

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

# MEETING NOTICE AND AGENDA

**November 9, 2011, 10:00 a.m., and  
November 14, 15, 16, 2011  
9:00 a.m.**

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

The purpose of this meeting is for the San Diego Water Board to obtain testimony and information from concerned and affected persons and to make decisions based on the information received. Persons who want to submit written comments or evidence on any agenda item must comply with the procedures described in the agenda and agenda notes. Persons wishing to speak at the meeting should complete an attendance card (see Note F, attached to this Notice). The San Diego Water Board requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the San Diego Water Board members and staff have the opportunity to fully study and consider written material, and in accordance with the September 16, 2011, Notice of Public Hearing for Tentative Order No. R9-2011-0001 and the Final Environmental Impact Report (available at [http://www.waterboards.ca.gov/sandiego/public\\_notices/hearings/Other/docs/public\\_hearing\\_notice.pdf](http://www.waterboards.ca.gov/sandiego/public_notices/hearings/Other/docs/public_hearing_notice.pdf)), the deadline for written submissions from Interested Persons and Designated Parties other than the San Diego Water Board Cleanup Team was 5 p.m. on October 19, 2011. Written material submitted after 5:00 P.M. on Wednesday, October 19, 2011, will not be provided to the Board members and may not be considered by the San Diego Water Board (See Note D, attached to this Notice).

Pursuant to Title 23, California Code of Regulations, section 648.4, the San Diego Water Board may refuse to admit written testimony or evidence into the record if it is not submitted to the San Diego Water Board in a timely manner and shall refuse to do so if admitting it would prejudice any party or the board, unless the proponent demonstrates that compliance with the deadline would create an unreasonable hardship.

NOTE D, attached to this Notice, refers to the procedures that will be followed by the San Diego Water Board in contested adjudicatory matters if a separate Hearing Procedures Document has not been issued for a particular agenda item. Items 5 and 6 on this agenda will be conducted in accordance with the September 16, 2011, Notice of Public Hearing and any revisions thereto.

Panel Hearing As provided in the September 16, 2011, Notice of Public Hearing, if a quorum of the San Diego Water Board is not present during the scheduled hearing dates for Items 5 and 6 for any reason, a panel of board members will conduct the hearing pursuant to Water Code section 13228.14.

**Copies of the agenda items to be considered by the San Diego Water Board are**

posted on the San Diego Water Board's website at  
[http://www.waterboards.ca.gov/sandiego/board\\_info/agendas](http://www.waterboards.ca.gov/sandiego/board_info/agendas)

*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: Public Forum will only be held on **November 9, 2011**. 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: October 12, 2011.
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.
5. Public Hearing: Consideration of Resolution No. R9-2011-0072, Certification Pursuant to the California Environmental Quality Act, of the Final Environmental Impact Report, for the San Diego Bay Shipyard Remediation Project, including Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program, Tentative Cleanup and Abatement Order No. R9-2011-0001 and Draft Technical Report, San Diego County. Note: Item 5 may be considered with Item 6, below, but will be acted upon first. **TIME CERTAIN: THE SAN DIEGO WATER BOARD WILL HEAR COMMENTS FROM INTERESTED PERSONS/PUBLIC ON THIS ITEM AT 5:00 P.M. ON NOVEMBER 9, 2011. INTERESTED PERSONS PRESENT AND WISHING TO SPEAK PRIOR TO 5:00 P.M. MAY BE HEARD EARLIER AT THE CHAIR'S DISCRETION.** *(Frank Melbourne)*
6. Public Hearing: Consideration of Tentative Cleanup and Abatement Order No. R9-2011-0001 and Draft Technical Report, naming as Dischargers BAE Systems San Diego Ship Repair, Inc., Campbell Industries, City of San Diego, National Steel and Shipbuilding Company, San Diego Gas & Electric Company, San Diego Unified Port District, Star & Crescent Boat Company, and United States Navy, for the San Diego Bay Shipyard Sediment Cleanup Project, San Diego County. The San Diego Water Board may adopt, modify or reject the Tentative Order or may continue the hearing or action on the Tentative Order to December 14, 2011, or some other date. The San Diego Water Board may deliberate on the evidence received during this hearing as provided in the notice of Closed Session, Item 9, below. **TIME CERTAIN: THE SAN DIEGO WATER BOARD WILL HEAR COMMENTS FROM INTERESTED PERSONS/PUBLIC ON THIS ITEM AT 5:00 P.M. ON NOVEMBER 9, 2011. INTERESTED PERSONS PRESENT AND WISHING TO SPEAK PRIOR TO 5:00 P.M. MAY BE HEARD EARLIER AT THE CHAIR'S DISCRETION.** *(Frank Melbourne)*

7. *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]  
The San Diego Water Board may meet in closed session to discuss ongoing litigation for the following cases:

