

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

MINUTES OF MEETING  
February 11, 2004

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 Rancho California Water District, District Board Room, 42135 Winchester Road, Temecula, California.

**Item 1** – Roll Call: Board Members Present: Chairman John Minan, Janet Keller, and Richard Wright.

Staff Present: John Robertus, Michael McCann, Lori Costa, Bob Morris, Stacey Baczkowski, John Odermatt, Mark Alpert, David Gibson, Phil Hammer, Megan Quigley and Eric Becker.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Park Avenue Deposition Service: Grace Verhoeven. Public Attendance: Alex Gann, Barbara Dunmore, County of Riverside; Jason Uhley, Linda Garcia, Steve Stump, Dusty Williams, Riverside County Flood Control; Charolette Fox, League of Women Voters; Dan Warshawer, Norm Rivers Supergroup; Bob Moehling, Dan York, City of Murrieta; John Harris, Evan McGinley, Aldo Licitra, David Hogan, Joseph Stone, Mike Naggar, City of Temecula; Bill Rawlings, Advantage Consultants; Roger Turner, Jayne Joy, Eastern Municipal Water District; Gregory Hann, Barghausen Construction Engineer; Brian Nestoroff, Richmond American; Diane Sessions, EDC-SWRC; Michelle Kincaid, Guidant; John Titfor, Agaps Auto; Roger Ziemer, South California Gas Co.; Autumn Miller, Albert A. Webb Associates; Jim Mirecc, Richard Dietmeier, South Coast Water District; Richard Gardner, Water Shed Group; Laura Hunter, Environmental Health Coalition; Steve Carlson, AMEC Earth & Environmental; Mike Klinefelter, M.J. Klinefelter; Mike Adackapara, Riverside RWQCB; Tim Piasky, Construction Industry Coalition on Water Quality; and Karen Henry, City of San Diego.

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

**Item 2** – Public Forum

Karen Henry, City of San Diego, talked about their Urban Runoff Management Program Annual Report.

*Board Members' Ghio and Butcher arrived at 9:05 a.m.*

**Item 3** – Minutes of Board Meeting of December 10, 2003

*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. Ghio moved approval of the December 10, 2003 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 the status of invoicing federal facilities for annual fees (*January EO Report*). Mr. Robertus said they reinitiated the invoicing process at the State Board. Board Members discussed the issue. Mr. Robertus said he would prepare a resolution and bring it back to the Board at a future meeting for adoption.

Chairman Minan also talked about the State Auditor's Report (*January EO Report*) and noted that the San Diego Regional Board had received the largest return on staff costs from the Cleanup and Abatement Account out of all the regions in the state. He complimented staff on their work.

Ms. Ghio said she was concerned about the amount of effort and time spent on Budget Trade and Gas (*January EO Report*). Mr. Robertus said that they were getting cost recovery.

Mr. Robertus talked about two items in the February EO Report, which included Sanitary Sewer Overflows (*B-1*) and the Grants Update attachment (*B-3*).

Chairman Minan talked about the Mission Valley Terminal Cleanup (*B-4*) and made comments about the two recommendations made by the City of San Diego.

Mr. Robertus spoke about the site and said he would report back to the Board with a recommendation.

Mr. Robertus said that eight staff from the Department of Toxic Substances Control would be moving into the Regional Board office to share office space.

Mr. Robertus recommended canceling the March Board meeting, as there were insufficient agenda items to warrant the meeting.

Mr. Stephany commended Caltrans on the excellent job they did in preventing erosion in the burned areas. He recommended that the Board Chair send them a thank you letter. Mr. Robertus said he would prepare the letter for the Chair's signature.

Mr. Wright recommended holding a workshop in March if the regular Board meeting was canceled. He said in order for the Board to become more knowledgeable with issues the Board was faced with, he would like staff to give presentations on water quality matters. Ms. Ghio agreed. Mr. Stephany said he would like to hear about SEPs and how priorities were set. Chairman Minan suggested that the Regionalization of the Strategic Plan be the basis for the workshop.

Mr. Robertus said a bacteria TMDL workshop was scheduled for March 9, 2004 in the Regional Board meeting room.

Chairman Minan said he was invited to submit a nomination for an environmental awards program sponsored by the U.S. EPA. He said the public was also invited to submit nominations.

Chairman Minan announced that he had been working with the Regional Board's legal counsel on legal matters the Board was involved in.

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

Item 5 was postponed.

**Item 6** – City of Oceanside: Administrative Assessment of Civil Liability containing a \$9,000 Mandatory Minimum Penalty against the City of Oceanside for violation of effluent limitations established by Order No. R9-2000-0011,

NPDES No. CA0107433, Waste Discharge Requirements for the City of Oceanside, San Luis Rey and La Salina Wastewater Treatment Plants, Discharge to the Pacific Ocean via the Oceanside Ocean Outfall. The Regional Board will decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2004-0006) (*Rebecca Stewart*)

**Item 7** – Fifth Avenue Condos, LLC, San Diego: Administrative Assessment of Civil Liability containing a \$6,000 Mandatory Minimum Penalty against Fifth Avenue Condos, LLC for violation of effluent limitations established by Order No. R9-2000-0090, General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto. The Regional Board will decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2004-0028) (*Frank Melbourne*)

**Item 8** – Encina Wastewater Authority, Carlsbad: Administrative Assessment of Civil Liability containing a \$6,000 Mandatory Minimum Penalty against the Encina Wastewater Authority for violation of effluent limitations established by Order No. R9-2000-0036, NPDES No. CA0107395, Waste Discharge Requirements for Encina Wastewater Authority, Discharge to the Pacific Ocean through the Encina Ocean Outfall. The Regional Board will decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2004-0003) (*Vicente Rodriguez*)

**Item 9** – Revision of Waste Discharge Requirements: Otay Landfill Inc./Allied Waste Industries Inc., Waste Discharge Requirements for Otay Annex Landfill, San Diego County (tentative Addendum No. 4 to Order No. 90-09) (*Brian McDaniel*)

**Item 10** – Revision of Waste Discharge Requirements: Stallion Oaks Ranch in Descanso, San Diego County (tentative Addendum No. 1 to Order No. 94-115) (*Ben Neill*)

Mr. Wright moved approval of Consent Items 6 – 10. The motion was seconded by Mr. Stephany and approved by unanimous vote.

