

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

MINUTES OF MEETING
FEBRUARY 10, 2010

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: David King, Eric Anderson, Wayne Rayfield, Grant Destache, Marc Luker, and George Loveland.

Staff Present: David Gibson, James Smith, Julie Chan, David Barker, Lori Costa, John Odermatt, Deborah Jayne, Chiara Clemente, John Anderson, Jeremy Haas, Brian Kelley, Eric Becker, Craig Carlisle, Frank Melbourn, Charles Cheng, Laurie Walsh, Amy Grove, Lisa Honma, Alan Monji, Christina Arias, Amy Mecklenborg, Wayne Chiu, Mike Porter, Cheryl Prowell, Peter Peuron, Michelle Mata, Cathryn Henning, Kristin Schwall, Barry Pulver, Ben Tobler, Robert Pierce, Chris Means. Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine Hagan, Jessica Newman, Chris Beegan, and Reed Sato. Kennedy Court Reporters: Jody Johnston.

Public Attendance: Linda Wagner – City of Chula Vista; Eric Larson – San Diego Region Irrigated Lands Group; Ohannes Karaoghlanian – California Avocado Commission; Ruth Kolb, Kris McFadden, Hani Anthony – City of San Diego; Todd Snyder, JoAnn Weber, Tom Diak, Scott Norris – County of San Diego; Brian Hitchens – Geosyntec Consultants; Terry Thielen – Lake San Marcos resident; Michael Welch – self; Roger Lichtenberger, Margaret Konn – Lake San Marcos Remediation Group; Joe Kuhn – City of La Mesa; Erik Steenblock – City of Encinitas; Alison Witheridge, Mo. Lahsaie – City of Oceanside; Erica Ryan – City of San Marcos; Claudio Padres – Riverside County Flood Control; Lisa O'Neal, Jeff Orrell – Brown & Winters; Beth Breitenbach – Haley & Aldricu; Yeni Linqui, Laura Hunter – Environmental Health Coalition; David Roberts – Nautilus Environmental; Joe DeStefano – City of Del Mar; Malik Tamiwi – City of Poway; John Robertus – self; Helen Perry, Pedro Orso Delgado, Julie Procopio – City of Santee; Susan Johnson – City of Chula Vista; Elaine Lukey – City of Carlsbad; Jaime Campoe – City of El Cajon; Jen Kovacs – San Diego Coastkeeper; Steve H. – RBOC; Paul Hartman – City of Vista; Cindy Lin – U.S. EPA; Michael Anderson – UC Riverside; John Lormon – Procopio Cory; May Alsheikh, Con Kontaxis – Caltrans; Mayela Mauasjan – City of Encinitas; Jacques Lord – self; Chris Crompton – County of Orange; Todd Movacek – Moulton Niguel Water

district; Arsalan Dadkhah – D-Max Engineering; Michael Sowinski – Terradex, Inc; Dennis Lamb, James Dodson – Vallecitos Water District; Barry Snyder – AMEC; Jeremy Burns – MACTEC; Chris Stransky – Nautilus; Susan Johnson – Councilwoman Bensoussan's Office; Ken Lounsbury, Eli Whitney – Lake San Marcos Community Assoc; Livia Borak, Jen Kovecses, Gabriel Solmer, Jill Witkowski – San Diego Coastkeeper; Vicki Long – Elsinore Murrieta Anza RCD; Ed Kimura – Sierra Club; Lisa Zawaski – City of Dana Point; Nancy Palmer – City of Laguna Niguel; Cheryl Filar – City of Escondido; Wayne Rosenbaum – CDC; Bob Hulber – LDG Holdings, LLC.

Item 2 – Public Forum

Susan Johnson, Aide to Councilwoman Pamela Bensoussan, invited the Board to hold the evidentiary hearing on the South Bay Power Plant in Chula Vista.

Livia Borak, San Diego Coastkeeper, expressed her disappointment that the recently adopted Orange County MS4 Permit was petitioned to the State Water Board.

Linda Wagner, City of Chula Vista, invited the Board to hold the evidentiary hearing on the South Bay Power Plant in the Chula Vista City Council Chambers.

Terry Thielen, Lake San Marcos resident, talked about enforcement actions and supplemental environmental projects for Lake San Marcos.

Ohannes Karaoghlanian, California Avocado Commission, conveyed the message of businesses and residents in the Cities of Temecula, Murrieta, Rainbow, and Fallbrook, their concerns about impacts to the Santa Margarita River watershed if a quarry were to be constructed as proposed by Granite Construction.

Laura Hunter, Environmental Health Coalition, asked the Board to hold the South Bay Power Plant hearing in Chula Vista.

Yeni Linqui, Environmental Health Coalition, also asked the Board to hold the South Bay Power Plant hearing in Chula Vista.

Vicki Long, Elsinore Murrieta Anza Resource Conservation District, said they would like to work on more projects with the San Diego Water Board, like educational outreaches in the Santa Margarita watershed.

Item 3 – Minutes of Board Meetings of December 16, 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. Anderson moved approval of the December 16, 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. Loveland reported that he attended the Integrated Regional Water Management meeting on February 3rd where Mr. Gibson was the principal speaker.

Mr. Destache reported that he attended a few Tijuana River Valley Recovery Team meetings. He also reported that he attended the International Boundary and Water Commission's open public forum where they presented the construction of the new sewer treatment plant at the Border.

Mr. King reported on the San Diego Shipyard sediment cleanup and said an EIR would need to be prepared before the cleanup proceeded. The Cleanup Team estimated that the EIR would be complete by August 23, 2010.

Mr. Anderson asked if staff was given guidance on nitrogen and phosphorus levels at the SCCWRP meeting. Ms Chiara Clemente responded.

Mr. King asked a question regarding the petition for the Gregory Canyon 401 WQ certification denial. Mr. James Smith responded.

Mr. King expressed his appreciation for all the work Ms. Hagan did on the Unfunded Mandates letter.

Executive Officer Gibson reported on the Federal stimulus fund, final 303(d) list, statewide construction general storm water permit training workshop, meeting with Supervisor Cox, meeting with the County Water Authority, Tijuana River Valley Recovery Team meetings, bio-objectives kick-off meeting at SCCWRP on March 11, and a meeting with the SCCWRP commissioner.

Mr. Gibson welcomed Jimmy Smith as the new Assistant Executive Officer.

Item 5 – Recognition: Resolution of Appreciation for former Board Chair Richard Wright (Tentative Resolution No. R9-2010-0011) (*David Gibson*)

Mr. King read and presented the resolution to Mr. Wright.

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

Item 6 – Revised Total Maximum Daily Loads for Indicator Bacteria Project I – Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek). The San Diego Water Board will deliberate and consider adopting an amendment to incorporate the revised bacteria TMDLs into the Basin Plan. (Tentative Order No. R9-2010-001) (*Wayne Chiu*)

Staff member Wayne Chiu gave the presentation.

Board Members made comments and asked questions of staff.

Staff made clarifying comments.

Additional speakers:

Eric Larson – San Diego Region Irrigated Lands Group

Kris McFadden – City of San Diego

Todd Snyder – County of San Diego

Pedro Orso Delgado – City of Santee

Cindy Lin – U.S. EPA

Livia Borak – Coastal Environmental Rights Foundation

Jen Kovecses – San Diego Coastkeeper

Gabriel Solmer – San Diego Coastkeeper

Ed Kimura – Sierra Club

Lisa Zawaski – City of Dana Point

Nancy Palmer – City of Laguna Niguel

Board Members made comments and asked questions of staff.

Mr. Gibson and Ms. Hagan spoke.

