

California Regional Water Quality Control Board
San Diego Region

Tentative Cleanup and Abatement Order R9-2005-0126

WAIVER OF EX PARTE RULES AND OBJECTIONS TO PRESIDING OFFICER
SERVING AS MEDIATOR DURING SETTLEMENT CONFERENCE(S)

TO: DESIGNATED PARTIES DISTRIBUTION LIST

DATE: May 9, 2008

As explained during the third pre-hearing conference held on April 25, 2008, David King, the Presiding Officer for the pre-hearing proceedings in Tentative Cleanup and Abatement Order No. R9-2005-0126, will conduct the settlement conference scheduled for May 16, 2008, and any subsequent settlement conferences, as a mediator. Mr. King's role will be to encourage and facilitate the resolution of the cleanup levels issue as described in the Second Amended Order of Proceedings for the Pre-Hearing Conference Proceedings, dated May 2, 2008.

The Notice of Settlement Conference dated April 28, 2008, established a deadline of 5 p.m. on May 5 for objections (1) to Mr. King acting as a mediator during the upcoming settlement conference and subsequent settlement conferences and continuing to act as a decision-making Regional Board member during the adjudicatory proceeding and/or (2) to Advisory Team members assisting Mr. King during this and any subsequent settlement conferences and continuing to advise the Regional Board during the adjudicatory proceeding.

By the deadline, the Advisory Team received three separate objections from Designated Parties objecting to the Advisory Team members assisting Mr. King during this and any subsequent settlement conference and continuing to advise the Regional Board during the adjudicatory proceeding. No Designated Party objected to Mr. King acting as a mediator during the upcoming settlement conference and subsequent settlement conferences and continuing to act as a decision-making Regional Board member during the adjudicatory proceeding.

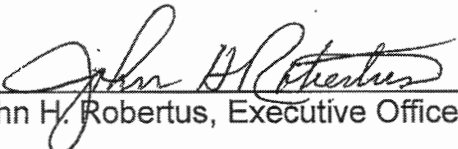
As indicated in the Notice of Settlement Conference, the Designated Parties are asked to sign a waiver of the ex parte rules for Mr. King for purposes of communications during this and subsequent settlement conferences only. In accordance with the terms of the waiver, Mr. King will receive ex parte communications made during the course of the settlement conference(s) but will protect these communications and not share them with the remaining Regional Board Members, the Designated Parties, the Advisory Team or the public.

Waiver of Ex Parte Rules and Objections to
Presiding Officer Serving as Mediator During
Settlement Conference(s)

May 9, 2008

No later than **5 p.m. on May 14, 2008**, the Designated Parties are requested to complete the attached waiver and submit it to the Advisory Team.

Questions concerning the Settlement Conference or the attached waiver may be addressed to Phil Wyels at pwyles@waterboards.ca.gov or (916) 341-5178 or Catherine George at cgeorge@waterboards.ca.gov or (858) 467-2958.



John H. Robertus, Executive Officer

Dated: 5/9/2008

**WAIVER OF EX PARTE RULES AND OBJECTIONS TO PRESIDING OFFICER
SERVING AS MEDIATOR IN PRE-HEARING PROCEEDINGS, TENTATIVE
CLEANUP AND ABATEMENT ORDER R9-2005-0126**

I, _____, in my capacity as representative for _____, a Designated Party to the Tentative Cleanup and Abatement Order No. R9-2005-0126 Proceedings, hereby waive otherwise applicable *ex parte* rules as set forth in the Administrative Procedures Act, Chapter 4.5 of the Government Code, and all objections to the participation of David King, Presiding Officer for the Pre-hearing Proceedings, as mediator for purposes of conducting the settlement conference scheduled for May 16, 2008 and any subsequent settlement conference that may be noticed in this proceeding and his subsequent participation as a decision-making Regional Board Member in any related adjudicative proceedings to consider Tentative Cleanup and Abatement Order No. R9-2005-0126. This agreement is made with the express understanding that Mr. King's role will be to encourage and facilitate the resolution of the cleanup levels stage in this proceeding and that Mr. King will protect these communications and not share them with the remaining Regional Board members, other Designated Parties, the Advisory Team, or members of the public.

I am duly authorized to execute this waiver of *ex parte* rules and other objections to Mr. King's participation as described above on behalf of

_____.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

Date: