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April 18, 2008

San Diego Regional Water Quality Control Board
Attn: John Robertus, Executive Director
9174 Sky Park Court, Suite 100
San Diego, CA 92123

RE: Shipyard Sediment Site 2005 Tentative Cleanup and Abatement Order No. R9-2005-0126

Dear Mr. Robertus:

Pursuant to paragraph 3 in the First Amended Order of Proceedings (“Order of Proceedings”), San Diego Gas and Electric (“SDG&E”) formally joins in the letters dated April 4, 2008, and April 11, 2008, submitted to the San Diego Regional Water Quality Control board on behalf of General Dynamics NASSCO (“NASSCO”) requesting an extension of Phase III of the Order of Proceedings and revisions to the March 25, 2008 Recommended Format for Written Comments. SDG&E is concerned that certain aspects of the Order of Proceedings fail to adequately protect the procedural rights of the Dischargers, and/or fail to reflect the appropriate requirements of the California Administrative Procedure Act (“APA”) and/or the applicable requirements contained in Title 23 of the California Code of Regulations (“CCR”), Division 3, Chapter 1.5, Sections 648 et seq.

SDG&E reserves the right to join in and/or incorporate by reference comments or objections made by other parties, dischargers and interested persons, reserves the right to offer testimony, exhibits and/or other evidence on those issues, or the issues raised in this comment letter. SDG&E further reserves its rights under applicable laws, regulations and other authority applicable to the Order of Proceedings, including, but not limited to, the California APA (Cal Gov. Code §§ 11400 et seq. & 11513); Title 23 of the CCR, Division 3, Chapter 1.5, Sections 648 et seq. To the extent the Order of Proceedings fail to meet requirements contained in these or other applicable authorities, SDG&E reserves the right to raise these compliance issues in this and any future proceedings concerning the Tentative Revised Order and any final order issued by the Board.

March 25, 2008 Recommended Format for Written Comments

SDG&E joins with NASSCO that the Site Cleanup Team has recommended an overly-burdensome and static format for submission of written comments, whereby each comment must be preceded by a separate “information table” and cannot be combined with other comments referring to the same document. SDG&E looks forward to discussing a revision to the proposed format for submission of written comments in an orderly and reasonable fashion at the upcoming pre-hearing conference scheduled for April 25, 2008.

Extension of Time Periods of the Order of Proceedings

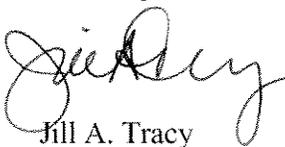
SDG&E is in receipt of the digitized administrative record in this matter. The record has been estimated to exceed approximately 375,000 digitized records, contained within approximately 8,800 folders. A cursory review of the format of the digitized record indicates it is fragmented, not fully indexed, and requires each folder to be opened manually. The Order of Proceedings currently authorizes only 90 days for (i) the review of the administrative record, technical report and supporting materials, (ii) the completion of any related discovery, and (iii) the submission of evidence and comments. Given the massive volume of the record, the 90-day period associated with Phase III likely is not sufficient time to review the administrative record, complete discovery, and submit additional evidence.

The issuance of the record also triggers a 30-day period for the designated parties to submit to the Board a joint summary of the disagreements with the facts and law in this matter. Because it is unlikely that the expansive record can even be reviewed in 30 days after its issuance, the format and timing of the joint disputed issues list should also be discussed and revised at the April 25, 2008 pre-hearing conference.

SDG&E requests that the Regional Board amend the Order of Proceedings to extend the 90-day time frame for Phase III, as well as amend the Order to more explicitly address the due process rights of parties to conduct discovery as required, including the right to subpoena documents and witnesses, depose and cross-examine witnesses, and request full disclosure of documents and evidence relied upon by the Regional Board or its staff (including internal communications germane to the proceedings). Such discovery should assist the Regional Board in determining (among other things) whether sufficient evidence exists to name certain parties as "Dischargers," whether a CAO is justified at all and, if so, what type of cleanup levels and procedures should be considered in this matter.

SDG&E looks forward to discussing an appropriate time frame and procedures for conducting and completing Phase III of the Order of Proceedings, and determining an appropriate format for submission of written comments at the April 25, 2008 pre-hearing conference.

Sincerely,



Jill A. Tracy

JAT/rmm

cc: David Barker, Regional Water Quality Control Board
Vice-Chair David King, Regional Water Quality Control Board
Regional Water Quality Control Board Members
Christopher Barnes, Esq., General Dynamics NASSCO
See Attached E-Mail Service List