

59-AB



PUBLIC NOTICE

US Army Corps
of Engineers
New England District
Maine Project Office
675 Western Avenue #3
Manchester, Maine 04351

Date: MAR 05 2013
Comment Period Ends: APR 04 2013
File Number: NAE-2012-02469
In Reply Refer To: Jay L. Clement
Or by e-mail: jay.l.clement@usace.army.mil

The District Engineer has received a permit application from the applicant below to **conduct work in waters of the United States** as described below. The Corps is soliciting comments on both the project itself and the range of issues to be addressed in the environmental documentation.

APPLICANT: NEW YARD, LLC, 58 FORE STREET, PORTLAND, MAINE 04101

ACTIVITY: Place fill below the high tide line and perform excavation and other work beyond the mean high water line of the Fore River at Portland, Maine in order to develop a new boat and ship repair and maintenance facility. Regulated activities include the placement of stone riprap along the shore to provide bank stabilization, the installation of two concrete boat ramps, excavation and dredging with upland disposal, rehabilitation of former pier pilings as appropriate and installing new pilings where necessary to secure a new float system running parallel with shore, and the installation of a travel lift. The upland property, a former industrial site will be cleaned up and regarded to allow for a number of support buildings and associated infrastructure.

WATERWAY AND LOCATION OF THE PROPOSED WORK: The Fore River (Portland Harbor) at Portland, Maine.

AUTHORITY

Permits are required pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899
- Section 404 of the Clean Water Act
- Section 103 of the Marine Protection, Research and Sanctuaries Act).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment

and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

ESSENTIAL FISH HABITAT (EFH): The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat ("EFH").

This project will potentially impact up to 28,402 s.f. of EFH - 6,500 s.f. (fill), 8,966 s.f. (excavation/dredging), and 12,892 s.f. (shading). Refer to attached sheet for list of species and life stages. This habitat consists of intertidal and sub-tidal bottom composed of sand, gravel, cobble, and industrial debris. The proposed project is expected to have both short-term and long-term impacts on marine resources. Short-term turbidity and construction related disturbance can be expected but will rapidly dissipate upon completion of construction. Long-term impacts can be expected from the permanent fill footprint and any excavation/dredging. However, this habitat has been degraded from the heavy industrial use of the shoreline in the past. Based upon this assessment of impacts to EFH, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

SECTION 106 COORDINATION: Based on his initial review, the District Engineer determined that the project will not affect properties with cultural or Native American significance, or listed in, or eligible for listing in, the National Register of Historic Places. Therefore, no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.
- e. Coordination with the State Historic Preservation Officer and/or Tribal Historic Preservation Officer(s)

ENDANGERED SPECIES ACT CONSULTATION: The New England District, Army Corps of Engineers has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, which might occur at the project site. It is our determination that the proposed activity for which authorization is being sought is designed, situated or will be operated/used in such a manner that it is not likely to adversely affect any Federally listed endangered or threatened species or their designated critical habitat. The federal resource agencies have concurred with our determination.

The following authorizations have been applied for, or have been, or will be obtained:

- Permit, License or Assent from State.
- Permit from Local Wetland Agency or Conservation Commission.

(X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.


In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact Jay Clement at 207-623-8367, ext. 1 at our Manchester, Maine Project Office.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

For more information on the New England District Corps of Engineers programs, visit our website at <http://www.nae.usace.army.mil>.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.


Frank J. Del Giudice
Chief, Permits and Enforcement Branch
Regulatory Division

If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____
ADDRESS: _____

Summary of Essential Fish Habitat (EFH) Designation

10' x 10' Square Coordinates:

Boundary	North	East	South	West
Coordinate	43° 40.0' N	70° 10.0' W	43° 30.0' N	70° 20.0' W

