
Los Angeles Regional Water Quality Control Board

Notice of Public Meeting Thursday, May 10, 2018 9:00 a.m.

Meeting Location:
**Metropolitan Water District
of Southern California (Board Room)
700 North Alameda Street
Los Angeles, California 90012**

Agenda

****Please note: Item 17, Public Workshop initiating the process to issue Regional Municipal Separate Storm Sewer System (MS4) Permit will not begin before 1:00 p.m.***

The Los Angeles Regional 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 particular 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 April 26, 2018. 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 Ronji Moffett, (213) 576-6612, at the Regional Board 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.

****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.***

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.
3. **Approval of draft meeting Minutes for the April 12, 2018 meeting.** [Ronji Moffett, (213) 576-6612]
4. **Board Member Communications.**
 4. a. Ex Parte Disclosure. Board Members will identify any discussions they may have had requiring disclosure pursuant to Government Code section 11430.40.
 4. 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.

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

New-

- *5. Consideration of tentative renewal of Waste Discharge Requirements for Port of Los Angeles Berths 226-236, Everport Terminal Improvements; File No. 17-077. (Comment submittal deadline was April 11, 2018) [Dr. Jun Zhu, (213) 576-6681]

New-

- *6. Consideration of tentative renewal of Waste Discharge Requirements for Oxnard Harbor District Port Hueneme Berth Deepening and Wharf Improvement; File No. 17-106. (Comment submittal deadline was April 20, 2018. [Dr. Jun Zhu, (213) 576-6681]

Termination-

- *7. Consideration of tentative termination of Waste Discharge Requirements for Port of Los Angeles Berths 167-169, Berths 210-211 Maintenance Dredging and Berths 212-224 Redevelopment; File Nos. 14-063; 14-097; and 16-097. (Comment submittal deadline was April 30, 2018) [Dr. Jun Zhu, (213) 576-6681]

Termination-

- *8. Consideration of tentative termination of Waste Discharge Requirements for Port of Long Beach Inner Harbor Turning Basin Dredging; File No. 14-110. (Comment submittal deadline was April 30, 2018). [Dr. Jun Zhu, (213) 576-6681]

BOARD BUSINESS AND REPORTS

9. **Executive Officer's Report.** [Deborah Smith, (213) 576-6605]
10. **Update from State Board.** [Steven Moore]

PUBLIC FORUM

11. 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.

CONTESTED ACTION ITEMS**Basin Planning**

12. Consideration of a tentative Resolution regarding the 2017-2019 Triennial Review Selection of Basin Planning Projects. (Comment submittal deadline was April 5, 2018.) [Dr. Ginachi Amah, (213) 576-6685]
13. Consideration of a tentative Resolution to Prioritize Actions to Adapt to and Mitigate the Impacts of Climate Change on the Los Angeles Region's Water Resources and Associated Beneficial Uses. (Comment submittal deadline was April 13, 2018) [Dr. Celine Gallon, (213) 576-6784].

Cease and Desist Order**Amendment-**

14. Consideration of tentative Amended Cease and Desist Order (CDO) for the Kissel Company, Inc. and Paradise Land Company, LLC – Paradise Cove Wastewater Treatment Plant for Paradise Cove Mobile Home Park and Paradise Cove Beach Café, Malibu; File No. 01-083. (Comment submittal deadline was April 23, 2018) [Peter Raftery, (213) 620-6156]

OTHER BUSINESS

15. Public Hearing to Solicit Written and Oral Testimony and Public Comment Concerning Draft Local Agency Management Programs (LAMPs) for the County of Los Angeles, City of Malibu, and City of Glendora, respectively. (No Regional Board action will be taken, but direction may be provided. The County of Los Angeles Draft LAMP, City of Malibu Draft LAMP, and City of Glendora Draft LAMP were posted on March 22, 2018 for a 30-day written public comment period. After expiration of the 30-day public comment period, the Executive Officer will consider all timely testimony and written comments and subsequently approve, modify, or reject the Draft LAMPs for the County of Los Angeles, City of Malibu, and City of Glendora.) [Peter Raftery, (213) 620-6156, and Don Tsai, (213) 620-2264]
 - 15.1 County of Los Angeles
 - 15.2 City of Malibu
 - 15.3 City of Glendora

16. The City of Los Angeles, the County of Los Angeles, the Los Angeles County Flood Control District, the City of Beverly Hills, the City of Culver City, the City of Inglewood, and the City of West Hollywood will present their progress on implementation of the requirements of Time Schedule Order (TSO) No. R4-2015-0108 to comply with bacteria water quality-based effluent limitations and receiving water limitations applicable to Ballona Creek, Ballona Creek Estuary, and Sepulveda Channel during dry weather as set forth in the Los Angeles County MS4 Permit (Order No. R4-2012-0175). The Board will assess this progress to determine whether modifications to the tasks and schedules in the TSO warranted. *(The Board may provide direction to staff regarding making modifications. If the Board determines that modifications are warranted, proposed modifications will be publicly noticed for comment prior to a Board action.)* [Chris Lopez, (213) 576-6674]

