

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

MINUTES OF MEETING  
JANUARY 24, 2007

At 9:00 a.m. Vice Chairwoman Kraus called to order the special meeting of the California Regional Water Quality Control Board, San Diego Region at the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

**Item 1** – Roll Call and Introductions: Board Members Present: Jennifer Kraus, Richard Wright, Eric Anderson, Susan Ritschel, and David King.

Staff Present: John Robertus, Arthur Coe, Michael McCann, Lori Costa, David Gibson, John Anderson, John Odermatt, Bob Morris, Deborah Jayne, Mark Alpert, Jimmy Smith, Dat Quach, Charles Cheng, Ben Neill, Lilian Busse, Phil Hammer, Mike Porter, Jeremy Haas, Chris Means, Tony Felix, Brian McDaniel, Frank Melbourn, Lesley Dobalian, Victor Vasquez, Robert Pierce, Deborah Woodward, Pete Peuron, Christina Arias, Amy Grove, Helen Yu, Tom Alo, Elizabeth Dorantes, Joann Cofrancesco, Mariah Mills, and Wayne Chiu.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards and Tam Doduc. Jan White & Associates Reporting: Les Richter. Public Attendance: Nadine Scott – Private Citizen; Stephen Bilson – ReWater Systems; Keith Lewinger – Fallbrook PUD; Michael Dunbar – CASA; Leo Schempp – Leucadia Wastewater District; John Pastore – SCAP; John Stump – Chollas Creek Restoration and Enhancement; Tory Walker – Walker Engineering; Kevin Canning – Brehm Communities; Erin Grehl – Standard Pacific Homes; Scot Sandstrom; John Turpit – RJC Architects; Stephen Haase – Sudberry Properties; Marvin Winters – APM Power Washing; Bruce Warren – Enviromine; Guy Winter – Winter Engineering; Andrew Poat – Regional Economic Development Corp; Cliff Hanna, Valerie Blake, Paul Tryon – Building Industry Association; David Shepherd – Forward Planning & Government Affairs; Brad Barnum – Associated General Contractors; Jim Esposito – Reynolds Communities; Steve Mueller – Mueller Lewis Concrete; Mark Grey – Construction Industry Coalition in Water Quality; Dan Fauchier – EOCA; Patti Krebs – Industrial Environmental Association; Patrick Shipley – California Restaurant Association; Tom Scott – San Diego Housing Federation; Dennis Bowling, Jayne Janda Timba – Rick Engineering; Jim Peugh – San Diego Audubon Society; Scott Brusseau – Newport National Corp; Michael Pattinson; R. Dale Harvey, John Weldy, Bob Cummings, Walter Pritz – Barratt American; Ray Tahir – Consultant Coalition for Practical Regulation; David Beckman – NRDC; Laura Hunter – Environmental Health Coalition; Marco Gonzalez – San Diego Bay Council; Jason Uhley, Tina Tuaso – Riverside Flood Control District; Jamison Nakaya – BUIE Communities; Matt Adams; Scott Alevy - San Diego Regional Chamber of Commerce; Wayne Rosenbaum, Aiko Osugi – Foley & Lardner;

Jerry Livingston, Doug Liden – US EPA; Donna Frye, Ronne Froman, Chris Zirkle, Drew Kleis, Mario Sierra – City of San Diego; Mayor Cheryl Cox, Tim Weinman, Erik Steenbrock, Khosro Aminpour, Kirk Ammerman – City of Chula Vista; Joe Kellejian – City of Solana Beach; Mayor Pro Tem Fred McLean – City of Imperial Beach; John VanRhyn, Chandra Wallar, Barry Pulver, Joseph DeStefano, Sara Agali, Joanne Branch – County of San Diego; James Lough – Legal Counsel; . Mike Dunbar, Dick Runge – South Coast Water District; Scott Koken – SDG&E; Malik Tamini – City of La Mesa; Cora Long, Scott Adams, Graham Mitchell – City of Lemon Grove; Larry Dees, Todd Novacek – Moulton Niguel Water District; Ed Kimura – Sierra Club; Paul Seymour – SMWD; Brandon Devine – PBF Consulting; Lisa Skutecki, Nancy Gardiner – Brown and Caldwell; Marisa Fontanoz, Mayra Garcia – San Diego County Regional Airport Authority; Richard Rusnak, Nathan Schaedler – MACTEC Engineering; May Alshaikh, Yi Pan – Caltrans; Karen Brindley – City of San Marcos; Rick Hall – PDC; L. Merrill Palmer – Self; Tina Fransson – Lundstrom & Associates; Len Roberts – InterOcean Systems; Josh Brody, Amy Montalbano, Shawn Torreson – MCB Camp Pendleton; Lisa Coburn-Boyd – Okay Water District; Shawn Veen – Assembly Member Saldana; Don Wasko, Jesse Castanieda, Elaine Lukey, Paul Hartman, John McKelvey – City of Carlsbad; Danis Bechter, Roger Morrison – City of Poway; Mohammad Monshizaden – Lewis Operating Corp.; John Thompson, Caine Tsutsui, Ron Lamaster – Richmond American Homes; Mark Stiefel – Stiefel Dairy; Rob McGann – Cal. Lands Contr Association; Andrew McGann – Public; Shawn Halvax – BAE Systems; Marvin H Sachse – Brash Industries; Michael Griffiths – City of El Cahon; Amy Mecklenborg – SIO; Chery Filar – City of Escondido; Mike Shetler – RIUCD, Executive Office; Paul Manning – McMillin Land Development; Robert Zaino, Helen Perry – City of Santee; Rosanna Lacarra – City of Del Mar; Mo Lahsaie, Scott Smith – City of Oceanside; Claudia Perez – County of Riverside; Lisa Cohen, Charles Moore – Chula Vista Chamber of Commerce; Stephen Haasc – Sudberry Prop.; Gordon Gubee – Gordons Custom Design; Hugh Gronger – Conac Kitchens; Cliff Hanna – Brosite; Marilyn O'Neill – Nautilus; Brian Gates – HG Fenton Company; Bo Sousa – Masson and Associates; Eric Mosolgo, Nora Jans – RBF Consulting; Keith Battle – Battle Strategies; Vaikko Allen – Contech Stormwater Solutions; Jayne Strommer – City of Vista; Pete Michael – Self; Terry Rodgers – San Diego Union Tribune.

Vice Chairman Kraus welcomed David King to the Board.

**Item 2** – Public Forum

Nadine Scott, Oceanside resident, expressed concern for the condition of Loma Alta Creek, the proposed development of the Robertson Concrete facility in Oceanside, and requested modification of standard language used by the Regional Board in 401 Certifications.

Stephen Bilson, ReWater Systems, expressed opposition to the current requirements by the San Diego County Department of Environmental Health for oversight of the installation and operation of graywater treatment and disposal systems. Mr. Bilson

requested that the Regional Board allow municipalities, and not just the County, to oversee and inspect these systems.

Keith Lewinger, Fallbrook Utility District, asked that Item 6 be pulled from the Consent Calendar.

**Item 3** – Minutes of Board Meeting of November 8, 2006

*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. Wright moved approval of the November 8, 2006 minutes. The motion was seconded by Ms. Ritschel and approved with abstention by Mr. King.

**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.

Vice Chairwoman Kraus reported that she participated in the Board Chairs conference call with State Board Chairwoman, Tam Doduc on January 8. She noted that the State Board was working on updating their Strategic Plan and they were also working on getting the Construction Storm Water Permit out.

Board Member Wright requested a copy of the proceedings from the CASQA Regulatory Status Conference in San Diego on January 12. Mr. Wright also proposed more notification be given to the Board Members on future meetings and conferences.

Executive Officer Robertus reported that he attended a SANDAG Board meeting on January 12. A few issues on the agenda were habitat preservation, storm water management, and beach sand replenishment.

**Item 5** – Recognition: Resolution of Appreciation for Janet Keller (tentative Order No. R9-2007-0004, *previously tentative Order No. R9-2006-0114*) and John Minan (tentative Order No. R9-2007-0008) (*John Robertus*)

Vice Chairwoman Kraus read the resolutions for Janet Keller and John Minan. Mr. Minan was present to receive the Resolution of Appreciation and thanked the Regional Board staff for their professionalism, dedication, and service to him while he was on the Board. He also thanked the public for their participation on matters before the Board.

Board Members, Tam Doduc, and John Robertus expressed their thanks to Mr. Minan for his leadership, expertise, and dedication during the seven years he was on the Board.

**Item 4** – Continued

Ms. Tam Doduc, State Board Chairwoman, thanked the Members for their service on the Board. Ms. Doduc also talked about the WQCC, the recycled water policy, and the draft General Statewide Construction Storm Water Permit.

***Consent Calendar: Items 6 through 10***

Chairwoman Kraus announced that Item 6 was pulled from the Consent Calendar.

Mr. King recused himself from voting on Item 8 as Palmilla, LLC was a client of his.

**Item 7** – NPDES Permit Reissuance: Waste Discharge Requirements for the Jack and Mark Stiefel Dairy, Domenigoni Valley, Riverside County (tentative Order No. R9-2007-0009, NPDES Permit No. CA0109011, *previously tentative Order No. R9-2006-0096*) (*Charles Cheng*)

**Item 9** – Rescission of Waste Discharge Requirements: United States Marine Corps, Class II Waste Management Unit, Marine Corps Base, Camp Pendleton (tentative Order No. R9-2007-0003, *previously tentative Order No. R9-2006-0086*) (*Amy Grove*)

**Item 10** – Revision of Waste Discharge Requirements: Port of San Diego, Campbell Shipyard Bay Sediment Cap, Closure and Maintenance, San Diego Bay (tentative Addendum No. 2 to Order No. R9-2004-0295) (*Dat Quach*)

Ms. Ritschel made a motion to approve Consent Items 7, 9, and 10. The motion was seconded by Mr. Wright and approved by unanimous vote.

**Item 8** – Consideration of Settlement Offer: Palmilla, LLC and Glenwood Development Co. Construction site at Jackson Avenue and Nutmeg Street, Murrieta. Alleged violation of Directive No. 3 of Cleanup and Abatement Order (CAO) No. R9-2005-0259. The Regional Board will consider adopting a resolution (tentative Resolution No. R9-2007-0010, *previously tentative Order No. R9-2006-0129*) consisting of:

A. Approval of Glenwood Development Co.'s payment of \$15,000 to the State Board's Cleanup and Abatement Account in settlement of all outstanding liability associated with the alleged violation of CAO Directive No. 3; and

B. Amendment of the CAO to extend the deadline for completion of CAO Directive No. 3 to July 31, 2008. (Tentative Addendum No. 1 to CAO No. R9-2005-0259.) (*Frank Melbourne*)

Ms. Ritschel made a motion to approve Consent Item 8. The motion was seconded by Mr. Wright and approved by unanimous vote.

***Remainder of the Agenda (Non-Consent Items):***

**Item 6** – Waste Discharge Requirements: Sewage Collections Agencies in the San Diego Region. The Regional Board will consider adoption of an Order that will augment State Water Board Order No. R9-2006-003-DWQ and supersede current Regional Board Order No. 1996-004 reaffirming the Regional Board's prohibition of sanitary sewer overflows. (Tentative Order No. R9-2007-0005, *previously tentative Order No. R9-2006-0121*) (*Joann Cofrancesco*)

After discussion between Board Members, staff, and Fallbrook Public Utility District, the item was postponed to the February 14 Board Meeting.

**Item 11** – Municipal Storm Water Permit, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority (NPDES Permit No. CAS0108758). A public hearing for this item was held June 21, 2006: Oral comments will be accepted on modifications to the Tentative Order that have been made following the public hearing. Time allotted for oral comments may be limited at the discretion of the Regional Board. (Tentative Order No. R9-2007-0001, *previously tentative Order No. R9-2006-0011*) (*Phil Hammer*)

Mr. King disclosed that he represented the City of San Marcos on a variety of matters, none that were related to storm water or water pollution, and had been a member of the City Attorney's Association of San Diego County, but he and State Board Counsel felt it would not preclude him from participation in the item.

Mr. Robertus introduced the item and staff member Phil Hammer gave the presentation.

Other speakers included:

Ronne Froman, City of San Diego  
Joe Kellejian, Deputy Mayor, Solana Beach  
Fred McLean, Mayor Pro Temp, Imperial Beach  
Jon VanRyhn, County of San Diego  
Chris Zirkle, City of San Diego  
James Lough, City Attorney's Group  
Chandra Wallar, County of San Diego  
Donna Frye, Council Member, City of San Diego  
Doug Liden, US EPA  
Scott Alevy, San Diego Regional Chamber of Commerce  
Jerry Livingston, Building Industry Association  
Wayne Rosenbaum, Foley & Lardner  
Paul Tryon, Building Industry Association  
Matthew Adams, Building Industry Association  
Jason Uhley, Riverside County Flood Control District  
David Beckman, National Resources Defense Council

Laura Hunter, Environmental Health Coalition  
Marco Gonzalez, San Diego Bay Council

*The meeting was recessed for lunch at 12:30 and reconvened at 1:15 p.m.*

**Item 11** – Continued

Michael Pattinson, Barratt American  
Ray Tahir, Coalition for Practical Regulation  
Scott Brusseau, Newport National Corporation  
Jim Peugh, San Diego Audubon Society  
Dennis Bolling, Rick Engineering  
Tom Scott, San Diego Housing Federation  
Patrick Shipley, California Restaurant Association  
Patti Krebs, Industrial Environmental Association  
Dan Fauchier, EOCA  
Mark Grey, Construction Industry Coalition on Water Quality  
John Stump, Chollas Creek Restoration Enhancement Conservancy  
Steve Mueller, Mueller Lewis Concrete  
Bob Cummings, private citizen  
Jim Esposito, Reynolds Communities  
Brad Barnum, Associated General Contractors  
David Shepherd, KB Home

Mr. Hammer addressed public comments/concerns by the County of San Diego.

Board Members asked questions of Mr. Hammer.

Mr. Van Ryhn answered questions asked by the Board.

After a 25 minute break, Mr. Hammer recommended adding foot note 3 to page 17 of the tentative Order. The foot note was read for the record.

Board Members asked more questions of Mr. Hammer.

David Beckman, NRDC, said they objected to the proposed language in foot note 3.

To address Mr. Anderson's concern, Mr. Hammer suggested adding a foot note to Page 25, section D.1.d(12)(g), after the word nurseries to read, "except with regard to treated nursery runoff or clean storm water runoff."

The public comment period was closed and the Board began deliberation.

Mr. Robertus recommended approving Order No. R9-2007-0001.

Mr. Anderson made a motion to approve Order No. R9-2007-0001. The motion was seconded by Mr. Wright.

The following amendments were made to the Order:

Motion by Mr. Wright to modify the first sentence of section D.1.d(1)(b) [page 17]. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Motion by Mr. Wright to modify the definition of "Redevelopment" contained in Attachment C [page C-7]. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Motion by Ms. Ritschel to modify section D.1.d(8)(c) [page 23] to read 365 days. The motion was seconded by Mr. Anderson and approved with opposition by Mr. Wright.

Motion by Mr. Wright to modify section D.1.d(8)(c) [page 23] to read 270 days. The motion was not seconded.

Motion by Ms. Ritschel to clarify the meaning of the terms "deemed acceptable" in section D.1.d(1)(b) [page 17]. The motion was seconded by Mr. Wright and approved by unanimous vote.

Motion by Mr. Wright to modify the language in section D.1.d(8) [page 23]. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Motion by Mr. King to strike the words "no later than" on the last line of page 9 of the tentative Receiving Waters and Urban Runoff Monitoring and Reporting Program. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Motion by Mr. King to remove the language "2.b(1)" from the first sentence and add it to the second sentence, at the bottom of page 18, paragraph 3, of the tentative Receiving Waters and Urban Runoff Monitoring and Reporting Program. The motion was seconded by Ms. Ritschel and approved by unanimous vote.

Motion by Mr. King to change the May 1, 2007 date to May 1, 2008 on page 13, section D, first sentence, of the tentative Receiving Waters and Urban Runoff Monitoring and Reporting Program. The motion was seconded by Mr. Anderson and approved with opposition by Mr. Wright.

Motion by Mr. Wright to add a foot note to page 25, section D.1.d(12)(g), after the word nurseries to read, "except with regard to treated nursery runoff or clean storm water runoff." The motion was seconded by Ms. Ritschel and approved with abstention by Mr. King.

Motion by Mr. King to add foot note 3 to page 17, paragraph D and paragraph D.1.g. The motion was seconded by Ms. Ritschel and approved with opposition by Mr. Wright and Mr. Anderson.

Vice Chairwoman Kraus called for a vote on the motion made by Mr. Anderson and seconded by Mr. Wright to approve the Order. Order No. R9-2007-0001 with the above amendments was approved by unanimous vote.

**Item 12** – *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.

*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.

*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.

*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

*San Diego Unified School District, a public school district, Plaintiff v. County of San Diego, a public entity, San Diego Regional Water Quality Control Board, a public entity and DOES 1 through 25, inclusive, Defendants.* Superior Court of the State of California for the County of San Diego, Case No. GIC840390; First Amended Complaint for: 1) Breach of Contract-Lease Agreement, 2) Breach of Contract-Sharing Agreement, 3) Quantum Meruit; 4) Express Indemnity; 5) Implied Indemnity and Contribution; 6) Equitable Indemnity Contribution; 7) Nuisance; 8) Trespass; 9) Inverse Condemnation; 10) Preliminary and Permanent Injunction; 11) Declaration of Relief Against the County of San Diego; and 12) Declaration of Relief Against the Regional Water Board and County.

**Item 13** – *Executive Session* - Consideration of Initiation of Litigation (*John Robertus*)

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.

**Item 14** – *Executive Session* - Discussion of Pending Litigation

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

**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 Sessions, Items 12-15, were not held.

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

Wednesday, February 14, 2007 - 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 5:34 p.m.

These minutes were prepared by:

Executive Officer:

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Lori Costa  
Executive Assistant

\_\_\_\_\_  
John H. Robertus