



**US Army Corps
of Engineers**
New England District

PUBLIC NOTICE

696 Virginia Road
Concord, MA 01742-2751

Date: March 18, 2008
Comment Period Ends: April 18, 2008
File Number: NAE-2008-263
In Reply Refer To: David Keddell
Or by e-mail: david.m.keddell@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. The Corps is soliciting comments on both the project itself and the range of issues to be addressed in the environmental documentation.

APPLICANT

Newburyport Hilton Marina LLC
R54 Merrimac Street
Newburyport, Massachusetts 01950

ACTIVITY

Newburyport Hilton Marina has applied for an authorization to realign and extend the previously authorized 9600 sf of float lines associated with the Hilton & Strout Marina. The proposal is for (2) float lines with an additional 1,900 sf of floats.

The project is described as follows: Float line "A" shall consist of (1) 8 foot X 26 foot, (3) 5 foot X 30 foot, and (9) 8 foot X 30 foot walkway floats ending in a "T" shape with (1) 8 foot X 30, (1) 8 foot X 24 foot, and (1) 8 foot X 20 foot line of floats. Attaching to the walkway floats will be (2) 6 foot X 20 foot, (2) 3 foot X 16 foot, (2) 6 foot X 20 foot, (2) 5 foot X 28 foot (1) 8 foot X 30 foot and (8) 5 foot X 30 foot finger floats.

Float Line "B" shall consist of a 3 foot X 60 foot gangway attaching to (13) 8 foot X 30 foot, (1) 6 foot X 12 foot and (2) 6 foot X 30 foot walkway floats ending in a "T" shape with (1) 8 foot X 32 foot, and (2) 8 foot X 24 foot line of floats. Attaching to the walkway floats will be (2) 4 foot X 24 foot, (5) 6 foot X 32 foot, and (8) 8 foot X 24 foot finger floats.

The work is described on the enclosed plans entitled "NEWBURYPORT HILTON MARINA, LLC FORMER HILTON STROUT BOATING DOCK ON THE MERRIMACK RIVER, NEWBURYPORT, MASSACHUSETTS," on 7 sheets, and dated "JANUARY 2008."

WATERWAY AND LOCATION OF THE PROPOSED WORK

This work is proposed in the Merrimack River at McKay Wharf, Newburyport, Massachusetts. The proposed location on the USGS Newburyport East quadrangle sheet is at UTM coordinates 4741542 N and 346906 E Zone 19 or Lat/Long 42 degrees 48 minutes 48.28 seconds N and 70 degrees 52 minutes 24.41 seconds.

AUTHORITY

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.

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).

This project will have an adverse effect on .01 acres of Essential Fish Habitat (EFH) for 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 (*Scopthalmus 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 ledge bottom. 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 (*Scopthalmus 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*).

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:

- (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.

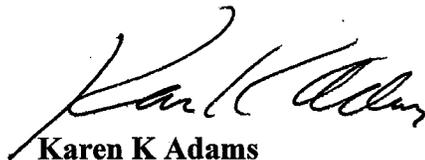
In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact David Keddell at (978) 318-8692, (800) 343-4789 or (800) 362-4367, if calling 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.

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.

For more information on the New England District Corps of Engineers programs, visit our website at <http://www.nae.usace.army.mil>.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



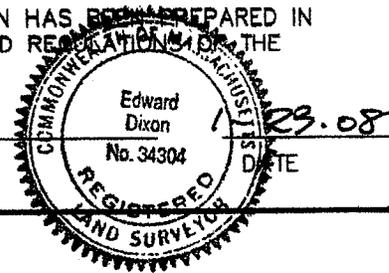
Karen K Adams
Chief, Permits and Enforcement Branch
Regulatory Division

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.

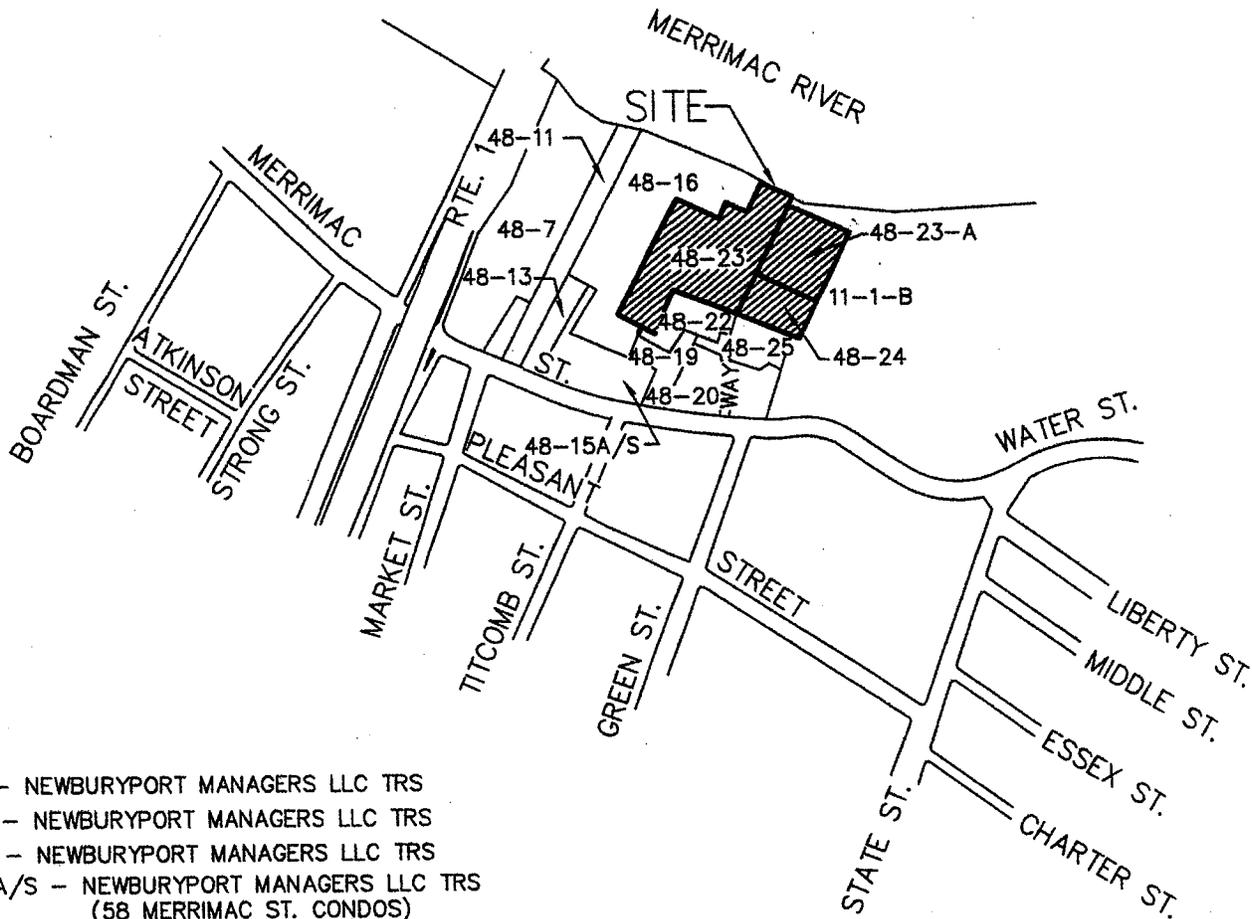
NAME: _____
ADDRESS: _____

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

Edward Dixon
FOR OAK ENGINEERS



OAK
ENGINEERS

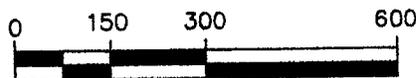


- 48-7 - NEWBURYPORT MANAGERS LLC TRS
- 48-11 - NEWBURYPORT MANAGERS LLC TRS
- 48-13 - NEWBURYPORT MANAGERS LLC TRS
- 48-15A/S - NEWBURYPORT MANAGERS LLC TRS
(58 MERRIMAC ST. CONDOS)
- 48-16 - NEWBURYPORT MANAGERS LLC TRS
- 48-19 - CROSSLAND CORPORATION
- 48-20 - GEONAUTICS, INC
- 48-23-A - NEWBURYPORT MANAGERS LLC TRS
- 48-23 - NEWBURYPORT MANAGERS LLC TRS
- 48-22 - NEWBURYPORT MANAGERS LLC TRS
- 48-24 - NEWBURYPORT WATERFRONT TRUST
- 48-25 - DAVID J MURPHY & MICHAEL A. LENTO

SHEET INDEX:

- SHEET 1 - LOCUS & INDEX SHEET
- SHEET 2 - EXISTING CONDITIONS PLAN
- SHEET 3 - PROPOSED FLOAT -
CONFIGURATION
- SHEET 4 - AREA PLAN SHOWING FEDERAL-
CHANNEL AND MOORING AREA
- SHEET 5 - TYPICAL FLOAT CROSS -
SECTION
- SHEET 6 - FLOAT SCHEDULE
- SHEET 7 - PARKING SCHEDULE

LOCUS MAP



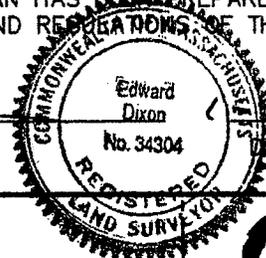
SCALE in FEET
1"=300'

NEWBURYPORT HILTON MARINA, LLC
FORMER HILTON & STROUT BOATING
DOCK ON THE MERRIMACK RIVER
NEWBURYPORT, MASSACHUSETTS

DATE: JANUARY 2008
SHEET 1 of 7

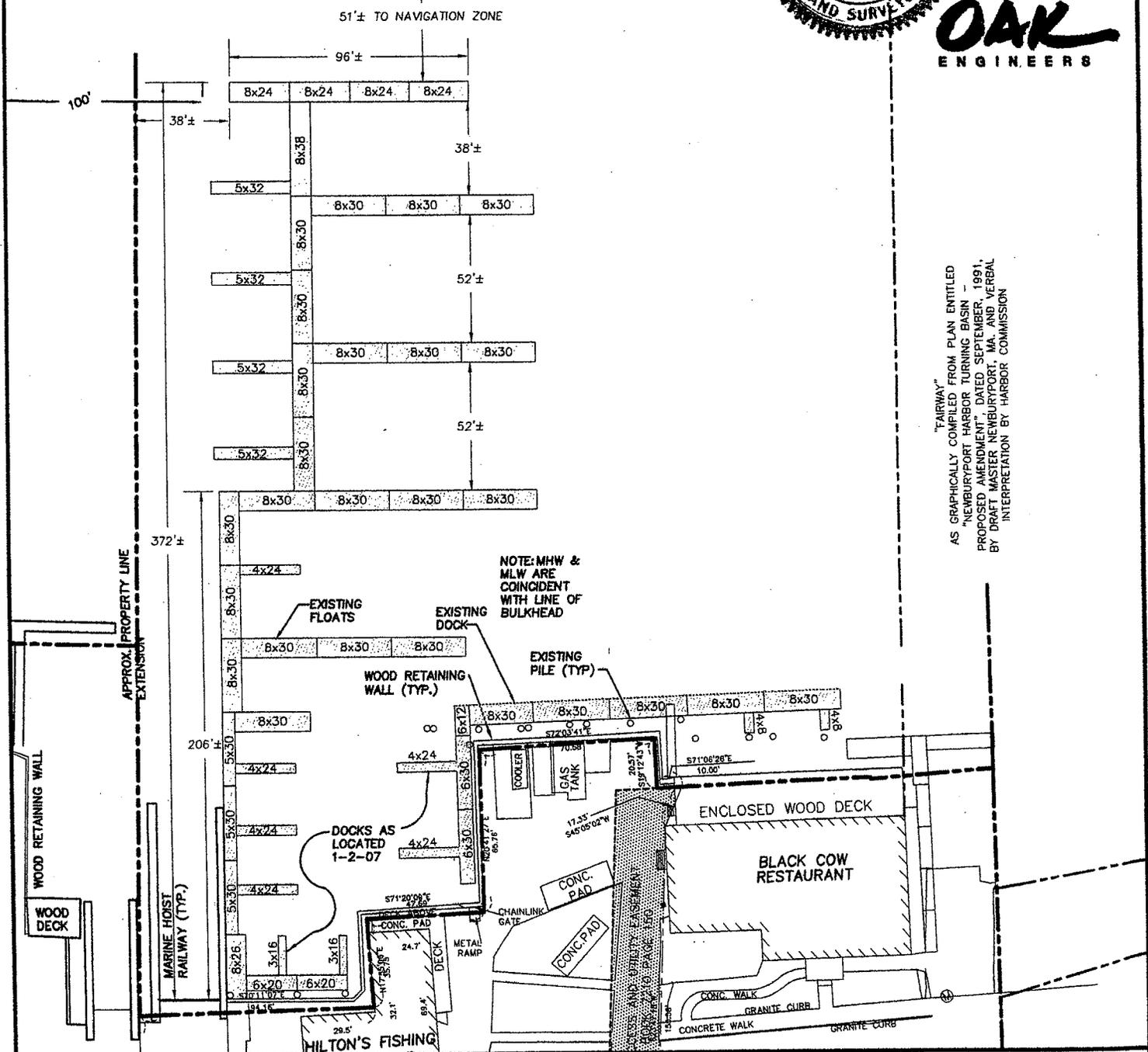
I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

