



The State of New Hampshire APR 21 '20 AM 8:19 DAS
Department of Environmental Services



Robert R. Scott, Commissioner

April 20, 2020

His Excellency, Governor Christopher T. Sununu
and The Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Approve the Portsmouth Development Authority (PDA), Division of Ports and Harbors' request to perform the following work on the PDA's Commercial Fish Pier in Portsmouth. File # 2019-02560. This project will not have significant impact on or adversely affect the values of the local fishing operations in the region.

Impact a total of 9,100 square feet (SF) of previously developed upland tidal buffer zone and tidal surface water at the Pease Development Authority's Portsmouth Commercial Fish Pier to repair an existing failing seawall, repair existing paved surface, replace an existing floating dock, installation of new fender piles, and repair existing rip rap. Retain approximately 1,000 SF of temporary impact to stabilize the existing failing seawall that was conducted under an Emergency Authorization issued on August 16, 2019.

The New Hampshire Department of Environmental Services (NHDES) imposed the following conditions as part of this approval:

1. All work shall be in accordance with plans by Appledore Marine Engineering, LLC dated December 2019 as received by the NH Department of Environmental Services (NHDES) on February 24, 2020.
2. This permit is not valid and effective until it has been recorded with the Rockingham County Registry of Deeds by the applicant. Prior to starting work under this permit, the permittee shall submit a copy of the recorded permit to the NHDES Wetlands Bureau by certified mail, return receipt requested.
3. Not less than 5 state business days prior to starting work authorized by this permit, the permittee shall notify the NHDES Wetlands Bureau Pease office and the local conservation commission in writing of the date on which work under this permit is expected to start.
4. Any future work in jurisdiction as specified in RSA 482-A on this property will require a new application and approval by the NHDES Wetlands Bureau.
5. No person undertaking any activity shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards in RSA 485-A and New Hampshire Administrative Rule Env-Wq 1700.
6. No work shall occur waterward of the steel sheet piles without first obtaining approval by the NHDES Wetlands Bureau.
7. Work within surface waters shall be done during low tide.

8. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain in until the area is stabilized.
9. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
10. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas.
11. All construction-related debris shall be properly disposed of outside of the areas subject to RSA 482-A.
12. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

EXPLANATION

The NHDES approved this project on March 17, 2020. The NHDES supported its decision with the following findings:

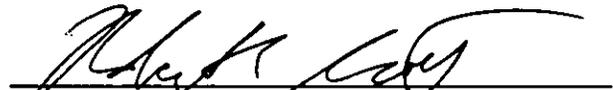
1. This is a Major Project per New Hampshire Administrative Rule Env-Wt 303.02(a), projects in sand dunes, tidal wetlands, or bogs, except for the repair of existing structures pursuant to Env-Wt 303.04(v).
2. On August 16, 2019, the applicant obtained Emergency Authorization from the NHDES Wetlands Bureau to temporarily impact tidal surface waters to stabilize the existing failing seawall until such time that funding is secured for a permanent solution.
3. This project is located at the Pease Development Authority - Portsmouth Commercial Fish Pier which supports local fishing operations in the region. The facility provides customers with fuel, bait, ice, and loading equipment; and, is in close proximity to roadway infrastructure to transport fish to market.
4. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the NHDES' jurisdiction per New Hampshire Administrative Rule Env-Wt 302.03.
5. The applicant has demonstrated by plan and example that each factor listed in New Hampshire Administrative Rule Env-Wt 302.04(a) and (c), Requirements for Application Evaluation, has been considered in the design of the project.
6. The applicant will be utilizing a barge and crane to complete construction of the seawall to minimize impacts to the wetland resource.
7. The NH Natural Heritage Bureau (NHB) reported a sensitive plant species and two sensitive vertebrate species within the project vicinity (NHB19-3781).
8. In correspondence dated December 2, 2019, the NHB does not have concern that the sensitive plant species will be impacted by the proposed work.
9. In correspondence dated February 19, 2020, the NH Fish and Game Department does not have concern that the sensitive vertebrate species will be impacted by the proposed work.
10. In correspondence dated January 13, 2020, the Portsmouth Conservation Commission recommended approval of the project, as proposed.
11. On March 12, 2020, the NHDES staff field inspection verified that the proposed project is accurately represented in the application plans.

His Excellency, Governor Christopher T. Sununu
and The Honorable Council
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12. In accordance with RSA 482-A:8, the NHDES finds that the requirements for a public hearing do not apply as the permitted project is not of substantial public interest, and will not have a significant impact on or adversely affect the values of the estuarine resource, as identified under RSA 482-A:1.

