

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

MINUTES OF MEETING
FEBRUARY 10, 2016

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: David Gibson, James Smith, Chris Blank, David Barker, Julie Chan, Jeremy Haas, Chad Loflen, John Odermatt, Fisayo Osibodu, Alex Cali, Dat Quach, John Anderson, Sean McClain, Barry Pulver, Craig Carlisle, Laurie Walsh, Jody Ebsen, Sarah Mearon, Michelle Mata, Nicole Gergans, Alan Monji, Cynthia Gorham, Deborah Woodward, Lori Costa, Brandi Outwin-Beals, Frank Melbourn, Eric Becker, Betty Fetscher, Chiara Clemente, Deborah Jayne, Brian McDaniel, Spencer Marshall, Lalitha Thotakura, Charles Cheng, Amy Grove, Kristin Schwall, Kelly Dorsey, Christopher Means (attending remotely), Michael Porter (attending remotely).

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Catherine Hagan, Adriana Nuñez, Fran Spivy-Weber. California Court Reporting – Marlee Nelson.

Public Attendance: Michael Welch; Rob Hutsel, San Diego River Park Foundation; Kirsten Winter, Cleveland National Forest, U.S. Forest Service; Kyehee Kim, County of San Diego; Peejay Tubongbanha, County of San Diego; Kait Cole, ECOLIFE Conservation; Morgan Bailey, ECOLIFE Conservation; Jesse Grajeda, ECOLIFE Conservation; Robin Rierdan, Lakeside River Park Conservancy; Jim Peugh, Friends of Famosa Slough; Len Sinfield, U.S. Navy; Jo Ann Weber, County of San Diego; Jessica Palmer, U.S. Navy, Eric Bowlby, San Diego Canyonlands.

Item 2 – Public Forum

There were no public forum items.

Item 3 – Minutes of Board Meeting: June 24, 2015 (revised):

Dr. Olson proposed substituting either “constituents” or “contaminants” for the word “issues” in Item 5 to better capture what she had expressed, and she moved to approve the minutes with that correction; Mr. Strawn seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

Minutes of Board Meeting: November 18, 2015 (revised):

Mr. Strawn moved to approve the minutes, and Mr. Anderson seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

Minutes of Board Meeting: December 16, 2015:

Mr. Morales moved to approve the minutes, and Mr. Strawn seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Anderson, Morales, Strawn, and Warren voted “aye,” with Dr. Olson abstaining. 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 will be allowed, and the Board will take no formal action.

Fran Spivy-Weber presented an update on State Board actions and the Governor’s proposed budget, and she responded to Board Member questions.

Dr. Abarbanel and Mr. Strawn provided descriptions of the Outreach meetings on January 13 and 28, at San Juan Capistrano and Padre Dam, respectively.

Dr. Abarbanel also reported on the recent telephone meeting among the Regional Board Chairs, Executive Officers, Assistant Executive Officers, the Executive Director, and the State Board Chair.

Sean McClain responded to Board Member questions about the written Executive Officer’s Report.

Mr. Gibson also responded to Board Member questions about the written Executive Officer’s Report; in addition, he reported that he would be attending the Sediment Modeling and Border 2020 meeting scheduled to take place at the Tijuana River Estuarine Research Reserve Training Center on February 25, 2016.

Morgan Bailey, Ph.D., and Kait Cole gave a presentation regarding ECOLIFE Aquaponics.

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

Dr. Olson requested an information item regarding an update on the Lake Mission Viejo project. Mr. Gibson requested that she provide contact information for that project.

Dr. Abarbanel asked for the inclusion of updates on educational roles called for in the MS4 Permit during the upcoming WQIP reports. In addition, he asked that staff contact Senator Hertzberg to see if he would be available to come back before the Board to continue discussions about sustainable water supplies.

