

NEWS

Environment

Backing off on bay cleanup

Deal narrows removal of tainted sediment

BY MIKE LEE, UNION-TRIBUNE STAFF WRITER
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Nearly five years after regional water-pollution cops announced a landmark order to clean toxic muck in San Diego Bay, they're back with a plan that would remove just 16 percent of the sediment targeted initially.

The latest strategy was crafted during months of confidential talks with groups on the hook for the work. It's expected to cost about half of the

\$96 million price tag from the original cleanup order, which the San Diego Regional Water Quality Control Board spent years developing so it could withstand courtroom challenges.

Critics contend that the new approach reflects a common tactic by industry: threatening litigation and stalling costly environmental projects until new, more business-friendly regulators take office.

They also believe the revised proposal won't take out enough mercury, lead and cancer-causing compounds that have accumulated since the early 1900s because of pollution by heavy industry, military operations and storm runoff. Scientists and community activists have long feared that the contaminants are harming marine life and endangering people who eat fish and shellfish from the bay.

"It's obvious — the less you clean up, the less you have to pay," said Laura Hunter, director of the Clean Bay Campaign for the Environmental Health Coalition in National City. "I am very concerned that they figured out how much they were willing to spend and out pops how much they can clean up. That is just not the right way."

David Gibson, recently appointed executive officer of the regional water board, said the new plan focuses on the most polluted sediment near the shoreline instead of the entire 55-acre study site south of the San Diego-Coronado Bridge. He also said it's better to leave some pollutants buried rather than dredging them and stirring up more contamination.

"If it works, excellent — hats off to everybody," Gibson said. "If it does not, the regional board would exercise its



JOHN GIBBINS

Shipyard operators [BAE Systems](#) and General Dynamics NASSCO are among the parties on the hook for cleaning up polluted sediment in [San Diego Bay](#). After several closed meetings with bay polluters, the San Diego Regional Water Quality Control Board revised its cleanup order.

Overview

Background: In April 2005, the San Diego Regional Water Quality Control Board issued a tentative order for cleaning up tainted sediment in San Diego Bay. It focused on dredging about 885,000 cubic yards.

What's changing: After about 1 1/2 years of closed meetings with the polluters, the water board has issued a new cleanup order that would require dredging of 141,000 cubic yards.

What's next: The board is taking written public comments on the latest cleanup order through March 22. A formal hearing will follow.

authority to require additional cleanup.”

He said the latest proposal calls for long-term monitoring. It also includes a formula for the affected parties to address problems that might surface later, such as higher-than-expected levels of toxins, in an effort to forestall more delays once cleanup begins.

Six groups probably would have to pay for the restoration: General Dynamics NASSCO, BAE Systems San Diego Ship Repair, the city of San Diego, San Diego Gas & Electric Co., the Navy and the parent companies of San Diego Marine Construction Co.

The original cleanup order was scheduled to be finalized around August 2005, but the water board eventually agreed to enter mediation with the polluters. Gibson said the remediation plan was redesigned with help from those parties in hopes of avoiding litigation when it's finalized, now perhaps by mid-2010.

One lawsuit already has been filed: In October, San Diego sued several groups connected to the cleanup project in hopes of minimizing any payments it might have to make.

The water board's new order "is a natural result of the process that we used to derive it, which was a negotiated, mediated settlement and a more rigorous scientific review," Gibson said.

His agency currently calls for dredging about 141,000 cubic yards of tainted sediment from San Diego Bay, compared with 885,000 cubic yards in the initial strategy, which was among the largest projects of its kind in the country.

David Barker, a top engineer for the water board, said the current plan is based on a more refined analysis of which areas should be dredged. He said the most contaminated spots would be cleaned more extensively than what was first envisioned, even though the total volume of dredged material would be much smaller.

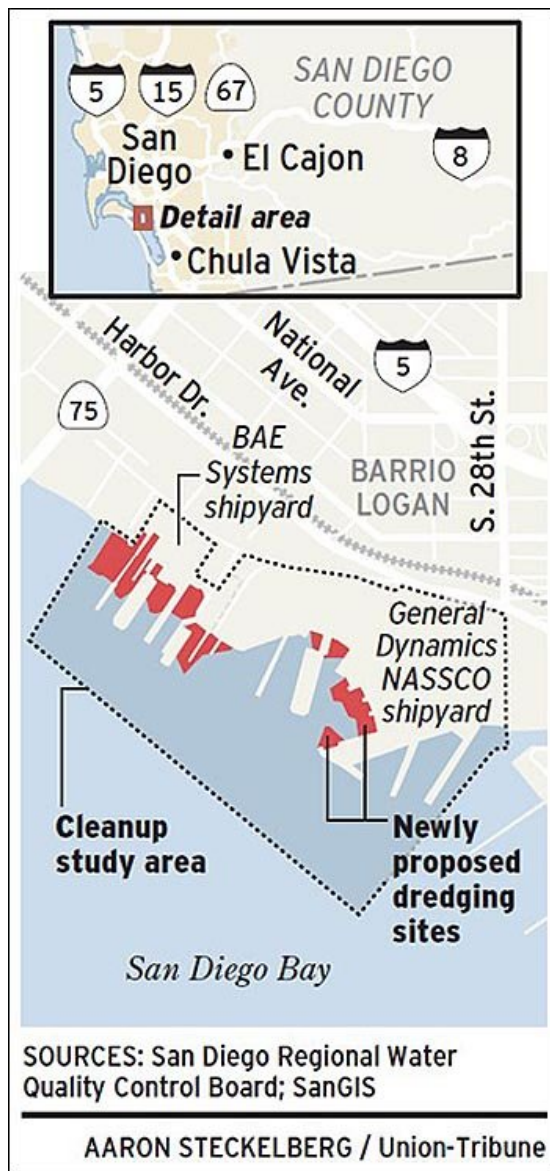
"We went from a situation where there was disagreement that any cleanup was necessary to an order that, by and large, the responsible parties are not going to oppose," Barker said.

Only one party liable for the cleanup publicly discussed the new strategy this week.

"It's certainly a much-improved proposal," said James Handmacher, an attorney in Washington state for Campbell Industries, which is connected to San Diego Marine Construction. "It's more economically feasible and environmentally just as protective."

But opponents of the water board's latest proposal suspect it was largely fueled by pressure to lower the price tag.

The closed-door negotiations are what worry leaders of the two environmental groups who quit the mediation



In April 2005, the San Diego Regional Water Quality Control Board said 885,000 cubic yards of bay sediment needed to be dredged or capped. The latest proposal calls for dredging 141,000 cubic yards.

process last year after complaining that they were excluded from key meetings.

At San Diego Coastkeeper, legal director Gabriel Solmer said the new approach includes positive elements but would leave too many contaminants in the bay. She also said the language of the order leaves too much wiggle room for polluters to avoid work.

"We can see the dischargers' hand in the cleanup order," Solmer said. "None of that gives me confidence that (the cleanup) will actually happen."

Rusty Fairey, a scientist at Moss Landing Marine Laboratories on the Central Coast, wasn't optimistic about the shrinking-cleanup area. In the early 1990s, he helped conduct studies that identified pollutants in San Diego Bay sediment and led to the initial cleanup order.

"It got very political, and it wasn't a science issue anymore," Fairey said. "I don't think the San Diego region is a very aggressive region in going after industrial polluters."

Fairey said that over the decades, he has watched polluters at countless sites create delays through legal moves and other tactics in hopes of outlasting regulators and reducing their cleanup bills.

"There is a huge loss of institutional memory about how this stuff all went down in the first place," Fairey said.

"When the institutional memory now remains with the responsible parties, then of course you have the fox guarding the henhouse."

The San Diego regional water board has seen its share of turnover in recent years. Longtime executive officer John Robertus retired at the end of last year, shortly after the term of the longest-serving board member expired. Only one member of the board's governing panel remains from 2005.

Jack Minan, chairman of the board when it issued the original cleanup order, said his initial take on the new restoration plan is positive.

"If we can move forward with remediation in the most dangerous areas, that is all to the good," said Minan, an environmental law professor at the University of San Diego. "That doesn't necessarily mean the broader area can't be revisited."

State Sen. Christine Kehoe, D-San Diego, simply hopes that the cleanup work will begin soon.

"This is not going to be a speedy project, no matter how you slice it," she said. "But as long as they are making steady progress, I will be satisfied."