

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE  
710 E STREET, SUITE 200  
EUREKA, CA 95501  
(707) 445-7833



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ADMINISTRATIVE PERMIT

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Date: October 29, 2004

Permit Application: 1-04-059

APPLICANT(S): Roger & Johanna Rodoni

PROJECT DESCRIPTION: Repair a concrete tide gate structure separating Rocky Gulch from Humboldt Bay and replace the existing top-hinged gate with a side-hinged gate with a muted opening to provide access for anadromous salmonids

PROJECT LOCATION: At the mouth of the stream known as Rocky Gulch in the Bayside area of Humboldt County (APN 501-091-002)

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

DATE: November 19, 2004 PHONE: (310) 519-8200  
TIME: Meeting begins at 9 a.m.  
PLACE: Sheraton Los Angeles Harbor, 601 South Palos Verdes Street, San Pedro, CA

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER M. DOUGLAS  
Executive Director

By: ROBERT S. MERRILL  
North Coast District Manager



**STANDARD CONDITIONS:**

1. **Notice of Receipt and Acknowledgement.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions is returned to the Commission Office.
2. **Expiration.** If development is not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

**EXECUTIVE DIRECTOR'S DETERMINATION (continued):**

The Executive Director hereby determines that the proposed development is a category of development, which pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit.

Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

**FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:**

A. **Project Description**

The proposed project involves the repair of an existing tide gate structure at the mouth of the watercourse known as Rocky Gulch in the Bayside area approximately six miles north of Eureka in Humboldt County. At the downstream end of Rocky Gulch, the stream flows through a tide gate structure and joins Washington Gulch to form Brainard Slough, before passing through a culvert under Highway 101 and on out into Humboldt Bay. The tide gate structure is actually composed of two separate but adjacent tide gate structures, an older non-operational and sealed tide gate built sometime in

the late 1800s or early 1900s, and a newer operational, but leaking, tide gate installed several decades ago. The repairs would rehabilitate the tide gate structure before it loses all utility and causes flooding of the surrounding lands.

When it was installed and until it started to leak within the last couple of years, the operational tide gate was a barrier to anadromous salmonid migration. However, the leaks have allowed tidal influence to extend upstream under current conditions for approximately 2,800 feet, and have allowed fish passage through the structure. The muted tidal inundation caused by the leakage has not yet reached the point where extensive flooding of the surrounding lands has occurred. The intent of the project is to repair the tide gate structure in a manner that would still allow for fish passage while maintaining the current volume of tide water exchange. The project would help restore federal and state listed coho salmon and federally listed steelhead populations to Rocky Gulch, a tributary to Humboldt Bay. Because of the project's value in providing for reliable passage of threatened fish species, the California Department of Fish & Game awarded grant funding for the project in 2003.

The new tide gate is a custom-fabricated, side-hinged aluminum gate that would be mounted on the wing-walls of the existing structure. The new tide gate would have a muted opening with an adjustable "guillotine-style" auxiliary door with a maximum aperture opening of two square feet. The auxiliary door is a top-hinged tide gate mounted on a track that can be adjusted up and down and also adjusted to reduce the size of the opening. Hydrologic modeling has determined that the muted opening should be first set 6 inches wide and 12 inches high. If necessary, the muted opening would be adjusted to maintain the salt marsh habitat currently accessible to tidal flows upstream.

Installation of the new tide gate would require repairs to the existing concrete wing-walls and construction of a concrete "ceiling" between the new tide gate headwall and the existing tide gate to prevent tide water from pouring over the concrete wing-walls. The project also includes repairing the older adjacent non-functioning tide gate's concrete headwall to plug a hole.

Before installing the concrete "ceiling," a temporary wooden headwall would be installed on the wing-walls on the upstream side of the tide gate structure to act as a dam to prevent stream flow from flowing through the tide gate structure. This temporary headwall would be removed upon completion of the repairs. During low tide intervals, forms would be installed to support the concrete ceiling that would cover and enclose the wing-walls. The forms would be constructed of wood material, lined with corrugated metal and visqueen plastic, and sealed with caulking to form an impermeable trough that would prevent wet concrete from leaking onto the wing walls. Concrete would be poured into the ends of the wing walls and onto the ceiling form during a single low-low -tide interval with a low-water working window of about six hours. Up to approximately 12-15 cubic feet of concrete would be required for constructing the concrete ceiling. A "high-early" type of concrete would be used, which hardens rapidly in approximately 4-6 hours. Any spilled concrete would be collected in tarps around the base of the tide gate structure for disposal in an upland area off site. No concrete would be discharged to the adjacent water.

