



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board San Diego Region

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA



Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(619) 467-2952 • Fax (619) 571-6972
<http://www.waterboards.ca.gov/sandiego>

September 11, 2006

Responsible Dischargers Mailing List

In reply refer to:
WQS: 79-0058.02:wc

Dear Responsible Dischargers:

RE: NOTICE OF PUBLIC HEARING ON INVESTIGATION ORDER NO. R9-2006-076

Enclosed is the notice of a Public Hearing on a request to modify Investigation Order No. R9-2006-076, *Owners and Operators of Municipal Separate Storm Sewer Systems, California Department of Transportation, Hale Avenue Resource Recovery Facility, and North County Transit District Responsible for the Discharge of Bacteria, Nutrients, Sediment, and Total Dissolved Solids into Impaired Lagoons, Adjacent Beaches, and Agua Hedionda Creek*. The Public Hearing will be conducted at the October 11, 2006 meeting of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), which will begin at 9:00 a.m.

If you wish to present testimony at the Public Hearing, please read the notice carefully and follow the instructions regarding hearing participation.

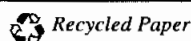
The heading portion of this letter includes a San Diego Water Board code number noted after "In reply refer to." In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the San Diego Water Board pertaining to this matter. If you have any questions regarding this matter, please contact Mr. Wayne Chiu of my staff at (858) 637-5558 or via email at wchiu@waterboards.ca.gov.

Sincerely,

John H. Robertus
Executive Officer
San Diego Regional Water Quality Control Board

Enclosures

California Environmental Protection Agency



cc via mail:

Roseanne Lacarra, City of Del Mar, 1050 Camino del Mar, Del Mar, CA 92014-2698
Del Ross, P.E., EMARCD, 31805 hwy 79 S #660, Temecula, CA 92592

cc via e-mail:

David Fritz, County of San Diego
Michael Griffiths, City of El Cajon
Ed Kimura, Sierra Club
Joy Jayne, Eastern Municipal Water District
Eric Larson, Farm Bureau
Bill Paznoka, Ca. Dept. of Fish and Game
Helen Perry, City of Santee
Jim Puegh, Audubon Society
Bruce Reznik, San Diego CoastKeeper
Hiram Sarabia, San Diego Coastkeeper
Darren Smith, Ca. Dept. of Parks
Scott Sobiech, U.S. Fish and Wildlife Service
Gabriel Solmer, San Diego CoastKeeper
Richard Watson, Richard Watson & Associates, Inc.
William Steele, U.S. Bureau of Reclamation
Martha Sutula, Southern California Coastal Water Research Project
Katie Zeeman, U.S. Fish and Wildlife Service
Steve Carter, Tetra Tech Inc.
Nicole Rowan, CDM
Malik Tamimi, City of La Mesa
David Smith, USEPA
Cindy Lin, USEPA

Responsible Discharger Mailing List:

Mr. Jesus Vargas
California Department of Transportation
2829 Juan Street
San Diego, CA 92110-2799

Mr. Glenn Pruum
Public Works Director
City of Carlsbad
1635 Faraday Avenue
Carlsbad, CA 92008

Ms. Lauraine Brekke-Esparza
City Manager, City of Del Mar
1050 Camino del Mar
Del Mar, CA 92014-2698.

Mr. Kerry Miller
City Manager
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

Ms. Mary Ann Mann
City of Escondido Hale Avenue Resource
Recovery Facility
201 North Broadway
Escondido, CA 92025

Mr. Glen Peterson
City of Escondido
201 N. Broadway
Escondido, CA 92025

Mr. Jim Kinley
City of Murrieta, Public Works &
Engineering Dept.
26442 Beckman Court
Murrieta, CA 92562

Dr. Mo Lahasia
City of Oceanside, Water Utilities
Department
300 N. Coast Highway
Oceanside, CA 92057

Mr. Andrew Entingh
Environmental Engineering Division
USMCB Camp Pendleton
Box 555008 (Bldg. 22165)
Camp Pendleton, CA 92055

Mr. Danis Bechter
City of Poway
P.O. Box 789
Poway, CA 92074

Mr. Chris Zirkle
City of San Diego
Stormwater Pollution Prevention Program
1970 B Street (MS 27A)
San Diego, CA 92102

Mr. Ken St. Clair
City of San Marcos, Public Works
Department
1 Civic Center Drive
San Marcos, CA 92069

Mr. Bill Hughes
Director Public Works Dept.
City of Temecula
P.O. Box 9033
Temecula, CA 92589

Mr. David Ott
City Manager
City Of Solana Beach
635 South Highway 101
Solana Beach, CA 92075

