



California Regional Water Quality Control Board San Diego Region



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

NOTICE OF PRE-HEARING CONFERENCE FOR Tentative Cleanup and Abatement Order No. R9-2005-0126

September 26, 2005, Monday
At 9:00 AM

Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

BACKGROUND

The staff of the San Diego Regional Water Quality Control Board (Regional Water Board) has issued Tentative Cleanup and Abatement Order No. R9-2005-0126, which establishes proposed cleanup requirements for San Diego Bay marine sediments located within and adjacent to the NASSCO and Southwest Marine shipyard leaseholds.

The Regional Water Board has determined that it is appropriate to separate the Board staff into a neutral advisory staff team and a cleanup staff team for the proceedings related to the Tentative Cleanup and Abatement Order, as explained in a memo dated June 30, 2005 that is available on the Regional Board's website

PRE-HEARING CONFERENCE

The Regional Water Board will hold a pre-hearing conference on September 26, 2005 at 9:00 AM at the San Diego Regional Board Office Board Meeting Room in San Diego. John Minan, Board Chairman, will be the presiding officer and conduct the pre-hearing conference on behalf of the Board. Representatives of all proposed designated parties (see below) and any other persons who seek designated party status are requested to attend. The pre-hearing conference will be open to the public, but only proposed designated parties and persons seeking designated party status will be permitted to participate. The goal of the pre-hearing conference is to ensure that the hearing(s) on the tentative Cleanup and Abatement Order proceed in an orderly and prompt manner. There will be no discussion of the merits of the tentative Cleanup and Abatement Order. To ensure an accurate record, the pre-hearing conference proceedings will be recorded on audio tape. Additional pre-hearing conferences may be scheduled if necessary.

DESIGNATED PARTIES FOR THE HEARING

California Environmental Protection Agency

Participants at a hearing are either “designated parties” or “interested persons.” Parties to the hearing may present evidentiary testimony and are subject to cross-examination. Parties may also cross-examine other parties’ witnesses. Interested persons may present non-evidentiary policy statements, but may not present evidentiary testimony. Interested persons are not subject to cross-examination and may not cross-examine parties.

The Advisory Team is recommending to the Presiding Officer that the following entities be designated as parties to the Tentative Cleanup and Abatement Order hearing(s):

1. National Steel and Shipbuilding Company (NASSCO)
2. BAE Systems San Diego Ship Repair Inc. (formerly Southwest Marine, Inc.)
3. San Diego Port District
4. United States Navy
5. City of San Diego
6. San Diego Gas and Electric Company, Subsidiary of Sempra Energy Co.
7. Marine Construction and Design Co. and Campbell Industries, Inc.
8. Chevron USA, Inc, a Subsidiary of Chevron Texaco
9. BP West Coast Products LLC (BP)
10. San Diego Bay Council *

* The San Diego Bay Council is a coalition of environmental organizations comprised of the San Diego Bay Keeper, the Environmental Health Coalition, San Diego County Surfrider Foundation, San Diego Audubon Society, and the San Diego Chapter of the Sierra Club.

Any other persons who wish to participate in the hearing as designated parties must request party status in writing. The written request must be submitted to Frank Melbourn at the above address and **must be received no later than close of business on September 20, 2005.** The request must explain the basis for party status, a general description of the evidence that will be presented, and the reason why the proposed designated parties to this hearing do not adequately represent the person’s interests. Persons with similar interests are encouraged to request party status as a group.

GENERAL HEARING PROCEDURE

In addition to the specific procedures for the hearing that will be determined following the pre-hearing conference, the Regional Water Board will conduct the hearing in accordance with the regulations governing adjudicative proceedings of the State Water Resources Control Board and Regional Water Quality Control Boards. These regulations are in the California Code of Regulations, title 23, sections 648 et seq. They are available at <http://www.waterrights.ca.gov/WRINFO/> or on request.

**ISSUES TO BE CONSIDERED AT
PRE-HEARING CONFERENCE**

The following issues will be considered at this or subsequent pre-hearing conferences:

- ❑ The Executive Officer's participation on the Advisory Team.
- ❑ The designation of parties.
- ❑ The specific procedures to be used for the hearing, as recommended by the Cleanup Team on July 14, 2005.
- ❑ A comprehensive list of contested issues of fact and law (note that this is an effort to identify the issues only; no discussion of the merits of the issues will be accepted).
- ❑ The timing of submission of evidence and briefs.
- ❑ The length and date of the hearing.
- ❑ The location of the hearing.
- ❑ Participation by non-English speakers.
- ❑ The logistics for workshops, tours, and other methods for providing background information to the Board Members and the public.

Proposed designated parties and persons seeking party status are invited to submit comments or objections related to any of the above issues. If there are any other issues or objections that are appropriate for discussion during the pre-hearing conference, those issues or objections must also be raised for the Presiding Officer's consideration. All comments, issues, and objections must be received no later than the close of business on September 20, 2005. Comments, issues, or objections submitted after this date may not be considered, unless good cause for the delay is shown. Due to incomplete service and the nature and timing of the previous Regional Water Board agenda items related to this matter, all previously-submitted comments and objections must be resubmitted, or they will be deemed to have been waived.

SERVICE OF DOCUMENTS

Until further notice, all proposed designated parties and persons seeking party status submitting documents to the Regional Water Board related to this proceeding shall simultaneously serve copies of the documents on the following persons:

1. Mr. Michael Chee
National Steel and Shipbuilding Company
P.O. Box 85278
San Diego, California 92186-5278

2. Mr. Sandor Halvax
BAE Systems San Diego Ship Repair Inc.
P.O. Box 13308
San Diego, California 92170-3308

3. Mr. David Merk
Director of Environmental Services
Port of San Diego
P.O. Box 120488
San Diego, California 92112
4. Mr. Brian Gordon
Department of the Navy
Environmental Department N45
Commander Navy Region Southwest
33000 Nixie Way, Building 50, Suite 326
San Diego, California 92147-5110
5. Mr. Scott Tulloch
City of San Diego
Metropolitan Wastewater Department
9192 Topaz Way
San Diego, California 92123
6. Mr. Vincent Gonzales
SDG&E Sempra Energy
555 West Fifth Street, Suite 1400
Los Angeles, California 90013-1011
7. Mr. H. Allen Fernstrom
Marine Construction and Design Company
2300 West Commodore Way
Seattle, Washington 98199
8. Mr. Christopher J. McNevin
Attorney for Chevron USA Inc.
Pillsbury Winthrop Shaw Pittman, LLC
10250 Constellation Blvd., 21st Floor
Los Angeles, California 90067-6221
9. Mr. Roy Thun
BP West Coast Products LLC
6 Centerpointe Drive
La Palma, California 90623-1066
10. Ms. Laura Hunter

Pre-hearing Conference
September 26, 2005

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San Diego Bay Council
c/o Environmental Health Coalition
1717 Kettner Blvd. #100
San Diego, California 92101

IF YOU HAVE ANY QUESTIONS

Questions concerning the pre-hearing conference may be addressed to Frank Melbourn at the Regional Board's mailing address; email Fmelbourn@waterboards.ca.gov and telephone number (858)467-2973.

DIRECTIONS TO REGIONAL BOARD MEETING

Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego

From Downtown: I-15 north - take the Aero Drive exit - turn left (west). Proceed to the 3rd stoplight, which is Ruffin Road – turn right. Turn left on Sky Park Court (stoplight). Our building is located at the end of the court – veer to the right into the parking lot.

From the North: I-15 south - take the Balboa Ave. exit - turn right (west). Proceed to the 2nd stoplight, which is Ruffin Road – turn left. Turn right on Sky Park Court (stoplight). Our building is located at the end of the court – veer to the right into the parking lot.

John H. Robertus
Executive Officer

Dated: _____