



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

# PUBLIC NOTICE

**Comment Period Begins:** JULY 19, 2016  
**Comment Period Ends:** AUGUST 3, 2016  
**File Number:** NAE-2014-01178  
**In Reply Refer To:** Rod Howe  
**Phone:** (978) 318-8496  
**E-mail:** Rodney.A.Howe@usace.army.mil

## 15 DAY NOTICE

The District Engineer has received a permit application to conduct work in waters of the United States from Portsmouth Naval Shipyard. This work is proposed in the Piscataqua River at the Portsmouth Naval Shipyard, Kittery, Maine. The site coordinates are: Latitude 43.08104°N Longitude 70.74520°W.

The work involves structural repairs to berths 11, 12, and 13 of the shipyards dry docks including placing fill in 117,200 SF (2.69 acres) of waterway in conjunction with the construction of a king pile and concrete shutter panel bulkhead system at Berths 11, 12, and 13 and backfilling behind the bulkhead to increase the structural capacity of the piles. The work also includes maintenance and new dredging of approximately 10,660 cy's of material over a 52,600 SF (1.20 acres) adjacent to the Dry Dock and Berths 11,12, and 13. Dredged material that is suitable for reuse will be incorporated into the granular fill behind the bulkheads. Dredged material that is determined not suitable for reuse will be disposed of at an approved upland landfill. The purpose of the project is to restore the crane rail support structure to allow portal cranes to operate at full capacity, extend the useful life of the existing 70-year old steel piles, and repair deteriorated structural components.

The work is shown on the attached plans entitled Portsmouth Naval Shipyard Kittery, Maine," on 2 sheets, and undated.

Based on the alternatives analysis submitted with the application, the applicant has avoided impacts to the extent practicable to meet the stated project purpose. To compensate for the projects direct and secondary impacts to the aquatic resource the applicant proposes to make In-Lieu Fee payment of \$110,976.00 to the Maine Natural Resource Mitigation Fund.

### **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).

In water construction at the site will impact Essential Fish Habitat ("EFH"). This habitat primarily consists of riprap slope under the existing docks. The Department of the Navy (NAVY), as lead agency, initiated consultation with the National Marine Fisheries Service (NMFS) under Section 7 of the Endangered Species Act (ESA). NMFS concurred with the Department of the Navy's conclusion that the proposed action is not likely to adversely affect any NMFS ESA-listed species and/or designated critical habitat in the action area proposed by the project. Therefore, no further consultation pursuant to section 7 of the ESA is required.

This project will impact 2.69 acres of Essential Fish Habitat (EFH) for those species listed on the attached LIST OF SPECIES AND LIFE STAGES. The habitat in the proposed dredge area consists of fine sediments, consisting of soft mud, sand, pebbles, and old mussel shells in areas of low energy current and hard sand, pebbles/cobbles and small boulders in areas of higher current flow. The substrate in the area of the proposed 2.37 acres of bulkhead backfill area consists of a rock riprap slope under the existing docks. Loss of this habitat may adversely affect shell fish and smaller fish species. Compensatory mitigation for the loss of coastal habitat functions and values as a result of the proposed fill will occur in the form of an in-lieu fee paid to the Maine DEP prior to the start of construction in accordance with the Maine Natural Resources Protection Act (38 M.R.S.A. §480-Z), Sections 404 and 401 of the Clean Water Act (33 U.S.C. §1251 et seq.), and Section 10 of the Rivers and Harbors Act (33 U.S.C. §403 et seq.). 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.