Ms. Linda Isakson
City of Vista
P.O. Box 1988
Vista, CA 92085

Mr. Jon Van Rhyn
County of San Diego, Department of
Public Works
9325 Hazard Way
San Diego, CA 92123

Mr. Robert Schallmann
Naval Weapons Station, Seal Beach
800 Seal Beach Blvd.
Seal Beach, CA 90740-5000

Mr. Thomas Lichterman
North County Transit District
810 Mission Avenue
Oceanside, CA 92054

Mr. Stephen Stump
Chief of the Regulatory Division
Riverside County Flood Control & Water
Cons. District
1995 Market Street
Riverside, CA 92501



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NOTICE OF PUBLIC HEARING

Wednesday, October 11, 2006; 9:00 a.m., or thereafter.

Rancho California Water District
District Board Room
42135 Winchester Road
Temecula, California

Request for Modification of Investigation Order No. R9-2006-0076, *Owners and Operators of Municipal Separate Storm Sewer Systems, California Department of Transportation, Hale Avenue Resource Recovery Facility, and North County Transit District, Responsible for the Discharge of Bacteria, Nutrients, Sediment, and Total Dissolved Solids into Impaired Lagoons, Adjacent Beaches, and Agua Hedionda Creek*

The Public Hearing will be conducted at the October 11, 2006 meeting of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), which will begin at 9:00 a.m. The Public Hearing regarding Investigation Order No. R9-2006-0076 will occur in the order indicated on the San Diego Water Board Agenda for the meeting.

SUBJECT OF HEARING

The purpose of this hearing is for the San Diego Water Board to receive evidence relevant to determining whether Investigation Order No. R9-2006-076, *Owners and Operators of Municipal Separate Storm Sewer Systems, California Department of Transportation, Hale Avenue Resource Recovery Facility, and North County Transit District Responsible for the Discharge of Bacteria, Nutrients, Sediment, and Total Dissolved Solids into Impaired Lagoons, Adjacent Beaches, and Agua Hedionda Creek* (Investigation Order), should be modified.

REQUEST FOR MODIFICATION OF INVESTIGATION ORDER NO. R9-2006-0076

The Counties of Riverside and San Diego, the California Department of Transportation, the U. S. Marine Corps, the Riverside County Flood Control and Water Conservation District, and the Cities of Murrieta, San Diego, and Temecula have requested modifications to the Investigation Order, as set forth below in the Key Issues.

California Environmental Protection Agency

The San Diego Water Board has identified the persons listed in Table 1 as dischargers responsible for, or suspected of being responsible for, discharges of bacteria, nutrients, sediment, and total dissolved solids (TDS) into certain water quality limited segments in the San Diego Region as listed in the Investigation Order. These water quality limited segments include lagoons, beaches adjacent to lagoons, and Agua Hedionda Creek. The Investigation Order requires the responsible dischargers to develop and submit Monitoring Program Workplans for each watershed containing one or more water quality limited segments, or for each water quality limited segment, no later than August 1, 2007 and an associated Quality Assurance Project Plan no later than September 1, 2007. Monitoring is to be performed between October 1, 2007 and September 30, 2008.

Table 1. Responsible Dischargers

Water Quality Limited Segments	HUC	Municipalities and Military Facilities	Counties, State Agencies, and Other Facilities
Santa Margarita Lagoon	902.1	US Marine Corps, Camp Pendleton	1. San Diego County 2. Riverside County Flood Control and Water Conservation District 3. Caltrans 4. North County Transit District
		US Navy, Fallbrook Naval Weapons Station	
		Murrieta	
		Temecula	
Loma Alta Slough and Ocean Shoreline	904.1	Oceanside	1. San Diego County 2. Caltrans
		Vista	
Buena Vista Lagoon and Ocean Shoreline	904.2	Carlsbad	1. San Diego County 2. Caltrans
		Oceanside	
		Vista	
		San Marcos	
Agua Hedionda Lagoon and lower Agua Hedionda Creek	904.3	Carlsbad	1. San Diego County 2. Caltrans
		Oceanside	
		San Marcos	
		Vista	
San Elijo Lagoon and Ocean Shoreline	904.6	Encinitas	1. San Diego County 2. Caltrans 3. City of Escondido Hale Avenue Resource Recovery Facility
		Escondido	
		San Marcos	
		Solana Beach	
Los Penasquitos	906.1	Del Mar	1. San Diego County 2. Caltrans
		Poway	
		San Diego	
Famosa Slough and Channel	907.1	San Diego	1. Caltrans

BACKGROUND

The federal Clean Water Act (CWA) section 303(d) requires states to develop a list of waterbodies that do not or are not expected to meet water quality standards after implementing technology-based controls (water quality limited segments) and to develop Total Maximum Daily Loads (TMDLs) for the water quality limited segments. TMDLs are the maximum loads of pollutants that can be discharged to a waterbody and still meet water quality objectives necessary to support the waterbody's beneficial uses.

