

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

MINUTES OF MEETING
June 8, 2005

Vice Chair Kraus 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: Jennifer Kraus, Richard Wright, Eric Anderson, Susan Ritschel, Daniel Johnson and Alan Barrett.

Staff Present: John Robertus, Michael McCann, David Barker, Lori Costa, Mark Alpert, Pete Michael, John Odermatt, Brian Kelley, John Phillips, Julie Chan, Craig Carlisle, Julie Chan, Dave Gibson, Frank Melbourn, Alan Monji, Tom Alo, Mike Porter, Carol Tamaki, Bryan Ott, Chris Means, Phil Hammer, Eric Becker, Jeremy Haas, Ben Neill, Brian McDaniel, Kristin Schwall, Emma Palencia, DiAnne Broussard, Chiara Clemente and Amy Grove.

Others Present on behalf of the Regional Board: State Water Resources Control Board – Catherine George. Jan White & Associates Reporting: Mary Ann Young. Public Attendance: Patti Boekamp, Kerry Samtoro, Dave Zoumaras, Rory Clay, Harry Snowden, Tim Miller – City of San Diego; Hank Hoxie – Atlas Hotels; Adrienne Huber – Nautilus Environmental; Wayne Rosenbaum, Michael Thornton, Nicki Branch – San Elijo Joint Powers Authority; Don Zylstra – Kennedy/Jenks; Richard Runge – South Coast Water District; Marilyn Thoms – County of Orange; Mary Ann Mann, Patrick Thomas, John Burcham – City of Escondido; Andrew Zingale – for Assemblymember Lori Saldana; Robert Doherty – Fashion Valley; Dave Seymour – San Marcos Water District; Laura Hunter – Environmental Health Coalition; Doug Campbell – Encina Wastewater Authority; Barry Pulver – Dept. of Public Works; Jeff Parks – Fallbrook Public Utility District; Michael Welch – self; Stacy Sanchez, Mekaela Mahoney – San Diego BayKeeper; Dennis Bowling – Rick Engineering; Deborah Jayne, Susan Hunnington – San Diego River Conservancy; Mel Hinton – San Diego Audubon Society.

Vice Chair Kraus announced that she would Chair the meeting in Mr. Minan's absence and Mr. Wright would act as Vice Chair.

Ms. Kraus also announced that Items 10 and 14 were postponed.

Item 2 – Public Forum

Laura Hunter, Environmental Health Coalition (*EHC*), talked about an April 18, 2005 letter from NASSCO to the Regional Board regarding EHC's pier survey. Ms. Hunter addressed her concerns with comments/requests made by NASSCO in the letter. Ms. Hunter also briefly discussed an Environmental Justice working group tour of the Bay sponsored by the EHC.

Marilyn Thoms, County of Orange, talked about their recently adopted Integrated Regional Water Management Plan for South Orange County.

Item 3 – Minutes of Board Meeting of May 11, 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. Anderson moved approval of the May 11, 2005 minutes. The motion was seconded by Ms. Ritschel 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. Anderson talked about the Gregory Canyon Landfill workshop that he, Mr. Wright, Mr. Barrett and Mr. Johnson attended on May 19.

Mr. Robertus talked about the U.S. Navy bay tour for Board Members scheduled for July 8, 2005 and asked Board Members to notify Lori Costa if they were available to attend. Mr. Robertus announced that the special Board meeting scheduled for June 29, 2005 might have to be cancelled.

Mr. Wright asked Mr. Robertus questions about the first item in his report, "Environmental Justice in the San Diego/Tijuana Region: Tour and Briefing by the Environmental Health Coalition (EHC) for the Cal/EPA and the Public."

Consent Calendar: Items 5 through 9

Mr. Johnson recused himself from voting on Items 5-7 as he felt there was a potential conflict of interest.

Item 5 – Update of Waste Discharge Requirements: West Miramar, Anza, and Otay Annex Landfills (tentative Addendum No. 2 to Order No. 93-86) (*Brian McDaniel*)

Item 6 – Update of Waste Discharge Requirements: Ramona Landfill (tentative Addendum No. 1 to Order No. 2000-06) (*Brian McDaniel*)

Item 7 – Update of Waste Discharge Requirements: Sycamore Landfill (tentative Addendum No. 1 to Order No. 99-74) (*Brian McDaniel*)

Mr. Wright made a motion to approve consent Items 5 – 7 with errata. The motion was seconded by Mr. Anderson and approved by unanimous vote. Mr. Johnson did not participate in the vote.

Item 8 – Update of Waste Discharge Requirements: Prima Deshecha Landfill, Orange County (tentative Addendum No. 1 to Order No. R9-2003-306) (*Brian McDaniel*)

Item 9 – Settlement of Liability Against Fieldstone Communities, Inc. and Florida Southchase, L.P. for Violation of Water Code Section 13376 and SWRCB Order No. 99-08-DWQ, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity, Morro Hills, Oceanside, San Diego County. The Regional Board will consider accepting a proposed settlement in response to Administrative Civil Liability (ACL) Complaint Nos. R9-2005-0107 and 0108. 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 Resolution No. R9-2005-0166) (*Frank Melbourn*)

Mr. Wright made a motion to approve consent Items 8 and 9. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 10 – New NPDES Permit: City of Escondido, Industrial Brine Collection System Discharge to the Pacific Ocean via the San Elijo Ocean Outfall (tentative Order No. R9-2005-0139, NPDES No. CA0109215) (*Bryan Ott*)

Item 10 was postponed.

Item 11 – NPDES Permit Reissuance: San Elijo Joint Powers Authority, San Elijo Water Reclamation Facility, Discharge to the Pacific Ocean via the San Elijo Ocean Outfall (tentative Order No. R9-2005-0100, NPDES No. CA0107999) (*Bryan Ott*)

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

Michael Thornton, San Elijo Joint Powers Authority, answered a question asked by Mr. Anderson on sludge disposal.

Mr. Wright made a motion to approve Order No. R9-2005-0100 with revised errata. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Item 12 – NPDES Permit Reissuance: City of Escondido Hale Avenue Resource Recovery Facility, Discharge to the Pacific Ocean via the San Elijo Ocean Outfall (tentative Order No. R9-2005-0101, NPDES No. CA0107981) (*Bryan Ott*)

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

Board Members asked questions of Mr. Ott. Senior staff member Brian Kelley presented some additional information to the Board.

Mr. Johnson asked Mr. Patrick Thomas, City of Escondido, if he felt his questions and concerns had been addressed by the Regional Board. Mr. Thomas replied, yes.

Ms. Ritschel made a motion to approve Order No. R9-2005-0101 with revised errata. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Item 13 – Section 401 Water Quality Certification: City of San Diego, Fashion Valley Road River Crossing Repair, San Diego River. Discussion of impacts to water quality and beneficial uses and alternatives to avoid and minimize impacts. (*Michael Porter*)

Ms. Kraus announced that she had to recuse herself from participating in the item due to the fact that she was the Regional Board representative on the San Diego River Conservancy Board. Mr. Johnson announced that he also had to recuse himself from participating due to a potential conflict of interest.

Mr. Robertus introduced the item and staff member Mike Porter gave the presentation.

Board Members asked questions of Mr. Porter.

Other speakers included:

Hank Hoxie, Atlas Hotels Inc.

Patti Boekamp, City of San Diego

Dennis Bowling, Rick Engineering

Deborah Jayne, San Diego River Conservancy

Andrew Zingale, for Assemblymember Lori Saldaña

Mel Hinton, San Diego Audubon Society

Ms. Boekamp and Mr. Bowling made closing comments. Mr. Porter spoke about some alternative solutions and made closing comments.

Tim Miller, Deputy City Attorney, also spoke.

Board Members asked questions of Mr. Robertus and Ms. George.

Item 14 – PUBLIC HEARING: Administrative Assessment of Civil Liability against Metropolitan Transit System and Development Board for violations of the State Board's General Construction Storm Water Permit Order No. 99-08-DWQ at its Mission Valley East Light Rail Transit Project construction site in San Diego/La Mesa. The Regional Board will decide on an order assessing liability. (Tentative Order No. R9-2005-0173) (*Vicente Rodriguez*)

Item 14 was postponed.

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

Item 4 (continued)

Certificates were presented to staff members Phil Hammer, DiAnne Broussard and Craig Carlisle. Julie Chan was not present but was also awarded a certificate.

Item 15 – *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.

The Executive Session was not held.

Item 16 – *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 17 – *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 18 – *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 19 - Arrangements for Next Meeting and Adjournment

Wednesday, July 29, 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 1:30 p.m.

These minutes were prepared by:

Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus