

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

MINUTES OF MEETING
FEBRUARY 13, 2013

At 9:00 a.m., Vice Chairman Strawn 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, Julie Chan, David Barker, Jeremy Haas, Frank Melbourn, Eric Becker, Chiara Clemente, Rebecca Stewart, Bruce Posthumus, Barry Pulver, Darren Bradford, Kelly Dorsey, Wayne Chiu, Mike Porter, Sean McClain, Ben Neill, Alan Monji, John Odermatt, Tony Felix, Chris Means, Amy Grove, John Anderson, Cynthia Gorham, Bea Griffey, Fisayo Osibodu, Jody Ebsen, Phil Moskal, Debbie Woodward, Deborah Jayne, Michelle Mata, Chad Loflen, Sheila Christine McQuaid-Moran, Charles Cheng, Melissa Valdovinos, Joann Lim.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Frances Spivy-Weber, Cris Carrigan, Catherine Hagan. California Court Reporters – Russell Walker.

Public Attendance: Erik Basil; Magdalena Cerda, EHC; Leticia Ayala, EHC; Laura Hunter, EHC; Tim Stebbins, City of San Diego; Steve Strapac, Poway; Steve Meyer, City of San Diego; Roger Bailey, City of San Diego; Eric Elson, SDSU Research Foundation; Mike Welch; Tracy Cline, San Diego County; Gladys Gonzalez, San Diego County; Oscar Romo, UCSD/Tia RT; Jennifer Hazard, Alta Terra; Jill Witkowski, San Diego Coastkeeper, Travis Pritchard, San Diego Coastkeeper.

Item 2 – Public Forum

Magdalena Certa and Laura Hunter, of the Environmental Health Coalition, addressed the Board regarding the channelization of the Rio Alamar.

Erik Basil, Chair of the Los Peñasquitos Canyon Citizens Advisory Committee, and Travis Pritchard, Water Quality Lab Manager for San Diego Coastkeeper, spoke regarding erosion and silting impact on Los Peñasquitos Lagoon.

Mr. Strawn invited Ms. Hagan to provide the Board with an update about enactment of SB 965, allowing ex parte communication for general orders, and Ms. Hagan provided the update.

Jill Witkowski, Waterkeeper for San Diego Coastkeeper, addressed the Board regarding improved public access to Board meetings through webcasts and allowing video testimony.

Item 3 – Minutes of Board Meeting: December 12, 2012.

Mr. Morales moved that the minutes be approved, and the motion was seconded by Ms. Kalemkiarian. The minutes were approved by unanimous 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 provided an update on the budget and State Board matters.

Mr. Strawn spoke regarding recent meetings with the Board Members, the Executive Officer, and various municipal officials as part of the San Diego Water Board's Practical Vision.

Mr. Gibson followed up on Mr. Strawn's report, and he addressed other items in the Executive Officer's written report. He also provided an update on the location for the March Board meeting.

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 – Waiver of Waste Discharge Requirements: San Diego State University Research Foundation, Coastal Waters Laboratory (Tentative Order No. R9-2013-0005).
(Michelle Mata)

There was Board discussion about the Tentative Order, after which Mr. Morales moved to adopt the Consent Calendar, and Mr. Anderson seconded the motion. The Consent Calendar was adopted by unanimous vote.

A motion to adopt the Consent Calendar was made by Mr. Morales and seconded by Mr. Anderson. The Consent Calendar was adopted by unanimous vote.

Mr. Strawn called a recess at 10:28 a.m. and reconvened the meeting at 10:40 a.m.

Remainder of the Agenda (Non-Consent Items)

Item 6 – Information Item: Briefing on the Enforcement Policy’s Penalty Method. (*Chiara Clemente*)

Cris Carrigan, Director of the Office of Enforcement for the State Water Board, provided information regarding the Enforcement Penalty Calculation Methodology.

Item 7 – Information Item: Update on Previous Trash Tracking Studies in the Tijuana River Valley. (*Melissa Valdovinos*)

Oscar Romo, with assistance from Jennifer Hazard-Leonard, provided an update on mapping trash and sediment sources in the Los Laureles and Matadero Canyons.

Mr. Strawn adjourned for lunch and Closed Session at 12:53 p.m. and reconvened the meeting in Open Session at 1:48 p.m.

Item 8 – NPDES Permit Reissuance: City of San Diego, Discharges from South Bay Water Reclamation Plant to the Pacific Ocean via the South Bay Ocean Outfall, San Diego County (Tentative Order No. R9-2013-0006, NPDES Permit No. CA0109045). (*Joann Lim*)

After Mr. Strawn’s opening statement and the administration of the oath, Joann Lim made her presentation.

Roger Bailey, Utilities Director for the City of San Diego, and Steve Myers, Deputy Utilities Director for the City of San Diego commented on the proposed Order.

Mr. Strawn closed the public hearing and called for a motion on the Tentative Order.

Mr. Morales moved to adopt Tentative Order No. R9-2013-0006 with an amendment to errata sheet No. 2 adding a provision that the Board may consider reopening the permit to require the discharger to evaluate costs and values of the monitoring program. The motion was seconded by Mr. Anderson. The Order with errata and the proposed amendment was adopted by a unanimous vote.

Item 9 – Election of Regional Board Chair and Vice Chair for 2013. (*David Gibson*)

Dr. Abarbanel nominated Mr. Morales for Chair. The nomination was approved by a 4-0 vote, with Mr. Strawn abstaining. Mr. Morales then nominated Dr. Abarbanel for Vice Chair. Dr. Abarbanel declined the nomination, but nominated Mr. Strawn for Vice Chair. That nomination was approved by unanimous vote.

Item 10 – *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 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)

- 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*

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.

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 Melbourn*)

- 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 Melbourn*)
- 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*)

This closed session was held, and the Board Members discussed items *a*, *c*, and *d*.

Item 11 - *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 12 - *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 adjudicative 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.

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ERRATA

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(*Joann Lim*)

After Mr. Strawn's opening statement and the administration of the oath, Joann Lim made her presentation.

Roger Bailey, Utilities Director for the City of San Diego, and Steve Myers, Deputy Utilities Director for the City of San Diego commented on the proposed Order.

Mr. Strawn closed the public hearing and called for a motion on the Tentative Order.

Mr. Morales moved to adopt Tentative Order No. R9-2013-0006 with **both errata sheets and** an amendment to errata sheet No. 2 adding a provision that the Board may consider reopening the permit to require the discharger to evaluate costs and values of the monitoring program. The motion was seconded by Mr. Anderson. The Order with errata and the proposed amendment was adopted by a unanimous vote.

Item 13 - *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 14 – Arrangements for Next Meeting and Adjournment:

Wednesday, March 13, 2013 – 9:00 a.m.

Costa Mesa City Hall
City Council Chambers
77 Fair Drive
Costa Mesa, California

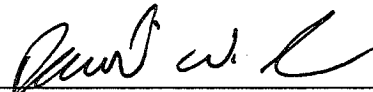
There being no further business, the meeting was adjourned at 3:10 p.m.

These minutes were prepared by:

Signed by:



Chris Witte
Executive Assistant



David Gibson
Executive Officer

