



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

PUBLIC NOTICE

Comment Period Begins: 13 March 2012
Comment Period Ends: 13 April 2012
File Number: NAE 2009-2185
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 retain existing structures and to conduct additional work in waters of the United States as described below.

APPLICANT: North River Marine, Donna Lee Realty Trust

ACTIVITY: To retain and maintain various existing structures at the marina (beyond what was approved in prior Corps permits issued for a marina at this location) including existing shore connected floating docks, both pile-anchored and bottom anchored, to retain 12 existing separate bottom anchored river mooring floats, to add new pilings to more securely anchor the shore connected floating docks, to dredge, with unconfined open water disposal of the dredged material at the Cape Cod Bay Disposal Site (CCBDS), a new basin in and around the existing floating docks (an area of 46,600 sq. ft. to a depth of -7' m.l.w) and to establish a reconfiguration perimeter around the existing shore-connected docking system within which floating docks and pilings may be rearranged and which will accommodate 64 vessels. Eleven of the bottom-anchored river mooring floats are in town of Marshfield waters. The remaining river float is in Scituate waters. A detailed description and plans of the activity are attached.

WATERWAY AND LOCATION OF THE PROPOSED WORK AND DREDGE DISPOSAL SITE

This work is proposed in the North River at the marina property located at 12 Chief Justice Cushing Highway (Rte 3A), Scituate, Massachusetts. The proposed location on the USGS Scituate quadrangle sheet is at UTM coordinates 4668950.00 N and 0556100.00 E, zone 19. The dredged material disposal site is at the Cape Cod Bay Disposal Site which is centered at coordinates 41° 54.406' N, 70° 13.268' W (NAD 83) and is located 8.0 nmi (14.9 km) southwest of Long Point, Provincetown, Massachusetts.

AUTHORITY

Permits are required pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899
- 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

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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.

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.

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).

The dredging portion of this project will impact approximately 46,600 SF of Essential Fish Habitat (EFH) for Atlantic cod (eggs, larvae, juveniles, adults), haddock (eggs, larvae), pollock (eggs, larvae, juveniles, adults), whiting (eggs, larvae, juveniles, adults), red hake (eggs, larvae, juveniles, adults), white hake (eggs, larvae, juveniles, adults), winter flounder (eggs, larvae, juveniles, adults), yellowtail flounder (eggs, larvae, juveniles, adults), windowpane flounder (eggs, larvae, juveniles, adults), American plaice (eggs, larvae, juveniles, adults), ocean pout (eggs, larvae, juveniles, adults), Atlantic halibut (eggs, larvae, juveniles, adults), Atlantic sea scallop (eggs, larvae, juveniles, adults), Atlantic sea herring (larvae, juveniles, adults), monkfish (eggs, larvae, adults), bluefish (juveniles, adults), long finned squid (juveniles, adults), short finned squid (juveniles, adults), Atlantic butterfish (egg, larvae, juveniles, adults), Atlantic mackerel (eggs, larvae, juveniles, adults), summer flounder (adults), scup (juveniles, adults), black sea bass (adults), surf clam (juveniles, adults), spiny dogfish (adults), and bluefin tuna (juveniles, adults). Habitat at this site can be described as silt and sand. Loss of this habitat may adversely affect the species listed above. However, since the dredging and disposal will occur during the specified time of year windows when the life stages of these species are not likely to be affected and the impacts are likely to be short term and transitory, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. For these reasons, EFH mitigation is not necessary. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

The dredged material disposal is proposed for the CCBDS. This is an open water site, which provides Essential Fish Habitat for Atlantic cod (eggs, larvae, juveniles, adults), haddock (eggs, larvae), pollock (larvae, juveniles, adults), whiting (eggs, larvae, juveniles, adults), red hake (eggs, larvae, juveniles, adults), white hake (eggs,

larvae, juveniles, adults), winter flounder (eggs, larvae, juveniles, adults), yellowtail flounder (eggs, larvae, juveniles, adults), windowpane flounder (eggs, larvae, juveniles, adults), American plaice (eggs, larvae, juveniles, adults), ocean pout (eggs, larvae, juveniles, adults), Atlantic butterfish (eggs, larvae, juveniles, adults), Atlantic mackerel (eggs, larvae, juveniles, adults), Atlantic halibut (eggs, larvae, juveniles, adults), Atlantic sea scallop (eggs, larvae, juveniles, adults), Atlantic sea herring (eggs, larvae, juveniles, adults), monkfish (eggs, larvae, juveniles), bluefish (juveniles, adults), summer flounder (adults), long finned squid (juveniles, adults), short finned squid (juveniles, adults), scup (juveniles, adults), black sea bass (adults), spiny dogfish (juveniles, adults), blue shark (adults), and bluefin tuna (juveniles and adults). Habitat at this site can be described as silt and sand. Loss of this habitat may adversely affect the above listed species. However, as with the dredging site because of the time of year in which the disposal will occur, the District Engineer has made a preliminary determination that the site-specific adverse effect will 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.

