

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

MINUTES OF MEETING  
April 10, 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 Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, 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, Arthur Coe, Michael McCann, Lori Costa, David Barker, Mark Alpert, Deborah Jayne, Brian Kelly, Julie Chan, John Phillips, Craig Carlisle, DiAnne Broussard, Paul Richter, David Hanson, Sabine Knedlik, Rebecca Stewart, Frank Melbourn, Brian McDaniel, Barry Pulver, Anthony Felix, Bob Rossi, Chehreh Komeylyan, Pete Peuron, Alan Monji, Jimmy Smith, Mike Galina, Amy Fortin, Tom Alo, Lesley Dobalian, Christina Arias, and Bryan Ott.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards, Tom Howard. Park Avenue Deposition Service: Grace Verhoven. Public Attendance: Capt. Donald Boland, Martha Gandy, Brian Gordon, Tom Malley, Tricia Underwood, Steven Hiffel, Melanie Bengtson, US Navy; Bruce Reznik, San Diego BayKeeper; Marco Gonzalez, Surfrider Foundation; Michael Welch, self; Tera Mathias, Elena Rudd, AMEC; Sylvia Castillo, Timothy Stebbins, City of San Diego; Humberto Peraza, Senator Boxer; Jim Peugh, SD Audubon; Jim Colston, OCSD; Gary Clossin, I- Cubed Consulting; Michael Katz, Suzanne Varco, Promenade Mall; Rob McGann, Contractors Assoc.; Steve Brinigar, Law/Crandall; Laura Hunter, EHC; Anderson Donan, Donan Env. Services; Ernest Moretti, self; Tony Sawyer, Kevin Heaton, DEH; and Patti Krebs, IEA.

**Item 2** – Public Forum

Marco Gonzalez, Surfrider Foundation, said he would like to speak on Item 8 if the public comment period was reopened due to the actions by the Coastal Commission.

**Item 3** – Minutes of Board Meeting of February 13 & March 13, 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 February 13 & March 13, 2002 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.

Executive Officer Robertus announced that the City of San Diego declared April 2, 2002 as Wayne Baglin Day. A Resolution of Appreciation was given to Mr. Baglin by the City.

John Robertus also announced that staff member Bob Rossi was selected to receive a Customer Service Award and staff member Lori Costa was selected to receive a Sustained Superior Accomplish Award. Chairman Minan presented the award certificates.

Mr. Robertus said he attended a meeting in Sacramento on April 9, 2002 involving all the leadership within the CalEPA organization for a briefing on the activities in the Governor's Office on various environmental programs throughout the state.

Chairman Minan said he hoped an item would be brought to the Board that would amend the San Diego Municipal Stormwater Permit in order for it to conform to the recently adopted Orange County Municipal Stormwater Permit so the responsibilities and obligations were consistent.

Chairman Minan encouraged the other Board Members to complete and return to the State Board the Conflict of Interest disclosure forms.

Mr. Stephany asked Mr. Robertus to keep him informed on the status of the funds that were made available under Proposition 40. Mr. Robertus said it hadn't been determined yet as to who would have control over the available funds- the State Board or the Resources Agency.

Ms. Ghio reported that she and Mr. Anderson attended the San Diego bay tour hosted by the Navy and said she was quite impressed by their operations and abilities in monitoring the bay.

Items 5 - 7 – Consent Calendar

**Item 5** – 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** - Waste Discharge Requirements Update: City of San Clemente, Water Reclamation Plant, Orange County (tentative Order No. R9-2002-0063) (*Adam Laputz*)

**Item 7** - Waiver of Waste Discharge Requirements: A Resolution Conditionally Waiving Adoption of Waste Discharge Requirements for the Discharge of Burn-Ash Wastes into Temporary Waste Piles During Cleanup and Abatement of Burn-Ash Wastes Located in Proximity to 38th and Quince Streets in the City of San Diego. (Tentative Resolution No. R9-2002-0069) (*Brian McDaniel*)

Item 6 was postponed to a future meeting.

Mr. Stephany noted that the City said the stockpiles at temporary sites would be removed within a couple of weeks.

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

**Item 8** - NPDES Permit Renewal: City of San Diego, E.W. Blom Point Loma Wastewater Treatment Plant and Ocean Outfall. (Tentative Order No. R9-2002-0025, Draft NPDES Permit No. CA0107409) (*David Hanson*)

Chairman Minan explained the procedures that would be followed in discussing the item. He said the action taken by the Board could be to approve the tentative Order without modification or amendment, approve with modification and/or amendment, reject the tentative Order or continue the item.

Ms. Ghio asked what authority the Board and USEPA had as compared to the Coastal Commission and what was the meaningfulness of the Coastal Commission's ruling. Chairman Minan and Mr. Richards responded.

The Board Members agreed that the item should be discussed before deciding on an action.

Chairman Minan asked the Board Members to identify their general issues of concern. Mr. Wright said he wanted to discuss the monitoring design and the availability of monitoring data to the public. Ms. Ghio wanted assurance that the monitoring data would be available to the public in an electronic format. Mr. Stephany said mass emissions, the potential lack of reclamation and monitoring should be discussed. Chairman Minan said the operation of the system wide permit needed to be discussed.

The Board Members then proceeded to discuss the issues listed above.

After Board Member discussion, Chairman Minan made a motion to amend the tentative Order by inserting, on Page 14, the language “as a result of upset or shutdown” after the words “...generated in Mexico” with appropriate amending conformances throughout the permit and fact sheet. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Mr. Stephany made a motion to amend the tentative Order by deleting the last three lines after the word “resources” in Finding 33 on Page 10. The motion was seconded by Ms. Black and approved by unanimous vote.

Chairman Minan directed Mr. Robertus to report back to the Board annually on the progress that the City of San Diego was making with the actual use of reclaimed water and said if inadequate efforts were being made, the Board should consider amending the permit.

Mr. Anderson recommended adding a water reclamation statement, “wherever practicable, all agencies should reduce imported water demands by maximizing water reclamation reuse,” to the findings in the permit. Chairman Minan said to amend the permit to incorporate into the finding that it was the Board’s intent that the City actually reuse the water.

Mr. Wright asked that the City’s monitoring data be in electronic format that was user friendly and readily available to the public.

Chairman Minan directed Mr. Robertus to require the City to provide a technical report on the City's current and future ability to provide meaningful public access to the results of its monitoring program.

Mr. Wright asked that the current monitoring design be reviewed, possibly by the Southern California Coastal Water Research Project, to determine if improvements were needed, paying attention to deep ocean monitoring, the long term effects of discharges and pathogens.

Chairman Minan directed Mr. Robertus and staff to review the issues of deep ocean monitoring, monitoring to detect health threat pathogens, long term effects and the adequacy of the monitoring design and if necessary bring the item back to the Board for action by way of an amendment to the permit.

Chairman Minan made a motion to amend the tentative Order by reducing the total suspended solids mass emissions by 6.7% from the 15,000 metric tons per year. The motion was seconded by Mr. Stephany and approved by unanimous vote.

Ms. Ghio made a motion to adopt Order No. R9-2002-0025 with the amendments. The motion was seconded by Mr. Stephany and approved by unanimous vote.

*The meeting was recessed for lunch.*

Ms. Black left the meeting at 12:45 p.m.

**Item 11** - PUBLIC HEARING: Administrative Assessment for Civil Liability containing a Mandatory Penalty against Promenade Inc. for Violation of Order No. 96-41, NPDES Permit No. CAG919002, Waste Discharge Requirements for a Permanent Dewatering System at Pacific Beach Promenade, 4150 Mission Blvd., San Diego CA. 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. R9-2002-0052) (*Rebecca Stewart*)

Staff member Rebecca Stewart said she had been working with representatives of the discharger in an effort to settle the ACL and requested that the item be continued. Mr. Robertus concurred with Ms. Stewart's request. Board Member's agreed to continue the item.

Suzanne Varco, Varco & Associates, was in agreement with the request for a continuance.

**Item 9** - NPDES Permit, U.S. Navy Point Loma Complex: An NPDES permit regulating industrial stormwater and point sources discharges of wastes to San Diego Bay from various activities, including ship repair, pier and pier boom cleaning and aquatic animal training. (Tentative Order No. R9-2002-0002, NPDES Permit No. CA0109363) (*Paul Richter*)

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

Captain Boland, U.S. Navy, talked about the permit revisions. Brian Gordon, U.S. Navy, gave a presentation on the Navy's comments.

Other speakers included:

Laura Hunter, Environmental Health Coalition for the San Diego Bay Council, talked about their concerns with the tentative permit. She said it should be consistent with the shipyard permit.

Jim Peugh, San Diego Audubon Society, supported Ms. Hunter in her comments and made a few additional comments.

Marco Gonzalez, Surfrider Foundation, also agreed with Ms. Hunter's comments and made some additional comments.

Chairman Minan asked that the agenda item be transcribed and distributed to the Board.

Mr. Robertus recommended that the item be continued until forty-five days after the revised permit was produced. The Board Members agreed to continue the item as Mr. Robertus recommended.

**Item 10** - PUBLIC HEARING: Complaint No. R9-2002-0053 for Administrative Assessment of Civil Liability against Mr. Ernest Moretti for Noncompliance with California Water Code Section 13267 (tentative Order No. R9-2002-0085) (*Barry Pulver*)

Mr. Stephany disclosed that he probably started the enforcement action on the item back in the mid 80's that continued through the mid 90's but had been away from it for about 10 years and felt he could make an unbiased decision on the matter.

The hearing was opened at 2:10 p.m. Mr. Robertus introduced the item and staff member Barry Pulver gave the presentation.

Board Members asked questions of Mr. Pulver.

Mr. Ernest Moretti asked the Board to suspend the fine so that any available funds could go towards cleanup.

Anderson Donan, environmental consultant for Mr. Moretti, answered questions asked by Board Members.

Kevin Heaton, geologist, gave some background information on the site and answered questions asked by the Board.

Mr. Stephany also gave some background information on the site.

Mr. Moretti noted that the site was contaminated before he acquired the property.

Mr. Pulver made closing statements.

Mr. Robertus recommended adopting the Order as written with the possible consideration for exempting \$55 since the report had been turned in the day before and amending the number of days of violation making the fine amount \$42,570. He also said the Board could consider suspending a portion of the fine pending evidence of cleanup.

The hearing was closed at 3:07 p.m.

Ms. Ghio recommended amending the fine amount to what the staff time cost was and suspend the remainder of the fine pending his conformance with future time line dates.

Mr. Richards recommended continuing the item to give Mr. Moretti time to provide the requested information to the Regional Board and to allow the State Board time to assist the Regional Board in reviewing the information.

Ms. Ghio made a motion to continue the item. Mr. Robertus recommended not less than 60 days. The motion was seconded by Ms. Butcher and approved with abstention by Mr. Stephany.

**Item 12** - TMDL Status Report: Tom Howard, Chief Deputy Director, State Water Resources Control Board will give a status report on the State Water Board's action plan for developing TMDLs (*Tom Howard*).

Tom Howard talked about TMDLs. He said the TMDL program was the State Board's highest priority program.

**Item 13 - 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 14 - 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 15 - 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)*



*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.

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, May 8, 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 3:51 p.m.

These minutes were prepared by:

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Lori Costa  
Executive Assistant

Signature of Executive Officer:

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John H. Robertus