

Environmental Assessment

SH Rockland Marina Expansion

Rockland, ME

*Prepared for Maine Department of Transportation in cooperation with USFWS for Boating
Infrastructure Grant F19AP00378*



SAFE HARBOR
— **ROCKLAND** —

50 Ocean Street
Rockland, ME 04841

July 2022

ATM
A Geosyntec Company

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1. Project Overview

1.1. Introduction

The proposed project is an expansion of the existing Safe Harbor Rockland marina to provide additional and improved docking capacity and infrastructure, particularly for transient vessels (i.e., vessels staying for relatively short periods of time at the marina). The subject site, located at 60 Ocean Street in Rockland, Maine, is owned by Safe Harbor Marinas (SHM) and consists of 4.78 acres which includes the intertidal land along the entire frontage of the parcel. The proposed expansion of the marina facility would occur in Rockland Harbor and adjacent to the Rockland Harbor Channel.

The project's general location is shown in Figure 1.1-1, below.

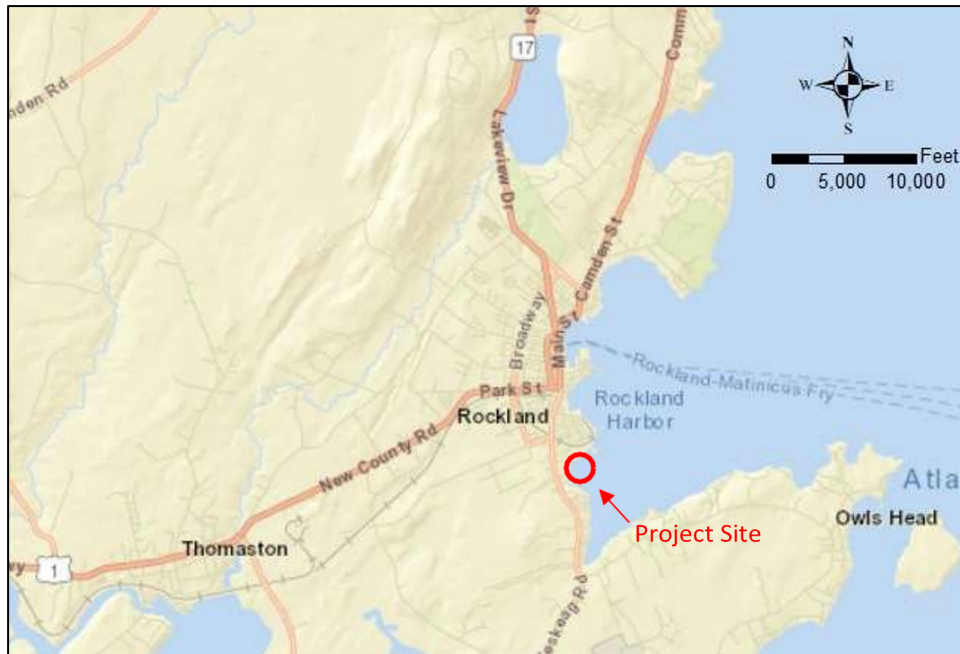


Figure 1.1-1: Project Location

An existing marina at the site provides approximately 720 linear feet (lf) of side-tie dockage for a wide variety of vessels up to 200 feet (ft) in length. An aerial image of the existing marina facility is provided in Figure 1.1-2.



Figure 1.1-2: Existing Marina and Site

An environmental assessment (EA) is required to ensure compliance with the National Environmental Policy Act (NEPA). Specifically, an EA is required as the marina expansion project would be funded in part with federal funds via a Boating Infrastructure Grant (BIG) awarded for the project through the United States Fish and Wildlife Service (USFWS, the federal grant funding agency). The Maine Department of Transportation (MDOT, the state grant funding administration agency) is the grant recipient and would pass the federal funding monies through to SHM.

This EA analyzes various alternatives: a no-action alternative and three action alternatives, including the Proposed Action. The EA assesses the potential impacts that the identified alternatives may have on the physical and social environment.

1.2. Proposed Action

The Proposed Action would expand the existing marina to provide more slips and new/improved utilities at the subject site. Key components of the Proposed Action include dredging, installation of new floating docks and associated utilities, installation of a new fixed gangway access platform and 80' ADA-compliant gangway, improvements to an existing upland gazebo, and a landward extension of an existing fixed pier. See Section 2.1.4 for a complete description of the Proposed Action. Drawings illustrating the Proposed Action are provided as Appendix A.

1.3. Purpose and Need

The purpose of the Proposed Action is to provide additional and improved dockage, new/improved marina utilities and amenities, enhanced experience for the boating public, and enhanced recreational opportunities for the general public.

Rockland Harbor is currently underserved by the existing marina facilities in the harbor. More specifically, the proposed marina expansion would provide additional dockage for transient vessels, in keeping with

the BIG program’s intended purpose to “construct, renovate, and maintain tie-up facilities with features for transient boaters in vessels 26 feet or more in length”.

The need for the project is demonstrated by a shortage of available dockage for recreational vessels, particularly transient vessels, in Rockland Harbor. There are currently only four (4) commercial marinas located in Rockland that offer transient dockage (including the subject facility). The amount of dockage available at these facilities is insufficient to meet current and anticipated demand for transient dockage, noting that the need for additional transient dockage in the harbor is provided for general context and project understand and has little to no bearing on the environmental impacts associated with the project.

1.4. Compliance with Applicable Statutes, Regulations and Guidelines

Use of the federal BIG funding for the project is contingent on compliance with local, state, and federal laws and regulations. Regulatory authorizations for the Proposed Action have been sought and approved by both state and federal entities as memorialized in the following approved permits and authorizations:

- MDEP Beneficial Use of Dredged Material Permit (reference MDEP permit No. S-022546-W3-A-N, Appendix B.1)
- MDEP Natural Resources Protection Act (NRPA) Permit (reference MDEP NRPA permit No. L-20376-4P-P-N/L-20386-4E-Q-N, Appendix B.2)
- USACE Maine General Permit (GP) Authorization Letter (reference USACE permit No. NAE-2021-01934, Appendix B.3)

Agency review during the approvals process for the above-referenced permits included consultation with various state and federal entities related to the applicable statutes, regulations, and guidelines considered in this EA. Please see the following list of applicable agencies that were consulted with through the process:

- U.S. Army Corps of Engineers
- NMFS, USFWS, EPA through USACE regulatory authority and consultation (reference permits in Appendix B)
- Maine Department of Environmental Protection
- Maine Historic Preservation Commission
- Maine Department of Marine Resources
- Maine Department of Inland Fisheries and Wildlife
- Maine Natural Areas Program
- State-Recognized Tribes: Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe of Indians, and Penobscot Indian Nation
- City of Rockland, Maine
- Rockland Board of Harbor Commissioners

Elements of this project that required demonstration of compliance with applicable statutes, regulations and guidelines considered in this EA are described in the following sections. It is noted that permit issuance by the various regulatory authorities is predicated on compliance with the appropriate regulatory frameworks of the issuing entities.

1.4.1. Historical and Current Land Use

The Farmland Protection Policy Act (FPPA) requires federal programs to minimize actions that contribute to the irreversible conversion of farmland, particularly prime and unique farmland, to other uses. The FPPA specifically excludes areas that are water and urban built-up land under existing conditions. Based on these two criteria, the proposed project area would not constitute farmland as identified by the U.S. Department of Agriculture (USDA) and, therefore, has been dismissed as a potential impact in this EA.

1.4.2. Air Quality and Noise

The U.S. Environmental Protection Agency (EPA) is authorized by the 1990 Clean Air Act Amendments (CAAA) and the National Ambient Air Quality Standards (NAAQS) to protect public health and welfare by regulating emissions of hazardous air pollutants. MDEP collaborates with local, state, and federal agencies to implement strategies to protect Maine's air quality and administer air quality programs under the Clean Air Act and state law. It monitors air quality across the state, licenses emissions from larger facilities, and conducts compliance assistance and inspection visits.

Under authority of the CAAA, the EPA established the National Ambient Air Quality Standards (NAAQS) that define allowable limits for atmospheric concentrations of various criteria air pollutants. Primary standards are established at levels designed to protect the public health. Secondary standards are established at levels designed to protect the public welfare by accounting for the effects of air pollution on vegetation, soil, materials, visibility, and other aspects of the general welfare. Standards for the following pollutants are provided in the NAAQS: carbon monoxide (CO), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), ozone (O₃), Lead (Pb), and particulate matter (PM 2.5, particles less than or equal to 2.5 micrometers in diameter).

The project is not a significant source of these pollutants given that it is an expansion of an existing use that is in compliance with the relevant regulatory requirements. Vessels in the facility will utilize gasoline or diesel engines when navigating to and from the marina berths. Combustion engines of this type are regulated at the manufacturer level to ensure that they are in compliance with federal regulatory requirements. The increase in air pollution discharge associated with the expansion of the facility is minimal and similar to current practice. Shore power will be provided to the docks to encourage the use of electrical power from the local grid as opposed to generating power through the vessels' onboard gas or diesel fueled generators, noting that onboard generators are more typical on larger vessels and not all vessels visiting the marina will have onboard gas/diesel generators.

Moderate noise impacts may be expected during the construction of the proposed marina expansion. Specifically, pile driving activities are expected to present the most significant potential for increases in ambient noise levels in the immediate vicinity of the project. However, pile driving activities will be conducted in accordance with any established City noise ordinances, will be conducted during normal daylight hours, and will be temporary in nature. These noise impacts during construction will be no greater than is typical for construction activities of this type.

Once construction is complete, the primary potential for long-term noise impacts will arise from increased boat traffic approaching or leaving the marina due to the use of gasoline or diesel engines when underway. A high volume of boat traffic is already present within this part of the harbor and engines of this type are regulated at the manufacturer level to ensure compliance with applicable federal noise standards. Specifically, nearby uses include a cruise ship terminal, boat mooring field, commercial tugboat operation, and passenger ferry terminal that generate higher levels of noise than the increase in recreational vessels that will be visiting the expanded marina facility. As such, the Proposed Action will result in *de minimis* increases to long-term ambient noise levels in the vicinity of the project.

1.4.3. Water Resources

The Clean Water Act (CWA) provides the federal regulatory authority for the restoration and protection of the chemical, physical, and biological integrity of the nation's waters. Activities conducted below ordinary high water (OHW) within navigable waters of the United States are also regulated through the Rivers and Harbors Act of 1899. The construction of wharfs, piers, jetties, and other structures in navigable waterways are specifically regulated under Section 10 of the Rivers and Harbors Act.

The existing marina is located adjacent to Rockland Harbor, which has a marine water classification zone of SC per Maine's designated use and classification system. Class SC waters are the third highest classification and as defined by §465-B of the Maine Revised Statutes (Title 38: Waters and Navigation) have the following characteristics:

- Class SC waters must be of such quality that they are suitable for recreation in and on the water, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as a habitat for fish and other estuarine and marine life.
- The dissolved oxygen content of Class SC waters must not be less than 70% of saturation. There are specific levels that enterococcus bacteria of human and domestic animal origin need to be at.
- Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to receiving waters and maintain the structure and function of the resident biological community.

The Proposed Action is an expansion of existing use of the facility which is in compliance with relevant regulatory requirements relative to water resources. The discharge associated with the Proposed Action is limited to clean water and partial dredge dewatering, which are acceptable discharge types for SC zone waters. Additional water and wastewater needs for the proposed marina expansion will be provided by the City of Rockland municipal water systems. As such, the Proposed Action is in compliance with applicable regulatory requirements.

Executive Order 11998, Floodplain Management, requires that actions of federal agencies avoid to the extent possible the adverse impacts associated with the modification of floodplains. The Federal Emergency Management Agency (FEMA) has published a Flood Insurance Study (FIS) for Knox County that identifies the elevation of the 1 percent annual exceedance probability (commonly known as the 100-year flood event) for the project area. The Proposed Action is in compliance with applicable FEMA floodplain requirements for construction.

The Proposed Action does not include filling in the floodplain and the extent of bathymetric modification is insufficient to alter local water conveyance. The Proposed Action does not restrict the flow of water or adversely affect the projected flood elevations of the area.

1.4.4. Biological Resources

The USFWS and National Oceanic and Atmospheric Administration (NOAA) are responsible for overseeing and assessing potential impacts to species listed as endangered or threatened under the Endangered Species Act (ESA). Consultation with these agencies regarding relevant ESA species was a requirement for issuance of the existing USACE permit for this project. Under the ESA, NOAA has jurisdiction over listed marine mammals, marine fish, and sea turtles and USFWS has jurisdiction over all other listed species.

Maine’s Endangered Species Program was developed via the passage of the Maine Endangered Species Act (MESA) in 1975. Maine’s Department of Inland Fisheries and Wildlife (MDIFW) implements MESA. The Commissioner of the Department of Marine Resources has the authority to list and conserve endangered and threatened marine species in the state. Endangered and threatened plants are the responsibility of Maine’s Department of Agriculture, Conservation and Forestry through the Maine Natural Areas Program.

USFWS’s Maine Ecological Services Field Office (MESFO) has been consulted with regard to potential threatened or endangered species that may be present in the proposed project area or affected by the Proposed Action as required by Section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S. Code 1531 et seq.). An Official Species List of potential threatened or endangered species in the area of the Proposed Action was provided by USFWS and MESFO and is included as Appendix C. The listed and candidate species identified by MESFO that may be potentially impacted and the anticipated effects of the Proposed Action on each is described in Table 1.4.4-1.

Table 1.4.4-1: USFWS MESFO Potentially Impacted Species

Table 1.4.4-1: USFWS Maine Ecological Services Field Office - Potentially Impacted Species			
Species Name	Scientific Name	Description	Anticipated Effects
Northern Long-eared Bat	<i>Myotis septentrionalis</i>	The Northern Long-eared Bat is a threatened species under 50 CFR Part 17 (Citation Page 81 FR 2470724714) and is currently being considered for Endangered status. The 4(d) Final Rule for the Northern Long Eared Bat restricts alterations to potential hibernacula (caves, mines, and other locations where bats hibernate in winter) as well as activities involving tree removal.	As the Proposed Action does not involve any alterations to hibernacula or removal of trees, the Proposed Action will have No Effect on the species.
Roseate Tern	<i>Sterna dougallii dougallii</i>	The Roseate Tern is a nesting bird species categorized as endangered in the Northeastern U.S., including Maine. Per 50 CFR Part 17 (Citation Page 52 FR 4206442068), the primary potential impacts of concern for the species that could potentially occur from the Proposed Action is related to destruction, modification, or curtailment of its habitat or range, and specifically impacts to the birds' nesting areas which typically occurs on small coastal islands.	Given that the Proposed Action is an expansion of an existing use and occurs water and will not affect any known existing or potential nesting grounds or habitat for this species, the Proposed Action will have No Effect on the species.
Atlantic Salmon	<i>Salmo salar</i>	The Atlantic Salmon is an endangered fish species in the Gulf of Maine (GOM) Distinct Population Segment (DPS) Per 50 CFR Part 17 (Citation Page 74 FR 2934429387), dams are among the leading causes of both historical declines and contemporary low abundance of the GOMDPS of Atlantic Salmon. Reduction in habitat complexity, habitat connectivity, water quantity, and water quality are also cited factors in species abundance and reproduction rates.	Given that the proposed action is located in an active harbor and is not anticipated to result in direct or indirect impacts to the habitat complexity/connectivity, and water quantity/quality, the Proposed Action is not likely to adversely affect the species.
Monarch Butterfly	<i>Danaus plexippus</i>	The Monarch Butterfly is a candidate species and is not yet listed or proposed for listing as either threatened or endangered. Per 50 CFR Part 17 (Citation Page 85 FR 8181381822), the primary threats to the specie's biological status includes the loss and degradation of habitat from conversion of grasslands to agriculture, widespread use of herbicides, logging operations, and similar human activities.	Given that the Proposed Action will occur over-water and will not impact potential habitat for the Monarch Butterfly, the Proposed Action will have No Effect on the species.

Note: See full MESFO Official species list in Appendix D.

In addition to the listed species identified by USFWS/MESFO and discussed above, NOAA threatened species in the New England/Mid-Atlantic region that may be potentially impacted by the project were identified and considered in this analysis. These species and the anticipated effects of the Proposed Action on each is described in Table 1.4.4-2.

Table 1.4.4-2: NOAA Potentially Impacted Species

Table 1.4.4-2. NOAA T&E Directory, New England/Mid-Atlantic Region			
Species Name	Scientific Name	Description	Anticipated Effects
Atlantic Salmon	<i>Salmo salar</i>	The Atlantic Salmon designated as an endangered fish species in the Gulf of Maine (GOM) Distinct Population Segment (DPS). According to NOAA's species directory, dams are among the leading causes of both historical declines and contemporary low abundance of the GOMDPS of Atlantic Salmon. Reduction in habitat complexity, habitat connectivity, water quantity, and water quality are also cited factors in species abundance and reproduction rates.	Given that the proposed action is located in an active harbor and is not anticipated to result in direct or indirect impacts to the habitat complexity/connectivity, and water quantity/quality, the Proposed Action is not likely to adversely affect the species.
Atlantic Sturgeon	<i>Acipenser oxyrhynchus oxyrhynchus</i>	The Atlantic Sturgeon is designated as a threatened species in the GOM DPS. According to NOAA's species directory: Primary threats to the species are entanglement in fishing gear, habitat degradation, habitat impediments such as dams and other barriers, and vessel strikes.	Given that fishing is not likely to occur in the active marina, the Proposed Action will not increase potential for entanglement fishing gear. Further, the Proposed Action will have no or negligible effects on habitat, will not cause habitat impediments, and will not significantly increase the likelihood for vessel strikes due to the existing active nature of the harbor for both commercial and recreational navigation, the Proposed Action is not likely to adversely affect the species.
Green Turtle	<i>Chelonia mydas</i>	The Green Turtle is designated as a threatened species within the North Atlantic DPS. Green Turtles are typically found in shallow tropical and sub-tropical waters as well as along coastline beaches in temperate regions that utilize major current systems when migrating to nesting areas. They are not typically found in cooler nearshore waters such as those at the subject site and their presence in the northern oceanic waters are more likely to occur in the warmer offshore waters of the gulf stream. According to NOAA's species directory: Primary threats include fishing bycatch, loss of habitat, vessel strikes, poaching, ocean pollutants and marine debris.	Given the species' propensity to inhabit coastal waters farther south or the offshore waters of the gulfstream (in northern areas), this species is not likely to frequent the waters in the project area. Further, there are no known breeding grounds for this species in the immediate project vicinity. Given the low likelihood of frequent presence in the project area, the Proposed Action is not likely to adversely affect the species.
Kemp's Ridley Turtle	<i>Lepidochelys kempii</i>	The Kemp's Ridley Turtle is designated as endangered throughout its range which includes the New England/Mid Atlantic region. The Kemps Ridley Turtles are a migratory species which spends nearly all of its life in the water in relative isolation. While the species can be found as far north as Maine, Nova Scotia, and Newfoundland on occasion, their primary habitat is in the warmer, temperate waters of the Gulf of Mexico. According to NOAA's species directory: Primary threats include fishing bycatch, loss of habitat, vessel strikes, poaching, ocean pollutants, marine debris, and climate change.	Given the species propensity to inhabit coastal waters farther south (specifically the Gulf of Mexico), this species is not likely to frequent the waters in the project area, though it is possible that they could be present in the summer months on very rare occasions. As such the Proposed Action is not likely to adversely affect the species.
Leatherback Turtle	<i>Dermochelys coriacea</i>	Leatherback Turtles are designated as endangered throughout their entire range which includes the New England/Mid-Atlantic region. The Leatherback Turtle is considered a pelagic species most often found in tropical waters but are known to inhabit temperate oceans around the world and may travel as far north as Maine, Nova Scotia, and Labrador. They are primarily pelagic, but will enter coastal waters when searching for food. According to NOAA's species directory, the Leatherback Turtles primary threats include: fishing bycatch, loss of habitat, vessel strikes, poaching, ocean pollutants, marine debris, and climate change.	Given the species tendency to stay in warmer offshore waters and primary habitats in more temperate or tropical regions, this species is not likely to frequent the waters in the immediate project area, though it is possible that they could be in the area on rare occasions. Further, there are no known breeding grounds for this species in the immediate project vicinity. Given the low likelihood of frequent presence in the project area and that breeding areas will not be affected, the Proposed Action is not likely to adversely affect the species.

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Table 1.4.4-2. NOAA T&E Directory, New England/Mid-Atlantic Region (cont.)			
Species Name	Scientific Name	Description	Anticipated Effects
Loggerhead Turtle	<i>Caretta caretta</i>	The Loggerhead Turtle is designated as a threatened species within the Northwest Atlantic Ocean DPS. Loggerhead turtles are a migratory species found in nearly all temperate and tropical oceans throughout the world. In the Atlantic they can be found from Newfoundland to Argentina but typically prefer temperate and tropical regions. During winter months these turtles migrate to tropical and subtropical waters. Juveniles are typically found among drifting <i>Sargassum</i> mats in warm ocean currents while older juveniles and adults are more often found in coastal waters. According to NOAA's species directory: The greatest cause of decline is thought to be incidental capture in fishing gear. Lesser causes of decline include beachfront development, disturbance of nesting females, and harvesting of adult turtles and eggs for human consumption.	While the species typically prefers warmer/temperate or coastal waters, they are highly migratory and it is possible that this species may be found in the project area on relatively infrequent occasions. There will be no fishing allowed at the project site and the amount of vessel traffic to/from the marina in the harbor will not significantly increase the commercial and recreational activities in the harbor. As such, there is no potential for inadvertent capture and the potential for vessel strikes is not significantly increased over current conditions. As such, the Proposed Action is not likely to adversely affect the species .
Shortnose Sturgeon	<i>Acipenser brevirostrum</i>	The Shortnose Sturgeon is designated as an endangered species in the GOM DPS. According to NOAA's species directory: Primary threats to this species are habitat degradation, water pollution, dredging, water withdrawals, fisheries bycatch, and habitat impediments (e.g., dams).	The proposed action includes a limited amount of dredging (~16,000 cy of excavated material) which could potentially affect the habitat during construction activities. Given that the dredging activities are limited in scale, will not cause significant changes in water quality over existing conditions, and does not involve any impediments to their habitat, the Proposed Action is not likely to adversely affect the species .
Sperm Whale	<i>Physeter macrocephalus</i>	The Sperm Whale is designated as endangered throughout its range which includes the New England/Mid-Atlantic region. The Sperm Whale has one of the widest global distributions of any marine mammal species. They hunt during deep dives and routinely reach depths of 2,000 feet. According to NOAA's species directory: Primary threats to the sperm whale include: vessel strikes, entanglement in fishing gear, ocean noise, marine debris, oil spills and contaminants, and climate change.	Given the relatively shallow waters and existing commercial and recreational activities in Rockland Harbor, this species is not expected to be found in the immediate project area and the Proposed Action is not likely to adversely affect the species .

Federally funded projects must also comply with the regulations associated with Essential Fish Habitat (EFH) as required by the Magnusson Stevens Fisheries Conservation Act. Species in the region for which EFH may be located at or near the subject site are listed in the NOAA EFH Mapper Report which is included as Appendix H and summarized in Table 1.4.4-3.

Table 1.4.4-3: NOAA EFH Mapper Report - Listed Species

Table 1.4.4-3: NOAA EFH Mapper Report - Listed Species	
Species Name	Scientific Name
Atlantic Sea Scallop	<i>Placopecten magellanicus</i>
Atlantic Wolffish	<i>Anarhichas lupus</i>
Winter Flounder	<i>Pseudopleuronectes americanus</i>
Little Skate	<i>Leucoraja erinacea</i>
Ocean Pout	<i>Zoarces americanus</i>
Atlantic Herring	<i>Clupea harengus</i>
Atlantic Cod	<i>Gadus morhua</i>
Pollock	<i>Pollachius</i>
Red Hake	<i>Urophycis chuss</i>
Silver Hake	<i>Merluccius bilinearis</i>
White Hake	<i>Urophycis tenuis</i>
Windowpane Flounder	<i>Scophthalmus aquosus</i>
Winter Skate	<i>Leucoraja ocellata</i>
American Plaice	<i>Hippoglossoides platessoides</i>
Smooth Skate	<i>Malacoraja senta</i>
Thorny Skate	<i>Amblyraja radiata</i>
Blufin Tuna	<i>Thunnus thynnus</i>
Atlantic Mackerel	<i>Scomber scombrus</i>
Bluefish	<i>Pomatomus saltatrix</i>

Given that the Proposed Action will occur at an existing marina facility in an existing active harbor, the potential impacts to EFH and associated species are minimal. Additionally, Best Management Practices (BMPs) for minimizing impacts to aquatic life activities will be implemented and applicable regulatory conditions will be adhered to throughout the course of construction activities. Specifically, the Proposed Action will be conducted in accordance with the special conditions of the USACE permit No. NAE-2021-01934 (Appendix B.2) and in keeping with the Essential Fish Habitat (EFH) conditions delineated in the EFH Determination Sheet (Appendix D), as follows:

- All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.
- Pile driving shall use a soft start technique in order to minimize potential effects to federally listed species. The soft start technique shall occur as follows: an initial set of three strikes for 15 sec. at reduced energy followed by a 1-minute waiting period between subsequent three-strike sets, followed immediately by pile driving at full rate and energy. The soft-start procedure shall be reinstated any time pile driving ceases for more than 30 minutes.

Assuming proper implementation of the BMPs and compliance with the permit special conditions, temporary impacts to endangered or threatened species are considered *de minimis* and there are no anticipated long-term direct or indirect adverse impacts to any endangered or threatened species or EFH.

1.4.5. Cultural Resources

The National Register of Historic Places (NHRP) lists cultural resources which are resources (e.g., building, site, structure, object, or district) that must generally be at least 50 years old and possess integrity of location, design, setting, materials, workmanship, feeling, and association and must possess a quality of significance in American history, architecture, engineering, and culture. In addition, the resource must meet at least one of the following four Criteria for Evaluation defined by the National Park Service:

- Association with events that have made a substantial contribution to the broad patterns of our history
- Association with the lives of persons significant in our past
- Embodiment of the distinctive characteristics of a type, period, or method of construction, or representation of the work of a master, or possession of high artistic values, or representation of a substantial and distinguishable entity whose components may lack individual distinction
- Yielding or demonstrating the potential to yield information important in prehistory or history

The National Historic Preservation Act (NHPA) of 1966, requires federal agencies to consider the effects of their undertakings on properties in or eligible for inclusion in the National Register. In accordance with the regulations, impacts to cultural resources were identified and evaluated by the following:

- Determining the area of potential effect
- Identifying cultural resources present in the area of potential effect that were either listed on or eligible for listing on the National Register
- Applying the criteria of adverse effect to affected cultural resources either listed on or eligible for listing on the National Register
- Considering ways to avoid, minimize, or mitigated adverse effects

Compliance with NHPA requires consultation with the Advisory Council on Historic Preservation (ACHP) and the State Historic Preservation Officer (SHPO), through the Maine Historic Preservation Commission,

if there are possible effects to historic properties. The Commission is responsible for the identification, evaluation, and protection of Maine’s significant cultural resources.

The Proposed Action has been reviewed by the Maine Historic Preservation Commission in accordance with Section 106 of the NHPA, and no historic properties will be affected by the Proposed Action. Documentation to this effect is provide in Appendix E.

1.4.6. The Socioeconomic Environment and Environmental Justice

Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898) requires all federal agencies to incorporate environmental justice into their missions by identifying and addressing the disproportionately high and/or adverse human health or environmental effects of their programs and policies on minorities and low-income populations and communities.

The EPA defines environmental justice as the “...fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies” (EPA, 2016). The goal of “fair treatment” is not to shift risks among populations, but to identify potentially disproportionately high and adverse effects and identify alternatives that may mitigate these impacts.

The Proposed Action is an expansion of an existing use and would not result in any identified human health effect or effects that would be specific to any minority or low-income community and would not disproportionately affect any minority or low-income population or community. There would be no direct or indirect adverse impacts on any minority or low-income population.

1.4.7. Hazardous Materials

Nationally, the Resource Conservation and Recovery Act (RCRA) is used to regulate and manage hazardous materials and waste. In addition, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides spill reporting requirements for RCRA hazardous wastes (40 CFR 261.30-33), toxic or hazardous materials listed in Sections 307 or 311 of the Federal Water Pollution Control Act/CWA (40 CFR 129 and 40 CFR 117), and hazardous air pollutants listed pursuant to Section 112 of the CAA (40 CFR 61).

MDEP has issued state regulations, called the Maine Hazardous Waste Management Regulations, Chapters 850 through 857, for the safe management and transportation of hazardous wastes. The state also maintains the Voluntary Response Action Program (VRAP), which allows applicants to voluntarily investigate and cleanup properties to the MDEP’s satisfaction in exchange for protections from MDEP enforcement actions. The VRAP is intended to encourage the cleanup and redevelopment of contaminated properties within the state.

MDEP has a Spills & Site Cleanup Division and a Hazardous Waste Division that provide guidance for the investigation of spills and remediation of releases of hazardous materials. There are procedures to be used by responsible parties and their consultants to determine what actions are needed to clean up hazardous material releases and contamination.

The project includes a dredging component to allow safe navigation for the larger boats that the marina expansion will accommodate. Samples of the dredge area were analyzed for total metals, volatiles and semi-volatiles, polychlorinated biphenyls (PCBs), hexavalent chromium, and dioxins. With the exception of arsenic, all the constituent levels were below the levels necessary to beneficially use the dredge material in accordance with the reduced procedures provisions of 06-096 Code of Maine Rules (CMR) Chapter 418, § 7(A)(3). The arsenic levels ranged from 17 to 28 milligrams per kilogram (mg/kg). The allowable limit under 06-096 CMR Chapter 418, § 7(A) is 16 mg/kg, and the screening level in 06-096 CMR Chapter 418, is 7.9 mg/kg. The levels of arsenic are above the allowable limit for clean fill, so a Beneficial Use Permit (No. S-022546-W3-A-N) was obtained from MDEP for the one-time beneficial use of dredge material as part of a gravel pit reclamation project in Cushing, Maine. Documentation to this effect is provided in Appendix B.1.

There are no other known areas of contamination in the area of work, and there are no actions proposed that constitute the need to manage or transport hazardous waste during or after construction.

The Proposed Action is an expansion of an existing use and the management of hazardous materials associated with the operational phase of the project will remain the same as those in place for the existing marina facilities.

2. Alternatives

2.1. Identified Alternatives

An alternatives analysis was conducted for this project to determine if avoidance and minimization have been adequately considered. The most practical and efficient alternative has been selected as the Proposed Action.

2.1.1. Alternative 1 – No Action

The no action alternative would involve no additional construction or renovation of marina facilities and no dredging for marina expansion. The marina would continue to operate in its current condition. Existing docks/pilings would eventually require replacement at the end of their useful lives, but the timing of such activity is unknown and would be considered standard repair and maintenance activities. The proposed improvements to the existing upland Gazebo are expected to be implemented whether or not the over-water project components are constructed, but this improvement is not likely to have any adverse effects on environmental, cultural, or other resources.

The no action alternative would not meet the purpose and need for the project, the steadily increasing demand for transient dockage in Rockland Harbor. However, the no action alternative is required by NEPA and serves as the baseline against which the other alternatives are compared.

2.1.2. Alternative 2 - Pursue Other Sites

As established in the purpose and need statement (Section 1.3), this site is well suited to transient boating, with existing infrastructure, setting, and amenities that transient boaters require. As the project is an expansion of an existing marina facility, **relocation to an alternative site is not a viable alternative and has not been considered in further, detailed analysis.**

2.1.3. Alternative 3 – Pursue a Larger Project

Early in the planning phase and shortly after obtaining the BIG, the applicant engaged with the City of Rockland, local stake holders, and the public regarding a potential larger “Inner Harbor” project. The consideration was that the marina expansion could leverage a larger public/private project. Figure 2.1.3-1 illustrates the larger Inner Harbor plan that was considered.



Figure 2.1.3-1: Larger Inner Harbor Plan

This ambitious plan tried to tackle numerous public needs associated with expansion and/or addition of other City-owned marina and commercial docking facilities in addition to providing a substantially larger expansion at the subject facility.

The plan was met with public opposition concerning impact to views from the outer harbor breakwater, impact to views from the upland due to larger vessels being oriented broadside to the majority of the Rockland waterfront and public harbor walk, and relocation of a city-maintained navigation channel. Additionally, the sourcing of public and private funding for the larger Inner Basin concept was undetermined and would not be able to be executed in the immediate future. Finally, the regulatory permitting and compliance issues associated with the larger Inner Harbor concept would be extremely more complex and would likely result in significant processing timelines and negative impacts to required project implementation schedule related to the BIG grant program. For these various reasons, **the Larger Inner Harbor project is not a viable alternative and has not been considered in further, detailed analysis.**

2.1.4. Alternative 4 – Proposed Action

The Proposed Action, as described in detail below, was chosen due to the fact that it will maintain an existing use at the subject site, expand an existing marina facility (resulting in less cost and environmental impacts than development of a new marina at a less desirable site), is economically viable, and meets the stated needs and purpose of the proposed marina expansion project.

Project Components – Proposed Action

The Proposed Action for the marina expansion project includes the following primary components:

- Landward Extension of an Existing Fixed Pier
- Dock Construction
 - Dock A
 - Fixed Gangway Access Platform
 - 6-ft x 80-ft ADA-Compliant Gangway
 - Floating Concrete Docks
 - Floating Concrete Wave Attenuator Docks
 - Dock B – Floating Concrete Docks
 - Dock C – Floating Timber Docks
- Dredging
- Improvements to Existing Upland Gazebo

These proposed project elements are described in detail in the following sections. Please also refer to the Project Drawings provided as Appendix A.

Landward Extension of Existing Fixed Pier

The existing 16-ft-wide fixed pier will be extended landward by 65 ft. This new section of pier will allow a better delineation of the entrance of the marina and the entrance of the onsite restaurant and will provide a public viewing area.

The structure is expected to be primarily of timber construction, including timber decking and framing on timber piles supported on concrete footings to generally match the existing pier in terms of materials and

design. The total area of the structure, including necessary tie-ins to the existing pier, is 981 square feet (sf). The structure is expected to require a maximum of thirty (30) piles, noting that the piles will be supported on a continuous concrete footer and, as such, will not be driven below existing grades.

Dock A

Dock A refers to those docks located east of the existing pier and wave screen at the subject site as well as the northernmost “T” head adjacent to the City Channel. A new 24-ft by 24-ft (576 sf) gangway access platform will be built directly adjacent to the existing fixed pier to support a new 6-ft by 80-ft (480-sf) aluminum ADA-compliant gangway to provide pedestrian access to Dock A. The gangway access platform is expected to be supported by a maximum of nine (9) piles.

The new floating docks and attenuator docks at Dock A will be monolithic concrete pontoons that consist of a foam core encapsulated by reinforced concrete. The outer portion of Dock A that extends past the end of the existing fixed pier will be wider and include special design characteristics such as higher mass, deeper draft, etc., to attenuate incoming waves.

Dock A includes a total of 15,874 sf of new floating docks and attenuators which will be anchored via a maximum of forty-one (41) piles.

Dock B

Dock B refers to those docks located on the western side of the existing fixed pier and wave screen. These docks will be primarily accessed by the existing gangways to the west side of the existing pier. However, a small floating concrete dock will connect Dock A to Dock B to ensure that all docks will be accessible for disabled persons via the new ADA-compliant gangway located near Dock A. The new floating docks will be monolithic concrete pontoons as described for Dock A.

The Dock B improvements include removal of 1,628 sf of existing timber floating docks and installation of 4,023 sf of new floating concrete docks. The floating docks will be anchored via a maximum of thirteen (13) piles.

Dock C

Dock C refers to the new dock “tree” of smaller boat slips located west of the existing floating docks. The new floating docks for Dock C will consist of timber decking and framing on “polytub” flotation pontoons (i.e., a foam core fully encapsulated by polyethylene cladding). The new docks will be accessed via an existing floating timber dock.

Dock C includes a total of 5,611 sf of new floating timber docks which will be anchored via a maximum of thirty-three (33) piles.

Dredging

Dredging will be required to accommodate the increased size and number of vessels that will be utilizing the facility. The dredge plan was developed to minimize the total volume of dredging required while maximizing the operational efficiency and safe navigation for visiting vessels.

Proposed dredge depths are indicated in the provided Project Drawings (Appendix A) and range from -6 ft to -13 ft relative to mean low water (MLW). The proposed dredge plan results in a total of approximately 12,520 cy of excavation encompassing an area of approximately 138,000 sf (3.2 acres). Dredged material

will be disposed in accordance with the conditions of the MDEP issued Upland Dredge Disposal Permit (Appendix B.1).

Gazebo Improvements

Proposed improvements to an existing open-aired gazebo located on the upland of the subject site are also to be partially funded via BIG funds. These improvements include enclosing the existing structure to create a climate-controlled boater's lounge and reception area, improvement to existing laundry facilities, and improvement to existing restroom facilities.

2.1.5. Proposed Action Selection and Avoidance/Minimization of Potential Impacts

The Proposed Action alternative was selected because it would incur the least environmental impacts of the identified alternatives (excluding the "no action" Alternative 1), is economically viable, and adequately meets the stated needs and purpose of the proposed project. Specifically, the Proposed Action alternative will benefit boaters by providing expanded transient dockage capacity with new/improved slip utilities (power, water, fire standpipe, blackwater pumpout, in-slip fueling), improved access to the marina via the proposed landward extension of the existing pier (which will also benefit the general public via inclusion of a public viewing area), and the creation of a climate-controlled boater's lounge and improved restroom/laundry facilities for marina patrons via improvements to an existing on-site gazebo (as opposed to holistic construction of a new marina building).

The Proposed Action avoids and/or minimizes numerous potential negative impacts to environmental and cultural resources relative to the other identified alternatives. Specifically, the Proposed Action alternative:

- Meets the stated Purpose and Need (Section 1.3) for the project as opposed to the "No Action" alternative (Alternative 1);
- Maintains an existing use in an area that has served the boating community for many years as opposed to developing a new facility at another site (Alternative 2);
- Avoids additional environmental impacts, prohibitive costs, and anticipated regulatory challenges that would be presented with development of a new facility at another site (Alternative 2);
- Significantly minimizes impacts to wetland habitat relative to the larger Inner Harbor project (Alternative 3);
- Allows for larger vessels to be berthed with the stern or bow oriented toward the view from the Rockland waterfront and public Harborwalk, addressing stated public concerns over impacts to views of the harbor associated with the larger Inner Harbor project (Alternative 3); and
- Represents an economically viable marina expansion program as compared to development of a new marina facility at a different site (Alternative 2) or development of the larger Inner Harbor concept (Alternative 3).

