

1 LATHAM & WATKINS LLP
Robert M. Howard (SB No. 145870)
2 Kelly E. Richardson (SB No. 210511)
Jeffrey P. Carlin (SB No. 227539)
3 Ryan R. Waterman (SB No. 229485)
Jennifer P. Casler-Goncalves (SB No. 259438)
4 600 West Broadway, Suite 1800
San Diego, California 92101-3375
5 Telephone: (619) 236-1234
Facsimile: (619) 696-7419
6
7 Attorneys for Designated Party
National Steel and Shipbuilding Company

8 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
9 SAN DIEGO REGION

<p>10 IN THE MATTER OF: 11 12 TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2011-0001 13 (formerly No. R9-2010-0002)</p>	<p>NASSCO'S JOINDER IN BAE'S MOTIONS TO EXCLUDE THE UNTIMELY EXPERT EVIDENCE SUBMITTED BY THE SAN DIEGO UNIFIED PORT DISTRICT AND SAN DIEGO GAS AND ELECTRIC, AND MOTION TO EXCLUDE THE UNTIMELY EXPERT EVIDENCE SUBMITTED BY THE UNITED STATES NAVY</p>
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1 Designated Party National Steel and Shipbuilding Company (“NASSCO”) hereby
2 joins in Designated Party BAE Systems San Diego Ship Repair, Inc.’s (“BAE”) motions to
3 exclude the untimely expert evidence submitted by the San Diego Unified Port District (“Port”)
4 and San Diego Gas and Electric Company (“SDG&E”) (“the Motions”). NASSCO requests the
5 Presiding Officer to grant the Motions on the same grounds and for the same reasons set forth in
6 the Motions.

7 Additionally, for all of the reasons stated in the Motions and as explained herein,
8 NASSCO moves to exclude all of the United States Navy’s (“Navy”) untimely submitted expert
9 evidence, submitted in its May 26, 2011, comments on the Tentative Cleanup and Abatement
10 Order (“TCAO”) and Draft Technical Report (“DTR”).

11 **I.**

12 **INTRODUCTION AND BACKGROUND**

13 On July 19, 2010, NASSCO submitted its designation of expert and non-expert
14 witnesses with respect to the TCAO and DTR. *See* Attachment A, Expert and Non-Expert
15 Witness Disclosures For National Steel and Shipbuilding Company. On the same day, the Navy
16 also submitted a list of six preliminary expert witnesses, including individuals from the Navy,
17 CH2M Hill, Trevet, Inc., and Tetra Tech. *See* Attachment B, US Navy’s Disclosure of Expert
18 Witnesses. Like the Port, however, the Navy failed to submit *any expert reports* by the March
19 11, 2011, expert report deadline.

20 On May 26, 2011, the Navy submitted untimely expert reports—at substantial
21 prejudice to the parties who complied with the March 11, 2011, expert report deadline—by
22 attempting to disguise such expert reports as its initial comments on the TCAO and DTR.

23 The Navy’s attempt to submit untimely expert reports by incorporating them into
24 its comments on the TCAO and DTR are particularly obvious. On its face, it appears that the
25 Navy took an expert report with supporting appendices, removed the report’s title page and
26 replaced it with the cover sheet required by the Regional Board (*see* Notice of Extended
27 Comment Period and Revised Comment Format, Appendix A (May 12, 2011)), removed the

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1 report's Introduction and replaced it with two Navy comments, and then submitted the doctored
2 document as its TCAO and DTR comments on May 26, 2011.

3 Even a cursory review of Navy's comments strongly supports this conclusion.
4 Immediately following the Regional Board required cover page is a Table of Contents for an
5 expert report, which lists an "Introduction" at page 1-1, but makes no reference to any Navy
6 comments. Next, the Navy's Comment Nos. 1 and 2 are haphazardly inserted, despite the fact
7 that they are unmentioned in the Table of Contents. The Navy's Comments Nos. 1 and 2 are
8 then followed by the report's "Acronyms and Abbreviations" section, and a Figure 1-1. The
9 "Introduction," however, which likely explained the purpose and author of the expert report, is
10 deleted from the report in its entirety.

11 Furthermore, although the required Regional Board cover page attributes
12 authorship of the submittal to the Navy's counsel, such an attribution strains credulity and is
13 flatly contradicted by the text. For example, Appendix A states that it was prepared by Tetra
14 Tech, an environmental engineering and consulting firm. Navy's Comments, App. A, at 1-1.
15 Similarly, though no author is attributed for Appendix B, the footer indicates that it is a Space
16 and Naval Warfare Systems Command ("SPAWAR") document, and the footers for the
17 remaining appendices suggest that they were prepared by CH2M HILL, an engineering and
18 construction firm. Additionally, Appendix B is clearly labeled as an "apportionment report,"
19 which is clearly outside the scope of these proceedings.

