

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

MINUTES OF MEETING  
NOVEMBER 12, 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, Eric Anderson, David King, Kris Weber, Wayne Rayfield, Susan Ritschel, and Grant Destache.

Chairman Wright welcomed Mr. Grant Destache to the Board.

Chairman Wright also announced that Items 6, 16, and 19 were postponed.

Staff Present: John Robertus, Michael McCann, David Barker, Lori Costa, Julie Chan, Mark Alpert, Chiara Clemente, Eric Becker, Brian Kelley, John Odermatt, James Smith, David Gibson, John Anderson, Robert Morris, Deborah Jayne, Bruce Posthumus, Craig Carlisle, Frank Melbourn, Rebecca Stewart, Jeremy Haas, Amy Grove, Cheryl Prowell, Tony Felix, Laurie Walsh, Wayne Chiu, Alan Monji, Jody Ebsen, Sean McClain, Joann Cofrancesco, Robert Pierce, Brian McDaniel, Lynn Berlad, Michelle Mata, Beatrice Griffey, Carol Tamaki, and Helen Yu. Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine Hagen and Jorge León. Kennedy Court Reporters: Janet Travis.

Public Attendance: Dick Runge – South Coast Water District; Brennen Flahive – SOCWA; Dan Ferons – SMWD; Bruce Fujimoto – SWRCB; Gabriel Solmer, Katelyn Kinn, Livia Borak – San Diego Coastkeeper; Kris McFadden, Frederick Ortlieb – City of Diego; Julie Hampel, Steve Benedict, Kimberly O'Connell – UC San Diego; Sam Williams – Geosyntec Consultants; Michael Welch – self; Stacy Mitchum – In-Pipe Technology; Daniel Diehr – San Diego County Water Authority; Eileen Maher – Port of San Diego; Jay Shrahe – MACTEC; Roy Shottle – AMEC; Ken Schiff – Southern California Coastal Water Research Project; Rachel Steinberger – ARCADIS; Joseph McRoskey – Underground Technologies; Michael Katz – Promenade Mall; Randy Strunk – PB Surf Shop.

**Item 2** – Public Forum

Stacy Mitchum, In-Pipe Technology, informed the Board that her company provided a service that helped municipalities achieve compliance with permit requirements and

realize significance cost savings and better, more efficient wastewater treatment and explained how it worked.

Gabriel Solmer, San Diego Coastkeeper, expressed concern that the Poseidon Resources Corporation's Marine Life Mitigation Plan, that was due to the Regional Board on October 9, 2008, was not received. Ms. Solmer also stated that Poseidon had not reported when the Regional Board would receive the Plan. Mr. Robertus and senior staff member, Chiara Clemente, gave an update on the Plan.

Katelyn Kinn, San Diego Coastkeeper, spoke about the environmental complaint the Regional Board received from the Humane Society of the United States against Armstrong Farms, an egg producing operation, for illegal discharge of pollutants. Ms. Kinn requested that the Regional Board terminate the conditional waiver for the operation, begin regulating the facility with waste discharge requirements, and initiate formal enforcement.

**Item 3** – Minutes of Board Meetings of September 10, 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. King moved approval of the September 10, 2008 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.

Board Member King gave a brief status report on the San Diego Bay Shipyard sediment cleanup mediation.

Chairman Wright reported that on October 29 he and Mr. Robertus met with IBWC Commissioner Riera and IBWC Project Manager Steve Smullen regarding the pollution in the Tijuana River watershed. Chairman Wright also attended the Metropolitan Water District Stakeholder Forum on October 22, the Chair's monthly conference call on November 3, and the Water Quality Coordinating Committee meeting on October 27 & 28.

Chairman Wright announced that it was Board Member Ritschel's last Board meeting. Ms. Ritschel thanked staff for being such hard working and dedicated professionals.

Mr. Robertus briefly reported on the "Responses to the Board's Letter Regarding Preparation for Rainy Season" and the "Governor Vetos Ban on Residential Water Softeners" items from the October Executive Officer's Report and the "Enforcement

Actions for October 2008" and the "2009 Triennial Review of Basin Plan" items from the November Executive Officer's Report.

Mr. Weber said he was concerned to see that there were ongoing problems with the NCTD's Sprinter Rail project. Ms. Clemente gave the Board a status update.

Mr. Robertus reported that the U.S. EPA awarded grants to two organizations in the San Diego region – the San Diego Unified Port District and the Southwest Wetlands Interpretive Association (SWIA) – to do work in the South Bay and the Tijuana River Estuary, respectively.

Ms. Catherine Hagan reported on a response that she submitted in response to the test claim filed by some of the San Diego County Copermittees before the Commission on State Mandates seeking reimbursement for many of the provisions in the MS4 Permit.

Mr. Robertus reported that the Tijuana River Valley workgroup would be meeting on November 13.

Chairman Wright asked Mr. Robertus to send the Board the web site for the National Research Council's "Urban Stormwater Management in the U.S." report. Mr. Robertus said he would also order two copies of the publication.

*Consent Calendar: Items 5 through 10 are considered non-controversial issues. (NOTE: If there is public interest, concern or discussion regarding any consent calendar item or a request for a public hearing, then the item(s) will be removed from the consent calendar and considered after all other agenda items have been completed.)*

**Item 5** – Resolution in Support of the "No Drugs Down the Drain" Campaign – Consideration of a resolution in support of a campaign that seeks to minimize the discharge of pharmaceutical compounds to receiving waters through education on proper disposal alternatives. (Tentative Resolution No. R9-2008-0128) (*Chiara Clemente*)

**Item 6** – Modification of Waste Discharge Requirements: South Orange County Wastewater Authority, Recycled Water Project, Orange County, A modification to regulate the discharge from the Horno Urban Water Recovery Facility (tentative Addendum No. 4 to Order No. 97-52) (*Amy Grove*)

Item 6 was postponed.

**Item 7** – Waste Discharge Requirements Revision – U.S. Navy Former Admiral Baker Field Landfill: Termination of Enrollment in Order No. 97-11, General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Landfills Containing Hazardous and Nonhazardous Wastes within the San Diego Region (tentative Addendum No. 7 to Order No. 97-11) (*Brian McDaniel*)

**Item 8** – Administrative Assessment of Civil Liability: San Diego County Water Authority, San Vicente Pipeline Dewatering Project: The Regional Board will consider a tentative Order that would impose a \$135,000 Mandatory Minimum Penalty recommended in Complaint R9-2007-0014 for violations of effluent limitations established by Order R9-2001-96, NPDES No. CAG919002, *General Waste Discharge Requirements and Similar Waste Discharges from Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters Within the San Diego Region Except San Diego Bay*. The tentative Order recommends that \$75,000 of the \$135,000 recommended penalty be directed to a Supplemental Environmental Project implemented by the San Diego River Conservancy. The Regional Board may approve, raise, lower, or reject the recommended penalty. If the Regional Board rejects the tentative Order, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order R9-2008-0142) (*Rebecca Stewart*)

**Item 9** – Administrative Assessment of Civil Liability: South Orange County Wastewater Authority (SOCWA), San Juan Ocean Outfall, San Clemente Water Reclamation Plant, Chiquita Water Reclamation Plant, and the San Juan Capistrano Reverse Osmosis Water Treatment Plant. The Regional Board will consider a tentative Order that would impose a \$60,000 Mandatory Minimum Penalty for violations of effluent limitations established in NPDES Permit Orders R9-2006-0054 and R9-2000-13, NPDES No. CA107417, *Waste Discharge Requirements and NPDES Permit for the South Orange County Wastewater Authority Discharge to the Pacific Ocean via San Juan Creek Ocean Outfall*. The tentative Order recommends that \$37,500 of the \$60,000 recommended penalty be directed to a Supplemental Environmental Project implemented by the Southern California Coastal Waters Research Project. The Regional Board may approve, raise, lower, or reject the recommended penalty. If the Regional Board rejects the tentative Order, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order R9-2008-0144) (*Joann Cofrancesco*)

**Item 10** – Administrative Assessment of Civil Liability: San Elijo Joint Powers Authority, San Elijo Ocean Outfall: The Regional Board will consider a tentative Order that would impose a \$9,000 Mandatory Minimum Penalty recommended in Complaint R9-2008-0006 for violations of effluent limitations established by Order R9-2005-0100, NPDES Permit No. CA0107999 *Waste Discharge Requirement for the San Elijo Joint Powers Authority, San Elijo Water Reclamation Facility Discharge to the Pacific Ocean Via the San Elijo Ocean Outfall, San Diego County*. The tentative Order recommends that \$4,500 of the \$9,000 recommended penalty be directed to a Supplemental Environmental Project implemented by the Southern California Coastal Waters Research Project. The Regional Board may approve, raise, lower, or reject the recommended penalty. If the Regional Board rejects the tentative Order, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order R9-2008-0137) (*Jeremy Haas*)

Ms. Ritschel made a motion to approve Items 5, 7, 8, 9, and 10. The motion was seconded by Mr. Rayfield and approved by unanimous vote.

***Remainder of the Agenda (Non-Consent Items):***

**Item 11** – RESOLUTION: Regional Board consideration and adoption of a Resolution to honor and commemorate the dedication and contributions of Carlos Marin, the late Commissioner of the International Boundary and Water Commission, United States Section. (Tentative Resolution No. R9-2008-0146) (*John Robertus*)

Mr. Robertus spoke about the contributions made by Mr. Marin.

Ms. Ritschel made a motion to approve Resolution No. R9-2008-0146. The motion was seconded by Mr. Anderson and approved by unanimous vote.

**Item 12** – RESOLUTION: Consideration of a resolution in support of the request for \$200,000 from the Cleanup and Abatement Account (CAA) for removal of marine vessel debris in San Diego Bay submitted by the Unified Port District of San Diego. (Tentative Resolution No. R9-2008-0145) (*John Robertus*)

Mr. Robertus introduced the item. Ms. Eileen Maher, Port of San Diego, gave the presentation.

Board Members asked questions of Mr. Robertus and Ms. Maher.

Mr. Rayfield made a motion to approve Resolution No. R9-2008-0145. The motion was seconded by Mr. Destache and approved by unanimous vote.

**Item 13** – NPDES Permit Revision: University of California, Scripps Institution of Oceanography wastewater discharge to the San Diego Marine Life Refuge, a designated Area of Special Biological Significance (ASBS), San Diego County, Order No. R9-2005-0008, NPDES No. CA0107239. (Tentative Resolution No. R9-2008-0139) (*Michelle Mata*)

Mr. Robertus introduced the item, and staff member Michelle Mata gave the presentation.

Mr. Ken Schiff, Southern California Coastal Water Research Project, also gave a presentation.

Livia Borak, San Diego Coastkeeper, read into the record their recommended changes to the Resolution.

Ms. Mata said staff didn't object to the recommended changes.

Mr. Tony Garvin, University council, said they also didn't object to the changes.

Mr. Robertus recommended adoption of the Resolution with errata.

Mr. King made a motion to approve Resolution No. R9-2008-0139 with errata. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

**Item 14** – General Waste Discharge Requirements for In-situ Ground Water Remediation Projects within the San Diego Region. (Tentative Order No. R9-2008-0081) (*Helen Yu*)

Staff member Helen Yu gave the presentation.

Mr. Sam Williams, Geosyntec Consultants, said they were in support of the Order.

Mr. Rayfield made a motion to approve Order No. R9-2008-0081. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

**Item 15** – General Waste Discharge Requirements for discharges of treated groundwater from Volatile Organic Compound (VOC) Cleanup Sites to land in the San Diego Region. (Tentative Order No. R9-2008-0138) (*Cheryl Prowell*)

Staff member Cheryl Prowell gave the presentation.

Ms. Ritschel made a motion to approve Order No. R9-2008-0138. The motion was seconded by Mr. Weber and approved by unanimous vote.

