

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California

MINUTES OF MEETING
DECEMBER 12, 2012

At 9:00 a.m., Vice Chairman Strawn called to order the meeting of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Item 1 – Roll Call and Introductions

Board Members present: Henry Abarbanel, Eric Anderson, Tomas Morales, and Gary Strawn.

Staff Present: David Gibson, James Smith, Chris Witte, Julie Chan, David Barker, Eric Becker, Wayne Chiu, Frank Melbourn, Lillian Busse, Chiara Clemente, Roger Mitchell, John Odermatt, Ben Neill, Jeremy Haas, Fisayo Osibodu, Bob Morris, Tony Felix, Cynthia Gorham, Mike Porter, Debbie Woodward, Sheila Christine McQuaid-Moran, Michelle Mata, Amy Grove, Cheryl Prowell, Chad Loflen, Barry Pulver, Deborah Jayne, Laurie Walsh, Lori Costa, Carey Nagoda, Craig Carlisle, Christina Arias, Joann Lim, Alan Monji, Lisa Honma, Helen Yu, Phil Moskal.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Frances Spivy-Weber, Catherine Hagan, Jessica Jahr. **California Court Reporters** – Jonelle Gallivan.

Public Attendance: Jeff O'Connor, Otay Land Company; Eric Comeci, Riverside County Flood Control (RCFC) & Water Control District (WCD); Claudio Padres, RCFC & WCD; Claudia Steiding, Riverside County Transportation Dept.; Drew Kleis, City of San Diego; Ruth Kolb, City of San Diego; Tammy Dunbar, City of Solana Beach; Deborah Lee, Coastal Commission; Dennis Bowling, Rick Engineering; Steve Horn, County of Riverside; Erik Ruehr, San Diego Highway Development Association; Paul Manasjan, SDCR Airport Authority; Bryn Evans, URS for Industrial Environmental Association; Michael Blankinship, SePro Corporation; Dennis Davies, City of El Cajon; James Campos, City of El Cajon; Robin Madaffer, Westfield; James O'Day, County of San Diego; Gabrielle Skipper, MCB Camp Pendleton; Lisa Zawaski, City of Dana Point; Nancy Gardiner, Weston Solutions; Robert Galludett, URS; Lee Kaminetz, SDCR Airport Authority; Billy Walker, Oceanside; Rosanna Lacarra, City of Coronado; John Emerson, Palomar College; Gary Reist, Del Mar Fairgrounds; Trevor Alsop, Geosyntec; D. Craig Baricotti, Sunset Cliffs Association; Karen Cowan, Larry Walker Associates; Deborah Mosley, San Diego Copermittees; Mike Nagy, SD Chamber of Commerce; Leah Hemze, SD Chamber of Commerce; Brian Diaz, Recuperero & Associates; Troy Bankston, County of San Diego; Todd Snyder, County of San Diego; Elaine Lukey, City of Carlsbad; James Wood, City of Carlsbad; Lisa Skutecki, Brown & Caldwell; Christian Bracka, Geosyntec Consultants; Chris Minton, Larry Walker Associates; Brad Fowler,

City of Dana Point; Jevée Tagarao, Pure Effect/GSA; Kelly Tair, AMEC; Stephanie Gaines, County of San Diego WPP; Mo Lahsaie, City of Oceanside; Cynthia Mallett, City of Oceanside; Ken Susilo, Geosyntec Consultants; Kim Williams, Geosyntec Consultants; Kim Goodby, Coronado; Helen Davies, City of Santee; W. Gates, SDG&E; Eric Lardy, County of San Diego; Heather Stroud, City of San Diego; Cheryl Filar, Escondido; Mikhail Ogawa, City of Del Mar; Christine Sloan, County of San Diego; Doug Johnson, Stantec Consulting; Michael Stednitz, Fireworks America; Julia Chunn-Heer, Surf rider San Diego; Khosro Aminpour, City of Chula Vista; Michael Welcoy; Richard Boon, County of Orange; Michael McSweeney, BIA; James Fortuna, County of Orange; Amanda Arkenhold, AMEC; Sumer Hasenin, City of San Diego; Jack Monger, IEA; Paul Hartman, City of Vista; Erik Steenblock, City of Encinitas; Eric Mosolgo, Tetra Tech; Erica Ryan, City of San Marcos; Faith Picking, Biocom; Chris Helmer, City of Imperial Beach; Richard Leja, San Diego Highway Development; Kelly Barker, City of Del Mar; Jennifer Shook, County of Orange; Jay Shrake, AMEC; Maryanne Skorpanich, County of Orange; David Garcia, RCFC; Cursealan Dadkhah, City of National City.

