



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
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(858) 467-2952 • Fax (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

TO: Distribution List (Designated Parties and Interested Persons)

FROM: 
David King, Presiding Officer for Prehearing Proceedings
Tentative Cleanup and Abatement Order No. R9-2005-0126
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

DATE: December 8, 2008

SUBJECT: ORDER EXTENDING STAY OF SCHEDULE FOR PROCEEDINGS
DURING MEDIATION
TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2005-0126

By Order dated June 9, 2008, the Presiding Officer referred the proceedings related to Tentative Cleanup and Abatement Order No. R9-2005-0126 to mediation. The referral was pursuant to Government Code section 14420.10(a)(1) and followed a joint request from most parties. No party objected to the mediation. The June 9 Order stayed the schedule of proceedings contained in the Second Amended Order of Proceedings for a period of ninety days. By Order dated September 5, 2008, at the request of the mediator and with no objection by any party, the Presiding Officer extended the mediation period for an additional ninety days. The second ninety period concludes December 7, 2008.

The mediator has requested a further extension of time in which to mediate the matter and represents that no party objects. The Presiding Officer has agreed to extend the time for mediation, staying the schedule of proceedings in the Second Amended Order of Proceedings until the close of business on March 31, 2009. As the request for extension comes as the holidays commence, it is appropriate to afford the parties an additional ninety days beginning January 1, 2009 (concluding March 31, 2009) to pursue mediation. If the mediator is unable to represent that the parties have arrived at a mutually agreeable resolution of the cleanup levels issues in the proceeding by the close of business March 31, 2009, the schedule in the Second Amended Order of Proceedings will recommence April 1, subject to further modification by the Presiding Officer.

The schedule in the May 2, 2008 Second Amended Order of Proceedings was suspended on June 9, three weeks before the June 30, 2008 deadline for filing initial briefs and technical reports addressing cleanup levels and directly related issues.

California Environmental Protection Agency

Sequential dates follow for other milestones such as submitting requests for issuance of subpoenas or subpoenas duces tecum regarding appropriate cleanup levels, submitting final briefs on cleanup levels and the conclusion of the Cleanup Levels Stage. The schedule provides for a subsequent Liability Stage. (See Second Amended Order of Proceedings, May 2, 2008, page 7.)

As of March 31, 2009, the schedule of proceedings will have been suspended for a total period of 295 days. Absent modification or reissuance with revised deadlines, the parties must be prepared to resume the schedule in the Second Amended Order of Proceedings beginning April 1, with deadlines to be calculated by adding 295 days to each established due date. For example, the parties will be required to submit initial briefs and technical reports addressing cleanup levels and directly related issues not later than April 21, 2009 (295 days beyond the June 30, 2008 deadline), to request issuance of subpoenas or subpoenas duces tecum regarding appropriate cleanup levels not later than April 28, 2009 (295 days beyond the July 7, 2008 deadline) and to submit final briefs on these issues not later than May 21, 2009 (295 days beyond the July 30, 2008 deadline). The remainder of the deadlines in the schedule will be similarly adjusted by adding 295 days.

Accordingly, subject to further modification by the Presiding Officer, the schedule of proceedings in the Second Amended Order of Proceedings is hereby stayed until the close of business on March 31, 2009. If the mediator is unable to represent that the parties have arrived at a mutually agreeable resolution of the cleanup levels issues in the proceeding by the close of business March 31, 2009, the schedule in the Second Amended Order of Proceedings (with each deadlines extended by 295 days) will recommence April 1.

DAK