

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

# **REVISED<sup>1</sup> MEETING NOTICE AND AGENDA<sup>2</sup>**

## **AND NOTICE OF TELEPHONIC PARTICIPATION**

*Wednesday, November 13, 2013*

*9:00 a.m.*

**Water Quality Control Board  
Board Meeting Room  
2375 Northside Drive, Suite 100  
San Diego, California**

**Mathematics Research Centre  
University of Warwick  
Coventry DV4 &AL - UK  
Fax No: +44 (0)24 7652 3548  
Phone No: +44 (0)24 7652 4403**

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 review and consider written material, comments should be received in the San Diego Water Board's office no later than noon on Tuesday, October 29, 2013\* 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, November 5, 2013, will not be provided

<sup>1</sup> This Agenda and Meeting Notice was revised only to reflect the location for telephonic participation.

<sup>2</sup> Versión en español disponible también en:

[http://www.waterboards.ca.gov/sandiego/board\\_info/agendas/index.shtml](http://www.waterboards.ca.gov/sandiego/board_info/agendas/index.shtml)

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). 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, October 29, 2013.

**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 Board Chairperson.** 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: August 14, 2013

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. Approval of 2014 Meeting Schedule. (*David Gibson*)

**Consent Calendar: Items 6 and 7 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: Marine Corps Base Camp Pendleton, Discharges from Southern Regional Tertiary Treatment Plant and Advanced Water Treatment Plant to the Pacific Ocean via the Oceanside Ocean Outfall, San Diego County (Tentative Order No. R9-2013-0112, NPDES Permit No. CA0109347). (*Joann Lim*)
7. Administrative Civil Liability: Settlement Agreement and Stipulation for Order, Enniss Inc., Lakeside. Settlement to resolve, by consent, mandatory penalties for violation of Order No. 97-03-DWQ, *National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*, as set forth in Complaint No. R9-2013-0051. (*Vicente Rodriguez*)

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

8. Resolution: Tentative Resolution endorsing the San Diego Water Board Practical Vision (Tentative Resolution No. R9-2013-0153). (*David Gibson*)
9. *CLOSED SESSION*

The Board may meet in closed session to consider personnel matters [Authority: Government Code section 11126(a)]; to deliberate on a decision to be reached based upon evidence introduced in a hearing [Authority: Government Code section 11126(c)(3)]; or to discuss matters in litigation, including discussion of initiated litigation, significant exposure to litigation, or decisions to initiate litigation [Authority: Government Code section 11126(e)]. Litigation items that may be discussed are listed below by the type of item:

**Civil Actions (Judicial and Administrative, other than Petitions for Review filed with the State Water Board)**

- a. *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)*

- b. *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)*
- c. *In re: Citizens Development Corporation, Debtor and Debtor in Possession, Case No. 10-15142-LT11. United States Bankruptcy Court, Southern District of California. (San Diego Water Board Claim in Bankruptcy) (filed June 2011). (Catherine George Hagan)*
- d. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, (NPDES No. CAS0108740) Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of the County of Orange, and the Orange County Flood Control District adopted on December 16, 2009. Test Claim filed by County of Orange, et al., with Commission on State Mandates, No. 10-TC-11 (filed June 2011). (Catherine George Hagan)*
- e. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016 (NPDES No. CAS0108766) adopted November 10, 2010, County of Riverside, Riverside County Flood Control and Water Conservation District, and the Cities of Murrieta, Temecula and Wildomar, Co-Claimants, filed with Commission on State Mandates, No. 11-TC-03 (filed November 2011). (Catherine George Hagan)*
- f. *City of San Diego v. California Regional Water Quality Control Board, San Diego Division, SFPP, L.P., A Delaware Limited Partnership, and Kinder Morgan Energy Partners, L.P., A Delaware Limited Partnership, Real Parties-in-Interest. Petition for Writ of Administrative Mandamus. San Diego County Superior Court, Case No. 37-2013-00047614-CU-WM-CTL (filed May 2013). (Ben Neill)*

### **Petitions for Review Pending Before State Water Resources Control Board<sup>3</sup>**

- g. **Petitions of the National Fireworks Association and Fireworks & Stage FX America Inc., Coastal Environmental Rights Foundation, and San Diego**

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<sup>3</sup> Petitions for review of San Diego Water Board actions or inactions filed with the State Water Board being held in abeyance by the State Water Board are not listed in the agenda. The titles of these matters are available at the San Diego Water Board. Please contact Catherine George Hagan at [catherine.hagan@waterboards.ca.gov](mailto:catherine.hagan@waterboards.ca.gov) or 619-521-3012 for more information.

