

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

MINUTES OF MEETING  
November 13, 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, Janet Keller, Terese Ghio, Richard Wright, Eric Anderson and Laurie Black.

Staff Present: John Robertus, Arthur Coe, Michael McCann, Lori Costa, David Barker, Bob Morris, John Phillips, Brian Kelley, Craig Carlisle, Stacy Baczkowski, Mark Alpert, Julie Chan, John Odermatt, Paul Richter, David Hanson, Sherrie Komeylyan, Sabine Knedlik, Hashim Navrozali, Frank Melbourn, Bryan Ott, David Hanson, Jody Ebsen, Equilla Harris, Don Perrin, Shane Landry, Barry Pulver, Tom Alo, DiAnne Broussard, Victor Vasquez and Kelly Dorsey.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Park Avenue Deposition Service: Grace Verhoeven. Public Attendance: Theresa Trost, Brian Gordon, Rob Chichester, LCDR Hipfel, U.S. Navy; Becky Keller, Naval Med. Center; Alan Langworthy, Walter Konopka, City of San Diego; Joseph Young, Helix Water District; Terry Thielen, Friends of Lake San Marcos; Wally Grabbe, Valley Center MWD; Scott Tulloch, Tim Stessing, City of San Diego; Ed Kimura, Sierra Club; Shaun Halvax, Southwest Marine; Roger Behrendt, Cuyamaca Forest Ranch; Matt Tebbetts, Hugh Marx, Tom Chapman, Thomas Ruzich, David Hubbard, Race Paddock, Tyche Edwards, Lake Cuyamaca; Lee Wilson, Russ McCarthy, CMSD; Al Huang, Laura Hunter, Environmental Health Coalition; L. Munler, County of San Diego; John Brandt, Law Crandall; Patti Krebs, Industrial Environmental Assoc., Jeff & Tyche Elliott, Julian residents; Jessika Osorio, Senator Dede Alpert; Cory Briggs, Divers Environmental; Finn Moller, Summit Engineering; Duncan McFetridge, SOFAR; Michael Bryan, Tosco Marketing; Jinghui Niu, Environmental Strategy; John Reaves, Caldwell Family Trust; Kathy Goddard, Cuyamaca Sponsor Group; Linda

Frazee, Patricia Martin, Friends of Cuyamaca Valley; and Patrick Brown, Patrick Engineering.

**Item 2** – Public Forum

Terry Thielen, Friends of Lake San Marcos, expressed his concern about raw sewage spilling into and other wastes being dumped into Lake San Marcos.

Mr. Stephany asked Mr. Robertus to report back to the Board in the next Executive Officer's Report on Lake San Marcos.

**Item 3** – Minutes of Board Meeting of October 9, 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.*

Ms. Black moved approval of the October 9, 2002 minutes. The motion was seconded by Mr. Stephany and approved by unanimous vote.

**Item 4** – Chairman's, Board Member's, State Board Liaison's and Executive Officer's Reports.

Executive Officer Robertus acknowledged Equilla Harris for her achievement in recruiting the greatest number of people for the American Heart Walk in CalEPA and number three in the State. Chairman Minan presented the Top Walker Achievement Award to Ms. Harris.

Mr. Stephany congratulated Ruth Kolb, City of San Diego, for the great job she did explaining to the news media about the study being done on Mission Bay and giving credit to the Regional Water Quality Control Board for the grant they gave to the City to do the study.

Mr. Robertus presented to Chairman Minan, the Coastal America Partnership In Action Award along with a letter signed by President Bush that was presented to the Southern California Wetlands Recovery Project. Former staff member Greig Peters was involved in the Project from the beginning and Chairman Minan was also involved.

Consent Items 5 – 10:

**Item 5** – Revision of Waste Discharge Requirements: City of Oceanside, Mission Avenue Landfill, San Diego County (tentative Addendum No. 1 to Order No. 88-53) (*Amy Fortin*)

**Item 6** – Waste Discharge Requirements: Master Reclamation Permit - Valley Center Municipal Water District, Orchard Run Water Reclamation Facility, San Diego County (tentative Order No. R9-2002-0336) (*Victor Vasquez*)

**Item 7** – Rescission of Waste Discharge Requirements and Cease and Desist Order: Mr. Joseph Murat, Elfin Forest Ranch Mobile Home Park, San Diego County (tentative Order No. R9-2002- 0332 rescinding Order No. 94-16 and Cease and Desist Order No. 96-55) (*Eric Becker*)

**Item 8** – Administrative Assessment of Civil Liability against Castillo & Sons-A&E Auto Recycling for failure to pay annual storm water fees for the facility located at 775 Energy Way, Chula Vista, Ca. The Regional Board will consider comments received during the public review period and decide on an order accepting terms of a proposed settlement for the liability. If the Regional Board does not adopt the tentative order, the matter will proceed to a hearing at a future Regional Board meeting. (Tentative Order No. R9-2002-0284) (*Vicente Rodriguez*)

**Item 8a** – Administrative Assessment of Civil Liability against Kemper Insurance Company for failure to pay annual storm water fees for the facility located at the South-West corner of Winchester Road, Temecula, Ca. The Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2002-0286) (*Vicente Rodriguez*)

