



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

Date: *Dated as shown on electronic signature(s)*

Subj: **Clean Water Act** Inspection Report for Beverly Port Marina

From: Damian Bednarz, EPA Inspector **DAMIAN BEDNARZ** Digitally signed by
DAMIAN BEDNARZ
Date: 2024.10.15
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To: **Frank Kinzie III, Owner**

I. Facility Information

- A. *Facility Name:* Beverly Port Marina
- B. *Facility Location:* 43 Water Street, Beverly, MA
11-25 Water Street, Beverly, MA
47A Water Street, Beverly, MA
- C. *Facility Contacts:* Frank Kinzie III, owner
978-232-3300
frank@beverlyportmarina.com
Frank Kinzie IV
978-232-3300
frank4@beverlyportmarina.com

Suzanne Kinzie, owner
- D. *ID Number(s):* MAR053064

II. Background Information

- A. *Date(s) of inspection:* August 20, 2024
- B. *Weather Conditions:* Sunny, Temperature 60-70°F
- C. *US EPA Representative(s):* Damian Bednarz, Joseph Canzano, Newton Tedder,
and Margarita Chatterton
- D. *State/Local Representative(s):* NA

E. Federally Enforceable Requirements Covered During the Inspection:

Oil Pollution Prevention Regulations, 40 CFR Part 112.

National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activities), 40 CFR Part 122.26

F. Previous Enforcement Actions:

Conservation Law Foundation, Inc., v. Beverly Port Marina, Inc., US District Court for the District of Massachusetts, Case No. 1:12-cv-11876-GAO.

EPA Administrative Order to Beverly Port Marina, CWA-AO-R01-FY19-15.

EPA Expedited Settlement Agreement to Beverly Port Marina, CWA-01-2019-0015.

III. Type and Purpose of Inspection

EPA conducted an announced inspection at Beverly Port Marina (the “Facility” and/or “BPM”) in response to a reported oil spill on June 28, 2024, from the National Response Center (NRC), Incident Report #1403202. The inspection team also reviewed industrial stormwater discharge permit requirements associated with EPA’s MSGP and certain requirements under EPA’s Oil Pollution Prevention regulations.

IV. Facility Description

BPM is engaged in marina operations and has an associated primary Standard Industrial Classification (“SIC”) Code of 4493. The Facility is located at 43 Water Street, Beverly Massachusetts. BPM’s website indicates it provides marine service and parts, repair of gas and diesel engines, structural work, rigging, winterizing, fiberglass repair and detailing, and gasoline and diesel fuel year-round. The business is owned and operated by Mr. Frank and Mrs. Susan Kinzie since 1989. The Facility is 3.8 acres in size and the site is divided into four parcels. According to The City of Beverly’s MapGeo Property and Parcel viewer, parcel one, located at 11-25 Water Street, is adjacent to the City Marina and is 1.5 acres in size. The land area at 43 and 47A Water Street is .8 acres. The fourth parcel is approximately 1.5 acres in size and is located at 67 Water Street.

The EPA last inspected the Facility on October 16, 2018, and provided the Facility an inspection report on November 20, 2018. In summary, the inspection identified deficiencies regarding the June 4, 2015, MSGP for stormwater discharges associated with industrial activities and Oil Pollution Prevention regulations at 40 C.F.R. §112. Deficiencies identified included, among other findings:

- Facility had not submitted quarterly benchmark sampling results of their outfalls.
- Facility was missing stormwater inspection documentation.
- EPA found numerous oil-filled containers not documented in SPCC plan.
- Site diagrams for SWPPP and SPCC plan were absent or missing significant elements.
- SPCC Plan lacked a 5-year review.
- SPCC Plan was missing oil handling training and tank inspection records.

According to the May 1, 2014, SWPPP, the Facility has six drainage areas and six outfalls. These outfalls can be seen in an aerial format on the first page of the attached photo album (Photo 1).

- Outfall 001 features one stormwater drain and is supported by one stormceptor system. This outfall is identified as being substantially identical to outfall 002. Industrial activity at this area can be defined as boat and general outdoor marina storage. Most boats at this location are out of commission and awaiting to be scrapped or repaired.
- Outfall 002 features one stormwater drain and is supported by one stormceptor system. This outfall is identified as being substantially identical to Outfall 001. Industrial activity at this area can be defined as boat and general outdoor marina storage. Boats in this location can also be generalized as out of commission and awaiting to be scrapped or repaired. The SWPPP estimates the Outfall 001 and 002 area to be approximately 75,000 square feet of impervious area.
- Outfall 003 features two stormwater drains and is supported by one stormceptor system. This drainage area features employee parking as well as tank refueling of gasoline and diesel products. Stormdrains are covered during fuel transfer operations to prevent an unanticipated spill. The SWPPP estimates this drainage area to be 30,000 square feet.
- Outfall 004 features two stormwater drains and is situated outside of the boat storage building. Outside of the building near the catch basins, boats are pulled out of water using travel lifts and are stored inside the storage building or around it.
- Outfall 005 features one stormwater drain and is where the Facility predominantly conducts pressure washing of boats. The SWPPP estimates this area to be 75,000 square feet of impervious surface. The pressure wash drainage system is described as a closed loop wash water recycle system, and the wash

pad features a permanent berm. Washwaters are captured via sump before being introduced to the recycling system.

- Outfall 006 features two stormwater drains and is utilized for vehicle and outdoor boat storage. Facility representatives explain that stormwater flows onto the site from the north at this drainage location.

Inspectors observed a boat storage rack in a building used for boat storage year-round. There are two buildings at 43 Water Street which have various purposes, such as a boat showroom, administrative offices, parts storage, ships store and mechanic bays. There are two travel lifts for the hauling and launching of larger boats.

V. Inspection

EPA contacted owner Mr. Kinzie III on August 13, 2024, and announced EPA would be inspecting the Facility on Tuesday, August 20, 2024. EPA informed Mr. Kinzie III the inspection was being conducted in response to a reported oil spill at the Facility.

EPA Inspector Bednarz also informed Mr. Kinzie III EPA would be reviewing Facility conditions under EPA's industrial stormwater regulations and oil storage and transfer regulations. Inspector Bednarz requested copies of BPM's SWPPP and oil Spill Prevention, Control and Countermeasure (SPCC) plan prior to the inspection. On August 9, 2024, EPA received the Facility's SPCC plan dated January 7th, 2019. The EPA obtained the Facility, SWPPP most recently reviewed May 1, 2014, prior to the inspection.

The Inspection team arrived at approximately 9:00 a.m. and exited the properly at approximately 4:30 p.m.

Opening Conference

BPM representatives included Frank Kinzie III, Frank Kinzie IV, and Suzanne Kinzie. EPA inspection team included Mr. Canzano, Mr. Tedder, Ms. Chatterton, and Mr. Bednarz (the "EPA inspectors"). EPA inspectors presented credentials, explained the purpose of the inspection and obtained consent to conduct the inspection from BPM representatives.

EPA inspectors explained that the reason for the inspection was because EPA received a report of an oil spill resulting from piping failure. The NRC report noted the spill occurred on June 28, 2024. The inspection team presented a copy of the NRC report to Mr. Kinzie III. Mr. Kinzie III was unaware of the report and informed EPA inspectors that BPM disagrees with the findings within the report, stating that there was no observable release or sheen in the waterway on June 28th from BPM operations and the Facility did not have a release to the best of his knowledge.

Mr. Kinzie III informed the inspection team BPM documented a sheen near the Facility on June 16th and reported it to the harbor master, and immediately conducted

inspections of Facility oil handling equipment which includes piping and storage tanks and did not find any oil leaks. Mr. Kinzie tells the inspection team an employee from the City fire department arrived at the Facility to conduct an inspection and told Mr. Kinzie III he felt and smelled petroleum from a pipe.

The Facility was ordered by the City to shut off boat fueling dispensers/activities to the dock. BPM boat fueling operations were suspended from June 19th through June 26th. Oil in the pipeline from the fuel tank farm to the dispensers on the dock were gravity drained to a 55-gallon drum. Mr. Kinzie III said the maximum amount of oil in the piping is about 35-gallons. Since this incident, the Facility has been conducting inspections of the piping and fittings on a weekly basis, and have found no leaks, spills, or weeps.

Mr. Kinzie told the inspection team the fuel piping from the tank farm to the dispensers is under the dock, about 2-inch in diameter and 20-feet in length per section. Pipe sections are connected using thread type unions. Mr. Kinzie informed the inspection team under each union is a sump to collect any weeping oil. The dock finger is about 300-feet in length and extends out into the waterway to a set of fuel dispensers. Mr. Kinzie said the piping is single-wall type and is old, and he plans on replacing the piping with a double-wall type pipe system.

Upon request, BPM's representatives provided EPA with a copy of the SWPPP, date June 7, 2019. The inspection team explained that the MSGP was re-issued and became effective on March 1, 2021, and as part of this re-issuance, permittees were required to update the SWPPP which includes identifying members of the SWPPP team. Mr. Kinzie informed EPA inspectors the SWPPP has not been amended to reflect team leader Mr. Jonathan Silver left the company. Mr. Kinzie (IV) explained that outdoors activities have not changed since EPA's last inspection. Activities include maintenance of boats sanding, painting, repairs and engine maintenance, engine oil changes, and vessel pressure washing of boats. The Facility also includes a fuel farm for marine fueling activities. Mrs. Kinzie provided inspectors with a copy of a customer contract that included a statement that customers of BPM may not shrink-wrap, paint or sand boats in the yard. BPM staff explained that:

- Sanding and painting services are provided by outside vendors and BPM staff make use of vacuum sanders, place tarps down on the ground, and use copper free paints.
- Fluids removal for boats for winter storage is provided by vendors.
- Approximately 50% of oil changes are completed by BPM staff and 50% by boat customers. Customers take care of disposal of used oil filters and used oil, if the customers bring used oil and oil filters to BPM, the facility will dispose of these materials following facility's procedures. However, customers will also dispose of these materials on their own.

- Engines repair and maintenance is conducted by BPM mechanics either indoors, within the maintenance bay, or outdoors on top of a concrete pad adjacent to maintenance bay.
- Boats are lifted in and out of the water by a travel lift.
- Boats are washed in a dedicated area where wastewaters flow to a drain that connects to a recycling system.
- Boat fueling activities are supervised by BPM staff at a fuel pump located at the end of one of the docks.

Additionally, BPM staff informed inspectors that the following practices are also implemented as part of BPM's good housekeeping practices:

- Boat yard catch basins are cleaned once per year, areas surrounding catch basins are swept using brooms when debris is observed.
- Pressure washing recycled wastewaters are replaced after washing of approximately 100 boats. Clean Harbor is used for off-site disposal of pressure washing wastewater and catch basin cleaning.

EPA inspectors discussed Facility Discharge Monitoring Report (DMR) exceedances for total zinc and total copper, and corrective actions. BPM representatives provided inspectors with a Draft AIMS Analysis and Recommendations Report. The Report addresses potential source/s for pollutants of concern, and BMPs targeting reduction measures. Mr. Kinzie III informed inspectors that as an attempt to reduce pollutant concentrations BPM has implemented the following: copper free coatings for boat hull painting, paved a portion of the yard that was previously unpaved, installed v-filter hats in catch basins, communicated with customers the proper method of disposal of zinc sacrificial anodes, and regularly sweep parking lot and swept debris near catch basins.

B. Site Walk

BPM Representatives and EPA Inspectors started the site walk part of the inspection at 1:30 p.m. at the Facility's fuel farm. The fuel farm stores gasoline and diesel in double-wall aboveground storage tanks. Tank 1 holds gasoline and has a volume of 4,000-gallons, and Tank 2 has two compartments each with a capacity of 4,000-gallons of gasoline and 4,000-gallons of diesel (Photo 3). The two tanks feed (2) 2" gasoline pipes and (1) 2" diesel pipe. Pipes travel approximately 300-linear feet under the dock. At various locations the dock has cutouts in wooden fixtures (Photos 4, 6-10). The fuel lines have multiple manually operated shut off valves locations under the dock in case the system needs to be turned off for maintenance or for spill emergencies. Valve locations are labeled and appear to be readily accessible. According to Facility representative, the shut off method is manual accessing the valve and turning a hand operated ball valves

at each location for each fuel pipe. The piping is also labeled at these locations consistent with fuel type (Photo 7). One shut off valve location is within the first 10 feet of the fuel lines near the two ASTs (Photo 5). The next is where the fuel lines begin running underneath the dock (Photo 7). Some additional two-way ball valves are underneath boards on the dock (Photo 10) and within 15 feet of the fuel dispensers (Photo 12).

Mr. Kinzie IV explained The Facility has since implemented methods to identify pipe segments for potential repairs or fixes via identification tags (Photo 8). Mr. Kinzie IV also explained that since the allegedly observed sheen, both gas lines and their respective dispensers have not been running with product. Near the offline dispenser systems, the EPA Inspectors observed a shed which contained a spill kit (Photo 13). EPA inspectors suggested to Facility representatives that a sea oil boom should be located at the dispensers at the end of the dock stored in case of a spill.

At the base of the dock Outfall 003 can be observed, along with a city-owned outfall (Photo 14). Catch basins that ultimately discharge to Outfall 003 are situated within 50 feet of the 4,000- and 8,000-gallon ASTs and are labelled as CB3-1 and CB3-2 in the photo album (Photos 15, 16). The principal work that occurs at this location is refueling of the tanks. Mr. Kinzie IV demonstrated that when refueling is taking place, a spill prevention pad is placed on top of the catch basin that would otherwise drain oil should the refueling fail (Photo 17).

After observing an uncovered dumpster (Photo 24) during the Site Walk, inspectors explained the permit requirement within Part 2.1.2.2.c. which states to keep all dumpster lids closed when not in use. For dumpsters and roll off boxes that do not have lids and could leak, the Facility is required to ensure that discharges have a control (e.g., secondary containment, treatment). Inspectors asked if this dumpster was sealed to control leaks/liquids from leaving the dumpster and Mr. Kinzie III indicated that it was not sealed. Inspectors explained to Mr. Kinzie that disposal of materials such as oil filters, used oil or liquid wastes at this dumpster may result in discharges being impacted by oils.

