

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

# AGENDA

**Wednesday, September 10, 2008**  
**9:00 a.m.**

**Water Quality Control Board  
Regional Board Meeting Room  
9174 Sky Park Court  
San Diego, California**

The Regional Board requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the Regional Board has the opportunity to fully study and consider written material, comments should be received in the Regional Board's office no later than 5:00 P.M. on Wednesday, August 27, 2008, and should indicate the agenda item to which it is applicable. If the submitted written material is more than 5 pages or contains foldouts, color graphics, maps, etc., 20 copies must be submitted for distribution to the Regional Board members and staff. Written material submitted after 5:00 P.M. on Wednesday, September 3, 2008 will not be provided to the Regional Board members and will not be considered by the Regional Board.

***PLEASE NOTE THAT SOME ITEMS ON THE AGENDA MAY HAVE BEEN PREVIOUSLY NOTICED WITH EARLIER DEADLINES FOR SUBMITTING WRITTEN COMMENTS. IN THOSE CASES THE EARLIER DEADLINES APPLY.***

Comments on agenda items will be accepted by E-mail subject to the same conditions set forth for other written submissions as long as the total submittal (including attachments) does not exceed five printed pages in length. E-mail must be submitted to: [rb9agenda@waterboards.ca.gov](mailto:rb9agenda@waterboards.ca.gov) to insure consideration by the Regional Board. Type the word "Agenda" in the subject line.

Pursuant to Title 23, California Code of Regulations, Section 648.4, the Regional Board may refuse to admit written testimony into evidence if it is not submitted to the Regional Board in a timely manner, unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would create an unreasonable hardship.

NOTE C, attached to this Notice, contains a description of the hearing procedures that will be followed by the Regional Board. Hearings before the Regional Board are normally conducted using procedures that do not include cross-examination. Parties requesting use of more formal procedures must do so in accord with the directions in NOTE C. Any such request, together with supporting material, must be received in the Regional Board's office no later than 5:00 P.M. on Wednesday, August 27, 2008.

**Except for items designated as time certain, there are no set times for agenda items. Items may be taken out of order at the discretion of the Chairman.**

1. Roll Call and Introductions
2. PUBLIC FORUM: Any person may address the Board regarding a matter within the Board's jurisdiction that is not related to an item on this Meeting agenda and is not scheduled for a future Meeting. **Comments will generally be limited to three minutes, unless otherwise directed by the Chair.** Any person wishing to make a longer presentation should contact the Executive Officer at least twenty days prior to the meeting.
3. Minutes of Board Meeting: August 13, 2008.
4. Chairman's, Board Members', State Board liaison's and Executive Officer's Reports: These items are for Board discussion only. No public testimony will be allowed, and the Board will take no formal action.
5. Recognition: Resolution of Appreciation for Elizabeth Pearson Schneider (tentative Resolution No. R9-2008-0111) (*John Robertus*)

**Consent Calendar: Items 6 through 8 are considered non-controversial issues. (NOTE: If there is public interest, concern or discussion regarding any consent calendar item or a request for a public hearing, then the item(s) will be removed from the consent calendar and considered after all other agenda items have been completed.)**

6. NPDES Permit Reissuance: Waste Discharge Requirements for Genentech, Inc. discharge to the Pacific Ocean via the Oceanside Ocean Outfall, San Diego County (Tentative Order No. R9-2008-0082, NPDES Permit No. CA0109193) (*Michelle Mata*)
7. Master Reclamation Permit with Waste Discharge Requirements for the United States Marine Corps: Discharges of Reclaimed Water for Landscape Irrigation at Marine Corps Base Camp Pendleton, California (tentative Order No. R9-2008-0089) (*Robert Pierce*)
8. NPDES Permit Addendum: The Regional Board will consider adoption of Tentative Addendum No. 2 to Order No. R9-2007-0001, NPDES Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District and the San Diego County Regional Airport Authority. Tentative Addendum No. 2 to Order No. R9-2007-0001 will extend the reporting due date for the Illicit Discharge Detection and Elimination program component and modify specific bioassessment monitoring requirements. (*Christina Arias*)

**Remainder of the Agenda (Non-Consent Items):**

9. Proposed settlement of Administrative Civil Liability Complaint against the Cities of Vista and Carlsbad for the discharge of 7.3 million gallons of untreated sewage from March 31 to April 3, 2007, from a 24-inch dia. sewer main at the Buena Vista Pump Station to Buena Vista Lagoon, San Diego County. The Regional Board will consider adoption of an Order Assessing Administrative Civil Liability in accordance with the terms of a settlement agreement between the Regional Board Prosecution Team and the Cities of Vista and Carlsbad. The Order would resolve violations alleged in Complaint No. R9-

2007-0099. The settlement includes: (1) payment of \$595,000 to the State Water Resources Control Board; and (2) payment of \$500,000 to fund a Supplemental Environmental Project in Buena Vista Lagoon. If the Regional Water Board rejects the proposed settlement, the matter will be scheduled for a public hearing at a subsequent Regional Board meeting. (Tentative Order No. R9-2008-0072) (*Frank Melbourne*)

10. **PUBLIC HEARING:** Administrative Civil Liability Complaint proposing mandatory minimum penalties against Promenade Mall Development Corporation for discharging groundwater to Mission Bay in alleged violation of effluent limitations of Order R9-2001-0096. The Regional Board will consider whether to approve, modify, or reject assessment of the \$15,000 civil liability recommended in Complaint R9-2008-0056. (Tentative Order No. R9-2008-0104) (*Jeremy Haas*)
11. **PUBLIC HEARING:** Administrative Civil Liability Complaint proposing mandatory minimum penalties against SFPP, L.P, an Operating Partnership of Kinder Morgan Energy Partners, L.P., for discharging groundwater to Murphy Canyon Creek in alleged violation of effluent limitations of Order R9-2001-0096. The Regional Board will consider whether to approve, modify, or reject assessment of the \$229,000 civil liability recommended in Complaint R9-2008-0046. (Tentative Order No. R9-2008-0105) (*Jeremy Haas*)
12. **PUBLIC HEARING:** A public hearing will be held regarding the Cleanup and Abatement Order issued to Dr. William Moritz for the unauthorized discharge of fill to an unnamed, ephemeral stream that is tributary to Rattlesnake Creek and ultimately Poway Creek in violation of Sections 13260(a) and 13264(a) of the California Water Code. The Regional Board will consider adoption of an order to affirm, modify, or rescind the CAO. (CAO No. R9-2008-0074) (*Christopher Means*)
13. *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]  
The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:  
  
Litigation Filed against the Regional Water Board
  - a. *Surfrider Foundation v. California Regional Water Quality Control Board -- San Diego Region and California State Water Resources Control Board; (Cabrillo Power I, LLC, Real Party-in-Interest)*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37 2007-00069621-CU-PT-CTL (filed July 2007). (*Brian Kelley*)
  - b. *William G. Dickerson and Heidi Dickerson, Husband and Wife; Larry Gunning and Penelope L. Gunning, Husband and Wife; and Perry & Papenhausen, Inc., a California Corporation v. San Diego Regional Water Quality Control Board, a Public Entity*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2007-00075846-CU-WM-CTL (filed September 2007). (*Frank Melbourne*)  
Litigation filed by the Regional Water Board against other parties
  - c. *People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Carlos Marin, an individual in his capacity as Commissioner of the International Boundary and Water Commission, United States Section, et al.*, Complaint for Violations of the Clean Water Act and Related State Law Claims. United States District Court, Southern District of California, Case No. 01-CV-

027BTM(JFS) (filed February 2001). (*John Robertus*)

