

**SAN DIEGO REGIONAL BOARD RESPONSES TO COMMENTS ON
TENTATIVE ORDER NO. R9-2010-0096, AN ORDER MODIFYING ORDER NO. R9-2005-0149
NPDES NO. CA0109088
KNIGHT AND CARVER YACHTCENTER BOAT REPAIR FACILITY
DISCHARGE TO SAN DIEGO BAY, SAN DIEGO COUNTY**

Supporting Document No. 4 Item No. 8 September 8, 2010
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September 8, 2010, REGIONAL BOARD MEETING

A. Comments submitted by Giovanni Lococo of Knight and Carver, dated July 26, 2010:

<i>COMMENTS from Knight & Carver dated July 26, 2010, Comment Letter A.</i>	<i>REGIONAL BOARD RESPONSES</i>
<p>Comment 1: 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.</p>	<p>The sampling program for the dry dock has a sampling schedule shown in Table E-3 on page 9 of the Order. This schedule includes some quarterly sampling and yearly sampling as well as a requirement for priority pollutant sampling twice in the permit term. There are no requirements for daily sampling. In addition, this order only regulates the discharge of ballast water when it is not operating as a means of transportation. Discharges of ballast water while the drydock is operating as a means of transportation such as when docking or undocking a vessel inclusive of the transition from that operation is regulated by the USEPA Vessel General Permit. This tentative Order No. R9-2010-0096 regulates other ballast water discharges such as when the dry dock is tied to the pier and adjusting trim. Sampling is not required if no discharges subject to this Order take place.</p> <p>The average monthly effluent limitation is based on the Ocean Plan's Table A Effluent Limitations. These effluent limitations are technology based effluent limitations applicable to industrial discharges like the ballast water. Because San Diego Bay is connected to the Ocean, it is appropriate to apply these limits to the discharge.</p>

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<p>Comment 2: <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.</p>	<p>This is the required sampling schedule as explained in the response to Comment 1.</p>
<p>Comment 3: <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.</p>	<p>Chronic and acute toxicity effluent limitations have been included in Orders for other facilities in the area with dry docks. There is an error which will be corrected in the errata sheet. The chronic instream waste concentration for this discharge is 100% effluent, not 62.5%. The dilutions discussed on page 12 are part of the toxicity testing procedures necessary to determine the TUc.</p>
<p>Comment 4: 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.</p>	<p>The Bays and Estuaries Policy requires industrial discharges to be phased out, but provides an exception for treated ballast water. The discharge from the dry dock is ballast water, but doesn’t require treatment. Because the discharge is ballast water, the Bays and Estuaries Policy allows the discharge with regulation.</p>

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Comment 5: Regarding vessel general permit, Knight and Carver is currently registered under the vessel general permit through the EPA.	Noted.
Comment 6: Reference to "BW002" in the ballast water monitoring locations is erroneous. There is no second discharge from a second ballast water location.	This will be corrected in the Errata Sheet.
Comment 7: 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.	The monitoring requirements in the tentative Order are the same requirements as in BAE's current Order. These requirements are quite reasonable as explained in the response to comment 1.