

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
BOARD MEETING MINUTES
January 10, 12, & 13, 2022**

As a result of the COVID-19 emergency, Government Code 11133, and the Governor's Executive Order [N-08-21](#), this meeting occurred solely via remote presence.

CALL TO ORDER

Chair Celeste Cantú called the remote meeting to order on January 10, 2022 at 9:00 a.m.

The Clerk called the roll.

ATTENDANCE:

Board Members present:

January 10: Celeste Cantú, Board Chair; Betty H. Olson, Ph.D., Vice Chair; Henry Abarbanel, Eric Anderson; Megan Blair; Gary Strawn; Stefanie Warren.

January 12: Celeste Cantú, Board Chair; Betty H. Olson, Ph.D., Vice Chair; Henry Abarbanel, Eric Anderson; Megan Blair; Gary Strawn; Stefanie Warren.

January 13: Celeste Cantú, Board Chair; Betty H. Olson, Ph.D., Vice Chair; Eric Anderson; Megan Blair; Gary Strawn.

Staff present:

David Gibson, Chris Blank (January 10 and 13 only), Roger Mitchell, Jeremy Haas, Mike Porter, Ben Neill, Wayne Chiu, Abby Pashina.

Others present on behalf of the San Diego Water Board:

Catherine Hagan, Vincent Vu, Lori Okun, Office of Chief Counsel; Peter Petty (January 10 only); Jacqui Denlinger (January 11 only), Elise Hicks (January 12 only), California Reporting

Prosecution Team Attendees:

Kelly Dorsey, Erica Ryan, Chiara Clemente, Frank Melbourn, Laurie Walsh (San Diego Water Board); Bryan Elder, Julie Macedo, Naomi Rubin, David Boyers (State Water Board Office of Enforcement).

Public Attendees:

Stephen F. Tee, Kendall Teal <i>Gatzke Dillon & Balance LLP</i>	S. Wayne Rosenbaum, Josh Rosenbaum <i>Varco & Rosenbaum Environmental Law Group LLP</i>
Geri Bone <i>InnovaCounsel</i>	John Dela Cruz (1/10, 1/12, 1/13), Devin Slaven, Peter Meier (1/10, 1/12, 1/13), Rebecca Andrews (1/10, 1/12, 1/13) <i>City of Lake Forest</i>

Tom Bistline (1/10, 1/12) <i>Tom Bistline Construction, Inc.</i>	Patrick Campbell (1/10, 1/12, 1/13) <i>Attorney for Mr. Bistline</i>
Ryan Thacher (1/10, 1/12, 1/13), Torin Snyder (1/10, 1/12, 1/13) <i>Rincon Consultants</i>	Brian Frame (1/10) <i>Landsea Homes</i>
Shawn Baldwin, Jose Capati <i>Baldwin & Sons</i>	Randall Bone (1/13) <i>Sunrise Company</i>
Tory Walker (1/12, 1/13)) <i>Tory R. Walker Engineering</i>	Theodore Hromadka (1/12), Colin Bloor (1/12, 1/13) <i>Hromadka & Associates</i>
Alan Fenstermacher (1/10, 1/12, 1/13), Jayson Parsons <i>Rutan & Tucker, LLP</i>	

BOARD MEETING

ACTION ITEM

1. Hearing – Administrative Civil Liability Complaint against Baldwin & Sons, Inc. et al. Portola Center South Construction Site, Complaint No. R9-2020-0006. *(Frank Melbourn)*

Chair Cantú made an opening statement and administered the oath. Roger Mitchell gave an opening statement providing information for attendees to participate in the meeting. Dr. Olson and Ms. Warren made disclosure statements regarding contact with the Dischargers or the general vicinity of the construction project.

The Prosecution Team and the Dischargers presented opening statements.

Chair Cantú called a recess at 10:15 a.m. and reconvened the meeting at 10:25 a.m.

The Prosecution Team called the following witnesses:

- Frank Melbourn
- Chiara Clemente
- Tom Bistline
- Brian Frame
- Laurie Walsh
- Erica Ryan

Stephen Tee, the Dischargers’ counsel cross examined some of the witnesses. Ms. Macedo conducted re-direct examination of Mr. Bistline and Mr. Frame. Mr. Bistline also responded to Board Member questions.

Chair Cantú adjourned for lunch at 12:00 p.m. and reconvened the meeting at 1:00 p.m.

Ms. Clemente testified on behalf of the Prosecution Team and responded to Board Member questions.

Mr. Melbourn testified on behalf of the Prosecution Team.

Chair Cantú called a recess at 2:58 p.m. and reconvened the meeting at 3:08 p.m.

Mr. Melbourn continued his testimony.

Chair Cantú called a recess at 4:11 p.m. and reconvened the meeting at 4:21 p.m.

Mr. Melbourn responded to Board Member questions.

Chair Cantú adjourned for the day at 5:17 p.m. and reconvened the meeting at 9:00 a.m. on Wednesday, January 12, 2022.

Naomi Rubin provided a legal argument regarding the Prosecution Team's theories of liability for responsible corporate officers and non-permittee site operators.

Bryan Elder testified on behalf of the Prosecution Team.

Mr. Tee cross-examined Mr. Elder, and Ms. Macedo conducted re-direct examination.

Chair Cantú called a recess at 10:35 a.m. and reconvened the meeting at 10:45 a.m.

Laurie Walsh testified on behalf of the Prosecution Team and responded to Board Member questions.

Mr. Tee called Theodore Hromadka as a witness, and Dr. Hromadka responded to Board Member questions.

Chair Cantú recessed for lunch at 12:40 p.m. and reconvened the meeting at 1:40 p.m.

Ms. Macedo cross-examined Dr. Hromadka, and he responded to Board Member questions.

Mr. Tee then called Tory Walker as a witness, and Ms. Walker responded to Board Member questions. Ms. Macedo cross-examined Ms. Walker, and Mr. Tee conducted re-direct examination.

Mr. Tee called Ryan Thacher as a witness.

Chair Cantú called a recess at 3:37 p.m. and reconvened the meeting at 3:47 p.m.

Dr. Thacher responded to Board Member questions, and Ms. Macedo conducted cross examination.

Mr. Tee called Torin Snyder, and Mr. Snyder responded to Board Member questions.

Ms. Macedo cross examined Mr. Snyder, and Mr. Tee conducted re-direct examination.

Chair Cantú adjourned for the day at 5:00 p.m. and reconvened the meeting at 9:00 a.m. on Thursday, January 13, 2022.

Mr. Tee called Randall Bone, and Chair Cantú administered the oath. Mr. Bone responded to Board Member questions.

Ms. Rubin cross-examined Mr. Bone, and Mr. Tee conducted re-direct examination.

Chair Cantú called a recess at 9:44 a.m. and reconvened the meeting at 9:54 a.m.

Ms. Macedo gave the closing statement for the Prosecution Team and Mr. Tee presented the Dischargers' closing statement.

Chair Cantú recessed for lunch and closed session at 11:53 a.m. Ms. Okun stated that the Board would deliberate on this matter during closed session but would not take any action today.

CLOSED SESSIONS

4. Administrative Civil Liability Complaint No. R9-2020-0006 (ACLC). ACLC against Baldwin & Sons, Inc. et al., Portola Center South Construction Site. The San Diego Water Board may meet in closed session to deliberate on a decision to be reached in this matter [Authorized under Government Code §11126(c)(3)]. (*Lori Okun*)

ADJOURNMENT

Chair Cantú reconvened the public meeting at 3:03 p.m. There being no further business, Chair Cantú adjourned the meeting at 3:03 p.m. on Thursday, January 13, 2022.

These Minutes were prepared by:

Signed by:

Christina A. Blank
Executive Assistant

David W. Gibson
Executive Officer