



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

JUNEAU FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
Post Office Box 22270
Juneau, Alaska 99802-2270

PUBLIC NOTICE DATE:	December 21, 2018
EXPIRATION DATE:	January 7, 2018
REFERENCE NUMBER:	POA-2018-433
WATERWAY:	Gastineau Channel

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States (U.S.) as described below and shown on the enclosed project drawings.

All comments regarding this Public Notice (PN) should be sent to the address noted above. If you desire to submit your comments by email, you should send it to the Project Manager's email as listed below or to regpagemaster@usace.army.mil. All comments should include the PN reference number listed above.

All comments should reach this office no later than the expiration date of this PN to become part of the record and be considered in the decision. Please contact Matthew Brody at (907) 790-4493, at the address shown above, or by email at: Matthew.T.Brody@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Carl Uchytel
The City and Borough of Juneau
155 South Seward Street
Juneau, Alaska 99801
Carl.Uchytel@juneau.org

AGENT: Mr. Dick Somerville
PND Engineers Inc.
9630 Glacier Highway
Juneau, Alaska 99801
dsomerville@pndengineers.com

LOCATION: The project site is located within Section 23, T. 41 S., R. 67 E., Copper River Meridian; USGS Quad Map Juneau B-2; Latitude 58.297498° N., Longitude -134.403391° W.; in Juneau, Alaska.

PURPOSE: The applicant's stated purpose is to meet the needs of the expanding cruise ship industry and its passengers by creating ample open space thereby decreasing congestion and improving pedestrian circulation.

PROPOSED WORK: The applicant is proposing to construct a pile supported deck along the waterfront to enhance waterfront cruise ship visitor accessibility through the construction of a concrete retaining wall and pile supported deck with upland features including a passenger covered shelter, open space, passenger restrooms, and a transportation staging area. The proposed work would take place within tidal waters of Gastineau Channel below the High Tide Line (+20.8 feet above the 0.0 foot contour) and the Mean High Water (+15.4 feet above the 0.10 foot contour). Specifically the work includes:

1. The demolition of existing timber deck and approach structures consisting of approximately 4,260 square feet and the removal of approximately 100 tapered 16-18 inch diameter creosote treated timber pilings,
2. Installation of (87) 18-inch diameter steel temporary template pilings,
3. Removal of (87) 18-inch diameter steel temporary template pilings,
4. Installation of (42) 16-inch diameter steel pipe pilings,
5. Installation of (45) 18-inch diameter steel pipe pilings,
6. Installation of (40) 24-inch diameter steel pipe pilings,
7. Construction of a 500 cubic yard concrete retaining wall measuring 2 feet wide x 390 feet long,
8. Construction of a new timber ramp and decking measuring 20,160 square feet,
9. Construction of a new concrete deck measuring 15,900 square feet,
10. The placement of 2,500 cubic yards of class A shot rock backfill and 700 cubic yards of class II armor rock into 0.08 acres.

All work would be performed in accordance with the enclosed plan (sheets 1-9), dated October 2018.

ADDITIONAL INFORMATION: The applicant needs to acquire the following authorizations from other Federal, State, and Local Agencies:

- Incidental Harassment Authorization – National Marine Fisheries Service

- Utilities and 401 Water Quality Certification – Alaska Department of Environmental Conservation
- Flood Zone Variance – Federal Emergency Management Administration
- Conditional Use Permit – City and Borough of Juneau

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the U.S. from activities involving discharges of dredged or fill material.

a. Avoidance: See attached Mitigation Statement.

b. Minimization: See attached Mitigation Statement.

c. Compensatory Mitigation: The City and Borough of Juneau believes that compensatory mitigation for the permanent loss of 0.08 acres of near shore aquatic habitat should not be required and has proposed none.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRs) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are cultural resources within the vicinity of the permit area. The permit area has been determined to be the footprint of the proposed work within waters of the U.S. consisting of 44,868-ft². Consultation of the AHRs constitutes the extent of cultural resource investigations by the Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources. While the proposed project is within the vicinity of identified cultural resources, there are none located within the permit area. Due to the lack of historic sites within the permit area the Corps has made a No Historic Properties Affected (No Effect) determination for the proposed project. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work. The Corps is requesting the SHPO's concurrence with this determination.

ENDANGERED SPECIES: The project area is within the known or historic range of the Humpback whale (*Megaptera novaeangliae*) and the Steller sea lion (*Eumetopias jubatus*).

We have determined the described activity may affect the threatened or endangered Humpback whale and Steller sea lion. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or

plants or their critical habitat will be considered in our final assessment of the described work.

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

We have determined the described activity may adversely affect EFH in the project area for the following species Sockeye (*Oncorhynchus nerka*), Silver (*Oncorhynchus kisutch*), Chinook (*Oncorhynchus tshawytscha*), Chum (*Oncorhynchus keta*), and Pink Salmon (*Oncorhynchus gorbuscha*). The proposed project would involve pile driving, placement of fill material, and construction of overwater structures, which may increase the potential for injury or mortality to salmon from pressure waves generated from pile driving, elevation of suspended particulates within the water column, and/or the loss of habitat. This PN initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This PN serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy

needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps 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 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.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the United States – Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

Project drawings and a Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER

Wastewater Discharge Authorization Program (WDAP) / 401 Certification

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WDAP/401 CERTIFICATION

555 CORDOVA STREET

ANCHORAGE, ALASKA 99501-2617

PHONE: (907) 269-6285 | EMAIL: dec-401cert@alaska.gov

**NOTICE OF APPLICATION
FOR
STATE WATER QUALITY CERTIFICATION**

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice (PN) Reference Number **POA-2018-433, Gastineau Channel**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

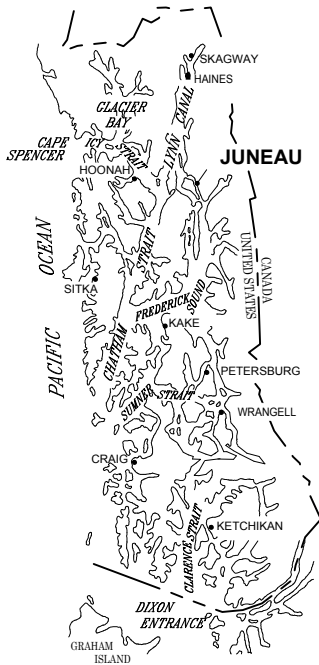
Any person desiring to comment on the project with respect to Water Quality Certification, may submit written comments to the address above or via email to dec-401cert@alaska.gov by the expiration date of the Corps of Engineer's Public Notice. All comments should include the PN reference number listed above. Mailed comments must be postmarked on or before the expiration date of the public notice.

