

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

MINUTES OF MEETING  
May 11, 2005

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 City of Laguna Beach, City Council Chambers, 505 Forest Avenue, Laguna Beach, California.

Chairman Minan announced that Items 6 and 7 were postponed.

**Item 1** – Roll Call: Board Members Present: Chairman John Minan, Jennifer Kraus, Eric Anderson, Susan Ritschel, Daniel Johnson Alan Barrett and Janet Keller.

Staff Present: John Robertus, Michael McCann, David Barker, Lori Costa, Bob Morris, Julie Chan, John Phillips, Brian Kelley, Jeremy Haas, Jimmy Smith, Leslie Dobalian, Frank Melbourn, Sabine Knedlik, Hashim Navrozali and Bryan Ott.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Star Reporters: Nanci Grube. Public Attendance: Nancy Palmer, Tim Casey-City of Laguna Niguel; Mark Umphres-Helix Water District; Dave Seymour-SMWD; Rick Wilson-Surfrider Foundation; Ted Griswold, Willard Ledley, Thomas Chapman, Thomas Ruzich-Lake Cuyamaca Recreation & Park District; Matt Tebbetts-Kennedy/Jenks Consultants; Gabriel Solmer-San Diego BayKeeper; Dave Caretto-SOCWA; Joe Ames-City of Mission Viejo; Markus Lenger-Hydrologix Systems; Pat Tennant-SCE; James Mathison-Daley & Heft; Laura Larsen-CalTrans; Marni Magda-self; Larry McKenney, Chris Crompton-County of Orange; Ed Kimura-Sierra Club; Bill Roley-Permaculture Institute; Mark Slymer-Aliso Creek Inn; J. Spence McIntyre-self; Dave Connell-Laguna Beach resident; Richard Schlesinger-City of Mission Viejo; Richard Gardner, Dick Runge-South Coast Water District; MJ Foley-MJF Consulting; Kenneth Rosenfield-City of Laguna Hills; Michael Hazzard-Citizen Watershed Monitors; Jim Merid-City of Aliso Viejo; Michael Beanan-South Laguna Civic Assoc.; Edward Lebahn-Dana Point resident; Cindy Lin-US EPA; Laura Hunter-

Environmental Health Coalition; Roger von Butow-Clean Water Now! Coalition; Douglas Phillips-Laguna Beach resident; Karen Henry-City of San Diego; Patti Krebs-Industrial Environmental Association; Richard Dietmeier-self; Shanna Wolf-City of Dana Point.

**Item 2** – Public Forum

Laura Hunter, Environmental Health Coalition, read a letter submitted by the Audubon Society. The subject was the Fashion Valley Road crossing vs. a bridge.

Markus Lenger, Hydrologix Systems, said they received a permit to test a specific system for grease reduction and completed the testing. He said they were now doing research on how to improve the water quality in Aliso Creek.

Marni Magda, Laguna Beach resident, thanked the Board for their hard work in trying to improve the quality of water in Laguna Beach. Ms. Magda also talked about the San Mateo watershed and a grant extension.

Roger von Butow, Clean Water Now! Coalition, briefed the new Board Members on the history of the Coalition.

Michael Beanan, South Laguna Civic Association, talked about a kelp forest coloring book, watershed ecology and sustainable watersheds.

Bill Roley, Permaculture Institute of Southern California, talked about the need to develop stewardship programs within the cities and counties.

**Item 3** – Minutes of Board Meeting of April 13, 2005

*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 13, 2005 minutes. The motion was seconded by Ms. Keller and approved by unanimous vote. Mr. Barrett abstained.

**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.

Ms. Kraus spoke about the San Diego River Conservancy and the draft EIR for the Grantville Redevelopment Project.

Mr. Johnson announced that his firm, Environmental Business Solutions, co-sponsored a presentation on the California Performance Review and the proposed reorganization of Cal/EPA.

Ms. Ritschel announced that on June 11, 2005 the Surfrider Foundation and the San Clemente Watershed Task Force were sponsoring a 5K Beach Run and Walk to support clean water.

Ms. Kraus announced that on April 21, 2005 the U.S. EPA issued awards to seven Southern California organizations and individuals for their efforts to protect and preserve the environment during 2004.

Chairman Minan spoke about some issues discussed at the annual State and Regional Board's Chairs' meeting held in San Diego on April 27, 2005.

Mr. Robertus briefly spoke about the May 19, 2005 Gregory Canyon Landfill workshop, the revised Regionalization of the State Board Strategic Plan and the April 27 Management Coordinating Committee meeting.