**Item 11** – PUBLIC HEARING: Fallbrook Public Utility District, Fallbrook: Administrative Assessment for Civil Liability containing a \$99,000 Mandatory Minimum Penalty against Fallbrook Public Utility District for Violation of Order No. R9-2000-0012, NPDES Permit No. CA0108031, Waste Discharge Requirements for the Fallbrook Public Utility District, Wastewater Treatment Plant

No. 1, Discharges to the Pacific Ocean via the Oceanside Ocean Outfall. If the discharger waives its right to a hearing, the matter will be postponed to a subsequent meeting to allow for a 30-day public review period. (Tentative Order No. R9-2004-0031) (*Frank Melbourn*)

Item 11 was postponed.

**Item 12** – NPDES Permit Reissuance: County of Riverside, City of Murrieta, City of Temecula, and Riverside County Flood Control and Water Conservation District; Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems within the Santa Margarita Watershed (The SDRWQCB will hear public testimony on this item today. After the close of the public comment period on February 18, 2004, the SDRWQCB will schedule a date for deliberating on all testimony and making a decision on this item. No additional written or oral testimony will be accepted after February 18, 2004, unless the SDRWQCB reopens the public comment period.) (Tentative Order No. R9-2004-0001, NPDES Permit No. CAS0108766) (*Megan Quigley*)

Chairman Minan announced that he received a late request from the City of Temecula to hold a formal hearing.

Evan McGinley, City of Temecula, said according to the California Code of Regulations their request was timely as the regulations say the request could be made up to the day of the hearing.

Chairman Minan called a 15-minute recess at 10:25 a.m.

Chairman Minan ruled against the request to hold a formal hearing but said he would like to hold a functional equivalent.

David Huff, County counsel, requested that the written comment period be extended from February 18 to March 10, 2004. Chairman Minan made a motion to extend the deadline as requested. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Mr. Robertus introduced the item. Senior staff member Bob Morris and staff member Megan Quigley gave the presentation.

Board Members asked questions of Mr. Morris.

Other speakers included:

Mayor Mike Naggar, City of Temecula

*The meeting was recessed for lunch and Executive Session at 11:45 a.m.*

**Item 13** – *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 Deigo 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 81971; 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)*

*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 15** – *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 12:50 p.m.*

**Item 17** - Election of Chair and Vice Chair. Porter-Cologne Water Quality Control Act, Chapter 4, Article 2, paragraph 13220(b), Each regional board shall select one of its members as chairman at the first regular meeting held each year.

Ms. Keller made a motion to elect John Minan as Chair. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Ms. Butcher made a motion to elect Gary Stephany as Vice Chair. The motion was seconded by Ms. Ghio and approved by unanimous vote.

Chairman Minan announced that during the executive sessions, the nine lawsuits listed on the agenda were discussed.

**Item 12** (continued)

Other speakers (continued):

Barbara Dunmore, County of Riverside

Dusty Williams, Riverside County Flood Control & Water Conservation District

Steve Stump, Riverside County Flood Control & Water Conservation District

Evan McGinley, City of Temecula

Dan York, City of Murrieta

Alex Gann, County of Riverside

Linda Garcia, Riverside County Flood Control & Water Conservation District

Joe Stone, City of Temecula

Jason Uhley, Riverside County Flood Control & Water Conservation District

*Board Member Butcher left at 3:05 p.m.*

David Hogan, City of Temecula

Chairman Minan announced that they were about to lose a quorum as Board Member Wright needed to leave the meeting.

Mr. Stephany made a motion to designate the remaining members of the Board as a sub-committee to represent the Board as a whole. The motion was seconded by Ms. Keller and approved by unanimous vote.

*Board Member Wright left the meeting at 3:30 p.m.*

Other speakers (continued):

Laura Hunter, represented the San Diego Bay Council

John Harris, attorney for the City of Temecula, asked Chairman Minan questions that he was going to ask staff if he was allowed to cross-examine.

Chairman Minan asked Mr. Richards to address Mr. Harris' question regarding economic analysis. Chairman Minan asked Ms. Quigley to address the other questions asked by Mr. Harris.



Mr. Stephany and Ms. Ghio made comments and observations and made some recommendations with regards to the permit.

*Board Members' Stephany and Ghio left the meeting at 4:20 p.m.*

Chairman Minan made some observations and asked questions of Mr. Richards.

Mr. Williams, Riverside County Flood Control & Water Conservation District, made a closing statement.

All other parties waived their right to a closing statement.

Mr. Robertus deferred his recommendation to a subsequent meeting. Mr. Robertus also said he would order a transcript of the item.

**Item 14** – *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 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 18** - Arrangements for Next Meeting and Adjournment

Workshop  
Wednesday, March 10, 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 4:45 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