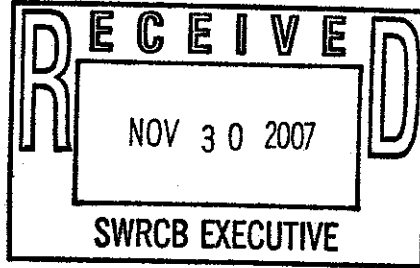


LATHAM & WATKINS^{LLP}

November 30, 2007

VIA EMAIL

Jeanine Townsend
Acting Clerk to the Board
Executive Office, State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
commentletters@waterboards.ca.gov



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File No. 030815-0000

Re: Comment Letter – Sediment Quality Objectives

Dear Ms. Townsend:

On behalf of our client, General Dynamics NASSCO, we submit this comment letter on the draft sediment quality objectives (SQOs) issued by the State Water Resources Control Board staff on September 27, 2007. For almost 50 years, NASSCO has designed, built and repaired ships at its leasehold in San Diego Bay for commercial customers and the United States Navy. The company has a substantial interest in the development of reasonable and scientifically sound SQOs.

The company understands that the State Board is mandated by law to establish SQOs, and appreciates Board staff's efforts in the last several years to develop comprehensive and uniform standards to protect beneficial uses of water in enclosed bays and estuaries of California. The SQOs will provide needed clarity to stakeholders, such as NASSCO, as well as the agencies charged with implementing state and federal regulations related to water quality. Because the SQOs will provide such critical and far-reaching standards, it is important that they reflect the most accurate and up-to-date scientific data and methodologies available, and that the underlying rationale is subject to extensive review by the scientific community and public at-large. Though NASSCO generally supports the Board staff's efforts, it has concerns regarding the proposed SQOs and the procedures utilized thus far to adopt them.

As an initial matter, NASSCO concurs with, and consequently incorporates by reference, comments submitted by the Industrial Environmental Association and the California Chamber of Commerce, including the attachments thereto.

Additionally, several points bear repeating and emphasis here. At the outset, we note that despite the considerable amount of time (many years) that Board staff has utilized to develop the SQOs, and the inherent complexity of this matter, the public has been given an extremely limited time to digest the material provided by the Board so as to intelligently comment on the SQOs, as Board staff only made available its *Draft Staff Report and Draft Water Quality Control Plan for*

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Enclosed Bays and Estuaries on September 27, 2007. Moreover, the brief review period has been of further limited value, as the Board has provided only superficial justifications for its assessment methodology and has not made available to the public (either at the time of the notice of the availability of the staff report or today) the entirety of the supporting materials that inform the Board's conclusions, including certain documents cited in the staff report.

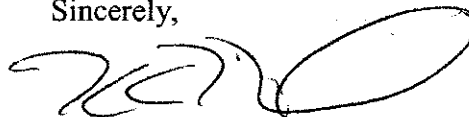
Though impossible to provide complete comments for the reasons discussed above, we note several of the more apparent, fundamental defects with the SQOs. First, though the SQOs purport to rely upon site-specific information, there appears to be no consideration or analysis of reference stations. An analysis of the extent of pollution-related impacts at a site necessarily requires evaluating the corresponding conditions at reference locations. Moreover, there is no mechanism for taking into consideration bioavailability and the form of the chemicals present. This is particularly important for metals in sediment.

Even more significantly, the SQOs dramatically overemphasize the sediment chemistry line of evidence despite the fact that the chemistry score is merely a proxy (and a limited one at that) for the health of the benthic community, and that such health can be more directly assessed by empirical measures of benthic toxicity and benthic community assessments. In fact, in evaluating potential impacts, it appears that a high sediment chemistry score will trump low toxicity results and observed thriving, mature benthic communities in the proposed triad approach.

Moreover, even though multiple lines of evidence are purportedly utilized, the use of the semi-quantitative integer scale (of 1 to 4) for each line creates arbitrary categories that are further compromised by the fact that any integer score is rounded up to the next whole number (i.e., a 3.1 score becomes a 4). This unsupported methodology results in simplicity but not accuracy, and effectively weights more heavily any supporting line of evidence with a higher score than any other line.

For the reasons discussed above, and for those set forth in the comments incorporated by reference, we respectfully request that Board staff (i) not issue the SQOs as final at this time, (ii) release the entirety of its supporting record, including any and all documents cited in the staff report and relied upon to develop the SQOs, (iii) provide additional and sufficient time to comment upon those materials and the proposed SQOs, and (iv) consider the substantive comments submitted and revise the SQOs accordingly.

Sincerely,



Kelly E. Richardson
of LATHAM & WATKINS LLP

cc: Christopher Barnes, Esq., General Dynamics NASSCO