



## Six appeal landmark SD Bay cleanup plan

By Mike Lee

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Six agencies and companies have appealed a landmark cleanup order for San Diego Bay, thrusting the \$70 million plan into uncertainty a month after it was unanimously approved by the San Diego Regional Water Quality Control Board.

The myriad issues now are in the hands of the State Water Board, though parties could eventually appeal to state Superior Court. At the very least, the appeals make it less likely that the project will start this year, and they raise the possibility that the work never will get done. As the largest sediment cleanup proposed in the region, the project's fate will set the tone for remediation of several other contaminated sites around the bay.

Monday was the deadline for administrative appeals of the March cleanup order, which mandated collecting roughly 150,000 cubic yards of waste to protect marine life and people from chemicals and heavy metals lodged in bay sediments. Lead, arsenic and PCBs are among the toxic materials of concern because they are linked to cancer or problems such as altering brain development and disrupting hormones.

The cleanup costs at the shipyard site south of the San Diego-Coronado Bridge are expected to be split among the parties.

Regional water board officials held the following groups primarily responsible for the pollution: BAE Systems San Diego Ship Repair, Campbell Industries, General Dynamics NASSCO, the Navy, San Diego city, San Diego Gas & Electric and the San Diego Unified Port District.

Gary Strawn, who sits on the ruling panel of the regional board, said Tuesday that he would have been surprised if groups didn't appeal, given the stakes. "I keep going back over it," he said. "I think we have a good chance that it will stand."

Laura Hunter, an advocate for the Environmental Health Coalition in National City, said she hopes that's the case. "It's disappointing that after 10 years and all of this work and significant compromises on all sides that we still aren't there," Hunter said. "I hope the state board will make quick (work) of this and tell all the parties to get moving."

State Water Board officials on Monday had not received petitions from the Navy or Campbell, but it had from the other five named parties. A top regional board official said Tuesday that Star & Crescent Boat Co., which also has been part of the lengthy case, had appealed, but he didn't have details.

Port commissioners announced last week that they would appeal the March ruling, which they said improperly named the agency as a "primary discharger." Their legal petition that the decision to include the port was "motivated entirely by improper considerations, an incorrect application of the proper legal standard and an absence of evidence to support critical factual findings."

The other parties raised other objections:

- General Dynamics NASSCO, a major shipbuilder, said the proposed work called for cleanup levels that were not technically or economically feasible. It also said the regional board's analysis included several technical and legal deficiencies. It asked the state board to rule that "extensive sediment dredging is not an appropriate remedy for the site."

In a statement, the company said, "Despite these outstanding issues and the various appeals filed by many parties, NASSCO stands ready to fully fund our portion of the cleanup and to collaborate with other parties to ensure that a sound scientific approach is embraced."

- SDG&E said the regional board exceeded its authority when issuing the cleanup order and did so without enough evidence to justify the costly plan. The utility company asked the state board to remove it from the list of dischargers.

- Lawyers for San Diego city said they support the cleanup order but filed a petition with the state board to preserve its right to participate in the state's review process.

- BAE challenged the regional board's decision not to include a specific section of bay bottom in the cleanup order. The company said it wants that section addressed in the current order to avoid future regulatory orders — and related costs — in that area.

Assuming the appeals are deemed complete, the State Water Board will have 270 days to review them. The regional board will have a chance to defend its decision, and technical and legal experts at the state level will review the petitions and make recommendations to the executive director.

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