

## **Valdovinos, Melissa@Waterboards**

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**From:** M. Dan McKirnan <mckirnan@yahoo.com>  
**Sent:** Friday, May 15, 2015 10:29 AM  
**To:** Chan, Julie@Waterboards; Valdovinos, Melissa@Waterboards; Clemente, Chiara@Waterboards  
**Subject:** Comments on the RWQCB's Health San Diego Bay Strategy  
**Attachments:** SDBayRadionuclides.pdf; Table Total Alpha Activity.pdf; Table Total Beta Activity.pdf; LetterEM.pdf; CtyFishStudy1.pdf; CtyFishStudy2.pdf; Healthy San Diego Bay Strategy Comments.pdf

To: Board and Staff, RWQCB

RE: Healthy San Diego Bay Strategy – Comments

The Environmental Health Coalition (EHC) has been advocating for the cleanup, restoration and protection of San Diego Bay since we launched the Clean Bay Campaign in 1985. We have reviewed the multiple research studies, supported cleanup orders and fought for a Healthy San Diego Bay . Our own survey of 109 pier fishers revealed that significant subsistence fishing is occurring on San Diego Bay and the health risk to these fishers and their families remains a concern. We support the current San Diego Fish Consumption Study by SCCWRP to provide further assessment of potential health risks to subsistence fishers. However, a concurrent study of contaminants in fish that are caught and eaten would have certainly provided more certainty about the health risks of consuming fish from San Diego Bay .

The 1990 Health Risk Study of fish consumption by the County Department of Environmental Health was limited in scope but it did identify some human health concerns. One finding that created new questions was the presence of radionuclides in fish. Recommendations were made and a follow-up study was proposed to identify the isotopes that were responsible for the elevated levels of both alpha and beta radioactivity. We have no record that the follow-up study was completed to identify the potential source of this radiation.

Today, more nuclear powered ships are homeported in San Diego Bay and we do not know if the Bay has levels of radiation that pose a threat to human health through the consumption of fish and shellfish.. We believe that any current or future studies analyzing fish contaminants should include an analysis of radionuclides. The analysis should include the whole fish as some ethnicities cook and eat whole fish.

We have attached pages from the original 1990 Health Risk Study that include: a summary of the radionuclides found in fish and two data tables comparing results from SD Bay with EPA values for alpha and beta radioactivity. In addition, correspondence and a description of a planned follow-up study of radionuclides and other contaminants detected in bay fish are also included.

In support of a Healthy San Diego Bay,

M. Dan McKirnan, Ph.D.  
Clean Bay Campaign  
EHC Board Member

Ruth Heifetz, MD, MPH  
UCSD Department of Family Medicine and  
Public Health  
EHC Board Member

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## SAN DIEGO PORT TENANTS ASSOCIATION

May 21, 2015

Melissa Valdovinos  
San Diego Regional Water Quality Control Board  
2375 Northside Drive, Suite 100  
San Diego, CA 92108-2700

Re: Strategy for a Healthy San Diego Bay

Dear Ms. Valdovinos:

The San Diego Port Tenants Association ("SDPTA") is a non-profit organization of businesses who lease land along the tidelands of the San Diego Unified Port District. As such, we are particularly interested in the health of San Diego Bay, and support the San Diego Regional Water Quality Control Board's ("Regional Board's") effort to develop a "sound, scientifically-based, consistent, and transparent" process for determining water quality control priorities for the bay. Draft Strategy for a Healthy San Diego Bay ("Bay Strategy"), at A-1.

We therefore greatly appreciate the opportunity to comment on the Bay Strategy, and the Bay Strategy's acknowledgment that "the Bay has been and continues to be used for a variety of maritime, commercial, industrial, and military purposes...." However, the SDPTA is concerned that, overall, the Bay Strategy deemphasizes the value of San Diego Bay's working waterfront by not including commercial and industrial uses as "key uses" that must be considered when setting priorities under the Bay Strategy.

As you know, the SDPTA, alone, is comprised of numerous businesses and organizations along the waterfront, including ship building and repair, shipping and trade, marinas, yacht clubs and sales, boatyards, fisherman, the cruise industry, aerospace and airport industries, the hospitality industry (including San Diego hotels and San Diego restaurants), retail merchants, the U.S. Navy, and the San Diego working waterfront. These diverse commercial and industrial entities bring many economic and social benefits to the San Diego community that we believe should be considered when assessing and prioritizing Regional Board priorities under the plan. For example, according to estimates by the Working Waterfront Group on San Diego Bay, the port's maritime business generates about \$7.6 billion in economic impact to the San Diego region and accounts for 33,000 jobs in the region. These jobs are rooted in the region's maritime industry, and the average salary and benefits are about \$72,000 a year ("Economic and Fiscal Impacts of the Port of San Diego," 2013).

