

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

2016 JUN -7 11:31 AM

San Diego Regional Water Quality Control Board

June 15, 2016

Mr. Sandor Halvax
Manager, Environmental Programs (West)
BAE Systems San Diego Ship Repair, Inc.
P.O. Box 13308
San Diego, California 92170-3308

Certified Mail – Return Receipt Requested
Article Number: 7011 0470 0002 8952 9872

In reply refer to/attn:
257991:DQuach

Subject: Acceptance of Settlement Offer No. R9-2016-0003: Offer to Participate in Expedited Payment Program Relating to Violations of Order No. R9-2009-0080, NPDES No. CA0109151, Waste Discharge Requirements BAE Systems San Diego Ship Repair Inc. Discharge to the San Diego Bay

Mr. Halvax:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) accepts Settlement Offer No. R9-2016-0003: *Offer to Participate in Expedited Payment Program Relating to Violations of Order No. R9-2009-0080, NPDES No. CA0109151, Waste Discharge Requirements BAE Systems San Diego Ship Repair Inc. Discharge to the San Diego Bay*. The San Diego Water Board released the Notice of Written Comment Period for the Tentative Settlement Offer No. R9-2016-0003 on May 2, 2016. Comments were due by June 2, 2016. No comments were received during the comment period, and the San Diego Water Board's Executive Officer has signed the enclosed settlement offer.

Pursuant to the settlement offer, BAE Systems San Diego Ship Repair Inc. has thirty (30) calendar days upon receipt of this notice to submit payment in full of the assessed liability (\$12,000). In accordance with Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the liability shall be paid by cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account." Failure to pay the full liability within the required time period may subject BAE Systems San Diego Ship Repair Inc. to further liability.

For questions or comments, please contact Dat Quach by phone at (619) 521-5899, or by email at dquach@waterboards.ca.gov. In the subject line of any response, please include the reference number 257991:DQuach.

Respectfully,


Brandi N. Outwin-Beals, P.E.
Senior Water Resource Control Engineer
Source Control Unit

Doc Scanned On: 2331817
R. O'Donovan Time: _____

Bob:dtq

Enclosure: Signed Acceptance and Waiver Settlement Offer No. R9-2016-0003

cc: David Barker, San Diego Water Board, dbarker@waterboards.ca.gov
Chiara Clemente, San Diego Water Board, cclemente@waterboards.ca.gov
Brandi Outwin-Beals, San Diego Water Board, boutwinsbeals@waterboards.ca.gov
Joann Lim, San Diego Water Board, Jlim@waterboards.ca.gov

| Tech Staff Info & Use | |
|-----------------------|-----------------------------------|
| Order No. | R9-2016-0003 |
| Party ID | 40631 |
| WDID | 9 000000137 |
| NPDES No. | CA0109151 |
| Reg. Measure ID | 401444, 406152 |
| Place ID | 257991 |
| Person ID | 525880 (Halvax) |
| Violation ID | 991393, 991604, 978384, 976911 |

Exhibit A

NOTICE OF VIOLATIONS SUBJECT TO MANDATORY MINIMUM PENALTIES BAE SYSTEMS SAN DIEGO SHIP REPAIR, INC.

The following table lists the alleged violations subject to mandatory minimum penalties, pursuant to Water Code sections 13385(h) and (i). For additional information about the alleged violations listed in the table:

1. Refer to the State Water Resources Control Board Public Reports webpage:
http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml;
2. Choose the "MMP Report" link located under the "Violations Reports" category; and
3. Enter the search criteria.

| Violation ID | Occurred Date | Violation Type | MMP Type | Violation Description |
|--------------|---------------|----------------|----------|--|
| 991393 | 04/23/2015 | CAT2 | SIG | Copper, Total Recoverable Maximum Daily Effluent Limitation (MDEL) is 5.78 ug/L and reported value was 336 ug/L at FP-002. |
| 991604 | 04/23/2015 | CAT2 | SIG | Copper, Total Recoverable Average Monthly Effluent Limitation (AMEL) is 2.88 ug/L and reported value was 336 ug/L at FP-002. |
| 978384 | 08/29/2014 | CAT2 | SIG | Copper, Total Recoverable MDEL is 5.78 ug/L and reported value was 120 ug/L at FP-002. |
| 976911 | 08/29/2014 | CAT2 | SIG | Copper, Total Recoverable AMEL is 2.88 ug/L and reported value was 120 ug/L at FP-002. |

EXPEDITED PAYMENT AMOUNT

Mandatory Minimum Penalty Amount for Effluent Limit Violations

4 Serious Violations × \$3,000 per Serious Violation = \$12,000 Expedited Payment Amount

DEFINITIONS

| | |
|-----------------|--|
| A | Effluent exceeds limit for annual reporting period. |
| AM | Effluent exceeds average monthly limitation. |
| ATOX | Violation of an acute toxicity effluent limitation. |
| AW | Effluent exceeds average weekly limitation. |
| CAT1 | Violation of an effluent limitation for a Group I pollutant by more than 40%. |
| CAT2 | Violation of an effluent limitation for a Group II pollutant by more than 20%. |
| CHRON | Chronic violation as defined by California Water Code section 13385 (i). To be counted as a chronic violation, there must be 3 preceding violations within a 180 day period. The fourth non-serious violation that occurs within the 180 period is an MMP violation. |
| CIWQS | California Integrated Water Quality System database. |
| CTOX | Violation of a chronic toxicity effluent limitation. |
| DM | Effluent exceeds daily maximum limitation. |
| DREP | Deficient reporting violation. This will only result in an MMP if the report is so deficient as to make determination of compliance impossible for that reporting period. |
| GROUP | The list of pollutants is based on Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations. |
| IM | Effluent exceeds instantaneous maximum limitation. |
| LREP | Late reporting violation. Every 30 days a report is late counts as one late reporting violation. |
| M | Effluent exceeds limit for monthly reporting period. |
| MMP Type | Classification of the type of MMP violation. |
| Occurrence Date | Date that a violation actually occurred. For continuing violations, such as a monthly average, the last day of the reporting period is used. If the occurrence date is unknown, the date is entered as the day it was |

| | |
|-----------------------|---|
| | first discovered by staff, the discharger, or a third party. For deficient or late reports, the occurrence date is the day after the report was due. |
| OEV | Violation of any constituent-specific effluent limitation not included in Group I or Group II. |
| Q | Effluent exceeds limit for quarterly reporting period. |
| S | Effluent exceeds limit for semi-annual reporting period. |
| SIG | Serious violation as defined by California Water Code section 13385 (h). Waste discharge exceeds the effluent limitation for a Group I pollutant by 40% or more (CAT1), or a Group II pollutant by 20% or more (CAT2). Also defined by Water Code section 13385.1 as a failure to file a discharge monitoring report pursuant to Water Code section 13383 for each period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations. |
| Violation Description | Narrative description of the violation. |
| Violation ID | Identification number assigned to a violation in CIWQS. |
| Violation Type | Classification of a violation. Two types of violations relate to MMPs: 1) Late Reporting Violations (LREP, DREP) 2) Effluent Violations (ATOX, CTOX, CAT1, CAT2, OEV) |

Exhibit B

ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING OF THE SETTLEMENT OFFER NO. R9-2016-0003

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), BAE Systems San Diego Ship Repair, Inc. (Permittee) hereby accepts the *Offer to Participate in Expedited Payment Program* and waives the right to a hearing before the San Diego Water Board to dispute the allegations of violations described in the Settlement Offer, which is attached hereto as Exhibit A and incorporated herein by reference.

The Permittee agrees that the Settlement Offer shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the San Diego Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Permittee agrees to pay the penalties required by Water Code section 13385, in the sum of \$12,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violations described in the Settlement Offer. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the Settlement Offer and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Settlement Offer.

Upon execution by the Permittee, the completed Acceptance and Waiver shall be returned to:

California Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108-2700
ATTN: 257991:DQuach

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii), require the San Diego Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing National Pollutant Discharge Elimination System (NPDES) permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the Executive Officer, will be published as required by law for public comment.

During the public comment period, if no comments are received that cause the Executive Officer to question the Expedited Payment Amount, the Executive Officer will execute the Acceptance and Waiver.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the San Diego Water Board to resolve the violations set forth in the Settlement Offer may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the San Diego Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the

Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that once the Acceptance and Waiver is executed by the Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the liability shall be paid by a cashiers or certified check for \$12,000 made out to the "State Water Pollution Cleanup and Abatement Account." Payment must be submitted to the San Diego Water Board no later than ten calendar days after the date the Permittee receives written notice that the Executive Officer has executed this Acceptance and Waiver.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

BAE Systems San Diego Ship Repair, Inc.

By:



Signed Name

Robert G. Koerber

Printed or Typed Name

29 MAR 16

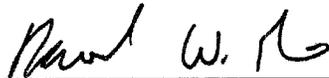
Date

Vice President / GM

Title

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385.

By:



DAVID W. GIBSON
Executive Officer

14 June 2016

Date

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