Application file documents are being forwarded to the Governor and the Executive Council in connection with their consideration of this matter pursuant to RSA 482-A:3,II.(a) as it is a major project in public waters of the state.

We respectfully request your approval of this item.



Robert R. Scott
Commissioner



WETLANDS PERMIT APPLICATION

Water Division/ Wetlands Bureau
Land Resources Management



Check the status of your application: www.des.nh.gov/onestop

RSA/Rule: RSA 482-A/ Env-Wt 100-900

<div style="border: 2px solid black; padding: 5px; font-size: 2em; font-weight: bold; letter-spacing: 5px;">RECEIVED</div> <p>DEC 11 2019</p> <p>NHDES LAND RESOURCES MANAGEMENT</p>	<div style="border: 1px solid black; padding: 5px; font-size: 1.5em; font-weight: bold;">COMPLETE</div> <p>DEC 13 2019</p>	<p>2019-02560</p> <p>V# 4489100</p> <p>\$ 6,160.00</p> <p>RS</p>
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1. REVIEW TIME: Indicate your Review Time below. To determine review time, refer to Guidance Document A for instructions.

Standard Review (Minimum, Minor or Major Impact)
 Expedited Review (Minimum Impact only)

2. MITIGATION REQUIREMENT:
If mitigation is required, a Mitigation-Pre Application meeting must occur prior to submitting this Wetlands Permit Application. To determine if mitigation is required, please refer to the Determine if Mitigation is Required Frequently Asked Questions.

Mitigation Pre-Application Meeting Date: Month: ___ Day: ___ Year: ___

N/A - Mitigation is not required

3. PROJECT LOCATION:
Separate wetland permit applications must be submitted for each municipality within which wetland impacts occur.

ADDRESS: 1 Pierce Island Road		TOWN/CITY: Portsmouth
TAX MAP: 208	BLOCK:	LOT: 1A
USGS TOPO MAP WATERBODY NAME: Atlantic Ocean		UNIT:
<input checked="" type="checkbox"/> NA		STREAM WATERSHED SIZE: <input type="checkbox"/> NA
LOCATION COORDINATES (if known):		<input type="checkbox"/> Latitude/Longitude <input type="checkbox"/> UTM <input type="checkbox"/> State Plane

4. PROJECT DESCRIPTION:
Provide a brief description of the project outlining the scope of work. Attach additional sheets as needed to provide a detailed explanation of your project. DO NOT reply "See Attached" in the space provided below.

The proposed project is for the repair of the failing paved surface, 6,800 sf, replacement of the floating dock, 700 sf, repair of some of the failing riprap, 550 sf, proposed fender pile, 50 sf, and replacement of the failing bulkhead, 1,000sf. Total impacts are 9,100 sf.

5. SHORELINE FRONTAGE:

N/A This does not have shoreline frontage. SHORELINE FRONTAGE: **638'**

Shoreline Frontage is calculated by determining the average of the distances of the actual natural navigable shoreline frontage and a straight line drawn between the property lines, both of which are measured at the normal high water line (Env-Wt 101.89).

6. RELATED NHDES LAND RESOURCES MANAGEMENT PERMIT APPLICATIONS ASSOCIATED WITH THIS PROJECT:
Please indicate if any of the following permit applications are required and, if required, the status of the application.
To determine if other Land Resources Management Permits are required, refer to the Land Resources Management Webpage.

Permit Type	Permit Required	File Number	Permit Application Status
Alteration of Terrain Permit Per RSA 485-A:17	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	_____	<input type="checkbox"/> APPROVED <input type="checkbox"/> PENDING <input type="checkbox"/> DENIED
Individual Sewerage Disposal per RSA 485-A:2	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	_____	<input type="checkbox"/> APPROVED <input type="checkbox"/> PENDING <input type="checkbox"/> DENIED
Subdivision Approval Per RSA 485-A	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	_____	<input type="checkbox"/> APPROVED <input type="checkbox"/> PENDING <input type="checkbox"/> DENIED
Shoreland Permit Per RSA 483-B	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	_____	<input type="checkbox"/> APPROVED <input type="checkbox"/> PENDING <input type="checkbox"/> DENIED

7. NATURAL HERITAGE BUREAU & DESIGNATED RIVERS:
See the Instructions & Required Attachments document for instructions to complete a & b below.

a. Natural Heritage Bureau File ID: NHB 19 - 3781

b. This project is within a Designated River corridor. The project is within 1/4 mile of: _____; and date a copy of the application was sent to the Local River Management Advisory Committee: Month: ___ Day: ___ Year: ___

