



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

MAINE MARITIME ACADEMY (MMA)) SITE LOCATION OF DEVELOPMENT ACT
Castine, Hancock County) MINOR REVISION
WATERFRONT CAMPUS IMPROVEMENTS) NATURAL RESOURCES PROTECTION ACT
L-15887-22-J-M (approval)) COASTAL WETLAND ALTERATION
L-15887-4P-K-N (approval)) SIGNIFICANT WILDLIFE HABITAT
L-15887-TW-L-N (approval)) WATER QUALITY CERTIFICATION
L-15887-4D-M-N (approval)) FINDINGS OF FACT AND ORDER
* CORRECTED ORDER

Pursuant to the provisions of 38 M.R.S. §§ 481-489-E, §§ 480-A-480-JJ, Section 401 of the Clean Water Act (33 U. S. C. § 1341) and Chapters 310, 315, 335 of Department rules, the Department of Environmental Protection (Department) has considered the application of MAINE MARITIME ACADEMY (applicant or MMA) 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 Maine Maritime Academy was established in 1941 in the Town of Castine. In Department Order #03-2710-09080, dated June 23, 1978, the Board approved the construction of a retaining wall. In Department Order #03-7389-09080, dated June 24, 1981, the Department approved repairs to a bulkhead.

In Department Order #L-15887-4E-A-N, dated July 17, 1989, the applicant received approval for the reconstruction and extension of the existing dock, renovation of a portion of the existing sheet pile quay walls and dredging of approximately 750 cubic yards of material from Castine Harbor for docking facilities.

In Department Order #L-15887-22-C-N, dated March 11, 2004, the Department approved all post-1975 development at the facility and a proposed Student Union and parking lots.

In Department Order #L-15887-4E-D-N, dated March 15, 2004, the applicant received approval to dredge approximately 750 cubic yards of material from Castine Harbor for docking facilities, in the same location and footprint as the previously approved dredge and dispose of the dredge material at the Rockland offshore disposal site.

In Department Order #L-15887-22-G-M/L-15887-4D-H-N, dated June 30, 2010, the applicant received approval to repair an existing 255-foot-long bulkhead that had failed. The repair of the bulkhead consisted of the placement of a steel sheet pile wall approximately four feet in front of the existing bulkhead. The new wall was connected to the existing deadman and approximately 600 cubic yards of crushed stone was installed between the existing bulkhead and the wall.

In Department Order #L-15887-22-I-A, dated June 13, 2012, the applicant received approval to construct the ABS (American Bureau of Shipping) Center for Engineering and Applied Research with associated parking. The project site is located in the Town of Castine.

B. Summary: The applicant proposes waterfront campus improvements to support a new National Security Multi-Mission Vessel (NSMV), a training vessel for its waterfront campus. In addition to functioning as a training vessel, the ship will also support national disaster responses, such as after hurricanes, and help with other critical national needs. The proposed waterfront campus improvements include rehabilitation, upgrades, and expansion of the existing pier structure; new floating docks; repair of existing floating docks; repair/ replacement of portions of the bulkhead along the shoreline; and repair/ modification of existing and new utilities. Each part of the proposed project is explained below:

1. Remove and replace existing timber pier. This includes the replacement of the existing timber pier with a new pier consisting of steel pipe piles, supporting precast concrete framing elements and precast concrete deck panels with a cast-in-place wearing surface. The proposed new pier will have the same L-shape configuration and footprint as the old pier, consisting of an approximate 45-foot wide by 97-foot-long approach to a 30-foot wide by 105-foot long pier head for a total pier footprint of approximately 7,500 square feet. The proposed new pier will be supported by concrete framing and approximately (60) 24-inch diameter steel pipe piles. The proposed pier has fewer piles than the existing pier, however, the piles are of a larger diameter. The net result is no increase of direct impacts at the coastal wetland. The pier will slope up at approximately 2.2% to allow the proposed pier extension to be set at the required deck elevation for the projected sea level rise and operational requirements.
2. Construct a pier extension. This includes the construction of a proposed pile-supported pier extension consisting of a T-head configuration comprised of a 45-foot wide by 90-foot-long approach from the end of the proposed pier reconstruction to a 45-foot wide by 325-foot long pierhead. The proposed pier approach and pier head are supported by 24-inch diameter steel pipe piles and are constructed with precast concrete framing elements and precast concrete deck panels with a cast in place concrete wearing surface. The proposed pier extension has an approximate 18,700 square foot footprint with approximately 224 support piles, approximately 15 piles to support pier fendering and the addition of eight timber fender piles, for a total of 766 square feet of direct impacts to the coastal wetland.
3. Repair existing travel lift pier. This includes the installation of a high-density polyethylene (HDPE) pile wrap to the timber piles of the travel lift piers to arrest decay and deterioration and extend the service life of the piles. The pile wraps are estimated to result in a total additional direct impact to the coastal wetland of six square feet.
4. Modify three existing pile-supported platforms (one mooring platform and two breasting platforms). This includes routine maintenance of the steel support piles and

