



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT  
JACOB K. JAVITS FEDERAL BUILDING  
26 FEDERAL PLAZA  
NEW YORK, NEW YORK 10278-0090

Western Section

September 6, 2023

SUBJECT: Department of the Army Permit Number NAN-2022-00263

Eric Carter  
503 North Broadway  
Upper Nyack, New York 10960

Dear Mr. Carter:

We have completed our review of Application Number NAN-2022-00263-WRY.

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), you are hereby authorized by the Secretary of the Army to:

**ACTIVITY:** Install a 6-foot-8-inch by 112-foot fixed timber pier, supported by twenty-two (22) 12-inch-diameter timber piles installed via vibratory methods. Install a 4-foot by 35-foot gangway to connect the pier to a new 8-foot by 26-foot floating pier, supported by two (2) 16-inch diameter steel pipe piles. The entire structure will extend approximately 137 feet waterward from the plane of Mean Low Water and include decking material that allows 43 percent of sunlight to pass through. All work shall be done in accordance with the attached plans, subject to Special Conditions (A) through (G), which are hereby made part of this permit.

**WATERWAY:** Hudson River

**LOCATION:** Town of Clarkstown, Rockland County, New York

The activity authorized herein must be completed within three years of the date of this permit. This authorization is subject to the enclosed conditions. Please find enclosed two forms to be used to submit to this office, as required, the dates of commencement and completion for the authorized activity.

This letter contains an initial proffered permit for your activity. If you object to this permit decision because of certain terms and conditions therein, you may request that the permit be modified accordingly under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) and Request for Appeal (RFA) form. If you object to this permit decision you must submit a completed RFA form to the New York District Office at:

SUBJECT: Department of the Army Permit Number NAN-2022-00263  
for Eric Carter in the Town of Clarkstown, Rockland County, New York

Stephan A. Ryba  
Chief, Regulatory Branch  
New York District Corps of Engineers  
26 Federal Plaza, Room 16-406  
New York, New York 10278-0090

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the District Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **November 5, 2023**. It is not necessary to submit an RFA form to the District Office if you do not object to the permit decision in this letter.

The authorized activity must be performed in accordance with the enclosed plans. If any material changes in the location or plans of the subject work are found necessary, revised plans should be submitted to the District Engineer. These plans must receive the approval required by law before work begins.

Notice is hereby given that the permittee should recognize that a possibility exists that the structures permitted herein may be subject to wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structures permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

In order for us to better serve you, please complete our Customer Service Survey located at <http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>.

If any questions should arise concerning this matter, please contact Brian A. Orzel, of my staff, at [Brian.A.Orzel@usace.army.mil](mailto:Brian.A.Orzel@usace.army.mil).

Sincerely,



Digitally signed by Rosita  
Miranda  
Date: 2023.09.06 11:21:59  
-04'00'

**FOR AND IN BEHALF OF**  
**ALEXANDER L. YOUNG**  
Colonel, U.S. Army  
Commander and District Engineer

Enclosures

**PERMITTEE: Eric Carter**  
**PERMIT NO.: NAN-2022-00263**

**PERMIT CONDITIONS:**

NOTE: The term "you" and its derivatives, as used in this permit means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or appropriate official of that office acting under the authority of the commanding officer.

**GENERAL CONDITIONS:**

1. The time limit for completing the work authorized ends within three years of the date of this permit. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least four months before the date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party upon written notification to this office. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

- (A) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.**

PERMITTEE: Eric Carter  
PERMIT NO.: NAN-2022-00263

- (B) The permittee and their designated contractors shall use a “soft-start” when pile driving to allow animals an opportunity to leave the project vicinity before sound pressure levels increase. Vibratory pile driving shall be initiated for 15 seconds at reduced energy followed by a one-minute waiting period. This sequence of 15 seconds of reduced energy driving with one-minute waiting period shall be repeated two additional times, followed immediately by pile driving at full rate and energy. In addition to using a soft-start at the beginning of the work-day for pile driving, one must also be used at any time following cessation of pile driving for a period of 30 minutes or longer.
- (C) The permittee shall submit the following information, at a minimum, to the First Coast Guard District and Sector New York by email [D01-SMB-LNM@uscg.mil](mailto:D01-SMB-LNM@uscg.mil) and [SECTORNYWWM@uscg.mil](mailto:SECTORNYWWM@uscg.mil), a minimum of 14 days before starting operations for publication in the Local Notice to Mariners:

Date of submission:

Name, phone number, and email address of project point of contact:

Company name:

Type of work:

Waterway and location where work will be done:

Latitude & Longitude of work area (Degrees, Minutes, Thousandths of seconds):

Work start & stop dates and hours of operation:

Equipment on scene:

Passing arrangements/time to move vessels to not impede navigation:

VHF radio channel monitored:

Disposal site (if used):

NOAA Chart Number for the area:

- (D) The permittee shall notify the National Oceanic and Atmospheric Administration of the project completion and specifications so they may initiate the appropriate chart and Coast Pilot corrections. This notification shall be submitted by email to [ocs.ndb@noaa.gov](mailto:ocs.ndb@noaa.gov), and shall include: a copy of Department of the Army Permit Number NAN-2022-00263; as-built drawings; and a completed NOAA Permit/Public Notice Status Report form, available online at <https://nauticalcharts.noaa.gov/charts/chart-updates.html>.
- (E) The permittee shall ensure any current, or future, outdoor lighting is located or shielded so that it is not confused with any aids to navigation and does not interfere with navigation on the adjacent waterway. If installed, the lights must be white and non-flashing.

**PERMITTEE: Eric Carter**  
**PERMIT NO.: NAN-2022-00263**

- (F) The permittee, and designated contractors, shall avoid steel pile installation from January 15 through June 30 of any calendar year to minimize impacts to winter flounder early life stages and migrating anadromous fish.**
- (G) The permittee, and designated contractors, shall avoid all in-water construction from April 15 through October 31 of any calendar year to avoid impacts to submerged aquatic vegetation growing season.**

**Further Information:**

1. Limits of authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

2. Limits to Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

**PERMITTEE: Eric Carter**  
**PERMIT NO.: NAN-2022-00263**

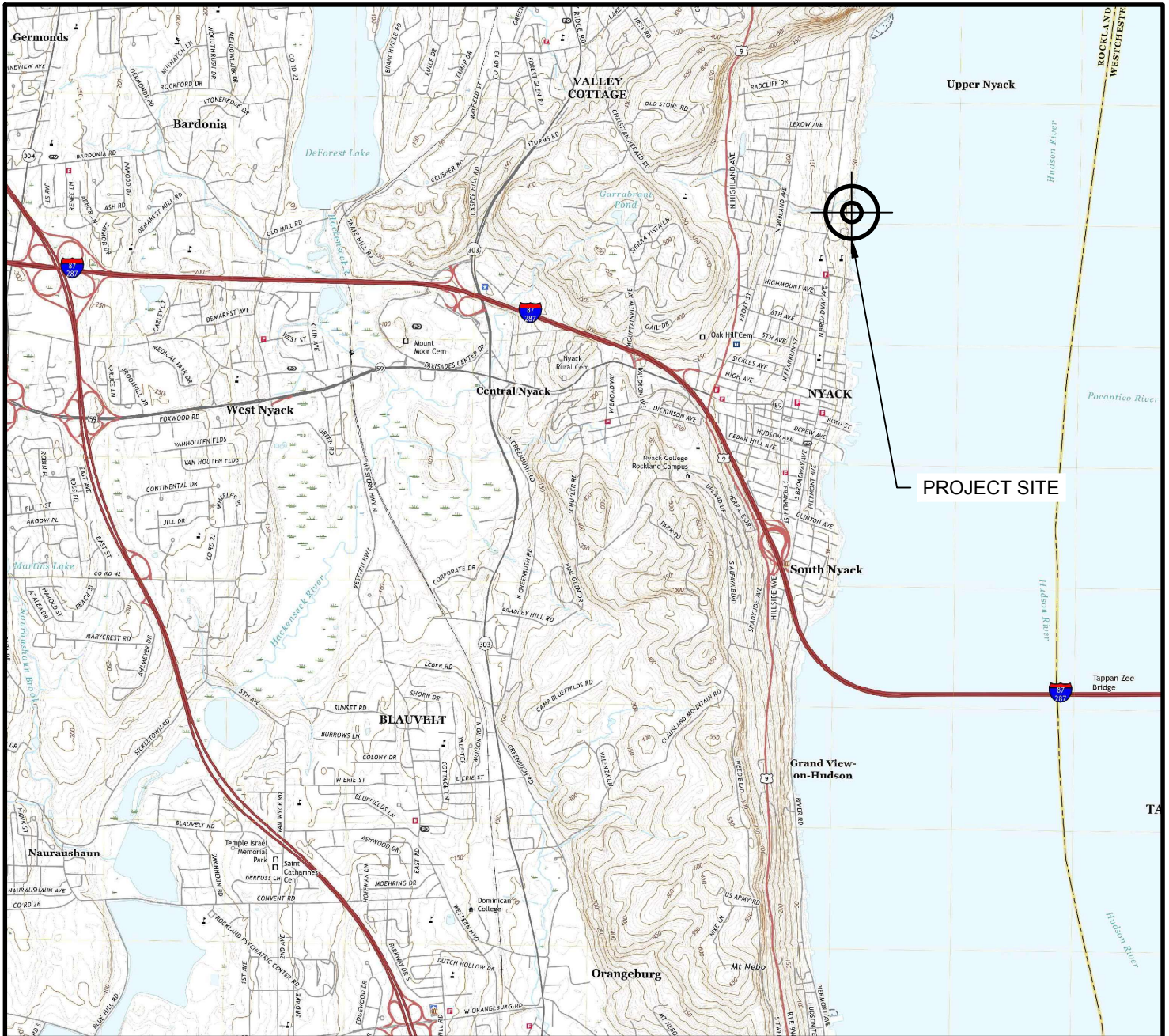
4. **Reevaluation of Permit Decision:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of the permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 3 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

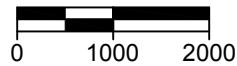
5. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.





**VICINITY MAP**

1" = 2000'



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PROJECT:  
PROPOSED REPAIRS AND IMPROVEMENTS  
TO RIVERFRONT STRUCTURES  
503 NORTH BROADWAY  
UPPER NYACK, NY 10960

