



# California Regional Water Quality Control Board San Diego Region



Linda S. Adams

Secretary for

Environmental Protection

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## NOTICE OF SETTLEMENT CONFERENCE FOR

**Tentative Cleanup and Abatement Order No. R9-2005-0126**

**May 16, 2008, Friday  
9:00 a.m.**

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

### **BACKGROUND**

The Presiding Officer for the pre-hearing proceedings in Tentative Cleanup and Abatement Order No. R9-2005-0126 conducted the 3<sup>rd</sup> Pre-Hearing Conference on April 25, 2008. At the 3<sup>rd</sup> Pre-Hearing Conference, the Designated Parties in attendance consented to participate in a settlement conference to attempt to resolve the cleanup levels issue in the proceeding.

### **SETTLEMENT CONFERENCE**

The Settlement Conference will be convened on **May 16, 2008, at 9 a.m.** at the Regional Board office, Regional Board Meeting Room in San Diego. The Presiding Officer intends to conduct the Settlement Conference on behalf of the Regional Board. Designated Parties are directed to have the following representatives attend: a principal, a technical expert, and an attorney. The principal shall have either decision-making authority or the authority to negotiate and to effectively recommend settlement to the decision-maker. Additional representatives of the Designated Parties may also attend. Representatives should be prepared to attend the settlement conference for the entire day, with a break for lunch.

The Designated Parties, including the Cleanup Team, must exchange settlement conference briefs with each other and the Advisory Team no later than **5:00 p.m. on May 13**. The briefs shall be no longer than five pages double-spaced. Each brief must

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contain a specific proposal related to establishing the cleanup levels, accompanied by the rationale for the proposal. The briefs shall also address the Cleanup Team's proposed alternative cleanup levels contained in Finding No. 33 of the Revised Tentative Cleanup and Abatement Order No. R9-2005-0126 as posted on April 4, 2008.

In addition, each Designated Party, including the Cleanup Team, shall provide the Presiding Officer with a confidential settlement memorandum at the Settlement Conference. The confidential settlement memoranda shall be no longer than two pages double-spaced. The Presiding Officer will return the confidential settlement memorandum to the Designated Party at the settlement conference. The confidential settlement memoranda will not be distributed to the other Designated Parties, and copies will not be made of the confidential settlement memoranda.

### **CONFIDENTIALITY OF COMMUNICATIONS**

Communications made in the course of the settlement conference are protected in accordance with Government Code section 11420.30. The Settlement Conference will **not** be open to the public in order to maintain the confidentiality of the settlement discussions; only Designated Parties will be permitted to attend (see Government Code section 11425.20(c)). The settlement conference will not be recorded. Additional settlement conferences may be scheduled if warranted.

### **WAIVER OF OBJECTIONS TO PRESIDING OFFICER SERVING AS MEDIATOR**

As explained during the 3<sup>rd</sup> Pre-Hearing Conference, David King, the Presiding Officer for the pre-hearing proceedings, intends to conduct the settlement conference as mediator, with the assistance of the Advisory Team (John Robertus, Mike McCann, Frank Melbourn, Catherine George, and Phil Wyels). Mr. King's role will be to encourage and facilitate the resolution of the cleanup levels issue. As such, the Mr. King and the Advisory Team will receive ex parte communications made during the course of the settlement conference. Mr. King and the Advisory Team will protect these communications and not share them with the remaining Regional Board Members, the Designated Parties, or the public. All Designated Parties will be asked to sign a waiver of the ex parte rules for Mr. King and the Advisory Team for the purposes of communications during this and any subsequent settlement conferences only. The Designated Parties will also be asked to authorize Mr. King to act as mediator for this and any subsequent settlement conferences, and to continue to act as a decision-making Regional Board Member for the adjudicatory proceeding. Similarly, the Designated Parties will be asked to authorize the Advisory Team to assist Mr. King for this and any subsequent settlement conferences, and to continue to advise the Regional Board in the adjudicatory proceeding. Any Designated Party objecting to this

arrangement shall file its objection, the basis for its objection, and a proposal to resolve its objection no later than **5:00 p.m. on May 5, 2008.**

**IF YOU HAVE ANY QUESTIONS**

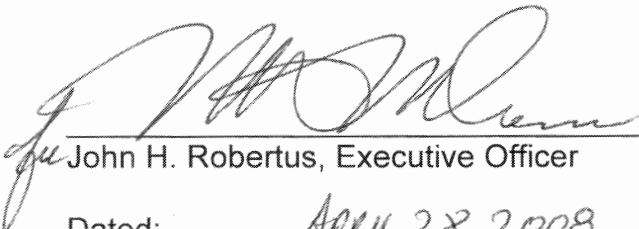
Questions concerning the Settlement Conference may be addressed to Phil Wyels at [pwyels@waterboards.ca.gov](mailto:pwyels@waterboards.ca.gov) or (916) 341.5178.

**Directions to Regional Board Settlement Conference**

Regional Water Quality Control Board  
9174 Sky Park Court  
San Diego, CA 92123  
Main Telephone Number 858-467-2952

From Downtown: I-15 north - take the Aero Drive exit - turn left (west). Proceed to the 3<sup>rd</sup> 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 right into the parking lot.

From the North: I-15 south - take Balboa Avenue exit - turn right (west). Proceed to the 2<sup>nd</sup> 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 right into the parking lot.



John H. Robertus, Executive Officer

Dated: April 28, 2008