



**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-2016-240

Date

Application No.
CENAP-OP-R-2016-240

File No.

CENAP-OP-R-2016-240-85

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: Suzanne Clare

AGENT: Dr. Evelyn M. Maurmeyer, Coastal & Estuarine Research, Inc.

WATERWAY: Lewes and Rehoboth Canal

LOCATION: Anglers Road, Lewes, Sussex County, Delaware
Tax Map Parcel 3-35-8.08-10.00
(Lat. 38.77731°N/Long. -75.13873°W).

ACTIVITY: The applicant, Suzanne Clare, has applied for a 10-year maintenance dredging Department of the Army permit. The applicant proposes to conduct hydraulic maintenance dredging of approximately 632 cubic yards of accumulated sediment to a depth of -6' mean low water from 3 boat slips, totaling approximately 4,000 square feet to maintain navigable water depths at Tax Map Parcel 3-35-8.08-10.00, located adjacent to the Lewes and Rehoboth Canal at Anglers Road, Lewes, Sussex County, Delaware and utilizing the existing confined upland disposal site at the western end of Anglers Road for dredged spoils. The dimensions of the project are indicated on the attached plans identified as E-1 through E-4.

PURPOSE: The purpose of the dredging is to maintain navigable depths for safe access to/from the 3 boat slips.

AVOIDANCE/MINIMIZATION/COMPENSATION STATEMENT:

On April 10, 2008, the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency published a *Final Rule on Compensatory Mitigation for the Losses of Aquatic Resources* (33 CFR 325 and 332 and 40 CFR 230). The rule took effect on June 9, 2008. In accordance with 33 CFR Part 325.1(d) (7) of the rule, the applicant has stated that the proposed project has been designed to avoid and minimize adverse effects on the aquatic environment to the maximum extent practicable, and has further documented that compensatory mitigation is not

necessary. The following aspects and features of the project demonstrate the applicant's efforts in this regard.

The project cannot be avoided entirely because it is, by its nature, a water-dependent activity. The proposed maintenance dredging will provide safe and adequate access for 3 boat slips. The dredged material will be hydraulically pumped to an existing confined upland disposal site located at the western end of Anglers Road. Because wetlands will only be impacted temporarily in the dormant season for placement of the dredge disposal pipeline and no other special aquatic sites would be impacted by the project, the applicant is not proposing to conduct any compensatory mitigation for the work.

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 Philadelphia District has determined that the proposed project is of such limited nature and scope that little likelihood exists for the proposed action to impact a historic property. The

District has determined that the project will have no effect on properties eligible for or listed in the National Register of Historic Places.

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 affect Essential Fish Habitat (EFH).

Effects of the Project: The project is located in Essential Fish Habitat identified on the website *Guide to Essential Fish Habitat Designations in the Northeastern United States*. The following managed species of fish have been listed in the guide as occurring in the vicinity of the project: Atlantic cod (*Gadus morhua*), red hake (*Urophycis chuss*), winter flounder (*Pseudopleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), Atlantic sea herring (*Clupea harengus*), monkfish (*Lophius americanus*), bluefish (*Pomatomus saltatrix*), Atlantic butterflyfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), surf clam (*Spisula solidissima*), spiny dogfish (*Squalus acanthias*), king mackerel (*Scomberomerus cavalla*), Spanish mackerel (*Scomberomerus maculatus*), cobia (*Rachycentron canadum*), sand tiger shark (*Carcharias taurus*), Atlantic angel shark (*Squatina dumerili*), Atlantic sharpnose shark (*Rhizopriondon terraenovae*), dusky shark (*Carcharhinus plumbeus*), sandbar shark (*Carcharhinus plumbeus*), and scalloped hammerhead shark (*Sphyrna lewini*).

Analysis of the Effects: The proposed work which is the subject of this application 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 potential erosion. For these reasons the proposed 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 area under review. The pelagic adults and juveniles of the listed species are highly mobile and capable of avoiding such impacts as may be 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: Special conditions, such as time of year restrictions, may be imposed as to not degrade water quality during times of anadromous fish migration and/or spawning pending comments from State and other Federal agencies.

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.

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 Yost at 302-736-9763, by email at michael.d.yost@usace.army.mil, or by writing this office at the above address.

Samuel L. Reynolds
Acting Chief, Regulatory Branch

2016-240

E-1

**632 C.Y HYDRAULIC MAINTENANCE
DREDGING TO -6' MLW**

IN: Clare Family LLC slips (3 slips),
adjacent to Lewes and Rehoboth Canal
AT: Anglers Road, Lewes, Sussex County, DE 19958
Tax Map Parcel #3-35-8.08-10.00
APPLICANT: Clare Family LLC
DATE: March 7, 2016

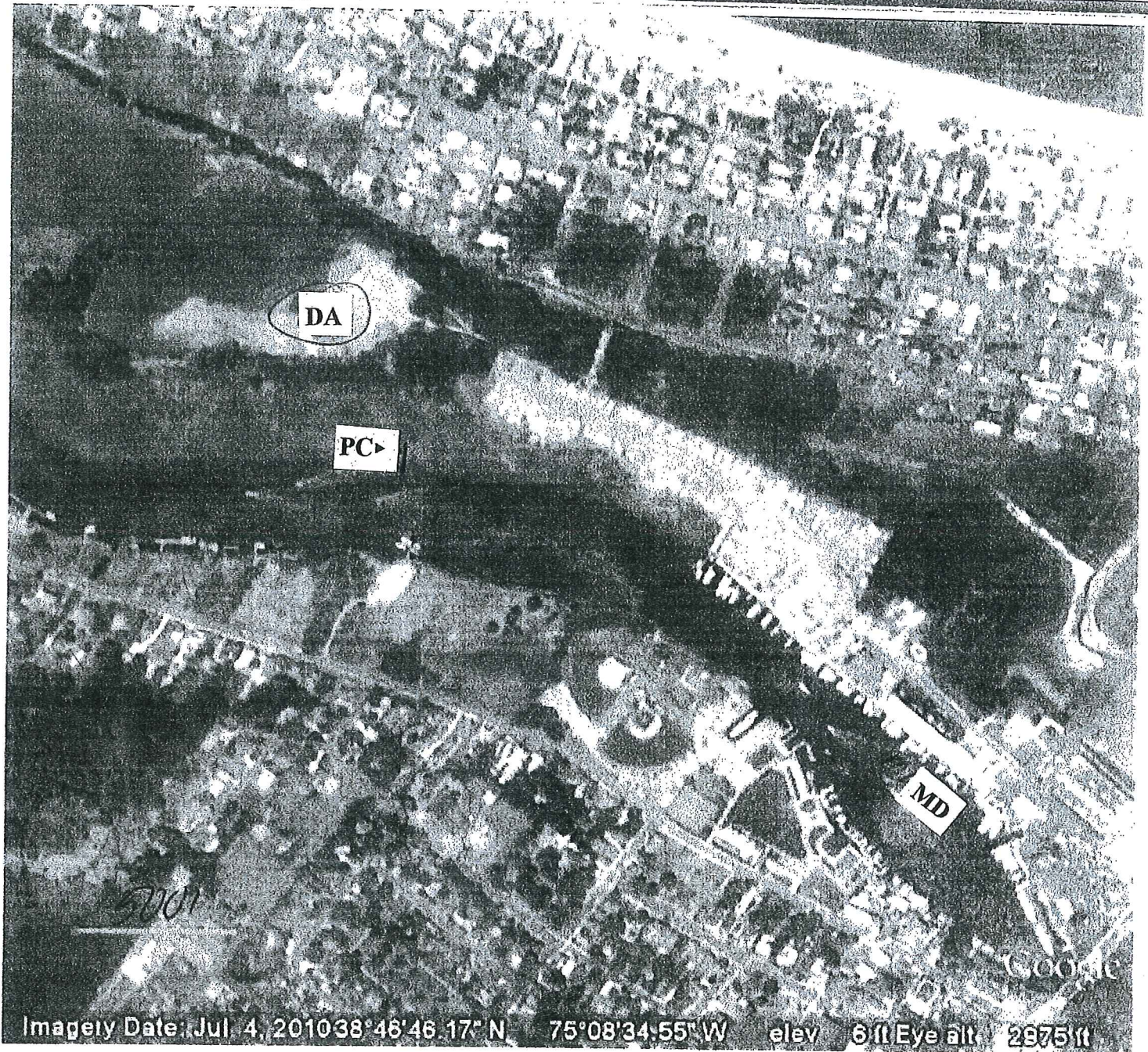
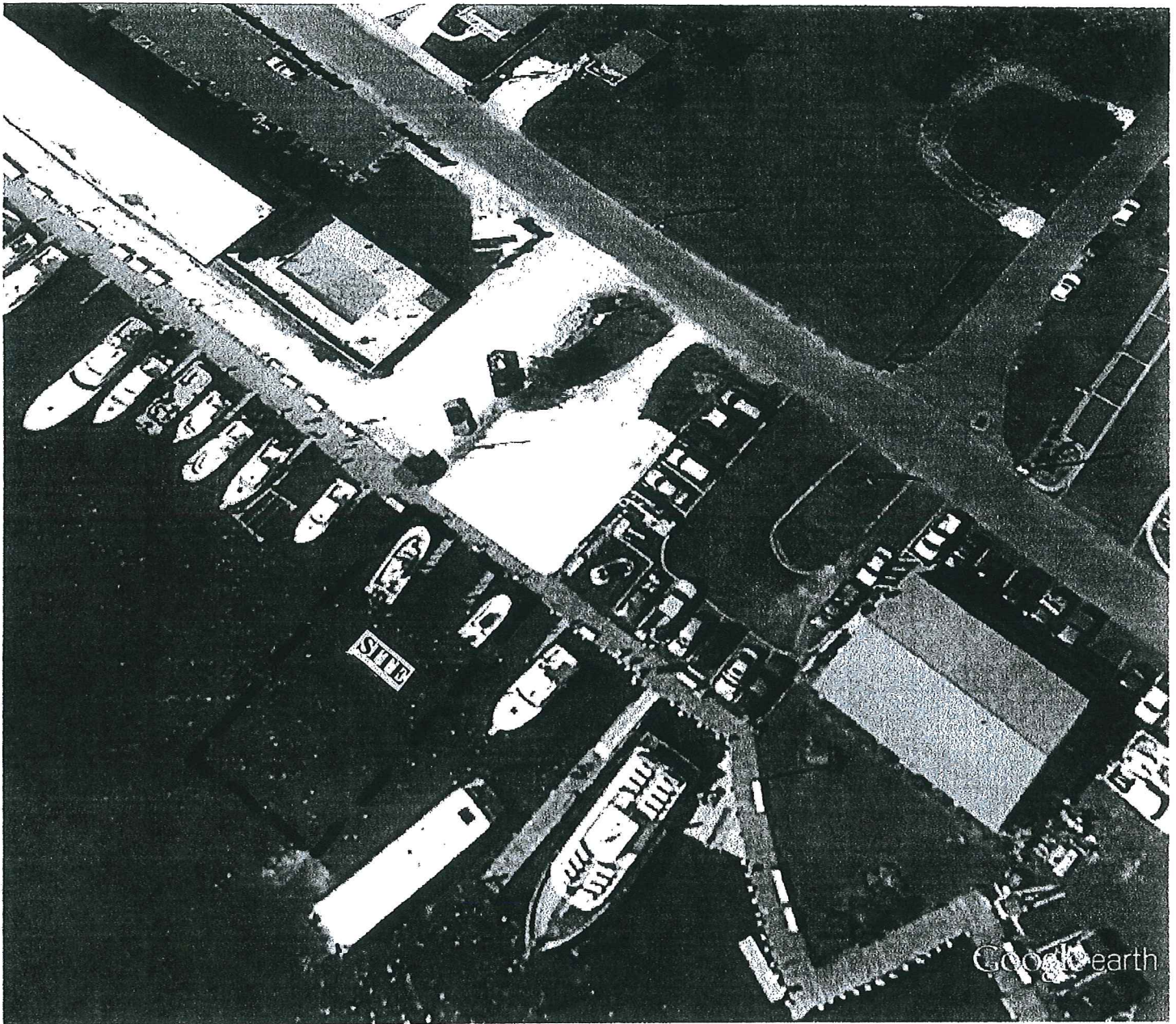


Figure 6b. GoogleEarth 2010 aerial photograph showing Clare Family LLC maintenance dredging site (MD), three (3) slips adjacent to Lewes and Rehoboth Canal; hydraulic pipeline crossing (PC); and existing upland confined disposal area (DA).

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E-2

**632 C.Y HYDRAULIC MAINTENANCE
DREDGING TO -6' MLW**

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Tax Map Parcel #3-35-8.08-10.00
APPLICANT: Clare Family LLC
DATE: March 7, 2016



Google earth

feet 100
meters 40



Figure 6a. GoogleEarth 2015 aerial photograph showing Clare Family LLC maintenance dredging site (MD), three (3) boat slips adjacent to Lewes and Rehoboth Canal, Anglers Road, Lewes, Sussex County, Delaware. Applicant proposes **632 c.y.** of hydraulic maintenance dredging to -6' MLW, with disposal via hydraulic pipeline at an existing upland confined disposal facility (see Figure 6b).

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E-3 ✓

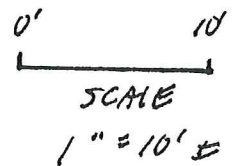


Figure 8. Plan view of maintenance dredging site, Clare Family LLC three (3) slips adjacent to Lewes and Rehoboth Canal, Anglers Road, Lewes, Sussex County, Delaware, showing existing mean low water (MLW) depths as measured on site by Evelyn Maurmeyer, CER, Inc., October 29, 2015. Applicant proposes to conduct **632 c.y.** of hydraulic maintenance dredging to -6' MLW. Area to be dredged is 4,000 sq. ft. (50' x 80'), as shown. See Figure 9 for cross-section A-A'.

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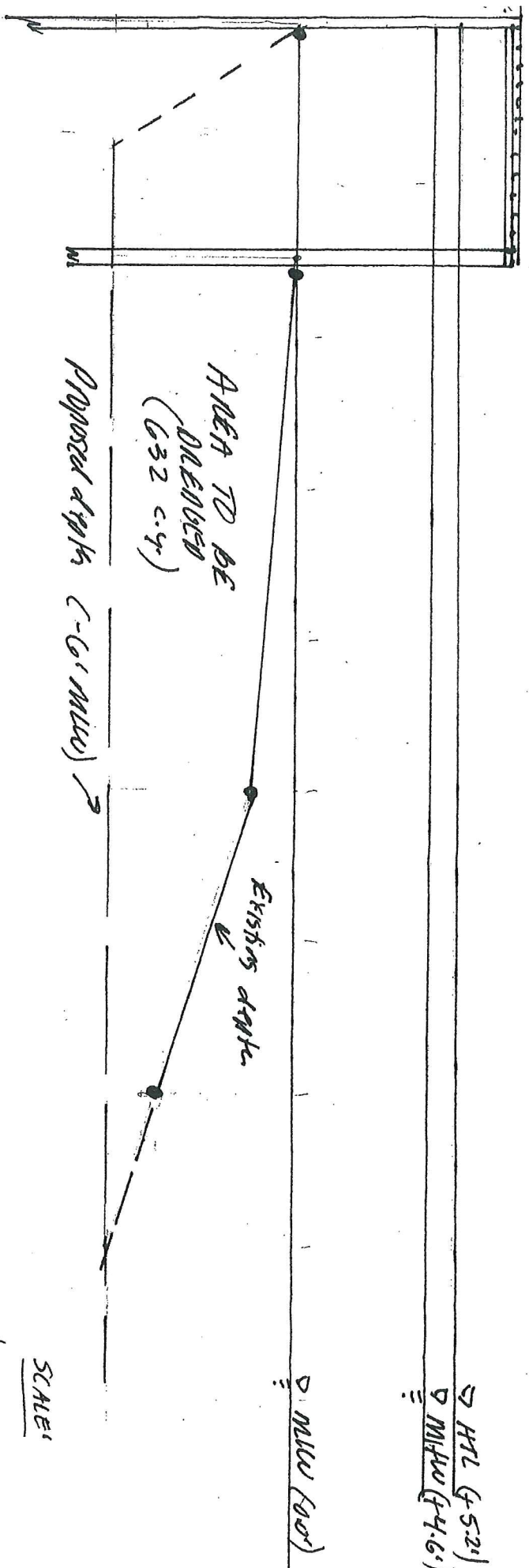
DISTANCE FROM BULKHEAD

0' 10' 20' 30' 40' 50' 60' 70' 80'

EXISTING MLW
A

LEWES AND REHOBOTH CANAL

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SCALE

Horizontal: 1" = 10'
Vertical: 1" = 5'

V.E. = 2:1

Figure 9. Cross-section A-A' showing existing and proposed MLW depths.