

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
2375 Northside Drive, Suite 100
San Diego, California

MINUTES OF MEETING
SEPTEMBER 10, 2014

At 9:00 a.m., Chairman Abarbanel called to order the meeting of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at the Regional Water Quality Control Board, 2375 Northside Drive, San Diego, California.

Item 1 – Roll Call and Introductions

Board Members present: Henry Abarbanel, Eric Anderson, Sharon Kalemkarian, Tomás Morales, Gary Strawn, and Stefanie Warren.

Staff Present: David Gibson, James Smith, Chris Blank, Julie Chan, Roger Mitchell, Amy Grove, John Odermatt, Craig Carlisle, Chad Loflen, John Anderson, Kelly Dorsey, Lisa Honma, Debbie Woodward, David Barker, Eric Becker, Fisayo Osibodu, Sean McClain, Mike Porter, Jody Ebsen, Jeremy Haas, Alan Monji, Lori Costa, Alex Cali, Helen Yu, Carey Nagoda, Cynthia Gorham, Lucas Lima, Brandi Outwin-Beals, Bruce Posthumus, Charles Cheng, Chiara Clemente, Wayne Chiu, Phil Moskal.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board –Catherine Hagan, Nathan Jacobsen, Bill Orme. California Court Reporting – Marlee Nelson.

Public Attendance: Raphael Mazor, SCCWRP; Steven McDonald, The McDonald Firm; Richard Ambrose, UCLA; Fred Jacobsen, SDG&E; Eric Stein, SCCWRP; Bryn Evans, Dudek; Ken Schiff, SCCWRP; Jim Peugh, San Diego Audubon Society; Kyle Darter, County of San Diego; Mike Palmer, De Maximis; Matt O'Malley, San Diego Coastkeeper; Bobette Nelson, Bobette.com; Doug Liden, USEPA; Matt Lorne, USMC; Shanti Santulli, USACE; R.J. Van Sant, USACE; Karen Miner, CDFW; Kristen Goodrich, TRNERR; Stephanie Bracci, City of San Diego; Christine Rothman, City of San Diego; Greg Gauthier, California Coastal Conservancy, Mary Small, California Coastal Conservancy.

Item 2 – Public Forum

Mike Palmer, Project Coordinator for De Maximis, Inc., provided an update on the Chatham Brothers Barrel Yard plume in Escondido. Ms. Warren recused herself and stepped away from the dais during this time.

Item 3 – Minutes of Board Meeting: August 13, 2014

Mr. Morales moved to adopt the minutes, and Mr. Strawn seconded the motion. Mr. Anderson abstained, as he did not attend the meeting. The minutes were approved by unanimous vote of those who did attend the meeting.

Item 4 – Chairman's, Board Members', State Water 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. Strawn thanked staff for their activities to help with the children's fishing program. He also spoke about a cleanup at the Encina Wastewater Authority, where they are creating high-grade commercial fertilizer from sludge.

Dr. Abarbanel announced that at the Water Quality Coordinating Committee (WQCC) meeting in early October, there will be an item on the agenda regarding protection and recovery of wetlands, which has been driven by the views of this Board and is the purpose of the large information item on today's agenda.

Mr. Gibson provided a summary of the Tijuana River Valley Recovery Team meeting on August 27, 2014. In addition, he answered Board member questions regarding the written Executive Officer's Report.

Dr. Abarbanel presented staff member Amy Grove with an award recognizing her for exemplary work.

Item 5 – Future Agenda Items: Board Members may discuss items for possible inclusion on future agendas. No action will be taken. (*David Gibson*)

Ms. Kalemkarian asked that the Board consider having an annual or biannual water quality summit to bring together municipal stakeholders and community organizations in a more informal setting than a regular Board meeting.

Dr. Abarbanel requested that staff invite the copermittees, including Orange County and Riverside County to provide information on what they are doing to educate the public about the MS4 permit requirements.

Item 6 – Information Item: Update on Current and Planned Research by the Southern California Coastal Water Research Project (SCCWRP). (*David Gibson*)

Ken Schiff provided background information on SCCWRP, outlined their research projects, and answered Board member questions.

Item 7 – Information Item: Preview of the USEPA Border 2020 Conference. (*David Gibson*)

Douglas Liden provided a summary of Border 2020 goals and projects and responded to questions from Board members.

The Chairman called a brief recess at 10:27 a.m. and reconvened the meeting at 10:38 a.m.

Item 8 – Information Item: Public Workshop on the State of Wetlands in the San Diego Region: Protection and Restoration Potential. (*Kelly Dorsey*)

Kelly Dorsey provided an overview of the item and introduced the speakers.

Bill Orme of the State Water Board discussed the State Water Board's Wetland Protection Policy and responded to Board member questions

Dr. Eric Stein of SCCWRP gave a presentation on wetland types, historical loss, and tracking future trends and answered questions from Board members.

The Chairman recessed for lunch and Closed Session at 11:57 a.m. Ms. Hagan stated that the Board would discuss the Petition of Foothill/Eastern Transportation Corridor Agency during Closed Session. The Chairman reconvened the public meeting at 1:07 p.m.

Raphael Mazor of SCCWRP spoke about tools and approaches for examining regionally under-represented water body types and non-perennial streams.

Chad Loflen of the Board staff gave a presentation on Forrester Creek, and discussed measures of success and lessons learned from that restoration project. He also responded to Board member questions.

Ken Schiff discussed biological objectives and answered questions from Board members.

The Chairman called a brief recess at 2:35 p.m. and reconvened the meeting at 2:42 p.m.

Dr. Richard Ambrose of UCLA talked about how to effectively mitigate for wetland impacts and replied to Board member questions.

Mary Small, Deputy Director of the California Coastal Conservancy, discussed the Wetland Recovery Project and responded to Board member questions.

Ms. Dorsey closed the item with a discussion of priorities for the future and by answering questions from Board members.

Item 9 – *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]. The San Diego Water Board may meet in closed session to discuss ongoing litigation for the following cases:

Civil Actions (Judicial and Administrative, other than Petitions for Review filed with the State Water Board)

- a. *In re: Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-001, (NPDES No. CAS0108758) 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 adopted on January 24, 2007. Test Claim filed by San Diego County, et al., with Commission on State Mandates, No. 07-TC-09 (filed June 2008). (Catherine George Hagan)*
- b. *State of California Department of Finance, State Water Resources Control Board, And California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates. Petition for Writ of Administrative Mandamus. Sacramento County Superior Court, Case No. 34-2010-80000604 (filed July 2010). (Catherine George Hagan)*
- c. *In re: Citizens Development Corporation, Debtor and Debtor in Possession, Case No. 10-15142-LT11. United States Bankruptcy Court, Southern District of California. (San Diego Water Board Claim in Bankruptcy) (filed June 2011). (Catherine George Hagan)*
- d. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, (NPDES No. CAS0108740) 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 the County of Orange, and the Orange County Flood Control District adopted on December 16, 2009. Test Claim filed by County of Orange, et al., with Commission on State Mandates, No. 10-TC-11 (filed June 2011). (Catherine George Hagan)*
- e. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016 (NPDES No. CAS0108766) adopted November 10, 2010, County of Riverside, Riverside County Flood Control and Water Conservation District, and the Cities of Murrieta, Temecula and Wildomar, Co-Claimants, filed with Commission on State Mandates, No. 11-TC-03 (filed November 2011). (Catherine George Hagan)*
- f. *City of San Diego v. California Regional Water Quality Control Board, San Diego Division, SFPP, L.P., A Delaware Limited Partnership, and Kinder Morgan Energy Partners, L.P., A Delaware Limited Partnership, Real*

Parties-in-Interest. Petition for Writ of Administrative Mandamus. San Diego County Superior Court, Case No. 37-2013-00047614-CU-WM-CTL (filed May 2013). (*Ben Neill*)

Petitions for Review Pending Before State Water Resources Control Board¹

- g.* Petitions of the National Fireworks Association and Fireworks & Stage FX America Inc., Coastal Environmental Rights Foundation, and San Diego Coastkeeper (General National Pollutant Discharge Elimination System (NPDES) Permit Order No. R9-2011-0022 (NPDES No. CAG999002) for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks), SWRCB/OCC Files A-2164(a)-(c), filed June and July 2011. (*Michelle Mata*)
- h.* Petition of Citizens Development Corporation (Water Code Section 13267 Investigative Order No. R9-2011-0033 dated September 14, 2011, Requiring Submission of Technical Reports Pertaining to Investigation of Lake San Marcos Nutrient Impairment, San Diego County), SWRCB/OCC File A-2185, filed October 2011. (*Laurie Walsh*)
- i.* Petition of City of San Diego (Time Schedule Order No. R9-2011-0052 dated September 14, 2011, for the Kinder Morgan Energy Partners, Mission Valley Terminal Remediation Dewatering Discharge to Murphy Canyon Creek, San Diego County), SWRCB/OCC File A-2186, filed October 2011. (*Ben Neill*)
- j.* Petition of Jack Eitzen (Administrative Assessment of Civil Liability Order Nos. R9-2011-0048 and R9-2011-0049 against Jack Eitzen for 38175 and 38155 Via Vista Grande, Murrieta, Riverside County), issued October 12, 2011), SWRCB/OCC File A-2193, filed November 2011. (*Rebecca Stewart*)
- k.* Petitions for Review of San Diego Bay Shipyard Sediment Cleanup and Abatement Order No. R9-2012-0024 for National Steel and Shipbuilding Company (NASSCO), Campbell Industries, City of San Diego, San Diego Gas & Electric (SDG&E) and San Diego Unified Port District (Port District) issued March 14, 2012. Petitions for Review and Requests for Stay filed by NASSCO, and City of San Diego. Petitions for Review w/o requests for stay filed by SDG&E, Star & Crescent Boat Company and Port District. SWRCB/OCC File A-2205(a), (c), (d), and (e), filed April 2012. (*Frank Melbourn*)
- l.* Petition of NASSCO for Review of Resolution No. R9-2012-0025 (Certifying Final Environmental Impact Report for San Diego Bay Shipyard Sediment

¹ Petitions for review of San Diego Water Board actions or inactions filed with the State Water Board being held in abeyance by the State Water Board are generally not listed in the agenda. The titles of these matters are available at the San Diego Water Board. Please contact Catherine George Hagan at catherine.hagan@waterboards.ca.gov or 619-521-3012 for more information.

Cleanup and Abatement Order No. R9-2012-0024), adopted March 14, 2012, SWRCB/OCC File A-2205(a), filed April 2012. (*Frank Melbourne*)

- m.* Petition of South Laguna Civic Association for Review of Order No. R9-2012-0013, NPDES No. CA0107611, NPDES Permit Reissuance: South Orange County Waste Authority, Discharges to the Pacific Ocean via Aliso Creek Ocean Outfall, adopted April 11, 2012, SWRCB/OCC File A-2211, filed May 2012. (*Joann Lim*)
- n.* Petition of City of San Diego for Review of Resolution No. R9-2012-0045, re Authorizing Executive Officer to Increase Daily Average Discharge Flow Rate Limitation under Order No. R9-2008-0002 [NPDES No. CAG919002] for the Kinder Morgan Energy Partner's Mission Valley Terminal Remediation Dewatering Discharge to Murphy Canyon Creek, June 13, 2012, SWRCB/OCC File A-2222, filed July 2012. (*Ben Neill*)
- o.* Petitions for Review of Regional Municipal Separate Storm Sewer System Order No. R9-2013-0001 (NPDES No. CAS0109266), adopted May 8, 2013, filed by (1) San Diego County Regional Airport Authority (stay requested), (2) City of Lake Forest (abeyance request), (3) City of Aliso Viejo (abeyance request), (4) City of Laguna Hills (abeyance request), (5) City of Rancho Santa Margarita (abeyance request), (6) City of Chula Vista, (7) City of National City, (8) Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Cities of Murrieta, Temecula, and Wildomar (abeyance request), (9) City of Dana Point (abeyance request), (10) City of Mission Viejo (abeyance request), (11) City of San Clemente (abeyance request), (12) County of Orange and Orange County Flood Control District (abeyance request), (13) San Diego Unified Port District, (14) City of San Diego (abeyance request), (15) County of San Diego, and (16) City of Laguna Niguel. SWRCB/OCC File A-2254(a)-(p), filed June 2013. (*Wayne Chiu*)
- p.* Petition of Foothill/Eastern Transportation Corridor Agency for Review of Action and Failure to Act, in Connection with Waste Discharge Requirements (Tentative Order No. R9-2013-0007) for the Tesoro Extension Project, Orange County, June 19, 2013, SWRCB/OCC File A-2259, filed July 2013. (*Darren Bradford*)
- q.* Petition of San Diego United Port District, Waste Discharge Requirements Order No. R9-2013-0093 for San Diego Shipyard Sediment Remediation Project, San Diego Bay, San Diego County, July 10, 2013, SWRCB/OCC File A-2263, filed August 2013 (stay requested). (*Alan Monji*)
- r.* Petition of Donan Environmental Services, Inc., Cleanup and Abatement Order No. R9-2013-0022 at the Site of the Former Santa Ysabel Chevron Station, 30350 Highway 78, Santa Ysabel, San Diego County, September 18, 2013, SWRCB/OCC File A-2277, filed October 2013. (*Sean McClain*)

This Closed Session was held, and the Board discussed Item 9(p).

Item 10 – *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation. The San Diego Water Board may meet in closed session to initiate or consider initiating litigation concerning matters within its jurisdiction or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)].

This Closed Session was not held.

Item 11 – *Closed Session* - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing. The San Diego Water Board may meet in closed session to consider evidence received in an adjudicative hearing and to deliberate on a decision to be reached based upon that evidence [Authorized under Government Code Section 11126(c)(3)].

This Closed Session was not held.

Item 12 – *Closed Session* – Personnel. The San Diego Water Board may meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing [Authorized under Government Code Section 11126(a)].

This Closed Session was not held.

There being no further business, the meeting was adjourned at 3:55 p.m.

These minutes were prepared by:

Signed by:

Chris Blank
Executive Assistant

David Gibson
Executive Officer