

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

MINUTES OF MEETING  
APRIL 11, 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 City of Mission Viejo Council Chambers, 200 Civic Center, Mission Viejo, California 92691.

**Item 1** – Roll Call and Introductions

Board Members Present: Grant Destache, Eric Anderson, Gary Strawn, Tomas Morales, and Henry Abarbanel.

Staff Present: David Gibson, James Smith, Chris Witte, Julie Chan, Sue Pease, Laurie Walsh, David Barker, Joann Lim, Bob Morris, Chiara Clemente, Michele Mata, Bruce Posthumus, Chantry Davis.

Others Present on behalf of the San Diego Water Board: State Water Resources Control Board – Catherine Hagan, Jessica Newman, and Frances Spivy-Weber. Kennedy Court Reporters – Sophia Washington.

Public Attendance: Verna Rollinger, Laguna Beach; Roger Butow, Laguna Beach; Michael Beanan, SLCA; Maryanne Skorpanich, County of Orange; Penny Elia, Sierra Club; Mark Stadler, SDCWA; Brennon Flahive, SOCWA; Lars Oldewagz, IRWD; Michael Hazzard; Eddie Pech, DWR; Rick Wilson, Surfrider Foundation; Richard Gardner, SCWD; Joanne Thomas; Barbara Metger, Laguna Beach; Tom Rosales, SOCWA; Joe Ames, City Mission Viejo; David Pedersen, IRWD; Michael Welesy; Jackie Gallagher; Denise Landstedt, Rancho California Water District.

**Item 2** – Public Forum

Michael Beanan of the South Laguna Civic Association spoke regarding the Laguna Bluebelt, a marine life protection organization in Laguna Beach.

Penny Elia of the Sierra Club spoke regarding the MS4 permit and Aliso Creek runoff.

**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.

Ms. Spivy-Weber commented on State Board and budget issues.

Mr. Gibson commented on the Executive Officer's report.

Mr. Destache commented on the Chairman's meetings in Sacramento in March.

**Item 3** – Minutes of Board Meetings: February 8, 2012; March 14, 2012.  
*These records of the minutes of the meetings on these dates are not intended as the official records of events and are solely for administrative convenience. More detailed accounts of the proceedings are available upon request, consisting of tape recordings and court-reporter transcribed records. Please contact the San Diego Water Board office for assistance.*

A motion was made by Mr. Abarbanel and seconded by Mr. Morales to adopt the minutes of the previous meetings. A vote was taken and all the Board Members present unanimously approved the minutes of the previous meetings.

***Consent Calendar: Item 5 is considered a non-controversial issue. (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** – Resolution: Nomination of Santa Ysabel Chevron Station site to State Emergency, Abandoned and Recalcitrant Account Annual Site List (Tentative Resolution No. R9-2012-0034) (*Sue Pease*).

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

***Remainder of the Agenda (Non-Consent Items):***

**Item 6** – Informational Item: Update from the Three Integrated Regional Water Management (IRWM) Groups, Laurie Walsh introduced the presentations.

Ed Pech, Department of Water Resources, provided an overview of the program.

Maryanne Skorpanich, Orange County IRWM Group, made a presentation about the South Orange County Watershed Management Area.

Ms. Skorpanich responded to Board questioning about priority projects and their funding sources for the South Orange County Watershed Management Group.

Mr. Destache commented that Orange County's approach to water resource management emphasizes his theory that the Board needs to plan to act in lieu of spending a lot of time planning. Therefore, it is critical to get in and start cleaning up the streams in order to be effective. Further, the Board as a whole expressed concern that successful implementation of the various projects is critical to the IRWM effort. While planning seems to be going well, implementation should proceed a more rapid pace.

Sheri McPherson, County of San Diego, gave a presentation on the San Diego IRWM program.

Ms. McPherson responded to Board questioning regarding the percentage of funding available to nonprofit groups and nongovernmental organizations; the method of notifying citizens that projects are available for review and how to achieve broader public participation in these projects; and the idea of a work group exchange.

Denise Landstedt of the Rancho California Water District gave a presentation about the Upper Santa Margarita Watershed Planning Region.

Ms. Landstedt responded to Board inquiries about the percentage of stakeholders that are recreational users; how the Rancho California Water District had implemented and maintained a stakeholder relationship with the Native American communities in the area; what impact the agricultural community had had on their planning strategies; and what they were doing to develop local sources.

Mark Stadler of the San Diego County Water Authority, Manager of the San Diego IRWM Program, spoke about the San Diego Funding Area Coordinating Committee.

The Board questioned Mr. Pech regarding communication concerns with the Tri-Pac(?)—the three funding groups in San Diego county.

Michael Beanan, Vice President of the South Laguna Civic Association, made comments about the Integrated Watershed Management Plan and its impacts on the Aliso Watershed.

*The Board recessed for lunch and Closed Session at 11:20 a.m. and reconvened at 12:40 p.m.*

**Item 7** – NPDES Permit Reissuance: South Orange County Waste Authority, Discharges to the Pacific Ocean via San Juan Creek Ocean Outfall, Orange County (Tentative Order No. R9-2012-0012, NPDES No. CA0107417) (*Joann Lim*).

After the Chair opened the public hearing, staff (Joann Lim) made a presentation about the proposed order.

Brennon Flahive of the South Orange County Wastewater Authority (SOCWA) commented on the proposed order.

The Board questioned staff and SOCWA about the proposed order.

Richard Gardner of South Coast Water District commented on the proposed order.

Penny Elia of the Sierra Club commented on the proposed order.

The Board questioned SOCWA further about the proposed order.

The Chair closed the public hearing. After Board deliberation, a motion was made by Dr. Abarbanel and seconded by Mr. Strawn to adopt the Order. A vote was taken and all the Board members present unanimously adopted the Order.

**Item 8** – NPDES Permit Reissuance: South Orange County Waste Authority, Discharges to the Pacific Ocean via Aliso Creek Ocean Outfall (Tentative Order No. R9-2012-0013, NPDES No. CA0107611) (*Joann Lim*).

After the Chair opened the public hearing, staff (Joann Lim) made a presentation about the proposed order. Staff and presenters incorporated some portions of their presentations on Item 7 into the record for Item 8 to avoid repetition.

Brennon Flahive of SOCWA commented on the proposed order.

Michael Beanan of the South Laguna Civic Association commented on the proposed order.

Richard Gardner of Capistrano Beach commented on the proposed order.

Rick Wilson of Surfrider Foundation, San Clemente, commented on the proposed order.

Penny Elia of the Sierra Club commented on the proposed order.

David Pedersen, Executive Director or Operations for Irvine Ranch Water District, commented on the proposed order.

Tom Rosales, General Manager of SOCWA, commented on the proposed order.

The public hearing was closed. After Board deliberation, a motion was made by Mr. Morales and seconded by Mr. Strawn to adopt the Order. A vote was taken and all the Board Members present unanimously adopted the Order.

**Item 9** – *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. *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 Dischargers 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. *South Orange County Wastewater Authority and South Coast Water District v. San Diego Regional Water Quality Control Board*, Petition for Writ of Mandate. Los Angeles Superior Court, Case No. BS133238 (Mandatory Minimum Penalties) (filed April 2010) (*Joann Lim*).
- e. *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*).

- f. *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*).
- g. *South Orange County Wastewater Authority and South Coast Water District v. San Diego Regional Water Quality Control Board*, Petition for Writ of Mandate. Orange County Superior Court Case No. 30-2011-00501106 (Refusal to Modify NPDES Permit) (filed August 2011) (*Kristin Schwall*).
- h. *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*).
- i. *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 the 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)*.
- j. *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 the Commission on State Mandates, No. 11-TC-03 (filed November 2011) (Catherine George Hagan)*.

**Petitions for Review Pending Before State Water Resources Control Board<sup>1</sup>**

- k. Petitions of the National Fireworks Association and Fireworks & Stage FX America Inc., Coastal Environmental Rights Foundation, and San

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<sup>1</sup> 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](mailto:chagan@waterboards.ca.gov) or 858-4667-2958 for more information.

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*).

- l.* 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*).
  
- m.* 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*).
  
- n.* 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*).

This Closed Session was held, and the Board discussed items *a* and *h*.

**Item 10** – *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 concerning matters within its jurisdiction or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)] (*David Gibson*).

This Closed Session was not held.

**Item 11** – *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 12** – *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 13** – Arrangements for Next Meeting and Adjournment

Wednesday, May 9, 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 3:00 p.m.

These minutes were prepared by:

Signed by:

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Chris Witte  
Executive Assistant

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David Gibson  
Executive Officer