

2006-0004

92-A-6

614 Island Ave. - P.I.

Pier Installation

Tim Napolitano



on Spreadsheet

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

2006-0004

Application I. D. Number

1/10/2006

Application Date

Pier Installation

Project Name/Description

Napolitano Timothy A - 2

Applicant

5 Applewood Cir., PO Box 2301, South Portland, ME 04106

Applicant's Mailing Address

614 - 614 Island Ave, Portland, Maine

Address of Proposed Site

092 A006001

Assessor's Reference: Chart-Block-Lot

Consultant/Agent

Applicant Ph: (207) 799-1525 Agent Fax:

Applicant or Agent Daytime Telephone, Fax

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify) Stairs, pier, ramp and float

Proposed Building square Feet or # of Units

Acreage of Site

IR-2

Zoning

Check Review Required:

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> Site Plan
(major/minor) | <input type="checkbox"/> Subdivision
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
Use (ZBA/PB) | <input type="checkbox"/> Zoning Variance | | <input type="checkbox"/> Other _____ |

Fees Paid: Site Pla \$400.00 Subdivision _____ Engineer Review _____ Date 1/12/2006

Planning Approval Status:

Reviewer _____

- Approved Approved w/Conditions
See Attached Denied

Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets
Attached

OK to Issue Building Permit _____
signature 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 | |

#2006-0004
614 Isl Ave.
Peaks
Notice was
sent to 500'
miner SP



March 27, 2006

Jay Reynolds
City of Portland, Maine
389 Congress Street
Portland, ME 04101

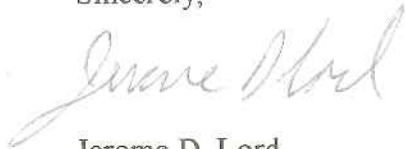
Project: Timothy A. Napolitano
Re: Application for pier installation
614 island Ave. Peaks Island

Dear Mr. Reynolds:

I have enclosed (7) copies of the stamped sheet 2 and the Autocad (.dwg) file as requested.

Thank you for your review of this project.

Sincerely,



Jerome D. Lord
TEC Associates



PORTLAND, MAINE

Strengthening a Remarkable City. Building a Community for Life www.portlandmaine.gov

Planning and Development Department
Lee O. Urban, Director

Planning Division
Alexander Jaegerman, Director

Jerome D. Lord
TEC Associates
46 Sawyer Street
South Portland, ME 04106

March 22, 2006

Dear Mr. Lord:

RE: Application for Minor Site Plan, Pier installation at #614 Island Ave.: Peaks Island

On March 22, 2006, the Portland Planning Authority approved the installation of a pier to be located at 614 Island Avenue as shown on the approved plan with the following conditions:

All Site Work will conform to the City of Portland ordinance on Shoreland Regulations (Division 26).

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.

Please note the following provisions and requirements for all site plan approvals:

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. Due to the limited nature of the work, no performance guarantee will be required for this project; however, an inspection fee of \$300.00 is required prior to commencing sitework.
3. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Works 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.

March 10, 2006

Jay Reynolds
City of Portland, Maine
389 Congress Street
Portland, ME 04101

Project: Timothy A. Napolitano
Re: Application for pier installation
614 island Ave. Peaks Island

Dear Mr. Reynolds:

I have enclosed all the requested information outlined in your letter dated, January 23, 2006.

Please note that Submerged Lands have determined that this project is exempt for a submerged lands permit/lease. I have enclosed correspondence between the Department of Environment Protection and Submerged Lands that discusses that point.

Also note that I have slightly modified the stairs and landings to conform to the City of Portland building code requirements. In addition, I have added some extra silt fence in two locations.

Thank you for your review of this project.

Sincerely,



Jerome D. Lord
TEC Associates



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

REPLY TO:
ATTENTION OF:

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

TIMOTHY NAPOLITANO
C/O TEC ASSOCIATES
46 SAWYER STREET
SOUTH PORTLAND, MAINE 04106

CORPS PERMIT # NAE-2005-4106
CORPS PGP ID# 05-585
STATE ID# L-22733-4E

DESCRIPTION OF WORK:

Construct and maintain a 50'x 5' pile and timber pier with a 48'x 3' ramp leading to a 12'x 30' float in Casco Bay, off Peaks Island, at Portland, Maine.

LAT/LONG COORDINATES : 43.6724451° N 70.1882149° 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 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.

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: 12/8/05 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.

ESSENTIAL FISH HABITAT (EFH): EFH PRESENT Y N (CIRCLE ONE)

IF YES: Based on the terms and conditions of the PGP, which are intended to ensure that authorized projects cause no more than minimal environmental impacts, the Corps of Engineers has preliminarily determined that this project will not cause more than minimal adverse effects to **EFH** identified under the Magnuson-Stevens Fisheries Conservation and Management Act.

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.

Jay L. Clement
JAY L. CLEMENT
SENIOR PROJECT MANAGER
MAINE PROJECT OFFICE

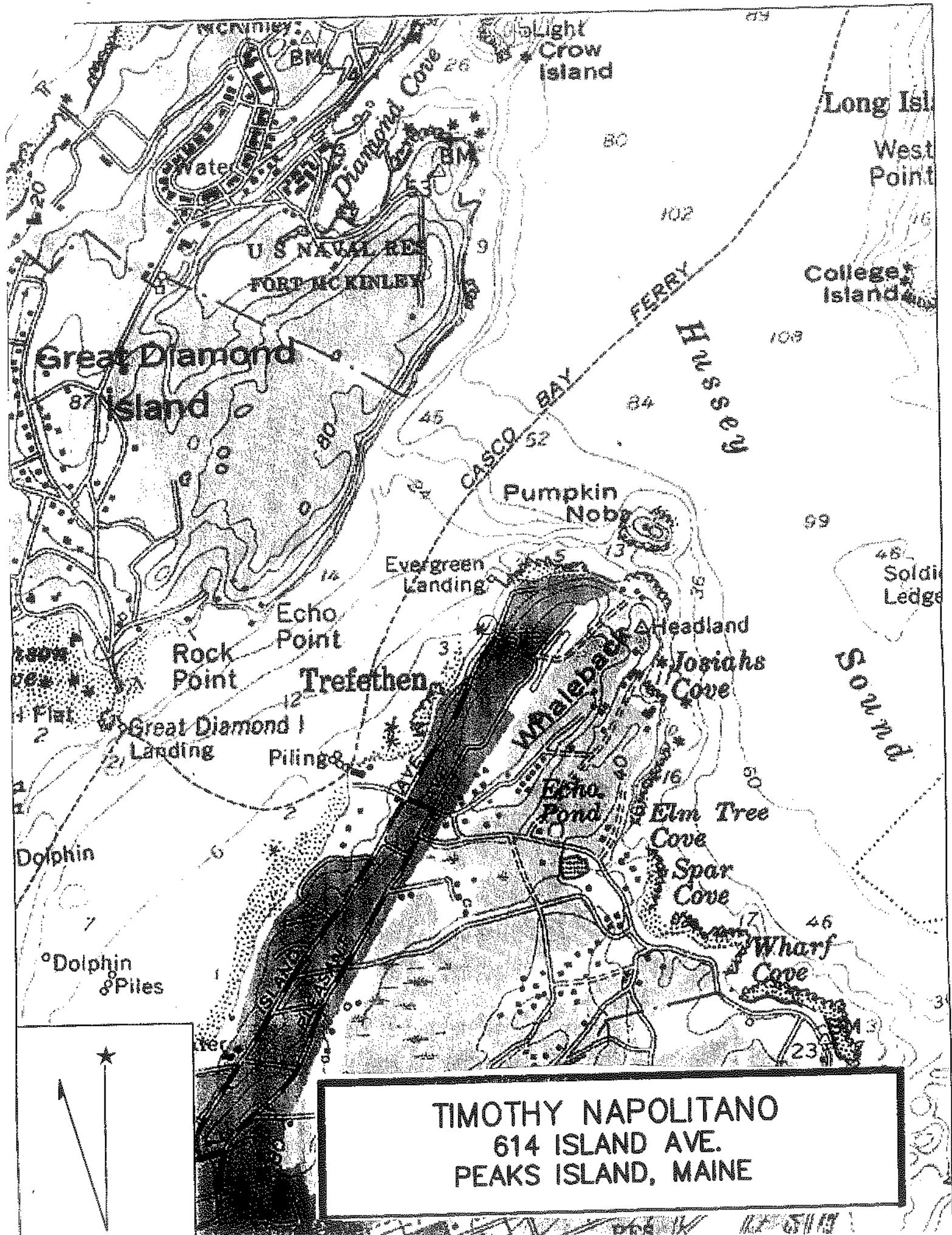
for *Michael Strub* 3/14/2006
FRANK J. DELGIUDICE DATE
CHIEF, PERMITS & ENFORCEMENT BRANCH
REGULATORY DIVISION



US Army Corps
of Engineers
New England District

ADDITIONAL CONDITIONS FOR
DEPARTMENT OF THE ARMY
PROGRAMMATIC GENERAL PERMIT
NO. NAE-2005-4106

1. The permittee shall assure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers' jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for the work. If the permit is issued after construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. The term "entire permit" includes permit amendments. 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 of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps of Engineers jurisdiction.
2. 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.



TIMOTHY NAPOLITANO
614 ISLAND AVE.
PEAKS ISLAND, MAINE

GRAPHIC SCALE



(IN FEET)
1 inch = 10 ft.

TIMOTHY NAPOLITANO
614 ISLAND AVE.
PEAKS ISLAND, MAINE

PIER INSTALLATION
SITE PLAN



TEC ASSOCIATES

CONSULTING
ENGINEERS

46 SAWYER STREET

SOUTH PORTLAND, MAINE 04108

SCALE 1"=10'

