

Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Employ

STATE OF CONNECTICUT File #LIS-2015-3757-V Date of Issuance: May 26, 2016

v.

TERENCE M. LAMBE, TRUSTEE

I certify that this document is a true copy of a record
(original or photocopy, whichever is applicable)
on file at the Department of Energy and Environmental Protection.
[Signature]
Signature (Your title), Department of Energy and Environmental Protection

CONSENT ORDER

A. The Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. Terence M. Lambe, Trustee ("Respondent") is the owner of 381 River Road, Deep River, CT. The property is located adjacent to Connecticut River, a tidal, coastal and navigable water of the State and includes tidal wetlands as defined by section 22a-29 of the Connecticut General Statutes ("CGS").
2. On or before January 8, 2016 without authorization, Respondent conducted the following work along the shoreline of the property: a) placed approximately 1,845 square feet of 6" diameter riprap along 90 linear feet of shoreline on both sides of an existing dock; b) installed an approximately 3' wide x 4' long boat lift on the northern side of the existing dock out of compliance with permit #200002928-SG issued on February 27, 2003; and c) added an additional 35 linear feet of new fixed pier, access ramp, and four timber piles to the landward side of the existing authorized 75 linear foot long pier out of compliance with permit #200002928-SG. The unauthorized work is depicted on sheets 1, 2, 3 and 6 of 7 dated April 22, 2016, entitled "Plan View and Detail Plan" prepared by Angus McDonald/Gary Sharpe & Associates, Inc., a copy of which is attached hereto as "Attachment A."
3. The property and the location of the work described in paragraph A.2., above, shall hereinafter be referred to as "the site."

4. The site is located within the coastal boundary as defined by section 22a-94 of the GGS, and is subject to the coastal site plan requirements of sections 22a-105, 22a-106, and 22a-109 of the CGS.
 5. Respondent did not receive a certificate or permit from the Commissioner under sections 22a-361 and 22a-32 of the CGS for the work described in paragraph A.2. at the site.
 6. Respondent has not received a lawful coastal site plan approval from the Town of Deep River pursuant to sections 22a-105, 22a-106, and 22a-109 of the CGS for the placement of the riprap described in paragraph A.2., above.
 7. By virtue of the above, Respondent has violated sections 22a-361 and 22a-32 of the CGS.
 8. By virtue of the above, Respondent has created and is maintaining a public nuisance pursuant to section 22a-108 of the CGS.
- B. With the agreement of the Respondent, the Commissioner, acting under CGS sections 22a-6, 22a-361, and 22-32 orders Respondent as follows:
1. Removal of Riprap and Restoration of Tidal Wetlands. Not later than July 30, 2016, Respondent shall complete the work to remove the 6" diameter stone and to establish a vegetative shoreline containing tidal wetlands along the entire shoreline of the site which was impacted by the completed work. Such work shall be completed in accordance with the Commissioner's May 19, 2016 restoration approval letter, a copy of which is attached hereto as "Attachment B."
 2. Retention of Structures. Respondent may retain the work completed to the dock described in paragraph A.2., above, pending a final determination, including a final determination on any appeal, of the Certificate of Permission (COP) application identified in paragraph B.3., below.
 3. COP Application Decision. In the event that the Commissioner's final determination on the COP application #201604791-KR, requires modification or removal of the changes made to the dock described in paragraph A.2., above, Respondent shall, not later than 30 days following issuance of any final decision, submit a timetable to the Commissioner for his review and written approval for the modification or removal of the existing structure(s) in accordance with the terms and conditions of such final decision. Upon the Commissioner's written approval, the Respondent shall remove the dock modifications in accordance with the approved timetable and final decisions.
 4. No Additional Work. Respondent shall not conduct any work waterward of the coastal jurisdiction line or in tidal wetlands at the site without prior written authorization of the

Commissioner in accordance with CGS sections 22a-361 and 22a-32.

5. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the satisfaction of the Commissioner.
6. Penalty for past violations. On or before 30 days after issuance of this Consent Order, the Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000) for the violations of CGS section 22a-361 described in paragraph A.2., above.
7. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the "Connecticut Department of Energy & Environmental Protection," Financial Management Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Energy & Environmental Protection. The check shall state on its face, "Office of Long Island Sound Programs, Consent Order No. LIS-2015-3757-V."
8. Supplemental Environmental Project. In addition to the civil penalty referenced in paragraph B.6, Respondent shall fund the following supplemental environmental project ("SEP") and make payment as follows:
 - a. The Respondent has agreed to fund a supplemental environmental project ("SEP") or projects as selected by the Department according to its February 15, 1996 "Policy on Supplemental Environmental Projects." Therefore, on or before thirty (30) days after the date of issuance of this Consent Order, the Respondent shall pay \$4,000 to the Long Island Sound SEP Account. The payment shall be mailed or personally delivered to the Department of Energy & Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by certified or bank check payable to the "Treasurer, State of Connecticut," with notation thereon "Long Island Sound SEP Account" and "Consent Order No. LIS-2015-3757-V."
 - b. If the Respondent fails to fund the SEP in accordance with paragraph 8.a. above, the Respondent shall immediately pay a civil penalty of \$4,250. The Respondent shall pay such civil penalty in accordance with the provisions of paragraph B.7 of this Consent Order.
 - c. The Respondent shall not claim or represent that any SEP payment made pursuant to this Consent Order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and the Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

- d. If and when the Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, the Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
9. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.
10. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner of Energy & Environmental Protection or an agent of the Commissioner. The date of "issuance" of this Consent Order is the date the Order is deposited in the mail or personally delivered to the Respondent, whichever is earlier.
11. Dates. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Order means calendar day. Any document or action which is required by this Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal legal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.
12. Notification of noncompliance. In the event that Respondent become aware that they did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, Respondent shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, Respondent shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the

Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay. The Commissioner's approval of any revised compliance dates shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

13. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by a duly authorized representative of the Respondent and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense in accordance with CGS Section 22a-6, under CGS Section 53a-157b and in accordance with any other applicable statute."
14. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject Respondent to an injunction and penalties under Chapters 439, and 446i of the General Statutes.
15. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense in accordance with CGS section 22a-6, under CGS section 53a-157b.
16. Notice of transfer; liability of Respondent and others. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the site, structures, obstructions, encroachments, fill, operations or facilities which are the subject of this Consent Order, or obtaining a new mailing or location address. Respondents' obligations under this Consent Order shall not be affected by the passage of title to the site to any other person or municipality. A future owner of the site may be subject to the issuance of an Order from the Commissioner.
17. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any action to prevent or abate violations of law, prevent or abate pollution, recover costs and damages for adverse impacts to natural resources and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner

determines that the actions taken by Respondent pursuant to this Consent Order have not successfully corrected all violations, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to correct violations.

18. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
19. No assurance by Commissioner. No provision of this Consent Order or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the corrective actions taken by Respondent pursuant to this Order will result in compliance with regard to any statute, regulation, permit, order or other authorization not identified hereunder.
20. Access to site. Any representative of the Department of Energy & Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
21. No effect on rights of other persons. This Consent Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order.
22. Notice to Commissioner of changes. Within fifteen days of the date Respondent become aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
23. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order or any contact required to be made with the Commissioner shall, unless otherwise specified in writing by the Commissioner, be directed to:

Kevin Zawoy
Department of Energy & Environmental Protection
Office of Long Island Sound Programs
79 Elm Street
Hartford, CT 06106-5127
(860) 424-3626
Fax # (860) 424-4054

Respondent consent to the issuance of this Consent Order without further notice.

Terence M. Lambe, Trustee
File #LIS-2015-3757-V

7 of 7



Terence M. Lambe, Trustee
co/ Terence M. Lambe, Manager

5-19-2016

Date

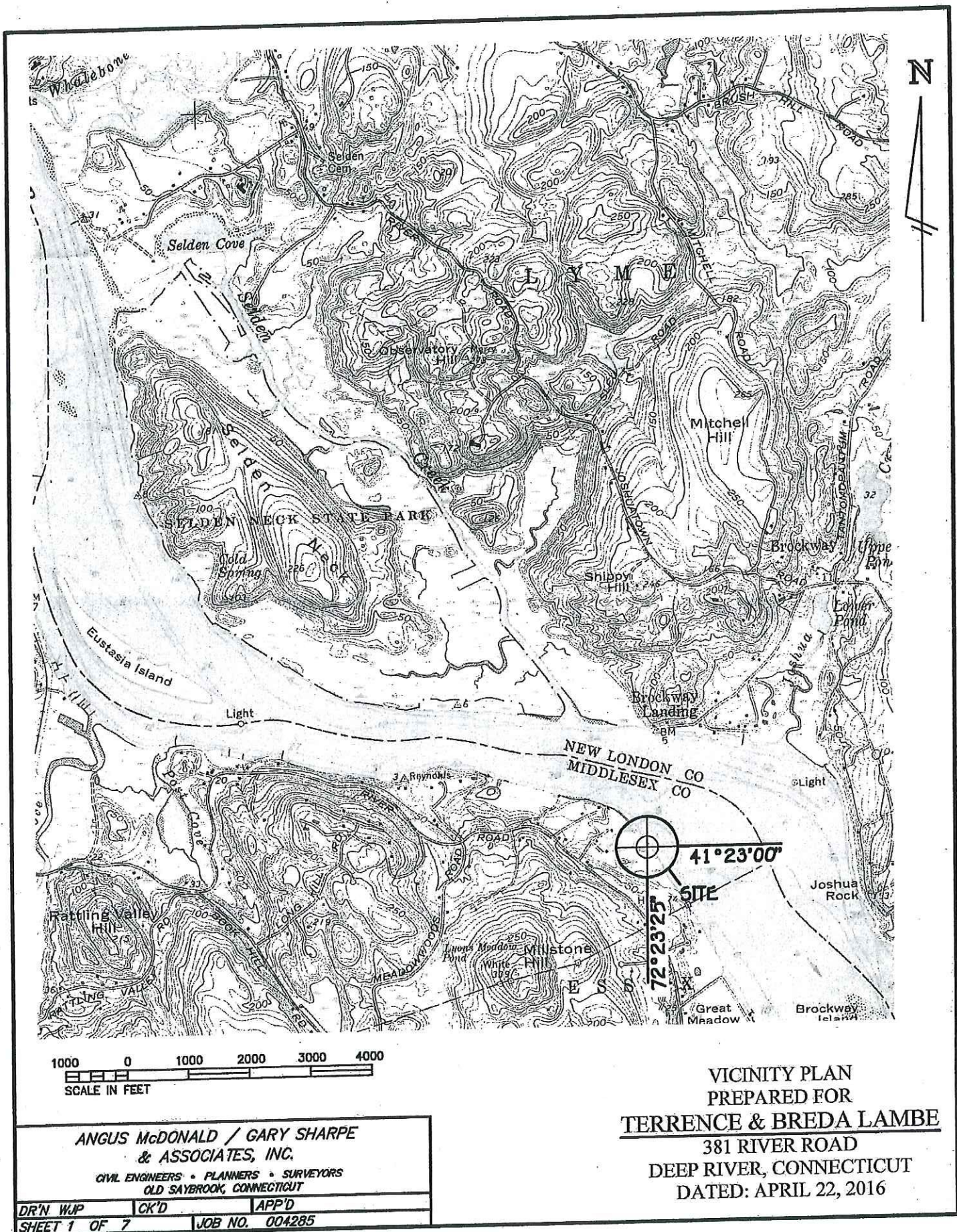
Issued as a final order of the Commissioner of Energy & Environmental Protection on

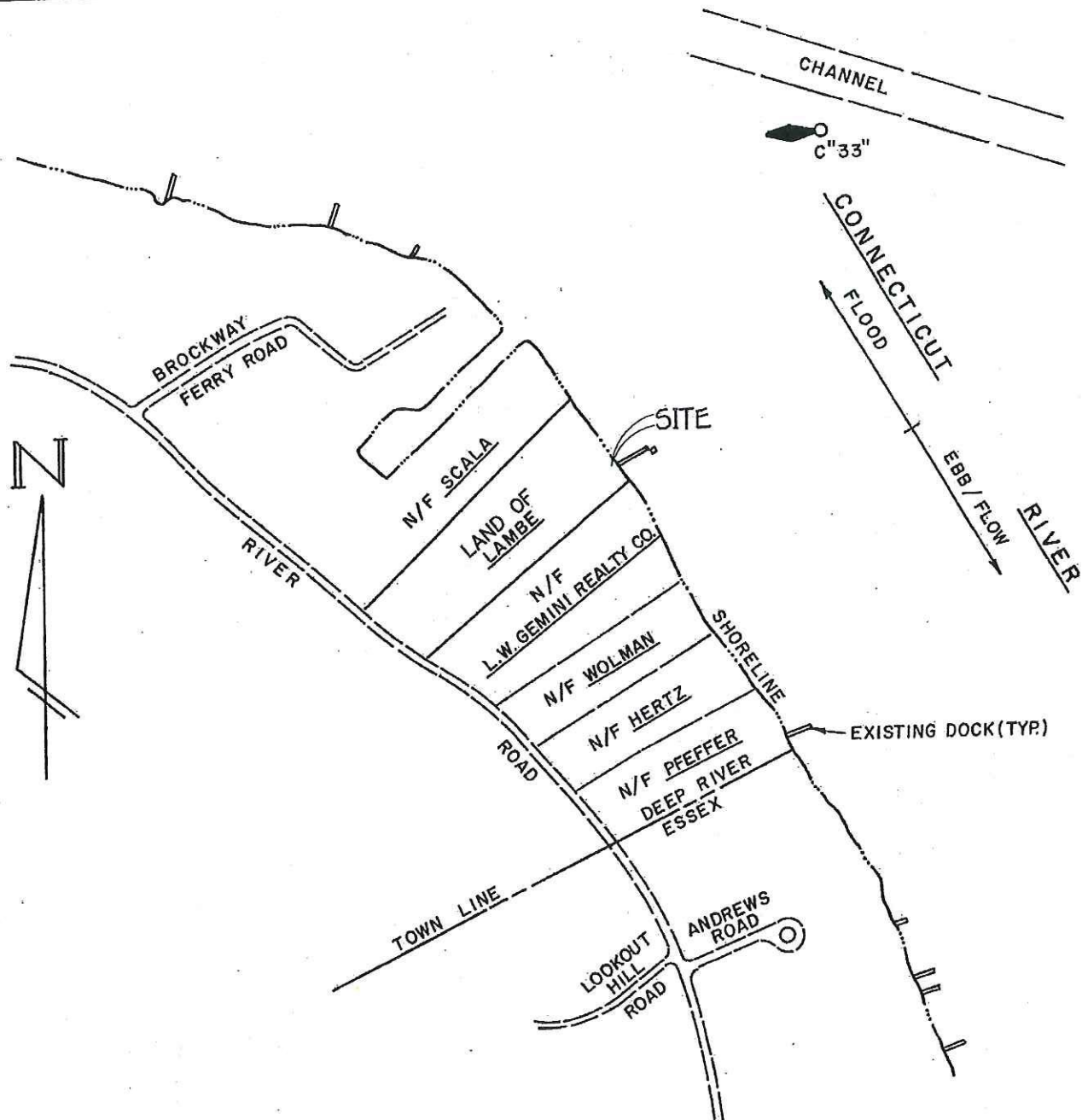
May 26, 2016.



