



200412020094

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MEMORANDUM OF AGREEMENT AND GRANT OF EASEMENTS
TO CONSTRUCT AND MAINTAIN SHARED PRIVATE FLOATING DOCK

Abbreviated Legal: Lots 3 and 4, Skyline 13

Tax Parcel Nos.: P60073 and P60074

This Agreement and Grant of Easements is between Laurence L. Leach and Kathleen R. Leach, husband and wife; and Eldon H. Anderson and Virginia M. Anderson Revocable Family Trust.

Whereas, Laurence L. Leach and Kathleen R. Leach, hereinafter after called "Leach" are the owners of Lot 3, Skyline No. 13, together with adjacent tidelands, more particularly described on the attached Exhibit A; and

Whereas, the Eldon H. Anderson and Virginia M. Anderson Revocable Family Trust herein after called "Anderson" are the owners of Lot 4, Skyline 13, together with adjacent tidelands, more particularly described on the attached Exhibit B; and

Whereas, Leach and Anderson desire to construct and maintain a jointly owned and shared private floating dock consisting of an eight foot by fourteen foot deck, a four foot by forty foot gangway and an eight foot by thirty foot float; and

Whereas, said deck, gangway and float will be located so that it is partially on both properties described on Exhibits A and B necessitating a Grant of easements each to the other and an agreement as to maintenance and use of the jointly owned dock facility;

Now, therefore, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. Leach hereby grants to Anderson an easement over, along and through that property described on the attached Exhibit C for the purpose of providing access to, and the use of, the floating dock, the deck and the gangway which is to be constructed jointly by the parties hereto.
2. Anderson hereby grants to Leach an easement over, along and through that property described on the attached Exhibit D for the purpose of providing access to, and the use of, the floating dock, the deck and the gangway which is to be constructed jointly by the parties hereto.
3. Said dock facility shall be constructed in accordance with the building specifications and plans set forth on the attached Exhibit E. The cost of constructing the dock facility shall be shared equally between the parties.

[Handwritten signatures]
ma
RRL

4. The parties hereto agree to maintain said dock facility in a safe, functional and aesthetically pleasing state and to jointly share the cost of such maintenance. No maintenance costs shall be incurred without the agreement of both parties.
5. The parties also agree that said dock facility will be covered by an insurance policy covering said facility against casualty and fire loss. The cost of such insurance shall be jointly shared.
6. The parties further agree that the dock facility shall not be increased in size without the agreement of both parties and the obtaining of applicable permits from all governmental agencies having jurisdiction.
7. The rights and obligations herein contained are appurtenant to the properties owned by the parties and described on Exhibits A and B and shall be deemed to be a covenant running with the land. All the terms and provisions of this Agreement shall be binding on all parties having or acquiring any right, title or interest to either of the properties described herein and shall inure to the benefit of each owner thereof.

Dated this 9th AUGUST day of ~~January~~ 2004.

ELDON H. ANDERSON and VIRGINIA M. ANDERSON REVOCABLE FAMILY TRUST

By Virginia M. Anderson *trustee*

By, _____

Laurence L. Leach

Kathleen R. Leach

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

AUG 10 2004

Amount Paid \$
By Skagit Co. Treasurer Deputy

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

DEC 02 2004

Amount Paid \$
By Skagit Co. Treasurer Deputy



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VMC
RRA

Notary Acknowledgement

State of Washington
County of Island

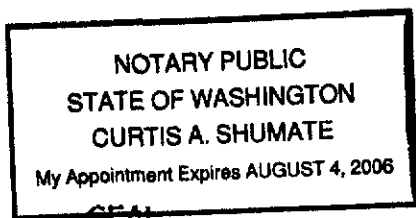
SS.

I certify that I know or have satisfactory evidence that Laurence L. Leach and
Kathleen R. Leach is/are the person(s) who appeared before me, and said person(s)

acknowledged that they signed this instrument and acknowledged it

to be their free and voluntary act for the uses and purposes

mentioned in the instrument. Dated this August 9th 2004 day of



Curtis A. Shumate

Print Name Curtis A. Shumate

Notary Public in and for the state of Washington

My appointment expires 08/04/2006



Skagit County Auditor

STATE OF WASHINGTON

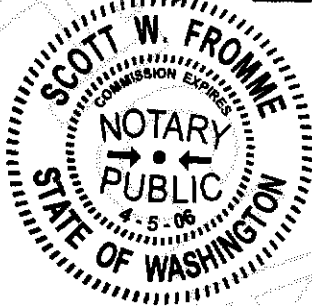
COUNTY OF

}
} ss.
}

DECEASED

On this day personally appeared before me ELDON H. ANDERSON AND VIRGINIA M. ANDERSON
to me known to be the individual(s) described in and who executed the
within and foregoing instrument, and acknowledged to me that ~~they~~ ^{she} signed the same as ~~their~~ ^{her} free and
voluntary act and deed for the purposes therein mentioned.

Given under my hand and official seal this 9th day of August 2004



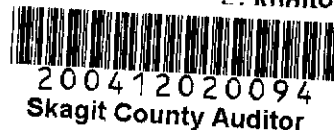
Scott W. Fromme
Notary Public in and for the State of Washington.

Name printed Scott W. Fromme

Residing at Oak Harbor

My commission expires 4/5/06

Acknowledgement - Individual



UMA
HRA

EXHIBIT "A"

PARCEL A:

Lot 3, SKYLINE NO. 13, according to the plat thereof recorded in Volume 9 of Plats, pages 96 and 97, records of Skagit County, Washington.

PARCEL B:

All that portion of Section 28, Township 35 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the most Southerly corner of Lot 3, Skyline No. 13, according to the plat thereof recorded in Volume 9 of Plats, pages 96 and 97, records of Skagit County, Washington;
Thence South $52^{\circ}55'12''$ East, 40.24 feet;
Thence North $41^{\circ}00'00''$ East, 30.30 feet;
Thence North $39^{\circ}10'41''$ West, 40.74 feet to the most Easterly corner of said Lot 3;
Thence South $41^{\circ}00'00''$ West along the Southeasterly line of said Lot 3 to the point of beginning.

Situated in Skagit County, Washington.

- END OF EXHIBIT "A" -



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[Handwritten signature]
VMA
HRS

