



**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-2008-1262	SEP 30 2008
Application No.	File No.
CENAP-OP-R-2008-1262	CENAP-OP-R-2008-1262
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: Clark, Bernard J.

AGENT: Evelyn M. Maurmeyer, Ph.D.
Post Office Box 674
Lewes, Delaware 19958

WATERWAY: Lewes and Rehoboth Canal

LOCATION: Tax Map Parcels 3-35-8.08-130.01 and -137.01, Gills Neck Road at Schley Avenue, Lewes, Sussex County, Delaware.

ACTIVITY: Mr. Clark proposes to stabilize an eroding bank and construct a private mooring facility on the Lewes and Rehoboth Canal at Tax Map Parcel 3-35-8.08-130.01 and -137.01, Lewes, Sussex County, Delaware. The featured dimensions of the project are as follows:

Forty linear feet of stone rip-rap (32 cy of 50-150 lb quarry stone),
Aluminum gangway 20' x 3',
Floating pier 6' x 6',
Floating dock 6' x 40',
Floating pier section, 12' x 6' with one boat lift.

The rip rap would cover 180 square feet of canal bottom, extending approximately eight (8) linear feet channel-ward of the high tide line.

PURPOSE: To stabilize an eroding bank and provide a private, recreational mooring facility for a 28-foot Boston Whaler.

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: 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).

Effects of the Project: The project is located in Essential Fish Habitat identified on sheet 80 of the *Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware*, dated March 1999. The following managed species of fish have been listed in the 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 (*Arctica islandica*), spiny dogfish (*Squalus acanthias*), Atlantic mackerel (*Scomber scombrus*), king mackerel (*Scomberomerus cavalla*), Spanish mackerel (*Scomberomerus maculatus*), cobia (*Rachycentron canadum*), sandbar shark (*Carcharhinus obscurus*), sand tiger shark (*Odontaspis Taurus*), and dusky shark (*Carcharhinus plumbeus*).

Analysis of the Effects on EFH: The proposed work would occur in a small area of waters within an active navigational canal (L&R Canal) subject to regular boating activity and substantial wake energy and erosion. For these reasons the work area is an unlikely spawning or nursery area for the managed species. Consequently, concentrations of the sessile life stages (eggs and larva) of the listed species are not expected to be within the work area. The proposed rip rap placement would be conducted from shore. 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 (EFH): Based upon 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 EFH 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.

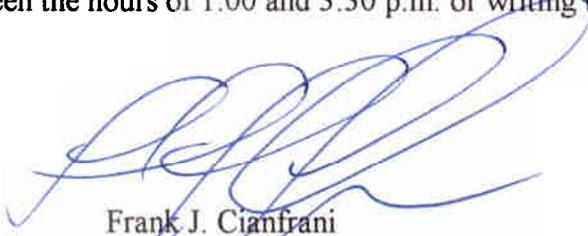
In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. 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 Brundage at 302-736-9763 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.

A handwritten signature in blue ink, appearing to read 'F. Cianfrani', is written over a light blue rectangular background.

Frank J. Cianfrani
Chief, Regulatory Branch

PROPOSED 40' OF RI AP; 20' X 3' GANGWAY;
 6' X 6' FLOATING PIER SECTION; 6' X 40' FLOATING DOCK;
 12' X 6' FLOATING PIER SECTION; AND ONE BOAT LIFT
 IN: Lewes and Rehoboth Canal
 AT: Tax Map Parcel #3-35-8.08-130.01, 137.01
 Gills Neck Road at Schley Avenue
 Lewes, Sussex County, DE 19958
 APPLICANT: Bernard J. Clark, III
 DATE: July, 2008

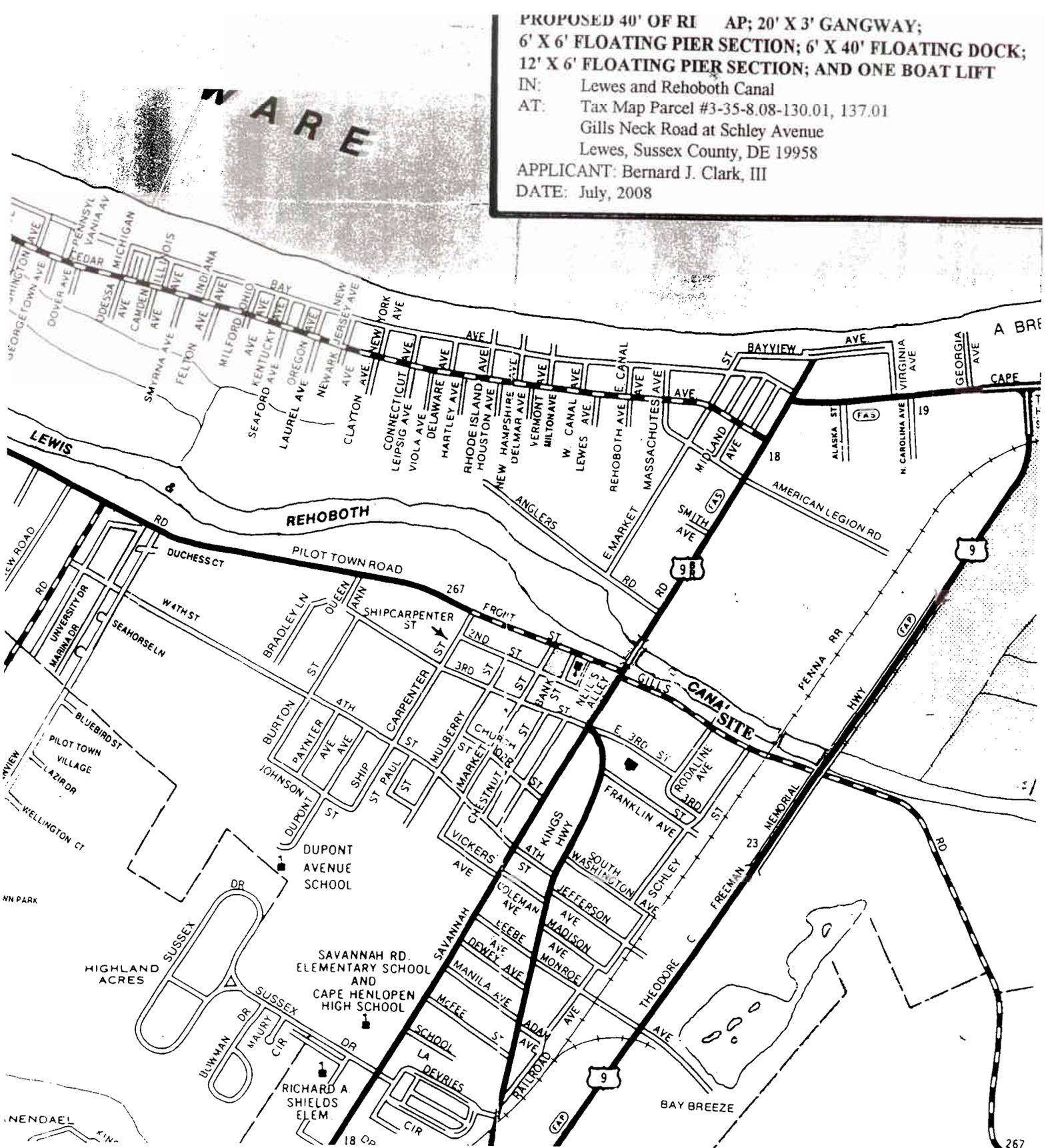
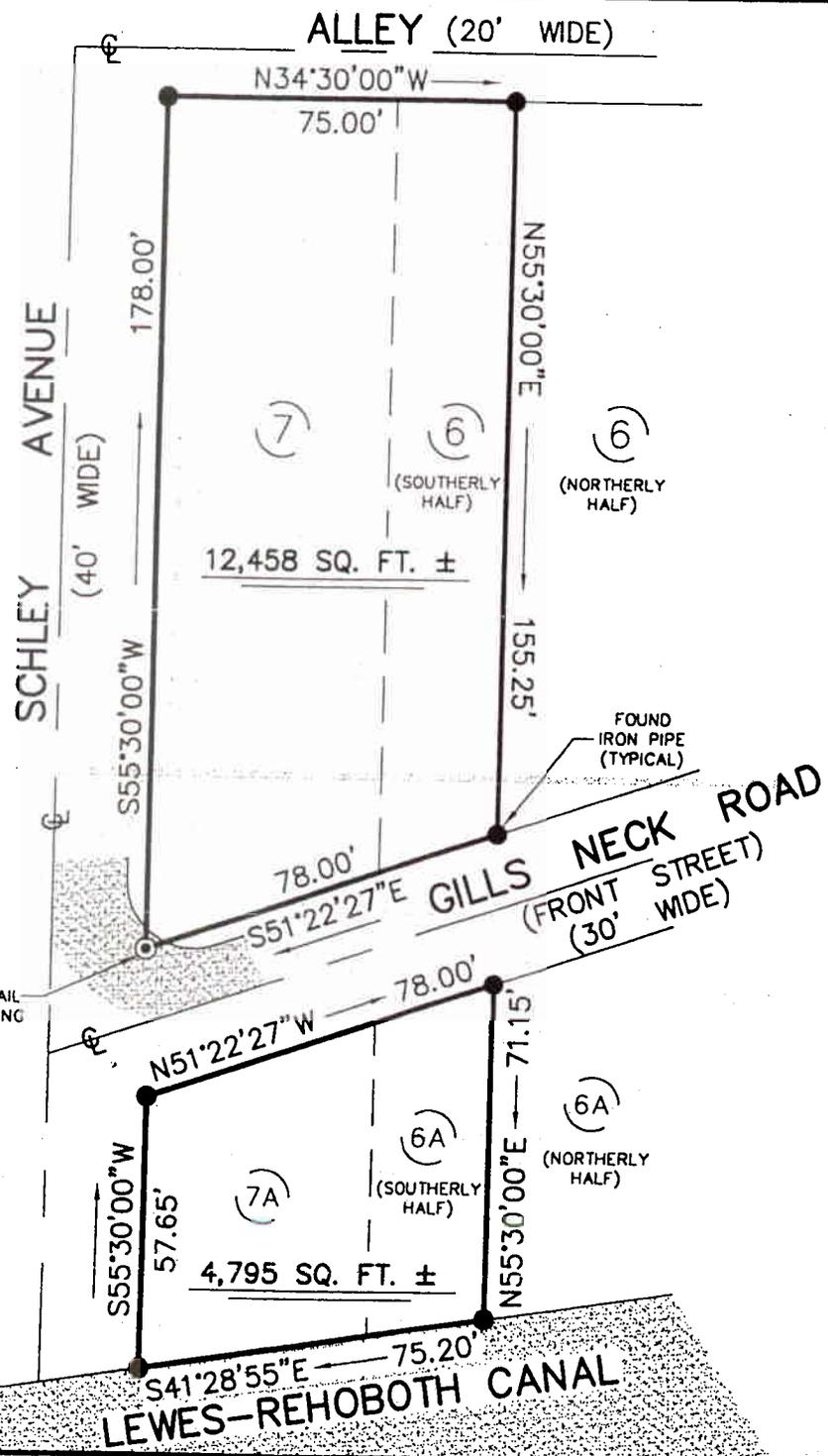
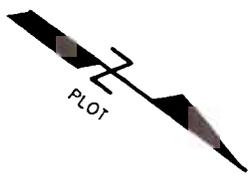


Figure 2. Map of Lewes, Sussex County, Delaware, showing project site, corner of Gills Neck Road and Schley Avenue. Directions to site (from Dover, DE) Route 113 southbound to Milford; Route 1 toward Lewes; left onto Business Route 9 (Savannah Road) eastbound into Lewes (approximately 2.5 miles). Turn right at traffic light (at Savannah Road) onto Gills Neck Road and continue to Schley Avenue. Site is on left, vacant land adjacent to Lewes and Rehoboth Canal.

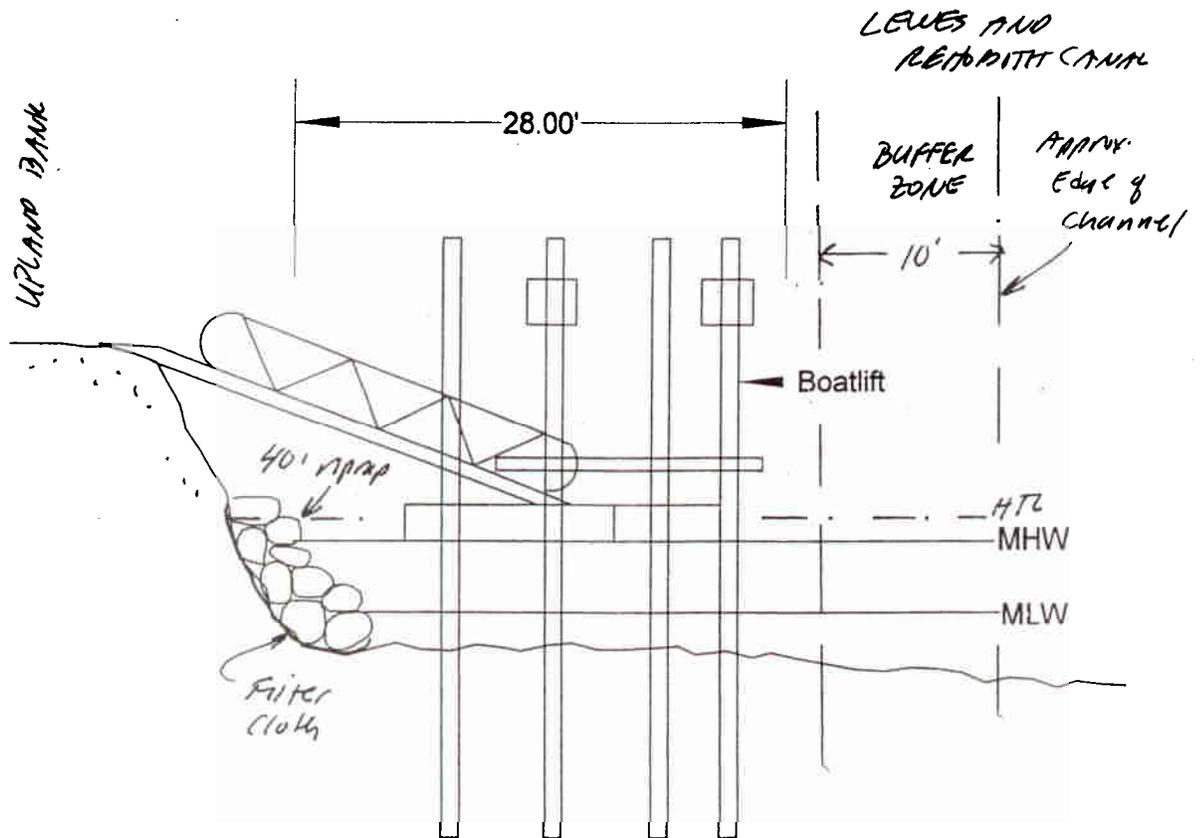


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DELAWARE SURVEYING SERVICES MAXWELL J. MORRIS, PLS P.O. BOX 1121 MILLVILLE, DE. 19970 (302) 537-7094 * FAX(302) 537-6534	DATE: MAY 23, 2007	PLOT REF: P.B. 29, P. 319 DEED REF: D.B. 2649, P. 72 TAX MAP #: 3-35-8.08-130.01 & 137.01
	SCALE: 1" = 40'	BOUNDARY SURVEY CLASS "B" SURVEY
LOT 7, 7A & S'LY 1/2 OF LOT 6 & 6A, "BAYVIEW ADDITION TO LEWES" CITY OF LEWES * LEWES AND REHOBOTH HUNDRED * SUSSEX COUNTY * DELAWARE		DRAWING #: 07-019

E-2

PROPOSED 40' OF RIP-RAP; 20' X 3' GANGWAY;
6' X 6' FLOATING PIER SECTION;
6' X 40' FLOATING DOCK;
12' X 6' FLOATING PIER SECTION; AND ONE BOAT LIFT
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Proposed Pier, Dock, Boatlift & Riprap
 For: Dr. B.J. Clark
 At: Lots 7 and Part of Lot 6 Gills Neck Rd. Lewes, DE
 In: L & R Canal

PRECISION MARINE CONSTRUCTION INC.

2 Woodbridge Hills
 Rehoboth Beach, DE 19971

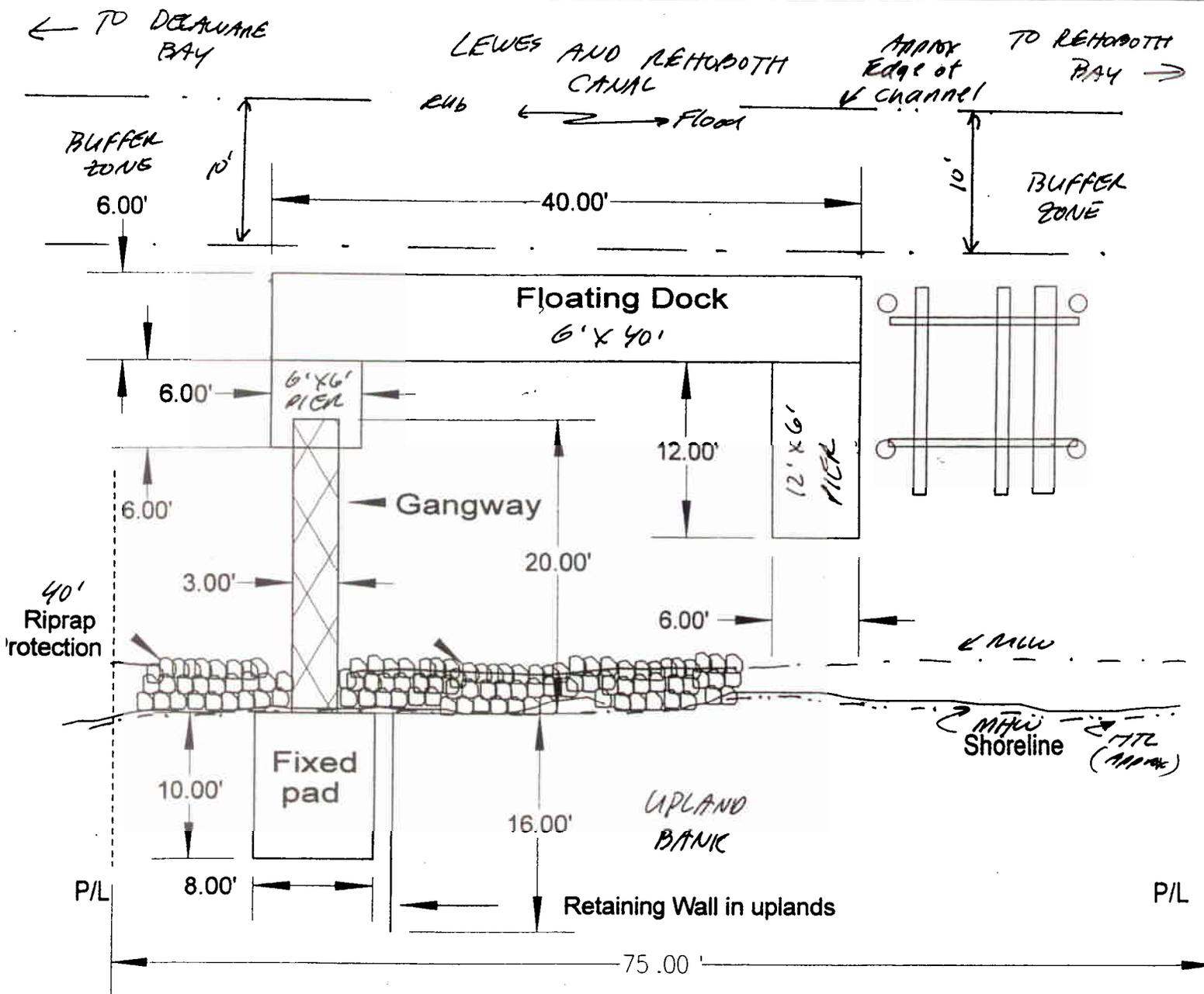
Scale: 1" = 10' Date: 05-12-08 Number: 51208-2

Figure 9. Cross-section of proposed project (prepared by Precision Marine Construction, Inc.).

E-3

6' X 6' FLOATING PIER SECTION; 6' X 40' FLOATING DOCK; 12' X 6' FLOATING PIER SECTION; AND ONE BOAT LIFT

IN: Lewes and Rehoboth Canal
 AT: Tax Map Parcel #3-35-8.08-130.01, 137.01
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PRECISION MARINE CONSTRUCTION INC.
 2 Woodbridge Hills
 Rehoboth Beach, DE 19971
 Scale: 1" = 10' Date: 05-12-08 Number: 51208-4

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