



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Diego Region

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA



Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

April 17, 2008

In reply refer to: CA:Reg Mes 330235:fmelbourn
CA:Reg Mes 330267:fmelbourn

Rita Geldert
City Manager
City of Vista
600 Eucalyptus Avenue
Vista, California 92084-6240

Glenn Pruim, P.E.
Public Works Director
City of Carlsbad
1635 Faraday Avenue
Carlsbad, California 92008-7314

Dear Ms. Geldert and Mr. Pruim:

Buena Vista Lagoon Sewage Spill: Administrative Civil Liability Complaint Order No. R9-2007-0099 Public Hearing & Establishment of Hearing Deadlines

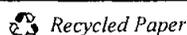
The California Regional Water Quality Control Board, San Diego Region (Regional Board), having rejected an offer to settle liability proposed in Administrative Civil Liability Complaint Order No. R9-2007-0099 against the Cities of Carlsbad and Vista on March 12, 2008, has scheduled a public hearing on the Complaint for the June 11, 2008, Regional Board Meeting. The meeting will be held at the Regional Board office at 9174 Sky Park Court, Suite 100, San Diego, California 92123. The Regional Board meeting is scheduled to begin at 9 a.m.

If the Cities intend to present any written exculpatory or mitigatory evidence in response to ACL Complaint No. R9-2008-0099, it must be received by 5 p.m. on May 21, 2008, in order to be considered by the Regional Board at the public hearing. If the submitted written material is more than five (5) pages or contains foldouts, color graphics, maps, etc., please submit twenty (20) hard copies and one (1) electronic copy in a text searchable Optical Character Recognition (OCR) Portable Document Format (PDF) for distribution to Regional Board Members, Staff, and the public via posting on the Regional Board's website. Written material submitted after 5 p.m. on May 21, 2008, will not be provided to the Regional Board Members, and will not be considered.

I have also enclosed the standardized notes from the Regional Board Agenda. The notes contain important information on the hearing procedures and procedural due process afforded the Cities. Finally, an agenda for the June 11, 2008, Regional Board Meeting will be mailed to you approximately ten days prior to the meeting.

Please contact Mr. Frank Melbourn of my staff at (858) 467-2973 or by e-mail at fmelbourn@waterboards.ca.gov if you have any questions concerning this matter. The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please

California Environmental Protection Agency



4/18/2008

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Rita Geldert, City of Vista
Glenn Pruim, City of Carlsbad
June 2008 Hearing & Submittal Deadlines

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April 17, 2008

include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Respectfully,


MICHAEL P. McCANN
Assistant Executive Officer

MJA:mja:ftm

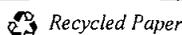
Enclosure: Regional Board Meeting Agenda Notes

Copies with enclosures to:

1. Paul Alberton, M.D., pgmamd@adelphia.net
2. Regg Antle, M.D., reggantle@cox.net
3. Mystie Bollaert, 5410 Sunny Creek Rd., #101, Carlsbad, CA 92010
4. John Brooks, U.S. Fish & Wildlife Service, 185 W. F St., #440, SD, CA 92101
5. Ann Chavez, chav7302@aol.com
6. Cari Dale, Carlsbad Municipal Water District, cdale@ci.carlsbad.ca.us
7. Shirley Erdag, erdag@sbcglobal.net
8. Marco Gonzalez, Esq., Coast Law Group LLP, marco@coastlawgroup.com
9. Ken Greenberg, U.S. EPA, Region 9, greenberg.ken@epa.gov
10. Mary Ellen Gregg, megregg@roadrunner.com
11. Michael Hogan, Encina Wastewater Authority, mhogan@encinajpa.com
12. Richard Hoppe, rpah@sbcglobal.net
13. Stephanie Jackel, sjackel@cox.net
14. Ronald Kemp, Esq., City of Carlsbad, Rkemp@ci.carlsbad.ca.us
15. Mo Lahasia, City of Oceanside, mlahsaie@ci.oceanside.ca.us
16. Keith Merkel, Merkel & Associates, Inc., kmerkel@merkelinc.com
17. CJ Di Mento, savebvloppenspace@cox.net
18. George Petri, villaricci@sbcglobal.net
19. Darold Pieper, Esq., City of Vista, dpieper@ci.vista.ca.us
20. Larry Pierce, P.E., City of Vista, lpierce@ci.vista.ca.us
21. Mark Stone, Carlsbad Municipal Water District, mston@ci.carlsbad.ca.us
22. Sharon Taylor, DVM, PhD, U.S. Fish & Wildlife Service, Sharon.Taylor@fws.gov
23. Warren Wong, CA Dept. of Fish & Game, wwong@dfg.ca.gov
24. Ron Wooton, Buena Vista Lagoon Foundation

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Agenda Notice for April 9, 2008

For formal hearings, designated parties must submit witness testimony prior to the hearing date. During the formal hearing, witnesses will be allowed a limited time to orally summarize the pertinent points of their testimony. Designated parties requesting a formal hearing must submit 20 copies of the following information to the Regional Board.

This information must be received in the Regional Board's Office by the date indicated on the first page of this Agenda Notice for the submission of a request for formal hearing:

- Witness testimony;
- The name of each proposed witness and the order in which witnesses will be called;
- A description/summary of what each witness' testimony is intended to prove; and,
- Identification of material factual issues in the dispute.

When a hearing is conducted using formal procedures, participants will be determined to be either "designated parties" or other "interested persons". Only designated parties will have the right to cross-examine witnesses. Interested persons do not have a right to cross-examination, but may ask the Regional Board to clarify testimony.

Designated parties automatically include the Regional Board and any person to whom an order is addressed (i.e., the Discharger(s)). All other persons wishing to testify or provide comments at a formal hearing are interested persons. An interested person may request status as a designated party for purposes of the formal hearing. A request must be received in the Regional Board's Office by the date indicated on the first page of this Agenda Notice for the submission of a request for formal hearing. The request must explain the basis for status as a designated party and, in particular, how the person is directly affected by the possible actions of the Regional Board.

For any hearing (formal or informal) the Chair will allocate time for each party to present testimony and comments and to question other parties if appropriate. Interested parties will generally be given 3 minutes for their comments. Where speakers can be grouped by affiliation or interest, such groups will be asked to select a spokesperson. The Chair may allocate additional time for rebuttal or for a closing statement. Time may be limited due to the number of persons wishing to speak on an item, or the number of items on the Board's agenda, or for other reasons.

All persons testifying must state their name, address, affiliation, and whether they have taken the oath before testifying. The order of testimony for hearings generally will be as follows, unless modified by the Regional Board Chair:

- Testimony of Regional Board staff
- Testimony of discharger
- Testimony of other designated parties
- Testimony of interested persons
- Closing statement by designated parties other than discharger
- Closing statement by discharger
- Closing statement by staff
- Recommendation by Executive Officer (as appropriate)
- Close public hearing
- Deliberation and voting by Regional Board
includes cross examination if formal hearing

NOTES:

A. GENERAL STATEMENT

The primary duty of the Regional Board is to protect the quality of the waters within the region for all beneficial uses. This duty is implemented by formulation and adopting water quality plans for specific ground or surface water basins and by prescribing and enforcing requirements on all domestic and industrial waste discharges. Responsibilities and procedures of the Regional Water Quality Control Board come from the State's Porter-Cologne Water Quality Act and the Nation's Clean Water Act.

The purpose of the meeting is for the Board to obtain testimony and information from concerned and affected parties and make decisions after considering the recommendations made by the Executive Officer.

B. CONSENT CALENDAR

All the items appearing under the heading "Consent Calendar" will be acted upon by the Board by one motion without discussion, provided that any Board member or other person may request that any item be considered separately and it will then be taken up at a time as determined by the Chairman.

Any person may request a hearing on an item on the Consent Calendar. If a hearing is requested, the item will be withdrawn and the hearing will be held at the end of the regular agenda.

C. HEARING PROCEDURES

Hearings before the San Diego Regional Board are not conducted pursuant to Chapter 5 of the California Administrative Procedure Act, commencing with Section 11500 of the Government Code. Regulations governing the procedures of the regional boards are codified in Chapter 1.5, commencing with Section 647, of the State Water Resources Control Board regulations in Division 3 of Title 23 of the California Code of Regulations.

Testimony and comments presented at hearings need not conform to the technical rules of evidence provided that the testimony and comments are reasonably relevant to the issues before the Board. Testimony or comments that are not reasonably relevant, or that are repetitious, will be excluded. Cross-examination may be allowed by the Chairman as necessary for the Board to evaluate the credibility of factual evidence or the opinions of experts. Video taped testimony by witnesses who are not present at the hearing will not be accepted unless such testimony was subject to cross-examination by all designated parties¹.

Pursuant to Government Code § 11445.20, the Board will use an informal hearing procedure, which does not include the right of cross-examination. Failure to make a timely objection to the use of an informal procedure, in accord with the directions below, will constitute consent to the informal hearing (See Title 23, California Code of Regulations, Section 648.7). Even with a timely objection, an informal procedure may be used under the circumstances identified in Government Code § 11445.20 (a) (b) or (d).

¹ This does not preclude the use of videotape to present graphic images, provided that the person who took the videotape is available for questioning; this is intended to apply to spoken testimony of witnesses who are not available for cross-examination at the hearing.

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Closing statements shall be for the purpose of summarization and rebuttal, and are not to be used to introduce new evidence or testimony, or to restate direct testimony. After considering evidence, testimony, and comments, the Regional Board may choose to adopt an order regarding a proposed agenda item. All Regional Board files, exhibits, and agenda material pertaining to items on the agenda are made a part of the record. Persons wishing to introduce item exhibits (i.e., maps, charts, photographs) must leave them with the Regional Board's Executive Assistant and must provide sufficient copies for distribution to the Regional Board, designated parties, and interested persons. Photographs or slides of large exhibits are acceptable.

D. CONTRIBUTIONS TO REGIONAL BOARD MEMBERS

Persons applying for or actively supporting or opposing waste discharge requirements or other Regional Board orders must comply with legal requirements if they or their agents have contributed or proposed to contribute \$250 or more to the campaign of a Regional Board member for elected office. Contact the Regional Board for details if you fall into this category.

E. PROCEDURAL INFORMATION

The Regional Board may meet in closed session to deliberate on a decision to be reached based upon evidence introduced in an adjudicatory hearing [Authority: Government Code 11126(d)]; or to consider the appointment, employment or dismissal of a public employee to hear complaints or charges brought against a public employee [Authority: Government Code Section 11126(a)].

The Regional Board may break for lunch at approximately noon at the discretion of the Chairman. During the lunch break Regional Board members may have lunch together. Regional Board business will not be discussed.

Agenda items are subject to postponement. A listing of postponed items will be posted in the meeting room. You may contact the designated staff contact person in advance of the meeting day for information on the status of any agenda item.

Speaker Cards. All persons desiring to address the Regional Board are required to fill out a speaker card. Cards are normally provided near the entrance to the meeting room. Regional Board staff can assist you in locating the cards.

Please fill out a separate card for each item you plan to speak on. All relevant sections, including the oath, must be completed. Please use the appropriate color card, as indicated below:

Blue: Public Comments (for items requiring no Regional Board action - Public Forum, status reports, etc.).

Green: Public Testimony, in support of the tentative action.

Pink: Public Testimony, opposed to the tentative action.

F. AVAILABILITY OF EXECUTIVE OFFICER'S REPORT AND AGENDA MATERIAL

Visit our website at www.waterboards.ca.gov/sandiego to view the Executive Officer's Report over the internet two days prior to the Regional Board meeting. A copy can also be obtained by contacting the staff office. A limited number of copies are available at the meeting.

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Details concerning other agenda items are available for public reference during normal working hours at the Regional Board's office. The appropriate staff contact person, indicated with the specific agenda item, can answer questions and provide additional information. For additional information about the Board, please see the attached sheet.

G. PETITION OF REGIONAL BOARD ACTION

Any person affected adversely by a decision of the California Regional Water Quality Control Board, San Diego Region (Regional Board) may petition the State Water Resources Control Board (State Board) to review the decision. The petition must be received by the State Board within 30 days of the Regional Board's meeting at which the adverse action was taken. Copies of the law and regulations applicable to filing petitions will be provided upon request.

NOTE: If the State Board accepts a petition for review, the Regional Board will be required to file the record in the matter with the State Board. The costs of preparing and filing the record are the responsibility of the person(s) submitting the petition. The Regional Board will contact the person(s) submitting a petition and inform them of the payment process and any amounts due.

H. HEARING RECORD

Material presented to the Board as part of testimony (e.g. photographs, slides, charts, diagrams etc.) that is to be made part of the record must be left with the Board. Photographs or slides of large exhibits are acceptable.

All Board files, exhibits, and agenda material pertaining to items on this agenda are hereby made a part of the record.

I. ACCESSIBILITY

The facility is accessible to people with disabilities. Individuals who have special accommodation or language needs, please contact Ms. Lori Costa at (858) 467-2357 or lcosta@waterboards.ca.gov at least 5 working days prior to the meeting. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

J. PRESENTATION EQUIPMENT

Providing and operating projectors and other presentation aids are the responsibilities of the speakers. Some equipment may be available at the Board Meeting; however, the type of equipment available will vary dependent on the meeting location. Because of compatibility issues, provision and operation of laptop computers and projectors for Power Point presentations will generally be the responsibility of the individual speakers. To ascertain the availability of presentation equipment please contact Ms. Lori Costa at (858) 467-2357 or lcosta@waterboards.ca.gov at least 5 working days prior to the meeting.