

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

MINUTES OF MEETING
OCTOBER 8, 2014

At 9:00 a.m., Chairman Abarbanel called to order the meeting of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at the City of Mission Viejo City Council Chambers, 200 Civic Center, Mission Viejo, California.

Item 1 – Roll Call and Introductions

Board Members present: Henry Abarbanel, Eric Anderson, Tomás Morales, Gary Strawn, and Stefanie Warren. Sharon Kalemkiarian was absent.

Staff Present: David Gibson, James Smith, Chris Blank, Jeremy Haas, Eric Becker, Laurie Walsh, Christina Arias, Wayne Chiu, Julie Chan, Brandi Outwin-Beals, Alex Smith.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board –Catherine Hagan. California Court Reporting – Jaqueline Denlinger.

Public Attendance: Roger Butow, Clean Water Now; Todd Glen, Voices of Monarch Beach (VOMB); Patricia McCarroll, VOMB; Ted Von Bitner, AMEC Consulting; Heather Stroud, City of San Diego; Edward Modiano, Chatham Site PRP Group; Michael McSweeney, BIA San Diego; David Garcia, Riverside County Flood & Water Control District; Todd Snyder, County of San Diego; Jon Van Rhyn, County of San Diego; Mikkail Ogawa, City of Del Mar; Wayne Rosenbaum, Opper & Varco; Josette Hatter, VOMB; Sam Allevato, City of San Juan Capistrano; Eric Lomeli, Riverside County Flood Control; J.C. Herrera, City of Laguna Niguel; James O'Day, County of San Diego; Rich Schlesinger, City of Mission Viejo; Tracy Ingebrigtsen, City of Laguna Beach; Fred Jacobsen, SDG&E; Ruth Kolb, City of San Diego; Robert Stone, Quantum Ozone, Inc.; Sarah Montrowl, Quantum Ozone, Inc.; Lisa Kay, Alta Environmental; Bryn Evans, Dudek; Moy Yahyk, Cities of Alisa Viejo/Laguna Woods; Joe Ames, City of Mission Viejo; Mark Corey, CICW2/BIA; Paul Hartman, Larry Walker Associates; Keith Van Der Maaten, City of San Juan Capistrano; Ken Floom, County of Orange, OCWR; Nancy Palmer, City of Laguna Niguel; Carlos Castellanos, City of Rancho Santa Margarita; Deborah Carson, City of Mission Viejo; Rhonda Reardon, City of Mission Viejo; Jenna Voss, County of Orange; Jennifer Shook, County of Orange; Julie Riggo, County of Orange; Lisa Zawahi, Dana Point; W. Gaters, SDG&E; Dave Renfrew, Alta Environmental; Peter Meier, City of Lake Forest; Ziad Mazboudi, City of San Juan Capistrano; Patric DeBoer, Omega Engineering; Mary Vondrak, City of San Clemente; James Fortuna, County of Orange; Colin Kelly, Orange County Coastkeeper; Mike

Beanan, SLCA; Humza Javed, City of Laguna Hills; Cindy Lin, USEPA; Ryan Baron, County of Orange; Devin Slaven, City of Lake Forest; Rececca Andrews, Best, Best & Krieger; Brad Fowler, City of Dana Point; Grant Sharp, County of Orange; Chris Crompton, County of Orange; Wayne Brown, South Orange County Economic Coalition; Mary Anne Skorpanich, Orange County Public Works; Richard Boon, County of Orange;

Item 2 – Public Forum

Sam Allevato, Mayor of the City of San Juan Capistrano, welcomed the Board to Orange County.

Wayne Brown, South Orange County Economic Coalition, spoke about the importance of building an infrastructure that meets the highest water quality standards while also accommodating the needs of a growing population.

Rhonda Reardon, Council Member of Mission Viejo, welcomed the Board to Mission Viejo.

Edward Modiano, Project Coordinator of the Chatham Site for the PRP Group, provided an update on the Chatham Brothers Barrel Yard plume in Escondido. Ms. Warren recused herself and stepped away from the dais during this time.

Ziad Mazboudi, City of San Juan Capistrano, stated that he was leaving the City of San Juan Capistrano to take another position in the Middle East. He praised the Regional Water Board staff for their dedication, hard work, and willingness to work with stakeholders to improve water quality.

Mary Anne Skorpanich, Deputy Director, Orange County Public Works, presented an award to Mr. Mazboudi for his work in Orange County.

Michael Beanan, Laguna Beach Wastewater Task Force, provided an update on the task force's activities toward the use of wastewater, and he spoke about the importance of mapping of coastal receiving waters and urban runoff plumes.