SECTION 106 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, 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 dredging site or at the disposal 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. Six (6) species of endangered and threatened species may be present at certain times of the year in Cape Cod Bay in or around the disposal site. These include the endangered right whale, humpback whale, finback whale, leatherneck sea turtle, Kemp's ridley sea turtle, and the threatened loggerhead sea turtle. This disposal area is part of an area that has been designated as critical habitat for right whales and is an important nursery and feeding area for these whales from March through May. However, disposal of material can only be done during certain times of year and under prescribed permit conditions implemented to protect these endangered species. These conditions have been developed in conjunction with and concurred in by the National Marine Fisheries Service and are revisited periodically to insure no adverse impacts to any endangered species or its habitat. These conditions were developed over a substantial period of time and are applicable to all dredged material disposal operations at this site. By this Public Notice, we are requesting that the appropriate Federal Agency concur with our determination.

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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:

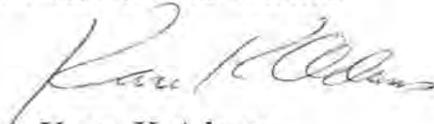
- (X) Permit, License or Assent from State.
- (X) Permit from Local Wetland Agency or Conservation Commission.
- (X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

In order to properly evaluate the proposal, we are seeking public comment. 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, 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: _____

PROPOSED WORK AND PURPOSE

This application is to retain existing unauthorized structures at the existing commercial marina as well as to add new structures and to perform new dredging work including the creation of a reconfiguration zone around the existing floating dock system that is connected to the shore. This is to continue to provide accommodations allowing access to navigable waters for the number of vessels utilizing this marina. The specific work that is the subject of this application is as follows:

1. To retain and maintain the following existing structures (see sheets 3 and 4 of 11 of the attached drawings:
 - a. 12 bottom moored separate river floats in both Marshfield and Scituate waters.
 - b. a pile-anchored main floating dock system that extends approx. 80 feet longer and farther downriver and approx. 60 feet farther upriver than was authorized by previous Corps permits issued for this facility.
 - c. 25 3' by 20' finger floats on the landside of the main floating dock as well as 3 existing 6' by 20' floats near the ramp leading to the main line of floats and at least 7 more finger floats on the channelside of the main float system than authorized.
 - d. various additional pile-anchored floating docks alongside the boat ramp and floating docks that are part of the separate upstream much smaller float system.
 - e. various structures on the existing filled upland area as shown on the drawings.
2. To dredge, with disposal of the material at the Cape Cod Bay Disposal Site, approx. 4550 cu. yds. of silt and sand from an area of approx. 46,600 sq. ft. to a depth of -7' m.l.w..
3. To add nine new pilings to better secure the floating docks.
4. To establish a reconfiguration zone around the existing pile-anchored floating docks connected to shore (with coordinates and locations as shown on sheets 9 and 10 of the accompanying drawings) to accommodate a maximum of 64 vessels.
5. To add a number of structures such as a Boat Bottom Washing System structures and proposed water closets on the filled areas at the marina.

The work is described on the enclosed plans entitled "Existing Marina Plan with Proposed Piles, Boat Bottom Washing System and Dredging in the North River, Town of Scituate Plymouth County, MA Application by North River Marine," on 11 sheets, and dated "Sept. 2009 and June 2010 with revisions dated 12/22/09 and 6/12/10."

As described in the EFH discussion above, no mitigation is being proposed since the impacts on the aquatic resources of the existing and proposed work are considered minimal. The dredged basin being proposed is the minimum needed to safely accommodate vessels being moored at and accessing the existing marina facility.

The alternatives considered in the dredged material disposal analysis fall into four general categories: beneficial use, upland disposal, confined disposal, and open-water disposal. The feasibility of disposal alternatives was analyzed relative to the physical and chemical quality of the dredged material, the volume of material to be dredged, the availability of suitable disposal and beneficial use sites, and the cost of disposal.

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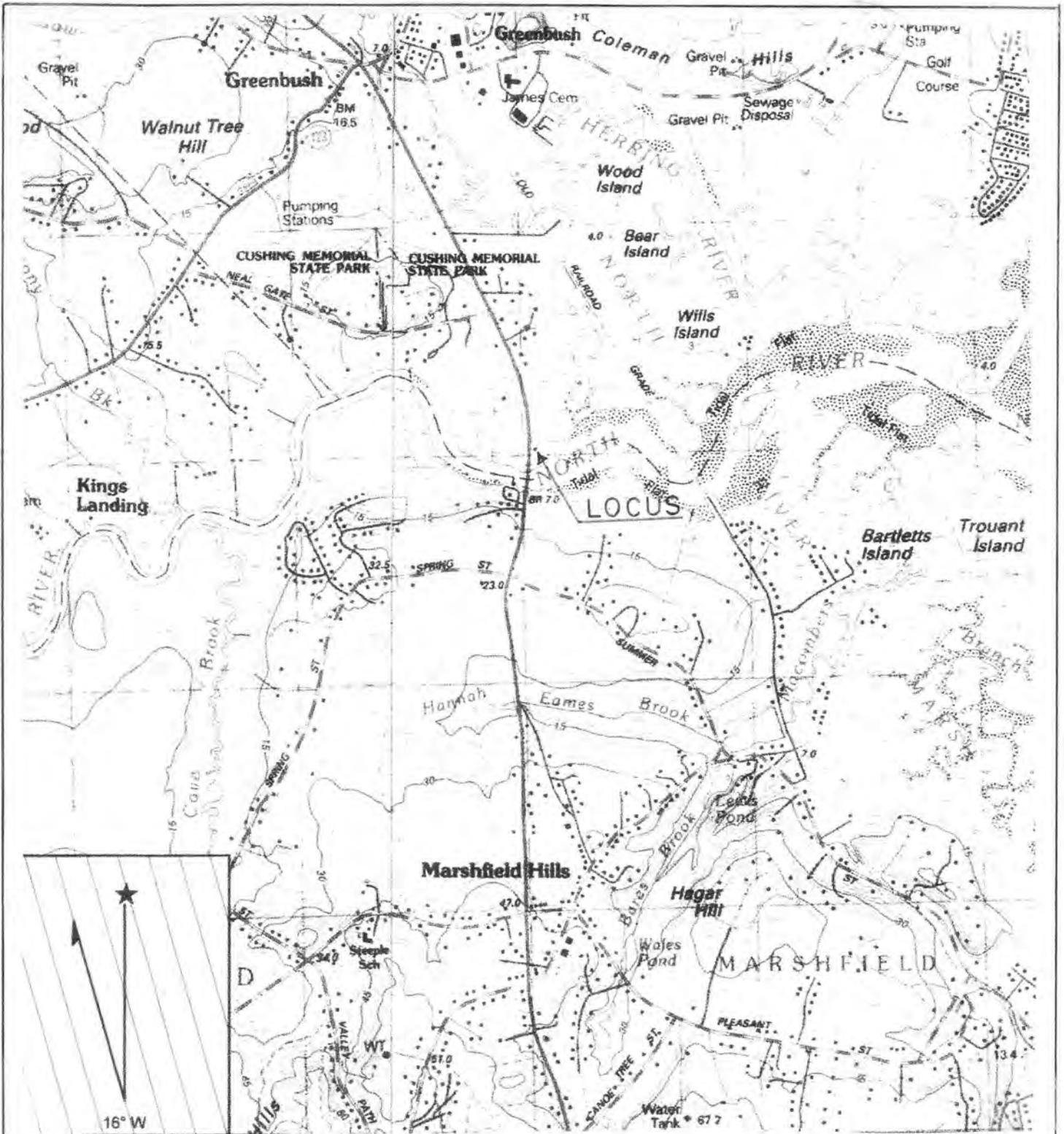
Based on the characteristics of the dredged material, the lack of suitable alternate disposal or beneficial use sites and costs, the most feasible, practical, cost-effective and environmentally acceptable alternative for the disposal of dredged materials from the proposed dredging is disposal at the CCBDS.

The dredged material has undergone physical, chemical, and/or biological analysis. It is our preliminary determination that the material is acceptable for disposal at this disposal site.

Cape Cod Bay Disposal Site

The Cape Cod Bay Disposal Site was first used in 1971 for the disposal of sediments dredged from Wellfleet Harbor. It has been infrequently used since then for disposal of dredged material from the coasts of Cape Cod Bay. This disposal site is monitored and managed by the Massachusetts Department of Environmental Management. Studies show that the site is a low energy environment such that sediment deposited at this location will remain within the site's boundaries. Levels of metals in the sediments within the disposal site are slightly above background levels, indicative of the influence of the earlier dredge disposal at the site. Areas outside the disposal site have not been found to be affected by sediment deposited within the site. The disposal site is located within the identified limits of the Right Whale Critical Habitat Area.

Any permit issued for this project will include special conditions requiring scows to come to a complete stop when disposing of the material at the disposal site. There will also be a time of year restriction included as a special condition which prohibits dredging during ecologically sensitive times of the year.



Source: USGS Quad. 1" = 2000'

Rev. 6/12/10
Rev. 12/22/09

PURPOSE: To maintain the existing marina layout, fill, slopes and bulkhead and construct and maintain a boat washing system, piles, reconfiguration zone & dredge

MLW = 0.0
MHW = 9.0
HTL = 11.0

John A. Capocefalo, P.E.

VICINITY MAP

Existing Marina Plan with Proposed Piles, Boat Bottom Washing System and Dredging

in the North River

Town of Scituate

Plymouth County, MA

Application by

North River Marine

Date: Sept. 2009 Sheet 1 of 11



Proposed 10' x 14.5' Boat Bottom Washing Recycling System Controls Building
(To Be Permitted)

Justice Cushing Highway (Rte 3A)

Chief

2-Existing 5' x 20' Floats & 3-5' x 16' Floats (Handicap Access)
(To Be Permitted)

Existing 45' x 80' Building
(To Be Permitted)

Existing Building

Proposed Boat Bottom Washing Recycling System Pad
(To Be Permitted)

Boat Ramp
(Permit No. 199201771)

Existing 10' x 14.5' Utilities Building
(To Be Permitted)

One Existing & 3 Proposed Water Closets
(To Be Permitted)

Float Layout A

2-Ext. 8' x 30' Floats
(To Be Permitted)

Ext. 8' x 28' Float
(To Be Permitted)

2-Ext. 4.5' x 18' Float
(To Be Permitted)

3 Ext. Piles
(To Be Permitted)

Existing 10' x 14.5' Boat Ramp
(To Be Permitted)

Wooden Bulkhead
(Permit No. 199201771)

Ext. Stone Walk
(To Be Permitted)

Fill
(Permit No. 199201771)

Steps

Top of Slope

Bottom of Slope

Marsh

Riprap Slope & Block Walls
(Permit No. 199201771)

Riprap Slope
(Permit No. 199201771)

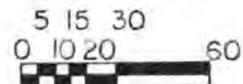
MLW = 0.0

MHW = 9.0

HTL = 11.0

Riprap Slope
Permit No. 199201771

PLAN



Scale in Feet

Items identified as being permitted under Permit No. 199201771 on Sheets 3 & 4 are existing unless otherwise noted

North
← flood
River
ebb →

Permit No. 199201772 lists 2-8' x 20' & 1 finger float & 40 of piles. The Plan shows 4-8' x 20' & 1-8' x 24' & 1-6' x 20' finger floats & 6 piles, no longer existing

PURPOSE: To maintain the existing marina layout, fill, slopes and bulkhead and construct and maintain boat washing system, piles, reconfiguration zone & dredge

MLW = 0.0
MHW = 9.0
HTL = 11.0

John A. Capocéfalo, P.E.

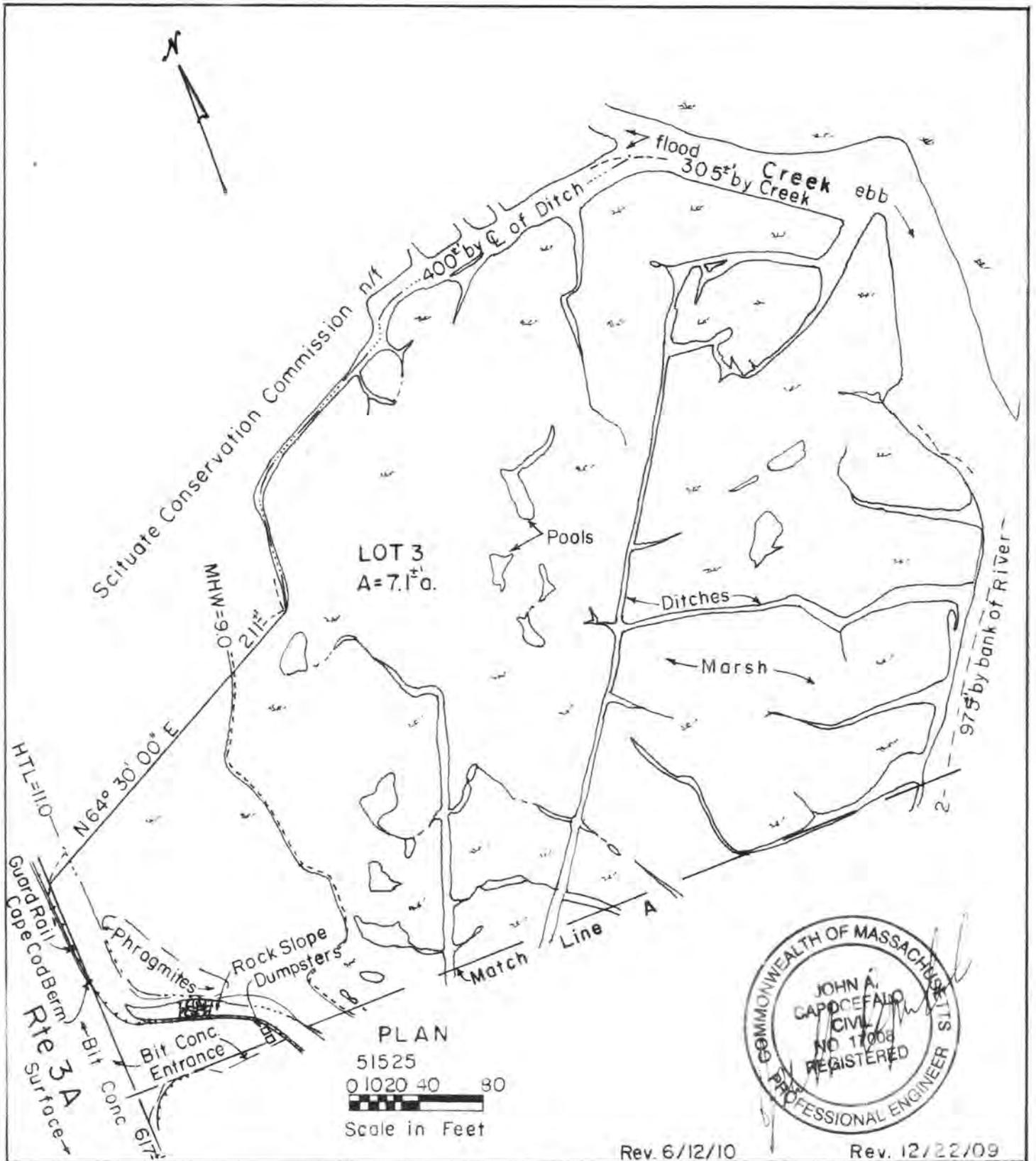
Existing Permitted & non-Permitted Floats & Structures

Proposed Permitted Floats & Structures

Existing Marina Plan with Proposed Piles, Boat Bottom Washing System and Dredging in the North River Town of Scituate Plymouth County, MA

Application by North River Marine

Date: June, 2010 Sheet 3 of 11



PURPOSE - To maintain the existing marina layout, fill, slopes and bulkhead and construct and maintain a boat washing system, piles, reconfiguration zone & dredge

MLW = 0.0
MHW = 9.0
HTL = 11.0

John A. Capocefalo, P.E.

