

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

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

RECEIVED
JUN 19 2014
BY: _____

Carl Pimental
C/o Mayflower Engineering, Inc.
64 Joan Drive
Quincy, MA 02169
Attn: John J. Hannon, P.E.

RE: **ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE**

JUN 16 2014

Waterways Application No. W13-3917, License No. 13647, Carl Pimental
Filled and Flowed Tidelands of Buzzards Bay (Acushnet River), New Bedford, Bristol 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) 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?

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;

Waterways License Application No.W13-3917, License No.13647, Carl Pimental
Filled and Flowed Tidelands of Buzzards Bay (Acushnet River), New Bedford, Bristol County

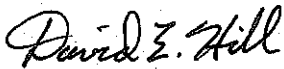
- (c) the address of the project;
- (d) the complete name, address, fax number, and telephone number of the party filing the request and, if represented by counsel, the name, address, fax number, and phone number of the attorney;
- (e) if claiming to be a person aggrieved, the specific facts that demonstrate 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.13647
Notification of Waterways License Recordation Form

cc: w/enc: Ben Lynch, Waterways Section Chief, DEP Boston
Office of Coastal Zone Management
New Bedford Conservation Commission
New Bedford Harbormaster
New Bedford Harbor Development Commission
Carl Pimental

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

RE: Waterways Application No. W13-3917, License No. 13647, Transmittal #X256259
Buzzards Bay (Acushnet River), New Bedford, Bristol 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.

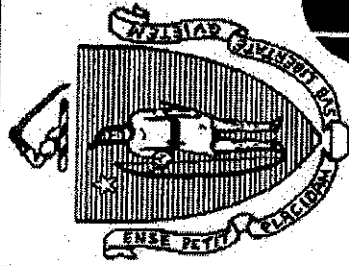
Sincerely,

_____, Chapter 91 Waterways Licensee

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

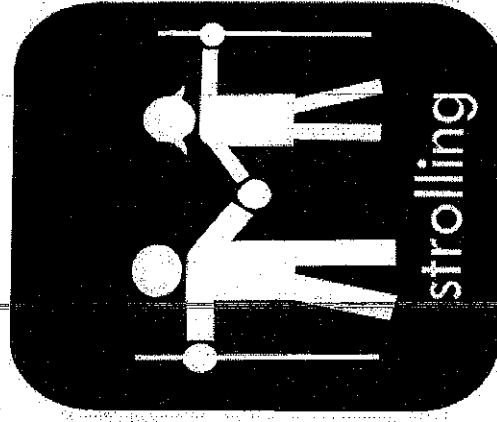
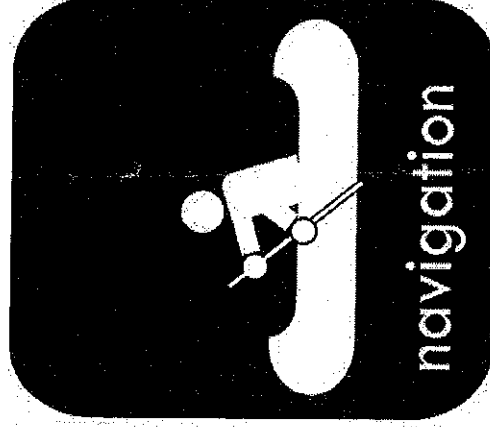
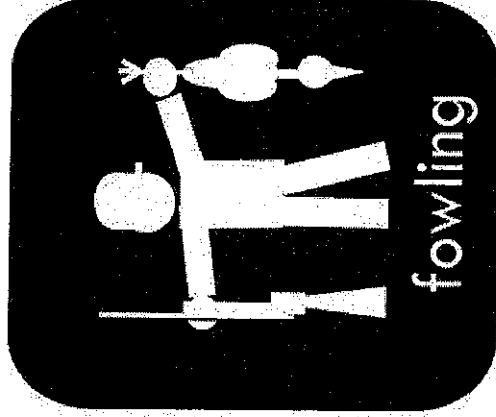
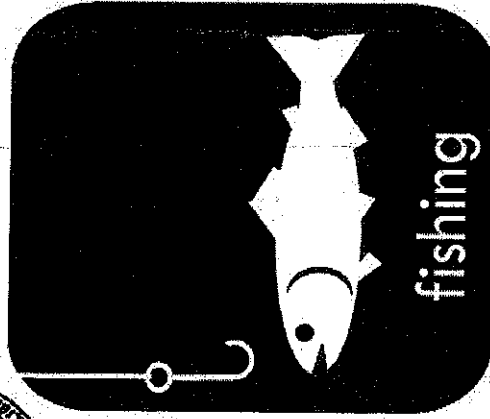
SIGNAGE SPECIFICATIONS - MassDEP Waterways Regulation Program (Updated September 20, 2012)

- 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 ½".
 - 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.**



PUBLIC PASSAGE

FOR



Mass DEP M.G.L. Ch.91 LICENSE #13647

The Commonwealth of Massachusetts



No. 13647

Whereas, Carl Pimental

of -- New Bedford --, in the County of -- Bristol -- and Commonwealth aforesaid,-- has applied to the Department of Environmental Protection for a license to -- maintain rip rap, an office building, and an expanded pier -----

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 -- Mayor and City Council -- of the City of -- New Bedford. ----

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 ---

Carl Pimental --, 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 -- maintain rip rap, an office building, and an expanded pier -----

in and over the waters of -- Buzzards Bay (Acushnet River) -- at 1494 East Rodney French Boulevard --, in the -- City -- of -- New Bedford -- and in accordance with the locations shown and details indicated on the accompanying DEP License Plan No. 13647 (3 sheets).

The structures hereby authorized shall be limited to the following uses: to provide a waterborne passenger transportation facility and shoreline stabilization for the protection of existing structures.

Existing structures previously authorized under DPW License No. 519 (1925), 990 (1929), 5285(1967), and DEQE License No. 196 (1976) 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, the Licensee shall allow the public in the exercise of such rights to pass freely around all structures within such intertidal area. Accordingly, the Licensee shall place and maintain, in good repair, a public access sign at each property line, 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 **within sixty (60) days of License issuance**. 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. All exterior pedestrian facilities on the project site shall be open to the general public, except where access restrictions are necessary in order to avoid significant interference with the operation of the facility or to maintain security at the pier.

4. The Licensee may adopt reasonable rules governing the publicly accessible areas of the site, subject to review and written approval by the Department, as are necessary for the protection of public health and safety and private property, and to ensure public use and enjoyment.

5. No activity or construction may take place on the area of fill authorized herein without the prior written approval of the Department.

6. No dredging (including, but not limited to effects of prop wash) is permitted herein.

7. The project authorized herein has been completed in conformance with the accompanying plan. The issuance of this License, therefore, fulfills the Licensee's obligation to obtain a Certificate of Compliance pursuant to 310 CMR 9.19.

Please see page 3 for additional conditions to this license.

Duplicate of said plan, number 13647 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:

☒ X 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.

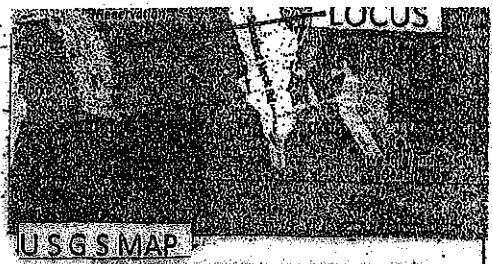
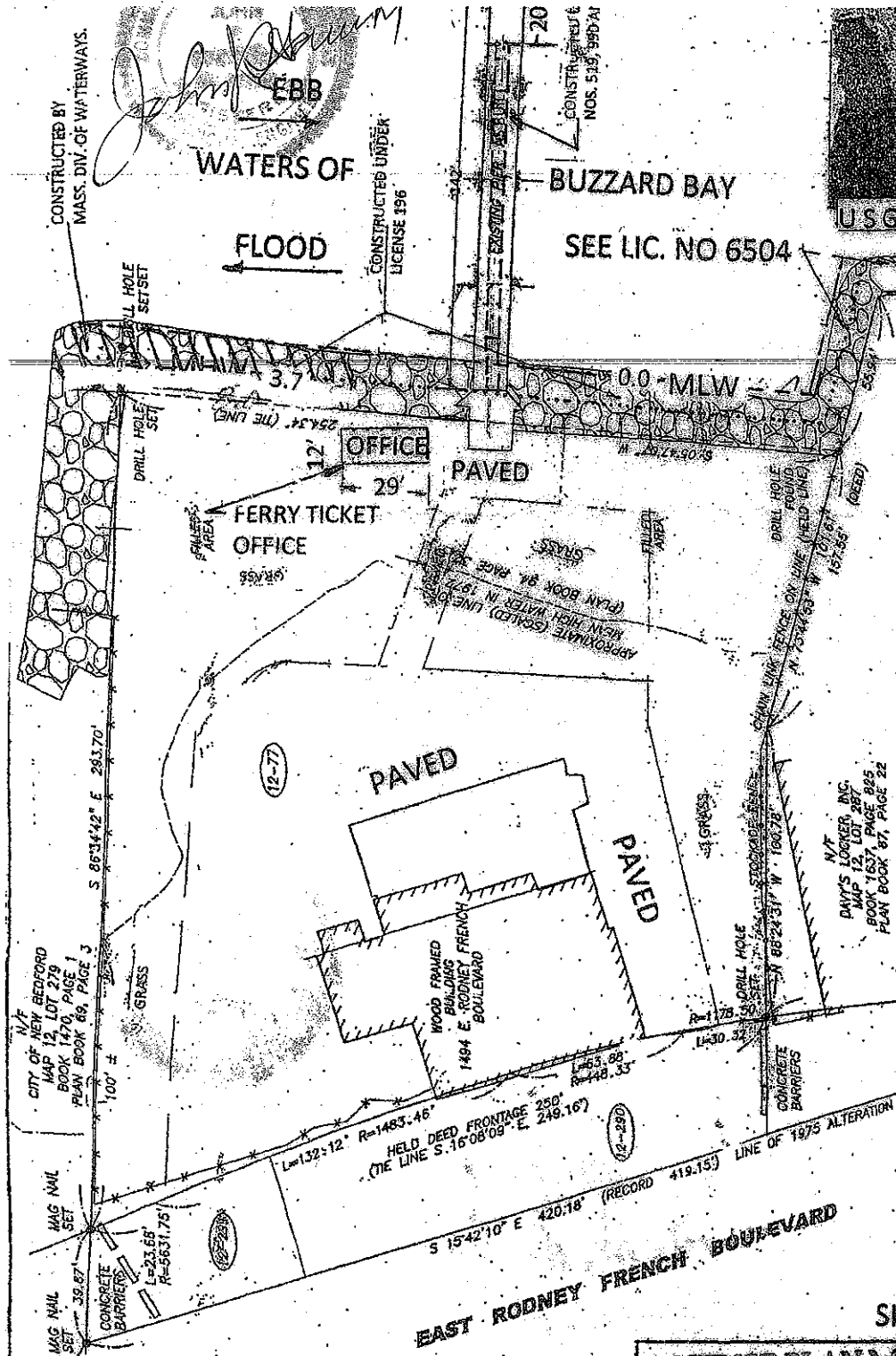
☒ X Commonwealth Tidelands. The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.

☐ 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.



U.S.G.S MAP
 0 1000 2000 3000
 SCALE IN FEET
 436-38.987 N
 70-54-17.39W

0 20 40 60 80 100
 SCALE 1"=60 FEET

THIS PLAN PREPARED IN PART FROM PLAN
 BY PRIME ENGINEERING DATED DEC. 11, 2007

AS-BUILT PLAN
 1494 E. RODNEY FRENCH BLVD.
 NEW BEDFORD, MA
 JUNE 12, 2013
 SCALE 1"= 60 FEET

PLAN ACCOMPANYING PETITION OF
 CARL PIMENTAL TO MAINTAIN
 RIPRAP, AN OFFICE BUILDING
 AND AN EXPANDED PIER
 NEW BEDFORD, MASS.- BRISTOL COUNTY
 AUG. 12, 2013 @ WATERS OF BUZZARD-BAY

