

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

MINUTES OF MEETING
SEPTEMBER 9, 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: Chairman Richard Wright, David King, Eric Anderson, Wayne Rayfield, Grant Destache, George Loveland, and Marc Luker.

Staff Present: John Robertus, Michael McCann, Lori Costa, David Barker, Julie Chan, David Gibson, Bob Morris, Deborah Jayne, Craig Carlisle, Brian Kelley, Chiara Clemente, Bruce Posthumus, John Odermatt, Jeremy Haas, James Smith, Eric Becker, Laurie Walsh, Lisa Honma, Barry Pulver, Cathryn Henning, Wayne Chiu, Cheryl Prowell, Joann Cofrancesco, Kristin Schwall, Alan Monji, Amy Mecklenborg, Deborah Woodward, Beatrice Griffey, Michelle Mata, Helen Yu, Lynn Berlad, Chris Means, Sean McClain, Christina Arias, Chad Loflen, Ben Neill, Dat Quach, Charles Cheng, DiAnne Broussard, Frank Melbourn, Pete Peuron, Tony Felix, Lori Seip, Sylvia Wellnitz, Cheryl Prowell, Amy Fortin.

Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine Hagan, Jessica Newman, Dominic Gregorio, Greg Gearheart, Joanna Jensen, and Chris Hanes.

Public Attendance: Gabriel Solmer- San Diego Coastkeeper; Lee Brown, Bob Vincente, E. Woodrow Hunt- San Diego Yacht Club; David Drake- Hadronex Inc.; Kathryn Rhodes- LaJolla Children's Pool; Cheryl Cox- Mayor of Chula Vista; Pamela Bensoussan- Chula Vista City Council; Steve Padilla- Former Mayor of Chula Vista; Mariana Lopez, Michael Gilgun, Lynda Gilgun, David DiDonato, Sharon Floyd- Chula Vista resident; Khosro Aminpour- City of Chula Vista; Jonathan Hardy- Senator Ducheny's Office; Rachel Gregg, Elizabeth Martinez- Representative of Assembly Member Mary Salas; Humberto Peraza, Ana Molina- Representatives of Ben Hueso; Steve Peace, Mitchell Thompson, Earl Jentz- Self; Randy Hickok- Dynegy; Bill Powers- Powers Engineering; Lorena Gonzales- San Diego Labor Council; Alicia Glassco- Marine Debris Coordinator; Ed Kimura- Sierra Club; Linda Wagner- Assistant to Council Member Steve Castaneda; Sara Honadle- Coastal Environmental Right Foundation; Laura Hunter, Jose Medina, Jane Lilly, Joy Williams, Theresa Acerro- Environmental Health Coalition; Monique Cornejo- Community Member; Marco Gonzalez, Johnny Pappas- San Diego Surfrider Foundation; Michael Meacham- Conservation & Environmental Services; Dolores Dempsey- Granada Mobile

Estates; Allison Rolfe- Pacifica Development; David Schlichman, Ruth Kolb- City of San Diego; Jeremy Fontaroni- County of San Diego; Claudio Padres- Riverside County Flood Council; Lisa Zawashi- Dana Point; Cori Calvert- NRCS; Jeremy Jungreis, Gabrielle Skipper- Camp Pendleton Marine Corps Base; Wayne Lucero- Congressman Bob Filner's Office; David Lloyd- Cabrillo Power.

Item 2 – Public Forum

Gabriel Solmer, San Diego Coastkeeper, spoke about their concerns with the sediment cleanup and said they were formally resigning from the mediation due to it being a failed process.

Marco Gonzalez, on behalf of the Environmental Health Coalition and Coastkeeper, also expressed his disappointment in the sediment cleanup process and also formally resigned.

Mr. King said as the presiding officer he had been monitoring the progress of the mediation throughout the process and reported that he was satisfied with the progress the parties were making. He said he would confer with Counsel and respond accordingly.

Lee Brown, San Diego Yacht Club, reported that his group was working on the copper TMDL issue for Shelter Island Yacht Basin and talked about the proactive steps they were taking.

Board Member Luker arrived at 9:15 a.m.

David Drake, Hadronex Inc., gave a brief presentation on their Smartcover® product, a wireless remote monitoring system designed to prevent sanitary sewer overflows.

Katheryn Rhodes, Point Loma, gave an update on the status of the Children's Pool in LaJolla. She requested a letter of clarification regarding animal habitats, specifically the seals in the Children's Pool, as it related to the law for water quality. She asked if the Regional Board would fine the City of San Diego for letting the seals stay in the pool.

Item 3 – Minutes of Board Meetings of August 12, 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. Anderson moved approval of the August 12, 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.

Fran Spivy-Weber, State Board Member Liaison, reported on the Nutrient Management Plans, the budget analysis, the construction stormwater permit adopted by the State Board, the draft enforcement policy up for adoption in October, and the Water Quality Coordinating Committee meeting being held on October 26 & 27, 2009.

Chairman Wright encouraged Board Members to attend the WQCC.

Mr. Anderson reported that on September 10, 2009 the UC Extension was holding an education session for the agriculture community on waivers.

Mr. Robertus recommended changing the dates of the November and December Board meetings to the third Wednesday of those months.

Mr. Robertus reported on the *Tijuana River Restoration Team Meeting, Grants Update, and Status of Petitions for Review by State Water Board* items in his report.

Item 5 – Recognition: Resolution of Appreciation for former Board Members Kris Weber (tentative Resolution No. R9-2009-0154) and Gary Thompson (tentative Resolution No. R9-2009-0155) (*John Robertus*)

Chairman Wright read the Resolution then presented it to Mr. Weber. Mr. Thompson was not in attendance.

Consent Calendar:

Item 6 – Rescission of Waste Discharge Requirements: U.S. Navy Public Works, NASNI Bioremediation Facility; Rainbow Municipal Water District, Plant B; and John Konyn and Son Dairy (Tentative Order No. R9-2009-0098) (*Cathryn Henning*)

Mr. Rayfield moved approval of Order No. R9-2009-0098. The motion was seconded by Mr. Destache and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 7 – Report: NPDES Permit application for reissuance of NPDES waste discharge requirements for Dynegy South Bay, LLC, South Bay Power Plant discharge to south San Diego Bay, Chula Vista, California (Order No. R9-2004-0154, NPDES NO. CA0001368). This item will include a discussion on the continued operation of the South Bay Power Plant and the proposed State Water Board Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (*David Barker*)

Senior staff member Brian Kelley began the presentation. Dominic Gregorio, State Board Ocean Unit, gave an update on the draft statewide power plant cooling water policy.

Board Members asked questions of Mr. Gregorio.

Robin Smutney-Jones, CA Independent System Operator, said they needed to ensure enough generation operated reliably in 2010 and through the next several years before any more South Bay units retired.

Other speakers included:

Cheryl Cox – Mayor of Chula Vista

Pamela Bensoussan – Chula Vista Councilmember

Steven Padilla – former Mayor of Chula Vista

Jonathan Hardy – represented Senator Denise Ducheny

Rachel Gregg – represented Assemblymember Mary Salas

Humberto Peraza – represented Council President Ben Hueso

Steve Pease

Randy Hickok – Dynegy South Bay

Bill Powers – Powers Engineering

Lorena Gonzalez – SD•Imperial Counties Labor Council

Alicia Glassco – San Diego Coastkeeper

Ed Kimura – Sierra Club

Mariana Lopez – Chula Vista resident

Linda Wagner – represented CV Councilmember Steve Castaneda

Laura Hunter – Environmental Health Coalition

Marco Gonzalez – represented Environmental Health Coalition

Jose Medina – Environmental Health Coalition member

Monique Cornejo – Chula Vista resident

Johnny Pappas – Surfrider Foundation

Mitchell Thompson

Gabriel Solmer – San Diego Coastkeeper

Earl Jentz – Chula Vista resident

Michael Meacham – City of Chula Vista

Delores Dempsey – Granada Mobile Estates

Theresa Acerro – Southwest Chula Vista Civic Association
David DiDonato – Chula Vista resident
Sharon Floyd – Chula Vista resident
Allison Rolfe – Pacifica Development

Ms. Hagan explained to the Board that they could not take action on the item but could give direction to staff as to what they would like to see happen next.

Board Members made comments and asked questions. It was agreed that they should proceed with an evidentiary hearing.

Chairman Wright said the plant should no longer be there.

Mr. King gave direction to staff to bring the item back as an evidentiary hearing to consider the extension of the administrative permit and the renewal application.

The meeting recessed for lunch and Closed Session at 1:15 p.m.

Item 13 – *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:

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). (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 Melbourne)*

- 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. *William and Lori C. Moritz v. California Regional Water Quality Control Board, San Diego Region, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2009-00093097-CU-WM-CTL (filed June 2009) (Christopher Means)*

Petitions for Review Pending Before State Water Resources Control Board

- f. Petition of San Diego Gas & Electric Company, Reconsideration of Clean Water Act Section 401 Water Quality Certification No. 06C-026 and Waste Discharge Requirements for Discharge of Dredged and/or Fill Materials for 5393 - SDG&E Access Road Repairs TM 3010, Torrey Pines, San Diego County, SWRCB/OCC File No. A-1951, filed September 2008 (in abeyance). *(Mike Porter)*
- g. 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 No. A-2010, filed April 2009 (in abeyance). *(Eric Becker)*
- h. Order No. R9-2009-0038 (Poseidon Resources Corporation, Carlsbad Desalination Plant, Order Amending Waste Discharge Requirements No. R9-2006-0065 [NPDES No. CA0109223])
 - (i) Petition of San Diego Coastkeeper, SWRCB/OCC File No. A-2024, filed June 2009; and
 - (ii) Petition of Surfrider Foundation, SWRCB/OCC File No. A-2024(a), filed June 2009. *(Michelle Mata)*
- 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 No. A-2032

The Closed Session was not held.

Item 14 – *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation

The Regional 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)]

(John Robertus)

The Closed Session was not held.

Item 15 – *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 16 – *Closed Session* - Personnel

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

The Closed Session was held.

The meeting reconvened at 2:00 p.m.

Ms. Hagan noted that during the Closed Session, Item 16 was discussed.

Item 8 – Report: Southern California Bight Regional Monitoring 2008 Update. Bight'08 is a regional monitoring program conducted by a consortium of over 90 local organizations to assess the whole southern California Bight. The Southern California Coastal Water Research Project (SCCWRP) organizes and participates in this integrated and collaborative monitoring effort every 5 years. The Bight'08 effort focuses on the ocean, bays, and estuaries of the bight with particular attention to wetland and riparian areas, watersheds, rocky intertidal habitat, and marine shellfish. *(Bruce Posthumus)*

Mr. Robertus introduced the item. Steve Weisberg, Executive Director of the Southern California Coastal Water Research Project, gave the presentation.

Item 9 – Report: Status of the City of San Diego's Recycled Water Program *(Robert Pierce)*

Item 9 was postponed.

Item 10 – Report: Surface Water Ambient Monitoring Program (SWAMP). The program is a statewide monitoring effort designed to assess the conditions of surface waters throughout the State of California. The SWAMP was established in 2000 by the State Water Resources Control Board pursuant to AB 982. The purpose of the program is to collect information about the status of the physical, chemical, and/or biological characteristics of the environment that is collected to answer specific questions about the status and trends in water quality and/or beneficial uses of water. The SWAMP is implemented primarily by the Regional Boards and focuses on inland surface waters. (*Dave Gibson, Bruce Posthumus, and Cynthia Gorham-Test*)

Senior staff member David Gibson introduced the item. Cynthia Gorham-Test gave the presentation.

Item 11 – Report: Overview of the Regional Board's Storm Water Program. This overview report will address specific issues and priorities in the Municipal, Construction, and Industrial components of the Board's storm water program. (*David Barker*)

Greg Gearheart, State Board, gave the presentation. Chris Hanes, State Board, gave a brief presentation on the Plastics Initiative.

Item 12 – Discussion: Regional Board Priorities. The Board intends to consider priorities for the Regional Board in light of the current budget cuts, staff furloughs, and anticipated budget deficit impacts. As part the discussion, the Board may provide guidance and direction to Board staff. (*John Robertus*)

Ms. Julie Chan, Mr. David Gibson, and Mr. David Barker each gave an overview of their branch.

Board Members made comments.

Board Member Rayfield left the meeting at 4:30 p.m.

Mr. Robertus made comments.

Chairman Wright asked Mr. Robertus to update the Board's Regionalization Plan. Mr. Loveland said he would assist John.

Mr. Destache asked the branch chiefs to produce a one page information sheet on their branch – staff, programs, and challenges.

Item 17 – Arrangements for Next Meeting and Adjournment

Wednesday, October 14, 2009 - 9:00 a.m.

Water Quality Control Board

Regional Board Meeting Room

9174 Sky Park Court

San Diego, California

Mr. Robertus requested that the November and December Board meetings be changed to November 18 and December 16 to allow staff more time to work on the agenda items.

With there being no further business, the meeting was adjourned at 4:00 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



John H. Robertus
Executive Officer