

Q. Would you also agree that this sediment investigation conducted at the shipyards is the most extensive sediment investigation ever conducted for a site in San Diego Bay?

A. Yes.

Q. Anywhere else in the state that you're aware of where a more extensive study was conducted for a site?

A. I am not aware of it.

(Deposition of David Barker, at 83:8 – 83:15)

Q. Mr. Alo, in reading this last paragraph, "The biologically based lines of evidence are the most important since they are direct measures of what is being protected," as the authors of this study and in your own expertise as a sediment toxicologist, would you agree with the authors in that statement?

A. Yes, I would agree with them.

(Deposition of Tom Alo at 228:22-229:3)

Q. . . . Are you aware of any other interpretive framework published anywhere or any other agency documents where there is possible impairment in a circumstance where there's high chemistry but no toxicity and no benthic community impairment?

A. . . . [N]ot that I'm aware of.

(Deposition of Tom Alo at 299:25-300:7)

Q. Are any of the species used in the aquatic dependent wildlife risk assessment migratory?

A. Yes.

Q. In other words, they are not permanent residents of San Diego Bay. Correct?

A. Correct.

Q. So the least terns nest in the bay and are present only during the breeding season. Correct?

A. Correct.

Q. For the brown pelicans, surf scoters, Western grebes, they are all winter residents of the bay but migrate away to breed. Correct?

A. I believe so.

Q. Finally, sea lions breed away from San Diego Bay in offshore work areas. Correct?

A. I believe so.

Q. That being the case, they could not possibly have 100 percent of their diet from the shipyard site. Correct?

[Objection: incomplete hypothetical.]

THE WITNESS: Correct.

(Deposition of Tom Alo at 335:8 -336:3)

Q. Are you aware of any EPA ecological risk assessment guidance in any context, superfund or otherwise, where they suggest using an area use factor of a hundred percent even in Tier 2 risk assessment?

A. Not that I'm aware of.

(Deposition of Tom Alo at 339:5 – 9)

Q. Do you consider the remedial monitoring program set forth in Section 34 of the DTR to ensure the protectiveness of beneficial uses?

A. Yes. That is the intent, and that's what I think it will accomplish if it's implemented.

. . .

Q. Would you consider the remedial monitoring program that's set out in the DTR Section 34 to be more extensive than other sediment remediation projects in San Diego Bay?

[Objection: may lack foundation.]

THE WITNESS: My sense of it is that, yes, it is.

(Deposition of David Gibson, at 103:23-104:12)

Q. Would you consider the post-remedial monitoring program in the Tentative CAO and DTR to be extensive?

A. I would consider it to be extensive, yes.

Q. Would you agree it's more extensive than the other programs throughout San Diego Bay?

[Objection: lacks foundation; calls for speculation.]

THE WITNESS: I'm almost certain that it is.

(Deposition of David Gibson, at 134:12-134:20)