Form # P 04

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK

CITY OF PORTLAND

Please Read Application And Notes, If Any, Attached

Health Dept. __ Appeal Board_ PERMIT

Permit Number: 100384

Attached	PERMIT	PERMIT ISSUED
This is to certify that P A Properties Ii I.		
has permission toInstall season slips at	Western of mar and in a 70' x	erthing pier. OCT - 6 2010
AT _92 Island Ave. Peaks Island	C	084 P001001
provided that the person or pers	ions, file or communion accept	ing this pe chitalfalltanc iply with al
of the provisions of the Statutes		s of the City of Portland regulating
the construction, maintenance a	and use of buildings and structure	res, and of the application on file ir
this department.		
	Notice ation of ispection must be	
Apply to Public Works for street line and grade if nature of work requires	give and writtly bermissic procured before this but and or procured hereof is	A certificate of occupancy must be
such information.	before this building or prophereof is lath or oth seed-in. 2	procured by owner before this building or part thereof is occupied.
	HOL NOTICE IS REQUIRED.	ing of part thereof is occupied.
OTHER REQUIRED APPROVALS		
Fire Dept		(~

PENALTY FOR REMOVING THIS CARD

10/07/1

389 Congress Street, 0	4101 Tel: (207) 874-8703		10-0384		084 P001001
Location of Construction: Owner Name:			Owner Address:	Phone:	
92 Island Ave. Peaks Isla	and LPA Propert	ies Ii Llc	98 Island Ave		
Business Name:	Contractor Name	·	Contractor Address:		Phone
	Lionel Plante		98 Island Avenue I	Peaks Island	2077662508
Lessee/Buyer's Name	Phone:	1	Permit Type: Additions - Comm	amain!	Zone:
Past Use:					
Commercial	Proposed Use:	Install season slips at	Permit Fee: \$470.00	Cost of Work: (45,000.00	CEO District:
Commorcian		f marina and install a			TION:
	70' x 8' berthi	ng pier.		Denied Use Gro	oup: N/H Type:N/H
				カ	TION: Pup: N/A Type: N/A 3C-2003 E: MB 10/7/10
Proposed Project Description					1 10 10/- 1/2
Install season slips at Wo	estern end of marina and inst	<u> </u>	Signature:	Signatur	e: X/100 (017/18
Pier.			PEDESTRIAN ACTIV	IIIES DISTRICT (F.	A.D.D
			Action: Approve	d Approved w/0	Conditions Denied
Permit Taken By:	Date Applied For:		Signature:		Date:
gg	04/16/2010		Zoning A	Approval	
1. This permit applicat	tion does not preclude the	Special Zone or Review	zoning Zoning	Appeal	Historic Preservation
 Applicant(s) from meeting applicable State and Federal Rules. Building permits do not include plumbing, septic or electrical work. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work 		Shoreland I-Brance	Variance		Not in District or Landmark
		price of word - Deal of westland	d ☐ Miscellan	cous	Does Not Require Review
		Flood Zone panel 15 - Zone A2 Subdivision (el.9)	Condition	at Use	Requires Review
		Subdivision Minor developm	☐ Interpretat	tion	Approved
		Site Plan	Approved	1	Approved w/Conditions
PERMIT	ISSUED	Maj Minor MM	Denied		☐ Denied
OCT :	- 6 2010	Date: 95-210 124	Date:	Da	N&U
in the state of th	f Portland				-
		CERTIFICATIO	N		
I have been authorized by jurisdiction. In addition,	the owner of record of the n y the owner to make this app if a permit for work describe o enter all areas covered by s	lication as his authorized ed in the application is is	agent and I agree t sued, I certify that t	o conform to all a he code official's a	pplicable laws of this authorized representative
such permit.					



CITY OF PORTLAND, MAINE

Department of Building Inspections

Original Receipt

Copio 16 20/0
Received from Line O Donto Coccepta
Cost of Construction \$ Building Fee:
Permit Fee Site Fee:
Certificate of Occupancy Fee:
Total:
Building (IL) Plumbing (I5) Electrical (I2) Site Plan (U2)
Other
OBL: 074 POOI
Check #: 27231 Total Collected \$ 40000

No work is to be started until permit issued. Please keep original receipt for your records.

Taken by:

WHITE - Applicant's Copy YELLOW - Office Copy PINK - Permit Copy

City of Portland, Maine - Build	ling or Use Permit			Permit No:	Date Applied For:	CBL:
389 Congress Street, 04101 Tel: (2	(207) 874-8703, Fax: (20	7) 874-8	716	10-0384	04/16/2010	084 P001001
Location of Construction:	Owner Name:	·		wner Address:		Phone:
92 Island Ave. Peaks Island	L P A Properties Ii Llc		- 9	98 Island Ave		
Business Name:	Contractor Name:		C	ontractor Address:		Phone
	Lionel Plante Associates		- 9	98 Island Avenue Peaks Island		(207) 766-2508
Lessee/Buyer's Name	Phone:		P	ermit Type:		
			Ĺ	Additions - Comm	ercial	
Proposed Use:		Pro	posed	Project Description:		
Commercial / Install season slips at we	stern end of marina and				tern end of marina a	nd install a 70' x 8'
install a 70' x 8' berthing pier.		be	rthin	g pier.		
		1				
Dept: Zoning Status: A	pproved with Conditions	Revie	wer:	Ann Machado	Approval Da	te: 09/23/2010
Note:						Ok to Issue: 🗹 🕝
1) This permit is being approved on the basis of plans submitted. Any deviations shall require a separate approval before starting that						
work.						
Dept: Building Status: Approved with Conditions Reviewer: Jeanine Bourke Approval Date: 10/06/2010						
Note:	pprovide what containing	20010		Double Double		Ok to Issue:
	. bomisos and miliose as as	بدا المحادث				OR to issue.
1) The ramp shall have fall protection	•	•				
2) Prior to the final inspection a seale						
pilings and welding all discrepance	es have been corrected an	id the stru	ctura	l work is in substan	itial compliance with	the approved
plans.						
Dept: Fire Status: A	pproved with Conditions	Revie	wer:	Capt Keith Gautre	au Approval Da	te: 10/05/2010
Note:						Ok to Issue: 🗹
1) NFPA 1 requires standpipes for fir	e suppression for lengths	over 150'				

Comments:

4/20/2010-amachado: Need to talk to planning about what need for siteplan.

4/21/2010-amachado: Lest message for Catherine Plante. Needs to submit minor siteplan application. Need sign off from Board of Harbor Comissioners, Army Corp of Engineers & DEP. Needs to fill out fllod hazard development permit. Need full size plan to see where the new berthing pier is located.

4/22/2010-amachado: Wrote letter outlining what we need.

2) All construction shall comply with City Code Chapter 10.

9/23/2010-amachado: Catherine Plante brought requested informationinto Marge while I was on vacation.

10/6/2010-jmb: Ok to approve pending planning approval

PERMIT ISSUED

OCT - 6 2010

City of Portland

BUILDING PERMIT INSPECTION PROCEDURES

Please call 874-8703 or 874-8693 (ONLY)

or email: buildinginspections@portlandmaine.gov

With the issuance of this permit, the owner, builder or their designee is required to provide adequate notice to the City of Portland Inspection Services for the following inspections. Appointments must be requested 48 to 72 hours in advance of the required inspection. The inspection date will need to be confirmed by this office.

- Please read the conditions of approval that is attached to this permit!! Contact this office if you have any questions.
- Permits expire in 6 months, if the project is not started or ceases for 6 months.
- If the inspection requirements are not followed as stated below additional fees may be incurred due to the issuance of a "Stop Work Order" and subsequent release to continue with construction.

X	Final inspection required at completion of work.
<u>X</u>	The final report of Special Inspections shall be submitted prior to the final inspection or the issuance of the Certificate of Occupancy

The project cannot move to the next phase prior to the required inspection and approval to continue, REGARDLESS OF THE NOTICE OR CIRCUMSTANCES.

IF THE PERMIT REQUIRES A CERTIFICATE OF OCCUPANCY, IT MUST BE PAID FOR AND ISSUED TO THE OWNER OR DESIGNEE BEFORE THE SPACE MAY BE OCCUPIED.

PERMIT ISSUED

oct - 6 2010

City of Portland

CBL: 084 P001001 Building Permit #: 10-0384



Strengthening a Remarkable City, Building a Community for Life

www.portlandmaine.gov

RECEIVED

Dept. of Building Inspections

Planning & Urban Devalopment Department

Penny St. Louis Littell, Director

Planning Division Alexander Jaegerman, Director October 7, 2010

Lionel Plante Associates 98 Island Avenue Peaks Island Portland, ME 04108

Project Name: Lionel Plante Associates Berthing Pier and Floats

Project ID:

10-79900033

Address:

98 Island Avenue

CBL:

087-00-031-001

Applicant:

Lionel Plante Associates

Planner:

Barbara Barhydt, Development Review Services Manager

Dear Catherine Plante

On October 7, 2010, the Portland Planning Authority approved a minor site plan for the permanent berthing pier and seasonal floats at the Lionel Plante facility at 98 Island Avenue as submitted by Lionel Plante Associates and shown on the approved plan prepared by Owen Haskell, Inc. and dated August 31, 2010, subject to one condition of approval:

The City of Portland has expedited the review in recognition of the State approvals and funding deadlines for this project. The Planning Division reserves the right within 15 days from the approval to revise our approval in light of any new information received relevant to site plan review standards.

The approval is based on the submitted site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

- 1. The site shall be developed and maintained as depicted in the site plan and the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14 of the Portland City Code.
- 2. This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.

- 3. Final sets of plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*,dwg), release AutoCAD 2005 or greater.
- 4. An inspection fee payment of \$300 for site inspection work is required.
- 5. The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
- 6. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
- 7. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. <u>Please</u> schedule any property closing with these requirements in mind.

If there are any questions, please contact Barbara Barhydt, Development Review Services Manager at 874-8699.

Sincerely,

Alexander Jaegerman

Planning Division Director

Electronic Distribution:

Penny St. Louis Littell, Director of Planning and Urban Development Alexander Jaegerman, Planning Division Director Barbara Barhydt, Development Review Services Manager Philip DiPierro, Development Review Coordinator Marge Schmuckal, Zoning Administrator Tammy Munson, Inspections Division
Lannie Dobson, Administrative Assistant
Michael Bobinsky, Public Services
Director
Katherine Earley, Public Services
Bill Clark, Public Services
David Margolis-Pineo, Deputy City
Engineer
Jane Ward, Public Services

Keith Gautreau, Fire
Jeff Tarling, City Arborist
Tom Errico, Wilbur Smith Consulting
Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File
Hard Copy: Project File

1003 10 6874

General Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

- · · · · · · · · · · · · · · · · · · ·						
(Ocation / Address of Construction:	land Avenue, Peaks Island	, ME 04108				
Total Square Footage of Proposed Structure/A	rea Square Footage of Lot					
Tax Assessor's Chart, Block & Lot Chart# Block# Lot# 84 P 1-8&9 Lessee/DBA (If Applicable)	Applicant *must be owner, Lessee or Buyer Name Catherine E. Plante Address 98 Island Avenue City, State & Zip Peaks Island, 1 Owner (if different from Applicant) Name Address City, State & Zip	207-766-2508				
Current legal use (i.e. single family) If vacant, what was the previous use? N/A Proposed Specific use: N/A Is property part of a subdivision? NO If yes, please name Project description: Install season slips at Western end of marina (moved out from current position towards the West) and install a 70' x 8' berthing pier built on steel pilings with bolt on oak construction, I-beam stringers with box beam cross members.						
Contractor's name: Lionel Plante Associates Address: 98 Island Avenue City, State & Zip Peaks Island, ME 04108 Who should we contact when the permit is ready: Cathy Plante Mailing address: SAME Telephone: 766-2508						
. 						

Please submit all of the information outlined on the applicable Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information or to download copies of this form and other applications visit the Inspections Division on-line at www.portlandmaine.gov, or stop by the Inspections Division office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature: Willury & Slant Date: March 26,2010

This is not a permit, you may not commence ANY work until the permit is issue



PORTANDMANE

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Penny St. Louis Littell - Director of Planning and Urban Development Marge Schmuckal, Zoning Administrator

April 22, 2010

Catherine E. Plante Lionel Plante Associates 98 Island Avenue Peaks Island, ME 04108

Re: 92 Island Avenue – 084 P001, 002 &008 – I-B – permit #10-0384 to install seasonal slips & install a 70' x 8' berthing pier

Dear Ms. Plante,

We are in receipt of your permit application to install seasonal slips at the western end of the marina and to install a seventy foot by eight foot berthing pier at your property at 92 Island Avenue, Peaks Island. At this point the application is incomplete.

Since the proposed work is located in the Shoreland Zone and extends over the normal high water line, we need permits from the Department of Environmental Protection, the Army – 5/3/10 Corps of Engineers and the Board of Harbor Commissioners. The location in the Shoreland Zone also requires that you submit a minor siteplan application to the Planning Division.)

The proposed expansion is also located in the floodplain. I have enclosed the Flood Hazard Development Application and the Flood Hazard Development Permit for Minor Development. Both of these need to be completed and returned to our office.

Your permit is on hold until we receive all the required permits and the minor siteplan application is approved. Please feel free to call me at 874-8709 if you have any questions.

Yours truly,

Ann B. Machado Zoning Specialist (207) 874-8709

Cc. Barbara Barhydt file

Ann Machado - Pier - Peaks Island

From:

Barbara Barhydt

To:

Jaegerman, Alex; Machado, Ann; Schmuckal, Marge

Date:

4/29/2010 2:18 PM

Subject:

Pier - Peaks Island

Hi:

Kathy Plante called and will be dropping off her other permits (Harbor Commission, DEP, and Army Corps) for the pier extension. She said it is the docking pier for one boat that is 122 feet long. As a new pier, I told her it would need site plan review. She said that she has only needed a building permit in the past. She would like clarification.

I believe we have been consistent that a new or expanded piers require review, but I don't believe there is any work in the shoreland zone. Have any of these been treated differently in the past? Let's discuss briefly.

Thanks.

67 It is all in shoreland.

Barbara

- work lotter April 22, 2010 - Loub le call but not there.
Left massage to call her.

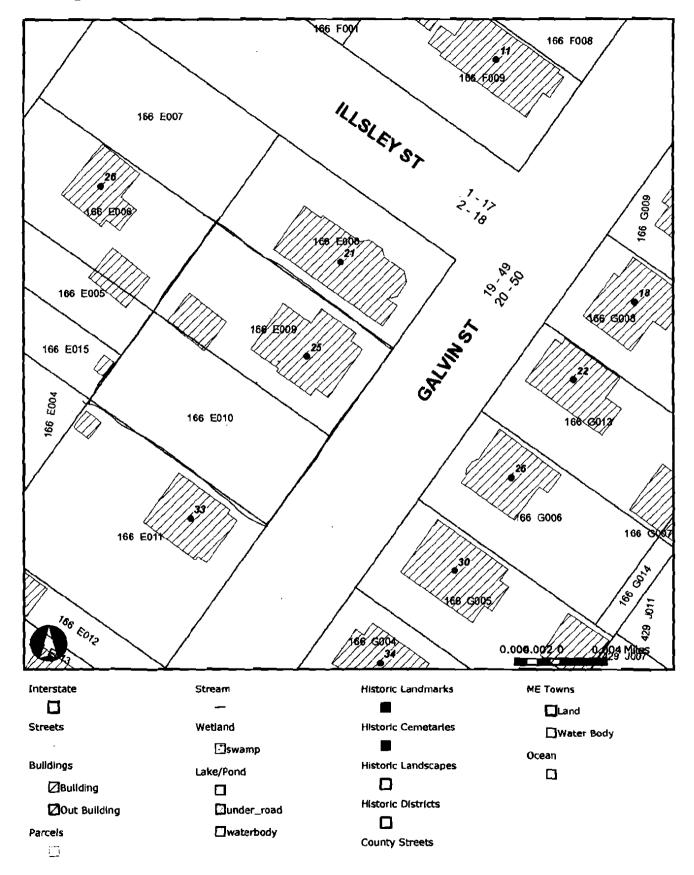
4/23/10 talked to Coley Milkern re: what needed.

5/3/10 - 14t Babuca von.

-Bubar said showald sets it plan mb out to Cathy Plante

6,000 N 200

Map



B-7 Problest To hout?
- 100 574 for got subback.
- 100% conserver.

IB-rore

- marin-permitted on [[14223(U)]

- whaves, piers, obsets, landing ramps-permitted (14-223(e))

Shoreland 14-449 (b) poiers, abocks, ex

Costolunt & 417,000

Vala \$ 382, 630.

13%

2 one -

FLOOD HAZARD DEVELOPMENT APPLICATION

			, Maine
		(All applicants r	nust complete entire application) [60.3(e)]
	, Maine, f	or development a	nt Permit as required under Article II of the Floodplain Management is defined in said ordinance. This permit application does not preclude the
Owner: <u>Catherine</u>	E Plank		Address: Linel Plante Associates
Phone No.: 207-7	66-250F		98 Toland Ar. Peaks Joland ME 04108
Applicant:	····		Address:
Phone No.:			
Contractor:			Address:
Phone No.:			
LEGAL DESCRIPTION	N		
Is this part of a subdivis	ion? 🗆 Yes 🗹 No	o If yes, give the	he name of the subdivision and lot number:
			Lot #:
Тах Мар: <u>84- Р</u>	_		Lot #: 1,8 49
Address: 90-92 Street/	Is land Are Road Name		
Zip Code: Perls Is	Zip Code	<u> </u>	
General explanation of p	roposed developm	ent: Inckl	70'x8' bothing pro install scaronal float
Estimated Value of Prop	osed Development	:	\$ 37, Soc
Proposed Lowest Floor e	levation [for new	or substantially ir	mproved structure]:
OTHER PERMITS			
Are other permits require	ed from State or Fe are these other per		s? Yes No Not Applicable
Development Act,	Metallic Mineral I	Exploration, Adva	ited to: ME/DEP/Natural Resource Protection Act, Site Location of anced Exploration and Mining; USACE/Section 9 & 10 of the Rivers Federal Energy Regulation Commission.
SEWER AND WATER			
Sewage Disposal:	□ Public	☐ Private	Prot Ameliankia Tema
Water Supply:	☐ Existing ☐ Public	☐ Proposed ☐ Private	B-9

Attach a Site Plan - Drawn to scale with north arrow.

- Show property boundaries, floodway, and floodplain lines.
- · Show dimensions of the lot.
- Show dimensions and location of existing and/or proposed development on the site.
- Show areas to be cut and filled.

Attach Statement - describing in detail how each applicable development standard in Article VI will be met.

For New Construction or Substantial Improvement also show: - N/A more decolopment

- Existing and proposed grade elevations adjacent to the walls of the structure done by a Professional land Surveyor, Architect, or Engineer.
- Location and elevation of temporary elevation reference marks on the site.

Special Note:

Substantial Improvement is defined as any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. Please refer to the floodplain management ordinance, Article XIV, for more complete definitions of New Construction and Substantial Improvement.

Structures in Velocity Zones are not permitted on fill or excavations. Structures must be built on open foundation systems, i.e., columns, piles, posts. Certification of structural design, specifications, plans and construction methods completed by a Professional Engineer or Architect shall accompany the application as required in Article VI.L.3. of the floodplain management ordinance.

The applicant understands and agrees that:

Permit # (3 ~ 0 384

- The permit applied for, if granted, is issued on the representations made herein;
- Any permit issued may be revoked because of any breach of representation;
- Once a permit is revoked all work shall cease until the permit is reissued or a new permit is issued;
- Any permit issued on this application will not grant any right or privilege to erect any structure or sue any premises described for any purposes or in any manner prohibited by the ordinances, codes, or regulations of the municipality;
- The applicant hereby gives consent to the Code Enforcement Officer to enter and inspect activity covered under the provisions of the Floodplain management Ordinance;
- If issued, the permit form will be posted in a conspicuous place on the premises in plain view; and,
- If issued, the permit will expire if no work is commenced within 180 days of issuance.

Issued by

I hereby certify that all the statements in, and in the attachments to this application are a true description of the existing property and the proposed development project.

Owner: Latterne Signature

Date: Jopton Date: Jopton Date:

Signature

Orate: Signature

(This section to be completed by Municipal Official)

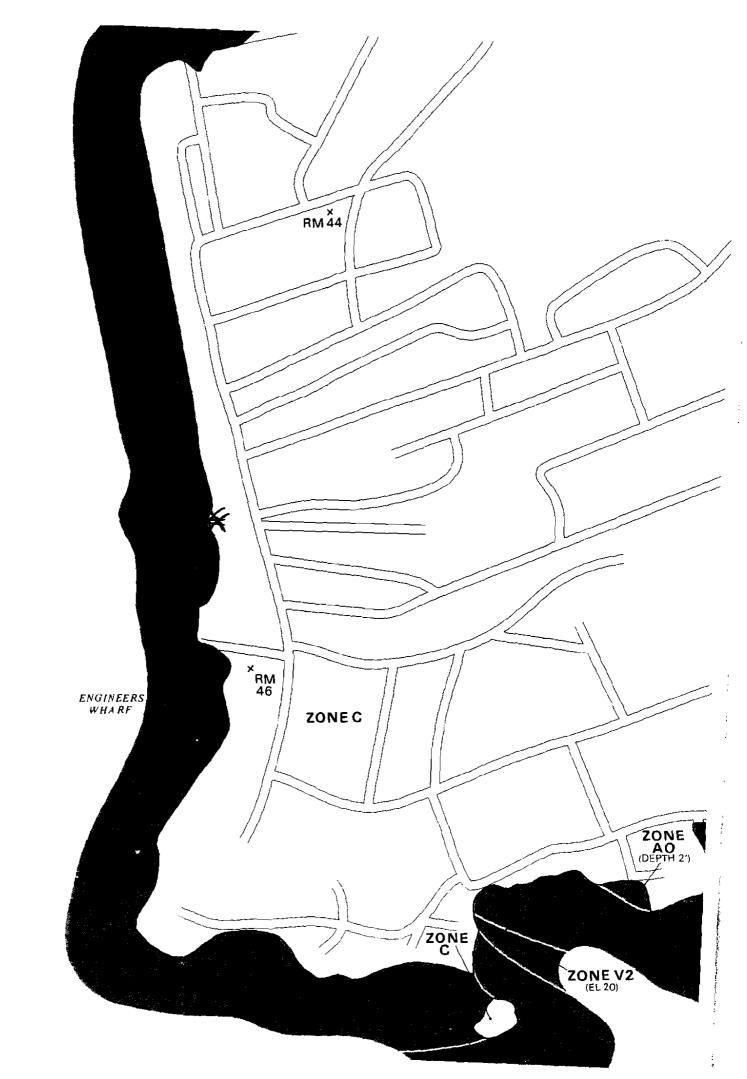
Date: Submitted 7/12/12; Fee Paid Reviewed by CEO ASM; Reviewed by Planning Board

FLOOD HAZARD DEVELOPMENT PERMIT For Minor Development

For Development not considered a Substantial Improvement)

This Flood Hazard Development Permit allows minor development as provided in Article V.F.3. of the Floodplain Management Ordinance of
Project Description: To install a 70' by 8' berthing pier + install sessonal Floats at the western end of the marina
 The permit is issued on the representations made herein and on the application for permit; The permit may be revoked because of any breach of representation; Once a permit is revoked all work shall cease until the permit is reissued or a new permit is issued; The permit will not grant any right or privilege to erect any structure or use any premises described for any purposes or in any manner prohibited by the ordinances, codes, or regulations of the municipality; The permittee hereby gives consent to the Code Enforcement Officer to enter and inspect activity covered under the provisions of the Floodplain Management Ordinance; The permit form will be posted in a conspicuous place on the premises in plain view; and, The permit will expire if no work is commenced within 180 days of issuance.
I hereby certify that all the statements in, and in the attachments to this permit are a true description of the existing property and the proposed development project.
Owner: Construction & Stante Date: September 12, 2010
Authorized Agent: Datc: Datc:
Issued by:

The second secon	The state of the s	5 (2) (25) (20)
LOCATION	leted by Municipal Official)	
Flooding Source (name of river, pond, ocean, etc.):	Section 1 to the section of the sect	- amgazin pagina
☐ V1-30 Zone ☐ VE Zone ☐ AE Zone ☐ A1-30 Zone ☐ FRINGE ☐ FLOODWAY (1/2 width of floodplain in A		
Base Flood Elevation (bic) at the site NGVD [Required for	New Construction or Substantial Improvemen	d 🤾
Lowest floor elevation of proposed or existing structureNC		antial Improvement]
If proposed development is in an AE or A1-30 Zone and cross sec mearest cross section reference letter and elevation of base flood at		
Cross Section Letter Base Flood Elevation Above Site Above Site 9 Below Site Below Site	Paul Is An Zone An - electr	
Basis of unnumbered A Zone bre determination: Brom a Federal Agency: Brom a State Agency: MDOT I Stablished by Professional Land Surveyor	Other	
☐ Established by Professional Engineer ☐ HE ☐ Oth	C/RAS HECH HY7 TR20 T	R55 □ Quick-2
☐ Righest Known Water Level ☐ Other (Explain)	ha anomalic subtilies and made	
VALUE		
If the development involves work on an existing structure, enter the	a Market Value of existing structure before	Anna Atlanta
1 725 00 181,12	The state of which the state of	mprovolicity.
☐ New Construction or Substantial Improvement ☐ Minor in	provement or minor addition to existing devel	opment
TYPE OF DEVELOPMENT Check the appropriate box to the left of the type(s) of development	at requested and complete information for each	applicable line:
☐ 1. Residential Structure Dimensions		Cubic Yards
☐ 1a. New Structure	□ 7. Filling ³	Cubic Yards
☐ 1b. Add to Structure	□ 8. Dredging	
☐ 1c. Renovations/repairs/maintenance	□ 9. Excavation	
☐ 2. Non-Residential Structure	10, Levee	 -
22. New Structure	□ 11. Drilling	
□ 2b. Add to Structure	2 II. Dining	Number of Acres
☐ 2c. Renovations/repairs/maintenance	□ 12. Mining	runioci di Adics
☐ 2d. Floodproofing	13. Dam: Water surface to be created	
□ 3. Accessory Structure	☐ 14. Water Course Alteration	
☐ 4. Functionally Dependent Use:	Note: Detailed description must b	e attached with copies
☐ 4a. Dock	of all applicable notifications, state	
\$\frac{1}{2}\$ Dock \\ \frac{1}{2}\$ \\ 1	☐ 15. Storage of equipment or materials	100-гм рогии.
2 4c. Boat Ramp	☐ 16. Sewage Disposal System	
□ 4d. Other	☐ 17. Water Supply System	
□ 5. Paving	□ 18. Other: Explain	
☐ 6. Conditional Use (Lobster/Fish Shed seaward of mean high tide)		
Note: Conditional Use requires add'l. information due to specific		



riget west of centerline of Seashore

hydrant opposite elementary school at d Avenue and access road in between No. 285/165, on southwest central part

flush with ground, 0.8 mile northeast in Post Office at Peaks Island, 169 feet nortele lookout tower, 90 feet southeast athwest of concrete base of searchlight, to of southeast wall of low concrete f Peaks Island.

a rock retaining wall. I foot east of the oproximately 2 feet above the ground, to feast end of Engineers Wharf, 41.4 curb of a rock-paved road, and 80 feet dirt road leading to Engineers Wharf on east Island.

ower pole No. 24, on north side of approximately 0.2 mile northeast of outheast side of Peaks Island.

st end of pier in top of west concrete feel northeast of southwest end of itt Dock on north end of Cushing Island.



FIRM FLOOD INSURANCE RATE MAP

CITY OF PORTLAND, MAINE CUMBERLAND COUNTY

PANEL 15 OF 17
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER 230051 0015 B

EFFECTIVE DATE:JULY 17, 1986

Federal Emergency Management Agency

KEY TO MAP

500-Year Flood Boundary

100-Year Flood Boundary

Zone Designations*

100-Year Flood Boundary

500-Year Flood Boundary

Base Flood Elevation Line
With Elevation In Feet**

Base Flood Elevation in Feet
Where Uniform Within Zone**

Elevation Reference Mark

Zone D Boundary

River Mile

• M1.5

**Referenced to the National Geodetic Vertical Datum of 1929

*EXPLANATION OF ZONE DESIGNATIONS

ZONE **EXPLANATION** Areas of 100-year flood; base flood elevations and A flood hazard factors not determined. Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths A0 of inundation are shown, but no flood hazard factors are determined. Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors AΗ are determined. Areas of 100-year flood; base flood elevations and A1-A30 flood hazard factors determined. Areas of 100-year flood to be protected by flood protection system under construction; base flood A99 elevations and flood hazard factors not determined. Areas between limits of the 100-year flood and 500-R year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading) C Areas of minimal flooding, (No shading) Areas of undetermined, but possible, flood hazards. Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors

NOTES TO USER

Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors

V1-V30

determined.

. Certain areas not in the special flood hazard areas (zones A and V)

Maine Floodplain Management Decision Tree for Flood Hazard Development Permits

Please check appropriate boxes.

If yes, go to page 2.

If no, no flood hazard permit required.

(A completed copy of this form should accompany each Flood Hazard Development Permit Application file)

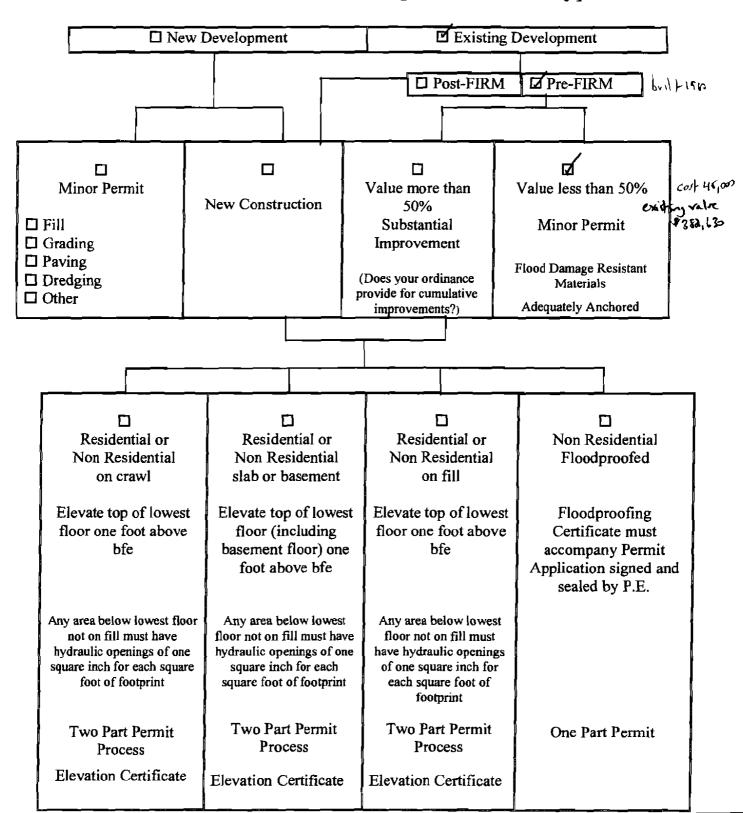
Are other permits required (i.e., federal or state)?