**Item 9** – Administrative Assessment of Civil Liability against Richmond American Homes for failure to pay annual storm water fees for the facility located at 41500 Margarita Rd, Temecula, Ca. The Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2002-0289) (*Vicente Rodriguez*)

**Item 10** – Administrative Assessment of Civil Liability against Richmond American Homes for failure to pay annual storm water fees for the facility located

at Butterfield Stage Rd., Temecual, Ca. The Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2002-0290) (*Vicente Rodriguez*)

Mr. Stephany moved approval of Items 5, 6 (with errata), 7, 8, 8a, 9 and 10. The motion was seconded by Ms. Ghio and approved by unanimous vote.

*Board Member Butcher arrived at 9:20 a.m.*

**Item 11** – NPDES Permit Renewal: Continental Maritime of San Diego Inc., San Diego County (tentative Order No. R9-2002-0282, NPDES Permit No. CA0109142) (*Hashim Navrozali*)

Mr. Robertus introduced the item. Staff member Hashim Navrozali gave the presentation.

Ms. Ghio asked Russell McCarthy, Continental Maritime, about their sweeping method.

Other speakers included:

Laura Hunter, Environmental Health Coalition

Cory Briggs, Briggs Law Corporation, represented Divers Environmental

Mr. Navrozali made closing comments.

Mr. Robertus recommended that the Board adopt the Order.

Board Members discussed the California Toxic Rule with Mr. Richards.

Ms. Ghio expressed her concern with having a toxicity limit that was unachievable and recommended removing the requirement to have a toxicity limit.

Chairman Minan addressed Ms. Ghio's concerns then recommended adopting the Order as written.

Ms. Black moved approval of Order No. R9-2002-0282. The motion was seconded by Mr. Stephany and approved by unanimous vote.

**Item 12** – NPDES Permit Renewal: Waste Discharge Requirements for Southwest Marine Inc., San Diego County (tentative Order No. R9-2002-0161, NPDES Permit No. CA0109151) (*Sabine Knedlik*)

Mr. Robertus introduced the item. Staff member Sabine Knedlik gave the presentation.

Other speakers included:

Shaun Halvax, Southwest Marine

Laura Hunter, Environmental Health Coalition

Cory Briggs, represented Divers Environmental Conservation Organization

Ms. Knedlik made closing comments.

Mr. Robertus recommended adoption of the Order with errata.

Mr. Stephany was concerned that there wasn't a standard for first flush.

Ms. Ghio again said she felt the toxicity limit wasn't achievable.

After Board Member discussion, Mr. Stephany moved approval of Order No. R9-2002-0161 with errata. The motion was seconded by Ms. Keller and approved by unanimous vote.

**Item 13** – NPDES Permit: Waste Discharge Requirements for U.S. Navy Naval Base San Diego, San Diego County: An NPDES permit regulating industrial storm water and point source discharges of wastes to San Diego Bay and the Ocean from various activities, including ship repair, pier boom cleaning, and manhole dewatering (tentative Order No. R9-2002-0169, NPDES Permit No. CA0109169) (*Paul J. Richter*)

Mr. Robertus introduced the item. Staff member Paul Richter gave the presentation.

Other speakers included:

Rob Chichester, U.S. Navy

Laura Hunter, Environmental Health Coalition

Corey Briggs, represented Divers Environmental Conservation Organization

Mr. Richter addressed the Navy's concerns.

Mr. Robertus talked about the Municipal Stormwater Permit.

Chairman Minan asked Mr. Richards to address concerns raised by Mr. Briggs.

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

Chairman Minan recommended amending the Order to include the seven days dry weather policy the Navy proposed, taking out the three days dry weather policy proposed by staff.

Mr. Stephany said there should be more flexibility on the anticipated rain event.

Ms. Ghio recommended amending the Order, removing the anticipated rain event inspection requirement.

Mr. Stephany moved approval of Order No. R9-2002-0169 with errata and the two amendments recommended by Chairman Minan and Ms. Ghio. The motion was seconded by Mr. Ghio and approved with opposition by Ms. Black and Mr. Wright.

*The meeting recessed for lunch and Executive Session at 12:15 p.m. Board Member Ghio left at that time.*

**Item 19** – *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; 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 Building Industry Association lawsuit was discussed.

**Item 21** – *Executive Session* - Discussion of Pending Litigation

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

Pending litigation was discussed.

*The meeting reconvened at 1:20 p.m.*

**Item 14** – NPDES Permit Revision: City of San Diego, South Bay Water Reclamation Plant Discharge to the Pacific Ocean through the South Bay Ocean Outfall (tentative Addendum No. 1 to Order No. 2000-129, NPDES Permit No. CA0109045) (*David Hanson*)

Mr. Robertus introduced the item. Staff member David Hanson gave a brief presentation.

Alan Langworthy, City of San Diego, talked about the frequency for toxicity testing.

Mr. Robertus recommended approval of the Addendum.

