



California Regional Water Quality Control Board

San Diego Region



Linda S. Adams
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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NOTICE OF CONFIDENTIAL SETTLEMENT WORKSHOP FOR

Tentative Cleanup and Abatement Order No. R9-2005-0126

June 13, 2008, Friday
9:00 a.m.

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

BACKGROUND

The Presiding Officer and Designated Parties participated in a Settlement Conference on May 16, 2008 at the Regional Water Quality Control Board, San Diego Region (Regional Board) office.

SETTLEMENT WORKSHOP

A Settlement Workshop will be convened on **June 13, 2008, at 9 a.m.** at the Regional Board office, Regional Board Meeting Room in San Diego. The Presiding Officer intends to conduct the Settlement Workshop on behalf of the Regional Board. The purpose of the Settlement Workshop is to facilitate settlement of the cleanup levels issue by allowing the Cleanup Team to provide written or verbal responses to **written** questions submitted by the Designated Parties regarding cleanup level issues, including providing explanations regarding the assumptions, data and methodologies used to prepare the Revised Tentative Cleanup and Abatement Order No. R9-2005-0126, as posted on April 4, 2008, and the supporting Technical Report. The Cleanup Team will be allowed to supplement or revise its responses during the course of the proceeding if necessary

Designated Parties that are identified as dischargers under Revised Tentative Cleanup and Abatement Order No. R9-2005-0126 distributed on April 4, 2008 are directed to have the following representatives attend: one or more technical experts, and an

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attorney. Additional representatives of the Designated Parties may also attend. Representatives should be prepared to attend the settlement workshop for the entire day (concluding at 5:00 p.m), with a break for lunch.

Designated Parties that are not identified as dischargers under the Revised Tentative Cleanup and Abatement Order No. R9-2005-0126, as posted on April 4, 2008, may attend and participate or may submit a written waiver of their right to participate in this Settlement Workshop.

Each Designated Party may submit up to ten (10) written questions to the Cleanup Team, with each question addressing a single issue regarding assumptions, data or methodologies or other issue directly relevant to the cleanup levels. In addition, each Designated Party may submit up to forty (40) written requests for the limited purpose of seeking citations to SAR pages that support information contained in the Tentative Cleanup and Abatement Order or Technical Report.

Each Designated Party shall submit its written questions,¹ if any, by electronic mail to the Cleanup Team only no later than **5:00 p.m. on May 30, 2008**. The Cleanup Team will compile and distribute a complete list of questions from those submitted without attributing the source of each question at the start of the Settlement Workshop. The Cleanup Team may provide written responses to as many questions as it deems appropriate. The Cleanup Team shall, to the extent feasible, provide citations to the SAR page where information responsive to the question and supportive of the response exists.

At the Settlement Workshop, the Cleanup Team will provide answers to as many questions as practicable, dealing with the most foundational issues first. The Settlement Workshop will continue until 5:00 p.m. At 4:00 p.m., each Designated Party may submit to the Presiding Officer in writing one priority question from the compiled list which has not already been addressed by the Cleanup Team. The Cleanup Team shall provide verbal responses to each priority question which has been submitted by a Designated Party. Following the Settlement Workshop, the Cleanup Team may provide additional written responses, including citations to pages in the SAR.

Following the Settlement Workshop, the Advisory Team will publish the compiled list of questions and the Cleanup Team's responses (both written and oral) to date for publication. The questions (without attribution) and responses will be made available to Designated Parties and Interested Persons as well as the public.

¹ The word "questions" as used in the remainder of the document includes the "requests" for citations to the record.

CONFIDENTIALITY OF COMMUNICATIONS

Communications made in the course of the settlement workshop are protected in accordance with Government Code section 11420.30, except as specifically provided in this notice. The Settlement workshop will **not** be open to the public in order to maintain the confidentiality of the settlement discussions; only Designated Parties will be permitted to attend (see Government Code section 11425.20(c)).

Government Code section 11420.30, subdivision (a), allows a party to the settlement workshop to permit disclosure of that party's communications without affecting the confidentiality of other communications made during the settlement workshop. The Cleanup Team will be asked to permit disclosure of its written and oral responses to questions received during the course of the settlement workshop. Portions of the settlement workshop during which the Cleanup Team is orally responding to written questions will be recorded for the sole purpose of ensuring that the Cleanup Team's responses are accurately captured for subsequent publication. Additional settlement workshops may be scheduled if warranted.

WAIVER OF OBJECTIONS TO PRESIDING OFFICER SERVING AS MEDIATOR DURING THE SETTLEMENT WORKSHOP

David King, the Presiding Officer for the pre-hearing proceedings, intends to conduct the settlement workshop as an observer, with the assistance of the Advisory Team (John Robertus, Mike McCann, Frank Melbourn, Catherine George, and Phil Wyels). Mr. King's role will be to ensure the Designated Parties and Cleanup Team follow the procedures of this settlement workshop in a manner that provides the best forum for sharing information. As such, Mr. King may receive ex parte communications made during the course of the settlement workshop. Mr. King will protect these communications and not share them with the remaining Regional Board Members, the Advisory Team, the Designated Parties, or the public. All Designated Parties will be asked to sign a waiver of the ex parte rules for Mr. King for the purposes of communications during this and any subsequent settlement workshops only. The Designated Parties will also be asked to authorize Mr. King to act as mediator for this and any subsequent settlement workshop, and to continue to act as a decision-making Regional Board Member for the adjudicatory proceeding. Any Designated Party objecting to this arrangement shall file its objection, the basis for its objection, and a proposal to resolve its objection no later than **5:00 p.m. on May 30, 2008**.

IF YOU HAVE ANY QUESTIONS

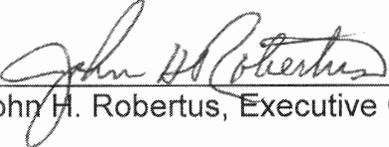
Questions concerning the Settlement Workshop may be addressed to Catherine George at cgeorge@waterboards.ca.gov or (858) 467-2958.

Directions to Regional Board Settlement workshop

Regional Water Quality Control Board
9174 Sky Park Court
San Diego, CA 92123
Main Telephone Number 858-467-2952

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 right into the parking lot.

From the North: I-15 south - take Balboa Avenue 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 right into the parking lot.



John H. Robertus, Executive Officer

Dated: 20 May, 2008