



Colorado River Basin Regional Water Quality Control Board

NOTICE OF PUBLIC MEETING AND AGENDA

MEETING INFORMATION

Format: *In-Person* and *Teleconference*¹ (Gov. Code, § 11133)

Date: January 10, 2023

Time: 9:00 am

Location: ***In-Person Participation***
Colorado River Basin Water Board Boardroom
73-720 Fred Waring Drive, Suite 100
Palm Desert, California 92260

Remote Participation for Agenda Items 1-11
ZOOM Videoconferencing Platform
(See Instructions Below)

REMOTE PARTICIPATION OPTION

In lieu of attending the meeting 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.

¹ Although the majority of Board members will be present for an in-person meeting, some members may be participating from a remote location via the ZOOM videoconferencing platform. Accordingly, this meeting has been noticed as a teleconference.

MEETING AGENDA

Agenda Items are numbered for identification purposes only; the Colorado River Basin Water Board may consider items out of their listed order. General information concerning meeting procedures is included at the end of the agenda.

Tentative orders, resolutions and other materials under consideration for adoption at this meeting are posted to the Colorado River Basin Water Board's [Tentative Orders](https://www.waterboards.ca.gov/coloradoriver/board_decisions/tentative_orders) page (https://www.waterboards.ca.gov/coloradoriver/board_decisions/tentative_orders).

Preliminary Matters

1. Introductions, Pledge of Allegiance and Roll Call

2. Public Forum

At this time, any person may address the Board regarding any matter within the Board's jurisdiction that is not related to an item on this meeting agenda. Comments shall be limited to three (3) minutes, subject to an extension at the Board Chair's discretion.

3. Approval of Minutes for Prior Meeting(s)

Minutes of Board Meeting on December 13, 2022.

**4. Update from the State Water Resources Control Board Liaison,
Laurel Firestone**

Contested and Discussion Calendar of Items for Adoption

(Items 5 – 7)

5. Waste Discharge Requirements Order R7-2023-0001

Parties: Spreckels Sugar Company, Inc.
Subject: Sugar Beet Processing Facility
Location: Imperial County
Staff Contact: Adriana Godinez, WRC Engineer
(adriana.godinez@waterboards.ca.gov)

6. Waste Discharge Requirements Order R7-2023-0011

Parties: CalEnergy Operating Corp. and Magna Power Co.
Subject: J.J. Elmore Geothermal Power Plant
Location: Imperial County
Staff Contact: Zakary Owens, WRC Engineer
(zakary.owens@waterboards.ca.gov)

7. Revised Tentative Waste Discharge Requirements Order R7-2022-0014-01

Parties: High-Desert Water District
Subject: Yucca Valley Wastewater Reclamation Plant
Location: San Bernardino County
Staff Contact: Adriana Godinez, WRC Engineer
(adriana.godinez@waterboards.ca.gov)

Information Items

(No Action on Items 8 – 12)

- 8. Election of 2023 Board Chair and Vice-Chair**
- 9. Executive Officer’s Report, Paula Rasmussen**
- 10. Comments from Board Members**
- 11. Report from Board Chair, Jayne Powell**

Closed Session

12. Closed Session

The 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 a public employee by another person, unless the employee requests a public hearing (Gov. Code, § 11126, subd. (a)); consider evidence received in an adjudicatory hearing and deliberate on a decision to be reached based on that evidence (§ 11126, subd. (c)(3)); and discuss litigation, including discussion of initiated litigation, significant exposure to litigation, or decisions to initiate litigation (§ 11126, subd. (e)).

Adjournment

Next Board Meeting:
February 14, 2023
9:00 a.m.

GENERAL INFORMATION AND PROCEDURES

Purpose of Meeting

Under the Porter-Cologne Water Quality Control Act, Water Code section 13000 et seq., the California Regional Water Quality Control Board, Colorado River Basin Region (Colorado River Basin Water Board or Board) is charged with protection of the quality of the region's waters for all applicable beneficial uses. This responsibility is carried out through the continued development and implementation of the Board's [Water Quality Control Plan for the Colorado River Basin Region](http://www.waterboards.ca.gov/coloradoriver/water_issues/programs/basin_planning) (www.waterboards.ca.gov/coloradoriver/water_issues/programs/basin_planning). The purpose of this meeting is to obtain testimony and information from concerned and affected parties, and make decisions after considering the information received.

