

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

# MEETING NOTICE AND AGENDA

Wednesday, October 12, 2011  
9:00 a.m.

Rancho California Water District  
District Board Room  
42135 Winchester Road  
Temecula, California

The purpose of this meeting is for the San Diego Water Board to obtain testimony and information from concerned and affected persons and to make decisions based on the information received. Persons who want to submit written comments or evidence on any agenda item must comply with the procedures described in the agenda and agenda notes. Persons wishing to speak at the meeting should complete an attendance card (see Note F, attached to this Notice). The San Diego Water Board requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the San Diego Water Board members and staff have the opportunity to fully study and consider written material, comments should be received in the San Diego Water Board's office no later than noon on Tuesday, September 27, 2011\* 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., 15 copies must be submitted for distribution to the Board members and staff. Written material submitted after 5:00 P.M. on Tuesday, October 4, 2011 will not be provided to the Board members and may not be considered by the San Diego Water Board (See Note D, attached to this Notice).

***\*PLEASE NOTE THAT SOME ITEMS ON THE AGENDA MAY HAVE BEEN PREVIOUSLY NOTICED WITH EARLIER DEADLINES FOR SUBMITTING WRITTEN COMMENTS OR MAY HAVE A SEPARATE HEARING PROCEDURES DOCUMENT THAT ESTABLISHES DIFFERENT DEADLINES OR PROCEDURES FOR SUBMITTING WRITTEN MATERIALS. IN THOSE CASES THE DIFFERENT DEADLINES OR PROCEDURES 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 San Diego Water Board. Type the word "Agenda" in the subject line.

Pursuant to Title 23, California Code of Regulations, section 648.4, the San Diego Water Board may refuse to admit written testimony or evidence into the record if it is not submitted to the San Diego Water Board in a timely manner and shall refuse to do so if admitting it would prejudice any party or the board, unless the proponent demonstrates that compliance with the deadline would create an unreasonable hardship.

NOTE D, attached to this Notice, refers to the procedures that will be followed by the San Diego Water Board in contested adjudicatory matters if a separate Hearing Procedures Document has not been issued for a particular agenda item. Parties requesting an alternate hearing process must do so in accord with the directions in NOTE D. Any such request, together with supporting material, must be received in the San Diego Water Board's office no later than noon on Tuesday, September 27, 2011.

**Copies of the agenda items to be considered by the San Diego Water Board are posted on the San Diego Water Board's website at [http://www.waterboards.ca.gov/sandiego/board\\_info/agendas](http://www.waterboards.ca.gov/sandiego/board_info/agendas)**

***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 ten days prior to the meeting.
3. Minutes of Board Meeting: September 14, 2011.
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: Resolutions of Appreciation for former Board Members Marc Luker (Tentative Resolution No. R9-2011-0058) and Bill Green (Tentative Resolution No. R9-2011-0071) (*David Gibson*)
6. Information Item: Temecula Valley Wine Country Expansion General Plan Update (*Fisayo Osibodu*)
7. Status Report: City of San Diego, San Vicente Reservoir Augmentation Project: After hearing a status report from the City of San Diego regarding its efforts to assess the viability of using recycled water to augment the imported water supply in the San Vicente Reservoir, the San Diego Water Board may consider adoption of a Resolution supporting the project. (Tentative Resolution No. R9-2011-0069) (*Joann Cofrancesco*)

8. Administrative Assessment of Civil Liability, Mr. Jack Eitzen. Administrative Civil Liability for violations of Order No. 99-08-DWQ and the Water Quality Control Plan for the San Diego Basin. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$381,450 penalty recommended in Complaint No. R9-2010-0084 issued to Mr. Eitzen for the following items: 1) violations of Basin Plan Prohibitions 1 and 14 by discharging construction debris into waters of the state, 2) violations of State Water Resources Control Board Order No. 99-08-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity*, by discharging sediment to a municipal separate storm sewer system tributary to waters of the United States, and 3) failing to develop and implement an adequate Storm Water Pollution Prevention Plan, as required by Order No. 99-08-DWQ. The San Diego Water Board may approve, modify, or reject assessment of the recommended penalty. (Tentative Order No. R9-2011-0048) (*Bruce Posthumus*)
  
9. Administrative Assessment of Civil Liability, Mr. Jack Eitzen. Administrative Civil Liability for violations of Order No. 99-08-DWQ. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$301,950 penalty recommended in Complaint No. R9-2010-0104 issued to Mr. Eitzen for failing to develop and implement an adequate Storm Water Pollution Prevention Plan, as required by State Water Resources Control Board Order No. 99-08-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity*. The San Diego Water Board may approve, modify, or reject assessment of the recommended penalty. (Tentative Order No. R9-2011-0049) (*Bruce Posthumus*)
  
