



429-G-1  
65 Kensington

STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

March 2013

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

RE: Natural Resources Protection Act Application, Portland  
DEP #L-16531-4E-O-N / L-16531-TW-P-N

Dear Mr. Harris:

Please find enclosed a signed copy of your Department of Environmental Protection land use permit. You will note that the permit includes a description of your project, findings of fact that relate to the approval criteria the Department used in evaluating your project, and conditions that are based on those findings and the particulars of your project. Please take several moments to read your permit carefully, paying particular attention to the conditions of the approval. The Department reviews every application thoroughly and strives to formulate reasonable conditions of approval within the context of the Department's environmental laws. You will also find attached some materials that describe the Department's appeal procedures for your information.

If you have any questions about the permit or thoughts on how the Department processed this application please get in touch with me directly. I can be reached at (207) 592-1692 or at [marybeth.richardson@maine.gov](mailto:marybeth.richardson@maine.gov).

Sincerely,

Marybeth Richardson, Project Manager  
Division of Land Resource Regulation  
Bureau of Land and Water Quality

pc: File

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826  
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  
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PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
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WEB SITE: [WWW.MAINE.GOV/DEP](http://WWW.MAINE.GOV/DEP)



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
SHORELINE STABILIZATION AND WAVE	) SIGNIFICANT WILDLIFE HABITAT
FENCE EXTENSION	) WATER QUALITY CERTIFICATION
L-16531-4E-O-N (approval)	)
L-16531-TW-P-N (approval)	) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of 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-B-N, dated June 27, 1990, the Department approved the construction of a pile-supported pier and subtidal dredging for a new marina to be known as Yacht Haven. The name of the marina was subsequently changed to Maine Yacht Center. The Department approved several additional dredging activities at the marina since the original dredge project, the most recent dredge occurring in 2009. In Department Order #L-16531-4E-M-N/L-16531-TW-N-N, dated November 16, 2012, the Department approved the installation of a 1,000-foot long wave attenuation fence adjacent to the facility's boat slips. The project site is located off Kensington Street in the City of Portland.

B. Summary: The applicant proposes to extend the approved wave fence in the intertidal area along the east side of the marina closest to the shoreline. The applicant determined that the fence approved in Department Order #L-16531-4E-M-N/L-16531-TW-N-N needs to be lengthened by 40 feet in the landward direction to protect an existing wood float that contains the marina's infrastructure from storm surges during high tides. The fence extension will be constructed of timbers and reinforced with steel cross beams as described in Department Order #L-16531-4E-M-N/L-16531-TW-N-N. The proposed wave fence extension is shown on a plan entitled "Wave Fence Site Plan," prepared by TEC Associates and dated January 4, 2013.

The applicant also proposes to place stone along an approximately 98-foot long eroded area of shoreline adjacent to an existing armored section of shoreline along the front of the marina to the property line to the east. Geotextile material will be placed under the riprap to protect against sedimentation and the riprap will be placed at a 1.75:1 slope. This currently unprotected beach area has been eroded by severe storms during which upland sediment and vegetation has collapsed onto the beach. Approximately 1,561 square feet of riprap will be installed along an

approximately 98-foot long section of the shoreline. None of the work will occur below the highest annual tide (HAT) line. The proposed shoreline stabilization project is shown on a set of two plans, the first of which is titled "Maine Yacht Center – Proposed Slope Repair Site Plan," prepared by TEC Associates and dated September 14, 2012, with a latest revision date of March 4, 2013.

C. Current Use of the Site: The upland portion of the site contains a boat storage area, a boat storage building, and office space. The marina has two main runways and 39 attached, permanent "fingers," or floats, that accommodate 74 boats. The marina also includes a boat lift.

## 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 including aerial photographs. Department staff visited the project site on May 17, 2012.

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 proposed 40-foot section of wave fence will be an extension of the 1,000-foot long fence that was approved in Department Order #L-16531-4E-M-N/L-16531-TW-N-N. According to that Department Order, the applicant proposed to construct the most visual portions of the fence from treated lumber that will weather over time to acquire a light grey look similar to a wooden pier. The proposed project will be visible from the open water and from shorefront properties on the east side of the marina, but the fence is not anticipated to be the dominant feature of the landscape since it will be in front of the above-mentioned facilities. The extension of the fence by an additional 40 feet in the landward direction is not anticipated to significantly affect the view of the project as a whole from any scenic viewpoint.

The shoreline stabilization project will occur immediately adjacent to an existing riprapped area. The existing vegetated slope is exhibiting signs of failure. The area at the bottom of the slope currently contains sand, rocks and vegetation. The applicant submitted a revised plan for the slope stabilization project that specifies that the vegetated area above the riprap will be planted with a combination of northern red oak, Scotch pine, and bayberry shrubs. The applicant must monitor the plantings and the plantings must be replaced or maintained as necessary to achieve 85% survival after one full growing season.

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 provided the plantings are monitored and maintained as described above.

The Department of Marine Resources (DMR) reviewed the proposed project and stated that the proposed project should not cause any significant adverse impact to navigation or recreation.

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:

Construction of the fence is expected to occur in the late fall/winter months. Materials will be delivered to the site and installed from barges. A crane unit will be utilized to move the materials. Piles will be driven into the substrate which is anticipated to result in minimal disturbance.

The stabilization work will be accomplished from the upland. No machinery will be used in the intertidal area. Sediment barriers will be placed at the bottom of the work area to prevent sedimentation of the coastal wetland. Disturbed upland areas will be stabilized with loam, seed and plantings as discussed in Finding 2.

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 site of the proposed project is a moderate energy unconsolidated shore. The upland in the area of the proposed stabilization project is developed with a paved parking area and a boat storage/maintenance building. The supratidal is a vegetated bank that is exhibiting erosion. The shoreline to the south is riprap fill. The upper intertidal area is sand and the mid-intertidal area is sand, pebbles, and gravel with some cobbles. The lower intertidal area is muddy sand, and the subtidal is similar. There is a line of large stones parallel to the shore farther out in the intertidal.

DMR reviewed the proposed project and stated that the proposed project should not cause any significant adverse impact to marine resources. DMR stated that the proposed wave fence extension would be located entirely within the intertidal zone, supported by 12-inch diameter steel piles every 10 feet that would be driven or socketed to ledge. The fence extension will match the height of the previously-approved fence, approximately four feet above the HAT, and will have two feet of space between the intertidal substrate and the bottom of the fence with three inches of space between vertical timbers. DMR concluded that the design of the fence extension should allow adequate water circulation and movement of marine organisms under, through, and around the fence.

No commercial lobstering and no commercial or recreational fishing occurs in or adjacent to the marina. The project site is located in mapped Tidal Wading Bird and Waterfowl Habitat (TWWH), which is a significant wildlife habitat pursuant to the Natural Resources Protection Act. The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposed project and stated that it has no concerns with the project as proposed.

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

5. WATER QUALITY CONSIDERATIONS:

The applicant proposes to use lumber treated with chromated copper arsenate (CCA) to construct portions of the wave fence. To protect water quality, all CCA-treated lumber must be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.

Provided the CCA-treated lumber is cured as described above, the Department finds that the proposed project will not 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 directly alter an additional eight square feet of coastal wetland to install eight piles for the fence extension. All of the alteration will occur in the intertidal area. Combined with the wetland alteration approved in Department Order #L-16531-4E-M-N/L-16531-TW-N-N, total direct wetland alteration will be approximately 208 square feet. All of the shoreline stabilization work will occur above the HAT line so no direct impacts to coastal wetland will result from the placement of the riprap.

The Wetland Protection Rules interpret and elaborate on the NRPA criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. A proposed project would generally be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment. Each application for a Natural Resources Protection Act permit that involves a coastal wetland alteration must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

A. Avoidance. No activity may be permitted if there is a practicable alternative to the project that would be less damaging to the environment. The applicant determined that an additional 40 feet of wave fence is necessary to protect the existing float on the inboard side of the marina at the bottom of the access gangway that holds the marina's utility infrastructure for water, plumbing, electricity, and gas. The riprap proposed to stabilize the shoreline is needed to prevent additional loss of land and vegetation from being deposited onto the beach area.

B. Minimal Alteration. The amount of wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The length of the proposed fence extension is the minimum necessary to protect the existing marina facility. The applicant has minimized the shoreline stabilization project by utilizing a relatively steep slope such that none of the riprap associated with the stabilization project will be within the coastal wetland.

C. Compensation. In accordance with Chapter 310 Section 5(C)(6)(b), compensation is not required to achieve the goal of no net loss of coastal wetland functions and values since the project will not result in over 500 square feet of fill in the resource, which is the threshold over which compensation is generally required. Further, the proposed project will not have an adverse impact on marine resources or wildlife habitat as determined by DMR and MDIFW. For these reasons, the Department determined that compensation is not required.

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

7. OTHER CONSIDERATIONS:

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

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

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided the plantings are monitored and maintained as discussed in Finding 2.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters provided any CCA-treated lumber is cured before use as described in Finding 5.
- 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 expand the wave attenuation fence adjacent to its marina and install riprap as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.

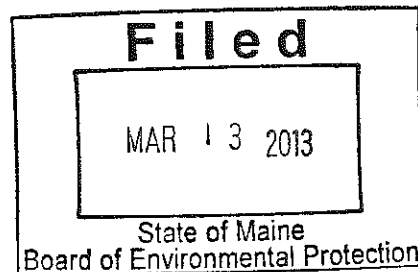
2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part 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 monitor the plantings and the plantings shall be replaced or maintained as necessary to achieve 85% survival after one full growing season.
5. All CCA-treated lumber shall be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.

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

DONE AND DATED IN AUGUSTA, MAINE, THIS 12<sup>th</sup> DAY OF March, 2013.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Keenan for  
For: Patricia W. Aho, Commissioner



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

MR/L16531ONPN/ATS#75713&75750



## Natural Resource Protection Act (NRPA) Standard Conditions

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

- A. Approval of Variations From Plans. The granting of this permit is dependent upon 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. Time frame for approvals. If construction or operation of the activity is not begun within four 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 may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. 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.
- G. 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.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.





# DEP INFORMATION SHEET

## Appealing a Department Licensing Decision

Dated: March 2012

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. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### **LEGAL REFERENCES**

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

#### **HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD**

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board 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 the Board's 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 a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of 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**

Appeal materials must contain the following information at the time submitted:

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of 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 on the appeal 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, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that 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 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.

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, 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.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder 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 receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the 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 or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

## II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P 80C. A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

### ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

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

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