**Item 16** – Master Reclamation Permit with Waste Discharge Requirements for the United States Marine Corps: Discharges of Reclaimed Water for Landscape Irrigation at Marine Corps Base Camp Pendleton, California. (Tentative Order No. R9-2008-0089) (*Robert Pierce*)

Item 16 was postponed.

**Item 17 – PUBLIC HEARING:** Administrative Assessment of Civil Liability, Promenade Mall Development Corporation, Promenade Mall Dewatering Project. The Regional Board will consider adoption of a tentative Order that would impose \$9,000 in civil liability recommended in Complaint R9-2008-0056 for violations of effluent limitations prescribed in Order R9-2001-0096, NPDES No. CAG919002, *General Waste Discharge Requirements and Similar Waste Discharges from Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters Within the San Diego Region Except San Diego Bay*. The Regional Board may approve, raise, lower, or reject assessment of the recommended penalty. (Tentative Order R9-2008-0104) (*Rebecca Stewart*)

Chairman Wright read the hearing procedures. Staff member Rebecca Stewart gave the presentation.

Other speakers:

Michael Katz, owner of Promenade Mall  
Randy Strunk, Pacific Beach Surf Shop

Mr. Jorge León, State Board council, also spoke.

Ms. Stewart answered questions asked by the Board.

Chairman Wright closed the Public Hearing.

After Board Member discussion, Chairman Wright made a motion to approve Order No. R9-2008-0104. The motion was seconded by Mr. Weber and approved by unanimous vote.

**Item 18** – Administrative Assessment of Civil Liability, City of San Diego, Convention Center Dewatering Project: The Regional Board will consider adoption of a tentative Order for Administrative Assessment of Civil Liability containing \$69,000 in Mandatory Minimum Penalties for reported violations of effluent limitations prescribed in Order R9-2003-0050, NPDES Permit No. CA0109029, *Waste Discharge Requirement for Groundwater Extraction Waste Discharges to San Diego Bay from the San Diego Convention Center, San Diego County*. The Regional Board will consider acceptance of the City's hearing waiver and payment of \$69,000 liability. If the Regional Board rejects the tentative Order, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order R9-2008-0140) (*Joann Cofrancesco*)

Staff member Ms. Joann Cofrancesco gave the presentation.

Other speakers:

Fredrick Ortlieb, City of San Diego  
Kris McFadden, City of San Diego

Mr. King made a motion to approve Order No. R9-2008-0140. The motion was seconded by Mr. Weber and approved by unanimous vote.

**Item 19 – PUBLIC HEARING:** Administrative Assessment of Civil Liability, City of Escondido Hale Avenue Resource Recovery Facility: The Regional Board will consider adoption of a tentative Order that would impose \$1,797,150 in civil liability recommended in Complaint R9-2005-0265 for violations of Orders 99-72, R9-2003-0394, and 93-70; and Cease and Desist Order 96-31. The Regional Board may approve, raise, lower, or reject assessment of the recommended penalty. (Tentative Order R9-2008-0143) (*Rebecca Stewart*)

Item 19 was postponed.

**Item 20** – Approval of Year 2009 Board Meeting Schedule (*John Robertus*)

At the request of Chairman Wright, the special meeting of January 21, 2008 was added to the schedule.

Mr. Anderson made a motion to approve the 2009 Board Meeting schedule as amended. The motion was seconded by Mr. Weber and approved by unanimous vote.

**Item 21** – *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 not held.

**Item 22** – *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 23** – *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.

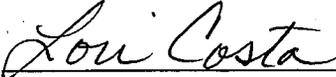
**Item 24** – *Closed Session* - Personnel  
The Regional Board may meet in closed session to consider personnel matters involving exempt employees [Authorized under Government Code Section 11126(a)]

The Closed Session was not held,

**Item 25** – Arrangements for Next Meeting and Adjournment  
Wednesday, December 10, 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 12:15 p.m.

These minutes were prepared by:

  
\_\_\_\_\_  
Lori Costa  
Executive Assistant

Signed by:

  
\_\_\_\_\_  
John H. Robertus  
Executive Officer