

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

MINUTES OF MEETING  
SEPTEMBER 12, 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, Gary Strawn, Henry Abarbanel, Eric Anderson, George Loveland, Tomas Morales, and Gary Strawn.

Staff Present: David Gibson, James Smith, Chris Witte, John Odermatt, Fisayo Osibodu, Bob Morris, Chiara Clemente, Rebecca Stewart, Laurie Walsh, Chris Means, Michelle Mata, Alan Monji, Jeremy Haas, Brian Kelley, Carey Nagoda, Frank Melbourn, Craig Carlisle, Sean McClain, Chad Loflen, David Barker, Julie Chan, Wayne Chiu, Charles Cheng, Eric Becker, Sheila Christine McQuaid-Moran, Lori Costa, Jody Ebsen, Amy Grove, John Anderson, Roger Mitchell, Barry Pulver, Deborah Jayne, Cynthia Gorham, Bruce Posthumus, Kelly Dorsey, Joann Lim.

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

Public Attendance: Nick Doenges, San Diego Coastkeeper; Vasana Vipatapat, City of Escondido; Cynthia Esparza, City of Escondido; Tom Lambert, County of San Diego; Adrianna Kripke, San Diego Gas & Electric; Hasim Navrozali, San Diego Gas & Electric; Michael Mistra, County of Riverside.

**Item 2** – Public Forum

Nick Doenges, Student Attorney with San Diego Coastkeeper, spoke about ways that the Board could improve its website, including better access to public records, more prominent posting of public notices and deadlines for comments, and posting of facilities-specific information.

**Item 3** – Minutes of Board Meeting: August 8, 2012.

*The 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.*

The adoption of the minutes was postponed until the next 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.

Fran Spivy-Weber provided an update on State Board matters, the budget, and the upcoming WQCC meeting.

After Mr. Gibson’s report, Chiara Clemente provided an overview of the purpose and function of the Compliance Assurance Unit.

*Mr. Destache recessed the meeting at 10:07 a.m. and reconvened at 10:20 a.m.*

**Item 5** – Information Item: Update on the State Water Board’s Policy for Onsite Wastewater Treatment Systems (*Fisayo Osibodu*).

Julie Chan provided an introduction to Fisayo Osibodu’s presentation.

Tom Lambert of San Diego County presented some remarks.

**Item 6** – NPDES Permit Reissuances: San Diego Gas and Electric Company, Palomar Energy Center, Discharge of Cooling Tower Blowdown and Low Volume Wastes to the Pacific Ocean via the San Elijo Ocean Outfall (Tentative Order No. R9-2012-0015, NPDES No. CA0109215) (*Michelle Mata*).

After Chair Destache’s opening statement, Michelle Mata made her presentation.

Fred Waller of the Palomar Energy Plant answered Board Members’ questions regarding the plant’s storm water management plan.

Aдриanna Kripke, Senior Counsel for SDG&E, commented on the proposed order.

Mr. Anderson moved to adopt the Order with Errata, and the motion was seconded by Dr. Abarbanel. The Board adopted the Order by a unanimous vote.

*Mr. Strawn recessed for lunch and Closed Session at 12:00 p.m. and reconvened the meeting at 12:40 p.m.*

**Item 7** - *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. *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. *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*)
- e. *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*)

- f. *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)*
- g. *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 Jahr)*
- h. *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>**

- i. *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)*
- j. *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)*
- k. *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)*

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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.

- l.* 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*)
- m.* 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 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-XXXX, filed April 2012. (*Frank Melbourn*)
- n.* 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*)
- o.* 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-XXXX, filed May 2012. (*Joann Lim*)
- p.* 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*)

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

**Item 10** - *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 11** - *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 12** - *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 13** – Arrangements for Next Meeting and Adjournment:

Tuesday, November 13, 2012 – 9:00 a.m.  
City of San Diego Public Utilities Department Wastewater Branch  
Auditorium  
9192 Topaz Way  
San Diego, California

There being no further business, the meeting was adjourned at 12:40 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