



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

PUBLIC NOTICE

Comment Period Begins: 5/10/16
Comment Period Ends: 6/8/16
File Number: NAE-2015-02173
In Reply Refer To: Joshua Helms
Phone: (978) 318-8211
E-mail: joshua.m.helms@usace.army.mil

The District Engineer has received a permit application to conduct work in waters of the United States from Gregory Kulpinski, VVK Realty, LLC., 49 Flag Swamp Road, North Dartmouth, Massachusetts. This work is proposed in Buzzards Bay at 1494 E. Rodney French Boulevard, New Bedford, Massachusetts. The site coordinates are: Latitude 41°36'38" Longitude 70°54'18".

The project is designed to improve access between navigable waters of Buzzards Bay and additionally provide public access through the creation of a contiguous shoreline access between the subject property and adjacent properties. The purpose of the project is to maintain existing waterfront infrastructure, improve access to the site for transient boaters through moorings and floating docks, and to renovate and restore the business on site. Floating docks would serve as the only transient docking from Clark's Point to the New Bedford Hurricane Barrier to be safely accessible throughout the entirety of the tide cycle.

The work involves maintenance and rehabilitation activities to a previously permitted 140-foot by 10-foot pier within the footprint of the existing structure. The pilings will be replaced as well as timber structural members, decking and railings. These repairs will be made from shore or by work barge. In order to allow for access and safe passage for recreational boaters at all tides, the applicant is proposing to add of 3400 SF floating docks with a reconfiguration zone, two 175 square feet gangway systems north and south of the existing pier, and installing 12 moorings with helical anchors. Further work to structures, parking areas, and public access are located outside of CORPS jurisdiction.

The proposed floating dock system will consist of four floats; two 60-foot by 10-foot and two 110-foot by 10-foot. They will be pile-supported by sixteen 16-inch diameter timber piles or steel pipe driven using land-based and water-based equipment and a vibratory and/or impact hammer. Access to the floats from the existing pier will be provided by two proposed aluminum 5-foot by 35-foot gangways. A float reconfiguration zone is proposed around the perimeter of the floats. The float system, including dinghy docks, will provide a landing site for transient, recreational vessels visiting the property. Floats will have 2.5 feet clearance at all tides. Docks and gangways will be construed off-site and installed by land-based crane or towed in the water. The applicant proposes to use elastic conservation moorings installed with helical anchors in order to accommodate vessels up to 60 feet in length.

The work is shown on the attached plans entitled "PLAN ACCOMPANYING PETITION OF: VVK, REALTY, LLC 99 FLAG SWAMP RD, NORTH DARTMOUTH, MA 02747, TO AUTHORIZE AND MAINTAIN A PILE-ANCHORED FLOATING DOCK SYSTEM CONNECTED TO AN EXISTING TIMBER PIER VIA PROPOSED GANGWAYS, ALONG WITH THE INSTALLATION OF MOORINGS,," on five sheets, and dated "3/24/2016."

Activities must be designed and constructed to avoid and minimize adverse effects both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site. Mitigation in all of its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) is required to the extent necessary to ensure that the adverse effect to the aquatic environment are no more than minimal.

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

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 establish a reconfiguration zone that may impact up to 0.8 acres of Essential Fish Habitat (EFH) and a mooring field that will occupy approximately 5.5 acres of EFH for Albacore Tuna (*Thunnus alalunga*), Atlantic Butterfish (*Peprilus triacanthus*), Atlantic Cod (*Gadus morhua*), Atlantic Herring (*Clupea harengus*), Atlantic Mackerel (*Scomber scombrus*), Atlantic Wolffish (*Anarhichas lupus*), Black Sea Bass (*Centropristis striata*), Bluefin Tuna (*Thunnus thynnus*), Bluefish (*Pomatomus saltatrix*), Haddock (*Melanogrammus aeglefinus*), Little Skate (*Leucoraja erinacea*), Longfin Inshore Squid (*Loligo pealeii*), Northern Shortfin Squid (*Illex illecebrosus*), Red Hake (*Urophycis chuss*), Scup (*Stenotomus chrysops*), Smooth Dogfish (*Mustelus canis*), Summer Flounder (*Paralichthys dentatus*), Windowpane Flounder (*Scophthalmus aquosus*), Winter Flounder (*Pseudopleuronectes americanus*), and Winter Skate (*Leucoraja ocellata*). The

project area consists of hard bottom substrate with adjacent eelgrass outside of the immediate project area. This habitat is listed as priority/estimated habitat of rare species and wildlife by the Massachusetts Natural Heritage and Endangered Species Program.

Loss of this habitat may adversely affect the species and habitat listed above. 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.

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 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.

COASTAL ZONE MANAGEMENT

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.
- () Water Quality Certification in accordance with Section 401 of the Clean Water Act.

CENAE-R

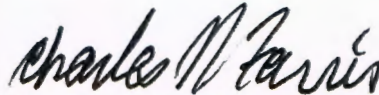
FILE NO. NAE-2015-02173

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 Joshua Helms at (978) 318-8211, (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.



Charles N. Farris

Chief, Permits and Enforcement Branch, Massachusetts
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.

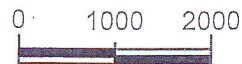
NAME: _____

ADDRESS: _____

PHONE: _____



LOCUS MAP
SCALE 1"=2000'

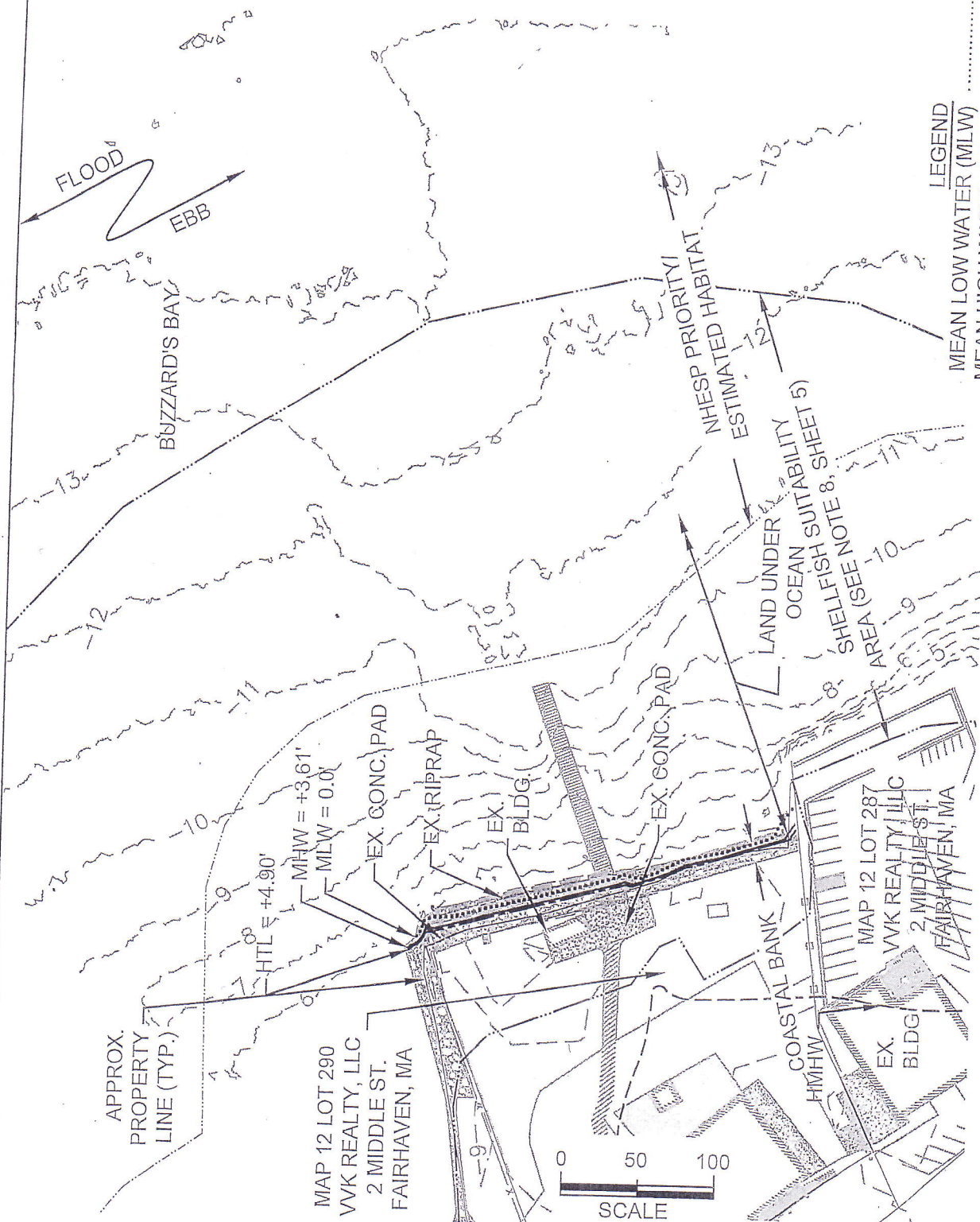


SCALE
SHEET 1 OF 5

DATE: 03/24/2016

PLAN ACCOMPANYING PETITION OF:
VVK REALTY, LLC
99 FLAG SWAMP RD, NORTH DARTMOUTH, MA 02747

TO AUTHORIZE AND MAINTAIN A PILE-ANCHORED
FLOATING DOCK SYSTEM CONNECTED TO AN
EXISTING TIMBER PIER VIA PROPOSED GANGWAYS,
ALONG WITH THE INSTALLATION OF MOORINGS.
BUZZARD'S BAY
BRISTOL COUNTY, MASSACHUSETTS



- LEGEND**
- MEAN LOW WATER (MLW)
 - MEAN HIGH WATER (MHW)
 - HIGH TIDE LINE (HTL)
 - HISTORIC MEAN HIGH WATER (HMLHW)
 - APPROX. PROPERTY LINE
 - NHEP HABITAT
 - SHELLFISH SUITABILITY AREA

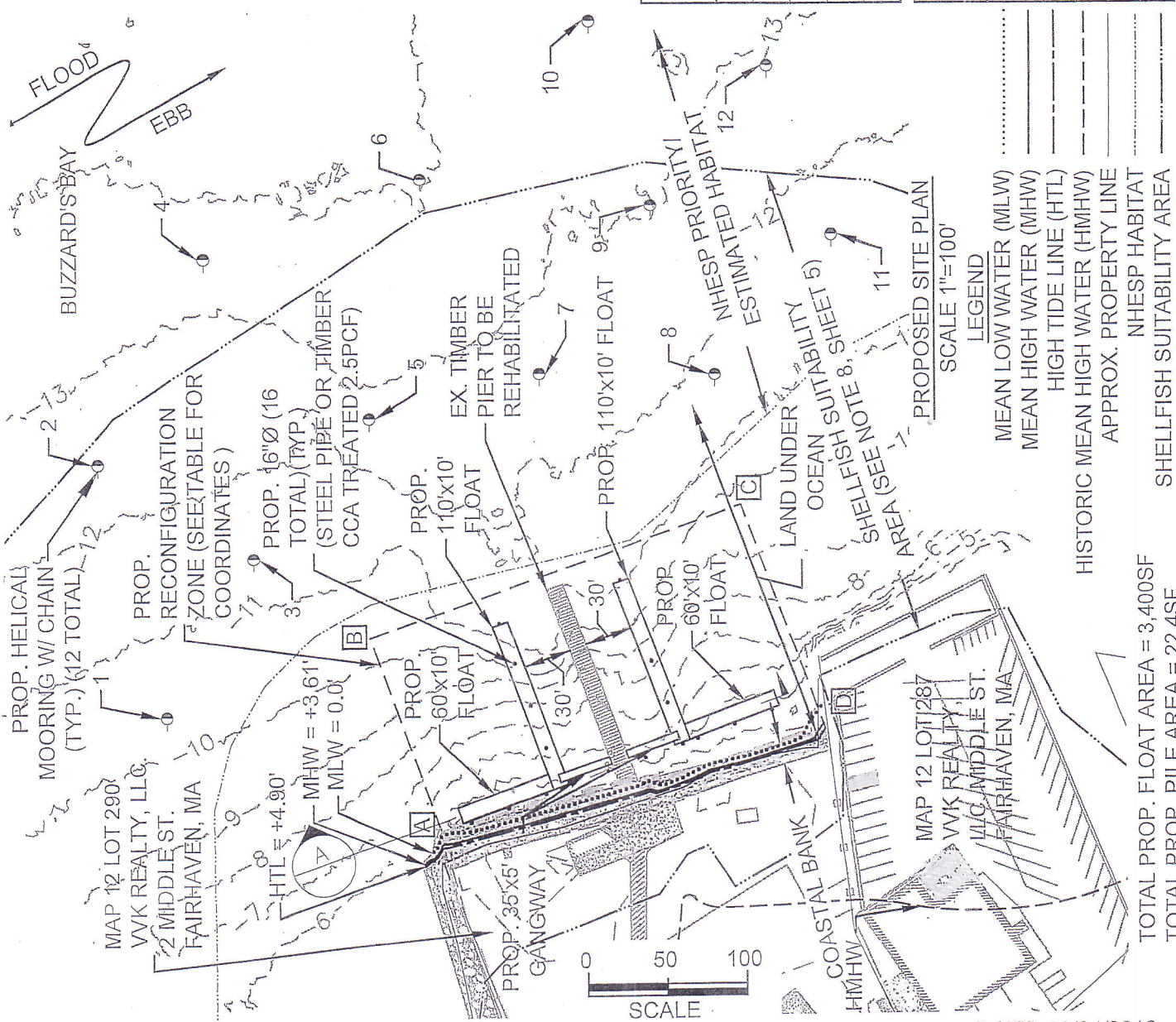
EXISTING CONDITIONS PLAN
SCALE 1"=100'

0 50 100
SCALE
SHEET 2 OF 5

DATE: 03/24/2016

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RECONFIGURATION ZONE COORDINATES (MA STATE PLANE)			
POINT	NORTHING	EASTING	
A	2683898.08	818860.51	
B	2683941.35	818980.00	
C	2683708.73	819065.16	
D	2683656.35	818920.58	

TABLE OF VESSEL MOORING		
VESSEL LENGTH (FT)	NUMBER OF VESSELS	
60	2	
40	8	
35	2	
TOTAL:	12	

LEGEND

MEAN LOW WATER (MLW)

MEAN HIGH WATER (MHW)

HIGH TIDE LINE (HTL)

HISTORIC MEAN HIGH WATER (HMH)

APPROX. PROPERTY LINE

NHEP HABITAT

SHELLFISH SUITABILITY AREA

TOTAL PROP. FLOAT AREA = 3,400SF

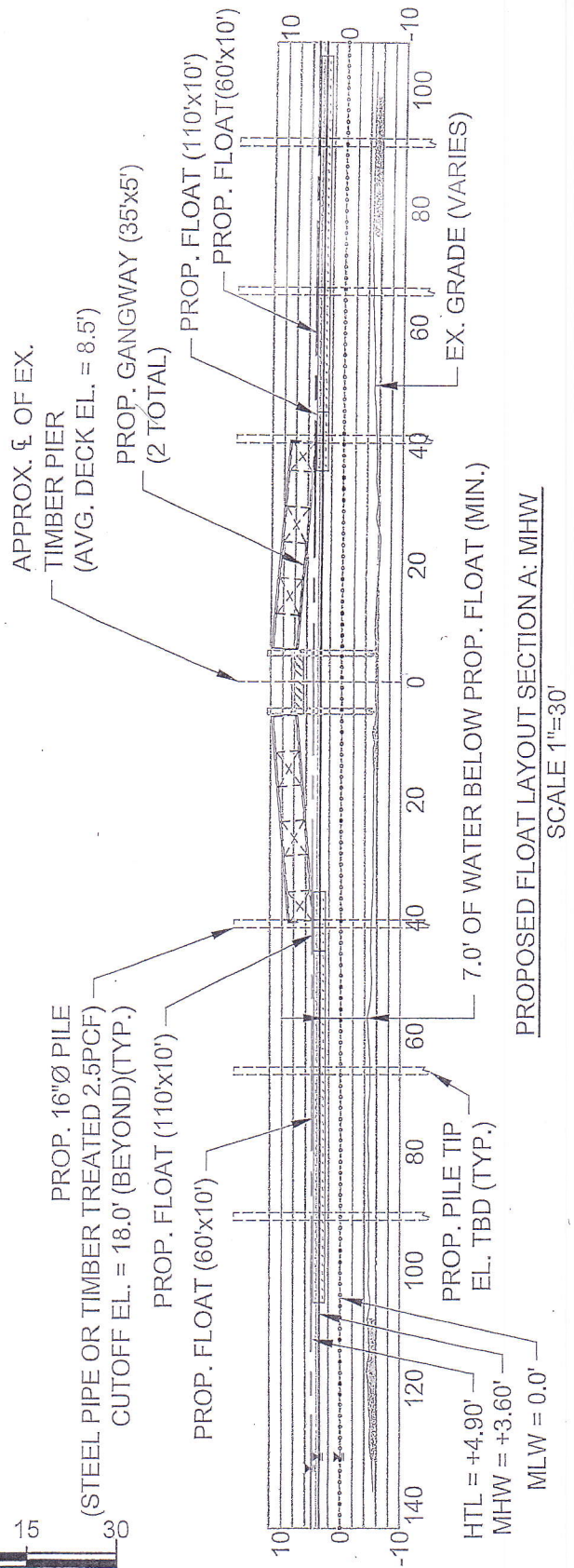
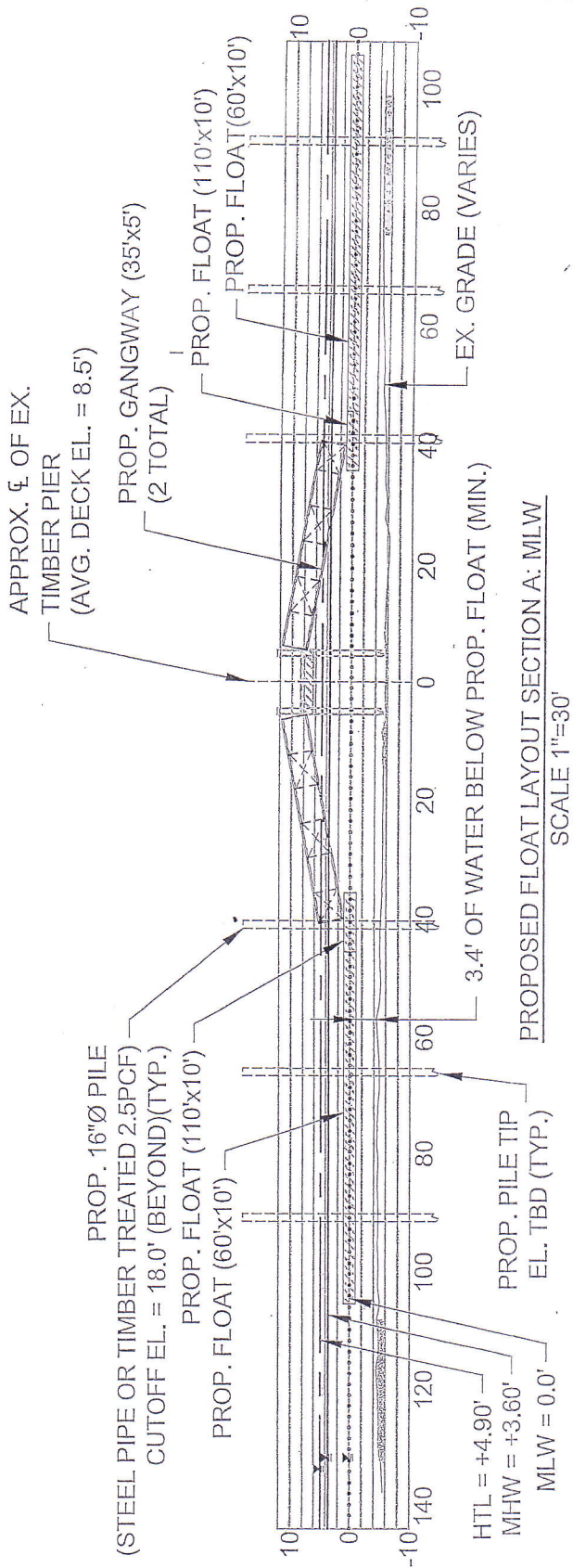
TOTAL PROP. PILE AREA = 22,4SF

SCALE
SHEET 3 OF 5

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SCALE
SHEET 4 OF 5

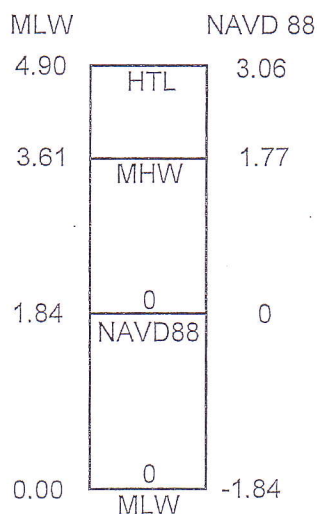
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GENERAL NOTES:

1. RESULTS OF TOPOGRAPHIC SURVEY DATED 04-02-14 AND HYDROGRAPHIC SURVEY BY CLE ENGINEERING, INC. (CLE) DATED 3/19/14 AND 11/3/14.
2. ELEVATIONS ARE IN FEET AND TENTHS, AND REFER TO MEAN LOW WATER (MLW).
3. PROJECT BENCHMARK IS U.S. ARMY CORPS OF ENGINEERS BENCHMARK NAE32-BBCC73, ELEVATION 4.87' NAVD88 (6.71' MLW).
4. SITE BENCHMARK IS A PK NAIL (SET) IN SIDEWALK. EL. = 9.32' MLW.
5. THE INFORMATION DEPICTED ON THIS PLAN REPRESENTS THE RESULTS OF 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. NO SURVEYS WERE CONDUCTED TO LOCATE PROPERTY LINES, CHANNEL LIMITS, EASEMENTS, UTILITIES, GEOTECHNICAL FEATURES, STRUCTURES, HABITATS OR ANY OTHER PHYSICAL FEATURES RELATING TO THE PROJECT SITE, NOR DOES CLE WARRANT THE EXISTENCE OR LOCATION OF SAID PHYSICAL FEATURES.
6. PROJECT SITE LOCATED WITHIN FEMA ZONE VE 17 NAVD 88.
7. FLOOD PLAIN INFORMATION FROM FEMA FIRM: CITY OF NEW BEDFORD, MA, PANEL 255216 0482 G AND EFFECTIVE DATE JULY 16, 2014.
8. APPROXIMATE PROPERTY LINE LOCATIONS, SHELLFISH SUITABILITY AREA, NHESP ESTIMATED / PRIORITY HABITAT AND HISTORIC HIGH WATER LINE ARE LOCATED FROM MOST CURRENT AVAILABLE MA GIS DATA.
9. COORDINATES SHOWN ARE BASED UPON MASSACHUSETTS STATE PLAN DATUM NAVD 88
10. EXISTING PIER / RIP RAP ARE AUTHORIZED BY THE FOLLOWING PERMITS / LICENSES: MA DEP LIC. #6504 (10/14/1964); MA DEP LIC. #519 (04/09/1925) , 990 (03/19/1929), 5285 (09/20/1967), AND 13647 (2014).
11. 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.



PROPOSED MOORING LOCATION COORDINATES (MA STATE PLANE)		
MOORING NO.	NORTHING	EASTING
1	2684089.0918	818990.7404
2	2684131.8723	819152.5529
3	2684034.2248	819091.8078
4	2684065.0028	819281.2132
5	2683960.8356	819180.3640
6	2683928.2472	819332.6688
7	2683854.3463	819207.9205
8	2683744.3481	819207.2962
9	2683784.3143	819315.1160
10	2683822.4141	819431.7926
11	2683670.9461	819295.8059
12	2683710.9123	819403.6377

SHEET 5 OF 5

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