



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

JUL 17 2013

Captain G. G. Bonner, P.E.
C/o United States Coast Guard
Facilities Design & Construction Center
5505 Robin Hood Road, Suite K
Norfolk, VA 23513
Attn: Richard D. Hylton, Jr., P.E.

RE: **ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE** JUL 12 2013
Waterways Application No. W13-3837, License No. 13512, United States Coast Guard
Menemsha Creek Basin, Chilmark, Dukes County

Dear Sir or Madam,

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

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

RECORDING OF THE LICENSE

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

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

REQUEST CERTIFICATE OF COMPLIANCE

Pursuant to 310 CMR 9.19, once the proposed project is completed you must file a Request for a Certificate of Compliance form, BRP WW05, within sixty (60) days of completion but in no event later than five (5)

Waterways License Application No.W13-3837, License No.13512, United States Coast Guard
Flowed Tidelands of Menemsha Creek Basin, Chilmark, Dukes County

years from the License's issuance date. The license for any project for which such a request is not filed and certificate issued may be revoked pursuant to 310 CMR 9.26.

NOTICE OF APPEAL RIGHTS

Who has the right to appeal?

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

How can I request an adjudicatory hearing?

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

Case Administrator
MassDEP
One Winter Street, 2nd Floor
Boston, MA 02108

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

MassDEP Waterways Regulation Program
20 Riverside Drive
Lakeville, MA 02347

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

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

What information must be included in the hearing request?

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Flowed Tidelands of Menemsha Creek Basin, Chilmark, Dukes County

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

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

Dismissal of request

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

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

Sincerely,



For Elizabeth A. Kouloheras, Chief
Wetlands and Waterways Program

Enclosure(s) Waterways License No.13512
Notification of Waterways License Recordation Form

cc: w/enc. Ben Lynch, Waterways Section Chief, DEP Boston
Office of Coastal Zone Management
Chilmark Harbormaster
Chilmark Conservation Commission
Captain G. G. Bonner, P.E.

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

RE: Waterways Application No. W13-3837, License No.13512, Transmittal #X255269.
Menemsha Creek Basin, Chilmark, Dukes County

Dear Ms. Ramos:

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

Date of Recordation: _____

County Registry of Deeds: _____

Book number _____ and page number(s) _____

Land Court: _____

Land Court Lot # _____ Plan # _____

Certificate Document Number _____

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

Sincerely,

_____, Chapter 91 Waterways Licensee

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

The Commonwealth of Massachusetts



No. 13512

Whereas, United States Coast Guard

of -- Norkolk -- in the State of Virginia,-- has applied to the Department of Environmental Protection for a license to -- reconstruct and maintain a boathouse, ramp and floating dock and maintain an existing pier, ramp and float -----

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

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

United States Coast Guard --, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to -- reconstruct and maintain a boathouse, ramp and floating dock and maintain an existing pier, ramp and float -----

in and over the waters of -- Menemsha Creek Basin -- at 20 Edy's Island Way --, in the -- Town -- of -- Chilmark -- and in accordance with the locations shown and details indicated on the accompanying DEP License Plan No. 13512 (2 sheets).

The structures hereby authorized shall be limited to the following uses: public safety and law enforcement facility and boating access to navigable waters.

