

# ***SCHNEIDER, DAVIGNON & LEONE, INC.***

PROFESSIONAL CIVIL ENGINEERS & LAND SURVEYORS

N. DOUGLAS SCHNEIDER, P.E., P.L.S.  
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DAVID M. DAVIGNON, P.E.  
JAY MCKINNON, E.I.T.

April 8, 2020

## DEPARTMENT OF ENVIRONMENTAL PROTECTION WATERWAYS REGULATION PROGRAM

Notice of License Application Pursuant to M.G.L. Chapter 91

**Waterways License Application Number W20-5732**

Site Location: 226 Popes Island, New Bedford

**Owner/Applicant: Harborview, LLC**

Pursuant to 310 CMR 9.13(1)(a), the Applicant is required to provide this notification, along with a copy of the project site plans submitted with the Waterways License Application, to the appropriate municipal officials, regulatory agencies and abutters to the project for their review and comment (see mailing list below). The applicant shall send the notice of license or permit application by certified mail to the attached list of abutters and notify the Department when completed.

### ***CERTIFIED MAILING LIST***

City of New Bedford  
City Council  
133 William Street – Room 215  
New Bedford, MA 02740

City of New Bedford  
Planning Board  
133 William Street – Room 303  
New Bedford, MA 02740

City of New Bedford  
Conservation Commission  
DEP File No. 49-848  
133 William Street – Room 304  
New Bedford, MA 02740

City of New Bedford  
Harbor Development Commission  
52 Fisherman's Wharf, P.O. Box 50899  
New Bedford, MA 02745  
Attn: Edward Anthes-Washburn, Deputy Port Director

Coastal Zone Management  
Attn: Robert Boeri  
251 Causeway St., Suite 800  
Boston, MA 02114

Division of Fish & Wildlife  
Field Headquarters - Attn: Emily Holt  
1 Rabbit Hill Road  
Westboro, MA 01581

Division of Marine Fisheries  
836 So. Rodney French Boulevard  
New Bedford, MA 02744  
Attn: Environmental Reviewer

U.S. Army Corp. of Engineers  
Attn: Bettina Chaisson  
696 Virginia Road  
Concord, MA 01742-2751

Map #60, Lot #2  
City of New Bedford, Marine Park  
131 William Street  
New Bedford, MA 02740

cc: File 3242  
DEP- Waterways Dept.

Lars Vinjerud  
20 Blackmer Street  
New Bedford, MA 02744-2614

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WATERWAYS REGULATION PROGRAM**

**Notice of License Application Pursuant to M.G.L. Chapter 91  
Waterways License Application Number W20-5732  
Harborview, LLC**

**NOTIFICATION DATE: April 14, 2020**

Public notice is hereby given of the waterways application by Harborview, LLC to replace an existing pile supported pier with a concrete wave attenuator at 226 Popes Island, in the municipality of New Bedford, in and over flowed tidelands of New Bedford Harbor (Acushnet River). The proposed project has been determined to be water-dependent.

The Department will consider all written comments on this Waterways application received within 30 days subsequent to the "Notification Date". Failure of any aggrieved person or group of ten citizens or more, with at least five of the ten residents residing in the municipality(s) in which the license or permitted activity is located, to submit written comments to the Waterways Regulation Program by the Public Comment Deadline will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c).

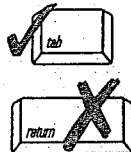
Additional information regarding this application may be obtained by contacting the Waterways Regulation Program at (508) 946-2873. Project plans and documents for this application are on file with the Waterways Regulation Program for public viewing, by appointment only, at the address below.

Written comments must be addressed to: Carlos T.B. Fragata, Environmental Analyst, DEP Waterways Regulation Program, 20 Riverside Drive, Lakeville, MA 02347.

**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Waterways Regulation Program  
**Chapter 91 Waterways License Application** - 310 CMR 9.00  
Water-Dependent, Nonwater-Dependent, Amendment

X284803  
Transmittal No.

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



For assistance in completing this application, please see the "Instructions".

## A. Application Information (Check one)

**NOTE:** For Chapter 91 Simplified License application form and information see the Self Licensing Package for BRP WW06.

