

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION  
Board Meeting Room  
2375 Northside Drive, Suite 108  
San Diego, California

MINUTES OF MEETING  
MAY 13, 2015

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 Board Meeting Room, 2375 Northside Drive, Suite 108, San Diego, California.

**Item 1** – Roll Call and Introductions

Board Members present: Henry Abarbanel, Eric Anderson, Tomas Morales, Betty Olson, Gary Strawn, Stefanie Warren.

Staff Present: David Gibson, James Smith, Chris Blank, Cynthia Gorham, Fisayo Osibodu, Carey Nagoda, Barry Pulver, Christina Arias, Alex Cali, Wayne Chiu, Hiram Sarabia, John Anderson, Sean McClain, Craig Carlisle, David Barker, Julie Chan, Jeremy Haas, Alan Monji, Kimberly McMurray-Cathcart, Frank Melbourn, Amy Grove, Chiara Clemente, Sarah Mearon, Laurie Walsh, Lori Costa, Chad Loflen, Rebecca Stewart, Jody Ebsen, Kelly Dorsey, Lisa Honma, Lucas Lima, John Odermatt, Roger Mitchell, Sheila Christine McQuaid-Moran, Brandi Outwin-Beals, Charles Cheng, Michelle Mata, Joann Lim, Debbie Woodward.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Catherine Hagan, Adriana Nuñez, Julie Macedo. California Court Reporting – Mary Anne Young.

Public Attendance: Kelly Craig, Zoological Society of San Diego; Deirdre Ballon, Zoological Society of San Diego; Robyn Badger, Zoological Society of San Diego; Mike Welch; Len Sinfield, U.S. Navy; Steven McDonald, McDonald Law Firm; Joel Kramer; Kelly Tait, Amec Foster Wheeler; Jian Peng, County of Orange; JoAnn Weber, County of San Diego; Ruth Kolb, City of San Diego; Venicat Gummadi; Christian Braun; Alex Tardy, NOAA; Nancy Palmer, City of Laguna Niguel; Cecilia Tipton, City of Santee; Heather Stroud, City of San Diego; Toby Roy, San Diego County Water Authority; Seth McClelland, SWA; Rebecca Andrews, BBK; Devin Slaven, City of Lake Forest; Allen Carlisle, Padre Dam Municipal Water District; Dr. Craig Barilotti, Sunset Cliffs Association; Sally Roney;

**Item 2** – Public Forum

Len Sinfield of the U.S. Navy spoke regarding the Navy's efforts to meet drought restrictions and its environmental research and development programs.

Dr. Craig Barilotti asked to have Sunset Cliffs Natural Park included in the San Diego Bay watershed management area water quality improvement plan. Wayne Chiu of the Board staff responded to both Dr. Barilotti's request and Board Member questions.

Kelly Tait, Aquatic Scientist for Amec Foster Wheeler, spoke about the upcoming San Diego Bay Fishing for Science Derby.

Sally Roney addressed the Board regarding a dispute with the City of Escondido concerning the MS4 Permit pollution control measures.

**Item 3** – Minutes of Board Meeting: April 15, 2015

Mr. Anderson moved that the Board adopt the minutes with errata, and Dr. Olson seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Anderson, Morales, Olson, and Strawn voted "aye," with Ms. Warren abstaining. The motion passed.

**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.

Mr. Morales and Mr. Anderson provided a summary of the "Drought Summit" meeting with local water authorities and MS4 Permit Copermittees on May 11, stating that Fran Spivy-Weber was going to speak to the State Board about the Summit, and that it is likely that the other Regions will be holding similar summits in the near future.

Mr. Anderson also stated that he and staff had had successful meetings with State Board and key people in the EPA in order to allow urban water suppliers with commercial agriculture to exclude agricultural use from their calculations of water use.

Dr. Olson reported that she had attended the first of three planned workshops on alternative compliance pathways for the MS4 Permit.

Mr. Gibson invited the staff members who had facilitated the discussion tables during the Drought Summit to summarize the conversations at their tables.

Dr. Abarbanel paused Item 4 to take Item 6 out of order.

**Item 6** – Recognition: Resolution of Appreciation for former Board Member Sharon Kalemkarian (Tentative Resolution No. R9-2015-0058). (*David Gibson*)

Dr. Abarbanel presented Ms. Kalemkarian with a resolution of appreciation for her service on the Board.

Ms. Kalemkarian thanked the Board and the staff for their work.

*Dr. Abarbanel called a recess at 10:37 a.m. and reconvened the meeting at 10:47 a.m.*

Continuation of Item 4.

Deirdre Ballon and Robyn Badger from the San Diego Zoo Global provided an overview of their water recycling and education outreach efforts.

Mr. Alex Tardy of NOAA spoke about the drought and its effects.

Allen Carlisle of the Padre Dam Municipal Water District spoke to the Board about the Padre Dam Advanced Water Purification facility.

*Dr. Abarbanel called a recess at 11:50 a.m. and reconvened the meeting at 12:00 p.m.*

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

The Board members did not identify any future agenda items.

**Item 7** – Hearing and Adoption Consideration: 2014 Triennial Review of the Water Quality Control Plan for the San Diego Basin (Basin Plan). The San Diego Water Board will consider adopting a priority list of suggested Basin Plan revisions to serve as the basis of a three-year work plan (Tentative Resolution No. R9-2015-0043). *(Michelle Mata)*

Dr. Abarbanel administered the oath, and Michelle Mata gave the staff presentation.

The following stakeholders addressed the Board regarding the Tentative Resolution:

- Ruth Kolb, City of San Diego
- Nancy Palmer, city of Laguna Niguel
- Toby Roy, San Diego County Water Authority
- Len Sinfield, U.S. Navy
- Jian Peng, County of Orange
- JoAnn Weber, County of San Diego

Cynthia Gorham gave staff's closing remarks and thanked stakeholders for their participation in the development of the triennial review.

Mr. Gibson thanked staff for their work on the triennial review and recommended adoption of the Tentative Resolution.

Mr. Strawn moved that the Board adopt Tentative Resolution No. R9-2015-0043, and Dr. Olson seconded the motion. A roll call vote was taken, and Board Members

Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

*Dr. Abarbanel recessed for lunch and Closed Session at 12:40 p.m. Ms. Hagan stated that the Board would discuss Item 9(o) during the Closed Session. Dr. Abarbanel reconvened the meeting at 1:15 p.m.*

**Item 8** – Public Hearing: NPDES Permit Reissuance: Padre Dam Municipal Water District, Ray Stoyer Water Recycling Facility, Discharge to Sycamore Creek (Tentative Order No. R9-2015-0002, NPDES No. CA0107492). (*Joann Lim*)

Dr. Abarbanel administered the oath, and Joann Lim gave the staff presentation and responded to Board Member questions.

Robert Northcott from Padre Dam also responded to Board Member questions and expressed support for the Tentative Order.

Brandi Outwin-Beals and David Barker responded to Board Member questions, as well.

Mr. Morales moved that the Board adopt Tentative Resolution No. R9-2015-0002 with errata, and Dr. Olson seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Anderson, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

**Item 9** – *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. *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)*
- b. *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)*

- c. *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)
- d. *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. *Coastal Environmental Rights Foundation, a CA non-profit public benefit corporation v. California Regional Water Quality Control Board, San Diego Region. Petition for Writ of Administrative Mandamus. San Diego County Superior Court, Case No. 37-2014-00038672-CU-WM-CTL* (filed November 2014). (Ben Neill)

#### **Petitions for Review Pending Before State Water Resources Control Board<sup>1</sup>**

- g. *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)
- h. *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)
- i. *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 Gas & Electric (SDG&E) and San Diego Unified Port District (Port District) issued March 14, 2012. Petition for*

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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 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](mailto:catherine.hagan@waterboards.ca.gov) or 619-521-3012 for more information.

Review and Request for Stay filed by 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(c), (d), and (e), filed April 2012. (*Frank Melbourne*)

- j. 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*)
- k. 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.<sup>2</sup> (*Wayne Chiu*)
- l. 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*)
- m. 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*)
- n. Petition of Kinder Morgan Energy Partners, L.P., for Review of Denial of Request to Rescind or Modify Time Schedule Order No. R9-2011-0052, November 26, 2014, SWRCB/OCC File A-2354, Filed December 23, 2014 (Stay Requested). (*Ben Neill*)
- o. Petition of The Foothill/Eastern Transportation Corridor Agency for Review of Action, and Failure to Act, by the California Regional Water Quality Control Board,

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<sup>2</sup> On March 13, 2015, ten of the entities that filed petitions for review of the Regional MS4 Permit (Order No. R9-2013-0001) either amended their petitions in SWRCB/OCC File A-2254 to challenge Order No. R9-2015-0001 amending the Regional MS4 Permit to incorporate Orange County Copermittees, or otherwise filed petitions for review to challenge that Order. Those filing to challenge the 2015 Order are the Cities of Rancho Santa Margarita, Laguna Hills, Aliso Viejo, San Clemente, Laguna Niguel, Dana Point, Mission Viejo, San Diego, and the County of Orange and Orange County Flood Control District. All petitioners requested that their petitions be placed in abeyance.

San Diego Region, in Connection with Resolution Regarding the Denial of Waste Discharge Requirements, Revised Tentative Order No. R9-2015-0022, March 16, 2015, SWRCB/OCC File A-XXXX, Filed April 15, 2015. (*Darren Bradford*)

This Closed Session was held, and the Board discussed Item 9(o). No action was taken.

**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)].

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.

There being no further business, the meeting was adjourned at 1:54 p.m..

These minutes were prepared by:

Signed by:

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Chris Blank  
Executive Assistant

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David Gibson  
Executive Officer