

# **APPENDIX A**

## **REGULATORY PERMITS AND CONDITIONS**





# WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And Town of Plymouth Wetland Bylaw

## B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act. Check all that apply:

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Public Water Supply      | <input checked="" type="checkbox"/> Land Containing Shellfish | <input checked="" type="checkbox"/> Prevention of Pollution        |
| <input checked="" type="checkbox"/> Private Water Supply     | <input checked="" type="checkbox"/> Fisheries                 | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| <input checked="" type="checkbox"/> Groundwater Supply       | <input checked="" type="checkbox"/> Storm Damage Prevention   | <input checked="" type="checkbox"/> Flood Control                  |
| <input checked="" type="checkbox"/> Sedimentation Control    | <input type="checkbox"/> Agriculture/Aquaculture*             | <input checked="" type="checkbox"/> Recreation*                    |
| <input checked="" type="checkbox"/> Endangered Plant Species |   | <input checked="" type="checkbox"/> Erosion Control                |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved** subject to:

- a.  the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

**Denied** because:

- b.  the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c.  the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

**Inland Resource Area Impacts:** Check all that apply below. (For Approvals Only)

3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. _____ a. linear feet	b. _____ b. linear feet	c. _____ c. linear feet	d. _____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. _____ a. square feet	b. _____ b. square feet	c. _____ c. square feet	d. _____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. _____ a. square feet	b. _____ b. square feet	c. _____ c. square feet	d. _____ d. square feet
	e. _____ e. c/y dredged	f. _____ f. c/y dredged		



**WPA Form 5 – Order of Conditions**

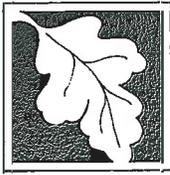
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And Town of Plymouth Wetland Bylaw

**B. Findings (cont.)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront area-Town Brook	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

**Coastal Resource Area Impacts:** Check all that apply below. (For Approvals Only)

10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input checked="" type="checkbox"/> Land Under the Ocean	290 new piles a. square feet	290 b. square feet		
	14,500 c. c/y dredged	14,500 d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
15. <input checked="" type="checkbox"/> Coastal Banks	26' a. linear feet	26' b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input checked="" type="checkbox"/> Land Containing Shellfish	60,000 a. square feet	60,000 b. square feet	c. square feet	d. square feet
20. <input checked="" type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	14,500 a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



## WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And Town of Plymouth Wetland Bylaw

MassDEP File Number:

SE57-2426

Plymouth File No.

PCC – 09 - 25

### C. General Conditions Under Massachusetts Wetlands Protection Act

(only applicable to approved projects)

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. the work is a maintenance dredging project as provided for in the Act; or
  - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]

"File Number SE57-2426 "

Plymouth File Number **PCC-09- 25**



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

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### C. General Conditions Under Massachusetts Wetlands Protection Act

10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
18. **The work associated with this Order (1) is  or (2) is not  subject to the Massachusetts Stormwater Policy Standards. If the work is subject to the Stormwater Policy, the following conditions apply to this work and are incorporated into this Order:**
  - a) No work, including site preparation, land disturbance, construction and redevelopment, shall commence unless and until the construction period pollution prevention and erosion and sedimentation control plan required by Stormwater Standard 8 is approved in writing by the issuing authority. Until the site is fully stabilized, construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan, and if applicable, the Stormwater Pollution Plan required by the National Discharge Elimination System Construction General Permit.



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### C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs until written approval is received from the issuing authority. To request written approval, the following must be submitted: illicit discharge compliance statement required by Stormwater Standard 10 and as-built plans signed and stamped by a registered professional engineer certifying the site is fully stabilized; all construction period stormwater BMPs and any illicit discharges to the stormwater management system have been removed; and all post-construction stormwater BMPs were installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure they are not damaged and will function properly.
- c) Prior to requesting a Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall submit to the issuing authority an Operation and Maintenance (O & M) Compliance Statement for the Stormwater BMPs. This Statement shall identify the responsible party for implementing the Operation and Maintenance Plan and also state that: 1. "Future responsible parties shall be notified in writing of their continuing legal responsibility to operate and maintain the stormwater management BMPs and implement the Pollution Prevention Plan; and 2. The Operation and Maintenance Plan for the stormwater BMPs is complete and will be implemented upon receipt of the Certificate."
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the issuing authority shall presume that the responsible party for maintaining each BMP is the landowner of the property on which the BMP is located. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement acceptable to the issuing authority evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the Operation and Maintenance Plan section of the approved Stormwater Report, and the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three years including inspections, repairs, replacement and disposal (for disposal the log shall indicate the type of material and the disposal location);
  2. Make this log available to MassDEP and the Conservation Commission upon request; and
  3. Allow members and agents of the MassDEP and the Conservation Commission to enter and inspect the premises to evaluate and ensure that the responsible party complies with the Operation and Maintenance requirements for each BMP set forth in the Operations and Maintenance Plan approved by the issuing authority.
- h) All sediments or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.



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## C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- j) The stormwater management system approved in the Final Order of Conditions shall not be changed without the prior written approval of the issuing authority. Areas designated as qualifying pervious areas for purpose of the Low Impact Site Design Credit shall not be altered without the prior written approval of the issuing authority.
- k) Access for maintenance of stormwater BMPs shall not be obstructed or blocked. Any fencing constructed around stormwater BMPs shall include access gates. Fence(s) shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

**See Page 11**

## D. Findings Under Municipal Wetlands Bylaw or Ordinance

- 1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
- 2. The PLYMOUTH Conservation Commission hereby finds (check one that applies):

- a.  that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b.  that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

**Plymouth Wetland Bylaw**

1. Municipal Ordinance or Bylaw

2. Citation

- 3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

**See Pages 7a and 7b**

## WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and

Town of Plymouth Wetlands Bylaw

### **B1. Additional Conditions** (issued by the Town of Plymouth)

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DEP File Number

SE57-2426

Provided by DEP

PCC File Number

PCC-09-25

The Town of Plymouth Conservation Commission has found it necessary to include these additional conditions as a standard part of every Order.

If the Condition applies, then the corresponding box will be checked.

- 1. The applicant or owner shall allow the Commission members and/or their agent to inspect the property in order to evaluate compliance with the conditions of this Order. Reasonable notice to the applicant shall be attempted prior to said inspection.
- 2. All construction must comply with the latest referenced plans and the conditions of this Order. Under this filing, no change in plan is permissible without prior written approval from the Commission. For any proposed change in the approved plans or in the work, the applicant shall inquire in writing of the Commission whether the change is substantial enough to require either an Amended Order of Conditions or a new Notice of Intent.
- 3. The Conservation Commission shall be notified at least five (5) days prior to the commencement of work. This notification must be in writing and sent either by mail or hand delivered to the Conservation office, Town Hall, 11 Lincoln Street., Plymouth, MA 02360. This enables the Commission the opportunity to insure all preconstruction conditions have been met.
- 4. Copies of all required permits, including proof of recording of the Order from the Registry of Deeds (Book and Page No.), shall be submitted to the Commission prior to commencing any work on site.
- 5. The project engineer(s) and contractor(s) shall be provided with copies of this Order, the submitted Notice of Intent, and the above referenced plans and shall have these documents available on-site during construction.
- 6. Disturbed areas shall be stabilized to prevent erosion with hay, straw, mulch or other protective covering or method approved by the U.S. Department of Agriculture Soil Conservation Service.
- 7. Any debris generated from any work by the applicant shall be removed from the site.
- 8. Construction may be considered complete after all disturbed areas have been revegetated with plant material acceptable to the Conservation Commission.
- 9. If a project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect or land surveyor, a written statement by such a professional person certifying substantial compliance with the plans and setting forth what deviation, if any, exists from the plans approved in the Order shall accompany the request for a Certificate of Compliance.
- 10. This Order shall apply to and become the responsibility of the applicant, owner, their agent, successor or assignee.
- 11. Failure to comply with any of the conditions listed in this Order, including but not limited to time limitations, notifications, installation of erosion control measures, recording of the order, and project construction, shall be deemed sufficient cause, unless adequate justification is provided, for the issuance of non-criminal citation(s), under the TOWN OF PLYMOUTH WETLANDS BYLAW. Thus, please read this order and contact this office for any assistance needed.

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**B1. Additional Conditions** (issued by the Town of Plymouth)

12. No additional work shall be allowed in or within 100 feet of the wetland/resource area boundary, including but not limited to the cutting or removing, of vegetation or soil, unless it is specifically allowed by this Order and as is shown on the final approved plan, or unless it is first approved by the Conservation Commission. The purpose of this condition is to encourage the growth and stability of natural vegetation (trees, shrubs, thickets, etc.) and land features, in order to provide an undisturbed natural buffer to the wetland and/or resource area.

13. Copies of all plans and/or other information received by the Commission for this project shall be submitted by the applicant to the Southeast Regional Office of the Department of Environmental Protection (DEP), 20 Riverside Drive, Route 105, Lakeville, MA 02347.

14. Prior to the commencement of work, the Conservation Staff Aide and/or Commissioners shall inspect the property in order to approve of the siltation barrier installation, which shall be as per the final approved plans referenced (or mandated) by this Order, and thus between the wetlands resource area and the proposed work. No work can commence without this approval.

The siltation barrier shall be a line of double staked haybales OR siltation fence, which shall either be backfilled on the upgradient side or entrenched. Any tears, rips, breaks or collapse of the siltation control barrier shall be repaired immediately (i.e., in no more than 24 hours).

15. If this project involves work on a septic system, then this is also subject to approvals by the Plymouth Board of Health. Any plan changes shall require the approval of the Conservation Commission.





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

MassDEP File Number:

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**E. Issuance**

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

June 9, 2009

Please indicate the number of members who will sign this form:

1. Date of Issuance

This Order must be signed by a majority of the Conservation Commission.

**6**

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Evelyn Strawn, Chairman  
  
Christopher Brink  
  
David Foster  
  
Brooke Monroe

Gene Hooker, Vice-Chairman  
  
John Scaglaring  
  
Paul Withington

**Notary Acknowledgement**

Plymouth

On this 8<sup>th</sup> of \_\_\_\_\_

June 2009  
Month Year

Before me, the undersigned Notary Public, personally appeared

Evelyn Strawn, Chairman  
Name of Document Signer

proved to me through satisfactory evidence of identification, which was/were

Know Personally

Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

As member of \_\_\_\_\_

Plymouth  
City/Town

Conservation Commission

Signature of Notary Public

**Michelle A. Turner**

Printed Name of Notary Public

**August 7, 2009**

My Commission Expires (Date)

Place notary seal and/or any stamp above

This Order is issued to the applicant as follows:

by hand delivery on

by certified mail, return receipt requested, on

June 9, 2009

Date

Date



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

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### F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant. Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order or Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction. Any person aggrieved by a decision of the Conservation Commission under the Town's Bylaw may appeal to Superior Court within 60 days from the date of issuance of this Order.

Any condition pertaining solely to the Town of Plymouth Wetlands Bylaw may not be appealed to the State.

All other conditions are being issued under both the Massachusetts Wetlands Protection Act and Town of Plymouth Wetlands Bylaw and pursuant regulations.

**Section G, Recording Information is available on the following page.**



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

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**G. Recording Information**

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

**Plymouth**

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

**PLYMOUTH**

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Town Wharf

Project Location

SE57-2426

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Plymouth

County

Book

Page

for:

Town of Plymouth

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

June 9, 2009

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant/Representative

## FINDINGS AND ADDITIONAL SPECIAL CONDITIONS

<b>Applicant</b>	<b>Town of Plymouth-DPW</b>	<b>DEP File Number</b>	<b>SE57- 2426</b>
<b>Project Location</b>	<b>T-Wharf</b>	<b>Plymouth File No.</b>	<b>PCC-09-25</b>
<b>Parcel ID Number</b>	<b>014A-000-05A-000</b>		

This Order of Conditions is being issued based upon strict accordance with the information submitted in the Notice of Intent received by the Plymouth Conservation office on April 22, 2009 including all supporting plans.

This Order is in accordance with a vote by the Plymouth Conservation Commission to close the public hearing and approve the project with conditions on May 18, 2009.

This Order approves the reconstruction and expansion of the T-Wharf on Plymouth Harbor, including limited dredging for the reconstructed piers, within the resource area of Plymouth Harbor.

### Existing Conditions

The property in question is the existing Town T-Wharf located within Plymouth Harbor. The existing timber piered T Wharf has a total area of approximately 7,780 square feet. The pier is primarily used by commercial fishing vessels but, also supports other uses such as: public use for temporary docking to load and unload, launch service is accessed from the T-Wharf; the fuel dock is at the southern end of the Wharf for commercial and transient boat users.

A site investigation was completed by Bourne Consulting Engineering on the condition of the T-Wharf in January of 2009. The inspection concluded that the overall current condition of the pier can be summarized as fair. The decking and stringers need complete replacement and the fender and bracing systems need extensive repair. The report further states that the estimated remaining life of the piles and pier substructure is around 10 years.

### Proposed Project – Reference T-Wharf Reconstruction Narrative April 2009

The project as proposed will impact the following wetland resource areas: Land Under the Ocean, Coastal Bank, Land Containing Shellfish, and Fish Runs.

The proposal includes an expansion of the wharf to provide 18,360 square feet of pile supported pier structure with 4,160 square feet of floats. The fixed pier will provide approximately 820 linear feet of berthing for commercial boats while the floats will provide access and transient docking for boaters using the mooring field and adjacent boat ramp. The pier will be constructed in two sections and provide an embayment of approximately 47,000 square feet to provide additional protection in bad weather and is designed to accommodate truck access to boats.

The fuel dock will be relocated to the adjacent town pier and will be combined to a single facility with a relocated pumpout to facilitate servicing of vessels and encourage expanded usage of the sanitary pumpout.

In addition to the new pier structures, a boardwalk will be constructed around the waterside of Woods Seafood restaurant to improve pedestrian access and safety.

This project also proposes dredging at the new T-Wharf facility. A total of 56,507 square feet of Land Under the Ocean will be impacted by the dredging. A 6-foot deep and 10-foot deep anchorage area will be constructed in order to provide adequate access and berthing for commercial vessels. The dredging footprint has been designed to avoid impacts to existing shoreline structures and intertidal areas. Dredging will be performed to elevations -6.0 and -10.0 mean low water and include a one foot allowable over-dredge depth to -7.0 and -11.0 mean low water respectively.

Dredging will be conducted by mechanical means and sediments will be dewatered and placed upland. The Town had originally proposed that the dredge spoil would be placed at the Mass Bay Disposal Site. Further sampling has concluded that the material will be suitable for upland placement at the South Street landfill.

FINDINGS AND ADDITIONAL SPECIAL CONDITIONS

Applicant	Town of Plymouth-DPW	DEP File Number	SE57-2426
Project Location	T-Wharf	Plymouth File No.	PCC-09-25
Parcel ID Number	014A-000-05A-000		

The Town of Plymouth proposes the following preferred construction sequence:

1. Demolish and remove existing T Wharf pier structure
2. Dredge proposed basin to final depths
3. Construct piers and boardwalk
  - a. Construct new North Pier
  - b. Construct boardwalk
  - c. Construct new South Pier
4. Install floats and gangway

Both the dredging and demolition of the existing T-Wharf would be done through barge mounted equipment. Sediments will be placed in a dredge scow and then transferred via the boat ramps to the upland dewatering areas. Pile driving for pier construction would also be done by barge mounted equipment. Framing between the piles will be installed using access from the barge prior to deck construction. The deck consists of reinforced concrete beams and deck slab. The formwork for the beams will be positioned using a crane barge and concrete will be pumped from ready mix truck on the shore. The deck comprises precast concrete slabs placed on the beams and covered with an additional layer of cast in place concrete. The slabs will be lifted into position by crane and the additional concrete will be placed by pump from the shore. Pier deck construction will proceed from the shore outwards to allow access along the completed length as the work proceeds. Utilities will be suspended beneath the completed deck. Conduit and pipe work would be installed prior to the deck to the maximum extent possible and any access after completion of the deck would be from floats.

The project area does fall within an area of priority habitat for state protected rare species. This area of Plymouth Harbor also falls within Essential Fish Habitat; therefore mitigation of fisheries impacts will be necessary. This is generally accomplished through time of year restrictions recommended by Division of Marine Fisheries. The project as proposed will not have an impact on the intertidal area, the narrative further states that eel grass or shellfish were not observed to be present in the proposed dredged area. Applicant has submitted a Stormwater Management Report and a Stormwater Pollution Prevention Plan.

Haybales will be utilized as the erosion control and will be placed around the upland connection.

In addition to General Conditions 1 through 18, the Commission has found it necessary to include the following Special Conditions pursuant to the Massachusetts Wetlands Protection Act and the Town of Plymouth Wetlands Bylaw. The above listed General Conditions, Findings and Additional Special Conditions are automatically part of this Order of Conditions.

SPECIAL CONDITIONS:

19. The Commission reserves the right to require additional protective measures for the resource areas upon any site visit indicating the necessity for those measures because of unforeseen site conditions.
20. In order to protect the eelgrass beds and minimize, silt curtains shall be used where necessary.
21. No dredging work shall be permitted from February 1<sup>st</sup> through June 30<sup>th</sup> of any year to protect fisheries habitat.
22. Prior to commencement of work a pre-construction meeting is to be held onsite to clearly delineate the limits of work and access, as well as staging area.

FINDINGS AND ADDITIONAL SPECIAL CONDITIONS

Applicant	Town of Plymouth-DPW	DEP File Number	SE57-2426
Project Location	T-Wharf	Plymouth File No.	PCC-09-25
Parcel ID Number	014A-000-05A-000		

23. The applicant shall obtain all necessary approvals from the Army Corps of Engineers and the Department of Environmental Protection including a 401 Water Quality Certificate, and a Chapter 91 License if applicable.
24. All dredged spoils are to be placed at an approved upland location.
25. This Order shall also be subject to any conditions imposed by the Natural Heritage and Endangered Species Program.
26. This Order shall also be subject to any conditions imposed by the Division of Marine Fisheries.
27. This Order shall be valid from 5 Years from the date of issuance. This condition may be extended for one or more periods of up to 3 years each, per General Conditions 4 (a) and 5.



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
SOUTHEAST REGIONAL OFFICE  
20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

IAN A. BOWLES  
Secretary

LAURIE BURT  
Commissioner

Town of Plymouth  
c/o Bourne Consulting Engineering  
3 Bent Street  
Franklin, MA 02038

**RE: ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE**  
**Waterways License Application No. W09-2729, License No. 12890**  
**Town of Plymouth, Town Wharf, Plymouth Harbor**

DEC 23 2010

Dear Sir or Madam,

The Department of Environmental Protection hereby issues the above-referenced Waterways License, enclosed, authorizing you to perform certain activities pursuant to M.G.L. c. 91, the Public Waterfront Act and its regulations 310 CMR 9.00. Any change in use or alteration of any structure or fill not authorized by this license may render this license void.

This License is not final until all administrative appeal periods from this License have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed. The appeal period is for twenty-one (21) days. No work shall be undertaken until the License has become final and has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property

**RECORDING OF THE LICENSE**

This License must be recorded at the Registry of Deeds or, if registered land, with the Land Registration Office within sixty (60) days from the date of license issuance. In the case of recorded land, the License shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the project is located. In the case of the registered land, the License shall be noted on the Land Court Certificate of Title of the owner of the land upon which the project is located. **Failure to record this license within sixty (60) days of the date of issuance will render this license void pursuant to 310 CMR 9.18.**

A Waterways License Recordation Notice Form has been enclosed for your use in notifying the Department of the recording information for this License. **Failure to notify the Department of the recording of this license is a violation of 310 CMR 9.00 and is subject to enforcement action by the Department.**

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD# 866-539-7622 or 617-574-6868.

DEP on the World Wide Web: <http://www.mass.gov/dep>

Printed on Recycled Paper

**ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE**  
**Waterways License Application No. W09-2729, License No. 12890**  
**Town of Plymouth, Town Wharf, Plymouth Harbor**

**REQUEST CERTIFICATE OF COMPLIANCE**

Pursuant to 310 CMR 9.19, once the proposed project is completed you must file a Request for a Certificate of Compliance form, BRP WW05, within sixty (60) days of completion but in no event later than five (5) years from the License's issuance date. The license for any project for which such a request is not filed and certificate issued may be revoked pursuant to 310 CMR 9.26.

**NOTICE OF APPEAL RIGHTS**

**Who has the right to appeal?**

The following persons shall have the right to an adjudicatory hearing concerning this decision by the Department to grant or deny a license or permit, in accordance with 310 CMR 9.17(1): (a) an applicant who has demonstrated property rights in the lands in question, or which is a public agency; (b) any person aggrieved by the decision of the Department to grant a license or permit who has submitted written comments within the public comment period; (c) ten (10) residents of the Commonwealth who, pursuant to M.G.L. c. 30A, § 10A, have submitted comments within the public comment period with at least 5 of the 10 residents residing in the municipality(s) in which the license or permitted activity is located. The appeal shall clearly and specifically state the facts and grounds for the appeal and the relief sought, and each appealing resident shall file an affidavit stating the intent to be part of the group and to be represented by its authorized representative; (d) the municipal official in the affected municipality who has submitted written comments within the public comment period; and (e) CZM, for any project identified in 310 CMR 9.13(2) (a) for CZM participation or, in an Ocean Sanctuary, if it has filed a notice of participation within the public comment period.

**How can I request an adjudicatory hearing?**

A person requesting an adjudicatory hearing must submit a "Notice of Claim" to the Department, with a copy of the MassDEP Transmittal Form and including the detail specified below, within twenty-one (21) days of the date of issuance of this decision. The MassDEP Fee Transmittal Form is available at the following website: <http://www.mass.gov/dep/service/adr/adjherfm.doc>. The Notice of Claim must be made in writing and sent by certified mail or hand delivery to:

Case Administrator  
MassDEP  
One Winter Street, 2<sup>nd</sup> Floor  
Boston, MA 02108

A copy of the complete Notice of Claim must be sent at the same time by certified mail or hand delivery to: (1) the applicant, (2) the municipal official of the city or town where the project is located, and (3) the issuing office of the MassDEP, which in this case is located at:

MassDEP Waterways Regulation Program  
20 Riverside Drive  
Lakeville, MA 02347

The MassDEP Fee Transmittal Form and a valid check payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Mass. Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, Massachusetts 02211

**ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE**  
**Waterways License Application No. W09-2729, License No. 12890**  
**Town of Plymouth, Town Wharf, Plymouth Harbor**

What information must be included in the hearing request?

Pursuant to 310 CMR 9.17(3), any Notice of Claim requesting an adjudicatory hearing must include the following information:

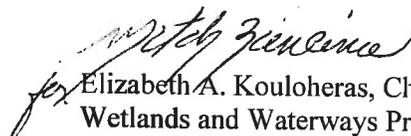
- (a) the MassDEP Waterways Application File Number;
- (b) the complete name, address, fax number and telephone number of the applicant;
- (c) the address of the project;
- (d) the complete name, address, fax number, and telephone number of the party filing the request and, if represented by counsel, the name, address, fax number, and phone number of the attorney;
- (e) if claiming to be a person aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found in 310 CMR 9.02;
- (f) a clear statement that a formal adjudicatory hearing is being requested;
- (g) a clear statement of the facts which are the grounds for the proceedings, the specific objections to the MassDEP's written decision, and the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written decision; and
- (h) a statement that a copy of the request has been sent to: the applicant and the municipal official of the city or town where the project is located.

Dismissal of request

The request for appeal will be dismissed if the filing fee is not paid, unless the appellant is exempt or is granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

Please feel free to contact Lisa Ramos of the Waterways Regulation Program, (508) 946-2748, if you have any questions pertaining to the recording of your Waterways License or Certificate of Compliance.

Sincerely,

  
Elizabeth A. Kouloheras, Chief  
Wetlands and Waterways Program

cc: w/enc. Ben Lynch, Waterways Section Chief, DEP Boston  
Office of Coastal Zone Management  
Plymouth Harbormaster  
Town of Plymouth, Attn: David Gould

Lisa Ramos  
Department of Environmental Protection  
Waterways Regulation Program  
20 Riverside Drive  
Lakeville, MA 02347

RE: Waterways Application No. W09-2729, License No. 12890, Transmittal #W165247  
Town Wharf, Plymouth Harbor, Plymouth, Plymouth County

Dear Ms. Ramos:

This is to notify you that the above referenced Waterways license was recorded with the appropriate Registry of Deeds / Land Court for this project location and to provide your office with the following recordation information.

Date of Recordation: 4/20/2011

County Registry of Deeds: Plymouth

Book number 39570 and page number(s) 27

Land Court: \_\_\_\_\_

Land Court Lot # \_\_\_\_\_ Plan # \_\_\_\_\_

Certificate Document Number \_\_\_\_\_

We will notify your office in writing of the date the authorized work or change in use is completed.

Sincerely,

, Chapter 91 Waterways Licensee

**LICENSE VOID  
IF NOT RECORDED  
WITHIN 60 DAYS  
OF ISSUANCE**

PL 11-16

# The Commonwealth of Massachusetts

No. 12890



2011 00006295

Bk: 39570 Pg: 27 Page: 1 of 6

Recorded: 01/20/2011 01:23 PM

ATTEST: John R. Buckley, Jr. Register

Plymouth County Registry of Deeds

**Whereas, Town of Plymouth**

of -- Plymouth -- in the County of -- Plymouth -- and Commonwealth aforesaid, has applied to the Department of Environmental Protection for license to -- reconstruct and maintain the T Wharf pier, ramps and floats and to dredge --

and has submitted plans of the same; and whereas due notice of said application, ~~and of the time and place fixed for a hearing thereon~~, has been given, as required by law, to the -- Board of Selectmen -- of the -- Town of Plymouth. --

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses the said

-- Town of Plymouth --, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to -- reconstruct and maintain the T Wharf pier, ramps and floats and to dredge --

in and over the waters of -- Plymouth Harbor -- at -- Town Wharf -- in the -- Town of Plymouth -- and in accordance with the locations shown and details indicated on the accompanying DEP License Plan No. 12890 (6 sheets).

Mail 1  
Bourne Consulting Engineering  
attn: Alyssa Richard  
3 Bent St, Franklin, MA 01903

The structures hereby authorized shall be limited to the following use(s): to provide for commercial and public recreational docking and boating access to navigable waters and public access to waterfront open space for passive recreational purposes.

This license is issued for an unlimited term in accordance with 310 CMR 9.15(1)(c).

Maintenance dredging may be performed for a period of ten (10) years subsequent to the date of issuance of this license.

Existing structures previously authorized under Department of Environmental Quality Engineering License No. 1225 and Department of Public Works License No.'s 1675, 1158 and 558 shall be maintained in accordance with the terms and conditions of said licenses and plans.

Special Waterways Conditions:

In accordance with any license condition, easement, or other public right of lateral passage that exists in the area of the subject property lying between the high and low water marks, the Licensee shall allow the public in the exercise of such rights to pass freely around all structures within such intertidal area. Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.

