



**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-2008-1353	Date OCT 20 2008
Application No. CENAP-OP-R-2008-1353	File No. CENAP-OP-R-2008-1353-23
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: Pine Acres, Incorporated

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

WATERWAY: Long Lagoon

LOCATION: Tax Map Parcel 2-34-24.00-38.00, Sussex County, Delaware

ACTIVITY: Pine Acres, Incorporated proposes to conduct mechanical maintenance dredging and construct a bank stabilization revetment in Long Lagoon, an artificial tidal lagoon connected to Guinea Creek, at the Leisure Point residential development, located at Tax Map Parcel 2-34-24.00-38.00, Long Neck, Sussex County, Delaware. The southern (bulkheaded) shoreline of Long Lagoon serves as a marina for the residents of Leisure Point.

The applicant intends to remove 3300 cubic yards of sediment from the artificially created lagoon by mechanical means to restore the depth of the lagoon to -3' MLW. The applicant proposes to dispose of 2750 cubic yards of the dredged material on uplands at Tax Map Parcel 2-34-24.00-39.02, Sussex County, Delaware. The disposal site is owned by the applicant and is located on Diplomat Street, near the entrance to Leisure Point. The remaining 550 cubic yards of dredged material would be used as a base for the proposed bank stabilization revetment described below.

Pine Acres also proposes to stabilize 1850 linear feet of the eroding northern (upland) shoreline of the lagoon by discharging 550 cubic yards of dredged sediment and 832 cubic yards of 50/150 lb. stone into the lagoon to create a revetment. The dredged material, consisting of sand and

mud, would serve as a base for the stone revetment. The revetment would result in the filling of 12950 square feet (0.30 acre) of the bottom of Long Lagoon below the High Tide Line.

The dredging and stabilization projects would not impact wetlands.

PURPOSE: To restore navigable depths and stabilize an eroding shoreline within Long 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: 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 in 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 butterfish (*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 (*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: The proposed work would occur in waters within an active artificial navigation lagoon and on substrates that are in a naturally turbid, erosional state, exposed to high seasonal boat wake energy. For these reasons, the project waters are 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 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 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 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.



Frank J. Cianfrani
Chief, Regulatory Branch

**3,300± CY MECHANIC/ MAINTENANCE DREDGING
AND PLACEMENT OF 1,450' OF STONE RIP-RAP REVETMENT
WITH 555 C.Y. BACKFILL (EXCAVATED MATERIAL)**

IN: Long Lagoon (artificial lagoon adjacent to Guinea Creek)

AT: Leisure Point

25491 Dogwood Lane
Long Neck, Sussex County, DE 19966
(Tax Map Parcel #2-34-24.00-38.00)

APPLICANT: Pine Acres, Inc.

