

NOTICE OF PUBLIC HEARING
TO CONSIDER ISSUANCE OF A CEASE AND DESIST ORDER
FOR
CITY OF DIXON
SOLANO COUNTY

**NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
CENTRAL VALLEY REGION (REGIONAL BOARD)
ON 11/12 SEPTEMBER 2008**

Background

On 11 February 2008, Regional Water Board staff issued a tentative Cease and Desist Order (Order) for the City of Dixon. The Order finds that the City has caused or permitted waste to be discharged in a manner such that it has created, and continues to threaten to create, a condition of pollution or nuisance. The tentative Order requires that the City, pursuant to California Water Code (CWC) sections 13301 and 13267, take steps to control the sources of salinity entering its wastewater treatment plant. If the source control measures are not sufficient, then the City is required to implement physical improvements to the wastewater treatment plant such that it meets final effluent limits by 2014.

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed Cease and Desist Order. At the hearing, the Regional Board will consider whether to adopt the proposed Order, modify it or reject it.

The public hearing on 11/12 September 2008 will commence at 8:30 am or as soon thereafter as practical, or as announced in our Board meeting agenda. The meeting will be held at:

Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

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

http://www.waterboards.ca.gov/centralvalley/board_info/meetings/

Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the RWQCB may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at <http://www.swrcb.ca.gov> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCR), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the RWQCB. This Notice provides additional requirements and deadlines related to the proceeding. THIS NOTICE AND/OR THE ATTACHED HEARING PROCEDURES MAY BE AMENDED BY THE ADVISORY STAFF AS NECESSARY. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participation

Participants in this proceeding are designated as either “parties” or “interested persons.” Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

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

- (1) Regional Board Enforcement Staff
- (2) The City of Dixon, referred to as the Discharger

Contacts

Advisory Staff:

Lori T. Okun, Senior Staff Counsel
State Water Resources Control Board Office of Chief Counsel
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(916) 341-5165
fax (916) 341-5199
lokun@waterboards.ca.gov

Ken Landau, Assistant Executive Officer
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Rancho Cordova, CA 95670-6114
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fax (916) 464-4758

klandau@waterboards.ca.gov

Enforcement Staff:

Ms. Pamela Creedon, Executive Officer
Mr. Jack Del Conte, Assistant Executive Officer
Ms. Wendy Wyels, Environmental Program Manager I
Mr. Steve Rosenbaum, Sr. Engineering Geologist
Ms. Melissa Hall, Water Resources Control Engineer
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
The primary contact for the Enforcement staff is Wendy Wyels
(916) 464-4835
wwyels@waterboards.ca.gov

Mr. Patrick Pulupa
State Water Resources Control Board Office of Chief Counsel
1001 I Street
Sacramento, CA 95814
(916) 341-5189
fax (916) 341-5199
ppulupa@waterboards.ca.gov

Discharger:

City of Dixon
600 East A Street
Dixon, CA 95620
The primary contact is the City Engineer, Royce Cunningham
(707) 678-7031 ext 305
rcunningham@ci.dixon.ca.us

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 Board (Enforcement Staff) have been separated from those who will provide advice to the Regional Board (Advisory Staff). Members of the Advisory Staff are: Ken Landau Assistant Executive Officer; and Lori T. Okun, Senior Staff Counsel. Members of the Enforcement Staff are: Pamela Creedon, Executive Officer; Jack DelConte, Assistant Executive Officer; Wendy Wyels, Environmental Program Manager I; Steve Rosenbaum, Steve Rosenbaum, Sr. Engineering Geologist; and Melissa Hall, Water Resources Control Engineer.

Patrick Pulupa, staff counsel for the Regional Water Board, will be advising the Enforcement Staff for this agenda item. Mr. Pulupa regularly advises the Board on legal issues unrelated to this case, but has had no communications with them regarding this case. Objections to his participation in the hearing must be submitted in writing or email

and must be received by Lori Okun by **noon on 4 September 2008** or they will be waived.

This Notice has been issued by the Advisory Staff based on a draft proposed by the Enforcement Staff.

Ex Parte Communications

The designated parties and interested persons are prohibited from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Regional Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the tentative Order between a member of a designated party or interested party on the one hand, and a Regional Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

Requesting Designated Party Status

Persons other than the Discharger or the Enforcement Staff who wish to be designated as a party may request party status by submitting a request in writing (with copies to the designated parties) to Lori Okun. The request must be received no later than **5 p.m. on 29 August 2008**. 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), and a brief statement explaining why the party or parties designated above do not adequately represent the person's interest. The parties will be notified in writing prior to the hearing whether the request has been granted or denied.

Hearing Procedures

To ensure that all participants have an opportunity to participate in the hearing, the time limits delineated in the attached hearing procedures shall apply. Each interested person shall have up to 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. Additional time may be approved at the discretion of the hearing officer upon a showing that additional time is necessary. Parties should submit any requests for additional time to Lori Okun before the hearing.

Written Evidence, Testimony, Exhibits and Policy Statements

The tentative Cease and Desist Order was circulated for public comments on 11 February 2008. The comment period ended on 13 March 2008. The prosecution team

submitted a Staff Report, proposed Order and draft Buff Sheet for the 11/12 September meeting. No further written comments or evidence will be accepted unless a party demonstrates good cause for the late submission and that no person, including the Regional Water Board, will be prejudiced by the late submission. A demonstration of good cause shall include the reasons the materials could not have been submitted earlier. Requests for late submissions will be decided by the Chair.

In accordance with Title 23, CCR, Section 684.4, the Regional Water Board endeavors to avoid surprise testimony or evidence. Power Point and other computer assisted visual presentations may be, but are not required to be, submitted prior to the hearing as long as the contents do not exceed the scope of other submitted written material. Instructions for submittal of Power Point or other electronic materials are included in the Agenda for the 11/12 September 2008 Board meeting. Any witness providing written testimony shall appear at the hearing and affirm that the written testimony is true and correct.

Procedural Objections

Any objections to this notice or the hearing procedures must be stated at the beginning of the hearing, before staff testimony. Objections that are not made at or before that time will be waived. Parties are encouraged to submit procedural objections to Lori Okun in writing before the hearing. However, except as stated above under "Separation of Functions," parties are not required to submit objections in advance.

Evidentiary Documents and File

The Complaint, related evidentiary documents, and comments received are on file and may be inspected or copied at the Regional Board office at:

11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

Many of these documents are also posted on-line at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/

Although the web page is updated regularly, to assure access to the latest information, you may contact Wendy Wyels at (916) 464-4835.

Auxiliary Aids and Services

The hearing facilities will be accessible to persons with disabilities. Individuals requiring special accommodations are requested to contact Ms. Kiran Lanfranchi-Rizzardi at (916) 464-4839 at least five working days prior to the meeting. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Questions

Questions concerning this proceeding may be addressed to Lori Okun at (916) 341-5165.

Kenneth D. Landau, Assistant Executive Officer

26 August 2008