

09028 Case Pier
18 Old Musket Road; Map U02, Lot 20
Cumberland, Maine

**Application for
Shoreland/Wharfing Out
Permit Application**
December 11, 2010

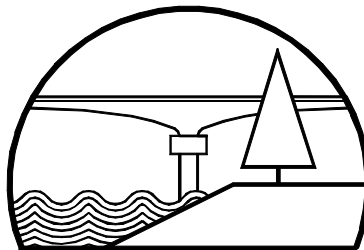
Case Pier
Cumberland, Maine

Applicant:

Carole & Delvyn Case
18 Ole Musket Road
Cumberland Foreside, Maine 04079

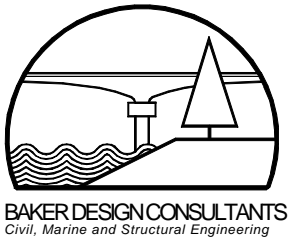
Submitted To:

Bill Shane-Town Manager
Coastal Waters Commission
Town of Cumberland
290 Tuttle Road
Cumberland, Maine 04021



BAKER DESIGN CONSULTANTS
Civil, Marine and Structural Engineering

11 Stony Brook Lane, Yarmouth, Maine 04096



To: William Shane- Town Manager
Town of Cumberland
290 Tuttle Road
Cumberland, Maine 04021

From: Barney Baker, PE

Date: December 11, 2010

Subject: Shoreland/ Wharfing Out Permit Application;
Case Pier Replacement
18 Ole Musket Road; Map U02, Lot 20
Applicants: Carole & Delvyn Case

Copy: File, Carole & Delvyn Case , Matt Davis-Custom Float Services

Job No: 09028

C:\BDC3500\PROJECTS\09\09-28 CASE CONCRETE PIER\PERMITTING\CUMBERLAND\09028 T-BS-1.DOC

TRANSMITTAL

Reviewed ☐
For your use ☐ This transmittal includes the \$250 application fee and seven (7) copies of the Shoreland
As per your request ☐ Permit Application for the Case Pier replacement.

VIA:

Personal Delivery ☐
Special Delivery ☐
Messenger ☐
U.S. Mail ☐
U.S. Express Mail ☐
Overnight Express ☐
UPS ☐
Separate Cover ☐
Fax ☐
Modem ☐

A list of the support material provided is outlined below.

Page (s)	Application
1-6	Shoreland Application
7	Agent Authorization
8-9	Approval Standards and Criteria
	Support Material
Tab A	Army Corps of Engineers permit
Tab B	Maine DEP NRPA permit
Tab C	NRPA Application
Tab D	Project Plans

Please contact this office with any questions or comments on the application provided and let me know when you would like to schedule a meeting with the Coastal Waters Commission.

PERMIT NO.: _____

ISSUE DATE: _____

FEE AMOUNT: _____

**Town of Cumberland
Shoreland Zoning Permit Application**

GENERAL INFORMATION

1. APPLICANT Carole & Delvyn Case	2. APPLICANT ADDRESS 18 Ole Musket Road Cumberland Foreside, ME 04110	3. APPLICANT PHONE NUMBER 207-781-4895
4. PROPERTY OWNER Same as Applicant Agent: Barney Baker PE	5. AGENT ADDRESS Baker Design Consultants 11 Stony Brook Lane Yarmouth ME 04096	6. AGENT PHONE NUMBER (207) 846-9724
7. CONTRACTOR: Attn: Matt Davis Custom Float Services	8. CONTRACTOR'S ADDRESS: P. O. Box 7302 36 Union Wharf Portland, ME 04101	9. CONTRACTOR'S PHONE NUMBER: (207) 772-3796
10. LOCATION / ADDRESS OF PROPERTY 18 Ole Musket Road Cumberland Foreside, ME	11. TAX MAP & LOT NUMBER AND DATE LOT WAS CREATED. Map U02, Lot 20	12. ZONING DISTRICT LDR, SOD
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS AND WELLS (PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3). <p>This application is for replacement of an intertidal pier, gangway and float system to provide waterfront access for one (1) shorefront property. For more information, refer to the Maine DEP application at TAB C and appended drawings at TAB D.</p> <p>The fundamental purpose of the proposed work is to provide a replacement fixed pier that maintains safe recreational access to the water. An existing year-round pier, believed to have been on site since the 1950's, is deteriorated and needs to be replaced.</p> <p>A secondary goal of the project has been to significantly reduce the environmental impact of the waterfront access facility. This is achieved by removing an existing mass concrete wharf and replacing it with a pile supported timber pier for a net reduction in intertidal contact area of 180 SF. The existing seasonal gangway and float are reused.</p>		
14. PROPOSED USE OF PROJECT The facility provides recreational access for swimming, kayaks, canoes, and a dinghy access/landing that serves an adjacent deepwater mooring.		15. ESTIMATED COST OF CONSTRUCTION \$40,000

SHORELAND PROPERTY INFORMATION

16. LOT AREA (SQ. FT.) <div style="text-align: center; color: blue;">86249 SF</div>	17. FRONTAGE ON ROAD (FT.) <div style="text-align: center; color: blue;">~150 ft</div>
18. SQ. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES <div style="text-align: center; color: blue;">NA</div>	19. ELEVATION ABOVE 100 YEAR FLOOD <div style="text-align: center; color: blue;">Pier Deck ~ 11.5 NGVD Base Flood Elevation = 13.0 (V2) NGVD</div>
20. FRONTAGE ON WATERBODY (FT.) <div style="text-align: center; color: blue;">` 312 ft (per Town tax map)</div>	21. HEIGHT OF PROPOSED STRUCTURE <div style="text-align: center; color: blue;">Pier clearance above beach varies with section (~ 6-ft at MHW)</div>
22. EXISTING USE OF PROPERTY <div style="text-align: center; color: blue;">Residential with existing private pier for intertidal access.</div>	23. PROPOSED USE OF PROPERTY <div style="text-align: center; color: blue;">Residential with replacement private pier for intertidal access.</div>
NOTE: Questions 24 & 25 apply only to expansions of portions of existing structures which are less than the required setback from the high water mark.	
24. A) TOTAL FLOOR AREA OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89 (SQ. FT.) <div style="height: 100px;"></div>	25. A) TOTAL VOLUME OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89 (CU. FT.) <div style="height: 100px;"></div>
B) FLOOR AREA OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT (SQ. FT.) <div style="height: 100px;"></div>	B) VOLUME OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT (CU. FT.) <div style="height: 100px;"></div>
C) FLOOR AREA OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK (SQ. FT.) <div style="height: 100px;"></div>	C) VOLUME OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK (CU. FT.) <div style="height: 100px;"></div>
D) % INCREASE OF FLOOR AREA OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89 (% INCREASE = (B+C)/Ax100)	D) % INCREASE OF VOLUME OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89 (%) (% INCREASE = (B+C)/Ax100)

SITE PLAN

PLEASE INCLUDE: LOT LINES; AREA TO BE CLEARED OF TREES AND OTHER VEGETATION; THE EXACT POSITION OF PROPOSED STRUCTURES, INCLUDING DECKS, PORCHES, AND OUT BUILDINGS WITH ACCURATE SETBACK DISTANCES FROM THE SHORELINE, SIDE AND REAR PROPERTY LINES; THE LOCATION OF PROPOSED WELLS, SEPTIC SYSTEMS, AND DRIVEWAYS; AREAS AND AMOUNTS TO BE FILLED OR GRADED. IF THE PROPOSAL IS FOR THE EXPANSION OF AN EXISTING STRUCTURE, PLEASE DISTINGUISH BETWEEN THE EXISTING STRUCTURE AND THE PROPOSED EXPANSION.

NOTE: FOR ALL PROJECTS INVOLVING FILLING, GRADING, OR OTHER SOIL DISTURBANCE, YOU MUST PROVIDE A SOIL EROSION CONTROL PLAN DESCRIBING THE MEASURE TO BE TAKEN TO STABILIZE DISTURBED AREAS BEFORE, DURING, AND AFTER CONSTRUCTION. (See attached guidelines.)

↑
NORTH

Refer to drawings appended located in TAB D.

Sheet 1	Site Plan
Sheet 2	Pier Plan and Elevation
Sheet 3	Typical Sections

Scale: _____ inches = _____ feet.

EXTERIOR ELEVATIONS

DRAW A SIMPLE SKETCH SHOWING BOTH EXISTING AND PROPOSED STRUCTURES WITH DIMENSIONS:

Refer to drawings that part of the appened NRPA PBR Application.

Baker Design Consultants Plans

<input type="checkbox"/>	Sheet 1	Site Plan
<input type="checkbox"/>	Sheet 2	Pier Plan and Elevation
	Sheet 3	Typical Sections

FRONT OR REAR ELEVATION

SIDE ELEVATION

Scale: _____ inches = _____ feet.

ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

- ☐ PLANNING BOARD REVIEW APPROVAL (e.g. Subdivision, Site Plan Review)
- ☐ BOARD OF APPEALS REVIEW APPROVAL
- ☐ FLOOD HAZARD DEVELOPMENT PERMIT
- ☐ EXTERIOR PLUMBING PERMIT (Approved HHE-200 Application Form)
- ☐ INTERIOR PLUMBING PERMIT
- ☒ D.E.P. PERMIT (Site Location, Natural Resource Protection Act)
- ☐ ARMY CORPS OF ENGINEERS PERMIT (e.g. Sec. 404 of Clean Waters Act)
- ☐ ARMY CORPS OF ENGINEERS PERMIT (e.g. Sec. 404 of Clean Waters Act)

OTHERS:

- ☒ Army Corps Permit (General Permit) ☐ _____
- ☐ _____ ☐ _____

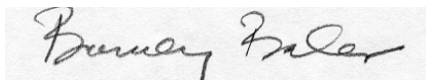
NOTE: Applicant is advised to consult with the Code Enforcement Officer and appropriate State and Federal agencies to determine whether additional permits, approvals, and reviews are required.

I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE. ALL PROPOSED USES SHALL BE IN CONFORMANCE WITH THIS APPLICATION AND THE **CUMBERLAND** SHORELAND ZONING ORDINANCE. I AGREE TO FUTURE INSPECTIONS BY THE CODE ENFORCEMENT OFFICER AT REASONABLE HOURS.

[Refer to Agent Authorization on page 7.](#)

APPLICANT'S SIGNATURE

DATE



[15-Nov-10](#)

AGENT'S SIGNATURE (if applicable)

DATE

* If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.

APPROVAL OR DENIAL OF APPLICATION
(For Office Use Only)

THIS APPLICATION IS:

MAP _____ LOT _____

☐ APPROVED

☐ DENIED

IF APPROVED, THE FOLOWING CONDITIONS ARE PRESCRIBED:

IF DENIED, REASON FOR DENIAL:

NOTE: IN APPROVING A SHORELAND ZONING PERMIT, THE PROPOSED USE SHALL COMPLY WITH THE PURPOSES AND REQUIREMENTS OF THE SHORELAND ZONING ORDINANCE FOR THE TOWN OF CUMBERLAND.

CODE ENFORCEMENT OFFICER

DATE

* This permit will expire one year fom the date of issuance, if no substantial start is made in construction.

INSPECTION CHECKLIST:

☐ Prior to Clearing and Excavation

☐ Prior to Foundation Pour

☐ Prior to Final Landscaping

☐ Prior to Occupancy

Permit # _____

Fee Amount _____

09028 Case Pier
18 Old Musket Road; Map U02, Lot 20
Cumberland, Maine

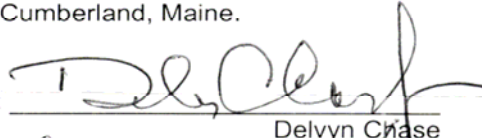
Agent Authorization

Carol and Delvyn Chase
18 Ole Musket Road

Cumberland Foreside, Maine 04079

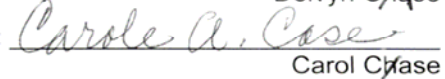
By signing below, I authorize Barney Baker PE of Baker Design Consultants to act as Agent for the purpose of permit communication on applications filed for the replacement of an existing pier on our property in Cumberland, Maine.

Signed: _____



Delvyn Chase

Signed: _____



Carol Chase

8/23/10

SECTION 423.3.5 – APPROVAL STANDARDS AND CRITERIA of the Town Ordinance are repeated below in *italics* with project notes provided in ***bold***. Refer to the drawings in ***Tab C-Project Plans***.

The following standards shall apply to all piers, docks, wharves, floats, bridges, and other structures and uses extending over or beyond the normal high-water line of a water body, submerged lands or wetland:

1. *Access from shore shall be developed on land and soils appropriate for such use and constructed so as to control erosion.*

There is an existing stair and landing area protected by an existing seawall that provides access to the pier. The existing RC pier is removed and replaced with a pile supported structure that is fastened directly to ledge.

2. *The location shall not unreasonably interfere with developed or natural beach areas.*

The replacement pier is in a similar footprint to the structure that is removed.

3. *The facility shall be located so as not to unduly interfere with fisheries.*

The proposed facility provides tidal access and will not impact fisheries.

4. *The facility shall be no larger in dimension than necessary to carry on the proposed activity.*

The replacement pier is in a similar footprint to the structure that is removed

5. *No new structure shall be built on, over or abutting a pier, wharf, dock, bridge, float or other structure without an application and approval justifying the functionally water dependant use of said addition.*

There are no structures on the proposed pier.

6. *No new structure shall be built on, over or abutting a pier, wharf, dock, bridge, float or other structure shall be converted to a residential dwelling unit or any use other than a functionally water dependant use in any district.*

Not applicable.

7. *Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation. Public and commercial facilities shall submit a lighting plan for review by the Planning Board for safety and compatibility with the proposed use. All lighting shall be in conformance with all Federal, State and local standards including Coast Guard Regulations for lighting of piers or wharves where applicable.*

Not applicable. No lighting is proposed for the seasonal pier.

8. *Except in the General Development District and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock, bridge, float or other*

structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

Not applicable. There are no structures on or abutting the proposed pier.

9. *Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling and navigation. This may require accommodations such as steps or pier elevations that would allow passage over or beneath a structure.*

Access is provided below the seasonal pier for pedestrians. Refer to the plans. At a mean high tide, the clearance will be approximately 6-ft.

10. *Where a waterfront structure is proposed that will serve more than one property, the property owners shall submit to the Town a proposed easement deed demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town.*

The existing and proposed replacement piers are intended to be private and serve the Case family and their guests only.

09028 Case Pier
18 Old Musket Road; Map U02, Lot 20
Cumberland Foreside, Maine

TAB A

Army Corps of Engineers permit



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751
MAINE GENERAL PERMIT (GP)
AUTHORIZATION LETTER AND SCREENING SUMMARY

CAROLE & DELVYN CASE
C/O BAKER DESIGN CONSULTANTS
11 STONY BROOK LANE
YARMOUTH, MAINE 04096

CORPS PERMIT # NAE-2008-01027
CORPS PGP ID# 08-106
STATE ID# NRPA

DESCRIPTION OF WORK:

Construct and maintain a timber retaining wall in the Atlantic Ocean at Scarborough, Maine as a replacement for an identical wall that was destroyed in a 2007 storm. The new wall will be installed immediately landward of the previous wall's location along approximately 236' of shoreline. Only the southern portion will extend beyond the high tide line as shown on the attached plans entitled "MARION STONE, BEACHFRONT PROTECTION, PROUTS NECK, SCARBOROUGH, ME" in eight sheets dated "5/20/10".

LAT/LONG COORDINATES : 43.5352935° N 70.3148112° W USGS QUAD: PROUTS NECK, ME

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. **Your work is therefore authorized by the U.S. Army Corps of Engineers under the enclosed Federal Permit, the Maine General Permit (GP).** Accordingly, we do not plan to take any further action on this project.

You must perform the activity authorized herein in compliance with all the terms and conditions of the GP [including any attached Additional Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the enclosed GP carefully, including the GP conditions beginning on page 5, to familiarize yourself with its contents. You are responsible for complying with all of the GP requirements; therefore you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 41 of the GP (page 18) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the GP on October 12, 2015. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 12, 2016.

This authorization presumes the work shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, please submit a request for an approved jurisdictional determination in writing to the undersigned.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. **This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary.**

II. STATE ACTIONS: PENDING [], ISSUED [], DENIED [] DATE _____

APPLICATION TYPE: PBR: _____ TIER 1: _____ TIER 2: _____ TIER 3: X LURC: _____ DMR LEASE: _____ NA: _____

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: 4/3/08 LEVEL OF REVIEW: CATEGORY 1: X CATEGORY 2: _____

AUTHORITY (Based on a review of plans and/or State/Federal applications): SEC 10 _____, 404 _____ 10/404 X, 103 _____

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA NO, USF&WS NO, NMFS NO

If you have any questions on this matter, please contact my staff at 207-623-8367 at our Manchester, Maine Project Office. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at <http://per2.nwp.usace.army.mil/survey.html>

Jay L. Clement
JAY L. CLEMENT
SENIOR PROJECT MANAGER
MAINE PROJECT OFFICE

Frank J. Del Giudice
FRANK J. DEL GIUDICE
CHIEF, PERMITS & ENFORCEMENT BRANCH
REGULATORY DISTRICT

9 DEC 2010
DATE



**US Army Corps
of Engineers** ®
New England District

**PLEASE NOTE THE FOLLOWING GENERAL CONDITIONS FOR
DEPARTMENT OF THE ARMY
GENERAL PERMIT
NO. NAE-2008-01027**

1. The permittee shall assure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers' jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for the work. If the permit is issued after construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. The term "entire permit" includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps of Engineers jurisdiction.
2. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
3. Adequate sedimentation and erosion control devices, such as geotextile silt fences or other devices capable of filtering the fines involved, shall be installed and properly maintained to minimize impacts during construction. These devices must be removed upon completion of work and stabilization of disturbed areas. The sediment collected by these devices must also be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland.
4. All exposed soils resulting from the construction will be promptly seeded and mulched in order to achieve vegetative stabilization.
5. The permittee must still obtain any other Federal, State, or local permits as required by law before beginning work. This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary.

09028 Case Pier
18 Old Musket Road; Map U02, Lot 20
Cumberland Foreside, Maine

TAB B

Maine DEP NRPA permit



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

BETH A NAGUSKY
ACTING COMMISSIONER

November, 2010

Carole and Delvyn Case
18 Ole Musket Road
Cumberland, ME 04110

RE: Natural Resources Protection Act Application, Cumberland, #L-25073-4P-A-N

Dear Mr. and Mrs. Case:

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

If you have any questions about the permit or thoughts on how the Department processed this application please get in touch with me directly. I can be reached at (207) 822 -6322 or at lisa.vickers@maine.gov.

Yours sincerely,

A handwritten signature in blue ink that reads "Lisa Vickers".

Lisa Vickers, Project Manager
Division of Land Resource Regulation
Bureau of Land & Water Quality

pc: File

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST

BANGOR
106 HOGAN ROAD
BANGOR ME 04401
(207) 941-4570 FAX 207-941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-3143



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

DEPARTMENT ORDER

IN THE MATTER OF

CAROLE AND DELVYN CASE
Cumberland, Cumberland County
PIER REPLACEMENT
L-25073-4P-A-N (approval)

) NATURAL RESOURCES PROTECTION
) COASTAL WETLAND ALTERATION
) WATER QUALITY CERTIFICATION
) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of CAROLE AND DELVYN CASE with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicants propose to modify an existing recreational, partial tide pier system that is in need of repair. The existing pier, constructed sometime around 1950, was designed with a concrete structure that has a total intertidal footprint area of 192 square feet. The applicants propose to remove the existing structure and replace it with a six foot wide by 34-foot long pile supported pier. The applicants currently utilize a three foot wide by 40-foot long ramp and a 12-foot wide by 20-foot long float and will continue to utilize these seasonal structures with the proposed new pier. The pier will be constructed out of pressure treated lumber and supported with a maximum of six pilings that will be pinned to ledge. During construction, the site will be accessed by land and water.

The project is located over the intertidal area of the coastal wetland which is populated with mussels, rockweed, barnacles, and periwinkles. The applicants intend to remove the existing concrete structure, thereby restoring essentially 192 square feet of intertidal area that is currently covered by the structure. The project is shown on a plan sheet entitled, "Site Plan," prepared by Baker Design Consultants and dated, by revision, August 1, 2010. The project site is located on Ole Musket Road in the Town of Cumberland.

B. Current Use of the Site: The site of the proposed project contains a residential structure with an existing concrete pier system.

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

In accordance with Chapter 315, Assessing and Mitigating Impacts to Scenic and Aesthetic Uses, the applicants 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 applicants also submitted several photographs of the proposed project site. Department staff visited the project site on November 9, 2010.

The proposed project is located in Casco Bay, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The surrounding area is developed with residential structures and there is currently a residential pier in existence on the property. There are other residential piers that are visible within the viewshed of the current proposal. The current pier system consists of a permanent concrete slab that has a total footprint area of 192 square feet in the intertidal area. The proposed pier will be on a similar alignment as the one being replaced; however, the permanent portion will have a total footprint area of 156 square feet in the intertidal area. The removal of this concrete structure and the placement of the pile supported pier will decrease the scenic impacts that presently exist on-site.

The proposed project was evaluated using the Department's Visual Impact Assessment Matrix and was found to have an acceptable potential visual impact rating. Based on the information submitted in the application, the visual impact rating, and the site visit, the Department determined that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

The Department of Marine Resources (DMR) reviewed the proposed project and did not identify any issues involving existing recreational and navigational uses.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the protected natural resource.

3. SOIL EROSION:

The proposed pier will be supported on pilings pinned to ledge and its construction should cause little to no erosion. The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

4. HABITAT CONSIDERATIONS:

The upland of the proposed project is developed with a residential structure. The supratidal is a wooded slope that is approximately 12 feet high with access stairs and a stone retaining wall that is approximately five feet high and approximately 30 feet long. The upper intertidal is bare ledge that extends approximately 20 feet below mean high water. The lower intertidal is coarse sand/gravel/cobble with little marine vegetation. The subtidal area is a sand flat. According to the Maine Geographic Information Systems (GIS) database, there is no significant wildlife habitat associated with the project site.

The Department of Marine Resources (DMR) stated that the proposed project should not cause any significant adverse impact to marine resources, traditional fishing, or riparian access. DMR further commented that the removal of the existing concrete structure would be beneficial in uncovering approximately 180 square feet of intertidal area.

The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposed project and did not identify any concerns.

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

5. WATER QUALITY CONSIDERATIONS:

The applicants propose 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 the CCA treated lumber is cured as described above, the Department finds that the proposed project will not violate any state water quality law.

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicants propose to directly alter 12 square feet of intertidal area of coastal wetland as a result of the placement of the pilings. The applicants propose to indirectly alter to 156 square feet of intertidal area of a coastal wetland as a result of shading. However, the applicants are proposing to remove the concrete structure that currently serves as the permanent portion of the pier, which will result in approximately 180 square feet of restored intertidal area.

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

A. Avoidance. 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 Natural Resources Protection Act (NRPA) permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. The applicants submitted an alternatives analysis for the proposed project completed by Baker Design Consultants and dated August 26, 2010. The current pier is deteriorated and the applicants determined that if it is not rehabilitated or replaced, further deterioration may result in unsafe conditions. The applicants considered replacing the existing structure with a longer pier to provide deeper water at the float. However, this option was rejected because it was determined that an increase in water depth at the float was not warranted at this time. The applicants considered replacing the current structure in-kind but determined that current proposal was the preferred option and would result in a decreased impact to the coastal wetland. For these reasons, the applicants determined the current proposal meets project goals while minimizing impacts to the coastal wetland.

B. Minimal Alteration. 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 applicants propose to restore approximately 180 square feet of coastal wetland by removing an existing concrete pier. In addition, the applicants designed the pier with a minimal length, which will provide partial tide access, and the applicants will utilize an adjacent deepwater mooring.

Further, the applicants will store the ramp and float outside of the coastal wetland during the off-season.

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

The Department finds that the applicants have 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.

7. OTHER CONSIDERATIONS:

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

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

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that the ramp and float are stored outside of the coastal wetland during the off-season.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters provided that CCA treated lumber is cured as described in Finding 5.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.

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

THEREFORE, the Department APPROVES the above noted application of CAROLE AND DELVYN CASE to construct a pier system as described above, 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 their activities or those of their agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. 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 ramp and float shall be stored outside of the coastal wetland during the off-season.

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.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

lv/L250734pan/72474



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.

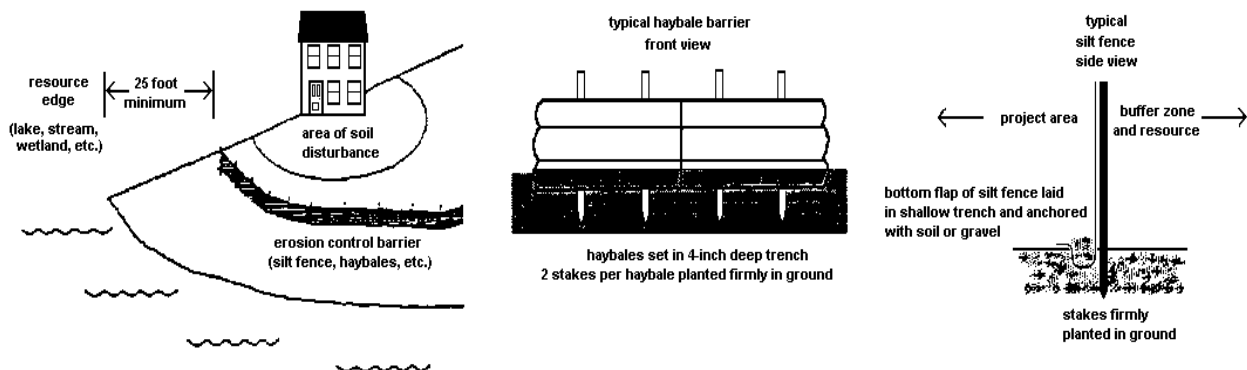
- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's General Laws, 38 M.R.S.A. § 341-D(4), and its Rules Concerning the Processing of Applications and Other Administrative Matters (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5)

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION: If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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

09028 Case Pier
18 Old Musket Road; Map U02, Lot 20
Cumberland Foreside, Maine

TAB C

ME DEP NRPA Application



August 19, 2010

Mary Beth Richardson
Maine Dept. of Environmental Protection
Division of Land Resource Regulation
Bureau of Land & Water Quality
312 Canco Road
Portland, ME 04103

Jay Clement
New England Division
Maine Project Office
675 Western Ave # 3
Manchester, ME 04351

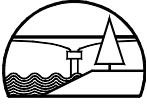
William R. Shane, Town Manager
Town Of Cumberland
290 Tuttle Road
Cumberland, Maine 04021

Subject: Case Family Pier Replacement - **NRPA Individual Permit Application**
18 Ole Musket Road, Cumberland Foreside, Maine

Dear Regulatory Permit Representative,

I have enclosed a copy of the NRPA Application for the Case Family Pier Replacement for review and consideration.

- DEP has been provided with 6 (six) copies and the appropriate application fee.
- The Army Corps of Engineers has also been provided with 8 ½ x 11 copies of the proposed drawings.
- I ask that the respond with a letter identifying any archeological impact.
- Separate correspondence has been mailed to the Indian Tribal nations and to Maine Historic Preservation Commission to identify any related project impact.
- Note that a Submerged Lands Lease is not required because the float does not extend beyond the high water mark. Therefore a copy of the application has not been sent to the Maine Department of Conservation- Submerged Lands Bureau.



Case Family Pier Replacement

August 18, 2010

PAGE 2 Of 2

On behalf of the client, I appreciate early consideration on the application. Please do not hesitate to call me with any questions or comments.

Sincerely,

BAKER DESIGN CONSULTANTS, Inc.

A handwritten signature in cursive script, appearing to read "Barney Baker". The signature is written in dark ink on a light-colored, slightly textured background.

Barney Baker PE
Principal

BJB JN: 09028

Matt Davis- Custom Float Services

Carol and Delvyn Case-Applicants

09028 Case Family Pier Replacement
Cumberland, Maine

**Application for
NRPA Individual Permit Application**

August 11, 2010

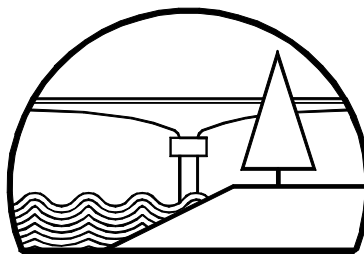
**Case Family Pier Replacement
Cumberland, Maine**

Applicant:

Carole and Delvyn Case
18 Ole Musket Road
Cumberland Foreside, ME 04110

Submitted To:

DEP
Division of Land Resource Regulation
312 Canco Drive
Portland, ME 04103



BAKER DESIGN CONSULTANTS
Civil, Marine and Structural Engineering

11 Stony Brook Lane, Yarmouth, Maine 04096

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Baker Design Consultants
11 Stony Brook Lane
Yarmouth, Maine 04096
207 846 9724
bbaker@maine.rr.com



TABLE OF CONTENTS

PART I APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT	1
SIGNATURE PAGE	2
AGENT AUTHORIZATION	3
PUBLIC NOTICE CERTIFICATION	4
PUBLIC NOTICE FILING	4
ABUTTING PROPERTY OWNERS	5
COPY of DEEDS	6
ATTACHMENTS	11
ATTACHMENT 1 Activity Description	12
ATTACHMENT 2 Alternatives Analysis	16
ATTACHMENT 3 Location Map	17
ATTACHMENT 4 Color Photographs	18
ATTACHMENT 5 Project Plans	20
ATTACHMENT 6 Additional Plans	21
ATTACHMENT 7 Construction Plan	22
ATTACHMENT 8 Erosion Control Plan	22
ATTACHMENT 9 Site Conditions Report	23
ATTACHMENT 10 Notice of Intent to File	23
PART II	24
ATTACHMENT 11 Maine Historic Preservation	24
ATTACHMENT 12 Functional Assessment	24
ATTACHMENT 13 Plan of Proposed Compensation	24
APPENDIX A MDEP VISUAL EVALUATION FORM	25
APPENDIX B MDEP COASTAL WETLAND CHARACTERIZATION:	26

APPENDIX C PROJECT DESCRIPTION WORKSHEET FOR A DOCK, PIER OR WHARF APPLICATION.....	27
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APPENDIX D PROJECT PLANS	29
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Part I APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

1. Name of Applicant:	Carole and Delvyn Case		4. Name of Agent: (if applicable)	Barney Baker PE Baker Design Consultants							
2. Applicant's Mailing Address:	18 Ole Musket Road Cumberland Foreside, ME 04110		5. Agent's Mailing Address:	11 Stony Brook Lane Yarmouth, Maine 04096							
3. Applicant's Day Phone:	207-781-4895		6. Agent's Day Phone:	207 846-9724							
4. Applicant's Email Address:	dcase@maine.rr.com		8. Agent's Email Address:	bbaker@maine.rr.com							
9. Location of Activity: Nearest Road, Street, Rt.#)	18 Ole Musket Road.		10. Town:	Cumberland	11. County: Cumberland						
12A. Significant Groundwater Well?			<input type="checkbox"/> Yes or <input checked="" type="checkbox"/> No								
12. Type of Resource: (Check all that apply)	<input type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input checked="" type="checkbox"/> Coastal Wetland <input type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain		13. Name of Resource:	Casco Bay							
			14. Amount of Impact (Sq.Ft.):	Fill: ~180 SF reduction in intertidal impact with replacement structure. Dredging/Veg Removal/Other: None							
15. Type of Wetland: (Check all that apply)	<input type="checkbox"/> Forested <input type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input type="checkbox"/> Open Water <input type="checkbox"/> Other _____	FOR FRESHWATER WETLANDS <table border="1"> <tr> <th>Tier 1</th> <th>Tier 2</th> <th>Tier 3</th> </tr> <tr> <td> <input type="checkbox"/> 0 - 4,999 sq. ft. <input type="checkbox"/> 5,000 - 9,999 sq. ft. <input type="checkbox"/> 10,000 - 14,999 sq. ft. </td> <td> <input type="checkbox"/> 15,000 - 43,560 sq. ft. </td> <td> <input type="checkbox"/> > 43,560 sq. ft. <input type="checkbox"/> smaller than 43,560 sq. ft., not eligible for Tier 1 </td> </tr> </table>				Tier 1	Tier 2	Tier 3	<input type="checkbox"/> 0 - 4,999 sq. ft. <input type="checkbox"/> 5,000 - 9,999 sq. ft. <input type="checkbox"/> 10,000 - 14,999 sq. ft.	<input type="checkbox"/> 15,000 - 43,560 sq. ft.	<input type="checkbox"/> > 43,560 sq. ft. <input type="checkbox"/> smaller than 43,560 sq. ft., not eligible for Tier 1
Tier 1	Tier 2	Tier 3									
<input type="checkbox"/> 0 - 4,999 sq. ft. <input type="checkbox"/> 5,000 - 9,999 sq. ft. <input type="checkbox"/> 10,000 - 14,999 sq. ft.	<input type="checkbox"/> 15,000 - 43,560 sq. ft.	<input type="checkbox"/> > 43,560 sq. ft. <input type="checkbox"/> smaller than 43,560 sq. ft., not eligible for Tier 1									
16. Brief Activity Description:	Replacement of a deteriorated mass concrete pier with a pile supported timber structure on a similar alignment and footprint. Existing Seasonal gangway and float to be reused.										
17. Size of Lot or Parcel:	<input checked="" type="checkbox"/> 86249 square ft <input type="checkbox"/> acres	LAT 43°74'65"N		LONG 70°19'29"W							
18. Title, Right or Interest:	<input checked="" type="checkbox"/> own <input type="checkbox"/> lease	<input type="checkbox"/> purchase option <input type="checkbox"/> written agreement									
19. Deed Reference Numbers:	Book#: 22848 Page: 52-55		20. Map and Lot Numbers:	Map #: U2	Lot #: 20						
21. DEP Staff Previously Contacted:			22. Part of a larger project:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After-the-Fact: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
23. Resubmission of Application?	<input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No	If yes, previous application #	NA	Previous project manager:	NA						
24. Written Notice of Violation?	<input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No	If yes, name of DEP enforcement staff involved:	NA	25. Previous Wetland Alteration:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
26. Detailed Directions to the Project Site:	Rte 1 to Ole Musket Road. Last house adjacent to water. Refer to Location Map.										
27. TIER 1		TIER 2/3 AND INDIVIDUAL PERMITS									
<input type="checkbox"/> Title, right or interest documentation <input type="checkbox"/> Topographic Map <input type="checkbox"/> Narrative Project Description <input type="checkbox"/> Plan or Drawing (8 1/2x11) <input type="checkbox"/> Photos of Area <input type="checkbox"/> Statement of Avoidance & Minimization <input type="checkbox"/> Statement/Copy of cover letter to MHPC		<input checked="" type="checkbox"/> Title, right or interest documentation <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Copy of Public Notice/Public Information Meeting Documentation <input type="checkbox"/> Wetlands Delineation Report (Attachment 1) that contains the <input checked="" type="checkbox"/> Information listed under Site Conditions <input checked="" type="checkbox"/> Alternatives Analysis (Attachment 2) including description of how wetland impacts were Avoided/Minimized		<input checked="" type="checkbox"/> Erosion Control/Construction Plan <input checked="" type="checkbox"/> Functional Assessment (Attachment 3), if required <input type="checkbox"/> Compensation Plan (Attachment 4), if required <input checked="" type="checkbox"/> Appendix A and others, if required <input checked="" type="checkbox"/> Statement/Copy of cover letter to MHPC <input type="checkbox"/> Description of Previously Mined Peatland, if required							
28. FEES, Amount Enclosed:		339+85=\$424 (Docks, Piers and wharves)									
CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2											

