



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-948-2700

Charles D. Baker  
Governor

Matthew A. Beaton  
Secretary

Karyn E. Polito  
Lieutenant Governor

Martin Suuberg  
Commissioner

SEP 26 2017

RMJ Dock LLC  
c/o Reid G. Silva, PE/PLS  
Vineyard Land Surveying & Engineering, Inc.  
P.O. Box 421  
West Tisbury, MA 02575

**RE: ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE**  
**Waterways License Application No. W15-4325, License No. 14467**  
**RMJ Dock LLC, Menemsha Basin, 16 Harbor Hill Lane, Chilmark**

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) 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, 2<sup>nd</sup> Floor  
Boston, MA 02108

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

MassDEP Waterways Regulation Program  
20 Riverside Drive  
Lakeville, MA 02347

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

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

What information must be included in the hearing request?

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

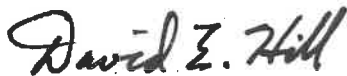
- (a) the MassDEP Waterways Application File Number;
- (b) the complete name, address, fax number and telephone number of the applicant;
- (c) the address of the project;
- (d) the complete name, address, fax number, and telephone number of the party filing the request and, if represented by counsel,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

Dismissal of request

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

Please feel free to contact Carlos T. B. Fragata of the Waterways Regulation Program, (508) 946-2873, if you have any questions pertaining to the recording of your Waterways License or Certificate of Compliance.

Sincerely,



David E. Hill, Environmental Engineer  
Wetlands and Waterways Program

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

**SIGNAGE SPECIFICATIONS - MassDEP Waterways Regulation Program** (Updated September 20, 2012)

- Signs shall utilize durable materials and methods of construction and maintained in good condition.
- Signs shall be a minimum of 5" x 10" (or 50 square inches) in size. Letter height shall be a minimum of 1/2".
- The MassDEP Chapter 91 License number shall be displayed on all signs (as applicable).
- Each sign shall indicate that public passage is allowed for on-foot lateral access along the shoreline for the purpose of fishing, fowling, navigation and strolling.
- Signs shall be posted on both sides of the pier or structure, at the mean high water shoreline, or as directed by the Chapter 91 License (see Special Waterways Conditions, Page #2 or Page #3 for Simplified Licenses).

**An example of an acceptable sign is provided below.**



The sign is rectangular with a black background and white text and graphics. At the top left is the Seal of the Commonwealth of Massachusetts, featuring a Native American figure holding a bow and arrow, with a star above his right shoulder, and a banner below with the motto "ENSE PETIT PLACIDAM SVB LIBERTATE QVIETEM". Below the seal is the word "FOR" in large, bold, white capital letters. To the right of "FOR" is the word "PUBLIC" in very large, bold, white capital letters. To the right of "PUBLIC" is the word "PASSAGE" in very large, bold, white capital letters. Below the text are four white icons in rounded rectangular frames, each with a label below it: 1. A fish, labeled "fishing". 2. A person holding a shotgun, labeled "fowling". 3. A person in a small boat with a long pole, labeled "navigation". 4. Two people walking, labeled "strolling". At the bottom of the sign, the text "Mass DEP M.G.L. Ch.91 LICENSE #1 4467" is written in large, bold, white capital letters.

# The Commonwealth of Massachusetts



No. 14467

**Whereas, RMJ Dock LLC**

of -- Chilmark -- in the County of -- Dukes -- and Commonwealth aforesaid, -- has applied to the Department of Environmental Protection for a license to -- reconstruct, expand and maintain an existing authorized pier, install a pile, and remove piles ----

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 ----

RMJ Dock LLC --, 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, expand and maintain an existing authorized pier, install a pile, and remove piles -----

in and over the waters of -- Menemsha Basin -- at 16 Harbor Hill Lane --, in the -- Town -- of -- Chilmark -- and in accordance with the locations shown and details indicated on the accompanying DEP License Plan No. 14467 (2 sheet(s)).

The structures hereby authorized shall be limited to the following uses: noncommercial docking and boating access to navigable waters.

Existing structures and/or uses previously authorized under DPW License No. 4712(issued in1963) shall be maintained in accordance with the terms and conditions of said license and plans.

This license will expire thirty (30) years from the date of License issuance. By written request of the licensee for an amendment, the Department may grant a renewal for the term of years not to exceed that authorized in the original license.

