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File No. 048876-0009

August 1, 2011

VIA EMAIL

Mr. Vicente Rodriguez
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123
vrodriguez@waterboards.ca.gov

Re: General Dynamics' Comments on the Draft Environmental Impact Report for the Shipyard Sediment Remediation Project (SCH # 2009111098)

Dear Mr. Rodriguez:

General Dynamics Company ("General Dynamics") submits the following comments regarding the Draft Environmental Impact Report for the Shipyard Sediment Remediation Project ("DEIR"), State Clearing House Number 2009111098, which was publicly released by the Regional Board Cleanup Team ("Cleanup Team") on June 16, 2011. Because the DEIR includes multiple references to the General Dynamics' Convair Division Lindbergh Field Plant ("General Dynamics Lindbergh Field Facility"), General Dynamics, as the former lessee of that property, has a substantial interest in this proceeding, as well as a general interest in the development of reasonable and scientifically sound cleanup plans for contaminated sites in San Diego, including the Shipyard Sediment Remediation Project and Convair Lagoon.

As discussed below, General Dynamics has a number of significant concerns regarding the DEIR's proposed Convair Lagoon Confined Disposal Facility ("CDF"). Specifically, General Dynamics is concerned that the Cleanup Team concludes in the DEIR that spending millions of dollars to place contaminated sediments from the Shipyard Sediment Site back into the Bay, creating the Convair Lagoon CDF, is a potentially viable alternative for the Shipyard Sediment Site, particularly considering that the risk of recontamination cannot be eliminated.

Despite significant risks and challenges associated with the construction and maintenance of a CDF, the DEIR unduly emphasizes this alternative by including extensive discussion of Convair Lagoon, as well as unnecessary documentation pertaining to the demolition of General Dynamics' former Lindbergh Field Facility. In particular, Appendix A to Appendix K consists largely of dozens of forms from the Department of Parks and Recreation describing buildings

formerly located at the General Dynamics Lindbergh Field Facility. These documents appear to have been included without any discernable or legitimate purpose, as they do not relate to the Shipyard Sediment Site cleanup, or to the pier and seaplane ramp proposed for demolition as part of the Convair Lagoon CDF.

For the reasons discussed herein, General Dynamics objects to the Convair Lagoon CDF as a potential means for disposing of Shipyard Sediment Site sediments, and respectfully requests that all references to General Dynamics' former Lindbergh Field facility within the DEIR be stricken.

I. THE DEIR MUST FOCUS ON THE SHIPYARD SEDIMENT SITE, NOT CONVAIR LAGOON

The Cleanup Team's purpose in issuing the DEIR is to "analyze the [Shipyard Remediation Project's] potential impacts on the environment, to discuss alternatives, and to propose mitigation measures for identified potentially significant impacts that will minimize, offset, or otherwise reduce or avoid those environmental impacts." DEIR, at 1-1 (emphasis added). While the DEIR discusses four alternatives to the proposed project, including (1) the No Project/No Development Alternative, (2) the Confined Aquatic Disposal Site, (3) the Convair Lagoon CDF, and (4) CDF with Beneficial Use of Sediments, a disproportionate share of the DEIR was devoted to the Convair Lagoon CDF—including over 200 pages and six appendices drafted by the San Diego Unified Port District's ("Port District") consultant. DEIR, at 5-9 (setting forth the four project alternatives); 5-32 - 5-271 (discussing the Convair Lagoon CDF). By contrast, the other alternatives set forth in the DEIR each received only between 2 and 6 ½ pages of analysis. Moreover, no other party interested in the Shipyard Sediment Remediation Project, or the Convair Lagoon remediation was permitted to make a similar contribution. To avoid the appearance of bias, the San Diego Regional Water Quality Control Board ("Regional Board") staff should explain to the public why it included more than 200 pages of analysis (plus appendices) for one alternative prepared by the Port District's consultants, while the other alternatives received a much less detailed analysis. Although the Convair Lagoon CDF was not ultimately selected as the environmentally superior alternative, General Dynamics is concerned that the extensive discussion and special treatment of this alternative compared to the other alternatives may lead to confusion as to the preferred course of action, and as discussed below, General Dynamics does not view the Convair Lagoon CDF as a viable long-term solution for the remediation of the Shipyard Sediment Site or Convair Lagoon.

In addition to the disproportionate consideration afforded to the Convair Lagoon CDF, General Dynamics is also concerned that much of the information contained in the Convair Lagoon CDF analysis does not relate to the Shipyard Sediment Remediation Project and should not have been included. For example, the DEIR's Appendix K, which purports to be an "Architectural Resources Evaluation" of the pier and seaplane ramp that would be demolished if the Convair Lagoon CDF were adopted, contains descriptions of a number of buildings previously located at General Dynamics' former Lindbergh Field Facility that were demolished over a decade ago. These documents are wholly irrelevant to the Shipyard Sediment Site, and

there is no legitimate purpose for including them in the DEIR as part of an evaluation of architectural resources, especially when they no longer exist.¹ Likewise, the DEIR also discusses a closed leaking underground storage tank case at the former General Dynamics facility, with no explanation of how this tank relates to the Shipyard Sediment Remediation Project, or any of the alternatives under consideration. DEIR, at 5-191. While this type of information might be appropriate with regard to an EIR for Convair Lagoon, it is plainly irrelevant to the Shipyard Sediment Remediation Project. Thus, the Cleanup Team should make clear that independent CEQA review will be required for the Convair Lagoon CDF, if selected, and strike the references to the closed underground storage tank and the demolished buildings that were previously located at the former General Dynamics' Lindbergh Field Facility.

II. SPENDING MILLIONS OF DOLLARS TO DREDGE CONTAMINATED SEDIMENT, ONLY TO DISPOSE OF IT ELSEWHERE IN THE BAY, IS NOT A VIABLE REMEDY FOR THE SHIPYARD SEDIMENT SITE

Notwithstanding General Dynamics' above-listed concerns regarding the preparation of the DEIR, it would be patently unreasonable for dischargers to spend millions of dollars to dredge over 140,000 cubic yards of contaminated sediment, only to dispose of it in a CDF elsewhere in the Bay—particularly when consideration of the specific design details of the CDF have been deferred.

As drafted, the DEIR contemplates that existing sediment at Convair Lagoon would be dredged and contained in a CDF, along with spoils from the Shipyard Sediment Site, and that BMPs and long-term monitoring measures would be implemented to protect water quality. DEIR, at 5-17 – 5-19; DEIR, at Table 5-1. However, even if the proposed BMPs and monitoring measures are implemented as discussed in the DEIR, there is no guarantee that the CDF will be successful, or that sediments contained in the CDF will never be released. In fact, Convair Lagoon is already a prime example of the dangers associated with confined disposal: After significant funds were expended constructing a cap to remediate PCBs, and cleaning storm drain lines that discharge to the lagoon, PCBs were subsequently found on top of the cap. While the Cleanup Team has suggested that the contamination, “presumably c[ame] from the 60-inch storm drain” (which drains sources upland from Convair Lagoon), the cause of the contamination has

¹ While it is true that the issue of source control is relevant to any alternative, including the Convair Lagoon CDF, the cleanup and abatement order for the former Teledyne Ryan site already requires source control to be achieved before further cleanup of Convair Lagoon is implemented (DEIR, at 5-35 (citing R9-2004-0258)); accordingly, the DEIR may simply note that the CDF alternative could not be adopted until source control is achieved in accordance with R9-2004-0258. Any further detail concerning potential upland sources at Convair Lagoon is not required, and is inappropriate given that the DEIR is supposed to analyze the Shipyard Sediment Remediation Project, not Convair Lagoon. This is particularly true considering that interested parties with respect to the Convair Lagoon cleanup were not afforded the opportunity to assist in the development of the DEIR, as was the Port District.

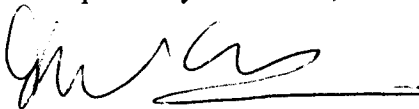
not been established, and it remains possible that the contamination resulted from a breach of the cap. DEIR, at 5-35 (“Subsequent to installation of the sand cap over the PCB contaminated sediments in Convair Lagoon, monitoring has been conducted that has discovered PCB contamination above the cap, presumably coming from the 60-inch storm drain.”) (emphasis added).

The Regional Board should not risk a similar outcome with respect to a CDF at Convair Lagoon. If the proposed CDF were to be adopted and fail, causing impacts to the environment, the commingling of sediments in the CDF would likely result in complex, multi-party litigation—at great cost to all parties involved.² Since the Port District would be the sole beneficiary of such an alternative, due to its acquisition of the 10 additional acres of land that would be created by constructing the CDF, any alternative involving the commingling and confinement of sediments at Convair Lagoon should be contingent upon the Port District’s agreement to fully fund such an approach, including accepting any and all future liability, obligations and costs, and indemnifying other parties for monitoring and remediation costs if the CDF fails.

III. CONCLUSION

For the foregoing reasons, General Dynamics strongly objects to the Convair Lagoon CDF alternative, and requests that pages 20 to 90 of Appendix A to Appendix K, and all similar references to the former Lindbergh Field Facility, be stricken from the DEIR.

Respectfully submitted,



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of LATHAM & WATKINS LLP

² As it stands, the Shipyard Sediment Site now involves 13 Designated Parties. To General Dynamics’ knowledge, of the numerous parties involved, the Port District is the only party in favor of the Convair Lagoon CDF alternative.