

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

MINUTES OF MEETING
May 14, 2003

The regular meeting of the California Regional Water Quality Control Board, San Diego Region, was called to order by Chairman Minan at 9:05 a.m. at the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Chairman Minan presented Christopher Means with a Sustained Superior Accomplishment Award for outstanding job performance over and above normal job expectations.

Chairman Minan also presented David Gibson with a Superior Accomplishment Award for his outstanding job performance on his work with the Municipal Storm Water MS4 Permit for Orange County.

Item 1 – Roll Call: Board Members Present: Chairman John Minan, Eric Anderson and Terese Ghio.

Staff Present: John Robertus, Michael McCann, Lori Costa, Bob Morris, Brian Kelley, Mark Alpert, John Phillips, Stacey Baczkowski, Craig Carlisle, Vicente Rodriguez, Eric Becker, Jeremy Haas, David Hanson, Paul Richter, David Gibson, Christopher Means, Tom Alo, Ben Neill, Amy Grove, Phil Hammer, Mike Porter, Chiara Clemente, Barry Pulver, Ben Tobler and Deborah Woodward.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Public Attendance: Robert Warren, City of Dana Point; Pam Tappan, Warner Tappan, Barbara Drummond, Dana Point Wetland Protection Association; Roger von Butow, Clean Water Now! Coalition; Harry Johnson, Richard Gersberg, San Diego State University; George Courser, Hidden Meadows; Jan Suejkovsky, Ocean Imaging; Eric Terrill, Scripps Institution of Oceanography; Daniel Castillo, A& E Auto Recycling; Rob Chichester, Brian Gordon, U.S. Navy; Albert Huang, Environmental Health Coalition; Mark McGuire, Tony Bomkamp, Pioneer Builders; Chris Strangly, Nick Bultbe, AMEC; Robert Russell, MGI/SAS; Alan Langworthy, Timothy Stebbins, City of San Diego; Chandra Wall, Jon Van

Rhyn, County of San Diego; Dave Seymour, SMWD; Huggy Price, University of San Diego; David Gomez, Tijuana Valley Water District.

Item 2 – Public Forum

Roger von Butow, Clean Water Now! Coalition, said he was upset about a comment that was made by a Board Member at the May Board Meeting which suggested that they hire an environmental attorney to help them with their lawsuits.

George Courser, Concerned Citizens of Hidden Meadows, talked about a project having a tremendous impact on water quality in the San Luis Rey River and a discharge that impacted Escondido Creek.

Chairman Minan asked Executive Officer Robertus to report back to the Board on the issues that Mr. Courser spoke about.

Item 4 – Chairman's, Board Member's, State Board Liaison's and Executive Officer's Reports.

Mr. Robertus talked about a few items in his report including Sanitary Sewer Overflows, the South Coast Water District Conference on May 20th, the Beach Valuation Project SEP and 401 Water Quality Certifications.

Ms. Ghio asked questions of Mr. Robertus about 401 Water Quality Certifications. Mr. Richards also spoke. Chairman Minan asked Mr. Richards to include in future agendas the process in which 401 Water Quality Certifications are granted or denied.

Board Member Wright arrived at 9:30 a.m.

Board Members and Mr. Robertus discussed the Beach Valuation Project SEP.

Mr. Robertus also spoke about the Mission Valley Terminal, the Water Reuse Foundation Conference in San Francisco on June 2nd and 3rd and a meeting with Mr. Wright and staff on geospatial information management techniques and technology.

Mr. Wright said the meeting addressed the needs of various agencies for geospatial data when it came to protecting the quality of water in the San Diego Region.

Mr. Stephany arrived at 9:50 a.m. and Ms. Butcher arrived at 9:55 a.m.

Chairman Minan and Mr. Stephany requested that a status report on the CEQA process be put on a future agenda. Mr. Robertus said he would try to put it on the June agenda.

Chairman Minan looked at the Sanitary Sewer Overflow Report and said he was troubled by the performance of the military. He asked Mr. Robertus to talk to someone higher in the chain of command to request they take corrective action.

Ms. Ghio briefly spoke about Ligand Pharmaceuticals' Earth Day Celebration, which focused on storm water pollution prevention.

Item 3 – Minutes of Board Meeting of April 9, 2003

This record of the minutes of the meeting on this date is not intended for 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. Wright moved approval of the April 9, 2003 minutes. The motion was seconded by Mr. Stephany and approved with abstention by Ms. Ghio.

Consent Items 5 through 8:

Daniel Castillo, Castillo & Sons, asked the Board not to refer them to the Attorney General.

Chairman Minan removed Item 5 from the consent calendar.

