

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

MINUTES OF MEETING  
June 10, 2004

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, Janet Keller and Vickie Butcher.

Staff Present: John Robertus, Michael McCann, David Barker, Lori Costa, Pete Michael, Bob Morris, Mark Alpert, Brian Kelley, John Phillips, Julie Chan, John Odermatt, Rebecca Stewart, Frank Melbourn, Vicente Rodriguez, Laurie Walsh, Jody Ebsen, Sabine Knedlik, Bryan Ott, Whitney Ghoram, Jeremy Haas, Chiara Clemente, Paul Richter, and Mike Porter.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Park Avenue Deposition Service: Grace Verhoeven. Public Attendance: Richard Dietmeier, South Coast Water District; Gabriel Solmer, San Diego BayKeeper; Carol Baldwin, George Courser, Sweetgrass Estates; Marcelo Reginato, CH2M Hill; Chris Greoff, La Jolla; Dick Brown, Willard Liepley, Ken Burnside, Lake Cuyamaca; Eric Anderson, Seed Co.; Charlene Ayers, Public; Diane Nygaard, Preserve Calavera; Jaime Aguilar, Santa Margarita Water District; Tim Stanton, Kit Kesinger, Chuck Phillip, Ramona Municipal Water District; Mo Lahsaie, City of Oceanside; Tom Sachstech, Cuyamaca Sponsor Group; Tim Moore, Risk Sciences SIYB Marinas; Craig Justice, City of Laguna Beach; Deborah Van Huis, KB Homes; Mary Ann Mann, Sweetwater Authority; Matt Tebbetts, Kennedy/Jenks Consultants; Ted Griswold, Hugh Marx, Butch Paddock, Lake Cuyamaca Recreation & Park District; Ed Kimura, Sierra Club; Julie Millet, Richard Watson & Association; Nancy Palmer, Laguna Niguel; Aldo Licitra, City of Temecula; Lisa Urabe, Encina Water Authority; Sheri McPherson, County of San Diego; Eric Adams, SANDAG; Jayna Nystrom, Port of San Diego; Khalique Khan, Scott Thom, Camp Pendleton; Robert Van Ommering James Renzi, Van Ommering Diary; George Wilkins, La Jolla Band of Indians; Jim Merid, City of Aliso Viejo; Wally Besuden, Spangler Peak

Ranch; Bob Stuart, The Julian News and Chamber of Commerce; Cleve Hardaker, Silver Gate Yacht Club; Marvin Winters, Sure Clean Power Washing Inc.; and Isabelle Kay, UCSD Natural Preserve.

*Board Member Ghio arrived at 9:03 a.m.*

**Item 2** – Public Forum

Marvin Winters, Sure Clean Power Washing, requested that the Regional Board require the City of San Diego to enforce its power washing regulations.

Carol Baldwin, Sweetgrass Estates in Bonzall, expressed her concerns about open space easement violations by an adjoining property owner. Ms. Baldwin also said the County had not enforced its code regulations.

Chairman Minan said Ms. Baldwin raised some serious water quality issues and asked Mr. Robertus to look into her concerns and report back to the Board.

George Courser, Hidden Meadows Concerned Citizens, reported to the Board about a number of open space easement violations throughout San Diego County.

Diane Nygaard, Preserve Calavera, expressed their concerns about the cumulative impacts of the Carlsbad Oaks North Industrial Park project in Carlsbad on the Agua Hedionda sub-watershed.

Gabriel Solmer, San Diego BayKeeper, also talked about the Carlsbad Oaks North Industrial Park project.

Isabelle Kay, University of California Natural Preserve System, talked about her concerns with the Carlsbad Oaks North Industrial Park project.

**Item 3** – Minutes of Board Meeting of May 12, 2004

*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.*

Ms. Butcher moved approval of the May 12, 2004 minutes. The motion was seconded by Mr. Wright and approved by unanimous vote.

**Item 4** – Chairman’s, Board Member’s, State Board Liaison’s and Executive Officer’s (EO) Reports.

Chairman Minan talked about a few items including a meeting he and Mr. Robertus attended with Wayne Nastri, EPA, regarding various issues including TMDLs, an environmental breakfast meeting he attended where presentations were given on the future of the California Performance Review, and the Scripps Institution of Oceanography’s Ocean Policy.

Mr. Wright asked Mr. Robertus about the City’s funding for the storm water program. Board Members and Mr. Robertus discussed the program.

Chairman Minan asked Mr. Robertus about the State Route 125 South Toll Road 401 Certification and the Mission Valley Terminal matter. Mr. Robertus responded.

**Item 5** – Recognition: Resolution of Appreciation for Eric Anderson (tentative Resolution No. R9-2004-0029) (*John Robertus*)

Chairman Minan presented the resolution to Mr. Anderson. Board Members expressed their thanks and sincere respect for his dedicated service.

*Consent Calendar Items 6 - 11*

**Item 6** – Rescission of Waste Discharge Requirements. These facilities are closed, have terminated operations, or no longer require the WDRs because of coverage under a different permit. (Tentative Order No. R9-2004-0042 (*Whitney Ghoram*))

Order No. 94-138, *Waste Discharge Requirements for Mr. Pete De Jong, Hollandia Dairy, San Marcos, California, San Diego County.*

Order No. 94-129, *Waste Discharge Requirements for Mr. Jake De Raadt, Edenvale Dairy, San Diego County.*

Order No. 93-120, *Waste Discharge Requirements for Calmat, Lakeside Plant, San Diego County.*

Order No. 95-56, *Waste Discharge Requirements for El Toro Materials – Glass Canyon Facility, Orange County.*

Order No. 95-11, *Waste Discharge Requirements for Caetana Swiss Dairy, Santa Ysabel, San Diego County.*

Order No. 95-12, *Waste Discharge Requirements for Mr. Phillip Cauzza, Mesa Chiquita Ranch Dairy, San Diego County.*

Order No. 91-78, *Waste Discharge Requirements for Encina Wastewater Authority, Encina Water Pollution Control Facility Reclaimed Water Irrigation of Interstate 5 Right-of-Way, San Diego County.*

Order No. 82-03, *Water Reclamation Requirements for Daon Corporation for Landscape Irrigation in the Buena Sanitation District, San Diego County.*

Order No. 93-45, *Waste Discharge Requirements for Bio Gro Systems, Incorporated, Riverside County.*

Order No. 97-32, *Waste Discharge Requirements for Wheelabrator Water Technologies, Incorporated, Bio Gro Division Land Application of Biosolids to Agricultural Sites in San Diego County.*

Order No. 97-42, *Waste Discharge Requirements for Pima Gro Systems, Incorporated, Land Application of Biosolids to Agricultural Sites in San Diego County.*

Order No. 88-17, *Waste Discharge Requirements for Caster Group, Lakeside Sand Plant, (previously Woodward Sand and Materials Company) San Diego County.*

Order No. 94-137, *Waste Discharge Requirements for Cloverdale Dairy, San Diego County.*

**Item 7** – NPDES Permit: Waste Discharge Requirements for Van Ommering Dairy, San Diego County (tentative Order No. R9-2004-0065, NPDES Permit No. CA0109207) (*Sabine Knedlik*)

**Item 8** – NPDES Permit Renewal: Waste Discharge Requirements for Sweetwater Authority Lower Sweetwater River Basin Groundwater Demineralization Plant, San Diego County (tentative Order No. R9-2004-0111, NPDES Permit No. CA0108952) (*Paul Richter*)

**Item 9** – Sea World San Diego: Administrative Assessment of Civil Liability containing a \$6,000 Mandatory Minimum Penalty against Sea World San Diego for violation of effluent limitations established by Order No.2000-25, NPDES No. CA0107336, Waste Discharge Requirements for Sea World San Diego, San Diego County, Discharge to Mission Bay. The Regional Board will decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2004-0194) (*Rebecca Stewart*)

**Item 10** – San Elijo Joint Powers Authority: Administrative Assessment of Civil Liability containing a \$3,000 Mandatory Minimum Penalty against the San Elijo

Joint Powers Authority, San Elijo Water Reclamation Facility for violation of an effluent limitation established by Order No. 99-71, NPDES No. CA0107999, Waste Discharge Requirements for the San Elijo Joint Powers Authority, San Elijo Water Reclamation Facility, Discharge to the Pacific Ocean via the San Elijo Ocean Outfall. The Regional Board will decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2004-0195) *(Rebecca Stewart)*

**Item 11** – Administrative Assessment for Civil Liability against the various Dischargers listed below for Non-Payment of fiscal year 2003 construction storm water annual fees in violation of California Water Code section 13260. The Regional Board will decide on an order accepting payment of the proposed liability and waiver of hearing. *(Vicente Rodriguez)*

NO	AGENCY / FACILITY NAME	LOCATION	CITY	WDID	TENTATIVE ACL ORDER NO.
A	BIRTCHEER COMMERCIAL DEV PALM TERRACE	25521 25531 AND 25541 COMMERC	LAKE FOREST	S9 30C311900	R9-2004-0196
B	CENTURIAN CO INC SUN VILLA HOMES PC 02 021	2240 San Clemente Ave	VISTA	S9 37C318694	R9-2004-0199
C	BUIE CMNTY INC TRACT 23435	LINCOLN AND NUTMEG ST	MURRIETA	S9 33C313984	R9-2004-0198
D	DR HORTON LA HOLDING CO TR 23310 HIGHPOINT AT WILDOMAR	35454 ORO CT	WILDOMAR	S9 33C316679	R9-2004-0200
E	GALE & WENTWORTH CA LLC CARLSBAD CORPORATE CTR	EL CAMINO REAL AND FARADAY	CARLSBAD	S9 37C313860	R9-2004-0201
F	KB HOMES COASTAL BRINDLEWOOD & EASTLAKE	KING CREEK WAY AND HUNTE PKWY	CHULA VISTA	S9 37C311910	R9-2004-0202
G	KB HOMES COASTAL EMERALD & OLIVE AVE	EMERALD AND OLIVE AVE	OCEANSIDE	S9 37C311444	R9-2004-0203
H	KB HOMES COASTAL LAKE RANCHO VIEJO	3404 AVOCADO VISTA LN	FALLBROO K	S9 37C312175	R9-2004-0204
I	KB HOMES COASTAL MAR DEL SOL III & VIENTO	E PALOMAR AND PASEO LADERA	CHULA VISTA	S9 37C316291	R9-2004-0205
J	KB HOMES COASTAL MISSION SANTA FE SCENIC RIDGE	NORTH SANTA FE AVE AND MES	OCEANSIDE	S9 37C314209	R9-2004-0206
K	KB HOMES COASTAL SUNBOW PH1C UNIT 5	1417 VENTERS DR	CHULA VISTA	S9 37C314394	R9-2004-0207
L	KB HOMES COASTAL WOODCREEK & EASTLAKE TRAILS	SILVER SPRINGS CLUBHOUSE DR	CHULA VISTA	S9 37C311908	R9-2004-0208
M	MERIT PROP MGMT ICO CZ COTO DE CAZA SPORT PARK	31137 ALTA DR	COTO DE CAZA	S9 30C314479	R9-2004-0210
N	REDEEMER BY SEA LUTHERAN POINTSETTIA LANE REACH C	POINSETTIA LANE	CARLSBAD	S9 37C319280	R9-2004-0215
O	SAN DIEGO CO SHERIFFS DEPT SAN DIEGO FIREARMS TRAINING	446 ALTA RD	SAN DIEGO	S9 37C319064	R9-2004-0216
P	SUNROAD ENT OLD COACH RD & OLD COACH WAY	OLD COACH RD & OLD COACH WAY	POWAY	S9 37C308245	R9-2004-0221

Mr. Wright moved approval of Consent Items 6 – 11. The motion was seconded by Ms. Butcher and approved by unanimous vote.

*Remainder of the Agenda (Non-Consent Items):*

**Item 12** – NPDES Permit Reissuance: County of Riverside, City of Murrieta, City of Temecula, and the Riverside Flood Control and Water Conservation District; Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems within the Santa Margarita Watershed. **Both the oral and written public comment periods for this item are closed. Additional comments on this item will not be allowed.** The Regional Board will deliberate on the tentative requirements considering testimony submitted prior to close of public comment period and will make a decision on the adoption of tentative Order No. R9-2004-0001 (NPDES Permit No. CAS0108766). (*Megan Quigley*)

Item 12 was postponed.

