



California Regional Water Quality Control Board, San Diego Region

March 6, 2015

To: Interested Persons

SUBJECT: Notice of Procedures for Consideration of Tentative Resolution No. R9-2015-0022, Foothill Eastern Transportation Corridor Agency, Tesoro Extension (SR 241) Project, Orange County

The purpose of this Notice, issued on behalf of Board Chair Dr. Henry Abarbanel, is to provide guidance to Interested Parties regarding the consideration of Tentative Resolution No. R9-2015-0022 by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board or Board) at its March 16, 2015 public meeting scheduled at the following location:

NTC at Liberty Station
McMillin Companies Event Center
2875 Dewey Road
San Diego, CA 92016.

Procedures for Board Consideration of Tentative Resolution R9-2015-0022

The item will be heard **no earlier than 11:00 a.m.** during a meeting that starts at 9:00 a.m. The meeting agenda and documents pertaining to the Tentative Resolution have been posted at: http://www.waterboards.ca.gov/sandiego/board_info/agendas/2015/Mar/Mar16.shtml

As indicated in the February 4, 2015 Notice of Availability for the Tentative Resolution, written comments on the Tentative Resolution were due on February 18, 2015. Written comments received after the close of the comment period on February 18, 2015 will not be included in the record for this proceeding. In addition, as provided in the February 4 Notice, the Board is limiting comments to the findings in the Tentative Resolution, and will not accept any new evidence into the record.

Order of Proceedings

Prior to the Board taking action on the Tentative Resolution, Interested Persons will have an opportunity to address the San Diego Water Board members, subject to the limitations outlined below.

Interested Persons may participate in the Board's consideration of the Tentative Resolution in the following general manner subject to modification by the Chair for good cause:

San Diego Water Board Staff: Staff will present the Tentative Resolution, summarize comments received on the Tentative Resolution, and as appropriate respond to questions from Board members.

Save San Onofre Coalition (SSOC): The Coalition will have 15 minutes to comment on the Tentative Resolution.

Foothill Eastern Transportation Corridor Agency (F/ECTA): F/ETCA will have 15 minutes to comment on the Tentative Resolution.

Additional Interested Persons: Interested persons will have 3 minutes each to comment on the Tentative Resolution, or as modified by the Chair. Due to the potential for a large number of interested persons wishing to speak, the Chair may modify the time limits to allow for the maximum number of individuals to participate. Following comment by Interested Persons, the Board may ask questions, deliberate and vote.

San Diego Water Board Members and Legal Counsel may ask questions at any time. Time for these questions and responses will not count against the time limits above.

Ex Parte Communication Disclosure

The consideration of the Tentative Resolution is a response to direction from the State Water Resources Control Board (State Water Board) in State Water Board Order WQ 2014-0154. The State Water Board directed the San Diego Water Board to further explain the factual and legal basis for its June 19, 2013 decision to deny Waste Discharge Requirements (WDRs) for the Tesoro Extension Project.

The issuance of WDRs is an adjudicative proceeding subject to prohibitions against ex parte communications. (Gov. Code section 11430.10.) Accordingly, the same ex parte limitations that applied to the Board's consideration of the WDRs apply to the Board's consideration of the Tentative Resolution. In accordance with the prohibitions, Board members have not directly communicated with any persons regarding their consideration of this matter. In an effort to ensure complete compliance with the laws concerning ex parte communications, the following disclosures are provided:

Board Member Betty Olson was approached by Orange County Supervisor Lisa Bartlett in December 2014 to discuss F/ETCA's toll road project and the Board's consideration of WDRs for the project. Ms. Olson advised she could not discuss the project with the Supervisor and had no further communications.

Board Member Stefanie Warren is a non-director, non-management public member of the Surfrider Foundation. The Surfrider Foundation is a member of the SSOC. Ms. Warren received a mass email communication that went to all public members of Surfrider Foundation.

HENRY ABARBANEL, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

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The email advised Surfrider Foundation members of the Board's consideration of WDRs for the toll road. Ms. Warren did not respond to the email and has had no communication with the Surfrider Foundation regarding the Tesoro Extension Project.

Board Member Dr. Henry Abarbanel received a mass email communication from the Natural Resources Defense Council regarding the Board's consideration of WDRs for the proposed toll road. Dr. Abarbanel did not respond to the email, is not a member of NRDC, and has had no communication with the organization.

Contact for further Information

For questions or comments concerning this Notice, please contact Darren Bradford by phone at (619) 521-3356, or by email at RB9_DredgeFill@waterboards.ca.gov.

David W. Gibson
Executive Officer
San Diego Regional Water Quality Control Board
March 6, 2015