

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123

MINUTES OF MEETING
AUGUST 13, 2008

At 9:00 a.m. Chairman Wright called to order the meeting of the California Regional Water Quality Control Board, San Diego Region at the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Item 1 – Roll Call and Introductions: Board Members Present: Richard Wright, David King, Eric Anderson, Kris Weber, Wayne Rayfield, and Elizabeth Pearson Schneider.

Staff Present: John Robertus, Michael McCann, David Barker, Lori Costa, Julie Chan, John Odermatt, Eric Becker, Craig Carlisle, Deborah Jayne, Mark Alpert, Brian Kelley, John Anderson, Chiara Clemente, Alan Monji, Laurie Walsh, Amy Grove, Beatrice Griffey, Jimmy Smith, Sean McClain, Vicente Rodriguez, Ben Neill, Michelle Mata, Wayne Chiu, Melissa Valdovinos, Debbie Woodward, Pete Peuron, Elizabeth Dorantes.
Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine Hagen (George), Tom Vandenberg.

Public Attendance: Dan Connally – PG Environmental; Steve Meyer, Alan Langworthy, Drew Kleis – City of San Diego; Roberto Ramirez, Gary Crouch – Mountain Meadow Mushroom; Len Sinfield, Nate Cushman, Rob Chichester – U.S. Navy; Matt Himmelstein – URS; Gabriel Solmer, Mary Oehrlein – San Diego Coastkeeper; Lee Wilson – Continental Maritime of San Diego; Russ McCarthy – CMSD; Dawn Guendert, Bob Vilker – Carollo; Laura Hunter – Environmental Health Coalition; Art Coe – self; Sandor Halvax – BAE; Sarah Emerson – Southwest Wetlands Interpretive Association; Steve Carlson, Marilyn O'Neill – Nautilus Environmental; Jeff Brizel – Sycamore Estates; Cindy Lin – U.S. EPA; Brett Bennetts – Brown & Caldwell; Cid Tesoro – County of San Diego; Mekaela Gladden – Briggs Law Corporation; Elidia Dostal – Latham & Watkins; Ed Kimura – Sierra Club.

Item 2 – Public Forum

Gabriel Solmer, San Diego Coastkeeper, said she would like a status update from the Executive Officer on the implementation of the Shelter Island Yacht Basin Dissolved Copper TMDL during Item 4.

Laura Hunter, Environmental Health Coalition, spoke about their concerns with settlement negotiations with William and Heidi Dickerson, and Perry & Papenhausen Construction, Inc., in Coronado. She asked staff to start the "fine clock" and to ask the Attorney General's office to push for a meaningful and quick resolution. Ms. Hunter said the minimum mandatory fine was not enough in this case.

Mr. Rayfield asked for a detailed status report at the September meeting on the issue that Ms. Hunter spoke about. Ms. George said she would find out whether or not it could be discussed in an open session.

Item 3 – Minutes of Board Meetings of June 11 & 25, 2008

This record of the minutes of the meeting on this date is not intended as the official record of events and is solely for administrative convenience. A more detailed account of the proceedings is available upon request, consisting of a tape recording and a court reporter transcribed record. Please contact the Regional Board office for assistance.

Mr. Rayfield moved approval of the June 11 and 25, 2008 minutes. The motion was seconded by Mr. Weber and approved with abstention by Mr. Anderson.

Item 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.

Ms. Pearson Schneider announced that it was her last meeting as a Board Member and thanked her fellow Board Members for all their hard work on the Board and staff for their expertise. Board Members thanked Ms. Schneider for her service on the Board.

Chairman Wright reported that on July 8, 2008 he and Regional Board staff attended a tour of the San Diego County Water Authority's San Vicente pipeline project currently under construction. The tour included a train ride through approximately three miles of completed tunnel.

Chairman Wright also reported that he participated in the Chair's monthly conference call on August 4th and said they discussed how the impact of the state budget impasse was affecting the Regional Boards activities.

