

AGENDA

Public Meeting

Central Valley Regional Water Quality Control Board



22 April 2010 – 8:30 a.m.
Central Valley Regional
Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

The purpose of this meeting is for the Board to obtain testimony and information from concerned and affected parties 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 Notice of Public Hearing for the item and the [Meeting Procedures](#) described at the end of the listing of Agenda items. Persons wishing to speak at the meeting should complete an [attendance card](#) and provide it to staff. Although filling out the attendance card is voluntary, we do appreciate receiving a card from all persons in attendance.

Persons applying for, or actively supporting or opposing, waste discharge requirements before the Board must comply with legal requirements if they or their agents have or propose contributing more than \$250 to a Board member for an election campaign. Contact the Board office for details if you fall into this category.

Items showing times will begin no sooner than indicated. Items are numbered for identification purposes only and may not be considered in order. They may, however, be delayed by previous items. Items scheduled for the first day of a multi-day meeting may be delayed or continued to the next day of the meeting. The Board may conduct any scheduled hearing as a Panel Hearing as allowed by law in the event of a lack of a Board member quorum. In the event that a Panel Hearing is held, final action on that item will not be taken until a Board member quorum is present. Closed Session business is normally conducted during the lunch break, although the Board may adjourn to Closed Session at any time. Depending on the extent of Closed Session items, the lunch break may be lengthy. The Board Chair will announce prior to any Closed Session the anticipated time that the public session will resume.

Technical questions regarding agenda items should be directed to the responsible staff person whose name and direct phone number are indicated by the agenda item. If no staff person is listed, or for general questions and requests for agenda material, please contact Kiran Lanfranchi-Rizzardi at (916) 464-4839.

The facility is accessible to people with disabilities. Individuals requiring special accommodations are requested to contact Ms. Rizzardi at (916) 464-4839 at least 5 working days prior to the meeting. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Board agendas and the approved minutes of Board meetings are posted on the Board's website at http://www.waterboards.ca.gov/centralvalley/board_info/meetings/

Copies of the items to be considered by the Board are posted on the Board's website at http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/ organized by agenda item number.

A listing of pending applications for Water Quality Certifications, pursuant to section 401 of the Federal Clean Water Act, may be obtained from the Board's website at http://www.waterboards.ca.gov/centralvalley/public_notices/ or by calling the office mainline at (916) 464-3291

Electronic presentations for board meetings: Power Point and other electronic presentations are frequently presented at the Regional Water Board Meetings. Please e-mail presentations to the Board Webmaster at: webmaster5@waterboards.ca.gov at least 24 hours in advance, or bring your files either on a USB Flash drive, or CD ROM and give them to Board Staff prior to the start of the meeting. Providing the electronic files in advance will allow the Board Meeting to proceed without any interruption.

TIME LIMITATIONS

In order to move the Board meeting along in a timely manner, and assure time for adequate consideration of items later in the Agenda, the Chair may enforce maximum time limitations on each item. The goal is to complete all presentations, cross-examination, Board deliberation and voting within the allotted time. Allotted times are listed on the agenda following each item. Please consider the allotted time when preparing your presentations. Items with specific times listed will not be heard before that time but may be heard later.

ELECTRONIC PRESENTATIONS FOR BOARD MEETINGS

Power Point and other electronic presentations are frequently presented at the Regional Water Board Meetings. Please e-mail presentations to the Regional Board Webmaster at: webmaster5@waterboards.ca.gov at least 24 hours in advance, or bring your files either on a USB Flash Drive, or CD ROM and give them to Board Staff prior to the start of the meeting. Providing the electronic files in advance will allow the Board Meeting to proceed without any interruption.

THURSDAY 22 APRIL – 8:30 A.M.

1. Introductions
2. Meeting Rules and Procedures.
3. Board Member Communications – Board Members and the State Board Liaison Member may discuss meetings, communications, correspondence, or other items of general interest relating to matters within the Board's jurisdiction. There will be no voting or formal action taken.
4. Public Forum – Any member of the public may address the Board on any matter within the Board's jurisdiction and not scheduled for consideration at this meeting, or pending before the Board (3 minute time limit per subject) 8:30.A.M.