All work authorized herein shall be completed within five (5) years of the date of license issuance. Said construction period may be extended by the Department for one or more one year periods without public notice, provided that the Applicant submits to the Department, thirty (30) days prior to the expiration of said construction period, a written request to extend the period and provides an adequate justification for said extension.

Within sixty (60) days of completion of the licensed project, the Licensee shall request, in writing, that the Department issue a Certificate of Compliance in accordance with 310 CMR 9.19. The request shall be accompanied by a certification by a registered professional engineer licensed in the Commonwealth that the project was completed in accordance with the License.

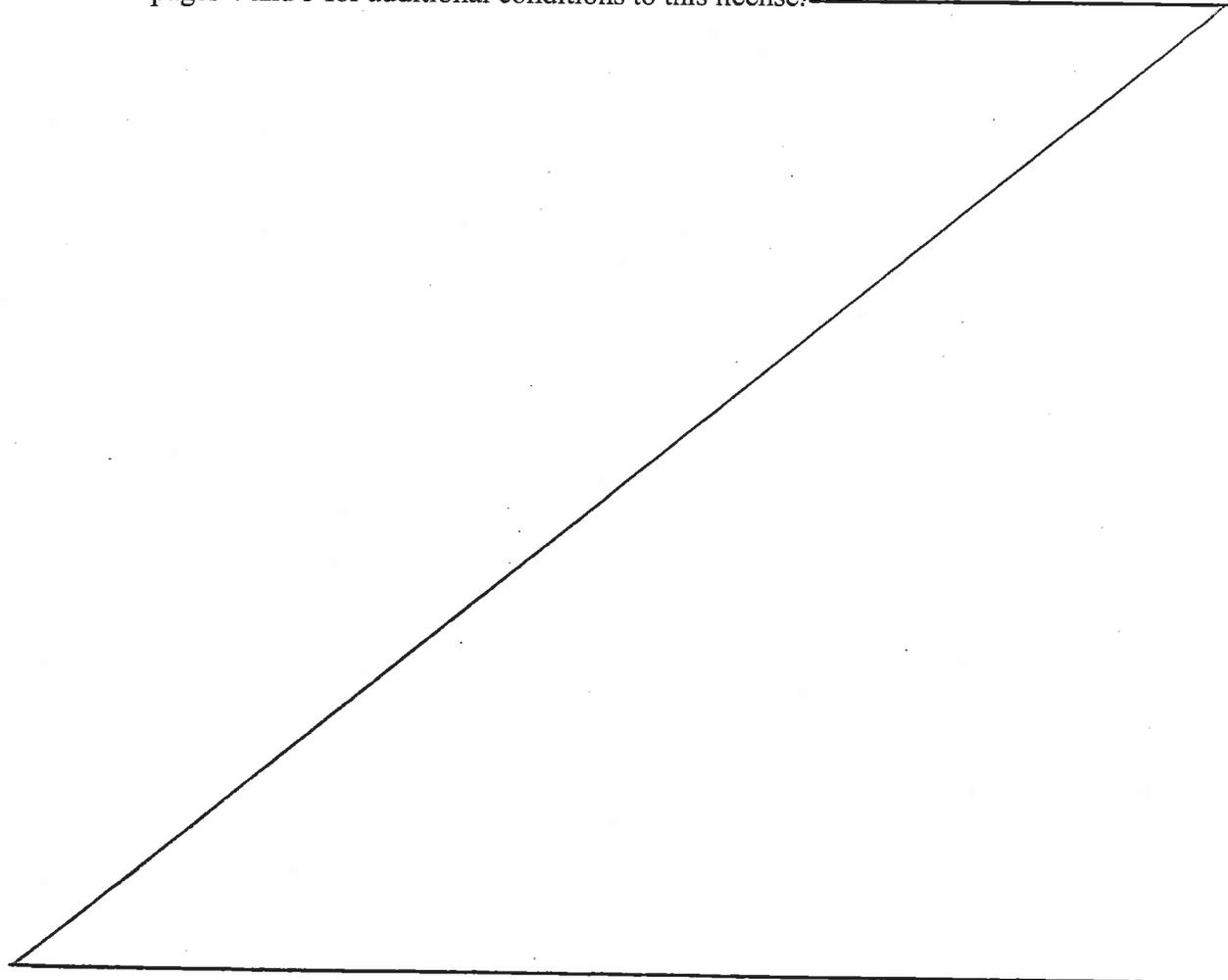
Special Waterways Dredge Conditions:

1. Dredging shall be performed by mechanical methods.
2. Dredging shall be to either 10.0 feet or 6.0 feet below the mean low water (MLW) datum within anchorage areas as specified on License Plan No. 12890, with an allowable one (1) foot overdredge.
3. Dredge material shall be dewatered in the parking area adjacent to the State Boat Ramp and then transported to the former South Street Landfill for beneficial reuse.

Special Waterways Dredge Conditions (continued):

4. No dredging shall be performed from February 1<sup>st</sup> to June 30<sup>th</sup> of any year.
5. Maintenance dredging may be performed for a period of ten (10) years subsequent to the date of issuance of this license.
6. Within 30 days of completion of the initial dredging authorized herein, the Licensee shall furnish to the Department a suitable plan showing the depths at MLW over the area dredged.

Please see pages 4 and 5 for additional conditions to this license.



Duplicate of said plan, number 12890 is on file in the office of said Department, and original of said plan accompanies this License, and is to be referred to as a part hereof.

STANDARD WATERWAYS LICENSE CONDITIONS

1. Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein.
  2. This License is granted upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Licensee prior to the commencement of any activity or use authorized pursuant to this License.
  3. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new Waterways License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this Waterways License void.
  4. This Waterways License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This license may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this Waterways License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.
  5. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein and the details indicated on the accompanying license plans.
  6. Nothing in this Waterways License shall be construed as authorizing encroachment in, on or over property not owned or controlled by the Licensee, except with the written consent of the owner or owners thereof.
  7. This Waterways License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances and regulations including but not limited to a valid final Order of Conditions issued pursuant to the Wetlands Protection Act, G.L. Chapter 131, s.40.
  8. This Waterways License is granted upon the express condition that the use of the structures and/or fill authorized hereby shall be in strict conformance with all applicable requirements and authorizations of the DEP, Division of Water Pollution Control.
  9. This License authorizes structure(s) and/or fill on:
    - Private Tidelands. In accordance with the public easement that exists by law on private tidelands, the licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, and the natural derivatives thereof.
    - Commonwealth Tidelands. The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.
    - a Great Pond of the Commonwealth. The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.
- No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this license.
10. Unless otherwise expressly provided by this license, the licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon.

STANDARD WATERWAYS DREDGING CONDITIONS

1. This Waterways License is issued subject to all applicable federal, state, county, and municipal laws, ordinances, by-laws, and regulations, including but not limited to, a valid Order of Conditions issued pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, s.40. In particular, this issuance is subject to the provisions of Sections 52 to 56, inclusive of Chapter 91 of the General Law and its Regulations 310 CMR 9.40(5), which provides, in part, that the transportation and dumping of dredge material shall be done under the supervision of the Department, and, when required, the Licensee shall provide at his/her expense a dredge inspector approved by the Department.
2. This Waterways License is issued upon the express condition that the dredging, transport and/or disposal of dredged material shall be in strict conformance with the Water Quality Certificate issued by the Department.
3. All subsequent maintenance dredging, and transport and disposal of dredged material during the term of this License shall conform to the standards and conditions applied to the original dredging operation performed under this License.
4. After completion of the work hereby authorized, the Licensee shall furnish to the Department a suitable plan showing the depths at mean low water over the area dredged. Dredging under this License shall be conducted so as to cause no unnecessary obstruction of the free passage of vessels, and care shall be taken to cause no shoaling. If, however, any shoaling is caused, the Licensee shall, at his/her expense, remove the shoal areas. The Licensee shall pay all costs associated with such work. Nothing in this License shall be construed to impair the legal rights of any person, or to authorize dredging on land not owned by the Licensee without consent of the owner(s) of such property.
5. The Licensee shall assume and pay all claims and demands arising in any manner from the work authorized herein, and shall save harmless and indemnify the Commonwealth of Massachusetts, its officers, employees, and agents from all claims, suits, damages, costs and expenses incurred by reason thereof.
6. The Licensee shall, at least three days prior to the commencement of any dredging in tide water, give written notice to the Department of the location and amount of the proposed work, and or the time at which work is expected to begin.
7. Whosoever violates any provision of this License shall be subject to a fine of \$25,000 per day for each day such violation occurs or continues, or by imprisonment for not more than one year, or both such fine and imprisonment; or shall be subject to civil penalty not to exceed \$25,000 per day for each day such violation occurs or continues.

The amount of tide-water displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said -- Town of Plymouth -- by paying into the treasury of the Commonwealth -- zero dollars and zero cents (\$0.00) -- for each cubic yard so displaced, being the amount hereby assessed by said Department.

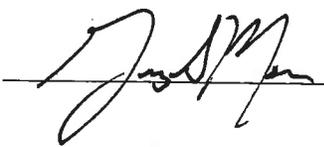
Nothing in this License shall be so construed as to impair the legal rights of any person.

This License shall be void unless the same and the accompanying plan are recorded within 60 days from the date hereof, in the Registry of Deeds for the County of Plymouth.

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 23rd day of Decembwr in the year two thousand 10.

Program Chief 

Department of Environmental Protection

Commissioner 

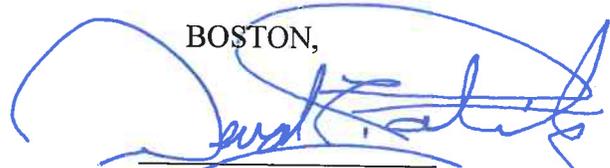
THE COMMONWEALTH OF MASSACHUSETTS

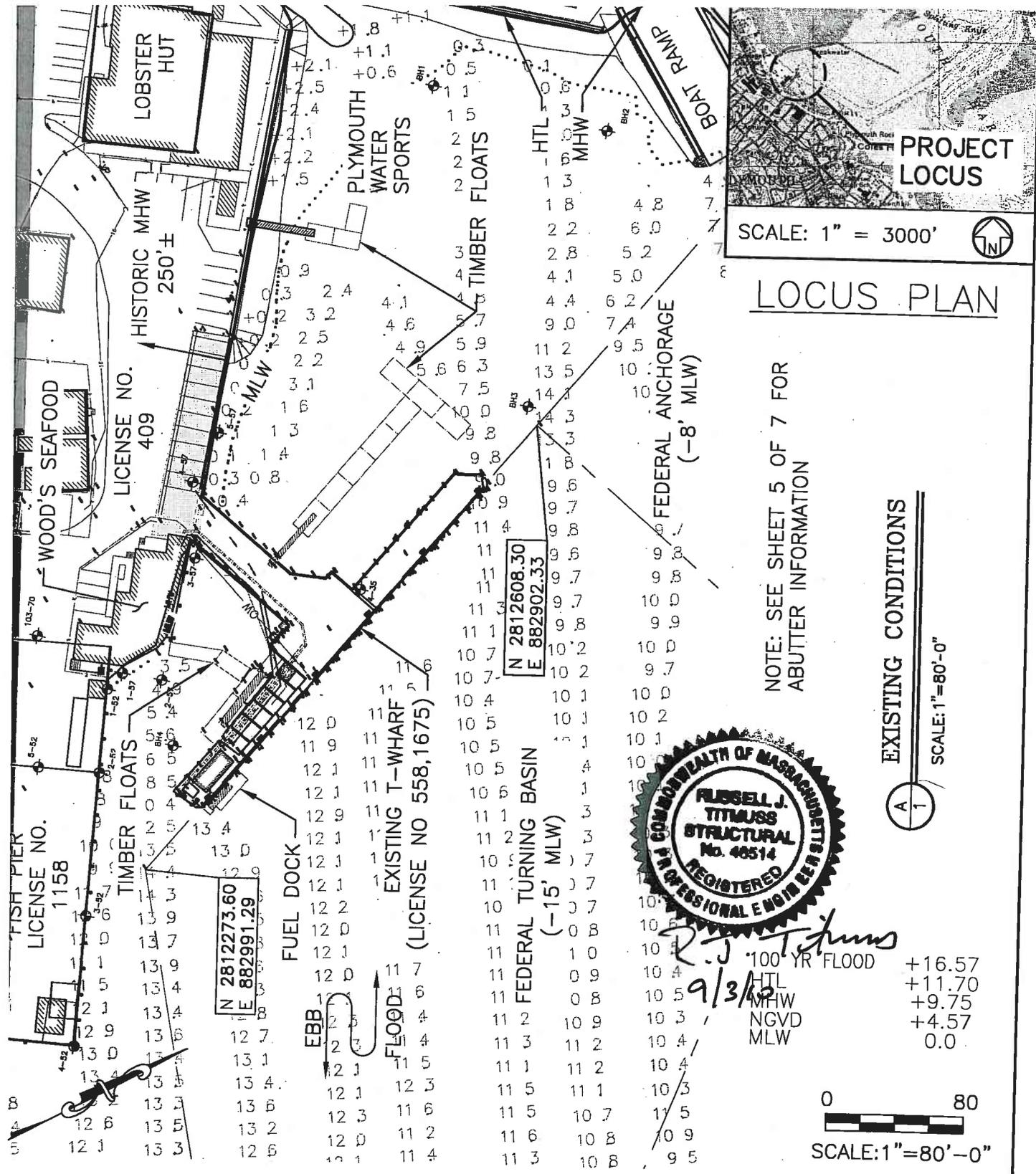
This license is approved in consideration of the payment into the treasury of the Commonwealth by the said -- Town of Plymouth --

of the further sum of -- zero dollars and zero cent (\$0.00) --

the amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

Approved by the Governor,

BOSTON,  
  
Governor



PROJECT LOCUS  
SCALE: 1" = 3000'

LOCUS PLAN

NOTE: SEE SHEET 5 OF 7 FOR ABUTTER INFORMATION

EXISTING CONDITIONS  
SCALE: 1" = 80'-0"



R. J. Titmuss  
9/3/10  
100 YR FLOOD +16.57  
HTL +11.70  
MHW +9.75  
NGVD +4.57  
MLW 0.0

SCALE: 1" = 80'-0"

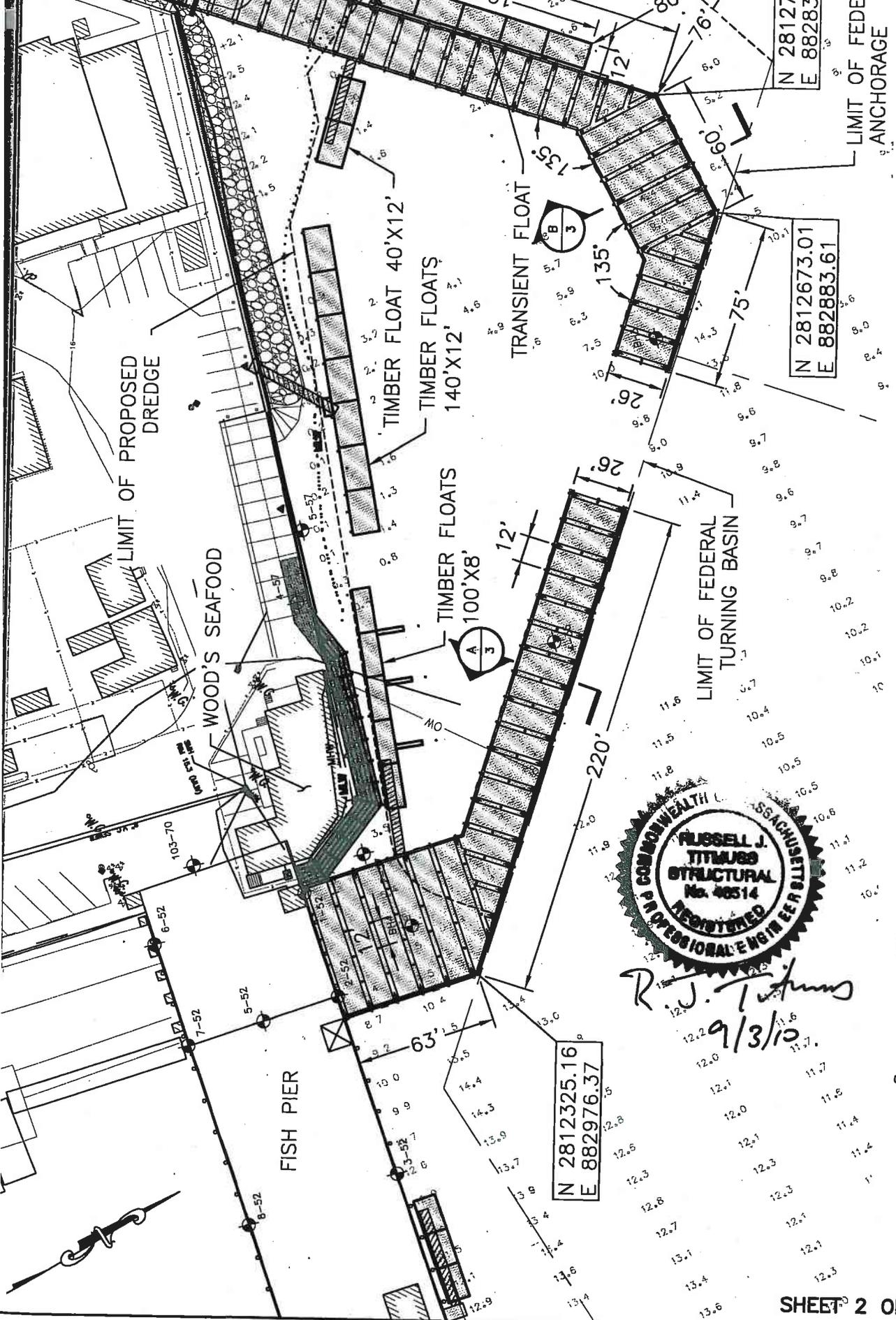
SHEET 1 OF 6

LICENSE PLAN NO. 12890  
Approved by Department of Environmental Protection  
of Massachusetts DEC 23 2010  
*Mitch Zencina*  
*[Signature]*

PLANS ACCOMPANYING PETITION OF TOWN OF PLYMOUTH FOR T WHARF RECONSTRUCTION AT TOWN WHARF, PLYMOUTH MA IN PLYMOUTH HARBOR.

PREPARED BY BOURNE CONSULTING ENGINEERING, FRANKLIN, MA

21.C-600A



LIMIT OF PROPOSED DREDGE

WOOD'S SEAFOOD

FISH PIER

TIMBER FLOAT 40'X12'

TIMBER FLOATS 140'X12'

TIMBER FLOATS 100'X8'

TRANSIENT FLOAT

LIMIT OF FEDERAL TURNING BASIN

SHEET 2 OF 6

N 2812325.16  
E 882976.37

N 2812673.01  
E 882883.61

N 28127  
E 88283

LIMIT OF FEDERAL ANCHORAGE



*R. J. Titus*  
9/3/10

PROPOSED CONDITIONS



SCALE: 1"=60'-0"



SCALE: 1"=60'-0"

LICENSE PLAN NO. 12890

Approved by Department of Environmental

Date:

DEC 23 2010

CONCRETE PILE CAP  
26'-0"

TOP OF DECK EL.+16.6

TIMBER WAVE FENCE

EL.+12.0  
MHW EL.+9.75  
MLW EL. 0.0. ▽  
EL.-2.0

FENDER PILE  
TIMBER BRACING  
GREENHEART BEARING PILE  
EXISTING GRADE

26' PIER SECTION

SCALE: 1/16"=1'-0"

A  
3

CONCRETE PILE CAP  
40'-0"

EL.+16.6 TOP OF DECK

EL.+12.0  
MHW EL.+9.75

FENDER PILE  
TIMBER BRACING  
GREENHEART BEARING PILE  
EXISTING GRADE

40' PIER SECTION

SCALE: 1/16"=1'-0"

B  
3

MLW EL. 0.0. ▽  
EL.-2.0

0 16  
SCALE: 1/16"=1'-0"

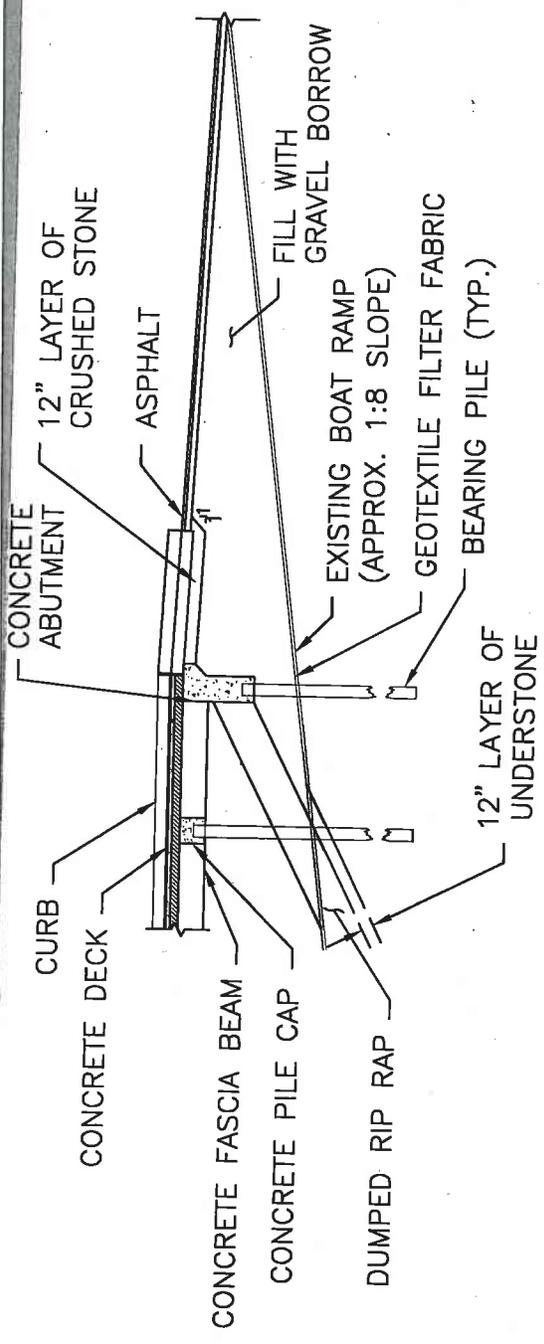


*R. J. Titmuss*  
9/3/10

LICENSE PLAN NO. 12890  
Approved by Department of Environmental Protection  
Date: DEC 23 2010



R.J. Titmuss  
9/3/10

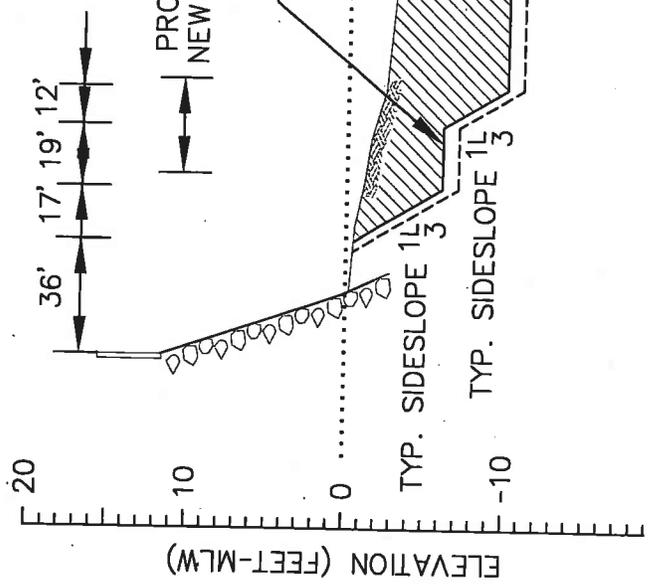


MHW +9.75

40' PIER SECTION



SCALE: 1/16" = 1'-0"



DREDGE SECTION

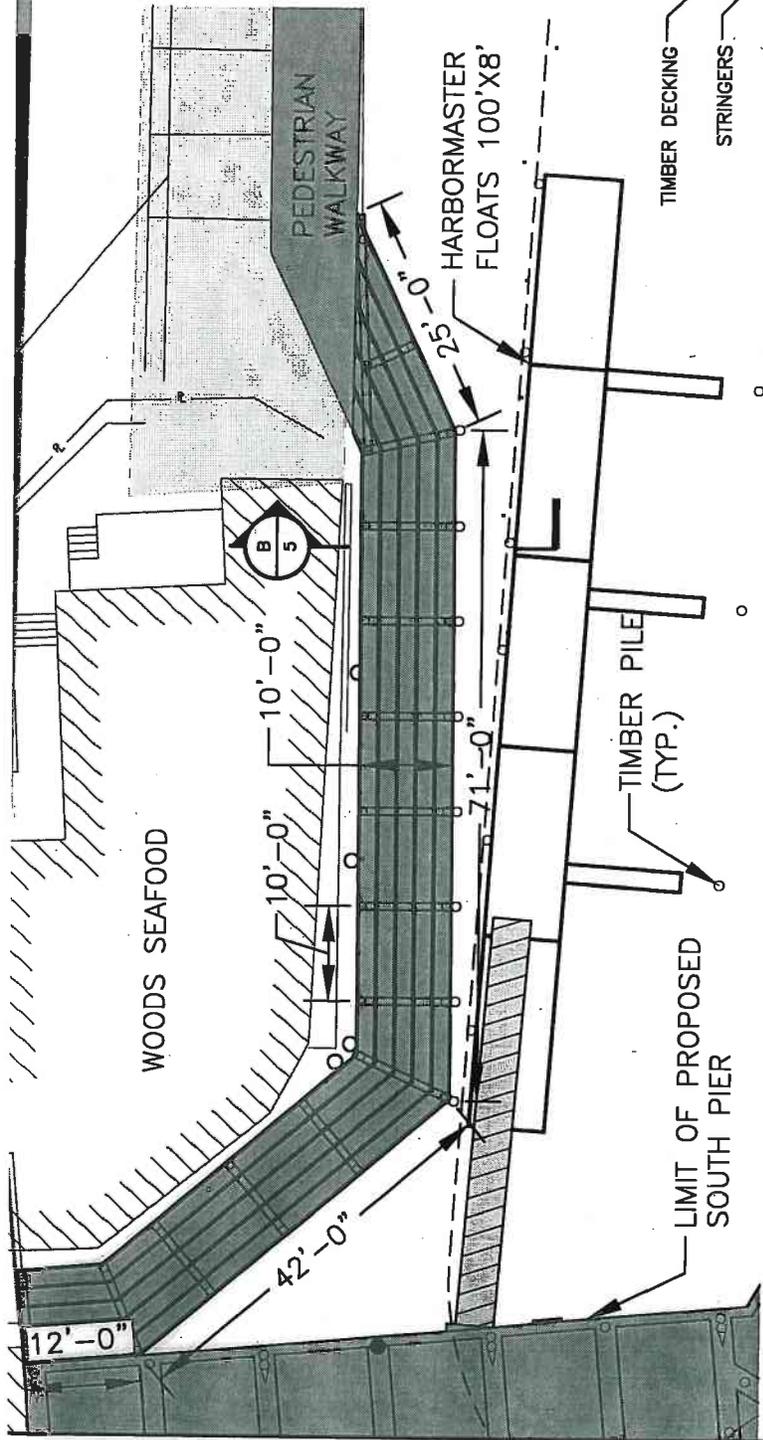


HORIZONTAL SCALE: 1" = 60'-0"  
VERTICAL SCALE: 1" = 12'-0"

