



Report Date: November 24, 2023

File:111550

Report Number: 217482

Deep Water Recovery Ltd.
5084 Island Highway S
Union Bay BC
V0R 3B0

Dear Deep Water Recovery Ltd.,

Re: Warning Letter, Information Order, 111550

On November 22, 2023, Ministry of Environment, Environmental Protection Division staff conducted an inspection under *Environmental Management Act (EMA)*, Information Order 111550. The inspection determined that Deep Water Recovery Ltd. is out of compliance with its Information Order 111550, and the section(s) listed below. This Warning Letter lists the compliance verification information contained below.

Failure to comply with the requirements set out in your Information Order is an offence under the *Environmental Management Act (EMA)*. Section 120(10) of *EMA* states as follows:

120(10) A person who contravenes an order or requirement, other than an order under section 9 (3) [hazardous waste storage and disposal] or 90.1 (1) [permits under area based management plan], that is given, made or imposed under this Act by a sewage control manager, a district director, a director, the minister or the appeal board commits an offence and is liable on conviction to a fine not exceeding \$300 000 or imprisonment for not more than 6 months, or both, but an order or requirement is not contravened unless it
(a) was given in writing, and
(b) specified a reasonable period of time for compliance and that period has expired.

It should also be noted that, as an alternative to prosecution of the offence referenced above, the Ministry may initiate action to impose an administrative penalty against Deep Water Recovery Ltd.. *The Administrative Penalties Regulation (EMA)* (B.C. Reg. 133/2014) (APR) was brought into force in 2014. The APR describes the prescribed provisions of the EMA as well as that of specified regulations under which administrative penalties can be assigned. Section 12(4) of the APR states as follows:

12(4) A person who fails to comply with an order under the Act is liable to an administrative penalty not exceeding \$40 000.

I request that Deep Water Recovery Ltd. immediately implement the necessary changes or modifications to correct the non-compliance(s) listed above with the *Environmental Management Act*. Further, I request that Deep Water Recovery Ltd. notify this office in writing, by email or letter within 30 days of this letter, advising what corrective measures have been taken, and what else is being done, to prevent similar non-compliances in the future.

Please submit your response to the Ministry's Compliance Mailbox at: EnvironmentalCompliance@gov.bc.ca.

As a result of this Warning, this authorization will be prioritized for follow-up inspection. The corrective measures will be reviewed by an Officer as part of the next inspection.

Finally, if you fail to take the necessary actions to restore compliance, you may be subject to escalating enforcement action. This Warning Letter and the alleged violations and circumstances to which it refers, will form part of the compliance history of Deep Water Recovery Ltd. and will be taken into account in the event of future violations.

Inspection Details:

The inspection period for this report is from October 16, 2023, to November 20, 2023 (Inspection Period) and includes a review of the following documents:

- 2023-11-15 Directors Email "IO111550 October Extension" (exemption)
- 2023-11-20 "Surface Water Sampling and Monitoring Report - October 2023" signed by Daryl Stowe PChem. and Cory Bettles RPBio. Envirochem (October Report)

Below are the Order clauses that were assessed for compliance during this inspection, as well as the associated details/findings and any actions required.

Requirement Description:	Information Order - Required Action 3, Sampling and Monitoring Plan Implementation 3.: By midnight on March 15, 2023, The Sampling and Monitoring Plan must be implemented with the first samples collected prior to March 15, 2023.
Details/Findings:	<p>The October Report summarized a sampling event conducted on November 3, 2023, which included a sample of Sump 1, Sump 2, NC-OUT and SC-BEND. Envirochem did not or could not collect samples from the remaining identified sample locations in the Approved Sampling and Monitoring Plan as those locations did not show evidence of discharge or there was no water flowing to collect a sample.</p> <p>Ministry Staff reviewed the October Report and confirmed DWR did not implement the Approved Sampling due to the following:</p> <ul style="list-style-type: none">• Samples were collected on November 3 which is outside the calendar month. The Approved Sampling and Monitoring Plan Page 4 states that "sampling is to be conducted a minimum of once per calendar month", or as noted in the Order "if no rainfall occurs within a calendar month, sampling may be conducted within the last three days of the required sampling period".• Samples are to be collected "a minimum of once per calendar month, during or within 72 hours of a rainfall event". As noted in the October Report, the total precipitation, in the form of rainfall and snow, for October 2023 recorded at the Comox A weather station was 142mm. There were thirteen (13) days in October where rainfall was measured. Ministry Staff reviewed the daily total rain at the Comox A weather station for October and noted several rainfall events including October 18 with 36.2mm and October 24 with 26.4mm. However, no sampling events occurred during or within 72 hours these rainfall events.• Samples were not collected for the 96-Hour Rainbow Trout Lethality Test because of a shortage of rainbow trout at the local laboratories. <p>As described above, the October Report was not conducted as per the Approved Sampling and Monitoring Plan. Failing to complete monthly sampling in accordance with the Approved Sampling and Monitoring Plan hinders the Ministry's ability to assess compliance and potential discharge related environmental impacts. Therefore, DWR is out of compliance with this Section of the Order.</p>
Compliance:	Out

