

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
Board Meeting Room
2375 Northside Drive, Suite 108
San Diego, California

MINUTES OF MEETING
AUGUST 9, 2017

At 9:00 a.m., Chairman Abarbanel called to order the meeting of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at the Board Meeting Room, 2375 Northside Drive, Suite 108, San Diego, California.

Item 1 - Roll Call and Introductions:

Board Members present: Henry Abarbanel, Eric Anderson, Tomas Morales, Betty Olson, Gary Strawn, Stefanie Warren.

Staff present: Dave Gibson, David Barker, Chris Blank, Rachel O'Donovan, Laurie Walsh, Deborah Jayne, Kelly Dorsey, Betty Fetscher, Jeremy Haas, Brandi Outwin-Beals, Amy Grove, Sherrie Komeylyan, Michelle Santillan, Barry Pulver, Craig Carlisle, Chiara Clemente, Chad Loflen, Beatrice Griffey, Lori Costa, Tom Alo, Erick Ruiz-Cadena, John Anderson, Sarah Mearon, Rebecca Stewart, Keith Yaeger, Frank Melbourn, Wayne Chiu, Christina Arias, Ben Neill, John Odermatt Rachel Vasquez.

Remote Attendance: Christopher Means, Cleo Muñoz, Lucas Lima, Whitney Ghoram, Amy Grove, Roger Mitchell, Kimberly McMurray-Cathcart, Jody Ebsen, Kristin Schwall.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board - Catherine Hagan, Adriana Nuñez, Mayumi Okamoto, Bryan Elder. California Court Reporting – Marlee Nelson.

Public Attendance: Andrew Kleis, Vicki Kalkirtz, Eric Mosoloo, Myrna Payton, Ruth Kolb, Stacey LoMedico, Afsaneh Ahmadi, Emir Williams, Sam Lindsay, Jeff Tamales, Julie Ballesteros, Alex Garcia, Violet Renick, Anthony Santacroze, *City of San Diego*; Karen Holman, Kelly Tait, *Port of San Diego*; Jerry Diamond, Clint Boscham, Raina Duivedi, *TetraTech*; Shannon Quigley Raymond, *San Diego River Park Foundation*; Mike Hastings, *Los Peñasquitos Lagoon Foundation*; Kelly Richardson, *Latham & Watkins*; Mark Russell, *Fox General Dynamics*; Francesca DeLeon, Chris Stransky, Corey Sheredy, *Amec Foster Wheeler*, Michael Welch, *Michael R. Welch Consulting*; Roya Yazdaniford, *CalTrans*; Eric Green, Adrienne Cibor, *Nautilus Environmental*; Matt O'Malley, Meredith Meyers, *San Diego Coastkeeper*; Julia Chunn-Heer, *Surfrider*, Rosanna Lacarra, *City of Coronado*; Beth Zein, *Ozone Plus*; Catherine Zeeman, Carol Roberts, *U.S. Fish & Wildlife Service*; Kim Hyde, *DLA Piper*; Brian Hitchens, *Geosyntec*; Neil Thurston, *Contech*; Carol Squire, Josh Caplan, *California Attorney General's Office*.

Item 2 - Public Forum

There were no items for the Public Forum.

Item 3 - Minutes of Board Meeting: June 21, 2017.

Minutes of Environmental Justice Symposium: June 10, 2017

Mr. Strawn moved to approve the June 21, 2017 minutes, and Mr. Anderson seconded the motion. The Executive Assistant polled the Board, and Board Members Abarbanel, Anderson, Morales, Olson, and Strawn voted "aye," with Board Member Warren abstaining. The motion passed.

Dr. Olson moved to approve the June 10, 2017 minutes, and Mr. Morales seconded the motion. The Executive Assistant polled the Board, and Board Members Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted "aye." The motion passed.

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 was allowed, and the Board took no formal action.

Dr. Olson took the opportunity to remind those present about the Water Reliability Summit scheduled to take place on August 15, 2017, in Mission Viejo.

Mr. Gibson responded to Board Member questions regarding the Sycamore Landfill item in the Executive Officer's Report. Mr. Neil Moore of Republic Services also responded to Board Member questions regarding the Sycamore Landfill.

Mr. Gibson welcomed new Environmental Scientist, Keith Yaeger.

Chair Abarbanel presented Sarah Mearon with a Superior Accomplishment award for her work on various issues including modern monitoring and Lake San Marcos.

Item 5 - Future Agenda Items: Board members may discuss items for possible inclusion on future agendas (*David Gibson*)

Chair Abarbanel requested an update on the Commercial Agricultural program, and Mr. Gibson stated that such an update is on the Agenda for the September Board Meeting.

Consent Calendar: Items 6 and 7 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.)

The Chair removed Item 7 from the Consent Calendar.

Item 6 – Tentative Resolution: Resolution of Support for Contract with the City of San Diego to Fund a Regional Board Staff Position Within the Clean Water Act Section 401 Dredge and Fill Program (Tentative Resolution No. R9-2017-0107). (*Eric Becker*)

Mr. Gibson responded to Board Member questions.

Mr. Strawn moved to approve the Consent Calendar, and Mr. Anderson seconded the motion. The Executive Assistant polled the Board, and Board Members Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted "aye." The motion passed.

Remainder of the Agenda (Non-Consent Items):

Item 7 – Tentative Resolution: Tentative Resolution Addressing Threats to Beneficial Uses from Climate Change (Tentative Resolution No. R9-2017-0035). (*Jeremy Haas*)

After discussion, the Board decided to postpone this item to a later meeting to allow for a broader presentation than is practicable in a Consent Calendar setting.

The following stakeholders commented on the Tentative Resolution:

- Julia Chunn-Heer, Surfrider
- Karen Holman, San Diego Port District.

Chair Abarbanel called a recess at 9: 34 a.m. and reconvened the meeting at 9:46 a.m.

Item 8 – Tentative Order: Settlement of Administrative Civil Liability against the City of San Diego for Alleged violations of the Municipal Separate Storm Sewer System (MS4) Permit (Tentative Order No. R9-2017-0056). (*Chiara Clemente*)

Chair Abarbanel made opening remarks.

Rebecca Stewart gave the staff presentation and responded to Board Member questions. Jeremy Haas, Chiara Clemente, Chad Loflen, and Deborah Jayne also responded to Board Member questions.

The following staff members from the City of San Diego gave presentations and responded to Board Member questions:

- Stacey LoMedico, Assistant Chief Operating Officer
- Drew Kleis, Deputy Director, Storm Water Division
- Myrna Dayton, Interim Assistant Director, Public Works
- Paz Gomez, Deputy Chief Operating Officer
- Afsaneh Ahmadi, Deputy Director, Building Safety & Construction

The following stakeholders also commented on the Tentative Order:

- Jerome Diamond, Director of Ecotoxicology, Tetra Tech, Inc.
- Mike Hastings, Executive Director, Los Peñasquitos Lagoon Foundation
- Carol Roberts, Division Chief, U.S. Fish & Wildlife Service

Mr. Strawn moved to approve Tentative Order No. R9-2017-0056, and Dr. Olson seconded the motion. The Executive Assistant polled the Board, and Board Members Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted "aye." The motion passed.

Chair Abarbanel called a recess at 11:35 a.m. and reconvened the meeting at 11:46 a.m.

Item 9 – Information Item: Status Update on the Strategy for a Healthy San Diego Bay.
(Chiara Clemente)

Ms. Clemente and Ms. Fetscher provided the staff presentation and responded to Board Member questions. Christina Arias also responded to Board Member questions.

Chair Abarbanel adjourned for lunch and Closed Session at 12:49 p.m. Ms. Hagan noted that the Board would discuss items 11(g) and (i), but that no action would be taken. Chair Abarbanel reconvened the public meeting at 1:48 p.m.

Item 10 – Information Item: Presentation of an Alternative Analysis of Fish Consumption Data from San Diego Bay. (Tom Alo)

This item was postponed to October.

Item 11 – 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)

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), pending at Court of Appeal. (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) (Inactive per Test Claimants' request pending outcome of related litigation). (Catherine George Hagan)*
- e. *Coastal Environmental Rights Foundation, a CA non-profit public benefit corporation v. California Regional Water Quality Control Board, San Diego Region. Petition for Writ of Administrative Mandamus. San Diego County Superior Court, Case No. 37-2014-00038672-CU-WM-CTL (filed November 2014) (Challenging NPDES General Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States, San Diego Region, Order No R9-2011-0022). (Ben Neill)*
- f. *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). (Inactive per Test Claimants' request pending outcome of related litigation). (Catherine George Hagan)*
- g. *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)*
- h. *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)*
- i. *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, Case No. 37-2017-00024906-CU-TT-NC (filed July 10, 2017). (Alan Monji)*

Petitions for Review Pending Before the State Water Board¹

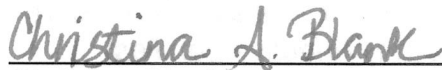
No active petitions at this time.

The Board discussed items 11(g) and (i) during this Closed Session

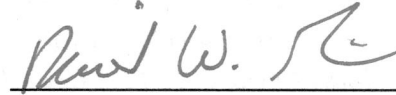
There being no further business, the Chair adjourned the meeting at 1:50 p.m.

These minutes were prepared by:

Signed by:



Christina Blank
Executive Assistant



David 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 Catherine George Hagan at Catherine.Hagan@waterboards.ca.gov or 619-521-3012 for more information.