

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

MINUTES OF MEETING
NOVEMBER 14, 2007

At 9:05 a.m. Chairwoman Ritschel 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: Susan Ritschel, Richard Wright, David King, and Daniel Johnson.

Staff Present: John Robertus, Michael McCann, David Barker, Lori Costa, John Anderson, Mark Alpert, John Odermatt, Jimmy Smith, Julie Chan, Craig Carlisle, Bob Morris, David Gibson, Eric Becker, Alan Monji, Deborah Woodward, Christina Arias, Wayne Chiu, Helen Yu, Chris Means, Ben Neill, Tom Alo, Mike Porter, Laurie Walsh, Sherrie Komeylyan, Charles Cheng, Byron Clamor, Ben James, and Chad Loflen.

Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine George and Chris Beegan. Kennedy Court Reporters: Lori Anzalone.

Public Attendance: Dick Runge – South Coast Water District; David Barrett – SDG&E; Julie Byford – Sea World San Diego; Nora Jans – RBF Consulting; Barry Pulver, Sara Agahi – County of San Diego; Rob Manriquez – Haley & Aldrich; Don Kent, Mark Drawbridge – Hubbs-Sea World Research Institute; Roger Morrison, Pat Ryan – City of Poway; Bob Jordan – SMWD; Stephanie Bauer, Bill Hays – Port of San Diego; Kim Aldrich – Lennar Corp; Rosanna Lacarra – City of Del Mar; Ken St. Clair – City of San Marcos; Terry Rogers – SD Union-Tribune; Cheryl Filar – City of Escondido; Damika Webb, Andrew McCabe – Thomas Jefferson School of Law; Gabriel Solmer – San Diego Coastkeeper; Liz Taylor – Daley & Heft; Barry Snyder – AMEC; Ryan McCray, Steve McFarland – TJSL.

Board Member Anderson arrived at this time.

Item 2 – Public Forum

Richard Runge, South Coast Water District, announced that their groundwater recovery facility was complete and invited the Board to the grand opening on November 16, 2007 at 10:00 a.m. Mr. Runge spoke briefly about the new facility.

Item 3 – Minutes of Board Meeting of October 10, 2007

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.

Chairwoman Ritschel noted that a correction needed to be made on page 2, paragraph 4, which would read, "Mr. Robertus reported that he attended a *San Clemente Coastal* Advisory Board meeting on August 9."

Mr. Wright moved approval of the October 10, 2007 minutes as amended. The motion was seconded by Mr. Johnson 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.

Mr. Anderson reported that he and Mr. Wright attended the Water Conservation Summit on October 12, 2007.

Mr. Johnson announced that he was invited to participate in the Brownfields Redevelopment Advisory group. The group met in Sacramento the end of September to discuss Brownfields issues and reforms.

Mr. Robertus reported that Mr. Wright would be attending the Wetlands Recovery Project Board of Governors meeting on November 29th and Mr. King attended the San Diego River Conservancy Board meeting on November 9th. He also reported that the Bajagua court case would be heard in court on November 16. Mr. Robertus announced the Mr. Michael McCann was selected as the new Assistant Executive Officer.

Chairwoman Ritschel referred to the State Route 125 South Toll Road project (*Item 6*) and said she was disappointed that the erosion control measures and vegetated bioswales had not been completed in a timely fashion. Staff member Christina Arias gave a brief status report on the progress they were making. Board Members asked that a status report item be put on the December agenda.

Chairwoman Ritschel reported that the City of San Clemente was successful in renewing the Clean Ocean Fee program. The renewal was passed by a majority vote of property owners in the City of San Clemente.

Item 5 – Recognition: Resolution of Appreciation for John Richards (tentative Resolution No. R9-2007-0207) (*John Robertus*)

Mr. Johnson made a motion to adopt Resolution R9-2007-0207. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Ms. Ritschel presented the Resolution of Appreciation to Mr. Richards.

Item 6 – NPDES Permit Reissuance: Waste Discharge Requirements for the Hubbs-Seaworld Research Institute Leon Raymond Hubbard, JR. Marine Fish Hatchery, Discharge to Agua Hedionda Lagoon, Carlsbad. (Tentative Order No. R9-2007-0026, NPDES Permit No. CA0109355) (*Eric Becker*)

Staff member Eric Becker gave the presentation.

Don Kent, Hubbs-Sea World Research Institute, also spoke.

Board Members asked questions of Mr. Becker.

After Board Member discussion, Mr. Wright made a motion to defer action on the item and asked staff to bring the item back in six months as a status report presenting various alternatives. The motion was seconded by Mr. Johnson and approved by unanimous vote.

Item 7 – Reissuance of Waste Discharge Requirements and NPDES Permit CAG919002 for discharge from Groundwater Extraction waste to Surface Waters within the San Diego Region Except for San Diego Bay. If adopted, Tentative Order No. R9-2007-0071, would supersede the current WDR Order No. R9-2001-0096. (Tentative Order No. R9-2007-0071) (*Vicente Rodriguez*)

This item was postponed.

Item 8 – PUBLIC HEARING: Scripps Ranch Middle School: Administrative Civil Liability Complaint recommending a \$128,000 assessment of civil liability against the San Diego Unified School District (District) for violations of California State Water Resources Control Board (State Board) Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity (Permit). The Complaint alleges that the District failed to prepare complete inspection reports required by the Permit, failed to implement adequate Best Management Practices, as required by the permit, and violated discharge prohibitions of the Permit. If the discharger elects to waive their right to a hearing, the Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2007-0210) (*Pete Peuron*)

Postponed due to a lack of a quorum for this item.

Item 8a – PUBLIC HEARING: Conditional Waiver of Waste Discharge Requirements for Emergency Repair and Protection Activities in Non-Federal Waters of the State. The San Diego Water Board will receive testimony and consider adoption of a new conditional waiver for discharges from dredge and fill projects during emergency repair

and protection activities that are necessary in the wake of regional disasters. The proposed waiver is very similar to a nationwide Regional General Permit (no. 63) issued by the Department of the Army that conditions emergency dredge and fill projects to federal waters under Clean Water Act Section 404. Only ten days of public review were possible for this item in order to expedite adoption in compliance with the Governor's Executive Order S-13-07. (Tentative Resolution No. R9-2007-0211) (*Jeremy Haas*)

Mr. Robertus introduced the item and senior staff member Jimmy Smith gave the presentation. Board Members asked questions of Mr. Smith.

David Barrett, representing SDG & E, also spoke.

Board Members made comments and asked questions of Mr. Barrett. Mr. King said if there was going to be continuing work, the work should be subject to conditions that were adopted.

Mr. King made a motion to approve R9-2007-0211 with errata and direction to staff to work with SDG& E, and others that notify the Board, which had existing work/emergency repairs already in place.

Staff Council Catherine George said if approved, the item should be approved as an Order, not a Resolution.

Mr. King modified his motion, as proposed by Ms. George, to approve the item in the form of an Order. The motion was seconded by Mr. Johnson and approved by unanimous vote.

Item 9 – STATUS REPORT: The State Water Resources Control Board's Proposed Water Quality Control Plan for Enclosed Bays and Estuaries of California, Sediment Quality Objectives (SQOs). This is an informational item only on this State Board project and no Regional Board action will be taken. See <http://www.waterboards.ca.gov/bptcp/sediment.html> for more information. (*Chris Beegan*)

State Board staff member Chris Beegan gave the presentation.

Gabriel Solmer, San Diego Coastkeeper, also spoke.

Mr. Robertus made comments.

Item 10 – STATUS REPORT: San Diego Region Wildfires – Regulatory Actions and Issues. A report on Regional Board coordination of activities with Federal, State, and Local agencies, issuance of conditional waivers for management and disposal of disaster-related waste streams, preparation of guidance on ash handling and disposal, creation of the Regional Board Wildfire web pages providing the public with regulatory guidance and related links, and other wildfire related activities. This is an informational

item only and no Regional Board action will be taken. (*Robert Morris, James Smith, and John Odermatt*)

Assistant Executive Officer, Mike McCann, and senior staff members Bob Morris, Jimmy Smith, and John Odermatt gave the presentation.

Other speakers included:

Sara Agahi – County of San Diego

Roger Morrison – City of Poway

Rosanna Lacarra – City of Del Mar

Cheryl Filar – City of Escondido

Mr. Wright commended staff for their fast action responding to the emergencies.

Mr. Robertus made comments.

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

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 for Breach of Contract. San Diego County Superior Court, Case No. GIC 822750 (filed December 2003). (John Anderson)

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 for Breach of Contract. San Diego County Superior Court, Case No. GIC 824706 (filed January 2004). (John Anderson)

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)

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). (John Odermatt)

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

People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Robert Ortega, an individual in his capacity as Acting 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)

This Closed Session was held.

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)

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)]

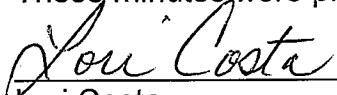
Item 14 – *Closed Session* - Personnel
The Regional Board may meet in closed session to consider personnel matters involving exempt employees [Authorized under Government Code Section 11126(a)]

The Closed Sessions, Items 12-14, were not held,

Item 15 – Arrangements for Next Meeting and Adjournment
Wednesday, December 12, 2007 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

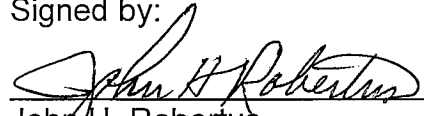
With there being no further business, the meeting was adjourned at 1:00 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



John H. Robertus
Executive Officer