California Regional Water Quality Control Board
Santa Ana Region

Minutes of August 25, 2006
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley

Chair Beswick called the meeting to order at 9:06 a.m.

Board Members Present

Carole Beswick, Chair
John Withers, Vice-Chair
William Ruh
Seymour Van Gundy
Mary Cramer
Deborah Neev

Board Members Absent

draft

Staff Members Present

Gerard J. Thibeault, Executive Officer
Jorge Leon, Regional Board Counsel
Kurt V. Berchtold, Assistant Executive Officer
Joanne E. Schneider, Environmental Program Manager
Mark Adelson, Chief of Regional Planning Programs
Jun Martirez, Chief of Permitting
Wanda Cross, Chief of Basin Planning (Coastal Waters)
Jane Qiu, Water Resources Control Engineer
Kevin Heinemann, Staff Information Systems Analyst
Felipa Carrillo, Executive Assistant

State Board Representative

Tam Doduc, Board Chair

Public Attendance

Larry Honeybourne
Erik Mroz, RLG
Larry Dick, MWDOC
Don Schulz, Surfrider Foundation
Frank Dryden, Poseidon Resources
Rod Cruze, City of Riverside
Salvador Gonzalez, Befesa
Paul Hurt, AES HB
Darrell A. Nolta, Westminster resident
Adam Kavic, UA 250
Andrew Kingman, Poseidon Resources
Cathy Daugherty, National Assn. of Women Business Owners (NAWBO)

Conner Everts, Desal Response Group
Dave Mayer, Poseidon Resources
Don MacAllister
Edward Marquez, Boilermakers 92
George Cross, HB Cit 12 EN
Jim Adams, Council Representative L.A./O.C. County
Joe Geever, Surfrider Foundation
John P. Clark, Boilermakers 92
Katie Coates Ageson, Poseidon
Mickey Totten, IUOE #12
Nickolay Votchkov, Poseidon Resources
Norm Westwell, HB resident
Reed L. Royalty, O.C. Taxpayers Assn.
Rich Kolander, HB resident
Rick Williams, HB Citizen/Chamber
Richard Wood, Laborers Local #652
Scott Jenkins
Steve Tedesco, Irvine resident
Steven LePage, Poseidon Resources
Terry Martin, U.A. Local 250 Pipefitters
Todd Priest, O.C. Business Council
G. Victor Leipzig PhD, Poseidon Resources
Josie McKinney, Poseidon Resources
Merle Maclure
Bob Collacot
Steve Maghy, AES Southland
Ken Skolyan, OCGT
Joyce Clark, MWD
Ann Ennesser, Riverside Co. WMD
Dindo Carrillo, OCSD
Garry Brown, O.C. Coastkeepers
Joe Solis, Bricklayers #4
Rick Franks, Hydranautics
Susan Trager, Laguna Beach LWD
Emil Forrest Davis, UA 582
Dustain Hollaway, UA Local 582
Doug Mangione, IBEW 441
Greg Woodside, OCWD
Judith Gielow, League for Women Voters
Ben Perez, UA 345
Piedmont Bilow, Ironworks 433
Don Hyatt, OCCLC
Amanda Carr, County of Orange
Armida Brashears, H.B. Citizen
Jerry A. King, MWH Global, Inc.
Jan Vandersloot, Newport Beach

Public Forum

Darrell A. Nolta

Approval of Minutes

Action: It was moved by Member Withers, seconded by Member Ruh and unanimously approved that the Minutes of July 14, 2006 regular Board meeting be approved as presented.

5. County of Orange Ocean Water Protection Program Update

Larry Honeybourne, Program Chief, County of Orange Health Care Agency (OCHCA), did a slide presentation update concerning the Orange County ocean waters protection program.

Mr. Honeybourne indicated that they have a very robust monitoring program that deals with bacteria ocean water quality. He said this Board has been very much involved in developing a program to control sewage spills. He said this has helped to reduce the number of sewage spills and beach closures.

Consideration of Consent Calendar Items

It was noted that Item No. 8 was removed, Item 9 was amended, and Item No. 11 had errata.

*6. **Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement - Ruben Gonzales.**

*7. **Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement - David and Deborah O'Hara.**

*9. **Rescissions - Order No. R8-2006-0061**

*11. **Waste Discharge Requirements for Fortland Development, Inc., Tract 31957 (a.k.a. Lake Elsinore Highlands) – Order No. R8-2006-0062.**

*12. **Amendment of Waste Discharge Requirements for Lamb Canyon Sanitary Landfill, Riverside County, Order No. R8-2006-0054.**

Action: It was moved by Member Withers, seconded by Member Ruh, and unanimously approved that the Board adopt Orders No. R8-2006-0061 as amended, No. R8-2006-0062 with errata, R8-2006-0054, and approve the exemption from the minimum lot size requirements requested by Ruben Gonzales and David and Deborah O'Hara.