**Civil Actions**

- a. *People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Edward Drusina, 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). (David Gibson)
- b. *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)
- c. *Surfrider Foundation v. California Regional Water Quality Control Board, San Diego Region*, Petition for Writ of Mandate [re: San Diego Water Board's adoption of Order No. R9-2009-0038 amending Order No. R9-2006-0065 for Poseidon Resources (Channelside), LLC, NPDES Permit No. CA0109223, approval of a Flow, Entrainment and Impingement Minimization Plan under the California Water Code]. San Diego County Superior Court, Case No. 37-2010-0009-436-CU-WM-CTL (filed April 2010). (Brian Kelley)
- d. *South Orange County Wastewater Authority and South Coast Water District v. San Diego Regional Water Quality Control Board*, Petition for Writ of Mandate. Los Angeles County Superior Court, Case No. BS133238 (Mandatory Minimum Penalties) (filed April 2010) (Joann Cofrancesco)
- e. *California Regional Water Quality Control Board, San Diego Region v. Bill and Heidi Dickerson, Larry and Penelope Gunning and Perry & Papenhausen, Inc.* Complaint for Damages for Breach of Contract and for Specific Performance. San Diego County Superior Court, Case No. 37-2010-00096011-CU-CO-CTL (filed July 2010) (Jeremy Haas)
- f. *State of California Department of Finance, State Water Resources Control Board, And California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates.* Petition for Writ of Administrative Mandamus. Sacramento County Superior Court, Case No. 34-2010-80000604 (filed July 2010) (Catherine George Hagan)
- g. *South Orange County Wastewater Authority and South Coast Water District v. San Diego Regional Water Quality Control Board*, Petition for Writ of Mandate. Orange County Superior Court Case No. 30-2011-00501106 (Refusal to Modify NPDES Permit) (filed August 2011) (Kristin Schwall)

- h. Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, (NPDES No. CAS0108740) Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of the County of Orange, and the Orange County Flood Control District adopted on December 16, 2009. Test Claim filed by County of Orange, et al., with Commission on State Mandates, No. 10-TC-11 (filed June 2011). (Jessica Newman)*

**Petitions for Review Pending Before State Water Resources Control Board**

- i. Petitions of the National Fireworks Association and Fireworks & Stage FX America Inc., Coastal Environmental Rights Foundation, and San Diego Coastkeeper (General National Pollutant Discharge Elimination System (NPDES) Permit Order No. R9-2011-0022 (NPDES No. CAG999002) for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks), SWRCB/OCC Files A-2164(a)-(c), filed June and July 2011. (Michelle Mata)*
8. *Closed Session - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation*  
The San Diego Water Board may meet in closed session to initiate or consider initiating litigation concerning matters within its jurisdiction or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] *(David Gibson)*
9. *Closed Session - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing*  
The San Diego Water Board may meet in closed session to consider evidence received in an adjudicative hearing and to deliberate on a decision to be reached based upon that evidence [Authorized under Government Code Section 11126(c)(3)]
10. *Closed Session - Personnel*  
The San Diego Water Board may meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing [Authorized under Government Code Section 11126(a)]
11. Arrangements for the Next Meetings and Adjournment  
Wednesday, December 14, 2011 - 9:00 a.m.  
San Diego Water Board  
Regional Board Meeting Room  
9174 Sky Park Court  
San Diego, California

### **NOTIFICATIONS**

**A. Palomar Village Shell, 42197 Margarita Road, Temecula, CA 92591** - The San Diego Water Board intends to issue a no further action letter for cleanup of an unauthorized release of total petroleum hydrocarbons (TPH) from a gas station in Temecula, CA. This public notice fulfills the San Diego Water Board's obligation to inform the public of completed corrective action as required by California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Article 11, section 2728. Soil and groundwater samples were obtained from five hydropunch borings and a monitoring well. Low levels of Total Petroleum Hydrocarbons in the gasoline range, methyl tertiary butyl ether, and tertiary butyl alcohol were detected in soil and groundwater. The current site conditions do not pose a threat to human health or the environment, and the unauthorized release case can be closed. The case files are available for public review by submitting a file review request to the San Diego Water Board office, or on-line from the Geotracker database. For additional information, please visit <http://www.geotracker.waterboards.ca.gov> to obtain recent groundwater and remediation status reports (go to "Advanced Search", type "T0606577401" in the Case ID/Global ID and choose "Search"). Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter after November 10, 2011. (*Susan Pease*)

**B. Completed Cleanup Action - 30-day Notice.** The San Diego Water Board intends to issue a no further action letter for completion of cleanup of pollutants from a leaking underground storage tank (UST) at former Building 53524 at Marine Corps Base Camp Pendleton, California. This notification is made pursuant to California Code of Regulations, Title 23, section 2728. The residual concentrations of fuel constituents in soil do not appear to pose a threat to human health or the environment and the unauthorized release case may be closed. Additional details about this case are available on the GeoTracker website at: [https://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T0607302897](https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0607302897). Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter in November 2011. (*Cheryl Prowell*)

### **DIRECTIONS TO MEETING**

**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 to the right into the parking lot.

**From the North:** I-15 south - take the Balboa Ave. 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 to the right into the parking lot.