

Listed below are key characters (in bold) for searching within this file.

Hold down the control key and select the “f” key. Enter either a key character from the list below or document name and select enter for a list of documents containing the search word you entered.

**APL** – all documents behind this target sheet pertain to the original application submitted by the Applicant.

**REVIEW** – all documents behind this target sheet pertain to those documents submitted to and from staff as part of the project review.

**PBM1** – all documents behind this target sheet are any Planning Board memos with attachments that went to the Board.

**PBR1** - all documents behind this target sheet are any Planning Board reports with attachments that went to the Board.

**CC1** - all documents behind this target sheet are any City Council memos/reports that went to the City Council.

**DRC1** - all documents behind this target sheet are those pertaining to the post review of the project by the Development Review Coordinator.

**MISC1** - all documents behind this target sheet are those that may not be included in any of the categories above.

**APL**

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. Please 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,

*on file*

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



Development Review Application
PORTLAND, MAINE

Planning and Urban Development Department
Planning Division and Planning Board

PROJECT NAME: LIONEL PLANTE ASSOCIATES BERTHING PIER/MARINA CHANGE

PROPOSED DEVELOPMENT ADDRESS:

98 ISLAND AVE PEAKS ISLAND MAINE 04108

PROJECT DESCRIPTION:

Install season floats at the western end of our marina and install a 90' x 8' berthing pier at our property at 98 Island Ave.

CHART/BLOCK/LOT: 84-P 1 8 & 9

PRELIMINARY PLAN
FINAL PLAN

CONTACT INFORMATION:

APPLICANT Name: Lionel Plante Associates
Address: 98 Island Ave

PROPERTY OWNER Name: Catherine Plante
Address: 98 Island Ave

Zip Code: 04108
Work #: 207 766-2508
Cell #:
Fax #: 207 766-2507
Home:
E-mail: lplante

Zip Code: 04108
Work #: 207 766-2508
Cell #: 207 831-8310
Fax #:
Home: 207 766-5168
E-mail: cathyep1111@yahoo.com

BILLING ADDRESS Name: Lionel Plante Associates
Address: 98 Island Ave
Peaks Island, Maine
Zip: 04108
Work #: 207 766-2508
Cell #:
Fax #: 207 766 2507
Home:
E-mail: lplante@maine-rr.com

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SEP 28 2010

City of Portland
Planning Division

-As applicable, please include additional contact information on the next page-

**AGENT/REPRESENTATIVE**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Work #: \_\_\_\_\_  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**ENGINEER**

Name: JOHN SWAN  
Address: 390 RT 1  
Falmouth  
Zip Code: 04105  
Work #: 207 774 0424  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**ARCHITECT**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Work #: \_\_\_\_\_  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**CONSULTANT**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Work #: \_\_\_\_\_  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**SURVEYOR**

Name: Owen E. Haskell  
Address: 390 RT 1, Falmouth  
Maine 04105  
Zip Code: \_\_\_\_\_  
Work #: 207 774-0424  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**ATTORNEY**

Name: Pierce Atwood  
Address: 1 Monument Square  
Portland, Maine  
Zip Code: 04101  
Work #: 207 791-4000  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

# PROJECT DATA

The following information is required where applicable, in order complete the application

Total Site Area \_\_\_\_\_ sq. ft.  
 Proposed Total Disturbed Area of the Site \_\_\_\_\_ sq. ft.  
 (If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland)

**IMPERVIOUS SURFACE AREA**

Proposed Total Paved Area \_\_\_\_\_ sq. ft.  
 Existing Total Impervious Area \_\_\_\_\_ sq. ft.  
 Proposed Total Impervious Area NA sq. ft.  
 Proposed Impervious Net Change \_\_\_\_\_ sq. ft.

**BUILDING AREA**

Existing Building Footprint \_\_\_\_\_ sq. ft.  
 Proposed Building Footprint \_\_\_\_\_ sq. ft.  
 Proposed Building Footprint Net change 70x8 sq. ft. *Berthing Pier*  
 Existing Total Building Floor Area \_\_\_\_\_ sq. ft.  
 Proposed Total Building Floor Area \_\_\_\_\_ sq. ft.  
 Proposed Building Floor Area Net Change \_\_\_\_\_ sq. ft.  
 New Building NO (yes or no)

**ZONING**

Existing \_\_\_\_\_  
 Proposed, if applicable Submerged Land permits included

**LAND USE**

Existing \_\_\_\_\_  
 Proposed \_\_\_\_\_

**RESIDENTIAL, IF APPLICABLE**

Proposed Number of Affordable Housing Units \_\_\_\_\_  
 Proposed Number of Residential Units to be Demolished NA  
 Existing Number of Residential Units \_\_\_\_\_  
 Proposed Number of Residential Units \_\_\_\_\_  
 Subdivision, Proposed Number of Lots \_\_\_\_\_

**PARKING SPACES**

Existing Number of Parking Spaces \_\_\_\_\_  
 Proposed Number of Parking Spaces \_\_\_\_\_  
 Number of Handicapped Parking Spaces NA  
 Proposed Total Parking Spaces \_\_\_\_\_

**BICYCLE PARKING SPACES**

Existing Number of Bicycle Parking Spaces \_\_\_\_\_  
 Proposed Number of Bicycle Parking Spaces NA  
 Total Bicycle Parking Spaces \_\_\_\_\_

**ESTIMATED COST OF PROJECT**

Please answer the following with a Yes/No response on all that apply to the proposed development

Institutional	<u>N</u>	Design Review	<u>N</u>
Parking Lot	<u>N</u>	Flood Plain Review	<u>N</u>
Manufacturing	<u>N</u>	Historic Preservation	<u>N</u>
Office	<u>N</u>	Housing Replacement	<u>N</u>
Residential	<u>N</u>	14-403 Street Review	<u>N</u>
Retail/Business	<u>N</u>	Shoreland	<u>Y</u>
Warehouse	<u>N</u>	Site Location	<u>N</u>
Single Family Dwelling	<u>N</u>	Stormwater Quality	<u>N</u>
2 Family Dwelling	<u>N</u>	Traffic Movement	<u>N</u>
Multi-Family Dwelling	<u>N</u>	Zoning Variance	<u>N</u> (or date)
B-3 Ped Activity Review	<u>N</u>	Historic Dist./Landmark	<u>N</u>
Change of Use	<u>N</u>	Off Site Parking	<u>N</u>

**APPLICATION FEES:**

Check all reviews that apply. Payment may be made in cash or check to the City of Portland.

<p><b>Level II Development</b>  <input checked="" type="checkbox"/> Less than 10,000 sq. ft. (\$400.00)  <input type="checkbox"/> After-the-fact Review (\$1,000.00 plus applicable application fee)</p>	<p><b>Plan Amendments</b>  <input type="checkbox"/> Planning Staff Review (\$250)  <input type="checkbox"/> Planning Board Review (\$500)</p> <p><b>Subdivision</b>  <input type="checkbox"/> Subdivision (\$500) + amount of lots _____ (\$25/lot)                  \$ _____ + (applicable + Major site plan fee)</p>
<p><b>Level III Development</b>  <input type="checkbox"/> Under 50,000 sq. ft. (\$500)  <input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000)  <input type="checkbox"/> Parking Lots over 100 spaces (\$1,000)  <input type="checkbox"/> 100,000 - 200,000 sq. ft. (\$2,000)  <input type="checkbox"/> 200,000 - 300,000 sq. ft. (\$3,000)  <input type="checkbox"/> Over 300,000 sq. ft. (\$5,000)  <input type="checkbox"/> Parking lots over 100 spaces (\$1,000)  <input type="checkbox"/> After-the-fact Review (\$1,000 plus applicable application fee)</p>	<p><b>Other Reviews</b>  <input type="checkbox"/> Site Location of Development (\$3,000) (except for residential projects which shall be \$200 per lot _____ )  <input type="checkbox"/> Traffic Movement (\$1,000)  <input type="checkbox"/> Stormwater Quality (\$250)  <input type="checkbox"/> Section 14-403 Review (\$400 + \$25/lot)  <input type="checkbox"/> Other _____</p>

**LEVEL II AND LEVEL III REVIEW APPLICATION SUBMISSION**

Submissions shall include seven (7) packets with folded plans containing the following materials:

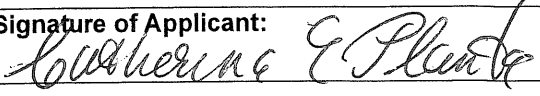
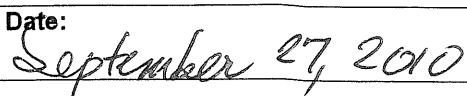
1. **Seven (7) full size site plans** that must be **folded**.
2. Seven (7) copies of all written materials as follows, unless otherwise noted:
  - a. Application form that is completed and signed.
  - b. Cover letter stating the nature of the project.
  - c. All Written Submittals (Sec. 14-525 2. (c), including evidence of right, title and interest.
5. A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 100 feet.
6. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
7. Copy of the checklist completed for the proposal listing the material contained in the submitted application.
8. One (1) set of plans reduced to 11 x 17.

**Refer to the application checklist (page 7) for a detailed list of submittal requirements.**

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), which includes the Subdivision Ordinance (Section 14-491) and the Site Plan Ordinance (Section 14-521). Portland's Land Use Code is on the City's web site: [www.portlandmaine.gov](http://www.portlandmaine.gov) Copies of the ordinances may be purchased through the Planning Division.

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 Planning Authority and Code Enforcement'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.

**This application is for a Site Plan review only. A Performance Guarantee, Inspection Fee, Building Permit Application and associated fees will be required prior to construction.**

<p>Signature of Applicant:  </p>	<p>Date:  </p>
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Please refer to Article V, Site Plan of the City of Portland Land Use Code for detailed information concerning the City's site plan review process, thresholds and standards. Should you have any questions regarding the submittal requirements or any other aspect of the site plan review process, please contact the Planning Division.

**City of Portland Planning Division**  
 389 Congress Street  
 Portland, Maine 04101  
 (207) 874-8719  
 www.portlandmaine.gov

**Office Hours:**  
 Unless noted, office hours are  
 Monday thru Friday  
 8:00 a.m. – 4:30 p.m.

**General Submittal Requirements – Level II and Level III Site Plan**

**Preliminary Plan Phase (if elected by applicant)**

Applicant Checklist	Planner Checklist	Number of Copies	Submittal Requirement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Completed application form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Application fees
<input type="checkbox"/>	<input type="checkbox"/>	7	Written description of project
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Evidence of right, title and interest.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Copies of required State and/or Federal permits.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Written assessment of zoning.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Written description of existing and proposed easements or other burdens.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Written requests for waivers from individual site plan and/or technical standards, where applicable.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Traffic analysis (may be preliminary, in nature, during the preliminary plan phase). <i>No other vehicles involved</i>
<input checked="" type="checkbox"/> NA	<input type="checkbox"/>	7	Written summary of significant natural features located on the site.
<input type="checkbox"/> NA	<input type="checkbox"/>	7	Written summary of project's consistency with related city master plans.

**Final Plan Phase (including items listed above if no preliminary plan review)**

Applicant Checklist	Planner Checklist	Number of Copies	Submittal Requirement
<i>letter and contract w/ state of Maine</i> <input checked="" type="checkbox"/> Accountant	<input type="checkbox"/>	1	Evidence of financial and technical capacity. <i>Accountant's letter + contract w/ state of Maine</i>
<input type="checkbox"/> NA	<input type="checkbox"/>	1	Evidence of utilities' capacity to serve the development.
<input type="checkbox"/> NA	<input type="checkbox"/>	1	Written summary of fire safety (referencing NFPA fire code and Section 3 of the City of Portland Technical Manual).
<input type="checkbox"/> NA	<input type="checkbox"/>	1	Construction management plan.
<input type="checkbox"/> NA	<input type="checkbox"/>	1	Traffic Plan (if development will (1) generate 100 or more PCE or (2) generate 25 or more PCE and is located on an arterial, within 1/2 mile of a high crash location, and/or within 1/4 mile of an intersection identified in a previous traffic study as a failing intersection).
<input type="checkbox"/> NA	<input type="checkbox"/>	1	Stormwater management plan.
<input type="checkbox"/> NA <i>SPRING PT</i>	<input type="checkbox"/>	1	Written summary of solid waste generation and proposed management of solid waste.
<input type="checkbox"/> NA	<input type="checkbox"/>	1	Written assessment of conformity with applicable design standards.
<input type="checkbox"/> NA	<input type="checkbox"/>	1	Manufacturer's verification that HVAC and manufacturing equipment meets applicable state and federal emissions requirements.

*contract w/ state of Maine + Bond with City -*

## Site Plans and Boundary Survey Requirements – Level II and Level III Site Plan

### Preliminary Plan Phase (if elected by applicant)

Applicant Checklist	Planner Checklist	Number of Copies	Submittal Requirement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Boundary Survey meeting the requirements of Section 13 of the City of Portland Technical Manual.
<input type="checkbox"/> NA	<input type="checkbox"/>	7	<b>Preliminary Site Plan Including the following:</b> <i>(*information provided may be preliminary in nature during the preliminary plan phase):</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed structures with distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Location of adjacent streets and intersections and approximate location of structures on abutting properties..
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed site access and circulation.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed grading and contours.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Location and dimension of existing and proposed paved areas including all parking areas and vehicle, bicycle and pedestrian access ways.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary landscape plan including existing vegetation to be preserved, proposed site landscaping and street trees.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed utilities (preliminary layout).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary infrastructure improvements (e.g. - curb and sidewalk improvements, roadway intersection modifications, utility connections, transit infrastructure, roadway improvements).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary stormwater management and erosion control plan.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b) 1. of the Land Use Code).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed alterations to and protection measures for significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b)1. of the Land Use Code).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed easements or public or private rights of way.

NA

### Final Plan Phase

<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	<b>Final Site Plan Including the following</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed structures on the site with distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone).
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Location of adjacent streets and intersections and approximate location of structures on abutting properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Proposed site access and circulation.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Proposed grading and contours.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Location and dimension of existing and proposed paved areas including all parking areas and vehicle, bicycle and pedestrian access ways. Proposed curb lines must be shown.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Proposed loading and servicing areas, including applicable turning templates for delivery vehicles



**BALLEW BOOKKEEPING SERVICE  
99 RUSTIC LANE  
PORTLAND, ME 04103  
(207)878-3856  
FAX (207)221-1336**

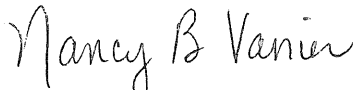
City of Portland  
Planning Board Type II Site Plan Review

September 28, 2010

To whom it may concern:

I have been the bookkeeper for Lionel Plante Associates for the past 19 years. Based on my experience with the finances Lionel Plante Associates will be able to build a 70' X 8' berthing pier.

Sincerely,



Nancy B. Vanier  
Bookkeeper

COPY



JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
Department of Environmental Protection

David P. Littell  
COMMISSIONER

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,

A handwritten signature in black ink that reads "Jeff Madore".

JEFFREY G. MADORE  
Division Director  
Division of Land Resource Regulation  
Bureau of Land & Water Quality

pc: File

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MAY - 3 2010

Dept. of Building Inspections  
City of Portland Maine

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 624-6550 FAX: (207) 624-6024  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

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

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-6477 FAX: (207) 764-1507



## 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.

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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.

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

DEPARTMENT ORDER

IN THE MATTER OF

LIONEL PLANTE ASSOCIATES	) NATURAL RESOURCES PROTECTION
Portland, Cumberland County	) COASTAL WETLAND ALTERATION
PILE SUPPORTED PIER	) WATER QUALITY CERTIFICATION
AND FLOATWAY EXPANSION	)
L-24200-4P-A-N (approval)	) 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. WATER QUALITY CONSIDERATIONS:

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. OTHER CONSIDERATIONS:

The Department did not identify any other issues involving existing scenic, aesthetic, 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.

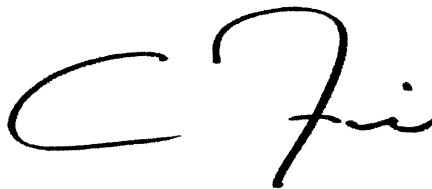
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in Title 38 M.R.S.A. Section 480-P.

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.
2. 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



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

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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.

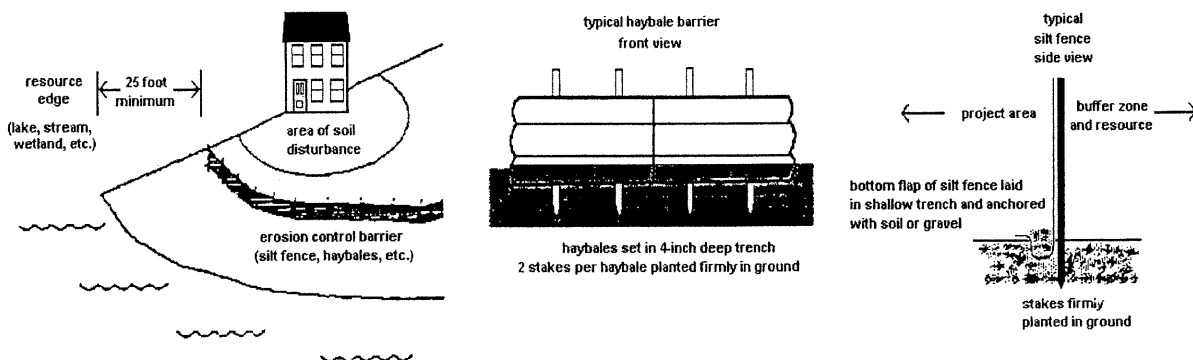
- A. Approval of Variations From Plans. The granting of this permit is dependent upon, limited to the proposals and plans contained in the application, and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. 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. Erosion Control. 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. Compliance With Conditions. 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. Initiation of Activity Within Two Years. 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. Permit Included In Contract Bids. 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.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Erosion Control for Homeowners

#### 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

COPY

JOHN ELIAS BALDACCI  
 GOVERNOR

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.



*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: Don Richards  
for Willard R. Harris, Jr., Director

Date: September 22 2008

**RECEIVED**

**MAY - 3 2010**

**Dept. of Building Inspections  
City of Portland Maine**



2009-7

# BOARD OF HARBOR COMMISSIONERS PORT OF PORTLAND PERMIT-A

## TO BE POSTED IN A CONSPICUOUS PLACE AT THE CONSTRUCTION SITE

To.....Lionel Plante Associates, 98 Island Ave. Peaks Island 04108.....

The undersigned, Board of Harbor Commissioners for the Harbor of Portland, has carefully considered your application, Dated the 15<sup>th</sup> day of October 2007, for a permit authorizing

..... The installation of new seasonal slips at the western front of the marina by moving the face docks 30' westerly and extending finger slips shoreward to existing pilings and 4 fingers westward secured with helical anchors. The installation of a new 70'x8' berthing pier on 12" steel pilings with bolt on oak facing.....