Species with Designated Essential Fish Habitat near Portsmouth Naval Shipyard

*Species Eggs Larvae Juveniles Adult Spawning*

*Common Name Scientific Name Adults*

Winter flounder *Pseudopleuronectes americanus* X\* X\* X\* X\* X\*

Yellowtail flounder *Limanda ferruginea* X\* X\* X

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FILE NO. NAE-200x-xxx

Windowpane flounder *Scophthalmus aquosus* X\* X\* X\* X\* X\*

American plaice *Hippoglossoides platessoides* X

Atlantic halibut *Hippoglossus hippoglossus* X\* X\* X\* X\* X\*

Atlantic sea scallop *Placopecten magellanicus* X X X\* X\*

Atlantic sea herring *Clupea harengus* X\* X\* X

Bluefish *Pomatomus saltarix* X\* X\*

Atlantic mackerel *Scomber scombrus* X\* X\* X\*

Atlantic bluefin tuna *Thunnus thynnus* X

Source: NOAA Fisheries Service, Greater Atlantic Regional Fisheries (GARFO) n.d.[a] and n.d.[b]

Note:

X = EFH is present in the Project area for this life stage.

\* Indicates that EFH is designated for those species/life stages in the seawater zone portion of the Great Bay estuary.

## NATIONAL HISTORIC PRESERVATION ACT

NAVY 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. Although NAVY has taken the lead in this consultation, the District Engineer has determined that the proposed work is not likely to affect properties listed in, or eligible for listing in, the National Register of Historic Places. NAVY and the Corps will continue review and consultation to fulfil requirements under the Historic Preservation Act as part of the permit review process.

## 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:

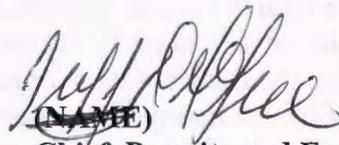
- Permit, License or Assent from State.
- Permit from Local Wetland Agency or Conservation Commission.
- Water Quality Certification in accordance with Section 401 of the Clean Water Act.

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 Rodney Howe at (978) 318-8496, (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.**



(NAME)

**Chief, Permits and Enforcement Branch  
Regulatory Division**

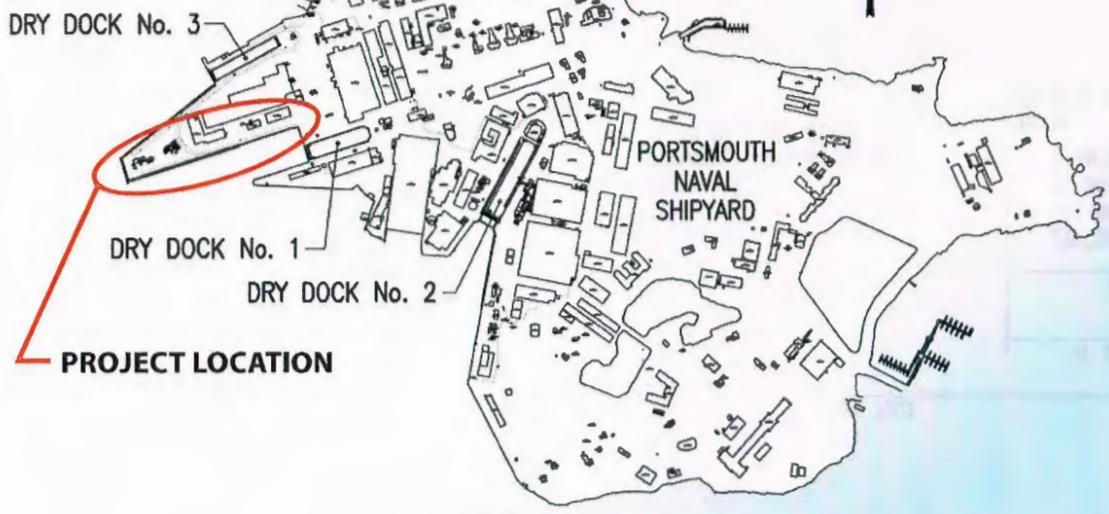
If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil). You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: \_\_\_\_\_

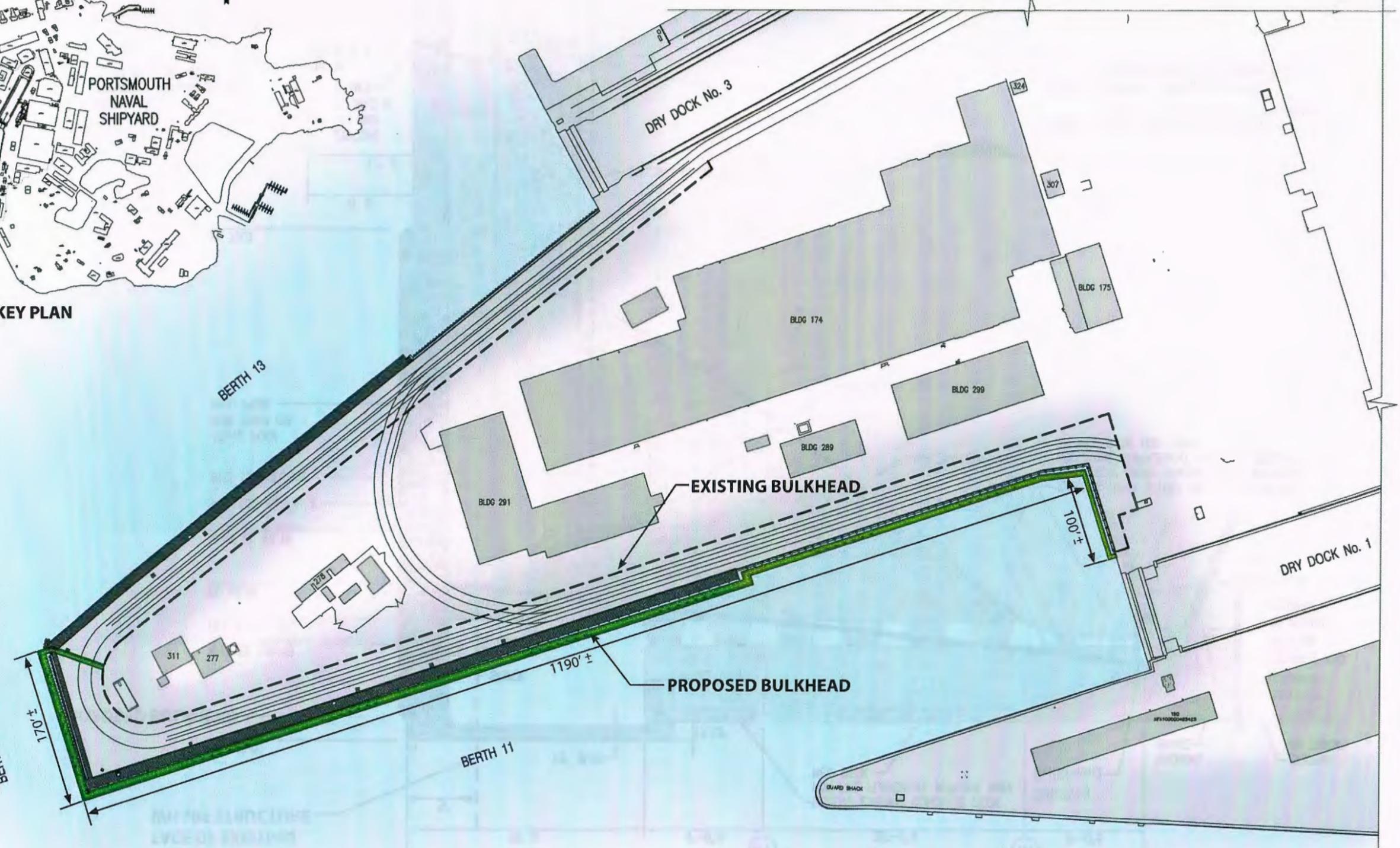
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PHONE: \_\_\_\_\_

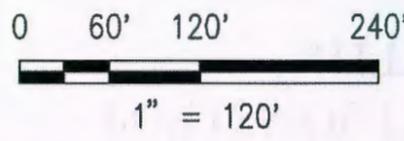
# PORTSMOUTH NAVAL SHIPYARD KITTERY, MAINE



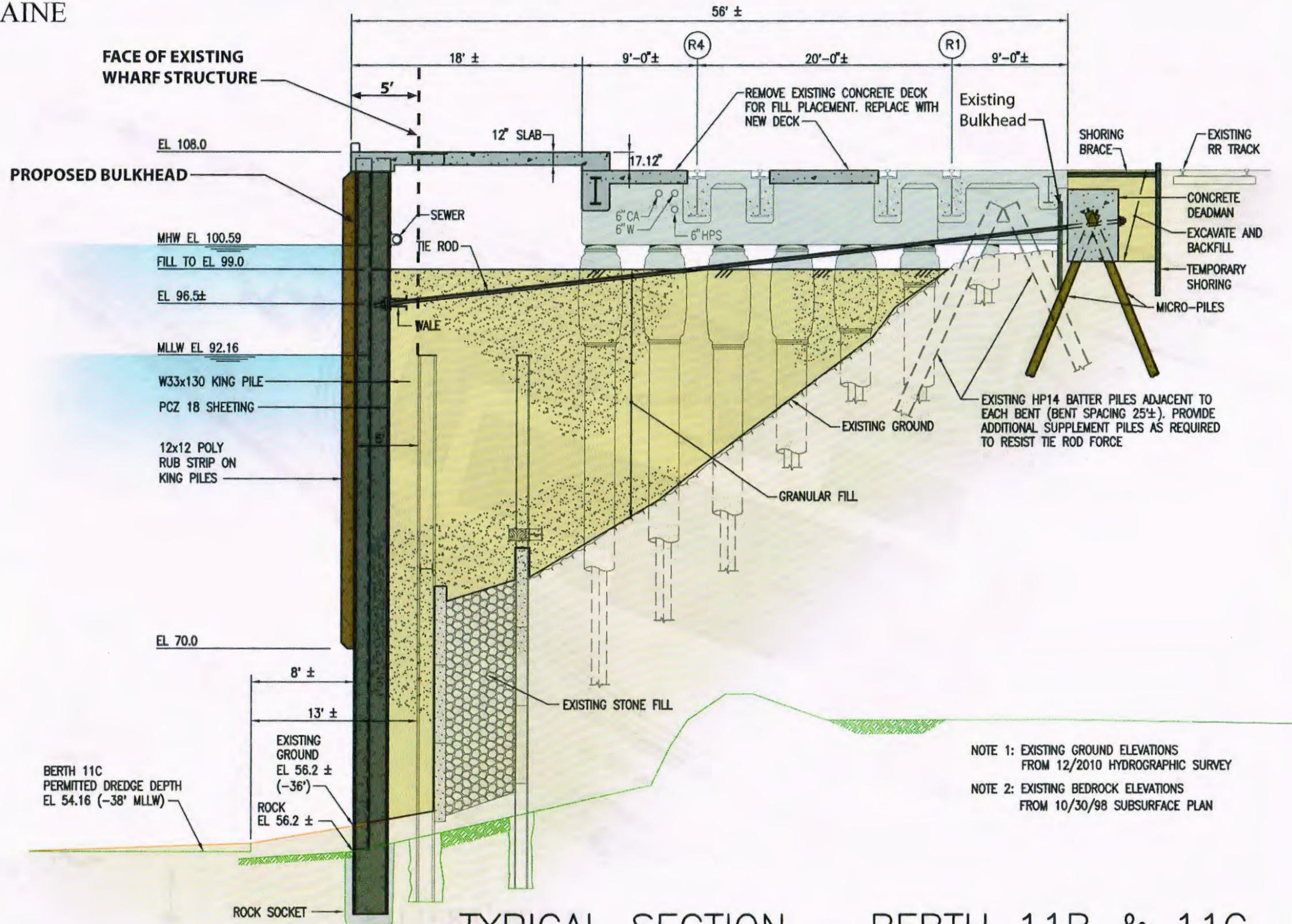
**KEY PLAN**



**PLAN - PROPOSED BERTH 11 & 12 BULKHEAD**



PORTSMOUTH NAVAL SHIPYARD  
KITTERY, MAINE



BERTH 11C  
PERMITTED DREDGE DEPTH  
EL 54.16 (-38' MLLW)

