

Los Angeles Regional Water Quality Control Board

Notice of Public Meeting 629th Regular Board Meeting

Thursday, December 12, 2019
9:00 a.m.

Meeting Location:
Council Chambers
City of Simi Valley
2929 Tapo Canyon Road
Simi Valley, California 93063

Agenda

The Los Angeles Regional Water Quality Control Board (Los Angeles Water Board or Board) strives to conduct an accessible, orderly, and fair meeting. The Chair of the Board will conduct the meeting and establish appropriate rules and time limitations for each agenda item. The Board will only act on items designated as action items. Action items on the agenda are staff proposals and may be modified by the Board as a result of public comment or Board member input. Additional information about Board meeting procedures is included after the last agenda item.

Generally, the Board accepts oral comments at the meeting on agenda items and accepts written materials regarding agenda items in advance of the meeting. For some items requiring public hearings, written materials and oral comments will be accepted only according to the procedures set forth in a previously issued public notice for the agenda item. To ensure a fair hearing and that the Board Members have an opportunity to fully study and consider written material, unless stated otherwise, written materials must be provided to the Executive Officer ***not later than 5:00 p.m. on November 27, 2019. Please consult the agenda item description because certain items may have an earlier deadline for written submissions. If you are considering submitting written materials, please consult the notes at the end of the agenda. Failure to follow the required procedures may result in your materials being excluded from the administrative record; however, failure to timely submit written materials does not preclude a person from testifying before the Board.***

If a person intends to use a PowerPoint presentation or other visual aids, you must contact the Los Angeles Water Board's IT Department, Khalid.Abdullah@waterboards.ca.gov, at least 48 hours prior to the meeting to arrange for equipment use and be prepared to load

any PowerPoint presentation on the computer prior to the meeting to assure the orderly conduct of the meeting.

Note that public comments on agenda items will be limited to 3 minutes unless directed otherwise by the Board Chair or previously approved by the Executive Officer in writing.

Note: [This meeting will be webcast.](#)

INTRODUCTORY ITEMS

1. **Roll Call**
2. **Order of Agenda** (Note that the agenda items are numbered for identification purposes only and may not necessarily be considered in this order.)

BOARD BUSINESS AND REPORTS

3. **Appointment of a Committee to Nominate Regional Water Board Officers for 2020** *(The Chair will appoint a committee to nominate a Chair and Vice Chair for 2020.)*
4. **Approval of Draft Meeting Minutes for the November 14, 2019 Meeting** [Helen Rowe, (213) 576-6612]
5. **Board Member Communications**
 - a. Ex Parte Disclosure (Board Members will identify any discussions they may have had requiring disclosure pursuant to Government Code section 11430.40.)
 - b. Board Member Reports (The Board Members may discuss communications, correspondence, or other items of general interest relating to matters within the Board's jurisdiction.)
6. **Executive Officer's Report** [Renee Purdy, (213) 576-6605]
7. **Enforcement Report** [Russ Colby, (213) 620-6375]
8. **Update from State Water Board** [Sean Maguire/Laurel Firestone]

PUBLIC FORUM

9. Any person may address the Board regarding any matter within the Board's jurisdiction provided the matter does not appear elsewhere on this agenda, has not been scheduled to appear on a future agenda, and is not expected to be imminently scheduled for the Board's consideration.

UNCONTESTED ITEMS

(Items marked with an asterisk are expected to be routine and noncontroversial. The Board will be asked to approve these items at one time without discussion. Any Board member or person may request that an item be removed from the uncontested calendar. If an item is removed from the uncontested calendar, it will only be voted on at this meeting if the Board accepts the staff recommendation for the item. Otherwise, the item will be continued to a future meeting to allow input by interested persons.)

Non-NPDES Waste Discharge Requirements

10. Consideration of Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Port of Long Beach, Long Beach Cruise Terminal Improvements Project. (Comment submittal deadline was November 20, 2019.) [Emily Duncan, (213) 576-6679]

CONTESTED ACTION ITEMS

Waste Discharge Requirements that Serve as Individual NPDES Permits Renewal-

11. Consideration of tentative Waste Discharge Requirements for Southern California Edison, Pebbly Beach Desalination Plant, Avalon, CA; NPDES No. CA0061191. (Comment submittal deadline was November 18, 2019.) [Rosario Aston, (213) 576-6653]

INFORMATION ITEMS

12. Update on actions taken by San Miguel Produce, Inc. to achieve compliance with the Waste Discharge Requirements for San Miguel Produce, Inc. Oxnard; Order No. R4-2019-0064, File No. 04-168 (Ms. Jan Berk, Chief Operating Officer or Mr. Terry Lund, Facility Director of San Miguel Produce, Inc. will update the Board.) [Peter Rafferty, (213) 620-6156]

OTHER BUSINESS

13. Update on pending issuance of a Regional Municipal Separate Storm Sewer System (MS4) permit for Los Angeles and Ventura counties. Staff will provide the Board with highlights of the working proposal for the Regional MS4 Permit and the schedule for release of the tentative Regional MS4 Permit. After the staff presentation, the Los Angeles Water Board will allow comments from permittees and other stakeholders with their initial feedback on the working proposal for the Regional MS4 Permit. Since issuance of a Regional MS4 permit is a pending adjudicative matter before the Board, this noticed item provides permittees and other stakeholders with the opportunity to communicate directly with the Board regarding implementation of projects, as well as their interests and concerns regarding the current permits or future issuance of a MS4 permit. The Board may provide input to staff on permit implementation or development; however, no action or voting will take place. Unless previously approved by the Executive Officer in writing, individual comments will be subject to a time limit of 3 minutes or less, depending on the number of persons wishing to speak. Persons wishing to speak should contact Theresa Rodgers at: Theresa.Rodgers@waterboards.ca.gov at least 1 week in advance of the meeting.

CLOSED SESSION

14. As authorized by Government Code section 11126, the Los Angeles Water Board will be meeting in closed session. Closed session items are not open to the public. Items the Board may discuss include the items below. [Tamarin Austin (TA) (916) 341-5171;

Jennifer Fordyce (JF) (916) 324-6682; David Coupe (DC) (510) 622-2306; Sophie Froelich (SF) (916) 319-8557; Adriana Nuñez (AN) (916) 322-3313]

Litigation filed against the Los Angeles Regional Water Quality Control Board (Gov. Code, § 11126, subd. (e)(2)(A).)

- a. *Balcom Ranch v. State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Ventura County Superior Court, Case No. 56-2012-00419048-CU-MC-VTA [Challenging assessment of administrative civil liability in Order on Complaint No. R4-2010-0023]. (DC)
- b. *City of Duarte v. State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Orange County Superior Court, Case No.30-2016-00833614-CU-WM-CJC [Challenging the Los Angeles County MS4 Permit, Order No. R4-2012-0175]. (JF)
- c. *Natural Resources Defense Council and Los Angeles Waterkeeper v. State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court, Case No. BS156962 [Challenging the Los Angeles County MS4 Permit, Order No. R4-2012-0175; remand on anti-degradation claim]. (JF)
- d. *City of Gardena v. Los Angeles Regional Water Quality Control Board and State Water Resources Control Board*, Orange County Superior Court, Case No. 30-2016-00833722-CU-WM-CJC [Challenging the Los Angeles County MS4 Permit, Order No. R4-2012-0175]. (JF)
- e. *Wayne Fishback v. Michael D. Antonovich et al.*, United States District Court for the Central District of California, Case No. 2:15-cv-05719 [Seeking preliminary injunction, alleging violations of procedural and substantive due process and other claims for relief]. (DC)
- f. *Tesoro Refining & Marketing Company LLC and Tesoro SoCal Pipeline Company LLC v. Los Angeles Regional Water Quality Control Board*, California Court of Appeal, Second District, Case No. B288889 [Challenging issuance of Cleanup and Abatement Order No. R4-2013-0064]. (JF)
- g. *Fishback et al. v. County of Los Angeles et al.*, Los Angeles County Superior Court, Case No. PC056481 [Alleging violations of procedural and substantive due process, violations of the state and federal takings clauses, and other claims for relief]. (DC)
- h. *CraneVeyor Corporation v. California Regional Water Quality Control Board, Los Angeles Region*, Los Angeles County Superior Court, Case No. 18STCP02611 [Challenging Order No. R4-2018-0032 issued pursuant to Water Code section 13267]. (AN)
- i. *General Electric Real Estate Equities, Inc. v. Regional Water Quality Control Board*, Los Angeles County Superior Court, Case No. 19STCP00207

[Challenging issuance of Cleanup and Abatement Order No. R4-2017-0075].
(TA)

Litigation filed by the Los Angeles Regional Water Quality Control Board against other parties (Gov. Code, § 11126, subd. (e)(2)(A).)

