should be selected from project development personnel. In the event of a large hearing, additional assistance may be required from other functional disciplines.

Ushers should be prominently identified with appropriate name badges. They should know their assignments ahead of time. They should be instructed on how to refer

certain questions; how the public may obtain copies of reports, and on other ways to assist the individuals attending the hearing.

### **Interpreters**

Prior to the hearing, the project development team (PDT) will determine if interpreters are needed for non-English speaking individuals or individuals with hearing impairments and provide them if appropriate. When used, interpreters should be available before, during, and after the hearing.

### **Recorder**

Transcript arrangements vary, from use of a certified court reporter, to tape recording the hearing and having district personnel transcribe the tapes. Whichever method of hearing the district selects, arrangements should be made early enough to assure that the transcript will be produced within a reasonable length of time, normally within three weeks of the hearing.

### **Agenda**

The agenda should include the following:

- Staff presentation of project features; relocation; and social, economic, and environmental effects.
- Recess: during which attendance cards may be filled out (name, address, questions, statements, a request to speak).
- Presentations.
- Comment and question period.

### **Conducting the Hearing**

Step-by-step procedures are described below.

#### Opening Remarks

The presiding officer should open the hearing at the announced time. The officer's opening remarks should generally include the following:

- A "Welcome" and general instructions regarding the use of the meeting room.
- A self-introduction, to include officer's occupation, city or area of residence, etc.

- An announcement that Caltrans is holding the hearing to present its studies on the location and/or design features of the proposal to provide a forum for public discussion of the major features, including social, economic, and environmental effects.
- An announcement that Caltrans is holding the hearing before committing to any project alternative, and that no final decisions will be made until the public record has been analyzed (including information gathered at the public hearing or received in response to the environmental document).
- An announcement that invitations to the hearing have been published in local newspapers and extended in writing to legislators, the Federal Highway Administration (FHWA), the board of supervisors and/or the city council, and other appropriate public and private agencies and individuals.
- An introduction of officials and dignitaries present, such as: congressmen and legislators or their representatives; local agency officials; FHWA representatives, etc.
- An introduction of the hearing panel members and other appropriate staff.
- To enhance visual recognition, people should be asked to stand as they are being introduced.

### Describe the Post-Hearing Process

Discuss relevant sequence of events that will occur after the hearing:

- Project decisions will not be finalized until all relevant information from the hearing process has been considered.
- Written statements and exhibits should be submitted in writing to the District Director at the address given in the handout. The final date for submission should be specified (a minimum of 10 days; longer periods for controversial proposals).
- After the hearing, and before approval by Caltrans or the Federal Highway Administration (FHWA), all data gathered at the hearing or submitted for the public record will be made available for inspection by the public. The data may be copied at the district office or another specified location.
- After Caltrans has made its decision on the proposal, approval will be requested from the FHWA, if appropriate.
- For freeways or controlled access highways, agreement with affected local agencies on major design features will be formalized by execution of a Freeway Agreement.

### Presentations

The Hearing Officer should now turn the hearing over to staff for presentations.

Presentations at formal hearings should be live. They should cover items not found in

the documents distributed to the audience, as well as important items or issues already contained in the handout material.

Presentations should cover necessary points in about 20 minutes. If longer presentations are necessary, they should never exceed 30 minutes. To shorten presentations, present detailed information in handouts and in the draft environmental document (DED), which should be available for inspection or distribution. The availability of the DED should be announced and the document explained. For more information, refer to Article 9 on “Presentations.”

### Hearing Officer Reassumes Command

After presentations have been completed, the hearing should be turned back over to the Hearing Officer.

### Recess

The Hearing Officer should announce a recess, during which time people may look at displays and ask questions of Caltrans staff. The officer should announce the duration of the recess and should repeat instructions to fill out comment cards.

During the recess, Caltrans personnel should be available at exhibits and displays to informally answer questions.

### Reconvene and Gather Cards

After the Hearing Officer calls the hearing back to order, the ushers should gather comment cards as quickly as possible.

### Establish Time Limits for Testimony and Questions

If there is a large turnout, the Hearing Officer may consider limiting time for each speaker and requesting persons whose point or question has already been made to relinquish their turn or summarize their comments. However, limiting the time for discussion at small hearings serves no purpose and may antagonize attendees. Time limits should be announced by the Hearing Officer along with an explanation that if there is sufficient time later, reconsideration will be made. Once time limits have been announced, they should be impartially applied to all speakers.

### Speaking Order

- Federal elected or appointed officials (or their representatives).
- State and local officials (elected or appointed).
- Representatives of groups.
- Individuals.

This order is not mandatory. If, during lengthy or controversial hearings, such an order appears to be offensive, it may be better to take speakers in random order.

### Speaker Identification

The Hearing Officer should ask the speakers to identify themselves by name and affiliation. The audience should be directed to not interrupt a speaker, so the court reporter will be able to get a complete record of the hearing.

