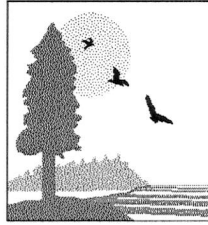


CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
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**PAUL D. THAYER**, Executive Officer

(916) 574-1800 FAX (916) 574-1810

California Relay Service from TDD Phone **1-800-735-2929**from Voice Phone **1-800-735-2922****Contact Phone: (916) 574-1892****Contact FAX: (916) 574-1925**

December 29, 2009

File Ref: SCH# 2009111098

YC/G10-08

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

2010 JAN -4 A 11:28

Tom Alo
Regional Water Quality Control Board
Region 9
9174 Sky Park Court, Suite 100
San Diego, CA 92123

SUBJECT: Notice of Preparation (NOP) of Draft Environmental Impact Report (EIR), Tentative Cleanup and Abatement Order No. R9-2010-0002 for the Shipyard Sediment Site, San Diego Bay

Dear Mr. Alo:

Staff of the California State Lands Commission (CSLC) has reviewed the Notice of Preparation (NOP) for the above-proposed project. Under the California Environmental Quality Act (CEQA), the Regional Water Quality Control Board (RWQCB) is the Lead Agency and the CSLC is a Responsible and/or Trustee Agency for any and all projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. The CSLC has certain residual and review authority for tide and submerged lands legislatively granted in trust to local jurisdictions (Public Resources Code §6301 and §6306). All tide and submerged lands, granted or ungranted, as well as navigable rivers, sloughs, etc., are impressed with the Common Law Public Trust.

The draft EIR will address tentative Cleanup and Abatement Order No. R9-2010-0002 (CAO) for the proposed remediation of contaminated marine sediments at the National Steel and Shipbuilding Company Shipyard and BAE Systems Shipyard Sediment Site in San Diego Bay. The project may include dredging, capping, and/or natural recovery, and the dewatering of dredge spoils at an onshore facility with disposal at an appropriate landfill site.

The remediation project will involve: (1) ungranted sovereign lands under the CSLC's exclusive jurisdiction; and (2) sovereign lands granted to the San Diego Unified

Port District (Port) pursuant to Chapter 67, Statutes of 1962, as amended, with minerals reserved to the State. Any remediation work on ungranted sovereign lands will require formal authorization by the CSLC. Any dredging activities on legislatively granted sovereign lands will also require formal authorization by the CSLC.

The CSLC is extremely concerned about the impacts of sediment contamination on the public trust resources within San Diego Bay. On December 14, 2006, the CSLC adopted a resolution acknowledging the significant contamination in San Diego Bay and urging the Board to act expeditiously to require remediation of the contaminated sediment. A copy of the Resolution is attached for your convenience.

The Biological Resources section of the EIR should include a discussion of the potential effects of any contaminants that may be exposed or released during cleanup activities and the effect that may have on aquatic species or other wildlife. The issue of what effect this potential contaminant exposure may have on aquatic species or other wildlife and their habitat should also be addressed more thoroughly in the Water Quality section.

There are several issue areas in the NOP that are marked as "less than significant" or "less than significant with mitigation incorporation" but their associated discussions indicate that the issues in question will **not** be addressed in the EIR. These include:

- VII. Hazards and Hazardous Materials, sections a and b
- VIII. Hydrology and Water Quality, sections a and f
- XI. Noise, sections a, b, and d

Any potentially significant issue areas and their associated mitigations are required by CEQA to be discussed in the EIR, and therefore all of these issue areas should be included (CCR sections 15126 and 15126.2).

Please contact Jane Smith, Public Land Management Specialist, at (916) 574-1892, or by email at smithj@slc.ca.gov, for information concerning our leasing requirements. If you have any questions concerning the environmental review, please contact Sarah Mongano at (916) 574-1889 or by e-mail at mongans@slc.ca.gov.

Sincerely,



Marina R. Brand, Acting Chief
Division of Environmental Planning
and Management

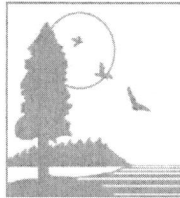
Attachment

cc: Office of Planning and Research
Jennifer Lucchesi, Jane Smith,
Susan Young, Kathryn Wiens,
and Sarah Mongano



**CALIFORNIA STATE
LANDS COMMISSION**

JOHN GARAMENDI, *Lieutenant Governor*
JOHN CHIANG, *Controller*
MICHAEL C. GENEST, *Director of Finance*



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**RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION
REGARDING SEDIMENT QUALITY IN SAN DIEGO BAY**

WHEREAS, elevated levels of pollutants above background conditions exist in the San Diego Bay (Bay) bottom marine sediment generally between the Sampson Street extension and the mouth of Chollas Creek in the City of San Diego (Shipyard Sediment Site), and

WHEREAS, the concentrations of these pollutants causes or threatens to cause conditions of pollution, contamination, and nuisance in the Bay that impairs the aquatic life, aquatic dependent wildlife, and human health, categories of beneficial uses at this site, and

WHEREAS, shipyard, municipal, and industrial dischargers have caused or permitted the discharge of pollutants to the Shipyard Sediment Site resulting in the accumulation of pollutants in the marine sediment, and

WHEREAS, more than 50 years of discharges into the Bay have left nationally recognized toxic hot spots in the Bay, and

WHEREAS, a 1998 National Oceanographic and Atmospheric Administration, *State of the Coastal Environment* report found pervasive toxicity and toxic hot spots in the Bay, and

WHEREAS, many chemicals in the contaminated sediments are of concern to human health, and

WHEREAS, studies indicate that there are significant health risks to people who consume Bay fish at higher rates of consumption than the average recreational fisher, and

WHEREAS, the *Survey of Fishers on Piers in San Diego Bay* undertaken by Environmental Health Coalition conducted in 2004 reveals that a significant population of fishers frequently fish near contaminated areas of the Bay, and

WHEREAS, this potential public health threat led the Port of San Diego to place fish advisory warnings at piers throughout the Bay, and

WHEREAS, in April 2005 the San Diego Regional Water Quality Board (Regional Board) released a Tentative Cleanup and Abatement Order (TCAO) for eight named parties, including both major shipyards, to remove 885,000 cubic yards of tainted sediment at an estimated cost of \$96 million, and

WHEREAS, delays in issuing a TCAO are detrimental to the quality of water and sediments in the Bay and its users; therefore, be it

RESOLVED, by the California State Lands Commission that it supports a cleanup plan for San Diego Bay sediments that fully protects beneficial uses and human health, and be it also

RESOLVED, that the California State Lands Commission urges the Regional Board to move as expeditiously as possible in issuing and implementing a Cleanup and Abatement Order that effectively remediates the contamination and protects the public resources.

Adopted by the State Lands Commission on December 14, 2006.