**Item 13** – **PUBLIC HEARING:** 2004 Basin Plan Triennial Review. A hearing on the 2004 Basin Plan Triennial Review will be held to receive testimony pertaining to the 2004 Basin Plan Triennial Review Tentative Resolution, technical report, and supporting documents. (Tentative Resolution No. R9-2004-0156) (*Jody Ebsen and Laurie Walsh*)

Mr. Robertus introduced the item and staff members' Laurie Walsh and Jody Ebsen gave the presentation.

Board Members made comments and asked questions of staff.

Other speakers included:

- Nancy Palmer, Laguna Niguel
- Jaime Aguilar, Santa Margarita Water District
- Tim Moore, Risk Sciences

Board Members discussed the site specific objective for dissolved copper in marine waters.

After Board Member discussion, Mr. Wright made a motion to add the additional priority to the list. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Chairman Minan said it would be prioritized at a later time.

Ms. Walsh made a recommendation to close the public comment period then bring the resolution back to the Board at the August 11, 2004 Board Meeting for approval.

A motion was made by Ms. Ghio to approve staff's recommendation. The motion was seconded by Ms. Keller and approved by unanimous vote.

**Item 15** – Waste Discharge Requirements: Lake Cuyamaca Recreation and Park District Recreation Area near Julian, San Diego County (tentative Order No. R9-2004-0015) (*Bryan Ott*)

Staff member Bryan Ott gave the presentation.

Board Members made comments and asked questions of staff.

Other speakers included:

Ted Griswald, Procopio, Hargreaves & Savitch

Matt Tebbetts, Kennedy/Jenks Consultants

Hugh Marx, Lake Cuyamaca

Dick Brown, Lake Cuyamaca

Bob Stewart, The Julian News

Ed Kimura, Sierra Club

Mr. Griswald made closing comments. Mr. Tebbetts talked about the annual sampling costs.

Mr. Ott made closing comments.

Ms. Ghio recommended amending the monitoring period from three years to two years.

Mr. Wright made a motion to approve Order No. R9-2004-0015 with the recommended amendment and errata. The motion was seconded by Ms. Ghio and approved by unanimous vote.

**Item 14** – **PUBLIC HEARING:** KB Home Coastal, Oceanside: Administrative Assessment of Civil Liability containing a \$12,000 Mandatory Minimum Penalty

against a KB Home Coastal construction project referred to as Mar Lado Pump Station in Oceanside Calif. for violation of effluent limitations established by Order No. 2001-096, NPDES No. CAG919002, Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters Within San Diego Except for San Diego Bay. (Tentative Order No. R9-2004-0193) (*Sabine Knedlik*)

Item 14 was postponed.

*The meeting was recessed for lunch and Executive Session at 12:15 p.m.*

**Item 18** – *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. 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 (David Hanson); and the related “Surfrider” case:*

*Surfrider Foundation, San Diego Chapter v. Robert Ortega, et al., Case No. 99-CV-2441-BTM(JFS) (David Hanson)*

*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)*

*Fallbrook Public Utilities District v. State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region, Case No. GIC 819771 (referred to as “MMP case”); Petition for Writ of Mandate challenging administrative assessment of civil liability based on mandatory minimum penalties for violation of effluent limits in NPDES waste discharge requirements. (Frank Melbourn)*

*Fallbrook Public Utilities District v. State Water Resources Control Board ,et al., San Diego County Superior Court Case No. GIC822179 (referred to as “Permit Modification case”); Regional Board failure to act on a request by Fallbrook PUD to amend certain permit conditions contained in NPDES waste discharge requirements. (Victor Vasquez)*

*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)*

The Executive Session was held.

**Item 20** – *Executive Session* - Discussion of Pending Litigation

The Regional Board may meet in closed session to discuss pending litigation:

*Schutte & Koerting, Inc. and Ametek, Inc v. California State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region*

The Executive Session was held.

*The meeting reconvened at 1:05 p.m.*

Chairman Minan announced that during the Executive Sessions, Items 18 & 20, the lawsuits listed on the agenda were discussed.

