

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

MINUTES OF MEETING
MARCH 9, 2011

At 9:00 a.m. Chairman Destache 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: Grant Destache, Eric Anderson, George Loveland, William Green, Gary Strawn, Don Higginson, and Marc Luker.

Staff Present: David Gibson, James Smith, Julie Chan, David Barker, Sean McClain, Amy Grove, John Odermatt, Jody Ebsen, Sue Pease, Brian Kelly, Bob Morris, Eric Becker, Frank Melbourn, Jeremy Haas, and Barry Pulver.

Others Present on behalf of the San Diego Water Board: State Water Resources Control Board – Catherine Hagan, Jessica Newman, Cris Carrigan, and Frances Spivy-Weber. Kennedy Court Reporters – Hope Goldsmith.

Public Attendance:

Michael Welch – self; Andy Webster, Warren Back, Ben Drake – Rancho California Water District; Steve Van Stockum, Jeff Johnson – Riverside County Environmental Health; Bradley Hay – Hunsaker & Assoc; Debra Nelson – Fossanova Vineyards; Doug Kerner – BIR; Charlie Bachmann – Eastern Municipal Water District; Phil Baily – Temecula Valley Vine Growers; Matt Lin – Callaway Winery; Andrew Yuell – US Fish & Wildlife Service; Amy McNeill – Riverside County Flood Control; Steven Brabrop – BioSolutions; Richard Mann – self; Andrew Masiel – Pechanga Indian Reservation; Paul Schankin – self; Chris Nordby – Norby Biological; Scott Jenkins – Scripps Institution of Oceanography; Livia Borak – Coast Law Group; Gabriel Solmer – San Diego Coastkeeper; Stan Williams – Poseidon Resources.

Item 2 – Public Forum

Mr. Ben Drake, grower in Temecula, talked about his concern that the San Diego Water Board did not send out letters to farmers not enrolled in the agricultural waiver and asked if Notice of Violations would be sent to uncompliant growers. He was also concerned that Pete Peuron (*San Diego Water Board staff*) retired, which may cause delays with the issuance of the Notice of Violations.

Mr. Dave Gibson said that staff member Cynthia Gorham was the new contact person for the project. The letters were under development and should go out shortly and that the Board did not intend to lose momentum on the Ag waiver.

State Board Liaison Fran Spivy-Weber, spoke about the budget and said the hiring freeze would continue. She also reported that Dave Gibson would be meeting with other Executive Officers in Sacramento to discuss how we operate as a group and how the Boards may operate more efficiently in the future. Chairman Destache said he would be attending a meeting with the other Chairs to help support the proposed changes.

Item 3 – Minutes of Board Meeting: February 9, 2011

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.

Chairman Destache moved approval of the February 9, 2011 minutes. The motion was seconded by Mr. Anderson 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 that the petition filed by the South Orange County Wastewater Authority regarding its permit renewal was dismissed by the State Water Board. He also said the letter regarding the adoption of the Oceanside permit addressing TBEL's in the Ocean Plan was favorably received by the State Water Board and that the workplan to update the Ocean Plan would include work in three areas for desalination, 1) impingement issues, 2) waste associated with brine discharge, and 3) Table A may be amended to address waste discharge associated with brine. Mr. Gibson also said that the City of Oceanside filed an appeal on its petition and the work completed on the Ocean Plan was the proper way to address concerns raised by both parties. Mr. Gibson also mentioned the failure to comply with administrative civil liability settlement by the County of Riverside. He spoke with the County's senior management to make them aware of this issue and to give them the opportunity to respond. Mr. Gibson also reported that staff was currently drafting an investigative order for one or more parties to address the eutrophication and nitrogen exceedances in Lake San Marcos.

Chairman Destache commented on the letter to the State Water Board regarding the TBELs and Ocean Plan and how this was an example of bringing regulation into a more compact and efficient operating style.

Mr. Green thanked Mr. Gibson for extending himself on the Riverside County ACL.

Item 5 – Information Item: Ground Water Salinity and the Development of the Temecula Valley Wine Country (*Amy Grove*)

Ms. Grove gave a brief overview of potential groundwater quality issues related to the proposed Temecula Valley Wine Country expansion, including the need for salt and nutrient management planning and oversight, and the need for waste discharge requirements for new and expanding wineries in Temecula Valley.

Mr. Warren Back, Rancho California Water District (*RCWD*), introduced the consultant working for the district.

Mr. Michael Welch, consultant for the RCWD, gave a presentation on the hydrogeology of Temecula. He made comments on the Temecula Wine project and the concern on waste water load impacts to water quality.

Mr. Loveland asked questions on groundwater water quality in Temecula, TDS concentrations, and the effects imported waters TDS would have on water quality.

Chairman Desatche asked questions on the current capacity of the Temecula basin.

Mr. Green asked a question on water quality in Vail Lake.

Mr. Charlie Bachmann, Eastern Municipal Water District (*EMWD*), made comments on what it would take to bring sewer lines to the area. He estimated that the proposed area would generate nearly four million gallons a day of waste water.

