



# California Regional Water Quality Control Board

## San Francisco Bay Region



Linda S. Adams  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.waterboards.ca.gov/sanfranciscobay>  
1515 Clay Street, Suite 1400, Oakland, California 94612  
Phone (510) 622-2300 • FAX (510) 622-2460

Arnold Schwarzenegger  
Governor

## AGENDA

Wednesday, February 11, 2009  
9:00 a.m.

Elihu M. Harris Building  
First Floor Auditorium  
1515 Clay Street  
Oakland, CA 94612

Approximate Time<sup>1</sup>

- 9:00 a.m.      1.      **Roll Call and Introductions**
2.      **Public Forum**

*Any person may address the Water Board regarding a matter within the Board's jurisdiction that is not related to an item on this Meeting agenda. Comments will generally be limited to three minutes, unless otherwise directed by the Chair. Comments regarding matters that are scheduled for a future Meeting will generally be prohibited. The public is encouraged to visit the Board's website [[http://www.waterboards.ca.gov/sanfranciscobay/public\\_notices/public\\_notice.shtml](http://www.waterboards.ca.gov/sanfranciscobay/public_notices/public_notice.shtml)] or contact Board staff to determine whether a matter has been scheduled for a future Meeting.*

3.      **[Minutes of the October 8, 2008 Board Meeting](#)**
4.      **[Chairman's, Board Members', and Executive Officer's Reports](#)**
5.      **Consideration of Uncontested Item (See Notes)**
- \*A.      **Authorizing the Executive Officer to Enter into an Agreement for Mutual Release and Covenant Not to Sue with Lowe's HIW, Inc., for the Parcel A property located at 5600 Cottle Road, San Jose, Santa Clara County – Adoption of Resolution**  
[Max Shahbazian 622-4824, [mshahbazian@waterboards.ca.gov](mailto:mshahbazian@waterboards.ca.gov)]

**[Staff Summary Report](#)**

<sup>1</sup> The "approximate time" indicated is an estimate of when the agenda item is expected to be considered by the Board. The Board will follow these times as closely as possible. However, the estimates are provided for convenience and are not legally binding on the Board.

## **PLANNING**

6. **Evaluation of Water Quality Conditions for the San Francisco Bay Region - Proposed Revisions to Clean Water Act Section 303(d) List of Impaired Waters –** Hearing to Consider Recommendations for Proposed Revisions [Naomi Feger 622-2328, [nfeger@waterboards.ca.gov](mailto:nfeger@waterboards.ca.gov)]

[Final Resolution R2-2009-0008](#)

[Staff Summary Report](#)

[Appendix A: Tentative Resolution and Staff Report](#)

[Appendix B: Revised Water Body Fact Sheets](#)

[Appendix C: Comment Letters](#)

[Appendix D: Response to Comments](#)

[Appendix E: Hearing Transcript from January 14, 2009](#)

## **OTHER BUSINESS**

7. **Implementation of Memorandum of Agreement Among the California Environmental Protection Agency, the Water Boards, and the Department of Toxic Substances Control Regarding Brownfields (“Brownfield MOA”) – Status Report** [Stephen Hill 622-2361, [shill@waterboards.ca.gov](mailto:shill@waterboards.ca.gov)]

[Staff Summary Report](#)

8. **Review of Wetland Compensatory Mitigation in California – Status Report** [Shin-Roei Lee 622-2376, [srl@waterboards.ca.gov](mailto:srl@waterboards.ca.gov)]

[Staff Summary Report](#)

[Virtual Banking Tour](#) (WMV)

[Notes for Tour](#)

[PowerPoint Presentation](#) (pdf)

9. **Correspondence**

10. **Closed Session – Personnel**

11:30 – 12:30 p.m.

The Board may meet in closed session to discuss personnel matters. [Authority: Government Code Section 11126(a)].

11. **Closed Session – Litigation**

The Board may meet in closed session to discuss whether to initiate litigation. [Authority: Government Code Sections 11126(e)(1) and 11126(2)(B)-(C)].

12. **Closed Session – Deliberation**  
The Board may meet in closed session to consider evidence received in an adjudicatory hearing and deliberate on a decision to be reached based on that evidence. [Authority: Government Code Section 11126(c)(3)].
13. **Adjournment to the next Board meeting – March 11, 2009**

## NOTES ON WATER BOARD AGENDA

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**Agenda Annotations** – \*Uncontested item, expected to be routine and non-controversial. Recommended action will be taken at the beginning of the meeting without discussion. Any interested party, Board member or the Executive Officer may request that an item be removed from the Consideration of Uncontested Items, and it will be taken up in the order indicated by the agenda.

**Availability of Agenda Items** – Tentative orders and their accompanying materials are available one week before the meeting at [www.waterboards.ca.gov/sanfranciscobay](http://www.waterboards.ca.gov/sanfranciscobay). Copies of agenda items may be obtained at the Board's office after 9 a.m. on the Thursday preceding the Board meeting from the staff member indicated on the agenda.

**Conduct of Board Meetings** – Items may not be considered in numerical order. Board meetings are accessible to people with disabilities. Individuals who require special accommodations should contact the Executive Assistant at 622-2399 at least 5 working days before the meeting. TTY users may contact the California Relay Service at 800-735-2929 or voice line at 800-735-2922.

Anyone intending to make a presentation using slides, overheads, computer graphics, or other media must coordinate with the staff member for the agenda item in advance of the meeting. Presentation materials must be consistent with and not extend beyond the scope of oral testimony. Power point slides will not be made part of the record unless the Board views them during its meeting. All those addressing the Board should identify themselves for the record. Additional information on making presentations to the Board is available at [www.swrcb.ca.gov/sanfranciscobay/public\\_notices/public\\_notice.shtml](http://www.swrcb.ca.gov/sanfranciscobay/public_notices/public_notice.shtml)

At any time during the regular session, the Board may adjourn to a closed session to consider litigation, personnel matters, or to deliberate on a decision to be reached based on evidence introduced in a hearing. [Government Code section 11126(a), (d) and (q)]

**Administrative Civil Liabilities and Mandatory Minimum Penalties** – A discharger may waive the right to a hearing on an agenda item for an ACL or MMP. If there is a waiver, no hearing will be held unless new, substantial information is made available that was not considered during the public comment period.

**Petition of Board Actions** – Any person adversely affected by a Water Board action may petition the State Water Resources Control Board for review of that action. Pursuant to section 2050(c) of Title 23 of the California Code of Regulations, such a petition shall be limited to substantive issues or objections that were raised before the Water Board at the Board meeting or in timely submitted written correspondence delivered to the Water Board. A petition must be received by the State Board within 30 days of Water Board action. Copies of the law and regulations applicable to filing petitions for review will be provided upon request. See Title 23 of the California Code of Regulations, sections 2050 – 2068.

**Contributions to Board Members** – All persons who actively support or oppose the adoption of waste discharge requirements or an NPDES permit before the Board must submit a statement to the Board disclosing any contribution of \$250 or more to be used in a State, federal, or local election, made by the action supporter or opponent or his or her agent, to any Board member within the past 12 months.

All permit applicants and all persons who actively support or oppose adoption of waste discharge requirements or an NPDES permit pending before the Board are prohibited from making a contribution of \$250 or more to any Board member for 3 months following a Board decision on a permit application.

**Water Quality Certification** – To obtain information regarding pending Section 401 Water Quality Certification applications, call 622-2300. (Rev. 7-08)

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - San Francisco Bay Region**

1515 Clay Street, Suite 1400, Oakland, CA 94612 • (510) 622-2300 • Fax (510) 622-2460

Internet Address: <http://www.waterboards.ca.gov/sanfranciscobay>

***Water Board Members***

<b>Name</b>	<b>City of Residence</b>	<b>Appointment Category</b>
John Muller, Chair	Half Moon Bay	Irrigated Agriculture
Terry F. Young, Vice Chair	Oakland	Recreation, Fish & Wildlife
Shalom Eliahu	Lafayette	Water Supply
James McGrath	Berkeley	Water Quality
Steven M. Moore	Sausalito	Industrial Water Use
William E. Peacock	Redwood City	Undesignated (Public)
Rameshwar Singh	San José	Water Quality
Vacancy		Municipal Government
Vacancy		County Government

***Water Board Staff***

<b><i>Executive Officer</i></b> Bruce H. Wolfe	<b><i>Assistant Executive Officers</i></b> Thomas Mumley Dyan Whyte	<b><i>Counsel to the Board</i></b> Dorothy Dickey Yuri Won
<b><i>Executive Assistant</i></b> Mary E. Tryon	<b><i>Management Services Division</i></b> Anna Torres, Chief	<b><i>Communications Coordinator</i></b> Sandia Potter
<b><i>Planning and TMDL Division</i></b> Wilfried Bruhns, Chief Naomi Feger, Section Leader James Ponton, Section Leader Susan Gladstone, Section Leader	<b><i>Watershed Management Division</i></b> Shin-Roei Lee, Chief Dale C. Bowyer, Section Leader William Hurley, Section Leader Christine Boschen, Section Leader	<b><i>Groundwater Protection/ Waste Containment Division</i></b> Curtis T. Scott, Chief Terry Seward, Section Leader John E. Kaiser, Section Leader Alec Naugle, Section Leader Keith Lichten, Section Leader
<b><i>Permits Division</i></b> Lila Tang, Chief Bill Johnson, Section Leader Gina Kathuria, Section Leader	<b><i>Toxics Cleanup Division</i></b> Stephen Hill, Chief John D. Wolfenden, Section Leader Anders G. Lundgren, Section Leader Chuck Headlee, Section Leader Mary Rose Cassa, Section Leader	

The primary responsibility of the Water Board is to protect and enhance the quality of regional surface water and groundwater for beneficial uses. This duty is carried out by formulating, adopting, and implementing water quality plans for specific water bodies, by prescribing and enforcing requirements on waste dischargers, and by requiring cleanup of water contamination and pollution. Specific responsibilities and procedures of the Board are outlined in the Porter-Cologne Water Quality Control Act.

Meetings of the Water Board normally are held on the second Wednesday of each month in the Elihu M. Harris State Office Building, First Floor Auditorium, 1515 Clay Street, Oakland. They are scheduled to begin at 9:00 a.m.

The purpose of the meetings is to provide the Board with an opportunity to receive testimony and information from concerned and affected parties and to make decisions after considering the evidence presented. A public forum is held at the beginning of each general meeting where persons may speak on matters within the Board's jurisdiction that are not specific agenda items. The Board welcomes information on pertinent problems, but comments at the meetings should be brief and directed to specifics of the case to enable the Board to take appropriate action. Written comments must be received prior to the Board meeting by the date indicated by staff. Verbal testimony made at the Board meetings should only summarize the written material.

Tape recordings are made of each Board meeting and these tapes are retained in the Board's office for two years. Anyone desiring copies of these tapes may, at their own expense, arrange to have duplicate tapes made by contacting the Executive Assistant at (510) 622-2399. A copy of the written transcript may be obtained by calling California Shorthand Reporting at (415) 457-4417.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
San Francisco Bay Region

Summary of Board Actions Taken at the Regular Meeting

January 14, 2009

**NPDES Permit and Cease and Desist Order**

Adopted Order No. R2-2009-0004

Reissuance of NPDES Permit for  
**East Bay Municipal Utility District,  
Special District No. 1, Point Isabel,  
San Antonio Creek, and Oakport  
Wet Weather Facilities,  
Richmond and Oakland,  
Contra Costa and Alameda Counties**

Adopted Order No. R2-2009-0005

Issuance of Cease and Desist Order for Discharge  
of Partially Treated Wastewater for  
**East Bay Municipal Utility District,  
Special District No. 1, Point Isabel,  
San Antonio Creek, and Oakport  
Wet Weather Facilities,  
Richmond and Oakland,  
Contra Costa and Alameda Counties**

**Site Cleanup Requirements**

Adopted Order No. R2-2009-0003

Adoption of Final Site Cleanup Requirements for  
**Hexion Specialty Chemicals, Inc., for the property  
located at 41100 Boyce Road,  
Fremont, Alameda County**

**Planning**

Public Hearing

Held Public Hearing on **Evaluation of Water Quality  
Conditions for the San Francisco Bay Region –  
Proposed Revisions to Clean Water Act  
Section 303(d) List of Impaired Waters**

**Cleanup Programs**

Progress Report

Case Closure Progress Report for **Cleanup Programs**

**Minutes**

Adopted Minutes

Adoption of Minutes as Submitted for  
**the August 22, 2008 Board Meeting and  
the September 10, 2008 Board Meeting**