



**US Army Corps
of Engineers®**

New England District

Maine Project Office

442 Civic Center Drive, Suite 350

Augusta, Maine 04330

PUBLIC NOTICE

Comment Period Begins: MAY 19, 2020

Comment Period Ends: JUNE 17, 2020

In Reply Refer To: Colin M. Greenan

E-mail: colin.m.greenan@usace.army.mil

File Number: NAE-2017-01950

The District Engineer has received a permit application to conduct work in waters of the United States from the City of Portland, 389 Congress Street, Portland, Maine 04101. This work is proposed in the Fore River (Portland Harbor) at South Portland, Maine. The project site is located on the USGS PORTLAND WEST, ME quadrangle sheet at latitude 43.645931°N; and longitude -70.251492°W.

The work involves the construction of a confined aquatic disposal (CAD) cell within Portland Harbor at South Portland, Maine for the future disposal of material generated from dredging activities within and around Portland Harbor. Construction of the CAD cell will require dredging approximately 376,858 cubic yards of material from an 8.9 acre area of shallow subtidal habitat. The CAD cell will be dredged to a depth of -50 feet mean lower low water and with 3:1 side slopes. The dredging will be done mechanically via conventional clamshell bucket. The CAD cell is proposed to be constructed in a single season between November 1st to March 15th, 2020/2021. The CAD cell is designed to accommodate approximately 273,371 cubic yards of dredged material.

Dredged material generated from the construction of the CAD cell is proposed for unconfined open water placement at the designated Portland Disposal Site (PDS) which is located approximately 7.1 nautical miles east of Dyer Point at Cape Elizabeth, Maine at latitude 43.568517°N; and longitude -70.032310°W.

This work is shown on the attached plans entitled "City of Portland, Maine Confined Aquatic Disposal (CAD) Cell" in 5 sheets undated and 4 sheets dated "2019.11.13".

AUTHORITY:

A Corps of Engineers Permit is required pursuant to:

- | | |
|--------------|---|
| <u> X </u> | Section 10 of the Rivers and Harbors Act of 1899 |
| <u> X </u> | Section 404 of the Clean Water Act |
| <u> X </u> | Section 103 of the Marine Protection, Research and Sanctuaries Act. |
| <u> X </u> | Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) |

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 U.S. Army Corps of Engineers, New England District (Corps), 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. The Corps will consider all comments received 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.

The alternatives considered in the dredged material disposal analysis fall into four general categories: beneficial use, upland disposal, confined disposal, and open-water disposal. The feasibility of disposal alternatives was analyzed relative to the physical and chemical quality of samples of the anticipated dredged material, the volume of material to be dredged, the availability of suitable disposal and beneficial use sites, and the cost of disposal. The biological quality of samples of the anticipated dredged material destined for disposal of the material at the disposal site was also used to evaluate the feasibility of an open-water disposal alternative.

Based on the physical, chemical, and biological characteristics of samples of the anticipated dredged material, the lack of suitable alternate disposal or beneficial use sites and costs, the most feasible, practical, cost-effective and environmentally acceptable alternative for the disposal of dredged materials generated from the proposed CAD cell construction is disposal at the requested Portland Disposal Site (PDS). The dredged material has undergone physical, chemical, and biological testing and has satisfied the criteria for ocean disposal of dredged material as specified in Part 227 of the Ocean Dumping Act regulations. The District Engineer has made the preliminary determination that the material is acceptable for disposal at this disposal site.

The Portland Disposal Site is periodically used for the disposal of suitable bottom sediments dredged principally from the Portland Harbor/Fore River area (the suitability was determined with a project-specific evaluation with an established interagency review process). The quantity of sediments deposited at the site varies considerably each year and peaks when the Federal Channel in Portland Harbor is maintained (approximately every 10 years). Since 1982, an annual average of 160,000 cubic yards of sediments have been deposited. The site has been monitored through the Corps' Disposal Area Monitoring System (DAMOS). DAMOS studies show that the site is a low energy environment, such that sediment deposited at this location will remain within the site's boundaries. Levels of metals and organics in the sediments within the disposal site are generally low and in most instances are not substantially greater than background levels, indicative of the relatively uncontaminated nature of many of the areas dredged that utilize the site. Previous research has shown that areas outside the disposal site have not been found to be affected by sediment deposited within the site.

The DAMOS monitoring has also shown that distinct dredged material mounds have been formed at the site. The Portland Disposal Site has been designated by EPA for the disposal of dredged material only.

Any permit issued for this project will likely include special conditions requiring scows to come to a complete stop when disposing of the material at the disposal site. There will also likely be a time of year restriction included as a special condition which prohibits dredging during ecologically sensitive times of years.

MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT (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"). Essential Fish Habitat describes waters and substrate necessary for fish for spawning, breeding, feeding or growth to maturity.

The dredging portion of this project will impact approximately 8.9 acres of EFH. Habitat at this site can be described as sandy silt. Temporary impacts to this habitat from dredge material disposal may affect species that use these waters and substrate. However the District Engineer has made the 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.