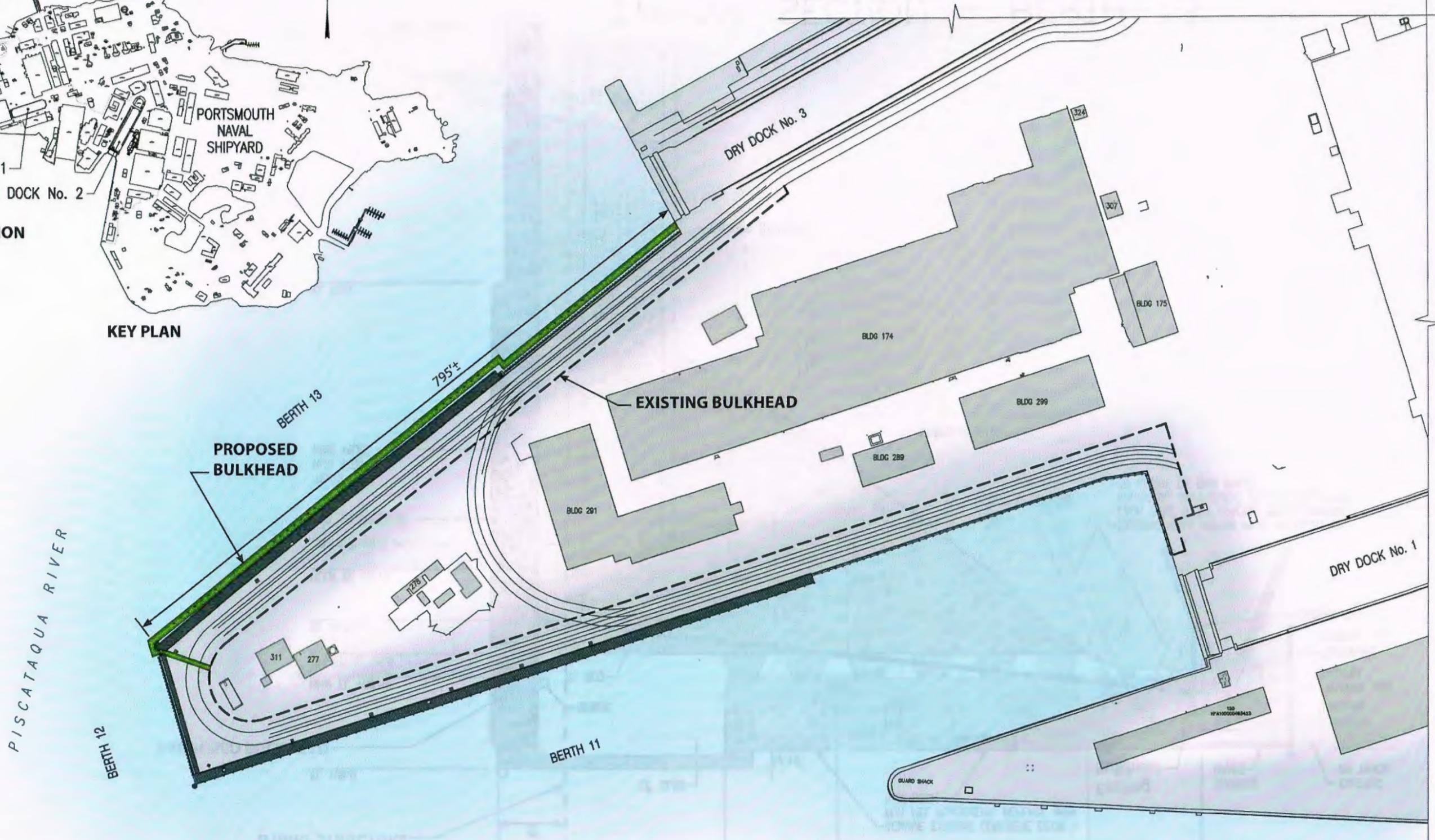
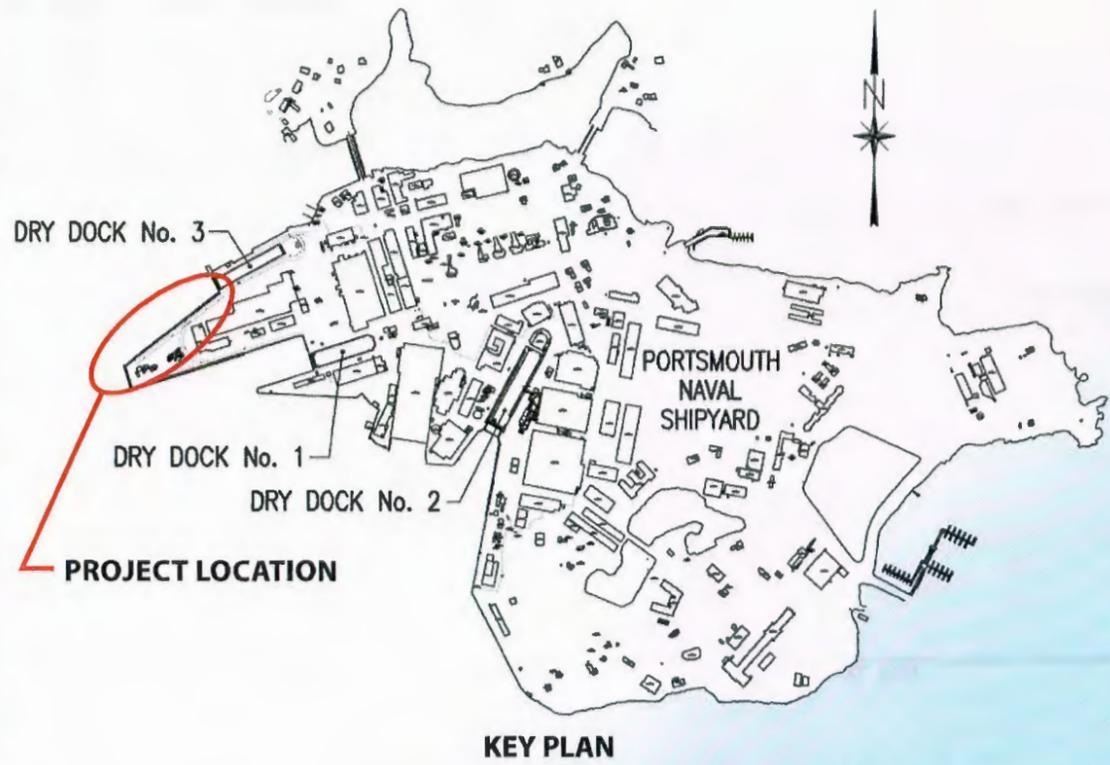
NOTE 1: EXISTING GROUND ELEVATIONS  
FROM 12/2010 HYDROGRAPHIC SURVEY

NOTE 2: EXISTING BEDROCK ELEVATIONS  
FROM 10/30/98 SUBSURFACE PLAN

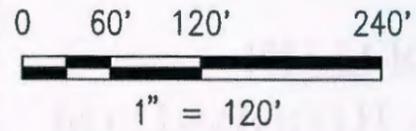
TYPICAL SECTION — BERTH 11B & 11C

SCALE: 1/8" = 1'-0"

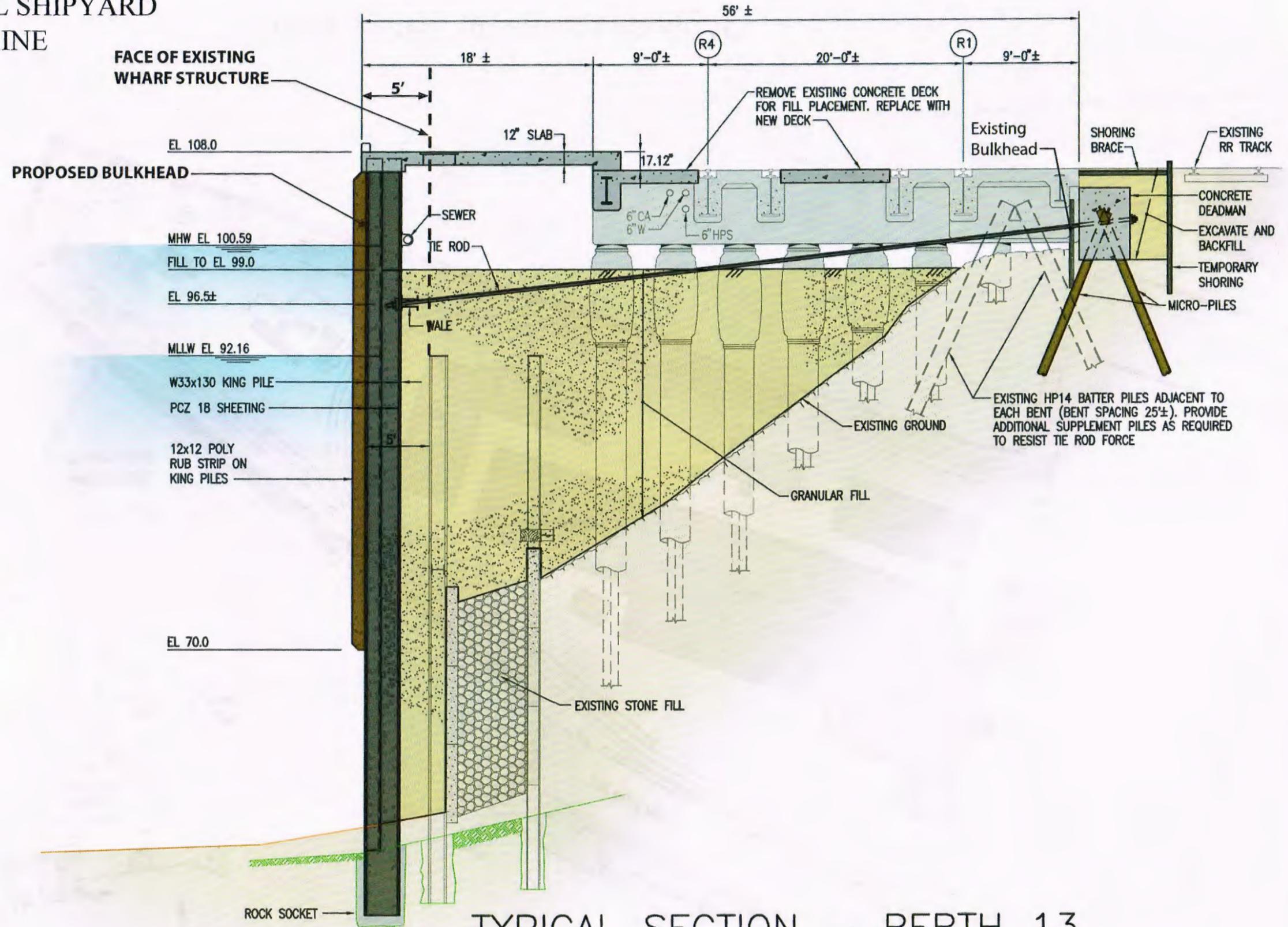
# PORTSMOUTH NAVAL SHIPYARD KITTERY, MAINE



**PLAN - PROPOSED BERTH 13 BULKHEAD**



PORTSMOUTH NAVAL SHIPYARD  
KITTERY, MAINE



TYPICAL SECTION — BERTH 13  
SCALE: 1/8" = 1'-0"