

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

AGENDA

Wednesday, November 18, 2009
9:00 a.m.

**Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California**

The purpose of this meeting is for the Regional Board to obtain testimony and information from concerned and affected persons and to make decisions based on the information received. Persons who want to submit written comments or evidence on any agenda item must comply with the procedures described in the agenda and agenda notes. Persons wishing to speak at the meeting should complete an attendance card (see Note F, attached to this Notice). The Regional Board requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the Regional Board has the opportunity to fully study and consider written material, comments should be received in the Regional Board's office no later than noon on Tuesday, November 3, 2009,* and should indicate the agenda item to which it is applicable. If the submitted written material is more than 5 pages or contains foldouts, color graphics, maps, etc., 15 copies must be submitted for distribution to the Regional Board members and staff. Written material submitted after 5:00 P.M. on Monday, November 9, 2009 will not be provided to the Regional Board members and may not be considered by the Regional Board (See Note D, attached to this Notice).

****PLEASE NOTE THAT SOME ITEMS ON THE AGENDA MAY HAVE BEEN PREVIOUSLY NOTICED WITH EARLIER DEADLINES FOR SUBMITTING WRITTEN COMMENTS OR MAY HAVE A SEPARATE HEARING PROCEDURES DOCUMENT THAT ESTABLISHES DIFFERENT DEADLINES FOR SUBMITTING WRITTEN MATERIALS. IN THOSE CASES THE DIFFERENT DEADLINES APPLY.***

Comments on agenda items will be accepted by E-mail subject to the same conditions set forth for other written submissions as long as the total submittal (including attachments) does not exceed five printed pages in length. E-mail must be submitted to: rb9agenda@waterboards.ca.gov to insure consideration by the Regional Board. Type the word "Agenda" in the subject line.

Pursuant to Title 23, California Code of Regulations, Section 648.4, the Regional Board may refuse to admit written testimony into evidence if it is not submitted to the Regional Board in a timely manner, unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would create an unreasonable hardship.

NOTE D, attached to this Notice, refers to the procedures that will be followed by the Regional

Board in contested adjudicatory matters if a separate Hearing Procedures Document has not been issued for a particular agenda item. Parties requesting an alternate hearing process must do so in accord with the directions in NOTE D. Any such request, together with supporting material, must be received in the Regional Board's office no later than noon on Tuesday, November 3, 2009.

Copies of the agenda items to be considered by the Regional Board are posted on the Regional Board's website at

http://www.waterboards.ca.gov/sandiego/board_info/agendas

Except for items designated as time certain, there are no set times for agenda items. Items may be taken out of order at the discretion of the Chairman.

1. Roll Call and Introductions
2. PUBLIC FORUM: Any person may address the Board regarding a matter within the Board's jurisdiction that is not related to an item on this Meeting agenda and is not scheduled for a future Meeting. **Comments will generally be limited to three minutes, unless otherwise directed by the Chair.** Any person wishing to make a longer presentation should contact the Executive Officer at least ten days prior to the meeting.
3. Minutes of Board Meeting: October 14, 2009.
4. Chairman's, Board Members', State Board liaison's and Executive Officer's Reports: These items are for Board discussion only. No public testimony will be allowed, and the Board will take no formal action.

Consent Calendar: Items 5 through 8 are considered non-controversial issues. (NOTE: If there is public interest, concern or discussion regarding any consent calendar item or a request for a public hearing, then the item(s) will be removed from the consent calendar and considered after all other agenda items have been completed.)

5. Modification of Waste Discharge Requirements: Mr. Larry Tardie, Lilac Oaks Campground, San Diego County (Tentative Addendum No. 1 to Order No. 94-074) (*Fisayo Osibodu*)
6. Administrative Civil Liability against the City of Laguna Beach, Bluebird SOCWA Lift Station Sanitary Sewer Overflow to the Pacific Ocean. The Regional Board will consider adoption of a Tentative Order that would impose liability in the amount of \$70,680 recommended in Complaint R9-2009-0040 for a 591,000 gallon sanitary sewer overflow in violation of State Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Section 301 of the Clean Water Act and California Water Code Section 13376. The City of Laguna Beach has waived its right to a public hearing. The Regional Board may approve, modify, or reject assessment of the recommended penalty. If the Regional Board rejects the Tentative Order, the matter may be rescheduled to a future public hearing at which time the Regional Board will receive evidence and testimony and consider assessment of liability. (Tentative Order R9-2009-0168) (*Rebecca Stewart*)
7. Waste Discharge Requirements: Rite Time Pharmaceuticals Inc., Anza Commercial Center Onsite Wastewater Treatment System, Riverside County (Tentative Order No. R9-2009-0147) (*Fisayo Osibodu*)

8. NPDES Permit Rescissions: (*Kristin Schwall*)
- a) An Order rescinding Waste Discharge Requirements for Van Ommering Dairy, San Diego County, Order No. R9-2004-0065, NPDES No. CA0109207 (Tentative Order No. R9-2009-0165);
 - b) An Order rescinding Waste Discharge Requirements for Frank J. Konyn Dairy, San Diego County, Order No. 2000-163, NPDES No. CA0109053 (Tentative Order No. R9-2009-0166); and,
 - c) An Order rescinding Waste Discharge Requirements for the Tom Van Tol T.D. Dairy, San Diego County, Order No. 2001-28, NPDES No. CA0109339 (Tentative Order No. R9-2009-0167).