The disposal of dredged material is proposed for the Portland Disposal Site. This is an open water site, which provides EFH. Loss of this habitat may adversely affect species that use these waters and substrate. However, the District Engineer has made the 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 7 OF THE ENDANGERED SPECIES ACT: The Corps has reviewed the application for the potential impact on Federally-listed threatened or endangered species and their designated critical habitat pursuant to section 7 of the Endangered Species Act as amended. The District Engineer has made the 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 a listed species or their critical habitat. The Corps is coordinating with NOAA Fisheries and the U.S. Fish and Wildlife Service on listed species under their jurisdiction and Endangered Species Act consultation will be concluded prior to the final decision.

SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT: The Corps has initiated consultation with the Maine Historic Preservation Commission and Maine's Indian Tribes pursuant to Section 106 of the National Historic Preservation Act of 1966 as amended. The District Engineer has made the preliminary determination that the proposed work is not likely to affect properties listed in, or eligible for listing in, the National Register of Historic Places. The Corps will continue review and consultation to fulfill requirements under the Historic Preservation Act as part of the permit review process.

OTHER APPROVALS: The activities proposed herein will also require permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project. The proposed alteration involves dredging activities within the channel within the authorized limits of the Federal Navigation Project. A permit pursuant to Section 10/404 shall not be granted until the Section 408 permission is issued. Through this public notice we are soliciting information necessary to inform the Corps evaluation and review. The Section 408 permission point of contact for this project is William M. Kavanaugh, and can be contacted at william.m.kavanaugh@usace.army.mil.

The applicant has supplied the Maine Department of Environmental Protection (MaineDEP) with a permit application for the work described in this public notice and is requesting that the Department either grant or waive Water Quality Certification in accordance with Section 401 of the Clean Water Act. Comments regarding the applicant's Permit/Water Quality Certification request may be submitted in writing to: Nick Livesay, Director, Bureau of Land Resources, Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333 or nick.livesay@maine.gov.

COMMENTS: 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 Colin M. Greenan at colin.m.greenan@usace.army.mil at our Augusta, Maine Project Office.

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.

DELGIUDICE.FRA Digitally signed by
NKJ.1228916567 DELGIUDICE.FRANK.J.1228916567
Date: 2020.05.12 13:08:33 -0400

Frank J. Del Giudice
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 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: _____

Joint Natural Resource Protection Act Permit/USACE Individual Permit
 South Portland, Maine
 Portland Harbor CAD Cell
 Attachment 1: Activity Description

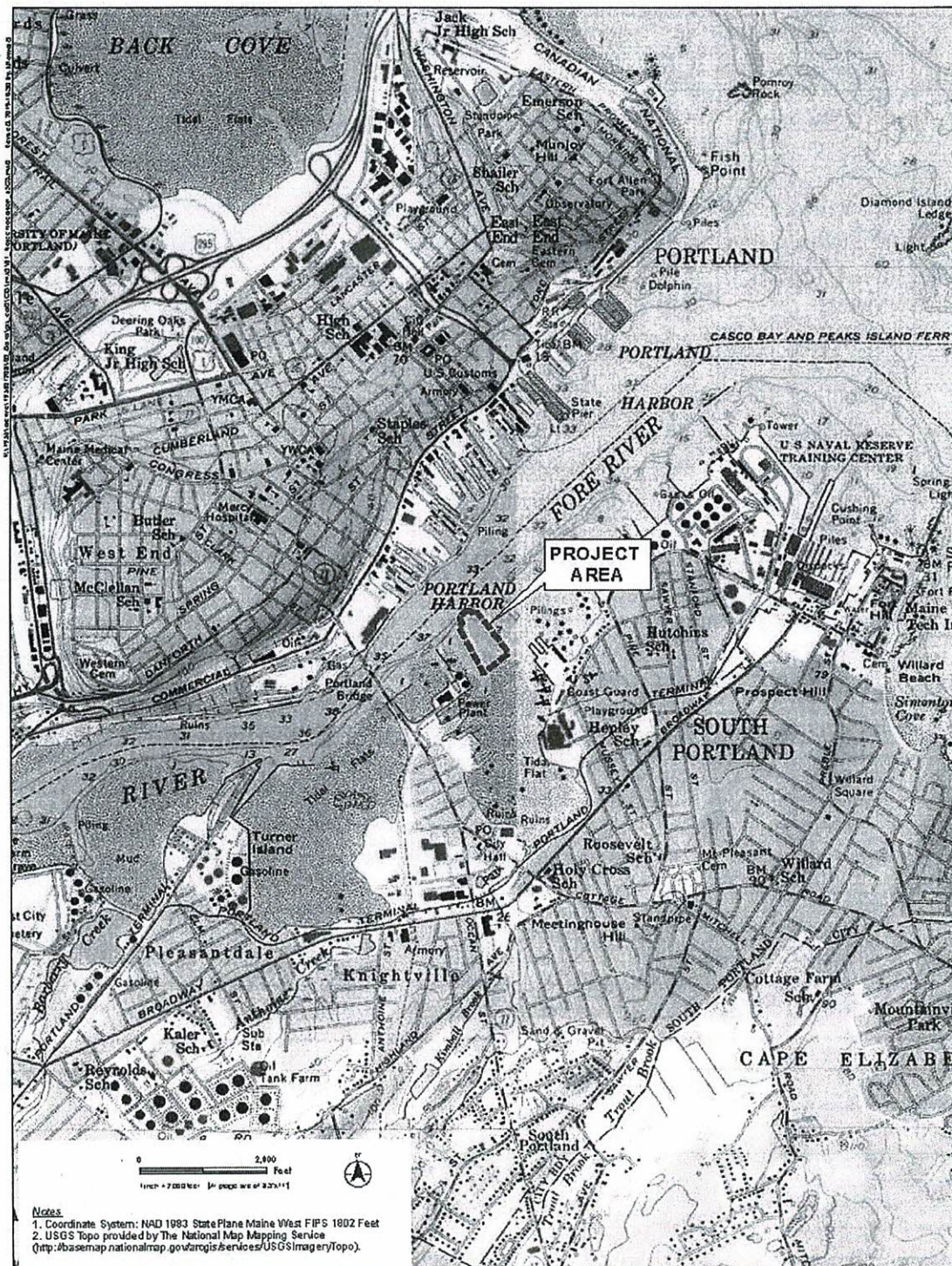
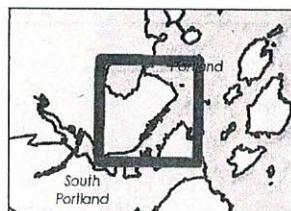