LICENSE PLAN NO. 12890  
Approved by Department of Environmental Protection  
Date: DEC 23 2010



R. J. Titus  
9/3/10



**BOARDWALK PLAN**



SCALE: 1" = 20'-0"

**ABUTTERS LIST:**

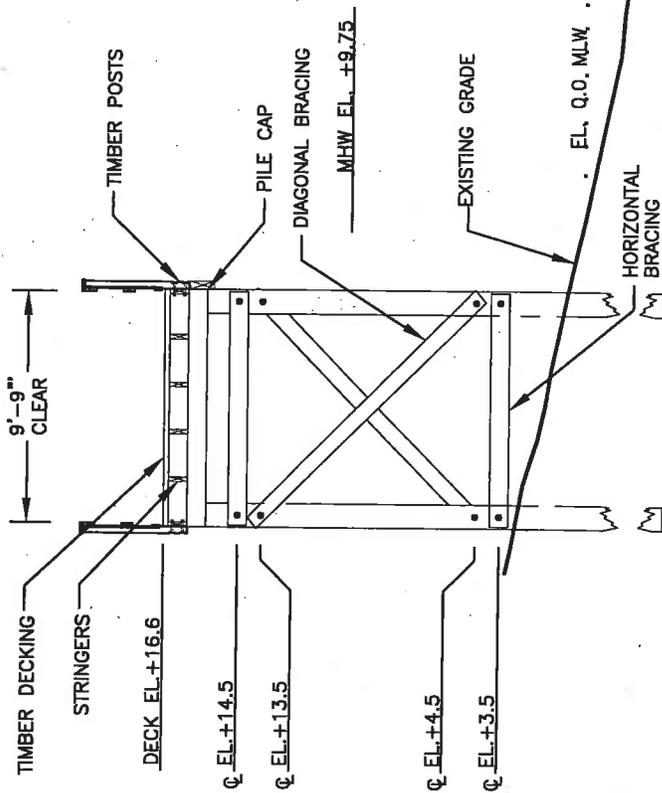
- PLYMOUTH WATER SPORT LLC C/O NATHAN CAVACCO  
18 OBERY ST / PLYMOUTH, MA 02360
- WOODS FISH MARKET INC TOWN WHARF / PLYMOUTH, MA 02360
- M.V. LOBSTER HUT INC TOWN WHARF / PLYMOUTH, MA 02360
- RELIABLE FISH INC PO BOX 3041 / PLYMOUTH, MA 02360

**LICENSE PLAN NO. 12890**

Approved by Department of Environmental Protection

Date:

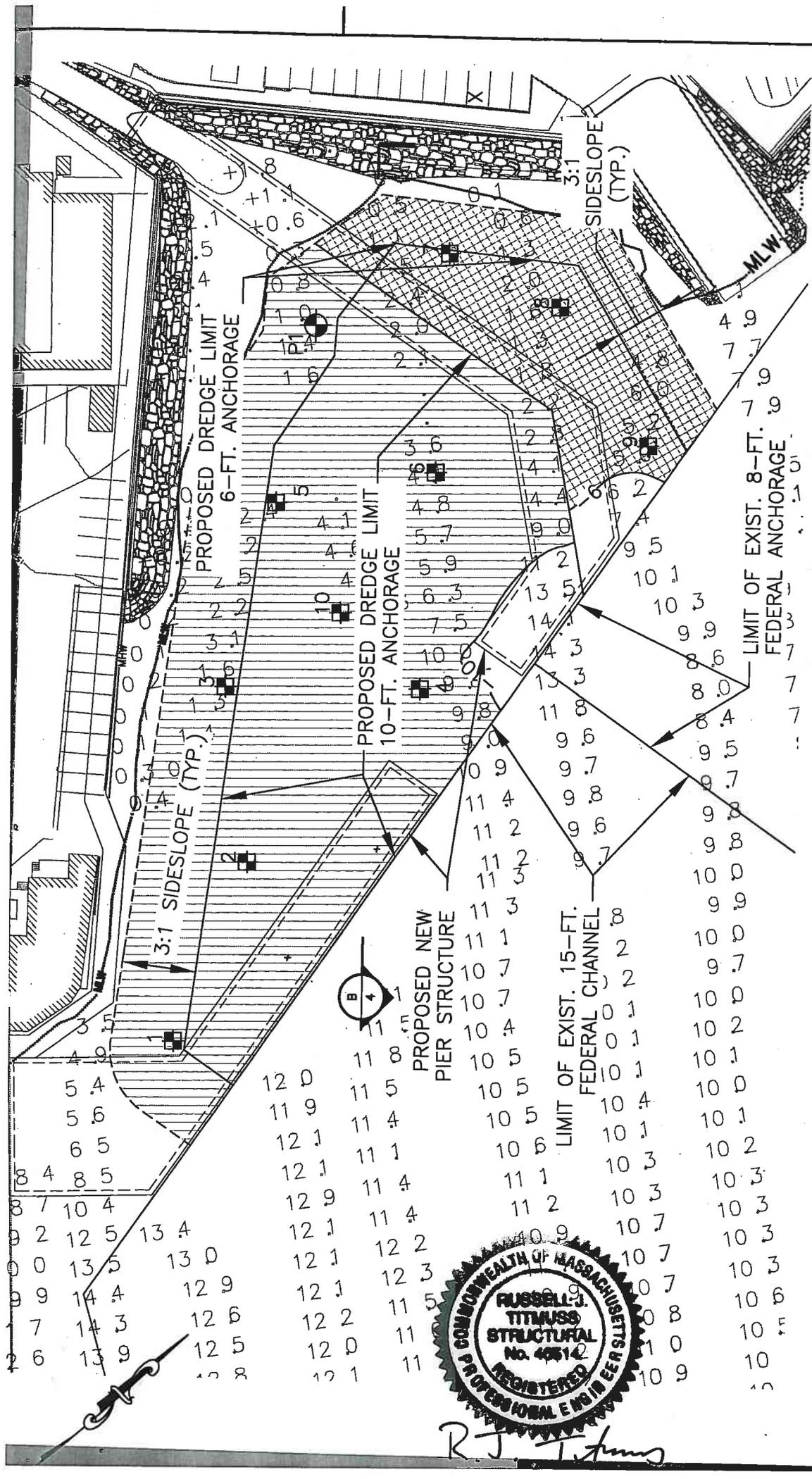
DEC 23 2010



**BOARDWALK SECTION**



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



A  
6
**DREDGE PLAN**  
 SCALE: 1"=60'-0"

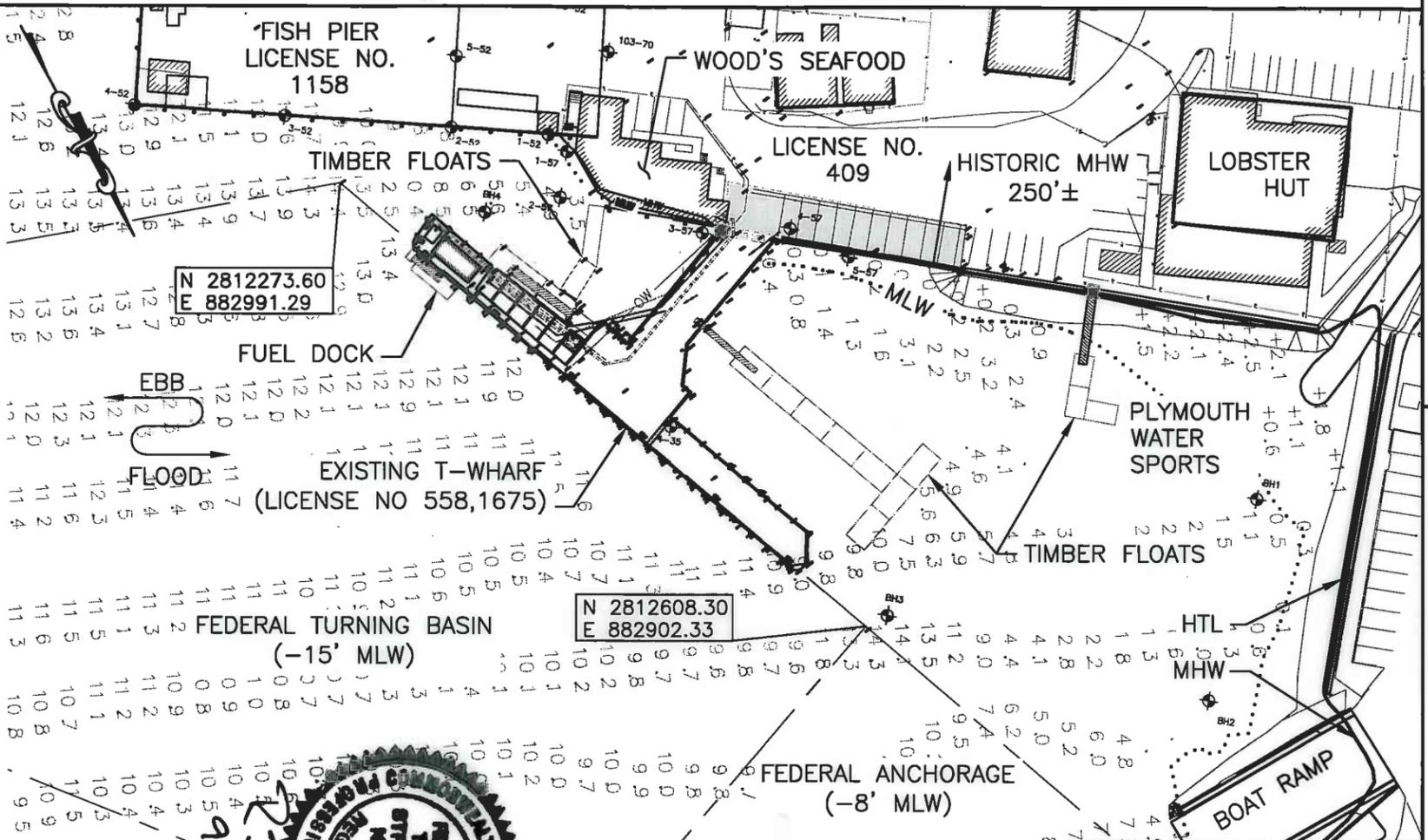
**LICENSE PLAN NO. 12890**  
 Approved by Department of Environmental Protection  
 Date: **DEC 23 2010**



*R.J. Titmuss*

I CERTIFY THAT THIS PLAN AS PREPARED CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

*R.J. Titmus*



LOCUS PLAN

NOTE: SEE SHEET 5 OF 7 FOR ABUTTER INFORMATION

EXISTING CONDITIONS

SCALE: 1"=80'-0"



*R.J. Titmus*  
 9/3/10  
 HTL  
 MHW  
 NGVD  
 MLW  
 +16.57  
 +11.70  
 +9.75  
 +4.57  
 0.0



SHEET 1 OF 6

PLANS ACCOMPANYING PETITION OF TOWN OF PLYMOUTH FOR T WHARF RECONSTRUCTION AT TOWN WHARF, PLYMOUTH MA IN PLYMOUTH HARBOR.

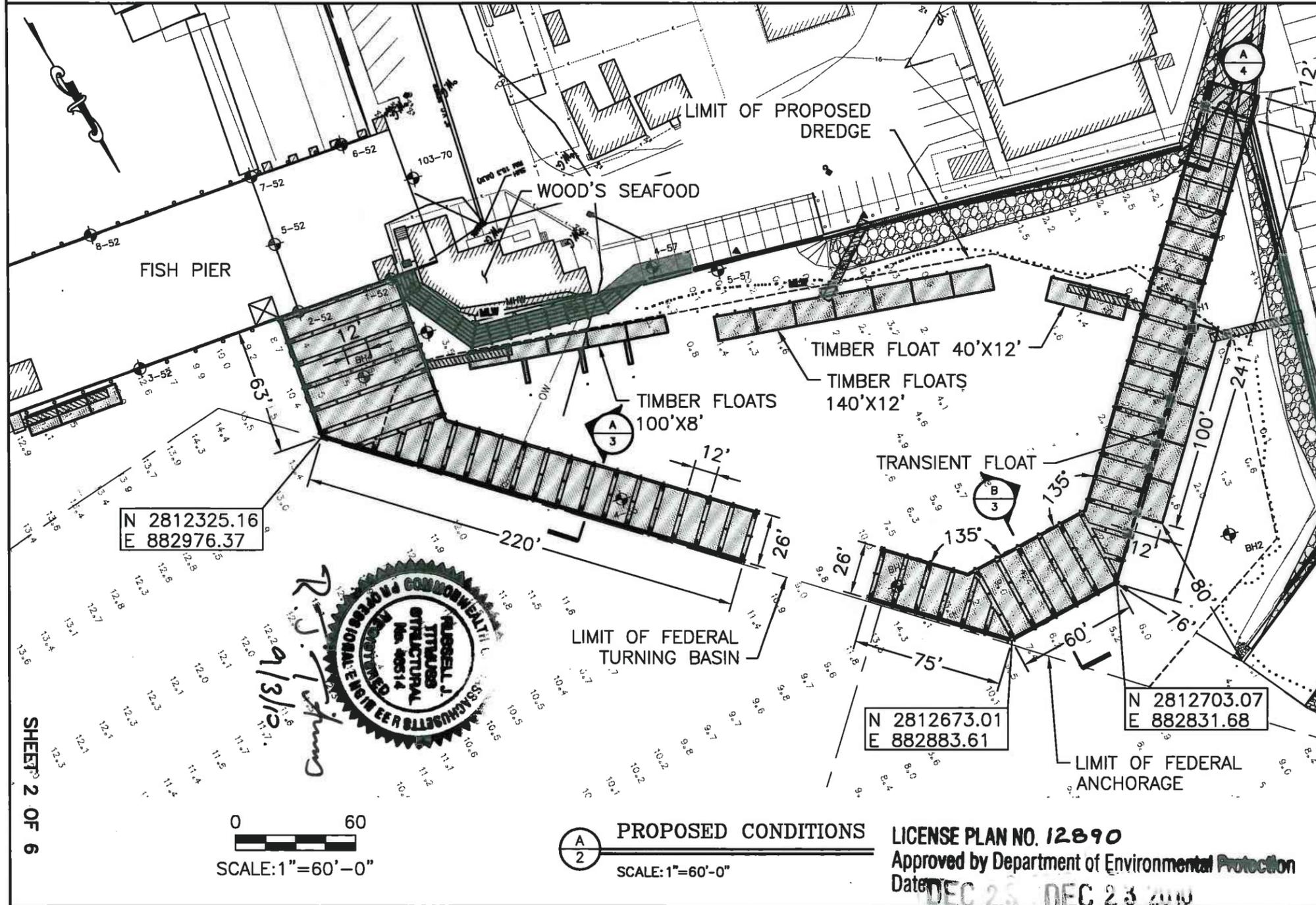
PREPARED BY BOURNE CONSULTING ENGINEERING, FRANKLIN, MA

LICENSE PLAN NO. 12890

Approved by Department of Environmental Protection of Massachusetts  
 DEC 23 2010

*Mitch Scavina*

6000-6000



*R. J. Finch*

I CERTIFY THAT THIS PLAN AS PREPARED CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

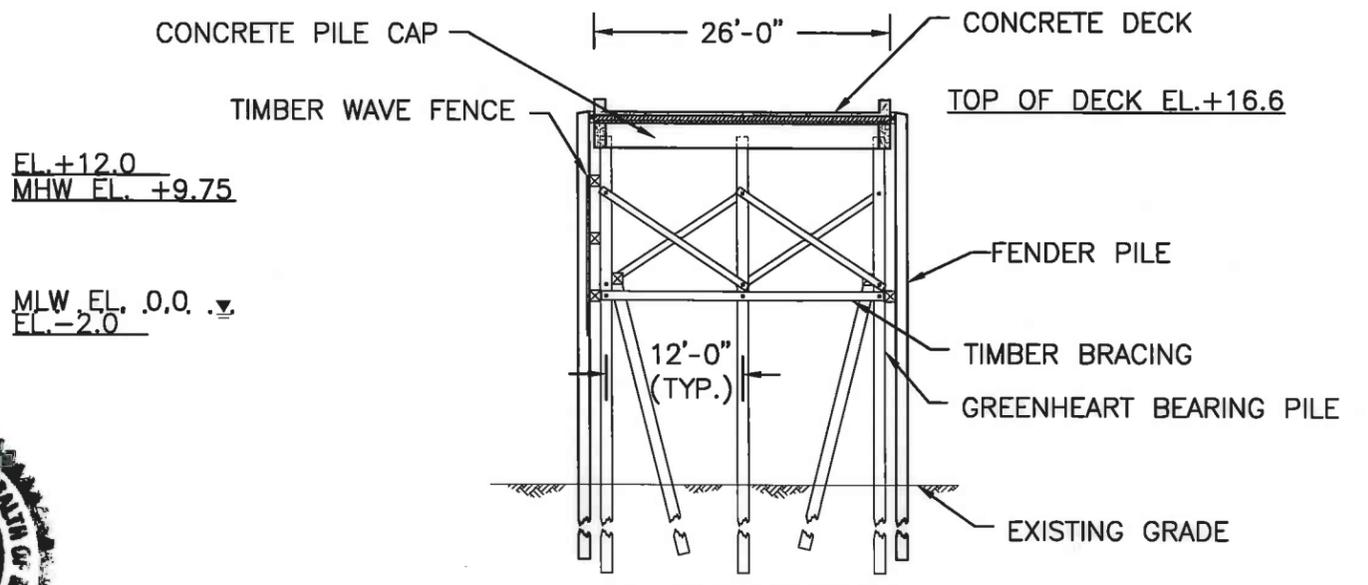


0 60  
SCALE: 1"=60'-0"

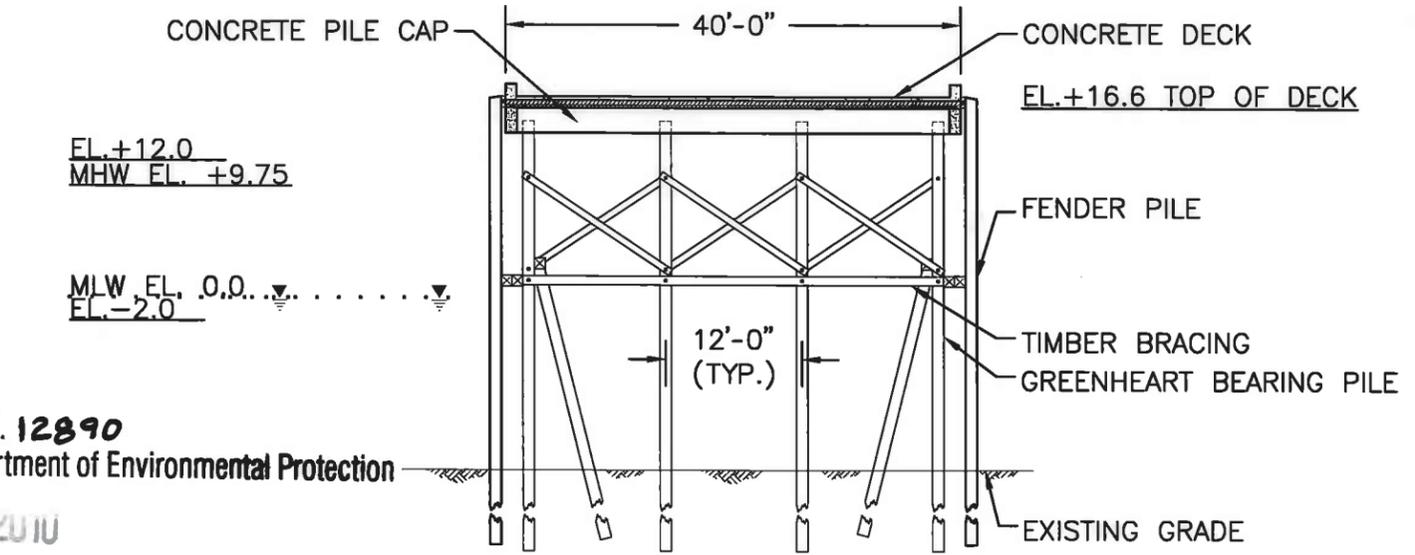
**A**  
**2** PROPOSED CONDITIONS  
SCALE: 1"=60'-0"

LICENSE PLAN NO. 12890  
Approved by Department of Environmental Protection  
Date: DEC 23 2010

SHEET 2 OF 6



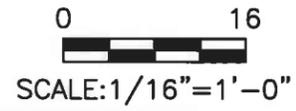
**26' PIER SECTION**  
 A  
 3  
 SCALE: 1/16"=1'-0"



**40' PIER SECTION**  
 B  
 3  
 SCALE: 1/16"=1'-0"

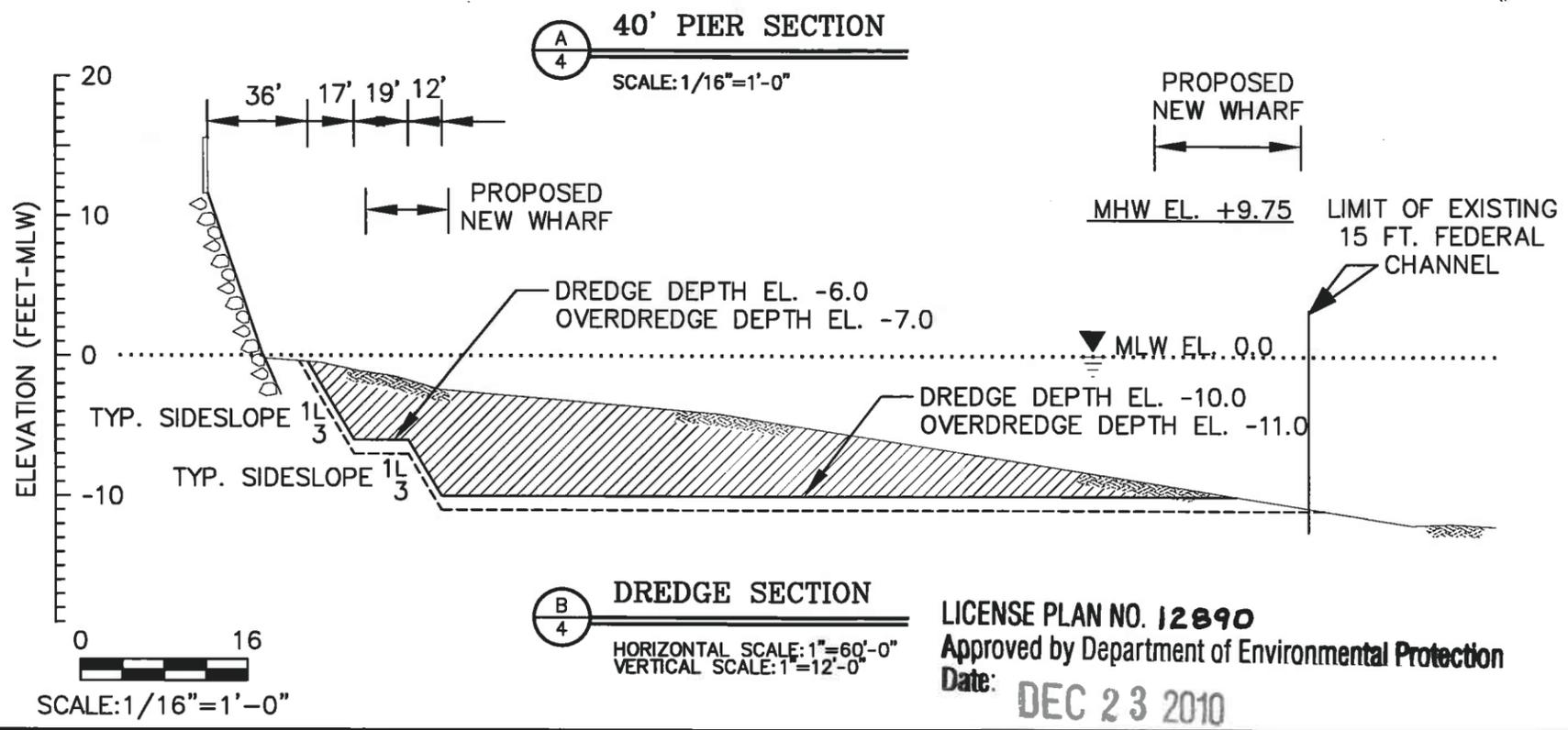
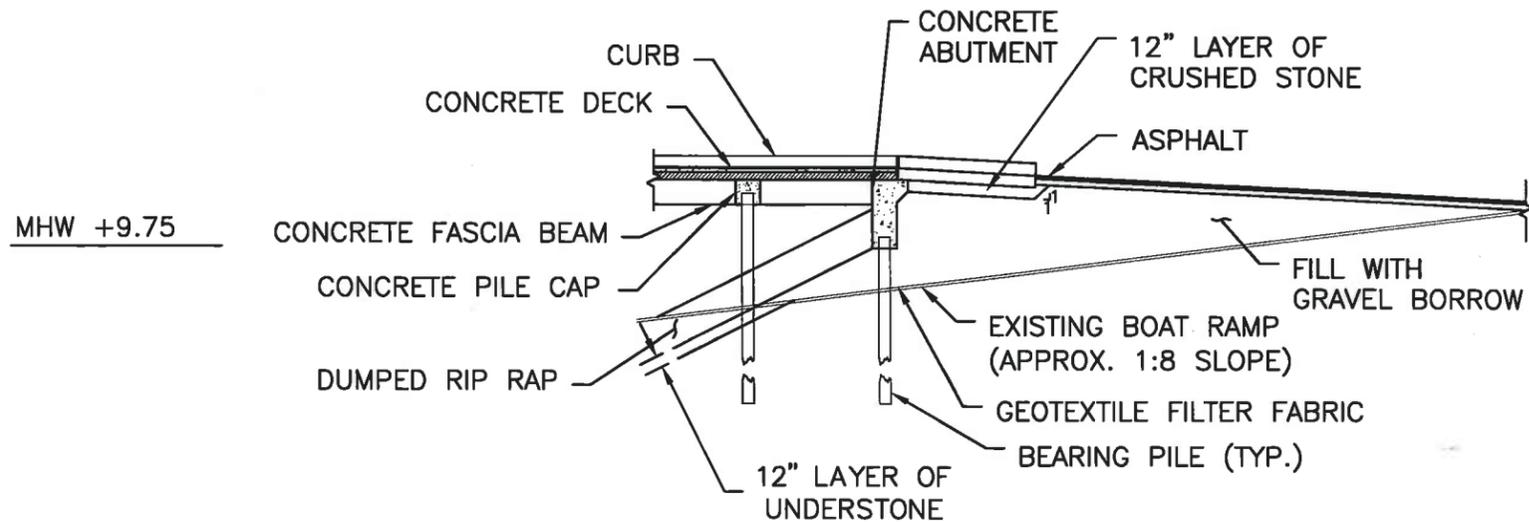
*R. J. Timms*  
 9/3/10