Chairman Wright asked for an update on the status of the State Route 241 Foothill South Toll Road Extension in Orange County. Mr. Jimmy Smith gave a brief update on events pertaining to the toll road.

Mr. Robertus briefly reported on the Tijuana River & Estuary Workshop Summary Report - Pollution Control/Cleanup and Wetlands Restoration Strategy item in his report. He also discussed the Budget Report.

Mr. King asked Ms. Hagen about the "Petition of North County Transit District Administrative Civil Liability Order" item in the EO Report. Ms. Hagen gave an update on the petition and said she would keep him posted. Mr. King also asked about the "San Diego MS4 Permit, Test Claim Filed with Commission on State Mandates for Reimbursement" item. Ms. Hagen gave detailed information about the item.

Chairman Wright asked about the "Update on TMDLs" item. Senior staff member David Gibson gave an update.

Mr. Robertus reported on the Shelter Island Yacht Basin Dissolved Copper TMDL as requested by Ms. Solmer in Item 2. Board Members discussed the issue.

Mr. Robertus reported that Board Member Ritschel's term was due to expire on September 30, 2008.

Mr. Robertus also reported on the ongoing problems with the air quality in and around the Regional Board office and said that he made the decision to move toward relocating the office.

Rayfield asked Mr. Robertus what the bill number was for the legislation that would allow local agencies to ban the use of residential water softeners that was signed August 12th. Mr. Robertus said he would provide information on the issue in his September EO Report.

Consent Calendar: Items 5 through 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.)

Item 5 – Mitigated Negative Declaration: Resource Environmental Limited Liability Corporation, In-situ Chemical Oxidation Project at 105 And 112 Rancho Santa Fe Road, San Marcos, San Diego County (tentative Resolution No. R9-2008-0069) (*Eric Becker*)

Item 6 – Waste Discharge Requirements: Resource Environmental Limited Liability Corporation, In-situ Chemical Oxidation Project at 105 And 112 Rancho Santa Fe Road, San Marcos, San Diego County (tentative Order No. R9-2008-0071) (*Eric Becker*)

Item 7 – Addendum to Waste Discharge Requirements: Mountain Meadow Mushroom Farm, 26948 North Broadway, Escondido, California - change in ownership and operator of the facility, and change in ownership of the land. (Tentative Addendum No. 1 to Order No. R9-2002-0115) (*Beatrice Griffey*)

Mr. Rayfield made a motion to approve to Consent Calendar with errata. The motion was approved by Ms. Schneider and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 8 – NPDES Permit Reissuance: Waste Discharge Requirements for Continental Maritime of San Diego, Inc., San Diego County. This is a shipyard adjacent to San Diego Bay. (Tentative Order No. R9-2008-0049, NPDES Permit No. CA0109142) (*Vicente Rodriguez*)

Mr. Robertus introduced the item, and staff member Vicente Rodriguez gave the presentation.

Other speakers included:

Russell McCarthy – Continental Maritime of San Diego
Len Sinfield – U.S. Navy
Elidia Dostal – Latham and Watkins (represented NASSCO)
Dr. Cindy Lin – U.S. EPA
Gabriel Solmer – San Diego Coastkeeper
Mekaela Gladden – Briggs Law Corporation
Mary Oehrlein – San Diego Coastkeeper
Laura Hunter – Environmental Health Coalition

Mr. McCarthy made closing comments. Mr. Rodriguez also made closing comments.

Mr. Robertus made comments and recommended approving Order No. R9-2008-0049.

Board Members made comments.

Mr. Rodriguez read in to the record the following wording change:

“The discharge of waste shall not cause or contribute to an exceedance of any application water quality objective or standard contained in applicable statewide water quality control plans, the California Toxics Rule, or the San Diego Basin Plan.”

Mr. Rayfield made a motion to approve Order No. R9-2008-0049 with errata and the change read into the record. The motion was seconded by Ms. Schneider.

Chairman Wright closed the Public Hearing.

The motion was approved by unanimous vote.