Figure 1. Project Location: 7.5 Minute Series USGS Topographic Quadrangle – Portland, ME





Legend

■ Proposed CAD Cell Dredge Footprint

0 2,000 Feet
(At original document size of 8.5x11)
1:24,000



Project Location
Portland, Maine
Prepared by KWH on 2019-04-25
TR by MPJ on 2019-04-26

Client/Project
City of Portland
Portland Harbor CAD Cell Project
195601208

Figure No.

1
Title
Location Map

Notes

1. Coordinate System: NAD 1983 StatePlane Maine West FIPS 1802 Feet
2. Aerial Orthophoto Basemap: 2013 Casco Bay Orthoimagery dataset (<https://gis.maine.gov/arogis/services>).

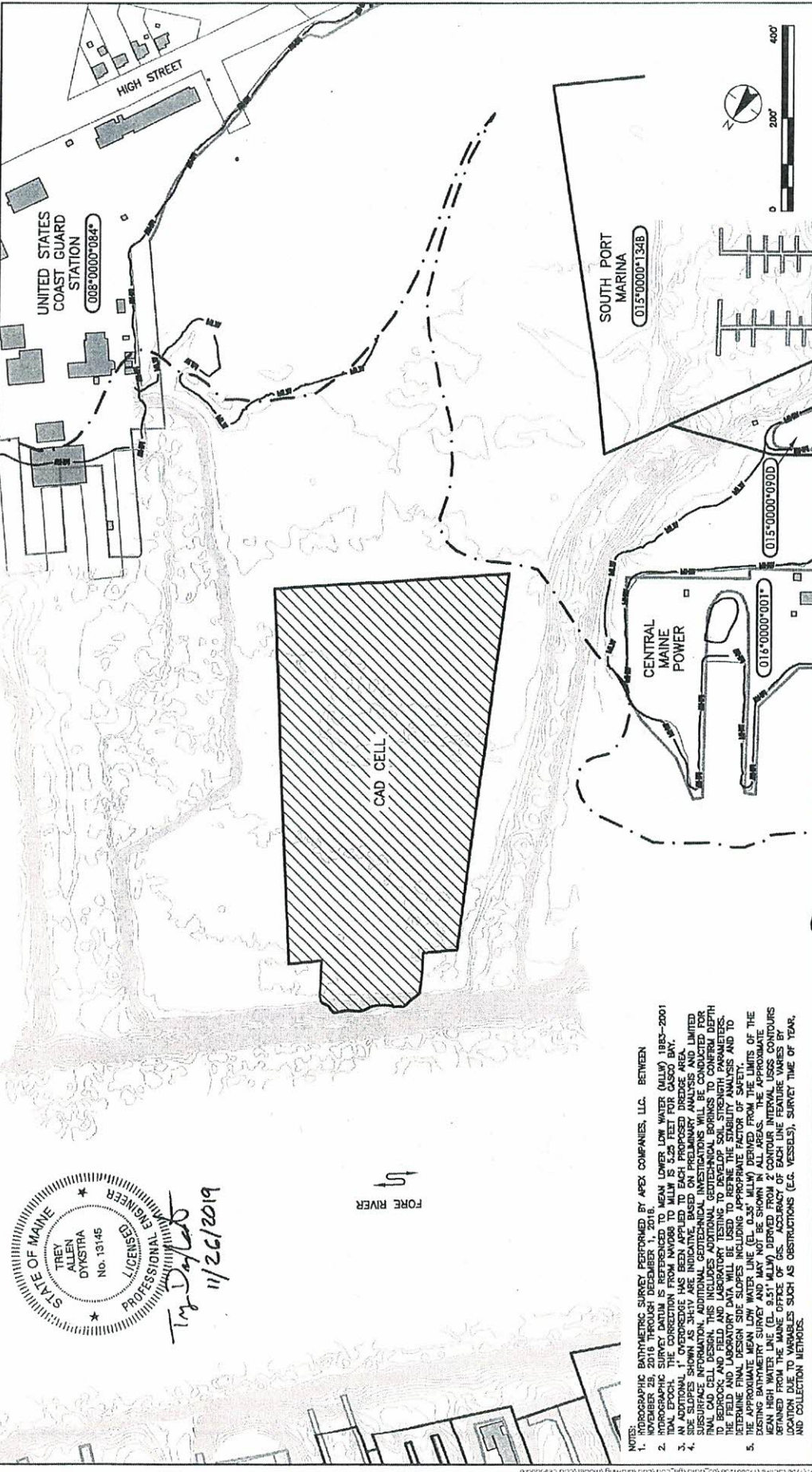
Disclaimer: This document has been prepared based on information provided by others as cited in the Notes section. Stantec has not verified the accuracy and/or completeness of this information and shall not be responsible for any errors or omissions which may be incorporated herein as a result. Stantec assumes no responsibility for data supplied in electronic format, and the recipient accepts full responsibility for verifying the accuracy and completeness of the data.