Disability Reasonable Accommodation Notice

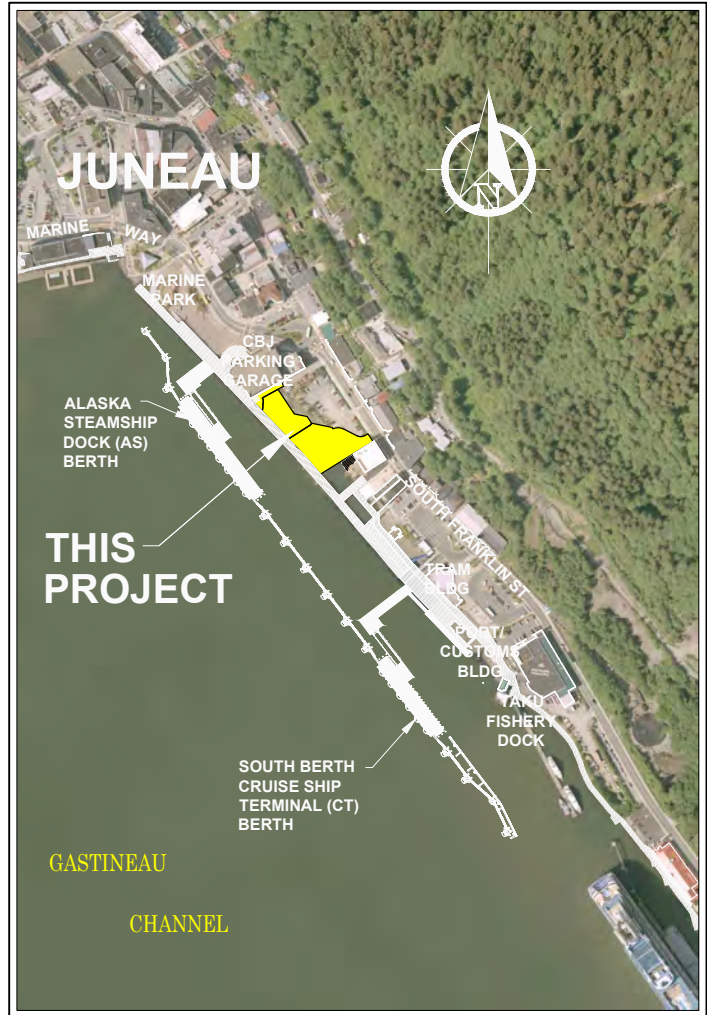
The State of Alaska, Department of Environmental Conservation complies with Title II of the Americans with Disabilities Act of 1990. If you are a person with a disability who may need special accommodation in order to participate in this public process, please contact Theresa Zimmerman at 907-465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 within 5 days of the expiration date of this public notice to ensure that any necessary accommodations can be provided.



LOCATION



SOUTHEAST ALASKA



THIS PROJECT

AERIAL PHOTO MODIFIED FROM:
CITY AND BOROUGH OF JUNEAU, 2006

VICINITY MAP



PURPOSE:

THE PROPOSED DOWNTOWN WATERFRONT IMPROVEMENTS PROJECT WILL MEET THE NEEDS OF AN EXPANDING CRUISE SHIP INDUSTRY AND ITS PASSENGERS BY CREATING AMPLE OPEN SPACE THEREBY DECREASING CONGESTION AND IMPROVING PEDESTRIAN CIRCULATION.

DATUM:

MLLW = 0.0'

HTL = 20.6'
MHW = 15.4'

