



**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-200601197-23

Date

DEC 22 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: Delaware Department of Natural Resources and Environmental Control, Division of Soil and Water Conservation

AGENT: Robert Baldwin, Director, Division of Soil and Water Conservation

WATERWAY: Atlantic Ocean

LOCATION: Herring Point, Cape Henlopen State Park, Sussex County, Delaware

ACTIVITY: The Delaware Division of Soil and Water Conservation proposes to re-construct and extend two ocean groins within the Atlantic Ocean at Herring Point, Cape Henlopen State Park, Sussex County, Delaware.

The object of the proposal is to return the two damaged groins to their previous fully-functional condition. The north groin would be repaired, and the more severely damaged south groin would be essentially re-constructed.

The failure of these groins over the past several years has resulted in beach and dune erosion. In particular, the dune bluff at Herring Point is eroding at a very rapid rate, jeopardizing the State Park parking lot, hiking trail, and an historical facility located atop the bluff overlook. The Division is certain that repairing the groins would stop the bluff erosion, thereby preserving the parking lot, trail, and historical building.

The groins would be fortified with the placement of stone and would be extended in a westerly (landward) direction to tie in to the existing dune. The work would be conducted sequentially: north groin first, followed by the south groin.

The project would require the discharge of approximately 4000 cubic yards of large stone material below the high tide line of the Atlantic Ocean and would result in the displacement of 17900 square feet of those waters. The work would be accomplished using a crane and other mechanical equipment.

The Division recognizes that the project may result in a degree of sand starvation, particularly downdrift (northward) of the north groin, possibly causing continued beach and dune erosion at that location. Such beach and dune erosion would be monitored by the Division following completion of the project to determine if supplemental sand nourishment is warranted.

PURPOSE: To protect the recreational beach (swimming, fishing, surfing) within the Cape Henlopen State Park, to protect the parking lot and historical structures at Herring Point, and to alleviate severe erosion and storm damage conditions which are negatively affecting the beach and dunes at Herring Point.

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). Effects of the Project on Essential Fish Habitat (EFH): The project is located in Essential Fish Habitat identified on Sheet 81 of the 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 in waters and on substrates that are in a naturally turbid, erosional state, exposed to high seasonal wave energy. In

addition, much of the work would occur either above the high tide line or within the intertidal zone (between the high and low tide lines), 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.

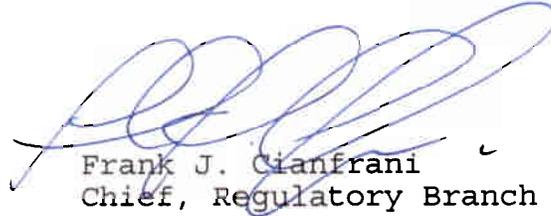
In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. 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.

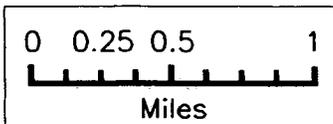
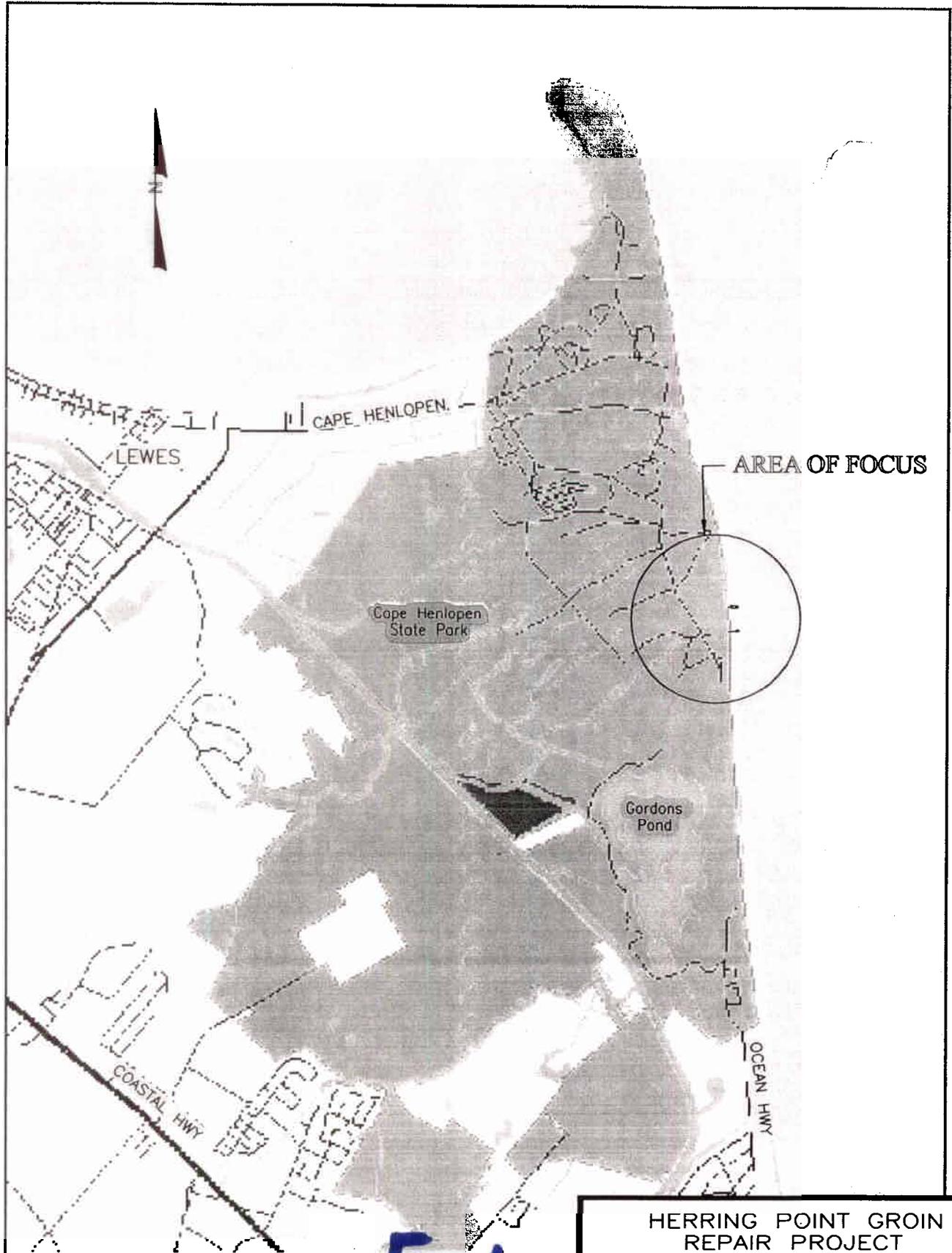
Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

