



# California Regional Water Quality Control Board San Diego Region



Linda S. Adams  
Secretary for  
Environmental Protection

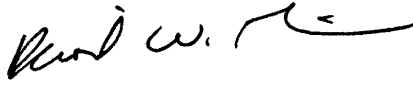
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**TO:** Mr. Grant Destache, Acting Chair and  
Presiding Officer for Prehearing Proceedings

Honorable San Diego Water Board Members

**FROM:** David W. Gibson   
Executive Officer  
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

**DATE:** November 1, 2010

**SUBJECT: OCTOBER STATUS REPORT - SHIPYARD SEDIMENT SITE CLEANUP  
AND ABATEMENT ORDER AND ENVIRONMENTAL IMPACT REPORT**

Below please find, as requested, an updated report regarding the continuing work of the Cleanup Team concerning the San Diego Bay Shipyard Sediment Site and the team's efforts to get the cleanup work started as soon as possible.

## Environmental Impact Report

The EIR Working Group, comprised of the San Diego Water Board, NASSCO, BAE Systems, and the EIR Consultants (LSA Associates Inc. and Geosyntec), held meetings on October 7th and 14th. The Working Group continued to make progress on the project description, project objectives, and project alternatives.

The *Memorandum of Agreement for California Environmental Quality Act (CEQA) Compliance on San Diego Bay Shipyard Sediment Site (MOA)* was revised the first week of October as requested by NASSCO and LSA Associates Inc., and was signed by the San Diego Water Board, NASSCO, BAE Systems, and the EIR Consultants. The City of San Diego declined to sign the MOA. The City, however, has provided the funding it committed to the EIR.

The EIR Consultants and the Dischargers are finalizing a fixed price contract for the EIR which has briefly delayed the preparation of the EIR. If the contract is signed by mid-November as planned, the Cleanup Team does not expect the delay to change the tentative certification/adoption date of the EIR and tentative CAO scheduled for September 2011.

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NASSCO reported to the EIR Working Group that it is in the process of preparing a draft Remedial Action Plan (RAP) for the Shipyard Sediment Site. Pending NASSCO's internal review of the RAP, it may be available to the EIR Working Group as early as this week. A San Diego Water Board team has been assembled to draft the tentative dredging WDRs and is waiting for the RAP in order to proceed.

### **BAE Systems Maintenance Dredging Project**

In a related project, BAE Systems applied for a Clean Water Act Section 401 Certification for maintenance dredging of one of its dry docks. BAE would like to begin dredging by mid-December. About one third of the maintenance dredging footprint, however, overlaps the sediment cleanup remedial footprint. In light of the overlap area, I am considering the need for additional 401 certification conditions to address the potential spread of contaminants, the possible exposure of PCB contaminants currently at depth, and monitoring needs. Unless otherwise directed, I anticipate taking action on the 401 certification under the authority delegated to me by the Board.

### **Revised Tentative Clean Up and Abatement Order and Draft Technical Report**

The Cleanup Team has almost completed supplementing the electronic administrative record for the revised Tentative Cleanup and Abatement Order with documents and records obtained by the San Diego Water Board since 2008. The supplement to the record will be made available to the designated parties on November 5, 2010 along with an underline/strikeout version of the Draft Technical Report as ordered by Grant Destache, the new presiding officer for prehearing proceedings, in his Order dated October 27, 2010.

### **Discovery and Depositions**

During the first week of October, the Cleanup Team completed the first round of responses to interrogatories, requests for admissions, and requests to produce documents. These discovery requests were provided to the parties by the October 4, 2010 deadline.

Because of the number of documents involved, one of the designated party's requests to produce documents is ongoing. The roughly 200 file folders of documents were assembled in the office Library and made available to the designated parties beginning on October 11<sup>th</sup>. The designated parties have sent representatives to the office every working day since October 11<sup>th</sup> to review and copy documents. One staff member has been in attendance at the file reviews to ensure that the integrity of the Board's documents was not compromised. The designated parties should finish the file review this week. Returning the files to their storage locations should take two staff members two days to complete. My purpose in providing the details on this particular task is

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simply to highlight how staff intensive the discovery process has been, and will likely continue to be into 2011.

In his October 27 Order, Mr. Destache reopened the discovery period and established a new schedule for completing discovery. The Order requires all discovery be completed on or before March 11, 2011. The order also limits the scope of the discovery to the revisions made to the tentative CAO and Draft Technical Report from the December 2009 versions. The Order was issued in response to proposals by several designated parties to reopen and extend the discovery period. Pursuant to this Order, members of the Cleanup Team were not deposed in October as originally scheduled. Depositions likely will be taken in January 2011 under the new discovery schedule.

The Cleanup Team still faces a significant workload to complete the required discovery and stay on schedule to produce the draft EIR for public review by March 2011. I remain committed to providing the resources needed to keep the cleanup on track and ensure that the Board can consider the matter on or ahead of the schedule provided in the September Status Report memo.