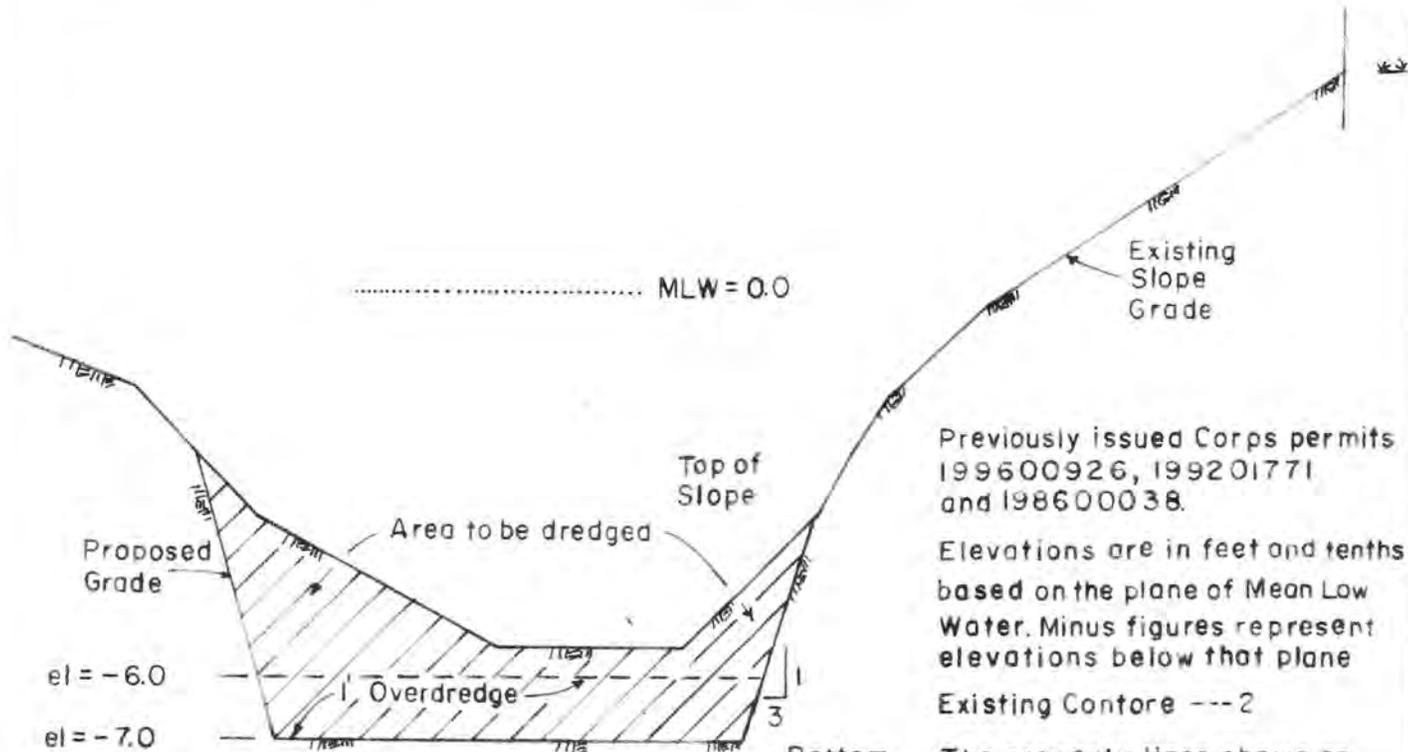
EXISTING MARINA MARSH LANDS

Existing Marina Plan with Proposed Piles, Boat Bottom Washing System and Dredging in the North River

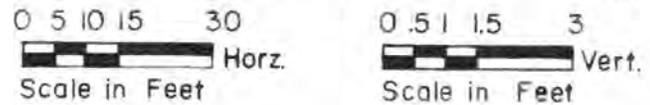
Town of Scituate
 Plymouth County, MA

Application by
 North River Marine

Date: Sept. 2009 Sheet 6 of 11



SECTION A-A



Previously issued Corps permits 199600926, 199201771 and 198600038.

Elevations are in feet and tenths based on the plane of Mean Low Water. Minus figures represent elevations below that plane

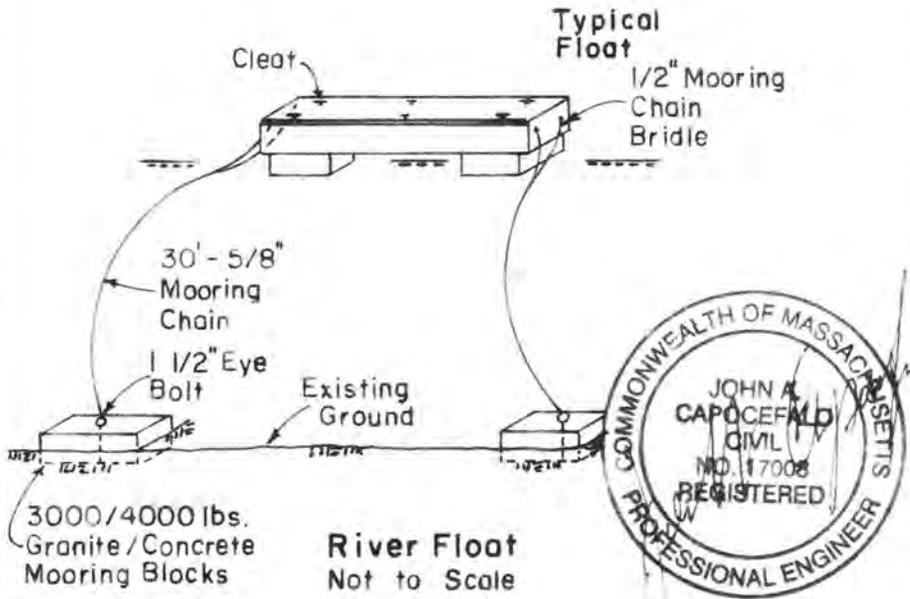
Existing Contour --- 2

The property lines shown on these plans are not the results of an on the ground survey. The lines of ownership have been compiled from plans and deeds of record.

These plans have been prepared for permit purposes only

Coordinates are based on the Mass Mainland System, 1983 datum.

The river floats shown on Sheets 9 and 10 are owned and operated by the Applicant. The floats and their locations are approved by Harbormaster/s on a yearly basis



Rev. 6/12/10
Rev. 12/22/09

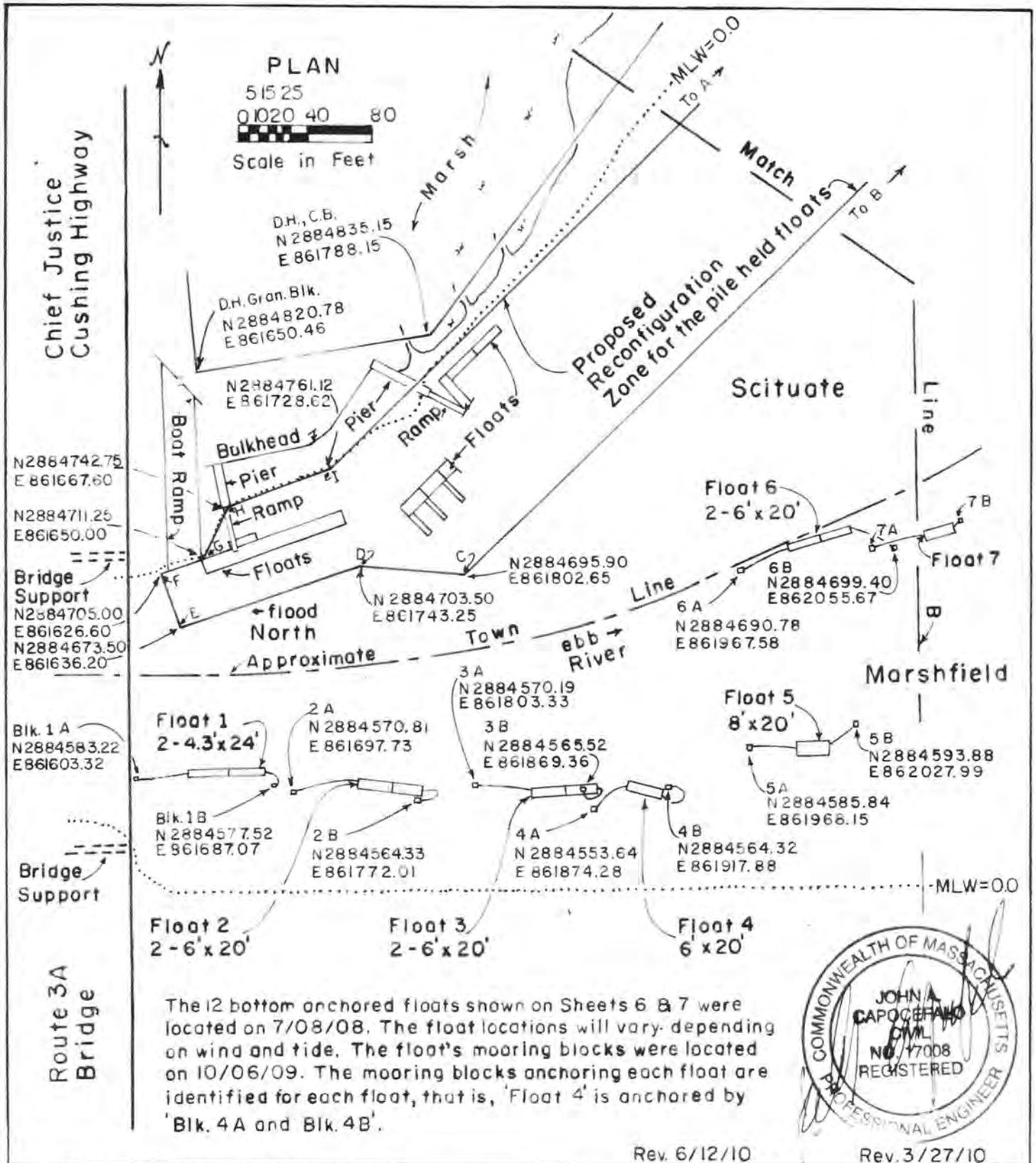
PURPOSE: To maintain the existing marina layout, fill, slopes and bulkhead and construct and maintain a boat washing system piles, reconfiguration zone & dredge

MLW = 0.0
MHW = 9.0
HTL = 11.0

John A. Capocéfalo, P.E.

CROSS SECTION of PROPOSED DREDGING AREA and NOTES

Existing Marina Plan with Proposed Piles, Boat Bottom Washing System and Dredging in the North River
Town of Scituate
Plymouth County, MA
Application by
North River Marine
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The 12 bottom anchored floats shown on Sheets 6 & 7 were located on 7/08/08. The float locations will vary depending on wind and tide. The float's mooring blocks were located on 10/06/09. The mooring blocks anchoring each float are identified for each float, that is, 'Float 4' is anchored by 'Blk. 4A and Blk. 4B'.



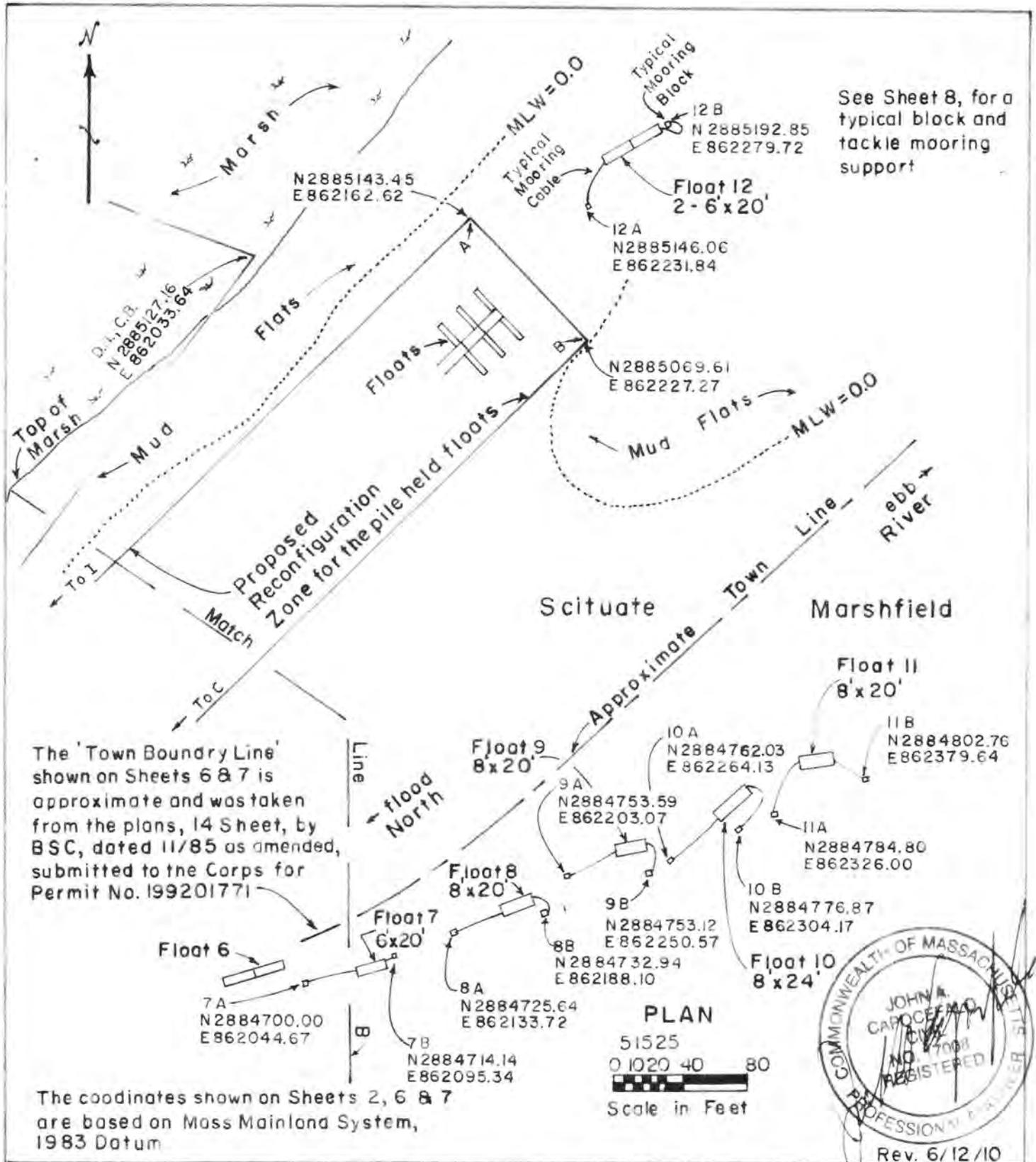
Rev. 6/12/10

Rev. 3/27/10

PURPOSE To maintain the existing marina layout, fill, slopes and bulkhead and construct and maintain a boat washing system piles, reconfiguration zone & dredge
 MLW = 0.0
 MHW = 9.9
 HTL = 11.0
 John A. Capocefalo, P.E.

EXISTING BOTTOM ANCHORED RIVER FLOATS and RECONFIGURATION ZONE

Existing Marina Plan with Proposed Piles, Boat Bottom Washing System and Dredging in the North River
 Town of Scituate
 Plymouth County, MA
 Application by
 North River Marine
 Date: Dec. 2009 Sheet 9 of 11



See Sheet 8, for a typical block and tackle mooring support

The 'Town Boundary Line' shown on Sheets 6 & 7 is approximate and was taken from the plans, 14 Sheet, by BSC, dated 11/85 as amended, submitted to the Corps for Permit No. 199201771

The coordinates shown on Sheets 2, 6 & 7 are based on Mass Mainland System, 1983 Datum

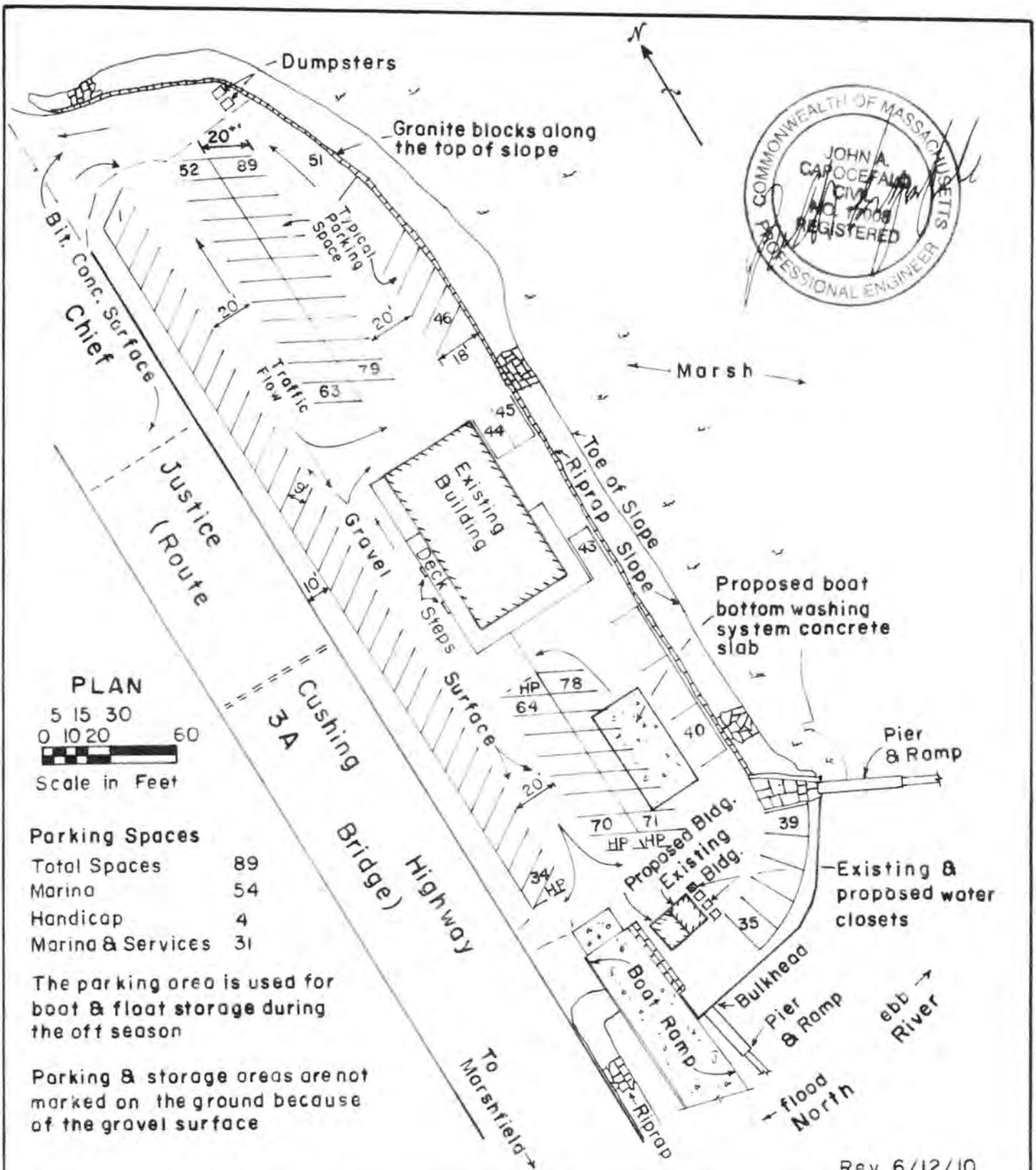
PURPOSE To maintain the existing marina layout, fill, slopes and bulkhead and construct and maintain a boat washing system piers, reconfiguration zone & dredge

MLW = 0.0
MHW = 9.0
HTL = 11.0

John A. Capocetola, P.E.

EXISTING BOTTOM ANCHORED RIVER FLOATS and RECONFIGURATION ZONE

Existing Marina Plan with Proposed Piles, Boat Bottom Washing System and Dredging in the North River Town of Scituate Plymouth County, MA Application by North River Marine Date: Dec. 2009 Sheet 10 of 11



PURPOSE To maintain the existing marina layout, fill, slopes and bulkhead and construct and maintain a boat washing system piles, reconfiguration zone & dredge

MLW = 0.0

MHW = 9.0

HTL = 11.0

John A. Capocefalo, P.E.

EXISTING MARINA PARKING LAYOUT

Existing Marina Plan with Proposed Piles, Boat Bottom Washing System and Dredging in the North River
 Town of Scituate
 Plymouth County, MA
 Application by
 North River Marine
 Date: Dec. 2009 Sheet 11 of 11

Rev. 6/12/10