

## **TidGen® Single Turbine System**

### **Cobscook Bay, Maine Test Site Permits Overview**

ORPC worked with federal and state entities to gain required permits and approvals that allowed for short term, non-grid connected testing of the TidGen Single Turbine System (STS) at ORPC's established test site in Cobscook Bay, Maine. A list of the required permits and approvals garnered for project testing as well as notifications relayed to local area stakeholders prior to the start of testing are summarized below. Copies of referenced approvals/notifications are attached.

- **U.S. Army Corps of Engineers (USACE) Individual Permit** – This permit allows for in-water work to occur within a navigable waterway as well as water-based renewable energy generation project testing. This permit was issued in accordance with Section 10 of the Rivers and Harbors Act (see attached).
- **Maine Department of Environmental Protection (Maine DEP) – Natural Resource Protection Act (NRPA) Permit** – This permit allows for ORPC's continued use of the bottom support frame (that has been in place since 2012) as well as marine device testing from the bottom support frame. This permit was issued in accordance with the Maine NRPA program as well as the provisions of Section 401 of the Clean Water Act (see attached).
- **State of Maine Department of Agriculture, Conservation & Forestry - Submerged Lands Lease** – This allows for ORPC's ongoing use of state submerged lands and the continued location of the bottom support frame at the test site. This lease was established in accordance with Title 12 M.R.S.A. Sections 1802, 1803 (1)(B) & 1862 and renewed to accommodate for testing at the site (see attached).
- **U.S. Coast Guard (USCG) Mariners Notices** – Throughout the duration of the project, ORPC coordinated with the USCG to ensure that Mariners Notices were issued to communicate work timing and extent to area mariners (see example attached). ORPC also met in-person with the local Eastport USCG Station personnel prior to initiating on-water work.
- **City of Eastport, Maine Communications** – Although the City of Eastport did not require permits for the test project, ORPC did communicate often with the City and hosted a public Community Coffee Event in March 2023 to provide an informational and question/answer session for community members prior to the initiation of STS test efforts. An advertisement for the event was published in the local newspaper, The Quoddy Tides (see attached). ORPC also communicated project efforts and timing with the local Maine Department of Marine Resources Marine Patrol Officer and the local Maine Sea Grant Program. These points of contact are on the water often and communicate with local fishermen and other local water users.

**USACE Individual 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

Nathan Johnson
ORPC Maine, LLC
254 Commercial St., Suite 119B
Portland, Maine 04101

CORPS PERMIT # NAE-2012-350-M1
CORPS GPs #3 & #13
STATE ID# L-25468-4E-B-N
BPL-SLL# 2267A-L-25

DESCRIPTION OF WORK:

Temporarily deploy and test Turbine Generator Units from an existing bottom support structure in Cobscook Bay at Eastport/Lubec, Maine as shown on the attached plans titled

Table with 3 columns: SHEET TITLE, DRAWN DATE, ENG APPR. DATE. Rows include: FERC PERMIT 12711 COBSCOOK BAY TIDAL ENERGY PROJECT, SINGLE TURBINE MOORED TO BSF, TIDGEN80 MOORED TO BOTTOM SUPPORT FRAME, TD80 - BSF MOORING, BARGE TO BSF MOORING STRING, BARGE MOORING STRING.

LAT/LONG COORDINATES: 44.909959° N -67.045934° W USGS QUAD: EASTPORT, 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 Federal Permit, the Maine General Permits (GPs) which can be found at: https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit/

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 GPs, including the GPs conditions beginning on page 5, to familiarize yourself with its contents. You are responsible for complying with all of the GPs 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 45 of the GPs (page 19) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the GPs on October 14, 2025. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 14, 2026.

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 [ X ], DENIED [ ] DATE 09/01/2022

APPLICATION TYPE: PBR: \_\_\_\_, TIER 1: \_\_\_\_, TIER 2: \_\_\_\_, TIER 3: X, NRPA: X LURC: \_\_\_\_ BPL LEASE: X NA: \_\_\_\_

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: \_\_\_\_\_ LEVEL OF REVIEW: SVN: \_\_\_\_\_ PCN: X

AUTHORITY (Based on a review of plans and/or State/Federal applications): SEC 10 X, 404 \_\_\_\_\_ 10/404 \_\_\_\_\_, 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 https://regulatory.ops.usace.army.mil/customer-service-survey/

SHAWN B. MAHANEY
Digitally signed by SHAWN B. MAHANEY
Date: 2022.12.09 13:12:56 -05'00'

SHAWN B. MAHANEY
SENIOR PROJECT MANAGER
MAINE PROJECT OFFICE

SHAWN B. MAHANEY
Digitally signed by SHAWN B. MAHANEY
Date: 2022.12.09 13:15:58 -05'00'
9 December 2022

For: FRANK J. DELGIUDICE
CHIEF, PERMITS & ENFORCEMENT BRANCH
REGULATORY DIVISION



US Army Corps  
of Engineers®  
New England District

PLEASE NOTE THE FOLLOWING GENERAL AND SPECIAL CONDITIONS FOR  
DEPARTMENT OF THE ARMY  
MAINE GENERAL PERMIT #3 & #13  
PERMIT NO. NAE-2012-350-M1

**GENERAL CONDITIONS**

**3. Other Permits.** Permittees shall obtain other Federal, State, or local authorizations as required by law. Permittees are responsible for applying for and obtaining all required State of Maine or local approvals including a Flood Hazard Development Permit issued by the town/city. Work that is not regulated by the State of Maine, but is subject to Corps jurisdiction, may still be eligible for authorization under these GPs.

**11. Navigation.** a. There shall be no unreasonable interference with general navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. b. Work in, over, under, or within a distance of three times the authorized depth of an FNP shall specifically comply with GC 10. c. Any safety lights and/or signals prescribed by the U.S. Coast Guard, State of Maine or municipality, through regulations or otherwise, shall be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S. d. The permittee understands and agrees that, if future operations by the U.S. 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, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

**31. Storage of Seasonal Structures.** Seasonal or recreational structures such as pier sections, floats, aquaculture structures, etc. that are removed from the waterway for a portion of the year shall be stored in an upland location and not in wetlands, tidal wetlands, their substrate, or on mudflats. These seasonal structures may be stored on the fixed, pile-supported portion of a structure that is waterward of the mean high water mark or the ordinary high water mark, e.g. the storage of a ramp or gangway on the pile-supported pier. Seasonal storage of structures in navigable waters, e.g., in a protected cove, requires prior Corps approval and local harbormaster approval.