The hole to be plugged in the older non-operational tide gate would be repaired in a similar manner. The area surrounding the hole would be cleared, and then forms installed to plug the hole with approximately 6-9 cubic feet of concrete. This entire operation would be conducted during low tide

between two successive high tides so that no tide water is allowed to inundate the concrete patch until after the concrete has set-up. Once the concrete is set, the forms would be removed.

Vehicular and equipment access to the work site would be via an existing dirt ranch road.

B. Protection of Water Quality and Marine Resources

The project site is located at the mouth of Rocky Gulch in an area touched by the tidal waters of the Humboldt Bay estuary. Section 30231 of the Coastal Act sets forth policies that protect the biological productivity and quality of coastal waters. Section 30231 states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The proposed development involves replacing a tide gate and patching a hole within the tide gate structure. As proposed, the project is designed to avoid significant adverse impacts on water quality and the biological productivity of Rocky Gulch and the connecting waterways that lead to Humboldt Bay. However, if the proposed mitigations were not implemented, the proposed project would have significant adverse impacts on water quality and biological productivity as discussed below.

If construction debris from the repair project were not properly disposed of, the debris could end up within Rocky Gulch and the connecting waterways that lead to Humboldt Bay and adversely affect water quality. To avoid such impacts, Special Condition No. 1 requires that (a) no construction materials, debris or waste shall be placed or stored where it may enter coastal waters, (b) debris discharged into coastal waters shall be recovered as soon as possible after loss, and (c) all construction debris be removed and disposed of in a lawful manner either outside the coastal zone or at an approved disposal site within two days of completion of the project.

Vehicles and construction equipment require the use of fuels and lubricants. Accidental discharges of fuels and lubricants to the waters of Rocky Gulch and the connecting waterways would adversely affect water quality. To avoid such impacts, Special Condition No. 1 requires that (a) no equipment fueling occur at any time at the project site or elsewhere around coastal waters; and (b) no machinery or construction materials not essential for project construction be allowed at any time within coastal waters.

Wet concrete that comes into contact with coastal waters can result in the discharge of contaminants that would adversely affect water quality. To avoid such impacts, Special Condition No. 1 requires that (a) concrete work be limited to periods of low tides to minimize the chances that tidal waters could come into direct contact with wet concrete, (b) temporary tarpaulin 'ponds' be used at all times during

concrete pouring and washing operations to prevent concrete or concrete wash water from entering coastal waters.

The project includes the use of temporary wooden headwalls to dam stream waters from the construction site. Special Condition No. 1 requires that such headwalls and other temporary structures that could contact coastal waters shall not include creosote- or other chemical preservative-treated members, which may discharge pollutants. Wood preservatives can potentially leach out of the wood and into the water column where they can be absorbed by fish and other aquatic organisms with potentially adverse consequences. Special Condition No. 1 further requires that where materials may contact the waters of the river, only materials deemed safe for such use by the California Department of Fish and Game may be used. Fully implemented, this condition will ensure that chemical contaminants arising as a by-product of wood treatment do not inadvertently contaminate coastal waters and affords the opportunity to utilize materials composed of concrete, steel, composite, untreated timber or timber treated with a preservative approved by CDFG for use in marine waters.

The new tide gate to be installed will make it possible to control the size of the opening through the tide gate and the exchange of tidal waters. As proposed, the tide gate would be operated in a manner that would facilitate fish passage and maintain the current volume of tide water exchange to sustain the salt marsh habitat that extends approximately 2,800 feet upstream of the tide gate structure. If the tide gate were not operated in this manner, and the size of the opening and the volume of tide water exchange were reduced, the new tide gate would have significant impacts on the biological productivity of the waters of Rocky Gulch and would not maintain optimum populations of marine organisms, contrary to the requirements of Section 30231 of the Coastal Act. Populations of federally and state listed coho salmon and steelhead species would decline as well as organisms that inhabit the salt marsh habitat along the lower reaches of Rocky Gulch. Therefore, Special Condition No. 3 requires that the permittee operate the new tide gate in the manner proposed in the application to maintain a sufficient opening for fish passage and to maintain the current volume of tide water exchange to sustain the salt marsh habitat. The special condition requires that the applicant apply for a permit amendment for any changes in the operation of the tide gate that would reduce fish passage or reduce the volume of tide water exchange so that the Commission can evaluate the impacts of such a change on biological productivity and the consistency of the change with Section 30231 and other Chapter 3 policies of the Coastal Act.

As conditioned, the Executive Director finds that the proposed project will not adversely impact the biological productivity or quality of coastal waters and therefore, is consistent with Section 30231 of the Coastal Act.

### C. Public Access

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214

of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214 of the Coastal Act, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on public access.

Although the project is located between the first public road and tidal sloughs, inlets of the sea, it would not adversely affect public access. The project site is within a rural, agricultural area used primarily for cattle grazing. There are no trails or other public roads that provide shoreline access within the immediate vicinity of the project that would be affected by the project. Furthermore, the proposed project would not create any new demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

### **SPECIAL CONDITIONS**

#### 1. Temporary Structures

Where temporary structures such as wooden headwalls may contact the waters of Rocky Gulch and connecting waterways, such structures shall not include creosote-treated members. Only concrete, steel, composite, untreated timber, or timber treated with a wood preservative approved by the Department of Fish and Game for use in marine waters may be used. All temporary structures shall be completely removed upon project completion.

#### 2. Construction Responsibilities

The permittee shall comply with the following construction-related requirements:

- (1) No construction materials, debris or waste shall be placed or stored where it may enter coastal waters. Particular care shall be exercised to prevent foreign materials (for example, construction scraps, wood preservatives, other chemicals, etc.) from entering coastal waters. Debris discharged into coastal waters shall be recovered as soon as possible after loss;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 2 days of project completion and disposed of in a lawful manner outside of the coastal zone or at an authorized disposal site;
- (3) No machinery or construction materials not essential for project construction shall be allowed at any time within Rocky Gulch and connecting waterways or other wetland areas;

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- (4) No equipment fueling shall occur at any time at the project site or elsewhere around coastal waters;
- (5) Only existing dirt ranch roads shall be used to provide vehicular and equipment access to the work site.
- (6) Tide gate replacement and concrete work shall be limited to periods of low tides.
- (7) Temporary tarpaulin 'ponds' shall be used at all times during concrete pouring and washing operations to prevent concrete or concrete wash water from entering coastal waters.

3. Operation of Muted Tide Gate

The permittee shall operate the new tide gate in the manner proposed in the application to maintain a sufficient opening for fish passage and to maintain the current volume of tide water exchange to sustain the salt marsh habitat that extends approximately 2,800 feet upstream of the tide gate structure. No changes in the operation of the tide gate that would reduce fish passage or reduce the volume of tide water exchange shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

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**ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:**

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

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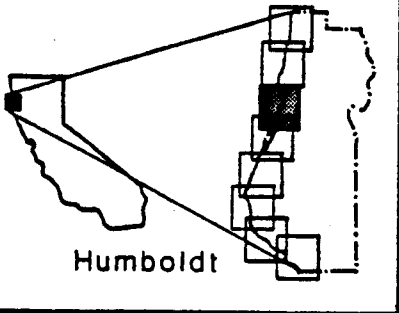
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Applicants' Signatures

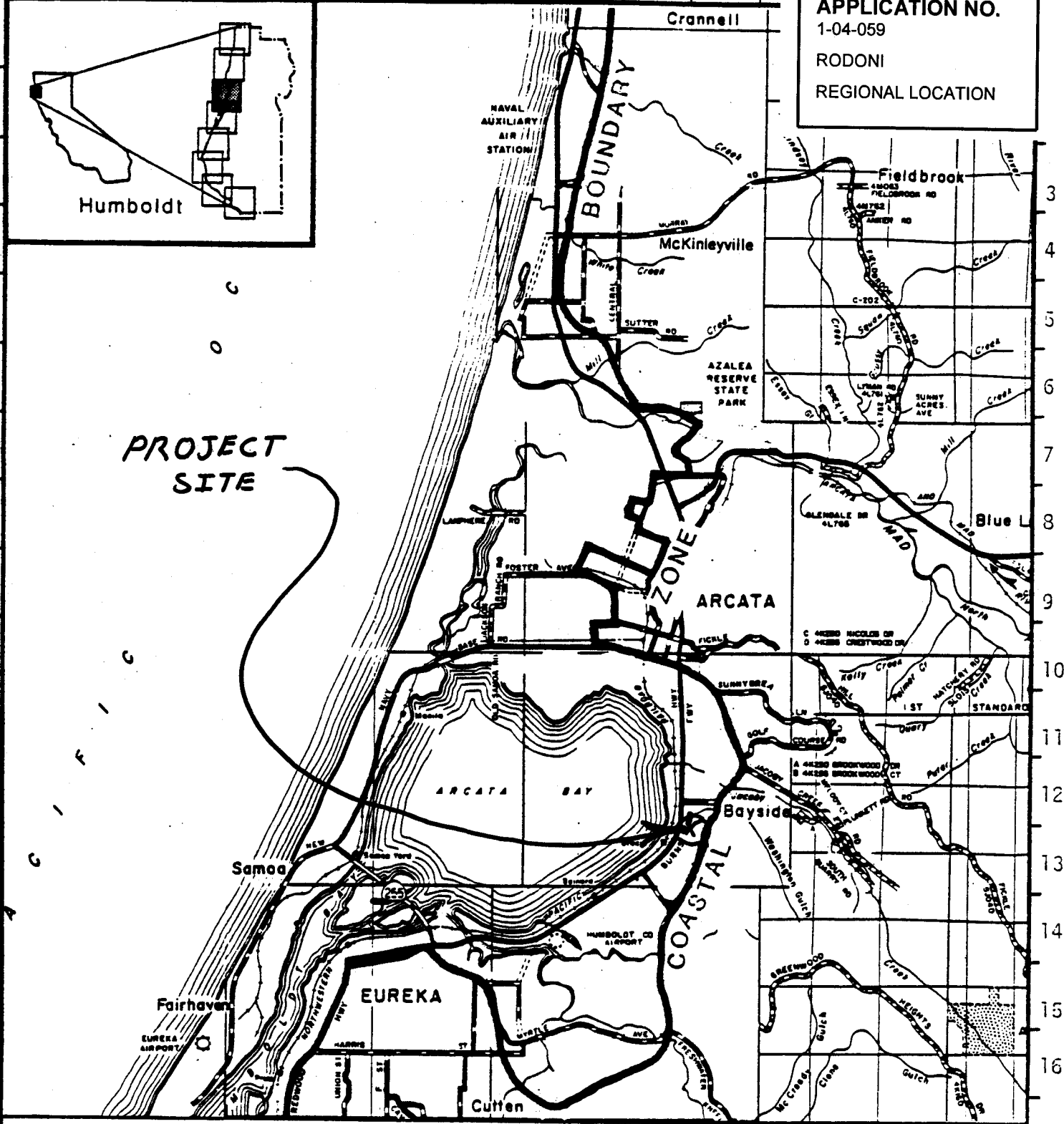
Date of Signing

**EXHIBIT NO. 1**  
**APPLICATION NO.**  
 1-04-059  
 RODONI  
 REGIONAL LOCATION

A B C D E F G H I J K



**PROJECT SITE**



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**LOCATION MAP**





EXHIBIT NO. 2  
 APPLICATION NO.  
 1-04-059  
 RODONI  
 TIDE GATE PLAN VIEW

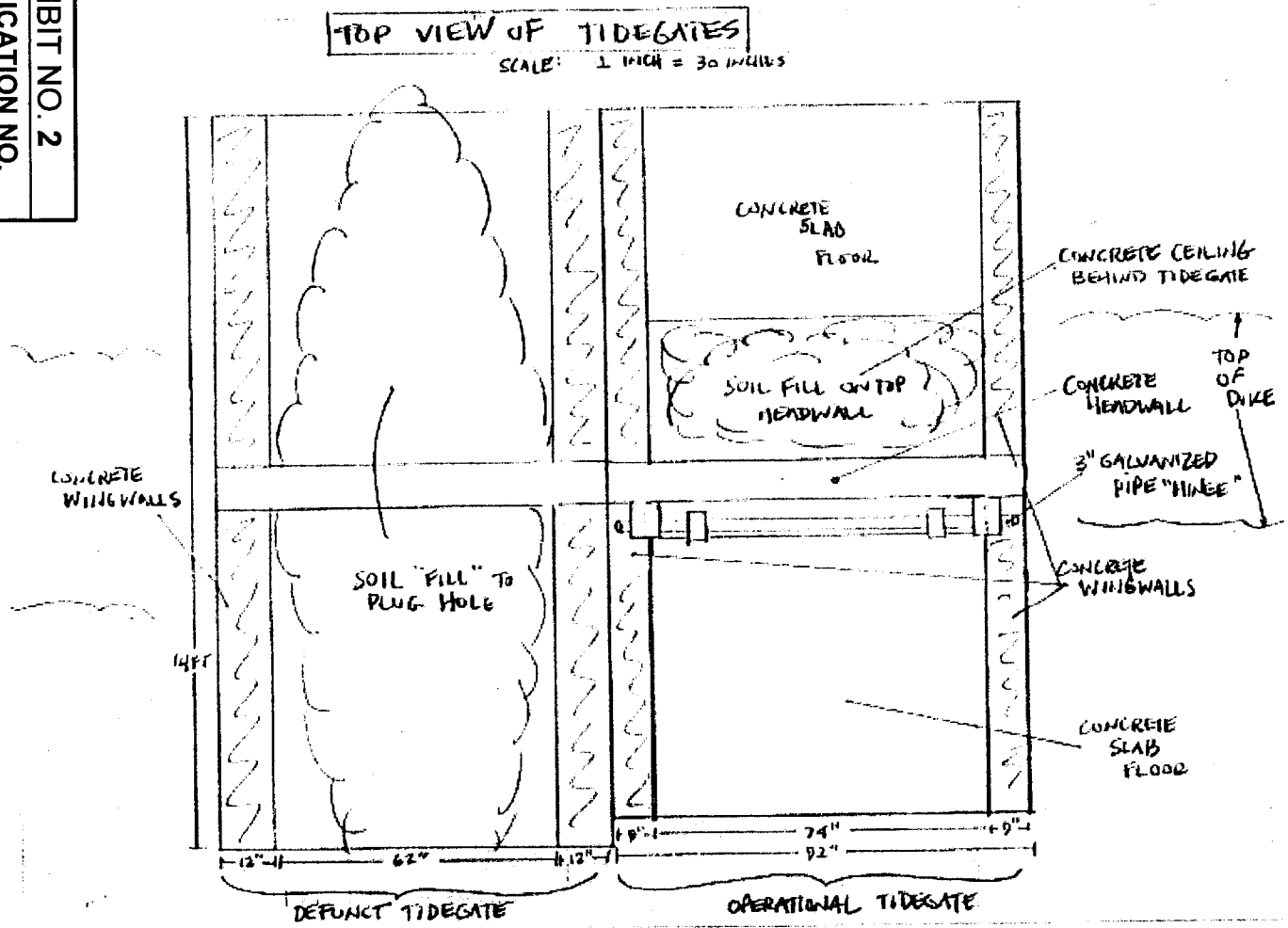


Figure 3B. Top view of the Rocky Gulch tidegates, showing the approximate dimensions of the existing functional and the defunct tidegates.

**EXHIBIT NO. 3**  
**APPLICATION NO.**  
 1-04-059  
 RODONI  
 TIDE GATE FRONT VIEW

**FRONT VIEW OF TIDEGATES**  
 SCALE 1 INCH = 30 INCHES

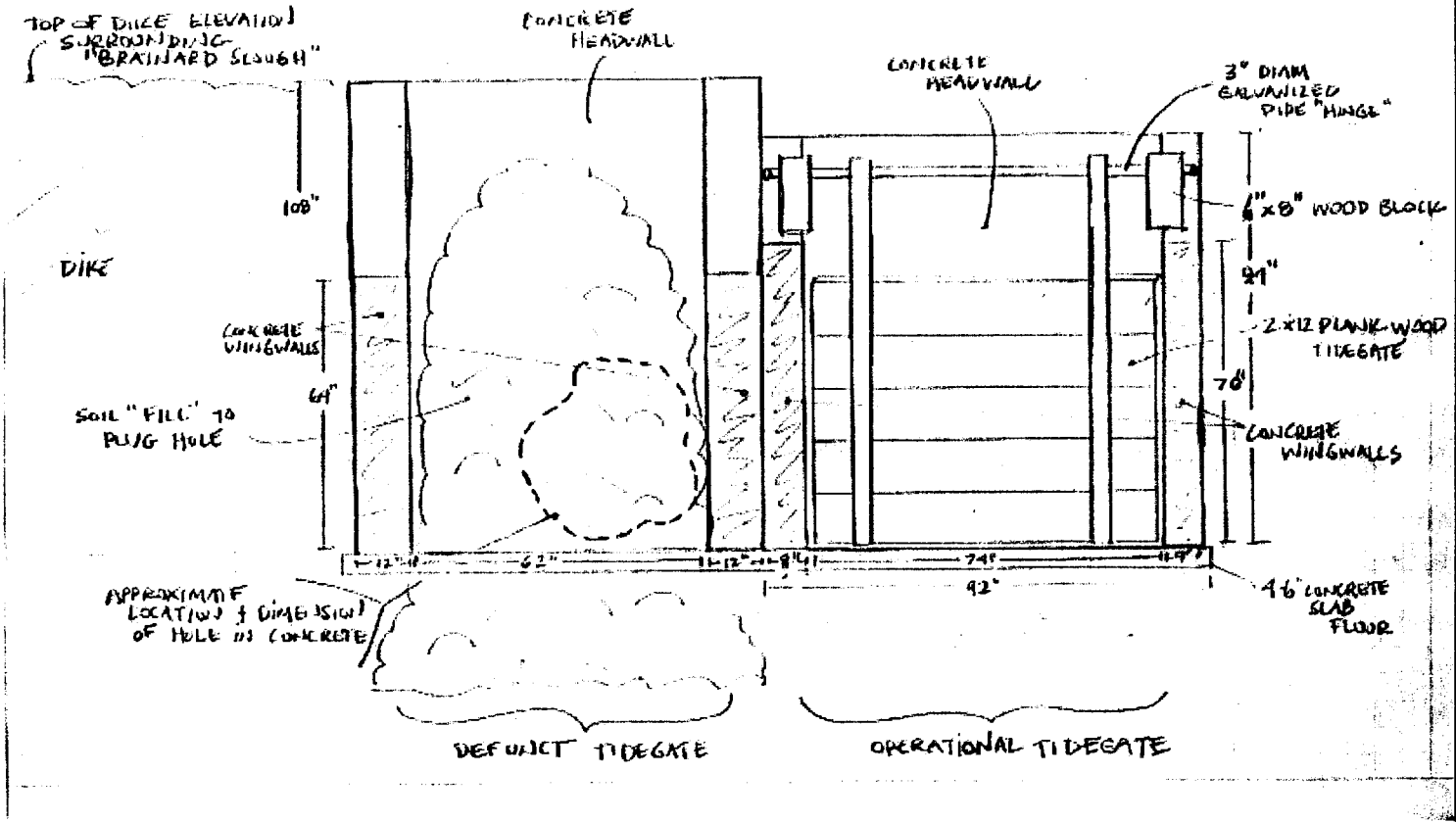


Figure 3A. Front view of Rocky Gulch tidegates, showing the dimensions of the functional and the defunct tidegates.

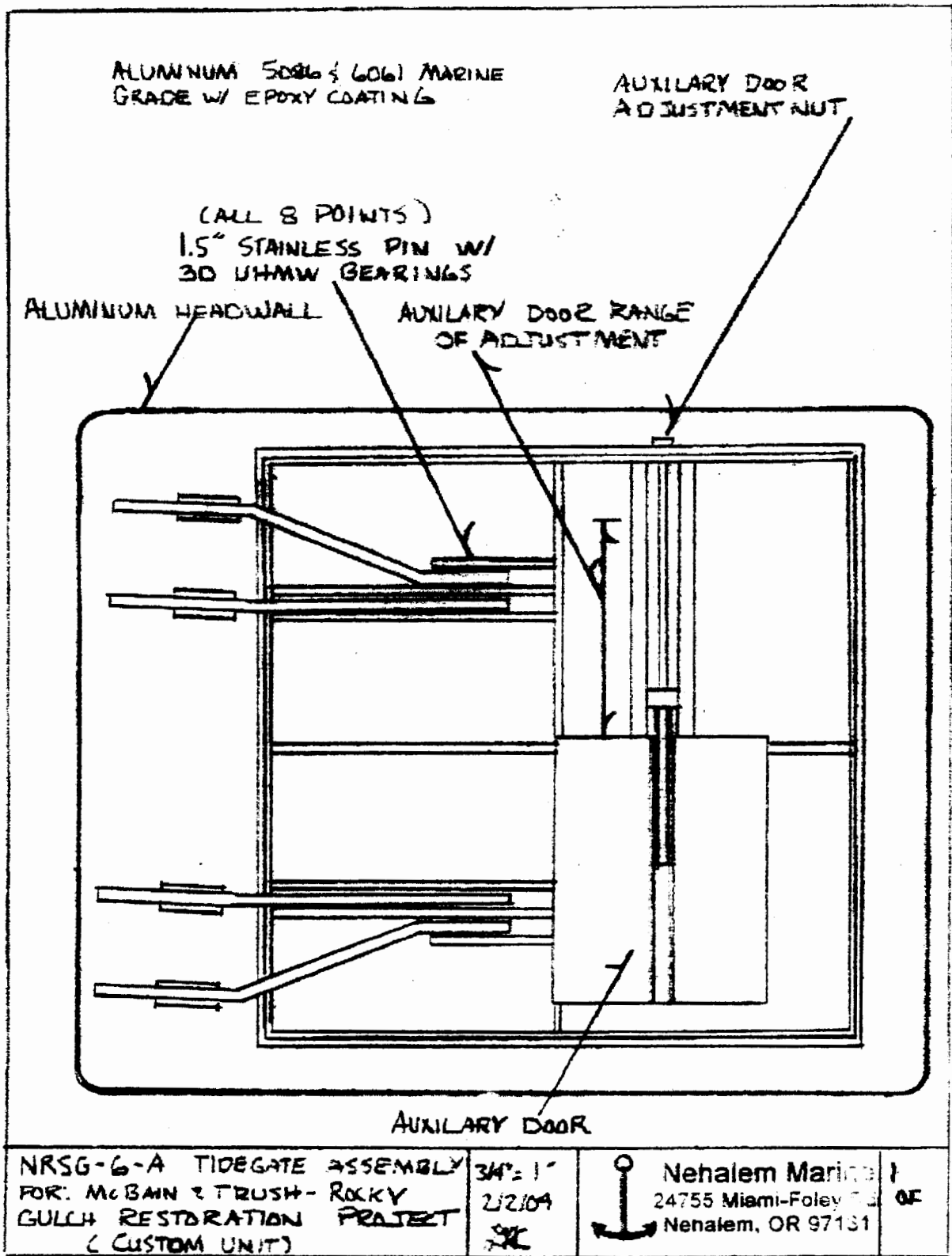


Figure 2. Front view of the proposed tidegate design to be installed on the existing concrete wingwall structure on Rocky Gulch. The sidehinged tidegate has an auxiliary door to allow fish passage and a muted tidal prism behind the tidegate.

EXHIBIT NO. 4  
 APPLICATION NO.  
 1-04-059  
 RODONI  
 THE GATE ASSEMBLY