DATE 10/21/05

JOB NUMBER

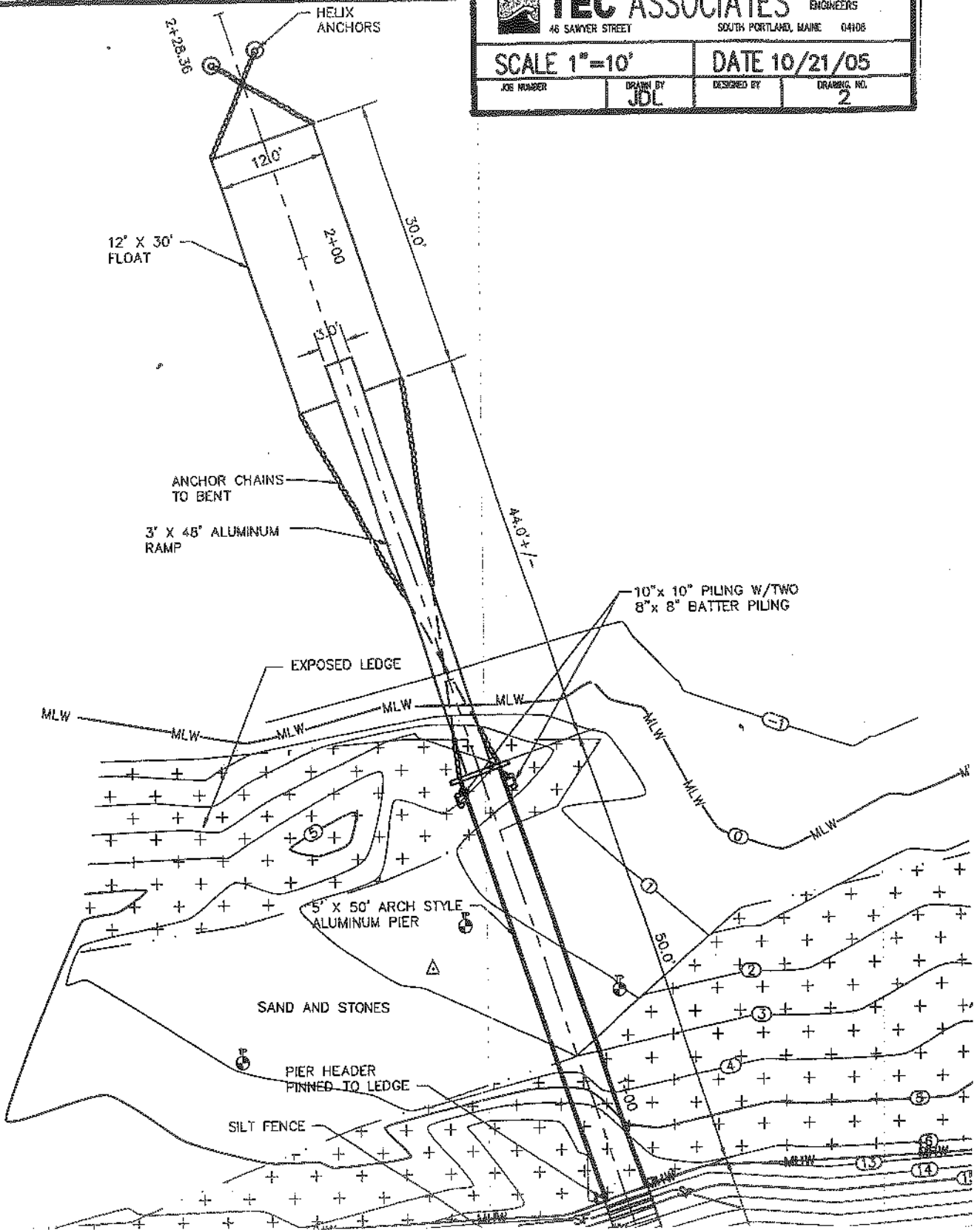
DRAWN BY

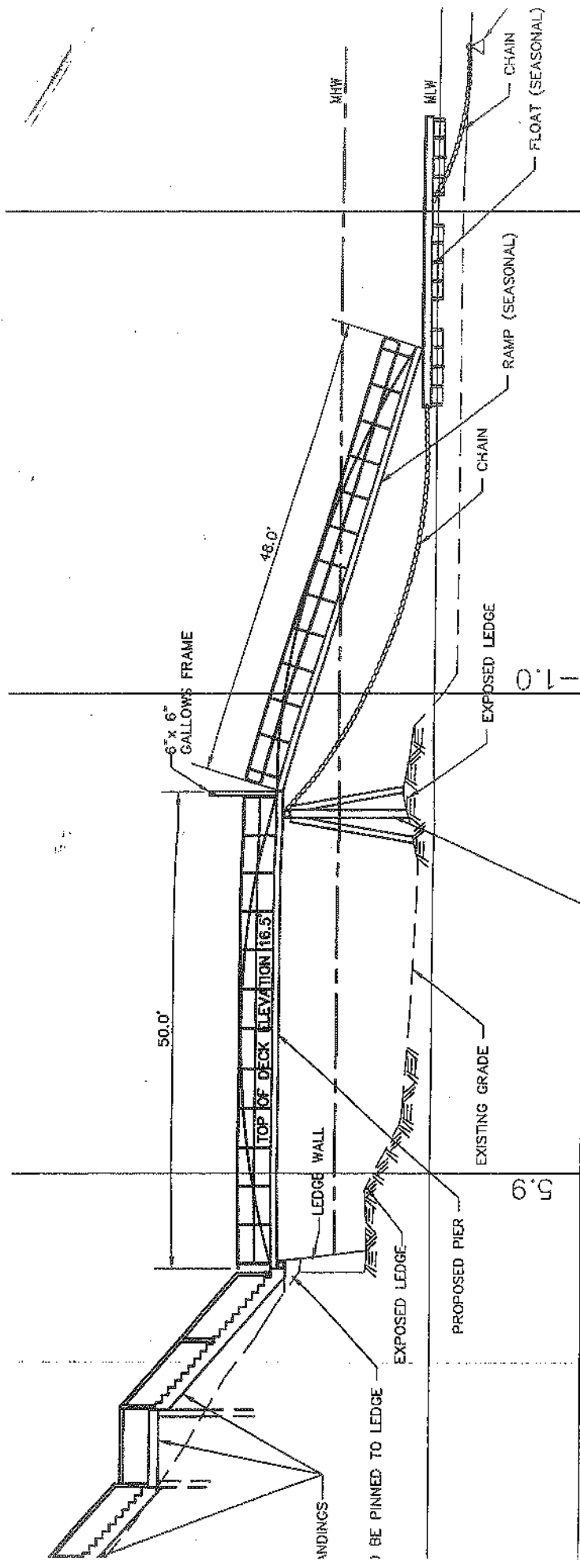
DESIGNED BY

DRAWING NO.

JDL

2






2+00

1+00

(6) PILE BENT COMPOSED OF
 (2) 10" x 10" BEARING PILING, SYP 2.5 CCA
 W/(4) 8" x 8" BATTER PILES - 2 PER SIDE, SYP 2.5 CCA
 ALL ABOVE PILING TO BE PINNED TO LEDGE
 10" x 10" PILE CAP, SYP .60 CCA
 3 x 8 CROSS BRACING, THROUGH BOLTED TO BEARING PILING,
 SYP .60 CCA

TIMOTHY NAPOLITANO 614 ISLAND AVE. PEAKS ISLAND, MAINE	
PIER INSTALLATION --PROFILE--	
 TEC ASSOCIATES CONSULTING ENGINEERS 46 SARVER STREET SOUTH PORTLAND, MAINE 04106	
SCALE 1"=10'H&V <small>JOB NUMBER</small>	DATE 10/21/05 <small>DESIGNED BY</small>
<small>DRAWN BY</small> JDL	<small>DRAWING NO.</small> 3

Applicant: General Public, State of Maine
Permit Number: NAE-2005-2164

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 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, "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 (HDPE) 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.

VI. CONTACTS FOR MAINE PROGRAMMATIC GENERAL PERMIT:

1. FEDERAL

U.S. Army Corps of Engineers

Maine Project Office
675 Western Avenue #3
Manchester, Maine 04351
(207) 623-8367
(207) 623-8206 (fax)

Federal Endangered Species

U.S. Fish and Wildlife Service
Maine Field Office
1168 Main Street
Old Town, Maine 04468
(207) 827-5938
207-827-6099 (fax)

Wild and Scenic Rivers

National Park Service
North Atlantic Region
15 State Street
Boston, Massachusetts 02109
(617) 223-5203

Federal Endangered Species & Essential Fish Habitat

National Marine Fisheries Service
One Blackburn Drive
Gloucester, Massachusetts 01939
(978) 281-9102
(978) 281-9301 (fax)

Bridge Permits

Commander (obr)
First Coast Guard District
One South Street - Battery Bldg
New York, New York 10004
(212) 668-7021

2. STATE OF MAINE

Maine Department of Environmental Protection (For State Permits & Water Quality Certifications)

Division of Land Resource Regulation
Bureau of Land and Water Quality
17 State House Station
Augusta, Maine 04333
(207) 287-2111

Southern Maine Regional Office
312 Canco Road
Portland, Maine 04103
(201) 822-6300

Eastern Maine Regional Office
106 Hogan Road
Bangor, Maine 04401
(207) 941-4570

Northern Maine Regional Office
1235 Central Drive - Skyway Park
Presque Isle, Maine 04769
(207) 764-0477

Maine Land Use Regulation Commission (LURC) [call (800) 452-8711 for appropriate LURC office]

22 State House Station
Augusta, ME 04333-0022
(207) 287-2631
(207) 287-7439 (fax)

45 Radar Road
Ashland, ME 04732-3600
(207) 435-7963
(207) 435-7184 (fax)

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

for Christine J. Gray 10-11-05
District Engineer Date

APPENDIX A: DEFINITION OF CATEGORIES

<p>A. INLAND WATERS AND WETLANDS</p>	<p>Inland Waters and Wetlands: 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 wetlands¹ to tidal waters are reviewed in the Navigable Waters section. (See II. Navigable Waters on the next page.)</p>		
	<p>CATEGORY 1</p>	<p>CATEGORY 2</p>	<p>INDIVIDUAL PERMIT</p>
<p>(a) NEW FILL/ EXCAVATION DISCHARGES</p>	<p><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"> • In-stream (e.g., rivers, streams, brooks, etc.) work limited to Jul 15 - Oct 1 • In-stream work of up to 4,300 SF of fill below OHW in waterways not designated as EFH for Atlantic salmon (see GC 11, Page 9) and performed in accordance with Maine Permit By Rule standards or a LURC permit. • Waterway crossings shall comply with GC 22. • Projects covered by a DEP Tier One permit with no cumulative impacts >15,000 SF in inland wetlands from previous permits, unauthorized work, and/or other state permits. • Subdivision fill complies with GC 5, Single and Complete Projects (see Page 7). <p><u>This category excludes:</u></p> <ul style="list-style-type: none"> • Dams, dikes or activities involving water diversions.² • Non-State approved sediment releases/sluices from dams. • Open trench excavation in flowing waters (see GC 22, Page 12). 	<p>4,300 SF to <3 acres inland waterway and/or wetland fill and associated secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). Swamp mats filling any area ≥4,300 SF are reviewed in Category 2. (See GC 18, Page 11.)</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 & 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).³</p> <p>EIS required by the Corps.</p> <p>In-stream work exceeding Category 2 limits.</p>
<p>1</p>	<p align="right">October 11, 2005</p>		

	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
	<p>Work in waters designated as EFH for Atlantic salmon (see GC 11, Page 9), unless the waterway is crossed with a span and footprints of the span abutments are outside ordinary high water with no more than 4,300 SF of associated wetland impact.</p> <ul style="list-style-type: none"> Work in Special Inland Waters or Wetlands³ (vernal pools). Work in special aquatic sites (SAS)⁴ other than wetlands. Work within ¼ mile of a Wild and Scenic River (see GC 12, Page 9). Work on National Lands (see GC 9, Pg. 9). Work affecting threatened or endangered species (see GC 10, Page 9) or EFH salmon migration (see GC 11, Page 9). 		
(b) BANK STABILIZATION PROJECTS	<p>Inland bank stabilization <100 FT long and <1 CY of fill per linear foot below OHW.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> In-stream work limited to Jul 15 - Oct 1. No work in special inland waters & wetlands³ and SAS⁴. No open trench excavation in flowing waters (see GC 22, Page 12). No structures angled steeper than 3H:1V allowed. Only rough-faced stone or fiber roll revetments allowed. No work affects threatened or endangered species (see GC 10, Page 9) or EFH (see GC 11, Page 9). 	<p>Inland bank stabilization ≥100 FT long and/or ≥1 CY of fill per linear foot, or any amount with fill in wetlands.</p>	
(c) REPAIR AND MAINTENANCE OF AUTHORIZED FILLS	<p>Repair or maintenance of existing, currently serviceable, authorized fills with no substantial expansion or change in use.</p> <p>*Conditions of the original authorization apply, however minor deviations in fill design allowed.⁶</p>	<p>Replacement of non-serviceable fills, or repair/maintenance of serviceable fill, with expansion <3 acres, or with a change in use.</p>	<p>Replacement of non-serviceable fill, or repair/maintenance of serviceable fill, with expansion ≥1 acre.</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 ¹ to tidal waters are also reviewed in this Navigable Waters section.		
	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT	
(a) FILL	Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided the U.S. Coast Guard authorizes such discharges as part of the bridge permit. Causeways and approach fills are not included in this category and require Category 2 or Individual Permit authorization.	<1 acre fill and/or secondary waterway impacts (e.g., areas drained, flooded or cleared). Fill includes temporary and permanent waterway fill. Temporary fill or excavation <1 acre in SAS ⁴ . Permanent fill or excavation <1,000 SF in SAS ⁴ . Permanent fill and/or excavation ≥1,000 SF in SAS ⁵ when associated with a project with proactive restoration as a primary purpose. The Corps, in consultation with Federal & state agencies, must determine that net adverse effects are not more than minimal. Specific activities with impacts of any area required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.	≥1 acre waterway fill and/or secondary waterways or wetland impacts (e.g., areas drained, flooded or cleared). Fill includes temporary and permanent waterway fill. Temporary fill or excavation ≥1 acre in SAS ⁴ . Permanent fill or excavation ≥1,000 SF in SAS ⁴ other than as specified in Cat. 2 EIS required by the Corps.	
(b) REPAIR AND MAINTENANCE WORK	Repair or maintenance of existing, currently serviceable, authorized structure or fill with no substantial expansion or change in use. *Conditions of the original authorization apply. Must be rebuilt in same footprint, however minor deviations in structure design allowed ⁶	Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fills, with fill, replacement or expansion <1 acre, or with a change in use.	Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fill, with replacement or expansion ≥1 acre.	

	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(c) DREDGING AND ASSOCIATED DISPOSAL	<p>Maintenance dredging for navigational purposes <1,000 cy with upland disposal. Includes return water from upland contained disposal area.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Proper siltation controls are used. • Dredging & disposal operation limited to November 1 - January 15. • No impact to special aquatic sites⁴. • No dredging in intertidal areas. • No work affects threatened or endangered species (see GC 10, Page 9) or EFH salmon migration (see GC 11, Page 9). 	<p>Maintenance dredging ≥1,000 CY, new dredging <25,000 CY, or projects not meeting Category 1. Includes return water from upland contained disposal areas.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Disposal includes 1) upland, 2) beach nourishment (above MHW) of any area provided dredging's primary purpose is navigation or sand is from an upland source and Corps, in consultation w/Federal and State agencies, determines the net adverse effects are not more than minimal; and 3) open water & confined aquatic disposal, if Corps, in consultation with Federal and State agencies, finds the material suitable. 	<p>Maintenance dredging and/or disposal (any amount) in or affecting a SAS⁴. See II(a) above for dredge disposal in wetlands or waters.</p> <p>New dredging ≥25,000 CY, or any amount in or affecting SAS⁴.</p> <p>Beach nourishment associated with dredging when the primary purpose is not navigation (i.e., aggregate/sand mining) or the material is from an upland source.</p>
(d) MOORINGS	<p>Private, non-commercial, non-rental, single-boat moorings authorized by the local harbormaster.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Not associated with any boating facility⁷ • Not located in a Federal Navigation Project other than a Federal Anchorage. Moorings in Federal Anchorage not associated with a boating facility⁷. • No interference with navigation • Not located in vegetated shallows⁸ • Within ¼ mile of the owner's residence or a public access point.⁹ <p>Minor relocation of previously authorized moorings and moored floats consistent with Harbormaster recommendations, provided it is also consistent with local regulations, is not located in vegetated shallows, and does not interfere with navigation.</p>	<p>Moorings associated with a boating facility⁷.</p> <p>Moorings that don't meet the terms in Category 1 and don't require an Individual Permit.</p> <p>Moorings located such that they, and/or vessels docked or moored at them, are within the buffer zone of the horizontal limits¹⁰ of a Corps Federal Channel. (See Appendix B.) The buffer zone is equal to three times the authorized depth of that channel.</p>	<p>Moorings within the horizontal limits¹⁰, or with moored vessels that extend, into the horizontal limits of a Federal Navigation Project (See App. B), except those in Federal Anchorages under Category 1.</p> <p>Note: Federal Navigation Projects include both Federal Channels and Federal Anchorages.</p>

CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
<p>(e) STRUCTURES AND FLOATS</p> <p>Reconfiguration of existing authorized structures or floats.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> Structures not positioned over vegetated shallows⁸ or salt marsh. Floats supported off substrate at low tide. No dredging, additional slips or expansion. No work affects threatened or endangered species (see GC 10, Page 9) or EFH salmon migration (see GC 11, Page 9). 	<p>Private structures or floats, including floatways/skidways, built to access waterway (seasonal and permanent)</p> <p>Expansions to existing boating facilities.⁷</p> <p>Compliance with the following is recommended, but not required:</p> <ul style="list-style-type: none"> Pile-supported structures <400 SF, with attached floats totaling ≤200 SF. Bottom anchored floats ≤200 SF. Structures are ≤4' wide and have at least a 1:1 height:width ratio¹¹. Floats supported above the substrate during all tides. Structures & floats not located within 25' of any vegetated shallows⁸. Moored vessels not positioned over SAS⁴. No structure located within 25' of the riparian property boundary. No structure extends across >25% of the waterway width at mean low water. Not located within the buffer zone of the horizontal limits¹⁰ of a Corps Federal Navigation Project (FNP) (See App. B). The buffer zone is equal to three times the authorized depth of that FNP. 	<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 facility⁷.</p> <p>Note: Federal Navigation Projects include both Federal Channels and Federal Anchorages.</p>
<p>(f) MISCELLANEOUS</p> <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).¹²</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 2.5' eelgrass set back is recommended.</p>

<p>Oil spill clean-up temporary structures or fill. Fish/wildlife harvesting structures/fill (as defined by 33 CFR 330, App. A-4)</p> <p>Scientific measurement devices and survey activities such as exploratory drilling, surveying and sampling activities. Does not include oil and gas exploration and fill for roads or construction pads.</p> <p>Shellfish seeding (brushing the flats¹²) projects.</p> <p>Provided:</p> <ul style="list-style-type: none"> • No work in National Wildlife Refuges. • No work affects threatened or endangered species (see GC 10, Page 9) or EFH salmon migration (see GC 11, Page 9). 	<p>Shellfish/finfish (other than Atlantic salmon), or other aquaculture facilities with no more than minimal individual and cumulative impacts to environmental resources or navigation. A 2.5' eelgrass set back is recommended. Aquaculture guidelines are provided at: www.maine.gov/dmr/aquaculture/index.htm.</p>	<p>Aquaculture guidelines are provided at: www.maine.gov/dmr/aquaculture/index.htm.</p>
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¹ **Bordering and Contiguous Wetlands:** A bordering wetland is immediately next to its adjacent waterbody and may lie at, or below, the ordinary highwater mark (MHW in navigable waters) of that waterbody and is directly influenced by its hydrologic regime. Contiguous wetlands extend landward from their adjacent waterbody to a point where a natural or manmade discontinuity exists. Contiguous wetlands include bordering wetlands as well as wetlands that are situated immediately above the ordinary highwater mark and above the normal hydrologic influence of their adjacent waterbody. Note, with respect to the Federally designated navigable rivers, the wetlands bordering and contiguous to the tidally influenced portions of those rivers are reviewed under "I. Navigable Waters."

² **Water Diversions:** Water diversions are activities such as bypass pumping or water withdrawals. Temporary flume pipes, culverts or cofferdams where normal flows are maintained within the stream boundary's confines aren't water diversions. "Normal flows" are defined as no change in flow from pre-project conditions.

³ **Special Inland Waters and Wetlands:** Vernal Pools - Temporary to permanent bodies of water occurring in shallow depressions that fill during the spring and fall and may dry during the summer. Vernal pools have no permanent or viable populations of predatory fish. Vernal pools provide the primary breeding habitat for wood frogs, spotted salamanders, blue-spotted salamanders, and fairy shrimp, and provide habitat for other wildlife including several endangered and threatened species.

⁴ **Special Aquatic Sites:** Includes wetlands and saltmarsh, mudflats, riffles and pools, and vegetated shallows.

⁵ **IF Required:** The greater the impacts, the more likely an Individual Permit will be required. The Corps will determine the need for compensatory mitigation on a case-by-case basis.

⁶ **Maintenance:** Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards, which are necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. No seaward expansion for bulkheads or any other fill activity is considered Category 1 maintenance. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

⁷ **Boating Facilities:** Facilities that provide, rent, or sell mooring space, such as marinas, yacht clubs, boat yards, town facilities, dockominiums, etc.

⁸ **Vegetated Shallows:** Subtidal areas that support rooted aquatic vegetation such as eelgrass

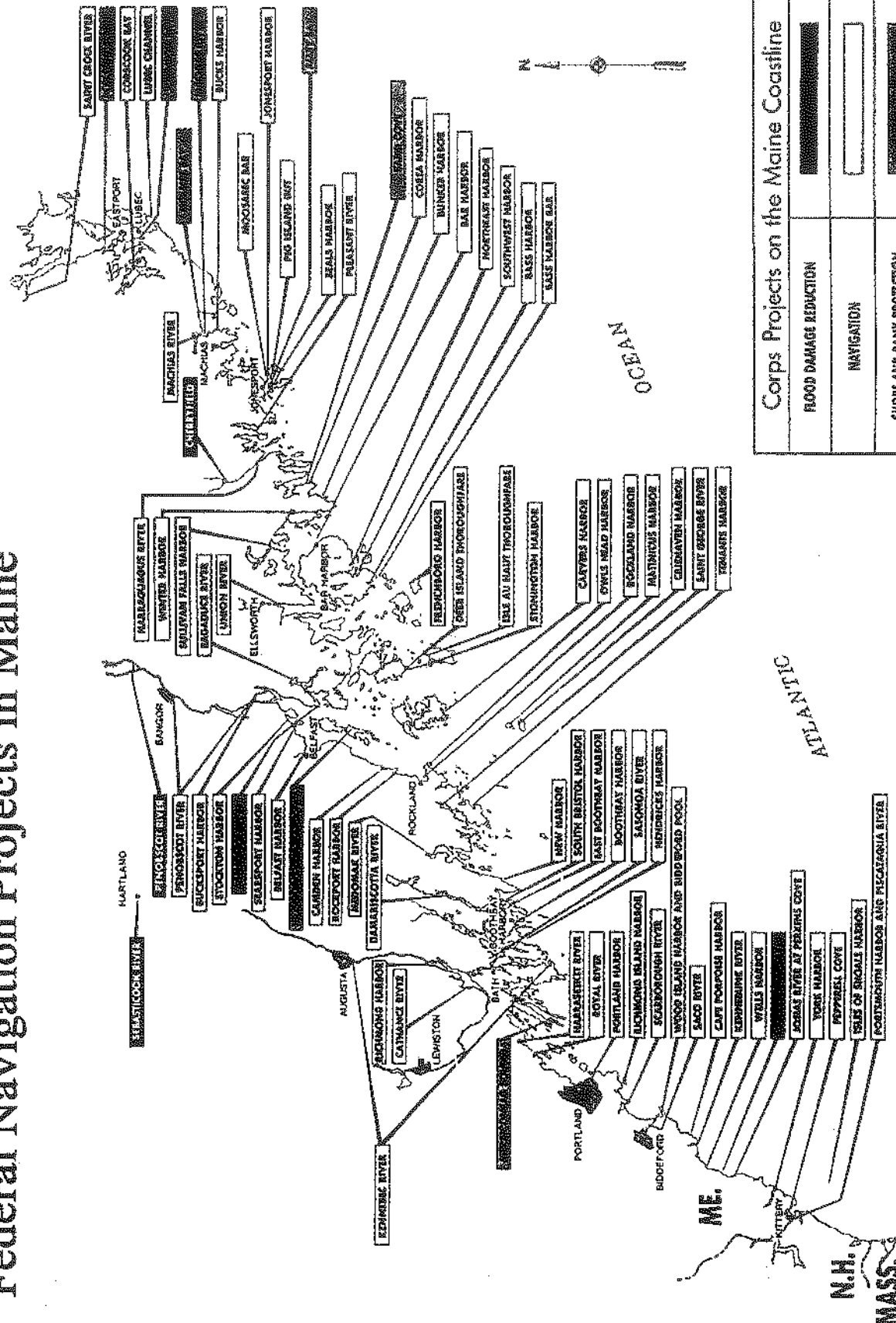
⁹ **Mooring Location:** Cannot be at a remote location to create a convenient transient anchorage.

¹⁰ **Horizontal Limits:** The outer edge of a Federal Navigation Project (FNP). Contact the Corps of Engineers for information on FNP's.

¹¹ **Structures:** The height of structures shall at all points be equal to or exceed the width of the deck. For the purpose of this definition, height shall be measured from the marsh substrate to the bottom of the longitudinal support beam.

¹² **Brushing the Flats:** The placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats to enhance recruitment of soft-shell clams (*Mya arenaria*).

Federal Navigation Projects in Maine



FLOOD DAMAGE REDUCTION	
NAVIGATION	
SHORE AND BANK PROTECTION	



**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: _____

Name of Permittee: _____

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

() _____
Telephone Number



US Army Corps
of Engineers®
New England District

PGP WORK START NOTIFICATION FORM
(Minimum Advance Notice: Two Weeks)

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

A Corps of Engineers Permit (No _____) was issued to _____. The permit authorized the permittee(s) to _____

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: () _____ () _____

Proposed Work Dates: Start: _____

Finish: _____

PERMITTEE'S SIGNATURE: _____ DATE: _____

PRINTED NAME: _____ TITLE: _____

FOR USE BY THE CORPS OF ENGINEERS

PM: _____ Submittals Required: _____

Inspection Recommendation: _____

Attachment #8

ATTACHMENT #8

Erosion control plan:

A. Pre-construction phase

All erosion control measures shall be in accordance with the Maine Erosion Control and Sediment Control: Best Management Practices, March, 2003.

Prior to the beginning of any construction, silt fence, or other erosion control measures shall be installed as shown on the plans. This network is to be maintained by the contractor until all exposed areas have at least 85% - 90% vigorous perennial vegetative cover to prevent erosion. The following erosion control measure shall be adhered to by the contractor(s) throughout the construction of this project.

B. Construction and post construction phase

1. Areas undergoing actual construction shall only expose that amount of mineral soil necessary for progressive and efficient site construction and shall not exceed 14 days. Areas that will not be completed (covered and/or finish graded) within 14 days of disturbance shall be anchored with temporary erosion control. Temporary erosion control shall include erosion control mesh, netting, or mulch, as directed by the inspecting engineer. If disturbed areas do not receive final seeding by September 15th of the year of construction, then all disturbed areas shall be hay mulched at a rate of 100 lbs. per 1,000 square feet, to provide winter protection. The hay mulch shall be anchored with suitable binder, such as RMB plus and/or secured with netting for wind protection.
2. Silt fence barriers shall be installed according to this plan.
3. All areas shall be seeded in accordance with the following vegetative plan.

C. Vegetation plan

Revegetation measures shall commence immediately upon completion of construction. Areas shall also be mulched and anchored prior to any storm event. If final seeding cannot be accomplished by September 15th, then all disturbed areas shall be mulched at a rate of 100 lbs. per 1,000 square feet to provide winter protection. Hay mulch shall be secured with a suitable binder to include RBM plus and/or erosion netting, as directed by the owner engineer.

Revegetation measures shall consist of the following:

1. Four inches of loam will be spread over disturbed areas and smoothed to a uniform surface. Loam shall be free of subsoil, clay lumps, stones, and other objects over 1" in diameter and without weeds, roots, or other objectionable material.
2. In lieu of soil tests, agricultural limestone shall be spread at a rate of 3 tons per acre. 10-20-20 fertilizer shall be applied at a rate of 800 lbs. per acre. These soil amendments shall be incorporated into the soil prior to final seeding.
3. Following seed bed preparation, swale areas, fill areas, and back slopes shall be seeded to a mixture of 35% creeping red fescue, 6% red top, 24% Kentucky blue grass, 10% perennial rye grass, and 5% Dutch clover. The lawn areas will be seeded to a premium turf mixture of bluegrass and/or fescue; seeding rate of 2-3 lbs. per 1,000 square feet.
4. Hay mulch shall be applied to all disturbed areas at a rate of 100 lbs. per 1,000 square feet, or a hydro-application of asphalt, wood, or paper fiber will be applied following seeding.

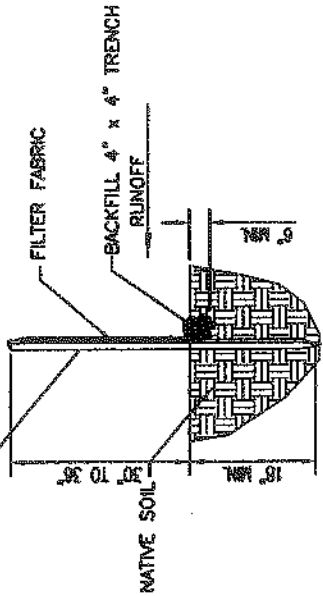
A suitable binder such as RMB plus and/ or erosion control netting will be used on hay mulch for wind control.

5. All hay bale and/or filter fabric barriers will remain in place until seedlings have become 85% - 90% established and then removed within 10 days.

D. Inspection/monitoring

1. Maintenance measures shall be applied as needed during the entire construction cycle. After each rainfall, the site contractor shall perform a visual inspection of all erosion control measures and perform repairs as needed to insure their continued function.
2. Following the temporary and/or final seeding, the contractor shall inspect the site semimonthly until the seedlings have been established. Established means a minimum of 85% - 90% of areas vegetated with vigorous growth. Reseeding shall be carried out by the contractor with the follow up inspections in the event of any failures until vegetation is adequately established.

HARDWOOD OR STEEL POSTS



SIDE VIEW

SILT FENCE. SILT FENCE SHALL BE INSTALLED IN ACCORDANCE WITH MOST SPECIFICATIONS.

CONSTRUCTION

1. THE HEIGHT OF A SILT FENCE SHALL BE BETWEEN 30" AND 36".
2. THE SILT FENCE SHALL BE PURCHASED IN A CONTINUOUS ROLL CUT TO THE LENGTH OF THE BARRIER TO AVOID THE USE OF JOINTS. WHEN JOINTS ARE NECESSARY, FILTER CLOTH SHALL BE SPUN TOGETHER ONLY AT A SUPPORT POST, WITH A MINIMUM 6-INCH OVERLAP, AND SECURELY SEALED. FILTER FABRIC SHALL EXTEND A MIN. OF 6" INTO THE GROUND.
3. POSTS SHALL BE SPACED A MAXIMUM OF 6 FEET APART AT THE BARRIER LOCATION AND DRIVEN SECURELY INTO THE GROUND (MINIMUM OF 18 INCHES).
4. A TRENCH SHALL BE EXCAVATED APPROXIMATELY 6 INCHES WIDE AND 6 INCHES DEEP ALONG THE LINE OF POSTS AND UPSLOPE FROM THE BARRIER.
5. THE TRENCH SHALL BE BACK FILLED AND THE SOIL COMPACTED OVER THE FILTER FABRIC.

MAINTENANCE

1. SILT FENCES AND FILTER BARRIERS SHALL BE INSPECTED PRIOR TO AND IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
2. SHOULD THE FABRIC ON A SILT FENCE OR FILTER BARRIER DECOMPOSE OR BECOME INEFFECTIVE PRIOR TO THE END OF THE EXPECTED USABLE LIFE AND THE BARRIER STILL BE NECESSARY, THE FABRIC SHALL BE REPLACED PROMPTLY.
3. SEDIMENT DEPOSITS MUST BE REMOVED WHEN DEPOSITS REACH APPROXIMATELY ONE-HALF THE HEIGHT OF THE BARRIER.
4. SILT FENCES SHALL BE MAINTAINED UNTIL ALL PROTECTED AREAS HAVE BEEN STABILIZED AND CONSTRUCTION PHASE IS COMPLETE. REMOVE SILT FENCE WITHIN 10 DAYS OF COMPLETION.
5. ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE SILT FENCE OR FILTER BARRIER IS NO LONGER REQUIRED SHALL BE DRESSED TO CONFORM WITH THE EXISTING GRADE, PREPARED AND SEED.

TYPICAL FILTER BARRIER

N.T.S.

TIMOTHY NAPOLITANO
814 ISLAND AVE.
PEAKS ISLAND, MAINE

PIER INSTALLATION
-FILTER BARRIER-

TEC ASSOCIATES
CONSULTING ENGINEERS
49 SARDER STREET SOUTH PORTLAND, MAINE 04106

SCALE NTS
JOB NUMBER

DATE 10/21/05
REV. NO.

DRAWN BY

JDL

1 OF 1

To Jerry	From D. Hallowell
Co./Dept. TEL ASSOC	Co. MDEP
Phone #	Phone # 822-6300
Fax # 767-785	Fax #

Hallowell, Dawn

From: DiBello, Carol
 Sent: Tuesday, December 06, 2005 2:15 PM
 To: Hallowell, Dawn
 Subject: Naplitano, Peaks Island

Hi Dawn,

I have reviewed the application from Timothy Napolitano, #L-22733-4E-A-N, and determined that the project qualifies for a seasonal exemption. No submerged lands lease or easement is needed.

Carol

*Jerry -
 I couldn't locate
 my copy of this on email. So...
 Here it is on paper.
 - Dawn*



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

DEPARTMENT ORDER

IN THE MATTER OF

TIMOTHY NAPOLITANO
Portland, Cumberland County
PILE SUPPORTED PIER
L-22733-4E-A-N (approval)

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

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

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to construct a five foot wide by fifty foot long aluminum pier, pinned to a ledge outcrop and supported by two ten inch by ten inch piles and four eight inch diameter bent piles. The applicant also proposes to construct a temporary ramp and float. In order to traverse the steep slope to the pier site, the applicant proposes to construct a set of stairs measuring approximately five feet wide by 280 feet long with two landings measuring approximately 5 feet wide and eighty feet long. The proposed stairs and landings would be supported by posts. The project site is located on Island Avenue, on the northwest side of Peaks Island in the City of Portland.

B. Current Use of the Site: The applicant owns 9,140 square feet of property on Peaks Island. The property is currently developed with a single family house. It contains approximately 74 feet of frontage on Diamond Island Pass, Casco Bay. The shoreline is characterized by a steep slope, vegetated with shrubs and trees. The intertidal area is dominated by a combination of ledge and rockweed, sand and cobble. The property is further identified as Lot 6A on the City of Portland's Tax Map #92.

2. WATER QUALITY CONSIDERATIONS:

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.

3. HABITAT CONSIDERATIONS:

The Department of Marine Resources (DMR) stated that the site of the proposed project is a moderate energy mixed shore. The upland area is developed with a house and lawn. The supratidal is ledge and the base of a 30-foot high vegetated slope. The intertidal area

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TEC ASSOCIATES

is ledge with a variable slope, approximately 60-feet wide. The lower intertidal area is sand, gravel and cobble. There is moderate seaweed cover in the intertidal area. Barnacles, mussels and periwinkles are present. There is a pier on the abutting property to the northeast. DMR stated that the proposed project should not cause any significant adverse impact to marine resources, navigation or recreation.

The Maine Department of Inland Fisheries and Wildlife (IF&W) reviewed the proposed project and stated that there are no Essential or Significant Wildlife Habitats at the project site. IF&W stated that there is a high value Coastal Wading Bird and Waterfowl Habitat associated with offshore eelgrass beds near the project site. IF&W further stated that considering the use and design of the proposed pier, as well as the level of development on site, IF&W does not believe that this project will significantly impact the Coastal Wading Bird and Waterfowl Habitat.

4. WETLANDS AND WATERBODIES PROTECTION RULES:

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 alteration 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 completed by TEC Associates and submitted as Attachment 2 in the application packet. The applicant is in the process of purchasing a 25 foot long motorboat. There are two organizations on Peaks Island that provide water access for boats, Peaks Island Marina and the Trefthen-Evergreen Improvement Association (TEIA). TEIA is a private club that promotes sailing and tennis. The applicant does not wish to join this club. The Peaks Island Marina does not have any slips or moorings available. There is no safe way to access the shoreline on this property due to the steep slope and the seaweed covered ledges.

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 applicant proposes to permanently alter approximately 250 square feet with the installation of the pier and temporarily alter 504 square feet with the ramp and float. Soil and vegetation adjacent to the coastal wetland will be temporarily disturbed to install posts that will support the proposed stairs and landings. The landward end of the pier will be pinned to an existing ledge wall and the seaward end will be supported by two piles that will be protected with four batter pilings. The float will be secured using helix anchors rather than blocks. The pier has been designed to have each end land on exposed ledge outcrop.

c. **Compensation.** In accordance with Chapter 310(5)(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.

5. 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 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 TIMOTHY NAPOLITANO to construct a set of stairs and landings to access the shoreline and a pier, 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 his activities or those of his agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.

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.

DONE AND DATED AT AUGUSTA, MAINE, THIS 27th DAY OF February, 2006.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By:



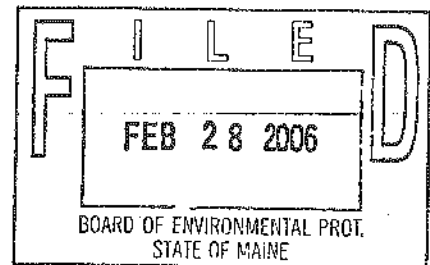
 DAVID P. LITTELL, COMMISSIONER

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application November 16, 2005

Date of application acceptance November 23, 2005

Date filed with Board of Environmental Protection
 DEH/ATS#56560/L22733AN





NATURAL RESOURCE PROTECTION ACT (NRPA) STANDARD CONDITIONS

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

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and 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.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

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

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

II. APPEALS TO MAINE SUPERIOR COURT

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

ADDITIONAL INFORMATION

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

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

BOARD OF HARBOR COMMISSIONERS PORT OF PORTLAND PERMIT-A

TO BE POSTED IN A CONSPICUOUS PLACE AT THE CONSTRUCTION SITE

To.....Timothy A. Napolitano, 5 Applewood Circle PO Box 2301 South Portland, ME 04106.....

The undersigned, Board of Harbor Commissioners for the Harbor of Portland, has carefully considered your application, Dated the 2nd day of December 2005, for a permit authorizing the installation of a 5'x50' permanent pier, stairs, landings, 3'x48' seasonal gangway, and 12'x30' seasonal float.

Having given public notice of this pending application, as required by law, and therein designated the 23rd day Of February 2006, at 5:00 o'clock in the afternoon prevailing time as the time when they would meet At the 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.

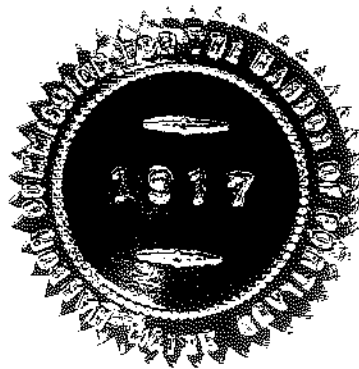
Nothing in this permit shall be construed to justify or authorize any invasion to the private rights of others. Moreover, nothing in this permit shall limit or modify the authority of the Board of Harbor Commissioners for the Harbor of Portland with its applicable statute. Attested copies will be submitted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

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 23rd day of February 2006.

The work authorized to this permit must be completed on or before the 23rd day of February 2007.

[Handwritten signatures of Board members]

Board of Harbor Commissioners for the Port of Portland





PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life ® www.portlandmaine.gov

Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

Jerome D. Lord
TEC Associates
46 Sawyer Street
South Portland, ME 04106

January 23, 2006

Dear Mr. Lord:

RE: Application for Minor Site Plan, Pier installation at #614 Island Ave.: Peaks Island

Thank you for your application to construct stairs, pier, float, and landing which will service the property at #614 Island Avenue.

Upon review of the submittals, the City's Planning Division has the following comments:

1. The City will need copies of each of the following approvals:
 - a. Maine D.E.P.'s NRPA permit*,
 - b. Submerged lands permit,
 - c. Construction of Structures in Navigable Waters Permit,
 - d. Marine Construction Permit,
2. *Along with the NRPA approval, the City will need a copy of the erosion and sedimentation control plan that has been approved by the DEP.
3. In order to evaluate the tree and soil disturbance within the shoreland zone, please show on the site plan the areas/limits of disturbance (on both sides of the stairs and landings).

Please submit 4 copies of revised plans and approvals to my attention.

Sincerely,

Jay Reynolds
Development Review Coordinator

cc: Sarah Hopkins, Development Review Services Manager

**City of Portland, Maine
Site Plan Application**

Prepared For:

**Timothy A. Napolitano
614 Island Avenue
Peaks Island, Maine 04108**

Prepared By:

**TEC Associates
46 Sawyer Street
South Portland, Maine 04106
And
Custom Float Services
36 Union Wharf
Portland, Maine 04101**

January 9, 2006

January 9, 2006

City of Portland, Maine
Site Plan Application

Project: Timothy A. Napolitano
Re: Pier Installation

Dear Planning Department:

To access to the waterfront from this parcel you must climb down a steep bank and over seaweed covered ledge. As a result, the owner currently has no safe access to the waterfront. We are proposing to construct stairs, landings, a permanent arch style aluminum pier, a seasonal aluminum gangway and a seasonal float. The design, orientation, and scope will result in safe easy access to the waterfront, will closely match the existing use of the area and will not result in any know adverse impacts.

The arch style aluminum pier is proposed to be 5' x 50' and will span from the ledge wall, at the toe-of-slope, to the exposed ledge area in the intertidal area (see sheet #2). The pier will be securely attached at the ledge wall with pins and epoxy grout (if required). The waterside end of the pier will rest on a pile cap supported by a total of six piles, (two 10" x 10" vertical bearing piles and four 8" x 8" batter piles). The piles will be pinned to the ledge. The finished elevation of the top of the pier will be at 16.50' (MLW Datum).

The seasonal aluminum gangway is proposed to be 3' x 48'. It will be attached to the pier with a rotating connection and then land on a proposed 12' x 30' seasonal float. The float will be fastened with chain on the inboard and outboard sides. The chain will run from the inboard side of the float to the pile cap and from the outboard side to helix anchors set into the ocean floor. The helix anchors are twisted into the ocean floor until the top portion is flush with the ocean floor. As a result, there will be no chance of any part or the anchoring system protruding into the tidal zone as is typical with large granite block anchors.

The orientation of the pier, gangway and float are aligned in such a way as to have each end land on ledge rather than on the more sensitive sand and stone area between.

The size and scope of the pier have been kept to a minimum by designing a pier and ramp as compact as possible to extend a single float to the minimum water depth required.

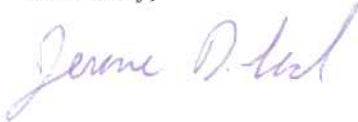
The current use of the area includes a pier and float 200 feet easterly from this property which serves a private residence, to the west there is the Trefthen – Evergreen Improvement Association club that consists of a building, gangway, float system, and mooring field. Beyond these locations there are several other small privately owned piers and floats.

The proposed pier is for private use only. Therefore, there will not be any extra parking proposed or added traffic to the property.

The proposed stairs, landings, pier, seasonal ramp, and seasonal float design is the best alternative to gain waterfront access from this parcel. It has been designed to match the current conditional use of the area and will not result in any known adverse impacts to the health, safety, or welfare of the public or the surrounding area. In addition, there will not be any know negative characteristics or effects associated with it.

Thank you for your review of this project.

Sincerely,

A handwritten signature in blue ink that reads "Jerome D. Lord". The signature is written in a cursive style with a large initial "J".

Jerome D. Lord
TEC Associates

City of Portland Site Plan Application

If you or the property owner owe real estate taxes, personal property taxes or user charges on any property within the City of Portland, payment arrangements must be made before permit applications can be received by the Inspections Division.

Address of Proposed Development: 614 Island Ave., Peaks Island		Zone: IR-2
Total Square Footage of Proposed Structure: 225 Sq-ft above high waterline 743 Sq-ft Below high waterline 968 Sq-ft Total	Square Footage of Lot: 9,147 +/-	
Tax Assessor's Chart, Block & Lot: Chart# 92 Block# A Lot# 6	Property owner's mailing address: Timothy Napolitano 5 Applewood Cir. PO. Box 2301 South Portland, Maine 04106	Telephone #: 207-799-1525
Consultant/Agent, mailing address, phone # & contact person: Jerome Lord TEC Associates 46 Sawyer St. South Portland, Maine 04106 767-6068 x205	Applicant's name, mailing address, telephone #/Fax#/Pager#: Jerome Lord TEC Associates 46 Sawyer St. South Portland, Maine 04106 767-6068 x205 Fax 767-7125	Project name: Pier Installation

Fee For Service Deposit (all applications)

(\$200.00)

Proposed Development (check all that apply)

- New Building Building Addition Change of Use Residential Office Retail
- Manufacturing Warehouse/Distribution Parking lot
- Subdivision (\$500.00) + amount of lots _____ (\$25.00 per lot) \$ _____ + major site plan fee if applicable
- Site Location of Development (\$3,000.00)
(except for residential projects which shall be \$200.00 per lot _____)
- Traffic Movement (\$1,000.00) Stormwater Quality (\$250.00)
- Section 14-403 Review (\$400.00 + \$25.00 per lot)
- Other Stairs, pier, ramp and float

Major Development (more than 10,000 sq. ft.)

- Under 50,000 sq. ft. (\$500.00)
- 50,000 - 100,000 sq. ft. (\$1,000.00)
- Parking Lots over 100 spaces (\$1,000.00)
- 100,000 - 200,000 sq. ft. (\$2,000.00)
- 200,000 - 300,000 sq. ft. (\$3,000.00)
- Over 300,000 sq. ft. (\$5,000.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

Minor Site Plan Review

- Less than 10,000 sq. ft. (\$400.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

Plan Amendments

- Planning Staff Review (\$250.00)
- Planning Board Review (\$500.00)

Who billing will be sent to: (Company, Contact Person, Address, Phone #)

Jerome Lord
TEC Associates
46 Sawyer St.
South Portland, Maine 04106
207-767-6068 x205

Submittals shall include (9) separate folded packets of the following:

- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans checklist
- d. 1 set of 11 x 17 plans

Amendment to Plans: Amendment applications should include 6 separate packets of the above (a, b, & c)
ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

Section 14-522 of the Zoning Ordinance outlines the process which is available on our web site: portlandmaine.gov

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

Signature of applicant: <i>Jerome Lord</i>	Date: <i>12/28/05</i>
--	-----------------------

This application is for site review ONLY, a building Permit application and associated fees will be required prior to construction.

Oct. 17. 2005 3:07PM

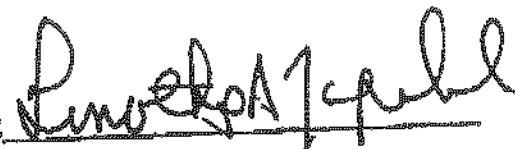
No. 3053 P. 2/2

Letter of Authorization

To whom it may concern:

Either *Charlie Poole of Custom Float Services, 36 Union Wharf, Portland, Maine* or *Jerry Lord of TEC Associates, 46 Sawyer St., South Portland, Maine* are authorized to apply for and receive such permits as necessary from all permitting authorities (local, state and federal) in order to build, deliver and install a permanent pier and install a seasonal gangway and float at my property located at 614 Island Ave., Peaks Island, Maine 04106.

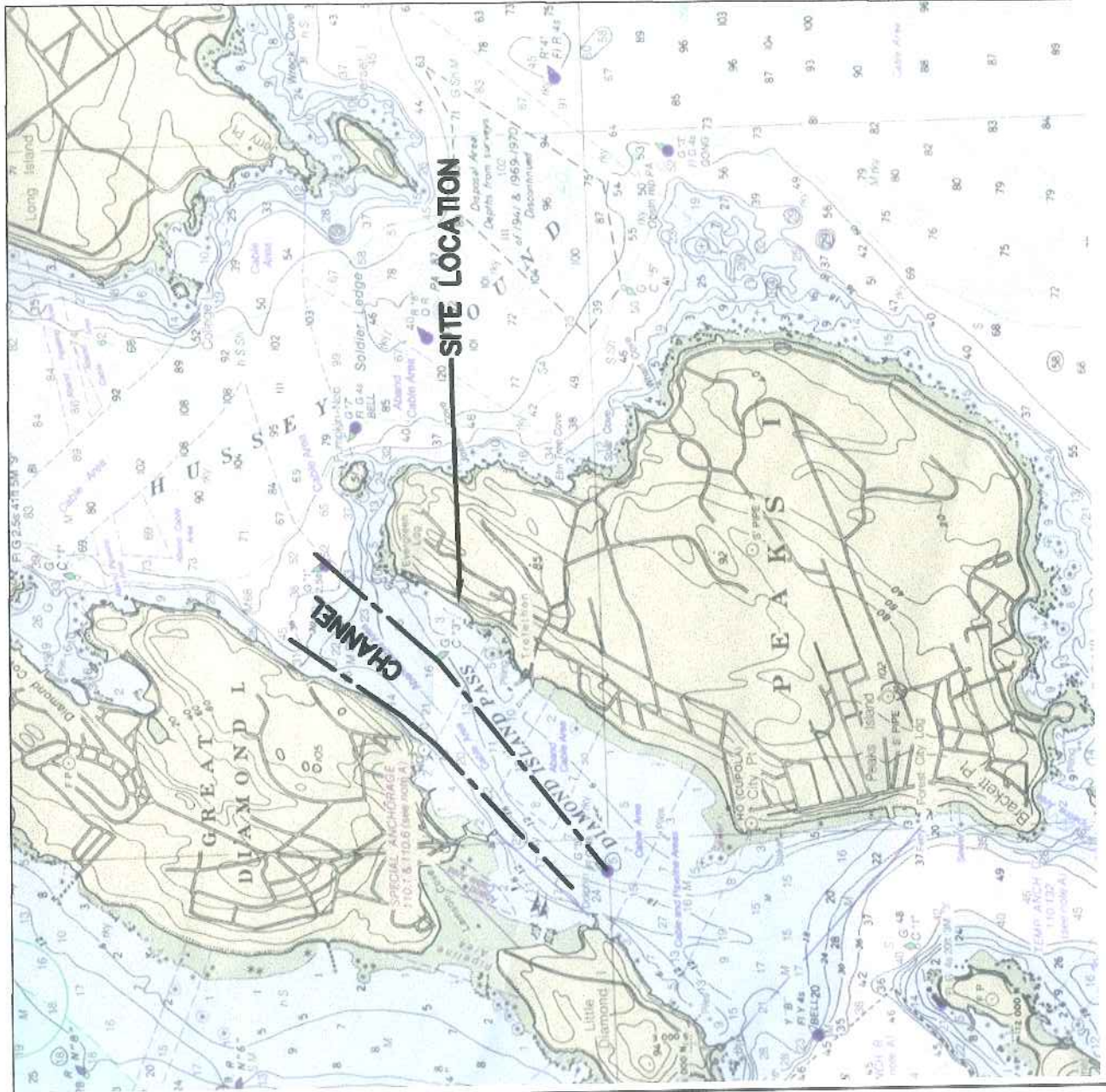
Signed:



Mr. Tim Napolitano
5 Applewood Circle
South Portland, Maine 04106

Date:

10/17/05



TIMOTHY NAPOLITANO
614 ISLAND AVE.
PEAKS ISLAND, MAINE

PIER INSTALLATION
LOCATION DIAGRAM

 **TEC ASSOCIATES**
 CONSULTING ENGINEERS
 SOUTH PORTLAND, MAINE 04108
 46 SAWYER STREET

SCALE NTS	DATE 11/7/05
JOB NUMBER	REV. NO.
DRAWN BY JDL	DRAWING NO. 1 OF 1

Written statements

The following addresses the City of Portland Code of Ordinances Section 14-525 (C):

The owner of the parcel is Timothy Napolitano. The total cost of the proposed construction is estimated to be \$50,000 plus engineering and permitting costs, as required.

1. Use

The existing and proposed use of the site is residential. The purpose of the proposed pier system is to gain access to Casco Bay for recreational use.

2. Area of building or structure

The total land area is 8,712 square feet. The footprint of the proposed structure (stairs and landings) above high-water-line is 225 square feet. The footprint below the high-water-line (pier, ramp, and float) is 743 square feet. The total footprint is 968 square feet.

3. Existing or proposed easements

There are no existing or proposed easements or burdens to be placed on the property.

4. Solid waste

No extra solid waste will be generated by the proposed improvements.

5. Evidence of availability of off-site facilities

No extra water or sewer service will be required. The existing services are adequate.

6. Existing surface drainage/management plan

The site drains completely by sheet flow from Island Avenue across the property to Casco Bay. There are no known drainage pipes across the property. There are no signs of erosion generated by surface run-off. Surface drainage will remain the same for pre and post construction. The only impact to the land by the proposed improvements will be to install posts to construct the stairs and landings. We are proposing to install silt fence (see detail) at the toe of the slope to prevent any material running off the site and to reseed areas disturbed by construction. All work shall be in accordance with the Maine Erosion Control and Sediment Control: Best Management Practices, March, 2003.

7. Construction plan

The stairs, landings, and pier will be constructed from the shore the anchor system will be set by a barge or boat. The following is the order of construction:

- Install erosion control measures. (see erosion control plan and detail)
- Prepare ledge wall area that will support landside portion of pier. Prepare by removing loose pieces of stone, drill and grout pins into the ledge and add epoxy grout (if required) to create a level surface. Build up with timber as required to obtain the proposed finished top of pier elevation of 16.50' (MLW) datum.
- Drill and grout pins into the exposed ledge that will fasten the six pile bent to the ledge.
- Construct the timber pile bent that will support the waterside portion of the pier. The bent will be supported by two 10"x 10" bearing piles (one on each side) and four 8"x 8" batter piles (two on each side). All piles will be pinned to ledge. The pile cap will be a 10" x 10" timber. The cross bracing will be 3" x 8" and attached to the bearing piles. All timber piling to be SYP 2.5 CCA treated. Other timber to be SYP 0.60 CCA treated. All bolts, pins, and other hardware shall be galvanized or stainless steel.
- Set in place and attach 5' x 50' arch supported aluminum pier.

- Move 12' x 30' seasonal float in place. Float will be constructed of pressure treated lumber, galvanized hardware, and polyethylene drums for floatation.
- Install the 3" x 48' seasonal aluminum ramp.
- Install the two helix anchors by barge or boat.
- Install chain from piles to float and from anchors to float. Install in a cross pattern for support.
- Construct the stairs and landings. Lumber shall be pressure treated. Hardware shall be galvanized or stainless steel. The landings size and number of stair risers will be determined by the builder. Construction of the stairs and landing may begin prior to or during construction of the pier.
- Remove erosion control measures and clean-up area.

The project will begin in the early spring provided all the permits are approved and will take approximately 2 months to complete.

Erosion control plan:

A. Pre-construction phase

All erosion control measures shall be in accordance with the Maine Erosion Control and Sediment Control: Best Management Practices, March, 2003.

Prior to the beginning of any construction, silt fence, or other erosion control measures shall be installed as shown on the plans. This network is to be maintained by the contractor until all exposed areas have at least 85% - 90% vigorous perennial vegetative cover to prevent erosion. The following erosion control measure shall be adhered to by the contractor(s) throughout the construction of this project.

B. Construction and post construction phase

1. Areas undergoing actual construction shall only expose that amount of mineral soil necessary for progressive and efficient site construction and shall not exceed 14 days. Areas that will not be completed (covered and/or finish graded) within 14 days of disturbance shall be anchored with temporary erosion control. Temporary erosion control shall include erosion control mesh, netting, or mulch, as directed by the inspecting engineer. If disturbed areas do not receive final seeding by September 15th of the year of construction, then all disturbed areas shall be hay mulched at a rate of 100 lbs. per 1,000 square feet, to provide winter protection. The hay mulch shall be anchored with suitable binder, such as RMB plus and/or secured with netting for wind protection.
2. Silt fence barriers shall be installed according to this plan.
3. All areas shall be seeded in accordance with the following vegetative plan.

C. Vegetation plan

Revegetation measures shall commence immediately upon completion of construction. Areas shall also be mulched and anchored prior to any storm event. If final seeding cannot be accomplished by September 15th, then all disturbed areas shall be mulched at a rate of 100 lbs. per 1,000 square feet to provide winter protection. Hay mulch shall be secured with a suitable binder to include RBM plus and/or erosion netting, as directed by the owner engineer.

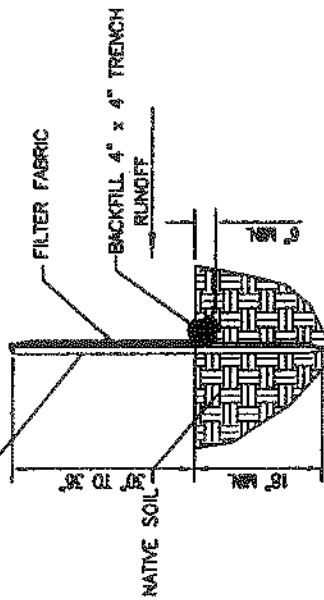
Revegetation measures shall consist of the following:

1. Four inches of loam will be spread over disturbed areas and smoothed to a uniform surface. Loam shall be free of subsoil, clay lumps, stones, and other objects over 1" in diameter and without weeds, roots, or other objectionable material.
2. In lieu of soil tests, agricultural limestone shall be spread at a rate of 3 tons per acre. 10-20-20 fertilizer shall be applied at a rate of 800 lbs. per acre. These soil amendments shall be incorporated into the soil prior to final seeding.
3. Following seed bed preparation, swale areas, fill areas, and back slopes shall be seeded to a mixture of 35% creeping red fescue, 6% red top, 24% Kentucky blue grass, 10% perennial rye grass, and 5% Dutch clover. The lawn areas will be seeded to a premium turf mixture of bluegrass and/or fescue; seeding rate of 2-3 lbs. per 1,000 square feet.
4. Hay mulch shall be applied to all disturbed areas at a rate of 100 lbs. per 1,000 square feet, or a hydro-application of asphalt, wood, or paper fiber will be applied following seeding. A suitable binder such as RBM plus and/ or erosion control netting will be used on hay mulch for wind control.
5. All hay bale and/or filter fabric barriers will remain in place until seedlings have become 85% - 90% established and then removed within 10 days.

D. Inspection/monitoring

1. Maintenance measures shall be applied as needed during the entire construction cycle. After each rainfall, the site contractor shall perform a visual inspection of all erosion control measures and perform repairs as needed to insure their continued function.
2. Following the temporary and/or final seeding, the contractor shall inspect the site semimonthly until the seedlings have been established. Established means a minimum of 85% - 90% of areas vegetated with vigorous growth. Reseeding shall be carried out by the contractor with the follow up inspections in the event of any failures until vegetation is adequately established.

HARDWOOD OR STEEL POSTS



SIDE VIEW

SILT FENCE. SILT FENCE SHALL BE INSTALLED IN ACCORDANCE WITH MOST SPECIFICATIONS.

CONSTRUCTION

1. THE HEIGHT OF A SILT FENCE SHALL BE BETWEEN 30" AND 36".
2. THE SILT FENCE SHALL BE PURCHASED IN A CONTINUOUS ROLL CUT TO THE LENGTH OF THE BARRIER TO AVOID THE USE OF JOINTS. WHEN JOINTS ARE NECESSARY, FILTER CLOTH SHALL BE SPUN TOGETHER ONLY AT A SUPPORT POST, WITH A MINIMUM 6-INCH OVERLAP, AND SECURELY SEALED. FILTER FABRIC SHALL EXTEND A MIN. OF 6" INTO THE GROUND.
3. POSTS SHALL BE SPACED A MAXIMUM OF 6 FEET APART AT THE BARRIER LOCATION AND DRIVEN SECURELY INTO THE GROUND (MINIMUM OF 18 INCHES).
4. A TRENCH SHALL BE EXCAVATED APPROXIMATELY 6 INCHES WIDE AND 6 INCHES DEEP ALONG THE LINE OF POSTS AND UPSLOPE FROM THE BARRIER.
5. THE TRENCH SHALL BE BACK FILLED AND THE SOIL COMPACTED OVER THE FILTER FABRIC.

MAINTENANCE

1. SILT FENCES AND FILTERS BARRIERS SHALL BE INSPECTED PRIOR TO AND IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
2. SHOULD THE FABRIC ON A SILT FENCE OR FILTER BARRIER DECOMPOSE OR BECOME INEFFECTIVE PRIOR TO THE END OF THE EXPECTED USABLE LIFE AND THE BARRIER STILL BE NECESSARY, THE FABRIC SHALL BE REPLACED PROMPTLY.
3. SEDIMENT DEPOSITS MUST BE REMOVED WHEN DEPOSITS REACH APPROXIMATELY ONE-HALF THE HEIGHT OF THE BARRIER.
4. SILT FENCES SHALL BE MAINTAINED UNTIL ALL PROTECTED AREAS HAVE BEEN STABILIZED AND CONSTRUCTION PHASE IS COMPLETE. REMOVE SILT FENCE WITHIN 15 DAYS OF COMPLETION.
5. ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE SILT FENCE OR FILTER BARRIER IS NO LONGER REQUIRED SHALL BE DRESSED TO CONFORM WITH THE EXISTING GRADE, PREPARED AND SEEDS.

TYPICAL FILTER BARRIER

N.T.S.

TIMOTHY NAPOLITANO
614 ISLAND AVE.
PEAKS ISLAND, MAINE

PIER INSTALLATION
-FILTER BARRIER-



TEC ASSOCIATES
CONSULTING ENGINEERS
48 SAUNDER STREET
SOUTH PORTLAND, MAINE 04106

SCALE	NTS	DATE	10/21/08
DESIGNED BY	JDL	CHECKED BY	JDL
DATE		10/21/08	

8. Permits required and status:

City of Portland

- *Zoning Board of Appeals* (Approved 1/5/06)
- *Site Plan Review*
- *Building Permit*

Maine Department of Environmental Protection

- *Natural Resources Protection Act Permit* (submitted November 22, 2005 and found acceptable for processing)

Note: The Maine Department of Environmental Protection will send a copy of the NRPA permit and coordinate with the Army Corps of Engineers and the Bureau of Parks & Land.

Bureau of Parks and Land Department of Conservation

- *Submerged Lands permit* (copy of NPRA permit sent by Maine Department of Environmental Protection)

Army Corps of Engineers

- *Construction of Structures in Navigable Waters permit* (copy of NPRA permit sent by Maine Department of Environmental Protection)

Board of Harbor Commissions

- *Marine construction permit* (submitted December 2005)

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, January 5, 2006 at 6:30 p.m. on the second floor in Room 209 at the Portland City Hall 389 Congress Street, Portland, Maine to hear the following appeals:

To: City Clerk
From: Marge Schmuckal, Zoning Administrator
Date: January 09, 2005
RE: Action taken by the Zoning Board of Appeals on January 5, 2006

The meeting was called to order at 6:45p.m.

Roll call as follows:

Members Present: Philip Saucier, Peter Coyne, Peter Thorton, David Dore, William Hall, Catherine Alexander, and Kate Knox.

Members Absent: None

APPEAL AGENDA

1. **New Business:**

A. Interpretation Appeal:

245 High Street / Gordan Simonds, owner Tax Map # 036 Block G Lot #005 in the R-6 Residential Zone. Appellant is appealing an Interpretation of the Building Official, relating to section 14-463 of the City of Portland Zoning Ordinance and section 105.1 and 110.1 of the 2003 International Building Code. Change of Use permit was never granted and no Certificate of Occupancy has been issued for the currently 16 unit rooming house. Representing the appeal is the owner. **Request to continue for two weeks, on January 19, 2006 agenda. Board voted 7-0 and accepted.**

B. Conditional Use Appeal:

614 Island Avenue, Timothy A. Napolitano owner, Tax Map #092 Block A Lot #006 in the IR2 Island Residential Zone is seeking a Conditional Use Appeal under section 14-145.9.c4 of the City of Portland Zoning Ordinance. Appellant requests permission to access the waterfront by adding two sets of landings, two sets of stairways, 5' x 50' pier, 3' x 48' ramp and a 12' x 30' seasonal float. Currently to access the waterfront there is a steep bank with a seaweed covered ledge. Representing the Appeal is Jerome D. Lord / TEC Associates. **Peter Thornton recused himself from voting on the Appeal because of the appearance of a conflict of interest (he was the buyers broker). The board accepted. Board voted 6-0 and granted the Conditional Use Appeal.**

C. Conditional Use Appeal:

930 Forest Avenue, James S. Miller owner, Tax Map #142 Block E Lot #004 in the R/P Residence Professional Zone is seeking a Conditional Use Appeal under section 14-147.5 of the City of Portland Zoning Ordinance. Appellant is requesting a Change of Use to allow for a home occupational business known a Psychic Readings by Anna. Representing the Appeal is the owner. **Board voted 7-0 and granted the Conditional Use Appeal.**

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

IR2 Island Residential Zone Wharf, Pier, Dock or Landing Ramp:

Conditional Use Appeal

DECISION

Date of public hearing:

1/5/05

Name and address of applicant:

Jerome Lord - owner's rep

Tim Napolitano - owner - 5 Applewood Circle, S.P., Maine

Location of property under appeal:

614 Island Ave., Peaks Island

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

Jerome Lord of TRC Associates
20 Applewood Drive
Saco ME

Tim Napolitano
5 Applewood Circle
South Portland ME

Exhibits admitted (e.g. renderings, reports, etc.):

Findings of Fact and Conclusions of Law:

A. Conditional Use Standard pursuant to Portland City Code §14-145.9(c)(4):

The proposed structure existed is a wharf, pier, dock or landing ramp.

Satisfied Not Satisfied

Reason: *Testimony + evidence provided*

B. Conditional Use Standards pursuant to Portland City Code §14-474(c)(2):

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

Yes No

Reason: *Similar to other properties in area
docks*

2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.

Yes No

Reason:
*- nobody against
- Boat traffic not an issue*

3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

Yes No

Reason: *Allowed by IR-2
See items B1+B2*

Conclusion: (check one)

Option 1: The Board finds that the standard described in section A above has been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application.

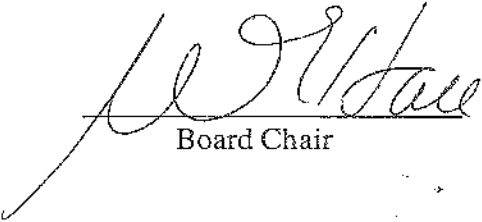
Option 2: The Board finds that the standard described in section A above has been satisfied, and that while not all of the conditions (1 through 3) described in section B above are present, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

Option 3: The Board finds that the standard described in section A above has not been satisfied and/or that all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

Please note that, pursuant to Portland City Code §14-522 and 523, if approved the project may be subject to site plan review and approval.

Dated:

1/5/06


Board Chair



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAWN H. GALLAGHER
COMMISSIONER

November 23, 2005

Jerome Lord
Tec Associates
46 Sawyer Street
South Portland ME 04106

RE: Napolitano Pile supported pier, Peaks Island, DEP #L-22733-4E-A-N

Dear Jerome:

The application you submitted on behalf of Timothy Napolitano for a Natural Resources Protection Act permit has been received by the Department of Environmental Protection and found to be acceptable for processing on November 23, 2005. Your application has been assigned DEP #L-22733-4E-A-N. Please refer to this number in any future correspondence.

Your application is now being examined to determine whether a license can be issued. Acceptance of your application does not preclude the Department from requesting additional information during processing.

Please complete and return the following supplemental form describing the applicant's needs for a pier prior to December 23, 2005. Feel free to call me at 822-6300 if you have any questions regarding your project.

Dawn Hallowell, Project Manager
Division of Land Resource Regulation
Bureau of Land and Water Quality

RECEIVED

NOV 28 2005

TEC ASSOCIATES

cc: file
Timothy Napolitano

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: 764-1507

9. Financial and technical capacity

Financial Capacity:

(See enclosed letter from Banknorth)

Technical capacity:

Survey, drafting, and design by TEC Associates in conjunction with Custom Float Services. Pier, ramp, and float to be constructed and/or assembled by Custom Float Services. Landings and stairs to be constructed by Davis Construction.

TEC Associates, Consulting Engineers, was established in 1979 to provide practical, innovative, and cost-effective civil engineering services with an emphasis on marine, railway, and municipal engineering. These services have included investigations, surveying, reports, design, permitting, plan preparation, specifications for construction, construction layout, site development, storm water management, and construction observation. TEC Associates' marine related projects have included the construction, rehabilitation, and maintenance of steel, concrete, and timber piers and wharves; inspections above and under water; seawall and sheet pile repairs; capacity rating; vessel salvage; building maintenance; site work; marina design; and environmental permitting. TEC Associates is currently contracted with the City of Portland for waterfront related engineering.

Custom Float services, was established in 1985, designs and builds float systems for a variety of needs and has float systems in service all over New England. Custom Float Service is located at Union Wharf, Portland, Maine.

CUSTOM FLOAT SERVICES INCLUDE:

- Assessment of new and existing facilities and rebuild recommendations;
- Design review and plan preparation from simple sketch outlines through schematic drawings and buoyancy calculations to available engineer certified drawings and bid specifications;
- An extensive library of tested plans utilizing a wide variety of flotation and heavy duty dock hardware configurations, building materials specifications and up-to date pricing of all materials;



Maine

One Portland Square
P.O. Box 9540
Portland, ME 04112-9540
T: 207 761-8500
Toll Free: 800 761-3666

December 16, 2005

Department of Environmental Protection
312 Canco Rd
Portland, Maine 04103

RE: Tim Napolitano/Financial capacity letter

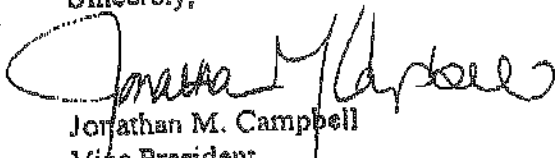
To Whom It May Concern:

Mr. Napolitano has provided TD Banknorth with preliminary plans for the proposed 614 Island Avenue project; an estimate of the cost of constructing; and other information pertaining to the viability of the project. After review of that information, and based upon my familiarity and background of Mr. Napolitano, I am confident that he has the means and expertise to successfully develop the project.

However, this letter does not represent, and cannot be construed as, an actual commitment by TD Banknorth, to extend any financing to Mr. Napolitano in connection with the proposed project. TD Banknorth will not be in a position to render such a commitment until the Bank has been supplied with final plans and budgets. However, that contingency aside, TD Banknorth presently has a strong interest in providing the financing for project.

Should you have any questions, please feel free to call me at 761-8657

Sincerely,



Jonathan M. Campbell
Vice President

10. Applicant's title, right, and interest

See enclosed deed and mortgage survey.

THIS IS NOT A BOUNDARY SURVEY

This copyrighted document expires 10-13-06. Reproduction and/or dissemination after this date is unauthorized.

MORTGAGE INSPECTION OF: DEED BOOK 15746 PAGE 58 COUNTY Cumberland
PLAN BOOK --- PAGE --- LOT ---

ADDRESS: 614 Island Avenue, Peaks Island, Maine

Job Number: 622-88

Inspection Date: 7-13-06

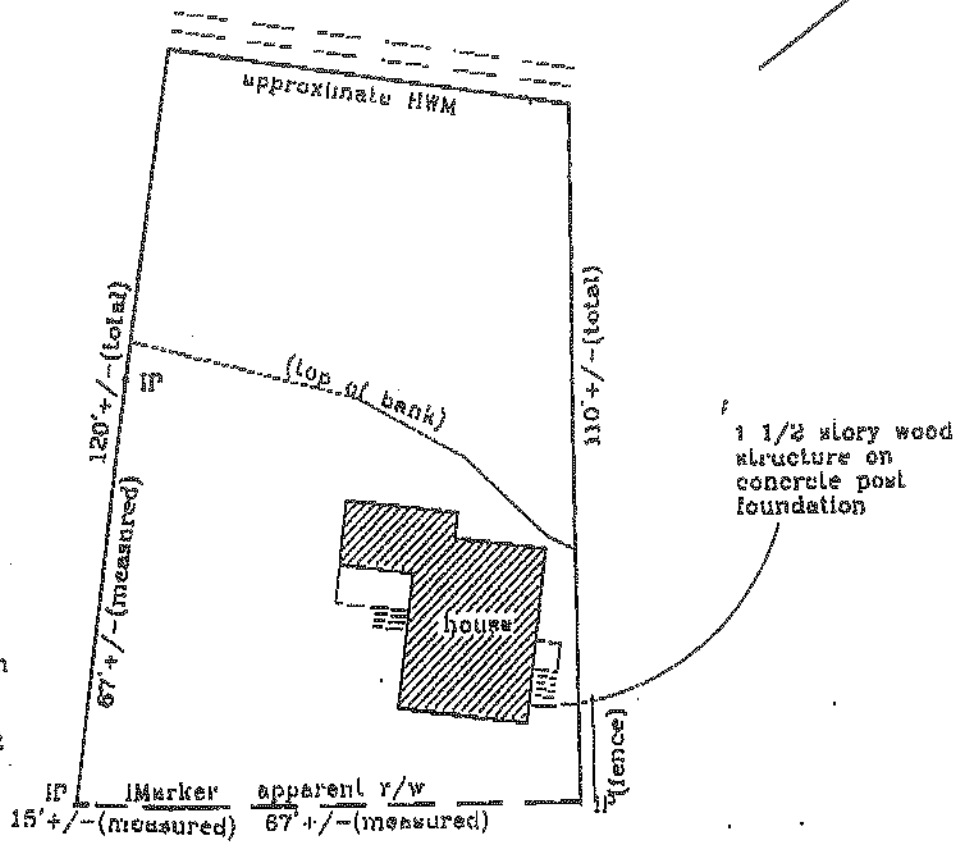
Scale: 1" = 30'

Client File #: M-NAPOLITANO

Buyers: Timothy A. Napolitano

Sellers: Kevin R. & Emily Moss

Casco Bay



Note:
Lines of occupation
are shown.
A boundary survey
may yield different
results...

to Church Ave. **Island Avenue**

I HEREBY CERTIFY TO: Hopkinson, Albondanza & Backer;

the Lender and its title insurer.
Monuments found did not conflict with the deed description.
The dwelling setbacks do not violate town zoning requirements.
As delineated on the Federal Emergency Management Agency Community
Panel: 230061 -

structure does not fall within the special flood hazard zone.
land does ~~not~~ fall within the special flood hazard zone.
A wetlands study has not been performed.

APPARENT EASEMENTS AND RIGHTS OF
WAY ARE SHOWN. OTHER ENCUMBRANCES,
RECORDED OR NOT, MAY EXIST. THIS
SKETCH WILL NOT REVEAL ABUTTING
DEED CONFLICTS, IF ANY.

Livingston-Hughes
Professional Land Surveyors
88 Guinea Road
Kennebunkport, Maine 04040
207-987-9761 phone 207-987-4891 fax
www.livingston-hughesurveyors.com

THIS SKETCH IS FOR MORTGAGE PURPOSES ONLY. RECEIVED

OCT 08 2005

WARRANTY DEED

KEVIN MOSS AND EMILY MOSS

of 430 Marlborough Street, #4, Boston, MA 02115

for consideration paid, grants to

TIMOTHY A. NAPOLITANO

of 5 Applewood Circle, South Portland, ME 04106, with WARRANTY COVENANTS, the following described real property in Peaks Island, County of Cumberland and State of Maine:

See Exhibit A attached hereto and made a part hereof

Also hereby conveying all rights, easements, privileges, and appurtenances, belonging to the premises hereinabove described.

WITNESS my hands and seals this 18th day of July, 2005.

[Signature]
Kevin Moss

State of Massachusetts
County of Suffolk

July 18, 2005 *RKH Km*

Personally appeared before me the above-named Kevin Moss and acknowledged the foregoing instrument to be his free act and deed.

Before me,

[Signature]
Notary Public
My Commission Expires: 12/22/2011

M-NAPOLITANO

ROSE K. MARICA, Notary Public
My Commission Expires December 22, 2011

MAINE REAL ESTATE TAX PAID

SEAL

Doc# 50562 Bk# 22926 Pg# 334

WITNESS my hands and seals this 19th day of July, 2005.

Emily Moss
Emily Moss

State of Massachusetts
County of Essex

July 19, 2005

Personally appeared before me the above-named Emily Moss and acknowledged the foregoing instrument to be her free act and deed.

Before me,

Norma W. Sylvain

Notary Public
My Commission Expires:



NORMA W. SYLVAIN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
February 6, 2009

SEAL

Doc#: 50542 Bk:22926 Pg: 335

EXHIBIT A

Two certain lots or parcels of land with any improvements thereon, situated on Peaks Island, City of Portland, Cumberland County, Maine, bounded and described as follows:

Parcel 1:

Beginning at a point in the Northerly side line of Island Avenue at the Southeasterly corner of the lot conveyed by John E. Sterling to William R. Huston and Eva H. Tracy by deed dated December 7, 1906, recorded in said registry of deeds in Book 798, Page 326; Thence along the northeasterly side line of said Huston Tracy lot N 51° 30' W 100 feet to a stake half way down the slope of the bank; Thence Northeasterly to a point on said banks mid slope N 51° 30' W from said Avenue 100 feet to a stake half way down the bank; Thence N 51° E 50 feet along said mid slope to a stake approximately 50' S 51° E to Island Avenue; Thence along said Island Avenue S 34° 45' W 18.9 feet to a point; Thence S 47° 15' W 31 feet to the point of beginning.

Parcel 2:

A lot of land on said side of Island Avenue next to eastward of that above described herein, bounded and described as follows:

Beginning at a stake in the Northwesterly side line of said Avenue 45.5 feet Southwesterly from the Southwesterly corner of land lately conveyed by John E. Sterling to one Goodwin and at the Southeasterly corner of the lot first herein described; Thence along the Northeasterly side line of said first described lot N 51° 30' W 93 Feet, More or less, to a stake half way down the slope of the bank; Thence N 65° E 51 feet along the middle slope of said bank to a stake at the Northwesterly corner of said Goodwin land; Thence S 51° 30' E by said Goodwin land 6' feet to a stake in said Avenue; Thence along said Avenue S 34° 45' W 45.5 feet to the point of beginning.

The Remaining half of the slope of said bank between the indicated side lines of parcel 1 and parcel 2 produced to high water mark and the beach and shore lying below and adjacent thereto being also included in this premises.

Excepting that portion of Parcel 1 and that portion of the remaining half of the slope conveyed to Richard A. King and Mary Ellen Ling by deed from Raymond S. Herrick and Eileen M. Herrick dated September 8, 1983, recorded in Book 6270, Page 177.

For title of grantor reference is hereby made to a deed by Kevin R. Moss to Kevin R. Moss and Emily Ross, dated February 19, 2004 and recorded in the Cumberland County Registry of Deeds in Book 20894, Page 100.

M-NAPOLITANO

Received
Recorded Register of Deeds
Jul 22, 2005 02:13:58P
Cumberland County
John B. O'Brien

After Recording Return to:
Hopkinson, Abbondanza & Backer
511 Congress Street, Ste. 201
Portland, Maine 04101
(207) 772-5845



- Planning
- Engineering
- Management

28 December 2005

TEC Associates, Inc.
C/O Jerry Lord
46 Sawyer Street
South Portland, ME 04106

Dear Jerry,

Davis Construction, Inc. has been engaged to perform the stair and platform take-off from your supplied prints for the Timmothy A. Napolitano pier located at 614 Island Ave. in Portland, Maine.

Our firm has done the same work in Portland, Maine for the United States Navy at 350 Commercial St. and has completed two other stair and platforms across from the locus site at Little Diamond, Island.

All materials will be to spec per plan except noted to contractor. Davis Construction, Inc. will perform all necessary pre-construction conferences with the City of Portland and in compliance with all OSHA standards.

If you have any questions, or concerns please feel free to contact me.

Regards, Arlen W. Davis

A handwritten signature in black ink, appearing to read "Arlen W. Davis", is written over the typed name.

AWD/mln
681458-06

- Ramps and Gangways in aluminum for small installations up to large marinas meeting OSHA/ADA requirements for public facilities;
- Supply and install mooring anchor systems, marine chain, shackles and solar powered navigation lights.

Davis Construction, located at 159 Front Street, South Portland, Maine.
(See letter next page)

