

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2004-0163

DESIGNATING A HEARING PANEL TO CONDUCT HEARINGS IN THE EVENT OF
ABSENCE OF A QUORUM

WHEREAS, under the California Water Code, a regional board is comprised of nine members appointed by the Governor and confirmed by the State Senate for four-year terms; and

WHEREAS, the minimum quorum for the Regional Water Quality Control Board (Regional Board) to hold a meeting and conduct business is five members; and

WHEREAS, the Regional Board has had one vacancy for some time and the appointments of three Board members expired September 30, 2004, although these three Board members can choose to continue to serve for up to 60 days after their terms have expired if a new member is not appointed in their place; and

WHEREAS, without at least five members, the Regional Board cannot hold Board meetings, adopt waste discharge requirements, issue cease and desist orders, hold hearings required by California Water Code section 13323, adopt administrative civil liability orders, or conduct most business requiring action by the Board members in a public meeting; and

WHEREAS, California Water Code section 13228.14 permits the Regional Board to appoint a hearing panel of three or more Regional Board members to conduct hearings; and

WHEREAS, the Regional Board finds that it is advisable to have the ability to conduct hearings by a panel of three or more members in the event that a quorum is not present at a regularly scheduled Regional Board meeting.

NOW THEREFORE BE IT RESOLVED, that:

1. In the event a quorum of five Regional Board members are not present at a scheduled Board meeting, the Regional Board may hold evidentiary hearings as a hearing panel as long as at least three Board members are present and can participate in the matter before the Regional Board.
2. The hearing panel may conduct hearings in conjunction with regularly scheduled meetings of the full Regional Board or at special hearings convened for the purpose of hearing one or more matters as set forth in California Water Code section 13228.14 provided that the Regional Board satisfies all notice and other requirements of the Bagley-Keene Open Meeting Act (California Government Code section 11120 et seq.) and California Water Code section 13228.14.

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3. The hearing panel shall not conduct any hearing unless three or more panel members are present.
4. Following a panel hearing, the panel shall prepare a report of its proposed decision and order for the Regional Board or any other relevant decision-making body and shall supply a copy to all parties who appeared at the hearing and requested a copy.
5. The Regional Board should consider the panel's recommendation at the next Regional Board meeting at which a quorum is present. Panel members may sit as members of the Regional Board in deciding the matter. The Regional Board shall make an independent review of the record and may take additional evidence as necessary. No party who appears before the panel is precluded from appearing at the Regional Board meeting. The Regional Board may adopt, revise or reject the proposed decision and order of the panel.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify that the forgoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 15 October 2004.

THOMAS R. PINKOS, Executive Officer

AMENDED