

RESOLUTION 2013-57

**RESOLUTION AUTHORIZING SPONSORSHIP OF
STATE LEGISLATION REGARDING THE
DEPARTMENT OF PESTICIDE REGULATION'S
REEVALUATION OF COPPER-BASED
ANITIFOULING PAINTS**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I, (Port Act); and

WHEREAS, on December 11, 2012, pursuant to Resolution No. 2012-181, the Board of Port Commissioners (BPC) approved the District's legislative platform which provides BPC direction for staff to evaluate legislative, budgetary, and regulatory proposals that could affect the District and its operations; and

WHEREAS, the District's legislative platform permits staff to bring proposals to the BPC and recommend that the BPC authorize sponsorship of said proposals which commits the District to taking a lead advocacy role in support of a sponsored bill, advance the proposal through the legislature and ensure that it is crafted to meet the District's needs; and

WHEREAS, in 2005, the San Diego Regional Water Quality Control Board (Regional Board) initiated a Total Maximum Daily Load (TMDL) regulation for the Shelter Island Yacht Basin in San Diego Bay requiring that copper loading in the basin be reduced 76% by 2022 based upon data from the TMDL Technical Report indicating that 98% of the basin's dissolved copper comes from copper-based antifouling paints; and

WHEREAS, copper-based antifouling paints are legally registered pesticides with the California Department of Pesticide Regulation (DPR) which is charged by the state to evaluate pesticides according to specified criteria and to produce mitigation standards, use restrictions, and labeling guidelines for each pesticide based on its potential for toxicity to people and the environment; and

WHEREAS, upon registration with DPR, pesticides such as copper-based antifouling paints are then legal for sale and use throughout California under the conditions prescribed by DPR; and

WHEREAS, in 2005, the District contacted DPR after the Regional Board enacted the Shelter Island Yacht Basin TMDL to request that DPR pursue formal reevaluation of copper-based antifouling paints consistent with state law which

requires DPR to “develop an orderly program for the continuous evaluation of currently registered pesticides” pursuant to Food & Agriculture Code §12834; and

WHEREAS, DPR responded that it would look into possible reevaluation of copper-based antifouling paints and on July 1, 2010 decided to begin a formal reevaluation process for copper-based antifouling paints via California Notice 2010-03; and

WHEREAS, DPR's reevaluation involves 18 registrants and 212 pesticide products that contain the active ingredients copper oxide, copper hydroxide, and cuprous thiocyanate and requires paint manufacturers to work with DPR to produce appropriate data and analysis, including a calculated leach-rate for each product and to identify and submit specific mitigation strategies on pesticide use or reformulation that will reduce dissolved copper concentrations in California salt and brackish water marinas to levels below California Toxic Rule standards; and

WHEREAS, the reevaluation is expected to produce recommendations and statewide mitigation strategies for reducing copper loading as a result of copper-based antifouling paint and District staff expects these mitigation strategies to include a standardized leach-rate for copper-based antifouling paint, new recommendations for frequency and duration of use, and possibly new labeling standards that direct users how to use the pesticide according to DPR standards; and

WHEREAS, due to the need for guidance from DPR to assist the District and stakeholders, staff recommends that the District sponsor Assembly Bill (AB) 425, introduced by Assemblywoman Toni Atkins, which requires that DPR complete its reevaluation of copper-based antifouling paints no later than February 1, 2014 to make clear that reevaluation of these pesticides is a priority for the legislature and would provide DPR staff the means to prioritize resources towards this matter as well as providing clarity on DPR's intended direction towards reducing copper loading from copper-based paints.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Board of Port Commissioners hereby authorizes the District to be a sponsor of AB 425, requiring that DPR complete its reevaluation of copper-based antifouling paints no later than February 1, 2014.

2013-57

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 9th day of April, 2013, by the following vote:

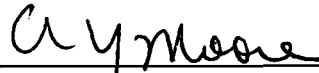
AYES: Malcolm, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

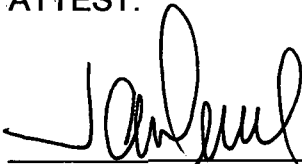
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)