#### SPECIAL WATERWAYS CONDITIONS:

1. In accordance with any license condition, easement, or other public right of lateral passage that exists on the subject property lying between the high and low watermarks, below the high water mark, the Licensee shall allow the public in the exercise of such rights to pass freely over all structures within such intertidal area. Accordingly, the Licensee shall place and maintain, in good repair, a public access sign on both the northerly/southerly sides of the pier previously authorized herein, adjacent to the mean high water shoreline. Said signs shall be designed in accordance with the signage specifications provided by the Department, attached hereto, and be posted **immediately upon completion of construction**. Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.
2. In partial compensation for private use of structures on tidelands of the Commonwealth which interferes with the rights of the public to use such lands, the Licensee shall allow the public to pass on foot, for any purpose and from dawn to dusk, within the area of the subject property lying seaward of the high water mark. This condition shall not be construed to prevent the Licensee from taking reasonable measures to discourage unlawful activities by users of the area(s) intended for public passage, including but not limited to trespassing on the adjacent private areas and deposit of refuse of any kind or nature in the water or on the shore. Further, the exercise by the public of free on-foot passage in accordance with this condition shall be considered a permitted use to which the limited liability provisions of M.G.L. c.21, s.17c apply.
3. In accordance with License Plan No. 14467 the Licensee shall remove the existing dock . Said dock shall be removed, immediately prior to construction, in its entirety and properly disposed of in conformance with all local, state and federal laws.
4. Vessels shall be moored such that they do not become grounded at any tide.
5. No dredging (including, but not limited to effects of prop wash) is permitted herein.
6. 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.
7. 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.

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Duplicate of said plan, number 14467 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 Wetlands and Waterways.
  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 -- RMJ Dock LLC -- by paying into the treasury of the Commonwealth -- two dollars and zero cents (\$2.00) -- for each cubic yard so displaced, being the amount hereby assessed by said Department (0 cubic yard(s) = \$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 26th day of September in the year two thousand seventeen.

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 -- RMJ Dock LLC --

of the further sum of -- one hundred two dollars and zero cents (\$102.00) --

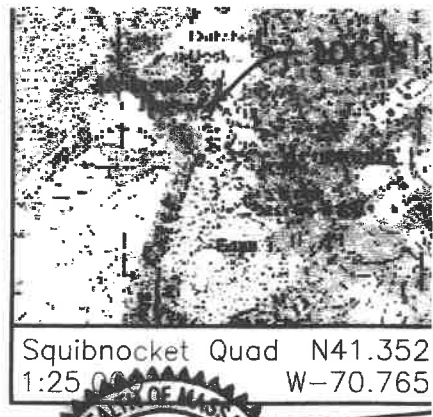
the amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

Approved by the Governor.

BOSTON,  
  
Governor



- - New 10" Piles
- - Existing Piles (to be removed)

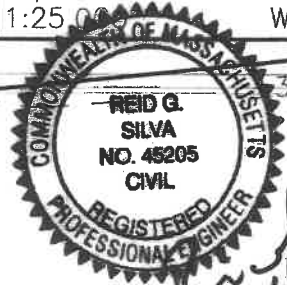
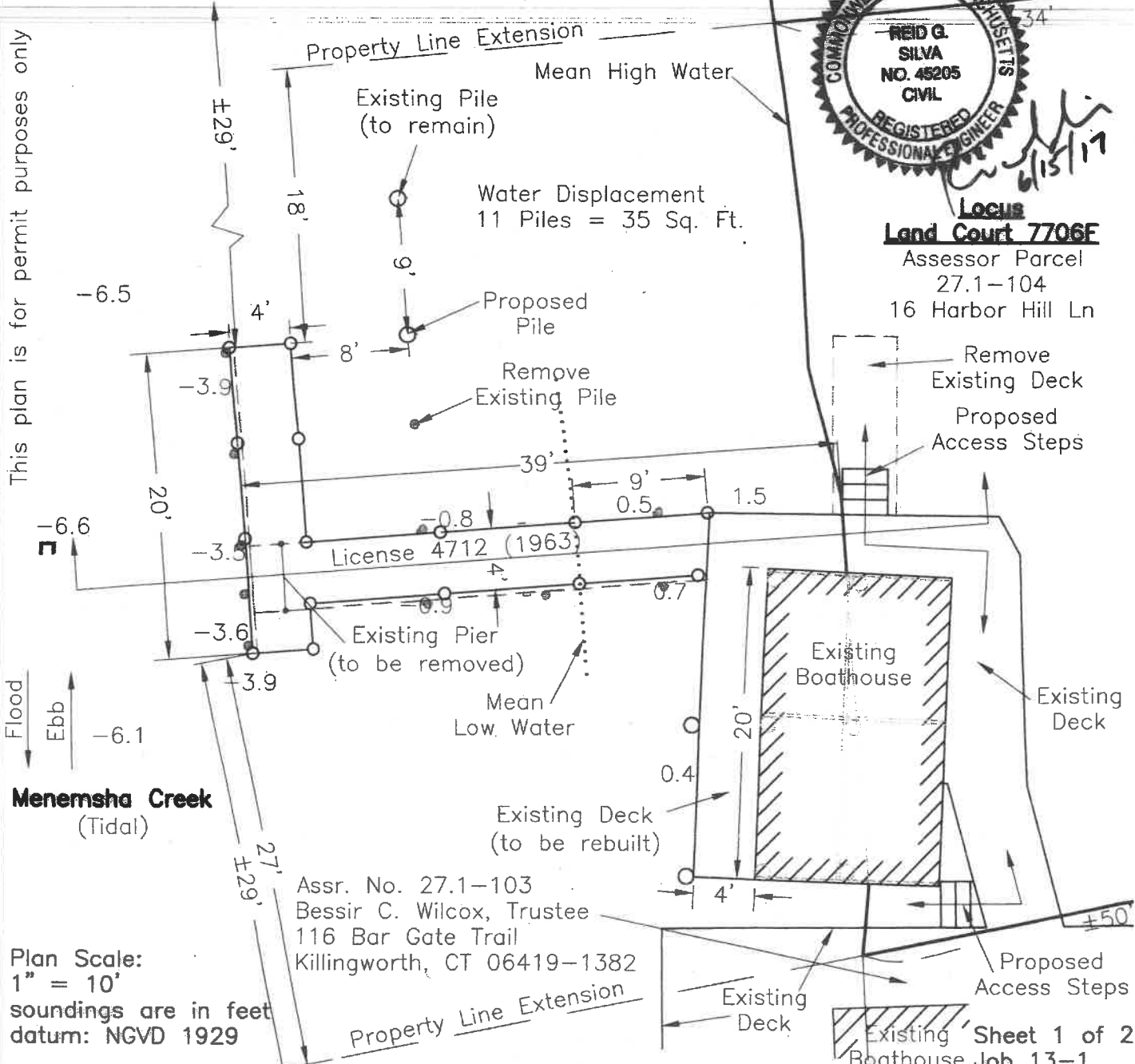