Inspectors proceeded to 67 Water Street also referred to in the SWPPP as the far yard. The area is used for storage of boats, various materials (lobster traps, concrete blocks), (Photos 21-23). The far yard features outfalls 001 and 002, which each have one stormdrain and stormceptor unit (Photos 18-20).

During the site walk Mr. Kinzie described BPM's efforts in trying to determine the source of Benchmarks Exceedances. Mr. Kinzie stated that he suspected that anodes significantly contribute to the observed Zinc concentrations. The building being used for boat storage appeared to be a structure with galvanized material for walls (painted), roof and downspouts (aerial photo 1 and photo 40). EPA Inspectors discussed the potential for these materials to be contributing sources of Zinc and having the laboratory report the particulate and dissolved fractions of Zinc to support in the

selection of treatments. Mr. Kinzie indicated that “witch hat” drain filters are being used as catch basin inserts but that the filter media needs re-visiting to determine if appropriate to capture Zinc and Copper.

Following the site walk of the eastern storage portion of the Facility, EPA Inspectors went into the Service Building (Photo 26). On the other side of the garage door, the Facility stores 55-gallon drums of various oil product. EPA Inspectors observed a 55-gallon drum of motor oil horizontally elevated on its side with an attached spout (Photo 27). Mr. Canzano said the oil filled container/drum does not appear to have adequate secondary containment. Inspector Canzano suggested drums be placed on a spill pallet. In various 55-gallon drums, the Facility otherwise stores bilge wastewaters which could contain waste oil/diesel, waste oil, and usable diesel. Drums were observed to be on spill containment pallets (Photo 28). The current SPCC plan identifies (4) 55-gallon oil filled drums. Inspectors observe (7) drums containing of various oil products. The Service Building has a double wall 250-gallon waste oil container which is used in a heater (Photo 29) for the building. In the same room EPA inspectors also observe a single-wall 250-gallon waste oil container without secondary containment (Photo 30). BPM’s maintenance personnel utilize an open 300-gallon tank to test engines (Photo 31). Mr. Canzano explained to Mr. Kinzie IV that the water in the test tank is considered a process wastewater and not permitted to be discharged – wastewater shall be disposed of properly, i.e., hauler or sanitary sewer system. In a maintenance room within the Service Building, EPA Inspectors observed a single wall 250-gallon waste oil tank without secondary containment (Photo 33). Mr. Kinzie IV explained that the tank is not in service and will be removed.

In a follow up email to EPA after the inspection, Mr. Kinzie III explained that the tank was pulled out of the Service Building and is awaiting removal. The tank was labelled “out of service” (Photo 34). In the same room as the out of service tank, EPA Inspectors observed a drain and asked Facility representatives of its purpose. Mr. Kinzie IV explained that he did not know of its purpose or function at the time of the inspection.

A travel lift was observed to the east of the boat storage building, the designated boat wash pad is located on the southern side of the boat storage building. The boat wash pad is surrounded by a berm (see photo 40) serves to collect and recycle boat wash water. Portions of the berm were compromised (see photos 41 and 42) needing replacement to prevent potential discharges of wash-water to the stormwater catch basin located in this area (see photo 42). EPA Inspectors discussed the use of more durable materials for rebuilding/replacing the compromised berm, as well as the use of drain covers while boats are being washed.

C. Records Review

EPA Inspectors requested certain records, quarterly outfall visual assessments, routine facility inspections, and stormwater and oil training records. Inspectors discussed MSGP monitoring and training requirements. Facility has conducted benchmark monitoring

and routine facility inspections required by the MSGP. During the opening conference Mr. Kinzie III indicated that BPM has not completed stormwater visual assessments or stormwater staff training. EPA Inspectors explained to Facility representatives that the MSGP requires quarterly stormwater visual assessments and staff training and documentation of implementation of these requirements.

D. Closing Conference

EPA Inspectors and Facility Representatives met in the parking lot outside of the office for a debrief. Mr. Bednarz explained that a report, detailing EPA's findings, would be sent to the Facility. In addition, EPA Inspectors summarized that the Facility's SWPPP and SPCC plans require amending and certain sections are not accurate.

Unless otherwise noted, this report describes conditions at the facility/property as observed by EPA inspector(s), and/or through records provided to and/or information reported to EPA inspector(s) by facility representatives and as understood by the inspector(s). This report may not capture all operations or activities ongoing at the time of the inspection. This report does not make final determinations on potential areas of concern. Nothing in this report affects EPA's authorities under federal statutes and regulations to pursue further investigation or action.