

PUBLIC NOTICE

REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER SECTION 408

TITLE: Delaware Department of Natural Resources and Environmental Control – Division of Watershed Stewardship – Broadkill Beach Dune Realignment Project at the Broadkill Beach Coastal Storm Damage Reduction Federal Civil Works Project, Sussex County, Delaware

PUBLIC NOTICE IDENTIFICATION NUMBER: 408-NAP-2025-0002

PUBLIC NOTICE COMMENT PERIOD:

Begins: **08 April 2025**

Expires: **08 May 2025**

Interested parties are hereby notified that an application has been received for a Department of the Army Section 408 permission for certain work at or near a federal project of the United States, as described below and shown on attached figures. Written comments are being solicited from anyone having an interest in the requested alteration. Comments will become part of the U.S. Army Corps of Engineers' (USACE's) administrative record and will be considered in determining whether to approve the request. Comments supporting, opposing, or identifying concerns that should be considered by the USACE in its decision process are all welcome.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply USACE endorsement of the project as described.

1. REQUESTOR: In compliance with 33 USC 408 (Section 14 of the Rivers and Harbors Act of 1899; hereinafter Section 408), the Delaware Department of Natural Resources and Environmental Control's Division of Watershed Stewardship has requested permission to realign an approximately one-mile section of dune within the federal design template of the Broadkill Beach Coastal Storm Damage Reduction Federal Civil Works Project to correspond with the current shoreline orientation. The stated purpose of the project is to enhance coastal resiliency, reduce operations and maintenance (O&M) demands, provide safer beach access, and reestablish horseshoe crab (*Limulus polyphemus*) habitat.

2. LOCATION: The proposed project is located in uplands (i.e. landward of the High Tide Line of the Atlantic Ocean) between Georgia Avenue (38.832120, -75.215398) and Bay Front Road (38.823721, -75.205394) in Broadkill Beach, Sussex County, Delaware.

3. LOCATION MAP(S)/DRAWING(S): Please see attached Project Plan Sheets 1 - 5.

4. REQUESTER'S PROPOSED ACTION: The proposed action entails realignment of an approximately one-mile section of dune within the federal design template of the Broadkill Beach Coastal Storm Damage Reduction Federal Civil Works Project to correspond with the current shoreline orientation. The project aims to redistribute sand from the southern section of the project site, where it is accreting, to the center section of Broadkill Beach near the Route 16 access, reconstruct the eroded dune, and repair the existing scarping. Shoreline equilibrium is proposed to be achieved by shifting the dune landward and establishing an alignment that will alter the federal design template and inform future beach nourishment projects. Sand would be moved using an excavator working from the inland side and/or a bulldozer pushing sand from the seaward side.

The following best management practices are proposed:

- a) All project activities will occur landward of the High Tide Line to avoid/minimize adverse impacts to benthic communities, including horseshoe crabs and aquatic species.
- b) Fill material will originate from the existing beach (native material).
- c) Constructed dunes will be planted with native vegetation to trap natural windblown sediment for long-term stabilization.

5. REGULATORY AUTHORITY: This request will be reviewed according to the provisions of Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408). A requestor has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), Section 404 of the Clean Water Act (33 USC Section 1344) and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413). Any Section 10/404/103 permit decision associated with the proposed alteration is separate from and will not be included in the Section 408 permission decision. An approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

6. ENVIRONMENTAL COMPLIANCE: A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the Philadelphia District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. Based on information provided by the applicant to date, current Corps regulations governing NEPA implementation, and/or the contents of existing NEPA documentation if available, it is likely that the proposed action will be determined to be categorically excluded from the need to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS). This determination will be finalized following completion of agency coordination and prior to issuance of the Section 408 Permission Decision.