Square Description (i.e. habitat, landmarks, coastline markers): The waters within the square east of Portland, ME., affecting the following: Cape Elizabeth, ME. and South Portland, ME., from Portland, ME., to just south of Scarborough Beach (the tip of Prouts Neck), off Scarborough, ME. These waters are located mostly within southern Casco Bay (east of and north of Cape Elizabeth), including waters within Fore River, and within the Bigelow Bight (south of Cape Elizabeth), within the Gulf of Maine. This square also include waters affecting the southern part of Peaks Island, Cushing Island and Richmond Island. Other features affected include: Bluff I., Stratton I., Old Proprietor, Richmond I. Harbor, Ram I., Adams Head on Richmond I., Old Anthony Rock, West Hue and Cry, and the westernmost part of the West Cod Ledge, along with the Libby River, Spurwink River, Taylor Reef, Mitchell Rock, Seal Cove, and Broad Cove. Also, Trundy Pt., Trundy Reef, Willard Rock, Pine Tree Ledge, Jordon Reef, Portland Head, Spring Pt., Ram I., Witch Rock, and Ram I. Ledge are affected.

Species	Eggs	Larvae	Juveniles	Adults
Atlantic salmon (<i>Salmo salar</i>)				X
Atlantic cod (<i>Gadus morhua</i>)	X	X	X	X
haddock (<i>Melanogrammus aeglefinus</i>)				X
pollock (<i>Pollachius virens</i>)			X	
whiting (<i>Merluccius bilinearis</i>)			X	X
offshore hake (<i>Merluccius albidus</i>)				
red hake (<i>Urophycis chuss</i>)			X	X
white hake (<i>Urophycis tenuis</i>)			X	X
redfish (<i>Sebastes fasciatus</i>)	n/a			
witch flounder (<i>Glyptocephalus cynoglossus</i>)				
winter flounder (<i>Pleuronectes americanus</i>)	X	X	X	X
yellowtail flounder (<i>Pleuronectes ferruginea</i>)	X	X	X	X
windowpane flounder (<i>Scophthalmus aquosus</i>)	X	X	X	X
American plaice (<i>Hippoglossoides platessoides</i>)	X	X	X	X
ocean pout (<i>Macrozoarces americanus</i>)	X	X	X	X
Atlantic halibut (<i>Hippoglossus hippoglossus</i>)	X	X	X	X
Atlantic sea scallop (<i>Placopecten magellanicus</i>)	X	X	X	X
Atlantic sea herring (<i>Clupea harengus</i>)		X	X	X

monkfish (<i>Lophius americanus</i>)				
bluefish (<i>Pomatomus saltatrix</i>)			X	X
long finned squid (<i>Loligo pealei</i>)	n/a	n/a		
short finned squid (<i>Illex illecebrosus</i>)	n/a	n/a		
Atlantic butterfish (<i>Peprillus triacanthus</i>)				
Atlantic mackerel (<i>Scomber scombrus</i>)			X	X
summer flounder (<i>Paralichthys dentatus</i>)				
scup (<i>Stenotomus chrysops</i>)	n/a	n/a		
black sea bass (<i>Centropristus striata</i>)	n/a			
surf clam (<i>Spisula solidissima</i>)	n/a	n/a		
ocean quahog (<i>Artica islandica</i>)	n/a	n/a		
spiny dogfish (<i>Squalus acanthias</i>)	n/a	n/a		
tilefish (<i>Lopholatilus chamaeleonticeps</i>)				
bluefin tuna (<i>Thunnus thynnus</i>)				X