14. *Closed Session - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation*  
The Regional Board may meet in closed session to initiate or consider initiating litigation against persons who are alleged to have violated the Porter-Cologne Water Quality Control or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] (*John Robertus*)
15. *Closed Session - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing*  
The Regional Board may meet in closed session to consider evidence received in an adjudicatory hearing and to deliberate on a decision to be reached based upon that evidence [Authorized under Government Code Section 11126(c)(3)]
16. *Closed Session - Personnel*  
The Regional Board may meet in closed session to consider personnel matters involving public employees [Authorized under Government Code Section 11126(a)]
17. Arrangements for Next Meeting and Adjournment  
Wednesday, October 8, 2008 - 9:00 a.m.  
Water Quality Control Board  
Regional Board Meeting Room  
9174 Sky Park Court  
San Diego, California

### **Notifications**

#### **A. Public Participation 30-day Notice**

The Regional Board intends to issue a no further action letter for remediation of an unauthorized release of petroleum fuel wastes from the Kinder-Morgan Energy Partner's 16-inch diameter pipeline near Interstate-5 and La Paz Road in Mission Viejo, California. Remedial actions included removal of all free-phase petroleum, air sparging, and vacuum extraction, followed by monitored natural attenuation. Results from verification monitoring of ground water showed that residual concentrations of petroleum hydrocarbons are minimal, stable, or decreasing. The maximum residual concentrations for total petroleum hydrocarbons (TPHg) are 2.6 mg/L, Benzene at 24 ug/L, and MTBE at 8 ug/L and are limited to shallow ground water at less than 10 feet below ground surface. Although the Regional Board's Water Quality Control Plan identifies the ground-water basin as having municipal and domestic beneficial uses, the ground-water resources in this general location are not a current or a probable future source of drinking water wells. Based upon the existing information, the residual concentrations of petroleum hydrocarbons do not pose a threat to human health or the environment and the unauthorized release case can be closed. The case files are available for public review by submitting a file review request to the Regional Board office or by accessing the case information through the Geotracker database at <https://geotracker.waterboards.ca.gov>, (Geotracker Case ID = SL0607370770). This public notice fulfills the Regional Board's obligation to inform the public of the proposed actions pursuant to the State and Regional Boards' Public Participation guidance document. Provided no significant issues arise during the public notification period, the Regional Board will issue a no further action letter after September 10, 2008. (*John Anderson*)

**B. ACL Complaint with Mandatory Minimum Penalties against South Orange County Wastewater Authority**

On August 14, 2008, the Regional Board issued five Complaints proposing Administrative Civil liability to South Orange County Wastewater Authority (SOCWA) for each member agency for alleged violations of Regional Board Order Nos. R9-2000-13 and R9-2006-0054, Waste Discharge Requirements and NPDES Permit for the South Orange County Wastewater Authority Discharge to the Pacific Ocean via San Juan Creek Ocean Outfall.

The ACL complaints totaling \$117,000 are: No. R9-2008-0090 (\$21,000); R9-2008-0091 (\$27,000); R9-2008-0092 (\$6,000); R9-2008-0093 (\$57,000); and R9-2008-0094 (\$6,000).

A public hearing is scheduled for the November 12, 2008, Regional Board meeting. Written comments regarding the allegations contained in Complaint No. R9 2008-0064, will be accepted through Friday, October 24, 2008. For more information regarding this matter please call Joann Cofrancesco at (858) 637-5589 or by email at [JCofrancesco@waterboards.ca.gov](mailto:JCofrancesco@waterboards.ca.gov).

**DIRECTIONS TO REGIONAL BOARD MEETING**

From Downtown: I-15 north - take the Aero Drive exit - turn left (west). Proceed to the 3<sup>rd</sup> stoplight, which is Ruffin Road – turn right. Turn left on Sky Park Court (stoplight). Our building is located at the end of the court – veer to the right into the parking lot.

From the North: I-15 south - take the Balboa Ave. exit - turn right (west). Proceed to the 2<sup>nd</sup> stoplight, which is Ruffin Road – turn left. Turn right on Sky Park Court (stoplight). Our building is located at the end of the court – veer to the right into the parking lot.