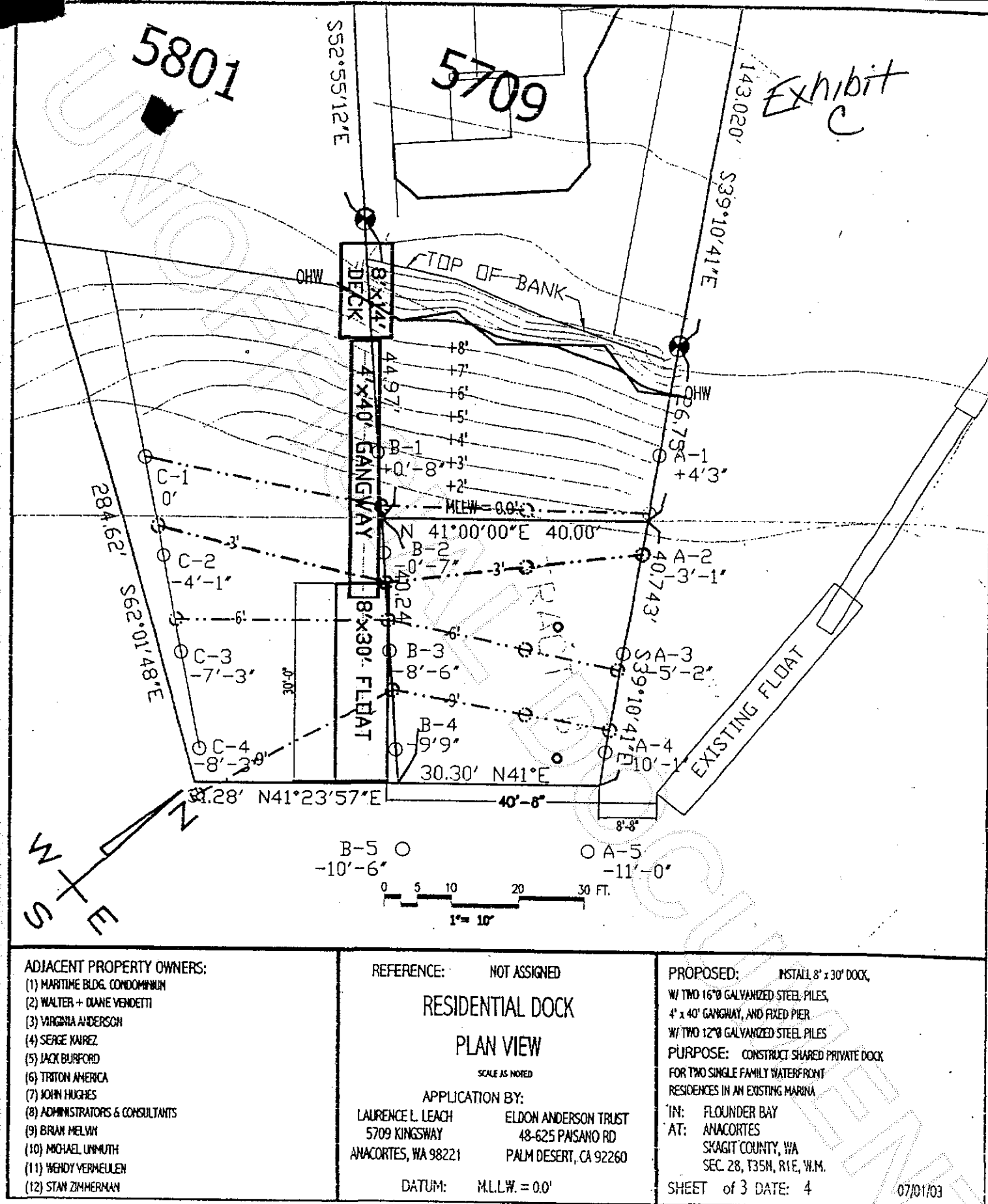


Figure 4. Proposed project plan view with dimensions



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DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

JUL 20 2004

REPLY TO
ATTENTION OF

Regulatory Branch

Mr. Laurence and Ms. Kathleen Leach
3590 Round Bottom Road
PMB F-32923
Cincinnati, Ohio 45244

Reference: 200301086
Leach, Laurence
and Kathleen

Dear Mr. and Ms. Leach:

The U.S. Army Corps of Engineers' (Corps) regulatory program provides for the authorization of certain work that is minor in nature, would not have significant individual or cumulative impacts on the environment, and should encounter no appreciable opposition by a type of permit known as a "Letter of Permission" (LOP). After reviewing your application for Department of the Army authorization to install a joint use pier, ramp, and float assembly, we have determined that the proposed work meets these requirements and is authorized by this LOP. The proposed work would occur in Flounder Bay at Anacortes, Washington. The purpose of the proposed project is to provide joint use mooring for recreational vessels.

Your authorization to conduct the proposed work under this LOP is contingent upon you conducting the work as shown in the enclosed drawings dated June 8, 2004, which are made part of this permit; in compliance with the enclosed *Letter of Permission General Conditions*; and the following special conditions:

a. You must implement and abide by the ESA requirements and/or agreements set forth in the document titled *Leach-Anderson Shared Private Floating Dock Biological Evaluation*, dated September 2003, and the addenda dated February 9, 2004, March 6, 2004, May 12, 2004, and June 9, 2004 in their entirety. The U.S. Fish and Wildlife Service (USFWS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on April 29, 2004 (USFWS Reference Number 1-3-04-I-00709). The National Marine Fisheries Service (NMFS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on June 29, 2004 (NMFS Reference Number 2004/00359). Both agencies will be informed of this permit issuance. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your U.S. Army Corps of Engineers permit. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.

b. In order to protect Puget Sound chinook salmon and Coastal-Puget Sound bull trout in Flounder Bay, the permittee may conduct the authorized activities from August 16 through October 30 in any year this permit is valid. The permittee shall not conduct work authorized by this permit from October 31 through August 15 in any year



