

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

MINUTES OF MEETING
JUNE 11, 2008

At 9:00 a.m. Chairman Wright 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: Richard Wright, Kris Weber, Wayne Rayfield, Susan Ritschel, and Elizabeth Pearson Schneider.

Staff Present: John Robertus, Michael McCann, David Barker, Lori Costa, Mark Alpert, Julie Chan, Craig Carlisle, Deborah Jayne, Chiara Clemente, James Smith, David Gibson, Wayne Chiu, Michelle Mata, Alan Monji, Lisa Honma, Ben James, Chad Loflen, Cheryl Prowell, Amy Grove, Chris Means, Eric Becker, Jeremy Haas, Lilian Busse, Deborah Woodward, Ben Neill, Pete Peuron, Laurie Walsh, Elizabeth Dorantes, Robert Pierce, Brian McDaniel. Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine George, Jorge Leon, and Fran Spivy-Weber. Kennedy Court Reporters: Brenda Schroeder.

Public Attendance: Amanda Carr, Rick Allen, Kacen Clapper – County of Orange; Lisa Zawaski – City of Dana Point; Alan Langworthy – City of San Diego; Reed Gallegly, Bruce Resnik – San Diego Coastkeeper; Jennifer Seaton – Transportation Corridor Agencies; Paul Cline – self; Shaun Flater, Jason Moon – Whitson; Don Bullock, Tom Lichterman, Bob Campbell, Andre Monette, Peggy Strand – North County Transit District; Nadine Scott – Friends of Loma Alta Creek; Mo. Lahsaie – City of Oceanside; Ghanjali Shinde – County of San Diego; Cindy Lin – US EPA; .

Item 2 – Public Forum

There were no requests to speak during the public forum.

Item 3 – Minutes of Board Meeting of May 14, 2008

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. Rayfield moved approval of the May 14, 2008 minutes. The motion was seconded by Mr. Weber and approved with abstention by Ms. Ritschel and Ms. Schneider.

Mr. King arrived at this time.

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.

Ms. Schneider reported that she received a letter from Julie Nygaard, City of Carlsbad, on May 2nd but said she did not respond. In her letter, Ms. Nygaard suggested that the Board work to better improve relations with the cities and other public agencies. Board Members discussed having a workshop to get input from the cities as to how to better improve relations.

Mr. King reported that the settlement workshop for the shipyard sediment cleanup, scheduled for June 13, was cancelled. On June 4th the designated parties requested to refer the matter to private mediation. Mr. King granted the order and said the matter would be stayed for 90 days. He said the private mediator was Tim Gallagher.

Fran Spivy-Weber talked about the watershed approach and the Water Quality Improvement Initiative.

Mr. Robertus asked to defer his report until later in the meeting.

Consent Item:

Item 5 – Rescission of Waste Discharge Requirements and NPDES Permits: Tentative Order No. R9-2008-0065 is an Order rescinding the following waste discharge requirements: (*Eric Becker*)

- a) Order No. R9-2005-0226, Waste Discharge Requirements for Port of San Diego, Dredging Project at the Tenth Ave Marine Terminal Berth 10-3 to 10-6, San Diego County
- b) Order No. R9-2005-0007, NPDES No. CA0107450, Waste Discharge Requirements for Culligan Water Conditioning of La Jolla, Inc., San Diego County
- c) Order No. 93-126, Waste Discharge Requirements for Hiram Walker and Sons, Inc., Callaway Vineyard and Winery, Riverside County
- d) Order No. R9-2003-0050, NPDES No. CA0109029, Waste Discharge Requirements for Groundwater Extraction Waste Discharges to San Diego Bay from the San Diego Convention Center, San Diego County

Ms. Schneider made a motion to approve Order No. R9-2008-0065. The motion was seconded by Mr. King and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 6 – Total Maximum Daily Loads (TMDLs) for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay. The San Diego Water Board will deliberate and consider adopting an amendment incorporating the TMDLs into the Basin Plan. (Tentative Resolution No. R9-2008-0027) (*Wayne Chiu*)

Staff member Wayne Chiu gave the presentation.

Board Members asked questions of Mr. Chiu.

Other speakers included:

Dr. Cindy Lin – U.S. EPA

Lisa Zawaski – City of Dana Point

Amanda Carr – County of Orange

Reed Gallegly – San Diego Coastkeeper

Chairman Wright closed the Public Hearing.

Mr. Robertus recommended adopting the TMDL with errata.

Ms. Schneider suggested including Dr. Lin's request to incorporate the errata in to the Basin Plan Amendment. Mr. Rayfield talked about Coastkeeper's request to set a minimum time for Shelter Island. Staff suggested every two years and the Board agreed.

