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Palm Desert, CA 92260
(760) 346-7491

Public Notice No. 7-07-34
WDRs Order No. R7-2006-0030
May 18, 2007

REVISED NOTICE OF PUBLIC HEARING
CONCERNING
CONSIDERATION OF ADOPTION OF
CEASE AND DESIST ORDER NO. R7-2007-0059
FOR
APPLE CORE ENTERPRISES, INC.
APPLEBEE'S RESTAURANT, WASTEWATER TREATMENT FACILITY
Town of Yucca Valley, San Bernardino County

Subject of Hearing

This Revised Notice of Public Hearing supersedes the previous Notice of Public Hearing (No. 7-07-32), dated May 4, 2007, regarding draft Cease and Desist Order No. R7-2007-0059. Apple Core Enterprises, Inc. (Discharger), owns and operates a wastewater treatment facility (WWTF) for its Applebee's Restaurant in the Town of Yucca Valley, San Bernardino County. The WWTF has a treatment capacity of 10,050 gallons per day (mgd) and discharges to on-site seepage pits. The discharge from the WWTF is governed by Waste Discharge Requirements (WDRs) Order No. R7-2006-0030 adopted by the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Board), in June 2006. On May 4, 2007, the draft Cease and Desist Order was issued to the Discharger for violations and threatened violations of the WDRs. On June 26, 2007, the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Board), will be conducting a public hearing to consider adoption of the draft Cease and Desist Order.

The Discharger has been in chronic violation of effluent limitations and has failed to submit technical reports as required by WDRs Order No. R7-2006-0030. Partially treated wastewater from the WWTF is being discharged via the facility's seepage pits, and threatens pollution of areal groundwater. The Discharger is also in violation of monitoring and reporting provisions. The draft Cease and Desist Order requires the Discharger to conduct specified tasks in accordance with time schedules to bring the discharges of waste from the WWTF into compliance with Regional Board requirements.

The public hearing concerning the draft Cease and Desist Order will be held during a Regional Board public meeting, which is scheduled as follows:

Date of Meeting: June 26, 2007
Time: 10:00 a.m.
Location: La Quinta City Council Chambers
78-495 Calle Tampico
La Quinta, CA 92253

At the hearing, the Regional Board will consider whether to affirm, reject, or modify the draft Cease and Desist Order.

Hearing Procedures

Hearings before the Regional Board are not conducted pursuant to Government Code Section 11500 et seq. The public hearing for the draft Cease and Desist Order will be conducted as an adjudicative proceeding pursuant to the procedures set forth in Title 23, California Code of Regulations (CCR), Sections 648 et seq. Conducting this public hearing as an adjudicative proceeding means that it will be conducted as an evidentiary hearing for determination of facts by which an agency, such as the Regional Board, formulates and issues a decision that determines the rights and duties of a particular person or persons. (Gov. Code § 11405.20.) A copy of the procedures governing adjudicative proceedings is available upon request by contacting Ms. Hilda Vasquez at (760) 776-8950. The procedures may also be obtained by accessing http://www.waterboards.ca.gov/water_laws/.

Mr. Thomas A. Vandenberg, Staff Counsel with the State Water Resources Control Board (State Board), Office of Chief Counsel, regularly advises the Regional Board. With respect to this draft Cease and Desist Order, however, Mr. Vandenberg has been assisting Regional Board staff in the prosecution of this matter (Prosecution Team). Mr. Vandenberg has not provided, and will not provide, advice to the Regional Board on this matter before the Regional Board takes final action on it. Mr. Erik Spiess, Senior Staff Counsel with the State Board, Office of Chief Counsel, will be serving in an advisory capacity to the Regional Board Executive Officer (Advisory Team) and the Regional Board.

Hearing Participation

Participants at the public hearing are designated either as “parties” or as “interested persons.” A “party” includes the entity advocating for an action to be taken, the person to which the agency action is directed, and any other person named as a party or allowed to appear or intervene in the proceeding. (Gov. Code § 11405.60.) Anyone not designated a “party,” but who participates in the proceedings (other than Regional Board staff advisors to the Board), is considered an “interested person.”

The designated parties for this hearing are as follows:

- Regional Board staff (Prosecution Team)
- Apple Core Enterprises, Inc., and its representative(s)

Only designated parties will have the following rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses; to impeach any witness; and to rebut the evidence against him or her. All other persons wishing to testify or provide comments are interested persons and not designated parties. Such interested persons may request status as a designated party for purposes of this hearing by submitting such request in writing to the Regional Water Board no later than **5:00 p.m., Friday, June 8, 2007**. The request must explain the basis for status as a designated party and, in particular, how the person is directly affected by the discharge. Rulings on designated party requests are solely within the discretion of the Regional Board Chair. The requesting party will be notified in writing on or before **Tuesday, June 12, 2007**, whether the request has been granted or denied. A copy of the Board Chair’s decision will be sent to all other designated parties. All designated parties, as well as those persons whose request to be a designated party is pending, must adhere to the evidence submittal deadlines specified below.

Order of Proceedings

The following order of proceedings governs the June 26, 2007 public hearing:

1. Open Hearing (Regional Board Chair reads procedure)
2. Regional Board Staff's Opening Statement
3. Discharger's Cross-Examination, if any
4. Discharger's Opening Statement
5. Regional Board Staff's Cross-Examination, if any
6. Other Interested Persons Presentations, if any
7. Discharger's Closing Statement
8. Regional Board Staff's Closing Statement (3 minutes)
9. Regional Board Members and Advisory Team Questions/Requests for Further Clarification of Testimony
10. Close of Public Hearing, Deliberations and Decision-Making

Each Designated Party is allotted a total of **20 minutes** to address the Regional Board, which the party may allocate among its opening statement, cross-examination, and closing statement in any way it desires. Each Interested Person will receive a total of **3 minutes** to present a policy statement to the Regional Board.

The Order of Proceedings may be revised at the discretion of the Regional Board Chair in response to comments/objections by Designated Parties, to add other Designated Parties, or for other reasons. A timer may be used and speakers are expected to honor the time limits. Where speakers can be grouped by affiliation or interest, such groups will be expected to select a spokesperson and not be repetitive.

Written Evidence, Testimony, and Exhibits

Designated parties must submit to the Regional Board written copies of all evidentiary material concerning this issue by **5:00 p.m., Friday, June 8, 2007**. Evidentiary material includes, but is not limited to, technical reports, exhibits, testimony, the name of each witness whom the party wishes to call at the hearing, the qualifications of expert witnesses, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony. This written material will be made available to the Regional Board members and all interested persons.

All interested persons who plan to testify at the hearing may do so without having to submit written statements in advance of the public hearing. Such materials may be timely submitted at the hearing.

Testimony at the public hearing may summarize or explain timely submitted or late-accepted written evidence, but shall not add new evidence.

The above-described written materials concerning this matter must be mailed to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Written materials received after the above date and time will not be accepted, except at the discretion of the Board Chair. Untimely written material will not be accepted or incorporated into the administrative record if doing so would prejudice the Discharger or the Regional Board staff. The Board Chair may choose to modify this rule upon a showing of severe hardship, as provided in Title 23, CCR, Section 648.4.

Document Review

A copy of the draft Cease and Desist Order and supporting documents may be obtained from the Regional Board Office. Please contact Jon Rokke at (760) 346-7491 for any questions regarding this matter. Any person who is disabled and requires special accommodations to participate in this Regional Board meeting and hearing should contact Hilda Vasquez at (760) 776-8950 no later than ten (10) days before the scheduled date.

Please bring foregoing to the attention of anyone you know who may be interested in the matter.

Robert Perdue, Executive Officer

May 18, 2007
Date