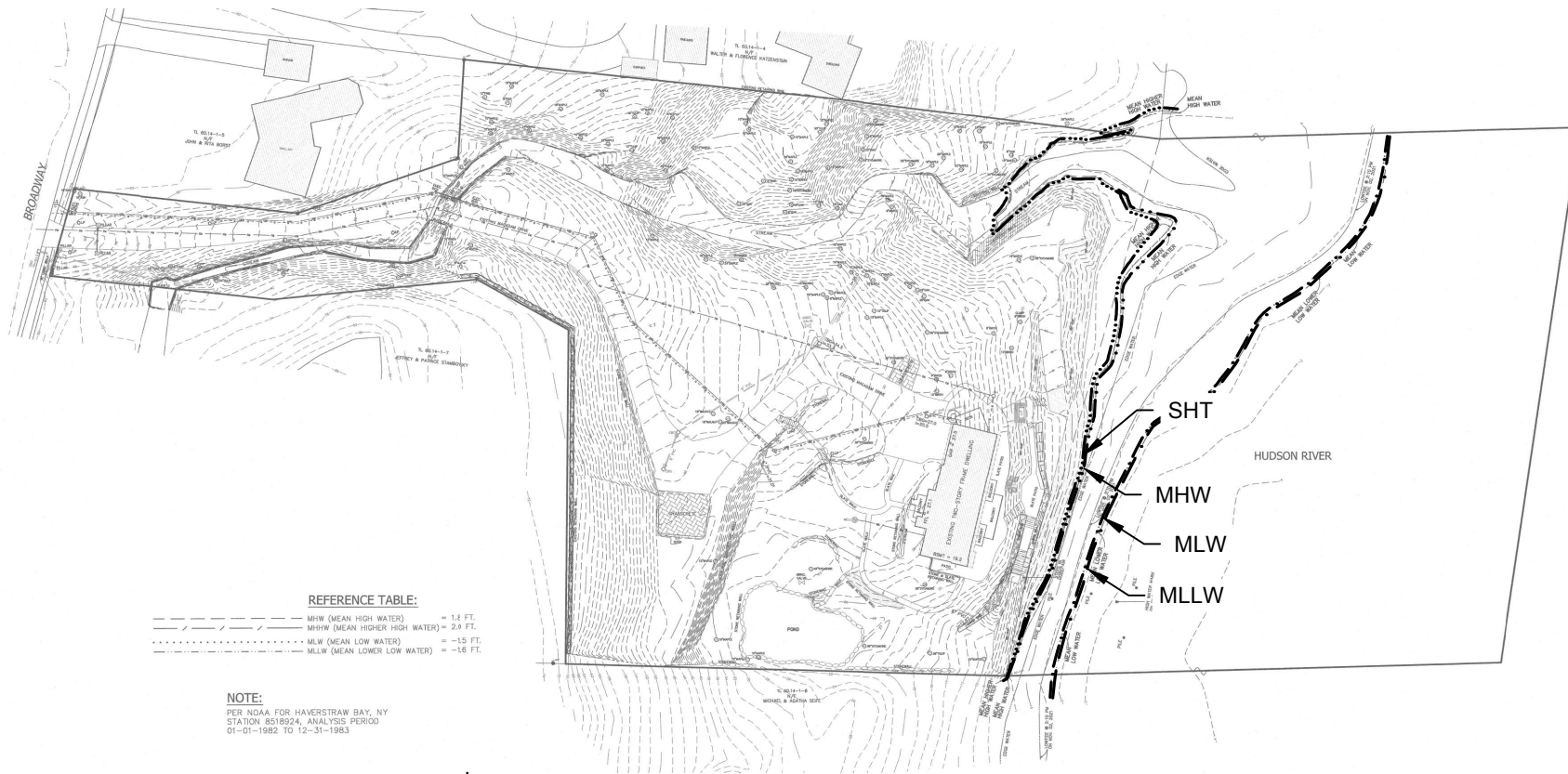
PREPARED FOR:  
ERIC CARTER  
503 NORTH BROADWAY  
UPPPER NYACK, NY 10960

REV:
DATE: 3/1/2022
SCALE: 1" = 2000'
DATUM: NAVD88
PROJECT NO: 2022009
DRAWING NO: 1 / 5

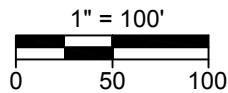
403 NONOPOGE ROAD  
FAIRFIELD, CT 06825

203-556-6136  
SOUNDENGINEERINGASSOCIATES.COM

VALID ONLY WITH ENGINEER'S STAMP



**SITE PLAN**



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**SEA**  
Sound Engineering  
Associates

PROJECT:  
PROPOSED REPAIRS AND IMPROVEMENTS  
TO RIVERFRONT STRUCTURES  
503 NORTH BROADWAY  
UPPPER NYACK, NY 10960

PREPAED FOR:  
ERIC CARTER  
503 NORTH BROADWAY  
UPPPER NYACK, NY 10960

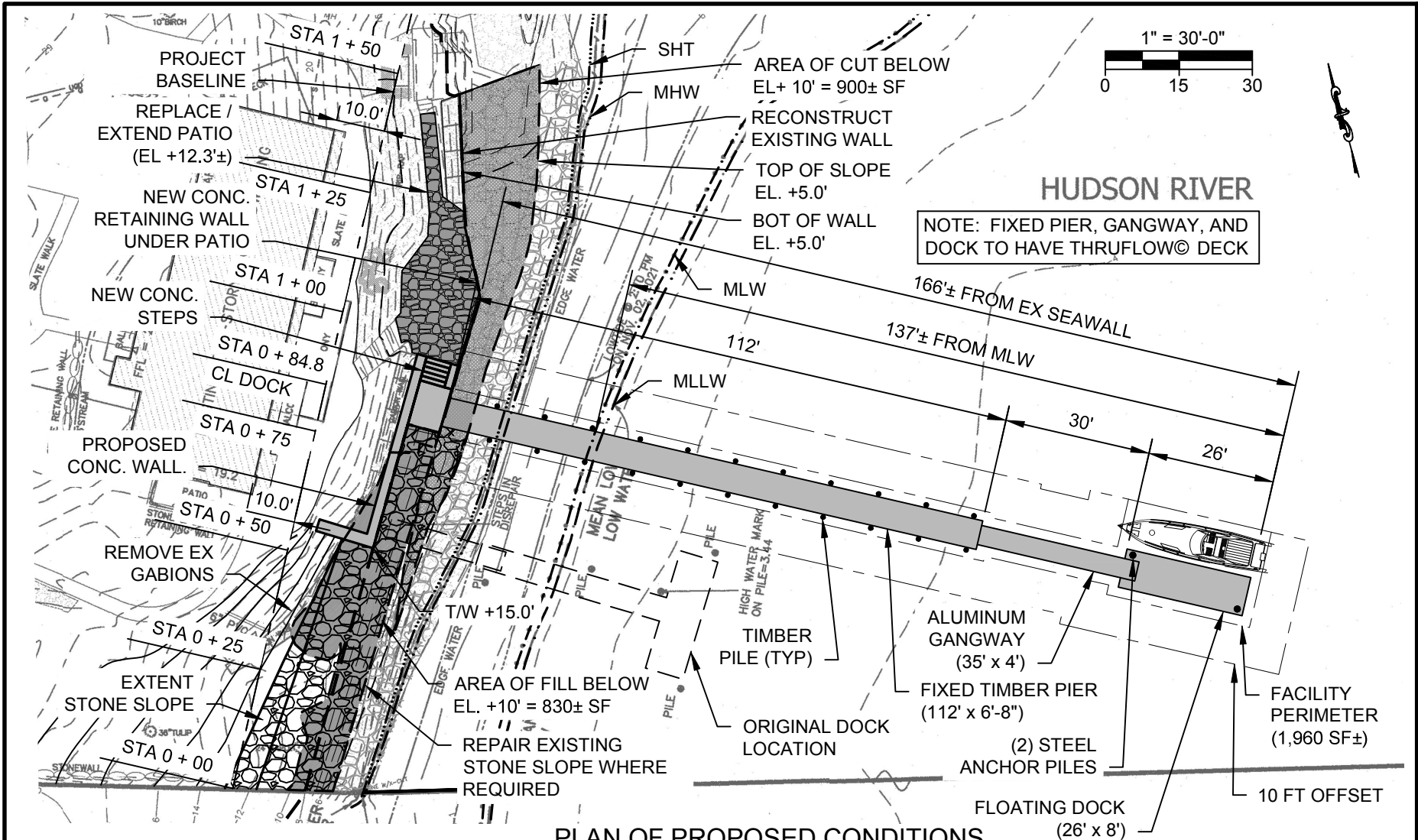
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REV:	3
DATE:	7/20/2022
SCALE:	1" = 100'-0"
DATUM:	NAVD88
PROJECT NO:	2022009
DRAWING NO:	2 / 5

403 NONOPOGE ROAD  
FAIRFIELD, CT 06825

203-556-6136  
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**PLAN OF PROPOSED CONDITIONS**

**LEGEND**

- DAMAGED STRUCTURES
- EXISTING ARMOR STONE
- ACCESS ROAD
- FILL BELOW 10 FT CONTOUR
- CUT BELOW 10 FT CONTOUR
- PROPOSED STRUCTURE
- STONE PATIO
- PROPOSED ARMOR STONE

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**SEA**  
 Sound Engineering  
 Associates

