

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

MINUTES OF MEETING  
FEBRUARY 8, 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 Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

**Item 1** – Roll Call and Introductions

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

Staff Present: David Gibson, James Smith, Julie Chan, David Barker, Chris Witte; Fisayo Osibodu; Frank Melbourn; John Odermatt; Deborah Jayne; John Anderson; Michelle Mata; Chad Loflen; Ben Neill; Jody Ebsen; Eric Becker; Jeremy Haas; Lori Costa; Barry Pulver; Robert Morris; Chiara Clemente; Chehreh Komeylyan; Sean McClain; Brian Kelley; Joann Lim; Tom Alo; Chris Means;

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

Public Attendance: Laura Hunter, Environmental Health Coalition (EHC); William Plummer, Carlsbad Municipal Water; Ben McCue, WiLD Coast; Steve Smullen, International Boundary & Water Commission (IBWC); Patrick McDonough, City of San Diego; Mike Welch; Bob Scott, URS; Bryn Evans, URS; Clay Phillips, State Parks/Tijuana River National Estuarine Research Reserve (TRNERR); Oscar Romo, TRNERR; Dennis Sperino, City of Escondido; Jim Larzalere, City of Escondido; Gabriela Coverdale, OpenOceans Global; Bill Sherwood, Stone Brewing Company; Yesenia Palomares, Colectivo Chilpancingo; Magdalena Cerda, EHC; Magdalena Ramirez, EHC; David Wells, City of San Diego; Tracy Cline, City of San Diego; Doug Ciden, USEPA; Hernando Duran, Comision Estatal de Servicios Publicos de Tijuana (CESPT); David Pohl, Weston Solutions; Carl Nettleton, OpenOceans Global; Jennifer Hazard-Leonard, NOAA.

**Item 2** – Public Forum

Yesenia Palomares, and Magdalena Cerda, both of the Chilpancingo Collective for Environmental Justice, and Laura Hunter with EHC summarized their submitted written comments regarding the channelization of the Arroyo Alamar.

The Board directed Mr. Gibson to look into and report on the channelization issue at a future meeting.

**Item 3** – Minutes of Board Meeting: October 12, 2011

*This record of the minutes of the meeting on this date is not intended as the official record of events and is solely for administrative convenience. A more detailed account of the proceedings is available upon request, consisting of a tape recording and a court reporter transcribed record. Please contact the San Diego Water Board office for assistance.*

Mr. Destache deferred approval of the October 12, 2011 minutes until the March 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.

Frances Spivy-Weber reported on the budget and upcoming meetings in Sacramento that the Board Members might be interested in attending.

Mr. Destache presented a report on a conference he attended in Los Angeles entitled "The Future of Water in California," put on by UCLA.

There was a discussion between the Board and Ms. Spivy-Weber regarding the water bond in the legislature.

Mr. Gibson discussed the Executive Officer's Report, during which there were several questions from the Board members and an extended discussion regarding the Kinder-Morgan case. The Board expressed interest in receiving a legal memorandum from counsel discussing the regulatory options and addressing this issue in the near future.

Jonathan Bishop presented an update on the Statewide Toxicity Policy.

*Chairman Destache called a ten-minute recess at 10:35 a.m.  
The meeting reconvened at 10:45 a.m.*

**Item 14** – Election of Regional Board Chair and Vice Chair for 2012. (David Gibson)

This item was taken out of order and considered before item 5.

Eric Anderson nominated Grant Destache for another term as Chairman and Gary Strawn as Vice Chairman; George Loveland seconded the nomination. Mr. Destache accepted the nomination.

The motion to select Mr. Destache as Chair and Mr. Strawn as Vice Chair was approved unanimously.

**Item 5** – Approval of Year 2012 Board Meeting Schedule (*David Gibson*)

Mr. Strawn made a motion to approve the schedule with Errata, and Mr. Loveland seconded the motion. The Board voted unanimously to approve the schedule.

***Consent Calendar: Items 6 through 9 are considered non-controversial issues. (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 6 was removed from the Consent Calendar and treated as an action item at the request of Board Member Abarbanel.*

**Item 7** – Update to Master Reclamation Permit: City of San Clemente Water Reclamation Plant, Modifications to Order No. R9-2003-0123 (Tentative Order No. R9-2012-0026) (*Fisayo Osibodu*). This item was postponed.

**Item 8** – NPDES Permit Amendment: City of Escondido, Approval of Local Limits (Tentative Order No. R9-2012-0086) (*Joann Lim*)

**Item 9** – NPDES Permit: Stone Brewery, Brine Discharge to San Elijo Ocean Outfall (Tentative Order No. R9-2012-0006) (*Michelle Mata*)

Mr. Loveland moved approval of Consent Calendar Items 8 and 9. The motion was seconded by Mr. Strawn and approved by unanimous vote.

