

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

MINUTES OF MEETING
NOVEMBER 9, 2016

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, Tomas Morales, Betty Olson, Gary Strawn, and Stefanie Warren.

Board Members absent: Eric Anderson.

Staff Present: David Gibson, James Smith, Chris Blank, Rachel O'Donovan, Deborah Jayne, Julie Chan, Kimberly McMurray-Cathcart, Lucas Lima, Barry Pulver, Craig Carlisle, David Barker, Brandi Outwin-Beals, Tony Felix, Kelly Flint, Dat Quatch, Roger Mitchell, Alex Cali, John Odermatt, Kristin Schwall, Wayne Chiu, Alan Monji, Erica Ryan, Laurie Walsh, Chiara Clemente, Jeremy Haas, Lori Costa, Sean McClain, Kelly Dorsey, Betty Fetscher, Eric Becker, Helen Yu, Frank Melbourn, and Michelle Santillan.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board – Catherine Hagan, Adriana Nuñez, Gita Kapahi. California Court Reporting – Marlee Nelson.

Public Attendance: Sophie Silvestri, San Diego Port Tenants Association; Eileen Maher, Port of San Diego; Penny Elia; Ruth Kolb, City of San Diego, Joann Weber, County of San Diego; Luis Perez, U.S. Navy; Len Sinfield, U.S. Navy; Michael Welch; John Rudolph, Amec Forster Wheeler; Peter Arth, Nautilus Environmental; Jeffrey Van Voorhis, Nautilus Environmental; Dustin Harrison, San Diego River Conservancy; Kim Wehringer, City of San Diego; Jessica Palmer, U.S. Navy; Robin Fried; Mark Collins, Evergreen Nursery; Olin Applegate, Larry Walker Associates; Eric Larsen, San Diego Irrigated Lands Group; Shawn Haggerty, Best, Best & Krieger.

Item 2 – Public Forum

Sophie Silvestri of the San Diego Port Tenants' Association and Eileen Maher from the Port of San Diego gave a presentation about the Port's Clean Sweep program implemented to clean up trash in the Port district and responded to Board Member questions.

Penny Elia addressed the Board regarding a potential water quality issue related to an approved single family construction project in Laguna Beach.

Luis Perez from the Navy spoke about the Naval Base Point Loma's SWIM program to address environmental concerns and responded to Board Member questions.

Kimberly McMurray Cathcart and Lucas Lima gave a presentation regarding a trash cleanup program in Curitiba, Brazil and responded to Board Member questions and suggestions.

Item 3 – Minutes of Board Meeting: October 12, 2016:

Dr. Olson moved to approve the minutes, and Chair Abarbanel seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Morales, Olson, Strawn, and Warren voted "aye." 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.

Ms. Warren and Mr. Morales thanked staff for their help with presentations for WQCC.

Chair Abarbanel provided an update on Outreach meetings convened with NGOs in Orange County.

Mr. Gibson reported that a meeting of the Tijuana River Valley Recovery Team will be convened in January and responded to Board Member questions. In addition, Brandi Outwin-Beals responded to Board Member questions.

Item 5 – Future Agenda Items: Board members may discuss items for possible inclusion on future agendas. *(David Gibson)*

Ms. Warren asked for an update on the plume near Magnolia School in El Cajon, and Dr. Olson asked for an update on the algal blooms in local water bodies.

Item 6 – Approval of 2017 Meeting Schedule. *(David Gibson)*

Dr. Olson moved to approve the 2017 Meeting Schedule, and Mr. Morales seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Morales, Olson, Strawn, and Warren voted "aye." The motion passed.

Consent Calendar: Item 7 is considered a non-controversial issue. (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 7 – Rescission of WDRs: Valley View Dairy, San Diego County. *(Roger Mitchell)*

Mr. Morales moved to approve the Consent Calendar, and Dr. Olson seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Morales, Olson, Strawn, and Warren voted "aye." The motion passed.

Chair Abarbanel called a recess at 10:05 a.m., and reconvened the meeting at 10:27 a.m.

Remainder of the Agenda (Non-Consent Items)

Item 8 – Tentative Resolution: Tentative Resolution Endorsing the San Diego Water Board’s 2016 Community Outreach Strategy: *Proactive Public Outreach and Communication* (Tentative Resolution No. R9-2016-0200). (*Deborah Jayne*)

Ms. Jayne summarized the Tentative Resolution.

Mr. Strawn moved to approve Tentative Resolution No. R9-2016-0200, and Ms. Warren seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

Item 9 – General WDRs Issuance Regulation of Agricultural Operations in the San Diego Region. (*Barry Pulver*)

- a. Resolution Adopting a Negative Declaration and Initial Study for the General Waste Discharge Requirements for Discharges from Commercial Agricultural Operations in the San Diego Region (Tentative Resolution No. R9-2016-0136).
- b. General Waste Discharge Requirements for Discharges from Commercial Agricultural Operations for Dischargers that are Members of a Third Party Group in the San Diego Region (Tentative Order No. R9-2016-0004).
- c. General Waste Discharge Requirements for Discharges from Commercial Agricultural Operations for Dischargers Not Participating in a Third Party Group in the San Diego Region (Tentative Order No. R9-2016-0005).

After Chair Abarbanel administered the Oath, Mr. Pulver gave the staff presentation and responded to Board Member questions. Brandi Outwin-Beals and David Barker also responded to Board Member questions.

The following stakeholders commented on the Tentative Orders and responded to Board Member questions:

- Eric Larsen, San Diego Irrigated Lands Group
- Mark Collins, Evergreen Nursery

The Board Members requested amendments to the Orders.

Chair Abarbanel recessed for lunch and Closed Session at 12:35 p.m.; Ms. Hagan announced that the Board would discuss Items 10(g), but that no action would be taken. Chair Abarbanel reconvened the public meeting at 1:30 p.m.

Item 9 continued: Mr. Pulver presented amended text.

Mr. Morales moved to amend Tentative Order No. R9-2016-0005, removing Section VI.6.c.j, renumbering the sections to reflect such removal, and to strike out

Item 1 in Attachment G. Mr. Strawn seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

Mr. Morales moved to approve Tentative Resolution No. R9-2016-0136 with attachments, and Dr. Olson seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

Chair Abarbanel moved to approve Tentative Order No. R9-2016-0004 with attachments and Tentative Order No. R9-2016-0005 with errata, and Ms. Warren seconded the motion. A roll call vote was taken, and Board Members Abarbanel, Morales, Olson, Strawn, and Warren voted “aye.” The motion passed.

Item 10 – 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), pending at Court of Appeal. (Catherine George Hagan)*
- c. *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)*
- d. *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) (Inactive per Test Claimants' request pending outcome of related litigation). (Catherine George Hagan)

- e. *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) (Challenging NPDES General Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States, San Diego Region, Order No R9-2011-0022). (Ben Neill)*
- f. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001 (Regional MS4 Permit) filed with Commission on State Mandates by County of San Diego. (San Diego Region Water Permit – County of San Diego, Test Claim No. 14-TC-03 (filed June 2015). (Inactive per Test Claimants' request pending outcome of related litigation). (Catherine George Hagan)*
- g. *San Diego Gas & Electric Company v. San Diego Regional Water Quality Control Board. Petition for Writ of Administrative Mandamus. San Diego County Superior Court Case No. 37-2015-00032608-CU-WM-CTL (filed September 2015) (Challenging Cleanup and Abatement Order No. R9-2012-0024 for San Diego Bay Shipyard Sediment Site). (Catherine George Hagan)*
- h. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2015-0100 (Regional MS4 Permit Amendment) filed with Commission on State Mandates by Orange County Copermittees, Test Claim 15-TC-02. (Catherine George Hagan)*

Petitions for Review Pending Before the State Water Board¹

- i. *Petitions for review of Order No. R9-2015-0100 amending the Regional MS4 Permit to incorporate Riverside County Copermittees, adopted November 18, 2015, filed by San Diego Coastkeeper/Coastal Environmental Rights Foundation, Cities of Alisa Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Mission Viejo, Rancho Santa Margarita, San Juan Capistrano, San Clemente, County of Orange and Orange County Flood Control District, Riverside County Flood Control and Water Conservation District, the County of Riverside and the Cities of Murrieta, Temecula, Wildomar, (SWRCB/OCC File A-2456(a) through (l) (filed December 2015). (Wayne Chiu)*

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.

- j. Petition for Review and Request for Stay of Order No. R9-2016-0064, Assessment of Administrative Liability against San Altos-Lemon Grove, LLC, re the Valencia Hills Construction Project, (SWRCB/OCC File A-XXXX) (filed September 8, 2016). (*Beatrice Griffey*)

This Closed Session was held, and the Board Members discussed items 10(g).

There being no further business, the meeting was adjourned at 1:37 p.m.

These minutes were prepared by:

Signed by:

Christina Blank
Executive Assistant

David Gibson
Executive Officer

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