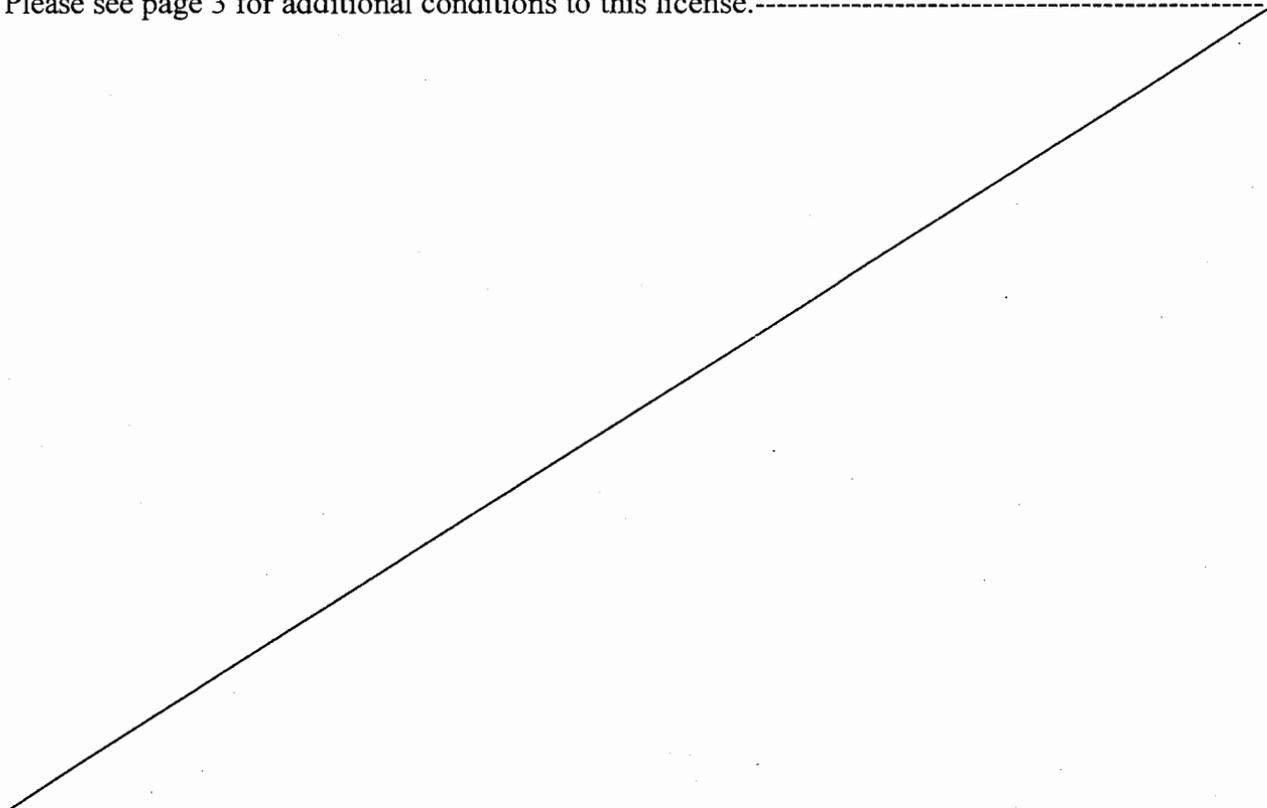
This license supersedes DPW License No. 2193, issued on June 5, 1940 to United States Coast Guard, Treasury Department.

The term for this license is unlimited in accordance with 310 CMR 9.15(1)(c)].

SPECIAL WATERWAYS CONDITIONS:

1. No dredging (including, but not limited to effects of prop wash) is permitted herein.
2. Any silt-producing activities shall be prohibited from January 15 through May 31 of any year in order to protect winter flounder, spawning and juvenile development.
3. All work authorized herein shall be completed within five (5) years of the date of license issuance. Said construction period may be extended by the Department for one or more one year periods without public notice, provided that the Applicant submits to the Department, thirty (30) days prior to the expiration of said construction period, a written request to extend the period and provides an adequate justification for said extension.
4. Within sixty (60) days of completion of the licensed project, the Licensee shall request in writing that the Department issue a Certificate of Compliance in accordance with 310 CMR 9.19. The request shall be accompanied by a certification by a registered professional engineer licensed in the Commonwealth that the project was completed in accordance with the License.

Please see page 3 for additional conditions to this license.-----



Duplicate of said plan, number 13512 is on file in the office of said Department, and original of said plan accompanies this License, and is to be referred to as a part hereof.

STANDARD WATERWAYS LICENSE CONDITIONS

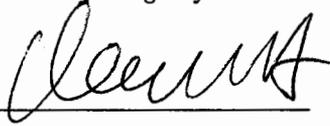
1. Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein.
 2. This License is granted upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured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

The amount of tidewater displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said -- United States Coast Guard -- by paying into the treasury of the Commonwealth -- zero dollars and zero cents (\$ 0.00) -- for each cubic yard so displaced, being the amount hereby assessed by said Department (0 cy = \$ 0.00).

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

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

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 12 day of July in the year two thousand thirteen.

Commissioner 

Department
of Environmental
Protection

for Program Chief David E. Hill

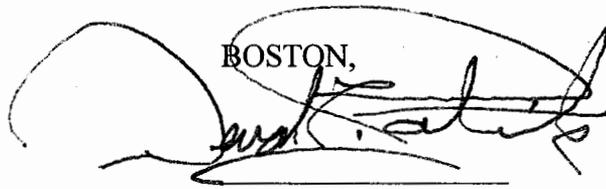
THE COMMONWEALTH OF MASSACHUSETTS

This license is approved in consideration of the payment into the treasury of the Commonwealth by the said -- United States Coast Guard --

of the further sum of -- (\$ 0.00) --

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

Approved by the Governor.

