

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

MINUTES OF MEETING
APRIL 10, 2013

At 9:00 a.m., Chairman Morales 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, Sharon Kalemkarian, Tomas Morales, and Gary Strawn. Dr. Abarbanel excused himself at 4:45 p.m.

Staff Present: David Gibson, James Smith, Chris Witte, Julie Chan, David Barker, Eric Becker, Laurie Walsh, Christina Arias, Wayne Chiu, Barry Pulver, Cynthia Gorham, Mike Porter, Debbie Woodward, Sean McClain, John Anderson, Sue Pease, Ben Neill, Carey Nagoda, Eric Rosenbaum, John Odermatt, Chiara Clemente, Lisa Honma.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Frances Spivy-Weber, Catherine Hagan, Nathan Jacobsen. California Court Reporters – Tammy Rampone.

Public Attendance: Khosro Aminpour, City of Chula Vista; Tristan Ingebristen, City of Laguna Niguel; Lisa Zawaski, Dana Point; Devin Slaven, City of Lake Forest; Jo Ann Weber, County of San Diego; Ziad Mazbovai, San Juan Capistrano; Arsalan Dadkhah, San Juan Capistrano; David Pohl, ESA; Mikhail Ogawa, Del Mar; Paul Hartman, Orange County; Brett Gamble, MOE; David Garcia, RCFC & WCD; Kris Weber, Hofstetler & Associates; Eric Lameci, RCFC & WCD; Scott Bruckner, RCFC & WCD; Claudio Padres, RCFC & WCD; John Guenzor, City of National City; Jeff Wong, City of Escondido; James Wood, City of Carlsbad; Dave Renfrew, Westen Solutions; Roger Butow, Clean Water Now; Michael Hazzard, Clean Water Now; Dennis Bowling, Rick Engineering; Brian Gordon, U.S. Navy; Chris Haynes, U.S. Navy; Karen Cowan, Larry Weber Associates; Stewart McClure, Clear Water Solutions; Joe Arthur, Clear Water Solutions; Doug Friedman, County of Orange; Ben Syz, Port of San Diego; Matthew Heber, Green Reactions; Kathryn Morning, Allen Matrias; Ed Othmer, URS; Ron Kemp, City of Carlsbad; Elaine Lukey, City of Carlsbad; Erik Steedbeck, City of Encinitas; Todd Snyder, County of San Diego; Cid Tesoro, County of San Diego; Matt Little, City of Coronado; Kim Godby, City of Coronado; Rae Beimer, City of Rancho Santa Margarita; Ryan Waterman, BIA Coalition; Lee Kaminetz, San Diego Airport Authority; Annie Martin, San Diego Airport Authority; Drew Kleis, City of San Diego; Joe Parco, City of Rancho Santa Margarita; Racen Clapper, County of Orange; Mark Stephens; Trevor Alsop, Geosyntec; Heather Stroud, City of San Diego; Deborah Mosley, County of San Diego; Steve Strapac, City of Poway; Tracy Cline, County of San Diego; Garth Engelhorn, Weston; Allison Ross Kiehle, Port of San Diego; Kip Striden, City of San

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Diego; Cheryl Filcin, City of Vista; Mike Zarley, Kitchell Environmental Services; Douglas Kot, San Diego USGBC; Ruth Kolb, City of San Diego; Kris McFadden, City of San Diego; Matt O'Malley, Surfrider; Bryn Evans, URS; Julia Chunn-Heer, Surfrider San Diego; Doug Liden, USEPA; Jesse Gipe, Senator Joel Anderson; Sheryl McPherson, County of San Diego; David Manx, Geosyntec; Daniel Apt, Orange County; Scott Taylor, Orange County; Jim Rasmus, City of San Diego; Scott Smith, City of Oceanside; Jill Witkowski, San Diego Coastkeeper; Fred Jacobsen, SDG&E; Adrianna Kripke, SDG&E; Nancy Palmer, City of Laguna Niguel; Jack Monger, IEA; Helen Davies, City of Santee; Mo Lahsaie, City of Oceanside; Amanda Arkenhold, AMEC; Jaime Campos, City of El Cajon; Robert Stone, Quantum Ozone, Inc.; Emma Sakaguchi, Quantum Ozone, Inc.; W. Gaters, SDG&E; Shari Selhount, Sea World; Khalique Khan, Camp Pendleton; John Earpensohn, Latitude 33; Aldo Licitra, City of Temecula; Billy Walker, City of Oceanside; Nancy Gardiner, Weston Solutions; Rosanna Lacarra, LaRue Environmental; Joan Adriany, Cinemetrics; Soumya Chennapragada, NV5; Lisa Skirtech, Brown & Caldwell; Jay Strake, AMEC; Kristina Husler, AMEC; Bill Baber, ABC-SD; Erica Ryan, City of San Marcos; Chris Helmer, City of Imperial Beach; Jenna Koss, County of Orange; Mary Anne Skorpanich, County of Orange; Michelle Helleruch, SDAR; Rebecca Pollack Rude, SDAR; Taryn Kiplsong, Solana Beach; Bill McMinn, Port of San Diego; Mary Kay Faryar, Navy Reg South West; Chris Crompton, County of Orange; Stephanie Gaier, County of San Diego; Laura Eisenberg, Rancho Mission Viejo; Ann Bechtel, Atkins; Tim Holbrook, County of San Diego; Joe Ames, City of Mission Viejo; Roshan Christoph, AMEC; Vicki M. Campbell, SDAR; Marilyn O'Neill, Nautilus Environmental; Ravi Bajaj, USCBC-SD; Efiem Byar, San Diego Regional EDC; Harry Orgovan, Chula Vista Kayak; Christine Mailloux, Friends of Rose Canyon; Edgar Camerino, San Diego Fishing Development Association; Ryan Verschoor, AMEC; Christy Suppes, County of Orange; Sandra Moore, San Diego Coastkeeper; Colin Kelly, Orange County Coastkeeper/JEWWK; Mark Corcoran, Surfrider San Diego; Shauna McKellar, Surfrider San Diego; Lori Jones, Surfrider San Diego; Sabrina Garland, Surfrider San Diego; Aaron Richter, Surfrider San Diego; Micah Mitrosky, Coastkeeper; Crystal Carson, Surfrider; Randall Iwai, Surfrider San Diego; Natalie Shapiro, Coastkeeper; Ann Swanson, Sunset Cliffs National Park; Eric Swanson, Friends of Sunset Cliffs; Izzy Tihanyi, Surf Diva Surf School; Jonathan Parkinson; Terry Rodgers, Surfrider San Diego; Sunshine Johnson, Surfrider San Diego; Jim Peugh, San Diego Audubon Society; Margie Johnson, Surfrider San Diego; Vaikko Allen, Contech Engineering Solutions.

Item 2 – Public Forum

Roger Butow spoke about the need to improve public access to Board meetings via teleconferencing or other methods.

Item 3 – Minutes of Board Meeting: March 13, 2013

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

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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.

Mr. Morales provided an update regarding the Chairs' meeting in March and the recent Chairs' conference call.

Fran Spivy-Weber provided updates on the State Board's activities.

Mr. Gibson provided an update on Board staff activities and Practical Vision outreach meetings that took place in the last month and that will take place prior to the next Board meeting.

Item 5 – Recognition: Resolution of Appreciation for former Chairman Grant Destache (Tentative Resolution No. R9-2013-0061). (*David Gibson*)

Mr. Morales read the Resolution and thanked Mr. Destache for his service. Mr. Destache accepted the Resolution and thanked the Board and staff.

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.)

Item 6 – NPDES Permit Amendment: Waste Discharge Requirements for SeaWorld Parks & Entertainment, Inc., a Delaware Corporation, SeaWorld, LLC, DBA SeaWorld San Diego (Tentative Order No. R9-2013-0034). (*Michelle Mata*)

Item 7 – Adoption of Emergency, Abandoned, and Recalcitrant Annual Priority Site List: Former Santa Ysabel Chevron Service Station (Tentative Resolution No. R9-2013-0010). (*Sue Pease*)

A motion was made by Dr. Abarbanel and seconded by Mr. Anderson to adopt the Consent Calendar. A vote was taken, and the motion passed unanimously.

Remainder of the Agenda (Non-Consent Items):

Item 8 – Public Hearing: Issuance of a NPDES Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Tentative Order No. R9-2013-0001, NPDES No. CAS0109266). (*Wayne Chiu, Laurie Walsh, Christina Arias*)

Mr. Morales gave his opening remarks, and Board members made disclosures regarding their participation in the proceeding.

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Attorneys for the San Diego County, Riverside County, and Orange County copermittees raised procedural objections, including an objection to holding the hearing today and asked the Board to postpone it until May.

Mr. Morales noted the objection for the record and continued his opening remarks.

Mr. Morales called a recess at 10:19 a.m. and reconvened the meeting at 10:33 a.m.

Mr. Morales administered the oath to those planning to testify in the hearing.

Mr. Chiu made the staff presentation, followed by questions from the Board members and cross-examination from interested parties.

Doug Liden gave the USEPA presentation in support of the MS4 Permit and answered the Board members' questions.

[Closed Session announcement: Ms. Hagan announced that the Board would discuss closed session item a during the lunch break.]

Mr. Morales called a recess for lunch and Closed Session at 12:00 p.m. and reconvened the regular meeting at 1:00 p.m.

The San Diego County copermittees made their presentation, followed by the Orange County and Riverside County copermittees. San Diego Coastkeeper asked some cross-examination questions of San Diego County

Mr. Morales called a recess at 2:20 p.m. and reconvened the meeting at 2:30 p.m. He then called a recess at 3:47 p.m. and reconvened the meeting at 4:03 p.m.

The following people commented on the Tentative Order:

Chris Haynes, U.S. Navy
Christine Mailloux, Friends of Rose Canyon
Livia Borak, Coastal Environmental Rights Foundation
Julia Chunn-Heer, Surfrider San Diego
Matt O'Malley, Surfrider San Diego
Paloma Aguirre, WildCoast
Haley Haggerstone, Surfrider Foundation
Allison Prange, Surfrider
Alison Hindley, Surfrider Foundation
Lyle Beller, resident of San Diego
Sandra Moore, resident of La Jolla
Jamie Ortiz, resident of Point Loma
Harry Orgovan, Chula Vista Kayak

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Jim Peugh, San Diego Audubon Society

Mr. Morales called a recess at 5:00 p.m. and reconvened the meeting at 5:15 p.m.

Roderick Michener, Surfrider San Diego
Belinda Smith, Surfrider
Shauna McKellar, Surfrider Foundation
Mark West, Surfrider
Kristin Brinner, Surfrider
Todd Cardiff, Surfrider
Mark Corcoran, Surfrider San Diego
Megan Baehrens, San Diego Coastkeeper
Travis Pritchard, San Diego Coastkeeper
Randall Iwai, Surfrider
Crystal Carson, Surfrider
Ravi Bajaj, USGBC, San Diego
Natalie Shapiro, Coastkeeper
Roger Kube, Surfrider San Diego
Jonathan Parkinson, resident of Ocean Beach
Izzy Tihanyi, Surf Diva Surf School
Terry Rodgers, Surfrider San Diego

The following people registered support for the permit, but did not speak:

Douglas Kot, San Diego USGBC
Adam Andrews, Surfrider
Sabrina Garland, Surfrider
Lori Jones, Surfrider
Aaron Richter, Surfrider
Patrick Mulvey, Surfrider
Micah Mitrosky, Coastkeeper
Gavin Seedorf, Threshold Enviro
Ann Swanson, Sunset Cliffs
Eric Swanson, Friends of Sunset Cliffs
Scott Harrison, Surfrider
Erin Campbell
Sumer Hasenin, City of San Diego
Roger Butow, Clean Water Now
Sean Karaffin, San Diego County Taxpayers Association
Barry Grigg, The Political & Economic Conservative Alliance of San Diego
Brad Fowler, City of Dana Point
Efrem Byer, San Diego Regional Economic Development Corporation
Vaikko Allen, resident of Ojai
Aaron Poresky, Geosyntec
Bob Callacott, resident of San Clemente

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The following people registered opposition to the permit, but did not speak:

Rick Alexander, San Diego CRAS
John Altman, JT Altman & Associates
Chris Anderson, Greater San Diego Association of Realtors
Tina Apaipony
William Baber, Associated Builders & Contractors of San Diego
Scott Bailey, Huntley Estates
Neil Alan Ball, Alan Ball Group
Troy Bankston, County of San Diego
Ben Boyce, Laer Pearce & Associates
Jane Brown-Darché, Ranch & Country Realty, Inc.
Jim Browne, Real Living Lifestyles Real Estate
Kevin Burke, Burke Real Estate Consultants
Vicki Campbell, San Diego Association of Realtors
Edgar Camerino, San Diego Highway Development Association
Yawan Cheng, USA Realty and Loans
Lauren Cremascoli, Pam Matthison & Associates
Chris Crompton, County of Orange
Richard Crossman, Willis Allen Real Estate
Ligaya Cruz, Ligaya Realty Group
Thomas Ellis, Atlantic & Pacific Real Estate
Craig Everett, Advent Real Estate & Property Management
Virginia Field, Trident Realty Group
Steve Fraioli
Stephanie Gaines, County of San Diego
Eric Ginder, White & Bogart, LLP
Jesse Gipe, California Senator Joel Anderson
Richard Hagen, Pacific Sotheb's International Realty
Linda Harbert, Coldwell Banker
Michael Hazzard, Clean Water Now
Michelle Hellerund, San Diego Association of Realtors
Bill Horn, San Diego County Supervisor
Karen Jedelee, Burke Real Estate Consultants
Robert Kevane, San Diego Association of Realtors
Leslie Kilpatrick, San Diego Association of Realtors
Amy Kitchens, GNP Premier Partners
Leona Kline, KW Metro
Barbara Kreis, San Diego Board of Realtors
Art Kryk, San Diego Association of Realtors
Joe Kuhn, City of La Mesa
Yuzana Kyaw, Burke Real Estate Consultants
James Lawson, NAIOP San Diego
Linda Lee, Greater San Diego Association of Realtors

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Bill Lees, Seaport Realtors
Aldo Licitra, City of Temecula
Jordan Marks, Greater San Diego Association of Realtors
Pam Mathison, Pam Mathison & Associates
Denise Matthis, resident of Poway
Mike Mercurio, Greater San Diego Association of Realtors
Deborah Mosley, County of San Diego
Katilin Murphy, Murphy Development
Greg Neville, Pacific Land Group
Jenni Nguyen, Keller Williams Realty, La Jolla
Jacqueline Oliver, San Diego Association of Realtors
Claudio Padres, RCFC & WCD
Karen Peterson, Realty Experts
Faith Picking, BIOCUM
Rebecca Pollack Rude, San Diego Association of Realtors
Ryan Purdy, Greater San Diego Association of Realtors
Brandon Robbin, Greater San Diego Association of Realtors
Lupe Sato, McMillin Realty
Cory Shepard, Coldwell Banker West
Alkarim Shivji, California Real Estate & Mortgage
Metamepy Simon, Met Realty Group
David Slaven, City of Lake Forest
Ed Smith, resident of La Mesa
Sarah Smith, Mountain Trust
Peter Solzcki, San Diego Association of Realtors
Kate Speir, San Diego Association of Realtors
Eric Steenbock, City of Encinitas
Ellen Steinberg, Signature Realty
James Sullivan, Willis Allen Real Estate
Dorothy Surdi, Speary Van Ness Finest City Commercial
Jim Taylor, Speary Van Ness Finest City Commercial
Cid Tesoro, County of San Diego
Fiona Theseira, Keller Williams Realty
Ann Throckmorton, Greater San Diego Association of Realtors
James Tostado, Hibiscus Real Estate
Tory Walker, Tory R. Walker Engineering, Inc.
Ryan Waterman, BIA Coalition
Jo Ann Weber, County of San Diego
K. Won, Keller Williams Realty
J. T. Yean, OCPW
Elena Yu, Real Living Lifestyles
Mike Zarley

CLOSED SESSION

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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. *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. *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)
- d. *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)
- e. *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)

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- f. *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)*
- g. *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

- h. *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)*
- i. *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)*
- j. *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)*
- k. *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)*

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.

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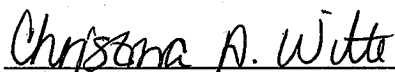
- l.* Petitions for Review of San Diego Bay Shipyard Sediment Cleanup and Abatement Order No. R9-2012-0024 for National Steel and Shipbuilding Company (NASSCO), BAE Systems, San Diego Ship Repair (BAE Systems), Campbell Industries, City of San Diego, San Diego Gas & Electric (SDG&E) and San Diego Unified 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*)
- m.* 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*)
- n.* 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*)
- o.* 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*)
- p.* Petition of Fallbrook Public Utility District for Review of Order No. R9-2012-0004, NPDES Permit and Waste Discharge Requirements for Fallbrook Public Utility District Wastewater Treatment Plant No. 1 for Discharge to the Pacific Ocean via the Oceanside Ocean Outfall, adopted August 8, 2012, SWRCB/OCC File A-2226, filed September 2012. (*Joann Lim*)

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

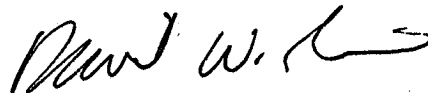
The meeting was adjourned at 6:27 p.m., to be reconvened at 9:00 a.m. on Thursday, April 11, 2013.

These minutes were prepared by:

Signed by:



Chris Witte
Executive Assistant



David Gibson
Executive Officer