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-2015-255	Date APR 24 2015
Application No. CENAP-OP-R-2015-255	File No. CENAP-OP-R-2015-255-85
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).

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: Bruce A. Campbell, University of Delaware, CEOE

AGENT: Evelyn M. Maurmeyer, Ph.D., Coastal and Estuarine Research, Inc.

WATERWAY: Lewes and Rehoboth Canal

LOCATION: 700 Pilottown Road, Lewes, Sussex County, Delaware
Tax Map Parcel 3-35-4.00-13.01 (Lat. 38.787619° N /Long. -75.161747° W).

ACTIVITY: The applicant, Bruce A. Campbell, representing the University of Delaware, College of Earth, Ocean and Environment has requested a Department of the Army permit to install an a addition of a 6' x 24' floating dock (on 2 support pilings) and a 6' x 56' floating pier (on 5 support pilings) to an existing docking facility, within the University of Delaware, College of Earth, Ocean and Environment Harbor, adjacent to the Lewes and Rehoboth Canal at 700 Pilottown Road, Tax Map Parcel #3-35-4.00-13.01 Lewes, Sussex County, Delaware. The dimensions of the structures are indicated on the attached plans identified as E-1 through E-4.

PURPOSE: The purpose of the project is to provide a docking facility for the University of Delaware's 46' research vessel R/V Joanne Diaber.

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 project is for the installation of structures only and has been designed not only to entirely

avoid dredging and discharges of dredged or fill material into waters of the United States, but also has been designed to avoid impacts to wetlands and submerged aquatic vegetation. In addition, the structures have been designed to the minimum sizes necessary to support the vessel which is to be moored at the facility for safe ingress and egress and are consistent with the sizes of other navigational structures within the L&R Canal and within the University of Delaware Harbor. Because no wetlands or 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 effect Essential Fish Habitat (EFH).

Effects of the Project: The project is located in Essential Fish Habitat identified on sheet 81 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 butterfish (*Peprilus triacanthus*), summer flounder (*Paralicthys 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 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. In addition, the work is limited to the installation of timber structures only and does not involve any dredging in waters of the US, nor does the work impact wetlands or aquatic vegetation. 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: 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.

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.

Frank J. Cianfrani
Chief Regulatory Branch

ADDITION OF 6' X 24' FLOATING DOCK AND
56' X 6' FLOATING PIER (WITH 7 SUPPORT PILINGS)
IN: University of Delaware College of Earth, Ocean and Environment Harbor (adjacent to Lewes and Rehoboth Canal)
AT: 700 Pilottown Road, Lewes, Sussex Co., DE 19958
(Tax Map Parcel #3-35-4.00-13.01)
APPLICANT: Bruce Campbell, UD, CEOE
DATE: April 3, 2015

