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February 1, 2016

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Via Certified Mail – Return Receipt Requested

Re: Notice of Intent to Sue ERAMET and Erachem Comilog Inc. for Clean Water Act Violations at the Erachem Comilog, Inc. Facility in Baltimore, Maryland

Dear Sirs,

The Environmental Integrity Project (EIP) writes on behalf of Blue Water Baltimore and its members to provide notice of their intent to sue ERAMET and Erachem Comilog, Inc. (collectively “Erachem”) for significant and ongoing violations of the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq., at Erachem’s manganese ore refining facility located at 610 Pittman Road, Baltimore, MD 21226 (Facility), which Erachem owns and operates. These serious and ongoing violations have caused and continue to cause discharges of significant amounts of nitrogen via one outfall (Outfall 001) to Arundel Cove and Curtis Creek. Arundel Cove is a tributary of Curtis Creek, which drains into the Patapsco River. All are waters of the United States and within the Chesapeake Bay watershed.

As explained more fully below, Erachem is routinely discharging pollutants from Outfall 001 in violation of the terms and conditions of its National Pollutant Discharge Elimination System (NPDES) Permit and the CWA. By failing to comply with its NPDES permit and the CWA, Erachem has injured and will continue to injure or threaten to injure the health, environmental, aesthetic, and economic interests of Blue Water Baltimore and its members. These injuries or risks are traceable to violations at Erachem’s Facility, and correction of these ongoing violations through remedies (including cessation, corrective action, payment of penalties, and supplemental environmental projects) will redress these injuries or risks.

Citizens are entitled to bring suit against “any person...alleged to be in violation” of an “effluent standard or limitation” established under the CWA or “an order issued by...a State with respect to such a standard or limitation.” 33 U.S.C. § 1365(a)(1). Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with, among other conditions, a NPDES permit issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342(a). Moreover, as much as \$37,500 can be imposed per day for each violation of permit limits or conditions, including unpermitted discharges, under the CWA. 33 U.S.C. § 1319(d).¹ In accordance with Section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A), this letter serves to notify Erachem that Blue Water Baltimore intends to file suit for violations of the CWA, unless corrected, in U.S. District Court for the District of Maryland at any time beginning 60 days after the postmarked date of this letter. 40 C.F.R. § 135.2(c).

¹ See also 40 C.F.R. § 19.4 (Civil Monetary Penalty Inflation Adjustment).

I. BACKGROUND

Erachem's Facility currently operates under NPDES Permit No. MD0001775 and State Discharge Permit No. 06-DP-0272 (the Permit), effective September 1, 2010, pursuant to section 402 of the CWA, 33 U.S.C. § 1342(b).² The Permit expired on August 31, 2015, but the Maryland Department of the Environment (MDE) has administratively extended its coverage.³

The Facility is authorized to discharge cooling tower blowdown, once through cooling water, process wastewater (from the production of manganese dioxide, manganese chloride, manganese nitrate, manganous manganic oxide, manganese nitride, manganese sesquioxide, and manganese oxide), boiler blowdown, and stormwater via Outfall 001 into Arundel Cove and Curtis Creek, according to the Permit. Arundel Cove is a tributary of Curtis Creek, which drains into the Patapsco River.⁴ Arundel Cove and Curtis Creek are categorized as Use II waters and protected for water contact recreation, fishing, aquatic life, and wildlife.⁵ These waterways, which are impaired for nutrients such as nitrogen, are included under the Baltimore Harbor Total Maximum Daily Load (TMDL).⁶

The Permit requires Erachem to report the monthly discharge of Flow and Total Phosphorus. Additionally, the Permit requires Erachem to report the monthly average loading of Total Nitrogen (TN) as pounds per month and the daily maximum loading of TN as pounds per day. Erachem must also report and adhere to monthly averages and daily maximum limitations for Total Manganese (a monthly average of 5.0 mg/l and a daily maximum of 10 mg/l), Total Suspended Solids (a monthly average of 25 mg/l and daily maximum of 50 mg/l), Total Copper (a monthly average of 0.047 mg/l and daily maximum of 0.047 mg/l), and Total Nickel (a monthly average of 0.0125 mg/l and daily maximum of 0.578 mg/l), as well as minimum and maximum pH levels of 6.0 and 9.0, respectively.⁷ In addition, the Permit requires Erachem to submit quarterly Whole Effluent Toxicity (WET) tests and adhere to a daily maximum effluent limitation of 4.6 TU_a for Acute Toxicity.⁸

The Permit also requires Erachem to adhere to an Annual Maximum Loading Rate limit for TN of 13,800 lbs/yr, effective September 1, 2013.⁹ The Annual Maximum Loading Rate is

² See Permit, attached hereto as Attachment A.

³ Maryland Department of the Environment, Integrated Compliance Information System – Violations Report for Erachem Comilog, Inc (Oct. 19, 2015), in response to a Maryland Public Information Act request.

⁴ See *id.*

⁵ MD Code Regs. 26.08.02.02; 26.08.02.08.

⁶ See Permit's Fact Sheet, attached hereto as Attachment B.

⁷ See Attachment A: Permit, I. Special Conditions, A. Effluent Limitations and Monitoring Requirements.

⁸ See *id.*

⁹ See *id.*

calculated and reported on the monthly Discharge Monitoring Reports (DMRs) as the sum of the monthly loading rates from January to December of the current calendar year, in pounds per year.¹⁰ The Annual Maximum Loading Rate for TN imposed on the Facility is consistent with both the annual and growing season allocations of the Baltimore Harbor TMDL, according to the Permit's Fact Sheet.¹¹

By January 2013, Erachem had informed MDE that the Facility was unlikely to meet the 13,800 lbs/yr Annual Maximum Loading Rate for TN in the Permit by the September 1, 2013 effective date.¹² Thus, MDE and Erachem then entered into an Administrative Consent Agreement (CA-14-1986) on September 11, 2013 that provided for an interim TN performance standard of 27,600 lbs/yr.¹³ The Administrative Consent Agreement does not replace or modify the Permit's Annual Maximum Loading Rate for TN, the September 1, 2013 effective date of this limitation, or any other effluent limitations.¹⁴ However, the Administrative Consent Agreement establishes that MDE would not seek penalties for violations of the Permit's Annual Maximum Loading Rate "so long as compliance with the new extended compliance milestones and final deadline approved pursuant to this Consent Agreement are met."¹⁵ The Administrative Consent Agreement does not require Erachem to pay an upfront penalty for prospective violations.¹⁶ Stipulated penalties accrue for violations of the Administrative Consent Agreement, including the interim TN performance standard.¹⁷ Stipulated penalties for failure to adhere to the interim TN performance standard begin to accrue on the first day the exceedance occurs and continue daily through the end of that calendar year.¹⁸

The Administrative Consent Agreement also required Erachem to submit to MDE for review and approval a plan and schedule that would enable the Facility to comply with the Permit's Annual Maximum Loading Rate for TN.¹⁹ On September 27, 2013, Erachem submitted a plan and schedule,²⁰ which MDE approved on January 7, 2014,²¹ to install and implement a

¹⁰ *See id.*; *see also* Attachment B: Permit's Fact Sheet.

¹¹ *See* Attachment B: Permit's Fact Sheet.

¹² *See* Letter from Terry J. Lawrence, Erachem to Carol Coates, MDE (Jan. 4, 2013), attached hereto as Attachment C.

¹³ *See* Administrative Consent Agreement, attached hereto as Attachment D.

¹⁴ *See* Attachment D: Administrative Consent Agreement, Para. 5c.; Para. S.

¹⁵ *See id.*

¹⁶ *See id.*

¹⁷ *See id.*

¹⁸ *See id.*, Stipulated Penalties, Section E, Para. 4.

¹⁹ *See id.*, Work to be Performed, Section A.

²⁰ *See* Administrative Consent Agreement Compliance Plan and Schedule, attached hereto as Attachment E.

²¹ *See* Letter from Sharon E. Talley, MDE to Terry J. Lawrence, Erachem (Jan. 7, 2014), attached hereto as Attachment F.

De-Nitrification Plant by September 4, 2015. The MDE-approved plan and schedule also established March 4, 2016 as Erachem's final compliance deadline to meet the permitted 13,800 lbs/yr loading rate for TN.²²

However, not only has Erachem significantly and continuously violated the interim performance standard for TN (27,600 lbs/yr) set forth in the Administrative Consent Agreement, it has also failed to meet the interim compliance milestones, including implementation of the De-Nitrification Plant by the deadline (see Section II.D of this NOI).

Review of DMRs and correspondence between Erachem and MDE from 2013 to present reveal ongoing violations of the Permit as well as the Administrative Consent Agreement that have placed the Facility in significant noncompliance since January 2013.

II. VIOLATIONS OF THE CLEAN WATER ACT

A. Failure to Comply with the Permit's Annual Maximum Loading Rate Limit for Total Nitrogen

Section 505(a)(1)(A) of the CWA, 33 U.S.C. § 1365(a)(1)(A), entitles citizens to bring suit against "any person...alleged to be in violation" of an "effluent standard or limitation" established under the CWA. The Permit imposes an Annual Maximum Loading Rate for TN of 13,800 lbs/yr. Erachem is required to calculate and report the Annual Maximum Loading Rate on the monthly DMRs as the sum of the monthly loading rates from January to December of the current calendar year, according to the Permit. Erachem has continuously and significantly violated the annual TN loading rate since October 2013.

Table 1 shows that Erachem has been in violation of its annual TN loading rate 27 out of the past 28 months that the Permit limit has been in effect (October 2013 to December 2015). For the past three years, Erachem has discharged over 12 times the annual allowable amount in pounds by the end of each calendar year.

²² See Attachment E: Administrative Consent Agreement Compliance Plan and Schedule.

Table 1. Violations of Annual Maximum Loading Rate Permit Limit (13,800 lbs/yr) for Total Nitrogen²³

Calendar Year	TN Monthly Load Total (lbs/yr)	TN Cumulative Load Total (lbs/yr)	No. of Days in Violation of 13,800 lbs/yr Limit
2013			
SEP ²⁴	7,020	7,020	--
OCT	7,456	14,476	3 ²⁵
NOV	9,481	23,957	30
DEC	15,012	38,969	31
Total No. of Days in Violation in 2013 = 64 days			
2014			
JAN	25,470	25,470	15 ²⁶
FEB	27,577	53,047	28
MAR	17,014	70,061	31
APR	7,954	78,015	30
MAY	10,736	88,751	31
JUN	15,518	104,269	30
JUL	16,766	121,045	31
AUG	11,492	132,537	31
SEP	22,097	154,634	30
OCT	3,001	157,635	31
NOV	11,264	168,899	30
DEC	3,259	172,158	31
Total No. of Days in Violation in 2014 = 348 days			
2015			
JAN	26,172	26,172	15 ²⁷

²³ January 2013 to September 2015 monthly TN load and year-to-date annual TN load calculations from Erachem's corrected DMRs. October 2015 to December 2015 DMRs obtained through U.S. EPA's ECHO database (last accessed January 26, 2016).

²⁴ Permit's effective date of Annual Maximum Loading Rate for TN is September 1, 2013.

²⁵ To calculate the number of days Erachem was in violation in October 2013, EIP divided the total allowable lbs of TN Erachem was permitted to discharge for the rest of 2013 (13,800 lbs – 7,020 lbs discharged in Sept. 2013 = 6,780 lbs of TN) by the average daily TN load for the month (7,456 lbs ÷ 31 days = 240.52 lbs/day). After 28.23 days in October (6,790 lbs ÷ 240.52 lbs/day = 28.23 days), Erachem exceeded the Annual Maximum Loading Rate for TN. Therefore, Erachem was in violation of this limit from October 29th through the rest of the calendar year.

²⁶ To calculate the number of days Erachem was in violation in January 2014, EIP divided the annual TN loading rate (13,800 lbs) by the average daily TN load for the month (25,470 lbs ÷ 31 days = 820.61 lbs/day). After 16.82 days in January (13,800 lbs ÷ 820.61 lbs/day = 16.82 days), Erachem exceeded the Annual Maximum Loading Rate for TN. Therefore, Erachem was in violation of this limit on a daily basis from January 17th through the end of the calendar year.

Calendar Year	TN Monthly Load Total (lbs/yr)	TN Cumulative Load Total (lbs/yr)	No. of Days in Violation of 13,800 lbs/yr Limit
FEB	20,351	46,523	28
MAR	36,135	82,658	31
APR	11,141	93,799	30
MAY	12,412	106,211	31
JUN	14,520	120,731	30
JUL	8,758	129,489	31
AUG	12,038	141,527	31
SEP	11,421	152,948	30
OCT	8,853	161,801	31
NOV	17,453	179,254	30
DEC	6,971	186,225	31
Total No. of Days in Violation in 2015 = 348 days			

Each day the discharged effluent exceeds the Annual Maximum Loading Rate limit for TN is a separate violation for which a penalty of up to \$37,500 for each day of violation can be assessed.

B. Failure to Demonstrate that the Facility is Optimizing its Nutrient Control Capability

The Permit requires Erachem to demonstrate to MDE's satisfaction that the Facility is optimizing its nutrient control capability after any exceedance of the Annual Maximum Loading Rate for TN.²⁸ This duty is not obviated with the arrival of the next calendar year. However, publicly available MDE records²⁹ indicate that Erachem has not complied with this requirement in any of the three years that the Facility exceeded the Annual Maximum Loading Rate for TN. Each day that Erachem fails to perform this duty after exceeding its annual TN loading rate each year (from October 2013 to the present, January 2014 to the present, and January 2015 to the present), is a separate and continuing violation subject to a penalty of up to \$37,500.

²⁷ To calculate the number of days Erachem was in violation in January 2015, EIP divided the annual TN loading rate (13,800 lbs) by the average daily TN load for the month (26,172 lbs ÷ 31 days = 844.26 lbs/day). After 16.35 days in January (13,800 lbs ÷ 844.26 lbs/day = 16.35 days), Erachem exceeded the Annual Maximum Loading Rate for TN. Therefore, Erachem was in violation of this limit on a daily basis from January 17th through the end of the calendar year.

²⁸ See Attachment A: Permit, I. Special Conditions, A. Effluent Limitations and Monitoring Requirements, Note. 3.

²⁹ Records from May 15, 2015 and November 16, 2015 Public Information Act request file reviews.

C. Failure to Comply with the Administrative Consent Agreement’s Interim Performance Standard for Total Nitrogen

Section 505(a)(1)(B) of the CWA, 33 U.S.C. § 1365(a)(1)(B), entitles citizens to bring suit against “any person...alleged to be in violation” of “an order issued...by a State with respect” to an effluent standard or limitation established under the CWA. Erachem has continuously and significantly violated the interim TN performance standard of 27,600 lbs/yr since December 2013.³⁰

As per Table 2, below, Erachem has violated the interim performance standard for the TN loading rate 23 out of the past 28 months that the Administrative Consent Agreement has been in effect. For the two full calendar years the interim performance standard has been in effect, Erachem has exceeded its interim TN performance standard by February of each year. By the end of each calendar year, Erachem discharged over six times the amount of pounds allowed. Daily violations of this requirement accrue on the first day the interim performance standard for TN was exceeded and continue thereafter through the end of each calendar year. Erachem is subject to a penalty of up to \$37,500 for each day of violation.

Table 2. Violations of Interim Performance Standard (27,600 lbs/yr) for Total Nitrogen³¹

Calendar Year	TN Monthly Load Total (lbs/yr)	TN Cumulative Load Total (lbs/yr)	No. of Days in Violation of 27,600 lbs/yr Performance Standard
2013			
SEP ³²	7,020	7,020	--
OCT	7,456	14,476	--
NOV	9,481	23,957	--
DEC	15,012	38,969	24 ³³

³⁰ See Attachment D: Administrative Consent Agreement, Stipulated Penalties, Section E, Para. 4.

³¹ January 2013 to September 2015 monthly TN load and year-to-date annual TN load calculations from Erachem’s corrected DMRs. October 2015 to December 2015 DMRs obtained through U.S. EPA’s ECHO database (last accessed January 26, 2016).

³² The Administrative Consent Agreement’s effective date of the interim performance standard is September 1, 2013.

³³ To calculate the number of days Erachem was in violation in December 2013, EIP divided the total allowable pounds of TN Erachem was allowed to discharge for the rest of 2013 (27,600 lbs – 23,957 lbs discharged in Sept.-Nov. 2013 = 3,643 lbs) by the average daily TN load for the month (15,012 lbs ÷ 31 days = 484.26 lbs/day). Thus, after 7.52 days in December (3,643 lbs ÷ 484.26 lbs/day = 7.52 days), Erachem exceeded the Administrative

Calendar Year	TN Monthly Load Total (lbs/yr)	TN Cumulative Load Total (lbs/yr)	No. of Days in Violation of 27,600 lbs/yr Performance Standard
Total No. of Days in Violation in 2013 = 24 days			
2014			
JAN	25,470	25,470	--
FEB	27,577	53,047	26 ³⁴
MAR	17,014	70,061	31
APR	7,954	78,015	30
MAY	10,736	88,751	31
JUN	15,518	104,269	30
JUL	16,766	121,045	31
AUG	11,492	132,537	31
SEP	22,097	154,634	30
OCT	3,001	157,635	31
NOV	11,264	168,899	30
DEC	3,259	172,158	31
Total No. of Days in Violation in 2014 = 332 days			
2015			
JAN	26,172	26,172	--
FEB	20,351	46,523	27 ³⁵
MAR	36,135	82,658	31
APR	11,141	93,799	30
MAY	12,412	106,211	31
JUN	14,520	120,731	30
JUL	8,758	129,489	31
AUG	12,038	141,527	31
SEP	11,421	152,948	30
OCT	8,853	161,801	31

Consent Agreement's annual interim performance standard for TN each day through the end of the calendar year. Therefore, Erachem was in violation of this limit from December 8th through the rest of the calendar year.

³⁴ To calculate the number of days Erachem was in violation in February 2014, EIP divided the total pounds of TN Erachem was allowed to discharge for the rest of 2014 (27,600 lbs – 25,470 lbs discharged in January 2014 = 2,130 lbs) by the average daily TN load for the month (27,577 lbs ÷ 28 days = 984.89 lbs/day). After 2.16 days in February (2,130 lbs ÷ 984.89 lbs/day = 2.16 days), Erachem exceeded the Administrative Consent Agreement's interim performance standard for TN. Therefore, Erachem was in violation of this limit on a daily basis from February 3rd through the end of the calendar year.

³⁵ To calculate the number of days Erachem was in violation in February 2015, EIP divided the total pounds of TN Erachem was allowed to discharge for the rest of 2015 (27,600 lbs – 26,172 lbs discharged in January 2015 = 1,428 lbs) by the average daily TN load for the month (20,351 lbs ÷ 28 days = 726.82 lbs/day). After 1.96 days in February (1,428 lbs ÷ 726.82 lbs/day = 1.96 days), Erachem exceeded the Administrative Consent Agreement's interim performance standard for TN. Therefore, Erachem was in violation of this limit on a daily basis from February 2nd through the end of the calendar year.

Calendar Year	TN Monthly Load Total (lbs/yr)	TN Cumulative Load Total (lbs/yr)	No. of Days in Violation of 27,600 lbs/yr Performance Standard
NOV	17,453	179,254	30
DEC	6,971	186,225	31
Total No. of Days in Violation in 2015 = 333 days			

D. Failure to Comply with the MDE Approved Final Plan and Schedule as per the Administrative Consent Agreement

The Administrative Consent Agreement established that MDE would not seek penalties for violations of the Permit’s Annual Maximum Loading Rate “so long as compliance with the new extended compliance milestones approved pursuant to this Consent Agreement are met.”³⁶ According to Erachem’s approved plan, the Facility was to have a De-Nitrification Plant installed and operational by September 4, 2015. However, in an October 6, 2015 letter to Blue Water Baltimore, Michael Powell, Safety and Environmental Engineer at Erachem, stated that “Erachem currently concentrating its resources to the “on time” completion of its new De-Nitrification Plant...and [it is] expected to go online in compliance as outlined in the Administrative Consent Agreement [quotations added].”³⁷ Given that the letter was sent over a month after the milestone date, it does not appear that the De-Nitrification Plant was installed or operational by September 4, 2015. Additionally, publicly available MDE records³⁸ reveal that Erachem has not submitted any of the six-month progress reports requested by MDE when it approved the compliance plan and schedule.³⁹ Although Erachem may have missed other milestone deadlines set in the MDE-approved compliance plan and schedule, it is extremely difficult to determine compliance without these requested reports.

Each day after September 4, 2015 that Erachem failed to meet a milestone date established pursuant to the Administrative Consent Agreement is a separate violation for which \$37,500 per day can be assessed.

³⁶ See Attachment D: Administrative Consent Agreement, Para. 5c.

³⁷ See Letter from Michael Powell, Erachem to David Flores, Blue Water Baltimore (Oct. 6, 2015), attached hereto as Attachment G. This letter was in response to a September 21, 2015 letter from Blue Water Baltimore requesting a meeting to discuss Erachem’s efforts to come into compliance with the Administrative Consent Agreement and Permit. See Letter from David Flores, Blue Water Baltimore, to Michael Powell, Erachem (Sept. 21, 2015), attached hereto as Attachment H.

³⁸ Records from May 15, 2015 and November 16, 2015 Public Information Act request file reviews.

³⁹ See Attachment F: Letter from Sharon E. Talley, MDE to Terry J. Lawrence, Erachem (Jan. 7, 2014) (“[MDE] approves the proposed Plan and request that Erachem submit updates every six months on its progress towards compliance with the schedule”).

E. Failure to Operate and Maintain

The Permit requires that “all treatment, control and monitoring facilities, or systems installed or used by [Erachem], are to be maintained in good working order and operated efficiently.”⁴⁰ Additionally, the Administrative Consent Agreement requires Erachem to “operate and maintain the Plant so as to comply with [the] interim annual total Nitrogen loading rate.”

In a January 4, 2013 letter from Terry J. Lawrence, Director of Global Process Engineering at Erachem, to Carol Coates, Enforcement Division Chief at MDE’s Water Management Division, Erachem acknowledged that there were serious difficulties in adapting the processes that would allow the Facility to reduce its TN loadings to Erachem’s operations and it has “not yet been successful at developing an adequate process.”⁴¹ Moreover, in Erachem’s reports of noncompliance to MDE from October 2013 onward, Erachem admits that the “Nitrate Plant operation [that] produces the effluent that contains most of the Total Nitrogen...will continue to create this effluent until the Nitrate reduction project is complete.”⁴² In addition to Erachem directly acknowledging improper operation and maintenance to reduce its annual TN loading rate, as evidenced above, the chronic annual TN loading rate violations provide further proof of systemic and maintenance failures. Not only has Erachem failed to implement its new De-Nitrification Plant by the MDE-approved deadline, but the Facility’s cumulative annual TN has increased each year since at least 2013.

Failure to properly operate and maintain the Facility is a continuing violation. Accordingly, Erachem is subject to civil penalties of up to \$37,500 per day of violation dating from the start of improper operation and maintenance – beginning at least from January 4, 2013 – through the present.

III. PARTIES GIVING NOTICE

Blue Water Baltimore is a nonprofit organization located in Baltimore, MD. Baltimore Harbor Waterkeeper, a program of Blue Water Baltimore, is responsible for protecting the Patapsco River and Back River watersheds, including all of the neighborhood streams and rivers that discharge into the Patapsco and Back Rivers. Blue Water Baltimore represents more than 5,500 members who use the rivers for recreation and who actively support Blue Water Baltimore’s collective efforts to protect Baltimore’s waterways. Blue Water Baltimore’s mission

⁴⁰ See Attachment A: Permit, II. General Conditions, B. Management Requirements, 3. Facilities Operation.

⁴¹ See Attachment C: Letter from Terry J. Lawrence, Erachem to Carol Coates, MDE (Jan. 4, 2013).

⁴² See Erachem’s written reports of noncompliance to MDE from Oct. 10, 2013 to March 13, 2015, attached hereto as Attachment I. EIP obtained these reports from MDE at a Maryland Public Information Act request file review completed in May 2015.

is to protect and restore Baltimore Harbor and the greater Patapsco and Back Rivers and their tributaries through enforcement, fieldwork, and citizen action in order to make these waterways suitable for recreation (including fishing and swimming), to improve public health, and to improve the health of the aquatic ecosystems.

Blue Water Baltimore's offices are located at 3545 Belair Road, Baltimore, MD 21213 and the main phone number is (410) 254-1577. Blue Water Baltimore is represented by the Environmental Integrity Project (EIP), a nonprofit law firm located at 1000 Vermont Avenue NW, Suite 1100, Washington, DC 20005 and whose main phone number is (202) 296-8800.

The activities at the Erachem Facility located at 610 Pittman Road, Baltimore, MD 21226 have negatively affected the Patapsco River and the surrounding Chesapeake Bay watershed by polluting its waters. The entire Chesapeake Bay is under a TMDL for nitrogen and is made up of 92 smaller TMDLs for individual Bay tidal segments.⁴³ By discharging as much as 186,225 lbs/yr of TN between September 2013 through September 2015, Erachem is making it difficult for the Baltimore Harbor to meet its TMDL. Excess nitrogen can cause overstimulation of growth in aquatic plants and algae, which can result in fish kills and can even "kill" a lake through oxygen deprivation.⁴⁴ Excess nitrogen in water bodies affects our use of water for recreational and economic activities (such as fishing, swimming, and boating).⁴⁵ If left unchecked, Erachem's discharges will continue to injure Arundel Cove, Curtis Creek, the Patapsco River and ultimately, the Chesapeake Bay watershed.

IV. CONCLUSION

Erachem has violated and is currently violating the CWA at its Facility located at 610 Pittman Road, Baltimore, MD 21226. Due to the high number and repetitive nature of the violations, we believe that Erachem will continue discharging in violation of its Permit and the Administrative Consent Agreement. Accordingly, EIP intends to file suit on behalf of Blue Water Baltimore to enjoin and abate the aforementioned violations, ensure future compliance with the CWA, obtain civil penalties, recover attorneys' fees and costs of litigation, and obtain other appropriate relief.

If you have any questions regarding the allegations in this notice or believe any of the foregoing information may be in error, please contact Sylvia Lam at the phone number or email

⁴³ U.S. Environmental Protection Agency, Chesapeake Bay TMDL Fact Sheet (July 2015), *available at* http://www.epa.gov/sites/production/files/2015-07/documents/bay_tmdl_fact_sheet.pdf.

⁴⁴ U.S. Geological Survey, Nitrogen and Water, <http://water.usgs.gov/edu/nitrogen.html> (last accessed December 18, 2015).

⁴⁵ *See id.*

address listed below. We would also welcome an opportunity to discuss a resolution of this matter prior to the initiation of litigation if you are prepared to remedy the violations discussed above.

Sincerely,



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