Item 2 – Public Forum

Jill Witkowski, Waterkeeper for San Diego Coastkeeper, addressed the Board regarding a remedial action plan for the San Diego Bay cleanup.

Guy Asaro, Chairman of the Building Industry Association, spoke regarding the MS4 permit. Mr. Asaro spoke out of order on Item 11. His comments are incorporated into the record for Item 11.

Michael Stednitz, General Manager of Fireworks America, commended Board staff for their work on fireworks permits. Mr. Stednitz was allowed to speak before the commencing Item 11.

Item 3 – Minutes of Board Meeting: November 13, 2012.

Mr. Anderson moved that the minutes be approved, and the motion was seconded by Mr. Morales. The minutes were approved by unanimous vote.

Item 4 – Chairman's, Board Members', State Water Board liaison's, and Executive Officer's Reports. These items are for Board discussion only. No public testimony will be allowed, and the Board will take no formal action.

Fran Spivy-Weber provided an update on upcoming appointments of new Board members, the budget, and other State Board matters.

Mr. Gibson provided a summary of the Executive Officer's report.

Consent Calendar: Items 5 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 5 – Mitigated Negative Declaration: Leuthe Residence Onsite Wastewater Treatment System, San Diego County. (*Fisayo Osibodu*)

Item 6 – Waste Discharge Requirements: Leuthe Residence Onsite Wastewater Treatment System, San Diego County. (*Fisayo Osibodu*)

Item 7 – NPDES Permit: General Permit for the Discharge of Lanthanum-Modified Clay to Surface Waters of the United States in the San Diego Region (Tentative Order No. R9-2012-0063). (*Ben Neill*)

Item 8 – Administrative Civil Liability: Ariel Suites, L.P., Mandatory Minimum Penalty for violations of Order No. R9-2007-0034. The San Diego Water Board will consider adoption of a Tentative Order that would impose a \$138,000 mandatory minimum penalty recommended in Complaint No. R9-2012-0065 for violations of effluent limitations prescribed in *General Waste Discharge Requirements for Discharges from Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay, Tributaries Thereto Under Tidal Influence, and Storm Drains or Other Conveyances Systems Tributary Thereto (WDR)*, Order No. R9-2007-0034, NPDES No. CAG919001. The San Diego Water Board may approve or reject assessment of the recommended penalty. If the San Diego Water Board rejects the Tentative Order, the matter may be rescheduled to a future public hearing, at which time the San Diego Water Board will consider assessment of civil liability. (*Frank Melbourn*)

A motion to adopt the Consent Calendar with errata to Item 6 was made by Dr. Abarbanel and seconded by Mr. Anderson. The Consent Calendar was adopted by unanimous vote.

Remainder of the Agenda (Non-Consent Items)

Item 9 – Tentative Resolution: Resolution in Support of a Regional Monitoring Framework (*Lilian Busse*)

Mr. Gibson introduced the Regional Monitoring Framework as a key element of the San Diego Water Board's Practical Vision.

Dr. Busse made a presentation regarding the Monitoring Framework.

Mr. Morales made a motion to adopt the Tentative Resolution with errata, the motion was seconded by Mr. Anderson, and the motion was adopted by unanimous vote.

Mr. Strawn called a recess at 10:15 a.m. and reconvened the meeting at 10:25 a.m.

Item 10 – Information Item: San Dieguito Lagoon: Restoration, Fill Removal, and Storm Water BMPs (*Tony Felix*)

Mike Porter introduced the speakers who would make presentations regarding the San Dieguito Lagoon.

The following people made presentations regarding San Dieguito Lagoon:

- Patrick Tennant, San Onofre Nuclear Generating Station
- Deborah Lee, Southern California Edison, California Coastal Commission
- Dustin Fuller and Gary Reist of Del Mar Fairgrounds

After concluding Item 10, Mr. Strawn administered the Oath of Office to newly appointed Board member Sharon Kalemkarian. Ms. Kalemkarian then took her place on the dais and expressed her appreciation for the meeting attendees and their participation in the regulatory process.

Item 11 – Public Workshop (continued): The San Diego Water Board will hold a public workshop to receive information and discuss proposed requirements in the public draft of a Regional NPDES Permit for Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Tentative Order No. R9-2013-0001, NPDES No. CAS0109266). The San Diego Water Board will not take any formal action on this item at the workshop. (*Christina Arias and Laurie Walsh*)

Christina Arias spoke regarding hydromodification management programs. Following Ms. Arias, the Board heard from stakeholders and the public on the topic. Wayne Chiu addressed TMDLs and other items. Following Mr. Chiu, the Board heard from stakeholders and the public on the topics. Laurie Walsh concluded the staff presentation by presenting a breakdown and timeframe of the costs associated with the proposed Order. Following Ms. Walsh, the Board heard from stakeholders and the public on the topic.

Mr. Strawn recessed for lunch and Closed Session at 12:00 p.m. and reconvened the meeting at 1:00 p.m.

The following people commented on the proposed Order:

- Leah Hemze, Acting Executive Director, San Diego Regional Chamber of Commerce
- Jill Witkowski, Waterkeeper, San Diego Coastkeeper
- Todd Snyder, County of San Diego
- Mary Anne Skorpanich, Manager, Orange County Watersheds
- Bryn Evans, URS representing Industrial Environmental Association (IEA)

- Rosanna Lacarra, San Diego Copermittees/LaRoc Environmental
- Lisa Zawaski, Senior Water Quality Engineer, Dana Point
- Karen Cowan, Larry Walker Associates, on behalf of the County of Orange
- Ken Susilo, Geosyntec
- Drew Kleis, Program Manager, City of San Diego
- Michael McSweeney, Senior Public Advisor for the Building Industry Association
- Ruth Kolb, Program Manager, City of San Diego
- Julia Chunn-Heer, Surfrider San Diego
- Richard Leja, Advocacy Chair, San Diego Highway Development Association
- Julie Procopio, City of Santee
- Claudio Padres, Senior Civil Engineer, Riverside County Flood Control and Water Control District
- Ryan Baron, Senior Deputy County Counsel, County of Orange
- Jeff O'Connor, Otay Land Company
- Jim Nabong, Civil Engineer, City of San Diego
- Dennis Bowling, Rick Engineering
- D. Craig Barilotti, Sunset Cliffs Association
- Bob Callacott, Riverside County Transportation Department
- Heather Stroud, Deputy City Attorney, City of San Diego
- Richard Boon, County of Orange
- Sumer Hasenin, City of San Diego Land Development
- Brad Fowler, Director of Public Works, City of Dana Point
- Christine Sloan, Chair, Land Development Workgroup, San Diego Copermittees

Mr. Strawn called a recess at 2:10 p.m. and reconvened the meeting at 2:20 p.m.

Item 12 - *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 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. People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Edward Drusina, an individual in his capacity as Commissioner of the International Boundary and Water Commission, United States Section, et al., Complaint for Violations of the Clean Water Act and Related State Law Claims. United States District Court, Southern District of California, Case No. 01-CV-027BTM(JFS) (filed February 2001). (David Gibson)*
- b. 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)

- c. *Surfrider Foundation v. California Regional Water Quality Control Board, San Diego Region, Petition for Writ of Mandate [re: San Diego Water Board's adoption of Order No. R9-2009-0038 amending Order No. R9-2006-0065 for Poseidon Resources (Channelside), LLC, NPDES Permit No. CA0109223, approval of a Flow, Entrainment and Impingement Minimization Plan under the California Water Code]. San Diego County Superior Court, Case No. 37-2010-0009-436-CU-WM-CTL (filed April 2010). (Brian Kelley)*
- d. *California Regional Water Quality Control Board, San Diego Region v. Bill and Heidi Dickerson, Larry and Penelope Gunning and Perry & Papenhausen, Inc. Complaint for Damages for Breach of Contract and for Specific Performance. San Diego County Superior Court, Case No. 37-2010-00096011-CU-CO-CTL (filed July 2010) (Jeremy Haas)*
- e. *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)*
- f. *In re: Citizens Development Corporation, Debtor and Debtor in Possession, Case No. 10-15142-LT11. United States Bankruptcy Court, Southern District of California. (San Diego Water Board Claim in Bankruptcy) (filed June 2011) (Catherine George Hagan)*
- g. *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). (Jessica Jahr)*
- h. *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)

Petitions for Review Pending Before State Water Resources Control Board¹

- i. Petitions of the National Fireworks Association and Fireworks & Stage FX America Inc., Coastal Environmental Rights Foundation, and San Diego Coastkeeper (General National Pollutant Discharge Elimination System (NPDES) Permit Order No. R9-2011-0022 (NPDES No. CAG999002) for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks), SWRCB/OCC Files A-2164(a)-(c), filed June and July 2011. (Michelle Mata)*
- j. Petition of Citizens Development Corporation (Water Code Section 13267 Investigative Order No. R9-2011-0033 dated September 14, 2011, Requiring Submission of Technical Reports Pertaining to Investigation of Lake San Marcos Nutrient Impairment, San Diego County), SWRCB/OCC File A-2185, filed October 2011. (Laurie Walsh)*
- k. Petition of City of San Diego (Time Schedule Order No. R9-2011-0052 dated September 14, 2011, for the Kinder Morgan Energy Partners, Mission Valley Terminal Remediation Dewatering Discharge to Murphy Canyon Creek, San Diego County), SWRCB/OCC File A-2186, filed October 2011. (Ben Neill)*
- l. Petition of Jack Eitzen (Administrative Assessment of Civil Liability Order Nos. R9-2011-0048 and R9-2011-0049 against Jack Eitzen for 38175 and 38155 Via Vista Grande, Murrieta, Riverside County), issued October 12, 2011), SWRCB/OCC File A-2193, filed November 2011. (Rebecca Stewart)*
- m. Petitions for Review of San Diego Bay Shipyard Sediment Cleanup and Abatement Order No. R9-2012-0024 for National Steel and Shipbuilding Company (NASSCO), BAE Systems, San Diego Ship Repair (BAE Systems), Campbell Industries, City of San Diego, San Diego Gas & Electric (SDG&E) and San Diego Unified Port District (Port District) issued March 14, 2012. Petitions for Review and Requests for Stay filed by NASSCO, BAE Systems and City of San Diego. Petitions for Review w/o requests for stay filed by SDG&E, Star & Crescent Boat Company and Port District. SWRCB/OCC File A-XXXX, filed April 2012. (Frank Melbourne)*
- n. Petition of NASSCO for Review of Resolution No. R9-2012-0025 (Certifying Final Environmental Impact Report for San Diego Bay Shipyard Sediment*

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 not listed in the agenda. The titles of these matters are available at the San Diego Water Board. Please contact Catherine George Hagan at chagan@waterboards.ca.gov or 858-467-2958 for more information.

Cleanup and Abatement Order No. R9-2012-0024), adopted March 14, 2012, SWRCB/OCC File A-XXXX, filed April 2012. (*Frank Melbourn*)

- o. Petition of South Laguna Civic Association for Review of Order No. R9-2012-0013, NPDES No. CA0107611, NPDES Permit Reissuance: South Orange County Waste Authority, Discharges to the Pacific Ocean via Aliso Creek Ocean Outfall, adopted April 11, 2012, SWRCB/OCC File A-XXXX, filed May 2012. (*Joann Lim*)
- p. Petition of City of San Diego for Review of Resolution No. R9-2012-0045, re NPDES Permit Notice of Enrollment Amendment for Kinder Morgan Energy Partners, June 13, 2012, SWRCB/OCC File A-XXXX, filed July 2012. (*Ben Neill*)

This closed session was held, and the Board Members discussed items *a*, *d*, and *m*.

Item 13 - *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*)

This Closed Session was not held.

Item 14 - *Closed Session* - 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 Section 11126(c)(3)].

This Closed Session was not held.

Item 15 - *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 Section 11126(a)].

This Closed Session was not held.

Item 16 – Arrangements for Next Meeting and Adjournment:
Wednesday, February 13, 2013 – 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

There being no further business, the meeting was adjourned at 4:53 p.m.

These minutes were prepared by:

Signed by:

Chris Witte
Executive Assistant

David Gibson
Executive Officer