

PUBLIC NOTICE

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

In replying refer to:

Public Notice Number: NAN-2014-00498-WMI
Issue Date: September 5, 2014
Expiration Date: October 6, 2014

To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT: New York State Department of Environmental Conservation Region 3
Bureau of Wildlife
21 South Putt Corners Road
New Paltz, New York 12561

ACTIVITY: Installation of a 258-foot long pile-supported ADA-accessible pier assembly to include a boardwalk, viewing area, gangway and floating dock in the Tivoli Bays Wildlife Management Area

WATERWAY: North Tivoli Bay adjacent to the Hudson River

LOCATION: Town of Red Hook, Dutchess County, New York

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN
PLEASE USE THE ABOVE 18-CHARACTER FILE NUMBER ON ALL CORRESPONDENCE WITH THIS OFFICE

**CENAN-OP-RW
PUBLIC NOTICE NO. NAN-2014-00498-WMI**

WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity. Comments provided will become a part of the public record for this action.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination is that the activity for which authorization is sought herein is not likely to adversely affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act (Public Law 104-267), requires all Federal agencies to consult with the National Oceanic and Atmospheric Administration Fisheries Service (NOAA/FS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed work, fully described in the attached work description, could cause the disruption of habitat for various lifestages of some EFH-designated species as a result of a temporary increase in turbidity during construction. However, the New York District has made the preliminary determination that the site-specific adverse effects are not likely to be substantial because it is expected that fish populations would avoid the area of disturbance. Further consultation with NOAA/FS regarding EFH impacts and conservation recommendations being conducted and will be concluded prior to the final decision.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

Reviews of activities pursuant to Section 404 of the Clean Water Act will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. By this public notice, we are requesting the state's concurrence with, objection to, or waiver of the applicant's certification. No permit decision will be made until one of these actions occur. For activities within the coastal zone of New York State, the applicant's certification and accompanying information is available from the Consistency Coordinator, New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, Coastal Zone Management Program, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231, Telephone (518) 474-6000. Comments regarding the applicant's certification, and copies of any letters to this office commenting upon this proposal, should be so addressed.

CENAN-OP-RW
PUBLIC NOTICE NO. NAN-2014-00498-WMI

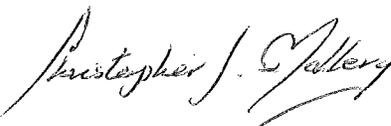
In addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorization for the activity under consideration:

- New York State Department of Environmental Conservation

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office at (917) 790-8420 and ask for Rosita Miranda.

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>.

For more information on New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>.


for Jodi M. McDonald
Chief, Regulatory Branch

Enclosures

WORK DESCRIPTION

The applicant, New York State Department of Environmental Conservation Region 3, Bureau of Wildlife, has requested Department of the Army authorization for the construction of a 258-foot long pier assembly to include a boardwalk, viewing area, gangway and floating dock, located in the Tivoli Bays Wildlife Management Area (WMA) in North Tivoli Bay adjacent to the Hudson River, in the Town of Red Hook, Dutchess County, New York.

The regulated work would involve the installation of a 258-foot long pile-supported, ADA-accessible T-shaped structure, elevated 2.5-feet above the plane of mean high water, that includes a 200-foot long by 6-foot wide boardwalk commencing 20 feet landward from the shoreline, and extending for 180-feet waterward of the mean high water line into the wetlands, expanding to a 20-foot long by 10-foot wide viewing area, leading to a 30-foot long by 6-foot wide moving gangway, and terminating with a 12-foot long by 8-foot wide floating modular launch platform.

The proposed structure will be supported with 52 galvanized helical posts, spaced at 10-foot intervals, with a maximum of 48 posts in the wetlands. The posts will have a maximum diameter of 6-inches. Installation of the helical posts would occur when there is no standing water, at low tide. The proposed floating dock section of the structure will be supported 12-inches above the mudline of the wetlands by a 8-foot long by 3-foot wide timber float, which stops at low tide to prevent disturbance of wetland substrate.

The proposed site is dominated by narrowleaf cattail (*Typha angustifolia*), interspersed with rice cutgrass (*Leersia oryoides*), spatterdock (*Nuphar advena*), and pickerelweed (*Pontederia cordata*), which is typical wetland vegetation found throughout North Tivoli Bay. In addition, there are areas of exposed, unvegetated mudflats at low tide at the proposed project location. Permanent shading effects on wetland vegetation are anticipated to be approximately 1,556 square feet. The proposed structure will have one-inch deck spacing to allow approximately 15% light penetration.

As part of the proposed project activities, a single pin oak (*Quercus palustris*), approximately 14-inches in diameter, near the wetland edge, may be removed. If tree removal is necessary, it will be delayed until after October 1st to avoid any possible impacts associated with roosting bats.

The following additional project elements would occur in the uplands and are not within the regulatory jurisdiction of the U.S. Army Corps of Engineers: (1) expand, regrade, and resurface the Cruger Island Road parking lot; (2) rehabilitate the lower 500-foot section of Cruger Island Road with two new culverts, and resurface with crushed stone; (3) install an interpretative kiosk adjacent to the Cruger Island Road parking lot; and, (4) rehabilitate a 0.6-mile section of the WMA's administrative road to improve bike access.

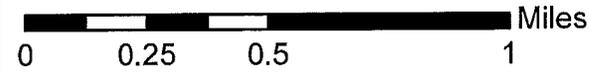
Alternative locations were considered for the proposed structure but topography prevented the development of an access site for visitors with mobility impairments at most locations in North Tivoli Bay. Also, by providing an adequate structure, temporary impacts caused by users dragging canoes and kayaks through the wetlands and across exposed mudflats at low tide will be alleviated.

The stated purpose of this project is to provide public outdoor recreational opportunities including wildlife observation, hiking, canoe/kayak access, and fishing, especially for visitors with mobility impairments.

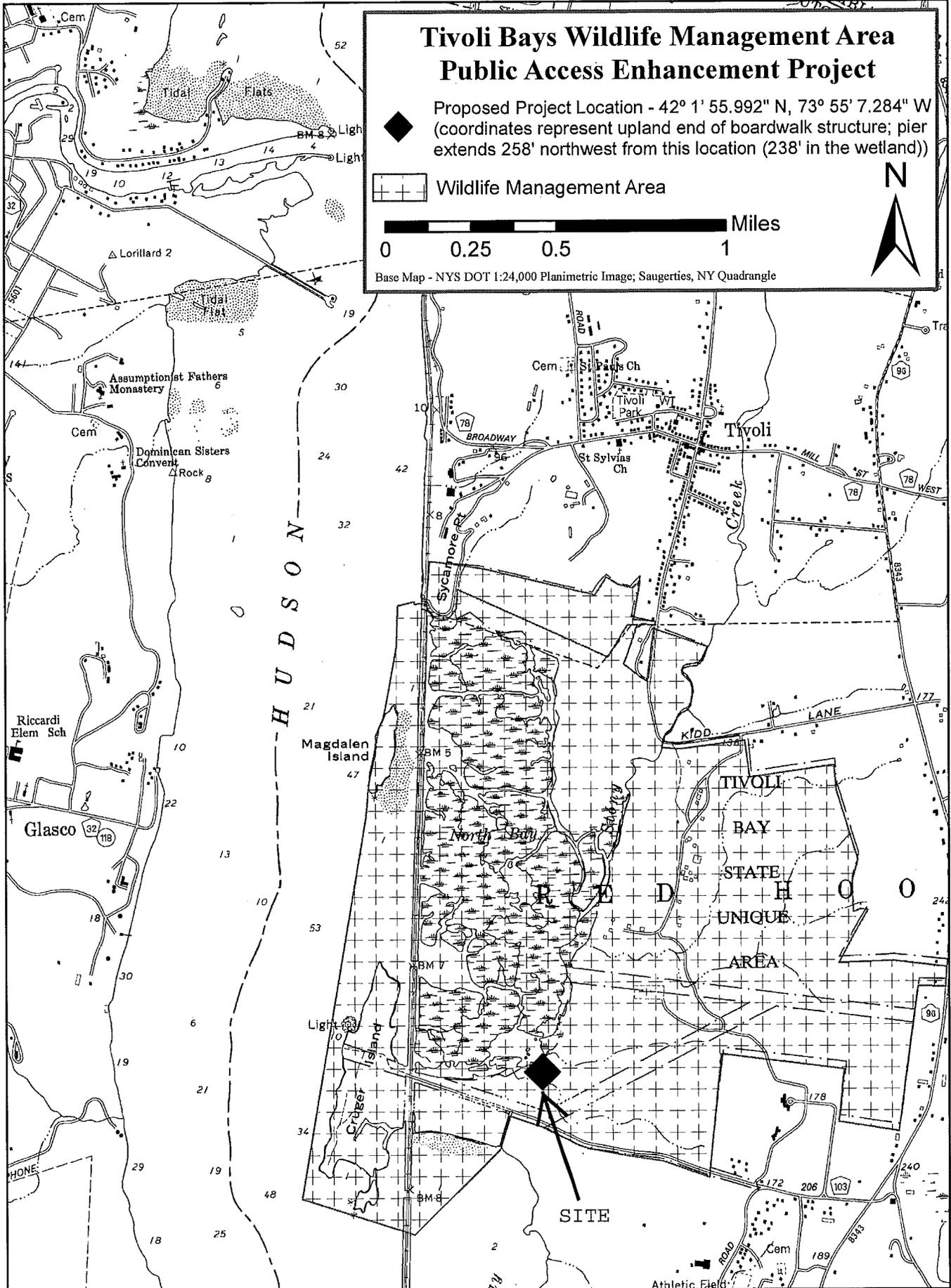
Tivoli Bays Wildlife Management Area Public Access Enhancement Project

