Public Notice

US Army Corps of Engineers
Philadelphia District
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice No.
CENAP-OP-R-2008-350-64

Date
APR 30 2008

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: Atlantic County Department of Public Works
Office of Mosquito Control
P. O. Box 719
Northfield, New Jersey 08225-0719

WATERWAY: Wetlands bordering: Mullica River; Great Bay; Little Bay; Reeds Bay; Absecon Bay; Lakes Bay; Skull Bay, Great Egg Harbor Bay and River and the Tuckahoe River

LOCATION: High tidal wetlands located throughout Atlantic County, New Jersey, including the Edwin B. Forsythe National Wildlife Refuge in Oceanville, but excluding areas designated as Federal Wilderness Areas. The following additional municipalities or townships would be affected: Absecon, Atlantic City, Brigantine, Corbin City, Egg Harbor Township, Galloway, Pleasantville, Port Republic, Somers Point and Ventnor.

ACTIVITY: The Atlantic County Mosquito Control Unit proposes to perform mosquito control activities using Open Marsh Water Management (OMWM) techniques in various high tidal wetlands located within Atlantic County, New Jersey.

To achieve effective mosquito control, each tidal marsh is first surveyed by Mosquito Control biologists to determine its mosquito breeding potential. If mosquito breeding is found to be significant, a management strategy is then developed by the biologists using New Jersey's OMWM guidelines to design an Open Marsh Water Management program for the marsh. Each OMWM program is intended to reduce the habitat available to mosquito larvae by improving the tidal hydrology of the marsh.

Mosquito eggs are deposited on moist marsh soil where they go through their larval and pupal stages before emerging as winged adults soon after a marsh flooding event. Marsh flooding, which creates shallow pools of standing water on the marsh surface, can result from either heavy

precipitation or higher than normal tides. The shallow pools provide the habitat essential to the emergence of the adult mosquitoes.

The use of OMWM techniques is intended to interrupt the mosquito life cycle by modifying the favorable mosquito habitat, thereby allowing natural mosquito predators such as killifish (Fundulus heteroclitus) to access the flooded marsh.

The mosquito control techniques utilized in each OMWM program are as follows: the construction of small ponds and associated radial ditches designed to support stable fish populations that prey on mosquito larvae; the excavation of main and lateral ditches to improve tidal circulation; and the installation of sill-ditches to allow tidal exchange without draining the marsh. These techniques reduce mosquito breeding sites by improving tidal circulation, removing temporary surface water and increasing permanent surface water. Under the Atlantic County proposal, these techniques would be applied only to marshes that have been shown to breed mosquitoes. Marshes that do not produce mosquitoes would not be managed, nor would marshes located within Federally-designated wilderness areas.

To create the necessary ponds and ditches, the applicant proposes to excavate portions of the marsh using amphibious motorized rotary ditchers or low ground pressure excavators. To dispose of the excavated material, the rotary ditcher shreds the marsh soil and broadcasts it thinly over the adjacent marsh surface, up to 60 feet from ditches or ponds, and several inches thick.

The applicant is applying for a five-year permit to manage a maximum of 1250 acres. A prior five-year Department of the Army permit for the above work expired on December 31, 2007 (CENAP-OP-R-200200603-24). Permit site authorizations under that permit were issued for a number of areas including Project #284 (E-1 and E-2) along the Little Egg Harbor River and Project #248 (E-1 and E-3), a long term project on Forsythe Refuge. Work in expected to resume in these areas without the requirement for new specific site authorizations; however, site authorizations shall be required prior to commencing work in other locations (E-1). The applicant has submitted an application to the New Jersey Department of Environmental Protection Water Front Development and Coastal Wetlands Permit, WQC (# 0100-03-0001.1 WFD070001; CSW070001) on February 1, 2007 and received approval on August 8, 2007. Also, the applicant applied on March 13, 2008 for a Special Use Permit from the U.S. Fish and Wildlife Service (# 52510 - 08014) for work on the Forsythe Refuge and has received approval.

PURPOSE: The purpose of the proposed Open Marsh Water Management program is to provide more permanent and effective mosquito control, and to reduce the use of pesticides on the salt marsh and populated upland areas.

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, indicates that the proposed project, as described in this public notice, would not adversely affect the EFH of any species. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

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.

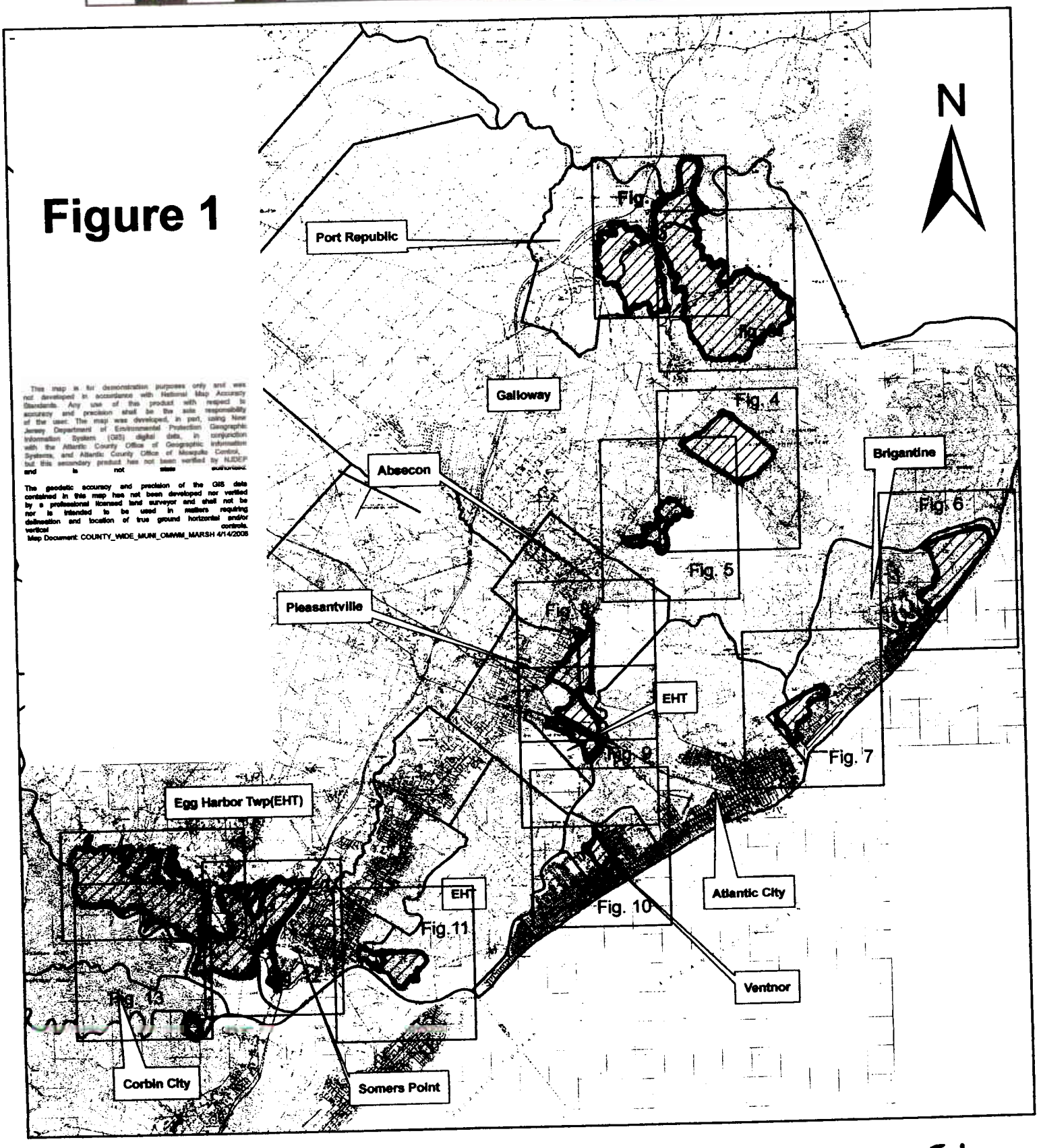
Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Michael F. Green at (215) 656-6836 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

POSSIBLE OMWM AREAS IN ATLANTIC COUNTY, NJ

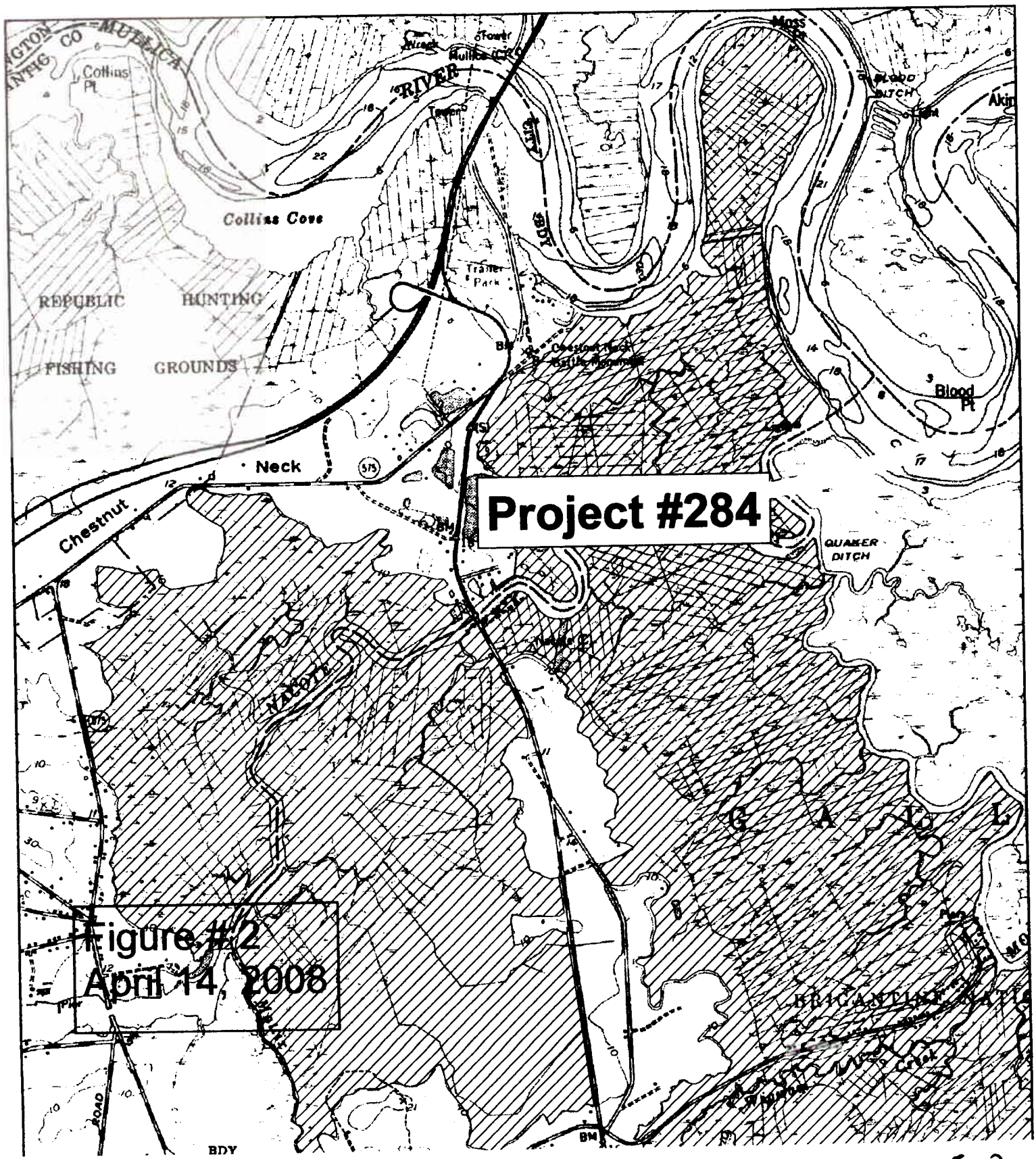
0 11,250 22,500 45,000 67,500 90,000 Feet



E-1

OPEN MARSH WATER MANAGEMENT AREAS IN ATLANTIC COUNTY, ON USGS TOPOQUADS

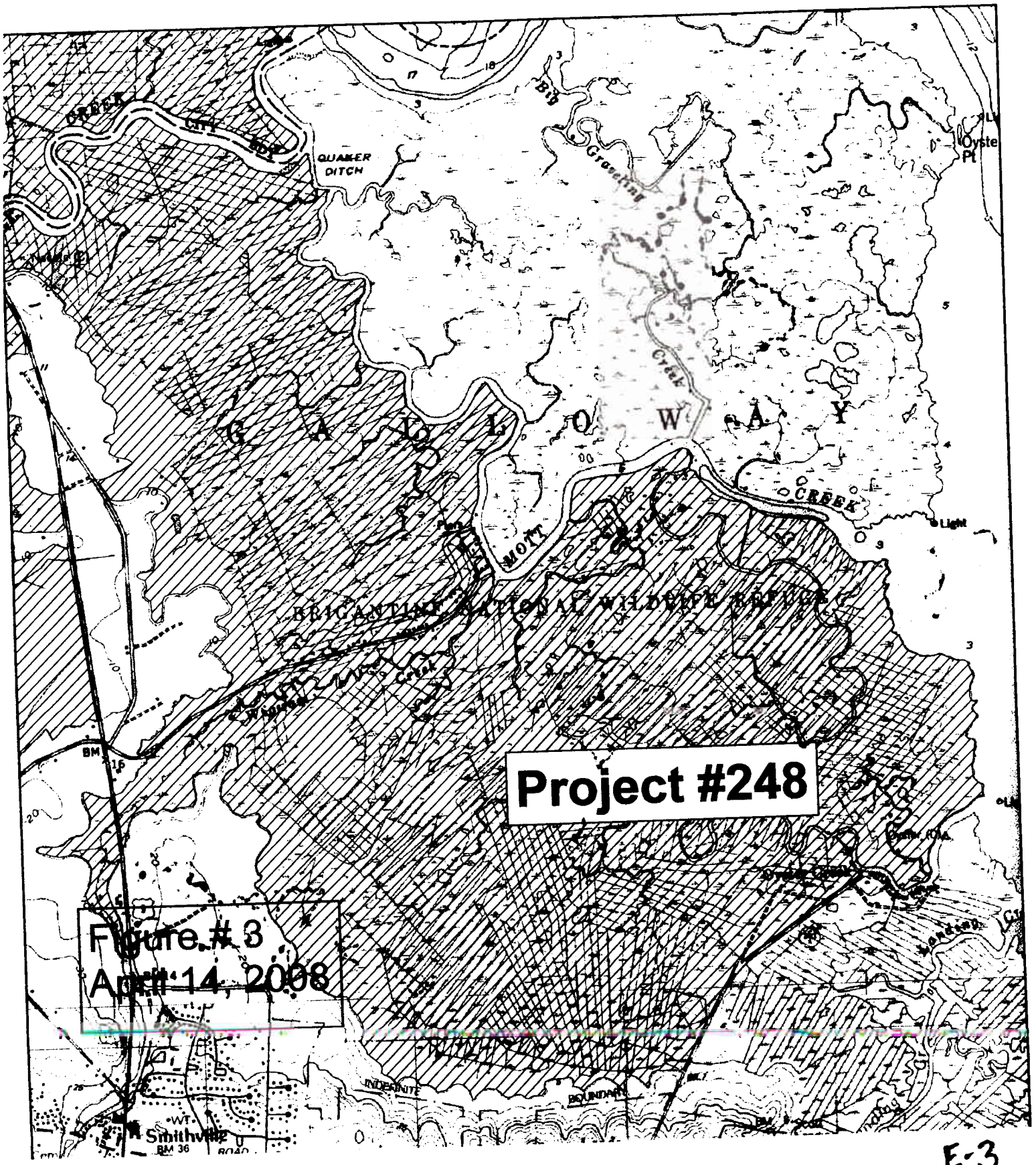
1:24000 SCALE



E-2

OPEN MARSH WATER MANAGEMENT AREAS IN ATLANTIC COUNTY, ON USGS TOPOQUADS

1:24000 SCALE



E-3

ILLUSTRATION FROM:

WETLANDS, Vol. 5, 1985

GUIDELINES FOR "OPEN MARSH WATER MANAGEMENT" IN DELAWARE'S SALT MARSHES - OBJECTIVES, SYSTEM DESIGNS, AND INSTALLATION PROCEDURES

William H. Meredith, David E. Saveikis, and Chester J. Stachecki

Mosquito Control Section, Division of Fish and Wildlife, Delaware Department of Natural Resources and Environmental Control, PO Box 1401, Dover, Delaware 19903

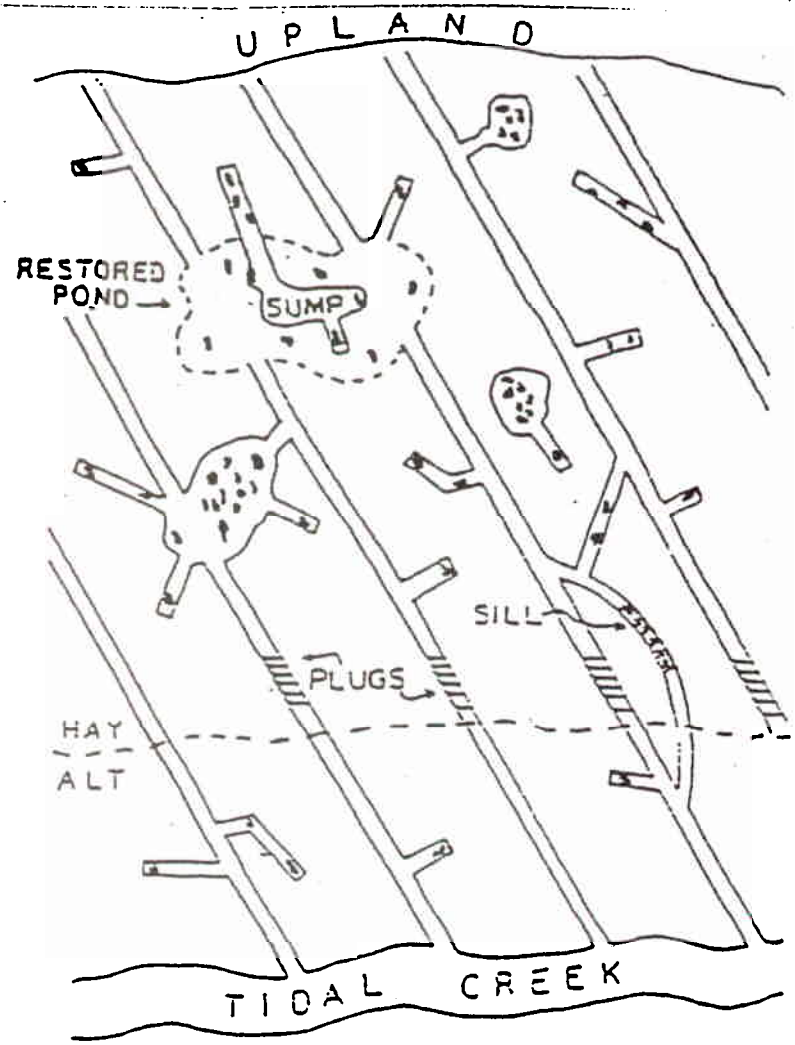


Figure 3. An OMWM system superimposed over a previously parallel-grid ditched marsh. The darkened spots represent former mosquito-breeding depressions.

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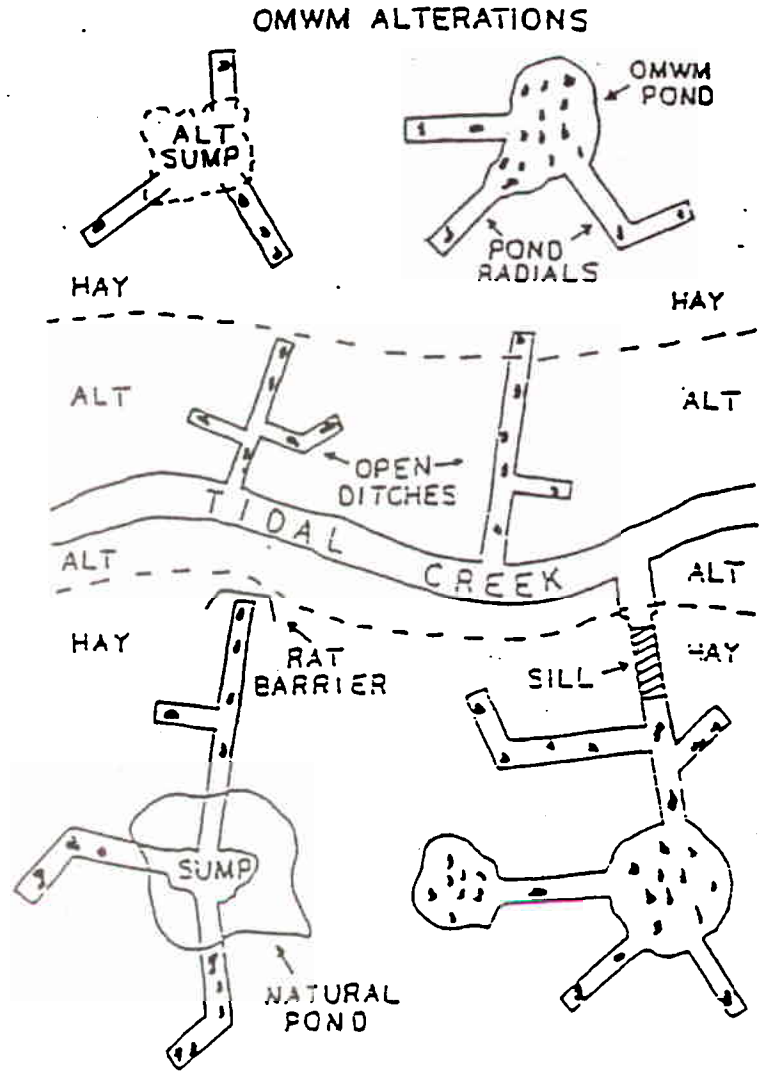

Figure 2. Various marsh excavations and alterations used in the OMWM technique. The darkened spots represent former mosquito-breeding depressions.