

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

AGENDA

Wednesday, April 9, 2008
9:00 a.m.

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

The Regional Board requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the Regional Board has the opportunity to fully study and consider written material, comments should be received in the Regional Board's office no later than 5:00 P.M. on Wednesday, March 26, 2008, 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., 20 copies must be submitted for distribution to the Regional Board members and staff. Written material submitted after 5:00 P.M. on Wednesday, April 2, 2008 will not be provided to the Regional Board members and will not be considered by the Regional Board.

PLEASE NOTE THAT SOME ITEMS ON THE AGENDA MAY HAVE BEEN PREVIOUSLY NOTICED WITH EARLIER DEADLINES FOR SUBMITTING WRITTEN COMMENTS. IN THOSE CASES THE EARLIER 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 Regional Board. Type the word "Agenda" in the subject line.

Pursuant to Title 23, California Code of Regulations, Section 648.4, the Regional Board may refuse to admit written testimony into evidence if it is not submitted to the Regional 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 C, attached to this Notice, contains a description of the hearing procedures that will be followed by the Regional Board. Hearings before the Regional Board are normally conducted using procedures that do not include cross-examination. Parties requesting use of more formal procedures must do so in accord with the directions in NOTE C. Any such request, together with supporting material, must be received in the Regional Board's office no later than 5:00 P.M. on Wednesday, March 26, 2008.

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 twenty days prior to the meeting.
3. Minutes of Board Meeting: March 12, 2008.
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:

5. Resolution to Request Funding from the Clean up and Abatement Account: Sediment contamination and eutrophication in coastal wetlands in the San Diego region. (Tentative Resolution No. R9-2008-0029) (*Lilian Busse*)

Remainder of the Agenda (Non-Consent Items):

6. **PUBLIC HEARING:** Total Maximum Daily Loads (TMDLs) for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay. The San Diego Water Board will hear testimony and comments on the proposed TMDLs. The San Diego Water Board will deliberate on and consider adoption of an amendment incorporating the TMDLS into the Basin Plan at a subsequent meeting. (Tentative Resolution No. R9-2008-0027) (*Wayne Chiu*)
7. Poseidon Resources Corporation, Proposed Carlsbad Desalination Project - The Regional Board will consider approval of a Technical Report for Revised Flow, Entrainment, and Impingement Minimization Plan (a Special Study), dated March 6, 2008, which was submitted as required by Order No. R9-2006-0065, NPDES No. CA0109223. (*Brian Kelley*)
8. *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]
The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:

Litigation Filed against the Regional Water Board

- a. *Schutte & Koerting, Inc. and Ametek, Inc. v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region, Verified Petition for Writ of Mandate. San Diego County Superior Court, Case No. GIC 822750 (filed December 2003). (John Anderson)*
- b. *Bajagua, LLC v. California State Water Resources Control Board, California Water*

Quality Control Board, San Diego Region, et al., Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2007-00067722-CU-WM-CTL (filed June 2007). (*John Robertus*)

- c. *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). (*John Odermatt*)
- d. *William G. Dickerson and Heidi Dickerson, Husband and Wife; Larry Gunning and Penelope L. Gunning, Husband and Wife; and Perry & Papenhausen, Inc., a California Corporation v. San Diego Regional Water Quality Control Board, a Public Entity,* Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2007-00075846-CU-WM-CTL (filed September 2007). (*Frank Melbourne*)

Litigation filed by the Regional Water Board against other parties

- e. *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). (*John Robertus*)
9. *Closed Session - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation*
The Regional Board may meet in closed session to initiate or consider initiating litigation against persons who are alleged to have violated the Porter-Cologne Water Quality Control or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] (*John Robertus*)
 10. *Closed Session - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing*
The Regional 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)]

On May 9, 2007, a panel of the Regional Board conducted a panel hearing pursuant to Water Code section 13228.14 to consider the whether to affirm the issuance of Investigative Order R9-2006-044, as amended by Addendum No. 3, concerning the Bradley Park/Old Linda Vista Landfill, San Diego County. The panel may meet in closed session to finalize its proposed decision and order for consideration by a quorum of the Regional Board at a subsequent meeting. This closed session is authorized by Government Code section 11126(c)(3).