Proposed Project Location - 42° 1' 55.992" N, 73° 55' 7.284" W
(coordinates represent upland end of boardwalk structure; pier extends 258' northwest from this location (238' in the wetland))

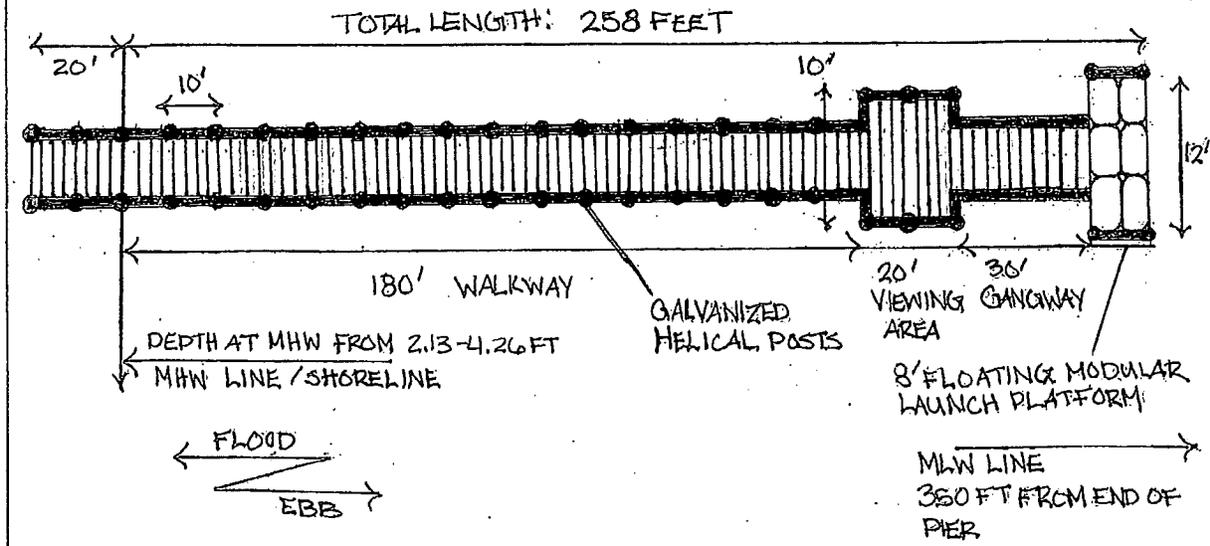
 Wildlife Management Area



Base Map - NYS DOT 1:24,000 Planimetric Image; Saugerties, NY Quadrangle

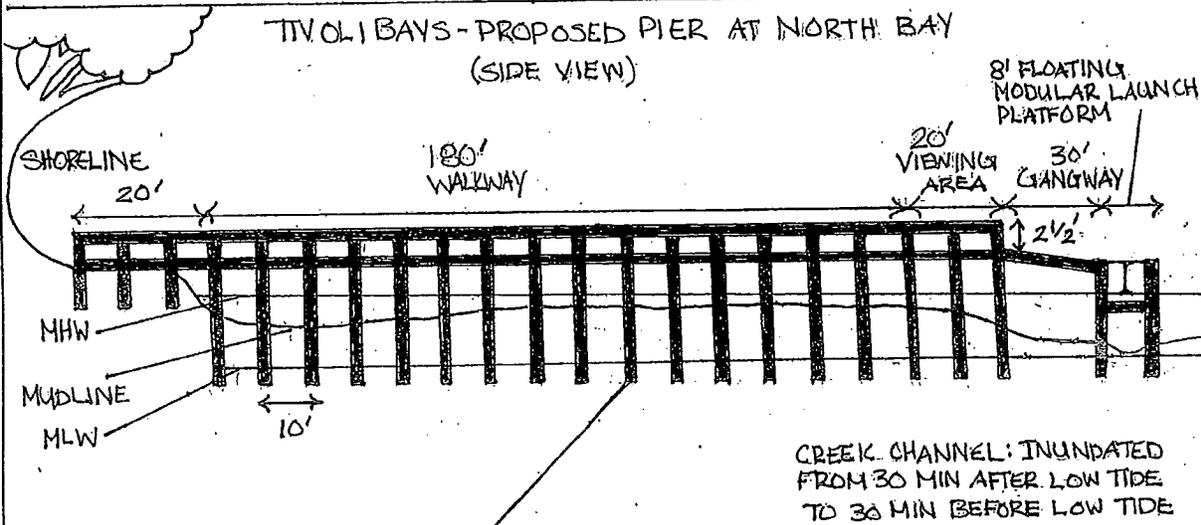


TIVOLI BAYS - PROPOSED PIER AT NORTH BAY
(TOP VIEW)



NOTE: DRAWING NOT TO SCALE

TIVOLI BAYS - PROPOSED PIER AT NORTH BAY
(SIDE VIEW)

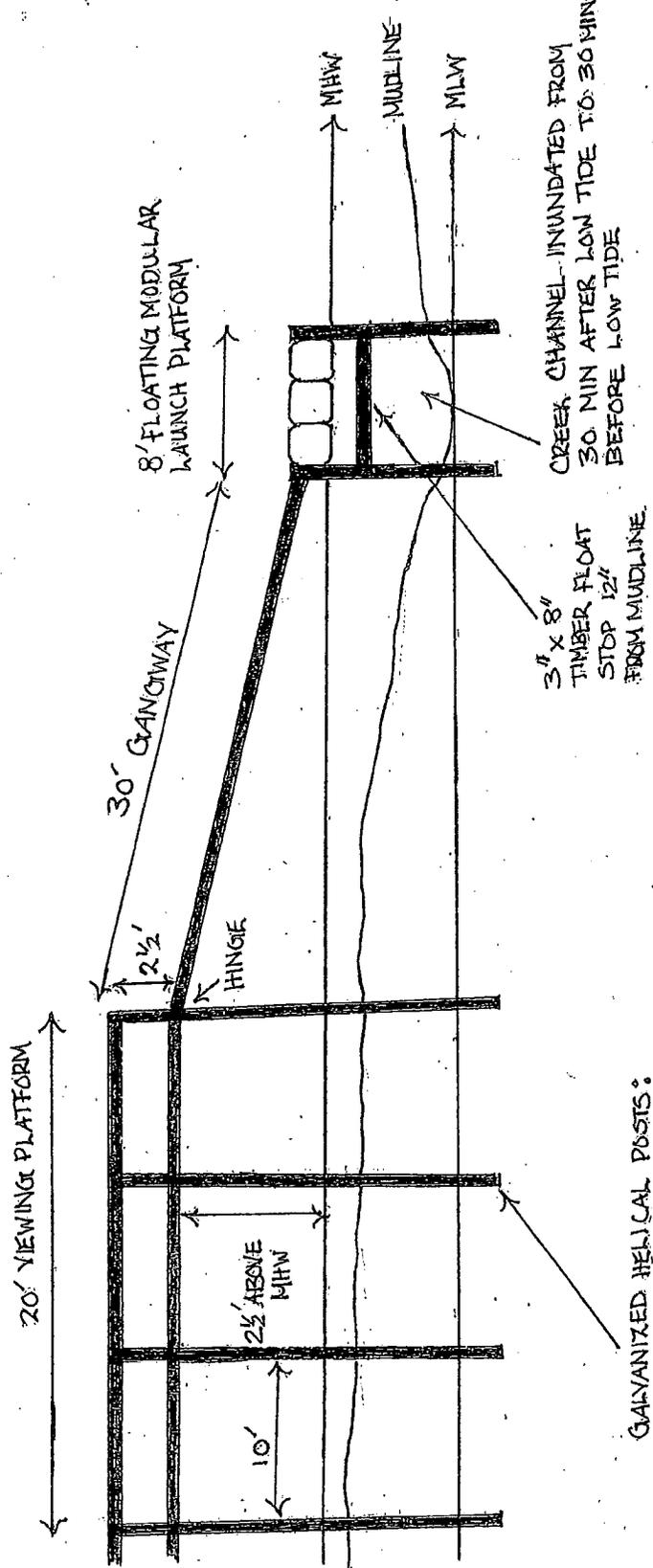


- MATERIALS:
- GALVANIZED HELICAL POSTS: LENGTH AND DIAMETER AS REQUIRED (6" MAX DIAMETER)
 - PRESSURE-TREATED 2X10 FRAMING
 - COMPOSITE DECKING - 1" SPACING

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
TIVOLI BAYS - NORTH BAY
TIVOLI
TOWN OF RED HOOK
DUTCHESS COUNTY
1 OF 2
7/28/14

NOTE: DRAWING NOT TO SCALE

TINOLI BAYS - PROPOSED PIER AT NORTH BAY
 CLOSE-UP VIEW OF VIEWING PLATFORM, GANGWAY AND LAUNCH PLATFORM



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
 TINOLI BAYS - NORTH BAY
 TINOLI
 TOWN OF RED HOOK
 DUTCHESS COUNTY
 2 OF 2
 7/28/14

NOTE: DRAWING NOT TO SCALE