Name (Complete Application Sections)	Check One	Fee	Application #
<b>WATER-DEPENDENT -</b>			
<b>General (A-H)</b>	<input type="checkbox"/> Residential with $\leq 4$ units	\$215.00	BRP WW01a
	<input checked="" type="checkbox"/> Other	\$330.00	BRP WW01b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW01c
<b>Amendment (A-H)</b>	<input type="checkbox"/> Residential with $\leq 4$ units	\$100.00	BRP WW03a
	<input type="checkbox"/> Other	\$125.00	BRP WW03b
<b>NONWATER-DEPENDENT -</b>			
<b>Full (A-H)</b>	<input type="checkbox"/> Residential with $\leq 4$ units	\$665.00	BRP WW15a
	<input type="checkbox"/> Other	\$2,005.00	BRP WW15b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW15c
<b>Partial (A-H)</b>	<input type="checkbox"/> Residential with $\leq 4$ units	\$665.00	BRP WW14a
	<input type="checkbox"/> Other	\$2,005.00	BRP WW14b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW14c
<b>Municipal Harbor Plan (A-H)</b>	<input type="checkbox"/> Residential with $\leq 4$ units	\$665.00	BRP WW16a
	<input type="checkbox"/> Other	\$2,005.00	BRP WW16b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW16c
<b>Joint MEPA/EIR (A-H)</b>	<input type="checkbox"/> Residential with $\leq 4$ units	\$665.00	BRP WW17a
	<input type="checkbox"/> Other	\$2,005.00	BRP WW17b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW17c
<b>Amendment (A-H)</b>	<input type="checkbox"/> Residential with $\leq 4$ units	\$530.00	BRP WW03c
	<input type="checkbox"/> Other	\$1,000.00	BRP WW03d
	<input type="checkbox"/> Extended Term	\$1,335.00	BRP WW03e

**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Waterways Regulation Program  
**Chapter 91 Waterways License Application** - 310 CMR 9.00  
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**B. Applicant Information Proposed Project/Use Information**

1. Applicant:

Harborview, LLC

Name

[REDACTED]

E-mail Address

20 Blackmer Street

Mailing Address

New Bedford

City/Town

MA

State

02744-2614

Zip Code

(508) 789-3067

Telephone Number

[REDACTED]

Fax Number

Note: Please refer  
to the "Instructions"

2. Authorized Agent (if any):

David M. Davignon, P.E.

Name

dsquared3368@yahoo.com

E-mail Address

Schneider, Davignon & Leone, Inc.

Mailing Address

Mattapoisett

City/Town

MA

State

02739

Zip Code

(508) 758-7866

Telephone Number

(508) 758-6493

Fax Number

**C. Proposed Project/Use Information**

1. Property Information (all information must be provided):

same as applicant

Owner Name (if different from applicant)

Map #60, Lot #11

Tax Assessor's Map and Parcel Numbers

N41-38'-18.48"

Latitude

W70-54'-

56.13"

226 Popes Island, New Bedford

Street Address and City/Town

MA

State

02740

Zip Code

2. Registered Land ☐ Yes ☒ No

3. Name of the water body where the project site is located:

New Bedford Harbor (a.k.a Acushnet River)

4. Description of the water body in which the project site is located (check all that apply):

Type

Nature

Designation

☐ Nontidal river/stream

☒ Natural

☐ Area of Critical Environmental Concern

☒ Flowed tidelands

☐ Enlarged/dammed

☐ Designated Port Area

☐ Filled tidelands

☐ Uncertain

☐ Ocean Sanctuary

☐ Great Pond

☒ Uncertain

☐ Uncertain

**Massachusetts Department of Environmental Protection**  
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**C. Proposed Project/Use Information (cont.)**

Select use(s) from  
Project Type Table  
on pg. 2 of the  
"Instructions"

5. Proposed Use/Activity description

The Applicant proposes to remove approximately 305 ft. of fixed pile supported pier and replace it with a gangway and concrete wave attenuator floating dock.

