

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
200 Civic Center
Council Chambers
Mission Viejo, California

MINUTES OF MEETING
APRIL 9, 2014

At 9:00 a.m., Acting Chairman Strawn called to order the meeting of the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) at the City Council Chambers, City of Mission Viejo, Mission Viejo, California. Dr. Abarbanel participated electronically from the publicly noticed location (Hahndorf Oak Tree Cottages, 47 Main Street, Hahndorf, Adelaide, 5245 Hahndorf, Australia) for a portion of the meeting.

Item 1 – Roll Call and Introductions

Board Members present: Eric Anderson, Gary Strawn, and Stefanie Warren. Absent: Sharon Kalemkarian, Tomas Morales. Attending Remotely: Henry Abarbanel. Remote participation was intermittent and a quorum was not established. Remote participation was terminated entirely at 11:00 a.m. The Board members present proceeded with information items.

Staff Present: David Gibson, James Smith, Chris Blank, Vinty Siev, Bruce Posthumus, Chad Loflen, Jeremy Haas, Laurie Walsh, Vicente Rodriguez, Julie Chan, Craig Carlisle, Brandi Outwin-Beals, Carey Nagoda, Dave Barker, Eric Becker.

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

Public Attendance: Tracy Ingebrigtsen, City of Laguna Beach; Ruth Kolb, City of San Diego; Rick Wilson, Surfriider; John Hamil, DVM, Laguna Canyon Property Owners Association; Shaun Halvax, BAE Systems; Jill Tracy, SDG&E; Roger Butow, Clean Water Now; James Handmacher, Campbell Industries; Mike Beanan, Laguna Bluebelt Coalition; Mike Fennessy, Orange County Public Works – Watersheds; Robert Stone, Quantum Ozone, Inc.; Emma Sakaguchi, Quantum Ozone, Inc.; Pete Shuffer; Lisa Zawaski, City of Dana Point; Mary Vondrak, City of San Clemente; Brennon Flahive, South Orange County Wastewater Authority (SOCWA); Richard Gardner, Watershed Associate; Moy Yahya, Aliso Viejo/Laguna Woods/Rancho Santa Margarita; Bryn Evans, Dudek; Michael Stephens, California State Parks, Laurie Dietz, resident of Capobeach; Penny Elia, Sierra Club, Ziad Mazboudi, City of San Juan Capistrano; Mike Chee, NASSCO; Bob Kilpatrick, BAE Systems; Ellen Gross, San Diego Unified Port District; Fritz Ortlieb, City of San Diego; Kristin Reyna, City of San Diego; Larry Honeybourne, County of Orange Health Care Agency; Kelly Richardson, Latham & Watkins; Mike Tracy, BAE Systems.

Item 2 – Public Forum

Dr. John Hamil, Vice President of the Laguna Canyon Property Owners Association, and Roger Butow, Founder and Executive Director of Clean Water Now, expressed concern regarding deficiencies in the water quality management plan and anticipated discharges to ground water related to the Laguna Canyon development project.

Laurie Dietz and Penny Elia addressed flooding and water conservation issues in Capo Beach and the nexus between water conservation and water quality.

Mr. Gibson and Laurie Walsh of the Board staff, Tracy Ingebrigtsen, Senior Water Quality Analyst for the City of Laguna Beach, and Ziad Masboudi of the City of San Juan Capistrano, responded to the concerns of Dr. Hamil, Mr. Butow, Ms. Dietz, and Ms. Elia.

Michael Beanan of the Laguna Bluebelt Coalition spoke about the Kelp Festival to be held on April 26, 2014, on the main beach at Laguna Beach. He also spoke about the importance of bringing recycled water to the City of Laguna Beach.

Item 3 – Minutes of Board Meeting: February 12, 2014

Adoption of the minutes was postponed.

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 spoke about the agenda for the Chairs' meeting to be held on April 11, the State Board's industrial storm water permit adopted April 1, and a series of upcoming funding fairs for stakeholders to find funding for their projects from a variety of federal and State agencies.

Mr. Gibson gave a brief summary of his March 26, 2014, meeting with San Diego Mayor Kevin Faulconer and upcoming staff and Tijuana River Valley Recovery Team events.

Mr. Strawn called a recess at 10:04 a.m. and reconvened the meeting at 10:13 a.m.

Item 5 – Information Item: Status Report on the Shipyards Sediment Cleanup, San Diego Bay. (*Vicente Rodriguez*)

Vicente Rodriguez made the staff presentation and introduced the speakers.

The following people spoke about the cleanup efforts made to date:

- Mike Chee, NASSCO
- Bob Kilpatrick, BAE Systems
- John Handmacher, Campbell Industries
- Ellen Gross, San Diego Port District
- Fritz Ortlieb, City of San Diego
- Kristin Reyna, City of San Diego
- Cris Carrigan, State Water Board, Office of Enforcement

After some discussion, the Board asked that a letter be sent to the responsible parties urging them to complete the project as soon as possible.

Item 6 – Information Item: Review of the Surface Water Ambient Monitoring Program. (*Cynthia Gorham*)

Chad Loflen gave the staff presentation and responded to Board member questions and comments.

The following people commented on the item:

- Michael Beanan, South Laguna Civic Association
- Richard Gardner, resident of Capo Beach

Item 7 – Public Workshop: Workgroup Recommendation for a Unified Beach Water Quality Monitoring and Assessment Program in South Orange County. (*Bruce Posthumus*)

Bruce Posthumus gave the staff presentation and responded to Board questions.

The following people commented on the item:

- Brennon Flahive, South Orange County Wastewater Authority
- Mike Fennessy, Orange County Public Works – Orange County Watersheds
- Larry Honeybourne, County of Orange Health Care Agency
- Penny Elia, Sierra Club
- Rick Wilson, Surfrider
- Roger Butow, Clean Water Now
- Michael Beanan, South Laguna Civic Association

Ms. Hagan stated that the Board would not discuss any litigation items but would discuss the performance evaluation of the Executive Officer under Government Code section 11126(a) in Closed Session.

Mr. Strawn broke for lunch and Closed Session at 1:15 p.m. and Closed Session began at 1:30 p.m. The open meeting was reconvened at 1:49 p.m.

Item 8 – 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:

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). (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). (Catherine George Hagan)*
- f. *City of San Diego v. California Regional Water Quality Control Board, San Diego Division, SFPP, L.P., A Delaware Limited Partnership, and Kinder Morgan Energy Partners, L.P., A Delaware Limited Partnership, Real Parties-in-Interest. Petition for Writ of Administrative Mandamus. San Diego County Superior Court, Case No. 37-2013-00047614-CU-WM-CTL (filed May 2013). (Ben Neill)*

Petitions for Review Pending Before State Water Resources Control Board¹

- g. *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)*
- h. *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)*
- i. *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)*
- j. *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)*
- k. *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 catherine.hagan@waterboards.ca.gov or 619-521-3012 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*)

- l.* 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-2205(a), filed April 2012. (*Frank Melbourn*)
- m.* 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*)
- n.* Petition of City of San Diego for Review of Resolution No. R9-2012-0045, re Authorizing Executive Officer to Increase Daily Average Discharge Flow Rate Limitation under Order No. R9-2008-0002 [NPDES No. CAG919002] for the Kinder Morgan Energy Partner's Mission Valley Terminal Remediation Dewatering Discharge to Murphy Canyon Creek, June 13, 2012, SWRCB/OCC File A-2222, filed July 2012. (*Ben Neill*)
- o.* 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 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. (*Wayne Chiu*)
- p.* Petition of Foothill/Eastern Transportation Corridor Agency for Review of Action and Failure to Act, in Connection with Waste Discharge Requirements (Tentative Order No. R9-2013-0007) for the Tesoro Extension Project, Orange County, June 19, 2013, SWRCB/OCC File A-2259, filed July 2013. (*Darren Bradford*)

- q. Petition of San Diego United Port District, Waste Discharge Requirements Order No. R9-2013-0093 for San Diego Shipyard Sediment Remediation Project, San Diego Bay, San Diego County, July 10, 2013, SWRCB/OCC File A-2263, filed August 2013 (stay requested). (*Kelly Dorsey*)

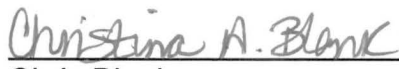
- r. Petition of Donan Environmental Services, Inc., Cleanup and Abatement Order No. R9-2013-0022 at the Site of the Former Santa Ysabel Chevron Station, 30350 Highway 78, Santa Ysabel, San Diego County, September 18, 2013, SWRCB/OCC File A-2277, filed October 2013. (*Sean McClain*)

In Closed Session, the Board discussed Executive Officer performance pursuant to Government Code section 11126(a). No action was taken.

There being no further business, the meeting was adjourned at 1:50 p.m.

These minutes were prepared by:

Signed by:



Chris Blank
Executive Assistant



David Gibson
Executive Officer