### Answering Questions

If practical, decide in advance which panel members will receive certain questions and comments. As many of the panel members as possible should respond to avoid the appearance that a single individual is dominating the response. It is preferable for the Hearing Officer to directly address individual panelists, rather than to allow the panelist to decide who will answer the question.

Answers to questions should be candid, even when they may be unfavorable to the project or proposal. If an answer isn't known, there should be no hesitancy in assuring the speaker that the matter will be researched and a follow-up answer provided by mail or in person.

Wherever possible, answers to individual questions should be given in front of the general audience. The audience does not benefit if matters of general concern are discussed privately after the hearing.

### Provide Clarification, Not Debate

Panel members should not debate with speakers; however, misrepresentations or false statements that go uncorrected are likely to be accepted as fact by many in the audience. While there is little purpose in correcting minor points, major issues should be clarified, tactfully, at the earliest opportunity.

### One More Opportunity for Testimony and Questions

Before closing the hearing, the Hearing Officer should indicate that anyone still wishing to speak may now do so; that the earlier limitation on speaking time was not intended to stop anyone from speaking, but rather to assure that everyone would have a reasonable opportunity to do so.

### Hearing Summary and Recap of Follow-up Activities

After it is clear that no one else wishes to speak, the Hearing Officer should briefly repeat the sequence of events that follow the hearing, reiterate how long the public record will remain open, identify where written testimony may be sent, indicate that staff will be available after the hearing for questions, and thank the host for the use of the meeting room and the people for attending.

## **ARTICLE 9      Guidelines for Presentations**

### **General**

Live or open captioned videotaped presentations, exhibits, and handouts should work together to tell the story of a project or proposal. They should fully describe both positive and negative effects.

### **Simple and Understandable**

Materials should be simple, clear, and understandable. They should be current and accurate. Inadequate maps, misleading or one-sided graphs, poor quality reproduction, or overuse of jargon may create a bad impression or convey erroneous information.

### **Accessible Communication**

The project development team (PDT) will determine if accessible communication needs to be addressed. For example, they will determine if interpreters are needed for non-English speaking individuals or individuals with hearing impairments and provide them if appropriate. When used, interpreters should be available before, during, and after the hearing.

## Presentation Outline

All presentations (live or videotaped) should cover the following:

- **Problem**  
Current and future demand, congestion, safety, structural or other problems in quantitative terms. Use the “no project” alternative to illustrate what the public will get if the proposed project is not constructed.
- **Caltrans’ Responsibility**  
Caltrans’ mission and responsibility, and any specific legislation or code section directing Caltrans to deal with the problem.
- **Project Development Process**  
The Caltrans project development process, using schematic diagrams or simple flowcharts to show the following:
  - Relationship to the local planning process.
  - Other procedural steps required.
  - Assumptions governing studies.
  - Kinds of studies being conducted.
  - Tentative project schedules.
  - How project alternatives were chosen.
  - Project alternatives.
- **Major Issues**  
Important community issues or significant impacts, including, but not limited to the following:
  - Regional and community growth, land use, economic activity, employment gains and losses, and community or neighborhood cohesion.
  - Consistency with local transportation plans.
  - Consistency with air quality plans, noise standards, and federal or State water standards.
  - Conservation and preservation, general ecology, wildlife and waterfowl areas, wetlands or base floodplains.
  - Disturbance of hazardous materials.
  - Public facilities and services, including park and recreational facilities, natural or man-made historic places, religious, educational facilities, public utilities, fire protection, and other emergency services.
  - Aesthetic and other values, including visual quality such as view of the road and view from the road, natural landmarks, and joint development and multiple use of space.

- Public access to rivers over which a new bridge may be constructed.
- Displacement of people, business and farms, and relocation assistance.
- Right of way requirements, schedule of acquisition, housing availability, and the Relocation Assistance Program.
- Questions on individual parcels should be addressed with the interested party outside of the formal hearing.
- Other issues associated with the proposal. Issues or effects not covered in handouts or displays must be covered in the presentation.

Caution: Do not leave out the negative impacts or controversial issues raised by members of the community.

- Describe the Proposed Project and Alternatives

The project description may include:

- Type of facility.
- Ultimate number of lanes, if a highway.
- Ultimate median width.
- Right of way width for main line.
- Local streets to be separated, connected, or altered.
- Pedestrian or railroad separations.
- Location of frontage roads.
- Noise attenuation.
- Truck inspection/weigh and agricultural inspection stations.
- Roadside rest areas.
- Nonmotorized transit and park-and-ride lots.
- Costs for right of way and construction.
- Connections with other modes of transportation.
- Accommodation of transit facilities, such as median rail lines.

### **Live Presentations**

Presentations at formal public hearings should be live. They should be as brief as possible.

Use an outline rather than a prepared text. Presentations are much more effective if presented in a natural manner rather than being read verbatim from a prepared text.

Presentations may be made with the aid of wall type exhibits at smaller hearings, and slides or direct reference to exhibits in the handouts at larger hearings. Care should be taken not to introduce too much detail into the presentation or the exhibits.