Additional speakers:

Chris Crompton – County of Orange

Elaine Lukey – City of Carlsbad

Ruth Kolb – City of San Diego

Board Members asked for a five year reopener with the potential of an earlier reopener if sufficient data was available.

Ms. Hagan added that if there was no initiation of a basin plan amendment earlier than or at the five year time period, the Executive Officer, with the concurrence of

the Board, would not automatically reopen at the five year period, but would wait until sufficient data and proposed revisions were obtained.

Mr. King closed the hearing.

Mr. Anderson made a motion to approve Order No. R9-2010-001 with errata, add the language from the City of Dana Point - reference delisting, include reopener language as discussed, the Regional Board to make a strong statement supporting grants and funding to assist the discharger in complying and developing data for the TMDLs and solutions, remove MEP from Phase 2 (page A-42), add new language in response to comments (comment 176, page 99, supporting document 7) to wet weather exceedences on page A-54.

The motion was seconded by Mr. Rayfield and approved by unanimous vote.

Item 10 – Election of Chair and Vice Chair for 2010.

Mr. Rayfield made a motion to nominate and elect Mr. King as Chair. Mr. King accepted the nomination. The motion was seconded by Mr. Destache and approved by unanimous vote.

Mr. Anderson made a motion to nominate and elect Mr. Destache as Vice Chair. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

The meeting was recessed for lunch and Closed Session at 1:10.

Item 11 – *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. *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

f. 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).

g. 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).

h. 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)

i. 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)

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 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*)

l. 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*)

m. 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). (*Sue Pease*)

n. 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*)

o. 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-(number not yet assigned), filed January 2010 (requests to hold in abeyance). (*Ben Neill*)

The Closed Session was held and Items 11 a. and d. were discussed.

Item 12 – *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)]

The Closed Session was not held.

Item 13 – *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 14 – *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 2:00 p.m.

Item 8 – Status Report: The Lake San Marcos owner, dischargers, and members of the community will provide updates to the Board on progress made in the past year to improve water quality in Lake San Marcos. (*Chiara Clemente*)

Senior staff member Chiara Clemente gave the presentation.

Additional speakers:

Michael Anderson - professor

John Lormon – Procopio Cory

Erica Ryan – City of San Marcos

Todd Snyder – County of San Diego

Cheryl Filar – City of Escondido

Ken Lounsbery – Lake San Marcos Community Association

Eli Whitney – Lake San Marcos Community Association

Margaret Konn – Lake San Marcos Remediation Group

Terry Thielen – Lake San Marcos Cleanup

Wayne Rosenbaum – Foley & Lardner

Bob Hulber – LDG Holdings, LLC

Dennis Lamb –Vallecitos Water District

Jill Witkowski – San Diego Coastkeeper

Ms. Clemente and Mr. Gibson made closing comments.

Board Members made comments.

Mr. Rayfield left the meeting during Item 8.

Item 7 – Information Item: Presentation by Chris Beegan, State Water Resources Control Board and Steve Bay, Southern California Coastal Water Research Program on the State Water Board's development and adoption of marine sediment quality objectives for enclosed bays and estuaries. *(Chris Beegan-SWRCB and Steve Bay-SCCWRP/ Julie Chan)*

Mr. Chris Beegan, State Board, gave the presentation.


Item 9 – Information Item: Presentation by State Water Board Office of Enforcement on the 2009 Water Quality Enforcement Policy and Policy on Supplemental Environmental Projects *(Reed Sato/Jeremy Haas)*

Mr. Haas introduced the item. Mr. Reed Sato, State Board, gave the presentation.

Item 15 – Arrangements for Next Meeting and Adjournment
Wednesday, March 10, 2010 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

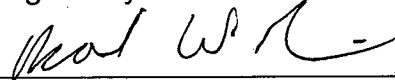
With there being no further business, the meeting was adjourned at 5:35 p.m.

These minutes were prepared by:



Lori Costa
Executive Assistant

Signed by:



David W. Gibson
Executive Officer