6. What is the estimated total cost of proposed work (including materials & labor)?

\$1,400,000.00

7. List the name & complete mailing address of each abutter (attach additional sheets, if necessary). An abutter is defined as the owner of land that shares a common boundary with the project site, as well as the owner of land that lies within 50' across a waterbody from the project.

City of New Bedford

131 William Street, New Bedford, MA 02740

Name

Address

Name

Address

Name

Address

**D. Project Plans**

1. I have attached plans for my project in accordance with the instructions contained in (check one):

☒ Appendix A (License plan)

☐ Appendix B (Permit plan)

2. Other State and Local Approvals/Certifications

☐ 401 Water Quality Certificate

Date of Issuance

☒ Wetlands

Pending

File Number

☐ Jurisdictional Determination

JD-

File Number

☐ MEPA

File Number

☐ EOEA Secretary Certificate

Date

☐ 21E Waste Site Cleanup

RTN Number

**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Waterways Regulation Program  
**Chapter 91 Waterways License Application** - 310 CMR 9.00  
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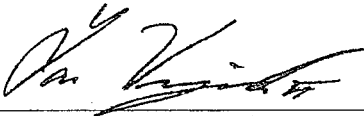
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**E. Certification**

All applicants, property owners and authorized agents must sign this page. All future application correspondence may be signed by the authorized agent alone.

"I hereby make application for a permit or license to authorize the activities I have described herein. Upon my signature, I agree to allow the duly authorized representatives of the Massachusetts Department of Environmental Protection and the Massachusetts Coastal Zone Management Program to enter upon the premises of the project site at reasonable times for the purpose of inspection."

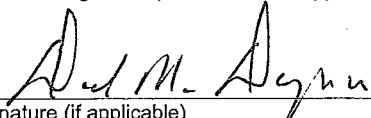
"I hereby certify that the information submitted in this application is true and accurate to the best of my knowledge."

  
Applicant's signature

12/5/2019  
Date

Property Owner's signature (if different than applicant)

Date

  
Agent's signature (if applicable)

12-13-19  
Date

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## F. Waterways Dredging Addendum

1. Provide a description of the dredging project

☐ Maintenance Dredging (include last dredge date & permit no.) ☐ Improvement Dredging

n/a

Purpose of Dredging

2. What is the volume (cubic yards) of material to be dredged?

n/a

3. What method will be used to dredge?

☐ Hydraulic

☐ Mechanical

☐ Other

4. Describe disposal method and provide disposal location (include separate disposal site location map)

n/a

- 
5. Provide copy of grain size analysis. If grain size is compatible for beach nourishment purposes, the Department recommends that the dredged material be used as beach nourishment for public beaches. **Note:** In the event beach nourishment is proposed for private property, pursuant to 310 CMR 9.40(4)(a)1, public access easements below the existing high water mark shall be secured by applicant and submitted to the Department.

**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Waterways Regulation Program  
**Chapter 91 Waterways License Application** - 310 CMR 9.00  
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Transmittal No.

**G. Municipal Zoning Certificate**

Harborview, LLC

Name of Applicant

226 Popes Island

Project street address

New Bedford Harbor / Acushnet  
River

New Bedford  
City/Town

Description of use or change in use:

The Applicant proposes to remove approximately 305 ft. of fixed pile supported pier and replace it with a gangway and concrete wave attenuator floating dock.

**To be completed by municipal clerk or appropriate municipal official:**

"I hereby certify that the project described above and more fully detailed in the applicant's waterways license application and plans is not in violation of local zoning ordinances and bylaws."

DANNY D. ROMANOWICZ

Printed Name of Municipal Official

12/30/19  
Date

*Danny D. Romanowicz*

Signature of Municipal Official

Commissioner of Buildings  
Title

New Bedford  
City/Town



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Waterways Regulation Program  
**Chapter 91 Waterways License Application** - 310 CMR 9.00  
Water-Dependent, Nonwater-Dependent, Amendment

X284803

Transmittal No.

## H. Municipal Planning Board Notification

Notice to  
Applicant:

Section H should  
be completed and  
submitted along  
with the original  
application material.

