



# California Regional Water Quality Control Board

## San Francisco Bay Region



Linda S. Adams  
Secretary for  
Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612  
(510) 622-2300 • Fax (510) 622-2460  
<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger  
Governor

**NOTICE OF PUBLIC HEARING  
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
NO. R2-2008-0064  
ISSUED TO  
CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) – DISTRICT 4  
SANTA CLARA COUNTY**

### **Complaint Amount and Allegations**

The San Francisco Bay Regional Water Quality Control Board (Regional Water Board) Assistant Executive Officer has issued an administrative civil liability complaint (Complaint) proposing a civil liability of \$248,000 against the California Department of Transportation (Discharger) for discharging 155,000 gallons of raw sewage to the Guadalupe River from June 17 to 19, 2006, violating its Statewide Storm Water Permit, and the Basin Plan.

### **Hearing to be Held**

The Regional Water Board will hold a hearing on the Complaint as follows:

Date and Time: December 10, 2008, 9:00 a.m.  
Place: Auditorium, 1515 Clay Street, Oakland

An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Regional Water Board's web page at <http://www.waterboards.ca.gov/sanfranciscobay/>.

### **Discharger May Waive Hearing**

No hearing will be held if the Discharger waives its right to a hearing and agrees to pay the proposed civil liability as set forth in the Complaint, provided no significant public comments are received during the public comment period. At the hearing, the Regional Water Board may affirm, reject, or modify the proposed civil liability or refer the matter to the Attorney General for judicial enforcement.

### **Hearing Procedures are Legally Determined**

This will be an adjudicatory hearing before the Regional Water Board. The purpose of the hearing is to receive relevant evidence and testimony regarding the Complaint. A copy of the procedures governing an adjudicatory hearing before the Regional Water Board may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at <http://www.swrcb.ca.gov> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCR), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the Regional Water Board.

This Notice provides additional requirements and deadlines related to the proceeding and may be amended by the advisory staff as necessary. Failure to comply with the deadlines and

requirements contained herein may result in the exclusion of documents and/or testimony. Any persons objecting to the hearing procedures set forth herein must do so in writing by **November 7, 2008**, to Yuri Won, Advisory Staff Counsel. You may also contact Ms. Won at 510-622-2491 or [ywon@waterboards.ca.gov](mailto:ywon@waterboards.ca.gov) if you have any questions concerning the hearing procedures.

### **Participation in the Hearing**

Participants in this proceeding are designated as either “parties” or “interested persons.” Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Water Board, staff, or others, at the discretion of the Regional Water Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Water Board Prosecution Staff
- (2) California Department of Transportation, referred to as the Discharger

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Water Board (Prosecution Staff) have been separated from those who will provide advice to the Regional Water Board (Advisory Staff). Members of the Advisory Staff are: Mr. Bruce Wolfe, Executive Officer and Ms. Yuri Won, Senior Staff Counsel. Members of the Prosecution Staff are: Mr. Thomas Mumley, Assistant Executive Officer; Ms. Shin-Roei Lee, Watershed Division Chief; Mr. Keith Lichten, Senior Water Resources Control Engineer; Ms. Laurie Taul, Staff Environmental Specialist; Ms. Mayumi Okamoto, Staff Counsel; and Ms. Dorothy Dickey, Senior Staff Counsel. This Notice has been issued by the Advisory Staff based on a draft proposed by the Prosecution Staff.

### **Ex Parte Communications**

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Regional Water Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the Complaint between a member of a designated party or interested party on the one hand, and a Regional Water Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

### **Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have 20 minutes to testify, present evidence, and cross-examine witnesses, and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Additional time may be provided at the discretion of the hearing officer upon a showing that additional time is necessary.

**Written Comment and Evidence Deadline**

The deadline to submit any and all written comments and evidence to be offered at the hearing is **5 p.m. on November 7, 2008**. Materials should be sent to Bruce Wolfe, Executive Officer, with copies to Thomas Mumley and Laurie Taul of the Prosecution Staff at 1515 Clay Street, Suite 1400, Oakland, CA 94612.

**Availability of Evidentiary Documents**

The Complaint and related documents are on file, and may be inspected or copied at the Regional Water Board's offices during weekdays between 8:00 a.m. and 5:00 p.m. The Complaint is also available on the Regional Water Board's website at [www.waterboards.ca.gov/sanfranciscobay](http://www.waterboards.ca.gov/sanfranciscobay). Please refer to this website for future developments and updates, including any hearing date changes. For questions, please contact Laurie Taul at 510-622-2508 or [ltaul@waterboards.ca.gov](mailto:ltaul@waterboards.ca.gov).