

1 BY MR. BROWN:

2 Q Okay. Going back to the lack of support for
3 the plan.

4 What is it that you're looking for in the way
5 of support from any of the parties? What would be an
6 indicator of support?

7 A The simplest sort of support would be a
8 statement before the Board that they do, in fact,
9 support the draft cleanup and order in principle. They
10 may certainly wish to have the Board consider
11 alternatives or changes to it; but I have not heard a
12 statement yet that they are, in fact, supportive of the
13 cleanup approach and the Cleanup Order itself.

14 Q Would it be supportive if they were to -- if
15 the Port were to support it in principle, but reserve
16 the right to consider the comments that would come in
17 during the public comments period?

18 A Yes, I believe --

19 MR. CARRIGAN: Incomplete hypothetical. Calls
20 for speculation.

21 Go ahead.

22 THE WITNESS: Yes, I would agree.

23 MR. CARRIGAN: Just pause briefly. Allow me to
24 babble.

25

1 BY MR. BROWN:

2 Q And to modify your testimony -- no, that's not
3 true. Mr. Carrigan has been very gracious throughout
4 these proceedings.

5 Let me ask you about: Aside from the items
6 that we have discussed, are you aware of any other
7 indicators of noncooperation by the Port?

8 A No.

9 Q At Mr. Carlisle's deposition he testified that
10 withdrawal from the mediation was a factor in as to why
11 the Port was named on the order.

12 Do you disagree with his characterization?

13 A I don't disagree with his characterization.

14 Q Were you involved in the decision to name the
15 Port on the next -- the current pending TCAO?

16 A Yes, I was.

17 Q And what role did you play?

18 A I was presented with the alternatives by
19 Mr. Barker and Mr. Carlisle, and I consulted with
20 counsel and agreed to support their recommendation that
21 the Port be added as a primary responsible party.

22 Q And did both of those individuals make that
23 recommendation?

24 A It was a group consensus of the Cleanup Team.

25 Q And who had the ultimate opinion?

1 A I believe it was not.

2 Q At the Goodrich facility, do you know whether
3 the Port accessed its insurance?

4 A That was not included in my briefing, so I
5 don't know.

6 Q At the NASSCO facility, do you know whether the
7 Port accessed its insurance?

8 A I don't know.

9 Q Do you know if it did so prior to being named
10 as a primary responsible party?

11 A No, I don't know that.

12 Q Do you know if the Port researched and located
13 the insurance assets of the other responsible parties?

14 A I don't know that.

15 Q Do you know whether they did that before they
16 were named as a primary responsible party?

17 A I don't know that.

18 Q Do you know if the Campbell site was resolved
19 through mediation?

20 A I don't believe that it was. That was before
21 my time and I wasn't involved in that case; and I've
22 not researched the history of it, so I don't know.

23 Q Were you involved in the events leading up to
24 the mediation in this case?

25 A I came in just as the mediation was about to

1 begin.

2 Q What were you told at the time that the
3 mediation was commenced as to what the Port's role was?

4 MR. CARRIGAN: Hearsay.

5 THE WITNESS: I was --

6 MR. CARRIGAN: Go ahead.

7 THE WITNESS: I was told that the Port was
8 generally supportive of the cleanup approach by the
9 Board up to that point.

10 BY MR. BROWN:

11 Q Were you told whether the Port was the
12 instigator of the mediation?

13 A No, I was not told that.

14 Q Were you told whether the Port selected or
15 assisted in the selection of the same mediator who had
16 resolved the Campbell matter?

17 A I wasn't told that, though I had heard from the
18 staff that he had been involved in other cases in
19 San Diego Bay.

20 Q Do you know if the approach was advocated
21 because it was the successful approach that was used in
22 the Campbell matter?

23 MR. CARRIGAN: Lacks foundation. Calls for
24 speculation.

25 BY MR. BROWN:

1 air quality and truck traffic in Barrio Logan?

2 A I'm not specifically aware.

3 Q Okay. Are you aware of any of the greenhouse
4 gas issues regarding truck traffic in Barrio Logan?

5 A I'm aware of the greenhouse gas issue, truck
6 traffic in general, but not specifically with regard to
7 Barrio Logan.

8 Q Okay. I think I have just one -- well, I have
9 one last question and one line of questioning in this
10 area. Then I'm going to ask you briefly about sediment
11 quality objectives.

12 Have you ever appeared -- have you ever
13 participated on the Port's Environmental Committee?

14 A I have indeed. I've participated on the
15 Environmental Advisory Committee of the Port.

16 Q And when was that time frame?

17 A It was in at least 2007, 2008. Thereafter, I
18 delegated that duty to other parties. I've been at a
19 couple of the meetings in the last year.

20 Q What are the activities of the Port
21 Environmental Committee in general?

22 A As I was involved with it in 2006 or 2007. I'm
23 not exactly sure of the date. It was at the beginning
24 stages of preparing guidelines for the distribution of
25 funds, about \$10 million worth, that the Port had set

1 aside for environmental improvement projects around the
2 Bay. Everything from building raptor nests, structures,
3 to restoration, to education -- watershed education.

4 I helped advise the Port's staff on a
5 competitive and thorough review of the competing
6 proposals so that they could be scored fairly with one
7 another. I participated in general discussions on
8 those.

9 Q Would you view the Port's Environmental
10 Committee and its creation of this fund as being beyond
11 compliance with the Port's environmental duties?

12 A Yes. In fact, one of the central tenets of
13 those, distribution of those funds, was that it could
14 not be for compliance.

15 Q And are you aware of how the fund was created?

16 A I don't remember now.

17 Q Were you ever informed that it was created out
18 of the litigation and insurance strategy that the Port
19 had employed successfully on Bay cleanups throughout
20 San Diego Bay?

21 A I recall something to that effect at the time,
22 but I didn't know the particulars and don't remember
23 them now.

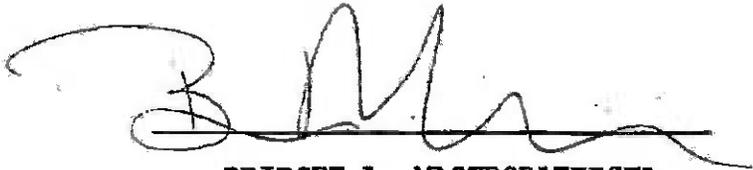
24 Q Are you aware of whether that same strategy was
25 being employed and is still being employed by the Port

C E R T I F I C A T E

I, BRIDGET L. MASTROBATTISTA, Certified Shorthand Reporter for the State of California, do hereby certify:

That the witness in the foregoing deposition was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the foregoing cause; that the deposition was taken by me in machine shorthand and later transcribed into typewriting, under my direction, and that the foregoing contains a true record of the testimony of the witness.

Dated: This 13th day of April, 2011, at San Diego, California.



BRIDGET L. MASTROBATTISTA

C.S.R. NO. 7715, RPR, RMR

Attachment Q

**Excerpts from the Deposition of California Regional Water Quality
Control Board Cleanup Team Member, David Barker, Vol. III,
dated March 3, 2011**

1 A. Yes.

2 Q. And the one December 22nd, 2009?

3 A. Yes.

4 Q. And last but not least, the one
5 September 15th, 2010?

6 A. Yes.

7 Q. And is it your understanding that in the
8 August 24th, 2007, version, the Port was not named as a
9 primarily liable or as a discharger at the site?

10 MR. CARRIGAN: Document speaks for itself. Go
11 ahead.

12 THE WITNESS: I believe in that document the
13 Port was named as a -- was not named as a primary
14 responsible party. We named the Port as a discharger but
15 did not name them as a primary discharger in the order,
16 but reserved the right to do so in the future if the Port
17 tenants became -- were not cooperative and where cleanup
18 was not proceeding and where we needed to bring in the --
19 to name the Port.

20 MR. BROWN: At this point, are the tenants, the
21 dischargers that were named as tenants of the Port, are
22 they cooperative with the Water Board at this point?

23 MR. WATERMAN: Vague.

24 MR. CARRIGAN: Overbroad. Compound.

25 MR. WATERMAN: Vague. Objection. Vague.

1 MR. CARRIGAN: I'll join Mr. Waterman.

2 THE WITNESS: At this -- at this point in time
3 the cleanup is proceeding cooperatively, yes. Oh, excuse
4 me. There is no cleanup proceeding. We are putting
5 together a draft proposal for cleanup, and the hearings
6 have yet to be held. And so it's open to question.
7 Who's cooperating on one day may change on the next.

8 BY MR. BROWN:

9 Q. And of today is there -- are the Port tenants
10 acting in a cooperative manner in the process?

11 MR. WATERMAN: Objection. Vague.

12 MR. CARRIGAN: Same objections. Vague.
13 Compound.

14 THE WITNESS: To -- to my knowledge, yes.

15 BY MR. BROWN:

16 Q. Who, other than you, would have more knowledge
17 on this issue?

18 A. There's different -- the project is complex
19 enough with enough different aspects where, for instance,
20 on the development of the CEQA document, I attend some of
21 those meetings but not all. There could be things
22 happening there that I'm not immediately aware of. So
23 other team members might have greater knowledge on
24 certain aspects.

25 BY MR. BROWN:

1 financially, meaning you personally?

2 MR. CARRIGAN: Assumes -- assumes facts not in
3 evidence. Misstates testimony. Go ahead.

4 THE WITNESS: I -- no. I made no attempt to
5 verify that, no.

6 BY MR. BROWN:

7 Q. Okay. Were there any other facts that changed
8 in regard to the Port District between 2009 and 2010 in
9 your perspective?

10 A. Okay. My perspective. The -- I think in the
11 2009 time frame the staff -- the Port had made available
12 to staff technical scientific expertise from its
13 consultant Mike Johns, I remember.

14 And the board -- or Cleanup Team was very
15 appreciative of that. And there came a period where
16 the -- that type of support was withdrawn.

17 MR. CARRIGAN: I just want to take this
18 opportunity to caution you, David, not to discuss any of
19 the communications that may have been made -- that were
20 specifically made during mediation to the extent they may
21 involve Mr. Johns or other people from the Port. Okay?

22 THE WITNESS: Okay.

23 MR. CARRIGAN: Just to caution you.

24 THE WITNESS: Yeah. Okay.

25 BY MR. BROWN:

1 Q: Okay.

2 And aside from communications in mediation, were
3 you aware of any representations by the Port that they
4 would withdraw your access to Mr. Johns?

5 A. Just that -- I'm just trying to recall that
6 there was a period where we did not feel like we had free
7 access to Mr. Johns, yeah.

8 Q. Do you recall when the Port withdrew from the
9 mediations?

10 A. I -- I believe it was -- no. You know,
11 actually, I don't remember that time period. I might be
12 confusing it with something else.

13 Q. Does January of 2010, does that seem the
14 appropriate time to you?

15 A. It -- it may have been, yes.

16 Q. The -- the other version came out in
17 December 22nd, '09, and then the Port withdrew,
18 perhaps, in January 2010.

19 So do you believe that the Port's change of
20 heart occurred during that time frame?

21 A. It may have, yes.

22 Q. Okay.

23 Aside from the level of cooperation that the
24 Port was providing, were there additional facts that were
25 gathered between 2009 and September 15th, 2010, draft

1 TCAO that were gathered that influences your decision
2 or -- and I -- when I say you, I mean the Water Board's
3 decision -- to name the Port as a discharger?

4 A. Yes.

5 Q. And what is that?

6 A. There was a process, I believe, in July of 2010
7 where parties had to identify witnesses that might
8 testify in the matter of the CAO. And we received word
9 that the Port was not planning on assigning witnesses to
10 testify in support of the CAO.

11 Q. Do you know if that has changed since then?

12 A. I -- I don't know that, no.

13 Q. Do you know if Mike Johns has been designated as
14 an expert witness now in this proceeding?

15 A. I'm not aware of that, no.

16 Q. Have you made any inquiries as to whether his
17 opinion would support the Water Board's opinion?

18 MR. CARRIGAN: Lacks foundation. Calls for
19 speculation.

20 THE WITNESS: Have I made any inquiries to
21 Mr. Johns?

22 BY MR. BROWN:

23 Q. Or to the Port.

24 A. Or to the Port, no.

25 Q. Okay. Have you ever received any information

1 that Port experts would not support the Port -- the
2 Water Board's decision in this matter?

3 A. No.

4 Q. And in addition to the issues that we
5 identified, level of cooperation and willingness to
6 provide testimony, are there any other facts that you're
7 aware of that changed between 2009 and 2010 when the next
8 TCAO was issued?

9 A. Yes.

10 Q. What other facts occurred?

11 A. In the process of -- of drafting the various
12 iterations of the DTR and CAO -- and I can't remember the
13 exact time frame -- but some discussion began on what
14 areas near shore might be used to stage the stockpiling
15 and dewatering of the dredged material.

16 And the thought was that whatever area was
17 selected might be on port -- Port District tidelands.
18 And we had some hopes that the Port would come forward
19 with sites that could be leased for that purpose. And --
20 and that type of information did not seem to be
21 forthcoming.

22 Q. Had the Port at any time prior to 2010 indicated
23 that it would provide tidelands as an area for
24 dewatering?

25 A. I guess not specifically to me. My -- and this

1 dewatering on Port tideland sites?

2 A. No, I do not know that, no.

3 Q. Do you know whether the Port has ever evaluated
4 the number of truckloads it would have to move through
5 Barrio Logan for a dewatering system?

6 MR. CARRIGAN: The Port or the board?

7 MR. BROWN: Why don't we ask it both ways.
8 Let's start with the Port.

9 BY MR. BROWN:

10 Q. Do you know whether the Port has ever made a
11 determination in that regard?

12 A. No, I don't.

13 Q. Do you know whether the board has ever made a
14 determination?

15 A. I believe in the DTR that there is some
16 discussion of truckloads of material that would have to
17 be -- where the dredge spoil would be transported and
18 possible impacts to communities. But it's done in a very
19 summary and quick fashion, nothing detailed.

20 Q. Do you know whether the board has ever examined
21 what communities would be affected?

22 A. Not in any detail, no.

23 Q. Since the time when it appeared that the Port
24 may have objections to a dewatering program on its
25 tidelands, has the Port offered any alternative

1 solutions?

2 A. Yes.

3 Q. And what alternative solutions has the Port
4 suggested?

5 A. In recent discussions, there was talk of using
6 the Convair Lagoon site as a -- as a containment
7 structure to receive the material.

8 Q. And at what stage are those decisions?

9 A. Very preliminary at this time.

10 Q. And has the Port offered to provide assistance
11 in having that option evaluated?

12 A. Yes.

13 Q. And has the Port ever mentioned the issue of
14 environmental justice in regard to the CDF disposal
15 option?

16 A. The -- I've been to one meeting with this. And
17 I remember there was talk of transporting the material
18 via barge to the site, negating the need to truck the
19 material through adjacent neighborhoods.

20 Q. And would that have a better environmental
21 justice impact as you now perceive it?

22 MR. CARRIGAN: Calls for speculation. Lacks
23 foundation.

24 MR. WATERMAN: Objection. Join.

25 THE WITNESS: Yeah. That's one of the functions

1 of the EIR that's under development to evaluate that. So
2 I -- I don't have a position on that.

3 BY MR. BROWN:

4 Q. Okay. And has the Port offered to assist with
5 that portion of the EIR that would evaluate this option?

6 A. Yes.

7 Q. In addition to the other matters that we
8 recently discussed, can you think of any other factors
9 that developed between 2009 and 2010 that were relevant
10 to the determination that the Port should be named as a
11 primarily responsible party?

12 MR. WATERMAN: Objection. Vague.

13 THE WITNESS: Let's see. Let me -- let me just
14 do a little scrawling just to jar my memory here.

15 MR. CARRIGAN: Don't write anything on that
16 paper.

17 MR. BROWN: Mr. Barker -- Mr. Barker, I have a
18 better suggestion, which is because the way we've been
19 doing this is we've been breaking for lunch around 12:30
20 or so, let's take a five minute break now, we'll go for
21 an hour, and then we'll think about lunch. How does that
22 work?

23 MR. CARRIGAN: That will be fine.

24 MR. BROWN: Thank you.

25 THE VIDEOGRAPHER: Off the record. Time is

1 issue as to why they -- those two polygons were not
2 included in the footprint?

3 MR. CARRIGAN: He's not been designated as such.

4 THE WITNESS: Yeah. Yeah. I -- I -- I -- I
5 guess I'm not designated as such.

6 BY MR. BROWN:

7 Q. Okay. All right. On to some more general
8 topics, I wanted to go through with you some of the other
9 sites that you may have worked on.

10 A. Okay.

11 Q. Did you work on the Campbell Shipyard Site, the
12 one that's distinct from this site?

13 A. Yes, I did.

14 Q. And what was your involvement with that site?

15 A. It was two-fold. I was involved with the -- the
16 review of a sediment quality assessment which led to the
17 development and issuance of a cleanup and abatement
18 order. And then sometime after that, I was involved with
19 the board's issuance of waste discharge requirements for
20 a confined sediment disposal facility at the site.

21 Q. And did you work with port representatives at
22 that site?

23 A. Yes.

24 Q. And did you find them to be cooperative?

25 A. Yes, yes.

1 Q. Were they named as a primary responsible party
2 at that site?

3 A. No.

4 Q. And was the site ultimately capped?

5 A. Yes, it was.

6 Q. Do you know what method of imposing cleanup
7 standards was used at that site? And let me give you a
8 few options.

9 Was it 92-49, SQOs, or TMDLs?

10 A. It was not -- it was 92-49.

11 Q. Okay. The TDY site, were you involved in that
12 site?

13 A. Yes.

14 Q. And did you work with port representatives on
15 that site?

16 A. It's been -- this goes back some years. But I
17 think there was some Port involvement, yes.

18 Q. Do you know if the Port was cooperative at that
19 site?

20 A. I -- I believe they were, yes.

21 Q. And do you know if this site is still continuing
22 on into the future?

23 A. Yes, it is.

24 Q. And it's the subject of renewed interest at this
25 point?

1 interaction with the board on that site.

2 Q. Are you aware of any other sites where the board
3 is currently working with the Port?

4 A. None come to mind. Oh, excuse me. The
5 Shelter Island Yacht Basin, a copper TMDL -- with --
6 involving conversion of boat hulls to -- using different
7 type of vessel paints. The Port is working very
8 cooperatively with the board on that.

9 Q. Okay. Let's go back through a couple of these
10 on another issue. On the Campbell -- on the Campbell
11 Shipyard site, 92-49 was used as the method for
12 determining cleanup at that site. At the TDY site, what
13 was used as the method?

14 A. This would have been back in the 1980s. It
15 would have been pre-Resolution 92-49, but similar
16 concepts involved.

17 Q. Okay. And at the Tow Basin site, what mechanism
18 is being used?

19 A. Well -- well, any time the board sets cleanup
20 goals by, the board needs to set those levels in
21 conformance with the principles in 92-49. So whatever is
22 done in the Tow Basin at some point needs to show that it
23 is in conformance with it.

24 Q. Are you aware that the SQOs are being
25 implemented at the Tow Basin?

1 A. I'm not aware of that. But it sounds correct.
2 They are -- they are in effect now, and the sediments in
3 the cleanup decisions would have to be in conformance
4 with -- with that State Board policy.

5 Q. And how about the South Bay Power Plant; are
6 sediments being investigated there?

7 A. There are plans to initiate investigation at
8 that site, yes.

9 Q. And what mechanism will be used there?

10 A. We haven't gotten into detailed formulating
11 strategy on that. But the board has authority under the
12 Water Code to issue investigative orders to -- similar to
13 the shipyard site to do sediment -- to obtain sediment
14 quality assessments and to -- to see if any remedial work
15 needs to be done.

16 Q. Will that be under the governance of the SQOs?

17 A. Yes, it would.

18 Q. Okay. And how about the Goodrich facility; are
19 you aware of whether there's any sediment investigation
20 going on at that site?

21 A. There -- there has been a -- some type of
22 cleanup done in the marsh land down in that area. But
23 I'm not aware of other work being done. It could be.
24 I'm just not aware of it.

25 Q. Okay. And at the Shelter Island Yacht Basin.

1 what work is being performed at that site?

2 A. The Port is kind of taking a lead role in
3 investigating the use of alternative vessel hull paints
4 to curtail copper discharges into the bay from the
5 current hull paints that is causing water quality
6 standards to be exceeded.

7 They are kind of coordinating, serving as a --
8 as a facilitator between the board and the underwater
9 hull cleaners and the marina operators that -- where
10 these vessels are congregated, those type of activities.

11 There is -- we believe the Port is going to
12 begin some routine reporting to us on water quality
13 conditions in Shelter Island Yacht Basin and giving us
14 reports on how many boat hulls are being modified to --
15 with less toxic paint, that type of thing.

16 Q. Okay. At the Campbell Shipyard Site, are you
17 aware whether the Port contributed to the cost of
18 cleaning up that site?

19 A. I'm not aware of how the cleanup was ultimately
20 financed, no.

21 Q. Have you ever received any indication that the
22 Port paid for that?

23 A. I -- I'm not aware of it, no.

24 Q. And I think you mentioned in your deposition a
25 couple of days ago that outside the NASSCO cleanup, this

1 I, ANNE M. ZARKOS, Certified Shorthand
2 Reporter for the State of California, do hereby certify:

3
4 That the witness in the foregoing deposition was by me
5 first duly sworn to testify to the truth, the whole
6 truth and nothing but the truth in the foregoing cause;
7 that the deposition was taken by me in machine shorthand
8 and later transcribed into typewriting, under my
9 direction, and that the foregoing contains a true record
10 of the testimony of the witness.

11
12 Dated: This 23 day of March, 2011
13 at San Diego, California.

Anne M. Zarkos

14
15
16
17 Anne M. Zarkos RPR, CRR
18 CSR No. 13095
19
20
21
22
23
24
25

Attachment R

**Excerpts from the Deposition of California Regional Water Quality
Control Board Cleanup Team Member, David Gibson, dated
March 11, 2011**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF:)
TENTATIVE CLEANUP AND ABATEMENT)
ORDER NO. R9-2011-0001)
_____)

DEPOSITION OF DAVID GIBSON

San Diego, California

MARCH 11, 2011

REPORTED BY BRIDGET L. MASTROBATTISTA

REGISTERED MERIT REPORTER, CSR NO. 7715

1 EXAMINATION

2 BY MR. BROWN:

3 Q Good morning, Mr. Gibson.

4 My name is Bill Brown. I represent the Port of
5 San Diego in this matter, and we have a few short
6 questions for you today. One of the allegations against
7 the Port in some Interrogatory Answers is that the Port
8 has not been cooperative as a landlord at this site. I
9 wanted to ask you about this site as well as a few
10 others and talk about cooperation.

11 I'm going to start out talking about some of
12 the other sites that you may have knowledge of. Were
13 you involved in the Campbell Shipyard site? Not the
14 Campbell site here, but the other Campbell site where
15 the new Hilton Hotel is?

16 A No, I was not.

17 Q Okay. Did you have any knowledge as to whether
18 the Port was cooperative at that site?

19 A I believe that they were cooperative. And I do
20 want to revise that answer. I think I was involved with
21 the revision of the waste discharge requirements after
22 they were initially adopted for the purposes of that
23 site. I was the supervisor of Datquach. And I think it
24 was the comparable sites that we presented to the board.

25 Q Do you know how much money the Port of

1 discussions in the hallway with staff working on that.

2 Q Have you worked with anybody at the Port of
3 San Diego on that matter?

4 A I have not.

5 Q Do you know if the Port of San Diego
6 contributed to the payment for that remediation?

7 A I don't know.

8 Q Okay. Do you know if the Port of San Diego
9 assisted in bringing parties to the table to pay for
10 that remediation?

11 A I don't know.

12 Q Do you know if the Port of San Diego initiated
13 mediation to resolve that site?

14 A I don't know.

15 Q Do you know whether they located insurance for
16 other parties for that site?

17 A I don't know that.

18 Q Are you involved in South Bay power plant?

19 A I've been involved in that, yes.

20 Q And what's your role in that?

21 A As Executive Officer, I oversaw the staff
22 presentations and the development of those presentations
23 in the several items that the Board had on that in 2009
24 and 2010.

25 Q Have you worked with anybody at the Port of

1 San Diego on that matter?

2 A I have not.

3 Q Do you know whether the Port of San Diego has
4 been cooperative in that matter?

5 A It's my sense from the briefing I've received
6 from staff that the Port has been cooperative, and I
7 look forward to more of that cooperation in the next
8 year ahead.

9 Q I think we're all going to need it.

10 Did you ever work on the site known as Goodrich
11 or the site in Chula Vista also known as Rohr
12 Industries?

13 A I did not work on it. I've been briefed on it.

14 Q Have you ever worked with anybody at the Port
15 of San Diego on that matter?

16 A I've not.

17 Q Do you know whether the Port of San Diego has
18 spent money on remediating that site?

19 A I don't believe I've been briefed on that, no.

20 Q Have you worked on the Shelter Island Yacht
21 Basin?

22 A I have worked on that, yes.

23 Q And have you worked with representatives of the
24 Port on that matter?

25 A Yes, I have.

1 Q And who did you work with?

2 A I have worked primarily with David Merk and
3 Karen Holman on that subject.

4 Q And what have they been doing?

5 A In short, they have been implementing the TMDL
6 with the yacht owners in that basin vis-a-vis seeking
7 grant funds which the Regional Board supported from the
8 319(h) Federal Clean Water Act Nonpoint Source grant
9 program to switch over boats from copper-based
10 antifouling coatings to non-copper-based and preferably
11 a nontoxic alternative.

12 We supported their grant application. They
13 have been facilitating communications with the yacht
14 owners and the marinas in that yacht basin, and we
15 appreciate that help.

16 Q Do you know whether the Port has also, aside
17 from the grant, contributed financially to that program?

18 A I believe that they have. There's a matching
19 requirement for that grant. And, even in advance of
20 that, the Port's commitment to applying for the grant
21 and working with the yacht owners and marina owners
22 there include that. And I believe that there was also
23 monitoring associated that the Port has done.

24 Q Have you worked with the Port on any other
25 matters involving sediment in San Diego Bay?

1 A No, I've not.

2 Q In regard to the NASSCO matter, have you had
3 interaction with Port representatives on that site or
4 what we'll call the shipyard site?

5 A In mediation, yes.

6 Q Outside of mediation, have you had dealings
7 with Port representatives?

8 A No.

9 Q Can you characterize the -- do you have any
10 knowledge as to whether the Port has been uncooperative
11 in that matter?

12 A Yes.

13 Q And what knowledge do you have?

14 A As I recall, and as I've been briefed,
15 beginning in January of 2010 the Port's perspective
16 seemed to change on that. The Port had the opportunity
17 in midyear to identify witnesses, to designate witnesses
18 to support the cleanup order. And the Port allowed that
19 opportunity to pass.

20 The Regional Board's staff's access to the Port
21 experts was withdrawn, and the Port's position seemed to
22 be one of adversarial.

23 Q How did you learn that the Port had withdrawn
24 its expert witnesses?

25 A I was --

1 Q If you learned this from your attorney, you
2 shouldn't repeat it to me. If you learned it from
3 anybody else, you're free to let me know.

4 MR. CARRIGAN: Or if it's a matter of public
5 record. For example, documents that may have been filed
6 or not filed. Go ahead.

7 THE WITNESS: There's a document in the
8 Administrative Record, a letter dated February, 2010,
9 from the Port to Timothy Gallaher, withdrawing from the
10 mediation.

11 BY MR. BROWN:

12 Q Is that the same as saying that you couldn't
13 have access to their experts?

14 A No. But, subsequent to that, access to their
15 experts was denied the Regional Board.

16 Q And who denied that access?

17 A I don't know specifically who on the Port
18 denied that access. This is what I was informed by the
19 staff.

20 Q Okay. Do you recall who at the staff informed
21 you of that?

22 A Mr. Barker and Mr. Carlisle.

23 Q Okay. Do you know if the Port has designated
24 any experts in this proceeding subsequently?

25 A I believe that they have. Yes.

1 BY MR. BROWN:

2 Q Okay. Going back to the lack of support for
3 the plan.

4 What is it that you're looking for in the way
5 of support from any of the parties? What would be an
6 indicator of support?

7 A The simplest sort of support would be a
8 statement before the Board that they do, in fact,
9 support the draft cleanup and order in principle. They
10 may certainly wish to have the Board consider
11 alternatives or changes to it; but I have not heard a
12 statement yet that they are, in fact, supportive of the
13 cleanup approach and the Cleanup Order itself.

14 Q Would it be supportive if they were to -- if
15 the Port were to support it in principle, but reserve
16 the right to consider the comments that would come in
17 during the public comments period?

18 A Yes, I believe --

19 MR. CARRIGAN: Incomplete hypothetical. Calls
20 for speculation.

21 Go ahead.

22 THE WITNESS: Yes, I would agree.

23 MR. CARRIGAN: Just pause briefly. Allow me to
24 babble.

25

1 BY MR. BROWN:

2 Q And to modify your testimony -- no, that's not
3 true. Mr. Carrigan has been very gracious throughout
4 these proceedings.

5 Let me ask you about: Aside from the items
6 that we have discussed, are you aware of any other
7 indicators of noncooperation by the Port?

8 A No.

9 Q At Mr. Carlisle's deposition he testified that
10 withdrawal from the mediation was a factor in as to why
11 the Port was named on the order.

12 Do you disagree with his characterization?

13 A I don't disagree with his characterization.

14 Q Were you involved in the decision to name the
15 Port on the next -- the current pending TCAO?

16 A Yes, I was.

17 Q And what role did you play?

18 A I was presented with the alternatives by
19 Mr. Barker and Mr. Carlisle, and I consulted with
20 counsel and agreed to support their recommendation that
21 the Port be added as a primary responsible party.