Additional Avoidance and Minimization Efforts

The Proposed Action is the result of several other impact avoidance and minimization efforts not directly related to the other identified alternatives, as described below:

- The scope of the landward pier extension originally planned for accommodation of vehicles and a crane truck for servicing boats. This type of use has been eliminated from the scope, and the pier extension will now be intended for pedestrian and small golf/maintenance cart use only. This resulted in approximately 4,000 sf reduction in the total area of the proposed pier extension, minimizing both direct and indirect impacts in the intertidal zone.
- The Proposed Action alternative includes modification of an existing open-aired gazebo located on the property. Utilizing the existing gazebo (as opposed to demolition and/or new construction) significantly minimizes potential impacts associated with this improvement.
- The proposed fueling system will include a “bunkering” system which provides double-walled piping from the upland to the proposed dispensers. A connection will be provided on the upland which will allow fuel delivery tanker trucks to pump fuel directly into the piping on an “as- needed” basis, eliminating the need for upland storage tanks and minimizing potential impacts associated with fueling activities.

2.2. Summary of Alternatives

The identified alternatives selected for further analysis are summarized in Table 2.2-1, noting that Alternatives 2 and 3 were found to be non-viable and as such are not included.

Table 2.2-1: Summary of Identified Alternatives

Table 2.2-1 - Viable Alternatives Summary		
Description	Alternative 1: No Action	Alternative 4: Proposed Action
General Concept	No marina expansion works undertaken	Expand an existing marina at the subject site
Marina Operations	No change to existing marina operations	Existing staff retained with direct experience regarding operation, maintenance, etc. of the existing marina facility; potential opportunity to increase staffing levels to accommodate expanded marina capacity/offers
Long Term Implications	No change	Relatively low impact to environmental and cultural resources; increased capacity to accommodate transient boaters; new/improved marina utilities and infrastructure

Table 2.2-2 provides a summary of how each viable alternative meets (or doesn’t meet) the project’s stated Purpose and Need (see Section 1.3).

Table 2.2-2: Project Purpose and Need Compliance for Identified Alternatives

Table 2.2-2: Project Need and Purpose Compliance for Identified Viable Alternatives		
Description	Alternative 1: No Action	Alternative 4: Proposed Action
Provide Additional and Improved Dockage/Utilities/Amenities	Does Not Meet	Meets
Provide Enhanced Experience for Boating Public	Does Not Meet	Meets
Provide Enhanced Recreational Opportunities for the General Public	Does Not Meet	Meets
Minimize Adverse Environmental Impacts	Meets	Meets
Maintain Project Financial Feasibility	Meets	Meets

3. Affected Environment

This Affected Environment chapter describes the existing conditions within the project area, including the natural, cultural, and social environment that could be affected by the implementation of the actions considered in this EA. The specific topics examined include water resources, floodplains, biological resources (including vegetation, wildlife, and rare, threatened, and endangered species), cultural resources (including historic and archaeological resources), and hazardous materials.

The existing full-service marina is operated by SHM and provides approximately 720 lf of side- tie dockage for a wide variety of vessels up to 200 ft in length. The project site is situated along Rockland Harbor Channel and consists of 4.78 acres, along with all the intertidal land along the entire frontage of the original parcel.

Details regarding the subject parcel and submerged land rights are as follows:

- Deed Reference Numbers: Book #5663, Page 224
- Map and Lot Numbers: Map #5, Lot #B13
- Submerged Land Lease: 0045B-L-29

It is noted that the deed also conveyed all rights, title, and interest in the land and any improvements located between the high and low water lines, as well as any land and improvements located below the low water line, as described in the deed, where the Proposed Action will take place.

3.1. Project Site Impact History

The project area has a significant history of maritime use. The impacts associated with this project are proposed within an area that was previously disturbed, is no longer in its original, natural condition, and is currently utilized for similar maritime activities.

The history of approvals related to the subject site is provided in Table 3.1-1.

Table 3.1-1: Previous Permit History

Table 3.1-1: Previous Permit History		
Permit Number	Date	Project Description
L-20386-26-A-N L-20386-4E-B-N	10/24/2000	Office Building, Day Care Center, Boat House, Pavilion, Boardwalk for total of 5.44 ac impervious (reduced from 6.44 ac). Seawall reconstruction and boardwalk construction with coastal wetland impact of 18 sf
L-20386-4C-C-N	12/20/2000	Breakwater Restoration, Pier Construction, and Dredge. 1,050 sf of impact to coastal wetland
L-20386-4C-D-T	3/11/2008	Transfer from Bracebridge Corporation to Rockland Harbor Park, LLC
L-20386-26-E-M L-20386-2F-N	5/2/2008	Boathouse Conversion and Expansion. 1,386 sf of decking and paved area, 4 new pilings
L-20386-26-G-B L-20386-4E-H-N	7/23/2008	Expand Marina. 98 sf of direct impact and 17,010 sf of indirect impact, expand parking creating 0.52 acre impervious and developed area
L-20386-26-I-M L-20386-2F-J-M	7/23/2009	Construct 85-sf bathroom area on previously constructed pier. Minor change
L-20386-26-I-M L-20386-2F-J-M	1/26/2010	Reconfigure marina expansion reduced to 65 sf of direct impact and 13,160 sf of indirect impact
L-20386-26-M-M	3/4/2010	Building Use Change Day Care to Maine Coastal Islands
S-022546-W3-A-N	5/12/2021	Beneficial Use of Dredged Materials (associated with Proposed Action)
L-20386-26-N-T L-20386-43-O-T	5/18/2021	Transfer from Rockland Harbor Park, LLC to SHM Rockland, LLC
NAE-2021-01934	11/26/2021	USACE General Permit Authorization Letter and Screening Summary
L-20386-4P-P-N/L-20386-4E-Q-N	12/8/2021	MDEP NRPA and WQC Permit (for Proposed Action)

3.2. Water Resources

The existing marina is located adjacent to Rockland Harbor, which has a marine water classification zone of SC per Maine’s designated use and classification system. Class SC waters are the third highest classification and as defined by §465-B of the Maine Revised Statutes (Title 38: Waters and Navigation) have the following characteristics:

- Class SC waters must be of such quality that they are suitable for recreation in and on the water, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as a habitat for fish and other estuarine and marine life.
- The dissolved oxygen content of Class SC waters must not be less than 70% of saturation. There are specific levels that enterococcus bacteria of human and domestic animal origin need to be at.
- Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to receiving waters and maintain the structure and function of the resident biological community.

3.3. Floodplains

The project area is located within Flood Zone VE, with a 100-year flood elevation of 15 ft, as defined by the July 6, 2016 FEMA Flood Insurance Rate Map (FIRM). The area is located within the 100-year floodplain, which designates a wetland of special significance. A copy of the FEMA FIRM is included in Appendix F.

3.4. Biological Resources

3.4.1. Special Aquatic Sites (SAS)

Special Aquatic Sites are those sites identified in 40 CFR 230, Subpart E (i.e., sanctuaries and refuges, wetlands, mud flats, vegetated shallows, coral reefs, and riffle and pool complexes). They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region (EPA, 40 CFR 230.3[q-1]).

The tidal areas between Mean Low Water (MLW) and Mean High Water (MHW) can be considered as SAS if the area provides significant habitat function. As the site is an existing, operational marina this is likely not the case. The only work occurring in these areas are associated with the proposed landward extension of the existing marina access pier. The current condition of the active tidal zone will remain unchanged, and the use of the property will remain as an operational marina.

Based on the EFH Determination Sheet (Appendix D), there are no impacts to tidal SAS.

3.4.2. Substrate

The substrates throughout the proposed project area are surficial fines over glacial till. There are widely scattered rocks/rip rap on the south and east sides of the existing granite crib pier. These rocks are the result of historic repairs to the existing jetty and placement of rip rap at the base of the jetty in accordance with USACE Authorizations NAE-2000-02618 and NE-2000-02133 and do not represent natural rocky habitat. Please reference the attached EFH Determination Sheet (Appendix D).

3.4.3. Vegetation

A field survey was conducted on June 17, 2021 at low tide and no tidal Submerged Aquatic Vegetation (SAV) or saltmarsh was present in the footprint of the project area. Please reference the attached field survey conducted by Eco-Analysts which is included in Appendix G.

3.4.4. Rare, Threatened and Endangered Plants

The project site was surveyed to determine if plant species listed as threatened or endangered under the federal ESA or MESA, or federally designated critical habitats, would be potentially impacted by the project. No listed plant species were observed during a field survey conducted by Eco-Analysts which is included in Appendix G. Please also reference the attached USFWS/MESFO List of Threatened and Endangered Species in Appendix C which states that “there are no critical habitats within your project area under this office’s jurisdiction.”

3.4.5. Wildlife and Wildlife Habitat

Some waterfowl and seabirds alight on the surface waters in the project area. These incidental species could be disbursed during construction but given the overall available water surface in the area and the existing commercial and recreational uses already present in the Rockland Harbor, the effects on these species would be negligible. Further, there are no inland waterfowl and wading bird, or shorebird critical habitats located in the project area based on available MDEP data.

An environmental survey of the area (Appendix G) found a few blue mussels (*Mytilus edulis*) attached to the scattered boulders and cobbles. Rock barnacles (*Semibalanus balanoides*), and periwinkles (*Littorina littorea*) are abundant on the granite pier. Sandworms (*Nereis virens*) were found in sediment sample cores collected for bulk chemistry analyses, indicating that they are common throughout. No listed species or critical habitat were identified in the project area.

Essential Fish Habitat (EFH) under the jurisdiction of NOAA in the project region were identified via NOAA’s EFH Mapper Report (Appendix H). EFH in the region identified as being potentially present in the project area included EFH for the following species: Atlantic Sea Scallop, Atlantic Wolffish, Winter Flounder, Little Skate, Ocean Pout, Atlantic Herring, Atlantic Cod, Pollock, Red Hake, Silver Hake, White Hake, Windowpane Founder, Winter Skate, American Plaice, Smooth Skate, Thorny Skate, Bluefin Tuna, Atlantic Mackerel, Bluefish and Atlantic Butterfish.

3.5. Hazardous Materials

Environmental databases maintained by the EPA and the Maine DEP were reviewed to determine potential impacts to the project site. Data reviewed included:

- EPA Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS)
- Maine DEP Brownfield Remediation Sites
- Maine Hazardous Oil Spill System (HOSS) Sites
- Maine Registered Petroleum Tanks Database
- Maine Remediation Sites (Institutional Controls) Database

The database review identified a total of 8 tanks registered with the Maine DEP and two identified brownfield sites within 1000 ft of the project area. Of the tanks identified, four were removed, one has been abandoned and three remain active. The active tanks contain diesel and #2 fuel oil and have not had recorded leaks. There is a Voluntary Response Action Program (VRAP) site associated with the Fisher Plow site with a closed status dated 3/1/2007. The second brownfield site was closed after an initial investigation found that the site was clear.

4. Environmental Consequences

The potential impacts, both beneficial and adverse, that may result from implementing any of the alternatives considered in this EA are analyzed in this section. Please refer to Section 2.0 for detailed descriptions of the identified alternatives. General Methodology for Analyzing Impact

4.1.1. Geographic Area Evaluated for Impacts

The geographic study area for this EA is limited to the portion of Rockland Harbor where the Project Action would take place.

4.1.2. Duration of Impacts

The duration of impacts assessed in this EA are either short term or long term. These terms are defined below and are utilized throughout this section.

- Short term – This refers to an impact that would be temporary and associated with the construction process for the Proposed Action. Short-term impacts may end as soon as construction ends or may last up to one year after construction is completed.
- Long term – This refers to an impact that lasts beyond the construction period, and the resources may or may not resume their pre-construction condition.

4.1.3. Type of Impacts

Impacts can be beneficial or adverse and may be direct or indirect. These terms are defined below and are utilized throughout this section.

- Beneficial – This refers to impacts that would improve resource conditions.
- Adverse – This refers to impacts that would deplete or negatively alter resources.
- Direct – This refers to those impacts caused by an action and occurring at the same time and place as the Proposed Action.
- Indirect – This refers to those impacts caused by the Proposed Action but occurring later in time or that occur at a location that is farther from the site of the Proposed Action.

4.1.4. Assessing Impacts Using Council on Environmental Quality Criteria

The impacts of the alternatives are assessed using the Council on Environmental Quality definition of “significantly” (1508.27), which requires consideration of both context and intensity:

- Context – The significance of an action must be analyzed in several contexts such as the affected region, interests, and society. Significance varies with the setting of the project and the types of actions to be performed. In the case of a site-specific action, significance would usually depend upon the local impacts rather than global impacts. Both short- and long-term effects are relevant.
- Intensity – The following should be considered in evaluating intensity:
 1. Impacts that may be both beneficial and adverse. A significant effect may exist even if on balance the effect would be beneficial.
 2. The degree to which the Proposed Action affects public health or safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, parklands, prime farmlands, wetland, wild and scenic rivers, or ecologically critical areas.
4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.
5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
7. Whether the action is related to other actions could have cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment.
8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.
9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
10. Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

For each resource analyzed, an assessment of the potential significance of the impacts according to context and intensity is provided in the Conclusion paragraph that follows the discussion of each impact. Intensity of the impacts is presented using the relevant factors from the list above. Intensity factors that do not apply to a given resource topic and/or alternative are not discussed.

4.1.5. Cumulative Impact Analysis Methodology

Cumulative impacts are the impact of the Proposed Action added to the impacts of past, other present, and reasonably foreseeable future action(s). To determine the potential cumulative impacts, the completed, existing, and anticipated future projects within Rockland Harbor and in the surrounding area were identified. In defining the contribution of each alternative to cumulative impacts, the following terminology is used:

- Imperceptible – The incremental effect contributed by the alternative to the overall cumulative impact is such a small increment that it is impossible or extremely difficult to discern.
- Noticeable – The incremental effect contributed by the alternative, while evident and observable, is still relatively small in proportion to the overall cumulative impact.
- Appreciable – The incremental effect contributed by the alternative constitutes a large portion of the overall cumulative impact.

4.1.6. Cumulative Actions Identified

The proposed project will result in increased transient dockage capacity in the Rockland Harbor to the existing Safe Harbor Rockland marina facility to accommodate current and future demand for transient dockage in the area. Please refer to Section 1.3 for details regarding the project Purpose and Need.

The existing site is a full-service marina operated by SHM Rockland, LLC, and is providing approximately 720 lf of dockage for vessels up to 200 ft in length. The additional transient dockage from the expansion of the marina would result in a noticeable increase in traffic through the Harbor.

Improved management of traffic is anticipated to occur through operational controls developed by the marina manager in coordination with the Rockland Harbormaster and the U.S. Coast Guard. A component of this management would potentially be installation of signage and lighting in proximity to the marina. Landside activity associated with the anticipated increase in visitors would consist of an imperceptible increase in pedestrian traffic and vehicular traffic because the existing marina is already in place.

4.2. Effect Assessments for Identified Alternatives

4.2.1. Water Resources

The existing marina is located adjacent to Rockland Harbor, which has a marine water classification zone of SC per Maine's designated use and classification system. Class SC waters are the third highest classification and as defined by §465-B of the Maine Revised Statutes (Title 38: Waters and Navigation) have the following characteristics:

- Class SC waters must be of such quality that they are suitable for recreation in and on the water, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as a habitat for fish and other estuarine and marine life.
- The dissolved oxygen content of Class SC waters must not be less than 70% of saturation. There are specific levels that enterococcus bacteria of human and domestic animal origin need to be at.
- Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to receiving waters and maintain the structure and function of the resident biological community.

The discharge associated with the proposed project is limited to clean water and partial dredge dewatering, which are acceptable discharge types for SC zone waters. Additional water and wastewater needs for the proposed marina expansion will be provided by the City of Rockland municipal water.

Additional water considerations that were evaluated are described as follows.

- Aesthetics: The Project Area is located within Rockland Harbor, which consists of developed waterfront, a cruise ship terminal, ferry docks, and existing marinas. The aesthetics of the Proposed Action would be an extension of the existing Safe Harbor Rockland marina facility, which is consistent with the existing environment.
- Swimming and other primary contact recreation: The Proposed Action is not located in an area where swimming or other primary contact recreation typically occurs.

- Boating, fishing, and other recreational uses: Boats currently moor offshore in the proposed project area. The Proposed Action would benefit this existing use by restricting wave action to portions of Rockland Harbor. The Proposed Action is not located in an area where fishing typically occurs.

The anticipated consequences to water resources for the evaluated viable alternatives are as follows:

1. No Action: There would be a continuance of existing conditions.
2. Proposed Action: A minimal, short-term increase in turbidity to surface waters within the immediate work area would occur during the initial installation of the piles and during dredge activities.

Conclusion: Limited adverse impacts from the Proposed Action to water resources are anticipated to be direct and adverse, but imperceptible and short-term during the construction period for the marina expansion. Long-term beneficial impacts are expected for existing recreational boating uses (i.e., boats currently moored in the vicinity of the project will be better protected from waves).

4.2.2. Floodplains

The project area is located within Flood Zone VE, with a 100-year flood elevation of 15 ft, as defined by the July 6, 2016 FEMA FIRM. A copy of the FEMA FIRM is included in Appendix F.

The effects of the project on floodplains and floodways were determined by comparing the limits of FEMA-designated floodplains within the project area over the limits of work for the project area. Where the project limits of work occur in the FEMA-designated floodplain or flood zone, the nature of the proposed work was analyzed to determine if any of the proposed activities would displace or divert floodwaters onto adjacent or downstream properties.

The anticipated consequences to floodplains for the evaluated alternatives are as follows:

1. No action: There would be a continuance of existing conditions.
2. Proposed Action: A negligible reduction in flood storage capacity is anticipated. Short-term, limited drainage changes may take place during construction activities.

Conclusion: Impacts to floodplains from the Proposed Action are anticipated to be direct and adverse, but imperceptible and short term during the construction period for the marina expansion.

4.2.3. Biological Resources

Vegetation

Anticipated effects of the project to vegetation within the project area are negligible. An environmental survey of the area was conducted on June 17, 2021 and is included as Appendix G.

The substrates throughout the proposed project area are fines over till. There are widely scattered cobbles on the south and east sides of the existing granite crib pier. Some debris is also present, including abandoned granite mooring blocks with chain still attached and woody debris over fines and till.

The seabed areas covered in soft mud do not support vegetation. No eelgrass was observed. The scattered boulders and cobbles have sugar kelp (*Saccharina latissima*), horsetail kelp (*Laminaria digitata*) and bladderwrack (*Fucus vesiculosus*) growing on them. Both species of kelp were observed on the

abandoned mooring chains. Bladderwrack is growing on the abandoned mooring blocks and the woody debris. These species are abundant on the granite pier.

The anticipated consequences to vegetation for the evaluated alternatives are as follows:

1. No Action: There would be a continuance of existing conditions.
2. Proposed Action: It is anticipated that approximately 3.2 acres of seabed would be impacted due to construction and dredging. Temporary impacts include increases in turbidity from dredging and impacts of noise from impact hammering of pilings. Permanent impacts from the addition of pilings to the area include an increase in the number of structures attached to the bay floor. There will be little shading of the area because the fixed and floating docks and piers are a minimum of 6 ft above final elevation of the bottom.

Conclusion: Impacts to vegetation from the Proposed Action are anticipated to be direct and indirect and adverse, but imperceptible and short term during the construction period for the marina expansion. Direct impacts will be minor due to the lack of submerged aquatic vegetation in the project area.

Wildlife and Wildlife Habitat

Anticipated effects of the Proposed Action to wildlife and wildlife habitat. The marina expansion is a small expansion and proposed improvement to existing conditions and use. As the existing conditions are currently highly modified, there is limited wildlife habitat to be considered. The ocean wildlife habitat conditions would be temporarily disturbed during construction as the new piles are installed and dredging is conducted. However, any mobile aquatic wildlife such as fish and other species would be able to swim away during those times of temporary disturbance and would not be harmed.

Some waterfowl and seabirds alight on the surface waters in the project area. These incidental species could be disbursed during construction but given the overall available water surface in the area and the existing commercial and recreational uses already present in the Rockland Harbor, the effects on these species would be negligible. There are no inland waterfowl and wading bird, or shorebird habitats located in the project area, based on available MDEP data.

The environmental survey of the area (Appendix G) found a few blue mussels (*Mytilus edulis*) attached to the scattered boulders and cobbles. Rock barnacles (*Semibalanus balanoides*), and periwinkles (*Littorina littorea*) are abundant on the granite pier. Sandworms (*Nereis virens*) were found in sediment sample cores collected for bulk chemistry analyses, indicating that they are common throughout. No listed species or critical habitat were observed in the project area.

The project has been reviewed and received regulatory authorizations from MDEP and USACE as summarized in Section 1.4. The approved permits for the project are included herein as Appendix B. Through communication with the consulting agencies, there are no anticipated long-term adverse impacts to any critical habitat.

Further, the Proposed Action would be conducted in accordance with the special conditions of the USACE permit No. NAE-2021-01934 (Appendix B.2) and in keeping with the Essential Fish Habitat (EFH) conditions delineated in the EFH Determination Sheet (Appendix D), as follows:

- All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March

16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.

- Pile driving shall use a soft start technique in order to minimize potential effects to federally listed species. The soft start technique shall occur as follows: an initial set of three strikes for 15 sec. at reduced energy followed by a 1-minute waiting period between subsequent three-strike sets, followed immediately by pile driving at full rate and energy. The soft-start procedure shall be reinstated any time pile driving ceases for more than 30 minutes.

The anticipated consequences to wildlife and wildlife habitat for the evaluated alternatives are as follows:

1. No Action: There would be a continuance of existing conditions.
2. Proposed Action: The Proposed Action would result in temporary direct impacts to approximately 3.0 acres due to dredging and construction activities. Experience at numerous similar projects has shown that seaweeds and kelps colonize pilings post dredging, which, in this project, will provide more habitat than will be removed on boulders and cobbles. The same will be true for blue mussels. Sandworms are mobile and are pelagic spawners and will quickly recolonize the dredged area. No long-term adverse impacts to habitats and communities are expected.

Conclusion: Impacts to wildlife and wildlife habitat from the Proposed Action are anticipated to be direct and indirect and adverse, but imperceptible and short term during the construction period for the marina expansion. These temporary impacts are considered *de minimis* and there are no anticipated long-term direct or indirect adverse impacts to wildlife or wildlife habitat.

Threatened or Endangered Species

The project site was surveyed to determine if species listed as threatened or endangered under the federal Endangered Species Act or the Maine Endangered Species Act, or federally designated critical habitats would be potentially impacted by the project. Based on consultation with the relevant federal regulatory authorities, no significant impacts to ESA listed species are anticipated from this project (reference USACE permit, Appendix B.3).

Further, the Proposed Action would be conducted in accordance with the special conditions of the USACE permit No. NAE-2021-01934 (Appendix B.2) and in keeping with the Essential Fish Habitat (EFH) conditions delineated in the EFH Determination Sheet (Appendix D) as described in the previous section.

Please also see Section 1.4.4 of this Environmental Assessment report for further detail regarding the specific listed species that may be affected and the anticipated effects that the Proposed Action may have on each identified species.

The anticipated consequences to threatened or endangered Species for the evaluated alternatives are as follows:

1. No Action: There would be a continuance of existing conditions.
3. Proposed Action: The Proposed Action could result in temporary direct adverse impacts to threatened or endangered species during dredging and construction activities. Temporary impacts include increases in turbidity from dredging and impacts of noise from impact hammering

of pilings. The negative effects of these activities will be mitigated via implementation of appropriate BMPs and adherence to regulatory special conditions.

Conclusion: Impacts to threatened or endangered species from the Proposed Action are anticipated to be direct and adverse, but imperceptible and short term during the construction period for the marina expansion. These temporary impacts are considered *de minimis* and there are no anticipated long-term direct or indirect adverse impacts to threatened or endangered species.

4.2.4. Cultural Resources

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertakings on historic properties. A request to conduct a project review in accordance with Section 106 of the NHPA was submitted to the SHPO, resulting in a finding of no impacts for this project (Appendix E).

The Tribal Historic Preservations Officers of the five indigenous groups in the region (Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe of Indians, Penobscot Indian Nation) were notified of the proposed marina expansion project as part of MDEP's NRPA permit review process. Documentation to this effect is provided as Appendix I.

The anticipated consequences to cultural resources for the evaluated alternatives are provided as follows.

1. No Action: There are no consequences to historic or archaeological resources.
2. Proposed Action: There are no anticipated consequences to historic or archaeological resources. This has been confirmed via review and approval by MHPC (Appendix E) and issuance of the NRPA permit by MDEP (Appendix B.2).

Conclusion: No impacts to historic or archaeological resources from the Proposed Action are anticipated.

4.2.5. Hazardous Materials

The project includes a dredging component to allow safe navigation for the larger boats that the marina expansion will now accommodate. Samples of the dredge area were analyzed for total metals, volatiles and semi-volatiles, PCBs, hexavalent chromium, and dioxins. With the exception of arsenic, all the constituent levels were below the levels necessary to beneficially use the dredge material in accordance with the reduced procedures provisions of 06-096 CMR Chapter 418, § 7(A)(3). The arsenic levels ranged from 17 to 28 mg/kg. The allowable limit under 06-096 CMR Chapter 418, § 7(A) is 16 mg/kg, and the screening level in 06-096 CMR Chapter 418, is 7.9 mg/kg. As the levels of arsenic are above the allowable limit for clean fill, a license (No. S-022546-W3-A-N) was obtained from MDEP for the one-time beneficial use of dredge material as part of a gravel pit reclamation project in Cushing, Maine (Appendix B.1).

There are no other known areas of contamination in the area of the project and there are no actions proposed that constitute the need to manage or transport hazardous waste during or after construction.

The impact of hazardous materials from the project for the evaluated alternatives is provided as follows.

1. No Action: There would be a continuance of existing conditions.

2. Proposed Action: Dredge fill from an approximately 3.2-acre area would need to be disposed of in a beneficial use area in keeping with approved Beneficial Use of Dredged Material Permit (S-022546-W3-A-N)

Conclusion: Hazardous materials associated with dredge fill from the Proposed Action will need to be transferred to an offsite beneficial use area. No other hazardous materials are anticipated to be disturbed as a result of the Proposed Action.

5. Consultation and Coordination

5.1. The Scoping Process

Scoping helps to understand the important environmental, cultural, and physical considerations associated with a project. The process is intended to provide an opportunity for interested and affected parties, as well as state and federal agencies, to be involved in the NEPA process and allocate resources to ensure that the project team determines, avoids, minimizes, and mitigates potential impacts. The process is used to identify permits, surveys and consultations that might be required and to offer participating agencies and the public an opportunity to review and comment on the Proposed Action.

5.1.1. Internal Scoping

The marina expansion project for the Safe Harbor Rockland marina facility in Rockland, Maine has been discussed and reviewed with MDEP, USACE, the City of Rockland, and the City of Rockland Harbor Management Committee.

5.1.2. Public Scoping

The plan for the marina expansion at the Safe Harbor Marina has been presented to the following stakeholders:

- Harbor Management Committee
- Rockland City Council and General Public
- United State Coast Guard - Station Rockland
- American Cruise Lines
- Rockland Harbor Mooring Holders
- Maine Boats, Homes, and Harbors
- North Atlantic Blues Festival
- Rockland Yacht Club
- Maine Lobster Festival

Comments were heard and the plan was revised to mitigate against the concerns raised by various project stakeholders as well as comments received from the general public. Specific topics of concern and mitigation solutions are described below:

- Concerns were raised regarding the potential impacts to the views across the harbor from the upland as well as from the existing, publicly accessible Rockland Harbor Breakwater (located to the north-northeast of the subject site). To address these concerns, the scope of the project was reduced significantly. Additionally, the slips where larger vessels would be berthed were relocated behind the existing pier/wave screen at the site to shield the vessels from view from the upland greenspace areas and public Harbor Walk to the extent practicable.

Further, the slips were re-oriented so that the bows or sterns of the larger vessels are aligned with the upland greenspace and Harbor Walk so that view impacts from these upland areas are limited to the width of the vessels as opposed to their entire profile. This orientation also reduced the visible profile of the larger vessels from the Rockland Harbor Breakwater.

- Concerns were raised regarding potential encroachment into an informal marked navigation channel established by the City of Rockland (the “City Channel”). The proposed marina expansion layout was modified such that there is no proposed encroachment into the City Channel or its associated offset.
- Concerns were raised regarding the size and scope of the proposed landward extension of the existing pier at the site. The original plans for the landward pier extension as presented to the stakeholders would have allowed for accommodation of vehicles and a crane truck to facilitate servicing of vessels. This potential use was eliminated and will now be limited to pedestrian use only. The size of the pier extension was also reduced by approximately 4,000 sf, resulting in minimization of both direct and indirect impacts in the intertidal zone.

As part of the NRPA application review and consultation process, the revised plan was submitted to MDEP, USACE, and the Maine Bureau of Parks and Lands (Submerged Lands Lease). As part of that process, an onsite public informational meeting was held on July 1, 2021 to discuss the specifics of the current project. Additionally, the project was presented as follows:

- September 28, 2021 – Rockland Harbor Management Committee
- October 13, 2021 – Rockland City Council-Public Hearing

5.1.3. Agency Scoping

As part of the scoping effort, the following agencies and tribes that have been involved in and/or consulted as part of the regulatory permitting process:

- U.S. Army Corps of Engineers
- NMFS, USFWS, EPA through USACE regulatory authority and consultation (reference permits in Appendix B)
- Maine Department of Environmental Protection
- Maine Historic Preservation Commission
- Maine Department of Marine Resources
- Maine Department of Inland Fisheries and Wildlife
- Maine Natural Areas Program
- State-Recognized Tribes: Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe of Indians, and Penobscot Indian Nation
- City of Rockland, Maine
- Rockland Board of Harbor Commissioners

5.2. Future Compliance Needs/Permits

Implementation of the Proposed Action would require compliance with local, state, and federal laws and regulations. Given that the project has received regulatory authorizations/permits for the beneficial use of dredged materials (MDEP), NRPA (MDEP) and GP Authorization (USACE), there are no known further compliance needs for the project with the exception of NEPA compliance, which is required for the use of the federal BIG funds and is the impetus of this report. It is understood that if there are any species added to the ESA or a change in status, the project may need to be re-evaluated.

6. References

U.S. Environmental Protection Agency (EPA). 2016. Technical Guidance for Assessing Environmental Justice in Regulatory Analysis.

https://www.epa.gov/sites/default/files/2016-06/documents/ejtg_5_6_16_v5.1.pdf

Maine Department of Environmental Protection (MDEP). 2021. Beneficial Use of Dredge Material Permit No. S-022546-W3-A-N. (Appendix B.1)

Maine Department of Environmental Protection (MDEP). 2021. Natural Resources Protection Act (NRPA) Coastal Wetland Alteration Water Quality Certification Permits Nos. L-20386-4P-P-N, L-20386-4E-Q-N. (Appendix B.2)

United States Army Corps of Engineers (USACE). 2021. General Permit Authorization Letter and Screening Summary NAE-2021-01934. (Appendix B.3)

United States Fish and Wildlife Service (USFWS). 2021. Updated List of Threatened and Endangered Species that May Occur in Your Proposed Project Location or May be Affected by Your Proposed Project, Consultation Code 05E1ME00-2021-SLI-1389 (Appendix C)

United States Corps of Engineers (USACE). 2021. Essential Fish Habitat (EFH) Determination Sheet [USACE File No. NAE-2021-01934, USFWS Grant No. F19Ap00378]. (Appendix D)

Maine Historic Preservation Commission (MHPC). 2019. Project Review (Section 106) for Marina Expansion No. 0826-19. (Appendix E)

Federal Emergency Management Agency (FEMA). 2016. National Flood Insurance Program Flood Insurance Rate Map 23013C0351D Panel 351 of 836. (Appendix F)

Eco Analysts, Inc. 2021. Environmental Assessment/Survey (Appendix G)






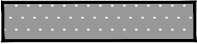





National Oceanic and Atmosphere Administration (NOAA). 2021. Essential Fish Habitat (EFH) Mapping Report <https://www.habitat.noaa.gov/apps/efhmapper/> (Appendix H)

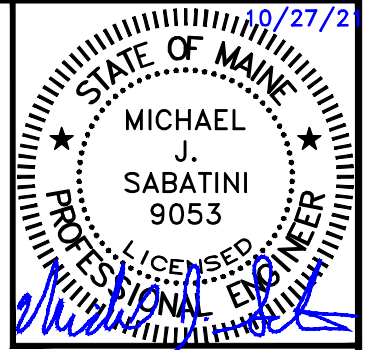
Landmark Corporation. 2021. Consultation Letters to Tribal Historic Preservation Officers of Indigenous Peoples of Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe of Indians, and Penobscot Indian Nation. (Appendix I)

APPENDIX A

Project Drawings

LEGEND:

-  PROPERTY LINE
-  EXISTING CONTOUR
-  EXISTING JETTY/PIER
-  EXISTING FLOATING DOCKS
-  PROPOSED CONCRETE FLOATING DOCKS
-  PROPOSED CONCRETE FLOATING WAVE ATTENUATOR DOCKS
-  PROPOSED TIMBER FLOATING DOCKS
-  EXISTING JETTY/PIER
-  PROPOSED CONTOUR
-  PROPOSED PILE
-  PHOTOGRAPH LOCATION
(SEE PHOTO KEY, ATTACHMENT 3)



PLAN NOTES:

1. THESE PLANS ARE FOR NRPA PERMITTING ASSOCIATED WITH EXPANSION OF SAFE HARBOR-ROCKLAND MARINA IN ROCKLAND, MAINE.
2. PROPERTY LINES SHOWN ARE TAKEN FROM THE PLAN TITLED "STANDARD BOUNDARY SURVEY, BRACEBRIDGE CORPORATION, FISHER ENGINEERING PROPERTIES, WATER & OCEAN STREETS" DATED APRIL 19, 2000 AND PREPARED BY COFFIN ENGINEERING AND SURVEYING AND A PLAN TITLED CONVEYANCE PLAN - BAYVIEW MANAGEMENT, DATED NOVEMBER 30, 2020, PREPARED BY GARTLEY & DORSKY.
3. ELEVATIONS SHOWN ARE REFERENCED TO MEAN LOW WATER (MLW) AND ARE TAKEN FROM THE PLAN TITLED "ROCKLAND HARBOR PARK, LLC, TRIDENT YACHT BASIN", DATED DECEMBER 17, 2009 AND PREPARED BY GARTLEY AND DORSKY. ADDITIONAL BATHYMETRIC DATA CONDUCTED BY ECO-ANALYSTS IN NOVEMBER OF 2017 HAS BEEN INCORPORATED.
4. PROPOSED FLOATS, PILINGS, PIER, AND DREDGING ARE DESIGNED BY APPLIED TECHNOLOGY MANAGEMENT, INC.



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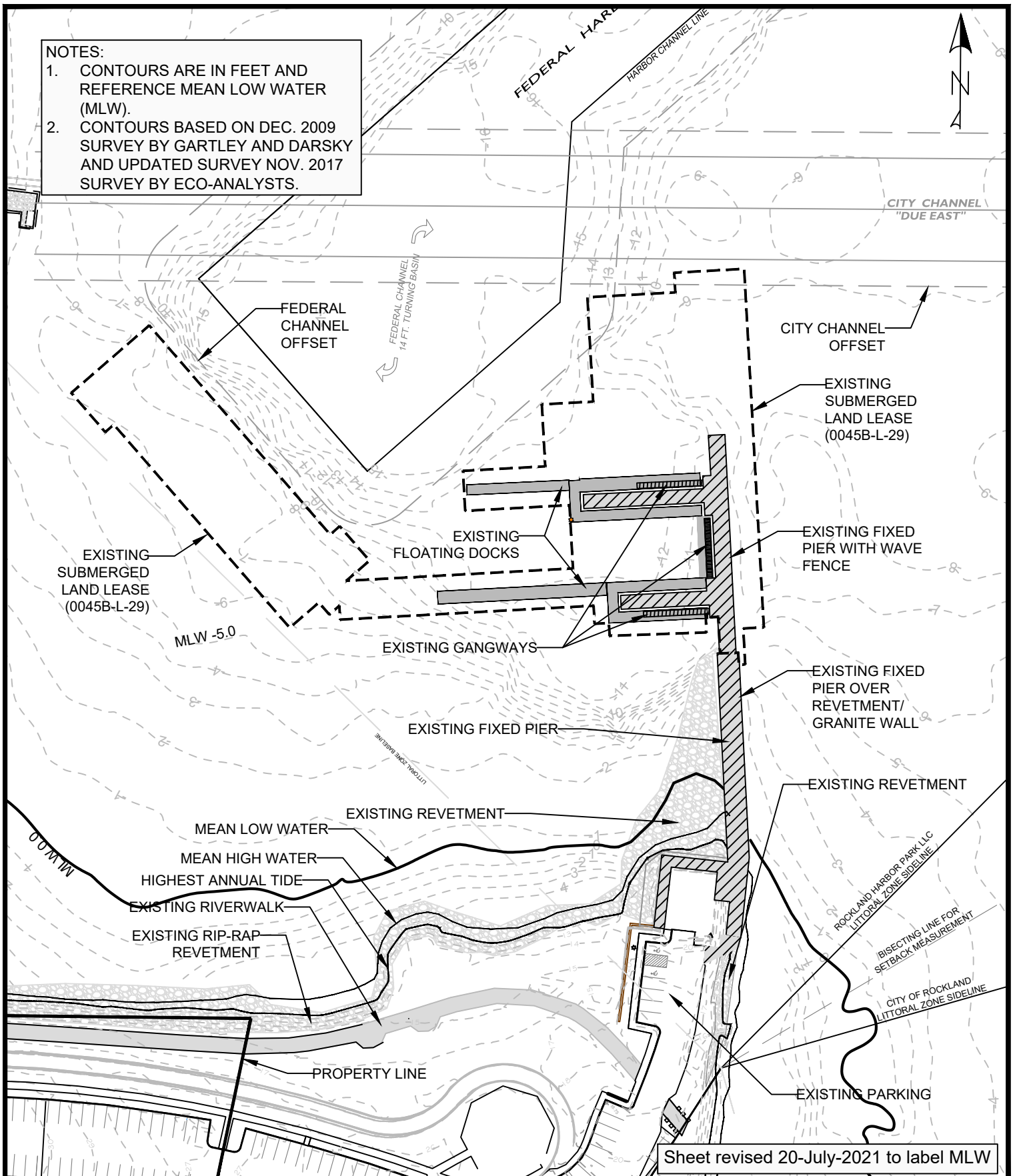
SH ROCKLAND - MARINA EXPANSION
NRPA PERMIT APPLICATION
ROCKLAND, MAINE

SCALE: N/A

OCTOBER 2021

NOTES:

1. CONTOURS ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
2. CONTOURS BASED ON DEC. 2009 SURVEY BY GARTLEY AND DASKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.