Remainder of the Agenda (Non-Consent Items):

- 9. Gregory Canyon Bridge 401 Water Quality Certification. The Regional Board will consider certification, in accordance with Section 401 of the Clean Water Act, for the Gregory Canyon Bridge. The Regional Board will hear testimony on the bridge component of the Gregory Canyon Landfill and direct the Executive Officer to amend, postpone, certify, or deny water quality certification No. R9-2009C-073. Comments and testimony will be limited to the impacts of certification of the bridge. The Board is not considering and will not accept testimony on Waste Discharge Requirements for the landfill. The WDRs for the landfill project will be considered by the Board at a future public meeting. (Draft Cert. No. R9-2009C-073) (*Chiara Clemente*)
- 10. 2008 Update of Federal Clean Water Act Sections 305(b) and 303(d) Integrated Report on Evaluation of Surface Water Quality and Listing of Impaired Water Body Segments in the San Diego Region (*Alan Monji*)
- 11. Administrative Assessment of Civil Liability, City of San Diego, Sewage Collection System: The Regional Board will consider adoption of a Tentative Order that would impose \$620,278 in civil liability recommended in Complaint No. R9-2009-0042 for violations of State Board Order No. R9-2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems. The Regional Board may approve, modify, or reject assessment of the recommended liability. The deadline for the submission of rebuttal evidence and legal argument pertaining to the Complaint is Monday, November 5, 2009. (Tentative Order No. R9-2009-0172) (*Frank Melbourne*)
- 2:00** 12. Reissuance of NPDES Waste Discharge Requirements for Discharges of Runoff from the Municipal Separate Storm Sewer Systems (MS4s) draining the watersheds of the County of Orange, the Orange County Flood Control District, and the incorporated Cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, Rancho Santa Margarita, San Clemente, and San Juan Capistrano within the San Diego Region (South Orange County Municipal Storm Water Requirements). The Board will hear comments and consider adoption of Tentative Order No. R9-2009-0002 (formerly Tentative Orders No. R9-2008-0001 and R9-2007-0002). (Tentative Order No. R9-2009-0002) (*Ben Neill*)
- 13. Approval of Year 2010 Board Meeting Schedule (*John Robertus*)
- 14. *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code

Section 11126, subd. (e)]

The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:

Civil Actions

- a. *People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Carlos Marin, an individual in his capacity as Commissioner of the International Boundary and Water Commission, United States Section, et al.*, Complaint for Violations of the Clean Water Act and Related State Law Claims. United States District Court, Southern District of California, Case No. 01-CV-027BTM(JFS) (filed February 2001). (*John Robertus*)
- b. *Surfrider Foundation v. California Regional Water Quality Control Board -- San Diego Region and California State Water Resources Control Board; (Cabrillo Power I, LLC, Real Party-in-Interest)*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37 2007-00069621-CU-PT-CTL (filed July 2007). (*Brian Kelley*)
- c. *William G. Dickerson and Heidi Dickerson, Husband and Wife; Larry Gunning and Penelope L. Gunning, Husband and Wife; and Perry & Papenhausen, Inc., a California Corporation v. San Diego Regional Water Quality Control Board, a Public Entity*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2007-00075846-CU-WM-CTL (filed September 2007). (*Frank Melbourne*)
- d. *In re: Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-001, (NPDES No. CAS0108758) Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority adopted on January 24, 2007. Test Claim filed by San Diego County, et al., with Commission on State Mandates, No. 07-TC-09* (filed June 2008). (*Catherine George Hagan*)
- e. *Joye Goodwin and Hope Goodwin v. EDCO Disposal Corporation, a California Corporation, dba EDCO Waste & Recycling Services, State of California Water Resources Board, John P. Anderson, et al., San Diego County Superior Court No. 37-2007-00066373-CU-PO-NC* (filed March 2009). (*John Anderson, Catherine Hagan*)
- f. *William and Lori C. Moritz v. California Regional Water Quality Control Board, San Diego Region*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2009-00093097-CU-WM-CTL (filed June 2009) (*Christopher Means*)

Petitions for Review Pending Before State Water Resources Control Board

- g. Petition of NRDC, Inc. (Waste Discharge Requirements Order No. R9-2007-001 [NPDES No. CAS0108758] for Urban Runoff Discharges from the Municipal Storm Systems in the Incorporated Cities of San Diego, San Diego Unified Port District, and San Diego Regional Airport Authority, SWRCB/OCC File A-1830(c), filed February, 2007 (in abeyance).

