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November 2, 2008

Via Facsimile (858) 571-6972

California Regional Water Quality Control Board
San Diego Region
9174 Shy Park Court, Suite 100
San Diego, California 92123-4353

Attention: John Robertus
CRWQCB Executive Officer

Re: CAU: 14-0329 Place ID: 255226

Dear Mr. Robertus:

I am writing this letter in opposition to the California Regional Water Quality Control Board San Diego Region (CRWQCB) Tentative Administrative Civil Liability Order No. R9-2008-0140 for mandatory *minimum* penalties against City of San Diego Convention Center for violations of order number R9-2003-0050, NPDES CA0109029.

It is ludicrous anyone could publicly declare cyanide and other hazardous chemicals do *not* "have a significant effect on the environment". For the CRWQCB to make this assertion is unconscionable.¹ What is even more disturbing is the fact the City of San Diego now has permission to pump this same *untreated* hazardous groundwater down our sewage system. Think about the repercussion, if we allow the City of San Diego to act irresponsibly, we *must* allow "all" other polluters the same opportunity (i.e. Military, Industrial, etc). Dilution is *not* the solution for pollution, because these hazardous chemical do *not* disappear, instead these highly hazardous chemicals accumulate,

¹ See Michael McCann Assistant Executive Officers of the California Regional Water Quality Control Board of San Diego Region's letter dated October 14, 2008 with attached Tentative Administrative Civil Liability Order No. which under #8 states "CEQA COMPLIANCE: Issuance is an enforcement action taken by regulatory agency and is *exempt* from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 2100 et seq.) pursuant to section 15321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This action is also *exempt* from the provisions of CEQA in accordance with section 15061 (b)(3) of Chapter 3, Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Really, this is absurd, since everyone knows cyanide and other hazardous chemicals definitely do have significant adverse effects on the environment.

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affecting marine life and human health for decades. No single person is immune since these highly toxic chemical are causing infinite degradation to our ecosystems, rising birth defects, miscarriages, infertility, cancers, autoimmune diseases, attention deficient disorder, autism, etc.² For these reasons, when are we going to hold serious polluters accountable for actually cleaning up toxic waste? Please do not slap serious polluters on the wrist or rubber-stamping risk assessments.³ Instead, hold **all** serious polluters responsible for viable solutions to clean up hazardous contamination and order **all** of them to pay the maximum liability fines in order to recover the ecological and economic losses pursuant to CWC Section 13385(a, c, e).

The CRWQCB should reassess their badly chosen position on the tentative order number R9-2008-0140. Instead, CRWQCB has a opportunity to be part of the solution, not part of the problem. Therefore, send a powerful message "this tentative settlement is unacceptable", because it allows continuous migration of highly toxic cyanide and other hazardous chemicals. Really, the City of San Diego is not even contesting, the Convention Center unlawfully pumped hazardous chemicals for numerous years into the

² Birth Defects: 8 Million Annually Worldwide. (2006). Retrieved February 24, 2006 from http://www.marchofdimmes.com/aboutus/15796_18678.asp.
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 Gerin, Ph.D., Michel, Iemiatycki, Ph.D., Jack. Desy, MSC., Marie. Krewski, Ph.D., Daniel. (1998) Associations between Several Sites of Cancer and Occupational Exposures to Benzene, Toluene, Xylene, and Styrene: Results of a Case-Control Study in Montreal. *American Journal of Industrial Medicine*. Vol. 34, p. 144-156.
 Kirshstein, M.D., Ruth. (2000). National Institute of Health, October 2000 report of the Autoimmune Coordinating Committee.
 National Center for Health Statistics, Health, United States, 2005 With Chart book on Trends in the Health of Americans. Hyattsville, Maryland: 2005
 Rea, MD, William J. FACS, FAAEM. (1994). The Environmental Aspects of Chemical Sensitivity. *Japanese Journal of Clinical Ecology*.
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 U.S. Department of Health and Human Services. (2003). Retrieved February 24, 2006 from [Htp://www3.niaid.nih.gov/news/newsreleases/2003/autoimmune.htm](http://www3.niaid.nih.gov/news/newsreleases/2003/autoimmune.htm).
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³ February 1986 Initial Assessment Study Naval Training Center, Marine Corps Recruit Depot, and Fleet Anti-Submarine Warfare Training Center San Diego, California UIC: N00247 (Naval Training Center), M00243 (Marine Corps Recruit Depot) & N00948 (Fleet Anti-Submarine Warfare Training Center) report states, "The shores adjacent to the NTC San Diego/MCRD San Diego estuary has been quarantined many times prior to 1982 due to coliform counts exceeding the standard for body contact recreational activities. The high coliform counts had been attributed to sewage and industrial waste discharge to the Bay and estuary from both on-site and off-site sources" see section 4.5.2 Legal Action: pages 4-13 to 4-15. Nevertheless, none of the regulatory law enforcement agencies ever filed any legal actions against NTC, nor was NTC Restoration Advisory Board (RAB) members ever advised of elevated coliform counts. As former NTC RAB member, we only received a summary of this 1986 IAS report, the military would not allow us to review the entire IAS report and claimed all other records on the unlined landfill were lost. Interesting, the IAS reveals MCRD landfill is also known as South Forty area and Camp Nimitz. Consequently, some of the major concerns of contamination and migration off base the military were never disclosed for RAB comments, but is included in this 1986 IAS report. The IAS report states "numerous on and off migration of chemical and hazardous waste" (i.e. including cyanide).

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San Diego Bay and are content with dumping additional pollution from the Convention Center into our ocean. Therefore, the minimal fines on these serious 23 violations are not a practical solution to hold serious polluters accountable. I believe the CRWQCB should set presidency, by sending a powerful message "zero tolerance to *all* serious polluters". Even the City of San Diego is *not* immune and ordered to pay the maximum liability fines in order to recover the true ecological and economic losses.

Look forward to meeting all the players at the Regional Board meeting on November 12, 2008 (9:00 am) at the CRWQCB.

Sincerely,



Karan L. Zopatti

CC: Michael McCann Assistant Executive Officer CRWQCB
Brian Kelly, Core Regulatory Unit, San Diego Regional Water Quality Control Board
Reed Sato, Office of Enforcement, State Water Resource Control Board
Ken Greenberg, U.S. Environmental Protection Agency, Region IX
Cynthia Conger (concerned Point Loma citizen)