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SURVEYORS & ENGINEERS

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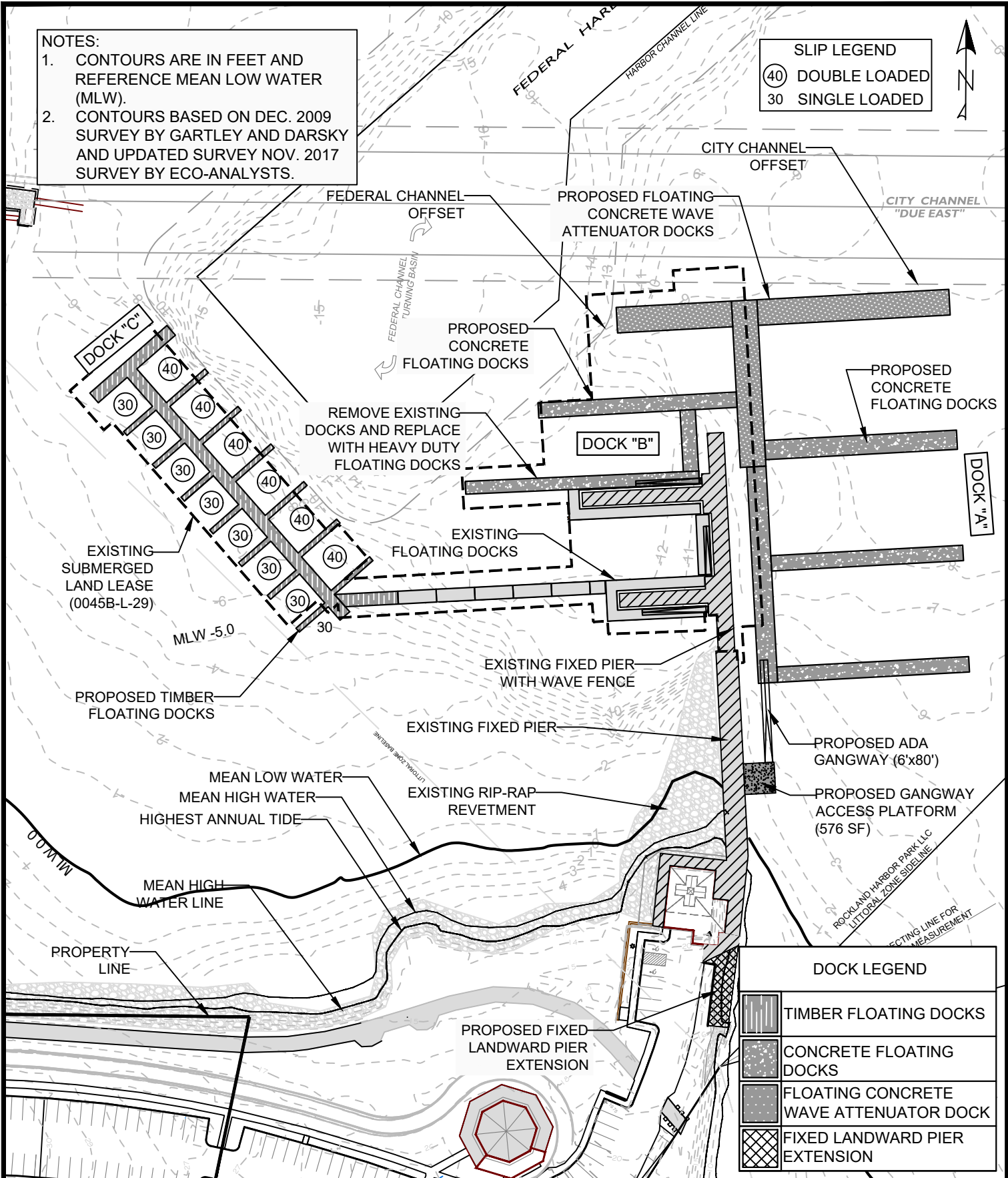
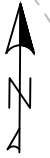
**SH ROCKLAND - NRPA APPLICATION
EXISTING CONDITIONS PLAN
ROCKLAND, MAINE**

SCALE: 1"=100'

OCTOBER 2021

NOTES:
 1. CONTOURS ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
 2. CONTOURS BASED ON DEC. 2009 SURVEY BY GARTLEY AND DASKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.

SLIP LEGEND
 (40) DOUBLE LOADED
 30 SINGLE LOADED



DOCK LEGEND

	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK
	FIXED LANDWARD PIER EXTENSION



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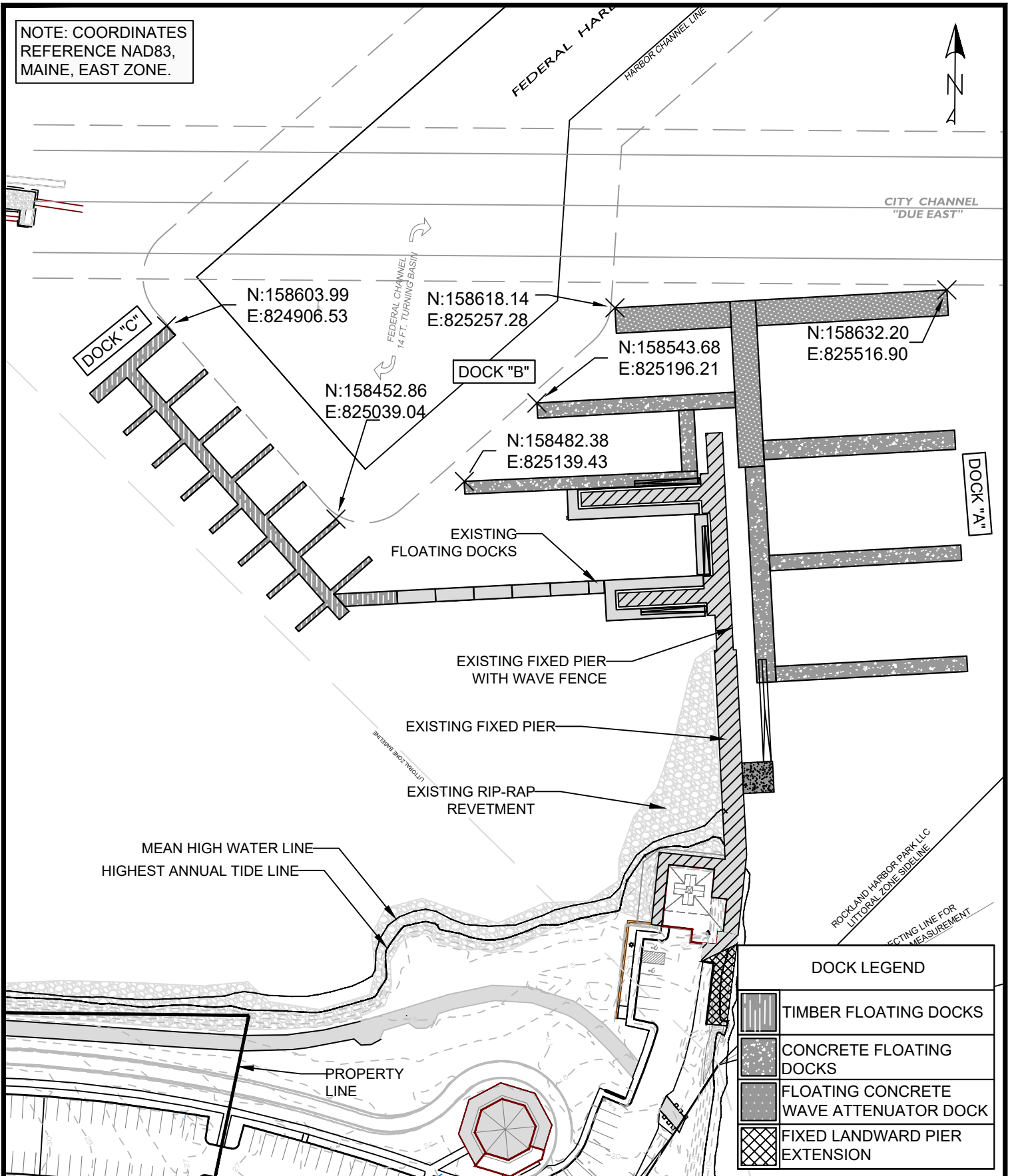
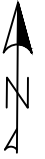
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**SH ROCKLAND - NRPA APPLICATION
 PROPOSED IMPROVEMENTS OVERVIEW
 ROCKLAND, MAINE**

SCALE: 1"=100'

OCTOBER 2021

NOTE: COORDINATES
REFERENCE NAD83,
MAINE, EAST ZONE.



DOCK LEGEND

	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FIXED LANDWARD PIER EXTENSION
	FLOATING CONCRETE WAVE ATTENUATOR DOCK



LANDMARK CORPORATION

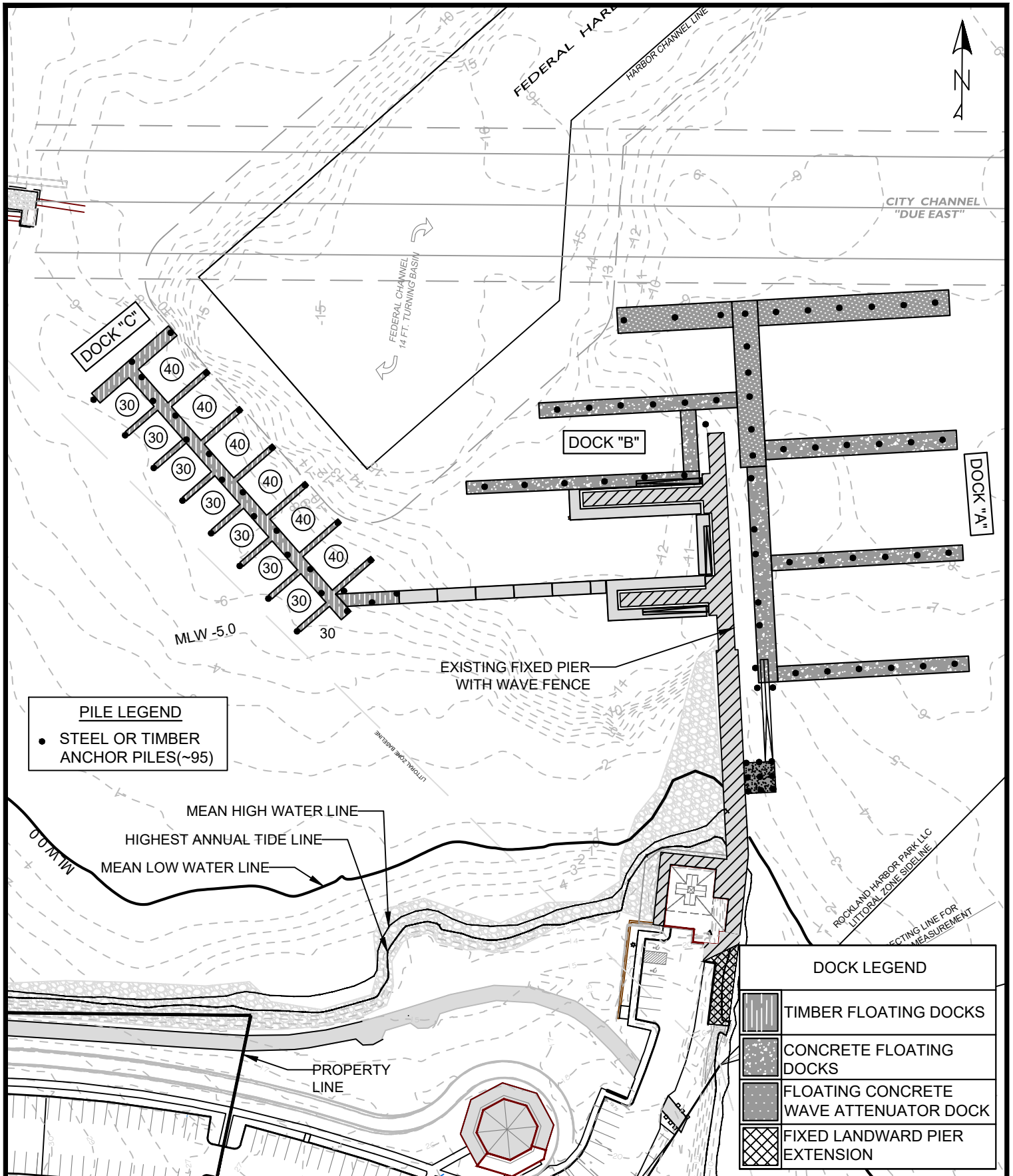
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SH ROCKLAND - NRPA APPLICATION
PROPOSED DOCK COORDINATES
ROCKLAND, MAINE

SCALE: 1"=100'

OCTOBER 2021



PILE LEGEND
 ● STEEL OR TIMBER ANCHOR PILES (~95)

DOCK LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK
	FIXED LANDWARD PIER EXTENSION

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SH ROCKLAND - NRPA APPLICATION APPROXIMATE ANCHOR PILE PLAN ROCKLAND, MAINE

SCALE: 1"=100' OCTOBER 2021

FEDERAL CHANNEL
OFFSET

CITY CHANNEL
"DUE EAST"

PROPOSED FLOATING
CONCRETE WAVE
ATTENUATOR DOCKS

CITY CHANNEL
OFFSET

DOCK "A" T-HEAD

260'

20'

150'

(B)

90'

90'

51'

155'

PROPOSED
CONCRETE
FLOATING DOCKS

15'

47'

170'

12'

48'

150'

DOCK "A"

75'

EXISTING GANGWAY
(TO REMAIN)

12'

150'

75'

EXISTING GANGWAY
(TO REMAIN)

(A)

12'

150'

PROPOSED ADA
COMPLIANT GANGWAY
(6'x80')

15'




24'

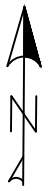
PROPOSED GANGWAY
ACCESS PLATFORM
(576 SF)

(D)

24'

(E)

LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK



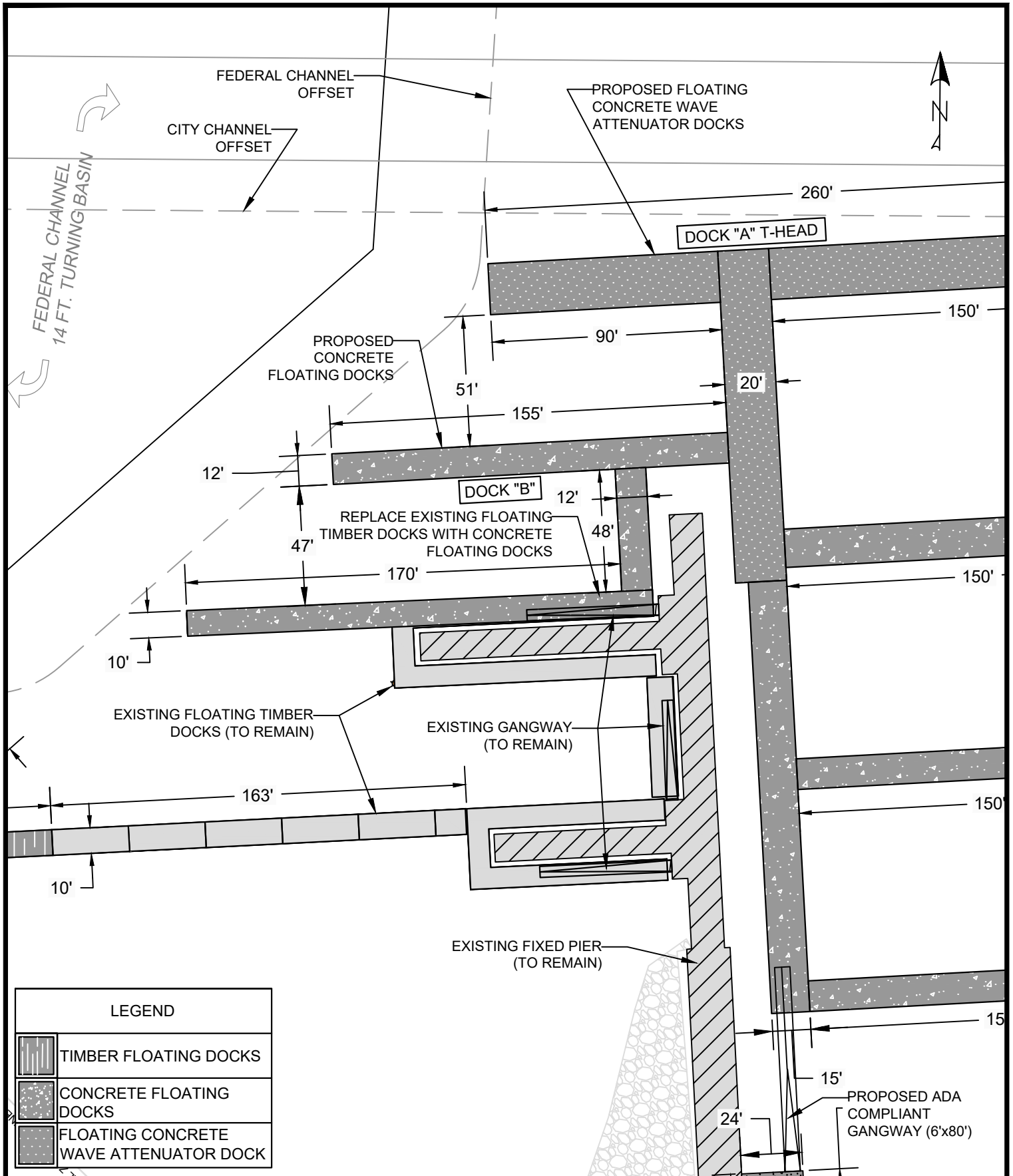
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SH ROCKLAND - NRPA APPLICATION
DOCK A DIMENSION PLAN
ROCKLAND, MAINE

SCALE: 1"=60'

OCTOBER 2021

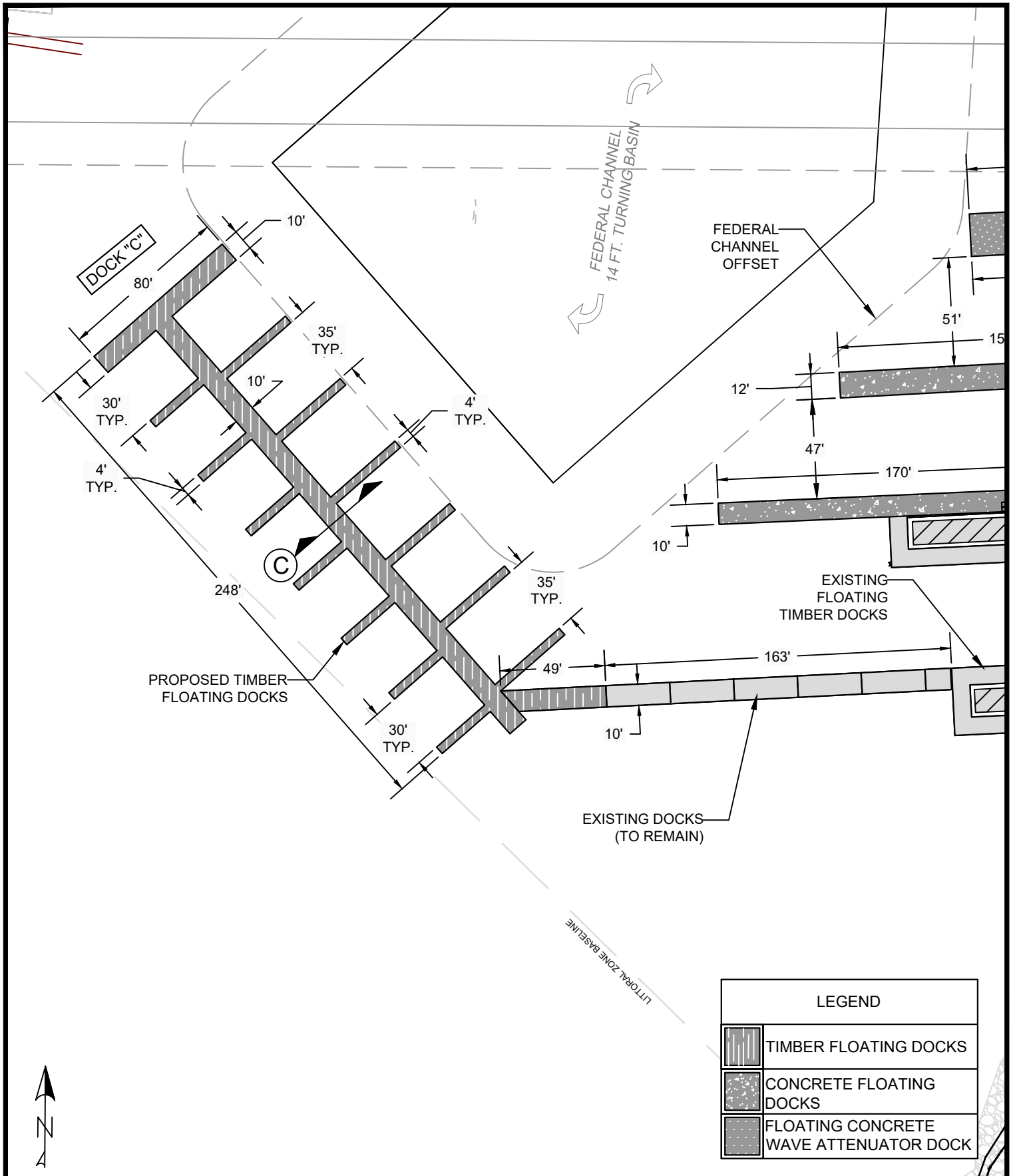





LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK

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**SH ROCKLAND - NRPA APPLICATION
 DOCK B DIMENSION PLAN
 ROCKLAND, MAINE**

SCALE: 1"=60' OCTOBER 2021



LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK



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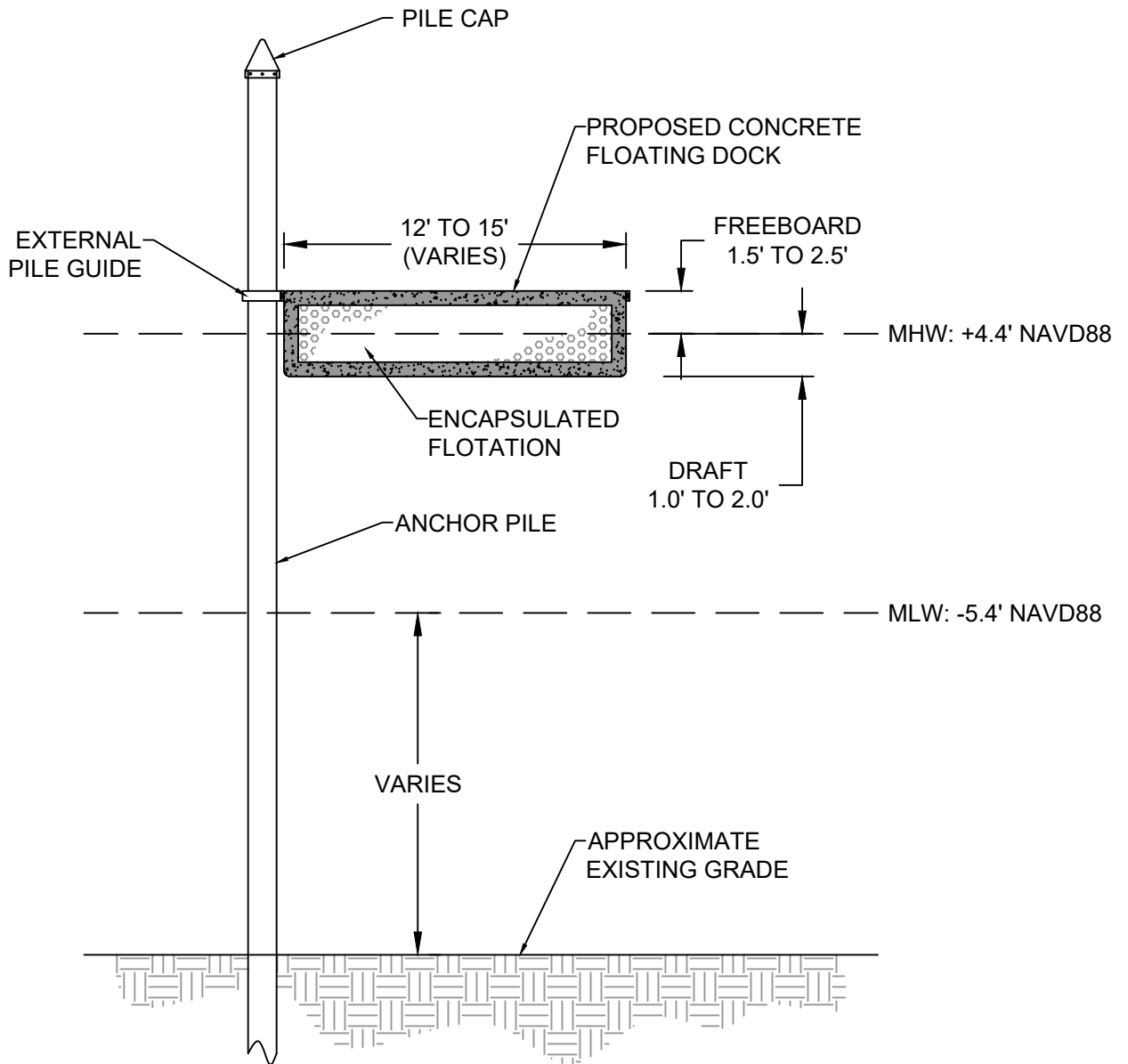
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**SH ROCKLAND - NRPA APPLICATION
DOCK C DIMENSION PLAN
ROCKLAND, MAINE**

SCALE: 1"=60'

OCTOBER 2021



(A) TYPICAL CONCRETE FLOATING DOCK SECTION



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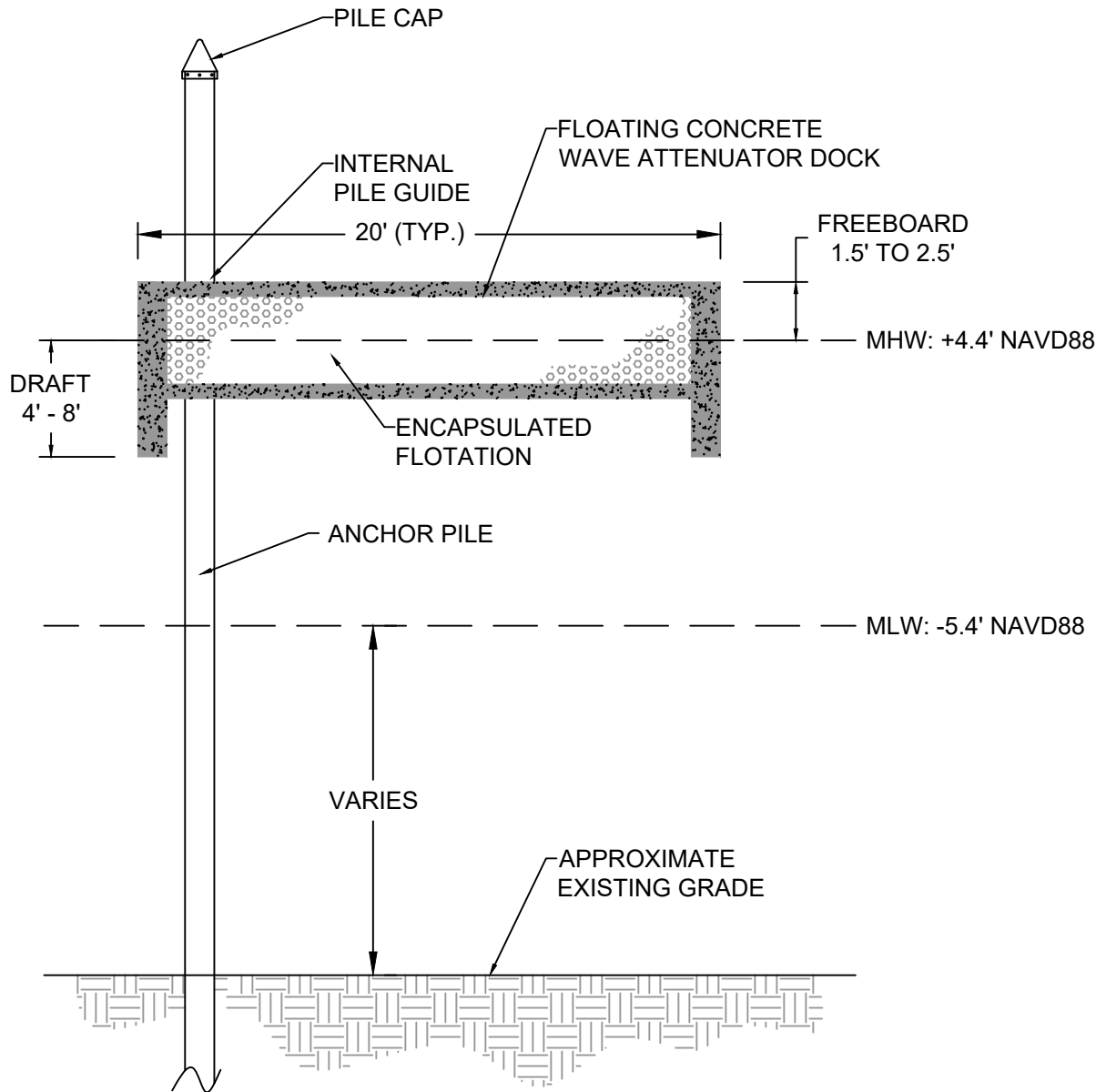
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SH ROCKLAND - NRPA APPLICATION
TYPICAL CONCRETE FLOATING DOCK DETAILS
ROCKLAND, MAINE

SCALE: 1"=6'

OCTOBER 2021



(B) TYPICAL FLOATING CONCRETE WAVE ATTENUATOR DOCK SECTION



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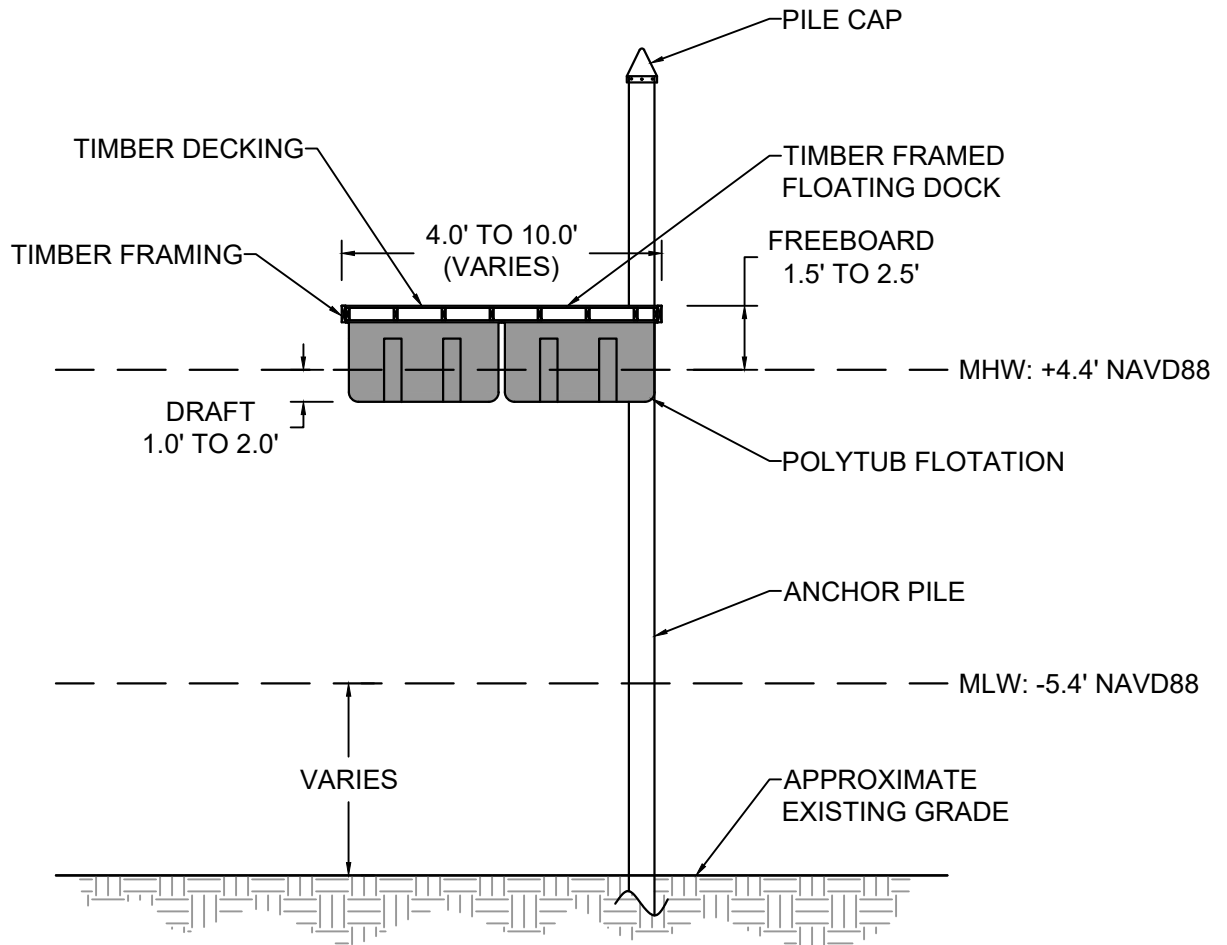
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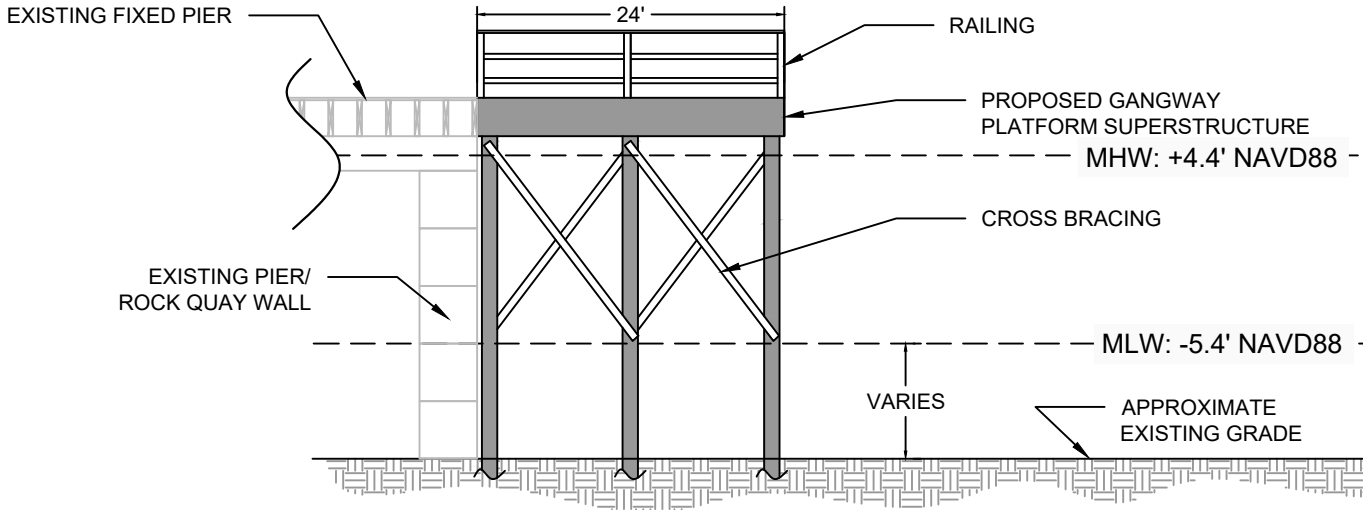
SH ROCKLAND - NRPA APPLICATION
TYPICAL FLOATING CONCRETE WAVE ATTENUATOR
ROCKLAND, MAINE

SCALE: 1"=6'