Michael Sullivan
Deputy Commissioner

ATTACHMENT "A"





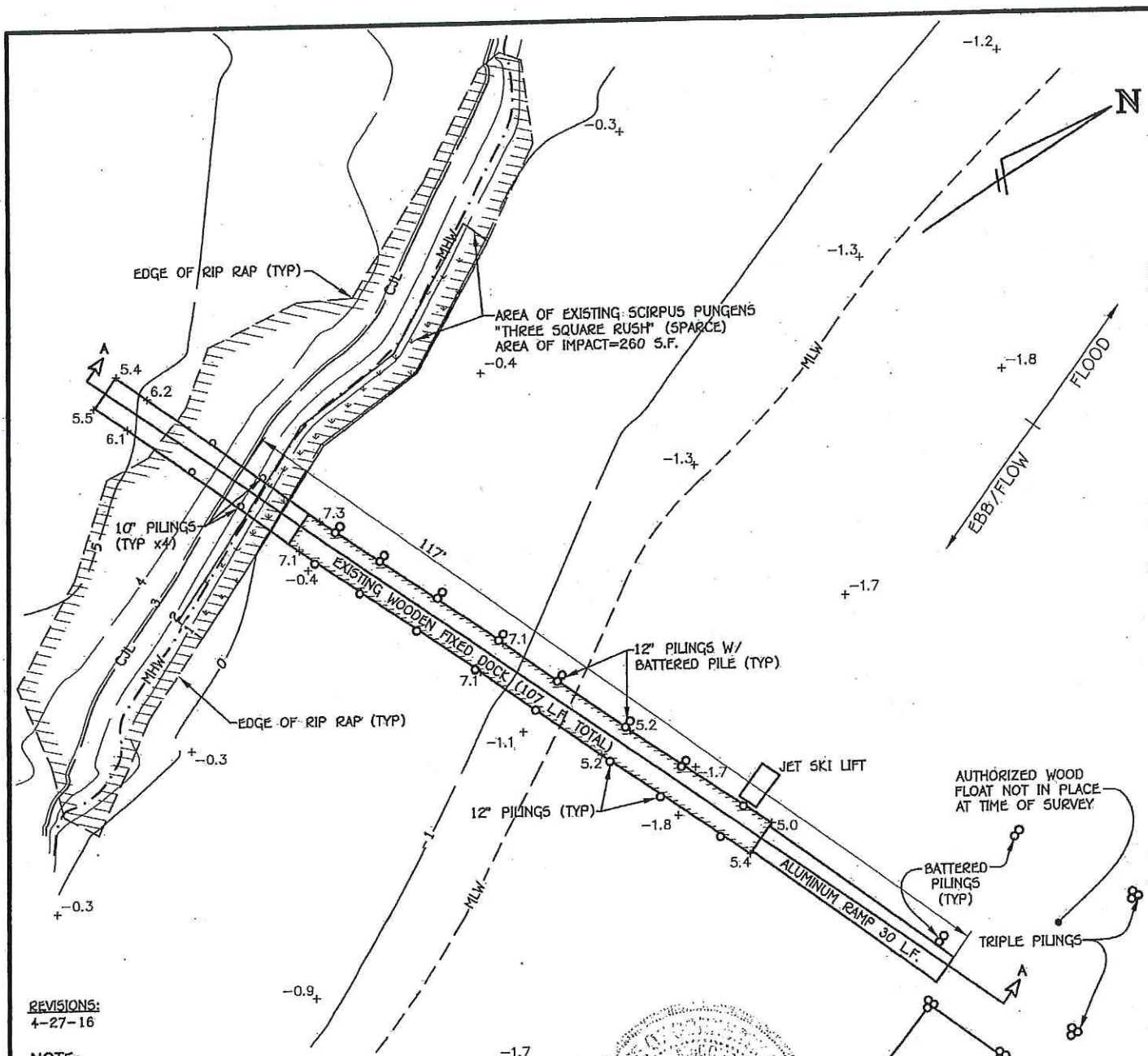
ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.

CIVIL ENGINEERS • PLANNERS • SURVEYORS
OLD SAYBROOK, CONNECTICUT

DR'N WUP CK'D APP'D
SHEET 2 OF 7 JOB NO. 004285

REVISIONS:

AREA PLAN
PREPARED FOR
TERRENCE & BRED A LAMBE
381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016

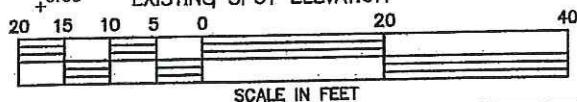


REVISIONS:
4-27-16

NOTE:
ALL ELEVATIONS REFERENCED TO
N.A.V.D. 1988 DATUM.

LEGEND

- 2 — EXISTING CONTOURS
- CJL (2.9) COASTAL JURISDICTION LINE
- MHW (1.4) MEAN HIGH WATER
- MLW (-1.4) MEAN LOW WATER
- +0.00 EXISTING SPOT ELEVATION

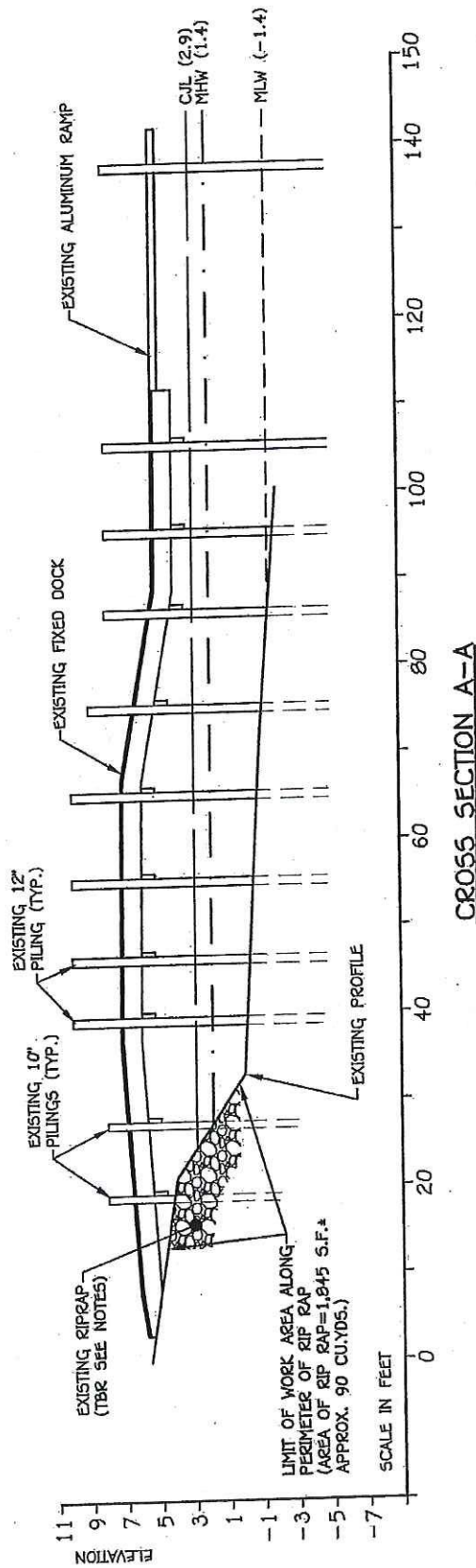


ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.

