# ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING; ORDER

R2-2013-1011

**LATE SUBMITTAL OF 2011-12 ANNUAL REPORT IN VIOLATION OF STATE GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES**

**Facility Name: Nelsons Marine Inc Alameda Poi (WDID No. 2 01I014579)**
**Facility Address: 1500 Ferry Pt, Alameda CA 94501**

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (hereinafter "Acceptance and Waiver") to the San Francisco Bay Regional Water Quality Control Board ("Regional Water Board"), Nelsons Marine Inc (hereinafter "Permittee") hereby accepts the "Offer to Participate in the Regional Water Board's Expedited Payment Program for Annual Reporting Violations" (hereinafter "Conditional Offer") and waives the right to a hearing before the Regional Water Board to dispute the allegation of violation.

The Permittee agrees that the Enforcement Settlement Offer shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violations through its Assistant Executive Officer. Permittee agrees to perform the following:

- **Pay discretionary administrative civil liability as** authorized by California Water Code section 13385(c)(1), **in the sum of $2,000** (hereinafter "Expedited Payment Amount") by cashier's check or by certified check made payable to the "State Water Resources Control Board" for deposit into the State Water Pollution Cleanup and Abatement Account, which shall be deemed payment in full of any civil liability pursuant to California Water Code section 13385 that otherwise might be assessed for the violations described in the Enforcement Settlement Offer.

The Permittee understands that this Acceptance and Waiver waives its right to contest the allegations in the Enforcement Settlement Offer and the civil liability amount for such violations.

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

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

**San Francisco Bay Regional Water Quality Control Board**
**1515 Clay Street, Suite 1400**
**Oakland, CA 94612**
**Attn: David Williams**

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Water Board to publish notice of and provide at least thirty (30) days for public comment on any proposed resolution of an enforcement action. Accordingly, this Acceptance and Waiver, prior to being formally endorsed by the Executive Officer of the Regional Water Board, will be published as required by law for public comment.

If no comments are received within the notice period that cause the Executive Officer of the Regional Water Board to reconsider the Expedited Payment Amount, the Executive Officer will formally endorse this Acceptance and Waiver. Resolution of these alleged annual reporting violations by the Regional Water Board will preclude Regional Water Board action for the alleged annual reporting violation in the Enforcement Settlement Offer.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Water Board to resolve the violations set forth in the Enforcement Settlement Offer may be withdrawn by the Assistant Executive Officer. If the Regional Water Board's offer is withdrawn, the Permittee will be advised of the withdrawal, and the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. After the Regional Water Board's offer and the Permittee's waiver are deemed withdrawn, the unresolved violations will be addressed in a formal enforcement action. An administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Water Board or the State Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver endorsed by the Permittee shall be treated as a settlement communication, and neither the Permittee nor Regional Water Board staff shall use it as evidence in that hearing.

The Permittee understands that once this Acceptance and Waiver is formally endorsed by the Executive Officer of the Regional Water Board and an order number inserted, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. The Permittee shall pay the Expedited Payment Amount by a cashier's check or certified check for the full amount made payable to the "State Water Resources Control Board" for deposit into the State Water Pollution Cleanup and Abatement Account. The payment will be submitted in accordance with an invoice for the payment. Payment will be due on or about 30 days of endorsement of the "Acceptance and Waiver" by the Executive Officer of the Regional Water Board.

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.

Nelsons Marine Inc
(Permittee) *Make corrections as appropriate

By: _____ 3-11-2013
(Signed Name) (Date)

Carl Nelson
(Printed or typed name)

President
(Title)

CALIFORNIA REGIONAL WATER
MAR 11 2013
QUALITY CONTROL BOARD

**IT IS SO ORDERED** PURSUANT TO CALIFORNIA WATER CODE SECTION 13385

Bruce H. Wolfe
Digitally signed by Bruce H. Wolfe
Date: 2013.04.18 17:04:26 -07'00'

By: _____ _____
Bruce H. Wolfe (Date)
Executive Officer
San Francisco Bay Regional Water Quality Control Board