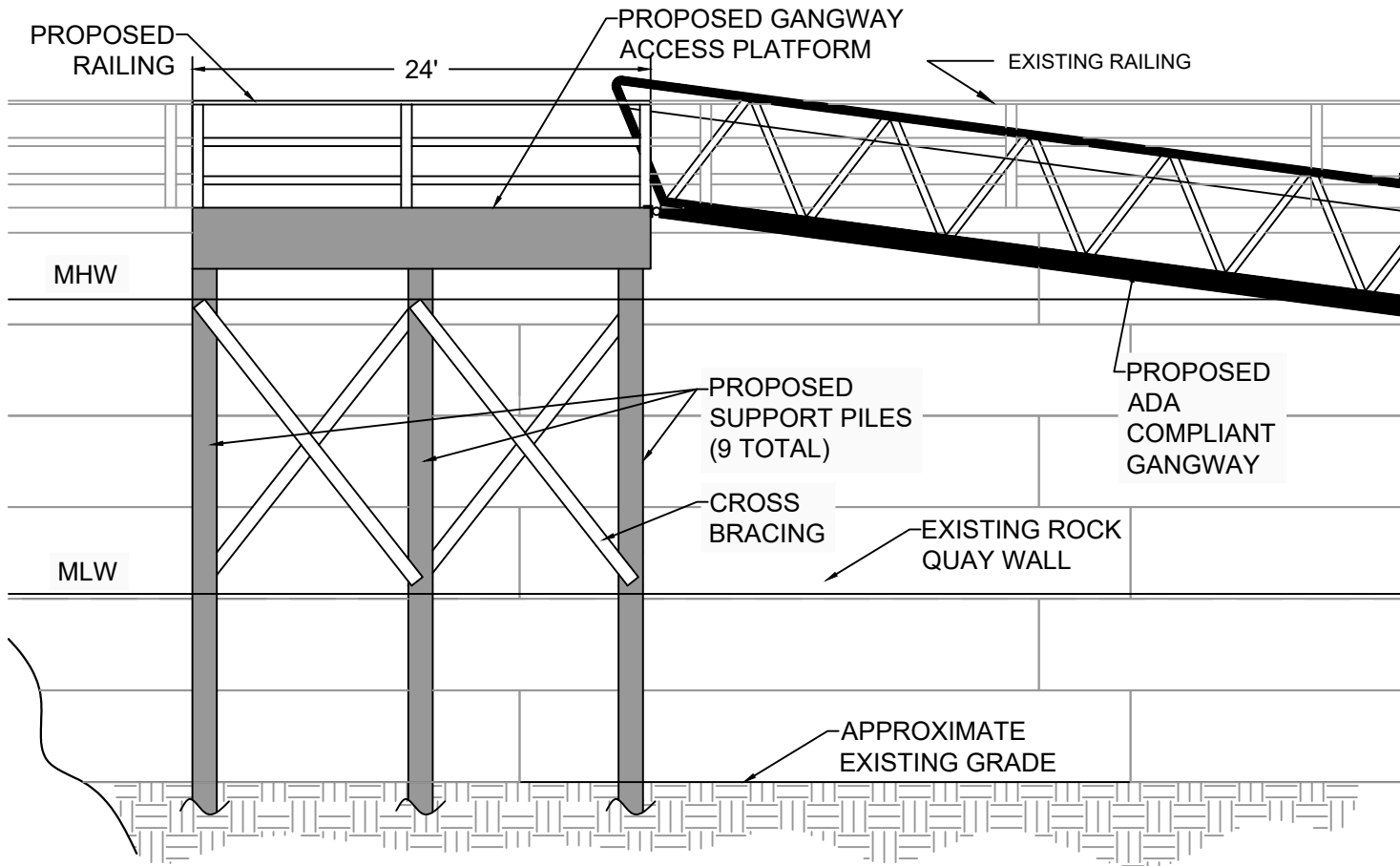
OCTOBER 2021



© TYPICAL TIMBER FLOATING DOCK SECTION



D TYPICAL GANGWAY ACCESS
PLATFORM SECTION



E TYPICAL GANGWAY ACCESS
PLATFORM SECTION



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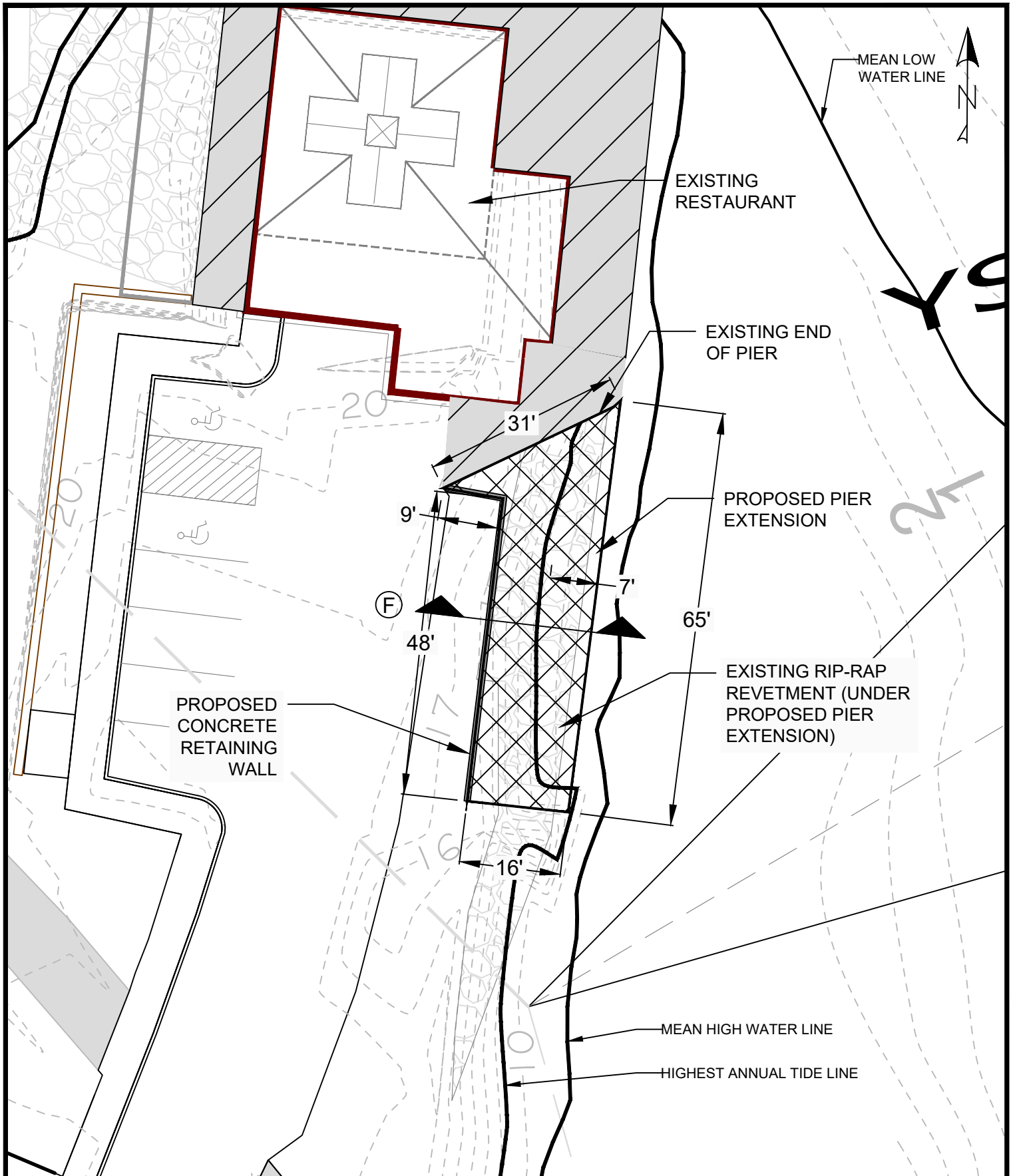
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SH ROCKLAND - NRPA APPLICATION
TYPICAL GANGWAY ACCESS PLATFORM DETAILS
ROCKLAND, MAINE

SCALE: NTS

OCTOBER 2021



LANDMARK CORPORATION

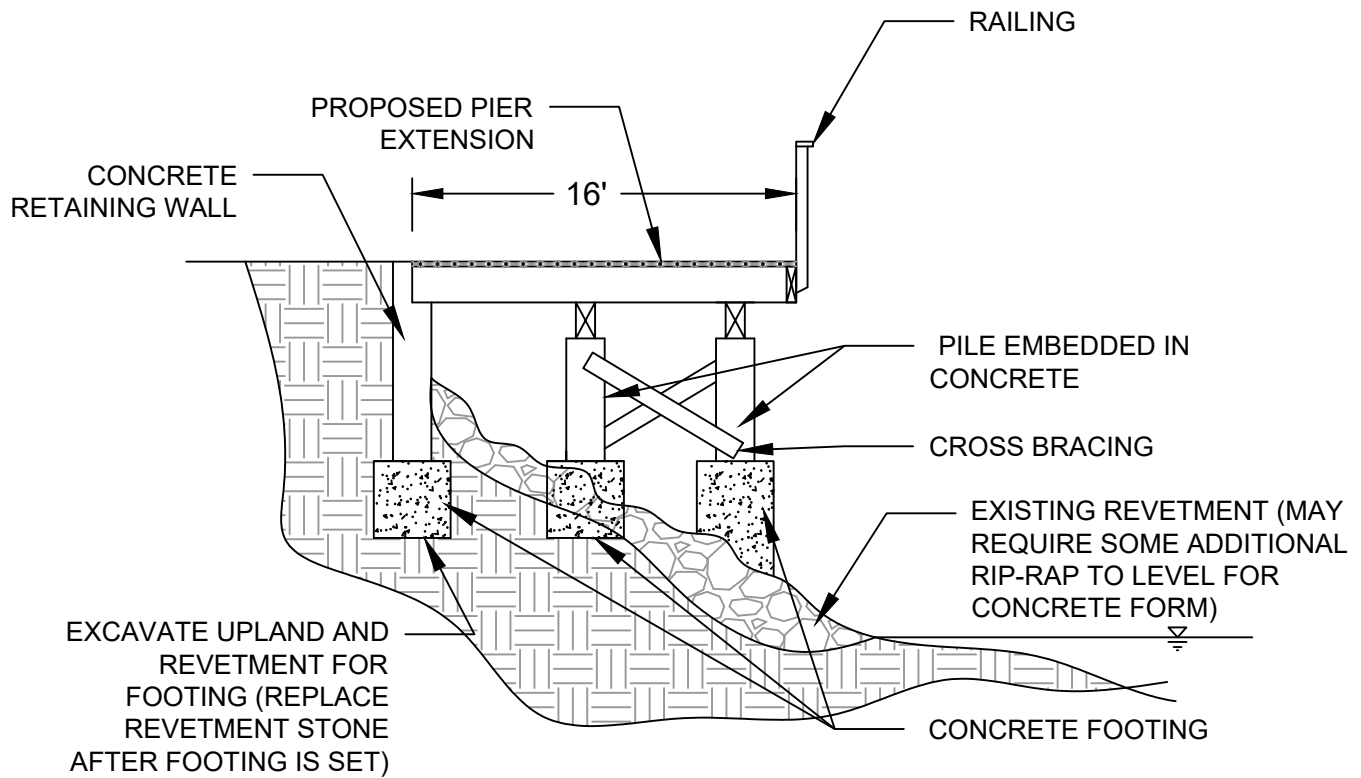
SURVEYORS & ENGINEERS

135 Rockland Street, Rockport, Maine 04856 Phone: (207) 236-6757 www.LANDMARKMAINE.COM

**SH ROCKLAND - NRPA APPLICATION
SHOREWARD PIER EXTENSION LAYOUT
ROCKLAND, MAINE**

SCALE: 1"=20'

OCTOBER 2021



(F) TYPICAL LANDWARD FIXED PIER EXTENSION SECTION



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

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SH ROCKLAND - NRPA APPLICATION
TYPICAL LANDWARD PIER EXTENSION SECTION
ROCKLAND, MAINE

SCALE: NTS

OCTOBER 2021

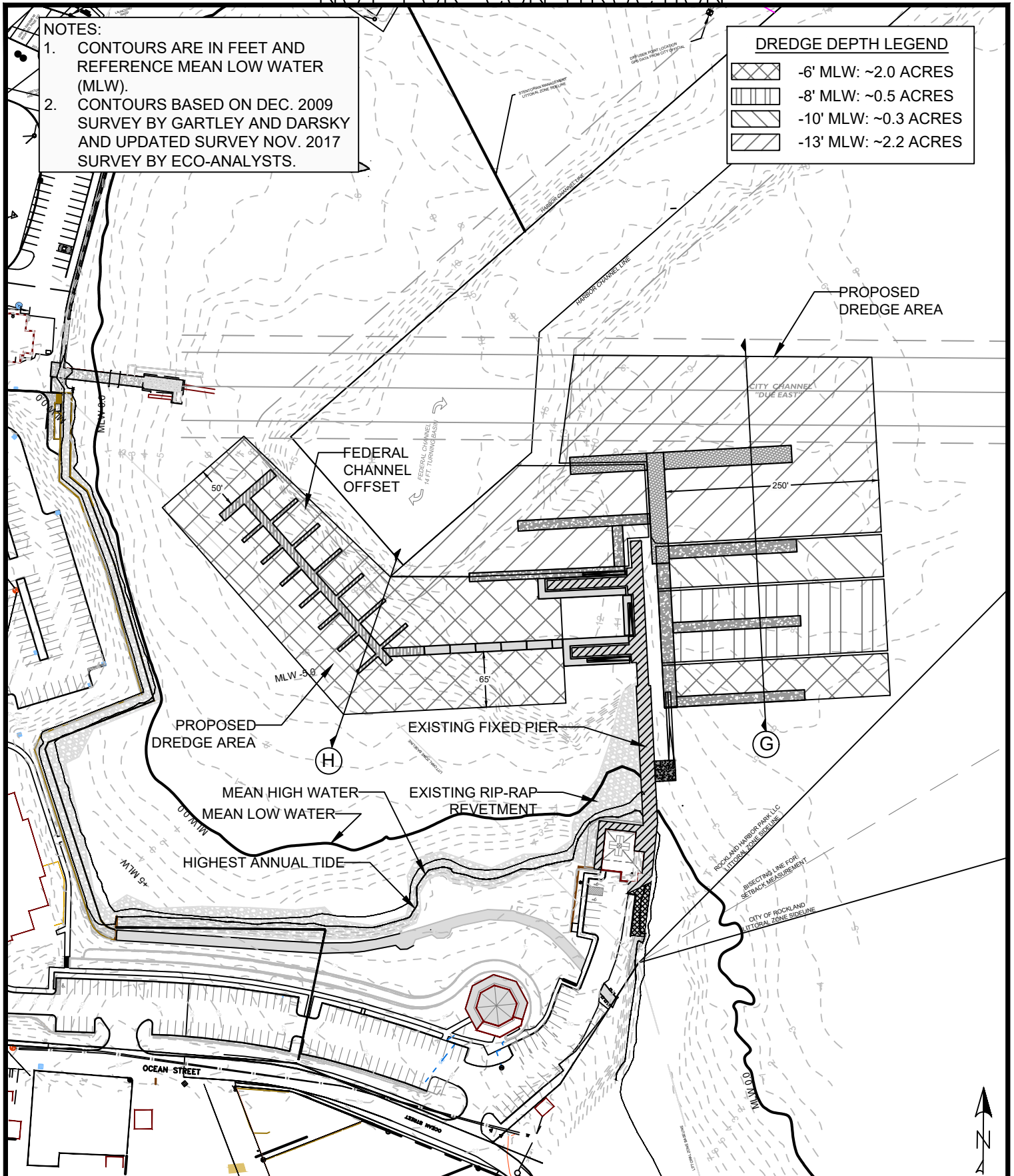
FOR PERMITTING PURPOSES ONLY
 "NOT FOR CONSTRUCTION"

NOTES:

1. CONTOURS ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
2. CONTOURS BASED ON DEC. 2009 SURVEY BY GARTLEY AND DARSKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.

DREDGE DEPTH LEGEND

	-6' MLW: ~2.0 ACRES
	-8' MLW: ~0.5 ACRES
	-10' MLW: ~0.3 ACRES
	-13' MLW: ~2.2 ACRES



LANDMARK CORPORATION

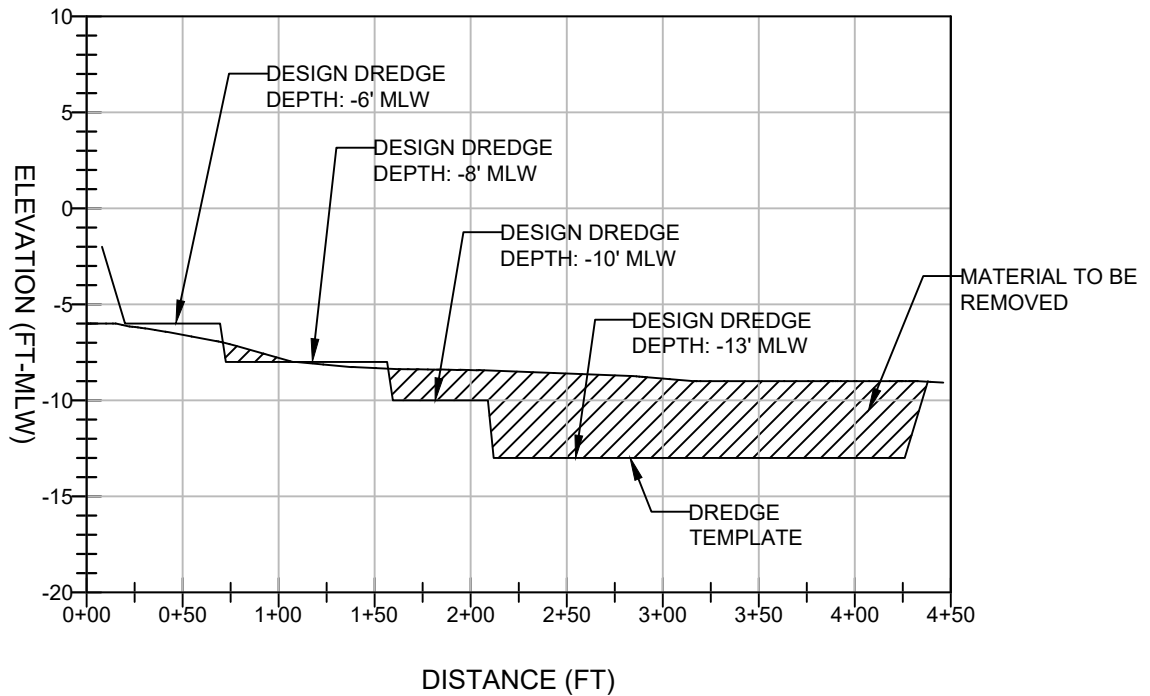
SURVEYORS & ENGINEERS

135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

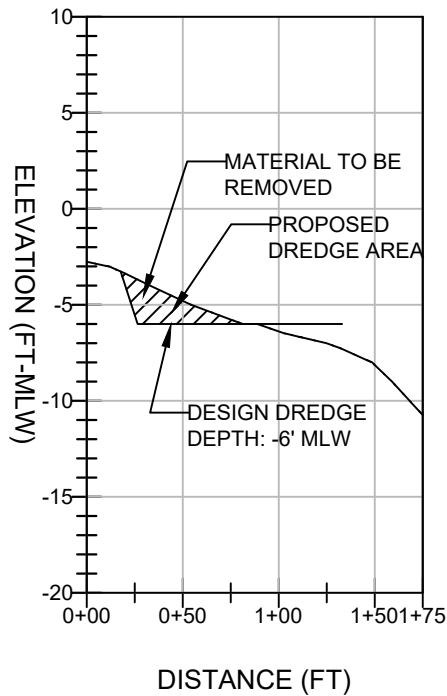
**SH ROCKLAND - NRPA APPLICATION
 PROPOSED DREDGE PLAN
 ROCKLAND, MAINE**

SCALE: 1"=150'

OCTOBER 2021



Ⓒ TYPICAL DREDGE PROFILE



Ⓓ TYPICAL DREDGE PROFILE

- NOTES:
1. PROFILES ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
 2. PROFILES BASED ON DEC. 2009 SURVEY BY GARTLEY AND DASKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.

FOR PERMITTING PURPOSES ONLY
 "NOT FOR CONSTRUCTION"

NOTES:

1. CONTOURS ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
2. CONTOURS BASED ON DEC. 2009 SURVEY BY GARTLEY AND DASKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.
3. PROPOSED DREDGE CONTOURS, VOLUMES, AND AREAS ARE BASED ON CONDITIONS AT TIME OF SURVEY AND MAY VARY AT TIME OF CONSTRUCTION.

TURBIDITY CURTAIN, IF NECESSARY (LOCATION IS INDICATIVE AND SHALL BE DEPLOYED AROUND THE CURRENT AREA OF DREDGING DURING CONSTRUCTION)

FEDERAL CHANNEL OFFSET

PROPOSED -6' MLW DREDGE AREA (17,550 SF - ~450 CY)

PROPOSED CONTOURS MEAN HIGH WATER

MEAN LOW WATER
 HIGHEST ANNUAL TIDE

EXISTING FIXED PIER

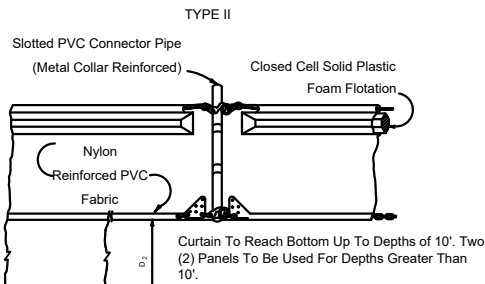
EXISTING RIP-RAP REVETMENT

PROPOSED -13' MLW DREDGE AREA (91,975 SF - ~11,055 CY)

PROPOSED -10' MLW DREDGE AREA (13,120 SF - ~720 CY)

PROPOSED -8' MLW DREDGE AREA (9,540 SF - ~200 CY)

PROPOSED -6' MLW DREDGE AREA (5,750 SF - ~90 CY)



FLOATING TURBIDITY BARRIERS



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

135 Rockland Street Rockport, Maine 04856 Phone: (207) 236-6757 www.landmarkmaine.com

SH ROCKLAND - NRPA APPLICATION
 TURBIDITY CONTROL NOTES AND DETAILS
 ROCKLAND, MAINE

SCALE: 1"=150'

OCTOBER 2021

APPENDIX B

Issued Regulatory Permits

MDEP Beneficial Use of Dredged Material Permit (B.1)

MDEP NRPA Coastal Wetland Alteration Water Quality Certification Permits (B.2)

USACE General Permit Authorization Letter and Screening Summary (B.3)



APPENDIX B.1

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

SHM ROCKLAND, LLC)	MAINE HAZARDOUS
CUSHING, KNOX COUNTY, MAINE)	WASTE, SEPTAGE AND
BENEFICIAL USE OF DREDGE MATERIAL)	SOLID WASTE
S-022546-W3-A-N)	MANAGEMENT ACT
(APPROVAL WITH CONDITIONS))	NEW LICENSE

Pursuant to the provisions of the *Maine Hazardous Waste, Septage and Solid Waste Management Act*, 38 M.R.S. §§1301 through 1319-Y; the *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2, (last amended June 9, 2018), the *Solid Waste Management Rules: General Provisions*, 06-096 C.M.R. ch. 400 (last amended February 9, 2021), and the *Solid Waste Management Rules: Beneficial Use of Solid Waste*, 06-096 C.M.R. ch. 418 (last amended July 8, 2018), the Department of Environmental Protection ("Department") has considered the application of the SHM ROCKLAND, LLC ("SHM" or "the applicant") with its supportive data, staff review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

- A. Application: SHM has applied for a license for the one-time beneficial use of dredge material as part of a gravel pit reclamation project in Cushing, Maine.
- B. Summary of Proposal: SHM proposes to use approximately 16,000 cubic yards of dredge material generated by the applicant during the dredging of a marina owned and operated by SHM. The dredged material will be dewatered on site and transported approximately 12 miles to a gravel pit owned by John Barbour, located in Cushing, Maine. The dredge material will be used as subgrade fill to contour the excavated area of the gravel pit and then covered and seeded.

2. BACKGROUND INFORMATION

The marina where the dredging will take place was owned by Rockland Harbor Park, LLC and operated by Yachting Solutions, LLC ("YS"), per a lease agreement, when the application was submitted. YS was the original applicant. The Department notified YS of several items that needed to be addressed by YS before the Department could complete its review of the application. These included title, right or interest for the area that will be dredged, an agreement between YS and the gravel pit owner that would allow for the beneficial use of the dredge material at the gravel pit, additional information on the financial and technical ability of YS and the gravel pit owner to carry out the proposed beneficial use, and information that was missing from the disclosure statement. In

SHM ROCKLAND, LLC	2	MAINE HAZARDOUS
CUSHING, KNOX COUNTY, MAINE)	WASTE, SEPTAGE AND
BENEFICIAL USE OF DREDGE MATERIAL)	SOLID WASTE
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(APPROVAL WITH CONDITIONS))	NEW LICENSE

addition, during the course of the Department’s review of the application, staff determined that the marina was for sale and a purchase agreement was being executed between Rockland Harbor Park, LLC and SMH. In order to address the Department’s comments on the application and based on the change in ownership of the marina, YS and SHM became co-applicants for the beneficial use application on January 12, 2021. Both parties submitted information that addressed the Department’s comments, that reflected the current ownership of the marina and that allowed SHM to become a co-applicant. Subsequent to the completion of purchase of the marina by SHM, YS became a contracted agent and operator working on behalf of SHM. Based on this change in the contractual relationship, YS withdrew as co-applicant on March 30, 2021.

3. PROJECT DESCRIPTION

As part of the maintenance of the marina and to accommodate larger vessels, SHM has proposed dredging in two areas around the boat slips. The smaller area, identified as Area A, is expected to generate approximately 1,000 cubic yards of dredge material. The larger area, identified as Area B, is expected to generate approximately 11,000 cubic yards of dredge material. The dredge material will be partially dewatered on the dredge barge and again following off-loading at the Prock Marine Company yard located 1 mile from the dredge location via the barge haul route over water. Once dewatered, the dredge material will be transported to the gravel pit owned by John Barbour in Cushing and placed as subgrade fill to contour the excavated area of the gravel pit and then covered and seeded.

4. SCHEDULE

The applicant plans to begin the beneficial use of the dredge material from the marina in November of 2021 and complete the project by March of 2022.

5. TITLE, RIGHT, OR INTEREST

SHM submitted a Warranty Deed demonstrating John Barbour’s ownership of the property where the beneficial use will occur. SHM has also submitted a copy of an agreement executed between John Barbour and SHM for the beneficial use of the dredge material at the gravel pit owned by John Barbour and holding Mining ID # 485 from the Department. Finally, SHM submitted a Quitclaim Deed demonstrating ownership of the parcel where the marina is located and where the dredge material will be excavated. The deed also conveyed all right, title and interest in the land and any improvements located between the high and low water lines, as well as any land and improvements located below the low water line, as described in the deed, where the dredging will take place.

SHM ROCKLAND, LLC	3	MAINE HAZARDOUS
CUSHING, KNOX COUNTY, MAINE)	WASTE, SEPTAGE AND
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(APPROVAL WITH CONDITIONS))	NEW LICENSE

The Department finds that the applicant has demonstrated sufficient title, right or interest in the property where the proposed beneficial use of the dredge material will occur and to the submerged lands where the dredge material will be excavated.

6. NOTICE OF INTENT TO FILE

The applicant has provided a copy of a notice of intent to file that was published in the *Kennebec Journal* on October 13, 2020 and sent by certified mail to the Town Manager and Planning Board Chair of the Town of Cushing, and to abutting property owners.

7. FINANCIAL ABILITY

SHM estimates that the total cost to make the planned improvements to the marina, including the dredging, will cost approximately \$1,784,701. Of that total, the dredging and beneficial use of the dredge material is estimated at \$763,000. SHM has secured a grant through the Federal Boating Infrastructure Grant (“BIG”) program in the amount of \$1,045,760. Per the grant agreement, SHM must provide a matching contribution of \$737,941.

SHM is a wholly owned subsidiary of Safe Harbor Marinas, LLC, which was acquired by Sun Communities, Inc. in September 2020. SHM submitted the most recent corporate annual report for Sun Communities, Inc., demonstrating the availability of sufficient funds to finance the proposed project.

The Department finds that the applicant has submitted accurate cost estimates for the proposed project and has provided evidence that funds are available to beneficially use the dredge material as proposed; thereby it has affirmatively demonstrated the financial capacity to beneficially use the dredge material in a manner consistent with all applicable requirements.

8. TECHNICAL ABILITY

SHM has retained Prock Marine Company to excavate and dewater the dredge material from the marina. Prock Marine Company has over 80 years of experience constructing waterfront projects including piers and marinas, as well as conducting dredge projects. The company has nine barges, three tugboats, twelve trucks and seven cranes available to perform the proposed project. However, the Department finds that Prock Marine Company does not currently hold a 06-096 C.M.R. ch. 402 license to store the dredge materials during the dewatering period, as described in Finding of Fact # 11.

SHM ROCKLAND, LLC	4	MAINE HAZARDOUS
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John Barbour will be responsible for the placement and covering of the dredge material once it is delivered to the gravel pit (Department Mining ID # 485). Mr. Barbour has a degree in civil engineering and has over 30 years of experience in large earthworks projects. Mr. Barbour has eight trucks, nine excavators, and two bulldozers available to perform the placement and covering of the dredge material. Landmark Corporation, an engineering firm with over 75 years of experience, prepared the design plans for the proposed project that were signed and stamped by a Maine Professional Engineer.

The Department finds that the applicant has affirmatively demonstrated the technical ability to beneficially use the dredge material in a manner constant with all applicable requirements, provided Prock Marine Company obtains the appropriate license under 06-096 prior to storage of the dredge material from this project at its facility during dewatering.

9. DISCLOSURE STATEMENT

The applicant has submitted a disclosure statement in accordance with the requirements of 06-096 C.M.R. ch. 400, § 12. The applicant has not been convicted of any criminal law and has not been adjudicated or otherwise found to have committed any civil violation of environmental laws or rules of the State, other states, the United States, or another country in the five years preceding this application. Based on the disclosure statement submitted by the applicant, the Department finds no reason to refuse to grant a license to the applicant.

10. BENEFICIAL USE DEMONSTRATION

The Department requires exhausted pit areas to be reclaimed with suitable materials, including soil, rocks and other permissible fill materials. The reclaimed areas should be graded to a slope of 2.5 horizontal to 1 vertical or less and at least 90% covered with vegetation. The dewatered dredge material from the SHM project, comprised of soil and rock, will be used as a subgrade material and placed to achieve the required slope specifications. Following placement and grading, the dredge material will be covered with a minimum of 6 inches of non-screened topsoil and permanently stabilized with seed, fertilizer and mulch or covered with a minimum of 6 inches of erosion control mix.

The Department finds that the proposed beneficial use proposed by the applicant serves a legitimate beneficial purpose, does not constitute a means of disposal or discard, and that the dredge material will perform as an acceptable substitute for the common borrow or other fill that might be used for the reclamation of gravel pits as required by the Department.

SHM ROCKLAND, LLC	5	MAINE HAZARDOUS
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(APPROVAL WITH CONDITIONS))	NEW LICENSE

11. STORAGE AND HANDLING

The dredge material will be excavated using a crane located on a floating platform, loaded into a barge and partially dewatered on the barge. The barge will be transported a short distance through Rockland harbor to the Prock Marine Company waterfront marina, where the dredge material is proposed to be offloaded for further dewatering in an area constructed of concrete barriers and lined with geotextile and hay bales. The dewatering area will be designed to drain back into Rockland harbor. The dewatered dredge material will then be loaded onto trucks and delivered to John Barbour's gravel pit for placement and grading using trucks licensed by the Department to transport Category A non-hazardous wastes.

Fugitive dust will be controlled during transport by covering of loads as needed. Erosion and sedimentation will be controlled by measures such as construction exit and entrance best management practices, silt fence, hay bales, mulch, and seeding for final cover. Personnel will be available with shovels, brooms and mechanical sweepers to clean up any spills of the dredge material. The gravel pit has a dust minimization plan in place for the operation of the pit. Best management practices will be implemented in a manner consistent with the *Maine Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers* (October 2016) and the *Maine Erosion and Sediment Control Practices Field Guide for Contractors* (March 2015). All BMPs will be inspected and maintained until the site is permanently stabilized.

The Department finds that the dewatering area described in the application requires a storage facility license under the provisions of 06-096 C.M.R. ch. 402. The Department therefore finds that the applicant has documented adequate procedures to control liquid discharge, fugitive dust, and erosion and sedimentation during storage and handling of the dredge material, provided the land area used to dewater the dredge material is licensed as a dredge material storage facility under 06-096 C.M.R. ch. 402.

12. TRAFFIC MOVEMENT

SHM has estimated that a maximum of 35 loads of the dredge material will be transported from the Prock Marine Company facility to the gravel pit per day. The haul route is approximately 12 miles one way over Maine state roads, with an estimated round-trip travel time of one hour per load. The excavation and hauling will occur when roads are not posted for heavy loads during the spring thaw. Hauling of the dredge material will begin in November of 2021 and be completed by March of 2022, within a period of less than one year.

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(APPROVAL WITH CONDITIONS))	NEW LICENSE

The Department finds that 06-096 C.M.R. ch. 418, § 4(C)(1) states that the traffic standards of 06-096 C.M.R. ch. 400, § 4(D) are presumed to be met if the beneficial use will occur no more than once in a calendar year; this project will be completed within a one year period. Therefore, the Department finds that the applicant has made adequate provisions for safe and uncongested traffic movement of all types into, out of, and within the area proposed for beneficial use of the dredge material.

13. AIR QUALITY

As described in Finding of Fact #11, SHM states that fugitive dust will be controlled during transport by covering of loads as needed. Any spills of the dredge material will be cleaned up immediately and the gravel pit operator has a dust minimization plan for the gravel pit. The dredge material is not putrescible and will not generate nuisance odors. The proposed beneficial use will not involve open burning of any solid wastes.

The Department finds that the proposed beneficial use of the dredge material will not unreasonably adversely affect air quality.

14. PROTECTED NATURAL RESOURCES

The proposed beneficial use will not occur in, on, over or adjacent to a protected natural resource that would require conformance with the standards of the Natural Resource Protection Act, 38 M.R.S. §§ 480-A through 480-Z or require a Federal Wetlands permit. The applicant is in the process of filing applications under the Natural Resource Protection Act and with the Army Corps of Engineers for the dredging of the marina and will secure those approvals prior to implementing the proposed beneficial use.

The Department finds that the proposed beneficial use will not have an unreasonably adverse effect on other natural resources in the municipality or in neighboring municipalities.

15. WASTE CHARACTERIZATION and RISK EVALUATION

SHM collected and analyzed a total of five samples of the dredge material, two from Area A and three from Area B. The samples were analyzed for total metals, volatiles and semi-volatiles, PCBs, hexavalent chromium, and dioxins. With the exception of arsenic, all the constituent levels were below the levels necessary to beneficially use the dredge material in accordance with the reduced procedures provisions of 06-096 C.M.R. ch. 418, § 7(A)(3). Based on the low levels of constituents in the dredge material, it was determined that none of the samples would exceed the hazardous waste thresholds. The Department finds that the applicant has provided adequate characterization data for the

SHM ROCKLAND, LLC	7	MAINE HAZARDOUS
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(APPROVAL WITH CONDITIONS))	NEW LICENSE

dredge material and finds that the applicant’s proposed use of dredge material will not include the use of any hazardous wastes.

The arsenic levels ranged from 17 to 28 mg/kg. The allowable limit under 06-096 C.M.R. ch. 418, § 7(A) is 16 mg/kg, and the screening level in 06-096 C.M.R. ch. 418, Appendix A is 7.9 mg/kg. The applicant states that the beneficial use will occur at a facility where public access is strictly limited via fencing and a locked gate, that the closest residence is located 1,000 feet away from where the dredge material will be placed and that the dredge material will be placed and covered in an expeditious manner, thereby limiting exposure to the public and the environment. The Department finds that the risk management measures to be employed during the use of dredge material as proposed by the applicant are adequate to manage the arsenic level in the dredge material, and that beneficial use of the dredge material as proposed will not pollute any waters of the State, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance.

16. EXISTING USES AND SCENIC CHARACTER

The gravel pit where the beneficial use will occur is not visible from any public roads or public viewsheds and is surrounded by wooded buffers. Within the property where the pit is located, the reclaimed area will be graded to blend in with the existing landscape and, once covered and vegetated, will look like a grassy knoll on the landscape. The proposed use of the dredge material will not present a bird hazard to aircraft as the nearest airport is over seven miles away. The proposed beneficial use will not impact historical sites or generate excessive noise at the property boundary or at protected locations.

The Department finds that the proposed beneficial use will not unreasonably adversely affect existing uses and scenic character.

BASED on the above Finding of Facts, the Department makes the following CONCLUSIONS:

1. The proposed beneficial use will not pollute any waters of the State, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance.
2. The applicant has demonstrated sufficient title, right, or interest in the property where the beneficial use will occur.
3. The applicant has the financial capacity to beneficially use the dredge material, as described in this order, in a manner consistent with state environmental requirements.

SHM ROCKLAND, LLC	8	MAINE HAZARDOUS
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4. The applicant has adequate technical ability to beneficially use the dredge material described in this application in a manner consistent with state environmental requirements, provided Prock Marine Company, proposed as the land dewatering area, obtains a license under 06-096 C.M.R. ch. 402 prior to storage of the dredge material on land.
5. The applicant has provided a disclosure statement as required by 06-096 C.M.R. ch. 400, § 12, and the Department finds no reason to refuse to grant a license to the applicant.
6. The use of dredge material as proposed by the applicant serves a legitimate beneficial purpose, does not constitute disposal or a means of discard, and will perform as an acceptable substitute for the type of material typically used.
7. The proposed beneficial use of the dredge material will not include the use of hazardous wastes identified pursuant to Maine's *Identification of Hazardous Waste* rule, 06-096 C.M.R. ch. 850.
8. The applicant has made adequate provisions for safe and uncongested traffic movement of all types into, out of, and within the area proposed for beneficial use.
9. The proposed beneficial use will not unreasonably adversely affect air quality.
10. The proposed beneficial use of the dredge material will not have an unreasonably adverse effect on natural resources in the municipality or neighboring municipalities and will not cause unreasonable sedimentation or erosion of soil.
11. The applicant has provided adequate characterization data for the dredge material for use in the proposed project, has proposed acceptable risk management procedures for the elevated level of arsenic in the dredge material, and the dredge material is suitable for the proposed beneficial use.
12. The proposed beneficial use will not unreasonably adversely affect existing uses and scenic character of the area.

SHM ROCKLAND, LLC
CUSHING, KNOX COUNTY, MAINE
BENEFICIAL USE OF DREDGE MATERIAL
S-022546-W3-A-N
(APPROVAL WITH CONDITIONS)

9) MAINE HAZARDOUS
) WASTE, SEPTAGE AND
) SOLID WASTE
) MANAGEMENT ACT
) NEW LICENSE

THEREFORE, the Department APPROVES the above noted application of SHM ROCKLAND, LLC, SUBJECT TO THE ATTACHED CONDITIONS and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached as Appendix A.
2. The invalidity or unenforceability of any provision, or part thereof, of this license shall not affect the remainder of the provision or any other provisions. This license shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
3. SHM shall ensure that any land dewatering of the dredge material from its project occurs only at a storage facility licensed under the applicable provisions of 06-096 C.M.R. ch. 402, and shall notify the Department of the location to be used prior to the placement of any dredge material on land.

DONE AND DATED AT AUGUSTA, MAINE, THIS 12th DAY

OF May, 2021.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

Date of initial receipt of application: October 20, 2020

Date of application acceptance: November 10, 2020

Date filed with Board of Environmental Protection:

XMP86686/mtp

FILED
May 12, 2021
State of Maine
Board of Environmental
Protection

Appendix A

STANDARD CONDITIONS TO ALL SOLID WASTE FACILITY LICENSES

STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL. VIOLATIONS OF THE CONDITIONS UNDER WHICH A LICENSE IS ISSUED SHALL CONSTITUTE A VIOLATION OF THAT LICENSE AGAINST WHICH ENFORCEMENT ACTION MAY BE TAKEN, INCLUDING REVOCATION.

