

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

MINUTES OF MEETING
April 13, 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 Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

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

Staff Present: John Robertus, Arthur Coe, Michael McCann, David Barker, Lori Costa, Mark Alpert, Pete Michael, Bob Morris, John Anderson, John Phillips, John Odermatt, Brian Kelley, Julie Chan, Stacey Baczkowski, Dave Gibson, Craig Carlisle, Frank Melbourn, Paul Richter, Kelly Dorsey, Alan Monji, Tom Alo, Jody Ebsen, Mike Porter, Carol Tamaki, Phil Hammer, Ben Tobler, Christina Arias.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards, Catherine George. Public Attendance: Alan Langworthy, Ted Olson, Ruth Kolb-City of San Diego; Dan Connally-Tetra Tech Inc.; Matt Tebbetts-Kennedy/Jenks Consultants; Kevin Carr, Shari Sehlhurst, Julie Byford, Patrick Owen-SeaWorld; Blair Norris-Anheuser Busch; Dick Runge-South Coast Water District; John Ponder-Western Pacific Housing; Scott Martin-LFR; Kevin Ryan-Kinder Morgan; Ted Griswold-Procopio, Corey, Hargreaves & Savitch; Dave Seymour-SMWD; John Yacovelle-Shipparo Mulhn; Race Paddock-Lake Cuyamaca Rec. & Park District; Ken Schiff, Steve Weisberg-SCCWRP; Andrew Zirgile-CA State Assembly; Katie Zeeman-USFWS; Laura Hunter-Environmental Health Coalition; Maria Gava-City of Imperial Beach; Marco Gonzalez-Surfrider Foundation; Mark Umphres-Helix Water District.

Chairman Minan announced that Item 6 and Item 9 were postponed.

Item 5 – Recognition: Resolution of Appreciation for Terese Ghio (tentative Resolution No. R9-2005-0013) (*John Robertus*)

Chairman Minan read the Resolution of appreciation. Board Members thanked Ms. Ghio for her hard work and dedication while she was on the Board.

Item 2 – Public Forum

Laura Hunter, Environmental Health Coalition, briefly talked about the Border Fence issue, the EO Report item on fish studies, and the June 1, 2005 sediment workshop.

Marco Gonzalez, Surfrider Foundation, introduced himself to the new Board Members and informed them of past issues the Board had dealt with.

Ted Griswold, Procopio, Corey, Hargreaves & Savitch, representing Lake Cuyamaca Recreation & Park District, summarized the situation with the subsurface facility, groundwater quality, and increased ground water monitoring.

Matt Tebbetts, Kennedy/Jenks, also representing Lake Cuyamaca, answered a question asked by the Board.

Rick Umphres, Helix Water District, said they concurred with what Mr. Griswold proposed.

Item 3 – Minutes of Board Meeting of March 9, 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 March 9, 2005 minutes. The motion was seconded by Mr. Wright 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. Wright encouraged people to attend the Town Hall meeting being conducted by Cal/EPA on April 14 at the San Diego Natural History Museum.

Mr. Wright also talked about the Goat Canyon sediment basins.

Ms. Kraus talked about the Helix Water District tour that she, Chairman Minan and Mike McCann attended.

Chairman Minan asked Mr. Richards to give a report on a few ongoing court cases.

Chairman Minan announced that Linda LeGerrette resigned from the Board.

Chairman Minan said he and Mr. Robertus attended a meeting with the Navy. Payment of federal fees and a public tour of the bay were a couple of the items discussed at the meeting. Mr. Robertus gave some proposed dates for the bay tour.

Chairman Minan said he was invited by the Governor's Office to attend a U.S. Customs and Border Patrol presentation on March 7th. He talked about the legislation in congress with respect to the waiver.

Mr. Robertus announced that staff member Phil Hammer and former staff member Shane Landry had received Certificates of Recognition.

Mr. Robertus talked about a presentation he attended in Sacramento given by Mexican officials, the revised Regionalization of the State Water Resources Control Board Strategic Plan, a tour of construction sites for the two new State Board Members and the sediment workshop being held on June 1, 2005.

Mr. Robertus also briefly spoke about several items in his report.

Mr. Johnson asked staff to give the Board an understanding of the enforcement policy. Chairman Minan asked staff to give a presentation to the Board at a future meeting.

Consent Item:

Item 6 – NPDES Permit Renewal: Waste Discharge Requirements for Jack and Mark Stiefel Dairy, Riverside County (tentative Order No. R9-2005-0095, NPDES Permit No. CA0109011) (*Whitney Ghoram*)

This item was postponed.

Remainder of the Agenda (Non-Consent Items):

Item 7 – Addendum to Cleanup & Abatement Order: Mission Valley Terminals (tentative Addendum No. 5 to Order No. 92-01) (*Kelly Dorsey*)

Mr. Johnson said that he was not at the previous meeting when the public hearing was held but did listen to the tapes and felt he was prepared for the item. He also disclosed that the City of San Diego was a party to the item and was also a client of his firm but felt it would not affect his judgment. Ms. Keller recused herself from the item since she was not present at the previous hearing and was not able to listen to the tapes.

Mr. Robertus introduced the item and staff member Kelly Dorsey gave the presentation.

Board Members asked questions of staff.

Mr. Wright made a motion to approve Addendum No. 5 to Order No. 92-01 with errata. The motion was seconded by Ms. Kraus and approved by unanimous vote.

Item 8 – NPDES Permit Renewal: Waste Discharge Requirements for SeaWorld San Diego, San Diego County (tentative Order No. R9-2005-0091, NPDES Permit No. CA0107336) (*Paul Richter*)

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

Other speakers included:
Patrick Owen, SeaWorld
Kevin Carr, SeaWorld
Gabriel Solmer, San Diego BayKeeper

Mr. Richter made closing comments.

Ms. Ritschel made a motion to approve Order No. R9-2005-0091 with additional transmittals. The motion was seconded by Ms. Keller and approved by unanimous vote.

Item 9 – 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*)

These items were postponed.

Item 11 – Status Report: Report of Tijuana-San Diego Wastewater Coordination and facilities. Presented by Comisión Estatal de Servicios Públicos de Tijuana. (*John Robertus*)

Claudia Villacorta, State Board, introduced the item. *Translation services were provided by TRANS-LAANGG.*

Mr. Toribio Cueva gave the presentation.

Board Members asked questions of Mr. Cueva. Mr. Bart Christensen from the State Board also answered questions asked by the Board.

Chairman Minan asked that the main points of the presentation be put into an EO Report item.

The meeting was recessed for lunch at 12:15 and reconvened at 1:05 p.m.

Item 12 – *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.

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

Item 10 – INFORMATION: Report on the Southern California Coastal Water Research Project. Directors of the SCCWRP will give a presentation on their organization, explaining the unique role it plays in providing the technical foundation for many of the Board's priority projects. Important research projects will be highlighted. (*Art Coe*)

Mr. Robertus introduced the item. Steve Weisberg and Ken Schiff, SCCWRP, gave the presentation.

Other speakers included:

Laura Hunter, Environmental Health Coalition

Board Members asked questions of Mr. Weisberg and Mr. Schiff. The Board authorized Mr. Robertus to write a letter to the County of San Diego regarding the County's non-participation with SCCWRP.

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* - 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 16 - Arrangements for Next Meeting and Adjournment

Wednesday, May 11, 2005 - 9:00 a.m.
City of Laguna Beach
City Council Chambers
505 Forest Avenue
Laguna Beach, California

With there being no further business, the meeting was adjourned at 2:15 p.m.

These minutes were prepared by:

Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus