

# PUBLIC NOTICE

U.S. Army Corps of Engineers New York District, CENAN-OP-RU Upstate Regulatory Field Office 1 Buffington Street, Bldg. 10, 3<sup>rd</sup> Fl. North Watervliet. New York 12189-4000

#### In replying refer to:

Public Notice Number: NAN-2021-00948-UDA

Issue Date: May 24, 2022 Expiration Date: June 23, 2022

#### 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: Albany Port District Commission

106 Smith Boulevard Albany, New York 12202

ACTIVITY: The discharge of fill material into 0.81 acres of waters of the United States,

including wetlands; dredging with upland disposal and 10-year maintenance dredging; and the construction of a new wharf, a new bridge, a warehouse and manufacturing facility with attendant features. The project would expand the Port of Albany to facilitate the manufacturing and transport of offshore wind

components.

WATERWAYS: Hudson River and Normans Kill

LOCATION: City of Albany and Town of Bethlehem, Albany 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 SENT VIA ELECTRONIC MAIL TO <a href="mailto:and-ew.c.Dangler@usace.army.mil">Andrew.C.Dangler@usace.army.mil</a>, OR PREPARED IN WRITING AND MAILED TO THE ATTENTION OF ANDREW DANGLER AT THE ABOVE ADDRESS, TO REACH THIS OFFICE BY THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity. Due to COVID-19, and the limited in-office mail processing procedures, it is highly recommended that comments be sent by Electronic Mail only to prevent delays.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. Comments provided will become part of the public record for this permit application. All written comments, including contact information, will be made a part of the administrative record, available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

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.

The preliminary determination is that the activity for which authorization is sought herein may affect, but is not likely to adversely affect the Federally listed the Atlantic and Shortnose sturgeon or their critical habitat. Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agencies to determine the project's potential to impact these listed species or their critical habitat. In addition, the District Engineer has completed consultation with the U.S. Fish and Wildlife Service with regards to the project's potential to impact the Federally listed Northern long-eared bat. The District Engineer has determined that the proposed project may affect, but is not likely to adversely affect, the Northern long-eared bat.

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 small area of disturbance. Further consultation with NOAA/FS regarding EFH impacts, and conservation recommendations is 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 known sites eligible for, or included in, the Register within the permit area. Therefore, consultation with the N.Y.S. Office of Parks, Recreation and Historic Preservation (SHPO) and Tribal Historic Preservation Office (THPO) regarding potential effects to archaeological and/or historic resources has been initiated and will be concluded prior to the final decision.

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.

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:

- Air State Facilities Permit
- State Pollutant Discharge Elimination System (SPDES) Permits
- State Wastewater Permit
- State Stormwater Permit
- Incidental Take (Endangered/Threatened Species Permit)

#### Town of Bethlehem:

- Site Plan Approval
- Floodplain Development Permit
- MS4 Acceptance from Town Engineering Department
- Area Variances from Zoning Board of Appeals
- Building Permit

#### City of Albany:

- Building Permit
- Site Plan Approval

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

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 at: <a href="mailto:Andrew.D.Dangler@usace.army.mil">Andrew.D.Dangler@usace.army.mil</a>.

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

FOR AND ON BEHALF OF

Stephan A. Ryba

Chief, Regulatory Branch

#### **WORK DESCRIPTION**

The applicant, the Albany Port District Commission, has requested Department of the Army authorization to conduct dredging, with ten (10) years maintenance, and upland disposal; the construction of a new manufacturing and warehouse facility including utilities and other attendant features; the construction of a new wharf; and the construction of a new bridge over the Normans Kill. The project site is located along the western bank of the Hudson River, in the City of Albany and Town of Bethlehem, Albany County, New York.

The proposed work includes dredging of approximately 80,000 cubic yards (CY) of sediment from an area within the Hudson River measuring approximately 2.62 acres to a depth of 32 feet below the plane of mean low water (MLW), with approximately two (2) feet of allowable over-dredge, to 34 feet MLW. This dredging would occur in the Hudson River in front of the proposed new wharf construction and the warehouse and manufacturing facilities and would be conducted adjacent to the federal navigation channel. The proposed dredging would be conducted immediately adjacent to the federal navigation channel. As proposed, the dredging would impact approximately 0.21-acres of submerged aquatic vegetation. The dredging would be accomplished by a barge-mounted crane with a closed clamshell bucket to reduce the production of suspended sediments within the water column. In addition, a weighted turbidity curtain would be installed during the dredging operation to minimize turbidity. The applicant proposes to conduct two (2) additional dredging events within the ten-year maintenance dredging period, removing a maximum of approximately 30,000 CY per event from within the same dredging area.

The dredged material would be loaded into dredge scows or barges, transported by tugs, and offloaded into the designated and authorized site utilizing a hydraulic or mechanical unloader, or other similar equipment. The handling, dewatering and disposal of the dredged material would be managed as per the New York State Department of Environmental Conservation regulatory standards and pursuant to the conditions of any permits issued for the project.

Five new warehouse and manufacturing buildings totaling approximately 626,014 SF square feet and associated attendant features including roadways, parking areas, utilities, an approximately 822 linear foot retaining wall, a wastewater treatment facility, stormwater management features and associated treated runoff outfalls to the Hudson River would be constructed. The construction of the warehouse and manufacturing buildings and attendant features would require the discharge of fill material into total of 0.81-acre of wetlands, comprised of approximately 0.30-acre of palustrine emergent wetland and 0.51-acre of palustrine forested wetland, respectively. In addition, a maximum of 0.33-acre of palustrine forested wetland would be permanently converted to an emergent wetland to facilitate the construction of the new buildings and attendant features. An 18-inch diameter water intake pipe and associated screening is proposed to be installed within the Hudson River.

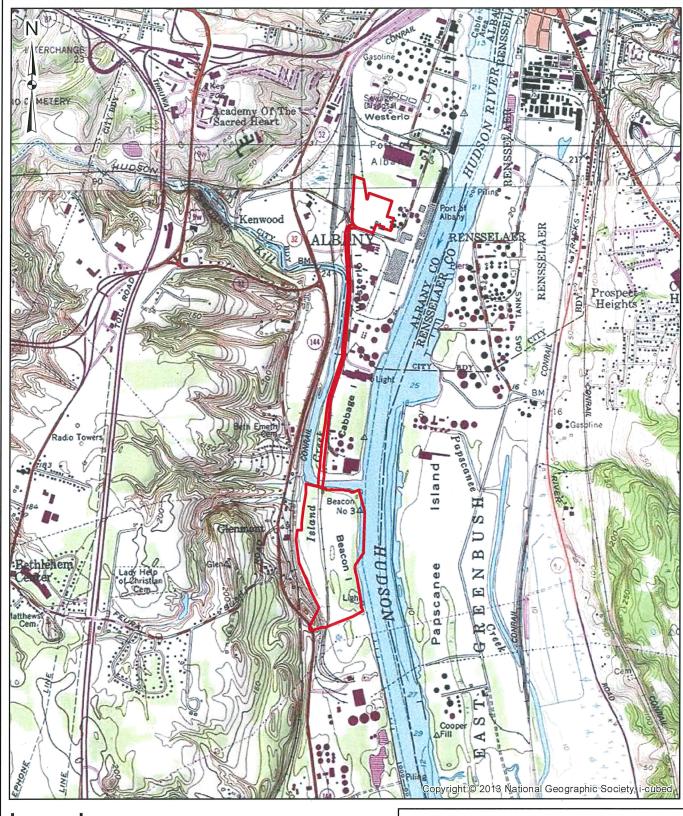
A new, 500 foot long, 93 foot wide, wharf would be constructed along the west bank of the Hudson River. The wharf would consist of a heavy stone slope revetment, a high-modulus steel sheet pile cutoff wall, and a drilled shaft supported open wharf and relieving platform. The total area of the wharf is approximately 45,500 square feet (SF). The area of the wharf provided over water is approximately 27,500 SF. The entire ballasted wharf deck is located above the mean high water (MHW) elevation.

Structures and fill that would be installed below mean high high water (MHHW) elevation are limited to the 136, 48-inch diameter drilled shaft foundations with permanent steel casing, and approximately 1,162 CY of rip rap. Approximately 263 CY of rip rap would be placed below MHW elevation. The permanent steel casing for the drilled shaft foundations and the sheet pile wall components would be vibrated in, rather than utilizing an impact hammer. An impact hammer would be used only to seat the steel casing within the first few inches in the top of rock.

In addition, a new, 3-span bridge would be constructed over the Normans Kill channel to connect Beacon Island and 700 Smith Boulevard. The bridge would be constructed on two (2) reinforced concrete drilled shafts. Both shafts would be located outside of the mean high water line and floodway of the river. A maximum of 0.04-acre of palustrine emergent wetland would be permanently impacted to facilitate the construction of the shaft that would be located on the northern side of the Normans Kill.

The applicant has stated that they have avoided, minimized, and mitigated for potential impacts proposed to the maximum extent practicable by limiting the proposed work area to the minimum area required for safe and reasonable operation at the Port of Albany. All potential temporary impacts would be offset by implementing best management practices associated with the proposed dredging including the use of a weighted turbidity curtain, a closed clamshell environmental bucket, conducting the in-water work between September 1st through January 31st, and restoring temporarily impacted aquatic resources to pre-construction contours and conditions upon completion of the construction activities. Additional best management practices to minimize acoustic impacts associated with the project would include the use of a vibratory hammer and a bubble curtain. To compensate for the proposed permanent impacts, including the 0.33-acre wetland conversion impacts, the applicant is proposing to purchase 1.46 credits from an approved In-Lieu Fee Mitigation Program. In addition, the applicant proposes the preservation of a 2.87-acre riparian buffer along approximately 1,700 linear feet of Hudson River shoreline by securing a restrictive covenant on the land.

The applicant's stated purpose of the proposed action is to generate economic development for the region and accommodate future growth and to support New York State in achieving its renewable energy goals by providing additional port infrastructure, building space, cargo, and wharf capacity necessary for the manufacturing and distribution of wind turbine components.



## Legend



Project Site

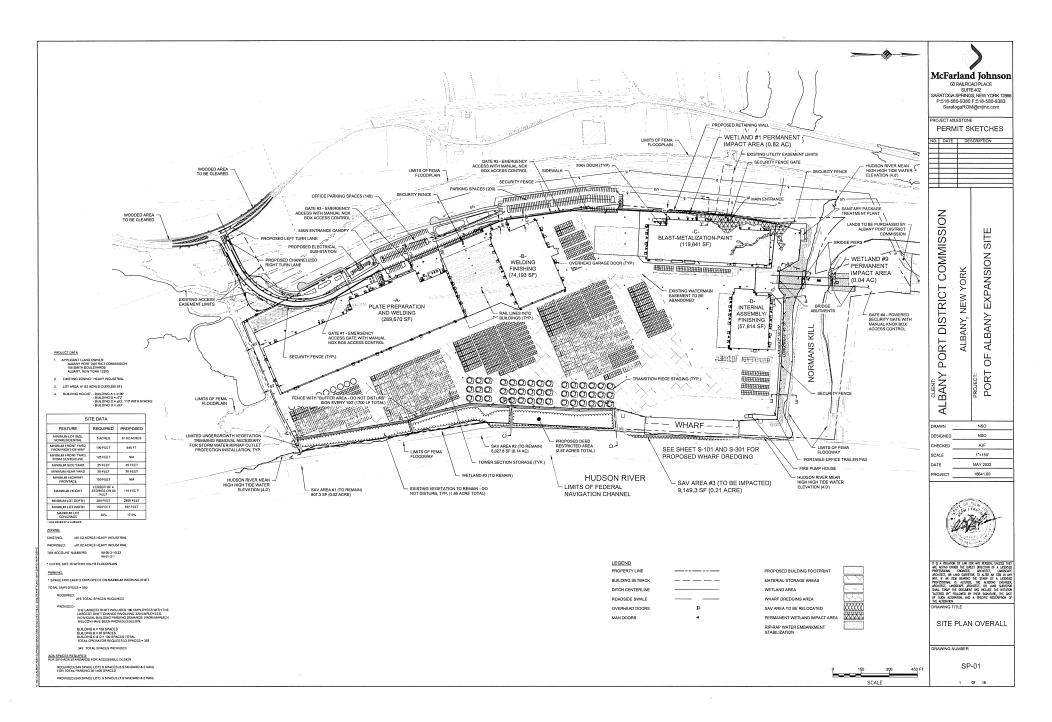
#### Notes:

