

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

MINUTES OF MEETING
DECEMBER 16, 2009

At 9:00 a.m. Acting Chairman King 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: Acting Chairman David King, Eric Anderson, Wayne Rayfield, Grant Destache, Marc Luker, and George Loveland.

Staff Present: David Gibson, John Robertus, Michael McCann, Lori Costa, David Barker, Julie Chan, James Smith, Brian Kelley, Deborah Jayne, John Odermatt, Jeremy Haas, Ben Neill, Frank Melbourn, Chad Loflen, Michelle Mata, Wayne Chiu, Alan Monji, Cynthia Gorham, Cathryn Henning, Joann Cofrancesco, Charles Cheng, Amy Mecklenborg, and Elizabeth Dorantes. Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine Hagan, Jessica Newman, and Jeffrey Shu. Kennedy Court Reporters: Kimberly Anton.

Public Attendance: Jerome Janus- Vallecitos Water District; Jason Cavender- Fallbrook Public Utility District; Doug Coppi, Monique Cornejo, Michael Meacham- City of Chula Vista; Lisa Zawaski, Brad Fowler, Richard Montevideo- Dana Point; Gary Stalker, Pedro Porras- Otay Water District; Levy Marcotte, Con Kontaxis- Caltrans; Tatyana Fikhman, Dana Chapin- City of San Diego; Tim Carlstedt, Richard Boon, Grant Sharp, Chris Crompton, Geoffery Hunt, Kacon Clappor, Mary Anne Skorpanich - County of Orange; Lisa O'Neal- Brown & Winters; Tom Howard- City of Poway; Tom Rosales- South Orange County WW Authority; Joe Stenger- TRC; Joe Wegand, Gary Eaton- SDCWA; Jim Ball- Vista Irrigation District; Ed Kimura, Penny Elia- Sierra Club; Len Sinfield- US Navy; Bill Olson- Sweetwater Authority; Joe Aurora- San Dieguito Water District; Laura Eisenberg- LMV; Linda Wagner- City of Chula Vista; Claudio Padres, Jason Uhler- Riverside County Flood Control; Joe Naiman- Fallbrook / Bonsall Village News; Cor Shaffer- Santa Fe Irrigation District; George Briest- Olivenhain Municipal Water District; Jeffrey Seminoff- National Marine Fisheries Service; Mark Weston- Helix WD; Kenneth Andrecht, Verna Rollinger, Barbara Metzger, Barbara Picheny, Sharon Larimer, Harry Orgovan, Laura Di, Martha Cortes, Magdalena Cerda, Jorge Glackman, Dolores Dempsey, Michael Gilgun- Self; Patti Krebs- Industrial Environmental Association; Todd Snyder- County of San Diego; Jerry Horner- PWQA; Karen McClune, Mike Gafford- Hubbs Seaworld; Moy Yahya- Aliso Viejo and Rancho Santa Margarita; Andra Crumparks, Gretel

Roberts- Weston Solutions; Devin Slaven, Andre Monette- City of Lake Forest; Ziad Marboudi- City of San Juan Capistrano; Rich Schlesinger, Joe Ames- City of Mission Viejo; Bill Rihn, Michael Beanan- South Laguna Civic Assoc.; Jerry Collamer- Save Trestles; Jack Eidt- Wild Heritage Planners; Ruth Kolb- City of San Diego; David Carey- Port of San Diego; Erik Steenblock- City of Encinitas; Cindy Lin- US EPA; Livia Borak- Coastal Environmental Rights Foundation; Noah Garrison- Natural Resource Defense Council; Nancy Palmer- City of Laguna Niguel; Steve Plyler- Carlsbad Municipal Water District; Linden Burzell- Yuima Municipal Water District; Gary Arant- Valley Center Municipal Water District; Theresa Acerro- Southwest CV Civic Assoc.; Rachel Gregg- Office of Mary Salas; Whitney Benzian- Office of Ben Hueso; Meg Rosegay- Pillsbury Winthrop Shaw Pittman; Randall Hickok- Dynegey; Dennis Peters- California ISO; Gabriel Solmer, Rachel Dorfman, Katherine Old- San Diego Coastkeeper; Yeni Linqui-EHC; Jim Peugh- San Diego Audubon Society; Jonathan Hardy- Office of Senator Ducheny

Item 2 – Public Forum

Tom Rosales, South Orange County Waste Water Authority, asked the Board to put an item on a future meeting agenda to allow for a policy discussion on how to deal with brine discharges in the region.

