

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

MINUTES OF MEETING  
March 13, 2002

The regular meeting of the California Regional Water Quality Control Board, San Diego Region, was called to order by Chairman Minan at 9:05 a.m. at the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Chairman Minan welcomed Alexis Strauss from the U.S. Environmental Protection Agency.

**Item 1** – Roll Call: **Board Members Present:** Chairman John Minan, Gary Stephany, Terese Ghio, Laurie Black, Janet Keller, Richard Wright, Eric Anderson and Vickie Butcher.

**Staff Present:** John Robertus, Arthur Coe, Michael McCann, Lori Costa, David Barker, Bob Morris, Mark Alpert, Brian Kelley, John Anderson, John Odermatt, Julie Chan, Kelly Dorsey, Frank Melbourn, David Hanson, Mike Corry, Anthony Felix, Bryan Ott, Brian McDaniel, Sabine Knedlik, Chiara Clemente, Sherrie Komeylyan, DiAnne Broussard, Carol Tamaki, Amy Fortin, Jody Ebsen, Shane Landry, Barry Pulver, Chris Means.

**Others Present on behalf of the Regional Board:** State Water Resources Control Board – Jorge Leon. **Park Avenue Deposition Service:** Grace Verhoven. **Public Attendance:** David McKinley – International Specialty Products; Doug Sain, Steve Zapotoczny – SAFE Treatment Coalition; Michael Welch – consultant; Scott Peters, Clif Williams – City Council; Tom McHenry – Gibson Dunn; Robert Simmons, Ed Kimura – Sierra Club; Terry Fleming, Janet Hashimoto, Alexis Strauss – USEPA; Daniel Coffey – private citizen; Dirk Cockrum, Jerry Engelhardt, Eric Conard – Kinder Morgan; Scott Martin – LFR Levine Fricke; James McDonald – private citizen; Mike Fileccia, James O’Day, Robert Copper, John Snyder, John Rollin, Marie LaSala – County of San Diego; Alan Langworthy, Patty Vainik, Larry Waderman, Scott Tulloch, Ted Olson, Dick Murphy – City of San Diego; Jim Peugh – San Diego Audubon Society; Chris Finley – New Fields LLC; Marc Grenberg – Baker & Hostitler; Andrew Shogren – Cong. Filner; Larry Porter, Doug Korthof – Ocean Outfall Group; Grace Lowenberg – SDCA; Ji Kwon

– private citizen; Stan Little, Bruce Reznik, Stephanie Pacey – San Diego BayKeeper; Larry Padfield – Equilon Enterprise; Jay Goldby – Metropolitan Wastewater Commission; Ron Miller – Industrial Environmental Association; Peter MacLaggan – San Diego Regional Chamber of Commerce; Erik Bruvold – San Diego Economic Development Co.; Marco Gonzalez – Surfrider Foundation; Paul Dayton – Univ. of CA.

**Item 2** – Public Forum

Bruce Reznik, San Diego BayKeeper, talked about the environmental communities continued concern about the sediment cleanup levels in San Diego Bay. He asked the Board to direct staff to hold a public workshop on the studies currently being undertaken by the shipyards at the April 10, 2002 Board Meeting.

Board Members discussed and agreed that a workshop should be held as soon as feasible.

Marco Gonzalez, Surfrider Foundation, talked about illegal discharges by Mountain Meadow Mushroom Farm, debris from Seaworld's fireworks being discharged in to Mission Bay and the lawsuit over the sewage infrastructure of the City brought by the San Diego BayKeeper and the Surfrider Foundation.

Stan Little, San Diego BayKeeper, talked about their concerns on the permit to be issued to the Mountain Meadow Mushroom Farm.

Mr. Stephany asked Executive Officer Robertus to report back to the Board in his next month's report on the three issues that Mr. Gonzalez addressed.

**Item 3** – Minutes of Board Meeting of February 13, 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.*

Approval of the minutes was postponed pending a review of some questions concerning details that should have been in the minutes. Ms. Ghio requested a copy of the tapes from the February 13 meeting, Item 8 - NPDES Permit Renewal for Orange County.

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

Chairman Minan talked about the 20<sup>th</sup> Annual Water Law Conference sponsored by the American Bar Association that he attended in February. He said that he and Mr. Robertus put together a proposal to the American Bar Association that at next year's conference they would host a program dealing with storm water permitting.

Mr. Stephany said he, along with Chairman Minan and Mr. Robertus, toured NASSCO to see some of the progress that had been made on their storm water runoff programs. He noted that there hadn't been any budget meetings so he didn't have anything to report on the budget.

