

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
BOARD MEETING MINUTES
May 11, 2022**

CALL TO ORDER

Chair Celeste Cantú called the meeting to order on May 11, 2022 at 9:00 a.m. in the San Diego Regional Water Quality Control Board Hearing Room, 2375 Northside Drive, Suite 108, San Diego, California 92108.

ATTENDANCE

Board Members present:

Celeste Cantú, Board Chair; Henry Abarbanel, Eric Anderson; Megan Blair; Gary Strawn. Stefanie Warren arrived at approximately 9:40 a.m.

Board Members absent:

Betty H. Olson, Ph.D., Vice Chair. Dr. Olson attended the Closed Session remotely.

Staff present:

David Gibson, Chris Blank, Abby Pashina, James Smith, Wayne Chiu, David Barker, Laurie Walsh, Eric Becker, Roger Mitchell.

Remote attendance:

Kelly Dorsey, Ben Neill, Fisayo Osibodu, Lark Starkey, Melissa Corona, Michelle Santillan, Brandi Outwin-Beals, Jeremy Haas, Sean McClain, Alan Monji, Kimberly McMurray-Cathcart, Christopher Means, Kristin Schwall, Regan Morley, Whitney Ghoram, Chiara Clemente, Jody Ebsen, Jill Harris, Christina Arias, Keith Yaeger, Brandon Bushnell, Chad Loflen.

Others present on behalf of the San Diego Water Board:

Vincent Vu, Alex Sauerwein, Office of Chief Counsel; Nichole Morgan, State Water Resources Control Board (remote).

Public Attendance:

Shawn Zarkoski <i>U.S. Postal Service</i>	Mike Beanan <i>Laguna Bluebelt</i>
Jo Ann Weber, Crystal Benham, Alia Khouri <i>County of San Diego</i>	Stephen Jepsen <i>Southern California Alliance of Publicly Owned Treatment Works (SCAP)</i>
Carl Savage <i>California Department of Transportation</i>	Ruth Kolb <i>City of San Diego</i>
Rob Hutsel, Sarah Hutmacher <i>San Diego River Park Foundation</i>	Michael Welch <i>Michael Welch Consultants</i>
Jocelyn Lu <i>WEF Water Leaders</i>	Grant Sharp <i>Orange County Public Works</i>
John Phillips <i>City of El Cajon</i>	Dr. John Griffith <i>Southern California Coastal Water Research Program</i>
Jim Whelan <i>J. Whalen Associates</i>	Matt Adams <i>Building Industry Association</i>

BOARD MEETING

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

PUBLIC FORUM

Jim Whelan expressed concerns regarding alternative compliance implementation, consistency with State Water Board direction, how the San Diego Water Board can help facilitate housing, and ensuring that the San Diego Water Board has enough staff to accomplish its goals.

Mike Beanan addressed the Board regarding recreational activities in the mouth of the Aliso Creek Ocean Outfall. Chair Cantú responded that the San Diego Water Board does not have the authority to take the action that Mr. Beanan requests, stating that recreation is one of the protected beneficial uses at Aliso Beach. Mr. Gibson stated that San Diego Water Board staff have communicated to Mr. Beanan that the County of Orange is the appropriate authority to enforce regulations regarding use of the outfall.

Matt Adams spoke on behalf of the Building Industry Association of San Diego County (BIA) regarding the housing crisis and encouraged the San Diego Water Board to work with the City of San Diego and the regulated community to form a pilot program for alternative compliance so that developers could buy into it. He also responded to Board Member questions and comments.

BOARD BUSINESS1. **Minutes of Board Meeting: March 9, 2022.****Motion to adopt the March 9, 2022 minutes:**

- Mr. Strawn

Second:

- Mr. Abarbanel

MOTION CARRIED:**Aye:**

- Mr. Abarbanel
- Mr. Anderson
- Ms. Blair
- Mr. Strawn
- Chair Cantú

Nay:

- None.

Absent:

- Dr. Olson
- Ms. Warren

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 Cantú stated that the Regional Board Chairs and Vice Chairs will be attending the annual Chairs' meeting in Sacramento on May 20, and that she and Dr. Olson look forward to attending that meeting and reporting back to the Board.

After the presentation of Agenda Item 7, Nichole Morgan, the State Board liaison for the San Diego Region, provided an update on State Board recent actions and stated that she would be in the San Diego Region to meet with Mr. Gibson on July 12 to discuss Regional concerns.

Mr. Gibson congratulated Charles Cheng on his retirement and Helen Yu on her promotion to Senior Water Resource Control Engineer Specialist in Region 5, and the San Diego Water Board is actively recruiting to fill both positions. He also provided an update on transboundary flow and trash issues in the Tijuana River Valley. In addition, Mr. Gibson stated that he will be conducting a boat tour of San Diego Bay on June 3 celebrating the 50th anniversary of the Clean Water Act.

CONSENT CALENDAR

**Items on the consent calendar may be removed at the request of any Board member or person. If an item is removed from the uncontested items calendar, it will only be voted on at this meeting if the Board accepts the staff recommendation for the agenda item. Otherwise, the item will be continued to a subsequent board meeting to allow input by interested persons.*

3. Waste Discharge Requirement Rescission: Rescission of Order No. 94-48, Waste Discharge Requirements for SKP Incorporated, SKP Educational Resort of Southern California, Riverside County (Tentative Order No. R9-2022-0012). *(Brandon Bushnell)*

Motion to approve the Consent Calendar:

- Ms. Blair

Second:

- Mr. Strawn

MOTION CARRIED**Aye:**

- Mr. Abarbanel
- Mr. Anderson
- Ms. Blair
- Mr. Strawn
- Chair Cantú

Nay:

- None.

Absent:

- Dr. Olson
- Ms. Warren

Abstain:

- None.

INFORMATIONAL ITEMS

Chair Cantú took the following item out of order:

6. San Diego River Watershed Update Part 3: The San Diego River Conservancy update on its efforts to preserve, restore, and enhance the San Diego River Area. *(David Gibson)* Mr. Gibson introduce the presentation from Julia Richards, Executive Director for the San Diego River Conservancy. Ms. Richards also responded to Board Member questions and comments.
7. San Diego River Watershed Update Part 4: Update on the status of Investigative Order No. R9-2019-0014, *An Order Directing the City of San Diego, the City of Santee, the City of El Cajon, the City of La Mesa, the County*

of San Diego, the San Diego County Sanitation District, the Padre Dam Municipal Water District, the Ramona Municipal Water District, San Diego State University, the Metropolitan Transit System, and the California Department of Transportation to Submit Technical and Monitoring Reports to Identify and Quantify the Sources and Transport Pathways of Human Fecal Material to the Lower San Diego River Watershed. Discussion during this item will be limited to the matters presented in the informational report and no action will be taken. (James Smith)

Mr. Smith provided an introduction and an overview of the Investigative Order followed by Dr. John Griffith from the Southern California Coastal Water Research Program (SCCWRP), who went into the item in more detail.

Steve Jepsen, Executive Director of the Southern California Alliance of Publicly Owned Treatment Works (SCAP), commented on this item.

Chair Cantú called a short recess at 10:23 a.m. and reconvened the meeting at 10:35 a.m.

5. San Diego River Watershed Update Part 2: The San Diego River Park Foundation update on its Healthy Waters Initiative in the headwaters and Trash-Free Campaign in the lower river. *(David Gibson)*

Rob Hutsel, President of the San Diego River Park Foundation, gave the presentation, assisted by Sarah Hutmacher, Chief Associate Director.

Mr. Hutsel and Ms. Hutmacher also responded to Board Member questions and comments.

4. San Diego River Watershed Update Part 1: Mission Valley USPS Annex Property Multi-Agency Clean-Up Effort *(Dave Gibson, Laurie Walsh)*

Ms. Walsh provided an introduction and overview of the project, and Sarah Hutmacher from the San Diego River Park Foundation, Monica Coria with MTS, Carl Savage from CalTrans, and Shawn Zarkoski of the United States Postal Service provided details of the necessary inter-agency cooperation for the clean-up efforts.

BOARD MEMBER REQUESTS

8. Future Agenda Items: Recommended Course of Action and Estimated Staff Hours to Address Actions from the March 2022 Board Meeting. In addition, Board Members may discuss items for possible inclusion on future agendas. *(Kelly Dorsey)*

Mr. Abarbanel suggested that the San Diego Water Board invite Marty Ralph from the Scripps Institution of Oceanography to give a presentation on atmospheric rivers.

Ms. Dorsey reported that at the March 9, 2022 Board meeting, Mr. Abarbanel and Mr. Strawn requested a meeting with SCCWRP, and it was estimated that it would take ten staff hours to complete. That meeting had been scheduled for

the end of May, but it was postponed due to the availability of SCCWRP staff. The meeting has yet to be rescheduled.

Chair Cantú adjourned for lunch and closed session at 11:37 a.m. Vincent Vu stated that the Board would discuss items 9(j), 9(k), 11, and 13 during closed session. Chair Cantú reconvened the public meeting at 1:15 p.m.; Mr. Vu announced that Dr. Olson joined the closed session.

CLOSED SESSIONS

Closed Sessions are not open to the public

9. 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. *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; Jayne Harkins, in her 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. 3:18-cv-02050-JM-LL, filed September 4, 2018. (David Gibson)*
 - j. *United States of America v. California Regional Water Quality Control Board, San Diego Region; David W. Gibson, in his official capacity as Executive Officer of the Regional Water Quality Control Board, San Diego Region; State of California Water Resources Control Board; and E. Joaquin Esquivel, in his official capacity as State Water Resources Control Board Chair, Complaint for Declaratory and Injunctive Relief, United States District Court for the Southern District of California, Case No. 3:21-cv-01749-GPC-AGS, filed October 8, 2021. (Vincent Vu)*

- k. *United States of America v. California Regional Water Quality Control Board, San Diego Region, David W. Gibson, in his official capacity as Executive Officer of the "Regional" Water Quality Control Board, San Diego Region, State of California Water Resources Control Board, and E. Joaquin Esquivel, in his official capacity as State Water Resources Control Board Chair, Petition for Writ of Mandate, San Diego County Superior Court, Case No. 37-2021-00043908-CU-WM-CTL, filed October 8, 2010. (Vincent Vu)*

Petitions for Review Pending Before the State Water Board:¹

- l. Petitions of San Diego Coastkeeper and Coastal Environmental Rights Foundation; City of Rancho Santa Margarita; City of Laguna Hills; County of Orange & Orange County Flood Control District; City of Dana Point; City of Laguna Beach; City of Mission Viejo; City of Laguna Niguel; Riverside County Flood Control & Water Conservation District et al.; City of San Clemente; City of San Juan Capistrano; and City of Aliso Viejo (Order No. R9-2015-0100, amending Order No. R9-2013-0001 [NPDES No. CAS 0109266] for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region), SWRCB/OCC FILE A-2456 (a thru l). (*Laurie Walsh*)
10. 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*)
11. 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*)
12. 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)].

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 Vincent Vu at Vincent.Vu@waterboards.ca.gov or 916-323-5669 for more information.

13. 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)].

ADJOURNMENT

There being no further business, Chair Cantú adjourned the meeting at 1:15 p.m.

These Minutes were prepared by:

Signed by:

Christina A. Blank
Executive Assistant

David W. Gibson
Executive Officer

DRAFT