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 FAIRFIELD, CT 06825

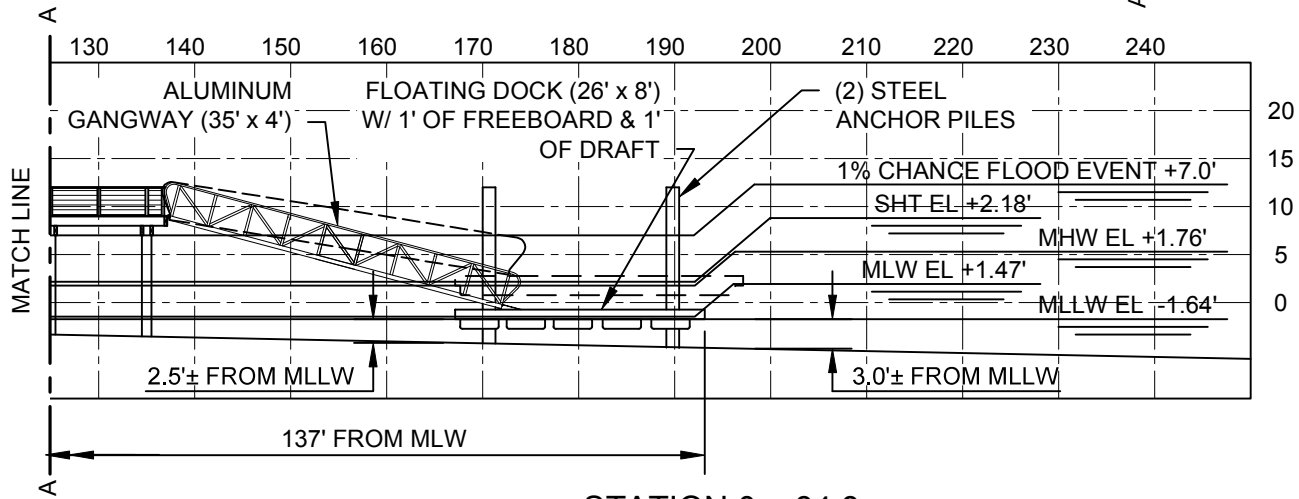
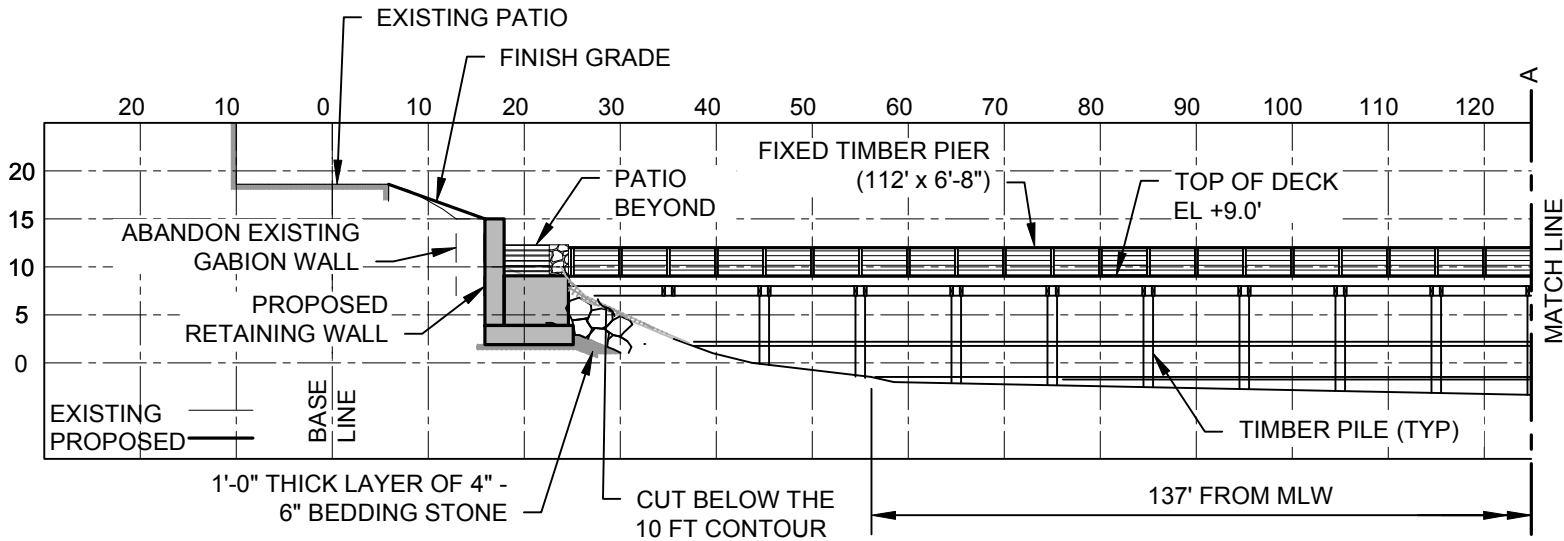
PROJECT:  
 PROPOSED REPAIRS AND IMPROVEMENTS  
 TO RIVERFRONT STRUCTURES  
 503 NORTH BROADWAY  
 UPPER NYACK, NY 10960

PREPARED FOR:  
 ERIC CARTER  
 503 NORTH BROADWAY  
 UPPPER NYACK, NY 10960

203-556-6136  
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REV:	4
DATE:	10/14/2022
SCALE:	1" = 30'-0"
DATUM:	NAVD88
PROJECT NO:	2022009
DRAWING NO:	3 / 5



**STATION 0 + 84.8**  
1" = 20'-0"

**LEGEND**

- DAMAGED STRUCTURES
- EXISTING ARMOR STONE
- ACCESS ROAD
- FILL BELOW 10 FT CONTOUR
- CUT BELOW 10 FT CONTOUR
- PROPOSED STRUCTURE
- STONE PATIO
- PROPOSED ARMOR STONE

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PROJECT:  
PROPOSED REPAIRS AND IMPROVEMENTS  
TO RIVERFRONT STRUCTURES  
503 NORTH BROADWAY  
UPPER NYACK, NY 10960

PREPARED FOR:  
ERIC CARTER  
503 NORTH BROADWAY  
UPPPER NYACK, NY 10960

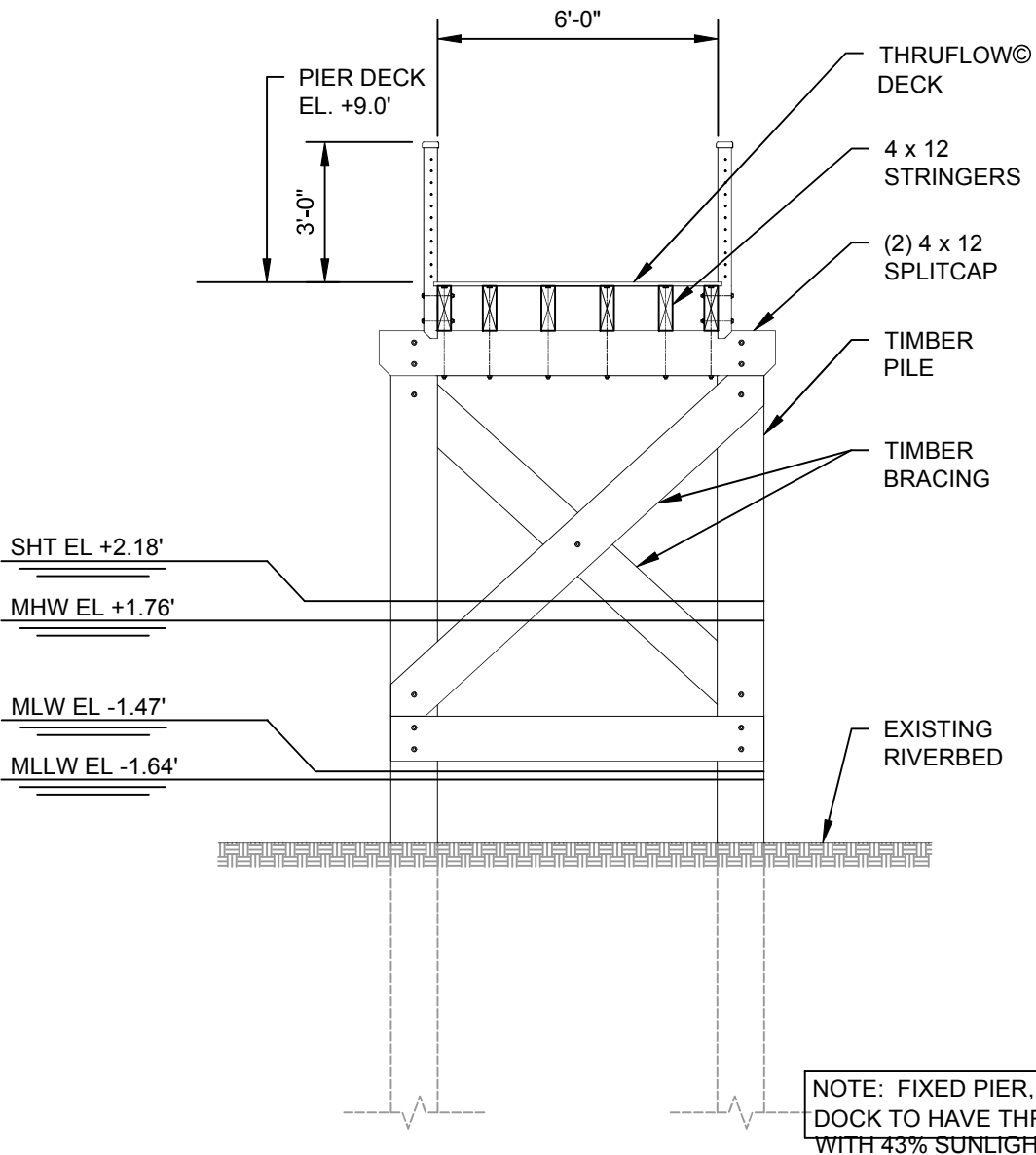
203-556-6136

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REV:	4
DATE:	10/14/2022
SCALE:	1" = 20'-0"
DATUM:	NAVD88
PROJECT NO:	2022009
DRAWING NO:	4 / 5

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**PLAN VIEW**

**SECTION THRU PIER**

1" = 4'-0"



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PROJECT:  
PROPOSED REPAIRS AND IMPROVEMENTS  
TO RIVERFRONT STRUCTURES  
503 NORTH BROADWAY  
UPPER NYACK, NY 10960

PREPAED FOR:  
ERIC CARTER  
503 NORTH BROADWAY  
UPPPER NYACK, NY 10960

REV: 4  
DATE: 10/14/2022  
SCALE: 1" = 4'-0"  
DATUM: NAVD88  
PROJECT NO: 2022009  
DRAWING NO: 5/5

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DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT  
JACOB K. JAVITS FEDERAL BUILDING  
26 FEDERAL PLAZA  
NEW YORK, NEW YORK 10278-0090

CENAN-OP-RW

**IMPORTANT**

This letter must be completed and mailed to the Regulatory Branch at the above address prior to commencement of any work authorized under the permit.

Permittee: Eric Carter Permit No. NAN-2022-00263

Date Permit Issued: September 6, 2023 Expiration Date: September 6, 2026

Waterway: Hudson River

City & State: Clarkstown, New York

Work will commence on or about: \_\_\_\_\_

Name, Address & Telephone Number of Contractor:

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

Fold this form into thirds, with the bottom third facing outward. Tape it together and mail to the address below or FAX to (212) 264-4260. Or email to [CENAN-R-Permit-App@usace.army.mil](mailto:CENAN-R-Permit-App@usace.army.mil)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Place Stamp  
Here

Department of the Army  
New York District Corps of Engineers  
Jacob K. Javits Federal Building  
26 Federal Plaza, Room 16-406  
ATTN: CENAN-OP-RW  
New York, New York 10278-0090



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT**  
**JACOB K. JAVITS FEDERAL BUILDING**  
**26 FEDERAL PLAZA**  
**NEW YORK, NEW YORK 10278-0090**

CENAN-OP-RW

**IMPORTANT**

This letter must be completed and mailed to the Regulatory Branch at the above address following completion or cancellation of work authorized under the permit.

Permittee: Eric Carter

Permit No. NAN-2022-00263

Date Permit Issued: September 6, 2023

Expiration Date: September 6, 2026

Waterway: Hudson River

City & State: Clarkstown, New York

Check and complete applicable item(s) listed below:

- Work was completed on \_\_\_\_\_.
- Work will not be performed on the project.
- Deviation from work authorized in permit is explained below.
- Other (explain) \_\_\_\_\_

- For dredging projects, list the volume of material dredged, and the amount placed at each disposal location (if more than one).
  - \_\_\_\_\_ cubic yards placed at \_\_\_\_\_
  - \_\_\_\_\_ cubic yards placed at \_\_\_\_\_
  - \_\_\_\_\_ cubic yards placed at \_\_\_\_\_

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

Fold this form into thirds, with the bottom third facing outward. Tape it together and mail to the address below **or FAX to (212) 264-4260**. Or email to **CENAN-R-Permit-App@usace.army.mil**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Place Stamp  
Here

Department of the Army  
 New York District Corps of Engineers  
 Jacob K. Javits Federal Building  
 26 Federal Plaza, Room 16-406  
 ATTN: CENAN-OP-RW  
 New York, New York 10278-0090



## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Eric Carter		File Number: NAN-2022-00263-WRY	Date: <b>6 SEP 2023</b>
Attached is:			See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:  
Mr. Stephan A. Ryba  
Chief, Regulatory Branch (CENAN-OP-R)  
NY District, U.S. Army Corps of Engineers  
26 Federal Plaza, Room 16-406  
New York, NY 10278-0090  
Telephone number: 917-790-8512

If you only have questions regarding the appeal process you may also contact:  
Mr. Andrew Dangler  
Regulatory Appeals Review Officer  
U.S. Army Corps of Engineers  
North Atlantic Division - Fort Hamilton  
301 John Warren Avenue – First Floor  
Brooklyn, New York 11252-6700  
Telephone number: 518-487-0215

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number:

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3  
21 South Putt Corners Road, New Paltz, NY 12561-1620  
P: (845) 256-3054 | F: (845) 255-4659  
[www.dec.ny.gov](http://www.dec.ny.gov)



Department of  
Environmental  
Conservation

### **IMPORTANT NOTICE TO ALL PERMITTEES**

The permit you requested is enclosed. Please read it carefully and note the conditions that are included in it. The permit is valid for only that activity expressly authorized therein; work beyond the scope of the permit may be considered a violation of law and be subject to appropriate enforcement action. Granting of this permit does not relieve the permittee of the responsibility of obtaining any other permission, consent or approval from any other federal, state, or local government which may be required.

Please note the expiration date of the permit. Applications for permit extension should be made well in advance of the expiration date (minimum of 30 days) and submitted to the Regional Permit Administrator electronically via email to [dep.r3@dec.ny.gov](mailto:dep.r3@dec.ny.gov). Submission of hard copies is optional.

The DEC permit number & program ID number noted on page 1 under "Permit Authorization" of the permit are important and should be retained for your records. These numbers should be referenced on all correspondence related to the permit, and on any future applications for permits associated with this facility/project area.

If a permit notice sign is enclosed, you must post it at the work site with appropriate weather protection, as well as a copy of the permit per General Condition 1.

If you have any questions on the extent of work authorized or your obligations under the permit, please feel free to contact me.

*Victoria Lawrence*

Victoria Lawrence  
Division of Environmental Permits,  
Region 3



Department of  
Environmental  
Conservation



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**  
ERIC CARTER  
503 N BROADWAY  
NYACK, NY 10960  
(949) 466-5928

**Facility:**  
CARTER PROPERTY  
503 N BROADWAY  
UPPER NYACK, NY 10960

**Facility Location:** in CLARKSTOWN in ROCKLAND COUNTY **Village:** Upper Nyack  
**Facility Principal Reference Point:** NYTM-E: 591.126 NYTM-N: 4551.128  
Latitude: 41°06'22.8" Longitude: 73°54'53.1"

**Project Location:** 503 N Upper Broadway

**Authorized Activity:** This permit authorizes excavation/fill below mean high water associated with shoreline protection and the installation of a 112'x6'8" fixed timber pier, a 35'x4' gangway, and an 8'x26' floating dock with a "thruflow" deck on the Hudson River in strict accordance with the plans referenced in Natural Resource Permit Condition No. 1 and as conditioned in this permit.

**Permit Authorizations**

**Docks, Platforms & Moorings - Under Article 15, Title 5**

Permit ID 3-3920-00632/00003

New Permit

Effective Date: 3/20/2023

Expiration Date: 12/31/2025

**Excavation & Fill in Navigable Waters - Under Article 15, Title 5**

Permit ID 3-3920-00632/00005

New Permit

Effective Date: 3/20/2023

Expiration Date: 12/31/2025

**NYSDEC Approval**

**By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.**

Permit Administrator: REBECCA S CRIST, Deputy Regional Permit Administrator

Address: NYSDEC Region 3 Headquarters  
21 S Putt Corners Rd  
New Paltz, NY 12561

Authorized Signature: Rebecca S. Crist

Date 03 / 20 / 2023



## Distribution List

Eric Carter  
Annie Boggs, TMS Waterfront  
Angela Schimizzi, NYSDEC  
Village of Upper Nyack  
NYSDOS Office of Planning and Development

## Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: DOCKS, PLATFORMS & MOORINGS; EXCAVATION & FILL IN NAVIGABLE WATERS**

- 1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Sound Engineering Associates and are listed in Natural Resource Permit Condition No. 2.
- 2. Conformance with Plans - Addenda** In addition to plans referenced in the Condition titled "Conformance with Plans," the activities authorized by this permit must be in strict conformance with the following approved plans and/or submissions made as part of the permit application: plans prepared by Sound Engineering Associates, titled "Eric Carter Repairs & Improvements to Riverfront Structures", 17 sheets, consisting of the following
  - Drawings 1, 7, 11, 15, and 16, dated 10/14/22, revision 4;
  - Drawing 2, dated 3/1/22, no revisions;
  - Drawings 3-6, 8-10, and 12-14, dated 7/20/22, revision 3; and
  - Drawing 17, dated 9/26/22, revision 1
- 3. Notice of Intent to Commence Work** The permittee shall notify Angela Schimizzi, NYSDEC Division of Marine Resources, via electronic mail ([angela.schimizzi@dec.ny.gov](mailto:angela.schimizzi@dec.ny.gov)) at least 48 hours in advance of the time of commencement.
- 4. Clean Fill Only** All fill shall consist of clean soil, sand and/or gravel that is free of the following substances: asphalt, slag, flyash, broken concrete, demolition debris, garbage, household refuse, tires, woody materials including tree or landscape debris, and metal objects. The introduction of materials toxic to aquatic life is expressly prohibited.





**5. Concrete Leachate** During construction, no wet or fresh concrete or leachate shall be allowed to escape into any wetlands or waters of New York State, nor shall washings from ready-mixed concrete trucks, mixers, or other devices be allowed to enter any wetland or waters. Only watertight or waterproof forms shall be used. Wet concrete shall not be poured to displace water within the forms.

**6. Disposal of Material** Any demolition debris, excess construction materials, and/or excess excavated materials shall be immediately and completely disposed of on an approved upland site more than 100 feet from any regulated waterbody or wetland. These materials shall be suitably stabilized so as not to re-enter any water body, wetland, or wetland adjacent area; and must be disposed of in accordance with all local, state, and federal statutes, regulations, or ordinances.

**7. Install Piles Using Vibratory Methods** Piles shall be installed using vibratory methods. If the piles cannot be installed in this manner and impacts driving must be used, the piling installation must occur between November 1st to December 31st.

**8. No Equipment in the Water** Heavy equipment operation in the water is prohibited. With backhoes and similar heavy equipment, the bucket may enter the water.

**9. No Structures on Dock/Catwalk/Float** No permanent structures may be installed on dock/catwalk/float without first obtaining written approval from the Department.

**10. Use Pressure Treated Wood** Where treated wood lumber is to be used in the construction of in-water structures, only pressure treated wood with a preservative and treatment process approved (stamped or otherwise marked as certified) by the American Wood Preservative Association can be used. Wood treated with CCA (Chromated Copper Arsenate) or ACQ (Alkaline Copper Quat) can be used in all aquatic environments. Wood treated with Pentachlorophenol can only be used in freshwater applications.

**11. Minimize Disturbance to Submerged Aquatic Vegetation** To the maximum practicable extent, disturbances to submerged aquatic vegetation (SAV) must be avoided and minimized.

**12. Construction Activities Prohibited On or Near Water** Cutting, drilling, shaping, and other construction activities shall not be conducted on or near the water where sawdust, chips, or other debris might fall into the water.

**13. Prior Approval of Changes** If the permittee desires to make any minor changes to the scope of work shown in the approved plans referenced in Natural Resource Permit Condition 1, the permittee shall submit a request via email to Angela Schimizzi of the NYSDEC Division of Marine Resources ([angela.schimizzi@dec.ny.gov](mailto:angela.schimizzi@dec.ny.gov)) to make such proposed changes. The proposed changes shall not be implemented unless authorized in writing by the Department. Issuance of such approval without modification of the permit is at the Department's discretion.

**14. Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.



**15. State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

**16. No Interference With Navigation** There shall be no unreasonable interference with navigation by the work herein authorized.

**17. State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

**18. State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

**GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.



**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator  
NYSDEC Region 3 Headquarters  
21 S Putt Corners Rd  
New Paltz, NY12561

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Docks, Platforms & Moorings, Excavation & Fill in Navigable Waters.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.



## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

### **Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

### **Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

### **Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

**Item E: SEQR Type II Action** Under the State Environmental Quality Review Act (SEQR), this project has been determined to be a Type II Action and therefore is not subject to further procedures under this law.

STATE OF NEW YORK  
**DEPARTMENT OF STATE**

ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
HTTPS://DOS.NY.GOV

KATHY HOCHUL  
GOVERNOR

ROBERT J. RODRIGUEZ  
SECRETARY OF STATE

June 16, 2022

Shea Thorvaldsen  
c/o TMS Waterfront  
1 Van Houten Street  
Nyack, NY 10960

Sent via: [shea@tms-waterfront.com](mailto:shea@tms-waterfront.com)

Re: F-2022-0169

U.S. Army Corps of Engineers/ NY District Permit  
Application-NAN-2022-00263-WRY  
NYS DEC Region 3 Application #3-3920-00632/00004-6  
rehabilitate a deteriorated gabion seawall and install a 6.75 ft  
x 112ft timber pier, a 4 ft x 35 ft gangway, an 8 ft x 40.5 ft  
floating dock and two 16-inch diameter steel pipe piles.  
503 North Broadway, Village of Upper Nyack, Rockland  
County, Hudson River.

**Concurrence with Consistency Certification – Proposal  
Modified to be Consistent**

Dear Shea Thorvaldsen:

The Department of State received your Federal Consistency Assessment Form and consistency certification and supporting information for this proposal on March 14, 2022 and received your modification on June 8, 2022.

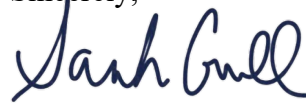
The modifications are as follows: The toe of the rip rap has been shifted to +2.5 ft. to stay above the SHT.

Pursuant to 15 CFR § 930.62, and based upon the project information submitted, the Department of State concurs with your consistency certification, which has been modified to be consistent with the New York State Coastal Management Program. This concurrence is without prejudice to and does not obviate the need to obtain all other applicable licenses, permits, other forms of authorization or approval that may be required pursuant to existing State statutes.



When communicating with us regarding this matter, please contact Rebecca Ferres at (518) 419-7490 (e-mail: <mailto:rebecca.ferres@dos.ny.gov>) and refer to our file #F-2022- 0169.

Sincerely,

A handwritten signature in black ink that reads "Sarah Crowell". The signature is written in a cursive, flowing style.

Sarah Crowell, AICP  
Director, Office of Planning, Development and  
Community Infrastructure

SC/rf

cc: COE/ NY District- Alexandra Ryan  
DEC Region-Victoria A. Lawrence  
Annie Boggs, TMS Waterfront  
Applicant- Eric Carter via [ecarter913@aol.com](mailto:ecarter913@aol.com)

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