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

**Item 10** – Informational Item: Comision Estatal de Servicios Publicos de Tijuana (CESPT) will provide an update on sewage treatment operations south of the international border. (*Bob Morris and Bart Christensen*)

Hernando Duran, CSEPT, made a Power Point presentation regarding sewage treatment operations in Tijuana.

**Item 12** – Resolution of Appreciation for OpenOceans Global's Contribution to and Leadership of the Tijuana River Valley Recovery Team (Tentative Resolution No. R9-2012-0029) (*Charles Cheng*)

Mr. Gibson expressed his pleasure that the Board could present this Resolution in appreciation to OpenOceans Global and to Carl Nettleton and Gabriela Cloverdale.

Mr. Destache read the Resolution. Mr. Loveland moved approval of the Resolution. Mr. Morales seconded the motion. The Board voted unanimously to adopt the Resolution. The Resolution was presented to Mr. Nettleton

Mr. Nettleton thanked the Board and other agencies for their support and for making the Recovery Team possible, and he thanked the members of the Recovery Team themselves for their efforts and their participation.

*The meeting recessed for lunch at 11:30 a.m.* Prior to recessing for lunch, legal counsel announced that the board would meet in closed session during lunchtime to discuss Items 15 a-m and announced that the panel of the San Diego Water Board that conducted hearings on the Shipyard Sediment Matter would continue its deliberations in closed session pursuant to Item 17.

**Item 15** - *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]

**Civil Actions**

- 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. *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, Petition for Writ of Mandate. Orange County Superior Court, Case No. 30-2010-00364016-CU-WM-CXC (filed April 2010) (Joann Cofrancesco)*
- 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. *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). (Jessica Newman)*
- i. *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 Board<sup>1</sup>**

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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 858-467-2958 for more information.

- j.* 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*)
- k.* 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*)
- l.* 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*)
- m.* 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.

**Item 16** – *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 against persons who are alleged to have violated the Porter-Cologne Water Quality Control Act or the federal Clean Water Act or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)]

This Closed Session was not held.

**Item 17** – *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 held as announced by legal counsel prior to lunchtime recess.

**Item 18** – *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.

*The meeting reconvened at 1:25 p.m.*

**Item 11** – Informational Item: Update on efforts by the Tijuana River Valley Recovery Team (*David Gibson*)

Mr. Gibson introduced the members of the Recovery Team that had presentations to make.

Clay Phillips, TRNERR, provided some background on the State Parks/TRNERR programs and its role in the TRVRT.

Bryn Evans, URS, provided some background on the development of the recovery strategy document, the purposes, and the desired outcomes of the recovery strategy.

Ben McCue, WiLDCOAST, gave a presentation about local community engagement and cleanup efforts in the Tijuana River Valley and Imperial Beach area.

Jennifer Hazard-Leonard, NOAA, gave a presentation about a trash-tracking study in the Los Laureles Canyon sub-basin area.

Oscar Romo, NOAA, gave a presentation about the topographical conditions and restoration projects in Tijuana.

David Wells, City of San Diego, gave a presentation regarding the trash and sediment characterization and removal in the Tijuana River Valley.

Steve Smullen, IBWC, spoke regarding the Boundary Commission's ongoing support of the Tijuana Valley Recovery strategy. He also addressed the IBWC's current plans to excavate and clean out approximately 60,000 cubic yards of sediment from their flood control project, stockpile it, and possibly use it on Imperial Beach in the following year. They are also in the process of installing a

telemetry system so that flows that come across the border can be monitored and the data provided to others for their use.

**Item 13** – Resolution Endorsing the Tijuana River Valley Recovery Team’s Recovery Strategy (Tentative Resolution No. R9-2012-0030) (*Charles Cheng*)

Mr. Strawn moved approval of the Resolution to endorse the Tijuana River Valley Recovery Team’s Recovery Strategy and seek funding up to \$2 million. Mr. Loveland seconded the motion. The Board voted unanimously to adopt the Resolution.

The Board suggested that the Executive Officer should look into adding additional staff to the San Diego Regional Water Quality Control Board to assist the Executive Officer in the effort.

**Item 6** – Update to Master Reclamation Permit: Carlsbad Municipal Water District, Carlsbad Water Recycling Facility, Modifications to Order No. 2001-352 (Tentative Order No. R9-2012-0027) (*Fisayo Osibodu*). This item was pulled from the Consent Agenda for board discussion and consideration following all other items. The Board expressed concern about groundwater contamination, particularly about the uptake of iron and manganese by vegetation. Mike Welch, a consultant with the City of Carlsbad and staff responded to board member questions.

Dr. Abarbanel made a motion to pass the Order with Errata. Mr. Loveland seconded the motion. The Board voted unanimously to adopt the Order.

**Item 19** – Arrangements for Next Meeting and Adjournment  
Wednesday, March 14, 2011 - 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 3:40 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