13. Renewal of Waste Discharge Requirements for the AES Huntington Beach, L.L.C.'s Huntington Beach Generating Station, Huntington Beach, NPDES No. CA0001163

Information pertaining to this item is contained in a verbatim transcript. Environmental Program Manager Joanne Schneider presented this item. She reminded the Board that a public workshop concerning the renewal of waste discharge requirements for the AES facility had been held at the Board's July 14, 2006 meeting. She briefly reviewed relevant operational and discharge details of the facility. Ms. Schneider identified the parties who had submitted comments on the tentative order renewing the waste discharge requirements, and noted that written responses to these comments had been prepared and distributed to the parties. She also noted that an errata sheet had been distributed to these parties earlier in the week, but that a revised errata sheet had since been prepared. She advised the Board she would discuss the significant changes in the revised errata sheet.

Ms. Schneider stated that consideration of the comments made it very clear that there was a need for continuing public review and comment on the issues pertaining to the AES HBGS cooling water intake. Accordingly, the revised errata sheet includes a requirement that the discharger conduct quarterly stakeholder meetings during the conduct of the Comprehensive Demonstration Study. In addition, the revised errata sheet adds a reopener provision that would enable the Regional Board to revisit the requirements of the Order based on significant public comments that are based on substantial evidence.

Ms. Schneider then reviewed the comments that had been received and Board staff's responses. There were recommendations to delay consideration of the Order to allow resolution of intake issues. Ms. Schneider pointed out that the facility is operating under an administrative extension of the prior waste discharge requirements, and that those requirements needed to be updated to reflect new law and regulation. This includes the new Clean Water Act Section 316(b) regulations. The proposed Order includes strict impingement and entrainment standards that will direct the conduct of the Comprehensive Demonstration Study. Comments were also made that the temperature limits in the proposed Order were not consistent with the requirements of the Thermal Plan. Ms. Schneider responded that the Thermal Plan does not specify numeric temperature limits for existing facilities such as the AES HBGS, and that the proposed limits are consistent with those in the prior Order. She noted that a minor alteration of the temperature limits was proposed in the revised errata sheet. Other commenters urged the Regional Board to assure that the Order properly address off-site inputs from the Newland Street drain. Ms. Schneider reviewed the provisions of the tentative Order that are intended to address this matter.

There were also comments regarding the application of 316(b) compliance alternatives involving restoration and a site-specific demonstration of Best Technology Available based on cost considerations. Regarding the restoration-related provisions of the Order, the revised errata sheet includes a reopener provision that enables the Regional Board to revisit the Order in light of changes in State or Federal plans, policies or regulations that would affect the requirements pertaining to cooling water intakes. Per the recommendation of the Board's legal counsel Jorge Leon, this provision was revised to incorporate reference to statutes as well. Therefore, any changes in the allowed use of the restoration alternative that may be prompted by ongoing litigation will be addressed as necessary through revisions to the Order.

Regarding the site-specific demonstration alternative, Ms. Schneider described the revisions proposed in the revised errata sheet. As proposed, the Order continues to require compliance with stringent impingement and entrainment reduction standards, but provides that a site-specific demonstration may be used to demonstrate that it is not feasible to achieve these limits. Ms. Schneider made clear that Board staff's expectation is that AES will evaluate all potential technologies and commit to implementing measures to achieve the highest impingement and entrainment reductions that are reasonably feasible. A concern was also expressed about the determination of the calculation baseline that would be used to determine the need for impingement and entrainment reductions. Ms. Schneider pointed to a provision in the revised errata sheet that requires that AES submit a proposed methodology for determining the calculation baseline for approval by the Executive Officer. She emphasized that this decision would take into consideration stakeholder comments provided through the requisite quarterly meetings. Ms. Schneider noted that the revised errata sheet included revised findings that describe the basis of the impingement and entrainment reduction requirements of the Order. References to the draft State Water Board policy on implementing the 316(b) requirements were deleted to make clear that Board staff's recommendations were based on independent Best Professional Judgment of the provisions necessary to assure the protection of beneficial uses.

Finally, Ms. Schneider recommended that the Board adopt Order No. R8-2006-0011, NPDES No. CA0001163 with the revised errata sheet.

Speakers on this item are listed below. Board staff responded to the comments. Paul Hurt of AES stated AES' commitment to a thorough review of many different options, including

technology, and the implementation of measures that would provide the highest level of impingement/entrainment reduction that's consistent with Federal regulations and State policy and is technologically feasible and cost-effective. Joe Geever, representing the Surfrider Foundation/Planning and Conservation League and the Southern California Watershed Alliance-Desal Response Group, expressed the concern that "after the fact" plans for co-located desalination facilities might be used to alter existing feasibility for modern cooling technology at AES. Ms. Schneider responded that the 316(b) regulations/process for evaluating Best Available Technology apply to cooling water intake structures; these regulations have no bearing on co-located desalination facilities that rely on cooling water discharges. Executive Officer Thibeault reiterated this point for emphasis.

