



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

**\*\* Urgent Legal Matter -- Your Prompt Response Required \*\***

NOTICE OF POTENTIAL LIABILITY and REQUEST FOR INFORMATION

Former Dow Air Force Base in Bangor, Maine

October 13, 2015

Certified Mail #  
7011 1150 0001 7046 9412

Catherine Conlow  
City Manager  
City of Bangor  
73 Harlow St.  
Bangor, Me. 04401

Dear Ms. Conlow:

The Maine Department of Environmental Protection (“DEP” or “Department”) is seeking information from all Potentially Responsible Parties (“PRPs”) regarding the release of hazardous substances at the former Dow Air Force Base (“Site”) in Bangor, Maine, in order to facilitate the investigation and mitigation of the risks posed by this Site. Specifically, this inquiry concerns two locations on the Site which are commonly known as the “landfill” and the “Fire Training Area.” It is the Department’s understanding that the City of Bangor (“City”) owned and operated a portion of the Site during times when hazardous substances arrived there and that the City arranged for the transport and handling of hazardous substances that arrived at the site. The DEP has, therefore, determined that the City is a PRP under Maine’s *Uncontrolled Hazardous Substance Sites law*, 38 M.R.S.A. §§ 1361–1371 (“Uncontrolled Sites Law”) and the United States *Comprehensive Environmental Response, Compensation, and Liability Act*, 42 U.S.C. §§ 9601–9675 (“CERCLA”).

SITE BACKGROUND

The DEP and the United States Army Corps of Engineers (“USACE”) have been cooperatively investigating environmental issues associated with the Site, which is generally depicted on Figure 1, attached. Our current understanding is that the Site was operated by the United States Air Force from approximately 1947 to October of 1968, when it was transferred to the City of Bangor and the Maine Air National Guard. The Site is currently operated as the Bangor International Airport and as a Maine Air National Guard Facility.

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  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

Reports detailing the results of environmental investigations from 1988 to the present have identified multiple projects at the Site that required environmental remediation. Most of these projects have either been completed or are progressing under the direction of the USACE, as agent for the Department of Defense (“DoD”) under the Maine Defense-State Memorandum of Agreement (“DSMOA”). However, at least two of the identified environmental projects associated with the base cannot be fully addressed under the DSMOA since civilian PRPs may have contributed to the releases at these operable units.

Multiple reports and laboratory analyses of groundwater samples have documented the presence of hazardous substances, pollutants and contaminants, as defined under CERCLA and the Uncontrolled Sites Law, at the so called Fire Training Area (“FTA”) at the Site. Laboratory analysis of environmental samples taken from the FTA have detected levels of lead, cadmium, benzene, and trichloroethylene (“TCE”) in soil and/or groundwater at concentrations that exceed risk based guidelines including Maximum Contaminant Levels (“MCL”) for drinking water. Based on information obtained to date, the source of this contamination includes materials generated and/or transported to the FTA by the City and, potentially, other PRPs.

Also within the Site, at the so called “landfill,” laboratory analysis of environmental samples detected hazardous substances, pollutants and contaminants, as defined under CERCLA and the Uncontrolled Sites Law. Elevated levels of lead and arsenic in groundwater exceed MCLs at this operable unit. Based on information obtained to date, the source of this contamination includes materials transported and discarded by the City and, potentially, by other parties.

#### LIABILITY UNDER MAINE LAW

Under the Uncontrolled Sites Law, DEP is authorized to investigate uncontrolled hazardous substance sites (*i.e.* sites where hazardous substances have come to be located), and to cleanup such sites, and /or mitigate threats or hazards posed by such sites.

Under 38 M.R.S.A. § 1362(2), the owner or operator of the uncontrolled site, any person who owned or operated the uncontrolled site from the time any hazardous substance arrived there, persons who arranged for transport or handling of hazardous substances which arrived at such a site, and persons who accepted hazardous substances for transport if the substances arrived at such a site, are responsible parties for the site.

Under 38 M.R.S.A. § 1365 and other laws<sup>1</sup>, responsible parties may be obligated to undertake and complete response actions deemed necessary by DEP at the site to protect the public health, safety, or the environment. Under 38 M.R.S.A. § 1367, each responsible party is also jointly and severally liable for all costs incurred by the DEP in responding to any release or threatened release of hazardous substances at the base. Such costs may include, but are not limited to, costs for the abatement, cleanup or mitigation of the threats or hazards posed or potentially posed by

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<sup>1</sup> Other laws include, without limitation, DEP's general *Organization and Powers* authority, 38 M.R.S.A. §§ 341-349-B, and the Maine *Hazardous Waste, Septage and Solid Waste Management Act*, 38 M.R.S.A. §1301-1319-Y.

an uncontrolled site. In addition, responsible parties are liable for damages for injury to, destruction of, loss of or loss of use of natural resources, including the costs to assess such damages.

#### LIABILITY UNDER FEDERAL LAW

Pursuant to 42 U.S.C. § 9607(a)(1) “the owner and operator of a vessel or a facility ... shall be liable for:

- (A) all costs of removal or remedial action incurred by the United States Government or a State or an Indian tribe not inconsistent with the national contingency plan;
- (B) any other necessary costs of response incurred by any other person consistent with the national contingency plan;
- (C) damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release; and
- (D) the costs of any health assessment or health effects study carried out under section 9604 (i) of this title.”

#### NOTICE OF YOUR POTENTIAL LIABILITY

By way of this letter, the DEP is notifying the City of its potential liability with respect to this matter. According to information obtained by DEP, the City owned and operated that portion of the Site that includes the landfill, and which may include the FTA, during times that hazardous substances arrived at the landfill and FTA. DEP records indicate that the City presently owns that portion of the Site where the landfill is located and may presently own a portion of the Site where the FTA is located. The boundaries of the Fire Training Area are not fully identified at this time. It is the Department’s intent that this information request will assist in positively identifying the boundaries of the Fire Training Area. Based on information available to the Department at this time, it is possible that the Fire Training Area may partially lie on land owned and operated by the City during times when hazardous substances arrived there and which may presently be owned and operated by the City. Furthermore, DEP records indicate that the City arranged for the transport and handling of hazardous substances that arrived at the landfill and FTA. Although these areas of the Site may have been used by other parties, the DEP considers the City to be a primary potentially responsible party for environmental contamination found at the landfill and FTA.

#### REQUEST FOR INFORMATION

The DEP is contacting all known potentially responsible parties to determine appropriate levels of responsibility, and to request that the parties provide any additional information that they may have regarding Site history and potential liability.

This investigation requires inquiry into the identification, nature, and quantity of substances that have been generated, stored, disposed or otherwise handled at or transported to the Site and into

the nature and extent of discharge or threatened discharge of hazardous substances, pollutants, or contaminants at or from the Site. The DEP is also seeking information relating to the ability of responsible parties to finance or to perform necessary clean-up activities undertaken at the Site. As 38 M.R.S.A. § 1364(3) provides, in relevant part, "...During the course of the investigation, the Commissioner [of DEP] may require submission of the information or documents that relate or may relate to the site under investigation ... from any person whom the Commissioner has reason to believe may be a responsible party..."

PURSUANT TO THE AUTHORITY OF TITLE 38 M.R.S.A. § 1364(3), YOU ARE HEREBY REQUESTED TO RESPOND TO THE INFORMATION REQUEST ATTACHED.

Your response to this request must be submitted in writing to the following address within thirty (30) days from receipt of this notice:

Attn: David Wright, Director  
Division of Remediation, BRWM  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017

Any questions regarding this letter should be directed to Christopher Swain, Project Manager, who may be contacted at the above address, by telephone at 207-485-3852, or by email at [Chris.Swain@Maine.gov](mailto:Chris.Swain@Maine.gov)

Due to the seriousness of the conditions posed by the Site and the legal consequences of any failure to respond fully and properly, I strongly encourage you to give this matter your immediate attention and to respond to this information request within the time from specified above.

Thank you for your cooperation in this matter.

Sincerely,



Leslie Anderson  
Director, Bureau of Remediation and Waste Management  
Maine Department of Environmental Protection

Attachment

Cc: Heather Sullivan, USACE  
David Wright, DEP

# Bangor International Airport

Bangor, ME



★ 60478 - DOW AFB - FORMER LANDFILL

★ 60479 - DOW AFB - FIRE TRAINING AREA

0 625 1,250 2,500 Feet

