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To: <dbarker@waterboards.ca.gov>, "Brian Kelley" <BKelley@waterboards.ca.gov...>
CC: "Michael O'Leary" <moleary@knightandcarver.com>
Date: 7/26/2010 9:37 AM
Subject: Reference #235140:KSchwall/WDID No.:9 000000816
Attachments: DOCS-#1231771-v1-Knight_&_Carver_-_Dry_Dock_-_Comments_to_Tentative_Order_R9-2010-0096.doc

Dear Mr. Barker,

I am responding to your letter and attached Tentative Order Draft R9-2010-0096. The attached are Knight & Carver Yachtcenter's comments/concerns for your review. I/we are happy to meet with you at your convenience to discuss any questions/concerns you may have. We appreciate your attention in this matter.

Kind Regards,

Giovanni LoCoco

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**Comments to Tentative Order R9-2010-0096
An Order Modifying Order R9-2005-0149
for the Knight & Carver Yacht Center**

(Reference #235140: KSchwall/WDID No.:9 000000816)

PG/LN	COMMENT
5:10	We believe the dry dock ballast water sampling program should be based on the occasional use of the dry dock for raising and lowering rather than based on scheduled analysis based on dates. For example, on page 6, section 11.c, the existing monitoring requirements ask for measurements of average of daily discharges over a calendar month. There may only be one or two discharge occurrence throughout an entire month based on the amount of usage and number of boats raised or lowered into the dry dock. As a result, use of average monthly effluent limitation using daily or even weekly discharges would be misleading. Moreover, there is an assumption in the analysis that if one measurement shows a violation, it is that violation is continuing (extrapolated) out to the next testing date as a continuous violation. This would create a regulatory fallacy, given the fact that there are not continuous discharges during this period; rather the discharges occur at specific times for limited periods. We suggest that the monitoring scheduled be based on occurrences of inflow and outflow (or a subset of such occasions) rather than based on time periods.
9	<u>Effluent monitoring of ballast water.</u> The test sampling frequencies in Table E-3 seem appropriate for occasional monitoring activity of the ballast water. This type of schedule seems more appropriate for ensuring compliance and inclusion in reports.
10-13	<u>Chronic Toxicity Monitoring Frequency.</u> Given the lack of manipulation or influx of the bay water being used for ballast, it is unclear the rationale for requiring acute and chronic toxicity tests for the water. Is this something that is really necessary for mere ballast inflow and outflow? Likewise, on page 12 in discussing mixing zone dilution allowances, the “chronic instream waste concentrations” are actually exactly the same as the surrounding waters. How would this “waste stream” be diluted? These requirements seem inappropriate for ballast water discharge.
17	These sections address Bays & Estuaries Policy. The Vessel General Permit appears to have some erroneous numbering. In addition, the Bays and Estuary Policy addresses “treated ballast waters” which is not the nature of discharge in this matter. Is the quoted sections from the Bays and Estuaries Policy does not seem applicable to this discharge.
17	Regarding vessel general permit, Knight and Carver is currently registered under the vessel general permit through the EPA.

PG/LN COMMENT

17:20 Reference to “BW002” in the ballast water monitoring locations is erroneous. There is no second discharge from a second ballast water location.

Overall, our concern is that monitoring activities required under the Revised Tentative Order should be directly applicable to the nature of the discharge associated with ballast inflow and outflow and done on a reasonable timeframe that is applicable to the operations of the dry dock. In reviewing the BAE order for this same facility that was operated in an identical fashion, it does not appear that their monitoring requirements were as onerous as those proposed in the Revised Order.

I appreciate your effort in assisting us with that matter.

Giovanni Lococo

VP Operations

Knight & Carver Yachtcenter