Mr. King said he would rather talk about brine discharge during Item 16.

Penny Elia, Sierra Club, referred to Item 12 and requested that the environmental community be allowed to speak before everyone else, as they were usually called on last.

Item 3 – Minutes of Board Meetings of November 18, 2009

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. Destache moved approval of the November 18, 2009 minutes. The motion was seconded by Mr. Rayfield 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.

Mr. Destache reported that the Tijuana River Valley Recovery Team discussed cleanup projects that were to be put in place.

Mr. King announced that Chairman Wright was not reappointed to the Board. He asked for volunteers to serve on the committees that Chairman Wright was on. Mr. Destache volunteered to serve on the Tijuana River Valley Recovery Team with Mr. Loveland as the alternate. Mr. Luker volunteered to serve on the San Diego Integrated Water Management Plan committee with Mr. Loveland.

Mr. King reported on the San Diego Shipyard sediment cleanup and said the revised Cleanup and Abatement Order and technical report would be released for public review on December 22, 2009.

Mr. Gibson reported that he gave an interview to Channel 10 News on PCBs and PBDEs in San Diego bay and gave guidance and direction on how to proceed with regional monitoring in the region.

Mr. King referred to an item in the EO Report on significant achievements for 2009 and referenced the Basin Planning and the progress that was being made. He was concerned about the lack of resources for basin planning. Mr. Gibson responded.

Item 5 – Recognition: Resolution of Appreciation for Executive Officer John Robertus (Tentative Resolution No. R9-2009-0180).

Mr. King read the resolution for John Robertus.

Board Members spoke.

Other speakers included:

Mary Jane Foley
Laura Hunter
Julie Chan
Jerry Collamer
Chris Crompton
Brad Fowler
Ziad Marboudi
Mary Anne Skorpanich
Wayne Chiu
Deborah Jayne
Gabriel Solmer
Gary Arant
David Gibson

Mr. Robertus thanked the Board, staff, and members of public.

Consent Calendar:

Item 6 – Waste Discharge Requirements: Orange Grove Energy, LP C/O J-Power USA Development Co., Ltd., Orange Grove Power Plant, San Diego

County (Requirements for the use of recycled water for cooling tower makeup water, toilet flushing, and irrigation of landscaping and for the discharge of domestic wastewater) (Tentative Order No. R9-2009-0110) (*Cathryn Henning*)

Item 7 – Waste Discharge Requirements: County of San Diego, San Pasqual Academy Wastewater Treatment Facility, San Diego County (Update of current requirements prescribed in Order No. 94-04) (Tentative Order No. R9-2009-0072) (*Cathryn Henning*)

Item 8 – Waste Discharge Requirements: California Department of Transportation, Buckman Springs Roadside Rest Area, San Diego County (Tentative Order No. R9-2009-0105) (Requirements for discharges from restrooms and recreational vehicles to an onsite wastewater treatment system) (*Fisayo Osibodu*)

Item 9 – Waste Discharge Requirements Revision: Oak Knoll Campground, San Diego County (Ownership change) (Tentative Addendum No. 2 to Order No. 94-039) (*Fisayo Osibodu*)

Item 10 – NPDES Permit Rescission: Hubbs-Seaworld Research Institute, Leon Raymond Hubbard, Jr., Marine Fish Hatchery, Agua Hedionda Lagoon, San Diego County, An Order Rescinding Order No. 2001-237, NPDES Permit No. CA0109355, (Tentative Order No. R9-2009-0090) (*Joanne Cofrancesco*)

Item 11 – Administrative Civil Liability Against Minshew Brothers Steel Construction, Inc. The Regional Board will consider adoption of a tentative Order that would accept an offer to settle administrative civil liability proposed in Complaint No. R9-2009-0058 for failure to submit the FY 2006-07 and FY 2007-08 annual storm water monitoring reports required by State Board Order No. 97-03-DWQ, NPDES No. CAS00001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. If the Regional Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the Regional Board will receive evidence and testimony and consider assessment of liability. (Tentative Order R9-2009-0148) (*Rebecca Stewart*)

