

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

AGENDA

Tuesday, December 14, 2010
9:00 a.m.

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

The purpose of this meeting is for the San Diego Water 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 San Diego Water Board requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the San Diego Water Board members and staff have the opportunity to fully study and consider written material, comments should be received in the San Diego Water Board's office no later than noon on Tuesday, November 30, 2010* 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 Board members and staff. Written material submitted after 5:00 P.M. on Tuesday, December 7, 2010 will not be provided to the Board members and may not be considered by the San Diego Water 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 San Diego Water Board. Type the word "Agenda" in the subject line.

Pursuant to Title 23, California Code of Regulations, Section 648.4, the San Diego Water Board may refuse to admit written testimony into evidence if it is not submitted to the San Diego Water 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 San Diego Water 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 San Diego Water Board's office no later than noon on Tuesday, November 30, 2010.

Copies of the agenda items to be considered by the San Diego Water Board are posted on the San Diego Water 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: November 10, 2010.
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.
5. Recognition: Resolution of Appreciation for former Chairman David King (Tentative Resolution No. R9-2010-0153) (*David Gibson*)

Consent Calendar: Items 6 and 7 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.)

6. Administrative Assessment of Civil Liability, Sea World, Inc, Mandatory Minimum Penalty for violations of Order No. R9-2005-0091. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$6,000 mandatory minimum penalty recommended in Complaint R9-2010-0138 for violations of effluent limitations prescribed in Waste Discharge Requirements Order No. R9-2005-0091. The San Diego Water Board may approve or reject assessment of the recommended penalty. If the San Diego Water Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the San Diego Water Board will consider assessment of civil liability. (Tentative Order R9-2010-0145) (*Rebecca Stewart*)

7. Administrative Assessment of Civil Liability, Fallbrook Public Utility District, Mandatory Minimum Penalty for violations of Order No. R9-2006-0002. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$3,000 mandatory minimum penalty recommended in Complaint R9-2010-0140 for violations of effluent limitations prescribed in Waste Discharge Requirements Order No. R9-2006-0002. The San Diego Water Board may approve or reject assessment of the recommended penalty. If the San Diego Water Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the San Diego Water Board will consider assessment of civil liability. (Tentative Order R9-2010-0147) (*Frank Melbourne*)

Remainder of the Agenda (Non-Consent Items):

8. Administrative Assessment of Civil Liability, Eastern Municipal Water District, Temecula Regional Water Reclamation Facility (TVRWRF): The San Diego Board will consider adoption of a Tentative Order that would impose \$524,800 in civil liability for violations of Order No. R9-2000-0165 identified in Complaint No. R9-2010-0085 resulting from the discharge of untreated sewage from the TVRWRF on December 25-26, 2009. The San Diego Water 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 was September 22, 2010. (Tentative Order No. R9-2010-0131) (*Robert Pierce*)
9. Administrative Assessment of Civil Liability, Russo Tile and Marble, Inc., Mandatory Administrative Civil Liability, for violations of Order No. 97-03-DWQ. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$1,700 mandatory minimum penalty recommended in Complaint R9-2010-0128 for failing to submit the Fiscal Year 2009 Annual Report required by State Water Resources Control Board Order No. 97-03, NPDES Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. Water Code section 13399.33 requires the San Diego Water Board impose a mandatory penalty of no less than \$1,000 plus staff costs for this alleged violation. The San Diego Water Board may approve, modify, or reject assessment of the recommended penalty. (Tentative Order R9-2010-0150) (*Ryan Anson*)
10. Administrative Assessment of Civil Liability, San Diego Truck Body and Equipment, Inc., Administrative Civil Liability, for violations of Order No. 97-03-DWQ. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$4,916 penalty recommended in Complaint R9-2010-0129 for failing to submit the Fiscal Year 2007-08 and 2008-09 Annual Reports and failing to pay the Fiscal Year 2008-09 annual fee required by State Water Resources Control Board Order No. 97-03, NPDES Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. Water Code section 13399.33 requires the San Diego Water Board impose a mandatory penalty of no less than \$1,000 plus staff costs for each annual report violation. The San Diego Water Board may approve, modify, or reject assessment of the recommended penalty. (Tentative Order R9-2010-0151) (*Ryan Anson*)