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c. A copy of this permit, permit drawings, mitigation planting plan (if applicable), final authorization letter, and joint-use agreement shall be recorded with the Registrar of Deeds and proof provided to the U.S. Army Corps of Engineers (Corps), within 60 days after final Corps authorization, to ensure that subsequent property owners are aware of the construction, use, and mitigation requirements. As this authorization is for a joint-use pier, all co-applicants must voluntarily agree to build no additional overwater structures on their property, except for the maintenance or modification of the joint-use overwater structure. This voluntary agreement and the documentation described above must be recorded on the deeds of all involved properties.

d. To insure that light transmission is not impacted, grating must not be covered with or blocked by any objects, such as, but not limited to, buildings, planters, storage sheds or boxes, nets, carpets, boards, tables, lawn furniture, or utility conduits or boxes.

Please be reminded that Special Condition "a." of your permit requires that you implement and abide by the ESA requirements and/or agreements set forth in the Biological Evaluation and addenda for this project. In particular, note that the addenda dated March 6, 2004, May 12, 2004, and June 9, 2004, requires that you implement a shoreline planting plan, monitor and submit monitoring reports on the planted area to the Corps and Services annually for a period of 5 years. Failure to comply with the commitments made in the BE constitutes non-compliance with the ESA and your Corps permit.

Your authorization to conduct the proposed work under this permit expires JUL 20 2007. Please remember that failure to comply with the terms and conditions of this LOP, including any special conditions, invalidates your authorization and could result in a violation of Federal law. Any change in the plans for this work will require that you submit revised drawings to this office and receive our written approval of those changes prior to conducting the work.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form to the address indicated on the form. Your signature on this form is our assurance you have conducted the work and any required mitigation in accordance with the terms and conditions of this LOP, including all special conditions.

We have reviewed your project pursuant to the requirements of the Endangered Species Act (ESA). After consulting with the National Marine Fisheries Service and/or U.S. Fish and Wildlife Service, we have determined that this project will meet the requirements of the ESA provided you comply with special conditions a." through "d." listed above. We have also reviewed your project pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, and determined that the proposed action will not adversely affect Essential Fish Habitat for federally managed fisheries in Washington.



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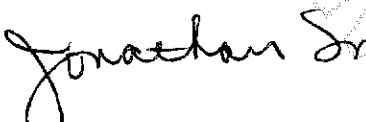
Under the provisions of the Corps' Regulatory Program Administrative Appeal Process, you have the right to appeal this permit decision in accordance with the enclosed *Notification of Administrative Appeal Options and Process and Request For Appeal*. If we have not received an objection from you within 60 days of the date of this letter, or if you conduct the authorized work, we will presume that you have accepted, and will comply with, all terms and conditions of this LOP.

While this project will not require further authorization from us, please note that it must comply with all State, local, and other Federal requirements that may apply. For example, you may need to obtain a Shoreline Substantial Development Permit from City of Anacortes and/or a Hydraulic Project Approval from the Washington Department of Fish and Wildlife. You should also contact the Washington State Department of Natural Resources before starting work for a determination of leasing requirements for work over submerged lands. For further information, we recommend you contact the Washington Department of Ecology's Permit Assistance Center at (800) 917-0043 or, on the Internet, at <http://www.ecy.wa.gov/programs/sea/pac/>.

Thank you for your cooperation during the permit process. Your efforts help us protect our nation's aquatic resources. Please remember to fill out and return the compliance certification form within 30 days of completing the authorized work. We are interested in your thoughts and opinions concerning your experience with the U.S. Army Corps of Engineers, Seattle District's Regulatory Program. Please complete a Customer Service Survey form. The form is available on our website at: <http://per2.nwp.usace.army.mil/survey.html>. At your request, we will mail you a paper copy that you may complete and return to us by mail or fax.

A copy of this letter with drawings and conditions is being furnished to Mr. Jim Wiggins of/ ATSI at 21933 Grip Road, Sedro-Woolley, Washington 98284. If you have any questions about this letter or our regulatory program, please contact Mr. Randel Perry at telephone (206) 764-6985 or by email at Randel.J.Perry@nws02.usace.army.mil.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


for Debra M. Lewis
Colonel, Corps of Engineers
District Engineer

Enclosures



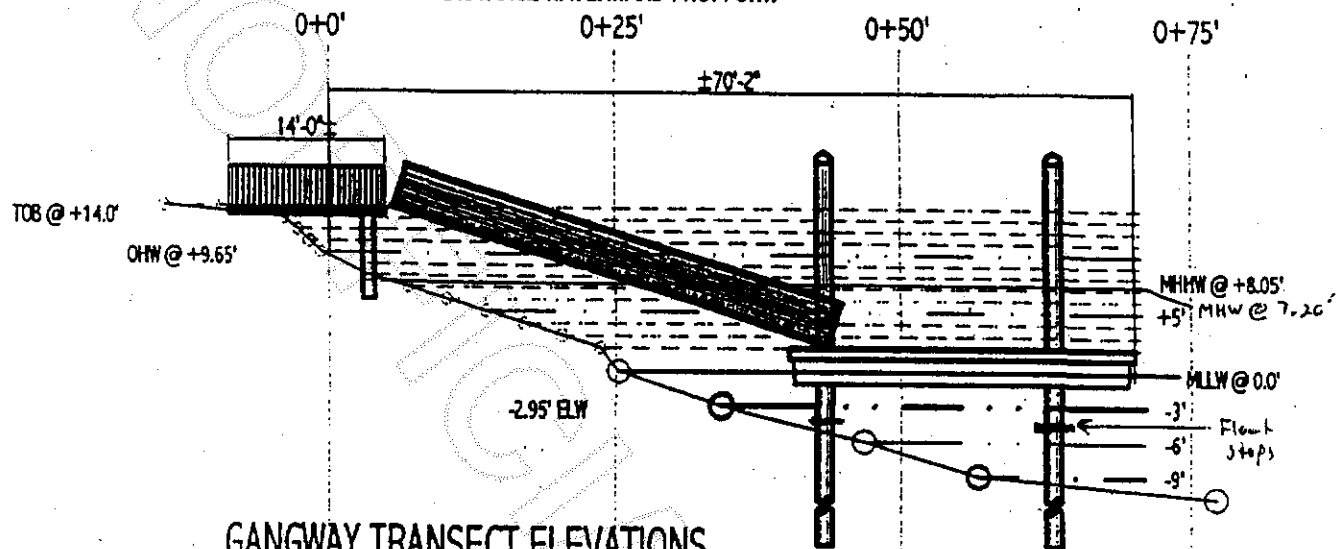
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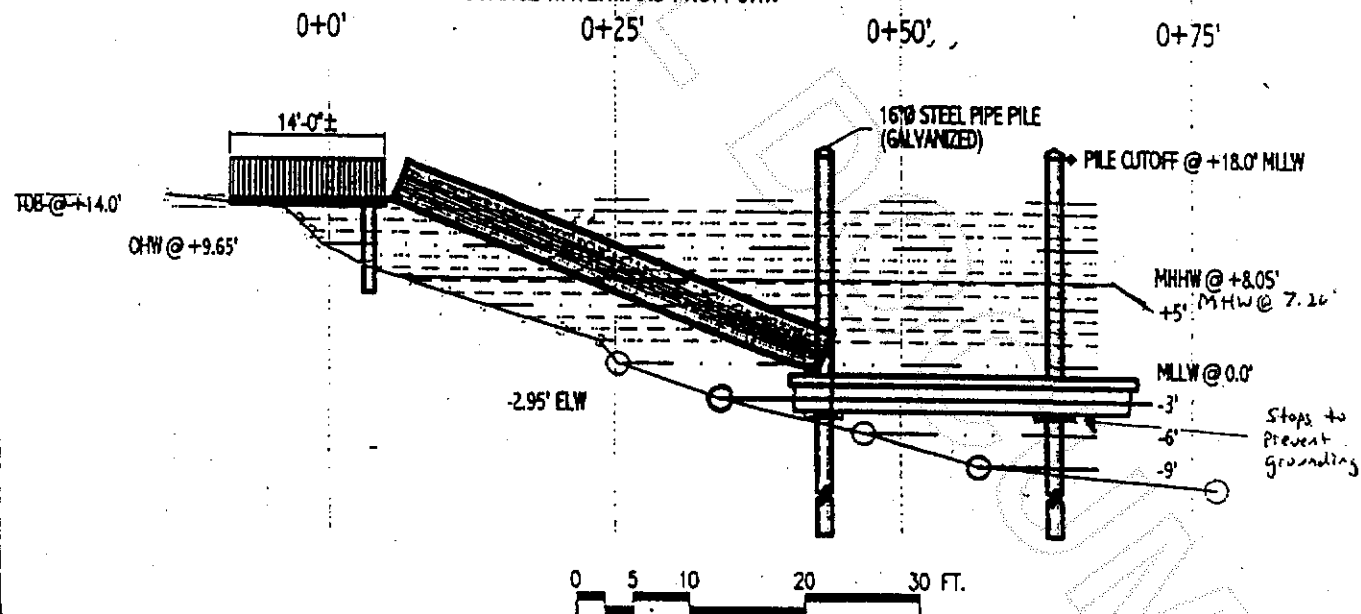
GANGWAY TRANSECT ELEVATIONS @ MLLW

