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LATHAM & WATKINS LLP

October 19, 2011

VIA EMAIL AND HAND DELIVERY

Mr. Vicente Rodriguez
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123
vrodriguez@waterboards.ca.gov

Re: NASSCO's Comments on the Final Environmental Impact Report for the Shipyard Sediment Remediation Project (SCH # 2009111098)

Dear Mr. Rodriguez:

Designated Party National Steel and Shipbuilding Company ("NASSCO") submits the enclosed comments regarding the Final Environmental Impact Report for the Shipyard Sediment Remediation Project ("Project"), State Clearing House Number 2009111098, publicly released by the California Regional Water Quality Control Board, San Diego Region on September 15, 2011. The enclosed comments were prepared by Michael Whelan and David Templeton of Anchor QEA, and supplement the comment letter prepared by my office that is being submitted concurrently.

Very truly yours,

Jeffrey P. Carlin
of LATHAM & WATKINS LLP

cc: Frank Melbourn and Catherine Hagan, on behalf of the Advisory Team
Designated Parties (per attached proof of service)

ANCHOR QEA

26300 La Alameda, Suite 240
Mission Viejo, California 92691
Phone 949.347.2780
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MEMORANDUM

To:	San Diego Regional Water Quality Control Board	**Date:**	October 18, 2011
From:	David Templeton - Anchor QEA, L.P. Michael Whelan, P.E. - Anchor QEA, L.P.		
Re:	Comments on Mitigation Measures Described in September 2011 Final Environmental Impact Report, San Diego Shipyards Sediment Cleanup Project		

INTRODUCTION

This memorandum analyzes Mitigation Measures included in the San Diego Shipyard Project's Final Environmental Impact Report (Final EIR), dated June 16, and its' accompanying Mitigation Monitoring and Reporting Program (MMRP; Section 7 of the Draft EIR). The majority of the mitigation measures described in the MMRP are typical for environmental sediment cleanup projects, including such regional examples as the 2005-2006 cleanup of Campbell Shipyard and cleanup of the Rhine Channel in Newport Beach (ongoing). However, a number of the mitigation measures, as described in the MMRP, are atypical and unnecessary to achieve the desired level of mitigation because they are unnecessarily prescriptive and/or significantly increase construction costs. Based on our evaluation of potential cost impacts, if imposed in combination, the mitigation measures described in the MMRP that we consider atypical or unnecessary could add, in our opinion, approximately $9.6 to $13. 2 million to the total project costs for the San Diego Shipyard Cleanup Project.

Mitigation practices that decrease the contractor's productivity while failing to increase environmental protectiveness, would be considered undesirable and unnecessary. In the following sections, we discuss a series of selected mitigation measures for which we believe MMRP revisions would result in a more implementable (and cost-effective) project without sacrificing environmental requirements. We recommend that the atypical and unnecessary Mitigation Measures be revised to avoid this undesirable outcome.

MITIGATION ELEMENTS RELATED TO HYDROLOGY, WATER, AND AIR QUALITY

Mitigation Measure 4.2.1: Automated Turbidity Monitoring

This mitigation measure requires that "automatic systems" be used to monitor turbidity outside of the construction area. While automatic monitoring of dredging position and progress is a standard and beneficial industry practice (and a key monitoring element of the Section 401 WQC), the automated monitoring of *turbidity* is not, aside from a few isolated instances known nationally. In fact, requiring automated monitoring could have significant adverse effects on operations owing to the difficulty of discerning meaningful turbidity results from ambient conditions and statistical "noise."

In our experience, a regular, continuous, and well-documented manual monitoring program will be more than sufficient to ensure that water quality requirements are met throughout the project duration.

Turbidity is a complex phenomenon (based on refraction) and subject to a host of environmental variables as well as to the ever-changing conditions of construction. Successful monitoring of turbidity effects, and interpretation of the monitoring data, requires the judgment of a skilled operating team so that external variables can be properly taken into account. Automating the monitoring is likely to lead to significant uncertainty and false positives (unwarranted indications of exceedances) resulting from external factors such as currents, weather, and vessel traffic; and a frequent need to refine or clarify what the automatic monitors are indicating, which is likely to lead to confusion and loss of time on the project. We estimated that this translates to an additional $700,000 to $900,000.

Potential slowdowns to the dredging process, even if limited in duration, will result in considerable extra costs, because dredging effectiveness is primarily driven by production rate. Working in these active shipyards is already subject to a number of scheduling challenges. Alternatively, implementation of a water quality monitoring program that employs the manual collection of turbidity values allows for appropriate adjustments for tidal exchanges, wind, and vessel traffic. This flexibility will allow the contractor to adjust dredging and barge-loading methodologies (e.g., speed and bucket type) based on visual assessment at both the early warning and compliance distances from the construction area. In turn, manual collection of water quality results in better production rates and lower costs while providing better environmental protectiveness.

Mitigation Measure 4.2.2: Dredging Best Management Practices (BMPs)

This mitigation measure lists a number of best management practices (BMPs) intended to meet water quality objectives during the dredging work. Some of these BMPs are standard and would customarily be included in the project specifications, such as prohibitions against stockpiling, spillage, and splashing; bucket closure; and debris grid management. Other listed BMPs, however, do not represent standard practice. While there have been limited instances known nationally where they have been applied to highly toxic cleanup events, at this project they will add significantly to construction costs (and potentially slowing down the rate of progress) without a commensurate gain in environmental protectiveness. Examples of such BMPs can increase costs by $700,000 to $900,000 and include:

- **Double silt curtain enclosure.** Although double silt curtains were used for the Campbell Shipyard project in San Diego, they are not a standard practice; single silt curtains, for instance, have been required and successfully used for recent and ongoing sediment cleanup

projects in Newport Beach and the Port of Long Beach. Employing double silt curtains adds considerable cost and management time without any demonstrated environmental benefit. We estimate that this measure could add $250,000 to $500,000 to project costs, owing not only to the increased cost of material purchase but also to the greater effort required to manage and move the double silt curtain. In our experience, a single and continuous length of silt curtain, fully enclosing the point of dredging, and combined with other water quality management BMPs, is more than sufficient to ensure compliance with water quality requirements.

- **Specialized bucket additions and controls (e.g., closure switches and Clam Vision TM).** Although contractor control over their dredging operations and controls is an essential part of a successful project, stipulating these specific controls could add unnecessary cost due to their purchase, installation, upkeep, calibration, and management. At worst, they could pose the risk of complicating the contractor's work by providing ambiguous or misleading data owing to the many variables that are in effect during dredging. We envision this measure adding as much as $250,000 to $500,000 to project costs. Alternatively, a practical water quality control and monitoring plan (as was used successfully for the Campbell Shipyard project in 2005-2006) will ensure compliance with the Section 401 WQC and allow the contractor to use the right equipment for the conditions while keeping production efficient.

Mitigation Measure 4.2.3: Complete Silt Curtain Enclosure

This mitigation measure stipulates that double silt curtains (previously discussed) are to "fully encircle the dredging equipment and the scow barge being loaded with sediment." Although a silt curtain enclosure around the dredging barge is a typical requirement, including the scow barge in the enclosure would have a significant impact on operations. Each time the scow barge is loaded, it would have to wait within the silt curtain enclosure until water quality within the curtains can be documented as meeting water quality criteria and then for the curtain enclosure to be opened. This delay on the contractor's work efforts will increase dredging cycle times and, therefore, significantly slow down the necessary progress of the cleanup work. We also anticipate an increase to the dredging unit cost that could add as much as $1.5 to $2 million to project costs, with little to no resulting environmental benefit. With the appropriate controls on scow leakage and overflow, it would be unnecessary to require that the scows also be situated within the silt curtains.

Mitigation Measure 4.2.7: Permanent Cap under Piers

This mitigation measure anticipates a fundamentally different concept for the underpier remediation aspect of the project work, than was originally envisioned by the design team. While the MMRP may not explicitly require an "engineered cap", per se, any expectation that the layer be permanent and protected against erosion and material redistribution would result in the same design features as a fully engineered cap.

In our opinion, a cover layer of sand or a sand-gravel mixture would be an appropriate remedial approach to below pier areas, since it would significantly lessen the incidence of exposed contaminants, while augmenting the ongoing process of sedimentation. While the placed material would likely be subject to redistribution resulting from currents and propeller wash forces, the addition of clean material below the piers would still provide an inherent benefit that is commensurate with the remedial need.

Installing the cover to be a permanent feature that is fully protected against erosion will very likely require a surficial armoring layer, potentially comprised of a heavy-duty stone product, comprising a permanent surface letter that is immune to disturbance. This layer would in turn need to be separated from the underlying sand by an intervening "filter layer" of gravel, and potentially a layer of filter fabric. The resulting sequence of aggregate material layers could well need to be 5 to 7 feet thick, comprised of layers of sand, gravel, and rock.

Not only is such sediment cover a far more complex element to design and construct, it also raises the risk of imposing stresses on the foundations and soils that underlie the overwater marine structures. Clearly, this measure has tremendous impacts on the project's cost and timeframe. We estimate that the cost impact would be as much as $5 to $7 million, which makes it the most costly of all the mitigation measures described in the MMRP, because the material and placement costs increase so substantially. Allowing for some degree of material redistribution in the cover layer, by de-emphasizing the concept of a permanently situated and monitored cap, would result in considerable improvements in constructability, site impacts, and cost - without sacrificing project cleanup goals.

Mitigation Measure 4.2.8: Hydraulic Placement of Sand

Hydraulic placement of sand cover material might in fact be a feasible and cost-effective option for some contractors, but including hydraulic placement as a project requirement will unnecessarily disrupt the ability of otherwise qualified contractors to submit competitively priced bids. Other feasible methods are also available for placement of sand and gravel materials below overwater structures, including long-reach conveyors and reticulated bucket arms. Rather than making hydraulic placement a project requirement, we recommend instead letting individual contractors determine whether they will use mechanical or hydraulic methods to place sand cover materials – in other words, approach the project requirements in much the same way as was done for the successful Campbell Shipyard project. Otherwise, the cost difference could be substantial, as much as $1.5 to $2 million for this relatively high-cost element of the project.

Mitigation Measure 4.6.15: Deodorizing Additives

The MMRP describes the application of a sanitizing solution (Simple Green and water mixed in a 10:1 ratio) as a potential means of controlling potential odors from sediment stockpiles. The method

would slow down the dewatering and drying process, because water would be added to the sediment and would add weight to sediment loads being hauled off for disposal, while also possibly delaying the processing and disposal rate for dredged sediments. We believe that cost increases will range from $200,000 to $400,000. The subsequent Errata issued in September 2011 for this mitigation measure makes this requirement appropriately conditional based on "the extent to which odor issues arise with respect to particular portions of the dredged material". We further recommend that the concept of Simple Green and water be stated as one possible means of dealing with odor issues, but that other similar techniques may be suggested by the Contractor based on the conditions encountered.

DAVID W. TEMPLETON

Principal

PROFESSIONAL HISTORY

Anchor QEA, Principal, 1998 to Present
Foster Wheeler, 1998 to 1999
Hart Crowser 1991 to 1998

EDUCATION

University of Washington, Management Program, School of Business Administration, 2001
Western Washington University, M.S., Environmental Chemistry, 1991
Western Washington University, B.S. Marine Biology/Chemistry, 1982

EXPERIENCE SUMMARY

David Templeton has more than 19 years of experience bringing complex sediment remedial investigation/feasibility study (RI/FS) projects with multiple objectives to successful completion through the careful coordination and management of a multidisciplinary team of environmental, engineering, and sediment management professionals. He has worked on sediment sites his entire career and is responsible for developing technically defensible effective strategies that blend habitat and permitting elements with practical site remediation solutions. In addition, he has extensive experience applying federal and state sediment criteria, such as Washington's Sediment Management Standards (SMS), to the characterization and remediation of contaminated sediments. He is also experienced with ecological and human-health risk management issues as they apply to contaminated sediment sites, including fingerprinting of polycyclic aromatic hydrocarbons (PAHs). He has researched the fate and migration of PAH contaminants and the behavior of organotins (e.g., tributyltin [TBT]) in the aquatic environment. As an instructor for the U.S. Army Corps of Engineers' Dredging Fundamentals course, Mr. Templeton is well versed in dredging issues. Mr. Templeton also conducts peer reviews for research on sediment chemistry proposed for publication in *Environmental Toxicology and Chemistry*. Mr. Templeton also provides expert testimony for litigation support and insurance matters.

REPRESENTATIVE PROJECT EXPERIENCE

Shipyards Sediment Remediation Design, San Diego, California

Mr. Templeton was retained by Southwest Marine (SWM) and National Steel and Shipbuilding Company (NASSCO) to assist with FS (supporting Exponent) and sediment remediation design for these two active shipyards. In response to the Regional Water Quality Control Board (RWQCB), activities included an evaluation of alternatives that considered various sediment cleanup levels, source control, technical feasibility, shipyard operations, and economic considerations to arrive at an achievable and implementable remediation scenario. The remediation scenario considered dredging, capping, and habitat enhancements. The FS was completed in late 2003 with design of the selected scenario immediately following. Anchor is also providing its services in helping SWM and NASSCO in allocation issues, as well as providing technical support for RWQCB negotiations.

Commencement Bay Nearshore/Tideflats Superfund Site - Middle Waterway Problem Area, Tacoma, Washington

Mr. Templeton was retained by a group of primary responsible parties (PRPs) to perform Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) pre-remedial and remedial design (PRD/RD) and construction services for this sediment problem area. Mr. Templeton serves as client manager and project manager. He serves as the project coordinator of record and has had involvement beginning with strategy development in response to the Record of Decision (ROD), negotiation of an Administrative Order on Consent (AOC) and Statement of Work (SOW), and preparation of preliminary cost estimates. The AOC became effective April 14, 1997, and key staff summarized existing data and prepared PRD/RD Work Plans. Anchor performed sediment and water quality sampling and analyses. To support design of the dredging plans and permitting requirements, a biological assessment (BA) was performed. This effort included an evaluation of how the dredging action will affect salmonid habitat. Specifically, we evaluated existing habitat, water quality impacts during dredging, various construction techniques, and habitat function (salmonids) to develop a dredge design that meets cleanup objectives, navigation requirements, expected 401 Water Quality Certification elements, the 404 process, and Endangered Species Act (ESA) consultation requirements. Based on these considerations and discussions with the permitting agencies, final design was completed in spring of 2003. Mr. Templeton also provided expert testimony for litigation support (third party issues) and insurance matters.

In addition, Anchor performed the construction management (CM) of the project. The project consisted of dredging and disposing of over 100,000 cy of contaminated sediment, placing 40,000 tons of cap/backfill material, installing a new bulkhead, demolishing 70,000 square feet of overwater structures, and enhancing shoreline fish habitat. The results of the project have been considered successful by the PRPs and regulatory agencies. Anchor won an award of merit from the Construction Management Association of America, Pacific Northwest Chapter for our CM work on the project.

Eddon Boatyard, Gig Harbor, Washington

In 2004, the residents of the City of Gig Harbor approved the $3.5 million Proposition No. 1 Land Acquisition and Development General Obligation Bond (Proposition No. 1) to preserve a portion of the historic waterfront known as the Eddon Boathouse property. After completing a review of environmental conditions, the City purchased the property in March 2005. Mr. Templeton was retained to direct a strategy for this property that will achieve closure under the Washington State Model Toxics Control Act (MTCA) and the SMS and develop the property into a City park.

8801 East Marginal Way Property, Duwamish River, Seattle, Washington

Mr. Templeton was retained to provide MTCA/SMS expertise to support a property transaction. Currently, Mr. Templeton is supporting the negotiation of a Washington State Department of

Ecology (Ecology) Agreed Order (AO) to address sediment issues adjacent to the property. He also provided expert testimony for litigation support (third party issues) and insurance matters.

Jorgensen Forge Corporation, Duwamish River, Seattle, Washington

Mr. Templeton was retained to provide MTCA/SMS and National Pollutant Discharge Elimination System (NPDES) expertise to support ongoing operations. Currently, Mr. Templeton is supporting the negotiation of an Ecology AO to perform an RI/FS that addresses source control and upland issues on the property. This work is integrated with work performed under an EPA AOC for RI activities to address adjacent sediments. Currently, a sediment removal order is being negotiated for FS activities, design, and implementation of a sediment remedial action. He also provided expert testimony for litigation support (third party issues) and insurance matters.

Duwamish Shipyard, Inc., Duwamish River, Seattle, Washington

As project manager, Mr. Templeton designed, developed, and negotiated a chemical and biological sediment monitoring program to meet NPDES requirements and to assess the shipyard's compliance with SMS. In addition, he managed the remediation of upland soil and groundwater to meet MTCA criteria. Currently, Mr. Templeton is evaluating existing information to support the development of an RI/FS for upland and sediments under an Ecology AO that will lead to an early action sediment remediation under the SMS (with EPA input).

Slip 3 Fox Avenue Facility, Duwamish River, Seattle, Washington

Mr. Templeton serves as project manager for all aspects of environmental operations on behalf of this property. Working all aspects of the property over the last 10 years, he has investigated sediment quality under the SMS, designed dredging and construction activities to meet Puget Sound Dredge Disposal Analysis (PSDDA) requirements, performed preliminary environmental assessments under MTCA to support property transfer. Currently, Mr. Templeton is evaluating existing information to support the development of an RI/FS that will lead to an early action sediment remediation. He also provided expert testimony for litigation support (third party issues) and insurance matters.

Foss Maritime, Tacoma, Washington

Mr. Templeton assists Foss Maritime with a number of aquatic parcels of which a majority are managed by DNR and involve issues associated with log booming and log rafting activities. DNR aquatic land lease terms are unclear as to how DNR should assess and address wood debris issues. By staying abreast of DNR interim guidance and working closely with Ecology site managers as they dedicated more resources to this issue, Mr. Templeton is central to working out site strategies that focus on practical lease termination strategies that meet the requirements of SMS. Sites include the West Hylebos Log Storage Area (Tacoma), Port Angeles, and Longview.

MICHAEL WHELAN, P.E.

Senior Managing Engineer

EDUCATION

B.S. Geological Engineering, Colorado School of Mines, 1990
M.S. Environmental Engineering, Georgia Institute of Technology, 1992
M.S. Geotechnical Engineering, Massachusetts Institute of Technology, 1995

PROFESSIONAL REGISTRATIONS AND MEMBERSHIPS

Professional Engineer, licensed in Washington and California
Member, Western Dredging Association (WEDA)
Member, American Society of Civil Engineers (ASCE)

PROFESSIONAL EXPERIENCE

Michael Whelan's 15 years of experience as a civil, environmental, and geotechnical engineer includes management, design, and oversight of numerous sediment remediation, restoration, monitoring, and development projects for both offshore and upland sites around the United States. His background in environmental engineering, coupled with his extensive experience with civil and sediment design, allows him to develop cost-effective and readily implemented design and construction approaches for remediation projects involving waterfront cleanup and construction, stabilization of landslide areas and offshore slopes, and design of nearshore and offshore waste containment facilities and upland landfill caps. Mr. Whelan specializes in managing sediment characterization studies, negotiation of cleanup requirements with regulatory agencies, comparative evaluations of design alternatives, creation of plans, specifications, and cost estimates, assistance with bidding and contractor selection, and construction oversight and management. His technical expertise in engineering and design includes management of sediment remedial actions (dredging, excavations, capping, and confined disposal facilities; field exploration and laboratory testing programs; and geotechnical analyses of slope stability and seismic effects on marine structures and slopes.

