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2.0 INTRODUCTION

This Draft Program Environmental Impact Report (PEIR) has been prepared to evaluate specific environmental impacts associated with the proposed Shipyard Sediment Remediation Project in the County of San Diego (County) and City of San Diego (City).

The California Regional Water Quality Control Board, San Diego Region (hereinafter the San Diego Water Board) is the Lead Agency with authority to prepare this Draft PEIR and, after completion of the public comment/response process, is the Certifying Agency for the Final PEIR. This Draft PEIR is intended to serve as an informational document to be considered by the San Diego Water Board and the Responsible and Trustee Agencies during deliberations on the proposed project. The project approvals associated with the proposed project are described in Chapter 3.0, Project Description.

An Environmental Impact Report (EIR) is an informational document intended to inform decision-makers and the general public of the potential significant environmental impacts of a project. An EIR also identifies possible ways to reduce or avoid significant impacts and describes reasonable alternatives to the project. The California Environmental Quality Act (CEQA) Lead Agency has the authority to approve or deny the proposed project (see Chapter 3.0 for a description of the project). The San Diego Water Board, as the CEQA Lead Agency, will consider the information in this PEIR along with other information before taking any action on the project. An evaluation of potential project alternatives is included in this PEIR, including a No Project Alternative.

2.1 PURPOSE AND INTENDED USES OF THE PROGRAM ENVIRONMENTAL IMPACT REPORT

The purpose of this Draft PEIR is to inform decision-makers and the general public of any significant adverse environmental effects associated with the proposed actions and to identify appropriate and feasible mitigation measures and alternatives that may be adopted to minimize or eliminate any significant project or cumulative effects. This Draft PEIR also includes an evaluation of reasonable alternatives to the proposed project, including: Alternative 1 – No Project, Alternative 2 – Confined Aquatic Disposal (CAD), Alternative 3 – Convair Lagoon Confined Disposal Facility (CDF), and Alternative 4 – Nearshore CDF with Beneficial Use of Sediments. An off-site alternative is not analyzed because the project is location-specific, as the primary objective of the project is to remove the contaminated sediments from the identified remedial footprint, consistent with the Tentative Cleanup and Abatement Order (CAO).

This Draft PEIR has been prepared according to CEQA requirements to evaluate the potential environmental impacts associated with the construction and operation/use of the proposed project. The Draft PEIR also examines various alternatives to the proposed project and describes potential impacts relating to a variety of environmental issues and methods by which these impacts can be mitigated or avoided. The Draft PEIR includes mitigation measures that would offset, minimize, or otherwise avoid significant environmental impacts. This PEIR has been prepared in accordance with CEQA Public Resources Code (PRC) section 21000 et seq. and the CEQA Guidelines (California Code of Regulations [CCR] Title 14, Chapter 3).

The objective of the Draft PEIR is to inform decision-makers, the public, and other interested parties of the potential environmental consequences that may be associated with the approval and implementation of the proposed project. According to CEQA Guidelines CCR section 15002, the basic purposes of CEQA are to:

- Inform government decision-makers and the public about the potential significant environmental effects of proposed activities;
- Identify ways that environmental damage can be avoided or significantly reduced;
- Prevent significant, avoidable damage to the environment by requiring changes to projects through the use of alternatives or mitigation measures when the governing agency finds the changes to be feasible; and
- Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

This Draft PEIR will be circulated for public comment for a period of 45 days.

2.1.1 Authority

Upon preparation of an Initial Study (IS) for the Shipyard Sediment Remediation Project, the San Diego Water Board determined that a PEIR should be prepared to focus on significant effects of the proposed project and to satisfy the requirements of CEQA. Consistent with CEQA Guidelines section 15168, the San Diego Water Board is proceeding with the PEIR to address the environmental impacts of the proposed sediment removal project as described in the Tentative CAO.