Item 6 – Modification of Waste Discharge Requirements: All Seasons RV Park, LLC and Mr. Larry Tardie; All Seasons RV Park, San Diego County (change in owner and facility name) (tentative Addendum No. 1 to Order No. 94-05) (*Eric Becker*)

Item 7 – Rescission of Waste Discharge Requirements for Ms. Jean Somers, Channel Cats RV Park, Riverside County (tentative Order No. R9-2003-0120 rescinding Order No. 96-08) (*Eric Becker*)

Item 8 – NPDES Permit Revision: Waste Discharge Requirements for U.S. Naval Base Point Loma, San Diego County (tentative Addendum No. 1 to Order No. R9-2002-0002, NPDES Permit No. CA0109363) (*Paul Richter*)

Mr. Stephany moved approval of Items 6 through 8. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Item 5 – Referral to Attorney General: A Resolution directing the Executive Officer to request the Attorney General of the State of California to petition the appropriate court to collect \$3,000 from Castillo & Sons for failure to pay Regional Board Order No. R9-2002-0284, Administrative Assessment of Civil Liability Against Castillo & Sons, A&E Auto Recycling for Failure to Pay Annual Fees. (Tentative Resolution No. R9-2003-0164) (*Vicente Rodriguez*)

Staff member Vicente Rodriguez briefly spoke about the item. Board Members asked questions of Mr. Rodriguez and Mr. Richards.

Chairman Minan asked Mr. Castillo if he realized he was obligated to pay the \$3,000 fine. Mr. Castillo replied, “yes.” Chairman Minan asked Mr. Castillo if he would be able to make payments in order to pay off the fine. Mr. Castillo said yes, that he should be able to make a final payment in August 2003.

Senior staff member Mark Alpert gave background information to the Board on the events that lead up to the action before them.

Mr. Wright, Ms. Ghio and Mr. Stephany said that due to Mr. Castillo’s record of non-payment of fees they were against a payment schedule.

Chairman Minan said he felt the Board should give Mr. Castillo a chance to get into compliance.

Mr. Stephany suggested continuing the item to the June Board Meeting and if Mr. Castillo had made a partial payment by June 11, the Board may consider not referring him to the Attorney General.

Mr. Castillo said he would try to make a \$1,700 payment by the June Board Meeting.

Mr. Stephany made a motion to continue the item to the June 11, 2003 Board Meeting subject to the previous suggestion that Mr. Castillo make a partial payment. The motion was seconded by Ms. Butcher approved by unanimous vote.

Item 9 – Status Report: U.S. – Mexico Border Area Pollution Tracking Projects
(David Hanson)

Mr. Robertus introduced the item and staff member David Hanson gave the presentation.

a. Ocean Imaging, Inc. – A satellite and aerial imaging system jointly funded by the RWQCB, the City of San Diego, and the United States International Boundary and Water Commission.

Mr. Jan Suejkovsky, Ocean Imaging, gave the presentation.

b. San Diego State University – Tijuana River watershed water quality monitoring and modeling project funded by the RWQCB. Additionally, SDSU will present a 3 dimensional visualization of water quality data in the south bay.

Dr. Rick Gersberg and Harry Johnson, School of Public Health, gave the presentation.

c. Scripps Institute of Oceanography – The San Diego Coastal Ocean Observing System, funded under the California Clean Beaches Initiative, merges a number of oceanographic and environmental sensing technologies.

Dr. Eric Terrill gave the presentation.

Board Members and Mr. Robertus asked questions of the presenters and made comments.

The meeting was recessed for lunch and Executive Session at 12:10 p.m.

Item 14 – *Executive Session* - Discussion of Ongoing Litigation

The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:

People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Robert Ortega, an individual in his capacity as Acting Commissioner of the International Boundary and Water Commission, United

States Section, et al., United States District Court, Southern District of California, Case No. 01-CV-027BTM(JFS); violation of effluent limits in waste discharge requirements for the International Wastewater Treatment Plant contained in Order No. 96-50 (NPDES No. CA0108928) and of Cease and Desist Order No. 96-52; Referral Order No. 99-61; and the related “Surfrider” case:

Surfrider Foundation, San Diego Chapter v. Robert Ortega, et al., Case No. 99-CV-2441-BTM(JFS)

Rakhra Groups, Inc., v. San Diego Regional Water Quality Control Board Superior Court of California, San Diego County; Case No. GIC 776251 and Case No. GIC 786516

San Diego BayKeeper and Surfrider Foundation, San Diego Chapter v. City of San Diego; U.S. District Court, Southern District of California; Case No. 01-CV-0550-B (POR)

Item 17 – *Executive Session* - Discussion of Pending Litigation

The Regional Board may meet in closed session to discuss pending litigation.

The meeting reconvened at 1:10 p.m.