- j. *State Department of Finance, State Water Resources Control Board and Los Angeles Regional Water Quality Control Board v. Commission on State Mandates*, Los Angeles County Superior Court, Case No. BS13070 [Challenging the Commission's decision that portions of the 2001 Los Angeles County MS4 permit created unfunded state mandates]. (JF)
- k. *California Regional Water Quality Control Board, Los Angeles Region v. San-Cheng Lai; Lai Circuits, Inc.; John Doe, Personal Representative of San-Cheng Lai's Estate; The Estate of San-Cheng Lai; Coast United Advertising, Inc., Doing Business as Coast United Property Management; and Does 2-20*, Los Angeles County Superior Court, Case No. BC707671 and related actions [seeking injunctive relief to enforce compliance with Cleanup and Abatement Order No. R4-2015-0129 and civil liability for violations of California Water Code section 13304]. (SNF)

Petitions for Review of Los Angeles Regional Water Quality Control Board actions filed with the State Water Resources Control Board (Gov. Code, § 11126, subd. (e)(2)(A).)

- l. *In re: Petition of Natural Resources Defense Council, Los Angeles Waterkeeper, and Heal the Bay for Review of Executive Officer's Action to Conditionally Approve nine WMPs Pursuant to the 2012 MS4 Permit*, SWRCB/OCC File A-2386 [Challenging the Executive Officer's approval, with conditions, of nine Watershed Management Programs (WMPs) pursuant to the Los Angeles County MS4 Permit, Order No. R4-2012-0175]. (JF)
- m. *In re: Petition of Los Angeles Waterkeeper and NRDC for Review of Executive Officer's Action to Approve the North Santa Monica Bay EWMP*, SWRCB/OCC File A-2477 [Challenging the Executive Officer's approval of the North Santa Monica Bay EWMP pursuant to the Los Angeles County MS4 Permit, Order No. R4-2012-0175]. (JF)
- n. *In re: Petition of Natural Resources Defense Council and Los Angeles Waterkeeper for Review of Los Angeles Regional Water Quality Control Board's September 7 Vote to Take No Further Action to Review Executive Officer's Approval of the North Santa Monica Bay Enhanced Watershed Management Program Pursuant to the L.A. County MS4 Permit*, SWRCB/OCC File A-2508 [Challenging the Los Angeles Water Board's decision to not review the Executive Officer's approval of the North Santa Monica Bay EWMP pursuant to the Los Angeles County MS4 Permit Order No. R4-2012-0175]. (JF)

- o. *In re: Petition of Affordable Clean Water Alliance's Petition for Review of Los Angeles Regional Water Quality Control Board's Time Schedule Order Nos. R4-2019-0055 and R4-2019-0056* [Time Schedule Orders for Valencia and Saugus Water Reclamation Plants to Address Chloride] (TA)

Test Claims filed with the Commission on State Mandates (Gov. Code, § 11126, subd. (e)(2)(A).)

- p. *In re: Los Angeles Region Water Permit – Ventura County*, Commission on State Mandate Test Claim No. 110-TC-01 [Regarding a test claim filed by Ventura County Watershed Protection District and the County of Ventura alleging that portions of Order No. R4-2010-0108 created unfunded state mandates]. (JF)
- q. *In re: Los Angeles Region Water Permit – Cities of Los Angeles County*, Commission on State Mandate Test Claim No. 13-TC-01 [Regarding a test claim filed by several cities within Los Angeles County alleging that portions of Order No. R4-2012-0175 created unfunded state mandates]. (JF)
- r. *In re: Los Angeles Region Water Permit – County of Los Angeles*, Commission on State Mandate Test Claim No. 13-TC-02 [Regarding a test claim by the County of Los Angeles and Los Angeles County Flood Control District alleging that portions of Order No. R4-2012-0175 created unfunded state mandates]. (JF)

Other matters

- s. Consultation with counsel about:

- i. A matter which, based on existing facts and circumstances, presents significant exposure to litigation against the Los Angeles Water Board (Government Code section (Gov. Code, § 11126, subd. (e)(2)(B).); (TA/SNF/AN) or
- ii. A matter which, based on existing facts and circumstances, the Los Angeles Water Board is deciding whether to initiate litigation (Gov. Code, § 11126, subd. (e)(2)(C).) (TA/SNF/AN)
 - 1) *In re City of Maywood* [to consider matters pertaining to whether to initiate litigation and seek relief for alleged violations of State Water Resources Control Board Order No. 2006-0003-DWQ, following referral to the California Attorney General's Office on March 8, 2018, Resolution R18-001]. (SNF)
- iii. Consideration of the appointment, employment, or evaluation of performance about a public employee. (Gov. Code, § 11126, subd. (a).) (TA/SNF/AN)

- 15. Adjournment of current meeting** (The next regular meeting of the Board will be held on February 13, 2020, beginning at 9:00 a.m. The location is to be determined.)

