



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

ANGUS S. KING, JR.
 GOVERNOR

DEPARTMENT ORDER

IN THE MATTER OF

BRACEBRIDGE CORPORATION) NATURAL RESOURCES PROTECTION ACT
Rockland, Knox County) COASTAL WETLAND ALTERATION AND
BREAKWATER RESTORATION,) WATER QUALITY CERTIFICATION
PIER CONSTRUCTION AND DREDGE) FINDINGS OF FACT AND ORDER
L-20386-4C-C-N (Approval)	

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 BRACEBRIDGE CORPORATION with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

PROJECT DESCRIPTION:

- A. Summary of Proposal: The applicant proposes to rehabilitate and widen an existing granite breakwater, extend the existing breakwater by constructing a wooden pier, and dredge an area adjacent to the granite breakwater to provide access for watercraft. The project site is located in Rockland Harbor in the Town of Rockland.
- B. Project Description: The applicant proposes to rehabilitate and widen an existing dry laid granite pier that also serves as a breakwater. The rehabilitation will consist of the removal and subsequent replacement of the large granite stones to construct a more stable pier. In addition, the pier will be widened in a westerly direction at the location of stone and timber rubble ruins of a pile supported sardine-packing plant. The widening of the pier will impact approximately an additional 1,050 square feet (150ft x 7ft) of inter- and subtidal zone. When completed, the granite pier will be approximately 22 feet wide by 150 feet long, measured from an existing concrete slab.

The applicant also proposes to extend the length of the granite pier by constructing a 175 feet long by 12 feet wide steel and wooden pile supported pier. The new structure will incorporate a wave fence and two seasonal ramps and floats. The northerly float will measure 100 feet long by 10 feet wide and the southerly float, 75 feet long by 10 feet wide.

The applicant also proposes to dredge approximately 54,562 square feet of subtidal zone to accommodate anticipated boat traffic and



mooring needs for the project site. The dredge will generate an estimated 9,800 cubic yards of dredged material that will be disposed of at the City of Rockland's Solid Waste Facility. Final dredge elevations as proposed will be -12 feet Mean Lower Low Water (MLLW) in the northerly ~75% of the proposed dredge area and -9.0 feet MLLW in the remaining southerly portion of the proposed dredge area. The dredge project site will be accessed via floating barges.

- C. Site Description: The applicant owns an approximately 9.76 acre parcel of property in the Town of Rockland indicated as Lots #5 and 6 on Maps #B13, A9, and A10 and recorded in Book #2486 on Page #229 at the Knox County Registry of Deeds.

WATER QUALITY CONSIDERATIONS:

A. DREDGE:

The dredge material has been tested and found to not contain any constituent levels greater than those outlined in the Standards for projects Submitting a Reduced Procedure Application for Beneficial Use of Dredge Materials as Fill.

The primary water quality concern associated with the project is the potential for sedimentation from the dredging, dewatering, and disposal activities. The area will be dredged activity using a crane and clamshell bucket operated from a barge. To minimize dispersal of sediment, the applicant has proposed minimizing the horizontal movement of the clamshell bucket through the water. Dredge spoils will be dewatered on the dredge barge, transported by water to an off-site location, and transferred to sealed dump trucks. The material will be subsequently transported to the City of Rockland's Solid Waste Facility (Rockland Quarry). Prior to dredging, the Department must issue Special Waste One-Time Batch Approval for the disposal of dredge spoils at the Rockland Quarry. Provided the above procedures for the removal, transportation, and disposal of dredge spoils are followed, the Department finds that the project will not have an unreasonable adverse impact on water quality.

B. BREAKWATER RESTORATION/EXPANSION AND PIER CONSTRUCTION:

The rehabilitation of the existing stone pier, construction of the deck on top of the breakwater and construction of the pile supported pier structure will occur via barge mounted cranes or tacked backhoes operating on top of the remnants of the timber crib structure adjacent to the existing breakwater, where the expansion will occur. No equipment should be operated below the low water level or in the water during higher tide events.

The applicant proposes to utilize southern yellow pine timber piles for the steel and wooden pile supported pier. The use of untreated lumber is preferred for any wooden portion of the pier or floats. Lumber pressure treated with chromated copper

arsenate (CCA) may be used, provided it is cured on dry land in a way that exposes all surfaces to the air for a period of at least 21 days prior to construction. Wood treated with creosote or pentachlorophenol is not to be used below the normal high water line. Provided that the above measures are taken to protect water quality, the Department finds that the project will not have an unreasonable adverse impact on water quality.

