

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION  
Board Meeting Room  
2375 Northside Drive, Suite 108  
San Diego, California 92108

MINUTES OF MEETING  
OCTOBER 11, 2017

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 Board Meeting Room, 2375 Northside Drive, Suite 108, San Diego, California 92108.

**Item 1** - Roll Call and Introductions:

Board Members present: Henry Abarbanel, Tomas Morales, Betty Olson, Gary Strawn, Stefanie Warren.

Board Members absent: Eric Anderson.

Staff present: Dave Gibson, James Smith, Chris Blank, Deborah Jayne, John Odermatt, Julie Chan, Chiara Clemente, Erick Martinez, John Anderson, Laurie Walsh, Frank Melbourn, Wayne Chiu, David Barker, Cynthia Gorham, Sarah Mearon, Roger Mitchell, Ben Neill, Keith, Yaeger, Carey Nagoda, Chad Loflen, Debbie Woodward, Amy Grove, Eric Becker, Alex Cali, Tom Alo, Michelle Santillan, Joann Lim, Jeremy Haas, Alan Monji, Tony Felix, Fisayo Osibodu, Alex Walsh, Mireille Garcia.

Remote Attendance: Kelly Dorsey, Sherrie Komeylyan, Cleo Muñoz, Lucas Lima, Brian McDaniel, Mike Porter, Whitney Ghoram, Emily Trevino, Betty Fetscher, Helen Yu, Christopher Means, Jody Ebsen, Hiram Sarabia.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board - Catherine Hagan, Adriana Nuñez, Kathy Owen, Kevin Heinemann, Kyle Woolridge. California Court Reporting – Marlee Nelson.

Public Attendance: Steve Figgins, *Farallon Consulting for the City of San Diego*; Vickie Kalkirtz, Ruth Kolb, Francesca de León, *City of San Diego*; Shawn Cobb, Mark Russell, *General Dynamics*; Karen Holman, Kelly Tait, *Port of San Diego*; Raquelle Hogge, Kasey Skrivseth, *Nautilus Environmental*; Helen Holmes Peak, Reed Thornberg, *City of San Marcos*; Jo Ann Webber, Jamie Milani, Rouya Rasoulzadeh, *County of San Diego*; Nicolette Rozas, *Vallecitos Water District*, Len Sinfield, *U.S. Navy*; Alicia Appel, *City of Escondido*; Tai Gomez, Jiapsi Gomez, *Earth Keeper Coalition*; Kirstin Skadborg, *Groundwork San Diego*; Andrew Yuen, *San Diego National Wildlife Reserve Complex, U.S. Fish & Wildlife Service (USFWS)*; Michael Welch, *Michael Welch Consulting*; Jack Monger, *Industrial Environmental Association*; Jitka Perez, *Linden Road, Lakeside*; Kim Hyde; Sabine Prather, George Courser, *San Diego Sierra Club*; Tom Olson; David Hill, *Batiquitos Lagoon Foundation*; Brian Hitchens, *Geosyntec*; Ted and Margaret Godshalk, *Paradise Creek Educational Park, Inc.*; Deney Youngerman, *Continental Maritime*; Victor Avina, *Office of San Diego County Supervisor Greg Cox*; Serge Dedina, *City of Imperial Beach*; Eli Whitney, *Resident of Lake San Marcos*; Nick Buhbe, *Citizens Development Corporation*; Mo Lahsaie, *City of Oceanside*.

**Item 2** - Public Forum

Serge Dedina, Mayor of Imperial Beach, asked the Board to join a lawsuit against the federal government for violations of the Clean Water Act.

Mr. Gibson responded to Board Member questions and comments regarding Mr. Dedina's statement.

**Item 3** - Minutes of Board Meeting: September 13, 2017.

This item was postponed until December.

**Item 4** - 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 Abarbanel summarized a meeting, held on September 19 at Scripps Institution of Oceanography, discussing Climate Change.

Mr. Gibson stated that he will be meeting with IBWC, USEPA, and others to discuss the possibility of expanding the International Boundary and Water Commission (IBWC) water treatment plant to accommodate additional flows from storm water or dry water runoff that has crossed the border, and he responded to Board Member questions.

Mr. Smith and Mr. Gibson responded to Board Member questions regarding the City of San Diego's cleanup efforts in response to the Hepatitis A outbreak.

Mr. Heinemann presented a Superior Service Award to Vinty Siev for his work in the Information Technology division.

Ms. Nagoda responded to Board Member questions regarding the visit of the Chinese delegation mentioned in the Executive Officer's Report.

**Item 5** - Future Agenda Items: Board members may discuss items for possible inclusion on future agendas (*David Gibson*)

Mr. Strawn asked for an update on the steelhead recovery program.

Chair Abarbanel asked for an update on enrollments in the Commercial Agriculture program, to include Eric Larsen of the Farm Association at the December Board Meeting, and he asked for an update on the modern monitoring technology methods that were discussed at the April Meeting. In addition, Chair Abarbanel asked for a Closed Session regarding the lawsuit mentioned by Mr. Dedina during the Public Forum.

Mr. Morales seconded Chair Abarbanel's request for a Closed Session on the lawsuit against the federal government for violations of the Clean Water Act.

**Consent Calendar: Items 6 through 8 are considered non-controversial issues. (NOTE: If there is public interest, concern, or discussion regarding any consent calendar item or a request for a public hearing, then the item(s) will be removed from the Consent Calendar and considered after all other agenda items have been completed.)**

**Item 6** – WDR Rescission: Rescission of Order Nos. 94-46 (Los Piños Conservation Camp), Orange County, and 94-142 (Barrett Lake Mobile Home Park), San Diego County (Tentative Order No. R9-2017-0102). (*Brandon Bushnell, Alex Cali, Fisayo Osibodu*)

**Item 7** – WDR Rescission: Rescission of Order No. 95-104 (H.G. Fenton Material Company, Carroll Canyon Plant), San Diego County (Tentative Order No. R9-2017-0104). (*Brandon Bushnell, Fisayo Osibodu*)

**Item 8** – Tentative Resolution: Designation of Marine Corps Recruit Depot as a Phase II Storm Water Copermittee (Tentative Resolution No. R9-2017-0106). (*Tony Felix*)

Mr. Morales moved to approve the Consent Calendar, and Dr. Olson seconded the motion. The Executive Assistant polled the Board, and Board Members Abarbanel, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

*Chair Abarbanel called a recess at 10:45 a.m. and reconvened the meeting at 9:55 a.m.*

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

**Item 9** – Informational Item: Presentation of an Alternative Analysis of Fish Consumption Data from San Diego Bay. (*Tom Alo*)

Mr. Alo introduced the item and responded to Board Member questions. Chad Loflen also responded to Board Member questions.

Mark Russell of the Russell Environmental Group, on behalf of General Dynamics, gave a presentation on his analysis of the Fish Consumption Study and responded to Board Member questions.

Shawn Cobb from General Dynamics, also responded to Board Member questions.

**Item 10** – Informational Item: Status Update on Restoration Efforts in Lake San Marcos and in San Marcos Creek. (*Sarah Mearon*)

Ms. Mearon gave the staff presentation providing background information on the item and responded to Board Member questions.

Steve Figgins from Farallon Consulting provided an update on study results and data collection efforts and responded to Board Member questions.

Eli Whitney, a Lake San Marcos resident, former president of the homeowners' association, and former member of the cleanup committee, commented on this item.

Nick Buhbe of Great Ecology, on behalf of Citizens Development Corporation, also responded to Board Member questions.

Mr. Gibson responded to Board Member questions.

**Item 11** – Informational Item: Cleanup Activities in the San Diego Bay National Wildlife Refuge. (*Laura Samrad*)

Mr. Odermatt, substituting for Ms. Samrad, introduced the item, provided an overview of the item, and responded to Board member questions.

Andy Yuen of the San Diego National Wildlife Refuge Complex, USFWS, gave the presentation on cleanup activities and remediation and mitigation efforts and responded to Board Member questions.

*Chair Abarbanel called a recess at 11:55 p.m. and reconvened the meeting at 12:00 p.m.*

**Item 12** – Tentative Resolution: Follow-up on Environmental Justice Symposium and Identification of Projects for Inclusion in the Operational Plans for 2018 and 2019 (Tentative Resolution No. R9-2017-0125). (*Deborah Jayne*)

Ms. Jayne introduced two guest speakers, Jiapsi Gomez and Tai Gomez, both of whom participated in the Environmental Justice Symposium in June.

Ms Jayne then gave the staff presentation and responded to Board Member questions.

Mr. Gibson also responded to Board Member questions.

The following stakeholders commented on this item:

- Jitka Parez, Resident of Linden Road, Lakeside
- George Courser, Conservatory Chair, San Diego Sierra Club
- Ted Godshalk, Director, Paradise Creek Educational Park, Inc.
- Mo Lahsaie, City of Oceanside

The Board postponed action on this item until December.

**Item 13** –Discussion Item: Planning Discussion for Upcoming Water Quality Coordinating Committee (WQCC) Meeting in Late October. (*David Gibson*)

Mr. Gibson introduced the item and responded to Board Member questions and comments.

*Ms. Hagan stated that the Board would discuss item 14(h) and Item 17 during the Closed Session, and Chair Abarbanel recessed for lunch and Closed Session at 1:00 p.m. and reconvened the public meeting at 2:00 p.m.*

**Item 14** – *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)]. (*David Gibson*)

**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), pending at Court of Appeal. (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) (Inactive per Test Claimants' request pending outcome of related litigation). (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). (Inactive per Test Claimants' request pending outcome of related litigation). (Catherine George Hagan)*
- f. *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)*
- g. *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)*
- h. *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, Case No. 37-2017-00024906-CU-TT-NC (filed July 10, 2017). (Alan Monji)*

### Petitions for Review Pending Before the State Water Board<sup>1</sup>

- i.* Petitions of Burrtec Waste Industries and Ecology Auto Parts for Review and Requests for Stay of Addendum No. 1 to Cleanup and Abatement Order No. R9-2013-0122, an Addendum Adding Responsible Parties, adopted July 14, 2017, SWRCB/OCC File A-XXXX,<sup>2</sup> filed August 11, 2017. (*Alex Cali*)
- j.* Petition of County of Riverside and Riverside County Flood Control and Water Conservation District for Review of Order No. R9-2017-0077 Directing the Owners and Operators of Phase I MS4s Draining Watersheds within the San Diego Region to Submit Reports Pertaining to the Control of Trash in Discharges from Phase I MS4s to Ocean Waters, Inland Surface Waters, Enclosed Bays and Estuaries in the San Diego Region, SWRCB/OCC File A-2554, filed July 3, 2017. (*Christina Arias*)

The Board discussed item 14(h) during this Closed Session, but did not take any action.

**Item 17 – 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 §11126(a)].

The Board discussed this item, but did not take any action.

There being no further business, Chair Abarbanel adjourned the meeting at 2:00 p.m.

These minutes were prepared by:

Signed by:

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Christina Blank  
Executive Assistant

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David Gibson  
Executive Officer

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<sup>1</sup> 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](mailto:Catherine.Hagan@waterboards.ca.gov) or 619-521-3012 for more information.

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<sup>2</sup> The petitions for review of Addendum No. 1 to Order No. R9-2013-0122 have not been assigned a file number yet.