

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

AGENDA

Wednesday, November 10, 2010
9:00 a.m.

City of Temecula
Council Chambers
43200 Business Park Drive
Temecula, 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, October 26, 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, November 2, 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, October 26, 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: September 8, 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.

Consent Item: Item 5 is considered a non-controversial issue. (NOTE: If there is public interest, concern or discussion regarding this consent item or a request for a public hearing, then the item will be removed from consent and considered after all other agenda items have been completed.)

5. Administrative Assessment of Civil Liability, City of Escondido, Hale Avenue Resource Recovery Facility, Mandatory Minimum Penalty for violations of Order No. R9-2005-0139. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$6,000 mandatory minimum penalty recommended in Complaint R9-2010-0132 for violations of effluent limitations prescribed in Waste Discharge Requirements Order No. R9-2005-0139, Hale Avenue Resource Recovery Facility Brine Discharge. The San Diego Water Board may approve, modify, 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 R9-2010-0144) (*Frank Melbourn*)

Remainder of the Agenda (Non-Consent Items):

6. Reissuance of NPDES Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) draining the County of Riverside, the incorporated cities of Riverside County, and the Riverside County Flood Control and Water Conservation District, within the San Diego Region. The Board will hear comments and consider adoption of Tentative Order No. R9-2010-0016. (*Chad Loflen, Ben Neill, Wayne Chiu*)
7. Resolution Endorsing the Southern California Salinity Coalition's and San Diego County Water Authority's *Proposed Guidelines Salinity/Nutrient Management Planning in the San Diego Region (9)* dated September 1, 2010. (Tentative Resolution No. R9-2010-0125) (*Robert Pierce*)
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) (*Christopher Means*)
9. *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. *Surfrider Foundation v. California Regional Water Quality Control Board -- San Diego Region and California State Water Resources Control Board; (Cabrillo Power I, LLC, Real Party-in-Interest)*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37 2007-00069621-CU-PT-CTL (filed July 2007). (*Brian Kelley*)
- c. *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*)
- d. *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*)

- e. *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*)
- f. *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*)
- g. *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

- h. Petition of NRDC, Inc. (Waste Discharge Requirements Order No. R9-2007-001 [NPDES No. CAS0108758] for Urban Runoff Discharges from the Municipal Storm Systems in the Incorporated Cities of San Diego, San Diego Unified Port District, and San Diego Regional Airport Authority, SWRCB/OCC File A-1830(c), filed February, 2007 (in abeyance).
- i. Petition of Natural Resources Defense Council and San Diego Coastkeeper (Executive Officer Approval of Countywide Model Standard Urban Stormwater Mitigation Plan for Development Applications), SWRCB/OCC File A-2010, filed April 2009 (in abeyance). (*Eric Becker*)
- j. 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*)
- k. 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*)
- l. 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*)

- m. 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*)
 - n. 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). (*Lynn Berlad*)
 - o. 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*)
 - p. Petition of California Independent System Operator Corporation (Order No. R9-2010-0062 Determining No Changes Are Warranted to Order No. R9-2004-0154 (Dynergy South Bay, LLC, South Bay Power Plant, NPDES Permit No. CA0001368) SWRCB/OCC File A-2103, filed June 2010. (*Kristin Schwall*)
 - q. 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*)
 - r. 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, to the City of San Diego, filed October 2010) (*Chiara Clemente*)
10. *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*)
11. *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)]

12. *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)]
13. Approval of Year 2011 Board Meeting Schedule (*David Gibson*)
14. The Board will consider affirming that Vice Chair Grant Destache will preside as Acting Chair at the December 2010 meeting. Alternatively, the Board may conduct an election to select a Chair and Vice Chair to preside at the December 2010 meeting.
15. 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*)
16. Arrangements for Next Meeting and Adjournment
Wednesday, December 14, 2010 - 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.

B. Completed Cleanup Action - 30-day Notice

The San Diego Water Board intends to issue a no further action letter for completion of cleanup of pollutants from leaking fuel storage tanks in Tank Area 9935 and the Rose Creek Storm Water Outfall Basin at Marine Corps Air Station Miramar, California. This notification is made pursuant to California Code of Regulations, Title 23, section 2728. The residual concentrations of fuel constituents in soil and groundwater do not appear to pose a threat to human health or the environment and the unauthorized release case may be closed. Additional details about this case are available on the GeoTracker website at: https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0607391306. Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter in December 2010. (*Cheryl Prowell*)

DIRECTIONS TO MEETING

City of Temecula
43200 Business Park Drive
Temecula, California

From San Diego: I-15 north to Exit 59 – Rancho California Road. Turn LEFT onto Rancho California Road – go 0.5 mi. Turn RIGHT onto Diaz Rd. Turn LEFT onto Rancho Way. Turn RIGHT onto Business Park Drive. City Hall will be on the left.