Chairman Minan announced that in Executive Session during Item 15 the Board discussed the IBWC and BayKeeper/Surfrider litigations. During Item 17 the Board discussed two items pending litigation which were referenced in the Executive Officer’s Report – the Chevron pipeline rupture and William Johnson & Vail Lake.

Item 10 – NPDES Permit: Waste Discharge Requirements for U.S. Navy, Naval Base Coronado, San Diego County: an NPDES permit regulating industrial storm water and point source discharges of wastes to San Diego Bay and the Ocean from various activities including ship repair, pier boom cleaning, and manhole dewatering (tentative Order No. R9-2003-0008, NPDES Permit No. CA0109185) *(Paul Richter)*

Mr. Robertus introduced the item and senior staff member John Phillips gave the presentation.

Rob Chichester gave the presentation for the U.S. Navy.

Board Members asked questions of Mr. Chichester and made comments.

Ms. Ghio made comments about the toxicity limits.

Staff member Paul Richter spoke briefly about the permit and answered questions asked by the Board.

Mr. Robertus recommended that the Board adopt the Order with errata. Chairman Minan also recommended adoption of the Order with errata.

After Board Member discussion, Mr. Wright made a motion to approve Order No. R9-2003-0008 with errata. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Item 11 – PUBLIC HEARING: A public hearing may be held regarding the issuance of Cleanup and Abatement Order No. R9-2003-0158 to Pioneer Builders Inc. for alleged violations of the California Water Code at a residential development construction site. (Tentative Tract Map No. 16197) located on Camino Capistrano in the City of Dana Point (*Jeremy Haas*)

The Public Hearing was opened at 2:15 p.m.

Mr. Robertus introduced the item and staff member Jeremy Haas gave the presentation.

Other speakers included:

Mark McGuire, attorney for Pioneer Builders

Pam Tappan, Dana Point Wetland Protection Association

Warner Tappan, Dana Point Wetland Protection Association

Barbara Drummond, Dana Point Wetland Protection Association

Roger von Butow, Clean Water Now! Association

Mark McGuire responded to some of the above speakers comments and made closing remarks. Board Members asked questions of Mr. McGuire.

Board Member Wright left at 3:00 p.m.

Jeremy Haas requested a recess to confer with Mr. Robertus and staff. Chairman Minan called for a five-minute recess.

Mr. Robertus recommended accepting the proposed offer of the builder and bringing the matter back to the Board for action on the various violations.

Mr. Richards restated the recommendation, which was to make the modifications as requested by the builder but continue to pursue additional remedies against the builder for the violations and off-site mitigation.

Mr. Robertus expressed a few concerns he had with their proposed offer. Mr. Haas talked about modifications to the language in the proposed offer.

Chairman Minan said he was in favor of on-site reconfiguration. He also said he expected staff to assess the alleged violations and bring them back to the Board for action.

Chairman Minan said the specific level of on-site/off-site mitigation could be addressed in the 401 certification and the mitigation ought to be done in the locality.

Ms. Ghio asked staff to track their compliance carefully.

Mr. Robertus suggested that the off-site mitigation location be in the Aliso or San Juan Creek watersheds.

Mr. Richards suggested that they take another recess to allow staff to make the modifications to the Order then provide to the Board the actual language being considered.

Item 12 – Waste Discharge Requirements Update: Production and Purveyance of Recycled Water, City of San Clemente Water Reclamation Plant, Orange County (tentative Order No. R9-2003-0123) (*Bryan Ott*)

Item 12 was postponed to the June 11, 2003 Board Meeting.

Item 13 – Status Report: U.S. Coast Guard and U.S. Navy Report on Fuel/Oil Spills in San Diego Bay (*John Robertus*)

Item 13 was postponed to the June 11, 2003 Board Meeting.

Item 14 – Status Report: Implementation of San Diego County MS4 Storm Water Permit, continued from the April 9, 2003 Board Meeting (*John Robertus*)

Mr. Robertus said the information received since the last meeting was provided to the Board in the Executive Officer's Report.

Board Members and Mr. Robertus briefly talked about Assembly Bill 1517.

Jon Van Rhyn, County of San Diego, answered questions asked by the Board.

Item 11 – con't.

Chairman Minan reopened Item 11. Board Members read the revised Order.

After Board Member discussion, Ms. Ghio made a motion to approve Cleanup and Abatement Order No. R9-2003-0158 with modifications. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Item 16 – Executive Session - Consideration of Initiation of 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.

The Executive Session was not held.

Item 18 – Executive 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 Executive Session was not held.

Item 19 - Arrangements for Next Meeting and Adjournment

Wednesday, June 11, 2003 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

There being no further business, the meeting was adjourned at 4:10 p.m.

These minutes were prepared by:

Signature of Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus