



**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-200600492-46** Date **JUL 10 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).

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: David A. Potter, Jr.

AGENT: Ms. Evelyn M. Maurmeyer, Ph.D.  
Coastal and Estuarine Research, Incorporated  
Marine Studies Complex, PO Box 674  
Lewes, Delaware 19958-0674

WATERWAY: Lewes and Rehoboth Canal

LOCATION: at 364 Pilottown Road, identified as Tax Parcel 3-35-4.19-76, in the City of Lewes, Sussex County, Delaware.

ACTIVITY: to remove the bulk of an existing pier and replace with a new pier, gangway, and floating dock. The project would involve the retention of a 20' x 5' section of existing 48' x 5' pier and removals of a 28' x 5' pier section, a 6' x 37' dock, and all associated pilings. The structure remaining would then be modified by the installation of a shore-perpendicular 20' x 4' aluminum gangway extending to a shore-parallel 120' x 6' floating dock. The floating dock is comprised of four 25' x 6' wide sections and one 20' x 6' wide section, and two 3-pile dolphins as ice breakers. The new structure would extend 43 feet waterward of the mean high water line and would immediately abut, but not extend into, the Federal navigational channel buffer. A total of 12 pilings would be placed waterward of the mean high water line for structural support. All pilings would be of CCA-treated timbers whereas all decking would be of composite materials. The subject structure would extend 5 feet above approximately 74 square feet of emergent wetlands dominated by Spartina alterniflora.

It should be noted that the existing structure was permitted for construction and maintenance by this office through authorizations issued in 1949, 1977, 1992 and 1994.

The applicant has stated that the proposed dock would allow for the mooring of 4 vessels between lengths of 19 and 16.3 feet, beams ranging between 8 and 12 feet, and drafts between 2 and 7 feet. The applicant has also stated that no dredging or discharges of dredged and/or fill materials would be required for the completion of the proposed project.

PURPOSE: The applicant's stated purpose is to allow for the mooring of 4 vessels.

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.

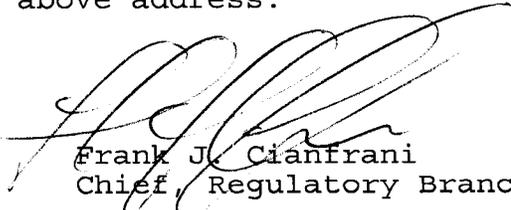
Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 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). A preliminary assessment of the species listed in the "Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware", dated March 1999, specifically page 81 suggests that the proposed work would have little to no effect on managed species.

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. The Delaware Coastal Management Program has issued its CZM concurrence on April 4, 2006. 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.

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 David J. Caplan at (215) 656-6731 or writing this office at the above address.

  
Frank J. Cianfrani  
Chief, Regulatory Branch

REMOVAL OF EXISTING PORTION OF FIXED PIER AND  
 6' X 37' FIXED DOCK (AND ALL ASSOCIATED PILINGS);  
 INSTALLATION OF 20' X 4' ALUMINUM GANGWAY;  
 12' X 6' FLOATING PIER; 120' X 6' FLOATING DOCK;  
 AND TWO 3-PILING DOLPHINS (ICE BREAKERS)  
 IN: Lewes and Rehoboth Canal  
 AT: 364 Pilottown Road, Lewes  
 Sussex County, DE 19958  
 Tax Map Parcel #3-35-4.19-76  
 APPLICANTS: David A. Potter, Jr., Trustee & Christine P. Nibouar  
 DATE: February, 2006

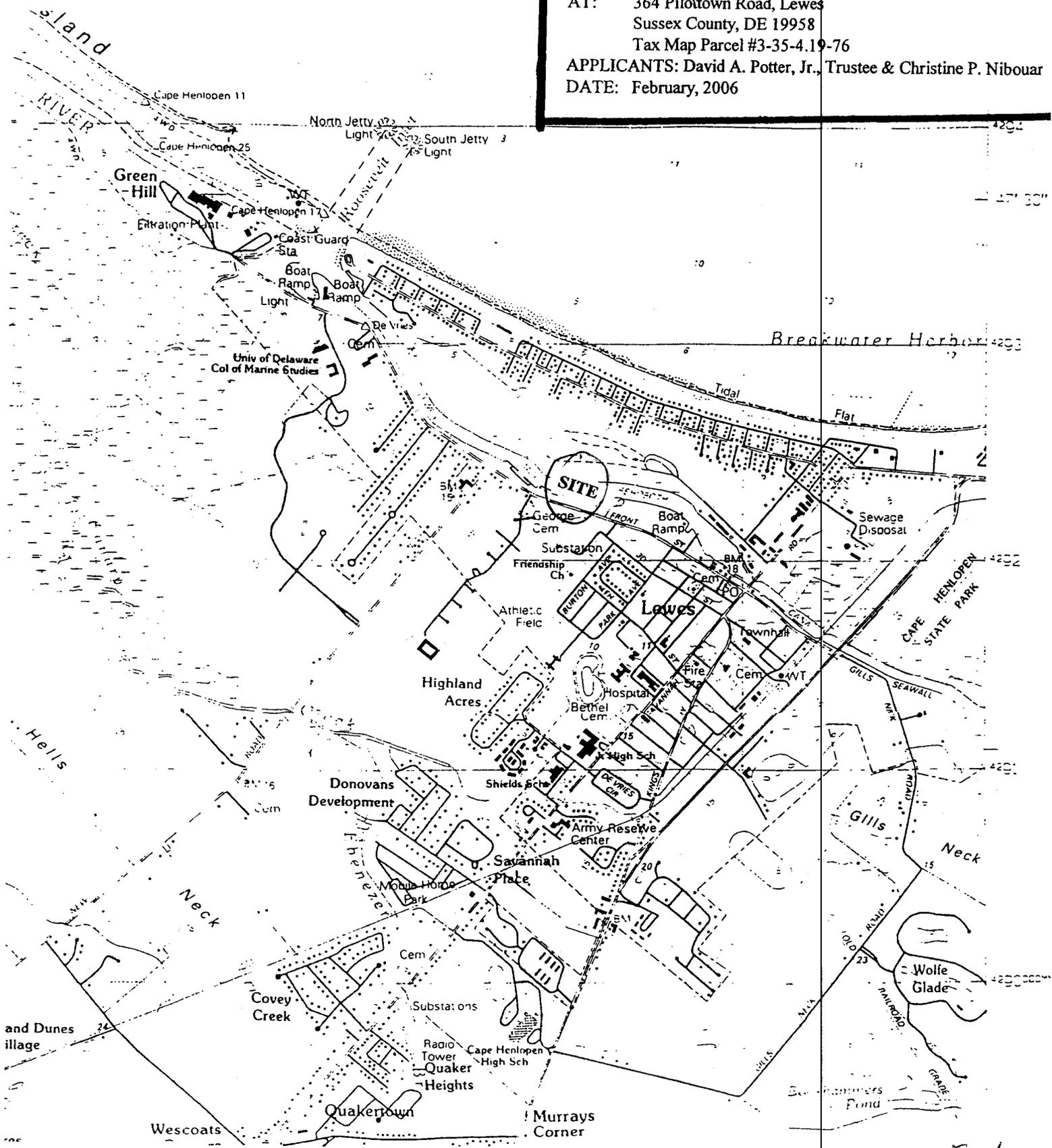


Figure 5. Site location on U.S.G.S. topographic map. Lewes, Delaware. Site is adjacent to E-1 Lewes and Rehoboth Canal. Lewes, Delaware. Scale: 1" = 2,000'.

REMOVAL OF EXISTING SECTION OF FIXED PIER AND  
 6' X 37' FIXED DOCK, AND ALL ASSOCIATED PILINGS);  
 INSTALLATION OF 20' X 4' ALUMINUM GANGWAY;  
 12' X 6' FLOATING PIER; 120' X 6' FLOATING DOCK;  
 AND TWO 3-PILING DOLPHINS (ICE BREAKERS)

IN: Lewes and Rehoboth Canal

AT: 364 Pilottown Road, Lewes

Sussex County, DE 19958

Tax Map Parcel #3-35-4.19-76

APPLICANTS: David A. Potter, Jr., Trustee & Christine P. Nibouar

DATE: February, 2006

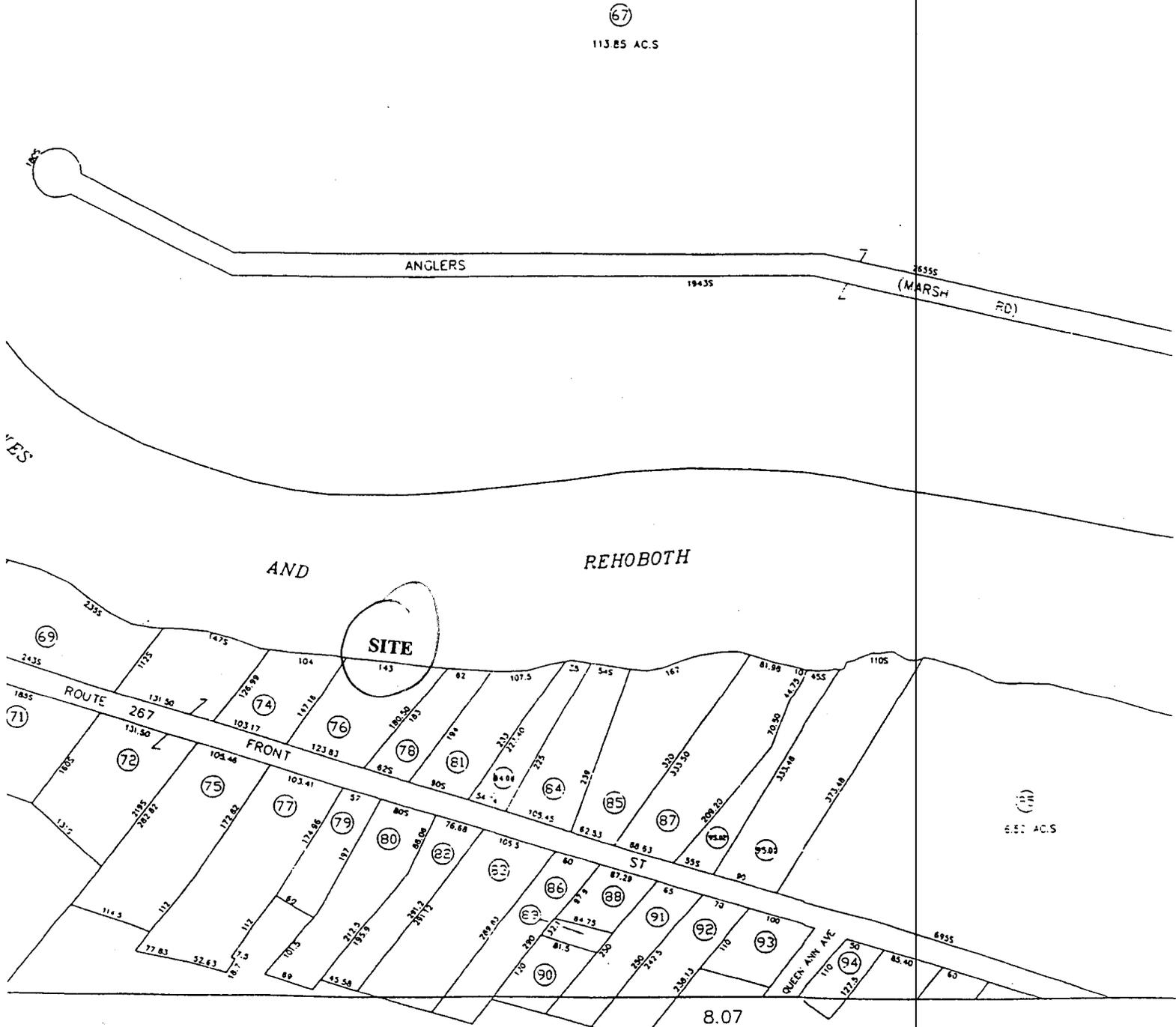
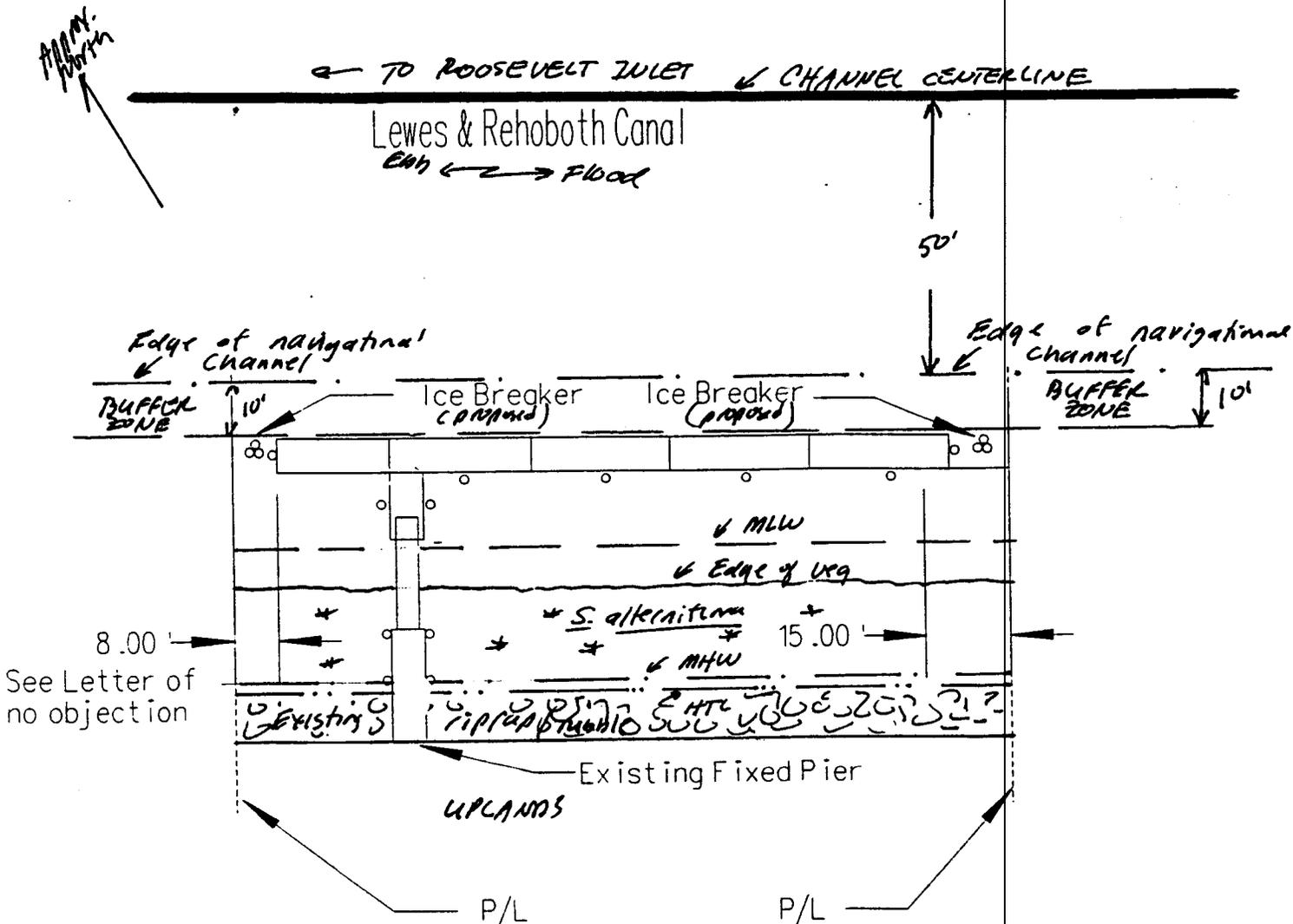


Figure 4. Site location on Sussex County, Delaware Tax Map, parcel #3-35-4.19-76.

**REMOVAL OF 28' X 5' SECTION OF FIXED PIER AND 6' X 37' FIXED DOCK (AND ALL ASSOCIATED PILINGS);  
 INSTALLATION OF 20' X 4' ALUMINUM GANGWAY;  
 12' X 6' FLOATING PIER; 120' X 6' FLOATING DOCK;  
 AND TWO 3-PILING DOLPHINS (ICE BREAKERS)**

IN: Lewes and Rehoboth Canal  
 AT: 364 Pilottown Road, Lewes  
 Sussex County, DE 19958  
 Tax Map Parcel #3-35-4.19-76

APPLICANTS: David A. Potter, Jr., Trustee & Christine P. Nibouar  
 DATE: February, 2006 *Revised June 2006*



Proposed Gangway & Floating Dock System  
 for David Potter  
 at 364 Pilottown Rd.  
 in The Lewes & Rehoboth Canal

PRECISION MARINE CONSTRUCTION, INC.  
 2 Woodbridge Hills  
 Rehoboth Beach, DE 19971  
 RBW  
 Scale: 1" = 30' Date: 11-3-05 Number: 11305-4

Figure 8. Plan view of proposed project (prepared by Precision Marine Construction, Inc.).

E-3