SIGNATURE PAGE

IMPORTANT: IF THE SIGNATURE BELOW IS NOT THE APPLICANT'S SIGNATURE, ATTACH LETTER OF AGENT AUTHORIZATION SIGNED BY THE APPLICANT

By signing below the applicant (or authorized agent), certifies that he or she has read and understood the following:

PRIVACY ACT STATEMENT

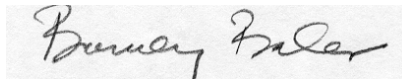
Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor a permit be issued.

CORPS SIGNATORY REQUIREMENT

USC Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. I authorize the Corps to enter the property that is subject to this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein.

DEP SIGNATORY REQUIREMENT

I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

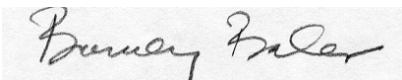


August 11, 2010

SIGNATURE OF AGENT/APPLICANT DATE

NOTE: Any changes in activity plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the unapproved changes to the activity.

"I hereby authorize the DEP to send me an electronically signed decision on the license I am applying for with this application by emailing the decision to the address located on the front page of this application (see #4 for the applicant and #9 for the agent. Do not sign if you elect to "opt out" or receive the decision via regular mail.



August 11, 2010

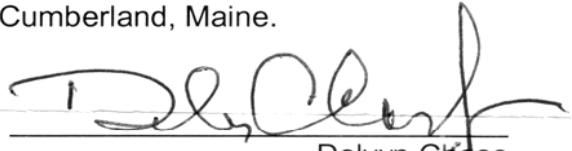
SIGNATURE OF AGENT/APPLICANT DATE

AGENT AUTHORIZATION

Carol and Delvyn Chase
18 Ole Musket Road
Cumberland Foreside, Maine 04079

By signing below, I authorize Barney Baker PE of Baker Design Consultants to act as Agent for the purpose of permit communication on applications filed for the replacement of an existing pier on our property in Cumberland, Maine.

Signed: _____



Delvyn Chase

Signed: _____



Carol Chase

5/23/10

PUBLIC NOTICE CERTIFICATION

By signing below, the applicant or authorized agent certifies that:

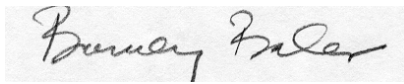
A Notice of Intent to File was published in a newspaper circulated in the area where the project site is located within 30 days prior to filing the application;

A certified mailing of the Notice of Intent to File was sent to all abutters within 30 days of the filing of the application;

A certified mailing of the Notice of Intent to File, and a duplicate copy of the application was sent to the town office of the municipality in which the project is located; and

Provided notice of and held a public informational meeting, if required, in accordance with Chapter 2, Rules Concerning the Processing of Applications, Section 13, prior to filing the application. Notice of the meeting was sent by certified mail to abutters and to the town office of the municipality in which the project is located at least ten days prior to the meeting. Notice of the meeting was also published once in a newspaper circulated in the area where the project site is located at least seven days prior to the meeting.

A Public Meeting was not required for this application. However, the project will be subject to local planning Board and Selectman approval, with requisite public meetings.



August 11, 2010

SIGNATURE OF AGENT/APPLICANT DATE

PUBLIC NOTICE FILING

Department Rules, Chapter 2, require an applicant to provide public notice for all Tier 2, Tier 3 and Individual Natural Resources Protect Act projects. In the notice, the applicant must describe the proposed activity and where it is located. **“Abutter”** for the purposes of the notice provision means any person who owns property that is BOTH (1) adjoining and (2) within one mile of the delineated project boundary, including owners of property directly across a public or private right of way.

1. Newspaper: You must publish the Notice of Intent to File in a newspaper circulated in the area where the activity is located. The notice must appear in the newspaper within 30 days prior to the filing of the application with the Department. You may use the attached Notice of Intent to File form, or one containing identical information, for newspaper publication and certified mailing.

Refer to Attachment 10 on page 23.

2. Abutting Property Owners: You must send a copy of the Notice of Intent to File by certified mail to the owners of the property abutting the activity. Their names and addresses can be obtained from the town tax maps or local officials. They must receive notice within 30 days prior to the filing of the application with the Department.

Refer to next page for a list of abutting property owners (Map.Lot.Addresses).

3. Municipal Office: You must send a copy of the Notice of Intent to File and a duplicate of the entire application to the Municipal Office.

Sent to the attention of the Cumberland Town Manager.

COPY of DEEDS

The following documents are located in this section.

1. Warranty Deed (Book 22848, Pages 52-53) for Case property where the pier is to be replaced.
2. Warranty Deed (Book 22848, Pages 54-55) for Case property where the pier is to be replaced.

Doc#: 44169 Bk:22848 Pg: 52

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That I, DELVYN C. CASE, JR., of
Cumberland, in the County of Cumberland and State of Maine,

in consideration of One Dollar and other valuable considerations,

paid by CAROLE A. CASE, of Cumberland, in the County of Cumberland and State of
Maine,

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and
convey unto the said CAROLE A. CASE, her heirs and assigns forever.

A certain lot or parcel of land, with the buildings thereon, situated in the Town of
Cumberland, County of Cumberland and State of Maine, and being Lot No. 15 as shown
on Plan of Foreside Pines prepared for Brown Homes, Inc. by H. I. & E. C. Jordan and
recorded in Cumberland County Registry of Deeds in Plan Book 119, page 3, and being
more particularly bounded and described as follows:

Beginning at a point on the northeasterly sideline of Ole Musket Road as shown on said
Plan, said point being the most southerly corner of Lot No. 13 as shown on said Plan;
thence North 36° 09' 45" East one hundred sixty-eight and fifty-two hundredths (168.52)
feet to a point, being the most easterly corner of Lot No. 13 as shown on said Plan; thence
South 75° 27' 10" east three hundred eight and forty-seven hundredths (308.47) feet to an
iron; thence continuing southeasterly twenty-nine (29) feet, more or less, to the High Water
Line of Casco Bay; thence southwesterly along the High Water Line of said Casco Bay
three hundred twelve (312) feet, more or less, to an iron marking the most easterly corner
of Lot No. 14 as shown on said Plan; thence North 47° 43' West one hundred ninety-seven
(197) feet to a point at the southeasterly terminus of said Ole Musket Road one hundred
fifty and ninety-nine hundredths (150.99) feet, more or less, to the point of beginning.

This conveyance is made subject to the restrictions, easements and conditions as shown on
said Plan of Foreside Pines and to utility easements of record, and subject to a twenty-five
(25) foot drainage easement on the southerly sideline of said parcel and to minimum
setback line, as shown on said Plan.

This conveyance is also made subject to a Declaration of Restrictions affecting said
property dated April 19, 1978 and recorded in said Registry of Deeds in Book 4202, Page
152.

Also conveying herewith all the Grantor's right, title and interest in and to the flats between
high and low water lines directly in front of the above-described premises subject to all
rights of the public therein and to the specific reservation of common use and enjoyment of
said premises for all customary recreational uses of waterfront property with the Grantor,
its successors and assigns, forever.

Doc#: 44167 Bk:22848 Pg: 53

Being the same premises conveyed to the Grantor and Grantee herein by GET Associates by deed dated August 4, 1978 and recorded in the Cumberland County Registry of Deeds in Book 4280, Page 37.

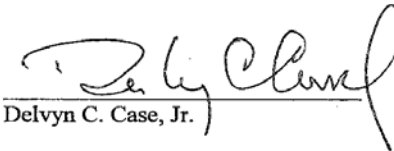
TO HAVE AND TO HOLD the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said CAROLE A. CASE, her heirs and assigns, to them and their use and behoof forever.

And I do covenant with the said Grantee, her heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all encumbrances, that I have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that I and my heirs shall and will warrant and defend the same to the said Grantee, her heirs and assigns forever, against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, the said Delvyn C. Case, Jr., being the said Grantor, has hereunto set my hand and seal this 7th day of the month of June, 2005.

Signed, Sealed and Delivered
in presence of





Delvyn C. Case, Jr.

State of Maine
County of Cumberland

June 7, 2005

Then personally appeared the above named Delvyn C. Case, Jr. and acknowledged the foregoing instrument to be his free act and deed.

Before me,


Notary Public

Print or Type Name

P:\CROID99990\CASE.DEL

JUDITH M. COBURN
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES DECEMBER 7, 2011

Received
Recorded Register of Deeds
Jul 06 2005 04:43:34P
Cumberland County
John B O'Brien

Doc# 44170 Bk#22848 Ps# 54

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That I, CAROLE A. CASE, of Cumberland, in the County of Cumberland and State of Maine,

in consideration of One Dollar and other valuable considerations,

paid by DELVYN C. CASE, JR. and CAROLE A. CASE, of Cumberland, in the County of Cumberland and State of Maine,

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said DELVYN C. CASE, JR. and CAROLE A. CASE, their heirs and assigns forever.

A certain lot or parcel of land, with the buildings thereon, situated in the Town of Cumberland, County of Cumberland and State of Maine, and being Lot No. 15 as shown on Plan of Foreside Pines prepared for Brown Homes, Inc. by H. I. & E. C. Jordan and recorded in Cumberland County Registry of Deeds in Plan Book 119, page 3, and being more particularly bounded and described as follows:

Beginning at a point on the northeasterly sideline of Ole Musket Road as shown on said Plan, said point being the most southerly corner of Lot No. 13 as shown on said Plan; thence North $36^{\circ} 09' 45''$ East one hundred sixty-eight and fifty-two hundredths (168.52) feet to a point, being the most easterly corner of Lot No. 13 as shown on said Plan; thence South $75^{\circ} 27' 10''$ East three hundred eight and forty-seven hundredths (308.47) feet to an iron; thence continuing southeasterly twenty-nine (29) feet, more or less, to the High Water Line of Casco Bay; thence southwesterly along the High Water Line of said Casco Bay three hundred twelve (312) feet, more or less, to an iron marking the most easterly corner of Lot No. 14 as shown on said Plan; thence North $47^{\circ} 43'$ West one hundred ninety-seven (197) feet to a point at the southeasterly terminus of said Ole Musket Road one hundred fifty and ninety-nine hundredths (150.99) feet, more or less, to the point of beginning.

This conveyance is made subject to the restrictions, easements and conditions as shown on said Plan of Foreside Pines and to utility easements of record, and subject to a twenty-five (25) foot drainage easement on the southerly sideline of said parcel and to minimum setback line, as shown on said Plan.

This conveyance is also made subject to a Declaration of Restrictions affecting said property dated April 19, 1978 and recorded in said Registry of Deeds in Book 4202, Page 152.

Also conveying herewith all the Grantor's right, title and interest in and to the flats between high and low water lines directly in front of the above-described premises subject to all rights of the public therein and to the specific reservation of common use and enjoyment of said premises for all customary recreational uses of waterfront property with the Grantor, its successors and assigns, forever.

Doc# 44170 Bk:22848 Pg: 55

Being the same premises conveyed to the Grantor and Grantee herein by GET Associates by deed dated August 4, 1978 and recorded in the Cumberland County Registry of Deeds in Book 4280, Page 37 and the same conveyed by Delvyn C. Case, Jr. to the Grantor herein by deed of even date duly recorded in the Cumberland County Registry of Deeds.


TO HAVE AND TO HOLD the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said DELVYN C. CASE, JR. and CAROLE A. CASE, their heirs and assigns, to them and their use and behoof forever.

And I do covenant with the said Grantees, their heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all encumbrances, that I have good right to sell and convey the same to the said Grantees to hold as aforesaid; and that I and my heirs shall and will warrant and defend the same to the said Grantees, their heirs and assigns forever, against the lawful claims and demands of all persons.


IN WITNESS WHEREOF, the said Carole A. Case, being the said Grantor, has hereunto set my hand and seal this 7 day of June, 2005.

Signed, Sealed and Delivered
in presence of





Carole A. Case

State of Maine
County of Cumberland

 , 2005

Then personally appeared the above named Carole A. Case and acknowledged the foregoing instrument to be her free act and deed.

Before me,


Notary Public

P:\CROD99990\CASE.CAR

Print or Type Name: **DELVYN M. COBURN**
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES DECEMBER 7, 2011

Received
Recorded Register of Deeds
Jul 06, 2005 04:44:32P
Cumberland County
John B O'Brien

SEAL

ATTACHMENTS

Attachment 1	Activity Description
Attachment 2	Alternatives Analysis
Attachment 3	Location Map
Attachment 4	Color Photographs
Attachment 5	Project Plans
Attachment 6	Additional Plans
Attachment 7	Construction Plan
Attachment 8	Erosion Control Plan
Attachment 9	Site Condition Report
Attachment 10	Notice of Intent to File
Attachment 11	Maine Historic Preservation
Attachment 12	Functional Assessment
Attachment 13	Plan of Proposed Compensation

ATTACHMENT 1 Activity Description

The outline below provides a description of the Case Family pier replacement project. Reference should be made to Color Photographs that begin on page 18 and Project Plans referenced on page 20 and appended to this document. The *Project Description Worksheet for a Dock, Pier or Wharf Application* is located in **Appendix C**.

A. OBJECTIVE CRITERIA FOR THE PROJECT

1. Project Purpose and Need

Refer to Sheet 1- Site Plan and Sheet 2- Pier Plan and Elevation. The facility provides recreational access for swimming, kayaks, canoes, and a dinghy access/landing that serves an adjacent deepwater mooring.

The fundamental purpose of the proposed work is to provide a replacement fixed pier that maintains safe recreational access to the water. An existing year-round pier, believed to have been on site since the 1950's, is deteriorated and needs to be replaced.

A secondary goal of the project has been to significantly reduce the environmental impact of the waterfront access facility. This is achieved by maintaining the existing seasonal gangway and float, removing the existing mass concrete wharf and substituting a pile supported timber pier. This results in a net reduction in intertidal contact area of 180 SF.

B. DESCRIPTION OF PROPOSED CONSTRUCTION

The *Project Description Worksheet for a dock, Pier or Wharf Application* is located Appendix C.

The replacement pier is on a similar alignment as the existing structure and does not extend any further seaward. Beginning from shore, a description of the main elements of the proposed construction is provided below. An Alternatives Analysis is located on page 16 and the Construction Plan is presented on page 22.

1. Existing Embankment Stair and landing

No changes are proposed.

2. Fixed Pier

The existing mass concrete structure is removed and replaced by the proposed timber pile supported pier. A dimensional comparison between the existing and proposed structures is provided in the following table.

Project Impact	Unit	Existing Pier Mass Concrete	Proposed Pier Pile Supported	Net Change
Total Footprint Area	SF	319	262	-57
Intertidal Footprint	SF	192	156	-36
Intertidal Contact	SF	192	12	-180
Seaward Projection	LF	34	No Change	0
Gangway (3-ft wide)	LF	40	No Change	0
Float (12 x 20)	SF	240	No Change	0

3. Gangway and Float

No changes are proposed.

C. VISUAL IMPACT CONSIDERATIONS

Refer to the section of the Casco Bay Chart on page 18. The property has extensive views of the water. From North to South, views from the property include the entrance to Broad Cove, Cousins Island, Sturdivant Island, Clapboard Island and a distant view of Portland Harbor.

Refer to the Location Map located on page 17. Pictures area located in Attachment 4 PHOTOGRAPHS located on page 18. Appendix A provides a MDEP Visual Evaluation Form.

The new pier will be constructed of timber and composite materials to achieve a ‘traditional’ looking coastal structure with that will weather to a natural gray color.

The pier will not obscure the sweeping views from properties on shore because of their high elevation with respect to the beach. When viewed from Casco Bay, the pier structure will blend with the natural earth tones of the coastal bluff behind.

The proposed pier is on a similar alignment as the mass concrete pier that it replaces. The gangway and float locations are unchanged. The new structure does not project further seaward than the existing structure.

D. CONSIDERATION OF NRPA REGULATORY STANDARDS

The applicable regulatory review standards that must be met by the project under NRPA Title 38, Article 5-A NATURAL RESOURCES PROTECTION ACT are provided below and addressed in the text that follows.

§ 480-D. Standards

The department shall grant a permit upon proper application and upon such terms as it considers necessary to fulfill the purposes of this article. The department shall grant a permit when it finds that the applicant has demonstrated that the proposed activity meets the following standards set forth in subsections 1 to 9, except that when an activity requires a permit only because it is located in, on or over a community public water system primary protection area the department shall issue a permit when it finds that the applicant has demonstrated that the proposed activity meets the standards set forth in subsections 2 and 5.

1. Existing uses. The activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

2. Soil erosion. 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.

3. Harm to habitats; fisheries. 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. In determining whether there is unreasonable harm to significant wildlife habitat, the department may consider proposed mitigation if that mitigation does not diminish in the vicinity of the proposed activity the overall value of significant wildlife habitat and species utilization of the habitat and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity. For purposes of this subsection, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant wildlife habitat, including the following:

A. Avoiding an impact altogether by not taking a certain action or parts of an action;

B. Minimizing an impact by limiting the magnitude, duration or location of an activity or by controlling the timing of an activity;

C. Rectifying an impact by repairing, rehabilitating or restoring the affected environment;

D. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; or

E. Compensating for an impact by replacing the affected significant wildlife habitat.

4. Interfere with natural water flow. The activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.

5. Lower water quality. The activity will not violate any state water quality law, including those governing the classification of the State's waters.

6. Flooding. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.

1. Existing Uses of the Site

No change in use for the site is anticipated.

2. Action to minimize Soil erosion

The replacement pier extends from an existing landing/abutment. There will be no embankment disturbance as a result of this project.

3. Steps taken to avoid any Harm to Habitats

The replacement pier is intended to replace a deteriorated structure with a new structure type that has a reduced impact on the coastal environment. The existing mass concrete pier is removed and replaced with a timber pile supported structure. This reinstates approximately 180 SF of intertidal rocky substrate.

4. Consideration of any Interference with Natural Flow

While the site is not located in an area of significant flow or current, replacing the mass concrete structure with a pile supported pier does allow any wave and current action to be unimpeded below the pier.

5. Consideration of project attributes that Lower Water Quality

There is no discharge or long-term disturbance from the proposed facility. We have also minimized the use of pressure treated material by employing recycled composite lumber in the decking and handrail. Construction Impacts are addressed in Attachment 6 **Construction Plan** on page 22.

6. Consideration of any Flooding

The project is not located in a floodway and consequently will not cause or increase the flooding at the pier location or on adjacent property.

ATTACHMENT 2 Alternatives Analysis

The pier replacement design meets the Objective Criteria for the project with consideration of the NRPA Regulatory Standards as presented in the previous sections. The fundamental purpose of the proposed work is to provide a replacement fixed pier that maintains safe recreational access to the water. The facility will continue to allow a range of recreational waterfront activity for the Case family that include swimming, kayaking, fishing and access to and from boats on an adjacent mooring field.

Reference should be made to Color Photographs that begin on page 18 and Project Plans referenced on page 20 and appended to this document. The plans detail the Preferred Alternative, which was selected after considering several options.

A summary of the alternatives considered are discussed below.

1. Do Nothing Option

The existing mass concrete pier is deteriorated and needs to be rehabilitated or replaced. Doing nothing will result in further deterioration to the point where the structure is not safe.

2. Preferred Alternative

The preferred alternative replaces the existing mass concrete pier with a new pile supported timber structure. The new pier provides the same function with less impact to the intertidal beach. The net reductions in resource impact are tabulated below.

Project Impact	Unit	Existing Pier Mass Concrete	Proposed Pier Pile Supported	Net Change
Total Footprint Area	SF	319	262	-57
Intertidal Footprint	SF	192	156	-36
Intertidal Contact	SF	192	12	-180
Seaward Projection	LF	34	No Change	0
Gangway (3-ft wide)	LF	40	No Change	0
Float (12 x 20)	SF	240	No Change	0

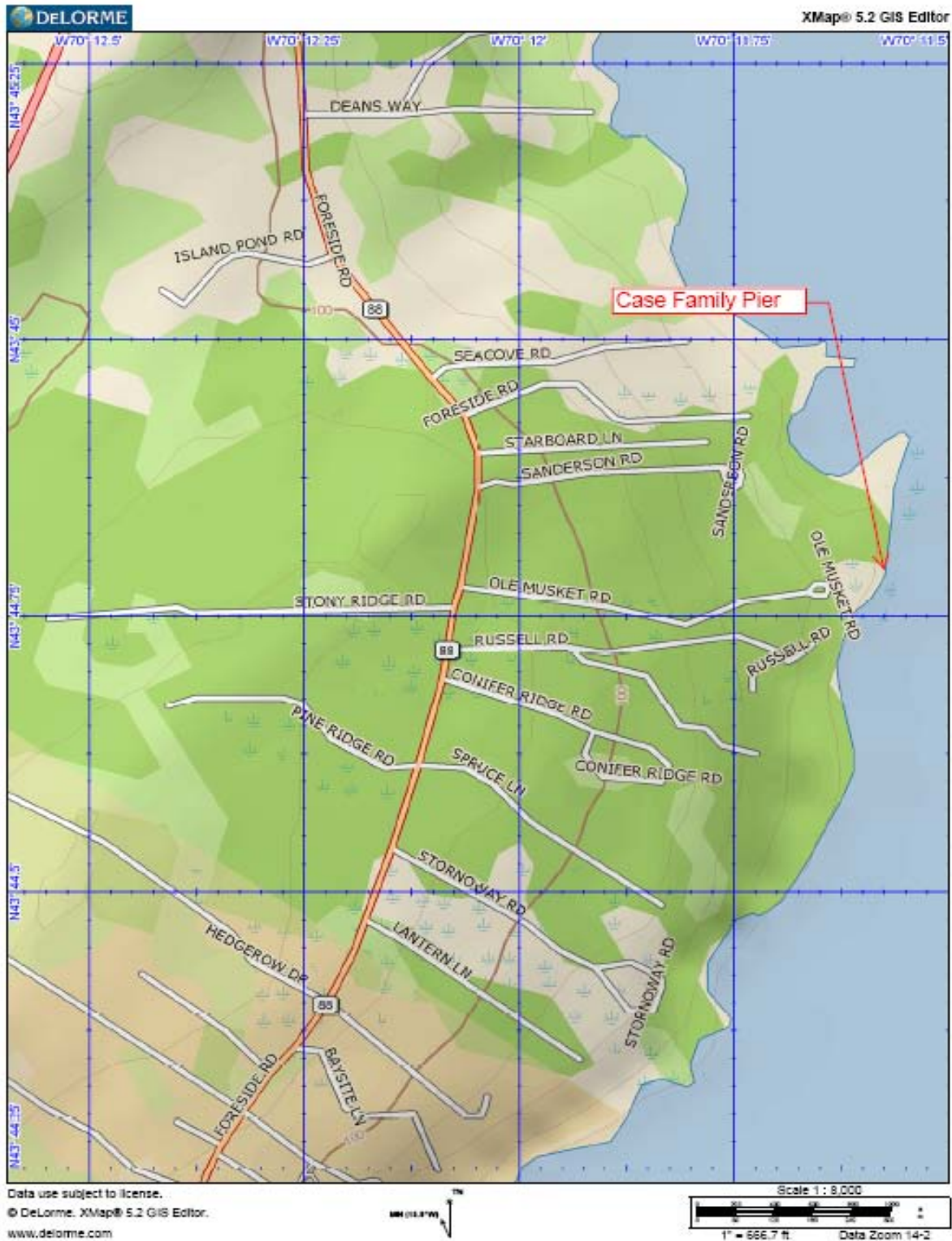
3. Alternative Location for waterfront access

A longer pier was considered to provide deeper water at the float. However, the owner decided that an increase in water depth at the float was not warranted at this time.

4. Consideration for reducing the size, scope or configuration of the project

Repair or replacement 'in-kind' of the existing mass concrete structure was considered, but not selected as the preferred solution. A repair or replacement 'in-kind' does not provide an opportunity for reducing the environmental footprint of the facility. Refer to the tabulated comparison of impacts in Item '2.' of this section

ATTACHMENT 3 Location Map



ATTACHMENT 4 Color Photographs

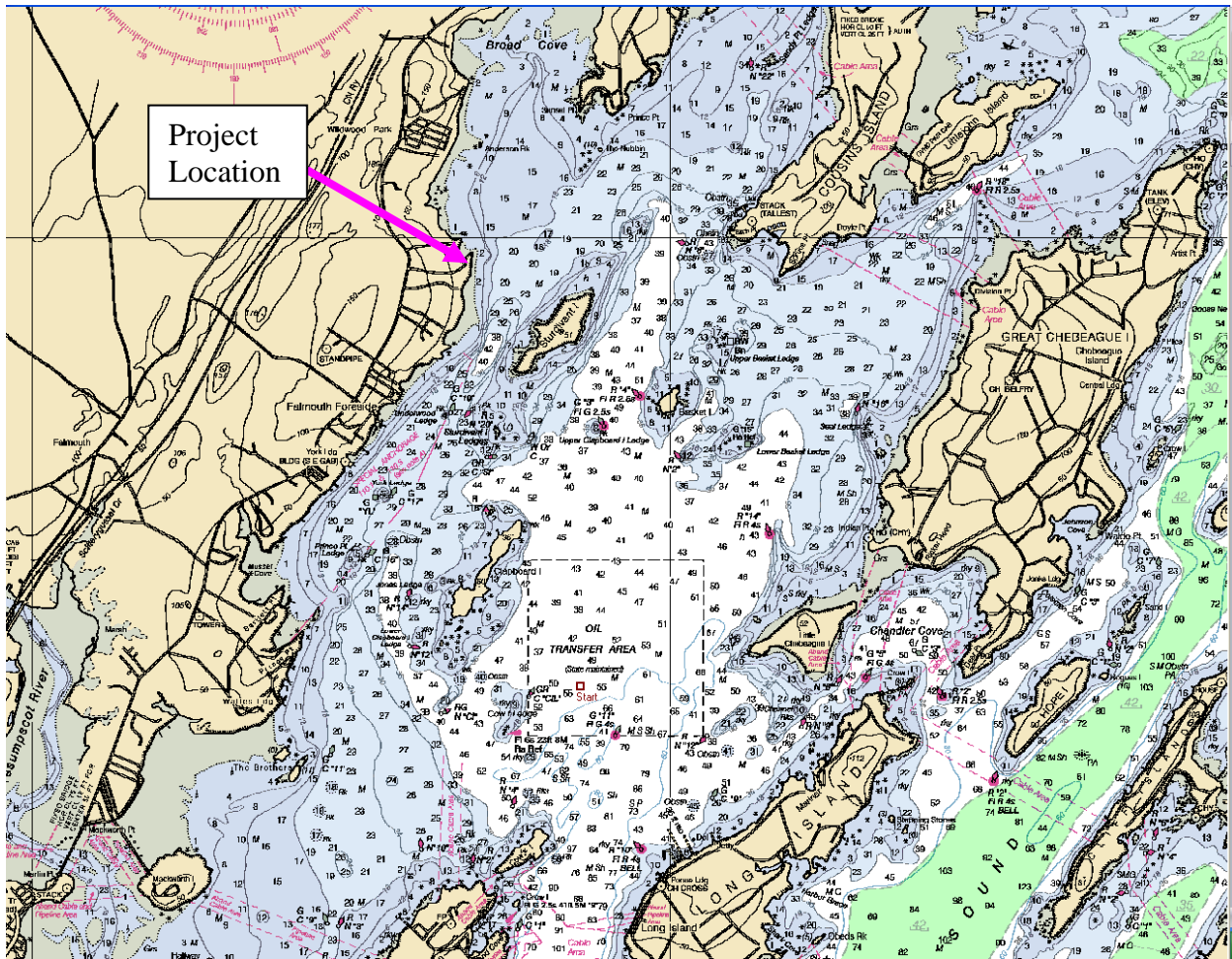


Chart Location and Birds Eye view of property showing existing pier in the off season (the gangway and float are not installed).

Project
Location



View of existing mass concrete structure that is deteriorated and requires replacement.



Existing gangway and intertidal float will be reused and will remain in the same location.

ATTACHMENT 5 Project Plans

Project Plans are located in Appendix D of this document. A separate 8-1/2 x 11 set has been provided to the Army Corps of Engineers in compliance with their submission criteria.

Sheet 1 Site Plan

Sheet 2 Pier Plan and Elevation

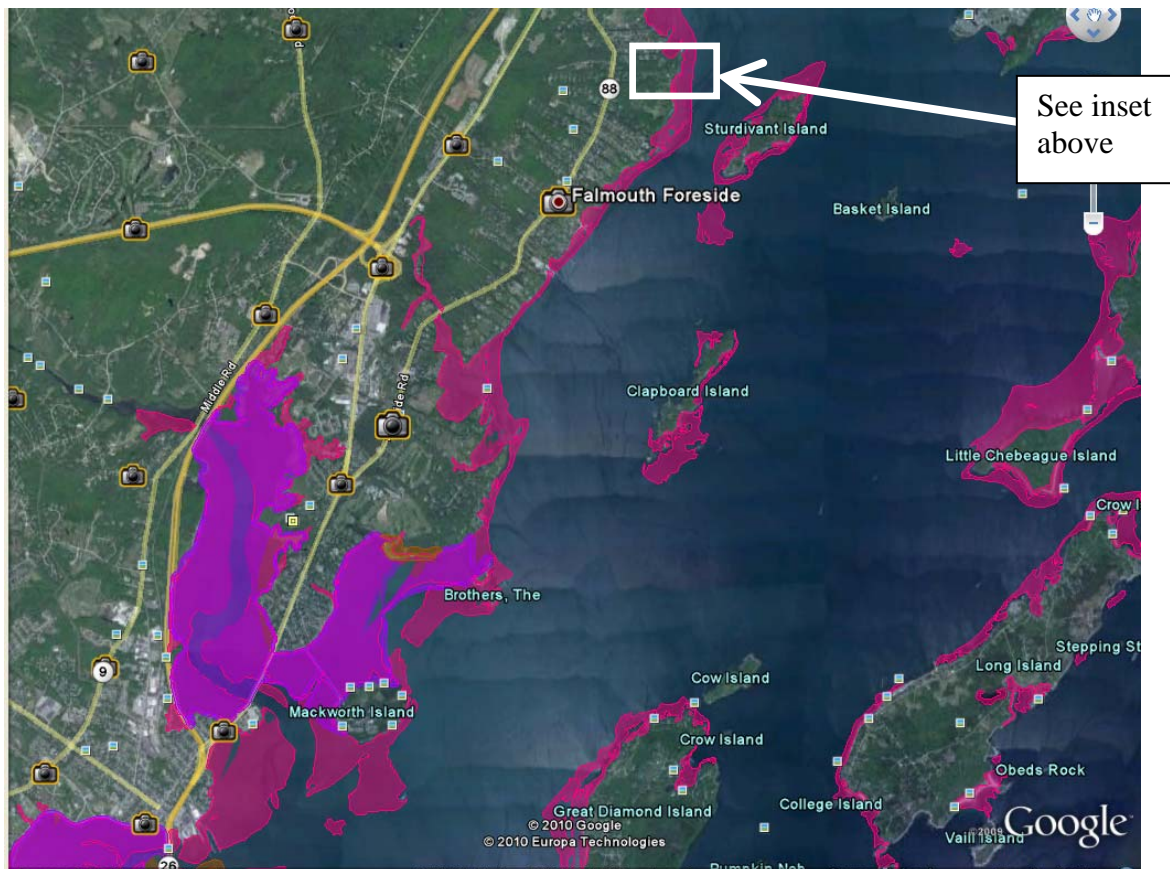
Sheet 3 Typical Sections

ATTACHMENT 6 Additional Plans

The Tidal Waterfowl and Wading Bird Habitat mapping (red overlay) is shown below on the larger scale map along with an inset detail of the Case property. This information was obtained from the DEP website. The existing pier location does not appear to be within the mapped overlay. Feeding areas (purple) and roosting areas (brown) are shown to be approximately 3.4 miles away from the property.

Inset Detail.

(Red area is Tidal Waterfowl and Wading Bird Habitat)



ATTACHMENT 7 Construction Plan

An outline summary of the Construction Plan for the project is provided below.

1. Construction Access

- a. Construction access will be by boat for most pier components and by land for hand railing and finish work.

2. Construction Notices

- a. Abutting property owners will be appraised of the project through the Cumberland Shoreland review process that begins with a site walk and meeting with the Cumberland Coastal Waters Commission.

3. Method of Construction

- a. Elements of the timber pier may be prefabricated off-site to facilitate construction.
- b. Piles will be fastened directly to ledge. When pile bents are completed, superstructure beams/sections will be lifted into place.
- c. The existing float and mooring system will be reused.

4. Construction Schedule.

- a. The pier will be constructed in the fall/winter of 2010/2011 with intended completion and use in summer 2011.
- b.

ATTACHMENT 8 Erosion Control Plan

A goal of the project is to carry out the construction with minimal soil or beach disturbance. The contractor will be required to have on site and comply with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices. Key elements of the Erosion Control Plan are outlined below.

1. **Runoff Control.** Although no soil disturbance is anticipated for this project, if it occurs, hay bales/silt fence will be maintained down slope of any disturbance to trap sediments and silts before they migrate to the resource.
2. **Material Stockpiles.** The project will require small deliveries of timber and decking materials. These will be stockpiled on the existing abutment/landing.

ATTACHMENT 9 Site Conditions Report

A MDEP COASTAL WETLAND CHARACTERIZATION form is provided in Appendix B. Refer to site photographs which start on page 18 and Project Plans that are located in Appendix D of this document.

The site is a moderate to high-energy rocky shore. The intertidal zone is a gravel cobble beach that is approximately 100-ft wide with a variable slope and ledge/boulder outcrops. The upland is developed residential property. The supratidal extends from the cobble ledge beach to a 10-15 feet high-vegetated bank. There are patches of rock weed on the beach. Barnacles and periwinkles are present.

A Map of the Tidal Wading, Feeding and Roosting and Seabird Nesting mapping (taken from the DEP website) is provided in Attachment 6 Additional Plans, located on page 21. The Case property is adjacent to the Coastal Waterfowl/Wading Bird habitat which extends across to the entire Cumberland shoreline. The moderate high energy shorefront in this location is not conducive to a nesting or roosting habitat. The nearest mapped areas are in Falmouth approximately 3.4 miles distant.

ATTACHMENT 10 Notice of Intent to File

PUBLIC NOTICE: NOTICE OF INTENT TO FILE

Please take notice that Carole and Delvyn Case; 18 Ole Musket Road; Cumberland Foreside, ME 04110 are intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A through 480-V on or about August 19, 2010.

The application is for the replacement of an existing mass concrete residential wharf with a pile supported timber pier at the following location: 18 Ole Musket Road, Cumberland.

A request for a public hearing or a request that the Board of Environmental Protection assume jurisdiction over this application must be received by the Department, in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application.

For Federally licensed, permitted, or funded activities in the Coastal Zone, review of this application shall also constitute the State's consistency review in accordance with the Maine Coastal Program pursuant to Section 307 of the federal Coastal Zone Management Act, 16 U.S.C. §1456.

The application will be filed for public inspection at the Department of Environmental Protection's office in Portland during normal working hours. A copy of the application may also be seen at the municipal offices in the Town of Cumberland.

Written public comments may be sent to the Department of Environmental Protection, Bureau of Land and Water Quality, 17 State House Station, Augusta, Maine 04333-0017.

Part II

ATTACHMENT 11 Maine Historic Preservation

The State Office of Maine Historic Preservation is been notified of the proposed replacement pier. Any concerns they have with the replacement pier will be passed on to the Department.

ATTACHMENT 12 Functional Assessment

An existing embankment stair, abutment, mass concrete wharf, gangway and float are currently located on the shorefront of the Case property. The proposed improvements to the site maintain all these features with the exception of the mass concrete wharf which is replaced by a timber pile supported structure. A formal functional assessment has not been conducted, but it is noted that the impact to the resource is significantly reduced with the removal of an existing mass concrete pier and the replacement with a pile supported structure in a similar footprint. The proposed replacement pile supported pier effectively restores approximately 180 SF of intertidal substrate that is comprised of ledge and coarse grained beach material. Refer to the Photographs that begin on page 18.

ATTACHMENT 13 Plan of Proposed Compensation

§ 480-Z. Compensation

The department may establish a program providing for compensation of unavoidable freshwater or coastal wetland losses due to a proposed activity. Compensation must include the restoration, enhancement, creation or preservation of wetlands that have functions or values similar to the wetlands impacted by the activity, unless otherwise approved by the department. Preservation may include protection of uplands adjacent to wetlands.

The relevant section of the statute is provided above. The proposed replacement pier reduces the impact of the facility on existing resources. Therefore, no resource restoration, creation or enhancement is proposed as part of this project.

APPENDIX A MDEP Visual Evaluation Form**FIELD SURVEY CHECKLIST**

(Natural Resources Protection Act, 38 M.R.S.A. §§ 480 A - Z)

Name of applicant: *Carole and Delvyn Case*Phone: *Contact Agent: Baker Design Consultants (207)846-9724*Application Type: *NRPA Individual Permit - Coastal Wetland Structure*Activity Type: *Replacement of an existing mass concrete residential wharf with a pile supported timber pier.*Activity Location: *18 Ole Musket Lane*Town: *Cumberland* County: *Cumberland*GIS Coordinates, if known: *43°74'65"N 70°19'29"W*Date of Survey: *June 2010*Observer: *Barney Baker* Phone: *207 846-9724*

	Distance Between the Proposed Visibility Activity and Resource (in Miles)			
	0-1/4	1/4-1	1+	Notes
1. Would the activity be visible from:				
A. A National Natural Landmark or other outstanding natural feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None Visible
B. A State or National Wildlife Refuge, Sanctuary, or Preserve or a State Game Refuge?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None Visible Nearest would be Maine Audubon (Falmouth) or Gray Animal Farm
C. A state or federal trail?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None Visible
D. A public site or structure listed on the National Register of Historic Places?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None Visible Nearest would be Fort Georges.
E. A National or State Park?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None Visible Nearest would be Eagle Island/Jewel Island
F. 1) A municipal park or public open space?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	None Visible Nearest would be Cousins Isl. Madeleine Point
2) A publicly owned land visited, in part, for the use, observation, enjoyment and appreciation of natural or man-made visual qualities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3) A public resource, such as the Atlantic Ocean, a great pond or a navigable river?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Casco Bay
2. What is the closest estimated distance to a similar activity?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Piers on nearby properties
3. What is the closest distance to a public facility intended for a similar use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Falmouth Town Landing
4. Is the visibility of the activity seasonal? (i.e., screened by summer foliage, but visible during other seasons)		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/>	Gangway & Float seasonal.
5. Are any of the resources checked in question 1 used by the public during the time of year during which the activity will be visible?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

APPENDIX B MDEP Coastal Wetland Characterization:

INTERTIDAL & SHALLOW SUBTIDAL FIELD SURVEY CHECKLIST

Name of applicant: *Carole and Delvyn Case*

Phone: *Contact Agent: Baker Design Consultants (207)846-9724*

Application Type: *NRPA Individual Permit - Coastal Wetland Structure*

Activity Type: *Replacement of an existing mass concrete residential wharf with a pile supported timber pier.*

Activity Location: *18 Ole Musket Lane*

Town: *Cumberland* County: *Cumberland*

ACTIVITY DESCRIPTION: ☐ fill ☒ pier ☐ lobster pound ☐ shoreline stabilization ☐ dredge ☐ other

DATE OF SURVEY: *22Sept 09* OBSERVER: *Barney Baker PE*

TIME OF SURVEY: *8 AM* TIDE AT SURVEY: *low water*

SIZE OF DIRECT and INDIRECT IMPACT OR FOOTPRINT (square feet):

Intertidal Impacts tabulated below. The existing and proposed structures are in a similar footprint and do not extend beyond the mean low water mark.

Project Impact	Unit	Existing Pier Mass Concrete	Proposed Pier Pile Supported	Net Change
Total Footprint Area	SF	319	262	-57
Intertidal Footprint	SF	192	156	-36
Intertidal Contact	SF	192	12	-180
Seaward Projection	LF	34	No Change	0
Gangway (3-ft wide)	LF	40	No Change	0
Float (12 x 20)	SF	240	No Change	0

HABITAT TYPES PRESENT (check all that apply):

☐ sand beach ☒ boulder/cobble beach ☒ sand flat ☒ mixed coarse & fines
☐ salt marsh ☒ ledge ☒ rocky shore ☐ mudflat (sediment depth, if known: _____)

ENERGY: ☐ protected ☐ semi-protected ☐ partially exposed ☒ exposed

DRAINAGE: ☒ drains completely ☐ standing water ☐ pools ☐ stream or channel

SLOPE: ☒ >20% ☒ 10-20% ☐ 5-10% ☐ 0-5% ☐ variable

SHORELINE CHARACTER: ☒ bluff/bank (height. from spring high tide: *20-ft*)

☒ beach ☒ rocky ☒ vegetated

FRESHWATER SOURCES: ☐ stream ☐ river ☐ wetland ☐ stormwater

MARINE ORGANISMS PRESENT:

	absent	occasional	common	abundant
mussels	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
clams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
marine worms	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
rockweed	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
eelgrass	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
lobsters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Barnacles and periwinkles</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SIGNS OF SHORELINE OR INTERTIDAL EROSION? ☐ yes ☒ no

PREVIOUS ALTERATIONS? ☒ yes ☐ no

CURRENT USE OF SITE AND ADJACENT UPLAND:

☐ undeveloped ☒ residential ☐ commercial ☐ degraded ☐ recreational

APPENDIX C Project Description Worksheet for a Dock, Pier or Wharf

Application

THIS IS AN APPLICATION FOR A.....

- ☐ Commercial wharf
If yes, indicate type of commercial activity: _____
License number: _____
Number of fishermen using this wharf: _____
- ☐ Public pier, dock or wharf
☐ Common or shared recreational pier, dock or wharf
☒ Private recreational pier, dock or wharf
☐ Expansion or modification of an existing structure
☐ Other, please indicate: _____

TELL US ABOUT YOUR BOAT....

No change in existing use of the pier. Refer to the Table below.

Type of Boat	Length (ft)	Draft (ft)	Riparian Moorings
Kayak on rack	16	-	1
Dinghy	8	-	
Runabout	19	1.5	

TELL US ABOUT YOUR PROJECT SITE....

For coastal piers and wharves, please complete Appendix B of the NRPA application.
Refer to Appendix B for MDEP Coastal Wetland Characterization.

For freshwater docks, please describe the substrate and any vegetation: NA

SCENIC CONSIDERATIONS...Please complete Appendix A of the NRPA application.
Refer to Appendix A for MDEP Visual Evaluation Form

WHAT FACILITIES ARE NEARBY?

The nearest public boat launch is located in Falmouth Town Landing approximately 2.5 miles from the project location.

The nearest public, commercial, or private marina is located in Maine Yacht Center approximately 5.5 miles from the project location.

There is no change in the existing use of the pier and riparian mooring.

TELL US ABOUT YOUR PROPOSED PIER, DOCK OR WHARF...

MATERIALS:

- ☒ The structure will be supported by pilings. SYP CCA pilings of 8-inch tip diameter.

- ☐ The structure will be supported by stacked, flow-through granite cribs. _____ blocks, measuring _____ feet by _____ feet
- ☐ The structure will be supported by solid fill. _____ square feet of solid fill
- ☐ Other: _____

DIMENSIONS:

Length of fixed section: 34 feet

Width of fixed section: 6 feet Walkway ; Pier Head 9 feet

Length of ramp: 40 feet

Dimensions of float(s): 1- 12 feet wide by 20 feet long

Distance the structure will extend below mean low water (MLW): 0 feet

Depth of water at the fixed end of the structure: Dries at Low Water

Depth of water at the float at low tide: Dries at Low Water

Depth of water at the float at high tide: 8 feet

Dimensions of any proposed buildings (e.g. bait shed): NA

ACCESS: During construction, my project site will be accessed via:

☒ Land ☐ Beach/intertidal area ☒ Water/barge

09028 Case Pier
18 Old Musket Road; Map U02, Lot 20
Cumberland Foreside, Maine

TAB D

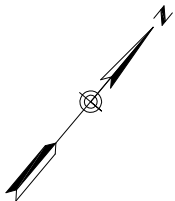
Project Plans

APPENDIX D Project Plans

Sheet 1 Site Plan

Sheet 2 Pier Plan and Elevation

Sheet 3 Typical Sections



NOTE: THE BACKGROUND PHOTOGRAPH IS ORIENTED PERPENDICULAR TO THE EXISTING RC PIER THUS MAKING THE EXISTING FLOAT AND GANGWAY ALIGNMENT LOOK SKEWED. THE PROPOSED FLOAT FOOTPRINT AND LOCATION IS THE SAME AS THE EXISTING ONE.

TIMBER SCHEDULE

Timber Size	Location	% Moisture at Treatment	Treatment		Grading to SPIB	Surface Finishing
Railing						
2 x 4	Backer Support	19%	ACQ	0.6	No. 1	S4S
4 x 4	Posts	25%	ACQ	0.6	No. 1	S4S
5/4 x 6	Top rail	Composite Lumber -"CorrectDeck" or Equal				
2 x 6	Midrail, Lowrail	Composite Lumber -"CorrectDeck" or Equal				
6 X 6	Lifting Frame	Reuse Existing				
Fixed Pier						
10 x 10,	Pile Caps/Posts	25%	CCA	2.5	No. 1	S4S
2 x 6	Planking	Composite Lumber -"CorrectDeck" or Equal				
4 x 8, 4x 10	Beams, Bracing, Blocking	25%	ACQ	0.6	No. 1	S4S

SITE NOTES

- The Contractor shall be governed by the Construction Safety Rules as adopted by the State Board Of Construction Safety, Augusta, Maine.
- The project is subject to the Safety And Health Regulations Of The Occupational Safety And Health Act (OSHA) as promulgated by the US Department Of Labor.
- The site plan is based on measurements taken of the existing pier and photographs of the site.
- All elevations reference NGVD.
- Base flood/tidal information was taken from MEDEP, FEMA and NOAA published data for Cumberland and Portland respectively (NGVD datum).

Elevation	Chart Datum (ft)	NGVD (ft)	Notes
FEMA Base Flood	17.6	13.0	FEMA V2
Highest	14.2	9.6	Based on Portland
Spring Tide Elevation	10.8	6.2	Maine DEP
MHHW	9.9	5.3	Based on Portland
MHW	9.5	4.9	"
Mean Tide Level	4.9	0.3	"
NGVD	4.6	0.0	"
MLW	0.3	-4.2	"
MLLW	0.00	-4.6	"
Lowest	-3.4	-8.0	"

SITE NOTES

- Remove existing stairs and lifting frame and set aside for reuse.
- Demolish existing concrete pier and remove from site.
- Construct new fixed timber pier on posts.
- Connect/attach existing lifting frame, gangway and float.

EROSION CONTROL NOTES

- The contractor will be required to have a copy of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, current edition and will be required to comply with the standards.
- Haybales and or Silt Fence will be maintained downstream of any construction until the slope vegetation has been established.
- Material Stockpile. Material will be stockpiled off site or delivered directly to the site from barge or truck.
- Slopes that require vegetation shall be immediately dressed with topsoil, seeded, and protected with erosion control mat and staples.

PROPERTY INFORMATION

OWNER: Map U2 Lot 20
Carol & Delvyn Case
18 Ole Musket Road
Cumberland Foreside, Maine 04079

ZONING: Low Density Residential
Shoreland Zoning

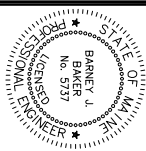
SETBACKS: No change from existing



BAKER DESIGN CONSULTANTS
Civil, Marine, and Structural Engineering

11 Stony Brook Lane Yarmouth, Maine 04096 Tel: (207) 846-9724 Fax: (207) 846-3620

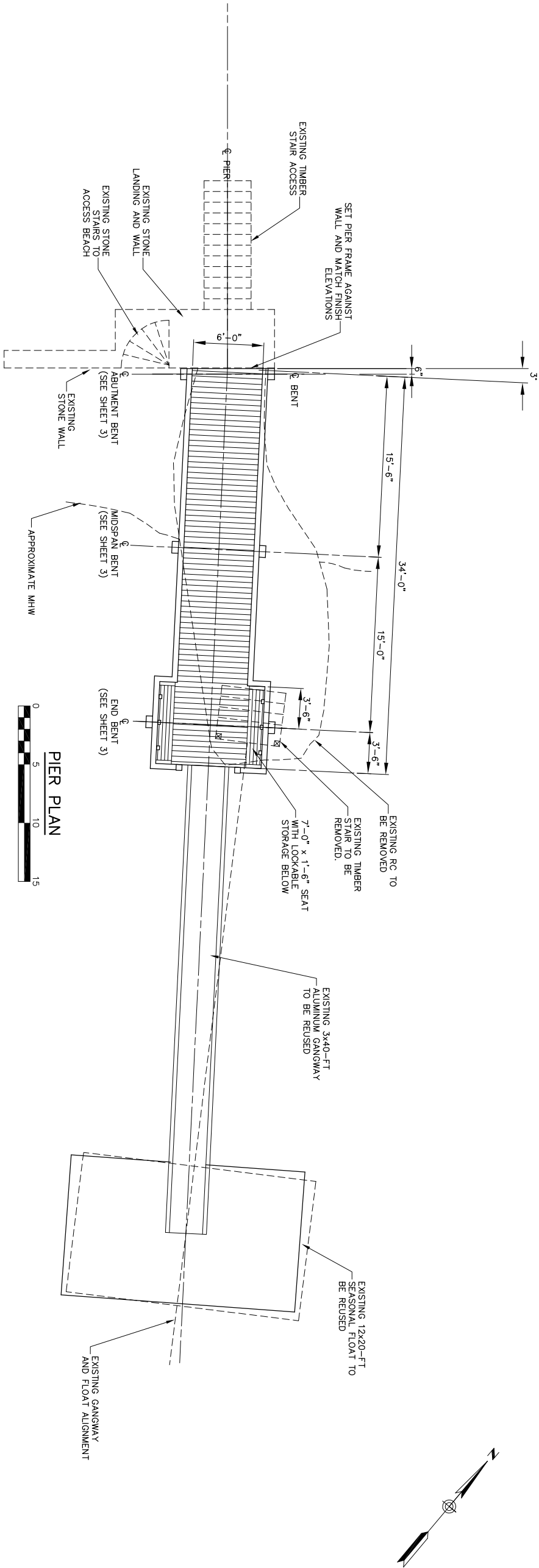
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2	Stair Landing Connection	2.10.10	BJB	
1	DESIGN REVIEW	1.06.10	BJB	
NO.	SUBMISSION	DATE	INT.	



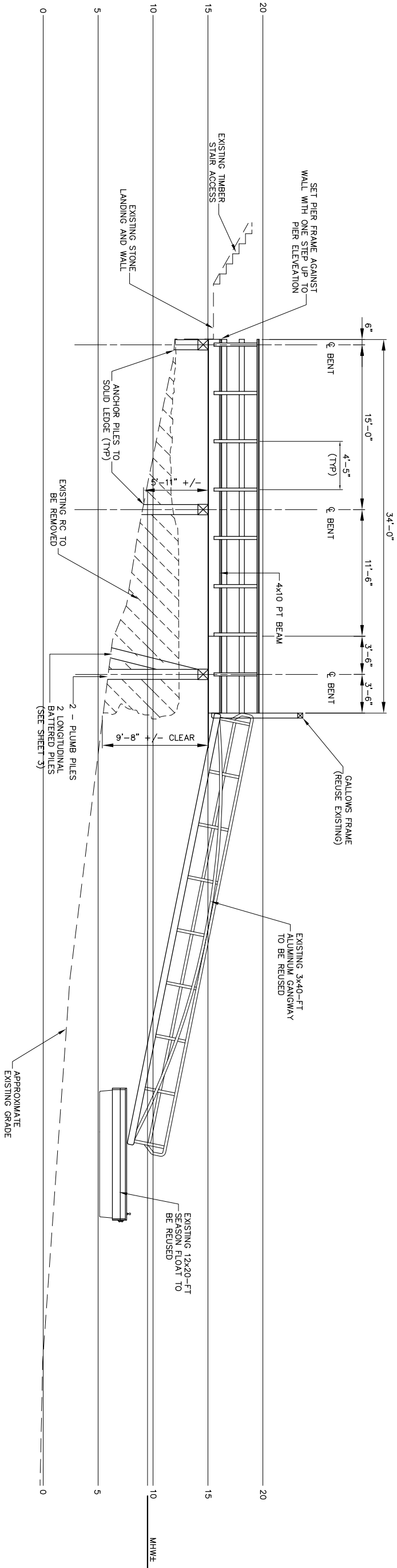
DESIGNED BY:	BJB
DRAWN BY:	MSH
CHECKED BY:	BJB
SCALE:	AS SHOWN

SHEET TITLE:		18 OLE MUSKET ROAD	
PROJECT:		CASE PIER REPLACEMENT	
		CUMBERLAND FORESIDE, MAINE	

DATE	12/29/09
CONTRACT NO.	09028
SHEET NO.	1
REV.	



PIER PLAN



PIER ELEVATION



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3	Permit Set	8.1.10	BJB	
2	Stair Landing update	2.10.10	BJB	
1	DESIGN REVIEW	1.06.09	BJB	
NO.	SUBMISSION	DATE	INT.	



DESIGNED BY:	BJB
DRAWN BY:	MSH
CHECKED BY:	BJB
SCALE:	AS SHOWN

SHEET TITLE:	
PIER PLAN AND ELEVATION	
PROJECT:	
18 OLE MUSKET ROAD	
CASE PIER REPLACEMENT	
CUMBERLAND FORESIDE, MAINE	

DATE	12/29/09
CONTRACT NO.	09028
SHEET NO.	2
REV.	

