

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

STAFF SUMMARY REPORT: David Elias
MEETING DATE: September 13, 2017

ITEM: **7B**

SUBJECT: **Suisun Bay Reserve Fleet, Benicia, Contra Costa County** – U.S. Maritime Administration Consent Decree Compliance and Retrospective

CHRONOLOGY: The Water Board previously considered this item in April 2010.

DISCUSSION: On August 7, 2017, the Cape Borda, the last of 57 dilapidated former military vessels, was towed from Suisun Bay for steel recycling in Brownsville, Texas. This departure represented the U.S. Maritime Administration's (Marad's) successful compliance with an April 2010 consent decree enforced by the United States Eastern District of the California Federal Court and the grand finale of an 11-year formal enforcement effort on behalf of the Board, San Francisco Bay Keeper, the Natural Resources Defense Council, and ArcEcology. The event was celebrated with a press conference on August 3, 2017, at the Mare Island dry docks in Vallejo. This informational item presents the history of this significant successful enforcement case.

Retrospective

In 2006, Marad was storing more than 72 aging military vessels, commonly known as the "Mothball Fleet", at the Suisun Bay Reserve Fleet's anchorage off of Benicia, a practice dating to the 1940's. While the Fleet's 15 "retention" vessels had the potential to be returned to active duty and were regularly maintained, the Fleet's 57 "non-retention" vessels were at the end of their useful lives and destined for scrapping. In 2006, Board staff discovered that Marad was cleaning the hulls of these non-retention vessels (destined for towing to Texas for disposal) in Suisun Bay with no pollution controls and later discovered that none of the non-retention vessels were being maintained to control pollutant discharge.

Marad's own 2007 study found that over 20 tons of heavy metals had been washed, blown, or discharged to Suisun Bay from non-retention vessels and over 60 tons could discharge in the future. While Marad stopped open water hull cleaning upon the Board's demand, it did not comply with the Board's then-enforcement actions that required Marad to properly clean and remove paints and other debris from these vessels.

In 2008, the Board intervened in a suit filed against Marad by San Francisco Bay Keeper, the Natural Resources Defense Council, and ArcEcology, under the citizens' suit provisions of the federal Clean Water Act (CWA). In

September 2009, Marad conceded its liability under the CWA for the discharge of pollutants into Suisun Bay without a valid permit. The 2010 consent decree required Marad to maintain its vessels stored in Suisun Bay, minimize the discharge of pollutants from its vessels awaiting disposal, and establish a schedule for the relatively rapid disposal of the vessels.

The Board's suit against Marad established precedents that can be applied statewide. It was the first time this Board had filed suit against a federal agency under the citizens' suit provisions in the CWA, and the first time we had been co-plaintiffs in a lawsuit with non-governmental organizations. The suit also resulted in a court finding that the discharge of paint and other materials from the vessels constituted a point source discharge enforceable under the CWA.

Subsequent to the consent decree, Marad got right to work and truly turned its compliance problem into an example of innovative and aggressive pollution reduction, including enrolling for coverage under the State Board's General Industrial Stormwater Permit. During the initial years, Marad removed 392 tons of debris from the ship decks and hulls that were historically contributing heavy metals to Suisun Bay. Paint was removed by simple methods, such as scraping and shoveling, and also by more complex methods such as hydroblasting. After the initial bulk removal efforts, Marad implemented an effective Stormwater Pollution Prevention Plan and a maintenance program that included frequent sweeping and ongoing stormwater monitoring.

During the last seven years, Marad has worked steadily at removing the vessels for recycling in Brownsville, while two vessels were recycled locally at the Mare Island drydocks. Marad developed a "state of the art" stormwater program that significantly reduces metals pollution associated with aging vessels. Board staff are especially pleased that Marad has voluntarily implemented the same stormwater program at its other fleets in Beaumont, Texas and Fort Eustis, Virginia. In addition, Marad has funded in-water vessel hull cleaning testing programs to further the knowledge and protectiveness of these technologies. We have applied the results of its testing programs to the development of a Best Management Practice that is now used by hull cleaning practitioners throughout the country.

In an unusual occurrence, the conclusion of this 11-year enforcement action was celebrated with pride by all of the stakeholders. This was made clear by the positive remarks made by Marad, San Francisco Baykeeper, and our agency at the August 3, 2017, celebration. We prepared a press release resulting in both print and broadcast news coverage, and both Marad and San Francisco Baykeeper are sharing their success with homepage articles on their websites.

**RECOMMEN-
DATION:**

This is an informational item not requiring action by the Board.