Mr. Stephany moved approval of Addendum No. 1 to Order No. 2000-129. The motion was seconded by Ms. Black and approved by unanimous vote.

**Item 15** – Waste Discharge Requirements: Lake Cuyamaca Recreation and Park District, Lake Cuyamaca Public Recreation Area Southeast of Julian, San Diego County (tentative Order No. R9-2002-0343) (*Bryan Ott*)

Mr. Robertus introduced the item. Staff member Bryan Ott gave the presentation.

Speakers in support of the Order:

Hugh Marx, Lake Cuyamaca Recreation and Park District

Matt Tebbetts, Consulting Engineer

Tyche Anne Edwards, resident near Lake Cuyamaca

Joe Young, Helix Water District

Speakers in opposition of the Order:

Ed Kimura, Sierra Club

Linda Frazee, Friends of Cuyamaca Valley

Patricia Martin, Friends of Cuyamaca Valley

Kathy Goddard, Cuyamaca Sponsor Group

Roger Behrendt, Cuyamaca Forest Ranch Home Owners Assn.

Duncan McFetridge, SOFAR

David Hubbard, Procopio, Cory, Hargreaves & Savitch

Tom Chapman, Board Chairman, Lake Cuyamaca Rec. and Park District, also spoke in support of the Order.

Bryan Ott answered questions asked by the Board and made closing comments.

Mr. Stephany made a motion to close the public comment period and continue the matter to allow the Lake Cuyamaca Recreation and Park District to submit the environmental documents that should have been included in the original record. The motion was seconded by Ms. Black and approved with opposition by Mr. Wright and Ms. Butcher.

Mr. Wright said he felt the public comment period should be left open.

**Item 16** – PUBLIC HEARING: Administrative Civil Liability with Mandatory Penalties against Tosco Marketing Co. – 76 Service Station No. 5965 Dewatering, San Marcos, CA for Violation of Order No. 2001-96, NPDES Permit No. CAG919002. If the discharger elects to waive their right to a hearing, the matter will be removed from this agenda to allow for a 30-day public review period. (Tentative Order No. R9-2002-0203) (*Sherrie Komeylyan*)

The Public Hearing opened at 3:19 p.m.

Mr. Robertus introduced the item. Staff member Sherrie Komeylyan gave the presentation.

Other speakers included:

Mike Bryan, Tosco Marketing Co.

Terry Thielen, Friends of Lake San Marcos

Mr. Bryan made closing comments.



Ms. Komeylyan made closing comments and recommended adoption of the Order.

The Public Hearing closed at 3:50 p.m.

After Board Member discussion, Mr. Stephany made a motion to withdraw the accessed civil liability due to there being no evidence of discharge. The motion was seconded by Ms. Keller and approved with opposition by Ms. Black and Mr. Wright.

**Item 17** – PUBLIC HEARING: Addendum No. 1 to Cleanup and Abatement Order No. 2001-226. The Caldwell Family Trust has requested a hearing to contest its inclusion in the order as a discharger responsible for the cleanup and abatement of petroleum hydrocarbon waste from the underground storage tank system at 28111 Front Street in Temecula. (*Jody Ebsen*)

The Public Hearing opened at 4:00 p.m.

Mr. Robertus introduced the item. Staff member Jody Ebsen gave the presentation.

Other speaker:

John Reaves, Attorney for Caldwell Family Trust

Ms. Ebsen made closing comments.

Chairman Minan closed the public hearing at 4:18 p.m.

Mr. Robertus recommended affirming the Cleanup and Abatement Order.

Mr. Wright made a motion to affirm Addendum No. 1 to Cleanup and Abatement Order No. 2001-226. The motion was seconded by Ms. Black and approved by unanimous vote.

**Item 18** – Approval of Year 2003 Board Meeting Schedule

The Board approved the schedule subject to modification as necessary.

**Item 4** – Continued

Mr. Wright conveyed a concern by Ricardo Martinez, CalEPA, that the Board was not as involved in Border issues as it was in the past.

Ms. Butcher and Ms. Keller talked positively about the WQCC meeting they attended.

Chairman Minan talked about four points that he made in his presentation at the WQCC.

Mr. Stephany spoke briefly on several issues that were talked about at the WQCC.

Mr. Robertus talked about several items in the Executive Officer's Report including the Southern California Wetlands Recovery Project Symposium, Sanitary Sewer Overflows, State Board's Directive to Cancel Annual Fees for Federal Facilities and Grant Project Selection.

**Item 20** – *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 22** – *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 23** - Arrangements for Next Meeting and Adjournment

Wednesday, December 11, 2002 - 9:00 a.m.  
Water Quality Control Board  
Regional Board Meeting Room  
9174 Sky Park Court  
San Diego, California

The Board discussed the possibility of not having a quorum in December. Ms. Butcher suggested canceling the December meeting and holding one in January. Chairman Minan asked Ms. Butcher to let staff know in the next week if she was going to be able to attend the December meeting.

There being no further business, the meeting was adjourned at 5:00 p.m.

These minutes were prepared by:

Signature of Executive Officer:

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Lori Costa  
Executive Assistant

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John H. Robertus