

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
BOARD MEETING MINUTES
MAY 8, 2019**

CALL TO ORDER

Chair Henry Abarbanel called the meeting to order on May 8, 2019 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:

Henry Abarbanel, Ph.D., Chair; Celeste Cantú, Vice Chair; Eric Anderson, Board Member; Megan Blair, Board Member; Betty H. Olson, Ph.D., Board Member; Gary Strawn, Board Member; Stefanie Warren, Board Member.

Ms. Blair left the meeting at 12:45 p.m.

Staff present:

David Gibson, James Smith, Chris Blank, Leah Lorch, Kelly Fuller, Jeremy Haas, Jason DuMond, Tanya Nelson, Jill Harris, Kelly Dorsey, Brandi Outwin-Beals, Ben Neill, David Barker, Amy Grove, Sherrie Komeylyan, Roger Mitchell, Debbie Woodward, Chad Loflen, Eric Becker, Helen Yu, Michelle Santillan, Wayne Chiu, Chiara Clemente, Sarah Mearon, Alan Monji, John Anderson, Vicente Rodriguez, Mike Porter, Craig Carlisle, Cynthia Gorham, Brandon Bushnell, Steve Teel, Frank Melbourn, Keith Yaeger, Hiram Sarabia.

Remote attendance:

Betty Fetscher, Christopher Means, Nicole Gergans, Brian McDaniel, Jody Ebsen, Kimberly McMurray-Cathcart, Melissa Corona, Cleo Munoz, Kristin Schwall, Tony Felix.

Others present on behalf of the San Diego Water Board:

State Water Resources Control Board –Laurel Firestone; Catherine Hagan, Jennifer Fordyce, Office of Chief Counsel, Daniel Ellis, Division of Water Quality; California Court Reporting – Elise Hicks.

Public Attendance:

Scott Brown, Pengfei Chao
Equity Lifestyle

Michael Welch
Michael Welch Consultants

Kelley Gage, Sandy Kerl, Amber Baylor
San Diego County Water Authority

Chris Stansky, Kevin Stalzeidad
Wood Environmental

Sachin Chaula, Kelly Hoffman, Christopher
Garrett, Michelle Powelson, Peter
MacLaggan, Jennifer Roy
Poseidon

Josh Capito, Keith Solar
IDE Technologies

Peter Arth
Nautilus Environmental/Enthalpy

Andrew Yuen
San Diego Natural Wildlife Refuge

Chris Noland
CalTrans

Mandy Sackett, Kaily Wakefield
Surfrider

Vicki Kalkirtz
City of San Diego

Eric Miller
Miller Marine Science

Tim Sisk
NRG

Steve Beck
Ninyo & Moore

BOARD MEETING

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

PUBLIC FORUM

There were no speakers for the Public Forum

BOARD BUSINESS:

1. **Minutes of**

Board Meeting: March 13, 2019

Motion: Ms. Cantú moved to adopt the proposed minutes

Second : Ms. Warren

MOTION CARRIED: (March 13, 2019)

Aye: Mr. Anderson
Ms. Blair
Ms. Cantú
Dr. Olson
Mr. Strawn
Ms. Warren
Dr. Abarbanel

Nay: None.

Absent: None.

Abstain: None.

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 Abarbanel stated that he had attended the Sierra Club's FEAT (Fantastic Environmental Action Taken) Award dinner on May 4 and received the award on behalf of the staff.

Mr. Anderson and Ms. Cantú reported on the Chairs' Meeting in Sacramento on April 30.

Ms. Warren provided updates on the San Onofre Nuclear Generating Station tour and public meetings she has attended, as well as the San Diego Water Board's booth at the Earth Day Fair in Balboa Park on April 28.

Mr. Strawn also spoke about the Earth Day Fair, and he reported on the Biological Objectives Workshop hosted by San Diego Water Board staff on April 18.

Mr. Gibson introduced several new staff members, provided updates on items that did not appear in the written Executive Officer's Report, and responded to Board Member questions.

Laurel Firestone, State Board Liaison to the San Diego Water Board, arrived at approximately 11:00 a.m., and she addressed the Board at 12:21 p.m. She introduced herself and provided updates on recent State Board actions and efforts.

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

Chair Abarbanel asked for a joint meeting with Region 7, the Colorado River Regional Water Quality Control Board, and he requested a discussion item to follow up on the Environmental Justice Symposium that the Board hosted in 2017.

CONSENT CALENDAR

4. Reissuance of Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Tentative Order No. R9-2019-0005). *(Sherrie Komeylyan)*
5. Rescission of Waste Discharge Requirements: Rescission of Order Nos. 93-14, 94-d14, and R9-2009-0105, Waste Discharge Requirements for Warner Springs Mobile Estates, Oakzanita Springs Park, and Buckman Springs Safety Roadside Rest Area (Tentative Order No. R9-2019-0013). *(Brandon Bushnell)*
7. Rescission of Waste Discharge Requirements: Rescission of Order no. 95-17, Waste Discharge Requirements for RCP Block and Brick Inc. (Tentative Order No. R9-2019-0031). *(Sherrie Komeylyan)*
8. Rescission of Waste Discharge Requirements: Rescission of Order No. R9-2007-0148, Waste Discharge Requirements for California Department of Transportation, Tecate Truck Inspection Station (Tentative Order No. R9-2019-0052). *(Brandon Bushnell)*
9. NPDES Permit Rescission: An Order Rescinding Order No. R9-2010-0003, NPDES No. CAG7900, General Waste Discharge Requirements for Discharges of Hydrostatic Test Water and Potable Water to Surface Waters and Storm Drains or Other Conveyance Systems Within the San Diego Region (Tentative Order No. R9-2019-0016). *(Ben Neill)*

**Motion to approve
Items 4, 5, 7,
8 and 9 in the**

Consent Calendar: Dr. Olson
Second: Ms. Cantú
MOTION CARRIED: (Order No. R9-2019-0005)
(Order No. R9-2019-0013)
(Order No. R9-2019-0031)
(Order No. R9-2019-0052)
(Order No. R9-2019-0016)

Aye: Mr. Anderson
Ms. Blair
Ms. Cantú
Dr. Olson
Mr. Strawn
Dr. Abarbanel

No: None.
Absent: None.
Abstain: None.

6. Amend Waste Discharge Requirements: Addendum to Order No. 97-52, Waste Discharge and Recycling Requirements for South Orange County Wastewater Authority, Orange County. *(Brandon Bushnell)*

Motion to approve

Item 6: Ms. Warren
Second: Ms. Blair
MOTION CARRIED: (Addendum to Order No. 97-52)

Aye: Mr. Anderson
Ms. Blair
Ms. Cantú
Mr. Strawn
Dr. Abarbanel

No: None.
Absent: None.¹
Abstain: None.

ACTION ITEM

10. Public Hearing to Consider NPDES Permit Reissuance and Water Code Section 13142.5(b) Determination: Waste Discharge Requirements for the Poseidon Resources (Channelside) LP, Claude "Bud" Lewis Carlsbad Desalination Plant Discharge to the Pacific Ocean (Tentative Order No. R9-2019-0003, NPDES No. CA0109223). *(Ben Neill)*

Matt Hall, Mayor of the City of Carlsbad, was invited to speak on the Tentative Order.

Presentation
Ben Neill

Ben Neill, Brandi Outwin-Beals and Daniel Ellis responded to Board Member questions.

¹ Item 6 was voted on separately from the Consent Calendar because Dr. Olson recused herself from consideration of this item.

Chair Abarbanel called a recess at 10:18 a.m. and reconvened the meeting at 10:28 a.m.

Poseidon Presentation
Peter MacLaggan, Senior Vice President
Christopher Garrett, Attorney

San Diego County Water Authority Presentation
Sandy Kerl, Acting General Manager

The following stakeholders commented on the Tentative Order:

- Amanda Sackett, Policy Coordinator, Surfrider Foundation
- Kaily Wakefield, Policy Coordinator, Surfrider San Diego
- Kyle Lunneberg, Agua Hedionda Lagoon Foundation
- Andrew Yuen, Project Leader, San Diego National Wildlife Refuge Complex
- Dr. Scott Jenkins, Technical Manager, Coastal Science and Engineering
- Eric Larson, Executive Director, San Diego County Farm Bureau
- Tim Sisk, NRG Energy
- Don Kent, CEO, Hubbs Sea World Research Institute

Chair Abarbanel called a brief recess at 12:10 p.m. and reconvened the meeting at 12:21 p.m.

Mr. MacLaggan and Mr. Garrett provided Poseidon's closing comments and responded to Board Member questions.

Mr. Neill, Ms. Outwin-Beals, and Mr. Ellis provided closing comments for the San Diego Water Board and responded to Board Member questions.

Motion to approve

Order No. R9-2019-0003: Chair Abarbanel

Second: Mr. Strawn

MOTION CARRIED: (Order No. R9-2019-0003)

Aye: Mr. Anderson
Ms. Cantú
Dr. Olson
Mr. Strawn
Ms. Warren
Dr. Abarbanel

No: None.

Absent: Ms. Blair

Abstain: None.

Chair Abarbanel recessed for lunch and Closed Session at 1:23 p.m. Ms. Hagan stated that the Board Members would discuss Items 11(m), (n), (o), and Item 14 during Closed Session.

CLOSED SESSIONS

Closed Sessions are not open to the Public

11. 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. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2015-0100, Provisions A.4, B.2, B.3.a, B.3.b, B.4, B.6, D.1.c(6), D.2.a(2), D.3, D.4, E.3.c(2), E.3.c(3), E.3.d, E.5.a, E.5.c(1)(a), E.5.c(2)(a), E.5.c(3), E.5.e, E.6, F.1.a, F.2.a, F.2.b, F.2.c, F.3.b(3), and F.3.c. 16-TC-05, 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, (June 2017). (Catherine George Hagan)*

- h. Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2017-0077, Sections A.1, A.3, and A.5, 17-TC-05, City of San Juan Capistrano and County of San Diego, Claimants, filed with the Commission on State Mandates, (June 2017). (Catherine George Hagan)*
- i. 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)*
- j. 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)*
- k. 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)*
- l. 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)*
- m. 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)*
- n. 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)*
- o. 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 County 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 Board²

² 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.

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

12. 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 §11126(e)].
(David Gibson)
13. 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 §11126(c)(3)].
14. 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)].

Board Members discussed Items 11(m), 11(n), 11(o), and 14 during Closed Session.

ADJOURNMENT

Chair Abarbanel reconvened the public meeting at 2:55 p.m.

There being no further business, Chair Abarbanel adjourned the meeting at 2:55 p.m.

These minutes were prepared by:

Signed by:

Christina Blank
Executive Assistant

David Gibson
Executive Officer