

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

AGENDA

Wednesday, February 11, 2009
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, January 28, 2009,* 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, February 4, 2009 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 OR MAY HAVE A SEPARATE HEARING PROCEDURES DOCUMENT THAT ESTABLISHES DIFFERENT DEADLINES FOR SUBMITTING WRITTEN MATERIALS. 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, refers to the procedures that will be followed by the Regional 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 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, January 28, 2009.

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: January 21, 2009.
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: Items 5 is considered a non-controversial issue. (NOTE: If there is public interest, concern or discussion regarding this 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, Studio 15 Housing Partners, Studio 15 Construction Dewatering. The Regional Board will consider adoption of a tentative Order that would impose a \$42,000 mandatory minimum penalty recommended in Amended Complaint R9-2008-0121 for violations of effluent limitations prescribed in Order 2000-90, NPDES No. CAG919001, General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto. The Regional Board may approve, modify, or reject assessment of the recommended penalty. If the Regional Board rejects the tentative Order, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order R9-2009-0022) *(Frank Melbourn)*

Remainder of the Agenda (Non-Consent Items):

6. Poseidon Resources Corporation, Proposed Carlsbad Desalination Project (Order No. R9-2006-0065, NPDES No. CA0109223). The Regional Board will consider whether the Marine Life Mitigation Plan (MLMP) dated November 14, 2008, satisfies the conditions established in Resolution No. R9-2008-0039, Conditional Approval of Revised Flow, Entrainment, and Impingement Minimization Plan for Poseidon Resources Corporation Carlsbad Desalination Project (Resolution), or whether failure to satisfy the conditions has rendered the Resolution inoperative by its own terms. The Regional Board may also provide direction to staff concerning future actions related to this Project. *(Michelle Mata)*
7. CONSIDERATION OF SETTLEMENT: City of Escondido, Hale Avenue Resource Recovery Facility: Administrative Assessment of Civil Liability against the City of Escondido for Violations of Order No. 99-72, NPDES No. CA0107981, Waste Discharge Requirements for the City of Escondido, Hale Avenue Resources Recovery Facility, Discharge to the Pacific Ocean Via the Escondido Land Outfall and the San Elijo Ocean Outfall and Order No. R9-2003-0394, NPDES No. CA0108944, Waste Discharge Requirements for the City of Escondido, Hale Avenue Resource Recovery Facility,

- Intermittent Wet Weather Discharge to Escondido Creek, San Diego County. The Regional Board will consider a proposed settlement in response to Administrative Civil Liability Complaint No. R9-2005-0265. If the Regional Board rejects the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order No. R9-2009-0003) (*Rebecca Stewart*)
8. NPDES Permit Revision: Dynegy South Bay, LLC, South Bay Power Plant wastewater discharge to the San Diego Bay, San Diego County, Order No. R9-2004-0154, NPDES No. CA0001368 (Order). The Regional Board will consider revising the effluent limitations for copper using a new translator and revising monitoring requirements contained in the Order. Today's action is limited to the portions of Order No. R9-2004-0154 specified in the proposed revisions. No other portions of the Order are being considered for revision at this time. (Tentative Resolution No. R9-2009-0006) (*Vicente Rodriguez*)
 9. A public hearing will be held to consider the issuance of Tentative Cleanup and Abatement Order (CAO) No. R9-2008-0152. The proposed CAO would be issued to Dr. William & Lori Moritz for the alleged unauthorized discharge of fill to an unnamed, ephemeral stream that is tributary to Rattlesnake Creek and ultimately Poway Creek in violation of Sections 13260(a) and 13264(a) of the California Water Code, and waste discharge prohibitions 1, 3, and 14 contained in the in the Water Quality Control Plan for the San Diego Basin. (*Christopher Means*)
 10. Administrative Assessment of Civil Liability, America Plaza Owners Association, One America Plaza Dewatering. The Regional Board will consider adoption of a tentative Order that would impose \$12,000 in civil liability recommended in Complaint R9-2008-0127 for violations of effluent limitations prescribed in Order 2000-90, NPDES No. CAG919001, General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto. The Regional Board may approve, modify, or reject assessment of the recommended penalty. (Tentative Order R9-2009-0019) (*Rebecca Stewart*)
 11. Master Reclamation Permit with Waste Discharge Requirements for the United States Marine Corps: Discharges of Reclaimed Water for Landscape Irrigation at Marine Corps Base Camp Pendleton, California (Tentative Order No. R9-2009-0021) (*Robert Pierce*)
 12. Administrative Assessment of Civil Liability, Ametek Inc., Former Ametek/Ketema Aerospace Manufacturing Facility, 790 Greenfield Drive, El Cajon, California. The Regional Board will consider adoption of a tentative Order that would impose a \$2,269,000 penalty recommended in Complaint No. R9-2008-0033 for the alleged violations of Cleanup and Abatement Order No. R9-2002-0201. The Regional Board may approve, modify, or reject assessment of the recommended penalty. (Tentative Order No. R9-2009-0024) (*Laurie Walsh/John Anderson*)
 13. *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:
 - 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). (John Robertus)

- 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. *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)*
 - d. *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)*
 - e. *Surfrider Foundation v. California Regional Water Quality Control Board -- San Diego Region, (Poseidon Resources, Real Party-in-Interest), Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2008-00091983-CU-WM-CTL (filed September 2008). (Michelle Mata)*
14. **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 Act or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] *(John Robertus)*
 15. **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)]
 16. **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)]
 17. **Arrangements for Next Meeting and Adjournment**
Wednesday, March 11, 2009 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court

San Diego, California

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.