3. HABITAT CONSIDERATIONS:

A. DREDGE:

1. In accordance with Chapter 310, the wetland Protection Rules, the applicant has submitted an alternatives analysis demonstrating that a maximum dredge elevation of -12 feet MLLW is necessary for access of larger vessels at the pier and floats and that there are no practicable alternatives to the proposed dredge. The Department concurs that there is no reasonable alternative to the proposed project.
2. In accordance with Chapter 310, the applicant has submitted a subtidal function and value assessment of the proposed dredge area completed by Kleinschmidt Associates. The assessment identifies a substantial lense of marine clay with an overlay of mud and industrial/commercial debris from decades of commercial activity in the immediately adjacent areas. The Department of Marine Resources states that no adverse impacts to marine resources, navigation, recreation, traditional fishing, or access by riparian owners will occur as a result of the proposed project. The DEP's Division of Environmental Assessment (DEA) comments that the proposed project will have minimal temporary impacts on the biological resources at the site.
3. According to Kleinschmidt Associates, recolonization is likely and the functions of the subtidal habitat are expected to continue following completion of the project. The Department concurs with Kleinschmidt Associates and finds that the impacts to wetland functions and values from the activity will be insignificant, and therefore, waives the requirement for compensation. The Department further finds that the project meets the standards of the State Wetland Protection Rules.
4. The Department of Marine Resources states that the optimum timing for the proposed dredge is between November 15 and April 1 to minimize any potential adverse impacts to marine resources, traditional fishing, or recreation.

B. BREAKWATER RESTORATION/EXPANSION AND PIER CONSTRUCTION:

The proposed breakwater restoration, expansion, and pile supported pier construction project has been reviewed by the Department of Marine Resources (DMR). DMR has indicated that they do not anticipate the proposed project having any

demonstrable adverse effects, if constructed in the manner in which it is outlined, and provided that disturbance to marine vegetation on the timber and rock crib work adjacent to the granite block breakwater be minimized.

The Department concurs with DMR's assessment, and finds that the proposed project, if constructed as planned and provided that disturbance to marine vegetation on the timber and rock crib work adjacent to the granite block breakwater be minimized, will not unreasonably harm any habitats.

4. OTHER CONSIDERATIONS:

As required by the Natural Resources Protection Act, 38 M.R.S.A. § 480-D (9), the applicant must;

- A. Clearly mark or designate the dredging area, the spoils disposal route and the transportation route;
- B. Publish in a newspaper of general circulation in the area adjacent to the route the approved transportation route of the dredge spoils; and
- C. Publish in a newspaper of general circulation in the area adjacent to the route a procedure that the applicant will use to respond to inquiries regarding the loss of fishing gear during the dredging operation.

The Department has not identified 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:

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided that the project is completed as proposed and that the applicant meets all of the requirements described in Findings 2, 3, and 4.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment provided that the project is completed as proposed.
- C. The proposed activity will not inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that the

project is completed as proposed and that the applicant meets all of the requirements described in Findings 2 and 3.

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 that the project is completed as proposed and that the applicant meets all of the requirements described in Finding 2.

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 BRACEBRIDGE CORPORATION to restore and expand the existing breakwater, construct a pile supported pier extension of the breakwater, and dredge a portion of Rockland Harbor in the Town of Rockland, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Lumber treated with chromated copper arsenate (CCA) shall be cured on dry land in such a manner as to expose all surfaces to the air for a period of at least 21 days prior to construction.
4. Wood treated with creosote or pentachlorophenol shall not be used below the normal high water line.
5. Prior to dredging, the applicant shall clearly mark or designate the dredging area, the spoils disposal route and the transportation route; publish in a newspaper of general circulation in the area adjacent to the route the approved transportation route of the dredge spoils; and publish in a newspaper of general circulation in the area adjacent to the route a procedure that the applicant will use to respond to inquiries regarding the loss of fishing gear during the dredging operation.
6. The project site shall be dredged between November 15 and April 1 to minimize adverse impacts to migrating fish, the lobster fishery, and boating activity in the immediate area adjacent to the dredge operation.

- 7. Prior to dredging, the Department shall issue Special Waste One-time Batch Approval for dredge spoil disposal at the City of Rockland's Solid Waste Facility (Rockland Quarry).

DONE AND DATED AT AUGUSTA, MAINE, THIS 20 DAY OF December, 2000.

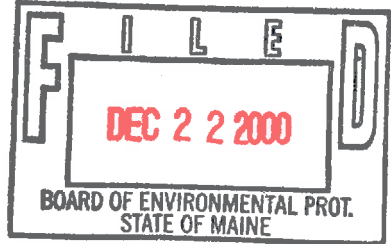
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: *Martha G. Kirkpatrick*
MARTHA G. KIRKPATRICK, COMMISSIONER

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

Date of initial receipt of application: October 18, 2000
Date of application acceptance: October 19, 2000

Date filed with Board of Environmental Protection
MM/L20386CN



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.

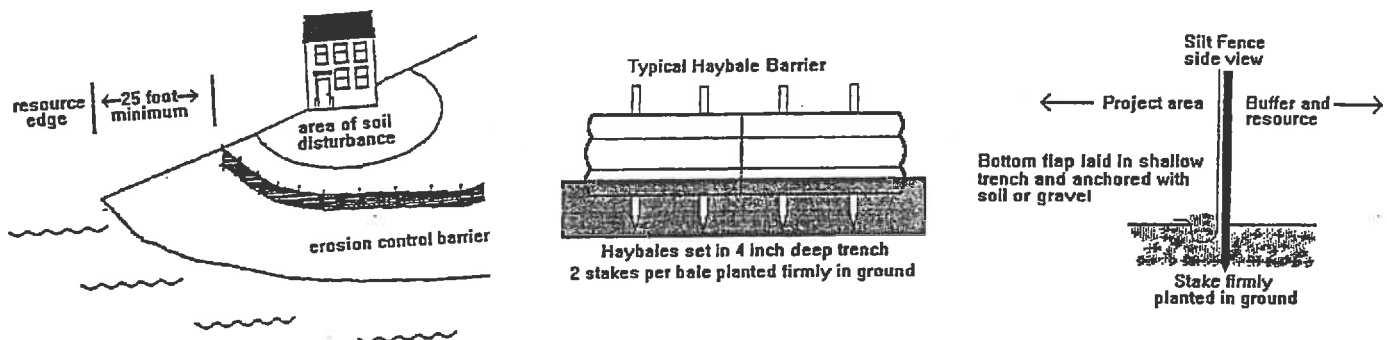
- A. **Approval of Variations From Plans.** The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject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



Erosion Control

Before Construction

1. If you have hired a contractor, make sure you have discussed your permit 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 could identify the edge of a lake or a river. The edges of wetlands, however, are often not obvious. Your contractor may be the person actually pushing dirt around but you are both responsible for complying with the permit.
2. Call around and find sources for your erosion controls. You will probably need silt fence, hay bales and grass seed or conservation mix. Some good places to check are feed stores, hardware stores, landscapers and contractor supply houses. It is not always easy to find hay or straw during late winter and early spring. It may also be more expensive during those times of year. Plan ahead. Purchase 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 activity.
4. If a contractor is installing the barrier, double check it as a precaution. Erosion control barriers should be installed "on the contour", meaning at the same level along the land slope, whenever possible. This keeps stormwater from flowing to the lowest point of the barrier where it builds up and overflows or destroys it.



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 striking the soil that causes a lot of 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. In that situation, stop work and figure out what can be done to prevent more soil from getting past the barrier.

After Construction

1. After the project is complete, replant the area. All ground covers are not equal. For instance, a mix of creeping red fescue and Kentucky bluegrass is a good choice for lawns and other high maintenance areas. The same mix would not be a good choice for stabilizing a road shoulder or a cut bank that you don't intend to mow.
2. If you finish your project after September 15, then do not spread grass seed. There is a very good chance that the seed will germinate and be killed by a frost before it has a chance to become established. Instead, mulch the site with a thick layer of hay or straw. In the spring, rake off the mulch and seed the area. Don't forget to mulch again to hold in moisture and prevent the seed from washing away.
3. Keep your erosion control barrier up and maintained until the area is permanently stabilized.