



GMD SHIPYARD CORP.

BROOKLYN NAVY YARD BLDG. #595
63 FLUSHING AVENUE, UNIT #276
BROOKLYN, NY 11205
TEL: (718) 260-9200
FAX: (718) 260-9284

U.S. Environmental
Protection Agency-Reg 2
2016 MAR 29 PM 3:47
REGIONAL HEARING
CLERK

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway – 16th Floor
New York, New York 10007-1866

21 March 2016

Re: Notice of Proceeding to Assess a Class II Civil Penalty
Docket No. CWA-02-2016-3402

Dear Ms. Karen Maples:

This letter is to officially respond to your (the EPA) letter complaint notifying GMD Shipyard that a violation determination has been made.

I have the following comments to make concerning "Answering" the Administrative Complaint. I request that my comments be taken into consideration on the issues you list in Section III. Finding of Fact and Conclusions of Law;

- a) Paragraph 6.e) i- you start by reporting that there had been a storm, and then you proceed to fault us for not making changes to the SWPPP that even we hope are temporary measures utilized in order to keep the business functioning. GMD had been under the impression that the Brooklyn Navy Yard would have fixed the pumps but they had not. The equipment we were forced to use was to be temporary until the original equipment was repaired. This is why the book was not updated.
- b) 6 e) vi - There is apparently a misunderstanding. Section 3.2.3 notes that the catch basins for storm drainage at Graving Dock #1 are plated. What we understand is that the storm drains go to the Newtown Creek sewage treatment facility. The Graving Dock #1 pump tunnel discharge flow is observable through what looks like a storm drain cover but it is not a storm drain system, it is the original pump drain discharge trough. The Graving Dock #1 pump was damaged by Hurricane Sandy and is not working. GMD is waiting for the Brooklyn Navy Yard to repair that pump so that the original system will be the system used. Graving Dock #1 does not have a storm drain system that empties into Wallabout Bay.
- c) 6 e) viii. There is apparently a misunderstanding. Here you reference Outfall 003. Our plan notes that Storm Drain Outfall 003 is located on the west side and north of Lay berth 3 (old Graving Dock 3) under the pier. This outflow is not on GMD property. The 003 outflow system does however have some storm water drains inside GMD property. GMD Shipyard has not been told this system has been closed. When the pump room for Graving Docks 2 and 3 was removed and

filled in, the storm drain system for outflow 003 was altered. All the storm drain discharges are under piers so there are no pipes visible to determine if there is any water flow. This discharge area is monitored during rain activities.

- d) 6 f) When the rain starts to fall, either you start looking for sampling or you miss the required 30 minutes. So sampling needs to start ASAP. Also, the data from the observations at Central Park, Manhattan or LaGuardia Airport are not the observations at GMD Shipyard in Brooklyn so the numbers you noted are not the actual numbers here. The point is that effort has been made to meet the SPDES requirements.
- e) 6 i) the allegation is that the facility failed to perform dry weather flow inspections. The facility did accomplish dry weather flow inspections to Brooklyn, NY, not at Manhattan, NY. The weather at Manhattan, NY is not the weather at Brooklyn, NY.
- f) 6 k) the MSGP requires certain records be maintained for a period of at least five years. At the time of the inspection the shipyard was still recovering from being submerged under four foot of water, "Superstorm Sandy". The required records had been submerged and were put in black plastic bags for disposal. They were still wet from having been submerged. During the inspection I showed this to the inspectors. Although I did prove that the area had been submerged, that all the offices had been damaged and I did show the black plastic bags of debris. This portion of violation was still alleged. I did search the bags and were able to recover some of the records (that were readable) other records were not recoverable. Records I did recover include: (See Attachment 1 and 2)
 - i) Storm Event Quarterly Visual Monitoring for 2008, 2009, 2010, 2011, and
 - ii) Annual SPDES Certification Reports 2009, 2011,
 - iii) Drainage System Monthly Records, 2008, 2009, 2010, 2011, 2012; and
 - iv) Drainage System Weekly Records 2009, 2010, 2011, 2012

Much of your allegation is not contested. I request an informal conference to discuss the subject violations, penalty and the possibility of settlement in the form of a SEP. Between now and the time we can have the conference we will be working on our SEP proposal. .

Regards,



Kevin A. Nugent
HSE Director
knugent@gmdshipyard.com

Attachment(s):

- 1) Photograph of damaged record book of SPDES required reports
- 2) Photograph of record book internal paper

Attachment 1



Report Binder

Attachment 2:



Inside binder, some paper is good, some paper is not good