



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

PUBLIC NOTICE

Comment Period Begins: April 24, 2012

Comment Period Ends: May 24, 2012

File Number: NAE-2012-575

In Reply Refer To: Michael J. Elliott

Phone: (978) 318-8131

E-mail: michael.j.elliott@usace.army.mil

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

APPLICANT: Aquidneck Lobster Company c/o Ronald R. Fatulli

ACTIVITY: Construct and maintain a ramp and pile-secured floating docks in Newport Harbor. A detailed description and plans of the activity are attached.

WATERWAY AND LOCATION OF THE PROPOSED WORK

This work is proposed in Newport Harbor at 30 Bowen's Wharf in Newport, Rhode Island 02840. The proposed location on the USGS Newport quadrangle sheet is at Lat/Long N 41d-29'-12.5"; W 71d-19'-02.4" (NAD 83).

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 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

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also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ESSENTIAL FISH HABITAT

This project will impact 0.03 acres of Essential Fish Habitat (EFH) for Atlantic cod (adults), haddock (larvae), whiting (eggs, larvae, juveniles), red hake (eggs, larvae, juveniles, adults), winter flounder (eggs, larvae, juveniles, adults), windowpane flounder (eggs, larvae, juveniles, adults), American plaice (larvae, juveniles, adults), ocean pout (eggs, larvae, juveniles, adults), Atlantic sea herring (larvae, juveniles, adults), monkfish (eggs, larvae), bluefish (juveniles, adults), long finned squid (juveniles, adults), Atlantic butterfish (juveniles), Atlantic mackerel (eggs, larvae, juveniles, adults), summer flounder (larvae, juveniles, adults), scup (eggs, larvae, juveniles, adults), black sea bass (juveniles, adults), spiny dogfish (juveniles, adults), king mackerel (eggs, larvae, juveniles, adults), Spanish mackerel (eggs, larvae, juveniles, adults) cobia (eggs, larvae, juveniles, adults), sand tiger shark (larvae), blue shark (larvae, adults), dusky shark (juveniles), shortfin mako shark (juveniles), sandbar shark (juveniles, adults) and bluefin tuna (adults). This habitat consists of sands and silts. Loss of this habitat may adversely affect some of the above mentioned species. However, 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 COORDINATION

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)

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:

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

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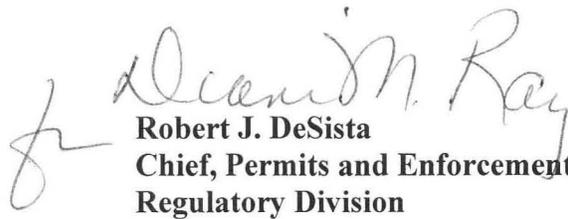
In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact Michael J. Elliott at (978) 318-8131, (800) 343-4789 or (800) 362-4367, 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.

In accordance with 33 CFR 325.2(a)(8), we publish monthly a list of permits issued or denied during the previous month at www.nae.usace.army.mil/reg, under the heading "Monthly General and Individual Permit Authorizations." Relevant environmental documents and the SOFs or RODs are available upon written request and, where applicable, upon the payment of administrative fees. Also visit www.nae.usace.army.mil for more information on the New England District Corps of Engineers programs.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.


Robert J. DeSista
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

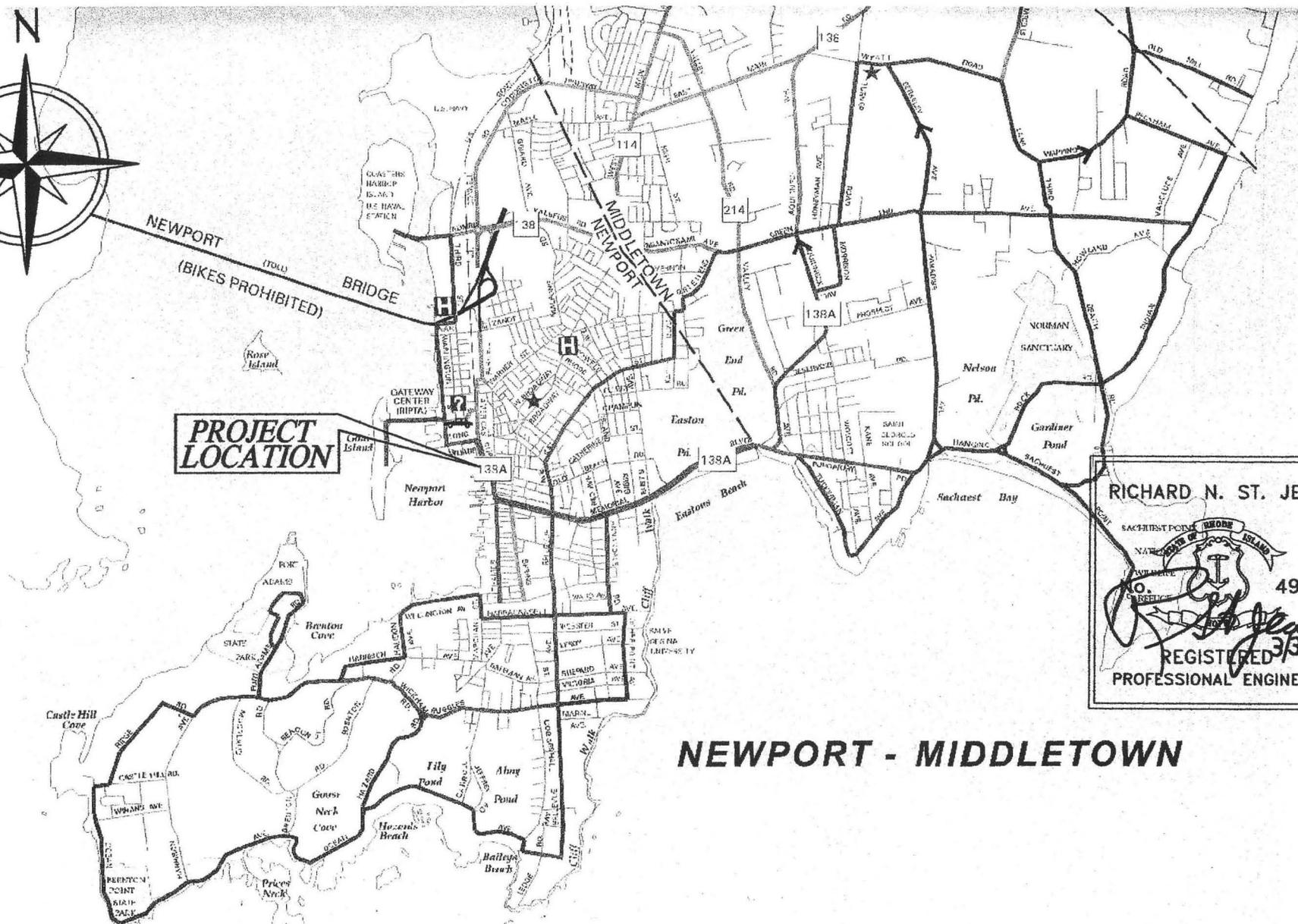
The work involves installing pile-secured floats to support commercial activities at the Aquidneck Lobster Company (ALC) in Newport Harbor. The site is a commercial fishing and lobstering operation that also sells retail to the public. There is also a restaurant called The Landing on the premises. ALC is on Bowen's Wharf. It is the southern abutter to a commercial dock that houses Bowen's Wharf Marina, 12 Meter Charters, Jamestown & Newport Ferry Company, Newport Majestic Cruises and Sight Sailing of Newport. The marina, various cruise boats and water taxis all use the same fairway that ALC uses. The area can be crowded with multiple boats navigating in close proximity while docking. Water depth ranges from -3' to -15' at mean low water.

There are currently no floats on the north side of ALC. ALC boats are tied off to the fixed pier on the outside of the building and rafted. The proposal is to install floats to provide an orderly docking system for the various fishing vessels, work boats and small tenders that dock at the facility. Approximately 10-20 transitory vessels come to unload lobsters or fish in the morning then move on and are not docked overnight. ALC has its own boats that would be docked at the new float system. The proposal is to install a 5' x 140' line of floats extending east-west, an 8' x 36' line of floats extending north-south (on the west side of The Landing restaurant), and a 4' x 87' line of floats running along the northern edge of The Landing restaurant in the inshore waters. There will be one 3' x 24' ramp to access the pile-secured floats.

There is no dredging, bottom disturbance or filling proposed. There is no salt marsh or eelgrass at the site. Shell-fishing is prohibited in this area.

There will be a structural perimeter limit established to encompass the facility.

The work is described on the enclosed plans entitled "RONALD R. FATULLI C/O/AQUIDNECK LOBSTER CO. 30 BOWEN'S WHARF NEWPORT, RI 02840" dated "MARCH 11, 2012" revised "3-31-12."



**PROJECT
LOCATION**

RICHARD N. ST. JEAN
 SACHEST POINT ENGINEERING ISLAND
 No. 4997
Richard N. St. Jean
 REGISTERED 3/31/12
 PROFESSIONAL ENGINEER

NEWPORT - MIDDLETOWN

**ST. JEAN
ENGINEERING
LLC**
 Civil, Marine & Structural Engineering
 1145 Middle Road East Greenwich, RI 02818
 Tel 401/398-0999 email: st.jean.engllc@verizon.net

AQUIDNECK LOBSTER CO. - LOCUS PLAN - FLOATING DOCKS

LOCATION: A.P. 24, LOT 246 30 BOWEN'S WHARF NEWPORT, RI 02840	APPLICATION BY: RONALD R FATULLI C/O AQUIDNECK LOBSTER CO. 30 BOWEN'S WHARF, NEWPORT RI 02840	REVISIONS: REV. 1: REVISE S.P.L. 3/31/12
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DATE 3/11/2012
SHEET OF 1 10

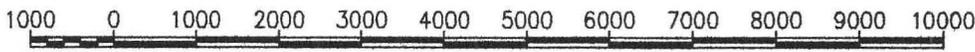


PROJECT LOCATION
 41°-29'-12.5"N NAD83
 71°-19'-00.5"W



RICHARD N. ST. JEAN
 4997

REGISTERED PROFESSIONAL ENGINEER



SCALE IN FEET

REV. I: 3/31/2012

ST. JEAN ENGINEERING, LLC

30 BOWEN'S WHARF, NEWPORT RI
AQUIDNECK LOBSTER CO.
 USGS Map Section: NEWPORT, RI Quadrangle

DATE
 3/11/2012

Civil, Marine & Structural Engineering
 1145 Middle Road East Greenwich, RI 02818
 Tel/Fax: (401)398-0999 email: st.jean.engineering@verizon.net

LOCATION:
 A.P. 24, LOT 246
 30 BOWEN'S WHARF
 NEWPORT, RI 02840

APPLICATION BY:
 RONALD R FATULLI
 C/O AQUIDNECK LOBSTER CO.
 30 BOWEN'S WHARF, NEWPORT RI 02840

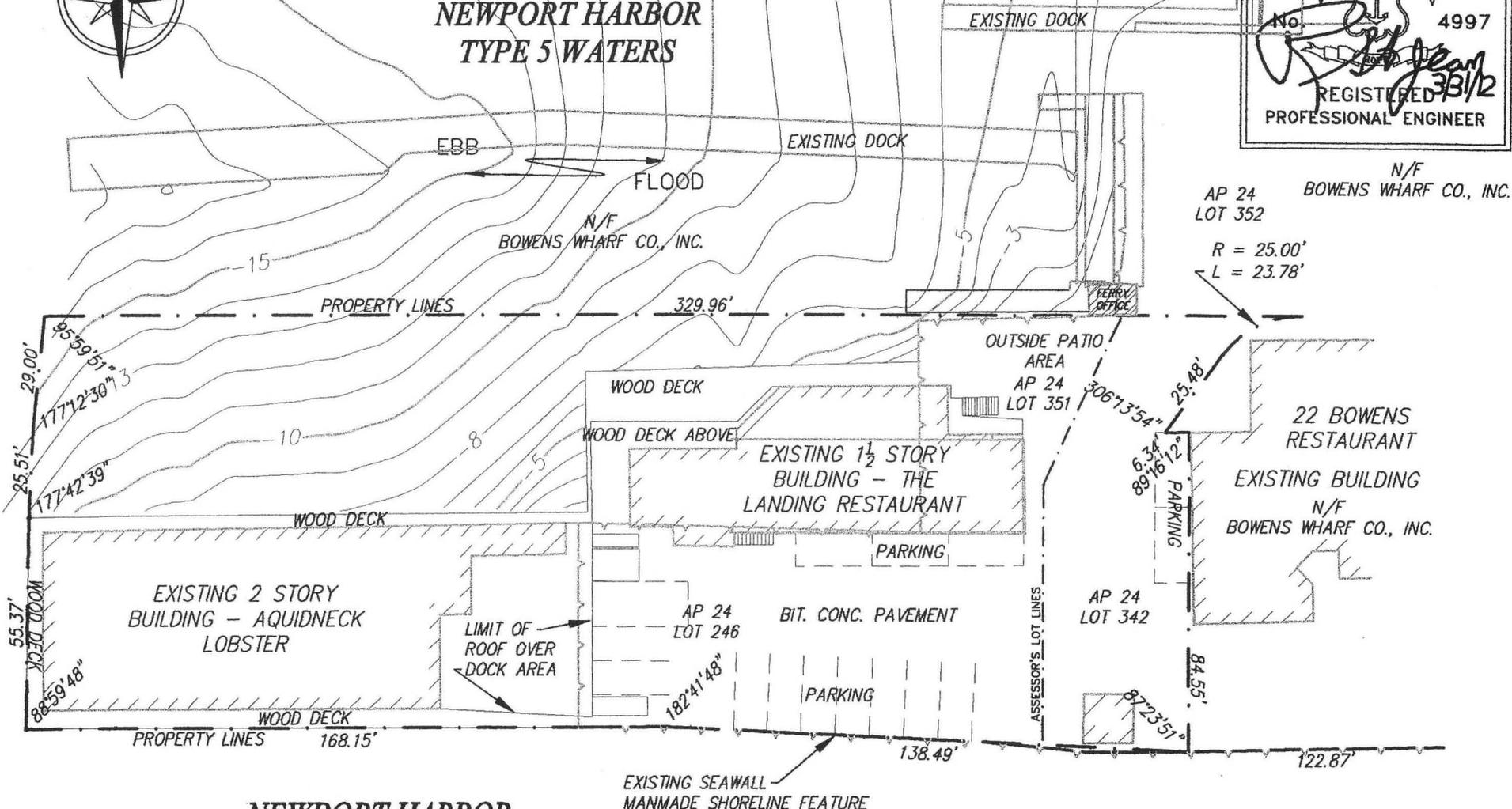
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**NEWPORT HARBOR
TYPE 5 WATERS**

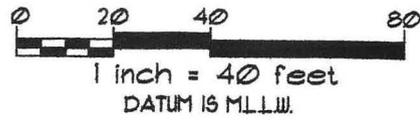
RICHARD N. ST. JEAN

 No. 4997
 REGISTERED PROFESSIONAL ENGINEER 3/31/12



N/F
 BOWENS WHARF CO., INC.
 AP 24 LOT 352
 R = 25.00'
 L = 23.78'

**NEWPORT HARBOR
TYPE 5 WATERS**

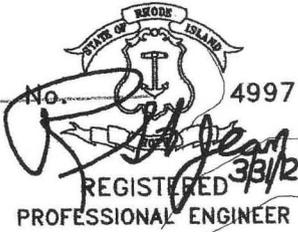


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AQUIDNECK LOBSTER CO. - SITE PLAN - EXISTING CONDITIONS

LOCATION: A.P. 24, LOT 246 30 BOWEN'S WHARF NEWPORT, RI 02840	APPLICATION BY: RONALD R. FATULLI C/O AQUIDNECK LOBSTER CO. 30 BOWEN'S WHARF NEWPORT, RI 02840	REVISIONS: 1. NOTE IN-WATER PROPERTY LINES 3-31-12	DATE 3/11/2012 SHEET 6 OF 10
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RICHARD N. ST. JEAN



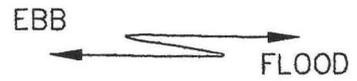
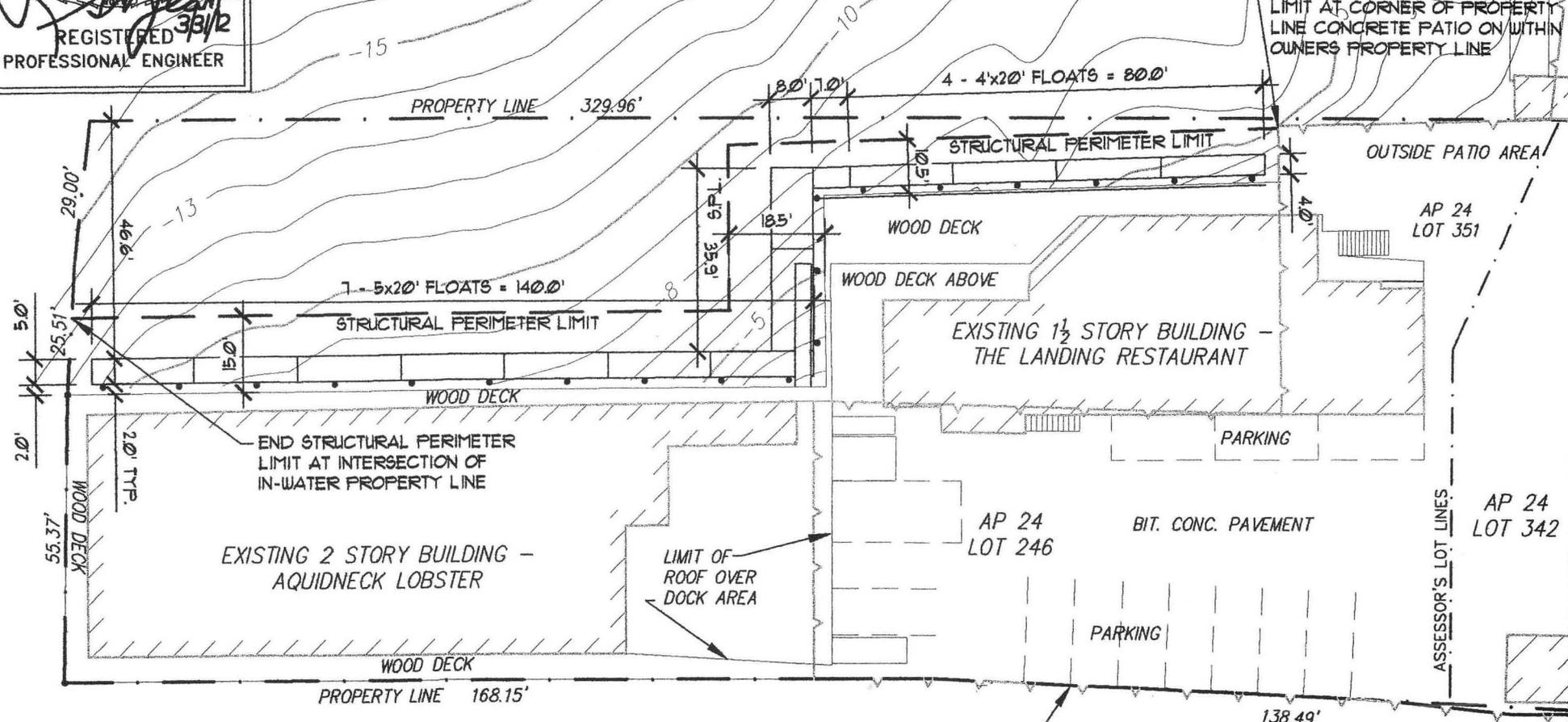
COMMERCIAL DOCKAGE FOR AQUIDNECK LOBSTER CO.
TYP. VESSEL MIX CALLING ON FACILITY DURING WORKING HOURS:
LOBSTER BOAT JANET: 55'L x 16'B
3 TRAP BOATS: 37'L x 16'B
1 TRAP BOAT: 16'L x 7'B
10-20 TRANSIENT LOBSTER BOATS (USUALLY 5 AM TO 11 AM)
TRANSIENT BOATS TYPICALLY 20'L x 10'B TO 77'L x 23'B
ADD'L DINGHY DOCK SPACE REQ'D @ EAST 95' OF 4' DOCKAGE
FOR LOBSTER BOATS MOORED IN THE HARBOR.

NEWPORT HARBOR TYPE 5 WATERS



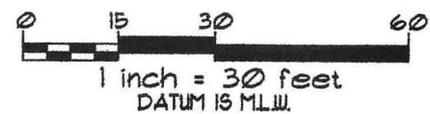
EXISTING DOCK

START STRUCTURAL PERIMETER
LIMIT AT CORNER OF PROPERTY
LINE CONCRETE PATIO ON WITHIN
OWNERS PROPERTY LINE



NEWPORT HARBOR TYPE 5 WATERS

EXISTING SEAWALL -
MANMADE SHORELINE FEATURE



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AQUIDNECK LOBSTER CO. - PROPOSED FLOATING DOCKS

LOCATION:
A.P. 24, LOT 246
30 BOWEN'S WHARF
NEWPORT, RI 02840

APPLICATION BY:
RONALD R. FATULLI
C/O AQUIDNECK LOBSTER CO. 30
BOWEN'S WHARF NEWPORT, RI 02840

REVISIONS:
1. REVISE STRUCTURAL PERIMETER LINE 3/31/12

DATE
3/11/2012
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10

Summary of Essential Fish Habitat (EFH) Designation**10' x 10' Square Coordinates:**

Boundary	North	East	South	West
Coordinate	41° 30.0' N	71° 20.0' W	41° 20.0' N	71° 30.0' W

Square Description (i.e. habitat, landmarks, coastline markers): Atlantic Ocean waters within Narragansett Bay within the square affecting the following: from Point Judith Harbor, Rhode Island to the west half of Newport Neck, along with the southern half of Conanicut Island, along with the inlets to the East and West Passage. These waters also affect the following: The Dumplings, Rose I., Brenton Pt., Fort Adams, Jamestown, R.I., Mackerel Cove, Beavertail Pt., Beaverhead, The Bonnet, Bonnet Pt., Watson Pier, Old Antonio Rock, Jones Ledge, Haycock Ledge, Brenton Reef, Seal Ledge, Whale Rock, River Ledge, Narragansett Pier, Point Judith, RI., Little Neck, Point Judith Neck, Black Pt., along with the precautionary area to the shipping traffic lanes to and from Narragansett Bay.

Species	Eggs	Larvae	Juveniles	Adults
Atlantic cod (<i>Gadus morhua</i>)				X
haddock (<i>Melanogrammus aeglefinus</i>)		X		
pollock (<i>Pollachius virens</i>)				
whiting (<i>Merluccius bilinearis</i>)	X	X	X	
red hake (<i>Urophycis chuss</i>)	X	X	X	X
white hake (<i>Urophycis tenuis</i>)				
witch flounder (<i>Glyptocephalus cynoglossus</i>)				
winter flounder (<i>Pseudopleuronectes americanus</i>)	X	X	X	X
yellowtail flounder (<i>Limanda ferruginea</i>)				
windowpane flounder (<i>Scophthalmus aquosus</i>)	X	X	X	X
American plaice (<i>Hippoglossoides platessoides</i>)		X	X	X
ocean pout (<i>Macrozoarces americanus</i>)	X	X	X	X
Atlantic sea scallop (<i>Placopecten magellanicus</i>)				
Atlantic sea herring (<i>Clupea harengus</i>)		X	X	X
monkfish (<i>Lophius americanus</i>)	X	X		
bluefish (<i>Pomatomus saltatrix</i>)			X	X
long finned squid (<i>Loligo pealeii</i>)	n/a	n/a	X	X

short finned squid (<i>Illex illecebrosus</i>)	n/a	n/a		
Atlantic butterfish (<i>Peprilus triacanthus</i>)			X	
Atlantic mackerel (<i>Scomber scombrus</i>)	X	X	X	X
summer flounder (<i>Paralichthys dentatus</i>)		X	X	X
scup (<i>Stenotomus chrysops</i>)	X	X	X	X
black sea bass (<i>Centropristis striata</i>)	n/a		X	X
surf clam (<i>Spisula solidissima</i>)	n/a	n/a	X	X
ocean quahog (<i>Artica islandica</i>)	n/a	n/a		
spiny dogfish (<i>Squalus acanthias</i>)	n/a	n/a	X	X
tilefish (<i>Lopholatilus chamaeleonticeps</i>)				
king mackerel (<i>Scomberomorus cavalla</i>)	X	X	X	X
Spanish mackerel (<i>Scomberomorus maculatus</i>)	X	X	X	X
cobia (<i>Rachycentron canadum</i>)	X	X	X	X
sand tiger shark (<i>Carcharias taurus</i>)		X		
blue shark (<i>Prionace glauca</i>)		X		X
dusky shark (<i>Carcharhinus obscurus</i>)			X	
shortfin mako shark (<i>Isurus oxyrinchus</i>)			X	
sandbar shark (<i>Carcharhinus plumbeus</i>)			X	X
bluefin tuna (<i>Thunnus thynnus</i>)				X