

State of California  
California Regional Water Quality Control Board  
Santa Ana Region

Minutes of April 18, 2008 Board Meeting  
City of Loma Linda  
25541 Barton Road  
Loma Linda, CA

1. Chair Beswick called the meeting to order at 9:40 a.m.

Board Members Present

Carole Beswick, Chair  
Deborah Neev, Vice-Chair  
William Ruh  
Seymour Van Gundy  
John Withers  
Maurice Gallarda

Board Members Absent

Mary Cramer  
Fred Ameri

Staff Members Present

Gerard J. Thibeault, Executive Officer  
Kurt V. Berchtold, Assistant Executive Officer  
David Rice, Regional Board Counsel  
Frances McChesney, Sr. Staff Counsel  
Joanne E. Schneider, Environmental Program Manager  
Michael J. Adackapara, Supervising Water Resource Control Engineer  
Gary Stewart, Chief of Compliance  
Mark Adelson, Chief of Regional Planning  
Milasol Gaslan, Chief of Storm Water (Inland)  
Mark E. Smythe, Chief of Storm Water (Coastal)  
Hope Smythe, Chief of Basin Planning (Inland)  
Jun Martirez, Chief of Permitting  
William Rice, Engineering Geologist  
Kevin Heinemann, Staff Information Systems Analyst  
Felipa Carrillo, Executive Assistant

Public Attendance

Dave Bailey, EPRI, AES  
Paul Hurt, AES  
Steve Maghy, AES  
Eric Pendergraft, AES  
David Stone, AES  
Eileen Murphy, R4RD  
Nancy Donovan, R4RD  
Merle Moshiri, R4RD

Emily Taylor, Latham & Watkins for Poseidon  
Conner Everts, Surfrider Foundation  
Lee Reeder, IE Waterkeeper  
Zedi Jackson, WMWD  
Ray Tahir, City of Claremont  
Jason Uhley, RCFC & WCO  
Marsha Westropp, OCWD

State Board Representative

Tam Doduc, Chair of the SWRCB, provided an update to the Board regarding upcoming issues. She indicated that the Little Hoover Commission has initiated a review of the Water Boards and

that a number of State and Regional Board members have provided testimony at the Commission hearings. The Commission is paying special attention to penalty assessments and the petition processes. Ms. Doduc indicated that the State Board received a lot of comments on the draft Strategic Plan that was released in January 2008. The State Board is expected to finalize the Plan by July 2008. She also indicated that the upcoming WQCC meeting in San Diego will include a one-day educational workshop. The State Board will conduct a few workshops and scoping meetings prior to finalizing its policy on implementation of Clean Water Act Section 316(b), once-through cooling water requirements. The State Board will be participating in a multi-agency taskforce consisting of the Air Resources Board, Coastal Commission and the Lands Commission to address implementation issues related to 316(b) regulations. The Board will consider adopting a sustainability resolution that includes low impact development principles, which may be included in the next generation of storm water permits.

#### Public Forum

There were no speakers.

#### 3. Approval of Minutes

Action: It was moved by Member Ruh, seconded by Member Neev, and unanimously approved that the Minutes of February 29, 2008 be approved as presented.

4. Agenda Update: It was noted that there was an errata sheet for Item No. 5, and a request for Item No. 7 to be removed from the consent calendar for comment.

#### Consent Calendar

- \*5. Rescissions
- \*6. Administrative Civil Liability Complaint, Muench Enterprises, Inc., dba Die Cast Manufacturing Co., San Bernardino County
- \*8. Resolution Regarding Funding from the State Water Resources Control Board (SWRCB) Emergency, Abandoned and Recalcitrant Site Account
- \*9. Inland Empire Utilities Agency, Magnolia Channel Improvements, City of Chino
- \*10. ARI Chaney, LLC, Fairway Business Park, City of Lake Elsinore

Action: It was moved by Member Withers, seconded by Member Ruh, and unanimously approved that the Board adopt Orders No. R8-2008-0051 with errata, R8-2008-0049, R8-2008-0044, R8-2008-0050, R8-2008-0053, and R8-2008-0016 as presented.

Comment re. Item No. \*7. Middle Santa Ana River Bacterial Indicator TMDL  
(This item was removed from the consent calendar)

Mr. Ray Tahir, stormwater consultant for the City of Claremont, asked that the City of Claremont be removed from the Middle Santa Ana River Bacterial Indicator TMDL that was adopted in 2005. He said that the City of Claremont is in Los Angeles County under the jurisdiction of the Los Angeles Regional Board. He asserted that the City was not properly notified of its responsibilities under the TMDL during the TMDL adoption processes and should not be included as a stakeholder for this TMDL. He did indicate that the City is willing to conduct monitoring. Chair Beswick indicated that the Basin Plan amendment to incorporate this TMDL had been adopted in 2005 and that the City had had its opportunity to comment on the TMDL at that time; the next opportunity the City has to bring this up is during the next triennial review of the Basin Plan.

Frances McChesney, Sr. Staff Counsel, clarified to the Board and the audience that the TMDL was adopted two years ago, and that this item was not noticed to be any revision to the TMDL, and no action would be taken in response.

Action: It was moved by Member Ruh, seconded by Member Gallarda, and unanimously approved that the Board adopt Item No. \*7 as presented.

11. Santa Ana River Watershed Freeway Signs

Lee Reeder, Inland Empire Waterkeeper, made a short presentation regarding their proposal to install signs along the freeways and highways to raise public awareness for watershed protection. Initially, they are proposing to install signs at fifteen different freeway locations at the entrances into the Santa Ana watershed. Mr. Reeder asked the Board for a letter of support and any financial support in the form of supplemental environmental projects. Currently, SAWPA is supporting the project. They are looking for additional sponsors from the water agencies and companies in the Inland Empire.

