



PUBLIC NOTICE

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

Comment Period Begins: July 3, 2017
Comment Period Ends: August 2, 2017
File Number: NAE-2009-02719
In Reply Refer To: Sarah Wilkinson
Phone: (978) 318-8513
E-mail: sarah.a.wilkinson@usace.army.mil

The U.S. Army Corps of Engineers has received a permit application to conduct work in waters of the United States from Fairhaven Shipyard Companies Inc. The project site is on New Bedford Harbor (Acushnet River) at 32 Water Street, Fairhaven, Massachusetts. The site coordinates are: Latitude 41.635749, Longitude -70.90749.

The proposed project consists of: (1) removal of existing 24 by 24-foot floating dock and associated gangway, (2) installation of 8 H-shaped steel pin piles for sheet panel template, (3) installation of 400 linear feet of 20-inch wide steel sheet piles, and (4) placement of 11,135 square feet of fill below the high tide line. The project purpose is to increase the upland service area of an existing commercial shipyard on New Bedford Harbor. The sheet piles and fill will extend up to 77 feet from the mean high water line (MHWL). Construction is anticipated to occur over a 4 to 6 month period and will be accomplished from barge and land based equipment.

The work is shown on the attached plans (6 sheets) entitled "Fairhaven Shipyard Companies Inc." dated "12/12/2012 Rev. 6/16/2017."

Applicant proposes that project impacts have been minimized to extent possible, impacting the minimum area of tidal waters in order to provide upland work space for 3 vessels to maintain operations of existing commercial shipyard. Avoidance of impacts for the creation of upland service bays off-site is not possible due to restricted marine services area (no availability of upland area to construct service bays). Appropriate sediment and turbidity controls will be utilized. Mass DEP permit (#SE 23-1146) for the proposed project requires payment \$752.50 to the Town of Fairhaven Shellfish Fund. The applicant is not proposing additional mitigation.

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, Native American 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 (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

This project may impact 10,032 square feet of Essential Fish Habitat (EFH) for the following federally managed species:

EFH designated for eggs: Atlantic cod, haddock, winter flounder, windowpane flounder, Atlantic butterfish, Atlantic mackerel, summer flounder, and scup

EFH designated for larvae: Atlantic cod, haddock, red hake, winter flounder, windowpane flounder, Atlantic butterfish, Atlantic mackerel, summer flounder, scup, and black sea bass

EFH designated for juveniles: Atlantic cod, red hake, winter flounder, windowpane flounder, Atlantic sea herring, bluefish, Atlantic butterfish, Atlantic mackerel, summer flounder, scup, cobia, black sea bass, bluefin tuna, surf clam

EFH designated for adults: Atlantic cod, red hake, winter flounder, windowpane Flounder, Atlantic sea herring, bluefish, Atlantic butterfish, Atlantic mackerel, Summer flounder, scup, Spanish mackerel, black sea bass, and surf clam

Habitat at the site is mostly fine grained sand with some shellfish possible. No submerged aquatic vegetation or other special aquatic resources are present. The proposed project will result in the loss of intertidal and subtidal waters from the proposed creation of upland service bays. The proposed project may adversely impact EFH. The Corps has initiated individual, abbreviated consultation with NMFS for potential impacts to EFH. Consultation will be concluded prior to the issuance of a final Corps decision.

NATIONAL HISTORIC PRESERVATION ACT

Based on initial review, the Corps 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 Corps has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, which may be present in the action area: Atlantic sturgeon, shortnose sturgeon, green sea turtle, Kemp's ridley sea turtle, and loggerhead sea turtle. There is no designated critical habitat in the action area. The Corps has made the preliminary determination that the proposed project may effect, but is not likely to adversely affect any federally listed species. The Corps has initiated consultation under 2017 ESA programmatic with NMFS for potential impacts to listed species.

COASTAL ZONE MANAGEMENT

The State of Massachusetts has an approved Coastal Zone Management Program. 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, the Corps is requesting concurrence or objection from the Massachusetts Office of Coastal Zone Management (CZM) for the proposed project.

The following authorizations have been applied for 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 (page 1). If you have any questions, please contact Sarah Wilkinson at sarah.a.wilkinson@usace.army.mil or (978) 318-8513.

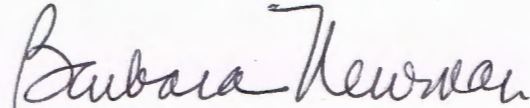
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining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

CENAE-R

FILE NO. NAE-2009-02719

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.