Edward Dixon
FOR OAK ENGINEERS



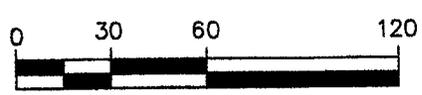
1/23/08
DATE

OAK
ENGINEERS



"FAIRWAY"
AS GRAPHICALLY COMPILED FROM PLAN ENTITLED
"NEWBURYPORT HARBOR TURNING BASIN -
PROPOSED AMENDMENT", DATED SEPTEMBER, 1991,
BY DRAFT MASTER NEWBURYPORT, MA, AND VERBAL
INTERPRETATION BY HARBOR COMMISSION

EXISTING CONDITIONS PLAN



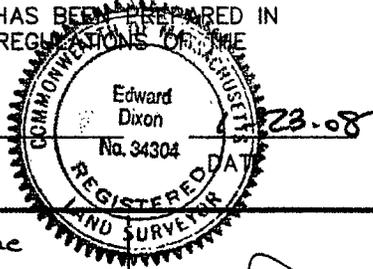
SCALE in FEET
1"=60'

NEWBURYPORT HILTON MARINA, LLC
FORMER HILTON & STROUT BOATING
DOCK ON THE MERRIMACK RIVER
NEWBURYPORT, MASSACHUSETTS

DATE: JANUARY 2008
SHEET 2 of 7

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

[Signature]
FOR OAK ENGINEERS

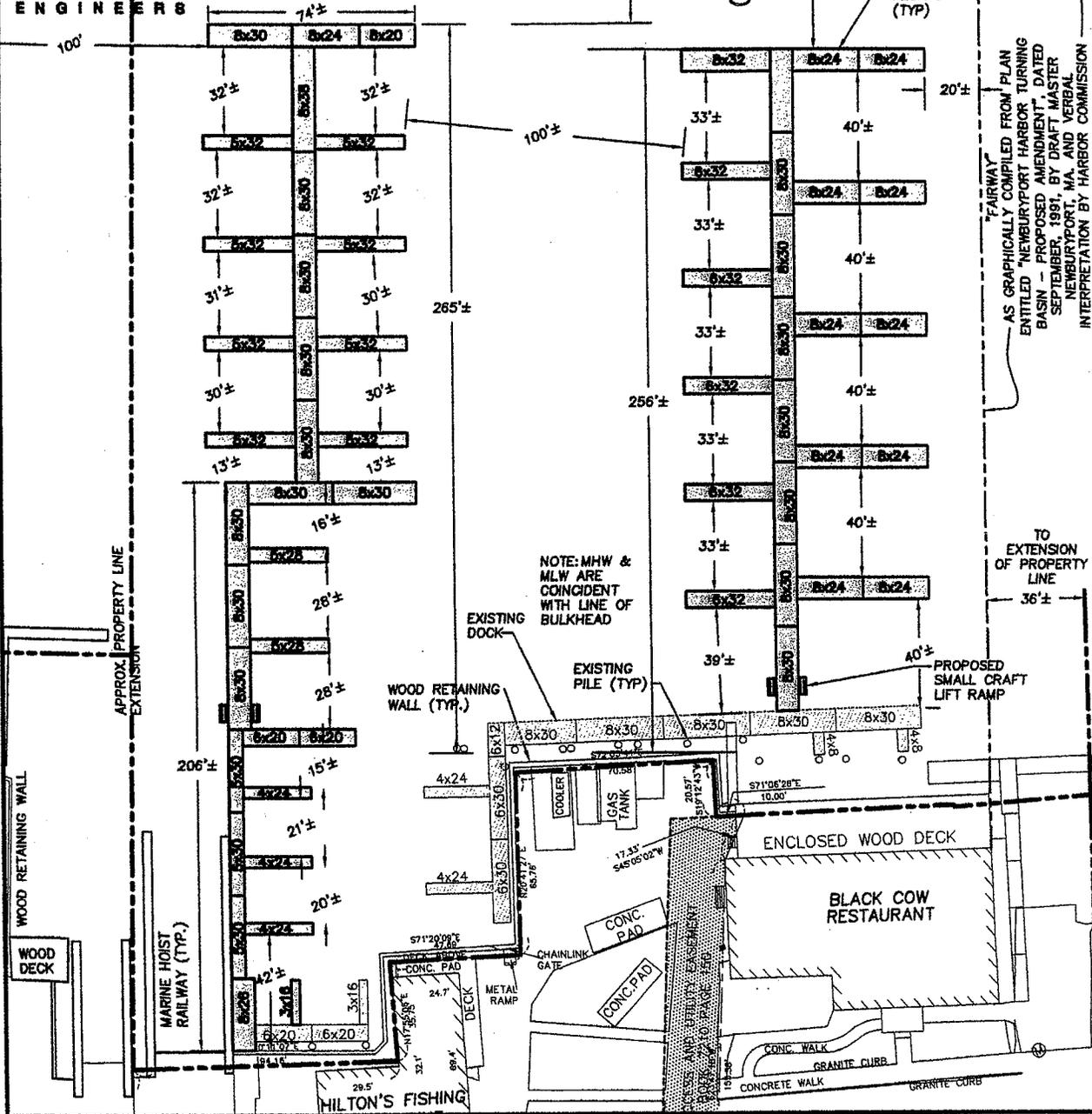


OAK
ENGINEERS

Floot Line "A"

Floot Line "B"

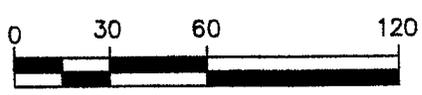
PROPOSED FLOATS (TYP)



"FAIRWAY"
AS GRAPHICALLY COMPILED FROM PLAN ENTITLED "NEWBURYPORT HARBOR TURNING BASIN - PROPOSED AMENDMENT", DATED SEPTEMBER, 1991, BY DRAFT MASTER NEWBURYPORT, MA. AND VERBAL INTERPRETATION BY HARBOR COMMISSION

TO EXTENSION OF PROPERTY LINE 36'±

PROPOSED FLOAT CONFIGURATION



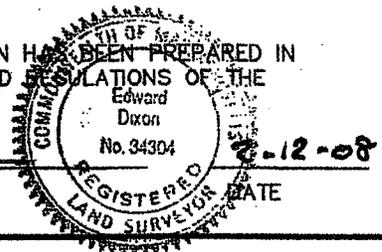
SCALE in FEET
1"=60'

NEWBURYPORT HILTON MARINA, LLC
FORMER HILTON & STROUT BOATING DOCK ON THE MERRIMACK RIVER
NEWBURYPORT, MASSACHUSETTS

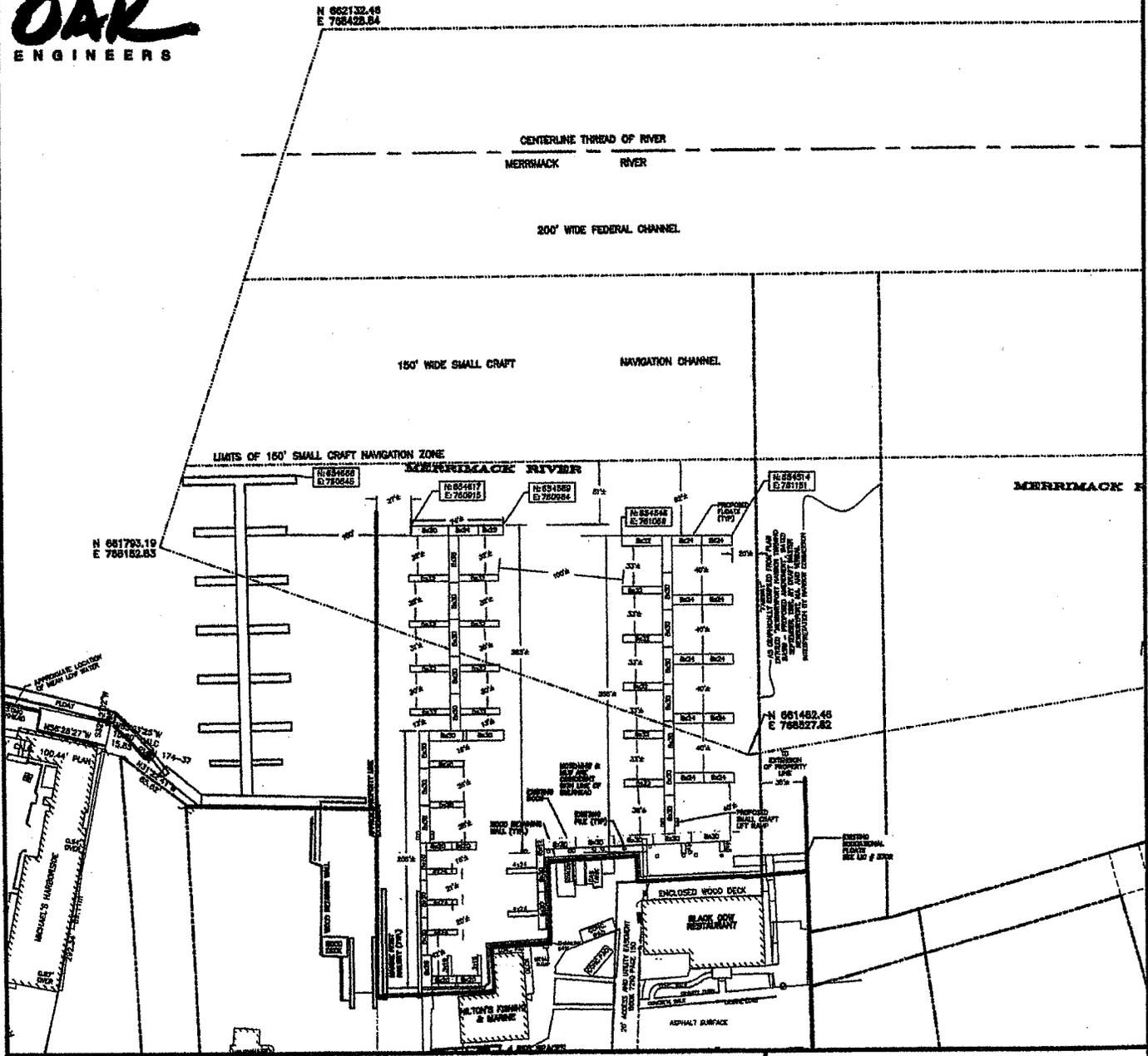
DATE: JANUARY 2008
SHEET 3 of 7

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

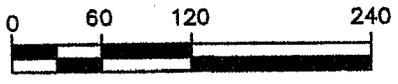
Edward Dixon
 FOR OAK ENGINEERS



OAK
 ENGINEERS



AREA PLAN SHOWING
 FEDERAL CHANNEL AND
 MOORING AREA



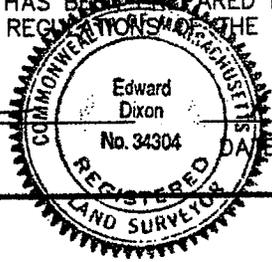
SCALE in FEET
 1"=120'

NEWBURYPORT HILTON MARINA, LLC
 FORMER HILTON & STROUT BOATING
 DOCK ON THE MERRIMACK RIVER
 NEWBURYPORT, MASSACHUSETTS

DATE: JANUARY 2008
 SHEET 4 of 7

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

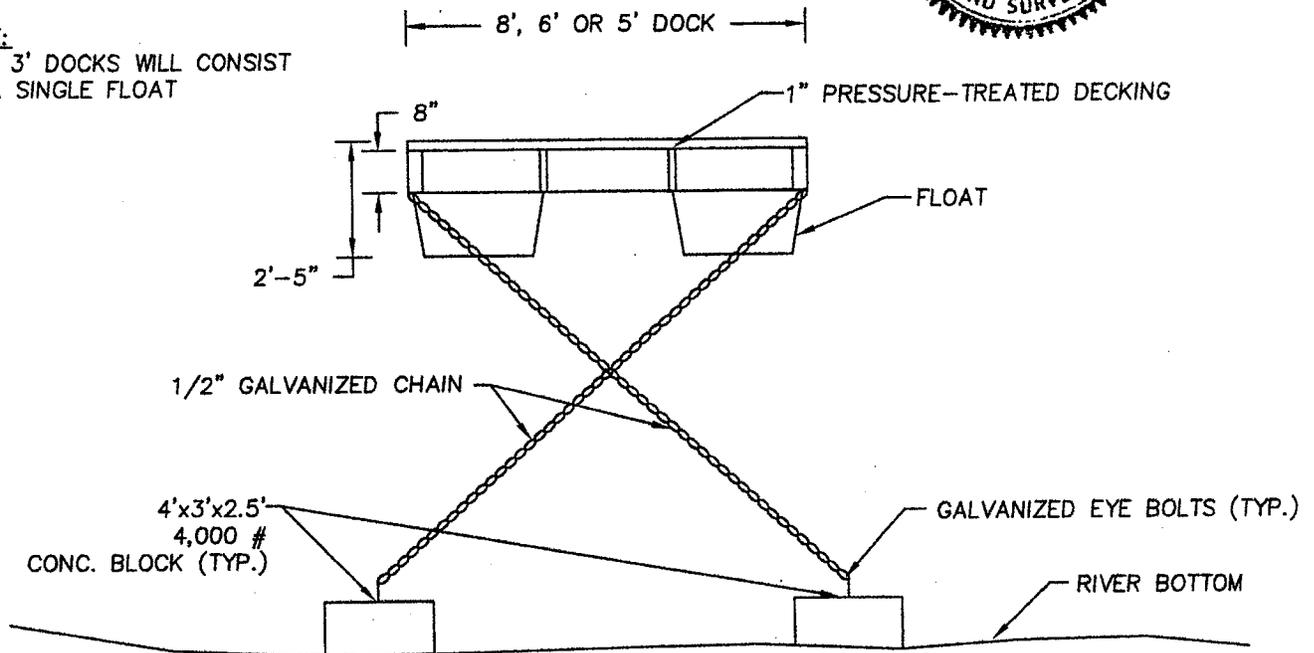
Edward Dixon
FOR OAK ENGINEERS



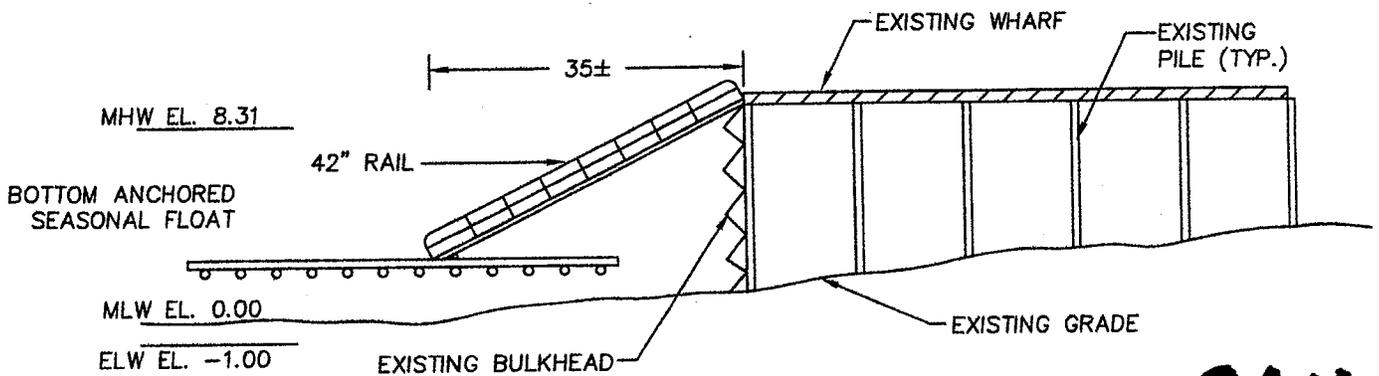
7-9-08

NOTE:

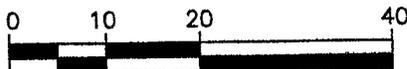
4' & 3' DOCKS WILL CONSIST OF A SINGLE FLOAT



TYPICAL FLOAT SECTION
NOT TO SCALE



TYPICAL FLOAT CROSS-SECTION



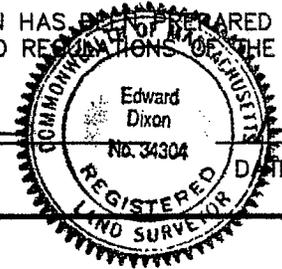
SCALE in FEET
1"=20'

NEWBURYPORT HILTON MARINA, LLC
FORMER HILTON & STROUT BOATING DOCK ON THE MERRIMACK RIVER
NEWBURYPORT, MASSACHUSETTS

DATE: JANUARY 2008
SHEET 5 of 7

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

Edward Dixon
FOR OAK ENGINEERS



OAK
ENGINEERS

EXPANSION OF EXISTING FLOATS

PROPOSED NEW FLOATS:

1-8'x38' BOTTOM ANCHORED STRING FLOATS
1-8'x32' BOTTOM ANCHORED STRING FLOATS
24-8'x30' BOTTOM ANCHORED STRING FLOATS
1-8'x26' BOTTOM ANCHORED STRING FLOATS
12-8'x24' BOTTOM ANCHORED STRING FLOAT
1-8'x20' BOTTOM ANCHORED STRING FLOAT
5-6'x32' BOTTOM ANCHORED FINGER FLOATS
2-6'x30' BOTTOM ANCHORED STRING FLOATS
4-6'x20' BOTTOM ANCHORED FINGER FLOATS
1-6'x12' BOTTOM ANCHORED FINGER FLOATS
8-5'x32' BOTTOM ANCHORED STRING FLOATS
3-5'x30' BOTTOM ANCHORED FINGER FLOATS
2-5'x28' BOTTOM ANCHORED FINGER FLOATS
5-4'x24' BOTTOM ANCHORED STRING FLOAT
2-4'x8' BOTTOM ANCHORED STRING FLOAT
2-3'x16' BOTTOM ANCHORED STRING FLOATS

EXISTING FLOATS TO BE REPLACED:

13-8'x30' BOTTOM ANCHORED STRING FLOATS
3-8'x24' BOTTOM ANCHORED FINGER FLOATS
2-6'x30' BOTTOM ANCHORED FINGER FLOAT
2-6'x20' BOTTOM ANCHORED FINGER FLOATS
1-6'x12' BOTTOM ANCHORED STRING FLOATS
1-5'x38' BOTTOM ANCHORED STRING FLOATS
8-5'x32' BOTTOM ANCHORED FINGER FLOATS
5-5'x30' BOTTOM ANCHORED FINGER FLOAT
9-4'x24' BOTTOM ANCHORED FINGER FLOATS
2-4'x8' BOTTOM ANCHORED STRING FLOATS
2-3'x16' BOTTOM ANCHORED STRING FLOATS

74 FLOATS PROPOSED
48 FLOATS EXISTING

26 FLOATS INCREASE (NET)

FLOAT SCHEDULE

NEWBURYPORT HILTON MARINA, LLC
FORMER HILTON & STROUT BOATING
DOCK ON THE MERRIMACK RIVER
NEWBURYPORT, MASSACHUSETTS

DATE: JANUARY 2008
SHEET 6 of 7