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

Minutes of June 6, 2008 Board Meeting
City of Santa Ana
22 Civic Center Plaza
Santa Ana, CA

1. Chair Beswick called the meeting to order at 9:00 a.m.

Board Members Present	Board Members Absent
Carole Beswick, Chair	William Ruh
Deborah Neev, Vice-Chair	Fred Ameri
Seymour Van Gundy	
Mary Cramer	
John Withers	
Maurice Gallarda	

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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
Stephen Mayville, Chief of Enforcement
Mark E. Smythe, Chief of Storm Water (Coastal Waters)
Hope Smythe, Chief of Basin Planning (Inland Waters)
Jun Martirez, Chief of Permitting
Wanda Cross, Chief of Basin Planning (Coastal Waters)
Mary Bartholomew, Environmental Scientist
Michelle Beckwith, Environmental Scientist
Xinyu Li, Engineering Geologist
Terri Reeder, Engineering Geologist
Kevin Heinemann, Staff Information Systems Analyst
Felipa Carrillo, Executive Assistant

Public Attendance

David McAlister, Tetratech

5. State Water Resources Control Board Liaison Report

Tam Doduc, Chair of the State Water Resources Control Board (SRWCB), provided an update to the Board concerning a SWRCB proposal for changes to the regional boards. This proposal is an alternative to Senator Perata's SB 1176, which was described by Ms. Doduc as being very similar to his SB 1001, which was vetoed by the Governor last year. In the Governor's veto message, he stated that he recognized there might be changes to the structure of the State Board and the regional boards that would make them more efficient and consistent. He directed Cal/EPA to undertake a review of the State Board and regional boards and to propose changes to improve performance. The State Board just released its Water Quality Improvement Initiative proposing a

number of structural and procedural changes to the State and regional boards. These included: focus of the 10-percent rule for regional board member income on a per-region basis, staggering board member terms, a reduction in the number of regional board members from 9 to 7, delegation of NPDES permitting authority to regional board staff, the addition of a full-time regional board chair, creation of a Water Quality Council made up of regional board chairs, addressing inconsistencies between the regions, and expediting adoption of TMDLs. Ms. Doduc promised to keep the regional board informed concerning the progress of the Initiative.

2. Public Forum

There were no speakers.

3. Approval of Minutes

Action: It was moved by Member Withers, seconded by Member Gallarda, and unanimously approved that the Minutes of April 18, 2008 Board Meeting be approved, as presented.

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4. Consent Calendar

*7. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – William and Valerie Housel

*8. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – Craig and Rachelle Merrihew

*9. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – David Robinson

*10. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – Charles Magee

*11. Renewal of Waste Discharge Requirements for San Bernardino Municipal Water Department, Geothermal Facility, San Bernardino County (NPDES No. CA8000015) Order No. R8-2008-0007

*12. General Waste Discharge Requirements for Discharges to Surface Waters of Process Wastewater Associated With Certain Wellhead Treatment Systems (NPDES No. CAG648001) Order No. R8-2008-0059

Action: It was moved by Member Withers, seconded by Member Gallarda, and unanimously approved that the Board adopt Orders No. R8-2008-0007, R8-2008-0059, and approve the exemption from minimum lot size requirements requested by William and Valerie Housel, Craig and Rachelle Merrihew, David Robinson and Charles Magee.

6. Clean Beaches Video

SWRCB Chair Tam Doduc introduced a video produced by the SWRCB Office of Public Affairs, concerning the importance of the protection of California's beaches and many of the activities and programs of the regional boards and the State Board focused on beach protection and water quality improvement. The videos were produced for each of the coastal regional boards, including an introduction from the Chair of each of the regions. Regional Board Chair Carole Beswick provides the introduction for the video produced for the Santa Ana Region. The video was shown to the regional board and the audience following the introduction by Chair Doduc.

13. Order No. R8-2008-0065 Affirming Administrative Civil Liability Complaint R8-2008-0055, Amazing Steel Company, San Bernardino County

It was noted that the discharger waived the right to a hearing, and staff recommended that the Board adopt Order No. R8-2008-0065, without a staff presentation.

Action: It was moved by Member Withers, seconded by Vice-Chair Neev, and unanimously approved that the Board adopt Order No. R8-2008-0065, as presented.

14. Order No. R8-2008-0052 Affirming Mandatory Penalty Complaint No. R8-2008-0027, James Cassou dba All Benz and Beemer, Orange, Orange County
Information concerning this item is contained in a verbatim transcript of the proceedings.

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No representative of All Benz and Beemer appeared at the hearing. Chair Beswick reminded the Board that this item had been scheduled for the last board meeting, and at the last moment, All Benz and Beemer had requested a postponement, so that appropriate representation could appear for the hearing. The board granted the postponement to this meeting. Assistant Executive Officer Berchtold stated that the discharger had been provided with notice of this meeting, and Coastal Stormwater Chief Mark Smythe stated that he spoke with a representative of the discharger and reminded them of the meeting. Sr. Staff Counsel McChesney indicated that there was no reason why the board could not move ahead with the matter.

Action: It was moved by Member Gallarda, seconded by Vice-Chair Neev, and unanimously approved that the board adopt Order No. R8-2008-0052 affirming Mandatory Penalty Complaint No. R8-2008-0027.

15. Administrative Civil Liability Complaint Miller Foundry, Orange County
Withdrawn.

16. Order No. R8-2008-0066 affirming Administrative Civil Liability Complaint No. R8-2008-0010, Niagara Bottling, LLC, San Bernardino County
Information concerning this item is contained in a verbatim transcript of the proceedings.

Member Gallarda recused himself from this item and left the hearing room.

Mary Bartholomew presented to the Board information concerning the circumstances that led to the issuance of Administrative Civil Liability Complaint No. R8-2008-0010 to Niagara Bottling. In October 2004, Niagara Bottling submitted a Notice of Non-Applicability to the state-wide General Permit for Storm Water Discharges Associated with Industrial Activity (General Permit), prior to beginning manufacturing operations. However, as a result of an inspection by the City of Ontario in July 2005, it was discovered that industrial materials, equipment and activities were exposed to storm water. Consequently, Niagara was informed by the City that they must apply for coverage under the General Permit. Since the July 2005 inspection, the facility located at 2560 E. Philadelphia Street, Ontario, CA, was given several notices and opportunities to obtain General Permit coverage.

In December 2006 and April 2007, Regional Board staff issued Notices of Non-Compliance (NNC), informing Niagara that they must obtain permit coverage in order to avoid mandatory penalties. In October 2007, Board staff inspected the facility and observed exposure of materials to storm water. Niagara Bottling was again reminded that the facility required permit coverage. In December 2007, a Notice of Intent was submitted to the Board.

On March 19, 2008, the Assistant Executive officer issued Complaint No. R8-2008-0010, imposing an assessment of $55,000. On May 27, 2008, the Assistant Executive Officer issued a revised Complaint. After consideration of the facts listed in the revised ACL, he proposed an assessment of $30,000.

Testimony by Niagara Bottling:

Pamela Anderson, Corporate Counsel/Project Manager, presented her testimony regarding the allegations. She stated that the imposition of civil liability against Niagara was incorrect and inapplicable. The discharge in question was related to a well development project conducted by Well Tec Services, who had applied to the Board for a de minimus permit to discharge, and Niagara believed they would comply.

She testified that the non-storm water discharge observed on July 21, 2005 was from a reverse osmosis unit during an operation start-up She also indicated that their facility was still under construction, including construction of the connection to the non-reclaimable waste line for brine disposal.

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Executive Officer Thibeault questioned Ms. Anderson concerning whether Niagara remained in operation and allowed the reverse osmosis reject stream to continue to be discharged to the storm drain during the time following start-up, and when the facility was not yet connected to the non-reclaimable line. She admitted that this accurately described Niagara's activities.

Ms. Anderson clarified that Niagara did submit an NOI two weeks after the October 4, 2007 visit by RWQCB staff. Although they received an NNC from the RWQCB, she testified that the City of Ontario led them to believe that they did not need to obtain coverage. She concluded her testimony by asking for a penalty reduction, stating that Niagara acted in good faith and had no prior history of violations, and that the discharge was of drinking water quality.

Mr. Berchtold said the water discharge did contain pollutants and therefore was required to be covered under an NPDES permit. He clarified that it was not a pollution problem, but it did carry sediment to the storm drain.

There was open discussion by the Board members and counsel concerning amendments to page 4, number 11 of the Order. Member Van Gundy suggested dropping the assessment to one day of violation plus the minimum mandatory penalty, totaling $15,000.

Action: It was moved by Member VanGundy, seconded by Vice-Chair Neev, and unanimously approved that the Board adopt Order No. R8-2008-0066, affirming ACLC No. R8-2008-0010, and amending Page 4, No. 11 of the Order, reducing the assessment to one day of violation, plus the minimum mandatory penalty charge, totaling $15,000.

17. San Diego Creek/Newport Bay Watershed Selenium Update

Ms. Schneider informed the Board of the significant challenges with Nitrogen and Selenium in the Newport Bay watershed and said it was time for an update. She introduced Karen Cowan.

Karen Cowan, Chair of the Nitrogen Selenium Management Program, Orange County Public Works, presented their third annual briefing to the Board. She gave a brief overview of the background and purpose of the NSMP – including the tasks completed in the first two years of the program - then discussed the NSMP accomplishments during Year 3 of the program. Some of the major Year 3 tasks discussed included nitrogen/algae relationships, the draft BMP strategic plan,

offset/trading program, and development of the selenium site-specific objective (SSO). Ms. Cowan also briefed the Board members on the Year 4 NSMP program implementation tasks, which include completion of the selenium SSO, BMP strategic plan, and offset/trading program, and working with Board staff to revise the Nutrient TMDLs. Ms. Cowan also indicated that several critical activities have been identified that are not part of the current work plan, including the development of a groundwater/surface water model (needed for BMP implementation) and assisting Board staff with development of the selenium TMDLs so that they will be completed as quickly as possible. The selenium TMDLs implementation plan will serve as a unifying document for all of the NSMP program elements. Ms. Cowan concluded her presentation by noting that they are nearing the end of the 5-year NSMP Work Plan and that the next iteration of the NSMP program will focus on implementation of the selenium and nitrogen TMDLs.