modification of the concrete cap to raise the elevation to accommodate the elevation raise of the proposed pier. The proposed work does not alter the footprint of the mooring and breasting platforms but includes the addition of eight 12-inch diameter timber fender piles resulting in approximately six square feet of direct impacts to the coastal wetland.

5. Construct mooring dolphins with elevated walkways. This includes the construction of three proposed mooring dolphins, each with a 30-foot wide by 30-foot long concrete pile cap, with a total of (42) 24-inch diameter steel pipe piles. Access from the proposed pier extension to the dolphins will be provided by four-foot prefabricated aluminum walkways that include two support piles. The mooring dolphins with caps and elevated walkways have a total footprint of approximately 3,660 square feet and a total of 145 square feet of direct impacts to the coastal wetland.

6. Install floating docks. This includes the installation of five timber floating docks of varying size, with 24-inch diameter steel pipe guide piles, along the proposed pier extension and the proposed pier reconstruction. The proposed floating docks have a combined 7,500 square foot footprint with 43 guide piles for a total of approximately 135 square feet of direct impacts to the coastal wetland. The proposed floating docks would remain in the resource year round.

7. Install floating breakwater. This includes the installation of a 24-foot wide by 115-foot-long concrete floating breakwater with 11 30-inch diameter pipe piles. The breakwater is supported by guide piles and is located in a minimum of 20 feet of water at extreme low tide. This is sufficient water depth to provide under clearance such that the breakwater will not contact the substrate. The proposed floating breakwater has a 2,760 square foot footprint and an estimated 55 square feet of direct impacts to the coastal wetland.

8. Repair existing floating docks and guide piles. This includes maintenance of the existing floating docks and associated guide piles. The proposed work does not alter the footprint and therefore, does not include proposed impacts to the resource.

9. Replace existing retaining wall and bulkhead (west). This includes the construction of a new sheet pile bulkhead wall four to seven feet seaward of the existing bulkhead extending approximately 115 linear feet from the east side of the existing pier to the western shoreline and construction of a new concrete retaining wall one to seven feet seaward of the existing composite timber retaining wall and existing steel sheet pile bulkhead and extending approximately 187 linear feet from the terminus of the proposed sheet pile bulkhead toward the western property boundary. Proposed direct impacts include approximate 1,200 square feet of coastal wetland fill between the existing bulkhead and retaining wall and the proposed bulkhead and retaining wall and temporary impacts for construction of the retaining wall of approximately 1,800 square feet.

10. Repair existing steel sheet pile bulkhead (east). This includes maintenance of the existing steel sheet pile bulkhead from the east side of the existing pier to the eastern property boundary. The proposed work includes protective coating repair consisting of

cleaning and recoating the exposed face of the sheet piling with a protective coating system. The proposed work does not alter the footprint of the bulkhead and will be completed during lower tidal levels as to not require dewatering and therefore, does not pose impacts to the resource.

11. Reconfigure and upgrade the electrical, communications, steam, water, and sewer utilities for connection with the NSMV's systems and for lighting, power and boat pump out services along the pier and floating docks. The utilities will be installed within underground trenches from the upland service points to the bulkhead and continue within enclosed trenches integral with the underside of the pier deck to the topside connection at the NSMV or to utility trays on the underside of the gangways to the floating docks. The proposed utility work also includes relocation of MMA's current seawater intake for the laboratory classrooms within Andrews Hall. The proposed utility work does not pose permanent impacts to the resource.

Total, the proposed project will directly impact 2,308 square feet of coastal wetland, indirectly impact approximately 32,627 square feet of coastal wetland due to shading and temporarily impact 1,800 square feet of to the coastal wetland for construction.

The proposed project is indicated on a set of plans the first of which is entitled "Overall Work Plan with Erosion Control," prepared by GZA, and dated August 2023. The project is located in a Tidal Waterfowl and Wading Bird Habitat, a Significant Wildlife Habitat, as defined by the Natural Resources Protection Act (NRPA).

C. Current Use of the Site: The project site is developed and contains academic and operations buildings, asphalt pavement, bulkheads and retaining walls along the shore, and a timber access pier with associated timber floating docks. The parcel is identified as Lot 110 on Map 21 of the Town of Castine's tax maps.

D. Public Comment: While the application was being reviewed, the Department received comments from two interested persons. The Department reviewed all comments from the interested persons. The Department did not receive any requests for a public hearing during the 20-day period specified in the Department's Chapter 2 Rules governing the processing of applications. The interested persons expressed a range of concerns, including adverse impacts to existing scenic, aesthetic, recreational and navigational uses of the area; unreasonable interference with the natural flow of any surface or subsurface waters; unreasonable erosion of soil or sediment and lack of alternatives exploration and minimization of impacts to coastal wetlands.

The Department compiled a list of concerns raised by interested persons that are relevant to the NRPA licensing criteria and asked the applicant to respond to them. The public comments and the applicant's responses are discussed in the Findings below. Impacts to existing scenic, aesthetic, recreational, and navigational uses are discussed in Finding 2. Impacts to the natural flow of surface or subsurface waters is discussed in Finding 3. Impacts to soil erosion are discussed in Finding 4 and practicable alternatives and minimization are discussed further in Finding 7. The Department considered all the

interested persons' concerns and the applicant's response during the course of the Department's review.

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

The Natural Resources Protection Act (NRPA), in 38 M.R.S. §480-D(1), requires the applicant to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses.

In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses* (06-096 C.M.R. ch. 315, effective June 29, 2003), 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 and surroundings. Department staff visited the project site on July 6, 2023.

The proposed project is an existing waterfront campus located on the western shore of Castine Harbor, which lies at the entrance to the Bagaduce River in the northeast portion of Penobscot Bay. Castine Harbor 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 site of the proposed project is bordered to the west by residential properties, to the north by commercial properties, to the east by the Town of Castine Dock, and to the south by the Atlantic Ocean and Bagaduce River.

Additionally, the Department staff utilized the Department's Visual Impact Assessment Matrix in its evaluation of the proposed project. The Matrix shows an acceptable potential visual impact rating for the proposed project. Based on the information submitted in the application and the visual impact rating, 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.

Interested parties raised concerns that the structure would require additional lighting, and that this would lead to light pollution. The applicant stated that the project includes light poles on the proposed pier, for safety, with the light directed downward. The applicant also stated that a lighting plan will be submitted to the Code Enforcement Officer, for the Town of Castine, for approval, prior to the Town issuing a building permit.

Interested parties shared concerns that there are no illustrated views of the new ship docked at the proposed site or any description or diagram of what the boundaries of the proposed project will be and therefore no way to understand the visual impact to existing scenic, aesthetic, recreational or navigational uses.

The applicant submitted additional information explaining that since its inception in 1941, MMA has had 14 training ships and that each training ship has had differing dimensions. The applicant stated that the training ships have historically been a

component of the visual and scenic character of Castine, which is historically a nautical town and top producer of ships worldwide. The characteristics of the new NSMV are dictated by the Federal Government, and the new ship is one of five identical, purpose-built, training vessels in the National Defense Reserve Fleet currently being constructed.

The new NSMV is approximately 25 feet longer than the current training vessel and approximately nine feet shorter in length than the preceding training vessel. The new ship draws approximately eight feet less draft than the current training vessel but is generally taller than the current training vessel. At its wheelhouse, the new ship is approximately 33 feet taller; at the top of the exhaust stack, it is approximately 14.5 feet taller, and at the top of the main mast it is approximately two feet shorter than the current training vessel. The applicant also stated that the ships are designed to address modern training needs. There is no change in the use between the current training vessel and the new ship with no changes in the length of time at the berth. Because the vessel is “multi-purpose”, thus capable of deployment by the U.S. Government on humanitarian missions, it is possible that the NSMV may be deployed away from MMA for extended periods of time in addition to times when she is deployed on MMA training cruises.

Interested parties expressed concern that navigation to and from the town’s public dock facility would require recreational and commercial boaters to navigate farther into the current of the Bagaduce River and angle around the proposed pier extension and ship berthing, to access the town’s public floats and dock.

The applicant stated that it has committed to assist the town with the funding necessary to modify its float system by extending the float systems further into Castine Harbor to keep access to the public floats navigable and to keep navigation to and from the town’s docks safe. The applicant submitted a letter from the town of Castine’s selectboard, dated August 25, 2023, that stated that the town is in acceptance with the level of support offered by the applicant for the town dock.

Interested persons raised questions about how the proposed project would impact nearby moorings and the active harbor including local and visiting vessels.

The applicant stated that the proximity of the proposed project to nearby moorings was addressed by the Town of Castine Harbor Committee, who submitted an advisory memorandum to the selectboard in favor of the proposed project and the selectboard agreed with the recommendation. Additionally, navigation has been reviewed by the Town of Castine Planning Board and was found to meet all town zoning ordinances. Finally, the Town of Castine and the Harbor Committee had discussions and came to agreements with individual mooring owners about necessary mooring relocations in order to provide swing radii without conflict with the proposed structures.

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

The Department considers the comments of DMR, the Town of Castine and the Harbor Committee to carry the most weight in terms of the proposed project's potential impact to recreation, as they have technical expertise in this area. DMR stated that the project would not negatively impact recreation in the area.

The proposed project is subject to a submerged lands lease from the Maine Bureau of Parks and Lands (BPL), which was granted on September 4, 2023 (No. 2067A-L-48). The lease states that the project will not unreasonably interfere with public access ways to submerged lands.

Based on the information submitted in the application, the visual impact rating and after considering the public comments, the Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the coastal wetland.

3. INTERFERENCE WITH NATURAL WATER FLOW:

The NRPA, in 38 M.R.S. § 480-D(4), requires an applicant to demonstrate the project will not unreasonably interfere with the natural flow of any surface or subsurface waters.

Interested persons raised concerns about the distance the proposed pier would extend into the bay and that this could speed up the water current on the west side of the docks, especially during flood tides. Concerns were also raised about potential changes to the tidal current patterns, making navigation more difficult for vessels.

The applicant stated that the proposed pier and mooring dolphins are designed to meet environmental loading conditions (wind, current, wave) and mooring/berthing loading as well as a 2.3-foot sea level rise projection. Also, the proposed new structures (pier, mooring dolphins, and floats) are either pile-supported or floating on the water and will allow water to flow under them. Finally, the applicant stated that the proposed NSMV berth is oriented with the vessel and effectively parallel with the tidal current and is in deep water providing under keel clearance for water flow.

Interested persons also raised a question about if and how the current tidal flows could change with the addition of the floating breakwater.

The applicant stated that the tidal current passes under and wraps around the floating breakwater absorbing wave energy along its length, locally diffracting waves around its ends. The applicant explained that this is different than a wave screen, which typically extends much farther below water and acts as a barrier that redirects tidal currents and

reflects waves. Therefore, the proposed floating breakwater is expected to provide localized wave attenuation and not alter the prevailing tidal current flow.

Based on the information submitted in the application and after considering the public comments, the Department finds that the project will not unreasonably interfere with the natural flow of any surface or subsurface waters.

4. SOIL EROSION:

The NRPA, in 38 M.R.S. §480-D(2), requires the applicant to demonstrate that the proposed project 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.

The applicant submitted an Erosion and Sedimentation Control Plan that is based on 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 the Bureau of Land Resources (BLR).

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.

DMR reviewed the proposed project and stated that for in-water work such as removal of the existing timber piers, a turbidity curtain and debris boom should be employed.

The retaining wall construction will require either temporary shoring in front of the wall or temporary removal of the existing beach sand to provide an excavation slope that meets OSHA safety requirements. The contractor will stockpile the excavated material outside of the tidal area, utilize erosion control best management practices, and replace/stabilize excavated material upon completion of the retaining wall.

Construction will occur both from on shore and from barge. Pile driving will be conducted using both vibratory and impact hammer driving equipment. A soft-start pile-driving procedure will be used at the beginning of each pile-driving session and when hammering ceases for more than 30 minutes. Depending on the subsurface conditions encountered, the piles may be end-bearing, rock socketed into bedrock or have an internal rock anchor in the underlying bedrock. It is not anticipated that cofferdams will be used for any of the water-based activities.

Interested parties raised concerns regarding the area for the new driven piles, asking if it is smooth and unobstructed from large rocks, former mooring stones, or other unknowns.

The applicant stated that a hydrographic survey was completed to define the elevation (depth) of the surface of the harbor bottom within the project area and test borings were completed to gather information on the subsurface conditions including the type of soils

and depth to top of bedrock. However, actual conditions at pile locations are unknown until the pile is driven. The applicant pointed out that this is not unique to this project and provisions are incorporated into the construction contracts that address unforeseen conditions.

Interested parties raised concerns that turbidity curtain and debris booms are not required on some of the areas requiring new piles, including the new dolphin on the eastern side of the new construction, the floating breakwater, and the areas of new floating docks.

The applicant stated that prior to construction activities in a particular area, the contractor will create a sediment and erosion control plan specific to the area and appropriate for the construction sequencing and in line with Maine's Erosion and Sediment Control Best Management Practices, the Army Corps' Maine General Permit requirements and the applicant's Erosion and Sedimentation Control Plan. Additionally, the applicant stated that the proposed project's plans include a general note that states "provide and maintain floating turbidity curtain and debris boom controls around the work area, during turbidity generating operations, for the duration of work. Relocate as necessary to ensure the current phase of work is encompassed".

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 provided that a turbidity curtain and debris boom are used for in-water work.

5. HABITAT CONSIDERATIONS:

The NRPA, in 38 M.R.S. §480-D(3), requires the applicant to demonstrate that the proposed project will not unreasonably harm 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.

The proposed project is on the western shore of Castine Harbor at the entrance to the Bagaduce River. There are no commercial fisheries present within the proposed project area. Shellfish harvesting is prohibited. There are no mapped eelgrass resources in the proposed project location.

The project area consists of an existing docking facility with asphalt-paved surfaces on land, and waterfront structures including steel sheet pile bulkheads and timber and composite lagging wall. The existing structures currently offer limited suitability for wildlife use. The applicant states that the impacts resulting from the repair and modification of the structures would likely result in minor changes to the suitability of the environment for wildlife use, due to the limited availability of habitat and the overall low quality of the habitat that currently exists.

In its review, DMR stated that the project as proposed would have little to no long-term impact to marine resources, habitat, or traditional fishing.

The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposed project and stated that the project site contains a Tidal Waterfowl and Wading Bird Habitat. MDIFW recommended that the applicant keep construction vessels and equipment off the mudflat, that planking on the pier should be spaced at 3/4 inches apart to allow sunlight penetration to the substrate and that avian predator perching opportunities and disturbances to seasonal migratory waterfowl and wading birds should be minimized.

The applicant stated that the project's construction documents will prohibit construction barges, vessels, and work platforms from contacting the mudflat and that work will be completed only during tidal periods that provide adequate water depth and/or use other construction methods. Additionally, the construction of the new concrete retaining wall on the western portion of the parcel is anticipated to be land-based operations without construction equipment operating on the intertidal beach. However, there may be temporary excavation impacts associated with the wall construction and in this case, the project's construction documents will require that the contractor keep temporary impacts to the minimum necessary to safely construct the wall over the minimum practical timeframe.

The applicant also stated that a concrete pier is necessary to accommodate operational equipment loads and as such, the replacement pier and the pier extension do not have timber decking. The applicant also noted that the existing timber pier is constructed with timber deck planks set tightly together with no gap between planks and therefore, the proposed concrete deck of the replacement pier does not alter the current light conditions under the pier.

The applicant also stated that the guide piles along the proposed floating docks will include a cone-shaped cap which will deter birds from perching on the piles. Bird perching deterrents on fit-out items on the proposed pier are not feasible at all locations, such as at mooring and berthing elements (marine bollards and fenders) as they could create unsafe conditions for mooring line handling and pose potential hazards to the ship's hull. Where deterrents can be practically installed, they will be incorporated into the proposed work. Use of the waterfront after construction will remain consistent with the existing uses and should not enhance usage for predatory birds. The Department considered the comments from MDIFW along with the applicant's response and finds the applicant has minimized avian predator perching opportunities and disturbances to seasonal migratory waterfowl and wading birds.

Finally, the applicant stated that the proposed floating docks are comprised of timber framing and timber decking and that this type of decking could be spaced with a 3/4-inch gap, however, a 3/4-inch gap between deck boards would create potential tripping hazards; potential pathways for dropped tools or other items to pass through the planking and into the water; and potential locations for straps or other equipment to become caught. Therefore, the applicant proposes to keep the timber decking spaced with a 1/4-inch gap. The Department considered the comments from MDIFW along with the

applicant's response and finds that planking on the timber floating docks spaced at 1/4-inch gaps will be sufficient to allow sunlight to penetrate to the substrate while also maintaining safety.

Based on the MDIFW and DMR comments and the applicants' responses, 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.

6. WATER QUALITY CONSIDERATIONS:

As discussed in Finding 4, the applicant proposes to use erosion and sediment control measures during construction to minimize impacts to water quality from siltation.

Furthermore, the applicant proposes to use lumber treated with chromated copper arsenate (CCA) to construct the pier. 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 that 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.

7. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to permanently fill 2,308 square feet of coastal wetland, indirectly impact approximately 32,627 square feet of coastal wetland due to shading and temporarily impact 1,800 square feet of coastal wetland during construction. Coastal wetlands are wetlands of special significance.

The Wetlands and Waterbodies Protection Rules, 06-096 C.M.R. ch. 310 (last amended November 11, 2018), 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 NRPA permit that involves an alteration of a coastal wetland must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

A. Avoidance. The applicant must submit an analysis of whether there is a practicable alternative to the project that would be less damaging to the environment and this analysis is considered by the Department in its assessment of the reasonableness of any impacts. Additionally, for activities proposed in, on, or over wetlands of special significance the activity must be among the types listed in Chapter 310, § 5(A) or a

practicable alternative less damaging to the environment is considered to exist and the impact is unreasonable. Both shoreline stabilization and pier projects are considered to be water dependent uses, and their proposed construction are among the activities specifically provided for in Chapter 310, § 5(A)(1)(c) and § 5(A)(1)(h). The applicant submitted an alternatives analysis for the proposed project with the application. The purpose of the project is to prepare the existing waterfront for the incoming NSMV and to complete routine maintenance of the existing water-dependent structures.

The applicant considered several alternatives designs for the proposed project; however, each was discounted due to several reasons including impacts to MMA's operations, limiting opportunities for training of the NSMV's capabilities and systems, limiting access from the pier to the vessel and adding additional risks mooring and berthing the NSMV by not being consistent with standard practices for siting a berth. The applicant also considered using the existing system however, the waterfront, as currently configured, does not meet criteria established by the United States Maritime Administration and is unable to support the NSMV. Based on these considerations, in order to meet the stated project purpose, impacts to the coastal wetland are unavoidable.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, the applicant must demonstrate that the amount of wetland to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project. Coastal wetland impacts were minimized by the overall design of the project and limiting the proposed new structures to those necessary for the waterfront operations, academic programming and the safe mooring and berthing of the NSMV. Replacing the existing timber pier with a steel pile-supported concrete pier resulted in greater pile spacing and fewer piles. Additionally, working within the existing configuration of the waterfront structures minimized the impacted footprint.

