

CITY OF PORTLAND, MAINE  
DEVELOPMENT REVIEW APPLICATION  
PLANNING DEPARTMENT PROCESSING FORM  
DRC Copy

2001-0066  
Application I. D. Number  
04/24/2001  
Application Date  
Whaleback Rd,  
Project Name/Description

Kamath Enterprises LLC  
Applicant  
54 Rowena Rd , Newton , MA 02159  
Applicant's Mailing Address  
Cottage Design Co, LLC  
Consultant/Agent  
Agent Ph: (207)828-3900 Agent Fax:  
Applicant or Agent Daytime Telephone, Fax

#27  
Whaleback Rd, Portland, Maine  
Address of Proposed Site  
089 F002001  
Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply):  New Building  Building Addition  Change Of Use  Residential  Office  Retail  
 Manufacturing  Warehouse/Distribution  Parking Lot  Other (specify) w/ attached deck

4901  
Proposed Building square Feet or # of Units \_\_\_\_\_ Acreage of Site \_\_\_\_\_ Zoning \_\_\_\_\_

Check Review Required:

- |  |   |  |  |
|--|---|--|--|
| <input checked="" type="checkbox"/> Site Plan<br>(major/minor) | <input type="checkbox"/> Subdivision<br># of lots _____ | <input type="checkbox"/> PAD Review            | <input type="checkbox"/> 14-403 Streets Review   |
| <input type="checkbox"/> Flood Hazard                          | <input type="checkbox"/> Shoreland                      | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional<br>Use (ZBA/PB)    | <input type="checkbox"/> Zoning Variance                |  | <input type="checkbox"/> Other _____             |

Fees Paid: Site Plan \$50.00 Subdivision \_\_\_\_\_ Engineer Review \$250.00 Date 04/27/2001

DRC Approval Status:

Reviewer Jay Reynolds

- Approved  Approved w/Conditions See Attached  Denied

Approval Date 05/22/2001 Approval Expiration 05/22/2002 Extension to \_\_\_\_\_  Additional Sheets Attached

Condition Compliance Jay Reynolds signature 05/22/2001 date

Performance Guarantee  Required\*  Not Required

\* No building permit may be issued until a performance guarantee has been submitted as indicated below

<input type="checkbox"/> Performance Guarantee Accepted	_____	_____	_____
	date	amount	expiration date
<input type="checkbox"/> Inspection Fee Paid	_____	_____	
	date	amount	
<input type="checkbox"/> Building Permit Issue	_____		
	date		
<input type="checkbox"/> Performance Guarantee Reduced	_____	_____	_____
	date	remaining balance	signature
<input type="checkbox"/> Temporary Certificate of Occupancy	_____	<input type="checkbox"/> Conditions (See Attached)	_____
	date		expiration date
<input type="checkbox"/> Final Inspection	_____	_____	
	date	signature	
<input type="checkbox"/> Certificate Of Occupancy	_____		
	date		
<input type="checkbox"/> Performance Guarantee Released	_____	_____	
	date	signature	
<input type="checkbox"/> Defect Guarantee Submitted	_____	_____	_____
	submitted date	amount	expiration date
<input type="checkbox"/> Defect Guarantee Released	_____	_____	
	date	signature	

**CITY OF PORTLAND, MAINE  
DEVELOPMENT REVIEW APPLICATION  
PLANNING DEPARTMENT PROCESSING FORM  
ADDENDUM**

2001-0066

Application I. D. Number

04/24/2001

Application Date

Whaleback Rd,

Project Name/Description

Kamath Enterprises Llc

Applicant

54 Rowena Rd , Newton , MA 02159

Applicant's Mailing Address

Cottage Design Co, LLC

Consultant/Agent

Agent Ph: (207) 828-3900

Agent Fax:

Applicant or Agent Daytime Telephone, Fax

Whaleback Rd, Portland, Maine

Address of Proposed Site

089 F002001

Assessor's Reference: Chart-Block-Lot

**Approval Conditions of DRC**

- 1 SIDESLOPES THAT EXCEED 3 TO 1 (33%) SHALL BE RIP-RAP OR APPROVED EQUAL
- 2 DRIVEWAYS MUST BE AT 12' WIDTH MINIMUM
- 3 All damage to sidewalk, curb, street, or public utilities shall be repaired to City of Portland standards prior to issuance of a Certificate of Occupancy.
- 4 Two (2) City of Portland approved species and size trees must be planted on your street frontage prior to issuance of a Certificate of Occupancy.
- 5 Your new street address HAS NOT BEEN ASSIGNED TO DATE, the number must be displayed on the street frontage of your house prior to issuance of a Certificate of Occupancy. *27 Whaleback Rd*
- 6 The Development Review Coordinator (874-8632) must be notified five (5) working days prior to date required for final site inspection. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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.
- 7 A street opening permit(s) is required for your site. Please contact Carol Merritt ay 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
- 8 As-built record information for sewer and stormwater connections must be submitted to Public Works Engineering Section (55 Portland Street) and approved prior to issuance of a Certificate of Occupancy.
- 9 The site contractor shall establish finish grades at the foundation, bulkhead and basement windows to be in conformance with the first floor elevation (FFE) and sill elevation (SE) set by the building contractor to provide for positive drainage away from entire footprint of building.
- 10 The Development Review Coordinator reserves the right to require additional lot grading or other drainage improvements as necessary due to field conditions.

