

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION

73-720 Fred Waring Drive, Suite 100
Palm Desert, California 92260
Phone: (760) 346-7491
Fax: (760) 341-6820

Public Notice 7-23-46
Issued on November 8, 2023

Comment Deadline:
December 8, 2023

Staff Contact:
Michael Perez
Michael.Perez@WaterBoards.ca.gov
(760) 776-8946

NOTICE OF PUBLIC HEARING

TENTATIVE RESCISSION AND SUBSTITUTION ORDER R7-2023-XXXX

The California Regional Water Quality Control Board, Colorado River Basin Region (Colorado River Basin Water Board) is releasing, for public review and comment, Tentative Rescission and Substitution Order R7-2023-XXXX (Tentative Order), which rescinds and/or amends one or more existing Waste Discharge Requirements (WDRs) orders. The affected WDRs orders and parties are listed in **Affected Orders** on page 6 of this Notice.

HEARING PARTICIPATION

The Colorado River Basin Water Board will hold a public hearing to consider adoption of the Tentative Order at the date, time and location specified below:

Date: December 12, 2023
Time: 9:00 am
Location: Colorado River Basin Water Board's Boardroom
73-720 Fred Waring Drive, Suite 100,
Palm Desert, California 92260

Remote Participation Option Available
(See Instructions Below)

Remote Participation Option

Although this public meeting will be conducted in-person, the public will also have the opportunity to participate remotely via the [ZOOM videoconferencing platform](https://zoom.us) (<https://zoom.us>), which is free to download. If you intend to speak, present oral comments or otherwise actively participate in this meeting, you will need to obtain ZOOM access prior to the meeting. For those who do NOT intend to actively participate, the meeting will be livestreamed via [Cal-Span](http://www.cal-span.org) (www.cal-span.org).

Please refer to the Colorado River Basin Water Board's [Remote Meetings](#) page (www.waterboards.ca.gov/coloradoriver/board_info/remote_meeting) for instructions on remote participation via ZOOM.

Oral Comments at Hearing

All persons interested in the Tentative Order and/or this proceeding will be provided the opportunity to orally present general policy statements and legal arguments during the hearing, provided that they have submitted **Speaker Request Cards** (or the equivalent for virtual participation). Such comments will be limited to three minutes, though the Board Chair may grant additional time on a case-by-case basis.

To ensure accuracy of the record the Colorado River Basin Water Board requests that interested persons wishing to speak at the hearing provide a summary of their oral comments in writing before or during the hearing. However, interested persons do not need to submit written statements in order to speak.

If your comments will incorporate a short slideshow presentation or visual aids, please email these materials to mary.castaneda@waterboards.ca.gov no later than noon on the day before the meeting. These materials will not be admitted as evidence in the administrative record.

SUBMISSION OF WRITTEN COMMENTS

The Colorado River Basin Water Board will accept comments on the Tentative Order during a 30-day public comment period ending on **December 8, 2023**. All written comments must be received no later than **5:00 pm**. Comments received prior to this deadline will be included in the administrative record. Untimely written comments will not be accepted, absent a showing of good cause and lack of prejudice to the parties.

Comments may be submitted by any of the following methods:

By Mail: Colorado River Basin Water Board,
Attn: Michael Perez
73-720 Fred Waring Drive, Suite 100
Palm Desert, California 92260

By Email: Michael.Perez@WaterBoards.ca.gov

By Fax: (760) 341-6820

HEARING PROCEDURE

Nature of Hearing

The Colorado River Basin Water Board's consideration of the Tentative Order is an adjudicative proceeding¹ conducted in accordance with California Code of Regulations, title 23, section 648 et seq. The administrative record shall consist of all Board files, exhibits, and related agenda material. The Tentative Order will be considered via an "informal hearing." (*Id.*, § 648.7; see also Gov. Code, § 11445.10 et seq.)

Parties to Proceeding

The parties to this proceeding are the Discharger (i.e., person to whom the Tentative Order is directed), and any additional persons that the Executive Officer, in consultation with the Board Chair, determines should be a "party." (Cal. Code Regs., tit. 23, § 648.1, subd. (a).) Such additional persons are referred to as **Designated Parties**.

Unless they are formally recognized as a Designated Party, **interested persons are NOT considered "parties" to the proceeding**. This means that interested persons will ordinarily not be permitted to present evidence (e.g., photos, eyewitness testimony, etc.) for entry into the administrative record; again, oral comments are limited to general policy and legal statements. Interested persons are also not subject to cross-examination but may be asked to respond to clarifying questions from the Board Members. (*Id.*, § 648.1, subd. (d).)

