

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
BOARD MEETING MINUTES
February 9, 2022**

As a result of the COVID-19 pandemic and Government Code section 11133 and Executive Order N-1-22, this meeting occurred solely via remote presence.

CALL TO ORDER

Chair Celeste Cantú called the remote meeting to order on February 9, 2022 at 9:00 a.m.

The Clerk called the roll, and Roger Mitchell gave an opening statement providing information for attendees to participate in the meeting.

ATTENDANCE:

Board Members present:

Celeste Cantú, Board Chair; Betty H. Olson, Ph.D., Vice Chair; Henry Abarbanel, Eric Anderson; Megan Blair; Gary Strawn. Mr. Abarbanel left the meeting at 11:42 a.m.

Board Members absent:

Stefanie Warren.

Staff present:

David Gibson, Kelly Dorsey, Chris Blank, Roger Mitchell, David Barker, Jeremy Haas, Brandi Outwin-Beals, Keith Yaeger, Cynthia Gorham, Chiara Clemente, Sarah Mearon, Cailynn Smith, Erin Schmitt, George Gaetz, Ben Neill, Brandon Bushnell, Debbie Phan, Fisayo Osibodu, Eric Becker, Vicente Rodriguez, Cleo Muñoz, Abby Pashina, Wayne Chiu, Kristin Schwall, Christina Arias, Jody Ebsen, Christopher Means, Debbie Woodward, Sean McClain, Tanya Clark, Erica Ryan, Chad Loflen, Laurie Walsh, Lark Starkey.

Others present on behalf of the San Diego Water Board:

Nichole Morgan, State Water Resources Control Board; Catherine Hagan, Vincent Vu, Lori Okun, Office of Chief Counsel.

Public Attendance:

Wayne Rosenbaum <i>Environmental Law Group</i>	Brent Mardian <i>Pi Environmental</i>
Edward Basmadjian <i>SeaWorld San Diego</i>	Livia Beaudin <i>Coast Law Group</i>
Gary Brown <i>Pyro Contractors, Inc.</i>	Patrick McDonough <i>San Diego Coastkeeper</i>
Sandy Purdon <i>Big Bay Boom July 4th Fireworks Show</i>	Michael Welch <i>Padre Dam Consultant</i>
Seval Sen, Ryan Hughes, Mark Niemiec <i>Padre Dam MWD</i>	

BOARD MEETING

Public comments on agenda items were limited to 3 minutes or otherwise at the discretion of the Board Chair

PUBLIC FORUM

Wayne Rosenbaum addressed the Board regarding the Triennial Review workplan and its funding.

BOARD BUSINESS:

- Minutes of Board Meeting: December 8, 2021.**

Motion to adopt the December 8, 2021 minutes:

- Dr. Olson

Second:

- Mr. Strawn

MOTION CARRIED:

Aye:

- Mr. Abarbanel
- Mr. Anderson
- Ms. Blair
- Dr. Olson
- Mr. Strawn
- Chair Cantú

Nay:

- None.

Absent:

- Ms. Warren

Abstain:

- None

Minutes of Board Meeting: January 10, 12, & 13, 2022.

Motion to adopt the January 10, 12, & 13, 2022 minutes:

- Dr. Olson

Second:

- Mr. Anderson

MOTION CARRIED:

Aye:

- Mr. Abarbanel
- Mr. Anderson
- Ms. Blair
- Dr. Olson
- Mr. Strawn
- Chair Cantú

Nay:

- None.

Absent:

- Ms. Warren

Abstain:

- None

2. Chairman's, Board Members', State Water Board Liaison's, and Executive Officer's Reports. *These items were for Board discussion only. Public testimony was not allowed, and the Board took no formal action.*

Nichole Morgan, the State Board liaison for the San Diego Region, provided an update on State Board priorities for 2022 and recent actions and responded to Board Member questions.

Chair Cantú updated the Board Members regarding AB170, which allocates \$20 million to address border water quality issues, and she emphasized the need for communication and collaboration between the State of California and Baja California Norte, indicating that there is a meeting scheduled in Sacramento on March 2 to address this issue and how to use those funds. Dave Gibson stated that one of the issues under discussion would be storm water capture.

Mr. Gibson stated that we are planning for the first in-person meeting in two years on March 9 in Mission Viejo, and he welcomed Cailynn Smith, Erin Schmitt, and George Gaetz to the staff. He then updated the Board regarding transboundary flow issues and other developments in the Tijuana River Valley recovery plan.

CONSENT CALENDAR

**Items on the consent calendar may be removed at the request of any Board member or person. If an item is removed from the uncontested items calendar, it will only be voted on at this meeting if the Board accepts the staff recommendation for the agenda item. Otherwise, the item will be continued to a subsequent board meeting to allow input by interested persons.*

3. Rescission of Order No. 88-24, Waste Discharge Requirements for Indian Oaks Trailer Ranch Riverside County (Tentative Order No. R9-2022-0008). (*Brandon Bushnell*)

Motion to approve the Consent Calendar:

- Mr. Strawn

Second:

- Dr. Olson

MOTION CARRIED**Aye:**

- Mr. Abarbanel
- Mr. Anderson
- Ms. Blair
- Dr. Olson
- Mr. Strawn
- Chair Cantú

Nay:

- None.

Absent:

- Ms. Warren

Abstain:

- None.

ACTION ITEMS

4. NPDES Permit Reissuance: General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks (Tentative Order No. R9-2022-0002, NPDES No. CAG999002). (*Debbie Phan, Keith Yaeger*)

Debbie gave the staff presentation and responded to Board Member questions. In addition, Brandi Outwin-Beals, Keith Yaeger, David Barker, and David Gibson responded to Board Member questions and comments.

The following stakeholders commented on the item:

- Livia Beaudin, Coastal Environmental Rights Foundation (CERF)
- Gary Brown, General Counsel, Pyro Contractors, Inc.
- Patrick McDonough, San Diego Coastkeeper

Motion to approve Order No. R9-2022-0002 with amended language to section 5.2.1.4 to read “The Discharger shall design the firing range and evaluate alternative firing ranges, to eliminate or reduce residual firework pollutant discharges to waters of the United States.”:

- Mr. Abarbanel

Second:

- Mr. Anderson

MOTION CARRIED

Aye:

- Mr. Abarbanel
- Mr. Anderson
- Ms. Blair
- Dr. Olson
- Mr. Strawn
- Chair Cantú

Nay:

- None.

Absent:

- Ms. Warren

Abstain:

- None.

5. NPDES Permit Reissuance: Waste Discharge Requirements for the Padre Dam Municipal Water District, Ray Stoyer Water Recycling Facility, Discharge to Sycamore Creek, San Diego County (Tentative Order No. R9-2022-0003, NPDES No. CA0107492). (*Fisayo Osibodu, Keith Yaeger*)
6. Time Schedule Order Issuance: A Time Schedule Order Requiring Padre Dam Municipal Water District, Ray Stoyer Water Recycling Facility to Comply with Requirements Prescribed in Order No. R9-2022-0003, NPDES No. CA0107492 (Tentative Time Schedule Order No. R9-2022-0014). (*Fisayo Osibodu*)

Fisayo gave the staff presentation for Items 5 and 6 together and responded to Board Member questions and comments. Ms. Outwin-Beals also responded to Board Member questions and comments.

Motion to approve Order No. R9-2022-0003 and Time Schedule Order No. R9-2022-0014:

- Mr. Strawn

Second:

- Dr. Olson

MOTION CARRIED

Aye:

- Mr. Abarbanel
- Mr. Anderson
- Ms. Blair
- Dr. Olson
- Mr. Strawn
- Chair Cantú

Nay:

- None.

Absent:

- Ms. Warren

Abstain:

- None.

7. Election: Election of the 2022 Regional Board Chair and Vice Chair. (*David Gibson*)

Dr. Olson nominated Ms. Cantú to continue as Board Chair, and Ms. Cantú nominated Dr. Olson to continue as Board Vice Chair.

Motion to approve nominate Ms. Celeste Cantú as Regional Board Chair for 2022:

- Dr. Olson

Second:

- Ms. Blair

MOTION CARRIED

Aye:

- Mr. Anderson
- Ms. Blair
- Dr. Olson
- Mr. Strawn

Nay:

- None.

Absent:

- Mr. Abarbanel

- Ms. Warren

Abstain:

- Ms. Cantú

Motion to approve nominate Dr. Betty Olson as Regional Board Vice Chair for 2022:

- Chair Cantú

Second:

- Ms. Blair

MOTION CARRIED

Aye:

- Mr. Anderson
- Ms. Blair
- Ms. Cantú
- Mr. Strawn

Nay:

- None.

Absent:

- Mr. Abarbanel
- Ms. Warren

Abstain:

- Dr. Olson

BOARD MEMBER REQUESTS

8. Future Agenda Items: Recommended Course of Action and Estimated Staff Hours to Address Actions from the December 2021 Board Meeting. In addition, Board Members may discuss items for possible inclusion on future agendas. *(Kelly Dorsey)*

Mr. Strawn requested an update regarding cleanups along the San Diego River from the San Diego River Park Foundation and the San Diego River Conservancy.

Chair Cantú asked Dr. Olson to head up the subcommittee to do a performance review for the Executive Officer, David Gibson, and Dr. Olson asked Mr. Anderson to work with her on that subcommittee.

CLOSED SESSIONS**Closed Sessions are not open to the Public**

9. Discussion of Ongoing Litigation [Authorized under Government Code §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. *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). (Catherine George Hagan)*
- e. *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). (Catherine George Hagan)*

- f. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001 as amended by Order No. R9-2015-0001 and Order No. R9-2015-0100 (Regional MS4 Permit) filed with the Commission on State Mandates by Orange County Copermittees, Test Claim No. 15-TC-02 (filed June 2016). (Catherine George Hagan)*
- g. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2015-0100, Provisions A.4, B.2, B.3.a, B.3.b, B.4, B.6, D.1.c(6), D.2.a(2), D.3, D.4, E.3.c(2), E.3.c(3), E.3.d, E.5.a, E.5.c(1)(a), E.5.c(2)(a), E.5.c(3), E.5.e, E.6, F.1.a, F.2.a, F.2.b, F.2.c, F.3.b(3), and F.3.c. 16-TC-05, 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, (June 2017). (Catherine George Hagan)*
- h. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2017-0077, Sections A.1, A.3, and A.5, 17-TC-05, City of San Juan Capistrano and County of San Diego, Claimants, filed with the Commission on State Mandates, (June 2017). (Catherine George Hagan)*
- i. *People of the State of California, Ex. Rel. the Regional Water Quality Control Board, San Diego Region v. International Boundary and Water Commission, United States Section; Jayne Harkins, in her capacity as Acting Commissioner of the International Boundary and Water Commission, United States Section. Complaint for Declaratory and Injunctive Relief (Clean Water Act 33 U.S.C. §1251 et seq.), United States District Court for the Southern District of California, Case No. 3:18-cv-02050-JM-LL, filed September 4, 2018. (David Gibson)*
- j. *United States of America v. California Regional Water Quality Control Board, San Diego Region; David W. Gibson, in his official capacity as Executive Officer of the Regional Water Quality Control Board, San Diego Region; State of California Water Resources Control Board; and E. Joaquin Esquivel, in his official capacity as State Water Resources Control Board Chair, Complaint for Declaratory and Injunctive Relief, United States District Court for the Southern District of California, Case No. 3:21-cv-01749-GPC-AGS, filed October 8, 2021. (Vincent Vu)*
- k. *United States of America v. California Regional Water Quality Control Board, San Diego Region, David W. Gibson, in his official capacity as Executive Officer of the “Regional” Water Quality Control Board, San Diego Region, State of California Water Resources Control Board, and E. Joaquin Esquivel, in his official capacity as State Water Resources Control Board Chair, Petition for Writ of Mandate, San Diego County Superior Court, Case No. 37-2021-00043908-CU-WM-CTL, filed October 8, 2010. (Vincent Vu)*

Petitions for Review Pending Before the State Water Board:¹

- I. Petitions of San Diego Coastkeeper and Coastal Environmental Rights Foundation; City of Rancho Santa Margarita; City of Laguna Hills; County of Orange & Orange County Flood Control District; City of Dana Point; City of Laguna Beach; City of Mission Viejo; City of Laguna Niguel; Riverside County Flood Control & Water Conservation District et al.; City of San Clemente; City of San Juan Capistrano; and City of Aliso Viejo (Order No. R9-2015-0100, amending Order No. R9-2013-0001 [NPDES No. CAS 0109266] for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region), SWRCB/OCC FILE A-2456 (a thru l). (*Laurie Walsh*)

Chair Cantú recessed for lunch and closed session at 11:59 a.m. Vincent Vu announced that the Board would be discussing Items 9(i), (j), and (k) during closed session, but the Board would not take any action.

ADJOURNMENT

Chair Cantú reconvened the public meeting at 12:58 p.m. There being no further business, Chair Cantú adjourned the meeting at 12:58 p.m.

These Minutes were prepared by:

Signed by:

Christina A. Blank
Executive Assistant

David W. Gibson
Executive Officer

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 Vincent Vu at Vincent.Vu@waterboards.ca.gov or 916-323-5669 for more information.