

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

MINUTES OF MEETING
February 13, 2002

The regular meeting of the California Regional Water Quality Control Board, San Diego Region, was called to order by Chairman Minan at 9:00 a.m. at the City of Mission Viejo, City Council Chambers, 25909 Pala, Mission Viejo, California.

Item 1 – Roll Call: Board Members Present: Chairman John Minan, Gary Stephany, Terese Ghio, Laurie Black, Janet Keller, Richard Wright, Eric Anderson and Vickie Butcher.

Staff Present: John Robertus, Michael McCann, Lori Costa, Bob Morris, Mark Alpert, Frank Melbourn, David Gibson, Jeremy Haas, Chris Means, Phil Hammer, Stacey Baczkowski and Megan Fisher.

Others Present on behalf of the Regional Board: State Water Resources Control Board - John Richards; Park Avenue Deposition Service: - Grace Verhoven. Public Attendance: Diane Nygaard- Preserve Calavera; Ralph Palomares- El Toro Water District; Bill Huber- City of San Juan Capistrano; Jim Cathcart- CG&L Engineers; Bob Woodings, Rufus Young- City of Lake Forest; Larry McKenney- Camp Pendleton; Len Sinfield- US Navy PWC; Robert Loll- Floratos, Loll & Devine; Karen Ashby, Chris Crompton, Matt Tucker- County of Orange; John McNamara- Environ Strategy; Christine Iger- Manatt; Richard Watson-RWA; Emily Jackson- OCIWMD; Larry Dees- Moulton Niguel Water; Joyce Clark- MWD; Tim Piasky- BIA/SC; Linda Garcia- RCFC; Ryan Bonner-TCWD; Caroline Byrne- RSM/WSS; Susan Hinman- Municipal Water Dist. of Orange County; Daniel Loffey; Craig Justice- City of Laguna Beach; Tom Bonight, Bill Cameron- City of San Clemente; Dennis Wilberg, Rich Schlesinger- City of Mission Viejo; Shelly Black- Saddleback Concervancy; Patty Barnum- Dana Point-WC; A.E.- Ionman Wash Systems; Ken Rosenfield- City Laguna Hills; Shanda Stephenson- Leisure World/ BIA; David Hauser- City of Carlsbad; Mike Balsamo-BIA/OC; Richard Gardner- South Coast Water; Craig Stern- Entre-Manure Dog Waste Removal Service; Elena Rudd- AMEC Earth & Environmental; Brian Milich, Dan Mitchell- McMillin; George O'Day- O'Day Consultants; Justin McCusker- OCBC; Julia Emerson- Senator Bill Morrow; Karin Moran, Rick Wilson- Surfrider Foundation; John

Whiton- City of Aliso Viejo; Wayne Rayfield- City of Dana Point; Fred Jenner- ASM Patricia Bates; Michael Hazzard- So. Cal Watershed Alliance; R.E. Dietmeter- SLWD; Kathleen Hamilton- Union For A River Greenbelt; Roger von Butow- So. Orange County Watershed Conservancy; Bill Johnson- Manager LLC; John Mulder- Consultant; Deborah Rosenthal- Cox, Castle & Nicholson.

Pete Silva, State Board Liaison, talked briefly about the Statewide Enforcement Policy, Statewide Construction Storm Water Permit, Coastal Commission joint meeting, and the Strategic Plan.

Item 2 – Public Forum

Roger von Butow, Clean Water Now! Coalition, spoke on behalf of the South Orange County Watershed Conservancy about the rollout of the Aliso Creek Watershed Advisory Council that would occur February 20, 2002.

Craig Stern, Entre-Manure Dog Waste Removal Service, talked about the amount of dog waste cleaned up in the City of Laguna Beach by his company and noted other areas in south Orange County that were in need of clean up.

Shelly Black, Saddleback Canyons Conservancy, said the Conservancy had filed a CEQA lawsuit against the County of Orange on the RPLA project in Trabuco Canyon and talked about some Environmental Impact Reports.

Item 3 – Minutes of Board Meeting of January 9, 2002

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. Stephany moved approval of the minutes. The motion was seconded by Ms. Ghio and approved by unanimous vote.

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

Chairman Minan reminded Board Members to turn in the annual Statement of Economic Interests forms when they became due to the State Board.

Mr. Stephany talked about the Tecate Industrial Waste Monitoring and Pretreatment Program meeting he attended. He noted that there hadn't been any budget meetings so he didn't have anything to report on the budget.

Mr. Wright asked that he be included in, or informed of, future Border activities. Mr. Robertus said he would have Mr. Wright put on the mailing list to receive that information.

Executive Officer Robertus talked about City of San Diego's request for Cleanup and Abatement Account funds to cleanup trash in the Tijuana River and said the State Board denied their request.

Ms. Ghio asked if there was any updated information on the ACL against William Johnson and North Plaza. Mr. Robertus said he received information that morning that the liability was paid and said the liability for Rancho California Highlands was also to have been paid. He also noted that the checks hadn't been received yet.

Chairman Minan talked briefly about the Mission Valley Terminals item in the Executive Officer's Report.

Items 5 through 7 – Consent Calendar

Item 5 - Waste Discharge Requirements: Department of the Navy, Class II Waste Management Facility for Treatment of Petroleum Hydrocarbon Contaminated Soil and a Resolution Conditionally Waiving Adoption of Waste Discharge Requirements for Disposal/Reuse of Waste Soil at Naval Air Station North Island, San Diego County (tentative Order No. R9-2002-0040) (*Craig Carlisle*)

Item 6 - Waste Discharge Requirements: Rancho Santa Fe Community Services District, Santa Fe Valley Water Reclamation Plant, San Diego County (tentative Order No. R9-2002-0013) (*Bryan Ott*)

Item 6 was postponed to a future meeting.

Item 7 - NPDES Permit Revision: South Orange County Wastewater Authority, Aliso Creek Ocean Outfall, Orange County; this tentative Addendum revises the

Order's effluent limitation for TCDD equivalents to conform to the 2001 California Ocean Plan. Order No. 2001-08 incorrectly cites the TCDD equivalents effluent limitation from the 1997 California Ocean Plan (tentative Addendum No. 2 to Order No. 2001-08, NPDES Permit No. CA0107611) (*Adam Laputz*)

Ms. Ghio moved approval of Items 5 and 7. The motion was seconded by Mr. Wright and approved by unanimous vote.

Item 8 - NPDES Permit Renewal: County of Orange, the Incorporated Cities of Orange County within the San Diego Region and the Orange County Flood Control District; Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s). (Tentative Order No. R9-2002-0001, NPDES Permit No. CAS0108740) (*David Gibson*)

Chairman Minan reminded everyone that the public comment period was closed. He talked about two procedural items, the decisions made on those items and gave the reasons for the decisions.

Mr. Robertus introduced the item. Staff member David Gibson summarized the key points of the item.

Chairman Minan opened the floor for general discussion by the Board.

Mr. Stephany said he was in support of the permit but would consider modifications if other Board Members were to suggest them.

Ms. Black, Ms. Keller, Ms. Ghio and Mr. Wright said they were all in support of the permit but wanted to discuss some of their concerns with it and possibly make some amendments.

Mr. Anderson informed the public that he had listened to the tapes from the January 9 Public Hearing and talked briefly about some of his concerns.

Ms. Butcher said clean water was the goal and it was time for the Board to take action.

Chairman Minan addressed some concerns expressed by the public at the previous meeting during the Public Hearing.

Ms. Ghio said that individual inspections of all industrial and construction sites should not be a mandatory requirement. She made a motion to change the language in the permit to read inspection or surveillance. Mr. Stephany seconded the motion.

Mr. Gibson said the municipalities were required to show the ability to conduct site inspections at high priority sites. He said for low to medium priority sites, the inspections were only required on an as needed basis. Mr. Gibson said there was flexibility in the permit.

Ms. Ghio said she was concerned about how the different City's would interpret the permit.

After discussion, Mr. Stephany withdrew his second. Ms. Ghio said that everyone should be educated so they understood that the permit didn't require inspections at every industrial and construction site.

Ms. Ghio made a motion to use the State Board's most recent Aquatic Pesticide Permit language in the permit. Chairman Minan said the most recent permit was being challenged in court. After discussion, Ms. Ghio withdrew her motion.

Ms. Ghio made a motion to expand the language in the fire fighting flow exemption to include testing, maintenance and training. The motion was seconded by Mr. Stephany and approved by unanimous vote.

Ms. Ghio referenced page 4 of the supporting documents and made a motion to remove the requirement for "in to the MS4" language in the permit. Ms. Black seconded the motion.

Chairman Minan said that Ms. Ghio's motion would require significant revisions to the permit and was concerned about changing the language that was strongly supported by CalEPA and the State Board. After discussion, Ms. Ghio withdrew her motion and Ms. Black withdrew her second.

Ms. Ghio again referenced page 4 and made a motion to change the language so that it not mandate but strongly support "in to " the MS4. Mr. Anderson seconded the motion.

Mr. Gibson indicated that the language read “into or from” the MS4 at several places in the permit, but also that the language referred to the source control and pollution prevention requirements, which were central to the permit’s approach.

After discussion, Ms. Ghio withdrew her motion and Mr. Anderson withdrew his second.

Ms. Ghio talked about changing the language in Finding 8 so that it would be consistent with Finding 11. Chairman Minan informed Ms. Ghio that the language in Finding 8 had already been amended by staff. Ms. Ghio suggested that in Finding 11, constructed wetlands not be considered as part of the receiving waters. Chairman Minan said he didn’t think it was possible to do as a matter of law.

Mr. Gibson said that a Board policy might be necessary in the Basin Plan to address the complex issue. He said the permit was not intended to authorize the construction of wetlands.

Ms. Ghio asked that the issue be put on a future agenda for discussion.

Mr. Richards said the Board could develop a policy for inclusion in the Basin Plan.

The Board Members discussed the public’s concern of residential car washing and said instead of amending the permit in that area, just educate the public or bold the statement in the permit that says residential car washing **is** allowed.

Ms. Ghio asked that the interpretations of the permit be posted on the Regional Board’ s website.

Mr. Gibson said that the amended language voted on and approved earlier in the item read as follows: “Emergency and non-emergency fire fighting flows need not be prohibited. However, where applicable, when not interfering with health and safety issues, BMPs for non-emergency fire fighting flows are encouraged.”

Mr. Stephany made a motion to approve the permit with errata and the amended language. He also requested that staff inform the Board if they became aware of any flaws in the permit in the future. The motion was seconded by Mr. Wright and approved by unanimous vote.

The meeting was convened for lunch at 12:30 p.m.

Item 17 - Executive Session - Discussion of Ongoing Litigation.

The Regional Board may meet in closed session to discuss ongoing litigation for the following case(s) with counsel:

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)

Schutte & Koerting, Inc. and Ametek, Inc. v. Regional Water Quality Control Board, San Diego Region; Superior Court of California, San Diego County; Case No. GIC 772197

The Executive Session was held during the lunch break.

Item 14 - Election of Chair and Vice Chair for Year 2002

Ms. Keller made a motion to nominate John Minan as Chair and Gary Stephany as Vice Chair. The motion was seconded by Mr. Wright and approved by unanimous vote.

Due to ill health, Mr. Stephany left at 1:40 p.m.

Item 9 - PUBLIC HEARING: Administrative Assessment of Civil Liability against William P. Johnson and Vail Lake, LLC for violations of State Water Resources Control Board Order No. 99-08-DWQ (Construction Storm Water Permit) and Water Code sections 13267, 13376, and 13383, Riverside County. (Tentative Order No. R9-2002-0027) (*Frank Melbourn*)

William Johnson requested that the item be heard at 3:00 p.m. at which time his attorney would arrive. He also said that he expected that his attorney would

request a continuance to a later date due to the fact that she had just been retained the day before.

Chairman Minan said the issue was primarily factual in nature and that was what was being disputed. He said the matter had been on the agenda for several months and the recent retention of counsel was not a persuasive reason for a continuance. He also said that various members of the public had arranged their schedule so they could be there to hear and participate in the item. Chairman Minan denied Mr. Johnson's request.

Chairman Minan opened the Public Hearing at 1:50 p.m. Mr. Robertus introduced the item and staff member Frank Melbourn gave the presentation.

William Johnson said the site was being graded for agricultural purposes not residential housing. He said he signed the Notice of Intent in error.

Robert Loll of Floratos, Loll & Devine read a letter from the Endangered Habitats League.

John Mulder, Sundance Meadows, talked about the pattern of violations by the Johnson Group.

Mr. Johnson made closing remarks.

Mr. Melbourn also made closing remarks.

Mr. Robertus recommended adoption of Order No. R9-2002-0027.

Chairman Minan closed the Public Hearing at 3:10 p.m.

Mr. Anderson made comments and said he supported staff's recommendation.

Mr. Wright made a motion to adopt Order No. R9-2002-0027. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Item 10 - PUBLIC HEARING: Administrative Assessment for Civil Liability containing a Mandatory Penalty against Rancho California Water District for Violation of Order No. 96-54, NPDES Permit No. CA0108821, Waste Discharge Requirements for Rancho California Water District, Santa Rosa Water

Reclamation Facility, Riverside County. (tentative Order No. 2002-0032) *(Frank Melbourn)*

Mr. Robertus said the discharger waived their right to a hearing and said the item would be rescheduled to allow for a 30-day public review period at which time the Regional Board would consider assessment of civil liability.

Item 11 - PUBLIC HEARING: Administrative Assessment for Civil Liability containing a Mandatory Penalty against Atlantic Richfield (ARCO) for Violation of Order No. 96-41, NPDES Permit No. CAG919001, Waste Discharge Requirements for Groundwater Remediation Dewatering at ARCO Station No. 3012, 27641 Ynez Road, Temecula, CA. (tentative Order No. R9-2002-0031) *(Rebecca Stewart)*

Mr. Robertus said the discharger waived their right to a hearing and said the item would be rescheduled to allow for a 30-day public review period at which time the Regional Board would consider assessment of civil liability.

Item 12 - PUBLIC HEARING: Administrative Assessment for Civil Liability containing a Mandatory Penalty against Bright Properties West and Morlin Management Corporation as Managing Agent for American Plaza Owners Association for Violation of Order No. 2000-90, NPDES Permit No. CAG919001, Waste Discharge Requirements for Groundwater Remediation Dewatering at Great American Plaza, San Diego, CA. (tentative Order No. R9-2002-0033) *(Vicente Rodriguez)*

Item 12 was postponed to a future meeting.

Item 13 - Waste Discharge Requirements/Section 401 Water Quality Certification: Calavera Hills II, LLC and City of Carlsbad; Calavera Hills Master Plan Phase II, Bridge And Thoroughfare District No. 4, and Detention Basins; San Diego County. (Tentative Order No. R9-2002-0014) *(Stacey Baczkowski)*

Mr. Robertus introduced the item and staff member Stacey Baczkowski gave the presentation.

Other speakers included:
Brian Milich, McMillin Companies
David Hauser, City of Carlsbad
Diane Nygaard, Preserve Calavera

Brian Milich and David Hauser made closing remarks.

Ms. Baczkowski addressed concerns brought up by Ms. Nygaard then recommended approval of the order.

Mr. Wright talked about some concerns he had.

Mr. Ghio made a motion to approve Order No. R9-2002-0014. The motion was seconded by Ms. Black and approved with opposition by Mr. Wright.

Item 15 - *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 16 - *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, March 13, 2002 - 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 4:25 p.m.

These minutes were prepared by:

Lori Costa
Executive Assistant

Signature of Executive Officer:

John H. Robertus