22 Q And did both of those individuals make that
23 recommendation?

24 A It was a group consensus of the Cleanup Team.

25 Q And who had the ultimate opinion?

1 A I believe it was not.

2 Q At the Goodrich facility, do you know whether
3 the Port accessed its insurance?

4 A That was not included in my briefing, so I
5 don't know.

6 Q At the NASSCO facility, do you know whether the
7 Port accessed its insurance?

8 A I don't know.

9 Q Do you know if it did so prior to being named
10 as a primary responsible party?

11 A No, I don't know that.

12 Q Do you know if the Port researched and located
13 the insurance assets of the other responsible parties?

14 A I don't know that.

15 Q Do you know whether they did that before they
16 were named as a primary responsible party?

17 A I don't know that.

18 Q Do you know if the Campbell site was resolved
19 through mediation?

20 A I don't believe that it was. That was before
21 my time, and I wasn't involved in that case; and I've
22 not researched the history of it, so I don't know.

23 Q Were you involved in the events leading up to
24 the mediation in this case?

25 A I came in just as the mediation was about to

1 begin.

2 Q What were you told at the time that the
3 mediation was commenced as to what the Port's role was?

4 MR. CARRIGAN: Hearsay.

5 THE WITNESS: I was --

6 MR. CARRIGAN: Go ahead.

7 THE WITNESS: I was told that the Port was
8 generally supportive of the cleanup approach by the
9 Board up to that point.

10 BY MR. BROWN:

11 Q Were you told whether the Port was the
12 instigator of the mediation?

13 A No, I was not told that.

14 Q Were you told whether the Port selected or
15 assisted in the selection of the same mediator who had
16 resolved the Campbell matter?

17 A I wasn't told that, though I had heard from the
18 staff that he had been involved in other cases in
19 San Diego Bay.

20 Q Do you know if the approach was advocated
21 because it was the successful approach that was used in
22 the Campbell matter?

23 MR. CARRIGAN: Lacks foundation. Calls for
24 speculation.

25 BY MR. BROWN:

1 air quality and truck traffic in Barrio Logan?

2 A I'm not specifically aware.

3 Q Okay. Are you aware of any of the greenhouse
4 gas issues regarding truck traffic in Barrio Logan?

5 A I'm aware of the greenhouse gas issue, truck
6 traffic in general, but not specifically with regard to
7 Barrio Logan.

8 Q Okay. I think I have just one -- well, I have
9 one last question and one line of questioning in this
10 area. Then I'm going to ask you briefly about sediment
11 quality objectives.

12 Have you ever appeared -- have you ever
13 participated on the Port's Environmental Committee?

14 A I have indeed. I've participated on the
15 Environmental Advisory Committee of the Port.

16 Q And when was that time frame?

17 A It was in at least 2007, 2008. Thereafter, I
18 delegated that duty to other parties. I've been at a
19 couple of the meetings in the last year.

20 Q What are the activities of the Port
21 Environmental Committee in general?

22 A As I was involved with it in 2006 or 2007. I'm
23 not exactly sure of the date. It was at the beginning
24 stages of preparing guidelines for the distribution of
25 funds, about \$10 million worth, that the Port had set

1 aside for environmental improvement projects around the
2 Bay. Everything from building raptor nests, structures,
3 to restoration, to education -- watershed education.

4 I helped advise the Port's staff on a
5 competitive and thorough review of the competing
6 proposals so that they could be scored fairly with one
7 another. I participated in general discussions on
8 those.

9 Q Would you view the Port's Environmental
10 Committee and its creation of this fund as being beyond
11 compliance with the Port's environmental duties?

12 A Yes. In fact, one of the central tenets of
13 those, distribution of those funds, was that it could
14 not be for compliance.

15 Q And are you aware of how the fund was created?

16 A I don't remember now.

17 Q Were you ever informed that it was created out
18 of the litigation and insurance strategy that the Port
19 had employed successfully on Bay cleanups throughout
20 San Diego Bay?

21 A I recall something to that effect at the time,
22 but I didn't know the particulars and don't remember
23 them now.

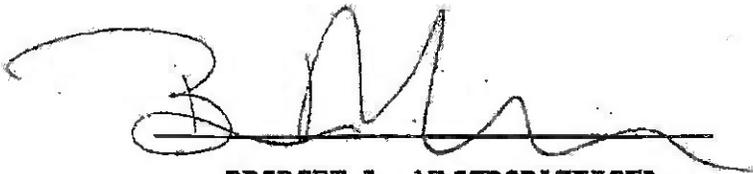
24 Q Are you aware of whether that same strategy was
25 being employed and is still being employed by the Port

C E R T I F I C A T E

I, BRIDGET L. MASTROBATTISTA, Certified Shorthand Reporter for the State of California, do hereby certify:

That the witness in the foregoing deposition was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the foregoing cause, that the deposition was taken by me in machine shorthand and later transcribed into typewriting, under my direction, and that the foregoing contains a true record of the testimony of the witness.

Dated: This 13th day of April, 2011, at San Diego, California.



BRIDGET L. MASTROBATTISTA

C.S.R. NO. 7715, RPR, RMR

Attachment S

**Excerpts from California Regional Water Quality Control Order
No. R9-2002-0161 NPDES Permit No. CA0109151, Waste Discharge
Requirements for Southwest Marine, Inc., dated November 13, 2002**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. R9-2002-0161
NPDES PERMIT NO. CA0109151

WASTE DISCHARGE REQUIREMENTS
FOR
SOUTHWEST MARINE, INC.
SAN DIEGO COUNTY

TABLE OF CONTENTS

FACT SHEET

A. Contact Information	I
B. Background	I
C. Facility Description	II
1. Drydocks	II
2. Marine Railways	II
3. Piers and Wharfs	III
4. On-Shore Facilities	III
D. Discharge Sources and Waste Characterization	IV
1. Point Source Discharges	IV
2. Industrial Storm Water Discharges	V
E. Basis for Waste Discharge Requirements and Effluent Limitations	VIII
1. NPDES Regulation for Best Management Practices	VIII
2. Basin Plan	IX
3. Enclosed Bay and Estuaries Policy	XI
4. California Toxics Rule and Implementation Policy	XII
5. Ocean Plan	XIV
6. Thermal Plan	XV
7. 303 (d) List and Sediment Monitoring	XV
8. Antidegradation Policies	XVI
F. Effective Date and Expiration Date	XVI
G. Written Comments	XVI
H. Public Hearing	XVII
I. Reviews of Waste Discharge Requirements	XVII
J. Additional Information	XVIII
K. References for Waste Discharge Requirements	XVIII

ORDER NO. R9-2002-0161

Findings	1
A. Prohibitions	6
B. Discharge Specifications	7
C. Receiving Water Limitations	9
D. Special Condition	10
E. Provisions	10
F. Reporting Requirements	12
G. Notifications	15
Attachment A: Southwest Marine, Inc. Facility Map	A-1
Attachment B: Best Management Practices Program Requirements	B-1
Attachment C: Basin Plan Water Quality Objectives Applicable to San Diego Bay	C-1
Attachment D: Standard Provisions	D-1
Attachment E: Definitions and Explanatory Notes	E-1

Monitoring and Reporting Program No. R9-2002-0161

A. Purpose	1
B. Monitoring Provisions	1
C. Monitoring and Reporting Schedule and Frequency	3
D. Effluent Monitoring	4
1. Point Source Discharges	4
2. Floating Drydock Submergence/Emergence Water Discharges	5
3. Floating Drydock Ballast Tank Monitoring	6
4. Floating Boom Cleaning	6
5. Storm Water Monitoring	6
E. Receiving Water Monitoring	12
F. California Toxics Rule Monitoring	12
G. Compliance Certification	12
H. Spill / Illicit Discharge Log	13
I. Chemical Utilization Audit	13
J. Waste Hauling Log	13
K. Sediment Chemistry Monitoring	14
1. Sample Collection	14
2. Sampling Stations and Analysis	16
3. Analysis Parameters and Detection Limits	17
4. Monitoring Results and Reports	19
5. Sediment Monitoring Station Locations	20
L. Endnotes References	22

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

**ORDER NO. R9-2002-0161
NPDES PERMIT NO. CA0109151**

**WASTE DISCHARGE REQUIREMENTS
FOR
SOUTHWEST MARINE, INC.
SAN DIEGO COUNTY**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. Southwest Marine, Inc. (SWM) is a ship modification, repair, and maintenance facility located in San Diego, California. Operations at SWM generate or have the potential to generate discharges of waste to San Diego Bay, an enclosed bay within the San Diego region.
2. Discharges of waste from SWM to San Diego Bay have been regulated under the General Shipyard Permit, Order No. 97-36, NPDES Permit No. CAG039001.
3. Ship modification, repair, and maintenance activities at SWM result or have the potential to result in discharges of wastes and pollutants that could cause or threaten to cause pollution, contamination, or nuisance; adversely impact human health or the environment; cause or contribute to violation of an applicable water quality objective; and/or otherwise adversely affect the quality and/or beneficial uses of waters of the state and waters of the United States, particularly San Diego Bay. Such activities include abrasive blasting, hydroblasting, grinding, painting, tank cleaning, removal of bilge and ballast water, and removal of antifouling paint. A variety of wastes and pollutants are generated or are present at SWM, including but not limited to, paint chips, abrasive grit, solvents, materials of petroleum origin, and heat. These wastes and pollutants are discharged or have the potential to be discharged by a variety of pathways, including storm water, tidal action, wind, overspray, spills, and leaks. Discharges prohibited by Order No. R9-2002-0161, include:
 - i. water contaminated with abrasive blast materials, paint, oils, fuels, lubricants, solvents, or petroleum;
 - ii. hydroblast water;
 - iii. tank cleaning water (resulting from tank cleaning operations to remove sludge and/or dirt);
 - iv. clarified water from oil/water separation;
 - v. steam-cleaning water;
 - vi. de-mineralizer / reverse osmosis brine;
 - vii. floating drydock sump water (when the drydock is in use as a work area or when the drydock is not in use as a work area but before the sump has been purged following the drydock being used as a work area);
 - viii. oily bilge water;

- ix. contaminated ballast water; and
- x. first flush storm water runoff from high risk areas ('first flush' and 'high risk areas' are defined in *Attachment E* of this Order).

SWM currently diverts these discharges to the Metropolitan Sanitary Sewer System.

4. SWM's facility operations could result in discharges to San Diego Bay of wastes and pollutants which pose less of a threat than those identified in *Finding 3* above. Such discharges include:
- i. Floating Drydock Sump Water (when the drydock is not in use as a work area after the sump has been purged following the drydock being used as a work area);
 - ii. Vessel Wash-Down Water;
 - iii. Pipe and Tank Hydrostatic Test Water; and
 - iv. Saltbox Water.
5. The following point source discharges to San Diego Bay were identified at SWM:
- i. Non-Contact Cooling Water (for compressor air system at Bldg. 13);
 - ii. Miscellaneous Low Volume Water (such as steam condensate);
 - iii. Fire Protection Water;
 - iv. Floating Drydock Ballast Tank Water; and
 - v. Floating Drydock Submergence/Emergence Water.

These discharges do not ordinarily come in contact with wastes or pollutants (other than heat for 5.i and 5.ii) and no wastes or pollutants are ordinarily added by such activities. Fire protection water, non-contact cooling water, and floating drydock ballast tank water are taken from the Bay and discharged back into the Bay.

6. Ship modification, repair, and maintenance activities also result or have the potential to result in discharges to San Diego Bay of wastes and pollutants which pose less of a threat to water quality than the discharges listed above. These discharges include marine fouling organisms removed from unpainted, uncoated surfaces by underwater operations.
7. Ship modification, repair, and maintenance activities are undertaken by the facility operators as well as contractors, vessel owners, operators, and crew. This Order applies to those discharges associated with ship modification, repair, and maintenance activities over which SWM can reasonably be expected to have control.
8. The Regional Board has determined that Southwest Marine has a threat to water quality (TTWQ) / complexity (CPLX) rating of 1A, as defined in Title 23, Section 2200, California Code of Regulations (CCR). TTWQ is based on a facilities operations and its potential discharges of pollutants into a receiving water body. CPLX is a measure of the complexity of regulating a facility.

9. Storm water discharges associated with industrial activity at SWM provide a potentially significant pathway by which pollutants and wastes could be discharged to waters of the United States. Such discharges to San Diego Bay have been found to contain toxic pollutants, particularly copper and zinc. Although SWM operates a Storm Water Diversion System that has the capacity to contain and divert over one inch of storm water from the facility to the Metropolitan Sanitary Sewer System, the possibility exists for industrial storm water discharges to occur. The acute toxicity established in the General Shipyard Permit will remain in effect for all industrial storm water discharges.
10. The U.S. Navy is conducting a four year study under Order No. R9-2002-0002 of the toxicity in the industrial storm water discharges. The Regional Board encourages SWM to participate in this study.
11. Sediment monitoring, as specified in Monitoring and Reporting Program No. R9-2002-0161, will not be required until the sediment cleanup at SWM is successfully completed (see Fact Sheet, *Section E.7*). The first set of samples from the SWM sampling stations and reference stations, outlined in the MRP No. R9-2002-0161, are required to be taken during the time the last post cleanup sampling is conducted.
12. The San Diego Unified Port District (SDUPD) is the trustee of all sites currently known to the Regional Board where ship construction, modification, repair, and maintenance facilities are operated by commercial entities, such as SWM. SDUPD is ultimately responsible for the consequences (e.g. cleanup) of all discharges associated with ship construction, modification, repair, and maintenance activities at sites for which it is the trustee. SDUPD may also be responsible for the consequences (e.g. cleanup) of all discharges within and from such sites, including those discharges that are not subject to NPDES requirements, pursuant to 40 CFR 122.3. SDUPD may be responsible for the failure of its tenants to comply with this Order.
13. For purposes of this Order, the term "discharger" means:
 - a. A person who owns and/or operates SWM; or
 - b. A person (e.g. a commercial entity engaged in ship construction, modification, repair, and/or maintenance activities), who is a lessee of a site where ship construction, modification, repair, and/or maintenance activities are conducted; or
 - c. A person (e.g. the San Diego Unified Port District), who is a lessor of a site where ship construction, modification, repair, and/or maintenance activities are conducted. [Note: such lessors are not primarily responsible for day-to-day operations at SWM or for compliance with the requirements of this Order (including monitoring and reporting requirements). In order to obtain the assistance of such lessors in obtaining compliance of their lessees with this Order, the Regional Board will notify such lessors of any violations of this Order by their lessees. The Regional Board will not take enforcement action against such lessors for violations of this Order by their lessees unless there is a continued failure to comply by a lessee after the lessor has been given notice of the violations and an opportunity to obtain compliance of the lessee.]

Attachment T

**Excerpts from California Regional Water Quality Control Order
No. R9-2003-0005 NPDES Permit No. CA0109134, Waste Discharge
Requirements for National Steel Shipbuilding Company, dated
February 5, 2003**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. R9-2003-0005
NPDES PERMIT NO. CA0109134

WASTE DISCHARGE REQUIREMENTS
FOR

NATIONAL STEEL AND SHIPBUILDING COMPANY

SAN DIEGO COUNTY

TABLE OF CONTENTS

Findings	1
A. Prohibitions	7
B. Discharge Specifications	8
C. Receiving Water Limitations	11
D. Special Conditions	12
E. Provisions	12
F. Reporting Requirements	14
G. Notifications	17

List of Tables

Table 1. Effluent Limitations	9
-------------------------------------	---

- Attachment A: NASSCO Location and Facility Map
- Attachment B: Best Management Practices Program Requirements
- Attachment C: Basin Plan Water Quality Objectives Applicable to San Diego Bay
- Attachment D: Standard Provisions
- Attachment E: Definitions and Explanatory Notes

MONITORING AND REPORTING PROGRAM NO. R9-2003-0005

A. Purpose	M-1
B. Monitoring Provisions	M-1
C. Monitoring and Reporting Schedule and Frequency	M-3
D. Effluent Monitoring	M-4
1. Point Source Discharges	M-4
2. Floating Drydock Submergence/Emergence Water Discharges	M-6
3. Floating Drydock Ballast Tank Monitoring	M-6
4. Floating Boom Cleaning	M-6
5. Storm Water Monitoring	M-6
E. Receiving Water Monitoring	M-12
F. California Toxics Rule Monitoring	M-13
G. Compliance Certification	M-13
H. Spill/Illicit Discharge Log	M-13
I. Chemical Utilization Audit	M-14
J. Waste Hauling Log	M-14
K. Sediment Chemistry Monitoring	M-14
1. Sample Collection	M-15
2. Sampling Stations and Analysis	M-16
3. Analysis Parameters and Detection Limits	M-17
4. Monitoring Results and Reports	M-19
5. Sediment Monitoring Station Locations	M-21
L. Endnotes References	M-22

List of Tables

Table 1. Monitoring Report Schedule	M-3
Table 2. Monitoring Requirements for Fire Protection Water, Hydrostatic Relief Water and Ways and Graving Dock Flood Water	M-5
Table 3. Monitoring Requirements for Industrial Storm Water Discharges	M-8
Table 4. Station Location General Guidelines	M-16
Table 5. Sediment Chemistry Methods and Detection Limits	M-18
Table 6. NASSCO Facilities Sampling Site Coordinates	M-21
Table 7. Reference Station Sampling Site Coordinates	M-22

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. R9-2003-0005
NPDES PERMIT NO. CA0109134

WASTE DISCHARGE REQUIREMENTS
FOR

NATIONAL STEEL AND SHIPBUILDING COMPANY

SAN DIEGO COUNTY

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. National Steel and Shipbuilding Company (NASSCO) is a ship construction, modification, repair, and maintenance facility located in San Diego, California. Operations at NASSCO generate or have the potential to generate discharges of waste to San Diego Bay, an enclosed bay within the San Diego region.
2. Discharges of waste from NASSCO to San Diego Bay have been regulated pursuant to the General Shipyard Permit, Order No. 97-36, NPDES Permit No. CAG039001.
3. Ship construction, modification, repair, and maintenance activities at NASSCO result or have the potential to result in discharges of wastes and pollutants that could cause or threaten to cause pollution, contamination, or nuisance; adversely impact human health or the environment; cause or contribute to violation of an applicable water quality objective; and/or otherwise adversely affect the quality and/or beneficial uses of waters of the state and waters of the United States, particularly San Diego Bay. Such activities include abrasive blasting, hydroblasting, grinding, painting, tank cleaning, removal of bilge and ballast water, and removal of antifouling paint. A variety of wastes and pollutants are generated or are present at NASSCO, including but not limited to: paint chips, abrasive grit, solvents, materials of petroleum origin, and heat. These wastes and pollutants are discharged or have the potential to be discharged by a variety of pathways, including storm water, tidal action, wind, overspray, spills, and leaks. Discharges prohibited by Order No. R9-2003-0005 include:
 - i. Water contaminated with abrasive blast materials;
 - ii. Paint, oils, fuels, lubricants, solvents, or petroleum;
 - iii. Hydroblast water;
 - iv. Tank cleaning water (resulting from tank cleaning operations to remove sludge and/or dirt);
 - v. Clarified water from oil/water separation;

- vi. Steam-cleaning water;
- vii. De-mineralizer and reverse osmosis brine;
- viii. Floating drydock sump water (when the drydock is in use as a work area or when the drydock is not in use as a work area but before the sump has been purged following the drydock being used as a work area);
- ix. Oily bilge water;
- x. Contaminated ballast water; and
- xi. First flush storm water runoff from high risk areas ("first flush" and "high risk areas" are defined in *Attachment E* of this Order).

NASSCO currently diverts these discharges to the San Diego Metropolitan Sanitary Sewer System (SDMSSS).

4. NASSCO's facility operations could result in discharges to San Diego Bay of wastes and pollutants which pose less of a threat than those identified in *Finding 3* above. These discharges are regulated by this Order provided best management practices are implemented. Such discharges include:

- i. Floating drydock submergence/emergence water;
- ii. Pipe and tank hydrostatic test water;
- iii. Vessel washdown water;
- iv. Graving dock flood water;
- v. Shipbuilding ways flood water;
- vi. Miscellaneous low volume flow;
- vii. Shipbuilding ways and graving dock hydrostatic relief water;
- viii. Fire protection water;
- ix. Floating drydock de-ballasting water;
- x. Graving dock caisson gate de-ballasting water;
- xi. Hydrostatic testing water-new vessels; and
- xii. Storm water runoff other than the first flush of storm water from high risk areas.

5. The following discharges were regulated by the General Shipyard Permit and are currently being diverted to the San Diego Metropolitan Sanitary Sewer System (SDMSSS). They will be a prohibited discharge to San Diego Bay without prior notification to the Regional Board. Such discharges include:

- i. Saltbox water;
- ii. Steam condensate;
- iii. Compressor and condenser non-contact cooling water;
- iv. Shipbuilding ways gate and wall leakage water;
- v. Graving dock gate and wall leakage water; and
- vi. Floating drydock sump water.

6. The industrial point source discharges to San Diego Bay, as identified in NASSCO's Report of Waste Discharge dated April 15, 2002 are:

- i. Fire Protection Water (FP-1, FP-2, FP-3, FP-4, and FP-5),
- ii. Hydrostatic Relief Water (HR-1, HR-2, and HR-3),
- iii. Floating Drydock De-ballast Water (M-1),
- iv. Graving Dock Flood Dewatering (M-2),
- v. Ways 3 Flood Dewatering (M-3),
- vi. Ways 4 Flood Dewatering (M-4),
- vii. Hydrostatic Testing Water-New Vessels (M-5),
- viii. Graving Dock Gate De-ballast Water (M-6), and
- ix. Pipe and Tank Hydrostatic Test Water (M-8).

These discharges do not ordinarily come in contact with wastes or pollutants (other than heat for 6.i) and no wastes or pollutants are ordinarily added by the activities.

7. Ship construction, modification, repair, and maintenance activities also result or have the potential to result in discharges to San Diego Bay of wastes and pollutants which pose less of a threat to water quality than the discharges listed above. These discharges include marine fouling organisms removed from unpainted, uncoated surfaces by underwater operations, and ship launch grease/wax and keel block sand.
8. Ship construction, modification, repair, and maintenance activities are undertaken by NASSCO as well as by contractors, vessel owners, operators, and crew. This Order applies to those discharges associated with ship construction, modification, repair, and maintenance activities over which NASSCO can reasonably be expected to have control.
9. This Regional Board has determined that NASSCO shall pay an annual fee of \$ 20,000 as defined in Title 23, Section 2200, California Code of Regulations (CCR) as adopted on October 3, 2002. The design flow from NASSCO is in excess of five million gallons per day. This is based on flow rates provided in the Report of Waste Discharge.
10. Storm water discharges associated with industrial activity at NASSCO provide a potentially significant pathway by which pollutants and wastes could be discharged to waters of the United States. Industrial storm water discharges to San Diego Bay from the NASSCO facility have contained significant concentrations of pollutants, particularly copper and zinc. Although NASSCO operates a Storm Water Diversion System (SWDS) that has the capacity to contain and divert all storm water runoff from the facility to the SDMSSS, the possibility exists for industrial storm water discharges to occur. The acute toxicity specifications in the General Shipyard Permit will remain in effect for all industrial storm water discharges.
11. Pursuant to Order No. R9-2002-0002, the Navy is conducting a four-year study regarding toxicity in industrial storm water discharges. The Regional Board encourages NASSCO to participate in this study.

12. Sediment monitoring, as specified in Monitoring and Reporting Program No. R9-2003-0005, will not be required until the sediment cleanup at NASSCO is successfully completed (see Fact Sheet, *Section E.7*). The first set of samples from the NASSCO sampling stations and reference stations are required to be taken concurrently with the last post cleanup sampling.
13. The San Diego Unified Port District (SDUPD) is the trustee of all sites currently known to the Regional Board where ship construction, modification, repair, and maintenance facilities are operated by commercial entities, such as NASSCO. The SDUPD is ultimately responsible for the consequences (e.g. cleanup) of all discharges associated with ship construction, modification, repair, and maintenance activities at sites for which it is the trustee. The SDUPD may also be responsible for the consequences (e.g. cleanup) of all discharges within and from such sites, including those discharges that are not subject to NPDES requirements, pursuant to 40 CFR 122.3. The SDUPD may be responsible for the failure of its tenants to comply with this Order.
14. For purposes of this Order, the term "discharger" means:
 - a. A person who owns and/or operates NASSCO; or
 - b. A person (e.g. a commercial entity engaged in ship construction, modification, repair, and/or maintenance activities), who is a lessee of a site where ship construction, modification, repair, and/or maintenance activities are conducted; or
 - c. A person (e.g. the SDUPD), who is a lessor of a site where ship construction, modification, repair, and/or maintenance activities are conducted. [Note: such lessors are not primarily responsible for day-to-day operations at NASSCO or for compliance with the requirements of this Order (including monitoring and reporting requirements). In order to obtain the assistance of such lessors in obtaining compliance of their lessees with this Order, the Regional Board will notify such lessors of any violations of this Order by their lessees. The Regional Board will not take enforcement action against such lessors for violations of this Order by their lessees unless there is a continued failure to comply by a lessee after the lessor has been given notice of the violations and an opportunity to obtain compliance of the lessee.]
15. The *Comprehensive Water Quality Control Plan, San Diego Basin (9)* (Basin Plan) designates the following beneficial uses of San Diego Bay:
 - Industrial Supply,
 - Navigation,
 - Contact Water Recreation,
 - Non-Contact Water Recreation,
 - Commercial and Sport Fishing,

Attachment U

**Drainage Easement between the City of San Diego and the San
Diego Unified Port District, dated April 24, 1985**

PROPERTY FILE RECORD

LE No.

85-127

ROUTE TO:

RECEIVED

ENG.

RETURN AS SOON AS POSSIBLE

SAN DIEGO UNIFIED PORT DISTRICT

Document No.

18104

Filed

Office of the Clerk

EASEMENT AND QUITCLAIM DEED

SAN DIEGO UNIFIED PORT DISTRICT, a public corporation, hereinafter called "Grantor," for valuable consideration, receipt of which is hereby acknowledged hereby grants to the CITY OF SAN DIEGO, a municipal corporation, hereinafter called "Grantee," a drainage easement. Said easement shall be for the purposes of construction, operation, maintenance, repair, replacement and inspection of a storm drain placed below the level of the surface of the ground and necessary above ground fixtures and appurtenances as approved by District within that portion of Grantor's land situated in the County of San Diego, State of California, and more particularly described on Exhibit "A" and delineated on City of San Diego Drawing No. 15878-1-B dated March 8, 1984, and Drawing No. 15878-2-B dated March 8, 1984. Said exhibit and drawings are attached hereto and by this reference made a part hereof.

1. Grantee shall have ingress and egress to and along the land described above via practical routes across adjacent land of Grantor, said routes to be determined by Grantor from time to time.
2. In the event Grantee disturbs the surface of the easement area during the installation, construction, maintenance and/or repair of the necessary facilities, Grantee shall do so in such a manner as will cause the least injury to the surface of the ground and any improvements thereon. Grantee shall restore the ground and any improvements thereon to substantially the same conditions as existed immediately prior to any such disturbance.
3. Grantor expressly reserves the right to grant easement in, upon, over and across the easement granted herein for any purpose whatever not inconsistent or incompatible with the rights and privileges granted by said easement. Nothing herein contained shall be construed as limiting the powers of Grantor to convey or otherwise transfer or encumber during the term of this easement the lands described herein for any purposes subject to the rights and privileges granted herein. The easement granted herein shall be subject to all existing rights of leases and encumbrances, recorded and unrecorded, affecting said land.
4. It is understood and agreed that in the event all or a part of the above described facilities should interfere with Grantor's

future use, redevelopment, construction, or improvements on said property, at Grantor's request, all or a part of said facilities will be relocated to a position on Grantor-owned property which may, but shall not necessarily be, the above described property; provided, however, the Grantor will not request the relocation of any one part of said facility more than one time. Grantor shall not be unreasonable in specifying new locations for said facilities. Said relocations shall be made at no expense to said Grantee; and Grantor further agrees to grant easements to Grantee for the permanent relocated portions at no expense to Grantee.

5. No construction or major repairs of any facilities shall commence without prior approval of the plans and specifications by Grantor, except for necessary emergency repairs. In the case of emergency repairs, Grantee will give Grantor written notification within 10 days from the commencement of the emergency repair and will obtain Grantor's approval within 90 days from the commencement of the emergency repair. Facilities installed pursuant to this agreement shall be constructed in a careful and workmanlike manner and shall conform to all applicable laws and regulations.

6. Grantee shall at all times indemnify and save harmless Grantor against and pay in full any and all loss, damage, or expense that Grantor may sustain, incur, or become liable for, resulting in any manner from the construction, maintenance, state of repair or presence of Grantee's facilities and all fixtures and equipment used in connection therewith, including any such loss, damage, or expense arising out of (a) loss of or damage to property, and (b) injury to or death of persons, excepting any loss, damage, or expense and claims for loss, damage, or expense resulting in any manner from the negligent act or acts of the Grantor, its contractors, officers, agents, or employees.

7. This easement may result in a taxable possessory interest and be subject to the payment of property taxes. Grantee agrees to and shall pay before delinquency all taxes and assessments of any kind assessed or levied upon Grantee for franchises, licenses or permits for any use or activities of Grantee upon the above described easement.

8. In the event said easement is no longer required or if said easement is not used for the purposes intended for a period of one year, whichever is sooner, all rights herein granted shall revert to Grantor, its successors or assigns, automatically and without the necessity of reentry or notice. Grantee shall furnish Grantor on demand a good and sufficient Quitclaim Deed of all its rights, title and interest in the above described real property.

9. The terms, covenants and conditions of this easement shall be binding upon and inure to the benefit of all heirs, executors,

administrators, permittees, licensees, agents, assigns or successors of any kind of both Grantor and Grantee.