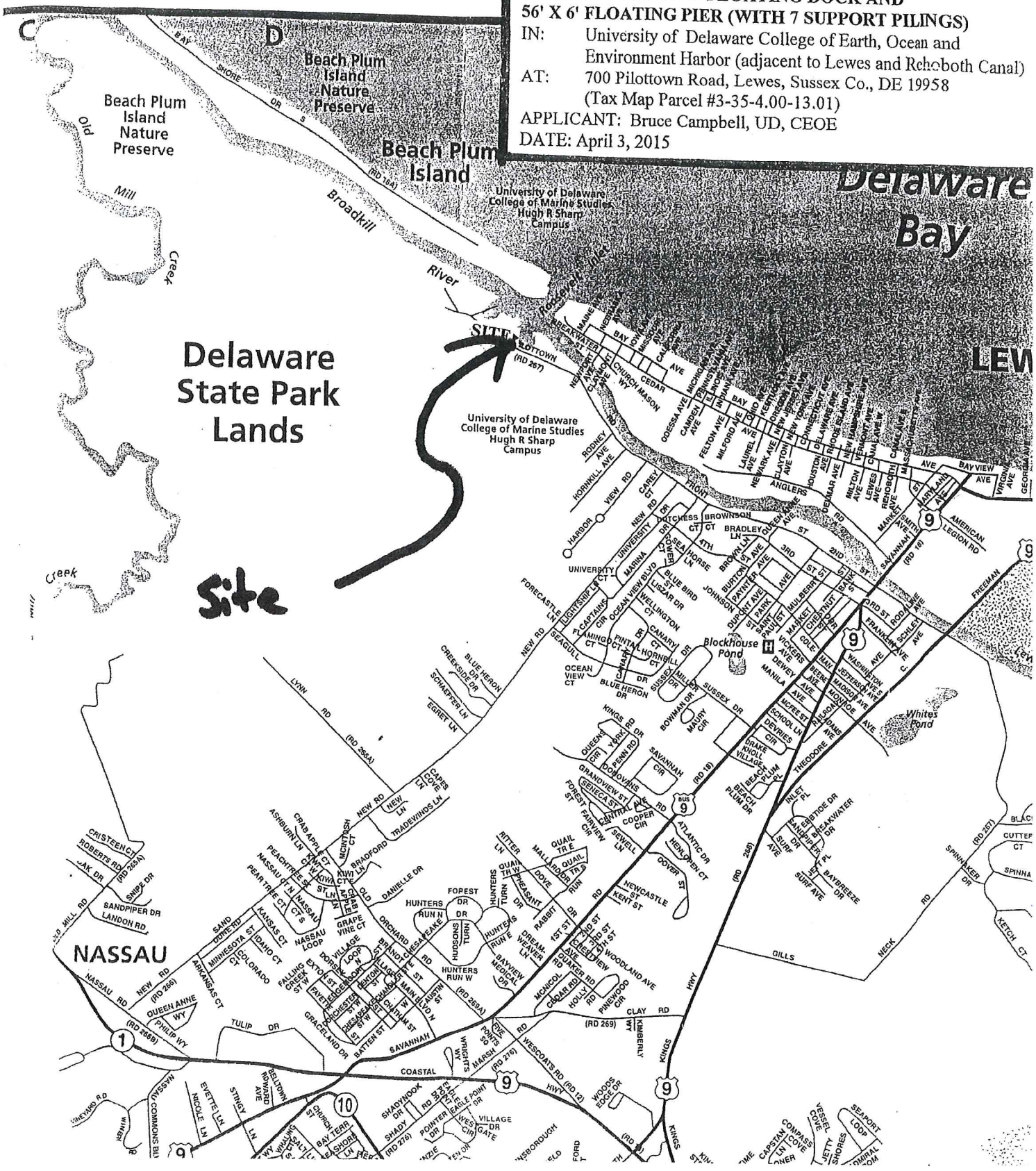

Figure 2. Map of Lewes, Delaware showing project site, University of Delaware College of Earth, Ocean and Environment Harbor at 700 Pilottown Road. Scale: 1" = 2,500'. Directions to site (from Dover, DE): Route 1 southbound toward Lewes; left at Nassau Road; next left onto New Road; continue to T-intersection at Pilottown Road; left onto Pilottown Road, continue approximately 0.6 mile, turn right at Adrian S. Hooper Marine Operations Building, University of Delaware. Harbor