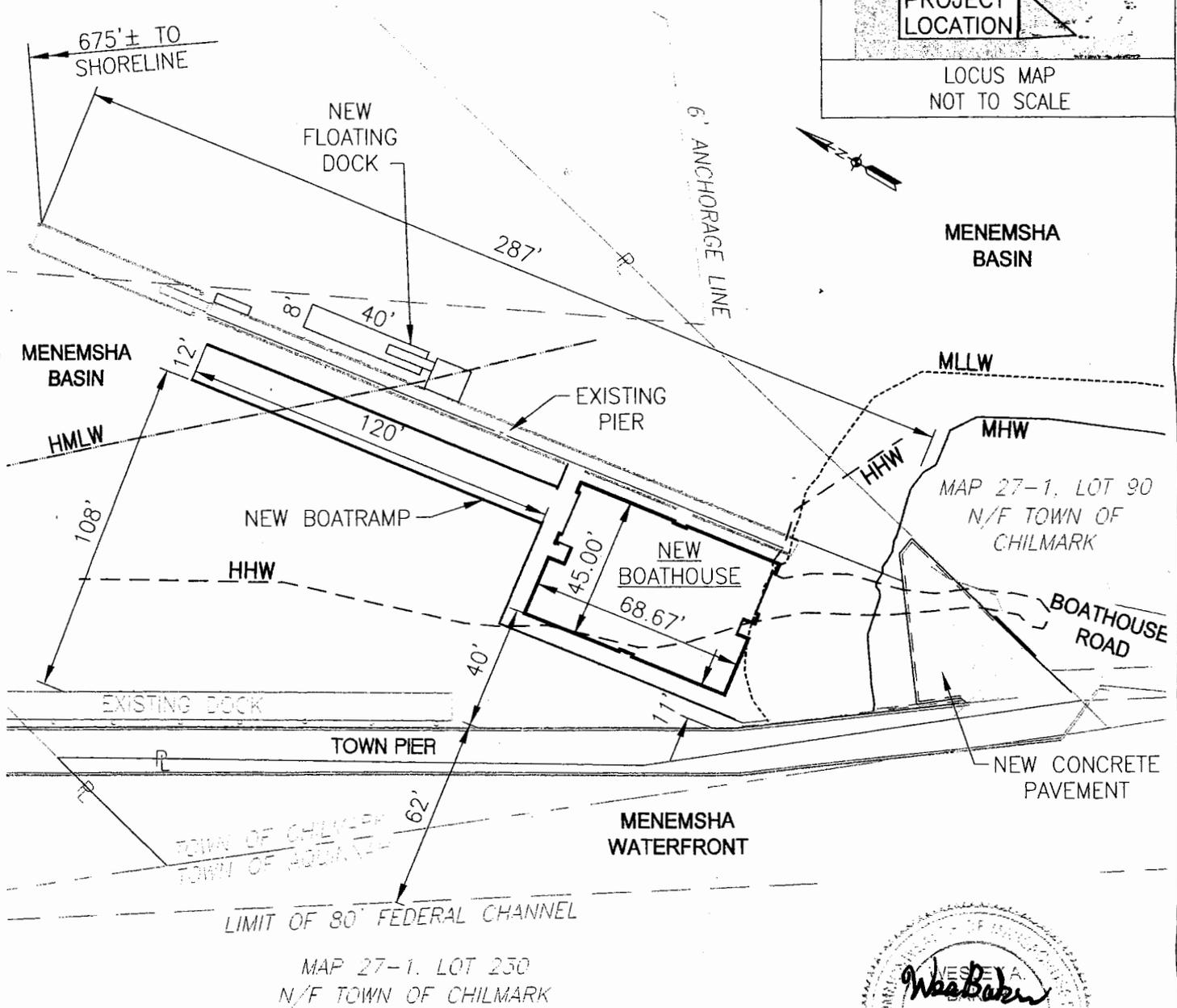
BOSTON,

Governor

NOTE:

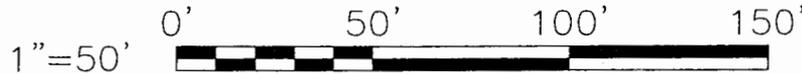
1. SUBJECT PROPERTY IS LOCATED WITHIN FLOOD ZONE AE AS SHOWN ON FIRM MAP 25007C0157H JULY 6, 2010
2. FLOATING DOCK SHALL MAINTAIN 24" MINIMUM SEPARATION FROM BOTTOM AT ALL TIDES.
3. PREVIOUS LICENSE NO. 2193 (1940)

PROJECT LOCATION

LOCUS MAP NOT TO SCALE



EXISTING PLAN



PLANS ACCOMPANYING PETITION OF UNITED STATES COAST GUARD RECONSTRUCT USCG MENEMSHA BOATHOUSE, STRUCTURE, RAMP AND FLOATING DOCK. ADDITIONALLY INCLUDES EXISTING TIMBER PIER, GANGWAY AND FLOATING DOCK CHILMARK, MASSACHUSETTS MAY 22, 2013