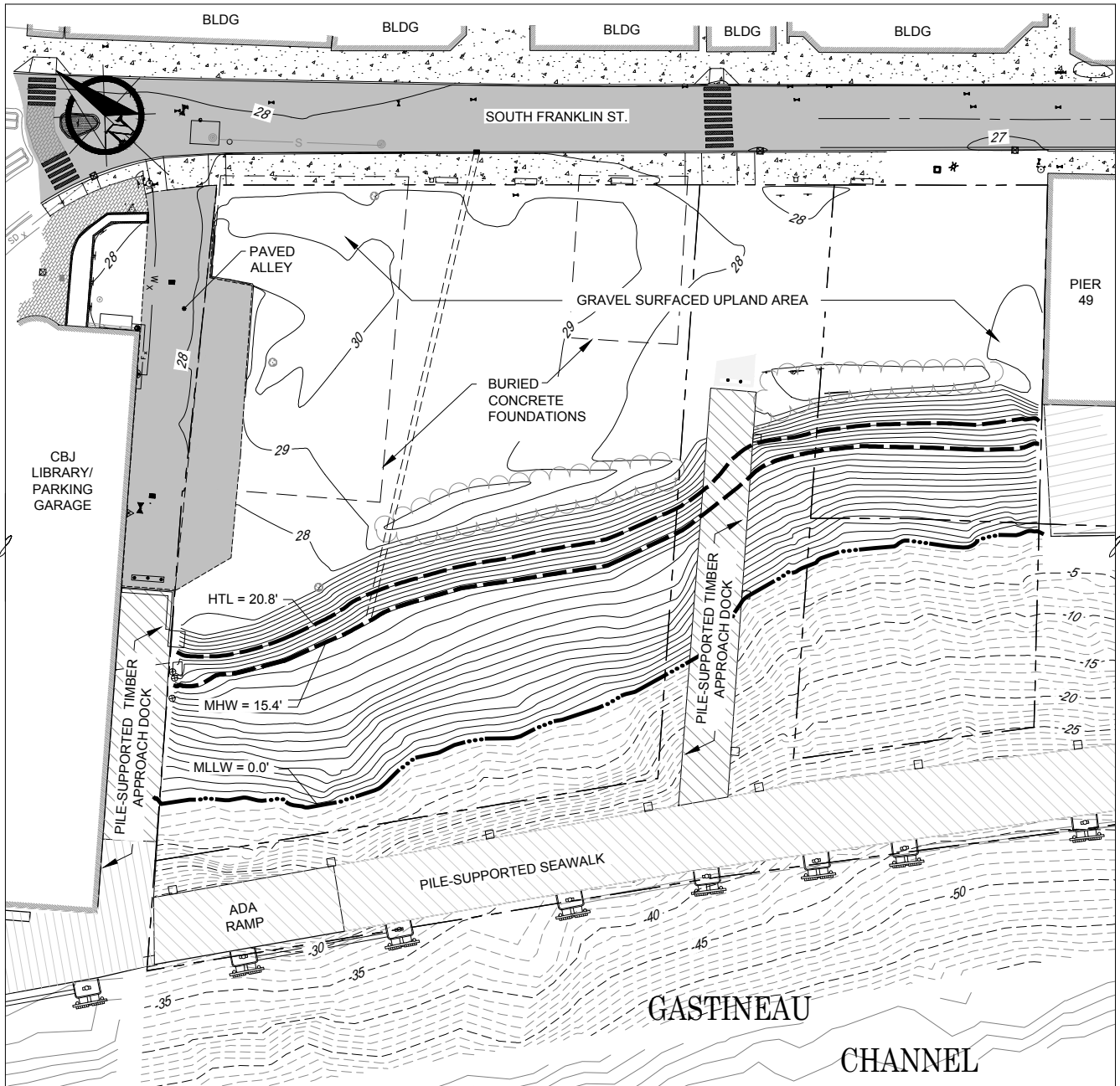
LOCATION AND VICINITY MAP

APPLICANT ADDRESS:
CITY AND BOROUGH OF JUNEAU
DOCKS AND HARBORS
155 S. SEWARD STREET
JUNEAU, AK 99801

PND PROJECT NO. 182045

CBJ DOWNTOWN WATERFRONT IMPROVEMENTS

APPLICANT: CITY AND BOROUGH OF JUNEAU D&H
FILE NO.:
WATERWAY: GASTINEAU CHANNEL
PROPOSED ACTIVITY: WATERFRONT IMPROVEMENTS
SEC. 23 T. 41 S R. 67 E M CRM
LAT.: 58°17' 51" N LONG.: 134° 24' 13" W
DATE: OCTOBER 2018



PURPOSE:

THE PROPOSED DOWNTOWN WATERFRONT IMPROVEMENTS PROJECT WILL MEET THE NEEDS OF AN EXPANDING CRUISE SHIP INDUSTRY AND ITS PASSENGERS BY CREATING AMPLE OPEN SPACE THEREBY DECREASING CONGESTION AND IMPROVING PEDESTRIAN CIRCULATION.

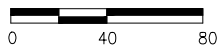
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**EXISTING CONDITIONS
PLAN**

SCALE IN FEET

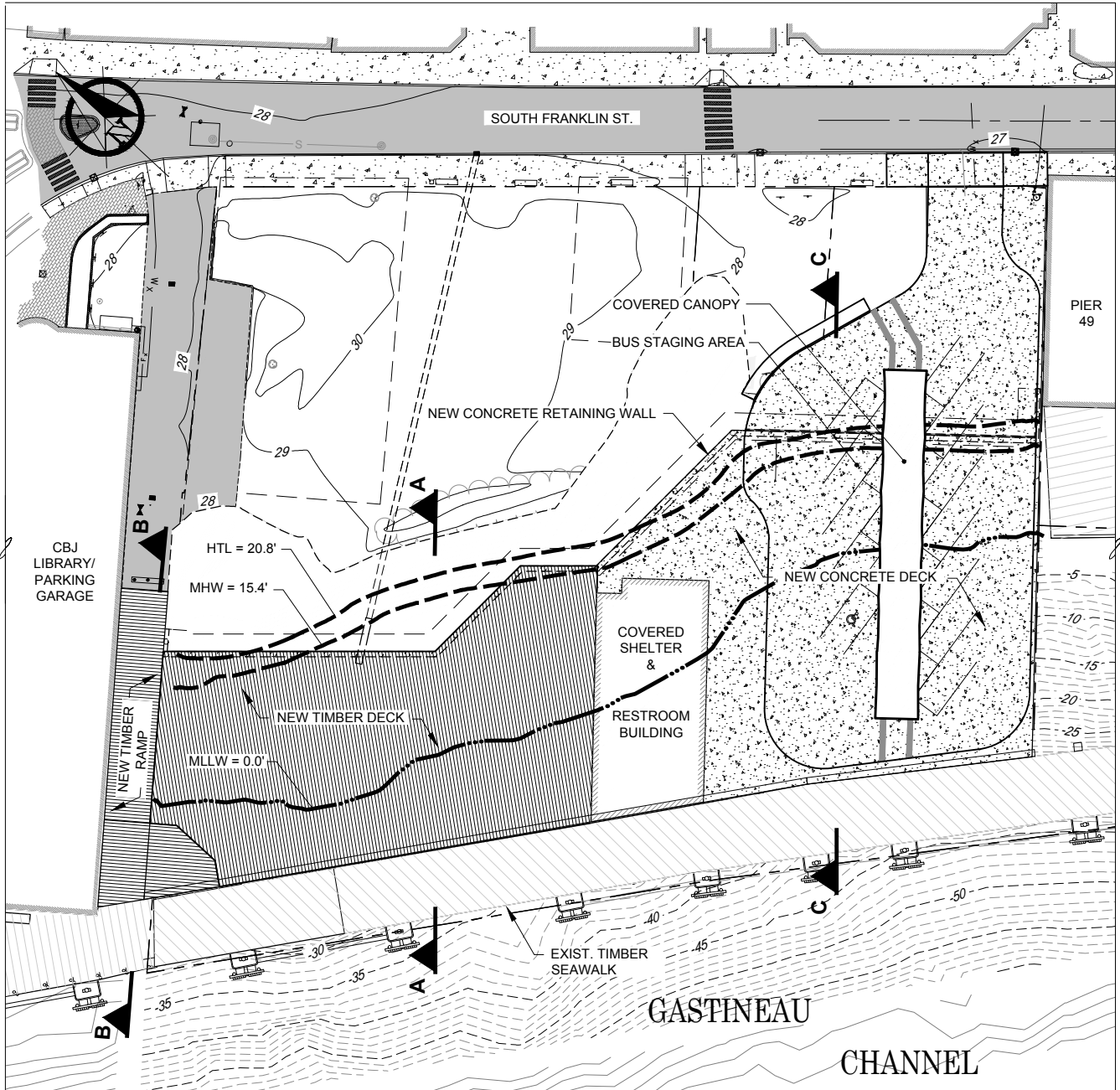


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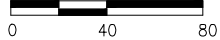
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PROPOSED GENERAL SITE PLAN

SCALE IN FEET



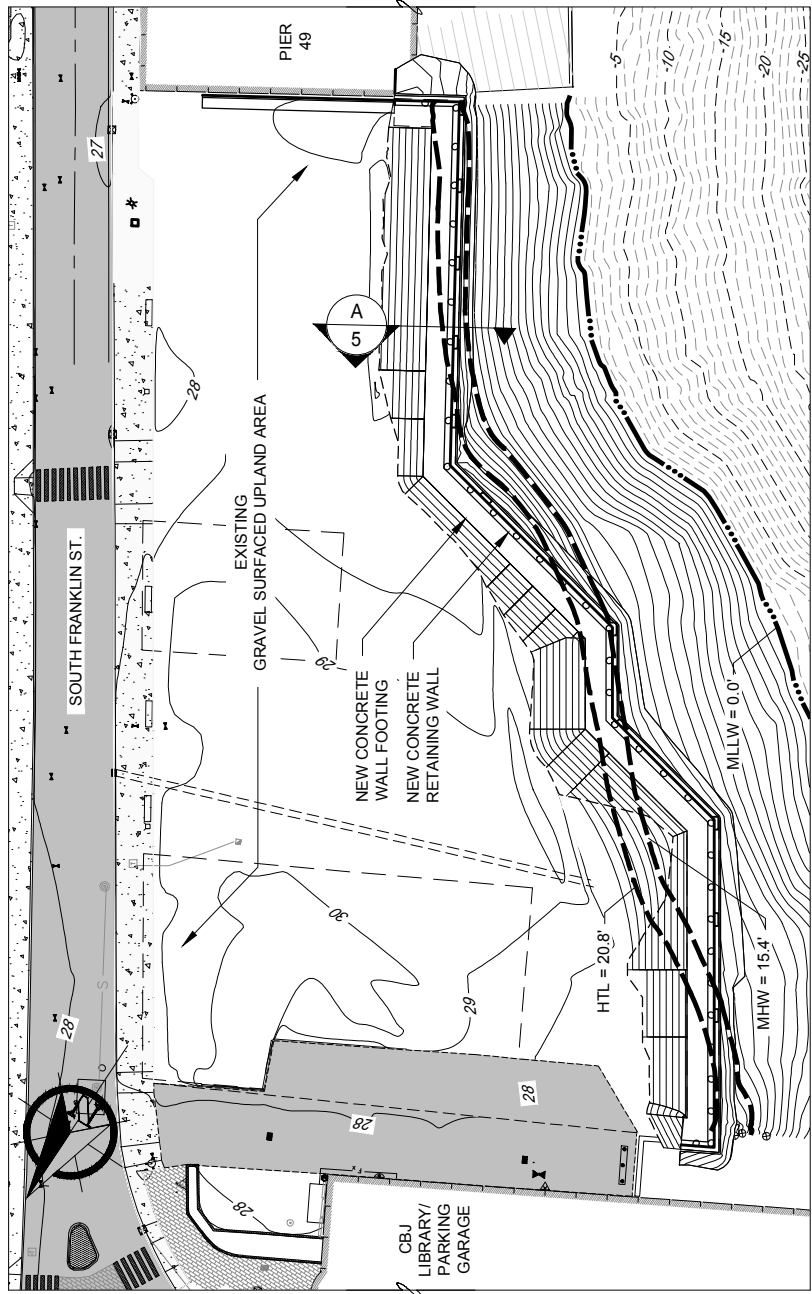
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CONCRETE RETAINING WALL STRUCTURE SUMMARY					
LINEAR FEET (FT)	# OF PILES	PILE Ø (INCH)	CLASS A SHOT ROCK QUANTITY (CY) BELOW HTL	ARMOR ROCK QUANTITY (CY) BELOW HTL	CONCRETE QUANTITY (CY)
388	40	24	2,500	700	500



RETAINING WALL
FOUNDATION PLAN

PURPOSE:

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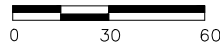
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RETAINING WALL
FOUNDATION PLAN

SCALE IN FEET

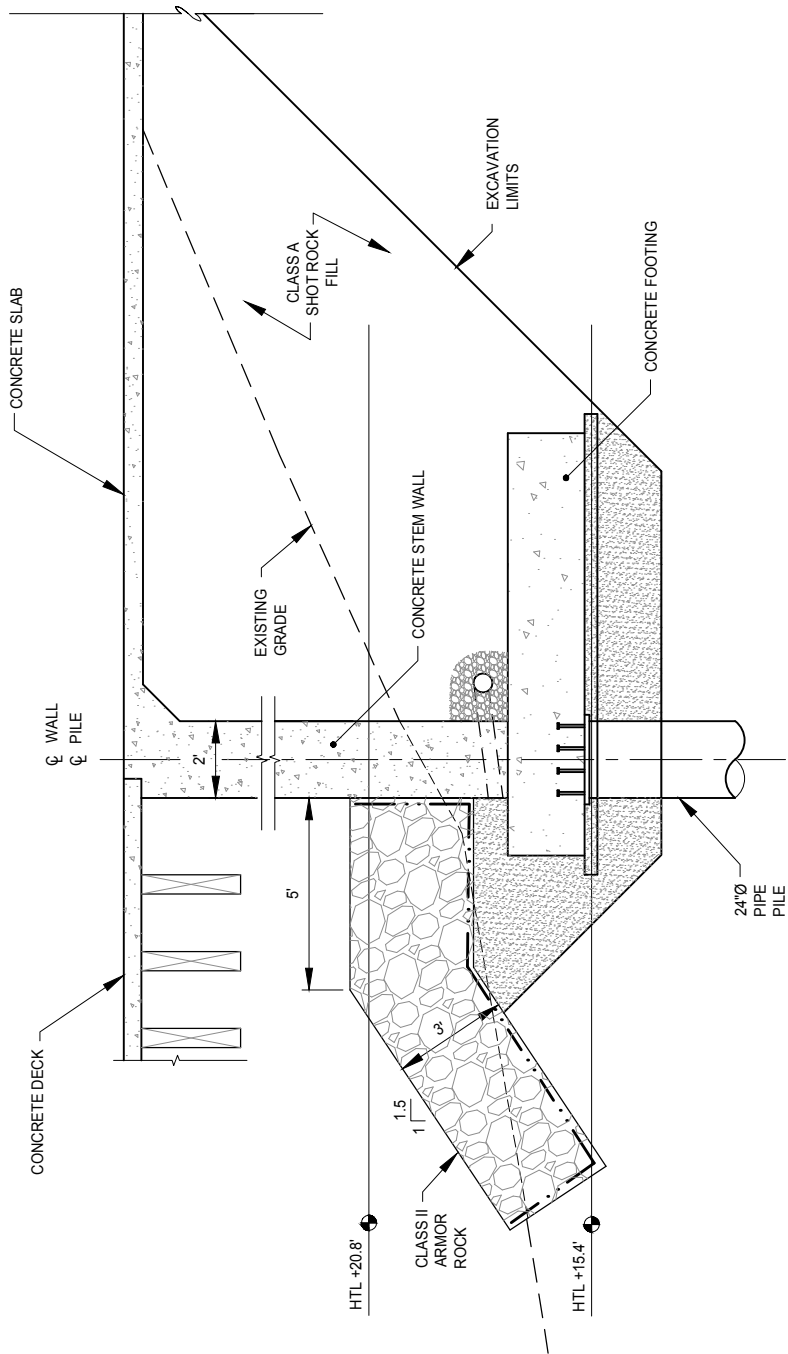


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RETAINING WALL SECTION
A 4

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RETAINING WALL SECTION

NTS

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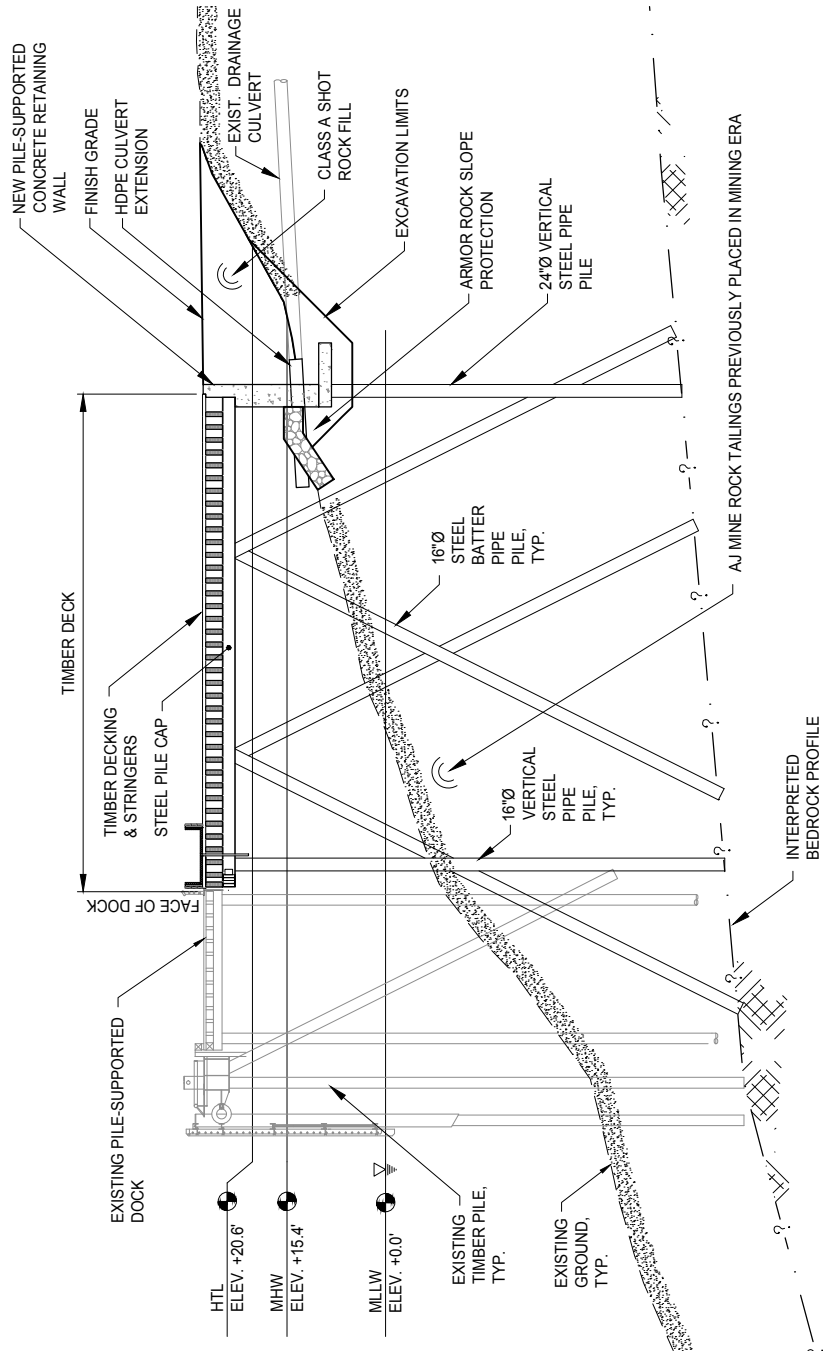
PND PROJECT NO. 182045

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TIMBER DECK STRUCTURE SUMMARY

SURFACE COVERAGE (SF)	# OF PILES	PILE Ø (INCH)
13,600	30	16



TIMBER DECK SECTION

A

PURPOSE:

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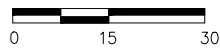
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TIMBER DECK SECTION

SCALE IN FEET



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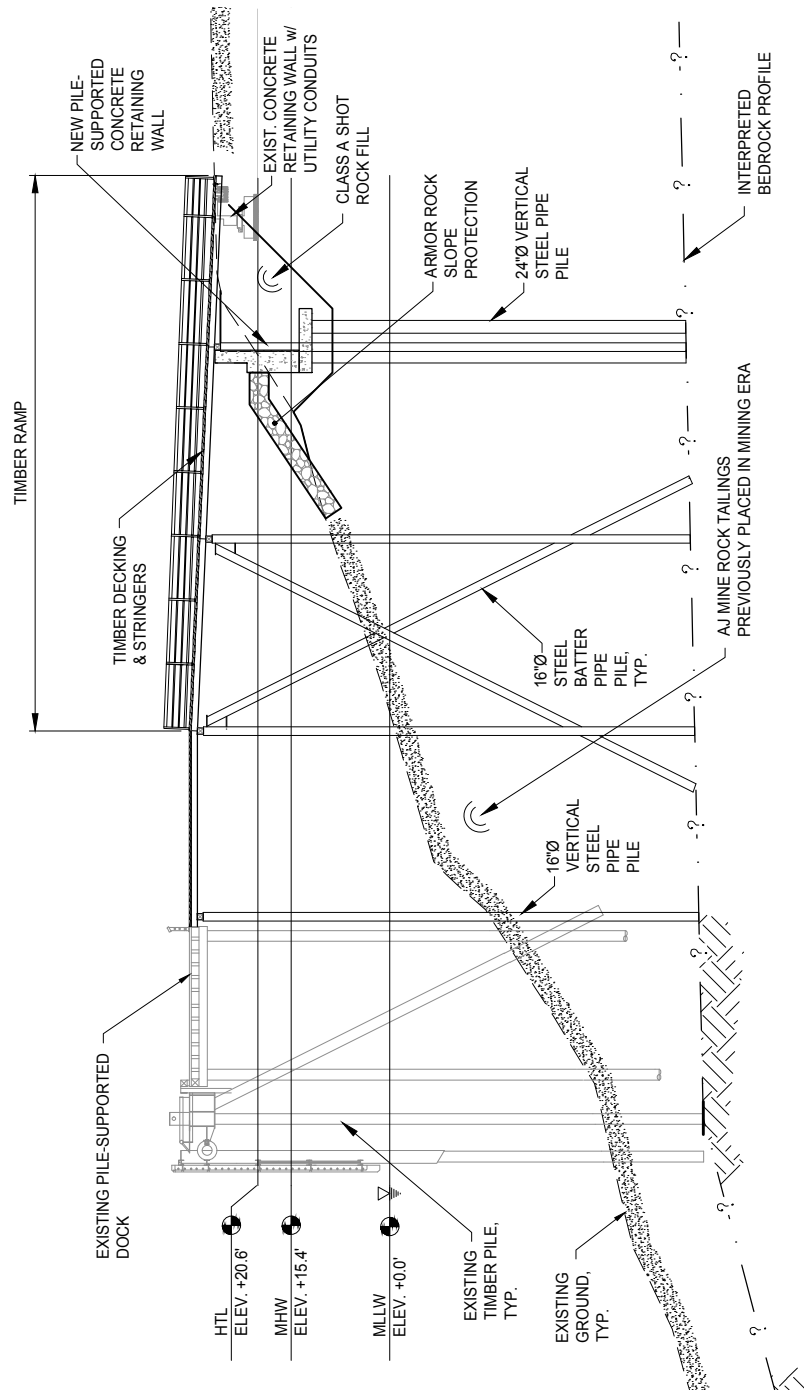
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TIMBER RAMP STRUCTURE SUMMARY

