



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No.
CENAP-OP-R-200500981-23

Date
MAY 15 2006

Application No.

File No.

In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Indian River Acres Property Owners Association

AGENT: Evelyn M. Maurmeyer, Ph.D.
Coastal and Estuarine Research, Incorporated
Marine Studies Complex
Post Office Box 674
Lewes, DE 19958

WATERWAY: Indian River Bay

LOCATION: Indian River Acres, Tax Map Parcel 1-34-7-37,
Dagsboro, Sussex County, Delaware

ACTIVITY: The Indian River Acres Property Owners Association proposes to conduct mechanical or hydraulic maintenance dredging in tidal, artificial lagoons and access channels at the Indian River Acres residential development, located on Indian River Bay, at Dagsboro, Sussex County, Delaware.

The Association proposes to mechanically dredge the lagoons and access channels to a depth of minus 3.0 MLW, generating 10,950 cubic yards of sand and mud material. The material would be dredged using barge-mounted equipment, placed in watertight trucks, and transported for disposal to an upland site owned by the DDNREC, Division of Soil and Water and known as Contained Disposal Facility A, located on the eastern end of Piney Point Road (Road 336), Dagsboro, Sussex County, Delaware. As a more economical alternative, the applicant also proposes to hydraulically dredge the material, transporting it by pipeline to the above mentioned disposal site.

PURPOSE: To restore navigable water depths to an existing, substantially developed, tidal, artificial lagoon.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers 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 this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work.

Essential Fish Habitat Assessment: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (public law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect essential fish habitat (EFH). The project is located in Essential Fish Habitat identified on Sheet 90 of Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware, March 1999. The following managed species of fish have been listed in the above referenced guide as occurring in the vicinity of the project: winter flounder (Pleuronectes americanus), windowpane flounder (Scophthalmus aquosus), red hake (Urophycis chuss), bluefish (Pomatomus saltatrix), Atlantic sea herring (Clupea harengus), long finned squid (Loligo pealei), short finned squid (Illex illecebrosus), Atlantic butterflyfish (Peprilus triacanthus), summer flounder (Paralichthys dentatus), scup (Stenotomus chrysops), black sea bass (Centropristus striata), surf clam (Spisula solidissima), ocean quahog (Artica islandica), spiny dogfish (Squalus acanthias), Atlantic mackerel (Scomber scombrus), king mackerel (Scomberomorus cavalla), Spanish mackerel (Scomberomorus maculatus), cobia (Rachycentron canadum); and the following shark species: sandbar (Carcharhinus obscurus), sand tiger (Odontaspis taurus), and dusky (Carcharhinus plumbeus).

Analysis of the Effects: The proposed work would occur primarily in waters within an artificial "dead end" lagoon system subject to sediment accretion and regular, seasonal boat traffic. Such an area is expected to have relatively poor water quality, and is an unlikely spawning or nursery area for the managed species. Consequently, concentrations of the sessile life stages (eggs and larvae) of the listed species are not expected to be within the work area. The pelagic adults and juveniles of the listed species are highly mobile and capable of avoiding impacts associated with the work.

Corps of Engineers View: Based on the above analysis, the Corps of Engineers has determined that the proposed project would not have substantial direct, indirect, site-specific, or habitat-wide impacts on EFH, or upon the managed species and their life stages listed in the above referenced EFH guide, either individually, cumulatively, or synergistically. The proposed project would not eliminate, diminish, nor disrupt the functions of EFH.

Proposed Mitigation: Because the impacts of the proposed work on EFH have been determined to be minor, the Corps of Engineers has determined that mitigative measures are not necessary.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling John G. Brundage at (302) 736-9763 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.



Frank J. Cianfrani
Chief, Regulatory Branch

PROPOSED 10,950 C.Y.

MAINTENANCE DREDGING

IN: Artificial lagoons and adjacent area of Indian River Bay
AT: Indian River Acres
Sussex Road (Road 342A)
Dagsboro, Sussex County, DE
(Tax Map Parcel #1-34-7-37)

APPLICANT: Indian River Acres Property Owners Assoc.