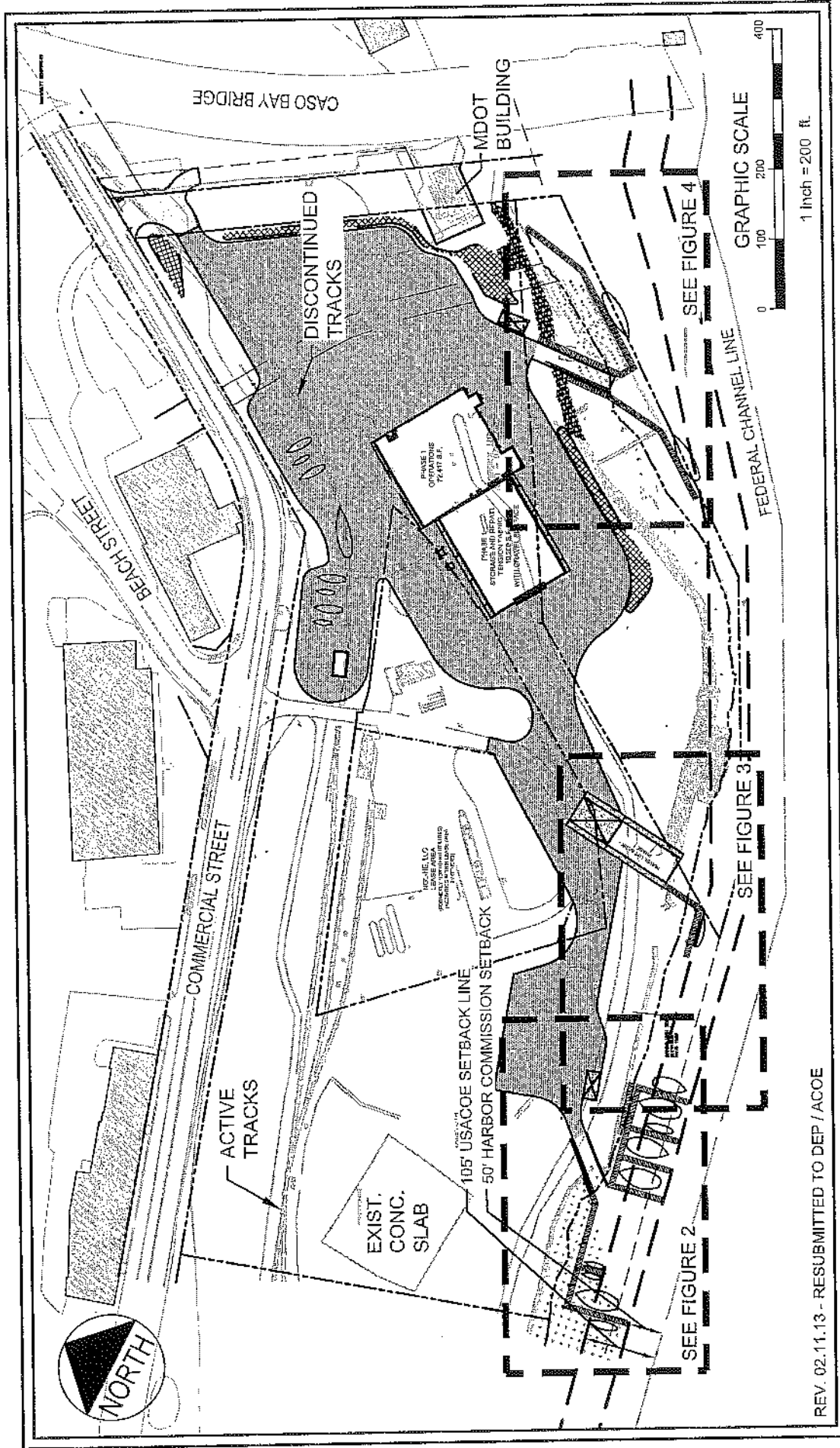
MAINE PUBLIC NOTICE WORKSHEET		Deadline: <input checked="" type="checkbox"/> 30-day or <input type="checkbox"/> 20-day
Project Name: New Yard, LLC	File Number: NAE-2012-02469	Project Manager: Clement
(If applicable) Date of 401 WQC: 10/30/12	Date CZM Consistency Determination: 10/30/12	(If applicable) Date Suitability Determination completed for open water disposal: NA
<u>Senator Angus King</u> United States Senate 188 Russell Senate Office Building Washington, D.C. 20510-1904		<u>Senator Susan Collins</u> United States Senate 172 Russell Senate Office Building Washington, D.C. 20510-1904
US Congress ~ For ME Congressional Districts (CD) see Maine.gov : Government: Local** or Map- (Select one)		
<u>Mayor/Selectman/Town Manager</u> City of Portland 389 Congress Street Portland, Maine 04101		<u>Conservation Commission**</u> South Portland Conservation Commission 23 Bay Street South Portland, Maine 04106
<u>Other Town Officials</u> Jeff Liick, Harbormaster City of Portland 2 Portland Fish Pier, Suite 2B Portland, Maine 04101		<u>POSTMASTER</u> City of Portland
Maine Historic Preservation Commission, 55 Capital Street, 65 State House Station, Augusta, Maine 04333 Aroostook Band of Micmacs, Tribal Historic Preservation Officer, 7 Northern Road, Presque Isle, Maine 04769 Passamaquoddy Tribe of Indians, Pleasant Point Reservation, P.O. Box 343, Perry, Maine 04667 Houlton Band of Maliseet Indians, Tribal Historic Preservation Officer, 88 Bell Road, Littleton, Maine 04730 Passamaquoddy Tribe of Indians, Indian Township Reservation, P.O. Box 301, Princeton, Maine 04668 Penobscot Indian Nation, 12 Webanaki Way, Indian Island, Maine 04468		
ABUTTERS ADDRESSES attached as: Mailing Labels <input checked="" type="checkbox"/> Mailing List 15-0 ME Data File <input type="checkbox"/>		

**Footnote: Hyperlink to the State of Maine/links and services for the community – Maine.gov: Living: Cities & Towns Online

COPIES:

- Steve Bushey, DeLuca-Hoffman Associates, 778 Main Street, Suite 8, South Portland, Maine 04106
- Lt. Megan Drewniak, US Coast Guard, Sector Northern New England, 259 High Street, South Portland, Maine 04106

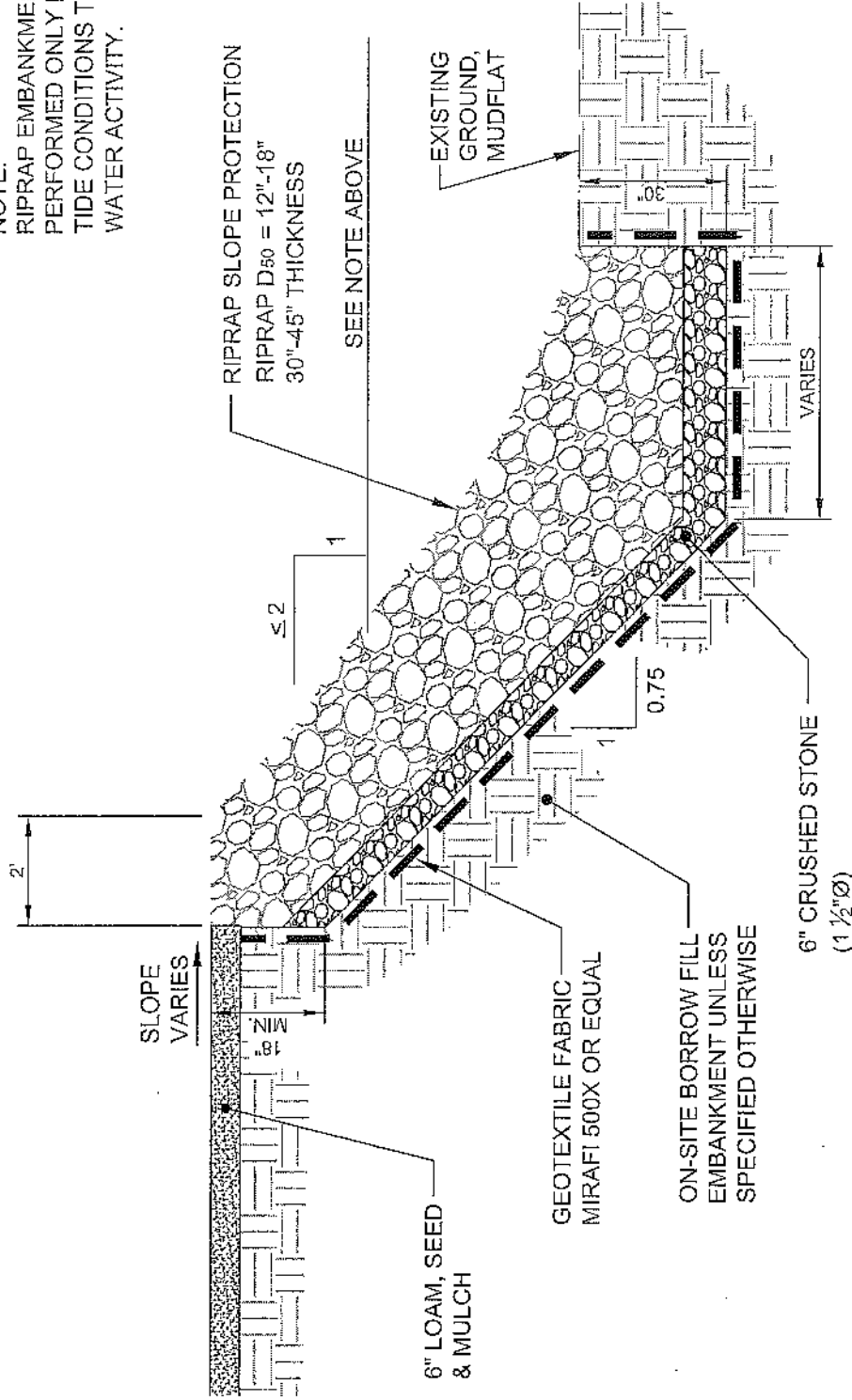
** Maine.gov offers a wealth of information, including: Legislators and the phone numbers to Town Offices where a call may help you obtain correct mailing addresses for the Mayor, the Conservation Commission and other useful links.



REV. 02.11.13 - RESUBMITTED TO DEP / ACOE

<p>FIGURE:</p> <h1 style="text-align: center;">1</h1>	<p>BOOK: 1507 7026</p> <p>PAGE: 126 187</p>	<p>LOCATION: CITY OF PORTLAND CANAL LANDING</p> <p>WATER BODY: FORE RIVER</p>	<p>PROPOSED ACTIVITY: SHOREFRONT FACILITIES ASSOCIATED WITH BOATYARD USE</p> <p>ABUTTERS: SEE ATTACHMENT 10</p>	<p>PROJECT APPLICANT: NEW YARD, LLC 58 FORE STREET PORTLAND, ME 04101</p> <p>SCALE: 1"=200' DATUM: -</p> <p>DATE: OCT. 2012 REVISED DEC. 2012</p> <p>DELUCA-HOFFMAN ASSOCIATES, INC.</p>
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NOTE:
 RIPRAP EMBANKMENT WORK TO BE
 PERFORMED ONLY DURING LOW
 TIDE CONDITIONS TO AVOID IN
 WATER ACTIVITY.

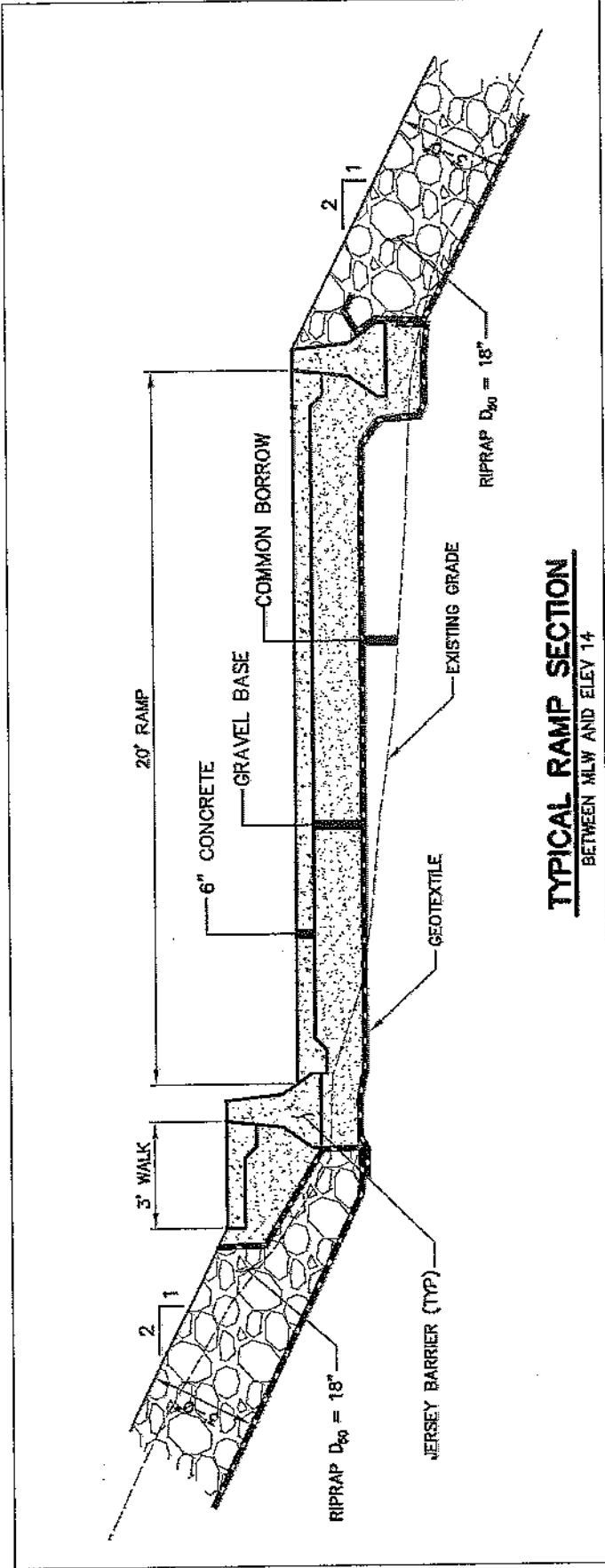


(E) **RIPRAP SLOPE DETAIL**
 N.T.S.

RIPRAP EMBANKMENT DESIGN SUBJECT TO
 GEOTECHNICAL REVIEW AND MODIFICATION

EXCERPT FROM SHEET C-6.2

FIGURE: <h1 style="font-size: 48px; margin: 0;">5</h1>	BOOK: 1507 7026	PAGE: 126 187	LOCATION: CITY OF PORTLAND CANAL LANDING	PROPOSED ACTIVITY: BOAT RAMP EXTENDING BEYOND MEAN LOW WATER ELEVATION AND FLOATING DOCKS	PROJECT APPLICANT: NEW YARD, LLC 58 FORE STREET PORTLAND, ME 04101	
	LEGAL DESCRIPTION: REFER TO PLANS IN SITE PLAN APPLICATION			WATER BODY: FORE RIVER	ABUTTERS: SEE ATTACHMENT 10	SCALE: NTS DATUM:
					DATE: FEB 2013	DELUCA-HOFFMAN ASSOCIATES, INC.



TYPICAL RAMP SECTION
BETWEEN MLW AND ELEV 14

PREPARED BY BAKER DESIGN CONSULTANTS

EXCERPT FROM SHEET C-8.5

FIGURE: 6	BOOK: 1507 7026	PAGE: 126 187	LOCATION: CITY OF PORTLAND CANAL LANDING	PROPOSED ACTIVITY: BOAT RAMP EXTENDING BEYOND MEAN LOW WATER ELEVATION AND FLOATING DOCKS	PROJECT APPLICANT: NEW YARD, LLC 58 FORE STREET PORTLAND, ME 04101
	LEGAL DESCRIPTION: REFER TO PLANS IN SITE PLAN APPLICATION		WATER BODY: FORE RIVER	ABUTTERS: SEE ATTACHMENT 10	SCALE: NTS DATUM: DATE: FEB 2013
			DELUCA-HOFFMAN ASSOCIATES, INC.		