10. Effective January 1, 1985, Grantee hereby exchanges, releases, surrenders and quitclaims any and all interests in portions of that certain easement reserved by the Grantee, in the Conveyance from the City of San Diego to the San Diego Unified Port District, which Conveyance was filed on February 15, 1963, in the San Diego Unified Port District Clerk's Office bearing Document No. 75 and which was also recorded on February 15, 1963, File/Page No. 28389 in the Office of the San Diego County Recorder. The real property covered by said easement being exchanged to the Grantor and quitclaimed by the Grantee is delineated on City of San Diego Drawing No. 15878-1-B, dated March 8, 1984, and Drawing No. 15878-2-B dated March 8, 1984, attached hereto, and by this reference made a part hereof and more particularly described as follows:

Portions of a drainage easement in the City of San Diego, County of San Diego, State of California being 15 feet in width, recorded as File/Page No. 28389, Official Records, on February 15, 1963 in the Office of the County Recorder and as shown on Engineering Drawing No. 9920-3-B entitled "Drainage Easement Southwesterly of Sampson Street Below the Mean High Tide Line" Sheet 3 of 19 filed in the Office of the City Clerk, City of San Diego, as Document No. 724665, on June 28, 1968; more particularly described in two parts as follows:

The north-south portion of said easement, lying 5 feet easterly and 10 feet westerly from the following described line:

BEGINNING at a point on the United States Bulkhead Line as it is shown on the map entitled "Harbor Lines, San Diego Bay, California, File No. (D.O. Series) 426," approved by the Secretary of the Army, April 29, 1963 which bears north $56^{\circ} 20' 08''$ west along said United States Bulkhead Line, 419.10 feet from station number 468 of said United States Bulkhead Line; thence north $7^{\circ} 13' 35''$ east 503.87 feet to Point "A"; thence continuing north $7^{\circ} 13' 35''$ east 31.05 feet to the POINT OF TERMINATION of the north-south portion of the herein described quitclaim.

The east-west portion of said easement, lying 7.5 feet on each side of the following described line:

BEGINNING at said point "A" thence south $55^{\circ} 51' 40''$ east 197.99 feet to the POINT OF TERMINATION of the east-west portion of the herein described easement quitclaim.

11. SIGNATURE OF PARTIES: It is an express condition of this Easement that said Easement shall not be complete nor effective until signed by all parties.

DATED: April 24, 1985

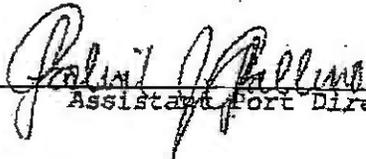
APPROVED:

As to Form and Legality.

SAN DIEGO UNIFIED PORT DISTRICT



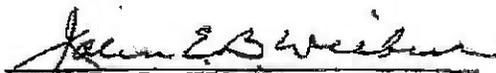
JOSEPH E. PATELLO



Assistant Port Director

As to Engineering and Legal Description.

THE CITY OF SAN DIEGO



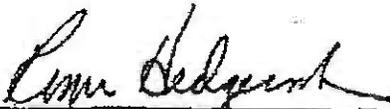
JOHN E. B. WILBUR
Chief Engineer

BY 

Title: ASSISTANT TO THE CITY MANAGER

IN WITNESS WHEREOF, The City of San Diego has caused this deed to be executed by its Mayor and City Clerk pursuant to resolution of the Council authorizing such execution this 11th day of March, 1985.

THE CITY OF SAN DIEGO

BY 

Mayor of said City
Roger Hedgecock

ATTEST:



City Clerk of said City
Charles G. Abdelnour

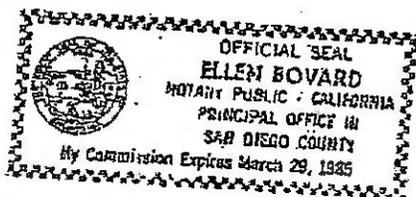
R-262883

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

SS.

On this 29th day of March 1985,
before me, the undersigned, a Notary Public in and for said
County and State, residing therein, duly commissioned and sworn,
personally appeared ROGER HEDGECOCK, known to me to be the Mayor,
and CHARLES G. ABDELNOUR, known to me to be the City Clerk of
The City of San Diego, the municipal corporation that executed
the within instrument, and known to me to be the persons who
executed the within instrument on behalf of the municipal
corporation therein named, and acknowledged to me that such
municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal in the County of San Diego, State of California, the day
and year in this certificate first above written.



Ellen Bovard
Notary Public in and for the County
of San Diego, State of California

STATE OF CALIFORNIA,)
) SS.
COUNTY OF SAN DIEGO.)

On 29th of March, 1955, before me, the undersigned, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared ANNE RAST, known to me to be the Assistant to the City Manager of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, in the County of San Diego, State of California, the day and year in this certificate first above written.

(Insert Notary
Stamp below)

Ellen Royard
Notary Public in and for said San Diego County,
State of California.



STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this _____ day of _____, 198__, before me, the undersigned, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared _____, known to me to be the Mayor, and _____, known to me to be the Clerk of the City of San Diego, the municipal corporation that executed the within instrument, and known to me to be persons who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate first above written.

Notary Public in and for the
County of San Diego, State of
California

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this 21st day of April, 1985, before me,
LORETTA CORY
the undersigned Notary Public, personally appeared
GABRIEL J. GALLINA
personally known to me
proved to me on the basis of satisfactory
evidence

to be the person who executed this instrument as Asst.
Port Director
of the San Diego Unified Port District, a public corporation, and
acknowledged to me that the public corporation executed it.

WITNESS my hand and official seal.

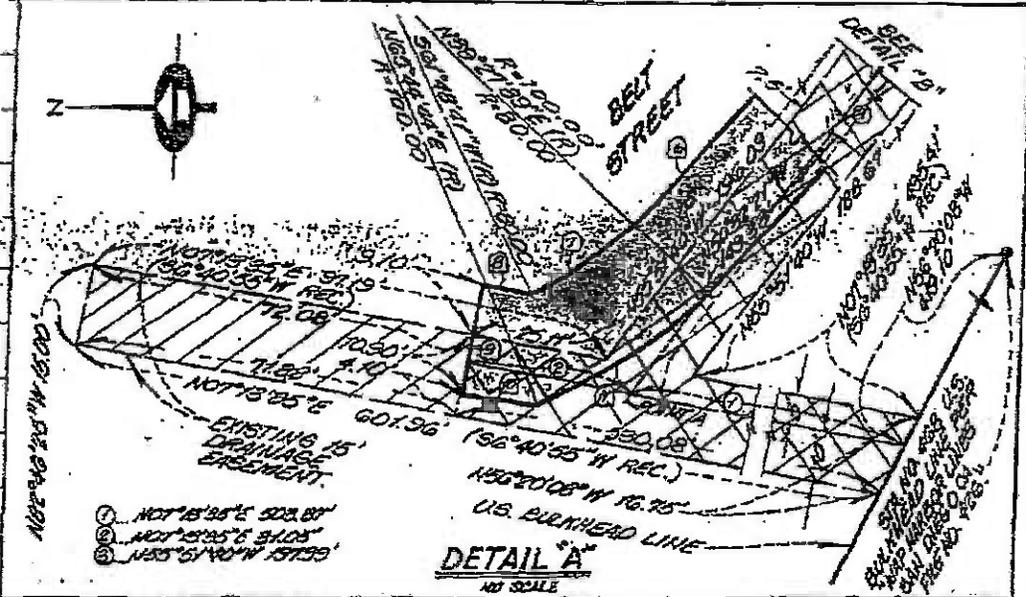
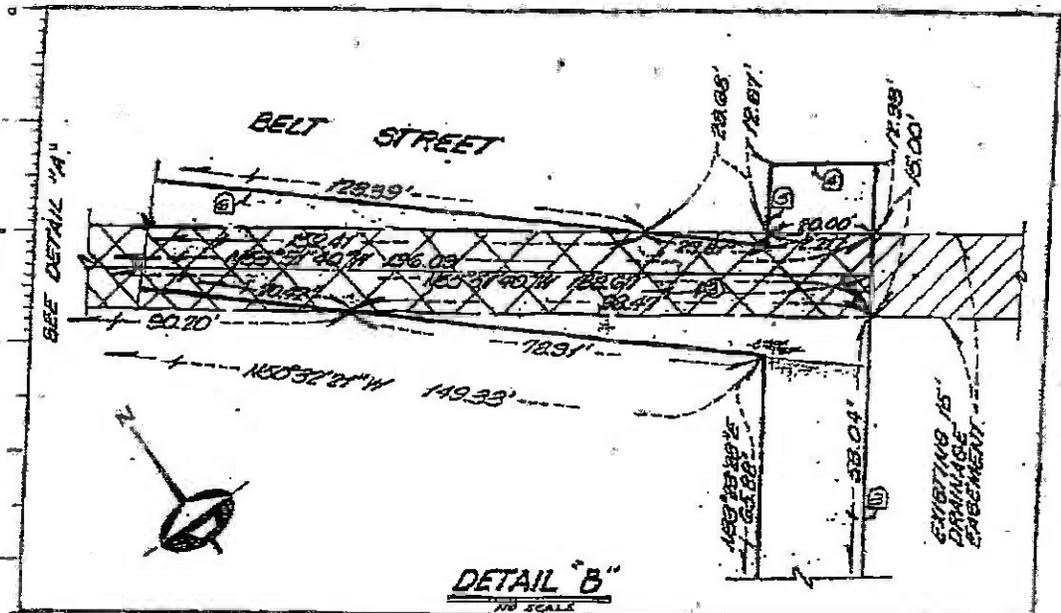
Loretta Cory



DRAINAGE EASEMENT LEGAL DESCRIPTION

In the City of San Diego, County of San Diego, State of California, a strip of land having a uniform width of 20.00 feet over a portion of Parcel 1-A as shown on Miscellaneous Map No. 564 per series 4 Book 1963, File/Page 28389 of Official Records of the County of San Diego, more particularly described as follows:

Commencing at Station No. 468 on the United States Bulkhead Line as it is shown on the map entitled "Harbor Lines, San Diego Bay, California, File No. (D.O. Series) 426", approved by the Secretary of the Army, April 29, 1963, from which point Station No. 82+00 on the "Williams Base Line" bears north 49° 44' 05" east 651.45 feet; thence from said point of beginning north 56° 20' 08" west along said U.S. Bulkhead Line a distance of 242.69 feet to the TRUE POINT OF BEGINNING, from which point the intersection of said U.S. Bulkhead Line with the easterly line of a drainage easement 15 feet in width as shown on Engineering Drawing No. 9220-3-B, Sheet 3 of 19, filed in the Office of the City Clerk as Document No. 724665 on June 28, 1968 and filed in the Office of the San Diego Unified Port District Clerk as Document No. 3383 on June 28, 1968, bears north 56° 20' 08" west 170.83 feet; thence from said TRUE POINT OF BEGINNING north 33° 39' 52" east 82.00 feet; thence north 56° 20' 08" west 89.38 feet to the beginning of a tangent curve concave easterly; thence northerly along the arc of said curve having a radius of 1250 feet and a central angle of 90° 00' 00" a distance of 19.63 feet; thence north 33° 39' 52" east 294.50 feet; thence north 56° 20' 08" west 100.60 feet; thence north 33° 23' 28" east 80.97 feet to a point from which the intersection of the easterly line of the herein described easement with the northerly line of a drainage easement 15 feet in width located in Belt Street, as shown on said Engineering Drawing No. 9220-3-B, bears south 33° 23' 28" west 12.93 feet; thence north 56° 36' 32" west 20.00 feet; thence south 33° 23' 28" west 14.88 feet; thence north 50° 32' 21" west 147.20 feet to the beginning of a tangent curve concave northeasterly; thence northwesterly along the arc of said curve having a radius of 80.00 feet and a central angle of 22° 21' 02", a distance of 31.21 feet to a point on a non-tangent line, through which point a radial line bears south 61° 48' 41" west; thence north 08° 01' 22" east 6.84 feet to a point from which the intersection of the northerly line of the herein described easement with the easterly line of a drainage easement 15 feet in width crossing Belt Street, as shown on said Engineering Drawing No. 9220-3-B, bears north 81° 58' 38" west 9.10 feet; thence north 81° 58' 38" west 20.00 feet; thence south 08° 01' 22" west 12.98 feet to the beginning of a non-tangent curve, concave northeasterly through which point a radial line bears south 65° 44' 44" west; thence southeasterly along the arc of said curve having a radius of 100.00 feet and a central angle of 26° 17' 05", a distance of 45.88 feet; thence south 50° 32' 21" east 149.33 feet; thence south 33° 23' 28" west 65.88 feet; thence south 56° 20' 08" east 100.51 feet; thence south 33° 39' 52" west 274.50 feet to the beginning of a tangent curve concave easterly; thence southeasterly along the arc of said curve having a radius of 32.50 feet and a central angle of 90° 00' 00" a distance of 51.05 feet; thence south 56° 20' 08" east 69.38 feet; thence south 33° 39' 52" west 62.00 feet to a point on said U.S. Bulkhead Line; thence along said U.S. Bulkhead Line south 56° 20' 08" east 20.00 feet to the TRUE POINT OF BEGINNING of the herein described easement.



BIGGS ENGINEERING CORPORATION
 CIVIL ENGINEERS PLANNING CONSULTANTS SURVEYORS
 2327 HOOPER AVENUE, NATIONAL CITY, CALIF. 92050
 PHONE (619) 476-4429
 Date: 5/11/82
 DAN & BOBBI ACE 06472

DRAIN EASEMENT EXCHANGE

PORT OF PARCEL 1-A ON MISCELLANEOUS MAP NO. 564 PER SERIES 4 BOOK 1563, FILE/PAGE 20389 OF OFFICIAL RECORDS OF COUNTY OF SAN DIEGO, CALIFORNIA.

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	W.O. NO.
ORIGINAL					SHEET 2 OF 2 SHEETS	NO 700204
					C. E. [Signature] 3-2-82 FOR CITY ENGINEER	CONTROL CERTIFICATION 192-1725
						LINEMENT COORDINATES 15878-2-B

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 1113

AN ORDINANCE GRANTING
AN EASEMENT TO CITY OF SAN DIEGO
AND ACCEPTING QUITCLAIM DEED

The Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

Section 1. The easement for drainage between the San Diego Unified Port District, a public corporation, and the City of San Diego, a municipal corporation, for the purpose of construction, operation, maintenance, repair, replacement and inspection of a storm drain placed below the level of the surface of the ground and necessary above-ground fixtures and appurtenances, together with the Quitclaim Deed from the City of San Diego to the San Diego Unified Port District, for real property located at Belt Street near the foot of Sampson in the City of San Diego, on file in the office of the District Clerk as Document No. 18104, is hereby approved and granted.

Section 2. The Port Director or his authorized representative is hereby directed to execute the said easement with the City of San Diego and to accept said Quitclaim Deed on behalf of the District.

Section 3. This ordinance shall take effect on the 31st day from its publication.

Presented By: DON L. NAY, Port Director

By


ASSISTANT PORT DIRECTOR

Approved:

JOSEPH D. PATELLO, Port Attorney



San Diego Unified Port District

Office of the Clerk

CERTIFICATION OF VOTE

Passed and adopted by the Board of Port Commissioners of the San Diego Unified Port District on April 23, 1985, by the following votes:

Commissioners	Yeas	Nays	Excused	Absent	Abstained
Ben Cohen	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Phil Creaser	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
W. Daniel Larsen	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Delton C. Reopelle	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
William B. Rick	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Daniel M. Spurck	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Louis M. Wolfsheimer	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

AUTHENTICATED BY:

William B. Rick
Chairman of the Board of Port Commissioners

CHRISTINE M. STEIN
Clerk of the San Diego Unified Port District

By: *Mary Sue Kauffman*
Deputy Clerk

(Seal)

Resolution Number:

or

Ordinance Number: 1113

Adopted: 4-23-85

(R-85-1485)

RESOLUTION NUMBER R- 262683

ADOPTED ON MAR 11 1985

WHEREAS, SAN DIEGO UNIFIED PORT DISTRICT, a public corporation, has requested an exchange of drain easements; and

WHEREAS, the City Manager has certified that the values of the property rights to be exchanged are equal; and

WHEREAS, the easement to be acquired will serve the same use and purpose as the easement to be quitclaimed by the City; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the acceptance by the City Manager of that deed of SAN DIEGO UNIFIED PORT DISTRICT, a public corporation, executed in favor of The City of San Diego, conveying to said City a drain easement in a portion of Parcel 1-A of Miscellaneous Map 564, as more particularly described in said deed, a copy of which is on file in the office of the City Clerk as Document No. RR-262683 is hereby approved.

2. That the Mayor and City Clerk of said City be, and they are hereby authorized and empowered to execute, for and on behalf of The City of San Diego, a quitclaim deed, a copy of which is on file in the office of the City Clerk as Document No. RR-262683 quitclaiming to SAN DIEGO UNIFIED PORT DISTRICT, a public corporation, all of the City's right, title and interest in the drain easement in a portion of Parcel 1-A of Miscellaneous Map 564, as more particularly described in said deed.

3. That the City Clerk is hereby authorized and directed to deliver both deeds, and a certified copy of this resolution, attested by him under seal, to the Property Department for further handling.

APPROVED: John W. Witt, City Attorney

By


Harold O. Valderhaug
Deputy City Attorney

HOV:ps
02/13/85
Job:517426-C
15878-1 & 2-B
Or.Dept:Prop.
R-85-1485
Form=r.ex

Passed and adopted by the Council of The City of San Diego
on MAR 11 1985, by the following vote:

YEAS: Mitchell, Cleator, McColl, Jones, Struiksma, Gotch, Murphy,
Martinez, and Mayor Hedgecock.

NAYS: None.

NOT PRESENT: None.

AUTHENTICATED BY:

ROGER HEDGECOCK
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(SEAL)

By MAYDELL L. PONTECORVO, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full,
true and correct copy of RESOLUTION NO. R- 262683
passed and adopted by the Council of The City of San Diego,
California, on MAR 11 1985

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(SEAL)

By Maydell L. Pontecorvo, Deputy.

Attachment V

**Conveyance between the City of San Diego and the San Diego
Unified Port District, dated February 15, 1963**

PORT OF SAN DIEGO
P.O. Box 488
San Diego 12, Calif.

(8)
ORIGINAL

CONVEYANCE

SAN DIEGO UNIFIED PORT DISTRICT

DOCUMENT NO. 75
FILED FEB 15 1963
MICROFILM NO. 8
OFFICE OF THE CLERK

THE CITY OF SAN DIEGO, a municipal corporation, in the County of San Diego, State of California, hereby conveys, without warranty, to the SAN DIEGO UNIFIED PORT DISTRICT, a Public Corporation established pursuant to the provisions of the San Diego Unified Port District Act, all those lands situate within the City of San Diego, County of San Diego, State of California, which are more particularly described as follows:

PARCEL I:

All those lands lying between the line of mean high tide of San Diego Bay and the pierhead line of said bay, and between the prolongation into said bay to the pierhead line of the northerly line of the United States military reservation on Point Loma and the prolongation into said bay to the pierhead line of the southwesterly line of the United States Naval Training Center and reserving therefrom such roadways and easements as hereinafter described, such boundaries, roadways and easements being shown in detail upon engineering drawings Nos. 1, 2, 2a, 2b, 2c, 3, 3a, 3b, 3c, 3d, 3e, 3f, 3g, 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 4p, 4q, 4r, 4s, 4t, 4u, 4v, 4w, 4x, 4y, 4z, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 5m, 5n, 5o, 5p, 5q, 5r, 5s, 5t, 5u, 5v, 5w, 5x, 5y, 5z, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 6q, 6r, 6s, 6t, 6u, 6v, 6w, 6x, 6y, 6z, 7, 7a, 7b, 7c, 7d, 7e, 7f, 7g, 7h, 7i, 7j, 7k, 7l, 7m, 7n, 7o, 7p, 7q, 7r, 7s, 7t, 7u, 7v, 7w, 7x, 7y, 7z, 8, 8a, 8b, 8c, 8d, 8e, 8f, 8g, 8h, 8i, 8j, 8k, 8l, 8m, 8n, 8o, 8p, 8q, 8r, 8s, 8t, 8u, 8v, 8w, 8x, 8y, 8z, 9, 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 9k, 9l, 9m, 9n, 9o, 9p, 9q, 9r, 9s, 9t, 9u, 9v, 9w, 9x, 9y, 9z, 10, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n, 10o, 10p, 10q, 10r, 10s, 10t, 10u, 10v, 10w, 10x, 10y, 10z, 11, 11a, 11b, 11c, 11d, 11e, 11f, 11g, 11h, 11i, 11j, 11k, 11l, 11m, 11n, 11o, 11p, 11q, 11r, 11s, 11t, 11u, 11v, 11w, 11x, 11y, 11z, 12, 12a, 12b, 12c, 12d, 12e, 12f, 12g, 12h, 12i, 12j, 12k, 12l, 12m, 12n, 12o, 12p, 12q, 12r, 12s, 12t, 12u, 12v, 12w, 12x, 12y, 12z, 13, 13a, 13b, 13c, 13d, 13e, 13f, 13g, 13h, 13i, 13j, 13k, 13l, 13m, 13n, 13o, 13p, 13q, 13r, 13s, 13t, 13u, 13v, 13w, 13x, 13y, 13z, 14, 14a, 14b, 14c, 14d, 14e, 14f, 14g, 14h, 14i, 14j, 14k, 14l, 14m, 14n, 14o, 14p, 14q, 14r, 14s, 14t, 14u, 14v, 14w, 14x, 14y, 14z, 15, 15a, 15b, 15c, 15d, 15e, 15f, 15g, 15h, 15i, 15j, 15k, 15l, 15m, 15n, 15o, 15p, 15q, 15r, 15s, 15t, 15u, 15v, 15w, 15x, 15y, 15z, 16, 16a, 16b, 16c, 16d, 16e, 16f, 16g, 16h, 16i, 16j, 16k, 16l, 16m, 16n, 16o, 16p, 16q, 16r, 16s, 16t, 16u, 16v, 16w, 16x, 16y, 16z, 17, 17a, 17b, 17c, 17d, 17e, 17f, 17g, 17h, 17i, 17j, 17k, 17l, 17m, 17n, 17o, 17p, 17q, 17r, 17s, 17t, 17u, 17v, 17w, 17x, 17y, 17z, 18, 18a, 18b, 18c, 18d, 18e, 18f, 18g, 18h, 18i, 18j, 18k, 18l, 18m, 18n, 18o, 18p, 18q, 18r, 18s, 18t, 18u, 18v, 18w, 18x, 18y, 18z, 19, 19a, 19b, 19c, 19d, 19e, 19f, 19g, 19h, 19i, 19j, 19k, 19l, 19m, 19n, 19o, 19p, 19q, 19r, 19s, 19t, 19u, 19v, 19w, 19x, 19y, 19z, 20, 20a, 20b, 20c, 20d, 20e, 20f, 20g, 20h, 20i, 20j, 20k, 20l, 20m, 20n, 20o, 20p, 20q, 20r, 20s, 20t, 20u, 20v, 20w, 20x, 20y, 20z, 21, 21a, 21b, 21c, 21d, 21e, 21f, 21g, 21h, 21i, 21j, 21k, 21l, 21m, 21n, 21o, 21p, 21q, 21r, 21s, 21t, 21u, 21v, 21w, 21x, 21y, 21z, 22, 22a, 22b, 22c, 22d, 22e, 22f, 22g, 22h, 22i, 22j, 22k, 22l, 22m, 22n, 22o, 22p, 22q, 22r, 22s, 22t, 22u, 22v, 22w, 22x, 22y, 22z, 23, 23a, 23b, 23c, 23d, 23e, 23f, 23g, 23h, 23i, 23j, 23k, 23l, 23m, 23n, 23o, 23p, 23q, 23r, 23s, 23t, 23u, 23v, 23w, 23x, 23y, 23z, 24, 24a, 24b, 24c, 24d, 24e, 24f, 24g, 24h, 24i, 24j, 24k, 24l, 24m, 24n, 24o, 24p, 24q, 24r, 24s, 24t, 24u, 24v, 24w, 24x, 24y, 24z, 25, 25a, 25b, 25c, 25d, 25e, 25f, 25g, 25h, 25i, 25j, 25k, 25l, 25m, 25n, 25o, 25p, 25q, 25r, 25s, 25t, 25u, 25v, 25w, 25x, 25y, 25z, 26, 26a, 26b, 26c, 26d, 26e, 26f, 26g, 26h, 26i, 26j, 26k, 26l, 26m, 26n, 26o, 26p, 26q, 26r, 26s, 26t, 26u, 26v, 26w, 26x, 26y, 26z, 27, 27a, 27b, 27c, 27d, 27e, 27f, 27g, 27h, 27i, 27j, 27k, 27l, 27m, 27n, 27o, 27p, 27q, 27r, 27s, 27t, 27u, 27v, 27w, 27x, 27y, 27z, 28, 28a, 28b, 28c, 28d, 28e, 28f, 28g, 28h, 28i, 28j, 28k, 28l, 28m, 28n, 28o, 28p, 28q, 28r, 28s, 28t, 28u, 28v, 28w, 28x, 28y, 28z, 29, 29a, 29b, 29c, 29d, 29e, 29f, 29g, 29h, 29i, 29j, 29k, 29l, 29m, 29n, 29o, 29p, 29q, 29r, 29s, 29t, 29u, 29v, 29w, 29x, 29y, 29z, 30, 30a, 30b, 30c, 30d, 30e, 30f, 30g, 30h, 30i, 30j, 30k, 30l, 30m, 30n, 30o, 30p, 30q, 30r, 30s, 30t, 30u, 30v, 30w, 30x, 30y, 30z, 31, 31a, 31b, 31c, 31d, 31e, 31f, 31g, 31h, 31i, 31j, 31k, 31l, 31m, 31n, 31o, 31p, 31q, 31r, 31s, 31t, 31u, 31v, 31w, 31x, 31y, 31z, 32, 32a, 32b, 32c, 32d, 32e, 32f, 32g, 32h, 32i, 32j, 32k, 32l, 32m, 32n, 32o, 32p, 32q, 32r, 32s, 32t, 32u, 32v, 32w, 32x, 32y, 32z, 33, 33a, 33b, 33c, 33d, 33e, 33f, 33g, 33h, 33i, 33j, 33k, 33l, 33m, 33n, 33o, 33p, 33q, 33r, 33s, 33t, 33u, 33v, 33w, 33x, 33y, 33z, 34, 34a, 34b, 34c, 34d, 34e, 34f, 34g, 34h, 34i, 34j, 34k, 34l, 34m, 34n, 34o, 34p, 34q, 34r, 34s, 34t, 34u, 34v, 34w, 34x, 34y, 34z, 35, 35a, 35b, 35c, 35d, 35e, 35f, 35g, 35h, 35i, 35j, 35k, 35l, 35m, 35n, 35o, 35p, 35q, 35r, 35s, 35t, 35u, 35v, 35w, 35x, 35y, 35z, 36, 36a, 36b, 36c, 36d, 36e, 36f, 36g, 36h, 36i, 36j, 36k, 36l, 36m, 36n, 36o, 36p, 36q, 36r, 36s, 36t, 36u, 36v, 36w, 36x, 36y, 36z, 37, 37a, 37b, 37c, 37d, 37e, 37f, 37g, 37h, 37i, 37j, 37k, 37l, 37m, 37n, 37o, 37p, 37q, 37r, 37s, 37t, 37u, 37v, 37w, 37x, 37y, 37z, 38, 38a, 38b, 38c, 38d, 38e, 38f, 38g, 38h, 38i, 38j, 38k, 38l, 38m, 38n, 38o, 38p, 38q, 38r, 38s, 38t, 38u, 38v, 38w, 38x, 38y, 38z, 39, 39a, 39b, 39c, 39d, 39e, 39f, 39g, 39h, 39i, 39j, 39k, 39l, 39m, 39n, 39o, 39p, 39q, 39r, 39s, 39t, 39u, 39v, 39w, 39x, 39y, 39z, 40, 40a, 40b, 40c, 40d, 40e, 40f, 40g, 40h, 40i, 40j, 40k, 40l, 40m, 40n, 40o, 40p, 40q, 40r, 40s, 40t, 40u, 40v, 40w, 40x, 40y, 40z, 41, 41a, 41b, 41c, 41d, 41e, 41f, 41g, 41h, 41i, 41j, 41k, 41l, 41m, 41n, 41o, 41p, 41q, 41r, 41s, 41t, 41u, 41v, 41w, 41x, 41y, 41z, 42, 42a, 42b, 42c, 42d, 42e, 42f, 42g, 42h, 42i, 42j, 42k, 42l, 42m, 42n, 42o, 42p, 42q, 42r, 42s, 42t, 42u, 42v, 42w, 42x, 42y, 42z, 43, 43a, 43b, 43c, 43d, 43e, 43f, 43g, 43h, 43i, 43j, 43k, 43l, 43m, 43n, 43o, 43p, 43q, 43r, 43s, 43t, 43u, 43v, 43w, 43x, 43y, 43z, 44, 44a, 44b, 44c, 44d, 44e, 44f, 44g, 44h, 44i, 44j, 44k, 44l, 44m, 44n, 44o, 44p, 44q, 44r, 44s, 44t, 44u, 44v, 44w, 44x, 44y, 44z, 45, 45a, 45b, 45c, 45d, 45e, 45f, 45g, 45h, 45i, 45j, 45k, 45l, 45m, 45n, 45o, 45p, 45q, 45r, 45s, 45t, 45u, 45v, 45w, 45x, 45y, 45z, 46, 46a, 46b, 46c, 46d, 46e, 46f, 46g, 46h, 46i, 46j, 46k, 46l, 46m, 46n, 46o, 46p, 46q, 46r, 46s, 46t, 46u, 46v, 46w, 46x, 46y, 46z, 47, 47a, 47b, 47c, 47d, 47e, 47f, 47g, 47h, 47i, 47j, 47k, 47l, 47m, 47n, 47o, 47p, 47q, 47r, 47s, 47t, 47u, 47v, 47w, 47x, 47y, 47z, 48, 48a, 48b, 48c, 48d, 48e, 48f, 48g, 48h, 48i, 48j, 48k, 48l, 48m, 48n, 48o, 48p, 48q, 48r, 48s, 48t, 48u, 48v, 48w, 48x, 48y, 48z, 49, 49a, 49b, 49c, 49d, 49e, 49f, 49g, 49h, 49i, 49j, 49k, 49l, 49m, 49n, 49o, 49p, 49q, 49r, 49s, 49t, 49u, 49v, 49w, 49x, 49y, 49z, 50, 50a, 50b, 50c, 50d, 50e, 50f, 50g, 50h, 50i, 50j, 50k, 50l, 50m, 50n, 50o, 50p, 50q, 50r, 50s, 50t, 50u, 50v, 50w, 50x, 50y, 50z, 51, 51a, 51b, 51c, 51d, 51e, 51f, 51g, 51h, 51i, 51j, 51k, 51l, 51m, 51n, 51o, 51p, 51q, 51r, 51s, 51t, 51u, 51v, 51w, 51x, 51y, 51z, 52, 52a, 52b, 52c, 52d, 52e, 52f, 52g, 52h, 52i, 52j, 52k, 52l, 52m, 52n, 52o, 52p, 52q, 52r, 52s, 52t, 52u, 52v, 52w, 52x, 52y, 52z, 53, 53a, 53b, 53c, 53d, 53e, 53f, 53g, 53h, 53i, 53j, 53k, 53l, 53m, 53n, 53o, 53p, 53q, 53r, 53s, 53t, 53u, 53v, 53w, 53x, 53y, 53z, 54, 54a, 54b, 54c, 54d, 54e, 54f, 54g, 54h, 54i, 54j, 54k, 54l, 54m, 54n, 54o, 54p, 54q, 54r, 54s, 54t, 54u, 54v, 54w, 54x, 54y, 54z, 55, 55a, 55b, 55c, 55d, 55e, 55f, 55g, 55h, 55i, 55j, 55k, 55l, 55m, 55n, 55o, 55p, 55q, 55r, 55s, 55t, 55u, 55v, 55w, 55x, 55y, 55z, 56, 56a, 56b, 56c, 56d, 56e, 56f, 56g, 56h, 56i, 56j, 56k, 56l, 56m, 56n, 56o, 56p, 56q, 56r, 56s, 56t, 56u, 56v, 56w, 56x, 56y, 56z, 57, 57a, 57b, 57c, 57d, 57e, 57f, 57g, 57h, 57i, 57j, 57k, 57l, 57m, 57n, 57o, 57p, 57q, 57r, 57s, 57t, 57u, 57v, 57w, 57x, 57y, 57z, 58, 58a, 58b, 58c, 58d, 58e, 58f, 58g, 58h, 58i, 58j, 58k, 58l, 58m, 58n, 58o, 58p, 58q, 58r, 58s, 58t, 58u, 58v, 58w, 58x, 58y, 58z, 59, 59a, 59b, 59c, 59d, 59e, 59f, 59g, 59h, 59i, 59j, 59k, 59l, 59m, 59n, 59o, 59p, 59q, 59r, 59s, 59t, 59u, 59v, 59w, 59x, 59y, 59z, 60, 60a, 60b, 60c, 60d, 60e, 60f, 60g, 60h, 60i, 60j, 60k, 60l, 60m, 60n, 60o, 60p, 60q, 60r, 60s, 60t, 60u, 60v, 60w, 60x, 60y, 60z, 61, 61a, 61b, 61c, 61d, 61e, 61f, 61g, 61h, 61i, 61j, 61k, 61l, 61m, 61n, 61o, 61p, 61q, 61r, 61s, 61t, 61u, 61v, 61w, 61x, 61y, 61z, 62, 62a, 62b, 62c, 62d, 62e, 62f, 62g, 62h, 62i, 62j, 62k, 62l, 62m, 62n, 62o, 62p, 62q, 62r, 62s, 62t, 62u, 62v, 62w, 62x, 62y, 62z, 63, 63a, 63b, 63c, 63d, 63e, 63f, 63g, 63h, 63i, 63j, 63k, 63l, 63m, 63n, 63o, 63p, 63q, 63r, 63s, 63t, 63u, 63v, 63w, 63x, 63y, 63z, 64, 64a, 64b, 64c, 64d, 64e, 64f, 64g, 64h, 64i, 64j, 64k, 64l, 64m, 64n, 64o, 64p, 64q, 64r, 64s, 64t, 64u, 64v, 64w, 64x, 64y, 64z, 65, 65a, 65b, 65c, 65d, 65e, 65f, 65g, 65h, 65i, 65j, 65k, 65l, 65m, 65n, 65o, 65p, 65q, 65r, 65s, 65t, 65u, 65v, 65w, 65x, 65y, 65z, 66, 66a, 66b, 66c, 66d, 66e, 66f, 66g, 66h, 66i, 66j, 66k, 66l, 66m, 66n, 66o, 66p, 66q, 66r, 66s, 66t, 66u, 66v, 66w, 66x, 66y, 66z, 67, 67a, 67b, 67c, 67d, 67e, 67f, 67g, 67h, 67i, 67j, 67k, 67l, 67m, 67n, 67o, 67p, 67q, 67r, 67s, 67t, 67u, 67v, 67w, 67x, 67y, 67z, 68, 68a, 68b, 68c, 68d, 68e, 68f, 68g, 68h, 68i, 68j, 68k, 68l, 68m, 68n, 68o, 68p, 68q, 68r, 68s, 68t, 68u, 68v, 68w, 68x, 68y, 68z, 69, 69a, 69b, 69c, 69d, 69e, 69f, 69g, 69h, 69i, 69j, 69k, 69l, 69m, 69n, 69o, 69p, 69q, 69r, 69s, 69t, 69u, 69v, 69w, 69x, 69y, 69z, 70, 70a, 70b, 70c, 70d, 70e, 70f, 70g, 70h, 70i, 70j, 70k, 70l, 70m, 70n, 70o, 70p, 70q, 70r, 70s, 70t, 70u, 70v, 70w, 70x, 70y, 70z, 71, 71a, 71b, 71c, 71d, 71e, 71f, 71g, 71h, 71i, 71j, 71k, 71l, 71m, 71n, 71o, 71p, 71q, 71r, 71s, 71t, 71u, 71v, 71w, 71x, 71y, 71z, 72, 72a, 72b, 72c, 72d, 72e, 72f, 72g, 72h, 72i, 72j, 72k, 72l, 72m, 72n, 72o, 72p, 72q, 72r, 72s, 72t, 72u, 72v, 72w, 72x, 72y, 72z, 73, 73a, 73b, 73c, 73d, 73e, 73f, 73g, 73h, 73i, 73j, 73k, 73l, 73m, 73n, 73o, 73p, 73q, 73r, 73s, 73t, 73u, 73v, 73w, 73x, 73y, 73z, 74, 74a, 74b, 74c, 74d, 74e, 74f, 74g, 74h, 74i, 74j, 74k, 74l, 74m, 74n, 74o, 74p, 74q, 74r, 74s, 74t, 74u, 74v, 74w, 74x, 74y, 74z, 75, 75a, 75b, 75c, 75d, 75e, 75f, 75g, 75h, 75i, 75j, 75k, 75l, 75m, 75n, 75o, 75p, 75q, 75r, 75s, 75t, 75u, 75v, 75w, 75x, 75y, 75z, 76, 76a, 76b, 76c, 76d, 76e, 76f, 76g, 76h, 76i, 76j, 76k, 76l, 76m, 76n, 76o, 76p, 76q, 76r, 76s, 76t, 76u, 76v, 76w, 76x, 76y, 76z, 77, 77a, 77b, 77c, 77d, 77e, 77f, 77g, 77h, 77i, 77j, 77k, 77l, 77m, 77n, 77o, 77p, 77q, 77r, 77s, 77t, 77u, 77v, 77w, 77x, 77y, 77z, 78, 78a, 78b, 78c, 78d, 78e, 78f, 78g, 78h, 78i, 78j, 78k, 78l, 78m, 78n, 78o, 78p, 78q, 78r, 78s, 78t, 78u, 78v, 78w, 78x, 78y, 78z, 79, 79a, 79b, 79c, 79d, 79e, 79f, 79g, 79h, 79i, 79j, 79k, 79l, 79m, 79n, 79o, 79p, 79q, 79r, 79s, 79t, 79u, 79v, 79w, 79x, 79y, 79z, 80, 80a, 80b, 80c, 80d, 80e, 80f, 80g, 80h, 80i, 80j, 80k, 80l, 80m, 80n, 80o, 80p, 80q, 80r, 80s, 80t, 80u, 80v, 80w, 80x, 80y, 80z, 81, 81a, 81b, 81c, 81d, 81e, 81f, 81g, 81h, 81i, 81j, 81k, 81l, 81m, 81n, 81o, 81p, 81q, 81r, 81s, 81t, 81u, 81v, 81w, 81x, 81y, 81z, 82, 82a, 82b, 82c, 82d, 82e, 82f, 82g, 82h, 82i, 82j, 82k, 82l, 82m, 82n, 82o, 82p, 82q, 82r, 82s, 82t, 82u, 82v, 82w, 82x, 82y, 82z, 83, 83a, 83b, 83c, 83d, 83e, 83f, 83g, 83h, 83i, 83j, 83k, 83l, 83m, 83n, 83o, 83p, 83q, 83r, 83s, 83t, 83u, 83v, 83w, 83x, 83y, 83z, 84, 84a, 84b, 84c, 84d, 84e, 84f, 84g, 84h, 84i, 84j, 84k, 84l, 84m, 84n, 84o, 84p, 84q, 84r, 84s, 84t, 84u, 84v, 84w, 84x, 84y, 84z, 85, 85a, 85b, 85c, 85d, 85e, 85f, 85g, 85h, 85i, 85j, 85k, 85l, 85m, 85n, 85o, 85p, 85q, 85r, 85s, 85t, 85u, 85v, 85w, 85x, 85y, 85z, 86, 86a, 86b, 86c, 86d, 86e, 86f, 86g, 86h, 86i, 86j, 86k, 86l, 86m, 86n, 86o, 86p, 86q, 86r, 86s, 86t, 86u, 86v, 86w, 86x, 86y, 86z, 87, 87a, 87b, 87c, 87d, 87e, 87f, 87g, 87h, 87i, 87j, 87k, 87l, 87m, 87n, 87o, 87p, 87q, 87r, 87s, 87t, 87u, 87v, 87w, 87x, 87y, 87z, 88, 88a, 88b, 88c, 88d, 88e, 88f, 88g, 88h, 88i, 88j, 88k, 88l, 88m, 88n, 88o, 88p, 88q, 88r, 88s, 88t, 88u, 88v, 88w, 88x, 88y, 88z, 89, 89a, 89b, 89c, 89d, 89e, 89f, 89g, 89h, 89i, 89j, 89k, 89l, 89m, 89n, 89o, 89p, 89q, 89r, 89s, 89t, 89u, 89v, 89w, 89x, 89y, 89z, 90, 90a, 90b, 90c, 90d, 90e, 90f, 90g, 90h, 90i, 90j, 90k, 90l, 90m, 90n, 90o, 90p, 90q, 90r, 90s, 90t, 90u, 90v, 90w, 90x, 90y, 90z, 91, 91a, 91b, 91c, 91d, 91e, 91f, 91g, 91h, 91i, 91j, 91k, 91l, 91m, 91n, 91o, 91p, 91q, 91r, 91s, 91t, 91u, 91v, 91w, 91x, 91y, 91z, 92, 92a, 92b, 92c, 92d, 92e, 92f, 92g, 92h, 92i, 92j, 92k, 92l, 92m, 92n, 92o, 92p, 92q, 92r, 92s, 92t, 92u, 92v, 92w, 92x, 92y, 92z, 93, 93a, 93b, 93

