STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
ACTING COMMISSIONER

September 19, 2011

Mr. Donald Strout
Bath Iron Works
700 Washington Street MS 2240
Bath, ME 04530
don.strout@biw.com

Sent via electronic mail
Delivery confirmation requested

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME000001732
Maine Waste Discharge License (WDL) Application # W000671-5R-H-R
Finalized MEPDES Permit Renewal

Dear Mr. Strout:

Enclosed, please find a copy of your **final** MEPDES permit and Maine WDL, which was approved by the Department of Environmental Protection. Please read the permit/license and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State law and is subject to enforcement action.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision*."

Sincerely,

Bill Hinkel
Division of Water Quality Management
Bureau of Land and Water Quality
bill.hinkel@maine.gov
ph: 207.485.2281

Enc.
ec: Stuart Rose, MeDEP Lori Mitchell, MeDMR Sandy Mojica, USEPA File #W0671

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

BATH IRON WORKS	)	MAINE POLUTANT DISCHARGE
SHIP MANUFACTURING FACILITY	)	ELIMINATION SYSTEM PERMIT
BATH, SAGADAHOC COUNTY, MAINE	)	AND
#ME0001732	)	WASTE DISCHARGE LICENSE
#W000671-5R-H-R **APPROVAL**	)	**RENEWAL**

Pursuant to the provisions of the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the BATH IRON WORKS (BIW or permittee) with its supportive data, agency review comments, and other related materials on file and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

BIW has applied to the Department for the renewal of combination Maine Waste Discharge License (WDL) #W000671-5R-G-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001732, which was issued by the Department on June 6, 2006, and expired on June 6, 2011. The June 6, 2006 permit authorized the discharge of non-contact cooling water and treated ship ballast water from three outfall points, intermittent discharges from 18 other point sources, and waste snow to the Kennebec River, Class SB, in Bath, Maine.

PERMIT SUMMARY

This permitting action is similar to the June 6, 2006 permit in that it is carrying forward the:

1. Discharge flow, temperature and pH limitations for Outfalls #005A and #007A;
2. Numeric limitations and reporting requirements for discharge flow, oil & grease, polynuclear aromatic hydrocarbons (PAH) and pH for Outfall #006A;
3. Authorization to discharge from various intermittent sources; and
4. Authorization to discharge waste snow from BIW's snow dump.

This permitting action is different than the June 6, 2006 permit in that it is:

1. Establishing Special Condition D, *Record of Activities for Waste Snow Dump*, for consistency with the conditions established for other snow dump facilities; and
2. Revising the descriptions of wastewater sources based on current and projected operations at the facility.

CONCLUSIONS

BASED on the findings summarized in the attached Fact Sheet dated September 19, 2011, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.

2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.

3. The provisions of the State's antidegradation policy, 38 M.R.S.A. §464(4)(F), will be met, in that:

   (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;

   (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;

   (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;

   (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and

   (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

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ACTION

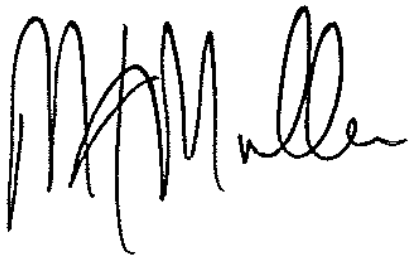
THEREFORE, the Department APPROVES the above noted application of BATH IRON WORKS to discharge non-contact cooling water and treated ship ballast water from three outfall points, intermittent discharges from other point sources described in Special Condition A.4 of this permit, and waste snow to the Kennebec River, Class SB, in Bath, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. "*Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*," revised July 1, 2002, copy attached.

2. The attached Special Conditions, including any effluent limitations and monitoring requirements.

3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.



This permit is digitally signed by Michael Mullen on behalf of Acting Commissioner Patricia Aho. It is digitally signed pursuant to 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date. 2011.09.19 15:25:13 -04'00'

Date of initial receipt of application: March 3, 2011
Date of application acceptance: March 8, 2011
This Order prepared by Bill Hinkel, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **non-contact cooling water** from **Outfall #005A** to the Kennebec River. Such discharges shall be limited and monitored by the permittee as specified below[(1)]:

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	**Daily Maximum**	**Measurement Frequency**	**Sample Type**
	as specified	**as specified**	**as specified**	**as specified**
Flow ***[50050]***	132,000 GPD *[07]*	650,000 GPD *[07]*	1/Quarter *[01/90]*	Meter *[MT]*
Temperature ***[00011]***	---	130˚ F *[15]*	1/Quarter *[01/90]*	Grab *[GR]*
pH ***[00400]***	---	6.0 – 8.5 SU *[12]*	1/Quarter *[01/90]*	Grab *[GR]*

2. The permittee is authorized to discharge **treated ship ballast water** from **Outfall #006A** to the Kennebec River. Such discharges shall be limited and monitored by the permittee as specified below[(1)]:

Effluent Characteristic	Discharge Limitations	Minimum Monitoring Requirements	
	Daily Maximum	**Measurement Frequency**	**Sample Type**
	as specified	**as specified**	**as specified**
Flow ***[50050]***	800,000 Gallons[(2)] *[57]*	1/Discharge[(3)] *[01/DS]*	Calculate *[CA]*
Oil and Grease ***[00552]***	15 mg/L *[19]*	1/Discharge[(3)] *[01/DS]*	Grab *[GR]*
Polynuclear Aromatic Hydrocarbons (PAHs) Single Compound[(4)] ***[38528]***	60 µg/L *[28]*	1/Discharge[(3)] *[01/DS]*	Grab *[GR]*
Sum of All PAHs[(4)]	Report µg/L *[28]*	1/Discharge[(3)] *[01/DS]*	Grab *[GR]*
pH ***[00400]***	6.0 – 8.5 SU *[12]*	1/Discharge[(3)] *[01/DS]*	Grab *[GR]*

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports.

FOOTNOTES: See Pages 8-9 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. The permittee is authorized to discharge **non-contact cooling water** from **Outfall #007A** to the Kennebec River. Such discharges shall be limited and monitored by the permittee as specified below[(1)]:

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
	as specified	as specified	as specified	as specified
Flow *[50050]*	45,000 GPD *[07]*	Report GPD *[07]*	1/Quarter *[01/90]*	Meter *[MT]*
Temperature *[00011]*	---	130˚ F *[15]*	1/Quarter *[01/90]*	Grab *[GR]*
pH *[00400]*	---	6.0 – 8.5 SU *[12]*	1/Quarter *[01/90]*	Grab *[GR]*

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports.

FOOTNOTES: See Pages 8-9 of this permit for applicable footnotes.

4. The permittee is authorized to discharge the **intermittent sources of wastewater** described in the table below to the Kennebec River.

	Type of Wastewater		Approximate Volume
	Deck wash down and runoff		
1	a.) Hull wash down per ship to clean superstructure		10,000 gallons per year (GPY)
2	b.) Dry Dock and Ship blocking wash after undocking and docking ships to remove sediments		Variable; 200 gallons per minute (GPM) through hose when in use
3	c.) Low pressure wash (<100psi) to remove accumulated chlorides from ships following sea trials and prior to painting.		Variable; 5-6 GPM when in use
4	d.) High pressure wash water (1,000 - 5,000 psi) to remove marine growth from ships		Variable; 5-10 GPM when in use
5	e.) High pressure wash water (5,000 - 10,000 psi) to remove leachate paint layer from ships		Variable; 10-25 GPM when in use
6	f.) High pressure wash water (10,000 - 25,000 psi) to remove old paint from ships		Variable; 5-15 GPM when in use
7	g.) Ultra high pressure wash water (> 25,000 psi) to remove old paint from ships		Variable; 5-15 GPM when in use
	Ballast water		
8	a.) Ballast and De-ballast river water for dry dock		110 million gallons (MG) per dry docking evolution cycle
9	b.) River/Seawater from clean ballast (fuel oil compensating system) tanks per ship		1 million gallons (MG) per ship evolution

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

4. The permittee is authorized to discharge the **intermittent sources of wastewater** described in the table below to the Kennebec River (cont'd).

	Non-contact cooling water		
10	a.) For cooling various shipboard systems, i.e. lube oil service in the gas turbine generators/ main engines, air conditioning, spy arrays, electronics and computers systems.		6.3 million gallons per days (GPD) estimated total volume of water discharged from ships once all onboard systems are fully operational.
11	b.) Municipal and river water used for small boat engine cooling		Wet engine exhaust from Rigid Hull Inflatable Boat (RHIB) engines must be maintained, and operating as designed. No volume
	Sonar Dome Water Discharge		
12	a.) Municipal water per ship to flex test and air test sonar domes prior to installation and ship launch		175,000 gallons per day (GPD) per ship evolution
13	b.) river water/sea water per ship to air test sonar domes prior to and following sea trials.		175,000 GPD per ship evolution
14	**Municipal water per ship for hydrostatic testing of shipboard piping systems.**		450 GPD
15	**Municipal water per ship for hydrostatic testing shipboard tanks while on LLTF construction ways.**		500,000 GPY
	Condensate water discharges		
16	a.) Steam condensate from steam heaters throughout the shipyard and on board ships.		11.3 MGY
17	b.) Condensate accumulated in shipboard tanks from refrigeration, cooling systems and air conditioning		No volume
	Miscellaneous discharge of municipal (potable) water		
18	Municipal water from piping bleeder valves to prevent winter freezing in un-insulated buildings, and hoses that supply water to ships.		29.5 MGY
19	Municipal water used to cool flame straightening processes in buildings, on the ways and on board ship.		1500 GPY
20	Municipal water used to supply ship board fan coil cooling unit to circulate cool air into space during unusually hot weather		9500 GPD
21	Ship board firemain systems		Limited discharge for testing and training only while pierside
22	Bilgewater, elevator pit effluent, non-oily machinery wastewater, gas turbine washwater, chain locker effluent		No Direct Discharge Allowed. All quantities regardless of volume are only discharged onshore to POTW while the vessel is pierside
23	Graywater & graywater mixed with sewage		No Direct Discharge allowed. All quantities regardless of volume are discharged onshore, to the POTW, while the vessel is pierside

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

4. The permittee is authorized to discharge the **intermittent sources of wastewater** described in the table below to the Kennebec River (cont'd).

24	Controllable pitch propeller, rudder & stern tube oil		No Direct Discharge allowed
25	Cathodic Protection		All sacrificial anodes in use at BIW are maintained in a new or almost new condition, and no excessive discharge is possible.
26	Antifouling Leachate		All water used for underwater hull cleaning and preparation while in drydock is accumulated for discharge to the POTW.
27	Brine from reverse osmosis when making potable water		No discharge pierside
28	Gas turbine wash water		No discharge
29	Aqueous Film Forming Foam (AFFF)		No discharge pierside
30	Potable water systems related to installation, maintenance, and repair of potable water supply systems that include pipelines, fire hydrants, and flushing activities.		No volume
31	Discharges resulting from pressure releases, overflows and hydrostatic testing of pipes.		No volume
32	Dewatering of foundations, footer drains, basements, vaults, pipe tunnels, etc provided the discharge is not contaminated with pollutants.		No volume

5. BIW anticipates the need to discharge wastewater from sources that are not listed in this permit. Certain discharges from ship building processes and from shipyard activities are not predictable. Sporadic intermittent discharges of wastewater not specified in this permit will require case-by-case evaluation and approval by the Department. BIW shall notify the Department with as much advanced notice as possible of any discharge not specified in its March 8, 2011 permit application or this permit. Notification may be provided in the form of electronic mail to the Department's compliance unit. Department approvals for requests to discharge wastewater may be provided without modification of the permit.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

FOOTNOTES:

1. **Sampling** – Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 *Code of Federal Regulations* (40 CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of the *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10-144 CMR 263.

   All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. **Treated Ship Ballast Water Discharge Flow Limit** – The permittee is authorized to discharge a maximum of 800,000 gallons of treated ship ballast water per ship per day at a maximum rate of 500 gallons per minute from Outfall #006A.

3. **Treated Ship Ballast Water Discharge Measurement Frequency** – The permittee shall monitor the discharge for the parameters specified in Special Condition A.2. at a minimum frequency of once per discharge event per ship and report the highest value for each month in the "Daily Maximum Flow" cell on the monthly Discharge Monitoring Report (DMR).

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

FOOTNOTES:

4. **PAHs** – The permittee shall analyze PAHs in accordance with 40 CFR Part 136, Appendix A, Method 625. The highest single PAH value of the PAHs listed below shall be reported in the "Daily Maximum Concentration" cell on the monthly DMR. The permittee shall report the sum of all PAHs on a separate piece of paper attached to the DMR or in the comments section of the eDMR.

Acenaphthylene	Acenaphthene	Anthracene
Benzo(B)Fluoranthene	Benzo(K)Fluorantene	Benzo(A)Pyrene
Crysene	Fluoranthene	Fluorene
Indeno(1,2,3-cd)Pyrene	Phenanthrene	Pyrene
Benzo(ghi)perylene	Benzo(A)Anthracene	Dibenzo(A,H)Anthracene
Napthalene	---	---

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated by the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
3. The discharge shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.
4. Notwithstanding specific conditions of this permit, the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. CONDITIONS FOR THE DISCHARGE OF WASTE SNOW

1. The discharge of snow shall not cause impoundment of the receiving waters or alter its flow and snow shall not be allowed to accumulate on the inter-tidal areas or wetland.
2. Only snow which is removed from areas where the use of sand or sand/salt mixtures is restricted may be discharged. All waste snow collected for disposal via discharge must be removed from the collection area within 72 hours following the end of a snow event.
3. Snow, which is visibly contaminated with oil, chemicals, hazardous wastes or substances, or solid waste (other than incidental street litter) shall not be discharged. Snow collected from areas affected by chemical spills or other circumstances which may result in the presence of toxic compounds in toxic amounts shall not be discharged.
4. The permittee shall conduct weekly litter removal of the areas from which waste snow will be discharged.

SPECIAL CONDITIONS

D. RECORD OF ACTIVITIES FOR WASTE SNOW DUMPS

The permittee shall maintain a record for snow removal and disposal activities which includes information on:

1. Changes in development or snow removal practices that may affect the quality or quantity of waste snow discharged.
2. The approximate quantity (gallons, cubic yards or other measure) of waste snow discharged overboard per day.
3. Reports or observations of floating materials, deposits, changes to navigation or other circumstances that result from the discharge of waste snow from the approved site.
4. Best Management Practices (BMPs) conducted to minimize the discharge of pollutants, such as litter and debris control.

The Record Log and copy of BMPs shall be kept on-site at all times and made available to Department and USEPA personnel upon request.

E. MONITORING AND REPORTING

Monitoring results obtained during the previous calendar quarter shall be summarized for each calendar quarter and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMRs are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein must be submitted to the following address:

Maine Department of Environmental Protection
Southern Maine Regional Office
Bureau of Land and Water Quality
Division of Water Quality Management
312 Canco Road
Portland, ME 04103

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the **15th day of the month** following the completed reporting period. Hard copy documentation submitted in support of the eDMR must be postmarked on or before the **thirteenth (13th) day of the month or hand-delivered** to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. Electronic documentation in support of the eDMR must be submitted not later than close of business on the 15th day of the month following the completed reporting period.

SPECIAL CONDITIONS

F. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee shall notify the Department of the following.

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system. For the purposes of this condition, notice regarding substantial change shall include information on:

   (a) the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and

   (b) any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

G. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on March 8, 2011; 2) the terms and conditions of this permit; 3) only from Outfall #005A, #006A, #007A, the intermittent discharges identified in Special Condition A.4. of this permit, and waste snow collected from the BIW facility; and 4) in accordance with case-by-case Department approvals for unanticipated discharges not specified herein. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

H. DRY DOCK BEST MANAGEMENT PLAN

The permittee shall develop, maintain and periodically update a Dry Dock Best Management Plan (BMP) for all work performed in all shipyard dry docks at the facility, including shipboard work, dry dock operations and maintenance, and dry dock refurbishment. The Plan shall address, but need not be limited to, dry dock solid waste management and housekeeping, industrial wastewater control and disposition, hydroblast and high pressure water spray operations, abrasive blast and spray paint operations, ground/river water infiltration and storm water runoff, spills within the dry dock, and dry dock inspections.

As the site or any operations conducted on it have changed or are expected to change materially or substantially, the permittee shall modify its Dry Dock BMP Plan as necessary to include such changes. The permittee shall maintain a copy of its Dry Dock BMP and any subsequent revisions at the shipyard and shall make the plan available to any Department or USEPA representative upon request.

SPECIAL CONDITIONS

I. BEST MANAGEMENT PRACTICES PLAN FOR SHIP WASHING/BLASTING

The permittee shall maintain and update as necessary a best management practices plan for ship washing and blasting activities performed at the facility. The plan shall address containment of particulates and dust generated by blasting or washing activities, cleaning of the work area, disposal of spent grit and residue, and any treatment provided. The plan is subject to Department review and comment.

J. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results or monitoring requirements specified in the Special Conditions of this permitting action, new site-specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to; 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional effluent and or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

K. SEVERABILITY

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit shall remain in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **SEPTEMBER 19, 2011**

MEPDES PERMIT: **#ME0001732**
WASTE DISCHARGE LICENSE: **#W000671-5R-H-R**

NAME AND ADDRESS OF APPLICANT:

GENERAL DYNAMICS
2941 FAIRVIEW PARK DRIVE
FALLS CHURCH, VA 22042-4513

COUNTY: **SAGADAHOC**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

BATH IRON WORKS
700 WASHINGTON STREET
BATH, ME 04530

RECEIVING WATER / CLASSIFICATION: **KENNEBEC RIVER/CLASS SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **MR. DONALD STROUT**
(207) 442-3648
don.strout@biw.com

1. APPLICATION SUMMARY

a. Application: Bath Iron Works (BIW or permittee) has applied to the Department of Environmental Protection (Department) for the renewal of combination Maine Waste Discharge License (WDL) #W000671-5R-G-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001732, which was issued by the Department on June 6, 2006, and expired on June 6, 2011. The June 6, 2006 permit authorized the discharge of non-contact cooling water and treated ship ballast water from three outfall points, intermittent discharges from 18 of other point sources, and waste snow to the Kennebec River, Class SB, in Bath, Maine.

2. PERMIT SUMMARY

a. Terms and conditions: **This permitting action is similar to the June 6, 2006 permit in that it is carrying forward the:**

1. Discharge flow, temperature and pH limitations for Outfalls #005A and #007A;
2. Numeric limitations and reporting requirements for discharge flow, oil & grease, polynuclear aromatic hydrocarbons (PAH) and pH for Outfall #006A;
3. Authorization to discharge from various intermittent sources; and
4. Authorization to discharge waste snow from BIW's snow dump.

This permitting action is different than the June 6, 2006 permit in that it is:

1. Establishing Special Condition D, *Record of Activities for Waste Snow Dump*, for consistency with the conditions established for other snow dump facilities; and
2. Revising the descriptions of wastewater sources based on current and projected operations at the facility.

b. History: This section provides a summary of significant licensing/permitting actions that have been completed for the BIW facility.

December 8, 2000 – The Department issued WDL #W000671-5R-F-R to BIW for the discharge of non-contact cooling water, treated ship ballast water, storm water, high pressure wash water, and blast water to the Sagadahoc River in Bath, Maine. The 12/8/00 WDL superseded WDL #W000671-57-E-R issued on September 24, 1992, WDL Amendment #W000671-57-C-A issued on November 14, 1989, WDL #W000671-42-B-R issued on December 3, 1985, and WDL Amendment #W000671-42-A-A (earliest Order on file with the Department).

January 12, 2001 – The Department received authorization from the U.S. Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From that point forward, the program has been referred to as the MEPDES program, and MEPDES permit #ME0001732 has been utilized as the primary reference number for BIW's facility.

April 27, 2001 – The Department issued WDL #W007958-5V-G-R / MEPDES Permit #MEU507958 to BIW for the discharge of waste snow generated at the industrial site to the Kennebec River.

December 17, 2001 – The Department issued a letter to BIW thereby administratively modifying the 4/27/01 MEPDES permit by authorizing the use of the south end storage site as an approved snow discharge point and by changing the MEPDES permit number from #MEU507958 to #ME0036315.

2. PERMIT SUMMARY (cont'd)

July 22, 2002 – The Department issued a letter to BIW thereby administratively modifying the 12/8/00 WDL by authorizing the intermittent discharge of up to 48,000 gallons per day of wastewater generated by launch way wash down activities to the Kennebec River.

March 25, 2004 – The Department issued a letter to BIW thereby administratively modifying the 12/8/00 WDL to increase the discharge flow limitation for Outfall #007A to a monthly average of 13,400 GPD and a daily maximum of 30,000 GPD.

May 2010 – BIW revised its existing Spill Prevention Control and Countermeasures Plan.

May 2011 – BIW revised its Storm Water Pollution Prevention Plan (SWPPP).

May 10, 2011 – The Department accepted BIW's Notice of Intent (NOI) to Comply with Maine Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity. The NOI was assigned number MER05B212 by the Department.

June 6, 2006 – The Department issued combination MEPDES permit / WDL #W000671-5R-G-R to the BIW for a five-year term.

March 3, 2011 –BIW submitted a timely and complete General Application to the Department for renewal of WDL #W000671-5R-G-R. The application was accepted for processing on March 8, 2011 and was assigned WDL #W000671-5R-H-R / MEPDES permit #ME0001732.

c. Source Description: Bath Iron Works, a General Dynamics Company, is a designer and builder of United States Navy ships and is located along the Kennebec River in Bath, Maine. A schematic of the facility is included as Fact Sheet **Attachment A**. The sources of wastewater generated by the facility and regulated by this MEPDES permit are summarized in the following table.

Outfall No.	Description	Volume
#005A	Non-contact cooling (municipal) water from building #0045 XLE compressors and breath air compressor.	650,000 gpd maximum 132,000 gpd average
#006A	Treated ship ballast (river/sea) water discharged at 500 gallons per minute maximum rate, occurring before and after dry docking ships.	800,000 gpd maximum per ship
#007A	Non-contact cooling (municipal) water from air compressors at paint and blast facility (humidity, slave cooler, trim cooler).	45,000 gpd average

2. PERMIT SUMMARY (cont'd)

The source of wastewater conveyed to **Outfall #005A** is non-contact cooling water from air compressors located in Building #045 XLF/Compressor Room (BIW reference). BIW has indicated that the discharge occurs only when the closed loop heat exchange cooling system cannot maintain safe operating temperature for the air compressors. This occurs during high production use of compressors or when ambient air temperatures are high. Flow-through make-up cooling water (municipal water) is then required to re-establish safe operating temperatures of the air compressors.

The source of wastewater conveyed to **Outfall #006A** is treated ship ballast water. Ballast water is taken onto a ship at sea to compensate for spent fuel. The treatment process involves discharging the ballast tank contents through two fractionating tanks and an activated carbon filter to remove fuel product prior to discharge overboard.

The source of wastewater conveyed to **Outfall #007A** is non-contact cooling water from air compressors located in the Blast 3 Compressor Room (BIW reference). This is a closed loop heat exchange cooling system as described for Outfall #005A above.

BIW has **intermittent discharges** associated with the facility and ships. The volumes of the intermittent discharges vary greatly depending upon the number of ships located at the facility at any given time and the potentially varying stages of construction of those ships. The intermittent discharges are as documented below:

	Type of Wastewater		**Approximate Volume**
	Deck wash down and runoff		
1	a.) Hull wash down per ship to clean superstructure		10,000 gallons per year (GPY)
2	b.) Dry Dock and Ship blocking wash after undocking and docking ships to remove sediments		Variable; 200 gallons per minute (GPM) through hose when in use
3	c.) Low pressure wash (<100psi) to remove accumulated chlorides from ships following sea trials and prior to painting.		Variable; 5-6 GPM when in use
4	d.) High pressure wash water (1,000 - 5,000 psi) to remove marine growth from ships		Variable; 5-10 GPM when in use
5	e.) High pressure wash water (5,000 - 10,000 psi) to remove leachate paint layer from ships		Variable; 10-25 GPM when in use
6	f.) High pressure wash water (10,000 - 25,000 psi) to remove old paint from ships		Variable; 5-15 GPM when in use
7	g.) Ultra high pressure wash water (> 25,000 psi) to remove old paint from ships		Variable; 5-15 GPM when in use
	Ballast water		
8	a.) Ballast and De-ballast river water for dry dock		110 million gallons (MG) per dry docking evolution cycle
9	b.) River/Seawater from clean ballast (fuel oil compensating system) tanks per ship		1 million gallons (MG) per ship evolution

2. PERMIT SUMMARY (cont'd)

	Non-contact cooling water		
10	a.) For cooling various shipboard systems, i.e. lube oil service in the gas turbine generators/ main engines, air conditioning, spy arrays, electronics and computers systems.		6.3 million gallons per days (GPD) estimated total volume of water discharged from ships once all onboard systems are fully operational.
11	b.) Municipal and river water used for small boat engine cooling		Wet engine exhaust from Rigid Hull Inflatable Boat (RHIB) engines must be maintained, and operating as designed. No volume
	Sonar Dome Water Discharge		
12	a.) Municipal water per ship to flex test and air test sonar domes prior to installation and ship launch		175,000 gallons per day (GPD) per ship evolution
13	b.) river water/sea water per ship to air test sonar domes prior to and following sea trials.		175,000 GPD per ship evolution
14	**Municipal water per ship for hydrostatic testing of shipboard piping systems.**		450 GPD
15	**Municipal water per ship for hydrostatic testing shipboard tanks while on LLTF construction ways.**		500,000 GPY
	Condensate water discharges		
16	a.) Steam condensate from steam heaters throughout the shipyard and on board ships.		11.3 MGY
17	b.) Condensate accumulated in shipboard tanks from refrigeration, cooling systems and air conditioning		No volume
	Miscellaneous discharge of municipal (potable) water		
18	Municipal water from piping bleeder valves to prevent winter freezing in un-insulated buildings, and hoses that supply water to ships.		29.5 MGY
19	Municipal water used to cool flame straightening processes in buildings, on the ways and on board ship.		1500 GPY
20	Municipal water used to supply ship board fan coil cooling unit to circulate cool air into space during unusually hot weather		9500 GPD
21	Ship board firemain systems		Limited discharge for testing and training only while pierside
22	Bilgewater, elevator pit effluent, non-oily machinery wastewater, gas turbine washwater, chain locker effluent		No Direct Discharge Allowed. All quantities regardless of volume are only discharged onshore to POTW while the vessel is pierside
23	Graywater & graywater mixed with sewage		No Direct Discharge allowed. All quantities regardless of volume are discharged onshore, to the POTW, while the vessel is pierside

2. PERMIT SUMMARY (cont'd)

24	Controllable pitch propeller, rudder & stern tube oil		No Direct Discharge allowed
25	Cathodic Protection		All sacrificial anodes in use at BIW are maintained in a new or almost new condition, and no excessive discharge is possible.
26	Antifouling Leachate		All water used for underwater hull cleaning and preparation while in drydock is accumulated for discharge to the POTW.
27	Brine from reverse osmosis when making potable water		No discharge pierside
28	Gas turbine wash water		No discharge
29	Aqueous Film Forming Foam (AFFF)		No discharge pierside
30	Potable water systems related to installation, maintenance, and repair of potable water supply systems that include pipelines, fire hydrants, and flushing activities.		No volume
31	Discharges resulting from pressure releases, overflows and hydrostatic testing of pipes.		No volume
32	Dewatering of foundations, footer drains, basements, vaults, pipe tunnels, etc provided the discharge is not contaminated with pollutants.		No volume

BIW has obtained coverage under the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity* for the following intermittent discharges in addition to storm water runoff from the site:

1. 1.44 MGD of river water circulated through the fire main pumps;
2. 64,000 gallons per year (GPY) of drinking water tank rinse water per ship; and
3. No volume provided for LLTF shipway storm water. Flows from shipways 1-3 are diverted through oil and water separators or Vortech oil and grit traps prior to discharge overboard. Winter storm water flows for the area east of shipway 2, which is situated on pilings, bypasses these devices due to freezing potential.

This permitting action is carrying forward authorization to discharge waste snow pursuant to the limitations and restrictions of *Waste Snow Dumps*, 06-096 CMR 573. Based on BIW's *Supplemental Information for Snow Dumps* form submitted as part of its application for permit renewal, BIW estimates that waste snow is collected from approximately 38 acres of roadways, walkways and piers on the BIW property for discharge to various pier-side locations along the Kennebec River.

2. PERMIT SUMMARY (cont'd)

Sanitary wastewater generated at the BIW facility and dockside ships is conveyed to the City of Bath Water Pollution Control Facility, which is regulated under a separate MEPDES permit.

BIW anticipates the need to discharge wastewater from sources that are not listed in the table above or in the permit. Certain discharges from ship building processes and from shipyard activities are not predictable. Sporadic intermittent discharges of wastewater not specified in the permit will require case-by-case evaluation and approval by the Department. BIW shall notify the Department with as much advanced notice as possible of any discharge not specified in its March 8, 2011 permit application or associated permit #W000671-5R-H-R. Notification may be provided in the form of electronic mail to the Department's permitting unit. Department approvals for requests to discharge wastewater may be provided without modification of the permit.

e. Wastewater Treatment: The various wastewater streams identified in the Source Description above receive treatment as follows.

Non-contact Cooling Water - Outfall #005A
Non-contact cooling water from Building #0045 XLE/Air Compressor Room does not receive treatment prior to discharge. Wastewater is conveyed for discharge to the Kennebec River via a waste piping system that ultimately terminates as an 84-inch diameter discharge pipe. The receiving water level and top of the outfall pipe are approximately equal during mean low water conditions.

Treated Ship Ballast Water - Outfall #006A
Ship ballast water is treated by discharging the ballast tank contents through two fractioning tanks and an activated carbon filter to remove fuel products from the ballast water prior to discharge. This is a process to remove oily water from the ship where it is processed through a mobile unit pier-side, therefore the discharges occur at various locations. The treatment unit is position dockside and the final effluent is conveyed for discharge to the Kennebec River via an outfall pipe situated above the receiving water during all water level conditions.

Non-contact Cooling Water - Outfall #007A
Non-contact cooling water from Blast 3 Air Compressor Room does not receive treatment prior to discharge. Wastewater is conveyed for discharge to the Kennebec River via a waste piping system that ultimately terminates as an 84-inch diameter discharge pipe an 84-inch diameter discharge pipe. The receiving water level and top of the outfall pipe are approximately equal during mean low water conditions.

Waste Snow Disposal
BIW stated that snow is accumulated throughout the shipyard and transported to the south yard area on the site for disposal via overboard discharge. BIW's Storm Water Pollution Prevention Plan (SWPPP) includes facility housekeeping activities and routine inspections to insure facility cleanliness. BIW reports that the river bottom in front of

2. PERMIT SUMMARY (cont'd)

BIW is routinely dredged to maintain necessary pier and dockside depths. River dredging is conducted in accordance with U.S. Army Corps of Engineers and Department permits. The Bath Harbormaster has provided a letter stating that snow dumping activities from BIW property do not present navigational hazards. Special Condition C of this permit restricts the discharge of waste snow to only that snow which has been removed from areas where the use of sand or sand/salt mixtures is restricted and which has been stockpiled for a period no greater than 72 hours following the end of the snow event. BIW reports that sand, salt and calcium chloride are used at the facility. BIW also stated that snow which is visibly contaminated with trash or debris will be stored at a location within the facility away from the waterfront. BIW stated that if the stockpile becomes too large for additional storage, the facility will hire a contractor to haul the waste snow to an appropriate off-site disposal area.

Ship Hull Wash Wastewater

Ships are periodically washed at the facility to remove marine growth, sea salt, blasting dust and flaking paint. When ships are in dry dock for washing, wash water is directed into two trenches that run the length of the dry dock to holding tanks. The trenches provide initial settling of solids. The trenches are periodically inspected for sediment accumulation and cleaned as deemed necessary (restricted flow, etc.). Water is conveyed through a drain, covered by a wire mesh screen, to the two 10,000-gallon collection / settling tanks. The collection/settling tanks are routinely inspected for sediment accumulation and cleaned as needed. Water from the holding tanks is pumped to the City of Bath Water Pollution Control Facility for treatment.

While ships are under construction on the Land Level Transfer Facility hull washing activities are limited to low pressure rinse to remove dust accumulated during blasting processes. Barriers are placed around storm drains to prevent direct discharges of large debris and flotsam. Wash water is conveyed to a Vortech oil and grit trap prior to discharge. Special Condition I of this permit requires the permittee to maintain a best management practices plan for ship washing and blasting activities performed at the facility, which addresses at a minimum containment of particulates and dust generated by blasting or washing activities, cleaning of the work area, disposal of spent grit and residue and any treatment provided.

3. CONDITIONS OF PERMITS

Conditions of licenses, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Surface Waters Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classification of estuarine and marine waters, 38 M.R.S.A. § 469 classifies the Kennebec River as Class SB waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S.A. § 465-B(2) describes the standards for Class SB waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2008 Integrated Water Quality Monitoring and Assessment Report, (Report) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the upper, middle and lower Kennebec River, Class SB, as *"Category 5-B-1: Estuarine and marine waters impaired only by bacteria (TMDL required).* The Report lists sources of the impairment as overboard discharges and non-point source pollution. The draft *State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report* lists this waterbody in "*Category 4-A: Estuarine and Marine Waters with Impaired Use, TMDL Completed*." The 2010 Report is pending USEPA approval. The Report states, *"(A TMDL is complete, but there is insufficient new data to determine if attainment has been achieved. Note: Bacteria may impair either recreational uses (swimming) or shellfish consumption uses, or both. Shell fish consumption impairments only apply to waters naturally capable of supporting the shellfish-harvesting use (i.e., waters of high enough salinity for propagation of shellfish.*) On September 28, 2009, the USEPA approved the Department's *Maine Statewide Bacteria TMDL (Total Maximum Daily Loads)*, dated August 2009, for fresh, marine and estuarine waters impaired by bacteria. (See: http://www.maine.gov/dep/blwq/docmonitoring/tmdl2.htm) The Department has no information that the discharge from BIW, as permitted, causes or contributes to this non-attainment status.

Additionally, the 2008 Report lists all estuarine and marine waters in *"Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants."* The 2008 Report states, *"All estuarine and marine waters are listed in Category 5-D, partially supporting fishing ("shellfish" consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomalley."* The 2010 draft Report states, *"All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D, partially supporting fishing ("shellfish" consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomalley.* The Department has no information that the discharge from BIW, as permitted, causes or contributes to this non-attainment status.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Flow: Discharge flow limitations associated with the BIW facility are as follows.

Outfall #005A

The previous permitting action established, and this permitting action is carrying forward, authorization to discharge a monthly average and daily maximum flow of up to 132,000 GPD and 650,000 GPD, respectively, of non-contact cooling water from air compressors located in Building #045 XLE/Compressor Room via Outfall #005A.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

Outfalls #005 and #007 connect to a flow interceptor pipe that runs north to south along the landward edge of the Land Level Transfer Facility (LLTF) and discharges on the southern end of the LLTF. A 30-inch diameter combined sewer overflow (CSO) pipe from the City of Bath and storm drains also connect to the interceptor pipe. The CSO connection is located approximately 400 feet and 300 feet south (downpipe) of the Outfall #005 and Outfall #007 connections, respectively.

Outfall #006A

The previous permitting action established, and this permitting action is carrying forward, authorization to discharge a daily maximum of up to 800,000 GPD of treated ship ballast water per ship at a maximum rate of 500 gallons per minute via Outfall #006A. **BIW has not reported a discharge via Outfall #006A since issuance of the previous permit on June 6, 2006.**

Outfall #007A

The previous permitting action established, and this permitting action is carrying forward, a monthly average limit to 45,000 GPD and a report only requirement for the daily maximum for the discharge of non-contact cooling water from air compressors located in the Blast 3 Compressor Room via Outfall #007A.

The Department has summarized the discharge flow data as reported on the monthly Discharge Monitoring Reports (DMRs) submitted to the Department for Outfalls #005A and #007A for the period March 2006 through March 2011 as follows:

Outfall #	Discharge Flow	Minimum	Maximum	# DMRs
005A	Daily Maximum	4.793 GPD	590,000 GPD	9
	Monthly Average	2.241 GPD	30,693 GPD	9
007A	Daily Maximum	6 GPD	1,037 GPD	14
	Monthly Average	2 GPD	110 GPD	14

b. Oil and Grease: The previous permitting action established, and this permitting action is carrying forward, a daily maximum oil and grease concentration limit of 15 mg/L **for Outfall #006A** (treated ship ballast water) based on a Department best professional judgment (BPJ) determination of best practicable treatment (BPT). This permitting action is carrying forward a minimum monitoring frequency requirement of once per discharge event per ship and a monthly reporting requirement for oil and grease. The permittee shall report the highest value recorded for each month in the "Daily Maximum Flow" cell on the monthly Discharge Monitoring Report (DMR).

c. Polynuclear Aromatic Hydrocarbons (PAHs): The previous permitting action established, and this permitting action is carrying forward, a daily maximum PAH (single chemical) effluent limitation of 60 micrograms per liter (μg/L) **for Outfall #006A** (treated ship ballast water) based on a Department best professional judgment determination of best practicable treatment. The permit requires BIW to monitor the PAH content of each discharge of treated ship ballast wastewater from each ship at the

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

BIW facility. The permit requires quarterly reporting of the highest PAH value recorded during the calendar quarter reporting period. A review of the most recent 60 months of effluent compliance data on file with the Department indicates that the facility has not discharged wastewater via Outfall #006A during said period. However, BIW may discharge treated ballast tank water during the effective term of this permit.

This permitting action is revising the minimum monitoring frequency requirement from once per calendar quarter to once per discharge event per ship. The permittee is required to report the sum of all PAHs discharge for each discharge event on a separate piece of paper that must be attached to the Discharge Monitoring Reports or noted in the comments section of the e-DMR.

d. pH: The previous permit action established, and this permitting action is carrying forward, a pH range limit of 6.0 – 8.5 standard units (SU) **for Outfalls #005A, #006A, and #007A** based on Maine Board of Environmental Protection policy regarding the certification of NPDES permits and Department as BPJ of BPT for these discharges. This permitting action is carrying forward a minimum monitoring frequency requirement of once per calendar quarter for Outfalls #005A and #007A.

For Outfall #006A (treated ship ballast water), this permitting action is carrying forward a requirement to monitor pH once per discharge event per ship and report the highest value recorded for each month in the "Daily Maximum Flow" cell on the monthly Discharge Monitoring Report (DMR).

A summary of pH data as reported on the monthly DMRs for the period of March 2008 through March 2011 (# DMRs = 8 for Outfall #005A and #DMRs = 14 for Outfall #007A) indicates that the BIW has been in substantial compliance with the effluent pH has range with no excursions of the numeric limitation.

e. Temperature: The previous permitting action established a daily maximum effluent temperature limit of 130 degrees Fahrenheit (F) **for Outfalls #005A and #007A** to ensure compliance with *Regulations Relating to Temperature*, 06-096 CMR 582 (effective May 4, 1996). 06-096 CMR 582 prohibits the discharge of wastewater that will cause the monthly mean of the daily ambient temperatures in any tidal body of water, as measured outside the mixing zone, to be raised more than 4 degrees F, nor more than 1.5 degrees F from June 1 to September 1. Additionally, the rule prohibits the discharge of wastewater that will cause the temperature of any tidal waters to exceed 85 degrees F at any point outside the mixing zone. Based on this rule, the characteristics of the wastewater discharged by BIW, and assuming a maximum effluent temperature of 130 degrees F for each outfall, the Department calculated a potential receiving water temperature increase of 0.037 degrees F. This permitting action is carrying forward the minimum monitoring frequency requirement of once per calendar quarter for temperature.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

The Department has summarized the effluent temperature data as reported on the monthly Discharge Monitoring Reports (DMRs) submitted to the Department for Outfalls #005A and #007A for the period March 2006 through March 2011 as follows:

Outfall #	Temperature	Minimum	Maximum	Arithmetic Mean	# DMRs
005A	Daily Maximum	64ºF	92ºF	72ºF	8
007A	Daily Maximum	62ºF	82ºF	71ºF	14

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected and that the discharge will not cause or contribute to the failure of the Kennebec River to meet standards for Class SB classification.

8. PUBLIC COMMENTS

Public notice of this application was made in the *Times Record* newspaper on or about February 24, 2011. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

9. DEPARTMENT CONTACTS

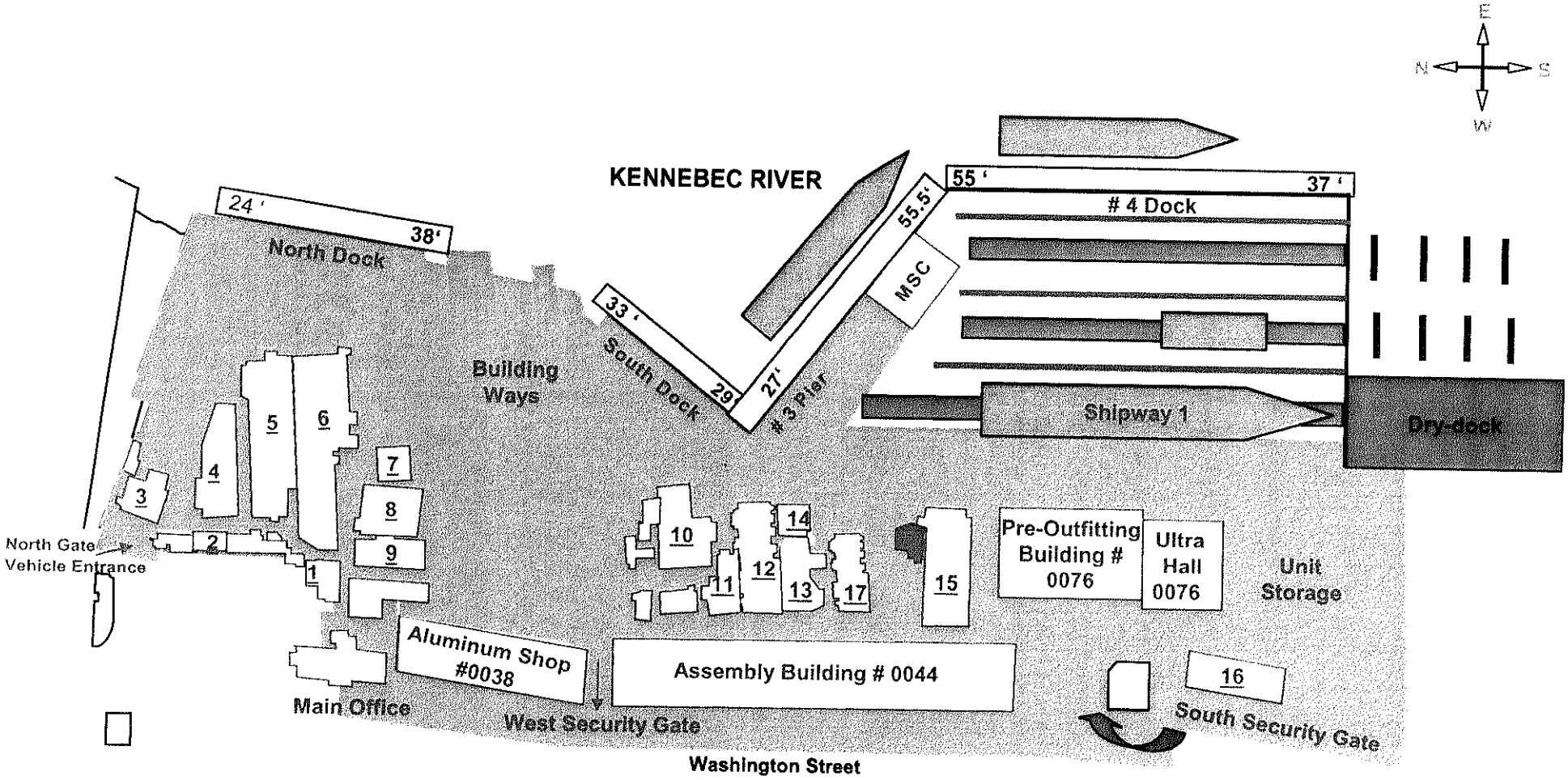
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Bill Hinkel
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
e-mail: bill.hinkel@maine.gov Telephone: (207) 485-2281

10. RESPONSE TO COMMENTS

During the period of August 17, 2011 through the issuance date of the final permit, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to BIW for the proposed discharges. BIW provided additional sources of miscellaneous wastewater generated by the facility, which are included in lines 21-33 of the table in Section 2c of this fact sheet and Special Condition A.4 of the permit. These wastewater sources had been previously discussed with the Department but inadvertently omitted from the draft permit.

ATTACHMENT A



1.) Main Entrance
2.) North Security Gate
3.) Maintenance Garage
4.) North Office # 0028
5.) Maintenance Shop #0016
6.) Machine Shop #0014
7.) Main Boiler room #0015
8.) Building #0018 A
9.) Facilities # 0019
10.) Pipe Shop # 0029
11.) Paint and Blast 2 #0046
12.) Paint and Blast 1 # 0022 A/B
13.) Carpenter Shop # 0060
14.) Compressor room # 0045
15.) Hyde South Assembly #0068
16.) Receiving / Distribution/ Paint Storage #0075
17.) Paint and Blast 3 #0080

depth ft depth ft **Indicates currently permitted snow dumping locations w/depths at (MLW) mean low water.**

CONTENTS

A. GENERAL PROVISIONS

1. **General compliance**. All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

2. Other materials. Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

(a) They are not

(i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
(ii) Known to be hazardous or toxic by the licensee.

(b) The discharge of such materials will not violate applicable water quality standards.

3. Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
(b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

4. Duty to provide information. The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

5. Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6. Reopener clause. The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

8. Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

11. Other laws. The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee if its obligation to comply with other applicable Federal, State or local laws and regulations.

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

(a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

maximize removal of pollutants unless authorization to the contrary is obtained from the Department.

(b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.

(c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.

(d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.

(e) The permittee shall install flow measuring facilities of a design approved by the Department.

(f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

2. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Bypasses.

(a) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).

(d) Prohibition of bypass.

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(C) The permittee submitted notices as required under paragraph (c) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;
(ii) The permitted facility was at the time being properly operated; and
(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
(iv) The permittee complied with any remedial measures required under paragraph B(4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. Monitoring and records.

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

(c) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;
(ii) The individual(s) who performed the sampling or measurements;
(iii) The date(s) analyses were performed;
(iv) The individual(s) who performed the analyses;
(v) The analytical techniques or methods used; and
(vi) The results of such analyses.

(d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.

(e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

D. REPORTING REQUIREMENTS

1. Reporting requirements.

(a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.

(d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

(e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(f) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.
(B) Any upset which exceeds any effluent limitation in the permit.
(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);
(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

(b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following ``notification levels'':

(i) Five hundred micrograms per liter (500 ug/l);
(ii) One milligram per liter (1 mg/l) for antimony;
(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

(a) All POTWs must provide adequate notice to the Department of the following:

(i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
(ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
(iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

(a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.

(b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminates and shall specify means of disposal and or treatment to be used.

3. **Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. **Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

F. DEFINITIONS. For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

Average weekly discharge limitation means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Composite sample means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

Continuous discharge means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

Discharge Monitoring Report ("DMR") means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab sample means an individual sample collected in a period of less than 15 minutes.

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works ("POTW") means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

Septage means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

Time weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

Toxic pollutant includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004 **Contact: (207) 287-2811**

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status*. Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.