The State Water Resources Control Board (State Water Board) has promulgated a list of water quality limited segments for California pursuant to section 303(d). .

The State Water Board has listed eleven waterbodies as water quality limited segments in the San Diego Region for pollution associated with indicator bacteria, excess nutrients or eutrophic conditions, sediment or siltation, and/or TDS. These eleven waterbodies include lagoons (in this context "lagoons" refers to lagoons, sloughs, and creek mouths), adjacent beaches, and the lower portion of Agua Hedionda Creek. In order to meet water quality objectives necessary to ensure that water quality is suitable for designated beneficial uses, the San Diego Water Board has initiated the development of TMDLs to address the pollutants in these water quality limited segments.

Bacteria, nutrients, sediment, and TDS enter these water quality limited segments from point and nonpoint sources. Controllable sources of pollutants identified as discharging, or potentially discharging, to the water quality limited segments listed in the Investigation Order include a wastewater treatment plant, a dewatering operation, and municipal separate storm sewer systems (MS4s), including storm water conveyance systems associated with state highways and military facilities.

Water Code section 13267 authorizes the San Diego Water Board to require any person discharging, or suspected of discharging, waste (including pollutants) into waters of the State to investigate water quality, and to provide technical or monitoring reports to the San Diego Water Board. Additionally, Water Code section 13383 authorizes the San Diego Water Board to establish monitoring and reporting requirements for discharges regulated under waste discharge requirements that implement the National Pollutant Discharge Elimination System regulations pursuant to Chapter 5.5, commencing with section 13370, of the Porter-Cologne Water Quality Control Act. The data provided by the monitoring program reports will allow the San Diego Water Board to assess the conditions of pollution due to bacteria, nutrients, sediment, and TDS contributing to impairment in the lagoons, adjacent beaches, and lower portion of Agua Hedionda Creek. The data collected will assist the San Diego Water Board with developing the TMDLs, determining the load and wasteload allocations, and assigning the required load reductions.

On July 20, 2006, the San Diego Water Board issued the Investigation Order, as authorized by Water Code sections 13267 and 13383, to persons identified as, or suspected of being, responsible for discharging pollutants into the eleven water quality limited segments. The San Diego Water Board identified the persons listed in Table 1 as responsible for, or suspected of being responsible for discharging into the waterbodies included in the Investigation Order.

KEY ISSUES

Should the San Diego Water Board amend Investigation Order No. R9-2006-076 to:

1. change the due date for the Monitoring Program Work Plan to September 1, 2007 (Directive A1, first paragraph);
2. require a process to ensure the adequacy of the Order's directives to meet the overall goal of the Investigation Order which is to produce water quality data reports that characterize dry weather flow and storm flow influenced water quality in the water quality limited segments in order to complete development of TMDLs, and load and wasteload allocations and reductions, as described in the second paragraph of Directive A1;
3. remove or modify the study questions and timeline associated with conducting the special studies (Directive A1.e,e1,e2 and e3 and Directive A8);
4. change the October 1, 2007 through April 30, 2008 schedule for wet season monitoring to October 1, 2008 through April 30, 2009. Change the May 1, 2008 through September 30, 2008 schedule for dry season monitoring to May 1, 2009 through September 30, 2009 (Directives A2.iii and A3.iii);
5. change the requirement for operation of a rain gage from October 1, 2007 to October 1, 2008 (Directive A6.iii); and
6. change the due date for the Quality Assurance Project Plan from September 1, 2007 to March 1, 2008 (Directive A9, first paragraph)?

HEARING PARTICIPATION

Hearings before the San Diego Water Board are not conducted pursuant to Chapter 5 of the California Administrative Procedure Act, commencing with section 11500 of the Government Code. Regulations governing the procedures of the regional boards are codified in Chapter 1.5, commencing with section 647, of the State Water Board regulations in Division 3 of Title 23 of the California Code of Regulations.

Testimony and comments presented at hearings need not conform to the technical rules of evidence provided that the testimony and comments are reasonably relevant

to the key issues before the Board. Testimony or comments that are not reasonably relevant, or that are repetitious, will be excluded. Cross-examination may be allowed by the Chairman as necessary for the Board to evaluate the credibility of factual evidence or the opinions of experts. Video taped testimony by witnesses who are not present at the hearing will not be accepted unless such testimony was subject to cross-examination by all designated parties.¹ Because the Chair may limit the time for testimony during the hearing, parties and interested persons are strongly encouraged to submit written testimony. To ensure that the San Diego Water Board has the opportunity to fully study and consider written testimony, it should be received in the San Diego Water Board office no later than 5 p.m. on September 27, 2006.

