

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

MINUTES OF MEETING  
JUNE 10, 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, Kris Weber, Wayne Rayfield, Grant Destache, Gary Thompson, and George Loveland.

**Staff Present:** John Robertus, Michael McCann, Lori Costa, Frank Melbourn, David Barker, Julie Chan, Brian Kelley, Melisa Valdovinos, James Smith, Carol Tamaki, Lisa Honma, Kristin Schwall, Michelle Mata, Alan Monji, Jeremy Haas, Jody Ebsen, Lynn Berlad, Sean McClain, John Anderson, Amy Grove, Robert Pierce, Pete Peuron, Barry Pulver, Catherine Henning, Bruce Posthumus, David Gibson, Bob Morris, Fisayo Osibodu, Wayne Chiu, Helen Yu. **Others Present on behalf of the Regional Board:** State Water Resources Control Board – Catherine Hagan and Fran Spivy-Weber.

**Public Attendance:** Carl Nettleton- Open Oceans Global; Alan Langworthy, Jim Barrett, Tim Stebbins- City of San Diego; Gabriel Solmer, Kalla Hirschbein - San Diego Coastkeeper; Mekaela Gladden- Briggs Law Corporation; Laura Hunter- Environmental Health Coalition; Shaun Halvax- BAE Systems; Chris Stransky, Sarah Douglass- Nautilus Environmental; Dan Connally- PG Environmental; Michael Welch- Self; Chuck Katz, Theresa Trost, Brian Gordon, Robert Fahey. Luis Perez, Admiral L. Hering- U.S. Navy; Ed Kimura- Sierra Club; Lisa O'Neal-Brown & Winters; Bob Scott- URS; Lee Wilson- Continental Maritime; Barry Snyder- AMEC; Jay Shake, Ryan Verschoor, Justin Rhoads, Donald Manweiler- MACTEC.

State Board Member, Fran Spivy-Weber reported briefly on the budget, items going before the State Board, projects, grants, and low impact development. Board Members asked questions.

**Item 2** – Public Forum

There were no requests to speak during the Public Forum.

**Item 3** – Minutes of Board Meetings of May 13, 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 May 13, 2009 minutes. The motion was seconded by Mr. King 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.

Chairman Wright reported that the topic of discussion during the monthly Chair's conference call was the budget.

Mr. King reported that mediation for the San Diego Bay shipyard sediment cleanup was continuing but that the parties had come to an agreement. He said the parties involved were in the process of finalizing the monitoring requirements.

Chairman Wright and Mr. Robertus reported on the Water Conservation Summit they attended on June 2<sup>nd</sup>, hosted by the San Diego County Water Authority. Chairman Wright asked for a staff presentation on the complexities of water reuse at a future meeting.

Mr. Robertus briefly commented on a few of the items in his report.

Chairman Wright said the Board would discuss the distribution of administrative civil liabilities later in the day.

Chairman Wright requested information on the Tijuana River Valley funding distribution. Mr. Thompson added that the project needed State legislative assistance. Carl Nettleton, Open Oceans Global, briefly spoke on the Tijuana River Valley cleanup issue.

Mr. Robertus reported on the efforts being made to cleanup Lake San Marcos.

**Consent Item:**

**Item 5** – Master Reclamation Permit, Western Municipal Water District, Murrieta Division, Riverside County (Tentative Order No. R9-2009-0051) (*Fisayo Osibodu*)

A motion was made by Mr. Rayfield to approve Order No. R9-2009-0051 with errata. The motion was seconded by Mr. Loveland and approved by unanimous vote.

***Remainder of the Agenda (Non-Consent Items):***

**Item 6** – National Pollutant Discharge Elimination System (NPDES) Permit Reissuance: City of San Diego E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant discharge to the Pacific Ocean through the Point Loma Ocean Outfall. The tentative NPDES permit and waste discharge requirements are based on a variance from federal secondary treatment standards at Title 40 of the Code of Federal Regulations Part 133 (40 CFR 30), as provided for improved discharges under Clean Water Act section 301(h) and 40 CFR 125, Subpart G. The comment period on the tentative permit/order closed on January 28, 2009. The Regional Board will only accept written and oral comments on staff's proposed revisions to the tentative permit/order. Any such written comments must be submitted by June 3, 2009 at 5:00 p.m. (Tentative Order No. R9-2009-0001) (*Melissa Valdovinos*)

Chairman Wright introduced the item. Staff member Melissa Valdovinos gave the presentation.

Board Members asked questions of staff.

Mr. Jim Barrett and Mr. Alan Langworthy, City of San Diego, were available for questions.

Mr. Thompson congratulated staff on getting concurrence from local environmental groups.

Mr. Destache talked about water reuse and building plants that could reuse water. Mr. Wright encouraged mass loading reductions.

Mr. Robertus thanked Mr. Langworthy for his work and recommended adoption of the Order.

A motion was made by Mr. King to approve Order No. R9-2009-0001 with errata. The motion was seconded by Mr. Destache and approved by unanimous vote.

**Item 7** – NPDES Permit Reissuance: Waste Discharge Requirements for BAE Systems San Diego Ship Repair Inc. (formerly named Southwest Marine, Inc.), Discharge to San Diego Bay (Tentative Order No. R9-2009-0080, NPDES Permit No. CA0109151) (*Vicente Rodriguez*)

Chairman Wright introduced the item. Staff member Vicente Rodriguez gave the presentation.

Other speakers included:

Shaun Halvax – BAE Systems, gave a brief presentation.

Laura Hunter – Environmental Health Coalition, supported adoption of the permit.

Kalla Hirschbein – San Diego Coastkeeper, supported adoption of the permit.

Mekaela Gladden – Briggs Law Corporation, was concerned that samples were not being taken at the point of discharge.

Gabriel Solmer – San Diego Coastkeeper, supported adoption of the permit but asked for clarification on Mr. Rodriguez's statement regarding the sampling location and application of the CTR.

Ms. Catherine Hagan and Mr. Rodriguez responded to the concerns and questions from the previous speakers.

Mr. Halvax also made comments.

Board Members asked questions of staff.

Ms. Hagan requested a break to discuss with staff the sampling location issue.

**Item 4** – Continued

Senior staff member, Jeremy Haas spoke on the allocation of administrative civil liability monies. Board Members asked questions of Mr. Haas.

**Item 7** – Continued

Ms. Hagan said that the end of pipe limits that staff included were appropriate.

Mr. Rodriguez said he agreed that the effluent limits based on CTR apply at the end of pipe before the receiving water.

Robertus recommended adoption of the Order with errata and supplemental errata.

A motion was made by Mr. Thompson to approve R9-2009-0080 as recommended by Mr. Robertus. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

**Item 8** – NPDES Permit Reissuance: Waste Discharge Requirements for U.S. Navy at Naval Base Coronado, Discharge to San Diego Bay and the Pacific Ocean (Tentative Order No. R9-2009-0081, NPDES Permit No. CA0109185) (*Vicente Rodriguez*)

Chairman Wright introduced the item. Mr. Rodriguez gave the staff presentation.

Additional speakers included:

Admiral Hering – U.S. Navy

Brian Gordon – U.S. Navy

Chris Stransky – Nautilus Environmental

Laura Hunter – Environmental Health Coalition

Kalla Hirschbein – San Diego Coastkeeper

Mekaela Gladden – Briggs Law Corporation

Gabriel Solmer – San Diego Coastkeeper

Admiral Hering made closing comments.

Mr. Rodriguez and staff member Kristin Schwall addressed questions and comments made by the speakers and Board Members.

Dan Connally, U.S. EPA contractor, who helped with the permit writing, also addressed questions asked by Board.

Mr. Gordon and Admiral Hering made some clarifying comments.

Board Members made comments and asked questions.

Mr. Robertus recommended adoption of the permit with errata.

After continued discussion by Board Members, a motion was made by Mr. Destache to approve R9-2009-0081 with errata. The motion was seconded by Mr. King and approved by a 5-3 vote. Mr. Weber, Mr. Anderson, and Mr. Thompson were opposed.

**Item 9** – CONSIDERATION OF SETTLEMENT: Ametek Inc. - Administrative Assessment of Civil Liability against Ametek Inc. (former Ametek/Ketema Aerospace Manufacturing Facility) for violation of Cleanup and Abatement Order No. R9-2002-0201. The Regional Board will consider adoption of an Order Assessing Administrative Civil Liability in accordance with the terms of a settlement agreement between the Regional Board Prosecution Team and Ametek, Inc. The Order would resolve violations alleged in Complaint No. R9-2009-0024. The settlement includes: (1) payment of \$600,000 to the Regional Board for reimbursement of staff costs and to the State Water Resources Control Board Cleanup and Abatement Account; and (2) suspension of the remaining civil liabilities pending Ametek, Inc.'s completion of specified actions set forth in an agreed upon Cleanup and Abatement Order to the satisfaction of the Regional Board. If the Regional Board rejects the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order No. R9-2009-0091) (*Laurie Walsh*)

Item 9 was postponed.

*The meeting recessed for lunch and Closed Session at 1:30.*

**Item 10** – *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 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. *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 held.

**Item 11** – *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 12** – *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 13** – *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 held.

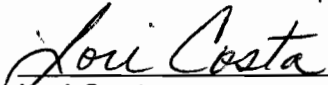
*The meeting reconvened at 2:15 p.m.*

**Item 14** – Arrangements for Next Meeting and Adjournment

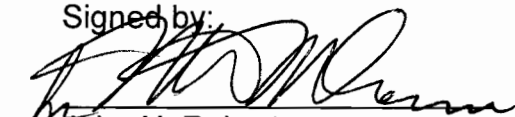
Wednesday, July 1, 2009 - 9:00 a.m.  
Ocean Institute  
Conference Center  
24200 Dana Point Harbor Drive  
Dana Point, California

With there being no further business, the meeting was adjourned at 2:16 p.m.

These minutes were prepared by:

  
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Lori Costa  
Executive Assistant

Signed by:

  
\_\_\_\_\_  
John H. Robertus  
Executive Officer