

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
BOARD MEETING MINUTES
February 8, 2023**

CALL TO ORDER

Chair Celeste Cantú called the meeting to order on February 8, 2023 at 9:00 a.m. in the San Diego Regional Water Quality Control Board Hearing Room, 2375 Northside Drive, Room 108, San Diego, California 92108.

ATTENDANCE

Board Members present:

Celeste Cantú, Board Chair; Betty H. Olson, Ph.D., Vice Chair; Henry Abarbanel; Megan Blair, Gary Strawn, and Stefanie Warren

Mr. Strawn arrived at 9:24 a.m.; Mr. Abarbanel left the meeting at 1:00 p.m.

Board Members absent:

Eric Anderson

Staff present:

David Gibson, Chris Blank, Regina Coughlin, Eric Becker, Jeremy Haas, Joe Whearty, Kristin Schwall, Sean McClain, Wayne Chiu, Fisayo Osibodu, Cynthia Gorham, Jody Ebsen, Michelle Santillan, Chiara Clemente, Chad Loflen, Christina Arias, Brian McDaniel, Sarah Mearon, Laurie Walsh, Mireille Garcia.

Remote attendance:

Kelly Dorsey, Roger Mitchell, Debbie Phan, Sherrie Komeylyan, Erica Ryan, Lara Quetin, Regan Morey, Jessica Taylor, Carey Kowalski, Brandi Outwin-Beals, Tony Felix, Debbie Woodward, Hiram Sarabia, Cleo Muñoz, Kimberly McMurray-Cathcart, Christopher Means, Frank Melbourn, Joann Lim, Tom Alo.

Others present on behalf of the San Diego Water Board:

Vincent Vu, Alex Sauerwein, Lori Okun, Office of Chief Counsel; Nichole Morgan, State Water Board Liaison; Yvonne West, Director, Office of Enforcement; Annalisa Kihara (remote), Wendy Linck (remote), State Water Resources Control Board; Elise Hicks, California Reporting.

Public Attendance:

Cristina Torres (remote) <i>Viejas Band of Kumeyaay Indians</i>	Luke Ginger (remote), Alison Xunyi Wu (remote) <i>Heal the Bay</i>
Patrick McDonough, Phillip Musegaas <i>San Diego Coastkeeper</i>	Rita Abellar (remote), Amanda Carr, Grant Sharp <i>Orange County Public Works</i>
Michael Welch <i>Michael Welch Consultants</i>	Ruth De La Rosa, Joann Weber, Chelsea McGimpsey, Christine Tulchin <i>County of San Diego</i>
Michelle Mattson <i>Western Solutions</i>	Juan Magdaraog <i>City of Escondido</i>
Paul Hartman <i>Larry Walker Associates</i>	Mary Vohdrak <i>City of Laguna Beach</i>
Lisa Zarwaski <i>City of Dana Point</i>	Troy Frasure <i>Contech Engineered Solutions</i>
Devin Slaven, Peter Meier <i>City of Lake Forest</i>	Livia Beaudin, Nathalie Clagell <i>Coast Law Group; Coastal Environmental Rights Foundation</i>
Justin Gamble, Bronti Cash <i>City of Oceanside</i>	Sumer Hasenin, Brianna Menke <i>City of San Diego</i>
Mikhail Ogawa <i>City of Del Mar</i>	

BOARD MEETING

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

PUBLIC FORUM

There were no speakers for the Public Forum.

BOARD BUSINESS

Item 1 – Minutes of Board Meeting: December 14, 2022

Motion to adopt the December 14, 2022 minutes:

- Ms. Blair

Second:

- Dr. Olson

Aye:

- Ms. Blair
- Dr. Olson
- Chair Cantú

Nay:

- Mr. Abarbanel

Absent:

- Mr. Anderson
- Mr. Strawn

Abstain:

- Ms. Warren

Item 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.*

Mr. Gibson once again thanked David Barker for his 47 years of service and congratulated him on his retirement. He also thanked Darren Bradford for 14 years of service and congratulated him on his retirement.

INFORMATIONAL ITEMS

Item 4 – Enforcement Update from State Water Board Office of Enforcement. (*Chiara Clemente*)

Chair Cantú took this Item out of order.

Chiara Clemente provided an overview of the item, and introduced Yvonne West, Director of the Office of Enforcement, who gave the main presentation. Ms. West also responded to Board Member questions and comments.

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Chair Cantú took this Item out of order.

Gary Strawn reported on an educational trout program for schools.

Nichole Morgan, the State Board liaison, arrived at 9:47 a.m. and provided a briefing on recent State Board actions and priorities. She also responded to Board member questions and comments.