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OLD SAYBROOK, CONNECTICUT

DR'N W/P	CK'D	APP'D
SHEET 3 OF 7	JOB NO. 004285	

PLAN VIEW
SHOWING EXISTING CONDITIONS
PREPARED FOR
TERRENCE & BRED A LAMBE
381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016



NOTES:

1. EXISTING RIP RAP TO BE REMOVED.
2. RESTORE GRADE TO EXISTING ELEVATIONS (SEE SHEET 7 OF 7 FOR RESTORATION PLANS)
3. WETLAND VEGETATION TO BE PLANTED BY SOIL/WETLANDS SCIENTIST IN THE INTERTIDAL AREA.

NOTE:
ALL ELEVATIONS REFERENCED TO N.A.V.D. 1988 DATUM.

LEGEND

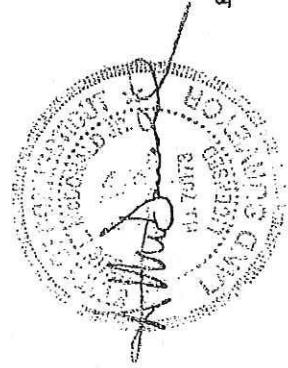
- 2 — EXISTING CONTOURS
- C.L. (2.9) COASTAL JURISDICTION LINE
- M.H.W. (1.4) MEAN HIGH WATER
- M.L.W. (-1.4) MEAN LOW WATER
- TBR TO BE REMOVED

DETAIL PLAN
PREPARED FOR
TERRENCE & BRENDA LAMBE
381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016

REVISIONS:

ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.
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OLD SAYBROOK, CONNECTICUT

DRN: WJP	CK'D	APP'D
SHEET 6 OF 7		JOB NO. 004285





79 Elm Street • Hartford, CT 06106-5127

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Affirmative Action/Equal Opportunity Employer

May 19, 2016

Terence M. Lambe, Trustee
c/o Terence Lambe
381 River Road
Deep River, CT 06417

RE: Restoration Approval Plan, Notice of Non-Compliance #LIS-2015-3757-V, 381 River Road
Town: Deep River

Dear Mr. Lambe:

This Office is in receipt of an April 22, 2016 restoration plan submitted by Angus McDonald/Gary Sharpe & Associates, Inc. proposing to remove placed riprap along the shoreline of the site and restore all areas of adversely impacted tidal wetlands. Such plan has been submitted in response to the above-referenced Notice of Non-Compliance issued on January 26, 2016. Specifically, you are proposing to conduct the following work: 1) remove approximately 90 cubic yards of 6" diameter riprap which has been placed over approximately 1,845 square foot area of shoreline located on both sides of the existing dock; 2) place a non-biodegradable Mirafi 65303 filter fabric or equivalent atop of the new graded 3:1 horizontal to vertical slope; 3) backfill the new graded slope with approximately 70 cubic yards of clean "bank or crushed gravel" as defined by the State of Connecticut DOT form 816, M.02.06, gradation B; 4) place approximately 20 cubic yards of an 8" thick top soil mixture mixed with 30% of small stone atop of the new backfill material; 5) place a non-biodegradable geotextile atop of the topsoil mixture; and 5) establish a tidal wetland by planting the intertidal area with *Panicum virgatum* and *Scripus pungens* 1' on center along the entire newly graded slope and upland grasses landward of the top of slope.

Based upon the information provided by your consultant, the submitted restoration plan a copy of which is included herein as Attachment "A" consisting of 7 sheets of plans, sheets 1, 2, 3 and 6 of 7 dated April 22, 2016 and sheets 4, 5 and 7 of 7 dated April 22, 2016 and revised to May 17, 2016, entitled "Terrance & Breda Lambe" is hereby approved with the following conditions:

1. **The restoration plan does not approve the placement or retention of the 92 square feet of riprap under the existing dock which must be approved under a separate authorization.**
2. All work must be completed no later than July 30, 2016, unless otherwise authorized by the Commissioner in writing;
3. Within 21 days of the completion of the work, Respondent shall submit site photographs

which show pre-work, construction work, and post-work site conditions. Photographs showing that all the riprap was removed from the shoreline prior to the placement of the backfill are the most crucial.

4. The Respondent shall, for a period no less than 2 years, submit annual monitoring report on or before September 30th of each growing season for the Commissioner's review and comment, detailing the status of the tidal wetland planting area. Such monitoring report shall contain at a minimum the following information: 1) visual description of the immediate shoreline areas which identifies the health and vigor of the plants; 2) percent cover of surviving plants; 3) any remedial actions taken during the monitoring year, such as: planting of additional vegetation, removal of invasive plant species, modification of the existing grade, stabilization of the graded slope, etc; 4) any recommendations to improve the health and vigor of the growing plants; and 5) photographs of the tidal wetland planting area.

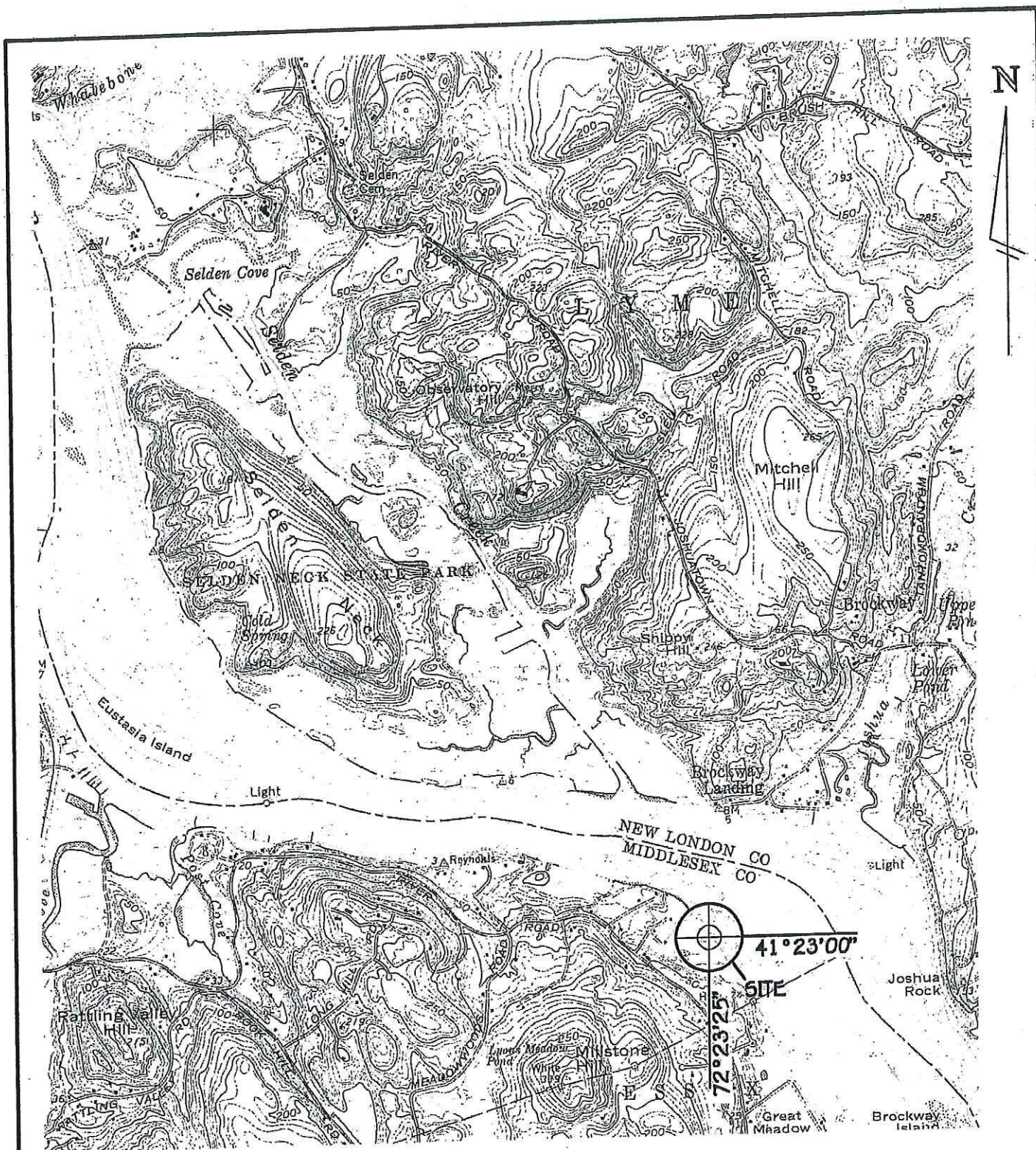
Should you have questions on this matter, please do not hesitate to contact Kevin Zawoy of my staff at (860) 424-3626 or kevin.zawoy@ct.gov. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. P. Thompson', with a long horizontal flourish extending to the right.