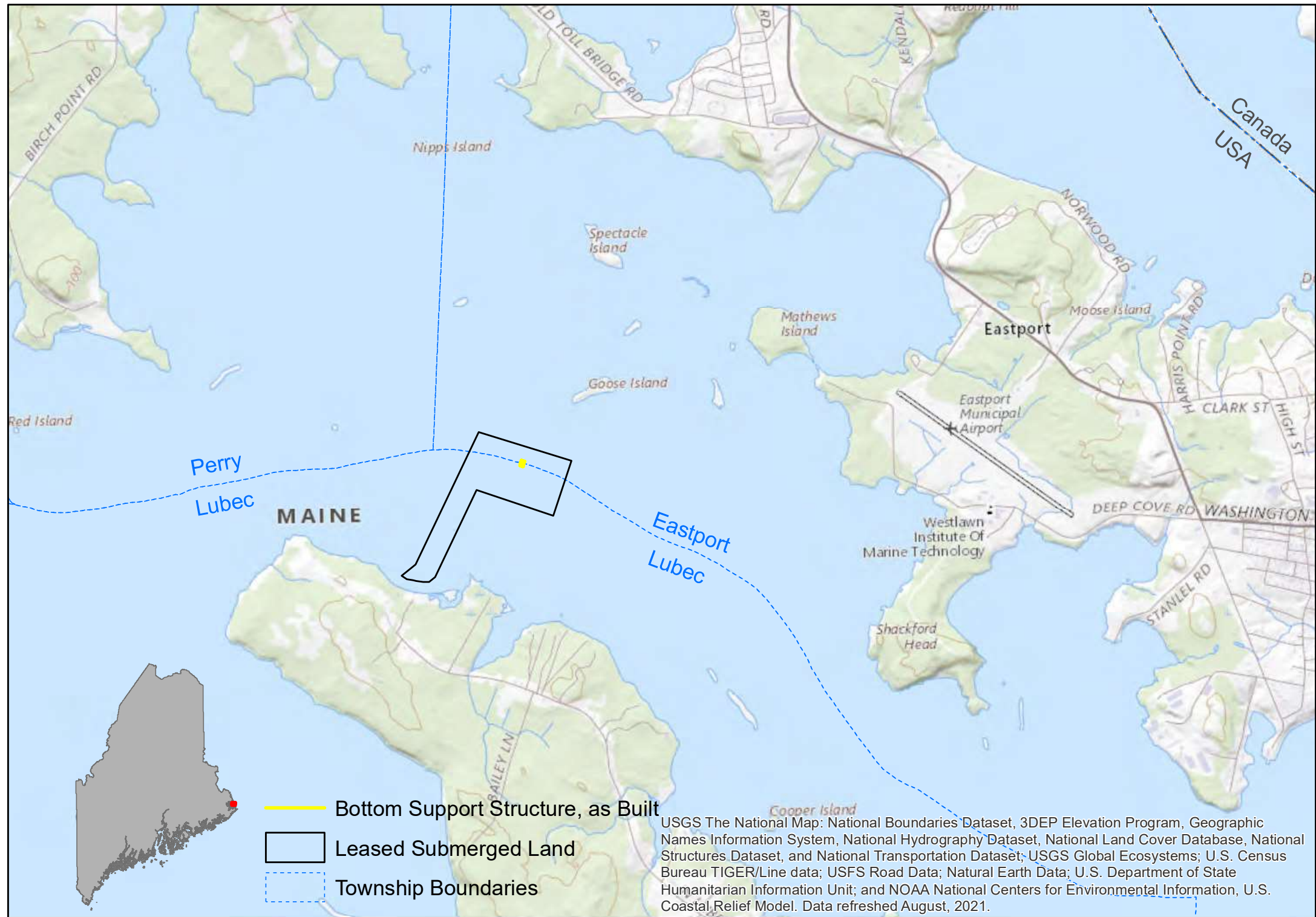
**33. Permit(s)/Authorization Letter On-Site.** The permittee shall ensure that a copy of the terms and conditions of these GPs and any accompanying authorization letter with attached plans are at the site of the work authorized by these GPs whenever work is being performed and that all construction personnel performing work which may affect waters of the U.S. are fully aware of the accompanying terms and conditions. The entire permit authorization shall be made a part of any and all contracts and subcontracts for work that affects areas of Corps jurisdiction at the site of the work authorized by these GPs. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means all terms and conditions of the GPs, the GPs, and the authorization letter (including its drawings, plans, appendices and other attachments) and subsequent permit modifications as applicable. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or subcontract. Although the permittee may assign various aspects of the work to different contractors or subcontractors, all contractors and subcontractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire GP authorization,

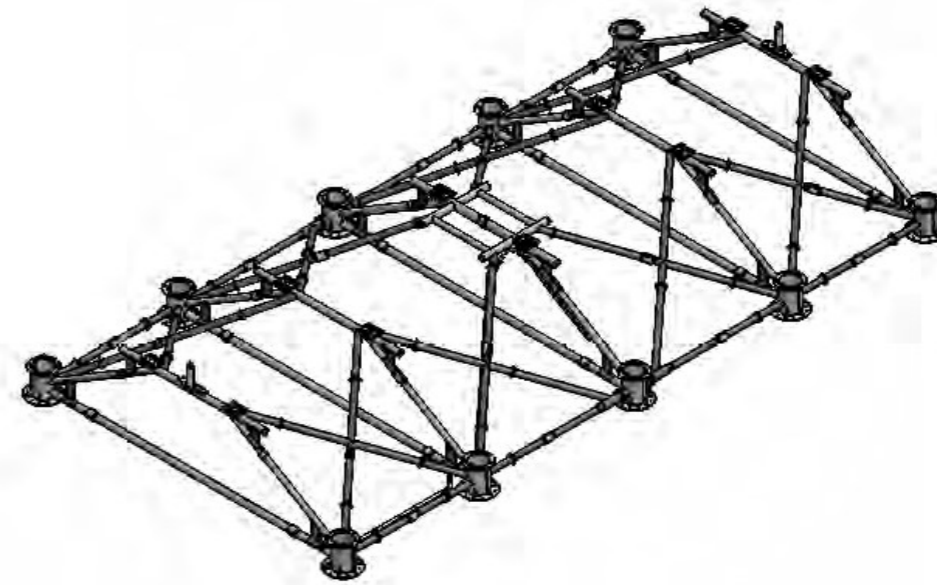
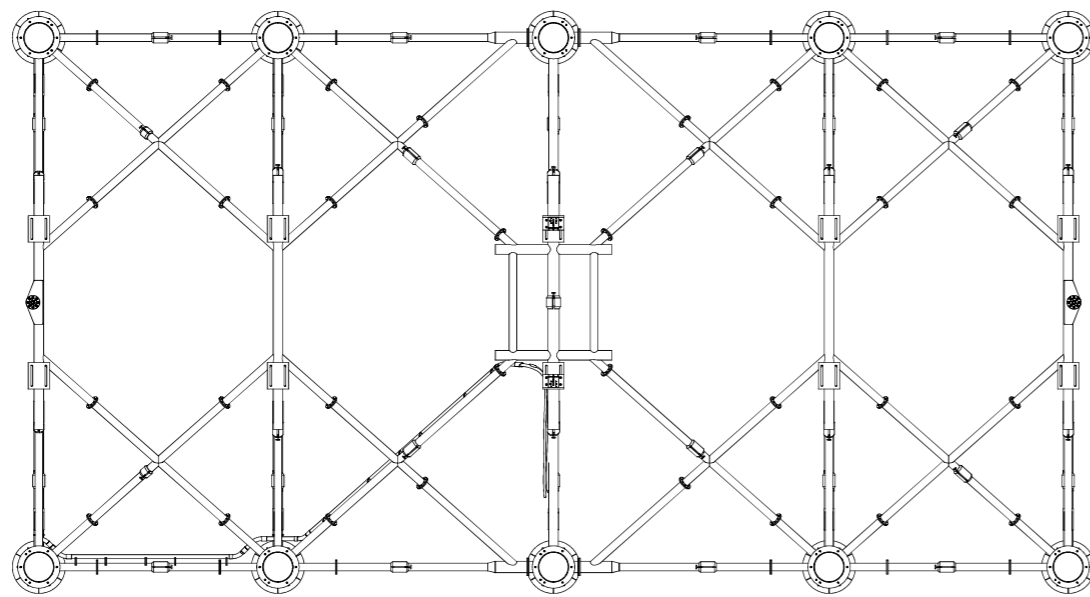
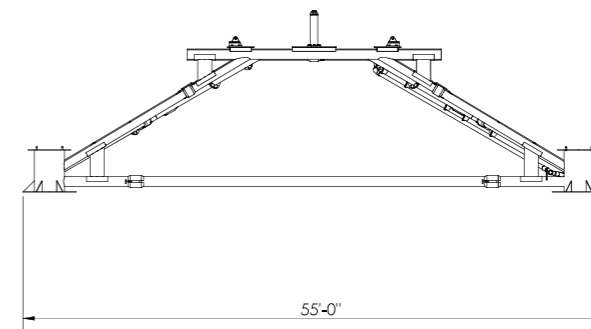
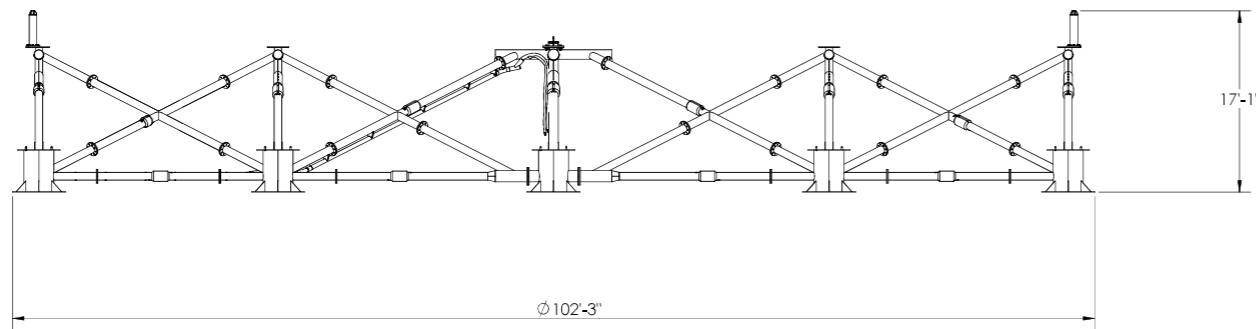
**34. Inspections.** The permittee shall allow the Corps to make periodic inspections at any time deemed necessary in order to ensure that the work is eligible for authorization under these GPs, is being, or has been performed in accordance with the terms and conditions of these GPs. To facilitate these inspections, the permittee shall complete and return to the Corps the Work-Start Notification Form and the Compliance Certification Form when either is provided with an authorization letter. **These forms are attached after the plans.**