20 In sum, except for the Regional Board required cover page and the haphazardly
21 inserted Navy Comments Nos. 1 and 2, the entire May 26, 2011, Navy submission constitutes
22 untimely expert reports that should have been submitted on March 11, 2011, and now must be
23 excluded.

24 II.

25 LEGAL STANDARD

26 Expert reports addressing the TCAO and DTR are governed by two orders issued
27 by the Regional Board's Presiding Officer, and by the California Code of Civil Procedure
28 ("CCP"). First, the February 18, 2010, Order Issuing Final Discovery Plan For Tentative

1 Cleanup And Abatement Order No. R9-2010-0002 And Associated Draft Technical Report
2 (“Discovery Plan”), set forth the Regional Board’s discovery process for this matter, and
3 specifically incorporated the CCP with respect to expert discovery. *Id.* at I (“Procedures for
4 written discovery and expert witness disclosures shall generally be governed by applicable Code
5 of Civil Procedure (“CCP”) sections, as modified herein . . .”). It further affirmed that
6 “submission of expert evidence must adhere to [the] discovery schedule to preserve all parties’
7 procedural and due process rights.” *Id.* at II-B-1.

8 Second, in response to a Motion by the Port, in October 2010 Presiding Officer
9 Destache issued an Order Reopening Discovery Period, Establishing Discovery Schedule, and
10 Identifying Star and Crescent Boat Company as a Designated Party for Purposes of Tentative
11 Cleanup and Abatement Order No. R9-2011-0001 (“Destache Order”), which “reopens and
12 extends the discovery schedule previously adopted by Order dated February 18, 2010, with all
13 discovery to be completed on or before March 11, 2011.” Destache Order, at § I. Specifically,
14 the Destache Order provides that March 11, 2011 is the “last day to submit expert reports.” *Id.*,
15 at § IV. It does not disturb the Discovery Order’s incorporation of the CCP.

16 Due to the fact that the Discovery Order and Destache Order incorporate the CCP
17 by reference, the CCP (section 2034.010 *et seq.*) governs expert discovery issues in this
18 proceeding, including resolution of the instant Motion to exclude the untimely the Navy expert
19 reports. The CCP requires all parties to exchange written information about their expert
20 witnesses, including reports and writings made by the expert witnesses in the course of preparing
21 their opinions. Cal. Civ. Proc. Code § 2034.210(c). CCP section 2034.260(a) states that “[a]ll
22 parties who have appeared in the action shall exchange information concerning expert witnesses
23 in writing on or before the date of exchange specified in the demand.” CCP section 2034.270
24 requires parties to produce “all discoverable reports and writings, if any, made by any designated
25 expert”

26 As California Supreme Court has noted, “the need for pretrial discovery is greater
27 with respect to expert witnesses than ordinary fact witnesses because the opponent must prepare
28 to cope with the expert’s specialized knowledge. *Boston v. Penny Lane Centers, Inc.*, 170 Cal.

1 App. 4th 936, 951 (2009), *citing Bonds v. Roy*, 20 Cal. 4th 140, 147 (1999). Accordingly,
2 because the exchange of expert evidence is of critical importance and involves substantial
3 considerations of fairness, the CCP provides for exclusion of untimely expert evidence.

4 . . . on objection of any party who has made a complete and timely
5 compliance with Section 2034.260, the trial court shall exclude from
6 evidence the expert opinion of any witness that is offered by any party
7 who has unreasonably failed to do any of the following:

8 * * * * *

9 (c) Produce reports and writings of expert witnesses under Section
10 2034.270.

11 * * * * *

12 Cal. Code Civ. Pro. § 2034.300(c).

13 In sum, any party that has submitted its expert witness list in compliance with
14 CCP § 2034.260 may object and move the Regional Board to exclude the expert reports and
15 writings of any party that failed to timely submit those materials.

16 **III.**

17 **ANALYSIS**

18 On July 19, 2010, NASSCO fully complied CCP section 2034.260 by submitting
19 its list of expert and non-expert witnesses. *See* Attachment A. The Navy’s failure to timely file
20 its expert reports on March 11, 2011, clearly violates the procedural orders that govern this
21 matter and the CCP. Accordingly, upon NASSCO’s objection, the Regional Board must bar the
22 Navy’s attempt to evade the March 11th deadline by excluding the Navy’s expert reports,
23 pursuant to CCP § 2034.300(c).

24 The two principal discovery orders issued by the Regional Board—the Discovery
25 Plan and the Destache Order—both required the Designated Parties to submit their expert reports
26 by March 11, 2011. *See* Discovery Plan, ¶ II.B.1 (“submission of expert evidence must adhere to
27 discovery schedule to preserve all parties’ procedural and due process rights”); Destache Order,
28 at 4 (“March 11, 2011 Discovery period closes; last day to submit expert reports”); *see also*
Third Amended Order of Proceedings, at 11 (May 18, 2011) (“all discovery by Designated

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1 Parties was completed by March 11, 2011”). The Navy’s failure to comply with these orders is
2 untimely, impermissible, and unreasonable for a number of reasons.

3 First, the Navy was aware of the revisions to the TCAO and DTR since
4 September 2010, giving its experts more than enough time to prepare reports addressing the
5 issues important to the Navy by March 11, 2011. There is simply no reasonable explanation for
6 why the Navy could not submit the reports for these experts to all Designated Parties by the
7 Regional Board-ordered deadline.

8 Second, since the October 2010 Destache Order, the Navy was aware of its
9 obligation to produce reports for any designated experts by March 11, 2011. The Navy cannot
10 complain that it did not have ample time to meet its Regional Board-ordered discovery
11 obligations.

12 Third, even after the deadline passed (and the Navy received expert reports from
13 other Designated Parties, including NASSCO), the Navy failed to seek relief from its error to
14 timely submit expert reports. In fact, the Navy still fails to seek relief from its error, instead
15 opting to simply cut and paste its comments on the TCAO and DTR into existing expert reports
16 (which appear on their face to have been prepared in connection with the federal contribution
17 litigation) without addressing the lateness of those expert reports. The Navy’s failure to seek
18 relief for failing to provide the Designated Parties with the reports of its experts is clearly an
19 attempt to thwart NASSCO’s and the other Designated Parties’ efforts to challenge those
20 opinions.

21 The Navy’s untimely expert submittal prejudices NASSCO in several respects.
22 By submitting its expert reports after the March 11th deadline, the Navy has had the benefit of
23 reviewing and analyzing other parties’ submissions, and its expert consultants were able to
24 develop their reports with that benefit. Furthermore, the Navy’s delay simply gave its experts
25 more time to develop their reports. By the same token, the Navy’s delay in submitting its expert
26 reports has cost all of the other Designated Parties more than two months of time to analyze the
27 reports, which prejudices NASSCO because NASSCO’s own experts have had less than a month
28 to review and prepare comments on the Navy’s expert reports prior to the June 23, 2011, reply

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ATTACHMENT A

1 LATHAM & WATKINS LLP
2 Robert M. Howard (SB No. 145870)
3 Kelly E. Richardson (SB No. 210511)
4 Jeffrey P. Carlin (SB No. 227539)
5 Ryan R. Waterman (SB No. 229485)
6 Jennifer P. Casler-Goncalves (SB No. 259438)
7 600 West Broadway, Suite 1800
8 San Diego, California 92101-3375
9 Telephone: (619) 236-1234
10 Facsimile: (619) 696-7419

11 Attorneys for Designated Party,
12 National Steel and Shipbuilding Company

13 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

14 SAN DIEGO REGION

15 IN THE MATTER OF:
16
17 CLEANUP AND ABATEMENT ORDER
18 NO. R9-2010-0002

19 **EXPERT AND NON-EXPERT WITNESS
20 DISCLOSURES FOR NATIONAL STEEL
21 AND SHIPBUILDING COMPANY**

22 Before David King, Presiding Officer for
23 Prehearing Proceedings

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Pursuant to the Presiding Officer's February 18, 2010 Final Discovery Plan For Cleanup Levels and Liability Issues, order dated July 16, 2010, and Code of Civil Procedure § 2034.010 *et seq.*, National Steel and Shipbuilding Company hereby proffers the following expert and non-expert witness designations in the matter concerning Tentative Cleanup and Abatement Order No. R9-2010-0002.

EXPERT WITNESS DESIGNATIONS

- 1. Dr. Thomas Ginn, Exponent, Inc., 1040 E. Parkridge Drive, Sedona, AZ 86336.
- 2. Mr. David Templeton, Anchor QEA, LLC, 1423 Third Avenue, Suite 300, Seattle, WA 98101.
- 3. Dr. Brent Finley, ChemRisk, 25 Jessie Street at Ecker Square, Suite 1800, San Francisco, CA 94105.
- 4. Dr. Herbert Allen, University of Delaware, Department of Civil and Environmental Engineering, 354 Dupont Hall, Newark, DE 19716.

NON-EXPERT WITNESS DESIGNATIONS

- 5. None to disclose at this time.