SURFACE COVERAGE (SF)	# OF PILES	PILE Ø (INCH)
2,020	12	16



B TIMBER RAMP SECTION

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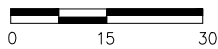
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TIMBER RAMP SECTION

SCALE IN FEET



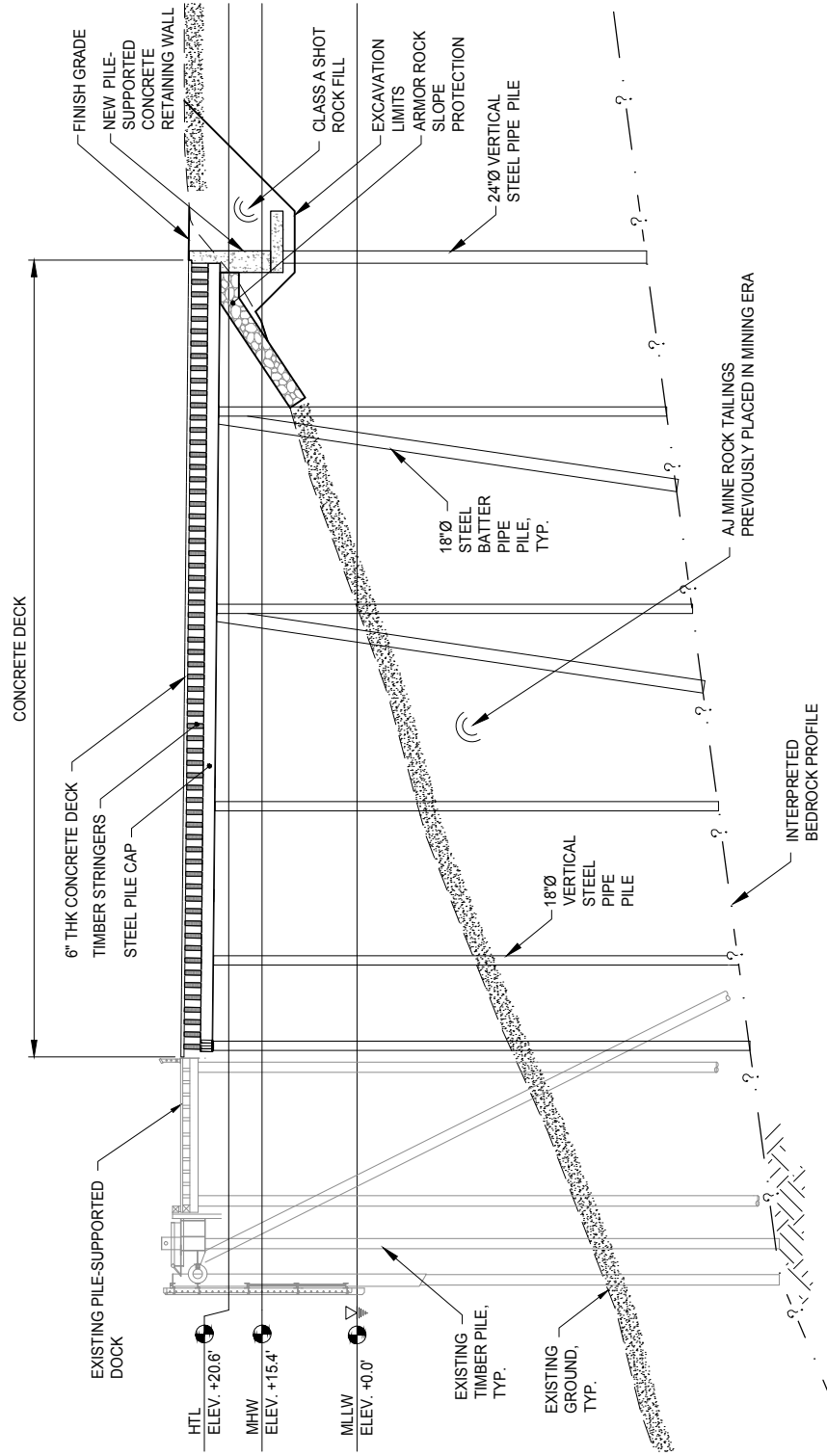
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CONCRETE DECK STRUCTURE SUMMARY			
SURFACE COVERAGE (SF)	# OF PILES	PILE Ø (INCH)	18
27,000	45		



C CONCRETE DECK SECTION

PURPOSE:
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CONCRETE DECK SECTION
 SCALE IN FEET

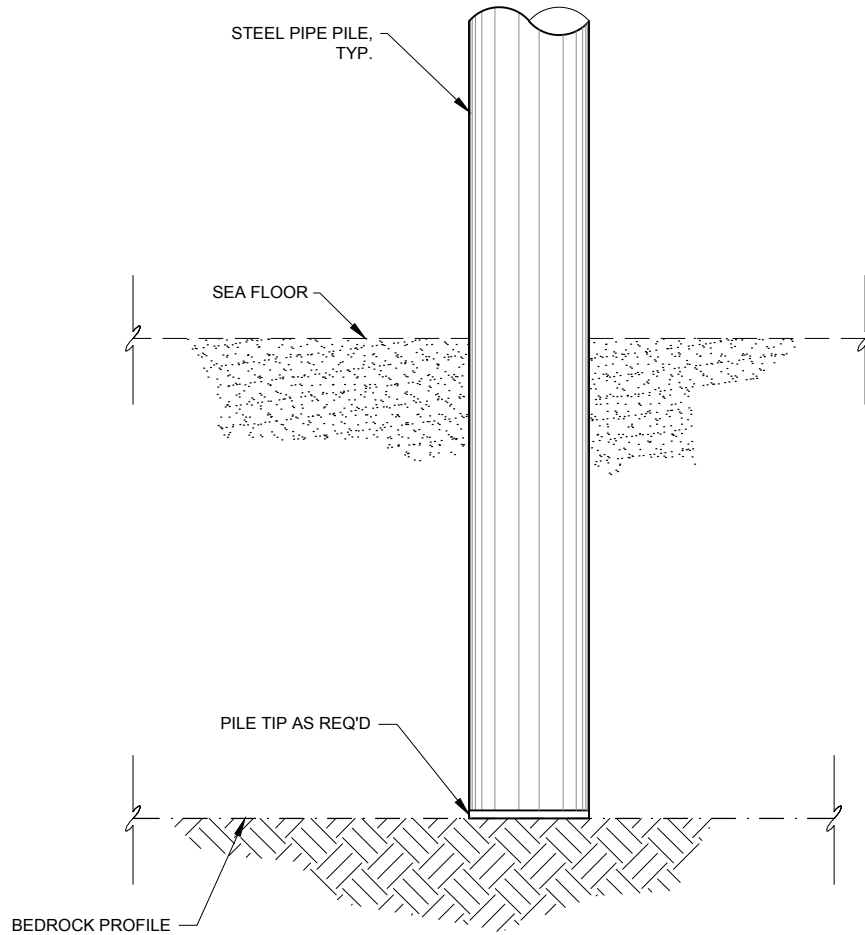
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SHEET 8 of 9



PILE DETAILS

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PILE DETAILS

NTS

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Applicant Proposed Mitigation Statements

Background:

The U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency issued regulations that govern national compensatory mitigation policy for activities in waters of the U.S., including wetlands, authorized by Corps permits. The final mitigation rule was published in the federal register on April 10, 2008, and became effective on June 9, 2008. The final rule establishes standards and criteria for the use of appropriate and practicable compensatory mitigation for unavoidable functional losses of aquatic resources authorized by Corps permits (33 CFR Part 332). Additionally, the rule requires new information to be included in Corps permit applications and public notices to enable meaningful comments on applicant proposed mitigation. In accordance with 33 CFR Part 325.1(d)(7), "For activities involving discharges of dredged or fill material into waters of the U.S., the application must include a statement describing how impacts to waters of the United States are to be avoided and minimized. The application must also include either a statement describing how impacts to waters of the United States are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts." For additional information, the final mitigation rule can be viewed at: http://www.usace.army.mil/cw/cecwo/reg/news/final_mitig_rule.pdf

Mitigation is a sequential process of avoidance, minimization, and compensation. Compensatory mitigation is not considered until after all appropriate and practicable steps have been taken to first avoid and then minimize adverse impacts to the aquatic ecosystem. Please provide your proposed avoidance, minimization, and compensatory mitigation below:

Applicant's Proposed Mitigation (attach additional sheets as necessary):

1. Avoidance of impacts to waters of the U.S., including wetlands:

Please describe how, in your project planning process, you avoided impacts to waters of the U.S., including wetlands, to the maximum extent practicable. Examples of avoidance measures include site selection, routes, design configurations, etc...

Measures to avoid impact to jurisdictional wetlands and waters of the U.S. include the following actions:

- Avoid migration barriers to salmonids. At no time will the construction activities result in a migration barrier to salmonids.
- Avoid introduction of contaminated material during construction. Contaminant-free, clean shot rock embankment and surface materials will be used during all aspects of construction. Material used for construction or discharge will not consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.).
- Avoid impacts to water quality. The contractor will comply with water quality standards as required by law and implement corrective measures if water quality standards are exceeded.
- Avoid potential water quality impacts to Gastineau Channel by controlling surface water run-off. Surface water runoff will be directed away from Gastineau Channel through a storm drain conveyance and treatment system prior to discharge.
- Avoid impacts from potential spills during construction. To prevent spills or leakage of hazardous material during construction, standard spill-prevention measures including on-site spill kits will be implemented. The contractor will be responsible for the preparation of a Spill Prevention, Control, and Countermeasures (SPCC) plan to be used for the duration of the project as required by permitting agencies.

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- Prevent petroleum and hazardous materials from entering waters of the U.S. during construction. Care will be taken to prevent any petroleum products or other toxic or deleterious materials from entering the waters of the U.S. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., will be checked regularly for drips or leaks, and shall be maintained and stored properly on secondary containment pallets to prevent spills.
- Avoid impacts to Endangered Species. Driving piles in-water can generate underwater sound pressure waves that have the potential to disrupt migration and harass or injure species listed under the Endangered Species Act (ESA). ESA listed species with the potential to be in the action area include the Mexico distinct population segment (DPS) of humpback whales and the western DPS of Steller sea lions. A marine wildlife monitor shall be assigned to the project during in-water pile driving operations. The observer shall begin to observe 15 minutes (pinnipeds) and 30 minutes (cetaceans) prior to in-water pile driving activities, and throughout the duration of each pile driving event. The following measures will be taken:
 - All 24-inch piles are located at a +12 MLLW elevation or higher. All 24-inch piles will be driven when the tide is below the pile elevation such that all of the largest project piles are driven out of the water to reduce sound exposure.
 - One or more protected species observers (PSOs), able to accurately identify and distinguish species of Alaska marine mammals, will be present before and during all in-water construction and demolition activities.
 - Prior to in-water pile driving activities, an exclusion (i.e., shut-down) zone will be established. For this project, the exclusion zone includes all marine waters within 1,815 meters of the sound source for humpback whales and Steller sea lions.
 - In-water pile-driving will not be conducted unless all waters within and adjacent to the exclusion zone are clearly visible.
 - The PSO(s) will be positioned such that the entire exclusion zone is visible to them (e.g., situated on a platform, elevated promontory, boat or aircraft).
 - The PSO(s) will have the following to aid in determining the location of observed listed species, to take action if listed species enter the exclusion zone, and to record these events:
 - Binoculars
 - Range finder
 - GPS
 - Compass
 - Two-way radio communication with construction foreman/superintendent
 - A log book of all activities which will be made available to the Corps and NMFS upon request
 - The PSO(s) will have no other primary duty than to watch for and report on events related to listed species.
 - The PSO(s) will be in direct communication with on-site project lead and will have shutdown authority.

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- The PSO(s) will work in shifts lasting no longer than four (4) hours with at least a one (1) hour break between shifts, and will not perform duties as a PSO for more than 12 hours in a 24 hour period (to reduce PSO fatigue).
- The PSO(s) will scan the exclusion zone for the presence of listed species for 30 minutes before any pile-driving or removal activities take place.
- If any listed species are present within the exclusion zone, pile-driving and removal activities will not begin until the animal(s) has left the exclusion zone or no listed species have been observed in the exclusion zone for 15 minutes (for pinnipeds) or 30 minutes (for cetaceans).
- Throughout all in-water pile-driving activity, the PSO(s) will continuously scan the exclusion zone to ensure that listed species do not enter it.
- If any listed species enter, or appear likely to enter, the exclusion zone during pile-driving or removal activities, all pile-driving activity will cease immediately. Pile-driving activities may resume when the animal(s) has been observed leaving the area on its own accord. If the animal(s) is not observed leaving the area but is no longer visible, pile-driving activity may begin 15 minutes (for pinnipeds) or 30 minutes (for cetaceans) after the animal is last observed in the area. Note: If a listed species is observed within the exclusion zone during construction operations, the PSO will notify NMFS immediately after ordering a shut-down of operations.
- Ramp-up (soft start) procedures will be applied prior to beginning pile-driving activities each day and/or when pile-driving hammers have been idle for more than 30 minutes:
 - For vibratory hammers, the contractor shall run the vibratory hammer for no more than 30 seconds followed by a quiet period of at least 60 seconds without vibratory removal of piles. The process shall be repeated twice more within 10 minutes before beginning in-water pile driving operations.
 - For impact hammers, the soft start technique must initiate approximately three strikes at a reduced energy level, followed by a 30-second waiting period. This procedure would also be repeated two additional times.
- Monthly PSO report and a final PSO report will be provided to NMFS.
- The reporting period for each monthly PSO report will be the entire calendar month, and reports will be submitted by close of business on the fifth day of the month following the end of the reporting period (e.g., the monthly report covering April 1 to 30, 2017, will be submitted to the NMFS by close of business on May 5, 2017).
- PSO report data will also include the following for each listed species observation or “sighting event” if repeated sightings are made of the same animal(s):
 - Species, date, and time for each sighting event.
 - Number of animals per sighting event; and number of adults/juveniles/calves per sighting event.
 - Primary, and, if observed, secondary behaviors of the marine mammals in each sighting event.
 - Geographic coordinates for the observed animals, with the position recorded by using the most precise coordinates practicable (coordinates

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must be recorded in decimal degrees, or similar standard, and defined coordinate system).

- Time of the most recent pile-driving or other project activity prior to marine mammal observation.
- Environmental conditions as they existed during each sighting event, including sea state, weather conditions, visibility (km/mi), lighting conditions, and percent ice cover.
- Though take is not authorized, if a listed species is taken (i.e., a listed species is observed entering the exclusion zone before pile-driving operations can be shut down), reinitiation of consultation is required, and the take must be reported to NMFS within one business day (contact listed at item 14 below). PSO records for listed species taken by project activities must include:
 - All the information that must be listed in the PSO report.
 - Number of listed species taken.
 - The date and time of each take.
 - The cause of the take (e.g., impact hammer operating at maximum energy).
 - The time the animal(s) entered the exclusion zone, and, if known, the time it exited the zone.
 - Mitigation measures implemented prior to and after the animal entered the exclusion zone.
- Monthly reports and reports of take will be submitted to:
NMFS Protected Resources Division, Juneau Office NMFS POC. The NMFS point of contact and their information will be determined at time of the informal consultation request, and will be provided to the applicant.

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2. Minimization of unavoidable impacts to waters of the U.S., including wetlands:

Please describe how your project design incorporates measures that minimize the unavoidable impacts to waters of the U.S., including wetlands, by limiting fill discharges to the minimum amount/size necessary to achieve the project purpose.

Impacts to wetlands and other waters of the U.S. have been avoided to the greatest extent possible. However, due to fill placement, there would be unavoidable impacts. The following measures would be implemented to minimize unavoidable impacts associated with the proposed project.

- Minimization of potential impacts to salmonids and EFH species during critical life stage. Timing windows will be incorporated and strictly observed during construction activities for all in-water work to minimize potential adverse effects to salmon during critical life stages. In-water work will be timed to avoid those times when eggs are in the gravel and juvenile salmon are out-migrating as stipulated in the permit special conditions. Once construction has ceased, the proposed project is not expected to measurably impact EFH-listed fish populations at the Downtown Waterfront Improvements project site.
- Minimization of impacts to estuarine intertidal/subtidal habitat. The configuration of the intertidal fill was reduced through the use of a retaining wall and pile supported structures to minimize the amount of fill that would be placed in estuarine intertidal habitats. A pile supported dock was chosen to minimize the project impact while still meeting the project purpose.
- Minimization of potential turbidity impacts during construction. Potential impacts to Gastineau during construction, such as increased turbidity, would be avoided and minimized through implementation of construction techniques and BMPs including placing all fill when the tide is below work elevation such that fill is placed out of the water to avoid suspending sediment.
- Minimization of impacts to bald eagles and migratory birds. The USFWS bald eagle nest atlas shows one nest within the vicinity of the project approximately 0.50 miles from the closest portion of the project site at 58°17'34.30" north, 134°23'32.82"W. Due to this distance from the project and development in the area the Proposed Action is not expected to have impacts on bald eagles or migratory birds in the project area; however, the following measures will be taken to minimize potential impacts.
 - All vegetation between the project site and the nests will be maintained.
 - If bald eagle nest is located closer to the project area during construction, agencies will be contacted and a bald eagle permit will be obtained, if needed, in accordance with 50 CFR Part 22.
- Minimization of impacts from invasive species. Revegetation and planting activities are not anticipated for this work. Should it be necessary, the prevention and establishment of invasive plants during planting and revegetation activities will be accomplished by following the Cooperative Extension Service's "DON'T plant in Alaska" list.

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3. Compensation for unavoidable impacts to waters of the U.S., including wetlands:

Please describe your proposed compensatory mitigation to offset unavoidable impacts to waters of the U.S., or, alternatively, why compensatory mitigation is not appropriate or practicable for your project. Compensatory mitigation involves actions taken to offset unavoidable adverse impacts to waters of the U.S., including wetlands, streams and other aquatic resources (aquatic sites) authorized by Corps permits. Compensatory mitigation may involve the restoration, enhancement, establishment (creation), and/or the preservation of aquatic sites. The three mechanisms for providing compensatory mitigation are mitigation banks, in-lieu fee of mitigation, and permittee-responsible mitigation. Please see the attached definitions for additional information.

The City and Borough of Juneau recognizes that the fill for the retaining wall will result in a minor permanent loss of habitat of 0.08 acres. The City and Borough of Juneau has minimized and avoided impacts to the extent practicable. Water quality will be improved through the removal of creosote treated timber from the marine environment. Due to the minor footprint and temporary nature of impacts of the project on previously placed fill the applicant has determined additional mitigation is warranted.