

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION
OF THE PACIFIC,

Complainant,

v.

WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION, FERRIES
DIVISION

Respondent.

MEC CASE NO. 9-08

DECISION NO. 554 - MEC

ORDER CLOSING
SETTLED COMPLAINT

Schwerin, Campbell, Barnard and Iglitzin, by *Robert Lavitt*, Attorney, appearing for the Inlandboatmen's Union of the Pacific.

Robert McKenna, Attorney General, by *David Slown*, Assistant Attorney General, appearing for the Washington State Ferries.

THIS MATTER came before the Marine Employees' Commission (MEC) on December 19, 2007, when the Inlandboatmen's Union of the Pacific (IBU) filed an unfair labor practice complaint, MEC Case 9-08, against the Washington State Ferries (WSF).

IBU's complaint charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130(1) by interfering with, restraining or coercing employees in the exercise of rights; and by refusing to bargain collectively with representatives of employees.

Specifically, IBU alleged that WSF unilaterally changed working conditions when it began disciplining employees for smoking in June of 2007.

Following review of the IBU's complaint, the Commission determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable. On February 7, 2008, IBU requested the Commission hold its complaint in abeyance until 60 days after the parties' March 3 – Joint Labor Relations Committee meeting. The MEC took no action until March 18, when IBU advised the MEC that it was ready to have the matter scheduled. Thereafter, a settlement conference was scheduled for May 8 with Commissioner John Sullivan

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designated to serve as Mediator. Chairman John Swanson was assigned to act as Hearing Examiner for the June 26 hearing.

The parties were unable to resolve the matter during the May 8, 2008 conference. On May 21, WSF filed a Motion to Make Complaint More Definite and Certain. On June 3, Examiner Swanson issued an Order granting WSF's Motion. The June 26 hearing was cancelled. On June 13 the MEC received IBU's Amended Complaint. The MEC rescheduled the hearing for October 21, 2008. That date was subsequently converted to a settlement conference; the IBU and WSF made real progress toward resolution. At their request, MEC scheduled another settlement conference for February 3, 2009, at which time the parties reached a tentative agreement.

On February 27, 2009, the IBU provided the Commission with a copy of the signed settlement agreement, which includes IBU's withdrawal of the complaint. That agreement is appended to and becomes a part of this Order by reference.

ORDER

It is hereby ordered that the unfair labor practice complaint, filed by IBU against WSF and docketed as MEC Case 9-08, is closed in acknowledgement of the parties' settlement agreement.

DATED this 1st day of April 2009.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN SWANSON, Chairman

/s/ PATRICIA WARREN, Commissioner

/s/ JOHN COX, Commissioner

**SETTLEMENT AGREEMENT BETWEEN WSDOT, FERRIES DIVISION AND THE
INLANDBOATMEN'S UNION OF THE PACIFIC
MEC Case No. 9-08
Smoking Issue**

The Washington State Department of Transportation, Ferries' Division (WSF), and the Inlandboatmen's Union of the Pacific (IBU), in full and complete settlement of MEC Case No. 9-08, do hereby agree as follows:

WSF Agrees:

1. That employees who wish to smoke while on duty should be allowed to do so only in areas outside terminal property, in which smoking is allowed by members of the public, or in areas illustrated in paragraph No. 2 of this Agreement.
2. Maps of areas at each WSF terminal, showing public smoking areas adjacent to terminal property, are attached to this agreement for illustrative purposes. These maps are not intended as an exclusive description of all areas available to members of the public for smoking, but are intended to identify areas where smoking is permitted under this settlement agreement for WSF employees.
3. That employees wishing to smoke while on duty should be allowed reasonable use of smoking areas, on a not-to-interfere with duties basis.
4. That the discipline issued in June 2007 to Shari Holdal and Catherine Capdepon for allegedly violating WSF's smoking policy shall not be admissible in any proceeding of any kind, except for a proceeding involving an alleged violation of WSF's smoking policy.

IBU Agrees:

1. To the withdrawal of MEC Case No. 9-08. A signed copy of this agreement shall constitute a request for withdrawal, and may be presented by any party.

The Parties Mutually Agree:

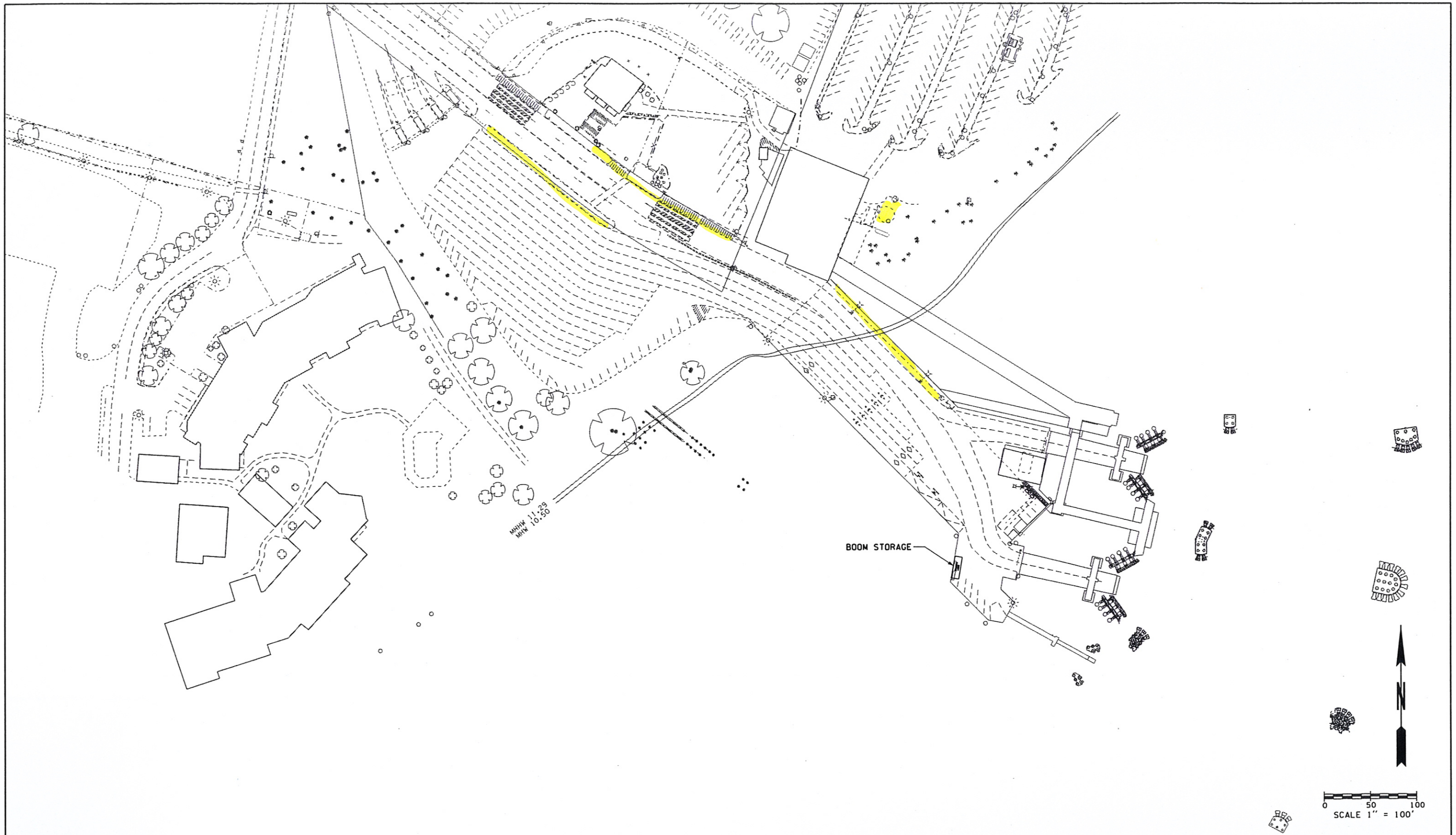
1. That all WSF policies on smoking in terminals or aboard vessels remain in effect, and are not modified or amended in any way by this Agreement.


/s/ Paul A. Ganalon 2/27/09
Labor Relations Manager
WSDOT Ferries

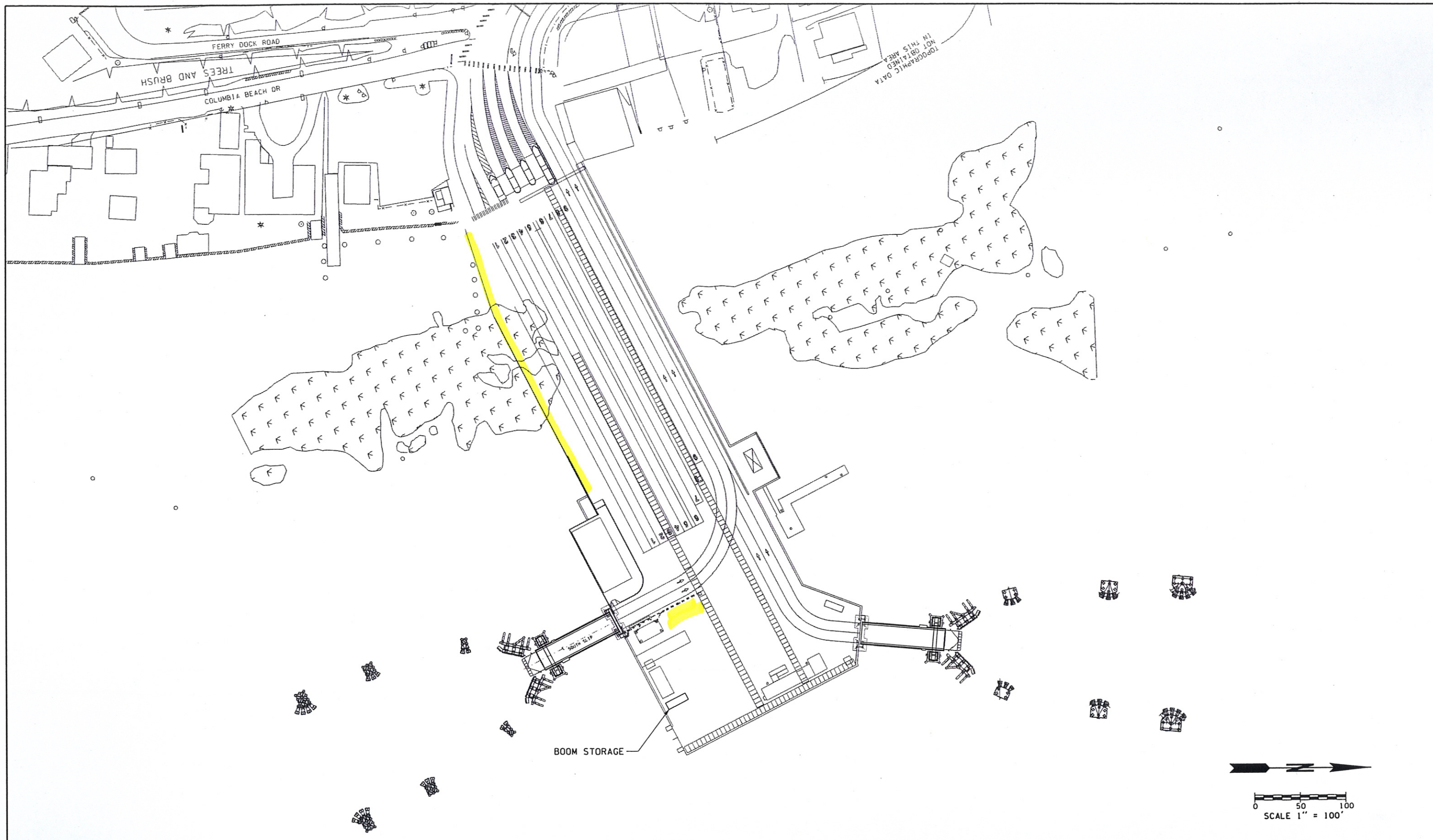
/s/ Dennis Conklin 2/27/09
Regional Director
Inlandboatmen's Union


/s/ Jerry Holder 2/27/09
Labor Negotiator
OFM Labor Relations Office

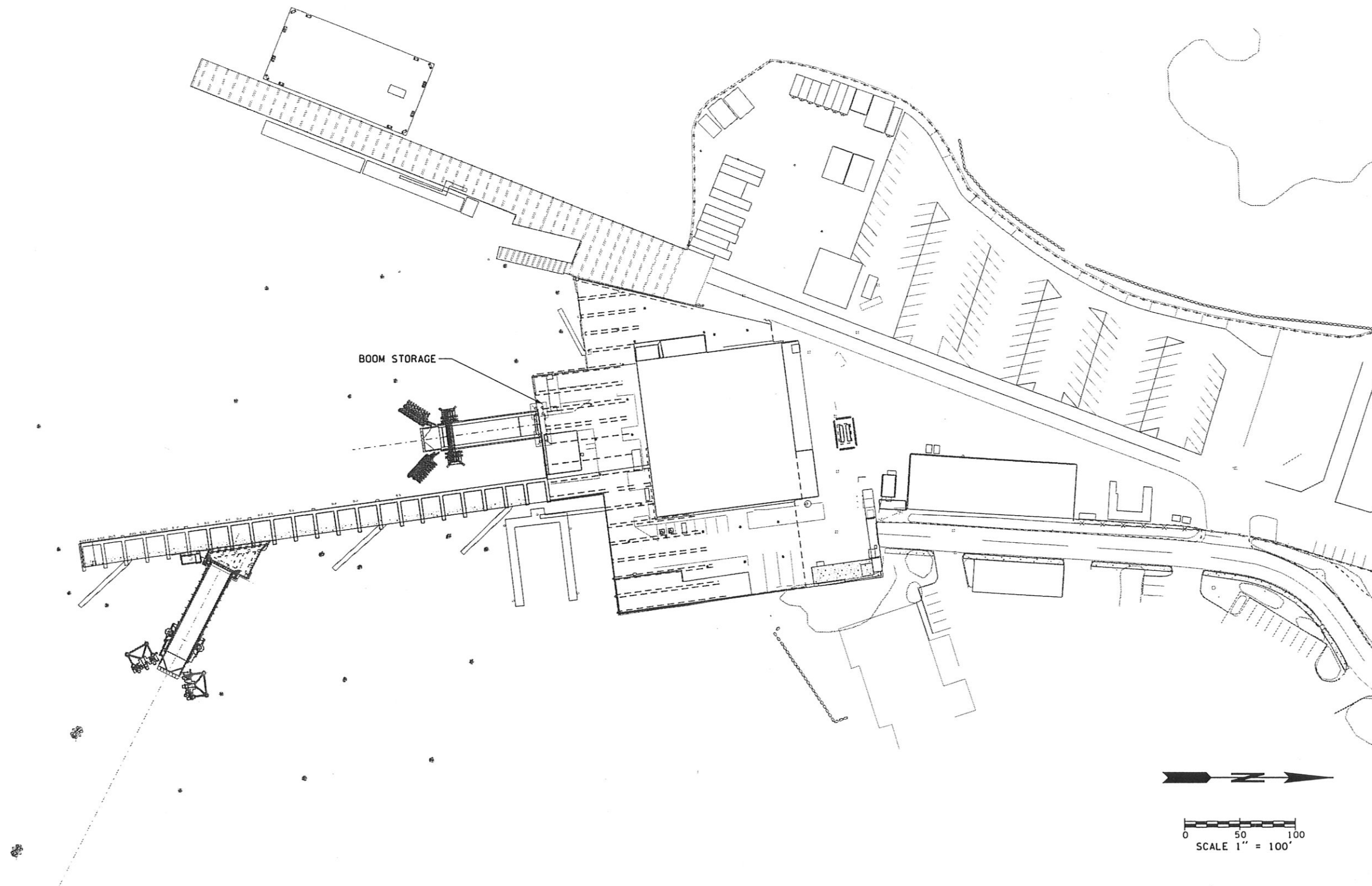
ORDER CLOSING
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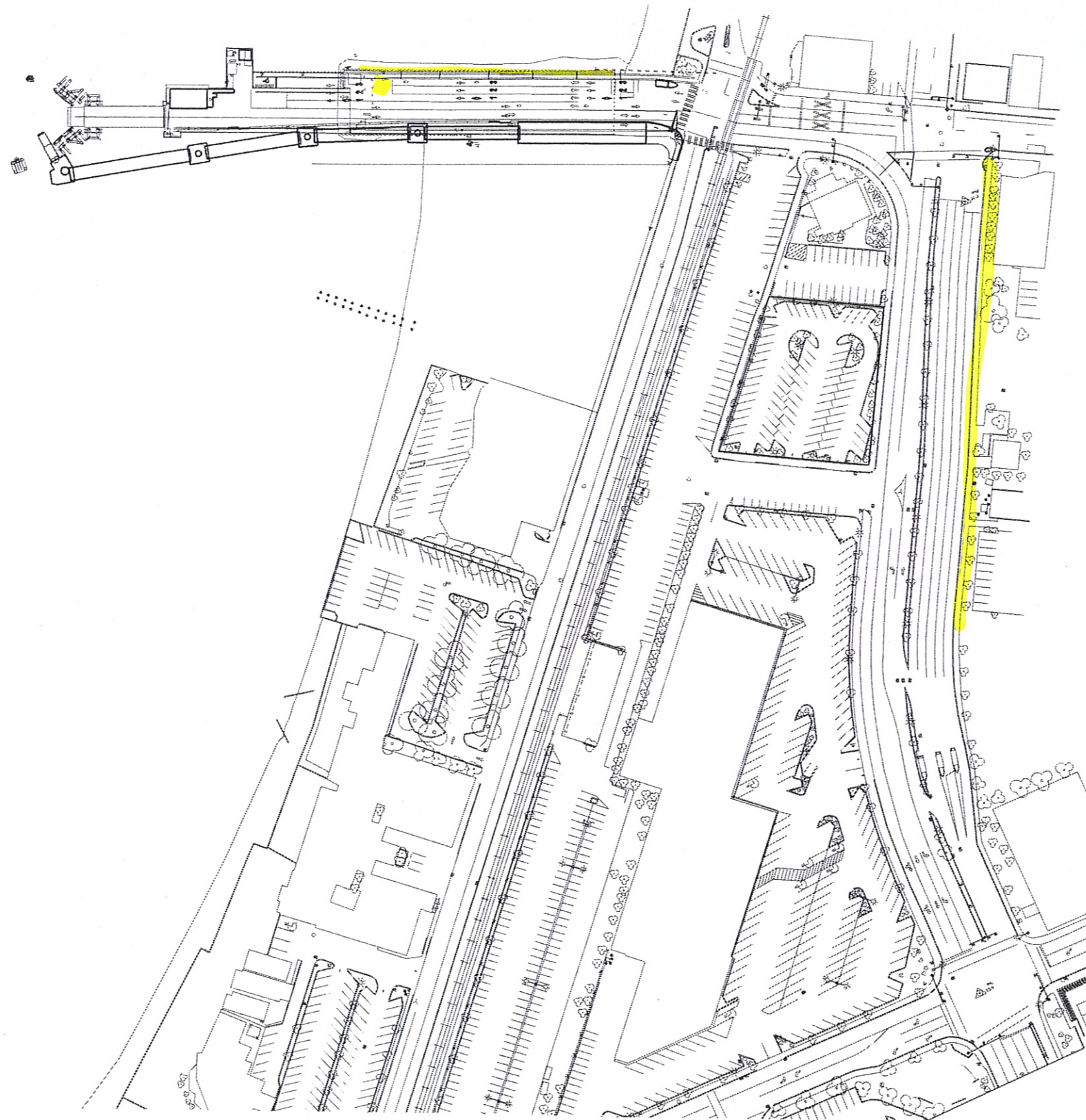