Actions to be taken:	Ensure monthly samples are conducted as per the Approved Sampling and Monitoring Plan.
Requirement Description:	<p>Information Order - Required Action 4, Monthly Report</p> <p>4.: By midnight on April 15th, 2023, and by the 15th of each month thereafter a written report must be submitted to the Director which includes</p> <ul style="list-style-type: none"> • All analytical results including both field and lab QAQC data; • A summary of the monitoring results • Precipitation data and summary for the month. <p>The monthly reports must include an assessment of the results including a statement by a suitably qualified professional as to the environmental status of the effluent discharge and any potential impacts that the effluent discharge may have or had on the receiving environment, including comparison to relevant standard and objectives.</p>
Details/Findings:	<p>On November 15, 2023, Darryl Stowe, Senior Environmental Scientist, Senior Manager & Partner, Envirochem, emailed Ministry Staff with a notification that Envirochem was requesting an extension to the "15th of each month thereafter" deadline as "the laboratory had not completed any of analyses of the stormwater samples taken for the month of October" as of November 15th. On November 15, 2023, the Director provided an extension to the monthly report for the October monitoring period. The October Report was submitted to the Ministry via email on November 20, 2023, which meets the extension deadline.</p> <p>A review of the October Report confirms that a summary of analytical results including both field and lab QA/QC data, summary of the monitoring results for Sump 1, Sump 2, NC-OUT and SC-BEND, precipitation data with summary for the month, and an assessment of the results including a statement by a suitably qualified professional as to the environmental status of the effluent discharge and any potential impacts that the effluent discharge may have or had on the receiving environment, including comparison to relevant standard and objectives.</p>
Compliance:	In
Actions to be taken:	Ensure Sampling and Monitoring reports are received by the 15th of each month as required. Should circumstances arise where meeting this Order requirement is not possible, a request for a deadline extension should be submitted to the Ministry prior to the deadline as soon as the circumstances become aware. An extension request should be submitted prior to the day of submission if possible.

Requirement Description:	Information Order - Required Action 5, Report Signature and Submission 5.: All reports must be prepared and signed by a qualified professional operating within their scope of practise. All information required above must be submitted to the Director by email at environmentalcompliance@gov.bc.ca
Details/Findings:	The October 2023 report was signed by Daryl Stowe PChem. and Cory Bettles who is a Registered Professional Biologist with the College of Applied Biologists which satisfies the requirements of this Order condition.
Compliance:	In

Compliance History:
2023-10-16 IR 215625 Notice
2023-09-18 IR 213864 Notice
2023-08-16 IR 211704 Notice
2023-07-17 IR 209740 Notice
2023-06-28 IR 207681 Warning 120(7): Submit a Sampling and Monitoring Plan 2
2023-04-28 IR 205501 AMP: Monthly Report 4
2023-03-01 IR 203307 Notice

The Ministry of Environment Compliance and Enforcement Policy and Procedure (C&E Policy) prescribes common requirements and procedures for all Ministry staff to ensure consistent and risk-based assessment and response to non-compliance. Using the Non-Compliance Decision Matrix, the compliance determination for this inspection has been assessed as **Level 2, Category B, Warning 120(7)**.

More information about Environmental Compliance, the Non-Compliance Decision Matrix, and reporting and data submission requirements can be found at the links below:

General compliance information:

www.gov.bc.ca/environmentalcompliance

Non-Compliance Decision Matrix information:

www.gov.bc.ca/environment/how-compliance-is-assessed

Reporting and data submission requirements (to be sent to EnvAuthorizationsReporting@gov.bc.ca):

<https://www2.gov.bc.ca/gov/content/environment/waste-management/waste-discharge-authorization/comply>

Please be advised that this inspection report may be published on the provincial government website within 7 days.

If you have any questions about this warning, please contact the undersigned.

Yours truly,

Katie Howett
Environmental Protection Officer

cc:

Attachments:

Deliver via:

Email: Fax:

Mail:

Registered Mail: Hand Delivery:

Ministry of Environment and Climate Change Strategy	Compliance and Environmental Enforcement Branch	Mailing Address: 2080-A Labieux Rd Nanaimo BC V9E 6J9	Telephone: 250 751 3100 Facsimile: 250 751 3103 Website: www.gov.bc.ca/env
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DISCLAIMER:

Please note that sections of the permit, regulation or code of practice referenced in this inspection record are for guidance and are not the official version. Please refer to the original permit, regulation or code of practice.

To see the most up to date version of the regulations and codes of practices please visit
<http://www.bclaws.ca>

If you require a copy of the original permit, please contact the inspector noted on this inspection record.

It is also important to note that this inspection record does not necessarily reflect each requirement or condition of the authorization therefore compliance is noted only for the requirements or conditions listed in the inspection record.