

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

MINUTES OF MEETING
September 10, 2003

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 Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Chairman Minan announced that due to lack of a quorum, items that needed action by the Board were postponed.

Item 1 – Roll Call: Board Members Present: Chairman John Minan, Eric Anderson and Janet Keller.

Staff Present: John Robertus, Arthur Coe, Michael McCann, Lori Costa, David Barker, Bob Morris, Brian Kelley, John Phillips, Craig Carlisle, Stacey Baczkowski, Tom Alo, Frank Melbourn, Rebecca Stewart, Pete Peuron, Jeremy Haas, Alan Monji, Michael Porter, Victor Vasquez, Chris Means, Hashim Navrozali, David Hanson, Ben Neill, Dat Quach, Kristin Schwall, Phil Hammer, Paul Richter, Lisa Brown-Honma and Brennan Ott.

Public Attendance: Richard Dietmeier, South Coast Water District; Jeff Paul, NRG Energy; Troy Hurphree, Sweetwater Authority; Marvin Winters, Sure Clean Power Washing Inc.; Anne Lee, Foley & Lardner; Sandor Halvax, Southwest Marine Inc.; Elizabeth Giffen, County of San Diego; Scott Sobiech, U.S. Fish and Wildlife Service; Laura Hunter, Environmental Health Coalition; Karen Henry, Ruth Kolb, Antonius Evans, L. McGuire, City of San Diego; Suzanne Skou, Public; Lane McVey, NASSCO; Keith Merkel, Merkel & Associates; Dave Seymour, Santa Margarita Water District; Patti Krebs, Industrial Environmental Association; Marco Gonzalez, Surfrider Foundation; Jason Uhley, Riverside County Flood Control & Water Conservation District; David Mayer, Tenera Environmental; James White, Duke Energy.

Item 2 – Public Forum

Jason Uhley, Riverside County Flood Control and Water Conservation District, talked about their urban runoff management program.

Marvin Winters, owner of Sure Clean Power Washing, asked the Board to take formal action against the City of San Diego and the PBID Board for illegal discharges in the City of San Diego.

Board Member Butcher arrived at 9:10 a.m.

Karen Henry, City of San Diego, talked about trash in urban creeks.

Chairman Minan asked Ms. Henry to address the illegal discharge issue that Mr. Winters talked about. Ms. Henry talked about the enforcement actions that had been taken and said the date for dischargers to comply with their recapture policy was January 1, 2004.

Richard Dietmeier, South Coast Water District, talked about sewer cleaning and gave a maintenance progress report.

Item 3 – Minutes of Board Meeting of August 13, 2003

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.

Item 3 was postponed.

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

Executive Officer Robertus briefly spoke about a few items in his report that included: Geographical Information Systems in San Diego County (A-6), Cleanup and Abatement Account Audit (B-10), and Status of Wastewater Discharge from USMC Base Camp Pendleton to the Oceanside Ocean Outfall (B-11).

Chairman Minan said that it looked like there was a substantial improvement with respect to sanitary sewer overflows.

Mr. Robertus talked about Mr. Winters' request for a formal enforcement action to be taken against the City of San Diego.

Mr. Anderson talked about the GIS presentation he and Richard Wright attended on September 2, 2003.

Chairman Minan reminded the public that the October Board Meeting was canceled. He briefly spoke about the WQCC meeting being held in Sacramento on October 9 and 10, 2003. He also noted that for the period January 1, 2000 to June 30, 2003, Region 9 collected the most administrative civil liabilities with payments made to the Cleanup and Abatement Account, far exceeding the other regions. Chairman Minan then announced that the Governor appointed him to the San Diego River Conservancy Board and said he would ask Board Member Stephany to take his role as the non-voting member that our Board appointed him to at a previous meeting.

Consent Items 5 through 9:

Item 5 – A Resolution requesting two hundred sixty thousand dollars from the State Water Resources Control Board's Cleanup and Abatement Account fund to assess atmospheric deposition, measure flow, and collect water quality data, perform modeling, and develop cleanup levels for the mouth of Chollas Creek in San Diego Bay. (Tentative Resolution No. R9-2003-0312) (*Brennan Ott*)

Item 6 – A Resolution requesting fifty four thousand dollars from the State Water Resources Control Board's Cleanup and Abatement Account fund to study marine sediment cleanup levels in San Diego Bay. (Tentative Resolution No. R9-2003-0315) (*Brennan Ott*)

Item 7 – Modification to Cease and Desist Order: California Department of Transportation, San Joaquin Hills Transportation Corridor (SR-73), Orange County, (revision to monitoring requirements) (Tentative Addendum No. 1 to Cease and Desist Order No. 2001-198) (*Christopher Means*)

Item 8 – Settlement of liability against Ryland Homes of California, Inc. for violation of Water Code sections 13376, 13267, and 13383 and SWRCB Order No. 99-08-DWQ, Waste Discharge Requirements for discharges of storm water runoff associated with construction activity, Serenada Development, Murrieta, Riverside County. The Regional Board will consider accepting a proposed settlement for the

liability. 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. R9-2003-0291) (*Frank Melbourn*)

Item 9 – Settlement of liability against Ashby Homes for violation of SWRCB Order No. 99-08-DWQ, Waste Discharge Requirements for discharges of storm water runoff associated with construction activity, Roripaugh Ranch construction site, Temecula, Riverside County. The Regional Board will consider accepting a proposed settlement for the liability. 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. R9-2003-0302) (*Rebecca Stewart*)

Consent Calendar Items 5 – 9 were postponed.

Remainder of the Agenda (Non-Consent Items):

Item 10 – Administrative Assessment of Civil Liability against Pioneer Builders for violations of the State Board's General Construction Storm Water Permit Order No. 99-08-DWQ, San Diego Region Basin Plan, and Cleanup and Abatement Order No. R9-2003-158 at the Castillo del Mar subdivision in Dana Point, California. If agreement on settlement of this matter is not reached prior to the meeting date the Regional Board may deliberate and decide on assessment of civil liability based on testimony from the August 13, 2003 hearing. The Public Comment period is closed on this item. (Tentative Order No. R9-2003-0301) (*Rebecca Stewart*)

Item 10 was postponed.

Item 11 – Status Report: San Diego River Watershed (*Michael Porter*)

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

Board Members thanked Mr. Porter for such a well prepared presentation and made other comments.

Chairman Minan noted that on page 7 of Mr. Porter's report, there was no reference to CFR.

Item 12 – NPDES Permit Reissuance: Padre Dam Municipal Water District, Padre Dam Water Recycling Facility, Discharge to Sycamore Creek and the San Diego River, San Diego County (tentative Order No. R9-2003-0179, NPDES No. CA0107492) (*David Hanson*)

Item 12 was postponed.

Item 13 – Status Report: Duke Energy South Bay LLC, a report on the studies being conducted to assess the impact of the intake structures and thermal discharge of the South Bay Power Plant on the biological resources and beneficial uses of south San Diego Bay. (*Hashim Navrozali*)

Mr. Robertus and Mr. Navrozali introduced the item. James White, Duke Energy and David Mayer, Tenera Environmental gave a joint presentation.

Chairman Minan asked Mr. Mayer when the studies would be completed. Mr. Mayer said they plan to be working from the draft by the end of the year with a target date of February 2004 for the Board to receive the information. He said June 2004 was the scheduled date for the permit reissuance.

Item 14 – Status Report: The National Steel and Shipbuilding Company (NASSCO) and Southwest Marine, Inc. (Southwest Marine) contaminated sediment investigation in San Diego Bay. Note: This is a status report. The Regional Board will not be making any decisions regarding this item. (*Tom Alo*)

Mr. Robertus introduced the item and staff member Tom Alo gave the presentation.

Other speakers included:

Sandor Halvax, Southwest Marine

Marco Gonzalez, Surfrider Foundation

Laura Hunter, Environmental Health Coalition

Mr. Alo said staff was planning to hold a public workshop where staff would explain the cleanup and abatement orders and to receive and consider comments from the public. Mr. Alo also responded to comments made by Ms. Hunter and Mr. Gonzalez.

Board Members asked questions and made comments.

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. 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)

Rakhra Groups, Inc., v. San Diego Regional Water Quality Control Board Superior Court of California, San Diego County; Case No. GIC 776251 and Case No. GIC 786516

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)

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, November 12, 2003 - 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 12:07 p.m.

These minutes were prepared by:

Signature of Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus