

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

MINUTES OF MEETING
SEPTEMBER 8, 2010

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

Item 1 – Roll Call and Introductions

Board Members Present: David King, Grant Destache, Wayne Rayfield, George Loveland, and Marc Luker.

Staff Present: David Gibson, James Smith, Julie Chan, David Barker, Lori Costa, Brian Kelley, John Anderson, Chiara Clemente, Jeremy Haas, Eric Becker, Bruce Posthumus, Frank Melbourn, Kristin Schwall, Cathryn Henning, Wayne Chiu, Brian McDaniel, Tony Felix, Chad Loflen, Chris Means, Barry Pulver, Sean McClain, Joann Cofrancesco, Bob Morris, Charles Cheng, Deborah Woodward, Fisayo Osibodu, Alan Monji, Michelle Mata, Cheryl Prowell, Craig Carlisle, Lisa Honma, Robert Pierce, Mike Porter, Jody Ebsen, Ben Neill, Christina Arias, and Tom Alo.

Others Present on behalf of the San Diego Water Board: State Water Resources Control Board – Catherine Hagan, Jessica Newman, Chris Carrigan, and Fran Spivy-Weber. Kennedy Court Reporters – Erin Winn.

Public Attendance: George Muse – MWD of SC; Ryan Waterman – Northbrook Properties Inc.; Lisa O’Neal – Brown and Winters; Toby Roy – San Diego County Water Authority; Leslie Fitzgerald, Stephanie Bause – San Diego Unified Port District; Lori Vereker, Dennis Sperino, John Burcham, Nicki Braunt, Vasana Vipatapat – City of Escondido; Tristan Hayman – Helix Water District; Shelley Griffin – Bay Club Hotel and Marina; Brian Gordon, Theresa Trost, James Cronin, Wiley Jones – United States Navy; Alice Benson – RMWD; Michael Welch – self; Marc Lepesant – Culligan; Roth Kolb, Cathy Pieroni – City of San Diego; Brian Hutchens – Geosyntec; Deborah Pennel – Shelter Island Marina; Erin Sweeney, Aaron Goude, Daniel Brunton, Erik Reuter – Carlsbad Unified School District; Michael Thornton, Chris Trees – San Elijo Joint Powers Authority; Gary Stalker – Otay Water District; Robbie Dean, John Adriany – San Diego Yacht Club; Rolf Schottle, Chris Stransky – AMEC; Karen Holman, Bob Hayfield – Hayfield Engineering; Craig Kolodge – Total Erosion Control Inc; Del Ross – EDAC; Chris Loughman, Scott Steinert, Don Manweiler – MACTEC; Jill

Witkowski, Marco Gonzalez, Gabriel Solmer – San Diego Coastkeeper; Wayne Rosenbaum – Foley & Lardner; Kelly Richardson – Latham & Watkins.

Ms. Fran Spivy-Weber, State Board Liaison, reported on the budget situation, furloughs, Board Member appointments, new State Board Executive staff, the Performance Report, CA ISO, and the November 17, 2010 South Bay Power Plant hearing.

Item 2 – Public Forum

Eric Reuter, Carlsbad Unified School District, asked the Board to expedite the issuance of their 401 Certification so they could start grading for their new high school. He said they were required to do the grading between September and February each year due to restrictions of nearby protected bird species. Ms. Chiara Clemente reported to the Board the status of their certification.

Robbie Dean, San Diego Yacht Club, gave the Board a brief update on the efforts they had made, and continued to make, towards compliance with the Shelter Island Yacht Basin TMDL.

Board Member Anderson arrived at this time.

Toby Roy, San Diego County Water Authority, commented on the upcoming Basin Plan Triennial Review process. She asked that there be a balanced look at the range of stakeholders on the committee and that all of those interests be balanced when the final selection for the Basin Plan update is recommended to the Board.

Ryan Waterman, Latham & Watkins, represented Consolidated Electrical Distributors, Inc. and Northbrook Properties, Inc., requested that the Board hold a full evidentiary hearing in regards to Cleanup & Abatement Order R9-2010-0007 that was issued naming Former Hebdon Electronics as liable parties.

Executive Officer Gibson responded to questions by the Board. Cris Carrigan, State Board Staff Counsel, also commented.

Cathy Pieroni, City of San Diego, offered to give the Board and public a presentation on the City's Water Purification Demonstration Project at their request. She also spoke about the Integrated Regional Water Management Plan process and the Basin Plan Triennial Review process

Wayne Rosenbaum, Foley & Lardner, spoke about land use, hydromodifications, and 401 Water Quality Certifications. He encouraged the Board to provide complete records to the public and to allow them adequate time to comment before decisions were made.

Item 3 – Minutes of Board Meeting: July 14, 2010

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 San Diego Water Board office for assistance.

Mr. Anderson moved approval of the July 14, 2010 minutes. The motion was seconded by Mr. Luker and approved by unanimous vote.

Item 4 – Chairman's, Board Members', State Water 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.

Mr. Gibson reported on the Leadership Academy Program, General Waste Discharge Requirements for the wine country, and Lake San Marcos.

Item 12 – Tentative Cleanup and Abatement Order No. R9-2010-0002 (San Diego Bay Shipyard Sediment Cleanup), Resolution Denying Motion of National Steel and Shipbuilding Company Requesting Determination that Tentative Cleanup and Abatement Order No. R9-2010-0002 is Exempt from the California Environmental Quality Act (*Frank Melbourn*)

Assistant Executive Officer Smith spoke for the Advisory Team and recommended adoption of Resolution No. R9-2010-0115. Mr. Carrigan concurred with his recommendation.

Kelly Richardson, Latham & Watkins, gave a presentation.

Additional speaker:

Marco Gonzalez – for SD Coastkeeper and the Environmental Health Coalition

Mr. Carrigan commented on behalf of the Cleanup Team.

Senior staff member, Julie Chan, answered questions asked by the Board on behalf of the Cleanup Team.

Leslie Fitzgerald, attorney for the San Diego Port District, also spoke.

Board Members made comments and asked questions.

After Board Member discussion, Mr. Destache moved to deny the motion (*adoption of Resolution No. R9-2010-0115*). The motion was seconded by Mr. Loveland and approved by unanimous vote.

Consent Calendar:

Item 5 – Waste Discharge Requirements: M&L Financial Inc., Fallbrook Kamp Retreat, San Diego County (An addendum transferring responsibility to M&L Financial Inc.) (Tentative Addendum No. 3 to Order No. 94-69) (*Fisayo Osibodu*)

Item 6 – Waste Discharge Requirements: An Order rescinding: Order No. 93-112 for the County of San Diego, Descanso Detention Water Pollution Control Facility; Order No. 90-016 for the City of San Diego, San Pasqual Water Reclamation Facility; and Order No. 79-24 for the Metropolitan Water District of Southern California, Robert A. Skinner Filtration Plant Sludge Disposal Site (Tentative Order No. R9-2010-0093) (*Fisayo Osibodu and Cathryn Henning*)

Item 7 – Waste Discharge Requirements: Country Creek LLC, Country Creek Resort, San Diego County (An addendum transferring responsibility to Country Creek LLC) (Tentative Addendum No. 1 to Order No. 95-04) (*Cathryn Henning*)

Item 8 – NPDES Permit Modification: Order No. R9-2005-0149, NPDES No. CA0109088, Waste Discharge Requirements for Industrial Storm Water Discharges from Knight and Carver Yachtcenter Boat Repair Facility to San Diego Bay, San Diego County (Tentative Order No. R9-2010-0096) (*Brian Kelley*)

Item 9 – NPDES Permit Reissuance: General Waste Discharge Requirements for Discharges of Hydrostatic Test Water and Potable Water to Surface Waters and Storm Drains or Other Conveyance Systems Within the San Diego Region (Tentative Order No. R9-2010-0003, NPDES No. CAG679001) (*Michelle Mata*)

Item 10 – Resolution Requesting Funding from the Cleanup and Abatement Account for Shipyard Sediment Site Cleanup and Abatement Order Environmental Impact Report (Tentative Resolution No. R9-2010-0102) (*Julie Chan*)

Item 11 – Waste Discharge Requirements: An Order rescinding Cease and Desist Order No. 99-03 for the San Vicente Wastewater Treatment Plant, Ramona Municipal Water District (Tentative Order No. R9-2010-0095) (*Cathryn Henning*)

Mr. Destache moved approval of Consent Calendar Items 5-11. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 13 – NPDES Permit Revision: U.S. Navy, Naval Base Coronado, San Diego County – Amendment to Order No. R9-2009-0081 for Steam Condensate Discharges (Tentative Order No. R9-2010-0057) (*Kristin Schwall*)

Mr. Destache moved approval of Order No. R9-2010-0057. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Item 14 – Waste Discharge Requirements: San Vicente Wastewater Treatment Plant, Ramona Municipal Water District (An addendum to incorporate requirements for the discharge of brine and to clarify existing requirements) (Tentative Addendum No. 1 to Order No. R9-2009-0005) (*Cathryn Henning*)

Staff member Cathryn Henning gave the presentation.

Mr. Rayfield moved approval of Addendum No. 1 to Order No. R9-2009-0005. The motion was seconded by Mr. Loveland and approved by unanimous vote.

Item 15 – NPDES Permit Reissuance: City of Escondido, Hale Avenue Resource Recovery Facility Discharge to the Pacific Ocean via the San Elijo Ocean Outfall (Tentative Order No. R9-2010-0086, NPDES Permit No. CA0107981) (*Joann Cofrancesco*)

Senior staff member Brian Kelley gave the presentation.

Lori Vereker, City of Escondido, requested an address change in the permit.

Mr. Destache moved approval of Tentative Order No. R9-2010-0086 with errata and the amendment requested by Ms. Vereker. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Item 16 – NPDES Permit Reissuance: San Elijo Joint Powers Authority, San Elijo Water Reclamation Facility Discharge to the Pacific Ocean via the San Elijo Ocean Outfall (Tentative Order No. R9-2010-0087, NPDES Permit No. CA0107999) (*Joann Cofrancesco*)

Senior staff member Brian Kelley gave the presentation.

Michael Thornton, San Elijo Joint Powers Authority, requested a minor language change.

Mr. Rayfield moved approval of Tentative Order No. R9-2010-0087 with errata and the amendment requested by Mr. Thornton. The motion was seconded by Mr. Loveland and approved by unanimous vote.

Item 17 – Informational Item: Implementation of the Shelter Island Yacht Basin (SIYB) Copper TMDL (*Wayne Chiu*)

Staff member Wayne Chiu gave the presentation.

Presentations were also given by:
Karen Holman – Port of San Diego
John Adriany – San Diego Yacht Club
Gabriel Solmer – San Diego Coastkeeper.

Additional speaker:
Marco Gonzalez – for the Coastal Environmental Rights Association

Mr. Gibson made several comments.

Board Members discussed several issues including copper paints.

Ms. Holman gave additional information about their report on alternative boat hull coatings (non-copper paint products).

Item 18 – Information Item: Assessing the Health of San Diego Region Waters (*Bruce Posthumus*)

Senior staff member Bruce Posthumus gave the presentation.

Mr. Gibson made several comments.

Board Members also made comments.

The meeting was recessed for lunch and Closed Session at 12:45 p.m.

Item 19 - Closed Session - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]

The San Diego Water Board may meet in closed session to discuss ongoing litigation for the following cases:

Civil Actions

- 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). (David Gibson)
- 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. *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)
- d. *Surfrider Foundation v. California Regional Water Quality Control Board, San Diego Region*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2010-0009-436-CU-WM-CTL (filed April 2010). (Brian Kelley)
- e. *South Orange County Wastewater Authority and South Coast Water District*, Petition for Writ of Mandate. Orange County Superior Court, Case No. 30-2010-00364016-CU-WM-CXC (filed April 2010) (Joann Cofrancesco)
- f. *California Regional Water Quality Control Board, San Diego Region v. Bill and Heidi Dickerson, Larry and Penelope Gunning and Perry & Papenhausen, Inc.* Complaint for Damages for Breach of Contract and

for Specific Performance. San Diego County Superior Court, Case No. 37-2010-00096011-CU-CO-CTL (filed July 2010) (*Jeremy Haas*)

- g. *State of California Department of Finance, State Water Resources Control Board, And California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates*. Petition for Writ of Administrative Mandamus. Sacramento County Superior Court, Case No. 34-2010-80000604 (filed July 2010) (*Catherine George Hagan*)

Petitions for Review Pending Before State Water Resources Control Board

- h. Petition of NRDC, Inc. (Waste Discharge Requirements Order No. R9-2007-001 [NPDES No. CAS0108758] for Urban Runoff Discharges from the Municipal Storm Systems in the Incorporated Cities of San Diego, San Diego Unified Port District, and San Diego Regional Airport Authority, SWRCB/OCC File A-1830(c), filed February, 2007 (in abeyance).
- i. Petition of Natural Resources Defense Council and San Diego Coastkeeper (Executive Officer Approval of Countywide Model Standard Urban Stormwater Mitigation Plan for Development Applications), SWRCB/OCC File A-2010, filed April 2009 (in abeyance). (*Eric Becker*)
- j. Petition of Department of the Navy (Waste Discharge Requirements Order No. R9-2009-0081 [NPDES No. CA0109185] for the United States Department of the Navy, Naval Base Coronado, San Diego County), SWRCB/OCC File A-2032, filed July 2009. (*Vicente Rodriguez*)
- k. Petition of La Costa Town Square, LLC (Denial of Clean Water Act section 401 Water Quality Certification, La Costa Town Square Project, Application 09C-043, San Diego County), SWRCB/OCC File A-2039, filed August 2009 (in abeyance). (*Chiara Clemente*)
- l. Petition of South Coast Water District and South Orange County Wastewater Authority (Failure to Act to Modify NPDES Permit for Brine Discharge and Groundwater Recovery Facility, San Diego County), SWRCB/OCC File A-2072, filed January 2010. (*Brian Kelley*)
- m. Petitions of the City of Laguna Hills, the City of Laguna Niguel, the City of San Juan Capistrano, the City of Mission Viejo, the City of San Clemente, the City of Dana Point, the City of Laguna Woods, the County of Orange and Orange County Flood Control District, the City

of Aliso Viejo, the City of Lake Forest, and the City of Rancho Santa Margarita (Waste Discharge Requirements Order No. R9-2009-0002 (NPDES No. CAS0108740), Orange County Municipal Separate Storm Sewer System (MS4) Permit), SWRCB/OCC Files A-2073(a)-(j), filed January 2010 (requests to hold in abeyance). (*Ben Neill*)

- n. Petitions of American Salvage Inc., and Consolidated Electrical Distributors (CED) and Northbrook Properties, Inc. (NPI) (Cleanup and Abatement Order No. R9-2010-007), SWRCB/OCC Files A-2084 and 2084(a), filed February 2010 (requests to hold in abeyance). (*Lynn Berlad*)
- o. Petition of Vulcan Materials Company (Reconsideration of Clean Water Act Section 401 Water Quality Certification No. 08C-051 for Poway Mining Site, Vulcan Materials, San Diego County) SWRCB/OCC File A-2088, filed March 2010 (request to hold in abeyance). (*Mike Porter*)
- p. Petition of California Independent System Operator Corporation (Order No. R9-2010-0062 Determining No Changes Are Warranted to Order No. R9-2004-0154 (Dynergy South Bay, LLC, South Bay Power Plant, NPDES Permit No. CA0001368) SWRCB/OCC File A-2103, filed June 2010. (*Kristin Schwall*)

The Closed Session was held and items a, c, d, e, f, and g were discussed.

Item 20 – *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation

The San Diego Water Board may meet in closed session to initiate or consider initiating litigation against persons who are alleged to have violated the Porter-Cologne Water Quality Control Act or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)]

The Closed Session was not held.

Item 21 – *Closed Session* - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing

The San Diego Water 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 22 – *Closed Session - Personnel*

The San Diego Water Board may meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing [Authorized under Government Code Section 11126(a)]

The Closed Session was not held.

The meeting reconvened at 1:14 p.m.

Item 23 – Arrangements for Next Meeting and Adjournment

Wednesday, October 13, 2010 - 9:00 a.m.
Rancho California Water District
District Board Room
42135 Winchester Road
Temecula, California

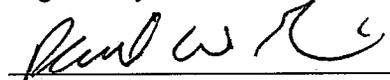
With there being no further business, the meeting was adjourned at 1:15 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



David Gibson
Executive Officer