Mr. Rayfield moved approval of the Consent Calendar Items 6-11 with errata. The motion was seconded by Mr. Loveland and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 12 – Reissuance of NPDES Waste Discharge Requirements for Discharges of Runoff from the Municipal Separate Storm Sewer Systems (MS4s) draining the watersheds of the County of Orange, the Orange County Flood Control District, and the incorporated Cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo,

Rancho Santa Margarita, San Clemente, and San Juan Capistrano within the San Diego Region (South Orange County Municipal Storm Water Requirements). The Board will continue deliberation, hear public comments, and consider adoption of Tentative Order No. R9-2009-0002 (formerly Tentative Orders No. R9-2008-0001 and R9-2007-0002). Public verbal comments are limited only to changes made in Tentative Order language pertaining to Non-Storm Water Numeric Effluent Limitations (NELs). (Tentative Order No. R9-2009-0002) (*Ben Neill*)

Mr. King explained the hearing procedures.

Ms. Catherine Hagan reported that Dana Point submitted to the Board for inclusion in the record, the draft staff analysis that was issued by the Commission on State Mandates in the test claim matter that was filed by the San Diego County copermittees.

Staff member Ben Neill gave the presentation. Senior staff member James Smith responded to an errata question asked by Mr. King.

Other speakers included:

Brad Fowler – City of Dana Point

Mary Anne Skorpanich – County of Orange

Noah Garrison – Natural Resource Defense Council

Penny Elia – Sierra Club

Mr. King recessed the item to allow for staff, co-permittees, environmental groups, and members of the public to meet in another room to discuss the issues proposed in the errata. The item would be brought back later in the afternoon.

Item 13 – NPDES Permit Reissuance: General Waste Discharge Requirements for Discharges of Hydrostatic Test Water and Potable Water to Surface Waters and Storm Drains or Other Conveyance Systems Within the San Diego Region (Tentative Order No. R9-2009-0094, NPDES No. CAG679001) (*Michelle Mata*)

Mr. King introduced the item. Staff member Michelle Mata gave the presentation.

Gary Arant – Valley Center Municipal Water District

Joe Wegand – San Diego County Water Authority

Linden Burzell – Yuma Municipal Water District

Jim Ball – Vista Irrigation District

Steve Plyler – Carlsbad Municipal Water District

Tom Howard – City of Poway

Dana Chapin – City of San Diego

Jerome Janus – Vallecitos Water District

Gary Stalker – Otay Water District

Cor Shaffer – Santa Fe Irrigation District

Gary Eaton – San Diego County Water Authority
Mark Weston – Helix Water District
Ziad Marboudi – City of San Juan Capistrano

Ms. Mata made closing comments. Senior staff member Brian Kelley answered questions asked by the Board.

Board Members made comments and discussed continuing the item at a later date.

Mr. Gibson recommended continuing the item at a future Board meeting.

Mr. Loveland made a motion to continue the item and asked the Executive Officer to contact the agencies that may not have been adequately informed, work with the TAC on remaining issues, then come back to the Board at the February meeting with a recommendation as to when the item should be brought back for Board action. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Item 14 – NPDES Permit Minor Modifications: Dynege South Bay LLC, South Bay Power Plant Discharge to San Diego Bay, Order No. R9-2004-0154, NPDES No. CA0001368: The Regional Board will consider adoption of tentative Order No. R9-2009-0178 ratifying minor modifications to Order No. R9-2004-0154 made by the Executive Officer by letter dated November 9, 2009. The Regional Board requests that public comments be limited to the November 9, 2009 minor modifications described in tentative Order No. R9-2009-0178. (*David Barker & Brian Kelley*)

Senior staff member Brian Kelley gave the presentation.

Other speakers included:

Randall Hickok - Dynege
Meg Rosegay – Pillsbury Winthrop Shaw Pittman
Whitney Benzian – San Diego Council Ben Hueso's office
Rachel Gregg – Assemblymember Mary Salas' office
Dolores Dempsey – Chula Vista MH Residents Association
Theresa Acerro – Southwest Chula Vista Civic Association

Mr. King announced that the item would be continued after lunch.

The meeting was recessed for lunch and Closed Session at 12:30.

Item 17 – *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]

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

Civil Actions

- a. *People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Carlos Marin, an individual in his capacity as Commissioner of the International Boundary and Water Commission, United States Section, et al.*, Complaint for Violations of the Clean Water Act and Related State Law Claims. United States District Court, Southern District of California, Case No. 01-CV-027BTM(JFS) (filed February 2001). (John Robertus)
- b. *Surfrider Foundation v. California Regional Water Quality Control Board -- San Diego Region and California State Water Resources Control Board; (Cabrillo Power I, LLC, Real Party-in-Interest)*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37 2007-00069621-CU-PT-CTL (filed July 2007). (Brian Kelley)
- c. *William G. Dickerson and Heidi Dickerson, Husband and Wife; Larry Gunning and Penelope L. Gunning, Husband and Wife; and Perry & Papenhausen, Inc., a California Corporation v. San Diego Regional Water Quality Control Board, a Public Entity*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2007-00075846-CU-WM-CTL (filed September 2007). (Frank Melbourn)
- d. *In re: Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-001, (NPDES No. CAS0108758) Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority adopted on January 24, 2007. Test Claim filed by San Diego County, et al., with Commission on State Mandates, No. 07-TC-09* (filed June 2008). (Catherine George Hagan)
- e. *Joye Goodwin and Hope Goodwin v. EDCO Disposal Corporation, a California Corporation, dba EDCO Waste & Recycling Services, State of California Water Resources Board, John P. Anderson, et al.*, San Diego County Superior Court No. 37-2007-00066373-CU-PO-NC (filed March 2009). (John Anderson, Catherine Hagan)
- f. *William and Lori C. Moritz v. California Regional Water Quality Control Board, San Diego Region*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2009-00093097-CU-WM-CTL (filed June 2009) (Christopher Means)

Petitions for Review Pending Before State Water Resources Control Board

g. Petition of NRDC, Inc. (Waste Discharge Requirements Order No. R9-2007-001 [NPDES No. CAS0108758] for Urban Runoff Discharges from the Municipal Storm Systems in the Incorporated Cities of San Diego, San Diego Unified Port District, and San Diego Regional Airport Authority, SWRCB/OCC File A-1830©, filed February, 2007 (in abeyance).

h. Petition of City of San Marcos (Investigative Order No. R9-2008-0118 for City of San Marcos Discharge of Material into Upper Copper Creek, San Marcos, San Diego County), filed October, 2008 (in abeyance).

i. Petition of Natural Resources Defense Council and San Diego Coastkeeper (Executive Officer Approval of Countywide Model Standard Urban Stormwater Mitigation Plan for Development Applications), SWRCB/OCC File A-2010, filed April 2009 (in abeyance). (*Eric Becker*)

j. Petition of San Diego Coastkeeper and Petition of Surfrider Foundation (Order No. R9-2009-0038 (Poseidon Resources Corporation, Carlsbad Desalination Plant, Order Amending Waste Discharge Requirements No. R9-2006-0065 [NPDES No. CA0109223]), SWRCB/OCC File A-2024 and A-2024(a), filed June 2009. (*Michelle Mata*)

k. Petition of Department of the Navy (Waste Discharge Requirements Order No. R9-2009-0081 [NPDES No. CA0109185] for the United States Department of the Navy, Naval Base Coronado, San Diego County), SWRCB/OCC File A-2032, filed July 2009. (*Vicente Rodriguez*)

l. Petition of South Coast Water District and South Orange County Wastewater Authority (Administrative Civil Liability Order No. R9-2009-0048 for South Orange County Wastewater Authority, South Coast Water District Groundwater Recovery Facility, San Diego County), SWRCB/OCC File A-2035, filed July 2009. (*Jeremy Haas*)

m. Petition of La Costa Town Square, LLC (Denial of Clean Water Act section 401 Water Quality Certification, La Costa Town Square Project, Application 09C-043, San Diego County), SWRCB/OCC File A-2039, filed August 2009 (in abeyance). (*Chiara Clemente*)

n. Petition of San Juan Capistrano (Revised Cleanup and Abatement Order No. R9-2009-0124 for Chevron USA, Inc and the City of San Juan Capistrano at Chevron Service Station No. 9-3417, 32009 Camino Capistrano, San Juan Capistrano, Orange County), SWRCB/OCC File A-2051, filed October 2009 (in abeyance).

The Closed Session was held and items a, b, d, and f were discussed.

Item 18 – *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation

The Regional Board may meet in closed session to initiate or consider initiating litigation against persons who are alleged to have violated the Porter-Cologne Water Quality Control Act or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)]
(John Robertus)

The Closed Session was not held.

Item 19 – *Closed Session* - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing

The Regional Board may meet in closed session to consider evidence received in an adjudicatory hearing and to deliberate on a decision to be reached based upon that evidence [Authorized under Government Code Section 11126(c)(3)]

The Closed Session was not held.

Item 20 – *Closed Session* - Personnel

The Regional Board may meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing [Authorized under Government Code Section 11126(a)]

The Closed Session was not held.

The meeting was reconvened at 1:30 p.m.

Mr. King reported that Items 17 a, b, d, and f were discussed during the Closed Session.

Item 14 – Continued

Speakers continued:

Ed Kimura – Sierra Club

Jeffrey Seminoff – National Marine Fisheries Service

Jonathan Hardy – Senator Denise Ducheny's office

Linda Wagner – Councilmember Steve Castaneda's office

Michael Meacham – City of Chula Vista

Laura Hunter – Environmental Health Coalition

Rachel Dorfman – San Diego Coastkeeper

Monique Cornejo – Community member of Chula Vista

Jim Peugh – San Diego Audubon Society

Harry Orgovan – Chula Vista Kayak

Yeni Lingui – Community organizer - EHC

Gabriel Solmer – San Diego Coastkeeper
Dennis Peters – Cal ISO
Kenneth Andrecht – Port of San Diego (retired)

Mr. Hickok made closing comments. Ms. Rosegay answered a question asked by the Board.

Patti Krebs – Industrial Environmental Association, also spoke.

Mr. Kelley made closing comments. Board Members asked questions of staff.

Mr. Destache made a motion to approve Order No. R9-2004-0154 with direction to staff to bring the item back in March 2010. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Board Member Luker left at this time.

Item 12 – Continued

Mr. Smith reported on the outcome of the discussion to work towards an agreement. He said when they left the room everybody was in agreement with the changes. Mr. Smith presented the proposed changes.

Additional speakers included:

Mary Anne Skorpanich – County of Orange
Richard Montevideo – attorney for Dana Point
Brad Fowler – City of Dana Point
Michael Beanan – South Laguna Civic Association
Cindy Lin – U.S. EPA
Livia Borak – Coastal Environmental Rights Foundation

Mr. Rayfield made a motion to approve Order No. R9-2009-0002 with errata. The motion was seconded by Mr. Destache and approved by unanimous vote.

Item 15 – Adoption of 2008 Update of Federal Clean Water Act Sections 305(b) and 303(d) Integrated Report on Evaluation of Surface Water Quality and Listing of Impaired Water Body Segments in the San Diego Region (Tentative Resolution No. R9-2009-0163) (*Alan Monji*)

Staff member Alan Monji gave the presentation.

Other speakers included:

Chris Crompton – County of Orange
Ruth Kolb – City of San Diego
Cindy Lin – U.S. EPA

Mr. Monji made closing comments and answered questions.

Mr. Gibson recommended adoption of the Resolution.

Mr. King closed the public hearing.

Mr. Loveland made a motion to adopt Resolution No. R9-2009-0163. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Item 16 – Status Report: SOCWA Request for Permit Modification for Brine Discharge (*David Barker & Brian Kelley*)

Senior staff member Brian Kelley gave the status report.

Tom Rosales, South Orange County Water Authority, also spoke.

Board Members made comments and suggestions.

Mr. Gibson and Mr. Robertus also made comments.

Item 21 – Arrangements for Next Meeting and Adjournment

Wednesday, February 10, 2010 - 9:00 a.m.

Water Quality Control Board

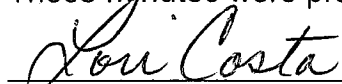
Regional Board Meeting Room

9174 Sky Park Court

San Diego, California

With there being no further business, the meeting was adjourned at 4:20 p.m.

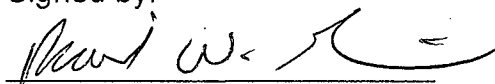
These minutes were prepared by:



Lori Costa

Executive Assistant

Signed by:



David W. Gibson

Executive Officer