Dated: July 19, 2010

LATHAM & WATKINS LLP

By Kelly E. Richardson
Kelly E. Richardson
Attorneys for Designated Party
National Steel and Shipbuilding Company

1 LATHAM & WATKINS LLP
2 Robert M. Howard (SB No. 145870)
3 Kelly E. Richardson (SB No. 210511)
4 Jeffrey P. Carlin (SB No. 227539)
5 Ryan R. Waterman (SB No. 229485)
6 Jennifer P. Casler-Goncalves (SB No. 259438)
7 600 West Broadway, Suite 1800
8 San Diego, California 92101-3375
9 Telephone: (619) 236-1234
10 Facsimile: (619) 696-7419

11 Attorneys for Designated Party,
12 National Steel and Shipbuilding Company

13 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

14 SAN DIEGO REGION

15 IN THE MATTER OF:
16
17 CLEANUP AND ABATEMENT ORDER
18 NO. R9-2010-0002

**DECLARATION OF RYAN R. WATERMAN
IN SUPPORT OF THE EXPERT AND NON-
EXPERT WITNESS DISCLOSURES FOR
NATIONAL STEEL AND SHIPBUILDING
COMPANY**

Before David King, Presiding Officer for
Prehearing Proceedings

1 **EXPERT WITNESS DECLARATION BY COUNSEL OF RECORD**

2 I, Ryan R. Waterman, declare as follows:

3 1. I am an attorney duly licensed to practice before all the courts of the State
4 of California. I am an associate with the law firm of Latham & Watkins LLP, counsel of record
5 for Designated Party National Steel and Shipbuilding Company ("NASSCO") in the above-
6 captioned matter concerning Tentative Cleanup and Abatement Order No. R9-2010-0002
7 ("Tentative CAO"). I am personally familiar with the facts set forth herein and if called upon to
8 do so, could and would testify competently thereto.

9 2. Dr. Thomas Ginn is designated as an expert in the aforementioned matter
10 on behalf of NASSCO.

11 a. Dr. Ginn is a Principal Scientist at Exponent, Inc., in the
12 EcoSciences practice. He is an expert in applied ecology, with specialized expertise in assessing
13 the fate, exposure, and effects of inorganic and organic chemicals and metals on aquatic and
14 terrestrial organisms, and the design of remedial investigations and restoration alternatives at
15 sediment sites.

16 b. Dr. Ginn's testimony will address the applied ecology of the
17 Shipyard Sediment Site at issue in the Tentative CAO, including the fate, exposure, and effects
18 of inorganic and organic chemicals and metals on aquatic and terrestrial organisms, as well as
19 the design and economic feasibility of remedial investigations and restoration alternatives at the
20 Shipyard Sediment Site.

21 c. Dr. Ginn has agreed to testify at the hearing on the Tentative CAO.

22 d. Dr. Ginn will be sufficiently familiar with the pending Tentative
23 CAO to submit to a meaningful oral deposition concerning the specific testimony, including any
24 opinion and its basis, that he is expected to give at the hearing on the Tentative CAO.

25 e. Dr. Ginn's hourly expert fees for providing deposition testimony
26 and for consulting with Latham & Watkins LLP is \$365.00.

27 3. Mr. David Templeton is designated as an expert in the aforementioned
28 matter on behalf of NASSCO.

1 a. Mr. Templeton is a partner at Anchor QEA, LLC. He is an expert
2 in developing cleanup alternative evaluations, cost estimation, contractor selection and
3 construction management, applying federal and state sediment criteria to the characterization and
4 remediation of contaminated sediments, and ecological and human-health risk management.

5 b. Mr. Templeton's testimony will address the restoration at the
6 Shipyard Sediment Site provided in the Tentative CAO, including estimated costs for conducting
7 the remediation, as well as the implementation and monitoring plans for conducting the same.

8 c. Mr. Templeton has agreed to testify at the hearing on the Tentative
9 CAO.

10 d. Mr. Templeton will be sufficiently familiar with the pending
11 Tentative CAO to submit to a meaningful oral deposition concerning the specific testimony,
12 including any opinion and its basis, that he is expected to give at the hearing on the Tentative
13 CAO.

14 e. Mr. Templeton's hourly expert fees for providing deposition
15 testimony is \$295.50, and his hourly expert fee for consulting with Latham & Watkins LLP is
16 \$197.00.

17 4. Dr. Brent Finley is designated as an expert in the aforementioned matter
18 on behalf of NASSCO.

19 a. Dr. Finley is a board-certified toxicologist and Principal Health
20 Scientist and Vice President of ChemRisk. He is an expert in human health risk assessment,
21 with extensive experience conducting and managing studies involving chemical exposures and
22 human health risk assessment.

23 b. Dr. Finley's testimony will address human health risk associated
24 with the Shipyard Sediment Site.

25 c. Dr. Finley has agreed to testify at the hearing on the Tentative
26 CAO.

27 d. Dr. Finley will be sufficiently familiar with the pending Tentative
28 CAO to submit to a meaningful oral deposition concerning the specific testimony, including any

1 opinion and its basis, that he is expected to give at the hearing on the Tentative CAO.

2 e. Dr. Finley's hourly expert fees for providing deposition testimony
3 and for consulting with Latham & Watkins LLP is \$450.00.

4 5. Dr. Herbert Allen is designated as an expert in the aforementioned matter
5 on behalf of NASSCO.

6 a. Dr. Allen is Professor Emeritus at the University of Delaware, with
7 joint appointments in the College of Civil and Environmental Engineering, and College of Earth,
8 Ocean, and Environment, and is the Director of the Center for the Study of Metals in the
9 Environment. He is an expert in environmental chemistry generally, including the fate and
10 effects of pollutants in water, sediment, and soil environments, and bioavailability of trace
11 metals.

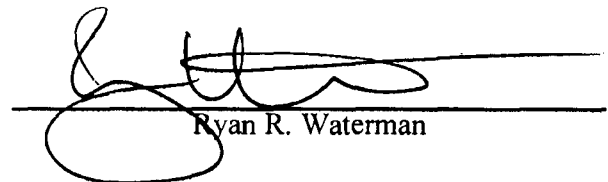
12 b. Dr. Allen's testimony will address environmental chemistry at the
13 Shipyard Sediment Site generally, including fate and effects of pollutants in water, sediment, and
14 soil environments, and bioavailability of trace metals.

15 c. Dr. Allen has agreed to testify at the hearing on the Tentative
16 CAO.

17 d. Dr. Allen will be sufficiently familiar with the pending Tentative
18 CAO to submit to a meaningful oral deposition concerning the specific testimony, including any
19 opinion and its basis, that he is expected to give at the hearing on the Tentative CAO.

20 e. Dr. Allen's hourly expert fees for providing deposition testimony
21 is \$400.00, and his hourly expert fee for consulting with Latham & Watkins LLP is \$200.00.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct. Executed on July 19, 2010, at San Diego, California.

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25
26 
27 Ryan R. Waterman
28

1 LATHAM & WATKINS LLP
Robert M. Howard (SB No. 145870)
2 Kelly E. Richardson (SB No. 210511)
Jeffrey P. Carlin (SB No. 227539)
3 Ryan R. Waterman (SB No. 229485)
Jennifer P. Casler-Goncalves (SB No. 259438)
4 600 West Broadway, Suite 1800
San Diego, California 92101-3375
5 Telephone: (619) 236-1234
Facsimile: (619) 696-7419

6 Attorneys for Designated Party,
7 National Steel and Shipbuilding Company

8 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

9 SAN DIEGO REGION

10
11 IN THE MATTER OF:

12 CLEANUP AND ABATEMENT ORDER
13 NO. R9-2010-0002
14

PROOF OF SERVICE

Before David King, Presiding Officer for
Prehearing Proceedings

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a
3 party to the within action. My business address is Latham & Watkins, 600 West Broadway,
4 Suite 1800, San Diego, California 92101. On July 19, 2010, I served the within document(s):

5 **EXPERT AND NON-EXPERT WITNESS DISCLOSURES FOR NATIONAL
6 STEEL AND SHIPBUILDING COMPANY**

7 **DECLARATION OF RYAN WATERMAN IN SUPPORT OF THE EXPERT AND
8 NON-EXPERT WITNESS DISCLOSURES FOR NATIONAL STEEL AND
SHIPBUILDING COMPANY**

9 **BY E-MAIL:** I caused the above-referenced documents to be converted in digital
10 format (.pdf) and served by electronic mail to the addresses listed below.

11 **BY REGULAR MAIL:** I caused the above document(s) to be deposited in the
12 United States mail at San Diego, California, with postage thereon fully prepaid
13 addressed to the party(ies) listed below. I am readily familiar with the firm's
14 practice of collection and processing correspondence for mailing. Such mail is
15 deposited with the United States Postal Service each day and that practice was
16 followed in the ordinary course of business for the service herein attested to.

16 Catherine Hagan
17 Staff Counsel
18 California Regional Water Quality Control Board,
19 San Diego Region
20 9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
chagan@waterboards.ca.gov
Telephone: (858) 467-2958
Fax: (858) 571-6972

Raymond Parra
Senior Counsel
BAE Systems Ship Repair Inc.
PO Box 13308
San Diego, CA 92170-3308
raymond.parra@baesystems.com
Telephone: (619) 238-1000+2030
Fax: (619) 239-1751

21 Michael McDonough
22 Counsel
23 Bingham McCutchen LLP
355 South Grand Avenue, Suite 4400
24 Los Angeles, CA 90071-3106
michael.mcdonough@bingham.com
25 Telephone: (213) 680-6600
Fax: (213) 680-6499

Christopher McNevin
Attorney at Law
Pillsbury Winthrop Shaw Pittman LLP
725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406
chrismcnevin@pillsburylaw.com
Telephone: (213) 488-7507
Fax: (213) 629-1033

1 Brian Ledger
2 Attorney at Law
3 Gordon & Rees LLP
4 101 West Broadway, Suite 1600
5 San Diego, CA 92101
6 bledger@gordonrees.com
7 Telephone: (619) 230-7729
8 Fax: (619) 696-7124

6 Marco Gonzalez
7 Attorney at Law
8 Coast Law Group LLP
9 169 Saxony Road, Suite 204
10 Encinitas, CA 92024
11 marco@coastlawgroup.com
12 Telephone: (760) 942-8505
13 Fax: (760) 942-8515

11 Jill Tracy
12 Senior Environmental Counsel
13 Sempra Energy
14 101 Ash Street
15 San Diego, CA 92101
16 jtracy@sempra.com
17 Telephone: (619) 699-5112
18 Fax: (619) 699-5189

16 Leslie FitzGerald
17 Deputy Port Attorney
18 San Diego Unified Port District
19 PO Box 120488
20 San Diego, CA 92112
21 lfitzger@portofsandiego.org
22 Telephone: (619) 686-7224
23 Fax: (619) 686-6444

22 Laura Hunter
23 Environmental Health Coalition
24 401 Mile of Cars Way, Suite 310
25 National City, CA 91950
26 laurah@environmentalhealth.org
27 Telephone: (619) 474-0220
28 Fax: (619) 474-1210

Christian Carrigan
Senior Staff Counsel
Office of Enforcement,
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
ccarrigan@waterboards.ca.gov
Telephone: (916) 322-3626
Fax: (916) 341-5896

James Handmacher
Attorney at Law
Morton McGoldrick, P.S.
PO Box 1533
Tacoma, WA 98401
jvhandmacher@bvmm.com
Telephone: (253) 627-8131
Fax: (253) 272-4338

Sharon Cloward
Executive Director
San Diego Port Tenants Association
2390 Shelter Island Drive, Suite 210
San Diego, CA 92106
sharon@sdpta.com
Telephone: (619) 226-6546
Fax: (619) 226-6557

Nate Cushman
Associate Counsel
U.S. Navy
SW Div, Naval Facilities Engineering Command
1220 Pacific Hwy
San Diego, CA 92132-5189
nate.cushman@navy.mil
Telephone: (619) 532-2511
Fax: (619) 532-1663

Gabe Solmer
Legal Director
San Diego Coastkeeper
2820 Roosevelt Street, Suite 200A
San Diego, CA 92106-6146
gabe@sdcoastkeeper.org
Telephone: (619) 758-7743, ext. 109
Fax: (619) 223-3676

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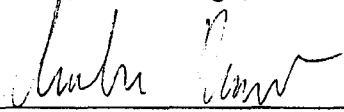
Tom Stahl, AUSA
Chief, Civil Division
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
thomas.stahl@usdoj.gov
Telephone: (619) 557-7140
Fax: (619) 557-5004

William D. Brown, Esq.
Brown & Winters
120 Birmingham Drive, #110
Cardiff By The Sea, CA 92007
bbrown@brownandwinters.com
Telephone: (760) 633-4485
Fax: (760) 633-4427

Mike Tracy, Esq.
DLA Piper LLP US
401 B Street, Suite 1700
San Diego, California 92101-4297
mike.tracy@dlapiper.com
Telephone: (619) 699-3620
Fax: (619) 764-6620

Sandi Nichols, Esq.
Allen Matkins
Three Embarcadero Center, 12th Floor
San Francisco, CA 94111
snichols@allenmatkins.com
Telephone: (415) 837-1515
Fax: (415) 837-1516

I declare under penalty of perjury according to the laws of the State of California
that the above is true and correct. Executed on July 19, 2010, at San Diego, California.



Andrea Rasco

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ATTACHMENT B

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**In the matter of Tentative Cleanup
and Abatement Order No. R9-2010-
0002 (Shipyard Sediment Cleanup)**

**US Navy's Disclosure of Expert
Witnesses**

Pursuant to the scheduling order in this matter, the US Navy submits this preliminary witness list. The US Navy reserves the right:

- A. to present testimony, by deposition or orally by live witness, from any other person who has been or may be identified by other designated parties to this proceeding as a potential witness in this matter and any person from whom discovery is sought;
- B. to further supplement this witness list as circumstances may warrant, including designation of Rebuttal Witnesses, as permitted by the RWQCB;
- C. not to call any of the persons listed below to testify at the hearing, as circumstances may warrant.

US NAVY'S PRELIMINARY EXPERT WITNESS LIST

1. Dr. David B. Chadwick, US Navy.

Dr. Chadwick is head of the Environmental Sciences Branch at the US Navy's Space and Naval Warfare Systems Center Pacific (SSCPAC). It is anticipated that Dr. Chadwick will testify regarding the allegations pertaining to the US Navy contained in the Tentative Cleanup and Abatement Order and the Draft Technical Report, as well as the scientific basis for the Draft Technical Report.

2. Charles Katz, US Navy.

Mr. Katz is an Oceanographer at the US Navy's Space and Naval Warfare Systems Center Pacific (SSCPAC). It is anticipated that Mr. Katz will testify regarding the allegations pertaining to the US Navy contained in the Tentative Cleanup and Abatement Order and the Draft Technical Report, as well as the scientific basis for the Draft Technical Report.

3. Serena Lee, CH2M Hill

Ms. Lee is a Geologist with CH2M Hill. It is anticipated that Ms. Lee will testify regarding the allegations pertaining to the US Navy contained in the Tentative Cleanup and Abatement Order and the Draft Technical Report.

4. Patricia White, CH2M Hill

Ms. White is a Scientist with CH2M Hill. It is anticipated that Ms. White will testify regarding the allegations pertaining to the US Navy contained in the Tentative Cleanup and Abatement Order and the Draft Technical Report.

5. Pete Stang, Trevet, Inc.

Mr. Stang is a Senior Geologist at Trevet, Inc. It is anticipated that Mr. Stang will testify regarding the allegations pertaining to the US Navy contained in the Tentative Cleanup and Abatement Order and the Draft Technical Report.

6. Brian Maidrand, Tetra Tech

Mr. Maidrand is a Project Manager at Tetra Tech EC, Inc. It is anticipated that Mr. Maidrand will testify regarding the allegations pertaining to the US Navy contained in the Tentative Cleanup and Abatement Order and the Draft Technical Report.

Submitted this 19 Day of July, 2010

Nate J. Cushman

Nate J. Cushman
Associate Counsel, NAVFAC SW
US Navy Office of the General Counsel

1 **PROOF OF SERVICE**

2 I am employed in the County of San Diego, State of California. I am over the age of 18
3 years and not a party to this action. My business address is Latham & Watkins LLP, 600 West
4 Broadway, Suite 1800, San Diego, CA 92101-3375.

5 On **June 23, 2011**, I served the following document described as:

6 **NASSCO'S JOINDER IN BAE'S MOTIONS TO EXCLUDE THE UNTIMELY
7 EXPERT EVIDENCE SUBMITTED BY THE SAN DIEGO UNIFIED PORT
8 DISTRICT AND SAN DIEGO GAS AND ELECTRIC, AND MOTION TO
9 EXCLUDE THE UNTIMELY EXPERT EVIDENCE SUBMITTED BY THE
10 UNITED STATES NAVY**

11 by serving a true copy of the above-described document in the following manner:

12 **BY ELECTRONIC MAIL**

13 Upon written agreement by the parties, the above-described document was transmitted via electronic mail
14 to the parties noted below on **June 23, 2011**.

15 Frank Melbourn 16 Catherine Hagan 17 California Regional Water Quality Control 18 Board San Diego Region 19 9174 Sky Park Court, Suite 100 20 San Diego, CA 92123-4340 21 fmelbourn@waterboards.ca.gov 22 chagan@waterboards.ca.gov 23 Telephone: (858) 467-2958 24 Fax: (858) 571-6972	Raymond Parra Senior Counsel BAE Systems Ship Repair Inc. PO Box 13308 San Diego, CA 92170-3308 raymond.parra@baesystems.com Telephone: (619) 238-1000+2030 Fax: (619) 239-1751
18 Michael McDonough 19 Counsel 20 Bingham McCutchen LLP 21 355 South Grand Avenue, Suite 4400 22 Los Angeles, CA 90071-3106 23 michael.mcdonough@bingham.com 24 Telephone: (213) 680-6600 25 Fax: (213) 680-6499	Christopher McNevin Attorney at Law Pillsbury Winthrop Shaw Pittman LLP 725 South Figueroa Street, Suite 2800 Los Angeles, CA 90017-5406 chrismcnevin@pillsburylaw.com Telephone: (213) 488-7507 Fax: (213) 629-1033
22 Brian Ledger 23 Kristin Reyna 24 Kara Persson 25 Gordon & Rees LLP 26 101 West Broadway, Suite 1600 27 San Diego, CA 92101 28 bledger@gordonrees.com kreyna@gordonrees.com kpersson@gordonrees.com Telephone: (619) 230-7729 Fax: (619) 696-7124	Christian Carrigan Senior Staff Counsel Office of Enforcement, State Water Resources Control Board P.O. Box 100 Sacramento, CA 95812-0100 ccarrigan@waterboards.ca.gov Telephone: (916) 322-3626 Fax: (916) 341-5896

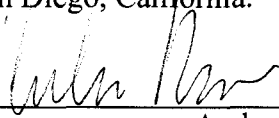
1	Marco Gonzalez Attorney at Law	James Handmacher Attorney at Law
2	Coast Law Group LLP	Morton McGoldrick, P.S.
3	1140 South Coast Highway 101	PO Box 1533
4	Encinitas, CA 92024	Tacoma, WA 98401
5	marco@coastlawgroup.com	jvhandmacher@bvmm.com
6	Telephone: (760) 942-8505	Telephone: (253) 627-8131
7	Fax: (760) 942-8515	Fax: (253) 272-4338
8	Jill Tracy Senior Environmental Counsel	Sharon Cloward Executive Director
9	Sempra Energy	San Diego Port Tenants Association
10	101 Ash Street	2390 Shelter Island Drive, Suite 210
11	San Diego, CA 92101	San Diego, CA 92106
12	jtracy@semprautilities.com	sharon@sdpta.com
13	Telephone: (619) 699-5112	Telephone: (619) 226-6546
14	Fax: (619) 699-5189	Fax: (619) 226-6557
15	Duane Bennett, Esq. Leslie FitzGerald, Esq.	Sandi Nichols Allen Matkins
16	Ellen F. Gross, Esq.	Three Embarcadero Center, 12 th Floor
17	William D. McMinn, Esq.	San Francisco, CA 94111
18	Office of the Port Attorney	snichols@allenmatkins.com
19	3165 Pacific Highway	Telephone: (415) 837-1515
20	San Diego, CA 92101	Fax: (415) 837-1516
21	dbennett@portofsandiego.org	
22	lfitzgerald@portofsandiego.org	
23	egross@portofsandiego.org	
24	bmcminn@portofsandiego.org	
25	Telephone: 619-686-6200	
26	Fax: 619-686-6444	
27	Laura Hunter Environmental Health Coalition	Gabe Solmer Jill Witkowski
28	401 Mile of Cars Way, Suite 310	San Diego Coastkeeper
	National City, CA 91950	2825 Dewey Road, Suite 200
	laurah@environmentalhealth.org	San Diego, CA 92106
	Telephone: (619) 474-0220	gabe@sdcoastkeeper.org
	Fax: (619) 474-1210	jill@sdcoastkeeper.org
		Telephone: (619) 758-7743
		Fax: (619) 223-3676
	Mike Tracy Matthew Dart	William D. Brown Brown & Winters
	DLA Piper LLP US	120 Birmingham Drive, #110
	401 B Street, Suite 1700	Cardiff By The Sea, CA 92007
	San Diego, California 92101-4297	bbrown@brownandwinters.com
	mike.tracy@dlapiper.com	Telephone: (760) 633-4485
	matthew.dart@dlapiper.com	Fax: (760) 633-4427
	Telephone: (619) 699-3620	
	Fax: (619) 764-6620	

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<p>Nate Cushman Associate Counsel U.S. Navy SW Div, Naval Facilities Engineering Command 1220 Pacific Hwy San Diego, CA 92132-5189 nate.cushman@navy.mil Telephone: (619) 532-2511 Fax: (619) 532-1663</p>	<p>Sarah R. Brite Evans Schwartz Semerdjian Ballard & Cauley 101 West Broadway, Suite 810 San Diego, CA 92101 sarah@ssbclaw.com Telephone (619) 236-8821 Fax: (619) 236-8827</p>
<p>Roslyn Tobe Senior Environmental Litigation Attorney U.S. Navy 720 Kennon Street, #36, Room 233 Washington Navy Yard, DC 20374-5013 roslyn.tobe@navy.mil Telephone: (202) 685-7026 Fax: (202) 685-7036</p>	<p>C. Scott Spear U.S. Department of Justice, Environmental Defense Section P.O. Box 23986 Washington, D.C. 20026-3986 scott.spear@usdoj.gov Telephone: (202) 305-1593 Fax: (202) 514-8865</p>
<p>Suzanne Varco Opper & Varco LLP 225 Broadway, Suite 1900 San Diego, California 92101 svarco@envirolawyer.com</p>	

I declare that I am employed in the office of a member of the Bar of, or permitted to practice before, this Court at whose direction the service was made and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **June 23, 2011**, at San Diego, California.



Andrea Rasco