

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

RESPONSES TO COMMENTS

TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2022-0007

**AN ORDER DIRECTING LOCKHEED MARTIN CORPORATION
TO CLEAN UP OR ABATE THE EFFECTS OF WASTE DISCHARGED
FROM THE FORMER TOW BASIN AND FORMER MARINE TERMINAL AND
RAILWAY FACILITIES AT 3380 NORTH HARBOR DRIVE AND 1160 HARBOR
ISLAND DRIVE TO THE EAST BASIN OF HARBOR ISLAND IN SAN DIEGO BAY,
SAN DIEGO, CALIFORNIA**

August 10, 2022

Introduction

This report contains the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board or Board) responses to written comments received on Tentative Cleanup and Abatement Order No. R9-2022-0007, *An Order Lockheed Martin Corporation to Clean Up or Abate the Effects of Waste Discharged from the Former Tow Basin and Former Marine Terminal and Railway Facilities at 3380 North Harbor Drive and 1160 Harbor Island Drive to the East Basin of Harbor Island in San Diego Bay, San Diego, California* (Tentative Order). The San Diego Water Board issued an Administrative Draft of the Tentative Order on December 17, 2021. The Board accepted written comments in response to the Administrative Draft from Lockheed Martin Corporation (Lockheed) and General Dynamics on January 14, 2022.

Lockheed and San Diego Water Board staff met between January to June 2022, to discuss and incorporate technical comments into the Tentative Order. Several of the written comments provided on January 14, 2022, and comments provided during meetings between the San Diego Water Board and Lockheed were incorporated into the Tentative Order prepared in June 2022.

The San Diego Water Board issued the Tentative Order on July 1, 2022, for public review and comment. The San Diego Water Board accepted written comments in response to the Tentative Order from Lockheed, General Dynamics, and the Port of San Diego. San Diego Water Board staff continued to meet with Lockheed technical staff to discuss and incorporate comments received into the revised Tentative Order. Written comments received on or before July 15, 2022, and San Diego Water Board responses are provided below. The comments and responses below are organized according to commenters. San Diego Water Board staff paraphrased some of the comments to improve the readability of this document. San Diego Water Board staff responses to each comment indicates if the Tentative Order was revised.

This document will be provided to the members of the San Diego Water Board and the commenting parties prior to the hearing scheduled for August 10, 2022.

The San Diego Water Board received five comment letters from three parties during the written comment period.

List of Commenters:

1. Lockheed – Technical
2. Lockheed– Legal

3. Lockheed – Joinder in General Dynamics' comments (comments and responses provided in response to General Dynamics)
4. General Dynamics
5. Port of San Diego (Port)

Comment No.	
LOCKHEED – TECHNICAL COMMENTS	
1	<p><u>COMMENT:</u> The following comments on the Tentative CAO (TCAO) are designed to provide specific input as to how the CAO process can be streamlined, can build on the work completed under the 2017 CAO, and can focus on completion of the sediment cleanup in early 2024 before the start of the least tern nesting season (typically April 1).</p>
	<p><u>RESPONSE:</u> San Diego Water Board staff acknowledge Lockheed’s statement.</p> <p>Staff made no revision to the Tentative Order in response to this comment.</p>
2	<p><u>COMMENT:</u> The 2020 Feasibility Study (FS) and its preferred alternative (Alternative 4) was designed to be consistent with Resolution 92-49.</p>
	<p><u>RESPONSE:</u> San Diego Water Board staff acknowledge Lockheed’s statement. The Tentative Order allows Lockheed to propose an alternative (e.g., Alternative 4) to the Board, which is consistent with all applicable laws, including Sediment Quality Objectives (SQOs). The Board will consider the proposed alternative and if approved, Lockheed can implement the proposed alternative. The Tentative Order does not dictate alternatives at issuance, consistent with the prohibition against dictating the manner and method of compliance with the Tentative Order. Staff will review and consider Lockheed’s workplan during the implementation of the Tentative Order.</p> <p>Staff made no revision to the Tentative Order in response to this comment.</p>
3	<p><u>COMMENT:</u> The preferred alternative was the basis of an Environmental Impact Review (EIR) document developed to comply with the California Environmental Quality Act (CEQA) with the San Diego Unified Port District (Port) serving as the Lead Agency. The Port certified and adopted the findings of the EIR, including Mitigation Measures in 2020. Any cleanup conducted under that EIR would need to be reviewed for consistency with the EIR or could be substantially delayed while a new EIR was performed.</p>
	<p><u>RESPONSE:</u> San Diego Water Board staff acknowledge Lockheed’s statement and have made a minor modification to Finding 18.</p>

	<p>The Port of San Diego is the lead agency for the EIR. Staff reviewed the Feasibility Study pursuant to the rescinded Cleanup and Abatement Order No. R9-2017-0021 (2017 CAO), EIR documents, and Lockheed’s statements related to its preferred alternative. Staff revised the Tentative Order to state that further analysis with regards to CEQA may not be needed. However, the Port of San Diego will make the final determination on environmental impacts and necessary environmental approvals under CEQA.</p>
4	<p>COMMENT: With all the required permits and approvals, Lockheed Martin completed cleanup/demolition of the adjacent upland property in 2021 (Phase I) with the expectation that this would serve as a sediment transload and staging area for the in-water portion of the remedial action (Phase II). Lockheed Martin understands from the Port that this property is still currently available for this purpose.</p>
	<p>RESPONSE: San Diego Water Board staff acknowledge Lockheed’s statement. Staff in the Site Cleanup Program have not received any contradictory information from the Port of San Diego.</p> <p>Staff made no revision to the Tentative Order in response to this comment.</p>
5	<p>COMMENT: Attached to this comment letter is a proposed revised set of submittals and due dates that integrate [Lockheed’s] comments and focus on completion of the sediment cleanup in early 2024 (Attachment A).</p>
	<p>RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed’s proposed due dates.</p>
6	<p>COMMENT: Site-by-site efforts can reduce the concentrations in San Diego Bay consistent with Resolution 92-49, but no cleanup can realistically achieve zero [polychlorinated biphenyls] (PCBs) concentrations for significant time periods.</p>
	<p>RESPONSE: San Diego Water Board staff maintain PCBs are a group of man-made chemicals that do not naturally occur in the environment. State Water Resource Control Board Resolution 92-49 defines background as “the water quality that existed before the discharge.” The pre-discharge concentrations of PCBs in the San Diego Bay, or any environment, should be minimal or non-detect.</p>

	<p>The directives in the Tentative Order provide the Discharger with discretion to achieve background or a level protective of beneficial uses. See for example: p.31: Directive B, Determination of Background (requirement for background analysis) as modified by p. 33: Directive C, Feasibility Study, which provides:</p> <p style="padding-left: 40px;">The Discharger’s Interim Feasibility Study, approved by the San Diego Water Board, will determine if clean up to background sediment concentrations is feasible. If the Interim Feasibility Study determines cleanup is infeasible. The Discharger (e.g., Lockheed) must develop and propose to the San Diego Water Board alternative sediment cleanup levels that are less stringent than background and that comply with State Water Board Resolution No. 92-49 and the Sediment Quality Provisions.</p> <p>Board staff are concerned that Lockheed’s general objection to a background of zero may be a renewed attempt to set a “floor” or “background” for PCBs at 84 parts per billion (ppb). Board staff retain the position that attainment of pre-discharge condition will be protective of beneficial uses and consistent with State Water Board Resolution No. 92-49 and the Sediment Quality Provisions.</p> <p>Staff made no revision to the Tentative Order in response to this comment.</p>
<p style="text-align: center;">7</p>	<p>COMMENT: [T]he determination of a background sediment cleanup level for mercury is not necessary in the practical sense as a predecessor for submittal of the Interim Feasibility Study to the Water Board.</p>
	<p>RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed’s comment. The Tentative Order still requires Lockheed to complete a background assessment, and now allows Lockheed to submit the background assessment as a stand-alone document or as an integrated section of the Interim and Final Feasibility Studies.</p>
<p style="text-align: center;">8</p>	<p>COMMENT: We understand that the cleanup or abatement approaches (A, B, and C) are set forth in Directive A. We request that Directive C (Feasibility Study) be modified to integrate Directive B (Determination of Background Sediment Cleanup Levels) as a single step and that the elements of Directive B not be a predecessor step for submittal of the [Feasibility Study]. The determination of a sediment cleanup level required in the [Feasibility Study] would allow the implementing party(ies) to present a preferred alternative that is consistent with Resolution 92-49 (Approach A) for both mercury</p>

	and PCBs. The burden to demonstrate consistency with Resolution 92-49 for the cleanup is on the implementing party(ies) and we request the option be available to make this demonstration for mercury without sampling San Diego Bay sediments (an approach that the 2022 TCAO, as drafted, already takes for PCBs).
	RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed’s comment. The Tentative Order requires Lockheed to complete a background assessment, and now allows Lockheed to submit the background assessment as a stand-alone document or as integrated section of the Interim and Final Feasibility Studies.
9	COMMENT: (D)(1). Remedial Action Plan: Update the sentence below as follows: For Approach A and Approach B, Lockheed Martin [or the implementing parties] must prepare and submit a <u>Draft Remedial Action Plan (RAP)</u> to the San Diego Water Board for review and evaluation no later than <u>60</u> calendar days after Board approval of the Final Feasibility Study. <u>The Final Remedial Action Plan must be submitted no later than 45 days after receipt of San Diego Water Board comments on the Draft Remedial Action Plan.</u>
	RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed’s comment. The Tentative Order now requires Lockheed to submit a Draft RAP to the San Diego Water Board, prior to submitting the Final RAP. Board staff also revised the Tentative Order to incorporate the date changes for submittals.
10	COMMENT: If the Feasibility Study preferred remedy approved by the Water Board is consistent with Resolution 92-49 at the time of construction (and Approach A), the RAP will include plans and specifications that ensure that dredging and clean cover placement (preferred alternative) is implemented as designed. The plans and specifications will need to detail the acceptance process for imported clean cover material before placement. <u>Specifically, the imported clean cover will need to meet specifications for material size, chemical composition, location of placement, method of placement, and depth of material. Chemical acceptance criteria will be detailed in the Remedial Action Plan (RAP) and will detail reporting limits and analysis methods.</u>
	RESPONSE: San Diego Water Board staff made no revision to the Tentative Order in response to this comment. The Board will not decide or comment on a preferred alternative until after the Final Feasibility Report required by the Tentative Order is reviewed by Board staff.
11	COMMENT: (F)(1): Post-Remedial Monitoring Plan: Update the sentence below as follows:

