

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

MINUTES OF MEETING  
January 9, 2002

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 City of Mission Viejo, City Council Chambers, 25909 Pala, Mission Viejo, California.

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

Staff Present: John Robertus, Arthur Coe, Michael McCann, David Barker, Lori Costa, Bob Morris, Brian Kelley, Frank Melbourn, Tom Alo, David Gibson, Jeremy Haas, Chris Means, Phil Hammer, Eric Becker and Chiara Clemente.

Others Present on behalf of the Regional Board: State Water Resources Control Board - John Richards; Park Avenue Deposition Service: - Grace Verhoven.  
Public Attendance: - Scott Brown – Orange County Fire; Neil Blais, Tom Wheeler, Jim Thor, Bill Talley – City of Rancho Santa Margarita; Richard Watson – RWA; Joe Brown, Cathryn DeYoung, Nancy Palmer – City of Laguna Niguel; George Scanborough, Diane Bathgate - City of San Juan Capistrano; Renso Marin – El Torro Water District; John Whitman, Kathleen McGowan – City of Aliso Viejo; Elizabeth Pearson – Adwory; Dave Seymour – SMWD; Bob Warren – City of Dana Point; Elliott Dubreuil, John Ruby, Paul Dorris - Laguna Sur. HOA; James Harkins, Peter McLaughul – Bear Brand at Laguna Niguel HOA; Ralph P. – ETWD; R. Dietmeter – SCWD; Charles Graff – MS II HOA; Paul Corn – United Storm Water;– Wayne Rayfield, Pat Felt – City of Dana Point; Paul Carlton – Sierra Club; Brenda Stouffer – Heart & Soul Coalition; Rufus Young – Burke, Williams & Sorensen; Robert Dunek, Bob Woodings, Richard Dixon – City of Lake Forest; Ginny McVicker, Chris Crompton, Geoff Hunt, John Scholterbeck, Vicki Wilson – County of Orange; Eddie Rose, Victor Kobert – Laguna Niguel; Dirk Petchul – Hickey & Petchul; Beckee & Dennis Cost, Cathleen Brannon – Friends of Foothills; Abel Armas – Laguna Niguel HOA; Michael Hazzard – self; Tom Tullar, Randy Huttenberger – Saddleback Valley USD; Noel & Steve Schnayer; Robert Evans – NAIOP; Tim Simpson – WSPA; Sandy Meyer – Lake

Forest Community Assoc.; Shelly Black – Saddleback Canyons Conservancy; Maura Mikulec – self; Karin Moran, Marco Gonzalez, Rick Wilson – Surfrider Foundation; Jerry Lehman – San Clemente Chamber; Laura Hiramadu – Floodplain Mgmt. Assoc.; E. Bahn – self; Amber Smith – O.C. Stormwater Coalition; Terri Reilly – self; Reed Royalty – O.C. Taxpayers Assoc.; Robert Fraser – self; Laura Gentile – US EPA; Lili Russ – Lake Forest Chamber of Commerce; Brian Wall – Western States Petroleum Assoc.; Joseph Martino – self; Joan Hinnel – self; Linda Garcia – RCFC; P.T. Bishop – Irvine Ranch Water Dist.; Joyce Clark – MWD; Don Porter – Dana Woods HOA; Maryann Gonzalez – BP-ARCO; David Caretto – SOCWA; Larry Dees – Moulton Niguel Water Dist.; Bob Caustin – Defend the Bay; Laura Hunter – Environmental Health Coalition; Gary Adams – San Diego County Fire Districts; Craig Justice, Wayne Baglin – City of Laguna Beach; Rick Wilson – Surfrider Foundation; Tom Bonigut, Scott Diehl – City of San Clemente; Carolyn Ben – Hydrosorb, Inc.; Matt Hagemann – Orange Coast Watch; Justin McCusker – Orange County Business Council; Andy Wilson – self; Lisa Klasey – Chatelain HOA; Moruec Meur – O.C. Env. Health; Ken Rosenfield, Craig Scott – City of Laguna Hills; Richard Gardner – South Coast Water Dist.; Jean Jamlon, Joe Brown, Cathryn DeYoung, Ken Montgomery, Nancy Palmer, Bob Lenard – City of Laguna Niguel; Milt Johns – Leisure World; Seema Milita – L.A. Times; Julia Emerson – Senator Bill Morrow.

## **Item 2** – Public Forum

Susanne Levesque, South Orange County Watershed Conservancy, talked about the Aliso Creek Watershed Management Plan.

Briggs Christian Morris-Smith, Waterman's Coalition, talked about sewage spills in Laguna Beach.

