



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

PUBLIC NOTICE

Comment Period Begins: 2 September 2014
Comment Period Ends: 3 October 2014
File Number: NAE 2005-1095
In Reply Refer To: Mr. Brian Valiton
Phone: (978) 318-8166
E-mail: brian.e.valiton@usace.army.mil

The District Engineer has received a permit application to conduct work in waters of the United States from the City of Salem which includes new dredging and disposal of the dredged material in the ocean. This work is proposed in Salem Harbor at 10 Blaney Street, Salem, Massachusetts, with disposal of the dredged material at the Massachusetts Bay Disposal Site (MBDS). The project site coordinates are: Latitude 42° 31' 19" N, Longitude 70° 52' 54". The MBDS is a 2.0 nmi (3.7 km) diameter circular area centered at 42° 25.106' N, 70° 34.969' W (NAD 83), is located 12 nmi (22 km) southeast of Gales Point, MA).

As mentioned, the work involves new mechanical dredging, with ocean disposal of the material, in an existing undisturbed basin off of Salem Harbor and installing docks and associated structures, to create a new municipal commercial marina for fishing vessels off of the City's property at 10 Blaney Street. Specific work includes dredging of a sub-tidal area totalling approx. 47,000 square feet (estimated volume of material to be removed is 13,565 cu. yds.) to a depth of -9' m.l.w. with a 1 foot over-dredge, dredging of an inter-tidal area of approx. 300 sq. ft., installing approx. 6,165 sq. ft. of pile-anchored floating docks (29 pilings), a 30 ft. by 30 ft. floating dock over the archaeological area, a 60 foot aluminum access ramp, a landing float, and a short sheet pile wall 60 linear feet long around the landing float.

The work is shown on the attached plans entitled "PURPOSE: MARINA INSTALLATION APPLICATION BY: CITY OF SALEM IN: SALEM AT: SALEM HARBOR COUNTY: ESSEX STATE: MA," on 4 sheets, and with sheets 1 and 2 of 4 dated "6/16/14" and sheets 3 of 4 and 4 of 4 dated "8/07/14".

The project has been designed to minimize the landward limits of dredging required so that only minimal (300 sq. ft) intertidal resources areas above the mean low water line will be impacted by the dredging. Mitigation through the Massachusetts in lieu fee program will be provided for the loss of the 300 sq. ft. of intertidal resource area. Silt producing activities will only be done when work is allowed in these coastal areas as a result of longstanding time of year restrictions.

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.

Dredged Material Disposal Mitigation Discussion:

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 the dredged material, the volume of material to be dredged, the availability of suitable disposal and beneficial use sites, and the cost of disposal. When applicable, the biological quality of the disposal of the material at the disposal site was also used to evaluate the feasibility of the open-water disposal alternative.

Based on the characteristics of the 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 from the proposed dredging is disposal at the requested disposal site.

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. It is our preliminary determination that the material is acceptable for disposal at this disposal site.

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

Massachusetts Bay Disposal Site

The Massachusetts Bay Disposal Site is frequently used for disposal of bottom sediments from various harbors in the Boston area. Approximately 300,000 cubic yards of suitable sediments (the suitability was determined

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with a project-specific evaluation with an established interagency review process) are deposited at this site annually. The site is monitored through the Corps Disposal Area Monitoring System (DAMOS) program. The DAMOS studies show that the site is a low energy environment such that sediments deposited at this location will remain within the site's boundaries. The DAMOS monitoring has also shown that distinct dredged material mounds have been formed at the site. Levels of metals and organics in the sediments within the disposal site are generally above background levels, indicative of the industrial nature of the areas dredged that utilize the site. Sediment deposited at the disposal site has not been found to affect areas outside the disposal site. The Environmental Protection Agency has designated the Massachusetts Bay Disposal Site usable for disposal of dredged sediments.

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).

The dredging portion of this project will adversely impact approximately 47, 250 SF of Essential Fish Habitat (EFH) for American plaice (eggs, larvae, juveniles, adults), Atlantic butterfish (eggs, larvae), Atlantic cod (eggs, larvae, juveniles, adults), Atlantic halibut (eggs, larvae, juveniles, adults), Atlantic mackerel (eggs, larvae, juveniles, adults), Atlantic sea herring (larvae, juveniles, adults), bluefish (juveniles, adults), haddock (eggs, larvae), Ocean pout (juveniles, adults), Pollock (eggs, larvae, juveniles), red hake (larvae, juveniles, adults), White Hake (eggs, larvae, juveniles, adults), whiting (eggs, larvae, juveniles, adults), winter flounder (eggs, larvae, juveniles, adults), windowpane flounder (eggs, larvae, juveniles, adults), and yellowtail flounder (eggs, larvae, juveniles, adults). Habitat at this site can be described as subtidal silt and sand and 300 sq. ft. of intertidal silt and sand. Loss of this habitat may adversely affect winter flounder. The District Engineer has made a preliminary determination that site-specific impacts will not be substantial. However, an expanded EFH assessment has been submitted to the National Marine Fisheries Service, who in turn will provide conservation recommendations to the Corps. The Corps will coordinate with the applicant regarding implementation of these recommendations. The EFH consultation will be concluded prior to the final decision.

As indicated, the dredged material disposal is proposed for the MBDS. This is an open water ocean disposal site, which provides Essential Fish Habitat for the same species listed above, with water depths ranging from 269 to 302 feet (82-92 meters) that is utilized now and has been utilized in the past for disposal of dredged material under approved disposal site conditions. The site is monitored under our Disposal Area Monitoring System (DAMOS). However, since this is an approved ocean disposal site, 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 the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfil requirements under Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, will be ongoing as part of the permit review process. During the review of an earlier City of Salem

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project at this site, under the same file number, a portion of the harbor bottom within the area that is part of this proposed marina basin was determined to be an area potentially eligible for listing in the National Register of Historic Places (NRHP). This specific site was protected through Special Conditions on the earlier permit and through an MOA that was entered into under the authority of the NHPA with the City, the Massachusetts Board of Underwater Archaeological Resources, the Massachusetts Historic Commission, the Wampanoag Tribe of Aquinnah, and the Corps of Engineers to protect the area. The City is proposing to continue the protective permit conditions that were placed on this sub-tidal area through the earlier permit action.

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 or at the dredged material disposal 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:

- 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.

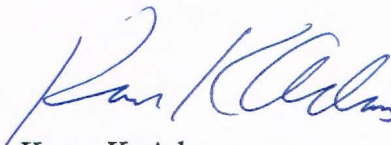
In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date. If you have any questions, please contact Mr. Brian Valiton at (978) 318-8166, (800) 343-4789 or (800) 362-4367, if calling 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.

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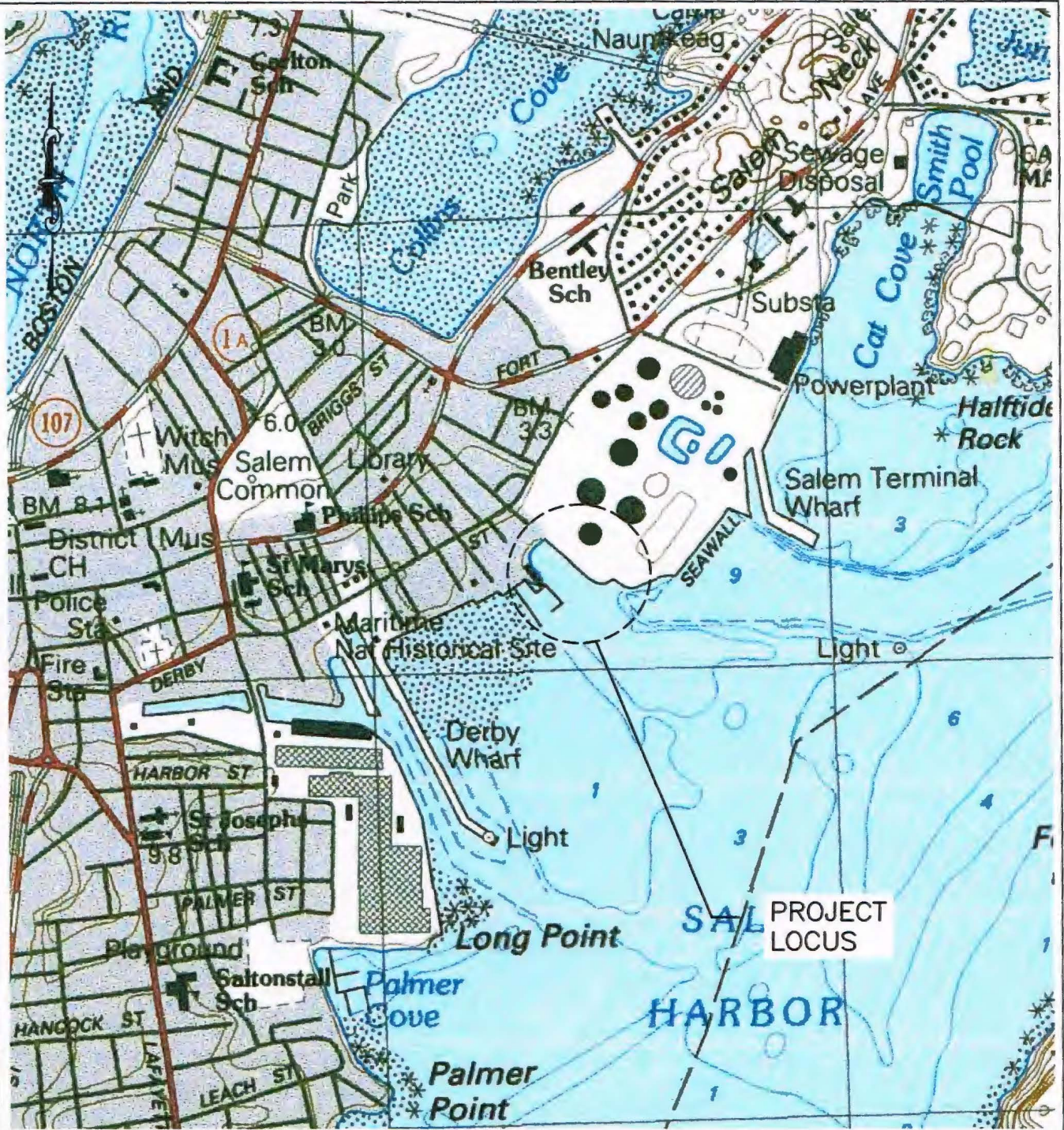


Karen K. Adams
Chief, Permits and Enforcement Branch
Regulatory Division


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: _____

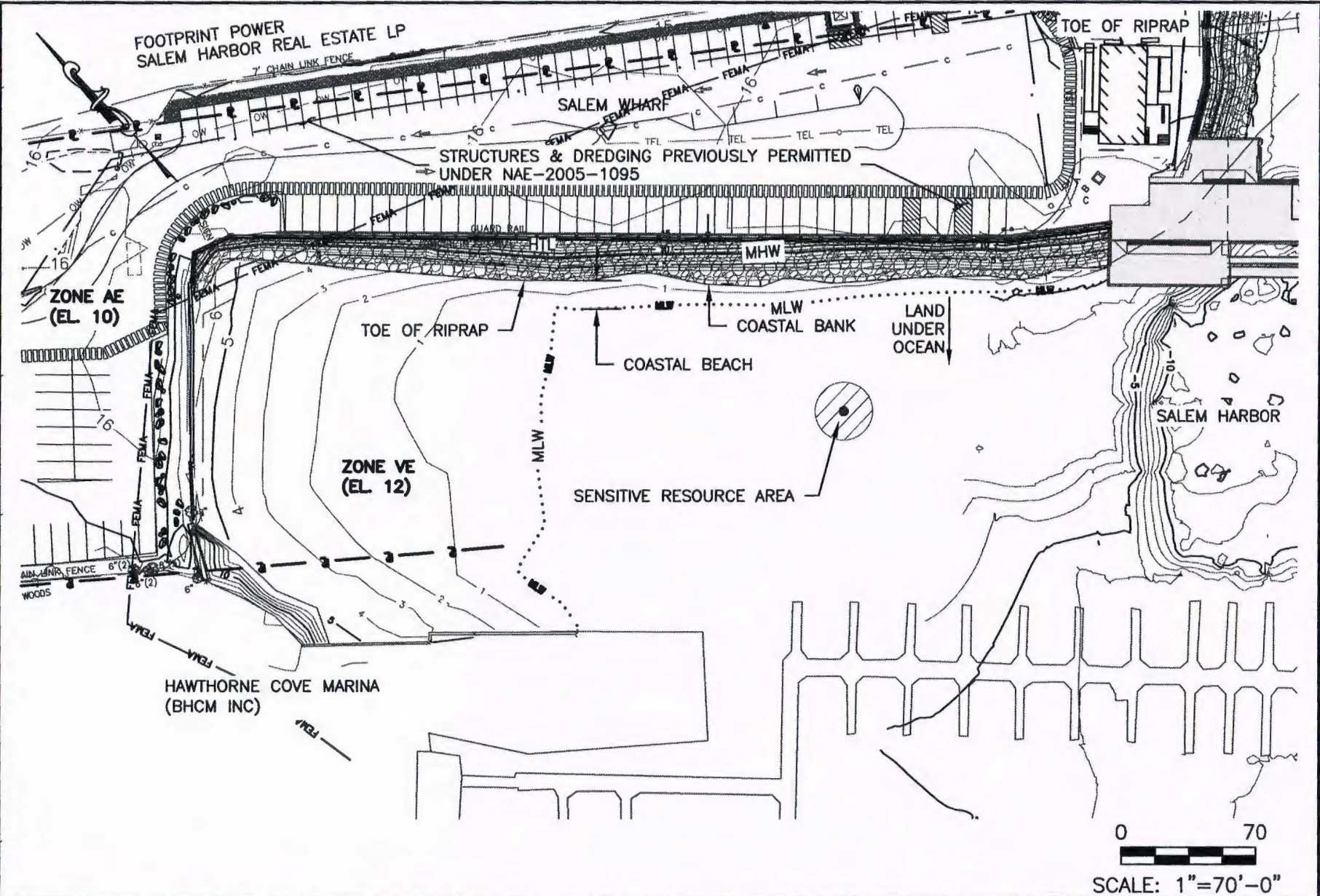
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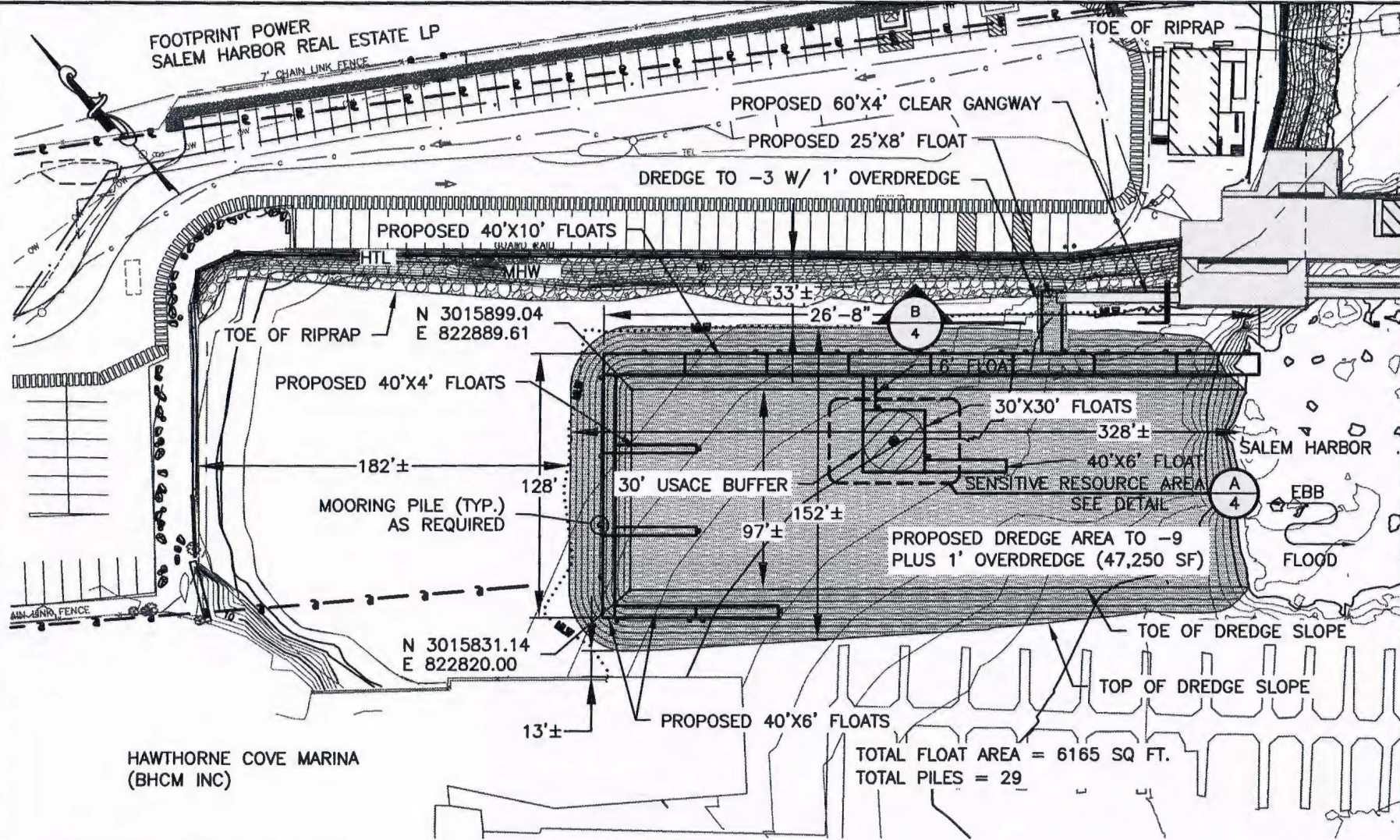
<p>PURPOSE: MARINA INSTALLATION</p>	<p>TITLE: LOCUS PLAN</p>	<p>APPLICATION BY: CITY OF SALEM</p>
<p>100 YR FLOOD +16.2 HTL +11.0 MHW +8.9 NGVD +4.2 MLW 0.0</p>	 <p>Bourne Consulting Engineering, PC 3 West Street Franklin, MA 01902 TEL: (508) 632-0000 FAX: (508) 632-0000</p>	<p>IN: SALEM AT: SALEM HARBOR COUNTY: ESSEX STATE: MA SHEET 1 OF 4 DATE: 06/16/14</p>

File: X:\34946-34005 Salem Wharf Phase II REGULATORY PERMITS CONTRACT NO. 2\ACOE &

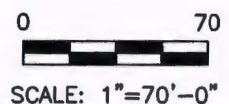


100 YR FLOOD	+16.2	NGVD	+4.2	TITLE:	EXISTING CONDITIONS	IN: SALEM
HTL	+11.0	MLW	0.0	PURPOSE:	MARINA INSTALLATION	AT: SALEM HARBOR
MHW	+8.9			APPLICATION BY:	CITY OF SALEM	COUNTY: ESSEX STATE: MA
 Bourne Consulting Engineering, PC <small>3 West Street Franklin, MA 01890 TEL: (978) 633-0000 FAX: (978) 633-0000</small>						SHEET 2 OF 4
						DATE: 06/16/14

File: X:\34946-1\34005 Salem Wharf Phase IV REGULATORY PERMITS CONTRACT NO. 2\ACOF &



DREDGE VOLUME	
EL. -9 DREDGE	11,740 CY
EL. -10 OVERDREDGE	1,825 CY
TOTAL	13,565 CY



100 YR FLOOD	+16.2	NGVD	+4.2
HTL	+11.0	MLW	0.0
MHW	+8.9		

TITLE: **PROPOSED MARINA LAYOUT**

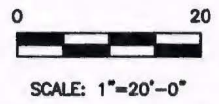
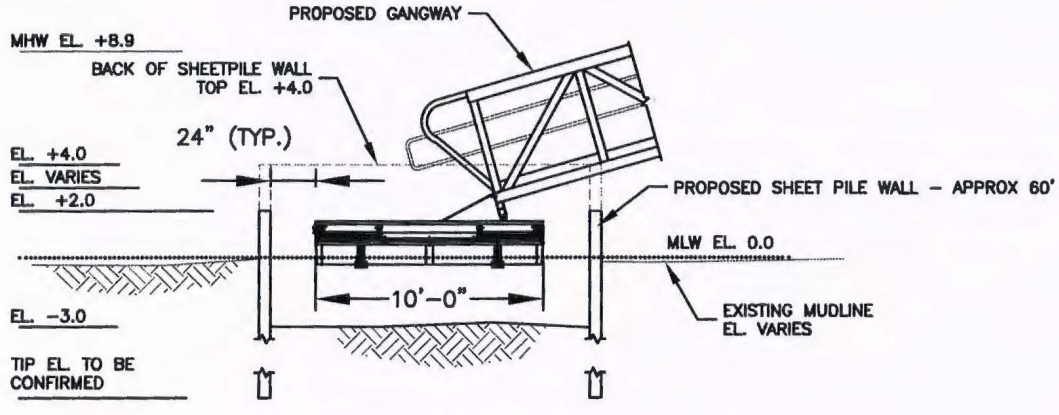
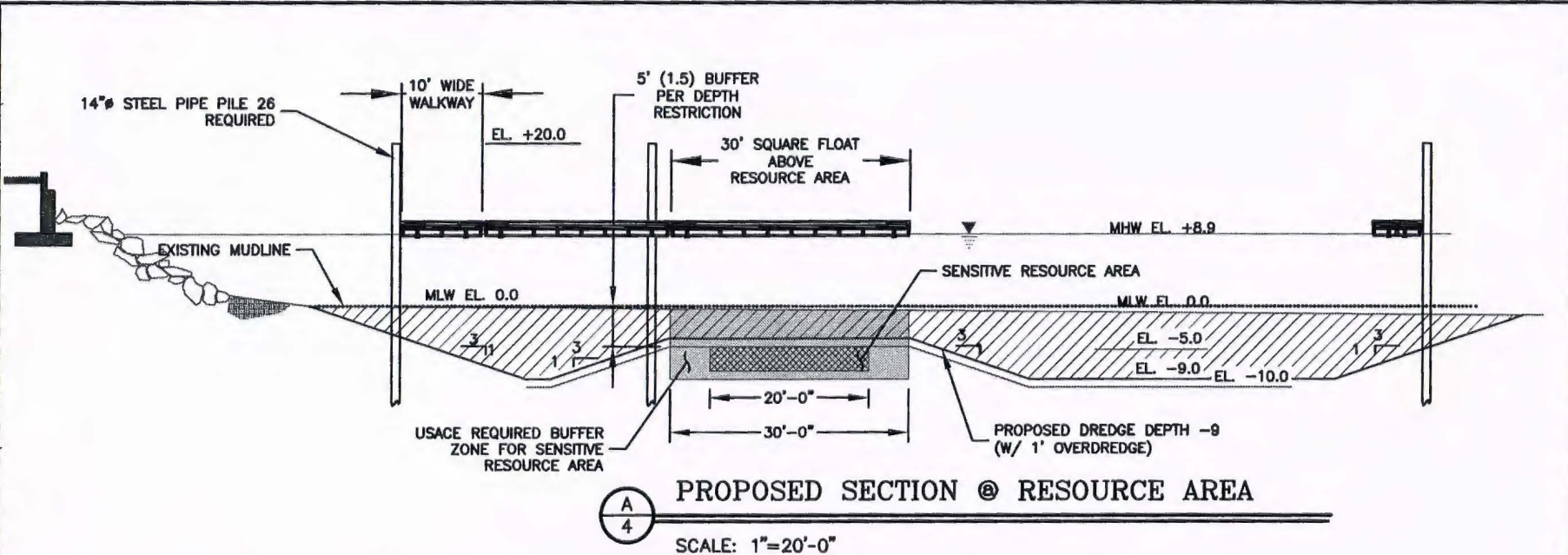
IN: **SALEM**
 AT: **SALEM HARBOR**
 COUNTY: **ESSEX** STATE: **MA**

PURPOSE: **MARINA INSTALLATION**

APPLICATION BY: **CITY OF SALEM**

SHEET **3** OF **4**
 DATE: **08/25/14**

File: X:\34946-34005 Salem Wharf Phase IV REGULATORY PERMITS CONTRACT NO. 2\ACOE &



100 YR FLOOD	+16.2	NGVD	+4.2	TITLE:	PROPOSED MARINA SECTION	IN: SALEM
HTL	+11.0	MLW	0.0	PURPOSE:	MARINA INSTALLATION	AT: SALEM HARBOR
MHW	+8.9			APPLICATION BY:	CITY OF SALEM	COUNTY: ESSEX STATE: MA
						SHEET 4 OF 4
						DATE: 08/25/14