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## San Diego Regional Water Quality Control Board

July 1, 2022

**In reply refer to/attn:**  
**T10000002642:SSmirensky**

Dustin Biddle  
Project Lead, Environmental Remediation  
Lockheed Martin Corporation  
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Marietta, GA 30063-0446  
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**Subject: Request for Comments Regarding Tentative Cleanup and Abatement Order No. R9-2022-0007 for Former Tow Basin and Former Marine Terminal and Railway Facilities, 3380 North Harbor Drive and 1160 Harbor Island Drive, San Diego, California (Site ID #2090046)**

Dustin Biddle:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), will consider adoption of the enclosed Tentative Cleanup and Abatement Order No R9-2022-0007, an *Order Directing Lockheed Martin Corporation to Clean Up or Abate the Effects of Waste Discharged from the Former Tow Basin and Former Marine Terminal and Railway Facilities at 3380 North Harbor Drive and 1160 Harbor Island Drive to the East Basin of Harbor Island in San Diego Bay, San Diego, California* (Tentative Order), at its regularly scheduled meeting on August 10, 2022.

A copy of the Tentative Order is available for public review on our website at: [https://www.waterboards.ca.gov/sandiego/board\\_decisions/tentative\\_orders/](https://www.waterboards.ca.gov/sandiego/board_decisions/tentative_orders/)

The Tentative Order is being issued solely to Lockheed Martin Corporation (LMC) and the Board assumes the settlement agreement related to the litigation between LMC, the Unified Port of San Diego (the Port), and General Dynamics Corporation (GD) is still in place. In the event there is no longer a settlement agreement in place, the San Diego Water Board reserves the right to amend the Order and add parties. The San Diego Water Board has included findings related to the activities of the three parties (LMC, the Port, and GD) that subject them to liability pursuant to Water Code section 13304. Based on the issuance of the previous CAO, *Order No R9-2017-0021, an Order Directing Lockheed Martin Corporation to Clean Up or Abate the Effects of Waste*

CELESTE CANTÚ, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

*Discharged from the Former Tow Basin and Former Marine Terminal and Railway Facilities at 3380 North Harbor Drive and 1160 Harbor Island Drive to the East Basin of Harbor Island in San Diego Bay, San Diego, California* (Order No. R9-2017-0021) and comments received from the three parties regarding an administrative draft of the Tentative Order, the Board has identified LMC as the work party because of its role in preparing the deliverables required by the 2017 CAO and as represented by the three parties in their notice of private mediation settlement. If all three parties provide verifiable information related to a change in circumstance related to their previous settlement, the Order can be amended to be consistent with California law identifying all responsible parties. The Board does not apportion liability and is not required to consider actions among parties in issuance of its orders.

To ensure that the San Diego Water Board can fully study and consider written material, comments must be received by the San Diego Water Board no later than 5:00 p.m. on Friday, July 15, 2022. Written comments may be submitted by email to [sasha.smirensky@waterboards.ca.gov](mailto:sasha.smirensky@waterboards.ca.gov) in text-searchable Portable Document Format (PDF) or Microsoft Word format. Written comments can also be submitted through regular mail to the San Diego Water Board office at 2375 Northside Drive, Suite 100, San Diego, California 92108. Please include in the subject line of the email and comment letter, "Comment – Tentative Order No. R9-2022-0007, Attn: Sasha Smirensky." Written material submitted to the San Diego Water Board office after the submittal deadline may not be considered.

After the comment deadline, the San Diego Water Board Cleanup Team will present the comments received, along with any necessary responses or suggested modifications to the Tentative Order, to the San Diego Water Board for consideration and action. The San Diego Water Board Cleanup Team will copy you and all "Interested Persons" when transmitting the comments, responses, and the Tentative Order to the Board members for consideration and action. Interested persons are copied at the conclusion of this letter. The San Diego Water Board Cleanup Team may not present written responses or suggested modifications prior to the August 10, 2022, Board meeting, but instead may do so at the hearing.

The Advisory Team may set forth procedures for the August 10, 2022, board meeting, and may adopt an Order that is modified from the current version, or the version advocated by any of the parties at the hearing, consistent with argument and evidence submitted by any party or individual. If no hearing procedures are provided, the traditional rules related to meetings and contested items will be set forth in the meeting's agenda and apply to this matter. Consideration of additional written materials and argument at the hearing may be considered at the discretion of the Advisory Team and Board chair.

The Tentative Order under consideration is consistent with all applicable laws and policies of the State Water Resources Control Board. It is drafted to reflect remedial actions taken pursuant to Order No. R9-2017-0021 and expressly requires compliance with current law. Findings in Order No. R9-2022-0007 are not subject to review in this comment period or at the hearing. To assist in your review and understanding of the

Tentative Order, consider reviewing all the San Diego Water Board documents associated with the case. These documents are available for review at the San Diego Water Board office Monday through Friday from 8 a.m. to 5 p.m., except on state holidays. To request review of these documents, please contact the San Diego Water Board at (619) 516-1990, by email at [rb9\\_records@waterboards.ca.gov](mailto:rb9_records@waterboards.ca.gov), or by fax at (619) 516-1994, or mail your request to the office.

Documents associated with the case may also be accessed online via the GeoTracker database:

[https://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T10000002642](https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000002642)

The Tentative Order is a pending adjudicatory proceeding and there shall be no ex parte communications between any party, including the San Diego Water Board Cleanup Team that prepared the Order, and the Advisory Team. An ex parte communication is a communication, direct or indirect, regarding any issue in the proceeding to the Advisory Team by any party without notice and opportunity for all the parties to participate in the communication. San Diego Water Board staff with knowledge of related prior matters cannot serve on the Advisory Team and are therefore identified as members of the Cleanup Team.

The San Diego Water Board Cleanup Team consists of the following San Diego Water Board and California State Water Resources Control Board (San Diego Water Board), Office of Enforcement, staff:

David W. Gibson, Executive Officer, (619)-521-3005,

[david.gibson@waterboards.ca.gov](mailto:david.gibson@waterboards.ca.gov)

Kelly Dorsey, Asst. Executive Officer, (619) 521-3006,

[kelly.dorsey@waterboards.ca.gov](mailto:kelly.dorsey@waterboards.ca.gov)

Roger Mitchell, (619) 521-3008, [roger.mitchell@waterboards.ca.gov](mailto:roger.mitchell@waterboards.ca.gov)

Julie Macedo, Esq., (916) 323-6847, [julie.macedo@waterboards.ca.gov](mailto:julie.macedo@waterboards.ca.gov)

Sarah Mearon, (619) 521-3363, [sarah.mearon@waterboards.ca.gov](mailto:sarah.mearon@waterboards.ca.gov)

Sasha Smirensky, (619) 521-3358, [sasha.smirensky@waterboards.ca.gov](mailto:sasha.smirensky@waterboards.ca.gov)

The Advisory Team currently consists of the following San Diego Water Board and State Water Board staff:

Jeremy Haas, (619) 521-3009, [jeremy.haas@waterboards.ca.gov](mailto:jeremy.haas@waterboards.ca.gov)

Vincent Vu, (916) 323-5669 [vincent.vu@waterboards.ca.gov](mailto:vincent.vu@waterboards.ca.gov)

Advisory Staff as designated by counsel and the Board members; will not include any person with previous experience on the Tentative Order under consideration, or previous orders related to this site.

If you have questions related to the August 10, 2022, hearing, please address them to members of both the Cleanup Team and Advisory Team.

In the subject line of any written comments related to the Tentative Order, include the reference code **T10000002642:SSmirensky**. For questions or comments, please contact Sasha Smirensky at (619) 521-3358 or [sasha.smirensky@waterboards.ca.gov](mailto:sasha.smirensky@waterboards.ca.gov).

Respectfully,

KELLY DORSEY, PG  
Assistant Executive Officer

KKD:rnm:sam:jm:sas

Enclosure: Tentative Cleanup and Abatement Order No. R9-2022-0007

cc: Julie Macedo, State Water Resources Control Board, Office of Enforcement, [julie.macedo@waterboards.ca.gov](mailto:julie.macedo@waterboards.ca.gov)  
John Carter, San Diego Unified Port District, [jcarter@portofsandiego.org](mailto:jcarter@portofsandiego.org)  
Karen Holman, San Diego Unified Port District, [kholman@portofsandiego.org](mailto:kholman@portofsandiego.org)  
George Gigounas, DLA Piper, [George.Gigounas@dlapiper.com](mailto:George.Gigounas@dlapiper.com)  
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Tech Staff Info & Use	
Order No.	R9-2022-0007
Geotracker Global ID	T10000002642
Cost Recovery ID	2090046