

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

MINUTES OF MEETING
OCTOBER 14, 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, Grant Destache, George Loveland, and Marc Luker.

Staff Present: John Robertus, Michael McCann, Lori Costa, David Barker, Julie Chan, David Gibson, Bob Morris, John Anderson, Chiara Clemente, James Smith, John Odermatt, Bruce Posthumus, Jeremy Haas, Sean McClain, Jody Ebsen, Barry Pulver, Lisa Honma, Rebecca Stewart, Deborah Woodward, Chad Loflen, Chris Means, Fisayo Osibodu, Cheryl Prowell, Ben Neill, Charles Cheng, and Wayne Chiu. Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine Hagan and Jessica Newman. Kennedy Court Reporters: Brenda Martinez.

Public Attendance: Jim Simmons- Gregory Canyon; James O'Day, Rich Crompton, Vicky Gallagher, Candace Gibson, Tracy Cline- County of San Diego; Andrea Crumpacker- Westin Solutions; Beverly Marisako- City of San Diego; Jerry Marcotte, Kenny Mah- Caltrans; Matt Wartian, Karen Hulman- Port of San Diego; Barbara Tice- Resident of Carlsbad; Frank Quan, Mo Lahsaie- City of Oceanside; Jian Peng- County of Orange; Laura Hunter- Environmental Health Coalition; Patricia Bleha- North County Advocates.

Item 2 – Public Forum

Laura Hunter, Environmental Health Coalition, spoke about the appeal of the Navy's Coronado Base permit. Ms. Hunter also spoke about the South Bay Power Plant ISO numbers and requested that any Regional Board action be certain, unconditional, and enforceable.

Barbara Tice, Carlsbad resident, spoke in support of the Board's decision to deny a water quality certification for the La Costa Town Square Project in Carlsbad and agreed that the construction would impact important wetlands and riparian areas.

Patricia Bleha, North County Advocates, also spoke in support of the Board's decision to deny a water quality certification for the La Costa Town Square Project.

Item 3 – Minutes of Board Meetings of September 9, 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. Luker moved approval of the September 9, 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.

Mr. Loveland reported that he met with staff to begin updating the Regionalization of the State Water Board Strategic Plan. He also reported on performance measures and priorities.

Mr. King gave an update on the San Diego Shipyard Sediment Cleanup. He reported that he gave the Cleanup Team an order to release the revised Cleanup and Abatement Order by October 30, 2009 along with a revised draft technical report. Mr. King recommended scheduling a two day hearing when the item came back to the full Board.

Mr. Destache gave an update on the Executive Officer selection process.

Mr. Robertus reported on several items in his report including: Salt/ Nutrient Management Planning Workshop; State Water Board Sanitary Sewer Overflow (SSO) Reduction Program Public Meeting; and Water Quality Data Portal for the San Diego Region.

Mr. David Gibson made additional comments on the Data Portal item.

Mr. Robertus also reported on the status of the South Bay Power Plant; announced that Walt Pettit was appointed as a State Board Member; gave an update on the Navy Base San Diego permit; reported on a tire bill that passed; and reported that the City of San Diego filed a petition with the State Board on the Mission Valley tank farm site. Mr. Robertus also noted that he had requests by interested persons to hold Regional Board meetings in Chula Vista (*Dydney-South Bay Power Plant*), Orange County (*Municipal Storm Water Permit for Orange Co.*), and Escondido (*Proposed Gregory Canyon Landfill*).

Consent Calendar:

Item 5 – Waste Discharge Requirements: California Department of Transportation, Buckman Springs Rest Stop, San Diego County (Tentative Order No. R9-2009-0105) (*Fisayo Osibodu*)

Mr. Jerry Marcotte, Caltrans, requested that the item be pulled off consent due to additional information received. He then requested postponement of the item.

Item 5 was postponed.

Item 6 – Modification of Waste Discharge Requirements: Kathleen Rosenow and Frank Spevacek, Pinecrest Park, San Diego County (Tentative Addendum No. 3 to Order No. 86-48) (*Cathryn Henning*)

Item 7 – Administrative Civil Liability against Progressive Steel Fabricators, Inc. The Regional Board will consider adoption of a tentative Order that would impose a \$1,600 penalty required by California Water Code Section 13399.33 and recommended in Complaint R9-2009-0061 for failure to submit the FY 2007/08 annual storm water monitoring report of State Board Order No. 97-03-DWQ, NPDES No. CAS00001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. The Regional Board may approve, modify, or reject assessment of the recommended penalty. If the Regional Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the Regional Board will receive evidence and testimony and consider assessment of liability. (Tentative Order R9-2009-0161) (*Rebecca Stewart*)

Item 8 – Administrative Civil Liability against E & E Transportation, Inc. The Regional Board will consider adoption of a tentative Order that would impose a \$1,600 penalty required by California Water Code Section 13399.33 and recommended in Complaint No. R9-2009-0065 for failure to submit the FY 2007/08 annual storm water monitoring report of State Board Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. The Regional Board may approve, modify, or reject assessment of the recommended penalty. If the Regional Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the Regional Board will receive evidence and testimony and consider assessment of liability. (Tentative Order No. R9-2009-0162) (*Rebecca Stewart*)

Item 9 – Administrative Civil Liability against GMG Stone, Inc. The Regional Board will consider adoption of a tentative Order that would impose a \$1,600

penalty required by California Water Code Section 13399.33 and recommended in Complaint No. R9-2009-0062 for failure to submit the FY 2007/08 annual storm water monitoring report of State Board Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. The Regional Board may approve, modify, or reject assessment of the recommended penalty. If the Regional Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the Regional Board will receive evidence and testimony and consider assessment of liability. (Tentative Order No. R9-2009-0160) (*Rebecca Stewart*)

Mr. King moved approval of the Consent Calendar, Items 6 through 9. The motion was seconded by Mr. Destache and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 10 – Waste Discharge Requirements: Rite Time Pharmaceuticals Inc., Anza Commercial Center Onsite Wastewater Treatment System, Riverside County (Tentative Order No. R9-2009-0147) (*Fisayo Osibodu*)

Item 10 was postponed.

Item 11 – Information Item: Status of the City of San Diego's Recycled Water Program (*Robert Pierce*)

This item was postponed.

Item 12 – Information Item: San Diego County Solid Waste Trust Fund. The Assistant Director for the Department of Public Works will report on the status of the Solid Waste Trust Fund, which was established in 1997 to cover the costs associated with post-closure oversight of inactive and closed landfills within San Diego County. (*Bob Morris/Amy Grove*)

Rich Crompton, County of San Diego, gave the presentation.

Board Members asked questions of Mr. Crompton.

Mr. James O'Day, counsel for the County of San Diego, answered an ordinance question asked by the Board.

Item 13 – Information Item: Tijuana River Valley Recovery Team (*Michael McCann*)

John Robertus introduced the item. Mr. Destache and Chairman Wright made comments.

Mr. Robertus gave an update on the four teams – Border Action, Restoration Action, Bi-National, and Cleanup Action. Mr. Carl Nettleton also gave an update.

Item 14 – Information Item: Regional Harbor Monitoring Program (*Bruce Posthumus*)

Mr. Robertus and senior staff member Bruce Posthumus introduced the item. Ms. Karen Holman and Mr. Matt Wartian, Port of San Diego, gave a presentation on the Regional Harbor Monitoring Program background, approach & results, and future focused studies.

The meeting recessed for lunch and Closed Session at 12:15 p.m.

Item 15 – *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 Melbourn)*
- 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. *Joye Goodwin and Hope Goodwin v. EDCO Disposal Corporation, a California Corporation, dba EDCO Waste & Recycling Services, State of California Water Resources Board, John P. Anderson, et al., San Diego County Superior Court No. 37-2007-00066373-CU-PO-NC (filed March 2009). (John Anderson, Catherine Hagan)*
- f. *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

- a. *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 A-1951, filed September 2008. (In abeyance). (Mike Porter)*
- b. *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)*
- c. *Petition of San Diego Coastkeeper and Petition of Surfrider Foundation (Order No. R9-2009-0038 (Poseidon Resources Corporation, Carlsbad Desalination Plant, Order Amending Waste Discharge Requirements No. R9-2006-0065 [NPDES No. CA0109223]), SWRCB/OCC File A-2024 and A-2024(a), filed June 2009. (Michelle Mata)*
- d. *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)*

- e. Petition of South Coast Water District and South Orange County Wastewater Authority (Administrative Civil Liability Order No. R9-2009-0048 for South Orange County Wastewater Authority, South Coast Water District Groundwater Recovery Facility, San Diego County), SWRCB/OCC File A-2035, filed July 2009. (*Jeremy Haas*)
- f. 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*)

The Closed Session was held.

Item 16 – 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 17 – 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 18 – Closed Session - Personnel

The Regional 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 held.

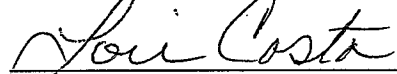
The meeting reconvened at 1:25 p.m.

Ms. Hagan noted that during the Closed Session, Item 15 c. (*Dickerson*), d. (*Navy petition*), and f. (*La Costa Town Square*), and Item 18 were discussed.

Item 19 – Arrangements for Next Meeting and Adjournment
Wednesday, November 18, 2009 - 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 1:35 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



John H. Robertus
Executive Officer