

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

MINUTES OF MEETING  
May 11, 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, and Stefanie Warren.

Staff Present: James Smith, Chris Blank, Julie Chan, John Odermatt, Alex Cali, Fisayo Osibodu, Christina Arias, Deborah Jayne, Jeremy Haas, Betty Fetscher, Wayne Chiu, Sarah Mearon, Brandi Outwin-Beals, Barry Pulver, John Anderson, Dat Quatch, Amy Grove, Roger Mitchell, Alan Monji, David Barker, Chad Loflen, Eric Becker, Lori Costa, Kelly Dorsey, Michelle Mata, Kelly Flint, Craig Carlisle, Frank Melbourn, Chehreh Komyelyan, Cynthia Gorham, Chiara Clemente, Debbie Woodward. Chris Means and Mike Porter attended remotely.

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

Public Attendance: Michael Welch; James Craft; Jessica Palmer, U.S. Navy; Ed Modiano.

**Item 2** – Public Forum

There were no Public Forum items.

**Item 3** – Minutes of Board Meeting: March 9, 2016:

Mr. Strawn moved to approve the minutes, 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.

**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 provided an update on State Board activities and upcoming items that are relevant to Region 9 and responded to Board Member questions and comments.

Mr. Smith responded to Board Member questions and comments regarding the Executive Officer's Report.

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

Dr. Abarbanel requested the formation of a subcommittee to explore the use of modern remote sensors in monitoring and compliance applications.

Chairman Abarbanel adjourned the Public Meeting for the Closed Session at 10:00 a.m., and Ms. Hagan indicated that the Board would discuss Item 6(i) and then move on to Item 8(a).

**Item 6** – *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 Board<sup>1</sup>**

- i. *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 San Diego Coastkeeper/Coastal Environmental Rights Foundation, Rancho Santa Margarita, City of Laguna Hills, County of Orange and Orange County Flood Control District, City of Mission Viejo, City of Laguna Niguel, Riverside County Flood Control and Water Conservation District, the County of Riverside and the Cities of Murrieta, Temecula, Wildomar, and Cities of Aliso Viejo, Dana Point, Laguna Beach, San Clemente, and San Juan Capistrano (SWRCB/OCC File A-2456(a) through (l)) (filed December 2015). (Wayne Chiu)*

This Closed Session was held, and the Board Members discussed item 6(i).

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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 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](mailto:catherine.hagan@waterboards.ca.gov) or 619-521-3012 for more information.

**Item 7 - 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 8 – 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)].

- a. ACL Complaint No. R9-2015-0110 for Administrative Civil Liability against San Altos-Lemon Grove, LLC, for \$848,374 for violations of State Water Resources Control Board Order No. 2009-0009-DWQ, as amended. The San Diego Water Board will 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 item is subject to previously issued hearing procedures and deadlines. (*Beatrice Griffey*)

This Closed Session was held.

**Item 9 - 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.

Chairman Abarbanel reconvened the Public Meeting at 3:10 p.m.

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

These minutes were prepared by:

Signed by:

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Chris Blank  
Executive Assistant

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James Smith  
Assistant Executive Officer