DELTA MERCURY TMDL

5. [Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Methylmercury and Total Mercury in the Sacramento-San Joaquin River Delta Estuary- Consideration of Approval of Environmental Document and Adoption of Proposed Amendments](#)
[Patrick Morris (916) 464-4621]

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:

Litigation filed against the Regional and/or State Water Board:

- a. Bell Carter NPDES Permit- Environmental Law Foundation v. CVRWQCB (Tehama County Sup.Ct.)
- b. Preston Avery, an Individual, and Lois Avery, an Individual, and as Trustees of the Avery Family Revocable Trust of July 14, 2000 v. State Water Resources Control Board of the State of California, et al. (Sacramento Co. Sup. Ct. No. 06CS00399)
- c. Dairy General Waste Discharge Requirements- Asociacion de Gente Unida por el Agua et al. v. CVRWQCB (Sacramento County Sup. Ct. Case No 2008-00003604); Baykeeper et al v. CVRWQCB (Sacramento County Sup. Ct.) Case No. 2008-00003603)
- d. Dixon Commercial Park CAO - DCP v. SWRCB, (Sacramento Co. Sup. Ct, Case No. 06CS00299), and ConAgra Foods and Monfort, Inc. v. CVRWQCB, (Solano Co. Sup. Ct, Case No. FCS027420)
- e. El Dorado Irrigation District NPDES Permit - California Sportfishing Protection Alliance v. CVRWQCB (Sacramento County Case No. 34-2009-80000309)
- f. Greener Globe Landfill WDRs - CVRWQCB v. A Greener Globe Corp., et al., (Placer Co. Sup. Ct. No. SCV11383)
- g. Irrigated Lands 2006 Coalition & Individual Waiver Orders – CSPA and Baykeeper v. CVRWQCB (Sacramento Co. Sup. Ct. CAS07CS00807)
- h. City of Lodi, White Slough Facility NPDES Permit – Central Valley Clean Water Assn v. CVRWQCB and SWRCB (San Joaquin Sup. Ct. Case No. 39-2009-00224077-CU-WM-STC)
- i. San Joaquin River Salt and Boron TMDL and Dissolved Oxygen TMDL - San Joaquin River Exchange Contractors Water Authority, et al. v. SWRCB and CVRWQCB and San Joaquin River Group Authority, et al., v. SWRCB and CVRWQCB. (Ca. Ct. of Appeal, 3rd DCA, Case No. C060697)

- j. Tehama Market ACL – Tehama Market Associates, LLC and Albert Garland v. CVRWQCB (Butte County Superior Court Cast No. 149654)
- k. Toxic Hot Spots - San Francisco Baykeeper, Inc., et al. v. SWRCB, et al., (Sacramento Co. Sup. Ct. No. 99CS02722).
- l. Tracy WWTP NPDES Permit R5-2007-0036-Environmental Law Foundation and CSPA v CVRWQCB (Sacramento Superior Ct. No. 34-2009-00047273)
- m. Vacaville NPDES Permit - City of Vacaville et al v. CVRWQCB and SWRCB (Ca. Ct. of Appeal, 1st DCA Case No. A127207))
- n. Richard E. Wilmshurst v. CVRWQCB (Third District Ct, of Appeal No. C061231)

Litigation filed by the Board against other parties:

- a. Aerojet Cleanup - CVRWQCB, et al. v. Aerojet-General Corp., et al, (Sacramento Co. Sup. Ct. No. 286073, consolidated with Nos. 288302 and 291981); CVRWQCB, et al. v. Aerojet-General Corp., et al., (EDCal No. CIV-S-86-0064-EJG) consolidated with U.S. v. Aerojet-General Corp., et al., (EDCal No. CIV-S-86-0063-EJG)
- b. Bonzi- California Regional Water Quality Control Board, Central Valley Region v. Ma-Ru Holding Company et al.; Stanislaus County Superior Court Case No. 643740
- c. Iron Mountain Mine Cleanup - State of Calif., CVRWQCB, et al. v. Iron Mountain Mines, Inc., et al., (EDCal No. CIV-S-91-1167-DFL-PAN) and U.S. v. Iron Mountain Mines, Inc., et al., (EDCal No. S-91-0768 DFL/JFM)
- d. Lake Berryessa Resort CDO - People of the State of California, ex rel, Attorney General Bill Lockyer and CVRWQCB v. Lake Berryessa Resort Improvement District, Napa County, Napa County Public Works Department, Napa County Board of Supervisors, and Does 1-500. (Napa. Co. Sup. Ct Case No. 26-32530)
- e. CVRWQCB et al. v. River Highlands Community Services District (Yuba Co. Sup.Ct. YCSCVCV 07-0000130)
- f. CVRWQCB et al. v. Original Sixteen to One Mine, Inc., et.al (Sierra Co. Sup.Ct. no. 7019)

Petitions for Review of Board Actions filed with State Water Resources Control Board.