Chairman Minan talked about the passing of Proposition 40 and asked Mr. Stephany and Mr. Robertus to put together a proposal to get access to money that was made available under Proposition 40. Mr. Stephany said they would look into it but didn't think there was a chance of getting any money since it had already been allocated. Chairman Minan said there was some undesignated money for administration.

Dr. Wright noted that a Watershed Perspectives conference was being held in San Diego on March 25 & 26, 2002.

Mr. Robertus talked about the March 18 San Diego Bay tour being hosted by the Navy for Board Members, staff and one member of the public. He explained the drawing that was being held to select a member of the public that had expressed interest in going on the tour. He drew Neil Marshall from Ecosystems Management. He then drew Devon Muto from PBS & J as the alternate.

Mr. Robertus said the Executive Officer from the Los Angeles region, Dennis Dickerson, was contemplating holding a mini water quality institute for Board Members of southern California coastal regions to get together with the Southern California Coastal Water Research Project Authority and staff. The southern California Bight and the tributaries there to would be discussed.

Mr. Robertus also talked about the Prop 13 review by staff, two new staff members, TMDL's, Southern California Bight, San Juan and Aliso creeks and the Monthly Management Report.

Items 5 and 6 – Consent Calendar

**Item 5** – Administrative Assessment for Civil Liability containing a Mandatory Penalty against Rancho California Water District for Violation of Order No. 96-54, NPDES Permit No. CA0108821, Waste Discharge Requirements for Rancho California Water District, Santa Rosa Water Reclamation Facility, Riverside County. (Tentative Order No. R9-2002-0032) (*Frank Melbourn*)

**Item 6** – Administrative Assessment for Civil Liability containing a Mandatory Penalty against Atlantic Richfield Company for Violations of Order No. 96-41, NPDES Permit No. CAG919002, Waste Discharge Requirements for Groundwater Remediation Dewatering at ARCO Station 03012, 27641 Ynez Road, Temecula, CA. (Tentative Order No. R9-2002-0031) (*Rebecca Stewart*)

Mr. Stephany moved approval of Items 5 and 6. The motion was seconded by Ms. Black and approved by unanimous vote.

**Item 7** - JOINT PUBLIC HEARING: NPDES Permit Renewal, City of San Diego, E.W. Blom Point Loma Wastewater Treatment Plant and Ocean Outfall. The San Diego Regional Water Quality Control Board and the U.S. Environmental Protection Agency will convene a joint public hearing to obtain information from the public and interested parties on Tentative Order No. R9-2002-0025. (Tentative Order No. R9-2002-0025, Draft NPDES Permit No. CA0107409) (*David Hanson*)

Chairman Minan explained the reason for the joint hearing. He said that oral and written comments would be received but no action would be taken at that meeting. Chairman Minan then explained the hearing procedures.

Mr. Stephany disclosed that in 1991 he testified on behalf of the City against the USEPA on the waiver process when the EPA was suing the City. He said he felt that he could make an impartial decision when the item was brought back to the Board for action.

Alexis Strauss, Director of the USEPA's Water Division, opened the public hearing at 9:50 a.m. Ms. Strauss explained the procedures for submitting written comments and the actions that could be taken by the Board.

Terry Fleming, USEPA, gave the presentation for the EPA.

Staff member David Hanson gave the presentation for the Regional Board.

Speakers in support of the permit:

Scott Tulloch, City of San Diego

Mayor Dick Murphy, City of San Diego

Scott Peters, City of San Diego Council Member

Andrew Shogren, District Director for Congressman Bob Filner

Jay Goldby, Metropolitan Wastewater Commission Chair, in support

*Board Member Black left the hearing at 10:35 a.m.*

Ron Miller, Industrial Environmental Association

Peter MacLaggan, San Diego Regional Chamber of Commerce

David McKinley, International Specialty Products

Robert Simmons, Sierra Club, did not oppose but urged two revisions to the permit

Eric Bruvold, Economic Development Corporation

Steve Zapotoczny, SAFE Treatment Coalition

Speakers opposed to the permit:

Ed Kimura, San Diego Bay Council

Stephanie Pacey, San Diego BayKeeper

Jim Peugh, San Diego Audubon Society

Bruce Reznik, San Diego BayKeeper

Marco Gonzalez, Surfrider Foundation

Paul Dayton, Scripps Institution of Oceanography, did not oppose

James McDonald, member of several environmental organizations

Larry Porter, Ocean Outfall Group

*Board Member Ghio left the hearing at 11:40 a.m.*

Doug Korthof, Seal Beach resident

Scott Tulloch made closing comments. David Hanson made a closing remark.

Dr. Wright asked Mr. Fleming for copies of the transparencies from his presentation.

The public hearing was closed at 11:55 a.m.

The meeting was recessed for lunch.

**Item 14 - *Executive Session*** - Discussion of Ongoing Litigation.

The Regional Board may meet in closed session to discuss ongoing litigation for the following case(s) with counsel:

*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 Executive Session on the lawsuit against the IBWC was held during the lunch break.

*Ms. Black returned during the Executive Session at 12:20 p.m.*

**Item 8** - Waste Discharge Requirements for Groundwater Extraction Waste Discharges to San Diego Bay from the San Diego Convention Center, San Diego County (tentative Order No. R9-2002-0018, NPDES Permit No. CA0109029) (*Sherrie Komeilyan*)

Item 8 was postponed to a future meeting.

**Item 9** - PUBLIC HEARING: An Order Amending Administrative Civil Liability Order No. 2000-82 against the County of San Diego, San Marcos Landfill, for Noncompliance with Order No. 92-02 and Cease and Desist Order No. 98-39 (tentative Order No. R9-2002-0017) (*Rebecca Stewart*)

Mr. Robertus introduced the item. Staff Counsel, Jorge Leon, said the Board could consider new evidence and information if it were provided since it was basically a new proceeding.

James O'Day, County of San Diego, expressed his concern about allowing new evidence and information and explained why.

Mr. Stephany disclosed that until 1995 he was employed by the County of San Diego and oversaw the San Marcos Landfill but felt he could make an impartial decision.

Staff member Rebecca Stuart gave the presentation.

James O'Day, attorney for the County of San Diego, gave their presentation.

Mike Fileccia, County of San Diego, answered questions asked by the Board.

Marco Gonzalez, Surfrider Foundation, talked about the continuing violations by the County of San Diego.

John Snyder, County of San Diego, said they were trying to keep a three-foot cover over the landfill.

Jon Rollin, County of San Diego, talked about measures they had taken to prevent erosion and runoff.

Mr. O'Day made a brief closing comment.

Ms. Stewart also made a few brief comments.

After Board Member discussion, Chairman Minan made a motion to amend the number of days of violations to 201 days making the liability amount \$84,550. Mr. Anderson seconded the motion. Ms. Black, Ms. Keller and Ms. Butcher said they were opposed. Mr. Stephany said he supported the motion. Mr. Wright said he was going to abstain. The motion did not carry.

Ms. Black made a motion to amend the number of days of violations to 455 days making the liability amount \$160,750. Ms. Butcher seconded the motion. Order No. R9-2002-0017 was approved with opposition by Ms. Keller.

**Item 10** - PUBLIC HEARING: A Time Schedule Order to achieve compliance with Directive No. 2 of Cleanup and Abatement Order No. 92-01, Mission Valley Terminal Responsible Parties (tentative Order No. R9-2002-0042) (*Kelly Dorsey*)

Mr. Robertus introduced the item. Staff member Kelly Dorsey gave the presentation.

Dirk Cockrum, Kinder Morgan Energy Partners, gave the presentation for Mission Valley Terminal and requested an amendment to the existing Cleanup and Abatement Order.

Board Members asked questions of Ms. Dorsey and Mr. Cockrum.

Other speakers included:  
Chris Finley, New Fields  
Ted Olson, City of San Diego

Mr. Stephany made a motion to adopt the Time Schedule Order. The motion was seconded by Mr. Wright and approved by unanimous vote.

**Item 11** - PUBLIC HEARING: Cleanup and Abatement Order for discharges of fill to Agua Hedionda Creek, Buie Communities, Sycamore Vista Business Center (Order No. R9-2002-0016) (*Christopher Means*)

Mr. Robertus said the discharger waived their right to a hearing therefor the public hearing would not be held.

Mr. Stephany made a motion to adopt Cleanup and Abatement Order No. R9-2002-0016. The motion was seconded by Ms. Butcher and approved by unanimous vote

**Item 12** - *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 13 - *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 15 - *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 noted that they were in favor of holding a mini water quality institute as proposed by Mr. Dennis Dickerson.

**Item 16 - Arrangements for Next Meeting and Adjournment**

Wednesday, March 13, 2002 - 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 4:20 p.m.

These minutes were prepared by:

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Lori Costa  
Executive Assistant

Signature of Executive Officer:

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John H. Robertus