

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

MINUTES OF MEETING
AUGUST 8, 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, Dan Johnson, David King, and Elizabeth Pearson Schneider.

Staff Present: John Robertus, Michael McCann, David Barker, Mark Alpert, Julie Chan, Bob Morris, John Odermatt, Craig Carlisle, John Anderson, Brian Kelley, Chiara Clemente, David Gibson, Frank Melbourne, Wayne Chiu, Eric Becker, Kristin Schwall, Victor Vasquez, Melissa Valdovinos, Alan Monji, Chris Means, Charles Cheng, Ben Neill, Phil Hammer, Chad Loflen, Amanda Pease, Jeremy Haas, Deborah Woodward, Mike Porter, Jesus Torres, Ben James, and Helen Yu. Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards, and Frances Spivy-Weber. Kennedy Court Reporters: Brenda Martinez.

Public Attendance: Barbara Daly – Transportation Corridor Agencies; Gabriel Solmer, Gina Nicholls, Janet Park, Jacque Gruber – San Diego Coastkeeper; Marco Gonzalez – Surf rider Foundation; Ed Kimura – Sierra Club; Chuck Badger Jr. – San Diego County Farm Bureau; Mark Weston – Helix Water District; Toby Roy – San Diego County Water Authority; Chris Zirkle, Lisa Wood, Michael Thompson, Ruth Kolb, Jennifer Casamassima – City of San Diego; Lisa Coburn-Boyd, Larry Olds – Otay Water District; Steven Hoch, Cam Stephens, David Waymire – American Golf; Kevin Heaney – Southern California Golf Association; Sandy Clark, Ted Horton – California Golf Course Superintendents Association; Harold Bailey – WaterReuse Association; Tom Frost – Synergy Golf Course Management; Craig Kessler – Public Links Golf Association; Marsi Steirer, Eliana Barreiros – City of San Diego Water Dept.; Tom Mills – Leighton Consulting; Steve Beck – Ninyo & Moore; Gary McCue – TRC; Kevin Mallory, Gary Halbert – City of Santee; Bill O'Brien – Maderas Golf Club; Brian Shin – Camp Pendleton; Edward Horton – California Golf Course Owners; Mark Stevens – CSC Golf Management; John Tomlinson – JC Golf; Jeff Schiferstein – Dakota Ranch; Jeff Seifert; Vicky Gallagher, Barry Pulver, Ed Zielanski – County of San Diego; Bob Jordan – SMWD; Kevin Carr – Seaworld; Sarina Sriboonlue – Malcolm Pirmie, Inc.; Dawn Guendert – MWH; Brendon Reaksecker – Bonita Golf Club; Paul Manning – The Corky McMillin Cos.

Item 2 – Public Forum

Barbara Daly, Transportation Corridor Agencies, invited the Board on a tour of the final sixteen-mile segment of the State Route 241 - Foothill South Toll Road in Orange County. Chairwoman Ritschel asked Mr. Robertus to set up some potential dates for the tour and arrange access for the public to participate as well.

Gabriel Solmer, Gina Nicholls, and Janet Park from San Diego Coastkeeper spoke about their concerns with delays on the release of the Sediment Shipyard Site cleanup electronic record. They urged Mr. King, the present Hearing Officer, to consider releasing part of the technical report and records that were already indexed and releasing the remainder of the documents as soon as they were indexed. They also requested a detailed bifurcated process proposal.

Board Members and staff discussed the cleanup project. Mr. King said he agreed with the representatives of Coastkeeper and asked that staff release as much information as possible at that time and the rest of the record when it was available.

Senior staff member, David Barker, gave a status report on the Sediment Shipyard Site.

Marco Gonzalez, Coast Law Group, spoke about his concerns with the delays in achieving secondary treatment at the Border.

Item 3 – Minutes of Board Meeting of June 13, 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.

Mr. Johnson moved approval of the June 13, 2007 minutes. The motion was seconded by Ms. Schneider 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.

Chairwoman Ritschel reported that at the August 6th Chair's meeting they discussed the Strategic Plan and the Water Quality Coordinating Committee meeting that is being held in San Diego on October 29 and 30.

Fran Spivy-Weber, State Board liaison, reported on the Natural Resources Defense Council beach report, Statewide Recycled Water Policy, CEQA, ASBS, and the State Board meeting in Los Angeles on October 2.

Board Member Schneider further discussed the NRDC beach report that named Laguna Beach as one of the 13 top cleanest beaches in the U.S. Ms. Schneider credited the NPDES permit process.

Mr. Robertus said he received a letter from San Diego Bay Council indicating their concern over the 316(b) entrainment and impingement issues with the South Bay Power Plant. He also received a similar letter from the Surfrider Foundation on the Encina Power Plant. They were asking if the Board should reopen or pursue action on the power plant permits. Mr. Robertus also reported that a settlement agreement with the City of Escondido on a matter before the Board was petitioned to the State Board and would be heard on September 18.

Consent Item: Item 5 is considered a non-controversial issue. (NOTE: If there is public interest, concern or discussion regarding this consent calendar item or a request for a public hearing, then the item will be removed from the consent calendar and considered after all other agenda items have been completed.)

Item 5 – Amendment of Waste Discharge Requirements, County of San Diego, Alpine II Burn Dump, San Diego County (tentative Addendum No. 6 to Order No. 97-11, General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills Within the San Diego Region) (*Carol Tamaki*)

Mr. Johnson recused himself from voting due to the County of San Diego being a client of his firm.

Item 5 was then postponed due to lack of a quorum.

Remainder of the Agenda (Non-Consent Items):

Item 6 – **PUBLIC HEARING:** Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region. The San Diego Water Board will hear testimony and comments on the proposal to amend the Basin Plan to renew and revise conditional waivers, and adopt new conditional waivers for specific types of discharge. The San Diego Water Board will deliberate and consider adoption of an amendment incorporating the revised conditional waivers into the Basin Plan at a subsequent meeting. (Tentative Resolution No. R9-2007-0104) (*Wayne Chiu*)

Mr. Johnson disclosed that he was part of a technical workgroup on one of the waivers being considered but after discussing it with Mr. Richards; felt he did not have a conflict of interest.

Mr. Robertus introduced the item and staff member Wayne Chiu gave the presentation.

Board Members asked questions of staff.

Other speakers included:

Jacque Gruber – San Diego Coastkeeper

Marco Gonzalez – Surfrider Foundation

Ed Kimura – Sierra Club

Chuck Badger Jr. – San Diego County Farm Bureau

Mark Weston – Helix Water District

Toby Roy – San Diego County Water Authority

Chris Zirkle – City of San Diego

Lisa Coburn-Boyd – Otay Water District

Steven Hock – American Golf

Kevin Heaney – Southern California Golf Association

Sandy Clark – San Diego Golf Course Superintendents Association

Ted Horton – California Golf Course Owners Association

Harold Bailey – WaterReuse Association of California

Tom Frost – Synergy Golf Course Management

Craig Kessler – Public Links Golf Association

Marsi Steirer – City of San Diego

Tom Mills – Leighton Consultants

Steve Beck – Ninyo & Moore

Gary McCue – TRC San Diego

Senior staff member, Julie Chan said the public comment period would be held open until the day the Resolution was adopted. Written response to comments would be mailed out approximately ten days before the item was brought back to the Board.

Board Members made comments and asked questions of staff.

Mr. Chiu made closing comments.

Board Member King asked that the scientific data used by staff to make their conclusions be included in the next package sent to the Board.

Mr. Richards explained the purpose of the conditional waivers. Mr. Robertus made closing comments.

Chairwoman Ritschel said she would like to see monitoring start sooner than five years. Mr. Wright concurred.

Ms. Schneider made a motion to continue the item to a future meeting. The motion was seconded by Mr. Johnson and approved by unanimous vote.

Item 7 – PUBLIC HEARING: Administrative Assessment of Civil Liability against Dakota Ranch Development Co., LLC for violation of its Clean Water Act Section 401 Water Quality Certification issued on January 30, 2003 for the Dakota Ranch Subdivision, Santee, California. The Regional Board will consider whether to raise, lower, or reject assessment of \$140,000 civil liability recommended in Complaint No. R9-2005-0176. (Tentative Order No. R9-2007-0107) *(Frank Melbourn)*

Staff member Frank Melbourn gave the presentation.

Other speakers included:

Jeff Schiferstein – Dakota Ranch

Kevin Mallory – City of Santee

Board Members asked questions of Mr. Schiferstein and Mr. Mallory.

Mr. Robertus, Mr. Richards, and Board Members made comments.

Mr. Melbourn spoke about the PAR analysis and settlement negotiations.

Additional speaker:

Gary Halbert – City of Santee

Chairwoman Ritschel made a motion to adopt Order No. R9-2007-0107 with an amendment to extend the mitigation period to 90 days. The motion was seconded by Mr. King and approved by unanimous vote.

Item 8 – PUBLIC HEARING: Terra Vac, Body Beautiful Car Wash Remediation Dewatering: Administrative Assessment of Civil Liability containing Mandatory Minimum Penalties for reported violations of effluent limitations prescribed in Order No. 2000-90, NPDES No. CAG919001, General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto. 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. R9-2007-0089) *(Rebecca Stewart)*

This item was postponed.

Item 9 – Consideration of Investigative Order R9-2007-0092 issued on June 1, 2007, to the California Department of Transportation, District 11, and California Transportation Ventures, Inc. The Regional Board will consider the Investigative Order requiring an aerial deposition study to include the Sweetwater Reservoir Airshed to assess impacts on receiving waters from State Route 125. The Regional Board may affirm, modify, or rescind the Investigative Order. *(Christina Arias)*

This item was postponed.

The meeting was recessed for Closed Session at 1:20 p.m.

Item 10 – *Closed Session* - Discussion of Ongoing Litigation

The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:

Schutte & Koerting, Inc. and Ametek, Inc. v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region. San Diego Superior Court, Case No. GIC 822750. Verified Petition for Writ of Mandate for Breach of Contract.

Schutte & Koerting, Inc. and Ametek, Inc. v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region. San Diego Superior Court, Case No. GIC 824706. Verified Petition for Writ of Mandate for Breach of Contract.

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. United States District Court, Southern District of California, Case No. 01-CV-027BTM(JFS); violation of effluent limits in waste discharge requirements for the International Wastewater Treatment Plant contained in Order No. 96-50 (NPDES No. CA0108928) and of Cease and Desist Order No. 96-52; Referral Order No. 99-61.

The Executive Session was held.

Item 11 – *Closed Session* - Consideration of Initiation of Litigation (*John Robertus*)

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.

Item 12 – *Closed Session* - Discussion of Pending Litigation

The Regional Board may meet in closed session to discuss pending litigation:

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 Sessions, Items 11-13, were not held.

Item 14 – Arrangements for Next Meeting and Adjournment

Wednesday, September 12, 2007 - 9:00 a.m.
Mission Viejo Civic Center
City Hall Council Chambers
200 Civic Center
Mission Viejo, California

With there being no further business, the meeting was adjourned at 2:30 p.m.

These minutes were prepared by:

Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus