



**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.	Date
CENAP-OP-R-200601253-23	OCT 26 2006

Application No.	File No.
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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: Blair and Melissa Jones

AGENT: Evelyn Maurmeyer, Ph.D.
Coastal and Estuarine Research, Incorporated
Marine Studies Complex
Post Office Box 674
Lewes, DE 19958-0674

WATERWAY: Lewes and Rehoboth Canal

LOCATION: 73 Tidewaters (Tax Map Parcel 3-34-13.12-2.01),
Henlopen Acres, Rehoboth Beach, Sussex County, Delaware

ACTIVITY: Blair and Melissa Jones propose to construct a 20 x 4' pier, a 5 x 40' dock and 20 linear feet of stone rip rap to stabilize an eroding canal bank on the Lewes and Rehoboth Canal at 73 Tidewaters (Tax Map Parcel 3-34-13.12-2.01), Henlopen Acres, Rehoboth Beach, Sussex County, Delaware.

PURPOSE: The purpose of the pier and dock is to provide mooring facilities for the applicants' two private boats (21' Mako and 18' War Eagle). The purpose of the rip rap is to stabilize an eroding canal bank.

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 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 a small area of waters within a narrow, artificial navigation canal, an area which is subject to regular boating activity and expected to have relatively poor water quality. The bank stabilization work would occupy a very small portion of the intertidal zone. This intertidal area, between the high and low tide lines, 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 construction of the proposed dock and pier.

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

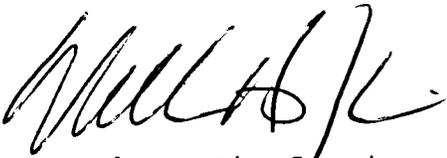
will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

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 20' X 4' PIER, 5' X 40' DOCK,
AND 100 LINEAR FEET STONE RIP-RAP
 IN: Lewes & Rehoboth Canal
 AT: 73 Tidewaters (Lot 3, Block H)
 Tax Map Parcel #3-34-13.12-2.01
 Henlopen Acres, Sussex County, DE 19971
 APPLICANTS: Blair and Melissa Jones
 DATE: July, 2004

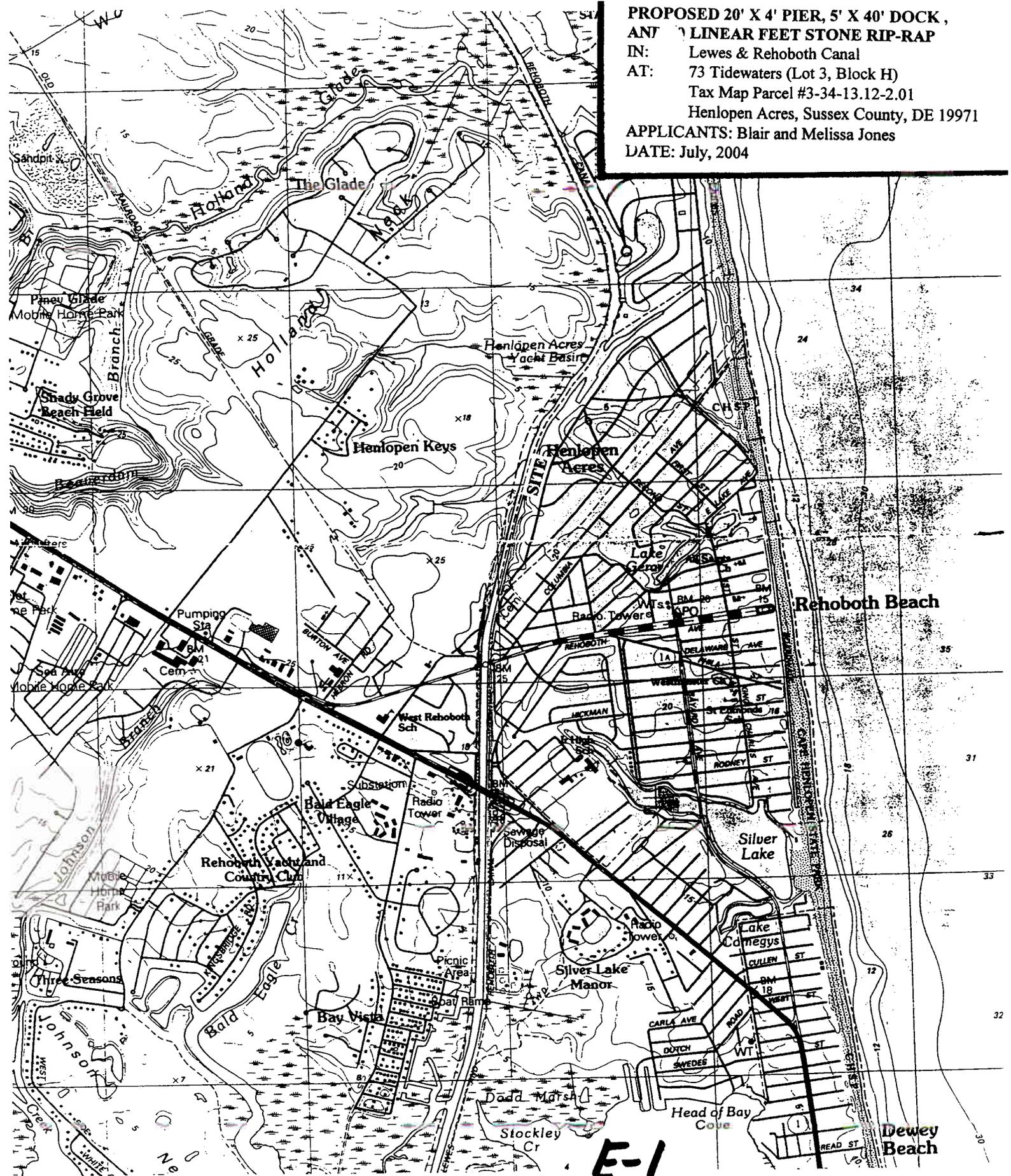
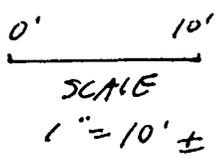


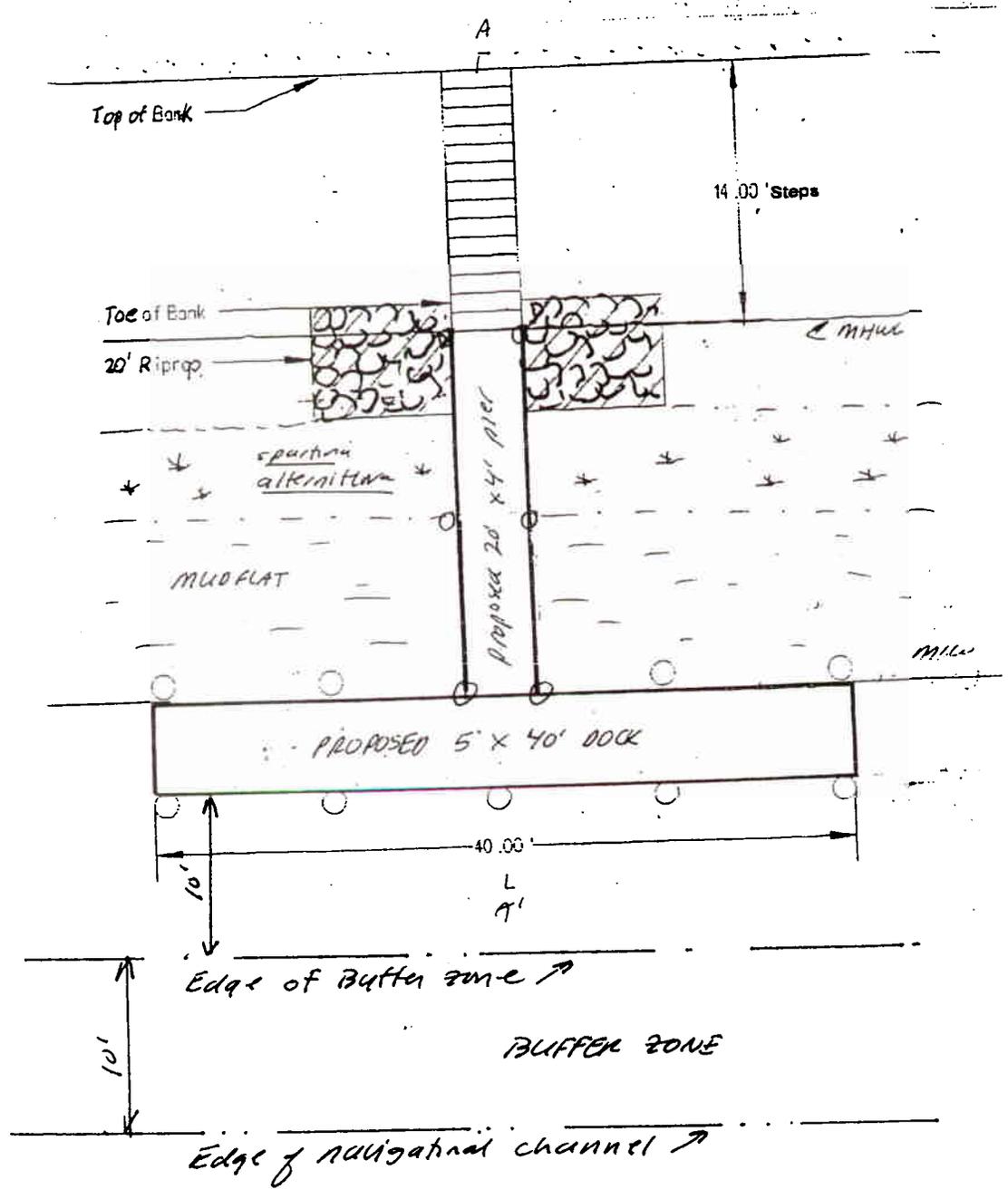
Figure 5. Reproduction of portion of U.S.G.S. topographic map, Rehoboth Beach, Delaware, showing site location, adjacent to Lewes & Rehoboth Canal at 73 Tidewaters, Henlopen Acres, Sussex County, Delaware. Scale: 1" = 2,000'.

E-1

APPROX
North



PROPOSED 20' X 4' PIER, 5' X 40' DOCK,
AND 20 LINEAR FEET STONE RIP-RAP
IN: Lewes & Rehoboth Canal
AT: 73 Tidewaters (Lot 3, Block H)
Tax Map Parcel #3-34-13.12-2.01
Henlopen Acres, Sussex County, DE 19971
APPLICANTS: Blair and Melissa Jones
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LEWES & REHOBOTH CANAL
Flood ← → Ebb (to Rehoboth Bay)

E-2

Figure 8. Plan view of proposed project (prepared by Precision Marine Construction, Inc.). Diagram for permit application purposes only.

PROPOSED 20' X 4' PIER, 5' X 40' DOCK,
 AND 20 LINEAR FEET STONE RIP-RAP
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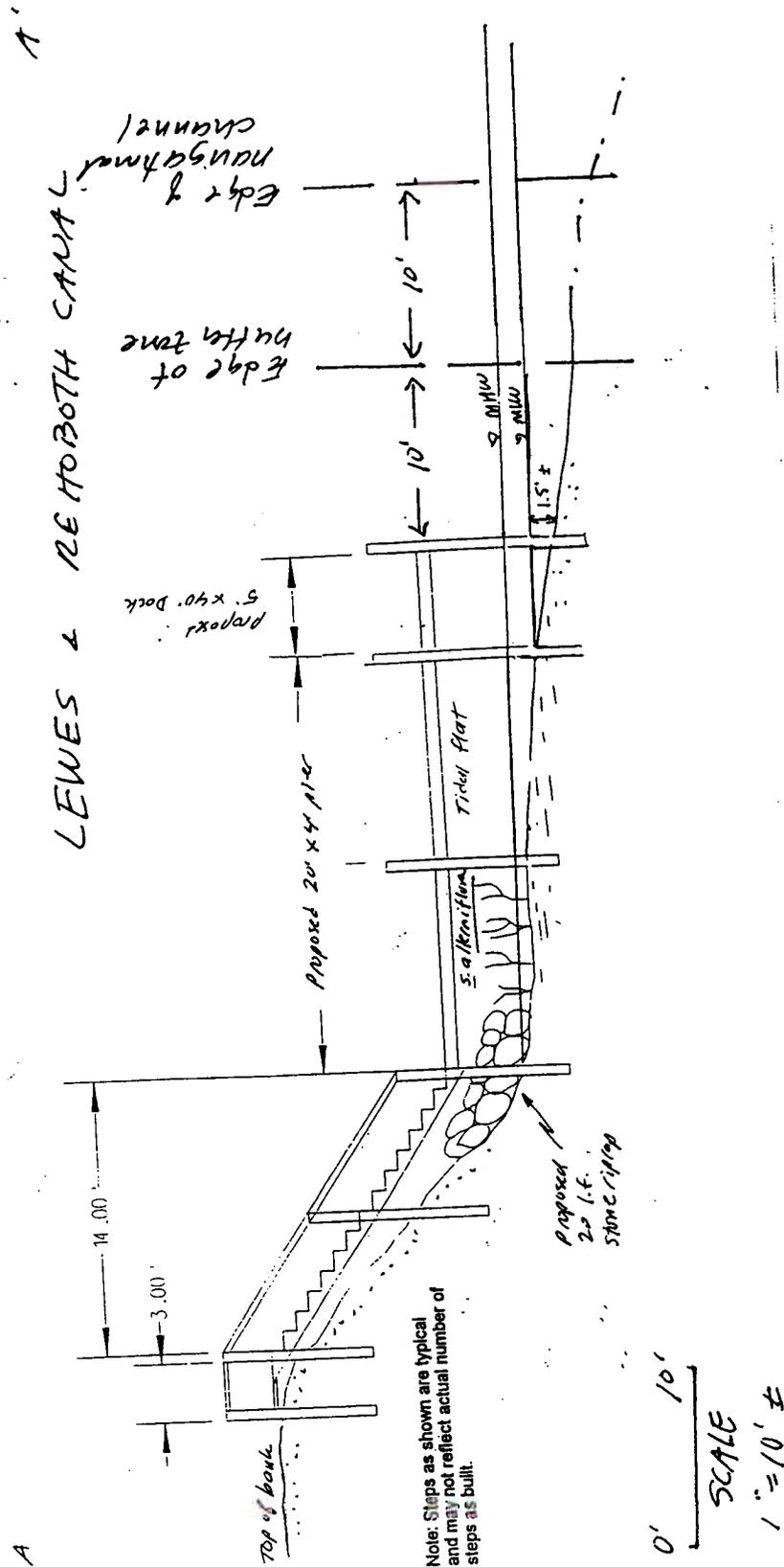


Figure 9. Cross-section of proposed project (prepared by Precision Marine Construction, Inc.). Diagram for permit application purposes only.