In addition, working waterfront businesses, as well as our other member groups, are good neighbors to nearby communities. For example, among other things,

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**Douglas Manchester**  
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**\*Lee Wilson**

STAFF  
**Sophie Silvestri**  
DIRECTOR OF OPERATIONS

**\*SDPTA Past Chairmen**

our member businesses are involved in community outreach programs and contribute resources to organizations such as Barrio Station, a local agency that supports high-risk youth. Our member businesses also partner with the local schools by promoting science education, donating equipment, participating in career day events and hosting plant tours, and make it a priority to help protect the environment with programs to prevent pollution and preserve our natural resources.

Given the substantial benefits that our members bring to the San Diego community, the SDPTA believes it is critical that commercial and industrial uses are given due consideration in the development of strategies and goals that affect San Diego Bay.

Thank you for the opportunity to comment on the Bay Strategy, and we look forward to future opportunities to provide further input on these important matters.

Most Sincerely,

A handwritten signature in cursive script, reading "Sharon Cloward". The signature is written in a light gray or blue ink on a white background.

Sharon Cloward, President  
San Diego Port Tenants Association

May 21, 2015

San Diego Regional Water Quality Control Board  
2375 Northside Drive, Suite 100  
San Diego, CA 92018-2700  
Attn: Ms. Melissa Valdovinos

Subject: Healthy Bay Strategy Comments - MValdovinos

Dear Ms. Valdovinos,

The San Diego Unified Port District (District) appreciates the opportunity to participate in the development of a Strategy for a Healthy San Diego Bay (Strategy). As the public trustee of San Diego Bay ("Bay") tidelands, the District shares a common interest with the Regional Board in ensuring that the Bay's ecosystems are healthy and Bay waters and sediments support beneficial uses. The District supports the Strategy and believes that a cost-effective prioritization approach should be based on an understanding of the Bay's ecosystem dynamics, current regulatory efforts and schedules, and existing programs. The District offers the following comments in support of this endeavor.

1) Integration with other Bay-wide planning efforts:

At the April 28, 2015 Strategy workshop, several attendees encouraged the Regional Board to look closely at what the District is doing in its integrated planning efforts and the significant development happening in south San Diego Bay. The District supports this comment and offers the following information on our integrated planning process.

The District recently embarked on the first phase Vision Plan of the comprehensive Integrated Port Master Plan Update that will serve as a long-term guide to carry the District through the next 50 years. The process for creating the Master Plan Update will continue over several years, with opportunities for public input throughout the process. The Master Plan Update provides a unique opportunity to examine how the port, San Diego Bay and the tidelands affect the entire region, including land and water uses and critical upland links. The effort is intended to help guide future land and water uses on District tidelands and lead towards modernizing the District's Port Master Plan.

As both of these Bay-wide planning efforts move forward concurrently, it is important that our agencies work together in a collaborative relationship and set priorities in a way that efficiently considers resources.

Ms. Melissa Valdovinos

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2) Identification of key uses:

The District supports the Regional Board's approach to characterize the Bay with the three overarching uses (recreation, consumption of fish, and ecosystem health) defined in the Strategy. Ensuring those uses are protected will lead to other objectives in the Water Quality Control Plan for the San Diego Basin being achieved.

It is important to recognize, however, that those uses need to co-exist with other water dependent uses including navigation, maritime, and military which are cornerstones for our seaport and working waterfront. The District encourages the Regional Board to work with stakeholders to achieve a balance of Bay uses, while continuing to improve overall conditions in the Bay.

The District also encourages the Regional Board to consider implementation efforts designed to protect or enhance the Bay's minimally impacted areas. Such ecosystem enhancement projects could utilize grant funding and collaborative approaches that may result in a better return on investment when compared to administering small scale (relative to the Bay) dredge projects addressing a site-specific pollutant issue. In addition, source control strategies should continue to be encouraged upstream to minimize or eliminate ongoing sources.

