

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

MINUTES OF MEETING
AUGUST 16, 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. in the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Item 1 – Roll Call and Introductions: Board Members Present: John Minan, Eric Anderson, Richard Wright, Susan Ritschel and Daniel Johnson.

Staff Present: John Robertus, Arthur Coe, Michael McCann, Lori Costa, Mark Alpert, Bob Morris, Brian Kelley, David Gibson, John Odermatt, John Anderson, Craig Carlisle, Chiara Clemente, Pete Michael, Julie Chan, Jimmy Smith, Victor Vasquez, Melissa Valdovinos, Rebecca Stewart, Eric Becker, Charles Cheng, Joann Lim, Michelle Mata, Robert Pierce, Chris Means, Lisa Honma, Alan Monji, Steven English, Fisayo Osibodu, Amy Grove, Wayne Chiu, Jeremy Haas, Mike Porter, Mariah Mills and Don Perrin.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Jan White & Associates Reporting: Julia Dinwiddie. Public Attendance: Tom French – California ISO; Tom Rosales, Ann Harley, Cindy Beck – SOCWA; Wade Specht – SMWD; Lupe Armas, Khalique Khan, Andrew Entingh – U.S. Marine Corp, Camp Pendleton; Jeff Paul, Sheila Henika, Scott Seipel, John Steinbech, Robert Eligas, Roy Craft, Jerry Panter, Pedro Lopez – NRG Energy; Dick Dietmeier – Dana Point; Tim Hemig, Tim Hemig – Cabrillo Power; Gig Conaughson – North County Times; Karl Lytz – Latham & Watkins; Rachel Lipsky – Surfrider Foundation; Wayne Rosenbaum – Foley & Lardner; Cindy Beck – Irvine Ranch WD; Matt Tebbetts – Kennedy/Jenks Consultants; Michael Welch – Self; Harry William – City of San Marcos; Greg Quist – Rincon del Diablo MWD; Don Christiansen – Self; Bruce Reznik, Catherine Ogden, Gabriel Solmer – SD Coast Keeper; Christopher Garrett – Latham & Watkins; Conner Everts – Desal Response Group; Cecilia Padres – County of San Diego; Mark Humphries – Helix WD; Gary Arant – Valley Center MWD; Patti Krebs – IEA; Ed Kimura – Sierra Club; Peter MacLaggan, Nikolay Vouter – Poseidon Resources Corp.; Don Christiansen – Resident of Carlsbad; Michael Babowal, Angelika Villagrana – Carlsbad Chamber of Commerce; Bob Simmons – Self; Gary Knight – San Diego North Economic Development Council; Jim Elliot – City of Carlsbad; Jim Schmidt – Self; Tom Rosales – South Orange County Wastewater Authority; Melissa Thorme, Keith Lewinger – Fallbrook Public Utility District.

State Board Member Gerald Secundy reported that the State Board held workshops and meetings on storm water numeric limits, Areas of Special Biological Significance (ASBS) and 316B. Mr. Secundy also talked about the information that was prepared by the State Board on ex parte communications.

Chairman Minan announced that Ms. Nygaard was disqualified as a Board Member due to the 10% disqualification rule and that Ms. Keller resigned from the Board.

Chairman Minan also announced that Items 6, 11, 16, 17 and 18 were postponed.

Item 2 – Public Forum

Lupe Armas, U.S. Marine Corp, Camp Pendleton, reported on their new tertiary wastewater treatment plant and invited the Board to tour the plant.

Item 3 – Minutes of Board Meeting of June 14 & June 21, 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.

Mr. Johnson said that a correction needed to be made to Item 2 of the June 14 minutes where Mr. Ray Poulter spoke about “his” plan. He said the word “his” in the third line of the paragraph should be changed to “the.”

Mr. Johnson moved approval of the June 14, 2006 minutes with errata. The motion was seconded by Mr. Wright and approved by unanimous vote.

Mr. Wright moved approval of the June 21, 2006 minutes. The motion was seconded by Mr. Anderson and approved by unanimous vote.

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.

Mr. Anderson reported that on August 11, 2006 he attended the San Diego River Conservancy meeting as a non-voting member in Chairman Minan's absence. He regretfully announced that their Executive Officer, Deborah Jayne, resigned from the Conservancy during the Executive Session.

Mr. Johnson reported that the San Diego County Dept. of Environmental Health convened a working group to address the Brownfield's redevelopment issue. He attended the group meeting along with senior staff members David Barker and John Anderson. Mr. Johnson also announced that there was going to be a National Brownfield's Association advisory meeting in Sacramento on September 20.

Chairman Minan reported that he participated in a Chair's conference call with the State Board Executive Director on July 17, 2006. AB 966 and the next WQCC were discussed. Chairman Minan also spoke about ex parte communications, the Clean Water Summit that he attended and Waste Discharge Requirements for sewage collection systems.

Mr. Robertus reported on Santa Margarita Lagoon and River Nutrient TMDLs, a meeting he attended with the San Diego Port District regarding an Environmental Fund and the MS4 Permit.

Consent Items 5 - 11

Item 5 was removed from the Consent Calendar.

Item 6 – 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 6 was postponed.

Item 7 – Swift Transportation Company Inc., 6933 Calle De Linea, San Diego: Administrative Assessment of Civil Liability for failure to submit the Fiscal Year 2003-04 and 2004-05 annual storm water monitoring reports required by Order No. 99-07-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit). The Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2006-0097) (*Rebecca Stewart*)

Item 8 – Minshew Brothers Steel Construction, Inc., 1278 Vigilante Road, Lakeside: Administrative Assessment of Civil Liability for failure to submit the Fiscal Year 2003-04 and 2004-05 annual storm water monitoring reports required by Order No. 99-07-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit). The Regional Board will consider written comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2006-0098) (*Rebecca Stewart*)

Item 9 – Revision of Waste Discharge Requirements: Valley Center Municipal Water District, Woods Valley Treatment Facility (Tentative Addendum No. 1 to Order No. R9-1998-0009, An Addendum increasing the flow limitation) (*Eric Becker*)

Item 10 – NPDES Permit Revision: USMC Camp Pendleton, Discharge to Pacific Ocean via Oceanside Ocean Outfall (Tentative Addendum No. 2 to Order No. R9-2003-0155, NPDES Permit No. CA0109347, An Addendum to replace STP #13 with the Southern Region Tertiary Treatment Facility) (*Charles Cheng*)

Item 11 – Revision of Waste Discharge Requirements: Sewage Collection Agencies within the San Diego Region, (Tentative Addendum No. 7 to Order No. R9-1996-0004, An Addendum establishing termination procedures for coverage under this Order) (*Joann Lim*)

Item 11 was postponed.

Mr. Wright made a motion to approve Consent Items 7 – 10. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 13 – NPDES Permit Reissuance: Cabrillo LLC I, Encina Power Plant, Carlsbad (Tentative Order No. R9-2006-0043, NPDES No. CA0001350) (*Eric Becker*)

Mr. Robertus introduced the item and staff member Eric Becker gave the presentation.

Other speakers included:

Tim Hemig – Cabrillo Power I LLC

Tom French – Grid Assets

Patti Krebs – Industrial Environmental Association

Ed Kimura – Sierra Club

Catherine Ogden – San Diego Coastkeeper

Rachel Lipsky – Surfrider Foundation

Mr. Becker addressed Mr. Kimura's concerns. Mr. Hemig made closing remarks.

Mr. Robertus recommended approving the order with the study included.

Ms. Ritschel made a motion to approve Order No. R9-2006-0043 with errata and the requirement that a supplemental report of waste discharge on the effects of heat treatment be submitted and that mass limits be addressed. The motion was seconded by Mr. Johnson and approved by unanimous vote.

Item 12 – New NPDES Permit: Poseidon Resources Corporation, Carlsbad Desalination Project, Carlsbad (NPDES NO. CA0109223) The public comment period on this item closed on June 14, 2006. Comments on the specific recommended changes to tentative waste discharge requirements made subsequent to the close of the public comment period will be accepted. Otherwise, persons must demonstrate why they were unable to submit comments by the June 14, 2006 deadline or that compliance

with the deadline created an unreasonable hardship. (Tentative Order No. R9-2006-0065) (*Charles Cheng*)

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

Other speakers included:

Peter MacLaggan – Poseidon Resources Corporation

Don Christiansen – Carlsbad resident

Michael Babowal – Carlsbad Chamber of Commerce

Angelika Villagrana – San Diego Regional Chamber of Commerce

Bob Simmons

Gary Knight – San Diego North Economic Development Council

Greg Quist – Ramona Del Diablo Water District

Patti Krebs – Industrial Environmental Association

Jim Elliott – City of Carlsbad

Gary Arant – Valley Center Water District

Jim Schmidt

Gabriel Solmer – San Diego Coastkeeper

Catherine Ogden – San Diego Coastkeeper

Ed Kimura – Sierra Club

Rachel Lipsky – Surfrider Foundation

Conner Everts – Desal Response Group

Mr. MacLaggan made closing remarks. Mr. Cheng also made closing remarks. Senior staff member Michael McCann addressed questions asked by the Board.

Mr. Robertus recommended that the Board approve the Order with errata.

Board Members made comments.

Ms. Ritschel made a motion to approve Order No. R9-2006-0065 with errata. The motion was seconded by Mr. Johnson and approved by unanimous vote.

Item 14 – NPDES Permit Reissuance: South Orange County Wastewater Authority, Aliso Creek Ocean Outfall (tentative Order No. R9-2006-0055, NPDES No. CA0107611) (*Joann Lim*)

Mr. Robertus introduced the item and staff member Joann Lim gave the presentation.

Other speakers included:

Tom Rosales – South Orange County Wastewater Authority

Cindy Beck – Irvine Ranch Water District

Mr. McCann and Ms. Lim answered questions asked by the Board.

Mr. Wright made a motion to approve Order No. R9-2006-0055. The motion was seconded by Mr. Johnson and approved by unanimous vote.

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

Item 21 – *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. The Diver's Environmental case was discussed.

The meeting reconvened at 12:45 p.m.

Item 15 – NPDES Permit Reissuance: South Orange County Wastewater Authority, San Juan Creek Ocean Outfall (tentative Order No. R9-2006-0054, NPDES No. CA0107417) (*Joann Lim*)

Mr. Robertus introduced the item.

Ann Harley, SOCWA, spoke about their proposed changes.

Chairman Minan said he would continue the item to later in the day to allow staff to confer with Ms. Harley about her proposed changes.

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*)

Mr. Robertus introduced the item and staff member Victor Vasquez gave the presentation.

Other speakers included:
Melissa Thorne, Downey Brand
Keith Lewinger, Fallbrook Public Utility District
Wayne Rosenbaum, Foley & Lardner

Mr. Vasquez answered questions asked by the Board. Mr. Richards and Mr. Robertus also answered questions and made comments.

After discussion, Mr. Robertus recommended continuing the item for six to twelve months and possibly holding a regional workshop during that time.

It was the consensus of the Board to continue the item to allow staff to work on the issue to develop some regional information then bring the item back to the Board as quickly as possible.

After Board Member discussion, Mr. Wright made a motion to continue the item to a future meeting. The motion was seconded by Mr. Ritschel and approved by unanimous vote.

Item 15 – Continued

Ms. Lim said she meet with the representatives of SOCWA and found their request to be reasonable. Ms. Lim read the suggested amendments into the record.

Mr. Robertus recommended that the Board approve the Order with errata.

Mr. Johnson made a motion to approve Order No. R9-2006-0054. The motion was approved by Ms. Ritschel and approved by unanimous vote.

Item 16 – Supplemental Environmental Project (SEP) Process: The Regional Board will consider a process to develop, select, fund, and manage SEPs derived from the settlement of administrative civil liability (ACL) actions and other related enforcement actions. (*Mark Alpert*)

Item 16 was postponed.

Item 17 – City of Escondido, Hale Avenue Resource Recovery Facility: Administrative Assessment of Civil Liability against the City of Escondido for Violations of Order No. 99-72, NPDES No. CA0107981, Waste Discharge Requirements for the City of Escondido, Hale Avenue Resources Recovery Facility, Discharge to the Pacific Ocean Via the Escondido Land Outfall and the San Elijo Ocean Outfall. The Regional Board will consider accepting a proposed settlement in response to Administrative Civil Liability Complaint No. R9-2005-0265. If the Regional Board rejects 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 Order No. R9-2006-0095) (*Rebecca Stewart*)

Item 17 was postponed.

Item 18 – PUBLIC HEARING: Excellent Coatings, Inc., 1285 Distribution Way, Vista: Administrative Assessment for Civil Liability for failure to submit the Fiscal Year 2004-05 annual storm water monitoring report required by Order No. 99-07-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit). If the discharger elects to waive their right to a hearing, the Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2006-0099) (*Rebecca Stewart*)

Item 18 was postponed.

Item 19 – PUBLIC HEARING: Next Generation Gelcoat, Inc. 9349 Bond Avenue, El Cajon: Administrative Assessment for Civil Liability for failure to submit the Fiscal Year 2004-05 annual storm water monitoring report required by Order No. 99-07-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit). If the discharger elects to waive their right to a hearing, the Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2006-0100) (*Rebecca Stewart*)

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

Board Members asked questions of Ms. Stewart. It was determined that in paragraph 3 the amount of \$3,500 should be corrected to read \$2,500.

Order No. R9-2006-0100 was adopted by unanimous vote.

Item 20 – Status Report: Lake Cuyamaca Recreation and Park District, Order No. R9-2004-0015, Waste Discharge Requirements (*Michelle Mata*)

Ms. Michelle Mata gave the status report.

Other speakers included:
Matt Tebbetts – Kennedy/Jenks
Ed Kimura – Sierra Club

Board Members asked questions and made comments.

Item 22 – *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.

Item 23 – *Executive Session* - Discussion of Pending Litigation
The Regional Board may meet in closed session to discuss pending litigation:

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 Sessions, Items 22-24, were not held.

Item 25 - Arrangements for Next Meeting and Adjournment

Wednesday, September 13, 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 2:32 p.m.

These minutes were prepared by:

Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus