

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

MINUTES OF MEETING
AUGUST 14, 2013

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

Item 1 – Roll Call and Introductions

Board Members present: Eric Anderson, Tomas Morales, Gary Strawn, and Stefanie Warren. On Webex: Henry Abarbanel. Ms. Kalemkiarian arrived at 9:08 a.m.

Staff Present: David Gibson, James Smith, Chris Witte, Dave Barker, Laurie Walsh, Jeremy Haas, Julie Chan, Ben Neill, John Anderson, Amy Grove, Cynthia Gorham, Debbie Woodward, Barry Pulver, Chiara Clemente, Eric Becker, John Odermatt, Tony Felix, Bruce Posthumus, Craig Carlisle, Melissa Valdovinos, Deborah Jayne, Wayne Chiu, Michelle Mata, Alan Monji, Jody Ebsen, Charles Cheng, Christina Arias, Sean McClain, Roger Mitchell, Kelly Dorsey, Mike Porter.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Fran Spivy-Weber, Catherine Hagan. Kennedy Court Reporting – Erin Winn.

Public Attendance: Samantha Leon, USCG; Brian Gordon, US Navy; John Crow, US Navy; Chuck Katz, US Navy; Chris Stathos, U.S. Navy; Bill McMinn, Port of San Diego; Tito Cruz, US Navy; Chris Stransky, AMEC; Terry Thielen, Lake San Marcos; Chris Loughman, AMEC; Justin Rhoads, AMEC; Charles Grimberg, AMEC; Mike Welch; Justin Schmidt, La Jolla Band of Indians; Brian Hitchens, Geosyntec; Mary Kay Faryan, US Navy; Tyler Huff, AMEC; Roger Lichtenberger, Lichtenberger Properties; Jill Witkowski, San Diego Coastkeeper.

Item 2 – Public Forum

Terry Thielen raised concerns about the Lake San Marcos cleanup.

Jill Witkowski expressed concern about the Shipyards cleanup.

Item 3 – Minutes of Board Meeting: July 10, 2013.

Mr. Anderson moved to adopt the minutes, and Ms. Kalemkiarian seconded the motion. The minutes were approved by unanimous vote. Ms. Warren abstained from the 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 stated that the legislation is now in session and will be in session until September 13. Two of the big issues that will affect the State Board are the move of the drinking water program into the State Water Board and fracking. Some of the things the State Water Board is currently considering are the state’s desalination policy, the industrial storm water permit, and a draft trash policy. Ms. Spivy-Weber provided information about the State Water Board’s website, including access to the Executive Director’s report, training opportunities, and two new wetlands websites. She also spoke about the schedule for the Water Quality Control Counsel (WQCC) to meet in late October.

Mr. Morales also spoke about the WQCC, and he addressed the Regional Water Board’s move to take place in late September. In addition, Mr. Morales provided some background on the community outreach efforts in which the Board has been engaged this year and the Board’s desire for a cooperative approach to regulatory actions with stakeholders.

Mr. Gibson stated that the office will be closed for a one-week period during the office move, and he provided an overview of staff’s activities during this “dark” period, including inspections of agricultural sites and watershed tours. He also provided updates on the Lake San Marcos cleanup, the Santa Margarita River field trip, and the regulatory approach to water quality objectives for the area. Mr. Gibson described an upcoming meeting with Board Member Strawn and County Supervisor Cox regarding the Nelson Sloane quarry and Brown fill areas of the Tijuana River Valley, which are likely to be key areas to be included in a CAA request to be brought before the Board in the near future. He also provided updates on his meeting with Laura Hunter regarding the Rio Alamar, and his participation in the Port Commission’s coastal development plan hearing.

Consent Calendar: Items 5 and 6 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 – WDR Addendum: Revision of Waste Discharge Requirements Warner Springs Ranch Wastewater Treatment Plant, San Diego County (Tentative Addendum 2 to Order No. 93-13). (Tyler Kirkendall)

Item 6 – WDR Addendum: Revision of Waste Discharge Requirements Pauma Valley Investment Trust, Rancho Corrido Trailer Park, San Diego County (Tentative Addendum 1 to Order No. 94-150). (Tyler Kirkendall)

A motion to adopt the Consent Calendar was made by Mr. Strawn and seconded by Ms. Kalemkarian. The Consent Calendar was adopted by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 7 – Public Hearing, Assessment of Civil Liability: Enniss Inc. Mandatory Minimum Penalty for violations of Order No. 97-03-DWQ. The San Diego Water Board will consider adoption of a Tentative Order that would impose a \$5,950 mandatory minimum penalty recommended in Complaint No. R9-2013-0051 for violation of Monitoring and Reporting Requirements in *Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*. The San Diego Water Board may approve, reject, or modify assessment of the recommended penalty. (*Vicente Rodriguez*) **This item was postponed.**

Item 8 – United States Department of the Navy, Naval Base San Diego Complex, San Diego, California. (*Ben Neill*)

- a. NPDES Permit Reissuance (Tentative Order No. R9-2013-0064, NPDES No. CA0109169).

Time Schedule Order: A Time Schedule Order Requiring the United States Department of the Navy, Naval Base San Diego Complex, to Comply with Requirements Prescribed in Order No. R9-2013-0064, NPDES No. CA0109169 (Tentative Order No. R9-2013-0095).

Mr. Morales made opening remarks, Mr. Strawn and Dr. Abarbanel made disclosures about potential conflicts, and Mr. Morales administered the oath.

Ben Neill gave the staff presentation.

Brian Gordon, U.S. Navy, commented on the proposed Orders.

After Mr. Morales closed the public hearing, Mr. Strawn moved to adopt Tentative Order No. R9-2013-0064 with Errata Sheets one and two, and Mr. Anderson seconded the motion. After Board discussion, the Order with errata was adopted by unanimous vote.

Ms. Kalemkarian moved to adopt Tentative Order No. R9-2013-0095 with errata, Dr. Abarbanel seconded the motion, and the Order with errata was adopted by unanimous vote.

Item 9 – Information Item: Briefing on San Diego Bay Spill Response, Sea Level Rise Adaptation Strategy, and Monitoring and Assessment Activities. (*Melissa Valdovinos*)

Mr. Gibson introduced the topic and Melissa Valdovinos.

Melissa Valdovinos provided an overview of the item and introduced the presenters.

The following speakers gave presentations regarding various aspects of the San Diego Bay:

- John Anderson, SDRWQCB spill notification process and response
- Lieutenant Samantha Leon, Coast Guard spill response program
- Chris Stathos, Navy Region Southwest spill response program
- Jill Witkowski, Coastkeeper spill reporting
- Ken Schiff, SCCRWP Bight monitoring
- Cynthia Gorham, SDRWQCB Regional Monitoring Framework
- Dr. Emily Young, San Diego Foundation, sea level rise adaptation strategy

Mr. Morales recessed for lunch and Closed Session at 1:00 p.m. and reconvened the open meeting at 1:55 p.m.

Item 10 – CLOSED SESSION

The Board may meet in closed session to consider personnel matters [Authority: Government Code Section 11126(a)]; to deliberate on a decision to be reached based upon evidence introduced in a hearing [Authority: Government Code Section 11126(c)(3)]; or to discuss matters in litigation, including discussion of initiated litigation, significant exposure to litigation, or decisions to initiate litigation [Authority: Government Code Section 11126(3)]. Litigation items that may be discussed are listed below by the type of item:

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. *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)*
- d. *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)*
- e. *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)*
- f. *City of San Diego v. California Regional Water Quality Control Board, San Diego Division, SFPP, L.P., A Delaware Limited Partnership, and Kinder Morgan Energy Partners, L.P., A Delaware Limited Partnership, Real Parties-in-Interest. Petition for Writ of Administrative Mandamus. San Diego County Superior Court, Case No. 37-2013-00047614-CU-WM-CTL (filed May 2013). (Ben Neill)*

Petitions for Review Pending Before State Water Resources Control Board¹

- g. *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)*
- h. *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*

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.

Marcos Nutrient Impairment, San Diego County), SWRCB/OCC File A-2185, filed October 2011. (*Laurie Walsh*)

- i. 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*)
- j. 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*)
- k. 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-2205(a) – (e), filed April 2012. (*Frank Melbourne*)
- l. 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 Melbourne*)
- m. 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-2211, filed May 2012. (*Joann Lim*)
- n. 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*)
- o. Petitions for Review of Regional Municipal Separate Storm Sewer System Order No. R9-2013-0001 (NPDES No. CAS0109266), adopted May 8, 2013, filed by (1) San Diego County Regional Airport Authority (stay requested), (2) City of Lake Forest (abeyance request), (3) City of Aliso Viejo (abeyance request), (4) City of Laguna Hills (abeyance request), (5) City of Rancho Santa Margarita (abeyance request), (6) City of Chula Vista, (7) City of National City, (8) Riverside County Flood Control and Water Conservation

District, the County of Riverside, and the Cities of Murrieta, Temecula, and Wildomar (abeyance request), (9) City of Dana Point (abeyance request), (10) City of Mission Viejo (abeyance request), (11) City of San Clemente (abeyance request), (12) County of Orange and Orange County Flood Control District (abeyance request), (13) San Diego Unified Port District, (14) City of San Diego (abeyance request), (15) County of San Diego (request for stay), (16) City of Laguna Niguel (abeyance request), and (17) City of Lemon Grove, SWRCB/OCC File Nos. XXXX(a)-(l), filed June 2013. (*Wayne Chiu*)

- p. Petition of Foothill/Eastern Transportation Corridor Agency for Review of Action, and Failure to Act, in Connection with Waste Discharge Requirements (Tentative Order No. R9-2013-0007) for the Tesoro Extension Project, Orange County, June 19, 2013, SWRCB/OCC File A-XXXX, filed July 2013. (*Darren Bradford*)

The closed session was held, and the Board discussed item p.

There being no further business, the meeting was adjourned at 2:00 p.m.

These minutes were prepared by:

Signed by:



Chris Witte
Executive Assistant



David Gibson
Executive Officer