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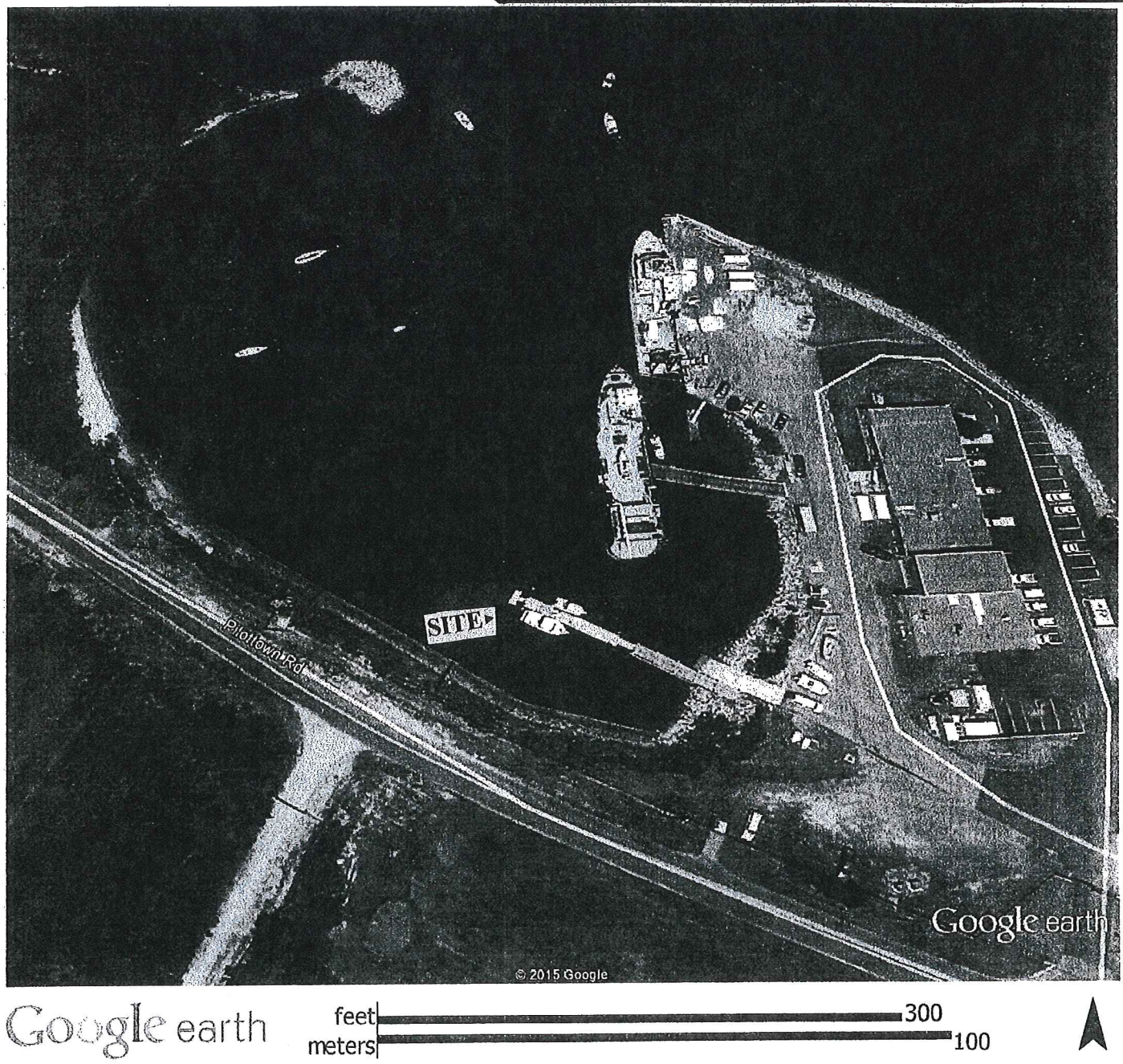

Figure 5. GoogleEarth® 2010 aerial photograph of site, existing docking facility at University of Delaware College of Earth, Ocean and Environment Harbor, adjacent to Lewes and Rehoboth Canal. (Note: Small T-dock at end of pier has been removed). Applicant proposes to add a 6' x 24' floating dock and a 56' x 6' floating pier with seven (7) support pilings to provide mooring facilities for newly-acquired 46' research vessel, R/V Joanne Daiber. New structure will not be farther channelward than existing structure (see Figure 7).

