



10875 Rancho Bernardo Rd. Suite 200
San Diego, CA 92127
PH 858.674.6559
FAX 858.674.6586
www.geosyntec.com

29 October 2015

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

**Subject: Comments on Tentative Order No. R9-2015-0029
Waste Discharge Requirements for the Post-Closure Maintenance and
Monitoring of the Convair Lagoon Sand Cap
San Diego Bay
SL209054180:Talo**

Dear Mr. Alo:

This letter has been prepared by Geosyntec Consultants on behalf of TDY Industries, LLC (TDY), in response to Tentative Order No. R9-2015-0029 (Tentative Order). This tentative Waste Discharge Requirement (WDR) order establishes ongoing monitoring and reporting requirements in relation to the Convair Lagoon Sand Cap which was installed in 1998. Our primary comments relate to entities referenced by the Tentative Order, ongoing requirements to monitor and maintain eelgrass over and above the originally required eelgrass mitigation responsibilities, and some impractical interim reporting requirements within the Monitoring and Reporting Plan (MRP).

Entities Identified by the WDR

The Tentative Order identifies Teledyne Ryan Aeronautical Company and Teledyne Industries, Inc., two entities which no longer exist. It is more appropriate to reference only TDY Holdings, LLC, TDY Industries, Inc., and TDY Industries, LLC.

Eelgrass Monitoring Requirements

The sand cap has now been monitored for 17 years following its installation in 1998. In 2003, TDY submitted the Convair Lagoon Eelgrass Mitigation Transplant Five-Year Post-Transplant Survey (MBC-AES, 2003). This report documents that all mitigation conditions for post-capping re-establishment of eelgrass on the Convair Lagoon Cap have been achieved and that no further mitigation is required. WDR 98-21, which established the initial eelgrass mitigation requirement states the following:

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Eelgrass shall be planted and maintained in accordance with the procedures and schedule contained in the Eelgrass Mitigation Plan, which is expected to be finalized by June 1, 1998, as administered by the U.S. Army Corps of Engineers. A copy of this final plan shall be submitted to the Regional Board by September 1, 1998.

Consistent with the Eelgrass Mitigation Plan, the eelgrass was planted and monitored for 5 years, meeting the full coverage and eelgrass density requirements for re-establishment of eelgrass in both the 4th and 5th years of monitoring. Based on these results, the eelgrass mitigation and maintenance obligations for the installation of the Convair Lagoon Cap were determined to be fulfilled as acknowledged in Section 6 of the Tentative Order.

The Tentative Order inappropriately extends indefinitely the requirement to maintain eelgrass on the surface of the Convair Lagoon cap over and above the original 5-year maintenance requirement as established in the Eelgrass Mitigation Plan. The MRP Contingency Monitoring Plan Section F.5 states:

*5. Notify the San Diego Water Board by telephone, by voice mail, or by email **within 24 hours** of the eelgrass survey if the eelgrass is found to be unhealthy or the density has declined. Mitigation and/or restoration of the eelgrass may be required. As eelgrass restoration work does not pertain directly to cap integrity, it will be required under a separate Order.*

During the 5 year mitigation monitoring period, a control bed of eelgrass was also monitored to evaluate the impact of external environmental factors on eelgrass extent. Within a span of 2 years, the control bed varied from 100% to less than 45% of its original coverage. This variation was believed to be attributable to impacts related el-Niño conditions and the control bed later recovered to 120% of the original coverage in year 4 of the study. However, this variability indicates how eelgrass beds in the natural environment are interconnected parts of the greater ecosystem and respond to changes in ocean temperature, water depth, and other environmental factors from year to year.

Variability in eelgrass density and health is expected over time and occurs in both native and re-planted eelgrass beds. The requirements to continue to survey the eelgrass density beyond the end of the mitigation monitoring period, to report a variability in eelgrass density to the RWQCB within 24 hours of observation, and the for potential further mitigation requirements due to natural fluctuations in eelgrass health are outside the bounds of the original mitigation scope and

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should be removed from the Tentative Order. This comment affects Tentative Order Section B.1 and MRP Sections 2, 3c, B.6, B.7, and F.5.

PCB Notification Requirements

MRP Contingency Plan Section 2 requires notification of the San Diego Water Board within 24 hours if the surface of the sand cap is found to contain PCBs from a source not associated with a breach in the sand cap, such as waste discharges from storm drains. Reference PCB concentrations in surficial sediment across San Diego Bay as a whole are currently estimated to be in the range of 84 parts per billion. Given the extremely sensitive sampling methodology required in the Tentative Order, with a standard reporting limit of 0.2 parts per billion, PCBs are expected to be detected at some level in all surficial sediment samples collected.

The notification of the RWQCB within 24 hours of any detection of PCBs on the surface of the cap is overly burdensome and does not result in greater protection of the beneficial uses of the area. It is recommended that this reporting requirement be removed, or modified to add a triggering concentration which may warrant closer review, such as: “Notify the San Diego Water Board by telephone, by voice mail, or by email within 24 hours if the surface of the sand cap is found to contain PCBs in **excess of 1 mg/kg** from a source(s) not associated with a breach in the sand cap such as waste discharges from storm drains”.

Thank you for your consideration of these comments. Please feel free to contact me at (858) 716-2913 with any questions relating to this matter.

Sincerely,



Brian Hitchens, PG, CHG
Project Manager