SHEET 3 OF 6  
 LICENSE PLAN NO. 12890  
 Approved by Department of Environmental Protection  
 Date: **DEC 23 2010**



*R. J. Timms*

I CERTIFY THAT THIS PLAN AS PREPARED CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

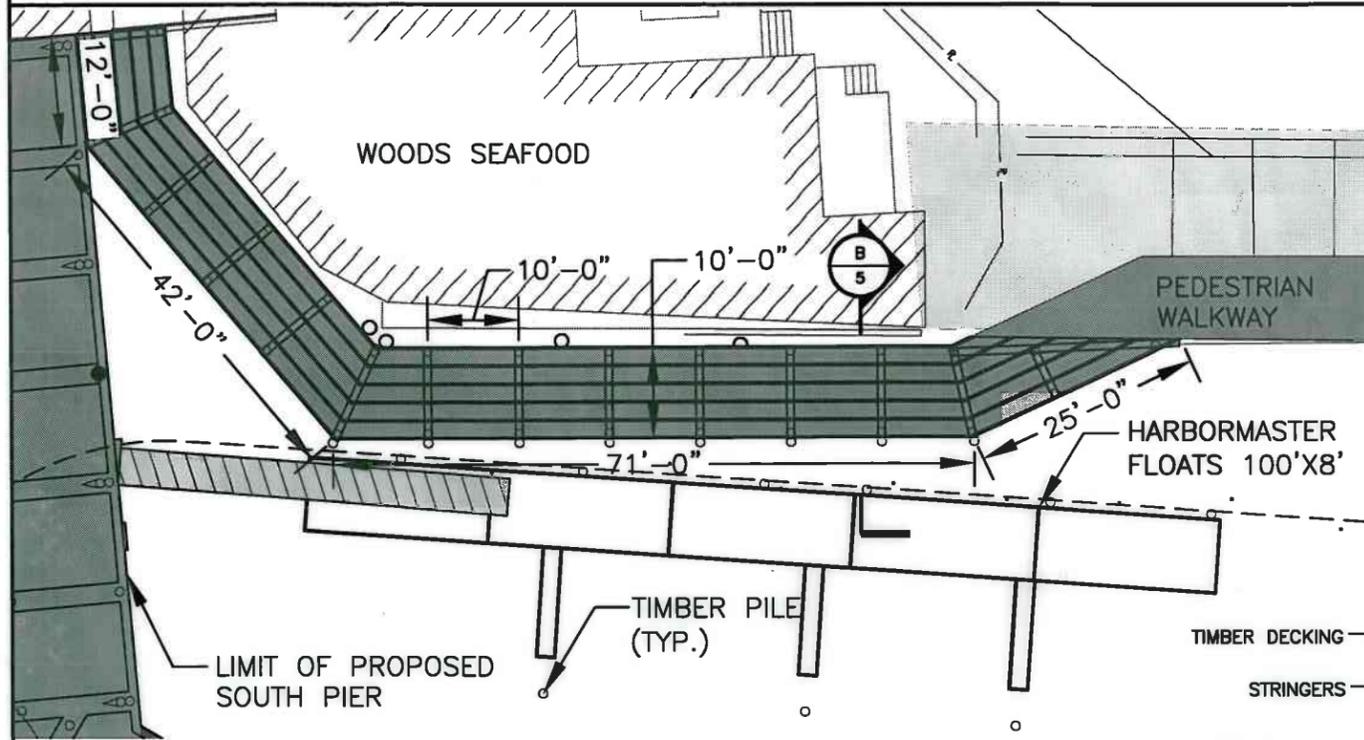


I CERTIFY THAT THIS PLAN AS PREPARED CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

*R. J. Titmus*



LICENSE PLAN NO. 12890  
Approved by Department of Environmental Protection  
Date: DEC 23 2010



**BOARDWALK PLAN**  
 SCALE: 1"=20'-0"

**ABUTTERS LIST:**

PLYMOUTH WATER SPORT LLC C/O NATHAN CAVACCO  
 18 OBERY ST / PLYMOUTH, MA 02360

WOODS FISH MARKET INC TOWN WHARF / PLYMOUTH, MA 02360

M.V. LOBSTER HUT INC TOWN WHARF / PLYMOUTH, MA 02360

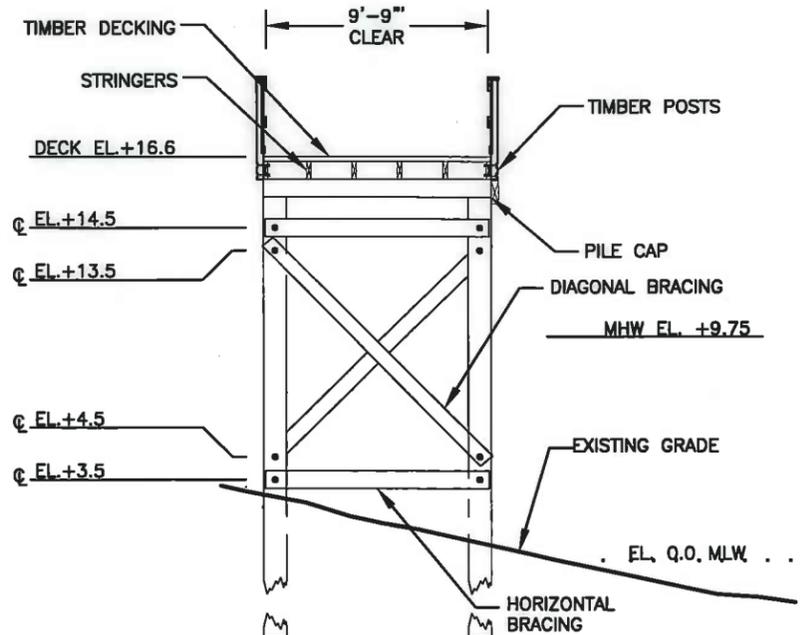
RELIABLE FISH INC PO BOX 3041 / PLYMOUTH, MA 02360

LICENSE PLAN NO. 12890

Approved by Department of Environmental Protection

Date: DEC 23 2010

SHEET 5 OF 6



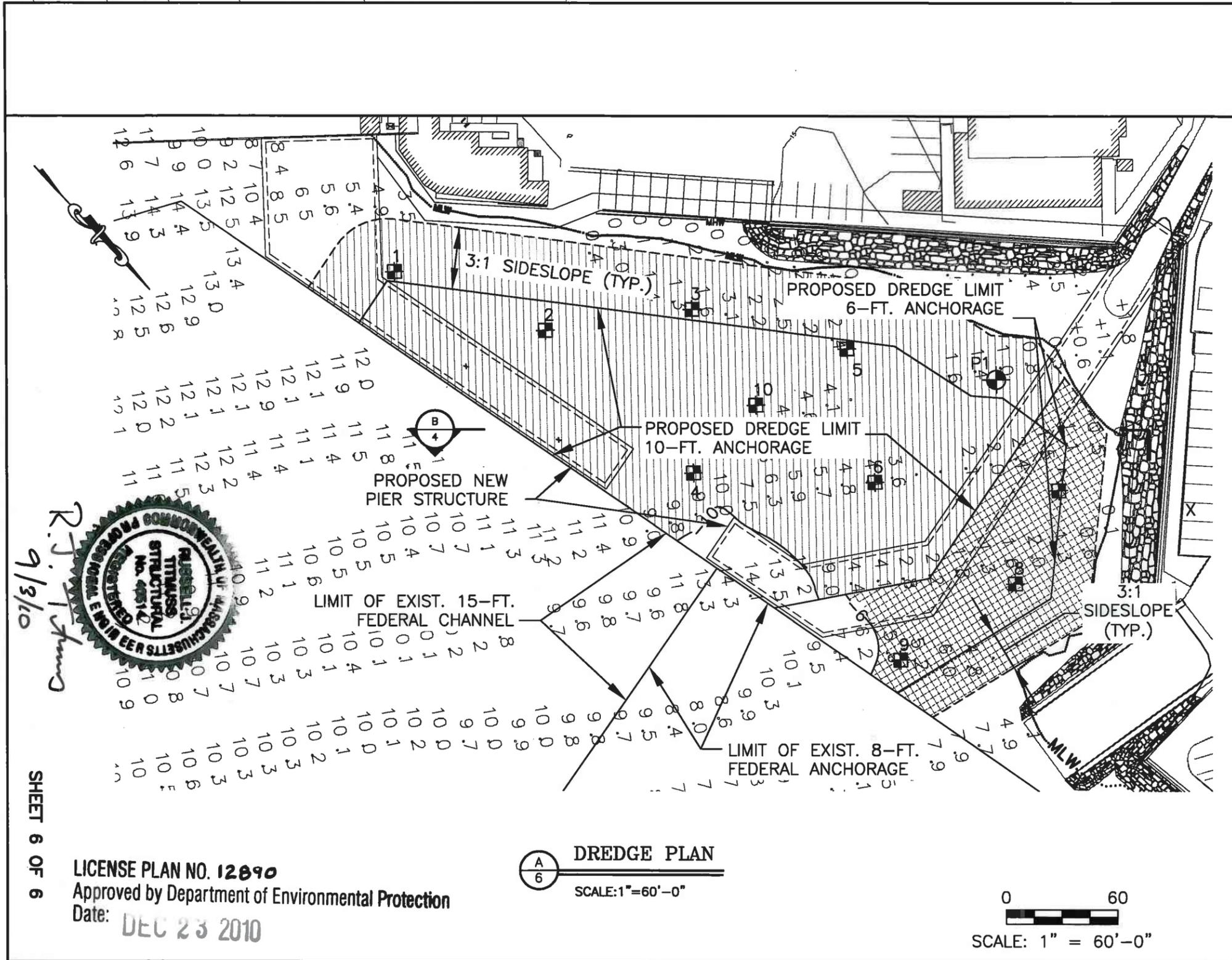
**BOARDWALK SECTION**  
 SCALE: 1/8"=1'-0"

*R. J. Tishman*  
 9/3/10



*R. J. Tishman*

I CERTIFY THAT THIS PLAN AS PREPARED CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.



R. J. Titmus  
9/3/10



SHEET 6 OF 6

LICENSE PLAN NO. 12090  
Approved by Department of Environmental Protection  
Date: DEC 23 2010



R. J. Titmus

I CERTIFY THAT THIS PLAN AS PREPARED CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

IAN A. BOWLES  
Secretary

LAURIE BURT  
Commissioner

August 26, 2010

David Gould  
Town of Plymouth  
11 Lincoln Street  
Plymouth, MA 02360

Re: **401 WATER QUALITY CERTIFICATION**  
Application for BRP WW 07, Major project dredging

At: Plymouth Harbor, PLYMOUTH

401 WQC Transmittal №: X228572  
Wetlands File №: SE57-2426  
ACoE Application №: NAE 2007-3414

Dear Mr. Gould:

The Department has reviewed your application for Water Quality Certification (WQC), as referenced above. In accordance with the provisions of Section 401 of the Federal Clean Water Act as amended (33 U.S.C. §1251 et seq.), MGL c.21, §§ 26-53, and 314 CMR 9.00, it has been determined there is reasonable assurance the project or activity will be conducted in a manner which will not violate applicable water quality standards (314 CMR 4.00) and other applicable requirements of state law.

The waters of Plymouth Harbor are designated in the Massachusetts Surface Water Quality Standards as Class SB water. Such waters are intended "as habitat for fish, other aquatic life and wildlife and for primary and secondary contact recreation." Anti-degradation provisions of these Standards require that "existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

Background: Dredging scope of the T-Wharf reconstruction was originally included in the Town of Plymouth's proposed Town Inner Harbor Dredging and was intended to be permitted separately from the T-Wharf reconstruction even though the dredging was referenced in the Environmental Notification Form (ENF) for the T-Wharf reconstruction and specifically related to the reconstruction. Core samples were collected from the Inner Harbor according to the Army Corps of Engineers (ACoE) and U.S. Environmental Protection Agency (USEPA) sampling protocol for unconfined ocean disposal. Based on the results of the Bio-assay testing of the

composited core samples, the Corps and EPA determined that the sediment would not meet the criteria for unconfined ocean disposal and would have to be disposed of at an upland location. In conjunction with the comments received during the ENF review (i.e. to include the T-Wharf dredging for the reconstruction of the T-Wharf as a single and complete project), the T-Wharf dredging has been separated from the Town Inner Harbor Dredging.

The T-Wharf was built in its current location and configuration under Department of Public Work License 1675 in May 1935. It is approximately 7,780 square feet, consisted of all timber construction and primarily used by commercial fishing vessels. However, T-Wharf also supports a wide range of activities with no separation of the public usage from the commercial fishing activities. Existing layout does not provide for an easy separation of commercial and public usage of the wharf.

Proposed project: The project entails conducting improvement dredging of approximately 14,500 cubic yard of sediment to a depth of -6 feet and -10 feet Mean Low Water (MLW) for the proposed anchorage area. The dredge volume related to the -6 feet portion of the anchorage is 2,000 cubic yards and 12,500 cubic yards for the -10 feet portion. The dredge footprint was developed to avoid impacts to existing shoreline structures and intertidal areas. Dredging will be conducted by mechanical means and sediment will be placed on a parking lot adjacent to the State Boat Ramp for dewatering. The dewatering area will be confined by concrete barrier lined with filter fabric. A series of four inch perforated PVC pipes will be placed at the base of the dewatering area and a one foot layer of sand will be placed on top to enhance the sediment dewatering rate. The dredged material will be drained by gravity and the dewatering effluent will be collected and discharged back to Plymouth Harbor. The use of this area is conditional upon the work being performed in the winter months when use of the State Boat Ramp is minimal.

Alternatives Evaluation: Four alternatives were evaluated. Of the four alternatives, the proposed configuration scored the highest and was selected by the Town. There appears to be little difference in dredge volume among the four alternatives since the in-shore areas have very limited draft.

The site is located within the Priority Habitats of Rare Species, Estimated Habitats of Rare Wildlife in accordance with the Massachusetts Natural Heritage Atlas, 13<sup>th</sup> Edition. According to a letter dated May 19, 2009 issued by the Division of Fisheries & Wildlife, Natural Heritage & Endangered Species Program (NHESP) has determined that this project as proposed will not adversely affect the actual Resource Area Habitat of state-protected rare wildlife species and will not result in a prohibited "take".

Sediment sampling data: There were two sampling events. The first sampling event was the overall Plymouth Harbor dredging program and was done in accordance with the Army Corps of Engineers (ACoE) and U.S. Environmental Protection Agency (USEPA) sampling protocol for unconfined ocean disposal. Only one core sample was taken within the proposed T-Wharf dredge footprint. The ACoE concluded that the overall sediment was not suitable for unconfined ocean disposal. As such, sediment will need to be disposed of at an upland location.

To comply with 314 CMR 9.07(2)(4), a site specific sampling plan was developed for T-Wharf. Ten core samples were collected within the dredge footprint for gradation and chemical analysis. Results of the gradation analysis showed that the sediment contained particles with more than ten percent the No. 200 U.S. Standard Series Testing Sieve and the silt/clay content ranged from 33.1 percent to 94.5 percent.

Four composite samples were formed from the ten core samples for chemical analysis. Results of the chemical analysis reported detectable concentrations of metals, Polynuclear Aromatic Hydrocarbons (PAHs), Polychlorinated Biphenyls (PCBs) and Total Petroleum Hydrocarbons (TPH). With the exception of Total Chromium and Nickel, all detectable concentrations were below the Reportable Concentration (RC) S-1 standard of the Massachusetts Contingency Plan. In addition, the composite samples were also analyzed for Reactive Sulfide and reported as Below Reportable Limit (BRL). Since the dredged material will be beneficially reused, no further action will be required.

Reuse of Dredged Material: The dredged material will be reuse as grading/contouring material at the former South Street Landfill off Long Pond Road in support of the final cap system, which also regulated by the Division of Solid Waste in the Southeast Region Office (SERO).

Public Notice: The 401 WQC application public notice was published in the Old Colony Memorial on July 8, 2009 and Department received no comment during the 21-day public comment period, which ended on July 29, 2009.

Section 61 Findings: Pursuant to M.G.L. Chapter 30, Sections 61 to 62H including (M.E.P.A.) this project was reviewed as EOE No.14139 and the Secretary's Certificate, issued on January 9, 2008 found that the an Environmental Impact Report (EIR) would not be required.

**Therefore, based on information currently in the record, the Department grants a 401 Water Quality Certification for this project subject to the following conditions to maintain water quality, to minimize impact on waters and wetlands, and to ensure compliance with appropriate state law. The Department further certifies in accordance with 314 CMR 9.00 that there is reasonable assurance the project or activity will be conducted in a manner which will not violate applicable water quality standards (314 CMR 4.00) and other applicable requirements of state law. Finally, the Department has determined that upon satisfying the conditions and mitigation requirements of this approval, the project provides a level of water quality necessary to protect existing uses and accordingly finds that the project to be implemented satisfies the Surface Water Quality Standards at 314 CMR 4.00.**

1. The Contractor shall take all steps necessary to assure that the proposed activities will be conducted in a manner that will avoid violations of the anti-degradation provisions of Massachusetts Surface Water Quality Standards that protect all waters, including wetlands.
2. Prior to the start of work or any portion of the work there after, the Department shall be notified of any change(s) in the proposed project or plans that may affect waters or wetlands. The Department will determine whether the change(s) require a revision to this Certification.
3. Dredging in accord with this Certification may begin following the 21-day appeal period and once all other permits have been received.
4. Work in waters and wetlands shall conform to the Description of Proposed Dredging Site and plans, figures submitted in this application to the Department, 17 sheets prepared by Bourne Consulting Engineering dated May 12, 2009, revised on April 4, 2010, unsigned and unstamped. The Department shall be notified if there are modifications and or deletions of

work as specified in the plans. Depending on the nature of the scope change, approval by the Department may be required.

5. The Department shall be notified, attention Ken Chin 617-292-5893, one week prior to the start of in-water work so that Department staff may inspect the work for compliance with the terms and conditions of this Certification.
6. The Certification remains in effect for the same duration of the federal permit that required it or five years from the date of issuance of this Certification, whichever comes first.
7. Future maintenance dredging may be conducted as necessary for the duration of this Certification, provided that:
  - a. the initial project and any subsequent dredging has been conducted satisfactorily with no violations of the terms and conditions of this Certification,
  - b. submit information to the Department regarding final end use/disposal of the dredged material for review and approval. Under no circumstances that future maintenance dredging can commence without obtaining approval from the Department,
  - c. a due-diligent evaluation to determine that no known spills of oil or other toxic substances have occurred which could have contaminated the sediment in the dredge area,
  - d. compliance with Condition No.13, bathymetric survey of the T-Wharf basin,
  - e. the volume of future maintenance dredging does not exceed 14,500 cubic yards,
  - f. the Department is notified prior to commencement of maintenance dredging.
8. Best Management Practices (BMPs) shall be deployed to minimize turbidity. At a minimum, bottom-weighted silt curtain shall be used at the seaward side of the dredge area and the type of silt curtain shall be appropriate to the site condition and shall not bottom out during low-tide condition. If applicable, an environmental bucket shall be used to remove the sediment.
9. The applicant shall submit a turbidity, total suspended solids and dissolved oxygen monitoring plan to the Department for acceptance within eight weeks of the issuance date of this Certification or four weeks prior to the commencement of the dredging operation whichever comes first.
10. A Dredged Material Tracking Form (DMTF) or Material Shipping Record (MSR) shall be used to track the dredged material to the former South Street Landfill. A fully executed copy of the DMTF or MSR shall be provided to the Department within 30 days of final shipment to the reused location or facility. If the licensed facility is located out of state, documentation shall be provided to the Department that the dredged material disposal has been approved by the receiving state in accordance with 314 CMR 9.07(13)(b).
11. Best Management Practices (BMPs) shall be implemented during transportation of the dredged material to the licensed receiving facility. At a minimum, when transported upon public roadways, all dredged material shall have no free liquid as determined by the Paint Filter Test or other suitably analogous methodology acceptable to the Department, and a tarpaulin or other means shall be used to cover sediment during transport.

12. Disposal of any volume of dredged material at any location in tidal waters is subject to approval by this Department and the Massachusetts Coastal Zone Management office.
13. Within 30 days of the completion of the initial dredging, a bathymetric survey of the T-Wharf basin depicting post-dredge condition, shall be sent to the Department.
14. In order to protect spawning, larval and juvenile development of winter flounder, no dredging shall occur from February 1<sup>st</sup> through June 30<sup>th</sup>.
15. The applicant, or their contractor, shall make every feasible effort to complete the project within the permitted timeframe. Should the applicant, or their contractor, fail to complete the project and wish to request an amendment to the Certification for incursion into the no-dredge period, the written request shall be received by the Department by January 15<sup>th</sup>. The following information shall be included in the request:
  - a. project location and transmittal number,
  - b. the date on which dredging started,
  - c. the number of days and hours per day the dredge operated,
  - d. expected daily average production rate and the actual daily average production rate,
  - e. an explanation of why the project failed to remain on schedule,
  - f. an account of efforts made to get the project back on schedule,
  - g. a plan depicting the areas that remain to be dredged,
  - h. the number of cubic yards that remain to be dredged,
  - i. an accurate estimate of the number of days required to complete the project,
  - j. an evaluation of the impact of continued dredging on the species of concern,
  - k. a description of any efforts that will be made to minimize the impacts of the project on the species of concern, and a realistic assessment of any societal/financial effects of a denial of permission to continue dredging.

The Department will share the information with other resource agencies and a decision to grant or deny the amendment shall be made by February 1<sup>st</sup>. Requests for amendment received after January 15<sup>th</sup> will be considered at the Department's discretion.

16. Four weeks prior to commencement of the dredging activity, the applicant shall submit a notification procedure outlining the reporting process to the Department for incidents relating to the dredging activities impacting the surrounding resource area and habitats such as, but not limited to, observed dead or distressed fish, or other aquatic organisms, observed oily sheen on surface water, sediment spill, observed turbidity plume beyond the deployed BMPs, barging or equipment accident/spill. If any time during implementation of the project a fish kill or significant water quality problem occurs in the vicinity of the project, all site related activities impacting the water shall cease until the source of the problem is identified and adequate mitigating measures employed to the satisfaction of the Department.

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This certification does not relieve the applicant of the obligation to comply with other applicable state or federal statutes or regulations. Any changes made to the project as described in the previously submitted Notice of Intent, 401 Water Quality Certification application, or supplemental documents will require further notification to the Department.

Certain persons shall have a right to request an adjudicatory hearing concerning certifications by the Department when an application is required:

- a. the applicant or property owner;
- b. any person aggrieved by the decision who has submitted written comments during the public comment period;
- c. any ten (10) persons of the Commonwealth pursuant to M.G.L. c.30A where a group member has submitted written comments during the public comment period; or
- d. any governmental body or private organization with a mandate to protect the environment, which has submitted written comments during the public comment period.

Any person aggrieved, any ten (10) persons of the Commonwealth, or a governmental body or private organization with a mandate to protect the environment may appeal without having submitted written comments during the public comment period only when the claim is based on new substantive issues arising from material changes to the scope or impact of the activity and not apparent at the time of public notice. To request an adjudicatory hearing pursuant to M.G.L. c.30A, § 10, a Notice of Claim must be made in writing, provided that the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee specified within 310 CMR 4.10 along with a DEP Fee Transmittal Form within twenty-one (21) days from the date of issuance of this Certificate, and addressed to:

Case Administrator  
Department of Environmental Protection  
One Winter Street, 2<sup>nd</sup> Floor  
Boston, MA 02108.

A copy of the request shall at the same time be sent by certified mail or hand delivery to the issuing office of the Wetlands and Waterways Program at:

Department of Environmental Protection  
One Winter Street, 5<sup>th</sup> Floor  
Boston, MA 02108.

A Notice of Claim for Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information pursuant to 314 CMR 9.10(3):

- a. the 401 Certification Transmittal Number and DEP Wetlands Protection Act File Number;
- b. the complete name of the applicant and address of the project;
- c. the complete name, address, and fax and telephone numbers of the party filing the request, and, if represented by counsel or other representative, the name, fax and telephone numbers, and address of the attorney;
- d. if claiming to be a party aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found at 314 CMR 9.02;
- e. a clear and concise statement that an adjudicatory hearing is being requested;
- f. a clear and concise statement of (1) the facts which are grounds for the proceedings, (2) the objections to this Certificate, including specifically the manner in which it is alleged to be inconsistent with the Department's Water Quality Regulations, 314 CMR 9.00, and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written Certification; and

- g. a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant, the owner (if different from the applicant), the conservation commission of the city or town where the activity will occur, the Department of Environmental Management (when the certificate concerns projects in Areas of Critical Environmental Concern), the public or private water supplier where the project is located (when the certificate concerns projects in Outstanding Resource Waters), and any other entity with responsibility for the resource where the project is located.

The hearing request along with a DEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, MA 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory-hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

Failure to comply with this certification is grounds for enforcement, including civil and criminal penalties, under MGL c.21 §42, 314 CMR 9.00, MGL c. 21A §16, 310 CMR 5.00, or other possible actions/penalties as authorized by the General Laws of the Commonwealth.

If you have questions on this decision, please contact Ken Chin at 617-292-5893.

Sincerely,



Glenn Haas  
Acting Assistant Commissioner  
Bureau of Resource Protection

enclosure: Departmental Action Fee Transmittal Form  
Material Shipment Record (MSR)

cc:

Karen Adams, Regulatory/Enforcement Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751  
Robert Boeri, CZM, 251 Causeway Street, Suite 800, Boston, MA 02114  
Eileen Feeney, DMF, 838 South Rodney French Blvd., New Bedford, MA 02744  
David Hill, Liz Kouloheras, DEP SERO  
Plymouth Conservation Commission, 11 Lincoln Road, Plymouth, MA 02360  
Alyssa Richard, Bourne Consulting Engineering, 3 Bent St., Franklin, MA 02038



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS  
696 VIRGINIA ROAD  
CONCORD, MASSACHUSETTS 01742-2751

May 19, 2010

Regulatory Division  
CENAE-R-2007-3414

David Gould  
Town of Plymouth  
11 Lincoln Street  
Plymouth, Massachusetts 02360

Dear Mr. Gould:

We have reviewed your application to reconstruct and expand the Town Wharf pier from 7,780 square feet (sf) to 18,360 sf and add 4,160 sf of floating docks in Plymouth Harbor, Plymouth, Massachusetts. In addition, 14,500 cubic yards of silty sand will be dredged from an area of approximately 11,715 sf to a depth of -6 feet MLW and a second area of 44,792 sf to -10 feet MLW in order to create an anchorage within the re-configured wharf area. Dredge material will be disposed at an upland site. Approximately 1,560 sf of stone riprap and fill material will be placed below the high tide line in the vicinity of the boat ramp. The work is shown on the attached plans entitled "T WHARF RECONSTRUCTION", on 17 sheets dated 5/12/09.

Based on the information you have provided, we have determined that the proposed activity, will have only minimal individual or cumulative environmental impacts on waters of the United States, including wetlands. Therefore, this work is authorized as a Category 2 activity under the attached Federal permit known as the Massachusetts General Permit (GP). This work must be performed in accordance with the terms and conditions of the GP and also in compliance with the following special conditions.

1. Dredging shall not occur from February 1 through June 30 of any year in order to minimize adverse impacts to flounder spawning habitat.
2. Support piles for the pier shall be driven deep enough so that dredging to a depth of 17' below MLLW would not jeopardize the structural integrity of the pier in the event the Corps dredges the nearby Federal Navigation Project (FNP).
3. The permittee shall locate all structures authorized by this permit outside the FNP limits. Vessels moored to these structures that encroach into the FNP shall not be rafted together.
4. The permittee shall not interfere with Corps of Engineers personnel or its contractors engaged in hydrographic surveys, maintenance or improvement of the existing FNP. If, in the opinion of the Corps, the permittee's structures or vessels attached to them must be moved to allow for the maintenance or improvement of the existing FNP, the permittee shall move the structures or vessels as directed by the Corps.

5. No later than 30 days after completion of the authorized work, the permittee shall submit an as-built drawing of the authorized structure. The as-built drawing(s) shall include:

- The structure's horizontal location relative to the closest FNP and the waterway, horizontal coordinates, the FNP limits, bar (graphic) scale, north arrow, and the dates of the survey and drawings.
- The structure's horizontal state plane coordinates in U.S. survey feet based on a Massachusetts State Grid system for NAD 1983.
- A stamp by a professional engineer or land surveyor registered in the State the work is being performed.

6. All submittals to the Corps shall be marked with the words "Permit No. NAE-2007-3414". The Corps address is "PATs Branch, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751." Documents which are not marked and addressed in this manner may not reach their intended destination and do not comply with the requirements of this permit.

The Corps of Engineers has consulted with the National Marine Fisheries Service (NMFS) regarding the effects of your project on Essential Fish Habitat (EFH) as designated under the Magnuson-Stevens Fishery Conservation and Management Act. The NMFS has not provided EFH conservation recommendations.

You are responsible for complying with all of the GP's requirements. Please review the attached GP carefully, in particular the GP conditions beginning on Page 5, to familiarize yourself with its contents. You should ensure that whoever does the work fully understands the requirements and that a copy of the permit document and this authorization letter are at the project site throughout the time the work is underway.

This determination becomes valid only after the Massachusetts Department of Environmental Protection (MassDEP) issues or waives Water Quality Certification (WQC) as required under Section 401 of the Clean Water Act. In the event the DEP denies the 401 WQC, this determination becomes null and void. The address of the MassDEP Regional office for your area is provided in the attached GP.

Your project is located within, or may affect resources within the coastal zone. In order for the above determination to become valid, you must obtain Federal consistency concurrence from the Massachusetts Office of Coastal Zone Management (CZM) if the proposed work is above the review thresholds of the Massachusetts Environmental Policy Act (MEPA). The CZM address is provided in the attached GP.

This GP expires on January 21, 2015. Activities authorized under this GP that have commenced (i.e., are under construction) or are under contract to commence before this GP expires will have until January 21, 2016 to complete the activity under the terms and general conditions of the current GP. For work within Corps jurisdiction that is not completed by

January 21, 2016, you will need to reference any reissued GP to see if your project is still authorized under Category 1 (no application required), or Category 2 (application required). If it is no longer authorized you must submit an application and receive written authorization before you can continue work within our jurisdiction. Please contact us immediately if you change the plans or construction methods for work within our jurisdiction. This office must approve any changes before you undertake them.

This authorization requires you to complete and return the attached Work Start Notification Form to this office at least two weeks before the anticipated starting date. You must also complete and return the enclosed Compliance Certification Form within one month following the completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals).

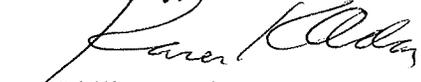
This authorization presumes that the work as described above and as shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, submit a request for an approved jurisdictional determination in writing to this office.

This permit does not obviate the need to obtain other federal, state, or local authorizations required by law, as listed on Page 2 of the GP. Performing work not specifically authorized by this determination or failing to comply with any special condition(s) provided above or all the terms and conditions of the GP may subject you to the enforcement provisions of our regulations.

We continually strive to improve our customer service. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at <http://per2.nwp.usace.army.mil/survey.html>.

Please contact Ted Lento, Regulatory Division project manager, at 978-318-8863 if you have any questions.

Sincerely,

  
Philip T. Feir  
Colonel, Corps of Engineers  
District Engineer

Attachments

Copies Furnished:

Ed Reiner, U.S. EPA, Region 1, Boston, Massachusetts, [reiner.ed@epa.gov](mailto:reiner.ed@epa.gov)  
Christopher Boelke, National Marine Fisheries Service, Gloucester, Massachusetts,  
[christopher.boelke@noaa.gov](mailto:christopher.boelke@noaa.gov)  
Elizabeth F. Kouloheras, DEP SERO, Wetlands and Waterways, Lakeville, Massachusetts,  
[c/o\\_lisa.ramos@state.ma.us](mailto:c/o_lisa.ramos@state.ma.us)  
Robert Boeri, Coastal Zone Management, Boston, Massachusetts, [Robert.Boeri@state.ma.us](mailto:Robert.Boeri@state.ma.us)  
Russell Titmuss, P.E., BCE, 3 Bent Street, Franklin, MA 02038



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

**GENERAL PERMIT  
WORK-START NOTIFICATION FORM**  
(Minimum Notice: Two weeks before work begins)

\*\*\*\*\*  
 \* MAIL TO: U.S. Army Corps of Engineers, New England District \*  
 \* Policy Analysis/Technical Support Branch \*  
 \* Regulatory Division \*  
 \* 696 Virginia Road \*  
 \* Concord, Massachusetts 01742-2751 \*  
 \*\*\*\*\*

Corps of Engineers Permit No. 2007-3414 was issued to Town of Plymouth. This work includes the reconstruction and expansion of the Town Wharf pier from 7,780 square feet (sf) to 18,360 sf and adding 4,160 sf of floating docks in Plymouth Harbor, Plymouth, Massachusetts. In addition, 14,500 cubic yards of silty sand will be dredged from an area of approximately 11,715 sf to a depth of -6 feet MLW and a second area of 44,792 sf to -10 feet MLW in order to create an anchorage within the re-configured wharf area. Dredge material will be disposed at an upland site. Approximately 1,560 sf of stone riprap and fill material will be placed below the high tide line in the vicinity of the boat ramp.

The people (e.g., contractor) listed below will do the work, and they understand the permit's conditions and limitations.

**PLEASE PRINT OR TYPE**

**Name of Person/Firm:** \_\_\_\_\_

**Business Address:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Telephone Numbers:** ( ) \_\_\_\_\_ ( ) \_\_\_\_\_

**Proposed Work Dates:**     **Start:** \_\_\_\_\_     **Finish:** \_\_\_\_\_

**Permittee/Agent Signature:** \_\_\_\_\_     **Date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_     **Title:** \_\_\_\_\_

**Date Permit Issued:** \_\_\_\_\_     **Date Permit Expires:** \_\_\_\_\_

\*\*\*\*\*

**FOR USE BY THE CORPS OF ENGINEERS**

**PM:** Lento     **Submittals Required:** \_\_\_\_\_

**Inspection Recommendation:** \_\_\_\_\_  
 \_\_\_\_\_



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

(Minimum Notice: Permittee must sign and return notification  
within one month of the completion of work.)

## COMPLIANCE CERTIFICATION FORM

**Permit Number:** 2007-3414

**Project Manager** Ted Lento

**Name of Permittee:** Town of Plymouth

**Permit Issuance Date:** April 2010

Please sign this certification and return it to the following address upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

```

*****
* MAIL TO: U.S. Army Corps of Engineers, New England District      *
*           Policy Analysis/Technical Support Branch                *
*           Regulatory Division                                     *
*           696 Virginia Road                                       *
*           Concord, Massachusetts 01742-2751                      *
*****

```

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

**I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.**

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

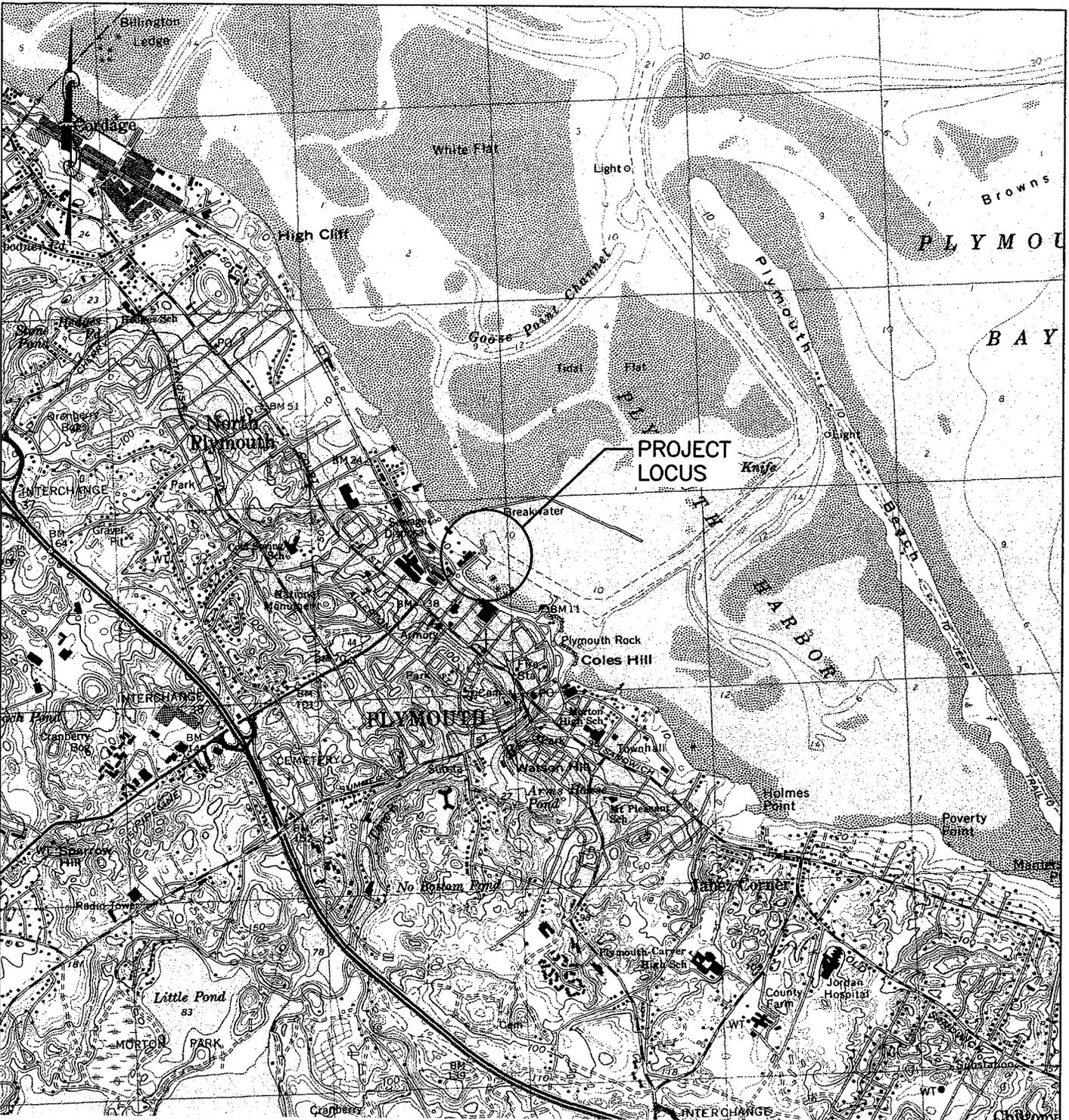
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date of Work Completion

( ) \_\_\_\_\_  
Telephone Number

( ) \_\_\_\_\_  
Telephone Number

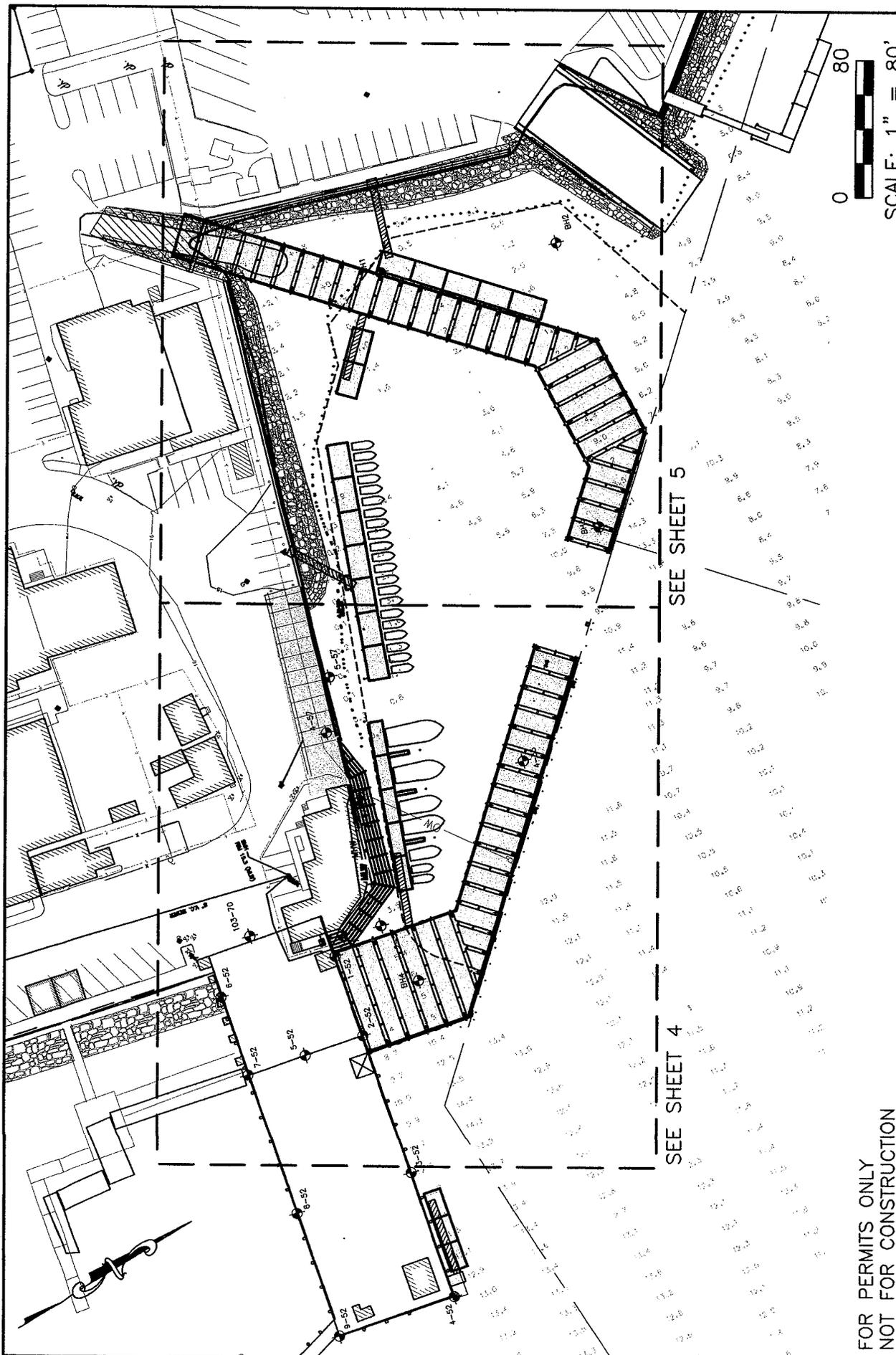
File: X:\25536-Permits\ACOE\LOCUS.dwg



0 2000  
  
 SCALE: 1" = 2000' - 0"

PURPOSE: <b>PIER RECONSTRUCTION</b>	TITLE: <b>LOCUS PLAN</b>	APPLICATION BY: <b>TOWN OF PLYMOUTH</b>
100 YR FLOOD +16.57 HTL +11.70 MHW +9.75 NGVD +4.57 MLW 0.0	 <p><b>BCE</b> Bourne Consulting Engineering                  5 Bond Street                  Franklin, MA 01902                  TEL (508) 533-0000 FAX (508) 533-0000</p>	IN: PLYMOUTH AT: PLYMOUTH COUNTY: PLYMOUTH STATE: MA SHEET 1 OF 17 DATE: 05/12/09





FOR PERMITS ONLY  
NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57
HIL	+11.70	MLW	0.0
MHW	+9.75		

**BCE** Bourne Consulting Engineering  
 3 Daniel Street  
 Bourne, MA 01909  
 PH: (508) 552-0000 FAX: (508) 552-0000

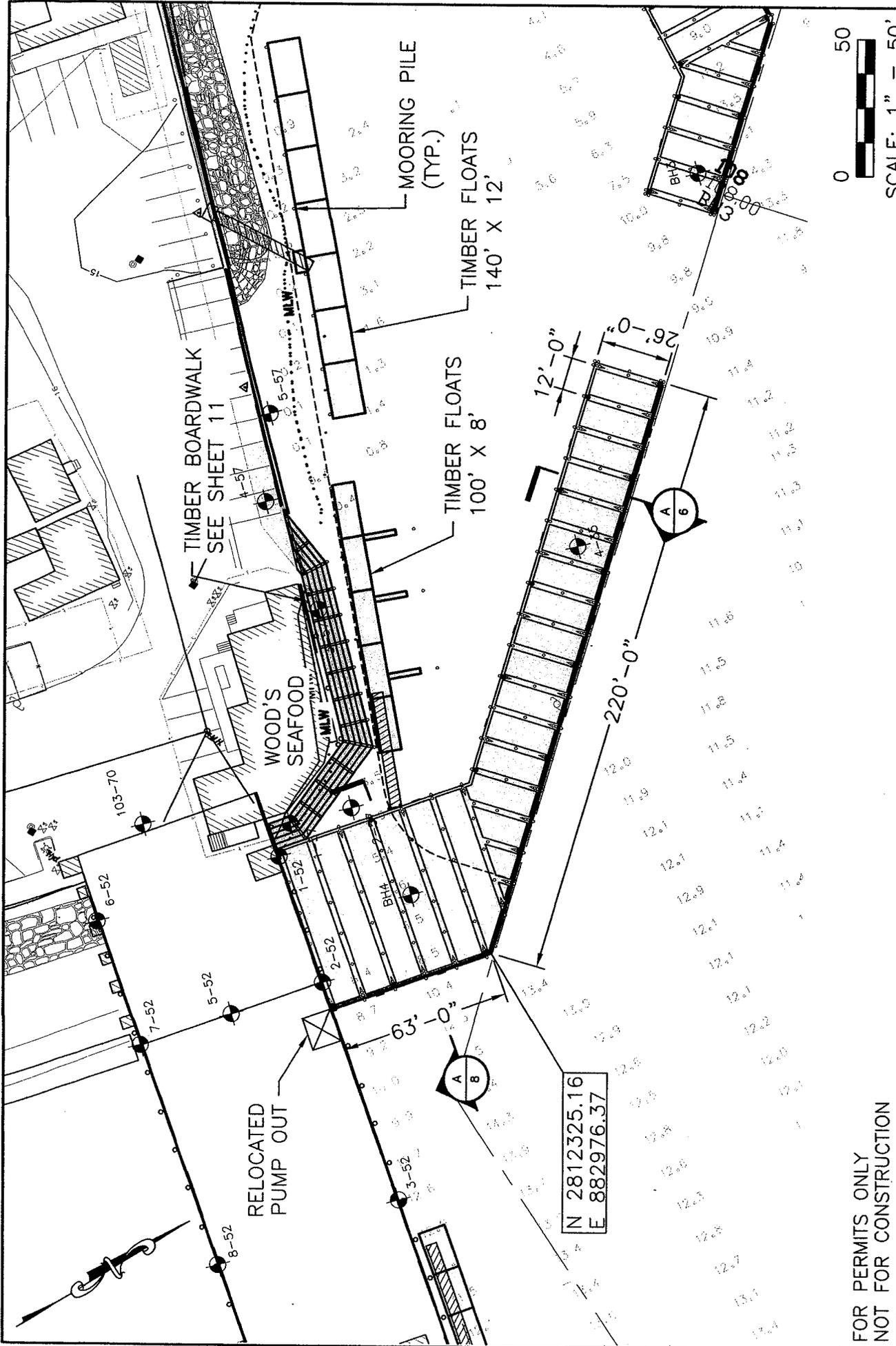
TITLE: T WHARF RECONSTRUCTION  
PROPOSED CONDITION PLAN

PURPOSE: PIER RECONSTRUCTION

APPLICATION BY: TOWN OF PLYMOUTH

IN: PLYMOUTH HARBOR  
 AT: PLYMOUTH  
 COUNTY: PLYMOUTH STATE: MA

SHEET 3 OF 17  
 DATE: 05/12/09 REV 04/09/10



IN: PLYMOUTH HARBOR  
 AT: PLYMOUTH  
 COUNTY: PLYMOUTH STATE: MA  
 SHEET 4 OF 17  
 DATE: 05/12/09 REV 04/09/10

TITLE: T WHARF RECONSTRUCTION  
 PROPOSED PIER LAYOUT  
 PURPOSE: PIER RECONSTRUCTION  
 APPLICATION BY: TOWN OF PLYMOUTH

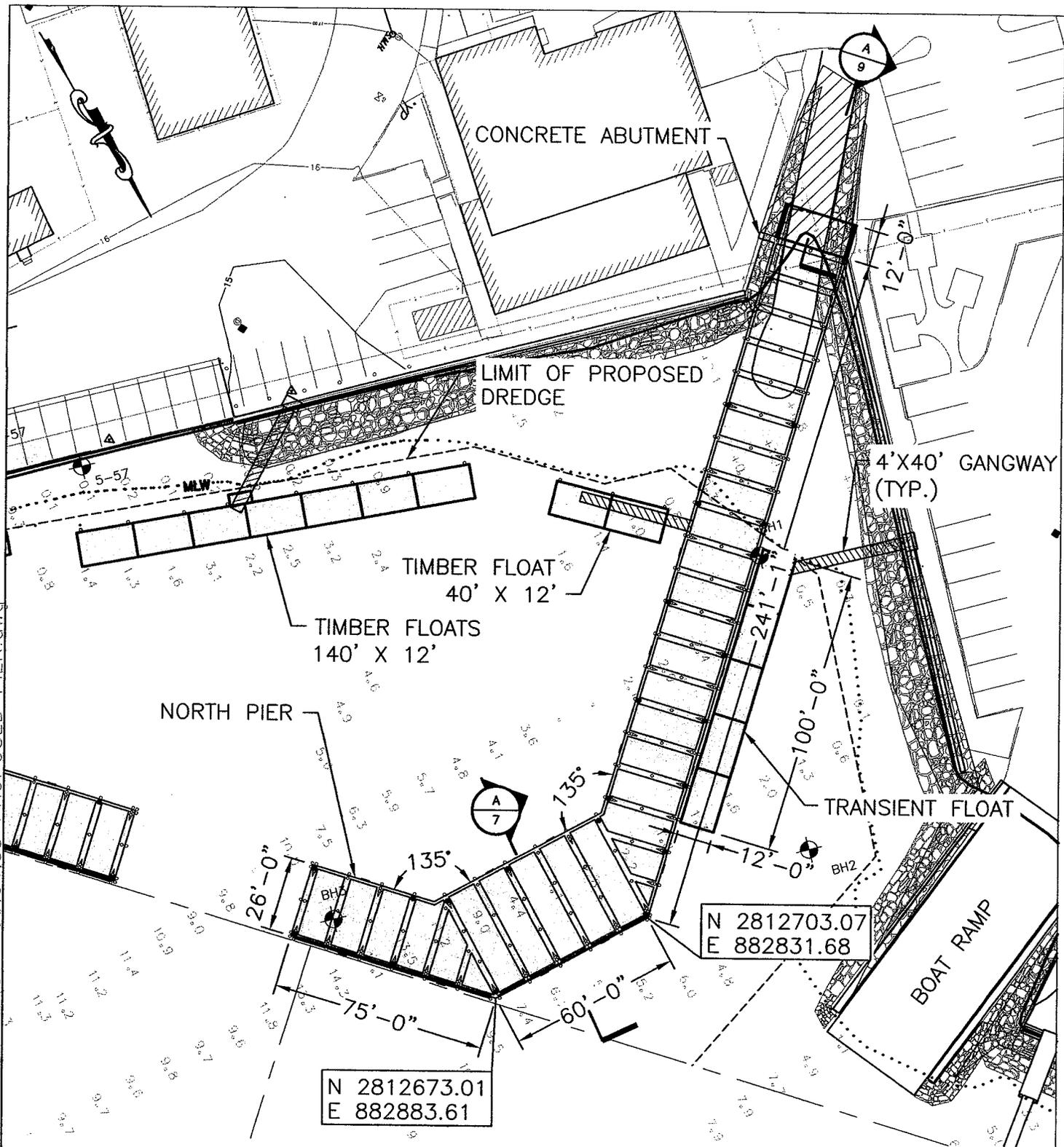
FOR PERMITS ONLY  
 NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57
HTL	+11.70	MLW	0.0
MHW	+9.75		

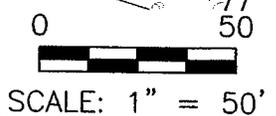
**BCE** Bourne Consulting Engineering  
 3 Park Street  
 Bourne, MA 02532  
 TEL (508) 555-0000 FAX (508) 555-0000

N 2812325.16  
 E 882976.37

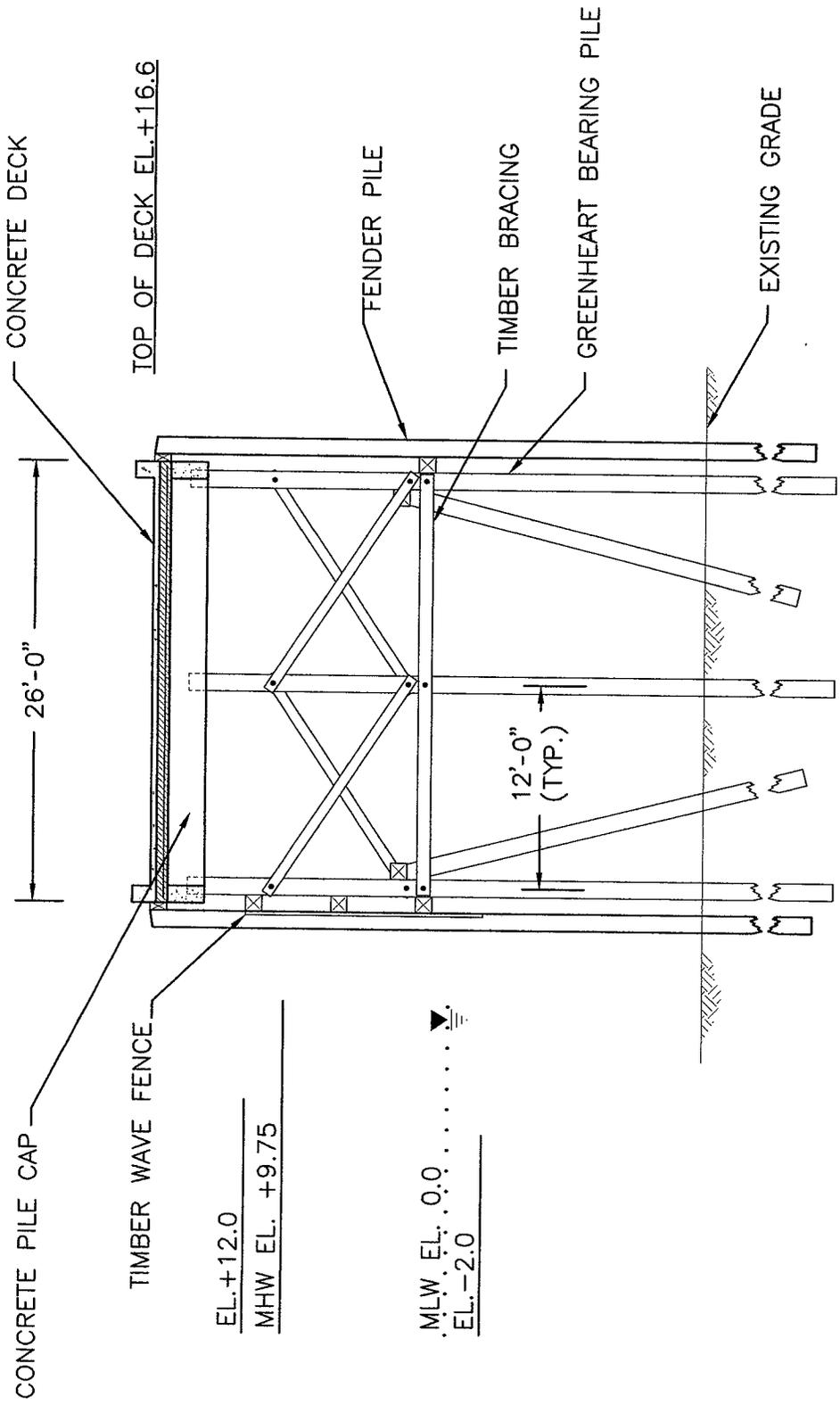
File: X:\25536 - \25586\Permits\ACOE\SHI-03.04.05 PROPOSED PIER.dwg



FOR PERMITS ONLY  
NOT FOR CONSTRUCTION



PURPOSE: <b>PIER RECONSTRUCTION</b>	TITLE: <b>T WHARF RECONSTRUCTION PROPOSED PIER LAYOUT</b>	APPLICATION BY: <b>TOWN OF PLYMOUTH</b>
100 YR FLOOD +16.57 HTL +11.70 MHW +9.75 NGVD +4.57 MLW 0.0		IN: <b>PLYMOUTH HARBOR</b> AT: <b>PLYMOUTH</b> COUNTY: <b>PLYMOUTH</b> STATE: <b>MA</b> SHEET <b>5</b> OF <b>17</b> DATE: <b>04/09/10</b>



26' PIER SECTION  
 SCALE: 1" = 10'

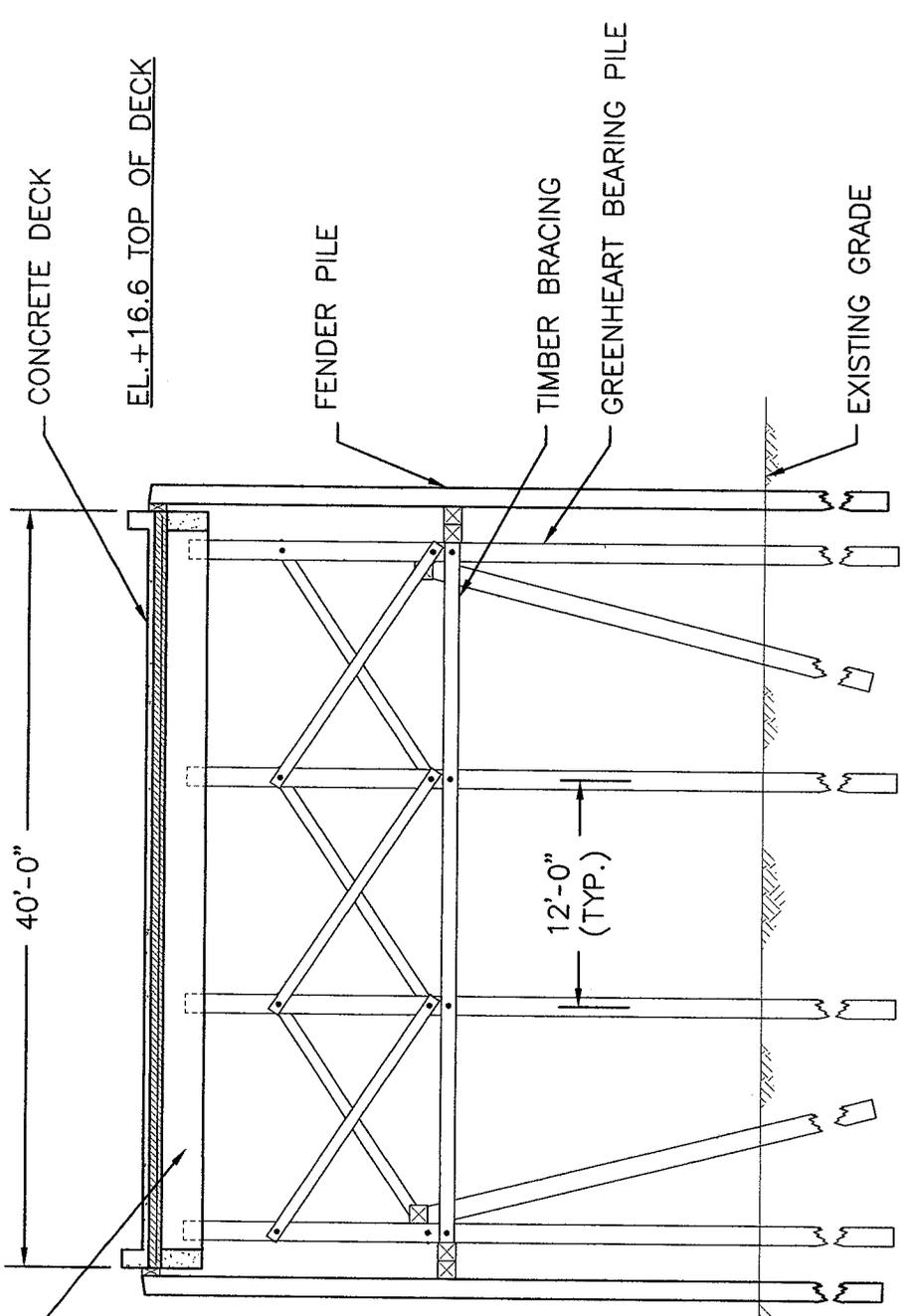
FOR PERMITS ONLY  
 NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57
HTL	+11.70	MLW	0.0
MHW	+9.75		

TITLE:	T WHARF RECONSTRUCTION 26' PIER SECTION
PURPOSE:	PIER RECONSTRUCTION
APPLICATION BY:	TOWN OF PLYMOUTH

IN:	PLYMOUTH HARBOR
AT:	PLYMOUTH
COUNTY:	PLYMOUTH
STATE:	MA
SHEET	6 OF 17
DATE:	05/12/09

**BCE** Bourne Consulting Engineering  
 3 Pond Street  
 Bourne, MA 01949  
 TEL: (508) 535-9988 FAX: (508) 535-9989



CONCRETE PILE CAP

40'-0"

CONCRETE DECK

EL. +16.6 TOP OF DECK

FENDER PILE

TIMBER BRACING

GREENHEART BEARING PILE

EXISTING GRADE

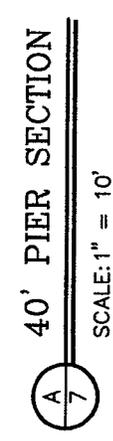
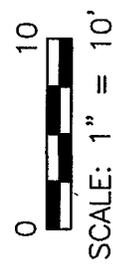
12'-0" (TYP.)

EL. +12.0

MHW EL. +9.75

MLW EL. 0.0

EL. -2.0



FOR PERMITS ONLY  
NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57
HTL	+11.70	MLW	0.0
MHW	+9.75		

TITLE:

T WHARF RECONSTRUCTION  
40' PIER SECTION

IN: PLYMOUTH HARBOR  
AT: PLYMOUTH  
COUNTY: PLYMOUTH STATE: MA

PURPOSE:

PIER RECONSTRUCTION

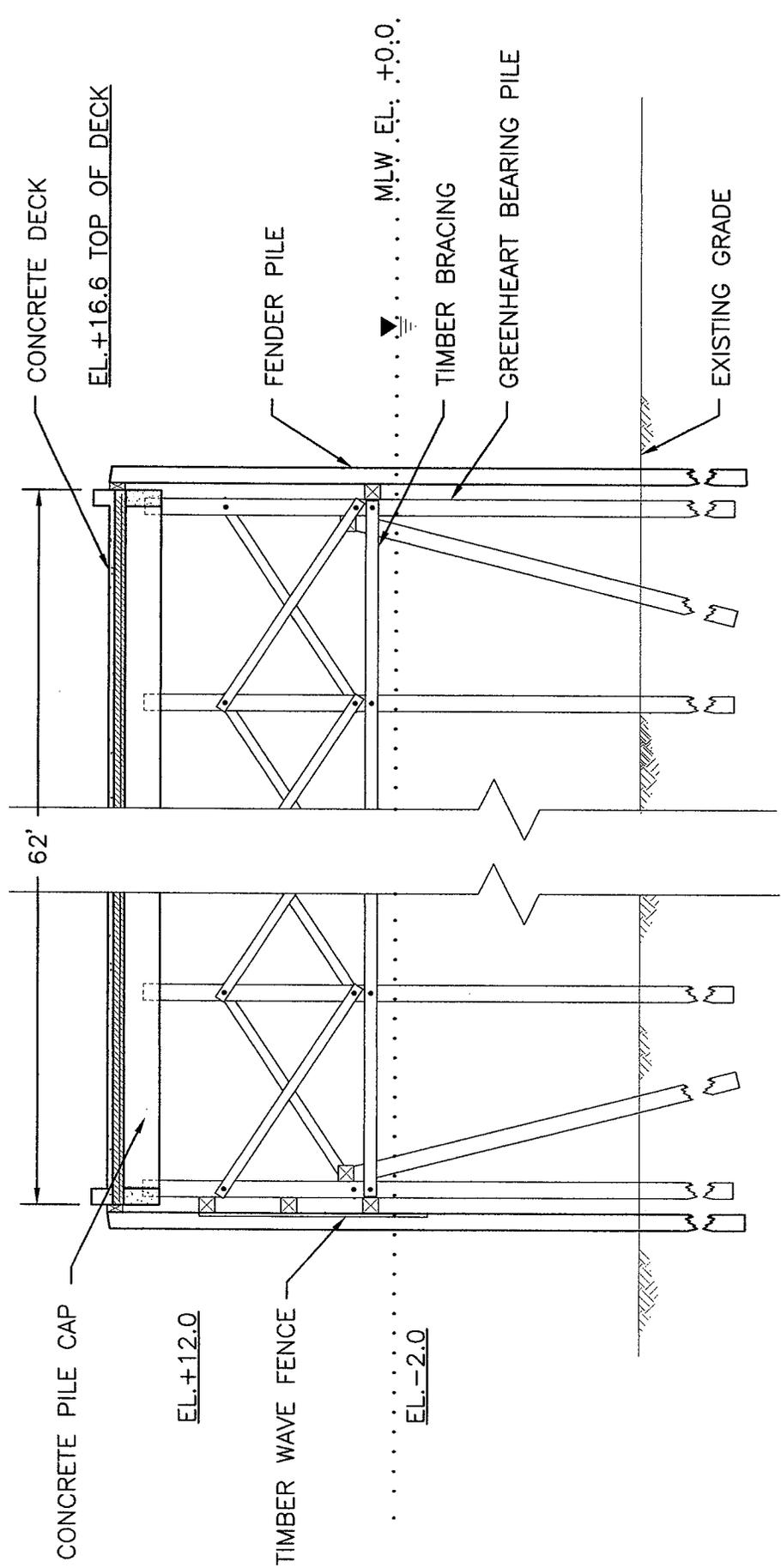
APPLICATION BY:

TOWN OF PLYMOUTH

SHEET 7 OF 17

DATE: 05/12/09

**BCE** Bourne Consulting Engineering  
A Equal Opportunity Employer  
P.O. Box 1000  
Plymouth, MA 01959  
TEL (508) 535-4444 FAX (508) 535-4444



**62' PIER SECTION**  
 SCALE: 1" = 10'

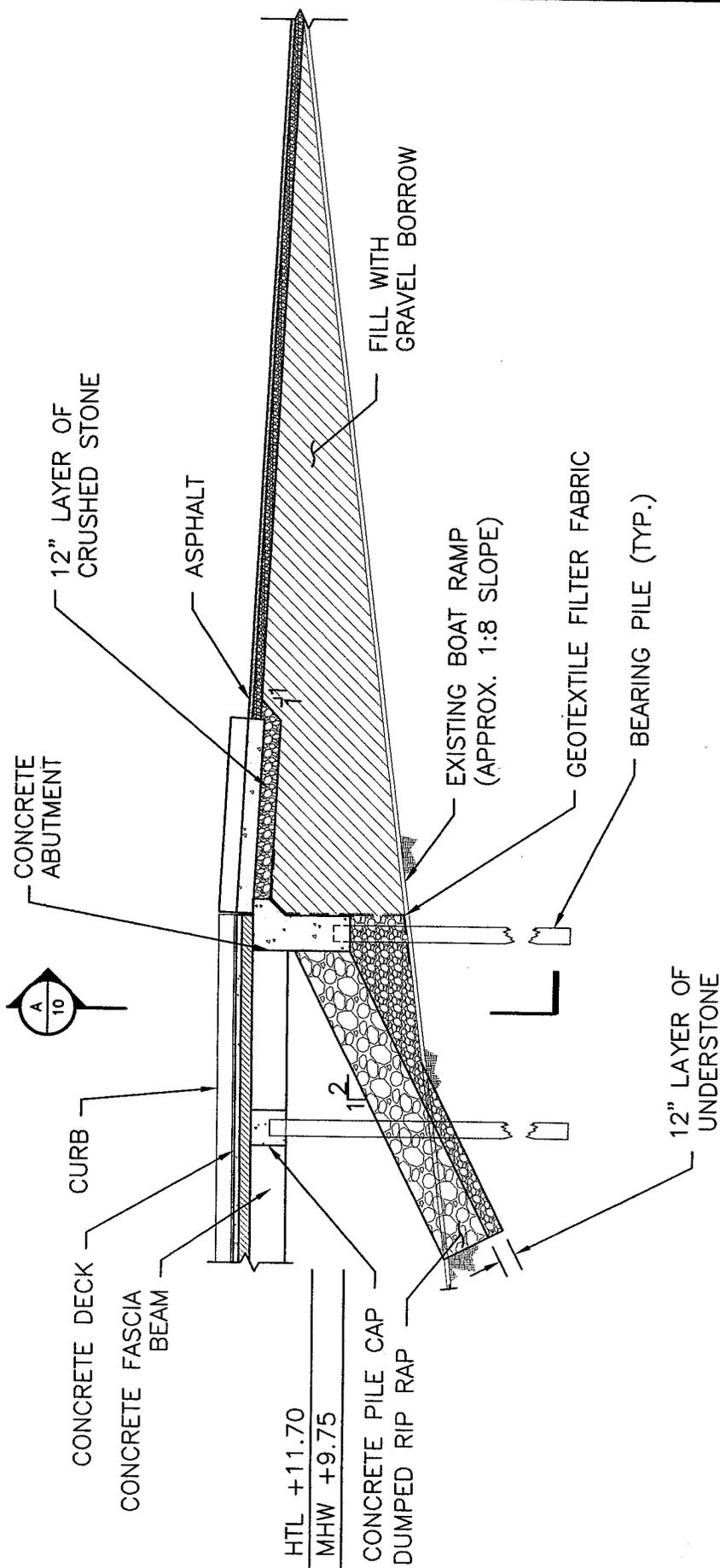
FOR PERMITS ONLY  
 NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57
HTL	+11.70	MLW	0.0
MHW	+9.75		

TITLE:	<b>T WHARF RECONSTRUCTION 62' PIER SECTION</b>
PURPOSE:	<b>PIER RECONSTRUCTION</b>
APPLICATION BY:	<b>TOWN OF PLYMOUTH</b>

IN:	<b>PLYMOUTH HARBOR</b>
AT:	<b>PLYMOUTH</b>
COUNTY:	<b>PLYMOUTH</b>
STATE:	<b>MA</b>
SHEET	<b>8</b> OF <b>17</b>
DATE:	<b>05/12/09</b>

**BCE** Bourne Consulting Engineering  
 3 West Street  
 Bourne, MA 01905  
 PH (508) 855-0000 FAX (508) 855-0000



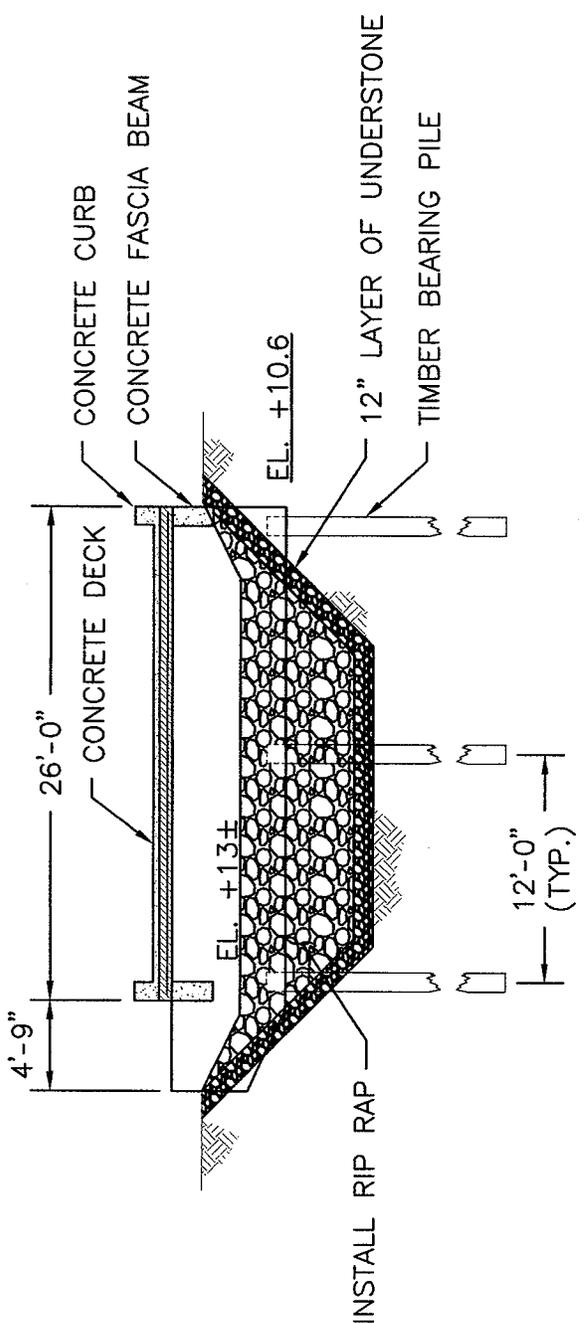
HTL +11.70  
MHW +9.75

**NORTH END PIER ABUTMENT**  
SCALE: 1" = 10'

FOR PERMITS ONLY  
NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57	TITLE:	T WHARF RECONSTRUCTION NORTH END PIER ABUTMENT	IN:	PLYMOUTH HARBOR
HTL	+11.70	MLW	0.0	PURPOSE:	PIER RECONSTRUCTION	AT:	PLYMOUTH
MHW	+9.75			APPLICATION BY:	TOWN OF PLYMOUTH	COUNTY:	PLYMOUTH
						STATE:	MA
						SHEET	9 OF 17
						DATE:	05/12/09

**BCE**  
*Bourne Consulting Engineering*  
2 Amy Street  
Plymouth, MA 01959  
PH: (508) 555-4444 FAX: (508) 555-5555



**A**  
10  
NORTH END PIER CONNECTION  
SCALE: 1" = 10'

FOR PERMITS ONLY  
NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57
HTL	+11.70	MLW	0.0
MHW	+9.75		

TITLE: T WHARF RECONSTRUCTION  
NORTH END PIER CONNECTION

PURPOSE: PIER RECONSTRUCTION

APPLICATION BY: TOWN OF PLYMOUTH

IN: PLYMOUTH HARBOR  
AT: PLYMOUTH  
COUNTY: PLYMOUTH STATE: MA

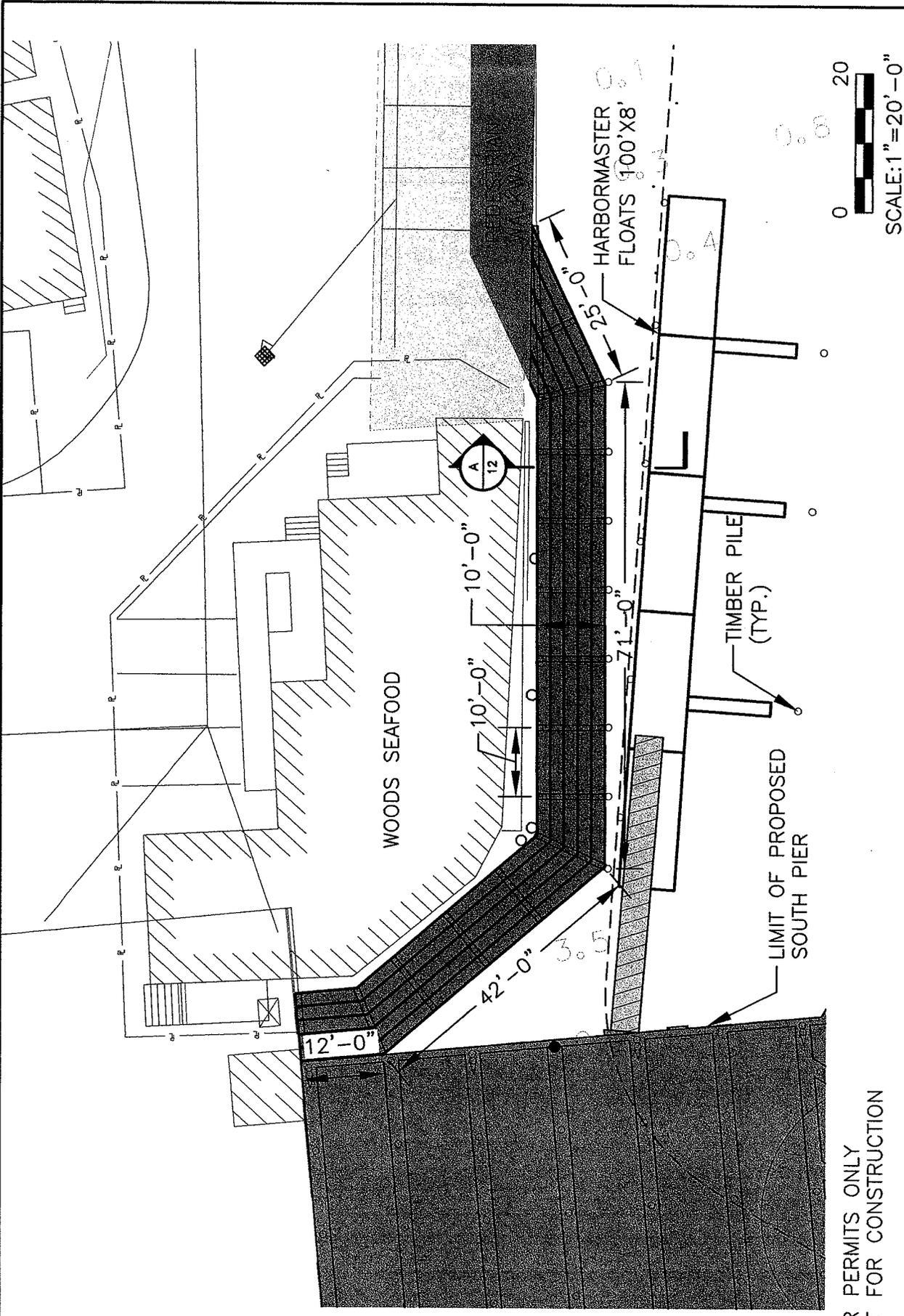
SHEET 10 OF 17  
DATE: 05/12/09

**BCE** Bourne Consulting Engineering

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FOR PERMITS ONLY  
NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57
HTL	+11.70	MLW	0.0
MHW	+9.75		

**BCE** Bourne Consulting Engineering  
 3 Paul Street  
 Bourne, MA 01909  
 PH: (508) 833-4000 FAX: (508) 833-3000

TITLE: **T WHARF RECONSTRUCTION  
10' WIDE BOARDWALK**

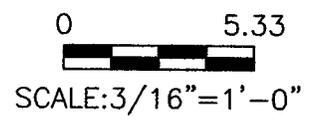
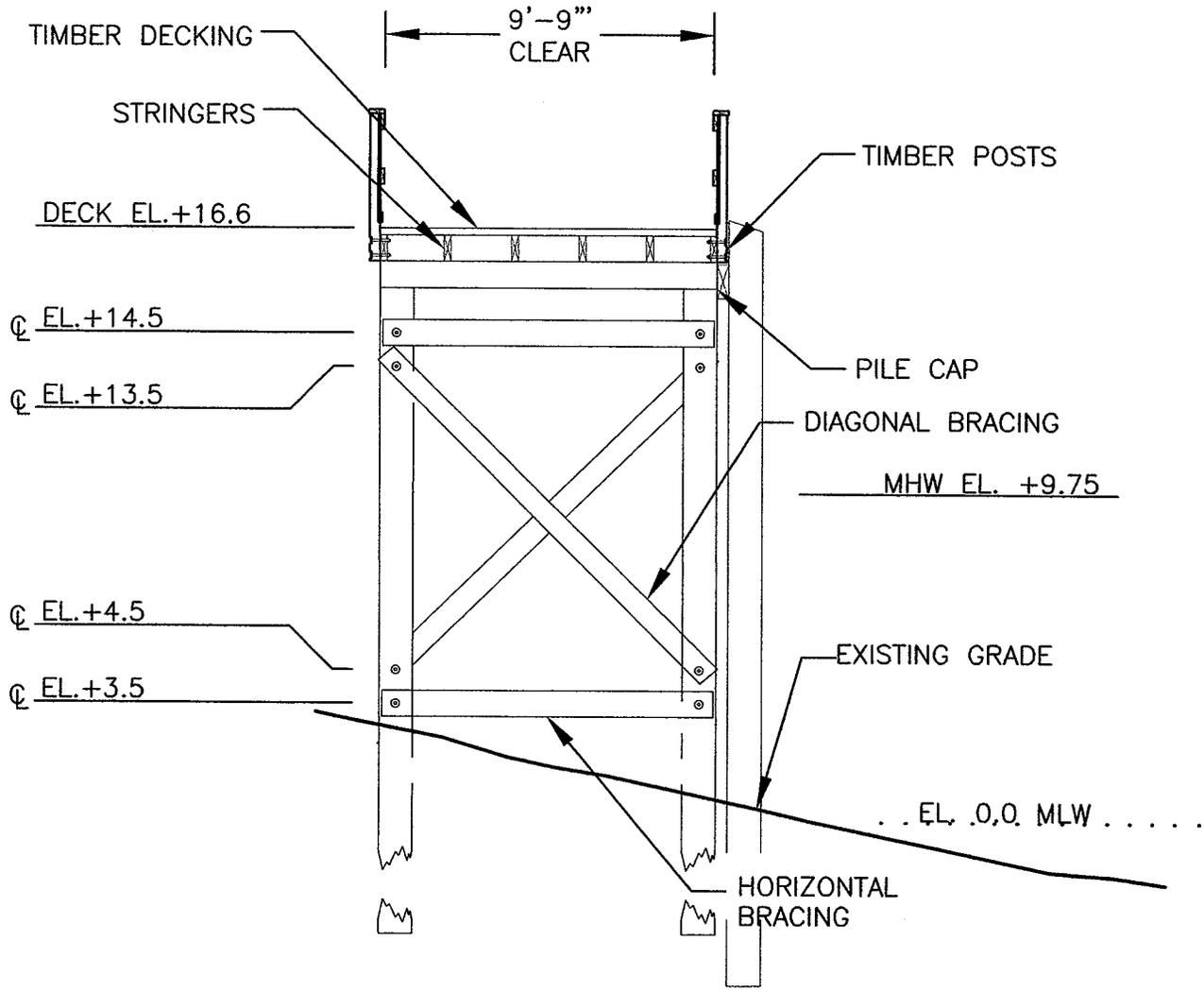
PURPOSE:  
**PIER RECONSTRUCTION**

APPLICATION BY:  
**TOWN OF PLYMOUTH**

IN: **PLYMOUTH HARBOR**  
 AT: **PLYMOUTH**  
 COUNTY: **PLYMOUTH** STATE: **MA**

SHEET **11** OF **17**  
 DATE: **05/12/09** REV **04/09/10**

File: X:\25536-Permits\ACOE\SHT-10&11 BOARDWALK.dwg



FOR PERMITS ONLY  
NOT FOR CONSTRUCTION

PURPOSE: <b>PIER RECONSTRUCTION</b>		TITLE: <b>T WHARF RECONSTRUCTION BOARDWALK SECTION</b>	APPLICATION BY: <b>TOWN OF PLYMOUTH</b>
100 YR FLOOD	+16.57		IN: <b>PLYMOUTH HARBOR</b>
HTL	+11.70		AT: <b>PLYMOUTH</b>
MHW	+9.75		COUNTY: <b>PLYMOUTH</b> STATE: <b>MA</b>
NGVD	+4.57		SHEET <b>12 OF 17</b> DATE: <b>05/12/09</b>
MLW	0.0		

PILE CUT OFF EL. +20

WHITE VINYL DOCK BUMPER

2x4 TOE RAIL LAGGED INTO FRAMING

2" DECKING

MOORING PILE

FLOATATION UNIT (TYP.)

2- 2x8 SKID PLATES (TYP.)

10'-0" VARIES

MUDLINE (VARIES)

FOR PERMITS ONLY  
NOT FOR CONSTRUCTION



100 YR FLOOD	+16.57	NGVD	+4.57
HTL	+11.70	MLW	0.0
MHW	+9.75		

TITLE: T WHARF RECONSTRUCTION  
TYPICAL FLOAT SECTION

IN: PLYMOUTH HARBOR  
AT: PLYMOUTH  
COUNTY: PLYMOUTH STATE: MA

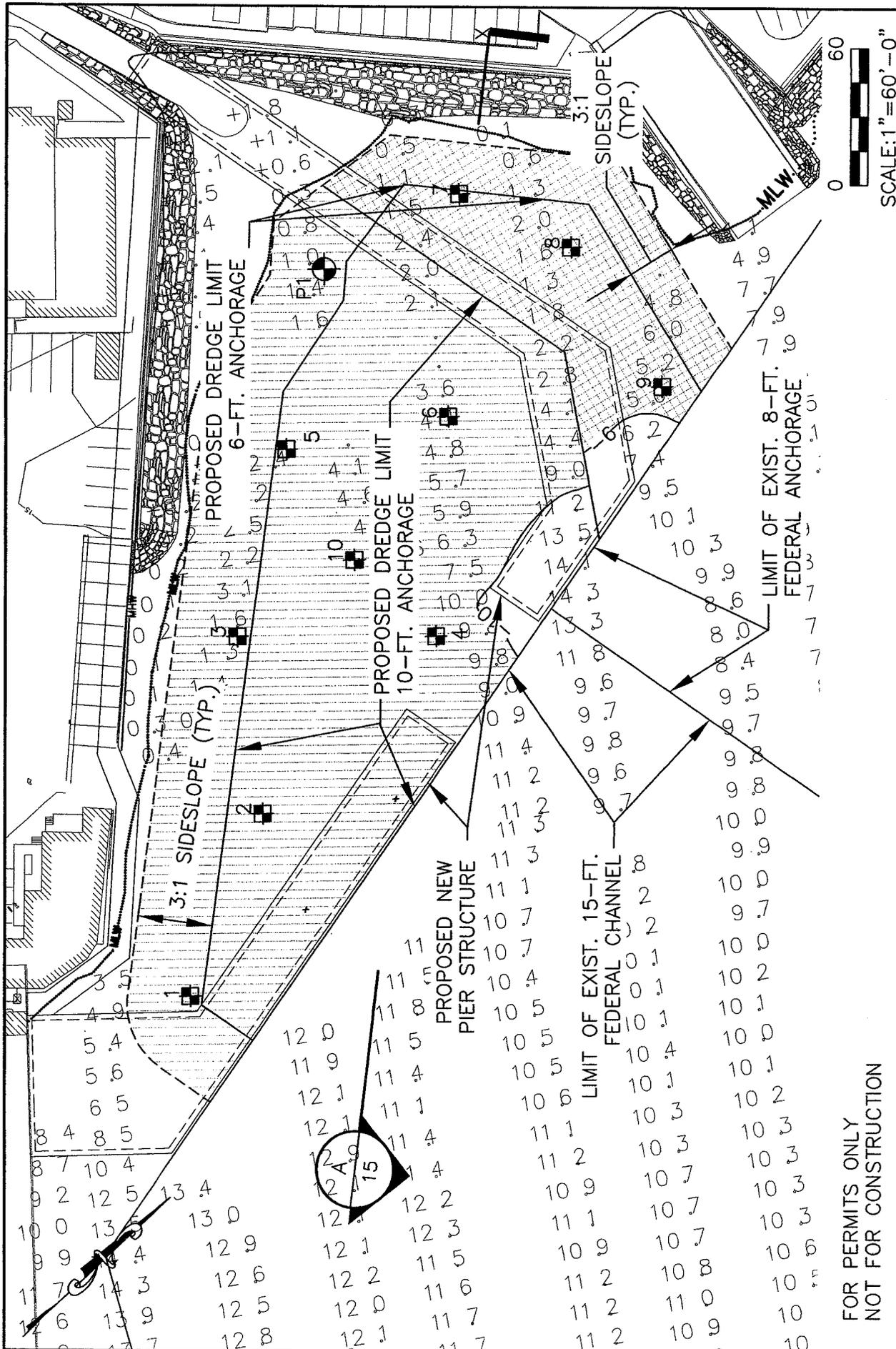
**BCE** Bourne Consulting Engineering  
31 South Street  
 Bourne, MA 01929  
 PH (508) 238-0000 FAX (508) 238-0000

PURPOSE: PIER RECONSTRUCTION

APPLICATION BY:  
TOWN OF PLYMOUTH

SHEET 13 OF 17

DATE: 05/12/09 REV 04/09/10



FOR PERMITS ONLY  
NOT FOR CONSTRUCTION

100 YR FLOOD	+16.57	NGVD	+4.57
HTL	+11.70	MLW	0.0
MHW	+9.75		

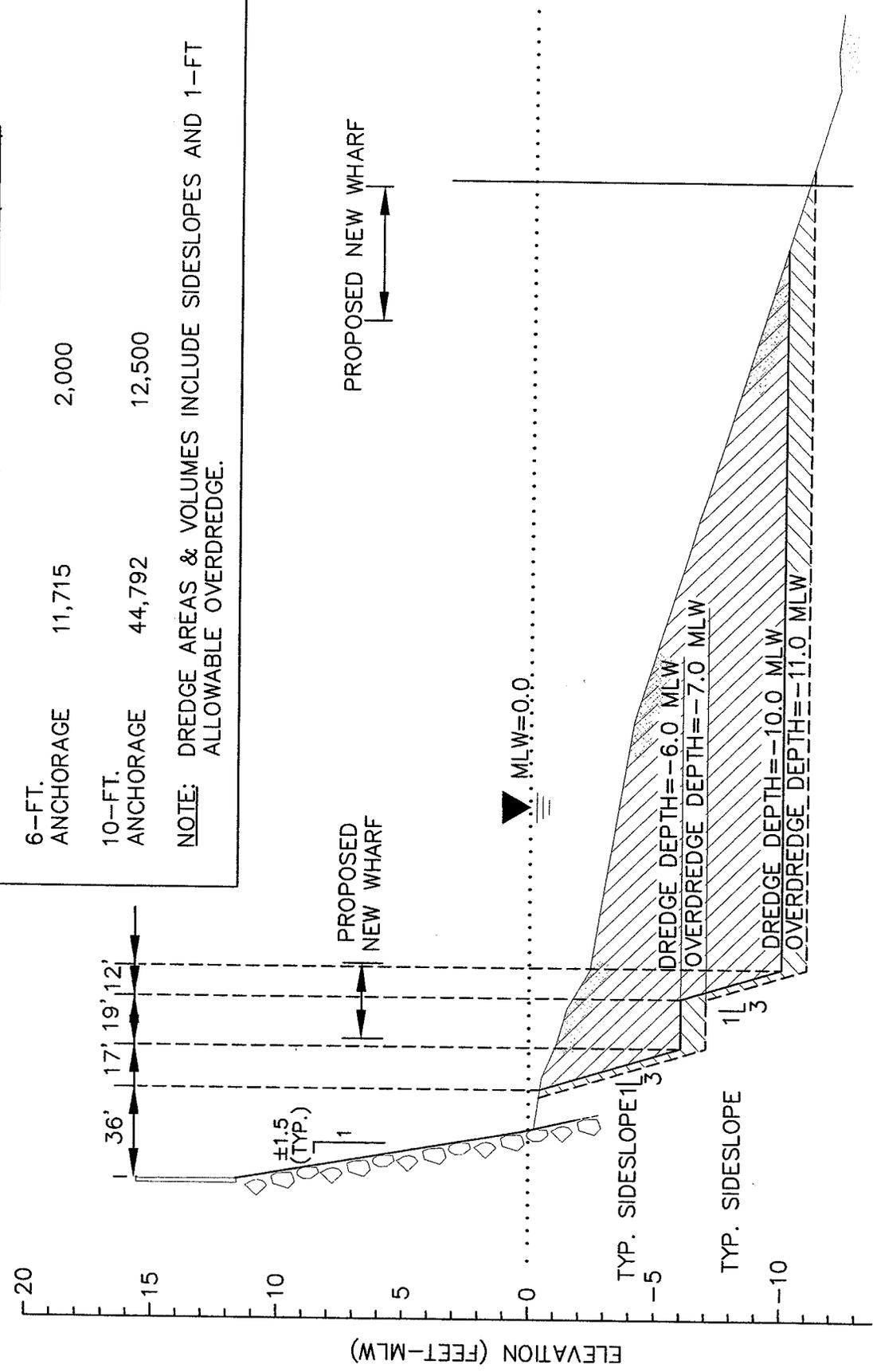
**BCE**  
**Bourne Consulting Engineering**  
 3 Pond Street  
 Bourne, MA 01909  
 PH: (508) 555-0000 FAX: (508) 555-0000

TITLE:	PROPOSED DREDGE PLAN
PURPOSE:	PIER RECONSTRUCTION
APPLICATION BY:	TOWN OF PLYMOUTH

IN: PLYMOUTH HARBOR	SHEET 14 OF 17
AT: PLYMOUTH	DATE: 05/12/09
COUNTY: PLYMOUTH STATE: MA	

LOCATION	DREDGE AREA (SF.)	DREDGE VOLUME (CYDS.)
6-FT. ANCHORAGE	11,715	2,000
10-FT. ANCHORAGE	44,792	12,500

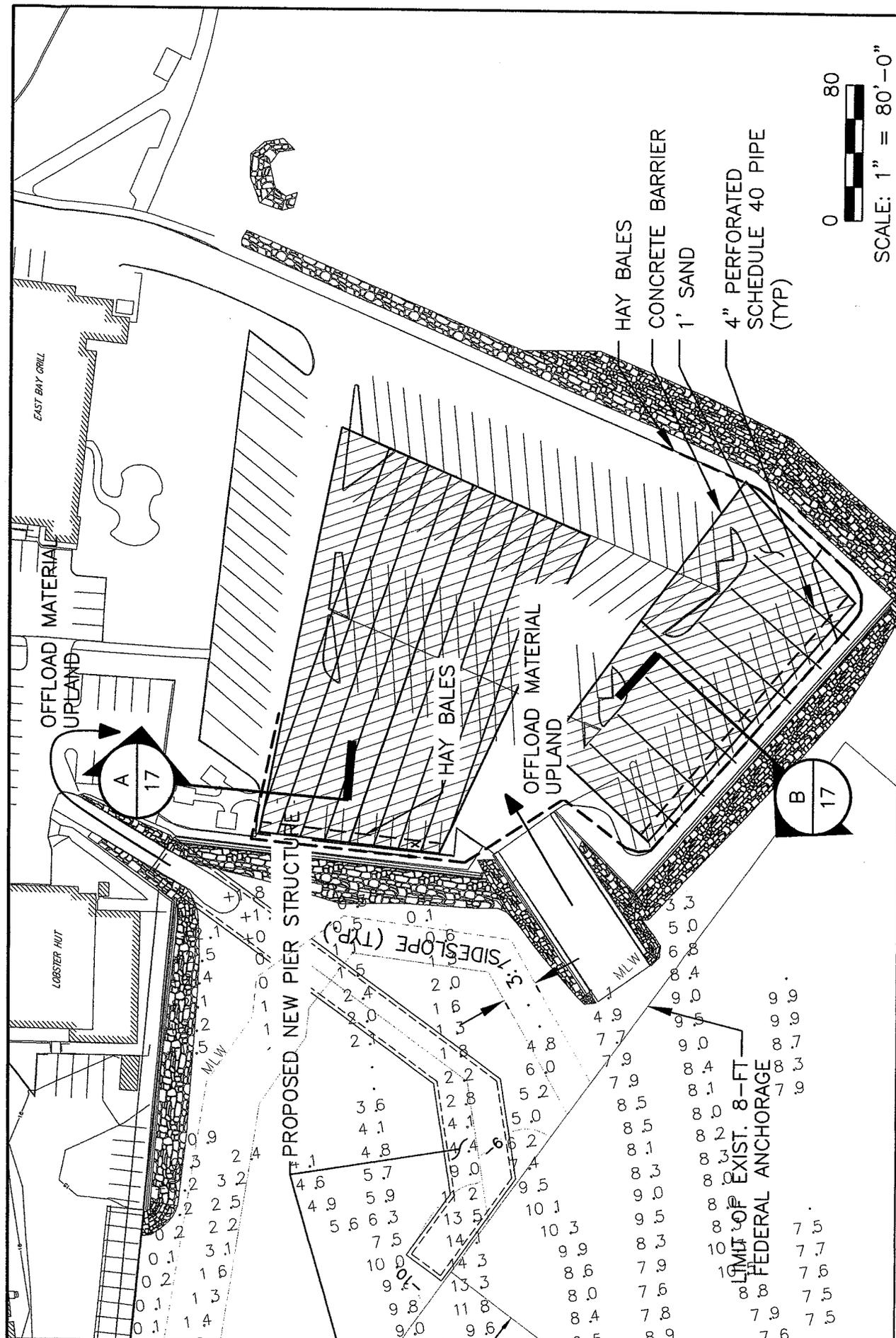
**NOTE:** DREDGE AREAS & VOLUMES INCLUDE SIDESLOPES AND 1-FT ALLOWABLE OVERDREDGE.



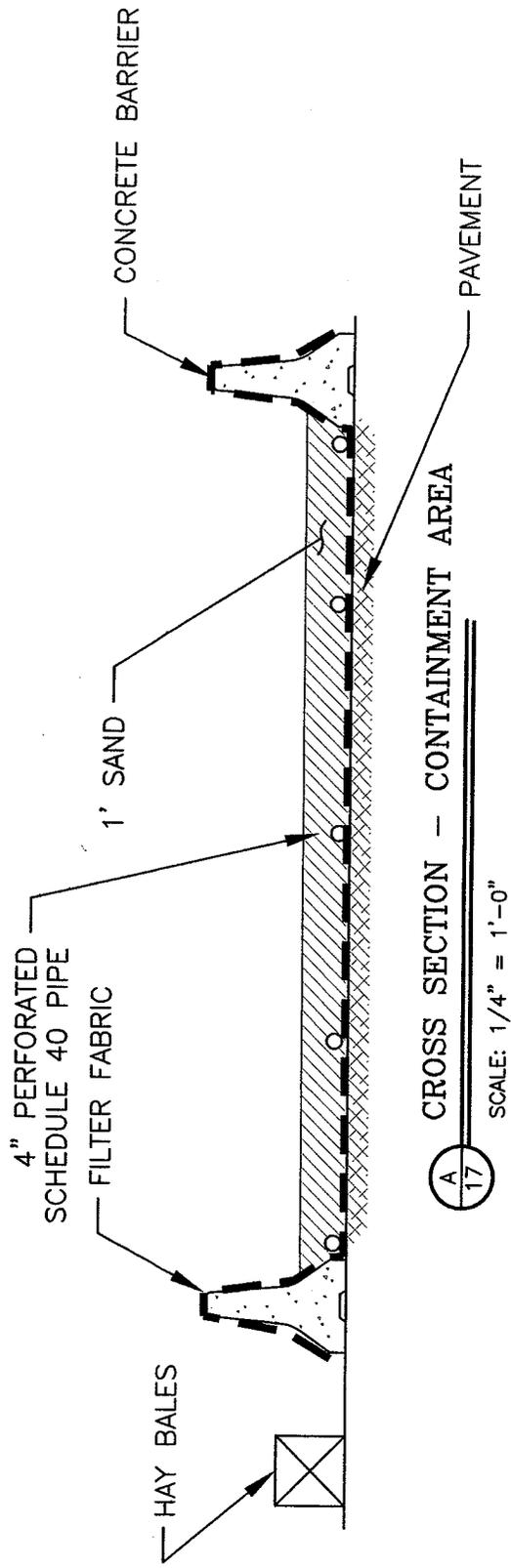
FOR PERMITS ONLY  
NOT FOR CONSTRUCTION

HORIZONTAL SCALE 1"=60'-0"  
VERTICAL SCALE 1"=6'-0"

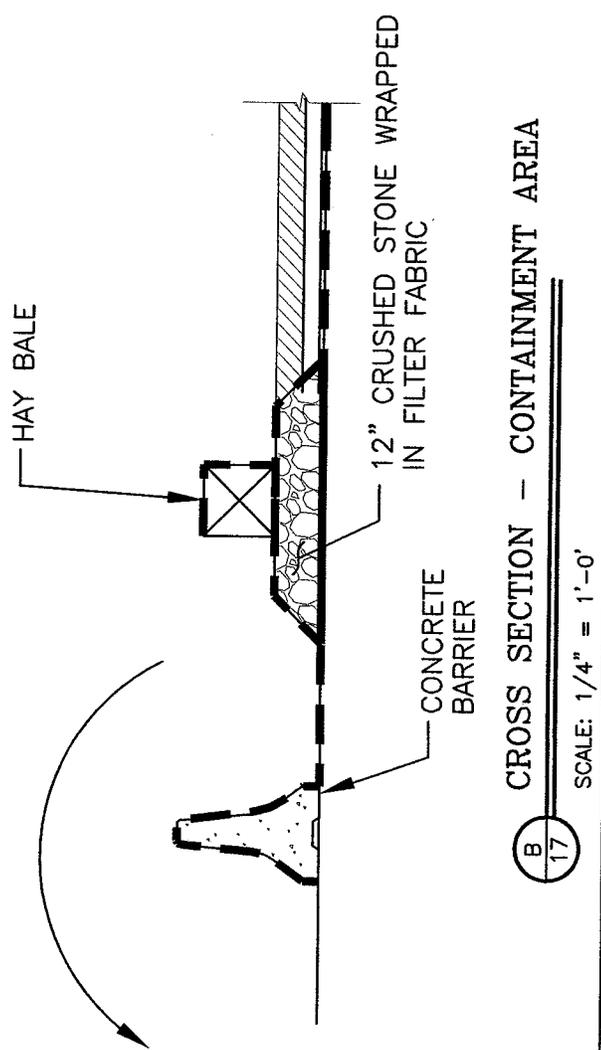
100 YR FLOOD	+16.57	NGVD	+4.57	<b>TITLE:</b> DREDGE SECTION
HTL	+11.70	MLW	0.0	
MHW	+9.75			
				<b>PURPOSE:</b> PIER RECONSTRUCTION
APPLICATION BY: TOWN OF PLYMOUTH				
IN: PLYMOUTH HARBOR AT: PLYMOUTH COUNTY: PLYMOUTH STATE: MA				SHEET 15 OF 17 DATE: 05/12/09



100 YR FLOOD	+16.57	NGVD	+4.57	TITLE:	T WHARF RECONSTRUCTION DEWATERING PLAN	IN: PLYMOUTH HARBOR
HTL	+11.70	MLW	0.0	PURPOSE:	PIER RECONSTRUCTION	AT: PLYMOUTH
MHW	+9.75			APPLICATION BY:	TOWN OF PLYMOUTH	COUNTY: PLYMOUTH STATE: MA
				SHEET 16 OF 17 DATE: 04/07/10		



PUMP TO OCEAN



100 YR FLOOD	+16.57	NGVD	+4.57	T	T WHARF RECONSTRUCTION	IN: PLYMOUTH HARBOR
HTL	+11.70	MLW	0.0		DEWATERING DETAILS	AT: PLYMOUTH
MHW	+9.75					COUNTY: PLYMOUTH STATE: MA
				PURPOSE: PIER RECONSTRUCTION		SHEET 17 OF 17 DATE: 04/07/10
Bourne Consulting Engineering 2 Paul Street Bourne, MA 01929 TEL (508) 533-0000 FAX (508) 533-0000				APPLICATION BY: TOWN OF PLYMOUTH		



*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
 100 Cambridge Street, Suite 900  
 Boston, MA 02114

DEVAL L. PATRICK  
 GOVERNOR  
 TIMOTHY P. MURRAY  
 LIEUTENANT GOVERNOR  
 IAN A. BOWLES  
 SECRETARY

RECEIVED  
 JAN 16 2007  
 BOUWMEESTER CONSULTING  
 ENGINEERING

Tel: (617) 626-1000  
 Fax: (617) 626-1181  
<http://www.mass.gov/envir>

January 9, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
 ON THE  
 ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : T Wharf Reconstruction, Plymouth  
 PROJECT MUNICIPALITY : Plymouth  
 PROJECT WATERSHED : Plymouth Harbor  
 EOEА NUMBER : 14139  
 PROJECT PROPONENT : Town of Plymouth  
 DATE NOTICED IN MONITOR : November 26, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

The project involves reconfiguration, reconstruction and expansion of the Town Pier/T-Wharf. The project is being designed to address the deteriorating condition of the pier, provide additional berthing and expanded float access, alleviate vessel congestion, and provide better access to fuel and pump-out facilities. The proposed project will increase the area of the pier from 7,780 square feet (sf) to 18,360 sf, and will require approximately one acre of dredging to provide adequate draft for commercial vessels. The project will impact approximately 66,000 square feet (sf) of Land Under the Ocean. Dredge material (approximately 14,500 cubic yards) will be disposed on at the Massachusetts Bay Disposal Site.

The project is undergoing review pursuant to Section 11.03(3)(b)(6) because it involves construction, reconstruction or expansion of a pile-supported structure of 2,000 or more sf base area, Section 11.03(3)(b)(3) because it will involve dredging of 10,000 or more cubic feet of material, and Section 11.03(3)(b)(1)(f) because it will involve alteration of more than one half acre of wetlands. The proposed project will require a Chapter 91 License and a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP) and an Order of Conditions from the Plymouth Conservation Commission (and, on appeal only, a Superseding Order from MassDEP). The project will also require a Section 404 Permit from the Army Corps of Engineers and may be subject to a Coastal Zone Management (CZM) federal consistency review. The project may also require a National Pollutant Discharge

The proponent should provide plans and additional information during permitting as further detailed in the MassDEP and CZM comment letters. The Chapter 91 License application should include a delineation of existing and historic mean high water and mean low water marks pursuant to 310 CMR 9.02, as well as previously issued Chapter 91 Licenses and Permits for the site. The Vine Associates natural resource survey (September 2004) referenced in the ENF should be included with the submission of the Notice of Intent (NOI).

#### *Marine Resource Protection*

The proponent should ensure that appropriate containment devices such as bottom-weighted silt curtains are employed around the work site from February 1 through May 30 to protect winter flounder spawning and juvenile development. The proponent should develop a marine management plan that is consistent with the CZM/EEA Massachusetts Clean Marina Guide. This plan should address issues including, but not limited to, boat cleaning, engine maintenance, bilge water handling, spill response, boat sewage and wastewater management, solid and hazardous waste management. All existing and construction debris should be removed from within the work area and either recycled or properly disposed of in accordance with applicable regulations. The proponent should explore drainage alternatives that would improve the quality of the water running off the pier. The NOI should address consistency with the MassDEP's Stormwater Policy.

#### *Ocean Sanctuaries Act*

The Department of Conservation and Recreation (DCR) has determined that the project is situated within the boundaries of the Cape Cod Bay Ocean Sanctuary. DCR is responsible for care and control of the state-designated ocean sanctuary under the Massachusetts Ocean Sanctuaries Act, M.G.L. c. 132A, section 12A et seq ("the Act) and implementing regulations (302 CMR 5.00 et seq.). The proposed project falls within the meaning of a serious alteration under 302 CMR 5.04 and is subject to regulation under the Act. The project will be required to meet the Public Necessity and Convenience standard identified in 302 CMR 5.04, which requires that all state permitting agencies consider certain criteria, including:

- Whether the facility or use, if any, existing at the time the agency approval is requested is inadequate;
- Whether the public demonstrates a need for the facility or use;
- If appropriate state or local public officials deem the facility or use necessary for the public's safety or welfare;
- Whether the proposed facility or use will serve the public interest; and
- The extent to which existing uses or facilities will be affected by the proposed facility or use.

The proponent should address the above issues during the permit process and demonstrate how the proposed project is consistent with the provisions of the Act and its regulations.

I refer the proponent to the comment letter from MassDEP regarding appropriate response actions that may be applicable to the project pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) if the project results in upland disposal of any contaminated media or debris.

A number of issues remain to be addressed regarding the proposed project. However, I have determined that the ENF has sufficiently defined the nature and general elements of the project and that the project may proceed to the permitting agencies. No further MEPA review is required for the project.

January 9, 2008

DATE



Ian A. Bowles, Secretary

Comments Received:

11/27/07	Department of Fish and Game, Office of Fishing and Boating Access
12/27/07	Massachusetts Board of Underwater Archaeological Resources
12/28/07	Department of Environmental Protection, Southeast Regional Office
12/31/07	Office of Coastal Zone Management
12/31/07	Department of Conservation and Recreation
01/03/08	Department of Fish and Game, Office of Fishing and Boating Access (2nd letter)
01/04/08	Division of Marine Fisheries

IAB/AE/ae

# 14139

AE

Commonwealth of Massachusetts  
Department of Fish and Game

**OFFICE OF FISHING AND BOATING ACCESS**

1440 Soldiers Field Road, Brighton, MA 02135

Tel. (617)727-1843

Fax. (617)727-7214

John P. Sheppard, Director

November 20, 2007

RECEIVED

NOV 27 2007

Secretary Ian A. Bowles  
Executive Office of Energy & Environment  
Attn: MEPA Office  
100 Cambridge Street, Suite 900  
Boston, MA 02114

MEPA

Re: T Wharf Reconstruction, Plymouth, MA

Dear Mr. Bowles:

I am in receipt of an ENF filing for the above referenced project and offer the following comments. The proposed T Wharf Reconstruction project is located adjacent to the Department of Fish and Game, Office of Fishing and Boating Access (OFBA) Plymouth Harbor public boat ramp facility. This facility was originally constructed by the commonwealth in 1980 with improvements made as recently as 2005. The boat ramp is managed by the Town of Plymouth through a Land Management Agreement with the OFBA.

The proposed "L" shape pier, dinghy floats and their associated uses are very close to the existing public boat ramp and as proposed will likely have a negative impact to boaters and will restrict any future planned expansion of the boat ramp. The plan does not show the location of the existing moorings or the existing pier, gangway and floating dock system located on the north side of the boat ramp. This information is necessary to fully understand the potential impact to navigation in the area. At a minimum, a 100' setback shall be kept from the boat ramp and proposed "L" shape pier and 25' setback from the boat ramp and the proposed dinghy floats.

If you have any questions, please contact me.

Sincerely,



Douglas H. Cameron  
Assistant Director and Deputy Chief Engineer

Cc: Russell Titmuss, Bourne Consulting

AE



The COMMONWEALTH OF MASSACHUSETTS  
 BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES  
 OFFICE OF COASTAL ZONE MANAGEMENT  
 251 Causeway Street, Suite 800, Boston, MA 02114-2136  
 Tel. (617) 626-1200 Fax (617) 626-1240 Web Site: [www.mass.gov/czm/buar/index.htm](http://www.mass.gov/czm/buar/index.htm)

December 17, 2007

Ian A. Bowles, Secretary  
 Executive Office of Energy and Environmental Affairs  
 Attention: Aisling Eglington, MEPA Unit  
 100 Cambridge Street, Suite 900  
 Boston, MA 02114



RE: T Wharf Reconstruction, Plymouth (EOEA #14139)

Dear Secretary Bowles:

The staff of the Massachusetts Board of Underwater Archaeological Resources has reviewed the above referenced proposed project as detailed in the *Environmental Monitor* of 26 November 2007 and offers the following comments.

The Board has conducted a preliminary review of its files and secondary literature sources to identify known and potential submerged cultural resources in the proposed project area. No record of any underwater archaeological resources was found within the proposed project boundaries. However, the historical record indicates the occurrence of at least sixteen (16) shipwrecks in the Plymouth vicinity during the period of 1702-1847 for which locations are vague. Therefore, the Board cannot conclude that there are no submerged historic cultural resources in the proposed project area. Furthermore, the loss of earlier and smaller coastal vessels and the purposeful abandonment of obsolete or damaged vessels are generally not found in the documentary record.

Additionally, the general landscape of Plymouth Harbor suggests the potential for the occurrence of Native American (Pre-Contact Period) sites. Archaeological research indicates that certain types of environmental and topographical settings, particularly those that offered diverse resources on a consistent or seasonal basis, are strongly associated with the presence of prehistoric archaeological deposits. Such settings include the interface of land and water such as riparian systems consisting of rivers, creeks, and estuaries and bays. Therefore, the Board is concerned that heretofore unknown submerged Native American sites may be located within the project area.

For the area of proposed improvement dredging, the Board suggests that at the minimum, a desktop sensitivity study and visual survey be conducted at the site by a qualified marine archaeologist. The potential of the project area to yield both Pre-Contact and Post-Contact Period sites (shipwrecks) can be measured by the archaeological analysis of geophysical data (e.g. vibratory core samples) that might have been previously collected in support of the proposed project. Through analysis by a qualified marine archaeologist, this data should provide information regarding:

- (1) the potential for (now inundated and buried) site occurrence and preservation in the project area; and
- (2) whether the extent of dredging activity would have an impact on buried sites.

Should heretofore unknown submerged cultural resources be encountered during the course of the project, the Board expects that the project's sponsor will take steps to limit adverse affects and notify the Board, as well as other appropriate agencies, immediately in accordance with the Board's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources* (updated 9/28/06).

The Board appreciates the opportunity to provide these comments as part of the MEPA review process. Should you have any questions please do not hesitate to contact me at (617) 626-1141 or by email at [victor.mastone@state.ma.us](mailto:victor.mastone@state.ma.us).

Sincerely,



Victor T. Mastone  
Director

Cc: Brona Simon, MHC  
Bob Boeri, MCZM  
Jason Burtner, MCZM  
Kate Atwood, USACE  
Cheryl Andrews –Maltais, Wampanoag Tribe of Gay Head (Aquinnah)

MEMORANDUM

TO: Aisling Eglington, Environmental Reviewer, MEPA Unit

THROUGH: Jonathan Hobill, Acting Deputy Regional Director,  
Bureau of Resource Protection  
David Johnston, Deputy Regional Director, BWP  
Millie Garcia-Serrano, Deputy Regional Director, BWSC  
Gary Moran, Regional Director

CC: Elizabeth Kouloheras, Chief, Wetlands  
Richard Keith, Chief, Municipal Services  
David Burns, Team Leader, South Coastal Watershed  
Gerard Martin, Chief, Site Management

FROM: Sharon Stone, SERO MEPA Coordinator

DATE: December 31, 2007

RE: ENF EOEEA #14139 – PLYMOUTH – T- Wharf Construction  
Town Wharf

\*\*\*\*\*

"For Use in Intra-Agency Policy Deliberations"

The Southeast Regional Office of the Department of Environmental Protection (MassDEP) has reviewed the Environmental Notification Form (ENF) for the proposed T- Wharf construction to be located at the Town Wharf, Plymouth, Massachusetts (EOEEA #14139). The project proponent provides the following information for the project:

**“The proposed project involves reconfiguration, reconstruction and expansion of the Town Pier/T-Wharf to increase the size of the pier from 7,780 square feet (sf) to 18,360 sf. The project will result in approximately one acre of dredging. Total wetlands impacts are estimated in the ENF at 66,000 sf. Approximately 10,000 - 12,000 cubic yards of material will be disposed off-shore at the Massachusetts Bay Disposal Site (MBDS).**

**Permits listed in the ENF to be sought for the project include the following:**

**Order of Conditions  
Chapter 91 License  
401 Water quality Certification”**

The South Coastal Watershed Team has reviewed the ENF and indicates the following comments.

The Wetlands and Waterways Program has reviewed the proposal to reconstruct and expand the Town Pier/T-Wharf and perform associated improvement dredging. The project requires an Order of Conditions under the Wetlands Protection Act, a 401 Water Quality Certification (WQC) and a Chapter 91 License. The following comments are based on a review of the ENF, the MEPA consultation meeting (12/6/2007) and supplemental plans and information received on 12/20/2007.

#### Waterways Comments

- Plans submitted with the Chapter 91 License Application shall include a delineation of the existing and historic mean high water and mean low water marks pursuant to 310 CMR 9.02. The application shall also include copies of previously issued Chapter 91 Licenses and Permits for the site.
- At the 12/6/07 MEPA consultation meeting, the MassDEP expressed concerns regarding the potential for congested navigation in the area between the State boat ramp and the proposed pier. The revised plan "Proposed Pier Layout, T Wharf Reconstruction", dated December 2007, now shows the transient floats positioned against the pier and their length has been reduced. This plan modification adequately addressed the concerns of the Department.
- The submission of the "Proposed Dredge Plan, T Wharf Reconstruction", dated March 2007 and revised project narrative satisfactorily answers the many questions and concerns raised at the 12/6/07 MEPA meeting. As shown on Proposed Dredge Plan, there will be no dredging of the intertidal area and the dredge limits should not interfere with the stability of the adjacent stone revetment.
- Pursuant to the Waterways Regulations at 310 CMR 9.36, the project shall not significantly disrupt any water-dependent use in operation. At the 12/6/07 MEPA meeting, the Proponent indicated that several users of the existing docks would be relocated to the main town pier and the lobstermen had no objection to the loss of existing boat ramp. With the submission of the Chapter 91 License Application, the Proponent shall provide specific information regarding the relocation of existing water-dependent uses and a description of the mitigation and/or compensation measures provided by the project.

#### Wetland Comments

- The ENF indicates that no eel grass or shellfish were observed at the project site and references a Vine Associates natural resource survey of the inner harbor done in September, 2004. The details of this survey should be included with the submission of the Notice of Intent.

- As presented in the ENF, the project appears to meet the performance standards for improvement dredging pursuant to the Wetland Regulations at 310 CMR 10.25(3).
- The ENF indicates that the proposed pier will have a surface area in excess of 18,000 sq.ft. and will accommodate vehicles to load and off-load the fishing vessels. At the 12/6/07 MEPA meeting, it was stated that the project does not include measures to control storm water run-off. The MassDEP recommends that the Proponent explore drainage alternatives that would improve the quality of the water running off the pier. Of particular concern is the potential for oil, gas and hydraulic fluid spills on the pier with direct discharge to the water. Compliance with the MassDEP's Stormwater Policy should be addressed in the submission of the Notice of Intent.

#### Construction Activities - EPA

The project construction activities may disturb one or more acres of land and therefore, may require a NPDES Stormwater Permit for Construction Activities. The proponent can access information regarding the NPDES Stormwater requirements and an application for the Construction General Permit at the EPA website:

<http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>

#### Bureau of Waste Site Cleanup

Based on the information provided in the ENF, the Bureau of Waste Site Cleanup (BWSC) searched its database for disposal sites and release notifications. The subject project was not listed as a current site. In addition, no other disposal sites were listed in the immediate vicinity of the proposed project. The Project Proponent is advised that response actions pursuant to the Massachusetts Contingency Plan, 310 CMR 40.0000 may be necessary for the project.

For this project, dredging will be conducted to increase the depth of water around the pier. The dredge material is poorly suited for beneficial reuse due to the silt and clay content. Based on a 2005 USACE study for the dredging of Plymouth Harbor, it is anticipated that the dredge material will be suitable for offshore disposal. Upland disposal would likely require dewatering and disposal at a licensed landfill, which will be cost prohibitive.

In the event that upland disposal is used, in accordance with 310 CMR 40.0032(2), contaminated media and contaminated debris containing one or more hazardous materials at levels equal to or greater than an applicable Reportable Concentration specified in 310 CMR 40.0300 and 40.1600, and which are not a hazardous waste, shall be managed under the Bill of Lading process described in 310 CMR 40.0034 or under a Hazardous Waste Manifest in accordance with 310 CMR 30.000 when they are transported from a disposal site.

The MassDEP Southeast Regional Office appreciates the opportunity to comment on this

proposed project. If you have any questions regarding these comments, please contact Sharon Stone at (508) 946-2846.



**THE COMMONWEALTH OF MASSACHUSETTS**

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS  
OFFICE OF COASTAL ZONE MANAGEMENT  
251 Causeway Street, Suite 800, Boston, MA 02114-2136  
(617) 626-1200 FAX (617) 626-1740

**MEMORANDUM**

TO: Ian Bowles, Secretary, EOEEA  
ATTN: Aisling Eglington, MEPA Unit  
FROM: Leslie-Ann McGee, Director, CZM *L.A. McGee*  
DATE: December 31, 2007  
RE: EOEA 14139, T-Wharf Reconstruction; Plymouth

The Massachusetts Office of Coastal Zone Management (CZM) has completed its review of the above-referenced Environmental Notification Form (ENF), noticed in the Environmental Monitor dated November 26, 2007, and does not recommend further MEPA review. However, CZM believes there are outstanding project and design considerations, described below, that should be addressed through permitting.

CZM would like to take this opportunity to commend the Town of Plymouth for undertaking this initiative as it directly supports CZM's goals of preserving and enhancing water-dependent activities and improving public coastal access opportunities. CZM would like to extend the offer of technical assistance and work with the proponent to help address the issues articulate below for the successful implementation of this project.

**Project Description**

The project, as proposed, includes the reconfiguration, reconstruction, and expansion of a municipal wharf that it currently over-utilized by commercial fishing boat operators and in an advanced state of deterioration. The existing structure is insufficient to meet commercial needs and current use patterns, such as the rafting of multiple vessels, and precludes the efficient use of loading/offloading, fueling, and pumpout facilities. The existing structure also provides little opportunity for public access to this portion of the waterfront. The proposed wharf will increase the area of the pier from 7,780 S.F to 18,360 S.F. and is designed to alleviate vessel congestion and provide improved access for loading, fueling, pumpout and maintenance operations. The current fueling operation will be relocated to the adjacent Town Pier where it will be in closer proximity to existing vessel pumpout facility. This project will require an Order of Conditions, a Chapter 91 License, a 401 Water Quality Certificate, and a Section 404 Permit from the Army Corps of Engineers.

Although not proposed as part of this project there are two associated waterfront initiatives that dove-tail with this infrastructure project. The town is currently in the planning phases of projects for the dredging of portions of the municipal anchorage area and a project to improve public access and amenities to the waterfront. Both of these efforts involved work at and adjacent to this project site. CZM believes that the current project can proceed as a "stand alone" project but that components of the associated project should be considered within this filing.



## **Project Comments**

### *Marine Resources*

The ENF indicates the expanded wharf facility will improve access for a number of vessel activities, including maintenance. Developed areas, such as marinas, boatyards, and commercial pier facilities have the potential to collect/concentrate pollutants of all types which can then be discharged to and impact adjacent resource areas. CZM recommends that in order to minimize the potential impacts to resource areas the proponent should develop a marine management plan that is consistent with the CZM/EOEA Massachusetts Clean Marina Guide. We recommend that the Management Plan address issues including, but not limited to: boat cleaning; engine maintenance; bilge water handling; spill response (vessel and fueling operation); boat sewage and wastewater management; solid waste management; and hazardous waste management. CZM would be happy to work with the proponent with regards to development of a marine management plan.

### *Public Access and Existing Water Dependent Uses*

Plans for the proposed pier expansion depict a pile supported public boardwalk that originates on the Town Pier, wraps seaward of Woods Seafood, and transitions to a waterside public walkway (currently occupied by vehicle parking) and eventually joins with an existing walkway adjacent to the Lobster Hut. The proposed wharf originates on the Town Pier which supports a variety of recreational fishing and whale watch activities that attract a large volume of pedestrian traffic. At the MEPA site visit the proponent indicated that the town is in the planning stages of an initiative to improve public access and amenities in this area. CZM recommends the proponent use this opportunity to advance the access/amenities plan at this location to address commercial/recreational/pedestrian uses at this site in order to address potential safety and competing use issues at this congested location.

It is CZM's understanding that there may be existing water dependent activities taking place at the proposed project site not related to commercial fishing operations. CZM recommends that the applicant describe how the project as proposed complies with waterways regulations which prohibit displacement of any water-dependent use. The proponent should provide information concerning the current status of such water-dependent operations, including but not limited to any arrangements the applicant has made for them to continue at the site or at an alternative location having physical attributes, including proximity to the water, and associated business conditions.

### *Dredging*

As proposed, dredging will be performed at this site but will be permitted and performed as part of the municipal Inner Harbor Dredging Project. All dredging at the T-Wharf site will be improvement dredging, will be performed by mechanical means, and it is anticipated that the dredge material will be disposed at the Massachusetts Bay Disposal Site (MBDA). Biological assessment is on-going. The proposed dredge footprint will be approximately 56,507 SF and dredge depth will be between -6.0 to -10.0 with a one foot overdredge. The proponent has conducted a natural resource assessment survey of the area and no eelgrass or shellfish were observed.

CZM looks forward to reviewing the complete Inner Harbor Dredging Project filing and will provide comment as part of our review of the comprehensive dredge project. CZM would be happy to work with the proponent, in a pre-application technical assistance capacity, as the larger dredging project feasibility and design process proceeds.

**Federal Consistency Review**

The proposed project may subject to CZM federal consistency review, which requires that the project be found to be consistent with CZM's enforceable program policies. For further information on this process, please contact Robert Boeri, Project Review Coordinator, at 617-626-1050 or visit the CZM web site at [www.mass.gov/czm](http://www.mass.gov/czm).

LSM/jb

cc: Jason Burtner,  
CZM South Shore Regional Coordinator  
Robert Boeri  
CZM Dredging Coordinator  
Liz Kouloheras  
Southeast Regional Office, MA DEP  
David Hill  
Southeast Regional Office, MA DEP  
Karen Adams, Chief,  
Regulatory Branch, NED, US Army Corps of Engineers  
Vincent Malkoski  
MA DMF  
David Gould  
Town of Plymouth, Department of Natural Resources  
11 Lincoln St. Plymouth, MA 20360

**dcr**  
Massachusetts



December 31, 2007

Secretary Ian A. Bowles  
EOEA, Attn: MEPA Office  
Aisling Eglinton, EOEA No. 14139  
100 Cambridge Street, Suite 900  
Boston, MA 02114



RE: T-Wharf Reconstruction, Plymouth, MA – EOEA # 14139

Dear Secretary Bowles:

The Department of Conservation and Recreation (DCR) has reviewed the Environmental Notification Form (ENF) and supplemental information submitted by the Town of Plymouth (the Town) in connection with certain proposed dredging activity at the Town Pier/T-Wharf Reconstruction in Plymouth, MA. According to the ENF, the project includes reconfiguration, reconstruction, and expansion of the Plymouth Town Pier and T-Wharf. Reconstruction and expansion of the pier and T-Wharf will increase the area of the bottom-anchored structures by approximately 11,000 square feet. The project will also increase the area currently occupied by dinghy docks and transient floats; and will require approximately 1.3 acres of improvement dredging to provide adequate access and berthing for commercial vessels. The Town further proposes that the dredging activities will take place independently of the proposed project as part of a larger effort that will require further MEPA review. Based on the foregoing project description, DCR submits the following comments.

### The Ocean Sanctuaries Act

DCR has determined that this project is situated within the boundaries of the Cape Cod Bay Ocean Sanctuary. G. L. c. 132A, § 13(b). Consequently, DCR is responsible for the care and control of the state-designated ocean sanctuary under the Massachusetts Ocean Sanctuaries Act, M. G. L. c. 132A, §§ 12A, et seq. (“the Act”)<sup>1</sup> and implementing regulations (302 CMR 5.00 et seq.). Specifically, DCR is required to ensure, inter alia, that the ocean sanctuaries are protected from any exploitation, development or activity that would seriously alter or otherwise endanger the ecology or the appearance of the ocean, the seabed, or subsoil thereof, or the Cape Cod National Seashore. G. L. c. 132A, § 14; and 302 CMR 5.09.

<sup>1</sup> Section 14 of the Act states that all ocean sanctuaries “shall be protected from any exploitation, development, or activity that would significantly alter or otherwise endanger the ecology or the appearance of the ocean, the seabed, or subsoil thereof, or the Cape Cod National Seashore.” While Section 16 identifies those permitted activities within the duly established sanctuaries, Section 15 describes activities prohibited in ocean sanctuaries, including “the building of any structure on the seabed or under the subsoil.”

COMMONWEALTH OF MASSACHUSETTS · EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

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Deval L. Patrick  
Governor

Timothy P. Murray  
Lt. Governor

Ian A. Bowles, Secretary, Executive  
Office of Energy & Environmental Affairs

Richard K. Sullivan, Jr., Commissioner  
Department of Conservation & Recreation

Here, DCR finds that the following proposed project activities fall within the meaning of a serious alteration under 302 CMR 5.04, and accordingly subject the project to regulation under the Act:

- removing, excavating, or dredging any soil, sand, gravel, or other minerals or aggregate material of any kind in any significant amounts;
- driving pilings or erecting buildings, structures or obstructions of any kind of any significant size or quantity, whether or not they interfere with the flow of water; and
- significantly increasing the development of already developed areas.

DCR further notes that projects such as this are required to meet the Public Necessity and Convenience standard identified in 302 CMR 5.04. This standard requires all state permitting agencies consider certain criteria, including:

- whether the facility or use, if any, existing at the time the agency approval is requested is inadequate;
- whether the public demonstrates a need for the facility or use;
- if appropriate state or local public officials deem the facility or use necessary for the public's safety or welfare;
- whether the proposed facility or use will serve the public interest; and
- the extent to which existing uses or facilities will be affected by the proposed facility or use.

In light of the foregoing, DCR requests that the proponent address the issues cited above and demonstrate how the project may be consistent with the provisions of the Act and its regulations. DCR staff are available for consultation on these requirements. Please contact Marilyn McCrory at (617) 626-1423 with any questions or to request additional information or coordination with the Department.

DCR appreciates the opportunity to comment on this project.

Sincerely,



Richard K. Sullivan, Jr.  
Commissioner

cc: David Gould, Town of Plymouth  
Russell Titmuss, Bourne Consulting Engineering  
Robert Boeri, CZM  
Jason Burtner, CZM  
Vincent Malkoski, DMF

**Marilyn McCrory, DCR**  
**Michael Driscoll, DCR Waterways**

## Eglington, Aisling (EEA)

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**From:** Malkoski, Vincent (FWE)  
**Sent:** Friday, January 04, 2008 2:41 PM  
**To:** Eglington, Aisling (EEA)  
**Cc:** Feeney, Eileen (FWE)  
**Subject:** EOE 14139, Plymouth T-Wharf

Aisling,

As discussed during the site visit, we believe that the reconstruction of the Plymouth T-Wharf can and should take place independent of the proposed dredging within this portion of the harbor. Recognizing that some proposed uses of the pier and the construction/use of some ancillary structures cannot take place without dredging, reconstruction and expansion of the pier is necessary to support use of the harbor by commercial fishing vessels. We also support the placement of a service float below the current Harbormaster's office to provide access for fuel and pump-out. This is a substantial improvement over the previous facilities.

We offer the following conservation recommendations for your consideration:

- During demolition and construction, we recommend that appropriate containment devices such as bottom-weighted silt curtains be employed around the work site from February 1 through May 30 to protect winter flounder spawning and juvenile development.
- All existing and construction debris should be removed from the bottom within the work area and disposed of at an upland location.
- Opportunities for enhanced public access and improved storm water treatment should be identified and implemented.

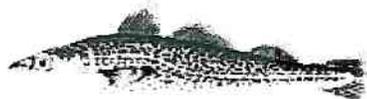
Comments and recommendations regarding proposed dredging will be provided during the review of that phase of the project. If you have any questions about these comments, please contact Eileen Feeney at 508-910-6305.

Thank you

Vin

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Vin Malkoski  
MA Division of Marine Fisheries  
838 South Rodney French Blvd  
New Bedford, MA 02744  
508-910-6318 Fax: 508-910-6342



**Marine Fisheries**

Division of Marine Fisheries

AE

**Commonwealth of Massachusetts  
Department of Fish and Game**

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**OFFICE OF FISHING AND BOATING ACCESS**

1440 Soldiers Field Road, Brighton, MA 02135  
Tel. (617)727-1843 Fax. (617)727-7214  
John P. Sheppard, Director

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January 2, 2008

Secretary Ian A. Bowles  
Executive Office of Energy & Environment  
Attn: MEPA Office  
100 Cambridge Street, Suite 900  
Boston, MA 02114

Re: T Wharf Reconstruction, Plymouth, MA  
MEPA File No. 14139



Dear Mr. Bowles:

I am in receipt of revised information via email dated December 20, 2007 regarding the ENF filing for the above referenced project and offer the following comments.

The revised Sheet 4, Proposed Pier Layout relocates the floating docks and addresses our concern relative to the original location for the dinghy floats. However, the parking spaces associated with the boat ramp facility are for boat ramp use only and cannot be used for other purposes. Therefore, use of any of the boat ramp parking spaces for activities relating to the "transient floats" or other non-approved activities will not be allowed. Also, please note that the set back from the boat ramp to the "transient floats" measures approximately 68' when measured perpendicular to the closest point of the boat ramp. The location of the "L" shaped pier is still a concern relative to the impact on navigation near the boat ramp.

If you have any questions, please contact me.

Sincerely,

Douglas H. Cameron  
Assistant Director and Deputy Chief Engineer

Cc: Russell Titmuss, Bourne Consulting



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ENGINEERING

December 31, 2007

Secretary Ian A. Bowles  
EOEA, Attn: MEPA Office  
Aisling Eglinton, EOE No. 14139  
100 Cambridge Street, Suite 900  
Boston, MA 02114

RE: T-Wharf Reconstruction, Plymouth, MA – EOE # 14139

Dear Secretary Bowles:

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Richard K. Sullivan, Jr.  
Commissioner

cc: David Gould, Town of Plymouth  
Russell Titmuss, Bourne Consulting Engineering  
Robert Boeri, CZM  
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Vincent Malkoski, DMF

Marilyn McCrory, DCR  
Michael Driscoll, DCR Waterways

Commonwealth of Massachusetts  
Department of Fish and Game

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John P. Sheppard, Director

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January 2, 2008

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Executive Office of Energy & Environment  
Attn: MEPA Office  
100 Cambridge Street, Suite 900  
Boston, MA 02114

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MEPA File No. 14139

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