



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

ANGUS S. KING, JR.
 GOVERNOR

DEPARTMENT ORDER

IN THE MATTER OF

BRACEBRIDGE CORPORATION) SITE LOCATION OF DEVELOPMENT
Rockland, *Knox County) NATURAL RESOURCE PROTECTION ACT
ROCKLAND OPERATIONS CENTER) COASTAL WETLAND ALTERATION
L-20386-26-A-N / L-20386-4E-B-N) WATER QUALITY CERTIFICATION
(Approval)) FINDINGS OF FACT AND ORDER
(*CORRECTED ORDER)	

Pursuant to the provision of Title 38 M.R.S.A. Section 481 et seq., the Department of Environmental Protection has considered the application of BRACEBRIDGE CORPORATION with its supportive data, agency review comments, and other related materials on file and finds the following facts:

1. PROJECT DESCRIPTION:

A. Project Summary: The applicant proposes to construct an Operations Center adjacent to Ocean and Water Streets in the City of Rockland. The development will consist of the following:

- 1) An approximately 78,000 square foot two-story office building to accommodate approximately 600 people. The office building will have a maximum height of 22 feet from grade adjacent to Water Street and 37 feet from grade on the east side of the building adjacent to the harbor.
- 2) An approximately 7,800 square foot daycare center to accommodate approximately 65 children. The two-story daycare center will combine two existing houses using a new carriage house connection. The existing structures have a maximum height of 31 feet from grade.
- 3) An approximately 1,300 square foot boathouse will support activities associated with a proposed pier, which is not part of the current application. The boathouse will be a one-story structure with a maximum height of 23 feet from the wood boardwalk adjacent to the proposed structure.
- 4) An approximately 1,500 square foot one-story open-air pavilion will have a maximum height of 26 feet from grade.



- 5) An approximately 1,350 foot boardwalk will provide public access during daylight hours along the applicant's waterfront between two municipal parks (Harbor Park and Sandy Beach Park) bordering the site on the north and east boundaries. The proposed boardwalk will be twelve feet wide and consist of either an elevated wooden structure and/or an on-grade concrete walkway.

The proposed development will have a combined building area of approximately 50,100 square feet and a combined paved area, including drives and walkways, of approximately 186,900 square feet. Therefore, the total area to be stripped, graded, and not revegetated at full build out is approximately 237,000 square feet (5.44 acres).

B. Current Use of Site: The applicant owns a 9.75-acre parcel bordered by Water and Ocean Streets and by Rockland Harbor in the City of Rockland. The site has been occupied for a variety of industrial and commercial uses since its initial development in 1905. The applicant purchased the property from Fisher Engineering Company/Douglas Dynamics. Buildings and paved areas on the property totaled approximately 281,000 square feet (6.4 acres). Following acquisition of the property on June 16, 2000, the applicant razed all structures on the site. The Department approved soil disturbance on the site for structure removal, grading and revegetation in Permit by Rule #25136, dated June 15, 2000. The site is currently grassed. Intertidal areas adjacent to the site contain relic remains of piles and granite wharf supports.

2. FINANCIAL CAPACITY:

The total cost of the project is estimated to be approximately \$12,000,000. The applicant has submitted a copy of the June 30, 2000 Second Quarter Report indicating sufficient assets to self-finance the proposed development. The Department finds that the applicant has adequate financial capacity to develop the project in accordance with State environmental standards.

3. TECHNICAL ABILITY:

The applicant has provided resume information for key persons involved with the project. The applicant has developed a number of projects that received Department review and approval. These projects have been completed in compliance with applicable environmental standards. The Department finds that the applicant and its agents have adequate technical capacity to develop the project in accordance with state environmental standards.

4. SOLID WASTE:

When completed, the proposed project is anticipated to generate 100 cubic yards of commercial waste per week. The applicant has provided the service agreement held with Pinkerton's Disposal, Inc. for the collection and disposal of solid waste generated at the site. Final

disposal will occur at the Rockland Quarry Landfill, which is currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

The proposed project is expected to generate approximately 6 cubic yards of shredded paper product per week. The applicant has provided the service agreement held with Confidential Destruction, Inc. for the collection and recycling of shredded paper product generated at the site.

Construction of the proposed project will generate approximately 50 cubic yards of tree stumps associated with land clearing activities and approximately 40 cubic yards of construction and/or demolition debris. All construction and demolition debris and tree stumps generated will be transported by the general contractor to the Rockland Quarry Landfill in Rockland, Maine, which is currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

5. NOISE:

The applicant has submitted an environmental noise report prepared by EnRad Consulting. No significant sources of noise as regulated by the Department under Chapter 375 (Section 10) during construction, operation, or maintenance of the proposed recreational field have been identified.

6. SOILS:

The applicant has submitted a geotechnical investigation prepared by Summit Geo-Engineering Services, a Class "A" high intensity soil survey prepared by Albert Frick Associates, Inc. and a wetland investigation report prepared by Jones Associates, Inc. These summaries indicate that the soils on the site present no limitations to the proposed project which cannot be overcome through standard engineering practices. The Department's Division of Environmental Assessment (DEA) has reviewed the submittals and finds that the information as submitted meets Department standards.

A discrete area on site was remediated through the Department's Voluntary Response Action Program (VRAP) during demolition of structures previously occupying the site. All soils contaminated by prior occupants were removed from the site and disposed of in accordance with Solid Waste Regulations of the State of Maine.

7. WATER SUPPLY:

When completed the proposed project is anticipated to use approximately 20,000 gallons of water per day. Water will be supplied by Consumers Maine Water Company. The applicant has submitted a letter from Consumers Maine Water Company, dated August 23, 2000, indicating that they have the capacity to serve the proposed development.

8. WASTEWATER DISPOSAL:

When completed, the proposed project is anticipated to discharge 20,000 gallons per day to the City of Rockland's wastewater treatment facility. The applicant has submitted a letter from the City of Rockland's wastewater treatment facility, dated September 18, 2000 indicating that it will be able to accept the anticipated waste flows. This project has been reviewed by the Department's Division of Engineering and Technical Assistance, which has indicated that the City of Rockland's wastewater treatment facility currently has the capacity to treat these flows and is operating in substantial compliance with the water quality laws of the State of Maine in effect as of the date of this Order.

9. GROUNDWATER:

The proposed development does not include any inputs to or withdrawals from groundwater resources. The development will be connecting to the municipal water supply and wastewater treatment systems.

Three underground fuel tanks will be installed as part of the proposed development. A single 10,000-gallon, double-walled fuel oil tank and a single 1,000-gallon propane tank will be installed in association with the Operations Center. A single 1,000 gallon, double-walled fuel oil tank will be installed in association with the daycare center. The applicant has submitted a Spill Prevention, Control, and Countermeasure Plan (SPCC) that will be implemented following installation and operation of the underground tanks. The SPCC plan has been reviewed by the Department's Division of Environmental Assessment, which finds that adverse impacts from the proposed project to surface waters or existing uses of groundwater are unlikely provided that the plan is implemented as proposed.

10. BLASTING:

No blasting is anticipated for the proposed development. If blasting is required, the applicant will retain Summit Geo-Engineering to prepare blasting specifications that meet all applicable standards.

11. VISUAL QUALITY:

The proposed buildings have been sited to reduce mass and minimize silhouetting. The Operations Center, boathouse and pavilion will have brown shingle exteriors with green trim. The daycare facility will have a clapboard exterior in keeping with the existing exterior and surrounding residences. The applicant has submitted a landscaping plan entitled "Rockland Operations Center: Master Landscape Plan," prepared by MBNA America, dated September 18, 2000, depicting plant material that will provide screening, erosion control, ground cover, and seasonal interest. Site lighting will consist of shielded direct downlight to control illumination of adjacent properties. The Department finds the proposed development has been located and designed to minimize its visual impact, is located in a commercial/industrial use area, and that

the applicant will not adversely affect the visual quality of the surrounding area.

12. HISTORIC SITES AND UNUSUAL NATURAL AREAS:

The project site has been reviewed by the Maine Historic Preservation Commission, which has found that the proposed project 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.

Based on a review of the Maine Natural Areas Program database and on an on-site survey by a qualified professional performed August 21, 2000, there is no record of any known rare or unusual features on the property.

13. WILDLIFE AND FISHERIES:

The proposed project has been reviewed by the Maine Department of Inland Fisheries and Wildlife (IF&W), which comments that the project will not have any adverse impact on significant wildlife habitats. No essential wildlife habitats are associated with the project site. No fisheries concerns were identified.

14. SURFACE WATER QUALITY:

The proposed project is not within the watershed of a lake or great pond. No discharges to surface waters are proposed other than stormwater.

15. WETLAND CONSIDERATIONS:

The applicant is proposing to repair an existing granite seawall and construct a new concrete seawall along the western shore of Rockland Harbor adjacent to the development site. Stormwater outfall pipes will be incorporated into the seawall and one single stormwater outfall will need to be constructed in the coastal wetland. At the southern end of the walkway a paved path will continue the trail to the southern property boundary.

The seawall and riprap shore areas currently occupy approximately 8,000 square feet adjacent to and within the intertidal zone. The existing seawall is approximately 527 feet long with a varying base width of 8 to 10 feet. Rehabilitation of the existing wall will involve excavation of fill behind the wall, installation of geotextile fiber, placement of new rock backfill, construction of a new concrete support wall on top of the existing wall, and riprap armoring at the seawall base. New riprap will follow the approximate footprint of the existing materials and has been minimized to 20 feet out from the wall face with an approximate slope of 3 horizontal to 1 vertical. The new wall will raise the total seawall elevation by approximately 4 to 5 feet, thereby protecting the shoreline from storm surge and flood damage. Rehabilitation of the wall will also provide structural and aesthetic improvements to the shoreline and seawall currently in disrepair.

A new seawall will be constructed at the southwestern beach area. The existing cobble will be removed during construction and reused as armoring and fill if suitable. The footing and seawall will be constructed within the existing cobble footprint. Riprap will extend a maximum width of 20 feet seaward. No new construction is proposed outside the currently impacted shore area. During wall construction, approximately 5,000 cubic yards of fill will be placed upland of the seawall within 25 feet of the shore. Approximately 7,600 square feet of fill will be required below mean high water, but above mean low water, within the footprint of the existing riprap.

A wooden pedestrian walkway will also be constructed, following the reconstructed seawall configuration along the shoreline. The landward side of the walkway will be anchored on the top of the newly constructed and rehabilitated seawall, extending seaward 12 feet. The seaward edge of the walkway will be supported by 8 to 12-inch diameter timber piles driven into the intertidal area in front of the wall. Pile installation for the entire walkway will impact a total of 18 square feet of intertidal area. Abandoned relic piles in the intertidal tidal and subtidal areas adjacent to the project site will be removed. The proposed walkway will connect two municipal parks (Harbor Park and Sandy Beach Park) bordering the site on the north and east boundaries.

The proposed project has been reviewed by the Department of Marine Resources (DMR), which comments that the project as proposed should cause no significant adverse impact to marine resources, navigation, recreation, traditional fishing, or access by riparian owners.

At project completion, coastal wetland impacts on the entire site will total approximately 18 square feet. The Department has reviewed the project and finds that wetland impacts have been avoided and minimized as much as possible through design and methods of construction and stabilization. Therefore, the Department finds that the project as proposed meets the standards of the Maine Wetland Protection Rules, Chapter 310.

16. STORMWATER MANAGEMENT:

The applicant has submitted a stormwater management plan for the site based on estimates of the pre-development and post-development runoff flows for the 2, 10, 25, and 50 year storms using the HydroCAD Stormwater Modeling System outlined in Technical Release #20, U.S.D.A., Soil Conservation Service.

A. STORMWATER QUANTITY CONTROLS: The applicant has requested a variance from the peak flow standard due to the site's direct discharge of runoff to the ocean. The applicant has designed a storm-drain system for the site that is capable of conveying runoff from a 25-year storm to the high-water line of Rockland Harbor without flooding on-site structures, crossing any off-site properties, or eroding land at the discharge point. The entire layout of the storm-drain system is shown on plan sheet DR-1 entitled "Post-Development Drainage Plan,"

prepared by Coffin Engineering, dated September 19, 2000. The plan has been reviewed by the Department's Division of Watershed Management, which finds that a variance from the peak flow standard is acceptable for the proposed development.

- B. STORMWATER QUALITY CONTROL: The applicant is not required to treat stormwater runoff from the site for quality control as it is not within a Coastal Wetland Most At Risk from New Development as identified in Chapter 502. Therefore, no treatment measures are necessary or proposed. Given that the previous impervious area on the site totaled approximately 6.45 acres and that the applicant proposes to construct approximately 5.44 acres, total impervious area on the site will decrease by approximately one acre at project completion.

The final stormwater management plan for the proposed project has been reviewed by the Bureau of Land and Water Quality's Division of Watershed Management, which finds that, based on the information presented, the plan meets the standards set forth by the Department.

17. FLOODING:

No structures are proposed to be located within the 100 year floodway of any river or stream and the proposed project is not anticipated to cause or increase flooding or cause an unreasonable flood hazard to any structure.

18. EROSION AND SEDIMENTATION CONTROL:

The applicant has submitted an erosion and sedimentation control plan as Exhibit 24 of the application. Erosion control details have been reviewed by the Bureau of Land and Water Quality's Division of Watershed Management, which has found the revised plans to be in accordance with Departmental standards for erosion and sediment control.

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 provided that the project is completed as proposed.
- 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. Section 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 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 BRACEBRIDGE CORPORATION to construct the Rockland Operations Center as described in Finding 1, 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 this or previous Orders, the applicant shall take all necessary actions to ensure that its activities or those of its 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.

DONE AND DATED AT AUGUSTA, MAINE, THIS 27th DAY OF December, 2000. Correcting the order dated October 24, 2000. The effective date remains the same as in the original order.

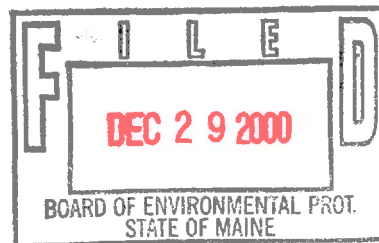
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: September 20, 2000
Date application accepted for processing: September 20, 2000
Date application approved: October 24, 2000

Date filed with Board of Environmental Protection:
JG/L20386AN



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.