3) Use current data for assessing Bay-wide conditions:

The District recommends that the Regional Harbor Monitoring Program data be utilized as the foundation of the Bay-wide conditions assessment identified within the Strategy. In 2003, the Regional Board issued a California Water Code §13225 directive to the District, Cities of San Diego and Oceanside, and County of Orange to develop a monitoring program to assess the quality of water, sediment, and biology in the region's harbors. As a result, the agencies developed the Regional Harbors Monitoring Program (RHMP) and have been conducting monitoring efforts in coordination with the Regional Bight Monitoring Program directed by the Southern California Coastal Water Resources Program. This includes thorough assessments of conditions in San Diego Bay.

The RHMP Agencies conducted their core monitoring efforts in 2008 and most recently in 2013. The 2013 data is currently being analyzed and will be summarized in a report due before the end of 2015. This data will provide the most up-to-date information regarding San Diego Bay and will include a full assessment of water quality, fish surveys, and the Sediment Quality Objectives (SQO) analyses, including sediment chemistry, toxicity, and benthic community assessments, SQO narrative scores, and trend analysis.

Ms. Melissa Valdovinos

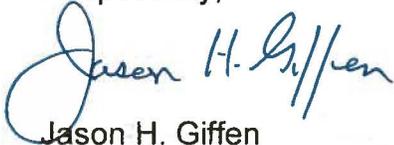
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The District remains firm in its commitment to conduct operations and manage resources in an environmentally sensitive and responsible manner. In particular, we look to the Regional Board as a valuable partner in improving the Bay and promoting environmental stewardship. The District continues to collaborate with the Regional Board on key projects that support the Strategy, such as the fish consumption studies, regional harbor monitoring, and ongoing bioaccumulation studies. We believe the Strategy will benefit our overall mission and the collaborative efforts will continue to support a vibrant waterfront destination.

If you have any questions or would like more information, please contact Karen Holman, Department Manager, Environmental & Land Use Management, at (619) 725-6073 or via email at [kholman@portofsandiego.org](mailto:kholman@portofsandiego.org).

Respectfully,

A handwritten signature in blue ink that reads "Jason H. Giffen". The signature is written in a cursive style with a large initial "J".

Jason H. Giffen

Director, Environmental & Land Use Management

cc: John Bolduc, Randa Coniglio, John Carter, Karen Holman  
D2#1010377

Kelly E. Richardson  
Direct Dial: +1.858.523-3979  
kelly.richardson@lw.com

June 24, 2015  
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Supporting Document No. 3  
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**LATHAM & WATKINS** LLP

May 21, 2015

Melissa Valdovinos  
San Diego Regional Water Quality Control Board  
2375 Northside Drive, Suite 100  
San Diego, CA 92108-2700

Re: Strategy for a Healthy San Diego Bay

Dear Ms. Valdovinos:

On behalf of National Steel and Shipbuilding Company (“NASSCO”), we appreciate the opportunity to submit comments to the San Diego Regional Water Quality Control Board (“Regional Board”) concerning the Regional Board’s Draft Strategy for a Healthy San Diego Bay (April 2015) (hereinafter, “Draft Bay Strategy”).

**A. The Strategy Plan Should Be Revised To Account For All Beneficial Uses Of San Diego Bay, Including Industrial, Commercial and Navigational Uses**

As an initial step, the Draft Bay Strategy purports to “identify key uses applicable to San Diego Bay and key areas associated with those uses.” Draft Bay Strategy, at 2. However, the Draft Bay Strategy focuses only on a narrow subset of beneficial uses (recreation, human consumption of fish and shellfish, and habitats and ecosystems), and does not adequately consider the full range of uses in the bay. The Draft Bay Strategy should therefore be updated, consistent with the Water Code, to ensure consideration of “all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.” Cal. Water Code §§ 13000.

**1. San Diego Bay Is A Working Waterfront And The Bay Strategy Should Support Its Continuing Vitality, Consistent With The Water Code And Other San Diego Bay Planning Documents**

As recognized in other planning documents, San Diego Bay is a working waterfront; accordingly, any bay strategy that is ultimately adopted must account for the industrial uses of the bay in setting goals and cleanup priorities. For example, the San Diego Port District’s Port Master Plan provides, among other things, that “[the Harbor Drive subarea of San Diego Bay] consists entirely of one major shipbuilding plant, National Steel and Shipbuilding Company. In

terms of employment and economic impact, it is one of the most important industries in San Diego County, and the Port Master Plan supports its continuing viability.” Port Master Plan, at 75.

