



# California Regional Water Quality Control Board

## San Diego Region

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<http://www.waterboards.ca.gov/sandiego>

### NOTICE OF PUBLIC HEARING

#### In the Matter of San Diego Bay Shipyard Sediment Site

#### CONSIDERATION OF TENTATIVE RESOLUTION NO. R9-2012-0025 (CERTIFICATION OF FINAL ENVIRONMENTAL IMPACT REPORT)

and

#### ADOPTION OF TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2012-0024<sup>1</sup>

**DATE:** March 14, 2012  
**TIME:** 9:00 a.m.  
**PLACE:** San Diego Water Board  
9174 Sky Park Court, Suite 100  
San Diego, California 92123

On November 9, 14, 15, and 16, 2011, a panel of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) conducted an evidentiary hearing on the proposed cleanup of contaminated sediments in San Diego Bay. The San Diego Bay Shipyard Sediment Site is located on the eastern shore of central San Diego Bay just to the south of the Coronado Bay Bridge and within the leaseholds of National Steel and Shipbuilding Company (NASSCO) and BAE Systems San Diego Ship Repair, Inc. (BAE Systems). The panel hearing concerned Tentative Cleanup and Abatement Order No. R9-2011-0001 and related documents, including the Final Environmental Impact Report prepared for the project.

A hearing panel must make a recommendation to the full Board, which then takes action based upon the record. (Wat. Code § 13228.14.) The hearing panel has proposed Tentative Cleanup and Abatement Order No. R9-2012-0024, with its supporting Draft Technical Report (collectively Proposed Order), and Tentative

<sup>1</sup> The evidentiary hearing conducted by the panel considered Tentative Cleanup and Abatement Order No. R9-2011-0001 and Tentative Resolution No. R9-2011-0072 (Certification of Final Environmental Impact Report). The Proposed Order, among other things, renumbers the tentative Order to reflect the anticipated calendar year of adoption. The tentative certification resolution is also renumbered.

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Tentative Cleanup and Abatement  
Order No. R9-2012-0024; Tentative  
Resolution No. R9-2012-0025  
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Resolution No. R9-2012-0025 (Certification of the Final Environmental Impact Report) for the full Board's consideration.

The Proposed Order renumbers and makes revisions to Tentative Cleanup and Abatement Order No. R9-2011-0001 and its supporting Draft Technical Report. The panel recommendation also includes revisions to Tentative Resolution No. R9-2011-0072 (Certification of Final Environmental Impact Report). The changes to the earlier documents have been incorporated into the Proposed Order (Tentative Cleanup and Abatement Order No. R9-2012-0024 and Draft Technical Report) and Tentative Resolution No. R9-2012-0025, and are shown in underline/strikeout. Together, these documents constitute the hearing panel's recommendation to the full Board. The Proposed Order would require remediation of the sediments in San Diego Bay in and adjacent to the leaseholds of NASSCO and BAE Systems (Shipyard Sediment Site).

The Proposed Order, Tentative Resolution No. R9-2012-0025 and supporting documents are available electronically to the designated parties, interested parties and public at the following Internet link:  
[http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/shipyards\\_sediment/2005\\_0126adt.shtml](http://www.waterboards.ca.gov/sandiego/water_issues/programs/shipyards_sediment/2005_0126adt.shtml).

The San Diego Water Board, at its March 14, 2012 public hearing, will consider whether to certify the Final Environmental Impact Report and adopt the Proposed Order. The hearing panel's recommendation would, among other things: (1) remove Star & Crescent Boat Company as a Discharger or Responsible Party pending a determination on the issue of corporate successor liability in the federal district court litigation; (2) confirm the Discharger or Responsible Party status of the San Diego Unified Port District and San Diego Gas & Electric Company as proposed by the San Diego Water Board Cleanup; (3) update appropriate costs which the San Diego Water Board seeks to recover from named Dischargers; (4) include requirements for electronic reporting; (5) clarify that portions of SW29 not proposed to be dredged may be addressed by a separate regulatory action by the San Diego Water Board; (6) confirm that the costs and environmental effects associated with dredging additional polygons is not required to protect beneficial uses in the remedial footprint; and (7) reflect that the San Diego Water Board's factual determinations in this matter are supported by the weight of the evidence.

After an independent review of the record, the San Diego Water Board may adopt, with or without revision, or reject, the Proposed Order of the hearing panel and/or the panel's proposed resolution certifying the Final Environmental Impact Report.

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Designated Parties or interested persons wishing to submit written comments to the San Diego Water Board must submit them so they are received not later than **5 p.m. on February 24, 2012**. Electronic comments are acceptable and should be submitted to the attention of Frank Melbourn at [fmelbourn@waterboards.ca.gov](mailto:fmelbourn@waterboards.ca.gov). Written comments by Designated Parties that exceed five pages in length must also be provided in hard copy (15 copies) to the San Diego Water Board, attention Frank Melbourn. The Advisory Team will post all timely written submittals on the Board's website at: [http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/shipyards\\_sediment/2005\\_0126adt.shtml](http://www.waterboards.ca.gov/sandiego/water_issues/programs/shipyards_sediment/2005_0126adt.shtml). Designated Parties must simultaneously provide copies of their written comments to all other Designated Parties by e-mail.

Written materials received after 5 p.m. on February 24, 2012, will not be accepted and will not be incorporated into the administrative record for this matter absent a ruling by the Chair. A Designated Party or interested person requesting to submit late written materials must demonstrate good cause for the late submission, and the Chair must find that the late submission would not prejudice the San Diego Water Board or any Designated Party.

**Comments must be limited to changes to the Proposed Order (Tentative Cleanup and Abatement Order No. R9-2012-0024 and the supporting Draft Technical Report) and/or Tentative Resolution No. R9-2012-00125 and its supporting documents, including the Final Environmental Impact Report. The San Diego Water Board does not intend to accept new evidence. All Designated Parties are instructed not to resubmit prior legal argument or other comments under the guise of commenting on the changes.**

All oral comments at the March 14 hearing will be limited to **three minutes**, unless the Chair provides additional time. Designated Parties requesting extra time should submit their request in writing to Catherine George Hagan ([CHagan@waterboards.ca.gov](mailto:CHagan@waterboards.ca.gov)), with a copy to all of the Designated Parties. Please refer to the Notice of Public Hearing issued September 16, 2011, and earlier procedural documents, regarding Hearing Procedures, Designated Parties, Primary Contacts, Separation of Functions and Ex Parte Communications. Anyone having procedural questions about matters that are not in controversy should contact Catherine George Hagan at [chagan@waterboards.ca.gov](mailto:chagan@waterboards.ca.gov) or by telephone at 858-467-2958.

This document, the September 16, 2011, Notice of Public Hearing, as well as other documents related to this matter can be found on the San Diego Water Board website at [http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/shipyards\\_sediment/in](http://www.waterboards.ca.gov/sandiego/water_issues/programs/shipyards_sediment/in)

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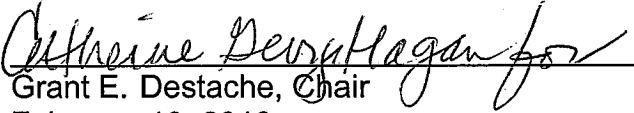
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dex.shtml. Copies of these documents can be obtained by contacting or visiting the San Diego Water Board's office at 9174 Sky Park Court, #100, San Diego, California 92123, weekdays between 8:00 a.m. and 5:00 p.m., telephone 858-467-2952.

The final meeting agenda for the March 14, 2012, meeting will be available at [http://waterboards.ca.gov/sandiego/board\\_info/agendas/](http://waterboards.ca.gov/sandiego/board_info/agendas/) at least ten days before the meeting. The agenda will indicate the anticipated order of agenda items and may include a staff report by the Advisory Team summarizing this item.

The meeting facilities will be accessible to persons with disabilities. Individuals requiring special accommodations are requested to contact Ms. Christina Witte at (858) 467-2974 at least 5 (five) working days prior to the meeting.

Please bring the above information to the attention of anyone you know who would be interested in this matter.

  
Grant E. Destache, Chair  
February 13, 2012