- h. Petition of City of San Marcos (Investigative Order No. R9-2008-0118 for City of San Marcos Discharge of Material into Upper Copper Creek, San Marcos, San Diego County), filed October, 2008 (in abeyance).
 - i. Petition of Natural Resources Defense Council and San Diego Coastkeeper (Executive Officer Approval of Countywide Model Standard Urban Stormwater Mitigation Plan for Development Applications), SWRCB/OCC File A-2010, filed April 2009 (in abeyance). (*Eric Becker*)
 - j. Petition of San Diego Coastkeeper and Petition of Surfrider Foundation (Order No. R9-2009-0038 (Poseidon Resources Corporation, Carlsbad Desalination Plant, Order Amending Waste Discharge Requirements No. R9-2006-0065 [NPDES No. CA0109223]), SWRCB/OCC File A-2024 and A-2024(a), filed June 2009. (*Michelle Mata*)
 - k. Petition of Department of the Navy (Waste Discharge Requirements Order No. R9-2009-0081 [NPDES No. CA0109185] for the United States Department of the Navy, Naval Base Coronado, San Diego County), SWRCB/OCC File A-2032, filed July 2009. (*Vicente Rodriguez*)
 - l. Petition of South Coast Water District and South Orange County Wastewater Authority (Administrative Civil Liability Order No. R9-2009-0048 for South Orange County Wastewater Authority, South Coast Water District Groundwater Recovery Facility, San Diego County), SWRCB/OCC File A-2035, filed July 2009. (*Jeremy Haas*)
 - m. Petition of La Costa Town Square, LLC (Denial of Clean Water Act section 401 Water Quality Certification, La Costa Town Square Project, Application 09C-043, San Diego County), SWRCB/OCC File A-2039, filed August 2009 (in abeyance). (*Chiara Clemente*)
 - n. Petition of San Juan Capistrano (Revised Cleanup and Abatement Order No. R9-2009-0124 for Chevron USA, Inc and the City of San Juan Capistrano at Chevron Service Station No. 9-3417, 32009 Camino Capistrano, San Juan Capistrano, Orange County), SWRCB/OCC File A-2051, filed October 2009 (in abeyance).
15. *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation
The Regional Board may meet in closed session to initiate or consider initiating litigation against persons who are alleged to have violated the Porter-Cologne Water Quality Control Act or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] (*John Robertus*)
16. *Closed Session* - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing
The Regional Board may meet in closed session to consider evidence received in an adjudicatory hearing and to deliberate on a decision to be reached based upon that evidence [Authorized under Government Code Section 11126(c)(3)]
17. *Closed Session* - Personnel

The Regional Board may meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing [Authorized under Government Code Section 11126(a)]

18. Arrangements for Next Meeting and Adjournment
Wednesday, December 16, 2009 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

Notifications

A. The San Diego Regional Water Quality Control Board is pleased to announce the appointment of David W. Gibson as its new Executive Officer.

Employed by the San Diego Water Board since 2000, Mr. Gibson currently serves as Branch Chief for the Water Quality Restoration and Standards Branch. In this capacity, he oversees multiple programs, including Water Quality Standards and Basin Planning, the development of Total Maximum Daily Loads, Water Quality Monitoring and Assessment, and the Compliance Assurance Unit. Mr. Gibson brings 20 years of cumulative experience in public service in leadership roles in water quality monitoring, management and regulation to the position of Executive Officer, having served as a watershed biologist with the City of San Diego and founding the San Diego Stream Team prior to joining the San Diego Water Board. He is a fifth generation San Diegan and holds a Bachelor of Science degree in Biology from San Diego State University.

Mr. Gibson will succeed John Robertus, who is retiring at the end of December 2009 after serving as the Executive Officer for 14 years.

B. Public Participation 30-day Notice

Pursuant to California Code of Regulations, Title 23, Chapter 16, Article 11, §2728, the California Regional Water Quality Control Board, San Diego Region (Regional Board) is providing public notification of its intent to issue a no further action letter for cleanup of an unauthorized release of petroleum fuel from a leaking underground storage tank (UST) system at a currently active ARCO Gas Station, 7731 Balboa Avenue, San Diego, California. The current site conditions do not pose a threat to human health or the environment, and the unauthorized release case can be closed. The case files are available for public review by submitting a file review request to the Regional Board office, or on-line from the [GeoTracker database](#). Provided no significant issues arise during the public notification period, the Regional Board will issue a no further action letter in December 2009. (*Sean McClain*)

DIRECTIONS TO REGIONAL BOARD MEETING

From Downtown: I-15 north - take the Aero Drive exit - turn left (west). Proceed to the 3rd stoplight, which is Ruffin Road – turn right. Turn left on Sky Park Court (stoplight). Our building is located at the end of the court – veer to the right into the parking lot.

From the North: I-15 south - take the Balboa Ave. exit - turn right (west). Proceed to the 2nd stoplight, which is Ruffin Road – turn left. Turn right on Sky Park Court (stoplight). Our building is located at the end of the court – veer to the right into the parking lot.