This PEIR has been prepared in accordance with CEQA (PRC section 21000 et seq.) and the CEQA Guidelines (CCR Title 14, section 15000 et seq.). The CEQA Guidelines stipulate that an EIR must be prepared for any project that may have a significant impact on the environment. The proposal under consideration is a “project” as defined by section 15180 of the CEQA Guidelines.

2.1.2 Background

The San Diego Water Board has been working on the development and issuance of the Tentative CAO for discharges of metals and other pollutant wastes to San Diego Bay marine sediment and waters at the Shipyard Sediment Site for approximately 10 years. The San Diego Water Board has identified elevated levels of pollutants in the San Diego Bay bottom sediments adjacent to National Steel and Shipbuilding Company (NASSCO) and BAE Systems shipyards. The concentrations of these pollutants cause or threaten to cause a condition of pollution that harms aquatic life and beneficial uses designated for San Diego Bay. The concentrations of these pollutants also present aquatic-dependent wildlife and human health risks from exposure to pollutants through the food chain attributable to the contaminated sediment.

At the February 21, 2001, San Diego Water Board meeting, the San Diego Water Board adopted Resolution Nos. 2001-02 and 2001-03. These resolutions directed the Executive Officer to issue Water Code section 13267 letters to NASSCO and Southwest Marine (predecessor to BAE Systems) requiring each shipyard to submit the results of a site-specific study to develop sediment cleanup levels and identify sediment cleanup alternatives. Two phases of field work were conducted in 2001 and 2002. The results are provided in the report *NASSCO and Southwest Marine Detailed Sediment Investigation*, dated September 2003.

On April 29, 2005, the San Diego Water Board circulated for public review and comment a tentative version of the cleanup and abatement order (Tentative CAO No. R9-2005-0126). Based on the San Diego Water Board's consideration of public comments submitted on the April 29, 2005, Draft CAO and other information, a revised Tentative CAO No. R9-2005-0126 and a supporting Draft Technical Report (DTR), dated April 4, 2008, were prepared and released for public review.

On June 9, 2008, Mr. David King, San Diego Water Board Member and Presiding Officer of the prehearing proceedings for the Tentative CAO, referred the proceedings to confidential mediation. The mediation parties, which included the San Diego Water Board Cleanup Team (Cleanup Team) and other parties to whom the Tentative CAO is directed, through the course of mediation, reached agreement on appropriate cleanup levels, the remedial design, remediation and post-remediation monitoring requirements, and a remedial action implementation schedule. Those agreements are contained in Tentative CAO No. R9-2010-0002 and the supporting DTR, which were released for public review on December 22, 2009.

On September 15, 2010, the San Diego Water Board released a revised version of the Tentative CAO and supporting DTR. This version updates and clarifies the Tentative CAO and DTR, which were previously released on December 22, 2009. Copies of Tentative CAO No. R9-2011-0001 and supporting DTR are posted on the San Diego Water Board website at <http://www.waterboards.ca.gov/sandiego>.

The September 15, 2010 release of a Tentative CAO and DTR is not intended to fulfill the San Diego Water Board's formal procedures for adopting a CAO in this matter under the Porter-Cologne Water Quality Control Act (Porter-Cologne Act). A public hearing schedule and deadline for public comments on a finalized Tentative CAO and DTR will be established in a future ruling by the San Diego Water Board's Presiding Officer in this matter.

On April 12, 2011, the San Diego Water Board released the "Notice of Opportunity for Designated Parties to Submit Comments, Evidence and Legal Argument and for Interested Persons to Submit Non-Evidentiary Comments" on the Tentative CAO and supporting DTR. The San Diego Water Board will also provide an opportunity for all parties and interested persons to provide comments on the Draft PEIR. Consideration of testimony and written submittals by parties and interested persons may result in revisions to the Tentative CAO and the supporting DTR as well as the Final PEIR. Thus the finalized version of the Tentative CAO that is ultimately considered for adoption by the San Diego Water Board at the conclusion of the proceedings may differ from the current September 15, 2010, version of the Tentative CAO.