Harborview, LLC

Name of Applicant

226 Popes Island

Project street address

New Bedford

Harbor/Acushnet River

New Bedford

City/Town

Description of use or change in use:

The Applicant proposes to remove approximately 305 ft. of fixed pile supported pier and replace it with a gangway and concrete wave attenuator floating dock.

**To be completed by municipal clerk or appropriate municipal official:**

"I hereby certify that the project described above and more fully detailed in the applicant's waterways license application and plans have been submitted by the applicant to the municipal planning board."

TABITHA HARKIN

Printed Name of Municipal Official

12/24/19

Date



Signature of Municipal Official

Director of City  
Planning

Title

New Bedford

City/Town

**Note:** Any comments, including but not limited to written comments, by the general public, applicant, municipality, and/or an interested party submitted after the close of the public comment period pertaining to this Application shall not be considered, and shall not constitute a basis for standing in any further appeal pursuant to 310 CMR 9.13(4) and/or 310 CMR 9.17.

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## Appendix A: License Plan Checklist

### General View

- ☒ PE or RLS, as deemed appropriate by the Department, stamped and signed, in ink, each sheet within 8 1/2 inch by 11 inch border
- ☒ Format and dimensions conform to "Sample Plan" (attached)
- ☒ Minimum letter size is 1/8 of an inch if freehand lettering, 1/10 of an inch if letter guides are used
- ☒ Sheet number with total number in set on each sheet
- ☒ Title sheet contains the following in lower left: Plans accompanying Petition of [Applicant's name, structures and/or fill or change in use, waterway and municipality]
- ☒ North arrow
- ☒ Scale is suitable to clearly show proposed structures and enough of shoreline, existing structures and roadways to define its exact location
- ☒ Scale is stated & shown by graphic bar scale on each sheet
- ☒ Initial plans may be printed on bond; final plans due before License issuance must be on 3mil Mylar.

### Structures and Fill

- ☒ All Structures and Fill shown in full BLACK lines, clearly labeling which portions are existing, which are Proposed and indicating Existing Waterways Licenses
- ☒ *Cross Section Views* show MHW\* and MLW\* and structure finish elevations
- ☐ *Dredge or Fill*, actual cubic yardage must be stated and typical cross sections shown
- ☒ All Structures and Fill shown in full BLACK lines, clearly labeling which portions are existing, which are Proposed and indicating Existing Waterways Licenses
- ☒ *Cross Section Views* show MHW\* and MLW\* and structure finish elevations
- ☐ *Dredge or Fill*, actual cubic yardage must be stated and typical cross sections shown
- ☒ Actual dimensions of structures(s) and or fill and the distance which they extend beyond MHW\* or OHW\*
- ☐ Change in Use of any structures on site must be stated

\* See 310 CMR 9.02, Waterways Regulations definitions of High Water Mark, Historic High Water Mark, Historic Low Water Mark, and Low Water Mark. *Note:* DEP may, at its discretion, accept appropriately scaled preliminary plans in lieu of the plans described above. In general, DEP will accept preliminary plans only for non-water dependent projects and projects covered by MEPA to address site design components such as visual access, landscaping & site coverage. *Anyone wishing to submit preliminary plans must obtain prior approval of the DEP Waterways Program before submitting them with their application.*

## Appendix A: License Plan Checklist (cont.)

### Boundaries

- ☒ Property lines, full black lines, \_\_\_\_\_, along with abutters' names and addresses
- ☒ Mean High Water (MHW)\* or Ordinary High Water (OHW)\*, full black line \_\_\_\_\_
- ☒ Mean Low Water (MLW)\*, black dotted line, (.....)
- ☐ Historic MHW\* or OHW\* (— — — —)
- ☐ Historic MLW\* (... ..)
- ☒ State Harbor Lines, black dot-dash line ( - . - . - ) with indication of Chapter & Act establishing them (Ch. , Acts of )
- ☒ Reference datum is National Geodetic Vertical Datum (NGVD) or (NAVD).
- ☒ Floodplain Boundaries according to most recent FEMA maps
- ☐ Proposed & Existing Easements described in metes & bounds

### Water-Dependent Structures

- ☐ Distance from adjacent piers, ramps or floats (minimum distance of 25' from property line, where feasible)
- ☐ Distance from nearest opposite shoreline
- ☐ Distance from outside edge of any Navigable Channel
- ☐ Access stairs at MHW for lateral public passage, or 5 feet of clearance under structure at MHW.

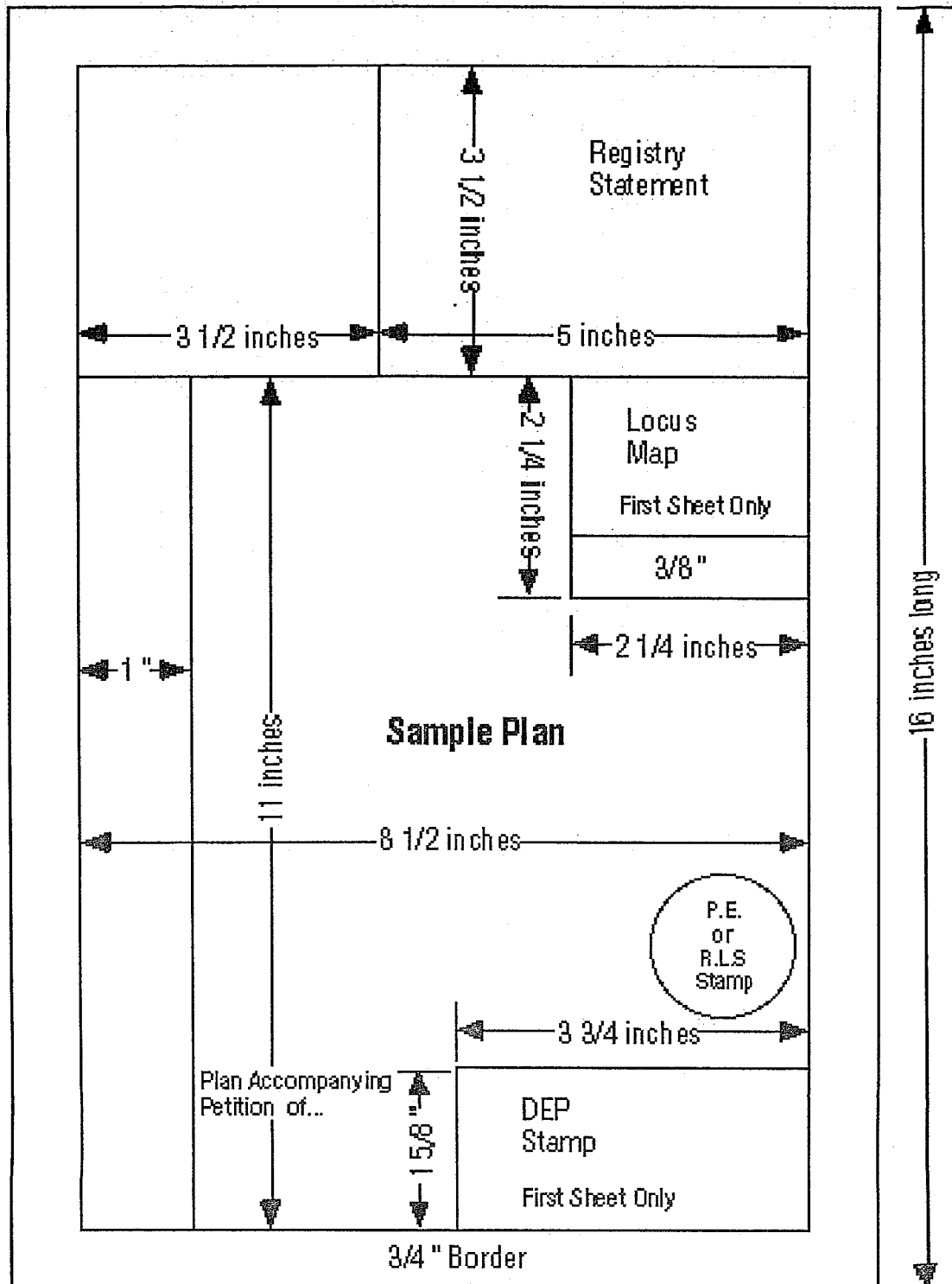
### Non Water-Dependent Structures

- ☐ Depict extent of "Water-dependent Use Zone".