11. Administrative Assessment of Civil Liability, Lite Stone Concrete, Inc., Administrative Civil Liability, for violations of Order No. 97-03-DWQ. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$3,766 penalty recommended in Complaint R9-2010-0127 for failing to submit the Fiscal Year 2008-09 Annual Report and failing to pay the Fiscal Year 2009-10 annual fee required by State Water Resources Control Board Order No. 97-03, NPDES Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. Water Code section 13399.33 requires the San Diego Water Board impose a mandatory penalty of no less than \$1,000 plus staff costs for the annual report violation. The San Diego Water Board may approve, modify, or reject assessment of the recommended penalty. (Tentative Order R9-2010-0152) (*Ryan Anson*)
12.
 - a) NPDES Permit Reissuance: Waste Discharge Requirements for the City of Oceanside, San Luis Rey Water Reclamation Facility, La Salina Wastewater Treatment Plant, and Mission Basin Desalting Facility Discharge to the Pacific Ocean via the Oceanside Ocean Outfall (Tentative Order No. R9-2010-0120, NPDES No. CA0107433) (*Joann Cofrancesco*)
 - b) Time Schedule Order: An Order Requiring the City of Oceanside, Mission Basin Desalting Facility Discharge to the Pacific Ocean via the Oceanside Ocean Outfall to Comply With Requirements Prescribed in Order No. R9-2010-0120, NPDES No. CA0107433 (Tentative Order No. R9-2010-0148) (*Joann Cofrancesco*)
13.
 - a) Negative Declaration: Conditional Waiver of Waste Discharge Requirements for Discharges of Domestic Wastewater from Small Onsite Wastewater Treatment Systems Consisting of Advanced Treatment Units and Subsurface Drip Irrigation in Riverside County (Tentative Resolution No. R9-2010-0106) (*Fisayo Osibodu*)
 - b) Conditional Waiver of Waste Discharge Requirements for Discharges of Domestic Wastewater from Small Onsite Wastewater Treatment Systems Consisting of Advanced Treatment Units and Subsurface Drip Irrigation in Riverside County (Tentative Order No. R9-2010-0098) (*Fisayo Osibodu*)
14. Consideration of Tentative Resolution approving Poseidon Resources Corporation's preliminary wetland restoration plan and wetland mitigation site selection to mitigate for entrainment and impingement impacts of the Carlsbad Desalination Project (Tentative Resolution No. R9-2010-0143) (*Jody Ebsen*)
15. Informational Item: San Diego Unified Port District A-8 Anchorage Marine Debris Removal Project (*Eric Becker*)
16. *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]
The San Diego Water 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). (David Gibson)
- b. *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)
- c. *Surfrider Foundation v. California Regional Water Quality Control Board, San Diego Region*, Petition for Writ of Mandate [re: San Diego Water Board's adoption of Order No. R9-2009-0038 amending Order No. R9-2006-0065 for Poseidon Resources (Channelside), LLC, NPDES Permit No. CA0109223, approval of a Flow, Entrainment and Impingement Minimization Plan under the California Water Code]. San Diego County Superior Court, Case No. 37-2010-0009-436-CU-WM-CTL (filed April 2010). (Brian Kelley)
- d. *South Orange County Wastewater Authority and South Coast Water District*, Petition for Writ of Mandate. Orange County Superior Court, Case No. 30-2010-00364016-CU-WM-CXC (filed April 2010) (Joann Cofrancesco)
- e. *California Regional Water Quality Control Board, San Diego Region v. Bill and Heidi Dickerson, Larry and Penelope Gunning and Perry & Papenhausen, Inc.* Complaint for Damages for Breach of Contract and for Specific Performance. San Diego County Superior Court, Case No. 37-2010-00096011-CU-CO-CTL (filed July 2010) (Jeremy Haas)
- f. *State of California Department of Finance, State Water Resources Control Board, And California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates.* Petition for Writ of Administrative Mandamus. Sacramento County Superior Court, Case No. 34-2010-80000604 (filed July 2010) (Catherine George Hagan)