2.1.3 Level of Review

The Draft PEIR provides a "program-level" review of the types of environmental impacts that may be associated with implementation of the sediment removal project. Section 15168(a) of the CEQA Guidelines defines a PEIR as an EIR prepared for a series of actions that can be characterized as one large project and are related:

- Geographically;
- As logical parts in the chain of contemplated actions;
- In connection with issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or
- As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects that can be mitigated in similar ways.

Collectively, the proposed sediment removal activity and the selection of a dewatering/staging area are related geographically because the staging area must be in proximity to the sediment removal activity, they are logical parts in the chain of contemplated actions because they all function to support the implementation of the Tentative CAO, and they are connected under the same rules and regulatory authority because they will all be implemented and operated under the authority of the San Diego Water Board in a manner that complies with the Final CAO, once approved.

The San Diego Water Board's commitment to conduct additional CEQA review in the future is consistent with the requirements of CEQA that a Lead Agency prepare an EIR for a project

“at the earliest possible stage.” As such, CEQA permits a Lead Agency to use “tiering” to “defer analysis of certain details of later phases of long-term linked or complex projects until those phases are up for approval” (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* [2008] 40 Cal.4th 412, 431–432). In particular, tiering is appropriate “when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports” (*in re Bay-Delta* [2008])43 Cal.4th 1143, 1170).

The PEIR identifies the anticipated effects of the sediment removal project. The PEIR also identifies five alternative sites within which the dewatering and treatment of dredge material could occur. This PEIR provides sufficient information to the appropriate level of detail to permit “reasonable and meaningful environmental review” of the effects of the project so that the San Diego Water Board may make decisions regarding approval of the proposed sediment removal project and selection of one or more of the potential staging area sites. This PEIR, once certified, may be used as an environmental clearance baseline against which to evaluate future site-specific implementation approvals and permits for implementation of the proposed project.

2.1.4 Intended Uses of the PEIR

This PEIR constitutes and is designated as a “program environmental impact report” for purposes of CEQA PRC section 21090(a). Future decisions and implementing actions following certification of the PEIR and approval of the project will be subject to subsequent environmental review pursuant to CEQA.

This PEIR may be used by the San Diego Water Board, as Lead Agency, and other state and local agencies in considering discretionary actions relative to the proposed project, including but not limited to the agencies listed in Chapter 3.0, Table 3-1, that may use the PEIR for their respective approvals. However, before the PEIR is used for any future discretionary approval, it will be closely examined by the responsible agency to determine whether its analysis adequately addresses the environmental issues raised by the proposed approval. If it does not, further environmental analysis may be required by CEQA for those approvals.

2.2 NOTICE OF PREPARATION/PUBLIC SCOPING MEETING

The San Diego Water Board has complied with CEQA Guidelines sections 15063 and 15082 by preparing and issuing a Notice of Preparation (NOP) of a Draft PEIR. The NOP included a description of proposed activities that are within the scope of the PEIR. The NOP also included an IS Checklist. The NOP was circulated to responsible agencies and interested groups as required by CEQA. The State of California Clearinghouse (SCH) issued a project number for the Draft PEIR (SCH 2009111098).

The San Diego Water Board released the NOP for public review on November 30, 2009, for a 30-day review period. The San Diego Water Board extended the review period to Monday, March 22, 2010. A public scoping meeting was held on January 21, 2010. The IS and the NOP comments were used to establish the scope of the issues addressed in this PEIR.

Appendix A contains copies of the NOP and the NOP comment letters that were received. Written responses to the NOP were received from the following:

- Department of Toxic Substances Control (DTSC)
- California State Lands Commission
- Native American Heritage Commission (NAHC)
- BAE Systems (DLA Piper)
- Sierra Club

The IS and Scoping Meeting Notice were based on the draft version of the Tentative CAO published on December 22, 2009 (No. R9-2010-0002). The Tentative CAO was since updated, and this PEIR is based on the September 15, 2010 version (No. R9-2011-0001). Both versions are available at the San Diego Water Board websites, at http://www.waterboards.ca.gov/sandiego/water_issues/programs/shipyards_sediment/2005_0126cut2.shtml. The differences between the 2009 and 2010 Tentative CAOs are highlighted in a redline version of the CAO, which is also posted at the above-mentioned website.

2.3 AREAS OF CONTROVERSY

The purpose of the CEQA scoping process is to present the proposed project and to solicit input from interested individuals regarding environmental issues that should be addressed in this Draft PEIR. Major issues and concerns raised at the scoping meeting held on January 21, 2010, and comments submitted in writing during the NOP process included: (1) concerns regarding disproportionate impacts to low-income and/or minority communities (environmental justice); (2) release of contaminants during the cleanup activities and the effects to marine biological resources; (3) additional information regarding a confined aquatic disposal alternative; and (4) question about the need for an EIR for a CAO.

The Draft PEIR addresses each of these areas of concern in detail. Environmental justice is addressed in Appendix H and in each of the topical sections included in Chapter 4.0. The potential for release of contaminants during the cleanup activities is addressed in Sections 4.2, Hydrology and Water Quality; Section 4.3, Hazards and Hazardous Materials; and Section 4.5, Biological Resources. Additional information regarding a confined aquatic disposal alternative is included in Chapter 5.0 of this PEIR. Although the IS/NOP had

anticipated that the PEIR would not further evaluate a CAD alternative, one has been included (Alternative 2) and evaluated in this Draft PEIR in response to this comment on the IS/NOP. Although one of the shipyards questioned the need for an EIR for the Tentative CAO, the San Diego Water Board has determined that the proposal under consideration is a “project” as defined by CEQA Guidelines section 15180, that the undertaking may have a significant impact on the environment, and that that an EIR must be prepared. Specifically, in Resolution No. R9-2010-0115 adopted on September 8, 2010, the San Diego Water Board found that because the Tentative CAO presents unusual circumstances and there is a reasonable possibility of a significant effect on the environment due to the unusual circumstances, the Tentative CAO is not exempt from CEQA and that an EIR analyzing the potential environmental effects of the Tentative CAO should be prepared.¹

2.4 ISSUES TO BE RESOLVED

The San Diego Water Board will review the Draft PEIR, comments submitted on the Draft PEIR, and the Response to Comments document. If the PEIR is certified, the San Diego Water Board may choose to approve the proposed project or one of the alternatives. If the San Diego Water Board approves the proposed project, a determination may be made at that time or in the future with regard to the most appropriate staging area site for the sediment removal.

2.5 EFFECTS FOUND NOT TO BE SIGNIFICANT

As required by CEQA Guidelines section 15128, this PEIR identifies the potential effects of the proposed project that were determined to be significant and adverse. The proposed project would not result in adverse impacts related to the following: Aesthetics, Agricultural Resources, Cultural Resources, Population and Housing, Land Use and Planning, Mineral Resources, Public Services and Utilities, and Recreation. These issues are discussed in the IS along with reasons they were determined not to be significant. For further information and additional discussion, please refer to the IS and NOP in Appendix A of this PEIR.

2.6 FORMAT OF THE PEIR

Pursuant to CEQA Guidelines section 15120(c), this PEIR contains the information and analysis required by CEQA Guidelines sections 15122 through 15131. Each of the required elements is covered in one of the sections described below.

¹ Draft Technical Report for Tentative Cleanup and Abatement Order No. R9-2011-0001, Finding 37, September 15, 2010.

2.6.1 Chapter 1.0: Executive Summary

Chapter 1.0 contains the Executive Summary of the PEIR document and lists all significant project impacts, mitigation measures that have been recommended to reduce any significant impacts of the proposed project, and the level of significance of each impact following mitigation. The summary is presented in a matrix (tabular) format.

