

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260
(760) 346-7491

Public Notice No. 7-09-41
NPDES Permit No. CA7000001
January 14, 2010

REVISED NOTICE OF PUBLIC HEARING
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R7-2009-0084
ISSUED TO
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION; CENTINELA
STATE PRISON WASTEWATER TREATMENT PLANT;
Imperial – Imperial County

**NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE REGIONAL BOARD ON MARCH 18, 2010**

Time: 10:00 a.m.
Location: City of Palm Desert
City Council Chambers
73-710 Fred Waring Drive
Palm Desert, CA 92260

Background

The Assistant Executive Officer has issued an Administrative Civil Liability (ACL) Complaint, No. R7-2009-0084, pursuant to California Water Code Section 13323 (CWC), to the California Department of Corrections and Rehabilitation, Centinela State Prison Wastewater Treatment Plant (hereinafter referred to as Discharger) alleging that it has violated CWC Section 13385, subdivision (c) by violating its Monitoring and Reporting Program for Board Order No. R7-2003-0096. The Complaint proposes that administrative civil liability in the amount of \$16,000 be imposed as authorized by CWC Section 13385, subdivision (c). Unless the Discharger waives its right to a hearing by January 18, 2010, and pays the proposed liability, a hearing will be held before the Regional Board during its meeting of March 18, 2010.

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the hearing, the Regional Board will consider whether to adopt the proposed assessment, modify it or reject it. If it adopts an assessment, the Regional Board will issue an Administrative Civil Liability Order.

The public hearing on March 18, 2010, will commence at 10:00 a.m. or as soon thereafter as practical, or as announced in the Regional Board meeting agenda. The meeting will be held at a location to be determined. Please check the Regional Board's website for an update on the meeting location. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Regional Board's web page at: <http://www.waterboards.ca.gov/coloradoriver/>.

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Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the RWQCB may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at: <http://www.waterboards.ca.gov/laws_regulations/> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCR), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the RWQCB. This Notice provides additional requirements and deadlines related to the proceeding. THIS NOTICE MAY BE AMENDED BY THE ADVISORY STAFF AS NECESSARY. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY STAFF BY JANUARY 7, 2010. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participation

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Staff
- (2) California Department of Corrections and Rehabilitation; Centinela State Prison

Contacts

Advisory Staff:

Robert Perdue, Executive Officer
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Jon Rokke, Water Resource Control Engineer
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Prosecution Staff:

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Doug Wylie, Senior Water Resource Control Engineer
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Discharger:

Juan A. Nessi
California Department of Corrections and Rehabilitation
Centinela State Prison
PO Box 731
Imperial, CA 92251

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Staff) have been separated from those who will provide advice to the Regional Board (Advisory Staff). Members of the Advisory Staff are: Robert Perdue, Executive Officer; Tom Vandenberg, Staff Counsel; and Jon Rokke, Water Resource Control Engineer. Members of the Prosecution Staff are: Jose Angel, Assistant Executive Officer; Mayumi Okamoto, Staff Counsel; and Doug Wylie, Senior Water Resource Control Engineer. This Notice has been issued by the Advisory Staff based on a draft proposed by the Prosecution Staff.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Regional Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Regional Board member or an

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Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party shall request party status by submitting a request in writing (with copies to the designated parties) no later than 5:00 p.m. on January 21, 2010, to Tom Vandenberg. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by 5 p.m. on January 28, 2010. The parties will be notified by 5:00 p.m. on February 4, 2010, in writing whether the request has been granted or denied.

Hearing Time limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have 15 minutes to testify, present evidence, and cross-examine witnesses, and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Additional time may be provided at the discretion of the hearing officer upon a showing that additional time is necessary.

Written Evidence, Testimony, Exhibits and Policy Statements

The Prosecution Team shall submit in writing 15 copies of the following information to Tom Vandenberg no later than 5 p.m. on February 9, 2010, with one copy to the Discharger. The Discharger shall submit in writing 15 copies of the following information to Tom Vandenberg no later than 5 p.m. on February 23, 2010, with one copy to the Prosecution Team:

1. All evidence (other than witness testimony to be presented orally at the hearing) and exhibits that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

Interested persons may submit one (1) copy of non-evidentiary policy statements by March 3, 2010. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

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The Designated Parties must submit rebuttal information and requests for additional time at the hearing, if any, by 5 p.m. on March 3, 2010, to Tom Vandenberg. Rebuttal information should be submitted in the same manner as the Designated Parties' written evidence, testimony, and exhibits. Any objections to rebuttal information submitted by the Designated Parties will be addressed orally during the Regional Board hearing on March 18, 2010.

In accordance with Title 23, CCR, Section 684.4, the Regional Board endeavors to avoid surprise testimony or evidence. Accordingly, oral testimony offered at the hearing that is beyond the scope of the previously submitted written testimony may be excluded. Power Point and other computer assisted visual presentations may be, but are not required to be, submitted prior to the hearing as long as the contents do not exceed the scope of other submitted written material. Any witness providing written testimony shall appear at the hearing and affirm that the written testimony is true and correct.

Request for Pre-hearing Conference

A Designated Party may request that a pre-hearing conference be held before the hearing in accordance with Water Code section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code section 11511.5. Requests must contain a description of the matters proposed to be discussed during that conference and must be submitted to the Advisory Team with a copy to all other Designated Parties as early as practicable.

Evidentiary Objections

A party objecting to evidence proposed by another party must submit a written objection by 5:00 p.m. on March 3, 2010, to the Advisory Staff with a copy to all other designated parties. The Advisory Staff will notify the parties about further action to be taken on such objections. At the discretion of the Advisory Staff, a pre-hearing conference with the Designated Parties may be scheduled to discuss the further actions to be taken on the objections.

Evidentiary Documents and File

The Complaint, related evidentiary documents, and comments received are on file and may be inspected or copied at the Regional Board office of the Colorado River Basin Regional Water Quality Control Board, 73-720 Fred Waring Drive, Suite 100, Palm Desert, CA. Many of these documents are also posted on-line at: <<http://www.waterboards.ca.gov/coloradoriver/>>. Although the web page is updated regularly, you may wish to contact Doug Wylie by e-mail at dwylie@waterboards.ca.gov or by phone at (760) 346-6585 to ensure access to the latest information.

Questions

Procedural questions concerning this proceeding may be addressed to Tom Vandenberg by e-mail at tvandenberg@waterboards.ca.gov or by phone at (916) 341-5195.

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IMPORTANT DEADLINES

December 21, 2009	Prosecution Team issues ACL Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice
January 7, 2010	Deadline for objections, if any, to proposed Hearing Procedures
January 18, 2010	Discharger's Deadline for waiving right to hearing
January 21, 2010	Deadline for requests for designated party status
January 28, 2010	Deadline for oppositions to designated party status requests
February 4, 2010	Advisory Team issues decision on any requests for designated party status
February 9, 2010	Prosecution Team's deadline for all information required under "Written Evidence, Testimony, Exhibits and Policy Statements"
February 23, 2010	Remaining Designated Parties' deadline for all information required under "Written Evidence, Testimony, Exhibits and Policy Statements"
March 3, 2010	All Designated Parties' deadline for rebuttal information, evidentiary objections, and requests for additional time at the hearing, if any
March 3, 2010	Interested Persons' deadline for written non-evidentiary policy statements
March 18, 2010	Hearing Date