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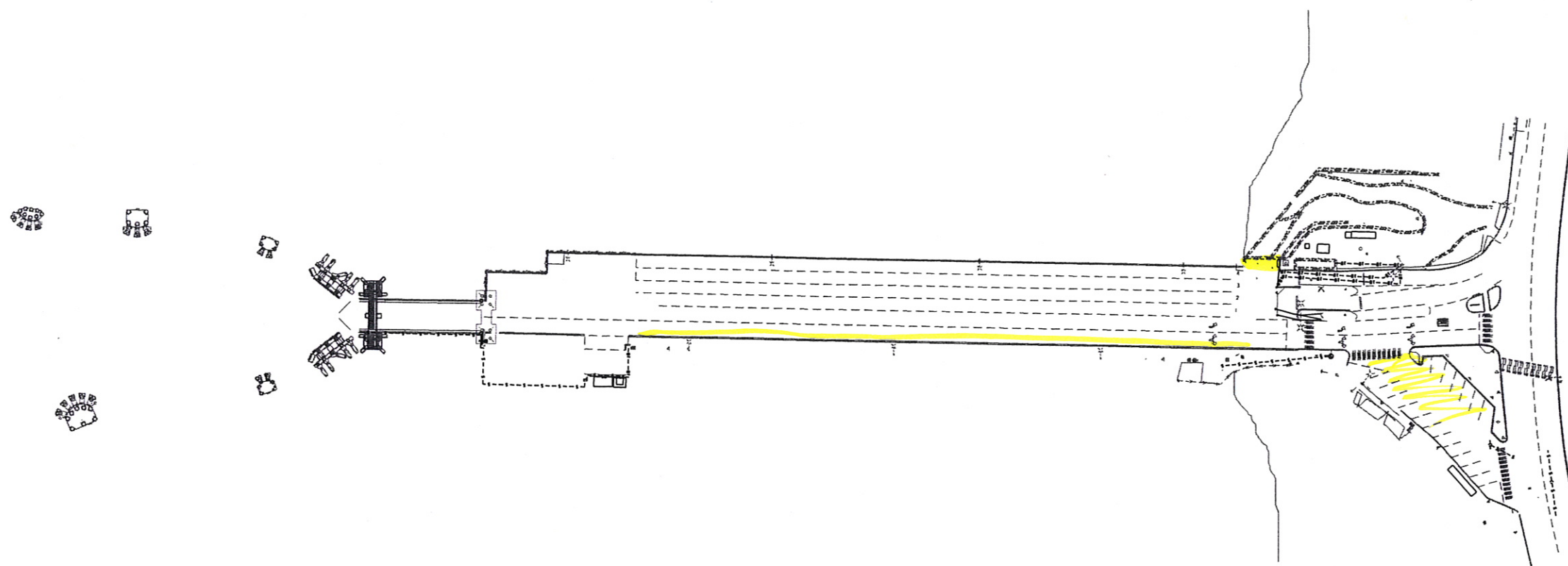
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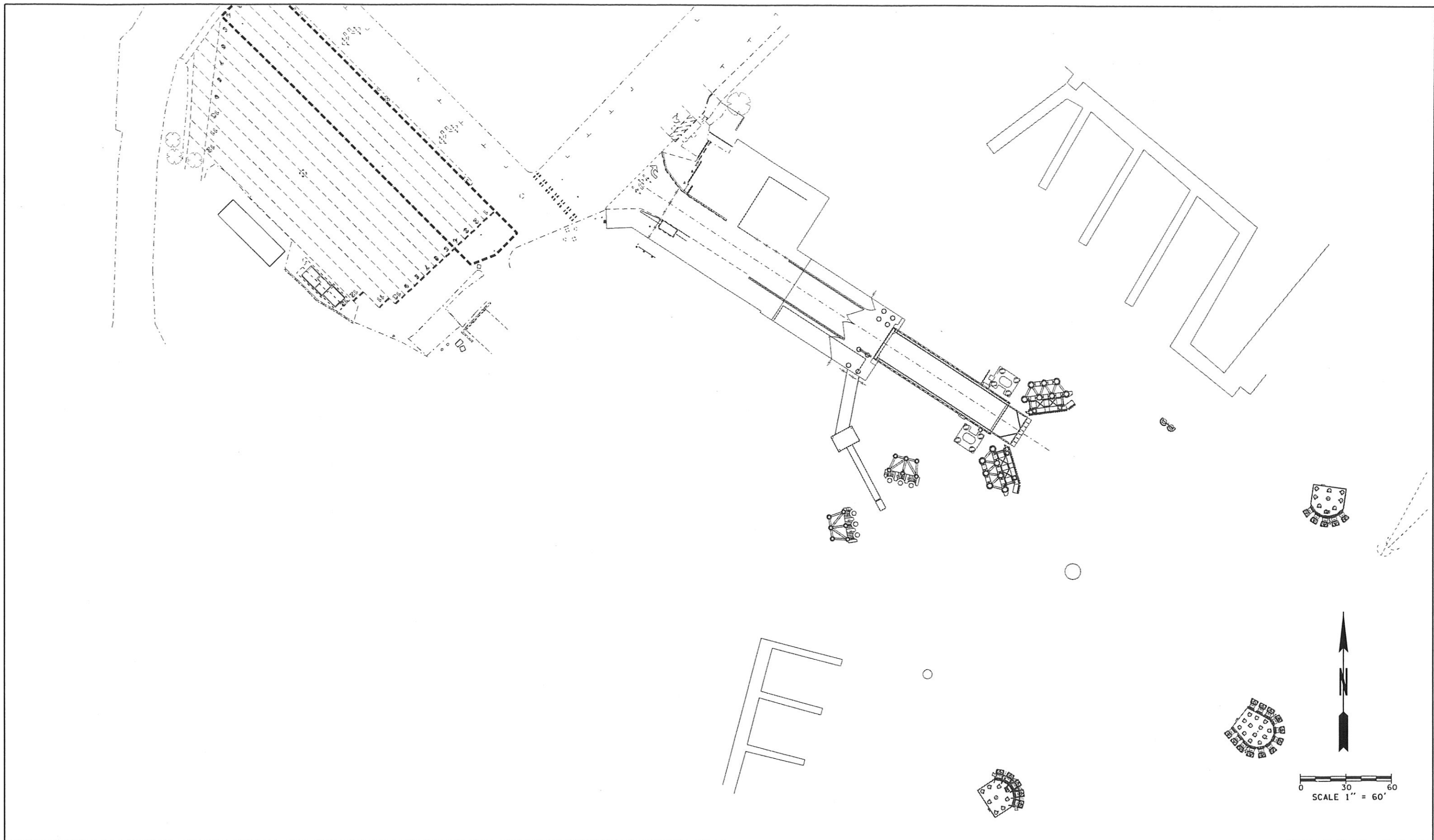
