

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

MINUTES OF MEETING
NOVEMBER 10, 2010

At 9:00 a.m. Acting Chairman Destache called to order the meeting of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at the City of Temecula, Council Chambers, 43200 Business Park Drive, Temecula, California.

Chairman Destache introduced and welcomed, the newest members of the Board, Mr. William Green and Mr. Gary Strawn.

Item 1 – Roll Call and Introductions

Board Members Present: Grant Destache, Eric Anderson, Wayne Rayfield, Marc Luker, William Green, and Gary Strawn.

Staff Present: David Gibson, James Smith, Julie Chan, David Barker, Lori Costa, Chiara Clemente, Jeremy Haas, Bob Morris, Ben Neill, Chad Loflen, Wayne Chiu, Frank Melbourn, Robert Pierce, Laurie Walsh, and Chris Means.

Others Present on behalf of the San Diego Water Board: State Water Resources Control Board – Catherine Hagan, Jessica Newman, and Cris Carrigan.
Kennedy Court Reporters – Marie Boyd.

Public Attendance: Fred Jacobsen, Scott Pearson – SCG; Randall Salatino – self; Steve Horn, Mike Shetler, Juan Perez – County of Riverside; Matt Rich – MACTEC, Dusty Williams, Jason Uhley, Claudio Padres, Arlene Chun, Dave Burhenn – Riverside County Flood Control; Paul Teensma – So. CA Edison; John Jannone, Jayne Joy, Al Javior, Gerald Shoaf, James King, Lisa O'Neil – Brown & Winters; Mayor Pro-Tem Randon Lane, Bill Woolsey, Patrick Thomas – City of Murrieta; John Burchan – City of Escondido; John Kemmerer – US EPA; Frank Oviedo, Martha Bridges, Mayor Bridget Moore, Tim D'Zmura – City of Wildomar; Mo. Lahsaie – City of Oceanside; Kelly Richardson – Latham & Watkins; Del Ross – self; Mack Walker – Larry Walker Assoc; Charles Binder – SMR; Gabriel Solmer – SD Coastkeeper; Mike Adackapara – RWQCB 8; Shay Lawrey – TDA; Mayra DeLaTorre, Mayor Jeff Commonchero, Greg Butler, Aldo Licitra – City of Temecula; Kevin Carlisle, Paul Boughman, Jeremy Jungreis – Camp Pendleton; Vicki Long – EMARCD; Don Allison – City of Menifee; Verne Lauritzen – for Supervisor Jeff Stone; Stephen Reich – Stetsen Engineers; Toby Roy – San Diego County Water Authority; Jack Bebee – Fallbrook Public Utilities District; Jon Van Rhyn – County of San Diego; Mark Grey – Building Industry Association; John Kemmerer – US EPA; Livia Borak – Coast Law Group; Michael

Welch – self; Daniel Apt, Scott Taylor – RBF Consulting; Fred Jacobsen – Southern CA Gas Co.

Fran Spivy-Weber, State Board Member Liaison, reported on the budget, Board member reappointments, and the Executive Director's Report.

Item 2 – Public Forum

Mr. Randall Salatino requested that a Cleanup and Abatement Order be issued to Crosby Home Owners' Association to remove sediment from an unnamed tributary to Lusardi Creek that flows through his residential property.

Assistant Executive Officer, Mr. James Smith, gave a brief history on his conversations with Mr. Salatino and actions he had taken. He said staff did not pursue an enforcement action due to the lack of resources. Mr. Smith said if the Board so directed, he would start an investigative order.

Ms. Chiara Clemente spoke regarding the County's program for vector control.

Mr. Rayfield suggested that staff start an investigation.

Mr. Destache asked staff to agendize the issue.

Executive Officer Gibson suggested that he get involved and report back to the Board with his recommendations/options in the December Executive Officer's Report. If requested by the Board, he would then schedule a hearing on a future agenda.

Board Members concurred with Mr. Gibson's suggestion.

Item 3 – Minutes of Board Meeting: September 8, 2010

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 San Diego Water Board office for assistance.

Mr. Rayfield moved approval of the September 8, 2010 minutes. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Item 4 – Chairman's, Board Members', State Water 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. Gibson reported on the Lake San Marcos issue, Tijuana River Trash and Sediment TMDL, Chollas TMDL, and the Legislative Summit and other events that he spoke at.

Mr. Anderson said he was relieved to hear that the South Bay Power Plant was scheduled to terminate operations.

Mr. Gibson reported that the San Diego River Conservancy's non-voting member seat, that was previously filled by Mr. King, would need to be filled. Mr. Destache announced that Mr. Gary Strawn volunteered to fill the position. Board Members thanked Mr. Strawn.

Consent Item:

Administrative Assessment of Civil Liability, City of Escondido, Hale Avenue Resource Recovery Facility, Mandatory Minimum Penalty for violations of Order No. R9-2005-0139. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$6,000 mandatory minimum penalty recommended in Complaint R9-2010-0132 for violations of effluent limitations prescribed in Waste Discharge Requirements Order No. R9-2005-0139, Hale Avenue Resource Recovery Facility Brine Discharge. The San Diego Water Board may approve, modify, or reject assessment of the recommended penalty. If the San Diego Water Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the San Diego Water Board will consider assessment of civil liability. (Tentative Order R9-2010-0144) (*Frank Melbourn*)

Mr. Luker moved approval of Order R9-2010-0144. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Item 13 – Approval of Year 2011 Board Meeting Schedule (*David Gibson*)

Mr. Rayfield moved approval of the 2011 Board Meeting schedule. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Item 14 – The Board will consider affirming that Vice Chair Grant Destache will preside as Acting Chair at the December 2010 meeting. Alternatively, the Board may conduct an election to select a Chair and Vice Chair to preside at the December 2010 meeting.

Mr. Rayfield made a motion to affirm Vice Chair Destache as Acting Chair for the December 2010 meeting. The motion was seconded by Mr. Anderson and approved by unanimous vote.

It was noted that the election for Chair would be held at the February 2011 meeting.

Remainder of the Agenda (Non-Consent Items):

Item 6 – Reissuance of NPDES Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) draining the County of Riverside, the incorporated cities of Riverside County, and the Riverside County Flood Control and Water Conservation District, within the San Diego Region. The Board will hear comments and consider adoption of Tentative Order No. R9-2010-0016. (*Chad Loflen, Ben Neill, Wayne Chiu*)

Mr. Destache read the hearing procedures. Mr. Green said that due to his firm, RBF Consulting, being involved, he would recuse himself from the item.

Staff members, Chiara Clemente, Ben Neill, Chad Loflen, and Wayne Chiu, gave the presentation.

Other speakers included:

Jason Uhley – Riverside County Flood Control

Mayor Jeff Commonchero – City of Temecula

Mayor Bridget Moore – City of Wildomar

Mayor Pro-Tem Randon Lane,

Patrick Thomas – City of Murrieta

Verne Lauritzen – represented Supervisor Jeff Stone, County of Riverside

Claudio Padres – Riverside County Flood Control and Water Conservation

Acting Chair Destache announced that Item 6 would continue at 1:00 p.m.

The meeting recessed for lunch and Closed Session at 12:15 p.m.

Item 9 - *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]

The San Diego Water 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). (David Gibson)
- 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. *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)
- d. *Surfrider Foundation v. California Regional Water Quality Control Board, San Diego Region*, Petition for Writ of Mandate. San Diego County Superior Court, Case No. 37-2010-0009-436-CU-WM-CTL (filed April 2010). (Brian Kelley)
- e. *South Orange County Wastewater Authority and South Coast Water District*, Petition for Writ of Mandate. Orange County Superior Court, Case No. 30-2010-00364016-CU-WM-CXC (filed April 2010) (Joann Cofrancesco)
- f. *California Regional Water Quality Control Board, San Diego Region v. Bill and Heidi Dickerson, Larry and Penelope Gunning and Perry & Papenhausen, Inc.* Complaint for Damages for Breach of Contract and

for Specific Performance. San Diego County Superior Court, Case No. 37-2010-00096011-CU-CO-CTL (filed July 2010) (*Jeremy Haas*)

- g. *State of California Department of Finance, State Water Resources Control Board, And California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates*. Petition for Writ of Administrative Mandamus. Sacramento County Superior Court, Case No. 34-2010-80000604 (filed July 2010) (*Catherine George Hagan*)

Petitions for Review Pending Before State Water Resources Control Board

- h. 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(c), filed February, 2007 (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 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*)
- k. 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*)
- l. Petition of South Coast Water District and South Orange County Wastewater Authority (Failure to Act to Modify NPDES Permit for Brine Discharge and Groundwater Recovery Facility, San Diego County), SWRCB/OCC File A-2072, filed January 2010. (*Brian Kelley*)
- m. Petitions of the City of Laguna Hills, the City of Laguna Niguel, the City of San Juan Capistrano, the City of Mission Viejo, the City of San Clemente, the City of Dana Point, the City of Laguna Woods, the County of Orange and Orange County Flood Control District, the City

of Aliso Viejo, the City of Lake Forest, and the City of Rancho Santa Margarita (Waste Discharge Requirements Order No. R9-2009-0002 (NPDES No. CAS0108740), Orange County Municipal Separate Storm Sewer System (MS4) Permit), SWRCB/OCC Files A-2073(a)-(j), filed January 2010 (requests to hold in abeyance). (*Ben Neill*)

- n. Petitions of American Salvage Inc., and Consolidated Electrical Distributors (CED) and Northbrook Properties, Inc. (NPI) (Cleanup and Abatement Order No. R9-2010-007), SWRCB/OCC Files A-2084 and 2084(a), filed February 2010 (requests to hold in abeyance). (*Lynn Berlad*)
- o. Petition of Vulcan Materials Company (Reconsideration of Clean Water Act Section 401 Water Quality Certification No. 08C-051 for Poway Mining Site, Vulcan Materials, San Diego County) SWRCB/OCC File A-2088, filed March 2010 (request to hold in abeyance). (*Mike Porter*)
- p. Petition of California Independent System Operator Corporation (Order No. R9-2010-0062 Determining No Changes Are Warranted to Order No. R9-2004-0154 (Dynergy South Bay, LLC, South Bay Power Plant, NPDES Permit No. CA0001368) SWRCB/OCC File A-2103, filed June 2010. (*Kristin Schwall*)
- q. Petition of City of Murietta for reconsideration of denial of Clean Water Act Section 401 Water Quality Certification for Application No. 10C-009, Line D and D-1 Realignment (CIP #8157) project. SWRCB/OCC File A-2122, filed August 2010, (*Chiara Clemente*)
- r. Petition of Coastal Environmental Rights Foundation, requesting State Water Board review of Certification No. 10C-052, for routine maintenance of Storm Water Facilities, Maps 6 and 6a, Sorrento Valley, to the City of San Diego, filed October 2010) (*Chiara Clemente*)

The Closed Session was held and items a - g were discussed.

Item 10 – Closed Session - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation

The San Diego Water 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)]

The Closed Session was not held.

Item 11 – *Closed Session* - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing

The San Diego Water 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 12 – *Closed Session* - Personnel

The San Diego Water 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 reconvened at 1:10 p.m.

Item 6 – Continued

Speakers continued:

Jeremy Jungreis – U.S. Marine Corp Base, Camp Pendleton

Stephen Reich – Stetson Engineers

Toby Roy – San Diego County Water Authority

Kevin Carlisle – U.S. Marine Corp Base, Camp Pendleton

Paul Boughman – U.S. Marine Corp Base, Camp Pendleton

Jack Bebee, Fallbrook Utility Water District

John Kemerer – U.S. EPA

Gabriel Solmer – San Diego Coastkeeper

Livia Borak – Coast Law Group

Jon Van Ryhn – County of San Diego

Mark Grey – Building Industry Association

Mr. Uhley made closing comments.

Mr. Jungreis also made closing comments.

Ms. Clemente made closing comments and recommended that the Board adopt the permit with errata and amendment (clarifying language and special nutrient study recommended by the copermittees).

Mr. Loflen and Mr. Neill also made closing comments.

Mr. Chiu made some clarifications regarding over-irrigation. He also recommended an amendment to the errata.

Lengthy discussions were held between the Board, staff, and copermittees.

Mr. Gibson recommended adoption of the Order as proposed by staff.

Acting Chairman Destache closed the public comment period. Board Members began their deliberation.

Mr. Hagan and Mr. Gibson recommended adding the following language to page 84 of the permit:

P. The Executive Officer shall meet with Camp Pendleton and other stakeholders at six month intervals to identify and investigate water quality impacts, flow impacts, and impacts to water rights that may derive from the implementation of Low Impact Development BMPs required by Order R9-2010-0016, as they are developed by the stormwater Copermittees. Any key issues or amendments to the Order that derive from those analyses and discussions will be promptly brought to the San Diego Water Board for their consideration.

Mr. Rayfield moved approval of Order No. R9-2010-0016 with errata and the amendment recommended by Ms. Hagan and Mr. Gibson. The motion was seconded by Mr. Strawn. With opposition by Mr. Luker, the order was approved by a 4-1 vote.

Item 7 – Resolution Endorsing the Southern California Salinity Coalition's and San Diego County Water Authority's *Proposed Guidelines Salinity/Nutrient Management Planning in the San Diego Region (9)* dated September 1, 2010. (Tentative Resolution No. R9-2010-0125) (*Robert Pierce*)

Staff member Robert Pierce gave the presentation.

Additional speakers:
Mo. Lahsaie – City of Oceanside

Mr. Luker left the meeting at this time.

Toby Roy – San Diego County Water Authority
Jeremy Jungreis – U.S. Marine Corp Base, Camp Pendleton
Michael Welch – Water Authority consultant

Mr. Rayfield motioned to adopt Resolution No. R9-2010-0125. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Item 8 – Administrative Assessment of Civil Liability, Eastern Municipal Water District, Temecula Regional Water Reclamation Facility (TVRWRF): The San Diego Board will consider adoption of a Tentative Order that would impose \$524,800 in civil liability for violations of Order No. R9-2000-0165 identified in Complaint No. R9-2010-0085 resulting from the discharge of untreated sewage from the TVRWRF on December 25-26, 2009. The San Diego Water Board may approve, modify, or reject assessment of the recommended liability. The deadline for the submission of rebuttal evidence and legal argument pertaining to the Complaint was September 22, 2010. (Tentative Order No. R9-2010-0131) (*Robert Pierce*)

Item 8 was postponed due to time constraints.

Item 15 – The Board will consider designating the Chair, who may in turn designate the responsibility from time to time, to conduct prehearing conferences pursuant to Water Code section 13228.15 to address any of the matters described in Government Code section 11511.5, subdivision (b). (*Catherine Hagan*)


Item 15 was postponed due to time constraints.

Item 16 – Arrangements for Next Meeting and Adjournment

Tuesday, December 14, 2010 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

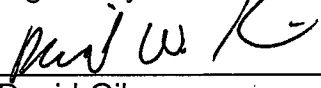
With there being no further business, the meeting was adjourned at 5:05 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



David Gibson
Executive Officer