**SPECIAL CONDITIONS**

1. No additional structures (such as but not limited to, ramps, floats, pier additions, buildings on the pier) are authorized without written approval from the Corps.
2. The permittee is required to mark the structures and place boundary markers around the lease area in accordance with appropriate US Coast Guard Regulations and to contact 1st Coast Guard District, Aids to Navigation Office at 617-223-8347.
3. If not previously done, the exact location of the bottom support structure shall be sent by the permittee to the National Ocean Survey (NOS), Department of Commerce, NOAA; National Ocean Service, Nautical Data Branch; N/CS26; 1315 East-West Highway; Silver Spring, MD 20910; or email: ocs.ndb@noaa.gov. The submittal to NOS shall be marked with the words "Permit No. NAE-2022-02000.
4. The First Coast Guard District, Local Notice to Mariners Office, (617) 223-8356, and Aids to Navigation Office, (617) 223-8347, or email: D01-SMB-LNM@USCG.MIL, shall be notified at least ten working days in advance of the intended start date of the location and estimated duration of the tidal generator units installation.
5. The U.S. Coast Guard, Sector Northern New England, Waterways Management Section, (207) 347-5026, shall be notified at least ten working days in advance of the intended start date of the location and estimated duration of the tidal generator units installation.

# ORPC Bottom Support Structure Location in Cobscook Bay, ME.






# Bottom Support Frame

## SUBASSEMBLY DETAIL

DO NOT RELEASE:  
THIS DOCUMENT CONTAINS CRITICAL  
ENERGY INFRASTRUCTURE INFORMATION

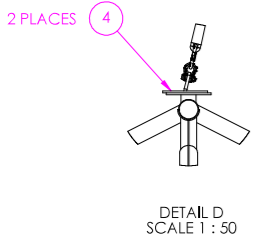
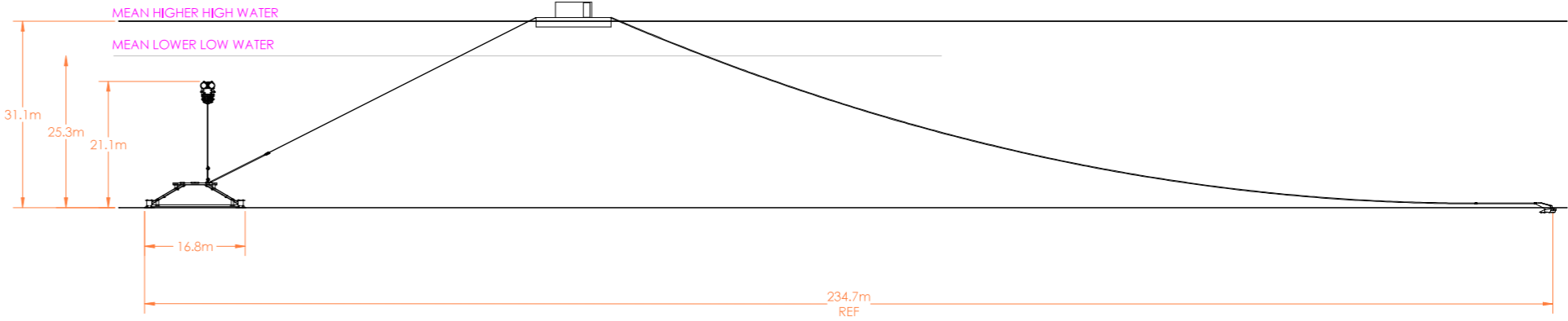
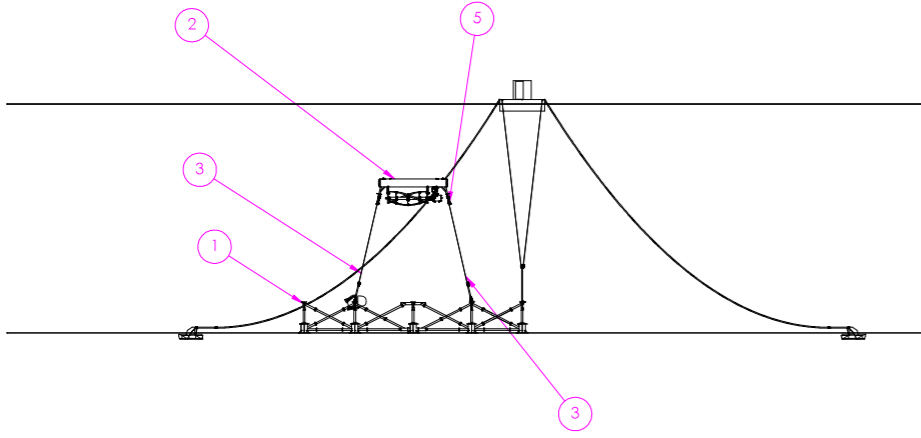
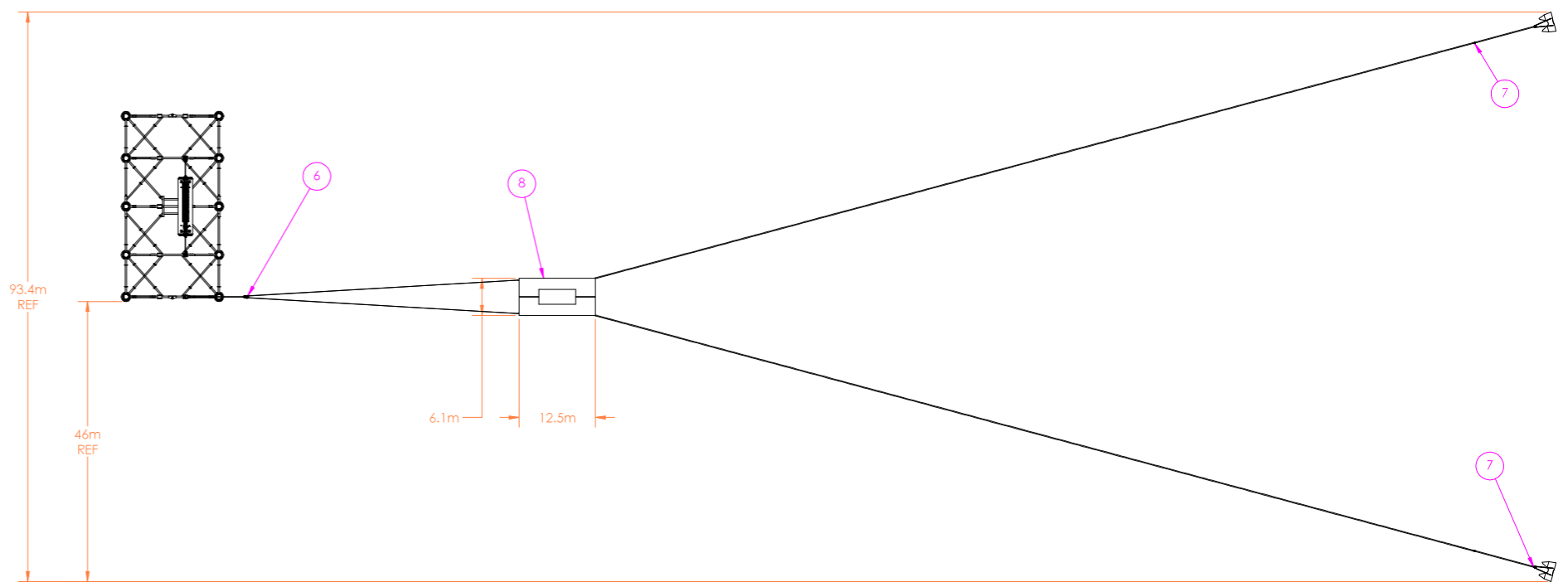
EXHIBIT F-4			
FERC PERMIT 12711 COBSCOOK BAY TIDAL ENERGY PROJECT			
DRAWING TITLE: Bottom Support Frame Subassembly Detail			
		<b>OCEAN RENEWABLE POWER COMPANY</b> <small>120 EXCHANGE ST., SUITE 50, PORTLAND, ME 04101</small>	
<small>DRAWN BY:</small> JAH	<small>DATE:</small> 9/4/2012	<small>SCALE:</small> 1/30	<small>DIMENSIONS IN FEET AND INCHES</small>
<small>DATE:</small>	<small>SCALE:</small>	<small>DWG:</small>	<small>REV:</small> 0



ITEM NO.	PART NUMBER	DESCRIPTION	QTY.	MATERIAL
1	RBC1110-1115	BOTTOM SUPPORT FRAME	1	VARIOUS
2	M-TD80-11466	SINGLE TURBINE MASTER	1	VARIOUS
3	A-TD80-11467	TD80 - BSF MOORING	2	VARIOUS
4	A-TD80-11623	BSF PAD EYE	2	ASTM A36
5	V0215-1019631	1.5IN SAFETY SHACKLE - G-2130 17TWLL	2	PLAIN CARBON STEEL
6	A-TD80-11812	BARGE TO BSF MOORING STRING	1	VARIOUS
7	A-TD80-11813	BARGE MOORING STRING	2	VARIOUS
8	N/A	BARGE STATION PLATFORM MODEL	1	N/A
9	A-TD80-11867	BARGE TO BSF PADEYE	1	VARIOUS

NOT FOR FABRICATION

NOTE:  
1) SYSTEM SHOWN DEPLOYED AT HIGH SLACK WATER.  
2) UNITS IN METERS [FEET & INCHES]



REV.	DESCRIPTION	DATE	APP
B		07/22/2022	ACK
A	RELEASED FOR PERMITTING	06/27/2022	JM

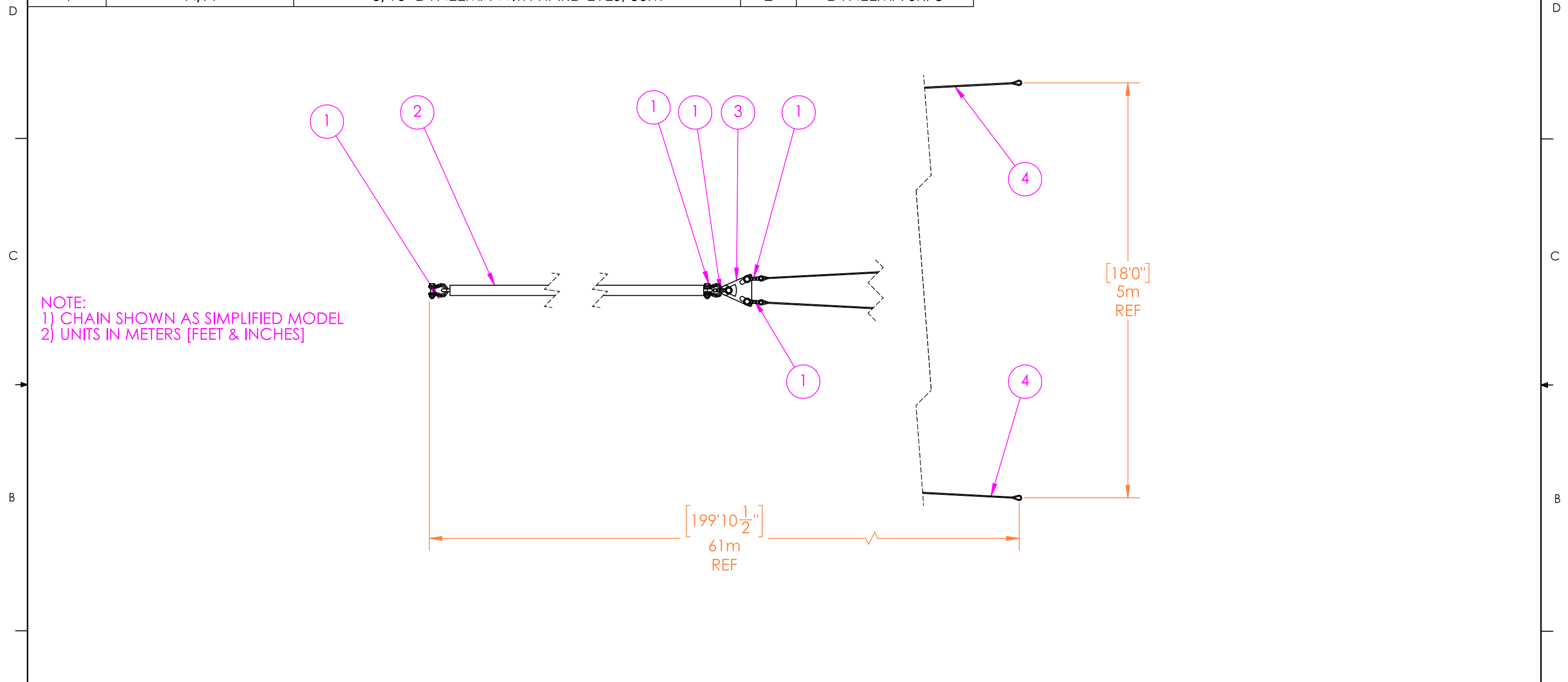
UNLESS OTHERWISE SPECIFIED: LINE DIMENSIONS ARE IN MM MASS DIMENSIONS ARE IN KG TOLERANCES: ANGULAR: ±1° XX: ±1 XXX: ±0.5	NAME: HCH DATE: 12/20/2021 ENG APPR: JM DATE: 6/27/2022	254 COMMERCIAL ST. SUITE 1119 PORTLAND, ME 04101 USA (207) 772-7707
PROPRIETARY AND CONFIDENTIAL This drawing represents details and design features as elements of a design prepared by and for Ocean Renewable Power Company, Inc. (ORPC). ORPC, its subsidiaries, and its affiliates own all rights in and to this drawing, design, and design and are not to be used by any person, unless prior written consent is obtained. This plan is to be returned upon completion of said work.	TITLE: SINGLE TURBINE MOORED TO BSF	SCALE: 1:500
MATERIAL: VARIOUS	SIZE: D	DWG. NO.: A-TD80-11468
	SCALE: 1:500	SHEET 1 OF 1
		MODEL/DWG






ITEM NO.	PART NUMBER	DESCRIPTION	QTY.	MATERIAL
1	V0215-1019631	1.5IN SAFETY SHACKLE - G-2130 17TWLL	5	PLAIN CARBON STEEL
2	N/A	34MM STUDLINK R3 CHAIN 10M	1	R4 CARBON STEEL
3	N/A	MARQUIP NO.1 TOWING TRIPLATE	1	CAST ALLOY STEEL
4	N/A	5/16" DYNEEMA WITH HARD EYES, 50M	2	DYNEEMA SK78

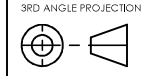
NOT FOR FABRICATION



NOTE:  
 1) CHAIN SHOWN AS SIMPLIFIED MODEL  
 2) UNITS IN METERS [FEET & INCHES]

UNLESS OTHERWISE SPECIFIED: LINEAR DIMENSIONS ARE IN MM MASS UNITS ARE IN KG TOLERANCES: ANGULAR: ±1° X: ±3 X.X: ±1 X.XX: ±0.5 WEIGHT [KG] 1267 MATERIAL VARIOUS	NAME	DATE	 254 COMMERCIAL ST. SUITE 119B PORTLAND, ME 04101 USA (207) 772-7707
	DRAWN	NCH	
	ENG APPR.	ACK	7/22/2022
	PROPRIETARY AND CONFIDENTIAL This drawing represents details and design features as elements of a design prepared by and for <b>Ocean Renewable Power Company, Inc.</b> (ORPC). ORPC retains exclusive ownership of the drawing, details and designs and are not to be used by any person, unless prior written consent is obtained. This plan is to be returned upon completion of said work.		
	TITLE:		
	BARGE TO BSF MOORING STRING		
	SIZE	DWG. NO.	REV
	B	A-TD80-11812	A/A
	SCALE: 1:50	SHEET 1 OF 1	MODEL/DWG

REV.	DESCRIPTION	DATE	APP
A	RELEASED FOR PERMITTING	07/22/2022	ACK
REVISIONS			



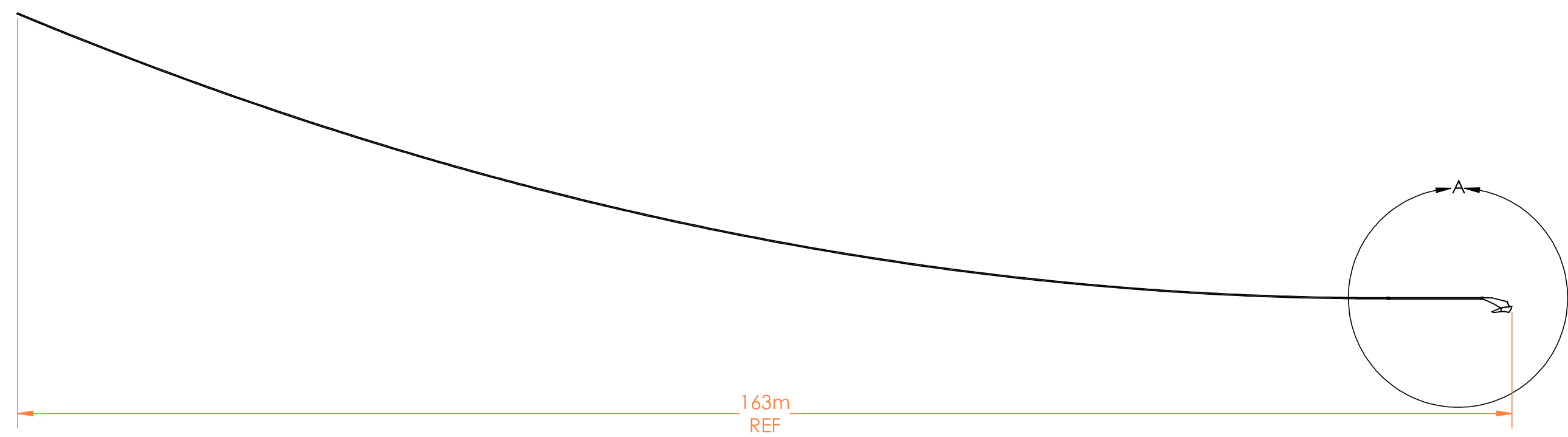
DO NOT SCALE DRAWING

ITEM NO.	PART NUMBER	DESCRIPTION	QTY.	MATERIAL
1	V0215-1019631	1.5IN SAFETY SHACKLE - G-2130 17TWLL	2	PLAIN CARBON STEEL
2	N/A	32MM STUDLINK R3 CHAIN 155M, OPEN LINK BOTH ENDS	1	R4 CARBON STEEL
3	N/A	34MM STUDLINK R3 CHAIN 10M	1	R4 CARBON STEEL
4	V0205-MK6-500KG	STEVPRIS MK6 500KG	1	STEEL


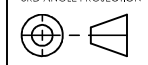
NOT FOR FABRICATION



DETAIL A  
SCALE 1 : 100



163m  
REF

UNLESS OTHERWISE SPECIFIED: LINEAR DIMENSIONS ARE IN MM MASS UNITS ARE IN KG <b>TOLERANCES:</b> ANGULAR: ±1° X: ±3 X.X: ±1 X.XX: ±0.5 WEIGHT [KG] 19434 MATERIAL VARIOUS	NAME	DATE	 254 COMMERCIAL ST. SUITE 119B PORTLAND, ME 04101 USA (207) 772-7707	
	DRAWN	NCH		7/22/2022
	ENG APPR.	ACK	7/22/2022	TITLE: <b>BARGE MOORING STRING</b>
	PROPRIETARY AND CONFIDENTIAL This drawing represents details and design features as elements of a design prepared by and for <b>Ocean Renewable Power Company, Inc.</b> (ORPC). ORPC retains exclusive ownership of the drawing, details and designs and are not to be used by any person, unless prior written consent is obtained. This plan is to be returned upon completion of said work.			
3RD ANGLE PROJECTION 	DO NOT SCALE DRAWING	SCALE: 1:1500	DWG. NO. <b>A-TD80-11813</b>	
		SHEET 1 OF 1	REV <b>A/A</b>	

REV.	DESCRIPTION	DATE	APP
A	RELEASED FOR PERMITTING	07/22/2022	ACK
REVISIONS			

# **Maine DEP NRPA Permit**



DEPARTMENT ORDER

IN THE MATTER OF

ORPC MAINE LLC	) NATURAL RESOURCES PROTECTION ACT
Eastport and Lubec, Washington County	) COASTAL WETLAND ALTERATION
TIDAL POWER TEST SITE	) WATER QUALITY CERTIFICATION
L-25468-4E-B-N (approval)	) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S. §§ 480-A–480-JJ, Section 401 of the Clean Water Act (33 U.S.C. § 1341), and Chapters 310 and 315 of Department rules, the Department of Environmental Protection has considered the application of ORPC MAINE LLC with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: In Department Order #L-25468-35-A-N, dated January 31, 2012, the Department approved a Tidal Power Demonstration General Permit for the construction and operation of five turbine generator units (TGU), submerged cables for generated power and data collection to a shore station located on North Lubec Road in the Town of Lubec. The TGUs were approximately 98 feet long by 17 feet wide and 17 feet high, and were mounted approximately 15 feet off the sea floor with steel piles driven into the bottom. Only a single TGU was installed which has been removed. The bottom support structure is still in place. As part of the approval of the Tidal Power Demonstration General Permit, the Department approved 196 square feet of impact to the coastal wetland to install the bottom support structure (BSS). The project is located in Cobscook Bay

B. Summary: Department Order #L-25468-35-A-N expired on January 31, 2022. The Tidal Power Demonstration General permit requires the licensee to remove the project upon expiration of the permit. With the exception of the BSS, all components of the tidal power project have been removed, including the TGU, the shore station, power cables, and data cables. The applicant proposes to retain the BSS to be used for testing next generation tidal energy devices. The BSS is approximately 102 feet long, 55 feet wide and 17 feet tall. It is held in place, off the bottom of the seafloor, by ten 19.6-foot-diameter piles, resulting in 196 square feet of direct impact to the coastal wetland. The applicant propose to test a buoyancy pod and chassis with a single turbine device. The buoyancy pod will be in place for 28 days. It will be tethered to the BSS and data cables will attach to a barge. The barge will be moored in place using the BSS and two additional moorings. This testing is scheduled to take place in the fall of 2022. During the fall 2023, the applicant proposes to test a full-scale model which will consist of a buoyance pod, chassis, four turbines, two generators, and two mechanical brakes. This unit will be tethered to the BSS and the data cables will be connected to a barge which

will be moored using the same moorings as the first test. Finally, the applicant proposes to test other marine hydrokinetic devices in the future as the technology develops.

C. Current Use of the Site: The site is the area previously occupied by the Cobscook Bay Tidal Energy project. It is located between Seward Neck and Goose Island in the towns of Lubec and Eastport.

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

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

In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses* (06-096 C.M.R. ch. 315, effective June 29, 2003), the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site.

The proposed project is located in Cobscook 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 only portion of the project which is visible are four Private Aids to Navigation buoys marking the corners of the leased area.

The Department determined that based on the nature of the proposed project and its location, there are no existing recreational or navigational uses of the resource that would be unreasonably impacted.

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

3. SOIL EROSION:

The NRPA, in 38 M.R.S. § 480-D(2), requires the applicant to demonstrate that the proposed project will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

The applicant does not propose to disturb any soil for this project.

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 NRPA, in 38 M.R.S. § 480-D(3), requires the applicant to demonstrate that the proposed project will not unreasonably harm significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

The project area contains cobble and gravel which have been colonized with benthic organisms. During the initial permitting of the Cobscook Bay Tidal Energy Project there was an extensive review of this location by both Federal and State natural resource agencies. The continued use of the BSS is not expected to cause any additional habitat impacts.

According to the Department's Geographic Information System (GIS) database there are no mapped Essential or Significant Wildlife Habitats located at the site.

In its review, the Department of Marine Resources (DMR) stated there are minimal to no impacts to scallop and lobster fisheries, shellfish and diadromous fish species expected.

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 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 applicant proposes to retain the BSS which results in 196 square feet of impact to the coastal wetland for the marine hydrokinetic test facility. Coastal wetlands are wetlands of special significance (WOSS).

The *Wetlands and Waterbodies Protection Rules*, 06-096 C.M.R. ch. 310 (last amended November 11, 2018), interpret and elaborate on the Natural Resources Protection Act (NRPA) criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. A proposed project would generally be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment. Each application for a NRPA permit that involves a coastal wetland alteration must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

A. Avoidance. An applicant must submit an analysis of whether there is a practicable alternative to the project that would be less damaging to the environment and this analysis is considered by the Department in its assessment of the reasonableness of any impacts. Additionally, for activities proposed in, on, or over wetlands of special significance the activity must be among the types listed in Chapter 310, § 5(A) or a practicable alternative less damaging to the environment is considered to exist and the impact is unreasonable. The proposed project is a water dependent use and its proposed construction is among the activities specifically provided for in Chapter 310, § 5(A)(1)(c). The applicant submitted an alternatives analysis for the proposed project completed by the applicant and dated July 28, 2022. The purpose of the project is to provide the applicant with a facility to test marine hydrokinetic energy devices. The applicant's alternatives analysis examined four alternatives, including retaining the existing BSS. The other alternatives include removing the existing BSS and replacing it with alternative anchors which would impact additional bottom habitat; a second alternative would be to remove the BSS and replace it with a smaller one. This would also cause additional impacts. Finally, the applicant evaluated the no action alternative, which is to remove the BSS, but this would not meet the project purpose. The applicant concluded that there is no alternative that would completely avoid impacts to the coastal wetland and still meet the project purpose.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, an applicant must demonstrate that the amount of coastal wetland to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project. The bottom support frame is currently in place. The applicant has minimized impacts to the resource by only attaching cables to tether TGU's while they are being tested. No additional alterations to the structure or the coastal wetland will be required to test new turbine technologies.

C. Compensation. In accordance with Chapter 310, § 5(C)(6)(b), compensation may be required to achieve the goal of no net loss of coastal wetland functions and values. This 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. For these reasons, the Department determined that compensation is not required.

The Department finds that the applicant has avoided and minimized coastal wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

## 7. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the marine environment, will not interfere with the natural flow of any surface or subsurface waters, and will not cause or increase flooding. The proposed project is not located in a



coastal sand dune system, is not a crossing of an outstanding river segment, and does not involve dredge spoils disposal or the transport of dredge spoils by water.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A–480-JJ and Section 401 of the Clean Water Act (33 U.S.C. § 1341):

- 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.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S. § 480-P.

THEREFORE, the Department APPROVES the above noted application of ORPC MAINE LLC to continue to use the bottom support structure as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that its activities or those of its 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.

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

DONE AND DATED IN AUGUSTA, MAINE, THIS 1<sup>ST</sup> DAY OF SEPTEMBER 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:   
For: Melanie Loyzim, Commissioner

**FILED**  
September 1<sup>st</sup>, 2022  
State of Maine  
Board of Environmental Protection

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

JB/L25468BN/ATS#89879



## Natural Resources Protection Act (NRPA) Standard Conditions

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THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. §§ 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. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



# DEP INFORMATION SHEET

## Appealing a Department Licensing Decision

**Dated: August 2021**

**Contact: (207) 314-1458**

### **SUMMARY**

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

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

### **I. ADMINISTRATIVE APPEALS TO THE BOARD**

#### **LEGAL REFERENCES**

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

#### **DEADLINE TO SUBMIT AN APPEAL TO THE BOARD**

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

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

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

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

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

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

### **REQUIRED APPEAL CONTENTS**

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

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

### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee runs the risk of the decision being reversed or modified as a result of the appeal.

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

The Board will acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

## **II. JUDICIAL APPEALS**

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see [38 M.R.S. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

## **ADDITIONAL INFORMATION**

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov), or for judicial appeals contact the court clerk's office in which the appeal will be filed.

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**Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. The DEP provides this information sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.**

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# **State of Maine Submerged Lands Lease**





STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
BUREAU OF PARKS & LANDS  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

JANET T. MILLS  
GOVERNOR

AMANDA E. BEAL  
COMMISSIONER

November 7, 2022

Attn: Katie Sellers Reynolds  
ORPC Maine, LLC  
254 Commercial Street, Suite 119B  
Portland, ME 04101

RE: Submerged Lands Lease No. 2267A-L-25

Dear Katie:

Enclosed please find a fully executed copy of the lease referenced above for the bottom support framework on submerged lands in Cobscook Bay. Thank you for your patience during this process.

If you have any questions, please feel free to contact me at (207) 287-6128 or by email to [Karen.L.Foust@maine.gov](mailto:Karen.L.Foust@maine.gov). Thank you.

Sincerely,

Karen Foust  
Submerged Lands Program

enc: lease

ANDREW R CUTKO, DIRECTOR  
BUREAU OF PARKS & LANDS  
18 ELKINS LANE, HARLOW BUILDING



PHONE: (207) 287-3821  
FAX: (207) 287-6170  
WWW.MAINE.GOV/DACF/

**STATE OF MAINE**  
**SUBMERGED LANDS LEASE**

**No. 2267A-L-25**

*This SUBMERGED LANDS LEASE (hereinafter Lease) conveys certain limited rights in the submerged lands held by the State of Maine in trust for the public. It is not an environmental permit for the use of these lands.*

This Lease is entered into by the Bureau of Parks and Lands (hereinafter Lessor), an agency of the State of Maine Department of Agriculture, Conservation and Forestry by its Director acting pursuant to the provisions of Title 12 M.R.S.A. Sections 1802, 1803(1)(B) & 1862, and **ORPC MAINE, LLC** (hereinafter Lessee) of **254 COMMERCIAL STREET, SUITE 119B, PORTLAND, ME 04101**. Lessor hereby leases to Lessee, on the terms and conditions hereinafter set forth, the following described submerged land (hereinafter leased premises) situated in Washington County, Maine, to wit:

A certain parcel of public submerged land located in Cobscook Bay, Town of **Lubec**, Maine, totaling 44 acres +/-, located at 44.910242 Lat -67.044556 Lon as further described in Attachments A, B and C which are hereby incorporated into this Lease.

1. **TERM.** This lease shall commence on October 27, 2022 and continue to December 31, 2025.
2. **USE.** Lessee is hereby authorized to use leased premises for the purposes of a bottom support framework for continued research and testing of potential tidal energy devices as authorized in the Bureau of Parks and Lands Final Findings and Decisions dated and December 1, 2020 and October 26, 2022 that are based on Submerged Lands Application Number SL2862 and SL2582-R and for no other purposes.
3. **OTHER USES.** Lessor reserves the rights of the general public to transitory fishing, fowling, recreation, navigation, and other traditional uses of leased premises, and the right of Lessor to make such other uses of leased premises, including by way of example and without limitation, the right to permit pipes to be laid thereunder or telephone wires to be maintained thereover, as shall not unreasonably interfere with Lessee's use and enjoyment of leased premises for the purposes stated in Paragraph 2 above.
4. **REGULATORY PERMITS.** Lessee shall be responsible for obtaining any and all permits required by any agency of the United States, the State of Maine, or any political subdivision thereof, having jurisdiction over the activities on the submerged lands contemplated by this Lease. Lessee's compliance with such permits and conditions thereof shall be a requirement of this Lease for all purposes including, without limitation, for purposes of defining the extent and purpose of any alteration or use of in, on, under, or over leased premises. Unless all required permits authorizing the uses contemplated hereby are issued prior to the expiration of the calendar year next following the creation of this leasehold, this Lease shall be void. In the event that any agency of the United States, the State of Maine, or any political subdivision thereof, denies or disapproves any portion of any application by Lessee for the use of leased premises or any portion thereof, this Lease shall be void as to the denied or disapproved use as of the date of such denial or disapproval. Rental payments made by Lessee for such denied or disapproved use may, upon proper request, be refunded or equitably adjusted, subject to a service charge. Failure by Lessee to abide by, or conform to, the terms and conditions of any such permit shall be an event of default hereunder.
5. **ASSIGNMENT OR SUBLEASING.** All rights leased herein by Lessor may be assigned or sublet by Lessee with the prior written consent of Lessor. Such assignment shall not be unreasonably withheld under then applicable laws, regulations, and public trust principles. Notwithstanding any such assignment or sublease,

Lessee shall be and remain liable for compliance with the terms and conditions of this lease unless released by Lessor in writing.

6. **RENTAL.** Annual rental shall be payable hereunder throughout the term hereof as follows, except that rental shall be no less than the minimum amount established by law:

\$4,400 per year.

Rental is payable on or before the first day of February each year throughout the term hereof, except as may be adjusted from time to time in accordance with Paragraph 7 below. Payment is to be made to the Bureau of Parks and Lands, 22 State House Station, Augusta, Maine 04333. Checks are to be made payable to the Treasurer, State of Maine.

7. **RENTAL ADJUSTMENT.** Lessor may adjust the rental from time to time as necessary to conform with its regulations and laws as they may be amended, but Lessor may not adjust rental for five years from the commencement date of this Lease. Subsequent adjustments may not be made more frequently than once every five years. Lessor shall give Lessee at least 120 days notice of such adjustment. In the event Lessee is unwilling to accept such adjustment, Lessee may terminate the Lease and vacate the premises within 120 days of Lessor's notice of adjustment.

8. **TAXES.** Lessee shall pay when due all taxes, charges, assessments and other impositions levied by any governmental entity upon the structures and improvements on leased premises or any operations or activities thereon.

9. **INDEMNITY.** Lessee shall defend, or cause to be defended, and indemnify and hold Lessor, its employees and agents, harmless from and against any and all manner of claims, suits, expenses, damages or causes of action arising out of, in whole or in part, the use or occupancy of leased premises by Lessee, its agents, contractors, employees, guests, invitees, permittees and sublessees.

10. **MAINTENANCE.** Lessee, at Lessee's expense, shall keep leased premises free of garbage, refuse, and other discarded material and shall maintain all improvements upon leased premises in good condition and repair.

11. **GENERAL RESTRICTIONS.** No nuisance shall be permitted on leased premises. No minerals, including, without limitation, sand and gravel, shall be removed from leased premises, and no rock, earth, ballast or other material shall be deposited upon leased premises, without the prior written consent of Lessor.

12. **CASUALTY REPLACEMENT.** In the event that the improvements and structures placed on leased premises are substantially destroyed by fire or other casualty, and Lessee does not, within two years following such casualty, rebuild or replace the affected improvements and structures, Lessor may cancel this Lease upon thirty (30) days notice to Lessee. Such rebuilding or replacement shall not be undertaken by Lessee without the prior written approval of Lessor.

13. **DEFAULT.** The following shall be deemed to be events of default hereunder:

- A. Failure of Lessee to pay when due any rent payable hereunder;
- B. Failure of Lessee to comply with any other provision of this Lease.
- C. A transfer by Lessee in fraud of creditors, or petition initiated by Lessee or adjudgment of Lessee as bankrupt or insolvent in any proceedings;
- D. Appointment of a receiver or trustee for all, or substantially all, assets of Lessee; or



E. Abandonment by Lessee of any portion of leased premises.

Upon becoming aware of the occurrence of any such event of default, Lessor shall notify Lessee in writing. Except as otherwise provided in this paragraph, Lessee must cure any default within thirty (30) days of notice of same. Regarding section 13.B only, if a default occurs and Lessee has satisfied to Lessor that the nature of the default is such that it cannot be cured within thirty (30) days, Lessee shall promptly notify Lessor in writing of the circumstances that exist that require additional time to cure, and cause said default to be cured within the additional amount of time as determined by Lessor. If the default has not been cured within 30 days of Lessor's notice, or within the additional time period granted by Lessor when Lessee is unable to cure the default within 30 days, Lessor may, in addition to, and not instead of, any other remedies available at law or in equity, terminate this Lease without additional notice or demand to Lessee and enter onto and take possession of the leased premises. Lessee shall be liable to Lessor for all rent due hereunder and any loss and expenses incurred by Lessor by reason of any default or termination.

**14. ENTRY.** Lessor, its agents and representatives shall have access to leased premises and all improvements and structures thereon at all times for the purpose of inspecting and securing compliance with the terms and conditions of this Lease, and for all other lawful purposes.

**15. NOTICE.** Any notice required or permitted under this Lease shall be deemed to have been given when actually delivered, or when deposited in the United States mail, first class postage prepaid, addressed as follows: *To Lessor:* Bureau of Parks and Lands, 22 State House Station, Augusta, Maine 04333, ATTN: Submerged Lands Program. *To Lessee:* at the address given below by Lessee, or at such other address as Lessee may have theretofore specified by written notice actually received and placed of record with Lessor.

**16. ALTERATION.** Lessee shall make no alteration to leased premises, and shall place no improvements or structures in, on, or over leased premises except as specifically described in Paragraph 2 of this Lease, without Lessor's prior written consent.

**17. IMPROVEMENTS.** Upon the expiration, cancellation, or termination of this Lease, regardless of the reason therefore, Lessee shall have ninety (90) days to remove his property. Lessor, at its discretion, shall become owner of all improvements and structures upon leased premises not so removed. Lessor may, at its option, require Lessee to remove all such improvements and structures at Lessee's expense, and to restore leased premises to the condition in which they existed prior to the placement of any improvements or structures thereon.

**18. OTHER APPLICABLE LAWS AND RULES.** This Lease is subject to cancellation by an Act of the Legislature. This lease is issued in accordance with the Bureau of Parks and Lands Chapter 53 Submerged Lands Rules in effect on the effective date of this lease.

**19. ABANDONMENT.** Structures as described under section 2 of this Lease shall be placed on the leased premises within two (2) years of the issuance of this Lease. Once installed, such structures shall be used and maintained for their intended purpose. Failure of the Lessee to install the structures within this time frame or to use and maintain the leased premises shall be deemed an abandonment. Upon determining that the leased premises or a portion thereof have been abandoned, the Lessor at its option may terminate this lease as to the entire leased premises, or as to such portion as has not been so used or maintained, in accordance with the default provisions of Section 13.

**20. MISCELLANEOUS.** This Lease shall be binding upon, and shall inure to the benefit of, Lessor and Lessee and their respective successors, assigns and legal representatives. Failure of either party to complain of any act or omission on the part of the other, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. A waiver by either party at any time, express or implied, of any breach of any provision of this Lease shall not be deemed a waiver of, or consent to, any subsequent breach of the same or any other provision. Lessee may not file this Lease of record, or cause or permit the same, without

Lessor's prior written consent. Lessor makes no warranty of Lessee's leasehold estate, and in the event of any lawful ejectment of Lessee, Lessor shall refund to Lessee any rentals paid to Lessor for any period of Lease term then remaining. Lessee shall comply with all applicable laws, regulations and ordinances of governmental entities having jurisdiction over leased premises. The Final Findings and Decision dated October 26, 2022 are incorporated by reference into this Lease. This Lease contains the entire agreement of the parties and may not be modified except by a writing subscribed by both parties.

**21. GENERAL RIGHT TO TERMINATE.** Lessee shall have the right to terminate this Lease by notifying Lessor at least thirty (30) days prior to termination date. In terminating, Lessee agrees to vacate leased premises and remove all structures and personal property of Lessee located thereon, unless other arrangements have been made, with prior approval of Lessor, to transfer ownership or otherwise dispose of same. Rental payments made by Lessee for such terminated use may, upon proper request, be equitably adjusted, subject to a service charge.

**22. EXTINGUISHMENT OF CONSTRUCTIVE EASEMENT.** Lessee hereby relinquishes any and all rights to leased premises, or any portion thereof that may have been formerly held by constructive easement under Title 12 M.R.S.A. Sections 1802, 1803(1)(B) & 1862, or otherwise.

**23. REPLACEMENT.** This Lease hereby cancels and replaces Submerged Lands Lease No. 2267-L-25 issued to ORPC Maine that commenced on January 1, 2021.

Accepted and agreed to on

November 2, 2022

  
(Lessee Signature)

Nathan Johnson

(Print Name)

Vice President - Development

(Title)

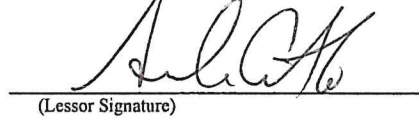
ORPC

(Address of Record)

