



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

PUBLIC NOTICE

Date: December 23, 2003
Comment Period Ends: January 23, 2004
File Number: 200301768
In Reply Refer To: David M. Keddell
Or by e-mail: david.m.keddell@usace.army.mil

Paul and Michele O'Connor have requested a Corps of Engineers permit under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, to 75 linear feet of timber retaining wall, deposit 375 cubic yards of fill material onto 50 square feet of rocky intertidal habitat, rebuild and reinstall a 4 foot X 10 foot pier, a 3 foot X 18 foot ramp, 1 - 8 foot by 20 foot float and 1 - 8 foot X 24 foot float. This work is proposed in Albatross Lagoon at 21 Captain Keavy Way, West Dennis, Massachusetts. The work is described on the enclosed plans entitled "PLAN TO ACCOMPANY PETITION OF PAUL M. & MICHELE B. O'CONNOR TO LICENSE, CONSTRUCT AND MAINTAIN PROPOSED STRUCTURES AND DREDGING IN ALBATROSS LAGOON, DENNIS, BARNSTABLE COUNTY, MA" on 2 sheets, and dated "JULY 30, 2003."

This project will impact .001 acres of Essential Fish Habitat (EFH). Loss of this habitat may adversely affect Atlantic salmon (*Salmo salar*), Atlantic cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), pollock (*Pollachius virens*), whiting (*Merluccius bilinearis*), offshore hake (*Merluccius albidus*), red hake (*Urophycis chuss*), white hake (*Urophycis tenuis*), redfish (*Sebastes fasciatus*), witch flounder (*Glyptocephalus cynoglossus*), winter flounder (*Pleuronectes americanus*), yellowtail flounder (*Pleuronectes ferruginea*), windowpane flounder (*Scophthalmus aquosus*), American plaice (*Hippoglossoides platessoides*), ocean pout (*Macrozoarces americanus*), Atlantic halibut (*Hippoglossus hippoglossus*), Atlantic sea scallop (*Placopecten magellanicus*), Atlantic sea herring (*Clupea harengus*), monkfish (*Lophius americanus*), bluefish (*Pomatomus saltatrix*), long finned squid (*Loligo pealei*), short finned squid (*Illex illecebrosus*), Atlantic butterfish (*Peprilus triacanthus*), Atlantic mackerel (*Scomber scombrus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), surf clam (*Spisula solidissima*), ocean quahog (*Artica islandica*), spiny dogfish (*Squalus acanthias*), tilefish (*Lopholatilus chamaeleonticeps*).

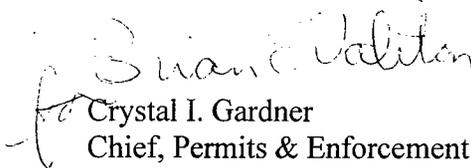
This habitat consists of rocky intertidal habitat and peat. The applicant has proposed the restoration of 200 sf of salt marsh as mitigation for the impact to 50 sf of mudflat. However, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

This project is located on the USGS Dennis quadrangle sheet, zone 19 at UTM coordinates 4611874 N and 401309 E.

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 David Keddell at (978) 318-8692, (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.

SEE NEXT PAGE FOR
DETAILS OF EVALUATION
FACTORS


Crystal I. Gardner
Chief, Permits & Enforcement Branch
Regulatory Division

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.

CHOOSE 1 OF THE 2 FOLLOWING PARAGRAPHS:

(1) 106 REVIEW COMPLETE

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)

(2) 106 REVIEW ONGOING

Based on his initial review, the District Engineer has determined that the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfill requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

Pursuant to the Endangered Species Act, the District Engineer is hereby requesting that the appropriate Federal Agency provide comments regarding the presence of and potential impacts to listed species or its critical habitat.

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.

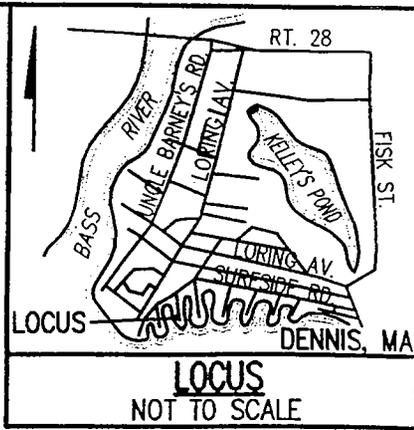
The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management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

The 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.

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: _____

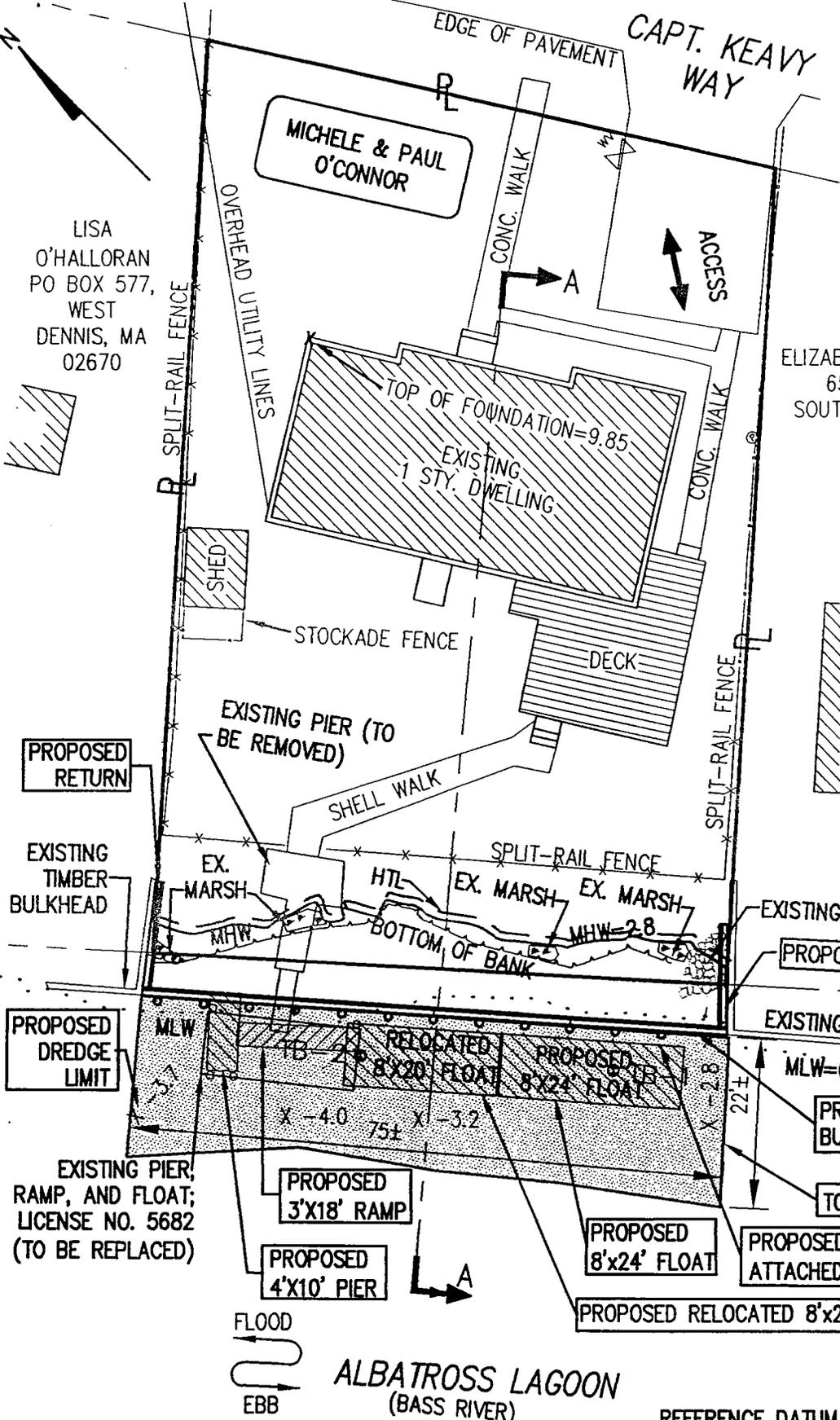
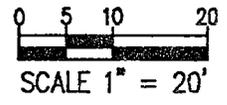


ELIZABETH & GERALD DAILEY
65 FARRAGUT ROAD
SOUTH BOSTON, MA 02125

LEGEND

□ AREA OF DREDGING

PLAN

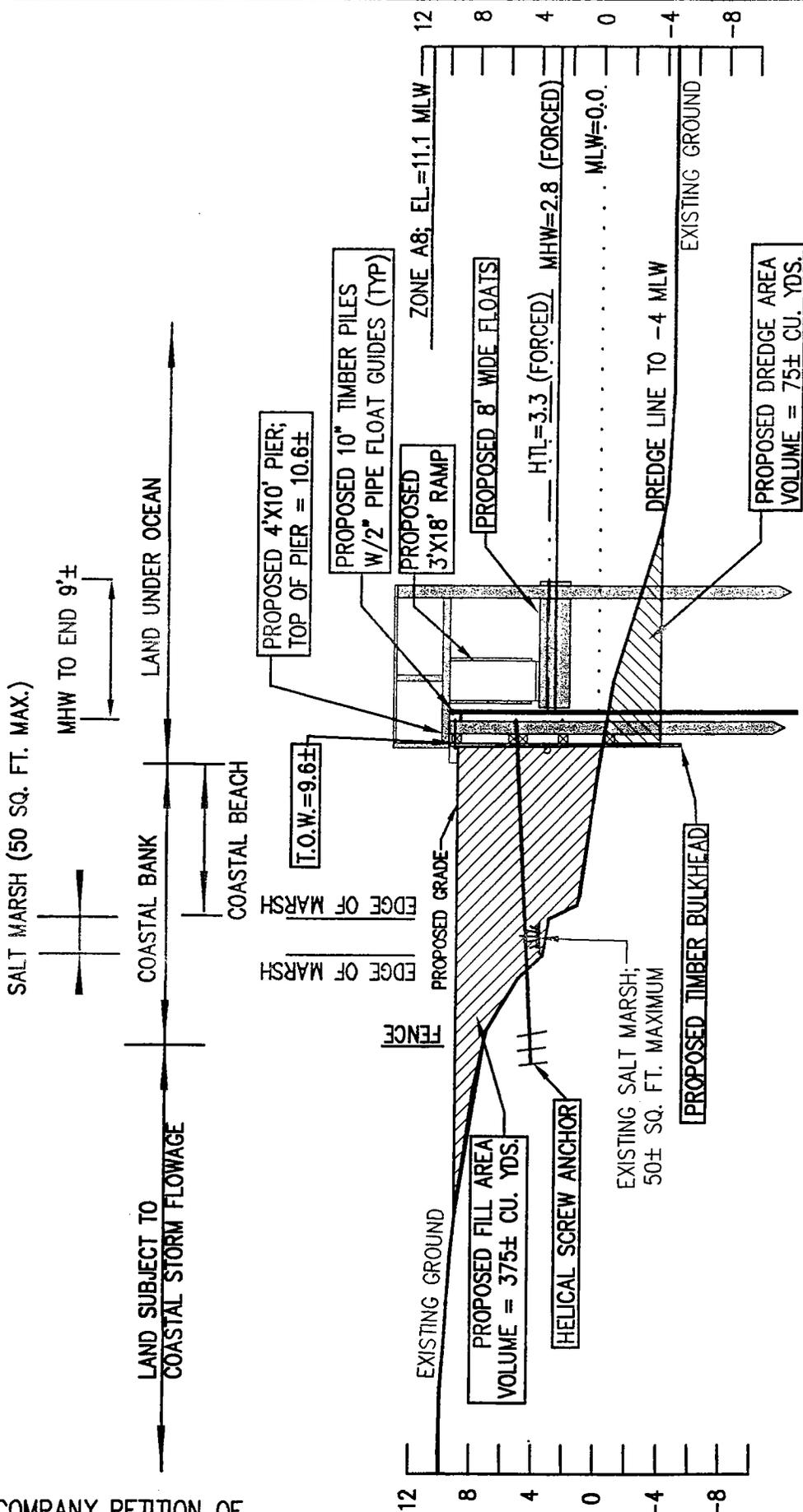


REFERENCE DATUM IS MEAN LOW WATER=0.0
REF: TOWN ASSESSOR'S MAP 26, PARCEL 79

PLAN TO ACCOMPANY PETITION OF
PAUL M. & MICHELE B. O'CONNOR
TO LICENSE, CONSTRUCT AND MAINTAIN PROPOSED
STRUCTURES AND DREDGING IN ALBATROSS
LAGOON, DENNIS, BARNSTABLE COUNTY, MA

PREPARED BY
COASTAL ENGINEERING CO., INC.
260 CRANBERRY HIGHWAY, ORLEANS, MA 02653

REFERENCE DATUM IS MEAN LOW WATER = 0.0



PROFILE A-A (PROPOSED)



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 TO LICENSE, CONSTRUCT AND MAINTAIN PROPOSED
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 260 CRANBERRY HIGHWAY, ORLEANS, MA 02653
 C15685.01 JULY 30, 2003 SHEET 2 OF 2