Item 9 – NPDES Permit Revision: City of San Diego E. W. Blom Point Loma Metropolitan Wastewater Treatment Plant discharge to the Pacific Ocean through the Point Loma Ocean Outfall: amendment would add a toxicity re-screening requirement upon initiation of chlorination and would also add total residual chlorine monitoring to the Monitoring and Reporting Program (Tentative Addendum No. 2 to NPDES No. CA0107409) (*Melissa Valdovinos*)

Staff member Melissa Valdovinos gave the presentation.

Other speakers included:

Alan Langworthy – City of San Diego
Ed Kimura – Sierra Club

Chairman Wright closed the hearing. Mr. Robertus recommended approval of the Order.

Ms. Schneider made a motion to approve Addendum No. 2 to Order No. R9-2002-0025. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Item 10 – Tijuana River Valley Funding Support – West Coast Estuaries Initiative for California Coast – Removal of Trash and Sediment (tentative Resolution No. R9-2008-0088) (*John Robertus*)

Mr. Robertus gave the presentation.

Additional speakers:

Sarah Emerson – Southwest Wetlands Interpretive Association

Drew Klies – City of San Diego

Cid Tesoro – County of San Diego

Ms. Schneider made a motion to adopt Resolution No. R9-2008-0088. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

The meeting was recessed for Closed Session and lunch at 11:45.

Item 11 – *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]. The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:

Litigation Filed against the Regional Water Board

- a. *Schutte & Koerting, Inc. and Ametek, Inc. v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region, Verified Petition for Writ of Mandate. San Diego County Superior Court, Case No. GIC 822750 (filed December 2003). (John Anderson)*
- b. *Bajagua, LLC v. California State Water Resources Control Board, California Water Quality Control Board, San Diego Region, et al., Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2007-00067722-CU-WM-CTL (filed June 2007). (John Robertus)*
- c. *Surfrider Foundation v. California Regional Water Quality Control Board -- San Diego Region and California State Water Resources Control Board; (Cabrillo Power I, LLC, Real Party-in-Interest), Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37 2007-00069621-CU-PT-CTL (filed July 2007). (Brian Kelley)*

- d. *William G. Dickerson and Heidi Dickerson, Husband and Wife; Larry Gunning and Penelope L. Gunning, Husband and Wife; and Perry & Papenhausen, Inc., a California Corporation v. San Diego Regional Water Quality Control Board, a Public Entity*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2007-00075846-CU-WM-CTL (filed September 2007). (Frank Melbourn)

Litigation filed by the Regional Water Board against other parties

- e. *People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Carlos Marin, 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). (John Robertus)

The Closed Session was held and a, b, d, and e. were discussed. There were no reportable actions taken.

Item 12 – *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation. The Regional Board may meet in closed session to consider initiating criminal prosecution against persons who are alleged to have violated the Porter-Cologne Water Quality Control or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] (John Robertus)

The Closed Session was not held.

Item 13 – *Closed Session* - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing.

The Regional 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)]

The Closed Session was not held.

Item 14 – *Closed Session* - Personnel

The Regional Board may meet in closed session to consider personnel matters involving exempt employees [Authorized under Government Code Section 11126(a)]

The Closed Session was not held,

Item 15 – Arrangements for Next Meeting and Adjournment

Wednesday, September 10, 2008 - 9:00 a.m.

Water Quality Control Board

Regional Board Meeting Room

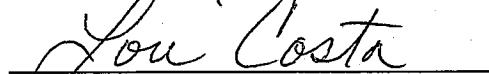
9174 Sky Park Court

San Diego, California

Mr. Robertus suggested changing the location of the September Board Meeting to the Regional Board office. Chairman Wright said he would prefer to hold the meeting in San Diego. Board Members concurred.

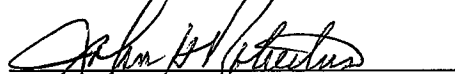
With there being no further business, the meeting was adjourned at 12:40 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



John H. Robertus
Executive Officer