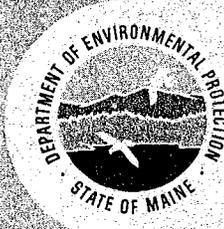


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LETTER REGARDING CONSENT AGREEMENT AND ENFORCEMENT ORDER NSY
PORTSMOUTH ME
3/17/1992
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF MAINE

Department of Environmental Protection

MAIN OFFICE: RAY BUILDING, HOSPITAL STREET, AUGUSTA
MAIL ADDRESS: State House Station 17, Augusta, 04333

207-289-7688

JOHN R. MCKERNAN, JR.
GOVERNOR

DEAN C. MARRIOTT
COMMISSIONER

Date: March 17, 1992

Certified No. p 838 722 709

Captain L. A. Felton, Shipyard Commander, USN
Code 100
Portsmouth Naval Shipyard
Portsmouth, N.H. 03804-5000

RE: Consent Agreement and Enforcement Order

Dear Captain Felton:

Enclosed please find a Consent Agreement and Enforcement Order which specifies this Department's determination of certain violations by Portsmouth Naval Shipyard of the state's Oil Discharge Prevention and Pollution Control Law.

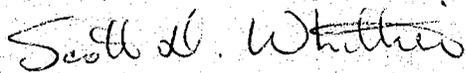
If PNS wishes to resolve the violations and enter into the Agreement as proposed, the enclosed document should be signed and returned to this office along with a check for the required amount. It will then be presented to the Board of Environmental Protection for its consideration. If accepted by the Board, a completed copy of the Consent Agreement will be returned to you.

If an agreement resolving this matter can not be reached in an expeditious manner, we may refer the violations to the Maine Attorney General's Office and request more formal action be initiated against Portsmouth Naval Shipyard.

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Please respond within five (5) working days of your receipt of this notification and indicate whether or not you are prepared to enter into discussions to resolve this matter in the administrative manner I have described above. If you have any questions or desire to request a conference for the purpose of settlement, please contact Tim Wright, Environmental Services Specialist of my staff at the above address or telephone (207) 289-2651.

Sincerely,



Scott D. Whittier, Director
Division of Oil & Hazardous Waste Facilities Regulation
Bureau of Hazardous Materials & Solid Waste Control

OCONSENT

cc: Tim Wright



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

BOARD ORDER

IN THE MATTER OF

PORTSMOUTH NAVAL SHIPYARD)	ADMINISTRATIVE CONSENT
SEAVEY ISLAND)	AGREEMENT AND
KITTERY, YORK COUNTY, MAINE)	ENFORCEMENT ORDER
OIL DISCHARGE ACTIVITIES)	

This Agreement by and among Portsmouth Naval Shipyard ("Shipyard"), the Maine Board of Environmental Protection (the "Board"), and the Maine Attorney General is entered into pursuant to 38 M.R.S.A., Sections 347-A(1) and in accordance with the Department of Environmental Protection ("Department") Consent Agreement Policy, as amended.

The parties agree as follows:

1. The Shipyard is a United States Navy submarine repair and maintenance facility located on Seavey Island in the Town of Kittery, Maine. In the course of daily operations the shipyard stores and handles large volumes of oil and oily wastes including, but not necessarily limited to, hydraulic oil, lubricating oil, fuel oil and oil contaminated bilge water. The shipyard operates 26 underground oil storage tanks at this site and employs an in-house oil spill response team.
2. On February 7, 1991 an employee of the Shipyard reported to the Department that a spill of approximately 500 gallons of #6 oil, kerosene and water was discharged from a transportable oil tank into a storm drain at the shipyard.

Shipyard personnel's attempts to contain the spill within the storm drain system were unsuccessful, and as a result, most of the oil escaped and entered the Kittery Water Pollution Control Facility. The oil rendered the Water Pollution Control Facility inoperative and entered the Piscataqua River through an outfall pipe.

The Shipyard responded to the discharge by placing booms in the Piscataqua River around the treatment plant's outfall pipe and throughout the treatment plant to contain the oil. Subsequently, Jet-Line Services cleaned the plant and collected approximately 1500 gallons of oil and septage. This material was ultimately disposed of at a facility located outside the State.

3. The Department's review of Shipyard records further revealed that numerous similar oil discharges of various quantities occurred between January 1981 and February 1991. Of 15 oil discharges occurring between January 1989 and February 1991, only two were reported to the Department.
4. The actions described in paragraphs 2 and 3 above are violations of 38 M.R.S.A. Section 543, which states that the discharge of oil into or upon any coastal waters, sewer, or onto lands adjacent to, on, or over such waters of the state is prohibited.

PORTSMOUTH NAVAL SHIPYARD	2	ADMINISTRATIVE CONSENT
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5. Through its failure to report to the Department the oil discharges described in paragraph 3 above, the Shipyard was unable to remove these discharges to the Department's satisfaction. As such, these actions are violations of 38 M.R.S.A., Section 548 which states that any person discharging or suffering the discharge of oil, petroleum products or their by-products in the manner prohibited by Section 543 shall immediately undertake to remove that discharge to the Department's satisfaction.

6. The Shipyard expressly waives:
 - a. Notice of and opportunity for hearing;
 - b. Any and all further procedural steps before the Board;
 - c. The making of any Finding of Fact by the Board; and
 - d. Its right to appeal any portion of this Administrative Consent Agreement and Enforcement Order.

7. This Agreement shall not become part of the official record unless and until it is accepted by the Board.

8. To resolve the violations referred to in paragraphs 2 and 3 above, the Shipyard agrees to:
 - a. Prevent oil discharges from occurring by properly maintaining oil handling equipment/machinery and properly monitoring activities involving use or transport of oil in accordance with 38 M.R.S.A., Section 543;
 - b. Prevent oil discharges from occurring by creating and implementing standard operating procedures for the transfer of oil at PNS. The procedures shall outline the steps to be taken prior to the commencement of oil transfers and monitoring procedures to be implemented during oil transfers. The procedures shall be posted in areas where oil transfers are likely to occur. Personnel involved or likely to be involved in oil transfers shall be required to review the procedures annually and within 2 working days after a spill event;
 - c. PNS shall submit a schedule for evaluating all oil handling equipment and machinery to determine if such equipment has been effective in preventing oil discharges, PNS shall also submit a schedule for repairing or replacing any equipment determined by PNS to be ineffective in preventing oil spills;
 - d. Immediately undertake the removal of any prohibited discharge to the Department's satisfaction in accordance with 38 M.R.S.A., Section 548;
 - e. Submit to the Department for its review and approval a spill reporting and containment plan, within 60 days of signature of this Agreement. The plan shall include a procedure for providing the Department with an immediate verbal report (within 2 hours) of each discharge along with a description of all measures the Shipyard will use to clean up the discharge; and

PORTSMOUTH NAVAL SHIPYARD	3	ADMINISTRATIVE CONSENT
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- f. Pay to the Maine Coastal and Inland Surface Oil Clean-up Fund the sum of fifteen thousand dollars (\$15,000.00) immediately upon signature of this Agreement.

The Board and the State of Maine Attorney General grant Portsmouth Naval Shipyard a release of their courses of action against Portsmouth Naval Shipyard for the specific violations listed in paragraphs 2, 3, and 5 above on the express condition that all actions called for in paragraph 8 above are completed in accordance with 38 M.R.S.A. Sections 543 and 548 and the express terms and conditions of this Agreement, except that no release is granted for discharge of petroleum products to the ground, groundwater or surface water.

The Department may require the Shipyard to perform additional corrective actions if the Department determines that further action is required to prevent additional oil discharges, as necessary, to protect the public health or the environment.

ORDER

Pursuant to 38 M.R.S.A., Section 347-A-(1) and the Department's Consent Agreement Policy, as amended, and based on the Agreement set forth above, the Board ORDERS Portsmouth Naval Shipyard to:

1. Prevent oil discharges from occurring by properly maintaining oil handling equipment/machinery and properly monitoring activities involving use or transport of oil in accordance with 38 M.R.S.A., Section 543;
2. Prevent oil discharges from occurring by creating and implementing standard operating procedures for the transfer of oil at PNS. The procedures shall outline the steps to be taken prior to the commencement of oil transfers and monitoring procedures to be implemented during oil transfers. The procedures shall be posted in areas where oil transfers are likely to occur. Personnel involved or likely to be involved in oil transfers shall be required to review the procedures annually and within 2 working days after a spill event;
3. PNS shall submit a schedule for evaluating all oil handling equipment and machinery to determine if such equipment has been effective in preventing oil discharges, PNS shall also submit a schedule for repairing or replacing any equipment determined by PNS to be ineffective in preventing oil spills;
4. Immediately undertake the removal of any prohibited discharge to the Department's satisfaction in accordance with 38 M.R.S.A., Section 548; and

PORTSMOUTH NAVAL SHIPYARD 3
SEAVEY ISLAND)
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OIL DISCHARGE ACTIVITIES)

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ENFORCEMENT ORDER

5. Submit to the Department for its review and approval a spill reporting and containment plan, within 60 days of signature of this Agreement. The plan shall include a procedure for providing the Department with an immediate verbal report (within 2 hours) of each discharge along with a description of all measures the Shipyard will use to clean up the discharge.

IN WITNESS WHEREOF the parties hereto have executed this Agreement of three (3) pages.

DONE AND DATED AT AUGUSTA, MAINE THIS _____ DAY OF _____, 1992.

PORTSMOUTH NAVAL SHIPYARD

By: _____

Date: _____

BOARD OF ENVIRONMENTAL PROTECTION

By: _____

Date: _____

Owen R. Stevens, Chairman

SEEN AND AGREED TO:

STATE OF MAINE

By: _____

Date: _____

Assistant Attorney General

TWBOPNAS/djp