Petitions for Review Pending Before State Water Resources Control Board

- g. 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)

- h.* 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*)
 - i.* Petition of South Coast Water District and South Orange County Wastewater Authority (Failure to Act to Modify NPDES Permit for Brine Discharge and Groundwater Recovery Facility, San Diego County), SWRCB/OCC File A-2072, filed January 2010. (*Brian Kelley*)
 - j.* Petitions of the City of Laguna Hills, the City of Laguna Niguel, the City of San Juan Capistrano, the City of Mission Viejo, the City of San Clemente, the City of Dana Point, the City of Laguna Woods, the County of Orange and Orange County Flood Control District, the City of Aliso Viejo, the City of Lake Forest, and the City of Rancho Santa Margarita (Waste Discharge Requirements Order No. R9-2009-0002 (NPDES No. CAS0108740), Orange County Municipal Separate Storm Sewer System (MS4) Permit), SWRCB/OCC Files A-2073(a)-(j), filed January 2010 (in abeyance). (*Ben Neill*)
 - k.* Petitions of American Salvage Inc., and Consolidated Electrical Distributors (CED) and Northbrook Properties, Inc. (NPI) (Cleanup and Abatement Order No. R9-2010-007), SWRCB/OCC Files A-2084 and 2084(a), filed February 2010 (in abeyance). (*Vicente Rodriguez*)
 - l.* Petition of Vulcan Materials Company (Reconsideration of Clean Water Act Section 401 Water Quality Certification No. 08C-051 for Poway Mining Site, Vulcan Materials, San Diego County) SWRCB/OCC File A-2088, filed March 2010 (in abeyance). (*Mike Porter*)
 - m.* Petition of City of Murietta for reconsideration of denial of Clean Water Act Section 401 Water Quality Certification for Application No. 10C-009, Line D and D-1 Realignment (CIP #8157) project. SWRCB/OCC File A-2122, filed August 2010, (*Chiara Clemente*)
 - n.* Petition of Coastal Environmental Rights Foundation, requesting State Water Board review of Certification No. 10C-052, for routine maintenance of Storm Water Facilities, Maps 6 and 6a, Sorrento Valley, for the City of San Diego, (SWRCB/OCC File A-_____), filed October 2010 (*Chiara Clemente*)
 - o.* Petition of Coastal Environmental Rights Foundation, requesting State Water Board review of Certification No. 10C-059, for routine maintenance of Storm Water Facility, Map 134 for the City of San Diego, (SWRCB/OCC File A-_____), filed November 2010. (*Chiara Clemente*)
17. *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation
The San Diego Water Board may meet in closed session to initiate or consider initiating litigation concerning matters within its jurisdiction or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] (*David Gibson*)

18. *Closed Session - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing*
The San Diego Water 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)]
19. *Closed Session - Personnel*
The San Diego Water 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)]
20. The Board will consider designating the Chair, who may in turn designate the responsibility from time to time, to conduct prehearing conferences pursuant to Water Code section 13228.15 to address any of the matters described in Government Code section 11511.5, subdivision (b). (*Catherine Hagan*)
21. Arrangements for Next Meeting and Adjournment
Wednesday, February 9, 2011 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

Notifications

A. Follow the Board Meeting on Twitter

Updates on the progress of the San Diego Water Board meeting will be posted on Twitter at www.twitter.com/SDWaterBoard. The San Diego Water Board's use of Twitter is a courtesy and is for informational purposes only. It is not always reliable, and is not a substitute for personal attendance at a Board meeting.

DIRECTIONS TO 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.