Attendance Sheet (Optional)

In-person attendees are encouraged to sign an Attendance Sheet that will be available at the meeting (although voluntary, this information will assist staff in evaluating the level of public interest).

General Rules for Oral Comments at Meeting

All persons wishing to speak at the meeting must complete a **Speaker Request Card**, also referred to as a "Blue Card." If the speaker is attending in person, this card must be filled out and provided to staff that are present. Although speakers are strongly encouraged to submit their cards prior to the start of the meeting, the cards must be submitted prior to consideration of the relevant Agenda Item(s), or where the topic does not pertain to any particular Agenda Items, prior to the Public Forum (see below).

Where a **remote participation** is available, speakers must submit a Virtual Blue Card to obtain access via ZOOM (meeting ID and password). Refer to the Board's [Remote Meetings](http://www.waterboards.ca.gov/coloradoriver/board_info/remote_meeting) page (www.waterboards.ca.gov/coloradoriver/board_info/remote_meeting). To ensure that they receive ZOOM access, speakers must submit their information no later than 5:00 pm on the day before the meeting.

During the **Public Forum**, any individual may address the Colorado River Basin Water Board and/or ask questions relating to any matter within the Board's jurisdiction. Remarks and questions need not be related to any items on the agenda. However, if the matter relates to a particular agenda item, the individual will be asked to make their comments when the item is taken up by the Board. See below for specific rules on oral comments regarding Information Items, as well as agenda items on the Uncontested Calendar or the Contested and Discussion Calendar.

Regardless of whether they are made during the Public Form, or in connection with a particular agenda item, comments will be limited to **three minutes per person**, subject to extension at the Board Chair's discretion. The Board and staff welcome information on pertinent problems, but comments should be kept brief and specific. The Board will usually accommodate group spokespersons by granting additional time if other members will not also be speaking.

If your comments will incorporate a short slideshow presentation or visual aids, these materials must be emailed to CJ Jasieniecki (cj.jasieniecki@waterboards.ca.gov) no later than noon on the day before the meeting.

Uncontested Calendar

Items on the Uncontested Calendar are not contested and do not appear to be subject to controversy. Accordingly, such items may be acted upon without hearing or discussion, and summarily adopted by a single vote. If any Board Member or other person requests discussion on any item, that item may be removed from the Uncontested Calendar and either separately considered for adoption, or continued to a subsequent meeting. (Cal. Code Regs., tit. 23, § 647.2, subd. (f).)

Contested and Discussion Calendar

The Contested and Discussion Calendar consists of agenda items for which Colorado River Basin Water Board staff has not determined to be appropriate for inclusion on the Uncontested Calendar. These items may not necessarily be actively contested by the permittee (or another interested person). Regardless, each agenda item will be separately considered for adoption (i.e., by a separate vote).

Written Comments Not Accepted at Meeting (Oral Comments Only)

Deadlines for submittal of written comments on Contested and Discussion Calendar items are specified in the Notices of Public Hearing (Hearing Notices). The Board does not typically accept written comments and other materials after the specified deadline, including at the meeting itself. Any person seeking to submit late materials must demonstrate "good cause," and the Board Chair must find that admitting the late materials will not prejudice the Board or any parties to the proceeding.

Adjudicative Proceedings on Calendar

For agenda items on the Contested and Discussion Calendar that involve an "adjudicative proceeding" before the Board, the hearing will be conducted according to the operative Hearing Procedure (see below), and 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.

An “adjudicative proceeding” is one in which an evidentiary hearing for determination of facts pursuant to which the Board formulates and issues a decision in the form of an order or resolution. (Cal. Code Regs., tit. 23, § 648, subd. (a).) As a general rule, agenda items identified as an “order” will *always* be adjudicative proceeding; in some instances, “resolutions” will also involve an adjudicative proceeding as well. Common examples of “adjudicative proceedings” include permitting actions (e.g., waste discharge requirements and NPDES permits) and enforcement actions (cease and desist orders; impositions of administrative civil liability).

Members of the public that are interested in the adjudicative proceeding (Interested Persons), and who may want to make comments to the Board, 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 (for remote participants, Virtual Blue Cards). Such comments will be limited to three minutes, though the Board Chair may grant additional time on a case-by-case basis. Interested Persons do not need to submit written statements in order to speak.

However, unless they are formally recognized as a “Designated Party” in accordance with the operative Hearing Procedure (*see below*), Interested Persons are not considered “parties” to the adjudicative proceeding. By default, the only “parties” are the individuals or entities to whom the Board’s action is directed. 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. (Cal. Code Regs., tit. 23, § 648.1, subd. (d).)

For each adjudicative proceeding, the **Hearing Procedure** is contained in the Notice of Public Hearing (Hearing Notice), which specifies the deadline for submission of written comments on the proposed order or resolution for adoption. Additionally, the Hearing Procedure shall be the controlling document with respect to the following: (1) Parties to proceeding; (2) requests for “Designated Party” status; (3) pre-hearing submittals of evidence; (4) submittals of witness testimony and rebuttal evidence at the hearing; and (5) order of proceeding. (Cal. Code Regs., tit. 23, §§ 648.1, 648.4, 648.5.)

In most cases, the deadline to formally request “Designated Party” status will have already passed prior to the circulation of this Notice of Public Meeting and Agenda. If you believe you should be included as a “party” to the proceeding, you will need to request a continuance of the proceeding to a subsequent public meeting; your request must also include a showing as to why you should be recognized as a “Designated Party” to the proceeding. Ultimately, continuances and/or “Designated Party” status are subject to the Board’s sole discretion; requests will be denied absent a finding of “good cause,” or where the Parties would be unduly prejudiced. (Cal. Code Regs., tit. 23, § 648.1, subd. (c).)

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).) These proceedings are typically conducted by the Board 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. The particular order of proceedings may be specified in the Hearing Procedure.

Non-Adjudicative Proceedings on Calendar

Occasionally, some agenda items on the Contested and Discussion Calendar will be considered "non-adjudicative," and will not involve an evidentiary hearing with sworn testimony. Examples of non-adjudicative proceedings involve the adoption of resolutions amending the Basin Plan, or ratifying a settlement of administrative civil liability. Non-adjudicative proceedings will be conducted by the Board in accordance with California Code of Regulations, title 23, section 649 et seq., and the Hearing Procedure specified in the Hearing Notice (if any).

Interested Persons will be able to address the Board with oral comments, provided they have submitted Speaker Request Cards (for remote participants, Virtual Blue Cards). (Cal. Code Regs., tit. 23, § 649.3, subd. (a).) For some non-adjudicative proceedings, Interested Persons may be required to take the oath prior to addressing the Board.

Information Items

Information Items (including Workshops) are hearings conducted to gather and assess facts, opinions and other information relevant to matters within the Board's jurisdiction. The purpose of such proceedings is to assist the Board in the formulation of policies or guidelines for future actions; to inform the public of reports or proposed actions; and to solicit public comment and opinions on the subject matter. (Cal. Code Regs., tit. 23, § 649, subd. (b).) Materials presented in connection with an Information Item are for discussion only. Unlike non-adjudicative proceedings on the Contested and Discussion Calendar, **no actions will be taken** on an Information Items.

Information Items will typically consist of a brief presentation by staff, followed by an opportunity for Interested Persons to address the Board with oral comments, provided they have submitted Speaker Request Cards (for remote participants, Virtual Blue Cards). (Cal. Code Regs., tit. 23, § 649.3, subd. (a).) Comments should be for clarification or to add to the Board's understanding or knowledge about the item. However, because commenters are not under oath and the proceeding is non-adversarial, comments shall be neither testimonial nor argumentative in nature.

Petition Procedure

A person aggrieved by a Colorado River Basin Water Board action at this meeting (e.g., adoption of permits and enforcement orders) may petition the State Water Board for review in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et seq. To be timely, the petition must be received by the State Water Board by 5:00 pm on the 30th day after the date of this Order; if the 30th day falls on a Saturday, Sunday or state holiday, the petition must be received by the State Water Board by 5:00 pm on the next business day. The law and regulations applicable to filing petitions are available on the [State Water Board website](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) (http://www.waterboards.ca.gov/public_notices/petitions/water_quality). Copies will also be provided upon request.

Accessibility and Language Needs

The meeting facility will be accessible to persons with disabilities and persons with interpreter needs. Individuals requiring special accommodations or interpreter services are requested to contact **CJ Jasieniecki** at (760) 346-7494 or cj.jasieniecki@waterboards.ca.gov at least 10 business days prior the scheduled meeting to notify us that you will be utilizing these services. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

General and Item-Specific Inquiries

For general inquiries, or agenda items where no staff contacts are provided, please contact **CJ Jasieniecki** at (760) 346-776-7494 or (cj.jasieniecki@waterboards.ca.gov). For agenda items, inquiries should be directed to the **staff contact** at the email address provided.