Other speakers on this item:

Darrell Nolta, Westminster resident
John Vandersloot, Newport Beach

Action: It was moved by Member Withers, seconded by Member Ruh, and unanimously approved that the Board adopt Order No. R8-2006-0011 with errata.

14. Issuance of Waste Discharge Requirements for the Poseidon Resources (Surfside) L.L.C.'s Seawater Desalination Facility at Huntington Beach, NPDES No. CA8000403

Information pertaining to this item is contained in a verbatim transcript. Environmental Program Manager Joanne Schneider presented this item. She reminded the Board that a workshop concerning the proposed waste discharge requirements had been held during the Board's meeting on July 14, 2006. She indicated that comments on the proposed order had been received, and that written responses had been prepared. Ms. Schneider also advised the Board that the recommended order includes an errata sheet.

After a brief review of the nature of the facility and proposed discharge, Ms. Schneider reviewed the concerns that had been identified in the comments. Requests had been made to delay consideration of the order until issues pertaining to the cooling water intake at the AES Huntington Beach Generating Station (HBGS) (the source of water for the desalination process) were resolved, and until the final design of the desalination facility was resolved. Board staff's response to this request was to include in the proposed errata sheet a reopener provision that will enable the Regional Board to consider revising the waste discharge requirements should there be substantive physical or operational changes. This would include a change in source water, should the AES HBGS supply become unavailable.

Ms. Schneider also reviewed concerns pertaining to the effects of discharges from the facility. She briefly discussed the findings of the antidegradation analysis conducted by Poseidon, which were that there would be a slight but highly localized change in salinity and that no adverse effects on beneficial uses would occur. Ms. Schneider discussed assertions in the PISCES report that the saline discharge would affect the fate of the AES thermal plume and result in low dissolved oxygen adverse effects on the benthic community. Ms. Schneider indicated that both Board staff's and Poseidon's review of this report found that it was without merit, since it relied on incorrect assumptions regarding the hydrodynamic, oceanographic and discharge conditions. Ms. Schneider reminded the Board of the discussion at the July 14, 2006 workshop that the Poseidon discharge will not adversely affect the AES HBGS discharge and, in fact, would result in decreases in the thermal load and would accelerate dissipation of the discharge plume.

Ms. Schneider reviewed and responded to concerns regarding future CEQA compliance should the source water for the facility change, and to USEPA recommendations for the inclusion of language regarding the AES HBGS operational conditions under which the Poseidon discharge would be allowed. She pointed to language included in the errata sheet to address this comment.

In conclusion, Ms. Schneider recommended the adoption of Order No. R8-2006-0034, NPDES No. CA8000403, with the errata sheet.

Other speakers on this item:

Andrew Kingman, Chief Executive Officer, Poseidon Resources Corp.
Joe Geever, General Manager, Surfrider Foundation
Conner Everts, Co-Chair, Desal Response Group
Darrell A. Nolta, Westminster resident
Jan Vandersloot, Newport Beach
Don MacAllister

Action: It was moved by Member Withers, seconded by Member Cramer, and unanimously approved that the Board adopt Order No. R8-2006-0034 with errata.

15. Newport Bay/San Diego Creek Watershed Nutrient Total Maximum Daily Load (TMDL) Regional Monitoring Program (RMP) – Resolution R8-2006-0034

Action: It was moved by Member Ruh, seconded by Member Withers, and unanimously approved that the Board adopt Resolution No. R8-2006-0034.

16. Status Report on Rialto-Colton-Fontana Perchlorate Investigation

Kurt Berchtold presented this item. He discussed the progress of staff's public participation work and efforts to improve the exchange of accurate information with the community. He also described the status of investigation work conducted by Goodrich, Pyro Spectaculars, Emhart, and San Bernardino County.

17. Hazardous Waste Incident Report

A list of such incidents was provided to the Regional Board.

18. Underground Storage Tanks Site Closure Report

Staff provided the Board with a list of site closures that have occurred within the Region as required by the California Underground Storage Tank Regulations, Title 23, Article 11, Section 2728(d).

19. Underground Storage Tanks Corrective Action Plans

Staff provided a list of sites where Corrective Action plans have been submitted within the Region as required by the California Underground Storage Tank Regulations, Title 23, Article 11, Section 2728.

20. Executive Officer's Report

There was no report.

21. Regional Board Member Communications

Board members briefly touched on the Senate Rules Committee held in Sacramento, and discussed upcoming meetings.

22. Closed Session

There was no closed session.

28. Adjournment

The meeting was adjourned at 12:03 P.M. to the regular meeting of October 13, 2006 at 9:00 A.M.

Respectfully submitted:

GERARD J. THIBEAULT
Executive Officer

/fc