JMS  
Zoning Division  
Marge Schmuckal  
Zoning Administrator

Department of Urban Development  
Joseph E. Gray, Jr.  
Director



## CITY OF PORTLAND

May 8, 2001

Ric Weinschenk Builders  
60 Willow Lane  
Portland, ME 04103

RE: Whaleback Road, Peaks Island - 089-F-002 - IR-1 zone

Dear Ric,

I am in receipt of your permit application received on April 24, 2001. I also appreciate your time that you stopped in our office to help explain the complexities of this construction project. Based on all this information, I am denying your application for two reasons as outlined below.

First, you are not meeting the maximum height requirement of 35 feet [section 14- 145.5(6)]. Your proposed height would be approximately 41 feet. I am basing that interpretation on the existing grade around the existing structure. I am considering the very elaborate, existing bunker a structure. I do not believe that it serves as just a foundation for this proposed single family dwelling. It is an actual bunker (Battery Craven) with internal walls and rooms. Although it is true that loam has been mounded up and around it for purposes of war- time concealment, I believe that it is a structure in itself. Therefore the entering grades around this concealed bunker, should more accurately be used for the grade base measurements than the roof of the bunker.

Secondly, the proposed pool is located within the front yard. Section 14-432 states that no swimming pool shall be sited in the front yard. It does not state the required front yard. There is a difference. The definition (section 14-47) of "yard, front" is, "a yard adjoining the front lot line, extending between side lot lines, the depth of which shall be the least distance between the front lot line and any structure." A further reading of the rear and side yards definitions show that your pool would be considered to be within the front yard and not the side yard.

Please note that you have the right to appeal my interpretations under section 14-472. If you wish to exercise your right to appeal, you have 30 days from the date of this letter in which to do so. I have included all the information that you would need to file an appeal.

Very truly yours,



Marge Schmittickal  
Zoning Administrator

Cc: Kamath Enterprises c/o Dr. Brian Pereira, 54 Rowena Rd., Newton, MA 02459  
Mark Adelson, Housing and Neighborhood Services  
Alex Jaegerman, Planning  
Sarah Hopkins, Planning  
Jay Reynolds, Planning  
Penny Littell, Corporation Counsel  
Tom Fortier, Peaks Island Co-ordinator  
File



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

OCT 8 2002

ANGUS S. KING, JR.  
GOVERNOR

MARTHA KIRKPATRICK  
COMMISSIONER

October 2, 2002

Dr. Jeffrey Robbins  
586 Seashore Drive  
Peaks Island, Maine 04108

Dear Dr. Robbins:

I appreciate your concern about your well and, as requested, have reviewed the Department's activities relevant to Battery Cravens and the Pereira property. I have concluded that the environmental issues have been appropriately addressed and that no further study or remedial action is warranted. Since I expect that this is not the response you sought, I believe that it is important to explain the rationale behind it.

To address the issue of immediate risk from possible well water contamination, we undertook thorough testing. Water samples from your well and the Faison properties have been tested by the State Health and Environmental Testing Laboratory as well as by the lab you chose. The testing procedures used at H.E.T.L. were the most sensitive methods available. No organic compounds or fuel constituents were found.

We also conducted tests to assess the likelihood of future contamination. We did find relatively low concentrations of organic compounds in soils both on the Battery Cravens site and on the side of Whaleback Road opposite Battery Cravens. However, both the location and nature of the compounds in the soils indicate that the presence of the compounds is not due to recent activities. Instead, past activity in the larger area may be responsible for these residuals. Consequently, any constituents likely to leach into ground water would have long ago migrated away from the immediate vicinity.

To further reduce possibility of future threats, your neighbor, Dr. Pereira, voluntarily removed soil containing higher concentrations of the compounds detected in the vicinity from his property. The soil was taken from those areas on site where leaching to ground water or exposure through dermal contact could occur. Because the activity was conducted to the Department's satisfaction, under the state's Voluntary Response Action Program (38 M.R.S.A § 343-E) no further action will be required.