DISTANCE WATERWARD FROM OHW



GANGWAY TRANSECT ELEVATIONS @ ELW = -2.95' MLLW

DISTANCE WATERWARD FROM OHW



Proposed: Shared dock

Reference: 100301086

Purpose: Recreational use

Applicant: Leach

Location: Flounder Bay, Anacortes, WA

Sheet 4 of 7

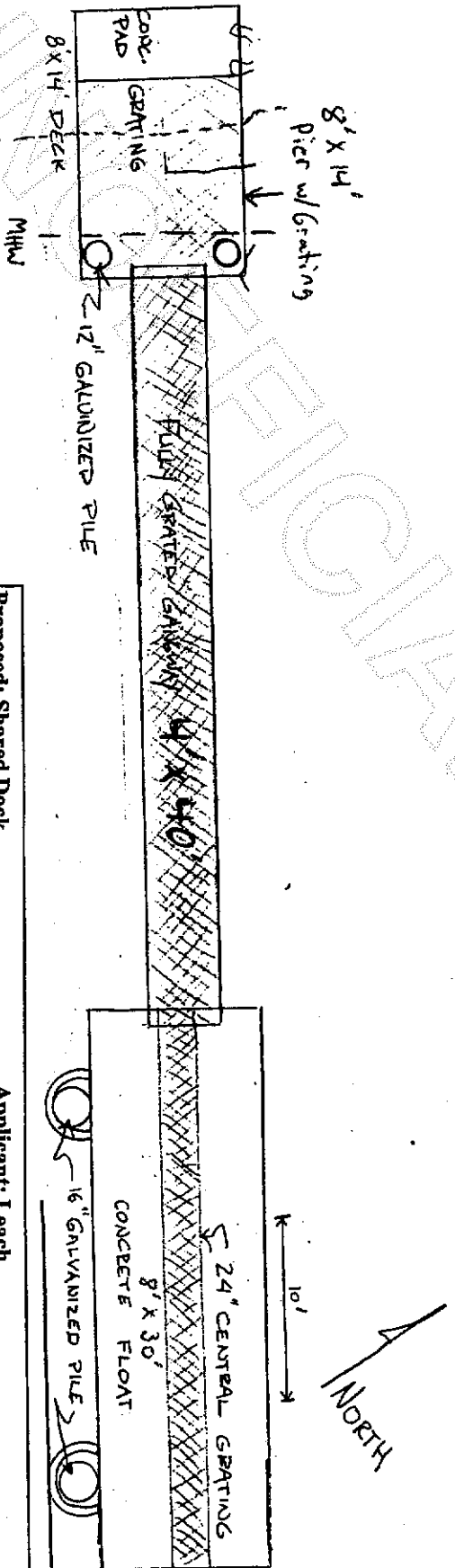
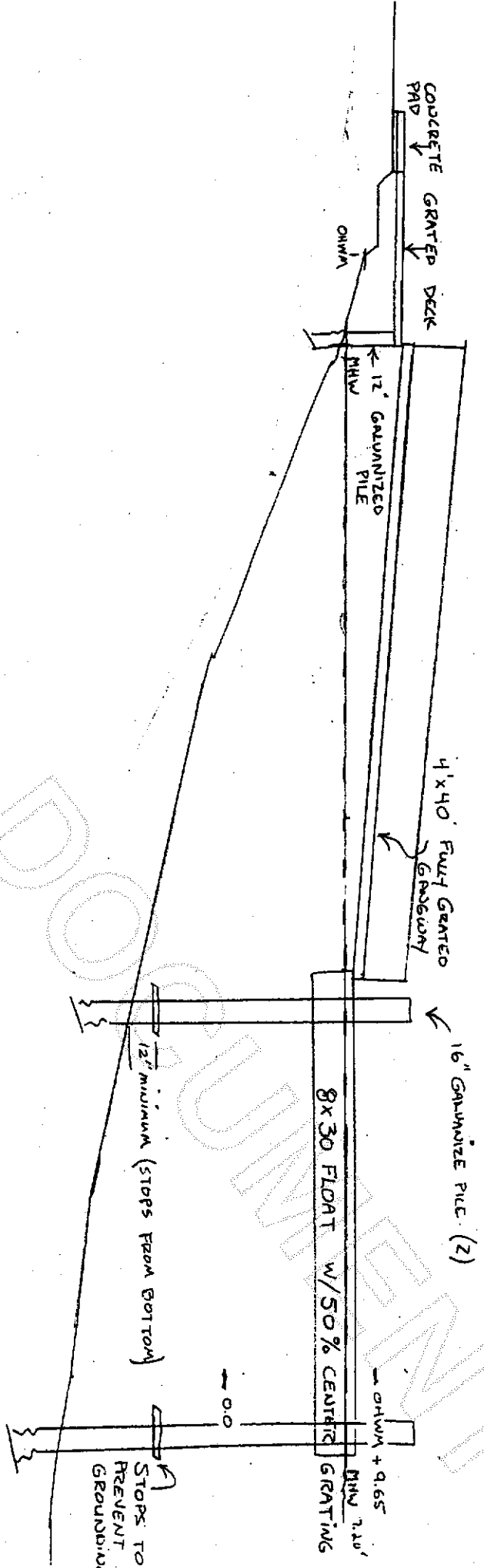
Date: 8 June 2004

