PUBLIC NOTICE

US Army Corps of Engineers ® New England District 696 Virginia Road Concord, MA 01742-2751

Comment Period Begins: 25 June 2013 Comment Period Ends: 26 July 2013

File Number: NAE 2006-1350

In Reply Refer To: Mr. Brian E. Valiton

Phone: (978) 318-8166

E-mail: brian.e.valiton@usace.army.mil

The District Engineer has received a permit application to conduct work in waters of the United States as described below.

APPLICANT: Earl's Marina, Inc., 56 Goulart Memorial Drive, Fairhaven, Massachusetts 02719

ACTIVITY: To perform new work, including both improvement and maintenance dredging with upland disposal, and installing new structures including a new floating breakwater and 10 new commercial moorings as well as establishing a reconfiguration perimeter/zone at the marina within which docks can be re-arranged and new piles driven. This is also to seek authorization to retain structures and fill and a boat ramp placed in aquatic resource areas previously without appropriate Corps authorization including pile-supported docks, mooring piles, 65 commercial moorings, and an existing commercial scalloping facility on pile-supported platforms and existing floating docks. The proposed dredging consists of dredging approximately 1800 cu. yds. of material from an area of approximately 30,100 sq. ft. to a depth of -4 ft. m.l.w. with disposal of the material on a nearby upland parking area totalling approximately 2000 sq. ft. The fill to be retained was placed on an area of salt marsh totalling approx. 4,700 sq. ft. The applicant is proposing to mitigate for the wetland loss by removing material placed by others over historic salt marsh and re-plant the area with native marsh species. This mitigation work is to improve tidal flushing in this phragmites area. The proposed mitigation area is in an area of filled marsh at the continuation of Cottonwood Street south of Bass Creek Road at the southern end of West Island near West Island Beach in Fairhaven.

A detailed description and plans of the activity are attached.

WATERWAY AND LOCATION OF THE PROPOSED WORK

This work is proposed in Nasketucket Bay at 56 Goulart Memorial Drive, Fairhaven, Massachusetts, with the proposed wetland mitigation site nearby at the intersection of Cottonwood Street and Bass Creek Road, Fairhaven. The site coordinates are: Latitude 41° 35.787' N Longitude 70° 50.669' W.

AUTHORITY

Permits are required pursuant to:
X Section 10 of the Rivers and Harbors Act of 1899
X Section 404 of the Clean Water Act
Section 103 of the Marine Protection, Research and Sanctuaries Act)

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against

its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

This project will have an adverse effect on a total of approximately 1.13 acres of Essential Fish Habitat (EFH) of the waters of Nasketucket Bay. This includes the dredging (30,100 sq. ft.), the salt marsh fill (4,700 sq. ft.), the existing unauthorized structures including the piles, floats, fixed piers over water (13,350 sq. ft.), mooring anchors, and the proposed new floating breakwater (wave attenuator) (approx. 6000 sq. ft.) and the 10 new mooring anchors. The Bay is considered Essential Fish Habitat (EFH) for Atlantic cod (eggs, larvae, juveniles, adults), haddock (eggs, larvae), winter flounder (eggs, larvae, juveniles, adults), red hake (larvae, juveniles, adults), long finned squid (juveniles, adults), windowpane flounder (eggs, larvae, juveniles, adults), Atlantic butterfish (eggs, larvae, juveniles, adults), Atlantic butterfish (eggs, larvae, juveniles, adults), Summer flounder (egg, larvae, juveniles, adults), summer flounder (egg, larvae, juveniles, adults), surf clam (juveniles, adults), King Mackerel (eggs, larvae, juveniles, adults), Spanish mackerel (eggs, larvae, juveniles, adults), cobia (eggs, larvae, juveniles, adults), sandbar shark (adults), and bluefin tuna (juveniles).

Habitat at the dredging site is predominantly sand. The habitat in the deeper water areas where the majority of the structures that are the subject of this action are or where they will be placed consists of mud and sand with shell litter covered by green algae and slipper shells. The fill in the salt marsh has eliminated 4,700 sq. ft. of salt marsh habitat for which mitigation is being provided. The District Engineer has reviewed the expanded EFH assessment submitted by the applicant and has made a preliminary determination that a preliminary determination that the site-specific adverse effect wills not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision. If the National Marine Fisheries Service recommendations. The EFH consultation will be concluded prior to the final decision.

NATIONAL HISTORIC PRESERVATION ACT

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed

work to impinge upon properties with cultural or Native American significance, or listed in, or eligible for listing in, the National Register of Historic Places. Therefore, no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.
- e. Coordination with the State Historic Preservation Officer and/or Tribal Historic Preservation Officer(s)

ENDANGERED SPECIES CONSULTATION

The New England District, U.S. Army Corps of Engineers, has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, which might occur at the project site. It is our preliminary determination that the proposed activity for which authorization is being sought is designed, situated or will be operated/used in such a manner that it is not likely to adversely affect any Federally listed endangered or threatened species or their designated critical habitat. By this Public Notice, we are requesting that the appropriate Federal Agency concur with our determination.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved **Coastal Zone Management Programs**. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:

- (X) Permit, License or Assent from State.
- (X) Permit from Local Wetland Agency or Conservation Commission.
- (X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date. If you have any questions, please contact Mr. Brian Valiton at (978) 318-8166, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.

Karen K. Adams

Chief, Permits and Enforcement Branch

Regulatory Division

If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME:	
ADDRESS:	
PHONE:	

PROPOSED WORK AND PURPOSE

This application is to do new dredging and add new structures, including a floating wave attenuator and an additional 10 moorings and to retain various structures and other work, including filling, done over the years to expand a marina that was first authorized at this location by the State of Massachusetts and the Corps in the 1960's. The work includes the retention of fill material placed in salt marsh many years ago to expand the parking and work area for this longstanding marina. The specific work that is the subject of this application is as follows:

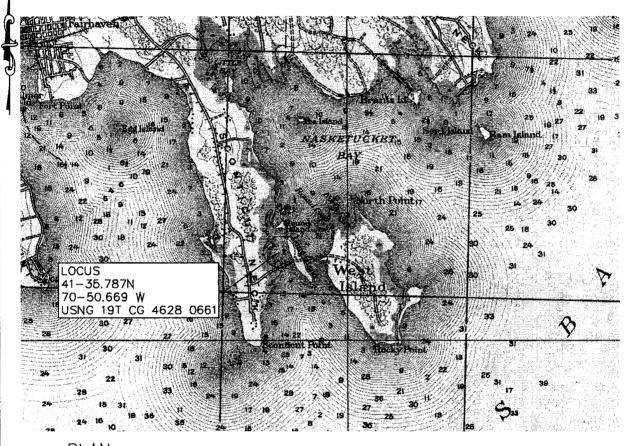
- a. to retain and maintain 500 cubic yards of fill material placed on approx. 4,700 sq. ft. of salt marsh for a parking lot and expanded uplands use area at the marina and to use this filled area as a future disposal and drying site for material to be dredged;
- b. to retain and maintain the existing boat ramp at the marina;
- c. to retain and maintain the structures out in the waterway at the northerly end of the marina property that support the existing commercial scalloping operation including a pile-supported platform (approx. 1,200 sq. ft) and existing pile-anchored floating docks (approx. 2,175 sq. ft.);
- d. to retain and maintain approx. 5,275 sq. ft. of pile anchored floating docks at the marina accommodating approx. 30 vessels;
- e. to retain and maintain 61 existing piles;
- f. to retain and maintain 65 existing rental moorings;
- g. to remove the existing wave barrier and to install a new floating wave attenuator/breakwater that will be approx. 600 feet long and 10 feet wide;
- h. to mechanically dredge to 4' m.l.w., with upland disposal, an area of approx, 8,050 sq. ft. previously permitted to be dredged to a depth of -4' m.l.w.;
- i. to mechanically dredge to -4' m.l.w., with upland disposal, an area of approx. 22,050 sq. ft. that was never previously authorized to be dredged (new/improvement dredging);
- j. to establish a reconfiguration perimeter as shown on sheet 5 of 11 within which floats and pilings can be relocated without seeking separate approvals for such changes from the Corps for such changes;
- k. to perform mitigation for the fill placed in the salt marsh by excavating approx. 8,400 sq. ft. of fill placed by others on historic marsh and to clear out 1,300 linear feet of trench where vegetation has grown in to limit the reach of tidal waters. These activities will add to restore salt marsh functions to the affected area.

The work is described on the enclosed plans entitled "APPLICATION BY: EARL'S MARINA PREPARED BY: LAND & SEA ENGINEERING P.O. BOX 2907, AVON, COLORADO 81620 PURPOSE: TO PERFORM DREDGING IN EARL'S MARINA, AND LICENSE NEW & UNAUTHORIZED STRUCTURES FAIRHAVEN, BRISTOL COUNTY," on 11 sheets, and dated "MARCH 2, 2013."

The applicant is seeking approval to retain existing fill on salt marsh that has been in place for decades. This fill is now needed to support parking and access to the commercial scalloping operation and it has not been expanded since it was initially placed. As mentioned in the beginning of the public notice and above, the applicant has included a mitigation project which will involve excavation of an existing area of phragmites to create an area of 8,400 sq. ft. of open salt marsh and to excavate vegetation from approx. 1,300 linear feet of trench.

REFERENCE DATUM IS MEAN LOW WATER=0.0 FEMA DATUM IS N.G.V.D.

REF: TOWN ASSESSORS MAP 42, PARCELS 23B



1"=5000"

SOURCE: MA NEW BEDFORD QUADRANGLE GRID ZONE A US ACOE

FLOOD ZONE VE - 15,37 (14 NGVD)

HTL - 4,1 MHW - 3,77 NGVD - 1,37 MLW - 0.00

PURPOSE:

TO PERFORM DREDGING IN EARL'S MARINA, AND LICENSE NEW & UNAUTHORIZED STRUCTURES FAIRHAVEN, BRISTOL COUNTY, MA

Land and Sea Engineering

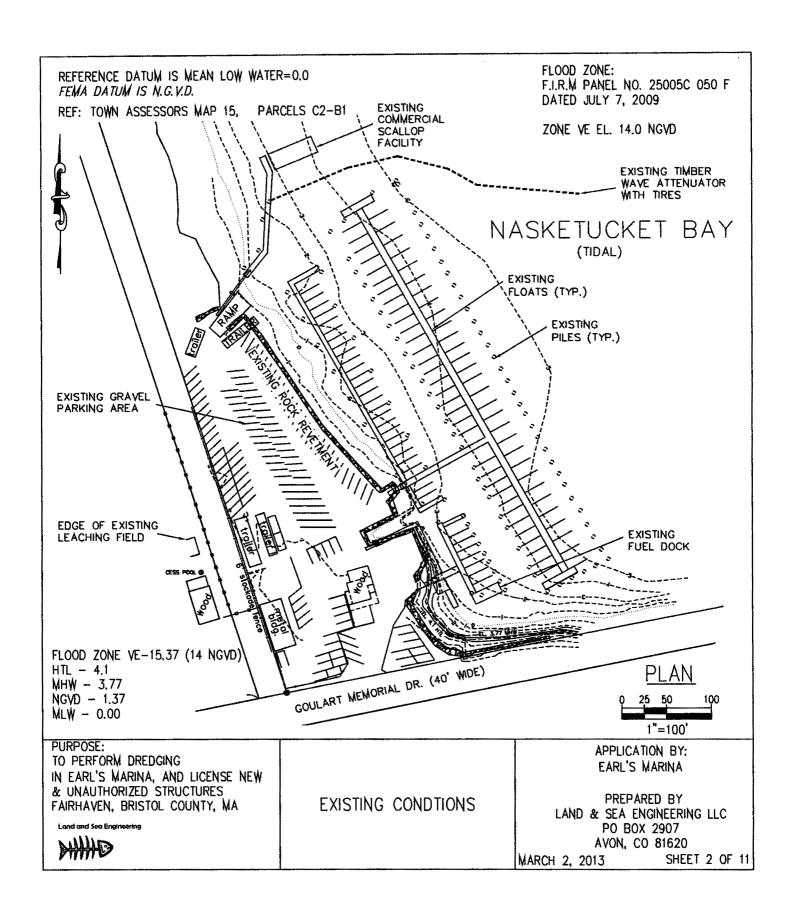
VICINITY MAP

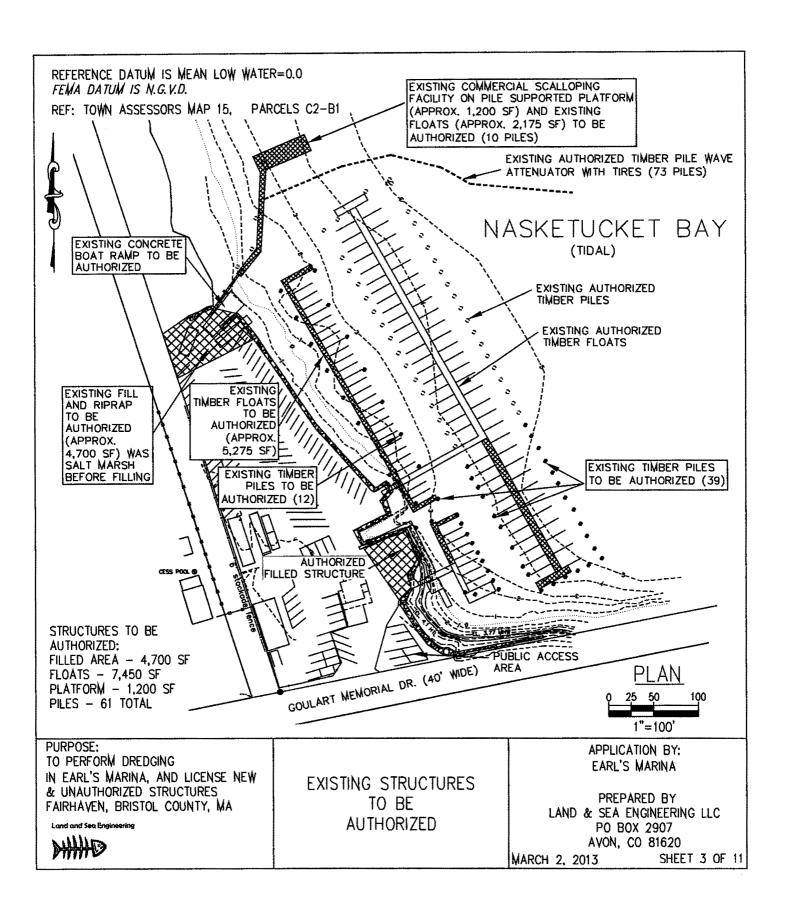
APPLICATION BY: EARL'S MARINA

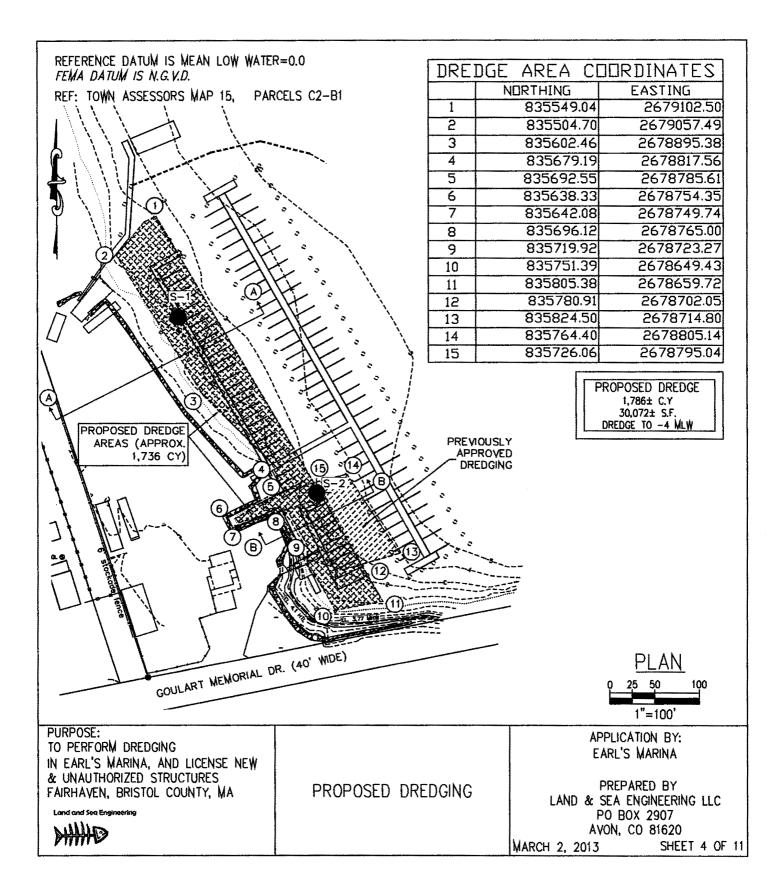
PREPARED BY LAND & SEA ENGINEERING LLC PO BOX 2907 AVON, CO 81620

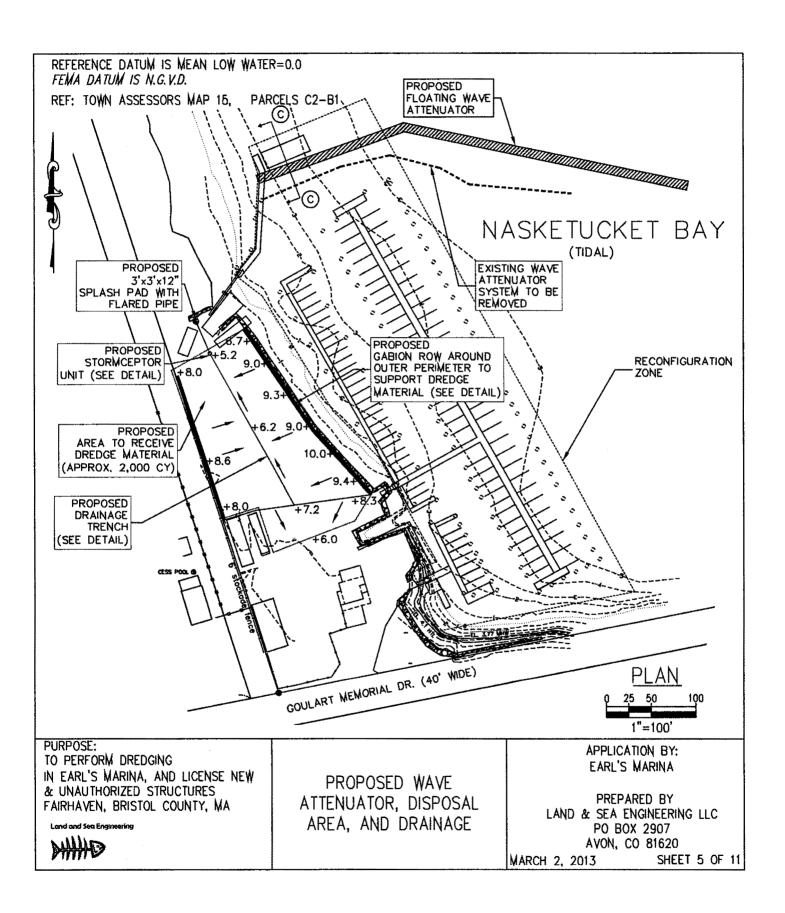
MARCH 2, 2013

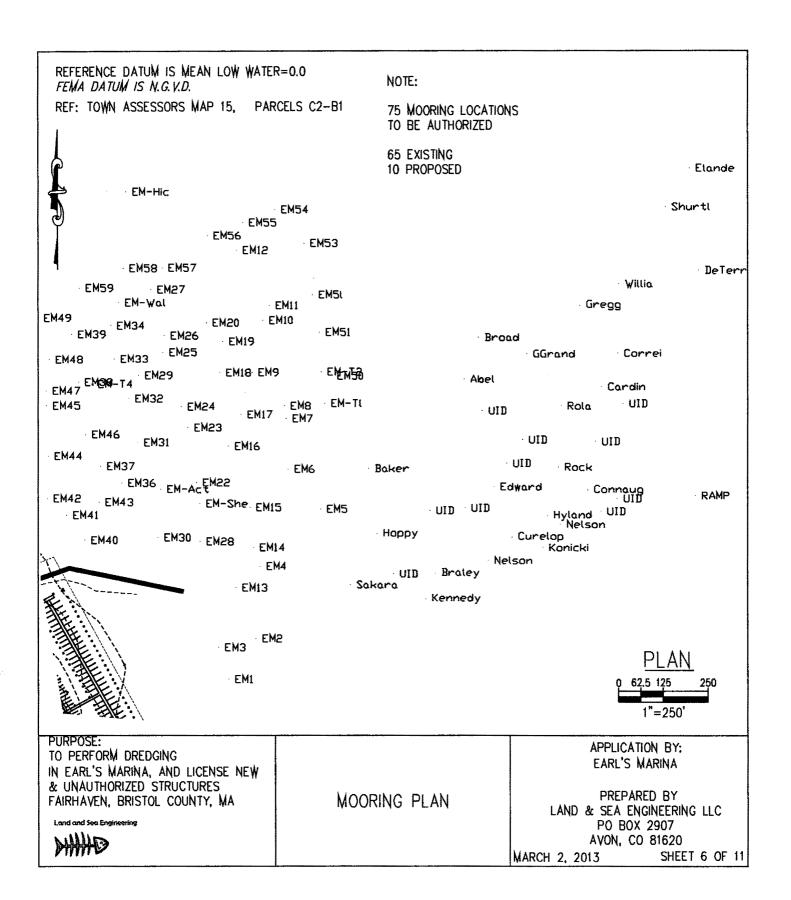
SHEET 1 OF 11





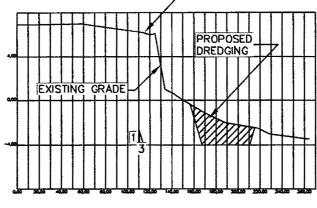




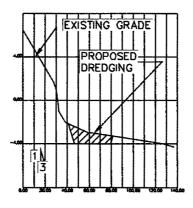




EXISTING GRAVEL PARKING TO BE MODIFIED TO ACCEPT 1,786 CY OF DREDGE MATERIAL (SEE DETAIL ON PAGE 9)



SECTION A-A



SECTION B-B

FLOOD ZONE VE-15.37 (14 NGVD) HTL - 4.1 MHW - 3.77 NGVD - 1.37

MLW - 0.00

VERTICAL SCALE: 1"=8'
HORIZONTAL SCALE: 1"=80'

PURPOSE:
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IN EARL'S MARINA, AND LICENSE NEW
& UNAUTHORIZED STRUCTURES
FAIRHAYEN, BRISTOL COUNTY, MA

Land and Sea Engineering

SHIME

CROSS SECTIONS

APPLICATION BY: EARL'S MARINA

PREPARED BY
LAND & SEA ENGINEERING LLC
PO BOX 2907
AVON, CO 81620

MARCH 2, 2013

__EL, 4,1 HTL

-EL. O.O MLW

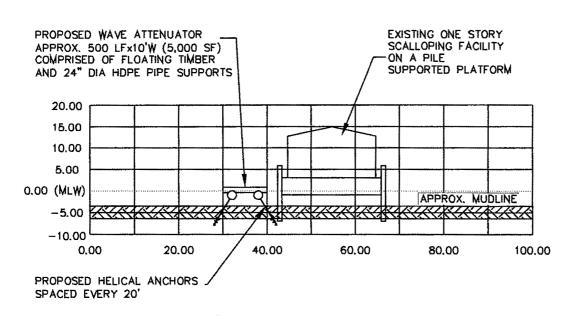
-EL. 3.77 MHW

SHEET 7 OF 11

REFERENCE DATUM IS MEAN LOW WATER=0.0 FEMA DATUM IS N.G. V.D.

REF: TOWN ASSESSORS MAP 15, PARCELS C2-B1





SECTION C-C

SCALE: 1"=20'

FLOOD ZONE VE-15.37 (14 NGVD) HTL - 4.1 MHW - 3.77 NGVD - 1.37 MLW - 0.00

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FAIRHAYEN, BRISTOL COUNTY, MA

Land and Sea Engineering

Pathology

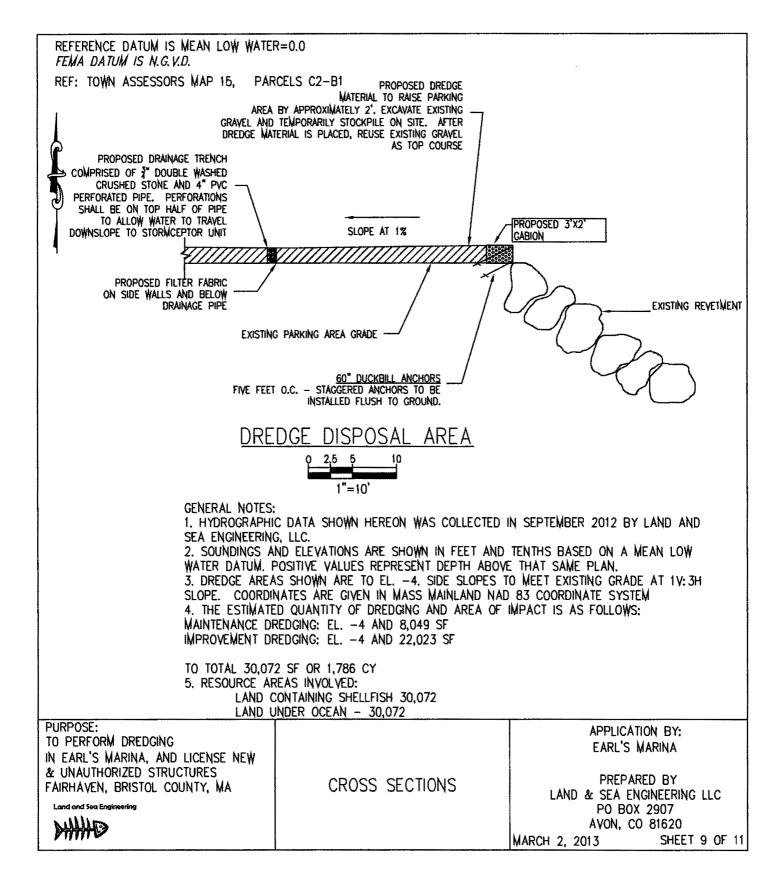
CROSS SECTIONS

APPLICATION BY: EARL'S MARINA

PREPARED BY
LAND & SEA ENGINEERING LLC
PO BOX 2907
AVON, CO 81620

MARCH 2, 2013

SHEET 8 OF 11

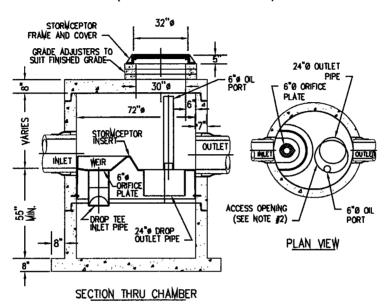


REFERENCE DATUM IS MEAN LOW WATER=0.0 FEMA DATUM IS N.G. V.D.

REF: TOWN ASSESSORS MAP 15, PARCELS C2-B1



STC 900 PRECAST CONCRETE STORMCEPTOR (900 U.S. GALLON CAPACITY)



GENERAL NOTES:

- 1, THE USE OF FLEXIBLE CONNECTION IS RECOMMENDED AT THE INLET AND OUTLET WHERE APPLICABLE,
- 2. THE COYER SHOULD BE POSITIONED OVER THE OUTLET DROP PIPE AND THE OIL PORT,
- 3. THE STORMCEPTOR SYSTEM IS PROTECTED BY ONE OR MORE OF THE FOLLOWING U.S. PATENTS: #4985148, #5498331, #5725760, #5753115, #5849181, #6068765, #6371690.
- 4. CONTACT A CONCRETE PIPE DIVISION REPRESENTATIVE FOR FURTHER DETAILS NOT LISTED ON THIS DRAWING.

STC 900 PRECAST CONCRETE STORMCEPTOR DETAIL NOT TO SCALE

OIL-WATER/ SEDIMENT SEPARATOR SHALL BE STORMCEPTOR STC-900 OR APPROVED EQUAL

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FAIRHAYEN, BRISTOL COUNTY, MA

and and Sea Engineering

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DRAINAGE DETAIL

APPLICATION BY: EARL'S MARINA

PREPARED BY LAND & SEA ENGINEERING LLC PO BOX 2907 AVON, CO 81620

MARCH 2, 2013

SHEET 10 OF 11

836475.6	2679173	Sakara
837449.3	2679430	RAMP
836131.2	2678903	EM 1
836207.8	2679019	EM 2
836103.2	2678994	EM 3
836219.9	2679226	EM 4
836391.9	2679391	EM 5
836299.8	2679506	EM 6
836294.1	2679652	EM 7
836289.3	2679688	EM8
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836246	2679979	EM 11
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PURPOSE:

TO PERFORM DREDGING
IN EARL'S MARINA, AND LICENSE NEW
& UNAUTHORIZED STRUCTURES
FAIRHAYEN, BRISTOL COUNTY, MA

Land and Sea Engineering



MOORING COORDINATES

APPLICATION BY: EARL'S MARINA

PREPARED BY
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PO BOX 2907
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MARCH 2, 2013

SHEET 11 OF 11