Throughout this process, the Department has made every effort to be sensitive to your concerns and to gain a clear understanding of the situation. To that end, many hours of staff time and over \$27,000 of publicly held funds have been expended to date. I believe that the interactions and interventions have been appropriate to correctly evaluate the environmental status of the site, and address the risks.

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688  
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) 764-0477 FAX: (207) 764-1507

# PIERCE ATWOOD

## FAX COVER SHEET

---

To: Alex Jaegerman ✓  
 Entity: City of Portland  
 Fax Number: (207) 756-8258  
 Voice Number: (207) 874-8720  
 From: Matt Manahan  
 Date and Time: October 4, 2002 12:28 PM  
 Total Pages: 9

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**Message:**

*Sarah - please file this  
or Jay -*

*Jay,  
do you have a file?*

*S*

Any message on this fax cover sheet, and any accompanying materials, may contain confidential, secret or privileged information, the disclosure, copying, or further dissemination of which is strictly prohibited under applicable law. Therefore, if this fax cover sheet is not addressed to you or if this fax cover sheet is addressed to you, but the accompanying materials do not appear to be intended for you, please do not read, copy or disseminate either any message on the fax cover sheet or the accompanying materials. Instead, please call us collect at 207.791-1279, and we will make arrangements for return of these materials at our expense.

***If you are having difficulties in receiving this, please call us at 207.791-1279. Thank you.***

For Pierce Atwood Office Use Only  
Client-Matter Number: 19797-2743

(1)

**PIERCE  
ATWOOD**  
ATTORNEYS AT LAW**Matthew D. Manahan**One Monument Square  
Portland, ME 04101207-791-1189 voice  
207-791-1350 fax  
mmanahan@pierreatwood.com  
pierreatwood.com

October 4, 2002

VIA HAND DELIVERYMichael Nugent  
Manager of Building Inspections  
City of Portland  
389 Congress Street, Room 315  
Portland, ME 04101

RE: Battery Cravens

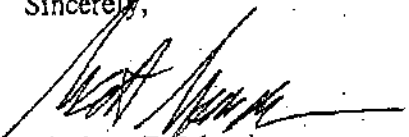
Dear Mike:

Following up on your July 30, 2002 letter to me in this matter, I enclose a copy of the Certificate of Completion ("COC") issued today by the Maine Department of Environmental Protection. As you will see, the COC concludes that "the soils remaining at the property do not pose a threat to public health or the environment." Based on this conclusion, and because the property now has been fully loamed and seeded, we request that the City issue to the Pereiras a certificate of occupancy ("CO") for the property.

Because Brian Pereira's elderly parents are visiting this weekend from India, and the Pereiras would like their parents to stay at the property with them, we request that the City issue the CO today, if at all possible.

Thank you for your assistance with this matter.

Sincerely,

  
Matthew D. Manahan

Enclosure

cc: Joseph Gray  
Alex Jaegerman  
Mark Adelson

Tom Fortier  
Penny Littell, Esq.  
John B. Wathen  
Nicholas J. Hodgkins  
Dr. Brian J. G. Pereira





STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STATE HOUSE STATION 17      AUGUSTA, MAINE 04833

DEPARTMENT ORDER

IN THE MATTER OF

BRIAN J.G. PEREIRA, PRESIDENT      ) COMMISSIONER'S CERTIFICATION  
KAMATH ENTERPRISES, LLC      ) OF COMPLETION OF REMEDIAL  
54 ROWENA ROAD      ) ACTIONS UNDER A VOLUNTARY  
NEWTON, MASSACHUSETTS 02549      ) RESPONSE ACTION PLAN

JURISDICTION

This certification of completion of a Voluntary Response Action Plan ("VRAP") is made pursuant to the authority vested in the Commissioner of the Maine Department of Environmental Protection ("Department") or the Commissioner's delegate under 38 M.R.S.A. Section 343-E.

FINDINGS OF FACT

1. The covered property ("property" and/or "site") is located on Whaleback Road, Peaks Island, Portland, Maine, and identified on Portland Tax Map 89 as Block F, Lot 2. The property is residential, and was used in the past as a World War II United States military bunker. A map showing the location of the property is included as "Attachment A-Site Location Map".
2. The property use in the area is residential.
3. The area is served by private and public water supplies.
4. Environmental Engineering & Remediation, Inc. ("EER"), completed a Phase I environmental site assessment ("ESA") on the subject property, dated September 18, 2000. This ESA report incorrectly indicated that the property and surrounding area was serviced by public water, and that no private wells were present near the property. Based on the information in this report, the Department issued to Brian Pereira and Kamath Enterprises, LLC a "No Further Action Assurance Letter", dated January 3, 2001.
5. Later in 2001, the Department responded to a complaint regarding the stockpiling at the Pereira property of petroleum-contaminated soils, which had originated from a site at 33 Island Avenue, Peaks Island. During the investigation of the complaint, the Department confirmed the presence of petroleum contaminated soils at the property and identified private wells in the area. The Department required the contractor to remove the petroleum-contaminated soils placed at the site. The soils were removed by the contractor under the supervision of Acadia Environmental Technology ("Acadiaz") at the direction of the Department's Division of Response Services.

BRIAN J. G. PEREIRA, PRESIDENT 2 COMMISSIONER'S CERTIFICATION  
 KAMATH ENTERPRISES, LLC ) OF COMPLETION OF REMEDIAL  
 54 ROWENA ROAD ) ACTIONS UNDER A VOLUNTARY  
 NEWTON, MASSACHUSETTS 02549 ) RESPONSE ACTION PLAN

6. Limited investigations were conducted at the property by the Department and Shevenell-Gallen and Associates during the spring of 2002. Through these investigations, the Department determined that there were elevated diesel range organic ("DRO") results were not the result of a typical diesel or fuel oil product, but some other material consisting primarily of higher molecular weight hydrocarbons typical of lubricating oils or other organic compounds. During the Department's August 2002 investigation at the property, soil borings showed the lateral and vertical extent of contaminated soils at the property and identified polynuclear aromatic hydrocarbons ("PAHs") as primary constituents of much of the DRO contamination.
7. The higher molecular weight hydrocarbons characteristically are not mobile in the environment and do not migrate readily from soils to groundwater, as evidenced by the shallow depths of contamination observed during the investigations, as well as the "non-detects" for petroleum samples collected from private wells in the area. The data collected during the investigations also indicates that the levels of DRO/PAHs that were present at the Pereira property before removal are comparable with the levels of hydrocarbons present on the surrounding properties. Additionally, the highest level of contamination in the area is attributable to a leaking aboveground storage tank located on a property across Whaleback Road from the Pereira property.
8. In a workplan dated September 13, 2002, Acadia, the consultant working for the property owners, outlined the approach to the removal of DRO/PAH contaminated soils. This workplan was approved by the Department.
9. On September 24, 2002, the contaminated soils identified and flagged during the Department's August 2002 investigation were excavated and removed from the site. These soils were identified by the Department as the areas of concern. Using the data from the previous Department investigations, discrete intervals of contaminated soil were removed ("Attachment B-Soil Removal Area"). Stephen Brezinski, an Oil and Hazardous Materials Specialist from the Department's Division of Response Services, was present to observe the removal actions, which were managed by Acadia.
10. The excavated soil was taken to the Commercial Recycling Systems ("CRS") facility in Scarborough, Maine where it was recycled. A total of 46.71 tons of contaminated soils were received and processed by CRS.
11. A report submitted by Acadia and dated September 25, 2002 documents the completion of remedial activities at the property. Based on this report, the Department will require no further investigation or remedial actions at the property, as soils remaining at the property do not pose a threat to public health or the environment.

BRIAN J. G. PEREIRA, PRESIDENT 3 COMMISSIONER'S CERTIFICATION  
 KAMATH ENTERPRISES, LLC ) OF COMPLETION OF REMEDIAL  
 54 ROWENA ROAD ) ACTIONS UNDER A VOLUNTARY  
 NEWTON, MASSACHUSETTS 02549 ) RESPONSE ACTION PLAN

CONCLUSIONS

1. Brian J. G. Pereira, President of Kamath Enterprises, LLC, and Sunita Pereira have submitted a Voluntary Response Action Plan application to the Commissioner pursuant to 38 M.R.S.A. § 343-E for the property located on Whaleback Road, Peak's Island, Portland, Maine, and identified on Portland Tax Map 89 as Block F, Lot 2.
2. Site assessments conducted at the site included investigation reports that adequately identify the nature and extent of contamination at the site.
3. Remedial actions addressing contaminated soils on the property have been completed and it has been demonstrated to the satisfaction of the Commissioner that the necessary remedial actions are complete.
4. Provided that Brian J. G. Pereira, President of Kamath Enterprises, LLC and Sunita Pereira, and their successors and/or assigns comply with the conditions of this certification, the response actions that have been completed and the activities associated with the continued use of the site will not cause, contribute, or exacerbate discharges, releases, or threatened releases, if they exist at the site, that are not required to be removed or remediated under the VRAP.
5. All response actions have been completed in a manner that protects public health and the environment, and the soils remaining at the property do not pose a threat to public health or the environment.

