

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
BOARD MEETING MINUTES
OCTOBER 10, 2018**

CALL TO ORDER

Chair Tomas Morales called the meeting to order on October 10, 2018 at 9:00 a.m. at the San Diego Regional Water Quality Control Board Hearing Room, 2375 Northside Drive, Suite 108, San Diego, California 92108.

ATTENDANCE:

Board Members present:

Tomas Morales, Chair; Henry Abarbanel, Ph.D., Vice Chair; Eric Anderson, Board Member; Betty H. Olson, Ph.D., Board Member; Gary Strawn, Board Member.

Board Members absent:

Stefanie Warren, Board Member.

Staff present:

Dave Gibson, James Smith, Chris Blank, Deborah Jayne, David Barker, Keith Yaeger, Jody Ebsen, Laurie Walsh, Carey Nagoda, Kelly Dorsey, Brandi Outwin-Beals, Jeremy Haas, Roger Mitchell, Sarah Mearon, Craig Carlisle, Alan Monji, Tom Alo, Fisayo Osibodu, Steve Teel, Joann Lim, Eric Becker, Cynthia Gorham, Wayne Chiu, Chiara Clemente, Michelle Santillan, Christina Arias, Kimberly McMurray-Cathcart, Chad Loflen, Sean McClain, Debbie Woodward, Helen Yu, Ben Neill, Beatrice Griffey, John Anderson.

Remote attendance:

Mike Porter; Darren Bradford, Cleo Muñoz, Lucas Lima, Christopher Means, Brian McDaniel, Betty Fetscher, Hiram Sarabia.

Others present on behalf of the San Diego Water Board:

State Water Resources Control Board –Catherine Hagan. California Court Reporting – Marlee Nelson.

Public Attendance:

Matt O'Malley
San Diego Coastkeeper

Art Bunce
Barona Indian Band

Ruth Kolb, Vicki Kalkirtz, Ami Laken, David Widgerow, Tim Stebbins, Rachel Davenport, Alejandra Gavaldon, Drew Kleis, Peter Vroom
City of San Diego

Karen Holman, Kelly Tait
Port of San Diego

Elizabeth Cosor, Mo Peram
SDG&E

Amber Baylor
South Orange County Wastewater Authority (SOCWA)

Rosham Christoph, Francesca de Leon
Wood E&I

John Adriany, Sharon Cloward
San Diego Port Tenants Association

Neil Searing, Jo Ann Weber
County of San Diego

Lesley Dobalian
San Diego County Water Authority (SDCWA)

Carol Bedford, Paul Anderson
Plerian

Charlie Arnold
Stone Brewing

Dan McKirman
Environmental Health Coalition

Neil Mohr
Republic Services

Paul Hartman
Larry Walker Associates

Rob Roy
La Jolla Band of Indians

Cindy Rivers, Grant Sharp
County of Orange

Roya Yazdaniford
CalTrans

Clint Boschen
TetraTech

Michael Welch
Michael Welch Consultants

Denise Turner Walsh
Rincon Band of Luiseño Indians

Don Bunts
Santa Margarita Water District

Ted Griswold
Pala Band of Mission Indians, Sycuan Band of Kumeyaay Nation, and the Kumeyaay Diegueño Board Conservancy

Nick Popaditch
Marine Base San Diego

BOARD MEETING

Public comments on agenda items were limited to 3 minutes or otherwise at the discretion of the Board Chair

PUBLIC FORUM

Neil Mohr of Republic Services provided an update on the Sycamore Landfill expansion project.

BOARD BUSINESS:

1. **Minutes of Board Meeting:** September 12, 2018

Motion: Mr. Anderson moved to adopt the proposed minutes.

Seconded by: Dr. Olson

MOTION CARRIED: (September 12, 2018)

Aye: Mr. Anderson
Dr. Olson
Mr. Strawn
Chairman Morales

Nay: None.

Absent: Ms. Warren

Abstain: Dr. Abarbanel

2. **Chairman's, Board Members', State Water Board Liaison's, and Executive Officer's Reports. *These items were for Board discussion only. Public testimony was not allowed, and the Board took no formal action.***

Chair Morales stated that although our State Water Board Liaison, Joaquin Esquivel, had planned to attend the meeting today, he was unable to due to illness. Chair Morales then provided an update on the planning and agenda for the Water Quality Coordinating Committee later this month.

Mr. Gibson highlighted the Shelter Island TMDL cleanup and the trash cleanup along the San Diego River from the written Executive Officer's Report. He also introduced new staff members Steven Teel and Brandon Bushnell, and he provided an update on the Tijuana River Valley Recovery Team activities and responded to Board Member questions.

Karen Holman of the Port of San Diego and Sharon Cloward of the San Diego Port Tenants' Association addressed the Board regarding the Shelter Island TMDL.

3. **Future Agenda Items: *Board members discussed items for possible inclusion on future agendas***

Board Members did not request any items for future agendas.

CONSENT CALENDAR

4. NPDES Permit Reissuance: Waste Discharge Requirements for the San Diego Gas and Electric Company, Palomar Energy Center, Discharge to the San Elijo Ocean Outfall (Tentative Order No. R9-2018-0062, NPDES No. CA0109215). *(Joann Lim)*
5. NPDES Permit Reissuance: Stone Brewing Company, San Elijo Ocean Outfall (Tentative Order No. R9-2018-0063, NPDES No. CA0109258). *(Joann Lim)*

Motion: Dr. Abarbanel
Seconded by: Mr. Strawn
MOTION CARRIED: (Order No. R9-2018-0062)
(Order No. R9-2018-0063)
Aye: Dr. Abarbanel
Mr. Anderson
Dr. Olson
Mr. Strawn
Chairman Morales
No: None
Absent: Ms. Warren
Abstain: None

INFORMATIONAL ITEM

6. State of the Ocean Report by the City of San Diego on Status and Trends of Water Quality Conditions in the Vicinity of Point Loma and South Bay Ocean Outfalls. *(Keith Yaeger)*

Staff Presentation
Keith Yaeger

Presentation
Tim Stebbins, City of San Diego

Brandi Outwin-Beals also responded to Board Member questions.

Chair Morales called a recess at 10:48 a.m. and reconvened the meeting at 11:00 a.m.

ACTION ITEM:

7. Tentative Resolution Adopting the Triennial Review of the Basin Plan (Tentative Resolution No. R9-2018-0123). (*Jody Ebsen*)

Staff Presentation

Jody Ebsen

Cynthia Gorham responded to Board Member questions.

The following stakeholders commented on the Tentative Resolution:

- Dan McKirnan, Environmental Health Coalition (Presentation)
- Lesley Dobalian, San Diego County Water Authority
- Amber Baylor, South Orange County Water Authority
- Denise Turner Walsh, Rincon Band of Luiseño Indians
- Ted Griswold, Pala Band of Mission Indians, Sycuan Band of Kumeyaay Indians, and the Kumeyaay Diegueño Band Conservancy
- Rob Roy, La Jolla Band of Indians
- Art Bunce, Barona Band of Mission Indians
- Ruth Kolb, City of San Diego
- Neil Searing, County of San Diego

Dr. Abarbanel moved and Dr. Olson seconded a motion to approve the Tentative Resolution. Following Board Member discussion, Dr. Abarbanel proposed a substitute motion to return the Tentative Resolution to staff to make specified changes, including but not limited to the addition of an environmental justice project. The substitute motion was put to a vote but failed to pass.

Main Motion: Dr. Abarbanel
Seconded by: Dr. Olson
MOTION CARRIED: (Resolution No. R9-2018-0123)
Aye: Mr. Anderson
Dr. Olson
Mr. Strawn
Chairman Morales
No: Dr. Abarbanel
Absent: Ms. Warren
Abstain: None

Chair Morales recessed for lunch and Closed Session at 12:55 p.m. Ms. Hagan stated that the Board would discuss Items 8.h and 8.i. The public meeting was reconvened at 2:10 p.m.

CLOSED SESSIONS

Closed Sessions are not open to the Public

8. Discussion of Ongoing Litigation [Authorized under Government Code §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. 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).*
- d. 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)*
- e. Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001 (Regional MS4 Permit) filed with Commission on State Mandates by County of San Diego. (San Diego Region Water Permit – County of San Diego, Test Claim No. 14-TC-03 (filed June 2015). (Catherine George Hagan)*
- f. Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001 as amended by Order No. R9-2015-0001 and Order No. R9-2015-0100 (Regional MS4 Permit) filed with the Commission on State Mandates by Orange County Copermittees, Test Claim No. 15-TC-02 (filed June 2016). (Catherine George Hagan)*
- g. San Diego Gas & Electric Company v. San Diego Regional Water Quality Control Board. Petition for Writ of Administrative Mandamus. San Diego County Superior Court Case No. 37-2015-00032608-CU-WM-CTL (filed September 2015) (Challenging Cleanup and Abatement Order No. R9-2012-0024 for San Diego Bay Shipyard Sediment Site). (Catherine George Hagan)*
- h. San Altos-Lemon Grove, LLC. v. California Regional Water Quality Control Board, San Diego Region, a State of California Agency, David Gibson, Executive Officer, California Regional Water Quality Control Board, San Diego Region. Petition for Writ of Mandate. San Diego County Superior Court Case No. 37-2017-00012461-CU-WM-CTL (filed April 2017) (challenging Administrative Civil Liability Order No. R9-2016-0064). (Catherine George Hagan)*

- i. *People of the State of California, ex. rel. The San Diego Regional Water Quality Control Board v. Paul Lee Warren, et al.*, Complaint for Declaratory and Injunctive Relief Based on Violations of the California Water Code. San Diego County Superior Court, North County Division, Case No. 37-2017-00024906-CU-TT-NC (filed July 10, 2017). (Catherine George Hagan)
- j. *San Diego Regional Water Quality Control Board, et al., v. Paul Warren*, San Diego County Superior Court, Central Division, Case No. 37-201740038307-CU-PT-CTL (filed October 13, 2017). (Catherine George Hagan)
- k. *Ecology Auto Parts, Inc. v. California Regional Water Quality Control Board, San Diego Region, and State Water Resources Control Board*, Petition for Writ of Administrative Mandamus and Complaint for Declaratory Relief, San Diego County Superior Court, Case No. 37-2017-00047177-CU-MC-CTL (filed December 8, 2017) (challenging July 14, 2017, amendment to Cleanup and Abatement Order No. R9-2013-0122). (Catherine George Hagan)
- l. *Burrtec Waste Industries, Inc. v. California Regional Water Quality Control Board, San Diego Region, and David W. Gibson, Executive Officer*. Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, San Diego County Superior Court, Case No. 37-2017-00047432-CU-MC-CTL (filed December 8, 2017) (challenging July 14, 2017, amendment to Cleanup and Abatement Order No. R9-2013-0122). (Catherine George Hagan)
- m. *People of the State of California, Ex. Rel. the Regional Water Quality Control Board, San Diego Region v. International Boundary and Water Commission, United States Section, Jose Nunez, in his capacity as Acting Commissioner of the International Boundary and Water Commission, United States Section*. Complaint for Declaratory and Injunctive Relief (Clean Water Act 33 U.S.C. §1251 *et seq.*), United States District Court for the Southern District of California, Case No. [not yet assigned], filed September 4, 2018. (David Gibson)

Petitions for Review Pending Before the State Water Board¹

None at this time other than those being held in abeyance.

Board Members discussed Items 8.h and 8.1 but did not take any action.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:10 p.m.

These minutes were prepared by:

Signed by:

Christina Blank
Executive Assistant

David Gibson
Executive Officer

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.