*See Waterways Regulations at 310 CMR 9.51-9.53 for additional standards for non water-dependent use projects.*

**Note:** Final Mylar project site plans will be required upon notice from the Department, prior to issuance of the Chapter 91 Waterways License.

**Appendix A: License Plan Checklist Cont.**



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## **Appendix B: Dredging Permit Plan Checklist**

*For projects applying for dredging permits only, enclose drawings with the General Waterways Application that include the following information:*

### **General View**

- ☐ Submit one original of all drawings. Submit the fewest number of sheets necessary to adequately illustrate the project on 8-1/2 inch X 11 inch paper.
- ☐ A 1-inch margin should be left at the top edge of each drawing for purposes of reproduction and binding. A 1/2 inch margin is required in the three other edges.
- ☐ A complete title block on each drawing submitted should identify the project and contain: the name of the waterway; name of the applicant; number of the sheet and total number of sheets in the set; and the date the drawing was prepared.
- ☐ Use only dot shading, hatching, and dashed or dotted line to show or indicate particular features of the site on the drawings.
- ☐ If deemed appropriate by the Department, certification by the Registered Professional Engineer or Land Surveyor is included.

### **Plan View**

- ☐ North Arrow
- ☐ Locus Map
- ☐ Standard engineering scale.
- ☐ Distances from channel lines and structures if appropriate.
- ☐ Mean high water and mean low water shorelines (see definitions of "High Water Mark" and "Low Water Mark" at 310 CMR 9.02, C. 91 Regulations).
- ☐ Dimensions of area proposed to be dredged or excavated.
- ☐ Notation or indication of disposal site.
- ☐ Volume of proposed dredging or excavation.
- ☐ Ordinary high water, proposed drawdown level, and natural (historic) high water (for projects lowering waters of Great Ponds).

### **Section Views**

- ☐ Existing bottom and bank profiles.
- ☐ Vertical and/or horizontal scales.
- ☐ Proposed and existing depths relative to an indicated datum.
- ☐ Elevation and details of control structure (for projects lowering waters of Great Ponds).

## Appendix C: Application Completeness Checklist

Please answer all questions in the General Waterways Application form. If a question does not apply to your project write "not applicable" (n/a) in that block. Please print or type all information provided on the form. Use black ink (blue ink or pencil are not easily reproducible, therefore, neither will be accepted). If additional space is needed, attach extra 8-1/2" x 11" sheets of paper.

- ☐ **Proper Public Purpose:** For nonwater-dependent projects, a statement must be included that explains how the project serves a proper public purpose that provides greater benefit than detriment to public rights in tidelands or great ponds and the manner in which the project meets the applicable standards. If the project is a nonwater-dependent project located in the coastal zone, the statement should explain how the project complies with the standard governing consistency of the policies of the Massachusetts Coastal Zone Management Program, according to 310 CMR 9.54. If the project is located in an area covered by a Municipal Harbor Plan, the statement should describe how the project conforms to any applicable provisions of such plan pursuant to 310 CMR 9.34(2).
- ☒ **Plans:** Prepared in accordance with the applicable instructions contained in Appendix A-B of this application. For initial filing, meet the requirements of 310 CMR 9.11(2)(b)(3).
- ☒ **Applicant Certification:** All applications must be signed by "the landowner if other than the applicant. In lieu of the landowner's signature, the applicant may provide other evidence of legal authority to submit an application for the project site." If the project is entirely on land owned by the Commonwealth (e.g. most areas below the current low water mark in tidelands and below the historic high water mark of Great Ponds), you may simply state this in lieu of the "landowner's signature".
- ☐ **Municipal Zoning Certification:** If required, applicants must submit a completed and signed Section E of this application by the municipal clerk or appropriate municipal official or, for the initial filing, an explanation of why the form is not included with the initial application. If the project is a public service project subject to zoning but will not require any municipal approvals, submit a certification to that effect pursuant to 310 CMR 9.34(1).
- ☐ **Municipal Planning Board Notification:** Applicants must submit a copy of this application to the municipal planning board for the municipality where the project is located. Submittal of the complete application to DEP must include Section H signed by the municipal clerk, or appropriate municipal official for the town where the work is to be performed, except in the case of a proposed bridge, dam, or similar structure across a river, cove, or inlet, in which case it must be certified by every municipality into which the tidewater of said river, cove, or inlet extends.
- ☐ **Final Order of Conditions:** A copy of one of the following three documents is required with the filing of a General Waterways Application: (1) the Final Order of Conditions (with accompanying plan) under the Wetlands Protection Act; (2) a final Determination of Applicability under that Act stating that an Order of Conditions is not required for the project; or (3) the Notice of Intent for the initial filing (if the project does not trigger review under MEPA).
- ☐ **Massachusetts Environmental Protection Act (MEPA):** MGL 30, subsections 61-61A and 301 CMR 11.00, submit as appropriate: a copy of the Environmental Notification Form (ENF) and a Certificate of the Secretary of Environmental Affairs thereon, or a copy of the final Environmental Impact Report (EIR) and Certificate of the Secretary stating that it adequately and properly complies with MEPA; and any subsequent Notice of Project change and any determination issued thereon in accordance with MEPA. For the initial filing, only a copy of the ENF and the Certificate of the Secretary thereon must be submitted.

**Note:** If the project is subject to MEPA, the Chapter 91 Public Notice must also be submitted to MEPA for publication in the "Environmental Monitor". MEPA filing deadlines are the 15<sup>th</sup> and 30<sup>th</sup> of each month.

## Appendix C: Application Completeness Checklist (cont.)

- ☐ **Water Quality Certificate:** if applicable, pursuant to 310 CMR 9.33, is included.
- ☐ **Other Approvals:** as applicable pursuant to 310 CMR 9.33 or, for the initial filing, a list of such approvals which must be obtained.

### Projects involving dredging:

- ☐ The term "dredging" means the removal of materials including, but not limited to, rocks, bottom sediments, debris, sand, refuse, plant or animal matter, in any excavating, clearing, deepening, widening or lengthening, either permanently or temporarily, of any flowed tidelands, rivers, streams, ponds or other waters of the Commonwealth. Dredging includes improvement dredging, maintenance dredging, excavating and backfilling or other dredging and subsequent refilling. Included is a completed and signed copy of Part F of the application.

### Filing your Completed General Waterways Application:

- ☒ **For all Water-Dependent applications** – submit a completed General Waterways Application and all required documentation with a *photocopy* of both payment check and DEP's *Transmittal Form for Permit Application & Payment* to the appropriate DEP Boston or regional office (please refer to Pg. 10 of the "Instructions" for the addresses of DEP Regional Offices).
- ☐ **For all Non Water-Dependent applications** – submit a completed General Waterways Application and all required documentation with a *photocopy* of both payment check and DEP's *Transmittal Form for Permit Application & Payment* to DEP's Boston office.

Department of Environmental Protection  
Waterways Regulation Program  
One Winter Street  
Boston, MA 02108

- ☐ **Application Fee Payment for ALL Waterways Applications:** Send the appropriate Application fee\* (please refer to Page 1 of the "Application"), in the form of a check or money order, along with DEP's *Transmittal Form for Permit Application & Payment*.

Department of Environmental Protection  
P.O. Box 4062  
Boston, MA 02211

\* Under extreme circumstances, DEP grants extended time periods for payment of license and permit application fees. If you qualify, check the box entitled "Hardship Request" on the *Transmittal Form for Permit Application & Payment*. See 310 CMR 4.04(3)(c) to identify procedures for making a hardship request. Send hardship request and supporting documentation to the above address.

**NOTE:** You may be subject to a **double application fee** if your application for Chapter 91 authorization results from an enforcement action by the Department or another agency of the Commonwealth or its subdivisions, or if your application seeks authorization for an existing unauthorized structure or use.