

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

# AGENDA

**Wednesday, September 9, 2009**  
**9:00 a.m.**

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

The purpose of this meeting is for the Regional 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 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 noon on Wednesday, August 26, 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., 15 copies must be submitted for distribution to the Regional Board members and staff. Written material submitted after 5:00 P.M. on Tuesday, September 1, 2009 will not be provided to the Regional Board members and may not be considered by the Regional Board (See Note D, attached to this Notice).

***\*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 DIFFERENT 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](mailto: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 D, 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 D. Any such request, together with supporting material, must be received in the Regional Board's office no later than noon on Wednesday, August 26, 2009.

**Copies of the agenda items to be considered by the Regional Board are posted on the Regional 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: 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: July 1, 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.
5. Recognition: Resolution of Appreciation for former Board Members Kris Weber (tentative Resolution No. R9-2009-0154) and Gary Thompson (tentative Resolution No. R9-2009-0155) (*John Robertus*)

***Consent Item: Item 6 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 or at another time during the meeting, at the Chair's discretion.)***

6. Rescission of Waste Discharge Requirements: U.S. Navy Public Works, NASNI Bioremediation Facility; Rainbow Municipal Water District, Plant B; and John Konyyn and Son Dairy (Tentative Order No. R9-2009-0098) (*Cathryn Henning*)

***Remainder of the Agenda (Non-Consent Items):***

7. Report: NPDES Permit application for reissuance of NPDES waste discharge requirements for Dynegy South Bay, LLC, South Bay Power Plant discharge to south San Diego Bay, Chula Vista, California (Order No. R9-2004-0154, NPDES NO. CA0001368). This item will include a discussion on the continued operation of the South Bay Power Plant and the proposed State Water Board Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (*David Barker*)

8. Report: Southern California Bight Regional Monitoring 2008 Update. Bight'08 is a regional monitoring program conducted by a consortium of over 90 local organizations to assess the whole southern California Bight. The Southern California Coastal Water Research Project (SCCWRP) organizes and participates in this integrated and collaborative monitoring effort every 5 years. The Bight'08 effort focuses on the ocean, bays, and estuaries of the bight with particular attention to wetland and riparian areas, watersheds, rocky intertidal habitat, and marine shellfish. *(Bruce Posthumus)*
9. Report: Status of the City of San Diego's Recycled Water Program *(Robert Pierce)*
10. Report: Surface Water Ambient Monitoring Program (SWAMP). The program is a statewide monitoring effort designed to assess the conditions of surface waters throughout the State of California. The SWAMP was established in 2000 by the State Water Resources Control Board pursuant to AB 982. The purpose of the program is to collect information about the status of the physical, chemical, and/or biological characteristics of the environment that is collected to answer specific questions about the status and trends in water quality and/or beneficial uses of water. The SWAMP is implemented primarily by the Regional Boards and focuses on inland surface waters. *(Dave Gibson, Bruce Posthumus, and Cynthia Gorham-Test)*
11. Report: Overview of the Regional Board's Storm Water Program. This overview report will address specific issues and priorities in the Municipal, Construction, and Industrial components of the Board's storm water program. *(David Barker)*
12. Discussion: Regional Board Priorities. The Board intends to consider priorities for the Regional Board in light of the current budget cuts, staff furloughs, and anticipated budget deficit impacts. As part the discussion, the Board may provide guidance and direction to Board staff. *(John Robertus)*
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:

#### **Civil Actions**

- 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. *William and Lori C. Moritz v. California Regional Water Quality Control Board, San Diego Region, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2009-00093097-CU-WM-CTL (filed June 2009) (Christopher Means)*

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

- f. *Petition of San Diego Gas & Electric Company (Reconsideration of Clean Water Act Section 401 Water Quality Certification No. 06C-026 and Waste Discharge Requirements for Discharge of Dredged and/or Fill Materials fo 5393 - SDG&E Access Road Repairs TM 3010, Torrey Pines, San Diego County), SWRCB/OCC File A-1951, filed September 2008. (In abeyance). (Mike Porter)*
  - g. *Petition of Natural Resources Defense Council and San Diego Coastkeeper (Executive Officer Approval of Countywide Model Standard Urban Stormwater Mitigation Plan for Development Applications), SWRCB/OCC File A-2010, filed April 2009 (in abeyance). (Eric Becker)*
  - h. *Petition of San Diego Coastkeeper and Petition of Surfrider Foundation (Order No. R9-2009-0038 (Poseidon Resources Corporation, Carlsbad Desalination Plant, Order Amending Waste Discharge Requirements No. R9-2006-0065 [NPDES No. CA0109223]), SWRCB/OCC File A-2024 and A-2024(a), filed June 2009. (Michelle Mata)*
  - i. *Petition of Department of the Navy (Waste Discharge Requirements Order No. R9-2009-0081 [NPDES No. CA0109185] for the United States Department of the Navy, Naval Base Coronado, San Diego County), SWRCB/OCC File A-2032, filed July 2009. (Vicente Rodriguez)*
  - j. *Petition of South Coast Water District and South Orange County Wastewater Authority (Administrative Civil Liability Order No. R9-2009-0048 for South Orange County Wastewater Authority, South Coast Water District Groundwater Recovery Facility, San Diego County), SWRCB/OCC File A-2035, filed July 2009. (Jeremy Haas)*
  - k. *Petition of La Costa Town Square, LLC (Denial of Clean Water Act section 401 Water Quality Certification, La Costa Town Square Project, Application 09C-043, San Diego County), SWRCB/OCC File A-2039, filed August 2009. (In abeyance.) (Chiara Clemente)*
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 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)]
17. Arrangements for Next Meeting and Adjournment  
Wednesday, October 14, 2009 - 9:00 a.m.  
Water Quality Control Board  
Regional Board Meeting Room  
9174 Sky Park Court  
San Diego, California

### ***Notifications***

#### **Public Participation 30-day Notice**

The Regional Board intends to issue a no further action letter for completion of cleanup of pollutants from a leaking underground storage tank (UST) at Green Oak Ranch, located at 1237 Green Oak Road, Vista, CA 92083. Additional details about the UST case at Green Oak Ranch are available from the GeoTracker website at ([https://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T0607302362](https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0607302362)). Provided no significant issues arise during the public notification period, the Regional Board will issue a no further action letter after October 9, 2009. (*Cheryl Prowell*)

#### DIRECTIONS TO REGIONAL BOARD 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.