10. *Closed Session - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]*  
The San Diego Water Board may meet in closed session to discuss ongoing litigation for the following cases:

#### **Civil Actions**

- a. *People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Edward Drusina, 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). (*David Gibson*)
  
- b. *In re: Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-001, (NPDES 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 adopted on January 24, 2007. Test Claim filed by San Diego County, et al., with Commission on State Mandates, No. 07-TC-09* (filed June 2008). (*Catherine George Hagan*)

- c. *Surfrider Foundation v. California Regional Water Quality Control Board, San Diego Region*, Petition for Writ of Mandate [re: San Diego Water Board's adoption of Order No. R9-2009-0038 amending Order No. R9-2006-0065 for Poseidon Resources (Channelside), LLC, NPDES Permit No. CA0109223, approval of a Flow, Entrainment and Impingement Minimization Plan under the California Water Code]. San Diego County Superior Court, Case No. 37-2010-0009-436-CU-WM-CTL (filed April 2010). (*Brian Kelley*)
- d. *South Orange County Wastewater Authority and South Coast Water District v. San Diego Regional Water Quality Control Board*, Petition for Writ of Mandate. Los Angeles County Superior Court, Case No. BS133238 (Mandatory Minimum Penalties) (filed April 2010) (*Joann Cofrancesco*)
- e. *California Regional Water Quality Control Board, San Diego Region v. Bill and Heidi Dickerson, Larry and Penelope Gunning and Perry & Papenhausen, Inc.* Complaint for Damages for Breach of Contract and for Specific Performance. San Diego County Superior Court, Case No. 37-2010-00096011-CU-CO-CTL (filed July 2010) (*Jeremy Haas*)
- f. *State of California Department of Finance, State Water Resources Control Board, And California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates.* Petition for Writ of Administrative Mandamus. Sacramento County Superior Court, Case No. 34-2010-80000604 (filed July 2010) (*Catherine George Hagan*)
- g. *South Orange County Wastewater Authority and South Coast Water District v. San Diego Regional Water Quality Control Board*, Petition for Writ of Mandate. Orange County Superior Court Case No. 30-2011-00501106 (Refusal to Modify NPDES Permit) (filed August 2011) (*Kristin Schwall*)

#### **Petitions for Review Pending Before State Water Resources Control Board**

- h. Petitions of the National Fireworks Association and Fireworks & Stage FX America Inc., Coastal Environmental Rights Foundation, and San Diego Coastkeeper (General National Pollutant Discharge Elimination System (NPDES) Permit Order No. R9-2011-0022 (NPDES No. CAG999002) for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks), SWRCB/OCC Files A-2164(a)-(c), filed June and July 2011. (*Michelle Mata*)
11. *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation  
The San Diego Water Board may meet in closed session to initiate or consider initiating litigation concerning matters within its jurisdiction or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] (*David Gibson*)
  12. *Closed Session* - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing  
The San Diego Water 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)]

13. *Closed Session - Personnel*  
The San Diego Water Board may meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing [Authorized under Government Code Section 11126(a)]
14. Arrangements for the Next Meetings and Adjournment  
November 9, 14, 15 (and possible the 16<sup>th</sup>), 2011 - 9:00 a.m.  
Water Quality Control Board  
Regional Board Meeting Room  
9174 Sky Park Court  
San Diego, California

### ***Notifications***

A. Completed Cleanup Action - 30-day Notice. The San Diego Water Board intends to issue a no further action letter for completion of cleanup of pollutants from a leaking underground storage tank (UST) at Building 21478 at Marine Corps Base Camp Pendleton, California. This notification is made pursuant to California Code of Regulations, Title 23, section 2728. The residual concentrations of fuel constituents in soil and groundwater do not appear to pose a threat to human health or the environment and the unauthorized release case may be closed. Additional details about this case are available on the GeoTracker website at: [https://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id= T0607301679](https://geotracker.waterboards.ca.gov/profile_report.asp?global_id= T0607301679). Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter in October 2011. *(Cheryl Prowell)*

### ***DIRECTIONS TO MEETING***

Rancho California Water District  
42135 Winchester Road  
Temecula

From San Diego: I-15 North to Temecula. Take the Winchester Road exit - turn left (west) on Winchester Road. Go past Jefferson then just after you pass Diaz (4-way stop), the Rancho Water building will be on the right.

\*No on-street parking – your car may be towed.