Highway, (4) The United States Naval Pier at the foot of "G" Street; and adding portions of fractional blocks 18 and 19, New San Diego, according to the Map thereof No. 456, lying above the mean high tide line; such boundaries, roadways, easements and omissions being shown in detail upon engineering drawings Nos. 4, 5, 6, 6a, 6b, 6c, 7, 8, 8a, 8b, 9, 9a, 9b, 9c, 9d, 9e, 10, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 11, 12, 12a, 13, 13a, 13b, 13c, 14c, 14d, 14e, 14f, 15c, 15d, 15e, 15f, 16e, 16f, 14g, 15g, 16c, 16d, 16g.

The City retains from the conveyance of Parcel II the right of control and possession of that block surrounded by Pacific Highway on the west, Kettner Boulevard on the east, Market Street on the north, and Harbor Drive on the south, for a Police Station and for so long as the City continues to use it for that purpose.

PARCELS III through XIV:

The following described uplands lying above the line of mean high tide of San Diego Bay:

(Parcel III):

Lot 8, Block 135, La Playa, Coutts Miscellaneous Map No. 37, lying above mean high tide line, and as shown on engineering drawing No. 2a.

(Parcel IV):

Portion Closed Street, Adjacent Lot 2, Block 154, La Playa, Coutts Miscellaneous Map No. 37, lying above mean high tide line, and as shown on engineering drawing No. 2b.

(Parcel V):

Portions of Right of Way Lots 73 and 74 of Middletown, according to Jackson's Map of Middletown, and as shown on engineering drawing No. 8a.

(Parcel VI):

Portion of Lot 6, Block 272 of Middletown, according to Jackson's Map of Middletown, and as shown on engineering drawing No. 8b.

(Parcel VII):

Lot E, Block 22, New San Diego, according to the Map thereof No. 456, lying above the mean high tide line.

(Parcel VIII):

Lot E, Block 23, New San Diego, according to the Map thereof No. 456, filed in the office of the County Recorder, said County of San Diego, excepting therefrom that portion, if any, lying below the mean high tide line of the Bay of San Diego, and excepting therefrom the Right of Way of the Atchison, Topeka and Santa Fe Railway Company.

(Parcel IX):

Portion of Lot F, Block 23, New San Diego, lying above the mean high tide line, and as shown on engineering drawing No. 10e.

(Parcel X):

All of Block 31, New San Diego, Map No. 488.

(Parcel XI):

Portion of Public Lot 1164 northwesterly of Sampson Street, as shown on engineering drawing No. 12a.

(Parcel XII):

All of Block 45, Roseville, Map No. 185, lying above the mean high tide line.

(Parcel XIII):

Lot 6, Block 62 of Roseville, according to Map No. 185 of Roseville, lying above the mean high tide line, as shown on engineering drawing No. 13a.

(Parcel XIV):

The portions of Fractional Block 54 and the Un-numbered Fractional Block in San Diego Land and Town Company's Addition, according to record map thereof No. 379, lying between the mean high tide line of the Bay of San Diego, and the southerly right of way line of the Atchison, Topeka and Santa Fe Railroad, as shown on engineering drawing No. 13c.

ROADWAYS RESERVED

The City of San Diego specifically reserves easements for street purposes, as more particularly set forth hereinafter, including within such reservations the right to construct, maintain and operate all utilities and the right to grant franchises on such streets and to require franchise payments to The City of San Diego as authorized by the Charter of The City of San Diego:

PARCEL A: (Roads within Parcel I described above)

For San Antonio Avenue - an easement over that portion included between the mean high tide line and the prolongation of the easterly line of San Antonio Avenue as it now exists, as shown on engineering drawing No. 2.

For Talbot Street - an easement 70' in width extending from the mean high tide line to the south-easterly line of Anchorage Lane, as shown on engineering drawing No. 3f.

For Canyon Street - an easement 70' in width extending from the mean high tide line to the south-easterly line of the most southeasterly line of Anchorage Lane, as shown on engineering drawing No. 3a.

For Anchorage Lane - an easement 48' in width between the northeasterly line of Talbot Street and the southwesterly line of Canyon Street, and an easement 55' in width between the northeasterly line of Canyon Street and the southwesterly line of Byron Street, as shown on engineering drawings Nos. 3a and 3f.

For Byron Street - an easement 50' in width between the mean high tide line and the traffic circle at Byron Street and Yacht Harbor Drive, as shown on engineering drawings Nos. 3c, 3d.

For Yacht Harbor Drive - an easement of variable widths as shown on engineering drawings Nos. 2c, 2d, 2e, 4b.

For the traffic circle at Byron Street and Yacht Harbor Drive - easements of variable widths as shown on engineering drawing No. 2e.

For the traffic circle at the southwesterly end of Yacht Harbor Drive - easements of variable widths as shown on engineering drawing No. 2c.

For Garrison Street - an easement 70' in width extending from the mean high tide line to the northwesterly line of Scott Street, as shown on engineering drawing No. 3g.

For Scott Street - an easement 70' in width extending from the point where the mean high tide line intersects the southeasterly line of Scott Street to the southwesterly boundary of North Harbor Drive, the variable widths of such easement as shown on engineering drawing No. 3g.

For North Harbor Drive - an easement 162.5' in width extending easterly from the mean high tide line to the southwesterly line of the United States Naval Training Center, as shown on engineering drawing No. 4a.

For Lowell Street - an easement 73.5' in width extending southeasterly from the mean high tide line to the northerly line of North Harbor Drive, as shown on engineering drawing No. 4a.

PARCEL B: (Roads within Parcel II described above)

For 28th Street - an easement 126' in width extending from the mean high tide line to the northerly line of Harbor Drive, as shown on engineering drawing No. 13d.

For 8th Avenue - an easement 80' in width extending from the mean high tide line to the northeasterly line of Harbor Drive, as shown on engineering drawing No. 11.

For 5th Avenue - an easement 80' in width extending from the mean high tide line to the northeasterly line of Harbor Drive, as shown on engineering drawing No. 11.

For Kettner Boulevard - an easement 75' in width extending southerly from the mean high tide line to the northeasterly line of Harbor Drive, as shown on engineering drawing No. 10.

Broadway - an easement 125' in width extending from the westerly line of Pacific Highway to a line parallel to and 200' easterly from the United States bulkhead lines, as shown on engineering drawing No. 10g.

For Ash Street - an easement 80' in width extending from the westerly line of Pacific Highway to the easterly line of North Harbor Drive, as shown on engineering drawing No. 9a.

For Grape Street - an easement 80' in width extending from the westerly line of Pacific Highway to the easterly line of North Harbor Drive, as shown on engineering drawing No. 9b.

For Hawthorn Street - an easement 80' in width extending from the mean high tide line to the easterly line of Pacific Highway; an easement 80' in width extending from the northwesterly line of Pacific Highway to the northeasterly line of North Harbor Drive, as shown on engineering drawing No. 9.

For Ivy Street - an easement 80' in width extending from the mean high tide line to the easterly line of Pacific Highway, as shown on engineering drawing No. 9.

For Laurel Street - an easement 80' in width extending from the mean high tide line to the northeasterly line of Pacific Highway; an easement 80' in width extending from the southwesterly line of Pacific Highway to the northerly line of North Harbor Drive with a variable width at the Harbor Drive end of said easement, as shown on engineering drawings Nos. 9b, 9c.

For Palm Street - an easement 80' in width extending from the mean high tide line to the northeasterly line of Pacific Highway, as shown on engineering drawing No. 8.

For Saasafraas Street - an easement 80' in width extending from the mean high tide line to the north-easterly line of Pacific Highway, as shown on engineering drawing No. 8.

For Vine Street - an easement 80' in width extending from the mean high tide line to the northeasterly line of Pacific Highway, as shown on engineering drawing No. 8.

For North Harbor Drive - an easement 200' in width extending from the westerly boundary line of Parcel II to the easterly line of the United States Coast Guard Base; an easement 179' in width extending from the easterly line of the United States Coast Guard Base to the vicinity of the prolongation of Date Street; an easement 165' in width extending from the vicinity of the prolongation of Date Street to the southerly line of Ash Street, as shown on engineering drawings Nos. 4, 5, 6, 7, 9.

For Harbor Drive - an easement of variable widths extending from the easterly line of Pacific Highway to where said street intersects the mean high tide line in

the vicinity of the prolongation of 16th Street; an easement providing for a right of way 120' in width from the vicinity of Schley Street to the vicinity of the United States Naval Repair Base; the variable widths of such easements as shown on engineering drawings Nos. 10, 11, 13.

For Pacific Highway - an easement providing for a right of way of variable widths between that point where the mean high tide line intersects the south-westerly line of Pacific Highway in the vicinity of Washington Street and the southerly line of Harbor Drive, as shown on engineering drawings Nos. 8, 9, 10.

For all the above-mentioned streets - an easement of such width for intersection purposes at the intersection of any of the aforementioned streets with each other or with any other roadway and as shown on the appropriate engineering drawings in Exhibit "A."

OTHER EASEMENTS RESERVED

City reserves easements in Parcels I through XIV for all existing water, sewer and drainage facilities, known or unknown, the location of known existing utilities being designated by engineering drawings Nos. 14a - 14g; 15a - 15g; 16a - 16g; unknown easements shall be more specifically located by survey and location maps of such easements shall be prepared, which maps shall become a part of this conveyance as a subsequent exhibit when approved by District and City.

QUITCLAIM

Parcel XV:

City quitclaims all its right, title and interest in all those submerged lands in the Bay of San Diego bayward of the pierhead line within the city limits of said city, excepting those lying easterly of the jetty and southerly of the peninsula of San Diego; and southerly of the common boundary of the City of San Diego and the City of National City as shown on engineering drawing No. 1.

EXHIBITS

All engineering drawing numbers referred to in this document under Parcels I through XIV; Roadways Parcels A and B; and Easements, by reference thereto are incorporated herein and attached hereto as Exhibit "A".

*filed in ...
file in ...
... C.D. ...
maps ...*

IN WITNESS WHEREOF, the City of San Diego has caused this conveyance to be executed by its Mayor and City Clerk, pursuant to resolution of the Council authorizing such execution, this 14th day of February, 1963.

THE CITY OF SAN DIEGO

By *Richard D. ...*
Mayor of said City

ATTEST:

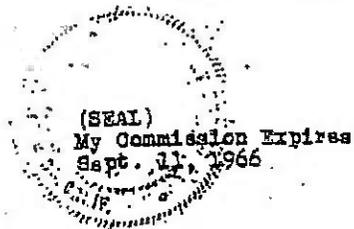
James A. ...
City Clerk of said City

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

950

On this 14th day of February, 1963,
before me, the undersigned, a Notary Public in and for said
County and State, residing therein, duly commissioned and sworn,
personally appeared CHARLES C. DALL, known to me to be the
Mayor, and PHILLIP ACKER, known to me to be the City Clerk of
The City of San Diego, the municipal corporation that executed
the within instrument, and known to me to be the persons who
executed the within instrument on behalf of the municipal corpora-
tion therein named, and acknowledged to me that such municipal
corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal, in the County of San Diego, State of California, the day
and year in this certificate first above written.



Helen M. Willig
Notary Public in and for the County
of San Diego, State of California
HELEN M. WILLIG

FILE/PAGE NO. 28389

RECORDED REQUEST OF

Willig

FEB 15 11 42 AM '63

SERIES 4 BOOK 1863
OFFICIAL RECORDS
SAN DIEGO COUNTY, CALIF.
A. S. GRAY, RECORDER

NO FEE

174499 FEB 14 1963



OFFICE OF
CITY CLERK
ROOM 386
CIVIC CENTER

THE CITY OF SAN DIEGO
SAN DIEGO, CALIFORNIA.

February 15, 1969

REFERENCE
COPY

75

Don Nay
Attorney's Office
San Diego Unified Port District
San Diego, California

Dear Mr. Nay:

The Duplicate Originals of three agreements authorized by the City Council on February 14, 1969, covering the transfer of lands and assets, personnel, retirement, etc., are attached. The originals of these agreements are filed in our office under one Document Number which is No. 651832.

We are also enclosing the original copy of the CONVEYANCE of the lands from the City to the Port District and a certified copy of the Resolution authorizing the agreements and conveyance which is Resolution No. 174499.

Yours truly,

PHILLIP ACKER, City Clerk

By *LaVerne E. Miller*
La Verne E. Miller
Asst. City Clerk

lm
Encl. (4)

cc: Carl Raupach
R. J. Curran

Attachment W

**Excerpts from California Regional Water Quality Control Board
Cleanup Team's Responses to Special Interrogatories propounded
by Port District, dated January 5, 2010**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

In the matter of Tentative Cleanup
and Abatement Order No. R9-2011-
0001 (Formerly R9-2010-0002)
Shipyard Sediment Cleanup

Regional Board Cleanup Team's
Responses & Objections to
Designated Party San Diego Unified
Port District's First Set of Special
Interrogatories

Propounding Party: San Diego Unified Port District (the "Port")

Responding Party: California Regional Water Quality Control
Board, San Diego Region Cleanup Team

Set Number: One (1)

Pursuant to the Presiding Officer's February 18, 2010 Order Issuing Final Discovery Plan for Tentative Cleanup and Abatement Order No. R9-2010-0002 and Associated Draft Technical Report, the Presiding Officer's October 27, 2010 Order Reopening Discovery Period, Establishing Discovery Schedule, and Identifying Star and Crescent Boat Company as a Designated Party for Purposes of Tentative Cleanup and Abatement Order R9-2011-0001 (the "10.27.10 Order"), the Parties' August 9, 2010 Stipulation Regarding Discovery Extension and all applicable law, Designated Party the San Diego Water Board Cleanup Team ("Cleanup Team"), hereby responds and objects to the Port's First Set of Special Interrogatories ("Interrogatories") as follows:

SPECIAL INTERROGATORY NO. 6:

Set forth each and every fact supporting YOUR determination that the PRIOR TCAO and PRIOR DTR should be revised to name the Port District as a Discharger in the CURRENT TCAO and CURRENT DTR.

RESPONSE TO INTERROGATORY NO. 6:

The Cleanup Team incorporates each of the General Objections set forth above as if set forth in full herein. The Cleanup Team further objects to this Interrogatory to the extent it requests information protected by the attorney-client privilege, joint prosecution privilege, common interest privilege, mediation privilege, official information privilege and/or deliberative process privilege, and to the extent it requests information subject to the work-product exemption, collectively referred to herein as the "privilege" or "privileged." The Cleanup Team contends that all communications exchanged between it and its counsel are privileged. The Cleanup Team objects to identifying or producing any and all products of investigations or inquiry conducted by, or pursuant to the direction of counsel, including, but not limited to, all products of investigation or inquiry prepared by the Cleanup Team in anticipation of this proceeding, based on the attorney-client privilege and/or the work-product doctrine. The Cleanup Team further objects to providing information subject to or protected by any other privilege, including, but not limited to, settlement communications, the joint prosecution privilege, the common interest privilege, the mediation privilege, the official information privilege and/or the deliberative process privilege. Inadvertent provision of privileged information shall not constitute a waiver of said privileges.

The Cleanup Team further objects to this Interrogatory because it purports to impose requirements and discovery obligations other than those set forth in Title 23 of the California Code of Regulations, sections 648 et seq., the California Government Code, sections 11400 et seq. and/or applicable stipulations, agreements and/or orders governing this proceeding, including, but not limited to, the limitations on the proper

scope of discovery set forth in the 10.27.10 Order.

The Cleanup Team objects to this Interrogatory because it is overbroad and/or seeks information that is not relevant to the claims or defenses asserted in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence.

The Cleanup Team objects that this Interrogatory is not full and complete in and of itself, is overbroad, and is framed in a manner that prevents any reasonable ability to provide responsive information.

The instant Cleanup and Abatement Order proceeding is ongoing, and the Cleanup Team expects that additional evidence will be provided by the Designated Parties hereto in accordance with governing statutes, regulations and applicable hearing procedures. While the Cleanup Team's response to each of these Interrogatories is based on a reasonable investigation and the state of its knowledge as of this date, additional information may be made available to or otherwise obtained by the Cleanup Team subsequent to the date of this response. These responses are provided without prejudice to the Cleanup Team's right to supplement these responses, or to use in this proceeding any testimonial, documentary, or other form of evidence or facts yet to be discovered, unintentionally omitted, or within the scope of the objections set forth herein.

Subject to and without waiving the preceding objections, the Cleanup Team responds as follows: With respect to naming the Port as a discharger based on its status as an MS4 co-permittee, the Cleanup Team determined after December 2009 that its recommendation to the San Diego Water Board in the PRIOR TCAO and PRIOR DTR that the Port not be named as a Discharger was inconsistent with previous State Water Resources Control Board and SDRWQCB orders concerning the naming of co-permittees in cleanup and abatement orders. With respect to naming the Port as a discharger based on its status as a trustee/landowner, the Cleanup Team determined to

change its recommendation to the SDRWQCB from the PRIOR TCAO based on the following: (1) In December 2009, the Cleanup Team believed the Port would cooperate with the San Diego Water Board's efforts to clean up the Site by contributing money towards the cost of cleanup, including potential insurance proceeds from its responsible, yet absentee and/or non-participating tenants whose policies name the Port as an additional insured, whereas by the time the CURRENT TCAO was issued, the Port's representatives made it clear it does not intend to do so; (2) Prior to the release of the PRIOR TCAO in December 2009, the Port cooperated with the San Diego Water Board's efforts to clean up the Site by providing expertise to the Cleanup Team regarding scientific and technical issues, whereas by the time the CURRENT TCAO was issued, such cooperation was withdrawn by the Port's representatives; (3) Prior to December 2009, the Cleanup Team believed the Port would cooperate with the San Diego Water Board's efforts to clean up the Site by identifying and making available (at fair market lease rates) potential sediment staging and dewatering locations, whereas by the time the CURRENT TCAO was issued, the Port's representatives made it clear it will not voluntarily do so; (4) Prior to December 2009, the Cleanup Team believed the Port would cooperate with the San Diego Water Board's efforts to clean up the Site by designating percipient and expert witnesses to testify in support of the proposed cleanup, whereas on July 19, 2010, the Port's representatives advised the San Diego Water Board that the Port was not designating a single witness to testify in support of the cleanup; (5) Prior to December 2009, the Cleanup Team believed the Port would cooperate with the San Diego Water Board's efforts to clean up the Site by assisting both financially and technically with California Environmental Quality Act compliance, whereas by the time the CURRENT TCAO was issued, in spite of repeated requests to the Port's representatives by the Cleanup Team for CEQA assistance, the Port's representatives have refused.

SPECIAL INTERROGATORY NO. 7:

Set forth each and every fact supporting YOUR determination in the PRIOR TCAO and PRIOR DTR that the Port District should not be named as a Discharger.

The instant Cleanup and Abatement Order proceeding is ongoing, and the Cleanup Team expects that additional evidence will be provided by the Designated Parties hereto in accordance with governing statutes, regulations and applicable hearing procedures. While the Cleanup Team's response to each of these Interrogatories is based on a reasonable investigation and the state of its knowledge as of this date, additional information may be made available to or otherwise obtained by the Cleanup Team subsequent to the date of this response. These responses are provided without prejudice to the Cleanup Team's right to supplement these responses, or to use in this proceeding any testimonial, documentary, or other form of evidence or facts yet to be discovered, unintentionally omitted, or within the scope of the objections set forth herein.

Subject to and without waiving the preceding objections, the Cleanup Team responds as follows: All responsive, non-privileged documents have already been provided to the Port and/or are otherwise in its possession, custody and control. The Cleanup Team will not prepare a compilation or abstract of information available in these documents since the burden on the Cleanup Team of so doing is equal or greater than that on the Port.

SPECIAL INTERROGATORY NO. 28:

Set forth each and every fact that YOU contend supports YOUR allegations in the CURRENT TCAO and CURRENT DTR that the Port District manages or operates the portion of the City of San Diego's MS4 SYSTEM that drains to Storm Water Outfall SW4 at the SITE.

RESPONSE TO INTERROGATORY NO. 28:

The Cleanup Team incorporates each of the General Objections set forth above as if set forth in full herein. The Cleanup Team further objects to this Interrogatory to the extent it requests information protected by the attorney-client privilege, joint prosecution privilege, common interest privilege, mediation privilege, official information privilege and/or deliberative process privilege, and to the extent it requests information subject to

the work-product exemption, collectively referred to herein as the "privilege" or "privileged." The Cleanup Team contends that all communications exchanged between it and its counsel are privileged. The Cleanup Team objects to identifying or producing any and all products of investigations or inquiry conducted by, or pursuant to the direction of counsel, including, but not limited to, all products of investigation or inquiry prepared by the Cleanup Team in anticipation of this proceeding, based on the attorney-client privilege and/or the work-product doctrine. The Cleanup Team further objects to providing information subject to or protected by any other privilege, including, but not limited to, settlement communications, the joint prosecution privilege, the common interest privilege, the mediation privilege, the official information privilege and/or the deliberative process privilege. Inadvertent provision of privileged information shall not constitute a waiver of said privileges.

The Cleanup Team further objects to this Interrogatory because it purports to impose requirements and discovery obligations other than those set forth in Title 23 of the California Code of Regulations, sections 648 et seq., the California Government Code, sections 11400 et seq. and/or applicable stipulations, agreements and/or orders governing this proceeding, including, but not limited to, the limitations on the proper scope of discovery set forth in the 10.27.10 Order.

The Cleanup Team further objects that this Interrogatory is not full and complete in and of itself, is overbroad, and is framed in a manner that prevents any reasonable ability to provide responsive information. The Cleanup Team further objects to this Interrogatory on the ground that the term "City of San Diego's MS4 SYSTEM" is vague and ambiguous. The Cleanup Team further objects to this Interrogatory on the ground that it improperly calls for legal interpretation or consideration, and/or a legal conclusion.

The instant Cleanup and Abatement Order proceeding is ongoing, and the Cleanup Team expects that additional evidence will be provided by the Designated Parties hereto in accordance with governing statutes, regulations and applicable hearing procedures. While the Cleanup Team's response to each of these

Interrogatories is based on a reasonable investigation and the state of its knowledge as of this date, additional information may be made available to or otherwise obtained by the Cleanup Team subsequent to the date of this response. These responses are provided without prejudice to the Cleanup Team's right to supplement these responses, or to use in this proceeding any testimonial, documentary, or other form of evidence or facts yet to be discovered, unintentionally omitted, or within the scope of the objections set forth herein.

Subject to and without waiving the preceding objections, the Cleanup Team responds as follows: The CURRENT TCAO and CURRENT DTR do not allege that the Port District manages or operates the portion of the City of San Diego's MS4 that drains to SW4. The Port District is responsible for controlling pollutants into and from its own MS4 system. However, the Port District cannot passively allow pollutants to be discharged through its MS4 and into another Copermitees' MS4s, like the City of San Diego. The Port District is required by Section C.1.g of the current MS4 Permit to control the contribution of pollutants from one portion of a shared MS4 to another portion.

SPECIAL INTERROGATORY NO. 29:

IDENTIFY each and every DOCUMENT that YOU contend supports YOUR allegations in the CURRENT TCAO and CURRENT DTR that the Port District manages or operates the portion of the City of San Diego's MS4 SYSTEM that drains to Storm Water Outfall SW4 at the SITE.

RESPONSE TO INTERROGATORY NO. 29:

The Cleanup Team incorporates each of the General Objections set forth above as if set forth in full herein. The Cleanup Team further objects to this Interrogatory to the extent it requests information protected by the attorney-client privilege, joint prosecution privilege, common interest privilege, mediation privilege, official information privilege and/or deliberative process privilege, and to the extent it requests information subject to the work-product exemption, collectively referred to herein as the "privilege" or

SPECIAL INTERROGATORY NO. 30:

Set forth each and every fact that YOU contend supports YOUR allegations in the CURRENT TCAO and CURRENT DTR that the Port District manages or operates the portion of the City of San Diego's MS4 SYSTEM that drains to Storm Water Outfall SW9 at the SITE.

RESPONSE TO INTERROGATORY NO. 30:

The Cleanup Team incorporates each of the General Objections set forth above as if set forth in full herein. The Cleanup Team further objects to this Interrogatory to the extent it requests information protected by the attorney-client privilege, joint prosecution privilege, common interest privilege, mediation privilege, official information privilege and/or deliberative process privilege, and to the extent it requests information subject to the work-product exemption, collectively referred to herein as the "privilege" or "privileged." The Cleanup Team contends that all communications exchanged between it and its counsel are privileged. The Cleanup Team objects to identifying or producing any and all products of investigations or inquiry conducted by, or pursuant to the direction of counsel, including, but not limited to, all products of investigation or inquiry prepared by the Cleanup Team in anticipation of this proceeding, based on the attorney-client privilege and/or the work-product doctrine. The Cleanup Team further objects to providing information subject to or protected by any other privilege, including, but not limited to, settlement communications, the joint prosecution privilege, the common interest privilege, the mediation privilege, the official information privilege and/or the deliberative process privilege. Inadvertent provision of privileged information shall not constitute a waiver of said privileges.

The Cleanup Team further objects to this Interrogatory because it purports to impose requirements and discovery obligations other than those set forth in Title 23 of the California Code of Regulations, sections 648 et seq., the California Government Code, sections 11400 et seq. and/or applicable stipulations, agreements and/or orders governing this proceeding, including, but not limited to, the limitations on the proper

scope of discovery set forth in the 10.27.10 Order.

The Cleanup Team further objects that this Interrogatory is not full and complete in and of itself, is overbroad, and is framed in a manner that prevents any reasonable ability to provide responsive information. The Cleanup Team further objects to this Interrogatory on the ground that the term "City of San Diego's MS4 SYSTEM" is vague and ambiguous. The Cleanup Team further objects to this Interrogatory on the ground that it improperly calls for legal interpretation or consideration, and/or a legal conclusion.

The Instant Cleanup and Abatement Order proceeding is ongoing, and the Cleanup Team expects that additional evidence will be provided by the Designated Parties hereto in accordance with governing statutes, regulations and applicable hearing procedures. While the Cleanup Team's response to each of these Interrogatories is based on a reasonable investigation and the state of its knowledge as of this date, additional information may be made available to or otherwise obtained by the Cleanup Team subsequent to the date of this response. These responses are provided without prejudice to the Cleanup Team's right to supplement these responses, or to use in this proceeding any testimonial, documentary, or other form of evidence or facts yet to be discovered, unintentionally omitted, or within the scope of the objections set forth herein.

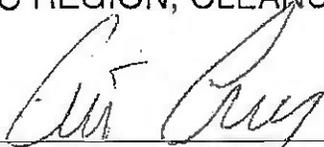
Subject to and without waiving the preceding objections, the Cleanup Team responds as follows: The CURRENT TCAO and CURRENT DTR do not allege that the Port District manages or operates any portion of the City of San Diego's MS4. The Port District is responsible for controlling pollutants into and from its own MS4. However, the Port District cannot passively allow pollutants to be discharged through its MS4 and into another Copermitees' MS4, like the City of San Diego. The Port District is required by Section C.1.g of the current MS4 Permit to control the contribution of pollutants from one portion of a shared MS4 to another portion.

Subject to and without waiving the preceding objections, the Cleanup Team responds as follows: Except to the extent the Cleanup Team possesses DOCUMENTS relating to the Port's point source discharges, which it does, the Interrogatory inquires about an aspect of the CURRENT TCAO and CURRENT DTR that is unchanged from the PRIOR TCAO and PRIOR DTR and, accordingly, is not within the scope of discovery allowed at this time by the Presiding Officer's 10.27.10 Order. Responsive, non-privileged documents have already been provided to the Port and/or are otherwise in its possession, custody and control. Additional responsive documents will be made available to the Port by the Cleanup Team as they are kept in the ordinary course of business at a reasonable time at the SDRWQCB offices for the Port's inspection and copying. The Cleanup Team will not prepare a compilation or abstract of information available in these documents since the burden on the Cleanup Team of so doing is equal or greater than that on the Port.

Dated: January 5, 2010

CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD, SAN
DIEGO REGION, CLEANUP TEAM

By:



Christian Carrigan

Attachment X

**Excerpts from California Regional Water Quality Control Board
Cleanup Team's Responses to Request for Admissions propounded
by Port District, dated January 5, 2010**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

In the matter of Tentative Cleanup
and Abatement Order No. R9-2011-
0001 (Formerly R9-2010-0002)
Shipyard Sediment Cleanup

Regional Board Cleanup Team's
Responses & Objections to
Designated Party San Diego Unified
Port District's First Set of Requests
for Admissions

Propounding Party: San Diego Unified Port District (the "Port")

Responding Party: California Regional Water Quality Control
Board, San Diego Region Cleanup Team

Set Number: One (1)

Pursuant to the Presiding Officer's February 18, 2010 Order Issuing Final Discovery Plan for Tentative Cleanup and Abatement Order No. R9-2010-0002 and Associated Draft Technical Report, the Presiding Officer's October 27, 2010 Order Reopening Discovery Period, Establishing Discovery Schedule, and Identifying Star and Crescent Boat Company as a Designated Party for Purposes of Tentative Cleanup and Abatement Order R9-2011-0001 (the "10.27.10 Order"), the Parties' August 9, 2010 Stipulation Regarding Discovery Extension and all applicable law, Designated Party the San Diego Water Board Cleanup Team ("Cleanup Team"), hereby responds and objects to the Port's First Set of Requests for Admissions (the "Requests") as follows:

SYSTEM.

Subject to and without waiving the preceding objections, the Cleanup Team responds as follows: The Cleanup Team admits that the City of San Diego owns the Storm Drain Outfalls identified as SW4 and SW9 in the CURRENT TCAO and CURRENT DTR which are the point sources from which it is alleged storm water containing wastes were DISCHARGED onto the SITE. The Cleanup Team also admits that the City of San Diego is one of the operators of the MS4 SYSTEM identified in NPDES Permit No. CAS0108758, which MS4 SYSTEM includes Storm Drain Outfalls SW4 and SW9. Except as specifically admitted, the remainder of the Request is denied.

REQUEST FOR ADMISSION NO. 5:

Admit that the Port District does not own or operate the MS4 SYSTEM Storm Drain Outfalls identified as SW4 and SW9 in the CURRENT TCAO and CURRENT DTR that are alleged to have DISCHARGED urban storm water containing waste onto the SITE.

RESPONSE TO REQUEST NO. 5:

The Cleanup Team objects to this Request on the ground that it is not full and complete in and of itself, in violation of Code of Civil Procedure section 2033.060, subdivision (d). The Cleanup Team further objects to this Request as compound, conjunctive, and/or disjunctive in violation of Code of Civil Procedure section 2033.060, subdivision (f). The Cleanup Team further objects to this Request on the ground that it is vague and ambiguous with respect to the term "Storm Drain Outfalls... DISCHARGED." The Cleanup Team further objects to the Request on the ground that NPDES Permit No. CAS0108758 speaks for itself and is the best evidence of its contents with regard to ownership and operation of the various components of the MS4 SYSTEM.

Subject to and without waiving the preceding objections, the Cleanup Team

responds as follows: The Cleanup Team admits that the Port does not own the Storm Drain Outfalls identified as SW4 and SW9 in the CURRENT TCAO and CURRENT DTR. Except as expressly admitted, the Request is denied.

REQUEST FOR ADMISSION NO. 6:

Admit that PERSONS located upgradient from the Port District tidelands have DISCHARGED urban storm water containing waste into the MS4 SYSTEM FACILITIES which was conveyed through the Storm Drain Outfalls identified as SW4 and SW9 in the CURRENT TCAO and CURRENT DTR onto the SITE.

RESPONSE TO REQUEST NO. 6:

The Cleanup Team objects to this Request on the ground that it is not full and complete in and of itself, in violation of Code of Civil Procedure section 2033.060, subdivision (d). The Cleanup Team further objects to this Request as compound, conjunctive, and/or disjunctive in violation of Code of Civil Procedure section 2033.060, subdivision (f). The Cleanup Team further objects to the Request on the ground that NPDES Permit No. CAS0108758 speaks for itself and is the best evidence of its contents with regard to PERSONS who DISCHARGE to the MS4 SYSTEM. The Cleanup Team further objects to this Request as vague and ambiguous with respect to the term "Port District tidelands." The Cleanup Team further objects to this Request as hopelessly overbroad with respect to "PERSONS located upgradient from the Port District tidelands." The Cleanup Team further objects to this Request as beyond the scope of permissible discovery under the 10.27.10 Order.

Subject to and without waiving the preceding objections, the Cleanup Team responds as follows: Admit.

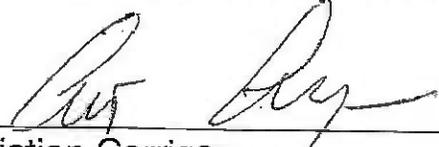
REQUEST FOR ADMISSION NO. 7:

Admit that for the tidelands and submerged lands in or adjacent to the SITE that the State of California has ultimate authority over the Port District to specify the permitted uses of the SITE, how title to the SITE may be held, and to whom title to the

Dated: January 5, 2010

CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD, SAN
DIEGO REGION, CLEANUP TEAM

By:

A handwritten signature in black ink, appearing to read "Chris Carrigan", written over a horizontal line.

Christian Carrigan

Attachment Y

**BAE Stipulation Regarding Resolution of Discovery Dispute, dated
March 9, 2011**

1 William D. Brown, Esq., (SBN 125468)
Wentzelee Botha, Esq., (SBN 207029)
2 BROWN & WINTERS, LLP
120 Birmingham Drive, Suite 110
3 Cardiff-by-the-Sea, CA 92007
Telephone: (760) 633-4485
4 Facsimile: (760) 633-4427
E-mail: bbrown@brownandwinters.com
5 wbotha@brownandwinters.com

6 Duane E. Bennett, Esq., Port Attorney (SBN 110202)
Leslie A. Fitzgerald, Esq., Deputy Port Attorney
7 (SBN 149373)
SAN DIEGO UNIFIED PORT DISTRICT
8 3165 Pacific Highway
P. O. Box 120488
9 San Diego CA 92112
Telephone: (619) 686-6219
10 Facsimile: (619) 686-6444
E-mail: dbennett@portofsandiego.org
11 lfitzgerald@portofsandiego.org

12 Attorneys for Designated Party
SAN DIEGO UNIFIED PORT DISTRICT

13
14 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
15
16 SAN DIEGO REGION

17 In re Tentative Cleanup and Abatement
Order No. R9-2011-0001 (formerly No.
18 R9-2010-0002) (Shipyard Sediment Site)

**STIPULATION REGARDING
RESOLUTION OF DISCOVERY DISPUTE**

19
20 Presiding Officer: Grant Destache
21
22
23
24
25
26
27
28

1 WHEREAS, on November 23, 2010, the San Diego Unified Port District ("Port District")
2 served BAE SYSTEMS SAN DIEGO SHIP REPAIR INC. and SOUTHWEST MARINE, INC.
3 ("BAE") with Special Interrogatories, Requests for Production of Documents and Requests for
4 Admissions (collectively, the "Written Discovery") in the above-referenced proceeding, seeking
5 information regarding BAE's financial resources and insurance assets;

6 WHEREAS, on December 6, 2010, BAE objected to a number of the Port District's
7 Written Discovery requests on various grounds;

8 WHEREAS, on March 1, 2011, the Port District served BAE with two notices of
9 deposition of BAE's person(s) most knowledgeable, and associated document requests, related
10 generally to BAE's financial assets and insurance coverage, respectively (the "Deposition
11 Notices");

12 WHEREAS, the Port District and BAE now wish to resolve their dispute regarding the
13 Written Discovery and Deposition Notices and any other discovery that could otherwise be
14 served by the Port District, against BAE, in the above-captioned proceeding, related to BAE's
15 financial assets or insurance coverage;

16 NOW THEREFORE, the Port District and BAE hereby stipulate and agree, through their
17 undersigned counsel below, as follows:

18 1. BAE stipulates that it has the financial assets to cover any amounts of the
19 cleanup and remedial monitoring under Tentative Cleanup and Abatement Order No. R9-2011-
20 0001 ("Tentative Order") which are premised upon BAE's established liability for the time
21 period 1979 to the present with respect to the BAE leasehold only and that are ultimately
22 allocated to BAE. This stipulation is not an admission or agreement by BAE that it is liable for
23 any of the cleanup or monitoring requirements that may be imposed under the Tentative Order.

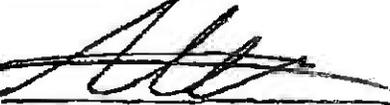
24 2. In exchange, the Port District will withdraw its pending Deposition
25 Notices against BAE, will not file a motion seeking to compel the depositions or further
26 responses to the Written Discovery, and will agree not to serve any other discovery against BAE
27 in the above-captioned proceeding relating to BAE's financial assets or insurance coverage.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO STIPULATED.

Dated: March 9, 2011

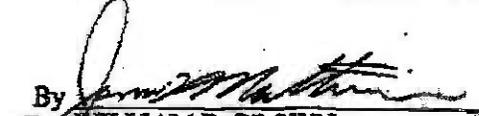
DLA PIPER LLP (US)

By: 

MICHAEL S. TRACY
MATTHEW B. DART
Attorneys for BAE SYSTEMS SAN
DIEGO SHIP REPAIR INC., and
SOUTHWEST MARINE, INC.

Dated: March 9, 2011

SAN DIEGO UNIFIED PORT DISTRICT

By: 

WILLIAM D. BROWN
WENTZEL E. BOTHA
Attorneys for SAN DIEGO UNIFIED
PORT DISTRICT

Attachment Z

**NASSCO Stipulation Regarding Resolution of Discovery Dispute,
dated March 3, 2011**

1 LATHAM & WATKINS LLP
Robert M. Howard (Bar No. 145870)
2 Kelly E. Richardson (Bar No. 210511)
Jeffrey P. Carlin (Bar No. 227539)
3 Ryan R. Waterman (Bar No. 229485)
Jennifer P. Casler (Bar No. 259438)
4 600 West Broadway, Suite 1800
San Diego, California 92101-3375
5 Telephone: (619) 236-1234
Facsimile: (619) 696-7419
6

7 Attorneys for Designated Party
NATIONAL STEEL AND SHIPBUILDING
COMPANY
8

9 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
10 SAN DIEGO REGION
11

12 In re Tentative Cleanup and Abatement
Order No. R9-2011-0001
13

14 **STIPULATION REGARDING
RESOLUTION OF DISCOVERY DISPUTE**

15
16 WHEREAS, on February 9, 2011, the San Diego Unified Port District ("Port
17 District") served National Steel & Shipbuilding Company ("NASSCO") with two notices of
18 deposition of NASSCO's person(s) most knowledgeable, and associated document requests,
19 related generally to NASSCO's financial assets and insurance coverage, respectively (the
20 "Deposition Notices");

21 WHEREAS, on February 18, 2011, NASSCO objected to the Port District's
22 Deposition Notices in their entirety, on various grounds, and refused to produce witnesses in
23 response to the Deposition Notices;

24 WHEREAS, the Port District and NASSCO now wish to resolve their dispute
25 regarding the Deposition Notices and any other discovery that could otherwise be served by the
26 Port District, against NASSCO, in the above-captioned proceeding, related to NASSCO's
27 financial assets or insurance coverage;

28 NOW THEREFORE, the Port District and NASSCO hereby stipulate and agree,

1 through their undersigned counsel below, as follows:

2 1. NASSCO stipulates that it has the financial assets to cover the amounts of
3 the cleanup and remedial monitoring under Tentative Cleanup and Abatement Order No. R9-
4 2011-0001 ("Tentative Order") that are ultimately allocated to NASSCO. This stipulation is not
5 an admission or agreement by NASSCO that it is liable for any of the cleanup or monitoring
6 requirements that may be imposed under the Tentative Order.

7 2. In exchange, the Port District will withdraw its pending Deposition
8 Notices against NASSCO, will not file a motion seeking to compel the depositions, and will
9 agree not to serve any other discovery against NASSCO in the above-captioned proceeding
10 relating to NASSCO's financial assets or insurance coverage.

11 IT IS SO STIPULATED.

12
13 Dated: March 3, 2011

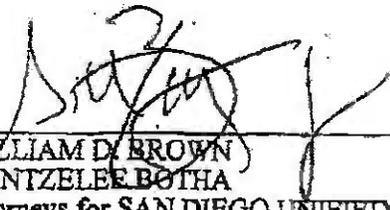
LATHAM & WATKINS LLP

14
15
16 By 

KELLY E. RICHARDSON
JEFFREY P. CARLIN
Attorneys for NATIONAL STEEL &
SHIPBUILDING COMPANY

17
18
19
20 Dated: March 3, 2011

SAN DIEGO UNIFIED PORT DISTRICT

21
22
23 By 

WILLIAM D. BROWN
WENTZEELE BOTHA
Attorneys for SAN DIEGO UNIFIED
PORT DISTRICT

Attachment AA.

**Excerpts from the Cleanup and Abatement Order R9-2010-0002,
dated December 22, 2009**

TENTATIVE

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

TENTATIVE CLEANUP AND ABATEMENT ORDER

NO. R9-2010-0002

NATIONAL STEEL AND SHIPBUILDING COMPANY

**BAE SYSTEMS SAN DIEGO SHIP REPAIR, INC.
(FORMERLY SOUTHWEST MARINE, INC.)**

CITY OF SAN DIEGO

**MARINE CONSTRUCTION AND DESIGN COMPANY
AND CAMPBELL INDUSTRIES, INC.**

**SAN DIEGO GAS AND ELECTRIC,
A SUBSIDIARY OF SEMPRA ENERGY COMPANY**

UNITED STATES NAVY

SHIPYARD SEDIMENT SITE

SAN DIEGO BAY

SAN DIEGO, CALIFORNIA

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), finds that:

JURISDICTION

- 1. WASTE DISCHARGE.** Elevated levels of pollutants above San Diego Bay background conditions exist in the San Diego Bay bottom marine sediment along the eastern shore of central San Diego Bay in an area extending approximately from the Sampson Street Extension to the north and Chollas Creek to the south and from the National Steel and Shipbuilding Company Shipyard facility (hereinafter "NASSCO") and the BAE Systems San Diego Ship Repair Facility (hereinafter "BAE Systems") shoreline out to the San Diego Bay

main shipping channel to the west. This area is hereinafter collectively referred to as the "Shipyard Sediment Site." NASSCO; BAE Systems San Diego Ship Repair, Inc.; City of San Diego; Marine Construction and Design Company and Campbell Industries, Inc.; San Diego Gas and Electric, a subsidiary of Sempra Energy Company; and the United States Navy have each caused or permitted the discharge of waste to the Shipyard Sediment Site resulting in the accumulation of waste in the marine sediment. The contaminated marine sediment has caused conditions of contamination or nuisance in San Diego Bay that adversely affects aquatic life, aquatic-dependent wildlife, human health, and San Diego Bay beneficial uses. A map of the Shipyard Sediment Site region is provided in Attachment 1 to this Order.

PERSONS RESPONSIBLE

2. **NATIONAL STEEL AND SHIPBUILDING COMPANY (NASSCO), A SUBSIDIARY OF GENERAL DYNAMICS COMPANY.** The National Steel and Shipbuilding Company, (hereinafter NASSCO) has (1) discharged waste from its shipyard operations into San Diego Bay in violation of waste discharge requirements; and (2) caused or permitted waste to be discharged or deposited where it was discharged into San Diego Bay and created, or threatens to create, a condition of pollution or nuisance. These wastes contained metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc), butyl tin species, polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs), polynuclear aromatic hydrocarbons (PAHs), and total petroleum hydrocarbons (TPH). Based on these considerations NASSCO is referred to as "Discharger(s)" in this Cleanup and Abatement Order.

NASSCO, a subsidiary of General Dynamics Company, owns and operates a full service ship construction, modification, repair, and maintenance facility on 126 acres of tidelands property leased from the San Diego Unified Port District (SDUPD) on the eastern waterfront of central San Diego Bay at 2798 Harbor Drive in San Diego. Shipyard operations have been conducted at this site by NASSCO over San Diego Bay waters or very close to the waterfront since 1945. Shipyard facilities operated by NASSCO over the years at the Site have included concrete platens used for steel fabrication, a graving dock, shipbuilding ways, and berths on piers or land to accommodate the berthing of ships. An assortment of waste is generated at the facility including spent abrasive, paint, rust, petroleum products, marine growth, sanitary waste, and general refuse.

- 3. BAE SYSTEMS SAN DIEGO SHIP REPAIR, INC., FORMERLY SOUTHWEST MARINE, INC.** BAE Systems San Diego Ship Repair, Inc. has (1) discharged waste from its shipyard operations into San Diego Bay in violation of waste discharge requirements; and (2) caused or permitted waste to be discharged or deposited where it was discharged into San Diego Bay and created, or threatens to create, a condition of pollution or nuisance. These wastes contained metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc), butyl tin species, PCBs, PCTs, PAHs, and TPH. Based on these considerations BAE Systems San Diego Ship Repair, Inc. is referred to as "Discharger(s)" in this Cleanup and Abatement Order.

From 1979 to the present, Southwest Marine, Inc. and its successor BAE Systems San Diego Ship Repair, Inc., hereinafter collectively referred to as BAE Systems, have owned and operated a ship repair, alteration, and overhaul facility on approximately 39.6 acres of tidelands property on the eastern waterfront of central San Diego Bay. The facility, currently referred to as BAE Systems San Diego Ship Repair, is located on land leased from the San Diego Unified Port District at 2205 East Belt Street, foot of Sampson Street in San Diego, San Diego County, California. Shipyard facilities operated by BAE Systems over the years have included concrete platens used for steel fabrication, two floating dry docks, five piers, and two marine railways. An assortment of waste has been generated at the facility including spent abrasive, paint, rust, petroleum products, marine growth, sanitary waste, and general refuse.

- 4. CITY OF SAN DIEGO.** The City of San Diego owns and operates a municipal separate storm sewer system (MS4) through which it discharges waste commonly found in urban runoff to San Diego Bay subject to the terms and conditions of a NPDES Storm Water Permit. The City of San Diego has discharged urban storm water containing waste directly to San Diego Bay at the Shipyard Sediment Site in violation of waste discharge requirements. The waste includes metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc), total suspended solids, sediment (due to anthropogenic activities), petroleum products, and synthetic organics (pesticides, herbicides, and PCBs) through its SW4 (located on the BAE Systems leasehold) and SW9 (located on the NASSCO leasehold) MS4 conduit pipes.

The City of San Diego has also discharged urban storm water containing waste in violation of waste discharge requirements, through its MS4 to Chollas Creek resulting in the exceedances of chronic and acute California Toxics Rule copper, lead, and zinc criteria for the protection of aquatic life, in violation of waste discharge requirements prescribed by the San Diego Water Board. Studies indicate that during storm events, storm water plumes toxic to marine life emanate from Chollas Creek up to 1.2 kilometers into San Diego Bay, and contribute to pollutant levels at the Shipyard Sediment Site. The urban storm water containing waste that has discharged from the on-site and off-site MS4 has contributed to the accumulation of pollutants in the marine sediments at the Shipyard Sediment Site to levels, that cause, and threaten to cause, conditions of pollution, contamination, and nuisance by exceeding applicable water quality objectives for toxic pollutants in San Diego Bay. Based on these considerations the City of San Diego is referred to as "Discharger(s)" in this Cleanup and Abatement Order.

5. **MARINE CONSTRUCTION AND DESIGN COMPANY AND CAMPBELL INDUSTRIES, INC.** Marine Construction and Design Company and Campbell Industries, Inc. (hereinafter collectively referred to as "SDMC") has (1) discharged pollutants from its shipyard operations into San Diego Bay in violation of waste discharge requirements; and (2) caused or permitted waste to be discharged or deposited where it was discharged into San Diego Bay and created, or threatens to create, a condition of pollution or nuisance. These wastes contained metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc), butyl tin species, PCBs, PCTs, PAHs, and TPH. Based on these considerations, Marine Construction and Design Company and Campbell Industries, Inc. are referred to as "Discharger(s)" in this Cleanup and Abatement Order.

Between 1914 and 1979, San Diego Marine Construction Company and its successor San Diego Marine Construction Corporation, a wholly owned subsidiary of Campbell Industries, Inc., a wholly owned subsidiary of Marine Construction and Design Company (MARCO), collectively referred to as SDMC, operated a ship repair, alteration, and overhaul facility on what is now the BAE Systems leasehold at the foot of Sampson Street in San Diego. Shipyard operations were conducted at this site by SDMC over San Diego Bay waters or very close to the waterfront. An assortment of waste was generated at the facility including spent abrasive blast waste, paint, rust, petroleum products, marine growth, sanitary waste, and general refuse.

6. **CHEVRON, A SUBSIDIARY OF CHEVRONTEXACO.** Chevron, a subsidiary of ChevronTexaco (hereinafter, Chevron) owns and operates the Chevron Terminal, a bulk fuel storage facility currently located at 2351 East Harbor Drive in the City of San Diego adjacent to the NASSCO and BAE Systems leaseholds. Fuel products containing petroleum hydrocarbons have been stored at the Chevron Terminal since the early 1900s at both the currently operating 7 million gallon product capacity upper tank farm and the closed 5 million gallon capacity lower tank farm. Based on the information that the San Diego Water Board has reviewed to date, there is insufficient evidence to find that discharges from the Chevron Terminal contributed to the accumulation of pollutants in the marine sediments at the Shipyard Sediment Site to levels, which create, or threaten to create, conditions of pollution or nuisance. Accordingly, Chevron is not referred to as "Discharger(s)" in this Cleanup and Abatement Order.