11. *Closed Session - Personnel*
The Regional Board may meet in closed session to consider personnel matters involving public employees [Authorized under Government Code Section 11126(a)]
12. Arrangements for Next Meeting and Adjournment
Wednesday, May 14, 2008 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room

9174 Sky Park Court
San Diego, California

Notifications

A. Public Participation 30-day Notice

Proposed UST Remedy – Site 22187, MCB Camp Pendleton

The Site Mitigation & Cleanup Unit has reviewed the “Final 2007 Groundwater Monitoring Report, UST Site 22187, Revision 1, Marine Corps Base Camp Pendleton, California” prepared jointly by Sealaska Environmental Services LLC and Tetra Tech EC, Inc. (SES-TECH) dated February 19, 2008. The consultant evaluated the previously selected biosparging remedy for petroleum hydrocarbon contaminated soil as a result of an unauthorized release from the former underground storage tanks (USTs). The site’s geology indicated biosparging was unlikely to effectively distribute oxygen due to preferential flow paths away from the contamination. Therefore, the consultant recommends source excavation and verification monitoring. The case files including the “Modification to the Corrective Action Plan for UST Sites 1121, 1131, 22187, 2296, 2404, 43302, 53435, H-49” prepared by Parsons dated November 16, 1998 are available for public review by submitting a file review request to the Regional Board office. This public notice fulfills the Regional Board’s obligation to inform the public of the proposed activities contained in the corrective action plan as required by California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Article 11, Section 2728. *(Robert Pierce)*

B. North County Transit District (NCTD) Sprinter Rail Project

On March 4, 2008, the California Regional Water Quality Control Board, San Diego Region (Regional Board) issued Complaint No. R9-2008-0021 to the North County Transit District (NCTD) in the amount of \$685,000 for: 1) failure to implement adequate Best Management Practices and 2) unregulated discharges of sediment to the Municipal Separate Storm Water System (MS4) and waters of the United States.

A public hearing is scheduled for the May 14, 2008 Regional Board meeting. Written comments regarding the allegations contained in Complaint No. R9 2008-0021, and/or acceptance of a waiver of hearing will be accepted through Friday, April 4, 2008. The Regional Board's May 14, 2008 meeting will be at the Regional Board office located at 9174 Sky Park Court, San Diego, California. The meeting will begin at 9:00 a.m. Oral comments for this item may be made during the meeting upon receipt of a request to speak. Additional information pertaining to the matter can be found on the Regional Board's web site at <http://www.waterboards.ca.gov/sandiego/>. For more information regarding this matter please call Mark Alpert at (858) 467- 2963 or by email at malpert@waterboards.ca.gov

C. Workshop for Board Members

State and Regional Board Members will be attending a water education workshop conducted by the Water Education Foundation on April 21 & 22, 2008 at the Holiday Inn on the Bay, 1355 North Harbor Drive, San Diego, California. This workshop for Board Members is hosted by the Water Boards’ Training Academy. A quorum of the State Water Resources Control Board and each of the California Regional Water Quality Control Boards may be in attendance. No voting or other Regional Board business will be conducted at this event.

D. City of Escondido, Hale Ave Waste Water Treatment Plant Notice of Public Hearing: ACL Complaint No. R9-2005-0065

A public hearing on ACL Complaint No. R9-2005-0065 is scheduled for the May 14, 2008 Regional Board meeting. The Complaint recommends imposition of civil liability in the amount

of \$1,797,150 against the City of Escondido for multiple alleged violations of Orders Nos. 93-70; 96-31, as amended; 99-72; and R9-2003-0394; the alleged violations included 393 effluent limit violations subject to mandatory minimum penalties (MMP) under section 13385 of the Water Code; the remainder of the alleged violations were subject to discretionary administrative civil liability (ACL).

Written comments regarding the allegations contained in the Complaint will be accepted through Friday April 4, 2008. The Regional Board's May 14, 2008 meeting will be at the Regional Board office located at 9174 Sky Park Court, San Diego, California. The meeting will begin at 9:00 a.m. Oral comments for this item may be made during the meeting upon receipt of a request to speak. Additional information pertaining to the matter can be found on the Regional Board's web site at <http://www.waterboards.ca.gov/sandiego/>. For more information regarding this matter please call Mark Alpert at (858) 467- 2963 or by email at malpert@waterboards.ca.gov.

DIRECTIONS TO REGIONAL BOARD 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.