Mr. Destache asked questions on how the EMWD would fund the plan and if the EMWD could start building the facilities now.

Mr. Ben Drake, grower, made a comment on the need for a short term solution to allow the developments to occur.

Mr. Phil Bailey, Bailey Winery, made a comment on what kind of developments would occur on the wineries and the land use allowed on the wineries.

Mr. Duane Webster said he hoped there were provisions made for small projects.

Chairman Destache made comments to staff.

Mr. Gibson made comments on the public workshop that was held eight months prior and the need to maintain the high water quality in the Temecula basins. He also mentioned the issues associated with the assimilative capacity and that staff was fully committed to supporting the salt and nutrient management process and waste discharge requirements approach.

Item 6 – Adoption of Emergency, Abandoned, and Recalcitrant Annual Priority Site List: Former Santa Ysabel Chevron Service Station (Tentative Resolution No. R9-2011-0029) (*Sue Pease*).

Ms. Pease gave a brief presentation on the background of the UST Cleanup Fund, Emergency, Abandoned, and Recalcitrant (EAR) account, and former Santa Ysabel Chevron Service Station. Ms. Pease recommended that the Board adopt the tentative resolution to renominate the former Santa Ysabel Chevron Service Station to the EAR account.

Mr. Destache moved adoption of Resolution No. R9-2011-0029. The motion was seconded by Mr. Loveland and approved by unanimous vote.

Item 7 – Resolution: Poseidon Mitigation Site Approval (Tentative Resolution No. R9-2011-0028) (*Jody Ebsen*)

Ms. Ebsen gave a brief overview on Poseidon's Marine Life Mitigation Plan and the mitigation requirements for impacts to marine life caused by the Carlsbad Desalination Project. Ms. Ebsen also discussed the preliminary wetland restoration plan and the Otay River Floodplain Wetland site selected by Poseidon for the mitigation area.

Mr. Stan Williams, Poseidon Resources, provided information on the site mitigation selection, preliminary restoration plan selection, and the requirements for marine impacts. Mr. Williams stated that Poseidon fully supported staff's recommendations.

Mr. Andrew Yuen, Project Leader San Diego National Wildlife Refuge Complex, stated that the SDNWRC supported the proposal by Poseidon and said the plan was consistent with the 2006 comprehensive conservation plan for the San Diego Bay wildlife refuge.

Ms. Livia Borak, Coast Law Group, made comments on the Encina Power Plant and said the associated permits were about to expire. She also stated that most lawsuits had been resolved but one was pending.

Ms. Gabriel Solmer, San Diego Coast Keeper, made comments on the Board reissuing the NPDES permit to Poseidon. She also stated that the issue may come back as a 401 certification in the future and requested that it be a Board item.

Dr. Scott Jenkins, Scripps Institute of Oceanography, made a comment on the fish sucked into the screen intake and the site selected for mitigation.

Mr. Chris Nordby, Nordby Biological, made a comment that gobies were the types of fish that will impinged.

Mr. Green made a comment on the desalination policy and would like staff to follow up with the State Board on the policy.

Chairman Destache moved adoption of Resolution No. R9-2011-0028. The motion was seconded by Mr. Green and approved by unanimous vote.

Mr. Gibson made comments to the Board that there were many opportunities for the Board to make its wishes known to the State Water Board to guide development of the impingement policy in the Ocean Plan. Mr. Gibson also stated that three issues may come up for a decision in the next year, 1) wetland restoration plan, 2) 401 water quality certification, and 3) productivity monitoring plan.

Chairman Destache stated that the Board would leave the issues to the Executive Officer to keep them moving forward.

At 12:10, the meeting recessed for lunch and to discuss Closed Session items a – f and i.

Item 8 - *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]

Civil Actions

- a. *People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Edward Drusina, 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. *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)*

- c. *Surfrider Foundation v. California Regional Water Quality Control Board, San Diego Region*, Petition for Writ of Mandate [re: San Diego Water Board's adoption of Order No. R9-2009-0038 amending Order No. R9-2006-0065 for Poseidon Resources (Channelside), LLC, NPDES Permit No. CA0109223, approval of a Flow, Entrainment and Impingement Minimization Plan under the California Water Code]. San Diego County Superior Court, Case No. 37-2010-0009-436-CU-WM-CTL (filed April 2010). (*Brian Kelley*)
- d. *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*)
- e. *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*)
- f. *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

- i. 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*)

Item 9 – 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 10 – 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 11 – 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.

Item 12 – Arrangements for Next Meeting and Adjournment

Wednesday, April 13, 2011 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

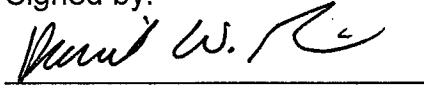
With there being no further business, the meeting was adjourned at 12:20 p.m.

These minutes were prepared by:



Sean McClain
Engineering Geologist

Signed by:



David Gibson
Executive Officer