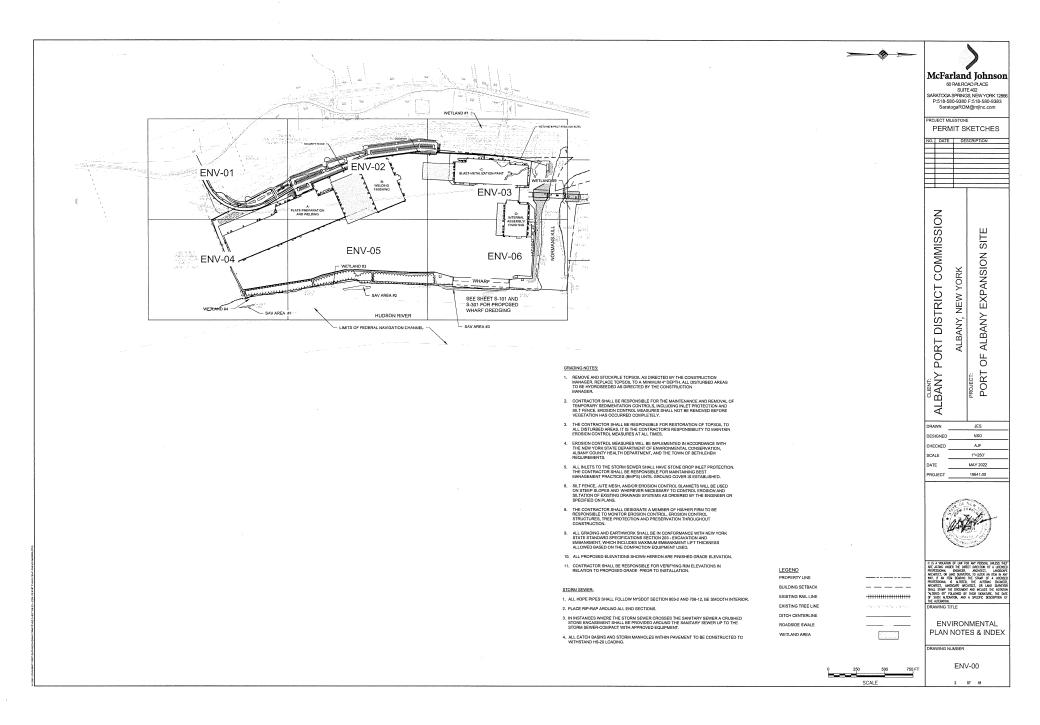
- 1) Project boundary is approximate
- 2) All areas are approximate

