

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

MINUTES OF MEETING
APRIL 8, 2009

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, Grant Destache, Gary Thompson, George Loveland, and Marc Luker.

Staff Present: John Robertus, Michael McCann, Lori Costa, David Barker, Julie Chan, Brian Kelley, Bob Morris, Chiara Clemente, Jeremy Haas, Craig Carlisle, John Anderson, Eric Becker, David Gibson, Deborah Jayne, James Smith, Deborah Woodward, Fisayo Osibodu, Cathryn Henning, Ben Tobler, Michelle Mata, Lisa Honma, Chad Loflen, Wayne Chiu, Ben Neill, Joann Cofrancesco, Chris Means, Mike Porter, Elizabeth Dorantes, Laurie Walsh, Kristin Schwall. Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine Hagan, Phil Wyels. Kennedy Court Reporters: Brenda Martinez.

Public Attendance: Cameron Durkel- Governor Schwarzenegger's Office; David Vidosic- Assemblyman Fletcher's Office; Christine Gueren- Congressman Bilbray's Office; Brent Eidson- Mayor Sanders' Office; Sherry Hodger- Assemblyman Garrick's Office; Jonathan Hardy- Senator Ducheny's Office; Rachel Solozano- Assemblywoman Salas' Office; Christine Rubin- Senator Wyland's Office; Whitney Benzizen- Council President Hueso's Office; Deanna Spehn- Senator Kehoe's Office; Eric Munoz- Agua Hedionda Lagoon Foundation; Gary Arant- Valley Center MWD; Mitch Dion- Rincon del Diablo MWD; Kimberly Thorner- Olivenhain MWD; Patti Krebs- Industrial Environmental Association; Christopher Garrett, Paul Singarella- Latham & Watkins; Gary Knight- San Diego North Economic Development Council; Angelika Villigrana- San Diego Regional Chamber of Commerce; Ted Owen- Carlsbad Chamber of Commerce; Dennis Lamb- Vallecitos Water District; Larry Purcell- San Diego County Water Authority; Tom Lemmon- San Diego Building and Construction Trader; Peter MacLaggan- Poseidon Resources; Steve Le Page- M-Rep Consulting; Chris Nordby- Nordby Biological Consulting; Scott Jenkins- Scripps Institute of Oceanography; Francis Tepedino- Tierra Santa Community Council; Bob Scott- URS Corporation; Ed Kimura, Penny Elia- Sierra Club; Alan Langworthy- City of San Diego; Julianne Nygaard, Ann Kulchin, Ronald Ball- City

of Carlsbad; Guy McClellan- Citizens of San Diego; Khaliq Khan, Larry Carlson- Camp Pendleton; Jared Criscuolo, Marco Gonzalez, Sara Honadle- Surf Rider Foundation; Ellen Kirk- Equinox Center; Christa Zacharias- Nautilus Environmental; David Mayer- Tenera Environmental; Michael Bardin- Santa Fe Irrigation District; Michael Dumitrac- Northwest Pipe Co.; Mo Lahsaie- City of Oceanside; David Lloyd- Cabrillo Power; Mike Dunbar, Betty Burnett, Dwight Mudry- South Coast Water District; Bill Rihn, Michael Beanan, Lisa Marks- South Laguna Civic Association; Jinger Wallace, Barbara Metzger, Jackie Gallagher- Village Laguna; Johanna Felder- Laguna Beach Resident; Cindalee Penny-Hall- Laguna Beach Community Coalition; Amanda Carr, Marilyn Thoms- County of Orange; Robert Smith- R4RD; Chuck Badger- Farm Bureau of San Diego County; Kent Bernier- KB Financial Groups; Karen Schiuager, Armando Baez, Scott Andrews, John Balleto, Brett Jones, Dan Marler, Robert Simmons, Michael Welch; Don Christiansen, Eric Wood- self.

Item 2 – Public Forum

Bob Scott, URS Corporation, gave a status update on the Tijuana River Valley waste tire and sediment characterization study.

Item 3 – Minutes of Board Meetings of March 11, 2009

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. Thompson moved approval of the March 11, 2009 minutes. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

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.

Board Member Loveland reported that he, Mr. Destache, and Mr. Thompson attended a meeting with Commissioner Bill Ruth of the International Boundary & Water Commission. They discussed the Tijuana River Valley waste cleanup project.

Board Member Rayfield reported that on March 19th he participated in an interview with Cox Communications on their talk show, "Cox Forum." The purpose was to discuss the current state of ocean quality in southern California. Mr. Rayfield noted that the ocean ecosystem offshore had improved dramatically, and there was steady improvement in beach quality over the past ten years.

Board Member King gave a brief status report on the San Diego Bay shipyard sediment cleanup project and said that the mediation process would continue through June 1, 2009.

