



# California Regional Water Quality Control Board

## San Diego Region



Linda S. Adams  
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Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
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**TO:** Distribution List (Designated Parties and Interested Persons)

  
**FROM:** David King, Presiding Officer for Prehearing Proceedings  
Tentative Cleanup and Abatement Order No. R9-2005-0126  
**SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD**

**DATE:** October 27, 2009

**SUBJECT:** ORDER ON MOTION FOR RECONSIDERATION AND EXTENDING DATES FOR RELEASE OF REVISED TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2005-0126 AND COMMENT PERIOD TO DECEMBER 22, 2009 AND ESTABLISHING DISCOVERY PERIOD

By Order dated October 8, 2009, I directed the San Diego Regional Water Quality Control Board (San Diego Water Board) Shipyard Sediment Cleanup Team to release for public comment a revised draft Cleanup and Abatement Order and associated Technical Report on or before October 30, 2009, commencing a 90 day public comment period. In response to an October 12, 2009, letter from mediator Tim Gallagher, I extended the schedule by approximately two weeks on October 15, 2009.

On October 26, 2009, the Shipyard Sediment Cleanup Team submitted a motion for reconsideration of my October 15, 2009, order and presented new information that was previously categorized as "mediation confidential" in support of its request that it have until December 22, 2009 to submit a revised draft Cleanup and Abatement Order and associated revised draft Technical Report. Among other things, the Shipyard Cleanup Team now advises that the revised draft Cleanup and Abatement Order will contain more stringent proposed cleanup levels than under the current draft Cleanup and Abatement Order for eight of nine chemicals of concern and will "contain the footprint of the area to be cleaned up and a preliminary remedial design, a robust monitoring program to be undertaken by the responsible parties both during the cleanup activities and after the proposed remedial scheme is implemented, and an implementation schedule." (Memorandum of Points and Authorities in Support of Motion for Reconsideration, p. 5.) The Shipyard Sediment Cleanup Team also reported its good faith belief that the parties responsible for the cleanup will not contest the revised draft Cleanup and Abatement Order if the deadline for its release is extended to December 22, 2009. Finally, the Shipyard Sediment Cleanup Team submitted three declarations from San Diego Water Board management citing significant competing workloads

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affecting their ability to release the revised draft Cleanup and Abatement Order and associated revised draft Technical Report by mid-November.

Accordingly, for good cause, the Motion for Reconsideration is hereby granted. The Shipyard Sediment Cleanup Team is directed to release a revised draft Cleanup and Abatement Order and associated revised draft technical report on or before **December 22, 2009**. Comments on the revised draft Cleanup and Abatement Order and Technical Report will be due on or before **March 22, 2010**. As stated in my October 8, 2009, order, and reiterated in my October 15, 2009, order, if the revised draft Cleanup and Abatement Order proposes San Diego Water Board approval of remedial or other activities requiring evaluation under the California Environmental Quality Act (CEQA), the Shipyard Sediment Cleanup Team is also directed to begin the CEQA scoping process on **December 22, 2009**, when the revised draft Cleanup and Abatement Order and technical report are released. Hearing date(s) for San Diego Water Board consideration of the revised draft Cleanup and Abatement Order and technical report will be established in a future ruling.

The parties may conduct any necessary discovery, including depositions, on the revised draft Cleanup and Abatement Order and associated revised draft technical report beginning with the release of those documents on **December 22, 2009**. All discovery must be completed on or before **February 22, 2010**. As stated in the October 8 and 15, 2009 orders, all conflicting provisions in the Second Amended Order of Proceedings are hereby stricken.

DAK