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

# Cape Henlopen



## Location Map

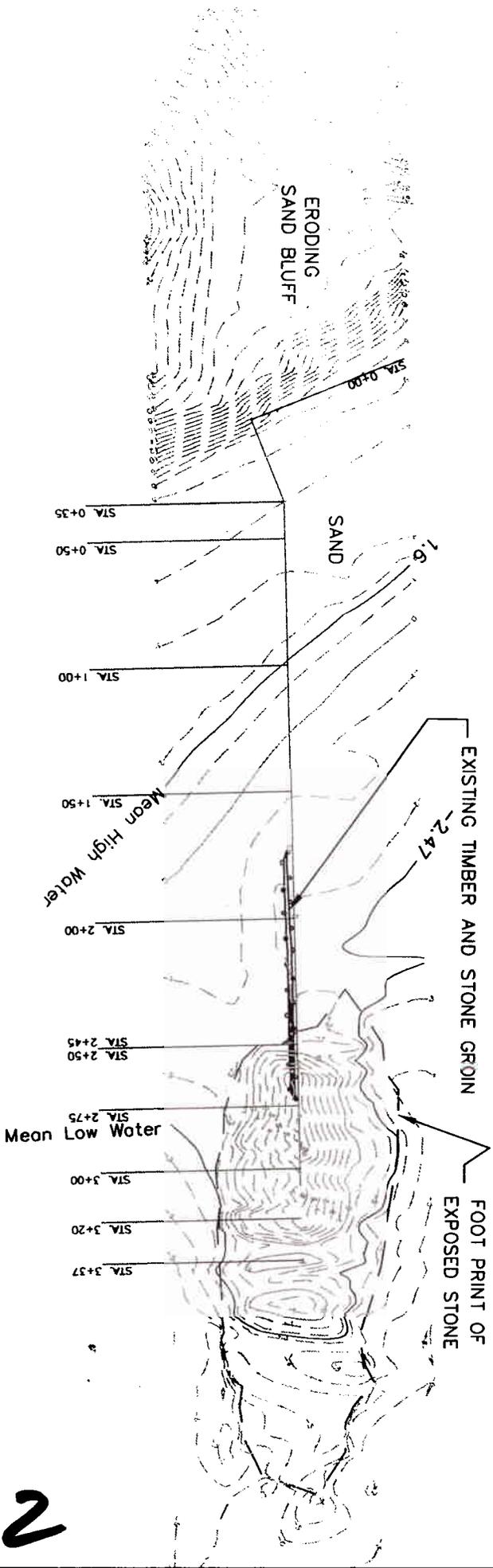
**E-1**

HERRING POINT GROIN  
REPAIR PROJECT

DELAWARE DEPARTMENT OF NATURAL  
RESOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

SURVEY DATE(S): MARCH, 2006  
SHEET: 1 OF 9

DRAWN BY: A. MACDONALD  
CHECKED BY: M. POWELL



PLAN VIEW - NORTH GROIN - EXISTING CONDITIONS

SCALE IN FEET: 1" = 60'



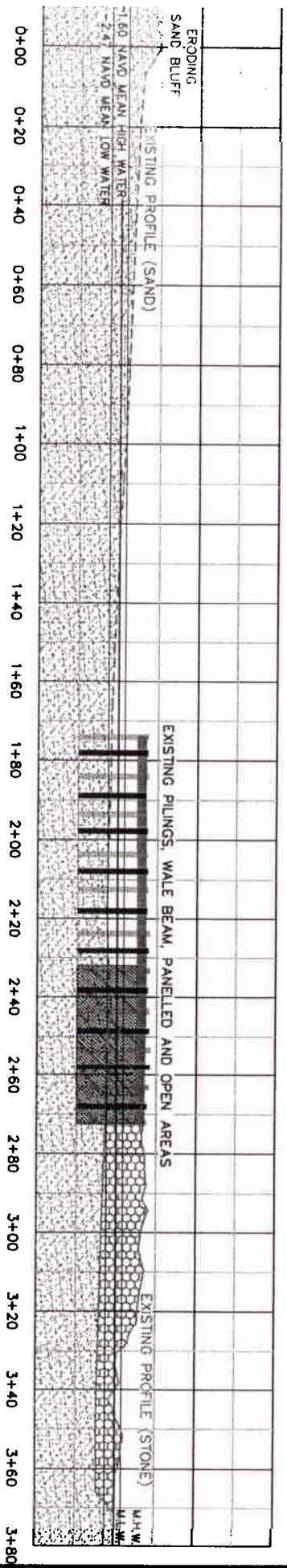
**E-2**

HERRING POINT GROIN  
REPAIR PROJECT

DELAWARE DEPARTMENT OF NATURAL  
RESOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

SURVEY DATE(S): MARCH, 2006  
SHEET: 2 OF 9

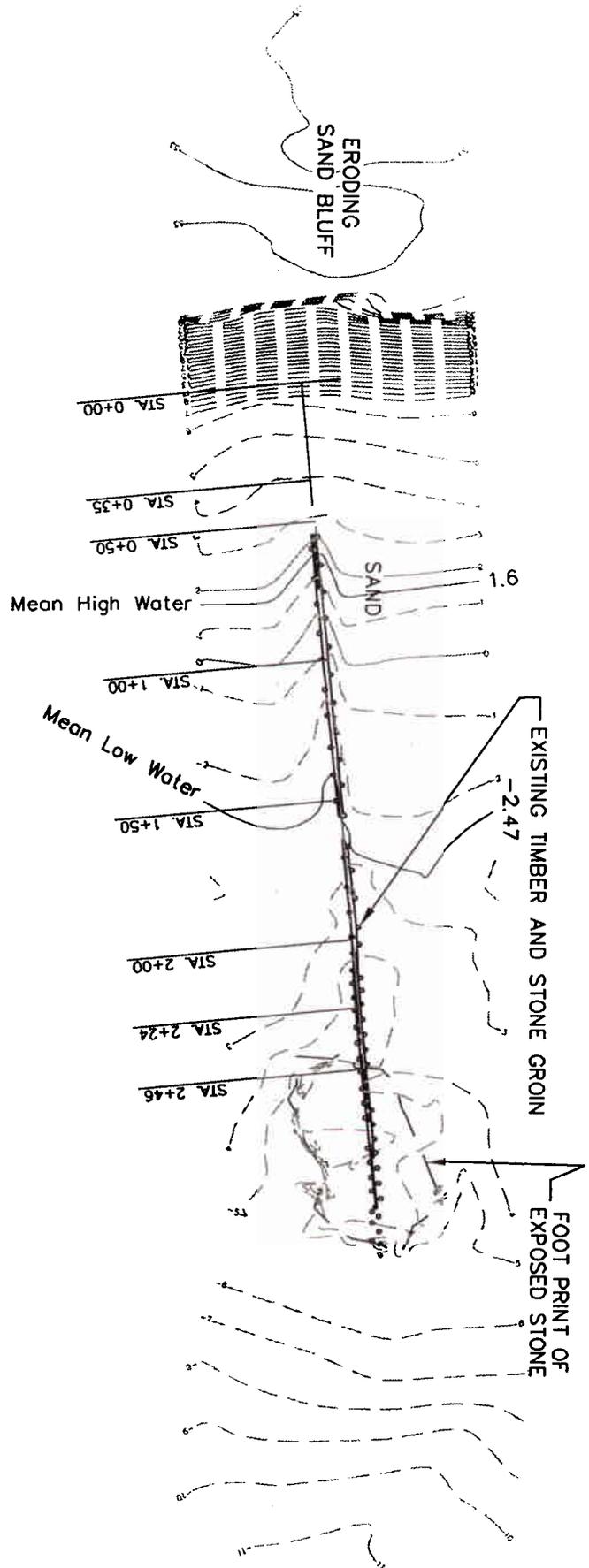
DRAWN BY: A. MACDONALD  
CHECKED BY: M. POWELL



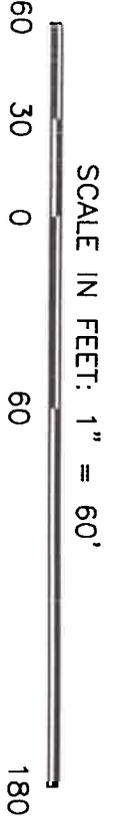
ELEVATION VIEW - NORTH GROIN - EXISTING CONDITIONS

**E-3**

<p>HERRING POINT GROIN REPAIR PROJECT</p>	
<p>DELAWARE DEPARTMENT OF NATURAL RESOURCES &amp; ENVIRONMENTAL CONTROL DIVISION OF SOIL AND WATER CONSERVATION</p>	
<p>SURVEY DATE(S): MARCH, 2006 SHEET: 3 OF 9</p>	<p>DRAWN BY: A. MACDONALD CHECKED BY: M. POWELL</p>



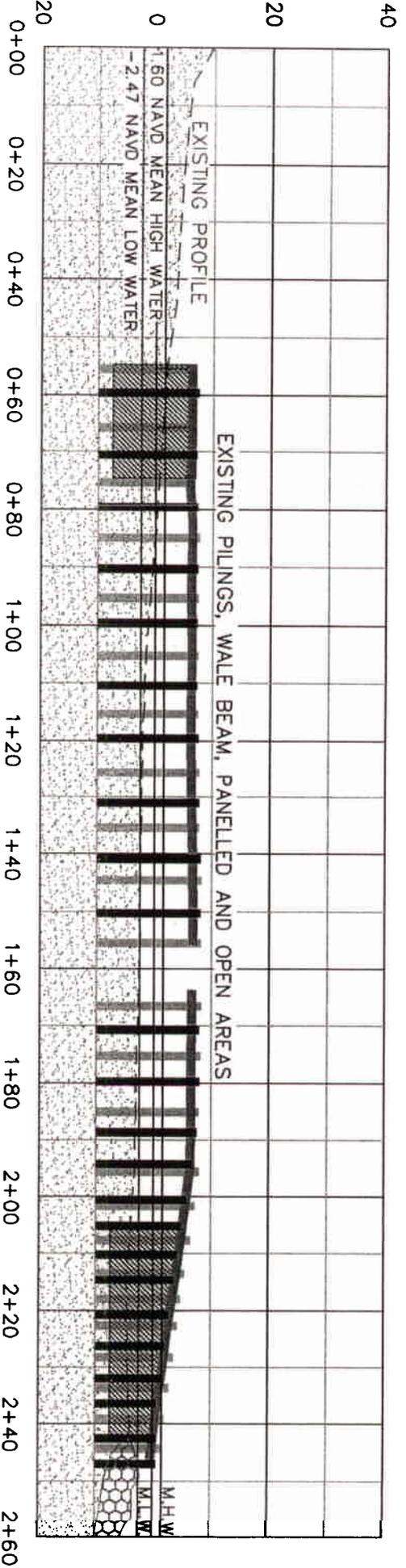
PLAN VIEW - SOUTH GROIN - EXISTING CONDITIONS



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<p>HERRING POINT GROIN REPAIR PROJECT</p>	
<p>DELAWARE DEPARTMENT OF NATURAL RESOURCES &amp; ENVIRONMENTAL CONTROL DIVISION OF SOIL AND WATER CONSERVATION</p>	
<p>SURVEY DATE(S): MARCH, 2006</p>	<p>DRAWN BY: A. MACDONALD</p>
<p>SHEET: 4 OF 9</p>	<p>CHECKED BY: M. POWELL</p>

E-4

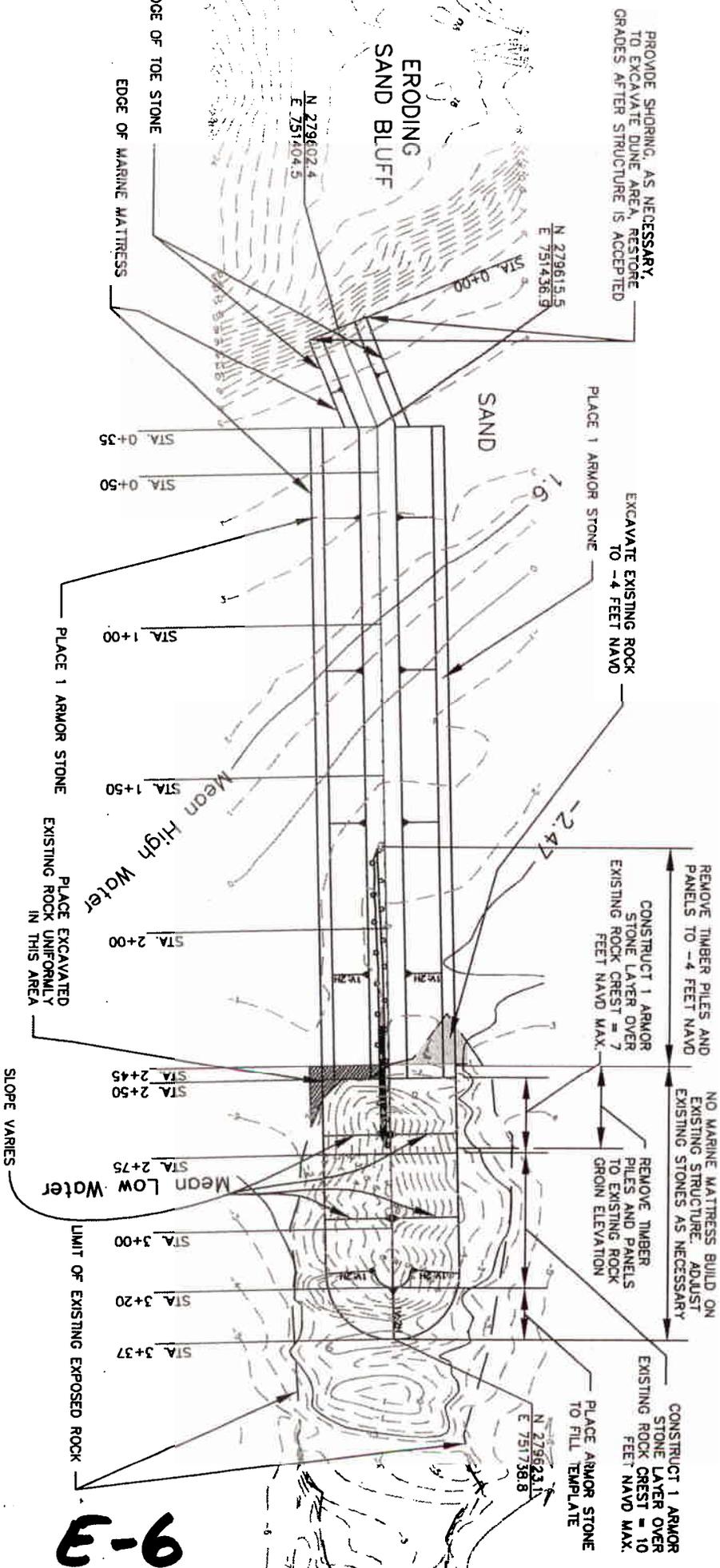


ELEVATION VIEW - SOUTH GROIN - EXISTING CONDITIONS

**E-5**

HERRING POINT GROIN REPAIR PROJECT	
DELAWARE DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL DIVISION OF SOIL AND WATER CONSERVATION	
SURVEY DATE(S): MARCH, 2006 SHEET: 5 OF 9	DRAWN BY: A. MACDONALD CHECKED BY: M. POWELL

PLAN VIEW - NORTH GROIN - PROPOSED CONDITIONS



**E-6**

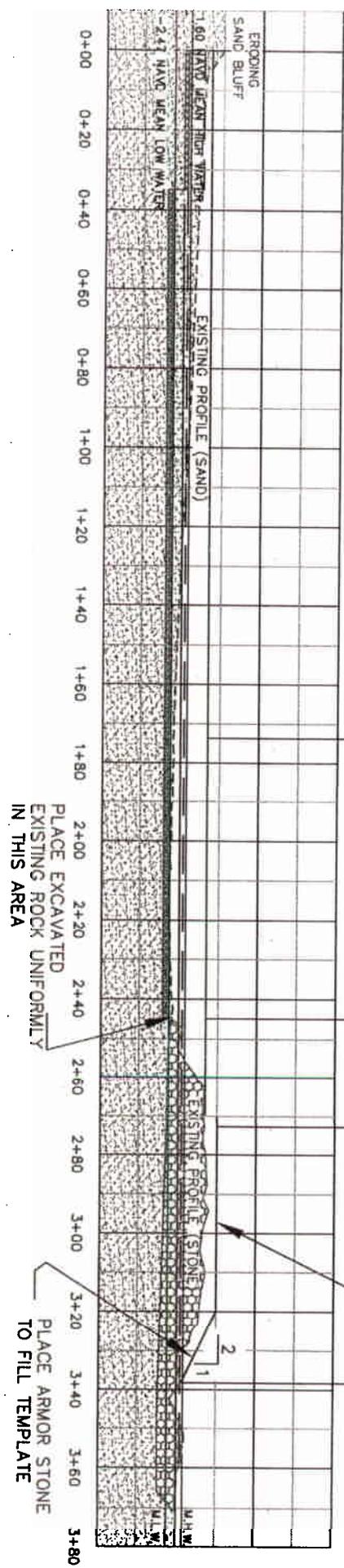
HERRING POINT GROIN  
REPAIR PROJECT

DELAWARE DEPARTMENT OF NATURAL  
RESOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

