

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

Minutes of the April 24, 2009 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

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Carole Beswick, Chair  
Seymour Van Gundy, Vice-Chair  
Fred Ameri  
William Ruh  
Steven PonTell  
Richard Freschi

Staff Members Present

Gerard J. Thibeault, Executive Officer  
Kurt V. Berchtold, Assistant Executive Officer  
Frances McChesney, Sr. Staff Counsel  
David Rice, Regional Board Counsel  
Joanne Schneider, Environmental Program Manager  
Michael J. Adackapara, Supervising Water Resource Control Engineer  
Mark E. Smythe, Chief of Storm Water (Coastal Waters)  
Hope Smythe, Chief of Basin Planning (Inland Waters)  
Milasol Gaslan, Chief of Storm Water (Inland Waters)  
Mark G. Adelson, Chief of Regional Planning  
Pavlova Vitale, Environmental Scientist  
Maria Macario, Water Resources Control Engineer  
Keith Elliott, Water Resources Control Engineer  
Kevin Heinemann, Staff Information Systems Analyst  
Felipa Carrillo, Executive Assistant

Public Attendance

Vaikko Allen, Contech	Don Lee, Tetra Tech
Larry Baldwin, City of La Palma	Bart Lounsbury, NRDC
David Beckman, NRDC	Mike Loving, City of Irvine
Richard Boon, Co. of Orange	Albert Martinez, Riverside Co. Flood Control
Doug Brodowski, City of Buena Park	Larry McKenney, RBF Consulting
Garry Brown, Orange County Coastkeeper	Christy Norris, Co. of Orange
Tim Carlstydt, Co. of Orange	Joe Parco, City of Santa Ana
Amanda Carr, Co. of Orange	Trung Phan, City of Fullerton
Jessica Chin, City of Riverside	Mike Recupero, Rempu
Mary Lynn Coffee, City of Irvine	Jeffrey Shu, SWRCB
Jim Colston, OCSD	Paul Singarella, Latham & Watkins
Rod Cruze, Cruze Environmental	Devin Slaven, City of Lake Forest
Latoya Cyrus, CAA	Eric Strecker, Geosyntec Consultants/CICWQ
Joseph Edwards, Irvine Co.	Robert Taylor, San Bernardino National Forest

Gene Estrada, City of Orange  
Jim Fitzpatrick, Pronto Wash of So Cal  
James Fortuna, City of Orange  
Mark Grey, CICWQ  
Irwin Haydock, Public  
Vaughan Herrick, City of La Habra  
Peter Herzog, City of Lake Elsinore  
David Hsich, City of Westminster  
Loriana Hornik, City of Garden Grove  
Humza Javed, City of Laguna Hills  
John Kappel, City of Newport Beach  
Judith Keir, City of Huntington Beach  
John Kemmerer, USEPA

Bao Tran, Kennedy/Jenks  
Jason Uhley, Riverside County Flood Control  
Ciam Villareal, RBF Consulting  
Jenna Voss, Co. of Orange  
Alex Waite, City of Tustin  
Wallace Walrod, OCBD  
Jennifer Weiland, Co. of Orange  
Howard Wen, Fuscoe Engineering  
Marsha Westropp, OCWD  
Greg Woodside, OCWD  
Michael Yang, City of Irvine  
Matt Yeager, San Bernardino Co. SW Program  
Shirin Zandpour, Latham & Watkins

2. Public Forum

There were no speakers.

3. State Water Resources Control Board Liaison Report

Tam Doduc, State Board Liaison, was not present; however, Chair Beswick advised that Ms. Doduc wanted to convey to the Board that the Governor was going to release bond money for projects across the State on Tuesday.

Mr. Thibeault added that State Board/Regional Board Management would be talking about the release of those funds and what projects are going to be on the priority list. He also added that the Statewide General Construction Stormwater Permit was released in draft form earlier this week.

Chair Beswick added that the State Board withdrew the proposed Septic Tank Regulations that they were working on, and they were going to redraft the document and then release it for public comments.

4. Approval of the Minutes

Action: It was moved by Member Ameri, seconded by Member Ruh, and unanimously approved that the Minutes of March 27, 2009 Board Meeting be approved as presented.

Agenda Update: It was noted that Items No. \*7 and No. 15 had been postponed.

5. Consent Calendar

- \*6. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for the Subsurface Disposal Systems of Gilberto Galvan.
- \*8. Yucaipa Valley Water District Maximum Benefit Program – Resolution No. R8-2009-0034.
- \*9. San Timoteo Watershed Management Agency and City of Beaumont Maximum Benefit Program - Resolution No. R8-2009-0035.
- \*10. Cooperative Agreement for the Newport Bay Watershed and the Central Watershed Management Area - Third Amendment and Full Restatement of Cooperative Agreement - Resolution No. R8-2009-0041.

\*11. Resolution Regarding Funding from the State Water Resources Control Board (SWRCB) Emergency, Abandoned and Recalcitrant Site Account – Resolution No. R8-2009-0037.

Action: It was moved by Member Ruh, seconded by Member Van Gundy, and unanimously approved that the Board adopt Resolutions No. R8-2009-0034, R8-2009-0035, R8-2009-0041, R8-2009-0037, and approve the exemption from the minimum lot size requirements requested by Gilberto Galvan.

12. Renewal of Waste Discharge Requirements, County of Orange, Orange County Flood Control District, and Incorporated Cities of Orange County, Urban Storm Water Runoff Management Program (NPDES No. CAS618030) - Order No. R8-2009-0030.

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

Mark Smythe, Chief of Storm Water (Coastal Waters), began the staff presentation with a history of the last nineteen years of the Orange County storm water permit program and its evolution into the proposed draft permit.

He noted that after the 1972 amendment to the Federal Clean Water Act, the initial focus was to control the discharge of pollutants from traditional point sources such as sewage treatment plants and industrial process wastewater. Pollutants in storm water discharges were mostly unregulated until the 1987 Clean Water Act amendments. In 1990, the Santa Ana Regional Board adopted storm water permits for the three county areas within the Region. The permit requirements for the first two terms of the storm water permits remained pretty much the same. However, the third term permit adopted by the Board in 2002 included additional requirements for public education, municipal inspections of construction and industrial facilities and commercial establishments, structural treatment controls for new developments and significant redevelopments, and for TMDL implementation.

Mr. Smythe summarized the public notification and stakeholder participation process leading up to the April 24, 2009 public hearing. The first draft of the permit was issued on November 10, 2008 and a public workshop was conducted on November 21, 2008. Subsequently, a number of stakeholder meetings were conducted and two other drafts of the tentative order were issued. Staff also provided responses to the 173 comment letters and considered these comments in the formulation of the final draft presented to the Board on April 24, 2009.

Mr. Smythe briefly discussed the significant changes from the third term permit, including the incorporation of low impact development requirements in the new development and redevelopment section of the permit, and wasteload allocations in the TMDL section of the permit.

Mr. Smythe then discussed the errata, including the suggested changes from USEPA. Staff recommended adopting the permit with the changes included in the errata.

The Board received testimony from the stakeholders, including the permittees, USEPA, NRDC, Orange County Coastkeeper, BIA, Construction Industry Coalition on Water Quality, private citizens, Latham and Watkins, Nossaman LLP, Riverside and San Bernardino County storm water program managers, Geosyntec, RBF Consulting, Larry Walker Associates, Contech, Pronto Wash, and Orange County Water District. At the conclusion of the testimonies, the Board closed the public hearing on the permit, except for Section XII.C of the permit. The Board extended the public comment period on Section XII.C of the permit to May 8, 2009 and agreed to continue the public hearing on Section XII.C of the permit to May 22, 2009.

Speakers:

Peter Herzog, Richard Boon, Mike Burrows, John Kemmerer, Jason Uhley, Paul Singarella, Mark Grey, Eric Strecker, Greg Woodside, Garry Brown, Bart Lounsbury, David Beckman, Mary Lynn

Coffee, Gene Estrada, Larry McKenney, Jim Fitzpatrick, Irwin Haydock, Matt Yeager and Mike Recupero.

13. Public Hearing on Clean Water Act Section 305(b) Integrated Report/Clean Water Act Section 303(d) List of Impaired Waterbodies - Resolution No. R8-2009-0032  
*Information concerning this item is contained in a verbatim transcript of the proceedings.*

Pavlova Vitale, staff Environmental Scientist, Basin Planning (Inland Waters), presented the 2008 Integrated Report for the Santa Ana Region. She began with a review of the regulatory background of Clean Water Act Sections 305 (b) and 303 (d). She provided a brief background on the regulations governing the Integrated Report.

Ms. Vitale explained the steps taken to prepare the Integrated Report, including the extensive opportunities for public participation.

Ms. Vitale addressed the proposed additions and deletions to the 303 (d) List. She said that staff had considered numerous recommendations made by stakeholders and the public, including suggestions from the Santa Ana River Dischargers Association, regarding the assessment of the metals data.

Ms. Vitale said that if the tentative Resolution is approved by the Regional Board, the Integrated Report will be transmitted to the State Board, and then to US EPA for their approval. She added that the next Integrated Report cycle for 2010 will begin at the end of 2009.

Staff recommended adoption of Resolution No. R8-2009-0032, as amended by the errata sheet and with the deletion of City Creek from the proposed 303(d) List. The errata sheet amends Resolution No. R8-2009-0032, in that it gives the Executive Officer the authority to make non-substantive changes to the water quality assessment database prior to transmitting it to the State Board.

Speakers:

Tim Moore recognized the exceptional work performed by Ms. Vitale in considering the comments received and re-evaluating the data.

He proposed to the Board a watershed action plan approach to address the matter of sediment toxicity in Lake Elsinore. Mr. Moore suggested concurrence that the approach outlined would conform to the approach now contemplated in the MS4 permits. Joanne Schneider agreed with Mr. Moore's suggestions.

John Kemmerer agreed that staff did a great job, but expressed disagreement with the conclusions regarding bacteria data in Temescal Creek Reach 6 and San Diego Creek Reach 1. He said US EPA would be taking a closer look at these two waters and would possibly add them to the list based on their review.

Ms. Schneider stated that Mr. Kemmerer was referring to the E. coli measurement for these waters. She described the technical basis for Board staff's recommendation not to list these waters based on the bacterial measurements. She acknowledged there are some high numbers that need follow up and that what is proposed is additional monitoring for impairment assessment in the future. Garry Brown, Amanda Carr, Matt Yeager and Jason Uhley all indicated support for the Resolution.

Action: It was moved by Member Ruh, seconded by Member Ameri, and unanimously approved that the Board adopt Resolution No. R8-2009-0032 as amended by the errata sheet and with the deletion of City Creek from the 303(d) List.

14. Revised Request for Cleanup and Abatement Account Funding Related to Perchlorate Contamination - Resolution No. R8-2009-0027

(This item was postponed from the March 27, 2009 meeting).

Mr. Berchtold advised the Board that about a year ago, the Regional Board had adopted a resolution requesting \$3 million from the CAA to conduct a regional groundwater study related to the perchlorate problem in the Rialto area. He said that since the adoption of the Resolution, the West Valley Water District and the City of Rialto had submitted a revised project proposal.

Mr. Berchtold asked the Board to broaden the scope of how the previously approved funding could be used. He indicated that the revised project does not require additional money - only a change in how the funds could be used.

Mr. Berchtold noted corrections to the Resolution on page 2, first line at the top of the page where it says April 14, 2009 - it should actually read April 15, 2009, and that the same date appeared again after item eight, second line, and it should also read April 15, 2009.

Board staff recommended adoption of Resolution No. R8-2009-0027 with the noted corrections.

Action: It was moved by Member Ameri, seconded by Member Ruh, and unanimously approved that the Board adopt Resolution No. R8-2009-0027 as amended.

15. Presentation to the Board of the Results of the Most Recent Wasteload Allocation Analysis for the Santa Ana River - (information item).

This item was postponed to the May 22, 2009 meeting.

16. Regional Board Member and Executive Officer Communications

None.

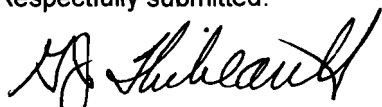
17. Closed Session

The Board convened to a Closed Session during lunch to discuss a personnel matter.

18. Adjournment

The meeting was adjourned at 3:11 p.m., to the regular Board meeting of May 22, 2009 at 9:00 a.m., at the Loma Linda City Council Chambers, 25541 Barton Road, Loma Linda, CA.

Respectfully submitted:



GERARD J. THIBEAULT  
Executive Officer

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