

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

MINUTES OF MEETING
March 12, 2003

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 Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Item 1 – Roll Call: Board Members Present: Chairman John Minan, Gary Stephany, Richard Wright, Vickie Butcher and Eric Anderson.

Staff Present: John Robertus, Michael McCann, Lori Costa, David Barker, Bob Morris, Brian Kelley, John Phillips, Mark Alpert, Stacey Baczkowski, John Odermatt, Vicente Rodriguez, Rebecca Stewart, Kristin Schwall, Eric Becker, Jeremy Hass, Chiara Clemente, Brian McDaniel, Frank Melbourn, Carol Tamaki, David Hanson, Amy Fortin, Sherrie Komeylyan, Sabine Knedlik, Shane Landry, Bryan Ott and Keith Elliott.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards, Pete Silva. Park Avenue Deposition Service: Grace Verhoeven. Public Attendance: Sylvia Castillo, Steve Fontana, Alan Langworthy, Bruce Herring, Michael Welch, Larry Wasserman, Ted Bromfield, City of San Diego; Rick Gersberg, Harry Johnson, San Diego State University; Lorie Marvin, Dale Marvin, Anne Pauley, Dave Schlesinger, Dan Coffey, Kevin Davis, Richard Gardner, self; Richard Dietmeier, Betty Burnett, Mike Dunbar, South Coast Water District; Garry Brown, Nancy Caruso, Randy Seton, Orange County CoastKeeper; Anne Ennesser, Riverside County; Laura Hunter, Environmental Health Coalition; Jan Suejkovsky, Ocean Imaging Corp.; Diane Nygaard, Preserve Calavera; Isabelle Kay, Los Monos Reserve; Linda Homscheid, Surfrider Foundation; Candace Gibson, Jon Rollin, Marie LaSala, County of San Diego; Jennifer Guigliano, Tetra Tech EM Inc.; Larry Dees, Moulton Niguel Water District; Sam Williams, Geosyntec Consultants; Andrew Webster, Rancho California Water District; Larry Carlson, Camp Pendleton; Kenneth Schiff, Southern California Coastal Water Research Project; Robert Simmons, Ed Kimura, Sierra Club; Bruce Reznik, San Diego BayKeeper; Eric Terrill, Scripps Institution of Oceanography; Dave Seymour, SM Water District.

Chairman Minan welcomed State Board Liaison, Pete Silva.

Item 2 – Public Forum

Anne Pauley reported on a new technology to remove uranium from groundwater using electro-chemical methods. Ms. Pauley asked for help in figuring out how to fund the use of the new technology.

Isabelle Kay, U.C. San Diego, spoke about the Carlsbad Oaks North 401 Water Quality Certification.

Diane Nygaard, Preserve Calavera, requested a public hearing on the Carlsbad Oaks North project concerning CEQA and talked about cumulative impacts of development on our watersheds.

Executive Officer Robertus said the Regional Board didn't have the funds to look at CEQA documents. Mr. Stephany felt it should be a high priority matter and said he would like to have an item on a future agenda to discuss priorities and funding for CEQA review. Mr. Robertus said he would put an item on a future agenda to discuss the issue.

Item 3 – Minutes of Board Meeting of February 5, 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.

Ms. Butcher moved approval of the February 5, 2003 minutes. The motion was seconded by Mr. Wright and approved by unanimous vote.

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

Mr. Robertus briefly talked about sanitary sewer overflows, sewage spill citizen complaints, requests for investigations of illicit discharges and proposed legislation.

Chairman Minan urged Mr. Robertus to forward proposed legislation to Board Members for possible comment. Mr. Robertus said he was hesitant to do so and explained why.

Mr. Wright asked a question about the proposed Campo Indian Reservation landfill project. Mr. Richards responded.

Mr. Robertus briefly spoke about the American Bar Association Conference he and Chairman Minan attended, the Bight 98 briefing from Southern California Coastal Water Research Project Authority, and the U.S. Navy and Marine Corps annual conference on environmental issues that he would be attending with Mr. Richards. He also reminded Board Members to complete their Form 700 and Ethics Training certificate.

Chairman Minan asked Mr. Robertus about the status of spills in Laguna Beach and the Montage Resort complaint. Mr. Robertus responded which led to Board Member discussion.

Chairman Minan briefly talked about the Chairs' meeting on March 20th, proposed legislation-Assembly Bill 1517 that was sponsored by the County of San Diego, Contaminated Soils, Sediments and Water Conference he would be speaking at, and the regionalization of the State Board's Strategic Plan.

Mr. Wright said there was a meeting dealing with the draft environmental impact report on the Tijuana/Rosarito sewage infrastructure master plan. Mr. Robertus said staff member David Hanson attended the meeting.

Mr. Stephany commented on Lake San Marcos and also offered his help to address the issue of non-payment of fees by the Navy.

After discussing the issue with Mr. Robertus, Chairman Minan asked Mr. Silva to let the State Board know of the concerns of the Regional Board and members of the public on the issue of non-payment of fees by the Navy.

Consent Items 5 through 7:

Item 5 – Rescission of Waste Discharge Requirements: Teledyne Ryan Aeronautical Dredge and Fill Activities, Convair Lagoon Capping Project, Order No. 95-123 (tentative Order No. R9-2003-0076) (*Kristin Schwall*)

Item 7 - Authorization for the Executive Officer to Sign a Site Remediation Agreement Under the Polanco Act (California Health and Safety Code Sections 33459 et seq.) for Cleanup and Abatement of Groundwater Pollution from the Former Omar Rendering Facility (*Brian McDaniel*)

Item 6 was removed from the consent calendar. Item 7 was postponed.

Mr. Wright moved approval of Order No. R9-2003-0076. The motion was seconded by Mr. Stephany and approved by unanimous vote.

Item 6

a. Rescission of NPDES Permit No. CA0108821, Order No. R9-2002-0104, Waste Discharge Requirements for the Rancho California Water District, Santa Rosa Water Reclamation Facility Discharge to the Santa Margarita River, Riverside County (tentative Order No. R9-2003-0055) (*Chiara Clemente*)

b. Rescission of Cease and Desist Order No. R9-2002-0212, which established interim effluent limitations and a time schedule to comply with NPDES Order No. R9-2002-0104 for the Rancho California Water District, Santa Rosa Water Reclamation Facility Discharge to the Santa Margarita River, Riverside County (tentative Order No. R9-2003-0055) (*Chiara Clemente*)

c. Revision of Waste Discharge Requirements: Rancho California Water District Wastewater Reclamation Facilities, Riverside County (tentative Addendum No. 3 to Order No. 94-92) (*Chiara Clemente*)

Chairman Minan gave background information on Item 6.

Other speakers included:

Larry Carlson, U.S. Marine Corp Base Camp Pendleton, asked for a continuance
Andrew Webster, Rancho California Water District, supported the rescission

Board Members discussed the item.

Mr. Anderson urged Mr. Robertus to send a letter to the State Board asking that the review on the Cease and Desist Order petition be done in a timely manner.

Chairman Minan made a motion to adopt Order No. R9-2003-0055 and Addendum No. 3 to Order No. 94-92. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Item 8

a. NPDES Permit: City of San Diego, Waste Discharge Requirements For Groundwater Extraction Waste Discharges To San Diego Bay From The San Diego Convention Center, San Diego County (tentative Order No. R9-2003-0050, NPDES No. CA0109029) (*Sherrie Komeylyan*)

Mr. Robertus introduced the item and staff member Sherrie Komeylyan gave the presentation.

Other speakers included:

Alan Langworthy, City of San Diego

Bruce Herring, Deputy City Manager, City of San Diego

Michael Welch, consultant for the City of San Diego

Dave Schlesinger, private citizen

Robert Simmons, Sierra Club

Laura Hunter, Environmental Health Coalition

Bruce Reznik, San Diego BayKeeper

Several speakers above also spoke on Item 8-b.

b. PUBLIC HEARING: Cease and Desist Order Against the City of San Diego for the Discharge of Extracted Groundwater to San Diego Bay from the San Diego Convention Center. The Regional Board will consider an order establishing a compliance schedule with Waste Discharge Requirements Order No. R9-2003-0050 (tentative Cease and Desist Order No. R9-2003-0086) (*Vicente Rodriguez*)

Staff member Vicente Rodriguez gave the presentation.

Other speakers included:

Laura Hunter, Environmental Health Coalition

Alan Langworthy made closing statements on Item 8 a and b.

Ms. Komeylyan made closing statements and recommended approval of Order No. R9-2003-0050.

Board Members asked questions of staff.

Mr. Rodriguez made closing statements and recommended approval of Cease and Desist Order No. R9-2003-0086.

The meeting was recessed for lunch and Executive Session at 12:33 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)

Building Industry Association of San Diego County, et al. vs. State Water Resources Control Board, et al.; San Diego County Superior Court; Case No. GIC 7890263.

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

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 meeting reconvened at 1:35 p.m.

Chairman Minan announced that the Board discussed the International Boundary and Water Commission and the Building Industry Association lawsuits during Executive Session – Item 14 and the Surfrider Foundation vs. City of San Diego lawsuit during Executive Session – Item 15.

Chairman Minan also said he was concerned with some proposed legislation, Assembly Bill 1517, which would effectively divest the State and Regional Board's from prohibiting discharges of municipal storm water. He was seriously concerned that the County was a lead copermitttee and said it was his understanding that they were one of the sponsors of the legislation. Chairman Minan directed the Executive Officer, on behalf of the Board, to explore in greater detail the County's commitment to executing the storm water permit as written and who, with the County, authorized the support of the bill.

Item 8 – continued

Mr. Robertus recommended adoption of the tentative orders.

Mr. Wright moved approval of R9-2003-0050. The motion was seconded by Ms. Butcher and after Board Member discussion, approved by unanimous vote.

Mr. Stephany moved approval of R9-2003-0086 with an amendment to extend the remedial action work plan deadline date to September 15, 2003 with a status report due every thirty days starting May 14, 2003. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Item 9 – Administrative Civil Liability against South Coast Water District, Sewage Collection System in Orange County, for Violation of Order No. 96-04 and California Water Code Section 13267 (Complaint No. R9-2002-0280). (Tentative Order No. R9-2003-0037) (*Rebecca Stewart*)

Mr. Robertus introduced the item. Chairman Minan talked about the procedures and asked questions of Michael Dunbar, South Coast Water District and Betty Burnett, counsel for South Coast Water District.

Staff member Rebecca Stewart gave the presentation.

Other speakers included:

Michael Dunbar, South Coast Water District

Richard Gardner, Capistrano Beach resident

Richard Dietmeier, South Coast Water District

Linda Homscheid, Surfrider Foundation

Nancy Caruso, Orange County CoastKeeper

Kenneth Schiff, Southern California Coastal Water Research Project

Garry Brown, Orange County CoastKeeper

Mr. Stephany made a motion to fund the Community Kelp Restoration Project, SEP03-001, in the amount of \$45,000 with the remaining \$60,000 going to the State Board. Mr. Anderson seconded the motion.

Mr. Wright said he would like to see more of the funds stay in the Region.

The above motion by Mr. Stephany was approved by unanimous vote.

Mr. Anderson made a motion to fund the two high school projects, SEP03-003 and SEP03-004. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Mr. Stephany made a motion to approve Order No. R9-2003-0037 with \$55,040 going to the three approved SEPs. Mr. Wright seconded the motion.

Mr. Richards urged the Board to direct staff to prepare an Order reflecting the above changes and bring it back to the Board for approval later in the meeting.

Item 12 – Settlement of Rakhra Groups, Inc. v. San Diego Regional Water Quality Control Board; the Board will consider settlement of litigation challenging various enforcement actions including a Cleanup and Abatement Order and an order assessing Civil Liability against Rakhra Groups, Inc. for conditions at San Diego Mushroom Farm. (*John Richards*)

John Richards talked about the settlement.

Other speakers included:

Lorie Marvin, Bonsall resident, made comments and ask questions of the Board.

Dale Marvin, Bonsall resident, made comments about the Judge's decision.

Mr. Robertus recommended the Board direct him to sign the settlement agreement.

Mr. Stephany made a motion to adopt staff's recommendation, Resolution No. R9-2003-0105. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Item 10 – Revision of Waste Discharge Requirements for Inactive Landfills:

- a. Revision of General Waste Discharge Requirements for Post-Closure Maintenance and Monitoring for Inactive Non-Hazardous Waste Landfills (tentative Order R9-2003-0001) (*Amy Fortin*)
- b. Revision of General Waste Discharge Requirements for Post-Closure Maintenance and Monitoring for Inactive Non-Hazardous Waste Landfills Containing Insignificant Volumes of Decomposable Wastes (tentative Order R9-2003-0002) (*Amy Fortin*)

Mr. Stephany disclosed that when he was head of the Local Enforcement Agency for the County of San Diego he dealt with the landfills but felt he could be fair and objective in his decision making.

Mr. Robertus introduced the item and staff member Amy Fortin gave the presentation for a and b.

Other speakers included:

Jon Rollin, County of San Diego

Sam Williams, consultant for the County of San Diego

Marie LaSala, counsel for the County of San Diego

Steve Fontana, City of San Diego

Sylvia Castillo, City of San Diego

Mr. Rollin, Ms. Castillo and Ms. LaSala made closing statements.

Senior staff member, John Odermatt, made closing statements.

Ms. Butcher asked Mr. Odermatt about giving the County and the City more time as they requested.

After Board Member discussion, Mr. Stephany made a motion to continue the item to allow staff to meet with City and County staff to resolve their differences. The motion was seconded by Chairman Minan and approved by unanimous vote.

The public comment period was closed.

Item 11 – Revision of Waste Discharge Requirements: Waste Discharge Requirements for Closure, Post-Closure Maintenance, and Monitoring at the

County of San Diego, San Marcos Landfill (tentative Order R9-2003-0003) (*Carol Tamaki*)

This item was postponed.

Item 13 – Status Report: U.S. – Mexico Border Area Pollution Tracking Projects
(*David Hanson*)

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.

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.

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.

This item was postponed.

Item 9 – continued

Senior staff member Mark Alpert distributed the revised Order to Board Members. Mr. Alpert answered questions from the Board.

Mr. Richards recommended deleting the first ten words in paragraph number 6 in the revised tentative Order. Chairman Minan said to change the words “would be” to “is.”

The motion to approve amended Order No. R9-2003-0037 with \$55,040 going to the three approved SEPs made by Mr. Stephany was approved by unanimous vote.

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 17 – *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 18 - Arrangements for Next Meeting and Adjournment

Wednesday, April 9, 2003 - 9:00 a.m.

City of Laguna Beach

City Council Chambers

505 Forest Ave.

Laguna Beach, California

There being no further business, the meeting was adjourned at 5:40 p.m.

These minutes were prepared by:

Signature of Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus