

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
2375 Northside Drive, Suite 100
San Diego, California

MINUTES OF MEETING
JUNE 26, 2014

At 9:00 a.m., Chairman Abarbanel called to order the meeting of the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) at the Regional Water Quality Control Board, 2375 Northside Drive, San Diego, California.

Item 1 – Roll Call and Introductions

Board Members present: Henry Abarbanel, Eric Anderson, Tomás Morales, and Gary Strawn. Stefanie Warren arrived at 9:04 a.m., and Sharon Kalemkarian arrived at 9:09 a.m.

Staff Present: David Gibson, James Smith, Chris Blank, Julie Chan, Craig Carlisle, John Odermatt, Roger Mitchell, Leah Canada, Heather Webb, Barry Pulver, Fisayo Osibodu, Alex Cali, Rebecca Stewart, John Anderson, Darren Bradford, Chiara Clemente, Kelly Dorsey, Cleo Munoz, Chad Loflen, Ben Neill, Jody Ebsen, Cynthia Gorham, Alan Monji, Kristin Schwall, Michelle Mata, Joann Lim, Debbie Woodward, Brandi Outwin-Beals, Bruce Posthumus, David Barker, Laurie Walsh, Jeremy Haas, Lucas Lima, Lori Costa, Amy Grove, Sheila Christine McQuaid-Moran, Alex Smith, Kimberly McMurray-Cathcart, Brian Kelley.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Catherine Hagan, Nathan Jacobsen, Julie Macedo. California Court Reporting – Marlee Nelson.

Public Attendance: Eva Salazar, resident of Escondido; Carolina Valder, resident of Escondido; Steven McDonald, Chatham Site PRP Group; Clell "Bud" Swanson; Cynthia Mallett, City of Oceanside; Justin Gamble, City of Oceanside; Katie Greenwood, City of Oceanside; Tina Iki, resident of Escondido; Fred Progner, resident of Escondido; Ron Forster, resident of Escondido; Steve Smullen, USIBWC; Mark Bonsavage, CPEN; Kevin Heck, DEN; Jesse Castro, Paul Hartman, City of Oceanside; Matt O'Malley, San Diego CoastKeeper; Bryn Evans, Dudek; Mo Lahsaie, City of Oceanside; Alexandra Shaggan, Law Office of Alexandra Shaggan; Tim Stebbins, City of San Diego; Ruth Kolb, City of San Diego; Fred Jacobsen, SDG&E; Marilyn O'Neill, Nautilus Environmental; Amelia Whitson, USEPA; Peter Martin, City of San Diego; Jack Monger, IEA.

Item 2 – Public Forum

Because her firm has performed work on the Chatham Brothers Barrel Yard site discussed during the Public Forum, Ms. Warren recused herself from the dais during this time.

The following persons commented on the Chatham Brothers Barrel Yard plume in Escondido:

- Eva Salazar, resident
- Carolina Valder, resident
- Tina Iki, resident
- Laura Hunter, resident
- Ed Modiano, Project Coordinator for the PRP Group
- Board staff and Office of Enforcement counsel Julie Macedo also provided information.

The Board directed the Executive Officer to schedule this discussion as an information item at a future Board meeting and to convene a working group consisting of homeowners, stakeholders, and the Department of Toxic Substances Control (DTSC) to advance the discussion. This discussion may result in an action item to be brought before the Board.

Item 3 – Minutes of Board Meetings: May 14, 2014; May 27, 2014

Mr. Anderson moved to adopt the minutes, and Mr. Strawn seconded the motion. Dr. Abarbanel and Mr. Morales abstained from voting on the minutes from May 27, 2014, as they did not attend the meeting. Both sets of minutes were approved by unanimous vote by those who participated in each meeting.

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.

The State Water Board liaison was not present.

Mr. Gibson announced that the new State budget had been passed by the legislature and signed by the Governor. Mr. Gibson also introduced new staff members and announced that Chad Loflen had been promoted to Senior Environmental Scientist. In addition, he stated that the Budget Change Proposal (BCP) for an international border liaison has received initial approval, and that Region 9 would share that position with Region 7 if it receives final approval for fiscal year 2015-2016. Finally, Mr. Gibson stated that he would be attending a meeting of the full Tijuana River Valley Recovery Team on August 27 and an Alternative Compliance Options Forum on July 17.

Dr. Abarbanel reported on the Board's evaluation of Mr. Gibson's performance as Executive Officer and their recommendations to the State Board based on that performance evaluation.

Item 8 – Future Agenda Items: Board Members may discuss items for possible inclusion on future agendas. No action will be taken. (*David Gibson*)

Dr. Abarbanel took Item 8 out of order, and Mr. Morales asked for periodic updates regarding staff's activities on behalf of the Board regarding environmental justice. In response to that request, Ms. Kalemkarian provided an update on her meeting with staff on May 15 seeking suggestions for community outreach activities.

