

DECLARATION OF GABRIEL SOLMER

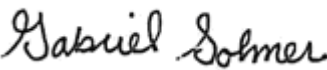
I, Gabriel Solmer, declare as follows:

1. I am Legal Director for San Diego Coastkeeper and counsel for Environmental Health Coalition in this matter.
2. I make this declaration based upon information and belief.
3. On the afternoon of July 29, 2010, I called Kelly Richardson, counsel for NASSCO, to discuss San Diego Coastkeeper's and Environmental Health Coalition's discovery issues. Mr. Richardson did not answer the phone, so I left a voicemail. He did not return my call that afternoon.
4. On the morning of July 30, 2010 I directed San Diego Coastkeeper Staff Attorney Jill Witkowski to call Mr. Richardson, and Ms. Witkowski subsequently did call Mr. Richardson to discuss the discovery issues. He was not available, so Ms. Witkowski left a voicemail explaining that San Diego Coastkeeper and Environmental Health Coalition would file the Motion to Quash that afternoon if Mr. Richardson did call back to discuss the issues.
5. Late on the afternoon of July 30, 2010, Mr. Richardson phoned me to discuss the discovery issues. Mr. Richardson and I were not able to reach an agreement on behalf of our clients over the phone.
6. Mr. Richardson offered to sit down with counsel for San Diego Coastkeeper and Environmental Health Coalition on August 2, 2010 to discuss the issue further. However, neither Mr. Richardson nor I am optimistic that a resolution can be reached on the issues without intervention of the Presiding Officer given the timing issues with discovery responses due before the revised Cleanup and Abatement Order and Draft Technical Report are issued. Also, because San Diego Coastkeeper and Environmental Health Coalition allege that the sheer volume of requests constitute an abuse of discovery given the environmental petitioners' role in these proceedings, I could not spare valuable, limited time holding NASSCO's hand to point out each

overbroad and duplicative discovery request that NASSCO should not have issued in the first place.

7. On the afternoon of July 29, 2010, I called Michael Tracy, counsel for BAE, to discuss San Diego Coastkeeper's and Environmental Health Coalition's discovery issues. Mr. Tracy did not answer the phone, so I left a voicemail. He did not return my call that afternoon.
8. On the morning of July 30, 2010 I directed San Diego Coastkeeper Staff Attorney Jill Witkowski to call Mr. Tracy, and Ms. Witkowski subsequently did call Mr. Tracy to discuss the discovery issues. He was not available, so Ms. Witkowski left a voicemail explaining that San Diego Coastkeeper and Environmental Health Coalition would file the Motion to Quash that afternoon if Mr. Tracy did call back to discuss the issues.
9. At 4:30pm on July 30, 2010, BAE attorney Matthew Dart called me to discuss discovery issues.
10. Mr. Dart offered to discuss the issue further and to potentially remove some of the admittedly duplicative discovery requests BAE propounded. However, Mr. Dart and I were unable to reach an agreement on behalf of our clients over the phone. Neither of us was optimistic that a resolution could be reached on all of the issues without intervention of the Presiding Officer given the timing issues with discovery responses due before the revised Cleanup and Abatement Order and Draft Technical Report are issued. Also, because San Diego Coastkeeper and Environmental Health Coalition allege that the sheer volume of requests constitute an abuse of discovery given the environmental petitioners' role in these proceedings, I could not spare valuable, limited time holding BAE's hand to point out each overbroad and duplicative discovery request that BAE should not have issued in the first place.

Executed this 3rd day of August, 2010 at San Diego, California

By: 
Gabriel Solmer
Attorney for San Diego Coastkeeper and EHC