Zedi Jackson, Western Municipal Water District, said she was glad that this project is finally being implemented.

Mr. Reeder said they are working on expanding the placement of the signs all over the watershed, and added that the signs would also be posted in Spanish.

12. Basin Plan Consolidation Project

Mark Adelson, Chief of Regional Planning, began by announcing the celebration of a milestone. He said the Basin Plan (BP) Consolidation Project, which began around 18 months ago, has finally been completed. He said the last printing of the Basin Plan was in 1995 and includes approximately 250 pages, without the appendices. He said the Basin Plan would now be more readily available on the Internet, and it will include all twelve adopted amendments and the appendices. He said the Quail Valley Prohibition amendment would also be incorporated into the Basin Plan, and separate downloads of each chapter would also be available.

He concluded by adding that there were no new graphics or figures that had not been approved by the Board - only the look and content had been improved, links were added along with useful tools, and that it was user-friendly. The next step, he said, is to make accessible through the Board's website other documents and graphics that would enable users to use the Basin Plan more effectively. He gave major credit to Dave Woelfel from Regional Planning staff, students, and interns for completing this project.

13. AES Huntington Beach Generating Station

*Information concerning this item is contained in a verbatim transcript of the proceedings.*

Joanne Schneider, Environmental Program Manager, began by stating that the purpose of this presentation was to inform the Regional Board of staff's plan regarding re-opening the AES waste

discharge requirements/NPDES Permit, which the Board adopted on August 25, 2006. Ms. Schneider gave a brief overview of the AES facility and cooling water intake structure and reviewed relevant requirements specified in Clean Water Act (CWA) Section 316(b). She described prior and ongoing efforts by USEPA and the State Water Board to develop regulation and policy to implement 316(b) requirements, which are applicable to cooling water intake structures. Ms. Schneider also described the Comprehensive Demonstration Study (CDS) designed to identify Best Technology Available for the cooling water intake. She indicated that the 316(b)-related requirements were based on Best Professional Judgment, relying on prior permit requirements, the EPA Phase II Rule implementing 316(b), Water Code Section 13142.5 and the June 2006 draft State Water Board policy on implementing 316(b) requirements. Ms. Schneider indicated that the AES permit includes a re-opener provision that enables the Regional Board to review the permit based on the results of the CDS and/or changes in applicable law and regulation. Ms. Schneider then described the change in the regulatory provisions of the Phase II Rule were remanded to EPA by the 2<sup>nd</sup> Circuit Court in January 2007 and USEPA suspended the Rule in July 2007. In part, in response to these actions, the State Water Board issued a revised proposed 316(b) policy in March 2008 and expects to complete consideration of that Board policy. Board staff believes that it is appropriate to await the adoption of the policy to re-open and consider revision of the AES permit. This would assure a consistent state-wide approach in permitting cooling water intake structures in California.

Speakers:

1. Eric Pendergraft, AES, recommends the Board not take any action on the existing permit until the State 316(b) policy has been finalized to ensure that any amendments to the permit are consistent with the state-wide policy.
  2. Dave Bailey, EPRI, AES, presented the results of the Comprehensive Demonstration Study (CDS) for the AES facility.
  3. Connor Everts, Surfrider Foundation speaking for Joe Geever and Surfrider Foundation. He hopes the Board commits to reopening of the permit by January 2009, and requests that the Board re-open/put in abeyance the permit for the Poseidon desalination facility.
  4. Emily Taylor, Poseidon Resources Corporation, stated that it would be inappropriate procedurally to reconsider the Poseidon desalination permit.
  5. Merle Moshiri, R4RD, said her community wants environmental justice and that the concerns of the community are not being heard. She indicated that the Poseidon facility is the wrong process, place and time.
  6. Eileen Murphy, R4RD, stated it is premature to issue the NPDES permit to Poseidon, and requests waiting until decisions regarding AES cooling systems are final.
  7. Nancy Donovan, R4RD, stated that any consideration of approval/endorsement of the CDS should be postponed until the permit is reopened. The Board should specify that it will reopen the permit in January 2009. If the AES permit is put on hold, the Poseidon permit should be put in abeyance. The Poseidon permit should be considered after the AES decision is final.
14. Administrative Civil Liability Complaint, Craig Esterly and Fire Resources, Inc., San Bernardino County R8-2008-0031
- Kurt Berchtold, AEO, said that since there were no representatives from the discharger, staff would not make a presentation and recommended adoption of Order No. R8-2008-0031, affirming the liability in the amount of \$8,360.00.

Action: It was moved by Member Gallarda, seconded by Member Ruh, and unanimously approved that the Board adopt Order No. R8-2008-0031, affirming the liability in the amount of \$8,360.00.

15. Mandatory Penalty Complaint, All Benz and Beemer, Orange County R8-2008-0052

All Benz and Beemer requested a continuance to the next Board Meeting. They indicated in a letter that they were unable to attend the April 18, 2008 Board meeting due to an emergency.

Action: It was moved by Member Withers, seconded by Member Gallarda and unanimously approved that the Board schedule this item for the next regular Board meeting.

16. Regional Board Member and Executive Officer Communications

Kurt Berchtold is testifying at the Assembly Environmental Safety Committee's upcoming hearing being held in Rialto. Chair Beswick asked the rest of the Board Members if they were participating in the upcoming Water Quality Coordinating Committee meeting being held in San Diego in a few days.

17. Closed Session

There was no closed session.

18. Adjournment

The meeting was adjourned at 11:50 a.m. to the regular Board Meeting of June 6, 2008 at 9:00 a.m., in the City Council Chambers, 22 Civic Center Plaza, Santa Ana, CA.

Respectfully submitted:

  
GERARD J. THIBEAULT  
Executive Officer

/fc