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 – Master Reclamation Permit Revision: An Addendum to Incorporate Requirements for Recycled Water Use at New Reuse Sites and Modifying Discharge Specifications for Several Chemical Constituents, Master Reclamation Permit for Southern Regional Tertiary Treatment Plant, United States Marine Corps, Camp Pendleton, San Diego County (Tentative Addendum No. 1 to Order No. R9-2009-0021). (*Alex Cali and Fisayo Osibodu*)

Item 6 – Public Hearing – NPDES Permit Reissuance: United States Department of the Navy, Naval Base Point Loma Complex, San Diego County (Tentative Order No. R9-2014-0037, NPDES No. CA0109363). (*Kristin Schwall and Ben Neill*)

As there were no objections, and the only speaker request was in support, Dr. Abarbanel moved Item 6 to the Consent Calendar.

A motion to adopt the Consent Calendar was made by Ms. Kalemkarian and seconded by Mr. Strawn. The Consent Calendar was adopted by unanimous vote.

Remainder of the Agenda (Non-Consent Items)

Item 7 – Public Hearing – NPDES Permit Reissuance for the U.S. International Boundary and Water Commission, South Bay International Wastewater Treatment Plant, San Diego County (Tentative Order No. R9-2014-0009, NPDES No. CA0108928). (*Joann Lim and Ben Neill*)

Joann Lim gave the staff presentation and responded to Board questions. Also responding to questions from the Board were Michelle Mata and Ben Neill.

The following stakeholders commented on the Tentative Order:

- Steve Smullen, Area Operations Manager, USIBWC
- Amelia Whitson, Pretreatment Coordinator, USEPA Region 9

Ms. Kalemkiarian moved to adopt Tentative Order No. R9-2014-0009, NPDES No. CA0108928 with errata, and the motion was seconded by Mr. Morales. Order No. R9-2014-0009, NPDES No. CA0108928 was adopted by unanimous vote.

Dr. Abarbanel called a brief recess at 10:55 a.m. and reconvened the meeting at 11:15 a.m.

Item 9 – Resolution of Commitment to an Alternative Process for Achieving Water Quality Objectives for Biostimulatory Substances in Loma Alta Slough, San Diego County (Resolution No. R9-2014-0020). (*Barry Pulver and Chad Loflen*)

Barry Pulver gave the staff presentation and responded to Board questions.

The following stakeholders commented on the Tentative Resolution:

- Mo Lahsaie, City of Oceanside
- Cynthia Mallett, City of Oceanside

A motion to adopt Resolution No. R9-2014-0020 was made by Mr. Anderson, seconded by Mr. Morales, and adopted by unanimous vote.

Dr. Abarbanel adjourned for lunch at 11:46 a.m., and Ms. Hagan stated that during Closed Session, the Board would discuss Item 12(f). The open meeting reconvened at 1:00 p.m.

Dr. Abarbanel stated that Items 10 and 11 would be taken together.

Item 10 – Negative Declaration Approval: Resolution to Approve a Negative Declaration and Initial Study Regarding Potential Environmental Impacts Associated with the Adoption of Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Resolution No. R9-2014-0042). (*Roger Mitchell*)

Item 11 – Public Hearing – Conditional Waivers Adoption: Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Tentative Order No. R9-2014-0041). (*Roger Mitchell*)

Roger Mitchell gave the staff presentation and responded to questions from the Board. Mr. Mitchell also presented proposed errata to Tentative Order No. R9-2014-0041.

The following stakeholders commented on the proposed Resolution and the Tentative Order:

- Fred Jacobsen, SDG&E
- Mary Matavo, AgriService, Association of Compost Producers
- Dan Noble, Association of Compost Producers

Mr. Anderson moved to adopt Resolution R9-2014-0042, and the motion was seconded by Mr. Strawn. Resolution R9-2014-0042 was adopted by unanimous vote.

A motion to adopt Tentative Order No. R9-2014-0041 with errata was made by Mr. Strawn and seconded by Mr. Morales. Tentative Order No. R9-2014-0041 with errata was adopted by unanimous vote.

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)

- 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)*
- 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)*
- 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)*
- 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), Campbell Industries, City of San Diego, San Diego*

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.

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, 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), (c), (d), and (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. SWRCB/OCC File A-2254(a)-(p), filed June 2013. (*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). (*Alan Monji*)
- 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*)

This Closed Session was held, and the Board members discussed Item 12(f).

Item 13 – *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)].

This Closed Session was not held.

Item 14 – *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.

Item 15 – *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.

There being no further business, the meeting was adjourned at 1:46 p.m.

These minutes were prepared by:

Signed by:

Chris Blank
Executive Assistant

David Gibson
Executive Officer