Finally, replacement of the steel sheet pile bulkhead and composite timber retaining wall is required due to deterioration and failure of the systems. Due to the water depth at the southern portion of the bulkhead (at the pier site) and consideration of future loading scenarios for bulkhead alterations as sea level rise is realized, a steel sheet pile bulkhead with a tie rod and deadman anchorage system is necessary. However, the deadman location is restricted by the necessary underground utility trench to the pier and the foundation for the existing Payson Hall. In order to set the deadman at an effective distance behind the bulkhead for the design loads and avoid conflict with the utility trench and building foundation, the bulkhead needs to be placed four to seven feet in front of the existing bulkhead. This represents the minimum offset for the geo-structural performance of the new bulkhead and, therefore, is the minimum impact necessary to the coastal wetland.

The size of the proposed pier head and the size and location of the proposed dolphins are the minimum necessary to meet the U.S. Maritime Administration's mooring and berthing requirements for the NSMV. Additionally, the width of the proposed pier approach maintains the existing pier width and is the minimum width for accommodating

enclosures for safety equipment and watchtower, maneuvering of equipment and for passage of personnel/student. A wider pier was considered to allow for trucks and trailers to turn around on the pier, however, the additional width and corresponding impacts were deemed too great, and the MMA operations team agreed that vehicle operators would back-up off the pier rather than turn around. Finally, the proposed floating docks allow for MMA to continue to operate (at a reduced capacity) when construction is underway at the existing structures. The floating docks also provide additional berths for the vessel fleet which will afford MMA more flexibility with vessel locations and with what type of vessel to acquire for vessel replacements or augmentation of the fleet. Therefore, the applicant determined that the proposed structures are the minimum required with the minimum impact necessary to the coastal wetland resource.

Interested parties raised concerns that the alternative to berth the NSMV in the existing mooring area was not fully explored and that the length of the pier had not been minimized.

The applicant stated that the required pier deck elevation at the proposed berth is approximately 4.5 feet higher than the existing pier deck and that a lower pier deck elevation would increase the mooring line angle and exceed the safe working conditions of the mooring bollards. In order to attain the proposed deck elevation, a pier extension is necessary. The applicant explained that a simple grade raise of the backland to the proposed pier deck elevation is not feasible because it would cause the building doorways, high bay openings and the travel lift piers to become obsolete. Additionally, it would also require replacement of the bulkhead along the inner boat basin, as it is not designed for additional earth pressures that would result from a grade raise. The maximum permissible backland grade raise is six inches. It was concluded that sloping the pier deck was the only option available to meet the required deck elevation. A sloped pier is not a standard practice for a working pier; therefore, the proposed pier extension slopes the approach only and maintains a level deck elevation at the T-head. The applicant further stated that given that the pier is an academic working pier and not an accessway or recreational facility, limiting the slope to no greater than 3% was considered reasonable for the safety of workers, safety of training students, and for safe operations of machinery, such as cranes and loaded forklifts.

The Department determined that the proposed pier layout and configuration are no larger than necessary for the design requirements and site constraints and are consistent with the academic maritime uses and the character of a waterfront campus. Additionally, the Department determined that working within the existing configuration of the waterfront structures will minimize impacts to the coastal wetland and that the bulkhead and retaining wall designs have been minimized to the extent practical while maintaining integrity and safety.

C. Compensation. In accordance with Chapter 310 §5(C), compensation may be required to achieve the goal of no net loss of wetland functions and values. This project will result in over 500 square feet of fill in a coastal wetland which is the threshold over which compensation is generally required. The applicant submitted an assessment of the

functions and values for the impacted wetlands with the application. The assessment identified production of animals on and within the sediment; primary production from benthic diatoms; algae and eelgrass; nursery and spawning ground; recycling of nutrients by bacteria; sediment sink and trap; and refuge during low tide as the principal function of the coastal wetland at the proposed project site. The proposed waterfront campus improvements are similar in nature and in the same general footprint as the existing waterfront campus. The post-project condition will be similar and will provide similar functions and values to what exists today.

For the impacts resulting from the project after avoidance and minimization of 2,308 square feet of wetland fill, the applicant proposes to make a contribution into the In-Lieu Fee (ILF) program of the Maine Natural Resource Conservation Program in the amount of \$22,710.72. Prior to the start of construction, the applicant must submit a payment in the amount of \$22,710.72, payable to "Treasurer, State of Maine," and directed to the attention of the In-Lieu Fee Program Administrator at 17 State House Station, Augusta, Maine 04333.

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 provided that prior to the start of construction, the applicant submits the required ILF payment.

8. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the marine environment and will not cause or increase flooding. The proposed project is not located in a coastal sand dune system, is not a crossing of an outstanding river segment, and does not involve dredge spoils disposal or the transport of dredge spoils by water.

9. SITE LAW MINOR REVISION:

The total cost of the project is estimated to be *\$57,992,522. The applicant submitted a statement of financial capacity stating that the source of funding for the proposed project will be 90 percent federal cost sharing and 10 percent state cost sharing. The applicant submitted a letter from Maritime Administrator, Admiral Ann C. Phillips, dated July 7, 2023, and a letter from U.S. Maritime Administration CFO Corey A. Becket, dated November 3, 2023, confirming availability of sufficient funds available to fund the entire federal share of the proposed project. The applicant also submitted an annual report and audited financial statement for 2022/2023 along with bank statements from Camden National Bank, dated October 2023 indicating sufficient funds for the state funding portion.

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

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 Board Order #03-2710-09080, 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. §§ 480-A–480-JJ and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. § 1341):

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided that the applicant monitors and maintains.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment provided the applicant meets the requirements of Finding 4.
- 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 the applicant meets the requirement of Finding 7.
- 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 the applicant meets the requirement of Finding 6.
- 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. § 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. §§ 481–489-E:

- 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 38 M.R.S. § 420-D and the standard for erosion and sedimentation control in 38 M.R.S. § 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 and solid waste disposal required for the development and the development will not have an unreasonable adverse effect on the existing or proposed utilities 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 above noted application of MAINE MARITIME ACADEMY to construct waterfront campus improvements as described in Finding I, 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 agent 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. 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.
5. The applicant shall employ a turbidity curtain and debris boom for in-water work.

6. Prior to the start of construction, the applicant shall submit a payment in the amount of \$22,710.72, payable to "Treasurer, State of Maine," and directed to the attention of the In-Lieu Fee Program Administrator at 17 State House Station, Augusta, Maine 04333.
7. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #03-2710-09080, and subsequent Orders.

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 20th DAY OF NOVEMBER, 2023.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CORRECTING THE ORDER DATED 17th of November, 2023. The effective date and expiration date remain the same as in the original.

BY: 
For: Melanie Loyzim, Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

SS/L15887JMKNLNMN/ATS#90711, 90712, 91541, 91542

<p style="text-align: center;">FILED November 20th, 2023 State of Maine Board of Environmental Protection</p>

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

- A. Approval of Variations from Plans.** The granting of 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 these plans, proposals, and supporting documents is subject to review and approval prior to implementation. Further subdivision of proposed lots by the applicant or future owners is specifically prohibited without prior approval of the Board, and the applicant shall include deed restrictions to that effect.
- 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. Compliance with All Terms and Conditions of Approval.** The applicant shall submit all reports and information requested by the Board or the Department demonstrating that the applicant has complied or will comply with all preconstruction terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- D. Advertising.** 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.
- E. Transfer of Development.** 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.
- F. Time frame for approvals.** If the construction or operation of the activity is not begun within four 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. A reapplication for approval 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.
- G. Approval Included in Contract Bids.** A copy of this approval must be included in or attached to all contracts bid specifications for the development.
- H. Approval Shown to Contractors.** 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.

(2/81)/Revised December 27, 2011



Natural Resources Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. § 480-AN 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: August 2021

Contact: (207) 314-1458

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) 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. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review Organization and Powers, 38 M.R.S. §§ 341-D(4) and 346; the Maine Administrative Procedure Act, 5 M.R.S. § 11001; and the DEP's *Rule Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

REQUIRED APPEAL CONTENTS

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant 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.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in Chapter 2 § 24.

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, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be 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 the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
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. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee 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 acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

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. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and 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. 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. § 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 Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 bill.hinkel@maine.gov, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. 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.