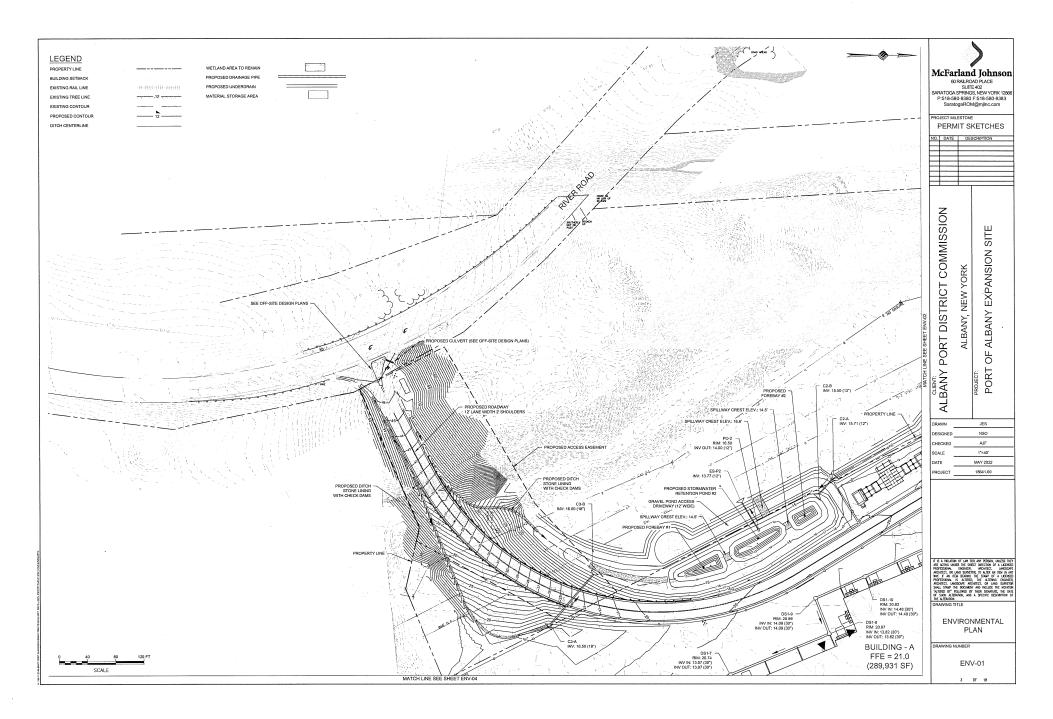
PORT OF ALBANY DEVELOPMENT TOWN OF BETHLEHEM, ALBANY COUNTY, NEW YORK

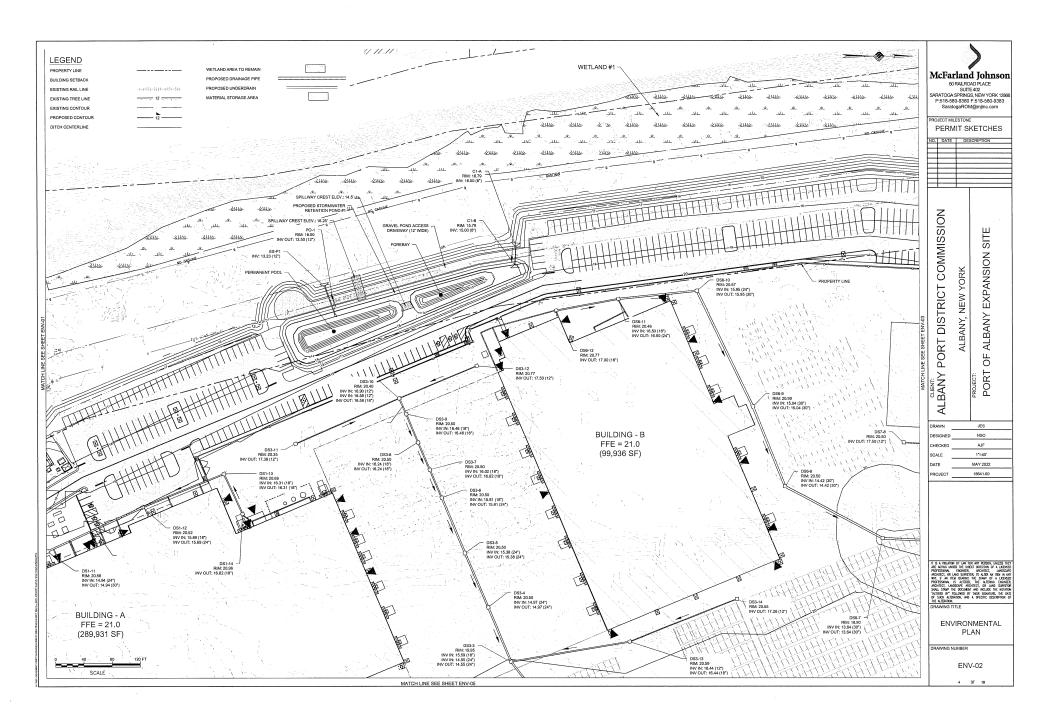
#### **USGS TOPOGRAPHIC MAP**

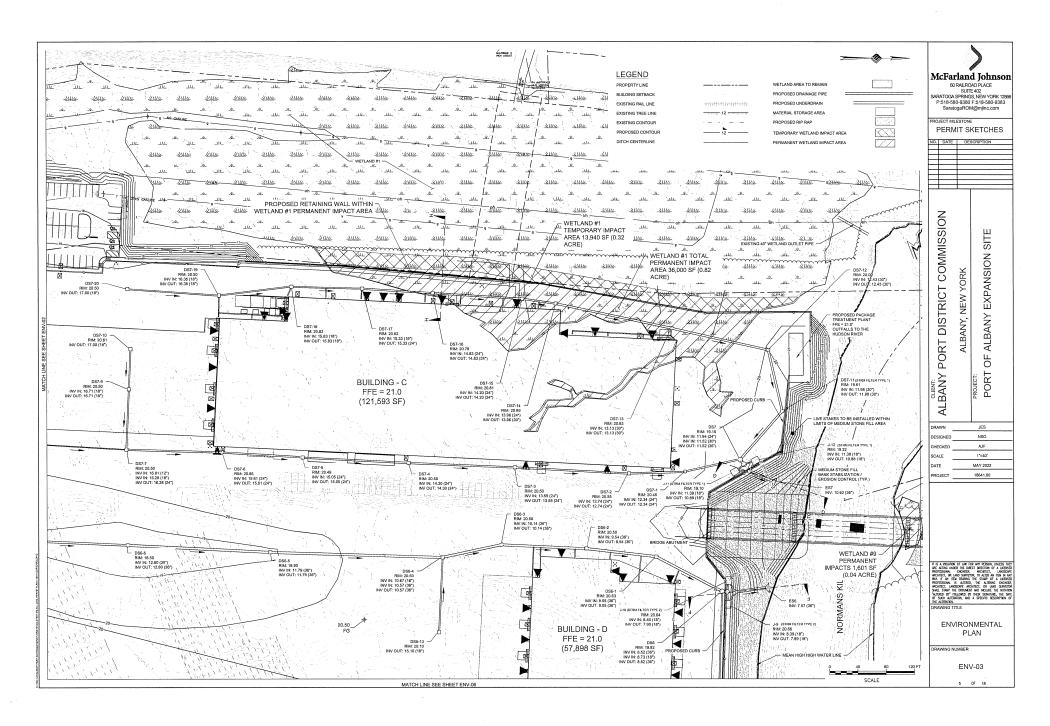
AS SHOWN JULY 2021	2-1
SCALE: DATE: FIG	URE:

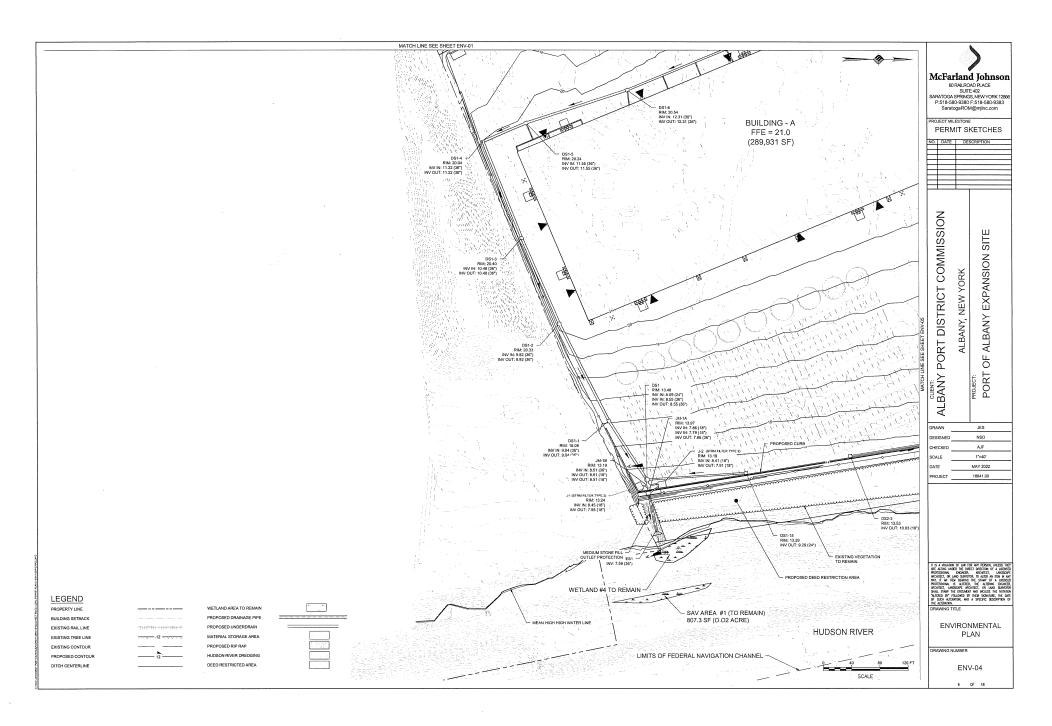


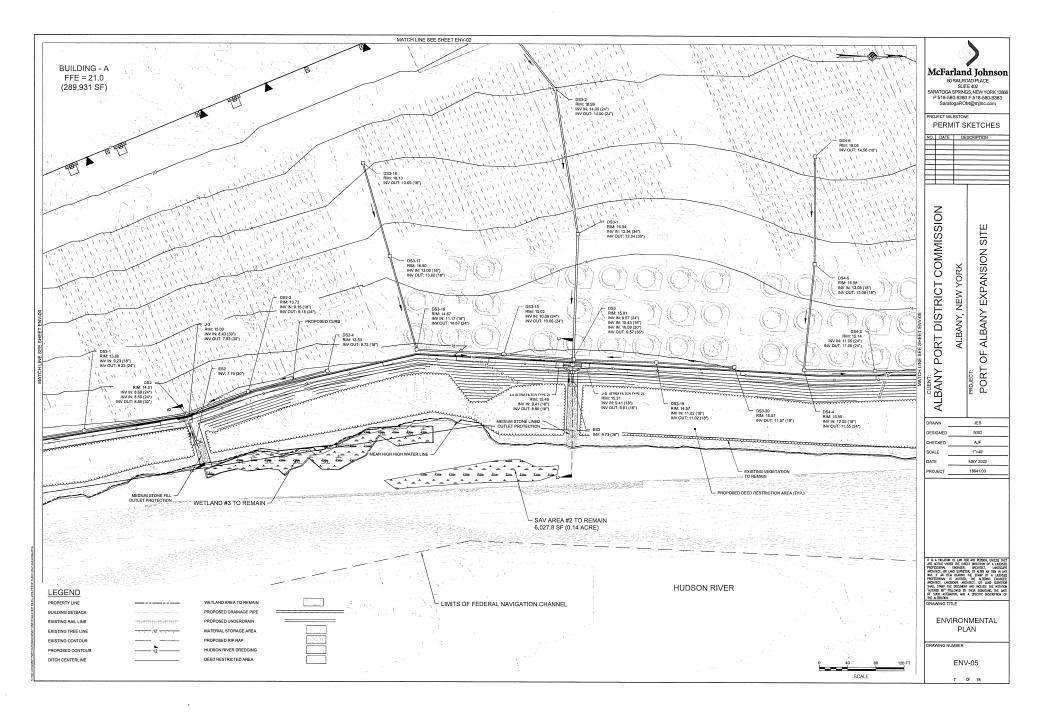


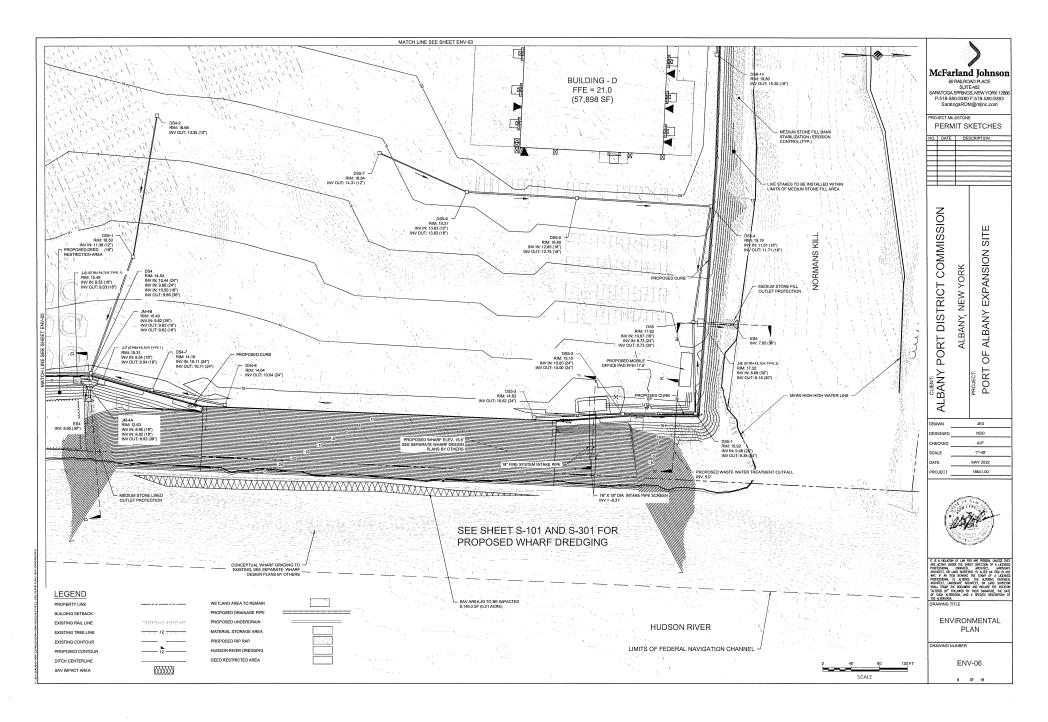


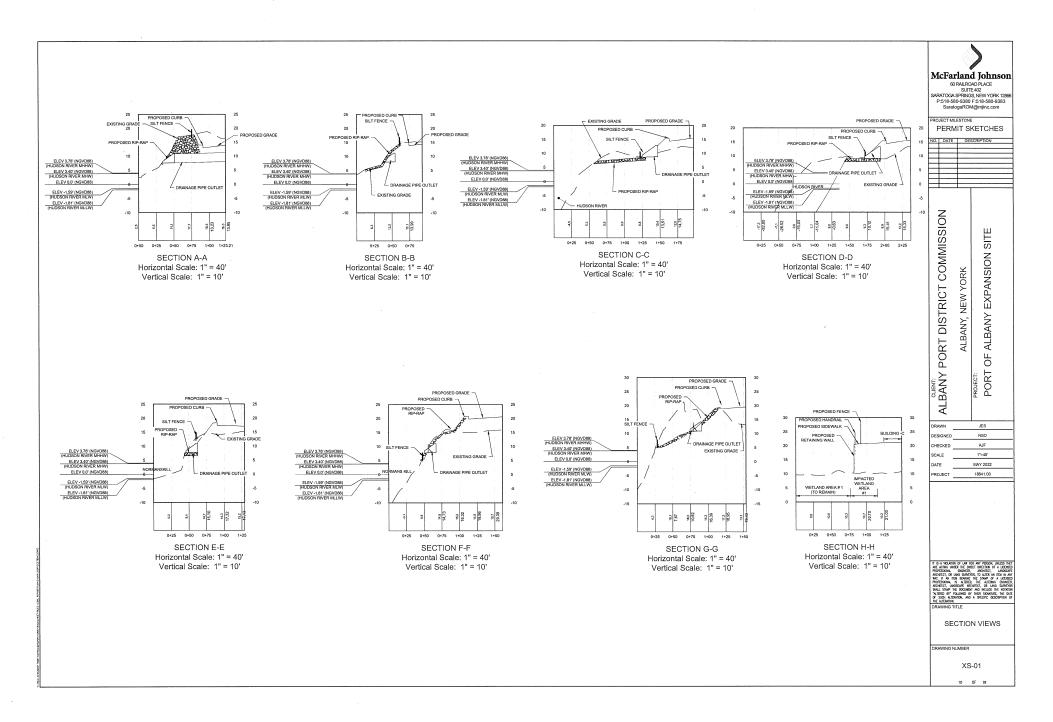


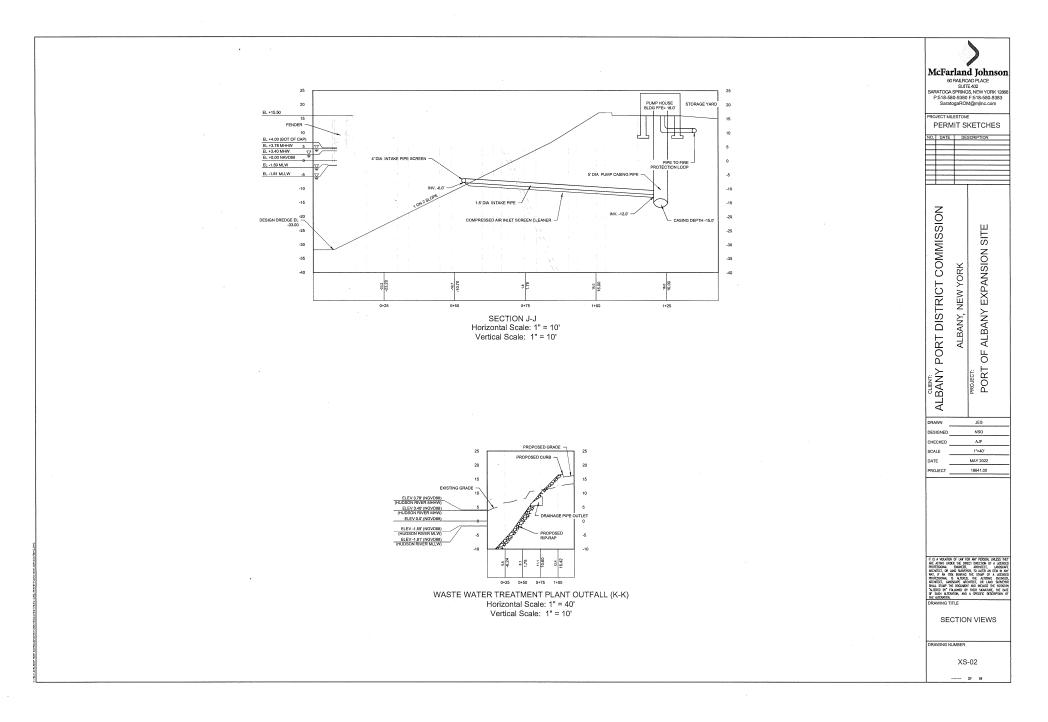


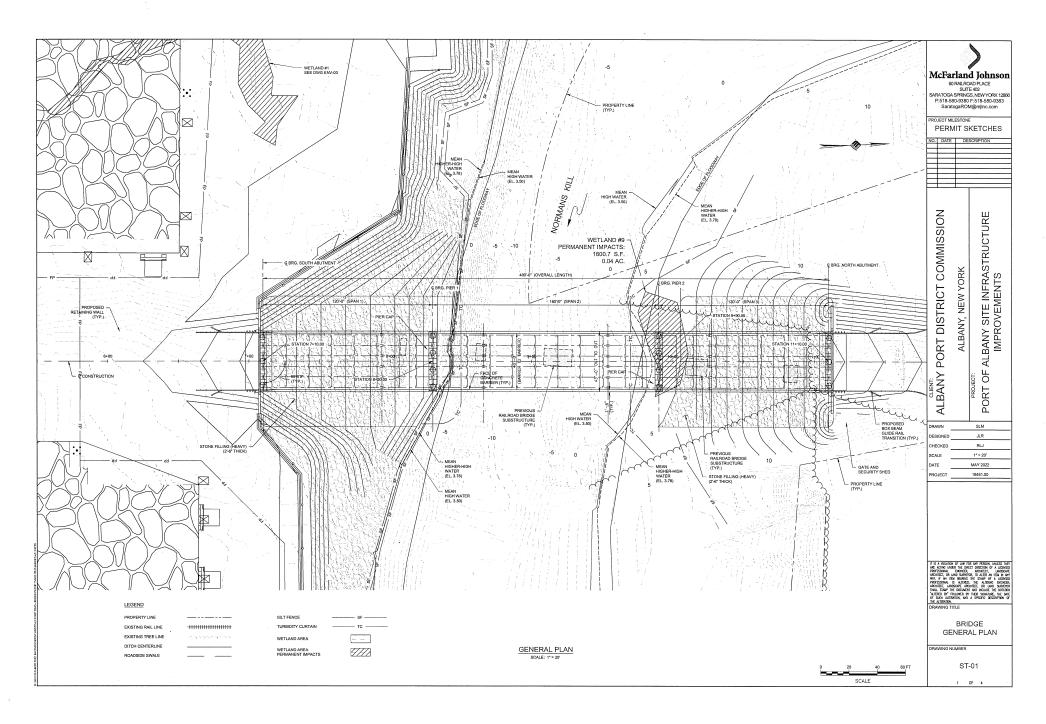


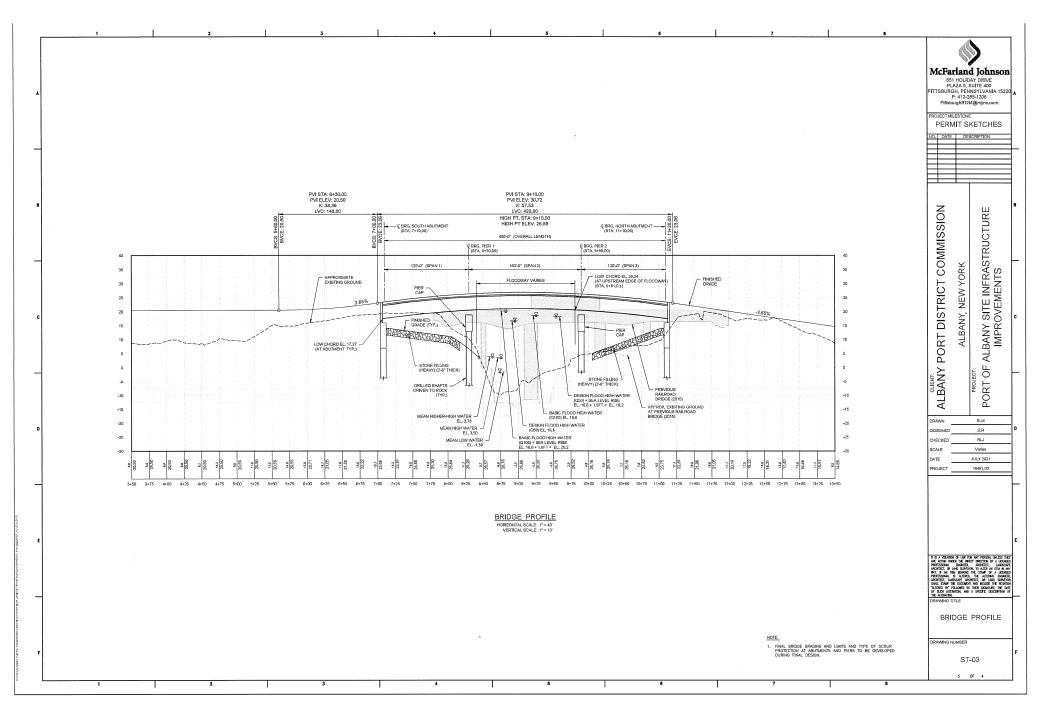