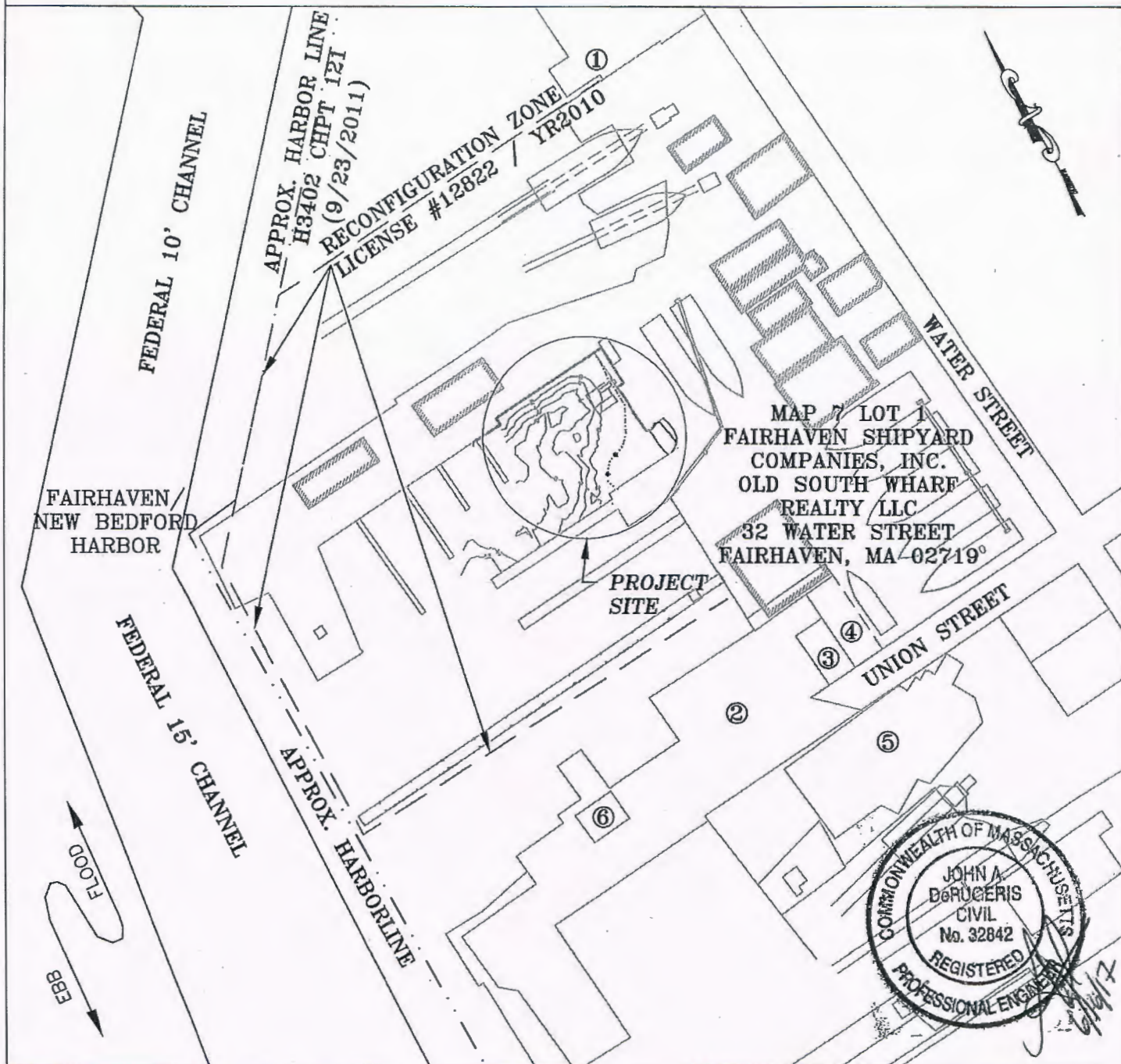
Barbara Newman
Chief, Permits and Enforcement Branch
Regulatory Division

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: _____

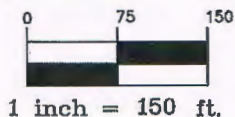


NOTE: SEE SHEET 7 OF 7 FOR ABUTTER INFORMATION

PURPOSE: IMPROVE SHIPYARD ABILITY TO
PROVIDE VITAL MARINE INDUSTRIAL SERVICES
TO MARITIME USERS

DATUM: MLW
MLW = 0.0'
MHW = +3.7'
AHTL = +5.5'
CLE ENGINEERING, INC.
15 CREEK ROAD
MARION, MA 02738

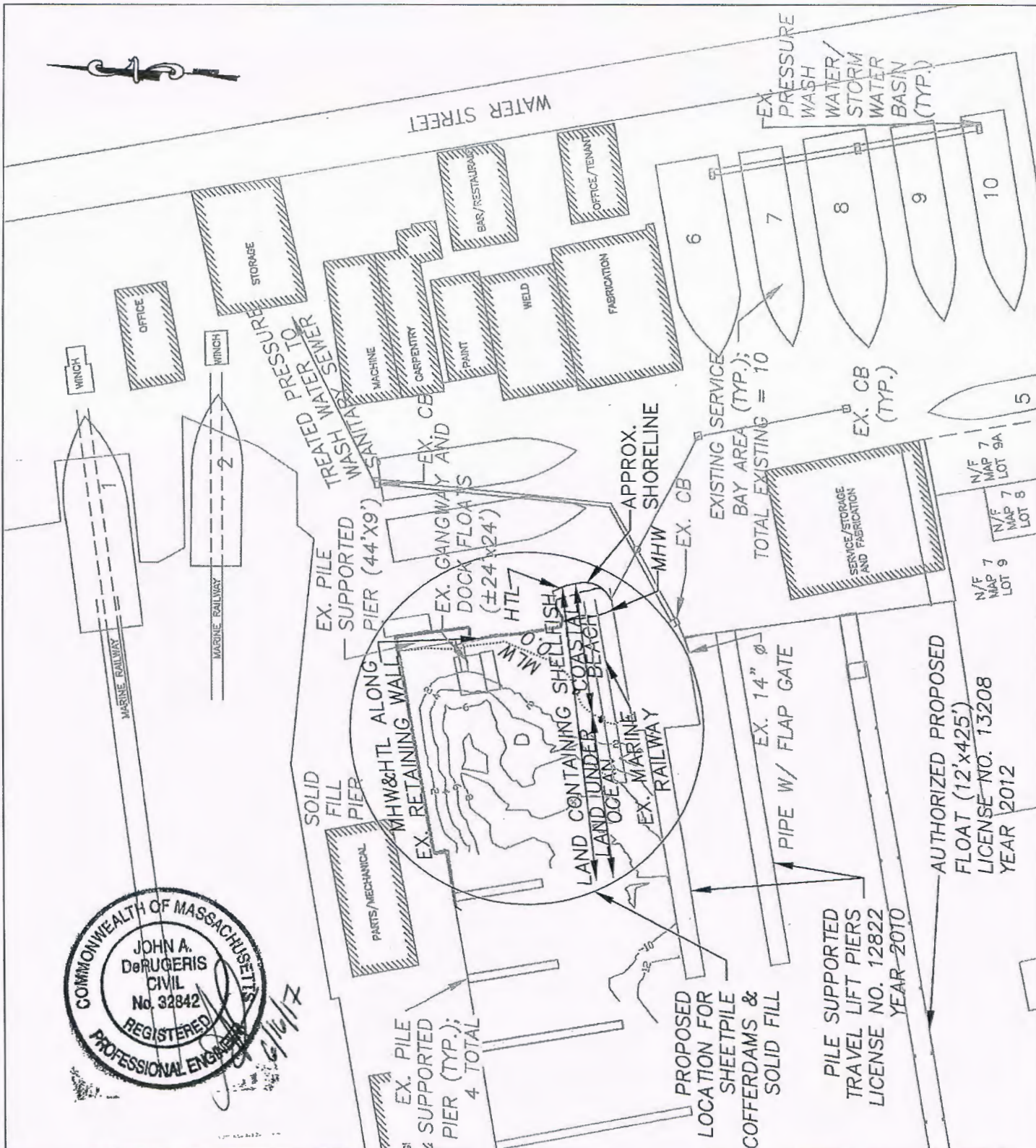
**SITE LOCUS &
ABUTTER PLAN**
SCALE: 1" = 150'



PROPOSED SHEETPILE COFFERDAMS AND
SOLID FILL FOR MARINE INDUSTRIAL USE

FAIRHAVEN SHIPYARD COMPANIES, INC.
32 WATER STREET
FAIRHAVEN, MA 02719
COUNTY OF: BRISTOL
DATE: 12/12/2012 REV. 6/16/2017

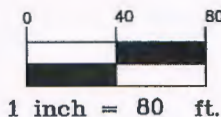
SHEET 2 OF 7



PURPOSE: IMPROVE SHIPYARD ABILITY TO PROVIDE VITAL MARINE INDUSTRIAL SERVICES TO MARITIME USERS

DATUM: MLW
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CLE ENGINEERING, INC.
15 CREEK ROAD
MARION, MA 02738

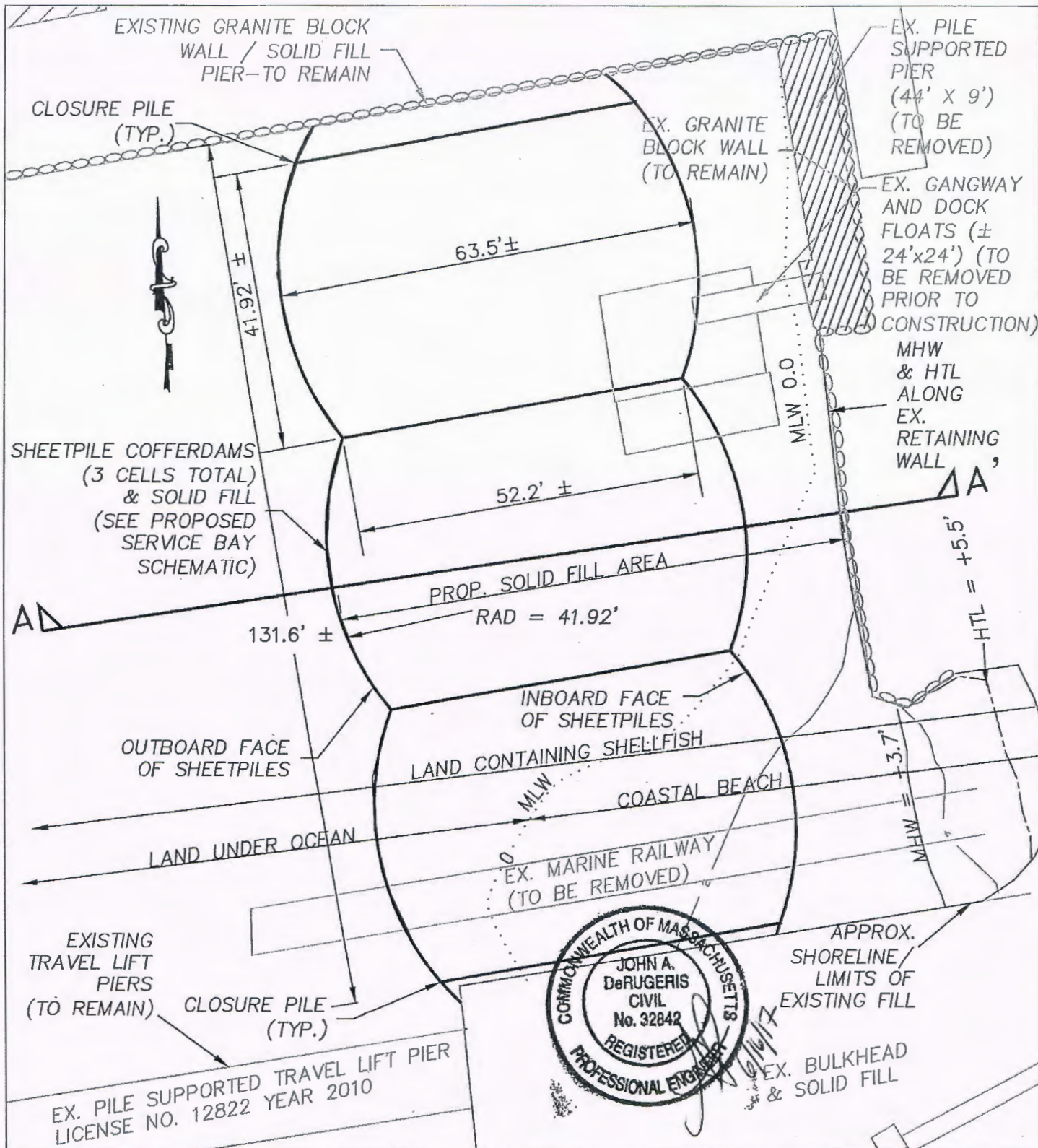
EXISTING SITE PLAN
SCALE: 1" = 80'



PROPOSED SHEETPILE COFFERDAMS AND SOLID FILL FOR MARINE INDUSTRIAL USE

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32 WATER STREET
FAIRHAVEN, MA 02719
COUNTY OF: BRISTOL
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SHEET 3 OF 7

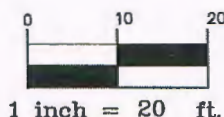


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PROPOSED SITE PLAN

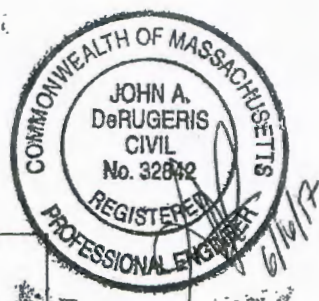
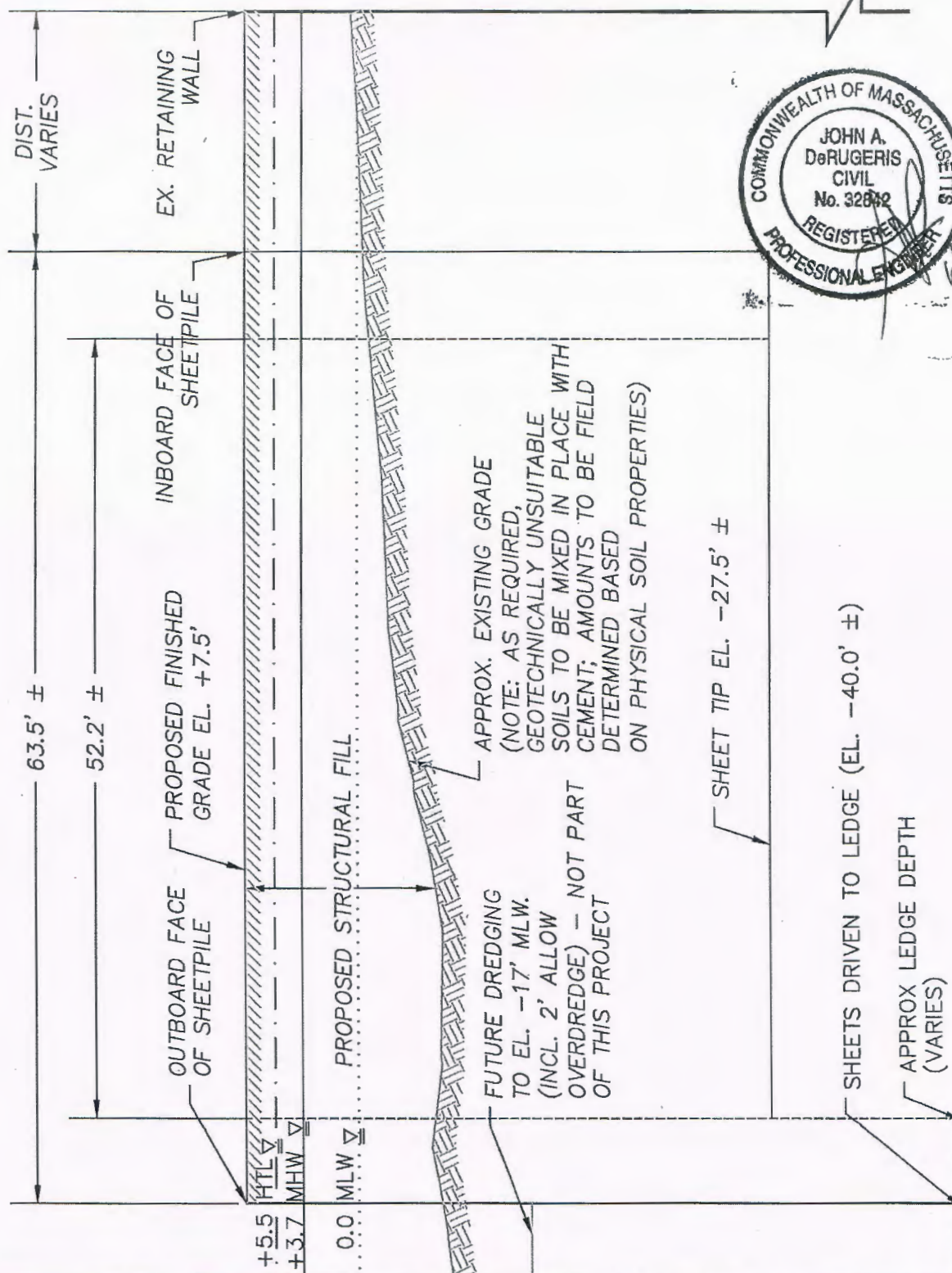
SCALE: 1" = 20'



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SHEET 4 OF 7

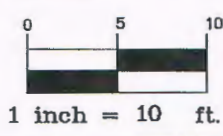


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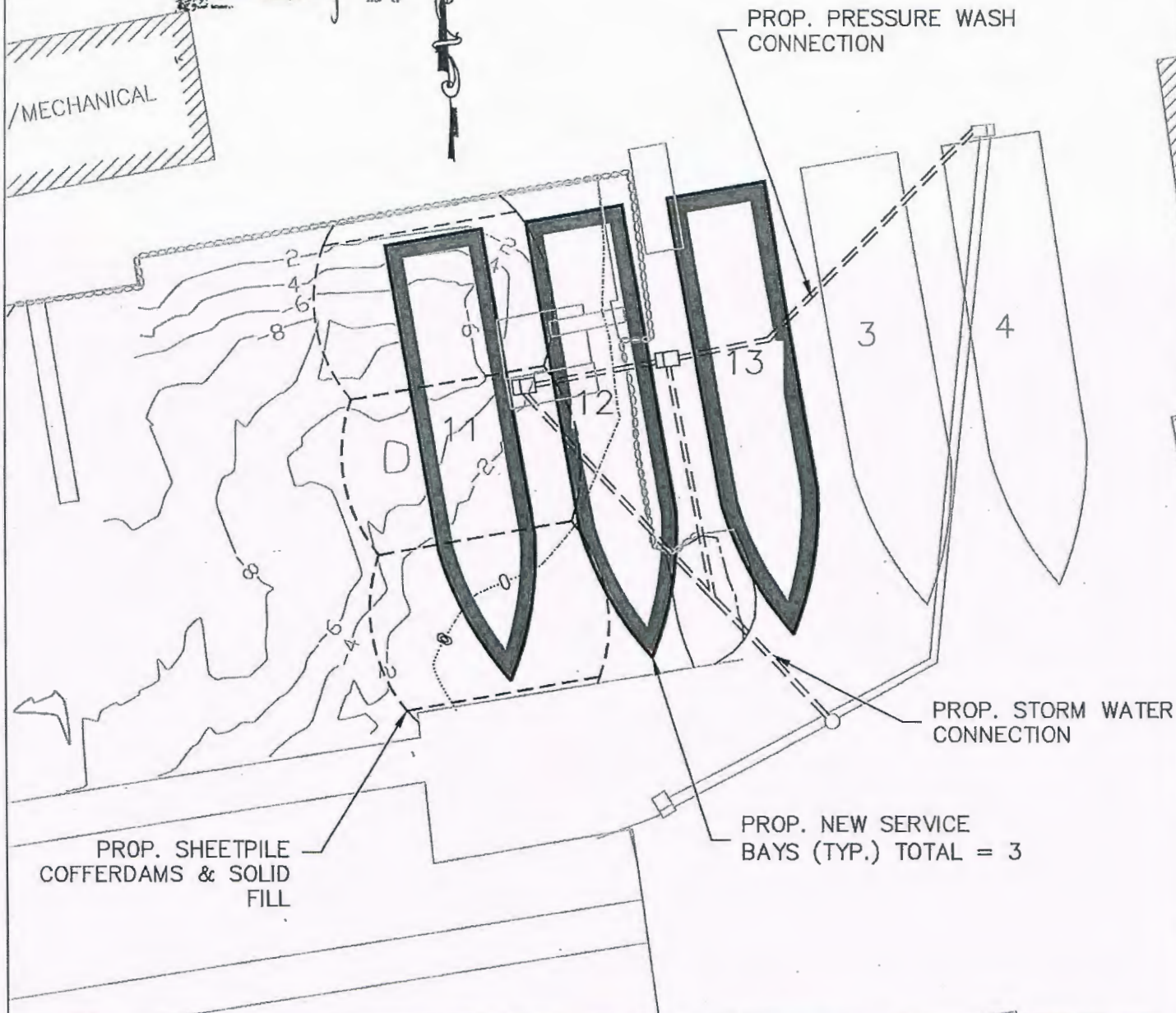
SHEETPILE SECTION VIEW

SECTION A-A'
 SCALE: 1" = 10'



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 SHEET 5 OF 7

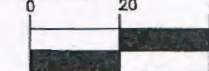


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**PROPOSED SERVICE
BAY SCHEMATIC &
PRESSURE WASH/STORM
WATER CONNECTION**

SCALE: 1" = 40'



1 inch = 40 ft.

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SHEET 6 OF 7

NOTES:

1. TOPOGRAPHIC AND HYDROGRAPHIC SURVEY OF PROJECT AREA PERFORMED BY CLE ENGINEERING, INC. ON 10/20/2011 AND 11/03/2011. CONTOURS AND ELEVATIONS REFER TO MEAN LOW WATER (MLW) DATUM. MLW = 0.0; MHW = +3.7; HTL = +5.5.
2. PLAN DEPICTS A COMPILATION OF PERMIT AND LICENSE PLANS PROVIDED BY KELLEY'S AND THEIR ATTORNEY MICHAEL KEHOE (PARTRIDGE, SNOW & HAHN, LLP). CLE DID NOT INDEPENDENTLY REVIEW DEP, ACOE OR TOWN RECORDS.
3. FEMA FLOOD ZONE AE5. LAND SUBJECT TO COASTAL STORM FLOWAGE/ENTIRE SITE.
4. EXISTING CONDITIONS DEPICTED ARE BASED ON SITE PLAN DATED APRIL 24, 2003, REV. JULY 10, 2003 BY ALAN EWING, PLS. THIS PLAN BASED ON PLANS OF RECORD AND IS NOT THE RESULT OF ACTUAL FIELD SURVEY.
5. COORDINATES ARE BASED ON THE NAD83 GRID SYSTEM FOR THE COMMONWEALTH OF MASSACHUSETTS.
6. THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULTS OF HYDROGRAPHIC AND TOPOGRAPHIC SURVEYS PERFORMED ON THE DATES SHOWN, AND CAN ONLY BE CONSIDERED AS INDICATING THE CONDITIONS AT THAT TIME. INTERPOLATED INFORMATION FROM BETWEEN SOUNDING RUNS IS NOT GUARANTEED. SHOALS, OBSTRUCTIONS OR OTHER DIFFERING CONDITIONS MAY EXIST BETWEEN THESE RUNS. CONSULT WITH CLE ENGINEERING FOR MORE DETAILED INFORMATION.
7. LAND CONTAINING SHELLFISH, AS SHOWN, BASED UPON AVAILABLE MA GIS DATA & REPRESENTS POTENTIALLY SUITABLE HABITAT AS MAPPED BY MA DIVISION OF MARINE FISHERIES.
8. POSSESSION AND USE OF THE MATERIAL CONTAINED ON THESE DRAWINGS IS GRANTED ONLY IN CONNECTION WITH ITS USE AS IT RELATES TO THE TITLED PROJECT, ANY OTHER USE, REPRODUCTION OR DISCLOSURE OF THE INFORMATION CONTAINED HEREON IS EXPRESSLY PROHIBITED WITHOUT THE WRITTEN CONSENT OF CLE ENGINEERING, INC.

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ABUTTERS:

- ① MAP 9 LOT 2A
E & W PROPERTIES, LLC
113 MACARTHUR DRIVE NEW BEDFORD, MA 02740
- ② MAP 7 LOT 9
TOWN OF FAIRHAVEN
C/O SEAFOOD SERVICES, INC.
10 NORTH FRONT STREET FAIRHAVEN, MA 02179
- ③ MAP 7 LOT 8
GAIL & MAX T. ISAKSEN
72 FORT STREET FAIRHAVEN, MA 02179
- ④ MAP 7 LOT 9A
GAIL ISAKSEN
72 FORT STREET FAIRHAVEN, MA 02179
- ⑤ MAP 7 LOT 11
CASEY BOAT REALTY LLC
50 FORT STREET FAIRHAVEN, MA 02179
- ⑥ MAP 7 LOT 7
UNION WHARF REALTY
2 MIDDLE STREET FAIRHAVEN, MA 02179

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GENERAL NOTES

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SHEET 7 OF 7