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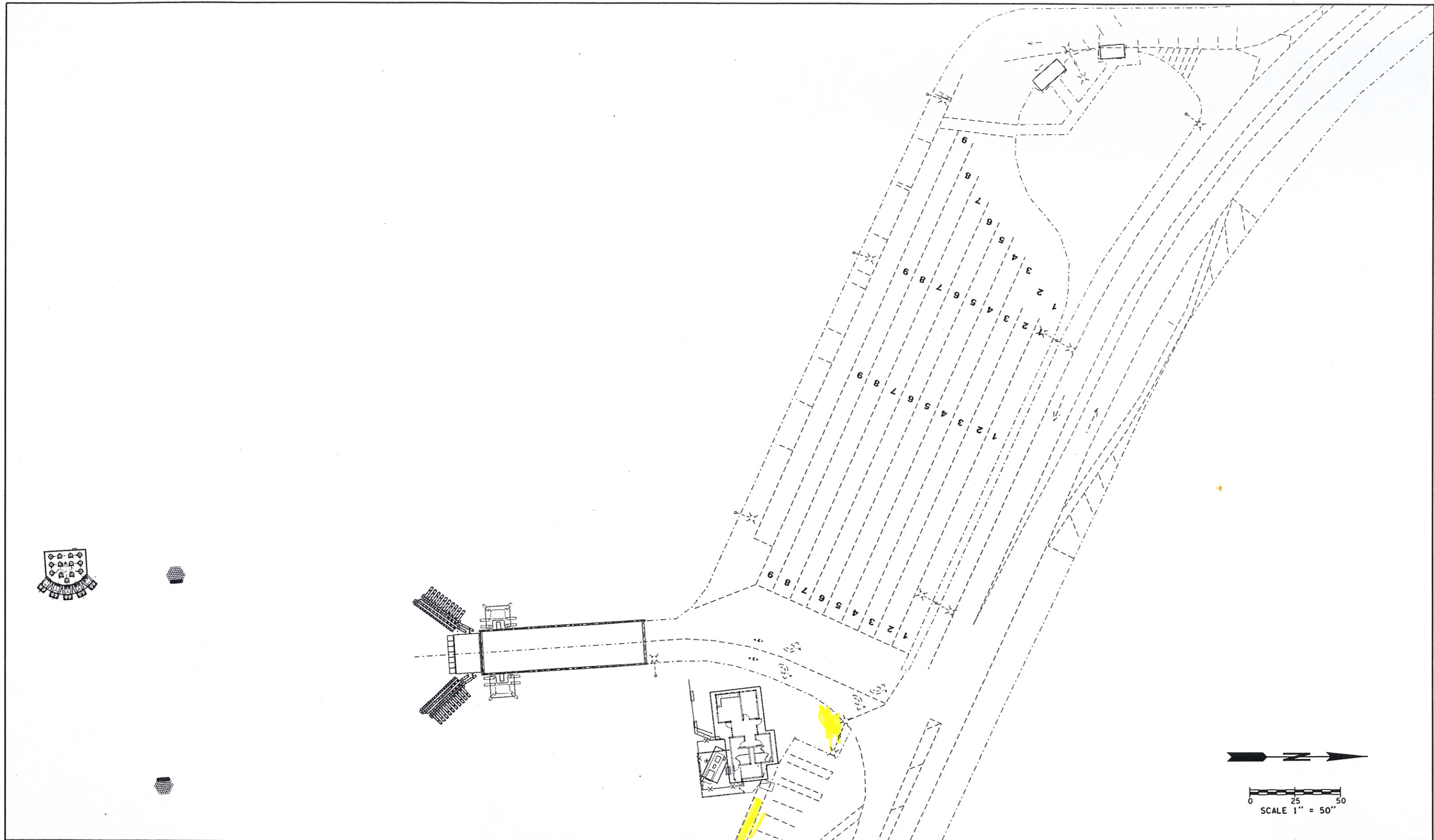
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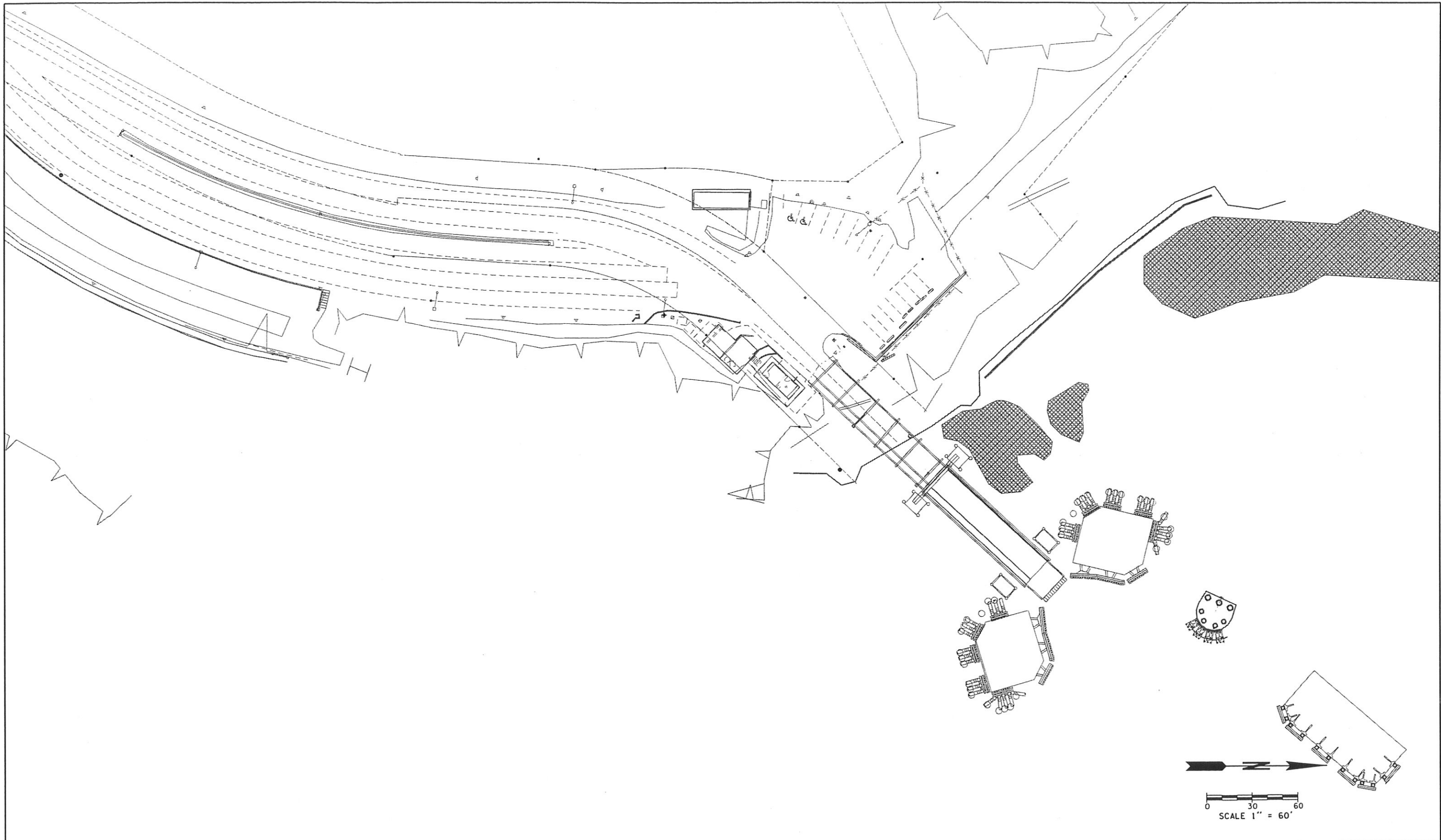
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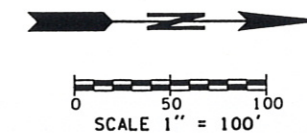
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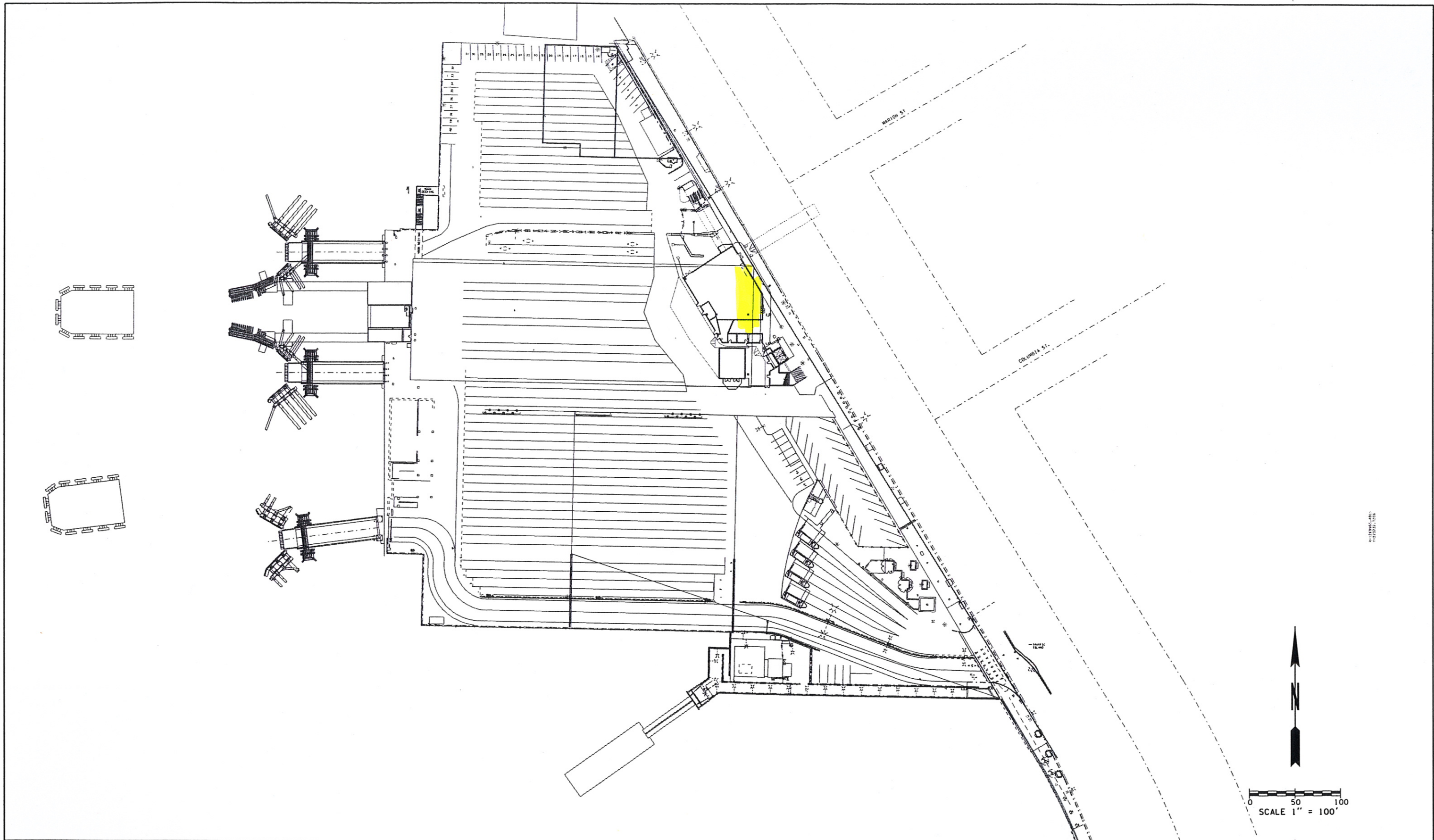
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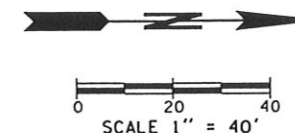
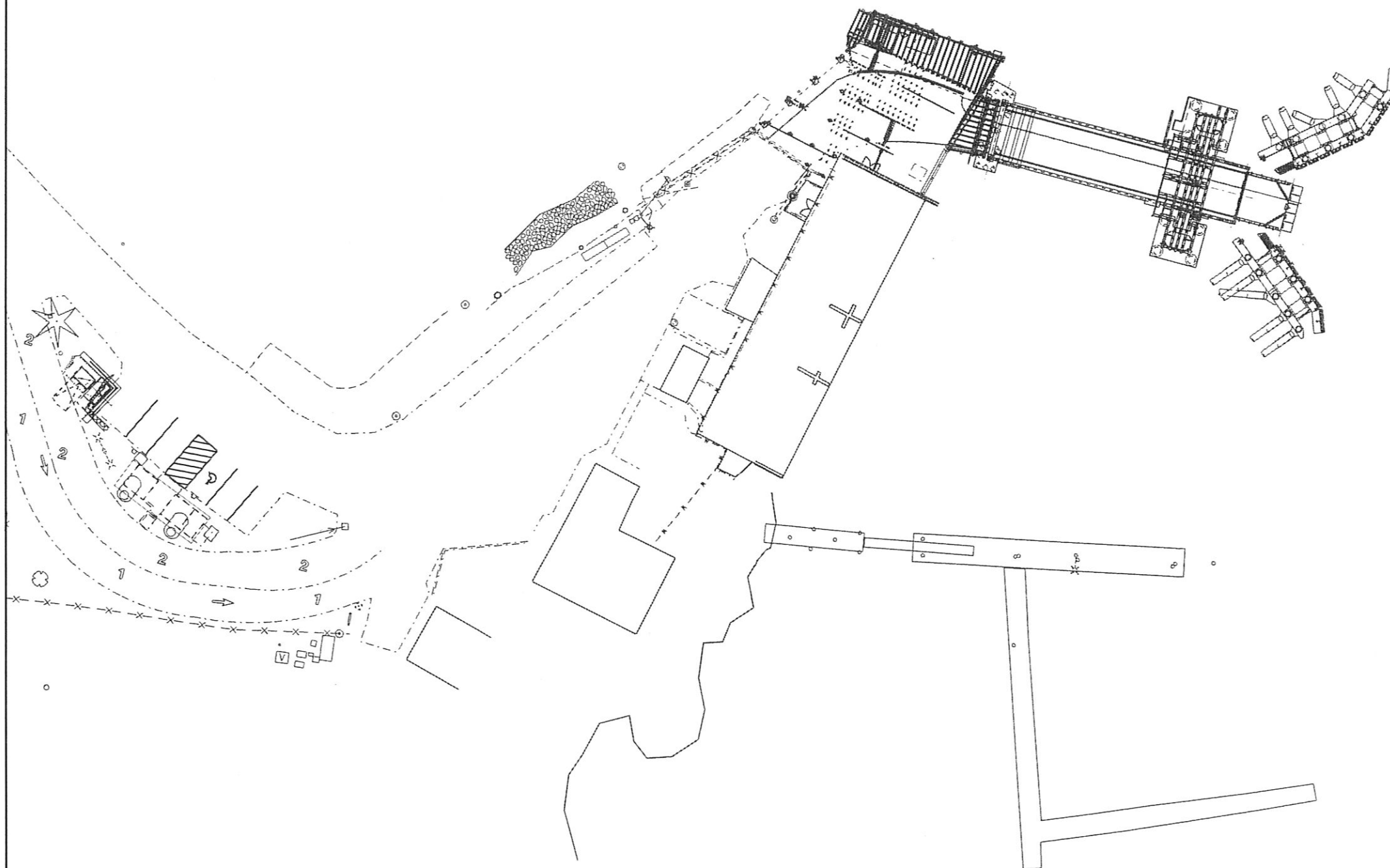
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ASST SECRETARY: D. MOSELEY