Lon. 48, 29, 42N, Lat. 122, 40, 56 W



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Proposed: Shared Dock
 Reference: ~~2003-1-00000~~ 200301066
 Purpose: Recreational Use
 Sheet 5 of 7

Applicant: Leach
 Location: Flounder Bay, Anacortes, WA
 Lon. 48, 29, 42N, Lat. 122, 40, 56W
 Date 8 June 2004

ARZ

P.COJ: PINUS CONTORTA CONTOR
SHORE PINE
R: RHODODENDRON
H.D.: HOLODISCUS DISCOLOR - OCEAN SPRAY
A.C.: ACER CIRCINATUM - VINE MAPLE
M.B.: MAHONIA NERVOSA - OREGON GRAPE
S.A.: SYMPHORICARPOS ALBUS - SNOWBERRY
E.M.: ELYMUS MOLLISS - DUNE GRASS

Proposed: Shared Dock

Reference: 200301086

Purpose: Recreational Use

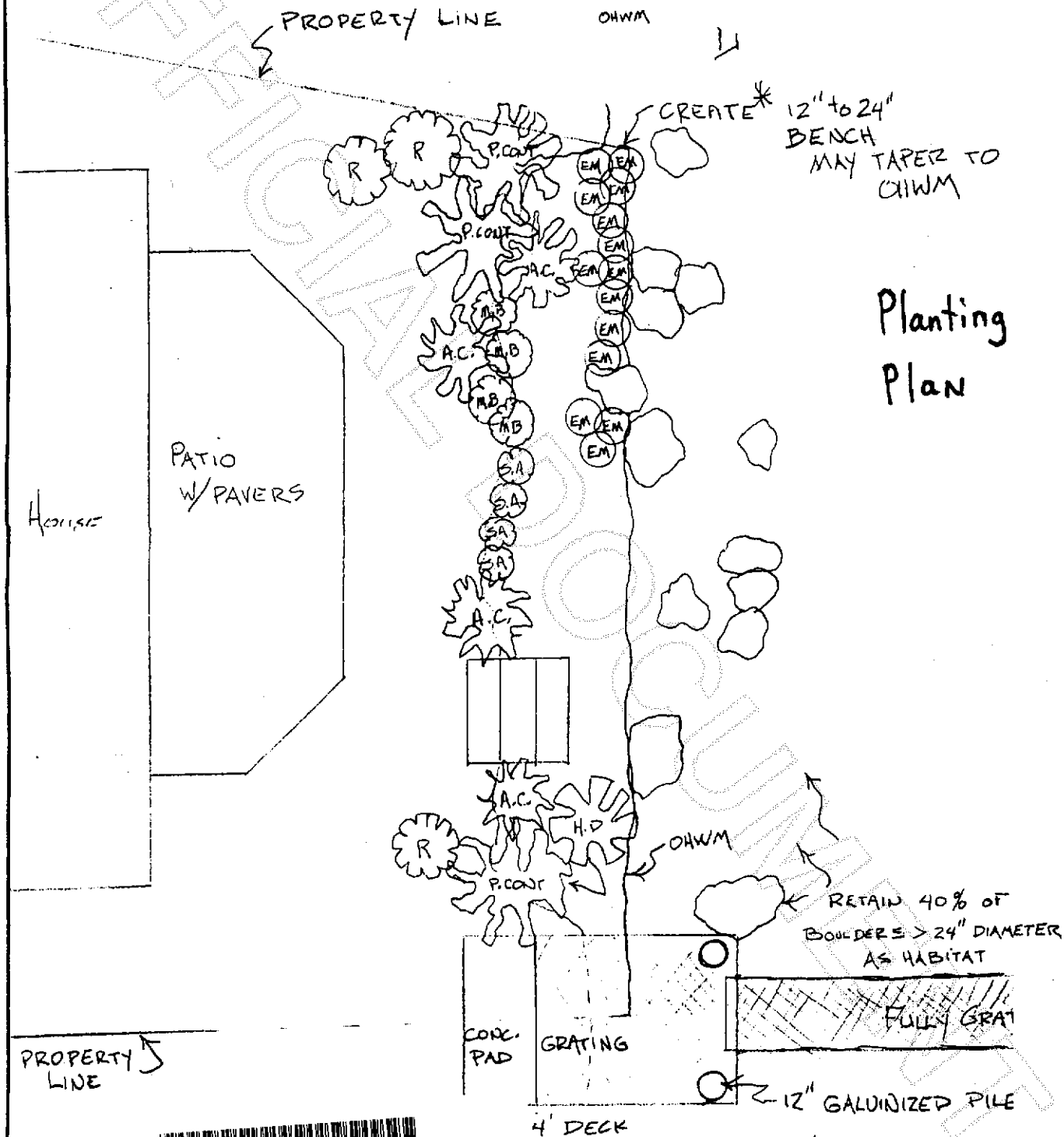
App. By: Leach

Location: Flounder Bay, Anacortes, WA

Sheet 7 of 7

Date 8 June 2004

Lon. 48, 29, 42N, Lat 122, 40, 56W



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This notice of authorization must be
conspicuously displayed at the site of work.

United States Army Corps of Engineers

A permit to INSTALL A JOINT USE PIER, RAMP, AND FLOAT ASSEMBLY (TO PROVIDE JOINT USE
MOORING FOR RECREATIONAL VESSELS) IN FLOUNDER BAY

at ANACORTES, WASHINGTON

has been issued to MR. LAURENCE & MS. KATHLEEN LEACH on 20

Address of Permittee 3590 ROUND BOTTOM ROAD, PMB F-32923, CINCINNATI, OHIO 45244

Permit Number

200301086

Jonathan Smith
for DEBRA M. LEWIS
COLONEL, CORPS OF ENGINEERS
DISTRICT COMMANDER

ENG FORM 4336, Jul 81 (ER 1145-2-303) EDITION OF JUL 70 MAY BE USED

(Proponent: DAEN-CWO)



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