

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**STAFF SUMMARY REPORT (David Elias and
Keith Lichten)
MEETING DATE: April 14, 2010**

ITEM: 7

SUBJECT: **Suisun Bay Reserve Fleet** – Information item on settlement of litigation with the U.S. Maritime Administration

DISCUSSION: We, along with co-plaintiffs, National Resources Defense Council, San Francisco Baykeeper, and Arc Ecology, have reached agreement on a draft consent decree that would settle our suit with the U.S. Maritime Administration (Marad) and the U.S. Department of Transportation over the Suisun Bay Reserve Fleet (Fleet), otherwise known as the “Mothball Fleet”. On March 31, 2010, a media event was held at Marad’s pier adjacent to the Fleet to recognize the proposed agreement to appropriately maintain and ultimately dispose of the 52 vessels comprising the “non-retention” portion of the Fleet. The event capped almost four years of disagreement and litigation between Marad, the Board, other State and federal agencies, and environmental groups regarding the vessels’ disposition. This agreement represents a significant step forward in the control of these vessels’ ongoing discharges of heavy metals and other pollutants to Suisun Bay.

The consent decree, once accepted by the U.S. District Court, is an enforceable mechanism that requires Marad to:

- Immediately obtain coverage under the Statewide NPDES General Permit for Industrial Stormwater Discharges (General Permit) for its storage and maintenance of the non-retention vessels;
- Complete monitoring and reporting activities that exceed the requirements of the General Permit, and post the results of those activities on its web site for public review;
- Prepare and submit for Board review and approval a Storm Water Pollution Prevention Plan that will guide vessel storage and maintenance activities;
- Within four months, remove all accumulated paint chips and debris sitting on the decks of the non-retention vessels. After that, remove any additional paint chips from vessel decks quarterly;
- Within two years, ensure that all non-retention vessel exteriors have been maintained (i.e., peeling paint removed in dry dock or encapsulated using a method acceptable to the Board); and,
- Remove vessels from the Fleet for disposal per an agreed-upon schedule, with the worst 28 (about half) of the vessels to be removed by September

Item 7 – Suisun Bay Reserve Fleet

30, 2012, and the remaining vessels to be removed by September 30, 2017.

Thus, the consent decree requires Marad to take immediate and direct measures to minimize the discharge of pollutants to the Bay from non-retention vessels while they are awaiting disposal. At the same time, it ensures relatively rapid disposal of the vessels, given available scrapping industry capacity. This minimizes the possibility that a vessel's continued decay could result in a release of pollutants from inside the vessels due to a hull breach or similar problem. Finally, the measures will achieve an additional goal: the removal and containment of invasive species from vessel hulls prior to the vessels' transfer out of the Bay for scrapping. This will both help minimize the spread of invasive species to other waters and stop the discharge of other materials such as paints and metals to the Bay while hulls are cleaned.

The goals required by the consent decree can be accomplished using existing facilities in the Bay Area and elsewhere. For example, much of the exterior hull maintenance will be completed at BAE Systems' drydock in San Francisco. Other maintenance - such as removal of paint chips from vessel decks - can be accomplished at anchor in Suisun Bay. Vessels are expected to be towed to Brownsville, Texas, for scrapping, since the nearest facilities able to dismantle the vessels are located there.

Additional dismantling facilities may be brought online, enabling quicker disposal of the non-retention vessels. For example, a private entity, Allied Defense Recycling, is working to establish a vessel scrapping and maintenance operation at Mare Island's graving drydocks. This work, supported by elected officials and local environmentalists, would provide local employment and would avoid the current cost of about \$1 million for the open-ocean tow to Texas for each vessel that is to be scrapped. The Board approved an NPDES permit for Allied Defense Recycling at its July 2008 meeting.

In December 2009, in anticipation of settling the litigation, Marad begun having vessel hulls cleaned at BAE Systems' drydock prior to the vessels' tow to Texas. These vessels included the WW II-era tanker Mission Santa Ynez, which was towed to drydock on March 31. This represents the first time Marad has ever had its non-retention vessels cleaned in drydock rather than open water.

Background

Marad currently stores about 70 aging "retention" and "non-retention" military and merchant marine vessels at the Fleet's anchorage in Suisun Bay, a practice dating to the 1940s. The approximately fifteen "retention" vessels are still owned by either the U.S. Navy or the U.S. Coast Guard and maintained by Marad so that they may be potentially returned to active service or preserved

Item 7 – Suisun Bay Reserve Fleet

for their historic value, such as the battleship USS Iowa. However, the “non-retention” vessels, the balance of the Fleet, have been determined to be at the end of their useful lives and destined for scrapping. Their ownership has passed directly to Marad, which has given them little maintenance. As a result, the heavy metals-laden marine paints on their hulls and topsides have cracked and peeled over time, so that they, along with other pollutants, have been washed, blown or otherwise discharged into Suisun Bay over many years.

A 2007 study commissioned by Marad found that over 20 tons of heavy metals had discharged from the non-retention vessels, and about an additional 60 tons could discharge in the future. Marad indicated at the March 31 event that it had recently removed over 120 tons of paints and other debris from the tops of the first seventeen vessels it had initiated cleaning up.

Light was shed on the magnitude of the vessels’ water quality threat posed to the Bay by investigative reporting in 2006 and 2007 by local journalist Tom Peele. Board staff subsequently began a progressive enforcement process against Marad, culminating in 2008 with the Board joining an existing suit against Marad by the three environmental groups. Following President Obama’s election and changes to Marad’s top management, all parties came to the agreed-upon settlement and corrective actions this spring.

Board staff will continue to oversee activities at the Fleet by conducting regular inspections, reviewing monitoring reports, and coordinating with Marad and the environmental groups on the ongoing disposal of non-retention vessels.

RECOMMEN- DATION:

No Board action – information item.