**Item 5** – NPDES Permit Renewals:

A. NPDES Permit Renewal: Waste Discharge Requirements for the Southern California Edison, San Onofre Nuclear Generating Station, Unit 2, San Diego County (tentative Order No. R9-2005-0005, NPDES Permit No. CA0108073)  
*(Hashim Navrozali)*

B. NPDES Permit Renewal: Waste Discharge Requirements for the Southern California Edison, San Onofre Nuclear Generating Station, Unit 3, San Diego County (tentative Order No. R9-2005-0006, NPDES Permit Nos. CA0108181)  
*(Hashim Navrozali)*

This item was initially heard by the Regional Board at the hearing on March 9, 2005. The opportunity for verbal comments was concluded at the March 9, 2005 hearing, but the written comment period was extended to March 23, 2005. At

today's meeting, the Regional Board will consider responses to comments received, modifications to the two tentative orders, and the adoption of the modified orders.

Board Member Johnson recused himself from participating in the item since he was not present at the March 9 hearing and was not able to listen to the tapes.

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

*Board Member Wright arrived at 9:50 a.m.*

Chairman Minan asked staff questions about fees and radiological monitoring.

Robert Heckler, SONGS, answered questions about mitigation activities and the thermal filled digester.

Mr. Robertus recommended that the Board adopt the two Orders.

A motion was made by Ms. Ritschel to approve Order No. R9-2005-0005. The motion was seconded by Mr. Anderson and approved by unanimous vote. Mr. Wright abstained.

A motion was made by Ms. Ritschel to approve Order No. R9-2005-0006. The motion was seconded by Mr. Anderson and approved by unanimous vote. Mr. Wright abstained.

**Item 6** – NPDES Permit Renewal: San Elijo Joint Powers Authority, San Elijo WRF Discharge to the Pacific Ocean via the San Elijo Ocean Outfall (tentative Order No. R9-2005-0100, NPDES No. CA0107999) (*Bryan Ott*)

*Item 6 was postponed.*

**Item 7** – NPDES Permit Renewal: City of Escondido, Hale Ave. Resource Recovery Facility Discharge to the Pacific Ocean via the San Elijo Ocean Outfall (tentative Order No. R9-2005-0101, NPDES No. CA0107981) (*Bryan Ott*)

*Item 7 was postponed.*

**Item 8** – PUBLIC HEARING: The Board will hold a public hearing to receive testimony and comments on appropriate TMDLs and wasteload allocations for copper, lead, and zinc in Chollas Creek, tributary to San Diego Bay, and on proposed revisions to the water quality objectives for toxic pollutants to reference the California Toxics Rule. At a subsequent meeting, the Regional Board may amend the Basin Plan to incorporate the TMDLs and revise the water quality objectives for Toxic Pollutants. (tentative Resolution No. R9-2005-0111 and Attachment A) (*Jimmy Smith*)

Mr. Robertus introduced the item and staff member Jimmy Smith gave the presentation.

Board Members asked questions of Mr. Smith. Senior staff members David Barker and Julie Chan also participated in the discussion.

Other speakers included:

Karen Henry, City of San Diego

Patti Krebs, Industrial Environmental Association

Ed Kimura, Sierra Club of San Diego

Cindy Lin, U.S. EPA

Gabriel Solmer, San Diego BayKeeper

Mr. Smith made closing comments and recommended the Board close the public comment period.

Board Members made comments and requested additional information that would be presented when the item was brought back to the Board at a future meeting.

Mr. Robertus recommended extending the public comment period a few days. Board Members recommended that the public comment period be held open for two weeks.

A motion was made by Ms. Ritschel to leave the public comment period open for an additional two weeks, closing on May 25, 2005. The motion was seconded by Mr. Wright and approved by unanimous vote.

**Item 9** – PUBLIC HEARING: Lake Cuyamaca Parks and Recreation District, Lake Cuyamaca Public Recreation Area Southeast of Julian, San Diego County: the Regional Board will receive testimony and comments on a proposed discharge of sewage waste to groundwater through a subsurface disposal system at the Lake Cuyamaca Public Recreation Area and on appropriate regulation for such a discharge. (Ground water in the area of the discharge currently exceeds water quality objectives for nitrates and other pollutants due to the Cedar Fire.) (*Bryan Ott*)

Mr. Robertus introduced the item and staff member Bryan Ott gave the presentation.

Board Members asked questions of Mr. Ott.