DATE: July, 2005

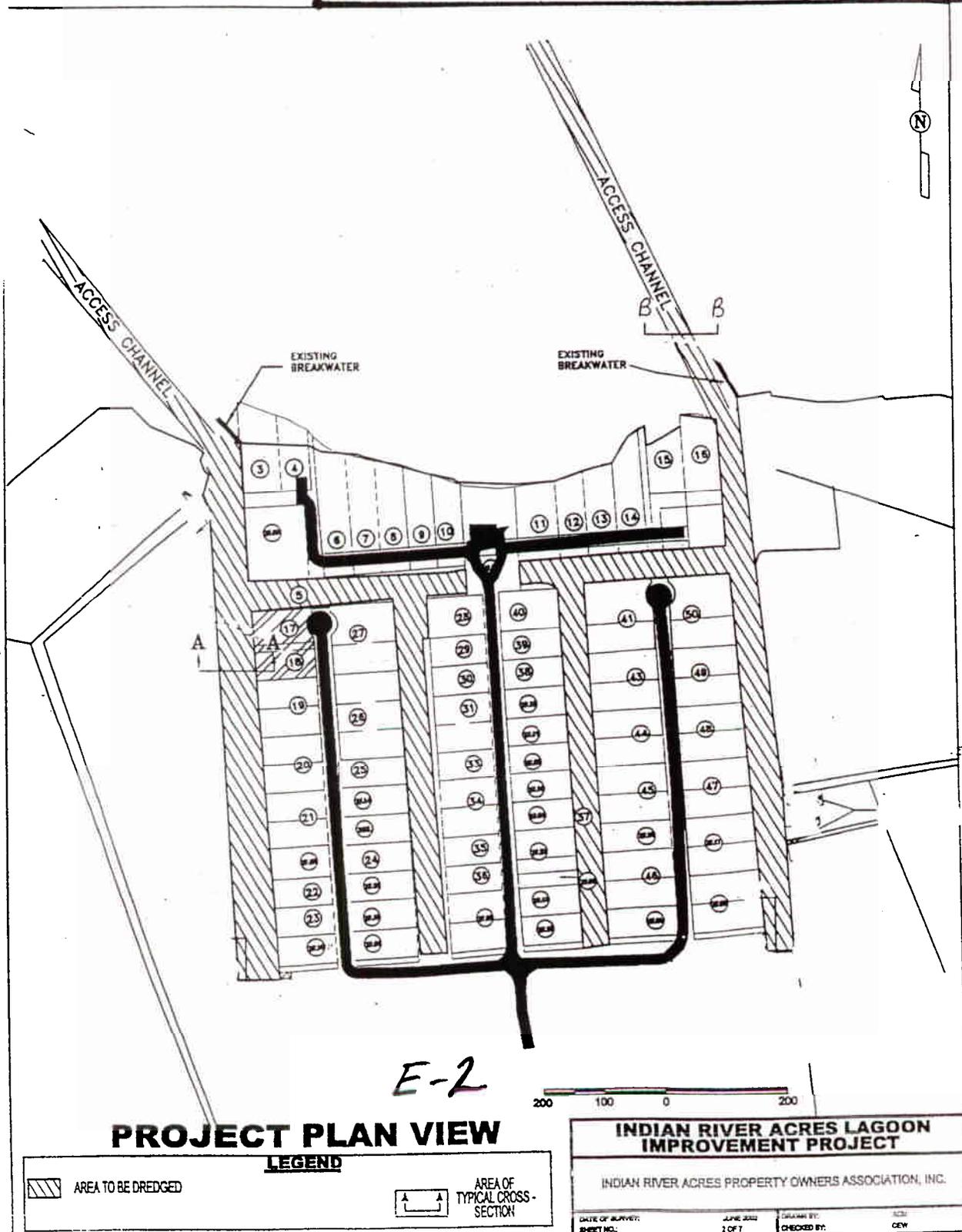
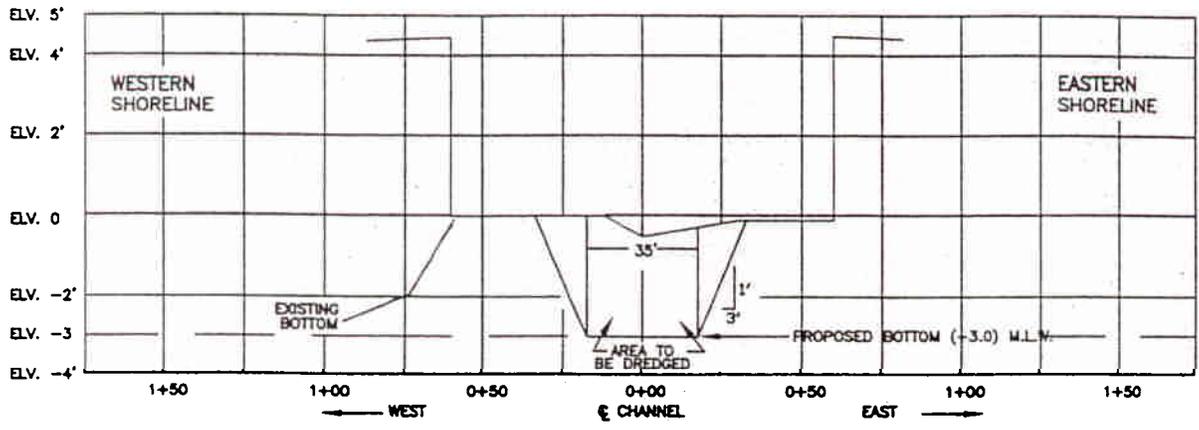
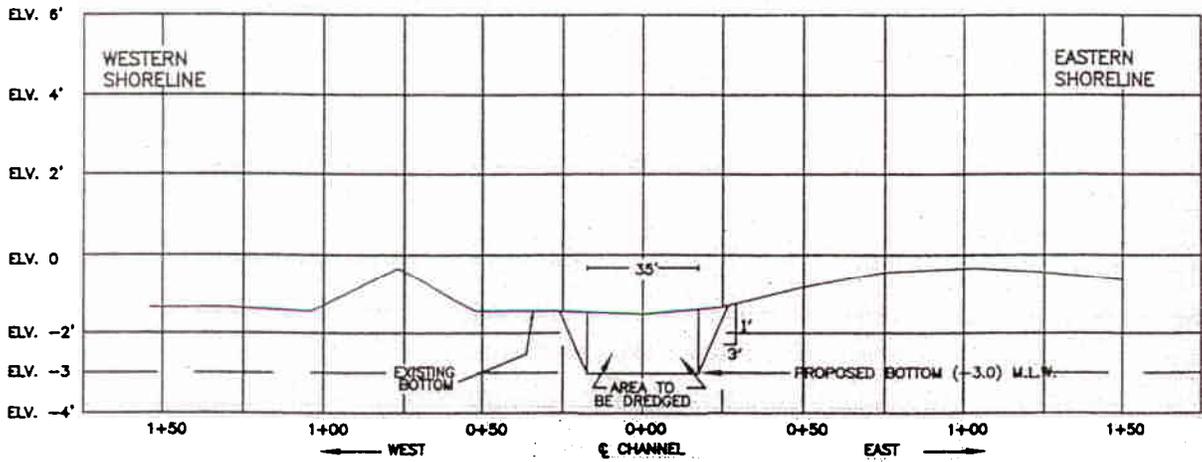