N/A - This project is not within a Designated River corridor.

irm@des.nh.gov or (603) 271-2147

NHDES Wetlands Bureau, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095

www.des.nh.gov

8. APPLICANT INFORMATION (Desired permit holder)

LAST NAME, FIRST NAME, M.I.: **Marconi, Geno**

TRUST / COMPANY NAME: **PDA Division of Ports and Harbors**

MAILING ADDRESS

TOWN/CITY:

STATE:

ZIP CODE:

EMAIL or FAX:

PHONE:

ELECTRONIC COMMUNICATION: By initialing here: _____, I hereby authorize NHDES to communicate all matters relative to this application electronically.

9. PROPERTY OWNER INFORMATION (If different than applicant)

LAST NAME, FIRST NAME, M.I.: **Same**

TRUST / COMPANY NAME:

MAILING ADDRESS:

TOWN/CITY:

STATE:

ZIP CODE:

EMAIL or FAX:

PHONE:

ELECTRONIC COMMUNICATION: By initialing here _____, I hereby authorize NHDES to communicate all matters relative to this application electronically.

10. AUTHORIZED AGENT INFORMATION

LAST NAME, FIRST NAME, M.I.: **Elwood, Noah; J**

COMPANY NAME: **Appledore Marine Engineering, LLC**

MAILING ADDRESS: **600 State Street, Suite E**

TOWN/CITY: **Portsmouth**

STATE: **NH**

ZIP CODE: **03801**

EMAIL or FAX: **nelwood@appledoremarine.com**

PHONE: **603-766-1870**

ELECTRONIC COMMUNICATION: By initialing here **NJE**, I hereby authorize NHDES to communicate all matters relative to this application electronically.

11. PROPERTY OWNER SIGNATURE:

See the Instructions & Required Attachments document for clarification of the below statements

By signing the application, I am certifying that:

1. I authorize the applicant and/or agent indicated on this form to act in my behalf in the processing of this application, and to furnish upon request, supplemental information in support of this permit application.
2. I have reviewed and submitted information & attachments outlined in the Instructions and Required Attachment document.
3. All abutters have been identified in accordance with RSA 482-A:3, I and Env-Wt 100-900.
4. I have read and provided the required information outlined in Env-Wt 302.04 for the applicable project type.
5. I have read and understand Env-Wt 302.03 and have chosen the least impacting alternative.
6. Any structure that I am proposing to repair/replace was either previously permitted by the Wetlands Bureau or would be considered grandfathered per Env-Wt 101.47.
7. I have submitted a Request for Project Review (RPR) Form (www.nh.gov/nhdhr/review) to the NH State Historic Preservation Officer (SHPO) at the NH Division of Historical Resources to identify the presence of historical/ archeological resources while coordinating with the lead federal agency for National Historic Preservation Act (NHPA) 106 compliance.
8. I authorize NHDES and the municipal conservation commission to inspect the site of the proposed project.
9. I have reviewed the information being submitted and that to the best of my knowledge the information is true and accurate.
10. I understand that the willful submission of falsified or misrepresented information to the NHDES is a criminal act, which may result in legal action.
11. I am aware that the work I am proposing may require additional state, local or federal permits which I am responsible for obtaining.
12. The mailing addresses I have provided are up to date and appropriate for receipt of NHDES correspondence. NHDES will not forward returned mail.

⇒ 
Property Owner Signature

Geno J. Marconi
Print name legibly

12/16/2019
Date

MUNICIPAL SIGNATURES

12. CONSERVATION COMMISSION SIGNATURE

The signature below certifies that the municipal conservation commission has reviewed this application, and:

1. Waives its right to intervene per RSA 482-A:11;
2. Believes that the application and submitted plans accurately represent the proposed project; and
3. Has no objection to permitting the proposed work.

	Print name legibly	Date
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DIRECTIONS FOR CONSERVATION COMMISSION

1. Expedited review ONLY requires that the conservation commission's signature is obtained in the space above.
2. Expedited review requires the Conservation Commission signature be obtained prior to the submittal of the original application to the Town/City Clerk for signature.
3. The Conservation Commission may refuse to sign. If the Conservation Commission does not sign this statement for any reason, the application is not eligible for expedited review and the application will be reviewed in the standard review time frame.

13. TOWN / CITY CLERK SIGNATURE

As required by Chapter 482-A:3 (amended 2014), I hereby certify that the applicant has filed four application forms, four detailed plans, and four USGS location maps with the town/city indicated below.

	Kell. L. Barnaby Print name legibly	Portsmouth Town/City	12-9-19 Date
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DIRECTIONS FOR TOWN/CITY CLERK:

Per RSA 482-A:3,1

1. For applications where "Expedited Review" is checked on page 1, if the Conservation Commission signature is not present, NHDES will accept the permit application, but it will NOT receive the expedited review time.
2. IMMEDIATELY sign the original application form and four copies in the signature space provided above;
3. Return the signed original application form and attachments to the applicant so that the applicant may submit the application form and attachments to NHDES by mail or hand delivery.
4. IMMEDIATELY distribute a copy of the application with one complete set of attachments to each of the following bodies: the municipal Conservation Commission, the local governing body (Board of Selectmen or Town/City Council), and the Planning Board; and
5. Retain one copy of the application form and one complete set of attachments and make them reasonably accessible for public review.

DIRECTIONS FOR APPLICANT:

1. Submit the single, original permit application form bearing the signature of the Town/ City Clerk, additional materials, and the application fee to NHDES by mail or hand delivery.

irm@des.nh.gov or (603) 271-2147

NHDES Wetlands Bureau, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095

www.des.nh.gov

14. IMPACT AREA:

For each jurisdictional area that will be/has been impacted, provide square feet and, if applicable, linear feet of impact.

Permanent: impacts that will remain after the project is complete.

Temporary: impacts not intended to remain (and will be restored to pre-construction conditions) after the project is completed.

Intermittent Streams: linear footage distance of disturbance is measured along the thread of the channel.

Perennial Streams/ Rivers: the total linear footage distance is calculated by summing the lengths of disturbance to the channel and each bank.

JURISDICTIONAL AREA	PERMANENT Sq. Ft. / Lin. Ft.	TEMPORARY Sq. Ft. / Lin. Ft.
Forested wetland	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Scrub-shrub wetland	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Emergent wetland	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Wet meadow	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Intermittent stream channel	/	/
Perennial Stream / River channel	/	/
Lake / Pond	/	/
Bank - Intermittent stream	/	/
Bank - Perennial stream / River	/	/
Bank - Lake / Pond	/	/
Tidal water	1,600 /	/
Salt marsh	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Sand dune	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Prime wetland	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Prime wetland buffer	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Undeveloped Tidal Buffer Zone (TBZ)	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Previously-developed upland in TBZ	6,800	<input type="checkbox"/> ATF
Docking - Lake / Pond	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Docking - River	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Docking - Tidal Water	700	<input type="checkbox"/> ATF
Vernal Pool	<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
TOTAL	9,100 /	/

15. APPLICATION FEE: See the Instructions & Required Attachments document for further instruction

Minimum Impact Fee or Fee for Non-enforcement related, publicly-funded and supervised restoration projects, regardless of impact classification (see RSA 482-A:3, 1(c)): Flat fee of \$ 400

Minor or Major Impact Fee: Calculate using the below table below

Permanent and Temporary (non-docking) 8,400 sq. ft. X \$0.40 = \$ 3,360.00

Temporary (seasonal) docking structure: _____ sq. ft. X \$2.00 = \$ _____

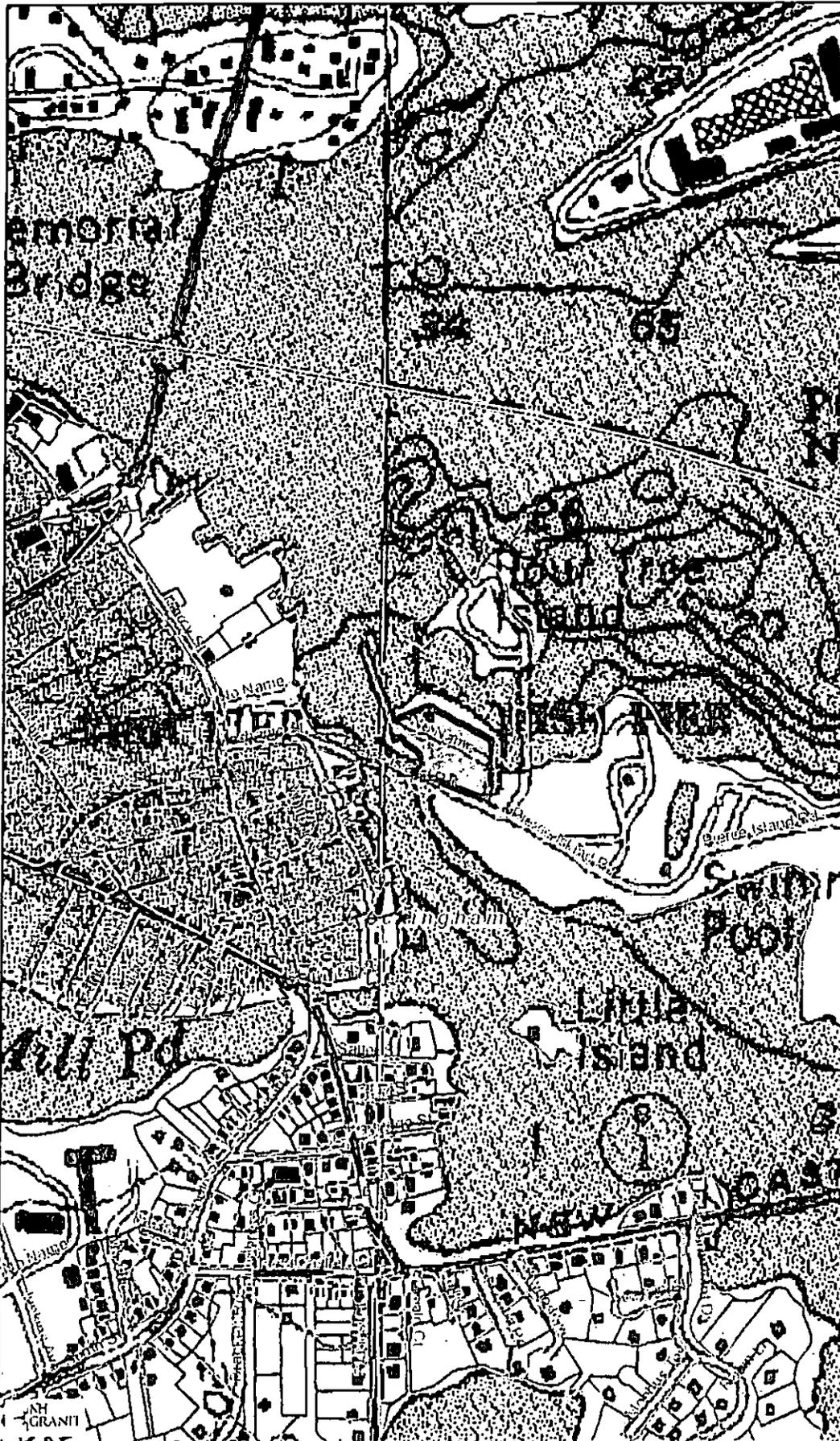
Permanent docking structure: 700 sq. ft. X \$4.00 = \$ 2,800.00

Projects proposing shoreline structures (including docks) add \$400 = \$ _____

Total = \$ 6,160.00

The Application Fee is the above calculated Total or \$400, whichever is greater = \$ 6,160.00

Map by NH GRANIT



Legend

- Polygons
- State
- County
- City/Town

RECEIVED
DEC 11 2019
NHDES
LAND RESOURCES MANAGEMENT

Map Scale

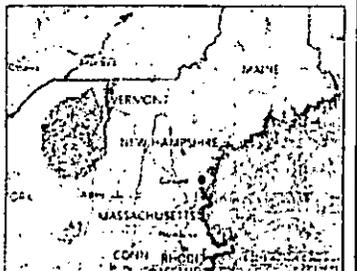
1: 6,494



© NH GRANIT, www.granit.unh.edu

Map Generated: 12/4/2019

Notes



CONFIDENTIAL – NH Dept. of Environmental Services review

Memo



NH NATURAL HERITAGE BUREAU
NHB DATACHECK RESULTS LETTER

To: Luke Hurley, Gove Environmental Services, Inc.
8 Continental Drive
Exeter, NH 03833

From: Amy Lamb, NH Natural Heritage Bureau

Date: 11/22/2019 (valid for one year from this date)

Re: Review by NH Natural Heritage Bureau

NHB File ID: NHB19-3781

Town: Portsmouth

Location: Tax Maps: 208-1A

Description: The proposed project is for the repair of the failing paved surface, 6,800 sf, replacement of the floating dock, 700 sf, repair of some of the failing riprap, 550 sf, proposed fender pile, 50 sf and replacement of the failing bulkhead, 1,000sf. Total impacts are 9,100 sf.

cc: Kim Tuttle

As requested, I have searched our database for records of rare species and exemplary natural communities, with the following results.

Comments: Please send NHB site plans (existing and proposed conditions), and photos of the proposed impact areas, taken during the growing season. Contact the NH Fish & Game Department; there are federally-listed marine wildlife species that have been documented in the area.

Plant species

marsh elder (*Iva frutescens*)

State¹ Federal Notes

T

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Threats are primarily alterations to the hydrology of the wetland, such as ditching or tidal restrictions that might affect the sheet flow of tidal waters across the intertidal flat, activities that eliminate plants, and increased input of nutrients and pollutants in storm runoff.

Vertebrate species

Atlantic Sturgeon (*Acipenser oxyrinchus*)

State¹ Federal Notes

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Contact the NH Fish & Game Dept and the US Fish & Wildlife Service (see below).

Shortnose Sturgeon (*Acipenser brevirostrum*)

E

E

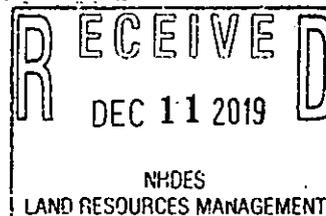
Contact the NH Fish & Game Dept and the US Fish & Wildlife Service (see below).

¹Codes: "E" = Endangered, "T" = Threatened, "SC" = Special Concern, "-" = an exemplary natural community, or a rare species tracked by NH Natural Heritage that has not yet been added to the official state list. An asterisk (*) indicates that the most recent report for that occurrence was more than 20 years ago.

Contact for all animal reviews: Kim Tuttle, NH F&G. (603) 271-6544.

A negative result (no record in our database) does not mean that a sensitive species is not present. Our data can only tell you of known occurrences, based on information gathered by qualified biologists and reported to our office. However, many areas have never been surveyed, or have only been surveyed for certain species. An on-site survey would provide better information on what species and communities are indeed present.

Department of Natural and Cultural Resources
Division of Forests and Lands
(603) 271-2214 fax: 271-6488



DNCR/NHB
172 Pembroke Rd.
Concord, NH 03301

LIST OF ABUTTERS

As defined as any person who owns property immediately adjacent and contiguous to the property on which the project will take place.

Tax Map-Lot Number

Subject Parcel

208-1A

PDA Division of Ports & Harbors

555 Market Street

Portsmouth, New Hampshire 03801

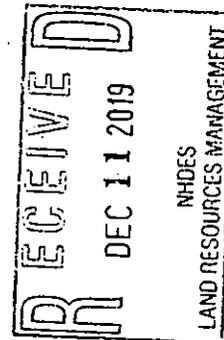
Abutter/Owner of Concern

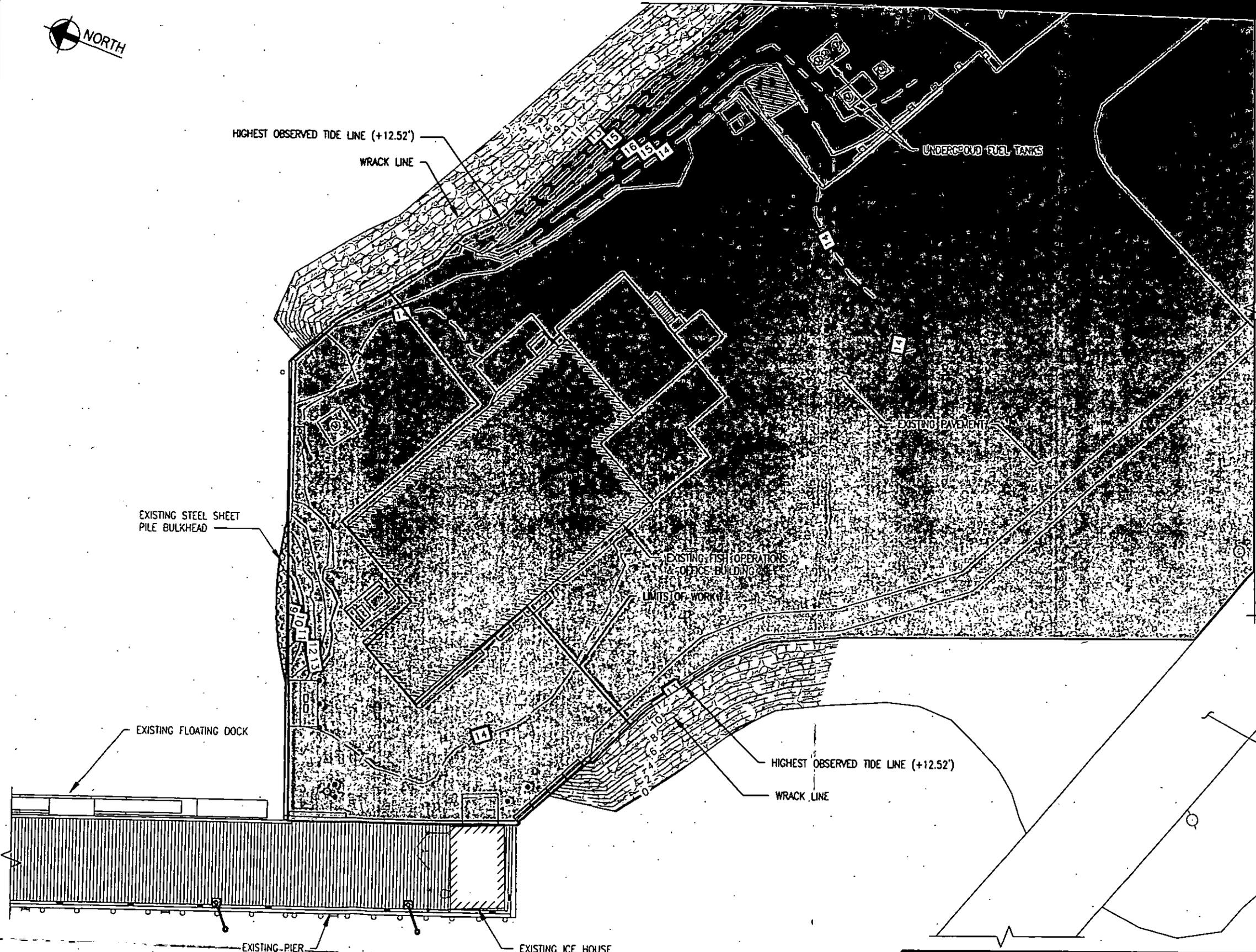
208-001

City of Portsmouth

1 Junkins Avenue

Portsmouth, NH 03801



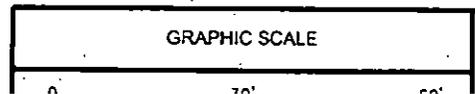


REFERENCE	MLLW
DECK ELEVATION	14.00
BASE FLOOD ELEVATION (BFE)	12.86
HIGHEST OBSERVED TIDE (02/07/1978)	12.52
HIGHEST ASTRONOMICAL TIDE (HAT) (06/15/1995)	10.52
MEAN HIGHER HIGH WATER (MHHW)	8.84
MEAN HIGH WATER (MHW)	8.43
NORTH AMERICAN VERTICAL DATUM (NAVD88)	4.62
MEAN SEA LEVEL (MSL)	4.43
MEAN TIDE LEVEL (MTL)	4.38
NATIONAL GEODETIC VERTICAL DATUM (NGVD29)	3.86
MEAN LOW WATER (MLW)	0.32
MEAN LOWER LOW WATER (MLLW)	0.00
LOWEST ASTRONOMICAL TIDE (LAT)	-1.67
LOWEST OBSERVED WATER LEVEL (11/30/1955)	-3.35

THE LOCAL TIDAL DATUM INFORMATION AND THE RELATIONSHIP BETWEEN LOCAL TIDE AND NAVD88 IS BASED ON DATA PUBLISHED BY THE U.S. DEPARTMENT OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NATIONAL OCEAN SERVICE FOR STATION "SEAVEY ISLAND, PORTSMOUTH HARBOR", STATION ID: 8419870, TIDAL EPOCH 1983-2001.

- LEGEND:**
- 100 — MAJOR CONTOUR LINE
 - - - 95 - - - MINOR CONTOUR LINE
 - (M) MANHOLE
 - ☼ FIRE HYDRANT
 - BOLLARD

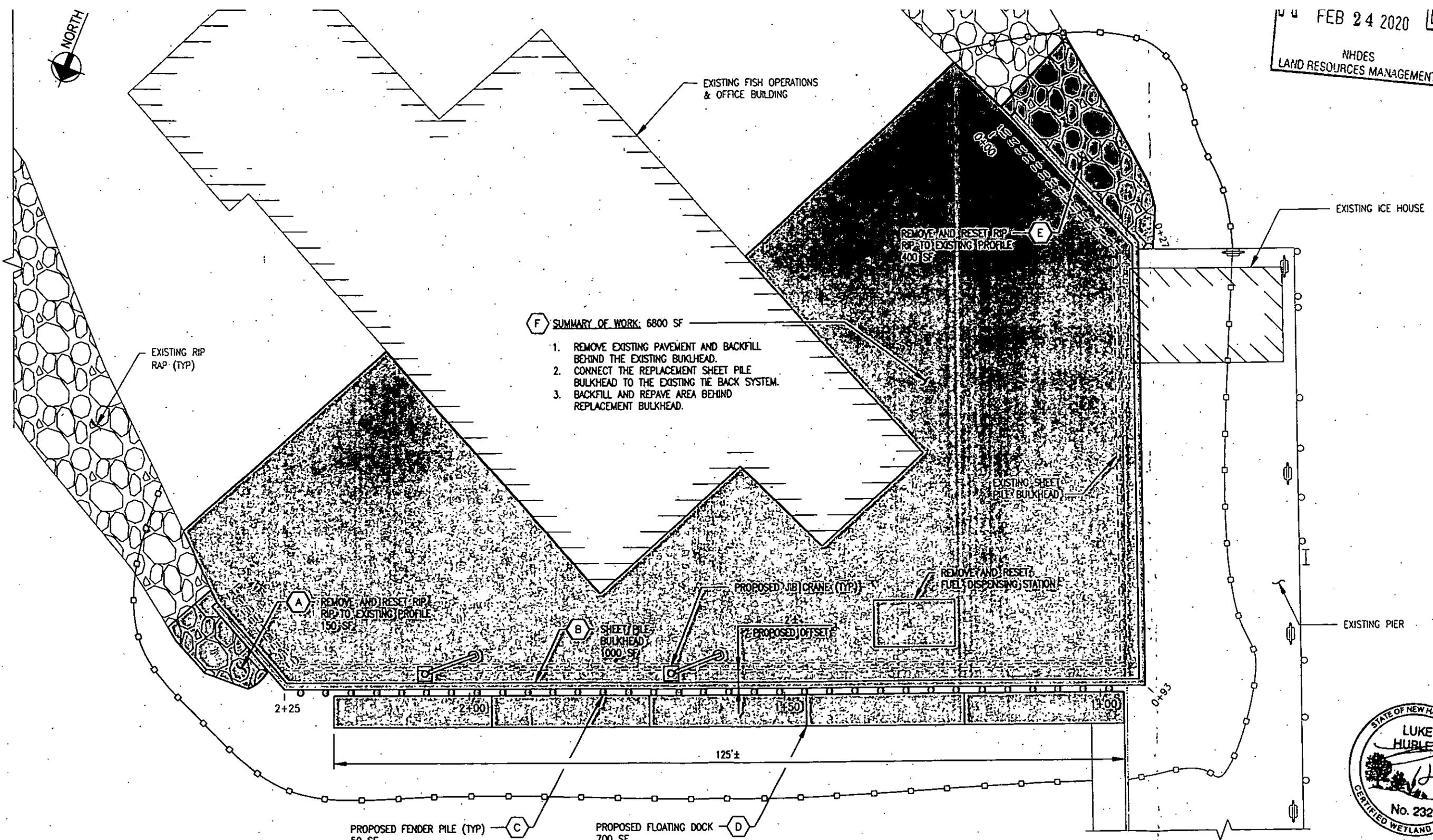
LEGEND:
 100 FOOT TIDAL BUFFER ZONE (TBZ)



DATE

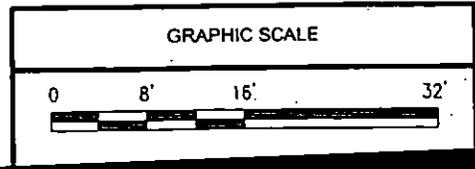
Appledore Marine Engineering, LLC

PEASE DEVELOPMENT AUTHORITY
 DIVISION OF PORTS AND HARBORS
 PORTSMOUTH, NH



- F SUMMARY OF WORK: 6800 SF**
1. REMOVE EXISTING PAVEMENT AND BACKFILL BEHIND THE EXISTING BULKHEAD.
 2. CONNECT THE REPLACEMENT SHEET PILE BULKHEAD TO THE EXISTING TIE BACK SYSTEM.
 3. BACKFILL AND REPAVE AREA BEHIND REPLACEMENT BULKHEAD.

- LEGEND:**
- 0+00 | STATION DESIGNATION
 - [Hatched Box] APPROXIMATE LIMITS OF PROPOSED WORK
 - (A) IMPACT INDICATION
 - - - - - SILT BOOM & TURBIDITY CURTAIN



DATE
 DECEMBER 2019

Appledore Marine Engineering, LLC

PEASE DEVELOPMENT AUTHORITY
 DIVISION OF PORTS AND HARBORS
 PORTSMOUTH, NH

PORTSMOUTH FISH PIER PORTSMOUTH, NH FIG. NO.
 BULKHEAD REHABILITATION