Mr. Rayfield made a motion to adopt Resolution No. R9-2008-0027 with the two suggested changes. The motion was seconded by Ms. Schneider.

Mr. King asked that "is" be changed to "would be" in the third paragraph; page A-11 of Supporting Document 2.

Mr. Rayfield amended his motion to include Mr. King's suggestion.

The motion was approved by unanimous vote.

Item 4 – continued

Mr. Robertus reported that he met with the Little Hoover Commission and said they were extremely interested in the Water Board perspective on the Water Quality Improvement Initiative. He also reported that on June 18th the San Diego County Water Authority would be sponsoring a conference on salinity.

Ms. Schneider requested that the start time of the June 25th Board Meeting be changed to 10:00. Mr. Robertus said he would send out a revised agenda with the new start time.

Mr. Robertus reported that he attended a California/Mexico Border Relations Council meeting on June 10. The meeting focused on the Tijuana River lower reach and its estuary.

Item 8 – PUBLIC HEARING: Administrative Assessment of Civil Liability against North County Transit District, for violations of the Statewide General Construction Storm Water Permit at the Sprinter Rail Project. The Regional Board will consider whether to approve, raise, lower, or reject assessment of \$685,000 civil liability recommended in Complaint No. R9-2008-0021. The written comment period on the allegations contained in the Complaint closed on Wednesday, May 21, 2008. (Tentative Order No. R9-2008-0068) (*Frank Melbourn*)

Chairman Wright explained the hearing procedures.

Staff member Frank Melbourn introduced the staff present for the item and gave the presentation.

Mr. Jorge Leon addressed legal issues that were raised.

Board Members asked questions of staff.

Other speakers included:

Tom Lichterman – North County Transit District
Andre Monette – legal counsel for North County Transit District
Bob Campbell - North County Transit District Board
Nadine Scott – Friends of Loma Alta Creek
Mo. Lahsaie – City of Oceanside
Paul Cline - self

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

Item 9 – *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:

Litigation Filed against the Regional Water Board

- a. *Schutte & Koerting, Inc. and Ametek, Inc. v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region, Verified Petition for Writ of Mandate. San Diego County Superior Court, Case No. GIC 822750 (filed December 2003). (John Anderson)*
- b. *Bajagua, LLC v. California State Water Resources Control Board, California Water Quality Control Board, San Diego Region, et al., Petition for Writ of*

Mandate. San Diego County Superior Court, Case No. 37-2007-00067722-CU-WM-CTL (filed June 2007). (*John Robertus*)

- c. *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*)
- d. *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*)

Litigation filed by the Regional Water Board against other parties

- e. *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*)

The Closed Session was held and b. and e. were discussed. There were no reportable actions taken.

Item 10 – *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation. The Regional Board may meet in closed session to consider initiating criminal prosecution against persons who are alleged to have violated the Porter-Cologne Water Quality Control 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 11 – *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 12 – *Closed Session - Personnel*

The Regional Board may meet in closed session to consider personnel matters involving exempt employees [Authorized under Government Code Section 11126(a)]

The Closed Session was not held,

Item 8 – Continued

Mr. Lichterman made closing comments. Board Members asked questions of Mr. Lichterman.

Mr. Leon made closing comments.

Board Members asked questions of staff.

Mr. Robertus made his recommendation. He did not concur with a supplemental environmental project but said he would consider requesting money from the Cleanup & Abatement Account if a proper project was submitted for Loma Alta Creek.

Mr. King recommended a continuance of the item. Other Board Members made comments.

Ms. George and Mr. Leon addressed the Board's options.

Mr. Robertus amended his previous recommendation, and recommended approving Order No. R9-2008-0068.

Ms. George asked for a brief recess to print the revisions she made to the proposed order then provide copies to the Board and responsible parties for review.

Chairman Wright called for a ten minute recess.

Ms. George presented the revisions to the tentative Order.

Ms. Schneider made a motion to approve Order No. R9-2008-0068 as amended by Ms. George. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Item 7 – Consideration of a Resolution to Modify Resolution No. R9-2005-0271 Delegating Certain Powers of this Regional Board to the Executive Officer. (Tentative Resolution No. R9-2008-0067) (*John Robertus*)

Mr. Robertus introduced the item. Ms. George gave a brief presentation.

Mr. Robertus said he would bring a draft resolution back to the Board at a later date.

Item 13 – Arrangements for Next Meeting and Adjournment

Wednesday, June 25, 2008 - 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 3:25 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



John H. Robertus
Executive Officer