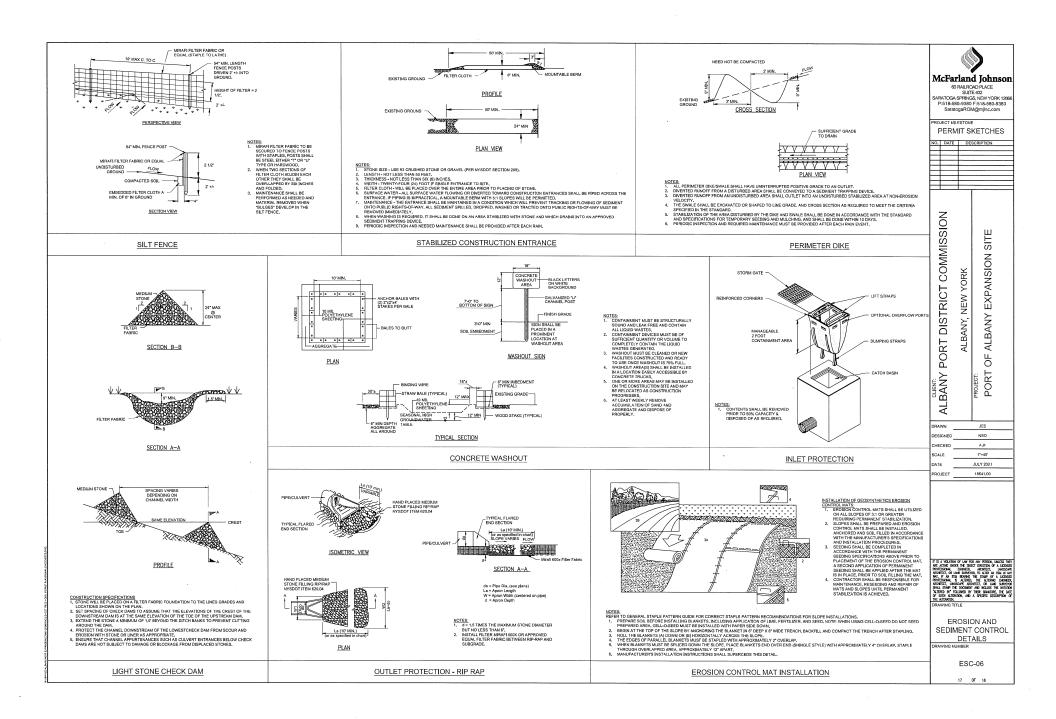


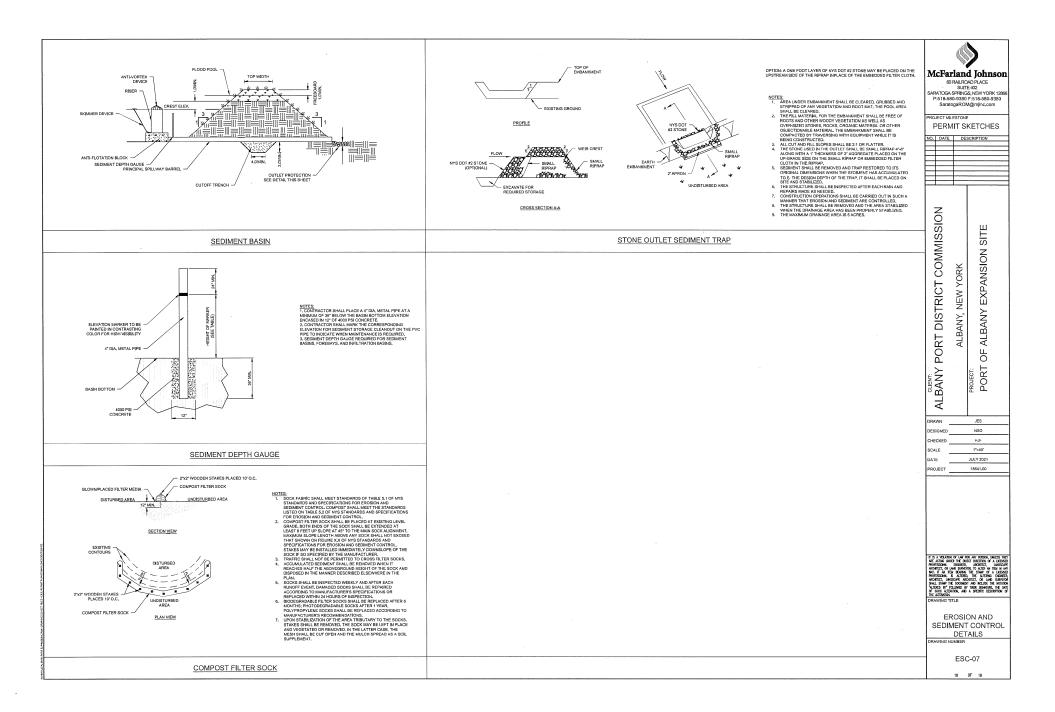














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VICINITY AND LOCATION MAP SCALE: N.T.S.

### NOTES:

- HORIZONTAL CONTROL REFERENCED TO NORTH AMERICAN DATUM OF 1983, STATE PLANE COORDINATE SYSTEM, NEW YORK, EAST ZONE, IN FEET.
- WATER LEVEL DATUM IS BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929, AS FOLLOWS:
- MEAN HIGHER HIGH WATER LEVEL (MHHW) +4.56 FT (NGVD29)
- MEAN HIGH WATER LEVEL (MHW) = +4.18 FT (NGVD29)
- MEAN TIDE LEVEL (MTL) = +1.69 FT (NGVD29)
- MEAN LOW WATER LEVEL (MLW) = -0.80 FT (NGVD29)

PURPOSE: WHARF CONSTRUCTION PERMIT SUBMITTAL-NOT TO BE USED FOR CONSTRUCTION DATUM: NGVD29



m&n engineering, p.c.

OWNER/APPLICANT: ALBANY PORT DISTRICT COMMISSION PORT OF ALBANY

NEAR: LOCATION: HUDSON RIVER SOUTH OF ALBANY PORT OF ALBANY 106 SMITH BOULEVARD ALBANY, NEW YORK 12202 WHARF DREDGING AND CONSTRUCTION

**VICINITY AND LOCATION** 

DATE: 2021-07-15