7. EVALUATION: As part of its evaluation, USACE will first make a determination that the submittal from the requestor is complete. The Philadelphia District is working closely with the requestor to ensure that all required technical plans, maps, drawings, and specifications are provided and are complete. Once the package is complete, a District-led review will be conducted to determine, in accordance with Engineering Circular (EC) 1165-2-216, whether the proposed alteration will impair the usefulness of the USACE Project or be injurious to the public interest, as follows:

- A. *Impair the Usefulness of the Project Determination.* The Philadelphia District's Section 408 review team will determine if the proposed alteration will limit the ability of the federally authorized project to function as authorized, or will compromise or change any authorized project conditions, purposes or outputs.
- B. *Injurious to the Public Interest Determination.* Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the USACE project may have on the public interest requires a careful weighing of all those factors that are relevant in each particular case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.

8. SOLICITATION OF COMMENTS: The USACE 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 the proposed activity. Any comments received will be considered by USACE to determine whether to issue, modify, condition, or deny a permission for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are considered in making a final determination whether the proposed action will be categorically excluded from the need to prepare further NEPA documentation. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

- A. It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to the Philadelphia District Corps of Engineers, Office of Counsel to obtain copies of said materials under the FOIA.

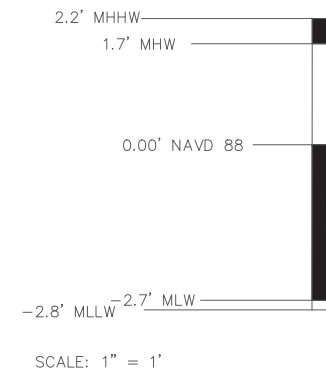
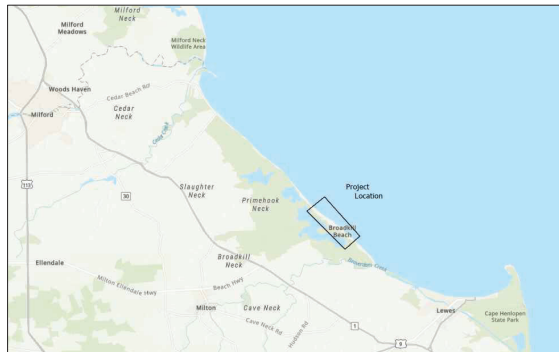
- B. It is presumed that all parties viewing this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

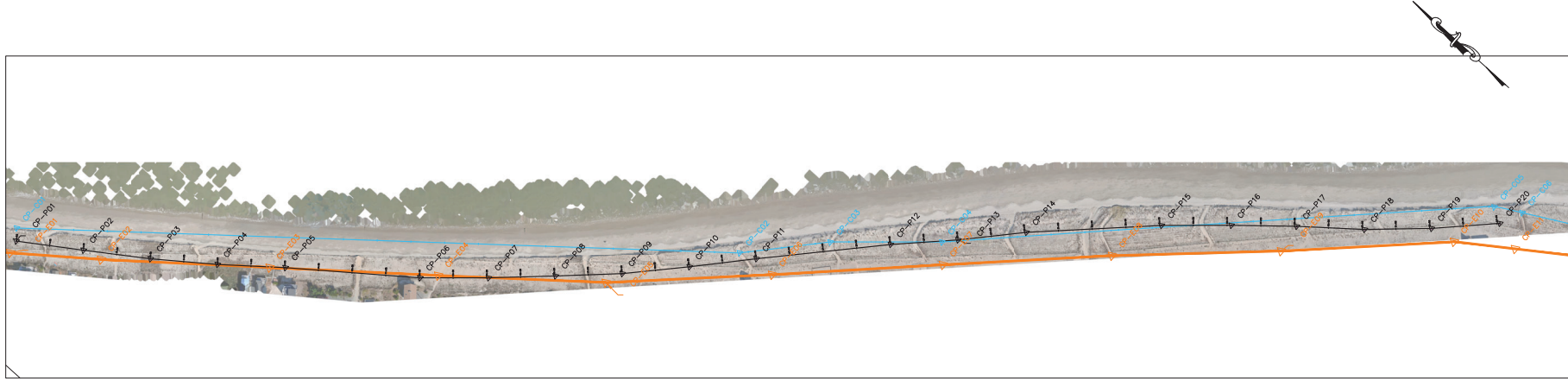
9. COMMENT SUBMISSION AND ADDITIONAL INFORMATION: Written comments on the described work should reference the USACE Public Notice Identification Number found on the first page of this notice. Comments must reach this office no later than the stated expiration date of the Public Notice to become part of the record and be considered in the decision. Comments or requests for additional information should be emailed or mailed to the following address:

Email: Bishel.Baby@usace.army.mil
U.S. Army Corps of Engineers
Philadelphia District
Attn: Bishel B. Baby
1650 Arch Street, 7th Floor
Philadelphia, PA 19103-2004

Delaware Department of Natural Resources and Environmental Control Division of Watershed Stewardship

BROADKILL BEACH DUNE RE-ALIGNMENT JANUARY 2025





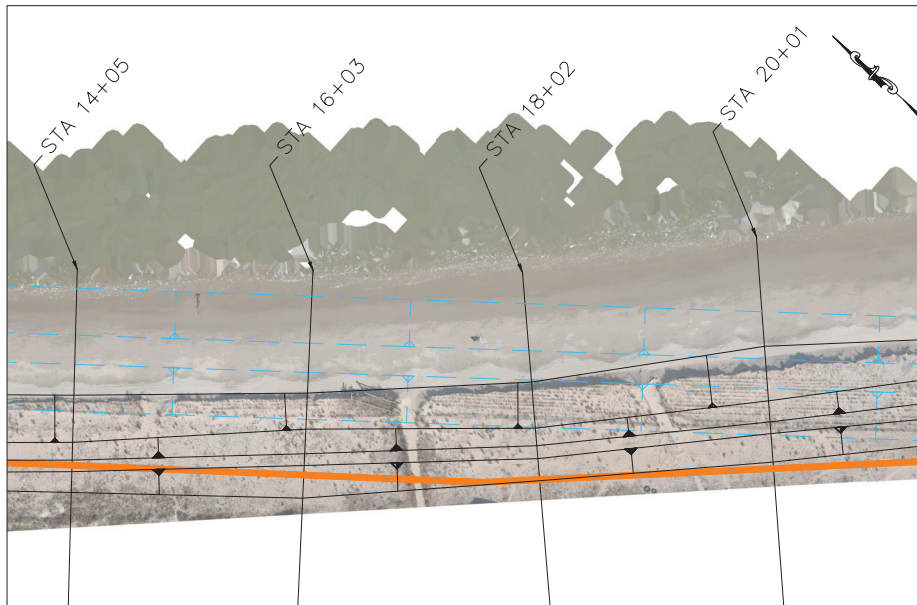
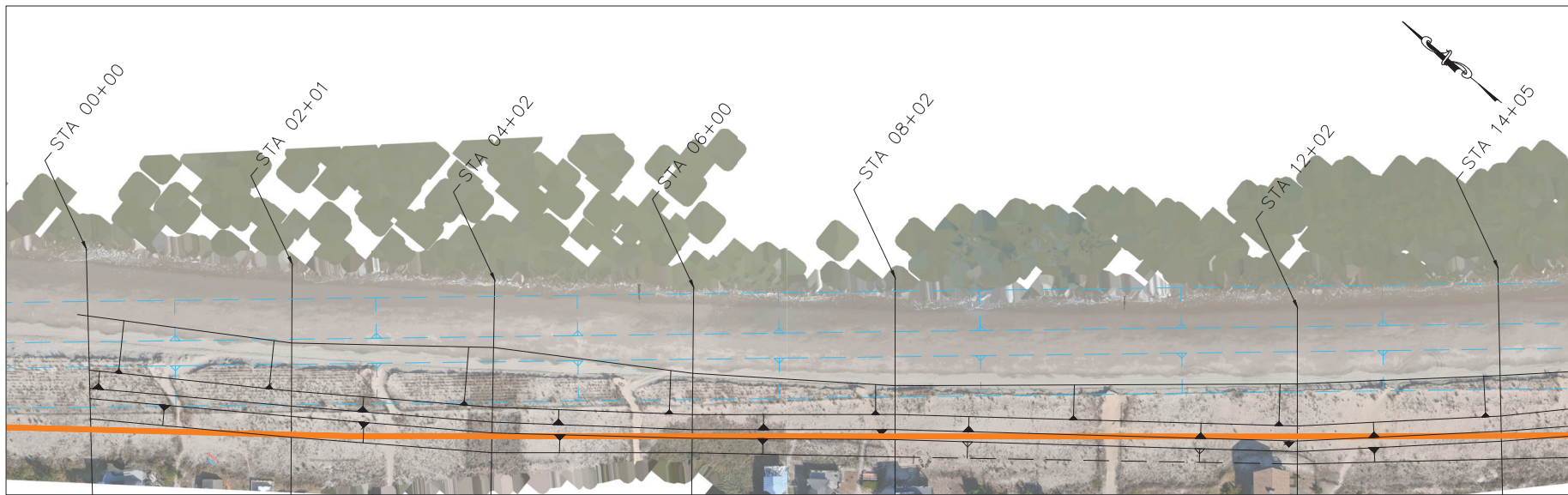
Proposed Re-alignment		
Northing	Easting	Description
303193.15	713463.18	CP-P01
303026.95	713576.48	CP-P02
302862.47	713690.70	CP-P03
302703.72	713810.92	CP-P04
302547.85	713938.62	CP-P05
302231.38	714183.22	CP-P06
302080.55	714319.14	CP-P07
301936.85	714455.82	CP-P08
301794.44	714593.52	CP-P09
301660.06	714741.70	CP-P10
301528.58	714892.09	CP-P11
301261.20	715189.57	CP-P12
301122.03	715333.39	CP-P13
300986.44	715485.33	CP-P14
300702.43	715768.71	CP-P15
300549.12	715907.32	CP-P16
300403.30	716034.75	CP-P17
300247.72	716162.42	CP-P18
300102.19	716297.55	CP-P19
299961.96	716444.14	CP-P20

2013 Dune Alignment		
Northing	Easting	Description
303217.99	713492.86	CP-C01
301577.51	714871.87	CP-C02
301398.95	715075.32	CP-C03
301153.29	715296.91	CP-C04
300007.00	716468.98	CP-C05





LEGEND:

- Existing Easement Limit
- 2013 Dune Centerline Alignment
- Proposed Dune Centerline Alignment

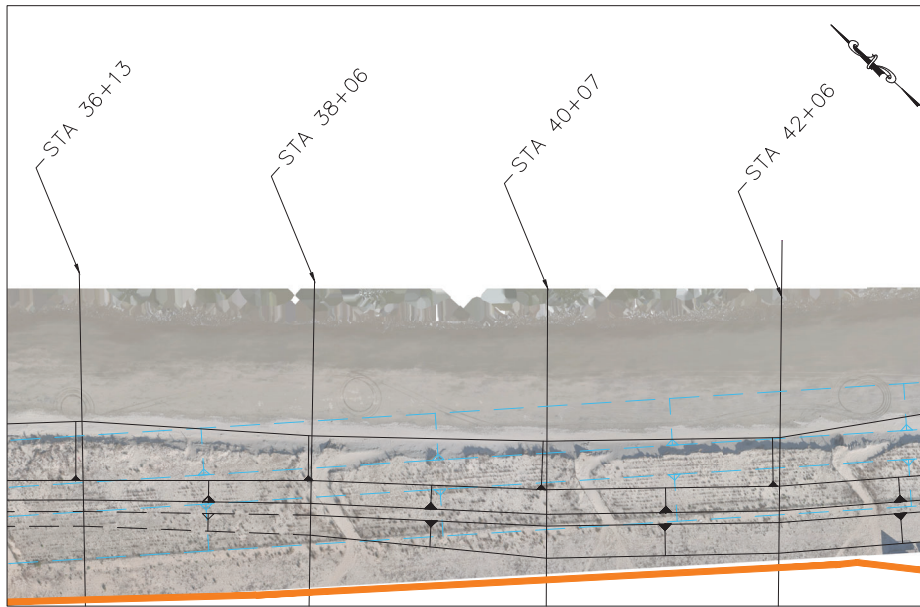
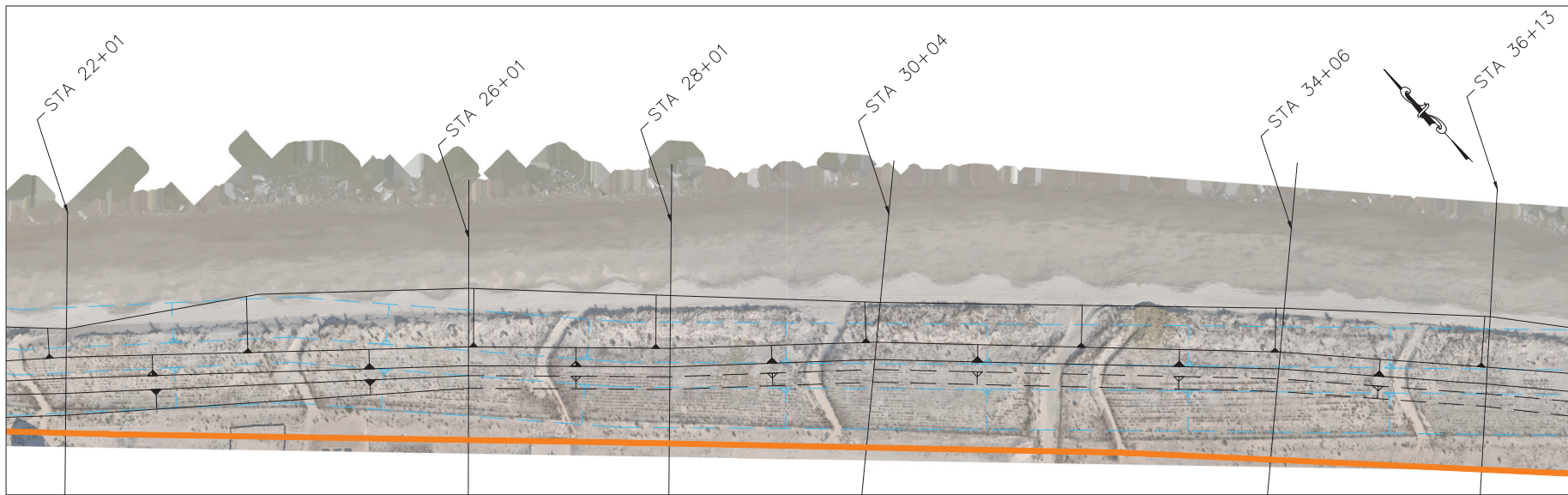








LEGEND:

-  Existing Easement Limit
-  2013 Dune Fill Template
-  Proposed Dune Alignment Template
-  Proposed Dune Alignment Template
Below Existing Grade
Not To Be Cut