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 – WDR Addendum: San Diego County Sanitation District, San Pasqual Academy Water Pollution Control Facility (Tentative Addendum No. 1 to Order No. R9-2009-0072). (*Fisayo Osibodu*)

Item 7 – WDR Revocation: Tentative Order Revoking Order No. R9-2007-0042, Waste Discharge Requirements for Winchester Wesselink Dairy, Riverside County (Tentative Order No. R9-2016-0001). (*Roger Mitchell*)

Dr. Abarbanel asked whether the City of San Diego had overcome their objections to Item 6. Fisayo Osibodu responded in the affirmative.

Mr. Strawn moved to approve the Consent Calendar, and Dr. Olson seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

Chairman Abarbanel called a recess at 10:05 a.m. and reconvened the meeting at 10:20 a.m.

Remainder of the Agenda (Non-Consent Items)

Item 8 – Information Item: Watershed Restoration Efforts along the San Diego River. (*Chad Loflen*)

Chad Loflen introduced the item and the presenters.

The following people made presentations and responded to Board Member questions:

- Julia Richards, Executive Officer, San Diego River Conservancy
- Eric Bowlby, Executive Officer, San Diego Canyonlands
- Kirsten Winter, Cleveland National Forest, U.S. Forest Service
- Jim Peugh, Board Chair, Friends of Famosa Slough
- Robin Rierdan, Executive Officer, Lakeside River Park Conservancy
- Rob Hutsel, Executive Officer, San Diego River Park Foundation

Item 9 – Information Item: Update on Implementation of the Practical Vision and Operational Plan for 2016. (*David Gibson*)

This item was postponed until the March meeting.

Item 10 – Information Item: Live Demonstration of Geo Tracker Database Management System. (*Lalitha Thotakura*)

Lalitha Thotakura presented a live demonstration of the use of the GeoTracker Database.

Mr. Gibson and Ms. Hagan responded to Board Member questions regarding use of the database.

Item 11 – Election of Regional Board Chair and Vice Chair for 2016. (*David Gibson*)

Mr. Morales nominated Dr. Abarbanel as Chairman and Mr. Strawn as Vice Chair; Mr. Strawn seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

Adriana Nuñez announced that the Board would be discussing item 12(g), CERF v. San Diego Water Board, in closed session during lunch. Chair Abarbanel recessed the meeting for lunch and Closed Session at 1:00 p.m.

Item 12 – *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 (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. *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) (Inactive per Test Claimants' request pending outcome of related litigation). (Catherine George Hagan)*
- f. *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)*
- g. *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)*
- h. *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)*

Petitions for Review Pending Before State Water Resources Control Board¹

- i. **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**

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.

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, and (16) City of Laguna Niguel. SWRCB/OCC File A-2254(a)-(p), filed June 2013. The petitions are being held in abeyance at the petitioners' request. (Wayne Chiu)

- j. Petitions for review of Order No. R9-2015-0001 amending the Regional MS4 Permit to incorporate Orange County Copermittees, adopted February 11, 2015, filed by the Cities of Rancho Santa Margarita, Laguna Hills, Aliso Viejo, San clemente, Laguna Niguel, Dana Point, Mission Viejo, San Diego, and the County of Orange and OrangeCounty flood control District. SWRCB/OCC Files A-2367(a) through (i). The petitions are all being held in abeyance by the State Water Board at the petitioners' request. (Wayne Chiu)
- k. Petitions for review of Order No. R9-2015-0100 amending the Regional MS4 Permit to incorporate Riverside County Copermittees, adopted November 18, 2015, filed by the Cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Mission Viejo, Rancho Santa Margarita, San Clemente, San Juan Capistrano, Murrieta, Temecula, Wildomar, Riverside County and Riverside County Flood Control District, Orange County and Orange County Flood Control District, San Diego Coastkeeper and Coastal Environmental Rights Foundation. SWRCB/OCC Files A-XXXX. (Wayne Chiu)

This Closed Session was held, and the Board Members discussed item 12(f).

A quorum of the Board (Board Members Abarbanel, Morales, Olson, and Strawn) reconvened in open session at 1:38 p.m.

There being no further business, the meeting was adjourned at 1:38 p.m.

These minutes were prepared by:

Signed by:

Chris Blank
Executive Assistant

David Gibson
Executive Officer