

NOTICE OF PUBLIC HEARING
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

NO. R3-2015-0011
ISSUED TO

Carpinteria Sanitary District

NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE REGIONAL WATER QUALITY CONTROL BOARD,
CENTRAL COAST REGION, ON **May 29, 2015**

Background

On March 2, 2015, the Assistant Executive Officer of the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13385 (CWC) against the Carpinteria Sanitary District (Discharger) alleging that it has violated CWC Section 13385 by failing to comply with provisions of Section 301 of the Federal Water Pollution Control Act (33 U.S.C. § 1311) (Clean Water Act), Central Coast Water Board Order No. R3-2011-0003, NPDES Permit No. CA0047364, as described in the administrative civil liability complaint filed herewith. The Complaint proposes that administrative civil liability in the amount of \$96,775 be imposed as authorized by CWC Sections 13385 et seq. Unless the Discharger pays the proposed liability, a hearing will be held before the Central Coast Water Board during its meeting of **May 29, 2015**.

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the hearing, the Central Coast Water Board will consider whether to adopt, modify, or reject the proposed assessment, or whether to refer the matter to the Attorney General's Office to seek recovery of judicial civil liability. If it adopts an assessment, the Central Coast Water Board will issue an Administrative Civil Liability Order.

The public hearing on **May 29, 2015**, will commence no earlier than 9 a.m. or as soon thereafter as practical, or as announced in the Central Coast Water Board meeting agenda. The meeting will be held at the Water Board office located at 895 Aerovista Place, Suite 101, in San Luis Obispo, CA 93401. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Central Coast Water Board's web page at:

www.waterboards.ca.gov/centralcoast .

Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the Central Coast Water Board may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at <http://www.waterboards.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 Central Coast Water Board. This Notice provides additional requirements and deadlines related to the proceeding. THIS NOTICE 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 objections to the procedure set forth in this Notice must be submitted to Tamarin Austin at the address indicated below by **March 25, 2015**.

Hearing Participation

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 Central Coast Water Board, staff or others, at the discretion of the Water Board.

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

- (1) Central Coast Water Board Prosecution Staff
- (2) Carpinteria Sanitary District

Contacts

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Separation of Functions

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 Central Coast Water Board (Prosecution Staff) have been separated from those who will provide advice to the Water Board (Advisory Staff). Members of the Advisory Staff are: Tamarin Austin, Senior Staff Counsel, Ken Harris, Executive Officer, Lisa McCann, Environmental Program Manager, and Jon Rokke, Water Resource Control Engineer. Members of the Prosecution Staff are: David Boyers, Assistant Chief Counsel, Julie Macedo, Senior Staff Counsel, Michael Thomas, Assistant Executive Officer, Todd Stanley, Harvey Packard, Matthew Buffleben, Leo Sarmiento, Jim Fischer and Thea Tryon.

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 Central Coast Water Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Central Coast Water Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties (if written) 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.

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party, and not already listed above, shall request party status by submitting a request in writing (with copies to the designated parties) no later than 5 p.m. on **March 13, 2015**, to Tamarin Austin, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Central Coast Water Board affect the person) and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by 5 p.m. on **March 27, 2015**. The parties will be notified by 5 p.m. on **April 10, 2015**, as to whether the request has been granted or denied.

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 45 minutes to testify, present evidence, and cross-examine witnesses, and 5 minutes for closing statements; 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. Participants who would like additional time must submit their request to the Advisory Team so that it is **received no later than 20 days prior to the hearing, by 5 p.m.** Additional time may be provided at the discretion of the Advisory Team (in advance of the hearing) or hearing officer (during the hearing) upon a showing that additional time is necessary.

Written Evidence, Exhibits and Policy Statements

Designated parties shall submit in writing one paper copy and an electronic file (e.g., pdf via email or CD) of the following information to Tamarin Austin, at the above listed address and 9 paper copies and an electronic file to Ken Harris, Executive Officer, at the above listed addresses, no later than 5 p.m. as described herein:

1. All documentary evidence and exhibits proposed to be offered at the hearing.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness's proposed testimony, and the qualifications of each expert witness.
4. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Water Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

For the Prosecution Team's Initial Production: no later than 5 p.m. on **April 15, 2015**. For the Discharger and each Designated Party's Evidentiary Submission, no later than 5 p.m. on **May 1, 2015**. For the Prosecution's Rebuttal Submission, no later than 5 p.m. on **May 13, 2015**. For every evidentiary deadline, each designated party shall send one electronic copy of the above materials to each of the other designated parties at the address or addresses provided above by 5 p.m. on the deadline described above.

Interested persons are encouraged to submit one (1) copy of non-evidentiary policy statements by the start of the hearing. There is no requirement to submit policy statements in order to speak at the hearing.

In accordance with Title 23, CCR, § 648.4, the Central Coast Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Central Coast Water Board may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will not be considered by the Central Coast Water Board and will not be included in the administrative record for this proceeding. PowerPoint and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team at or before the hearing for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Evidentiary Objections

A designated party objecting to evidence proposed by another party must submit a written objection by 5 p.m. on **May 18, 2015**, to Tamarin Austin, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812, and in electronic format to tamarin.austin@waterboards.ca.gov and a copy to all other designated parties. The Advisory Staff will notify the parties about further action to be taken on such objections.

Evidentiary Documents and File

The complaint and related evidentiary documents are on file and may be inspected or copied at the Central Coast Water Board's office. These documents shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the hearing officer. Many of these documents are also posted on the Central Coast Water Board's website. Although the website is updated regularly, to assure access to the latest information, you may contact the Prosecution Staff.

Questions

Questions concerning this proceeding may be addressed to Tamarin Austin, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812; tel. (916) 341-5171, or by electronic mail, as indicated above.

IMPORTANT DEADLINES

March 2, 2015	ACLC and Proposed Hearing Procedures Issued by Prosecution Team
March 11, 2015	Objections due on draft Hearing Notice
March 13, 2015	Deadline for submission of request for designated party status
March 20, 2015	Advisory Team issues Final Hearing Procedures
March 25, 2015	Objections due on final Hearing Procedures
March 27, 2015	Deadline for opposition to request for designated party status.
April 3, 2015	Discharger's Deadline to submit waiver to right for hearing.

April 10, 2015	Advisory Team issues decision on requests for designated party status, if any.
April 15, 2015:	Prosecution Team's Deadline for submission of evidence and legal argument.
May 1, 2015:	Discharger's Deadline for submission of evidence and legal argument.
May 6, 2015	Interested parties' deadline for submission of non-evidentiary policy statements.
May 13, 2015	Prosecution Team's deadline for submission of rebuttal evidence and legal argument.
May 18, 2015	Deadline for submission of evidentiary objections
May 26, 2015	Rulings on evidentiary objections, if any
May 29, 2015	Hearing Date

Ken Harris,
Executive Officer

March 19, 2015

DATE