

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

MINUTES OF MEETING
MAY 8, 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 Kalemkiarian, Tomas Morales, and Gary Strawn.

Staff Present: David Gibson, James Smith, Chris Witte, David Barker, Roger Mitchell, Julie Chan, Barry Pulver, Jeremy Haas, John Odermatt, Erik Becker, Tony Felix, Kelly Dorsey, Mike Porter, Chris Means, Brian Kelley, Alan Monji, Jody Ebsen, Sheila Christine McQuaid-Moran, Amy Grove, Bea Griffey, Craig Carlisle, Charles Cheng, Joann Lim, Michelle Mata, Chiara Clemente, Kristin Schwall, Ben Neill, Debbie Woodward, Deborah Jayne, Laurie Walsh, Wayne Chiu, Christina Arias, Rebecca Stewart, Frank Melbourn, Sean McClain, Fisayo Osibodu.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board –Catherine Hagan, Julie Macedo. California Court Reporters – Bonnie Breen.

Public Attendance: Jan Scott; Jill Witkowski, San Diego Coastkeeper; Roy Hobbs, Shelter Island Boat Yard/San Diego Port Tenants' Association; Chris Stransky, AMEC; Al Masry; Chris Haynes, U.S. Navy; Howard Bailey, Nautilus Environmental; Cindy Lin, USEPA; Jack Monger, Industrial Environmental Association (IEA); Roger Bailey, San Diego Public Utilities; Adrian Kinnane, San Diego Coastkeeper; Travis Pritchard, San Diego Coastkeeper; Darren Smith, California State Parks; John Kemmerer, USEPA; Mikhail Ogawa, City of Del Mar; Kris McFadden, City of San Diego; Noah Garrison, Natural Resources Defense Council; Roger Butow, Clean Water Now; Todd Snyder, County of San Diego; Ken Susilo, Geosyntec Consultants; Richard Boon, County of Orange; Jason Uhley, Riverside County; Bill Brown, Port of San Diego; Michael McSweeney, Building Industries Association (BIA); Dennis Bowling, BIA; Tory Walker, BIA; Fred Jacobsen, SDG&E; Vaikko Allen, Contech; May Anne Skorpanich, County of Orange; Stan Griffiths, City of San Diego; Steve Meyer, City of San Diego; Ann Sasaki, City of San Diego; Jeremy Jung, City of San Diego; Heather Stroud, City of San Diego; Colin Kelly, Orange County Coastkeeper/Inland Empire Waterkeeper; James O'Day, County of San Diego; Ryan Baron, County of Orange; Sean Kerafin; S. Wayne Rosenbaum, Attorney, San Diego Coalition; Mark Grey, BIA; Jesse Gipe, Office of Senator Joel Anderson; Angeli Callinog, Office of Senator Joel Anderson; Ruth Kolb, City of San Diego; Brian Gordon, U.S. Navy; Marilyn O'Neill, Nautilus Environmental;

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Steven E. Strapac, Poway; Sheri McPherson, County of San Diego; Stephanie Gaines, County of San Diego; Adrienne Ciber, Nautilus; Catherine Cope, Dana Point Shipyard; Julie Hampel, UC San Diego (UCSD); Kimberly O'Connell, UCSD; Chuck Kolz, U.S. Navy; Rita Fernandez, Office of Congressman Juan Vargas; Barry Snyder, AMEC; Trevor Alsop, Geosyntec; Jared Dunk, AMEC; Scott Norris, County of San Diego; Joe Parco, City of Rancho Santa Margarita; Jennifer Shook, County of Orange; Chris Crompton, County of Orange; Jenna Voss, County of Orange; Grant Sharp, County of Orange; Karen Holman, Port of San Diego; Eric Loned, Rancho California Flood Control and Water Control District (RCFCWCD); Steve Hon, County of Riverside; Les Kaminski, SDCRAA; Khosro Aminpour, City of Chula Vista; Jim Rasmus; Nancy Palmer, City of Laguna Niguel; Tracy Ingebretsen, City of Laguna Beach; Brad Fowler, City of Dana Point; Lisa Zawalski, City of Dana Point; Mo Lahsaie, City of Oceanside; Annie Martin, Airport Authority; Paul Hartman, Larry Walker Associates (LWA); Karen Conam, LWA; Karen Ashley, LWA; Christine Sloan, County of San Diego; Nancy Richardson, County of San Diego; Rosanne Laurence, Laruc Environmental; Malik Tamimi, City of Lemon Grove; Willie Gaters, SDG&E; Jaime Campos, City of El Cajon; Rachel Davenport, AMEC; Jo Ann Weber, County of San Diego; Kristiane Hill, California State Parks; John Quenzer, City of National City; Cheryl Filar, City of Vista; David Pohl, ESA; Dave Renfrew, Weston Solutions; Ann Bechtel, Atkins; Devin Slaven, City of Lake Forest; Joe Ames, City of Mission Viejo; James Wood, City of Carlsbad; Elaine Lukey, City of Carlsbad; Claudia Steiding, Riverside County Transportation Department; Nancy Gardiner, Haley & Aldrich; Joe Kohn, City of La Mesa; Bryn Evans, URS; Chris Helmer, City of Imperial Beach; Christian Brown, Geosyntec; Lisa Skutecki, Brown & Caldwell; Sumer Hasenin, City of San Diego; Jennifer Peterson, Nolte; Julia Chunn-Heer, Surfrider San Diego; Aldo Licitra, City of Temecula; James Lawson, California Strategies; Mark Williams, AECOM.

Item 2 – Public Forum

Jan Scott expressed concern about illegal dumping of agricultural waste mixed with trash into the Santa Margarita Watershed.

Jill Witkowski asked for an update on efforts to address the erosion in Los Peñasquitos Canyon. In addition, she commended the City of San Diego for their rapid response to a complaint about open dumpsters at Mission Bay during a rain event.

Item 3 – Minutes of Board Meeting: April 10-11, 2013

Approval of the minutes was postponed until the June meeting.

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.

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Mr. Gibson responded to questions from the Board members regarding the written Executive Officer's report, and he noted that he would be attending the Tijuana Watershed Binational Vision meeting next week in Tijuana.

Ms. Kalemkarian asked staff to arrange a tour of the agricultural areas that are monitored by the Board.

Item 5 – Information Item: Water Quality Management Training Requirements of the Agricultural and Nursery Operations Waiver and the University of California Cooperative Extension Irrigated Lands Education Program. The Board will take no formal action.
(Julie Chan)

Ms. Chan made her presentation introducing and providing background information on the Ag Waiver.

Valerie Mellano, with the agricultural water quality program at the University of California Cooperative Extension (UCCE), provided background information about the development of UCCE's Irrigated Lands Education Program.

Loretta Bates, who teaches San Diego UCCE's water schools, provided an overview of the water school and the Irrigated Lands Education Program.

Scott Parker, who runs UCCE's Healthy Garden Healthy Home program, responded to Board member questions regarding home gardens as opposed to farms.

Item 6 – Information Item: University of California, San Diego's Phase II MS4 Permit.
(Tony Felix)

Mr. Felix provided background information and an overview of the Phase II MS4 permit.

Julie Hampel, Environmental Manager for University of California San Diego (UCSD), and Kimberly O'Connell, UCSD's Storm Water Program Manager, presented information regarding UCSD's efforts to comply with the non-traditional, small Phase II MS4 permit and to protect an area of special biological significance with its own NPDES permit.

Mr. Morales called a recess at 10:40 a.m. and reconvened the meeting at 10:54 a.m.

Item 7 – General NPDES Permit Issuance: General Waste Discharge Requirements for Discharges from Boatyards and Boat Maintenance and Repair Facilities Adjacent to Surface Waters within the San Diego Region (Tentative Order No. R9-2013-0026, NPDES No. CAG719001). (Kristin Schwall and Michelle Mata)

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Mr. Morales made opening remarks and administered the oath and Kristin Schwall made the staff presentation. After comments from the public, Ben Neill made closing statements for the staff.

Jack Monger, Executive Director of the Industrial Environmental Association, spoke about the proposed order.

The following people spoke about the proposed order:

- Roy Hobbs, Shelter Island Boat Yard/San Diego Port Tenants Association
- Chris Stransky, Aquatic Sciences Group Manager, AMEC
- Al Masry
- Chris Haynes, U.S. Navy
- Howard Bailey, Senior Scientist, Nautilus Environmental
- Dr. Cindy Lin, Liaison and Scientist, U.S. EPA Region 9
- Jill Witkowski, Waterkeeper, San Diego Coastkeeper

The Chair closed the public hearing, and Executive Officer Gibson provided his recommendation.

Mr. Anderson made a motion to adopt the Tentative Order with errata, and the motion was seconded by Mr. Strawn. Following discussion, the motion passed by unanimous vote.

Mr. Morales broke for lunch and Closed Session at 12:55 p.m. and reconvened the regular meeting at 1:45 p.m.

Item 8 – Administrative Civil Liability: Settlement Agreement and Stipulation for Order and Administrative Civil Liability Order, City of San Diego, Sanitary Sewer Overflow to Los Peñasquitos Creek, Peñasquitos Lagoon, and the Pacific Ocean. Settlement to resolve violations of Order Nos. 2006-0003-DWQ and R9-2007-0005 as set forth in Tentative Order No. R9-2013-0032. The Settlement would impose monetary liability of \$1,245,414 against the City of San Diego, of which \$622,707 in liability would be paid to the State Water Resources Control Board's Cleanup and Abatement Account and \$622,707 in liability would be suspended upon successful completion of an Enhanced Compliance Action as described in Tentative Order No. R9-2013-0032. (*Barry Pulver*)

Barry Pulver introduced the item and provided background information.

Darren Smith, Senior Environmental Scientist for California State Parks, addressed the proposed order.

The following people spoke about the proposed order:

- Adrian Kinnane, San Diego Coastkeeper
- Travis Pritchard, Water Quality Lab Manager, San Diego Coastkeeper

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- Jill Witkowski, Waterkeeper, San Diego Coastkeeper
- Roger Bailey, Director of Public Utilities for the City of San Diego, and Ruth Kolb, City of San Diego

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

- Stan Griffin, Assistant Director, City of San Diego
- Steve Meyer, Deputy Public Utilities Director, City of San Diego
- Ann Sasaki, Assistant Director, City of San Diego
- Jeremy Jung, Deputy City Attorney, City of San Diego

A motion to adopt the Tentative Order was made by Mr. Strawn and seconded by Dr. Abarbanel. After some discussion, the Board adopted the Order by a 3-2 vote.

Mr. Morales called a recess at 3:00 p.m. and reconvened the meeting at 3:15 p.m.

Item 9 – 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). Continued from April 11, 2013. (*Wayne Chiu, Laurie Walsh, Christina Arias*)

After Mr. Morales gave his opening remarks and administered the oath, Wayne Chiu made the staff presentation.

The following people commented on the proposed order:

- Todd Snyder, Watershed Planning Manager, County of San Diego
- Ken Susilo, Principal, Geosyntec Consultants
- Richard Boon, County of Orange
- Jason Uhley, Chief of Watershed Protection, RCFCWCD
- Bill Brown, Attorney, Port of San Diego
- Michael McSweeney, BIA
- Dennis Bowling, BIA
- Tory Walker, BIA
- Fred Jacobsen, BIA
- Vaikko Allen, Director of Storm Water Regulatory Management, Contech Engineering Solutions
- Mary Anne Skorpanich, Orange County Watersheds Manager, County of Orange
- John Kemmerer, Acting Water Director, USEPA Region 9
- Mikhail Ogawa, Clean Water Manager, City of Del Mar
- Kris McFadden, City of San Diego
- Noah Garrison, National Resource Defense Council

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- Jill Witkowski, Waterkeeper, San Diego Coastkeeper
- Roger Butow, Executive Director, Clean Water Now
- Heather Stroud, Deputy City Attorney, City of San Diego
- Colin Kelly, Staff Attorney, Orange County Coastkeeper, Inland Empire Waterkeeper

The following people expressed opposition to the proposed order, but did not speak:

- James O'Day, Senior Deputy County Counsel, County of San Diego
- Ryan Baron, County of Orange
- Sean Kerafin, Economic Policy Analyst
- S. Wayne Rosenbaum, Attorney, BIA
- Mark Grey, Director of Environmental Affairs, BIA

The following people expressed support for the proposed order:

Mr. Morales called a recess at 4:53 p.m. and reconvened the meeting at 5:08 p.m.

Dr. Lynn Reaser, Chief Economist, Fermanian Business and Economic Institute, spoke regarding the City of San Diego Report, Meeting Water Quality Standards for San Diego's Recreational Waters: A Cost Benefit Analysis dated April 2011, which she authored.

The Chair closed the public hearing, and Executive Officer Gibson provided a recommendation.

Mr. Morales called a recess at 7:01 p.m. and reconvened the meeting at 7:10 p.m.

A motion to adopt the Tentative Order, Option 1 with the EPA's errata was made by Dr. Abarbanel, and the motion was seconded by Mr. Anderson. Following discussion, the Board adopted the Order by unanimous vote.

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:

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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)
- 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)

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- 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)*
- 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*

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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filed by SDG&E, Star & Crescent Boat Company and Port District.
SWRCB/OCC File A-2205(a) – (e), filed April 2012. (*Frank Melbourne*)

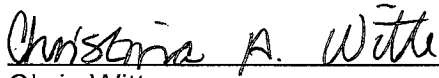
- m. Petition of NASSCO for Review of Resolution No. R9-2012-0025 (Certifying Final Environmental Impact Report for San Diego Bay Shipyard Sediment Cleanup and Abatement Order No. R9-2012-0024), adopted March 14, 2012, SWRCB/OCC File A-XXXX, filed April 2012. (*Frank Melbourne*)
- n. Petition of South 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.

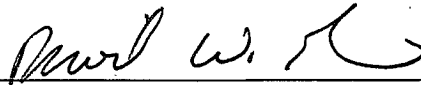
There being no further business, the meeting was adjourned at 7:40 p.m.

These minutes were prepared by:

Signed by:



Chris Witte
Executive Assistant



David Gibson
Executive Officer