A laser or flashlight with an arrow-shaped aperture is effective in dimly lit rooms, regular pointers in brighter rooms. The room should be checked carefully to assure that the entire audience will be able to view the displays.

### **Videotaped Presentations**

Presentations at open forum hearings should be videotaped and open captioned. They should be repeated continuously. They should cover the necessary points in 10 to 15 minutes.

Elaborate music, expensive camera shots, or celebrity narrators can create the impression that Caltrans is trying to “sell” something. Simple and factual presentations are far more effective. Wherever possible, illustrate points with visuals, just as with a live presentation.

## **ARTICLE 10 Exhibits**

### **General**

Live or open captioned videotaped presentations, exhibits, and handouts should work together to tell the story of a project or proposal. They should fully describe both positive and negative effects.

In general, exhibits should:

- Be appropriately sized. If they are used in presentations, they should be readable from across the room.
- Be easily understood, not requiring explanation.
- Tell the full story, not just one side of the story.

Serious consideration should be given to preparing new and original displays specifically for the public hearing process.

### **Non-English and Alternative Formats**

The project development team (PDT) will determine if the language barrier is sufficient to warrant that exhibits be developed in the language of those affected in addition to English or in alternative formats to aid those individuals with disabilities to fully participate in the meeting.

## **Project Need**

Graphics should show current and future demand, congestion, safety, structural, or other problems in quantitative terms. Use the “no project” alternative to illustrate what the public will get if the proposed project is not constructed.

## **Suggested Exhibits**

Illustrate major features and alternatives for the proposal to be discussed at the public hearing. Suggested exhibits include the following:

- A geometric typical section showing ultimate median width, number of lanes, and right of way width.
- A plan of development showing alternative alignments (horizontal and vertical), if any, and alternative major design features.
- An exhibit map of the general plan of the community, with the proposal superimposed.
- Artists’ renderings, models, maps, and photo retouches at critical control areas or points.
- Oblique aerial photos, with overlays to illustrate different conditions.
- Schematic geometric designs of interchanges and other major design features.
- Appropriate environmental and right of way exhibits.
- Schematic diagrams or simple flowcharts showing project costs, schedules, and significant milestones.

# **ARTICLE 11 Handouts**

## **General**

Live or open captioned videotaped presentations, exhibits, and handouts should work together to tell the story of a project or proposal. They should fully describe both positive and negative effects.

## **Quality**

Handouts should be of the same quality as described for exhibits. They should follow the same outline described in detail in Article 9, “Presentations.” In brief, the following should be described:

- The need for the project or proposal.
- Caltrans’ legal responsibility for meeting the need.

- The process by which Caltrans has addressed the problem.
- Issues of concern to the community.
- A description of the project or proposal.

### **Copies of Hearing Exhibits**

Handouts should include legible copies of exhibits used in the hearing, particularly for formal hearings, so that members of the audience may follow along on handouts rather than straining to see an exhibit located some distance away. Handouts may also be required in alternative formats to aid those individuals with disabilities to fully participate in the meeting.

### **Relocation Assistance Booklet**

The standard booklet on relocation assistance may be distributed at or prior to the hearing. The more complete a handout is and the earlier it is distributed prior to the hearing (by mail or at information centers), the less time will be spent answering routine factual questions, and the more time can be spent addressing issues.

## **ARTICLE 12 Record of Public Hearing**

### **General**

The record of public hearing will generally be in one volume. Where the hearing record is very large, it may be subdivided into more than one part. One thicker volume is preferred to several thinner ones.

The record should be self-sufficient and should be bound with a durable cover. It should be assembled so that the pages lie flat or nearly flat for convenient reading. The record is distributed to outside parties not having ready access to other reports and data; its quality should reflect its preparation by a high-quality professional organization.

### **Factual**

The record is to be factual. It is not to contain conclusions or recommendations; such are to be included with the project report.

## **Contents of the Record**

The record of public hearing should contain a transcript of the hearing, copies of handouts and reproductions of exhibits, copies of documents submitted for the record, responses to questions not answered in the transcript, and copies of notices, invitations and publicity. See [Appendix HH](#) for a sample of the title page and a discussion of the contents. Alternative formats should be made available or alternate methods of communication should be used to assist individuals with disabilities, if requested.

## **Distribution**

The record should be distributed within 60 days of the hearing. It should not be held in the district pending completion of other reports.

The district should distribute one copy of the record to each of the following:

- Each affected city and county.
- Federal Highway Administration (FHWA) (if Federal-aid or federal approval involvement).
- Division of Design (DOD), Attention: Public Hearing.
- Environmental.
- Director of Caltrans (only projects involving route adoptions).

An adequate number of additional copies should be stocked to respond to outside requests. With the exception of other public agencies, these additional copies should be distributed on a reimbursement basis. In some instances, the transcript portion alone may be requested.

The actual cost of the copy, or the cost of reproducing a copy, should be charged. In addition, the cost of mailing should be charged for all copies on which mailing is requested.