

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
August 11, 2010

ITEM: 10

SUBJECT: Resolution requesting funding from the Cleanup and Abatement Account for San Diego Bay Shipyard Sediment Site Cleanup and Abatement Order Environmental Impact Report. (Tentative Resolution No. R9-2010-0102) (*Julie Chan*)

PURPOSE: To consider adoption of tentative Resolution No. R9-2010-0102 requesting State Water Resources Control Board approval of funding from the Cleanup and Abatement Account (CAA) for the San Diego Bay Shipyard Sediment Site Environmental Impact Report (EIR).

PUBLIC NOTICE: Notice was provided in the agenda for the August 11, 2010 Board Meeting, which was posted on the San Diego Water Board's website.

DISCUSSION: Before the San Diego Water Board can adopt tentative Cleanup and Abatement Order (CAO) No. R9-2010-0002 for the Shipyard Sediment Site in San Diego Bay, an EIR must be prepared and certified. The CAO will require the cleanup of approximately 143,400 cubic yards of contaminated sediment at the Shipyard Sediment Site in San Diego Bay. The CAO includes cleanup levels, a remedial design, remediation and post-remediation monitoring requirements, and a remedial action implementation schedule.

A categorical exemption for this project under the California Environmental Quality Act (CEQA) does not apply in this case as discussed in Supporting Document No. 1.C, a legal memo from Mr. Christian Carrigan of the Office of Enforcement. Unfortunately, the responsible parties have failed to reach agreement on allocation of the costs of preparing the EIR. Presiding Officer King released a ruling on July 16, 2010 (Supporting Document No. 1.D) directing the San Diego Water Board Executive Officer to request

“an emergency sole source allocation” from the State Water Resources Control Board for an environmental consultant to prepare the EIR. The memorandum from the Executive Officer, David Gibson, to the State Water Resources Control Board requesting the CAA funds for this project is provided in Supporting Document No. 1.A. CAA funding procedures provide that the Executive Officer’s request should be followed up with a San Diego Water Board resolution of support. Tentative Resolution No. R9-2010-0102 affirms and concurs with the Executive Officer’s request.

As the funds will be used for environmental consultation on a cleanup and abatement order, in the event the tentative CAO is adopted by the San Diego Water Board and upheld after all appeals, pursuant to authority granted in Water Code section 13304, the San Diego Water Board intends to recover the funds from the responsible parties. The preliminary Scope of Work and budget for the EIR are in Supporting Document No. 1.E.

LEGAL CONCERNS:

None.

SUPPORTING DOCUMENTS:

1. Tentative Resolution No. R9-2010-0102 and Attachments A through E.
 - A. Memo from David W. Gibson dated July 20, 2010
 - B. CAA Funding Request Form
 - C. Memo from Christian Carrigan dated July 9, 2010
 - D. Memo from David A. King dated July 16, 2010
 - E. Scope of Work and Budget

RECOMMENDATION(S):

Adoption of Tentative Resolution No. R9-2010-0102 is recommended.