**Item 16 – PUBLIC HEARING:** Administrative Assessment for Civil Liability against the various Dischargers listed below for Non-Payment of fiscal year 2003 construction storm water annual fees in violation of California Water Code section 13260. The Regional Board will decide on an order assessing liability. (*Vicente Rodriguez*)

NO	FACILITY NAME	LOCATION	CITY	WDID	TENTATIVE ACL ORDER NO.
A	BRIDGEPORT BUILDERS LLC BRIDGEPORT BUILDERS	CONSTANCE ST	TEMECULA	S9 33C319394	R9-2004-0197
B	LANDGRANT DEV 27987 VAIL RNCH CTR	PM HWY 79 SOUTH	TEMECULA	S9 33C311818	R9-2004-0209
C	MESA VERDE DEL MAR DEER CANYON SEWER	DEER CANYON	SAN DIEGO	S9 37C317102	R9-2004-0211
D	METROPOLITAN TRANSIT DEV SORRENTO VALLEY COMMUTER STATION	ADJ TO SORRENTO VALLEY RD	SAN DIEGO	S9 37C318628	R9-2004-0212
E	RANCHO LA COSTA VILL LLC RANCHO LA COSTA VILLAGE	RANCHO SANTA FE AND LA COSTA	CARLSBAD	S9 37C314585	R9-2004-0214
F	SAN DIEGO UNIFIED SCH DIST BROOKLYN KIMBROUGH AREA ELEMENTARY	A ST AND C ST AND 33RD ST	SAN DIEGO	S9 37C319073	R9-2004-0217
G	SAN DIEGO UNIFIED SCH DIST NEW WINONA AREA ELEMENTARY SCHOOL	WINONA AVE 7 ESTRELLA AVE	SAN DIEGO	S9 37C318738	R9-2004-0218
H	SAN MARCOS 54 LLC SAN MARCOS TRACT 419	MISSION RD BT LIBERTY & COMET	SAN MARCOS	S9 37C319236	R9-2004-0219
I	SARES REGIS GRP WINDSONG SHORES	4200 HARBOR DR	CARLSBAD	S9 37C312196	R9-2004-0220
J	TAYLOR WOODROW HOMES CASITAS	7220 BLACK MOUNTAIN RD	SAN DIEGO	S9 37C316182	R9-2004-0222

Mr. Robertus introduced the item and staff member Vicente Rodriguez gave the presentation.

Board Members made comments and asked questions of staff.

Ms. Ghio made a motion to adopt Order No. R9-2004-0212. The motion was seconded by Ms. Keller and approved by unanimous vote.

Ms. Butcher made a motion to reject staff's recommendation and not adopt Order No. R9-2004-0219. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Ms. Ghio made a motion to adopt Order No. R9-2004-0217 with an amendment to accept \$1,310. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Ms. Ghio made a motion to adopt Order No. R9-2004-0218 with an amendment to accept the amount paid. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Order Nos. R9-2004-0211 and R9-2004-0222 were removed from the item.

Chairman Minan made a motion to adopt Order No. R9-2004-0197 with an amendment to accept the amount paid. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Ms. Butcher made a motion to adopt Order No. R9-2004-0209. The motion was seconded by Mr. Wright and approved by unanimous vote.

Ms. Butcher made a motion to adopt Order No. R9-2004-0214 with an amendment to accept the amount paid. The motion was seconded by Mr. Wright and approved by unanimous vote.

Ms. Butcher made a motion to adopt Order No. R9-2004-0220. The motion was seconded by Ms. Ghio and approved by unanimous vote.

**Item 17** – Status Report: Discussion of Proposal for the San Vicente Groundwater Basin and Non-compliance with Order No. 93-03, Waste Discharge Requirements for the Ramona Municipal Water District, San Vicente Treatment Plant, San Diego County (*Bryan Ott*)

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

Other speakers included:

Tim Stanton, Ramona Municipal Water District, also gave a presentation. Chuck Duffy, Sanitation Manager, answered questions asked by the Board.

Board Members made comments and asked additional questions.

**Item 19** – *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 21** – *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.

Board Members discussed scheduling a special meeting on July 14<sup>th</sup> to hear Item 12 that was postponed.

**Item 22** - Arrangements for Next Meeting and Adjournment

Wednesday, August 11, 2004 - 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 3:00 p.m.

These minutes were prepared by:

Signature of Executive Officer:

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Lori Costa

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John H. Robertus

Executive Assistant