1. **Approval of Variations from Plans.** The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the licensee. Any consequential variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
2. **Compliance with All Applicable Laws.** The licensee shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
3. **Compliance with All Terms and Conditions of Approval.** The licensee shall submit all reports and information requested by the Department demonstrating that the licensee has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
4. **Transfer of License.** The licensee may not transfer the solid waste facility license or any portion thereof without approval of the Department.
5. **Initiation of Construction or Development Within Two Years.** If the construction or operation of the solid waste facility is not begun within two years of issuance or within 2 years after any administrative and judicial appeals have been resolved, the license lapses and the licensee must reapply to the Department for a new license unless otherwise approved by the Department.
6. **Approval Included in Contract Bids.** A copy of the approval must be included in or attached to all contract bid specifications for the solid waste facility.
7. **Approval Shown to Contractors.** Contractors must be shown the license by the licensee before commencing work on the solid waste facility.
8. **Background of key individuals.** A licensee may not knowingly hire as an officer, director or key solid waste facility employee, or knowingly acquire an equity interest or debt interest in, any person convicted of a felony or found to have violated a State or federal environmental law or rule without first obtaining the approval of the Department.
9. **Fees.** The licensee must comply with annual license and annual reporting fee requirements of the Department's rules.
10. **Recycling and Source Reduction Determination for Solid Waste Disposal Facilities.** This condition does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling.

STANDARD CONDITIONS TO ALL SOLID WASTE FACILITY LICENSES

The solid waste disposal facility shall only accept solid waste that is subject to recycling and source reduction programs, voluntary or otherwise, at least as effective as those imposed by 38 M.R.S. Chapter 13.

- 11. Deed Requirements for Solid Waste Disposal Facilities.** Whenever any lot of land on which an active, inactive, or closed solid waste disposal facility is located is being transferred by deed, the following must be expressly stated in the deed:
- A. The type of facility located on the lot and the dates of its establishment and closure.
 - B. A description of the location and the composition, extent, and depth of the waste deposited.
 - C. The disposal location coordinates of asbestos wastes must be identified.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: November 2018

Contact: (207) 287-2452

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S. §§ 341-D(4) & 346; the *Maine Administrative Procedure Act*, 5 M.R.S. § 11001; and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

INFORMATION APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time the appeal is submitted:

1. *Aggrieved Status.* The appeal must explain how the appellant has standing to maintain an appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions regarding compliance with the law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing requirements that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for public hearing must be filed as part of the notice of appeal, and must include an offer of proof in accordance with Chapter 2. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed evidence must be submitted with the appeal. The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered in an appeal only under very limited circumstances. The proposed evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Specific requirements for supplemental evidence are found in Chapter 2 § 24.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a license holder may proceed with a project pending the outcome of an appeal, but the license holder runs the risk of the decision

being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, and will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see 38 M.R.S. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452, or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

APPENDIX B.2



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

SHM ROCKLAND, LLC) NATURAL RESOURCES PROTECTION ACT
Rockland, Knox County) COASTAL WETLAND ALTERATION
MARINA EXPANSION AND DREDGE) WATER QUALITY CERTIFICATION
L-20386-4P-P-N (approval))
L-20386-4E-Q-N (approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S. §§ 480-A–480-JJ, Section 401 of the Clean Water Act (33 U.S.C. § 1341), and Chapters 310 and 315 of Department rules, the Department of Environmental Protection (Department) has considered the application of SHM ROCKLAND, LLC (applicant) with the supportive data, agency review comments, public comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: In Department Order #L-20386-26-A-N/L-20386-4E-B-N, dated October 24, 2000 and corrected December 27, 2000, the Department approved the development of an operations center consisting of a 78,000-square-foot office building, an approximately 3.2-acre parking lot, a 7,800-square-foot daycare center, a 1,300-square-foot boathouse, a pavilion, and a 1,350-foot-long boardwalk. The development resulted in approximately 5.44 acres of impervious area. The development is located off Ocean Street in the City of Rockland.

In Department Order #L-20386-4C-C-N, dated December 20, 2000, the Department approved the restoration of a granite breakwater, the construction of a pier and wave fence, and the dredging of approximately 54,562 square feet of the coastal wetland. In Department Order #L-20386-26-G-B/L-20386-4E-H-N, dated July 23, 2008, the Department approved the expansion of the marina to include 40 additional slips and 98 pilings to support a floating dock. Subsequently, the Department has approved several modifications to the development. To date, the marina has resulted in approximately 1,084 square feet of fill and 3,211 square feet of shading impacts within the coastal wetland.

In Department Order #L-20386-26-N-T/L-20386-4E-O-T, dated May 17, 2021, the Department approved the transfer of the previous Department Orders as they pertain to the marina portion of the facility, consisting of 2.45 acres of upland and the existing pier and float systems, from Rockland Harbor Park, LLC to SHM Rockland, LLC.

B. Summary: The applicant proposes to expand the existing marina by constructing an extended access platform to the fixed pier, adding three new float configurations (Dock A, Dock B, and Dock C), and dredging approximately 138,000 square feet of the

subtidal coastal wetland, all as shown on a set of plans consisting of 17 sheets, the first of which is titled, "Legend," prepared by Landmark Corporation Surveyors and Engineers and dated by last revision October 2021. The proposed access platform, which will serve as a public viewing platform as well as an improved accessway onto the pier, will be 16 feet wide by 65 feet long and will extend along the shoreline south from the landward end of the existing fixed pier. The platform will be supported by an upland concrete retaining wall and up to 30 pilings set into concrete footings over an existing riprap revetment. The platform will result in approximately 116 square feet of direct impact and 205 square feet of shading impact over existing riprap within the coastal wetland.

The proposed Dock A float system will extend east and north of the existing pier. It will consist of a 24-foot by 24-foot access platform off the fixed pier; a six-foot-wide by 80-foot-long gangway ramp; a 15-foot-wide by 174-foot-long float extending north; two 12-foot-wide by 150-foot-long floats extending east; a 15-foot-wide by 150-foot-long float extending east; and a 20-foot-wide by 125-foot-long float extending north, forming a T-head with a 20-foot-wide by 90-foot-long float extending west and a 20-foot-wide by 150-foot-long float extending east. The proposed Dock A floats will be composed of a foam core encapsulated by reinforced concrete. The proposed Dock A T-head floats will have a four- to eight-foot draft designed to attenuate wave energy.

The proposed Dock B float system will extend west and north of the existing pier, will be accessed by an existing gangway ramp, and will replace a portion of the existing timber floats at the marina. Dock B will consist of a 10-foot-wide by 170-foot-long float extending west; a 12-foot-wide by 48-foot-long float extending north; and a 12-foot-wide by 155-foot-wide float extending west. The northernmost float of Dock B will connect to the Dock A T-head. The proposed Dock B floats will be composed of a foam core encapsulated by reinforced concrete.

The proposed Dock C float system will consist of a float tree extending west off existing floats to provide slips for smaller vessels. This system will consist of a 10-foot-wide by 49-foot-long float extending west; a 10-foot-wide by 248-foot-long float stem extending northwest; seven four-foot-wide by 30-foot-long finger floats extending off the southwest side of the float stem; six four-foot-wide by 40-foot-long finger floats extending off the northeast side of the float stem; and a 10-foot-wide by 80-foot-long float capping the northwest end of the float stem. The proposed Dock C floats will be composed of timber decking over polytube floatation pontoons.

The three new dock systems will be supported by up to 24 new 16-inch-diameter steel pipe pilings, up to 37 new 20-inch-diameter steel pipe pilings, and up to 43 new 12-inch-diameter timber pilings. The applicant proposes to remove nine existing 12-inch-diameter timber pilings, resulting in a net increase of approximately 119 square feet of direct impacts to the coastal wetland. The proposed dock systems will result in a net increase of approximately 24,738 square feet of shading impacts over the subtidal coastal wetland. The proposed float layout is shown on Sheet 3 and the proposed pile configuration is shown on Sheet 5 of the plan set referenced above.

The proposed dredge will encompass approximately 138,000 square feet of subtidal coastal wetland and will remove approximately 12,520 cubic yards of material. The dredge depth will range from six to 13 feet below the elevation of mean low water (MLW). Dredge material will be transported to an upland location for use as beneficial fill.

The applicant intends to include the proposed marina expansion in its annual notification to the Department pursuant to 38 M.R.S. § 488(29), the Site Location of Development Act (Site Law) exemption for new construction at an existing licensed development. The applicant must include plans for the marina expansion and any other activities undertaken pursuant to this exemption in its next application for new construction or a modification of the underlying Site Law permit for the facility.

C. Current Use of the Site: The site of the proposed project is a 2.45-acre lot developed with a parking lot, walking paths, a gazebo, a restaurant, and a commercial pier system. The applicant's lot is part of a larger parcel of land subject to the underlying Site Law permit. The parcel is identified as Lot B13 on Map 5B of the City of Rockland's tax maps.

D. Public Comments: While the application was being reviewed, the Department received comments from 39 interested persons and entities opposed to the proposed project. One interested person withdrew their concerns after further review of the application. The Department reviewed all comments from the interested persons. The Department did not receive any requests for a public hearing during the 20-day period specified in the Department's Chapter 2 Rules governing the processing of applications.

The interested persons expressed a range of concerns, including impacts to scenic and aesthetic qualities of the area; the impact of increased large vessel traffic on existing recreational boating and commercial fishing uses; the effect of the project on public access to the shore; and noise from onboard generators. These concerns are all related to existing uses of the project site and are discussed in Finding 2. Several interested persons raised concerns about the impact of the proposed dredge on marine habitats, fisheries, and birds. These issues are discussed in Finding 4. A number of commenters expressed concern regarding the impact of the proposed project on water quality due to potential fuel spills, sewage discharges, and other effluent from vessels using the marina. Water quality is discussed in Finding 5.

Many of the interested persons cited concerns regarding the proposed project's impact on air quality and climate change due to large vessels burning fossil fuels. In response to these concerns, the applicant stated that the proposed project will provide additional dockage as well as electric power hook-ups for vessels of any size that would potentially use the marina, eliminating the need for those vessels to operate fossil-fuel-burning generators while berthed at the marina. The Department determined that the impact of the proposed project on air quality and climate change due to vessels burning fossil fuels while not berthed at the marina is beyond the scope of the Department's review of this application under the Natural Resources Protection Act (NRPA). Some commenters

expressed concern that the proposed project will encourage additional development in the harbor; will highlight or lead to wealth inequity in the area; or will have a negative impact on local businesses. The Department determined that these concerns are also beyond the scope of the Department's review of the application.

Some commenters contended that there are feasible alternatives that would result in less damage to the environment and fewer adverse impacts to existing scenic and navigational uses than the proposed project. One interested person refuted the findings of the applicant's functions and values assessment of the coastal wetland. Alternatives and the functional assessment are discussed in Finding 6.

Some of the interested persons stated that the application was incomplete and contained misleading information. Specifically, commenters pointed out that the applicant's plan set did not show the proposed project in the context of the wider harbor area; that the plans did not show the outlines of the maximum size vessels that may use the expanded marina; and that the application omitted the term "megayacht." The Department considered these concerns but determined that the information on file, the responses provided by the applicant during the review, and the site visit by Department staff provided sufficient detail on site context and the size and nature of vessels expected to use the project site for the Department to conduct its review.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

The NRPA, in 38 M.R.S. § 480-D(1), requires the applicant to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses.

A. Scenic and Aesthetic Uses: In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses* (06-096 C.M.R. ch. 315, effective June 29, 2003), the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site and surroundings. Department staff visited the project site on November 5, 2021.

The proposed project is located in Rockland Harbor, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The project site is located adjacent to Sandy Beach (also known as South End Beach), a 200-foot-long municipal beach. The project parcel contains a paved walkway that is part of the Harbor Walk, a system of paths on multiple public and privately-owned, waterfront properties that connects several public spaces and viewpoints along the shoreline including Sandy Beach, Harbor Park, and Buoy Park, all of which are located within 0.2 miles of the project site, and all of which meet the Chapter 315 definition of a scenic resource of local significance. The project site is located approximately 1.35 miles from the Breakwater and the Breakwater Lighthouse, both of which are listed on the National Register of Historic Places as areas of local

significance. The harbor is developed with two municipal piers, a coast guard station, and numerous commercial piers and buildings, including the applicant's existing pier, which are visible from the scenic resources listed above.

To reduce the visibility of the proposed project from the harbor and nearby scenic viewpoints, the applicant designed the expanded marina with materials similar to those of other commercial piers in the immediate area. In response to public feedback during project design, the applicant reduced the size of the proposed float system and redesigned the layout to avoid vessels being berthed broadside to viewpoints to the west, including Buoy Park, a municipal pier (the Public Landing), and the boardwalk portion of the Harbor Walk. The applicant reduced the proposed landward extension of the fixed pier, eliminating a proposed vehicle and crane access platform for servicing boats. The applicant also eliminated the need for an additional timber wave fence to the east by designing the proposed floats of Dock A to be concrete-encased wave-attenuating floats.

In their comments, many of the interested persons expressed concern that the applicant will revoke public access to the Harbor Walk on their property and that large vessels berthed at the marina will block views of or from the scenic features listed above. Herein, "large vessel" refers to a vessel greater than 70 feet in length. A subset of commenters expressed concerns about light pollution at night and the visual impact of tour buses, which could be chartered by marina patrons for transportation to nearby points of interest, parked in the upland near Sandy Beach. A number of commenters also raised concerns about noise from electric generators of vessels berthed at the expanded marina.

The Department provided a consolidated list of these comments to the applicant and requested a response. In its response, the applicant stated that the portion of the Harbor Walk on its property will remain open to the public, and that the applicant will work with the City to create a formal agreement for continued public access to the walkway. The applicant also responded that the proposed landward extension of the pier will be open to the public, and that the existing gate on the pier will be moved seaward, such that the proposed project will provide a 120-foot-long viewing platform open to the public, with views to the east beyond the expanded marina.

The applicant stated that the size of the vessels that will use the expanded marina is expected to range from 20 feet to 200 feet long, but the majority of the vessels berthed at the marina will continue to range from 30 to 60 feet long. The applicant stated that the vertical height of most large vessels that may use the pier is approximately 25 feet above the water, or 7.5 to 17.5 feet above the height of the existing fixed pier, depending on the tide. The applicant noted that the proposed project is primarily for transient dockage, defined as a stay no longer than 15 consecutive days, and that the average size vessel at the marina during the summer of 2020 was approximately 56 feet long, and the average stay of a vessel over 70 feet long was only 2.6 days. The proposed Dock C, located innermost in the harbor, will be dedicated to vessels approximately 30-40 feet in length, whereas large vessels will be located farther from the Harbor Walk at Docks A or B. The applicant noted that a similar version of Dock C was previously approved in Department

Order #L-20386-26-G-B/L-20386-4E-H-N, although it was not constructed, and that previous approved versions of Dock A extended farther seaward than the proposed project. The applicant pointed out that large vessels already use the harbor, and submitted a photograph dated June 2019, of a 200-foot-long cruise ship berthed at the Public Landing, facing broadside to Harbor Park. The applicant stated that currently, cruise ships and other large vessels often anchor in the outer harbor, where they can block views of many of the scenic features noted above, such as the Breakwater and Breakwater Lighthouse, whereas vessels berthed at the expanded marina will have a more limited visual impact, primarily only affecting views of existing developed areas in the harbor such as other commercial marinas, the Municipal Fish Pier, and the Dragon Cement pier. The applicant concluded that the proposed project would have minimal impact on views of significant scenic features.

The applicant stated that the expansion will use lighting similar to that of the existing pier, which consists of lighting of the dock walking surface and potentially low-voltage lighting directed at the floats. The Department determined that this lighting is compatible with the existing visual landscape of the harbor at night. The applicant stated that the proposed dock systems will include electrical hook-ups for small and large vessels, and therefore the proposed project will not result in additional noise from onboard generators. The applicant further stated that accommodations for buses are not contemplated in this application, and any upland alterations to accommodate buses would require review and approval by the Department in a future application. The Department acknowledges that buses could potentially use the existing parking lot and nearby side streets, if allowed by local ordinance to do so. However, the Department determined that this activity is ultimately outside the scope of the Department's review.

In assessing the visual impact of the proposed project, the Department considered the information in the NRPA application, the interested persons' comments, the applicant's responses, observations by Department staff at the site visit, and other related materials on file. Some commenters stated that the applicant should provide a visual assessment report with photographic simulations or concept drawings; however, the Department determined that the information in the permitting record is sufficient for the Department's review. During the review, the Department considered views from Rockland Harbor, the Harbor Walk, Sandy Beach, Harbor Park, and Buoy Park, which are located in close proximity to the project site and were of particular concern to the interested persons. The Department took into consideration the developed nature of Rockland Harbor, the size and layout of the proposed marina expansion, and the existing viewsheds from the scenic resources. The Department determined that the viewshed foreground of the Harbor Walk, Harbor Park, and Buoy Park are dominated by existing pier and float systems, some of which currently berth large vessels during the summer. Sandy Beach, which faces northeast, has a viewshed of 120 degrees, bounded to the southeast by the Dragon Cement pier and bounded to the north by the applicant's existing pier. Department staff determined that the proposed expansion of the marina will affect approximately 17 degrees of the far west extent of the beach viewshed. The blocked views include other commercial marinas to the north as well as a small portion of the harbor mooring field. The proposed project will not interfere with views from the beach of the Breakwater,

Breakwater Lighthouse, islands, or other land masses to the east. Department staff also considered the potential view of the proposed project from the Breakwater and visited the landward end of the Breakwater on November 5, 2021; however, given the distance to the project site and the highly developed nature of the harbor, the Department determined that the proposed project will be consistent with the existing use of the harbor and will result in little to no additional impact on views from the Breakwater.

The Department staff utilized the Department's Visual Impact Assessment Matrix in its evaluation of the proposed project. The Matrix is used to assess the visual impact severity of a proposed project based on the distance and visibility of the project from a natural landmark or other outstanding natural or cultural feature, State, National, or locally-designated park or trail, and on the approximate number of people likely to view the project from the resource or a public way per day. The severity rating is also based on the visual elements of landscape compatibility, scale contrast, and spatial dominance as defined in Chapter 315, § 9. The Department determined that the visual impact of the proposed project was acceptable with mitigation. As discussed above, the applicant reduced the size and revised the layout of the proposed project considerably during the design phase, in response to concerns about visual impact. The applicant also proposes to create a public viewing platform and to maintain public access to the Harbor Walk over its private property. In light of these mitigation measures and based on the information submitted in the application, information submitted during the review, the visual impact rating, and the site visit, the Department determined that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resources in the project area.

B. Recreational and Navigational Uses: The proposed project is located in a working harbor used by numerous recreational and commercial vessels. A federal navigation channel and a city channel are located in close proximity to the project site.

Several of the interested persons expressed concern that the proposed project will pose a safety risk and navigational obstacle for recreationists using kayaks, row boats, and paddleboards. Some contended that the proposed project will generally increase vessel traffic, including the number of dinghies using the Public Landing, and interfere with the use of the harbor by commercial fishermen. The interested persons also objected that the proposed project will require the relocation of moorings, resulting in financial hardship and inconvenience for the mooring user or the City.

The applicant responded that the expansion of the marina will reduce traffic in the harbor by reducing the number of vessels at anchor, which in turn will reduce tender boat and dinghy traffic. This will also reduce congestion at the public docks, which are currently often crowded with tenders and dinghies in the summer. The applicant clarified that the proposed project will not affect public access to the Public Landing docks and facilities, and that the proposed marina includes space for dinghies for its patrons. The applicant also stated that any traffic to and from the marina is and will continue to be within designated channels, and it is incumbent upon small crafts to remain diligent when navigating the marked harbor channels. The applicant also stated that the proposed

project is located outside the commercial fishing district. The applicant stated that the proposed project will require the relocation of approximately 16 moorings, and that the applicant intends to cover the cost of those relocations. The applicant also stated that the City has been contemplating a reorganization of the mooring field in the next few years regardless of the proposed project.

The Rockland Harbormaster reviewed the proposed project and commented that to prevent navigational hazards, the applicant should not berth vessels within the city channel without prior authorization from the Harbormaster's office, which would only be granted on a case-by-case basis for brief offloading/loading activities or in emergencies. The Harbormaster recommended that vessels berthed at the T-head of Dock A, which is adjacent to the city channel, should be no wider than 20 feet to avoid intrusion into the channel. The Harbormaster also commented that the 60-foot opening between the southern dock of the Public Landing and the northwest corner of the proposed Dock C should remain open for inbound and outbound traffic to both the Public Landing and to Dock C. The Harbormaster confirmed that 16 moorings have been identified for relocation for the proposed project, that efforts to address the cost and logistics of these relocations are ongoing between the applicant and City, and that the City is considering a wider reorganization of the mooring field. The applicant agreed to the Harbormaster's recommendations to not allow vessels wider than 20 feet to berth on the northern side of the Dock A T-head, and to not allow any vessel to berth on the northwest end of Dock C, without prior approval from the Harbormaster.

The Department of Marine Resources (DMR) reviewed the proposed project and stated that there are no commercial fisheries present within the proposed marina expansion and dredge locations, and that shellfish harvesting is prohibited in this area due to poor water quality and the presence of commercial marinas. The proposed project will therefore not interfere with commercial fishing or shellfish harvesting.

Based on the nature of the proposed project and its location, as well as the Harbormaster's comments and DMR's review, the Department determined that the proposed project is compatible with continued use of the harbor by small recreational vessels, and that the proposed project will not unreasonably interfere with any other existing recreational or navigational uses of the resource.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the coastal wetland.

3. SOIL EROSION:

The NRPA, in 38 M.R.S. § 480-D(2), requires the applicant to demonstrate that the proposed project will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

The applicant submitted a construction plan and erosion control plan as Attachments 7 and 8 of the NRPA application. Sampling of the sediment within the project area indicates that most of the surficial material to be dredged is composed of fine-grained sand, silt, and clay. Disturbed sandy sediment would be expected to settle quickly to the bottom after agitation and any sediment plume would be expected to quickly dissipate following cessation of dredging operations, while silt and clay-sized material will remain in suspension for a longer period. The applicant stated that prior to dredging, the contractor will deploy a turbidity curtain around the work area to contain suspended solids as necessary. The dredging activity will be conducted mechanically by a barge-mounted crane with a clamshell bucket. Transportation of dredged material is discussed further in Finding 8.

The dredged material will be deposited onto a barge scow and transported one mile by water to an upland dewatering site at the Prock Marine Company yard in Rockland. The dewatering area will be constructed of concrete barriers and lined with geotextiles and hay bales. The dewatered dredge spoils will then be transported over land to a gravel pit located in the Town of Cushing. The dredged material will be applied in upland areas within the gravel pit in accordance with a beneficial use permit, as discussed further in Finding 5. The applicant proposes to begin the dredge in the fall or winter of 2021.

The proposed pilings will be installed from a barge. To minimize the impact of underwater noise on marine fauna, pilings will be driven using a soft-start technique consisting of an initial set of three strikes for 15 seconds at reduced energy followed by a one-minute waiting period between subsequent three-strike sets, followed immediately by pile driving at full rate and energy. The soft-start procedure will be reinstated any time pile driving ceases for more than 30 minutes. The proposed floating docks will be constructed at an offsite location and towed or trucked to the project site for installation. The proposed gangway access platform and ramp will be constructed off the east side of the existing fixed pier to connect to Dock A. The proposed access/viewing platform will be constructed from land. The platform will be supported by pilings with concrete footers set into existing riprap.

The applicant does not propose any upland soil disturbance; however, the applicant stated that sediment barriers will be installed downgradient of any areas of incidentally disturbed soil and any stockpiles of erodible materials to minimize potential erosion and sedimentation off the site. Upon project completion and final site stabilization, all construction equipment and debris will be removed from the site. Any remaining areas of disturbed soil will be temporarily stabilized with seed and mulch until they can be permanently seeded and stabilized.

Based on these methods, the Department does not anticipate any unreasonable erosion will result. The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment provided that the applicant's contractor deploys and maintains a turbidity curtain around the area of active dredging to contain suspended solids.

4. HABITAT CONSIDERATIONS:

The NRPA, in 38 M.R.S. § 480-D(3), requires the applicant to demonstrate that the proposed project will not unreasonably harm significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

The project site is a developed waterfront and harbor. The intertidal substrate is a mixture of boulders, cobbles, and mixed coarse and fine sediments grading to mudflat. The shoreline in the immediate vicinity of the fixed pier is armored with riprap. A 200-foot-long beach is located southeast of the project site. The only proposed intertidal activity is the landward extension of the fixed pier to provide an access/viewing platform, which will be located entirely over existing riprap. The proposed dredge will be located within the subtidal zone. According to the Department's Geographic Information System database there are no mapped Essential or Significant Wildlife Habitats located at the site.

The applicant submitted an assessment of the subtidal habitat completed by Eco-Analysts, Inc. based on multiple site visits conducted between 2017 and 2021, the latest of which took place on June 17, 2021. The report characterized the subtidal habitat within the area of the proposed marina expansion and dredge as fine sediments overlaying glacial till, with widely scattered cobbles and occasional woody debris and abandoned granite mooring blocks. The report stated that no eelgrass was present. Rockweed and two species of kelp were observed on the existing pier and abandoned mooring blocks. Blue mussels, sandworms, rock barnacles, and periwinkles were also noted as present.

In their comments, some interested persons expressed concern that the proposed project will have adverse impacts to marine wildlife, particularly birds such as the great blue heron and sea duck species, as well as lobster habitats, commercial fisheries, and other marine life due to the dredge, the expanded marina, and underwater noise from vessels using the marina.

In its review, DMR commented that the proposed project site does not contain eelgrass or commercial fisheries within the proposed marina expansion and dredge locations. Shellfish harvesting at the project site is prohibited. DMR stated that it anticipates that the proposed project will result in minimal to no impacts to shellfish, diadromous fish species, and scallop and lobster fisheries, provided that dredging is conducted during a work window of November 8 and April 8 to minimize potential impacts to fish in the area.

The applicant does not propose any new direct or indirect impacts to the intertidal coastal wetland, except for a small area of existing riprap. The proposed dredge and pile installation will be temporary disturbances. As discussed in Finding 3, the applicant will install pilings with a soft-start technique, which will minimize the potential effects of

vibration on fish and other marine life. As discussed in Finding 2, vessels berthed at the marina will not need to operate their generators, further minimizing underwater vibrations. The dredge will remove or displace subtidal benthic organisms within the project area; however, based on DMR's comments, the proposed project will not unreasonably affect the populations of these species or their ability to recover and recolonize the project area over time. Birds, as well as fish, are capable of avoiding the area of disturbance until the proposed project is complete. Further, the proposed in-water work will be conducted during a winter work window and is anticipated to be complete by the spring of 2022. The Department determined that the proposed project will not significantly reduce or degrade the habitat available to birds in the harbor.

Based on the size and nature of the proposed project, the proposed construction methods included in the application, DMR's review, and a review of this material above, the Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life provided that the dredging operations are limited to the period between November 8 and April 8.

5. WATER QUALITY CONSIDERATIONS:

The NRPA, in 38 M.R.S. § 480-D(5), requires the applicant to demonstrate that the proposed project will not violate any state water quality law, including those governing the classification of the State's waters.

The applicant proposes to use lumber treated with chromated copper arsenate (CCA) or alkaline copper quaternary (ACQ) for the pilings and proposed timber floats. To protect water quality, all treated lumber must be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction. The applicant proposes to use concrete to support the landward extension of the pier. Concrete must be pre-cast or poured into forms and cured at least one week before the forms are removed. No washing of tools, forms, or other items used to place the concrete may occur in or adjacent to a waterbody or wetland.

The waters at the proposed dredge site are currently classified in 38 M.R.S. § 469(3) as Class SC. The standards for Class SC waters require that the waters be suitable for recreation, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation, and as a habitat for fish and other estuarine and marine life. Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community.

The interested persons expressed concerns about the impact of the proposed project on water quality due to the proposed dredge, potential fuel spills, and potential discharges of sewage, graywater, and bilge water from large vessels using the marina. One interested

person commented that the dredge material placed in the gravel pit will pose a threat to groundwater quality and ultimately the water quality of the St. George River.

In its response, the applicant stated that it does not propose to store any fuel on site. The applicant stated that the risk of sewage, graywater, and contaminated bilge water discharges will be reduced while vessels are berthed at the facility, because the berthed vessels will have access to reliable power and pump-out facilities, and will be able to discharge wastewater into the public sewer system. The applicant also stated that many large vessels have on-board graywater recycling systems, as well as bilge pump systems designed to capture and remove oil from bilge water before it is discharged. Further, large vessels are operated by professional crews, often with full-time engineers, that maintain equipment and account for all solid waste and waste oil leaving the vessel. These vessels are subject to federal laws and regulations that govern the discharge of sewage, solid waste, and oil.

The Department acknowledges that the dredge will result in a temporary increase in turbidity at the project site. However, as discussed in Finding 3, the applicant proposes to deploy a turbidity curtain around the area of active dredging to contain suspended solids, minimizing the impact to water quality.

The applicant proposes to dispose of dredged material in a gravel pit located 12 miles from the project site in the Town of Cushing, in accordance with a beneficial use permit, Department Order #S-22546-W3-A-N, dated May 12, 2021, issued by the Bureau of Remediation and Waste Management's Division of Materials Management (DMM) pursuant to the *Maine Hazardous Waste, Septage, and Solid Waste Management Act*, 38 M.R.S. §§ 1301–1319-Y. The dewatered dredge material will be placed as subgrade fill to contour the excavated area of the gravel pit, and then covered and seeded. The proposed beneficial use will not occur in, on, over or adjacent to a protected natural resource. DMM reviewed the sediment sampling analysis and proposed risk management measures and determined that the proposed beneficial use will not pollute any waters of the State.

The waters affected by the proposed project are used by fish, mussels, marine worms, and other estuarine and marine life, and as habitat for such populations. They are also used for recreation. As discussed in Finding 2, the proposed project will not unreasonably interfere with existing recreational uses of the resource. As discussed in Finding 4, based on DMR's review, the proposed project will not unreasonably harm shellfish, diadromous fish species, commercial fisheries, or other marine life.

Based on the proposed dredging techniques, construction methods and timing, and the above review of the evidence in the record, the Department finds that the proposed project will maintain existing uses and the level of water quality necessary to protect those existing uses; will protect the existing water quality of affected waters; will not significantly impair the viability of the existing populations of fish, mussels, and other estuarine and marine life; and will not result in a significant degradation of existing recreation, fishing, and commercial harvesting of such estuarine and marine species;

provided that treated lumber and concrete are cured and tools used to place concrete are not washed in or adjacent to a waterbody or wetland, as described above.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to directly alter 138,000 square feet of subtidal coastal wetland as a result of dredging activity. The applicant proposes to directly alter 119 square feet of the coastal wetland as a result of piling installation and indirectly alter 24,738 square feet of coastal wetland as a result of shading over the resource from the proposed floats. Coastal wetlands are considered wetlands of special significance.

The *Wetlands and Waterbodies Protection Rules*, 06-096 C.M.R. ch. 310 (last amended November 11, 2018), interpret and elaborate on the NRPA criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. A proposed project would generally be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment. Each application for a NRPA permit that involves a coastal wetland alteration must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

A. Avoidance. An applicant must submit an analysis of whether there is a practicable alternative to the project that would be less damaging to the environment and this analysis is considered by the Department in its assessment of the reasonableness of any impacts. Additionally, for activities proposed in, on, or over wetlands of special significance the activity must be among the types listed in Chapter 310, § 5(A) or a practicable alternative less damaging to the environment is considered to exist and the impact is unreasonable. A marina is a water dependent use and its proposed construction is among the activities specifically provided for in Chapter 310, § 5(A)(1)(c).

The applicant submitted an alternatives analysis for the proposed project completed by Landmark Corporation Surveyors and Engineers and dated July 2, 2021. The applicant stated that the purpose of the proposed project is to expand the applicant's business and to provide additional transient dockage in Rockland Harbor for small and large vessels, in accordance with a Boating Infrastructure Grant awarded to the applicant in 2017 by the US Fish and Wildlife Service and the Maine Department of Transportation. The proposed project is also intended to provide marina customers with access to amenities and a park-like upland setting, which the applicant stated are lacking or limited at the other existing dockage facilities in Rockland.

The interested persons contended that there are feasible alternatives to the proposed project. The suggested alternatives included taking no action and continuing to anchor or moor vessels in the outer harbor; creating a new system of moorings in the harbor to alleviate existing navigation and congestion issues; or purchasing and improving other sites in the harbor, specifically the North End Shipyard/Steel Pro/Schooner Wharf parcel

(North End parcel) at the north end of the harbor and the Dragon Cement pier located east of Sandy Beach.

The applicant stated that taking no action would fail to address the lack of transient dockage in the harbor, resulting in many vessels remaining at moorings or at anchor, without access to shore utilities and amenities, and causing continued overcrowding of dinghies and tender boats travelling to and from vessels in the harbor. The no-action alternative would also result in the loss of grant funding. The applicant considered alternate locations in the harbor for additional dockage, including the North End parcel. The applicant stated that the purchase price of \$13.9 million was cost-prohibitive, and that the site lacks infrastructure and amenities suitable to transient boaters. Further, the development of an entirely new pier, marina float system, and dredge at this site would result in greater environmental impact than the proposed expansion at the existing marina. The applicant stated that the Dragon Cement property is not currently offered for sale, and similarly lacks the infrastructure, amenities, and setting required to meet the project purpose. The applicant stated that its existing facility is well-suited to the proposed project purpose based on its location outside the commercial fishing district, proximity to local businesses, existing amenities on site, and the existing park setting on its own property, which includes a gazebo, green space, and walking path. The applicant further determined that an expansion of the existing marina would be more economically feasible than the development of a new facility.

The Department agrees with the applicant's assessment that the no-action alternative would not accomplish the project purpose, and that utilizing and expanding one or more other sites are both not practicable and would not result in a project less damaging to the environment. The Department understands that the reorganization of the mooring field is not within the applicant's control. Based on comments from the Harbormaster, the City has contemplated a wider reorganization of moorings but does not have an approved plan or definite timeline this activity.

The applicant considered multiple layouts for the proposed project and reduced the scope of the proposed project following public comment. For the dredging portion of the proposed project, the applicant determined the required draft for the various sized vessels that will utilize each dock and determined the necessary dredge areas and depths required to complete the proposed project. The selected layout alternative results in a smaller dredge footprint than the original proposal.

The Department concurs with the applicant's assessment of alternative sites and the conclusion that there is no practicable alternative to the proposed project that would meet the project purpose and avoid direct impacts to the resource.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, an applicant must demonstrate that the amount of coastal wetland to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project.

During a three- to four-year planning phase, the applicant considered alternate layouts for the proposed expansion, including a more extensive float system, an 11-acre dredge area, on-site fuel storage, an additional timber wave fence, and a vehicle and crane access platform. In response to public feedback, the applicant reduced the size of the proposed float systems and dredge area and eliminated the proposed fuel storage, wave fence, and vehicle access platform. As revised, the proposed project does not include any new impacts to the intertidal zone except over existing riprap. The proposed project is designed with piling supports which will result in minimal additional fill. During the review, the applicant further reduced the number of proposed pilings, lowering the proposed direct fill from 235 to 119 square feet and reduced the dredge footprint from 11 acres to 3.2 acres. The applicant stated that the project, as proposed, minimizes impacts to the coastal wetland to the greatest extent practical while still meeting the project purpose.

Based on the iterative design process and reduced scope of the proposed project, the Department concurs with the applicant that the selected alternative represents the minimum amount of resource impacts necessary for meeting the overall purpose of the project.

C. Compensation. In accordance with Chapter 310, § 5(C)(1), compensation may be required to achieve the goal of no net loss of coastal wetland functions and values. The applicant submitted a functional assessment (Attachment 12 of the NRPA application) prepared by Eco-Analysts, Inc. and dated July 2, 2021, based on surveys of the coastal wetland at the project site. The assessment identified the principal functions of the wetland to be fish and shellfish habitat, production export, and recreation. The assessment noted that the proposed in-water work will take place outside of sensitive periods for migratory fish and that the marina contributes to the recreational value of the resource. As discussed in Finding 4, the applicant also submitted a site conditions report, which characterized the substrates, vegetation, and fauna at the project site. The report concluded that pilings provide artificial habitat for kelp and seaweed, and that dredged areas will quickly recolonize following this disturbance.

1. Public Comment. One interested person challenged the findings of the functional assessment, noting that the assessment does not include a full list of wildlife species that use the project site; that visual quality was not identified as a primary function; and that the assessment does not elaborate on the recreation value of the surrounding area. The interested person also expressed concern that the proposed wave-attenuating floats will increase sediment retention.

The site condition report and functional assessment were completed by a qualified professional using standard methods, and an accepted evaluation form which provides the rationale for determining whether a wetland function or value is present or not present, and once identified, whether it is a principal function or value of the subject wetland. A functional assessment is a qualitative exercise and different observers may come to different conclusions. No comments were received that offered

conflicting technical information prepared by a qualified professional to support the commenter's assertion.

2. Department Consideration. Although the applicant did not provide a full inventory of wildlife that potentially use the project site, the Department reviewed the proposed project's impact to wildlife and marine habitat. As discussed in Finding 4, the Department determined that the proposed project is not expected to unreasonably harm any significant wildlife habitat. This determination was supplemented by review comments from DMR and other materials on file, as well as a site visit by Department staff. Based on the design of the proposed wave-attenuating floats, the Department finds it credible that these floats will reduce the energy and impact of incoming waves, and therefore not result in unreasonable changes to sediment cycles within the resource. The Department agrees with the interested person that visual quality can be considered a principal value of the wetland. As discussed in Finding 2, the Department examined the evidence in the record and determined that the proposed project will not unreasonably interfere with existing scenic and aesthetic uses of the resource.

The Department concurs with the applicant's overall characterization of the wetlands within the project boundary. Based on the temporary nature of the impacts from the proposed dredge activity, the minor amount of proposed fill due to pilings, and the indirect nature of shading impacts due to floats, the Department has determined that wetland functions and values will not be lost or degraded as a result of the proposed project. Further, as determined by DMR, the proposed project is not expected to have an adverse impact on marine resources or wildlife habitat. For these reasons, the Department determined that compensation is not required.

The Department finds that the applicant has avoided and minimized coastal wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

7. GEOLOGICAL CONSIDERATIONS:

For any activity that involves dredging, dredge spoils disposal or transporting dredge spoils by water, the NRPA requires the applicant to demonstrate that the disposal site is geologically suitable pursuant to 38 M.R.S. § 480-D(9).

As discussed in Finding 5, dredged material will be transported approximately one mile over water to the Prock Marine Company yard in Rockland. It will then be transported approximately 12 miles over land to a gravel pit in Cushing. The dredged material will be applied to upland locations within the gravel pit as authorized by DMM in Department Order #S-22546-W3-A-N.

The Department finds that the applicant has demonstrated that the disposal site is geologically suitable.

8. DREDGE MATERIAL TRANSPORTATION CONSIDERATIONS:

For any activity that involves dredging, dredge spoils disposal or transporting dredge spoils by water, the NRPA requires the applicant to demonstrate that the transportation route minimizes adverse impacts on the fishing industry pursuant to 38 M.R.S. § 480-D(9).

DMR reviewed the proposed project and commented that there are no commercial fishery resources or eelgrass at the dredge site. Except for the timing window discussed in Finding 4, DMR did not identify any concerns with the proposed project.

In accordance with Section 480-D(9), one week prior to commencing the dredging operation the applicant must:

- a. Clearly mark or designate the dredging area, the spoils disposal route, and the transportation route.
- b. Publish the transportation route in a local newspaper of general circulation.
- c. Publish in a local newspaper of general circulation the procedure that the applicant will use to respond to inquiries regarding the loss of fishing gear during the dredging operation.

Provided the applicant marks the transportation route and publishes notices as described above, the Department finds that the transportation route for dredge material minimizes adverse impacts to the fishing industry.

9. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the marine environment, will not interfere with the natural flow of any surface or subsurface waters, and will not cause or increase flooding. The proposed project is not located in a coastal sand dune system and is not a crossing of an outstanding river segment.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A–480-JJ and Section 401 of the Clean Water Act (33 U.S.C. § 1341):

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment provided that the applicant's contractor installs a turbidity curtain around the dredge area as described in Finding 3 and the corresponding condition below.

- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that dredging is conducted between November 8 and April 8 as described in Finding 4 and the corresponding condition below.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters provided that the applicant complies with the requirements in Finding 5 and the corresponding conditions below.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S. § 480-P.
- J. The proposed transportation route for transporting dredge spoils by water minimizes impacts on the fishing industry and the spoil disposal site is geologically suitable provided the applicant complies with the requirements in Finding 8 and the corresponding conditions below.

THEREFORE, the Department APPROVES the above noted application of SHM ROCKLAND, LLC to expand an existing marina with additional floats, pilings, and a pier expansion, and to dredge 3.2 acres of the subtidal coastal wetland, all as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

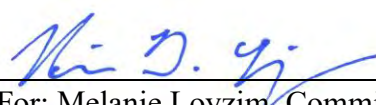
1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

4. Prior to dredging, the applicant’s contractor shall deploy a turbidity curtain around the work area to contain suspended solids.
5. The dredging operations shall be conducted between the period of November 8 and April 8.
6. All CCA- or ACQ- treated lumber shall be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction.
7. No uncured concrete shall be applied directly in the water. All concrete shall be pre-cast or placed in forms and cured at least one week before the forms are removed. No washing of tools, forms, or other items used to place the concrete shall occur in or adjacent to a waterbody or wetland.
8. In accordance with the provisions of 38 M.R.S.A 480-9(D), the applicant shall:
 - a. Clearly mark or designate the dredging area, the spoils disposal route, and the transportation route.
 - b. Publish the transportation route in a local newspaper of general circulation.
 - c. Publish in a local newspaper of general circulation the procedure that the applicant will use to respond to inquiries regarding the loss of fishing gear during the dredging operation.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED IN AUGUSTA, MAINE, THIS 7TH DAY OF DECEMBER, 2021.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
For: Melanie Loyzim, Commissioner

<p>FILED December 8th, 2021 State of Maine Board of Environmental Protection</p>

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

JEM/L20386PNQN/ATS#87842, 88638



Natural Resources Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. §§ 480-A ET SEQ., UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: August 2021

Contact: (207) 314-1458

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#); and the DEP's [Rule Concerning the Processing of Applications and Other Administrative Matters \(Chapter 2\)](#), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

REQUIRED APPEAL CONTENTS

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in [Chapter 2 § 24](#).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see [38 M.R.S. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 bill.hinkel@maine.gov, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. The DEP provides this information sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

APPENDIX B.3



REPLY TO
ATTENTION OF

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

MAINE GENERAL PERMITS (GPs) AUTHORIZATION LETTER AND SCREENING SUMMARY

WILLIAM MORONG
SHM ROCKLAND, LLC
56 NEW COUNTY ROAD
ROCKLAND, ME 04841

CORPS PERMIT # NAE-2021-01934
CORPS GP(s) # 1, 3, 5
STATE ID# L-20386-4E-P-N / L-20386-26-A-N

DESCRIPTION OF WORK:

Dredge by mechanical means approximately 12,520 cubic yards of silt and sand from a 138,000 s.f. area to a depth of -6 to -13' MLLW in Rockland Harbor at Rockland, Maine in order to improve and restore access to an existing marina. The dredging is both maintenance and improvement dredging. The dredged material will be disposed in an upland, non-wetland site. In addition, maintain and upgrade the facility's existing floats to include in kind repairs and replacements, resetting concrete footings, and installing additional float systems. This work is described on the attached plans entitled "SH Rockland-NRPA Application" on 18 sheets dated "June 10, 2021 and October 2021" respectively. See Conditions

LAT/LONG COORDINATES: 44.099595° N -69.105188° W USGS QUAD: ROCKLAND, MAINE

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. Your work is therefore authorized by the U.S. Army Corps of Engineers under the Federal Permit, the Maine General Permit(s) which can be found at: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/> Accordingly, we do not plan to take any further action on this project.

You must perform the activity authorized herein in compliance with all the terms and conditions of the GP(s) [including any attached Additional Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the GP(s) carefully, including the GP(s) conditions beginning on page 5, to familiarize yourself with its contents. You are responsible for complying with all of the GP(s) requirements; therefore, you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 45 of the GP(s) (page 19) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the GP(s) on October 14, 2025. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 14, 2026.

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

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. **This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary.**

II. STATE ACTIONS:

PENDING [], ISSUED [], DENIED [], DATE: _____

APPLICATION TYPE: PBR: , TIER 1: , TIER 2: , TIER 3: , INDIV: , LURC: , DMR LEASE: , NA: ,

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: July 15, 2021 LEVEL OF REVIEW: Self-Verification: Pre-Construction Notification:

AUTHORITY (Based on a review of plans and/or State/Federal applications): SEC 10 404 10/404 103

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA: No USFWS: No NMFS: No

If you have any questions on this matter, please contact my staff at 207-623-8367 at our Augusta, Maine Project Office. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at <https://regulatory.ops.usace.army.mil/customer-service-survey/>

HEATHER S. STUKAS
PROJECT MANAGER
MAINE PROJECT OFFICE

FRANK J. DEL GIUDICE
CHIEF, PERMITS & ENFORCEMENT BRANCH
REGULATORY DIVISION



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

**PLEASE NOTE THE FOLLOWING
GENERAL & SPECIAL CONDITIONS FOR
DEPARTMENT OF THE ARMY
GENERAL PERMITS 1, 3, 5
NO. NAE-2021-01934**

10. Corps Projects and Property.

10(e). Any structure or work that extends closer to the horizontal limits of any FNP than a distance of three times the project's authorized depth shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.

11. Navigation

11(a). There shall be no unreasonable interference with general navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.

11(b). Work in, over, under, or within a distance of three times the authorized depth of an FNP shall specifically comply with GC 10.

11(c). Any safety lights and/or signals prescribed by the U.S. Coast Guard, State of Maine or municipality, through regulations or otherwise, shall be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S.

11(d). The permittee understands and agrees that, if future operations by the U.S. require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

25. Pile Driving and Pile Removal in Navigable Waters.

25(a). Derelict, degraded, or abandoned piles and sheet piles in the project area shall be removed in their entirety as practicable and properly disposed of in an upland location and not in wetlands. In areas of fine-grained substrates, piles/sheets shall be removed by direct, vibratory, or clamshell pull method in order to minimize potential turbidity and sedimentation impacts. If removal is not practicable, said piles/sheets shall be cut off or driven to a depth of at least one foot below substrate.

31. Storage of Seasonal Structures. Seasonal or recreational structures such as pier sections, floats, aquaculture structures, etc. that are removed from the waterway for a portion of the year shall be stored in an upland location and not in wetlands, tidal wetlands, their substrate, or on mudflats. These seasonal structures may be stored on the fixed, pile-supported portion of a structure that is waterward of the mean high water mark or the ordinary high water mark, e.g. the storage of a ramp or gangway on the pile-supported pier. Seasonal storage of structures in navigable waters, e.g., in a protected cove, requires prior Corps approval and local harbormaster approval.

33. Permit(s)/Authorization Letter On-Site. The permittee shall ensure that a copy of the terms and conditions of these GPs and any accompanying authorization letter with attached plans are at the site of the work authorized by these GPs whenever work is being performed and that all construction personnel performing work which may affect waters of the U.S. are fully aware of the accompanying terms and conditions. The entire permit authorization shall be made a part of any and all contracts and subcontracts for work that affects areas of Corps jurisdiction at the site of the work authorized by these GPs. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means all terms and conditions of the GPs, the GPs, and the authorization letter (including its drawings, plans, appendices and other attachments) and subsequent permit modifications as applicable. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or subcontract. Although the permittee may assign various aspects of the work to different contractors or subcontractors, all contractors and subcontractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire GP authorization, and no contract or subcontract shall require or allow unauthorized work in areas of Corps jurisdiction.

34. Inspections. The permittee shall allow the Corps to make periodic inspections at any time deemed necessary in order to ensure that the work is eligible for authorization under these GPs, is being, or has been performed in accordance with the terms and conditions of these GPs. To facilitate these inspections, the permittee shall complete and return to the Corps the Work-Start Notification Form and the Compliance Certification Form when either is provided with an authorization letter. The Corps may also require post-construction engineering drawings and/or photographs for completed work or post-dredging survey drawings for any dredging work to verify compliance.

SPECIAL CONDITIONS

1. All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.
2. Pile driving shall use a soft start technique in order to minimize potential effects to federally listed species. The soft start technique shall occur as follows: an initial set of three strikes for 15 sec. at reduced energy followed by a 1-minute waiting period between subsequent three-strike sets, followed immediately by pile driving at full rate and energy. The soft-start procedure shall be reinstated any time pile driving ceases for more than 30 minutes.
3. The First Coast Guard District, Local Notice to Mariners Office, (617) 223-8356, and Aids to Navigation Office, (617) 223-8347, shall be notified at least ten working days in advance of the intended start date of the location and estimated duration of the dredging and disposal operations.
4. The U.S. Coast Guard, Sector Northern New England, Waterways Management Section, (207) 347-5026, shall be notified at least ten working days in advance of the intended start date of the location and estimated duration of the dredging and disposal operations.
5. The permittee shall dispose the dredge material in a suitable upland location not in "Waters of the United States" (e.g. wetlands, streams, ponds, vernal pools, etc.).
6. This authorizes dredging and disposal of dredged material at an upland site. Once this authorized dredging and disposal is completed, any future maintenance dredging will require a new authorization from this office.
7. The permittee shall locate all structures (including vessels and floats) far enough outside the Federal Navigation Project (FNP) limits so neither the structures, nor any vessels tied to these structures, encroach into the FNP at any time.
8. 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.
9. The permittee shall not hold the Government or its contractor responsible for damage(s) to these structures or any vessels tied to them during surveying or dredging operations.
10. The permittee shall not have any structures (including vessels and floats) wider than 20 feet or encroaching into the City Channel "Due East" northern or seaward of "Dock "A" T-Head" without prior approval from the City of Rockland Harbormaster. The permittee shall not have any structures (including vessels and floats) wider than 20 feet moored to the seaward of "Dock C" towards the Public Landing without prior approval from the City of Rockland Harbormaster.



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

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

EMAIL TO: heather.s.stukas@usace.army.mil or

MAIL TO: Heather Stukas
Regulatory Division
U.S. Army Corps of Engineers, New England District
696 Virginia Road
Concord, Massachusetts 01742-2751

Corps of Engineers Permit No. NAE-2021-01934 was issued to SHM Rockland, LLC c/o William Morong. This work authorizes to dredge by mechanical means approximately 12,520 cubic yards of silt and sand from a 138,000 s.f. area to a depth of -6 to -13' MLLW in Rockland Harbor at Rockland, Maine in order to improve and restore access to an existing marina. The dredging is both maintenance and improvement dredging. The dredged material will be disposed in an upland, non-wetland site. In addition, maintain and upgrade the facility's existing floats to include in kind repairs and replacements, resetting concrete footings, and installing additional float systems.

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: _____

Phone & email: () _____ () _____

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: _____ Stukas **Submittals Required:** _____

Inspection Recommendation: _____ random compliance inspections



**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: NAE-2021-01934

Name of Permittee: SHM Rockland, LLC c/o William Morong

Permit Issuance Date: _____

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 *
*           Permits and Enforcement Branch C                 *
*           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

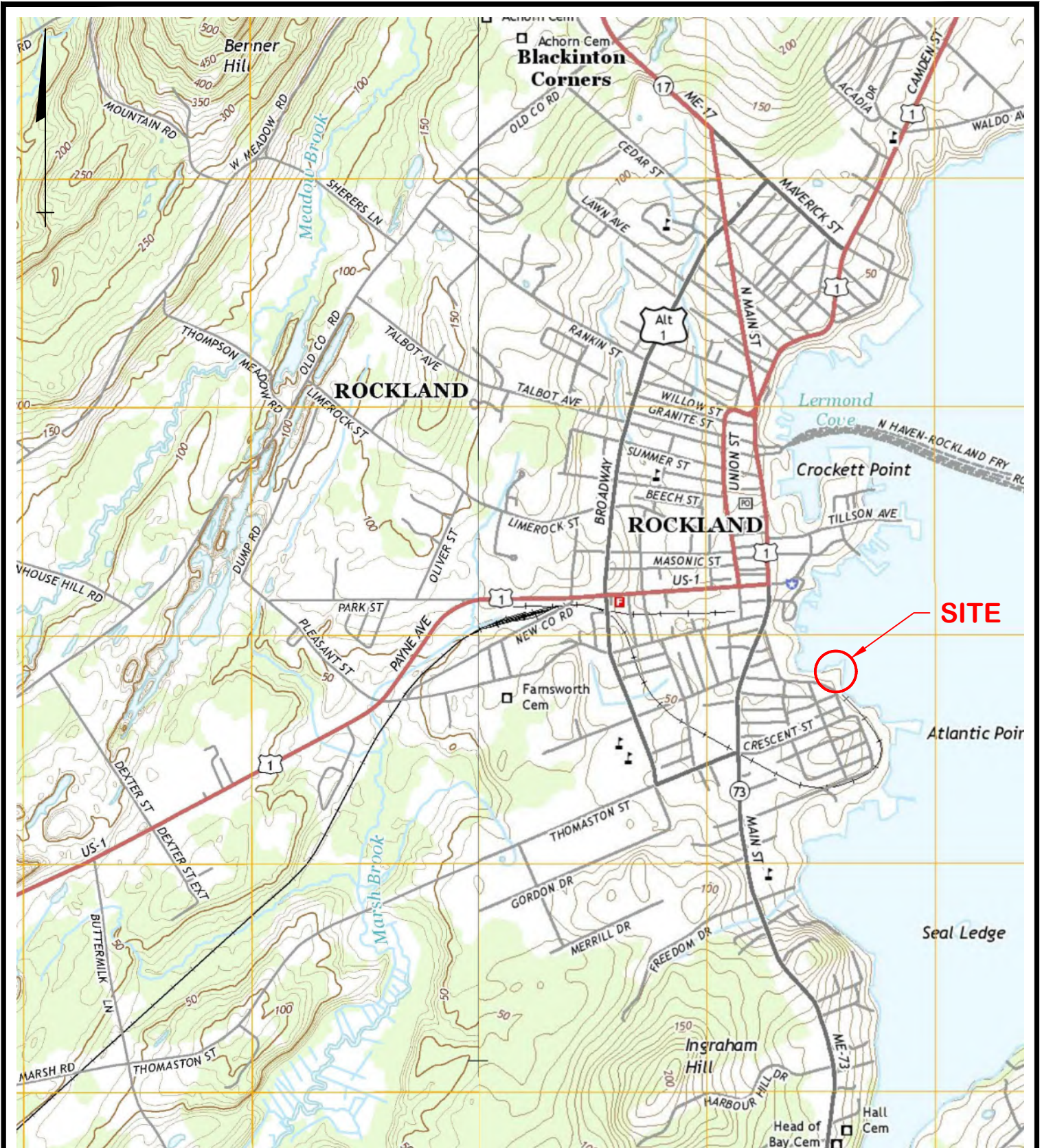
Date

Printed Name

Date of Work Completion

() _____
Telephone Number

() _____
Telephone Number



FROM THE ROCKLAND AND THOMASTON, MAINE 7.5 MINUTE USGS QUADRANGLES



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

135 ROCKLAND STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

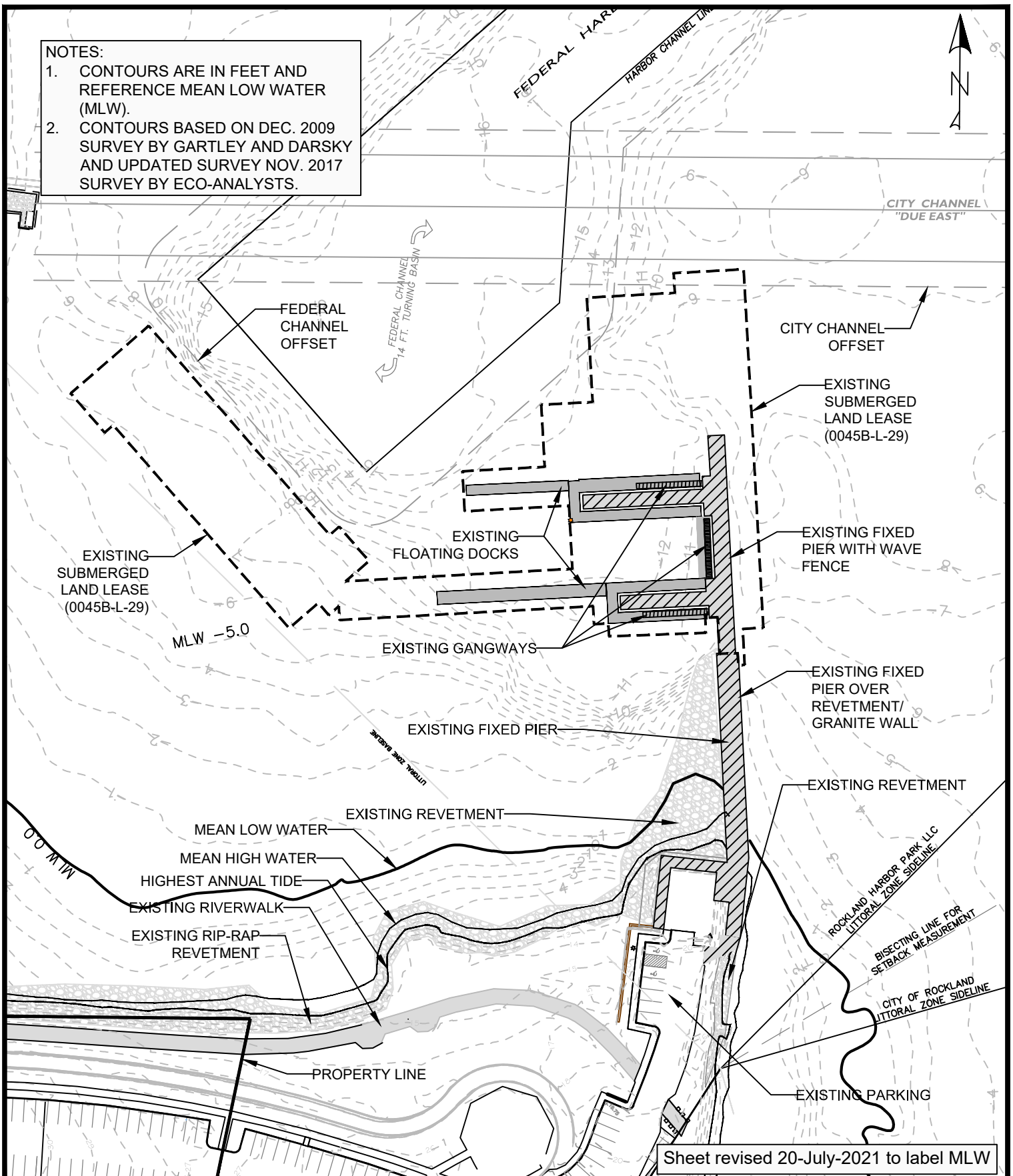
**SH ROCKLAND MARINA EXPANSION
LOCATION MAP
ROCKLAND, MAINE**

SCALE: 1"=2000'

JUNE 10, 2021

NOTES:

1. CONTOURS ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
2. CONTOURS BASED ON DEC. 2009 SURVEY BY GARTLEY AND DASKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.



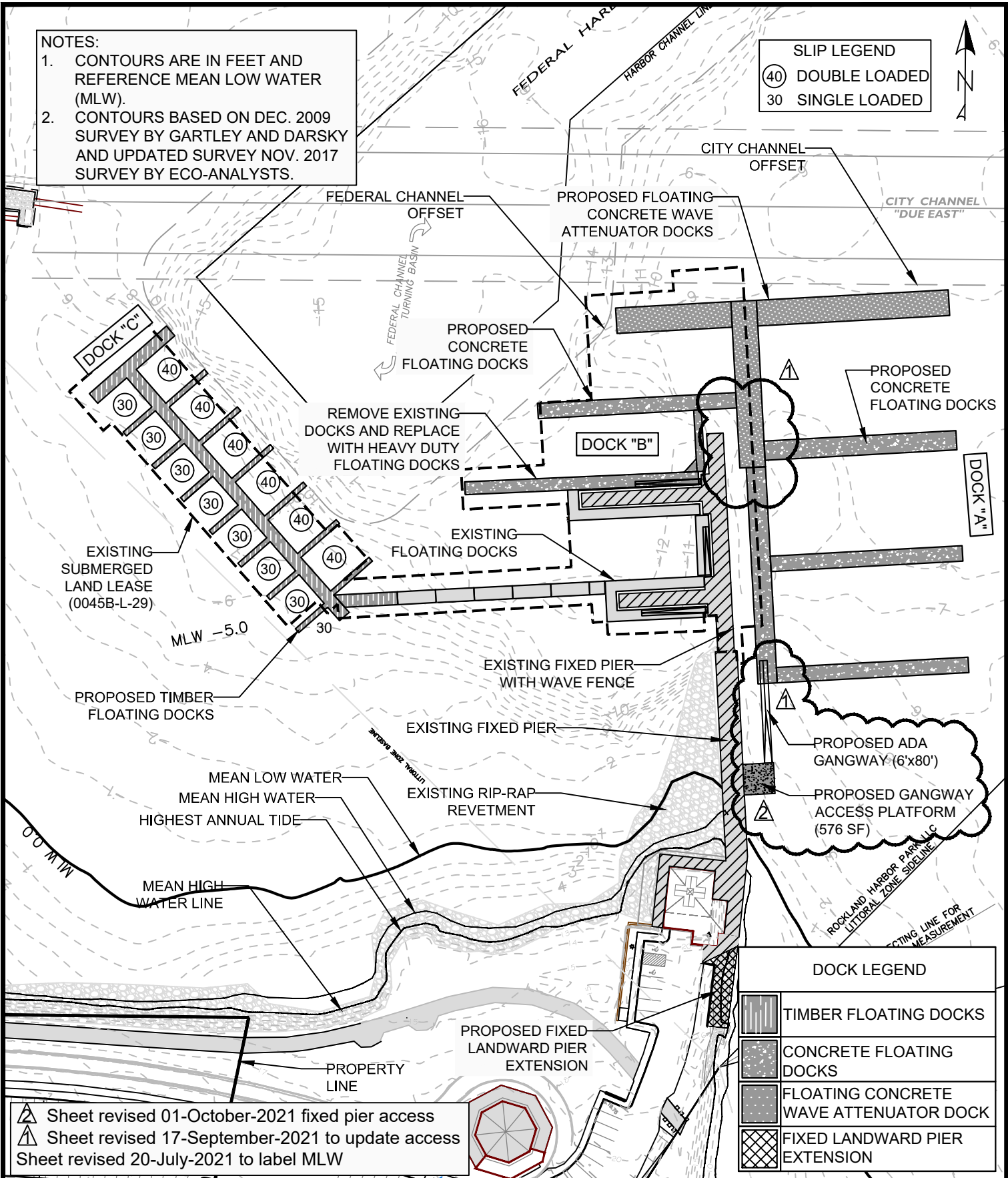
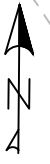
LANDMARK CORPORATION
 SURVEYORS & ENGINEERS
 135 Rockland Street Rockport, Maine 04856 Phone: (207) 236-6757 www.landmarkmaine.com

**SH ROCKLAND - NRPA APPLICATION
 EXISTING CONDITIONS PLAN
 ROCKLAND, MAINE**

SCALE: 1"=100' JUNE 2021

NOTES:
 1. CONTOURS ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
 2. CONTOURS BASED ON DEC. 2009 SURVEY BY GARTLEY AND DASKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.

SLIP LEGEND
 (40) DOUBLE LOADED
 30 SINGLE LOADED



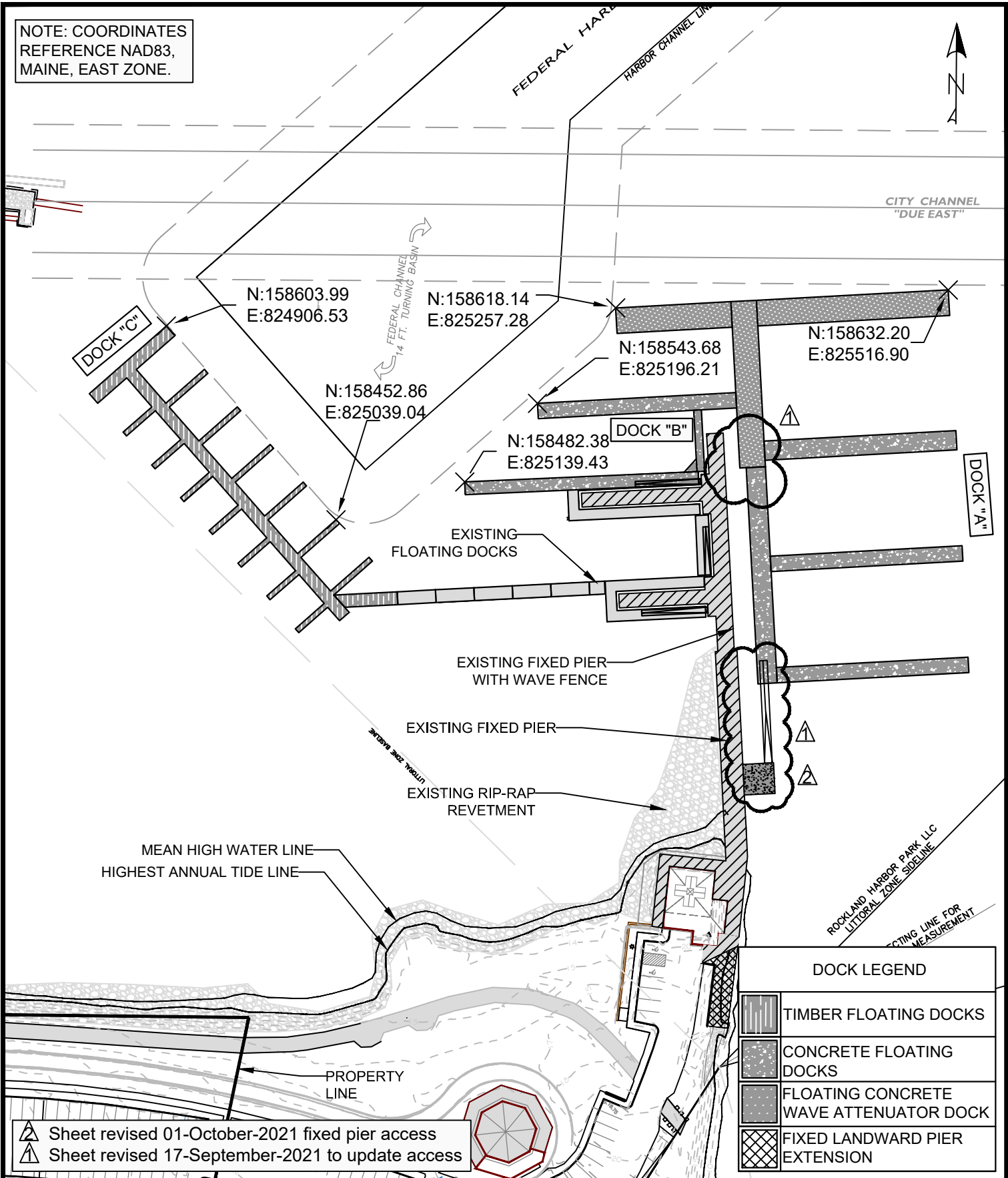
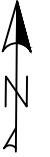
DOCK LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK
	FIXED LANDWARD PIER EXTENSION

Sheet revised 01-October-2021 fixed pier access
 Sheet revised 17-September-2021 to update access
 Sheet revised 20-July-2021 to label MLW

LANDMARK CORPORATION
 SURVEYORS & ENGINEERS
 135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

SH ROCKLAND - NRPA APPLICATION
PROPOSED IMPROVEMENTS OVERVIEW
ROCKLAND, MAINE
 SCALE: 1"=100'
 JUNE 2021

NOTE: COORDINATES
REFERENCE NAD83,
MAINE, EAST ZONE.



Sheet revised 01-October-2021 fixed pier access
Sheet revised 17-September-2021 to update access

DOCK LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK
	FIXED LANDWARD PIER EXTENSION

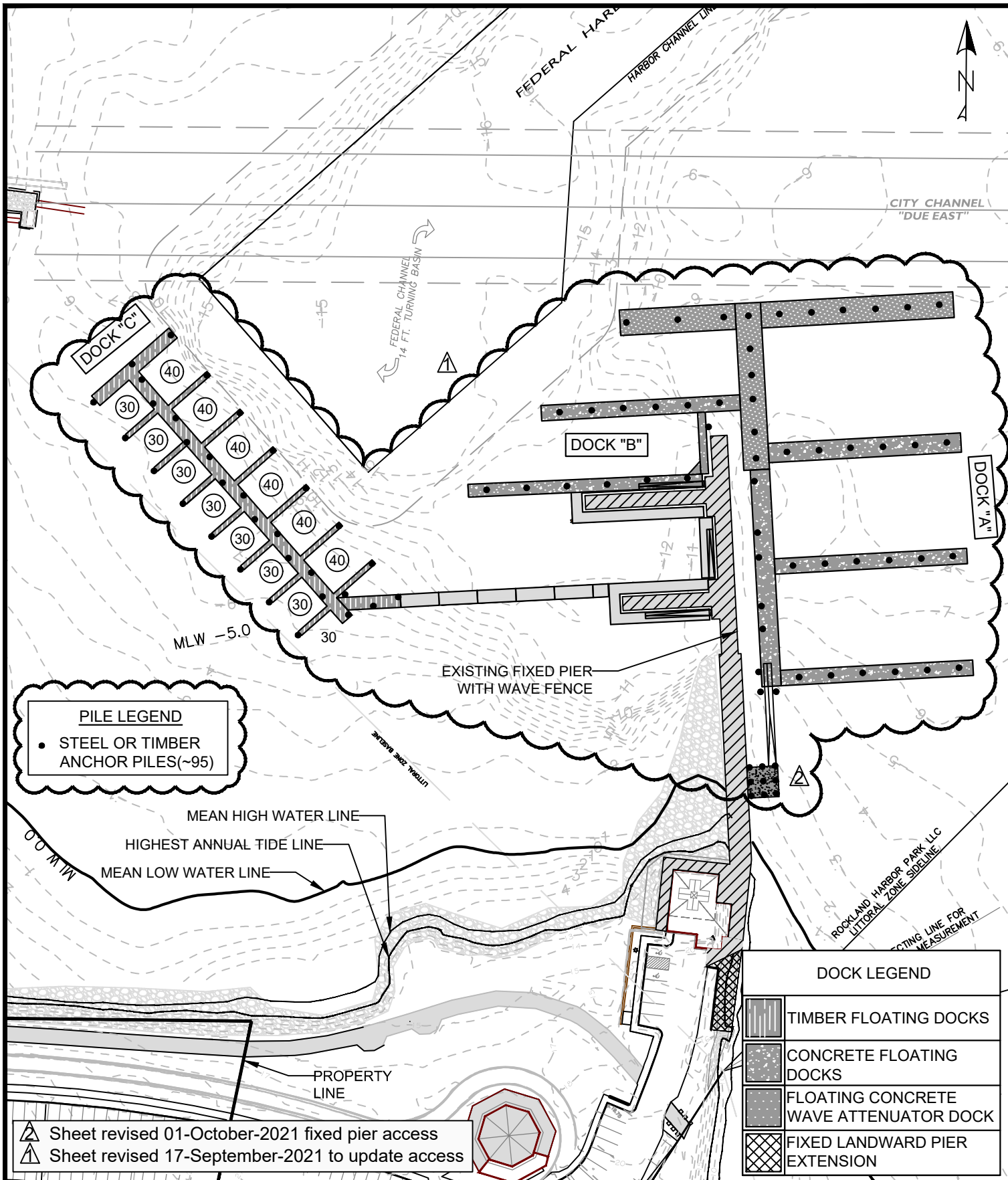
LANDMARK CORPORATION
SURVEYORS & ENGINEERS

135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

**SH ROCKLAND - NRPA APPLICATION
PROPOSED DOCK COORDINATES
ROCKLAND, MAINE**

SCALE: 1"=100'

JUNE 2021



PILE LEGEND
 ● STEEL OR TIMBER ANCHOR PILES (~95)

DOCK LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK
	FIXED LANDWARD PIER EXTENSION

▲ Sheet revised 01-October-2021 fixed pier access
 ▲ Sheet revised 17-September-2021 to update access

 **LANDMARK CORPORATION**
 SURVEYORS & ENGINEERS
 135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

SH ROCKLAND - NRPA APPLICATION APPROXIMATE ANCHOR PILE PLAN ROCKLAND, MAINE

SCALE: 1"=100' JUNE 2021

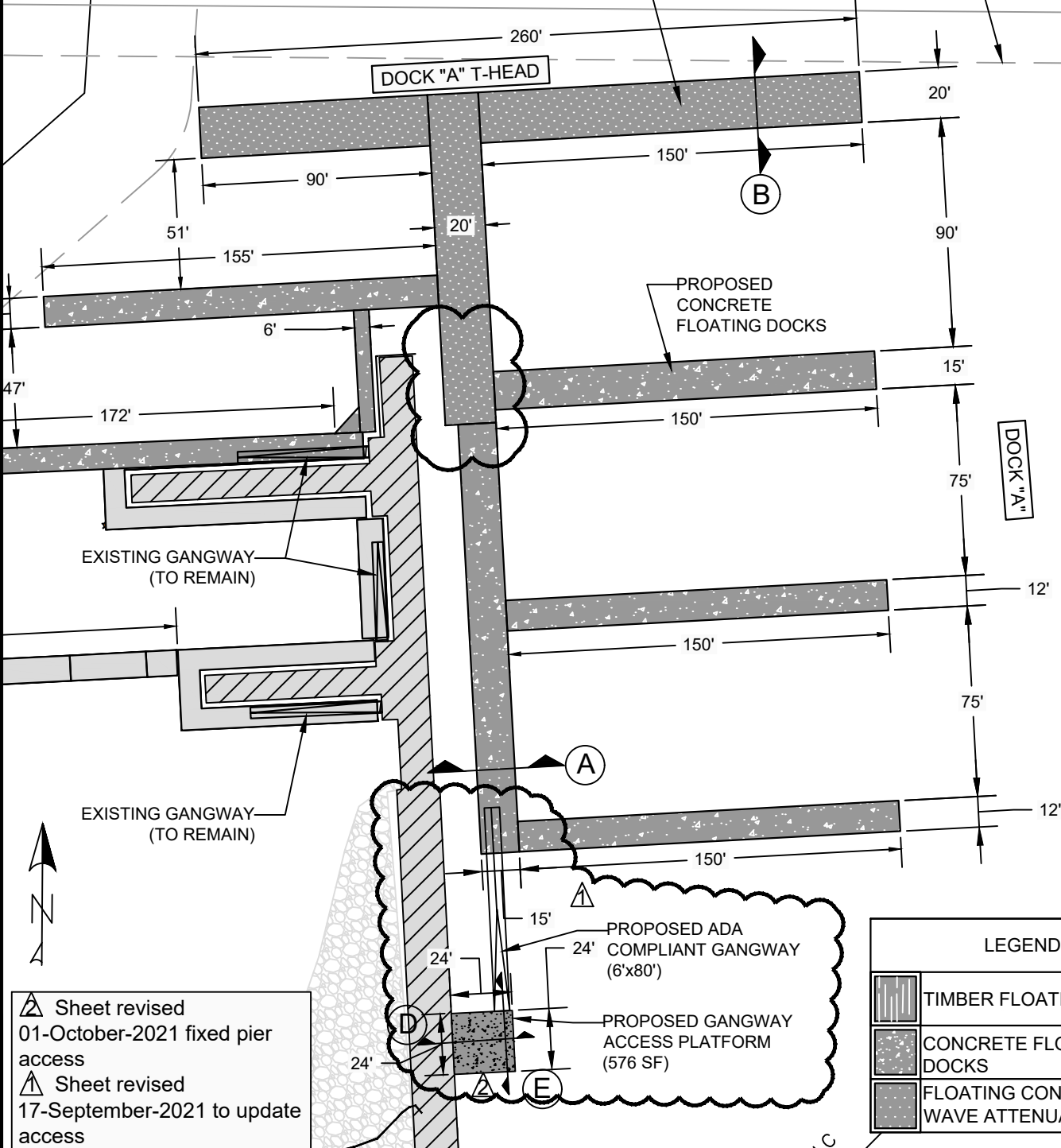
FEDERAL CHANNEL
OFFSET

CITY CHANNEL
"DUE EAST"

PROPOSED FLOATING
CONCRETE WAVE
ATTENUATOR DOCKS

CITY CHANNEL
OFFSET

DOCK "A" T-HEAD



DOCK "A"

EXISTING GANGWAY
(TO REMAIN)

EXISTING GANGWAY
(TO REMAIN)

A

B

C

D

E

△ Sheet revised
01-October-2021 fixed pier
access
△ Sheet revised
17-September-2021 to update
access

LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK



LANDMARK CORPORATION

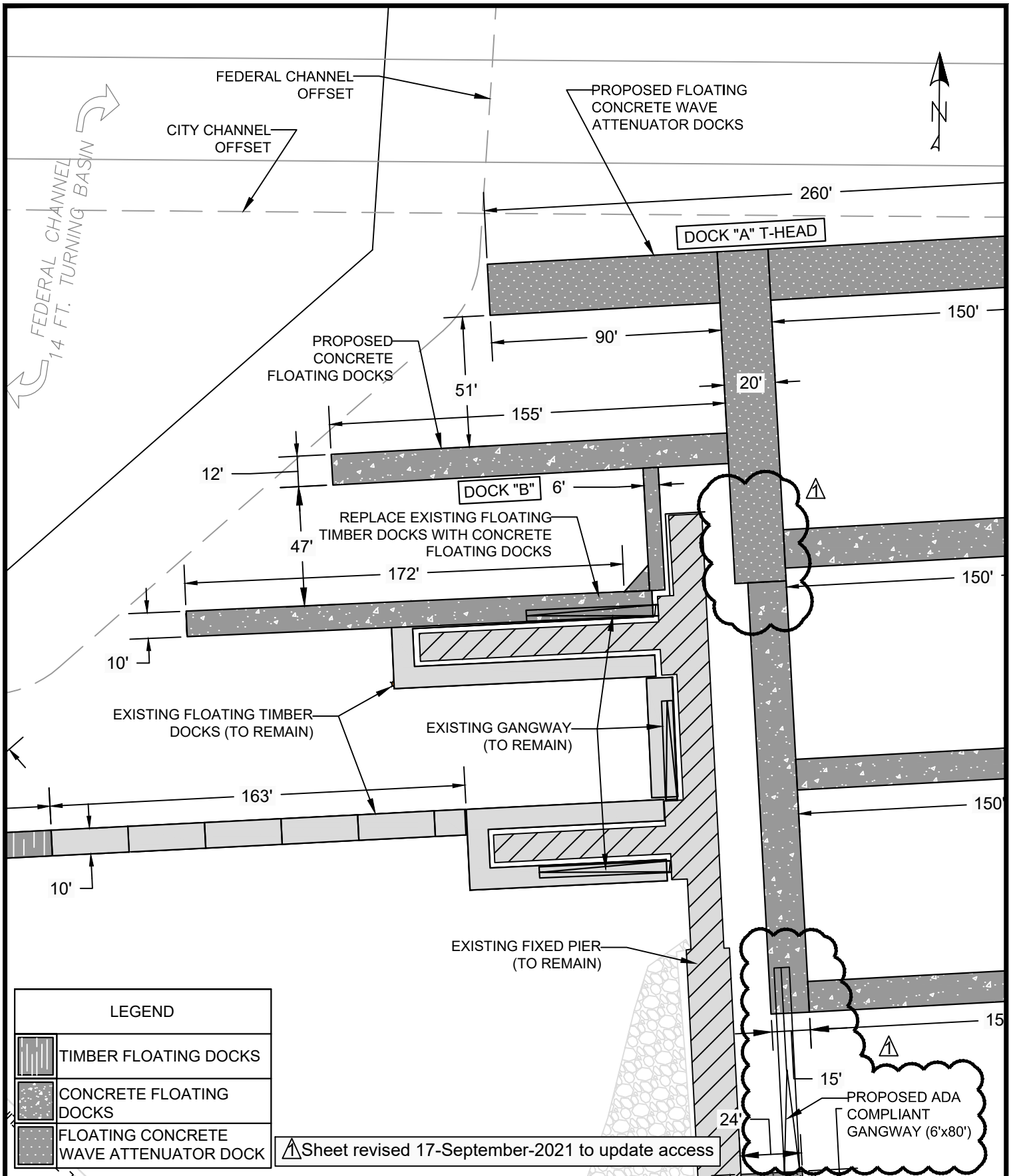
SURVEYORS & ENGINEERS

135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

SH ROCKLAND - NRPA APPLICATION
DOCK A DIMENSION PLAN
ROCKLAND, MAINE

SCALE: 1"=60'

JUNE 2021



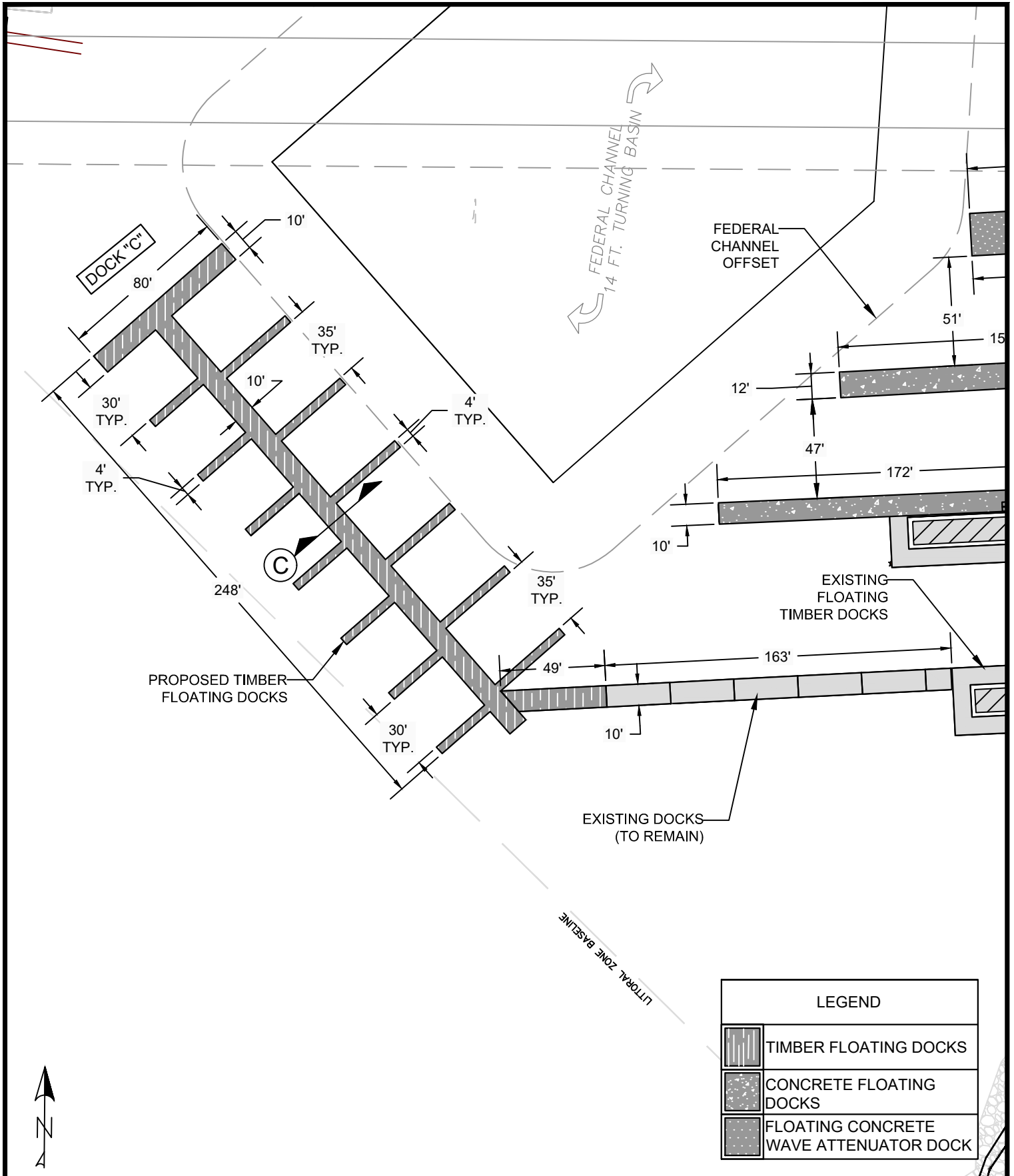
LEGEND	
	TIMBER FLOATING DOCKS
	CONCRETE FLOATING DOCKS
	FLOATING CONCRETE WAVE ATTENUATOR DOCK

▲ Sheet revised 17-September-2021 to update access

 **LANDMARK CORPORATION**
 SURVEYORS & ENGINEERS
 135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

SH ROCKLAND - NRPA APPLICATION
DOCK B DIMENSION PLAN
ROCKLAND, MAINE

SCALE: 1"=60' JUNE 2021

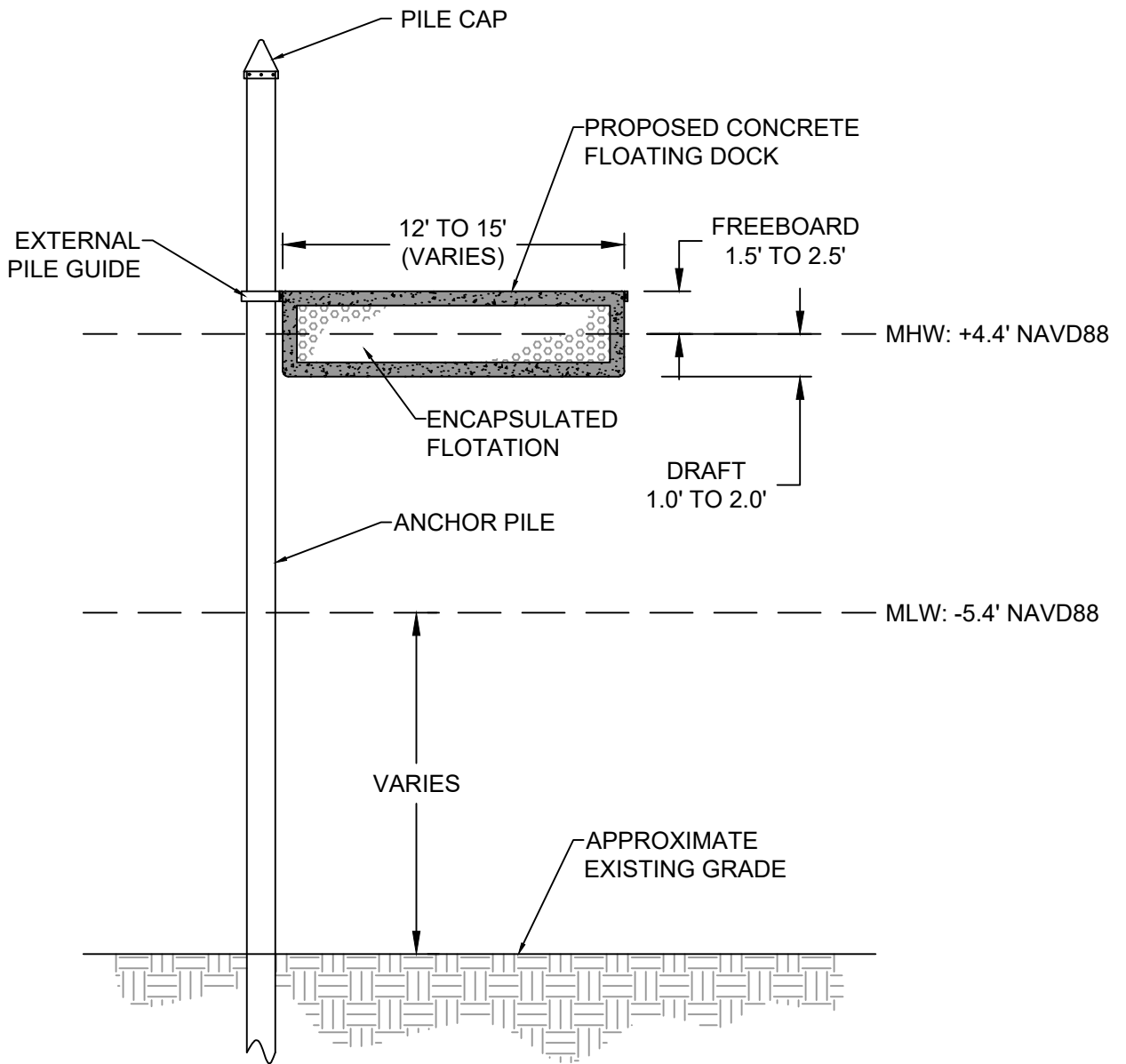


LANDMARK CORPORATION
 SURVEYORS & ENGINEERS
 135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

**SH ROCKLAND - NRPA APPLICATION
 DOCK C DIMENSION PLAN
 ROCKLAND, MAINE**

SCALE: 1"=60'

JUNE 2021



(A) TYPICAL CONCRETE FLOATING DOCK SECTION



LANDMARK CORPORATION

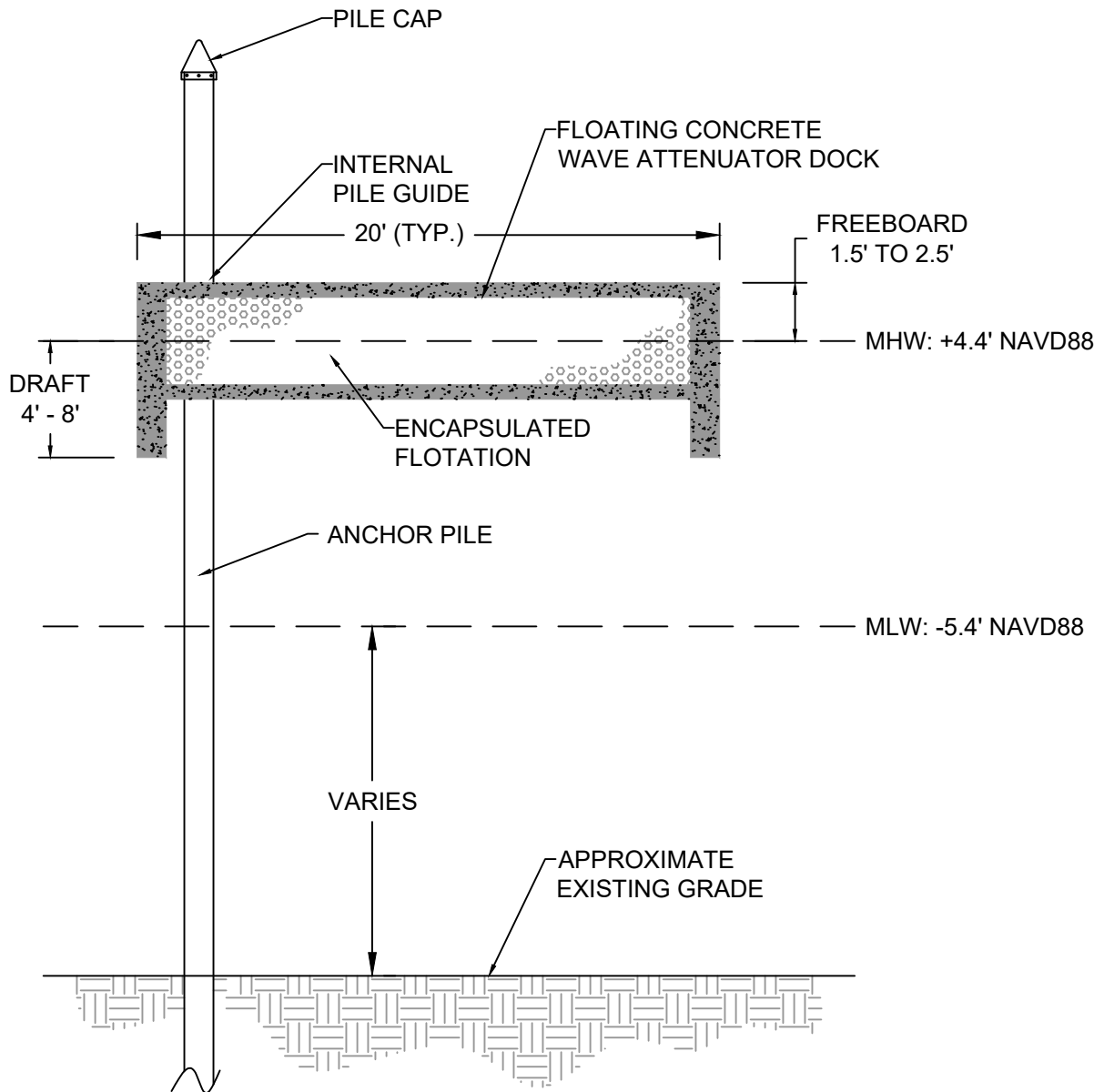
SURVEYORS & ENGINEERS

135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

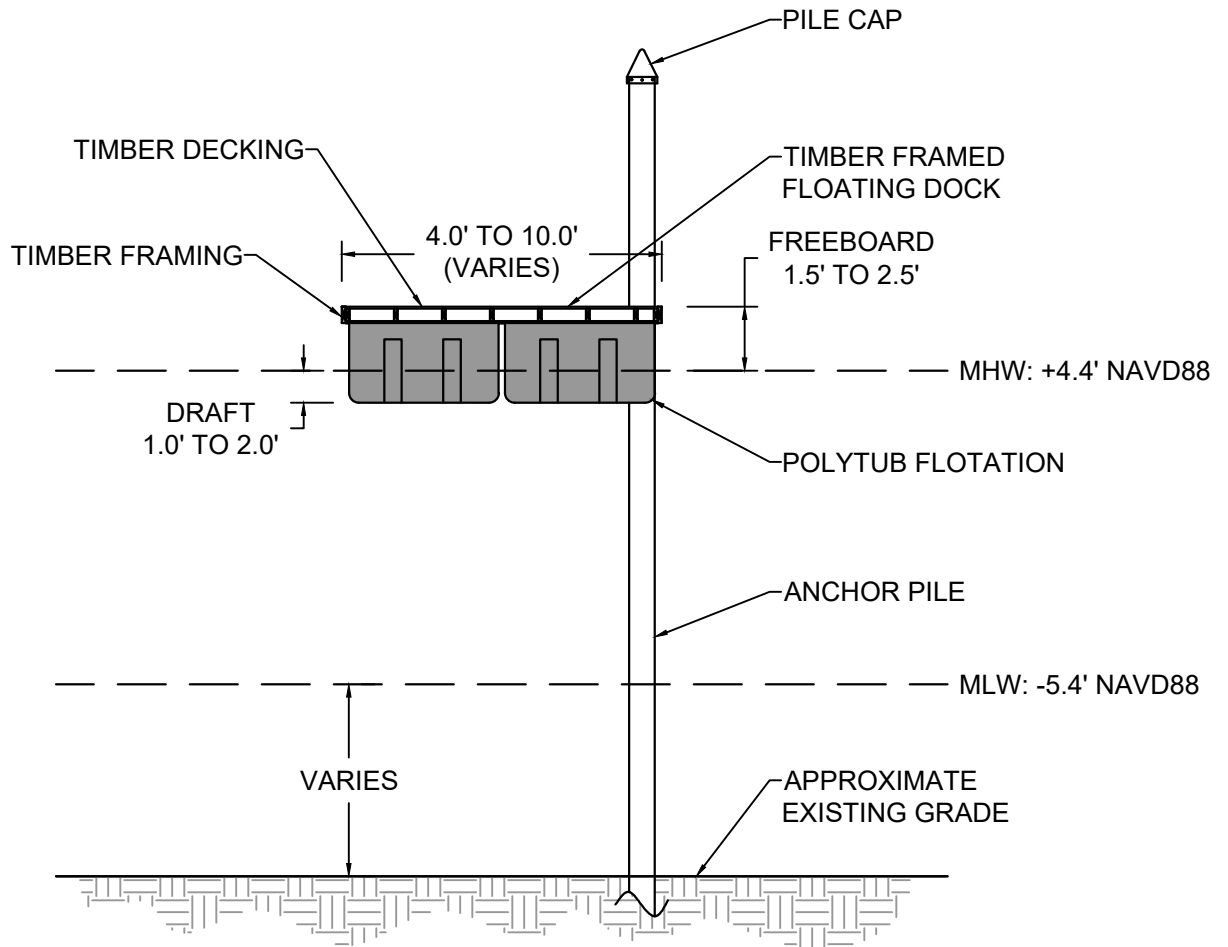
SH ROCKLAND - NRPA APPLICATION
 TYPICAL CONCRETE FLOATING DOCK DETAILS
 ROCKLAND, MAINE

SCALE: 1"=6'

JUNE 2021



(B) TYPICAL FLOATING CONCRETE WAVE ATTENUATOR DOCK SECTION



© TYPICAL TIMBER FLOATING DOCK SECTION



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SURVEYORS & ENGINEERS

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SH ROCKLAND - NRPA APPLICATION
TYPICAL TIMBER FLOATING DOCK DETAIL
ROCKLAND, MAINE

SCALE: 1"=6'

JUNE 2021

EXISTING FIXED PIER

24'

RAILING

PROPOSED GANGWAY
PLATFORM SUPERSTRUCTURE

MHW: +4.4' NAVD88

CROSS BRACING

EXISTING PIER/
ROCK QUAY WALL

MLW: -5.4' NAVD88

VARIES

APPROXIMATE
EXISTING GRADE

**(D) TYPICAL GANGWAY ACCESS
PLATFORM SECTION**

PROPOSED
RAILING

24'

PROPOSED GANGWAY
ACCESS PLATFORM

EXISTING RAILING

MHW

PROPOSED
SUPPORT PILES
(9 TOTAL)

PROPOSED
ADA
COMPLIANT
GANGWAY

CROSS
BRACING

EXISTING ROCK
QUAY WALL

MLW

APPROXIMATE
EXISTING GRADE

**(E) TYPICAL GANGWAY ACCESS
PLATFORM SECTION**

Sheet revised 17-September-2021 to update access



LANDMARK CORPORATION

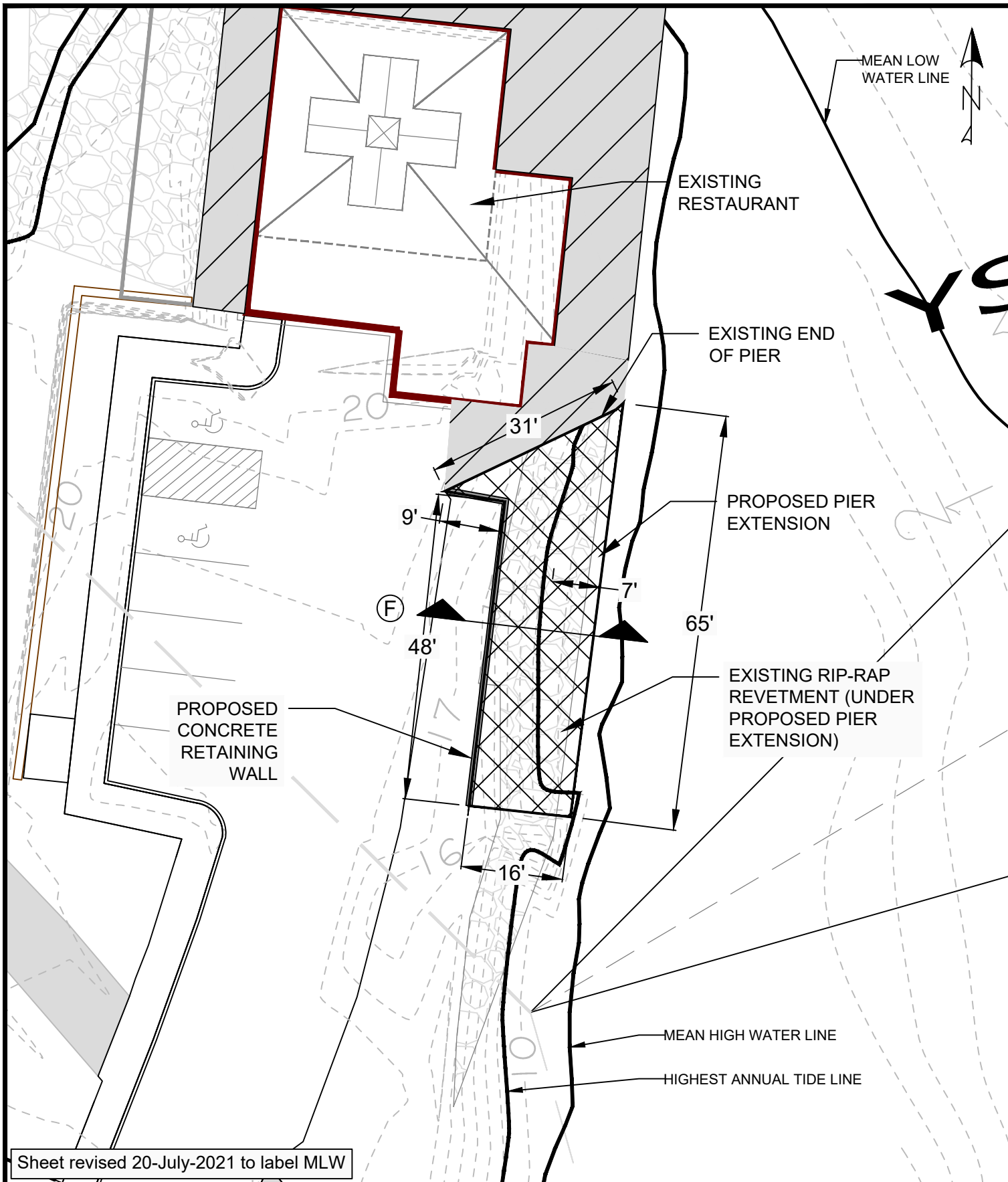
SURVEYORS & ENGINEERS

135 Rockland Street Rockport, Maine 04856 Phone: (207) 236-6757 www.landmarkmaine.com

SH ROCKLAND - NRPA APPLICATION
TYPICAL GANGWAY ACCESS PLATFORM DETAILS
ROCKLAND, MAINE

SCALE: NTS

JUNE 2021



LANDMARK CORPORATION

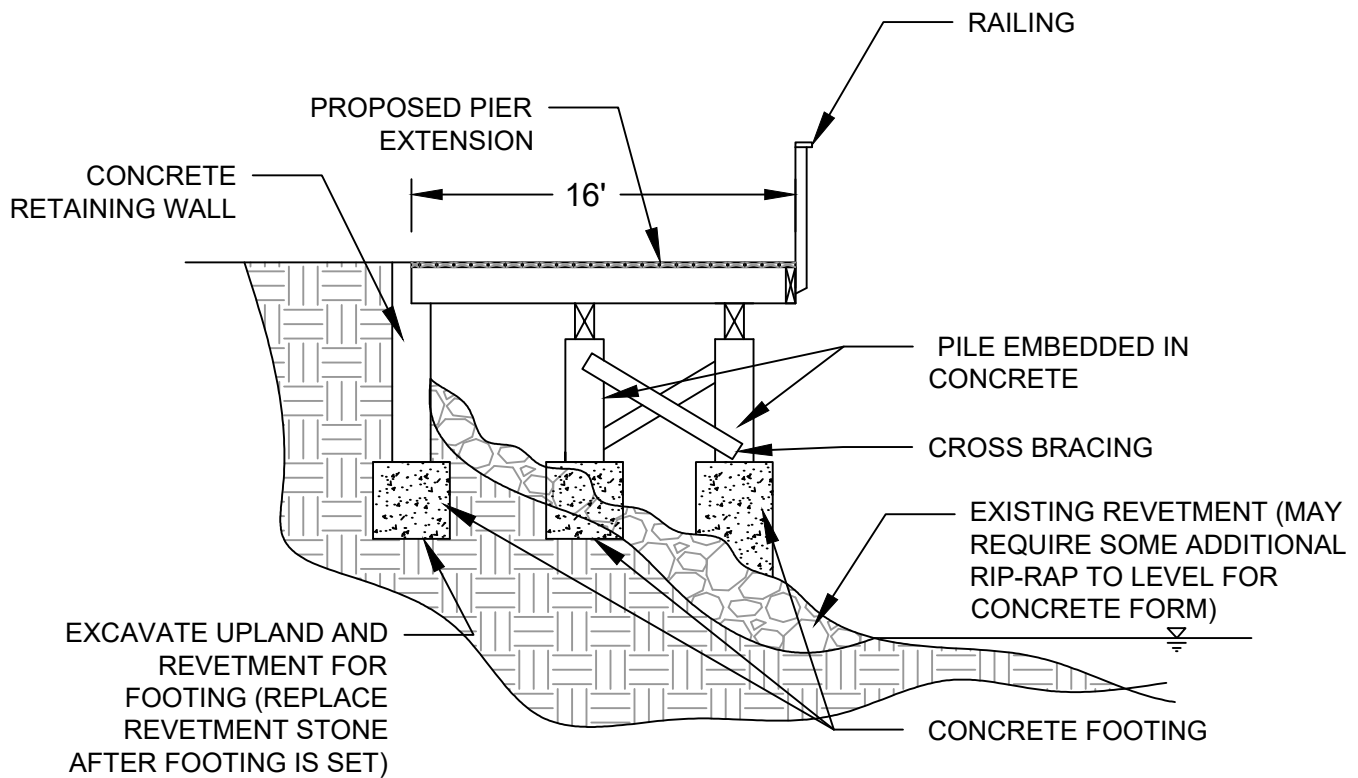
SURVEYORS & ENGINEERS

135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

**SH ROCKLAND - NRPA APPLICATION
SHOREWARD PIER EXTENSION LAYOUT
ROCKLAND, MAINE**

SCALE: 1"=20'

JUNE 2021



(F) TYPICAL LANDWARD FIXED PIER
EXTENSION SECTION



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

135 Rockland STREET ROCKPORT, MAINE 04856 PHONE: (207) 236-6757 WWW.LANDMARKMAINE.COM

SH ROCKLAND - NRPA APPLICATION
TYPICAL LANDWARD PIER EXTENSION SECTION
ROCKLAND, MAINE

SCALE: NTS

JUNE 2021

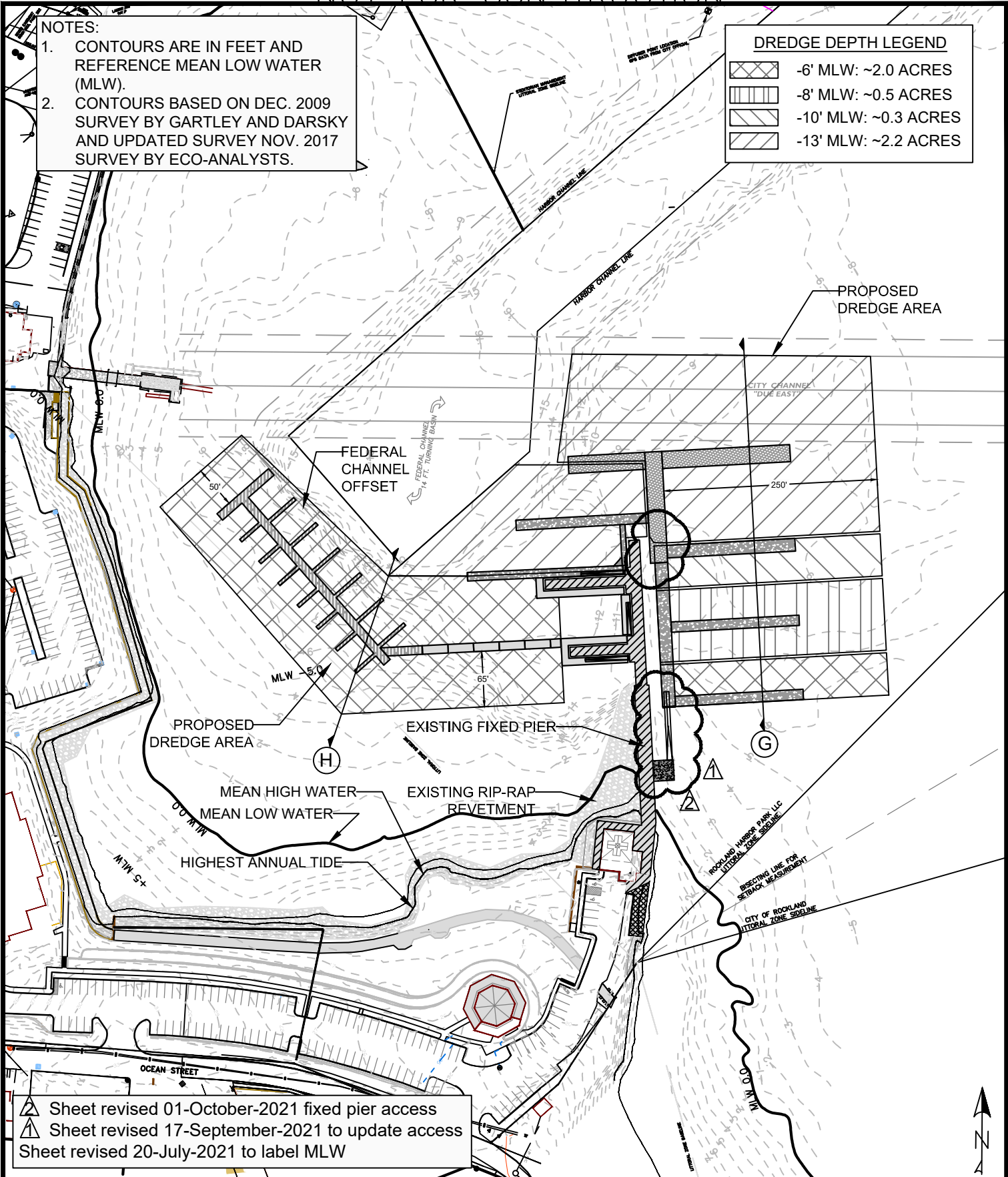
FOR PERMITTING PURPOSES ONLY
 "NOT FOR CONSTRUCTION"

NOTES:

1. CONTOURS ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
2. CONTOURS BASED ON DEC. 2009 SURVEY BY GARTLEY AND DARSKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.

DREDGE DEPTH LEGEND

	-6' MLW: ~2.0 ACRES
	-8' MLW: ~0.5 ACRES
	-10' MLW: ~0.3 ACRES
	-13' MLW: ~2.2 ACRES



Sheet revised 01-October-2021 fixed pier access
 Sheet revised 17-September-2021 to update access
 Sheet revised 20-July-2021 to label MLW

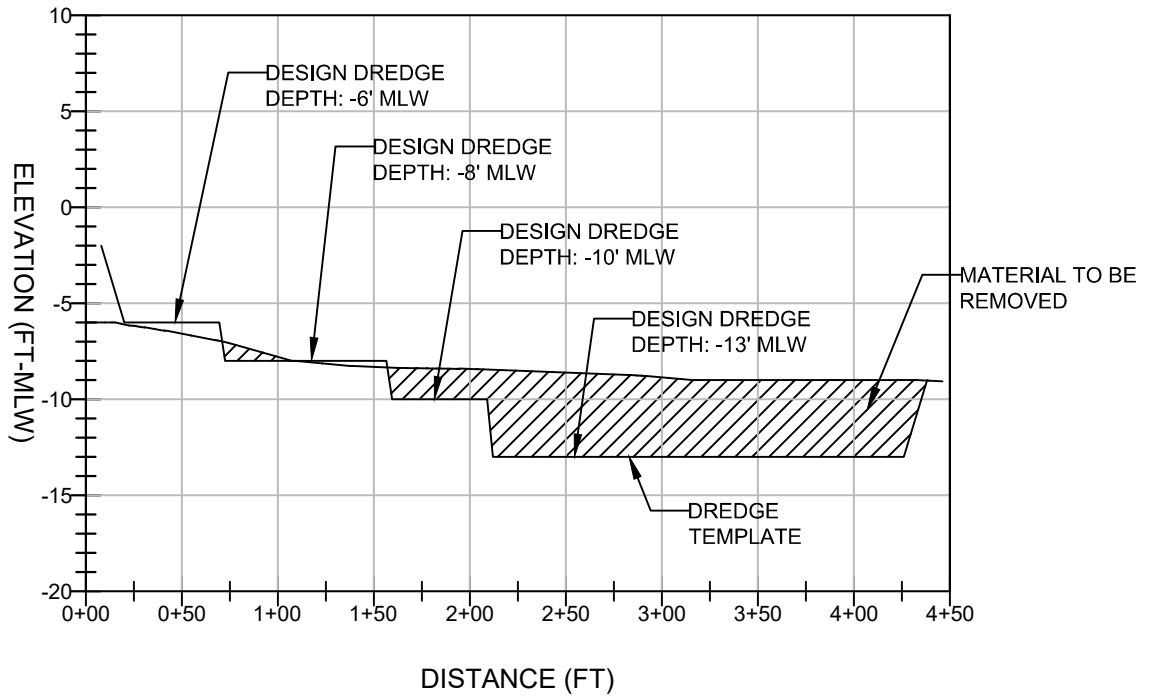


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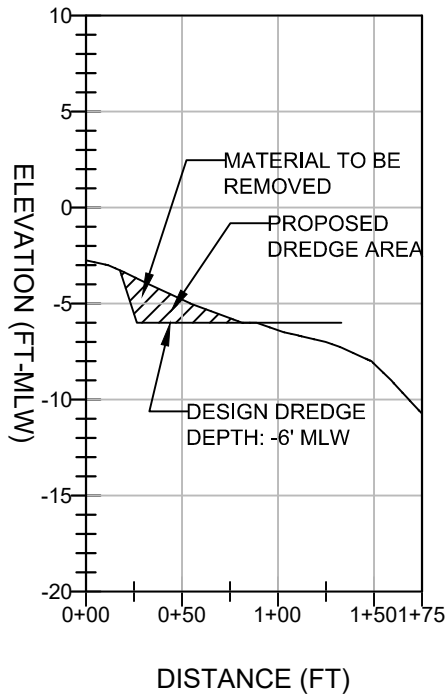
SH ROCKLAND - NRPA APPLICATION
 PROPOSED DREDGE PLAN
 ROCKLAND, MAINE

SCALE: 1"=150'

JUNE 2021



Ⓒ TYPICAL DREDGE PROFILE



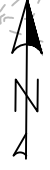
Ⓓ TYPICAL DREDGE PROFILE

- NOTES:
1. PROFILES ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
 2. PROFILES BASED ON DEC. 2009 SURVEY BY GARTLEY AND DASKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.

FOR PERMITTING PURPOSES ONLY
 "NOT FOR CONSTRUCTION"

NOTES:

1. CONTOURS ARE IN FEET AND REFERENCE MEAN LOW WATER (MLW).
2. CONTOURS BASED ON DEC. 2009 SURVEY BY GARTLEY AND DASKY AND UPDATED SURVEY NOV. 2017 SURVEY BY ECO-ANALYSTS.
3. PROPOSED DREDGE CONTOURS, VOLUMES, AND AREAS ARE BASED ON CONDITIONS AT TIME OF SURVEY AND MAY VARY AT TIME OF CONSTRUCTION.



TURBIDITY CURTAIN, IF NECESSARY (LOCATION IS INDICATIVE AND SHALL BE DEPLOYED AROUND THE CURRENT AREA OF DREDGING DURING CONSTRUCTION)

FEDERAL CHANNEL OFFSET

PROPOSED -13' MLW DREDGE AREA (91,975 SF - ~11,055 CY)

PROPOSED -6' MLW DREDGE AREA (17,550 SF - ~450 CY)

EXISTING FIXED PIER

PROPOSED -10' MLW DREDGE AREA (13,120 SF - ~720 CY)

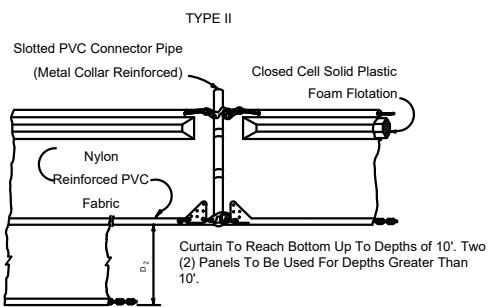
PROPOSED CONTOURS MEAN HIGH WATER

EXISTING RIP-RAP REVETMENT

PROPOSED -8' MLW DREDGE AREA (9,540 SF - ~200 CY)

MEAN LOW WATER HIGHEST ANNUAL TIDE

PROPOSED -6' MLW DREDGE AREA (5,750 SF - ~90 CY)



FLOATING TURBIDITY BARRIERS

Sheet revised 20-July-2021 to label MLW



135 Rockland Street Rockport, Maine 04856 Phone: (207) 236-6757 www.landmarkmaine.com

SH ROCKLAND - NRPA APPLICATION
 TURBIDITY CONTROL NOTES AND DETAILS
 ROCKLAND, MAINE

SCALE: 1"=150'

JUNE 2021

APPENDIX C

USFWS/MESFO List of Threatened and Endangered Species



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Maine Ecological Services Field Office

P. O. Box A

East Orland, ME 04431

Phone: (207) 469-7300 Fax: (207) 902-1588

<http://www.fws.gov/mainefieldoffice/index.html>

In Reply Refer To:

October 29, 2021

Consultation Code: 05E1ME00-2021-SLI-1389

Event Code: 05E1ME00-2022-E-00460

Project Name: Safe Harbor - Rockland Marina Expansion

Subject: Updated list of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies the threatened, endangered, candidate, and proposed species and designated or proposed critical habitat that may occur within the boundary of your proposed project or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC Web site at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the Endangered Species Consultation Handbook at: <http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

This species list also identifies candidate species under review for listing and those species that the Service considers species of concern. Candidate species have no protection under the Act but are included for consideration because they could be listed prior to completion of your project. Species of concern are those taxa whose conservation status is of concern to the Service (i.e., species previously known as Category 2 candidates), but for which further information is needed.

If a proposed project may affect only candidate species or species of concern, you are not required to prepare a Biological Assessment or biological evaluation or to consult with the Service. However, the Service recommends minimizing effects to these species to prevent future conflicts. Therefore, if early evaluation indicates that a project will affect a candidate species or species of concern, you may wish to request technical assistance from this office to identify appropriate minimization measures.

Please be aware that bald and golden eagles are not protected under the Endangered Species Act but are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.). Projects affecting these species may require development of an eagle conservation plan: http://www.fws.gov/windenergy/eagle_guidance.html Information on the location of bald eagle nests in Maine can be found on the Maine Field Office Web site: <http://www.fws.gov/mainefieldoffice/Project%20review4.html>

Additionally, wind energy projects should follow the wind energy guidelines: <http://www.fws.gov/windenergy/> for minimizing impacts to migratory birds and bats. Projects may require development of an avian and bat protection plan.

Migratory birds are also a Service trust resource. Under the Migratory Bird Treaty Act, construction activities in grassland, wetland, stream, woodland, and other habitats that would result in the take of migratory birds, eggs, young, or active nests should be avoided. Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm> and at:

<http://www.towerkill.com>; and at:

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Maine Ecological Services Field Office

P. O. Box A

East Orland, ME 04431

(207) 469-7300

Project Summary

Consultation Code: 05E1ME00-2021-SLI-1389

Event Code: Some(05E1ME00-2022-E-00460)

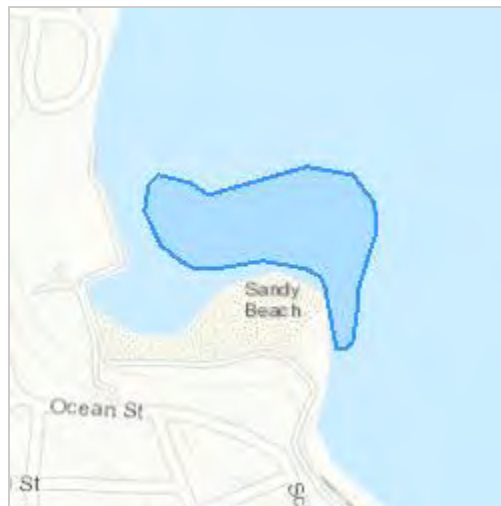
Project Name: Safe Harbor - Rockland Marina Expansion

Project Type: DREDGE / EXCAVATION

Project Description: Expansion of an existing marina with floats, piles, pier, and dredging

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@44.099505449999995,-69.1055688682645,14z>



Counties: Knox County, Maine

Endangered Species Act Species

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Fishes

NAME	STATUS
Atlantic Salmon <i>Salmo salar</i> Population: Gulf of Maine DPS There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/2097	Endangered

Insects

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

APPENDIX D

EFH Determination Sheet

**Essential Fish Habitat (EFH)
Determination Sheet**

Applicant: SHM Rockland, LLC c/o William Morong

Corps File Number: NAE-2021-01934

Corps Project Manager: Stukas

USFWS Grant Number: F19Ap00378

USFWS Project Manager: Perry

Project Location: Below MHW and HTL of Rockland Harbor off Ocean St. in Rockland, Maine.

Project Description: Dredge by mechanical means approximately 12,520 cubic yards of silt and sand from a 138,000 s.f. area to a depth of -6 to -13' mlw in Rockland Harbor at Rockland, Maine in order to improve and restore access to an existing marina. The dredging is both maintenance and improvement dredging. The dredged material will be disposed in an upland, non-wetland site. In addition, maintain and upgrade the facility's existing floats to include in kind repairs and replacements, resetting concrete footings, and installing additional float systems.

ESSENTIAL FISH HABITAT (EFH):

EFH Present: Yes, adverse effect(s), ind. consultation required (abbreviated)

EFH Determination:

ACTIVITY 1. REPAIR, REPLACEMENT AND MAINTENANCE

Activities that require individual consultation:

1. Impacts >100 SF of tidal SAV or natural rocky habitats.

N/A. No impacts to tidal SAV or natural rocky habitats.

No natural rocky habitat is present on site. The rocks along the seawall is existing riprap; Corps File No. NAE-2000-02618, authorized placement of approximately 7600 sf. of rip rap along 750LF of seawall. The Corps authorized the repair of the existing jetty and the placement of rip rap at the base (NAE-2000-02133).

2. Impacts >1000 SF of tidal SAS or intertidal areas.

N/A. Impacts are less than 1000SF of tidal SAS or intertidal areas at 116sf.

3. All expansions >1/2 acre.

N/A. All expansions are less than 1/2 ac.

4. Replacement or maintenance of: a) sloped stabilization structures >200 LF and waterward of the existing toe, or b) vertical structures >18 inches waterward of the existing face and >200 LF.

N/A.

5. Dam and flood control or levee repairs that will alter water levels or flood elevations.

N/A.

6. Controls in streams that exceed the widths in #6 below or don't provide downstream passage.

N/A.

7. Discharges of more than de minimum quantities of accumulated bottom sediments from or through a dam.

N/A.

8. All work to tide gates without a Corps-approved operation and maintenance plan or alterations to tide gates that will affect the hydraulic regime.

N/A.

Conservation recommendations for all other activities not identified above:

1. Require an SAV survey for activities within mapped or adjacent to known tidal SAV if a survey has not been conducted in 3 years in accordance with SAV Survey Guidance. Tidal SAV at the project site should be identified in the field prior to the start of work and equipment should not anchor or impact SAV.

A field survey conducted on June 18, 2021 at low tide and no tidal SAV nor saltmarsh was present in the footprint of project area.

2. No impacts to tidal SAS.

No impacts to tidal SAS. The work involves resetting concrete footing within existing rip rap.

3. Work should not produce sedimentation in tidal SAS or natural rocky habitats. This may be achieved using setbacks of 100 feet from tidal SAV or 25 feet from tidal SAS or natural rocky habitats.

Work is above MLW and MHW will occur in-the-dry, as such, no greater than minimal turbidity or sedimentation is not expected it will be very minor and short-term.

The following special condition will be incorporated into the permit: “All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.”

4. The TOY restriction in App. B should be required for work that produces greater than minimal turbidity or sedimentation in diadromous streams or tidal waters.

Work is above MLW and MHW will occur in-the-dry, as such, no greater than minimal turbidity or sedimentation is not expected it will be very minor and short-term.

The following special condition will be incorporated into the permit: “All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.”

5. Appropriate soil erosion, sediment and turbidity controls should be used and maintained in effective operating condition during construction. Activities capable of producing greater than minimal turbidity or sedimentation should be done during periods of low-flow or no flow, when the stream or tide is waterward of the work, or when controls are used to obtain

dry work conditions. Work that produces greater than minimal turbidity or sedimentation should not be done during the TOY restriction(s) in App. B.

Work is above MLW and MHW will occur in-the-dry, as such, no greater than minimal turbidity or sedimentation is not expected it will be very minor and short-term.

The following special condition will be incorporated into the permit: “All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.”

6. Controls in streams should be installed and removed during the same TOY work window when practicable. Controls (e.g., cofferdams) should not encroach: i) >25% from OHW in diadromous streams during the TOY restriction in App. B; or ii) >25% from MHW in tidal waters during the TOY restrictions for shellfish and w.flounder in App B); or iii) >50% from MHW in tidal waters during the TOY windows for shellfish and w.flounder in App B. This is to protect upstream fish passage. Maintain downstream fish passage throughout the project. Controls should be removed upon completion of work, but not until all exposed soil and other fills, as well as any work waterward of OHW or the HTL, are permanently stabilized. Sediment and debris collected by these devices should be removed and placed at an upland location in a manner that will prevent its later erosion into a waterway or wetland.

NA; no streams in the footprint of the project or in the immediate vicinity.

7. For replacement or maintenance of sloped stabilization structures, stabilization materials such as riprap should not extend waterward of the existing toe of slope. Replaced vertical structures should be located within the existing footprint where possible, but limited to the area within 18 inches of existing structures.

N/A; no replacement or maintenance of sloped stabilization structures are purposed for the project.

8. Compensatory mitigation should be provided for impacts to tidal SAS, intertidal areas, or natural rocky habitats.

There is no impacts to tidal SAS, intertidal area or, natural rocky habitats. The work involves resetting concrete footing within existing rip rap. USFWS and the Corps has determined that impacts associated with the project are minimal, therefore determined that no compensation mitigation is warranted and/or required.

ACTIVITY 3 – PILE-SUPPORTED STRUCTURES, FLOATS AND LIFTS

Activities that required individual consultation:

1. Structures (piers, ramps floats, etc.) in tidal SAV or 150 LF over salt marsh waterward of MHW.

N/A. SAV nor salt marsh is not present within the footprint of the project.

2. New public, community, government, or commercial boating facilities: or expansions of existing facilities within intertidal or tidal SAV.

N/A. The expansion of the facility is subtidal and no tidal SAV is present in the footprint of the project

Conservation Recommendations for all other activities not identified above.

1. The lower most parts of the floats should be >18 inches above the substrate at all times.

The lower most of part of the float will be elevated a minimum of 6 ft. above the substrate at all tides.

2. Structures shall have 1:1 height/width ration over salt marsh.

No salt marsh is present in the footprint of the pier.

3. Docks, piers, ramps or floats are not located within 25 feet of tidal SAV.

No SAV present in the footprint of the project or in the immediate vicinity.

4. Compensatory mitigation should be provided for impacts to tidal SAS.

USFWS and the Corps has determined that impacts associated with the project are minimal, therefore determined that no compensation mitigation is warranted and/or required.

ACTIVITY 5. DREDGING, DISPOSAL OF DREDGED MATERIAL, BEACH NOURISHMENT

Activities that require individual consultation:

1. Impacts to >100 SF of tidal SAV or natural rocky habitats.

N/A. No impacts to tidal SAV or natural rocky habitats.

No natural rocky habitat is present on site. The rocks along the seawall is existing riprap; Corps File No. NAE-2000-02618, authorized placement of approximately 7600 sf. of rip rap along 750LF of seawall. The Corps authorized the repair of the existing jetty and the placement of rip rap at the base (NAE-2000-02133).

2. Impacts to >1000 SF of tidal SAS, intertidal areas, or areas containing shellfish.

N/A. No impacts to tidal SAS, intertidal areas, or areas containing shellfish.

3. New dredge activities.

The Corps authorized dredging within area (54,500 sf.) which include both west and east of jetty (Corps File No. NAE-2000-02133). The file indicated that the possibility that dredging at that time was maintenance. This history would suggest that dredge could be maintenance rather than new, however, the applicant states it is new dredging.

4. Nearshore disposal or beach nourishment material is inconsistent with the grain-size or type (e.g., sand over cobble) of the existing substrate.

N/A. Upland disposal.

5. Nearshore disposal or beach nourishment activities within: 1) 100 feet of tidal SAV; or 2) 25 feet of other tidal SAS, natural rocky habitats or areas containing shellfish.

N/A. Upland disposal.

6. New dredging to facilitate residential projects including docks or moorings, and new dredging conducted for the sole purpose of beach nourishment.

N/A. Upland disposal.

Conservation recommendations for all other activities not identified above:

1. Require an SAV survey for activities within mapped or adjacent to known tidal SAV if a survey has not been conducted in 3 years in accordance with SAV Survey Guidance. Tidal SAV at the project site should be identified in the field prior to the start of work and equipment should not anchor or impact SAV.

A field survey conducted on June 18, 2021 at low tide and no tidal SAV nor saltmarsh was present in the footprint of project area.

2. No dredging or disposal should be performed within the TOY restrictions stated in App. B.

The following special condition will be incorporated into the permit: “All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.”

3. No nearshore disposal or beach nourishment activities within: a) 100 feet of tidal SAV; or b) 25 feet of other tidal SAS, natural rocky habitats or areas containing shellfish.

N/A. Upland disposal.

4. No dredging should produce sedimentation in tidal SAS, natural rocky habitats or areas containing shellfish. This may be achieved using setbacks of 100 feet from tidal SAV or 25 feet from tidal SAS or natural rocky habitats.

No sedimentation will be produce in tidal SAS, natural rocky habitats or areas containing shellfish. Turbidity barriers will be used during dredging operations.

5. Rocks should be relocated to an area of equivalent depth and substrate type.

The dredge material is fine sediments over glacial till; however could be some boulder and cobble mixed with fine sediment on the east side of the jetty. The Corps authorized the repair of the existing jetty and the placement of rip rap at the base (NAE-2000-02133). NAE-2000-02133 also authorized dredging within area (54,500 sf.) which include both west and east of jetty and the dredge material was slit and clay. This history suggest that the boulder and cobble mixed with fine sediment may not be natural rocky habitat but shifted rip rap.

6. Dredged materials should be deposited and retained in an upland area to prevent sediments from reentering aquatic habitats; unless they are disposed of at either a U.S. EPA/Corps designated disposal site or a CAD cell.

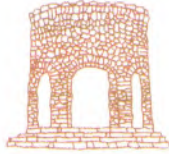
Prior to dredging, jersey barriers and silt fencing shall be erected around the perimeter of the dredged material dewatering area. Dewatered material will then be loaded onto trucks and delivered to an existing gravel pit (approximately 12 miles away) for final placement and grading in accordance with MDEP’s Beneficial Use of Dredge Material permit (S-022546-W3-A-N).

7. Compensatory mitigation should be provided for impacts to tidal SAS, intertidal areas, natural rocky habitats, and areas containing shellfish. Compensatory mitigation should generally not be provided for: a) new or maintenance dredging in areas without these resources; or b) maintenance dredging in areas with these resources if compensatory mitigation was provided in the past.

USFWS and the Corps has determined that impacts associated with the project are minimal, therefore determined that no compensation mitigation is warranted and/or required.

APPENDIX E

MHPC Project Review (Section 106)



LANDMARK CORPORATION

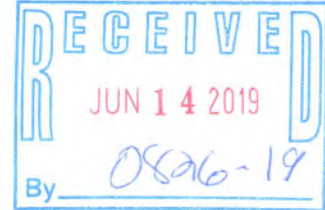
SURVEYORS & ENGINEERS

K. MARK BARBOUR, PLS

MICHAEL J. SABATINI, P.E.

June 12, 2019

Maine Historic Preservation Commission
55 Capital Street
65 State House Station
Augusta, ME 04333-0065



Re: Project Review (Section 106) for
Marina Expansion by Yachting Solutions
Water and Ocean Streets
Rockland, Maine
LC Proj. No. 16-012

Dear Sir/Madam:

On behalf of Yachting Solutions, tenants of the Marina on a property owned by Rockland Harbor Park, LLC, we are writing to request project review in accordance with Section 106 of the National Historic Preservation Act. This project will require a Site Law and NRPA Permit and will receive federal funding through a Boating Infrastructure Grant.

The project includes a marina expansion (floats and piers), dredging, fuel tank and pump system, parking expansion, upgraded electrical service, and conversion of the exterior pavilion to interior space.

Attached please find the following supporting information:

- USGS Location Map
- Site Plan showing marina expansion improvements and picture key
- Site Pictures
- Structure Survey Form (Abutting Rockland Harbor Master Building)

This property, formally owned by Bracebridge Corporation, has gone through numerous permitting iterations and likely prior Historic Reviews. A summary is as follows:

219 MEADOW STREET ROCKPORT, MAINE 04856

PHONE: (207) 236-6757 FAX: (207) 470-7020

WWW.LANDMARKMAINE.COM

DEP Permit Number	Date	Project Description
L-20386-26-A-N L-20386-4E-B-N	10-24-2000	Office Building, Day Care Center, Boat House, Pavilion, Boardwalk for total of 5.44 ac impervious (reduced from 6.44 ac). Seawall reconstruction and boardwalk construction with coastal wetland impact of 18 sf
L-20386-4C-C-N	12-20-2000	Breakwater Restoration, Pier Construction, and Dredge. 1,050 sf of impact to coastal wetland
L-20386-4C-D-T	3-11-2008	Transfer from Bracebridge Corporation to Rockland Harbor Park, LLC
L-20386-26-E-M L-20386-2F-N	5-2-2008	Boathouse Conversion and Expansion. 1,386 sf of decking and paved area, 4 new pilings
L-20386-26-G-B L-20386-4E-H-N	7-23-2008	Expand Marina 98sf direct impact and 17,010sf indirect impact, expand parking creating 0.52 acres impervious and developed area
L-20386-26-I-M L-20386-2F-J-M	7-23-2009	Construct 85sf bathroom area on previously constructed pier. Minor Change
L-20386-26-I-M L-20386-2F-J-M	1-26-2010	Reconfigure marina expansion reduced to 65sf of direct impact and 13,160sf of indirect impact
L-20386-26-M-M	3-4-2010	Building Use Change Day Care to Maine Coastal Islands

The proposed work will create 0.18 acres of impervious area and approximately include 38,164 sf of floats and piers, 280 sf of impact from piles, and 147,300 cy of dredging in two phases.

Please let us know if you have any questions or you require additional information.

Sincerely,
Landmark Corporation Surveyors & Engineers

Michael J. Sabatini., P.E.

Attachments

Based on the information submitted, I have concluded that there will be no historic properties affected by the proposed undertaking, as defined by Section 106 of the National Historic Preservation Act. Consequently, pursuant to 36 CFR 800.4(d)(1), no further Section 106 consultation is required unless additional resources are discovered during project implementation pursuant to 36 CFR 800.13.

Kirk F. Mohney
 Kirk F. Mohney,
 State Historic Preservation Officer
 Maine Historic Preservation Commission

6/19/19
 Date

MAHC # 0826-19

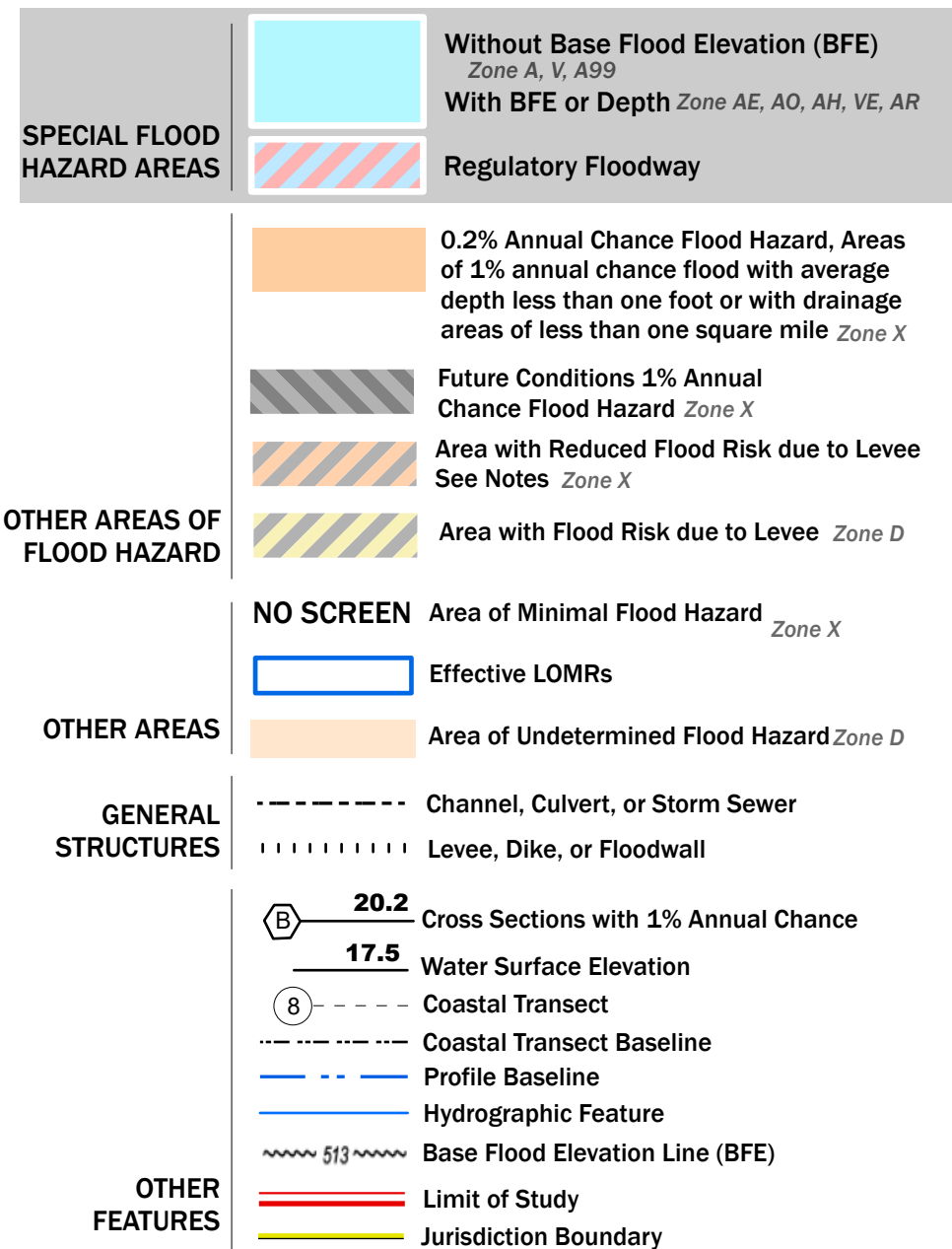
APPENDIX F

FEMA Flood Insurance Rate Map



FLOOD HAZARD INFORMATION

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR DRAFT FIRM PANEL LAYOUT



NOTES TO USERS

For information and questions about this Flood Insurance Rate Map (FIRM), available products associated with this FIRM, including historic versions, the current map date for each FIRM panel, how to order products, or the National Flood Insurance Program (NFIP) in general, please call the FEMA Map Information eXchange at 1-877-FEMA-MAP (1-877-336-6627) or visit the FEMA Flood Map Service Center website at <https://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the website.

Communities annexing land on adjacent FIRM panels must obtain a current copy of the adjacent panel as well as the current FIRM Index. These may be ordered directly from the Flood Map Service Center at the number listed above.

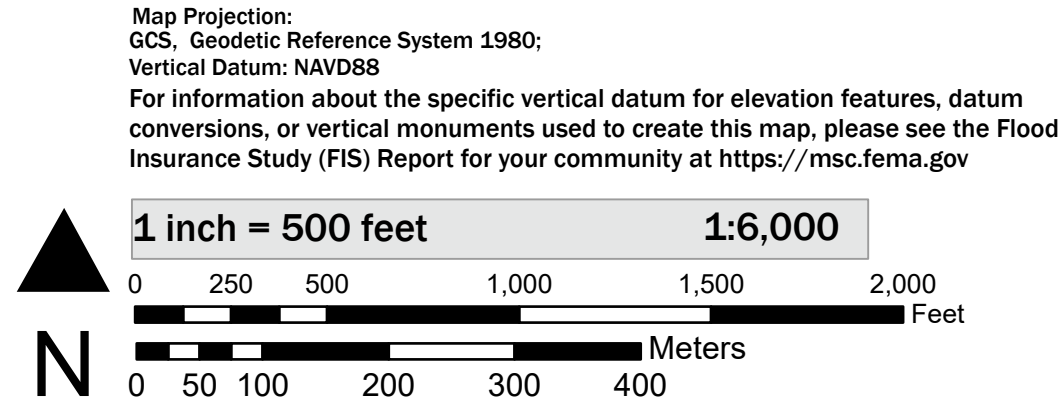
For community and countywide map dates, refer to the Flood Insurance Study Report for this jurisdiction. To determine if flood insurance is available in this community, contact your Insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

Basemap information shown on this FIRM was provided in digital format by the United States Geological Survey (USGS). The basemap shown is the USGS National Map: Orthoimagery, Last refreshed October, 2020.

This map was exported from FEMA's National Flood Hazard Layer (NFHL) on 9/16/2021 8:23 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time. For additional information, please see the Flood Hazard Mapping Updates Overview Fact Sheet at <https://www.fema.gov/media-library/assets/documents/118418>

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards. This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date.

SCALE



NATIONAL FLOOD INSURANCE PROGRAM
FLOOD INSURANCE RATE MAP

PANEL 351 OF 836

Panel Contains:

COMMUNITY	NUMBER	PANEL
CITY OF ROCKLAND	230076	0351
TOWN OF OWLS	230075	0351
HEAD TOWN OF ROCKPORT	230077	0351

APPENDIX G

Eco-Analysts Environmental Assessment/Survey

Environmental Assessment

1.0 Introduction

ECO-ANALYSTS, INC. (EA) has been conducting work at the formally Yachting Solutions Marina in Rockland, Maine (now Safe Harbor Rockland, LLC) since 2017. EA has used that experience plus a June 17, 2021 site visit to re-familiarize and supplement earlier observations to provide an Environmental Assessment of existing conditions as well as well as predicting post construction conditions at the site. Work to be conducted includes dredging with already permitted upland disposal, modifications to the existing structures, and the addition of more ramps and floats. Those activities are described in detail in other exhibits in the Application.

2.0 Methodologies

Following the receipt of a Sampling and Analysis Plan (SAP) from the U.S. Army Corps of Engineers, EA collected core samples to dredge depth throughout the Marina Basin. We also used a view tube to inventory the habitats throughout the site which initially included areas outside of the proposed dredging and expansion areas. EA has been conducting marine evaluations for approximately 30 years and has a sight image of all plant and animal species (including macro-invertebrates) typically encountered in Intertidal and Sub-tidal habitats. We also observe activities such as lobster trap buoys and other harvesting activities to determine whether or not species not readily observed may be in the project area. Particular attention is paid to Eelgrass (*Zostera marina*).

3.0 Observations

3.1 Substrates

Considerable amounts of boulders and cobbles were found to the south and east of the existing granite crib pier. Probing in that area did not reveal any bedrock. The areas between the exposed rocks included fine sediments which overlaid glacial till. The final design is outside

of that area. The remainder of the substrates throughout the proposed project area are fines over till. There are widely scattered cobbles out to the ten foot contour line on the south and east side of the existing granite crib pier. Some woody debris is also present.

The outer areas towards the Federal Channel has previously been dredged and generally has a layer of fines over till. No rocks or debris were noted. The inner area to the west which will be dredged to 6 feet has a couple of abandoned granite mooring blocks with chain still attached plus some woody debris over fines and till.

3.2 Vegetation

No Eelgrass was observed. The scattered boulders and cobbles have Sugar Kelp (*Saccharina latissima*), Horsetail Kelp (*Laminaria digitata*) and Bladder Wrack (*Fucus vesiculosus*) growing on them. Both species of kelp were observed on the abandoned mooring chains. Bladderwrack is growing on the abandoned mooring blocks and the woody debris. These species all are abundant on the granite pier.

3.3 Animals

A few Blue Mussels (*Mytilus edulis*) were observed attached to the scattered boulders and cobbles. They, Rock Barnacles (*Semibalanus balanoides*), and Periwinkles (*Littorina littorea*) are abundant on the granite pier. Sandworms (*Nereis virens*) were found in sediment sample cores collected for Bulk Chemistry analyses, indicating that they are common throughout.

4.0 Post Dredging Habitat

Experience at numerous dredge projects has shown that seaweeds and kelps colonize pilings post dredging which in this project will provide more habitat than will be removed on boulders and cobbles. The same will be true for Blue Mussels. Sandworms are mobile and are pelagic spawners and will quickly recolonize the dredged area. No adverse impacts to habitats and communities is expected.

APPENDIX H

NOAA EFH Mapper Report

EFH Mapper Report

EFH Data Notice

Essential Fish Habitat (EFH) is defined by textual descriptions contained in the fishery management plans developed by the regional fishery management councils. In most cases mapping data can not fully represent the complexity of the habitats that make up EFH. This report should be used for general interest queries only and should not be interpreted as a definitive evaluation of EFH at this location. A location-specific evaluation of EFH for any official purposes must be performed by a regional expert. Please refer to the following links for the appropriate regional resources.

[Greater Atlantic Regional Office](#)
[Atlantic Highly Migratory Species Management Division](#)

Query Results







Degrees, Minutes, Seconds: Latitude = 44° 6' 0" N, Longitude = 70° 53' 38" W
 Decimal Degrees: Latitude = 44.100, Longitude = -69.106

The query location intersects with spatial data representing EFH and/or HAPCs for the following species/management units.

*** WARNING ***

Please note under "Life Stage(s) Found at Location" the category "ALL" indicates that all life stages of that species share the same map and are designated at the queried location.

EFH



Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
		Atlantic Sea Scallop	ALL	New England	Amendment 14 to the Atlantic Sea Scallop FMP
		Atlantic Wolffish	ALL	New England	Amendment 14 to the Northeast Multispecies FMP
		Winter Flounder	Eggs Juvenile Larvae/Adult	New England	Amendment 14 to the Northeast Multispecies FMP
		Little Skate	Juvenile Adult	New England	Amendment 2 to the Northeast Skate Complex FMP
		Ocean Pout	Adult Eggs Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
		Atlantic Herring	Juvenile Adult Larvae	New England	Amendment 3 to the Atlantic Herring FMP

Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
		Atlantic Cod	Larvae Adult Juvenile Eggs	New England	Amendment 14 to the Northeast Multispecies FMP
		Pollock	Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
		Red Hake	Adult Eggs/Larvae/Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
		Silver Hake	Eggs/Larvae Adult	New England	Amendment 14 to the Northeast Multispecies FMP
		White Hake	Larvae Adult Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
		Windowpane Flounder	Adult Larvae Eggs Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
		Winter Skate	Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
		American Plaice	Adult Juvenile Larvae Eggs	New England	Amendment 14 to the Northeast Multispecies FMP
		Smooth Skate	Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
		Thorny Skate	Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
		Bluefin Tuna	Adult	Secretarial	Amendment 10 to the 2006 Consolidated HMS FMP: EFH
		Atlantic Mackerel	Juvenile Adult	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
		Bluefish	Adult Juvenile	Mid-Atlantic	Bluefish
		Atlantic Butterfish	Adult Juvenile	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11

Salmon EFH

No Pacific Salmon Essential Fish Habitat (EFH) were identified at the report location.

HAPCs

Link	Data Caveats	HAPC Name	Management Council
		Inshore 20m Juvenile Cod	New England

EFH Areas Protected from Fishing

No EFH Areas Protected from Fishing (EFHA) were identified at the report location.

Spatial data does not currently exist for all the managed species in this area. The following is a list of species or management units for which there is no spatial data.

****For links to all EFH text descriptions see the complete data inventory: [open data inventory -->](#)**

All spatial data is currently available for the Mid-Atlantic and New England councils,

Secretarial EFH,

Bigeye Sand Tiger Shark,

Bigeye Sixgill Shark,

Caribbean Sharpnose Shark,

Galapagos Shark,

Narrowtooth Shark,

Sevengill Shark,

Sixgill Shark,

Smooth Hammerhead Shark,

Smalltail Shark

APPENDIX I

Tribal Consultation Letters



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

K. MARK BARBOUR, PLS

MICHAEL J. SABATINI, P.E

June 10, 2021

Aroostook Band of Micmacs
Attn: Tribal Historic Preservation Officer
7 Northern Road
Presque Isle, Maine 04769

Re: NRPA Permit Application
SHM Rockland, LLC
Marina Expansion
Rockland, Maine
LC Proj. No. 16-012

To Whom It May Concern:

At the request of the Army Corps of Engineers and in conjunction with the Natural Resources Protection Act, we are notifying you that we have submitted the above referenced application with the Maine Department of Environmental Protection on behalf of the SHM Rockland, LLC. The cover sheet of this application is enclosed. The site is located on Ocean Drive (part of Tax Map 5, Block B, Lot 13) in Rockland, Maine, shown on the enclosed USGS map. Please call our office if you have any questions or information regarding the presence of any historic and/or archaeological resources that may affect this project.

Sincerely,

Landmark Corporation Surveyors & Engineers

Michael J. Sabatini, P.E.

Enclosures



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

K. MARK BARBOUR, PLS

MICHAEL J. SABATINI, P.E.

June 10, 2021

Houlton Band of Maliseet Indians
Attn: Tribal Historic Preservation Officer
88 Bell Road
Littleton, Maine 04730

Re: NRPA Permit Application
SHM Rockland, LLC
Marina Expansion
Rockland, Maine
LC Proj. No. 16-012

To Whom It May Concern:

At the request of the Army Corps of Engineers and in conjunction with the Natural Resources Protection Act, we are notifying you that we have submitted the above referenced application with the Maine Department of Environmental Protection on behalf of the SHM Rockland, LLC. The cover sheet of this application is enclosed. The site is located on Ocean Drive (part of Tax Map 5, Block B, Lot 13) in Rockland, Maine, shown on the enclosed USGS map. Please call our office if you have any questions or information regarding the presence of any historic and/or archaeological resources that may affect this project.

Sincerely,

Landmark Corporation Surveyors & Engineers

Michael J. Sabatini, P.E.

Enclosures



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

K. MARK BARBOUR, PLS

MICHAEL J. SABATINI, P.E.

June 10, 2021

Passamaquoddy Tribe of Indians
Attn: Tribal Historic Preservation Officer
P.O. Box 301
Princeton, Maine 04668

Re: NRPA Permit Application
SHM Rockland, LLC
Marina Expansion
Rockland, Maine
LC Proj. No. 16-012

To Whom It May Concern:

At the request of the Army Corps of Engineers and in conjunction with the Natural Resources Protection Act, we are notifying you that we have submitted the above referenced application with the Maine Department of Environmental Protection on behalf of the SHM Rockland, LLC. The cover sheet of this application is enclosed. The site is located on Ocean Drive (part of Tax Map 5, Block B, Lot 13), in Rockland, Maine, shown on the enclosed USGS map. Please call our office if you have any questions or information regarding the presence of any historic and/or archaeological resources that may affect this project.

Sincerely,

Landmark Corporation Surveyors & Engineers

Michael J. Sabatini, P.E.

Enclosures



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

K. MARK BARBOUR, PLS

MICHAEL J. SABATINI, P.E.

June 10, 2021

Passamaquoddy Tribe of Indians
Pleasant Point Reservation
Attn: Tribal Historic Preservation Officer
P.O. Box 343
Perry, Maine 04667

Re: NRPA Permit Application
SHM Rockland, LLC
Marina Expansion
Rockland, Maine
LC Proj. No. 16-012

To Whom It May Concern:

At the request of the Army Corps of Engineers and in conjunction with the Natural Resources Protection Act, we are notifying you that we have submitted the above referenced application with the Maine Department of Environmental Protection on behalf of the SHM Rockland, LLC. The cover sheet of this application is enclosed. The site is located on Ocean Drive (Tax Map 5, Block B, Lot 13), in Rockland, Maine, shown on the enclosed USGS map. Please call our office if you have any questions or information regarding the presence of any historic and/or archaeological resources that may affect this project.

Sincerely,

Landmark Corporation Surveyors & Engineers

Michael J. Sabatini, P.E.

Enclosures



LANDMARK CORPORATION

SURVEYORS & ENGINEERS

K. MARK BARBOUR, PLS

MICHAEL J. SABATINI, P.E.

June 10, 2021

Penobscot Indian Nation
Attn: Tribal Historic Preservation Officer
6 River Road
Old Town, Maine 04468

Re: NRPA Permit Application
SHM Rockland, LLC
Marina Expansion
Rockland, Maine
LC Proj. No. 16-012

To Whom It May Concern:

At the request of the Army Corps of Engineers and in conjunction with the Natural Resources Protection Act, we are notifying you that we have submitted the above referenced application with the Maine Department of Environmental Protection on behalf of the SHM Rockland, LLC. The cover sheet of this application is enclosed. The site is located on Ocean Drive (Tax Map 5, Block B, Lot 13), in Rockland, Maine, shown on the enclosed USGS map. Please call our office if you have any questions or information regarding the presence of any historic and/or archaeological resources that may affect this project.

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Michael J. Sabatini, P.E.

Enclosures