

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

MINUTES OF MEETING
JUNE 14, 2006

Chairman Minan called the regular meeting of the California Regional Water Quality Control Board, San Diego Region, to order at 9:00 a.m. at the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Item 1 – Roll Call and Introductions: **Board Members Present:** John Minan, Jennifer Kraus, Eric Anderson, Richard Wright, Susan Ritschel, Daniel Johnson, Alan Barrett and Julianne Nygaard.

Staff Present: John Robertus, Arthur Coe, Michael McCann, Lori Costa, David Barker, Mark Alpert, Brian Kelley, Julie Chan, Bob Morris, Jimmy Smith, Craig Carlisle, Pete Michael, Frank Melbourn, Melissa Valdovinos, Brian McDaniel, Christina Arias, Alan Monji, Mike Porter, Amy Grove, Fisayo Osibodu, Charles Cheng, Victor Vasquez, Vicente Rodriguez, Ben Neill, Michelle Mata, Chris Means, Jeremy Haas, Wayne Chiu, Mariah Mills, Lisa Honma and Cynthia Gorham-Test.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards and Gerald Secundy. **Jan White & Associates Reporting:** Elaine Carlson. **Public Attendance:** Bill Kennedy – Stonewood, Inc; Rob Hutsel – San Diego River Park Foundation; Patti Krebs – Industrial Environmental Association; David Lloyd – Cabrillo Power I; Richard Runge – South Coast WD; Gabriel Solmer, Bruce Reznik, Karen Franz – SD Coastkeeper; David Hogan – Center for Biological Diversity; Jeff Paul – NRG Energy; Matt Tebbetts, Jolene Northrop – Kennedy/Jenks Consultants; Capt. Daniel King, Rob Chichester, Chuck Katz – US Navy; Gerre Bedeu – Santa Margarita WD; Ramon Ruelas, Jim Linthicum – SANDAG; Cora Long – City of Lemon Grove; Ed Kimura – Sierra Club; Mary Jane Foley – MJF Consulting; Michael Welch, Laura Fabrick, Don Christiansen – self; Larry Watterman, Ruth Kolb – City of San Diego; Craig Elliot – Agua Hedionda Lagoon Foundation; Joe Geever – Surfrider Foundation; Robin Rierdan – Lakeside River Park Conservancy; Don Kent – Hubbs-Sea World; Peter MacLaggan, Mike Madigan, Eric Munoz – Poseidon Resources; Joe DeStefano, Barry Pulver – County of San Diego; Marilyn O’Neill, Steve Carlson – Nautilus Environmental; Jim Hogan – Mactec; Conner Everts – Desal Response Group; Sawn Guendert – MWH Americas; Suzanne Michael –USD; Kasey Cinciarelli –for Isabelle Kay, Dawson Reserve; Jessica Ziporo – Latham & Watkins; Diane Nygaard – Preserve Calavera; Nikki Weaver – Agua Hedionda Lagoon Foundation; Lee Wilson – Continental Maritime; Melanie Cohn – ASM. Lori Saldana; Hugo Bermudez – NASSCO; Ray Poulter – Advanced Group; Mayor Bud Lewis, Mayor Pro Tem Matt Hall – City of Carlsbad, Glenn Pruum, Ray Patchett, Rufus Young, Skip Hammann, Ronald Ball – City of Carlsbad; Craig Elliott – Agua Hedionda Lagoon Foundation; Gary Arant – Valley

Center MWD; Mitch Mulanix – Gorton/Moore/Mulanix; Art Lujan – San Diego Building Trades Council; Angelika Villagrana – SD Chamber of Commerce; Scott Maloni – Public Policy Strategies; Scott Jenkins, Jeff Graham – Scripps Institution of Oceanography; David Mayer – Tenera Environmental.

Chairman Minan announced that Item 5 and Item 10 were postponed.

Item 2 – Public Forum

Ray Poulter represented the Advanced Group who owns the property encompassing the Forster Canyon Landfill in San Juan Capistrano. Mr. Poulter requested review by staff of the submitted Closure Plan Amendment and Post Closure Maintenance Amendment for the closed landfill site.

Item 3 – Minutes of Board Meeting of April 12, 2006

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.

Ms. Ritschel moved approval of the April 12, 2006 minutes. The motion was seconded by Mr. Wright. The minutes were approved with abstention by Mr. Barrett.

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.

Gerald Secundy, State Board Member Liaison, introduced himself to the Board. Mr. Secundy read the bios of the two newest State Board members, Charles Hoppin and Gary Wolff. He also reported on two workshops being held in July on numeric effluent limitations, ex parte communications, ASBS's and 316 B.

Chairman Minan asked Mr. Secundy about the 10% NPDES permit disqualification rules. Mr. Secundy said they would like to try to modify the current rules so that a member would only be disqualified if they received over 10% of their income from an NPDES permit within their particular region, not statewide as it is currently written.

Chairman Minan asked the Board if they would be able to attend the next Board Meeting if the date was changed from August 9 to August 16. All members in attendance said they would be able to attend on August 16. The meeting date was changed to August 16, 2006.

Chairman Minan reported on the June 5th Chair's meeting. The Governor asked for a draft plan on our region's highest priority water quality problems, the measures or targets for them and what would need to be done to achieve the objectives.

Chairman Minan also reported that he attended two judicial proceedings and had speaking engagements at two American Bar Association meetings and one at the Wild Animal Park, all were on water quality issues.

Executive Officer John Robertus spoke about items in his May 10 report which included the Proposed Gregory Canyon Landfill (B-9) and the Paperless Document Management System (B-16).

Chairman Minan asked staff member David Barker questions about the conversion of the Bay Sediment Cleanup records into digital format.

John Richards talked about CEQA documents.

Mr. Robertus continued with his May 10 report, speaking on the Development of Sediment Quality Objectives for California Bays and Estuaries (C-1) and 401 Water Quality Certification Actions (B-2). Mr. Robertus also reported on the Lake Cuyamaca Subsurface Disposal System Status Report (B-10) in his June 14 report.

Board Members asked that an item be put on the agenda to allow the Board to discuss the Lake Cuyamaca Recreation and Park District.

Daniel Johnson asked Mr. Robertus for an update on the soil and lead working group and asked to be kept apprised of the meetings.

Susan Ritschel asked for the status of the region wide Bacteria TMDL process and the reason for the delay. Senior staff member, Ms. Julie Chan gave a status report. Ms. Ritschel asked Ms. Chan to communicate with SAG and to give the Board periodic updates.

Consent Items

Item 5 – Update of Waste Discharge Requirements: Waste Discharge Requirements for Fallbrook Public Utility District Treatment Plant No. 1 Reclamation Project, San Diego County (tentative Order No. R9-2006-0064) (*Victor Vasquez*)

Item 5 was postponed.

Item 6 – Waste Discharge Requirements: Waste Discharge Requirements for California Department of Transportation, Descanso Maintenance Station, San Diego County (tentative Order No. R9-2006-0063) (*Victor Vasquez*)

Item 7 – Update of Waste Discharge Requirements for the Pauma Valley Community Services District, Pauma Valley Treatment Plant, San Diego County (tentative Order No. R9-2006-0049) (*Eric Becker*)

Item 8 – Waste Discharge Requirements and Clean Water Act Section 401 Water Quality Standards Certification for Stonewood, Inc., The Vineyard Project, City of Murrieta, Riverside County (tentative Order No. R9-2006-0028) (*Jeremy Haas*)

Item 9 – Revision of Waste Discharge Requirements: Water Recycling requirements for the Production and Purveyance of Recycled Water for the City of San Diego South Bay Water Reclamation Plant, San Diego County (tentative Addendum No. 2 to Order No. R9-2000-0203) (*Melissa Valdovinos*)

Mr. Johnson referred to Item 9 and disclosed that the City of San Diego was a client of his firm but felt there was no conflict.

Mr. Wright made a motion to approve Consent Items 6 - 9. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 10 – NPDES Permit Reissuance: Waste Discharge Requirements for the City of San Diego South Bay Water Reclamation Plant Discharge to the Pacific Ocean via the South Bay Ocean Outfall (tentative Order No. R9-2006-0067, NPDES Permit No. CA0109045) (*Melissa Valdovinos*)

Item 10 was postponed.

Item 11 – NPDES Permit: Waste Discharge Requirements for the Poseidon Resource Corporation, Carlsbad Desalination Project, Discharge to the Pacific Ocean via the Encina Power Station discharge channel, San Diego County (tentative Order No. R9-2006-0065, NPDES Permit No. CA0109223) (*Charles Cheng*)

Mr. Robertus introduced the item and staff member Charles Cheng gave the presentation.

Other speakers included:

Peter MacLaggan – Poseidon Resources Corporation
Scott Jenkins – Scripps Institution of Oceanography
Steven Le Page – M-REP Consulting
Jeff Graham – Scripps Institution of Oceanography
David Mayer – Tenera Environmental
Don Kent – Hubbs-Sea World
Mayor Bud Lewis – City of Carlsbad
Mayor Pro Tem Matt Hall – City of Carlsbad
Craig Elliott – Agua Hedionda Lagoon Foundation
Ed Kimura – Sierra Club
Joe Geever – Surfrider Foundation
David Lloyd – Cabrillo Power I
Patti Krebs – Industrial Environmental Association

Mike Madigan – consultant to Poseidon
Gary Arant – Valley Center Water District
Mitch Mulanix – consultant to Poseidon
Art Lujan – San Diego Building Trades Council
Suzanne Michael – University of San Diego
David Hogan – Center for Biological Diversity
Gabriel Solmer – San Diego Coastkeeper
Don Christiansen – Carlsbad resident
Angelika Villagrana – San Diego Regional Chamber of Commerce
Conner Everts – Desal Response Group
Scott Maloni – Public Policy Strategies
Bruce Reznik – San Diego Coastkeeper

Board Members agreed that the public comment period should be closed.

The meeting was recessed for lunch and Executive Session at 12:30 p.m.

Item 15 – *Executive Session* - Discussion of Ongoing Litigation

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

WILLIAM P. JOHNSON, an individual; and VAIL LAKE USA, LLC, a California limited liability company v. REGIONAL WATER QUALITY CONTROL BOARD – SAN DIEGO, a State of California board and DOES 1-50. Superior Court of the State of California for the County of San Diego, Case No. GIC815227; Petition for Writ of Mandate and Complaint for Damages in regards to Administrative Civil Liability Order No. R9-2002-0027 for violations of the statewide Construction Storm Water Permit, Order No. 99-08-DWQ.

Divers' Environmental Conservation Organization v. State Water Resources Control Board, San Diego Superior Court, Case No. GIC819689. Petition for Writ of Mandate challenging waste discharge requirements for U.S. Navy, Naval Station San Diego based on absence of numeric effluent limits for toxic pollutants in discharges of storm water.

Schutte & Koerting, Inc. and Ametek, Inc. v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region. San Diego Superior Court, Case No. GIC 822750. Verified Petition for Writ of Mandate for Breach of Contract.

Schutte & Koerting, Inc. and Ametek, Inc. v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region. San Diego Superior Court, Case No. GIC 824706. Verified Petition for Writ of Mandate for Breach of Contract.

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

San Diego Unified School District, a public school district, Plaintiff v. County of San Diego, a public entity, San Diego Regional Water Quality Control Board, a public entity and DOES 1 through 25, inclusive, Defendants. Superior Court of the State of California for the County of San Diego, Case No. GIC840390; First Amended Complaint for: 1) Breach of Contract-Lease Agreement, 2) Breach of Contract-Sharing Agreement, 3) Quantum Meruit; 4) Express Indemnity; 5) Implied Indemnity and Contribution; 6) Equitable Indemnity Contribution; 7) Nuisance; 8) Trespass; 9) Inverse Condemnation; 10) Preliminary and Permanent Injunction; 11) Declaration of Relief Against the County of San Diego; and 12) Declaration of Relief Against the Regional Water Board and County.

The Executive Session was held. All the cases listed were discussed.

The meeting reconvened at 1:30 p.m.

Item 13 – PUBLIC HEARING: Administrative Assessment of Civil Liability against the City of Carlsbad for violations of Order No. 99-08-DWQ, Statewide General Construction Storm Water Permit, at the Municipal Golf Course project at 5800 Hidden Valley Road, Carlsbad, California, WDID No. 9 37C337203. (Tentative Order No. R9-2006-0009) (*Frank Melbourn*)

Item taken out of order due to attendance by elected officials.

Mr. Robertus introduced the item.

Rufus Young, attorney for the City of Carlsbad, addressed the Board. Chairman Minan discussed procedural issues raised by Mr. Young.

Staff member Frank Melbourn gave the presentation.

Other speakers included:

Rufus Young – City of Carlsbad

Mayor Bud Lewis – City of Carlsbad

Mayor Pro Tem Matt Hall – City of Carlsbad

Ray Patchett – City of Carlsbad

Glenn Pruiam – City of Carlsbad

Conrad “Skip” Hammond – City of Carlsbad

Ronald Ball – City of Carlsbad
Dianne Nygaard – Preserve Calavera
Kasey Cinciarelli – Dawson Reserve

Mr. Young made brief closing comments.

Mr. Robertus recommended that the Board approve Order No. R9-2006-0009.

Board Members made comments.

Ms. Ritschel made a motion to approve Order No. R9-2006-0009. The motion was seconded by Ms. Nygaard and approved by unanimous vote.

Item 11 – Continued

After Board Member discussion, Ms. Kraus made a motion to close the public comment period for the current tentative Order but to accept public comments on the revised tentative Order once it was available. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Board Member Ritschel left the meeting at 3:20 p.m.

Item 12 – Supplemental Environmental Project (SEP): Metropolitan Transit System (MTS), San Diego. The Regional Board will consider funding a \$50,000 SEP proposal. Proposal of a SEP is part of the settlement of the \$150,000 Administrative Civil Liability Order (ACL) No. R9-2005-0173 adopted by the Regional Board on September 14, 2005. (Tentative Resolution R9-2006-0074) (*Vicente Rodriguez*)

Mr. Robertus introduced the item and staff member Vicente Rodriguez gave the presentation.

Board Members made comments and asked questions of staff.

Other speakers included:

Jessica Ziporo – Latham & Watkins, requested a continuance of the item.

Jim Linthicum, SANDAG

Rob Hutsel, San Diego River Park Foundation

Chairman Minan granted the continuance requested by Ms. Ziporo.

Item 14 – Report on Toxicity in Industrial Storm Water Discharges from US Navy facilities to San Diego Bay. The US Navy will present the results of its study titled, Stormwater Toxicity Evaluation at: Naval Station San Diego, Naval Submarine Base San Diego, Naval Air Station North Island and Naval Amphibious Base Coronado and present toxicity alternatives based on the results of the study. (*Michael McCann*)

Mr. Robertus introduced the item. Rob Chichester, U.S. Navy, gave the presentation.

Patti Krebs, Industrial Environmental Association, also spoke.

Senior staff member Mike McCann said the Regional Board had requested assistance from the State Board and U.S. EPA.

Item 16 – *Executive Session* - Consideration of Initiation of Litigation (*John Robertus*)

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 17 – *Executive Session* - Discussion of Pending Litigation

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

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 21, 2006 - 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 4:30 p.m.

These minutes were prepared by:

Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus