

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

MINUTES OF MEETING
August 13, 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.

Executive Officer Robertus welcomed State Board Member Pete Silva to the meeting. Mr. Silva spoke about the budget.

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

Staff Present: John Robertus, Arthur Coe, Michael McCann, Lori Costa, David Barker, Mark Alpert, Bob Morris, Brian Kelley, John Phillips, Chiara Clemente, Hashim Navrozali, Paul Richter, Rebecca Stewart, Vicente Rodriguez, David Hanson, Phil Hammer, Barry Pulver, Eric Becker, Jeremy Haas and Shane Landry.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Park Avenue Deposition Service: Diana Porter. Public Attendance: Richard Dietmeier, South Coast Water District; Hans Van Ligten, City of Dana Point; Barbara Drummond & Pam Tappan, Dana Point Wetlands Protection Association; Mike Wilson, SOCWA; Richard Aslier, Northrop Grumman; Major Entingh, Lupe Armas, Melanie Bengtson, Tommy Hoots, Khalique Khan, Eugene Robinson, U.S. MCB Camp Pendleton; Marvin Winters, Sure Clean Power Washing Inc.; Rob Chichester, David Valley, Sean Bolton, U.S. Navy; Andy Aguilar, Margaret Gates, San Diego BayKeeper; John Brandt, Mactec E & C; Jim Mizell, Dave Seymour, Santa Margarita Water District; Anne Lee, Wayne Rosenbaum, Foley & Lardner; Stephen Marsh, Paul Barnes, Shea Homes; George Rudolph, Stormwater Management Inc.; Michael Ferez, Jacobs Civil Inc.; Joe Hess, IDEC Pharmaceuticals; Bob Richards, Agua Hedionda Lagoon Foundation; Adrienne Huber, AMEC; Guss Pennell, City of Oceanside; Al Huang, Environmental Health Coalition; Jose King, Nick Iuzunza, TJVCWD; Michael Hazzard, Watershed Monitors of Orange Co.; Richard Gardner, Friends of Salt Creek; Fabiola Amarillas & Marsi Steirer, City of San Diego; Terry Hirschag, Mark

McGuire, Pioneer Builders; Mike Chee, National Steel and Shipbuilding Co.; Roger von Butow, Clean Water Now! Coalition; Marco Gonzalez, Surfrider Foundation; Linda McKnight, Public.

Item 2 – Public Forum

Marvin Winters, owner of Sure Clean Power Washing, spoke about illegal discharges in the City of San Diego. He complained that even though several meetings had taken place between the City of San Diego and the Regional Board on the issue, the illegal discharge continued to occur.

Board Member Butcher arrived.

Chairman Minan asked Mr. Robertus to respond to Mr. Winters concerns. Ms. Ghio recommended that Mr. Robertus write a letter to Karen Henry asking how the City was addressing the issue within the requirements of the MS4 permit. Chairman Minan asked that a follow-up letter be sent to Mr. Winters.

Pam Tappan, Dana Point Wetlands Protection Association, spoke about Pioneer Builder's failure to implement a Storm Water Pollution Prevention Plan on July 30, 2003 despite the weather reports warning of intense thunderstorms throughout the county.

Roger von Butow, Clean Water Now! Coalition, representing the South Orange County Watershed Conservancy, talked about the conservancy and its mission to strategize and implement successful watershed strategies. He also announced a coastal cleanup day to be held on September 20, 2003.

Barbara Drummond, Dana Point Wetlands Protection Association, read a letter from Mary Ann Olson regarding her complaint against Pioneer Builders.

Marco Gonzalez, Surfrider Foundation, representing the San Diego Bay Council, talked about sediment remediation in San Diego Bay and asked the Board to hold an interim hearing to choose the reference pool sites.

Chairman Minan asked Mr. Robertus to respond to Mr. Gonzalez's request. Mr. Robertus commented then said he would like to confer with senior staff member David Barker before he made a recommendation.

Board Members were concerned about Mr. Gonzalez's comments that the environmentalists weren't being heard.

Chairman Minan asked Mr. Robertus to report back to the Board after conferring with Mr. Barker.

Michael Chee, National Steel and Shipbuilding Company, gave a presentation that showed the clean-up events they had been involved with in Chollas Creek.

Mr. Stephany said he would like staff to send a letter to NASSCO thanking them for their clean-up efforts.

Al Huang, Environmental Health Coalition, talked about the San Diego Convention Center permit and asked that toxicity and punitive penalties be added.

Mark McGuire, attorney for Pioneer Builders, asked the Board if they wanted him to address the charges brought against them by members of the public earlier in the Public Forum. Chairman Minan said it wasn't necessary at that time.

Hans Van Ligten, representing the City of Dana Point, said the City performed all of its obligations required under the law pertaining to the July 30, 2003 event that was addressed by Pam Tappan earlier in the meeting.

Item 3 – Minutes of Board Meeting of June 11, 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 June 11, 2003 minutes. The motion was seconded by Mr. Stephany and approved by unanimous vote.

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

Chairman Minan congratulated Mr. Wright on his lifetime achievement award presented to him by the County of San Diego and his pending appointment to the Board of Directors of San Diego Oceans Foundation. He also congratulated Mr. Robertus on receiving the Roger Revelle Award from the San Diego Oceans

Foundation. He then announced that Ms. Keller's reappointment was confirmed. Chairman Minan also talked about the Chairs' meeting he attended in Sacramento.

Mr. Robertus talked about a document he had been writing, Regionalization of the Strategic Plan. Board Members made comments about the document.

Consent Items 5 through 12:

Item 5 – Modification to Waste Discharge Requirements: Frank and Janice Mendenhall, Lake Henshaw Resort, Inc., San Diego County (change in owner) (tentative Addendum No. 3 to Order No. 94-03) (*Christopher Means*)

Item 6 – Modification to Waste Discharge Requirements: Mr. Charles J. Williams, Champagne Lakes RV Resort, San Diego County (change in owner) (tentative Addendum No. 1 to Order No. 94-21) (*Christopher Means*)

Item 7 – Modification to Waste Discharge Requirements: Northrop Grumman Space Technology and Mission Systems Corporation, Capistrano Test Site, Orange County (change in owner) (tentative Addendum No. 1 to Order No. 94-78) (*Jeremy Haas*)

Item 8 – Modification to Waste Discharge Requirements: Vail Lake Village & Resort LLC; Mr. Bill Johnson, Vail Lake Village & Resort, Riverside County (change in owner and facility name) (tentative Addendum No. 3 to Order No. 88-44) (*Eric Becker*)

Item 9 – 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 10 – NPDES Permit Revision: Adding the San Diego County Regional Airport Authority as a Copermittee to the San Diego County MS4 Storm Water Permit (Tentative Addendum No. 1 to Order No. 2001-01) (*Phil Hammer*)

Item 11 – Administrative Assessment of Civil Liability with Mandatory Minimum Penalties against the City of San Diego for violation of effluent limits established by Order Nos. 95-25 and 2000-90, for a permanent groundwater discharge to San Diego Bay from the San Diego Convention Center. The Regional Board will consider comments received during the public comment period and decide on an

order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2003-0286) (*Rebecca Stewart*)

Item 12 – Administrative Assessment of Civil Liability with Mandatory Minimum Penalty against the South Orange County Wastewater Authority for violation of effluent limitations established by Order No. R9-2000-0013 (NPDES No. CA0107417), for the discharge of treated wastewater to the Pacific Ocean through the San Juan Creek Ocean Outfall. The Regional Board will consider comments received during the public comment period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2003-0304) (*David Hanson*)

Mr. Wright moved approval of Items 5 – 12 with errata. The motion was seconded by Ms. Keller and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 13 – NPDES Permit: U.S. Marine Corps Base Camp Pendleton, Wastewater Treatment Plant Nos. 1, 2, 3 & 13, Discharge to the Pacific Ocean via the Oceanside Ocean Outfall, San Diego County (tentative Order No. R9-2003-0155, NPDES Permit No. CA0109347) (*Chiara Clemente*)

Mr. Robertus introduced the item. Staff member Chiara Clemente gave the presentation and recommended adopted of the tentative order.

Board Members asked questions of Ms. Clemente. Ms. Ghio asked that some disinfection language be clarified.

Lupe Armas, Marine Corps Base Camp Pendleton, also gave a presentation.

Other speakers included:

Linda McKnight, self

Guss Pennell, City of Oceanside

Margaret Gates, San Diego BayKeeper

Marco Gonzalez, Surfrider Foundation

Mr. Armas made closing statements.

Ms. Clemente made closing statements. Board Members made comments and asked questions.

Mr. Stephany said he would like additional beach monitoring. Ms. Ghio and Mr. Wright also spoke about beach monitoring. Chairman Minan talked about the broader comprehensive program.

Mr. Richards talked about waste discharge requirements and monitoring.

Mr. Stephany requested that the monitoring issue be brought back to the Board as soon as practicable.

Ms. Ghio recommended that the language regarding disinfection be clarified. Mr. Richards suggested that staff bring back the revised language for Board Member approval later in the meeting.

Mr. Stephany made a motion to approve Order No. R9-2003-0155, to include the clarification requested by Ms. Ghio and the request by Mr. Stephany. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Item 14 – NPDES Permit: Waste Discharge Requirements for IDEC Pharmaceuticals Corporation New IDEC Manufacturing Operations (NIMO), Oceanside, San Diego County (tentative Order No. R9-2003-0140, NPDES Permit No. CA0109193) (*Hashim Navrozali*)

Mr. Robertus introduced the item and staff member Hashim Navrozali gave the presentation.

Other speakers included:

Joe Hess, IDEC Pharmaceuticals

Guss Pennell, City of Oceanside

Mr. Robertus and staff recommended adoption of the order with errata.

Mr. Wright made a motion to approve Order No. R9-2003-0140 with errata. The motion was seconded by Mr. Stephany and approved by unanimous vote.

Item 15 – NPDES Permit Renewal: Waste Discharge Requirements for U.S. Navy Graving Dock Located at Naval Station San Diego, San Diego Bay, San Diego County (tentative Order No. R9-2003-0265, NPDES Permit No. CA0107867) (*Paul Richter*)

Mr. Robertus introduced the item and staff member Paul Richter gave the presentation.

Other speakers included:
Rob Chichester, U.S. Navy

Mr. Richter addressed Mr. Chichester's concerns and made closing statements.

Ms. Ghio expressed her concern with the toxicity limitations. Mr. Richter and Mr. Robertus addressed Ms. Ghio's concerns.

Mr. Robertus recommended adoption of the order with errata.

Chairman Minan asked Mr. Richter and Mr. Richards to determine whether the non-compliance deadline should be within five days or ten days and if they were calendar days or working days.

Mr. Wright made a motion to approve Order No. R9-2003-0265 with errata. The motion was seconded by Ms. Keller and approved by unanimous vote.

After looking at the regulations, Mr. Richards determined that the non-compliance deadline should be within five days. Chairman Minan noted that they were working days.

Item 13 – (con't.)

Chairman Minan reopened the item to hear the revisions on disinfection prepared by staff. After hearing Ms. Clemente's revisions, Ms. Ghio asked that the language read, "Disinfection methods may be used, provided that the Base can demonstrate that the disinfection method can be implemented without resulting in effluent violations or whole effluent toxicity exceedences." The clarification was approved by unanimous vote.

Item 16 – PUBLIC HEARING: Administrative Assessment of Civil Liability against Ashby USA for violations of the State Board's General Construction Storm Water Permit Order No. 99-08-DWQ at its Roripaugh Ranch construction site in Temecula, California. If the discharger elects to waive their right to a hearing, the matter will be rescheduled to allow for a 30-day public review period at which time the Regional Board will consider assessment of civil liability. (Tentative Order No. R9-2003-0302) (*Rebecca Stewart*)

This item was postponed to a future meeting.

Item 17 – Settlement of Potential liability against Shea Homes for violation of SWRCB Order No. 99-08-DWQ, Waste Discharge Requirements for discharges of storm water runoff associated with the Kelly Core construction site located at Cannon Road and Faraday Avenue, Carlsbad in San Diego County. The Regional Board will consider accepting a proposed settlement for the liability in lieu of adopting an ACL. If the Regional Board decides to reject the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Resolution No. R9-2003-0253) (*Vicente Rodriguez*)

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

Mr. Stephany said he was concerned about what the money, given to the Agua Hedionda Lagoon Foundation, would be used for.

Senior staff member Mark Alpert answered questions asked by the Board.

Bob Richards, Agua Hedionda Lagoon Foundation, said the money would go towards on-going environmental programs and/or the completion of their facility.

Stephen Marsh, Luce Forward, attorney for Shea homes, said they would make sure the money was put to good use.

After Board Member discussion, Ms. Ghio made a motion to approve Order No. R9-2003-0253 with errata. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Item 18 – PUBLIC HEARING: Administrative Assessment of Civil Liability against Pioneer Builders for violations of the State Board's General Construction Storm Water Permit Order No. 99-08-DWQ, San Diego Region Basin Plan, and Cleanup and Abatement Order No. R9-2003-158 at the Castillo del Mar subdivision in Dana Point, California. If the discharger elects to waive their right to a hearing, the matter will be rescheduled to allow for a 30-day public review period at which time the Regional Board will consider assessment of civil liability. (Tentative Order No. R9-2003-0301) (*Rebecca Stewart*)

The public hearing was opened at 1:30 p.m.

Mr. Robertus introduced the item and staff member Rebecca Stewart gave the presentation.

Board Members asked questions of Ms. Stewart.

Other speakers included:

Mark McGuire, attorney for Pioneer Builders

Terry Hirschag, Pioneer Builders

Pam Tappan, Dana Point Wetlands Protection Association

Barbara Drummond, Dana Point Wetlands Protection Association

Roger von Butow, Clean Water Now! Coalition

Richard Gardner, Friends of Salt Creek

Mr. McGuire made closing statements and answered questions asked by the Board.

Ms. Stewart responded to some of Mr. McGuire's comments and made closing statements.

Staff member Jeremy Haas answered questions asked by the Board.

The hearing recessed for a ten-minute break at 3:05 p.m.

Board Member Keller left the meeting during the break.

Mr. Robertus recommended approval of the order as amended by Ms. Stewart.

Mr. McGuire said he would like the opportunity to work with staff on a settlement.

Chairman Minan recommended that Mr. Robertus explore settlement opportunities with the discharger. Board Members concurred with Chairman Minan's recommendation.

Mr. Richards recommended that the hearing be closed, staff be directed to explore settlement with the discharger, then bring the settlement proposal back to the Board by the November 12, 2003 Board Meeting.

Chairman Minan closed the Public Hearing at 3:30 p.m.

Item 19 – PUBLIC HEARING: Administrative Assessment for Civil Liability against Richmond American Homes for failure to pay annual fees for enrollment in the State Board’s General Construction Storm Water Permit No. 99-08-DWQ in violation of California Water Code section 13260 for the sites listed below. If the discharger elects to waive their right to a hearing, the matter will be rescheduled to allow for a 30-day public review period at which time the Regional Board will consider assessment of civil liability. (*Vicente Rodriguez*)

- a. Sunbow Phase 2A/B in Temecula (tentative Order No. R9-2003-0287)
- b. Barcelona Classics in Wildomar (tentative Order No. R9-2003-0288)
- c. San Marcos site (tentative Order No. R9-2003-0289)
- d. Tract No. 28753 Rancho Bella Vista in Temecula (tentative Order No. R9-2003-0290)
- e. Portion of Murietta Hotsprings in Temecula (tentative Order No. R9-2003-0292)
- f. Richmond American in Rancho Bernardo (tentative Order No. R9-2003-0293)

This item was postponed to a future meeting.

Item 20 – Waste Discharge Requirements: California Dept. of Parks and Recreation, Crystal Cove State Park, El Morro Trailer Park, Orange County (tentative Order No. R9-2003-0228) (*Victor Vasquez*)

This item was postponed to a future meeting.

Item 21 – PUBLIC HEARING: Cease and Desist Order, California Dept. of Parks and Recreation, Crystal Cove State Park, El Morro Trailer Park, Orange County (tentative Order No. R9-2003-0285) (*Victor Vasquez*)

This item was postponed to a future meeting.

Item 22 – Status Report: City of San Diego, Water Recycling Program (*David Hanson*)

Marsi Steirer and Fabiola Amarillas, City of San Diego, gave the presentation.

Board Members asked questions of Ms. Steirer and staff.

Item 21 – *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)

The Executive Session was not held.

Item 22 – *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 23 – *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 24 – *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 25 - Arrangements for Next Meeting and Adjournment

Wednesday, September 10, 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 4:15 p.m.

These minutes were prepared by:

Signature of Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus