

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

MINUTES OF MEETING
June 29, 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, Richard Wright, Eric Anderson, Daniel Johnson and Alan Barrett.

Staff Present: John Robertus, Arthur Coe, David Barker, Lori Costa, Pete Michael, Craig Carlisle, Julie Chan, Alan Monji, Tom Alo, Jimmy Smith, Frank Melbourn, Kristin Schwall, Lesley Dobalian, Sabine Knedlik, Ben Tobler and Victor Vasquez.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards, Phil Wyels. Reporting Services: Amorita Ledesma, Gina Chavez. Public Attendance: Scott Tulloch, Alan Langworthy, Tim Miller, Ruth Kolb – City of San Diego; Tom Ginn, Dreas Nielsen – Exponent; Brian Wall, Chris McNevin, John List – Chevron; Jim Dragna, Roy Thun, A. Khajetoorians – BP; C. Larry Davis, Vincent Gonzales – SDG&E; David Silverstein, Brian Gordon, Michael Pound, Rob Chichester – U.S. Navy; Joseph Allen, Andrea Patten, Sarah Miller, Mekaela Mahoney, Gabriel Solmer, Stacy Sanchez, Bruce Reznik, Cory Briggs, Michael Leygeon – San Diego BayKeeper; Laura Larsen – RBF/Caltrans; Tom Mulder, Jennifer Gruda – ENV America; Theresa Acerro, Sharon Floyd, Ellen Shively, Georgette Gomez, Sonia Rodriguez – Environmental Health Coalition; Russ McCarthy – Northrop Grumman/CMSD; Steven Bay – SCCWRD; Cindy Lin – USEPA R9; Michael Wheler – Anchor Environmental; John Rudolph, Steve Carlson – Nautilus Environmental; Scott Sobiech – USFWS; Geoffrey Smith – Escondido Creek Conservancy; W. Rosenbaum – Foley & Lardner; Cora Long – City of Lemon Grove; David Akers – CANV Cement Council; Christian Volz, Sandor Halvax – Southwest Marine; Ted Godshalk – Paradise Creek Educational Park; Marco Gonzalez – Coast Law Group; Lupita Jimenez – South Bay Green Party; Erick Carbajal – Comm. Resident of Chula Vista; David Mulliken – Latham & Watkins; Jim Peugh – San Diego Audubon

Society; G. Fred Lee – G.FL & Assoc.; Han Charles, Ed Modiano – de Maximis; Chris Stransky, Bill Pedrick, John Fields, Janet Lear – self; Roger Lahr – Calscience; Norberg Schulz – BBL; John Lormon – Procopio Corey Hargreaves & Savitch; Michelle Russell – Project Namgato.

Item 2 – Public Forum

Wayne Rosenbaum, Foley & Lardner, spoke about an offer of settlement by JRMC Real Estate for an Administrative Civil Liability issued by the Regional Board for stormwater-related violations.

David Akers, California Nevada Cement Promotion Council, talked about pervious concrete that was used for storm water control. He said the pervious concrete captured and naturally treated storm water then returned it to groundwater.

Geoffrey Smith, Escondido Creek Conservancy, introduced himself to the Board and said they would be applying for a Supplemental Environmental Project.

Item 3 – Minutes of Board Meeting of June 8, 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.

Mr. Wright moved approval of the June 8, 2005 minutes. The motion was seconded by Mr. Johnson 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. Robertus said he issued a Notice of Violation to the copermittees in the region pertaining to their lack of performance and deficiencies in the implementation of the municipal storm water permit.

Mr. Wright recommended holding a workshop or scheduling an agenda item with a presentation by staff and the copermittees on the above matter in order to educate the Board before the MS4 permit was reissued in February 2006. Mr. Robertus said he planned to have a series of Executive Officer's Report items dedicated to

the issue between then and February 2006. Mr. Wright said he would like to hear from the copermittees. Mr. Robertus said workshops would be held.

Mr. Robertus briefly spoke about the Industrial Environmental Association's letter on Economic Considerations Under Porter Cologne, the Regionalization paper to be finalized in July, confirmation letters from the Senate to Board Members and a letter/proclamation from the Governor related to Indian gaming.

Chairman Minan announced that Deborah Jayne, Executive Officer of the San Diego River Conservancy, nominated the Regional Board for the American Bar Association's award for outstanding performance.

Chairman Minan briefly spoke about a letter from Supervisor Marion Ashley regarding upcoming meetings, the July 7th Clean Water Summit and the July 21 & 22 Wetlands Recovery Project/Biodiversity conferences in Long Beach.

Mr. Robertus briefly spoke about the Fashion Valley river crossing.

Consent Item

Item 5 – Settlement of Liability of Administrative Civil Liability Complaint No. R9-2005 - 0083 Mandatory Minimum Penalty against City of San Diego for violation of effluent limitations established by Order No. R9-2002-0025, NPDES No. CA0107409, Waste Discharge and National Pollutant Discharge Elimination System Permit for the Point Loma Metropolitan Wastewater Treatment Plant Discharge to the Pacific Ocean. The Regional Board will decide on an order accepting waiver of hearing, payment of a \$13,500 liability, and a \$28,500 Supplemental Environmental Project. 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 Order No. R9-2005 -0185) (*Mark Alpert*)

This item was postponed.

Remainder of the Agenda (Non-Consent Items):

Item 6 – Basin Plan Amendment: Consider adoption of a tentative Resolution to amend the Water Quality Control Plan to include dissolved copper, lead, and zinc Total Maximum Daily Loads for Chollas Creek, tributary to San Diego Bay and to revise the Toxic Pollutants section of Chapter 3 to reference the California Toxics

Rule. The Board previously received public testimony and comments on the TMDLs and Chapter 3 revisions and this item is scheduled for Board deliberation and adoption only. No public testimony will be allowed. (Tentative Resolution No. R9-2005-0111) (Jimmy Smith)

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

Board Members asked questions of Mr. Smith.

Mr. Robertus recommended adoption of the Resolution.

Board Members made comments and asked questions.

Mr. Wright made a motion to adopt Resolution No. R9-2005-0111 with errata. The motion was seconded by Mr. Barrett and approved by unanimous vote.

Item 7 – National Steel and Shipbuilding Company, Tentative Cleanup and Abatement Order No. R9-2005-0126. The Regional Board will rule on National Steel and Shipbuilding Company’s Motion to Compel Production of Evidence and Renewed Motion for Continuance of Public Workshop. (*David Barker*)

Chairman Minan gave background information on the item and explained the procedures that would be followed.

Other speakers included:

David Mulliken, Latham & Watkins

John Richards, State Board Council

Bruce Reznik, San Diego BayKeeper

David Silverstein, U.S. Navy

Tim Miller, City of San Diego

Marco Gonzalez, Coast Law Group

Cory Briggs, Diver’s Environmental Conservancy

Ted Godshalk, Paradise Creek Educational Park

Jim Peugh, San Diego Audubon Society

Georgette Gomez, Environmental Health Coalition

Sonia Rodriguez, Environmental Health Coalition

Lupita Jimenez, South Bay Green Party

Chairman Minan said that he was not going to grant the motion for continuance. Mr. Phil Wyels concurred with Chairman Minan's decision.

Chairman Minan ruled in favor of the motion to compel evidence. He asked staff to complete the technical report and distribute it to the public before the item came back to the Board.

Chairman Minan said he was inclined to rule in favor of the motion to conduct the workshop outside the presence of the Board Members. Mr. Wyels concurred.

Mr. Wright strongly disagreed and said he felt it was important for Board Members to attend workshops and to be more involved in the process.

Mr. Wyels recommended holding the workshop without Board Members in attendance and explained why.

Chairman Minan granted the motion to conduct the workshop without the Board Members. Mr. Wright opposed the decision.

Mr. Wyels explained the procedures for the public workshop and for the future public hearing. Delegation of authority was invested in the Chair or his designee.

Mr. Robertus described the separation of staff functions.

Item 8 – PUBLIC WORKSHOP: The Regional Board will present Tentative Cleanup and Abatement Order No. R9-2005-0126 and may obtain public input on what persons should be held accountable for cleanup of the marine sediments, as well as the appropriate level and extent of sediment cleanup. The workshop will include informal discussion on the sediment cleanup which will be presented for action at a future Regional Board meeting. There is no voting at workshops. Regional Board members may or may not be present at the workshop. (*Craig Carlisle*)

The workshop was held after the meeting adjourned.

Item 9 - Arrangements for Next Meeting and Adjournment

Wednesday, August 10, 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 12:12 p.m.

These minutes were prepared by:

Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus