



California Regional Water Quality Control Board

San Diego Region



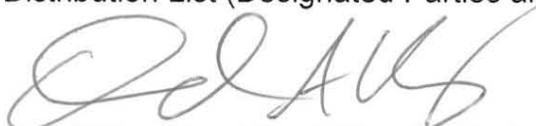
Linda S. Adams
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TO: Distribution List (Designated Parties and Interested Persons)


FROM: David King, Presiding Officer for Prehearing Proceedings
Tentative Cleanup and Abatement Order No. R9-2005-0126
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

DATE: January 21, 2010

SUBJECT: REQUEST FOR EXTENSION OF DISCOVERY PERIOD FOR
TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2010-0002

By Order dated October 27, 2009, I directed the San Diego Regional Water Quality Control Board (San Diego Water Board) Shipyard Sediment Cleanup Team to release for public comment a revised draft Cleanup and Abatement Order and associated Technical Report on or before December 22, 2009, commencing a 90 day public comment period. That Order also required that all discovery on the revised draft Cleanup and Abatement Order and revised draft Technical Report be completed on or before February 22, 2010.

On January 19, 2010, I received the attached request for extension of the discovery period from Tim Gallagher, who has been serving as mediator among the Designated Parties. The request seeks a six-month extension of the discovery period, citing the time needed for the San Diego Water Board to complete its CEQA review and time for the parties to correct certain errors in the Tentative Cleanup and Abatement Order and draft technical report. The parties may comment on the request and discovery issues raised in Mr. Gallagher's January 19 request and shall submit any such comments in writing to the San Diego Water Board on or before 5 p.m. on Wednesday, January 27, 2010. Comments may be submitted electronically.

GALLAGHER & GALLAGHER,
A PROFESSIONAL CORPORATION
1925 Century Park East, Suite 950
Los Angeles, California 90067

January 19, 2010

VIA ELECTRONIC MAIL

Mr. David King
Presiding Officer for Pre-hearing Proceedings
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353
dking@waterboards.ca.gov

Re: Request for Extension of Discovery Period for Tentative Cleanup and Abatement Order No. R9-2010-0002

Dear David:

In reviewing the recent scheduling orders, it was unclear to me to what extent the procedural framework and phases as set forth in the Second Amended Order of Proceedings still apply. In establishing a March 22nd deadline for close of public comment on the Tentative CAO, your October 27, 2009 Order broadly states that "all conflicting provisions in the Second Amended Order of Proceedings are hereby stricken." I have interpreted this to mean that we are presently in Phase III (cleanup approach) with discovery through February 22, 2010, and Phase IV (liability) discovery will commence thereafter. If you could possibly provide some clarification on this interpretation, the group would be most appreciative.

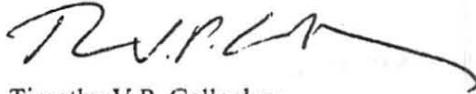
I also write to request that you grant an extension of the discovery period until Monday, August 23, 2010. The present February 22, 2010 deadline set forth in your October 27, 2009 Order does not provide sufficient time for the Regional Board to complete its CEQA review (necessary before the Tentative CAO can be adopted), nor sufficient time for the Cleanup Team and the parties to correct certain errors in the Tentative Cleanup and Abatement Order and Draft Technical Report.

Without an extension, I am concerned that the parties will be forced to pursue their full due process rights, diverting a tremendous amount of resources to the discovery process. To allow me sufficient time to coordinate with the parties, please respond at your earliest convenience. I apologize for requesting such quick action, but time is of the essence with the present discovery deadline rapidly approaching.

As always, you can reach me at timg@thegallaghergroup.com, or via cell at 310-709-0855. I look forward to speaking with you soon.

Very truly yours,

GALLAGHER & GALLAGHER,
A Professional Corporation

A handwritten signature in black ink, appearing to read "T.V.P. Gallagher", with a long, sweeping horizontal line extending to the right.

Timothy V.P. Gallagher