Terri Reeder, Engineering Geologist, Coastal Planning Section, presented the Board with an update on the Selenium TMDLs and related issues in the San Diego Creek/Newport Bay watershed.

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Ms. Reeder began her presentation with a brief overview of selenium effects and sources, emphasizing the fact that selenium uptake is primarily through diet for both humans and wildlife. She also discussed the recent identification of a new selenium hotspot separate from the San Diego Creek watershed. Big Canyon Wash is a small watershed tributary to Upper Newport Bay. Very high selenium concentrations in water and sediment have been found in the canyon, and studies of potential selenium impacts and sources are ongoing. She then reviewed the different components of the selenium TMDLs and Board staff's plan to propose that the primary numeric targets for the TMDLs be tissue-based, instead of water-based, as there is not a direct relationship between selenium concentrations in water and effects in wildlife.

Ms. Reeder also discussed the relationship between the selenium TMDLs and the NSMP program tasks and how they fit together, and the need for assistance from the NSMP to ensure that the TMDLs are completed prior to the end of 2009. The selenium TMDLs economics analysis, alternatives analysis, and CEQA documentation preparation were listed as the highest priority tasks needing NSMP assistance. She then updated the Board members on progress on selenium studies and projects in the watershed including construction of IRWD's Cienega Filtration Facility Demonstration Cell. The Cienega facility will be the first experimental selenium treatment facility constructed in the watershed. She concluded her presentation by discussing the schedule and next steps in completing the development of the selenium TMDLs and reported to the Board members that she hoped to bring the selenium TMDLs Basin Plan Amendment to them for their consideration in September 2009.

18. <u>Septic System Use in the Lake Williams Area, San Bernardino County</u>

Dr. Cindy Li, Engineering Geologist, Inland Planning Section, briefed the Board on the water quality concerns resulting from the use of septic tanks in the community of Lake Williams in San Bernardino County. She reported that water quality data from wells downgradient of the septic systems serving Lake Williams residences showed a dramatic increase in nitrogen concentration in recent years. She also said Board staff received four applications for the use of septic tank/subsurface disposal systems for new dwellings in the Lake Williams area. The Board's minimum lot size requirements do not apply to these developments since the lots received approval prior to September 7, 1989.

According to data generated by the Big Bear Lake Department of Water and Power (BBLDWP), nitrate concentrations have been increasing in the groundwater since 1990. The Lake Williams groundwater basin is currently the only source of water for the community of the Lake Williams. A consultant for BBLDWP conducted a study that concluded that the source of nitrate in the public wells is the discharge from the existing septic systems. Regional Board staff recently conducted sampling in a number of the wells at the Lake Williams, and the data are consistent with those generated by BBLDWP.

Regional Board staff believes there is strong evidence that existing septic tank/subsurface disposal systems will continue to increase the nitrate loading into the groundwater, and if additional septic tanks are allowed to be installed in the Lake Williams area, this would only exacerbate the problem. Board staff proposed to hold in abeyance all applications for new septic system installations in the Lake Williams area, while staff continues to work to find solutions with BBLDWP, San Bernardino County EHS and CA Dept of Public Health.

Speakers:

Bill La Haye, BBLDWP Interim Director, expressed the willingness of the Department to cooperate in this investigation.

19. San Jacinto River Watershed Council's (SJRWC) Integrated Regional Watershed Management Program

Pat Boldt, Executive Director of the San Jacinto River Watershed Council, provided a detailed description of the San Jacinto River watershed project, the main watershed priorities, strategies, and products. She identified objectives, priorities and projects necessary to implement the Watershed Management Program and expressed appreciation for the involvement of more than 120 individual stakeholders.

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She also said that the plan was successfully developed on a very small budget, including a grant awarded to them by the SWRCB and the Department of Water Resources. Ms. Boldt reported that the integrated regional watershed management plan for the San Jacinto River watershed was completed in December 2007, and explained how it fits in with other NSMP activities. The Board expressed appreciation for SJWC's efforts and wished them continued success.

20. Hazardous Waste Incident Report
Information item.

21. Underground Storage Tanks Corrective Action Plans
Information item.

22. Underground Storage Tanks Site Closure Report
Information item.

23. Regional Board member and Executive Officer Communications
None.

24. Adjournment

The meeting was adjourned at 12:20 p.m. to the regular Board meeting on July 18, 2008 at 9:30 a.m., in the City Council Chambers, 25541 Barton Road, Loma Linda, CA.

Respectfully submitted:

GERARD J. THIBEAULT
Executive Officer

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