	<p>Lockheed Martin [or the implementing parties] must prepare and submit a <u>Draft Post Remedial Monitoring Plan (PRMP)</u> to the San Diego Water Board for review and evaluation within <u>60</u> calendar days after the Board approves the Final Feasibility Study. <u>The Final PRMP must be submitted no later than 90 days after receipt of San Diego Water Board comments on the Draft PRMP.</u></p>
	<p>RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed's comment. The Tentative Order now requires Lockheed to submit a Draft PRMP to the San Diego Water Board prior to submitting a Final PRMP. Board staff also revised the Tentative Order to incorporate the date changes for submittals.</p>
12	<p>COMMENT: The collection of thirty-six surface sediment samples at Years 1 and ... <u>Lockheed Martin requests that the PRMP Year 1 surface sediment sampling and analysis component be removed.</u></p>
	<p>RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed's comment. The Tentative Order no longer requires Lockheed to collect and analyze 36 sediment samples to characterize site conditions. Instead, the Tentative Order allows Lockheed to collect and analyze a representative number of sediments samples to characterize site conditions. The Tentative Order requires Lockheed to identify the number of proposed representative samples to the San Diego Water Board in the Post Remedial Monitoring Plan. The San Diego Water Board will evaluate the effectiveness of the remediation based on sediment sampling data from Years 1 and 2.</p>
13	<p>COMMENT: There is no purpose or need for Component 2 Baseline Ecological Risk Assessment (BERA) as a stand along deliverable or specific remedial goal since the elements of a BERA are addressed under the Wildlife and Resident Finfish Assessment (including sampling and analysis), and the BERA is not required as part of the SQO Provisions. The wildlife SQO assessment includes an exposure profile and stressor-response profile and is designed to evaluate ecological effects.</p>
	<p>RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed's comment. Board staff revised the Tentative Order to clarify that an ecological risk assessment is required to comply with SQOs, but an additional stand-alone assessment, such as a BERA, is not required.</p>
14	<p>COMMENT: The purpose and need for the Otolith analysis is unclear as it is not required as part of the SQO Provisions.</p>
	<p>RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed's comment. Board staff revised the Tentative Order to allow Lockheed the option to provide the San</p>

	Diego Water Board with the fish bones to complete the otolith analysis. The otolith analysis is necessary to determine the age of fish sampled as part of the evaluation data used in the human health SQO assessment.
15	COMMENT: Table 10C implies that a dredge “all” alternative is less expensive than Approach A or Approach B. Lockheed Martin asserts this is incorrect and requests that Table 10C but modified to reflect the following: The Estimated Total should be \$4 [million] to \$14 [million].
	RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate Lockheed’s comment. The Tentative Order now reflects Lockheed’s estimated costs. The San Diego Water Board, in modifying or approving this figure, is not concluding that Lockheed’s estimate is accurate or a final reflection of costs to consider when the parties to the private settlement agreement discuss or resolve contribution issues.

Comment No.	LOCKHEED MARTIN – LEGAL COMMENTS
16	<p>COMMENT: These comments, submitted under DLA Piper letterhead, are provisional and necessary only if Lockheed Martin’s first set of comments, are rejected by the Regional Board and/or the Regional Board and interested parties cannot otherwise agree to acceptable technical revisions to a final CAO.</p>
	<p>RESPONSE: As summarized above, most of Lockheed’s technical comments were incorporated into the revised Tentative Order that is under consideration by the San Diego Water Board. The revised Tentative Order represents a document that has been modified since the December 2021 Administrative Draft of the Tentative Order and follows months of technical discussion between Lockheed and San Diego Water Board staff. In summary, the remaining issues in dispute are the San Diego Water Board’s requirement to implement the SQOs and the requirement to achieve background (pre-discharge) levels of the contaminants of concern. The challenging parties would prefer SQOs be discretionary and that a level of 84 ppb be considered appropriate for background.</p>
17	<p>COMMENT: The Tentative CAO must be issued to all three responsible parties.</p>
	<p>RESPONSE: The intent of the Tentative Order is to address the portion of remedial work that was not completed pursuant to the 2017 CAO for this site. The San Diego Water Board issued the 2017 CAO after the parties resolved their relative liability pursuant to a settlement agreement. The San Diego Water Board rescinded the 2017 CAO but understands that the parties are in mediation related to the cost to complete the work subject to the San Diego Water Board’s approval. From the findings in all documents (2017 CAO, the Administrative Draft, and the Tentative Cleanup and Abatement Order), the ownership and activities giving rise to liability are clear. The San Diego Water Board, in electing to issue the 2017 CAO, respected the agreement reached among the parties and avoided an adversarial evidentiary hearing that could delay cleanup.</p> <p>San Diego Water Board staff have continued to work closely with Lockheed technical personnel since the issuance of the 2017 CAO, as well as during the past year as Board staff revised the Tentative Order pursuant to Lockheed’s comments. Such technical calls have gone forward without any participation from the Port or General Dynamics. Water Code section 13304 allows the San Diego Water Board to exercise its discretion in naming responsible parties with the goal of advancing cleanup and identifying the owners and operators subject to liability. This discretion allows the private litigation to proceed on a parallel track, since the board is not obligated to participate in litigation or settlement discussions related to cost</p>