Having given public notice of this pending application, as required by law, and therein designated the 8<sup>th</sup> day Of 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 having met at the time and place mentioned and examined the location of this proposed construction project.....

And having heard all interested parties, the Board of Harbor Commissioners for the Port of Portland hereby issues this permit which authorizes you to proceed under all applicable local and federal regulations hereinafter stated, and to maintain within the limits mentioned in the permit application.....

In addition, the construction project described above must be surrounded by a containment boom unless the Board of Harbor Commissioners for the Port of Portland has waived this requirement in writing, either as part of the above-listed conditions, or in a separate statement.

This permit is limited authorization, which contains a stated set of conditions with which the permit holder must comply. If a contractor performs the work for you, both you and the contractor are responsible for assuring that the work is done in conformance with the conditions and limitations of this authorization. Please be sure that the person who will be performing the work has read and understands these conditions.

Performing any work not specifically authorized by this permit, or that fails to comply with its conditions, may subject you to the enforcement provisions of Harbor Commission regulations. If any change in plans or construction methods is found necessary, please contact the Harbor Commission immediately to discuss modifications to your authorization. Any change must be approved by the Harbor Commission before it is undertaken.

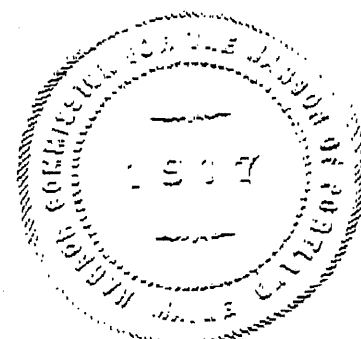
Nothing in this permit shall be construed to justify or authorize any invasion to the private rights of others. Moreover, nothing in this permit shall limit or modify the authority of the Board of Harbor Commissioners for the Harbor of Portland with its applicable statute. Attested copies will be submitted to the U. S. Army Corps of Engineers, the Department of Environmental protection, the City of Portland, and the City of South Portland.

The request for a waiver of Rule 16, Section 16.2 is authorized as requested.

In Witness Whereof, the members of the Board of Harbor Commissioners for the Harbor of Portland hereunto set their hands and affix their corporate seal on this 8<sup>th</sup> day of October 2009.

The work authorized to this permit must be completed on or before the 8<sup>th</sup> day of October 2010.

*[Signature]*  
 Jeff Luck By Direction  
 Harbor Master



Board of Harbor Commissioners for the Port of Portland

Post-it® Fax Note	7671	Date: 5/19/10	# of pages: 1
To: Ann Machado	From: Cathy Plante		
Co./Dept.: Planning	Co.:		
Phone #:	Phone #: 766-2508		
Fax #: 874 8716	Fax #: 766-2507		

THANK YOU, ANN I. Cathy

RECEIVED

MAY 19 2009

Dept. of Building Inspections  
 City of Portland Maine

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.

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. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved

by the Planning Division and Public Services Dept. prior to the release of the subdivision plat for recording at the Registry of Deeds or prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised subdivision or site plan application for staff review and approval.

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. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
7. 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.
8. 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. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact [Insert Planner's Name] at 874-

Sincerely,

Alexander Jaegerman  
Planning Division Director

**Attachments:**

1. (applicable staff memo's)
2. Chapter 32 – Storm Water
3. Performance Guarantee Packet

**Electronic Distribution:**

Penny St. Louis Littell, Director of  
Planning and Urban Development  
Alexander Jaegerman, Planning Division  
Director  
Barbara Barhydt, Development Review  
Services Manager  
\_\_\_\_\_, Planner/Senior Planner

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



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

COPY

REPLY TO:  
 ATTENTION OF:

**RECEIVED**  
 MAINE PROGRAMMATIC GENERAL PERMIT (PGP)  
 AUTHORIZATION LETTER AND SCREENING SUMMARY

MAY - 3 2010

Lionel Plante Associates  
 99 Island Avenue  
 Peaks Island, Maine 04108

Dept. of Building Inspections  
 City of Portland Maine

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

DESCRIPTION OF WORK:

To reconfigure the existing marina float system by extending the base float 30', and shifting the outer slips to the end. That work also includes the construction of 4' x 25' ramp leading to a 8' x 70' steel pile supported pier extending northwest in Diamond Island Roads off 99 Island Avenue at Peaks Island, Portland, Maine as shown on the attached plans in 4 sheets

SEE ATTACHED CONDITIONS

LAT-LONG COORDINATES : 43.65713072 N 70.199567781 W USGS QUAD: Portland East, ME

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. Your work is therefore authorized by the U.S. Army Corps of Engineers under the enclosed Federal Permit, the Maine Programmatic General Permit (PGP).

You must perform the activity authorized herein in compliance with all the terms and conditions of the PGP [including any attached Additional Special Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the enclosed PGP carefully including the PGP conditions beginning on page 7, to familiarize yourself with its contents. You are responsible for complying with all of the PGP requirements; therefore you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 38 of the PGP (page 15) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the PGP on October 11, 2010. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 11, 2011.

This authorization presumes the work shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, please submit a request for an approved jurisdictional determination in writing to the undersigned.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary. Also, this permit requires you to notify us before beginning work and allow us to inspect the project. Hence, you must complete and return the attached Work Start Notification Form(s) to this office no later than 2 weeks before the anticipated starting date. (For projects requiring mitigation, be sure to include the MITIGATION WORK START FORM).

II. STATE ACTIONS: PENDING [ X ] ISSUED [ ] DENIED [ ] DATE \_\_\_\_\_

APPLICATION TYPE: PBR: \_\_\_\_\_ TIER 1: \_\_\_\_\_ TIER 2: \_\_\_\_\_ TIER 3: X LURC: \_\_\_\_\_ DMR LEASE: \_\_\_\_\_ NA: \_\_\_\_\_

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: 8/7/08 LEVEL OF REVIEW: CATEGORY 1: \_\_\_\_\_ CATEGORY 2: X

AUTHORITY: SEC 10 X, 404 \_\_\_\_\_, 10/404 \_\_\_\_\_, 103 \_\_\_\_\_

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA\_NO \_\_\_\_\_, USF&WS\_NO \_\_\_\_\_, NMFS\_NO \_\_\_\_\_

If you have any questions on this matter, please contact my staff at 207-623-8367 at our Manchester, Maine Project Office.

Rodney A. Howe  
 RODNEY A. HOWE  
 SENIOR PROJECT MANAGER  
 MAINE PROJECT OFFICE

Frank J. Del Giudice 10/12/09  
 FRANK J. DEL GIUDICE DATE  
 CHIEF, PERMITS & ENFORCEMENT BRANCH  
 REGULATORY DIVISION



**US Army Corps  
of Engineers**®  
New England District

**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.

# APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

PLEASE TYPE OR PRINT IN BLACK INK ONLY

1. Name of Applicant:	Lionel Plante Associates		4. Name of Agent: (if applicable)	
2. Applicant's Mailing Address:	98 Island Ave Peaks Island Me		5. Agent's Mailing Address:	
3. Applicant's Daytime Phone #:	207-766-2508		6. Agent's Daytime Phone #:	
7. Location of Activity: (Nearest Road, Street, Rt.#)	98 Island Ave Peaks Island	8. Town:	Peaks Island	9. County: Cumberland - Me
10. Type of Resource: (Check all that apply)	<input type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input checked="" type="checkbox"/> Coastal Wetland <input type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain		11. Name of Resource:	Casco Bay
			12. Amount of Impact: (Sq.Ft.)	Fill: Dredging/Veg Removal/Other: 12 Steel Piling's
13. Type of Wetland: (Check all that apply)	<input type="checkbox"/> Forested <input type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input type="checkbox"/> Open Water <input checked="" type="checkbox"/> Other Casco Bay		FOR FRESHWATER WETLANDS	
			Tier 1	Tier 2
		<input checked="" type="checkbox"/> 0 - 4,999 sq ft	<input type="checkbox"/> 5,000-9,999 sq ft	<input type="checkbox"/> 10,000-14,999 sq ft
		<input type="checkbox"/> 15,000 - 43,560 sq. ft.	<input type="checkbox"/> > 43,560 sq. ft. or smaller than 43,560 sq. ft., not eligible for Tier 1	
14. Brief Activity Description:	Install seasonal slips at western end of the marina and install a 70x8' Berthing Pier for Marina work vessel. Pier built on 12" steel pilings with bolt on oak construction, I-Beam stringers with Box Beam cross members			
15. Size of Lot or Parcel:	<input checked="" type="checkbox"/> 39,440 square feet, or <input type="checkbox"/> acres			
16. Title, Right or Interest:	<input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement			
17. Deed Reference Numbers:	Book#: 10364	Page: 121	18. Map and Lot Numbers:	Map #: 84    Lot #: 1.8+9
19. DEP Staff Previously Contacted:	Doug Berdick		20. Part of a larger project:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    After-the-Fact: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
21. Resubmission of Application?	<input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No	If yes, previous application #:	Previous project manager:	
22. Written Notice of Violation?	<input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No	If yes, name of DEP enforcement staff involved:	23. Previous Wetland Alteration:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
24. Detailed Directions to the Project Site:	CBL ferry to Peaks Island, top of hill turn left approximately 1/2 mile down on left is Lionel Plante Associates / Peaks Island Marina - Map Included			
TIER 1		TIER 2/3 AND INDIVIDUAL PERMITS		
<input checked="" type="checkbox"/> Title, right or interest documentation	<input type="checkbox"/> Title, right or interest documentation	<input type="checkbox"/> Erosion Control/Construction Plan		
<input checked="" type="checkbox"/> Topographic Map	<input type="checkbox"/> Topographic Map	<input type="checkbox"/> Functional Assessment (Attachment 3), if required		
<input checked="" type="checkbox"/> Narrative Project Description	<input type="checkbox"/> Copy of Public Notice/Public Information Meeting Documentation	<input type="checkbox"/> Compensation Plan (Attachment 4), if required		
<input checked="" type="checkbox"/> Plan or Drawing (8 1/2" x 11")	<input type="checkbox"/> Wetlands Delineation Report (Attachment 1) that contains the Information listed under Site Conditions	<input type="checkbox"/> Appendix A and others, if required		
<input checked="" type="checkbox"/> Photos of Area	<input type="checkbox"/> Alternatives Analysis (Attachment 2) including description of how wetland impacts were Avoided/Minimized	<input type="checkbox"/> Statement/Copy of cover letter to MHPC		
<input checked="" type="checkbox"/> Statement of Avoidance & Minimization		<input type="checkbox"/> Description of Previously Mined Peatland, if required		
<input checked="" type="checkbox"/> Statement/Copy of cover letter to MHPC				
26. FEES: Amount Enclosed:				

CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2

**IMPORTANT: 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 :

**DEP SIGNATORY REQUIREMENT**

**PRIVACY ACT STATEMENT**

Authority: 33 USC 401, Section 10, 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed or a permit be issued.

**CORPS SIGNATORY REQUIREMENT**

USC Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. I authorize the Corps to enter the property that is subject to this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein.

**DEP SIGNATORY REQUIREMENT**

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

  
SIGNATURE OF AGENT/APPLICANT

Date: May 7, 2008

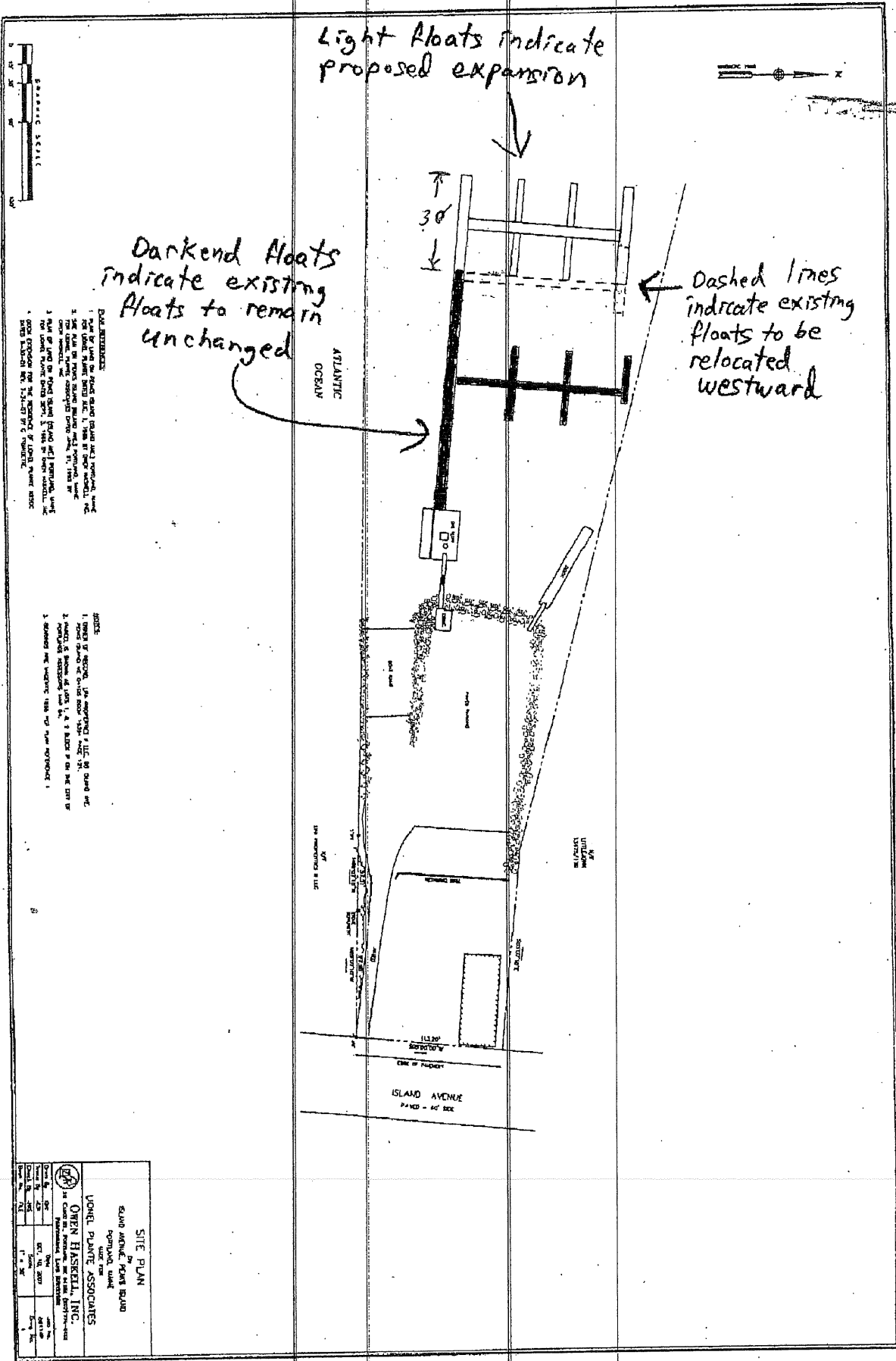
*NOTE: Any changes in activity plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the unapproved changes to the activity.*

(pink)









Light floats indicate proposed expansion

Darkend floats indicate existing floats to remain unchanged

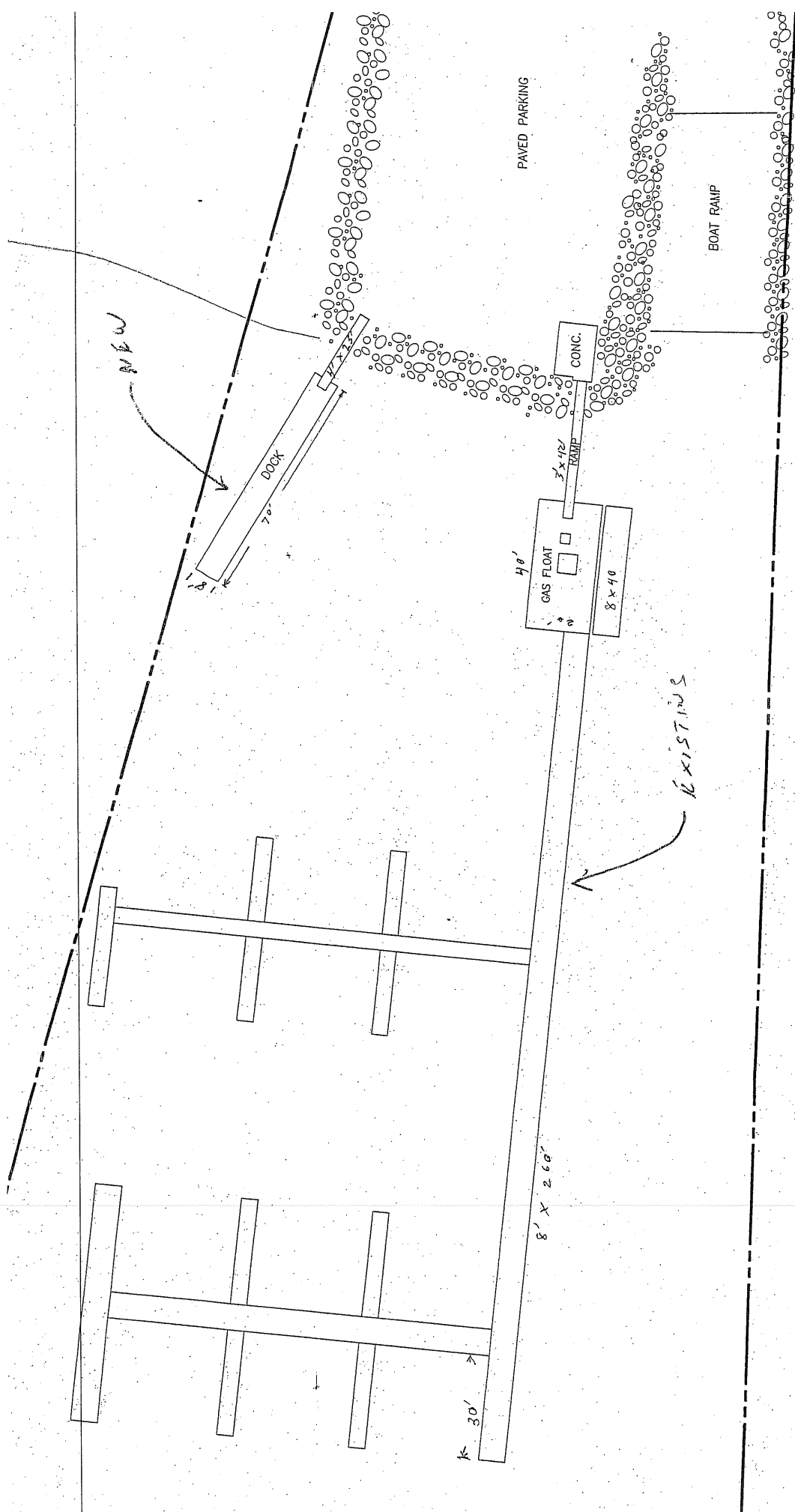
Dashed lines indicate existing floats to be relocated westward



**DATE REVISIONS:**  
 1. DATE: 10/15/2007  
 2. BY: J. H. HARRIS  
 3. REASON: REVISIONS TO THE PLAN TO REFLECT THE RESULTS OF THE PUBLIC HEARING HELD ON 10/10/2007.  
 4. DATE: 10/15/2007  
 5. BY: J. H. HARRIS  
 6. REASON: REVISIONS TO THE PLAN TO REFLECT THE RESULTS OF THE PUBLIC HEARING HELD ON 10/10/2007.

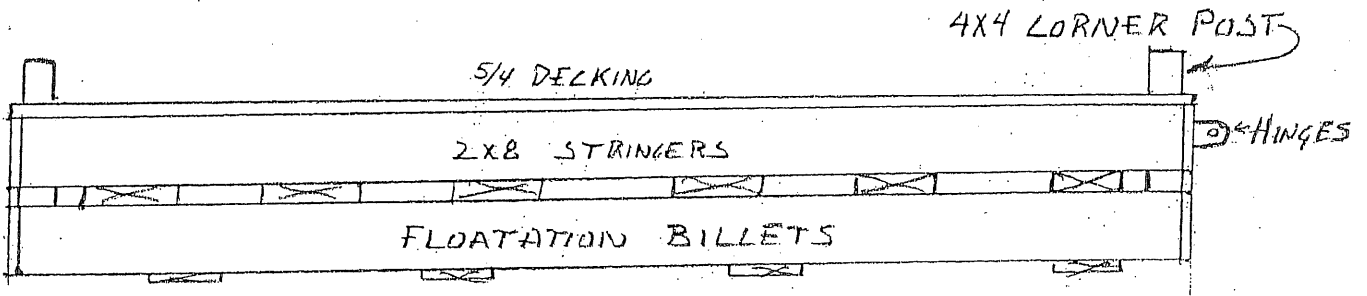
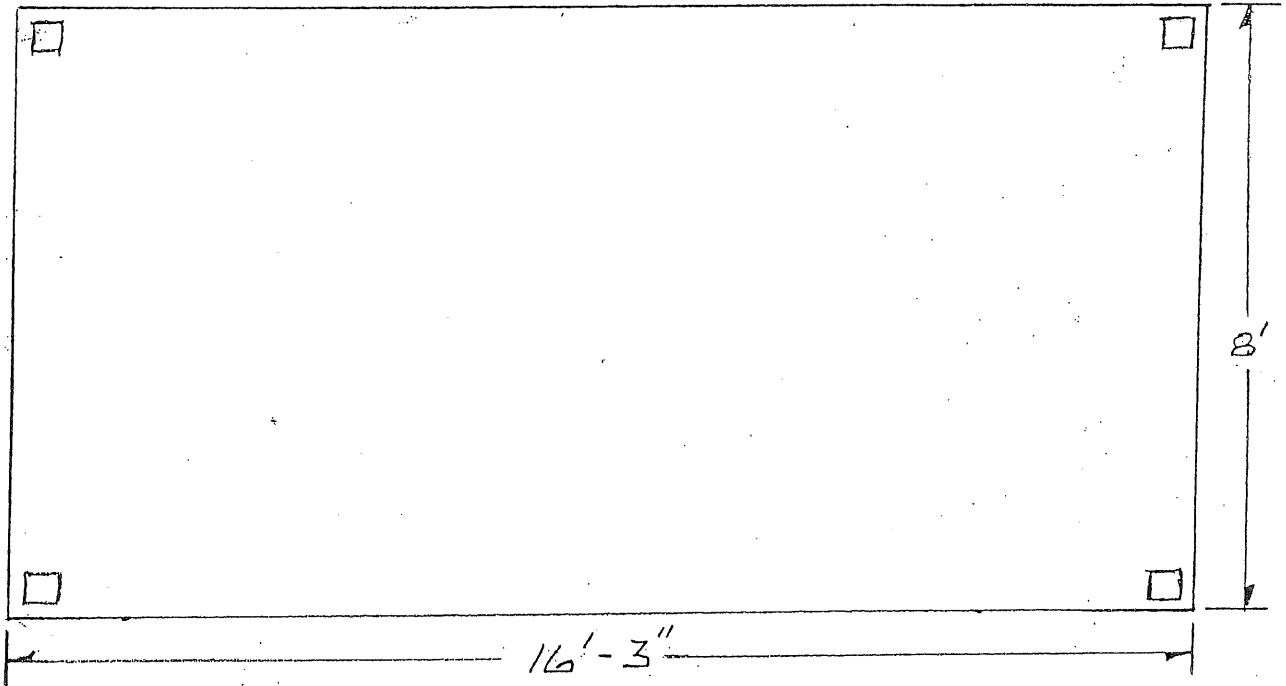
**NOTES:**  
 1. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE CITY OF CHARLOTTE.  
 2. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE STATE OF NORTH CAROLINA.  
 3. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE UNITED STATES DEPARTMENT OF COMMERCE.

SITE PLAN	
ISLAND AVENUE, CHARLOTTE, NC	
PREPARED BY: JONEL PLANT ASSOCIATES	
DATE: 10/15/2007	
DRAWN BY: J. H. HARRIS	
CHECKED BY: J. H. HARRIS	
SCALE: AS SHOWN	
PROJECT NO.: 07-001	
SHEET NO.: 1 OF 1	

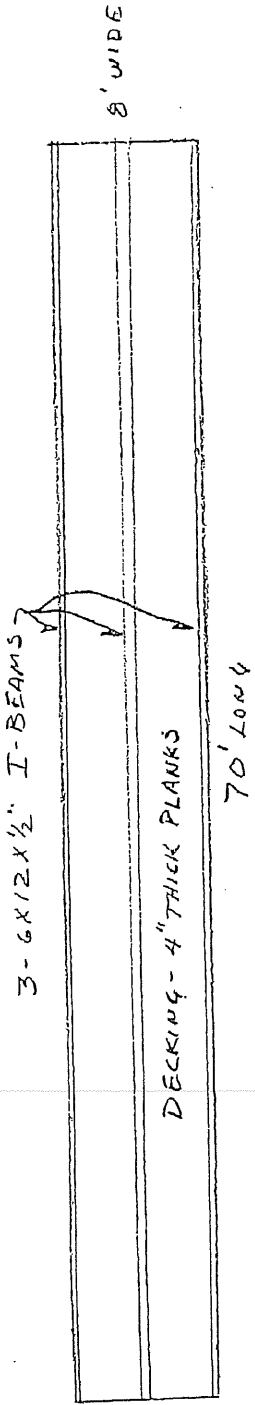
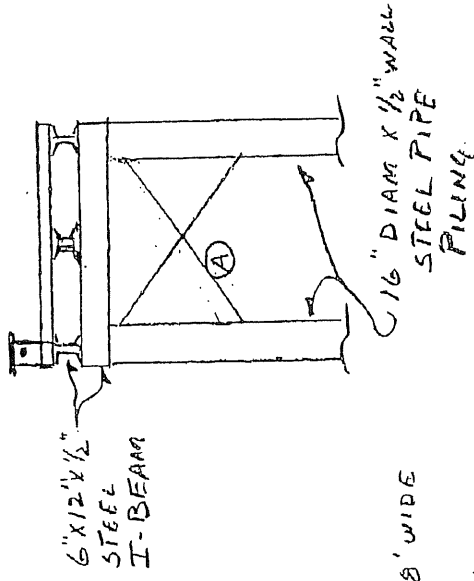
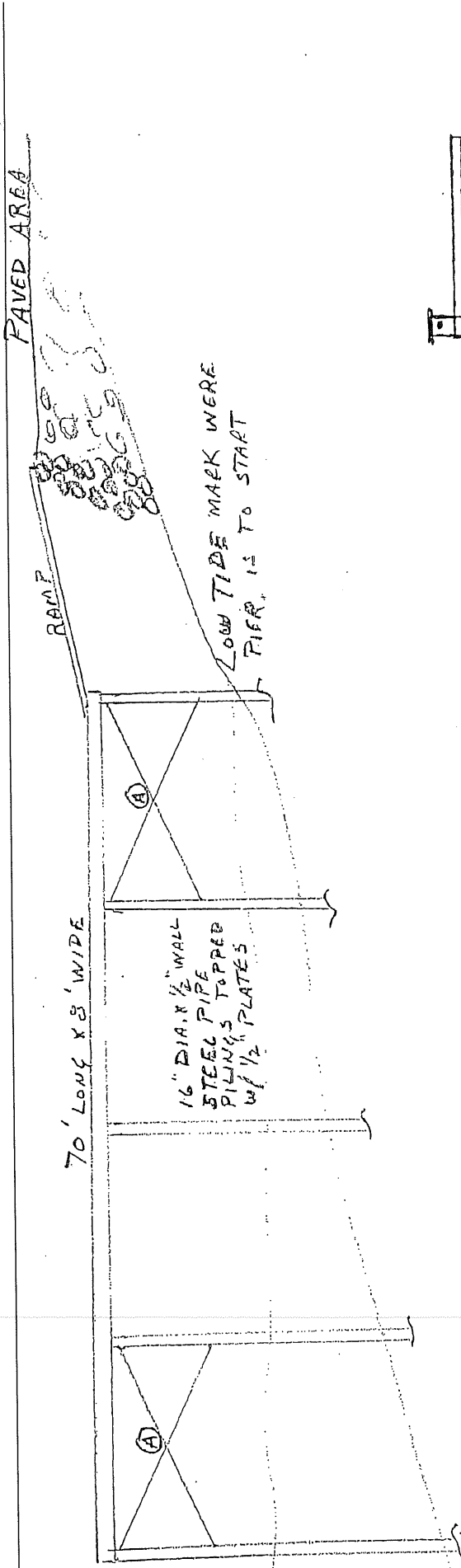


ATLANTIC  
OCEAN

FLOAT



Leon Plante Associates  
"Finger Floats"  
Peaks Island Marina



NOTE - (A) - 2' X 6" X 3/8" STEEL BOX BEAM CROSS BRACES WELDED TO PILING

B - ALL WELDED PARTS TO BE ABOVE LOW TIDE MARK

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.

**I. 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:

Category 1: 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,

Category 2: 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.

**II. 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 or 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 contained 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



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.

To 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 4345 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**

The following information may not be necessary for all projects. Please see [www.nae.usace.army.mil](http://www.nae.usace.army.mil) for a more comprehensive checklist. Select "Regulatory/Permitting," "Forms" and then "Application and Plan Guideline Checklist." Please check with our Maine office for project-specific requirements.

- (a) purpose of project;
- (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;
- (j) 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;
- (l) 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);
- (j) 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 commencement 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.

## 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

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 sub-contractors 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.

**8. 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
Aroostook River	Kennebec River	Patten Stream	Sheepscot River
Boyden River	Machias River	Penobscot River	St. Croix River
Dennys River	Narraguagus River	Pleasant River	Tunk Stream
Ducktrap River	Orland River	Presumpscot River	Union 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).

**13. 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.

**14. 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 opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause 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.

**17. 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



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](http://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.

(e) 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.

## **Procedural Conditions**

**28. Cranberry Development Projects.** For cranberry development projects authorized under the PGP, 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:

- (a) 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)

Aroostook Band of Micmacs

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

Houlton Band of Maliseet Indians

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)

Penobscot Indian Nation

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

**4. ORGANIZATIONAL WEBSITES:**

Army Corps of Engineers	<a href="http://www.nae.usace.army.mil">www.nae.usace.army.mil</a> (click "Regulatory/Permitting")
Corps of Engineers Headquarters	<a href="http://www.usace.army.mil">www.usace.army.mil</a> (click "Services for the Public")
Environmental Protection Agency	<a href="http://www.epa.gov/owow/wetlands/">www.epa.gov/owow/wetlands/</a>
National Marine Fisheries Service	<a href="http://www.nmfs.noaa.gov">www.nmfs.noaa.gov</a>
U.S. Fish and Wildlife Service	<a href="http://www.fws.gov">www.fws.gov</a>
National Park Service	<a href="http://www.nps.gov/rivers/index.html">www.nps.gov/rivers/index.html</a>
State of Maine	<a href="http://www.maine.gov">www.maine.gov</a>
State of Maine -Aquaculture Guidelines	<a href="http://www.maine.gov/dmr/aquaculture/index.htm">www.maine.gov/dmr/aquaculture/index.htm</a>

*for Christine Jeffrey* \_\_\_\_\_ *10-11-05*  
District Engineer Date

**APPENDIX A: DEFINITION OF CATEGORIES**

	<p><b>Inland Waters and Wetlands:</b> Waters that are regulated under Section 404 of the Clean Water Act, including rivers, streams, lakes, ponds and wetlands, and excluding Section 10 Navigable Waters of the U.S. The jurisdictional limits are the ordinary high water (OHW) mark in the absence of adjacent wetlands, beyond the OHW mark to the limit of adjacent wetlands when adjacent wetlands are present, and the wetland limit when only wetlands are present. For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands<sup>1</sup> to tidal waters are reviewed in the Navigable Waters section. (See II. Navigable Waters on the next page.)</p>		
	<p><b>CATEGORY 1</b></p>	<p><b>CATEGORY 2</b></p>	<p><b>INDIVIDUAL PERMIT</b></p>
<p><b>A. INLAND WATERS AND WETLANDS</b></p>	<p>&lt;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.]</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> <li>• In-stream (e.g., rivers, streams, brooks, etc.) work limited to Jul 15 - Oct 1</li> <li>• 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.</li> <li>• Waterway crossings shall comply with GC 22.</li> <li>• Projects covered by a DEP Tier One permit with no cumulative impacts &gt;15,000 SF in inland wetlands from previous permits, unauthorized work, and/or other state permits.</li> <li>• Subdivision fill complies with GC 5, Single and Complete Projects (see Page 7).</li> </ul> <p><u>This category excludes:</u></p> <ul style="list-style-type: none"> <li>• Dams, dikes or activities involving water diversions.<sup>2</sup></li> <li>• Non-State approved sediment releases/sluices from dams.</li> <li>• Open trench excavation in flowing waters (see GC 22, Page 12).</li> </ul>	<p>4,300 SF to &lt;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.)</p> <p><u>Includes:</u> 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.</p> <p>Projects with proactive restoration as a primary purpose with impacts of any area ≥4,300 SF. The Corps, in consultation with State &amp; Federal agencies, must determine that net adverse effects are not more than minimal.</p> <p>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.</p>	<p>≥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).<sup>5</sup></p> <p>EIS required by the Corps.</p> <p>In-stream work exceeding Category 2 limits.</p>
		<p align="center">1</p>	<p align="right">October 11, 2005</p>



## APPENDIX A: DEFINITION OF CATEGORIES

<p><b>A. INLAND WATERS AND WETLANDS</b></p>	<p><b>Inland Waters and Wetlands:</b> Waters that are regulated under Section 404 of the Clean Water Act, including rivers, streams, lakes, ponds and wetlands, and excluding Section 10 Navigable Waters of the U.S. The jurisdictional limits are the ordinary high water (OHW) mark in the absence of adjacent wetlands, beyond the OHW mark to the limit of adjacent wetlands when adjacent wetlands are present, and the wetland limit when only wetlands are present. For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands' to tidal waters are reviewed in the Navigable Waters section. (See II. Navigable Waters on the next page.)</p>		
<p><b>CATEGORY 1</b></p>	<p><b>CATEGORY 2</b></p>	<p><b>INDIVIDUAL PERMIT</b></p>	
<p>(a) NEW FILL/ EXCAVATION DISCHARGES</p>	<p>&lt;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.]</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> <li>• In-stream (e.g., rivers, streams, brooks, etc.) work limited to Jul 15 - Oct 1</li> <li>• 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.</li> <li>• Waterway crossings shall comply with GC 22.</li> <li>• Projects covered by a DEP Tier One permit with no cumulative impacts &gt;15,000 SF in inland wetlands from previous permits, unauthorized work, and/or other state permits.</li> <li>• Subdivision fill complies with GC 5, Single and Complete Projects (see Page 7).</li> </ul> <p><u>This category excludes:</u></p> <ul style="list-style-type: none"> <li>• Dams, dikes or activities involving water diversions.<sup>2</sup></li> <li>• Non-State approved sediment releases/sluides from dams.</li> <li>• Open trench excavation in flowing waters (see GC 22, Page 12).</li> </ul>	<p>≥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).<sup>5</sup></p> <p>EIS required by the Corps.</p> <p>In-stream work exceeding Category 2 limits.</p>	
	<p>4,300 SF to &lt;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.)</p> <p><u>Includes:</u> 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.</p> <p>Projects with proactive restoration as a primary purpose with impacts of any area ≥4,300 SF. The Corps, in consultation with State &amp; Federal agencies, must determine that net adverse effects are not more than minimal.</p> <p>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.</p>	<p>1</p>	

**II. NAVIGABLE WATERS**

**Navigable Waters of the United States.** Waters that are subject to the ebb and flow of the tide and Federally designated navigable rivers (the Penobscot River, Kennebec River, and Lake Umbagog) (Section 10 Rivers and Harbors Act of 1899). The jurisdictional limits are the mean high water (MHW) line in tidal waters and the ordinary high water (OHW) mark in non-tidal portions of the Federally designated navigable rivers. For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands<sup>1</sup> to tidal waters are also reviewed in this Navigable Waters section.

<b>INDIVIDUAL PERMIT</b>	<b>CATEGORY 2</b>	<b>CATEGORY 1</b>	<b>INDIVIDUAL PERMIT</b>
<p>≥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.</p> <p>Temporary fill or excavation ≥1 acre in SAS<sup>4</sup>.</p> <p>Permanent fill or excavation ≥1,000 SF in SAS<sup>4</sup> other than as specified in Cat. 2</p> <p>EIS required by the Corps.</p>	<p>&lt;1 acre fill and/or secondary waterway impacts (e.g., areas drained, flooded or cleared). Fill includes temporary and permanent waterway fill.</p> <p>Temporary fill or excavation &lt;1 acre in SAS<sup>4</sup>.</p> <p>Permanent fill or excavation &lt;1,000 SF in SAS<sup>4</sup>.</p> <p>Permanent fill and/or excavation ≥1,000 SF in SAS<sup>5</sup> when associated with a project with proactive restoration as a primary purpose. The Corps, in consultation with Federal &amp; state agencies, must determine that net adverse effects are not more than minimal.</p> <p>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.</p>	<p>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.</p>	<p>Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fill, with replacement or expansion ≥1 acre.</p>
<p>(a) FILL</p>			
<p>(b) REPAIR AND MAINTENANCE WORK</p>	<p>Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fills, with fill, replacement or expansion &lt;1 acre, or with a change in use.</p>	<p>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<sup>6</sup></p>	

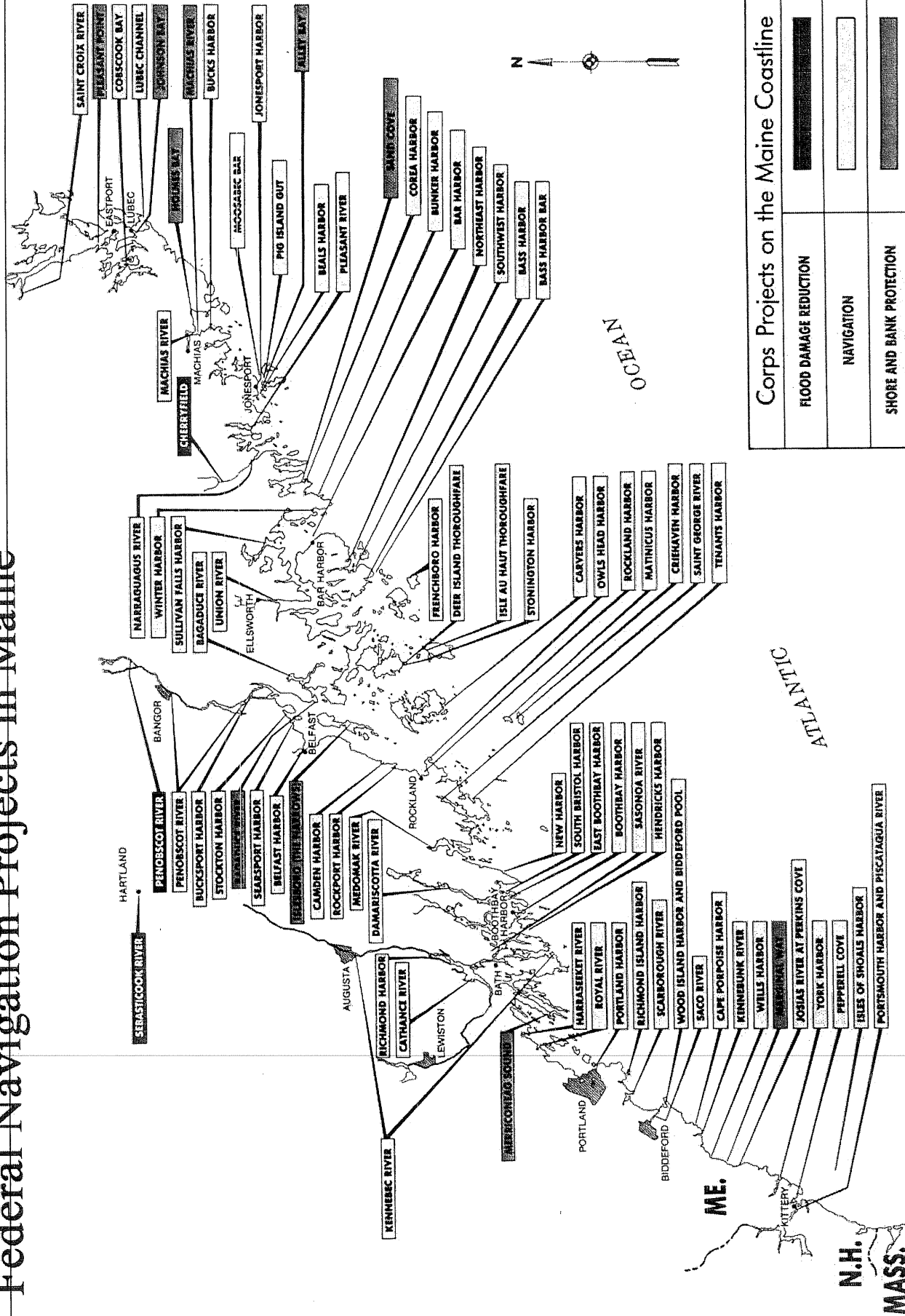
**II. NAVIGABLE WATERS**  
**Navigable Waters of the United States:** Waters that are subject to the ebb and flow of the tide and Federally designated navigable rivers (the Penobscot River, Kennebec River, and Lake Umbagog) (Section 10 Rivers and Harbors Act of 1899). The jurisdictional limits are the mean high water (MHW) line in tidal waters and the ordinary high water (OHW) mark in non-tidal portions of the Federally designated navigable rivers. For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands<sup>1</sup> to tidal waters are also reviewed in this Navigable Waters section.

<b>CATEGORY 1</b>	<b>CATEGORY 2</b>	<b>INDIVIDUAL PERMIT</b>
<p>(a) FILL</p> <p>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.</p>	<p>&lt;1 acre fill and/or secondary waterway impacts (e.g., areas drained, flooded or cleared). Fill includes temporary and permanent waterway fill.</p> <p>Temporary fill or excavation &lt;1 acre in SAS<sup>4</sup>.</p> <p>Permanent fill or excavation &lt;1,000 SF in SAS<sup>4</sup>.</p> <p>Permanent fill and/or excavation ≥1,000 SF in SAS<sup>5</sup> when associated with a project with proactive restoration as a primary purpose. The Corps, in consultation with Federal &amp; state agencies, must determine that net adverse effects are not more than minimal.</p> <p>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.</p>	<p>≥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.</p> <p>Temporary fill or excavation ≥1 acre in SAS<sup>4</sup>.</p> <p>Permanent fill or excavation ≥1,000 SF in SAS<sup>4</sup> other than as specified in Cat. 2</p> <p>EIS required by the Corps.</p>
<p>(b) REPAIR AND MAINTENANCE WORK</p> <p>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<sup>6</sup></p>	<p>Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fills, with fill, replacement or expansion &lt;1 acre, or with a change in use.</p>	<p>Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fill, with replacement or expansion ≥1 acre.</p>

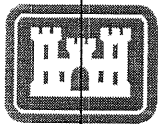
	CATEGORY I	CATEGORY 2	INDIVIDUAL PERMIT
(e) STRUCTURES AND FLOATS	<p>Reconfiguration of existing authorized structures or floats.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> <li>Structures not positioned over vegetated shallows<sup>8</sup> or salt marsh.</li> <li>Floats supported off substrate at low tide.</li> <li>No dredging, additional slips or expansion.</li> <li>No work affects threatened or endangered species (see GC 10, Page 9) or EFH salmon migration (see GC 11, Page 9).</li> </ul>	<p>Private structures or floats, including floatways/skidways, built to access waterway (seasonal and permanent)</p> <p>Expansions to existing boating facilities<sup>7</sup>.</p> <p>Compliance with the following is recommended, but not required:</p> <ul style="list-style-type: none"> <li>Pile-supported structures &lt;400 SF, with attached floats totaling ≤200 SF.</li> <li>Bottom anchored floats ≤200 SF.</li> <li>Structures are ≤4' wide and have at least a 1:1 height:width ratio<sup>11</sup>.</li> <li>Floats supported above the substrate during all tides.</li> <li>Structures &amp; floats not located within 25' of any vegetated shallows<sup>8</sup>.</li> <li>Moored vessels not positioned over SAS<sup>4</sup>.</li> <li>No structure located within 25' of the riparian property boundary.</li> <li>No structure extends across &gt;25% of the waterway width at mean low water.</li> <li>Not located within the buffer zone of the horizontal limits<sup>10</sup> of a Corps Federal Navigation Project (FNP) (See App. B). The buffer zone is equal to three times the authorized depth of that FNP.</li> </ul>	<p>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).</p> <p>Structures and floats associated with a new or previously unauthorized boating facility<sup>7</sup>.</p> <p>Note: Federal Navigation Projects include both Federal Channels and Federal Anchorages.</p>
(f) MISCELLANEOUS	<p>Temporary buoys, markers, floats, etc. for recreational use during specific events, provided they are removed within 30 days after use is discontinued.</p> <p>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)."</p>	<p>Structures or work in or affecting tidal or navigable waters, that are not defined under any of the previous headings listed above. 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.</p>	<p>EIS required by the Corps.</p> <p>Shellfish/fmfish (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.</p>

	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(e) STRUCTURES AND FLOATS	<p>Reconfiguration of existing authorized structures or floats.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> <li>Structures not positioned over vegetated shallows<sup>8</sup> or salt marsh.</li> <li>Floats supported off substrate at low tide.</li> <li>No dredging, additional slips or expansion.</li> <li>No work affects threatened or endangered species (see GC 10, Page 9) or EFH salmon migration (see GC 11, Page 9).</li> </ul>	<p>Private structures or floats, including floatways/skidways, built to access waterway (seasonal and permanent)</p> <p>Expansions to existing boating facilities<sup>7</sup>.</p> <p>Compliance with the following is recommended, but not required:</p> <ul style="list-style-type: none"> <li>Pile-supported structures &lt;400 SF, with attached floats totaling ≤200 SF.</li> <li>Bottom anchored floats ≤200 SF.</li> <li>Structures are ≤4' wide and have at least a 1:1 height:width ratio<sup>11</sup>.</li> <li>Floats supported above the substrate during all tides.</li> <li>Structures &amp; floats not located within 25' of any vegetated shallows<sup>8</sup>.</li> <li>Moored vessels not positioned over SAS<sup>4</sup>.</li> <li>No structure located within 25' of the riparian property boundary.</li> <li>No structure extends across &gt;25% of the waterway width at mean low water.</li> <li>Not located within the buffer zone of the horizontal limits<sup>10</sup> of a Corps Federal Navigation Project (FNP) (See App. B). The buffer zone is equal to three times the authorized depth of that FNP.</li> </ul>	<p>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).</p> <p>Structures and floats associated with a new or previously unauthorized boating facility<sup>7</sup>.</p> <p>Note: Federal Navigation Projects include both Federal Channels and Federal Anchorages.</p>
(f) MISCELLANEOUS	<p>Temporary buoys, markers, floats, etc. for recreational use during specific events, provided they are removed within 30 days after use is discontinued.</p> <p>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)."</p>	<p>Structures or work in or affecting tidal or navigable waters, that are not defined under any of the previous headings listed above. 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.</p>	<p>EIS required by the Corps.</p> <p>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.</p>

# Federal Navigation Projects in Maine



Corps Projects on the Maine Coastline	
FLOOD DAMAGE REDUCTION	
NAVIGATION	
SHORE AND BANK PROTECTION	



**US Army Corps  
of Engineers** ®  
New England District

**WORK-START NOTIFICATION FORM**  
(Minimum Notice: Two weeks before work begins)

\*\*\*\*\*  
 \* MAIL TO: U.S. Army Corps of Engineers, New England District \*  
 \* Policy Analysis/Technical Support Branch \*  
 \* Regulatory Division \*  
 \* 696 Virginia Road \*  
 \* Concord, Massachusetts 01742-2751 \*  
 \*\*\*\*\*

Corps of Engineers Permit No. NAE-2008-02465 was issued to Lionel Plante Associates. The permit authorized the permittee to reconfigure the existing marina float system by extending the base float 30' and shifting the outer slips to the end. That work also includes the construction of 4' x 25' ramp leading to a 8' x 70' steel pile supported pier extending northwest in Diamond Island Roads off 99 Island Avenue at Peaks Island, Portland, Maine. The people (e.g., contractor) listed below will do the work, and they understand the permit's conditions and limitations.

**PLEASE PRINT OR TYPE**

Name of Person/Firm: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Numbers: ( ) \_\_\_\_\_ ( ) \_\_\_\_\_

Proposed Work Dates: Start \_\_\_\_\_ Finish \_\_\_\_\_

Permittee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

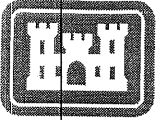
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**FOR USE BY THE CORPS OF ENGINEERS**

PM: \_\_\_\_\_ Submittals Required: \_\_\_\_\_

Inspection Recommendation: \_\_\_\_\_

\_\_\_\_\_



**US Army Corps  
of Engineers**®  
New England District

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

**COMPLIANCE CERTIFICATION FORM**

**USACE Project Number:** NAE-2008-02465

**Name of Permittee:** Lionel Plante Associates

**Permit Issuance Date:** \_\_\_\_\_

Please sign this certification and return it to the following address upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

\*\*\*\*\*

* MAIL TO: U.S. Army Corps of Engineers, New England District	*
* Policy Analysis/Technical Support Branch, ATTN: Marie Farese	*
* Regulatory Division	*
* 696 Virginia Road	*
* Concord, Massachusetts 01742-2751	*

\*\*\*\*\*

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

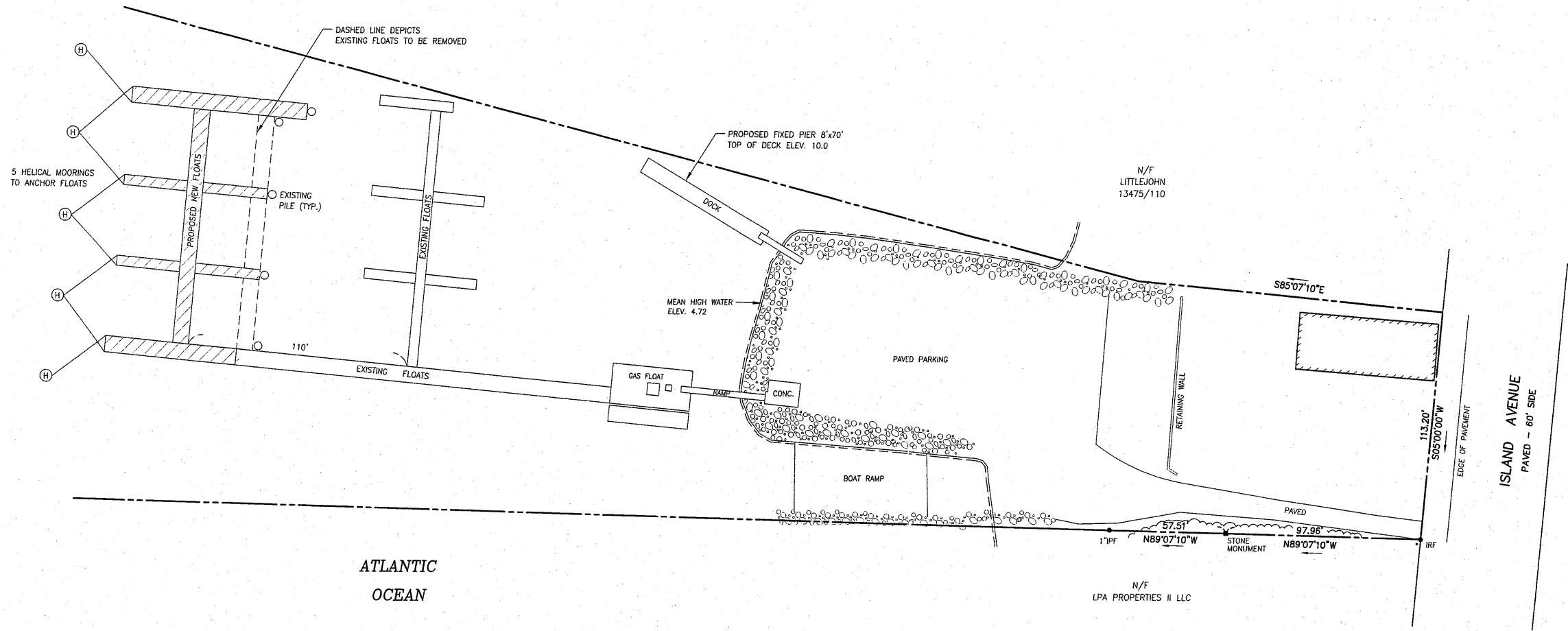
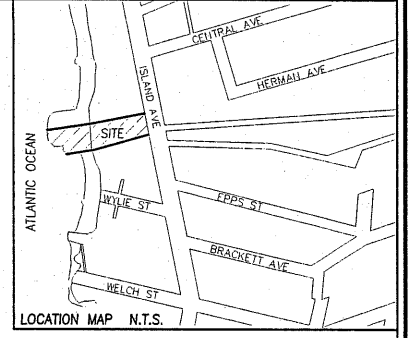
**I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.**

\_\_\_\_\_  
**Signature of Permittee Date**

\_\_\_\_\_  
Printed Name Date of Work Completion

( ) \_\_\_\_\_  
**Telephone Number**





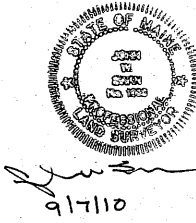
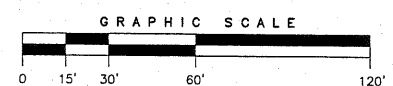
ATLANTIC OCEAN

**PLAN REFERENCES:**

1. PLAN OF LAND ON PEAKS ISLAND (ISLAND AVE.) PORTLAND, MAINE FOR LIONEL PLANTE DATED AUG. 1, 1986 BY OWEN HASKELL, INC.
2. SITE PLAN ON PEAKS ISLAND (ISLAND AVE.) PORTLAND, MAINE FOR LIONEL PLANTE ASSOCIATES DATED APRIL 21, 1993 BY OWEN HASKELL, INC.
3. PLAN OF LAND ON PEAKS ISLAND (ISLAND AVE.) PORTLAND, MAINE FOR LIONEL PLANTE DATED SEPT. 3, 1986 BY OWEN HASKELL, INC.
4. DOCK EXTENSION FOR THE RESIDENCE OF LIONEL PLANTE ASSOC. DATED 8-30-01 REV. 7-24-07 BY G. FRANDETTE.

**NOTES:**

1. OWNER OF RECORD: LPA PROPERTIES II LLC, 98 ISLAND AVE. PEAKS ISLAND ME 04108 BOOK 16364 PAGE 121.
2. PARCEL IS SHOWN AS LOTS 1, 8, 9 BLOCK P ON THE CITY OF PORTLANDS ASSESSORS MAP 84.
3. BEARINGS ARE MAGNETIC 1986 PER PLAN REFERENCE 1.
4. ALL ELEVATIONS ARE BASED ON NGVD 1929 SEA LEVEL DATUM.
5. EXISTING PILINGS TO REMAIN AS SHOWN.
6. PROPERTY IS LOCATED IN FLOOD ZONE A-2 WITH BASE FLOOD ELEVATION OF 9.0



**SITE PLAN**  
ON  
ISLAND AVENUE, PEAKS ISLAND  
PORTLAND, MAINE  
MADE FOR  
**LIONEL PLANTE ASSOCIATES**

**OWEN HASKELL, INC.**  
16 CASCO ST., PORTLAND, ME 04101 (207) 774-0424  
PROFESSIONAL LAND SURVEYORS

Drwn By	OHI	Date	Job No.
Trace By	JLW	AUGUST 31, 2010	86114P
Check By	JWS	Scale	Drwg. No.
Book No.	FILE	1" = 30'	1