W — E

to Existing Pier (Approx. Dist.)  
 Assr. No. 27.1-105  
 Frances C. Flanders, et al.  
 PO Box 59  
 Chilmark, MA 02535

Squibnocket Quad N41.352  
 1:25,000 W-70.765

This plan is for permit purposes only



**Locus**  
**Land Court 7706F**  
 Assessor Parcel  
 27.1-104  
 16 Harbor Hill Ln

**Menemsha Creek**  
 (Tidal)

Plan Scale:  
 1" = 10'  
 soundings are in feet  
 datum: NGVD 1929



Assr. No. 27.1-103  
 Bessir C. Wilcox, Trustee  
 116 Bar Gate Trail  
 Killingworth, CT 06419-1382

Existing Pier  
 License 4360  
 (Approx. Dist.)

**LICENSE PLAN NO. 14467**  
 Approved by Department of Environmental Protection  
 of Massachusetts  
 David E. Hill SEP 26 2017

Plan accompanying petition of RMJ Dock LLC to rebuild and maintain a timber pile pier at 16 Harbor Hill Ln, Menemsha Basin, Chilmark, Mass.  
 Revised: June 15, 2015

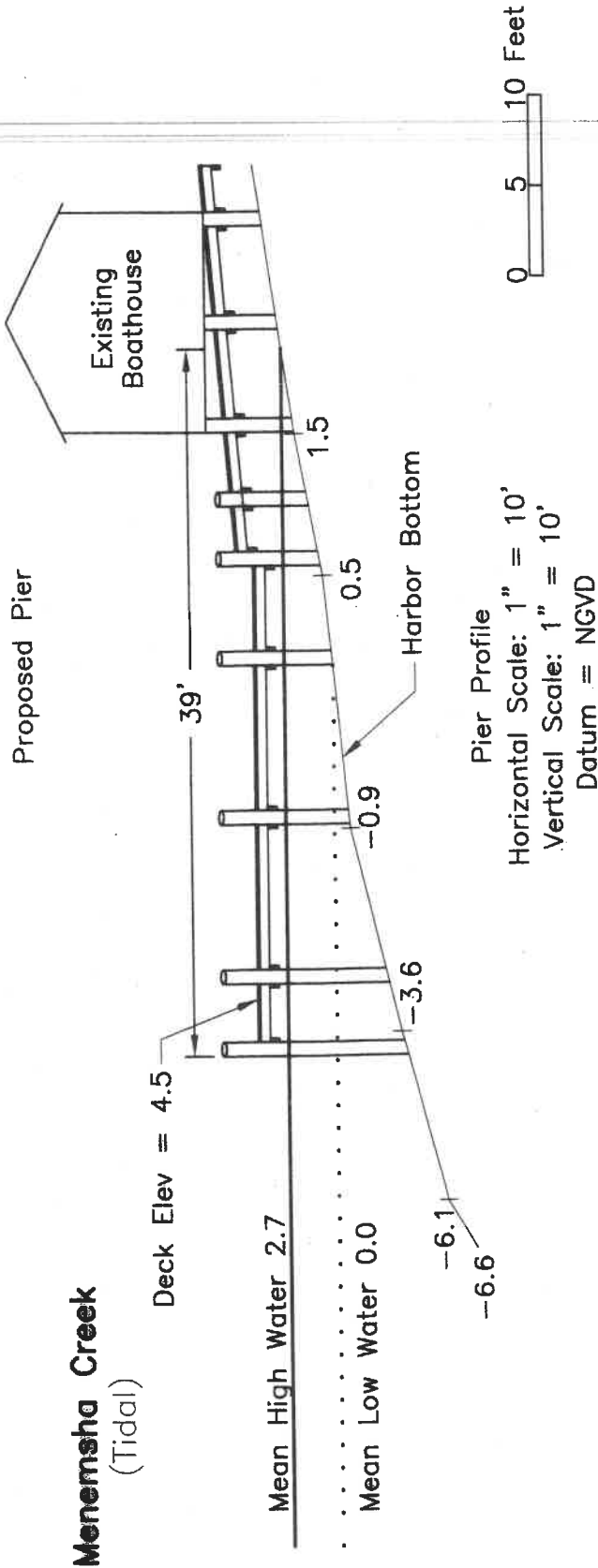
LICENSE PLAN NO.

Approved by Department of Environmental Protection

Date:

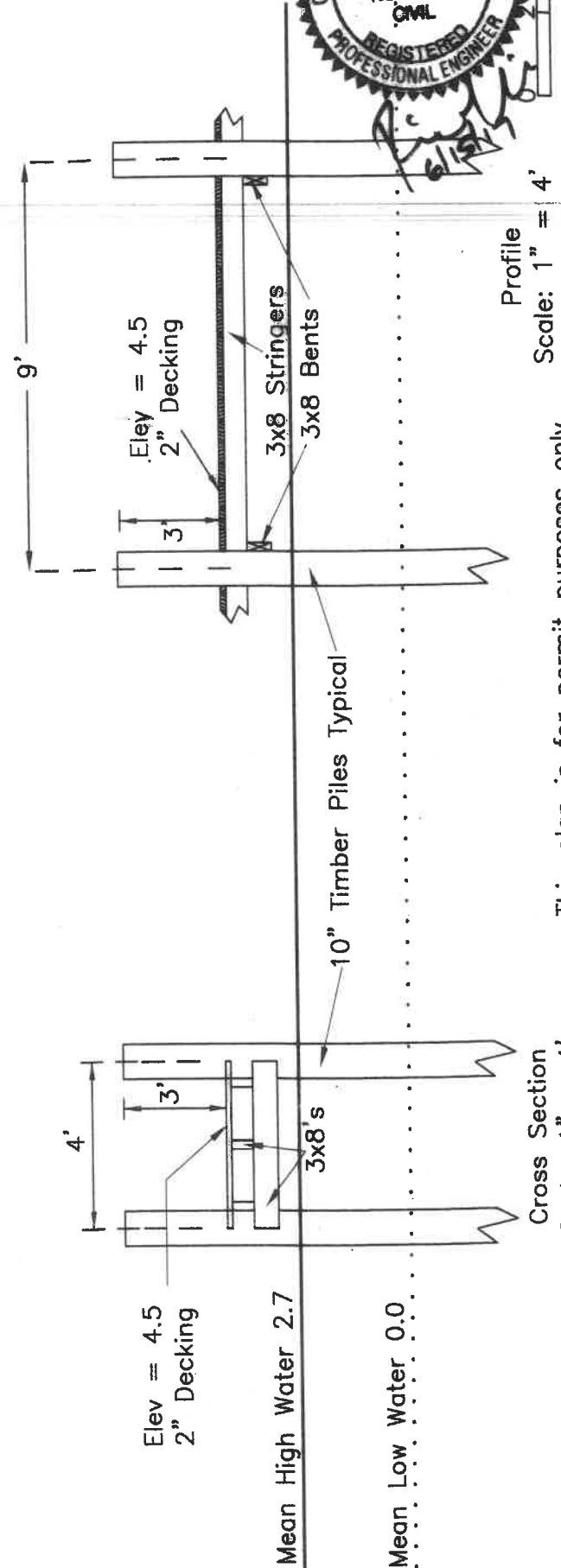
14467

SEP 26 2017



Menemsha Creek  
(Tidal)

Plan accompanying petition of  
RMJ Dock LLC  
#16 Harbor Hill Ln  
Scale: As noted



This plan is for permit purposes only