To request Designated Party status, send a written application via email to Michael.Perez@WaterBoards.ca.gov as soon as possible, but no later than **December 8, 2023** (submitted concurrently with written comments and any proposed written evidence). The Executive Officer and Board staff will promptly respond to all timely applications and may request further information before the determination is made.

Designated Party status will only be granted if the applicant demonstrates that it is necessary and appropriate under the circumstances.² An application will not be granted

¹ An "adjudicative proceeding" is one in which the Board conducts an evidentiary hearing for determination of facts, resulting in the formulation of a decision in the form of an adopted order. (Gov. Code, § 11405.20; Cal. Code Regs., tit. 23, § 648, subd. (a).)

² The Board's decision may include the following considerations: (1) whether the applicant will be substantially affected by issues addressed in the hearing; (2) whether the parties will adequately represent the applicant's interests; (3) whether the applicant

if it appears that such designation will impair the interests of justice and the orderly and prompt conduct of the proceeding. Additionally, the Executive Officer, in consultation with the Board Chair, may impose restrictions on the requestor's hearing participation, including limiting or excluding the use of cross-examination and other procedures to promote the orderly and prompt conduct of the proceeding. (Gov. Code, § 11440.50, subd. (c).)

Order of Proceeding

Adjudicative proceedings are conducted in a manner deemed most suitable to the particular case with a view toward expeditiously securing relevant information without unnecessary delay and expense. (Cal. Code Regs., tit. 23, § 648.5, subd. (a).)

This proceeding will be conducted in the following order: (1) opening statements by Board Chair, summarizing the subject matter and purpose of the hearing; (2) identification of all persons wishing to participate in the hearing; (3) administration of oath for all persons intending to speak at the hearing, including interested persons making oral comments; (4) presentations by staff; (5) comments and/or presentations by parties; (6) comments from interested persons; (7) Board Members' comments and discussion; (8) closure of hearing by Board Chair; and (9) voting by Board Members. In the event that the Tentative Order will be contested, the Executive Officer, in consultation with the Board Chair, will determine time allotments prior to the hearing.

Submission of Evidence

To avoid the introduction of surprise testimony and exhibits (Cal. Code Regs., tit. 23, § 648.4, subd. (a)), and to minimize the need for oral argument and testimony at the hearing, the parties shall submit all documentary evidence (*Id.*, § 648.4, subd. (c)), witness information (*Id.*, § 648.4, subd. (b)), and legal/technical memoranda to staff prior to the hearing date.

As noted above, the administrative record will consist of materials in the Board file for the Facility (at time of hearing).

DOCUMENT AVAILABILITY

The Tentative Order is posted to the Board's [Tentative Orders](#) webpage

would present their own written evidence or witness testimony at the hearing; and (4) whether the applicant will seek to cross-examine the other parties' witnesses.

(www.waterboards.ca.gov/coloradoriver/board_decisions/tentative_orders/index.shtml).
To receive a physical copy by mail, contact **Mary Castaneda** at (760) 776-8945 or
Mary.Castaneda@waterboards.ca.gov.

ACCESSIBILITY AND LANGUAGE NEEDS

Individuals who require special accommodations or interpreter services to participate in this meeting, please contact **Mary Castaneda** via email at Mary.Castaneda@waterboards.ca.gov at least 10 days prior to the scheduled meeting to notify us that you will be utilizing these services. TTY users may contact the California Relay Service at (800) 735- 2929 or voice line at (800) 735-2922.

ADDITIONAL INFORMATION

If you have questions concerning this matter, please contact Michael Perez at (760) 776-8946 or Michael.Perez@WaterBoards.ca.gov. Please bring the foregoing to the attention of anyone you believe may be interested in this matter.

AFFECTED ORDERS

Table 1. Affected Orders.

Order Number	Order Type	Facility/Project, County	Named Parties	Action(s) Taken	Reason(s)	Staff Contact
R7-2006-0038 ³	Waste Discharge Requirements	Smoke Tree Villas, San Bernardino County	PI Properties No. 40, LLC	<p>Substituted Permittee</p> <p>Original Discharger: Sunwest Development, LLC</p> <p>Prior Discharger: PI Properties No. 40, LLC</p> <p>New Discharger: Biane Guard, LLC</p>	Change of Property Ownership	Wendy Wyels Wendy.Wyels@waterboards.ca.gov

³ WDRs Order R7-2006-0038 was originally issued to Sunwest Development, LLC in 2006. In 2015, the WDRs Order was amended via Order R7-2016-0026 to substitute PI Properties No. 40, LLC as the permitted “discharger.”