



California Regional Water Quality Control Board

San Francisco Bay Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

Notice of Public Hearing To Consider Administrative Civil Liability for Sewerage Agency of Southern Marin 450 Sycamore Avenue Mill Valley, Marin County

Complaint Amount and Allegations

The San Francisco Bay Regional Water Board (Regional Water Board) Assistant Executive Officer has issued an administrative civil liability complaint (Complaint) proposing a civil liability of \$1,600,000 against the Sewerage Agency of Southern Marin (Discharger) for discharging 2.45 million gallons of screened untreated sewage on January 25, 2008, and 962,000 gallons of treated and un-disinfected sewage on January 31, 2008. Both discharges occurred to Pickleweed Inlet, which is a tributary of Richard Bay.

Hearing to be Held

The Regional Water Board will hold a hearing on the Complaint as follows:

Date and Time: October 8, 2008, 9:00 a.m.
Place: Auditorium, 1515 Clay Street, Oakland

Discharger May Waive Hearing

No hearing will be held if the Discharger waives its right to a hearing and agrees to pay the proposed civil liability as set forth in the Complaint, provided no significant public comments are received during the public comment period. At the hearing, the Regional Water Board may affirm, reject, or modify the proposed civil liability, or refer the matter to the Attorney General for judicial enforcement.

Hearing Procedures are Legally Determined

This will be an adjudicatory hearing before the Regional Water Board. The procedures governing such hearings are located in Title 23 of the California Code of Regulations, § 648 et seq.

Any persons objecting to the hearing procedures set forth herein must do so in writing by September 10, 2008 to the contact listed below.

Participation in the Hearing

The Board staff members who will be involved in this matter have been separated into two groups. One group (the "prosecution team") consists of Dyan Whyte and Lila Tang, staff of the Regional Water Board; Boris Trgovcich and Karol Enferadi, staff with the State Water Board's

Office of Enforcement; Jorge Leon an attorney with the State Water Board's Office of Enforcement; and Yuri Won, an attorney with the State Water Board's Office of Chief Counsel. Yuri Won on the prosecution team advises the Board on unrelated matters. The prosecution team will appear as a party before the Board. They have had (and will have had) no communication with Board members on this matter outside of the public hearing.

A separate group of staff will advise the Board on this matter. That group (the "advisory team") consists of the Executive Officer, Bruce Wolfe; and Dorothy Dickey, an attorney with the State Water Board's Office of Chief Counsel. They have had no contact with the prosecution team on this matter.

Other than prosecutorial staff, participants at the hearing are either designated as "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses. Designated parties are subject to cross-examination. Interested persons may make any comments to the Board, but may not offer factual evidence. Interested persons will not be subject to cross-examination, nor may they cross examine parties.

The following participants are hereby designated as parties at the hearing:

- **Sewerage Agency of Southern Marin**
Stephen Danehy, 415-388-2402, 26 Corte Madera Avenue, Mill Valley, CA 94941
- **Prosecution Team of the Regional Water Board**
Dyan Whyte, 510-622-2441, 1515 Clay Street, Suite 1400, Oakland, CA 94612
Lila Tang, 510-622-2425, 1515 Clay Street, Suite 1400, Oakland, CA 94612
Boris Trgovcich, 916-341-5893, 1001 I Street • Sacramento, CA 95814
Karol Enferadi, 916-327-8363, 1001 I Street • Sacramento, CA 95814
Jorge Leon, 916-341-5180, 1001 I Street • Sacramento, CA 95814
Yuri Won, 510-622-2491, 1515 Clay Street, Suite 1400, Oakland, CA 94612

To ensure that all participants have an opportunity to participate in the hearing, the prosecution team will recommend that the chair establish the following time limits:

- 30 minutes for each of the prosecutorial staff and Discharger to testify, present evidence, and cross examine witnesses,
- 3 minutes for interested persons to make statements to the Board.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Regional Water Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Regional Water Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested

persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party shall request party status by submitting a request in writing (with copies to the designated parties) no later than 5 p.m. on **August 22, 2008**, to Mary Tryon, Executive Assistant, 1515 Clay Street, Suite 1400, Oakland, CA 94612. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Water Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by 5 p.m. on **August 25, 2008**. The parties will be notified by 5 p.m. on **September 4, 2008** in writing whether the request has been granted or denied.

Written Comment and Evidence Deadline

The deadline to submit any and all written comments and evidence to be offered at the hearing is **5 p.m. on September 10, 2008**, to the attention of Lila Tang. Written comments, legal argument and evidence may be submitted electronically via email at the email addresses shown above. If the comments and evidence total 50 pages or more, then **14 paper copies** must be submitted to Lila Tang at 1515 Clay Street, Suite 1400, Oakland, CA 94612.

Questions and Updates

Questions concerning this matter may be addressed to prosecutorial staff Lila Tang at 510-622-2425 or ltang@waterboards.ca.gov., or to the Advisory Team, Dorothy Dickey at 510-622-2490 or ddickey@waterboards.ca.gov, as appropriate. Please also refer to the website given below for future developments and updates, including any hearing date changes.

Evidentiary Documents are on File at Regional Water Board Office

The Complaint and related documents are on file, and may be inspected or copied at the Regional Water Board's offices during weekdays between 8 a.m. and 5:00 p.m. The Complaint is also available on the Regional Water Board's website at www.waterboards.ca.gov/sanfranciscobay.