REPRESENTATIVE PROJECT EXPERIENCE

Port Hueneme Maintenance Dredging and CAD Site Construction, Port Hueneme, California

Mr. Whelan is the lead civil and environmental engineer for this project involving development of a multi-user confined aquatic disposal (CAD) site for contaminated sediments within Port Hueneme. The project consists of three distinct phases: excavating a large pit in the middle of the Harbor and placing the clean sand onto an adjacent beach; dredging contaminated sediment from the Federal Channel, Oxnard Harbor District docks and Navy docks and placing the material into the CAD cell; constructing a clean cap of sand on top of the contaminated layer to seal the cell and prevent chemical migration. Specific design elements of this project include dredging design, resistance to erosion, modeling of chemical breakthrough and water quality impacts, and consolidation of materials placed within the CAD.

Newport Harbor/Rhine Channel Sediment Investigation and Alternatives Evaluation, Newport Beach, California

Mr. Whelan is Anchor QEA's lead engineer for the engineering evaluation and development of conceptual cost estimates for various remedial alternatives of contaminated sediment in Newport Harbor and the Rhine Channel, a waterway area that is heavily used by public, business, and industrial interests. Specific responsibilities included determining overall volume of impacted sediments, developing cost-effective and technically feasible methods for removing or managing the sediments, and reviewing structural conditions of existing seawalls and facilities in the channel. To date, Mr. Whelan's engineering findings and conclusions have been documented in a Draft Feasibility Study and Alternatives Evaluation.

Hylebos Waterway Sediment Remediation and Confined Disposal Facility Design, Tacoma, Washington

Mr. Whelan managed engineering analysis and preparation of plans and specifications for waterway remediation, involving open-water dredging and rehabilitation of adjacent slopes below marginal wharf structures. Designed CDF for dredged sediments that were unsuitable for open-water disposal. Responsible for ensuring consistency of design and schedule with other parties slated to contribute dredged sediment to the designed CDF.

Thea Foss Waterway Sediment Remediation and Disposal Facility, Tacoma, Washington

Mr. Whelan performed and supervised geotechnical and civil engineering analyses of waterway dredging and capping, including design of two waterway disposal sites: excavation and infilling of a Confined Aquatic Disposal (CAD) site, and infilling of a nearby waterway with dredged sediment to form a Confined Disposal Facility (CDF). Analyses included the effects of dredging on adjacent slopes and structures, and consolidation of placed sediment within the CDF. Also designed required habitat improvements, including excavation of a hog-fuel storage area to re-established a former wetland.

Eagle Harbor Remediation and Nearshore Fill Construction, Bainbridge Island, Washington

Mr. Whelan was responsible for engineering design, construction observation, and post-construction for this sediment remediation project, which involved dredging, on-site containment in a constructed nearshore containment facility, and soil stabilization for pavement section installation.

PROOF OF SERVICE

I am employed in the County of San Diego, State of California. I am over the age of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 600 West Broadway, Suite 1800, San Diego, CA 92101-3375.

On **October 19, 2011**, I served the following document described as:

LETTER TRANSMITTING COMMENTS ON MITIGATION MEASURES PREPARED BY ANCHOR QEA, L.P.

by serving a true copy of the above-described document in the following manner:

BY ELECTRONIC MAIL

Upon written agreement by the parties, the above-described document was transmitted via electronic mail to the parties noted below on **October 19, 2011**.

BY HAND DELIVERY

I am familiar with the office practice of Latham & Watkins LLP for collecting and processing documents for hand delivery by a messenger courier service or a registered process server. Under that practice, documents are deposited to the Latham & Watkins LLP personnel responsible for dispatching a messenger courier service or registered process server for the delivery of documents by hand in accordance with the instructions provided to the messenger courier service or registered process server; such documents are delivered to a messenger courier service or registered process server on that same day in the ordinary course of business. I caused a sealed envelope or package containing the above-described document and addressed as set forth below in accordance with the office practice of Latham & Watkins LLP for collecting and processing documents for hand delivery by a messenger courier service or a registered process server.

Frank Melbourn
Catherine Hagan
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San Diego, CA 92123-4340
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BY ELECTRONIC MAIL

Upon written agreement by the parties, the above-described document was transmitted via electronic mail to the parties noted below on **October 19, 2011**.

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Sharon Cloward Executive Director San Diego Port Tenants Association 2390 Shelter Island Drive, Suite 210 San Diego, CA 92106 sharon@sdpta.com Telephone: (619) 226-6546 Fax: (619) 226-6557	Duane Bennett, Esq. Ellen F. Gross, Esq. William D. McMinn, Esq. Office of the Port Attorney 3165 Pacific Highway San Diego, CA 92101 dbennett@portof sandiego.org egross@portofsandiego.org bmcminn@portofsandiego.org Telephone: 619-686-6200 Fax: 619-686-6444
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Gabe Solmer Jill Witkowski San Diego Coastkeeper 2825 Dewey Road, Suite 200 San Diego, CA 92106 gabe@sdcoastkeeper.org jill@sdcoastkeeper.org Telephone: (619) 758-7743 Fax: (619) 223-3676	Mike Tracy Matthew Dart DLA Piper LLP US 401 B Street, Suite 1700 San Diego, California 92101-4297 mike.tracy@dlapiper.com matthew.dart@dlapiper.com Telephone: (619) 699-3620 Fax: (619) 764-6620
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Sarah R. Brite Evans Schwartz Semerdjian Ballard & Cauley 101 West Broadway, Suite 810 San Diego, CA 92101 sarah@ssbclaw.com Telephone (619) 236-8821 Fax: (619) 236-8827	Roslyn Tobe Senior Environmental Litigation Attorney U.S. Navy 720 Kennon Street, #36, Room 233 Washington Navy Yard, DC 20374-5013 roslyn.tobe@navy.mil Telephone: (202) 685-7026 Fax: (202) 685-7036

C. Scott Spear U.S. Department of Justice, Environmental Defense Section P.O. Box 23986 Washington, D.C. 20026-3986 scott.spear@usdoj.gov Telephone: (202) 305-1593 Fax: (202) 514-8865	Suzanne Varco Opper & Varco LLP 225 Broadway, Suite 1900 San Diego, California 92101 svarco@envirolawyer.com

I declare that I am employed in the office of a member of the Bar of, or permitted to practice before, this Court at whose direction the service was made and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

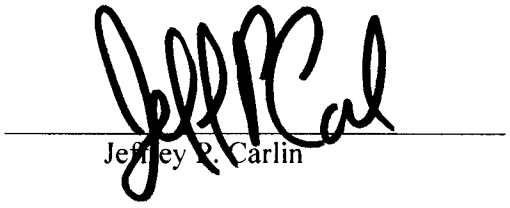
Executed on **October 19, 2011**, at San Diego, California.

Andrea Rasco

Certification of Authenticity of Electronic Submittal

I, Jeffrey P. Carlin, declare:

I am an associate at Latham & Watkins LLP, counsel of record for National Steel and Shipbuilding Company ("NASSCO") in the Matter of Tentative Cleanup and Abatement Order R9-2011-0001 before the San Diego Regional Water Quality Control Board ("Water Board"). I am licensed to practice law in the State of California and make this declaration as an authorized representative for NASSCO. I declare under penalty of perjury under the laws of the State of California that the electronic version of Letter Transmitting Comments on Mitigation Measures Prepared by Anchor QEA, L.P., submitted to the "Water Board" and served on the Designated Parties by e-mail on October 19, 2011, is a true and accurate copy of the submitted signed original. Executed this 19th day of October 2011, in San Diego, California.



Jeffrey P. Carlin