Other speakers included:

Tom Chapman, Chairman-Lake Cuyamaca Board of Directors

*The meeting was recessed for lunch and Executive Session at 11:50 a.m.*

**Item 13** – *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. City of San Diego*, U.S. District Court, Southern District of California, Case No. 03CV1381-B(POR) (*David Hanson*); and the related case:

*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) (*David Hanson*)

*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. (*Frank Melbourn*)

*Building Industry Association of San Diego County, et al. v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego; In the Court of Appeal of the State of California, Case No. GIC 780263 (Phil Hammer)*

*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. (Paul Richter)*

*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.*

*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 824707. Complaint for Breach of Contract, Specific Performance, Intentional Misrepresentation, Bad Faith Denial of Existence of Contract, Compensatory Damages, Exemplary Damages and for Declaratory Judgment, Request for Jury Trial.*

*The meeting reconvened at 12:30 p.m.*

Chairman Minan announced that during the Executive Session, the William Johnson and the Schutte & Koerting cases were discussed.

**Item 9** - Continued

Other speakers (continued):

Matt Tebbetts, Kennedy/Jenks Consultants

Ted Griswold, attorney for Lake Cuyamaca

Mark Umphres, Helix Water District

Ed Kimura, Sierra Club

Mr. Ott made closing comments. Mr. Barker answered questions asked by the Board. Mr. Tebbetts, Mr. Griswold and Mr. Chapman also answered questions.

Mr. Robertus recommended that the discharger not be allowed to discharge until certification occurred.

Board Members discussed the item and asked questions of Mr. Richards.

Chairman Minan made a motion to affirm the waste discharge requirements and the discharge not be allowed to commence until the discharger provided a certification report showing compliance or that they were moving toward compliance. The motion was seconded by Mr. Wright and approved with opposition by Mr. Anderson.

**Item 10** – Cleanup and Abatement of pollution from discharges of urban runoff to Aliso Creek. The Board will consider rescission of the CAO No. 99-211 requiring the County of Orange, Orange County Flood Control District, and City of Laguna Niguel to cleanup waste and abate existing and threatened pollution. (Tentative Order No. R9-2005-132) (*Jeremy Hass*)

Mr. Robertus introduced the item and staff member Jeremy Hass gave the presentation.

Other speakers included:

Tim Casey, Laguna Niguel City Manager

Larry McKenney, County of Orange

Richard Gardner, resident of Capistrano Beach

Bill Roley, Permaculture Institute

Richard Dietmeier, resident of Dana Point

Rick Wilson, Surfrider Foundation

Michael Hazzard, Citizen Watershed Monitors

Michael Beanan, South Laguna Civic Association

Roger von Butow, Clean Water Now! Coalition

Mr. Haas made closing comments. Mr. Robertus recommended the Board affirm the rescission.

A motion was made by Ms. Ritschel to approve Order No. R9-2005-132. The motion was seconded by Ms. Kraus and approved by unanimous vote.

**Item 11** – Resolution: Regional Board support for request of the State Water Resources Control Board for funding of an Epidemiological Study and/or a Bacteria Source Analysis of San Juan Creek and the Doheny Beach area in Orange County. (Tentative Resolution No. R9-2005-0133) (*John Robertus*)

Speakers included:

Shanna Wolf, City of Dana Point  
Mary Jane Foley, MJ Consultants  
Richard Gardner, resident of Capistrano Beach  
Larry McKenney, County of Orange  
Richard Dietmeier, resident of Dana Point  
Rick Wilson, Surfrider Foundation-Laguna Beach  
Michael Hazzard, Citizen Watershed Monitors  
Roger von Butow, Clean Water Now! Coalition

Mr. Robertus recommended adoption of the revised Resolution.

A motion was made by Mr. Wright to adopt Resolution No. R9-2005-0133. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

**Item 12** – Status Report: Presentations by the County of Orange Copermittees and Public Organizations (*Jeremy Haas*)

Larry McKinney, County of Orange, gave the presentation.

Other speakers included:

Michael Beanan, South Laguna Civic Association  
Richard Gardner, resident of Capistrano Beach  
Roger von Butow, Clean Water Now! Coalition  
Markus Lenger, represented Clean Water Now! Coalition

**Item 14** – *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 15** – *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 16** – *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 17** - Arrangements for Next Meeting and Adjournment

Wednesday, June 8, 2005 - 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 4:00 p.m.

These minutes were prepared by:

Executive Officer:

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Lori Costa  
Executive Assistant

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John H. Robertus