THEREFORE, pursuant to 38 M.R.S.A. § 343-E(5), Martha Kirkpatrick, Commissioner of the Maine Department of Environmental Protection certifies, subject to the conditions set forth below, that remedial actions have been completed at the property located on Whaleback Road, Peak's Island, Portland, Maine, and identified on Portland Tax Map 89 as Block F, Lot 2. Upon issuance of this CERTIFICATE, Brian J. G. Pereira, in his individual capacity and as President of Kamath Enterprises, LLC, and Sunita Pereira and the persons qualified for protection under 38 M.R.S.A. § 343-E (6) are entitled to the protection from liability to the extent provided by 38 M.R.S.A. §343-E(1). This protection from liability is limited to the matters addressed by and identified by the environmental reports and is subject to the qualifications and conditions set forth below and in 38 M.R.S.A. § 343-E (1).

OCT-04-2002 11:40

DEP

BRIAN J. G. PEREIRA, PRESIDENT  
KAMATH ENTERPRISES, LLC  
54 ROWENA ROAD  
NEWTON, MASSACHUSETTS 02549

4 COMMISSIONER'S CERTIFICATION  
) OF COMPLETION OF REMEDIAL  
) ACTIONS UNDER A VOLUNTARY  
) RESPONSE ACTION PLAN

CONDITIONS

- 1. A copy of this certificate for the site located on Whaleback Road, Peak's Island, Portland, Maine, and identified on Portland Tax Map 89 as Block F, Lot 2, shall be recorded at the Cumberland County Registry of Deeds. A copy of the recorded document must be supplied to the Department.

DONE AND DATED AT AUGUSTA, MAINE, THIS 4<sup>th</sup> DAY  
OF October, 2002.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Martha Kirkpatrick  
Martha Kirkpatrick, Commissioner  
Maine Department of Environmental Protection

STATE OF MAINE  
KENNEBEC, ss.,

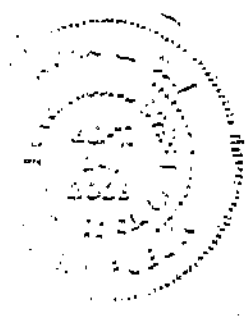
October 4, 2002

Then personally appeared the above-named Martha Kirkpatrick, Commissioner of the Maine Department of Environmental Protection, and acknowledged the foregoing instrument to be her free act and deed, and the free act and deed of the Department of Environmental Protection.