2.6.2 Chapter 2.0: Introduction

Chapter 2.0 contains a discussion of the purpose and intended use of the PEIR, a background on the NOP and scoping process, and areas of controversy known to the Lead Agency, including issues raised during the scoping process. A summary discussion of effects found not to be significant and, therefore, not included in the PEIR analysis is also included in this section.

2.6.3 Chapter 3.0: Project Description

Chapter 3.0 includes a discussion of the project's geographical setting, the history of the project site, and the project's goals, objectives, characteristics, and components.

2.6.4 Chapter 4.0: Existing Environmental Setting, Environmental Analysis, Impacts, and Mitigation Measures

Chapter 4.0 includes an analysis of the project's environmental impacts. It is organized into topical sections, including Transportation and Circulation, Hydrology and Water Quality, Hazards and Hazardous Materials, Noise, Biological Resources, Air Quality, and Climate Change and Greenhouse Gas Emissions. The environmental setting discussions describe the "existing conditions" of the environment on the project site and in the vicinity of the site as they pertain to the environmental issues being analyzed (CEQA Guidelines section 15125).

The project impact discussions identify and focus on the significant environmental effects of the proposed project. The direct and indirect significant effects of the project on the environment are identified and described, giving due consideration to both the short-term and long-term effects as necessary (CEQA Guidelines section 15126.2(a)). Cumulative impacts are based on other known proposed projects in the surrounding area.

The discussions of mitigation measures identify and describe feasible measures that could minimize or lessen significant adverse impacts for each significant environmental effect identified in the PEIR (CEQA Guidelines section 15126(c)). The level of significance after mitigation is reported in each section. Unavoidable adverse effects are identified where mitigation is not expected to reduce the effects to less than significant levels.

2.6.5 Chapter 5.0: Alternatives

In accordance with CEQA, the alternatives discussion in Section 5.0 describes a reasonable range of alternatives that could feasibly attain the basic objectives of the project and that are capable of eliminating any significant adverse environmental effects or reducing them to a level of insignificance. Alternatives analyzed in Section 5.0 include: Alternative 1 – No Project, Alternative 2 – CAD, Alternative 3 – Convair Lagoon CDF, and Alternative 4 – Nearshore CDF with Beneficial Use of Sediments.

2.6.6 Chapter 6.0: Long-Term Implications of the Project

Section 6.0 includes CEQA-mandated discussions required by CEQA Guidelines section 15126 regarding: (a) significant irreversible environmental changes that would result from implementation of the proposed project, and (b) growth-inducing impacts of the proposed project.

2.6.7 Chapter 7.0: Mitigation Monitoring and Reporting Program

A Mitigation Monitoring and Reporting Program (MMRP) has been prepared to comply with the requirements of State law (CEQA PRC section 21081.6). State law requires the adoption of an MMRP when mitigation measures are required to avoid significant impacts. The MMRP is intended to ensure compliance during implementation of the program. An MMRP will be adopted by the San Diego Water Board concurrent with certification of the Final PEIR for the proposed project. Section 7.0 provides a list of all proposed project mitigation measures, defines the party responsible for implementation, and identifies the timing for implementation of each mitigation measure.

2.6.8 Chapters 8.0 and 9.0

Chapter 8.0 lists the references used by the authors. Chapter 9.0 contains a list of the Draft PEIR preparers, technical report authors, and other experts included in preparation of the Draft PEIR.

2.6.9 Appendices

Various technical reports have been prepared to assess specific issues that may result from the construction and operation of the proposed project. Relevant information from these technical reports has been incorporated into the Draft PEIR. The technical reports and other information included as appendices to this EIR include:

- Appendix A: Initial Study, NOP, and NOP Comments
- Appendix B: Traffic Impact Analysis
- Appendix C: Water Quality Technical Report
- Appendix D: Hazardous and Hazardous Materials Technical Report
- Appendix E: Noise Impact Analysis
- Appendix F: Marine Biological Resources Assessment Technical Report
- Appendix G: Air Quality Analysis
- Appendix H: Environmental Justice Analysis
- Appendix I: Air Quality Technical Report for the Shipyard Sediment Site Project – Convair Lagoon Alternative
- Appendix J: Shipyard Sediment Alternatives Analysis Convair Lagoon Confined Disposal Facility Alternative Marine Biological Resources Technical Report
- Appendix K: Convair Lagoon Architectural Resources Evaluation and Assessment of Effects
- Appendix L: Geology and Soils Evaluation Shipyard Sediment Alternative Analysis Convair Lagoon
- Appendix M: Greenhouse Gas Calculations
- Appendix N: Hazards and Hazardous Materials Technical Study Shipyard Sediment Alternative Analysis Convair Lagoon
- Appendix O: Water Quality Technical Study Shipyard Sediment Alternative Analysis Convair Lagoon

2.7 CEQA ALTERNATIVES

CEQA Guidelines section 15126.6 requires that an EIR describe a range of reasonable alternatives to the project or to the location of the project that could feasibly attain the basic objectives of the project and evaluate the comparative merits of the alternatives. This PEIR identifies and describes several alternatives to the proposed project and assesses their environmental impacts. The alternatives analysis is included in Chapter 5.0, Alternatives.

As required by CEQA, this PEIR analyzes a range of alternatives that eliminate any significant adverse environmental effects of the proposed project or reduce those impacts to a level of insignificance. It also assesses whether each alternative would impede or achieve the project's objectives. The merits of each alternative have been evaluated and compared to the proposed project, and an "environmentally superior" alternative has been identified.

2.8 PUBLIC REVIEW OF THE DRAFT ENVIRONMENTAL IMPACT REPORT

This Draft PEIR has been distributed to affected public agencies and interested parties. Additionally, in accordance with CEQA PRC section 21092(b)(3), the Draft PEIR has been provided to all parties who have previously requested copies. A Notice of Completion and Availability of the Draft PEIR has been distributed as required by CEQA. During the 45-day public review period, the Draft PEIR and technical appendices are available for review at the following locations:

- California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353
- Logan Heights Branch Library
567 South 28th Street
San Diego, CA 92113-2438
(619) 533-3968
- San Diego Water Board project website: http://www.waterboards.ca.gov/sandiego/water_issues/programs/shipyards_sediment/docs

The NOP prepared by the San Diego Water Board indicated that the proposed project may have a significant effect on the environment and that an EIR would be required to more fully evaluate potential adverse environmental impacts that may result from development of the project. As a result, this Draft PEIR has been prepared in accordance with CEQA, as amended (CEQA PRC section 21000 et seq.), and the CEQA Guidelines (CCR Title 14, section 15000 et seq.).

Questions regarding the preparation of this document and San Diego Water Board review of the project should be referred to the following person:

Craig Carlisle, Project Manager
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

Comments may also be emailed to: CCarlisle@waterboards.ca.gov.

After the 45-day public review period, written responses will be prepared for all the significant environmental issues raised. The Final PEIR, which includes the Draft PEIR, the public comments, and responses to the comments on the Draft EIR, will be included as part of the environmental record for consideration by the decision-makers.

2.9 INCORPORATION BY REFERENCE

CEQA PRC section 21061 and CEQA Guidelines section 15150 permit an EIR/PEIR to incorporate by reference those documents that provide information relevant to the proposed project and its environmental effects. The documents hereby incorporated by reference are listed below, and the pertinent material is summarized throughout this PEIR, where information is relevant to the analysis of impact of the proposed project. All documents incorporated by reference are available for review at the California Regional Water Quality Control Board, San Diego Region, 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4353.

Documents incorporated by reference include:

California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). 2010 *Tentative Cleanup and Abatement Order No. R9-2011-0001 for the Shipyard Sediment Site, San Diego Bay, San Diego, CA*. September 15, 2010.

California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). 2010. *Draft Technical Report for Tentative Cleanup and Abatement Order No. R9-2011-0001 for the Shipyard Sediment Site, San Diego Bay, San Diego, CA*. September 15, 2010.