The following people addressed the Board regarding proposed development of the South Shores Church site in Dana Point:

- Todd Glen, VOMB
- Josette Hatter, VOMB
- Patricia McCarroll, VOMB
- Roger Butow, Clean Water Now
- Brad Fowler, Director of Public Works, City of Dana Point

Item 3 – Minutes of Board Meeting:

Dr. Abarbanel moved to adopt the minutes for August 18, September 10, and September 24. Aside from the abstentions noted below, the minutes were approved by unanimous vote.

- August 18, 2014: Mr. Anderson abstained, as he did not attend the meeting.
- September 10, 2014: There were no abstentions.
- September 24, 2014: Mr. Morales and Mr. Strawn abstained, as they did not attend the 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.

Ms. Fran Spivy-Weber, the State Board liaison, was unable to attend the meeting.

The Board Members provided summaries of the Water Quality Coordinating Committee (WQCC) meeting that took place in Sacramento on October 1-3. Mr. Strawn suggested sending a thank-you note to Ms. Fran Spivy-Weber for her efforts in organizing the WQCC.

Mr. Gibson also provided a summary of the WQCC. He also thanked staff for their attendance at a public meeting on September 30 regarding the Chatham Brothers site and for the multi-page summary of the history of the site in the Executive Officer's Report. In addition, Mr. Gibson summarized the visit of EPA Administrator Gina McCarthy at Border Field State Park on October 7.

Item 5 – Future Agenda Items: Board Members may discuss items for possible inclusion on future agendas. No action will be taken. (*David Gibson*)

Ms. Warren requested that the Board have an information item regarding California water law and water rights at a future Board meeting.

Mr. Gibson relayed a request from Board Member Kalemkarian for information items from some of the community groups with which she and other Board members have been conducting outreach meetings.

Dr. Abarbanel asked that Rob Egel, Chief of the State Board's Legislative Affairs Office, be invited to join the Board at the June meeting to discuss legislative priorities.

Consent Calendar: Item 6 is considered a non-controversial issue. (NOTE: If there is public interest 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 – Rescission of Cease and Desist Order: An Order rescinding Cease and Desist Order No. 96-52 for the International Boundary and Water Commission, U.S. Section, South Bay International Wastewater Treatment Plant, South Bay Ocean Outfall, San Diego County (Tentative Order No. R9-2014-0081). (*Joann Lim*)

Mr. Anderson moved to approve the Consent Calendar, and Mr. Strawn seconded the motion. A roll call vote was taken, and all Board members present voted “aye.” The motion passed.

Remainder of the Agenda (Non-Consent Items):

Item 7 – Public Workshop: The San Diego Water Board will hold a public workshop to receive and discuss information on proposed amendments to the Regional NPDES Permit for Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Order No. R9-2013-0001 or Regional MS4 Permit), including but not limited to the incorporation of the County of Orange, several Incorporated Cities of Orange County, and the Orange County Flood Control District as Copermittees (Tentative Order No. R9-2015-0001). The San Diego Water Board will not take any action on this item at the workshop. (*Laurie Walsh and Christina Arias*)

Mr. Gibson introduced the item.

The Chairman called a recess at 10:03 a.m. and reconvened at 10:11 a.m.

Laurie Walsh and Christina Arias gave the staff presentation regarding the Tentative Order and answered Board members’ questions.

The following stakeholders spoke about the Tentative Order and responded to Board member questions:

- Dr. Cindy Lin, USEPA
- Richard Boon, County of Orange
- Mary Anne Skorpanich, Deputy Director, Orange County Public Works
- David Garcia, Riverside County Copermittees
- Ruth Kolb, City of San Diego, Storm Water
- Heather Stroud, Deputy City Attorney, City of San Diego
- Nancy Palmer, City of Laguna Niguel
- Michael Beanan, South Laguna Civic Association
- Colin Kelly, Staff Attorney, Orange County Coastkeeper
- Roger Butow, Clean Water Now
- Jon Van Rhyn, Water Quality Property Manager, County of San Diego

- Wayne Rosenbaum, BIA San Diego
- Michael McSweeney, Senior Public Policy Advisor, BIA San Diego
- Brendan Hesty

The Chairman called a recess at 12:03 p.m. and reconvened the meeting at 12:07 p.m.

Discussion of Item 7 continued.

The Chairman then adjourned for lunch and Closed Session at 1:10 p.m.

Item 8 – *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 8(f).

Item 9 – *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 10 – *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 11 – *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 1:37p.m.

These minutes were prepared by:

Signed by:

Chris Blank
Executive Assistant

David Gibson
Executive Officer