

California Regional Water Quality Control Board  
Santa Ana Region

Minutes of December 1, 2006  
Irvine Ranch Water District  
15600 Sand Canyon Ave.  
Irvine, CA 92618

1. Acting Chair Withers called the meeting to order at 9:05 a.m.

**Board Members Present**

**Board Members Absent**

John Withers, Vice-Chair (Acting Chair)  
William Ruh  
Seymour Van Gundy  
Mary Cramer  
Deborah Neev  
Maurice Gallarda

Carole Beswick, Chair

**Staff Members Present**

Gerard J. Thibeault, Executive Officer  
Kurt V. Berchtold, Assistant Executive Officer  
Erik Spiess, Regional Board Counsel  
Joanne E. Schneider, Environmental Program Manager  
Michael J. Adackapara, Supervising Water Resource Control Engineer  
Wanda Cross, Sr. Environmental Scientist  
Kathy L. Rose, Environmental Scientist  
Terry Reeder, Engineering Geologist  
Jun Martinez, Chief of Permitting  
Kevin Heinemann, Staff Information Systems Analyst  
Felipa Carrillo, Executive Assistant

Chairman John Withers announced that Members Van Gundy and Ruh had been recently been reappointed by the Governor to serve another term.

**Public Attendance**

Ileene Anderson, Center for Bio Diversity  
Tony Arnest, Shea Homes  
Lauren Barr, City of Laguna Woods  
Patrick Bauer, Costa Mesa  
Mark Bulot, SBVMWD/SAWPA  
James Byard, Toxicologist  
Amanda Carr, County of Orange  
Jessica Chin, City of Riverside  
Benjie Cho, RCFC & WCD  
Mary Lynn K. Coffee, Nossaman  
Jim Colston, Orange Co. Sanitation  
Rod Cruze, City of Riverside  
M. J. Foley, Consultant  
Raymond Hiemstva, O.C. Coastkeeper  
Ron Tjeerdema, Stakeholders-UC Davis  
Don Schulz, Surfrider Foundation  
Scot Scialpi, The Irvine Co.

J Mark Grey, BIA/SC Construction Ind. & WQ  
Dr. John Kabashima, UC Cooperative Extension  
Dave Kiff, City of Newport Beach  
Jerry A. King, MWH Global  
Rosanna Lacarra, PBS&J/City of Irvine  
Laura Larsen, RBF/Caltrans  
Dr. Cindy Lin, USEPA-R9  
Francis Logan, Outside Counsel, City of Rialto  
Allison McAdam, Pyro Spectaculars Inc.  
Martin McCarthy, Lawyers for Clean Water, Inc.  
Larry McKenney, County of Orange  
Sue Nash, Friends of North San Jacinto  
Kathy Nulen, OC Farm Bureau  
Susan Paulsen, Flow Science  
John Perry, CSBWD  
Pat Tennant, SCE  
Ed Torres, Orange Co. Sanitation

Paul Singarella, Latham & Watkins  
Harvinder Singh, Earth Tech  
Bob Stein, City of Newport Beach

Jason Uhley, RCFC & WCD  
Craig J. Wilson, State Water Board  
Greg Woodside, OCWD

2. **Public Forum**

Mark Bulot, SBVMWD/SAWPA, reported on the progress being made to formalize a multi-agency agreement regarding management of TDS and nitrogen in imported water/interbasin transfers used for groundwater recharge. It is hoped that this agreement will supplant the need for waste discharge requirements.

3. **Approval of Minutes**

Action: It was moved by Member Ruh, seconded by Member Neev and unanimously approved that the Minutes of October 3, 2006 and October 13, 2006 Board meetings be approved as presented. It was noted that new Board Member Gallarda abstained from this vote.

4. **Consideration of Consent Calendar Items**

It was noted that Item No. 7 had errata.

