

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
BOARD MEETING MINUTES
August 10, 2022**

CALL TO ORDER

Chair Celeste Cantú called the meeting to order on August 10, 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; Betty H. Olson, Ph.D., Vice Chair; Henry Abarbanel; Stefanie Warren.

Board Members absent:

Eric Anderson, Megan Blair, Gary Strawn

Staff present:

David Gibson, Abigail Pashina, Roger Mitchell, David Barker, Jeremy Haas, Wayne Chiu, Sarah Mearon, Kristin Schwall, Tom Alo, Sherrie Komeylyan, Sean McClain, Sasha Smirensky

Remote attendance:

Kelly Dorsey, Chris Blank, Amy Grove, Erin Schmidt, Chiara Clemente, Keith Yaeger, Fisayo Osibodu, Brandon Bushnell, Laurie Walsh, Rebecca Rosaler, Erica Ryan, Alan Monji, Mahsa Izadmehr, Kimberly McMurray-Cathcart, Erin Schmitt, Cynthia Gorham, Debbie Woodward, Dulce Romero, Regan Morley, Jody Ebsen, Carey Nagoda, Sheila Christine McQuaid-Moran, Christopher Means, Christina Arias, Frank Melbourn, Brian McDaniel, Mike Porter, Michelle Santillan.

Others present on behalf of the San Diego Water Board:

Vincent Vu, Alex Sauerwein, Office of Chief Counsel; Julie Macedo, Office of Enforcement; Nichole Morgan (remote), State Water Resources Control Board; Peter Petty, California Reporting.

Public Attendance:

Leon Benham <i>Citizens for Coastal Conservancy</i>	Peter Kozelka (remote) <i>U.S. EPA, Region 9</i>
Dustin Biddle (remote), Keith Tashima (remote), Stan Phillips (remote), Elizabeth Greene, Caroline Lee, George Gigounas, Isabella Neel <i>Lockheed Martin</i>	Ryan Kempster (remote), Arielle Beaulieu, Allison Sharpe, Rachel Davenport <i>City of San Diego</i>
Rebecca Harrington, Jason Giffen, Karen Holman, Paula Sylvia, Kenneth O. Corley, Mike Johns <i>San Diego Unified Port District</i>	Amanda Parker
Michael Rafarum <i>U.S. Navy</i>	Kelly Richardson <i>Latham/General Dynamics</i>
Michael Welch <i>Michael Welch Consultants</i>	John Adriany <i>Sutter Band of Masai Indians</i>
Mike Palmer <i>DeMaximis</i>	

BOARD MEETING

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

PUBLIC FORUM

Leon Benham, from Citizens for Coastal Conservancy, addressed the Board requesting modifications to the Tijuana River Restoration Plan.

BOARD BUSINESS

Item 1 – Minutes of Board Meeting: June 8, 2022

Motion to adopt the June 8, 2022 minutes:

- Stefanie. Warren

Second:

- Betty Olson

Aye:

- Betty Olson
- Stefanie Warren
- Chair Cantú

Nay:

- None

Absent:

- Eric Anderson
- Megan Blair
- Gary Strawn

Abstain:

- Henry Abarbanel

Item 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.*

Henry Abarbanel informed the Board that he is meeting with the Southern California Coastal Water Research Project (SCCWRP) on August 16 with two of his graduate students to discuss some of SCCWRP's projects. He is also planning a meeting with SCCWRP in October to include Board Members Betty Olson and Gary Strawn and the South Orange County Wastewater Authority.

Nichole Morgan, the State Board liaison for the San Diego Region, provided an update on State Board recent actions and upcoming priorities.

Mr. Gibson and Sarah Mearon responded to Board Member questions regarding Lake San Marcos. In addition, Mr. Gibson announced that this fall, the Board Hearing room will be one of the first Regional Board hearing room to install equipment to host our own hybrid meetings. Mr. Gibson also provided an update on Treaty Minute 320 regarding money allocated in the USMCA treaty, Senate Bill 170 projects, and an update with photos regarding the repair of two transmission lines that carry mostly raw wastewater to the ocean from Tijuana.

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.*

Item 3 – Waste Discharge Requirement Rescission: Rescission of Order No. 2001-140, Waste Discharge Requirements for Ortega Oaks (Tentative Order No. R9-2022-0050). (Brandon Bushnell)

Item 4 – NPDES Permit Amendment: An Order Amending Order No. R9-2017-0007, NPDES No. CA 0107409, Waste Discharge Requirements and National Discharge Elimination System Permit for the City of San Diego E.W. Blom Point Loma Wastewater Treatment Plant Discharge to the Pacific Ocean through the Point Loma Ocean Outfall (Tentative Order No. R9-2022-0078). (Fisayo Osibodu)

Motion to adopt the Consent Calendar:

- Henry Abarbanel

Second:

- Stefanie Warren

Aye:

- Henry Abarbanel
- Betty Olson
- Stefanie Warren
- Chair Cantú

Nay:

- None

Absent:

- Eric Anderson
- Megan Blair
- Gary Strawn

Abstain:

- None

Chair Cantú called a recess at 10:00 a.m. and reconvened the meeting at 10:13 a.m.

ACTION ITEMS

Item 5 – Cleanup and Abatement Order: An Order Directing Lockheed Martin Corporation to Clean Up or Abate the Effects of Waste Discharged from the Former Tow Basin and Former Marine Terminal and Railway Facilities at 3380 North Harbor Drive and 1160 Harbor Island Drive to the East Basin of Harbor Island in San Diego Bay, San Diego, California (Tentative Order No. R9-2022-0007). *(Sasha Smirensky)*

The Board received comments and heard presentations from the San Diego Water Board Cleanup Team and representatives from the interested parties, including Lockheed Martin Corporation, the San Diego Unified Port District, and General Dynamics Corporation.

Motion to adopt Tentative Order No. R9-2022-0007:

- Henry Abarbanel

Second:

- Stefanie Warren

Aye:

- Henry Abarbanel
- Betty Olson
- Stefanie Warren
- Chair Cantú

Nay:

- None

Absent:

- Eric Anderson
- Megan Blair
- Gary Strawn

Abstain:

- None

Chair Cantú called a recess at 11:55 a.m. and reconvened the meeting at 12:04 p.m.

Item 6 – Tentative Resolution: A Resolution Endorsing the Fiscal Year 2022-2023 Operational Plan (Tentative Resolution No. R9-2022-0114). (*David Gibson*)

Mr. Gibson gave the staff presentation and responded to Board Member questions and comments.

Motion to adopt Tentative Resolution No. R9-2022-0114:

- Betty Olson

Second:

- Stefanie Warren

Aye:

- Henry Abarbanel
- Betty Olson
- Stefanie Warren
- Chair Cantú

Nay:

- None

Absent:

- Eric Anderson
- Megan Blair
- Gary Strawn

Abstain:

- None

Chair Cantú recessed for closed session at 12:36 p.m. Mr. Sauerwein noted that the Board would discuss Item No. 9(j) and 9(k) during closed session. Chair Cantú reconvened the public meeting at 1:19 p.m.

INFORMATIONAL ITEM

Item 7 – A Sediment Cleanup and Navy Dredging Update for San Diego Bay. (*Sarah Mearon*)

Kristin Schwall, Sherrie Komeylyan, and Tom Alo gave the staff presentation, followed by Karen Holman and Paula Sylvia from the San Diego Unified Port District. Presenters responded to Board Member questions and comments.

BOARD MEMBER REQUESTS

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

Stefanie Warren requested an update on the Waste Discharge Requirements that have been moved into the Local Agency Management Programs (LAMP) and State Water Board General Waste Discharge Requirements for Small Domestic Wastewater Treatment Systems; Henry Abarbanel requested an update on the City of San Diego Pure Water Program; and Betty Olson requested an update on harmful algal blooms in the San Diego Region.

CLOSED SESSIONS

Closed Sessions are not open to the Public

Item 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 Copermitttees, 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

- I. 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 I). (*Laurie Walsh*)

There being no further business, Chair Cantú adjourned the meeting at 2:27 p.m.

These Minutes were prepared by:

Signed by:

Christina A. Blank
Executive Assistant

David W. Gibson
Executive Officer

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.