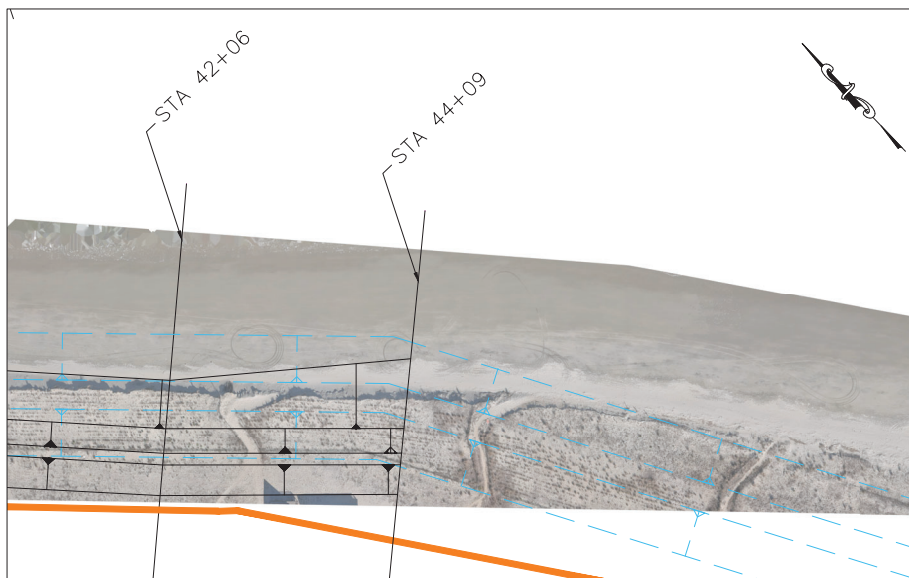







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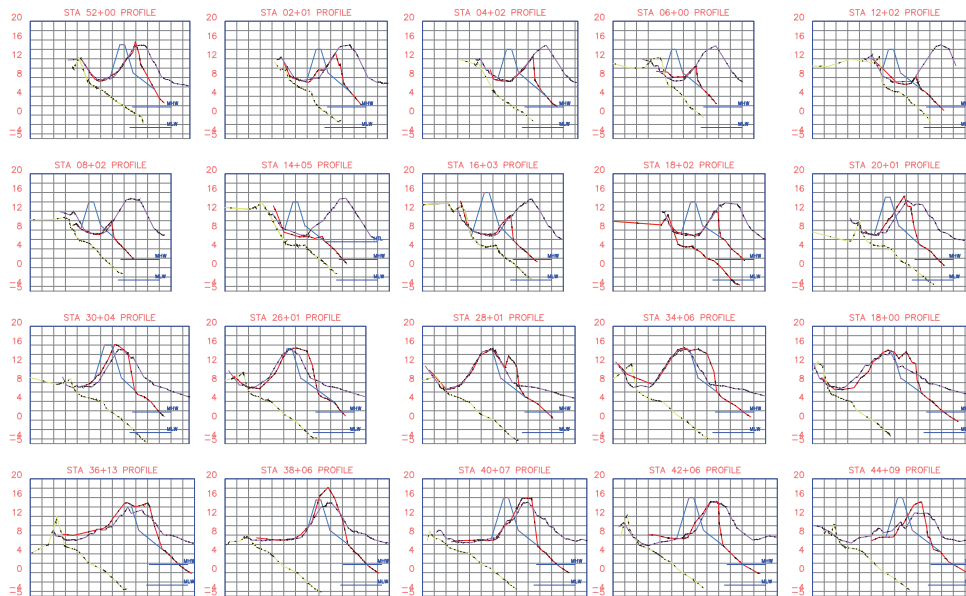
-  Existing Easement Limit
-  2013 Dune Fill Template
-  Proposed Dune Alignment Template
-  Proposed Dune Alignment Template
Below Existing Grade
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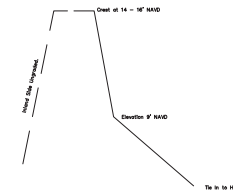


LEGEND:

-  Existing Easement Limit
-  2013 Dune Fill Template
-  Proposed Dune Alignment Template



DESIGN TEMPLATE



NOTES

Since the completion of the large scale beach fill project in Broadkill Beach, the shoreline position has evolved to its equilibrium platform in response to the augmentation. Observations has shown that the dune erosion and resulting beach access challenges in the northern part of the project area is a result of a misalignment of this platform and the constructed dune alignment. Conversely, in the southern part of the project, the alignment of the dune is divergent with the platform, resulting in a natural dune growing seaward of the constructed dune. Survey indicates that the toe of the scoured dune is a fixed distance from the high tide line (HTL) throughout the project area, and is the same distance as that between the HTL and the naturally forming dune. As such, re-aligning the dune in the northern part of the project area such that the toe is in line of this equilibrium offset will greatly reduce the continual maintenance needs at crossovers. This will also make the dune more resilient as it will only be prone to erosion during major storms. The proposed grading is such that the toe of the dune is at an elevation 9' NAVD, which is the 1-percent-annual-chance still water level in FEMA's Flood Insurance Study report. Sand will be pushed up the slope to form a dune that is 14' - 16'. The lower dune height is owing to spatial limits and volume constraints in the northern part of this design alignment, where the current dune is severely eroded. In the southern part of this alignment, there is an excess of sand that has accreted on the face of the constructed dune. This section requires a net cut that can be used the fill required in the northern portion.

PROFILES:

SCALE: 1" = 125' H
1" = 12.5' V
Post Irene (Pre Fill)
Post 2013 Fill
Most Recent Survey
October 2024
Design