Executive Officer Robertus reported on the NOAA Coastal and Marine Habitat Restoration Project Grants that the City of San Diego was applying for. The grants would fund projects such as the removal of surface trash, the monitoring of environmental conditions, the capture of trash near the Border, and the construction of a trash and sediment transfer facility in the Tijuana River Valley.

Mr. Robertus asked staff member Bob Morris to report on the meeting he attended with the San Diego County Water Authority on April 2 regarding indirect potable water reuse. After his report, Mr. Morris said he would also write a report for the May Executive Officer's Report.

Consent Calendar:

Item 5 – Administrative Assessment of Civil Liability, North County Transit District, Sprinter Crouch Street Station Dewatering. The Regional Board will consider adoption of a tentative Order that would impose a \$15,000 mandatory minimum penalty recommended in Complaint R9-2008-0020 for violations of effluent limitations prescribed in Order No. R9-2001-0096, NPDES No. CAG919002, General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters Within the San Diego Region Except for San Diego Bay. The Regional Board may approve, modify, or reject assessment of the recommended penalty. If the Regional Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order R9-2009-0043) (*Jeremy Haas*)

Item 6 – Negative Declaration: Garcia Residence Onsite Wastewater Treatment System, San Diego County (Tentative Resolution No. R9-2009-0025) (*Cathryn Henning*)

Item 7 – Waste Discharge Requirements, Garcia Residence, Onsite Wastewater Treatment System, San Diego County (Tentative Order No. R9-2009-0007) (*Cathryn Henning*)

Item 8 – Update of Waste Discharge Requirements, California Department of Forestry and Fire Protection, Rainbow Conservation Camp, San Diego County (Tentative Order No. R9-2009-0009) (*Fisayo Osibodu*)

Item 9 – Revision of Waste Discharge Requirements, Riverside County Regional Park and Open Space District, Skinner Lake Recreation Area, Riverside County (Tentative Addendum No. 1 to Order No. 95-018) (*Fisayo Osibodu*)

Item 10 – Rescission of Waste Discharge Requirements, New Owl Rock Products, Wilson Creek San Mining and Processing Facility, Riverside County and North American Indian Missions Inc., Buffalo Valley Campground, Riverside County (Tentative Order No. R9-2009-139 rescinding Order Nos. 2000-139 and 95-046) (*Fisayo Osibodu*)

Item 11 – Revision of Waste Discharge Requirements, Loidar L.L.C., Mount Palomar Winery, Riverside County (Tentative Addendum No. 1 to Order No. 93-125) (*Fisayo Osibodu*)

A motion was made by Mr. Rayfield to approve the Consent Calendar items with errata. The motion was seconded by Mr. Weber and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 12 – National Pollutant Discharge Elimination System (NPDES) Permit Reissuance: Waste Discharge Requirements for the Padre Dam Municipal Water District Padre Dam Water Recycling Facility Discharge to Sycamore Creek, Tributary to the San Diego River, San Diego County (Tentative Order No. R9-2009-0037, NPDES Permit No. CA0107492) (*Melissa Valdovinos*)

Mr. Robertus introduced the item, and staff member Melissa Valdovinos gave the presentation.

Mr. Rayfield moved approval of Order No. R9-2009-0037 with errata. The motion was seconded by Mr. Loveland and approved by unanimous vote.

Item 13 – NPDES Permit Revision and Approval of Flow, Entrainment and Impingement Minimization Plan: Poseidon Resources Corporation, Proposed Carlsbad Desalination Project (Order No. R9-2006-0065, NPDES No. CA0109223). The Regional Board will consider approval of a March 9, 2009 Flow, Entrainment and Impingement Minimization Plan, including a Marine Life Mitigation Plan, required by section VI.C.2.e. of Order No. R9-2006-0065 and will consider related amendments to Order No. R9-2006-0065 to require the Discharger to implement and comply with the March 9, 2009 Minimization Plan under specified conditions of operation. Order No. R9-2006-0065 is not being reopened for any other purposes. The Regional Board requests that written public comments be submitted by 5 p.m. on April 1, but the public comment period will remain open for both oral and written comments until the Board considers the matter on April 8, 2009. As stated in the Notice of Public Hearing for this matter, the Regional Board discourages the submittal of oral and written comments that repeat comments submitted for consideration at the April 9, 2008 and February 11, 2009 Regional Board hearings concerning this matter, as those

comments are already part of the record for this proceeding. (Tentative Order No. R9-2009-0038) (*Michelle Mata*)

Senior staff member Chiara Clemente gave the presentation.

Board Members asked questions of Ms. Clemente. Staff member Deborah Woodward also answered questions.

Other speakers included:

Chris Garrett – Latham & Watkins

Peter MacLaggan – Poseidon Resources

David Mayer – Tenera Environmental

Chris Nordby – Nordby Biological Consulting

Scott Jenkins – UCSD, Scripps Institute of Oceanography

John Balletto – Arcadis, Inc.

Paul Singarella – Latham & Watkins

Julianne Nygaard – City of Carlsbad

Councilwoman Ann Kulchin – City of Carlsbad

Cameron Durdle – Governor Schwarzenegger's Office

Ronald Ball – City Attorney, City of Carlsbad

David Vidosic – Assemblyman Nathan Fletcher's Office

Gary Arant – Valley Center Municipal Water District

Sherry Hodges – Assemblyman Martin Garrick's Office

Eric Munoz – Agua Hedionda Lagoon foundation

Kimberly Thorner – Olivenhain Municipal Water District

Patti Krebs – Industrial Environmental Association

Mike Bardin – Santa Fe Irrigation District

Dan Marler – public

Rachel Solozano – Assemblywoman Mary Salas' Office

Deanna Spehn – Senator Christine Kehoe's Office

Tom Lemmon – SD Building & Construction Trades

Robert Simmons – retired attorney

Brent Eidson – Mayor Jerry Sanders' Office

Christine Rubin – Senator Mark Wyland's Office

Francis Tepedino – for SD City Council President Ben Hueso

Gary Knight – San Diego North Economic Development Council

Angelika Villagrana – San Diego Regional Chamber of Commerce

Ted Owen – Carlsbad Chamber of Commerce

Chuck Badger – Farm Bureau of San Diego County

Dennis Lamb – Vallecitos Water District

Larry Purcell – San Diego County Water Authority

Don Christiansen – Carlsbad resident

Eric Wood – citizen

Jonathan Hardy – Senator Denise Ducheny's Office

The meeting recessed for lunch at 12:45 and reconvened at 1:30 p.m.

Item 13 - Continued

Marco Gonzalez – Surfrider/SD Coastkeeper
Ed Kimura – Sierra Club
Guy McClellan – chemist
Jared Criscuolo – Surfrider Foundation
Scott Andrews – citizen

Mr. Garrett made closing comments.

Ms. Clemente and Ms. Woodward made rebuttal comments.

Board Members made comments and asked questions of staff.

Mr. Phil Wyels recommended that the Board close the public hearing and direct staff to respond to public comments received. Staff would propose revisions to the tentative Order that was circulated on March 9th. The proposed revisions would be focused on imposing additional mitigation for the recently identified impingement impacts, and monitoring for impingement for the purposes of developing more data for the future.

Mr. Garrett made clarifications about monitoring.

Mr. Rayfield said he didn't feel that one year of monitoring was long enough.

After Board Member discussion, Chairman Wright closed the public hearing. Staff was directed to prepare responses to comments. Action by the Board was continued to the May 13, 2009 Board meeting.

Item 14 – Status Report: Aliso Creek Watershed, Orange County. The Regional Board requested a status report on current and proposed projects in the watershed. The report will include status of water quality of Aliso Creek and municipal runoff problems. The Regional Board will not consider taking action but may provide direction regarding Aliso Creek. (*Chad Loflen*)

Mr. Robertus introduced the item, and staff member Chad Loflen gave the presentation.

Other speakers included:
Marilyn Thoms – County of Orange
Amanda Carr – County of Orange
Dwight Mudry – South Coast Water District

Board Member Thompson left at 4:45 p.m.

Michael Beanan – South Laguna Civic Association
Jinger Wallace – Village Laguna
Lisa Marks – South Laguna Civic Association
Barbara Metzger – Village Laguna
Bill Rihn – South Laguna Civic Association
Penny Elia – Sierra Club
Jackie Gallagher – Village Laguna
Johanna Felder – Laguna Beach resident
Karen Schiuager – Laguna Beach resident
Armando Baez – Laguna Beach resident
Cindalee Penney-Hall – Laguna Beach Community Coalition

Board Members made comments and asked questions of staff.

Betty Burnett – South Coast Water District, addressed a question asked by Mr. Robertus.

Item 15 – *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. *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)
- b. *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)
- c. *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)

d. *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)*

e. *Surfrider Foundation v. California Regional Water Quality Control Board -- San Diego Region, (Poseidon Resources, Real Party-in-Interest), Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2008-00091983-CU-WM-CTL (filed September 2008). (Michelle Mata)*

The Closed Session was not held.

Item 16 – *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 17 – *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 18 – *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 19 – Arrangements for Next Meeting and Adjournment
Wednesday, May 13, 2009 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

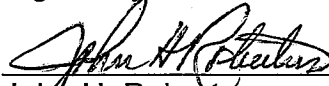
With there being no further business, the meeting was adjourned at 5:35 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



John H. Robertus
Executive Officer