DATE: August, 2008

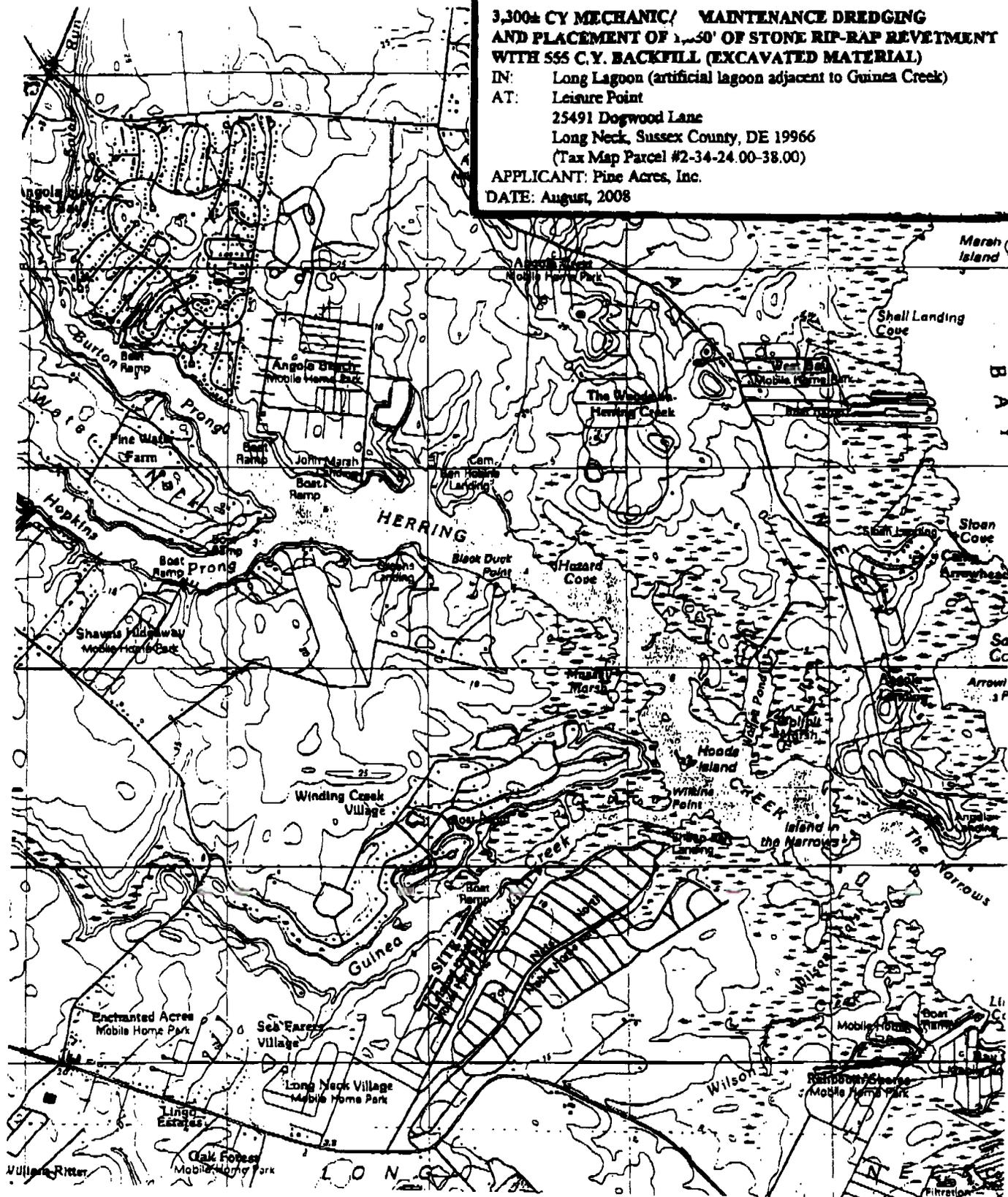
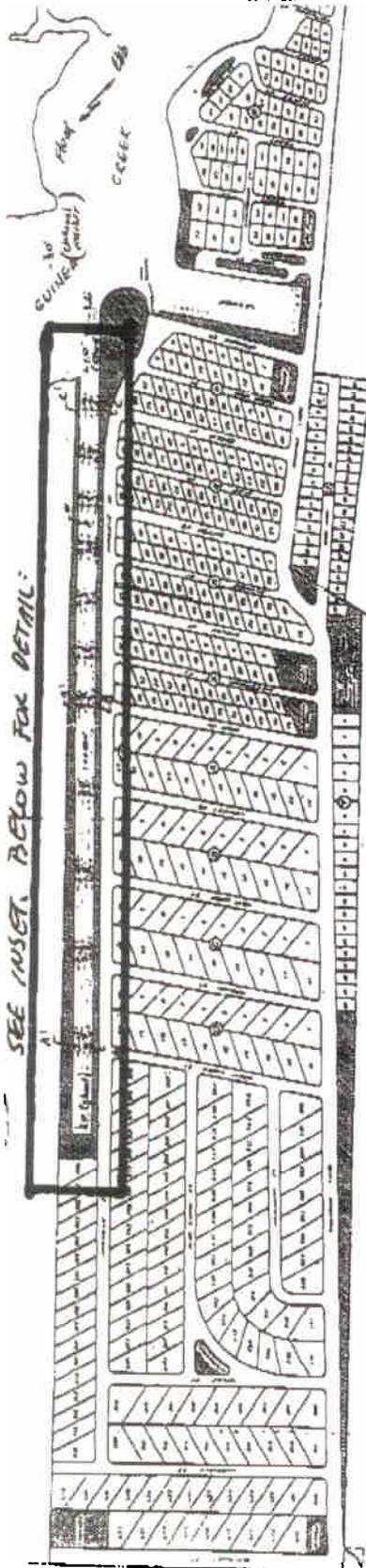


Figure 4 Site location on USGS topographic map, Fairmount, Delaware. Site is artificial lagoon adjacent to Guinea Creek. Scale: 1" = 2,000'

3,300± CY MECHANICAL MAINTENANCE DREDGING AND PLACEMENT OF 1,850' OF STONE RIP-RAP REVETMENT WITH 555 C.Y. BACKFILL (EXCAVATED MATERIAL)
IN: Long Lagoon (artificial lagoon adjacent to Guinea Creek)
AT: Leisure Point
25491 Dogwood Lane
Long Neck, Sussex County, DE 19966
(Tax Map Parcel #2-34-24.00-38.00)
APPLICANT: Pine Acres, Inc.
DATE: August, 2008

NORTH ↗

PLAN VIEW (1" = 400' ±)



E-2

INSET (1" = 200' ±)

KEY: TOP NUMBER: MLW DEPTH; CHANNEL CENTRALLINE
MIDDLE NUMBER: MLW WIDTH, END OF 16' FINGER PILE
BOTTOM NUMBER: MLW DEPTH, & BULKHEAD
(SEE FIGURE 9 FOR CROSS-SECTIONS A-A', B-B', C-C', D-D')

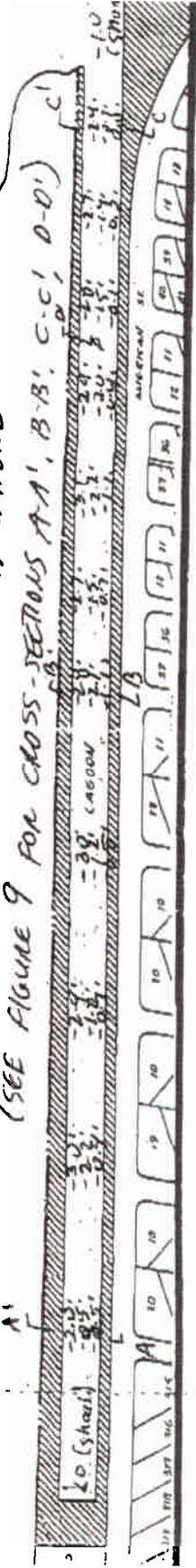
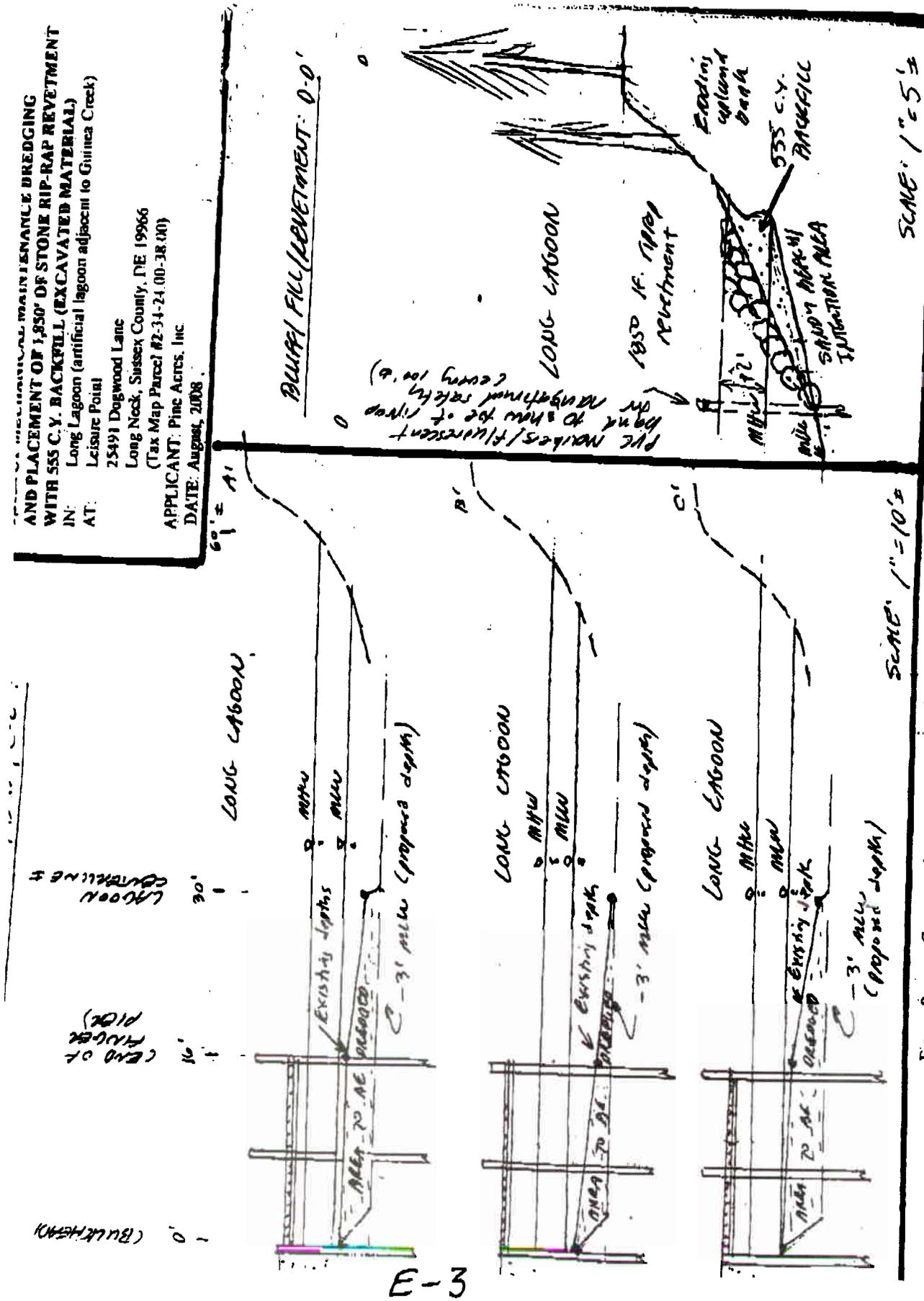


Figure 8. Survey of Long Lagoon (prepared by Coast Survey, Inc.) showing existing MLW depths as measured on site on June 12, 2007 by Evelyn Maurmeyer, CER, Inc. and Richard Gray, Leisure Point. Sketch for permit application purposes only.



AND PLACEMENT OF 1,850' OF STONE RIP-RAP REVEMENT WITH 555 C.Y. BACKFILL (EXCAVATED MATERIAL)
IN: Long Lagoon (artificial lagoon adjacent to Guinea Creek)
AT: Leisure Point
 25491 Dogwood Lane
 Long Neck, Sussex County, DE 19966
 (Tax Map Parcel #2-34-24 00-3R 00)
APPLICANT: Pine Acres, Inc.
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Figure 9. Cross-section sketches of proposed project. Sketches for permit application purposes only.