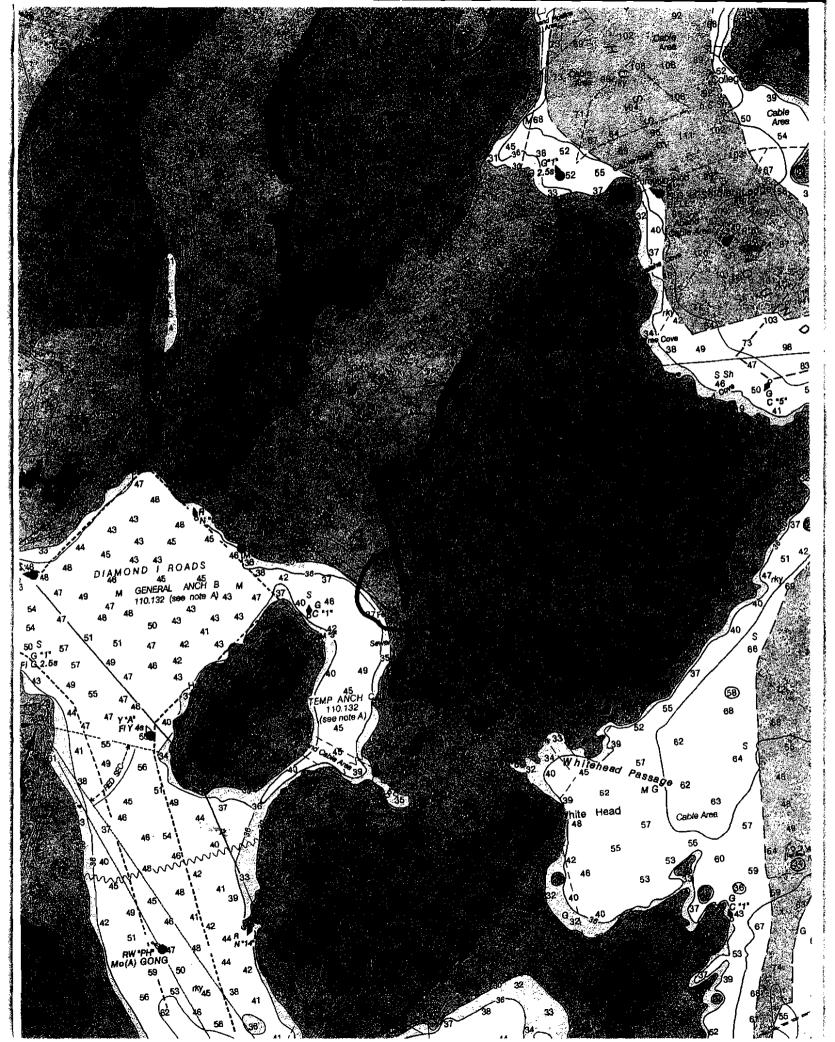
 □ If yes, advise applicant of what additional permits are needed. □ Request copy for attachment to Flood Hazard Development Permit Application. [Application may be made but permit shall not be issued until other permits are provided.] Go to section 2. □ If no, proceed with Flood Hazard Development Permit Application. Go to section 2. 						
Is the development in a Special Flood Hazard Zone A, A1-30, AE, or AH but not in the floodway ¹ ? Yes (A2) no If yes, go to page 3. If no, continue.						
Is the development in Zone AO? ☐ yes ☐ no If yes, go to page 4. If no, continue.						
Is the development in the Floodway? ☐ yes ☐ no If yes, go to page 5. If no, continue.						
Is the development in Zone V1-30 or VE? ☐ yes ☐ no If yes, go to page 6. If no, start over.						

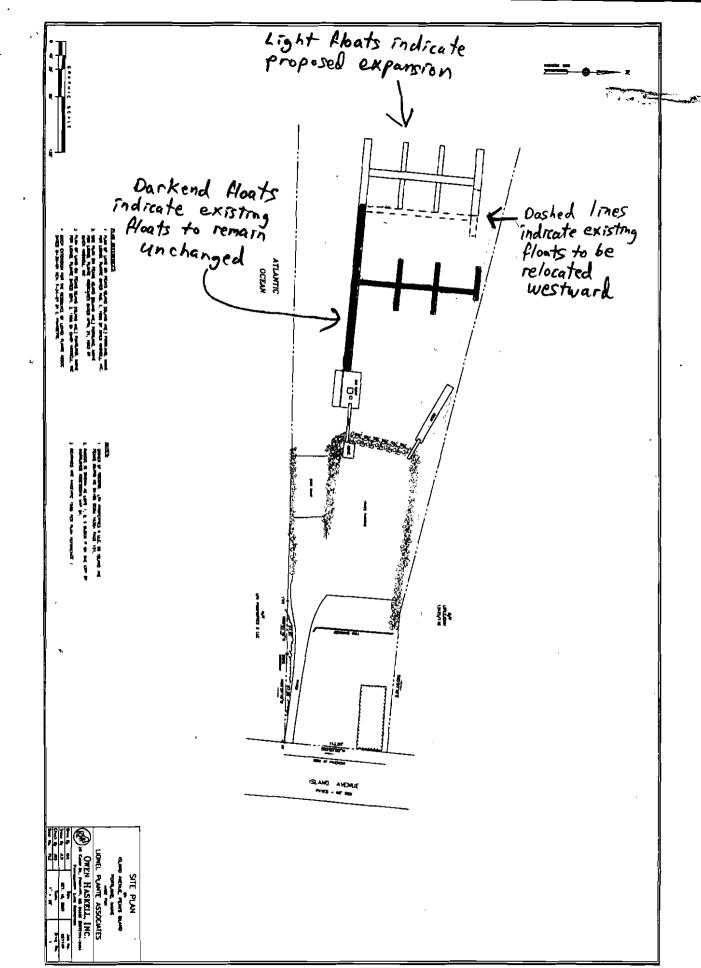
¹ In Unnumbered A-Zones for riverine areas, the floodway is considered to be ½ the width of the floodplain as measured from the water's edge to the upland limit of the floodplain measured perpendicular to the stream or river.

B-4

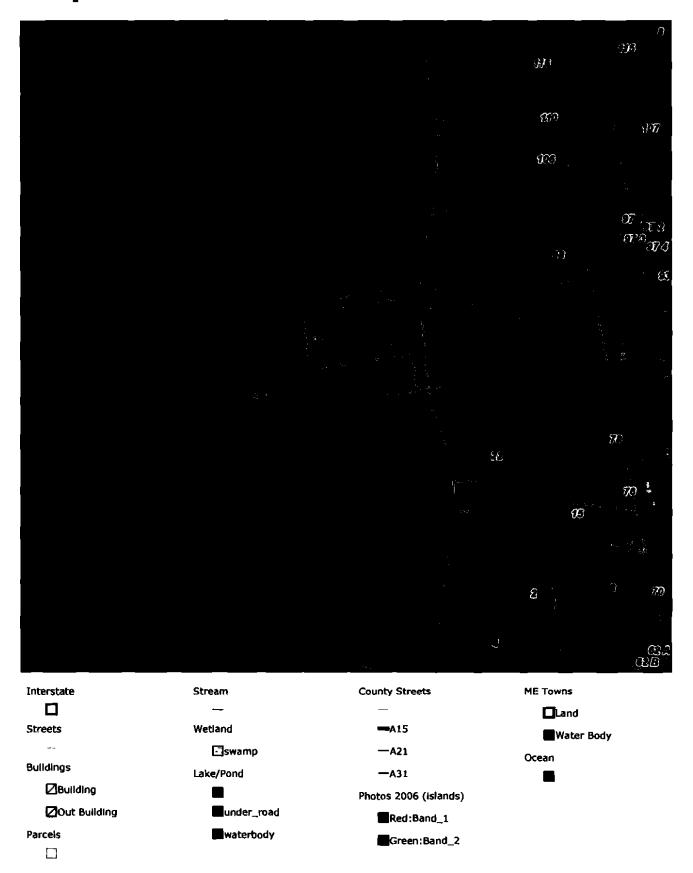
A, A1-30, AE and AH Zones [Not in Floodway]







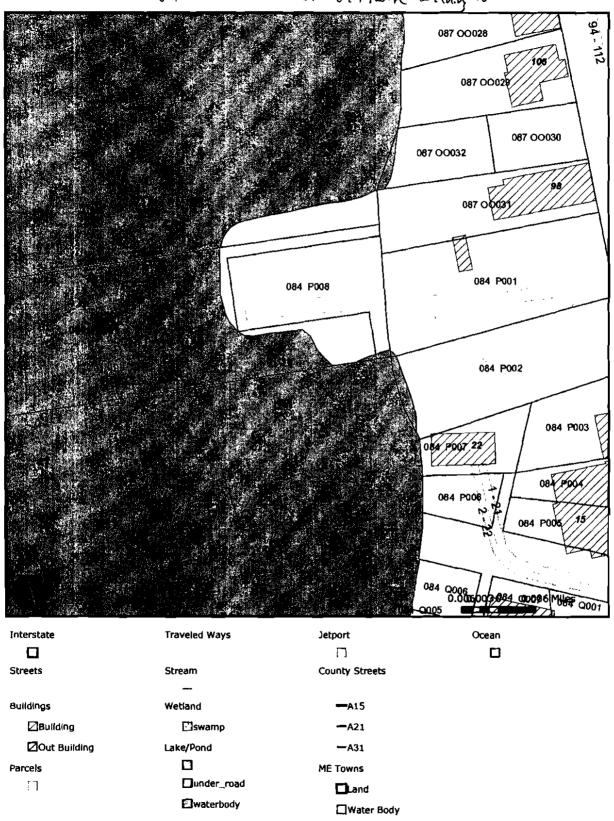
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Lionel Plante Associates

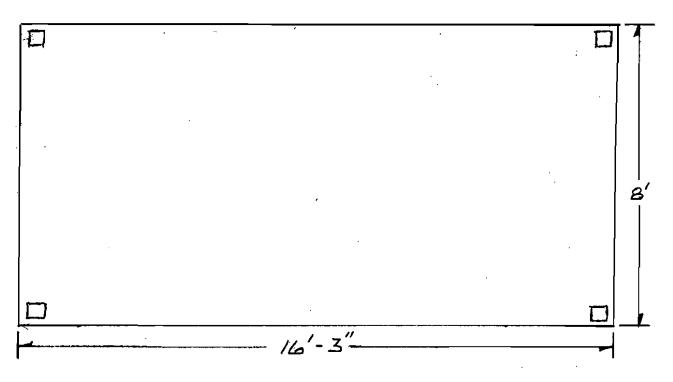
98 ISLAND AVENUE
PEAKS ISLAND, MAINE 04108
(207) 766-2508
FAX (207) 766-2507
email: lpa@nlis.net



Nesterly View Peaks Island Marina Librier Plante Associates 13 Island Avenue Peaks Island, Maune, C+108

Tune 2006

FLOAT Finger Float Lond Associates Peaks Island Marina



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Status: Delivered

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Your item was delivered at 10:54 AM on November 21, 2007 in SUN CITY CENTER, FL 33573. The item was signed for by M QWENS.

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ABBUTOR to Lionel Plante ASSOC Marena No opposition Proff of Notification



Date: 01/11/2008

Fax Transmission To: Catherine Plante

Fax Number: 207-766-2507

Dear: Catherine Plante:

The following is in response to your 01/11/2008 request for delivery information on your Express Mail item number EQ93 3774 657U S. The delivery record shows that this item was delivered on 11/21/2007 at 10:54 AM in SUN CITY CENTER, FL 33573to M QWENS. The scanned image of the recipient information is provided below.

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Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely

United States Postal Service



DEPARTMENT OF THE ARMY

NEW ENGLAND DISTRICT, CORPS OF ENGINEERS 696 VIRGINIA ROAD CONCORD, MASSACHUSETTS 01742-2751



ROGRAMMATIC GENERAL PERMIT (PGP) AUTHORIZATION LETTER AND SCREENING SUMMARY MAY - 3 2010

Lionei Plante Associates

CORPS PERMIT#_	NAE-2008-02465			
CORPS PGP ID#	08-295			
STATE ID#				

9	9 Island Avenue		CORPS PERMIT #	NAE-2008-02465
	eaks Island, Maine 04108	Dept. of Building Inspections	CORPS PGP ID#	08-295
		City of Portland Maine	STATE ID#	
	1	•		
DESCI	IPTION OF WORK:			
		system by extending the base float 30,	and shifting the outer s	dios to the end. That work
also i	includes the construction of 4' x 25	ramp leading to a 8' x 70' steel pile su	pported pier extending r	orthwest in Diamond
		eaks Island, Portland, Maine as shown	on the attached plans in	4 sheets
SEE	ATTACHED CONDITIONS			
				
_ =====================================		_		
LAT-LO	NG COORDINATES : 43.657	<u>13072</u> N <u>70.199567781</u>	W USGS QUAD	Portland East, ME
I. COR	PS DETERMINATION:			
		vided, we have determined that your project		
	nd wetlands of the United States. You the Maine Programmatic General Pe	ir work is therefore authorized by the U,S.	. Army Corps of Engineer	rs under the enclosed Federal
remm,	pre maine Programmatic General Pe	min (PGP).		
		in compliance with all the terms and conditi		
		ate 401 Water Quality Certification <u>including</u> ng on page 7, to familiarize yourself with its o		
PGP req	uirements; therefore you should be cer	tain that whoever does the work fully unders	tands all of the conditions.	You may wish to discuss the
condition	s of this authorization with your contra-	ctor to ensure the contractor can accomplish	the work in a manner that	conforms to all requirements.
lf vou ch	ange the plans or construction method	s for work within our jurisdiction, please cont	act us immediately to discu	iss modification of this
	ition. This office must approve any cha		and an initialization, to disor	iso modification of this
Condition	1 38 of the PGP (page 15) provides one	e year for completion of work that has comm u will need to apply for reauthorization for ar	enced or is under contract	to commence prior to the
October	11, 2011.	d will fleed to apply for readmonization for an	IT WORK WICHTI COTES JURISON	Ction that is not completed by
				
		your plans noted above is in waters of the	J.S. Should you desire to	appeal our jurisdiction, please
SUDMINE A	request for an approved jurisdictional c	retermination in writing to the undersigned.		
		er required local, State and Federal licenses		
		It issued by the town if necessary. Also, must complete and return the attached World		
weeks be	fore the anticipated starting date. (For	projects requiring mitigation, be sure to incl	ude the MITIGATION WOF	RK START FORM).
				
II. STA†	E ACTIONS: PENDING [$ imes$]. IS:	SUED[], DENIED[] DATE		
V DBI 1Q	ATION TYPE: non. TIER 4.	, TIER 2 : TIER 3; X LUF	DARD LEASES	NΔ
AFFLIG	ATION TIPE, PBR; , (IER I		O DIVIN LEASE:	No
III. FED	ERAL ACTIONS:			
Ì	9/7/00			
JOINT	PROCESSING MEETING: 077/06	LEVEL OF REVIEW: 0	CATEGORY 1:	CATEGORY 2: X
AUTHO	RITY: SEC 10x, 404	, 10/404, 103		
EXCLU	SIONS: The exclusionary criteria ident	ified in the general permit do not apply to thi	s project.	
			· •	
	N BESOURCE AGENOV OF ITO	TIONS OF NO LICENSIO NO 144	EC NO	
LENER	AL RESOURCE AGENCY OBJEC	TIONS: EPA <u>NO</u> , USF&WS <u>NO</u> , NM	-0 <u>110</u>	
f you hav	e any questions on this matter, please	contact my staff at 207-623-8367 at our Mar	nchester, Maine Project Off	fice.
	2	1. D.	1/7	1 0
7	odm /a War !	1101 11.1	Q 10/21	1 2

RODNEY A. HOWE SENIOR PROJECT MANAGER MAINE PROJECT OFFICE

FRANK J. DEL GIUDICE DATE CHIEF, PERMITS & ENFORCEMENT BRANCH REGULATORY DIVISION



ADDITIONAL CONDITIONS FOR
DEPARTMENT OF THE ARMY
PROGRAMMATIC GENERAL PERMIT
INVOLVING CORPS OF ENGINEERS AUTHORITY UNDER
SECTION 10 OF THE RIVERS AND HARBORS OF 1899
NO. NAE-2008-02465
Lionel Plante Associates
Pier and Marina Float Modification
Diamond Island Roads
Peaks Island, Maine

- 1. Seasonal coastal structures such as ramps and floats that are removed from the waterway for a portion of the year shall be stored in an upland location above mean high water and not on tidal marsh.
- 2. Any float(s) that do not extend beyond mean low water shall be constructed in such a way as to keep them elevated above the tidal bottom. Techniques include but are not limited to float stops, skids, blocks, or other practicable means.
- 3. Any pier or ramp that extends across tidal marsh shall be elevated above the marsh by 1' in height for each foot in width. Example: A 3' wide ramp shall be elevated 3' above the marsh. Note that the height shall be measured from the marsh to the bottom of the pier or ramp (e.g. the bottom of the stringer) and not to the top of the deck.

PLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

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III Type of □ River, stream	or brook	II Name of Reso		***			
(Chads all that apply) 🕍 🗷 Coastal Wet			Clean State State .	o Biy			
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☐ Wet Meadow	0 - 4,999		0 – 43,560 sq	. ft. □ > 43,560 s	q. ft. or		
☐ Peatland	5,000-9,9			☐ smaller tha			
☐ Open Water ☑ Other ⓒమం	ਰਿਤਮ ਹੈ 10,000-14	· .			ot eligible		
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	364 Page: 121	184Map and Seid	Yembers A	Map#: Lot#	t:		
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Narrative Project Description	☐ Copy of Public Notic	e/Public	if required	taboostricite (rittaci)	1116(11(3)),		
Plan or Drawing (8 1/2" x 11")	Information Meeting Do	_	1 4 5	ion Plan (Attachmer	nt 4), if		
Photos of Area	(Attachment 1) that cor	The state of the s	jrequired □ Annendix A	and others, if requir	be.		
Statement of Avoidance & Minimization	Information listed unde			copy of cover letter t			
Statement/Copy of cover letter to MHPC	☐ Alternatives Analysis	(Attachment 2)	□ Description :	of Previously Mined	,		
	including description of impacts were Avoided/I		Peatland, if required				
FEES Amount Enclosed:	impacts were Avoided/i	AUCUAUTEO	n required				
CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2							
ESE SCERFIFICATION	S AND SIGNALL	IKES LUCA	IED UN	AGE Z			

<u>IMPORTANT</u>: IF THE SIGNATURE BELOW IS NOT THE APPLICANT'S SIGNATURE, ATTACH LETTER OF AGENT AUTHORIZATION SIGNED BY THE APPLICANT.

By signing below the applicant (or authorized agent), certifies that he or she has read and understood the following:

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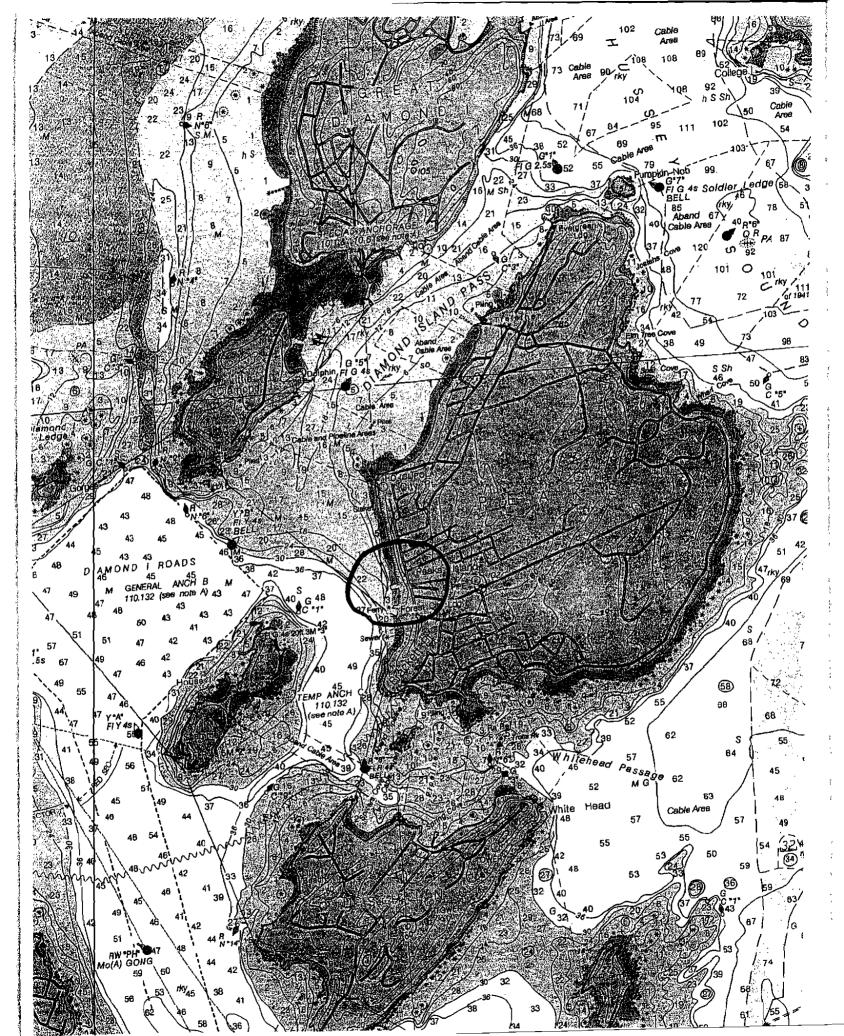
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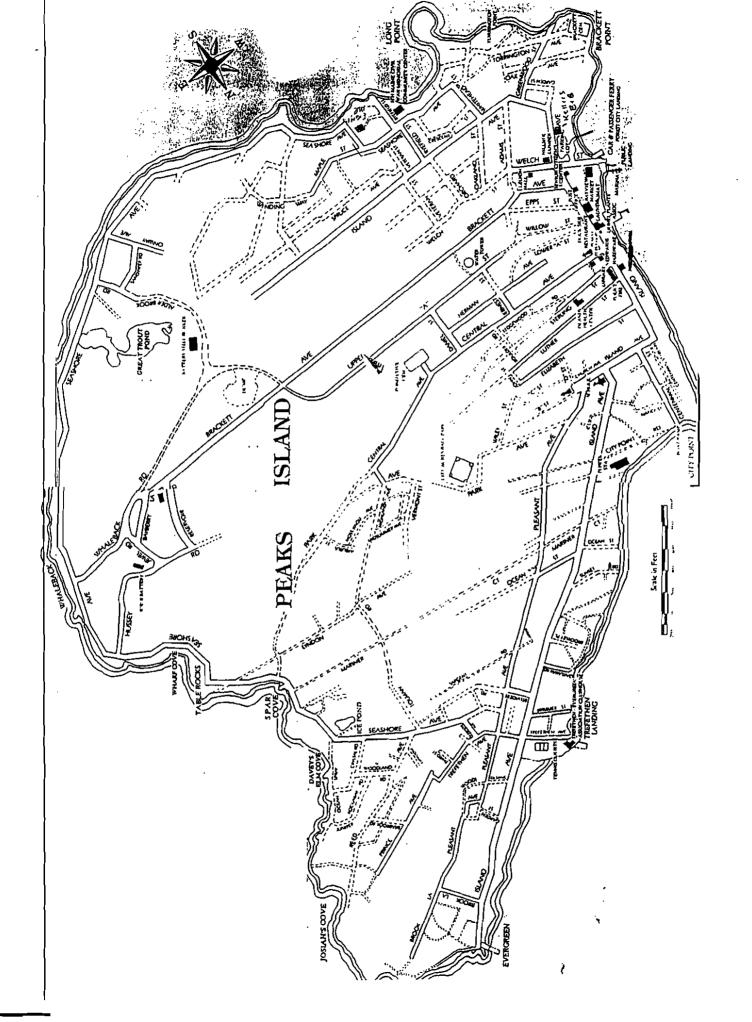
SIGNATURE OF AGENTYAPPLICANT

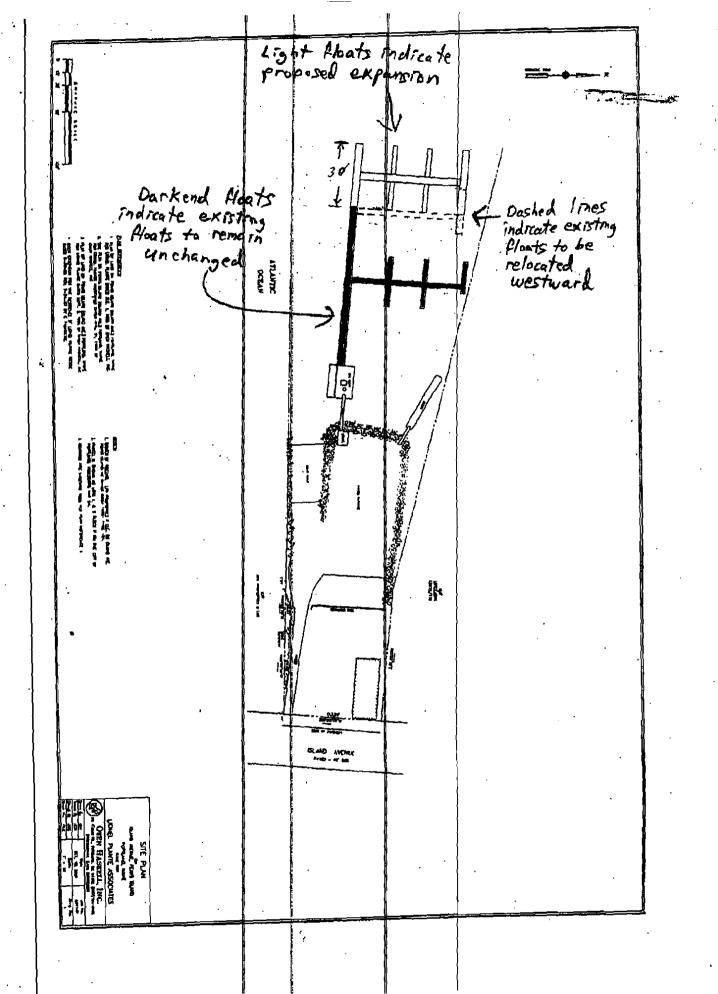
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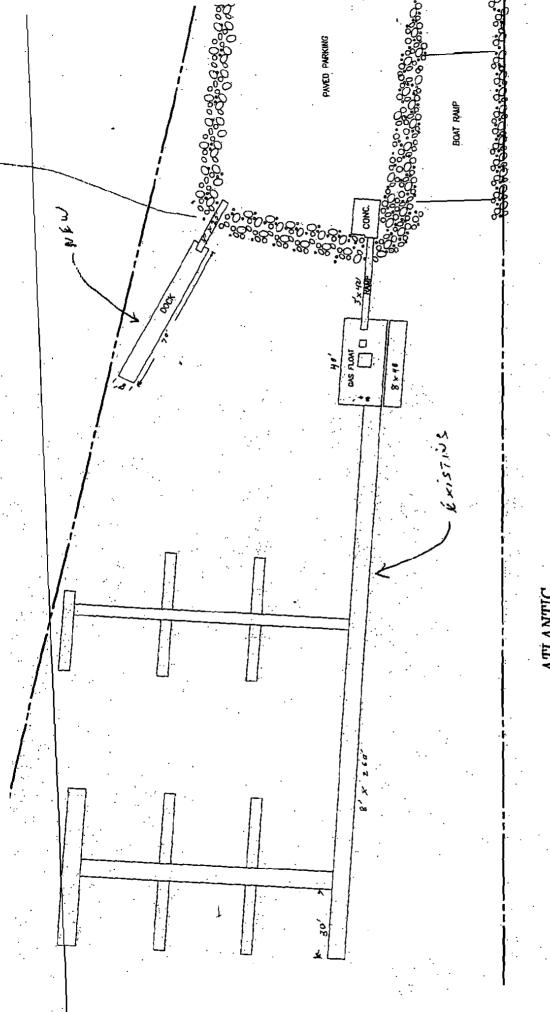
NOTE: Any changes in activity plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the unapproved changes to the activity.

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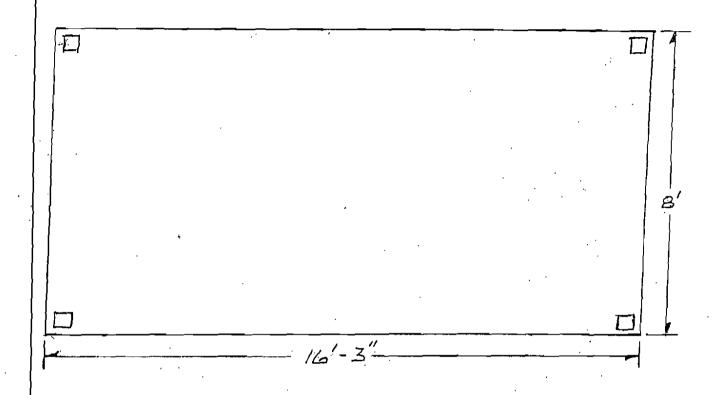






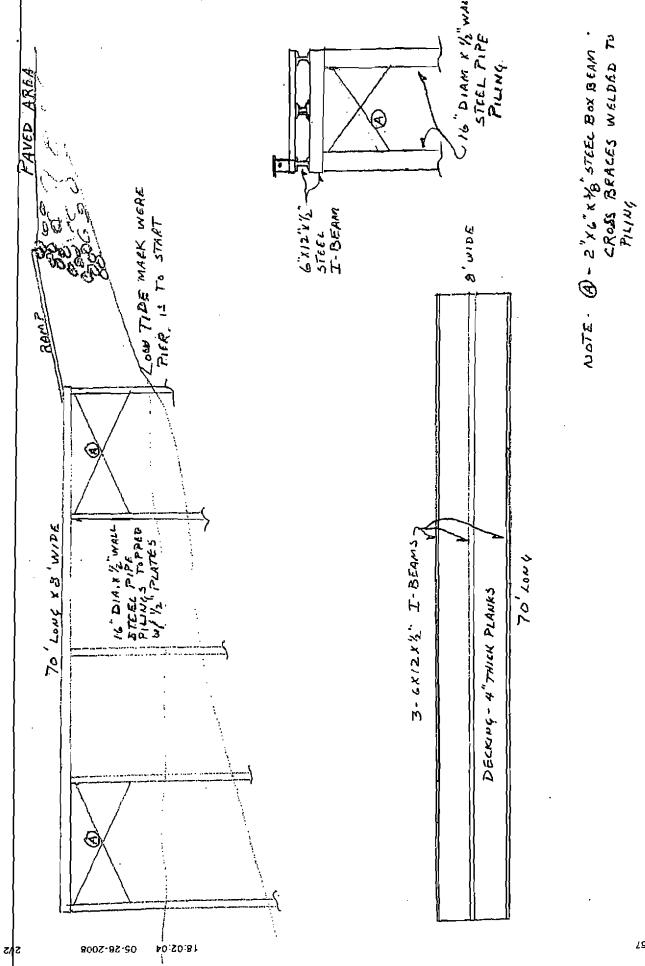
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Lionel Plante Associates 11 Finger Floots Peaks Island Marina



2011122367

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Applicant: General Public, State of Maine

Effective Date: October 11, 2005 Expiration Date: October 11, 2010

DEPARTMENT OF THE ARMY PROGRAMMATIC GENERAL PERMIT STATE OF MAINE

The New England District of the U.S. Army Corps of Engineers hereby issues a Programmatic General Permit (PGP) that expedites review of minimal impact work in coastal and inland waters and wetlands within the State of Maine.

GENERAL CRITERIA

Activities with minimal impacts, as specified by the terms and conditions of this PGP and on the attached Appendix A, Definition of Categories, are either:

<u>Category 1</u>: Non-reporting. Eligible without screening (provided the authorizations are obtained which this permit states are necessary for activities to be eligible for authorization under this non-reporting category), or,

<u>Category 2</u>: Reporting. Require screening and a written determination of eligibility under the PGP by the Corps after coordination with the U.S. Fish and Wildlife Service (U.S. FWS), U.S. Environmental Protection Agency (EPA) and the National Marine Fisheries Service (NMFS).

This PGP does not affect the Corps Individual Permit review process or activities exempt from Corps jurisdiction.

III. ACTIVITIES COVERED:

Work and structures that are located in, or that affect, navigable waters of the United States (U.S.) (Corps regulates under Section 10 of the Rivers and Harbors Act of 1899); the discharge of dredged of fill material into waters of the United States (Corps regulates under Section 404 of the Clean Water Act); and the transportation of dredged material for the purpose of disposal in the ocean (Corps regulates under Section 103 of the Marine Protection, Research and Sanctuaries Act).

III. PROCEDURES:

A. State Approvals

For projects authorized pursuant to this PGP, the following State approvals are also required. The applicable permits must be obtained in order for this PGP authorization to be valid (applicants are responsible for ensuring that all required State permits and approvals have been applied for and obtained):

- Maine Department of Environmental Protection (DEP): Natural Resources Protection Act (NRPA) permit, including permit-by-rule and general permit authorizations (NRPA permit issuance constitutes both the state permit and the WQC); Site Location of Development Act permit; and Maine Waterway Development and Conservation Act permit.
- Maine Department of Conservation: Land Use Regulation Commission (LURC) permit.
- Maine Department of Marine Resources: Lease.
- Maine Department of Conservation, Bureau of Parks and Lands, Submerged Lands: Lease NOTE: This PGP may authorize projects that are not regulated by the State of Maine (e.g., seasonal floats or moorings).

B. Corps Authorizations

CATEGORY 1 (Non-Reporting)

Eligibility Criteria

Activities in Maine may proceed without application or notification to the Corps if they:

- Are subject to Corps jurisdiction (see General Condition 2, Page 7),
- Meet the definition of Category 1 in Appendix A Definition of Categories, and
- Meet the General Conditions of the PGP (see Pages 7 15).

If the State or the Corps does not contact the applicant for DEP's Tier One permits during the DEP's Tier One 30-day review period, Corps approval may be assumed and the project may proceed. Refer to the Federal Screening Procedures (see Page 4) for additional information regarding screening.

Project proponents seeking Category 1 authorizations are not relieved of the obligation to comply with this PGP's General Conditions (see Page 7) and other Federal laws such as the National Historic Preservation Act, the Endangered Species Act (ESA) and the Wild and Scenic Rivers Act. Therefore, consultation with the Corps and/or outside experts such as the Maine Historic Preservation Commission and the appropriate Indian tribes is recommended when there is a high likelihood of the presence of resources of concern.

Although Category 1 projects are non-reporting, the Corps reserves the right to require screening under Category 2 or Individual Permit review if there are concerns for the aquatic environment or any other factor of the public interest (see General Condition 4, Discretionary Authority, Page 7).

Work that is not regulated by the State of Maine, but is subject to Corps jurisdiction, is eligible for Corps authorization under this PGP in accordance with the review thresholds and conditions dontained herein. The Maine DEP and LURC have waived WQC for projects authorized under Categories 1 and 2 of this PGP and not subject to jurisdiction under the NRPA and LURC Land Use Districts and Standards.

Enforcement cases. This PGP does not apply to any existing or proposed activity in Corps jurisdiction associated with an on-going Corps or EPA enforcement action until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action. The Corps may choose not to accept applications or issue permits to any applicant with outstanding violations.

CATEGORY 2 (Reporting - Requiring Screening)

Eligibility Criteria

Activities in Maine require written approval from the Corps if they:

- Are subject to Corps jurisdiction (see General Condition 2, Page 7),
- Meet the definition of Category 2 in Appendix A Definition of Categories, and
- Meet the General Conditions of the PGP (see Pages 7 15),

These projects will be reviewed through interagency screening (see Federal Screening Procedures below) to determine whether such activities may be authorized under this PGP. To be eligible and

Maine PGP 2 October 11, 2005

subsequently authorized, an activity must result in minimal impacts to the aquatic environment as determined by the Corps based on comments from the review team and the criteria listed above. Mitigation may be required to compensate for unavoidable impacts to ensure net effects of a project are minimal.

For Category 2 projects, applicants must obtain a written authorization from the Corps and State approvals as stated on Page 1.

Fo ensure compliance with the conditions of this PGP, consultation with the Corps and outside experts is required. This includes consultation with the Maine Historic Preservation Commission and the appropriate Native American Indian tribes to ensure compliance with Condition 8. Also, note the review thresholds under Category 2 apply to single and complete projects only (see General Condition 5).

Enforcement cases. See previous section.

Application Procedures

The Corps must review and approve in writing all Category 2 activities. Generally, the State will provide the Corps with a copy of State applications received, but it is ultimately the applicant's responsibility to ensure the Corps receives the application from the State. Therefore, it is recommended that applicants either verify with the Corps receipt of their application from the State DEP or LURC), or apply directly to the Corps with either a copy of their State application or a Corps application (ENG Form 4345). Applicants must apply directly to the Corps using ENG Form 345 if the work is not State regulated.

Upon receipt of the application, the Corps will determine if it:

- (a) requires additional information (see "information typically required" on the following page);
- (b) is appropriate for screening with the Federal resource agencies (see Category 2 Federal Screening Procedures on the following page);
- (c) is ineligible under the terms and/or conditions of this PGP; or
- (d) will require Individual Permit review, regardless of whether the terms and conditions of this PGP are met, based on concerns for the aquatic environment or any other factor of the public interest (see General Condition 4, Discretionary Authority).

If open water disposal is proposed, the Corps will make a suitability determination, fully coordinated with the Federal resource agencies, before coordinating a project at a joint processing meeting.

All Category 2 applicants shall submit a copy of their application materials to the Maine Historic Preservation Commission and the Indian tribe(s) listed on Page 17, at the same time, or before, they apply to the DEP, LURC, or the Corps, to be reviewed for the presence of historic, archaeological or tribal resources in the permit area that the proposed work may affect. Submittals to the DEP or Corps shall include information to indicate that this has been done (a copy of the applicant's cover letter to Maine Historic Preservation Commission and tribes or a copy of the Historic Preservation Commission and tribal response letters is acceptable).

Information Typically Required

he following information may not be necessary for all projects. Please see www.nae.usace.army.mil for more comprehensive checklist. Select "Regulatory/Permitting," "Forms" and then "Application and lan Guideline Checklist." Please check with our Maine office for project-specific requirements.

Maine PGP 3 October 11, 2005

- (b) 8½"x 11" locus map. 8½"x 11" plan views of the entire property, including property lines, and project limits with existing and proposed conditions:
- (c) typical cross-section views of all wetland and waterway fill areas and wetland replication areas;
- (d) legible, reproducible plans. Show mean low water (MLW), mean high water (MHW) and high tide line (HTL) elevations in navigable waters;
- (e) each plan should show the NGVD 1929 equivalent for the project's vertical datum (MLW, MLLW, MHW, HTL or other tidal datum for tidal projects) with the vertical units. Do not use local datum;
- (f) wetland delineation for the site, Corps wetland delineation data sheets (see web site), and calculations of waterway and wetland impact areas (see General Condition 2);
- (g) delineation of submerged aquatic vegetation, e.g., eel grass beds, in tidal waters;
- (h) volume, type and source of fill material to be discharged into waters and wetlands, including the area(s) (in square feet or acres) of fill in wetlands, below ordinary high water in inland waters and below the high tide line in coastal waters;
- (i) limits of any Federal Navigation Project in the vicinity and State Plane Coordinates for the limits of the proposed work closest to the Federal Navigation Project;
- (i) on-site alternatives analysis. Please contact Corps for guidance;
- (k) identify and describe potential impacts to Essential Fish Habitat. See General Condition 11 and contact Corps for guidance;
- (1) photographs of wetland/waterway to be impacted.

Information typically required for dredging projects:

- (a) sediment testing, including physical (e.g., grain-size analysis), chemical and biological testing. For projects proposing open water disposal, applicants are encouraged to contact the Corps as early as possible regarding sampling and testing protocols. Sampling and testing of sediments without such contact should not occur and, if done, would be at the applicant's risk.
- (b) the area in square feet and volume of material to be dredged below mean high water;
- (c) existing and proposed water depths;
- (d) type of dredging equipment to be used;
- (e) nature of material (e.g., silty sand);
- (f) any existing sediment grain size and bulk sediment chemistry data for the proposed or any nearby projects;
- (g) information on the location and nature of municipal or industrial discharges and occurrence of any contaminant spills in or near the project area, location of the disposal site (include locus sheet);
- (h) shellfish survey;
- (i) identify and describe potential impacts to Essential Fish Habitat (see General Condition 11);
- (i) delineation of submerged aquatic vegetation (e.g., eelgrass beds).

Federal Screening Procedures

The Corps will review all complete applications for Category 2 projects requiring Corps approval at interagency screening meetings (or "joint processing" meetings) with the Federal resource agencies (U.S. FWS, EPA and NMFS) to determine whether such activities may be authorized under this PGP. The Federal resource agencies will comprise the interagency review team. The meetings are held at the Corps every three weeks, or coordinated as necessary to provide applicants with a timely response. The Corps and Federal resource agencies, at the branch chief or equivalent level, may agree on certain activities that do not need to be coordinated at these meetings.

If the Corps and Federal resource agencies determine that the activity is eligible for the PGP, the Corps will send an authorization letter directly to the applicant. The Corps will generally issue an eligibility determination within the State's review period, not to exceed 60 days. If the Corps determines that the activity is not eligible under the PGP or that additional information is required, the Corps will notify the applicant in writing and will send a copy of this notification to DEP or LURC.

For projects reviewed with the Federal resource agencies, the agencies may recommend, within ten business days, either 1) special conditions for projects to avoid or minimize adverse environmental effects and to ensure the terms and conditions of the PGP are met, or 2) Individual Permit review. The Corps will determine that a project is ineligible under this PGP and will begin its Individual Permit review procedures if any one of the Federal resource agencies, within ten business days of the screening meeting, expresses a concern within their area of expertise, states the resource or species that could be impacted by the project, and describes the impacts that, either individually or cumulatively, will be more than minimal.

This ten-day notice may be spoken and is not required to be fully documented, but must be confirmed with a written response within an additional ten working days from the date of the spoken comment. Written responses must be signed by the Federal resource agency field supervisor or branch chief, as appropriate, and must identify the affected resource within their area of expertise. The intent of the spoken notification is to allow the Corps to give timely notification to the applicant that additional information is needed and/or an Individual Permit may be required. The Corps may reinstate a project's eligibility under the PGP provided the Federal agencies' concerns are satisfied. The Federal resource agencies may request additional information within their area of expertise within ten business days of the screening meeting. This information shall be commensurate to the level of impact and agreed upon by the Corps. The agencies are allowed an additional ten business days after their receipt of additional information to provide special conditions or a written Individual Permit request to the Corps.

If the applicant is unable to resolve the concerns, the Corps, independently or at the request of the Federal resource agencies, will require an Individual Permit for the project. The applicant will be notified of this in writing, along with information about submitting the necessary application materials.

Minerals Management Service (MMS) Review

Projects with construction of solid fill structures or discharge of fill that may extend beyond the coastline or the baseline from which the territorial sea is measured (i.e., mean low water), must be coordinated with Minerals Management Service (MMS), Outer Continental Shelf (OCS) Survey Group, pursuant to the Submerged Lands Act (43 USC, Section 1301-1315, 33 CFR 320.4(f)). The Corps will forward project information to MMS for their review. The MMS will coordinate their determination with the Department of the Interior (DOI) Solicitor's Office. The DOI will have 15 calendar days from the date MMS is in receipt of project information to determine if the baseline will be affected. No notification to the Corps within 15-day review period will constitute a "no effect" determination. Otherwise, the solicitor's notification to the Corps may be spoken but must be followed with a written confirmation within ten business days from the date of the spoken notification. This procedure will be eliminated if the State of Maine provides a written waiver of interest in any increase in submerged lands caused by a change in the baseline resulting from solid fill structures or fills authorized under this PGP.

- Emergency Situations Procedures

Emergency situations are limited to sudden, unexpected occurrences that could potentially result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process an application under standard procedures. If an emergency situation requires action in less than 30 days after the occurrence, it qualifies for the amended notification procedures described below.

Notification Procedures for Emergency Situations:

Any project proponent may request emergency authorization from the Corps, however the Corps will determine if a project qualifies for these emergency situation procedures. The Federal resource agencies, the Maine Historic Preservation Commission and the tribes will each designate an emergency contact and an alternate in the event the regular contact is unavailable. When an application for Category 2 work is received that the Corps determines is an "emergency" as defined above, the Corps will fax a copy of the plans and Determination of Eligibility to the agency representatives and their alternates. The resource agencies would then have 16 business hours to notify the Corps if they have any comments on authorization of the project under the PGP. Objections to the Corps determination of an "emergency" situation will not be accepted. If no response is received within 16 business hours, the Corps will proceed with a decision on the application. If the resource agencies have comments on the proposal, they will have 16 business hours to put their comments in writing. If written comments from the Federal agencies are not received within 16 business hours, the Corps will proceed with a decision on the application.

If a Federal agency requests that an Individual Permit be required for a project or requests modifications to the project based on concerns within their area(s) of expertise, the Corps will notify the applicant within one business day of receipt of that request that the project as proposed does not qualify for authorization under this PGP and the emergency Individual Permit procedures may be followed. In any event, the Corps will notify the applicant within 16 business hours of dommencement of the screening process as to whether the project may proceed under this PGP.

IV. CORPS AUTHORIZATION: INDIVIDUAL PERMIT

Work that is defined in the Individual Permit category of Appendix A – Definition of Categories, or that does not meet the terms and conditions of this PGP, will require an application for an Individual Permit from the Corps (see 33 CFR Part 325.1). The screening procedures outlined for Category 2 projects will only serve to delay project review in such cases. The applicant should submit the appropriate application materials (including the Corps application form) at the earliest possible date. General information and application forms can be obtained at our web site or by calling us (see Page 16). Individual water quality certification and coastal zone management consistency concurrence are required when applicable from the State of Maine before Corps permit issuance. The Federal resource agencies' comments are due within ten working days after the Public Notice's expiration date, unless the Corps receives and approves a written request for a time extension within ten working days after the notice's expiration.

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V. PROGRAMMATIC GENERAL PERMIT CONDITIONS:

The following conditions apply to activities authorized under this Maine PGP, including all Category 1 (non-reporting) and Category 2 (reporting – requiring screening) activities:

General Requirements

- 1. Other Permits. Authorization under this PGP does not obviate the need to obtain other Federal, State, or local authorizations required by law. This includes, but is not limited to, the project proponent obtaining a Flood Hazard Development Permit issued by the town, if necessary. Inquiries may be directed to the municipality or to the Maine Floodplain Management Coordinator at (207) 287-8063. See http://www.maine.gov.
- 2 Federal Jurisdictional Boundaries. Applicability of this PGP shall be evaluated with reference to Federal jurisdictional boundaries. Applicants are responsible for ensuring that the boundaries used satisfy the Federal criteria defined at 33 CFR 328-329. These sections prescribe the policy, practice and procedures to be used in determining the extent of jurisdiction of the Corps concerning "waters of the U.S." and "navigable waters of the U.S." Wetland boundaries shall be delineated in accordance with the January 1987 Corps of Engineers Wetlands Delineation Manual, located at http://www.usace.army.mil/inet/functions/cw/cecwo/reg/wlman87.pdf. The U.S. FWS publishes the National List of Plant Species that Occur in Wetlands, located at http://www.nwi.fws.gov. The Natural Resources Conservation Service (NRCS) develops the hydric soil definition and criteria, and publishes the current hydric soil lists, located at http://soils.usda.gov/use/hydric/.
- 3. Minimal Effects. Projects authorized by this PGP shall have no more than minimal individual and cumulative adverse environmental impacts as determined by the Corps.
- 4. Discretionary Authority. Notwithstanding compliance with the terms and conditions of this permit, the Corps retains discretionary authority to require Category 2 or Individual Permit review based on concerns for the aquatic environment or for any other factor of the public interest [33 CFR 320.4(a)]. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposal warrant Individual Permit review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal or if there is a special resource or concern associated with a particular project that is not already covered by the remaining conditions of the PGP and that warrants greater review. Whenever the Corps notifies an applicant that an Individual Permit may be required, authorization under this PGP is void and no work may be conducted until the individual Corps permit is obtained or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this PGP.
- 5. Single and Complete Projects. This PGP shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project and/or all planned phases of a multi-phased project (e.g., subdivisions should include all work such as roads, utilities, and lot development) unless the Corps determines that a component has independent utility. (The *Independent Utility* test is used to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.) For linear projects, such as power lines or pipelines with multiple

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crossings, the "single and complete project" (i.e., single and complete crossing) will apply to each crossing of a separate water of the U.S. (i.e., single waterbody) at that location; except that for linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project, and may be reviewed for Category 1 eligibility. (However, individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are not separate waterbodies.) If any crossing requires a Category 2 activity, then the entire linear project shall be reviewed as one project under Category 2. Also, this PGP shall not be used for any activity that is part of an overall project for which an Individual Permit is required, unless the Corps determines the activity has independent utility.

6. Permit On-Site. For Category 2 projects, the permittee shall ensure that a copy of this PGP and the accompanying authorization letter are at the work site (and the project office) authorized by this PGP whenever work is being performed, and that all personnel with operation control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit authorization shall be made a part of any and all contracts and sub-contracts for work that affects areas of Corps jurisdiction at the site of the work authorized by this PGP. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means this PGP and the authorization letter (including its drawings, plans, appendices and other attachments) and also includes permit modifications. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes. the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or sub-contract as a change order. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and subcontractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire PGP authorization, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

National Concerns

- 7. St. John/St. Croix Rivers. This covers work within the Saint John and Saint Croix River basins that requires approval of the International Joint Commission. This includes any temporary or permanent use, obstruction or diversion of international boundary waters which could affect the natural flow or levels of waters on the Canadian side of the line, as well as any construction or maintenance of remedial works, protective works, dams, or other obstructions in waters downstream from boundary waters when the activity could raise the natural level of water on the Canadian side of the boundary.
- National Historic Properties. Any activity authorized by this PGP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the Maine Historic Preservation Commission, the National Register of Historic Places, and the Penobscot, Passamaquoddy, Micmac, and Maliseet Tribal Historic Preservation Officers. See Page 17 for historic properties contacts. If the permittee, either prior to construction or during construction of the work authorized herein, encounters a previously unidentified archaeological or other cultural resource, within the area subject to Department of the Army jurisdiction, that might be eligible for listing in the National Register of Historic Places, he/she shall stop work and immediately notify the District Engineer and the Maine Historic Preservation Commission and/or applicable Tribe(s).

- 9 National Lands. Activities authorized by this PGP shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Marine Sanctuary, National Park or any other area administered by the National Park Service.
- 10. Endangered Species. No activity may be authorized under this PGP which:
- is likely to adversely affect a threatened or endangered species, a proposed species, designated critical habitat, or proposed critical habitat as identified under the Federal ESA,
- would result in a "take" of any threatened or endangered species of fish or wildlife, or
- would result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants.

Applicants shall notify the Corps if any listed species or critical habitat, or proposed species or critical habitat, is in the vicinity of the project and shall not begin work until notified by the District Engineer (DE) that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. FWS and NMFS (see Page 16 for addresses).

11. Essential Fish Habitat. As part of the PGP screening process, the Corps will coordinate with NMFS in accordance with the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act to protect and conserve the habitat of marine, estuarine and anadromous finfish, mollusks, and crustaceans. This habitat is termed "Essential Fish Habitat (EFH)", and is broadly defined to include "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." Applicants may be required to describe and identify potential impacts to EFH. Conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. For additional information, see the EFH regulations at 50 CFR Part 600 (http://www.nmfs.noaa.gov). Additional information on the location of EFH can be obtained from NMFS (see Page 16 for contact information).

Any work in any aquatic habitat in the following rivers and streams, including all tributaries to the extent that they are currently or were historically accessible for salmon migration, shall not be authorized under Category 1 of the PGP and must be screened for potential impacts to EFH.

Androscoggin River Hobart Stream Passagassawaukeag River Saco River Patten Stream Aroostook River Kennebec River Sheepscot River Boyden River Machias River Penobscot River St. Croix River Pleasant River Tunk Stream Dennys River Narraguagus River Presumpscot River Union River Ducktrap River Orland River East Machias River

12. Wild and Scenic Rivers. Any activity that occurs in a component of, or within 0.25 mile up or downstream of, the main stem or tributaries of a river segment of the National Wild and Scenic River System, must be reviewed by the Corps under the procedures of Category 2 of this PGP regardless of size of impact. This condition applies to both designated Wild and Scenic Rivers and rivers designated by Congress as study rivers for possible inclusion while such rivers are in an official study status. The Corps will consult with the National Park Service (NPS) with regard to potential impacts of the proposed work on the resource values of the Wild and Scenic River. The culmination of this coordination will be a determination by the NPS and the Corps that the work:

(1) may proceed as proposed; (2) may proceed with recommended conditions; or (3) could pose a direct and adverse effect on the resource values of the river and an individual permit is required. If

preapplication consultation between the applicant and the NPS has occurred whereby NPS has made a determination that the proposed project is appropriate for authorization under this PGP (with respect to Wild and Scenic River issues), this determination should be furnished to the Corps with submission of the application. (See NPS address on Page 16.) National Wild and Scenic Rivers System segments for Maine as of September 2005 include: Allagash River beginning at Telos Dam continuing to Allagash checkpoint at Eliza Hole Rapids, approximately 3 miles upstream of the confluence with the St. John River (length = 92 miles).

- 3. Federal Navigation Project. Any structure or work that extends closer to the horizontal limits of any Corps Federal Navigation Project (See Appendix B) than a distance of three times the project's authorized depth shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.
- 4. Navigation. (a) There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. (b) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the epinion of the Secretary of the Army or his authorized representative, said structure or work shall dause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- 15. Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States (U.S.) in the public interest; (c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.

Minimization of Environmental Impacts

- 16. Minimization. Discharges of dredged or fill material into waters of the United States, including wetlands, shall be avoided and minimized to the maximum extent practicable. Permittees may only fill those jurisdictional wetlands that the Corps authorizes to be filled and impact those wetlands that the Corps authorizes as secondary impacts. For coastal structures such as piers and docks, the height above the marsh at all points should be equal to or exceed the width of the deck. The height shall be measured from the marsh substrate to the bottom of the longitudinal support beam. This will help ensure sunlight reaches the area beneath the structure.
- 7. Heavy Equipment in Wetlands. Heavy equipment, other than fixed equipment (drill rigs, fixed cranes, etc.), working within wetlands shall not be stored, maintained or repaired in wetlands unless it is less environmentally damaging otherwise, and as much as possible shall not be operated there. Where construction requires heavy equipment operation in wetlands, the equipment shall

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either have low ground pressure (<3 psi), or shall not be located directly on wetland soils and vegetation; it shall be placed on swamp or timber mats that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation. (See General Condition 18 below.) Other support structures that are less impacting and are capable of safely supporting equipment may be used with written Corps authorization. Similarly, not using mats during frozen, dry or other conditions may be allowed with written Corps authorization. An adequate supply of spill containment equipment shall be maintained on site.

NOTE: "Swamp mats" is a generic term used to describe structures that distribute equipment weight to prevent wetland damage while facilitating passage and providing work platforms for workers and equipment. They are comprised of sheets or mats made from a variety of materials in various sizes, and they include large timbers bolted or cabled together (timber mats). Corduroy roads, which are not considered to be swamp mats, are cut trees and/or saplings with the crowns and branches removed, and the trunks lined up next to one another.

18. Temporary Fill. Fill placed into waters of the U.S. (including wetlands) totaling greater than or equal to 4,300 SF (15,000 SF if a DEP Tier One Permit is issued) in total area (i.e., the sum of permanent and temporary fill areas) exceeds the Category 1 threshold and may not be discharged without written authorization from the Corps. When temporary fill is used (e.g., access roads, swamp mats, cofferdams), it shall be stabilized and maintained during construction in such a way as to prevent soil eroding into portions of waters of the U.S. where it is not authorized. Swamp or timber mats (see Gen.Cond. 17 above) are considered as temporary fill when they are removed immediately upon work completion. The area must be restored in accordance with Gen.Cond. 19.

- Unconfined temporary fill authorized for discharge into flowing water (rivers and streams) shall consist only of clean washed stone.
- Temporary fill authorized for discharge into wetlands shall be placed on geotextile fabric laid on the pre-construction wetland grade. (Swamp and timber mats are excluded from this requirement.)
- Temporary fill shall be removed as soon as it is no longer needed, and it shall be disposed of at an upland site and suitably contained to prevent subsequent erosion into waters of the U.S.
- Waters of the U.S. where temporary fill was discharged shall be restored (see Gen.Cond. 19).
- No temporary work shall drain a water of the U.S. by providing a conduit for water on or below the surface.

19. Restoration.

- Upon completion of construction, all disturbed wetland areas (the disturbance of these areas must be authorized) shall be stabilized with a wetland seed mix containing only plant species native to New England.
- The introduction or spread of invasive plant species in disturbed areas shall be controlled.
- In areas of authorized temporary disturbance, if trees are cut they shall be cut at ground level and not uprooted in order to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area, unless otherwise authorized.
- Wetland areas where permanent disturbance is not authorized shall be restored to their original condition and elevation, which under no circumstances shall be higher than the pre-construction elevation. Original condition means careful protection and/or removal of existing soil and vegetation, and replacement back to the original location such that the original soil layering and vegetation schemes are approximately the same, unless otherwise authorized.

- 20. Coastal Bank Stabilization. Projects involving construction or reconstruction/maintenance of bank stabilization structures within Corps jurisdiction should be designed to minimize environmental effects, effects to neighboring properties, scour, etc. to the maximum extent practicable. For example, vertical bulkheads should only be used in situations where reflected wave energy can be tolerated. This generally eliminates bodies of water where the reflected wave energy may interfere with or impact on harbors, marinas, or other developed shore areas. A revetment is sloped and is typically employed to absorb the direct impact of waves more effectively than a vertical seawall. It typically has a less adverse effect on the beach in front of it, abutting properties and wildlife. For more information, see the Corps Coastal Engineering Manual (supersedes the Shore Protection Manual), located at http://chl.erdc.usace.army.mil. Select "Products/ Services," "Publications." Part 5, Chapter 7-8, a(2)c is particularly relevant.
- 21. Sedimentation and Erosion Control. Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, vegetated filter strips, geotextile silt fences, hay bales or other devices, shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. They shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment. These devices must be removed in a timely manner upon completion of work, but not until the disturbed areas have been stabilized. The sediment collected by these devices shall be removed and placed at an upland location in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

22. Waterway Crossings.

- (a) All temporary and permanent crossings of waterbodies (waterways and wetlands) shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, to maintain existing low flows, and to not obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction. (NOTE: Areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this PGP).
- (b) Aquatic Life Movements. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. For new permanent crossings, open bottom arches, bridge spans or embedded culverts are generally preferred over traditional culverts and should be installed when practicable. Coordination with the Corps is recommended for Category 1 projects when site constraints (e.g., placing footings) may render open bottom arches, bridge spans or embedded culverts impractical. In these cases, well-designed culverts may actually perform better. Culverts shall be installed with their inverts embedded below existing streambed grade to avoid "hanging" and associated impediments to fish passage. The "Design of Road Culverts for Fish Passage" provides design guidance and is available at www.nae.usace.army.mil, "Regulatory/Permitting," "Other."
- (c) Culverts at waterbody crossings shall be installed in such a manner as to preserve hydraulic connectivity, at its present level, between the wetlands on either side of the road. The permittee shall take necessary measures to correct wetland damage due to lack of hydraulic connectivity.
- (d) Culverts and bridges shall span the waterway a minimum of 1.2 times the bankfull width in probable fish bearing waterways to qualify as a Category 1 non-reporting activity. See "Design of Road Culverts for Fish Passage," referenced in (b) above, for information on bankfull width.

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- (d) Projects using slip lining (retrofitting an existing culvert by inserting a smaller diameter pipe), plastic pipes, and High Density Polyethylene Pipes (HDPP) are not allowed as non-reporting Category 1 activities, either as new work or maintenance activities.
- (f) Waterbody crossings shall be culverted to at least municipal or State standards. The Maine DEP's stream crossing standards are at 06-096, Chapter 305: Permit by Rule, Section 10. Stream crossings (bridges, culverts and fords).
- (g) Waterway crossings proposed by the Maine Dept. of Transportation should conform to the MDOT Fish Passage Policy and Design Guides.
- (h) Construction equipment shall not cross streams without the use of temporary bridges, culverts, or cofferdams.
- (i) For projects that otherwise meet the terms of Category 1, in-stream construction work shall be conducted during the low flow period July 15 October 1 in any year. Projects that are not to be conducted during that time period are ineligible for Category 1 and shall be screened pursuant to Category 2, regardless of the waterway and wetland fill and/or impact area.
- 23. Discharge of Pollutants. All activities involving any discharge of pollutants into waters of the U.S. authorized under this PGP shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 USC 1251) and applicable State and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this PGP, the authorized work shall be modified to conform with these standards within six months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the EPA. Applicants may presume that State water quality standards are met with the issuance of a LURC or DEP NRPA permit.
- 24. Spawning Areas. Discharges of dredged or fill material, and/or suspended sediment producing activities in fish and shellfish spawning or nursery areas and amphibian and waterfowl breeding areas during spawning or breeding seasons shall be avoided. During all times of year, impacts to these areas shall be avoided or minimized to the maximum extent practicable.
- 25. Storage of Seasonal Structures. Coastal structures, such as pier sections and floats, that are removed from the waterway for a portion of the year (often referred to as seasonal structures) shall be stored in an upland location located above mean high water (MHW) and not in tidal wetlands. These seasonal structures may be stored on the fixed, pile-supported portion of the structure that is seaward of MHW. This is intended to prevent structures from being stored on the marsh substrate and the substrate seaward of MHW. Seasonal storage of structures in navigable waters, e.g., in a protected cove on a mooring, requires Corps and local harbormaster approval.
- 26. Environmental Functions and Values. The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to maintain as much as is practicable, and minimize any adverse impacts on existing fish, wildlife, and natural environmental functions and values.
- 27. Protection of Vernal Pools. Impacts to uplands in proximity (within 500 feet) to the vernal pools referenced in Appendix A Definitions of Categories, shall be minimized to the maximum extent possible.

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Procedural Conditions

- 28. Cranberry Development Projects. For cranberry development projects authorized under the FGP, the following conditions apply:
- If a cranberry bog is abandoned for any reason, the area must be allowed to revert to natural wetlands unless an Individual Permit is obtained from the Corps allowing the discharge of fill for an alternate use.
- No stream diversion shall be allowed under this permit.
- No impoundment of perennial streams shall be allowed under this permit.
- The project shall be designed and constructed to not cause flood damage on adjacent properties.
- 29. Inspections. The permittee shall allow the District Engineer (DE) or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with the terms and conditions of this permit. The DE may also require post-construction engineering drawings for completed work and post-dredging survey drawings for any dredging work.
- 30. Work Start Notification Form and Compliance Certification. Every permittee who receives a written Category 1 or 2 PGP authorization from the Corps must submit a 1) Work Start Notification Form (WSNF) two weeks before work commencement, and 2) signed Compliance Certification Form within one month following the completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). The Corps will forward the blank WSNF and Compliance Certification Form with the authorization letter. The Compliance Certification Form will include: (a) a statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; (b) a statement that any required mitigation was completed in accordance with the permit conditions; and (c) the signature of the permittee certifying the completion of the work and mitigation.
- 31. Maintenance. The permittee shall maintain the work or structures authorized herein in good condition and in conformance with the terms and conditions of this permit. This does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds in appendix A and/or any conditions included in a written Corps authorization. Maintenance dredging includes only those areas and depths previously authorized and dredged. Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a)(2).
- 32. Property Rights. This permit does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations. If property associated with work authorized by the PGP is sold, the PGP authorization is automatically transferred to the new property owner. The new property owner should provide this information to the Corps in writing. No acknowledgement from the Corps is necessary.
- 33. Modification, Suspension, and Revocation. This permit may be either modified, suspended, or revoked, in whole or in part, pursuant to the policies and procedures of 33 CFR 325.7. Any such action shall not be the basis for any claim for damages against the United States.

- 34. Restoration. The permittee, upon receipt of a notice of revocation of authorization under this permit, shall restore the wetland or waterway to its former condition without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.
- 35. Special Conditions. The Corps, independently or at the request of the Federal resource agencies, may impose other special conditions on a project authorized pursuant to this general permit that are determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties or restoration.
- 36. False or Incomplete Information. If the Corps makes a determination regarding the eligibility of a project under this permit and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the permit shall not be valid and the government may institute appropriate legal proceedings.
- 37. Abandonment. If the permittee decides to abandon the activity authorized under this general permit, unless such abandonment is merely the transfer of property to a third party, he/she must restore the area to the satisfaction of the District Engineer.

Duration of Authorization/Grandfathering:

- 38. Duration of Authorization. This PGP expires five years from the effective date listed at the top of Page 1. Activities authorized under Category 1 of this PGP that have commenced (i.e., are under construction) or are under contract to commence in reliance upon this PGP's authorization will remain authorized provided the activity is completed within 12 months of the PGP's expiration date. Activities authorized under Category 2 of this PGP will remain authorized in accordance with the project-specific date that the Corps provides to the permittee in the PGP authorization letter, unless:
- (h) The PGP is either modified or revoked, or
- (b) Discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.2 (e)(2).

39. Previously Authorized Activities.

- (a) Activities completed under the authorizations of past PGPs that were in effect at the time the activity was completed will continue to be authorized by those PGPs.
- (b) Completed projects that have received written verification or approval from the Corps, based on applications made to the Corps prior to issuance of this PGP or the previous nationwide permits, regional general permits, or letters of permission shall remain authorized as specified in each authorization.
- (c) Activities authorized pursuant to 33 CFR Part 330.3 ("Activities occurring before certain dates") are not affected by this PGP.

Lakeview Drive P.O. Box 1107 Greenville, ME 04441 (207) 695-2466 (207) 695-2380 (fax)

(For CZM Determinations)

State Planning Office
Coastal Program
184 State Street
State House Station 38
Augusta, Maine 04333
(207) 287-1009

For Submerged Lands Leases)

Maine Department of Conservation Bureau of Parks and Lands 22 State House Station Augusta, Maine 04333 (207) 287-3061

3 HISTORIC PROPERTIES

Maine Historic Preservation Commission
State House Station 65
Augusta, Maine 04333-0065
(207) 287-2132
(207) 287-2335 (fax)

<u> Aroostook Band of Micmacs</u>

Attn: Mr. Williams Phillips, Chief Northern Road Presque Isle, Maine 04769 (207) 764-1972 (207) 764-7667 (fax)

<u>Houlton Band of Maliseet Indians</u>

Attn: Tribal Chief 88 Bell Road Littleton, Maine 04730 (207) 532-4273, x215 (207) 532-2660 (fax) 191 Main Street East Millinocket, ME 04430 (207) 746-2244 (207) 746-2243

(For Aquaculture Leases)

Maine Department of Marine Resources P.O. Box 8 West Boothbay Harbor, Maine 04575 (207) 633-9500

Passamaquoddy Tribe of Indians

Pleasant Point Reservation Attn: Tribal Council P.O. Box 343 Perry, Maine 04667 (207) 853-2600 (207) 853-6039 (fax)

Passamaquoddy Tribe of Indians

Indian Township Reservation Attn: Donald Soctomah, THPO P.O. Box 301 Princeton, Maine 04668 (207) 796-2301 (207) 796-5256 (fax)

<u>Penobscot Indian Nation</u>

Indian Island Reservation Attn: Ms. Bonnie Newsom, THPO 12 Wabanaki Way Indian Island, Maine 04468 (207) 817-7471 (207) 817-7450 (fax)

. ORGANIZATIONAL WEBSITES:

Army Corps of Engineers
Corps of Engineers Headquarters
Environmental Protection Agency
National Marine Fisheries Service
U.S. Fish and Wildlife Service
National Park Service
State of Maine

www.nae.usace.army.mil (click "Regulatory/Permitting") www.usace.army.mil (click "Services for the Public") www.epa.gov/owow/wetlands/

www.nmfs.noaa.gov

www.fws.gov

www.nps.gov/rivers/index.html

www.maine.gov

\$tate of Maine - Aquaculture Guidelines www.maine.gov/dmr/aquaculture/index.htm

District Engineer July 10-11-05

	APPENDIX A: DEFI	INITION OF CATEGORIES	. .
A. INLAND WATERS AND WETLANDS	Inland Waters and Wetlands: Waters that are reg ponds and wetlands, and excluding Section 10 Nav (OHW) mark in the absence of adjacent wetlands, to present, and the wetland limit when only wetlands high water (MHW) and the high tide line (HTL), and Navigable Waters section. (See II. Navigable Water CATEGORY 1	igable Waters of the U.S. The jurisdictional limit beyond the OHW mark to the limit of adjacent we hare present. For the purposes of this PGP, fill planed in the bordering and contiguous wetlands! to t	ts are the ordinary high water etlands when adjacent wetlands ar ced in the area between the mean
(a) NEW FILL/ EXCAVATION DISCHARGES	 <4,300 SF inland waterway and/or wetland fill and associated secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). Swamp mats are considered as fill. [See General Condition (GC) 18.] Provided: In-stream (e.g., rivers, streams, brooks, etc.) work limited to Jul 15 - Oct 1 In-stream work of up to 4,300 SF of fill below OHW in waterways not designated as EFH for Atlantic salmon (see GC 11, Page 9) and performed in accordance with Maine Permit By Rule standards or a LURC permit. Waterway crossings shall comply with GC 22. Projects covered by a DEP Tier One permit with no cumulative impacts >15,000 SF in inland wetlands from previous permits, unauthorized work, and/or other state permits. Subdivision fill complies with GC 5, Single and Complete Projects (see Page 7). This category excludes: Dams, dikes or activities involving water diversions.² Non-State approved sediment releases/sluices from dams. 	4,300 SF to <3 acres inland waterway and/or wetland fill and associated secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). Swamp mats filling any area ≥4,300 SF are reviewed in Category 2. (See GC 18, Page 11.) Includes: In-stream work, including crossings (other than spanned crossing as described in Category 1) with any discharge of fill below ordinary high water in perennial waterways designated as EFH for Atlantic salmon. Time of year restrictions determined case-by-case. Projects with proactive restoration as a primary purpose with impacts of any area ≥4,300 SF. The Corps, in consultation with State & Federal agencies, must determine that net adverse effects are not more than minimal. Specific activities with impacts of any area ≥4,300 SF required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.	≥3 acres inland waterway and/or wetland fill and secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). EIS required by the Corps. In-stream work exceeding Category 2 limits.

1

October 11, 2005

• Open trench excavation in flowing waters (see GC 22, Page 12).

Maine PGP

APPENDIX A: DEFINITION OF CATEGORIES	APPENDIX	A: DEFINITION	OF CATEGORIES
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	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(a) NEW FILL/ EXCAVATION DISCHARGES	 <4,300 SF inland waterway and/or wetland fill and associated secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). Swamp mats are considered as fill. [See General Condition (GC) 18.] Provided: In-stream (e.g., rivers, streams, brooks, etc.) work limited to Jul 15 - Oct 1 In-stream work of up to 4,300 SF of fill below OHW in waterways not designated as EFH for Atlantic salmon (see GC 11, Page 9) and performed in accordance with Maine Permit By Rule standards or a LURC permit. Waterway crossings shall comply with GC 22. Projects covered by a DEP Tier One permit with no cumulative impacts >15,000 SF in inland wetlands from previous permits, unauthorized work, and/or other state permits. Subdivision fill complies with GC 5, Single and Complete Projects (see Page 7). This category excludes: Dams, dikes or activities involving water diversions.² Non-State approved sediment releases/sluices from dams. 	4,300 SF to <3 acres inland waterway and/or wetland fill and associated secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). Swamp mats filling any area ≥4,300 SF are reviewed in Category 2. (See GC 18, Page I1.) Includes: In-stream work, including crossings (other than spanned crossing as described in Category 1) with any discharge of fill below ordinary high water in perennial waterways designated as EFH for Atlantic salmon. Time of year restrictions determined case-by-case. Projects with proactive restoration as a primary purpose with impacts of any area ≥4,300 SF. The Corps, in consultation with State & Federal agencies, must determine that net adverse effects are not more than minimal. Specific activities with impacts of any area ≥4,300 SF required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.	≥3 acres inland waterway and/or wetland fill and secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). EIS required by the Corps. In-stream work exceeding Category 2 limits.
Maine PGP	Open trench excavation in flowing waters (see GC 22, Page 12).	1	October 11, 2005

II. NAVIGABLE WATERS	Navigable Waters of the United States. Waters rivers (the Penobscot River, Kennebec River, and limits are the mean high water (MHW) line in tid Federally designated navigable rivers. For the put the high tide line (HTL), and in the bordering and section.	I Lake Umbagog) (Section 10 Rivers and Harbors all waters and the ordinary high water (OHW) may proses of this PGP, fill placed in the area between a contiguous wetlands to tidal waters are also revenue.	s Act of 1899). The jurisdictional ark in non-tidal portions of the on the mean high water (MHW) and
	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(a) FILL	Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided the U.S. Coast Guard authorizes such discharges as part of the bridge permit. Causeways and approach fills are not included in this category and require Category 2 or Individual Permit authorization.	<1 acre fill and/or secondary waterway impacts (e.g., areas drained, flooded or cleared). Fill includes temporary and permanent waterway fill. Temporary fill or excavation <1 acre in SAS⁴. Permanent fill or excavation <1,000 SF in SAS⁴. Permanent fill and/or excavation ≥1,000 SF in SAS⁵ when associated with a project with proactive restoration as a primary purpose. The Corps, in consultation with Federal & state agencies, must determine that net adverse effects are not more than minimal. Specific activities with impacts of any area required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.	≥1 acre waterway fill and/or secondary waterways or wetland impacts (e.g., areas drained, flooded or cleared). Fill includes temporary and permanent waterway fill. Temporary fill or excavation ≥1 acre in SAS ⁴ . Permanent fill or excavation ≥1,000 SF in SAS ⁴ other than as specified in Cat. 2 EIS required by the Corps.
(b) REPAIR AND MAINTENANCE WORK	Repair or maintenance of existing, currently serviceable, authorized structure or fill with no substantial expansion or change in use. *Conditions of the original authorization apply. Must be rebuilt in same footprint, however minor deviations in structure design allowed ⁶	Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fills, with fill, replacement or expansion <1 acre, or with a change in use.	Replacement of non-serviceable structures and fills or repair/ maintenance of serviceable structures or fill, with replacement or expansion ≥1 acre.

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	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(e) STRUCTURES AND FLOATS	Reconfiguration of existing authorized structures or floats. Provided: Structures not positioned over vegetated shallows ⁸ or salt marsh. Floats supported off substrate at low tide. No dredging, additional slips or expansion. No work affects threatened or endangered species (see GC 10, Page 9) or EFH salmon migration (see GC 11, Page 9)	Private structures or floats, including floatways/skidways, built to access waterway (seasonal and permanent) Expansions to existing boating facilities ⁷ . Compliance with the following is recommended, but not required: • Pile-supported structures <400 SF, with attached floats totaling <200 SF. • Bottom anchored floats <200 SF. • Structures are <4' wide and have at least a 1:1 height:width ratio ¹¹ . • Floats supported above the substrate during all tides. • Structures & floats not located within 25' of any vegetated shallows ⁸ . • Moored vessels not positioned over SAS ⁴ . • No structure located within 25' of the riparian property boundary. • No structure extends across >25% of the waterway width at mean low water. • Not located within the buffer zone of the horizontal limits ¹⁰ of a Corps Federal Navigation Project (FNP) (See App. B). The buffer zone is equal to three times the authorized depth of that FNP.	Structures or floats, including floatways/skidways, located such that they and/or vessels docked or moored at them are within the horizontal limits of a Corps Federal Navigation Project (see App. B). Structures and floats associated with a new or previously unauthorized boating facility. Note: Federal Navigation Projects include both Federal Channels and Federal Anchorages.
(f) MISCELLANEOUS	Temporary buoys, markers, floats, etc. for recreational use during specific events, provided they are removed within 30 days after use is discontinued. The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard. (See 33 CFR part 66, Chapter I, subchapter C)."	Includes, but is not limited to, utility lines, aerial transmission lines, pipelines, outfalls, boat ramps, floatways/skidways, bridges, tunnels and horizontal directional drilling activities seaward of the MHW line.	EIS required by the Corps. Shellfish/finfish (other than Atlantic salmon), or other aquaculture facilities with more than minimal individual and cumulative impacts to environmental resources or navigation. A 25' eelgrass set back is recommended.

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	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
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Maine PGP		5	October 11, 2005

ME PGP - Appendix B



US Army Corps of Engineers ® New England District

WORK-START NOTIFICATION FORM

(Minimum Notice: Two weeks before work begins)

Name of Person/Firm:	el Plante existing marina float the end. That work eel pile supported nue at Peaks
Associates. The permit authorized the permittee to reconfigure the esystem by extending the base float 30' and shifting the outer slips to also includes the construction of 4' x 25' ramp leading to a 8' x 70' st pier extending northwest in Diamond Island Roads off 99 Island Ave Island, Portland, Maine. The people (e.g., contractor) listed below withey understand the permit's conditions and limitations. PLEASE PRINT OR TYPE Name of Person/Firm:	existing marina float the end. That work eel plle supported nue at Peaks
Business Address:	-
Telephone Numbers:() ()	
Printed Name: Title:_	
**************************************	********
PM: Submittals Required:	



(Minimum Notice: Permittee must sign and return notification within one month of the completion of work.)

COMPLIANCE CERTIFICATION FORM

USA	E Project Number:	NAE-2008-02465		·
Name	of Permittee:	Lionel Plante Associates	_	
Perm	it Issuance Date:			
any m	itigation required by t		mit this after the mitiga	mpletion of the activity and ation is complete, but not
** *	IAIL TO: U.S. Army Corps of Policy Analysi Regulatory 696 Virgini		t N: Marie Farese	* * *
of Eng		. If you fail to comply wit		on by an U.S. Army Corps subject to permit
accor	dance with the term:	ork authorized by the als and conditions of the in accordance with the	above referenced pe	nit was completed in rmit, and any required
Signa	ture of Permittee I	Date		<u> </u>
Printed (Name			
)			
Telep	hone Number			





STATE OF MAINE

Department of Environmental Protection

David P. Littell COMMISSIONER

RECEIVED

Dept. of Building Inspections

City of Portland Maine

October, 2008

Lionel Plante Associates C/o Catherine Plante 98 Island Avenue Peaks Island, Maine 04108

RE:

Natural Resource Protection Act Application, Peaks Island,

DEP #L-24200-4P-A-N

Dear Ms. Plante:

Your application for the above referenced permit has been reviewed by the Department of Environmental Protection pursuant to current statutes and associated rules. Based on this review, the Department has determined that your proposed project is acceptable based on current permitting criteria. Please find enclosed your land use permit. The permit is presented in a format that includes findings of fact relevant to the permitting criteria of the law under which the permit is issued, conclusions based on those facts and conditions of approval. Please carefully read your permit, especially the conditions of approval. If an error has occurred, please let us know and a corrected order will be issued.

In addition, find attached a copy of the Department's appeal procedure for your information. Project modifications, condition compliance, and transfers applications are available upon request at the regional Department offices listed below.

Please feel free to call me at (207) 287-7848 if you have any questions regarding this project.

Sincerely,

JEFFREY G. MADORE

Division Director

Division of Land Resource Regulation

Bureau of Land & Water Quality

pc: File



DEP INFORMATION SHEET Appealing a Commissioner's Licensing Decision

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

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

- 5. All the matters to be contested. The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
- 6. Request for hearing. The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
- 7. New or additional evidence to be offered. The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B) (5)

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

- 1. Be familiar with all relevant material in the DEP record. A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
- 2. Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal. DEP staff will provide this information on request and answer questions regarding applicable requirements.
- 3. The filing of an appeal does not operate as a stay to any decision. An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

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

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

II APPEALS TO MAINE SUPERIOR COURT

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

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

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



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

DEPARTMENT ORDER

IN THE MATTER OF

LIONEL PLANTE ASSOCIATES
Portland, Cumberland County
PILE SUPPORTED PIER
AND FLOATWAY EXPANSION
L-24200-4P-A-N (approval)

) NATURAL RESOURCES PROTECTION
) COASTAL WETLAND ALTERATION
) WATER QUALITY CERTIFICATION
)
) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of LIONEL PLANTE ASSOCIATES with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

- A. History: The applicant owns Peak's Island Marina, which received several Natural Resources Protection Act (NRPA) permits in the mid 1970's and 1980's for site improvements at the marina. In Department Order #L-02094-4E-B-X, dated July 23, 1975, the Department approved the filling of a 200 foot by 100 foot area of intertidal coastal wetlands for the construction of a parking area providing access to a floatway. In Department Order #L-02094-03-A-N, dated July 31, 1985, the Department approved the installation of 31 piles for a floatway expansion located at the southwest corner of the parking area. The 8-foot wide segmented floatway system is seasonal, extends approximately 210 feet seaward beyond the Gas Float, and includes two arms, 136 feet parallel to the shore, in an "F" shape. The marina provides moorings and marine services for the residents of Peak's Island.
- B. Summary: The applicant proposes to construct a new 8-foot wide by 70-foot long berthing pier with a 4-foot wide by 20-foot long ramp for its 122-foot long roll-on/roll-off vessel that provides ferry services. The pier will be constructed out of 4-inch thick oak planks over three 6-inch by 12-inch steel I-beams and supported on 12, 16-inch diameter steel pipe piles, which will be driven into the substrate. The proposed pier will provide full-tide access with the landward end of the pier beginning at the low tide mark. The pier will be located at the northwest corner of the parking area and the ramp will span the intertidal area between the pier and the parking area. The applicant also proposes to expand the seasonal floatway system approximately 50 feet seaward and add six new finger floats to the seaward most arm. The finger float segments are 8 feet and 16.25 feet long. The project need and purpose is to provide a safe year round berth for the vessel that is currently kept on a mooring and to meet the demands for additional mooring space.

The proposed project is shown on a drawing entitled, "Site Plan", prepared by Owen Haskell, Inc., and dated October 10, 2007. The project site is located on the west side of Island Avenue on Peak's Island in the City of Portland.

C. Current Use of the Site: The site is located on the highly developed western side of Peak's Island with commercial and residential buildings in the upland and a parking area on fill material in the intertidal zone.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

In accordance with Chapter 315, Assessing and Mitigating Impacts to Scenic and Aesthetic Uses, the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site.

The proposed project is located in Casco Bay, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The shoreline of this portion of Peak's Island is a mixture of residential homes and commercial development with abundant landscape trees lining the shore. The project site contains a dock and parking area in the intertidal area and commercial building in the uplands, all of which are visible from the shore. There are several other buildings and docks visible from the water that are in the viewshed of the project area. The dimensions of the proposed berthing pier will not dominate the landscape as seen from, or looking out onto, Casco Bay. Based on the information submitted in the application, the Department determined that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

The Department did not identify any issues involving existing recreational and navigational uses.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses of the protected natural resource.

3. SOIL EROSION:

Soil disturbance for the proposed project will be limited to driving piles, which will cause little, if any erosion.

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

4. HABITAT CONSIDERATIONS:

Department staff reviewed a Geographic Information System (GIS) database that contains information provided by both the Department of Marine Resources (DMR) and the Maine Department of Inland Fisheries and Wildlife (MDIFW). The GIS database indicates that eelgrass beds and Tidal Wading bird and Waterfowl Habitat (TWWH), defined as a Significant Wildlife

Habitat in the NRPA, are found along the western shore of Peak's Island. There are no Essential Wildlife Habitats at the project site.

The eelgrass bed covers an area of approximately 3.9 acres. Current development is impacting approximately 11% of the habitat and the proposed seasonal floatway expansion and berthing pier would impact an additional 3% of the habitat. The TWWH covers an area of approximately 120.5 acres. Current development is impacting approximately 1.2% of the habitat and the proposed seasonal floatway expansion and berthing pier would impact an additional 0.2% of the habitat. This impact area includes the direct impacts from the footprint of all structures in the resource plus a 300-foot zone of influence around the structures. The zone of influence represents the area surrounding the structures in which bird species would be affected by human activity occurring at the proposed project.

An impact is considered the footprint of the direct impact plus a 300-foot zone of influence around the direct impact. Given that the project site is located at the southern end of both the eelgrass bed and TWWH and given the configuration of the seasonal floatway expansion and the orientation of the new berthing pier, the proposed project is not expected to significantly increase the impact area beyond what currently exists.

The DMR reviewed the project and in comments dated September 3, 2008, described the site as a low to moderate energy unconsolidated shore with fill in the intertidal zone. DMR stated that the proposed project should not cause any significant adverse impact to marine resources, navigation, or recreation.

The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened, or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

5. <u>WATER QUALITY CONSIDERATIONS:</u>

The applicant proposes to use oak planks and steel beams and piles to construct the berthing pier.

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to alter 16 square feet of coastal wetland to set the pilings. In addition, the proposed berthing pier and floats will shade approximately 1,960 square feet of coastal wetland.

The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, require that the applicant meet the following standards:

A. Avoidance. No activity may be permitted if there is a practicable alternative to the project that would be less damaging to the environment. Each application for a coastal wetland permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. The applicant submitted an alternative analysis for the proposed project dated May 28, 2008. The current size of the seasonal floatway is not sufficient to meet

the needs of the applicant; therefore, the no-action alternative is not viable to the applicant. The proposed expansion of the seasonal floatway is the least intrusive configuration, while meeting the project need. The purpose of the proposed berthing pier is to provide a safe, year-round mooring of the applicant's 122-foot vessel. The applicant inquired about mooring the vessel at off-site pier, but none was found.

- B. Minimal Alteration. The amount of coastal wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The seasonal floatway segments will have the same dimensions as those currently in use and the configuration will have the least damaging effect on the resource. The proposed berthing pier is the shortest length possible, while maintaining a safe berth for the applicant's 122-foot vessel.
- C. Compensation. In accordance with Chapter 310(C) (6) (b), compensation is not required to achieve the goal of no net loss of coastal wetland functions and values.

The Department finds that the applicant has avoided and minimized coastal wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

7. <u>OTHER CONSIDERATIONS</u>:

The Department did not identify any other issues involving existing scenic, aesthetie, or navigational uses, soil erosion, habitat or fisheries, the natural transfer of soil, natural flow of water, water quality, or flooding.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act:

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.

- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in Title 38 M.R.S.A. Section 480-P.

THEREFORE, the Department APPROVES the above noted application of LIONEL PLANTE ASSOCIATES to construct a berthing pier and expand the existing seasonal floatway as described above, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

- 1. Standard Conditions of Approval, a copy attached.
- The applicant shall take all necessary measures to ensure that its activities or those of its agents
 do not result in measurable erosion of soil on the site during the construction of the project
 covered by this approval.
- 3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Q-i

This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M. R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2008.10.03 09:53:42 -04'00'

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

RLG/ATS#68103/L24200AN



Natural Resource Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCE PROTECTION ACT, TITLE 38, M.R.S.A. SECTION 480-A ET.SEQ. UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

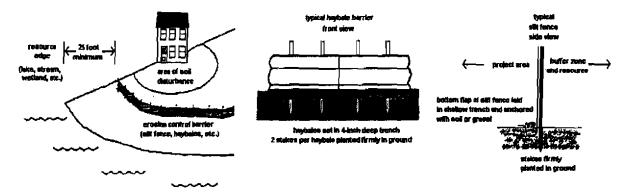
- A. <u>Approval of Variations From Plans.</u> The granting of this permit is dependent upon, limited to the proposals and plans contained in the application, and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. <u>Compliance With All Applicable Laws.</u> The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. <u>Erosion Control.</u> The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. <u>Compliance With Conditions</u>. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. <u>Initiation of Activity Within Two Years</u>. If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the applicant will be able to begin the activity within two years form the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.
- F. Reexamination After Five Years. If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances, which may have occurred during the five-year period.
- G. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- H. <u>Permit Included In Contract Bids.</u> A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- I. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

 Revised (4/92/DEP LW0428

DEPARTMENT OF ENVIRONMENTAL PROTECTION <u>Erosion Control for Homeowners</u>

Before Construction

- 1. If you have hired a contractor, make sure you discuss your permit-by-rule with them. Talk about what measures they plan to take to control erosion. Everybody involved should understand what the resource is, and where it is located. Most people can identify the edge of a lake or river. However, the edges of wetlands are often not so obvious. Your contractor may be the person actually pushing dirt around, but you are both responsible for complying with the permit-by-rule.
- 2. Call around to find where erosion control materials are available. Chances are your contractor has these materials already on hand. You probably will need silt fence, hay bales, wooden stakes, grass seed (or conservation mix), and perhaps filter fabric. Places to check for these items include farm & feed supply stores, garden & lawn suppliers, and landscaping companies. It is not always easy to find hay or straw during late winter and early spring. It also may be more expensive during those times of year. Plan ahead -- buy a supply early and keep it under a tarp.
- 3. Before any soil is disturbed, make sure an erosion control barrier has been installed. The barrier can be either a silt fence, a row of staked hay bales, or both. Use the drawings below as a guide for correct installation and placement. The barrier should be placed as close as possible to the soil-disturbance activity.
- 4. If a contractor is installing the erosion control barrier, double-check it as a precaution. Erosion control barriers should be installed "on the contour", meaning at the same level or elevation across the land slope, whenever possible. This keeps stormwater from flowing to the lowest point along the barrier where it can build up and overflow or destroy the barrier.



During Construction

- 1. Use lots of hay or straw mulch on disturbed soil. The idea behind mulch is to prevent rain from striking the soil directly. It is the force of raindrops hitting the bare ground that makes the soil begin to move downslope with the runoff water, and cause erosion. More than 90% of erosion is prevented by keeping the soil covered.
- 2. Inspect your erosion control barriers frequently. This is especially important after a rainfall. If there is muddy water leaving the project site, then your erosion controls are not working as intended. You or your contractor then need to figure out what can be done to prevent more soil from getting past the barrier.
- 3. Keep your erosion control barrier up and maintained until you get a good and healthy growth of grass and the area is permanently stabilized.



STATE OF MAINE DEPARTMENT OF CONSERVATION 22 STATE HOUSE STATION AUGUSTA, MAINE 04333-0022



PATRICK K. McGOWAN

COMMISSIONER

SUBMERGED LANDS LEASE REVISION – FINAL FINDINGS AND DECISION

APPLICANT: Lionel Plante Associates

PROJECT LOCATION: Peaks Island, Portland

APPLICATION: The Bureau of Parks and Lands accepted Department of Environmental Protection NRPA Application No. L-24200-4P-A-N as an application for a submerged lands conveyance.

PROJECT DESCRIPTION: The applicant proposes to construct an 8 ft. by 70 ft. pile-supported pier on submerged lands in Casco Bay to provide berthing for a 122 ft. long vessel associated with the applicant's business providing services to Peaks Island residents. The project also includes the expansion of an existing float system approximately 30 feet beyond the existing floats and addition of four finger floats. Submerged Lands Lease No. 16-14L was granted for the then-existing ramp and floats in 1992. Additional floats were added approximately 10 years ago that were not included in the Lease.

REVIEW COMMENTS: Notification letters were sent to the municipality, abutters and Department of Marine Resources (DMR). The DMR commented that as proposed, the project should not cause any significant adverse impacts to traditional fishing activity, recreation, navigation, or riparian access. The northerly abutter commented that although the pier would be used to berth a large vessel that would likely cross in front of his property when berthed at the pier, he has no objection to the proposal. No comments in opposition were received.

FINDINGS: Based upon its review of all information in the administrative record, the Bureau of Parks and Lands makes the following findings in accordance with Title 12 M.R.S.A. Sections 1801 & 1862 and pertinent regulations.

PUBLIC ACCESS WAYS:

The project will be located on private property and not on or adjacent to a public access point to the shore. As such, the Bureau finds that the project will not unreasonably interfere with public access ways to submerged lands.

PUBLIC TRUST RIGHTS:

The project will not unreasonably interfere with fishing, fowling, navigation, or other existing marine uses of the area.

RECREATION:

The project will not unreasonably interfere with recreation.



www.maine.gov/doc PHONE; (207) 287-3821 FAX: (207) 287-6170 FAX: (207) 287-8111 TTY: (207) 287-2213 RE: Lionel Plante Associates Final Findings, Page 2

SERVICES AND FACILITIES NECESSARY FOR COMMERCIAL MARINE ACTIVITIES:

The project will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities.

INGRESS AND EGRESS OF RIPARIAN OWNERS:

The project will not unreasonably interfere with ingress and egress of riparian owners.

DECISION: In accordance with Title 12 M.R.S.A. Sections 1801 & 1862, the Director of the Bureau of Parks and Lands has determined that Submerged Lands Lease No. 1177-L-37 will be issued to Lionel Plante Associates.

APPEAL RIGHTS: In accordance with 5 M.R.S.A. section 11002 and Maine Rules of Civil Procedure 80C, this decision may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person.

Signed: Willard R. Harris, Jr., Director

Date: September 22 2008

RECEIVED

MAY - 3 2010

Dept. of Building Inspections City of Portland Maine

Post

Co./Dept. Phone # 2009-7

BOARD OF HARBOR COMMISSIONERS PORT OF PORTLAND PERMIT-A

TO BE POSTED IN A CONSPICUOUS PLACE AT THE CONSTRUCTION SITE

oak facing..........

Having given public notice of this pending application, as required by law, and therein designated the

October 2009, at 5:00 o'clock in the afternoon prevailing time as the time when they would meet

At the South Portland City Council Chambers to examine this issue and here all interested parties, and lawing mot at

And having heard all interested par permit which authorizes you to promaintain within the limits mention in addition, the construct Board of Harbor Commissioners for above-listed conditions, or in a sep. This permit is limited au must comply. If a contractor perfethe work is done in conformance we person who will be performing the Performing any work no may subject your to the enforceme construction methods is found nee to your authorization. Any change Nothing in this permit a Moreover, nothing in this permit and Harbor of Portland with its applies.	reced under all applicable local and sed in the permit application	ioners for the Port of Portland hereby issues this federal regulations hereinafter stated, and to a surrounded by a containment boom unless the ris requirement in writing, either as part of the set of conditions with which the permit holder the contractor are responsible for assuring that I this authorization. Please be sure that the se conditions. If any change is plans or manission immediately to discuss modifications omnission before it is undertaken. It as you may be a plans or other fields of the power of the submitted to the U.S. Army Corps of Engineers submitted to the U.S. Army Corps of Engineers.
	6. Section 16.2 is authorized as requ	
hereunto set their bands and affix	their corporate seal on this 8 th day. The work	authorized to this permit must be completed on the 8th day of Outuber 2010.
Board of Harbor Commissioners f	for the Port of Portland	5 . 7
Here Fax Note 7671 Dete	75 19 18 pages	The same of the sa
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Dept. of Building Inspections City of Portland Maine