- a. Barrel 10 Quarter Circle, Escalon Cellars – Petition by California Sportfishing Protection Alliance of WDRs Order R5-2009-0038, SWRCB/OCC File No. A-2018.
- b. Discovery Bay Wastewater Treatment Plant, Order No. R5-2008-0179- Petitions of San Luis & Delta-Mendota Water Authority et al., and California Sportfishing Protection Alliance, SWRCB/OCC Nos. A-1982 and A-1982(a),
- c. City of Manteca Wastewater Quality Control Facility, San Joaquin County - Petitions of City of Manteca and CSPA, Waste Discharge Requirements Order No. R5-2009-0095 [NPDES No. CA0081558] for City of Manteca and Dutra Farms, Inc. (SWRCB/OCC File Nos. A-2054 and A-2054(a).)
- d. Nevada City Wastewater Treatment Plan – Petition by California Sportfishing Protection Alliance of NPDES Order R5-2008-0177, SWRCB/OCC File No. A-1983.
- e. Small Food Processors and Small Wineries, Conditional Waiver, Order R5-2009-, Petition by California Sportfishing Protection Alliance, SWRCB/OCC File No. A-2056.
- f. Sutter Home Winery, Westside Facility – Petition by California Sportfishing Protection Alliance of WDRs Order R5-2009-0073, SWRCB/OCC File No. A-2046
- g. Tracy WWTP NPDES Permit - Petition of the City of Tracy for the City of Tracy Wastewater Treatment Plant, San Joaquin County. SWRCB/OCC File A-1846
- h. USDA, Forest Service (Rubicon Trail CAO R5-2009-0030), SWRCB/OCC File No. A-2017
- i. Vacaville Easterly WWTP - Petition of City of Vacaville for review of NPDES Permit No. R5-2008-0055 and TSO No. R5-2008-0056, Solano County- SWRCB/OCC File A-1932

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

MEETING PROCEDURES

GENERAL MEETING RULES

The Central Valley Regional Water Quality Control Board (Central Valley Water Board, or Board) and staff welcome information on issues and matters within the Board's jurisdiction, but comments and submittals at the meeting should be concise and directed to specifics of the item under discussion to enable the Board to be fully informed and take appropriate action.

Persons wishing to speak at the meeting are asked to complete an attendance card and provide it to staff. Although filling out the attendance card is voluntary, we do appreciate receiving a card from all persons in attendance.

Any person planning to make a presentation to the Board that requires the use of visual aids (such as overheads, slides, or video projector) should contact the assigned staff person to make arrangements before the meeting date in order to avoid unnecessary delays during the meeting.

If the Meeting Procedures in this agenda conflict with a specific Notice of Public Hearing or Hearing Procedures for a specific item, the Notice of Public Hearing or specific Hearing Procedures will control.

All interested persons may speak at the Board meeting, and are expected to orally summarize their written submittals. Testimony and policy statements should be presented in writing prior to the meeting and only a summary of pertinent points presented orally. Oral presentations (e.g., direct testimony, policy comments, cross examination and closing statements) will be limited in time by the Board Chair. A timer may be used and speakers are expected to honor the time limits. Oral presentations must be relevant. Where speakers can be grouped by affiliation or interest, such groups will be expected to select a spokesperson and not be repetitive. The Board will accommodate spokespersons by granting additional time if other group members will not also be speaking.

Any person may submit comments in writing on any agenda item. Written comments shall not be read into the record unless allowed by the Board Chair. Persons who want to submit written materials for any agenda item must provide such written documents to the Board office in advance of the meeting, which must be by the date and time specified in the applicable Notice of Public Hearing and/or Hearing Procedures. Materials received by the deadline and in compliance with the Notice of Public Hearing and/or Hearing Procedures will be included in the administrative record. Staff may provide written responses to comments. Late written materials will not be provided to Board members or included in the administrative record, unless the Chair allows the late submission. A party requesting to submit late materials must demonstrate good cause for the late submission, and the Chair must find that the late submission would not prejudice the Central Valley Water Board or any designated party. The Chair may modify this rule if a party shows severe hardship. Late submissions that consist of evidence (as opposed to policy statements) will generally be deemed prejudicial unless all designated parties and Board staff have time to consider the evidence before the meeting. Written materials or other documents submitted at the Board meeting must be provided first to Board counsel who will advise the Board regarding acceptance into the record.

PROCEDURE FOR UNCONTESTED (CONSENT) AGENDA ITEMS (see also 23 CCR 647.2(f))

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

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

PROCEDURE FOR INFORMATION ITEMS (see also 23 CCR 649 et.seq.)

Information items are items presented to the Board for discussion only and for which no Board action or vote is taken. The Board may, however, provide direction to staff. The Board usually will hear a presentation by staff, and comments by

interested persons shall also be allowed. Members of the public wishing to address the Board on the topic under discussion should submit an attendance card beforehand indicating their request to speak to the Board. Time limits may be imposed on interested persons.

PROCEDURE FOR ACTION ITEMS (see also 23 CCR 649 et.seq.)