Joint Natural Resource Protection Act Permit/USACE Individual Permit
 South Portland, Maine
 Portland Harbor CAD Cell
 Attachment 1: Activity Description



Figure 2. Project Limits





NOTES:

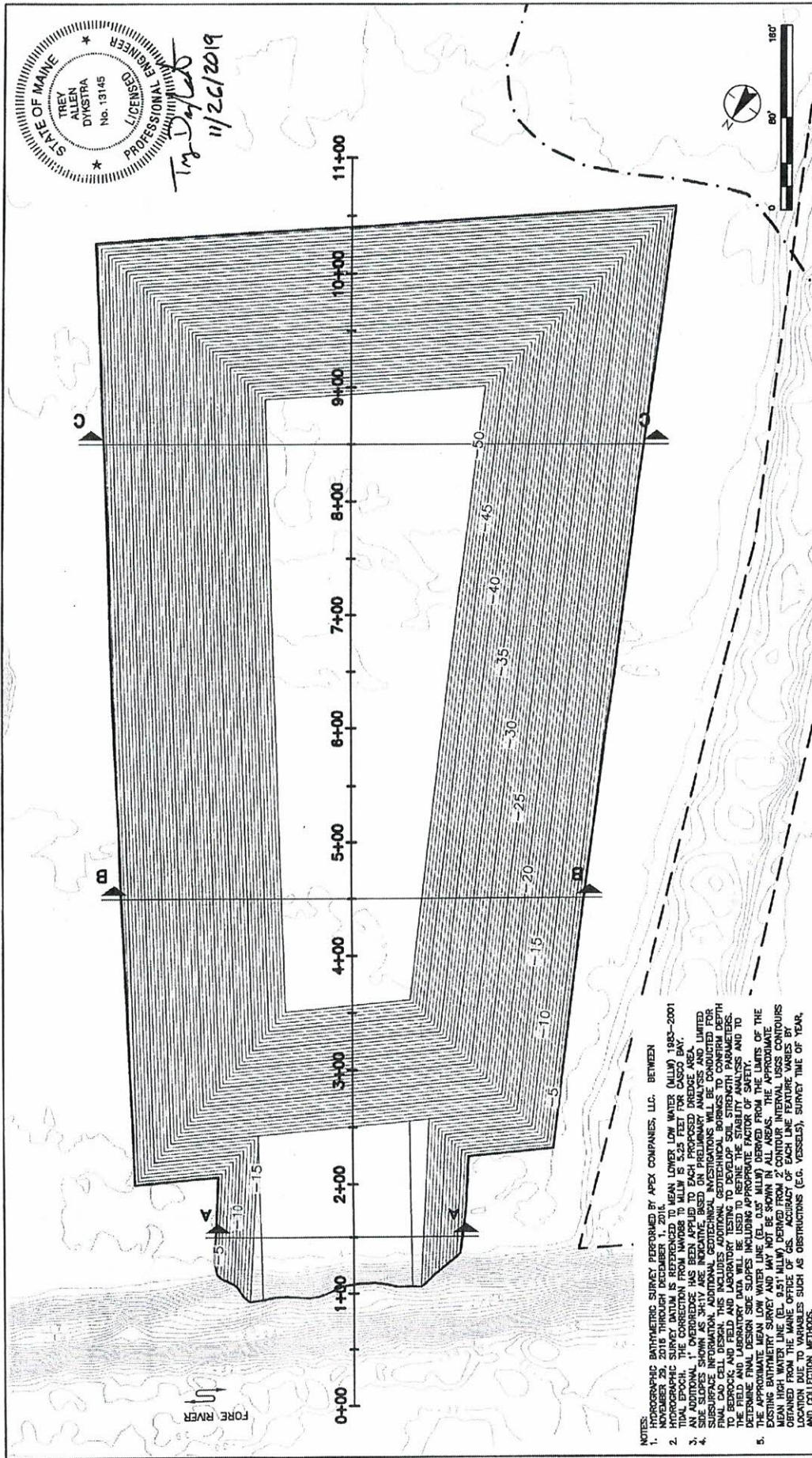
1. HYDROGRAPHIC BATHYMETRIC SURVEY PERFORMED BY APEX COMPANIES, LLC. BETWEEN NOVEMBER 29, 2016 THROUGH DECEMBER 1, 2016.
2. THE SURVEY DATA IS BASED ON THE MEAN LOWER LOW WATER (MLLW) 1985-2001 DATUM. THE CORRECTION FROM NAVD83 TO MLLW IS 5.29 FEET FOR CASCO BAY.
3. AN ADDITIONAL 1' OVERDESIGN HAS BEEN APPLIED TO EACH PROPOSED DREDGE AREA.
4. SIDE SLOPES SHOWN AS 3H:1V ARE INDICATIVE, BASED ON PRELIMINARY ANALYSIS AND LIMITED SUBSURFACE INFORMATION. ADDITIONAL GEOTECHNICAL INVESTIGATIONS WILL BE CONDUCTED FOR THE PROPOSED DREDGE AREAS TO DETERMINE SOIL STRENGTH PARAMETERS, SOIL COMPOSITION, BEDROCK, AND FIELD AND LABORATORY TESTING TO DEVELOP SOIL STRENGTH PARAMETERS. THE FIELD AND LABORATORY DATA WILL BE USED TO REFINES THE STABILITY ANALYSIS AND TO DETERMINE FINAL DESIGN SIDE SLOPES INCLUDING APPROPRIATE FACTOR OF SAFETY.
5. EXISTING BATHYMETRIC SURVEY DATA DERIVED FROM THE MEAN LOWER LOW WATER (MLLW) DATUM. THE MEAN HIGH WATER LINE (EL. 9.51' MLLW) DERIVED FROM 2' CONTOUR INTERVAL USGS CONTOURS OBTAINED FROM THE MAINE OFFICE OF DSS. ACCURACY OF EACH LINE FEATURE VARIES BY LOCATION DUE TO VARIABLES SUCH AS OBSTRUCTIONS (E.G. VESSELS), SURVEY TIME OF YEAR, AND COLLECTION METHODS.

