

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

MINUTES OF MEETING
MAY 14, 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, Sharon Kalemkarian, Tomás Morales, Gary Strawn, and Stefanie Warren.

Staff Present: David Gibson, James Smith, Chris Blank, Dave Barker, Julie Chan, Jeremy Haas, Eric Becker, Christina Arias, John Odermatt, Chad Loflen, Joann Lim, Brandi Outwin-Beals, Lori Costa, Ben Neill, Alan Monji, Wayne Chiu, Mike Porter, Helen Yu, Brian Kelley, Roger Mitchell, Rebecca Stewart, Bruce Posthumus, Chris Means, Barry Pulver, Debbie Woodward, Kimberly McMurray-Cathcart, Frank Melbourn, Chiara Clemente, Darren Bradford, Craig Carlisle, Alex Smith, Michelle Mata, Melissa Valdovinos, Fisayo Osibodu, Amy Grove, Alex Cali, Phil Moskal, Jody Ebsen, Lisa Honma, Leah Canada.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Fran Spivy-Weber, Cris Carrigan, Paul Hann, Catherine Hagan, Nathan Jacobsen. California Court Reporting – Johnell Gallivan.

Public Attendance: Borre Winkel, BIA; Jo Ann Weber, County of San Diego; Stephanie Gaines, County of San Diego; Jaime Campos, City of El Cajon; Cecilia Tipton, City of Santee; Joe Kuhn, City of La Mesa; Clem Brown, City of San Diego; Ken Johansson, CalTrans; Kevin McKernan, San Diego River Conservancy; Terry Powers, Environmental Consultant; Rob Hutsel, San Diego River Park Foundation; Eileen Maher, Port of San Diego; Matt O'Malley, Coastkeeper; Falk Federsen, Scripps Institute of Oceanography, UCSD; Julia Chunn-Heer, Surfrider, San Diego; Sarah Giddings, Scripps Institute of Oceanography, UCSD; Tim Stebbins, City of San Diego; Heather Stroud, City of San Diego; Dan Noble, Association of Compost Producers; Roger Butow, Clean Water Now; Steve Beck, Ninyo & Moore; Brian Stalker, California Department of Resources, Recycling, and Recovery (CalRecycle); Renee Robertson, City of San Diego; Mary Matava, AgriService; Stephen Neudecker, Resource Balance, Inc.; Dennis Davies, City of El Cajon; Royn Yasdiniford, CalTrans; Drew Kleis, City of San Diego; Kyle Dayton, County of San Diego; Lisa Poston, City of San Diego; Steve Smullen, USIBWC; Alex Shaygar, Coastkeeper; Jeff O'Connor, Homefed; Paloma Aguirre, WiLDCOAST; Bryn Evans, Dudek; James O'Day, County of San Diego; Dave Renfrow, Alta Environmental; Bud Swanson; Soumya Chennapragada, NVS; Erik

Steenblock, City of Encinitas; Peter Martin, City of San Diego; Aldo Licitra, City of Temecula; Hani Anthony, City of San Diego; Ankita Vyas, RBF; Ruth Kolb, City of San Diego; Fred Jacobsen, SDG&E; Eugene Anderson, CPEN; Tim Klein, Balfour Beatty Construction; Amanda Buy, City of San Diego; Paul Ryan, CRRS/EPA; Mike McSweeney, Qualcomm.

Item 2 – Public Forum

Borre Winkel of BIA spoke about a workshop scheduled for May 15, 2014, in the SDRWQCB offices to discuss implementation of and compliance with the MS4 permit.

Item 3 – Minutes of Board Meetings: February 12, 2014; April 9, 2014

Mr. Anderson moved to adopt the minutes, and Mr. Strawn seconded the motion. The minutes were approved by unanimous vote.

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 discussed the agenda for the Water Quality Coordinating Committee (WQCC) scheduled for October 1-3, 2014, and the State budget.

Ms. Warren reported on the Chairs' meeting that occurred in Sacramento on April 11, 2014.

Mr. Morales reported on a summit he attended in Tijuana regarding the draft treaty minute concerning the International Boundary and Water Commission.

Mr. Gibson spoke about the Tijuana River Valley Recovery Team Bi-National Summit scheduled for June 4, 2014; activities taken to address the drought; and ongoing wetlands recovery activities. He also reported on a SCCWRP strategic planning commission meeting on May 1, which he attended as the Board's representative.

Item 5 – Information Item: Status Report on the Development of Amendments to Statewide Water Quality Control Plans to Reduce the Impact of Trash on Surface Waters and Efforts to Abate Trash in the San Diego River Watershed. (*Christina Arias*)

Christina Arias introduced the following copermittees and stakeholders, who outlined their efforts to control trash:

- Paul Hann, State Water Resources Control Board
- Jo Ann Weber, County of San Diego
- Stephanie Gaines, County of San Diego
- Jaime Campos, City of El Cajon
- Cecilia Tipton, City of Santee

- Joe Kuhn, City of La Mesa
- Mike McSweeney, Qualcomm
- Clem Brown, City of San Diego
- Ken Johansson, CalTrans
- Kevin McKernan, San Diego River Conservancy
- Terry Powers, Environmental Consultant
- Rob Hutsel, San Diego River Park Foundation.

Dr. Abarbanel announced that Item 7 would be taken out of order.

Item 7 – Information Item: Briefing on the Statewide Policy on Supplemental Environmental Projects and the Water Quality Enforcement Policy. (*Chiara Clemente*)

Cris Carrigan, Director of Enforcement for the State Water Resources Control Board, provided information regarding the State's policy on Supplemental Environmental Projects (SEPs) and the Water Quality Enforcement Policy.

Dr. Abarbanel called a recess for lunch and Closed Session at 11:54 a.m. Ms. Hagan stated that the Board would discuss personnel matters (Item 14) during Closed Session. The open meeting was reconvened at 1:00 p.m.

Item 6 – Information Item: Update on the Cleanup of the A-8 Anchorage, San Diego Bay, which utilized funding from the State Water Resources Control Board (State Water Board) Cleanup and Abatement Account (CAA). (*Eric Becker*)

Eileen Maher, San Diego Unified Port District, provided an update on the cleanup of the A-8 Anchorage in San Diego Bay, which was achieved, in part, due to funding from the State Water Board's Cleanup and Abatement Account.

Item 8 – Tentative Resolution: Resolution Clarifying the Civil Liability Assessment Powers and Duties to the Executive Officer (Tentative Resolution No. R9-2014-0046). (*Chiara Clemente*)

Chiara Clemente gave the staff presentation. Cris Carrigan also responded to questions.

Matt O'Malley, Waterkeeper for San Diego Coastkeeper, spoke about the Tentative Resolution.

Dr. Abarbanel moved to adopt Tentative Resolution No. R9-2014-0046 with a revision to provide for review of the program every two years, and Ms. Kalemkarian seconded the motion. The Resolution, as amended, was adopted by unanimous vote.

Dr. Abarbanel called a recess at 1:50 p.m. and reconvened the meeting at 2:00 p.m.

TIME CERTAIN: THE SAN DIEGO WATER BOARD WILL BEGIN THE WORKSHOPS ON THE FOLLOWING ITEMS NO SOONER THAN 1:00 P.M. ON MAY 14, 2014:

Item 9 – Public Workshop: The San Diego Water Board will conduct a public workshop to receive information and discuss requirements in a public draft of the National Pollutant Discharge Elimination System (NPDES) permit for the U.S. Section of the International Boundary and Water Commission, South Bay International Wastewater Treatment Plant, for the discharge of treated wastewater to the Pacific Ocean via the South Bay Ocean Outfall (Tentative Order No. R9-2014-0009, NPDES No. CA0108928). The San Diego Water Board will not take any action on this item. (*Joann Lim and Ben Neill*)

Joann Lim, Ben Neill, and Michelle Mata gave the staff presentation and responded to Board member questions. Brandi Outwin-Beals also responded to Board member questions. Brian Kelley summarized comments of various stakeholders who were unable to attend the workshop at 1:00 p.m.

The following stakeholders spoke on this item:

- Steve Smullen, USIBWC
- Falk Federsen, Professor, Scripps Institute of Oceanography, UCSD
- Julia Chunn-Heer, Surfrider San Diego
- Sarah Eddings, Assistant Professor, Scripps Institute of Oceanography, UCSD
- Tim Stebbins, Ocean Monitoring Program Director, City of San Diego
- Matt O'Malley, Waterkeeper, San Diego Coastkeeper

Dr. Abarbanel called a recess at 3:41 p.m. and reconvened the meeting at 3:47 p.m.

No action was taken.

Item 10 – Waivers Workshop: Workshop on the draft Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges within the San Diego Region. (*Roger Mitchell*)

Roger Mitchell gave the staff presentation and responded to Board member questions. John Odermatt and Julie Chan also responded to Board member questions.

The following people commented on this item:

- Heather Stroud, Deputy City Attorney, City of San Diego
- Dan Noble, Executive Director, Association of Compost Producers
- Roger Butow, Executive Director, Clean Water Now
- Steve Beck, Manager of Environmental Sciences, Ninyo & Moore
- Brian Stalker, CalRecycle

- Renee Robertson, Recycling Specialist, City of San Diego
- Mary Matava, Agronomist, AgriService
- Dr. Stephen Neudecker, CEO, Resource Balance, Inc.

Mr. Mitchell made closing comments.

No action was taken.

Item 11 – *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)*
- 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 Systems), Campbell Industries, City of San Diego, San Diego Gas & Electric (SDG&E) and San Diego Unified Port District (Port District) issued March 14,

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.

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. 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*)

Item 12 – *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)].

Item 13 – *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)].

Item 14 – *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)].

In Closed Session, the Board discussed Item 14, Personnel, pursuant to Government Code section 11126(a). No action was taken.

There being no further business, the meeting was adjourned at 4:32 p.m..

These minutes were prepared by:

Signed by:

Chris Blank
Executive Assistant

David Gibson
Executive Officer