WORKSHOP

17. Public Workshop initiating the process to issue a Regional Municipal Separate Storm Sewer System (MS4) permit for permittees in Los Angeles and Ventura counties. This workshop will focus on the status of permit implementation and evaluation of monitoring data collected during the 2012-2017 term of the Los Angeles County MS4 Permit (Order No. R4-2012-0175) and the 2014-2019 term of the City of Long Beach MS4 Permit (Order No. R4-2014-0024) for the following watershed management areas: San Gabriel, Los Angeles River, and Los Cerritos Channel. After a staff presentation, Permittees will give brief presentations on their implementation efforts. Other interested persons will have the opportunity to make oral comments. *(The Board may provide input to staff on permit development; however, no action or voting will take place at this workshop.)* [Renee Purdy, (213) 576-6622; Ivar Ridgeway, (213) 620-2150]

CLOSED SESSION

18. As authorized by Government Code section 11126, the Regional Board will be meeting in closed session. Closed session items are not open to the public. Items the Board may discuss include the following: [Jennifer Fordyce (JF) (916) 324-6682; David Coupe (DC) (510) 622-2306; Sophie Froelich (SF) (916) 319-8557]

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

- 18.1 *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)
- 18.2 *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)
- 18.3 *Natural Resources Defense Council and Los Angeles Waterkeeper v. State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, California Court of Appeal, Second District, Case No. B282016 [Challenging the Los Angeles County MS4 Permit, Order No. R4-2012-0175]. (JF)

- 18.4 *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)
- 18.5 *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)
- 18.6 *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)
- 18.7 *Los Angeles Waterkeeper v. California State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court, Case No. BS163391 [Challenging Resolution No. R15-004 establishing site-specific water quality objectives for copper and lead in the Los Angeles River and tributaries]. (JF)
- 18.8 *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)
- 18.9 *Bay View Loan Servicing, Inc. v. Del Rey Cleaners, Inc. et al.*, Los Angeles Superior Court Case No. YC072229 [seeking judicial foreclosure of Deed of Trust, appointment of a receiver, and breach of guaranty] (DC)
- 18.10 *Los Angeles Waterkeeper v. California State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court, Case Number BS171009 [Challenging issuance of NPDES Permit Order No. R4-2017-0064 (Burbank Water Reclamation Plant)]. (DC)
- 18.11 *Los Angeles Waterkeeper v. California State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court, Case Number BS171010 [Challenging issuance of NPDES Permit Order No. R4-2017-0063 (Los Angeles-Glendale Water Reclamation Plant)]. (DC)
- 18.12 *Los Angeles Waterkeeper v. California State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court, Case Number BS171011 [Challenging issuance of NPDES Permit Order No. R4-2017-0062 (Donald C. Tillman Water Reclamation Plant)] (DC)
- 18.13 *Los Angeles Waterkeeper v. California State Water Resources Control Board*, Los Angeles Superior Court, Case Number BS171012 [Challenging issuance of NPDES Permit No. R4-2017-0045 (Hyperion Treatment Plant)]. (DC)
- 18.14 *Barclay Hollander Corporation v. California State Water Resources Control Board, Los Angeles Region*, California Court of Appeal, Second District, Case No. B284182 [Challenging issuance of Cleanup and Abatement Order No. R4-2011-046]. (DC)
- 18.15 *Wishtoyo Foundation v. State Water Resources Control Board et. al.*, California Court of Appeal, Second District, Case No. 285271 [Challenging issuance of waste

discharge requirements/water reclamation requirements, Order No. R4-2011-0079-A01 (City of Oxnard)]. (DC)

- 18.16 *H.K. Malt, LLC v. Los Angeles Regional Water Quality Control Board, Samuel Unger, Executive Officer, and DOES 1-25, inclusive*, Los Angeles County Superior Court, Case No. BS172040 [Challenging issuance of Cleanup and Abatement Order No. R4-2017-0080]. (SNF)

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

- 18.17 *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)

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).):

- 18.18 *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)
- 18.19 *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)
- 18.20 *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 Regional 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)

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

- 18.21 *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)
- 18.22 *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)

- 18.23 *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:

- 18.24 Consultation with counsel about:
- (a) A matter which, based on existing facts and circumstances, presents significant exposure to litigation against the Regional Board (Government Code section (Gov. Code, § 11126, subd. (e)(2)(B).); or
 - (b) A matter which, based on existing facts and circumstances, the Regional Board is deciding whether to initiate litigation (Gov. Code, § 11126, subd. (e)(2)(C).) (JF/DC/SF)
- 18.25 Consideration of the appointment, employment, or evaluation of performance about a public employee. (Gov. Code, § 11126, subd. (a).) (JF/DC/SF)
19. **Adjournment of current meeting.** (The next regular meeting of the Board will be held on June 14, 2018 at the Metropolitan Water District of Southern California (Board Room), located at 700 North Alameda Street, Los Angeles, California 90012, beginning at 9:00 a.m.)

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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 Regional 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 a particular 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 Regional 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 Regional 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 a particular 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 Regional 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 rvillar@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 Regional 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 Regional Board staff to find out about rescheduled items.

Challenging Regional 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 Regional 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; Attn: Phil Wyels, Assistant Chief Counsel; 1001 "I" Street, 22nd Floor; Sacramento, CA 95814.