FOR PERMITTING PURPOSES ONLY
NOT FOR CONSTRUCTION
NOVEMBER, 2019

Stantec Consulting Services Inc.
30 Park Drive
Portland, ME 04106-4727
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- Legend
- 1' BATHYMETRIC CONTOUR
 - ESTIMATED DREDGE AREA
 - TAX MAP PARCEL LINE
 - TAX MAP PARCEL NUMBER
 - APPROXIMATE SUBMERGED LANDS REGULATORY LIMIT (LUD)
 - APPROXIMATE MEAN LOW WATER
 - APPROXIMATE MEAN HIGH WATER

Client/Project	City of Portland
	Portland Harbor
	CAD Cell Project
	Project No. 195601208
Title	Proposed CAD Cell
	Plan
	Revision
	Reference Sheet
Date	2019.11.13
Figure No.	1



NOTES:

1. HYDROGRAPHIC BATHYMETRIC SURVEY PERFORMED BY APX COMPANY, LLC, BETWEEN NOVEMBER 29, 2018 THROUGH DECEMBER 1, 2018.
2. HYDROGRAPHIC SURVEY DATUM IS REFERENCED TO MEAN LOWER LOW WATER (MLLW) 1985-2001 TIDAL EPOCH. THE CORRECTION HAS BEEN APPLIED TO EACH PROPOSED DREDGE AREA.
3. SIDE SLOPES SHOWN AS 3H:1V ARE INDICATIVE BASED ON PRELIMINARY ANALYSIS AND LIMITED SURFACE INFORMATION. ADDITIONAL GEOTECHNICAL INVESTIGATIONS WILL BE CONDUCTED FOR FINAL CAD CELL DESIGN. THIS INCLUDES ADDITIONAL BORINGS TO DETERMINE SOIL STRENGTH PARAMETERS. THE FIELD AND LABORATORY DATA WILL BE USED TO REFINES THE STABILITY ANALYSIS AND TO DETERMINE FINAL DESIGN SIDE SLOPES INCLUDING APPROPRIATE FACTOR OF SAFETY.
4. THE APPROXIMATE MEAN LOW WATER LINE (EL. 0.0' MLLW) DERIVED FROM THE LIMITS OF THE EXISTING BATHYMETRIC SURVEY AND MLLW WILL BE SHOWN ON 2' CONTOUR INTERVAL. USGS CONTOURS OBTAINED FROM THE MAINE OFFICE OF GIS. ACCURACY OF EACH LINE FEATURE VARIES BY LOCATION DUE TO VARIABLES SUCH AS OBSTRUCTIONS (E.G. VESSELS), SURVEY TIME OF YEAR, AND COLLECTION METHODS.

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Legend

- 1" BATHYMETRIC CONTOUR
- 1" PROPOSED DREDGE CONTOUR
- TXW IMP FACEL LINE
- TXW IMP FACEL HANGER
- APPROXIMATE SUBMERGED LANDS REGULATION LIMIT (100)
- APPROXIMATE MEAN LOW WATER
- APPROXIMATE MEAN HIGH WATER

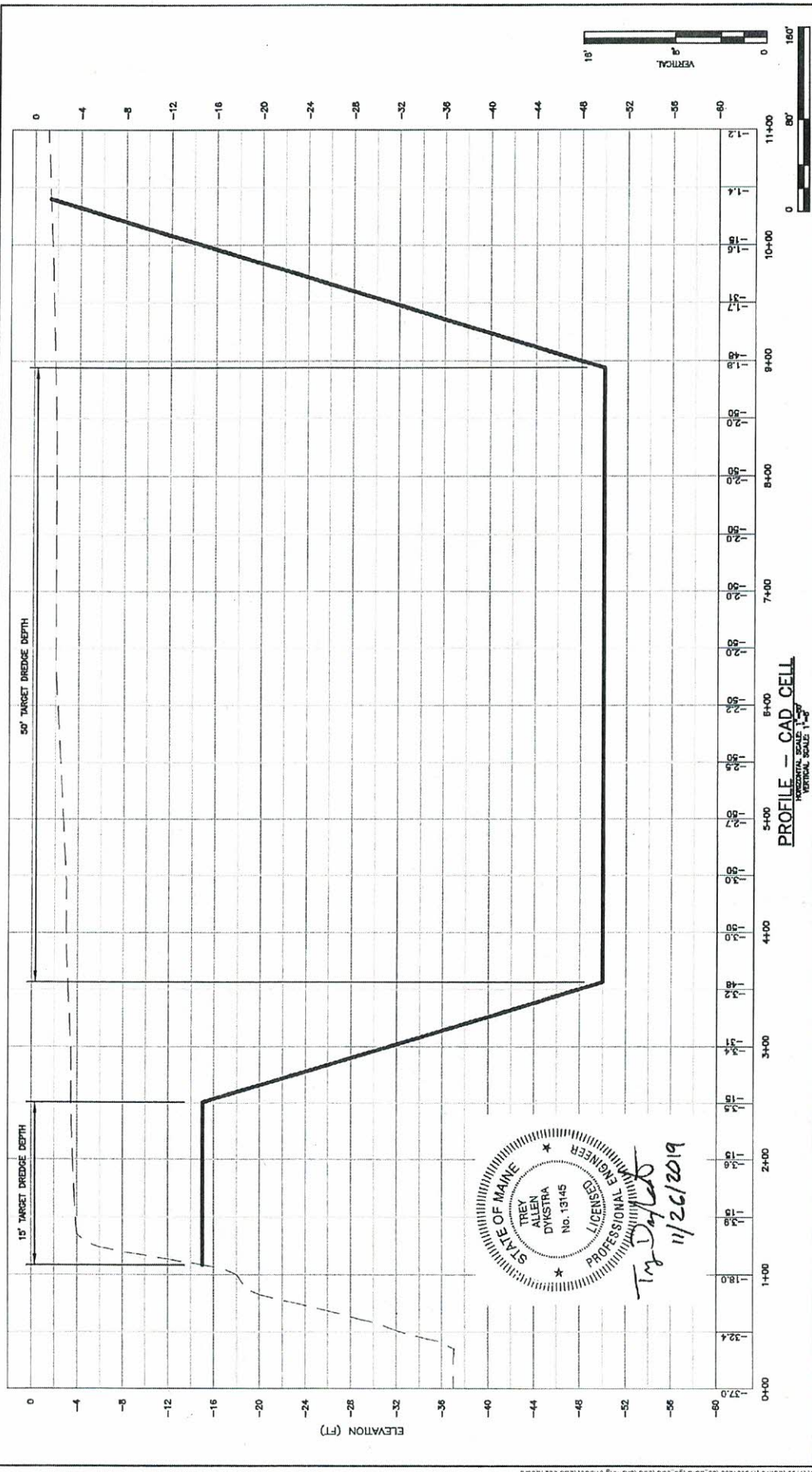
City of Portland, Maine
Confined Aquatic Disposal (CAD) Cell
South Portland, Maine
NAE-2020-01950
Sheet 5 of 9
2019.11.13

Proposed CAD Cell Grading Plan

City of Portland
Portland Harbor
CAD Cell Project

Project No. 195601208

Revision: _____ Date: 2019.11.13
Reference Sheet: _____ Figure No. 2



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City of Portland
 Portland Harbor
 CAD Cell Project