Similarly, the Water Code acknowledges industrial uses as acceptable, provided they do not unreasonably impair other beneficial uses, and recognizes the need to balance environmental and economic values in exercising regulatory authority. *See e.g.*, Water Code §13241 (noting that water quality may be changed without unreasonably affecting beneficial uses); Water Code § 13000 (discussing the need to consider “all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible,” when making remedial decisions).

NASSCO prides itself on its environmental track record, and its contributions to the San Diego community. Like the Water Code and Port Master Plan, the Draft Bay Strategy should be revised to recognize industry as a “key use” of the bay, with the goal of developing a balanced approach to setting cleanup priorities and levels under this strategy, so as to preserve the continued vitality of San Diego’s working waterfront and associated community benefits.

## **2. The San Diego Bay Strategy’s List Of Assessment And Prioritization Criteria Should Be Expanded To Reflect A Risk-Based Approach To Site Evaluation**

To that end, the key uses and questions used to assess various sites around the bay should be updated to emphasize a risk-based approach centered upon realistic assumptions, in order to better prioritize sites for cleanup. For example, the plan lists only a handful of questions that must be answered in evaluating and prioritizing a site, all of which are focused upon:

- (1) whether the waters are suitable for recreation?
- (2) whether fish and shellfish are safe to eat? and
- (3) whether habitats and ecosystems are healthy?

However, there are many additional questions that should be considered in order to fully evaluate and prioritize a given area, including, among other things:

- (4) which beneficial uses exist at the site?
- (5) does the public have regular access to the site? does the site pose significant risks to humans or wildlife under real-world circumstances?
- (6) is the impairment observed (if any) attributable to chemicals, or other sources (such as, for example, physical stressors or invasive species?)
- (7) have ongoing sources been controlled?

(8) if chemistry is identified as a source of impairment, can such impairment be addressed through monitored natural attenuation? will active cleanup of this area result in greater harm to beneficial uses than leaving sediments in place? and

(9) what are the impacts of the cleanup to the San Diego economy? is it cost-effective to spend resources on this particular site?

In sum, and consistent with the Water Code, the Draft Strategy Plan should acknowledge the value of industrial and commercial uses of the bay, in addition to the other uses addressed in the plan, and focus on whether observed conditions pose any significant risks to humans or the environment. In doing so, the plan should make clear that when the Regional Board is assessing and prioritizing sites for cleanup, it will reasonably balance the total values involved, and give adequate consideration to the economic, commercial and industrial uses of the bay—all of which are equally important to the San Diego community.

**B. The Strategy Plan Should Methodically Assess and Prioritize Sites For Cleanup**

NASSCO supports the Regional Board’s goal of ensuring adequate information to support prioritization and cleanup of areas of concern around the bay. Accordingly, NASSCO suggests that the Draft Bay Strategy be revised to incorporate a phased approach to assessing and prioritizing sites. As discussed in further detail below, the Draft Strategy Plan should make clear (i) that existing data gaps around the bay will be identified and filled, so as to characterize the nature and extent of impairment (if any) before resources are spent on cleanup; (ii) that, if impairment is identified based on the existing data, then the Regional Board will investigate the potential sources of impairment (including non-chemical causes), and (iii) if impairment and ongoing sources are identified, then all ongoing sources be controlled prior to spending the Regional Board (and stakeholders’) limited resources on remediation.

**1. The Strategy Plan Should Focus On Identifying And Filling Data Gaps, So That Cleanup Priorities Can Be Set On A “Worst-First” Basis**

While the Draft Bay Strategy generally recognizes that assessment should occur before response actions are prioritized, it contains little guidance for regulators and stakeholders regarding how individual sites should be evaluated. NASSCO proposes that the Draft Strategy Plan be revised to set forth a methodical framework for approaching assessment and cleanup that requires the Regional Board to identify and fill any critical data gaps in the bay prior to spending resources on further cleanup actions,<sup>1</sup> so that resources can be allocated in a targeted manner towards cleanup of the most polluted sites and/or those where risks are greatest due to increased uptake by wildlife or increased likelihood of human exposure due to intensive use. Further, in

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<sup>1</sup> This type of approach would also allow the Regional Board to synchronize the Healthy Bay Strategy with ongoing phased investigations, such as the data gap investigation that is in progress in connection with the Chollas Creek TMDL process.

prioritizing sites, the Regional Board should consider additional questions beyond those set forth on page 9 of the Draft Strategy Plan, as described above.

## **2. The Strategy Plan Should Be Revised To Clarify That Ongoing Pollution Sources Will Be Controlled Prior To Cleanup**

Because the stated purpose of the Draft Bay Strategy is to “guide the San Diego Water Board in using its resources optimally to protect and restore the health of San Diego Bay” (Draft Strategy Plan, at 1), the plan should be revised to provide clearer guidance regarding the importance of source control.

It is axiomatic that source control should be achieved prior to active remediation of sediment. *See e.g.*, Resolution 92-49, at III.E.1; EPA’s Contaminated Sediment Management Strategy, EPA-823-R-98-001 (Apr. 1998), at 54 (recognizing pollution prevention and source control as methods that will allow contaminated sediments to recover naturally without unacceptable impacts to beneficial uses). Failing to fully implement source control prior to remediation risks recontamination, including the possibility that enormous sums of public and private money could be spent on successive cleanups, without achieving significant permanent changes in sediment conditions.<sup>2</sup>

While the plan recognizes source control as an element to be considered with regard to improving conditions in the bay, it includes very little, if any, discussion regarding the need for source control prior to remediation. *See* Draft Bay Strategy, at A-1 (indicating that the goal of the Draft Bay Strategy is to “guide the San Diego Water Board in using its resources optimally to address protection, *pollutant source control*, and clean-up in San Diego Bay”) (emphasis added). The Draft Bay Strategy should therefore be updated to make clear that full source control will be required prior to spending resources on remediation.

## **C. The Planning Process Should Provide Opportunities For Stakeholder Participation**

In addition to the above comments, NASSCO also requests that the Regional Board continue to provide opportunities for stakeholder involvement throughout the planning process, including with regard to the development of any workgroups created to advise on issues related to the Draft Bay Strategy.

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<sup>2</sup> A prime example of the need for source control prior to remediation is the Convair Lagoon site: after significant funds were expended constructing a cap to remediate PCBs, PCBs were subsequently found on top of the cap, due to incomplete source control. The Regional Board must craft the Draft Bay Strategy so as to avoid similar risks in the future, by requiring that ongoing sources, including discharges from creeks flowing into San Diego Bay and other municipal stormwater discharges are fully controlled prior to active remediation.

**LATHAM & WATKINS**LLP

Thank you in advance for your attention to these important matters, and we appreciate the opportunity to comment on the draft plan.

Very truly yours,



Kelly E. Richardson  
of LATHAM & WATKINS LLP

cc: Jennifer P. Casler-Goncalves, Latham & Watkins, LLP  
Matthew S. Luxton, NASSCO  
T. Michael Chee, NASSCO

# ATTACHMENT 1



Unified Port  
of San Diego

# PORTMASTERPLAN



SAN DIEGO UNIFIED PORT DISTRICT

area proximate to the existing deep water navigation channel, and return it to marine-related industrial water dependent use, as called for in the 1972 Master Plan. As the industrial leases on the individual parcels expired, they were deliberately not renewed, phasing out non-marine uses such as an animal rendering plant and a marble cutting plant.

The Precise Plan calls for the continued operation of the existing marine related industries. Consideration should be given to expansion into the adjacent upland areas, should it be necessary. Renovation and redevelopment of existing facilities will continue as industries respond to market demands and changes in the maritime industrial climate.

Some of the existing or proposed activities which are appropriate in the Marine Related Industrial areas of this and other subareas in Planning District 4 are: tugboat services, general ship and boat building and repairing, steel fabrication and general metal

manufacturing, sale of marine parts and equipment, mooring of marine construction equipment, receipt and distribution of bulk liquids and similar non-inflammable products, receipt and storage of petroleum products, delivery of bunker fuels to vessels, kelp and seafood processing, canning and packaging, aquaculture, and marine related support and transportation facilities.