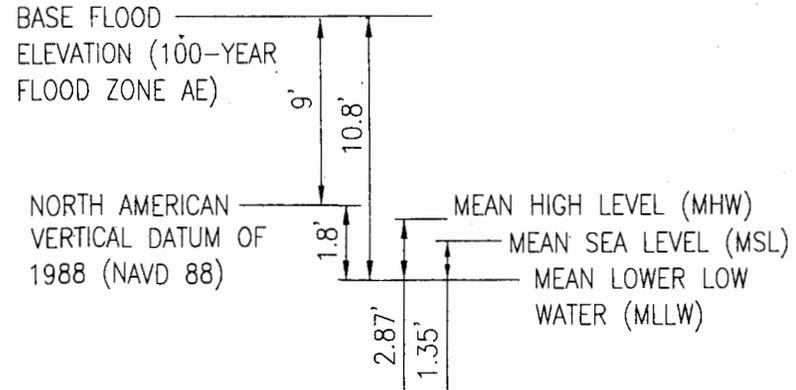
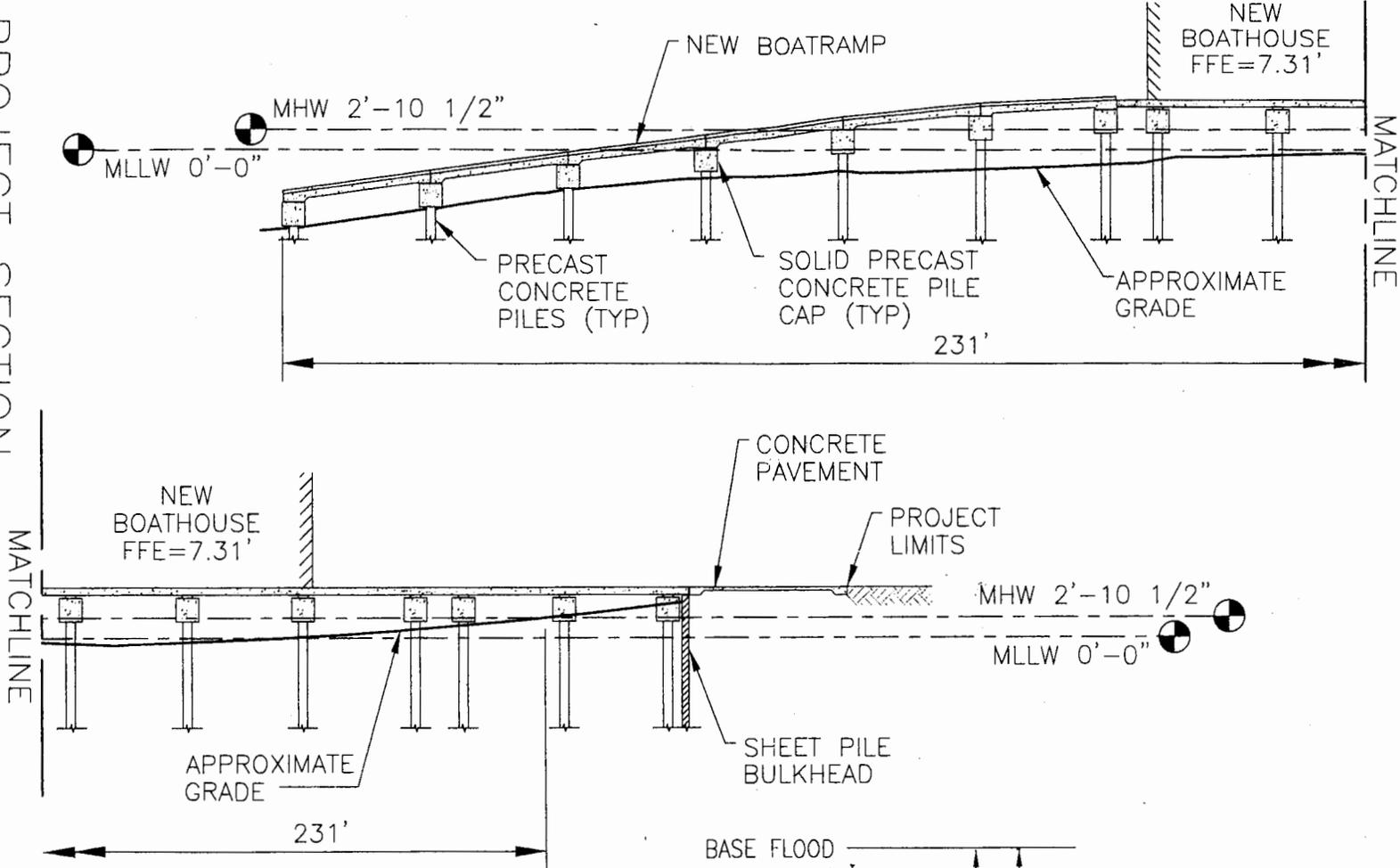
SHEET 1 OF 2

LICENSE PLAN NO. 13512
 Approved by Department of Environmental Protection of Massachusetts
David E. Hill JUL 12 2013
Wes Baber

PLANS ACCOMPANYING PETITION OF UNITED STATES COAST GUARD RECONSTRUCT USCG MEMENSHA BOATHOUSE, STRUCTURE, RAMP AND FLOATING DOCK. ADDITIONALLY INCLUDES EXISTING TIMBER PIER, GANGWAY AND FLOATING DOCK CHILMARK, MASSACHUSETTS
MAY 22, 2013



PROJECT SECTION



VERTICAL DATUM RELATIONSHIPS
(SOURCE NOAA/NOS STATION I.D. 9448725)
NOT TO SCALE



LICENSE PLAN NO. 13512
Approved by Department of Environmental Protection
Date:

JUL 12 2013