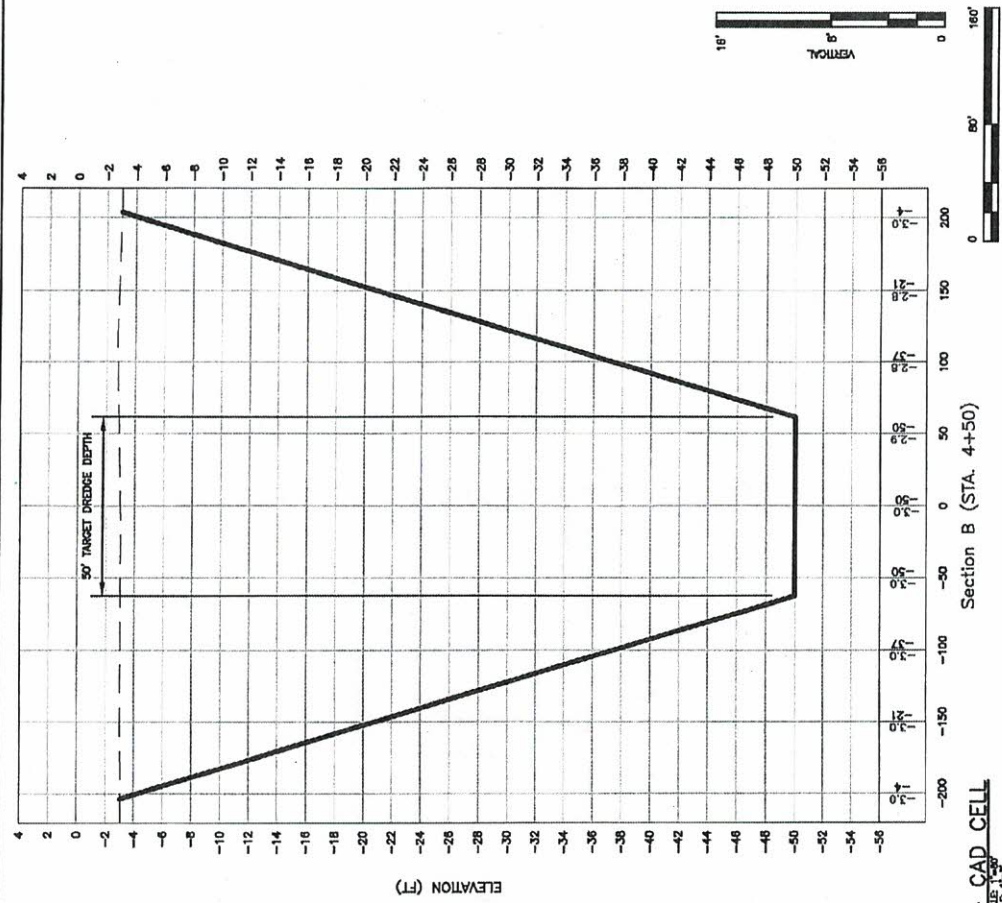
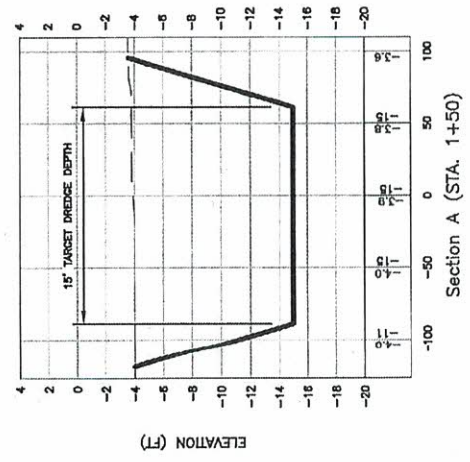
Project No. 195601208
 Date 2019.11.13
 Revision
 Reference Sheet 3

Proposed CAD Cell Profile



 Trey Dystra

 11/26/2019



SECTION(S) - CAD CELL



FOR PERMITTING PURPOSES ONLY

 NOT FOR CONSTRUCTION

 NOVEMBER, 2019

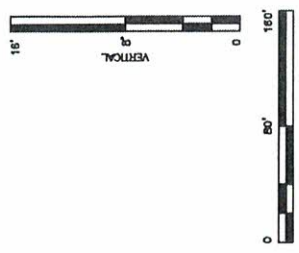
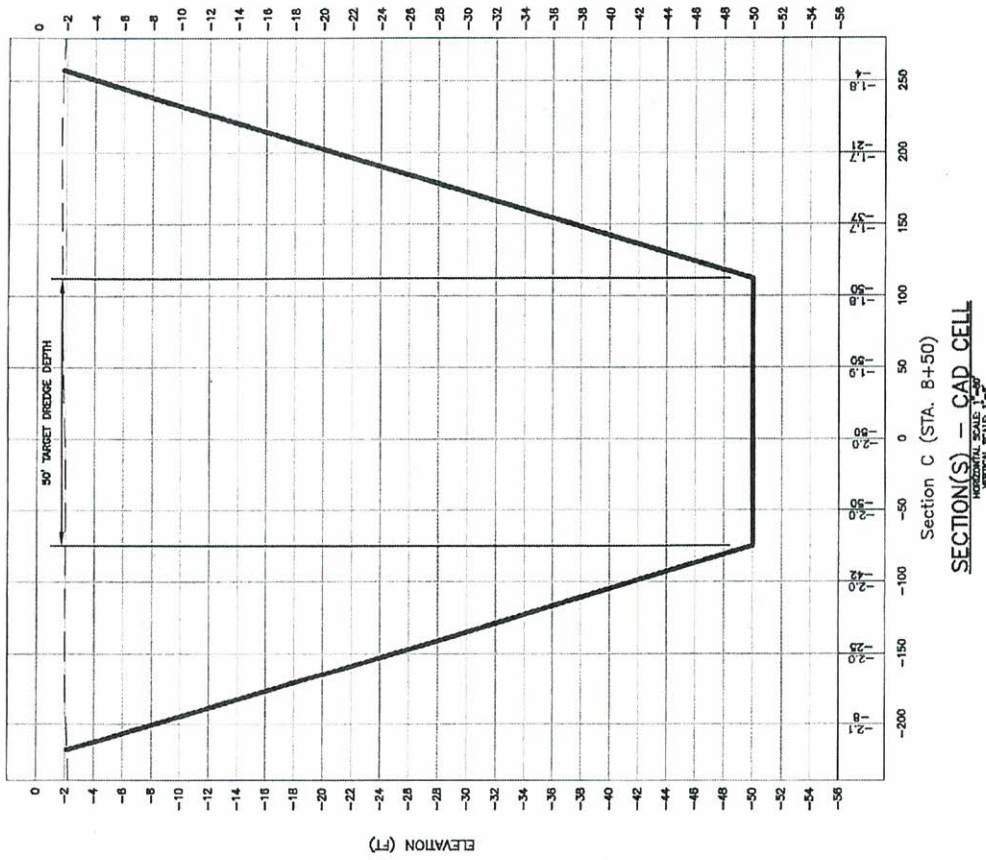
NOTES:
 1. HYDROGRAPHIC BATHYMETRIC SURVEY PERFORMED BY APEX COMPANIES, LLC. BETWEEN 1983-2001.
 2. HYDROGRAPHIC SURVEY DATUM IS REFERENCED TO MEAN LOWER LOW WATER (MLLW) 1983-2001 TIDAL EPOCH. THE CORRECTION FROM NAVD83 TO MLLW IS 5.25 FEET FOR CASCO BAY.
 3. AN ADDITIONAL 1' OVERDREDGE HAS BEEN APPLIED TO EACH PROPOSED DREDGE AREA.
 4. SLOPES SHOWN AS 3:1 UNLESS OTHERWISE NOTED. ADDITIONAL INVESTIGATIONS WILL BE CONDUCTED FOR FINAL CAD CELL DESIGN. THIS INCLUDES ADDITIONAL GEOTECHNICAL BORINGS TO CONFIRM DEPTH TO BEDROCK AND FIELD AND LABORATORY TESTING TO DEVELOP SOIL STRENGTH PARAMETERS. THE FIELD AND LABORATORY DATA WILL BE USED TO REFINED THE STABILITY ANALYSIS AND TO DETERMINE FINAL DESIGN SIDE SLOPES INCLUDING APPROPRIATE FACTOR OF SAFETY.

Legend
 — EXISTING BATHYMETRY
 — PROPOSED TARGET DREDGE DEPTH

Client/Project
 City of Portland
 Portland Harbor
 CAD Cell Project

Title
 Proposed CAD Cell
 Sections A & B

STATE OF MAINE
 TREV ALLEN DYSTRA
 No. 13145
 LICENSED PROFESSIONAL ENGINEER
 11/26/2019



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 FOR PERMITTING PURPOSES ONLY
 NOT FOR CONSTRUCTION
 NOVEMBER 2019
 Project: City of Portland, Maine
 Confined Aquatic Disposal (CAD) Cell
 South Portland, Maine
 NAE-2020-01950
 Sheet 8 of 9
 2019.11.13

NOTES:
 1. HYDROGRAPHIC BATHYMETRIC SURVEY PERFORMED BY APOL COMPLEX, LLC. BETWEEN NOVEMBER 20, 2018 THROUGH DECEMBER 1, 2018.
 2. HYDROGRAPHIC SURVEY DATUM IS REFERENCED TO MEAN LOWER LOW WATER (MLLW) 1983-2001 TIDAL EPOCH. THE CORRECTION FROM NAVD83 TO MLLW IS 5.25 FEET FOR CASCO BAY.
 3. THE DREDGED AREA IS INDICATED BY A DASHED LINE.
 4. SIDE SLOPES SHOWN AS 3:1 H:V ARE INDICATIVE. BASED ON PRELIMINARY LIMITED SUBSURFACE INFORMATION, ADDITIONAL GEOTECHNICAL INVESTIGATIONS WILL BE CONDUCTED FOR FINAL CAD CELL DESIGN. THIS INCLUDES ADDITIONAL GEOTECHNICAL BORINGS TO DETERMINE SOIL STRENGTH PARAMETERS. THE FIELD AND LABORATORY TESTING TO DEVELOP SOIL STRENGTH PARAMETERS AND TO DETERMINE FINAL DESIGN SIDE SLOPES INCLUDING APPROPRIATE FACTOR OF SAFETY.

City of Portland
 Portland Harbor
 CAD Cell Project
 Project No. 195601238

Title: Proposed CAD Cell Section C
 Revision: 2019.11.13
 Date: 2019.11.13
 Reference Sheet: 5

