



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR

MELANIE LOYZIM  
COMMISSIONER

March 7, 2022

Jason Stewart  
Bath Iron Works  
700 Washington Street  
Bath, ME 04530  
[Jason.Stewart@gdbiw.com](mailto:Jason.Stewart@gdbiw.com)

*Sent via electronic mail  
Delivery confirmation requested*

RE: *Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0001732  
Maine Waste Discharge License (WDL) Application #W000671-5R-K-R  
Finalized MEPDES Permit*

Dear Mr. Stewart:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL which was approved by the Department of Environmental Protection. Please read this permit and its attached conditions carefully. Compliance with this license will protect water quality.

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.*"

If you have any questions regarding the matter, please feel free to call me at 287-1939.

Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions.

Thank you for your efforts to protect and improve the waters of the great state of Maine!

Sincerely,

Aaron Dumont  
Division of Water Quality Management  
Bureau of Water Quality  
[Aaron.A.Dumont@maine.gov](mailto:Aaron.A.Dumont@maine.gov)

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
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PORTLAND  
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PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
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Bath Iron Works  
March 7, 2022  
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Enc.

Pcc:

Fred Gallant, MEDEP  
Lori Mitchell, MEDEP  
Pam Parker, MEDEP  
Alex Rosenberg, USEPA  
Damien Houlihan, USEPA  
Ellen Weitzler, USEPA  
Nathan Chien, USEPA  
Richard Carvalho, USEPA  
Sandy Mojica, USEPA



# DEP INFORMATION SHEET

## Appealing a Department Licensing Decision

**Dated: August 2021**

**Contact: (207) 314-1458**

### **SUMMARY**

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

### **I. ADMINISTRATIVE APPEALS TO THE BOARD**

#### **LEGAL REFERENCES**

A person filing an appeal with the Board should review Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#); and the DEP's [Rule Concerning the Processing of Applications and Other Administrative Matters \(Chapter 2\)](#), 06-096 C.M.R. ch. 2.

#### **DEADLINE TO SUBMIT AN APPEAL TO THE BOARD**

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30<sup>th</sup> calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30<sup>th</sup> calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection  
c/o Board Clerk  
17 State House Station  
Augusta, ME 04333-0017  
[ruth.a.burke@maine.gov](mailto:ruth.a.burke@maine.gov)

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

#### **REQUIRED APPEAL CONTENTS**

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in [Chapter 2 § 24](#).

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be 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 the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee 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 acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

## **II. JUDICIAL APPEALS**

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see [38 M.R.S. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

### **ADDITIONAL INFORMATION**

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov), or for judicial appeals contact the court clerk's office in which the appeal will be filed.

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**Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. 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.**

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DEPARTMENT ORDER

IN THE MATTER OF

BATH IRON WORKS	)	MAINE POLLUTANT DISCHARGE
SHIP MANUFACTURING FACILITY	)	ELIMINATION SYSTEM PERMIT
BATH, SAGadahoc COUNTY, MAINE	)	AND
ME0001732	)	WASTE DISCHARGE LICENSE
W000671-5R-K-R	)	RENEWAL
APPROVAL	)	

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S. §§ 411 – 424-B, *Water Classification Program*, 38 M.R.S. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, and applicable rules of the Department of Environmental Protection (Department), the Department has considered the application of BATH IRON WORKS-GENERAL DYNAMICS (BIW or permittee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On April 9, 2021, the Department accepted as complete for processing an application from BIW for renewal of combination Waste Discharge License (WDL) W000671-5R-I-R / Maine Pollutant Discharge Elimination System (MEPDES) permit ME0001732, which was issued by the Department on July 11, 2016 for a five-year term. The 7/11/16 permit authorized the discharge of non-contact cooling water and treated ship ballast water from three outfall points, intermittent discharges from 17 other point sources, and waste snow to the Kennebec River, Class SB, in Bath, Maine.

Since the 7/11/16 renewal the Department has issued one minor revision. The minor revision was issued on February 3, 2017, to modify ME0001732/W000671-5R-I-R and re-establish the conditions and parameters for the discharge of non-contact cooling water through outfall #005A, which the Department had removed at the applicant's request. However, it was found that this outfall was still active and discharging non-contact cooling water to the Kennebec River.

PERMIT SUMMARY

a. Terms and conditions

This permitting action is carrying forward all terms and conditions from the previous permitting action except that it:

1. Incorporates a table A.1 from the minor revision that was issued on February 3, 2017. This table appears in the permit as Special Condition *A.1 Effluent Limitations and Monitoring Requirements* and carries forward the limitations and monitoring requirements for Outfall 005A.

## CONCLUSIONS

BASED on the findings in the attached and incorporated Fact Sheet dated March 3, 2022, 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, *Classification of Maine waters*, 38 M.R.S. § 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) Where the standards of classification of the receiving waterbody are not met, the discharge will not cause or contribute to the failure of the waterbody to meet the standards of classification;
  - (d) Where the actual quality of any classified receiving waterbody 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 waterbody, 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 discharges will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S. § 414-A(1)(D).

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**ACTION**


THEREFORE, the Department APPROVES the application of BATH IRON WORKS-GENERAL DYNAMICS 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 ALL APPLICABLE STANDARDS AND REGULATIONS AND THE FOLLOWING CONDITIONS:

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 becomes effective upon the date of signature below and expires at midnight five (5) years after that date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent 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. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended June 9, 2018).

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 4 DAY OF March 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 

for MELANIE LOYZIM, Commissioner

**FILED**

**MAR 4, 2022**

**State of Maine  
Board of Environmental Protection**

Date filed with Board of Environmental Protection \_\_\_\_\_

Date of initial receipt of application March 29, 2021

Date of application acceptance April 9, 2021

This Order prepared by Aaron Dumont, Bureau of 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 must be limited and monitored by the permittee as specified below<sup>(1)</sup>:

Effluent Characteristics	Discharge Limitations		Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow <i>[50050]</i>	132,000 GPD <i>[07]</i>	650,000 Gallons <i>[57]</i>	1/Quarter <i>[01/90]</i>	Meter <i>[MT]</i>
Temperature <i>[00011]</i>	---	130°F <i>[15]</i>	1/Quarter <i>[01/90]</i>	Grab <i>[GR]</i>
pH <i>[00400]</i>	---	6.0 – 8.5 SU <i>[12]</i>	1/Quarter <i>[01/90]</i>	Grab <i>[GR]</i>

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 (DMRs).

Footnotes: See Pages 9 & 10 of this permit for applicable footnotes.

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# **A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

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

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

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 (DMRs).

Footnotes: See Pages 9 & 10 of this permit for applicable footnotes.

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**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 must be limited and monitored by the permittee as specified below<sup>(1)</sup>:

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
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 (DMRs).

Footnotes: See Pages 9 & 10 of this permit for applicable footnotes.

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## 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.

Type of Wastewater		Approximate Volume
<b>Deck wash down and runoff</b>		
1	Hull wash down per ship to clean superstructure	10,000 gallons per year (GPY)
2	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	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	High pressure wash water <sup>A</sup> (1,000 – 5,000 psi) to remove old paint from ships	Variable; 5-10 GPM when in use
5	High pressure wash water <sup>A</sup> (1,000 – 5,000 psi) to remove old paint from ships	Variable; 10-25 GPM when in use
6	High-pressure wash water <sup>A</sup> (5,000 – 10,000 psi) to remove old paint from ships	Variable; 5-15 GPM when in use
7	Ultra-high-pressure wash water (>25,000) to remove old paint from ships	Variable; 5-15 GPM when in use
<b>Ballast water</b>		
8	Ballast and De-ballast river water for dry dock	110 million gallons (MG) per dry docking evolution cycle
9	River/Seawater from clean ballast (fuel oil compensating system) tanks per ship	1 million gallons (MG) per ship evolution
<b>Non-contact cooling water</b>		
10	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	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.

<sup>A</sup> Wash water is the wastewater associated with dry dock washing to remove marine growth, sea salt, blasting dust, and flaking paint.

## 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.

<b>Sonar Dome Water Discharge</b>		
12	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	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
<b>Condensate water discharges</b>		
16	Steam condensate from steam heaters throughout the shipyard and on-board ships.	11.3 MGY
17	Condensate accumulated in shipboard tanks from refrigeration, cooling systems and air conditioning.	No volume
<b>Miscellaneous discharge of municipal (potable) water</b>		
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.	1,500 GPY
20	Municipal water used to supply shipboard fan coil cooling unit to circulate cool air into space during unusually hot weather.	9,500 GPD
21	Shipboard fire main systems	Limited discharge for testing and training only while pier side
22	Cathodic Protection	All sacrificial anodes in use at BIW are maintained in a new or almost new condition, and no excessive discharge is possible.
23	Potable water systems related to installation, maintenance, and repair of potable water supply systems that include pipelines, fire hydrants, and flushing activities.	No volume
24	Discharges resulting from pressure releases, overflows and hydrostatic testing of pipes.	No volume
25	Dewatering of foundations, footer drains, basements, vaults, pipe tunnels, etc. provided the discharge is not contaminated with pollutants.	No volume

## SPECIAL CONDITIONS

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

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 must notify the Department with as much advanced notice as possible of any discharge not specified in 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.
6. The Department acknowledges the intermittent use of EnviroKlean® and Iron Out® for hull and deck cleaning. Use of these compounds must be in coordination with dilution by rinsing with fresh water as well as timed with outgoing tides to maximize mixing with the receiving water. A log that includes date, time, tidal stage and approximate volume of compound used is required and must be made available for review by Department personnel upon request.

#### **Footnotes:**

1. **Sampling** – The permittee must conduct all effluent sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (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 must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended December 19, 2018). 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 this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR.
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 must 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)

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

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 permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the uses designated for the classification of the receiving waters.
2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated for the classification of the receiving waters.
3. The permittee must not discharge effluent that causes visible discoloration or turbidity in the receiving waters or otherwise impairs the uses designated for the classification of the receiving waters.
4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification or lowers the existing quality of any body of water if the existing quality is higher than the classification.

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**SPECIAL CONDITIONS**

**C. CONDITIONS FOR THE DISCHARGE OF WASTE SNOW**

1. The discharge of snow must not cause impoundment of the receiving waters or alter its flow and snow must 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) must 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 must not be discharged.
4. The permittee must conduct weekly litter removal of the areas from which waste snow will be discharged.

**D. RECORD OF ACTIVITIES FOR WASTE SNOW DUMPS**

The permittee must 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 must be kept onsite at all times and made available to Department and USEPA personnel upon request.

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## SPECIAL CONDITIONS

### E. MONITORING AND REPORTING

Monitoring results obtained during the previous month must be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13<sup>th</sup>) day of the month or hand-delivered to the Department's Regional Office such that the DMRs are received by the Department on or before the fifteenth (15<sup>th</sup>) 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 Department-assigned inspector (unless otherwise specified by the Department) at the following address:

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

Alternatively, if the permittee submits an electronic DMR, the completed DMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the **15<sup>th</sup> day of the month** following the completed reporting period. Hard copy documentation submitted in support of the DMR must be postmarked on or before the **thirteenth (13<sup>th</sup>) 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 (15<sup>th</sup>) day of the month following the completed reporting period. Electronic documentation in support of the DMR must be submitted not later than close of business on the 15<sup>th</sup> day of the month following the completed reporting period.

### F. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee must notify the Department of the following:

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater;
2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants to the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change must include information on:
  - (a) The quality and quantity of wastewater introduced to the wastewater collection and treatment system; and

**SPECIAL CONDITIONS**

**F. NOTIFICATION REQUIREMENT (cont'd)**

- (b) Any anticipated impact of 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 April 9, 2021; 2) the terms and conditions of this permit; and 3) only from Outfalls #005A, #006A and #007A, the intermittent discharges identified in Special Condition A.4. of this permit, and waste snow collected from the BIW facility; and 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 must be reported in accordance with Standard Condition D(1)(f), *Twenty-four-hour reporting*, of this permit.

**H. DRY DOCK BEST MANAGEMENT PLAN**

The permittee must 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 must address, but need not be limited to, dry dock solid waste management and housekeeping, industrial wastewater control and disposition, hydro blast and high pressure water spray operations, abrasive blast and spray paint operations, ground/river water infiltration and stormwater 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 must modify its Dry Dock BMP Plan as necessary to include such changes. The permittee must maintain a copy of its Dry Dock BMP and any subsequent revisions at the shipyard and must make the plan available to any Department or USEPA representative upon request.

**I. POLLUTION PREVENTION PRACTICES PLAN FOR SHIPWASHING/BLASTING**

The permittee must maintain and update as necessary a pollution prevention plan to minimize the discharge of pollutants associated with ship washing and blasting activities performed at the facility. The plan must 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.

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## **SPECIAL CONDITIONS**

### **J. REOPENING OF PERMIT FOR MODIFICATIONS**

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the test results 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 limitations 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 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 or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit must remain in full force and effect, and must 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

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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### 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).

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**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 of 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 MAINTENANCE 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

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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- 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.

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- (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.



# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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### 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.

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**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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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).

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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- (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.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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**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 contaminants 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.

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## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**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.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**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.

**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
AND  
WASTE DISCHARGE LICENSE**

**FACT SHEET**

Date: **March 3, 2022**

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

NAME AND ADDRESS OF APPLICANT:

**BATH IRON WORKS  
700 WASHINGTON STREET  
BATH, ME 04530**

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. JASON STEWART  
(207) 442-1142  
[Jason.Stewart@gdbiw.com](mailto:Jason.Stewart@gdbiw.com)**



## 1. APPLICATION SUMMARY

- a. Application: On April 9, 2021, the Department of Environmental Protection (Department) accepted as complete for processing an application from Bath Iron Works-General Dynamics (BIW) for renewal of combination Waste Discharge License (WDL) #W000671-5R-I-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001732, which was issued by the Department on July 11, 2016 for a five-year term. The 7/11/16 permit authorized the discharge of non-contact cooling water and treated ship ballast water from three outfall points, intermittent discharges from 17 other point sources, and waste snow to the Kennebec River, Class SB, in Bath, Maine.

Since the 7/11/16 renewal the Department has issued one minor revision. The minor revision was issued on February 3, 2017, to modify ME0001732/W000671-5R-I-R and re-establish the conditions and parameters for the discharge of non-contact cooling water through outfall #005A, which the Department had removed at the applicant's request. However, it was found that this outfall was still active and discharging non-contact cooling water to the Kennebec River.

## 2. PERMIT SUMMARY

- a. Terms and conditions: This permitting action is carrying forward all terms and conditions from the previous permitting action except that it is:
  1. Incorporates a table A.1 from the minor revision that was issued on February 3, 2017. This table appears in the permit as Special Condition *A.1 Effluent Limitations and Monitoring Requirements* and carries forward the limitations and monitoring requirements for Outfall 005A.
- 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 USEPA to administer the NPDES permit program in Maine. From that date forward, the permit program has been referred to as the MEPDES permit program and ME0001732 (same as the NPDES permit) will be the primary reference number for the facility.

## **2. PERMIT SUMMARY (cont'd)**

*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.

*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 BIW for a five-year term.

*September 29, 2011* – The Department issued combination MEPDES permit / WDL W000671-5R-H-R to BIW for a five-year term.

*July 11, 2016* – The Department issued combination MEPDES permit / WDL W000671-5R-I-R to BIW for a five-year term.

*February 3, 2017*, The Department issued a minor revision ME0001732/W000671-5R-J-R to modify the July 11, 2016 MEPDES/WDL. The minor revision reincorporated terms and conditions for the discharge of non-contact cooling water from Outfall #005A which removed from the July 11, 2016 permitting and was thought be no longer in use.

*March 29, 2021* – BIW submitted a timely and complete General Application to the Department for renewal of WDL #W00671-5R-I-R. The application was accepted for processing on April 9, 2021 and was assigned WDL W00671-5R-K-R / MEPDES permit ME0001732.

## 2. PERMIT SUMMARY (cont'd)

- c. Source Description: Bath Iron Works, a General Dynamics Company, is a designer and builder of U.S. Navy ships and is located along the Kennebec River in Bath, Maine. A location map of the area 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	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

The source of wastewater conveyed to **Outfall #005A** is non-contact cooling water from air compressors located in Building #0045 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 documented in Permit Special Condition *A.4 Effluent Limitations and Monitoring Requirements* (4).

## 2. PERMIT SUMMARY (cont'd)

BIW was previously authorized to discharge stormwater from the site under the preceding MEPDES permit as well as stormwater permit MER05B212 (main yard). However, in a letter from the Department dated August 27, 2015, BIW is now required to attain coverage under the Storm Water Multi-Sector General Permit for all stormwater discharge. BIW is currently covered under Industrial Multi-Sector General Permit #MER05B212 for a portion of stormwater discharges associated with this site.

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. A schematic of the facility is included as Fact Sheet **Attachment B**.

Sanitary wastewater generated at the BIW facility as well as antifouling leachate other miscellaneous wastewater discharged while a vessel is pier side, is conveyed to the City of Bath Water Pollution Control Facility, which is regulated under a separate MEPDES 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 must notify the Department with as much advanced notice as possible of any discharge not specified in this permit. 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.

- d. Wastewater Treatment: The various wastewater streams identified in Permit Special Condition A. *Effluent Limitations And Monitoring Requirements* (4) receive treatment as follows.

### **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.

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## **2. PERMIT SUMMARY (cont'd)**

### **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.

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 discharge directly to the river. BIW's Storm Water Pollution Prevention Plan (SWPPP) includes facility housekeeping activities and routine inspections to insure facility cleanliness. 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 pollution prevention 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 PERMIT

*Conditions of licenses*, 38 M.R.S. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require the 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. § 420 and Department rule *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective March 21, 2012), 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 2/16/20), 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 major river basins*, 38 M.R.S. § 469(5) classifies the Kennebec River at the point of discharge (All estuarine and marine waters lying within the boundaries of Sagadahoc County and that are not otherwise classified) are Class SB waters. *Standards for classification of fresh surface waters*, 38 M.R.S. § 465-B(2) describes the standards for Class SB waters.

### 5. RECEIVING WATER QUALITY CONDITIONS

The *State of Maine 2016 Integrated Water Quality Monitoring and Assessment Report*, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act lists the segment of the Kennebec River Estuary in Bath (as well as the Upper and Lower portions of the Kennebec) that contains the discharge from BIW as Category 2: Estuarine and Marine Waters Attaining Some Designated Uses-Insufficient Information for Other Uses.

The report also lists the waterbody at the point of discharges as being in Category 5-B-1(a): Estuarine and Marine Waters with Impaired Use, TMDL required. The report lists the cause as "Elevated Fecals Only".

Thus, shellfish harvesting area WM is prohibited to the harvesting of shellfish due the location of the City of Bath's wastewater treatment plant outfalls. The shellfish closure area can be found at <https://www.maine.gov/dmr/shellfish-sanitation-management/closures/index.html>

All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D (Estuarine and Maine Waters Impaired by Legacy Pollutants) for shellfish consumption due to elevated levels of polychlorinated biphenyls (PCBs) and other persistent, bioaccumulating substances in lobster tomalley.

The Department has no information that the discharge from the permittee, as conditioned, causes or contributes to non-attainment of applicable Class SB water quality standards.

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## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

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

### **Outfall #005A**

The previous permitting actions and subsequent minor revision reestablished, 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.

### **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 July 2016 through June 2021 is as follows:

Outfall	Discharge Flow	Limit (GPD)	Minimum (GPD)	Maximum (GPD)	DMRs
005A	Daily Maximum	650,000	2	317,671	12
	Monthly Average	132,000	2	147,071	12
007A	Daily Maximum	Report	2	559,469	14
	Monthly Average	45,000	0.5	19,729	14

The 1/Quarter monitoring frequency for all outfalls listed above are being carried forward in this permitting action.

- 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.

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

The permittee must report the highest value recorded for each month in the “Daily Maximum Flow” cell on the monthly 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 BPJ 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 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 carrying forward the minimum monitoring frequency requirement of 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 electronic 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 Outfall #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 DMR.

A summary of pH data as reported on the monthly DMRs for the period of July 2016 through June 2021 (DMRs = 9 for Outfall #005A and #DMRs=10 for Outfall #007A) indicates that the BIW has been in compliance with the effluent pH throughout the above stated monitoring period.

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

- e. Temperature: The previous permitting action established a daily maximum effluent temperature limit of 130° 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°F, nor more than 1.5°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° 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° F for each outfall, the Department calculated a potential receiving water temperature increase of 0.037° F. This permitting action is carrying forward the minimum monitoring frequency requirement of once per calendar quarter for temperature.

Outfall #	Limitation	Limit (°F)	Minimum (°F)	Maximum (°F)	# DMRs
005A	Daily Maximum	130	59	84	9
007A	Daily Maximum	130	59	82	10

## 7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the waterbody 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 March 26, 2021. 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 must 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).

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## **9. DEPARTMENT CONTACTS**

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

Aaron Dumont  
Division of Water Quality Management  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 287-1939  
e-mail: [Aaron.A.Dumont@maine.gov](mailto:Aaron.A.Dumont@maine.gov)

## **10. RESPONSE TO COMMENTS**

During the period of January 24, 2022, through the effective date of this final agency action, the Department solicited comments on the draft MEPDES permit. The Department did not receive any comments resulting in substantive changes to the draft permit. It is noted that minor typographical and grammatical errors identified in comments were not summarized in this section, but were corrected, where necessary, in the final permit.

# **ATTACHMENT A**

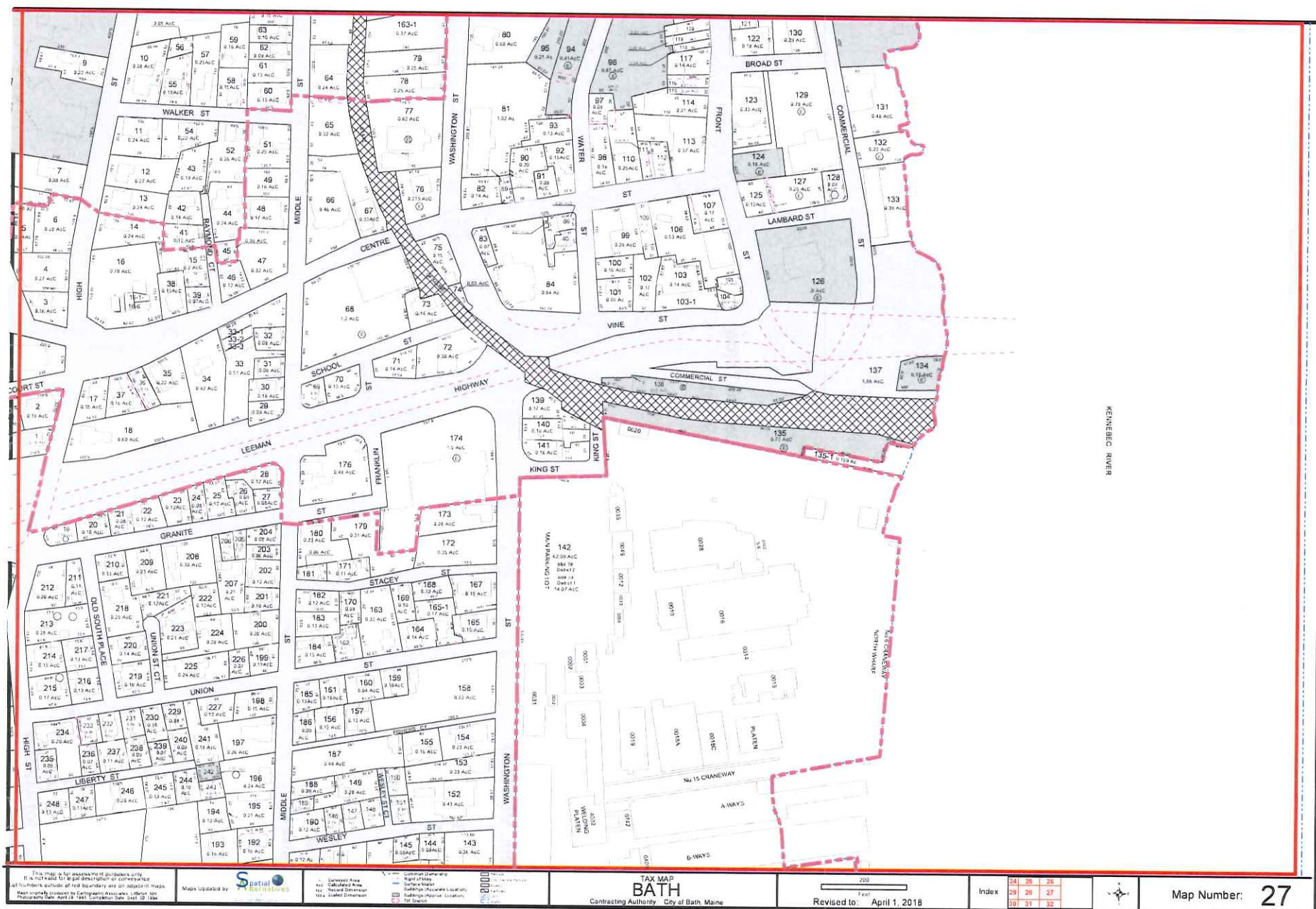


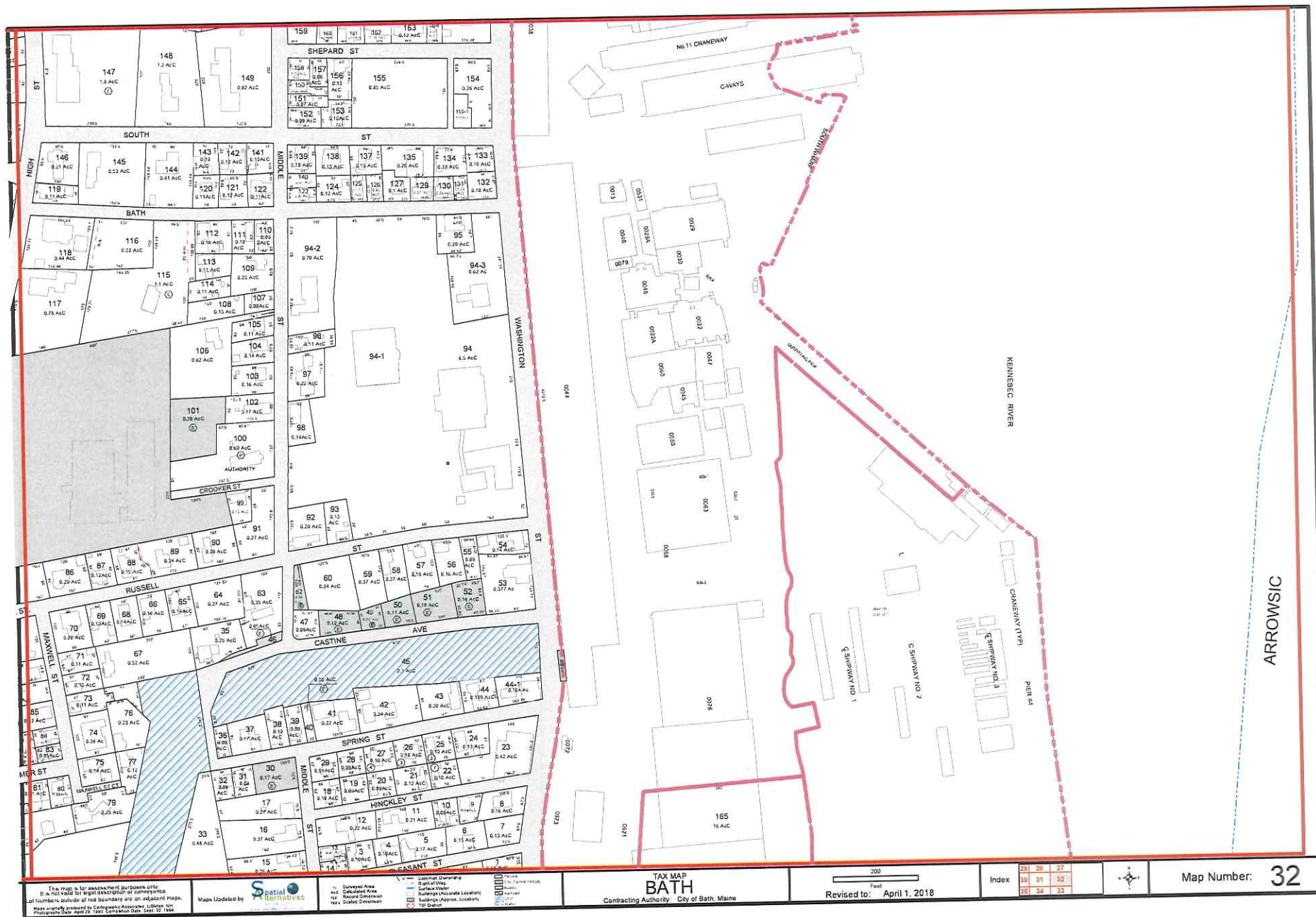
## U.S.G.S. Topographic Map



## **ATTACHMENT B**







This map is for assessment purposes only.  
It is not valid for legal description of conveyance.  
Lot numbers outside of red boundary are an adjacent map.  
Base map provided by Geographic Associates, L.L.C.  
Photography Date: 10/12/13 Completion Date: 11/15/13

Map Updated by  
**Spatial**  
SOLUTIONS

Legend:  
- Dashed Area  
- Calculated Area  
- Record Dimension  
- Stated Dimension  
- Common Ownership  
- Right of Way  
- Surface Water  
- Building (Accurate Location)  
- Building Approx. Location  
- Other

**TAX MAP**  
**BATH**  
Contracting Authority: City of Bath, Maine

Revised to: April 1, 2018

Index	28	29	27
	30	31	32
	35	34	33



Map Number: **32**