SURVEY DATE(S): MARCH, 2006  
DRAWN BY: A. MACDONALD  
SHEET: 6 OF 9  
CHECKED BY: M. POWELL

SCALE IN FEET: 1" = 50'

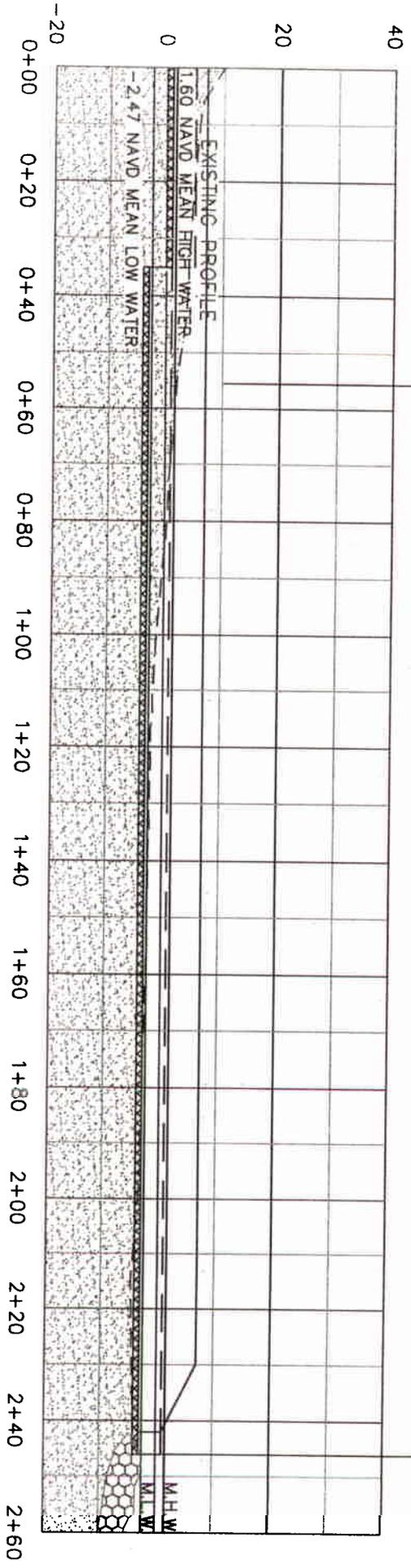




ELEVATION VIEW - NORTH GROIN - PROPOSED CONDITIONS

E-7

<p>HERRING POINT GROIN REPAIR PROJECT</p>	
<p>DELAWARE DEPARTMENT OF NATURAL RESOURCES &amp; ENVIRONMENTAL CONTROL DIVISION OF SOIL AND WATER CONSERVATION</p>	
<p>SURVEY DATE(S): MARCH, 2006 SHEET: 7 OF 9</p>	<p>DRAWN BY: A. MACDONALD CHECKED BY: M. POWELL</p>



ELEVATION VIEW -- SOUTH GROIN -- PROPOSED CONDITIONS

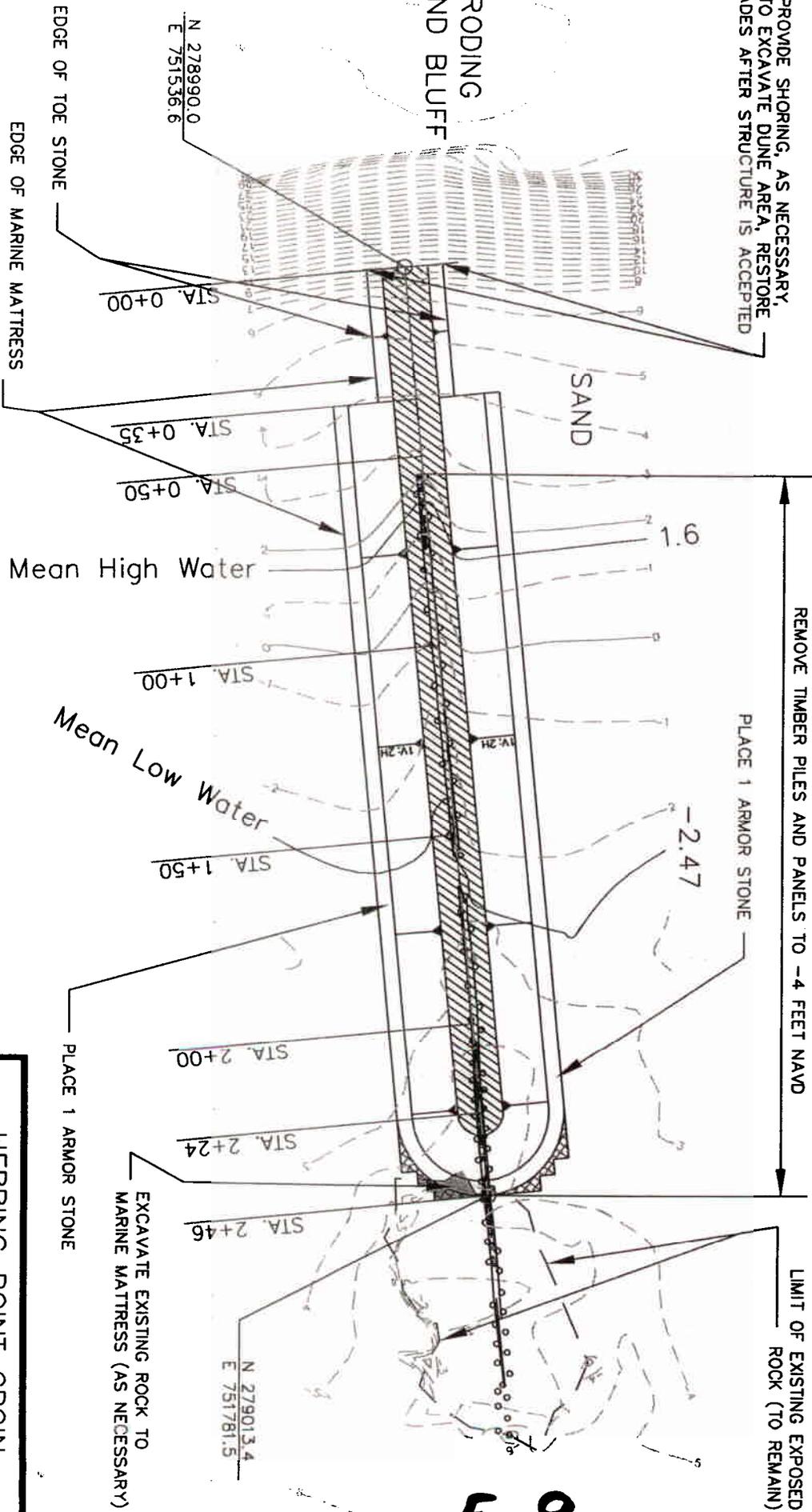
**E-8**

HERRING POINT GROIN REPAIR PROJECT	
DELAWARE DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL DIVISION OF SOIL AND WATER CONSERVATION	
SURVEY DATE(S): MARCH, 2006 SHEET: 9 OF 9	DRAWN BY: A. MACDONALD CHECKED BY: M. POWELL

PLAN VIEW - SOUTH GROIN - PROPOSED CONDITIONS

PROVIDE SHORING, AS NECESSARY, TO EXCAVATE DUNE AREA, RESTORE GRADES AFTER STRUCTURE IS ACCEPTED

ERODING AND BLUFF



SCALE IN FEET: 1" = 40'



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<p><b>HERRING POINT GROIN REPAIR PROJECT</b></p> <p>DELAWARE DEPARTMENT OF NATURAL RESOURCES &amp; ENVIRONMENTAL CONTROL DIVISION OF SOIL AND WATER CONSERVATION</p>	
<p>SURVEY DATE(S): MARCH, 2006</p> <p>SHEET: 8 OF 9</p>	<p>DRAWN BY: A. MACDONALD</p> <p>CHECKED BY: M. POWELL</p>

E-9