

ITEM: 7

SUBJECT: Legislative Update -- *Informational Item on SB 965 and AB 685*
1. Changes in Ex Parte Rule for General Orders – *Implementation of SB 965*
2. Human Right to Water Act -- *Implementation of AB 685*

BOARD ACTION: Informational item only

BACKGROUND: 1. New Exception to Ex Parte Prohibition for General Orders.

The Administrative Procedure Act generally prohibits dischargers and other stakeholders from communicating with Board members regarding pending permitting actions outside of noticed public meetings. SB 965 creates an exception to the ex parte prohibition for pending **general orders**. Effective 1 January 2013, the prohibition against ex parte communications no longer applies to general waste discharge requirements (including NPDES permits), general waivers and general Clean Water Act section 401 water quality certifications. Certain stakeholders, listed below, must provide written disclosure of any ex parte communications. A “general order” is an order that does not name specific dischargers, but instead allows eligible dischargers to enroll. The ex parte prohibition remains in place for **individual** WDRs, permits, waivers and certifications, and for other orders (such as system-wide municipal stormwater permits) that specifically name multiple dischargers.

Persons in the following categories must provide written disclosure:

- Potential enrollees (including their representatives or employees)
- Persons with a financial interest (including their representatives or employees).
- Representatives acting on behalf of any formally organized civic, environmental, neighborhood, business, labor, trade, or similar association.

The written disclosure must include the date, time, location, type of communication, names of participants, and a description of the communication. The written disclosure will be posted on the Board’s website, included in the appropriate case file, and distributed via any electronic distribution list for the proposed order.

2. Human Right to Water.

AB 685 declares the "established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and

sanitary purposes." The new law requires relevant state agencies to consider this policy when adopting policies and regulations. Hear the information item. No action is necessary.

RECOMMENDATION:

Mgmt. Review_____

Legal Review_____LTO_____

31 January/1 February 2013 Board Meeting
11020 Sun Center Dr. #200
Rancho Cordova, CA 95670