

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

MINUTES OF MEETING
October 12, 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 Rancho California Water District, District Board Room, 42135 Winchester Road, Temecula, California.

Chairman Minan announced that Item 10 was postponed.

Item 1 – Roll Call: Board Members Present: John Minan, Jennifer Kraus, Eric Anderson, Susan Ritschel, Daniel Johnson and Alan Barrett.

Staff Present: John Robertus, Michael McCann, David Barker, Lori Costa, Bob Morris, Brian Kelley, Julie Chan, Linda Parady, Phil Hammer, Victor Vasquez, Megan Quigley and Jeremy Haas.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Jan White & Associates Reporting: Mary Ann Young. Public Attendance: Richard Dietmeier – resident of Dana Point; Richard Runge – South Coast Water District; Brock Bernstein, Chris Crompton – Orange County; Aldo Licitra – City of Temecula; Dennis Lamb – Vallecitos Water District; Dave Seymour – SMWD; Sheri McPherson – County of San Diego; Jason Uhley – Riverside County Flood Control; Arlene Deeley, David Renfrew – City of San Diego; Alex Gann – County of Riverside; Nancy Palmer – City of Laguna Niguel; Celia Brewer – Foley & Lardner.

Item 2 – Public Forum

There were no speakers for this item.

Item 3 – Minutes of Board Meeting of September 14, 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.

Ms. Ritschel moved approval of the September 14, 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. Anderson, Ms. Ritschel and Chairman Minan spoke about the Water Quality Coordinating Committee meeting they attended on September 19 & 20 in Sacramento.

Board Member Wright arrived at 9:05 a.m.

Mr. Johnson briefly spoke about the National Brownfield's Association event he attended in Sacramento.

Chairman Minan talked about the pre-hearing conference on the tentative Cleanup and Abatement Order for bay sediment remediation and said the procedural orders should be complete and distributed within a week. He also said that he and Mr. Robertus would be speaking at Worldwide Monitoring Day on October 14th. Chairman Minan said there would be a Chair's conference call on November 7th. He also said he attended a desalinization conference. Mr. Richard Dietmeier, Dana Point, expanded on details of the conference.

Mr. Robertus talked about several items in his report including the U.S. Marine Corps Camp Pendleton-Las Pulgas Landfill, Numeric Effluent Limits Panel, Alternative Approaches to Storm Water Quality Control Report and Review of NOV Issued to the San Diego County Copermittees for WURMP Implementation.

Board Members discussed the review of NOVs matter with Mr. Robertus and Mr. Richards.

Chairman Minan requested that the NOV matter be put on a future agenda for action by the Board.

Ms. Ritschel requested that a brief summary of violations for each copermittee that was issued a Notice of Violation be prepared by staff.

Consent Item

Item 5 – New Waste Discharge Requirements: Port of San Diego Dredging Project, Berths 10-3 to 10-6, San Diego Bay (tentative Order No. R9-2005-0226) (*Dat Quach*)

Mr. Wright moved approval of Order No. R9-2005-0226 with errata. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 6 – NPDES Permit Reissuance: Encina Wastewater Authority, Encina Water Pollution Control Facility and Satellite Wastewater Treatment Plants, Discharge to the Pacific Ocean via the Encina Ocean Outfall, San Diego County (tentative Order No. R9-2005-0219, NPDES No. CA0107395) (*Brian Kelley*)

Mr. Robertus introduced the item and staff member Victor Vasquez gave the presentation.

Celia Brewer, Foley & Larder, representing Encina Wastewater Authority, requested a continuance to the December meeting.

After Board Member discussion with staff, Mr. Robertus recommended closing the hearing and the public comment period and continuing the item to the December 14, 2005 Board Meeting.

Mr. Wright made a motion to accept Mr. Robertus' recommendation. The motion was seconded by Ms. Kraus and approved by unanimous vote.

Item 7 – PUBLIC HEARING: Amendment to the Water Quality Control Plan for the San Diego Basin (9). The Regional Board will hear public testimony and receive comments on a Basin Plan amendment to add unnamed or unidentified waterbodies to the beneficial use tables and make water quality objective table corrections. The Regional Board will deliberate on and consider adoption of this amendment at a subsequent meeting. (Basin Plan Issue No. 3) (Tentative Resolution No. R9-2005-0239) (*Linda Pardy*)

Mr. Robertus introduced the item and staff member Linda Pardy gave the presentation.

Mr. Robertus recommended closing the public comment period and bringing the amendment back to the Board for action at a subsequent meeting.

The recommendation made by Mr. Robertus was approved by unanimous vote.

Item 8 – PUBLIC HEARING: Amendment to the Water Quality Control Plan for the San Diego Basin (9). The Regional Board will hear public testimony and receive comments on a Basin Plan amendment to incorporate authorization for compliance time schedules in Waste Discharge Requirements that implement federal NPDES regulations. The Regional Board will deliberate on and consider adoption of this amendment at a subsequent meeting. (Basin Plan Issue No. 6) (Tentative Resolution No. R9-2005-0238) (*Linda Pardy*)

Mr. Robertus introduced the item and staff member Linda Pardy gave the presentation.

Mr. Robertus recommended closing the public comment period and bringing the amendment back to the Board for action at a subsequent meeting.

The recommendation made by Mr. Robertus was approved by unanimous vote.

Item 9 – Modification of a California Water Code Section 13225/13267/13383 Directive to the County of Orange, Orange County Flood Control District, Cities of Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest and Mission Viejo for implementation of an action plan to address elevated bacteria levels in the Aliso Creek Watershed. (*Jeremy Haas*)

Mr. Robertus introduced the item and staff member Jeremy Haas gave the presentation.

Other speakers included:

Richard Dietmeier, resident of Dana Point

Chris Crompton, County of Orange

Nancy Palmer, City of Laguna Niguel

Mr. Robertus concluded and informed the Board that he supported the proposed modification to the California Water Code Directive.

Ms. Ritschel made a motion to adopt the proposed modification. The motion was seconded by Ms. Kraus and approved by unanimous vote.

Item 10 – Section 401 Water Quality Certification: Greystone Homes, Sky Ranch Project in Santee, San Diego County. (*Mike Porter*)

This item was postponed.

Item 11 – Status Report: Short briefings by staff and the copermitees of the Riverside County MS4 permit will update the Regional Board on the permittees' progress in implementing the storm water programs prescribed by Order No. R9-2004-001, which was adopted by this Regional Board in June 2004.

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

Jason Uhley, Riverside County Flood Control & Water Construction District, also gave a presentation.

Alex Gann, County of Riverside, also spoke.

Item 13 – *Executive Session* - Discussion of Ongoing Litigation

The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:

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)

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.

San Diego Unified School District v. County of San Diego and San Diego Regional Water Quality Control Board. San Diego Superior Court, Case No. GIC 840390. Demurrer by San Diego Regional Water Quality Control Board to first amended complaint.

The Executive Session was held.

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 15 – *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 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 19 - Arrangements for Next Meeting and Adjournment

Wednesday, November 9, 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