SHEET 1 OF 3 SHEETS

LICENSE PLAN NO. **13647**

Approved by Department of Environmental Protection
 of Massachusetts

David E. Hill JUN 16 2014

LIBE-21M

PUBLIC ACCESS BOARD

WATERS OF

BUZZARD

SCALE 1"=50 FEET

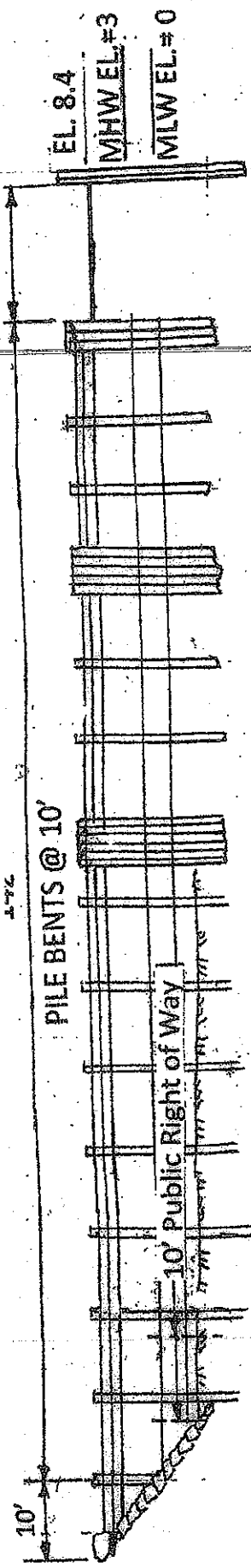
PROPERTY OWNER:
CARL PIMENTAL
P.O./BOX 40159
NEW BEDFORD, MA 0

MAYFLOWER ENGINEERING INC.
64 JOAN DRIVE
QUINCY, MASS. 02169
617-376-0404

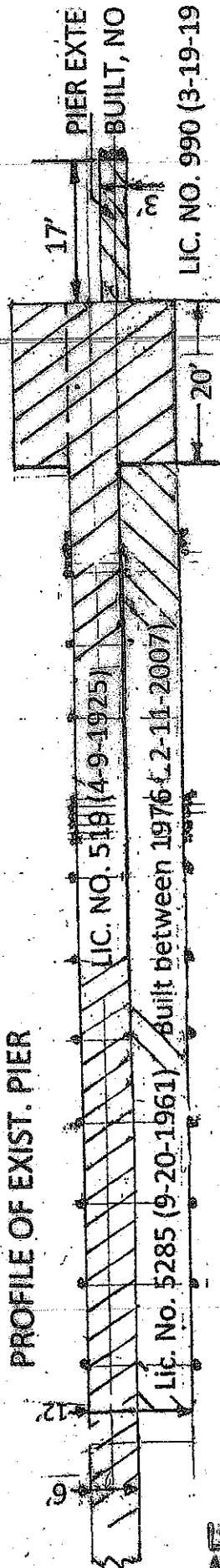
MAYFLOWER ENGR., INC.
64 JOAN DRIVE
QUINCY, MA 02169
617-376-0404

LICENSE PLAN NO. 13647
Approved by Department of Environmental Protection
Date: JUN 16 2014

S 15°42'10" E 420.10
EAST RODNEY FRENCH BOULEVARD
MAYFLOWER
64 JOAN
QUINCY



PROFILE OF EXIST. PIER



PLAN OF EXIST. PIER

SCALE 1"=20 FEET



EL. = 8.0

MHHW ELEV. = + 4.2

MHW ELEV. = + 3.7

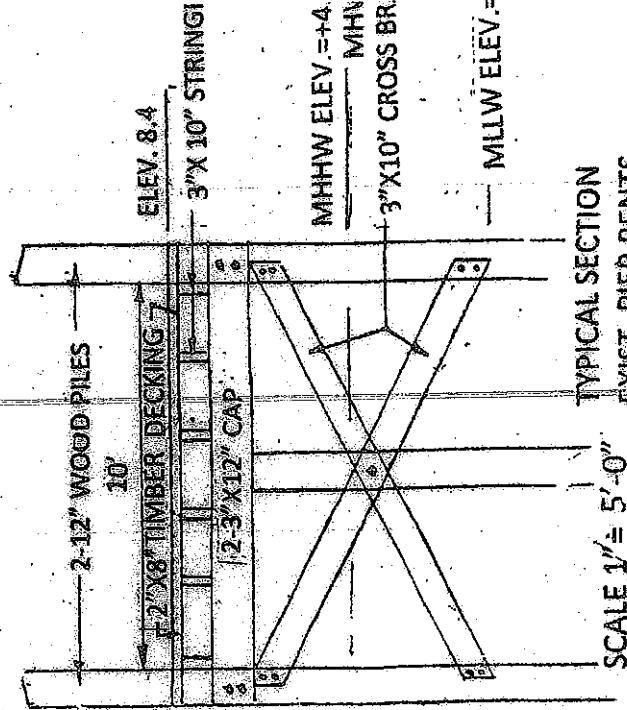
MLW ELEV. = 0.0

LIC. NO. 196
(9-8-1976)

TYPICAL CROSS SECTION
EXISTING RIPRAP MOUND

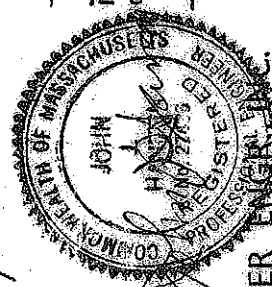


SCALE 1"=10 FEET



TYPICAL SECTION
EXIST. PIER BENTS

SCALE 1"= 5'-0"



MAYFLOWER ENGINEERING, INC.
64 JOAN DRIVE
QUINCY, MASS. 02169
617-376-0404

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JUN 16 2014