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REGION NO. STATE

10 WASH

JOB NUMBER

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Washington State
Department of Transportation
WASHINGTON STATE FERRIES

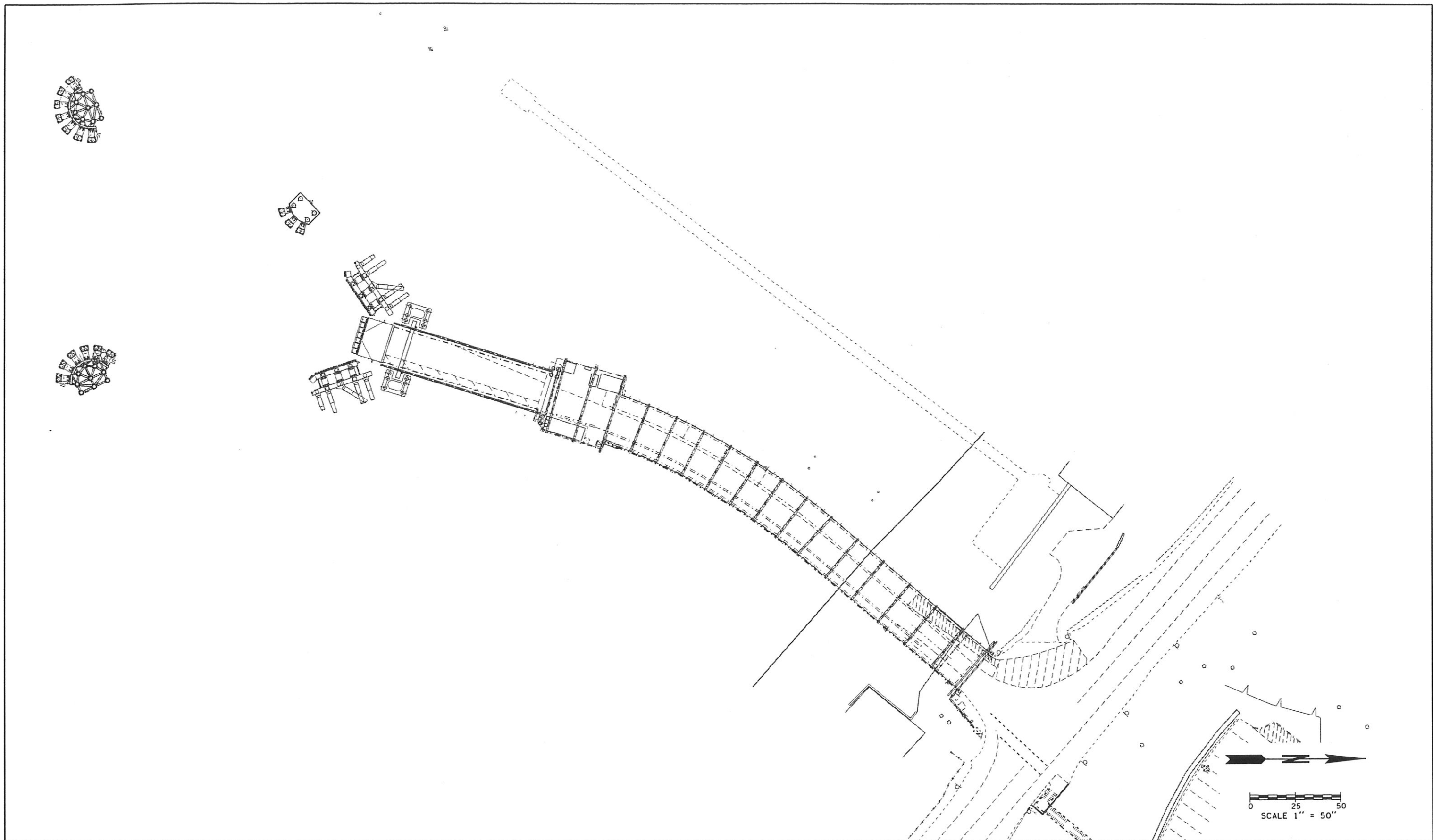
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SHAW FERRY TERMINAL

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CHECKED BY:		11/17/2008			10 WASH	Washington State Department of Transportation WASHINGTON STATE FERRIES	VASHON ISLAND FERRY TERMINAL		OF SHEETS	
MAR PROJ ENGR:		11/17/2008			JOB NUMBER					
PM & ENGR MNGR: N. MCINTOSH					*****					
ASST SECRETARY: D. MOSELEY				REVISION	DATE	BY	CONTRACT NO.			
							00*****			
					DATE		DATE			