

## **RESOLUTION 2014-138**

**RESOLUTION ADOPTING FINDINGS THAT THE PROJECT MODIFICATIONS PROPOSED BY BAE SYSTEMS SAN DIEGO SHIP REPAIR, INC. TO THE SAN DIEGO SHIPYARD SEDIMENT REMEDIATION PROJECT AT THE NORTH SHIPYARD SITE, INCLUDING INSTALLATION OF A PERMANENT SHEETPILE BULKHEAD WALL, REMOVAL OF A SUBMERGED SHEETPILE WALL AND MARINE RAILWAY DEBRIS, REMOVAL OF PIER 2 FROM BAE'S LEASEHOLD, AND ELIMINATION OF ON-SITE DREDGE HANDLING, ARE WITHIN THE SCOPE OF THE PROJECT ANALYZED IN THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT**

**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 March 14, 2012, the California Regional Water Quality Control Board, San Diego Region (Regional Board) released Tentative Cleanup and Abatement Order (CAO) No. R9-2012-0024, which identified elevated levels of pollutants in the bottom marine sediment along the eastern shore of central San Diego Bay extending approximately from the Sampson Street extension to the northwest and Chollas Creek to the southeast, and from the shoreline out to the San Diego Bay main shipping channel to the west (Shipyard Sediment Site) and which required dischargers that caused or permitted the discharge of waste to the Shipyard Sediment Site to remediate marine sediment within the Shipyard Sediment Site that was determined to have pollutant levels likely to adversely affect the health of the benthic community within the San Diego Bay; and

**WHEREAS**, BAE Systems was named in the CAO as a discharger that caused or permitted the discharge of waste to the Shipyard Sediment Site resulting in the accumulation of waste in the marine sediment; and

**WHEREAS**, BAE Systems has a lease with the District to operate and maintain a shipyard at 2205 Belt Street, San Diego, comprised of 10.41 acres of land area and 16.62 acres of water area, where it provides non-nuclear ship repair, modernization, conversion, maintenance and overhaul for government, military and commercial contracts; and

**WHEREAS**, BAE Systems proposed the San Diego Shipyard Sediment Remediation Project – North Shipyard (Project) to comply with the requirements of

CAO No. R9-2012-0024, which included the dredging of approximately 90,800 cubic yards (cy), an estimated 4,600 cy of debris, or application of approximately 36,700 cy of clean sand/gravel over contaminated sediment in areas that are inaccessible; the transportation, dewatering, stockpiling, and testing of dredge materials and effluent (water) at a landside sediment management area to be located on an approximately 1.2-acre site within the existing BAE Systems facility; the treatment (if needed) and discharge of the effluent; the truck transport of dredge materials to appropriate landfill disposal facilities; and, once dredging activities are completed, the placement of approximately 13,400 tons of quarry rock on slopes adjacent to existing bulkheads and piers to protect those structures; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), the Regional Board, as lead agency, prepared a Final Program Environmental Impact Report for the Shipyard Sediment Remediation Project, SCH No. 2009111098 (Final PEIR) as required by law and, on March 14, 2012, adopted Resolution No. R9-2012-0025 which certified the Final PEIR as adequate and complete under CEQA and adopted Findings of Fact, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program (MMRP) as required by law; and

**WHEREAS**, the District is the trustee of said tidelands where the Project will be constructed; and

**WHEREAS**, pursuant to Public Resources Code Section 21069 and Section 15381 of the State CEQA Guidelines, 14 California Code of Regulations Section 15000, et seq. (CEQA Guidelines), the District is a responsible agency under CEQA because the Project required a Coastal Development Permit (CDP) under the California Coastal Act and the District is the public agency which has discretionary approval power over the proposed project with respect to issuance of a CDP; and

**WHEREAS**, on July 16, 2013, as a Responsible Agency pursuant to CEQA Guidelines Section 15096(f), the Board of Port Commissioners (Board) adopted Resolution No. 2013-123, which reviewed and considered the information contained in the Final PEIR and post-Final EIR certification documents prepared by the Regional Board, adopted the Findings of Fact, Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program (MMRP), and authorized staff to file a Notice Of Determination (NOD) for the Project, and Resolutions Nos. 2013-125 and 2013-126, which granted concept approval and authorized issuance of a non-appealable Coastal Development Permit (CDP-2013-06) to BAE Systems to provide for implementation of the Project; and

**WHEREAS**, on September 24, 2013, the District granted BAE Systems the First Amendment to CDP-2013-06, which modified Special Provisions 5 and 6 of the CDP consistent with the Regional Board's final adopted Waste Discharge Requirements (WDR) and 401 Water Quality Certification (WQC); and

**WHEREAS**, the District has received an application from BAE Systems to modify the Project by incorporating the following proposed design changes (Proposed Modifications), which will enable BAE Systems to comply with the requirements of the CAO, WDR, and 401 WQC: installation of a permanent sheetpile bulkhead wall along the San Diego Gas & Electric (SDG&E) Tidelands Use and Occupancy Permit parcel to address potential destabilization of on-shore land and infrastructure caused by the remedial dredging activities; removal of a submerged sheetpile wall and marine railway debris from the bay bottom; removal of the existing approximately 5,140-square-foot Pier 2 structure from BAE Systems' leasehold, including 6 steel piles, 39 concrete piles and all timber deck, asphalt, and concrete, to facilitate dredging beneath the existing Pier 2 in lieu of placing a clean sand cover over sediments located beneath the pier; elimination of on-site dredge handling by transferring sediment from barge or scow directly to trucks, which will eliminate the "double handling" of dredge sediment and reduce opportunities for the release of hazardous material and will be performed in accordance with all applicable mitigation measures identified in the Final PEIR's MMRP, and minor improvements to a portion of the adjacent site to the north (CP Kelco) for truck access to East Belt Street; and

**WHEREAS**, on July 13, 2013, pursuant to CEQA Guidelines Section 15164(d), the Regional Board adopted an Addendum to the Final PEIR which analyzed the increase in dredge volume from 90,800 to 105,800 cy concurrent with the final WDR and 401 WQC, and concluded that there were no substantial changes to the Project or to the circumstances under which the Project was undertaken that will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects that would require major revisions of the Final PEIR and therefore did not require preparation of a subsequent EIR; and

**WHEREAS**, on April 17, 2014, pursuant to CEQA Guidelines Section 15168(c)(2), the Regional Board made findings that no new significant environmental effects or substantial increase in the severity of previously identified significant effects that would require major revision to the Final PEIR will result from the Proposed Modifications and that no new mitigation measures are required and the Regional Board may rely on the Final PEIR to provide CEQA compliance for the Proposed Modifications; and

**WHEREAS**, the Proposed Modifications comply with all District policies and requirements, including BAE Systems' lease provisions, and will allow BAE Systems to comply with the CAO issued by the Regional Board and to continue servicing military and commercial contracts into the future; and

**WHEREAS**, the Proposed Modifications are located within the Belt Street Industrial subarea of Planning District 4, Tenth Avenue Marine Terminal, which is delineated on Precise Plan Map Figure 13 of the Port Master Plan (PMP), and the PMP land and water use designations within the limits of the site are Marine Related Industrial and Specialized Berthing; and

**WHEREAS**, the Proposed Modifications conform to the certified PMP and facilitate the land use designations of Marine Related Industrial and Specialized Berthing by remediating contaminated sediments located within the San Diego Bay and will not change the uses of the site nor will it expand the existing conforming uses of the site; and

**WHEREAS**, the Proposed Modifications are located between the sea (as defined in the California Coastal Act) and the first inland continuous public road paralleling the sea and are fully consistent with Public Resources Code Section 30604(c), 30210-30224, and all applicable California Coastal Act policies; and

**WHEREAS**, the District Clerk has caused notice to be duly given of a hearing in this matter in accordance with law, as evidenced by the affidavit of publication and affidavit of mailing on file with the District Clerk; and

**WHEREAS**, all materials with regard to this project were made available to the Board for its review and consideration of the Proposed Modifications including, but not limited to, the following:

1. The Final PEIR certified by the Regional Board on March 14, 2012;
2. The Findings of Fact and Statement of Overriding Considerations adopted by the Regional Board on March 14, 2012;
3. The MMRP adopted by the Regional Board on March 14, 2012;
4. The Findings of Fact and Statement of Overriding Considerations adopted by the District on July 16, 2013;
5. The MMRP adopted by the District on July 16, 2013;
6. The Addendum to the Final PEIR related adopted by the Regional Board on July 10, 2013;
7. The CEQA Memorandum prepared by LSA Associates, Inc., dated February 21, 2014;
8. The Findings related to the Proposed Modifications adopted by the Regional Board on April 17, 2014;
9. The Staff Report and Agenda Sheet, dated July 8, 2014 and all attachments thereto; and
10. All documents and records filed in this proceeding by interested parties; and

**WHEREAS**, a duly noticed hearing was held on July 15, 2014; and

**WHEREAS**, having reviewed and considered all testimony and materials made available to the Board, including but not limited to the items listed above, the Board took the actions hereinafter set forth.

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

1. The Board finds the facts recited above are true and further finds that this Board has jurisdiction to consider, approve and adopt the subject of this Resolution.

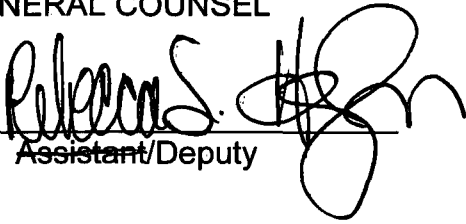
2. The Board finds and determines that the applicable provisions of CEQA, the State CEQA Guidelines, and the District Guidelines have been duly observed in conjunction with said hearing and the considerations of this matter and all of the previous proceedings related thereto.

3. Pursuant to CEQA Guidelines Section 15168(c)(2), the Board finds that none of the conditions requiring the preparation of a subsequent EIR pursuant to CEQA Guidelines Section 15162 has occurred and the Proposed Modifications do not trigger the need for any additional environmental review because the proposed design modifications, including installation of a permanent sheetpile bulkhead wall, removal of a submerged sheetpile wall and marine railway debris, removal of Pier 2 from BAE Systems' leasehold, and elimination of on-site dredge handling, are within the scope of the Project analyzed in the Final PEIR and no new environmental effects could occur and no new mitigation measures would be required.

4. Pursuant to Public Resources Code section 21152 and CEQA Guidelines Sections 15094 and 15096(i), the District Clerk shall cause a Notice of Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research. Unless the Proposed Modifications are declared exempt herein and a Certificate of Filing Fee Exemption is on file, the Proposed Modifications are not operative, vested or final until the filing fees required pursuant to Fish and Game Code Section 711.4 are paid to the Clerk of the County of San Diego.

5. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

APPROVED AS TO FORM AND LEGALITY:  
GENERAL COUNSEL

  
By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8<sup>th</sup> day of July 2014, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

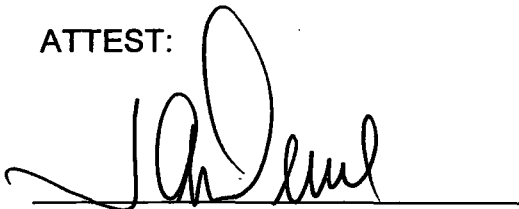
ABSENT: None.

ABSTAIN: None.



Robert E. Nelson, Chairman  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

(Seal)