



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

DEPARTMENT ORDER

IN THE MATTER OF

ROCKLAND HARBOR PARK, LLC ) SITE LOCATION OF DEVELOPMENT ACT  
Rockland, Knox County ) NATURAL RESOURCES PROTECTION ACT  
ROCKLAND HARBOR PARK CENTER ) WATER QUALITY CERTIFICATION  
L-20386-26-G-B (approval) )  
L-20386-4E-H-N (approval) ) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 481 et seq. and 480-A et seq., and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of APPLICANT 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-20386-4E-B-N/#L-20386-26-A-N, dated December 27, 2000, the Department approved the development of an Operations Center in the City of Rockland. The development consists of a 78,000 square foot two-story office building, a 7,800 square foot daycare center, a 1,300 square foot boathouse, a 1,500 square foot one-story, open-air pavilion, and a 1,350 linear foot boardwalk. The combined building area is approximately 50,100 square feet and the combined paved area is approximately 186,900 square feet for a total of 237,000 square feet. In Department Order #L-20386-4C-D-T, dated March 11, 2008, the Department approved the transfer of Department Order #L-20386-4E-B-N/#L-20386-26-A-N, from Bracebridge Corporation to Rockland Harbor Park, LLC. In Department Order #L-20386-26-E-M/#L-20386-4E-F-N, dated May 2, 2008, the Department approved the conversion of the existing 1,314 square foot boathouse to a restaurant and expand it by 952 square feet for the purpose of bathrooms, a kitchen, a sprinkler closet, and a cooler. The project site is located off Water Street in the Town of Rockland.

B. Summary: The applicant proposes to expand the existing 8 slip marina and expand the existing parking lot, all as shown on a set of plans the first of which is entitled "Rockland Harbor Park Center," prepared by Gartley & Dorsky Engineering & Surveying, and dated May 7, 2008, with a last revision date of July 14, 2008. The marina will be expanded for an additional 40 slips and the existing parking area will be expanded by 0.52 acres. The project site is located off of Water Street in the Town of Rockland.

The applicant is also seeking approval under the Natural Resources Protection Act to install approximately 98 piles to support the proposed floating docks for the marina expansion.

2. FINANCIAL CAPACITY:

The total cost of the project is estimated to be \$150,000. The applicant submitted information indicating that it has adequate financial resources to finance the project.

The Department finds that the applicant has demonstrated adequate financial capacity to comply with Department standards.

3. TECHNICAL ABILITY:

The applicant provided resume information for key persons involved with the project and a list of projects successfully constructed by the applicant. The applicant also retained the services of Gartley & Dorsky Engineering & Surveying, Inc., a professional engineering firm, to assist in the design and engineering of the project.

The Department finds that the applicant has demonstrated adequate technical ability to comply with Department standards.

4. SCENIC CHARACTER:

Based on the project's location and design, the Department finds that the proposed project will not have an unreasonable adverse effect on the scenic character of the surrounding area.

5. WILDLIFE AND FISHERIES:

The Department of Marine Resources (DMR) reviewed the proposed project. In its comments, DMR stated that the project as proposed should not cause any significant adverse impacts to traditional fishing, navigation or riparian access.

The Maine Department of Inland Fisheries & Wildlife (MDIFW) reviewed the proposed project. In its comments, MDIFW stated that it found no records of any Essential or Significant Wildlife Habitats, or other wildlife habitats of special concern associated with this site. No fisheries concerns were identified.

The Department finds that the applicant has made adequate provision for the protection of wildlife and fisheries.

6. HISTORIC SITES AND UNUSUAL NATURAL AREAS:

The Maine Historic Preservation Commission reviewed the proposed project and stated that it will have no effect upon any structure or site of historic, architectural, or archaeological significance as defined by the National Historic Preservation Act of 1966.

The Maine Natural Areas Program database does not contain any records documenting the existence of rare or unique botanical features on the project site and, as discussed in Finding 6, MDIFW did not identify any unusual wildlife habitats located on the project site.

The Department finds that the proposed development will not have an adverse effect on the preservation of any historic sites or unusual natural areas either on or near the development site.

7. STORMWATER MANAGEMENT:

The proposed project includes approximately 0.52 acres of new impervious area and 0.52 acres of new developed area. It lies within the watershed of Rockland Harbor. The applicant submitted a stormwater management plan based on the basic, general and flooding standards contained in Department Rules, Chapter 500. The proposed stormwater management system consists of inlet filters and the use of Streamguard Catch Basin Inlet inserts installed in the catch basins.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan that is based on the performance standards contained in Appendix A of Chapter 500 and the Best Management Practices outlined in the Maine Erosion and Sediment Control BMPS, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in response to the comments of the Division of Watershed Management (DWM) of the Bureau of Land and Water Quality (BLWQ).

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short and long-term maintenance requirements. This plan was reviewed by, and revised in response to the comments of DWM. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. The applicant will be responsible for the maintenance of all common facilities including the stormwater management system. Storm sewer grit and sediment materials removed from stormwater control structures during maintenance activities must be disposed of in compliance with the Department's Solid Waste Management Rules.

(3) Housekeeping: The proposed project will comply with the performance standards outlined in Appendix C of Chapter 500.

Based on DWM's review of the erosion and sedimentation control plan and the maintenance plan, the Department finds that the proposed project meets the Basic Standards contained in Chapter 500(4)(A).

General Standard: The stormwater management system proposed by the applicant was reviewed by, and revised in response to, comments from DWM. The proposed pavement additions consist of removing existing parking islands and areas of existing lawn. The additions are spread over the site rather than located at a single area making the use of a standard treatment structure impracticable. Based on Chapter 500, Section 4, Subsection B(3)(f), a project requiring a Site Location of Development Law permit that includes redevelopment is required to meet the General Standard to the extent practicable. After a final review, DWM commented that since runoff cooling and channel protection are not necessary for stormwater discharges to the ocean, the main treatment concern from the additional pavement is the removal of hydrocarbons. The applicant proposes to install Streamguard Inserts in to the 20 catch basins that drain the site's existing and proposed pavement. Due to the significant leaching of oils from newly paved areas, the Streamguard Inserts will be replaced twice the first year and replaced at least yearly thereafter.

Based on the stormwater system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, General Standards.

#### C. Flooding Standard:

The applicant is not proposing a formal stormwater management system to detain stormwater from 24-hour storms of 2-, 10-, and 25-year frequency. Instead, since the project site is located adjacent to Rockland Harbor, the applicant requested a waiver from the flooding standard pursuant to Department Rules, Chapter 500(4)(E)(2)(a).

Based on the system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, Flooding Standard for peak flow from the project site, and channel limits and runoff areas.

#### 8. WATER SUPPLY:

When completed, the proposed project is anticipated to use 20,000 gallons of water per day. Water will be supplied by the Aqua Maine, Inc. The applicant submitted a letter from Aqua Maine, Inc., dated March 31, 2008, indicating that it will be capable of servicing this project.

The Department finds that the applicant has made adequate provision for securing and maintaining a sufficient and healthful water supply.

9. WASTEWATER DISPOSAL:

When completed, the proposed project is anticipated to discharge 20,000 gallons of wastewater per day to the Rockland Wastewater Treatment Facility. The applicant submitted a letter from the City of Rockland Wastewater Treatment Facility, dated March 31, 2008 stating that it will accept these flows. This project was reviewed by the Division of Water Quality Management of the Bureau of Land and Water Quality (DWQM), which commented that the Rockland Wastewater Treatment Facility has the capacity to treat these flows and is operating in compliance with the water quality laws of the State of Maine.

Based on DWQM's comments, the Department finds that the applicant has made adequate provision for wastewater disposal at a facility that has the capacity to ensure satisfactory treatment.

10. SOLID WASTE:

Based on the above information, the Department finds that the applicant has made adequate provision for solid waste disposal.

11. WETLAND IMPACTS:

The applicant proposes to directly alter approximately 98 square feet and indirectly alter approximately 17,010 square feet of coastal wetland to install a series of pile supported floats and 98 pilings.

The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, require the applicant to meet the following standards:

A. Avoidance and Minimization: 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 permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. In addition, 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 proposed marina will provide additional and much needed slip space for the region and provide an alternative berth for large cruise ships that currently use the City of Rockland's public landing adjacent to the proposed marina. The proposed floats will be seasonal with the only permanent impacts occurring from the piles used to support the floats. The float layouts have been designed to retain access to the City's public landing located on the adjacent property, and to maintain access to the federal channel located nearby. The applicant has also removed several proposed floats based on

recommendations from DMR and the City's Harbor Committee. These included floats that would have grounded out at low tide and floats that may have impeded access to the federal channel.

B. Compensation. No compensation was required for this project based on Chapter 310, Section 5, Subsection (C)(6), which states that neither a functional assessment nor compensation is required for a project that does not fill more than 500 square feet of intertidal area and has no significant impact on aquatic habitat.

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.

12. ALL OTHER:

All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-20386-26-A-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 habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.

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

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 481 et seq.:

- A. The applicant has provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards.
- B. The applicant has made adequate provision for fitting the development harmoniously into the existing natural environment and the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.
- C. The proposed development will be built on soil types which are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment nor inhibit the natural transfer of soil.
- D. The proposed development meets the standards for storm water management in Section 420-D and the standard for erosion and sedimentation control in Section 420-C.
- E. The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur.
- F. The applicant has made adequate provision of utilities, including water supplies, sewerage facilities, solid waste disposal and roadways required for the development and the development will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipality or area served by those services.
- G. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure.

