



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT  
332 MINNESOTA STREET, SUITE E1500  
ST. PAUL, MN 55101-1323

December 22, 2022

Regulatory File No. MVP-2009-03316-SJW

Fox Harbor Marina  
c/o Michael Amos  
1000 Bauman Street  
Oshkosh, Wisconsin 54902

Dear Mr. Amos:

Authority is hereby granted for your project to construct a pier and associated boat slips above the plane of the ordinary high-water mark (OHWM) on the Fox River at the Fox harbor Marina in the City of Oshkosh. The new pier structure would extend 118-120 feet from shore and would be constructed using 110 – 10" diameter wood timber piles and 2' x 6' decking. The main walkway would be six feet wide, and the finger walkways between boat slips would be four feet wide. The overall footprint of the proposed structure would be 4,746 square feet (0.10 acre). The project site is located in the NW ¼ SW ¼ of Section 14, Township 18 North, Range 16 East, Winnebago County, Wisconsin.

The authorized work is shown on the enclosed figure(s) labeled MVP-2009-03316-SJW: Page 1 of 2 through 2 of 2, and is hereby incorporated as part of this letter of permission. This action is based upon the recommendation of the Chief of Engineers and under the provisions of Section 10 of the 1899 Rivers and Harbors Act (30 Stat. 1151; USC 403). The authorization is subject to the enclosed permit conditions.

Additionally, the following special condition is a part of this authorization:

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.

This Federal authorization does not permit you to commence the proposed activity without first obtaining any necessary State and/or local permits.

This letter contains an initial proffered permit and an approved jurisdictional determination (JD) for your project. Also enclosed is a Notification of Administrative Appeal Options and Process (NAP) fact sheet and Request for Appeal (RFA) form for information regarding your right to object to these determinations.

If you object to the terms and/or conditions of this initial proffered permit, please see Section I-A. You must complete Section II of the RFA and submit it to the **District Engineer** in accordance with 33 C.F.R. Part 331. Your objections to the initial proffered permit must be received by the **St. Paul District Office** within 60 days of the date of the NAP or you will forfeit your right to appeal the permit.

If you wish to appeal the approved jurisdictional determination, please see Section I-D. To appeal this approved JD you must complete Section II of the RFA form and submit it to the **Mississippi Valley Division Engineer** within 60 days of the date of the NAP.

Before accepting the RFA, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. § 331.5, and that it has been received by the District or Division Office within 60 days of the date of the NAP.

It is not necessary to submit an RFA form to the Corps District or Division Office if you do not object to the initial proffered permit or the approved jurisdictional determination enclosed with this letter.

If you have any questions, please contact Sam Woboril in our Stevens Point office at (651) 290-5878 or by email at [samuel.j.woboril@usace.army.mil](mailto:samuel.j.woboril@usace.army.mil). In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,



Joseph Shoemaker  
Chief, East Branch

Copy furnished to:  
Commander  
Eighth Coast Guard District (m)  
Hale Boggs Federal Building  
501 Magazine Street  
New Orleans, LA 70130-3396

Enclosure  
Section 10 LOP Conditions



# Surface Water Data Viewer Map



0.1

0

0.03

0.1 Miles

NAD\_1983\_HARN\_Wisconsin\_TM

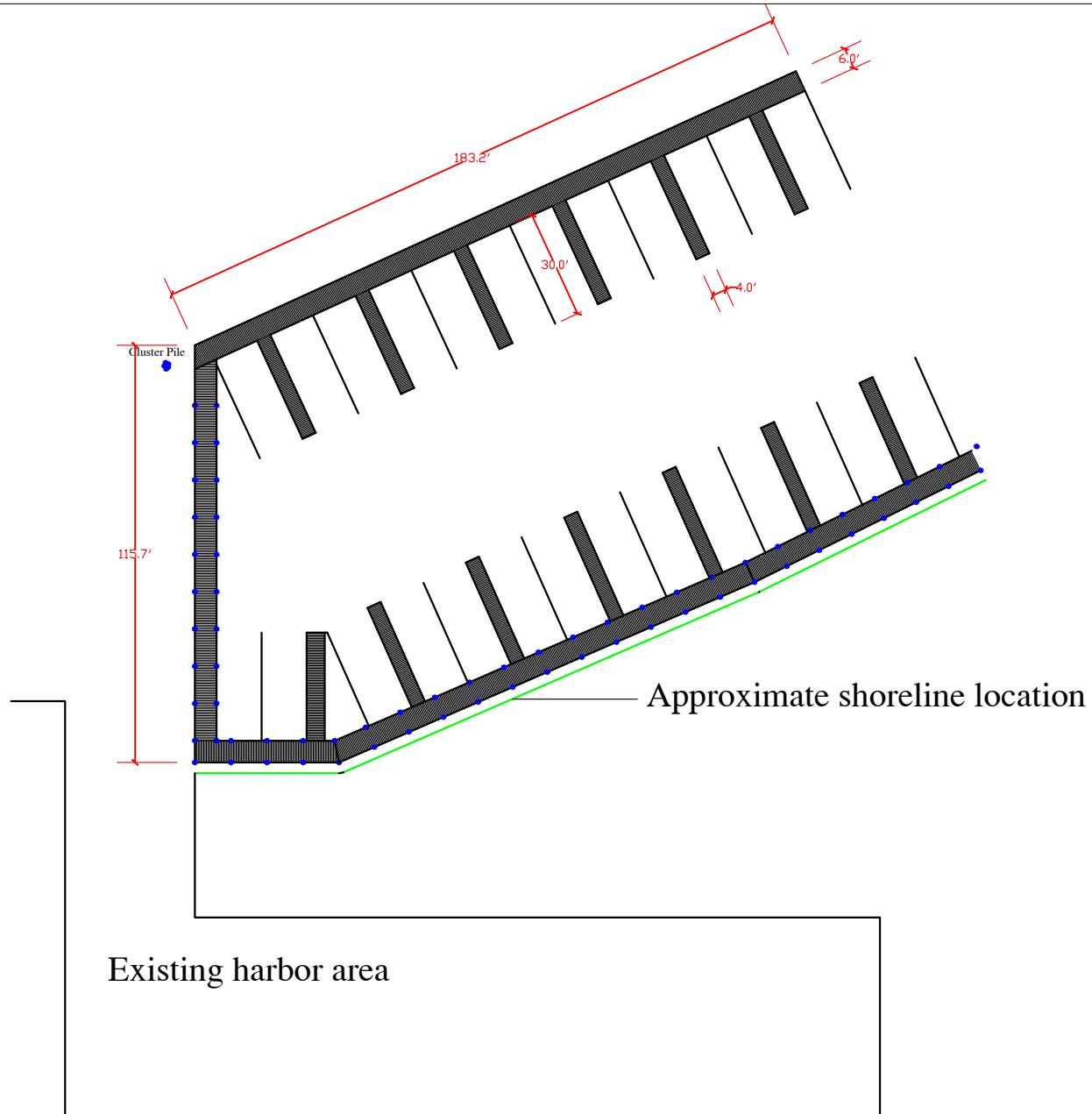
1: 1,980

**DISCLAIMER:** The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/legal/>

## Legend

- Wetland Indicators
- Wetland Class Areas
- Wetland Class Points
- Dammed pond
- Excavated pond
- Filled/drained wetland
- Wetland too small to delineate
- Filled excavated pond
- Filled Points
- Wetland Class Areas
- Filled Areas
- Wild Rice River and Stream Lines
- Wild Rice Lake Polygons
- PNW-ASNRI Sensitive Areas of Lakes
- PNW-ASNRI Wild and Scenic Rivers
- PNW-ASNRI Outstanding and Exceptional Streams
- PNW-ASNRI Trout Streams
- PNW-ASNRI Wild Rice Streams
- PNW-ASNRI Outstanding and Exceptional Lakes
- PNW-ASNRI Special Area Management Plan Streams
- PNW-ASNRI Special Wetlands Inventory Study Streams
- PNW-ASNRI Coastal Wisconsin Wetlands Streams
- PNW-ASNRI Special Area Management Plan Areas
- PNW-ASNRI Special Wetlands Inventory Study Areas

## Notes



**BOONDOCKS  
PILENGS &  
PIERS**

Phone: (414) 708-1995  
[WWW.BOONDOCKSPILINGS.COM](http://WWW.BOONDOCKSPILINGS.COM)  
[Dan@boondockspilings.com](mailto:Dan@boondockspilings.com)

Fox Harbor Marina

<b>ADDRESS:</b> 1000 Bauman St. Oshkosh, WI	<b>DRAWN BY:</b> Dan Van Bommel	<b>DATE:</b> 3/3/22
<b>File Name:</b> 1000 Bauman St., Oshkosh wharf		

**General Conditions Pursuant to Section 10 of the Rivers and Harbors Act:**

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit, and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions i or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate.

b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-600; 86 Stat. 8161, the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-632, 86 Stat. 10621, or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact of fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this

permit or that such action would otherwise be in the public interest. Any such modification, suspension or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

I. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against

the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

o. That if the activity authorized herein is not completed on or before 3 years from permit issuance, and if not previously revoked or specifically extended, this permit shall automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition thereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

2. Special Conditions:

STRUCTURES IN OR WORK  
AFFECTING NAVIGABLE  
WATERS OF THE UNITED  
STATES:

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained

by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Refer to standard conditions as follows.

3. Standard Conditions:

In addition to the general and special conditions, this permit is subject to the following standard conditions, as applicable:

1. If dredged or excavated material is placed on an upland disposal site (above the ordinary high-water mark), the site must be securely diked or contained by some other acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. The containment area, whether bulkhead or upland disposal site, must be fully completed prior to placement of any fill material.

2. Upon completion of earthwork operations all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover to

prevent subsequent erosion.

3. Riprap, if authorized under this permit, must be clean, properly graded, and nonpolluting. In addition, rock and fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or the source borrow site must be identified and approved by the District Engineer.

4. A contingency plan must be formulated to be immediately effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur. It is the responsibility of the applicant to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the U.S. Coast Guard at telephone number 800-424-8802, and the Wisconsin Department of Natural Resources at (608) 266-3232.

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

<b>Applicant:</b> Michael Amos – Fox Harbor Marina	<b>File No.:</b> MVP-2009-03316-SJW	<b>Date:</b> December 21, 2022
Attached is:	See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
X	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://usace.army.mil/inet/functions/cw/cecw/reg> 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:  Sam Woboril – Lead Project Manager USACE, St. Paul District Regulatory Division 2926 Post Road, Suite B Stevens Point, Wisconsin 54481  Samuel.j.woboril@usace.army.mil (651) 290-5878	If you only have questions regarding the appeal process you may also contact the Division Engineer through:  Administrative Appeals Review Officer Mississippi Valley Division P.O. Box 80 (1400 Walnut Street) Vicksburg, MS 39181-0080 601-634-5820 FAX: 601-634-5816
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**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: _____
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