Brian P. Thompson, Director
Office of Long Island Sound Programs
Bureau of Water Protection & Land Reuse

cc: Town of Deep River Planning & Zoning Department
Angus McDonald/Gary Sharpe & Associates, Inc.



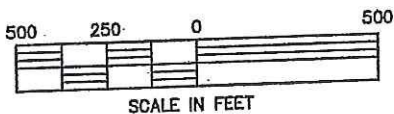
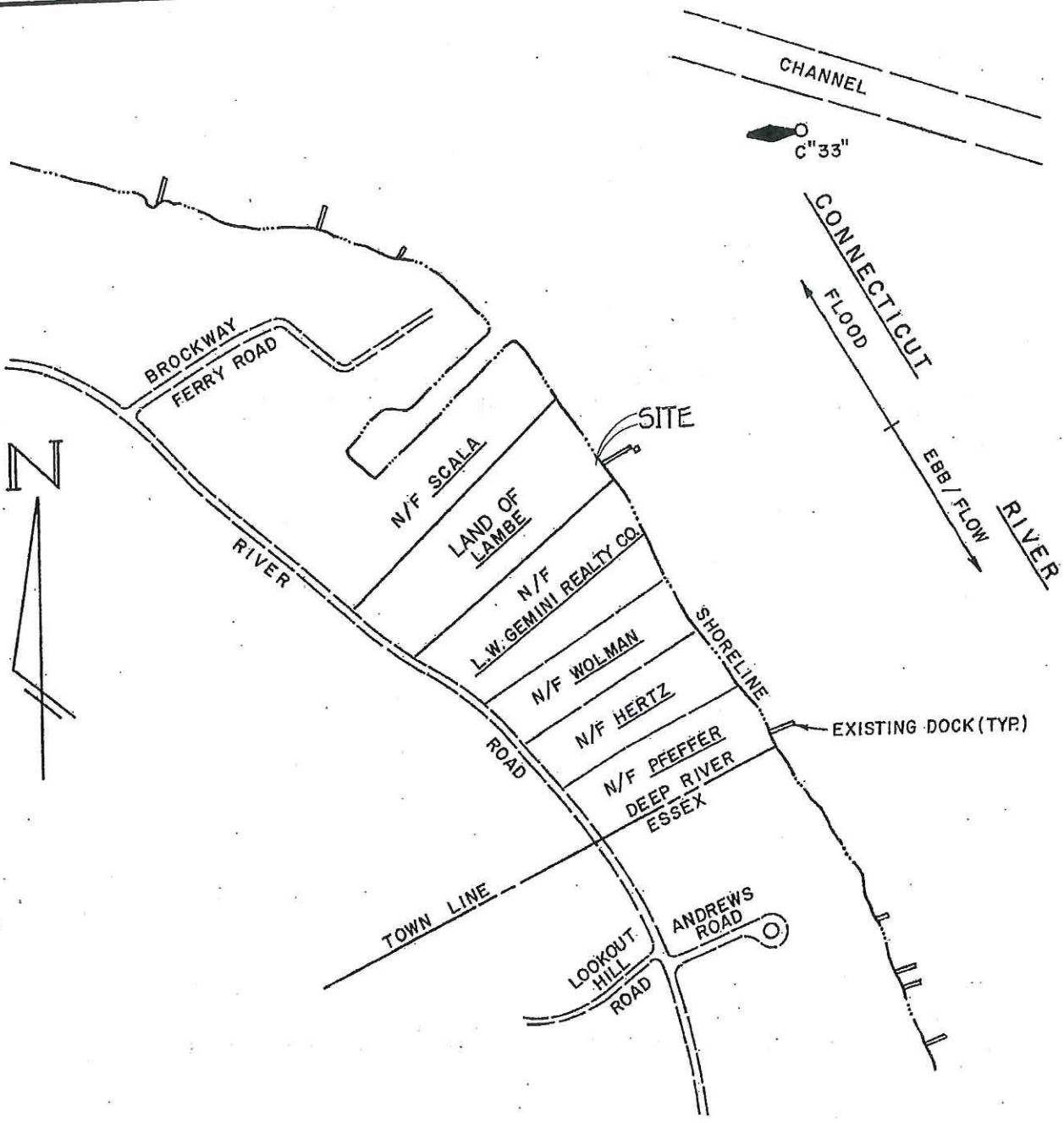
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ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.

CIVIL ENGINEERS • PLANNERS • SURVEYORS
OLD SAYBROOK, CONNECTICUT

DR'N W/P	CK'D	APP'D
SHEET 1 OF 7		JOB NO. 004285

VICINITY PLAN
PREPARED FOR
TERRENCE & BRED A LAMBE
381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016



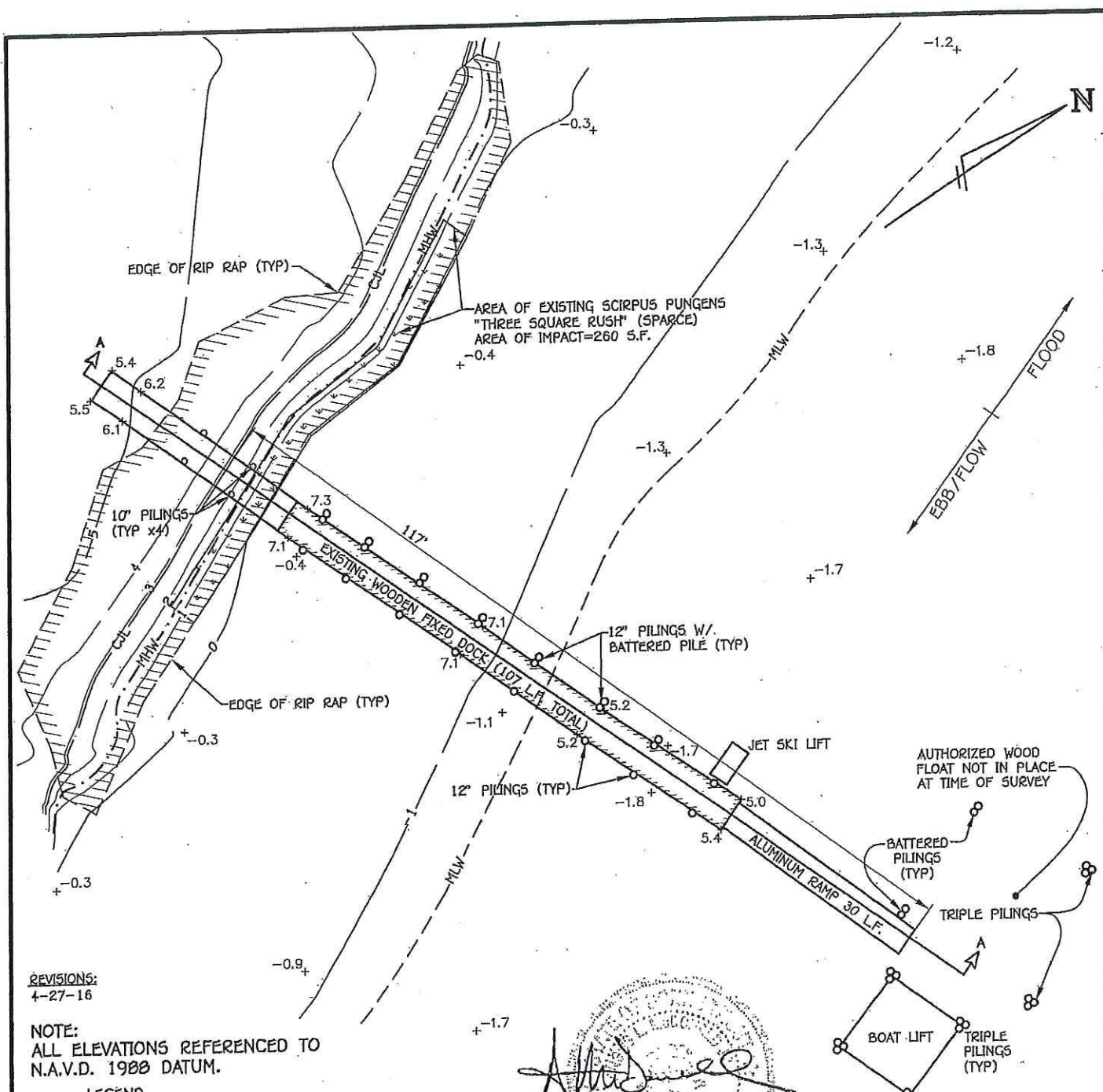
ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.

CIVIL ENGINEERS • PLANNERS • SURVEYORS
OLD SAYBROOK, CONNECTICUT

REVISIONS:

AREA PLAN
PREPARED FOR
TERRENCE & BRED A LAMBE
381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016

DR'N WUP CK'D APP'D
SHEET 2 OF 7 JOB NO. 004285

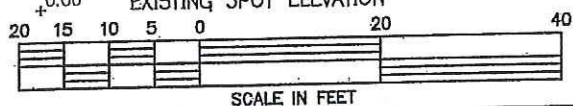


REVISIONS:
4-27-16

NOTE:
ALL ELEVATIONS REFERENCED TO
N.A.V.D. 1988 DATUM.

LEGEND

- 2 — EXISTING CONTOURS
- CJL (2.9) COASTAL JURISDICTION LINE
- MHW (1.4) MEAN HIGH WATER
- MLW (-1.4) MEAN LOW WATER
- +0.00 EXISTING SPOT ELEVATION



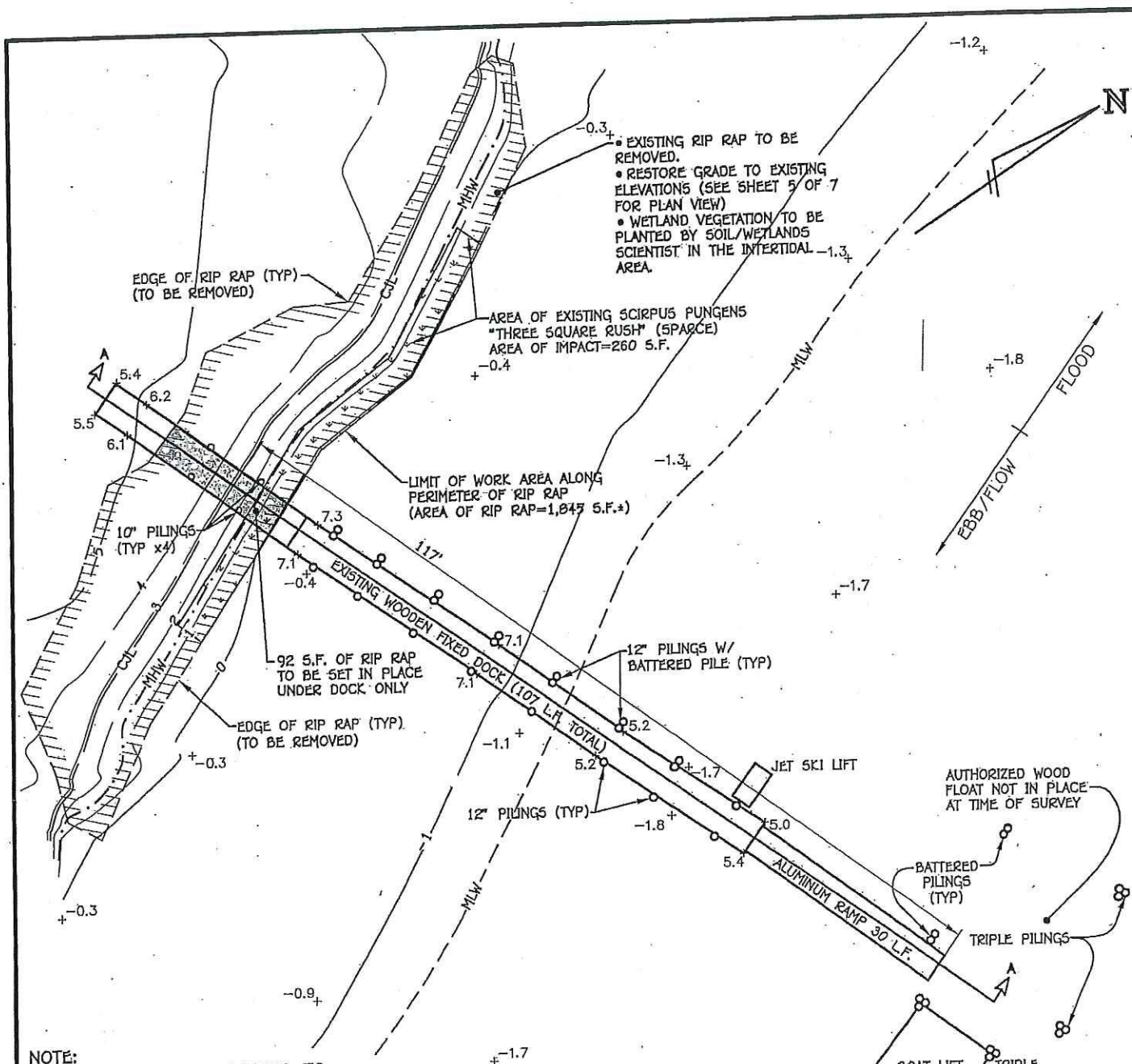
**ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.**

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OLD SAYBROOK, CONNECTICUT

DR'N W/P CK'D APP'D
SHEET 3 OF 7 JOB NO. 004285



PLAN VIEW
SHOWING EXISTING CONDITIONS
PREPARED FOR
TERRENCE & BRED A LAMBE
381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016

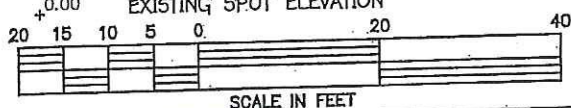


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+0.00 EXISTING SPOT ELEVATION

REVISIONS:
4-27-16
5-17-16



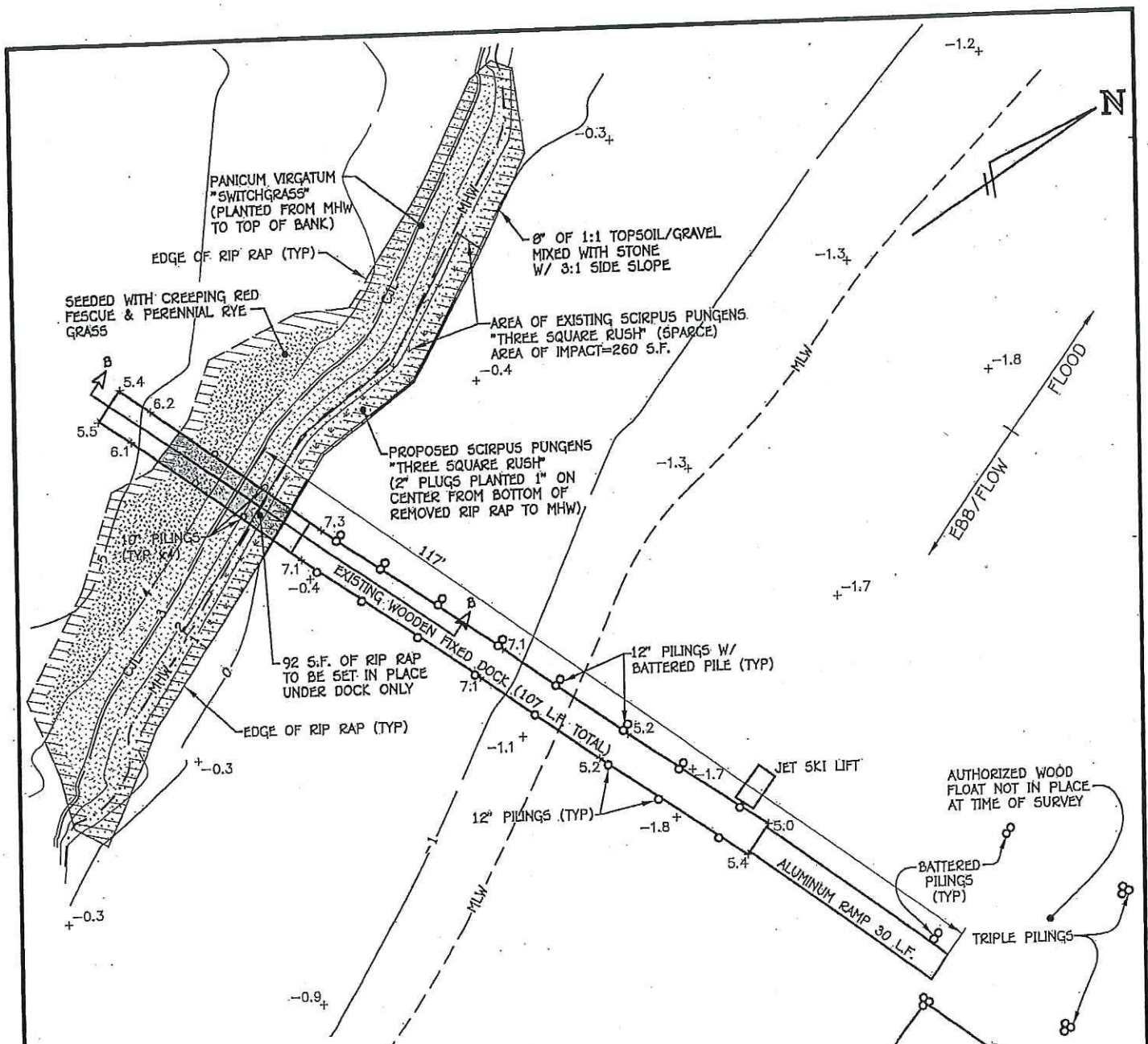
ANGUS McDONALD / GARY SHARPE
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OLD SAYBROOK, CONNECTICUT

DR'N WUP CK'D APP'D
SHEET 4 OF 7 JOB NO. 004285



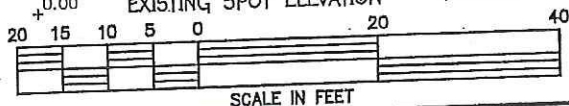
PLAN VIEW
SHOWING PROPOSED CONDITIONS
PREPARED FOR
TERRENCE & BRED A LAMBE
381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016



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ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.

CIVIL ENGINEERS • PLANNERS • SURVEYORS
OLD SAYBROOK, CONNECTICUT

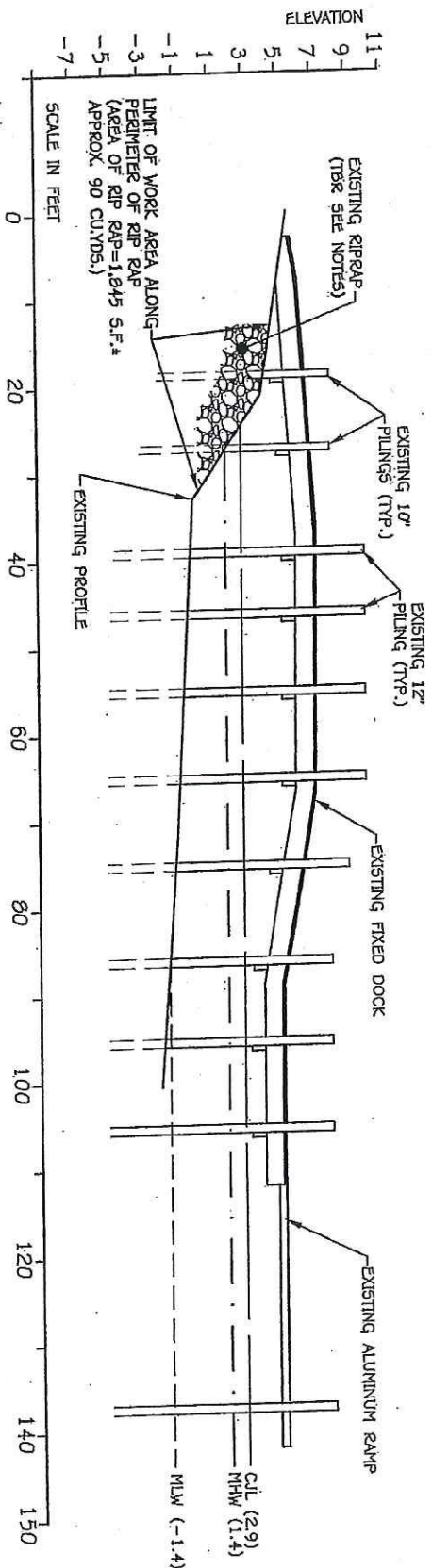
DR'N W/P CK'D APP'D
SHEET 5 OF 7 JOB NO. 004285

NOTES:

1. 2" PLUGS FOR ALL WETLAND VEGETATION PLANTED 1' ON CENTER.
2. WETLAND VEGETATION TO BE PLANTED BY SOIL/WETLANDS SCIENTIST IN THE INTERTIDAL AREA.

REVISIONS:
4-27-16
5-5-16
5-11-16
5-17-16





CROSS SECTION A-A

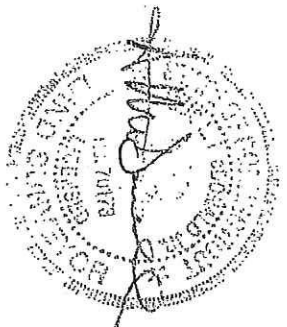
NOTES:

1. EXISTING RIP RAP TO BE REMOVED.
2. RESTORE GRADE TO EXISTING ELEVATIONS. (SEE SHEET 7 OF 7 FOR RESTORATION PLANS)
3. WETLAND VEGETATION TO BE PLANTED BY SOIL/WETLANDS SCIENTIST IN THE INTERTIDAL AREA.

NOTE:
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N.A.V.D. 1988 DATUM.

LEGEND

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- TBR TO BE REMOVED

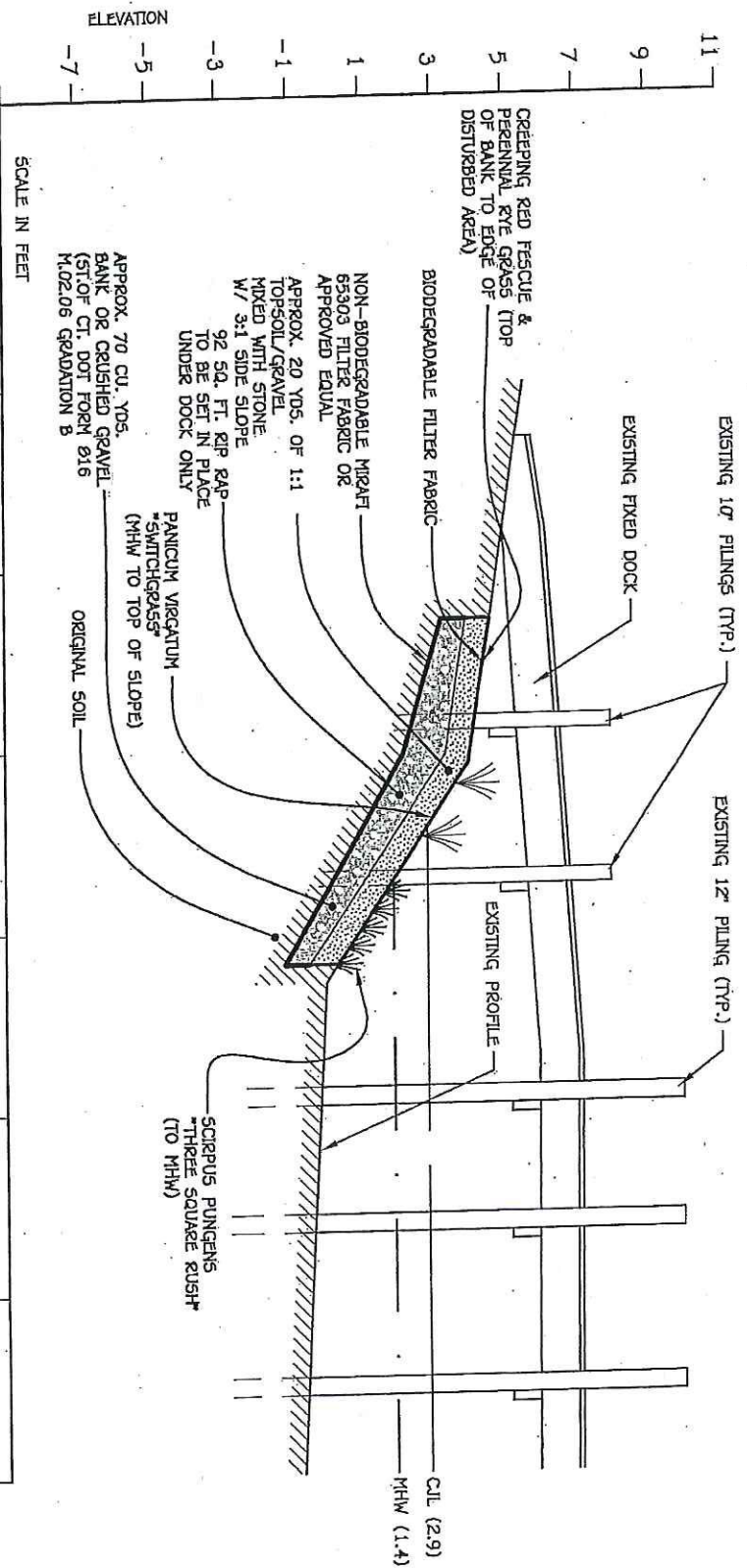


REVISIONS:

DETAIL PLAN
PREPARED FOR
TERRENCE & BREDA LAMBE
381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016

ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.
CIVIL ENGINEERS • PLANNERS • SURVEYORS
OLD SAYBROOK, CONNECTICUT

DRN WLP	OK'D	APP'D
SHEET 6 OF 7		
JOB NO. 004285		



WETLAND PLANTING CROSS SECTION B-B

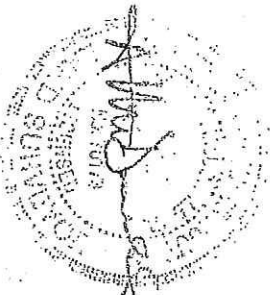
NOTES:

1. 2" PLUGS FOR ALL WETLAND VEGETATION PLANTED 1' ON CENTER.
2. WETLAND VEGETATION TO BE PLANTED BY SOIL/WETLANDS SCIENTIST IN THE INTERTIDAL AREA.
3. DEPTH OF ORIGINAL GRADE TO BE DETERMINED IN FIELD.

NOTE:
ALL ELEVATIONS REFERENCED TO
NAVD. 1988 DATUM.

LEGEND

- 2 — EXISTING CONTOURS
- CUL (2.9) COASTAL JURISDICTION LINE
- MHW (1.4) MEAN HIGH WATER



REVISIONS:
5-5-16
5-11-16
5-17-16

WETLAND PLANTING DETAIL PLAN
PREPARED FOR
TERRENCE & BREDA LAMBE

381 RIVER ROAD
DEEP RIVER, CONNECTICUT
DATED: APRIL 22, 2016

ANGUS McDONALD / GARY SHARPE
& ASSOCIATES, INC.

CIVIL ENGINEERS • PLANNERS • SURVEYORS
OLD SAYBROOK, CONNECTICUT

DRN W/P CKD APPD
SHEET 7 OF 7 JOB NO. 004285

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Amy M. Winchell