The hearing in this matter will be conducted as an informal hearing pursuant to Government Code section 11445.20. Informal hearing procedures do not include the right of cross-examination. Failure to make a timely objection to the use of an informal procedure, in accord with the directions below, will constitute consent to the informal hearing (See Title 23, California Code of Regulations, section 648.7). Even with a timely objection, an informal procedure may be used under the circumstances identified in Government Code section 11445.20 (a) (b) or (d).

Persons subject to the order may request a formal hearing by submitting a request for a formal hearing to the San Diego Water Board in writing, together with 20 copies of the following information:

- written request for formal hearing documenting service on all other parties and any interested persons;
- the name of each proposed witness and the order in which witnesses will be called;
- a description/summary of what each witness' testimony is intended to prove;
- identification of material factual issues in the dispute; and
- written copy of testimony to be presented by witnesses.

The request and supporting information must be received in the San Diego Water Board's Office no later than 5:00 p.m. on September 27, 2006.

Any person may request designation as a party for purposes of a formal hearing if a formal hearing is requested. Any person requesting a formal hearing will be designated as a party automatically, as will the San Diego Water Board and any person subject to an order or proposed order of the San Diego Water Board. A request for designation as a party must be received in the San Diego Water Board's Office no later than 5:00 p.m. on September 27, 2006 for the submission of a request for formal hearing.

¹ This does not preclude the use of videotape to present graphic images, provided that the person who took the videotape is available for questioning; this is intended to apply to spoken testimony of witnesses who are not available for cross-examination at the hearing.

The request must explain the basis for designation as a party and, in particular, how the person is directly affected by the possible actions of the San Diego Water Board.

For any hearing (formal or informal) the Chair will allocate time for each party to present testimony and comments and to question other parties if appropriate. Interested parties will generally be given 3 minutes for their comments. Where speakers can be grouped by affiliation or interest, such groups will be asked to select a spokesperson. The Chair may allocate additional time for rebuttal or for a closing statement. Time may be limited due to the number of persons wishing to speak on an item, or the number of items on the Board's agenda, or for other reasons.

All persons testifying must state their name, address, affiliation, and whether they have taken the oath before testifying. The order of testimony for hearings generally will be as follows, unless modified by the San Diego Water Board Chair:

- Testimony* of San Diego Water Board staff
- Testimony* of dischargers
- Testimony* of other designated parties
- Testimony* of interested persons
- Closing statement by designated parties other than discharger
- Closing statement by discharger
- Closing statement by staff
- Recommendation by Executive Officer (as appropriate)
- Close public hearing
- Deliberation and voting by the San Diego Water Board

*includes cross examination if formal hearing

Closing statements shall be for the purpose of summarization and rebuttal, and are not to be used to introduce new evidence or testimony, or to restate direct testimony. After considering evidence, testimony, and comments, the San Diego Water Board may choose to adopt an order regarding a proposed agenda item.

The San Diego Water Board may rely on all documents in the files of the San Diego Water Board pertaining to items on the agenda, and will incorporate any comments, testimony, exhibits, and agenda material into the administrative record for the item. Persons wishing to introduce exhibits (*e.g.*, maps, charts, photographs) must present them to the San Diego Water Board's Executive Assistant and must provide sufficient copies for distribution to the San Diego Water Board, designated parties, and interested persons. All exhibits introduced into the administrative record will be retained in the files of the San Diego Water Board. Photographs or slides of large exhibits are acceptable.


PARKING, ACCESSIBILITY, AND SECURITY

Parking is available at the Hearing location. A map with directions to the Hearing may be obtained from the San Diego Water Board's website or by contacting Ms. Lori Costa at the phone number below.

The Hearing room facilities are accessible to persons with disabilities. Individuals who require special accommodations are requested to contact Ms. Costa at (858) 467-2357 at least 5 working days prior to October 11, 2006. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

IF YOU HAVE ANY QUESTIONS

During the pendency of this proceeding and commencing no later than the issuance of this notice, there shall be no *ex parte* communications between the San Diego Water Board and any interested person regarding substantive or controversial procedural matters within the scope of the proceeding (Government Code sections 11430.10 - 11430.80.) Questions regarding non-controversial procedural matters (Government Code section 11430.20, subdivision (b)) should be directed to Ms. Cynthia Gorham-Test at (858) 467-2957 or Mr. Wayne Chiu at (858) 637-5558.



JOHN H. ROBERTUS
Executive Officer
September 11, 2006