Before me,

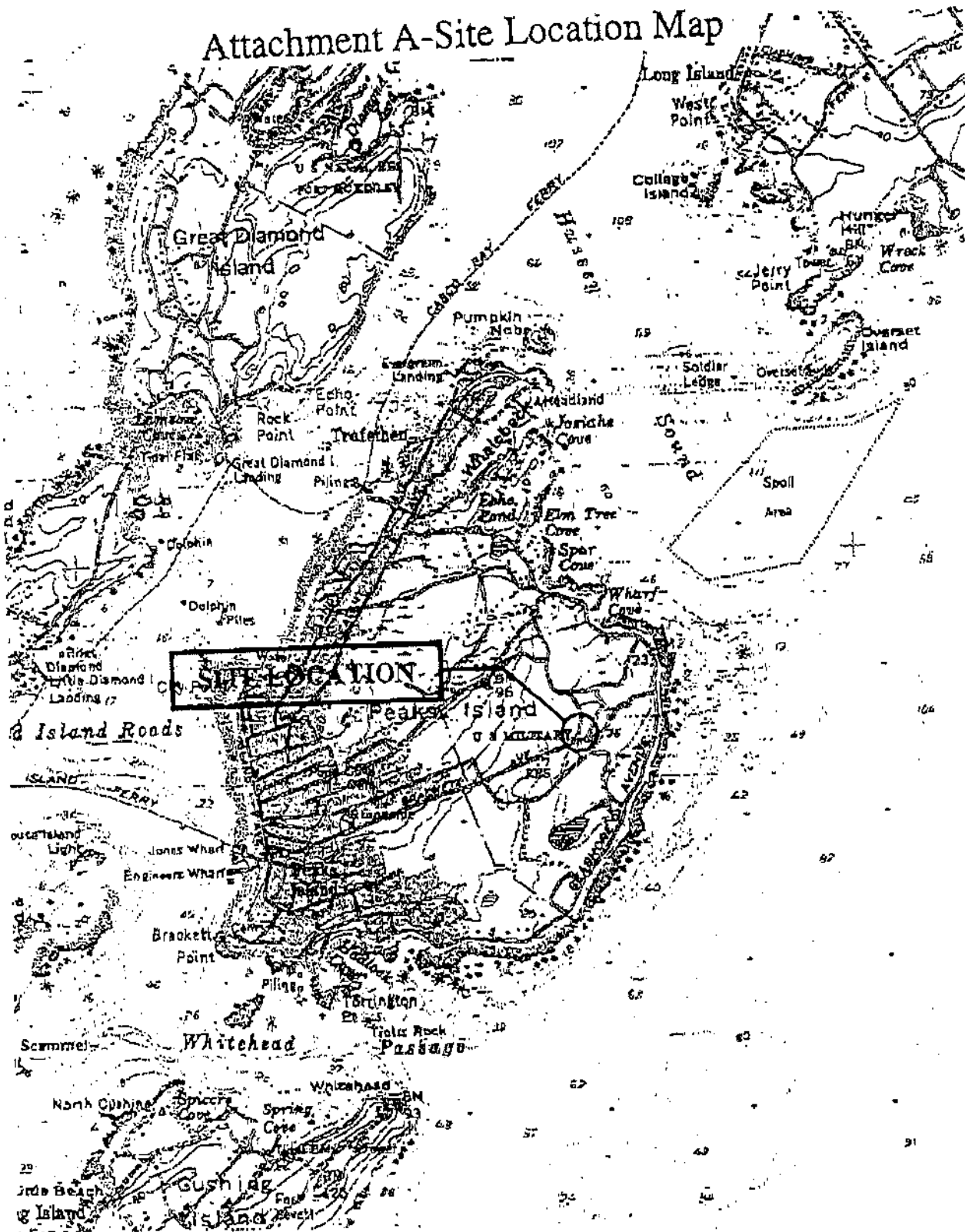
Laura L. Gay  
Notary Public 9/24/08

Laura L. Gay  
(Print Name)



This Order was prepared by Nicholas J. Hodgkins, Bureau of Remediation & Waste Management.

# Attachment A-Site Location Map



**SITE LOCATION**

FIGURE 1

**SITE LOCATION MAP**  
Battery Cravena, Peaks Island  
Portland, Maine

**PER** Environmental & Planning, Inc.  
2281 Dr. John Bates, Suite 314 Portland, Maine 04102

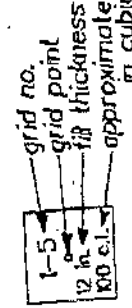
PARTIAL COPY  
Portland East  
1978  
SCALE: 1" = 2,000'

# Attachment B-Soil Removal Area

Acadia Environmental Technology  
 Figure 1: Soil Removal Area  
 Battery Gravens

concrete slab

1-1 24 ft 200 c.f.	1-2 12 in 100 c.f.	1-3 24 in 200 c.f.	2-1 12 in 100 c.f.	2-2 12 in 100 c.f.	2-3 12 in 100 c.f.	3-1 12 in 100 c.f.	3-2 12 in 100 c.f.	3-3 12 in 100 c.f.	4-1 12 in 100 c.f.	4-2 12 in 100 c.f.	4-3 12 in 100 c.f.	5-1 12 in 100 c.f.	5-2 12 in 100 c.f.	5-3 12 in 100 c.f.	6-1 12 in 100 c.f.	6-2 12 in 100 c.f.	6-3 12 in 100 c.f.	7-1 12 in 100 c.f.	7-2 12 in 100 c.f.	7-3 12 in 100 c.f.	8-1 12 in 100 c.f.	8-2 12 in 100 c.f.	8-3 12 in 100 c.f.	9-1 12 in 100 c.f.	9-2 12 in 100 c.f.	9-3 12 in 100 c.f.	10-1 12 in 100 c.f.	10-2 12 in 100 c.f.	10-3 12 in 100 c.f.	10-4 12 in 100 c.f.	10-5 12 in 100 c.f.
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10 FEET

soil removed on Sept. 24, 2002



**From:** "Brezinski, Stephen G" <Stephen.G.Brezinski@state.me.us>  
**To:** "Wathen, John B" <John.B.Wathen@state.me.us>, "Woo...  
**Date:** Wed, Sep 25, 2002 8:58 AM  
**Subject:** BATTERY CRAVENS Update of 9/25/02 P-498-02

\* On Tuesday 9/24/02, I met Alyson Jones of Acadia Env., and Ric Weinschenk onsite at 1000 hrs. Mr. Weinschenk was operating the excavator and most all of the agreed upon areas had been excavated out to the specified depths, ranging from 6" to 18+ inches depth. The areas had been staked out by Ms. Jones based on memory and remaining holes from the markers placed by Fisher in August. I confirmed the areas were correct. I noted no visual or olfactory evidence of prohibited discharges.

\* Two loads of light tan sand fill were delivered at 1100 hrs by Asselyn Co. trucks. These trucks were filled with what we estimated at about 50 tons of excavated soil and then barged off the island. Jones stated that the soil had passed TCLP analysis. Commercial Recycling advised me they received about 47 tons of soil which I am confident is the soil from Peaks Island. Both Acadia and Commercial Recycling have a good record of reliability.

\* Onsite I met Ms. & Mr. Faison who had called my office to confirm that I was onsite. I advised her she would receive copies of the DEP spill report(s) and Acadia's and Fisher's reports. She thanked me for coming out. She also wished copies of her lab data on her two wells (Faison East & Faison West samples). Both water samples were ND. John Wathen stated he would send copies of the lab results out.


\* Related to P-566-02, I noted another, though small, oil spill on the side of Whaleback Rd. next to the Robbin's property and in the same location as the one EPI and I cleaned up on 8/7/02. It appears that someone visiting them or one of the Robbin's vehicles is leaking oil. A photo of this spill, #2840, is attached if Jon wishes to include it in his report. The stain is vague in the photo but is in the lower center. I estimate a cup or two in volume.

\* Attached is also a copy of a photo of the area on BC being excavated, #2836.

<<P0002840.JPG>> <<P0002836.JPG>>



TO: Inspections

FROM: Jay Reynolds, Development Review Coordinator 

DATE: October 8, 2002

RE: C. of O. for 27 Whaleback Rd./Battery Craven  
(089-F-002) (2001-0066)

---

After visiting 27 Whaleback Rd., I have the following comments:

Site work complete.

At this time, **I recommend issuing a permanent Certificate of Occupancy.**

Please contact me if you have any questions or comments.  
Thank You.

Cc: Sarah Hopkins, Development Review Services Manager  
Michael Nugent, Inspection Services Manager

File: O:\drc\27whaleback1.doc

**From:** Sarah Hopkins  
**To:** ADELSON, MARK ; JAEGERMAN, ALEX ; Jay Reynolds; ...  
**Date:** Wed, Jul 24, 2002 3:00 PM  
**Subject:** battery craven

Ric Weinschenk has asked for a temporary CO for Battery Craven.

Jay is out there now.

The DEP is doing tests on the loam at several points around the site, so they have not yet seeded the site. The property owners, the Perieras, have been working with the DEP to have the tests done with the understanding that the testing would not interfere with their ability to get a CO. Two weeks ago, when the testing process was described to Jay, he told them that the loam/seed issue would not hold up a CO, given the unique circumstances.

I need some advice. Can we grant a temporary CO until the DEP has finished their testing and the lawn is installed?

Mike, when are you scheduled to go out to inspect?

The Perieras are getting ready to close and are quite anxious.

(I know...I know.)

Thanks for any advice.

-s

**From:** Sarah Hopkins  
**To:** Alex Jaegerman ; Jay Reynolds; Lee Urban; Mark ...  
**Date:** Wed, Jul 24, 2002 5:00 PM  
**Subject:** Re: battery craven

I spoke with Ric (after speaking to Penny, Tom, Alex, Jay, Mike, Mark, and Lee): I said no CO (temp or otherwise) until we receive a clearance/ok letter from the DEP. If we do receive one, we may then be able to issue a temp co.

Thanks for all the help.

-Sarah

>>> Penny Littell 07/24 3:07 PM >>>

While I sympathize with the Perieras, it seems to me that the only real leverage for anyone (including the Perieras) to insure the work is satisfactorily completed is to hold up the CO. Otherwise we are stuck with an unfinished site, the homeowners occupying, the islanders complaining, the DEP stating they are working on it, and the City looking foolish. Also, Ric has moved on the other projects including a recent single family home on Island Ave. As we all know from the Willow debacle, once Ric has another project, he becomes totally disinterested in completing his former works. If we issue a CO on this place, we very well might then have the Perieras (like the Willow homeowners) asking the City to complete the project. Those are my thoughts.

>>> Sarah Hopkins 07/24 3:00 PM >>>

Ric Weinschenk has asked for a temporary CO for Battery Craven.

Jay is out there now.

The DEP is doing tests on the loam at several points around the site, so they have not yet seeded the site. The property owners, the Perieras, have been working with the DEP to have the tests done with the understanding that the testing would not interfere with their ability to get a CO. Two weeks ago, when the testing process was described to Jay, he told them that the loam/seed issue would not hold up a CO, given the unique circumstances.

I need some advice. Can we grant a temporary CO until the DEP has finished their testing and the lawn is installed?

Mike, when are you scheduled to go out to inspect?

The Perieras are getting ready to close and are quite anxious.

(I know...I know.)

Thanks for any advice.

-s

**From:** Joe Gray  
**To:** Alex Jaegerman ; Jay Reynolds; Lee Urban; Mark ...  
**Date:** Thu, Jul 25, 2002 9:22 AM  
**Subject:** Re: battery craven

I agree with penny. Make sure he has completed before the C/O

>>> Penny Littell 07/24 3:07 PM >>>

While I sympathize with the Perieras, it seems to me that the only real leverage for anyone (including the Perieras) to insure the work is satisfactorily completed is to hold up the CO. Otherwise we are stuck with an unfinished site, the homeowners occupying, the islanders complaining, the DEP stating they are working on it, and the City looking foolish. Also, Ric has moved on the other projects including a recent single family home on Island Ave. As we all know from the Willow debacle, once Ric has another project, he becomes totally disinterested in completing his former works. If we issue a C O on this place, we very well might then have the Perieras (like the Willow homeowners) asking the City to complete the project. Those are my thoughts.

>>> Sarah Hopkins 07/24 3:00 PM >>>

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-s

XX  
July 28, 2002

Please reader -  
Rick Weinschenck  
Rick Weinschenck/Buddon  
33 Island Ave  
Peaks Island, Maine 04108

DRAFT

Mr. Rick Weinschenck  
The Peaks Island Company  
33 Island Avenue  
Peaks Island, Maine 04108

Mr. & Mrs. Jeff Robbins  
586 Seashore Drive  
Peaks Island, Maine 04108

Mr. & Mrs. Brian Perra  
Whaleback Road  
Peaks Island, Maine 04108

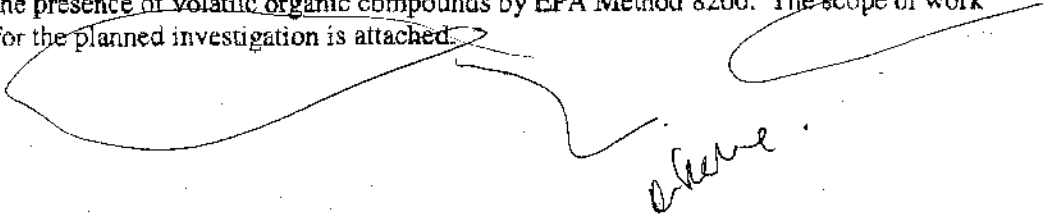
Dear Island residents:

The Maine Department of Environmental Protection (DEP) has conducted sampling and analysis of soil on the Perra property that indicates the presence of petroleum hydrocarbons in the form of Diesel Range Organics (DRO). The concentrations of these petroleum compounds locally exceed 10 mg/kg. This concentration is the remediation goal for oil-contaminated soil for sites to which the stringent criteria are applicable under the *Procedural Guidelines for Establishing Action Levels and Remediation Goals for the Remediation of Oil Contaminated Soil and Ground Water in Maine*. The stringent criteria apply to this site because the location of the impacted soils is within 300 feet of up to four individual water supplies.

Checked  
10/1  
MJK

DEP requires that soil on the site that exceeds these criteria be removed and be appropriately disposed of at a licensed facility. However, the extent and distribution of the petroleum constituents is not known, and there is not concurrence among the parties as to the locations where soil materials containing petroleum have been emplaced. To address this deficit of information, the DEP has engaged the services of an environmental consulting firm, Shevenell Gallen, and Associates, Inc., to conduct a contaminant distribution investigation of areas on the southeast aspect of the Perra residence on the former Battery Cravens site.

The area of investigation will include soil placed immediately adjacent to the house, above an intermediate concrete slab, as well as areas between the slab and the break in slope between the flat front yard and the slope leading up to the slab. The investigation will include a grid of approximately 50 nodes at which soil samples will be collected using a push-sampling device. Samples will be analyzed for DRO and, selectively, for the presence of volatile organic compounds by EPA Method 8260. The scope of work for the planned investigation is attached.



The results of the investigation will be the basis for a determination as to the extent of soils which will require removal. The stringent criteria will apply, and quantity and distribution soils will determine the course and extent of the remedial effort.

It is not the intention of the DEP to seek re-imbusement for the investigation referred to herein. If the results of the investigations indicate the need for remedial activities, the DEP will seek reimbursement from the responsible parties for any costs of documentation, oversight, and verification of the remediation, other cost of which will also be born by the responsible parties.

This letter is being provided to you so that all parties understand the actions that are being taken by the Department in this regard. It is the intention of the Department to conduct the investigations beginning the week of August 5, subject to contractor availability.

Sincerely,

John B. Wathen, C.G.  
Regional Director

Cc: Martha Kirkpatrick, DEP  
Rep. Ben Dudley  
Ms. Mary Sauer, Office of the Attorney General  
Ms. Penny Little, City of Portland  
Mr. & Mrs. Henry Meyers  
Mr. & Mrs. John Faison  
Mr. Mark Fisher, Shevenell-Gallen