



Planning & Urban Development Department
Penny St. Louis Little, Director

Planning Division
Alexander Jaegerman, Director

JUNE 4, 2009

Brian Harris
Maine Yacht Center
100 Kensington St.
Portland, ME 04103

Project Name: Pier Construction; Minor Site Plan; 100 Kensington St; Maine Yacht Center, Applicant
Project ID: 09-79900001
Project Address: 100 Kensington St
Planner: Eric Giles, AICP

Dear Applicant:

On **June 2, 2009**, the Portland Planning Authority approved a minor site plan for the Maine Yacht Center at 100 Kensington submitted by Brian Harris and shown on the approved plan prepared by **TEC Associates** with the following conditions:

1. The 8ft. casement shall not be encumbered by any permanent structures as a result from the relocation of the fence or installation of a retaining wall.
2. Within 6 months from the start of construction the applicant shall submit a revised boundary survey, prepared by a surveyor licensed to practice in the State of Maine, to the Portland Planning Authority identifying the location of the pedestrian casement on the property.

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

STANDARD CONDITIONS OF APPROVAL

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

1. The site shall be developed and maintained as depicted in the site plan and the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the planning

authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.

2. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. Final sets of plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
4. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Dept. prior to the release of the subdivision plat for recording at the Registry of Deeds or prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised subdivision or site plan application for staff review and approval.
5. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
6. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
7. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
8. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. Please make allowances for completion of

site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If you have any questions, please contact **Eric Giles** at 207-874-8723 or egiles@portlandmaine.gov

Sincerely,



Alexander Jaegerman, AICP
Division Director
Portland Planning Authority

Attachments:

1. Performance Guarantee Packet

Electronic Distribution:

Penny St. Louis Littell, Director of Planning and Urban Development
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Eric Giles, Aicp Planner/Senior Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Tammy Munson, Inspections Division Director
Gayle Guertin, Inspections Division
Lisa Danforth, Inspections Division
Lannie Dobson, Inspections Division
Michael Bobinsky, Public Services Director
Kathi Earley, Public Services
Bill Clark, Public Services
David Margolis-Pineo, Deputy City Engineer
Todd Merkle, Public Services
Greg Vining, Public Services
John Low, Public Services
Jane Ward, Public Services
Keith Gautreau, Fire
Jeff Tarling, City Arborist
Tom Errico, Wilbur Smith Consulting Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File
Hard Copy: Project File

Comments
Submitted

City of Portland
Development Review Application
Planning Division Transmittal form

5/13/09

Application Number: 09-79900001 **Application Date:** 5/04/09
Project Name: PIER- ME YACHT SERVICES
Address: 65 Kensington St **CBL:** 429 - G-001-001
Project Description: Pier Construction; Minor Site Plan; 100 Kensington St; Maine Yacht Center, Applicant
Zoning: N
Other Reviews Required:
Review Type: MINOR SITE PLAN

Maine Yacht Center
100 Kensington Street
Portland, ME 04103

Distribution List:

<input checked="" type="checkbox"/> Planner	Eric Giles	<input checked="" type="checkbox"/> City Arborist	Jeff Tarling
<input checked="" type="checkbox"/> Zoning Administrator	Marge Schmuckal	<input checked="" type="checkbox"/> Design Review	Alex Jaegerman
<input checked="" type="checkbox"/> Traffic	Tom Errico	<input checked="" type="checkbox"/> Corporation Counsel	Danielle West-Chuhta
<input checked="" type="checkbox"/> Inspections	Tammy Munson	<input checked="" type="checkbox"/> Sanitary Sewer	John Emerson
<input checked="" type="checkbox"/> Fire Department	Keith Gautreau	<input checked="" type="checkbox"/> Stormwater	Dan Goyette
<input checked="" type="checkbox"/> Parking	John Peverada	<input checked="" type="checkbox"/> Historic Preservation	Deb Andrews
<input checked="" type="checkbox"/> City Engineer	Dave Margolis	<input type="checkbox"/> Outside Agency	
<input checked="" type="checkbox"/> DRC Coordinator	Phil DiPierro		

Preliminary Comments needed by: Wednesday, May 20th

Final Comments needed by:

May 13, 2009

This project is located in an I-L Zone where Marina uses and their accessory uses are permitted. What is being proposed is a mechanical device to allow sea going crafts to be lifted in and out of the water. The concrete ramp is already existing. The mechanical device abuts up against the existing ramp. There is no new impervious surface created. This is a pier system being proposed in the water. All other I-L Zoning requirements are being met.

Marge Schmuckal
Zoning Administrator

This project is located in an I-L Zone where Marina uses and their accessory uses are permitted. What is being proposed is a mechanical device to allow sea going crafts to be lifted in and out of the water. The concrete ramp is already existing. The mechanical device abuts up against the existing ramp. There is no new impervious surface created. This is a pier system being proposed in the water. All other I-L Zoning requirements are being met.

Marge Schmuckal
Zoning Administrator



Development Review Application
Portland, Maine

Department of Planning and Development, Planning Division and Planning Board

5/13/09

Address of Proposed Development: 100 KENSINGTON ST

Zone: I.L.

Project Name:

Existing Building Size:	sq. ft.	Proposed Building Size:	sq. ft.
Existing Acreage of Site:	3.571 sq. ft.	Proposed Acreage of Site:	sq. ft.

Proposed Total Disturbed Area of the Site: sq. ft. *

* If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) or Chapter 500, Stormwater Management Permit with the Maine Department of Environmental Protection (DEP).

Tax Assessor's Chart, Block & Lot: Chart # 429 Block # 6 Lot # 001	Property Owners Name & Mailing address: MAINE YACHT CENTER 100 Kensington St PORTLAND ME 04103	Telephone #: 842.9000 Cell Phone #:
Consultant/Agent Name, Mailing Address, Telephone #, Fax # and Cell Phone #:	Applicant's Name & Mailing Address: BRIAN HARRIS MAINE YACHT CENTER 100 KENSINGTON ST PORTLAND, ME 04103	Telephone #: 842.9000 Cell Phone #:

Fee for Service Deposit (all applications) _____ (A200.00)

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) Storm water Quality (\$250.00)
 Section 14-403 Review (\$400.00 + \$25.00 per lot)
 Other _____

~ Please see next page ~

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)

14-25.5
14-525.2
yrs plan

Billing Address: (name, address and contact information)

MAINE YACHT CENTER
 ATTN: BRIAN HARRIS
 100 KENSINGTON ST
 PORTLAND ME 04103

Submittals shall include **seven (7) folded** packets containing of the following materials:

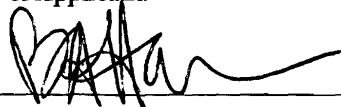
- A. Copy of the application.
- B. Cover letter stating the nature of the project.
- C. Written Submittal (Sec. 14-525 2. (c), including evidence of right, title and interest.
- D. A standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 100 feet.
- E. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
- E. Copy of the checklist completed for the proposal listing the material contained in the submitted application.
- F. In addition to the seven (7) sets of documents listed above, one (1) set of the site plans reduced to 11 x 17 must be submitted.

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

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

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

Signature of Applicant:



Date:

4/27/09



MAINE YACHT CENTER, LLC

100 Kensington Street

Portland, Maine 04103

Tel. (207) 842-9000 • Fax (207) 842-9274

brian@maineyacht.com

Description of Project

Construction of piers to support the use of a 50 ton Marine Travel Lift.

A pile supported concrete decked pier will be located on each side of the existing concrete boat ramp. The piers will straddle the ramp, still allowing functionality of the boat ramp. The piers will be built over tidal areas, a submerged lands lease has been acquired from the State of Maine for the use of this land as well as permits from the ACOE, MDEP, DMR, BPLRC and the Portland Hbr. Commission.

Each pier will be 210' long and be supported by 22 pairs of 12" diameter steel pipe pile. Each pair of piles will consist of a vertical and battered pile, all piles to be rock-socketed into ledge. There will also be 4 mid-span longitudinal rock socketed pipe piles on each pier.

The deck will be poured concrete, 6' wide with adequate structural reinforcement and depth.

Both decks will have curbing as well as handrails for safe operation of the machine and crew.

Each pier will transition to level grade via a structural concrete abutment. Each abutment will be 45' long and 6' wide. Abutments are above the high tide line.

This project also requires moving our existing property line 10' west. A license agreement for this land use is currently being written by MDOT to allow moving the property line 10' west in a parallel line to the existing property line.

The travel lift piers will be used only for the purpose of driving the Travel Lift up and down for the hauling and launching of boats. No additional marina slip space or boat dockage is associated with the piers and therefore there will be no impact or need for any additional parking or infrastructure.

The addition of the piers and a 50 ton Marine Travel lift will greatly increase both the safe operation and efficiency of our operation as well as give us the opportunity to grow our business.



**BOARD OF HARBOR COMMISSIONERS
PORT OF PORTLAND**

Application for Marine Construction Permit

PLEASE PRINT

1. Name of Applicant: MAINE YACHT CENTER
2. Mailing Address of Applicant: 100 KENSINGTON ST
PORTLAND ME. 04103
3. Applicant's Telephone Number: 842.9000 Applicant's Fax Number: 842.9274
Applicant's Email Address: drian@maineyacht.com
4. Location of project for which permit is requested: 100 KENSINGTON ST
PORTLAND

a. Attach enlargement of Portland Harbor chart showing exact location. **EXHIBIT 1**

5. Description of project for which permit is requested. (Use a separate sheet if necessary)

SEE ATTACHED

6. Attach the following: **EXHIBIT 2**

- a. For projects under \$10,000 - A **comprehensive drawing or drawings** (as necessary) of the item(s) to be built or installed that contains the following minimum details and information:
1. Dimensions of all major components (to scale) with the scale clearly marked on each drawing;
 2. All distances between the item(s) being built/installed and any existing structures and property lines;
 3. A "plan" (overhead) view of the entire project;
 4. A description of the construction methods, connection points and materials to be used (i.e. types of fasteners, mooring systems, decking, framing, etc.).
- b. For projects over \$10,000 - A **detailed scale drawing or drawings** prepared by a registered engineer that contains the following minimum details and information:
1. Dimensions of all major components (to scale) with the scale clearly marked on each drawing;
 2. All distances between the item(s) being built/installed and any existing structures and property lines;
 3. A "plan" (overhead) view of the entire project;
 4. A description of the construction methods, connection points and materials to be used (i.e. types of fasteners, mooring systems, decking, framing, etc.).

Applicants are encouraged to submit technical data/specification sheets, photos or other materials in support of the project's drawing(s). EXHIBIT 3

a. Attach copy of documentation of right, title or interest in the property where the proposed marine construction is to occur. This may include a deed, option, purchase and sales contract, contract for sale, lease, or other appropriate documentation. A complete copy of the document must be provided; financial information may be deleted.

15. If this application is approved and a permit is issued:

- a. The permit must be posted at the construction site;
- b. The permit will require that the construction project be surrounded by a containment boom, unless the requirement has been waived, in writing, by the Harbor Commission;
- c. The permit may be limited by restrictions specific to the project;
- d. The permit will be subject to all applicable Local, State and Federal Laws & Rules;
- e. Nothing in the permit shall be construed to justify or authorize any invasion to the private rights of others;
- f. Nothing in the permit will limit or modify the authority of the Board of Harbor Commissioners within their applicable rules;
- g. Unless otherwise stipulated, the permit has an automatic expiration date of one year from the date of approval. Only if the Harbor Master has been notified in advance of the expiration date, may he/she issue a six-month extension upon review of the project;
- h. An as built set of construction plans will be required to be submitted on all projects.

16. The following statement appears on all permits granted by the Board of Harbor Commissioners:

"This permit is a 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 the work is done in conformance with the conditions and limitations of this authorization. Please be sure 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 the Harbor Commission Rules. 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."

Date: 4/14/09

BRIAN A. HARRIS
Name of Applicant (please Print)

Brian A. Harris General Manager
Signature and Title of applicant or agent

842.9000 - Applicant's or Agent's Telephone Number

842.9274 - Applicant's or Agent's Fax Number

brian@maineyacht.com Applicant's or Agent's Email Address

MARINE CONSTRUCTION PERMIT

EXHIBIT CHECKLIST

Please mark each exhibit in the application as follows:

Date	EXHIBIT		
4/14	EXHIBIT	1	Portland Harbor Chart
4/14	EXHIBIT	2	Drawings
4/14	EXHIBIT	3	Technical Data, Specifications, Photos
4/14	EXHIBIT	4	Tax Map
4/14	EXHIBIT	5	Survey
4/14	EXHIBIT	6	Copies of other applications
4/14	EXHIBIT	7	Notice to abutters
4/14	EXHIBIT	8	Right, title and interest

EXHIBIT 1

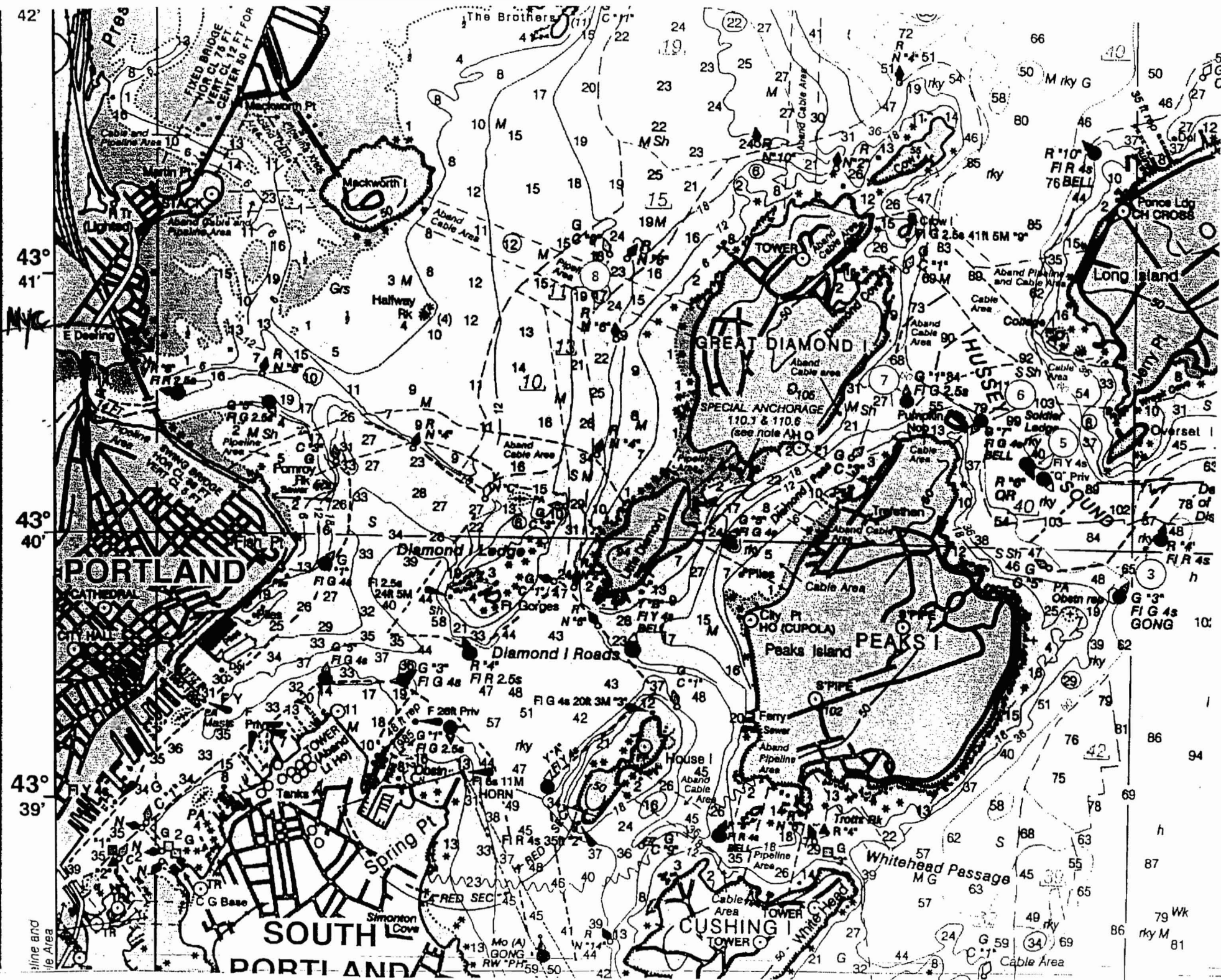
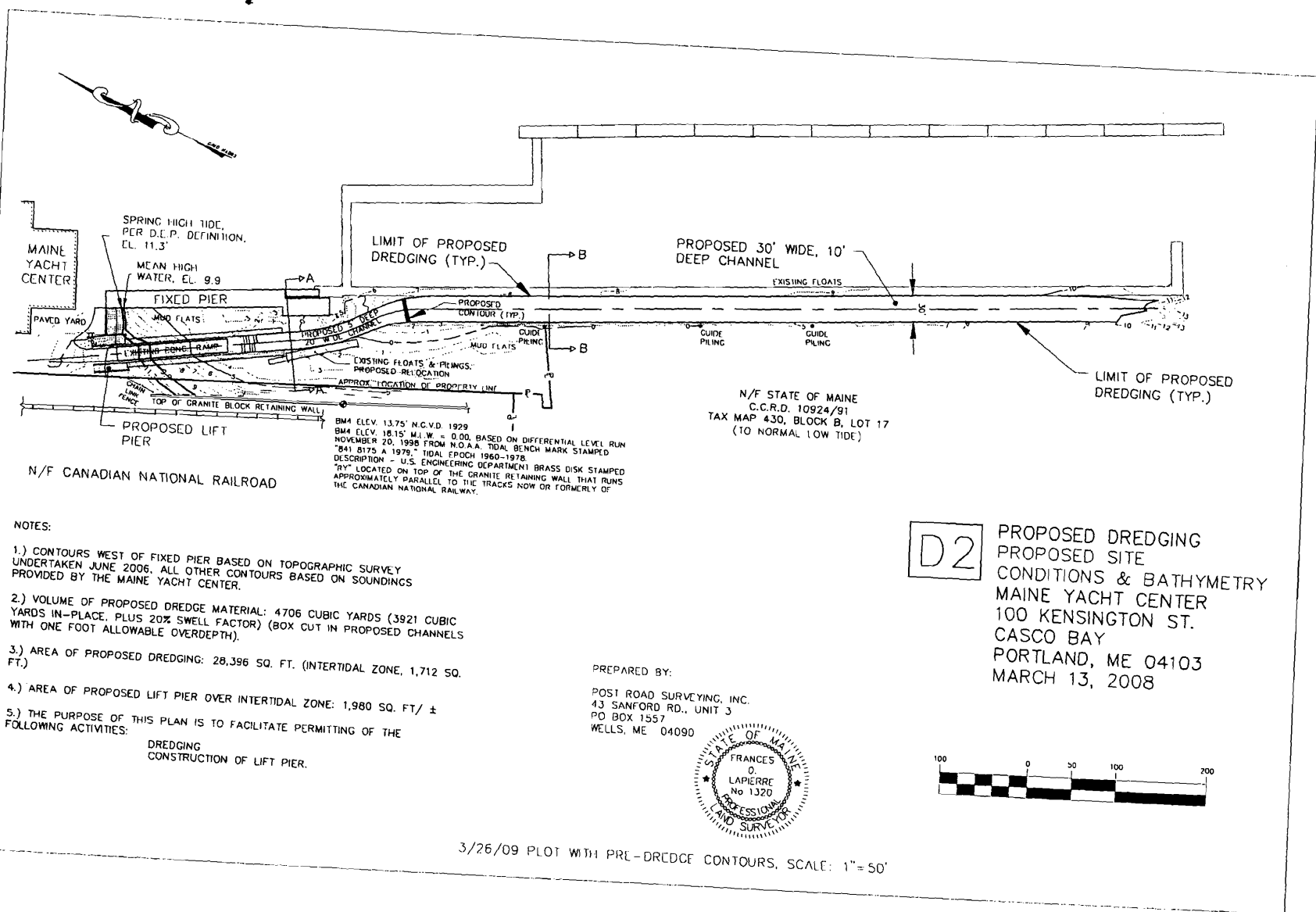