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 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 agenda items that are adjudicative, not quasi legislative, are governed by the rules for adjudicative proceedings. The regulations setting forth the procedures for adjudicative proceedings are codified in Title 23 California Code of Regulations Division 3. Adjudicative proceedings before the Central Valley Water Board are governed by these regulations as authorized by chapter 4.5 of the Administrative Procedure Act (commencing with section 11400 of the Government Code). The regulations 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 do not apply). A copy of those regulations and chapter 4.5 of the Administrative Procedure 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/

An **adjudicative proceeding** is a hearing to receive evidence for determination of facts pursuant to which the 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 setting administrative civil liability. Adjudicative hearings are not conducted according to the technical rules of evidence, and the Board will accept any evidence or testimony that is reasonably relevant. The Notice of Public Hearing will set for the process for the hearing.

All persons testifying must state their name, address, affiliation, and whether they have taken the oath before testifying.

PROCEDURE FOR CONTESTED HEARINGS IN ADJUDICATIVE MATTERS (WASTE DISCHARGE OR WATER RECYCLING REQUIREMENTS, NPDES PERMITS AND INVESTIGATION OR ENFORCEMENT ORDERS [CWC §§ 13267, 13300-13308, 13383])

All persons interested in a specific item should consult the Hearing Procedures issued for that item to see if any of the following information is inapplicable. Contact Board staff if you do not know whether there are Hearing Procedures for the item or if you need a copy. If the following conflicts with a specific Notice of Public Hearing or Hearing Procedures, the Notice of Public Hearing or specific Hearing Procedures will control. All administrative civil liability orders are subject to specific Hearing Procedures.

Designated parties may request these procedures: to call and examine witnesses; to have witnesses testify under oath; to receive a witness list from other designated parties; to introduce exhibits; to cross-examine opposing witnesses; to impeach any witness; to rebut the evidence against him or her; to make or oppose evidentiary objections; to make opening or closing statements; or to have a prehearing conference with the Board's advisors. A request for these hearing procedures must be received by the Executive Officer at least five working days before the hearing, and must specify the procedures the designated party is requesting.

Designated parties are any persons named in the proposed order. All other persons wishing to address the Board or provide comments are interested persons and not designated parties. Such interested persons may request status as a designated party for purposes of an item by submitting such request in writing to staff assigned to the matter, no later than two weeks after the draft order is available for public comment. The request must explain the basis for status as a designated party and, in particular, how the person is directly affected by the discharge.

Central Valley Water Board staff will designate a prosecution team to serve as a designated party for prosecutorial matters, such as administrative civil liability. Advisory staff in prosecutorial matters, and all staff in non-prosecutorial matters, are not designated parties but are present to assist the Board.

The order of testimony for adjudicative hearings generally will be as follows, unless modified by the Board Chair:

- Testimony (and cross-examination, if provided) of Board staff

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

The primary duty of the Board is to protect the quality of the waters within the Region for all beneficial uses. This duty is implemented by formulating and adopting water quality plans for specific ground or surface water basins and by prescribing and enforcing requirements on all agricultural, domestic and industrial waste discharges. Specific responsibilities and procedures of the Boards and the State Water Resources Control Board are contained in the Porter-Cologne Water Quality Control Act.

BOARD MEMBERS	CITY OF RESIDENCE	APPOINTMENT CATEGORY	TERM EXPIRES
Nicole Bell	Elk Grove	Irrigated Agriculture	9/30/2012
Katherine Hart	Granite Bay	Recreation, Fish or Wildlife	9/30/2012
Karl E. Longley	Fresno	Water Quality	9/30/2013
Cheryl Maki	Auburn	Water Quality	9/18/2010
Sandra Meraz	Alpaugh	Water Supply	9/18/2010
Julian C. Isham	Antioch	Industrial Water Use	9/30/2012
Dan Odenweller	Stockton	County Government	9/15/2011
Robert Walters	Folsom	Undesignated Public	9/30/2013

Pamela C. Creedon, *Executive Officer*

Kiran Lanfranchi-Rizzardi, *Administrative Assistant*
Lori Okun, *Senior Staff Counsel*
Patrick Pulupa, *Staff Counsel*
Emel Wadhvani, *Staff Counsel*

SACRAMENTO OFFICE

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Supervisors:

Antonia Vorster	Jerry Bruns
Brian Newman	Joe Karkoski
Calvin McGee	Linda Bracamonte
Diana C. Messina	Wendy Wyels

Seniors

Amanda Montgomery	Rudy Schnagl
Anne Olson	Steve Rosenbaum
Brett Stevens	Sue McConnell
Charlene Herbst	Victor Izzo
Cliff Raley	Victor Vasquez
Cori Condon	Wendy Cohen
Duncan Austin	
James Munch	
Jeanne Chilcott	
Jim Marshall	
Joe Mello	
Mary Serra	
Patrick Morris	
Robert Busby	

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Clay Rodgers

Supervisor:

Lonnie Wass

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Dane Johnson	John Noonan
David Sholes	Russell Walls
Doug Patteson	Shelton Gray

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