Figure 5. Project Plan view (prepared by Division of Soil and Water Conservation.

IN: Artificial lagoons and adjacent area of Indian River Bay
 AT: Indian River Acres
 Sussex Road (Road 342A)
 Dagsboro, Sussex County, DE
 (Tax Map Parcel #1-34-7-37)
 APPLICANT: Indian River Acres Property Owners Assoc.
 DATE: July, 2005



TYPICAL CROSS-SECTION "A-A"
 (SCALE AS SHOWN)
TYPICAL LAGOON DREDGING CROSS SECTION

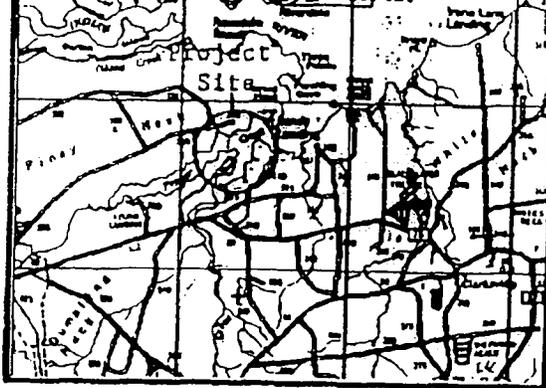


TYPICAL CROSS-SECTION "B-B"
 (SCALE AS SHOWN)
TYPICAL ACCESS CHANNEL DREDGING CROSS SECTION

INDIAN RIVER ACRES LAGOON IMPROVEMENT PROJECT			
INDIAN RIVER ACRES PROPERTY OWNERS ASSOCIATION, INC.			
DATE:	JULY 2005	DRAWN BY:	ASB
SHEET NO.:	3 OF 7	CHECKED BY:	CEW

Figure 8. Lagoon dredging cross-sections. See Figure 5 for locations of cross-sections.

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LOCATION MAP

PROPOSED 10,000 C.Y. MAINTENANCE DREDGING
 IN: Artificial lagoons and adjacent area of Indian River Bay
 AT: Indian River Acres
 Sussex Road (Road 342A)
 Dagsboro, Sussex County, DE
 (Tax Map Parcel #1-34-7-37)
 APPLICANT: Indian River Acres Property Owners Assoc.
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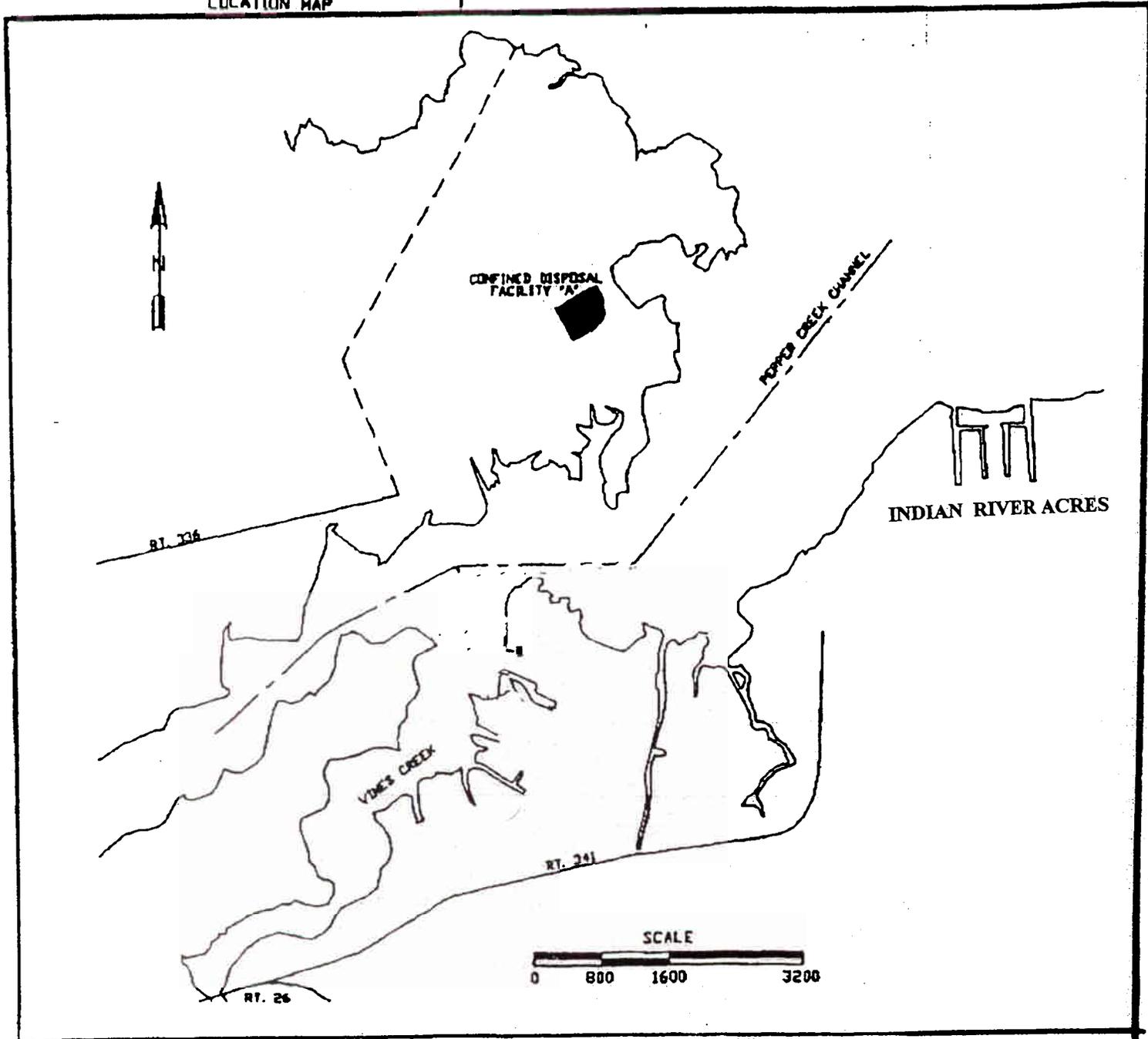


Figure 10. Location map showing proposed dredged material disposal site, existing Confined Disposal Facility A, eastern end of Piney Neck Road (Road 336), Piney Neck, Dagsboro, Sussex County, Delaware. Dredging site, Indian River Acres, also shown. Scale as shown.

E-5

IN: Artificial lagoons and adjacent area of Indian River Bay
AT: Indian River Acres
Sussex Road (Road 342A)
Dagsboro, Sussex County, DE
(Tax Map Parcel #1-34-7-37)
APPLICANT: Indian River Acres Property Owners Assoc.
DATE: July, 2005

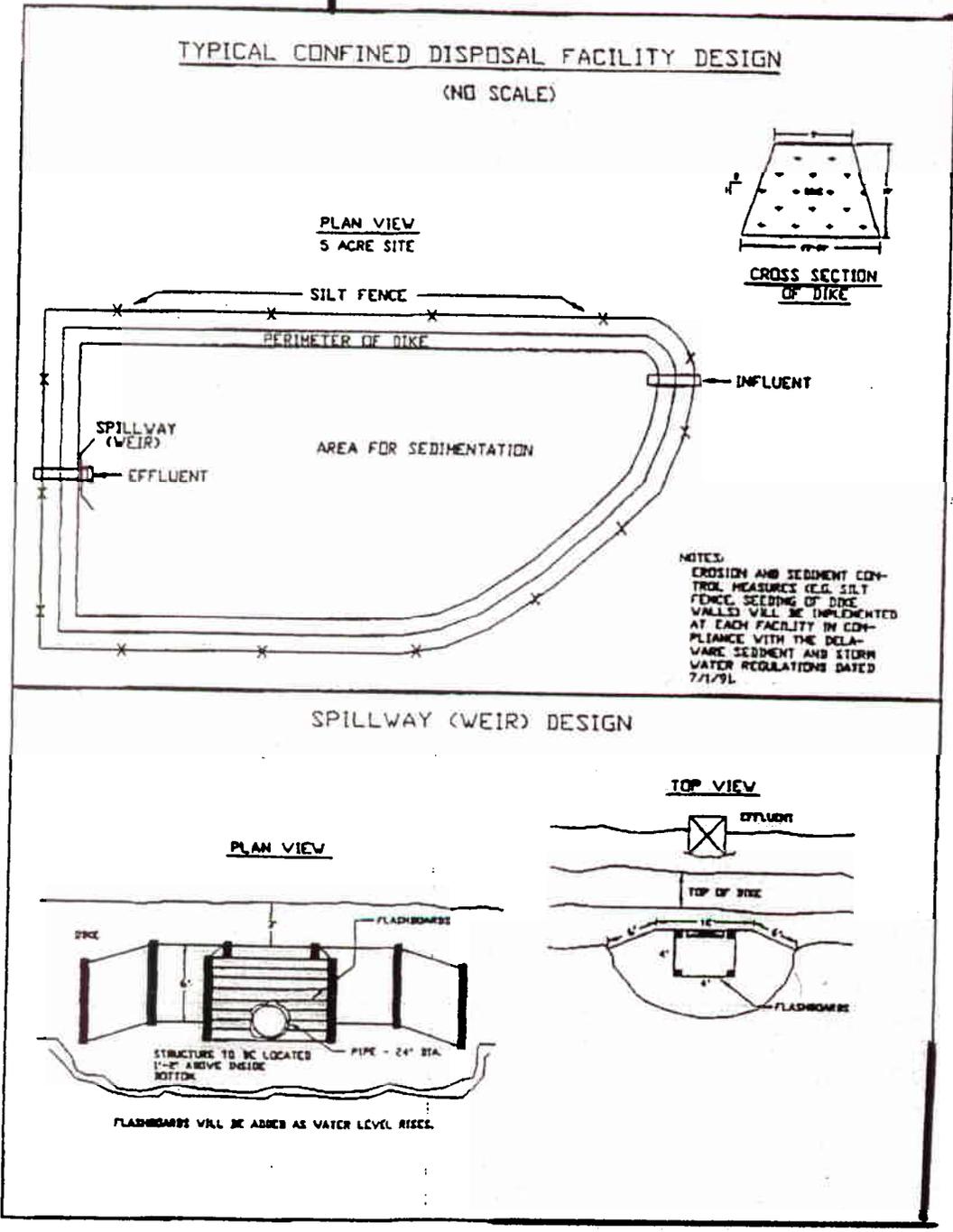


Figure 12. Confined disposal site plans (prepared by Division of Soil and Water Conservation, DNREC).