- 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*)
- h.* Petition of Citizens Development Corporation (Water Code Section 13267 Investigative Order No. R9-2011-0033 dated September 14, 2011, Requiring Submission of Technical Reports Pertaining to Investigation of Lake San Marcos Nutrient Impairment, San Diego County), SWRCB/OCC File A-2185, filed October 2011. (*Laurie Walsh*)
- i.* Petition of City of San Diego (Time Schedule Order No. R9-2011-0052 dated September 14, 2011, for the Kinder Morgan Energy Partners, Mission Valley Terminal Remediation Dewatering Discharge to Murphy Canyon Creek, San Diego County), SWRCB/OCC File A-2186, filed October 2011. (*Ben Neill*)
- j.* Petition of Jack Eitzen (Administrative Assessment of Civil Liability Order Nos. R9-2011-0048 and R9-2011-0049 against Jack Eitzen for 38175 and 38155 Via Vista Grande, Murrieta, Riverside County), issued October 12, 2011), SWRCB/OCC File A-2193, filed November 2011. (*Rebecca Stewart*)
- k.* Petitions for Review of San Diego Bay Shipyard Sediment Cleanup and Abatement Order No. R9-2012-0024 for National Steel and Shipbuilding Company (NASSCO), BAE Systems, San Diego Ship Repair (BAE Systems), Campbell Industries, City of San Diego, San Diego Gas & Electric (SDG&E) and San Diego Unified Port District (Port District) issued March 14, 2012. Petitions for Review and Requests for Stay filed by NASSCO, BAE Systems and City of San Diego. Petitions for Review w/o requests for stay filed by SDG&E, Star & Crescent Boat Company and Port District. SWRCB/OCC File A-2205(a) – (e), filed April 2012. (*Frank Melbourne*)
- l.* Petition of NASSCO for Review of Resolution No. R9-2012-0025 (Certifying Final Environmental Impact Report for San Diego Bay Shipyard Sediment Cleanup and Abatement Order No. R9-2012-0024), adopted March 14, 2012, SWRCB/OCC File A-XXXX, filed April 2012. (*Frank Melbourne*)
- m.* Petition of South Laguna Civic Association for Review of Order No. R9-2012-0013, NPDES No. CA0107611, NPDES Permit Reissuance: South Orange County Waste Authority, Discharges to the Pacific Ocean via Aliso Creek Ocean Outfall, adopted April 11, 2012, SWRCB/OCC File A-2211, filed May 2012. (*Joann Lim*)
- n.* Petition of City of San Diego for Review of Resolution No. R9-2012-0045, re NPDES Permit Notice of Enrollment Amendment for Kinder Morgan Energy Partners, June 13, 2012, SWRCB/OCC File A-XXXX, filed July 2012. (*Ben Neill*)

- o. Petitions for Review of Regional Municipal Separate Storm Sewer System Order No. R9-2013-0001 (NPDES No. CAS0109266), adopted May 8, 2013, filed by (1) San Diego County Regional Airport Authority (stay requested), (2) City of Lake Forest (abeyance request), (3) City of Aliso Viejo (abeyance request), (4) City of Laguna Hills (abeyance request), (5) City of Rancho Santa Margarita (abeyance request), (6) City of Chula Vista, (7) City of National City, (8) Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Cities of Murrieta, Temecula, and Wildomar (abeyance request), (9) City of Dana Point (abeyance request), (10) City of Mission Viejo (abeyance request), (11) City of San Clemente (abeyance request), (12) County of Orange and Orange County Flood Control District (abeyance request), (13) San Diego Unified Port District, (14) City of San Diego (abeyance request), (15) County of San Diego, and (16) City of Laguna Niguel SWRCB/OCC File Nos. 2254(a)-(p), filed June 2013. (*Wayne Chiu*)
- p. Petition of Foothill/Eastern Transportation Corridor Agency for Review of Action, and Failure to Act, in Connection with Waste Discharge Requirements (Tentative Order No. R9-2013-0007) for the Tesoro Extension Project, Orange County, June 19, 2013, SWRCB/OCC File A-2259, filed July 2013. (*Darren Bradford*)

10. Arrangements for Next Meeting and Adjournment:

Wednesday, December 11, 2013 – 9:00 a.m.

