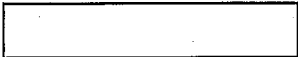




Central Coast Regional Water Quality Control Board

July 20, 2012



Santa Barbara, CA 93101

Dear Mr. Nash,

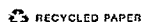
SITE CLEANUP PROGRAM: SANTA BARBARA HARBOR DRY DOCK - RESPONSE TO COMMENTS ON PUBLIC NOTICE OF PLAN FOR NO FURTHER ACTION

Thank you for your April 9, 2012 and May 15, 2012 comments on the Central Coast Regional Water Quality Control Board's (Water Board's) Public Notice of Plan for No Further Action for the Santa Barbara Harbor (Harbor). As we stated in the public notice, Water Board staff concur with the request from the City of Santa Barbara's (City's) Waterfront Department to close this site within our Site Cleanup Program. This response addresses your May 15, 2012 letter which is an expanded version of the April 9, 2012 letter. Your comments are summarized and grouped together in the following table; our response to your comments are provided below.

Table with 2 columns and 10 rows listing issues of concern expressed by Mr. William Nash, such as 'Significant elapsed time between the City's last sampling event...' and 'Dissatisfaction with the City's management of the Dry Dock operation...'.

JEFFREY S. YOUNG, CHAIR | ROGER W. BRIGGS, EXECUTIVE OFFICER

895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401 | www.waterboards.ca.gov/centralcoast



Item No. 11 Attachment 3b
December 5-6, 2012
Santa Barbara Harbor

Water Board Staff Responses to Comments

Issue 1: Elapsed time between City's last sediment sampling and the Dry Dock's removal from the Harbor.

You are correct that the last Harbor bottom sediment sampling event occurred in 2006, and we released the Plan for No Further Action nearly six years after that time. The reason for this gap is due to two primary factors:

- Water Board staff's workload. As with many private businesses and other governmental entities, the State and Regional Water Boards throughout California have been dealing with the reality of a damaged economy. We must continually balance the number of sites in our Site Cleanup Program with reduced staff resources (due to a State-wide hiring freeze) and reduced work schedules (due to staff furloughs). Although Water Board staff have always had to triage our workloads, the reduction in resources over the last few years has forced staff to prioritize our work based on risks to human health and the environment. For example, Water Board staff must spend as much time as possible with sites where contaminants pose actual or imminent risk or exposure to humans (such as contaminated drinking water supplies) or ecological receptors (such as habitat impacts to rare and/or endangered species). This sometimes results in some sites not getting worked on, or in sites getting only sporadic staff attention.
- Prioritization of workload. Based on our assessment of data collected between 2002 and 2006 and the removal of six marine batteries in 2003, the localized presence of trace metals and organotin compounds on the Harbor bottom below the former Dry Dock did not warrant classification of Harbor sediment as a high-priority site in 2006, and does not warrant such classification today. While this determination may seem counterintuitive due to the presence of debris on the Harbor bottom associated with anti-fouling paint (which is designed to prohibit a favorable environment for certain organisms), the Harbor is an environment that has been adapted over several decades to accommodate over 1,100 boats and numerous businesses. The Santa Barbara Harbor (and any harbor) is not a pristine environment, but is a setting that has been modified to serve specific societal needs. As such, harbors inherently possess a high concentration of contributors to trace metal and organotin loading in the form of virtually all boat bottoms, marine hardware, and pilings. Therefore, additional sources of metals and organotins would remain even if we required the City to clean up the sediment below the Dry Dock.

Water Board staff workload prioritization based on threat to human health and the environment is a practical measure we must take to focus our limited resources on the most serious water quality problems throughout our region. One of the tools we use to assess the magnitude of water quality issues is stream sampling and analysis via our Central Coast Ambient Monitoring Program (CCAMP). Due to the size of our region and the numerous water bodies in it, CCAMP staff devote a year to monitoring a particular part of our region, then move on to the next area in subsequent years until all areas have been monitored. After all areas are addressed, the monitoring process is repeated in the same order so as to evaluate changes in water quality parameters over time. In order to continue to evaluate the overall health of the Harbor, CCAMP staff will expand its monitoring program to include frequent dissolved oxygen monitoring in the Harbor starting immediately. In addition, starting in 2014/2015 when the CCAMP rotation returns to Santa Barbara County, CCAMP will establish specific Harbor locations at which

trends in sediment quality and toxicity can be evaluated over the long-term. Although these specific locations are in the process of being determined, they will include the Harbor bottom below the Dry Dock, areas where marine batteries have been disposed in the past, and particular storm drain outlets in the Harbor.

Issue 2: Erroneous statement of Water Board site closure.

We thank you for including Mr. John Bridely's November 10, 2010 letter to you in your May 15, 2012 submittal to us. Mr. Bridely (the former Waterfront Director) states in the letter that ". . . staff from the State Regional Water Control Board . . . found no high levels of contamination or that the site remediation was required. The investigation and active case was subsequently closed." Water Board staff cannot speculate as to why Mr. Bridely stated that we had closed the site. As you have seen, our procedure for site closure involves notifying the public that we are considering closure/no further action, and inviting the public to comment on the potential closure by a specific date. The March 14, 2012 and the April 16, 2012 public notices you received are the only notices we have sent regarding site closure, and as you know, we have not yet closed the site.

Issue 3: Improper notification of slip holders and other stakeholders regarding our plan to close the site.

Water Board staff initially directed City Waterfront Department staff to mail the March 14, 2012 public notice to stakeholders on our interested parties list, which included businesses around the Harbor and other Santa Barbara stakeholders who have an interest in local water quality issues, such as Heal the Ocean and Channelkeeper. In the interest of conserving paper, we had not required the City to mail the notices to each slip holder (over 1,100 individuals). Rather, we directed Waterfront Department staff to notify slip holders by posting the notice on the entrance to each marina dock and in visible areas around the Harbor. This was a Water Board staff decision, not a Waterfront Department decision, as your comment letter implies. However, you pointed out in your April 9, 2012 comments to us that many slip holders would not have seen the posted notices due to their sporadic presence at the Harbor's marinas. We agreed with your statement and quickly acted to correct our error by revising the date on the public notice and directing Waterfront Department staff to mail the April 16, 2012 public notice to all slip holders' billing addresses. We also extended the public comment period to May 16, 2012. Water Board staff consider public notification to be an important component of our responsibilities, and we are confident that our actions were appropriate for responding to your April 2012 comment and notifying the public about our proposed site closure. We appreciate your suggestion to expand our interested parties list and intend to notify all appropriate individuals and entities of the October 18, 2012 Water Board hearing to address site closure in Santa Barbara.

Issue 4: Incorrect characterization of facts.

You state in the May 15, 2012 comment letter that ". . . certain factual matters have been mischaracterized within documents relevant to the Site." We assume you are referring to statements Water Board staff inadvertently included in the March 14, 2012 public notice and a February 29, 2012 internal memo posted on our GeoTracker website that the Dry Dock was removed from the Harbor in 2010. Based on a clarifying telephone conversation you had with Water Board staff on April 9, 2012 in which you informed us the Dry Dock was removed in 2011, we corrected the erroneous date when we revised and re-issued the April 16, 2012 public notice. We will include the correct date in any subsequent documents we upload to the

GeoTracker website (including this response to your comments). We are not aware of any additional errors or inadvertent mischaracterizations in documents we have created.

You informed Water Board staff in the April 9, 2012 telephone conversation and in your May 15, 2012 comment letter that the Dry Dock's cessation of operation and removal from the Harbor were the result of the Dry Dock owner's bankruptcy and a bankruptcy trustee's subsequent sale of the Dry Dock to you and additional unnamed private individuals. While this information is useful to establish the context of when and how the Dry Dock (as a likely source of waste constituents) was eliminated from the Harbor, it is largely irrelevant to our determination to require no further action from the City associated with the Site Cleanup Program site. For this reason, our documents have never included details of how, or by whom, the Dry Dock was removed. If we had inadvertently implied the City was responsible for the removal, we will be mindful not to give this impression in future documents and comments.

Issue 5: Water Board's insufficient attention to Harbor problems.

You have clearly expressed your dissatisfaction with Water Board staff's attention to the Harbor site. We hope our response to your comments in Issue 1, above, informs you as to why we have not maintained a consistent presence, and how another program within our office will be conducting long-term monitoring of Harbor water quality. The results of this monitoring will allow Water Board staff to determine if the Harbor requires (1) designation as an impaired water body¹, and consequently, (2) development of a total maximum daily load assessment, and (3) remediation of specific constituents.

The April 16, 2012 public notice indicates Site Cleanup Program staff determined that site closure is warranted; this action does not preclude ongoing regulatory oversight of the Harbor by other sections within our office. Future monitoring by CCAMP staff is one example of Water Board staff involvement. In addition, Water Board staff that enforce stormwater regulations have been and continue to be involved with the City's stormwater pollution prevention, planning, and monitoring program, which incorporates the Harbor. Water Board staff also issue certification for proposed construction projects when the proponent has adequately demonstrated the project will not adversely impact waters of the United States. The City's periodic Harbor maintenance dredging is an example of a Water Board-approved project in which the City has complied with our requirements associated with the discharge of dredge and fill material.

With respect to your comment regarding our lack of attention to the Dry Dock operator's lack of a marine sanitation device (MSD) while the operator resided at the Dry Dock, the Water Board was not aware of any waste discharge and does not have authority to require the use of MSDs. While we do regulate discharges to waters of the State, we typically refer anecdotal reports of discharges of this nature to local authorities which are geographically closer to the potential problem, and can respond more rapidly to citizens' complaints. In the future, if you witness or suspect a discharge of human waste (or wastewater in general) to the Harbor, please contact

¹ CCAMP facilitated a multi-harbor study of harbor-wide health within our Central Coast region in 2004 (report was published in 2006). The Santa Barbara Harbor was one of the six harbors evaluated by Moss Landing Marine Laboratories (MLML) in this study. Data collected by MLML indicated the Harbor's evaluated parameters did not exceed applicable water quality standards, and therefore did not warrant inclusion of the Harbor on California's list of impaired water bodies; therefore no specific parameters were identified for requiring further study and actions to reduce or eliminate loading to Harbor water.

the Waterfront Department Harbor Patrol at (805) 564-5530, and/or Santa Barbara County Public Health Department, Environmental Health Services at (805) 681-4900.

Issue 6: Dissatisfaction with the City's management of the Dry Dock operation, lease, bankruptcy, and residual contamination.

Water Board staff do not have authority to direct the City's management of Harbor businesses or lease-related matters. Our authority lies with regulation of discharges to waters of the State. Therefore, although the California Department of Fish and Game (DFG) and the Santa Barbara County Fire Department were also involved in responding to the citizen complaint of illegal marine battery disposal in 2002, we took on the lead agency role in 2003, and directed the City to define the nature and extent of waste constituents at various locations throughout the Harbor. We believe the City has complied with our requirements, and our evaluation of the City's data, combined with the 2002 sampling results from the DFG and the 2004 results from the Central Coast Harbor Study, indicate a no further action determination is appropriate.

Issue 7: Concern the City's installation of additional boat slips and associated pile driving will cause migration and spreading of contaminated Harbor bottom sediment.

Water Board staff also had this concern, and discussed it with personnel from the Waterfront Department. We were told the City's contractor would minimize sediment disturbance during pile driving by encircling the area with a turbidity curtain, inside which suspended particles will be allowed to settle prior to the curtain's removal. The Waterfront Department has successfully used this procedure to manage turbidity in other areas of the Harbor, and has purchased its own curtain for future use.

Issue 8: Concern Harbor slip owners and businesses will be required to pay for cleanup.

If our Water Board members agree with Water Board staff's recommendation to require no further action from the City, we would require neither the City nor any other entity or individual to finance a cleanup of sediment below the Dry Dock. If the site remains open and/or future CCAMP monitoring justifies adding the Harbor to the State's list of impaired water bodies, the City will continue to be the designated responsible party, and as such, we would expect the City to continue to be responsive to our requirements. We cannot speak for how the City would access or recoup funds for this effort.

Issue 8: Lack of Water Board response to your April 9, 2012 letter containing comments on the March 14, 2012 public notice.

Water Board staff did not respond to your April 9, 2012 letter because we agreed with your statements that not all slip holders would have been aware of our March 14, 2012 public notice. As a result, we therefore required the City Waterfront Department staff to mail out our revised public notice that requested comments by May 16, 2012. Our intent was to respond to all comments after the final public comment due date; we hope this letter conveys our intent to be responsive to your concerns.

Issue 10: Possible exposure of adults and children to contamination via recreational use of the Harbor.

You state in your May 15, 2012 letter that, "*Harbor users daily spend time in the area of the Site of the Dry Dock and I have witnessed people kayaking and paddle boarding at the Site in the*

water and some with children." Because anti-fouling paint targets aquatic organisms and prevents them from adhering to boat hulls, a great deal of research has been conducted to evaluate the effects of anti-fouling paint on specific ecological "receptors." Much less research has been conducted on anti-fouling paint effects on humans. However, existing research indicates adverse human health effects associated with such paint have been reported for certain workers (i.e., shipyard painters) who experienced prolonged skin exposure and inhalation of vapors from application of the paint itself, as well as inhalation of fine particles associated with paint removal sand blasting. In the highly unlikely event the casual recreational Harbor users you describe come into contact with the sediment, the sediment contains old paint chips and hull-cleaning debris, not fresh paint. In addition, contact time would be short-lived. However, the overriding reason neither long-term dermal nor inhalation exposure pathways would be experienced by casual recreational Harbor users is because sediment below the former Dry Dock is approximately 16 feet below the water surface.

There is the potential that divers could come into contact with sediment below the former Dry Dock; however this contact would also be short-lived. In addition, dermal contact would be minimized with wet suit and glove coverage, the paint would not be fresh, and there would be no vapor or particle inhalation risk.

We appreciate you taking the time to review and comment on the public notice. You obviously care a great deal about the Harbor and the many uses it affords the community. We believe the more targeted Harbor monitoring that will be conducted by our office's CCAMP staff (see our response to Issue 1) will be valuable for continued monitoring of the Harbor's overall health. If you have any questions or comments about this letter, please contact **Diane Kukol** at (805) 542-4637 or dkukol@waterboards.ca.gov. You may also contact Thea Tryon at (805) 542-4776 or ttryon@waterboards.ca.gov.

Sincerely,



Digitally signed by Thea Tryon
 DN: cn=Thea Tryon, o=Central Coast Water Board,
 ou=SCP - LD, email=ttryon@waterboards.ca.gov,
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 Date: 2012.07.20 10:23:31 -07'00'

for Michael Thomas
 Assistant Executive Officer

cc:

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