NOTES ON AGENDA

Ex Parte Communications

An ex parte communication is a communication to a board member from any person, about a pending matter, that occurs in the absence of other parties and without notice and opportunity for them to respond. The California Government Code prohibits the board members from engaging in ex parte communications during permitting, enforcement, and other “quasi-adjudicatory” matters. Ex parte communications are allowed on pending general orders (such as general waste discharge requirements, general waivers, and general Clean Water Act section 401 water quality certifications) subject to the disclosure requirements of Water Code section 13287 (for further information and disclosure forms, please visit http://www.waterboards.ca.gov/losangeles/laws_regulations/). The Los Angeles Water Board discourages ex parte communications during rulemaking and other “quasi-legislative” proceedings. The ex parte rules are intended to provide fairness, and to ensure that the board’s decisions are transparent, based on the evidence in the administrative record, and that evidence is used only if stakeholders have had the opportunity to hear and respond to it. Ex parte rules do not prevent anyone from providing information to the water boards or requesting that the water boards take an action. They simply require that the information come into the record through proper channels during a duly noticed, public meeting. A board member who has engaged or been engaged in a prohibited ex parte communication will be required to publicly disclose the communication on the record and may be disqualified from participating in the proceeding. For more information, please look at the ex parte questions and answers document found at www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf.

Procedures

The Los Angeles Water Board follows procedures established by the State Water Resources Control Board. These procedures are established in regulations commencing with section 647 of title 23 of the California Code of Regulations. The Chair may establish specific procedures for each item, and consistent with section 648, subdivision (d) of title 23 of the California Code of Regulations may waive nonstatutory provisions of the regulations. Generally, all witnesses testifying before the Los Angeles Water Board must affirm the truth of their testimony and are subject to questioning by the Board Members. The Board does not, generally, require the designation of parties, the prior identification of witnesses, or the cross examination of witnesses. Generally, speakers are allowed three minutes for comments. Any requests for an alternate hearing process, such as requesting additional time to make a presentation, should be made to the Executive Officer in advance of the meeting, and under no circumstances later than 5:00 p.m. on the Thursday preceding the Board meeting. The provisions of this paragraph shall be deemed superseded to the extent that they are contradicted by a hearing notice specific to an agenda item.

Written Submissions

Written materials (whether hand-delivered, mailed, e-mailed, or facsimiled) ***must be received prior to the relevant deadline*** established in the agenda and public notice for

an item. If the submitted material is more than 10 pages or contains foldouts, color graphics, maps, or similar items, 12 copies must be submitted prior to the relevant deadline.

Failure to comply with requirements for written submissions is grounds for the Chair to refuse to admit the proposed written comment or exhibit into evidence. (Cal. Code Regs., tit. 23, § 648.4, sub. (e).) The Chair may refuse to admit written testimony into evidence unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would otherwise create a hardship. In an adjudicatory matter, where there is a showing of prejudice to any party or the Board from admission of the written testimony, the Chair may refuse to admit it.

Administrative Record

Material presented to the Board as part of testimony that is to be made part of the record must be left with the Board. This includes photographs, slides, charts, diagrams, etc. All Board files pertaining to the items on this Agenda are hereby made a part of the record submitted to the Los Angeles Water Board by staff for its consideration prior to action on the related items.

Accessibility

Individuals requiring special accommodations or language needs should contact Rosie Villar at (213) 576-6630 or Rosie.Villar@waterboards.ca.gov at least ten working days prior to the meeting. TTY/TDD Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Availability of Complete Agenda Package

A copy of the complete agenda package is available for examination at the Los Angeles Water Board Office during regular working hours (8:00 a.m. to 5:00 p.m. Monday through Friday) beginning 10 days before the Board meeting. Questions about specific items on the agenda should be directed to the staff person whose name is listed with the item.

Continuance of Items

The Board will endeavor to consider all matters listed on this agenda. However, time may not allow the Board to hear all matters listed. Matters not heard at this meeting may be carried over to the next Board meeting or to a future Board meeting. Parties will be notified in writing of the rescheduling of their item. Please contact the Los Angeles Water Board staff to find out about rescheduled items.

Challenging Los Angeles Water Board Actions

Pursuant to Water Code section 13320, any aggrieved person may file a petition to seek review by the State Water Resources Control Board of most actions taken by the Los Angeles Water Board. A petition must be received within 30 days of the action. Petitions must be sent to State Water Resources Control Board, Office of Chief Counsel; Attention: Phil Wyels, Assistant Chief Counsel; 1001 "I" Street, 22nd Floor; Sacramento, CA 95814