7. **BP AS THE PARENT COMPANY AND SUCCESSOR TO ATLANTIC RICHFIELD.** BP owns and operates the Atlantic Richfield Company (ARCO) Terminal, a bulk fuel storage facility with approximately 9 million gallons of capacity located at 2295 East Harbor Drive in the City of San Diego. Fuel products containing petroleum hydrocarbons and related constituents such as PAHs have been stored at ARCO Terminal since the early 1900s. ARCO owned and operated ancillary facilities include a wharf, fuel pier (currently BAE Systems Pier 4), and a marine fueling station used for loading and unloading petroleum products and fueling from 1925 to 1978, and five pipelines connecting the terminal to the pier and wharf in use from 1925 to 1978. Storm water flows from ARCO Terminal enter a City of San Diego MS4 storm drain that terminates in San Diego Bay in the Shipyard Sediment Site approximately 300 feet south of the Sampson Street extension. Based on the information that the San Diego Water Board has reviewed to date, there is insufficient evidence to find that discharges from the ARCO Terminal contributed to the accumulation of pollutants in the marine sediments at the Shipyard Sediment Site to levels, which create, or threaten to create, conditions of pollution or nuisance. Accordingly, BP and ARCO are not referred to as "Discharger(s)" in this Cleanup and Abatement Order.
8. **SAN DIEGO GAS AND ELECTRIC, A SUBSIDIARY OF SEMPRA ENERGY.** San Diego Gas and Electric, a subsidiary of Sempra Energy (hereinafter, SDG&E) owned and operated the Silver Gate Power Plant along the north side of the BAE Systems leasehold from approximately 1943 to the 1990s. SDG&E utilized an easement to San Diego Bay along BAE Systems' north property boundary for the intake and discharge of cooling water via concrete tunnels at flow rates ranging from 120 to 180 million gallons per day. SDG&E operations included discharging waste to holding ponds above the tunnels near the Shipyard Sediment Sites.

SDG&E has (1) discharged waste from its power plant operations, including metals (copper, nickel, and zinc) into San Diego Bay in violation of waste discharge requirements; and has (2) caused or permitted waste (including metals [chromium, copper, lead, nickel, and zinc], PCBs, PAHs, and total petroleum hydrocarbons [TPH-d and TPH-h]) to be discharged or deposited where it was discharged into San Diego Bay and created, or threatens to create, a condition of pollution or nuisance. Based on these considerations SDG&E is referred to as "Discharger(s)" in this Cleanup and Abatement Order.

9. **UNITED STATES NAVY.** The U.S. Navy owns and operates a municipal separate storm sewer system (MS4) at Naval Station (NAVSTA) San Diego through which it has caused or permitted the discharge of waste commonly found in urban runoff to Chollas Creek and San Diego Bay, including excessive concentrations of copper, lead, and zinc in violation of waste discharge requirements. Technical reports by the U.S. Navy and others indicate that Chollas Creek outflows during storm events convey elevated sediment and urban runoff chemical pollutant loading and its associated toxicity up to 1.2 kilometers into San Diego Bay over an area including the Shipyard Sediment Site. The U.S. Navy has caused or permitted marine sediment and associated waste to be resuspended into the water column as a result of shear forces generated by the thrust of propellers during ship movements at NAVSTA San Diego. The resuspended sediment and pollutants can be transported by tidal currents and deposited in other parts of San Diego Bay, including the Shipyard Sediment Site. The above discharges have contributed to the accumulation of pollutants in marine sediment at the Shipyard Sediment Site to levels that cause, and threaten to cause, conditions of pollution, contamination, and nuisance by exceeding applicable water quality objectives for toxic pollutants in San Diego Bay. Based on the preceding considerations, the U.S. Navy is referred to as "Discharger(s)" in this Cleanup and Abatement Order.

From the year 1921 to the present, the U.S. Navy has provided shore support and pier-side berthing services to U.S. Pacific fleet vessels at NAVSTA San Diego located at 3445 Surface Navy Boulevard in the City of San Diego. NAVSTA San Diego currently occupies 1,029 acres of land and 326 water acres adjacent to San Diego Bay to the west, and Chollas Creek to the north near Pier 1. Between the years 1938 and 1956 the NAVSTA San Diego leasehold included a parcel of land, referred to as the 28th Street Shore Boat Landing Station, located at the south end of the present day NASSCO leasehold at the foot of 28th Street and including the 28th Street Pier. At this location, the U.S. Navy conducted operations similar in scope to a small boatyard including solvent cleaning and degreasing of vessel parts and surfaces, abrasive blasting and scraping for paint removal and surface preparations, metal plating, and surface finishing and painting. Prevailing industry-wide boatyard operational practices employed during the 1930s through the 1980s were often not sufficient to adequately control or prevent pollutant discharges and often led to excessive discharges of pollutants and accumulation of pollutants in marine sediment in San Diego Bay. The types of pollutants found in elevated concentrations at the Shipyard Sediment Site (metals, butyltin species, PCBs, PCTs, PAHs, and TPH) are associated with the characteristics of the waste the U.S. Navy operations generated at the 28th Street Shore Boat Landing Station site.

10. **SAN DIEGO UNIFIED PORT DISTRICT.** The San Diego Unified Port District (Port District) is a special government entity that administers certain public lands along San Diego Bay. The Port District holds and manages as trust property on behalf of the People of the State of California the land occupied by the NASSCO Shipyard facility, the BAE Systems San Diego Ship Repair Facility, and the cooling water tunnels for San Diego Gas and Electric Company's former Silver Gate Power Plant. The Port District is also the trustee of the land formerly occupied by the San Diego Marine Construction Company Inc. and Southwest Marine Inc. at all times during which they conducted shipbuilding and repair activities. As the State's designated trustee for these lands, the Port District is responsible for the actions, omissions and operations of its tenants. The San Diego Water Board has the discretion to name the Port District in its capacity as the State's trustee as a "discharger" in the Shipyard

Sediment Site Cleanup and Abatement Order. To be consistent with previous State and Regional Water Board orders concerning the naming of non-operating public agencies in cleanup and abatement orders, the San Diego Water Board is not now naming the Port of San Diego as a “discharger” in the Cleanup and Abatement order, but may do so in the future if the Port’s former and/or current tenants fail to comply with the Order.

FACTUAL BACKGROUND

11. **CLEAN WATER ACT SECTION 303(d) LIST.** Approximately 55 acres of San Diego Bay shoreline between Sampson and 28th Streets is listed on the Clean Water Act Section 303(d) List of Water Quality Limited Segments for elevated levels of copper, mercury, zinc, PAHs, and PCBs in the marine sediment. These pollutants are impairing the aquatic life, aquatic-dependent wildlife, and human health beneficial uses designated for San Diego Bay. The Shipyard Sediment Site occupies this shoreline. Issuance of a cleanup and abatement order (in lieu of a Total Maximum Daily Load program) is the appropriate regulatory tool to use for correcting the impairment at the Shipyard Sediment Site.
12. **SEDIMENT QUALITY INVESTIGATION.** NASSCO and BAE Systems (formerly Southwest Marine) conducted a detailed sediment investigation at the Shipyard Sediment Site in San Diego Bay within and adjacent to the NASSCO and BAE Systems leaseholds. Two phases of fieldwork were conducted, Phase I in 2001 and Phase II in 2002. The results of the investigation are provided in the Exponent report *NASSCO and Southwest Marine Detailed Sediment Investigation, September 2003* (Shipyard Report). Unless otherwise explicitly stated, the San Diego Water Board’s finding and conclusions in this Cleanup and Abatement Order are based on the data and other technical information contained in the Shipyard Report prepared by NASSCO’s and BAE Systems’ consultant, Exponent.

AQUATIC LIFE BENEFICIAL USE IMPAIRMENT

13. **AQUATIC LIFE IMPAIRMENT.** Aquatic life beneficial uses designated for San Diego Bay are impaired due to the elevated levels of pollutants present in the marine sediment at the Shipyard Sediment Site. Aquatic life beneficial uses include: Estuarine Habitat (EST), Marine Habitat (MAR), and Migration of Aquatic Organisms (MIGR). This finding is based on the considerations described below in this *Impairment of Aquatic Life Beneficial Uses* section of the Cleanup and Abatement Order.
14. **WEIGHT-OF-EVIDENCE APPROACH.** The San Diego Water Board used a weight-of-evidence approach based upon multiple lines of evidence to evaluate the potential risks to aquatic life beneficial uses from pollutants at the Shipyard Sediment Site. The approach focused on measuring and evaluating exposure and adverse effects to the benthic macroinvertebrate community and to fish using data from multiple lines of evidence and best professional judgment. Pollutant exposure and adverse effects to the benthic macroinvertebrate community were evaluated using sediment quality triad measurements, bioaccumulation analyses, and interstitial water (i.e., pore water) analyses. The San Diego Water Board evaluated pollutant exposure and adverse effects to fish using fish histopathology analyses and analyses of PAH breakdown products in fish bile.

Attachment BB

Excerpts from City of San Diego's Complaint in *City of San Diego v. National Steel and Shipbuilding Company, et al.*, U.S. District Court, Southern District, Case No. 09-CV-2275 W CAB

ORIGINAL

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

1 BRIAN M. LEDGER (SBN: 156942)
2 KRISTIN REYNA (SBN: 211075)
3 GORDON & REES LLP
4 101 West Broadway, Suite 2000
5 San Diego, CA. 92101
6 Telephone: (619) 696-6700
7 Fax: (619) 696-7124

8 JAN GOLDSMITH (SBN: 70988)
9 FREDERICK M. ORTLIEB (SBN: 131751)
10 DAVID J. KARLIN (SBN: 156178)
11 OFFICE OF THE CITY ATTORNEY
12 1200 Third Avenue, Suite 1100
13 San Diego, CA. 92101
14 Telephone: (619) 533-5800
15 Fax: (619) 533-5856

16 Attorneys for CITY OF SAN DIEGO

17 UNITED STATES DISTRICT COURT
18 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

19 CITY OF SAN DIEGO

20 Plaintiff,

21 vs.

22 NATIONAL STEEL & SHIPBUILDING
23 COMPANY; NATIONAL STEEL &
24 SHIPBUILDING CORPORATION;
25 NATIONAL IRON WORKS; MARTINOLICH
26 SHIP BUILDING COMPANY; SOUTHWEST
27 MARINE, INC.; BAE SYSTEMS SAN DIEGO
28 SHIP REPAIR, INC.; SAN DIEGO MARINE
CONSTRUCTION COMPANY; STAR AND
CRESCENT BOAT COMPANY, a division of
SAN DIEGO MARINE CONSTRUCTION
COMPANY; STAR AND CRESCENT BOAT
COMPANY; STAR AND CRESCENT
INVESTMENT COMPANY; STAR AND
CRESCENT FERRY COMPANY; SAN
DIEGO MARINE CONSTRUCTION
CORPORATION; MCCSD; CAMPBELL
INDUSTRIES; SAN DIEGO GAS &
ELECTRIC; UNITED STATES NAVY; SAN
DIEGO UNIFIED PORT DISTRICT; and
DOES 1-100, inclusive,

Defendants.

FILED
OCT 14 2009
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

Case No. 09 CV 2275 W CAB
COMPLAINT FOR ENVIRONMENTAL
COST RECOVERY AND
CONTRIBUTION, INJUNCTIVE
RELIEF, DECLARATORY RELIEF,
AND DAMAGES

Demand For Jury Trial

FAXED

1 Plaintiff City of San Diego ("Plaintiff") complains and alleges as follows:

2 PARTIES

3 1. Plaintiff is, and at all times material to this complaint has been, a municipal
4 corporation in the County of San Diego, State of California.

5 2. Plaintiff is informed and believes, and on that basis alleges, that defendant
6 NATIONAL STEEL & SHIPBUILDING COMPANY ("NAASCO") is a corporation organized
7 and existing under the laws of the State of Nevada and is authorized to do business and is doing
8 business in the State of California. Upon information and belief, NAASCO is a successor in
9 interest to defendants National Steel and Shipbuilding Corporation and National Iron Works.

10 3. Plaintiff is informed and believes that defendant NATIONAL STEEL &
11 SHIPBUILDING CORPORATION is a former corporation that was organized and existed under
12 the laws of the State of California and was authorized to do business and did business in the State
13 of California.

14 4. Plaintiff is informed and believes that defendant NATIONAL IRON WORKS is a
15 former corporation that was organized and existed under the laws of the State of California and
16 was authorized to do business and did business in the State of California.

17 5. Plaintiff is informed and believes that defendant MARTINOLICH SHIP
18 BUILDING COMPANY is former corporation that was organized and existed under the laws of
19 the State of California and was authorized to do business and did business in the State of
20 California.

21 6. Plaintiff is informed and believes, and on that basis alleges, that defendant
22 SOUTHWEST MARINE, INC. is a corporation organized and existing under the laws of the
23 State of California and was authorized to do business and did business in the State of California.

24 7. Plaintiff is informed and believes, and on that basis alleges, that defendant BAE
25 SYSTEMS SAN DIEGO SHIP REPAIR, INC. is the successor to SOUTHWEST MARINE,
26 INC. ("BAE SYSTEMS")¹, and is a corporation organized and existing under the laws of the

27 ¹ The term "BAE SYSTEMS" will be used to refer to BAE SYSTEMS SAN DIEGO SHIP REPAIR, INC.
28 and/or SOUTHWEST MARINE, INC.

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

1 State of California, doing business in California.

2 8. Plaintiff is informed and believes, and on that basis alleges, that defendant SAN
3 DIEGO MARINE CONSTRUCTION COMPANY is a former corporation that was organized
4 and existed under the laws of the State of California and was authorized to do business and did
5 business in the State of California.

6 9. Plaintiff is informed and believes, and on that basis alleges, that defendant STAR
7 AND CRESCENT BOAT COMPANY, A DIVISION OF SAN DIEGO MARINE
8 CONSTRUCTION COMPANY² is a former corporation that was organized and existed under
9 the laws of the State of California and was authorized to do business and did business in the State
10 of California.

11 10. Plaintiff is informed and believes, and on that basis alleges, that defendant STAR
12 AND CRESCENT BOAT COMPANY is a former corporation that was organized and existed
13 under the laws of the State of California and was authorized to do business and did business in
14 the State of California.

15 11. Plaintiff is informed and believes, and on that basis alleges, that defendant STAR
16 AND CRESCENT INVESTMENT COMPANY is a former corporation that was organized and
17 existed under the laws of the State of California and was authorized to do business and did
18 business in the State of California.

19 12. Plaintiff is informed and believes, and on that basis alleges, that defendant STAR
20 AND CRESCENT FERRY COMPANY is a former corporation that was organized and existed
21 under the laws of the State of California and was authorized to do business and did business in
22 the State of California.

23 13. Plaintiff is informed and believes, and on that basis alleges, that defendant
24 CAMPBELL INDUSTRIES is a corporation organized and existing under the laws of the State
25 of California, authorized to do business in the State of California and did business in the State of

26 ² The term "SDMCC DEFENDANTS" will be used to refer to SAN DIEGO MARINE CONSTRUCTION
27 COMPANY; STAR AND CRESCENT BOAT COMPANY, a division of SAN DIEGO MARINE
28 CONSTRUCTION COMPANY; STAR AND CRESCENT BOAT COMPANY; STAR AND CRESCENT
INVESTMENT COMPANY; and STAR AND CRESCENT FERRY COMPANY.

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

1 California:

2 14. Plaintiff is informed and believes, and on that basis alleges, that defendant
3 MCCSD is a former corporation that organized and existed under the laws of the State of
4 California and was authorized to do business and did business in the State of California. On
5 information and belief, MCCSD was a wholly owned subsidiary of CAMPBELL INDUSTRIES
6 and changed its name to defendant SAN DIEGO MARINE CONSTRUCTION
7 CORPORATION.

8 15. Plaintiff is informed and believes, and on that basis alleges, that defendant SAN
9 DIEGO MARINE CONSTRUCTION CORPORATION is a former corporation that was
10 organized and existed under the laws of the State of California and formerly did business in the
11 State of California.³

12 16. Plaintiff is informed and believes, and on that basis alleges, that defendant SAN
13 DIEGO GAS & ELECTRIC is a corporation organized and existing under the laws of the State
14 of California and is authorized to do business and does business in the State of California.

15 17. Plaintiff is informed and believes, and on that basis alleges, that defendant
16 UNITED STATES NAVY ("NAVY") is a branch of the United States military organized and
17 existing under federal law, and authorized to do business and does business in the State of
18 California. Plaintiff has submitted or is in the process of submitting a claim against NAVY
19 under the Federal Tort Claims Act for the tort claims Plaintiff has against NAVY related to the
20 Shipyard Sediment Site. Should NAVY deny Plaintiff's administrative claim as to the tort
21 claims, Plaintiff will seek leave of court to amend this complaint to name NAVY as a defendant
22 to each of the tort claims herein.

23 18. Plaintiff is informed and believes, and on that basis alleges, that defendant SAN
24 DIEGO UNIFIED PORT DISTRICT ("PORT DISTRICT") is a special governmental entity,
25 created in 1962 by the San Diego Unified Port District Act and California Harbors and
26 Navigation Code in order to manage San Diego Harbor, and administer certain public lands

27 ³ The term "CAMPBELL DEFENDANTS" will be used to refer to CAMPBELL INDUSTRIES, MCCSD,
28 and/or SAN DIEGO MARINE CONSTRUCTION CORPORATION.

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

1 along the San Diego Bay and is authorized to do business and does business in the State of
2 California. Government Code section 905(i) authorizes Plaintiff, a local public entity, to bring
3 these claims against Defendant PORT DISTRICT, another local public entity, without any prior
4 administrative claims procedure.

5 19. Plaintiff is ignorant of the true names or capacities of the defendants sued herein
6 under the fictitious names DOES 1 through 100, inclusive, and therefore sues these defendants
7 by such fictitious names. Plaintiff will amend this complaint to allege their true names and
8 capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of
9 said fictitiously named defendants are, through their negligence, intentional torts, and/or conduct
10 giving rise to said liability, responsible or liable in some manner for the occurrences herein
11 alleged, and that the damages alleged herein were the direct and legal result of said actions or
12 omissions.

13 NATURE OF ACTION

14 20. Plaintiff and Defendants NASSCO, BAE SYSTEMS, CAMPBELL
15 INDUSTRIES, SDG&E, and NAVY have all been named as "Dischargers" or "Persons
16 Responsible" for alleged environmental contamination at the property known as the "Shipyard
17 Sediment Site" by the California Regional Water Quality Control Board, San Diego Region ("the
18 Regional Board"), in Tentative Clean Up & Abatement Order No. R9-2005-0126 (the "Tentative
19 Order"). A copy of the Tentative Order is attached to this Complaint as Exhibit "A" and is
20 incorporated by reference herein.

21 21. The Shipyard Sediment Site is a portion of San Diego Bay along the eastern shore
22 of the Bay in an area extending from approximately the Sampson Street Extension to the north
23 and Chollas Creek to the south, and from the NASSCO shipyard facility and BAE SYSTEMS
24 shipyard facility shoreline out to the San Diego main shipping channel to the west.

25 22. The Regional Board contends that Plaintiff and defendants are jointly and
26 severally responsible for alleged property damage, including, but not limited to alleged damage
27 to aquatic life, at and beyond leaseholds at the Shipyard Sediment Site once and/or currently
28 occupied by Defendants and other entities. The Regional Board contends that such property

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

1 damage and injury was proximately caused by historical contamination of the Bay by the alleged
2 Dischargers and various other entities. Upon information and belief, based on the Tentative
3 Order and historical records, the alleged property damage and injury at issue began in the early
4 twentieth century and has continued to the present.

5 23. The Regional Board contends that environmental investigations conducted at a
6 Shipyard Sediment Site revealed the presence of elevated levels of pollutants in the San Diego
7 Bay bottom marine sediment. The Regional Board has concluded that the contaminated marine
8 sediment has caused conditions of contamination in the San Diego Bay that adversely affects
9 aquatic life, aquatic-dependent wildlife, human health, and San Diego Bay beneficial uses. The
10 following hazardous substances have been detected in the sediment at the Shipyards Sediment
11 Site: Arsenic, Cadmium, Copper, Lead, Mercury, Zinc, Tributyltin ("TBT"), High Molecular
12 Weight Polynuclear Aromatic Hydrocarbons ("HPAHs"), and Polychlorinated Biphenyls
13 ("PCBs")⁴.

14 JURISDICTION

15 24. This Court has jurisdiction over the subject matter of this action pursuant to the
16 Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42
17 U.S.C. §§ 9613(b) and (f), and 42 U.S.C. § 9607; pursuant to the Oil Pollution Act, 33 U.S.C.
18 § 2709; pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201; and pursuant to 28 U.S.C.
19 § 1331.

20 25. This Court also has subject matter jurisdiction over Plaintiff's claims brought
21 under state law by virtue of the supplemental jurisdiction provided in 28 U.S.C. § 1367, and
22 under the doctrine of pendent jurisdiction set forth in *United Mine Workers v. Gibbs*, 383 U.S.
23 715 (1966). Plaintiff's claims under state law arise from the same nucleus of operative facts as
24 the claims under federal law.

25 VENUE

26 26. Pursuant to 42 U.S.C. § 9613(b), venue is proper in any district in which the

27 ⁴ The hazardous substances identified in this sentence will be referred to as the constituents of concern
28 ("COCs").

1 release or damages occurred. The releases of hazardous substances and damages occurred in San
2 Diego, California, which is in the Southern District of California.

3 **GENERAL ALLEGATIONS/ BACKGROUND**

4 **A. PLAINTIFF**

5 27. Plaintiff City of San Diego owns and operates a municipal storm water system
6 (MS4) through which it discharges urban runoff to San Diego Bay subject to the terms and
7 conditions of its National Pollution Discharge Elimination System ("NPDES") permit under
8 section 402 of the Clean Water Act.

9 28. From approximately 1914-1962, Plaintiff served as the designated public trustee,
10 via an Act of the Legislature of the State of California approved May 1, 1911, for the tidelands
11 property on which Defendants NASSCO and BAE SYSTEMS presently operate (the NAASCO
12 and BAE SYSTEMS leaseholds, respectively). From 1914-1962, Plaintiff did not conduct any
13 operations on the property at any time; Plaintiff did not discharge any hazardous substances from
14 these properties; nor did Plaintiff cause or permit any hazardous substances to be discharged
15 from these properties. The Regional Board did not find Plaintiff's past role of public trustee of
16 this property to be a basis for naming Plaintiff a "Discharger" or "Responsible Party" under its
17 Tentative Order.

18 **B. NASSCO**

19 29. Upon information and belief, from approximately 1945 to present, NASSCO
20 and/or its predecessors in interest have owned and operated a full service ship construction,
21 modification, repair, and maintenance facility located at 2798 Harbor Drive (28th Street and
22 Harbor Drive) in San Diego, California. Upon information and belief, NASSCO leases the land
23 on which its facility operates from the PORT DISTRICT, the designated public trustee of the
24 property since assuming that function from Plaintiff in 1962 ("the NAASCO Leasehold").

25 30. NASSCO's primary business has historically been ship repair, construction, and
26 maintenance for the NAVY and commercial customers. Current site features include offices,
27 shops, warehouses, concrete platens for steel fabrication, a floating dry dock, a graving dock,
28 two shipbuilding ways, and five piers, which provide 12 berthing spaces.

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

1 31. Upon information and belief, the primary industrial processes which NASSCO
2 has historically conducted include: surface preparation and paint removal; paint application; tank
3 cleaning; mechanical repair/maintenance/installation; structural repair/alteration/assembly;
4 integrity/hydrostatic testing; paint equipment cleaning; engine repair/maintenance/installation;
5 steel fabrication and machining; electrical repair/maintenance/installation; hydraulic
6 repair/maintenance/installation; tank emptying; fueling; shipfitting; carpentry; and
7 refurbishing/modernization/cleaning.

8 32. Upon information and belief, the primary materials used by NASSCO in its
9 operations have historically included 1) abrasive grit (sometimes consisting of slag from coal-
10 fired boilers and often containing iron, aluminum, silicon, calcium oxides, copper, zinc and
11 titanium; also sand, cast iron or steel shot is used; enormous amounts are needed to remove paint
12 and it is needed in both wet and dry blasting); 2) paint (containing copper, zinc, chromium, lead,
13 and hydrocarbons; anticorrosive paint often containing lead and zinc; antifouling paint often
14 containing copper and tributyltin); 3) miscellaneous, including oils, grease, fuels, weld,
15 detergents, cleaners, rust inhibitors, paint thinners, hydrocarbon and chlorinated solvents,
16 degreasers, acids, caustics, resins, adhesives/cement/sealants and chlorine.

17 33. Upon information and belief, the wastes commonly generated by NASSCO
18 historically in its operations have been abrasive blast waste (with the largest concern being spent
19 paint containing, among other substances, copper, tributyltin, lead, chromium and zinc); fresh
20 paint; bilge waste/oily wastewater; blast wastewater; oils; waste paints; construction repair
21 wastes and trash; and miscellaneous wastes consisting of lubricants, grease, fuels, sewage, boiler
22 blowdown, condensate, discard, acid wastes, caustic wastes, and aqueous wastes.

23 34. In 1972, the Regional Board initiated an investigation to determine the amount of
24 and kinds of pollutants that entered San Diego Bay from shipbuilding and repair facilities, and
25 the possible effects that pollution could have on beneficial uses of the Bay. All shipbuilding and
26 repair facilities were inspected. The report noted, *inter alia*, the following:

27 a. It was estimated by workers and managers at all San Diego Bay shipyards
28 that 5-10 percent of the sand blasted waste and other waste was either intentionally or

1 fluids until the late 1980s. Waste oil likely containing PCBs was applied to the ground for dust
2 and weed suppression. PCB impacted soil was removed from the site and a nearby storm drain
3 in the mid-1990s.

4 g. Material Storage Yard: The site was used between 1939 and 1995 as an
5 unpaved storage yard for metal finishing, preservation and packaging at Building 321. In the
6 1990s, metals, PAHs and PCBs were identified in soil at the site.

7 h. Brinser Street parking area: NAVY constructed floating dry docks and
8 barges here near its Pier 7 between 1941 and 1945. Facilities included 2 shallow creosote dip
9 ponds used to treat lumber on the site. Soil investigations have revealed presence of petroleum
10 products, PAHs and metals, among others. Surface water run off could have transported
11 pollutants to the Bay.

12 i. Drydock sandblast area: The drydock sandblast grit area is located
13 immediately east of Piers 5 and 6. The site has been used for overhaul and maintenance of ships,
14 repair of ship components and contractor equipment since 1942. Operations here, which
15 continue to present, include sandblasting and painting. Copper abrasive blast material was used
16 to remove anticorrosive and antifouling paint from ship hulls. A railcar and silo transported and
17 stored the sandblast grit. Open air sandblasting took place until 1993. In October 1992, visible
18 surface contamination was removed, and the elevated levels of arsenic, iron, lead, manganese,
19 copper, and nickel, among others, were detected.

20 j. Historic operations at present NASSCO leasehold: Between 1938 and
21 1956, NAVY operated the 28th Street Shore Boat Landing Station, currently part of the NASSCO
22 leasehold, consisting of a finger pier and various machine and electrical shops and stores. On
23 information and belief, the activities conducted were most likely similar to those at a small boat
24 yard. Typically, such activities include scrubbing boat hulls, blasting, and painting. Paints used
25 typically include copper, arsenic, and mercury. Activities historically occur outside, close to
26 receiving waters. In its 1970s investigation of shipyards, the Regional Board concluded that in
27 San Diego Bay, heavy metal concentrations were higher in sediment near boatyards and
28 shipyards. Core sampling in the area of these former NAVY operations indicates that there are

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

1 metals, tributyltin and PCBs likely attributable to NAVY's operations.

2 107. Upon information and belief, current NAVY operations on the wet side also likely
3 discharge pollutants into San Diego Bay from in and around NAVSTA's 13 piers berth ships,
4 barges and support vessels. Berth-side repair and maintenance conducted is believed to include
5 abrasive blasting, hydro-blasting, metal grinding, painting, tank cleaning, removal of bilge and
6 ballast water, removal of anti-fouling paint, sheet metal work, electrical work, mechanical repair,
7 engine repair, hull repair and sewage disposal. More complex similar activities are typically
8 conducted at the graving dock or floating dry dock. Discharges include industrial process water
9 or stormwater contaminated with abrasive blast material, paint, oils, lubricants, fuels and
10 solvents. NAVY ship movements and tidal flows work to distribute pollutants from NAVSTA to
11 the Shipyard Sediment Site.

12 108. On information and belief, additionally, NAVY currently and historically has
13 many of its ships and other vessels serviced at the NASSCO leasehold operations and the BAE
14 SYSTEMS leasehold operations. On information and belief, NAVY would provide detailed
15 specifications for all repair, overhaul, construction and maintenance work on its ships to
16 NASSCO, NATIONAL STEEL & SHIPBUILDING CORPORATION, NATIONAL IRON
17 WORKS, MARTINOLICH SHIP BUILDING COMPANY, BAE SYSTEMS, the SDMCC
18 DEFENDANTS, and the CAMPBELL DEFENDANTS. Upon information and belief, this
19 included, but was not limited to, what type of antifouling and marine paints to use on NAVY
20 ships, which were NAVY or U.S. Military formulations; other painting specifications for NAVY
21 ships; how to conduct abrasive blasting and scraping on ships; and how to conduct hull cleaning
22 on ships. On information and belief, NAVY has and had its own offices and/or conference
23 rooms and/or NAVY operated facilities at the current NASSCO and BAE SYSTEMS leaseholds,
24 both presently and historically. On information and belief, NAVY personnel on the ships and
25 vessels also themselves conducted such repair, overhaul, construction and maintenance work on
26 NAVY ships while those ships were docked at the facilities owned and operated by NASSCO,
27 NATIONAL STEEL & SHIPBUILDING CORPORATION, NATIONAL IRON WORKS,
28 MARTINOLICH SHIP BUILDING COMPANY, BAE SYSTEMS, the SDMCC

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

1 DEFENDANTS and the CAMPBELL DEFENDANTS. Discharges from this work on NAVY
2 ships and vessels from this work, which NAVY was aware of and intended via its issuance of
3 detailed specifications for this work, and which NAVY itself caused from its own work on these
4 ships and vessels while docked at these shipyards, likely contributed to the discharge of
5 hazardous substances into the Shipyard Sediment Site, including metals (arsenic, cadmium,
6 copper, lead, mercury, zinc), tributyltins, PAHs, and PCBs.

7 109. Upon information and belief, NAVSTA's dryside consists of facilities east of
8 Harbor Drive, and contains at least 8 of its own MS4 storm drains. NAVY owns and operates its
9 own MS4 storm water conveyance system. Some 266 acres of NAVSTA drain directly to
10 Chollas Creek.

11 110. The Regional Board has alleged in Tentative Order R9-2005-0126 that NAVY
12 has caused or permitted the discharge of pollutants to the San Diego Bay in violation of its
13 NPDES permit, including excessive concentrations of copper, lead and zinc.

14 111. The Regional Board has further alleged in Tentative Order R9-2005-0126 that
15 NAVY caused or permitted waste from its NAVSTA operations to be discharged into the Bay,
16 via storm water, tides and ship movement, and discharged directly into the Shipyard Sediment
17 Site through its prior operations at the 28th Street Shore Boat Landing Station, in violation of
18 waste discharge requirements, and discharged or deposited waste where it was discharged into
19 the Bay creating, or threatening to create, a condition of pollution or nuisance. The Regional
20 Board has alleged that NAVY has violated Water Code section 13304 and violated its NPDES
21 permit requirements under the Clean Water Act section 402.

22 112. NAVY's own studies suggest that a chronic substantial source of PAHs to San
23 Diego Bay is from creosote treated pilings, like those on NAVY's Mole pier.

24 113. Upon information and belief, the NAVY has intentionally or accidentally
25 discharged the COCs from its operations and these discharges have resulted in the contamination
26 of the sediment at the Shipyards Sediment Site.

27 **J. PORT DISTRICT**

28 114. Since 1962, the PORT DISTRICT has had an ownership interest, as a public

Attachment CC

**Excerpts from the Transcript of the California Regional Water
Quality Control Board Public Meeting/Hearing, dated November
March 14, 2012**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

GRANT DESTACHE, CHAIR

In the Matter of the)
Regional Board)
Public Meeting/Hearing)
ITEMS 8 and 9)

TRANSCRIPT OF PROCEEDINGS, taken at
9174 Sky Park Court, San Diego, California,
commencing at 9:00 a.m., on Wednesday,
March 14, 2012, heard before the SAN DIEGO
REGIONAL WATER QUALITY CONTROL BOARD,
reported by BONNIE G. BREEN, CSR No. 5582,
a Certified Shorthand Reporter in and for
the State of California.

1 about that in the revision, and probably not because
2 that would not be a legitimate basis upon which to name
3 the Port District as a primary discharger.

4 Now, to go back even further, I did some more
5 research. And in 1990, the Port and this very Board,
6 but of course with different members and different
7 lawyers and different Port District officials, had this
8 same go-around in another Cleanup and Abatement Order;
9 and, surprisingly, it also involved NASSCO. And what
10 happened was, the Port District challenged again being
11 named as a nonoperating public entity landlord its
12 designation by this Board as a primary discharger.

13 So the Port District appealed up to the State
14 Board. The State Board remanded it back to you all to
15 decide to say, Hey, you already have decided that the
16 Port really should only be a secondarily named or a
17 primarily named discharger only when the tenants don't
18 have the financial resources to do the cleanup or they
19 are not complying in some other way, because we are in a
20 position as their landlord to compel them to comply with
21 your all orders and actually assist you.

22 What happened was that the Board, the Regional
23 Board and the Port District came to an agreement to
24 stave off a petition to the Superior Court and agreed to
25 start putting in different tenants', shipyard tenants'

1 permits the following; and I want to read it into the
2 record: "The Regional Board will notify the Port
3 District of any violation by the tenant of any permit
4 conditions for the purpose of obtaining the assistance
5 of the Port District in attempting to obtain compliance
6 by the tenant. The Port District is not primarily
7 responsible for compliance with the permit requirements.
8 The Regional Board will not take enforcement action
9 against the Port Districts for violations by the tenant,
10 unless there is a continued failure to comply by the
11 tenant after the Port District has been given notice of
12 the violations and until the Regional Board has issued
13 against the tenant either a Cleanup and Abatement Order,
14 cease and desist order, or a complaint for
15 administrative civil liabilities."

16 That was over 14 years ago that that was done;
17 and that has been a long-standing practice. And you'll
18 see that, throughout the course, if you go back and look
19 at the previous Tentative Cleanup and Abatement Orders
20 in this action, we have never been decided by you all to
21 be a primary discharger until the September 15th, 2010
22 TCAO came out, which was coincidentally nine months
23 after the Port pulled out of the voluntary mediation.

24 And, also, on that point, and back to Finding
25 Number 11, it goes on to say that allocation of

1 responsibility has not been determined; and there is
2 insufficient evidence to establish that present and
3 former Port District tenants at the site each have
4 sufficient financial resources to perform all of the
5 remedial activities required by this CAO. In addition,
6 cleanup is not underway at this time. Under those
7 circumstances, it is not appropriate to accord the Port
8 District the secondary liability status it seeks.

9 So apart from that turning on its head
10 established state law precedent set by the State Water
11 Board, it also violates the long-term practice of this
12 Water Board in Region 9.

13 The Board also stated back in 1990 that it
14 would only take enforcement action against the Port only
15 as a last resort and only after the Port had ample
16 opportunity to compel the Port's tenants to comply with
17 the Regional Board's orders. So that is a reason why we
18 would ask that you all reconsider your decision to name
19 the Port as a primary discharger in this matter.

20 This Board, this proposed cleanup loses
21 nothing by restoring the Port District to its status as
22 secondarily liable. We are still here. Despite what
23 everyone may read in the newspaper, we are still
24 functioning, and we are still serving as a great ally to
25 all of you in the upcoming challenges and ongoing

1 cleanup challenges that we have, not only with respect
2 to San Diego Bay and the shipyard sediment site, but all
3 the TMDLs and all of the other issues that we have going
4 on.

5 So we would respectfully request that you
6 restore us to our secondary liable status, if and until
7 there is a showing that the tenants cannot financially
8 satisfy their obligations -- although, from all the
9 positive comments today, it looks like everyone is on
10 board and ready to go -- or until there is
11 noncooperation.

12 Just, finally, in terms of the revisions, the
13 MS4 situation with the owner and operations, there was
14 nothing in the revised comments about any of the
15 testimony that the Port District does not own or operate
16 the MS4. And you will also, by going back to the
17 earlier TCAOs issued in 2005, 2007 and 2009, you will
18 not see any mention made of any connection between the
19 Port District and the MS4. That was solely a City
20 obligation and a City liability. And that was
21 established by the conveyance originally of those
22 stormwater areas from the City to the Port in 1963.

23 When BAE remodeled, it did some remodeling of
24 its shipyard site, and there was a reconfiguring of that
25 shipyard drainage that the Port District is now alleged

Attachment DD

**City of San Diego's Report for the Investigation of Exceedances of
the Sediment Quality Objectives at National Steel and Ship Building
Company, dated July 15, 2004**

City of San Diego

**REPORT FOR THE INVESTIGATION OF
EXCEEDANCES OF THE
SEDIMENT QUALITY OBJECTIVES AT
NATIONAL STEEL AND SHIPBUILDING
COMPANY SHIPYARD**

July 15, 2004



Storm Water Pollution Prevention Program
1970 B Street, MS 27A
San Diego, CA 92102

Introduction

This report was prepared by the City of San Diego in response to the San Diego Regional Water Quality Control Board (Regional Board) formal request for an investigation related to sediment contamination at National Steel and Shipbuilding Company Shipyard (NASSCO) dated February 19, 2004.

This report was divided into the following 6 sections based upon the Regional Board's inquiry for information:

1. Leasehold Research
2. Maps
3. Monitoring Data Analysis
4. Chollas Creek Plume Study Review and Comments
5. Abatement Measures and Interim Corrective Actions
6. Conclusions

1. Leasehold Research

In an effort to comply with the Regional Board's request, Storm Water Program staff contacted the Real Estate Assets Department and the City Clerk's Office for access to the old leasehold documents. Over the course of several days, it was determined that the City Clerk's Office sent the San Diego Bay tideland leases and other historical records to the San Diego Historical Society in the early 1980's. Normally these records contain a variety of information ranging from the lease, lease amendments, plot plans, resolutions, document numbers and correspondence. However, not all lease files contained all information. It was determined that no comprehensive list of San Diego Bay tideland leaseholds exists. Staff reviewed 14 boxes of City leasehold files that were mixed in with the oil and gas lease files. These boxes were unorganized with no references to locations or dates requiring that each individual file be reviewed. Based upon the numerous sources, the following information has been gathered:

City of San Diego Wharf Franchise

The City of San Diego granted wharf franchises during the 1800's prior to the creation of the State Harbor Commission. A wharf franchise would be granted to those individuals who advertised in the local newspaper. In 1887 a 25-year wharf franchise was granted to H.P. Whitney and William Skelton for a pier at the foot of 28th Street.

California State Harbor Commission (1889- April 1911)

During the course of this research it was found that the State of California had appointed members to the State Harbor Commission for San Diego Bay. This commission was responsible for oversight of the development of San Diego Bay tidelands from 1889 through April 1911. During this time in San Diego Bay's history, there were no documents available for review. On May 1, 1911, the State of California transferred the authority for the San Diego Bay tidelands to the City of San Diego. The City of San

Diego created the Harbor Department to perform the administrative duties and provide recommendations to the City Council for review and approval.

City of San Diego Tenant Information (May 1911 – December 1962)

The City of San Diego researched all of the available tenant files at the San Diego Historical Society. Copies were gathered and used to generate the table entitled NASSCO Shipyard Tenant Lease Information, Attachment 1. This Excel spreadsheet lists the dates of the lease, business name, lease description, use, tenant responsibilities, tenant liabilities, laws and regulations, parcel number, document numbers and resolution numbers. The spreadsheet is organized in chronological order with the vast majority of these leasehold documents being approved after the City of San Diego's creation of the Harbor Department. There are two leaseholds listed prior to 1911. Because each leasehold property had multiple parcels, leases and/or amendments, the spreadsheet was set up with an individual row for each parcel and its individual lease and/or amendments.

As businesses names changed or were incorporated, new leases were reissued to the new entity showing up as a new tenant with a new entry. Due to this process, a particular business may appear on multiple rows. References to particular lease conditions are indicated as numbers within parentheses for future reference to lease documents, if necessary.

During the lease research it was found that particular conditions were incorporated to address storm water discharges. Some conditions required the tenants to obtain and maintain insurance policies, or to be responsible for liability due to loss or damage, and indemnification clauses. The most important of these conditions is lease condition seven (7). It appeared in the leases and amendments for Standard Oil Company and San Diego Marine Construction and states:

"It is further stipulated and agreed that this lease is made upon the express condition that the said Lessee will make such provisions for the disposal of surface storm waters emptying into the Bay of San Diego, at any point where said described tide lands would be reclaimed by the Lessee of said tide lands, as may be required of it by the Harbor Commission of the City of San Diego. It is further understood and agreed that the cost of making such provision of the disposal of such storm waters shall be borne wholly by the said Lessee."

Condition eight (8) or nine (9) refers to the tenant requirement to comply with all existing laws or those to be enacted in the future and states:

"Reference is hereby made to all laws as now existing, and as hereafter amended or enacted applicable to the leasing of tide lands by the City of San Diego, and by such reference all restrictions or conditions imposed, or reservations made thereby, are made a part of this lease, with like effect as though the same were expressly set forth herein."

In the 1940's, indemnify conditions started to be incorporated into the lease conditions. This condition required the tenants to indemnify the City of San Diego and is routinely noted as condition five (5) and states:

"The corporation shall indemnify and keep the City harmless from any claims, costs, or judgments proximately resulting from its operations and occupancy under the terms hereof; provided however, that prompt notice of any such claim as may be filed with the City shall be given to the Corporation, and it shall be afforded the timely privilege and option of defending the same."

Additionally, the City of San Diego required tenants to obtain and maintain liability insurance. This condition is normally found as condition twelve (12) and states:

"Lessee agrees to take out public liability insurance with an insurance carrier satisfactory to Lessor to protect against loss from liability imposed by law for damages on account of bodily injury and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from the acts or activities of the Lessee or any person acting for it or under its control or direction, or any person authorized by it to use the leased premises. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this lease in amounts of not less than \$10,000 (varied from lease to lease) for one person injured in one accident, and not less than \$20,000 for more than one person injuries in one accident, and not less than \$5,000 with respect to any property damage aforesaid."

During the course of this research it was unusual to find maps that indicated build size or location. The leaseholds where this information was available are Mario and Edith Bianchi (1953) and San Diego Marine Construction Company (1937). There is no explanation why these particular leaseholds had documentation of structures on the premises. Copies of these property drawings are provided as Attachment 2. Additional parcel square footage information was found during the leasehold research. This information is provided in Attachment 3 entitled NASSCO Shipyard Tenant Information. This spreadsheet provides basic information regarding tenant name, location, lease start and end dates, parcel numbers, resolutions, document numbers and ordinances.

These lease agreements provided information regarding the uses of the property but does not discuss the types of materials used on site, how they were stored, how those materials were disposed, or spill reporting prior to the creation of the Port of San Diego. At this time the City cannot provide information regarding these questions as outlined in the February 19, 2004 letter.

2. Maps

Over a period of days, staff researched the City's records for storm drain maps located at the City Clerk's Office and at the Engineering and Capital Projects Department. The

City's records do not contain all storm drain system information from the beginning of the twentieth century. The only historical map available is from 1942 (Attachment 4). The storm drain system is shown as a 4 x 3.5 foot reinforced concrete box along the southerly side of Belt Street in this drawing.

A current storm drain system map is enclosed for your reference as Attachment 5. This map indicates that the City storm drain system enters the NASSCO leasehold at the foot to 28th Street and terminates at the southeasterly corner and discharges into Chollas Creek. This storm drain outfall is referred to as SW9 in NASSCO sediment report map prepared by Exponent, a private company, dated September 23, 2003 (Attachment 6). Our research did not validate the Exponent report that storm drain SW3 is part of the City of San Diego storm drain conveyance system.

Scaled figures delineating tenant boundaries are enclosed as Attachment 7 and entitled NASSCO Shipyard Tenant Information Parcel Animation Supplement. The maps start at with the first tenant on record through 1962. There is a map for every year that a change in boundaries was recorded. Included with each map is a table providing information on the business name, parcel size, business code and lease start and end dates. The Shipyard Business Code spreadsheet (Attachment 8) was developed for color coding of parcel types for viewing of these maps on the enclosed CD (Attachment 9). This CD has instructions on how to open and view the maps in any ArcView program.

3. Monitoring Data Analysis

In order to link sediment to wet weather one should rely on multiple lines of evidence and one of those lines of evidence is to look at gradients to see if a strong gradient signal indicates that sediments are moving out from or into the river channel. The data collected offshore as dry weight concentrations do not provide evidence of this gradient. Second we would expect to see some correlation in the chemistry collected in the urban runoff program monitored samples (wet and dry weather sampling) and the contaminants observed in the sediments.

Historical urban runoff monitoring data both wet and dry seasons suggest signals of copper, zinc, and diazinon in Chollas Creek. Therefore, if there is a link between offshore contaminant of sediments and creek inputs one might reasonably expect to find a gradient of contamination of offshore sediments of these contaminants. Review of the historical sediment monitoring data collected at offshore station locations shows no evidence of a gradient of contamination.

Monitoring data from the Co-Permittee monitoring program was reviewed for this analysis and included sediment samples collected upstream in Chollas Creek and at the mouth of Chollas Creek in San Diego Bay from 1996 to 2000, wet weather data from the mass loading station in Chollas Creek from 1996 to 2004, dry weather data within the Chollas Creek watershed areas MS4 system from 2002 to 2003 (Table 1 and Table 2).

Examining the organic carbon normalized concentrations of chemical contaminants in sediments provides some generic observations. These include:

- There is large interannual variation in the pre and post event sediment concentrations. Whether this is because of variation in the laboratories performing these analyses or actual differences in sediment concentrations needs to be addressed.
- Chollas Creek sediments generally have lower concentrations/TOC than the bay sediments; although this is not always the case and can vary between years, season, and chemical of concern.
 - This would indicate that the Chollas Creek sediments are generally less contaminated than the Bay sediments per unit of TOC, again this is not always the case.
 - When comparing the carbon normalized concentrations in Chollas Creek to the carbon normalized concentrations in the bay, the relationship was generally less than 1 (this ranges widely from 0.1 to >88 fold).
- The average contaminant concentration per unit TOC seen in Bay sediments off the Chollas Creek discharge is generally greater in the shallower, near-shore stations during the dry weather period. After wet weather periods, higher concentrations are generally observed further offshore (again this is not always the case).
 - At times the higher pre-event concentrations are seen at Stations 1 or 2 while the post event elevated concentrations are seen at stations 2 or 3. This would indicate that the fine-grained sediment material moves back and forth from shallower to deeper waters based on creek flow as modified by on and offshore tidal movements probably combined with alongshore transport flow. Transport of easily suspended particles (low density, organically enriched particles) probably controls the ultimate distribution of the contaminants off the Chollas Creek discharge.

4. Chollas Creek Plume Study Review and Comments

The City of San Diego had MEC Analytical Systems - Weston (MEC) review the Spatial and Temporal Evolution of Storm Water Plumes Impacting San Diego Bay poster that was provided by the Regional Board. The review of this poster resulted in the following conclusions. This review included conducting an independent analysis of data presented in the poster.

Analytical and sampling differences may result in differences in data compatibility. These differences include flow-weighted composites collected by the City of San Diego using ISCO samplers on the upstream locations; time-weighted sampling (hourly) and averaged analyses for the outfalls that were performed by Law Crandall, and discrete

receiving water samples collected before, during and after rain events. The discrete sampling events are all in marine waters, while the compositing methods are in freshwater environments. Both the method of sampling and compositing as well as the type of water can influence the apparent concentrations.

The method of sampling and compositing has the potential for increasing or decreasing the apparent average concentrations by missing or over-sampling events that are not evenly distributed through the storm water cycle. Storm water discharge events have very abrupt changes in flow rates as evidenced by the mapping of the events off the mouth of the creeks. Sampling with different strategies for each of these groups increases the noise relative to the signals that we are trying to understand.

When fresh water comes in contact with marine waters, there are three issues that may influence assessment of the information.

- First, there are analyses that have issues related to salt interference (e.g., Cu is one of those where the salts actually provide false positives, increasing the apparent concentration of copper in marine waters).
- The second is the phenomena of flocculation that occurs when freshwater comes in contact with sea water. The flocculation of materials that are smaller than 0.4 um in diameter occur when freshwater is diluted into sea water (most of the change occurs in the 1-2 ppt salinity range). This increase in particles may result in a reduction in the contaminant TSS relationship if the particles that are being produced have lower concentrations of contaminants.
- The third issue is that when particles move from fresh to marine waters there is a competition for binding sites resulting in contaminants being released from particles and appearing as dissolved components.

The poster indicates an attempt to equate TSS contaminant levels (in ug/L) with sediment benchmarks (ERMs mg/Kg). These are not the same type of material or similar units and it is highly unlikely that there is a direct relationship between TSS contaminant concentrations and sediment values. One modification to this process that might be worth pursuing would be to examine the TOC concentration on suspended solids and assume that the TOC normalized contaminant concentration on TSS might be more similar to the TOC normalized contaminant concentration in sediments. While this is not a complete answer it might be more indicative of any potential continuation of contamination from TSS emanating from these creeks. Our assumption is that the surrounding sediment will have TOC concentrations in the 1-2% range while the suspended solids materials will have TOC concentrations in the 20-40% range. If these assumptions are correct the possible influence of TSS on sediment contamination would be 10-40-fold less than predicted based on the poster presentation.

Basically, the poster is a good first step towards evaluating these data but it does not appear that it has gone as far as it can in identifying potential sources of contamination. In general, it appears that the organic contaminants are historical issues and are mostly a regional not localized source issue (PCBs at Paleta Creek outfall being an exception) and that the metals appear to have a potential localized source contributing to the regional background relationships of contaminant/TSS. The fate and transport of offshore contributions of TSS having different concentrations of contaminants/TSS influence the distribution of sediment contaminants but the present type of data is not sufficient to tie this down very closely.

Analyses of Data Presented in Poster

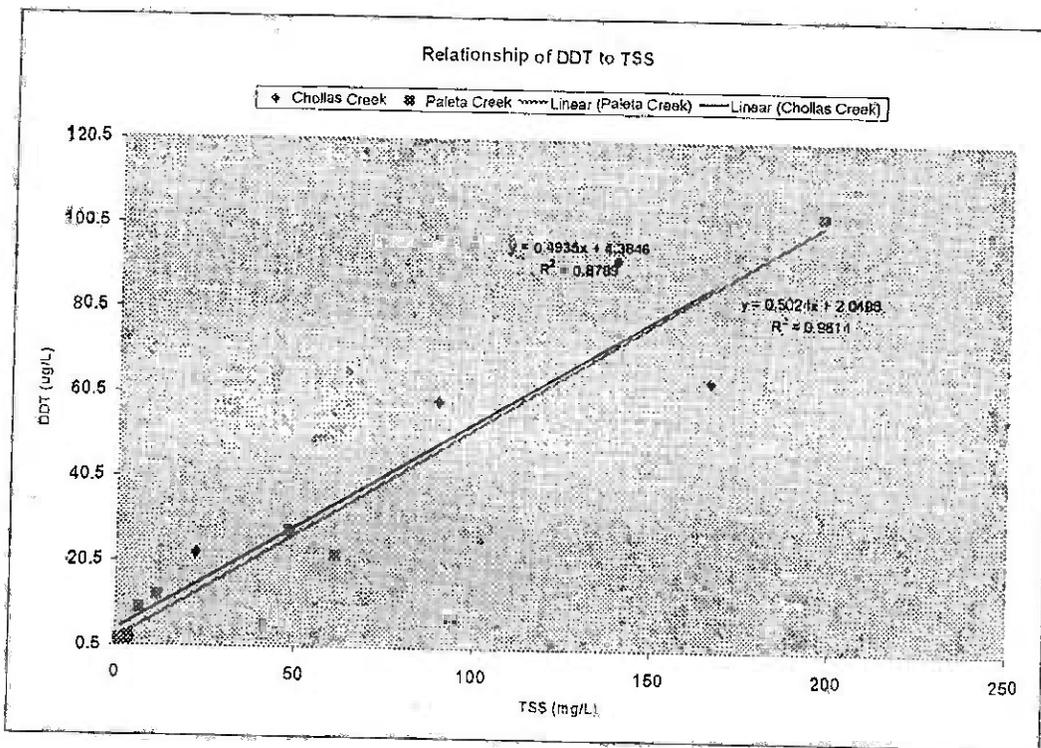
Because of potential risks for noisy data using the different collection techniques indicated above, data was analyzed for relationships of TSS with contaminants from each of the Creek areas. These relationships are likely to have less variation than total concentration values. The objective was to determine which chemical contaminants appear to be regional issues and which contaminants appeared to be added locally by receiving waters. Where relationships between TSS and contaminants are the same, this will indicate a more regional issue relating to the chemical contaminants. Where there are differences, it suggests a locally source of chemical contamination.

This was accomplished by plotting the TSS contaminant relationships for each creek, overlaying that data to determine whether the relationships associated with each creek are the same (if so, then the effects are regional), examining the largest residuals (outliers) to determine whether the outfalls, upriver, or receiving water samples had higher (local source) or lower (dilution with other suspended solids that are less contaminated) than expected concentrations relative to the TSS.

Because of the way samples were collected load could have been influenced by discrete vs. composite. The load can be influenced by sampling so the only way to pull this out was to compare contaminant material to suspended solids. As flow increases suspended solids concentrations carried in the water increase and decrease but the contaminant to TSS relationship should remain the same unless the contaminants originate from a different source (which will exhibit a different contaminant to TSS relationship). A high contaminant concentration per unit TSS is indicative of a source while a lower contaminant per unit TSS is not indicative of a source. A good example of a regional source is DDT contamination.

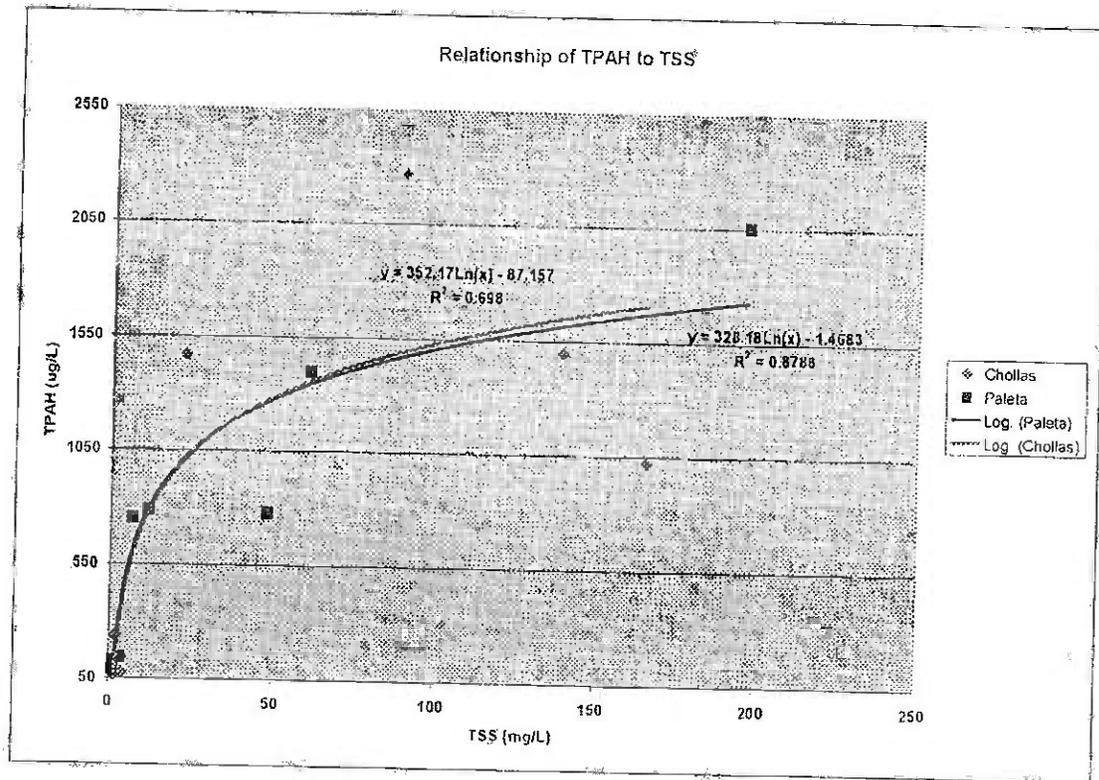
DDT

DDT concentrations are highly correlated with TSS. Chollas and Paleta Creeks show no differences between DDT/TSS relationships; the outfall and upstream DDT/Total Suspended Solids (TSS) relationships are also equal. All of these attributes say that the DDT contaminant concentrations are a regional issue, not a locally derived source. Two outliers exist and they are stations C1 and C2 during the rain events and the concentrations of DDT/TSS are less than predicted indicating dilution with cleaner suspended solids (e.g., plankton populations or flocculation that produces a mixture of particles that have lower DDT/TSS concentrations).



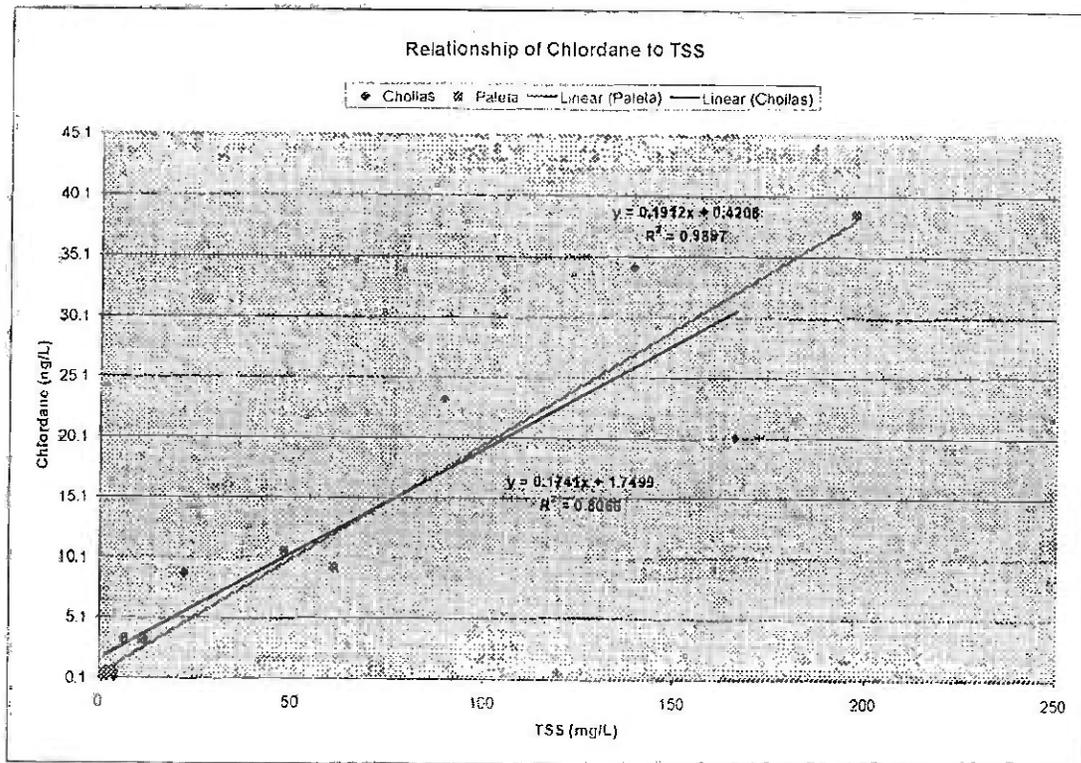
Total Polycyclic Aromatic Hydrocarbons (TPAH)

TPAH concentrations are also highly correlated to TSS; Chollas and Paleta Creek samples are equivalent indicating a regional contribution; Stations C1 and C2 during rain events are outliers showing the same relationships and potential causes as observed with DDT; Also C1 after the rainfall event and the Chollas Creek outfall has higher than expected TPAH/TSS concentrations indicating local sources within the creek and outside as potential contributors.