254 Commercial St., Suite 119B

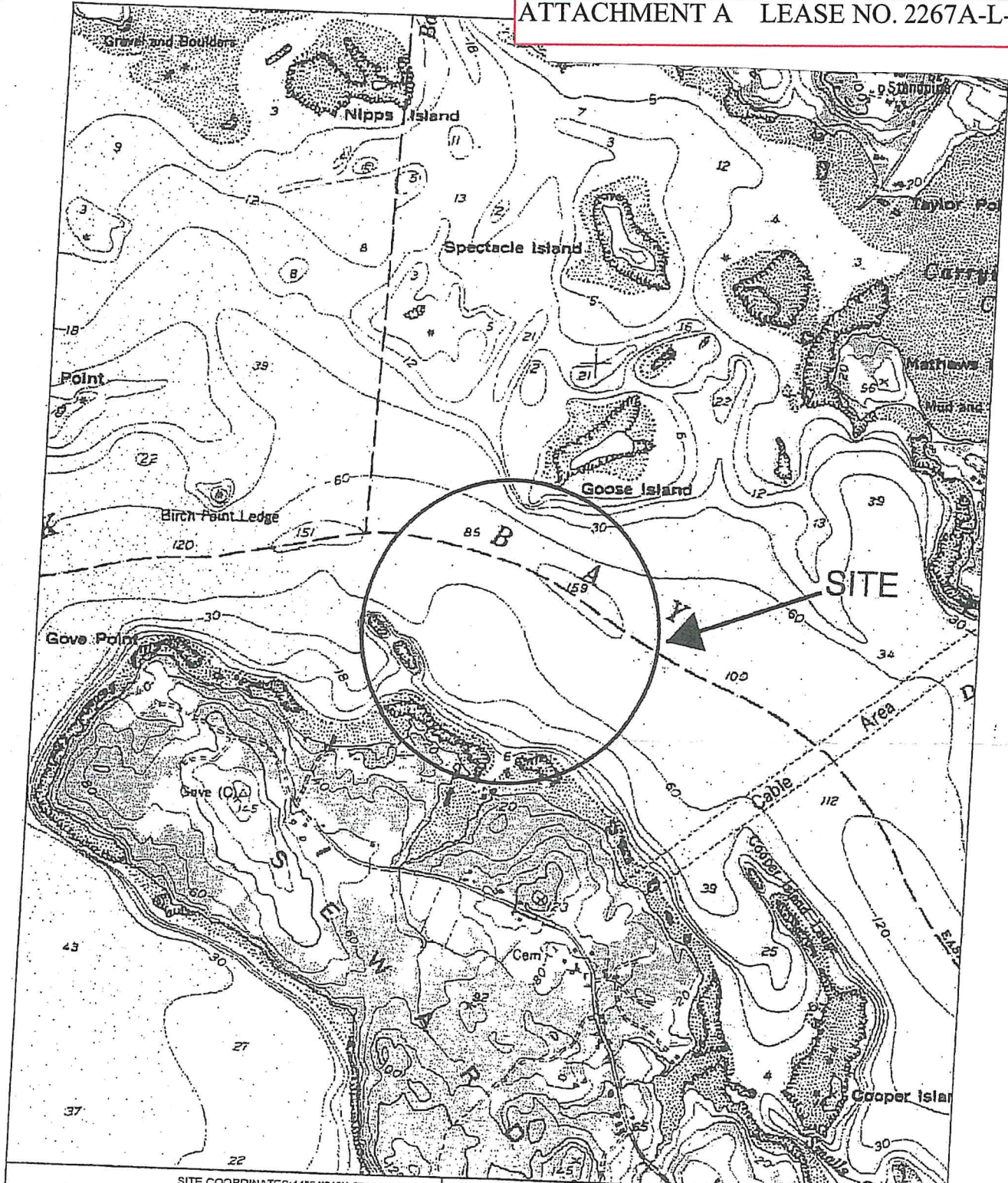
Portland, ME 04101

Nov 4, 2022

  
(Lessor Signature)

Andrew R. Cutko  
Director, Bureau of Parks & Lands  
Department of Agriculture, Conservation & Forestry  
State of Maine



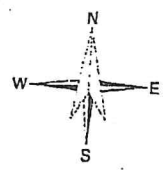


SITE COORDINATES: 44°54'31"N 67°24'1"W

**HALEY & ALDRICH**

PROPOSED COBSCOOK BAY TIDGEN PROJECT  
EASTPORT AND LUBEC, MAINE

PROJECT LOCUS



U.S.G.S. QUADRANGLE: EASTPORT (DIGITAL), ME

SCALE: 1:24,000  
JUNE 2011

37690-000 1.PDF

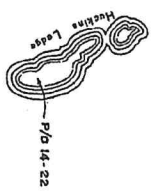
LEGEND  
PARCEL NUMBER  
ADJACENT MAPS  
MATCH LINE

MISSING LOTS: 10 & 19

11

12

S  
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B  
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Y

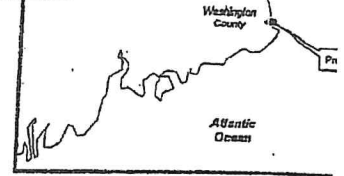


Approximate Site

PROPERTY MAP  
TOWN OF LUBEC  
WASHINGTON COUNTY, MAINE  
JAMES W. EDWALL COMPANY  
SCALE: 1 INCH = 500 FEET  
APRIL, 1958



Goose Island

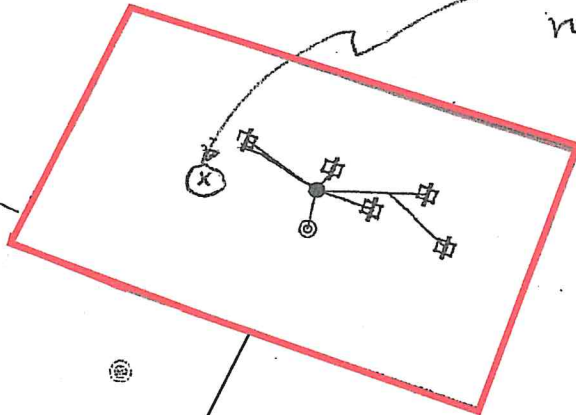


N: 16,322,500  
E: 2,145,000



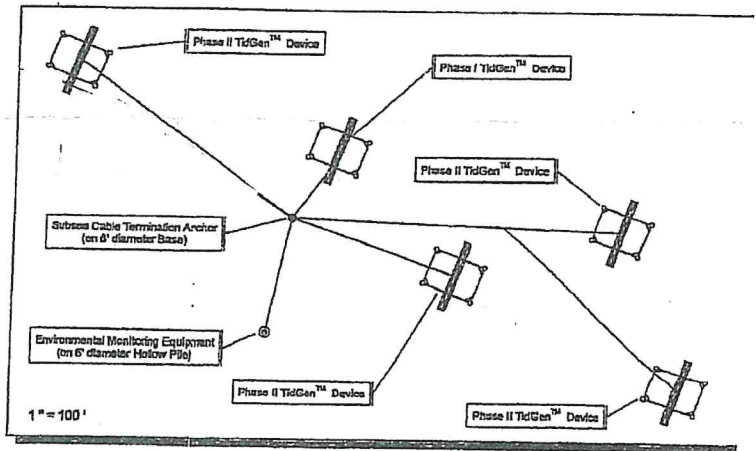
Approximate location of rock pin anchors.

Underwater Activity Exclusion Zone



COBSCOOK BAY

1,300 feet



1" = 100'

PRELIMINARY FOR REVIEW ONLY

EXHIBIT G-1

SHE

PROJECT BOUNDARY MAP  
COBSCOOK BAY TIDAL ENERGY PROJECT  
FERC Project No. 12711

COBSCOOK BAY, WASHINGTON COUNTY, MAINE

OCEAN RENEWABLE POWER COMPANY  
120 EXCHANGE ST., SUITE 508, PORTLAND, MAINE

DATE: AUGUST 2011

SCALE: AS NOTED APPR:

N: 16,317,500  
E: 2,147,500



North Lubec

North Lubec Road

## **USCG Mariners Notice Example**

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## SECTION VII - GENERAL

This section contains information of general concern to the Mariners. Mariners are advised to use caution while transiting these areas.

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### MAINE GENERAL NOTICES

Information for Mariners using the Waterways of the State of Maine.

#### ME-EASTPORT-COBSCOOK BAY

ORPC, will be conducting tidal energy conversion testing, in Cobscook Bay, in position 44-54-35.884N, 067-02-39.951W, 24 hours a day, seven days a week, until September 15, 2023. Equipment on scene will be a surface barge and an underwater device, monitoring VHF-FM CH 10, for any concerned traffic. Mariners are advised to use caution and transit at slow speed to minimize wake when transiting the area.

LNM: 30/23

#### ME-KENNEBEC RIVER-LONG ISLAND

There is an abandoned sailboat aground in the Kennebec River, south of Bath, off the northwest side of Long Island, in the approximate position of 43-46.20N, 069-46.869W, in the vicinity of Kennebec River Lighted Buoy 8. Mariners are advised to use caution when transiting the area and to contact Coast Guard Sector Northern New England Command Center, on VHF FM CH 16 with any navigational, hazardous concerns.



**City of Eastport Community Coffee Event**  
**Newspaper Advertisement**



# ORPC COMMUNITY COFFEE

**TUESDAY, MARCH 14, 9-10:30AM**

**WELCOME CENTER, EPA, 141 WATER ST., EASTPORT**

Coffee and treats

Q&A

Learn about ORPC's upcoming  
activities in Cobscook Bay

For more information,  
call Bob Lewis at 233-1256



[www.orpc.co](http://www.orpc.co)

IMPROVING PEOPLE'S LIVES, AND THEIR ENVIRONMENT,  
THROUGH SUSTAINABLE ENERGY SOLUTIONS