Roger von Butow, Clean Water Now! Coalition, talked about Cleanup and Abatement Order 99-211 and the Reional Board's directive, pursuant to Water Code Section 13225, for Aliso Creek.

Craig Stern, Entre-Manure Dog Waste Removal Service, talked about dog feces clean up at the beaches.

Michael Hazzard, Mission Viejo resident, talked about urban runoff and water quality.

Shelly Black, Saddleback Canyons Conservancy, talked about a construction project in Trabuco Canyon involving asphalt paving.

Chairman Minan asked Mr. Robertus to look into the paving project, take appropriate actions and report back to the Board.

Steve Netherby, Friends of Foothills, spoke about pollution going into the ocean.

Board Members asked questions of Mr. Robertus.

**Item 3** – Minutes of Board Meeting of December 12, 2001

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.

Mr. Stephany moved approval of the minutes. The motion was seconded by Ms. Ghio and adopted by unanimous vote.

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

Chairman Minan said the election for the Year 2002 Chair and Vice Chair would be held during the February 13, 2002 Board Meeting.

Mr. Stephany said he reviewed the year end tri-annual program management briefing materials for Fiscal Year 2000/2001 and said Region 9 was under budget. He noted that the state said there would be no redirection from TMDL resources if there were vacancies in that area and if the vacancy could not be filled with existing staff, a hiring freeze exemption could be requested.

**Item 5** - Recognition: Resolution of Appreciation for Wayne Baglin (tentative Resolution No. R9-2002-0006) (*John Robertus*)

Chairman Minan read the Resolution for Wayne Baglin. Mr. Baglin spoke about his term on the Board and thanked staff and fellow Board Members. Board Members thanked Mr. Baglin for his outstanding service on the Board.

Items 6 and 7 – Consent Calendar

**Item 6** - Administrative Assessment Of Civil Liability against William P. Johnson and North Plaza, LLC for violations of California Water Code §§ 13267, 13383, and 13376 and State Water Resources Control Board Order No. 99-08-DWQ. The Regional Board will finalize the details of an escrow account to fund a Supplemental Environmental Project. The public hearing on this item has been closed and the liability amount set at \$103,497. (Tentative Order No. R9-2002-0007) (*Frank Melbourn*)

**Item 7** - A Resolution requesting from the State Water Resources Control Board's Cleanup and Abatement Account fund fifty-four thousand dollars to study sediment cleanup levels in San Diego Bay. (Tentative Resolution No. R9-2002-0008) (*David Barker*)

Mr. Stephany moved approval of Items 6 and 7. The motion was seconded by Ms. Black and adopted by unanimous vote.

**Item 8** - PUBLIC HEARING: Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of Orange County and the Orange County Flood Control District within the San Diego Region. (Tentative Order No. R9-2002-0001, NPDES Permit No. CAS0108740) (*David Gibson*)

The Public Hearing opened at 10:00 a.m.

Mr. Robertus introduced the item. Chairman Minan began explaining the hearing procedures. Mr. Richards recommended not granting any requests for designated party status.

Paul Singarella, Latham & Watkins, requested designated party status on behalf of his clients.

Chairman Minan ruled that designated party status would not be given and explained the reasons for his decision in detail.

Mr. Singarella expressed his objection to Chairman Minan's decision.

Chairman Minan continued to explain the hearing procedures. He outlined five areas of public concern.

David Beckman, National Resources Defense Council, requested a formal hearing that would allow designated party status or an informal hearing and allow everyone equal time to speak.

Staff member David Gibson gave the presentation.

Other speakers included:

Fred Jenner, represented Assemblywoman Patricia Bates

Carmen Vali, Mayor of Aliso Viejo

Karl Warkomski, Aliso Viejo Councilmember

Kathleen McGowan, City of Aliso Viejo

Wayne Rayfield, Dana Point Councilmember

Wayne Baglin, Mayor of Laguna Beach

Richard Dixon, Mayor of Lake Forest

Bob Woodings, City of Lake Forest

Craig Scott, Mayor of Laguna Hills

Ken Rosenfield, City of Laguna Hills

Joe Brown, Mayor of Laguna Niguel

Cathryn DeYoung, Laguna Niguel Councilmember

Ken Montgomery, City of Laguna Niguel

Nancy Palmer, City of Laguna Niguel

Bob Lenard, City of Laguna Niguel

The Public Hearing was recessed for lunch at 12:55 p.m.

**Item 9 - 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.

*San Diego BayKeeper, American Canoe Association, Surfrider Foundation, and Divers Against Polluters vs. the U.S. Department of Defense, et al.,* Plaintiffs have filed Notices of Intent to Sue for alleged violations of the NPDES permits issued to the United States Marine Corps regulating the discharge of wastes from five sewage treatment plants at Camp Pendleton to the Santa Margarita River, and for alleged violations of the waste discharge

prohibition of Order No. 96-04 for sanitary sewer overflows; the Regional Board will consider possible actions in response to these Notices, including, but not limited to, participating in plaintiffs' intended litigation, initiating separate litigation involving the violations alleged, or other actions.

This Executive Session was held during the lunch break. Chairman Minan announced that the Board decided not to join in the lawsuit at that time.

The Public Hearing was reconvened at 1:35 p.m.

*Speaker slips that indicated "in opposition" or "in support" of the permit were submitted by the public. Some speaker slips that were submitted did not indicate either therefore it is not shown below.*

Other speakers continued:

Julia Emerson, represented Senator Bill Morrow  
Bert Hack, Laguna Woods Councilmember, opposed  
Bob Ring, Laguna Woods Councilmember, opposed  
Sherri Butterfield, Mission Viejo Mayor Pro Tempore, opposed  
Jim Thor, Mayor of Rancho Santa Margarita, opposed  
Neil Blais, Rancho Santa Margarita Councilmember, opposed  
Tom Wheeler, City of Rancho Santa Margarita, opposed  
Scott Diehl, San Clemente Councilmember  
Diane Bathgate, Mayor of San Juan Capistrano  
Richard Watson, City of San Juan Capistrano  
Vicki Wilson, County of Orange, opposed  
John Schlotterbeck, County of Orange, opposed  
Geoff Hunt, Orange County Flood Control District, opposed  
Chris Crompton, County of Orange, opposed

Staff responded to questions raised by the County of Orange and verified that the second draft of the permit was not available on the Regional Board's website as was previously mentioned.

Chief Scott Brown, represented Orange County Fire Chiefs Association  
Laura Gentile, U.S. EPA, in support  
David Beckman, National Resources Defense Council, in support  
Bob Caustin, Defend the Bay, in support  
Laura Hunter, Environmental Health Coalition, in support  
Marco Gonzalez, Surfrider Foundation, in support

Rick Wilson, Surfrider Foundation, in support  
Lily Russ, Lake Forest Chamber of Commerce, opposed  
Roger von Butow, Clean Water Now! Coalition, in support  
Eddie Rose, Laguna Niguel, in support  
Robert Fraser, San Juan Capistrano, in support  
Chief Gary Adams, San Diego Fire Chiefs Association, opposed  
Paul Singarella, Latham & Watkins, opposed  
Reed Royalty, Orange County TaxPayers Association, opposed

Staff member Phil Hammer answered questions raised by Mr. Singarella.

Brian Wall, Mayer Brown & Platt, opposed

Staff member David Gibson informed Mr. Wall that retail gas outlets were dropped from the permit. Mr. Wall said, in that case, he didn't oppose the permit.

Tim Piasky, Construction Industry Coalition, opposed  
Shanda Stephenson, Latham & Watkins, opposed  
Charles Graff, Monarch Summit Home Owners Association, opposed  
Milton Robbins, Golden Rain Foundation, opposed  
Matt Petteruto, Apartment Assoc. of Orange County, opposed  
Christine Iger, Manatt, Phelps & Phillips, opposed  
Laura Eisenberg, Rancho Mission Viejo, opposed  
Justin McCusker, Orange County Business Council, opposed  
Tom Tullar, Saddleback Valley School District, opposed  
Rufus Young, Burke, Williams & Sorensen, opposed

Closing statements by copermittes:

John Whitman, City of Aliso Viejo

Bob Warren, City of Dana Point

Ken Montgomery, City of Laguna Niguel

Staff member David Gibson gave his closing statements.

The Public Hearing was closed at 7:30 p.m.

Chairman Minan said the meeting would be continued for action at a later date.

Mr. Robertus said he would confer with staff and give his recommendation at the next meeting.

**Item 10 - Executive Session** - Discussion of Pending Litigation.

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

This Executive Session was not held.

**Item 11 - 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)

*Schutte & Koerting, Inc. and Ametek, Inc. v. Regional Water Quality Control Board, San Diego Region;* Superior Court of California, San Diego County; Case No. GIC 772197

This Executive Session was not held.

**Item 12 - 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)].

This Executive Session was not held.



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

Wednesday, February 13, 2002 - 9:00 a.m.  
Regional 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 7:33 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