THEREFORE, the Department APPROVES the application of ROCKLAND HARBOR PARK, LLC to construct additional parking area and construct a marina as described in Finding #1 above, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached.
2. In addition to any specific erosion control measures described in this or previous orders, the applicant shall take all necessary actions to ensure that their activities or those of their agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation 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 or other responsible party shall, within three months of the expiration of each five-year interval from the date of this Order, submit a report certifying that the items listed in Department Rules, Chapter 500, Appendix B(4) have been completed in accordance with the approved plans.
5. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-20386-26-A-N, and subsequent orders, and are incorporated herein.

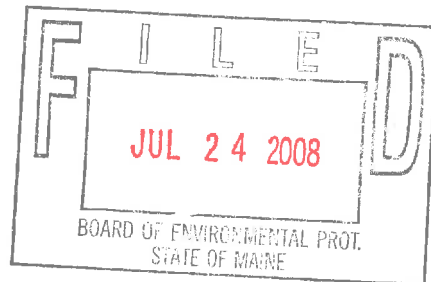
THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED AT AUGUSTA, MAINE, THIS 23<sup>RD</sup> DAY OF July, 2008.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By:   
\_\_\_\_\_  
DAVID P. LITTELL, COMMISSIONER

Date filed with Board of Environmental Protection



PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

rk/L20386gb/L20386hn



**Department of Environmental Protection**  
**SITE LOCATION OF DEVELOPMENT (SITE)**  
**STANDARD CONDITIONS**

**STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL.**

1. This approval 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 the plans, proposals and supporting documents is subject to the review and approval of the Board prior to implementation. Further subdivision of proposed lots by the applicant or future owners is specifically prohibited, without prior approval by the Board of Environmental Protection, and the applicant shall include deed restrictions to this effect.
2. 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.
3. The applicant shall submit all reports and information requested by the Board or Department demonstrating that the applicant has complied or will comply with all conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
4. Advertising relating to matters included in this application shall refer to this approval only if it notes that the approval has been granted **WITH CONDITIONS**, and indicates where copies of those conditions may be obtained.
5. Unless otherwise provided in this approval, the applicant shall not sell, lease, assign or otherwise transfer the development or any portion thereof without prior written approval of the Board where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval shall be granted only if the applicant or transferee demonstrates to the Board that the transferee has the technical capacity and financial ability to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant.
6. If the construction or operation of the activity is not begun within two years, this approval shall lapse and the applicant shall reapply to the Board for a new approval. The applicant may not begin construction or operation of the development until a new approval is granted. Reapplications for approval shall state the reasons why the development was not begun within two years from the granting of the initial approval and the reasons why the applicant will be able to begin the activity within two years from the granting of a new approval, if granted. Reapplications for approval may include information submitted in the initial application by reference.
7. If the approved development is not completed within five years from the date of the granting of approval, the Board may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances which may have occurred during the five-year period.
8. A copy of this approval must be included in or attached to all contract bid specifications for the development.
9. Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the developer a copy of this approval.

DEPLW 0429



## 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.

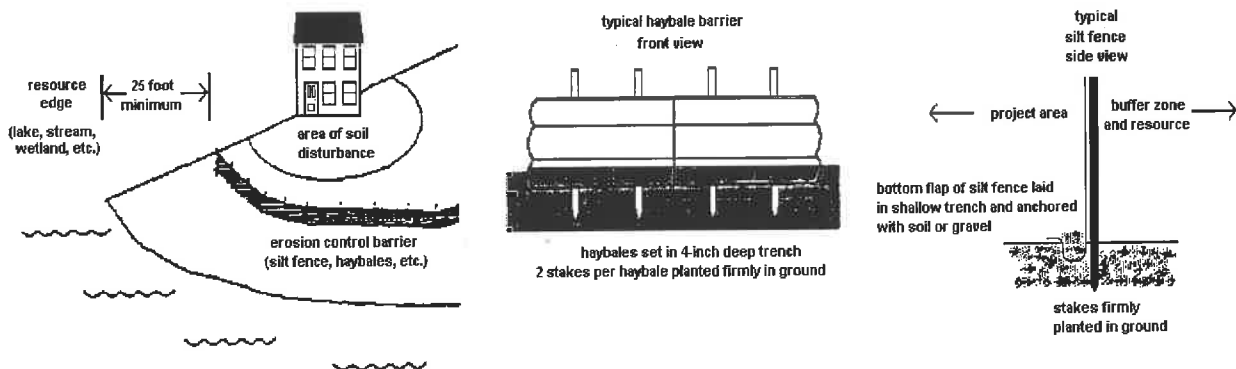


STATE OF MAINE  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
17 STATE HOUSE STATION, AUGUSTA, MAINE 04333

## 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.