### Harbor Drive Industrial

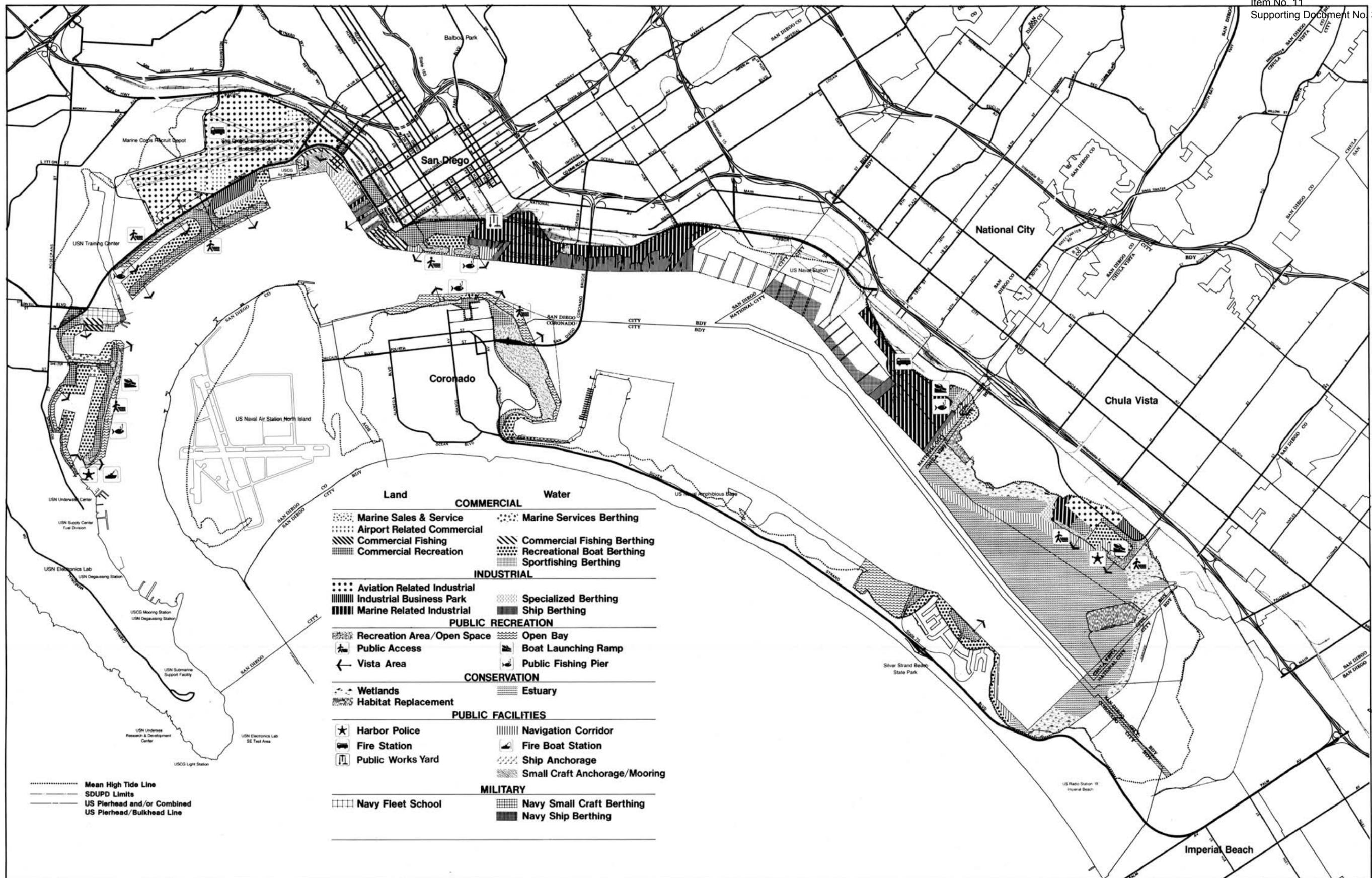
This subarea consists entirely of one major shipbuilding plant, National Steel and Shipbuilding Company. In terms of employment and economic impact, it is one of the most important industries in San Diego County, and the Master Plan supports its continuing viability. The Master Plan also supports the concept of a bicycle path, part of the Bay Bikeway project, running on Harbor Drive; however, the design must accommodate the parking needs of NASSCO insofar as it is possible.

**TABLE 13: Project List**

#### TENTH AVENUE MARINE TERMINAL: PLANNING DISTRICT 4

	SUBAREA	DEVELOPER	APPEALABLE	FISCAL YEAR
1. RAILROAD STORAGE TRACKS: Adds tracks for grain handling at terminal	42	P	N	1980-81
2. BERTHS 7 and 8: Increase water depths for bulk vessels	42	P	N	1980-81
3. STORAGE SILOS: Construct structures; pave; repair conveyors, unloading pit, weigh scale	42	P	N	1982-83
4. BULK COMMODITY UNLOADER: Install conveyors and machinery	42	P	N	1981-82
5. BULKLOADER: Install dust evacuating system at car unloading building; reconstruct and modify bulkloader	42	P	N	1980-81
6. BOATYARD: Construct boat building and repair yard	43	T	N	1980-81
7. PUBLIC VISTA OR ACCESS SITE: Construct promenade, structures, park furnishings, and landscaping	43	P	N	1980-81

P- Port District    T- Tenant    N- No    Y- Yes



scale  
 0 2000 feet  
 0 500m 1km  
 Planning Department

# LAND AND WATER USE ELEMENT

Figure 2a

Rev P. 18 Oct. '14 - KS P. 17 July '85' - KS P. 12 Aug. '92 - MMW	Date 17 DEC. 19 Dm Chk Base No	Master Plan	PORT OF SAN DIEGO UNIFIED PORT DISTRICT
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May 21, 2015

Mr. David Gibson  
Executive Officer  
San Diego Regional  
Water Quality Control Board  
2375 Northside Drive, Suite 100  
San Diego, CA 92108

RE: IEA Comments regarding Strategy for Healthy San Diego Bay

Dear Mr. Gibson:

As an organization whose membership comprises numerous commercial and industrial entities located on San Diego Bay and that is dedicated to promoting environmental compliance and responsible, cost-effective environmental laws and regulations, the Industrial Environmental Association (“IEA”) has a particular interest in the San Diego Regional Water Quality Control Board’s (“Water Board”) Draft Strategy For A Healthy San Diego Bay (“Strategy Plan”) and appreciates the opportunity to provide comments.

A. The Strategy Plan Should Emphasize the Importance of a Scientific, Risk-Based Approach to Site Assessment and Cleanup

The Strategy Plan’s stated goal is to “guide the San Diego Water Board in using its resources optimally to protect and restore the health of San Diego Bay.” Strategy Plan, at 1. To promote the efficient use of the Water Board’s limited resources, the Strategy Plan should be revised to emphasize that assessment and cleanup decisions will be made in a scientific, risk-based manner, using reasonable assumptions regarding “real-world” exposure conditions. For example, the plan should make clear that, in assessing impairment, the Water Board will focus on whether site conditions pose an unreasonable risk to beneficial uses, emphasizing empirical evidence (as opposed to modeling predictions, especially where the both types of evidence exist and conflict). This should lead to a prioritization of sites where there is a completed exposure pathway, such as fisherman consuming the fish, as opposed to areas where fishing is not observed, or fish tend to be caught and released. It should not prioritize sites simply because there may be a viable PRP. The plan should also be modified to (i) encourage risk and exposure determinations to be made based on realistic assumptions, (ii) clarify that, if impairment is found, all potential sources will be investigated, including non-chemical sources, (iii) emphasize the importance of controlling ongoing sources prior to

active remediation, and (iv) expand the criteria for assessing and prioritizing sites to include an evaluation of cost-effectiveness, to ensure that the Water Board's limited resources are allocated in a manner that maximizes environmental benefits and success.

B. The Strategy Plan Should Emphasize the Importance of a Scientific, Risk-Based Approach to Site Assessment and Cleanup

Consistent with the Water Code, the Strategy Plan should also be revised to reflect the range of uses of San Diego Bay. Limiting the Plan to focusing on swimming, fishing, and a healthy benthic environment will have the impact of limiting other uses. The Water Code recognizes the importance of both environmental and economic uses, and requires the consideration of "all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible," in making decisions regarding site assessment and cleanup. Cal. Water Code § 13000. The Water Code further acknowledges that the Water Boards' regulatory efforts should be targeted towards preventing unreasonable risks, as opposed to forcing pristine conditions.

The California Water Code implicitly recognizes that industrial uses, including industrial discharges, are acceptable uses of water bodies as long as discharges from those facilities do not unreasonably impair other beneficial uses. For example, the Water Code recognizes that "it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses" (Cal. Water Code §13241), and limited the definition of pollution to those discharges that unreasonably affect beneficial uses. See Cal. Wat. Code § 13050(I). If it were otherwise, then permits for the discharge of any wastewater could not be issued since there is at least some impact on waters associated with any discharge.

As I stated at the work shop, a healthy and beneficial San Diego Bay should, and does support an array of recreational, commercial and industrial activities, including shipbuilding and repair, shipping and trade, marinas, yacht sales, boatyards, commercial and sport fishing, cruise ship activities, yacht clubs, aerospace and airport industries, the hospitality industry, merchants, and the United States Navy. The Strategy Plan therefore should promote the vibrancy and diversity of the waterfront, through a balanced, risk-based strategy. The Strategy Plan should therefore expand the "key uses" of the bay to reflect all of the purposes for which the bay is currently used, and to foster a balanced approach towards future regulatory efforts that will promote the continued vitality of San Diego Bay, both ecologically and economically. Just as in land zoning, perhaps certain areas will be designated for recreation and have stricter cleanup criteria, while other areas will preserve a working waterfront that provides economic benefit to the citizens of San Diego, with less stringent cleanup criteria, due to lower risks of exposure.

C. The Strategy Plan Should Focus on Filling Data Gaps in The Bay, So That the Water Board Has Sufficient Information to Prioritize the Most Polluted Sites for Cleanup

The IEA supports a systematic, risk-based approach to addressing environmental problems in San Diego Bay, supported by appropriate scientific data. IEA therefore agrees that assessment and monitoring should be the initial focus of the Strategy Plan. See Strategy Plan, at 5-10 (discussing assessment in advance of prioritization). Only after appropriate data is collected and necessary data gaps are filled, can accurate decisions be made regarding the need for cleanup, and the prioritization of sites. As such, the Strategy Plan should be revised to indicate that the Water Board will focus on collecting the data needed to assess the relative impairment (if any) across sites, and prioritize future cleanups based according to risk.

IEA further agrees that the Water Board's strategy should be to focus on monitoring, assessment, and cleanup (if necessary) on key areas that are already heavily used for fishing, swimming, or other recreational use, as opposed to areas that are not intensively used by the public. See Strategy Plan, at 4.

#### Conclusion

IEA appreciates the opportunity to comment on the Water Boards Strategy Plan, and looks forward to the opportunity to participate in any future strategy development efforts for the bay.

Sincerely,

A handwritten signature in black ink that reads "Jack Monger". The signature is written in a cursive, flowing style.

Jack Monger  
Executive Director



# County of San Diego

**RICHARD E. CROMPTON**  
DIRECTOR

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May 21, 2015

Melissa Valdovinos  
San Diego Water Board  
2375 Northside Drive, Suite 100  
San Diego, CA 92108-2700

VIA EMAIL TO: [SanDiego@waterboards.ca.gov](mailto:SanDiego@waterboards.ca.gov)

Dear Ms. Valdovinos:

## HEALTHY BAY STRATEGY COMMENTS MVALDOVINOS

The County of San Diego (County) appreciates the opportunity to comment on the April 2015 draft Strategy for a Healthy San Diego Bay (draft Strategy). The County is in support of clean water. The use of the public process employed by the Regional Board staff for development of the draft strategy should be commended.

The County supports the draft Strategy's proposal to establish priorities in a sound, scientifically-based, consistent, and transparent manner. This aligns well with the County's goal of having stormwater management programs that yield a corresponding return on investment in terms of public and environmental health.

The draft Strategy acknowledges the challenge to fund additional monitoring programs and list several potential funding opportunities should these programs be needed. Examples of potential funding opportunities include revising the National Pollutant Discharge Elimination System (NPDES) permit monitoring requirements and issuing investigative orders. As this would result in the majority of the funding coming from the Copermitees named in the NPDES permit, the County would request that Board staff first consider the nexus between discharges from the stormwater conveyance system and the identified priorities. If there is a demonstrated nexus with discharges from the stormwater conveyance system and the priorities, then a realignment or revision to current monitoring programs should be pursued rather than adding new requirements to the NPDES permit. This approach is consistent with the Board's Practical Vision that emphasizes the need for prioritization of issues in order to have a positive outcome.

Ms. Valdovinos  
May 21, 2015  
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The County of San Diego looks forward to continuing to work with the San Diego Region Water Quality Control Board staff to evaluate scientifically sound and cost effective monitoring programs to support the draft priorities developed for San Diego Bay through a stakeholder process.

If you have questions or comments, please contact Program Manager, Jo Ann Weber at (858) 495-5317 or via email at [JoAnn.Weber@sdcounty.ca.gov](mailto:JoAnn.Weber@sdcounty.ca.gov).

Sincerely,



TODD E. SNYDER, Manager  
Watershed Protection Program