- \*5. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement – Ellmar and Arlene Johnson, 53094 Overlook Drive, Idyllwild, Riverside County
- \*6. Rescission, Order No. R8-2006-0081
- \*7. Reissuance of Waste Discharge Requirements and a National Pollutant Discharge Elimination System Permit (NPDES No. CA8000304) for the Colton/San Bernardino Regional Treatment and Water Reclamation Authority for Discharges from the Rapid Infiltration and Extraction (RIX) Facility, San Bernardino County, Order No. R8-2006-0052
- \*8. Amendment of Order No. R8-2004-0044, NPDES No. CA0105449, Waste Discharge Requirements for California Steel Industries, Inc., San Bernardino County, Order No. R8-2006-0074
- \*9. Amendment to Order No. R8-2004-0046, NPDES No. CA0105449, Waste Discharge Requirements for Canyon Lake Property Owners Association, Sediment Dewatering Project, Riverside County, Order No. R8-2006-0075
- \*10 Emergency Fire Waste Disposal, Resolution No. R8-2006-0086

Action: It was moved by Member Ruh seconded by Member Van Gundy and unanimously approved that the Board adopt Order No. R8-2006-0081, No. R8-2006-0052 with errata, No. R8-2006-0074, Order No. R8-2006-0075, and Resolution No. R8-2006-0086 and approve the exemption from the minimum lot size requirement requested by Ellmar and Arlene Johnson.

11. **Stormwater Quality Standards Task Force**

Environmental Program Manager Joanne Schneider began this item with a brief review of the formation of the Task Force. She indicated that representatives of the Task Force had met with USEPA staff, and, based on that meeting and subsequent discussions, it was determined that a written proposal of tentative Task Force recommendations was necessary. USEPA staff had indicated that bacterial and nutrient standards are the two major water quality standards issues for EPA right now, and there is considerable diversity of opinion at EPA about acceptable bacteria standards approaches. A written proposal from the Task Force would facilitate the engagement of appropriate EPA experts around the country. Ms. Schneider indicated that the development of this written proposal, and more recent debate among the Task Force members concerning the specifics of the proposal, would result in delay. Ms. Schneider indicated that she had been a consistent participant in the Task Force meetings and was very satisfied with the progress being made.

12. **Objection to Holding Poseidon Petition in Abeyance, SWRCB/OCC File A-1776**

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

Erik Spiess, Regional Board legal counsel, said that Poseidon representatives are requesting that the Board formally object to the State Board staff's determination to hold in abeyance the petition by the Surfrider Foundation/Orange County CoastKeeper. The petition contests the NPDES permit adopted by the Board on August 25, 2006 for Poseidon's proposed Desalination Plant in Huntington Beach. The petition was put in abeyance at the request of the petitioners.

Speakers on this item:

Andrew Kingman, Poseidon Resources Corp.  
Paul McArthur, Surfrider Foundation  
Paul Singarella, Latham & Watkins

Mr. Thibeault briefly discussed the merits of the petition and the potential constraints that holding the petition in abeyance would likely impose on Poseidon's ability to obtain financing for the project. He indicated that actions by other agencies which are necessary to move the project forward might alleviate the concern about the timing of consideration of the petition.

Board Discussion:

Board Member Van Gundy indicated that the Regional Board had executed its responsibility in issuing the permit in a fair, balanced and responsible manner, and that no further action by the Board appeared to be necessary or appropriate. Board Member Cramer acknowledged the financial implications of holding the petition in abeyance and stated her opinion that the Regional Board should support early resolution of this matter.

Action: It was moved by Member Cramer, seconded by Member Neev and unanimously approved that the Board direct the Executive Officer to draft a letter to the State Board objecting to this petition being held in abeyance, and that the Executive Officer would work with the Chair and Vice Chair and the general counsel in developing the specific language.

13. **Public Hearing, Basin Plan Triennial Review Work Plan, Resolution No. R8-2006-0085.**

Environmental Scientist, Dave Woelfel presented the 2006 Basin Plan Triennial Review. Mr. Woelfel discussed the priority list and work plan for the next three year period and recommended its approval.

Speakers on this item:

Susan Nash, Friends of North San Jacinto  
Mark Bulot, SBVMWD/SAWPA

Action: It was moved by Member Ruh, seconded by Member Van Gundy and unanimously approved that the Board adopt Resolution No. R8-2006-0085, approving the proposed Triennial Review priority list and work plan.

14. **San Diego Creek/Newport Bay Watershed Organochlorine Compounds Total Maximum Daily Loads (TMDL) Public Workshop**

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

Environmental Scientist Kathy Rose began this item with a comprehensive discussion of the background and technical basis of the proposed organochlorine compounds Total Maximum Daily Loads (TMDLs) for San Diego Creek and Newport Bay. A discussion of the proposed Implementation Plan for the TMDLs was also provided. Following Dr. Rose's presentation, Dr. Cindy Lin with USEPA and Dr. Craig Wilson with the State Water Resources Control Board (SWRCB) provided testimony in support of the proposed TMDLs and/or staff's conclusions with respect to the findings of impairment that formed the basis for the need to develop TMDLs. Mr. Larry McKinney, Dr. Susan Paulsen, Dr. James Byard, and Dr. Ron Tjeerdema spoke in opposition to the TMDLs. The Regional Board tasked staff and stakeholders to develop a matrix of critical issues and the desired alternative to address those issues, in an effort to reach consensus. Environmental Program Manager Joanne Schneider indicated that, ultimately, all parties may need to agree to disagree on the need for TMDLs; furthermore, if the organochlorine compounds TMDLs are not adopted, previously promulgated USEPA TMDLs would stand and would have to be incorporated into permits, with no compliance schedule, since the USEPA TMDLs do not include an implementation plan/schedule. It is anticipated that a public hearing to consider adoption of a Basin Plan Amendment to incorporate the organochlorine compounds TMDLs into the region's Basin Plan will occur at the March meeting of the Regional Board.

Speakers on this item:

Craig J. Wilson, State Water Board  
Dr. Cindy Lin, USEPA R9  
Larry McKenney, County of Orange  
Susan Paulsen, Flow Science  
Dr. James Byard, Toxicologist  
Ron Tjeerdema, Stakeholders-UC Davis  
Dr. Jon Kabashima, OC U.C. Cooperative Extension

15. **Administrative Civil Liability Complaint, J. K. Properties, Inc., City of Stanton, Orange County, Order No. R8-2006-0078**

(This item was postponed to the February 2, 2007 Board Meeting).

15a. **Status Report on Rialto-Colton-Fontana Perchlorate Investigation**

Kurt Berchtold, Regional Board Staff Advocacy Team, briefly updated the Board on the status of the enforcement action related to the Cleanup and Abatement Order for Emhart, Black & Decker Companies, Goodrich and Pyro Spectaculars. He said that, after the adoption of Resolution No. R8-2006-0079, all parties requested Stays of the Board's action taken at the October 13, 2006 Board meeting. He said that the advocacy team also submitted a letter to the Office of the Chief Counsel objecting to the Stay request and asking that it be dismissed. He ended by saying that Board staff has not heard from the newly appointed independent hearing officer, Walt Pettit, with respect to the scheduling of a hearing related to the Cleanup and Abatement Order, but will keep the Board informed as events unfold.

16. **Nomination and Election of Regional Board Officers for 2007**

Board Member Cramer indicated that the Nominating Committee recommended that Carole Beswick be reappointed as the Board Chair, and that Deborah Neev be appointed Vice Chair.

Action: It was moved by Member Cramer, seconded by Member Withers and unanimously approved to accept the recommendations of the Nominating Committee to appoint Member Beswick to serve another term as Chair and Member Neev to serve as Vice Chair.

17. **Board Meeting Dates and Locations for 2007**

The Board meeting dates for the year 2007 were approved, including the option to reschedule the March 2, 2007 Board meeting to Irvine Ranch Water District, in the event a TMDL item of local concern is scheduled to be presented at that time.

Action: It was moved by Member Ruh and seconded by Member Neev to approve the Board Meeting dates for 2007 as presented. The motion was unanimously approved.

18. **Executive Officer's Report**

None

19. **Regional Board Member Communications**

Upcoming ACWA conference next week.

20. **Closed Session**

None

21. **Adjournment**

The meeting was adjourned at 2:33 P.M. to the regular meeting of February 2, 2007 at 9:00 A.M., at the Loma Linda City Council Chambers, 25541 Barton Road, Loma Linda.

Respectfully submitted:



**GERARD J. THIBEAULT**

Executive Officer

/fc