Chair Cantú called a recess at 10:19 a.m. and reconvened the meeting at 10:32 a.m.

Item 3 – PFAS Update. (*Brian McDaniel*)

Chair Cantú took this Item out of order.

Sarah Mearon introduced the item, and Brian McDaniel and Joe Whearty gave the staff presentation. Ms. Mearon, Mr. McDaniel, and Mr. Whearty also responded to Board Member questions and comments. Sean McClain, Senior Engineering Geologist in the Site Restoration, Military Facilities Unit, Annalisa Kihjara, and Wendy Linck from State Board, also responded to Board Member questions and concerns.

Chair Cantú recessed for lunch and closed session at 11:53 a.m. Alex Sauerwein announced that the Board would discuss Items 8(a)-8(h) and 11 during closed session. Chair Cantú reconvened the public meeting at 1:05 p.m.

PUBLIC WORKSHOP

Item 5 – The San Diego Water Board held a public workshop to receive information on Tentative Time Schedule Order No. R9-2023-0006 An Order Requiring Designated Responsible Permittees to Comply with Bacteria, Project I-Twenty Beaches and Creeks Total Maximum Daily Load Requirements Prescribed in the Regional Municipal Separate Storm Sewer Systems Permit for the San Diego Region. The San Diego Water Board did not take any formal action on this item at the workshop. (*Mireille Garcia and Laurie Walsh*)

Chair Cantú gave an opening statement, and Mireille Garcia gave the staff presentation. She and Laurie Walsh responded to Board Member questions.

Chair Cantú called a recess at 3:07 p.m. and reconvened the meeting at 3:19 p.m.

The following stakeholders commented on the item and/or responded to Board Member questions:

- Sumer Hasenin – City of San Diego
- Christine Tulchin – County of San Diego
- Amanda Carr – County of Orange
- Grant Sharp – County of Orange
- Mikhail Ogawa – City of Del Mar
- Brianna Menke – City of San Diego
- Jo Ann Weber - County of San Diego
- Livia Borak Beaudin – Coastal Environmental Rights Foundation (CERF)
- Patrick McDonough– San Diego Coastkeeper
- Phillip Musegaas – San Diego Coastkeeper
- Luke Ginger – Heal the Bay
- Natalie Clagell – Coast Law Group

ACTION ITEM:

Item 6 – Election of the 2023 Regional Board Chair and Vice Chair. (*David Gibson*)

David Gibson introduced the item and asked the Board Members to nominate a Regional Board Chair for 2023.

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

Motion to nominate Ms. Celeste Cantú as Regional Board Chair for 2023:

- Dr. Olson

Second:

- Ms. Warren

MOTION CARRIED

Aye:

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

Nay:

- None

Absent:

- Mr. Abarbanel
- Mr. Anderson

Abstain:

- None

Motion to nominate Dr. Betty Olson as Regional Board Vice Chair for 2023:

- Chair Cantú

Second:

- Mr. Strawn

MOTION CARRIED

Aye:

- Ms. Blair
- Mr. Strawn
- Ms. Warren
- Chair Cantú

Nay:

- None

Absent:

- Mr. Abarbanel
- Mr. Anderson

Abstain:

- None

BOARD MEMBER REQUESTS

Item 7 – Future Agenda Items: Recommended Course of Action and Estimated Staff Hours to Address Action Items from the December 2022 Board Meeting. In addition, Board Members may discuss items for possible inclusion on future agendas. *(Kelly Dorsey)*

Board Member Warren requested that representatives from South Orange County return to discuss metrics for their stormwater outreach education program.

Chair Cantu requested additional information regarding AB 2108.

CLOSED SESSIONS

Closed Sessions are not open to the Public

ITEM 8: 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:

- 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)*
- l. *Baldwin & Sons, Inc.; Sunranch Capital Partners, LLC; Sunrise Pacific Construction, Inc.; SRC-PH Investments, LLC; Baldwin & Sons, LLC; Shawn M. Baldwin; Randall G. Bone; and Jose Capati v. California Regional Water Quality Control Board San Diego Region, Verified Petition for Writ of Mandate, Orange County Superior Court, Case No. 30-2022-01291447-CU-WM-CJC, filed November 4, 2022. (Vincent Vu)*

Petitions for Review Pending Before the State Water Board:¹

- m. 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 I). (Laurie Walsh)

Item 9 - 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 §11126(e)]. (David Gibson)

Item 10 - 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 §11126(c)(3)].

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.

Item 11 – 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 §11126(a)].

There being no further business, Chair Cantú adjourned the meeting at 4:13 p.m.

These Minutes were prepared by:

Signed by:

Christina A. Blank
Executive Assistant

David W. Gibson
Executive Officer

DRAFT