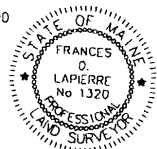
EXHIBIT 2



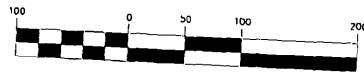
NOTES:

- 1.) CONTOURS WEST OF FIXED PIER BASED ON TOPOGRAPHIC SURVEY UNDERTAKEN JUNE 2006. ALL OTHER CONTOURS BASED ON SOUNDINGS PROVIDED BY THE MAINE YACHT CENTER.
- 2.) VOLUME OF PROPOSED DREDGE MATERIAL: 4706 CUBIC YARDS (3921 CUBIC YARDS IN-PLACE, PLUS 20% SWELL FACTOR) (BOX CUT IN PROPOSED CHANNELS WITH ONE FOOT ALLOWABLE OVERDEPTH).
- 3.) AREA OF PROPOSED DREDGING: 28,396 SQ. FT. (INTERTIDAL ZONE, 1,712 SQ. FT.)
- 4.) AREA OF PROPOSED LIFT PIER OVER INTERTIDAL ZONE: 1,980 SQ. FT./ ±
- 5.) THE PURPOSE OF THIS PLAN IS TO FACILITATE PERMITTING OF THE FOLLOWING ACTIVITIES:
DREDGING
CONSTRUCTION OF LIFT PIER.

PREPARED BY:
POST ROAD SURVEYING, INC.
43 SANFORD RD., UNIT 3
PO BOX 1557
WELLS, ME 04090



D2 PROPOSED DREDGING
PROPOSED SITE
CONDITIONS & BATHYMETRY
MAINE YACHT CENTER
100 KENSINGTON ST.
CASCO BAY
PORTLAND, ME 04103
MARCH 13, 2008



3/26/09 PLOT WITH PRE-DREDGE CONTOURS, SCALE: 1" = 50'



MAINE YACHT CENTER, LLC

100 Kensington Street
Portland, Maine 04103

Tel. (207) 842-9000 • Fax (207) 842-9274
brian@maineyacht.com

Exhibit 3

Construction of the Travel Lift piers will take place during July and August.

Construction will be by crane barge. Barge will be situated west of our main fixed pier for duration of construction project and will not interfere with navigable waters.

EXHIBIT 3

END OF
TRAVEL LIFT
PIERS

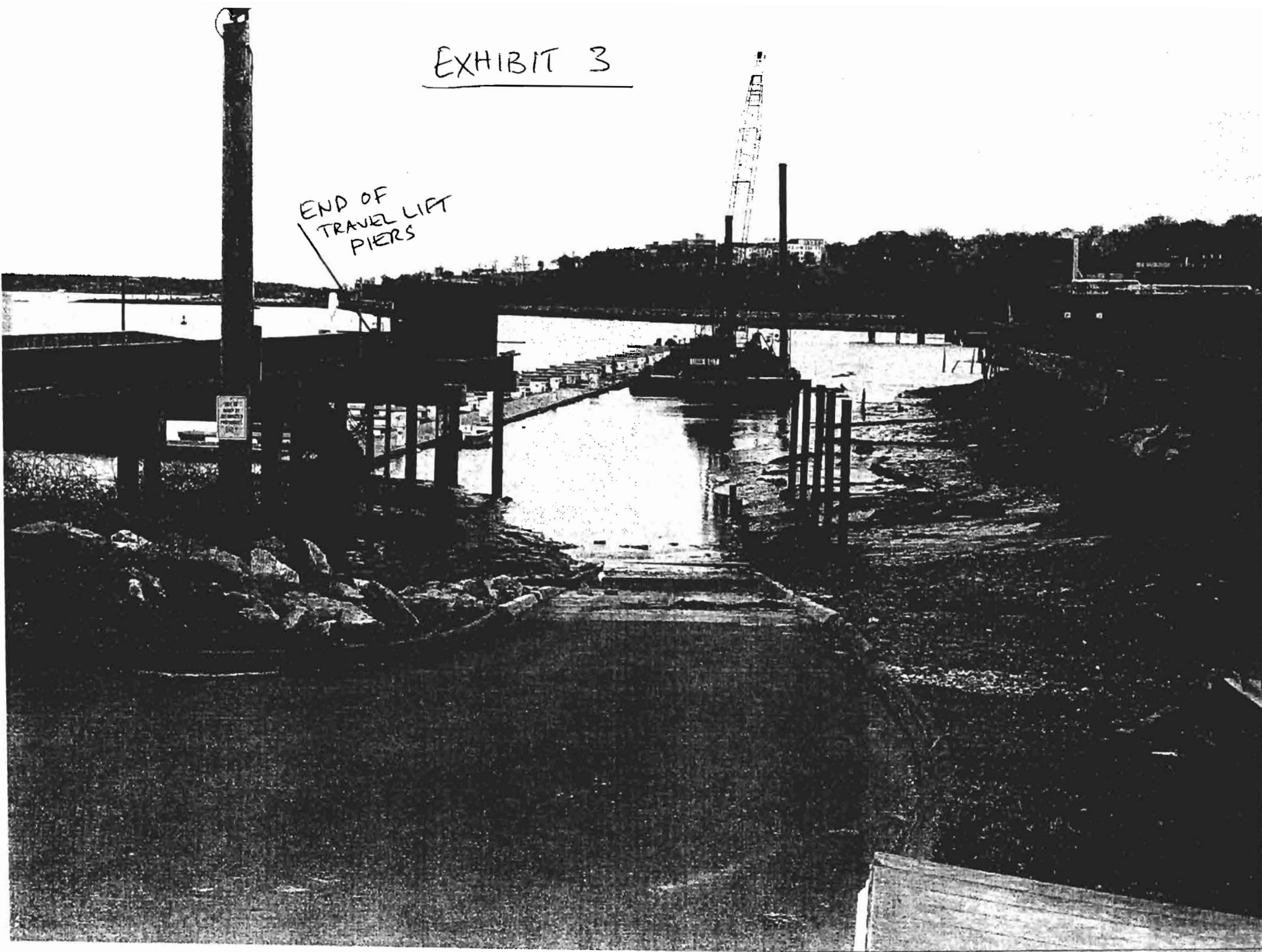


EXHIBIT 3



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0016

DAVID A. COLE
COMMISSIONER

April 14, 2009

Mr. Brian Harris
Maine Yacht Center
100 Kensington Street
Portland, Maine 04103

Dear Brian:

Pursuant to our recent meeting and your plan submitted earlier today, this letter confirms that MaineDOT is currently reviewing your project in consideration of a license agreement. This agreement would allow Maine Yacht Center to use 10 ft. of the Departments rail property for the addition of a mobile lift at its facility. Once our review is completed and plans finalized I will advise you as to the final approval process of the license agreement.

If you have any questions, please do not hesitate to contact me at (207) 624-3563.

Sincerely,

A handwritten signature in black ink, appearing to read "N. E. Moulton".

Nathan E. Moulton
Director, Rail Program
Office of Freight and Business Services



PRINTED ON RECYCLED PAPER

EXHIBIT 4

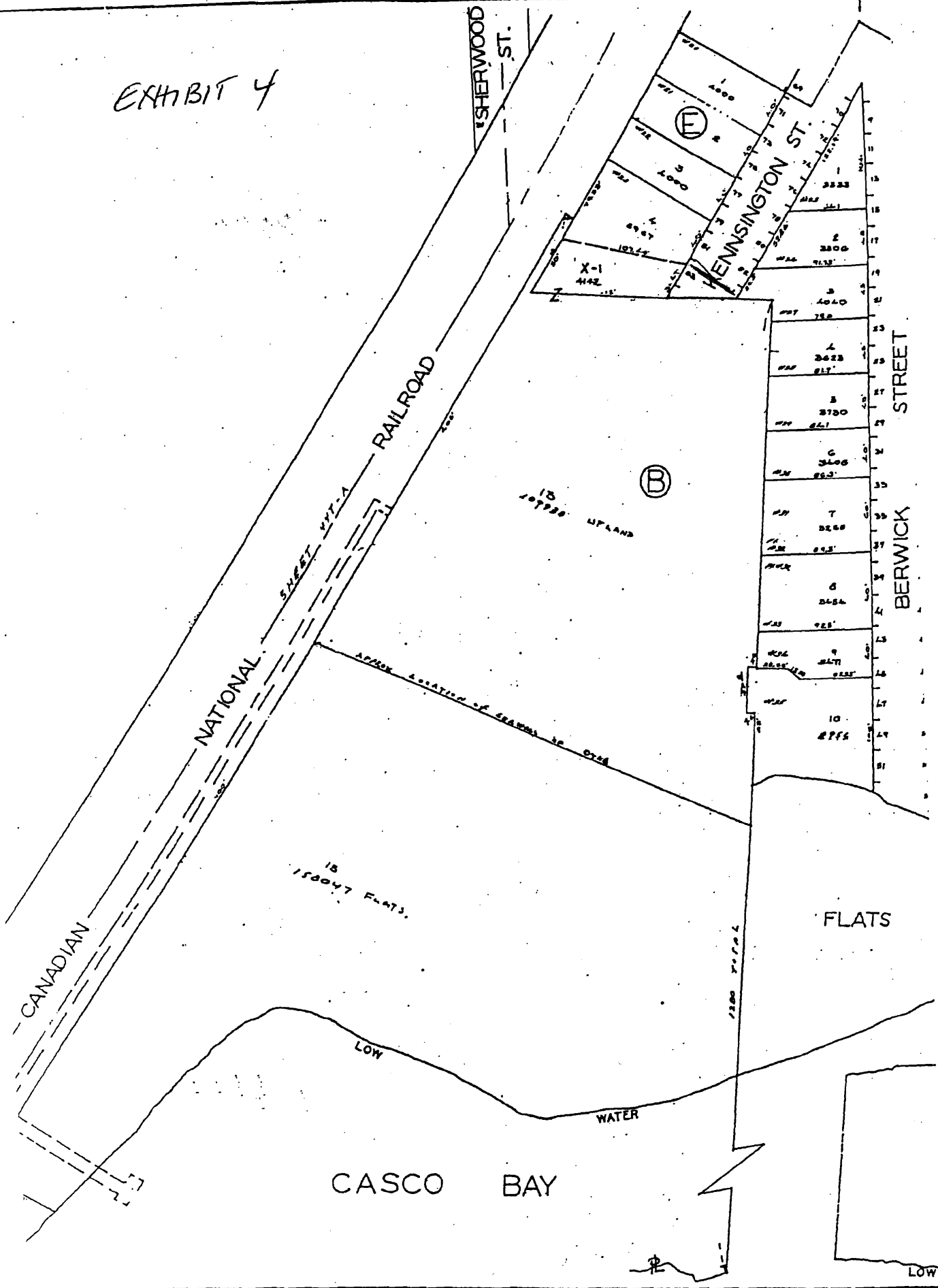


EXHIBIT 5

SEE 24" x 36" scaled plan
provided.

only 1 copy provided.

EXHIBIT 7



MAINE YACHT CENTER, LLC

100 Kensington Street

Portland, Maine 04103

Tel. (207) 842-9000 • Fax (207) 842-9274

brian@maineyacht.com

April 7, 2009

Mike Flaherty
45 Berwick St.
Portland, ME. 04103

Dear Mike,

Maine Yacht Center located at 100 Kensington St., Portland, ME. has received all necessary Federal and State permits to complete the construction of piers to facilitate the operation of a 50 ton marine travel lift.

The piers will straddle the existing concrete boat ramp and be located between our current fixed concrete pier and the granite wall for the railroad tracks.

We are currently submitting a permit application to the Portland Harbor Commission for the following improvements:

Construction of Marine Travel lift piers. Pile supported piers with concrete deck. Piers to transition to level grade via concrete abutments. Each pier and abutment to be 6' wide. Total length of structure is 255'.

The public hearing for the Harbor Commission Application will be held May 14th. 2009 at 5pm at the Portland City Council chambers.

I would like to thank you for your support on this project and feel free to contact me with any questions.

Regards,

A handwritten signature in black ink, appearing to read 'B. Harris', with a long horizontal flourish extending to the right.

Brian A. Harris
General Manager

EXHIBIT 7



MAINE YACHT CENTER, LLC

100 Kensington Street
Portland, Maine 04103

Tel. (207) 842-9000 • Fax (207) 842-9274
brian@maineyacht.com

April 7, 2009,

State of Maine
D.O.T.
16 State House Station
Augusta, ME. 04333

Maine Yacht Center located at 100 Kensington St., Portland, ME. has received all necessary Federal and State permits to complete the construction of piers to facilitate the operation of a 50 ton marine travel lift.

The piers will straddle the existing concrete boat ramp and be located between our current fixed concrete pier and the granite wall for the railroad tracks.

We are currently submitting a permit application to the Portland Harbor Commission for the following improvements:

Construction of Marine Travel lift piers. Pile supported piers with concrete deck. Piers to transition to level grade via concrete abutments. Each pier and abutment to be 6' wide. Total length of structure is 255'.

The public hearing for the Harbor Commission Application will be held May 14th. 2009 at 5pm at the Portland City Council chambers.

I would like to thank you for your support on this project and feel free to contact me with any questions.

Regards,

A handwritten signature in black ink, appearing to read 'Brian A. Harris', with a long horizontal flourish extending to the right.

Brian A. Harris
General Manager

EXHIBIT 8

06 May 02 03:12p

H. Mason Sears

207-842-9274

May 09 02 01:08p

File Fee \$35.00

DOMESTIC
LIMITED LIABILITY COMPANY

File No. 19980145DC Pages 2

Fee Paid \$ 35

DCN 2022111300010 LNME

FILED

07/22/2002

STATE OF MAINE

ARTICLES OF AMENDMENT

YACHT HAVEN LLC

(Name of Limited Liability Company)

Julie A. Flynn
Deputy Secretary of State

A True Copy Where Attested By Signature

Deputy Secretary of State

Pursuant to 31 MRSA 5623, the undersigned limited liability company creates and delivers for filing these articles of amendment:

FIRST: The name of the limited liability company has been changed to (if no change, so indicate)

MAINE YACHT CENTER LLC

(This name must contain one of the following: "Limited Liability Company", "LLC" or "LLC" (M.R.S.A.))

SECOND: The management of the limited liability company has been changed (if no change, so indicate ^{No} changes). If changed, "X" one box only.

A. The management of the company is vested in a member or members.

B. The management of the company is vested in a manager or managers. The partnership number shall be _____ managers and the maximum number shall be _____ managers.

THIRD: Other amendments to the articles, if any, that the members determined to adopt are set forth in Exhibit _____ attached hereto and made a part hereof.

(Signatures required on back of form)

06 May 02 03:12p H. Mason Sears

207-642-9274

May 06 02 01:08p

DATED

5/14/02

MANAGER(S)/MEMBER(S)



Signature

Sherman A. Scott

Type or print name and capacity

Type or print name and capacity

Type or print name and capacity

For Manager(s)/Member(s) which are Entities

Name of Entity

By

(Authorized signature)

Type or print name and capacity

Name of Entity

By

(Authorized signature)

Type or print name and capacity

Name of Entity

By

(Authorized signature)

Type or print name and capacity

*Articles **MUST** be signed by

- (1) at least one ~~manager~~ OR
- (2) at least one ~~member~~ if the limited liability company is managed by the members OR
- (3) any duly authorized person.

The execution of this certificate constitutes an oath or affirmation under the penalties of false swearing under Title 17-A, section 453.

SUBMIT COMPLETED FORMS TO: CORPORATE EXAMINING SECTION, SECRETARY OF STATE,
100 STATE HOUSE STATION, AUGUSTA, ME 04333-9181
FORM NO. MLLC-9 Rev. 4/16/2001 TEL. (207) 624-7198

STATE OF MAINE
Department of the Secretary of State
Bureau of Corporations, Elections and Commissions
101 State House Station
Augusta, Maine 04333-0101

March 19, 2002

YACHT HAVEN
H. MSEARS
100 KENSINGTON STREET
PORTLAND ME 04103-5315

ATTESTED COPIES
WR DCN: 2020771500031

Enclosed please find copies of documents recently placed on file with our office. Each copy has been attested as a true copy of the original and serves as your evidence of filing. We recommend that you retain these permanently with your records.

Charter#: 20020103RC Legal Name: MAINE YACHT CENTER L.L.C.

NAME RESERVATION

DCN: 2020771500032

Page(s) 1

Total Pages 1

RECEIVED
FEB 07 2003
DEPT OF ASSESSOR
CITY OF PORTLAND, ME

**DOMESTIC
LIMITED LIABILITY COMPANY**

STATE OF MAINE

ARTICLES OF AMENDMENT

YACHT HAVEN LLC

(Name of Limited Liability Company)

Filing Fee \$35.00

Deputy Secretary of State

A True Copy When Attested By Signature

Deputy Secretary of State

Pursuant to 31 M.R.S.A. §623, the undersigned limited liability company executes and delivers for filing these articles of amendment:

FIRST: The name of the limited liability company has been changed to (if no change, so indicate)

MAINE YACHT CENTER LLC

(The name must contain one of the following: "Limited Liability Company", "L.L.C." or "LLC"; §603.1.A.)

SECOND: The management of the limited liability company has been changed (if no change, so indicate ^{No}change). If changed, "X" one box only.

A. The management of the company is vested in a member or members.

B. The management of the company is vested in a manager or managers. The minimum number shall be _____ managers and the maximum number shall be _____ managers.

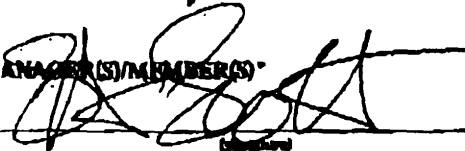
THIRD: Other amendments to the articles, if any, that the members determine to adopt are set forth in Exhibit _____ attached hereto and made a part hereof.

(Signatures required on back of form)

DATED

5/11/02

MANAGER(S)/MEMBER(S)*



(signature)

Sherman A. Scott

(type or print name and capacity)

(signature)

(type or print name and capacity)

(signature)

(type or print name and capacity)

For Manager(s)/Member(s) which are Entities

Name of Entity _____

By _____

(authorized signature)

(type or print name and capacity)

Name of Entity _____

By _____

(authorized signature)

(type or print name and capacity)

Name of Entity _____

By _____

(authorized signature)

(type or print name and capacity)

*Articles **MUST** be signed by

- (1) at least one manager OR
- (2) at least one member if the limited liability company is managed by the members OR
- (3) any duly authorized person.

The execution of this certificate constitutes an oath or affirmation under the penalties of false swearing under Title 17-A, section 453.

SUBMIT COMPLETED FORMS TO: CORPORATE EXAMINING SECTION, SECRETARY OF STATE,

101 STATE HOUSE STATION, AUGUSTA, ME 04333-0101

FORM NO. MLLC-9 Rev. 4/16/2001

TEL. (207) 624-7740

0052734

BK 15720PG073

QUITCLAIM DEED WITH COVENANT
(Maine Statutory Short Form)

FSF MAINE PARTNERS, LLC, a Colorado Limited Liability Company, having a mailing address of 344 Madison, Denver, Colorado 80206

For Consideration Paid, GRANTS TO:

YACHT HAVEN LLC, a Maine Limited Liability Company, with a mailing address of 65 Kensington Street, Portland, Maine 04103, with Quitclaim Covenant, the land together with any buildings or improvements thereon in Portland, Cumberland County, State of Maine, described on Schedule A attached.

Being the same premises conveyed to the Grantor herein by Deed of Webber Oil Company, dated January 14, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15282, Page 298.

Parcel No. 1 described on Schedule A is subject to the rights and easements granted by Sun Oil Company to Central Maine Power Company by instrument dated May 8, 1970 and recorded in the Cumberland County Registry of Deeds in Book 3146, Page 256.

Excepting from Parcel No. 1 the premises conveyed by Webber Petroleum Company to David P. Bradford and Anne K. Bradford by deed recorded January 28, 1983 and recorded in the Cumberland County Registry of Deeds in Book 6109, Page 328.

Parcels No. 1, 2 and 3 described on Schedule A are subject to the following:

- a) Terms, conditions, rights and easements as set forth in an instrument from Webber Petroleum Company to Portland Water District dated December 21, 1976 and recorded in the Cumberland County Registry of Deeds in Book 3964, Page 320.
- b) Rights and easements granted to Central Maine Power Company as set forth in an instrument from Webber Petroleum Company dated January 23, 1984 and recorded in the Cumberland County Registry of Deeds in Book 6417, Page 266.
- c) Rights and easements granted to Central Maine Power Company as set forth in an instrument from Webber Petroleum Company dated April 30, 1984 and recorded in the Cumberland County Registry of Deeds in Book 6528, Page 116.
- d) Terms, conditions, rights and easements as set forth in an instrument from Webber Petroleum Company to Portland Water District dated August 6, 1985 and recorded in the Cumberland County Registry of Deeds in Book 6867, Page 324.
- e) All other customary easements now of record, if any, for utilities and drainage.

BK 15720 PG 074

f) Other covenants and restrictions now of record, if any.

Parcels No. 2 and No. 3 are subject to the following:

a) Restrictions as set forth in the deed from Windsor Land Company to Hugh J. Chisholm dated March 2, 1907 and recorded in the Cumberland County Registry of Deeds in Book 804, Page 201.

The premises are conveyed SUBJECT TO the condition that they shall be restricted from being used as a gasoline station or for the wholesale distribution or storage of heating oil, liquid petroleum gas, gasoline or other automotive fuel. The restriction shall not prohibit the use of the Premises as a marina and the attendant retail sale of gasoline, diesel fuel, motor oil and products normally stocked in an auto parts type store. This condition shall run with the land and shall inure to the benefit of Webber Oil Company, and the real estate of said corporation in Portland, Cumberland County, Maine, now owned or hereafter acquired.

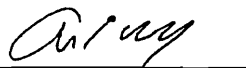
By acceptance of this deed the Grantee, for itself and its successors and assigns, agrees as follows:

1. In accordance with requirements of the Maine Department of Environmental Protection in connection with the Voluntary Response Action Plan ("the VRAP"; see M.R.S.A. Section 343-E) for the property submitted by Grantor and Webber Oil Company, no groundwater extraction wells may be installed or used on the property, without prior written permission from the Department of Environmental Protection, its successors or assigns.

2. Yacht Haven, LLC shall hold harmless Webber Oil Company, its directors and officers, their successors and assigns from any claims arising from any use or development of the property by Yacht Haven LLC or its employees, contractors, agents, successors and assigns, which do not comply with the workplan submitted by Webber Oil Company to the Maine Department of Environmental Protection in connection with the VRAP.

IN WITNESS WHEREOF, FSF MAINE PARTNERS, LLC has caused this instrument to be signed by Fritz C. Voekler, its duly authorized Manager, this 22 day of August, 2000.

FSF MAINE PARTNERS, LLC



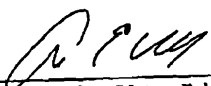
By 
Its Manager

BK 5720PG075

THE STATE OF MAINE
Cumberland, ss.

August 22, 2000

Then personally appeared the above-named Fritz C. Voekler, Manager of FSF Maine Partners, LLC and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said limited liability company.



Attorney at Law/Notary Public
Alan E. Wolf

SCHEDULE A

BK 5720 PG 076

PARCEL NO. 1

A certain lot or parcel of real estate situated in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows: Beginning at the southwesterly corner of Parcel No. 3 and running North $53^{\circ} 06' 30''$ East bounding northwesterly on said Parcel No. 3, on Kensington Street, and on land now or formerly of Raymond P. and Arlene M. Doyle one hundred ninety-five and fifty-six hundredths (195.56) feet to a point; thence turning an interior angle of $90^{\circ} 00'$ and running South $36^{\circ} 53' 30''$ East bounding northeasterly on said land now or formerly of Raymond P. and Arlene M. Doyle, on said land now or formerly of Paul H. and Ellen K. Abildgaard, on land now or formerly of James H. Martin, on land now or formerly of Vincent J. and Irma Kennedy, on land now or formerly of Voramus L. and Emma C. Frye, and on land now or formerly of State of Maine approximately one thousand two hundred eighty (1,280) feet to the mean low water mark of Casco Bay; thence running in a generally westerly direction along the mean low water mark of Casco Bay approximately one thousand two hundred fifty (1,250) feet to a point on the southerly side of a pier extending easterly from the main right of way of Canadian National Railways; thence running South $78^{\circ} 48'$ West by said pier and bounding southerly on land now or formerly of Canadian National Railways approximately one hundred ten (110) feet to a point; thence turning an interior angle of $86^{\circ} 52' 10''$ and running North $8^{\circ} 04' 10''$ West bounding westerly on land now or formerly of Canadian National Railways ten (10) feet to a point; thence turning an interior angle of $93^{\circ} 07' 50''$ and running North $78^{\circ} 48'$ East bounding northerly on land now or formerly of Canadian National Railways fifteen and two hundredths (15.02) feet to a point; thence turning an interior angle of $266^{\circ} 52' 10''$ and running North $8^{\circ} 04' 10''$ West bounding westerly on land now or formerly of Canadian National Railways nine hundred four and twenty-one hundredths (904.21) feet to a point; thence turning an interior angle of $90^{\circ} 00'$ and running North $81^{\circ} 55' 50''$ East bounding northerly on land now or formerly of Canadian National Railways eight (8) feet to the westerly line of Parcel No. 2; thence turning an interior angle of $90^{\circ} 00'$ and running South $8^{\circ} 04' 10''$ East bounding easterly on Parcel No. 2 and on Parcel No. 3 seventy (70) feet to the point of beginning, making an interior angle of $298^{\circ} 49' 20''$ with the first described course; containing ten and seven tenths (10.7) acres of land.

BK 5720PG077

Also conveying hereby, insofar as the Grantor has the right or title to convey, an easement to install, maintain, repair and replace pipe lines for conveyance of gasoline, oils and fuels of all types with all necessary fixtures and appurtenances thereto, including utility lines for illuminating and servicing pipe lines and docks, from the existing dock and from the proposed dock as shown on a plan entitled "Proposed Sale of Land to Sun Oil Company" recorded in the Cumberland County Registry of Deeds, Plan Book 66, Page 9, northerly over, across and under the railway right of way to a point located south-westerly of the storage tanks along the route as shown on said Plan; also the right to install, maintain, repair, and replace a suitable walkway for foot passage from said proposed dock northerly to the mainland; also the right to support said pipe lines and walkway upon the seawall, except that said pipe lines and walkway to be located southerly of said seawall shall be at least fifteen (15) feet from railway trestle and shall be supported by an independent structure within said railway right of way; also the right to enter upon the railway right of way for all the above purposes and also to maintain, repair, replace and enlarge the existing dock as well as to erect, maintain, repair, replace and enlarge the proposed dock, all as shown on said Plan.

Also conveying hereby such riparian and shore rights as the Grantor has appurtenant to the above described premises.

Subject to a sewer easement for a ten inch (10") pipe and extending across the above described premises to Casco Bay.

Subject to right of Canadian National Railway Company to enter upon the above described premises for the purpose of maintaining, repairing and replacing the seawall.

Subject to the rights of others in and to any portion of said parcel which may be a part of the original Atlantic and St. Lawrence Company right of way condemned in 1838 for railroad purposes.

BK 5720PG078

PARCEL NO. 2

A certain lot or parcel of real estate situated in Portland, County of Cumberland and State of Maine, situated on the westerly side of Kensington Street in said Portland and bounded and described as follows:

Beginning at an iron pipe, said pipe being at the northwesterly corner of Parcel No. 3 and the southwesterly corner of the herein described property; thence North $8^{\circ} 16' 30''$ West four hundred thirty-five and thirty-nine hundredths (435.39) feet along land of Canadian National Railway through an iron pipe to Interstate Route 295; thence North $49^{\circ} 03' 30''$ East one hundred eighteen and ninety-two hundredths (118.92) feet along Interstate Route 295 to an iron pipe; thence South $8^{\circ} 15'$ East four hundred sixty-four and sixteen hundredths (464.16) feet along Kensington Street to an iron pipe; thence South $62^{\circ} 12'$ West one hundred five and ninety-nine hundredths (105.99) feet along Parcel No. Three to the point of beginning.

PARCEL NO. 3

A certain lot or parcel of real estate situated in Windsor Heights, so-called, in the East Deering section of the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning on the westerly side of Kensington Street at the southeasterly corner of Lot #23 as shown on the plan of Windsor Heights, said plan being recorded in Cumberland County Registry of Deeds, Plan Book 10, Page 83;

Thence southerly thirty-one and forty-seven hundredths (31.47) feet on a straight prolongation of the westerly side of said Kensington Street to the northwesterly line of land now or formerly of the Grand Trunk Railway Company of Canada;

Thence southwesterly along said northwesterly line to the westerly corner of land of said Railway Company and the easterly line of the right of way of said Railway Company;

Thence northerly along said right of way, a distance of fifty (50) feet, to the southwesterly corner of said Lot #23;

Thence northeasterly along the southeasterly line of said Lot #23 to the point of beginning.

BK 5720PG079

Containing three thousand nine hundred and thirty-six
(3,936) square feet, more or less.

Said parcel is designated on said Plan as Sherwood
Street but was never laid out or accepted by the
City of Portland.

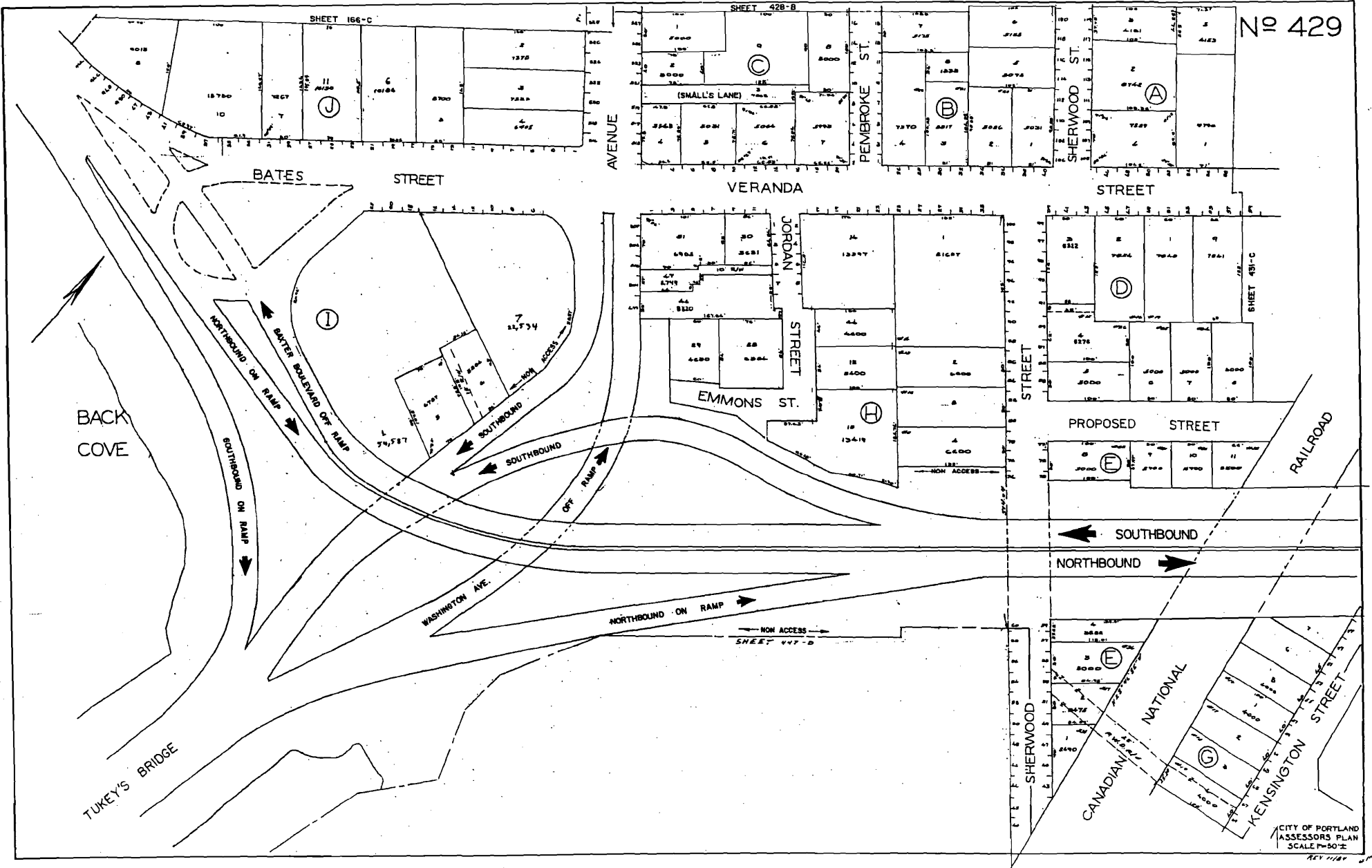
Subject to the rights of other property owners of
lots shown on said Plan in and to this parcel.

Subject to easements, restrictions and conditions
of record, easements or restrictions visible
upon the ground and any state of facts which
an accurate survey would disclose.

RECEIVED
RECORDED REGISTRY OF DEEDS
2000 SEP 11 PM 2: 04

CUMBERLAND COUNTY
John B. O'Brien

A-4

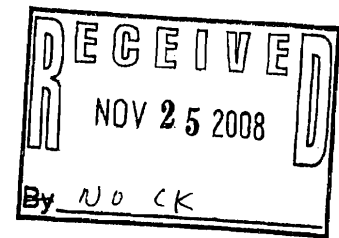


TO: Carol DiBello, Submerged Lands Coordinator,
Dept. of Conservation, Bureau of Parks & Lands

FROM: Department of Marine Resources (DMR)

Subject: REQUEST FOR PROJECT REVIEW

PROJECT: Applicant: Maine Yacht Center
Location: Portland (Casco Bay, east of Tukey's Bridge)
Type of Project: Dredging and Travel Lift Construction



The proposed project has been carefully reviewed and considered by DMR personnel. The following are DMR's Comments:

DMR personnel visited the proposed project site on March 8, 2002 and again on November 22, 2007.

DMR understands that the applicant is proposing to dredge approximately 4,700 cubic yards of material from 26,684 sq. ft. of subtidal area (30 ft. x ~ 950 ft.) along an existing line of floats to obtain a depth of 10 ft. of water depth at Mean Low Water (MLW) and 1,712 sq. ft. of intertidal area (20 ft. x 85 ft. to a depth of - 5 ft. MLW). This intertidal area extending from the northerly end of the subtidal dredging would be dredged to facilitate the use of a 42 ft. x 214 ft. 50 ton travel lift to be constructed. This would involve the installation of eighty 12¾ inch diameter epoxy coated steel piles. Dredged material would be disposed of at the Portland Disposal Site located approximately 7.1 nautical miles east of Cape Elizabeth by way of the Back Cove Cannel through Anchorage B and the main ship channel. Removal of debris and derelict piles would be done to as compensation for lost habitat values and functions.

The site of the proposed project is a moderate energy unconsolidated shore. The upland is developed with a gravel parking lot. The intertidal zone is 160 ft. wide with a variable slope (5° to 15°). The supratidal over parts of the site include riprap, a gravel road, and a partially erosional vegetated bank. The upper intertidal is sand. The mid intertidal is sand, pebble and gravel with some cobble. The lower intertidal is muddy sand. The subtidal is similar. There is occasional rockweed cover on areas of hard substrate such as pier remains. Barnacles and periwinkles are present. There is a newly constructed concrete pile supported pier approximately 50 ft. to the east of the proposed ramp area. Dredging of 15,000 yds. was done in the area sometime around 2000 to create a 250 slip marina.

DMR recommends that dredging and spoils transportation take place between January 1 and March 15 in order to minimize potential impacts to marine resources, and fishing and boating activity. As required by statute the dredging contractor must publish, in a local newspaper, the barge route for dredge spoils disposal, and identify the procedure for responding to inquires regarding the loss of fishing gear during the dredging and transport operations. It would be helpful to also publish this information in the Commercial Fisheries News, a publication widely read by Maine fishermen, and by means of a Notice to Mariners via marine radio.

A handwritten signature in black ink, appearing to read "George D. Lapointe".

GEORGE D. LAPOINTE
COMMISSIONER OF DMR
Date: November 24, 2008

From: NAE-PR2MPO@usace.army.mil
Subject: Scanned file
Date: March 25, 2009 9:26:31 AM EDT
To: seaspider4@malne.rr.com
▶ 1 Attachment, 132 KB

BRIAN FYI
JUST GOT IT!
842-9274



REPLY TO
ATTENTION OF
Regulatory Division
CENAE-R-51

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

March 25, 2009


Guy Bouthillette
58 Flag Pond Road
Saco, Maine 04072

Dear Mr. Bouthillette:

This concerns Department of the Army programmatic general permit, number NAE-2007-02802, which authorized new dredging and a travel lift at an existing marina facility in Casco Bay at Portland, Maine.

In accordance with your recent request, the time limit for completion of dredging work authorized by your client's permit is hereby extended until April 30 (Special Condition 10). All other conditions of the original permit remain in full force and effect.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


Philip T. Feir
Colonel, Corps of Engineers
District Engineer



JOHN ELIAS BALDACCI
GOVERNOR

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

PATRICK K. MCGOWAN
COMMISSIONER

December 16, 2008

Brian Harris
Maine Yacht Center
100 Kensington St.
Portland ME 04103

RE: Submerged Lands Dredging Lease

Dear Mr. Harris:

The Bureau of Parks and Lands (Bureau) has completed its review of your application for a submerged lands lease and has determined that a dredging lease will be granted. A copy of the Bureau's Final Findings And Conclusions and two copies of the standard dredging lease are enclosed.

Please have the appropriate person sign both copies of the lease and return them with payment of \$250.00. A check should be made payable to Treasurer, State of Maine. Once executed by the Bureau, a signed lease will be returned for your records and the Department of Environmental Protection will be notified.

For your information, I am also enclosing comments received from the Department of Marine Resources.

If you have any questions, please contact me at (207) 287-4922 or by email to:
carol.dibello@maine.gov.

Sincerely,

Carol DiBello

Carol DiBello
Submerged Lands Coordinator

Enc: invoice, findings, DMR comments & leases

cc: Guy Bouthillette





JOHN ELIAS BALDACCI
GOVERNOR

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

PATRICK K. MCGOWAN
COMMISSIONER

SUBMERGED LANDS DREDGING LEASE – FINAL FINDINGS AND DECISION

APPLICANT: Maine Yacht Center

PROJECT LOCATION: Portland

APPLICATION: Department of Environmental Protection NRPA Application No. L-16531-4P-J-N

PROJECT DESCRIPTION: The applicant proposes to dredge approximately 4,700 cubic yards of submerged lands within an existing marina. The dredged material would be disposed of at the Portland offshore disposal site.

REVIEW COMMENTS: Notification letters were sent to the town, abutters, and Department of Marine Resources. Comments were received from the Department of Marine Resources with a recommendation that dredging be done between January 1 and March 15 in order to minimize potential adverse impacts to marine resources, fishing and boating activity. No comments in opposition were received.

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

PUBLIC ACCESS WAYS:

The Bureau finds that the project will not unreasonably interfere with public access ways to submerged lands.

PUBLIC TRUST RIGHTS:

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

RECREATION:

The project will not unreasonably interfere with recreation.

SERVICES AND FACILITIES NECESSARY FOR COMMERCIAL MARINE ACTIVITIES:

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

INGRESS AND EGRESS OF RIPARIAN OWNERS:

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

BUREAU OF PARKS AND LANDS
WILLARD R. HARRIS, JR. DIRECTOR

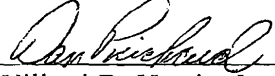


www.maine.gov/doc
PHONE: (207) 287-3821
FAX: (207) 287-6170
FAX: (207) 287-8111
TTY: (207) 287-2213

DECISION: In accordance with Title 12 M.R.S.A. Sections 1801 & 1862, the Director of the Bureau of Parks and Lands has determined that Submerged Lands Dredging Lease No. 04-10DL will be granted to the Maine Yacht Center with the following condition:

1. Dredging shall be conducted only between January 1 and March 15 throughout the term of this Lease.

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

Signed: 
for Willard R. Harris, Jr., Director

Date: December 2, 2008



JOHN ELIAS BALDACCI
GOVERNOR

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

PATRICK K. MCGOWAN
COMMISSIONER

January 6, 2009

Brian Harris
Maine Yacht Center
100 Kensington St.
Portland ME 04103

RE: Submerged Lands Dredging Lease # 04-10DL

Dear Mr. Harris:

Enclosed please find a fully executed copy of the lease referenced above for your proposed project.

Sincerely,

Carol DiBello
Submerged Lands Coordinator

cnc: lease

cc: Guy Bowthillette



**STATE OF MAINE
SUBMERGED LANDS LEASE
DREDGING OR REMOVAL OF ROCK, SAND, GRAVEL, SILT AND MUD
FROM SUBMERGED LANDS**

Lease No. **04-10DL**

This SUBMERGED LANDS LEASE (hereinafter Lease) conveys certain, limited rights in the submerged lands held by the State of Maine in trust for the public. It is not an environmental permit for the use of these lands.

This Lease is entered into by the Bureau of Parks and Lands, an agency of the State of Maine Department of Conservation, by its Director acting pursuant to the provisions of 12 M.R.S.A. Section 1801 & 1862 (hereinafter Lessor) and **MAINE YACHT CENTER, 100 KENSINGTON STREET, PORTLAND, MAINE 04103** (hereinafter Lessee). Lessor hereby leases to Lessee on the terms, conditions, and considerations hereinafter set forth the non-exclusive right to dredge or remove not more than 5,000 cubic yards of rock, gravel, sand, silt and mud from the following described submerged land (hereinafter leased premises) situated in Cumberland County, Maine, to wit:

A certain parcel of public submerged land located in Casco Bay, **Portland**, Maine, abutting adjacent upland now owned by the Maine Yacht Center, and as further described in Department of Environmental Protection NRPA Application No. L-16531-4P-J-N on file with Lessor and Attachments A and B which are hereby incorporated into this Lease.

1. **Term.** This Lease shall commence on December 16, 2008 and terminate on December 16, 2010.
2. **Fee.** Lessee agrees to pay Lessor a one-time fee of \$250.00 payable upon execution hereof.
3. **Indemnity.** Lessee shall defend or cause to be defended and shall indemnify and save Lessor, its employees and agents, harmless from and against any and all manner of claims, suits, expenses, damages or causes of action arising out of, in whole or in part, any activities contemplated under this Lease, or any actions or failures to act, of Lessee, its agents, contractors or employees hereunder.
4. **Compliance with Law.** Lessee shall, in the exercise of any rights granted hereunder, comply with all applicable laws and regulations (including the terms and conditions of any permits) of any federal, State and local authority having jurisdiction.
5. **Default.** In addition to any other right or remedy available hereunder or at law or equity, this Lease may be cancelled by Lessor upon written notice in the event Lessee shall fail to comply with any term or condition hereof.
6. **Refund.** In the event Lessee is denied such regulatory permits as are necessary to lawfully exercise the rights granted hereunder, then this Lease shall be void upon such denial and Lessor shall, upon request by Lessee, refund or equitably adjust the fee paid hereunder, subject to a service charge.
7. **Assignment.** All rights leased herein by Lessor may be assigned or sublet by Lessee with the prior written consent of Lessor. Such assignment shall not be unreasonably withheld under then applicable laws, regulations, and public trust principles. Notwithstanding any such assignment or

sublease, Lessee shall be and remain liable for compliance with the terms and conditions of this lease unless released by Lessor in writing.

8. Other Applicable Laws and Rules. This Lease is subject to cancellation by an Act of the Legislature. This lease is issued in accordance with the Rules of the Bureau of Parks and Lands in effect on the effective date of this lease.

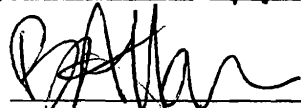
9. Notice. Any notice required or permitted hereunder shall be deemed to have been given when actually delivered or when deposited in the United States mail, first class postage prepaid, addressed to the State at the Bureau of Parks and Lands, 22 State House Station, Augusta, Maine 04333, Attn: Submerged Lands Program, or to the Lessee at the address set forth hereinbelow, or at such other address as may have theretofore been specified by a party hereto by written notice to the other pursuant hereto.

10. Miscellaneous. Lessee shall make no use of the leased premises except that which is expressly authorized by this Lease and Lessor reserves the right to make such use of the leased premises as shall not unreasonably interfere with Lessee's operations hereunder. Lessee shall permit no nuisance upon the leased premises. Lessor shall have access to the leased premises, the right to inspect Lessee's operations hereunder and the right to scale materials removed from the leased premises at all reasonable times. Lessee shall pay and discharge promptly all severance, property or other taxes lawfully levied against the leased premises or the materials removed therefrom.

11. Special Condition. Dredging shall be conducted only between January 1 and March 15 throughout the term of this Lease.

Accepted and agreed to on

December 18, 2008



(Lessee)

BRIANA A. HARRIS

(Print Name)

General Manager


(Title)

100 Kensington St

(Address)
Portland ME

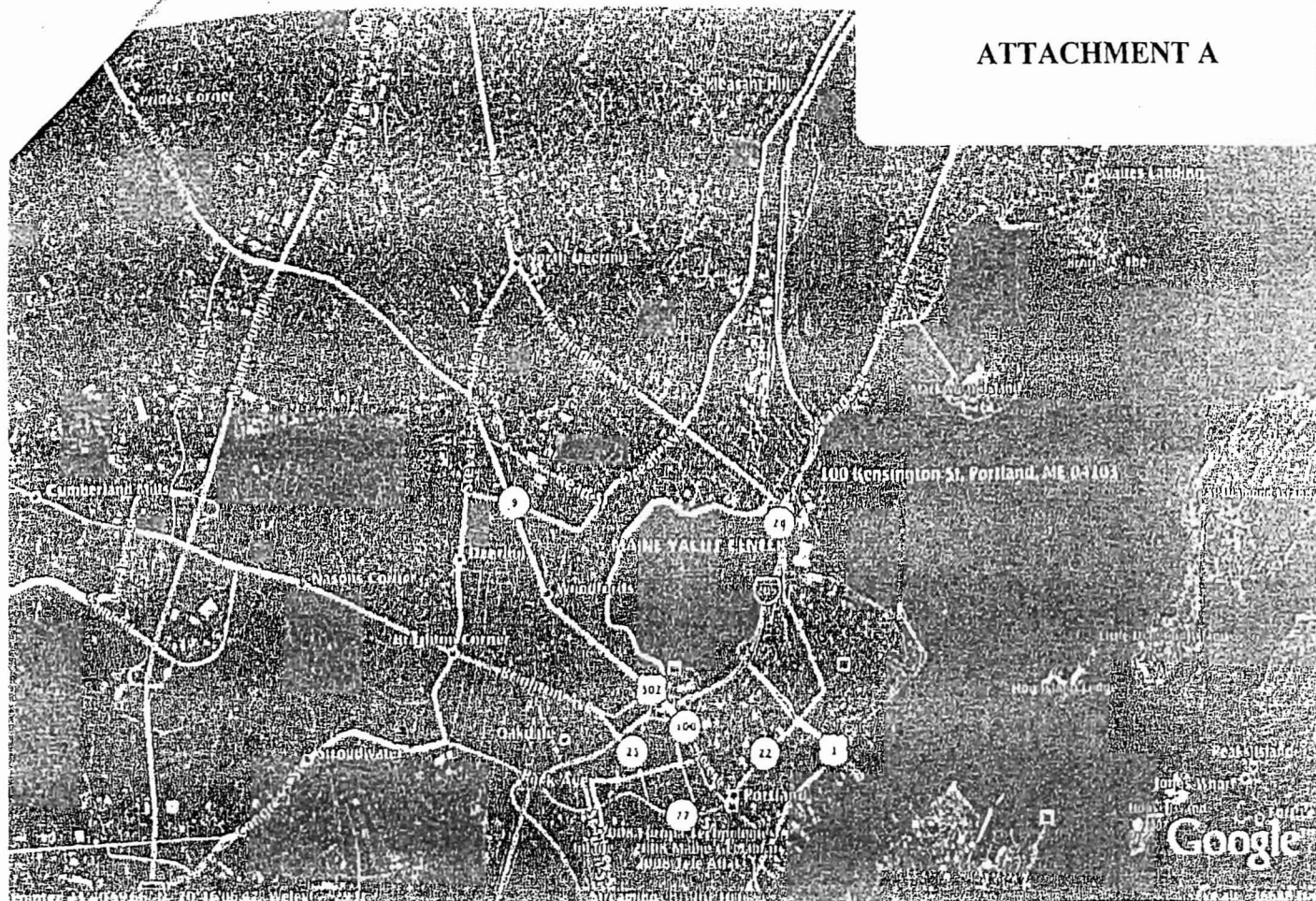
04103

Jan 2, 2009



(Lessor, Director, Bureau of Parks and Lands
Department of Conservation, State of Maine)

ATTACHMENT A



SITE LOCATION



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

March, 2009

Maine Yacht Center
C/o Brian Harris
100 Kensington Street
Portland, Maine 04103

RE: NRPA Application, Portland, DEP #L-16531-4E-L-M

Dear Mr. Harris:

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

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

Please feel free to call me at (207) 287-4728 if you have any questions regarding this project.

Sincerely,

A handwritten signature in cursive script that reads 'James Cassida'.

James Cassida
Acting Division Director
Division of Land Resource Regulation
Bureau of Land & Water Quality

pc: File

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

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

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

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



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials.

There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

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

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

II APPEALS TO MAINE SUPERIOR COURT

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

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

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



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

DEPARTMENT ORDER

IN THE MATTER OF

MAINE YACHT CENTER) NATURAL RESOURCES PROTECTION
Portland, Cumberland County) COASTAL WETLAND ALTERATION
EXTEND DREDGE WINDOW) MINOR REVISION
L-16531-4E-L-M (approval)) FINDINGS OF FACT AND ORDER

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

1. PROJECT DESCRIPTION:

A. History of Project: The Department has approved several dredging activities along the pier and floats of the Maine Yacht Center. Department Order #L-16531-4E-J-N, dated February 25, 2009, approved the dredging approximately 26,684 square feet of subtidal area and 1,712 square feet of intertidal area removing approximately 4,700 cubic yards of sand and silt. Spoils are to be disposed of at the Portland Disposal Site off Cape Elizabeth. Special Condition #4 restricts the completion of the project to the period between January 1 and April 15 of any given year.

B. Summary: The applicant proposes to extend the dredging window to April 30. Because the contractor originally contacted to perform the dredge is currently on another project and will not be able to complete the dredge project at the Maine Yacht Center prior to April 15. The applicant submitted a letter, dated March 5, 2009, from its contractor, Prock Marine Company (Prock) in which Prock estimates that they will be able to arrive on site in early April.

C. Current Use of Site: The site is the location of an 80-slip marina that includes an upland parking area and boat storage and maintenance buildings.

2. FINDING:

The Department of Marine Resources (DMR) reviewed the applicant's request and stated that dredging through the month of April, if necessary, is not likely to result in adverse

impacts to the fishing activity near the project site or along the disposal route the Portland Disposal Site.

In consideration of DMR's comments, the Department approves the extension of the dredge window through April 30, 2009. In the event that the project cannot be completed during 2009, the dredge window approved in Department Order #L-16531-4E-J-N remains in effect.

The proposed project is a minor change and will not significantly affect any other issues identified during previous Department reviews of the project site.

Based on its review of the application, the Department finds the requested minor revision to be in accordance with all relevant Departmental standards. All other findings of fact, conclusions and conditions remain as approved in Department Order #L-16531-4E-J-N, and subsequent orders.

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

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that the dredge is completed by April 30, 2009 as described in Finding 2.
- 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.

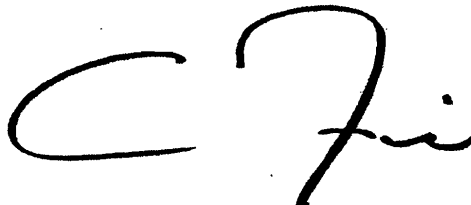
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S.A. Section 480-P.

THEREFORE, the Department APPROVES the application of MAINE YACHT CENTER to extend the dredging window until April 30, 2009, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant shall complete the dredge project by April 30, 2009. In the event that the project cannot be completed during 2009, the dredge window approved in Department Order #L-16531-4E-J-N shall remain in effect.
5. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-16531-4E-J-N, and subsequent orders, and are incorporated herein.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M. R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2009.03.20 08:23:44 -04'00'

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES...

rlg/l16531lm/ats#69639



Natural Resource Protection Act (NRPA) Standard Conditions

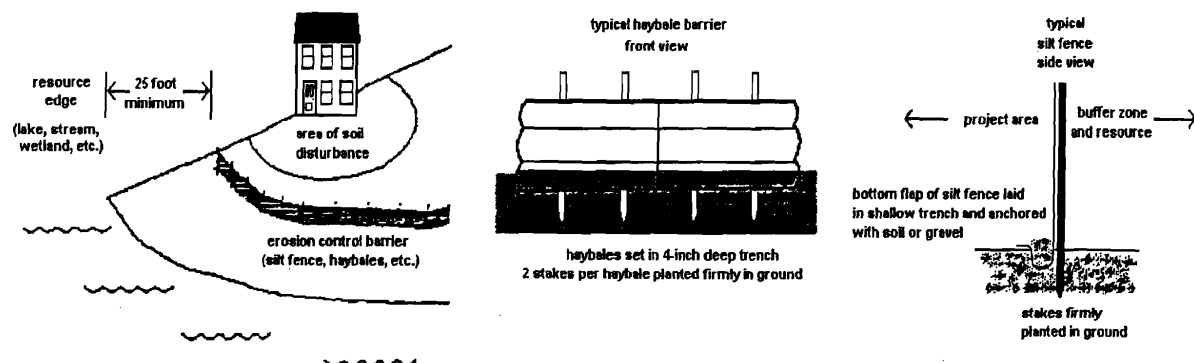
THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCE PROTECTION ACT, TITLE 38, M.R.S.A. SECTION 480-A ET. SEQ. UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- 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.
- E. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Erosion Control for Homeowners

Before Construction

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



During Construction

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



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
Department of Environmental Protection

David P. Littell
COMMISSIONER

February, 2009

Maine Yacht Center
c/o Brian Harris
100 Kensington Street
Portland, Maine 04103

RE: Natural Resource Protection Act Application, Portland, DEP# L-16531-4E-J-N and
#L-16531-TW-K-N

Dear Mr. Harris:

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

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

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

Sincerely,

MICHAEL K. MULLEN
Acting Division Director
Division of Land Resource Regulation
Bureau of Land & Water Quality

pc: File

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

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

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

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



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5)

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

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

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

II APPEALS TO MAINE SUPERIOR COURT

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

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

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



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

DEPARTMENT ORDER

IN THE MATTER OF

MAINE YACHT CENTER) NATURAL RESOURCES PROTECTION
Portland, Cumberland County) COASTAL WETLAND ALTERATION
MAINTENANCE DREDGE AND) SIGNIFICANT WILDLIFE HABITAT
CONSTRUCTION OF BOAT TRAVEL LIFT) WATER QUALITY CERTIFICATION
L-16531-4E-J-N (approval))
L-16531-TW-K-N) 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 MAINE YACHT CENTER with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: In Department Order #L-16531-4C-A-N, dated June 27, 1990, the Department denied the application of Yacht Haven, LLC, now known as Maine Yacht Center, to construct a marina and dredge 2.75 acres of intertidal and subtidal marine habitat. The applicant modified its original proposal and eliminated the intertidal dredging. In Department Order #L-16531-4C-B-N, dated August 22, 1990, the Department approved the development of a marina that included an office/retail building, parking area, fuel pump and sewage pump out facilities, and concrete pier supported on concrete piles along with three permanent concrete floats. The permit also approved dredging approximately 60,000 square feet of subtidal zone under the pier and float strings.

The time to begin construction of the project was extended twice in Department Orders #L-16531-4C-D-M and #L-16531-4C-E-M, dated October 30, 1992 and October 27, 1994, respectively. Department Order #L-16531-4C-E-M approved a five year extension of the permit to allow sufficient time to acquire financial support for the project. Financial support was not obtained and the permit expired on October 27, 1999.

In Department Order #L-16531-4C-F-N, dated January 13, 2000, the Department approved the development of Maine Yacht Center, a 125-slip marina that included two 12-foot wide by 700-foot long floating concrete docks joined by a 140-foot wide connector and a 20-foot wide by 210-foot long walkway that spans the intertidal zone. The permit also approved dredging approximately 2.13 acres of the subtidal zone on the western side of the project site. The Department issued a number of subsequent orders approving construction of a boat ramp with seasonal floats and reconfiguration of the permanent floats.

B. Summary: Maine Yacht Center is a full service marina located at the end of Kensington Street in the City of Portland. The marina is at the entrance to Back Cove in Casco Bay. Facilities include an office building, storage building, outside boat storage, a paint shed, a boat

ramp with an associated float system, and permanent float systems providing boat slips for approximately 80 boats.

The applicant proposes to dredge approximately 26,684 square feet of subtidal area and 1,712 square feet of intertidal area removing approximately 4,700 cubic yards of sand and silt. The applicant proposes to utilize a barge-supported crane with a clamshell bucket to excavate an approximately 85-foot long channel in the intertidal zone beginning at the end of the existing concrete boat ramp traveling seaward to the mean low water (MLW) line at a point adjacent to the existing concrete float. The channel will then travel parallel to the float for a distance of approximately 950 feet ending at a point where the bottom is at a depth of -10 feet MLW. In the intertidal zone, the channel will be 20 feet wide and excavated to a depth of -5 feet MLW. In the subtidal zone, the channel will be widened to 30 feet and excavated to a depth of -10 feet MLW. The area of the 30-foot wide channel was previously approved for dredging in Department Order #L-16531-4C-F-N. The dredged material has been determined to be suitable for unconfined ocean disposal by the U.S. Army Corps of Engineers (Corps) and will be disposed of approximately 7 miles offshore at the Portland Disposal Site (PDS). The project is shown on a set of drawings entitled "Proposed Dredging, Maine Yacht Center," prepared by Post Road Surveying, Inc., and dated March 13, 2008.

Following completion of dredging operations, the applicant proposes to construct a travel lift pier. The pier consists of two, 6-foot wide by 177-foot long concrete decks, located on either end of the boat ramp and 20-foot channel and will terminate approximately 20 feet before the mean low water line. Each deck will be supported by 22 pairs of piles and attach to a 37-foot long abutment located approximately 20 feet in the upland. The abutments will be 10 feet wide and 12.625 feet wide, respectively. Each pair of pilings will include a vertical pile and a battered support pile and be set in at least 20 feet of overburden or pinned to ledge. A total of 88, 12-inch diameter epoxy coated steel piles, filled with concrete, are proposed. Each deck will be formed, reinforced, and poured with concrete in place. A travel lift was part of the original business plan for the development of the marina and was postponed until the applicant had the funds for its construction.

C. Current Use of the Site: The site is the location of an 80-slip marina that includes an upland parking area and boat storage and maintenance buildings.

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

In accordance with Chapter 315, Assessing and Mitigating Impacts to Scenic and Aesthetic Uses, the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site. Department staff visited the project site on November 22, 2007.

The proposed project is located in Casco Bay, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The applicant has located the travel lift pier between the permanent floats and the embankment that supports the former Canadian National railway tracks to reduce its visibility from the scenic resource. The shoreline of the proposed project is developed. There will be no permanent changes to the scenic and aesthetic values that the property may have, when viewed from the protected natural resource, because the dredging activity will take place at or below the water surface. Dredging equipment will be along the shore or in the water for approximately two weeks in the winter.

The proposed project was evaluated using the Department's Visual Impact Assessment Matrix and was found to have an acceptable potential visual impact rating. Based on the information submitted in the application, the visual impact rating, and the site visit, the Department determined that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

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

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

3. SOIL EROSION:

The applicant proposes to follow erosion control measures recommended in the Maine Erosion and Sediment Best Management Practices manual. Soil disturbance for the proposed project will be limited to construction the abutments and driving piles, which will cause little, if any erosion.

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

4. HABITAT CONSIDERATIONS:

The project site is a moderate energy unconsolidated shore with an intertidal zone approximately 160 feet wide with a variable slope. The upper intertidal zone is composed of sand. The mid intertidal zone is composed of sand and gravel. The lower intertidal zone is muddy sand. The intertidal area has occasional occurrences of rockweed on the hard substrate and marine invertebrates are present. Derelict piles are noted throughout the site.

Department staff reviewed a Geographic Information System (GIS) database that contains information provided by both the Department of Marine Resources (DMR) and the Maine Department of Inland Fisheries and Wildlife (MDIFW). The GIS database indicates that the project lies within marine worm habitat, shellfish, and tidal waterfowl and wading bird habitat (TWWH). The TWWH is defined as a Significant Wildlife Habitat in the Natural Resources Protection Act, and is found along this portion of Casco Bay, including the project site.

The TWWH covers an area of approximately 213 acres. Current development on the project site is affecting less than 1% of the habitat and the proposed project would not affect any additional habitat. Given the location of the proposed project, it is not expected to significantly increase the impact area beyond what currently exists.

DMR stated that the proposed project should not cause any significant adverse impact to marine resources, navigation, or recreation provided that dredging is completed between January 1 and April 15 of any year. During the November 22, 2007 site visit by Department and DMR staff, the DMR biologist stated that removal of the derelict pilings and other debris on the applicant's property would provide adequate compensation for impacts resulting from the proposed dredging and travel lift pier.

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

5. WATER QUALITY CONSIDERATIONS:

The applicant will dredge the site during the late winter or early spring and transport the material to the PDS, which is managed by the Corps. The Corps reviewed the applicant's sediment sampling data and found that the dredge material is suitable for unconfined ocean disposal at the PDS. Based on sediment chemistry, the winter dredging schedule, and the offshore location of the disposal site, the Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to fill approximately 88 square feet and to alter 30,108 square feet of coastal wetland to perform maintenance dredging and construct a travel lift pier at the Maine Yacht Center.

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 Guy Bouthillette and dated August 22, 2008. Boat storage and maintenance are services vital to the success of the marina and each requires transporting boats into and out of the water. A travel lift will improve boat handling safety and efficiency of operations. The alternatives analysis also considered a no dredge alternative and several alternate disposal methods. Upland space constraints make dewatering and upland disposal of dredged material impractical. Construction of a travel lift pier without dredging will not provide sufficient draft for the moving the larger boats that are currently stored on site. The Department finds that the analysis demonstrates that ocean disposal at the Portland Disposal Site is the least environmentally damaging practicable alternative that meets the project purpose.

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 dredge a 30,108 square foot area, the minimum area necessary to meet the project needs and purpose. Construction of a travel lift pier without dredging will not provide sufficient draft for the moving the larger boats that are currently stored on site. Following the November 22, 2007 meeting with Department and DMR staff, the project was modified to reduce the impact to the intertidal zone of the project area.

C. Compensation. In accordance with Chapter 310, compensation is required to achieve the goal of no net loss of coastal wetland functions and values. The applicant submitted a Functions & Values Assessment prepared by Guy Bouthillette and dated August 22, 2008. The primary function and value of the coastal wetland to be impacted is wildlife habitat. Although a biological survey was conducted that indicated the project area is not being used by surface or interstitial fauna, DMR biologists have previously commented that areas such as this often experience cycles of varying degrees of productivity which cannot be accurately surveyed in one

day. In comments dated November 24, 2008, DMR reiterated comments made during the November 22, 2007 site visit that removal of debris and derelict piles on the applicant's property would be sufficient to compensate for lost functions and values. The applicant agreed to DMR's recommendations and will include the removal of this material as part of the project. The applicant will have 24 months from the start of the proposed project to remove and dispose of this material.

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 provided that the applicant removes the debris and derelict piles on the applicant's property within 24 months of the start of the project.

7. DREDGE SPOILS TRANSPORTATION CONSIDERATIONS:

DMR requested that the applicant publish a notice to fisherman in the Commercial Fisheries News and a notice to mariners via local marine radio prior to the dredging operation. The notice must describe the barge route for the dredge spoils disposal and identify the procedure for responding to inquiries regarding the loss of fishing gear during the dredging and disposal operations. As required by 38 M.R.S.A. Section 480-D (9), DMR provided an assessment of the proposed project and its impact on the fishing industry as stated in Finding 4. To minimize this impact, the Department finds that the applicant must:

- a. Clearly mark or designate the dredging area and the transportation route from the Portland Harbor Approach Channel to the PDS.
- b. Publish the transportation route in a local newspaper of general circulation.
- c. Publish in a local newspaper the procedure that the applicant will use to respond to inquiries regarding the loss of fishing gear during the dredging operation.

8. OTHER CONSIDERATIONS:

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

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

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat,

travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that dredging is completed between January 1 and April 15 of any given year, that the applicant publishes the notices, described in Finding 7, one week prior to commencing the dredging operation and that the applicant remove and dispose of the debris and derelict piles on the applicant's property within 24 months of the start of the project.

- 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 MAINE YACHT CENTER to dredge a 30,108 square foot area adjacent to its permanent float and to construct a travel lift pier as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant shall complete the dredging portion of the project between January 1 and April 15 of any given year.
5. The applicant shall publish a notice to fisherman in the Commercial Fisheries News and a notice to mariners via local marine radio one week prior to commencing the dredging operation. The notice shall describe the barge route for the dredge spoils disposal and identify the procedure for responding to inquires regarding the loss of fishing gear during the dredging and disposal operations.

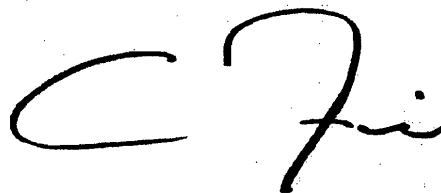
L-16531-4E-J-N (approval)
L-16531-TW-K-N

7 of 9

6. The applicant shall remove and dispose of the debris and derelict piles on the applicant's property within 24 months of the start of the project.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M. R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2009.02.25 08:35:51 -05'00'

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

rlg/ats#68653 & 68654/116531jn & 116531kn



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.

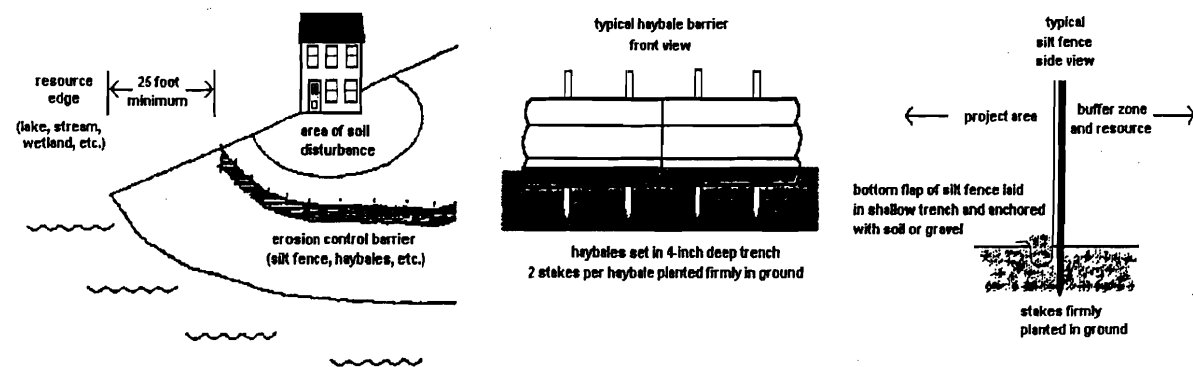
- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject 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.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Erosion Control for Homeowners

Before Construction

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



During Construction

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



REPLY TO
ATTENTION OF

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

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

MAINE YACHT CENTER
C/O GUY R. BOUILLLETTE
58 FLAG POND ROAD
SACO, MAINE 04072

CORPS PERMIT # NAE-2007-02802
CORPS PGP ID# 08-325
STATE ID# NRPA

DESCRIPTION OF WORK:

Dredge a rectangular shaped 28,684 s.f. area to a depth of -10 feet below MLW in Casco Bay at Portland, Maine. Approximately 4,700 cubic yards of silt & sand will be removed by mechanical means and disposed of at the Portland Disposal site. In addition, construct and maintain a new travel lift consisting of two 177'x 6' pile supported concrete piers. The authorized work is described on the enclosed plans entitled "MAINE YACHT CENTER, 100 KENSINGTON ST., CASCO BAY, PORTLAND, MAINE 04103" in five sheets dated "MARCH 13, 2008" and "MAINE YACHT CENTER, PORTLAND, MAINE" in four sheets dated "FEB. 8, 2008".

LAT/LONG COORDINATES 43 6789934" N 70 2533175" W USGS QUAD PORTLAND WEST 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.

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

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

II. STATE ACTIONS: PENDING ISSUED DENIED DATE _____

APPLICATION TYPE PBR _____ TIER 1 _____ TIER 2 _____ TIER 3 LUR: _____ DMR LEASE _____ NA _____

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: 9/10/08 LEVEL OF REVIEW: CATEGORY 1 _____ CATEGORY 2

AUTHORITY (Based on a review of plans and/or State/Federal applications): SEC 10 404 _____ 10/404 _____ 103

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

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA NO USF&WS NO NMFS NO

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

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

Philip T. Feir
PHILIP T. FEIR
COLONEL, CORPS OF ENGINEERS
CORPS OF ENGINEERS

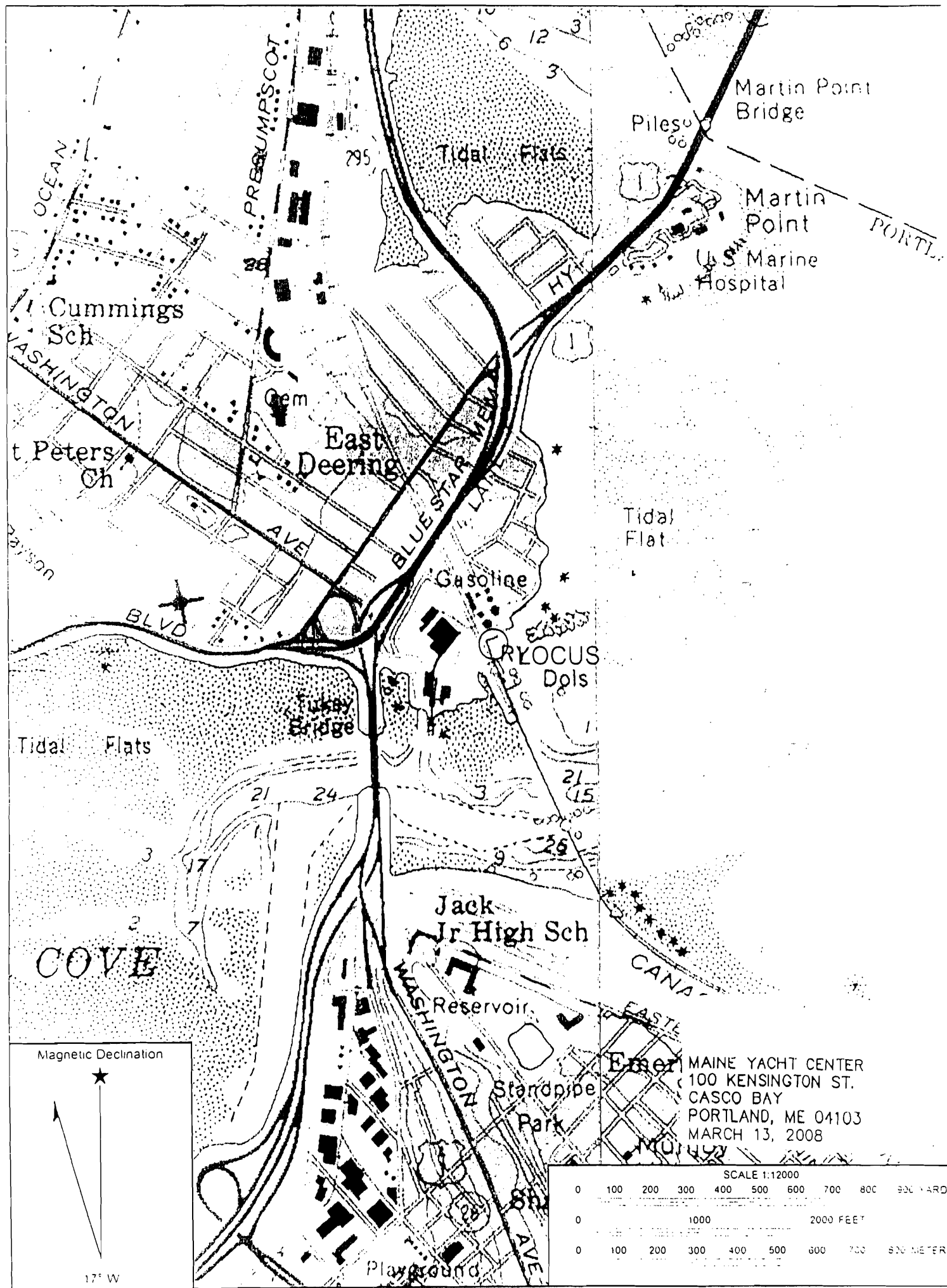
DATE 2/27/09

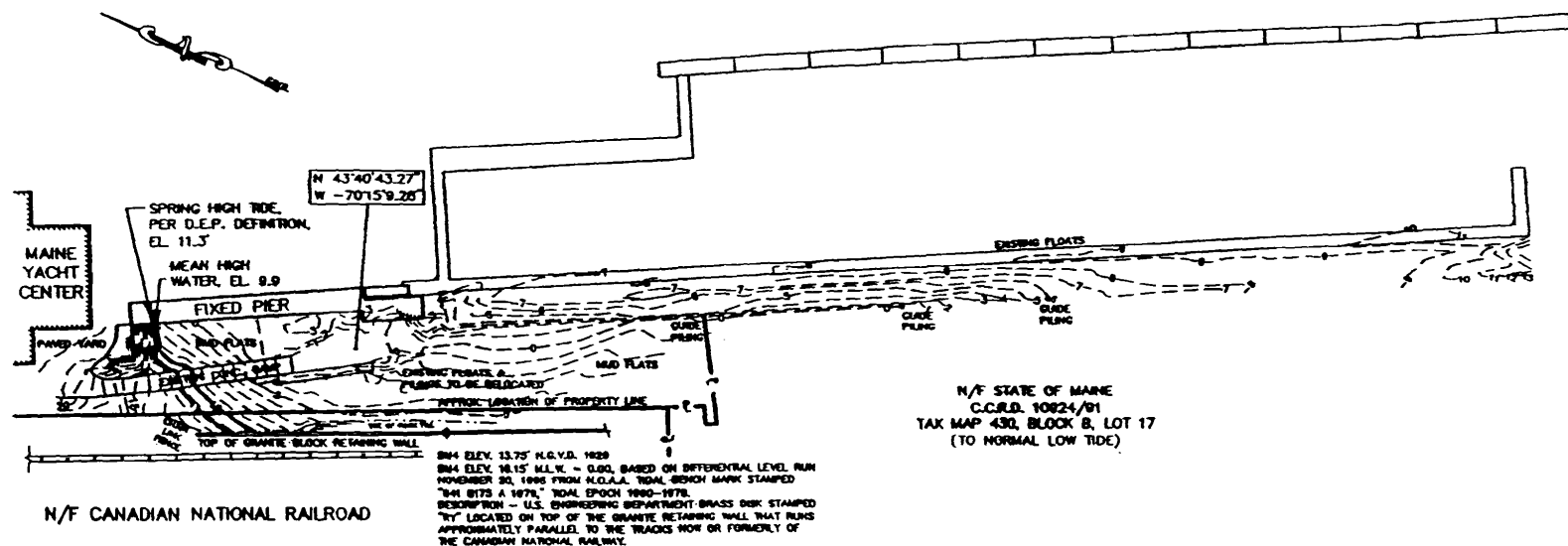


US Army Corps
of Engineers
New England District

SPECIAL CONDITIONS FOR
DEPARTMENT OF THE ARMY
PROGRAMMATIC GENERAL PERMIT
NO. NAE-2007-02802

- 1 This authorization requires you to 1) notify us before beginning work so we may inspect the project, and 2) submit a Compliance Certification Form. You must complete and return the enclosed Work Start Notification Form(s) to this office at least two weeks before the anticipated starting date. You must complete and return the enclosed 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).
- 2 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.
- 3 Periodic maintenance dredging to the area and depth limits described herein is authorized for ten years from the date of issuance of this permit, provided disposal of the dredged material is at an upland site. However, the permittee must notify this office, in writing 60 days before the intended date of any such dredging and shall not begin such dredging until written authorization has been obtained. This 60-day notification is not required for the initial new and/or maintenance dredging authorized by this permit. A separate authorization shall be required for such dredging if the material to be dredged is to be deposited in open or ocean waters and/or wetlands.
- 4 At least ten working days in advance of the start date, the First Coast Guard District, Aids to Navigation Office, 617-223-8356, shall be notified of the location and estimated duration of the dredging and disposal operations.
- 5 Every discharge of dredged material at the disposal site must be witnessed by an onboard inspector who has been trained by, and who holds a current certification from, the New England District of the Corps of Engineers. The disposal inspector shall be contracted and paid for by the permittee. A list of currently certified inspectors can be obtained from the New England District Regulatory Division at 978-318-8292.
- 6 For the initiation of disposal activity and any time disposal operations resume after having ceased for one month or more the permittee or the permittee's representative must notify the Corps' New England District at least ten working days before the date disposal operations are expected to begin or resume. Contact the Policy Analysis and Technical Support Branch at 978-318-8292. The information to be provided in this notification is: permit number, permittee name, name and address of dredging contractor, estimated dates dredging is expected to begin and end, name of disposal inspector, name of the disposal site and estimated volume of material to be dredged. Disposal operations shall not begin or resume until the Policy Analysis and Technical Support Branch issues a letter authorizing the initiation or continuation of open-water disposal. The letter will include disposal-point coordinates to use for this specific project at that time. These coordinates may differ from those specified for other projects using the same disposal site or even from those specified earlier for this project. It is not necessary to wait ten days before starting disposal operations. They may start as soon as this letter is issued.
- 7 The permittee shall ensure that a separate Corps of Engineers disposal inspection report (scow log) is fully completed by the inspector for every trip to the disposal site and that this report is received by the Corps' New England District within one week of the trip date. The Regulatory Division telefax number is 978-318-8303. The original of this report must be mailed to: U.S. Army Corps of Engineers, Regulatory Division, Policy Analysis and Technical Support Branch, 696 Virginia Road, Concord, MA 01742-2751. For each dredging season during which work is performed the permittee must notify the Corps upon completion of dredging for the season by completing and submitting the form that the Corps will supply for this purpose when disposal-point coordinates are specified.
- 8 Except when directed otherwise by the Corps' DAMOS Program Manager for site management purposes, all disposal of dredged material shall adhere to the following: The permittee shall release the dredged material at a specified buoy or set of coordinates within the disposal site. All disposal is to occur at the buoy or specified coordinates with the scow at a complete halt. This requirement must be followed except when doing so will create unsafe conditions because of weather or sea state, in which case disposal within 100 feet of the buoy or specified coordinates with the scow moving only fast enough to maintain safe control (generally less than one knot) is permitted. Disposal is not permitted if these requirements cannot be met due to weather or sea conditions. In that regard, special attention needs to be given to predicted conditions prior to departing for the disposal site.
- 9 The U.S. Coast Guard, Sector Northern New England, Waterway Management Division (207) 741-5431, shall be notified prior to the start of this project.
10. Dredging shall be conducted from January 1 to April 15 to minimize potential impacts to fisheries and local water quality.





N/F STATE OF MAINE
 C.C.R.D. 10824/01
 TAX MAP 432, BLOCK B, LOT 17
 (TO NORMAL LOW TIDE)

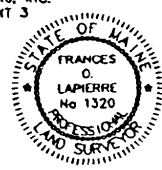
N/F CANADIAN NATIONAL RAILROAD

BM4 ELEV. 13.75' N.G.V.D. 1929
 BM4 ELEV. 16.15' M.L.V. - G.L.C. BASED ON DIFFERENTIAL LEVEL RUN
 NOVEMBER 30, 1995 FROM M.O.A.A. TIDAL BENCH MARK STAMPED
 "M 1875 A 1975" TIDAL EPOCH 1980-1978.
 DESCRIPTION - U.S. SURVEYING DEPARTMENT BRASS DISK STAMPED
 "17" LOCATED ON TOP OF THE GRANITE RETAINING WALL THAT RUNS
 APPROXIMATELY PARALLEL TO THE TRACKS NOW OR FORMERLY OF
 THE CANADIAN NATIONAL RAILWAY.

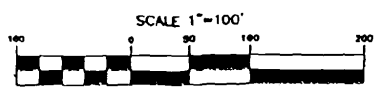
NOTES:

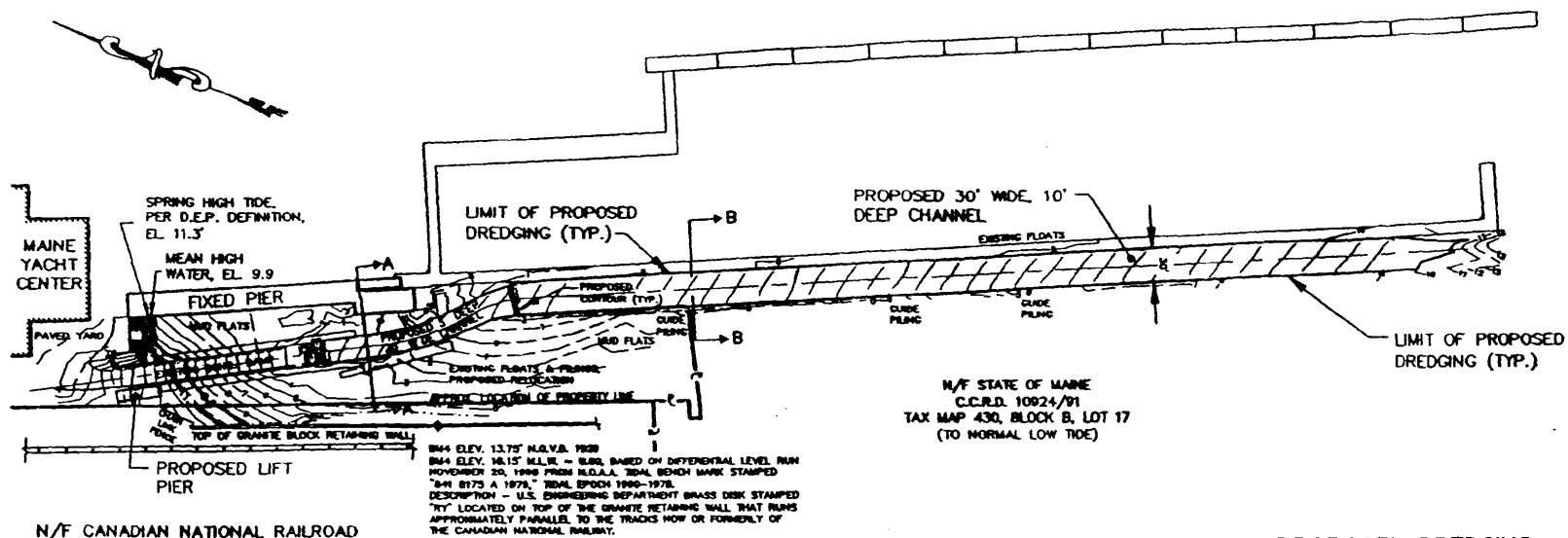
- 1.) CONTOURS WEST OF FIXED PIER BASED ON TOPOGRAPHIC SURVEY UNDERTAKEN JUNE 2006, ALL OTHER CONTOURS BASED ON SOUNDINGS PROVIDED BY THE MAINE YACHT CENTER.
- 2.) THE PURPOSE OF THIS PLAN IS TO FACILITATE PERMITTING OF THE FOLLOWING ACTIVITIES:
 DREDGING
 CONSTRUCTION OF LIFT PIER.

PREPARED BY:
 POST ROAD SURVEYING, INC.
 43 SANFORD RD., UNIT 3
 PO BOX 1557
 WELLS, ME 04090



D1 PROPOSED DREDGING
 EXISTING SITE CONDITIONS &
 BATHYMETRY
 MAINE YACHT CENTER
 100 KENSINGTON ST.
 CASCO BAY
 PORTLAND, ME 04103
 MARCH 13, 2008



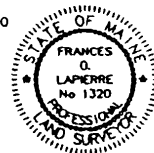


M/F STATE OF MAINE
C.C.R.D. 10924/91
TAX MAP 430, BLOCK B, LOT 17
(TO NORMAL LOW TIDE)

NOTES:

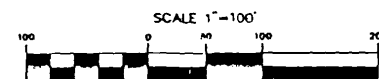
- 1.) CONTOURS WEST OF FIXED PIER BASED ON TOPOGRAPHIC SURVEY UNDERTAKEN JUNE 2006, ALL OTHER CONTOURS BASED ON SOUNDINGS PROVIDED BY THE MAINE YACHT CENTER.
- 2.) VOLUME OF PROPOSED DREDGE MATERIAL: 4706 CUBIC YARDS (3921 CUBIC YARDS IN-PLACE, PLUS 20% SWELL FACTOR) (BOX CUT IN PROPOSED CHANNELS WITH ONE FOOT ALLOWABLE OVERDEPTH).
- 3.) AREA OF PROPOSED DREDGING: 28,396 SQ. FT. (INTERTIDAL ZONE, 1,712 SQ. FT.)
- 4.) AREA OF PROPOSED LIFT PIER OVER INTERTIDAL ZONE: 1,980 SQ. FT/ ±
- 5.) THE PURPOSE OF THIS PLAN IS TO FACILITATE PERMITTING OF THE FOLLOWING ACTIVITIES:
 - DREDGING
 - CONSTRUCTION OF LIFT PIER.

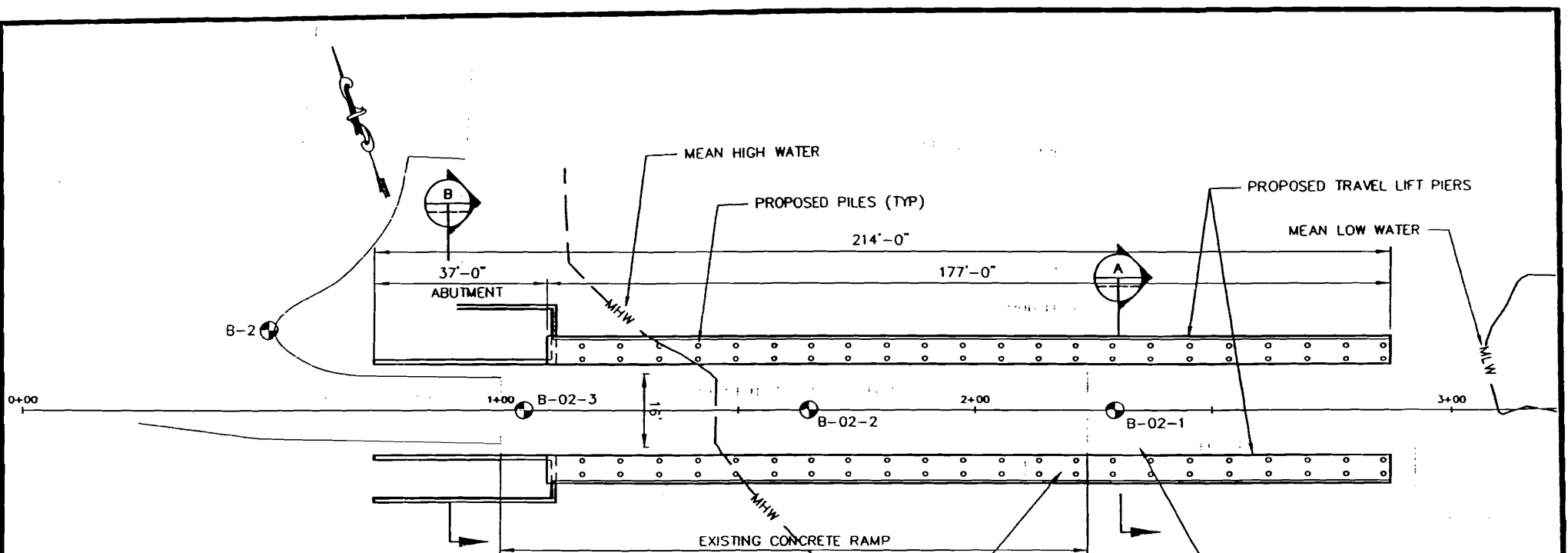
PREPARED BY:
POST ROAD SURVEYING, INC.
43 SANFORD RD., UNIT J
PO BOX 1557
WELLS, ME 04090



D2

PROPOSED DREDGING
PROPOSED SITE
CONDITIONS & BATHYMETRY
MAINE YACHT CENTER
100 KENSINGTON ST.
CASCO BAY
PORTLAND, ME 04103
MARCH 13, 2008





NOTES:

1. THIS PLAN DOES NOT REPRESENT A BOUNDARY SURVEY.
2. HYDROGRAPHIC SURVEY BY POST ROAD SURVEYING, INC. P.O. BOX 1557 43 SANFORD ROAD, UNIT 3 WELLS, MAINE. DEPTHS ARE BASED ON MEAN LOWER LOW WATER DATUM 0.00'.
3. THE INFORMATION SHOWN ON THIS PLAN WAS PROVIDED BY THE APPLICANT. TEC ASSOCIATES MAKES NO WARRANTY AS TO THE SIZE AND LOCATION OF EXISTING CONDITIONS SHOWN.
4. PLAN FOR PERMITTING PURPOSES ONLY. NOT FOR CONSTRUCTION.

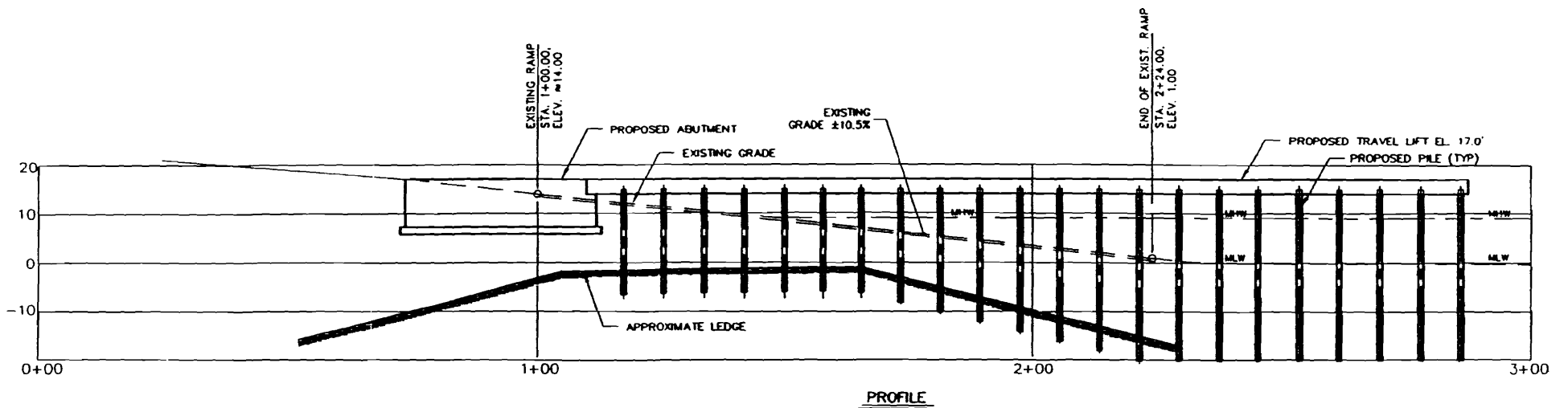
GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

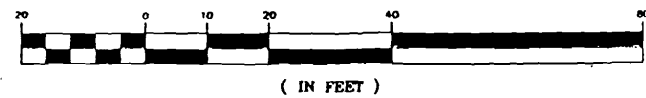
MAINE YACHT CENTER
PORTLAND, MAINE

		DATE FEB. 8 2008	
SCALE	SCALE	DATE	DATE
08148-1	20'		1 OF 1



PROFILE

GRAPHIC SCALE



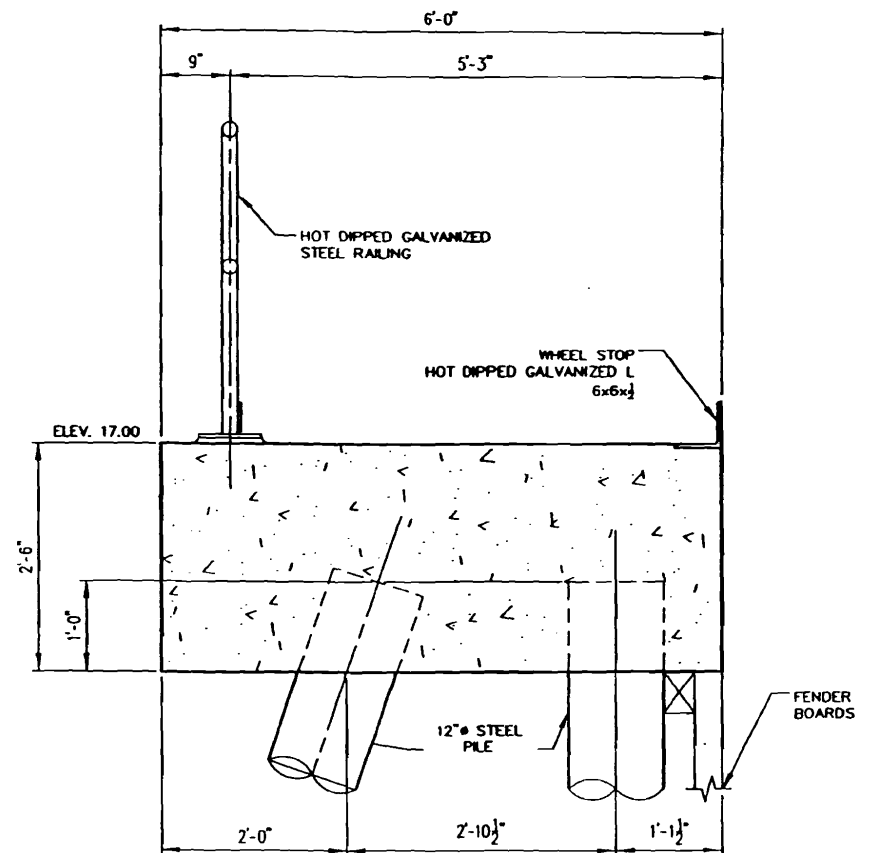
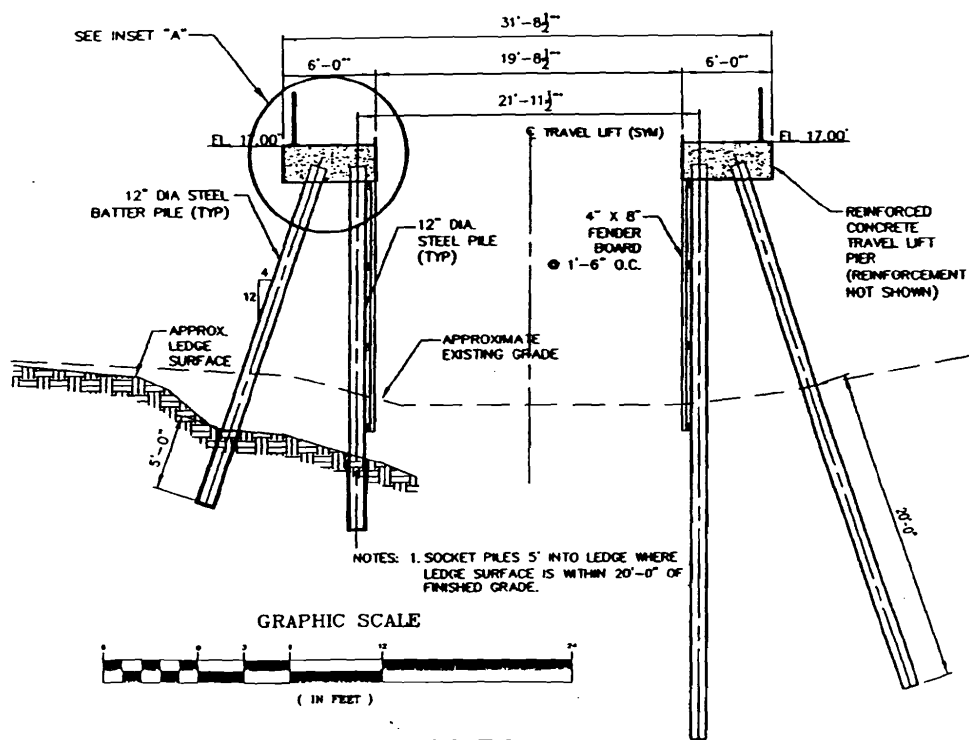
NOTES:

1. THE INFORMATION SHOWN ON THIS PLAN WAS PROVIDED BY THE APPLICANT. TEC ASSOCIATES MAKES NO WARRANTY AS TO THE SIZE AND LOCATION OF EXISTING CONDITIONS SHOWN.
2. PLAN FOR PERMITTING PURPOSES ONLY, NOT FOR CONSTRUCTION.
3. LEDGE PROFILE SHOWN BASED ON S.W. COLE SHEET NO. 1 PROJECT NO. 00-1065.4, JANUARY 7, 2007.

MAINE YACHT CENTER
PORTLAND, MAINE

TEC ASSOCIATES CONSULTING ENGINEERS
INCORPORATED
1000 BROAD STREET, SUITE 200, PORTLAND, MAINE 04102

SCALE	SEE GRAPHIC SCALE	DATE	FEB. 8 2008
08148-1	JUL		2 OF 4

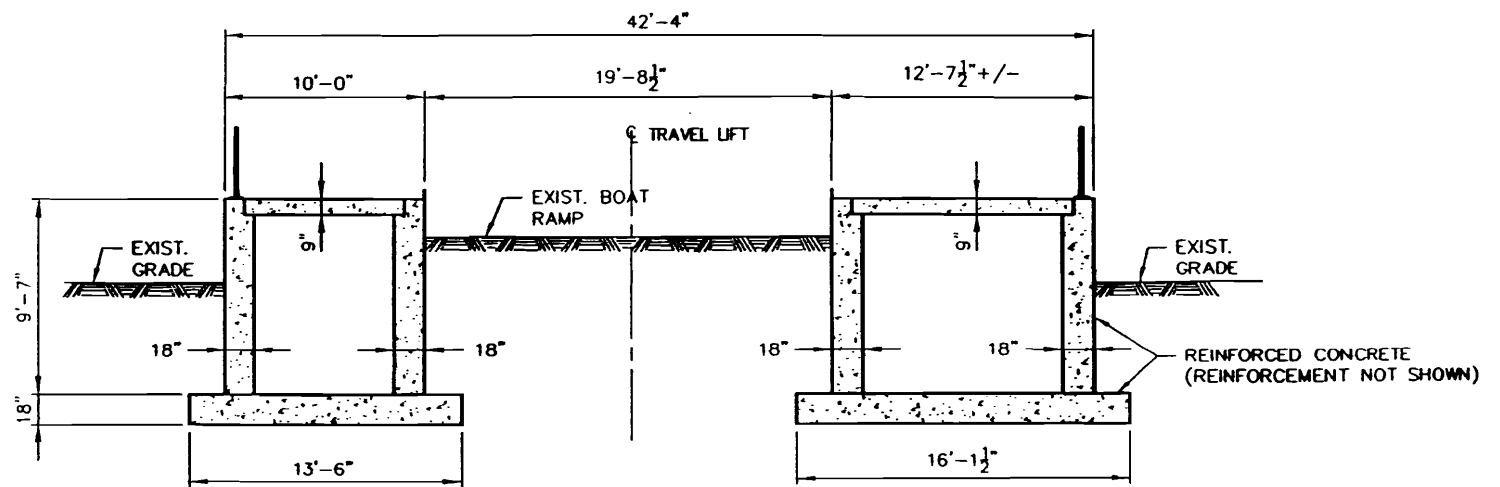


NOTES:

1. THE INFORMATION SHOWN ON THIS PLAN WAS PROVIDED BY THE APPLICANT. TEC ASSOCIATES MAKES NO WARRANTY AS TO THE SIZE AND LOCATION OF EXISTING CONDITIONS SHOWN.
2. PLAN FOR PERMITTING PURPOSES ONLY, NOT FOR CONSTRUCTION.
3. LEDGE PROFILE SHOWN BASED ON S.W. COLE SHEET NO. 1 PROJECT NO. 00-1063.4, JANUARY 7, 2007.

MAINE YACHT CENTER
PORTLAND, MAINE

TEC ASSOCIATES
SCALE SEE GRAPHIC SCALE DATE FEB. 8 2008



SECTION B
2 | 5

GRAPHIC SCALE



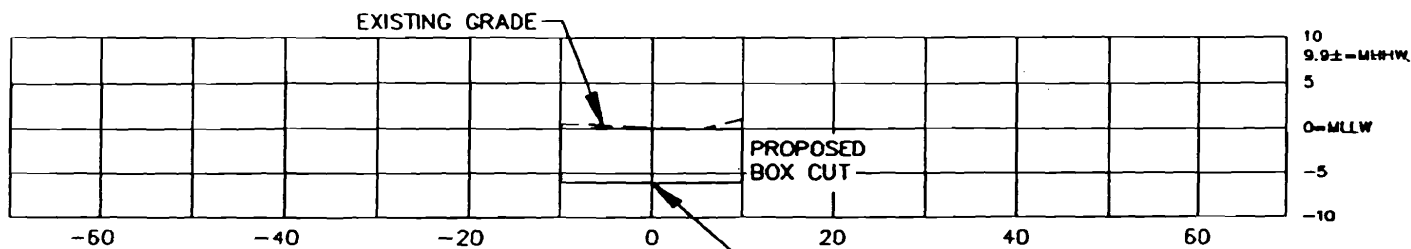
(IN FEET)

NOTES:

1. THE INFORMATION SHOWN ON THIS PLAN WAS PROVIDED BY THE APPLICANT. TEC ASSOCIATES MAKES NO WARRANTY AS TO THE SIZE AND LOCATION OF EXISTING CONDITIONS SHOWN.
2. PLAN FOR PERMITTING PURPOSES ONLY, NOT FOR CONSTRUCTION.
3. LEDGE PROFILE SHOWN BASED ON S.W. COLE SHEET NO. 1 PROJECT NO. 00-1065.4, JANUARY 7, 2007.

