

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123

MINUTES OF MEETING
AUGUST 8, 2012

At 9:00 a.m. Chairman Destache 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: Grant Destache, Eric Anderson, George Loveland, Gary Strawn, Tomas Morales, and Henry Abarbanel.

Staff Present: David Gibson, James Smith, Chris Witte, David Barker, Eric Becker, Bruce Posthumus, Bob Morris, Ben Neill, Frank Melbourn, Jeremy Haas, Barry Pulver, Joann Lim, Jody Ebsen, Chris Means, Chiara Clemente, Helen Yu, Chad Loflen, Kelly Dorsey, Lori Costa, Mike Porter, Craig Carlisle, Brian Kelley, Sean McClain, Deborah Woodward, Fisayo Osibodu, Tony Felix, Alan Monji, John Odermatt.

Others Present on behalf of the San Diego Water Board: State Water Resources Control Board – Jessica Jahr. Kennedy Court Reporters – Aaron Winn

Public Attendance: Ken Schiff, SCCWRP; Geoff Mok, Contech Engineered Solutions; Rich Atwater, Southern California Water Commission; Brian Brady, FPUD; Mike Welch; Joe Naiman, Village News; Emma Sakaguchi, Quantum Ozone, Inc.; Jeff Parks, FPUD; Melissa Thorne, FPUD; Jack Bebee, FPUD; Richard Haiman, HDR; Eileen Maher, Port of San Diego.

Item 2 – Public Forum

The Board presented Lori Costa with a Superior Accomplishment award.

Geoff Mok, Contech Engineered Solutions, spoke regarding a rainwater harvesting system marketed by his company.

Item 3 – Minutes of Board Meeting: April 11, 2012, June 13, 2012.

This record of the minutes of the meeting on this date is not intended as the official record of events and is solely for administrative convenience. A more detailed account of the proceedings is available upon request, consisting of a

tape recording and a court reporter transcribed record. Please contact the San Diego Water Board office for assistance.

The adoption of the minutes was tabled until a later time.

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.

Chairman Destache reminded Board members that the WQCC meeting is coming up in November.

Mr. Strawn reported favorably on staff member Sean McClain's report to the San Diego River Conservancy Board. In addition, Mr. Strawn reported that through his work with the San Diego River Watershed Monitoring Work Group, he has identified a self-sustaining population of wild trout in the upper San Diego River watershed. Most of that property is publicly owned, but access is restricted by a few private parcels. So, the River Park has purchased a 2.5 acre parcel, including approximately 800 feet of Boulder Creek, which they intend to maintain as a water monitoring site.

Dr. Abarbanel spoke about a meeting with the San Dieguito Lagoon JPA and asked for an Information Item to be placed on a future Agenda. He also asked for more stakeholder participation in Board decisions.

Mr. Gibson made a presentation on the Practical Vision process, and asked for Board participation in the final stages of editing the Practical Vision document before it is presented in its final form at a later Board meeting.

Item 5 – Information Item: Southern California Bight Regional Monitoring Program (*Bruce Posthumus*).

Mr. Posthumus introduced Ken Schiff, who made a Power Point presentation about the Southern California Bight Regional Monitoring Program.

Chairman Destache called a recess at 10:10 a.m. and reconvened at 10:25 a.m.

Item 6 – Information Item: Richard Atwater, Executive Director of the Southern California Water Committee, discussed Storm Water Capture Opportunities to increase public water supplies in Southern California (*Laurie Walsh*).

Mr. Atwater made a Power Point presentation regarding Storm Water Capture Opportunities in the San Diego Region.

Item 7 – Tentative Resolution: A Resolution Requesting Disbursement from the Cleanup and Abatement Account for the San Diego Unified Port District A-8 Anchorage Marine Debris Removal Project (Tentative Resolution No. R9-2012-0053) (*Eric Becker*).

Eileen Maher, Port of San Diego, spoke in favor of the proposed resolution.

Mr. Loveland moved to adopt the Tentative Resolution with the understanding that Mr. Gibson would negotiate a grant agreement requiring specific performance parameters, and the motion was seconded by Mr. Anderson. The Board voted to adopt the Resolution, with the exception of Dr. Abarbanel, who voted against the Resolution. The motion passed.

Chairman Destache called a recess for lunch and Closed Session at 11:20 a.m. and reconvened the meeting at 12:40 p.m.

The Board considered a revised version of the April minutes.

Dr. Abarbanel moved to adopt the minutes of the April and June Board meetings, the motion was seconded by Mr. Loveland, and the Board voted unanimously to adopt the minutes.

Items 8 and 9 were taken together.

Item 8 – NPDES Permit Reissuance: Fallbrook Public Utility District, Plant No. 1, Discharge to Pacific Ocean via the Oceanside Ocean Outfall (Tentative Order No. R9-2012-0004, NPDES Permit No. CA0108031) (*Ben Neill*).

Mr. Neill made the staff presentation regarding the proposed orders.

Brian Brady of the Fallbrook Public Utility District spoke in opposition to the proposed orders.

Jack Bebee, Engineering and Planning Manager for the Fallbrook Public Utility District, spoke in opposition to the proposed orders.

Melissa Thorme of Downey Brand, representing the Fallbrook Public Utility District, spoke in opposition to the proposed orders.

After Board discussion and deliberation, a motion to adopt the Tentative Order was made by Mr. Strawn and seconded by Dr. Abarbanel, and the Board adopted it by a 4-2 vote. Mr. Loveland and Chair Destache voted against the motion.

Item 9 – Time Schedule Order: Fallbrook Public Utility District, Discharge to Pacific Ocean via the Oceanside Ocean Outfall: An Order Establishing an

Interim Total Residual Chlorine Effluent Limitation and a Compliance Schedule of Tasks to Comply with the Total Residual Chlorine Effluent Limitation Prescribed in Order No. R9-2012-0004 (NPDES Permit No. CA0108031) (Tentative Order No. R9-2012-0005) (*Ben Neill*).

After Board discussion and deliberation, Mr. Morales moved to adopt the Tentative Order, the motion was seconded by Mr. Loveland, and the Board voted to adopt the Order.

Item 10 – *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:

- 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 Newman)*
- 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

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.

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 Melbourn*)
- n.* Petition of NASSCO for Review of Resolution No. R9-2012-0025 (Certifying Final Environmental Impact Report for San Diego Bay Shipyard Sediment 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 discussed Item 10a.

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 against persons who are alleged to have violated the Porter-Cologne Water Quality Control Act or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)].

This Closed Session was not held.

Item 12 – *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 adjudicatory 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 13 – *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 14 – Arrangements for Next Meeting and Adjournment
Wednesday, September 12, 2012 - 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 2:42 p.m.

These minutes were prepared by:

Signed by:

Chris Witte
Executive Assistant

David Gibson
Executive Officer