

July 12, 2011

San Diego Shipyard Sediment Cleanup Site
Tentative Cleanup and Abatement Order No. R9-2011-0001
Hearing Outline

The hearing in this matter will be convened on November 9, 14 and 15, 2011. The start times will be identified in the hearing notice. The Chair also identified November 16 as an additional hearing date in the event it is needed to complete the hearing or is needed for Board deliberations. The Final Environmental Impact Report and Tentative Cleanup and Abatement Order will be considered for certification/adoption on December 14, 2011.

The San Diego Water Board will conduct the hearing in accordance with the following framework and format.

General Framework

1. The hearing will be bifurcated into two phases: Cleanup Levels, followed by Liability/Responsibility of Designated Parties.
2. Designated Parties will have a set amount of time in which to complete presentation of their respective cases, including cross-examination, on both cleanup levels and liability/responsibility issues. Each Designated Party is allotted two hours, except the following Designated Parties, each of which is allotted one hour: BP, the parent company of and successor to ARCO, Chevron USA, a subsidiary of Chevron Texaco, and the San Diego Port Tenants Association.
3. Each Designated Party will have an additional ten minutes beyond the allotted time for closing remarks. A party may reserve a portion of its one or two hour allotment to expand its time for closing remarks.
4. Designated Parties may not cede all or a portion of their one or two hour allotment to any other Designated Party without prior approval of the Chair. However, Designated Parties are encouraged to consolidate their presentations to save hearing time and/or avoid duplication.
5. Designated Parties that do not expect to make presentations or expect to use only a portion of their allotment are requested to notify the Advisory Team as soon as their plans are known to facilitate scheduling efforts.
6. Narrative testimony rather than question and answer format testimony will be permitted and encouraged to conserve scarce hearing time.
7. With the exception of cross-examination of San Diego Coastkeeper's and Environmental Health Coalition's expert witness, Donald MacDonald, who will be taken out of order, cross-examination of a Designated Party's witnesses will take place after all of that party's witnesses have testified. The party conducting cross-examination may either direct questions to a particular witness, or pose the question to the testifying party's witnesses

- as a panel and allow the testifying party to designate which witness should answer.
8. The San Diego Water Board discourages taking witnesses out of order but will consider requests on a case-by-case basis.
 9. The San Diego Water Board anticipates having translators available on November 9 and as appropriate during the remainder of the hearing.

Order of Presentations

Subject to the exceptions noted below, the general order of presentations is expected to be as follows:

- A. Opening Statements
- B. Cleanup Levels (testimony and cross examination)
- C. Liability/Responsibility Issues (testimony and cross examination)
- D. Closing Statements

Within each of the four categories listed above, the order will be as follows:

1. San Diego Water Board Cleanup Team¹
2. NASSCO
3. BAE Systems Ship Repair
4. Marine Construction and Design Company/Campbell industries, Inc.
5. U.S. Dept. of Navy
6. City of San Diego
7. San Diego Gas & Electric Company
8. San Diego Unified Port District
9. Star & Crescent Boat Company
10. BP
11. Chevron
12. San Diego Coastkeeper
13. Environmental Health Coalition
14. San Diego Port Tenants Association

Exceptions:

Following opening statements on November 9, San Diego Coastkeeper and Environmental Health Coalition may call their expert witness out of order to affirm and summarize his testimony. Designated Parties wishing to cross-examine Mr. MacDonald shall do so at that time. The Board will hear the remainder of San Diego Coastkeeper's and Environmental Health Coalition's presentations as listed above.

¹ The Chair may allow the Cleanup Team to make its closing statement last, upon request, as is the San Diego Water Board's customary practice.

In order to accommodate Interested Persons wishing to make policy statements, the San Diego Water Board will break from Designated Party presentations on November 9 at 3 p.m. to hear from Interested Persons. If any Interested Persons are present prior to 3 p.m., the Board may also hear from them prior to 3 p.m. If time permits, the Board may resume with Designated Party presentations following Interested Persons on November 9.

All Designated Parties and Interested Persons are advised that the forthcoming hearing notice will refine and modify as needed this framework and format. Pending motions may also necessitate modifications to the framework and format.