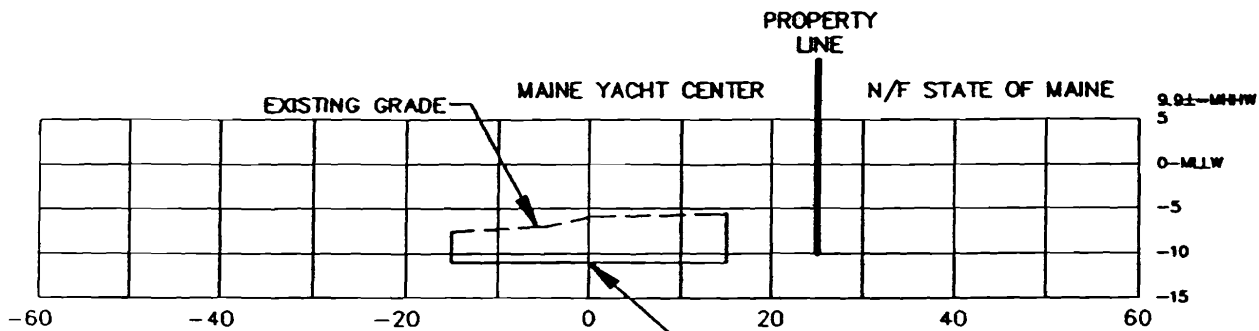
MAINE YACHT CENTER
PORTLAND, MAINE

TEC ASSOCIATES <small>INCORPORATED</small>		<small>2000 PORTLAND, MAINE</small>	
SCALE	SEE GRAPHIC SCALE	DATE	FEB. 6 2008
08148-1	1/2"		4 OF 4



CROSS SECTION "A-A"

CL PROPOSED 20' WIDE, 5' DEEP
CHANNEL W/1' ALLOWABLE
DREDGE OVERDEPTH



CROSS SECTION "B-B"

CL PROPOSED 30' WIDE, 10' DEEP
CHANNEL W/1' ALLOWABLE
DREDGE OVERDEPTH

SCALE 1" = 20'

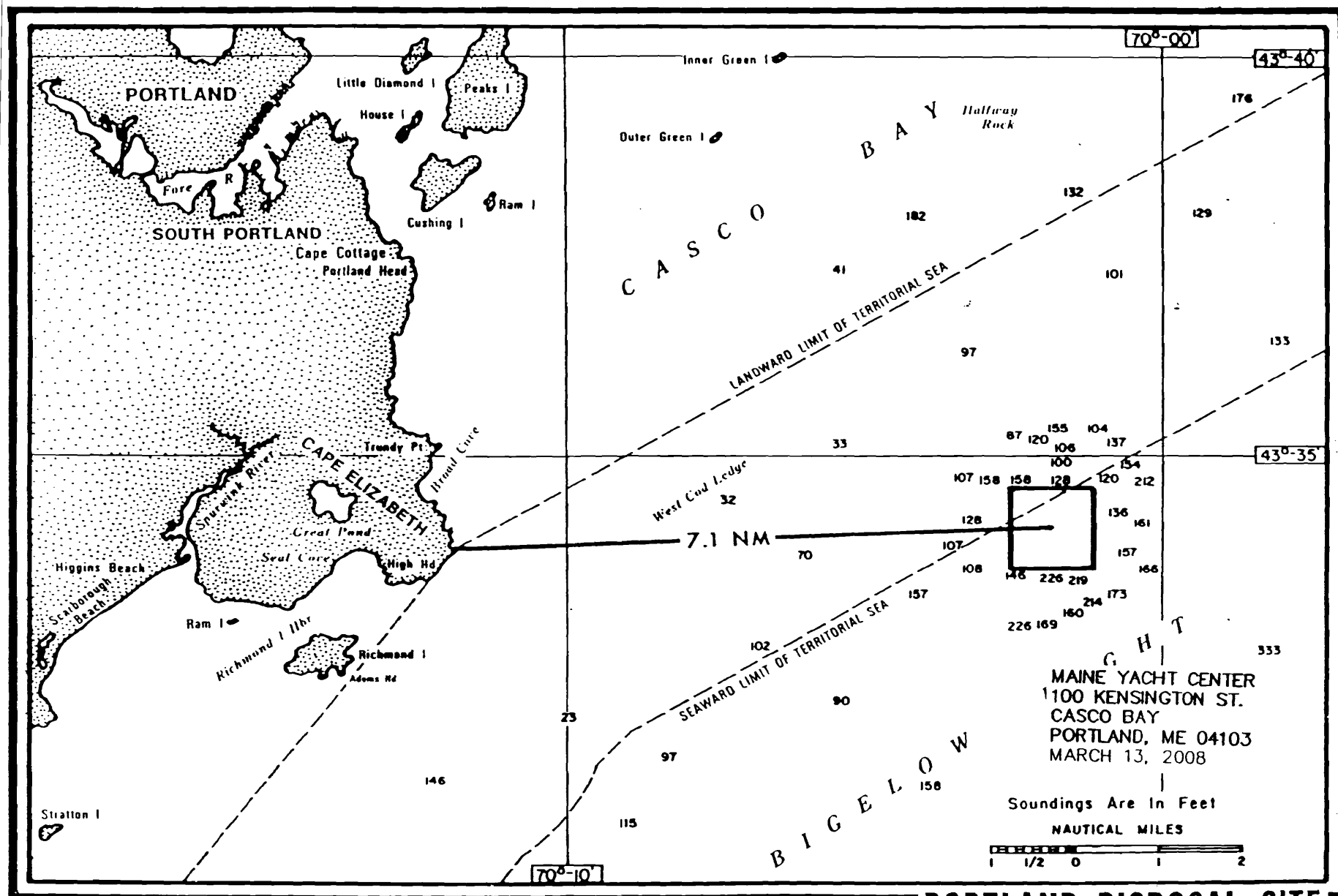


PREPARED BY:
POST ROAD SURVEYING, INC.
PO BOX 1557
43 SANFORD ROAD, UNIT 3
WELLS, ME 04090
207-646-4246



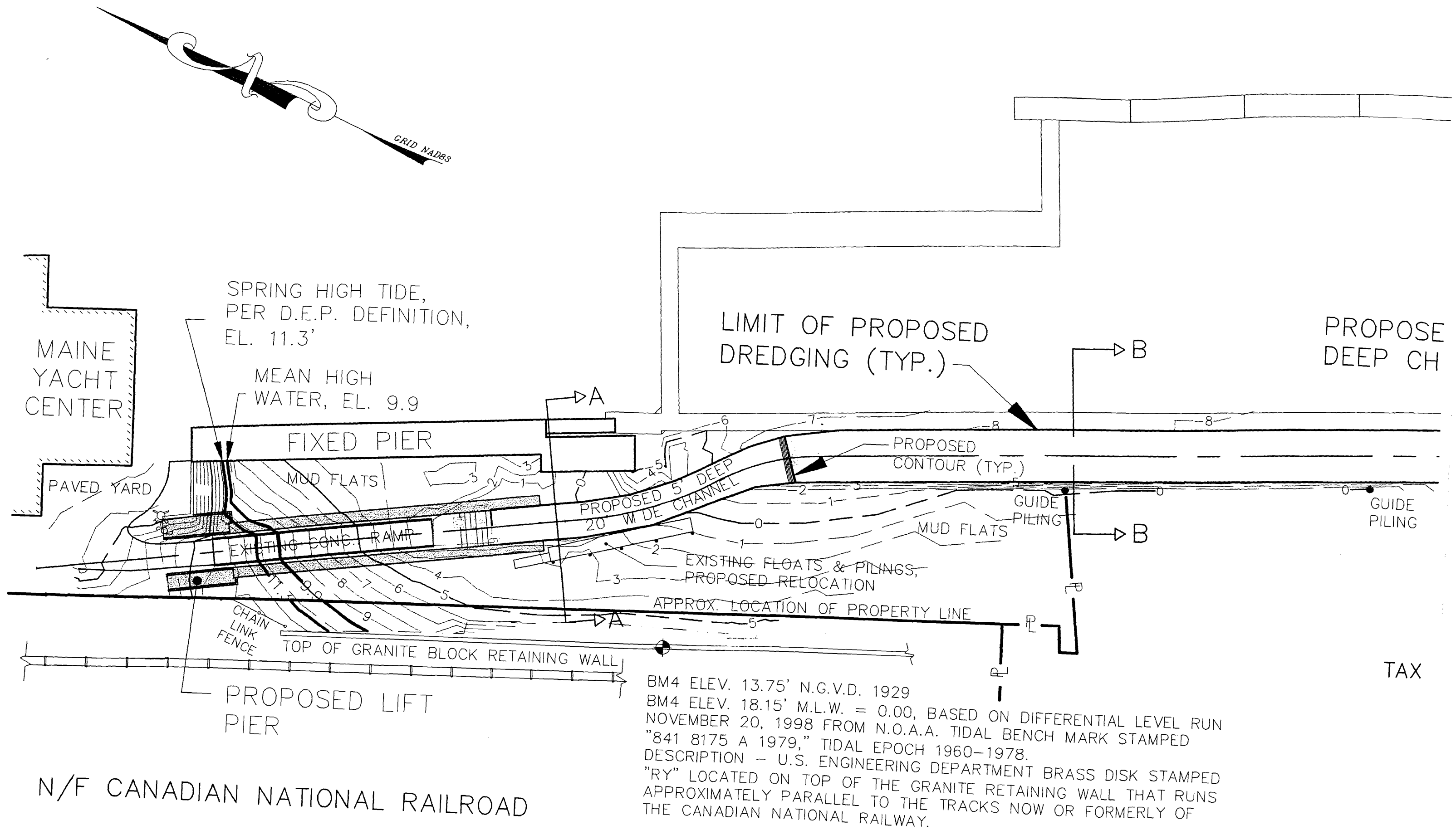
D3

PROPOSED DREDGING
CROSS SECTIONS:
PROPOSED 5' & 10' CHANNELS
MAINE YACHT CENTER
100 KENSINGTON ST
CASCO BAY
PORTLAND, ME 04103
MARCH 13, 2007



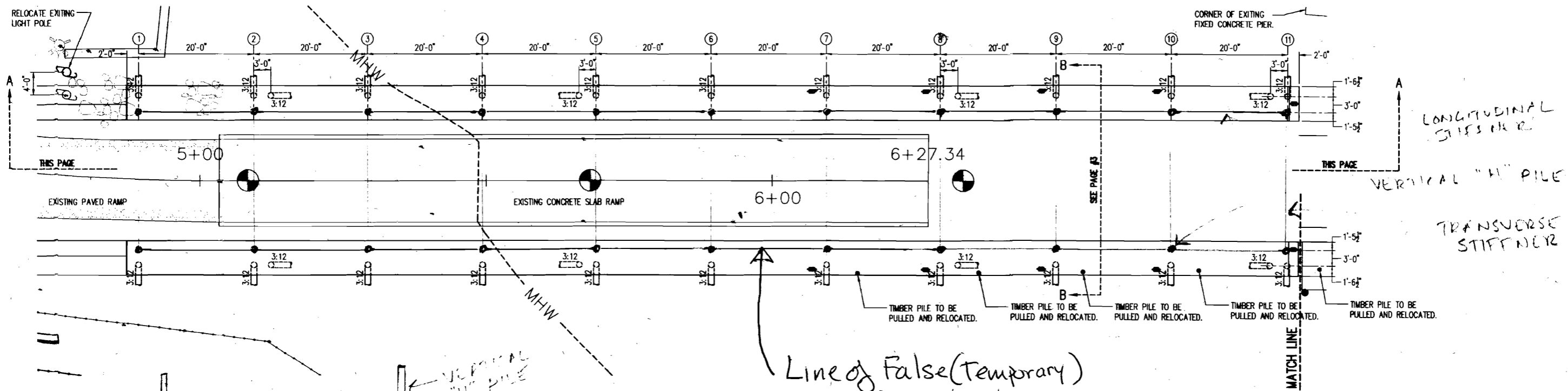
PORTLAND DISPOSAL SITE

Description: This site is a one-nautical-mile square with its center at 43°-34.1'N and 70°-02.0'W and sides running true north-south, east-west. From the center, Halfway Rock Horn bears true 357° at 10,800 yards and West Cod Ledge Lighted Whistle Buoy R"2" bears true 269° at 8,900 yards. Depth Range: 136 to 226 feet MLW. The authorized disposal point (within the overall disposal area) is specified for each dredging project in other project documents. NOTE: The map depicts the disposal site's location in relation to landmarks. It is not intended for use in navigation.

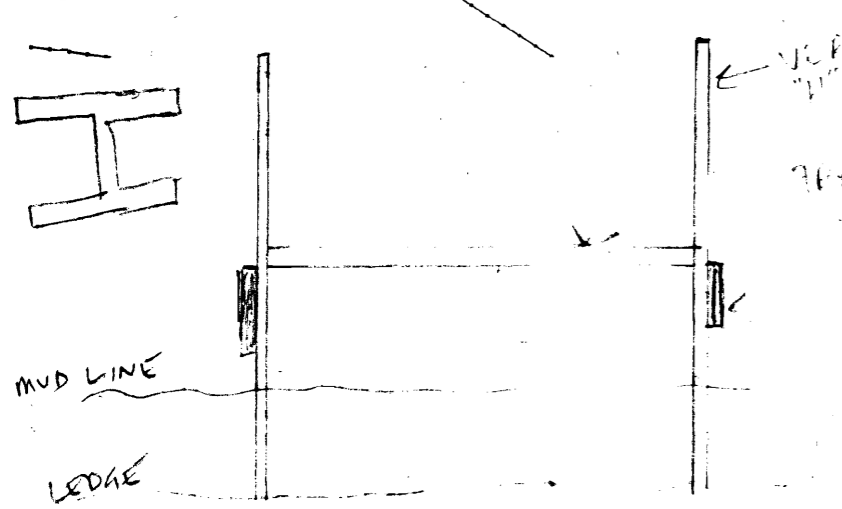


NOTES:

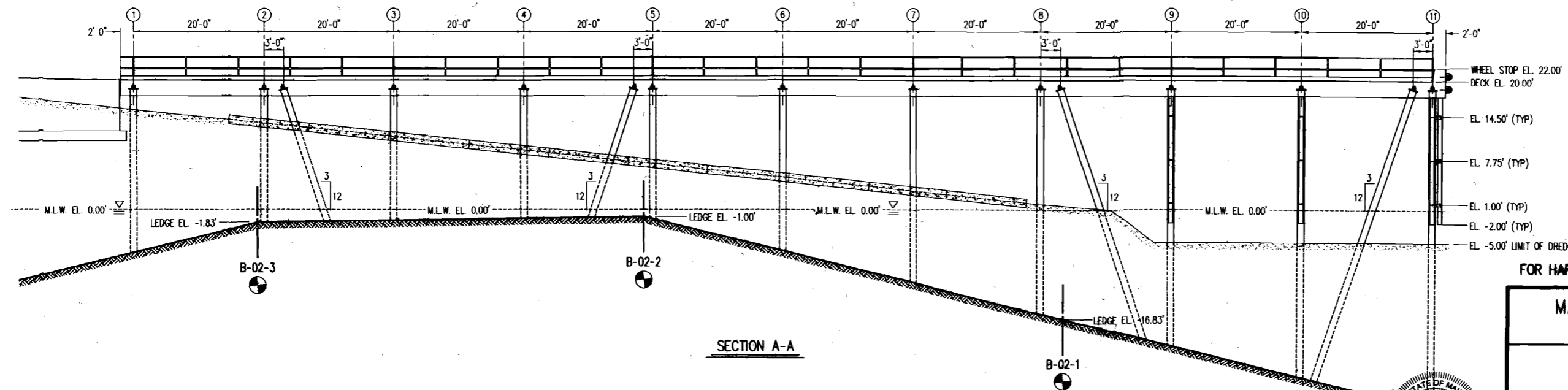
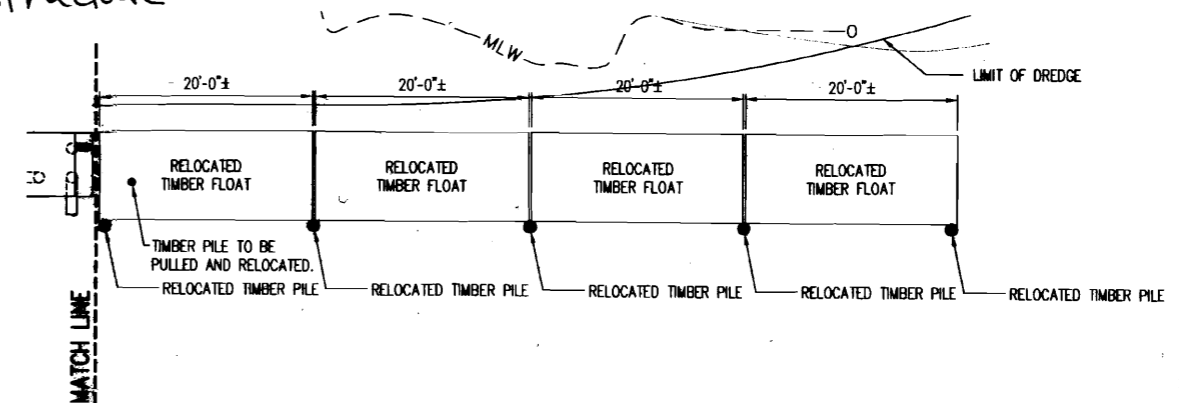
N/F CANADIAN NATIONAL RAILROAD



PLAN VIEW



SECTION 'AA' TYPICAL



SECTION A-A

FOR HARBOR COMMISSION PERMIT ONLY

MAINE YACHT CENTER PORTLAND, MAINE	
PLAN VIEW & ELEVATION TRAVEL LIFT PIERS	
SCALE 1:100 <small>JOB NUMBER 08148-1</small>	DATE 10 APRIL 2009 <small>DESIGNED BY K.X.F. DRAWING NO. 2</small>

LEDGE EL. -30.67'
 (INTERPOLATED BASED
 ON BORING B-02-1)