Comment No.	LOCKHEED MARTIN – LEGAL COMMENTS
	<p>allocation. At this point, given the procedural history of the development of the 2017 CAO, the settlement reached among the three potentially responsible parties, and the work required by the Tentative Order, the San Diego Water Board can exercise its discretion to name Lockheed as the sole work party, and allow financial issues to be worked out in the parties’ parallel process. One alternative, should Lockheed’s comment be taken at face value, is to commence an evidentiary hearing naming all three parties. The terms and intent of the settlement agreement indicate that is not in the best interest of any party or the San Diego Water Board.</p> <p>Staff made no revision to the Tentative Order in response to this comment.</p>
18	<p>COMMENT: There is no legal requirement that the Tow Basin Site must comply with the 2018 SQO amendments. The Tentative CAO, Section 2.a.iv., states “[b]y specific language, Chapter III.A.1.b of the Sediment Quality Provisions does not exempt ongoing sediment cleanups from complying with the SQOs.” In keeping with this statement, the Regional Board staff has taken the position that “all ongoing and future cleanups” must comply with the 2018 SQO Amendments (see, e.g., January 14, 2020 Letter). This statement is incorrect and contrary to law. The identified statement in the Tentative CAO should be stricken, along with its accompanying footnote. The regulatory language makes clear that implementation of the SQOs is discretionary and, in any case, only supersedes existing narrative sediment quality objectives. In the 2018 SQO Amendments, the State Water Resources Control Board only states that the “Sediment Quality Provisions “supersede all applicable narrative water quality objectives and related implementation provisions in water control plans.” (June 5, 2018 SQO Amendments, Section III at p. 3, emphasis added.)</p>
	<p>RESPONSE: San Diego Water Board staff disagree with Lockheed’s comment and the discretionary nature of the SQO amendments. Board staff maintain that the SQO amendments apply to all cleanups that were not completed at the time of their implementation, and do not fundamentally change the burden of cleanup, but instead verify that the cleanup’s remedial goals have been achieved.</p> <p>In addition, application of SQOs is consistent with San Diego Water Board’s sediment cleanup and investigations, including but not limited to Laurel Hawthorne and Tenth Avenue Marine Terminal. The San Diego Water Board’s practical vision of strategizing for healthy waters in the San Diego Bay speaks to the importance of the SQOs and their use in this and future cleanups.</p>

Comment No. LOCKHEED MARTIN – LEGAL COMMENTS	
	Staff made no revision to the Tentative Order in response to this comment.
19	COMMENT: “[T]he 2018 SQO Amendments promote development of “site-specific sediment management guidelines where appropriate” and still confirms that all such guidelines “must comply with Resolution No. 92-49” (which prohibits Regional Boards from requiring cleanups below background levels).
	RESPONSE: San Diego Water Board staff acknowledge Lockheed’s comment but disagree with Lockheed’s interpretation of SQOs and their relation to background levels. As stated, all of the San Diego Water Board’s ongoing and prospective investigations include SQO analysis. Furthermore, the use of SQOs does not contradict or make more stringent the 94-49 requirement to achieve a background of pre-discharge conditions. Staff made no revision to the Tentative Order in response to this comment.

Comment No. GENERAL DYNAMICS COMMENTS	
20	COMMENT: The Tentative CAO would require that the cleanup achieve the Sediment Quality Objectives (“SQOs”) in direct contradiction of applicable law. These requirements exceed the Regional Board’s authority. Accordingly, the Regional Board should return to the language of Cleanup and Abatement Order No. R9-2017-0021.
	RESPONSE: San Diego Water Board staff acknowledge General Dynamics’ comment but disagree with General Dynamics’ interpretation of SQOs and their relation to background levels. As stated, all of the San Diego Water Board’s ongoing and prospective investigations include SQO analysis. Furthermore, the use of SQOs does not contradict or make more stringent the 94-49 requirement to achieve a background of pre-discharge conditions. Staff made no revision to the Tentative Order in response to this comment.
21	COMMENT: The background level of PCB contamination is not zero.

	<p>RESPONSE: San Diego Water Board staff maintain PCBs are a group of man-made chemicals that do not naturally occur in the environment. State Water Resource Control Board Resolution 92-49 defines background as “the water quality that existed before the discharge.” The pre-discharge concentrations of PCBs in the San Diego Bay, or any environment, should be minimal or non-detect.</p> <p>The directives in the Tentative Order provide the Discharger with discretion to achieve background or a level protective of beneficial uses. See for example: p.31: Directive B, Determination of Background (requirement for background analysis) as modified by p. 33: Directive C, Feasibility Study, which provides:</p> <p style="padding-left: 40px;">The Discharger’s Interim Feasibility Study, approved by the San Diego Water Board, will determine if clean up to background sediment concentrations is feasible. The Discharger (e.g., Lockheed) must develop and propose to the San Diego Water Board alternative sediment cleanup levels that are less stringent than background and that comply with State Water Board Resolution No. 92-49 and the Sediment Quality Provisions.</p> <p>Board staff are concerned that General Dynamics’ general objection to a background of zero may be a renewed attempt to set a “floor” or “background” for PCBs at 84 ppb. Board staff retain the position that attainment of pre-discharge condition will be protective of beneficial uses and consistent with State Water Board Resolution No. 94-49 and the Sediment Quality Provisions.</p> <p>San Diego Water Board staff made no revision to the Tentative Order in response to this comment.</p>
<p>22</p>	<p>COMMENT: The Regional Board cannot require cleanup beyond background water quality conditions.</p>
	<p>RESPONSE: The intent of the Tentative Order is for Lockheed to clean up or abate the chemicals of concern to concentrations that are protective of beneficial uses, and return the site to pre-discharge conditions, if determined reasonable by the Board. Concentrations that are protective of beneficial uses are typically above background concentrations. Also review the response to comments 6 and 21 above.</p> <p>San Diego Water Board staff made no revision to the Tentative Order in response to this comment.</p>
<p>23</p>	<p>COMMENT: The Regional Board determined that background concentrations of PCBs in San Diego Bay are 84 ppb, not zero.</p>

	<p><u>RESPONSE:</u> San Diego Water Board staff maintain PCBs are a group of man-made chemicals that do not naturally occur in the environment. State Water Resource Control Board Resolution 92-49 defines background as “the water quality that existed before the discharge.” The pre-discharge concentrations of PCBs in the San Diego Bay are not 84 ppb. Previous concentrations that were determined for other sediment cleanup sites are site specific and are not applicable at this site.</p> <p>San Diego Water Board staff made no revision to the Tentative Order in response to this comment.</p>
24	<p><u>COMMENT:</u> A background of zero Is unattainable at the Site and ignores state law.</p>
	<p><u>RESPONSE:</u> The intent of the Tentative Order is for Lockheed to clean up or abate the chemicals of concern to concentrations that are protective of beneficial uses, and to return the site to pre-discharge conditions, if determined reasonable by the Board.</p> <p>San Diego Water Board staff made no revision to the Tentative Order in response to this comment.</p>
25	<p><u>COMMENT:</u> Resolution No. 92-49 is clear: “under no circumstances” may cleanup and abatement orders “require cleanup to levels that are more stringent than background.” However, the Tentative CAO would violate this provision if compliance with SQO standards are added to the requirements of a background cleanup. As presently drafted, in addition to achieving a background cleanup, the cleanup must attain Unimpacted or Likely Unimpacted status for the benthic community and human health SQOs, and a finding that there are no adverse ecological effects under the Wildlife and Finfish SQOs by Year 5 of post-remedial monitoring.</p>
	<p><u>RESPONSE:</u> The intent of the Tentative Order is for Lockheed to clean up or abate the chemicals of concern to concentrations that are protective of beneficial uses, and to return the site to pre-discharge conditions, if determined reasonable by the Board. SQOs are narrative objectives that provide a framework for assessing whether concentrations in sediment that are protective of beneficial uses are being met. SQOs incorporate chemical and biological measures to determine if the sediment-dependent biota are protected or degraded as a result of exposure to toxic pollutants in sediment in order to protect benthic communities in enclosed bays and estuaries, human health, wildlife, and resident finfish.</p> <p>San Diego Water Board staff made no revision to the Tentative Order in response to this comment.</p>

Comment No.	PORT OF SAN DIEGO COMMENT
26	<p>COMMENT: In December 2020 at a duly noticed public meeting the Port District, acting as lead agency, certified the Final Environmental Impact Report (EIR) for the Lockheed Martin Harbor Island Facilities Demolition and Sediment Remediation Project and issued a Coastal Development Permit (CDP) to Lockheed Martin to perform the project. As the lead agency for this project and state designated trustee for the degraded tidelands subject to the CAO the Port District appreciates the Regional Water Board’s continued partnership.</p>
	<p>RESPONSE: San Diego Water Board staff acknowledge the Port’s statement</p> <p>San Diego Water Board staff made no revision to the Tentative Order in response to this comment.</p>
27	<p>COMMENT: Directive B states that the background concentration of total polychlorinated biphenyls (PCBs) should be considered zero or not detected. Many studies have shown that attempts to define a range of total PCB background concentrations result in findings that even pristine locations have detectable concentrations of total PCBs, which prompts questions in the context of this CAO. How did the Regional Water Board arrive at the conclusion that the background concentration of total PCBs should be assumed to be zero? How will this assumption impact post-remedy success?</p>
	<p>RESPONSE: State Water Resource Control Board Resolution 92-49 defines background as “the water quality that existed before the discharge.” The pre-discharge concentrations of PCBs in the San Diego Bay, or any environment, should be minimal or non-detect. The intent of the Tentative Order is for Lockheed to clean up or abate the PCBs to concentrations that are protective of beneficial uses, and return the site to pre-discharge conditions, if determined reasonable by the Board.</p> <p>Lockheed will determine and demonstrate to the San Diego Water Board, post-remedy success by completing a minimum of 5-years of post-remedial monitoring after all clean up actions.</p> <p>San Diego Water Board staff made no revision to the Tentative Order in response to this comment.</p>
28	<p>COMMENT: For post-remedial monitoring under Approaches A and B, the tentative CAO requires that a Human Health Sediment Quality Objective (HH SQO) start with a Tier 2 assessment. This requirement is based on a Tier 1 assessment of pre-remedy (e.g., existing historical) data presented in the tentative CAO. However, it appears that a Tier 2 assessment is also a required element of the post-remedy</p>

	<p>monitoring program (e.g., once the remedy is complete). Since much of the sediment quality data used in the Tier 1 assessment may be removed during the remedy, would it be more appropriate to initiate the post-remedy monitoring program with another Tier 1 assessment—one that uses sediment quality data collected after the remedy has been completed? Would repeating the Tier1 evaluation with a dataset that represents current sediment quality conditions at the Lockheed Site be more consistent with HH SQO guidance?</p>
	<p>RESPONSE: San Diego Water Board staff revised the Tentative Order to incorporate the Port’s comment. Staff revised the Tentative Order to require a Tier 1 assessment to be completed prior to a Tier 2 assessment. A Tier 1 assessment is an optional screening assessment to address whether contaminants in sediments at a site pose a potential chemical exposure that warrants further evaluation in a Tier 2 assessment.</p>