Water Quality Control Board

Regional Board Meeting Room

2375 Northside Drive, Suite 100

San Diego, California

## NOTIFICATIONS

- A. An open house will be held after the conclusion of the Board meeting. A quorum of the members of the San Diego Water Board may be present for all or portions of the open house; however, no business will be discussed.
- B. **Completed Cleanup Action – 60-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 Area 14125 at Marine Corps Base Camp Pendleton, California. This notification is made pursuant to California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Article 11, section 2728. The information relied upon by the San Diego Water Board indicates that the pollutants associated with the UST system at this facility have been remediated and the unauthorized release case may be closed. Additional details about this case are available on the GeoTracker website at: [http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T0607302118](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0607302118). Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter in February 2014. (*Sophie di Campalto*)
- C. **Completed Cleanup Action – 60-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 Area 43260 at Marine Corps Base Camp Pendleton, California. This notification is made pursuant to California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Article 11, section 2728. The information relied upon by the San Diego Water Board indicates that the pollutants associated with the UST system at this facility have been remediated and the unauthorized release case may be closed. Additional details about this case are available on the GeoTracker website at: [http://geotracker.waterboards.ca.gov/profile\\_reports?global\\_id=T0607301609](http://geotracker.waterboards.ca.gov/profile_reports?global_id=T0607301609). Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter in February 2014. (*Sophie di Campalto*)

- D. **Completed Cleanup Action – 60-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 Area 53435 at Marine Corps Base Camp Pendleton, California. This notification is made pursuant to California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Article 11, section 2728. The information relied upon by the San Diego Water Board indicates that the pollutants associated with the UST system at this facility have been remediated and the unauthorized release case may be closed. Additional details about this case are available on the GeoTracker website at: [http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T060730003](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T060730003) 1. Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter in February 2014. (*Sophie di Campalto*)
- E. **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 leaking underground storage tanks (USTs) at former Building 209 at Naval Base San Diego. This notification is made pursuant to California Code of Regulations, Title 23, 2728. The information relied upon by the San Diego Water Board indicates that the pollutants associated with the UST system at this facility have been remediated and the unauthorized release case may be closed. Additional details about this case are available on the GeoTracker website at: [http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T060730265](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T060730265) 8. Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter in November 2013. (*Brian McDaniel*)
- F. **Follow the Board Meeting on Twitter:** Updates on the progress of the San Diego Water Board meeting will be posted on Twitter at [www.twitter.com/SDWaterBoard](http://www.twitter.com/SDWaterBoard). The San Diego Water Board's use of Twitter is a courtesy and is for informational purposes only. It is not always reliable, and is not a substitute for personal attendance at a Board meeting.

***DIRECTIONS TO MEETING***

From Downtown: I-15 north – take the Friars Road West exit (toward Qualcomm Stadium) – follow signs to stay on Friars Road. Turn left onto Northside Drive. Turn left at first signal. Our building is located at the end of the court – veer left into the parking lot. Parking will be validated for the parking structure.

From the North: I-15 south – take the Friars Road West exit – follow signs to stay on Friars Road. Turn left onto Northside Drive. Turn left at first signal. Our building is located at the end of the court – veer left into the parking lot. Parking will be validated for the parking structure.



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

Summary of Board Actions and Proceedings

At the August 14, 2013, Board Meeting

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**MINUTES**

Minutes of the July 10, 2013, Board Meeting

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**REGIONAL BOARD ACTIONS**

Approved minutes

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**CONSENT ITEMS**

WDR Addendum: Revision of Waste Discharge Requirements Warner Springs Ranch Wastewater Treatment Plant, San Diego County (Tentative Addendum 2 to Order No. 93-13). (*Tyler Kirkendall*)

Approved Addendum 2 to Order No. 93-13.

WDR Addendum: Revision of Waste Discharge Requirements Pauma Valley Investment Trust, Rancho Corrido Trailer Park, San Diego County (Tentative Addendum 1 to Order No. 94-150). (*Tyler Kirkendall*)

Approved Addendum 1 to Order No. 94-150.

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**NON-CONSENT ITEMS**

Public Hearing, Assessment of Civil Liability: Enniss Inc. Mandatory Minimum Penalty for violations of Order No. 97-03-DWQ. The San Diego Water Board will consider adoption of a Tentative Order that would impose a \$5,950 mandatory minimum penalty recommended in Complaint No. R9-2013-0051 for violation of Monitoring and Reporting Requirements in *Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*. The San Diego Water Board may approve, reject, or modify assessment of the recommended penalty. (*Vicente Rodriguez*)

This item was postponed.

United States Department of the Navy,  
Naval Base San Diego Complex, San  
Diego, California. (*Ben Neill*)

Approved Order No. R9-2013-0064

- a. NPDES Permit Reissuance  
(Tentative Order No. R9-  
2013-0064, NPDES No.  
CA0109169).

United States Department of the Navy  
Naval Base San Diego Complex, San  
Diego, California. (*Ben Neill*)

Approved Order No. R9-2013-0095

- b. Time Schedule Order: A  
Time Schedule Order  
Requiring the United States  
Department of the Navy,  
Naval Base San Diego  
Complex, to Comply with  
Requirements Prescribed in  
Order No. R9-2013-0064,  
NPDES No. CA0109169  
(Tentative Order No. R9-  
2013-0095).

Information Item: Briefing on San Diego  
Bay Spill Response, Sea Level Rise  
Adaptation Strategy, and Monitoring and  
Assessment Activities. (*Melissa  
Valdovinos*)

Information Item; no action taken.

## NOTES:

A. GENERAL STATEMENT

The primary duty of the San Diego Water Board is to protect the quality of the waters within the region for all beneficial uses. This duty is implemented by formulation and adoption of water quality plans for specific ground or surface water basins and by prescribing and enforcing requirements on all domestic and industrial waste discharges. Responsibilities and procedures of the Regional Water Quality Control Board come from the State's Porter-Cologne Water Quality Act and the Nation's Clean Water Act.

The purpose of the meeting is for the Board to obtain testimony and information from concerned and affected parties and make decisions after considering the recommendations made by the Executive Officer.

All interested persons may speak at the San Diego Water Board meeting and are expected to orally summarize their written submittals. Testimony should be presented in writing prior to the meeting and only a summary of pertinent points presented orally. Oral testimony (i.e., direct testimony or comment) will be limited in time by the Board Chair (typically 3 minutes for interested persons and no more than 10 minutes for designated parties). A timer may be used and speakers are expected to honor the time limits.

B. PROCEDURE FOR CONSENT (UNCONTESTED) CALENDAR (see also 23 C.C.R. § 647.2)

Consent or uncontested agenda items are items for which there appears to be no controversy and which can be acted upon by the San Diego Water Board with no discussion. Such items have been properly noticed and all interested parties consent to the staff recommendation. The San Diego Water Board Chair will recognize late revisions submitted by staff and will then call for a motion and vote on all of the consent calendar items by the San Diego Water Board.

If any San Diego Water Board member or member of the public raises a question or issue regarding an item that requires San Diego Water Board discussion, the item may be removed from the consent calendar and considered separately in an order determined by the Chair. Anyone wishing to contest a consent item on the agenda is expected to appear in person at the San Diego Water Board meeting and explain to the San Diego Water Board the reason that it is contested.

C. PROCEDURE FOR INFORMATION ITEMS (see also 23 C.C.R. 649, et. seq.)

Information items are items presented to the San Diego Water Board for discussion only and for which no San Diego Water Board action or vote is normally taken. The San Diego Water Board usually will hear a presentation by staff, but may hear presentations by others. Comments by interested persons shall also be allowed. Members of the public wishing to address the San Diego Water Board on the topic under discussion should submit an attendance card beforehand indicating their request to speak to the San Diego Water Board.

Comment from the public should be for clarification or to add to the San Diego Water Board's understanding of the item; such comment must not be testimonial in nature or argumentative, as speakers are not under oath and the proceeding is not adversarial. Time limits may be imposed on interested persons.

D. **PROCEDURES FOR NON-CONSENT (CONTESTED) AGENDA ITEMS**

Non-consent or contested agenda items are items to which the parties involved have not consented and the staff recommendation is in dispute. The procedure that applies to such items depends on the nature of the matter. Matters before the San Diego Water Board may be quasi-legislative or quasi-judicial (adjudicative proceedings). Such items may require a public hearing and all interested persons will be provided an opportunity to make comments.

**Contested Adjudicative Matters**

Contested agenda items that are adjudicative, not quasi-legislative, are governed by the rules for adjudicative proceedings. State Water Resources Control Board (State Water Board) regulations setting forth the procedures for adjudicative proceedings before the State and Regional Water Boards are codified in Title 23, California Code of Regulations, Division 3. Adjudicative proceedings before the State and Regional Water Boards are governed by State Water Board regulations as authorized by Chapter 4.5 of the Administrative Procedures Act (commencing with section 11400 of the Government Code). State Water Board regulations further provide that, with certain exceptions, adjudicative proceedings will be conducted in accordance with sections 800-805 of the Evidence Code and section 11513 of Chapter 5 of the Government Code. (Other provisions of Chapter 5 of the Government Code do not apply to adjudicative proceedings before the State and Regional Water Boards). A copy of those regulations and Chapter 4.5 of the Administrative Procedures Act, section 11513 of the Government Code and sections 801-805 of the Evidence Code can be found at [http://www.waterboards.ca.gov/laws\\_regulations/](http://www.waterboards.ca.gov/laws_regulations/).

An adjudicative proceeding is a hearing to receive evidence for determination of facts pursuant to which the State or Regional Water Board formulates and issues a decision. A decision determines a legal right, duty, privilege, immunity or other legal interest of a particular person or persons. Examples of adjudicative proceedings include hearings to receive evidence concerning the issuance of waste discharge requirements or National Pollutant Discharge Elimination System (NPDES) permits, concerning cease and desist orders, and concerning orders imposing administrative civil liability. Adjudicative proceedings are not conducted according to the technical rules of evidence, and the San Diego Water Board will accept testimony and comments that are reasonably relevant to the issues before the Board. Testimony or comments that are not reasonably relevant, or that are repetitious, will be excluded.

In some adjudicative matters, most frequently administrative civil liability matters, a separate Hearing Procedures Document has been issued. In those cases, the procedures set forth in that Document will apply, subject to

discretionary modification by the Chairman. For other adjudicatory matters, 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 San Diego Water Board must affirm the truth of their testimony and are subject to questioning by the Board Members.

Absent a separate Hearing Procedures Document, the Board normally conducts adjudicative proceedings in an informal manner. That is, the Board does not, generally, require the designation of parties, the prior identification of witnesses, prior submission of written testimony, or the cross examination of witnesses. Any requests for an alternate hearing process should be directed to the Executive Officer and must be received by the San Diego Water Board by the deadline set forth on pages 1-2 of the Agenda.

When the San Diego Water Board determines that a hearing will be formal (as opposed to informal, as described above), participants in a contested agenda item are either "designated parties" or "interested persons." Only designated parties will have the right to cross-examination, and may be subject to cross-examination. Interested persons (i.e., nondesignated parties) do not have a right to cross-examination, but may ask the San Diego Water Board to clarify testimony. Interested persons may also be asked to clarify their statements at the discretion of the San Diego Water Board.

Designated parties include:

- Discharger or Responsible Party
- Persons directly affected by the discharge
- Staff of the San Diego Water Board (if specified in the applicable hearing procedures)

All other persons wishing to testify or provide comments for a formal hearing are "interested persons" and not "designated parties." Such interested persons may request status as a designated party for purposes of the formal hearing by submitting such request in writing to the San Diego Water Board no later than the date specified at the beginning of the Agenda Notice or in the applicable Notice of Public Hearing or Hearing Procedures Document. The request must explain the basis for status as a designated party and, in particular, how the person is directly affected by the discharge.

All persons testifying must state their name, address, affiliation, and whether they have taken the oath before testifying. The order of testimony for formal hearings generally will be as follows, unless modified by the San Diego Water Board Chair:

- Testimony and cross-examination of San Diego Water Board staff
- Testimony and cross-examination of discharger
- Testimony and cross-examination of other designated parties

- Testimony by interested persons
- Closing statement by designated parties other than discharger
- Closing statement by discharger
- Closing statement by staff
- Recommendation by Executive Officer (as appropriate)
- Close hearing
- Deliberation and voting by San Diego Water Board

Closing statements shall be for the purpose of summarization and rebuttal and are not to be used to introduce new evidence or testimony. After considering evidence, testimony, and comments, the San Diego Water Board may choose to adopt an order regarding a proposed agenda item.

### **Quasi-legislative Matters**

Quasi-legislative matters include rulemaking and some informational proceedings. These matters may include hearings for the adoption or amendment of regulations, water quality control plans, and hearings to gather information to assist the State and Regional Water Boards in formulating policy for future action. They are not adjudicative proceedings and are subject to different procedures. (See PROCEDURE FOR INFORMATION ITEMS, above, and Cal. Code Regs. Tit. 23, § 649, et seq.)

#### **E. CONTRIBUTIONS TO SAN DIEGO WATER BOARD MEMBERS**

Persons applying for or actively supporting or opposing waste discharge requirements or other San Diego Water Board orders must comply with legal requirements if they or their agents have contributed or proposed to contribute \$250 or more to the campaign of a San Diego Water Board member for elected office. Contact the San Diego Water Board for details if you fall into this category.

#### **F. PROCEDURAL INFORMATION**

The San Diego Water Board may meet in closed session to discuss matters in litigation, including discussion of initiated litigation, significant exposure to litigation, or decisions to initiate litigation [Authority: Government Code § 11126(e)]; deliberate on a decision to be reached based upon evidence introduced in an adjudicatory hearing [Authority: Government Code § 11126(d)]; or to consider the appointment, employment or dismissal of a public employee to hear complaints or charges brought against a public employee [Authority: Government Code §11126(a)].

The San Diego Water Board may break for lunch at approximately noon at the discretion of the Chairman. During the lunch break San Diego Water Board members may have lunch together. Other than properly noticed closed session items, San Diego Water Board business will not be discussed.

Agenda items are subject to postponement. A listing of postponed items will be posted in the meeting room. You may contact the designated staff contact

person in advance of the meeting day for information on the status of any agenda item.

Speaker Cards. All persons desiring to address the San Diego Water Board are required to fill out a speaker card. Cards are normally provided near the entrance to the meeting room. San Diego Water Board staff can assist you in locating the cards.

Please fill out a separate card for each item you plan to speak on. All relevant sections, including the oath, must be completed. Please use the appropriate color card, as indicated below:

Blue: Public Comments (for items requiring no San Diego Water Board action - Public Forum, status reports, etc.).

Green: Public Testimony, in support of the tentative action.

Pink: Public Testimony, opposed to the tentative action.

G. AVAILABILITY OF EXECUTIVE OFFICER'S REPORT AND AGENDA MATERIAL

Visit our website at [www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego) to view the Executive Officer's Report over the internet two days prior to the San Diego Water Board meeting. A copy can also be obtained by contacting the staff office. A limited number of copies are available at the meeting.

Copies of most 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).

Details concerning other agenda items are available for public reference during normal working hours at the San Diego Water Board's office. The appropriate staff contact person, indicated with the specific agenda item, can answer questions and provide additional information. For additional information about the Board, please see the attached sheet.

H. PETITION OF SAN DIEGO WATER BOARD ACTION

In accordance with California Water Code section 13320, any person affected adversely by most decisions of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) may petition the State Water Resources Control Board (State Board) to review the decision. The petition must be received by the State Board within 30 days of the San Diego Water Board's meeting at which the adverse action was taken. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I. HEARING RECORD

Material presented to the Board as part of testimony (e.g. photographs, slides, charts, diagrams etc.) that is to be made part of the record must be left with the Board. Photographs or slides of large exhibits are acceptable.

All Board files, exhibits, and agenda material pertaining to items on this agenda are hereby made a part of the record.

J. ACCESSIBILITY

The facility is accessible to people with disabilities. Individuals who have special accommodation or language needs, please contact Ms. Chris Blank at (619) 521-3382 or [cblank@waterboards.ca.gov](mailto:cblank@waterboards.ca.gov) at least 5 working days prior to the meeting. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

K. PRESENTATION EQUIPMENT

Providing and operating projectors and other presentation aids are the responsibilities of the speakers. Some equipment may be available at the Board Meeting; however, the type of equipment available will vary dependent on the meeting location. Because of compatibility issues, provision and operation of laptop computers and projectors for Power Point presentations will generally be the responsibility of the individual speakers. To ascertain the availability of presentation equipment please contact Ms. Chris Blank at (619) 521-3382 or [cblank@waterboards.ca.gov](mailto:cblank@waterboards.ca.gov) at least 5 working days prior to the meeting.