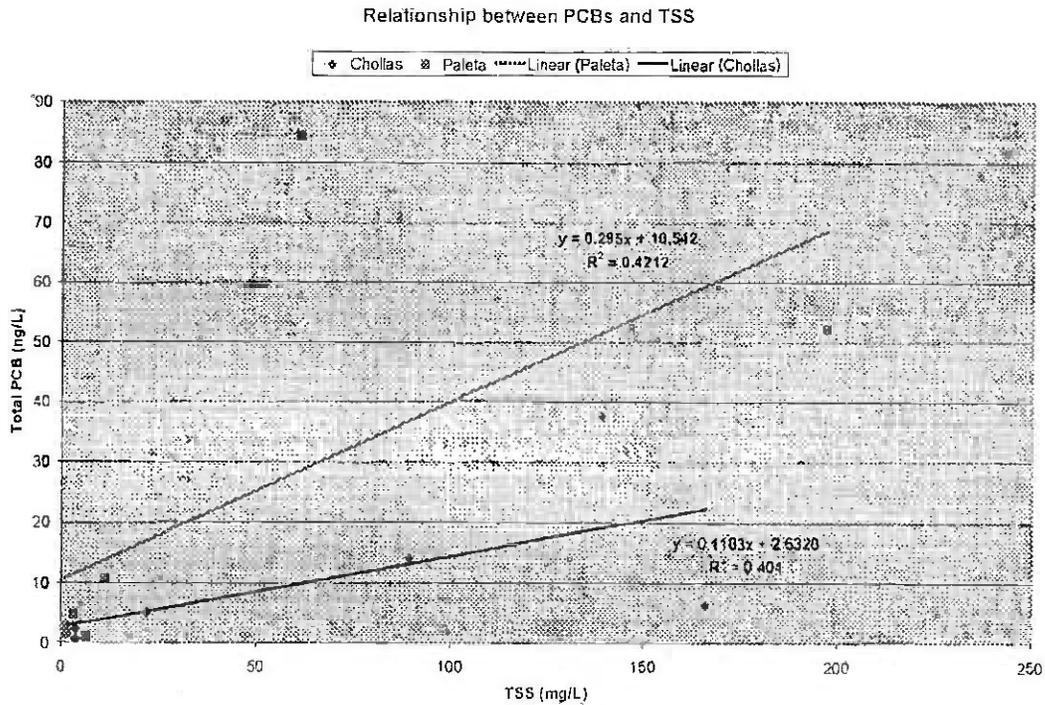
CHLORDANE

Chlordane is also highly correlated to TSS, Chollas and Paleta Creeks are equivalent; the outfall and upstream samples are equivalent with all of the former indicating a regional contribution; Outliers are again C1 and C2 during the rain event with less chlordane/TSS than expected indicating the same type of dilution effect indicated for DDT and TPAH.



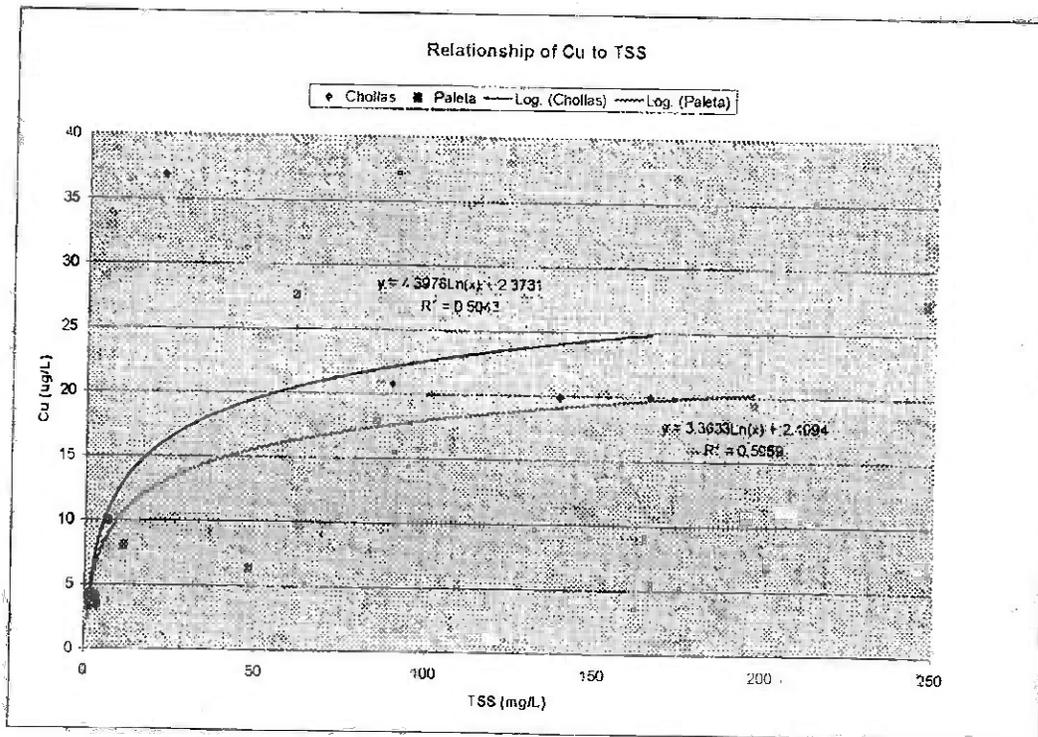
Polychlorinated biphenyls (PCBs)

PCBs are also highly correlated to TSS, however Chollas and Paleta Creeks do not appear closely related; the C1 and C2 samples during the rain event are again less contaminated than expected and causes are probably the same that resulted in the effects seen with DDT, TPAH, and chlordan. The Paleta Creek outfall sample had higher PCB/TSS concentrations indicating a potential localized source adding to the regional source.



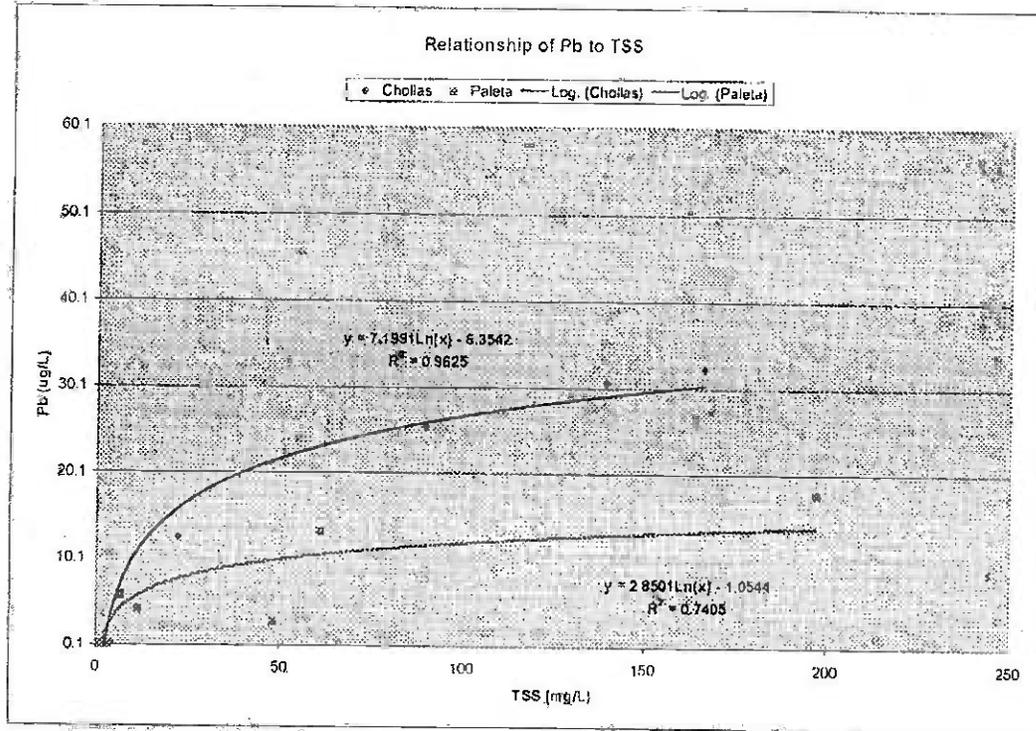
COPPER (Cu)

Copper is highly correlated to TSS; Chollas and Paleta Creek relationships are equivalent; however, the outfalls at both Chollas and Paleta Creeks have higher than expected concentrations based on the TSS concentrations indicating that these may be potential localized sources adding to a regional relationship.



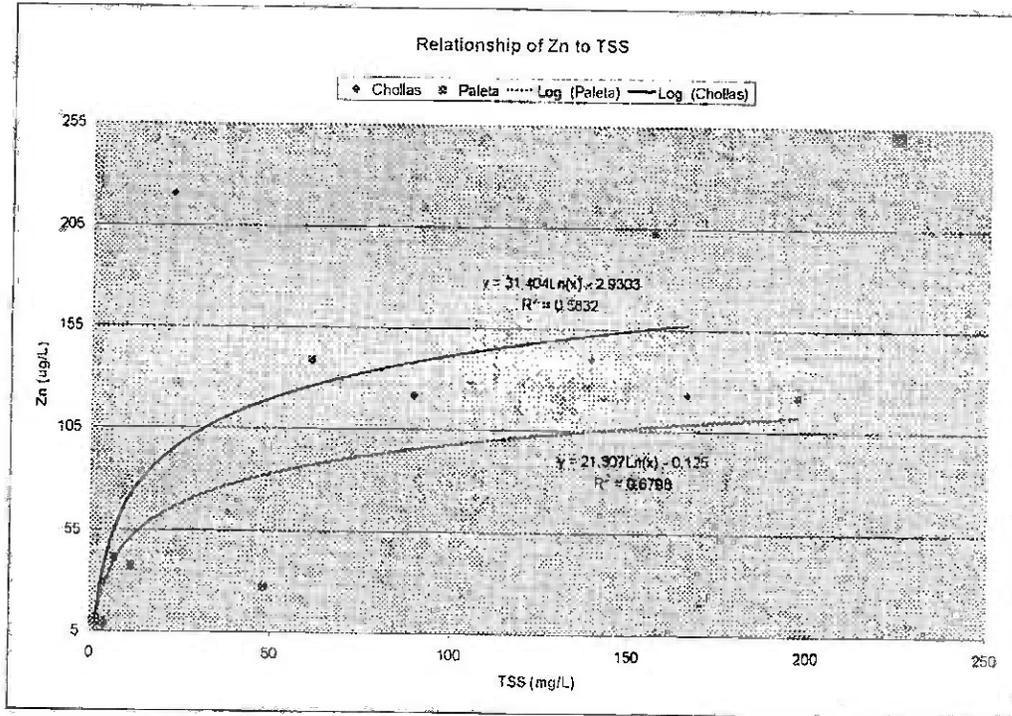
LEAD (Pb)

Lead is highly correlated to TSS but Chollas and Paleta Creeks do not have similar relationships. Localized sources of lead are expected with Chollas Creek having the highest relative contribution based on TSS relationships.



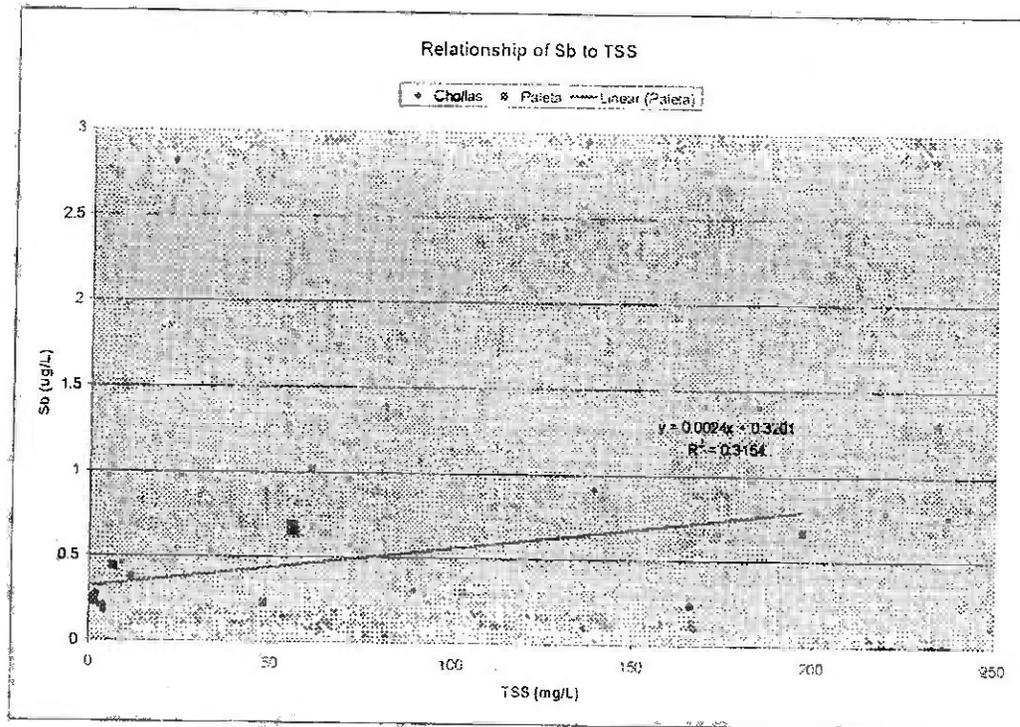
ZINC (Zn)

Zinc is correlated to TSS but Chollas and Paleta Creeks do not have the same relationships indicating localized sources of Zinc. Both Chollas and Paleta Creek outfalls have higher Zn/TSS relationships than expected.



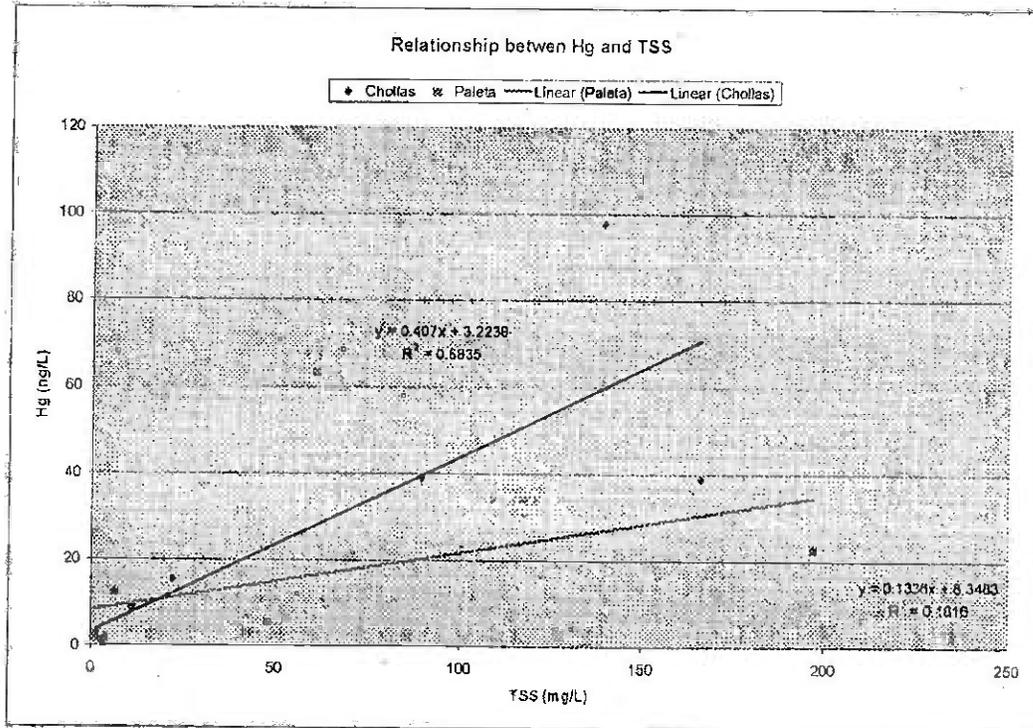
ANTIMONY (Sb)

Antimony has only a minor relationship to TSS; Chollas and Paleta Creek values are similar but the outfalls for each location have higher than expected Sb/TSS relationships indicating potential localized sources. Chollas Creek outfall samples have a higher Sb/TSS relationship that Paleta creek.



MERCURY (Hg)

Mercury is not closely related to TSS levels; Chollas and Paleta Creek outfalls have higher Hg/TSS ratios than other samples indicating that the outfalls may be potential localized sources for contaminated TSS. Chollas has higher levels of Hg/TSS than the Paleta Creek outfall.



5. Abatement Measures and Interim Corrective Actions

The City of San Diego has numerous activities underway and planned in the Chollas Creek watershed. A brief outline of these abatement and corrective activities follows.

The Storm Water Industrial (Inspection) Program inspected those industries in the Chollas Creek watershed that were defined as a high priority. Of those high priority facilities that were inspected, no businesses were found with conditions that required immediate enforcement actions. However, the City of San Diego and other agencies have taken enforcement actions against a plating shop in the Chollas Creek watershed. This facility operated for numerous years and was found to be out of compliance with a wide variety of environmental regulations.

Over the past few years, the Storm Water Program has coordinated with NASSCO during the Coastal Beach Cleanup Day at the mouth of Chollas Creek. This activity includes the pick up and disposal of hundreds of pounds of trash and debris from the creek. Currently, two additional cleanup efforts are being planned to help reduce the amount of trash and debris that enters San Diego Bay from Chollas Creek.

The City has obtained State grant funding for three projects on the Chollas Creek Watershed. The first is the Chollas Creek Water Quality Protection & Habitat Enhancement Project and is funded by the Costa-Machado Act of 2000 (Proposition 13). The City of San Diego is partnering with the Port of San Diego, Environmental Health Coalition, San Diego BayKeeper, the Cities of La Mesa and Lemon Grove and the San Diego Unified School District. This project will remove concrete sections of the channel of least 5,000 square feet, widen the floodplain by 300-800 linear feet and create and/or restore between 2-4 acres of native habitat. Along with the creek restoration activities, the project includes monitoring, education and outreach components. The project, including monitoring to assess the effectiveness of the restoration area(s) will be performed over the next 3 years.

The next grant project is the San Diego Bay Watershed Common Ground: San Diego Bay Watershed Demonstration Project. This project is funded by the Costa-Machado Act of 2000 (Proposition 13). The goal of this project is to establish and ensure the integrity of water quality data and make it available to the public in a manner that is simple to interpret, quickly accessible, helpful to decision makers, and fosters stewardship through a better understanding of our local waters. Project partners include City of San Diego, San Diego State Foundation, San Diego Unified Port, San Diego BayKeeper, and San Diego Association of Governments.

Four major tasks and subtasks will be coordinated through a technical advisory committee (TAC). The first component is the establishment of a public Regional Water Monitoring and Resource Center to store watershed data and assist those seeking information. Second, monitoring activities will be continued in support of Total Maximum Daily Load (TMDL) development addressing benthic community degradation and sediment toxicity at several locations in San Diego Bay. Last, San Diego State

University Department of Geography will lead the development of a Geographic Information System (GIS) database for water resources and creation of an interactive web-based water quality resource with maps, data, tables, charts, and other information.

A third is a Costa-Machado Act of 2000 (Proposition 13) PRISM grant for Integrated Pest Management in the watershed is underway. This grant has two geographical components: the San Diego region and the Chollas Creek Watershed. Within the watershed, this grant will be primarily aimed towards the residential sector, to induce positive changes in attitudes and behaviors regarding pesticide use in urbanized watersheds in order to protect and restore affected beneficial uses of receiving waters of the Chollas Creek Watershed. The project will include an extensive assessment component in order to evaluate the effectiveness of educational tools and strategies and focused activities, including water quality monitoring within the Chollas Creek Watershed in accordance with the *Chollas Creek TMDL for Toxicity*.

The goal of this project is to disseminate information about IPM principles and practices and encourage their adoption by San Diego residents within the Chollas Creek Watershed to improve and sustain water quality by reducing pesticide loads into the Chollas Creek Watershed. This goal will be accomplished by a partnership between the County of San Diego, City of San Diego and the University of California Cooperative Extension (UCCE) – San Diego Office.

The City of San Diego is also coordinating with the Regional Board, Port of San Diego, County of Orange and the City of Oceanside regarding the development of a Regional Harbor Monitoring Program. This collaborative effort aims to identify the water quality status and trends and ability of surface waters to support beneficial uses over the long term. To achieve this goal a plan was developed for the Regional Board with the following components:

1. Create an ambient monitoring program that addresses all harbors in the jurisdiction of the San Diego Regional Board using consistent and objective monitoring, sampling and analytical methods; consistent data quality assurance protocols; and centralized data management. This will be an umbrella program that monitors and interprets the data for each harbor at least once time in every five years. This program will include all segments of the harbor without bias to known impairment.
2. Document ambient water quality conditions at regular frequency in potential clean and polluted areas of each harbor using cost-effective technologies and methods.
3. Identify specific water quality problems, if any, preventing the attainment of beneficial uses of water in the region's harbors.

This program is currently undergoing review by the Regional Board.

The City of San Diego is also a stakeholder in the San Diego Bay TMDL process. We provide technical review and input to the Regional Board. We participate at meetings

regarding the development of sampling programs and review of analytical data. The City of San Diego is a partner during the development of these TMDLs.

6. Conclusions

Based upon review of the information at the San Diego Historical Society, leases during the State Harbor Commission jurisdiction are not available. Information on these lease agreements may be important to assess those facilities that may be a contributor to pollutants in the area. Review of the leases revealed that many of them had a reference to following the laws and regulations that were in place. Some leases included conditions for storm water disposal and liability for environmental issues that were caused from the leasee's activities.

It also became apparent during the records review process that there were numerous wharfs around San Diego Bay at the beginning of the twentieth century. The common material used to build these wharfs was creosote pilings. The typical size of a piling was 24-inches diameter on 10 to 12-foot spans. Each wharf would contain dozens of pilings. As business needs changed, the wharfs were removed. The most common method of removal is to cut the pilings off at the mudline. This practice leaves portions of the pilings in the sediments to slowly decompose, providing small areas of creosote in the bay bottom. Over time the pilings soften. During sediment sample collection procedures the old pilings may appear to be sediments, when in fact they are foreign objects. The sample collection from an old piling will result in elevated levels of Polycyclic Aromatic Hydrocarbons (PAHs).

Our research did not validate the Exponent report that storm drain SW3 is part of the City of San Diego storm drain conveyance system. City records indicate that the City's storm drain system enters the NASSCO leasehold at the foot to 28th Street and terminates at the southeasterly corner of the leasehold where it discharges into Chollas Creek. This storm drain outfall is referred to as SW9 in NASSCO sediment report map prepared by Exponent, a private company, dated September 23, 2003.

Analysis of the Dry Weather Monitoring Program and the data from the Regional Monitoring Program's Chollas Creek mass loading station indicate that there are signals of copper, zinc and diazinon. It is commonly assumed that the pollutants are contributing to the contamination at or near the mouth of Chollas Creek. This assumption relies on the idea that the contamination would be found on a gradient at the mouth of the creek. However, review of the data revealed that there is no gradient of contamination. This brings into question the level of contribution from the upstream sources and the creek.

Review of the Chollas Creek Plume Study found that the method of sampling and compositing has the potential for increasing or decreasing the apparent average concentrations by missing or over-sampling events that are not evenly distributed through the storm water cycle. Storm water discharge events have very abrupt changes in flow rates as evidenced by the mapping of the events off the mouth of the creeks. Basically,

the poster is a good first step towards evaluating these data but it does not appear that it has gone as far as it can in identifying potential sources of contamination. In general, it appears that the organic contaminants are historical issues and are primarily a regional not localized source issue (PCBs at Paleta Creek outfall being an exception) and that the metals appear to have a potential localized source contributing to the regional background relationships of contaminant/TSS. Contributions of TSS from offshore sources that may have a different contaminant concentration to TSS relationship may also contribute to the observed distribution of contaminants in the offshore sediments. Unfortunately the data included in the poster is not sufficient to address the offshore contribution of contaminants.

The City of San Diego is aware of the problems within the Chollas Creek Watershed and have numerous activities underway and planned. The City takes enforcement actions when individuals or businesses are found to be discharging pollutants to the storm drain system that drain into Chollas Creek and eventually into San Diego Bay. Currently we have three grant-funded projects underway in this watershed to assess water quality, restore habitat and educate the public. We are working with several partners to achieve these goals and are developing a Geographic Information System (GIS) database for water resources. Concrete will be removed increasing the permeability of area and creating a natural filter with vegetation, thereby reducing the pollutant load to San Diego Bay. We are also participating in the Regional Harbor Monitoring Program aiming to identify the water quality status and trends and ability of surface waters to support beneficial uses over the long term.

The City of San Diego remains committed to protecting the water quality at our beaches, bays and watershed, and will continue to assist the Regional Board in addressing the sediment quality concerns in San Diego Bay.

CERTIFICATION STATEMENT

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Karen Henry, Deputy Director

July 15, 2004

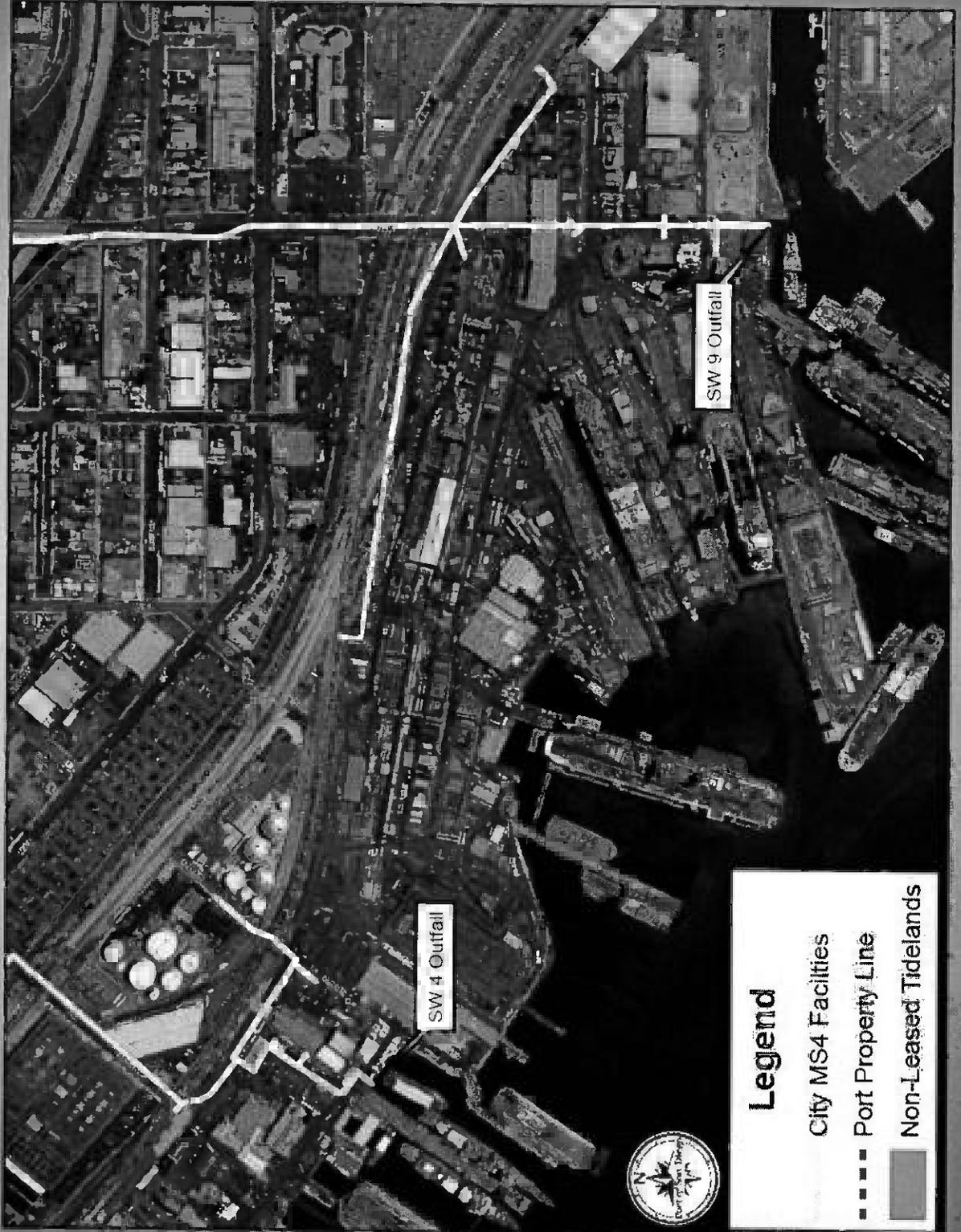
Attachments:

1. NASSCO Shipyard Tenant Lease Information spreadsheet
2. Property Drawings (5)
3. NASSCO Shipyard Tenant Information
4. 1942 Improvement Drawing
5. City of San Diego NASSCO Storm Drain System Map
6. Exponent Figure 1-4 dated September 22, 2003
7. NASSCO Shipyard Tenant Information Parcel Animation Supplement
8. Shipyard Business Code spreadsheet
9. CD of NASSCO Tenant Lease Information and Boundary Maps
10. Table 1: Total Organic Carbon – Corrected Chemical Concentrations in Chollas Creek versus San Diego Bay (Mean)
11. Table 2: Total Organic Carbon – Corrected Chemical Concentrations in Chollas Creek versus San Diego Bay Sediment

Attachment EE

**Excerpt from Presentation of San Diego Unified Port District's
Expert, Robert Collacott, MBA, M.S., during the California
Regional Water Quality Control Board Public Meeting/Hearing**

Outfalls SW4 and SW9



Legend

City MS4 Facilities

--- Port Property Line

■ Non-Leased Tidelands