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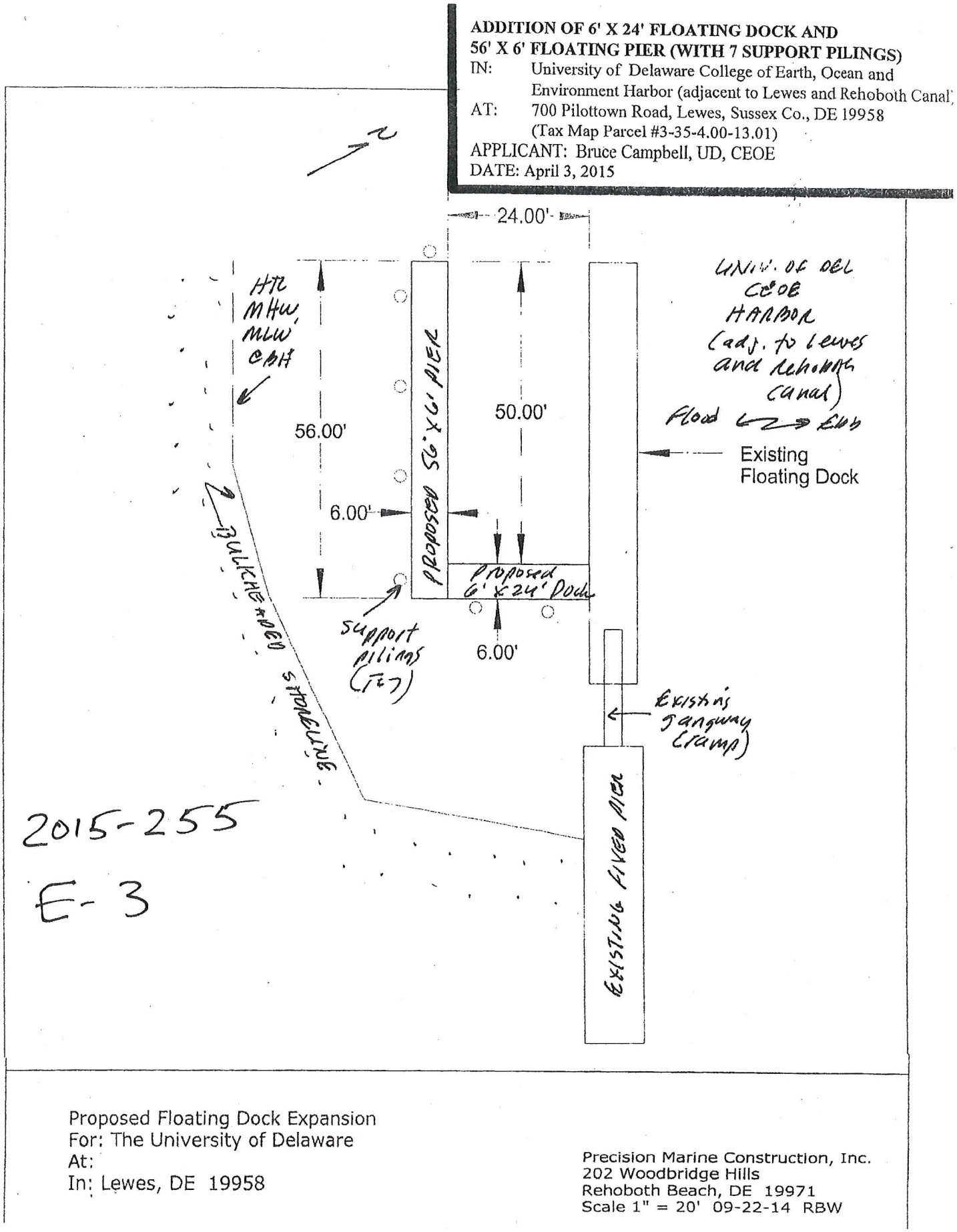

Figure 7. Plan view of existing structure and proposed addition, 6' x 24' floating dock and 56' x 6' floating pier with seven (7) support pilings. Plans prepared by Rob Whitford, Precision Marine Construction, Inc.

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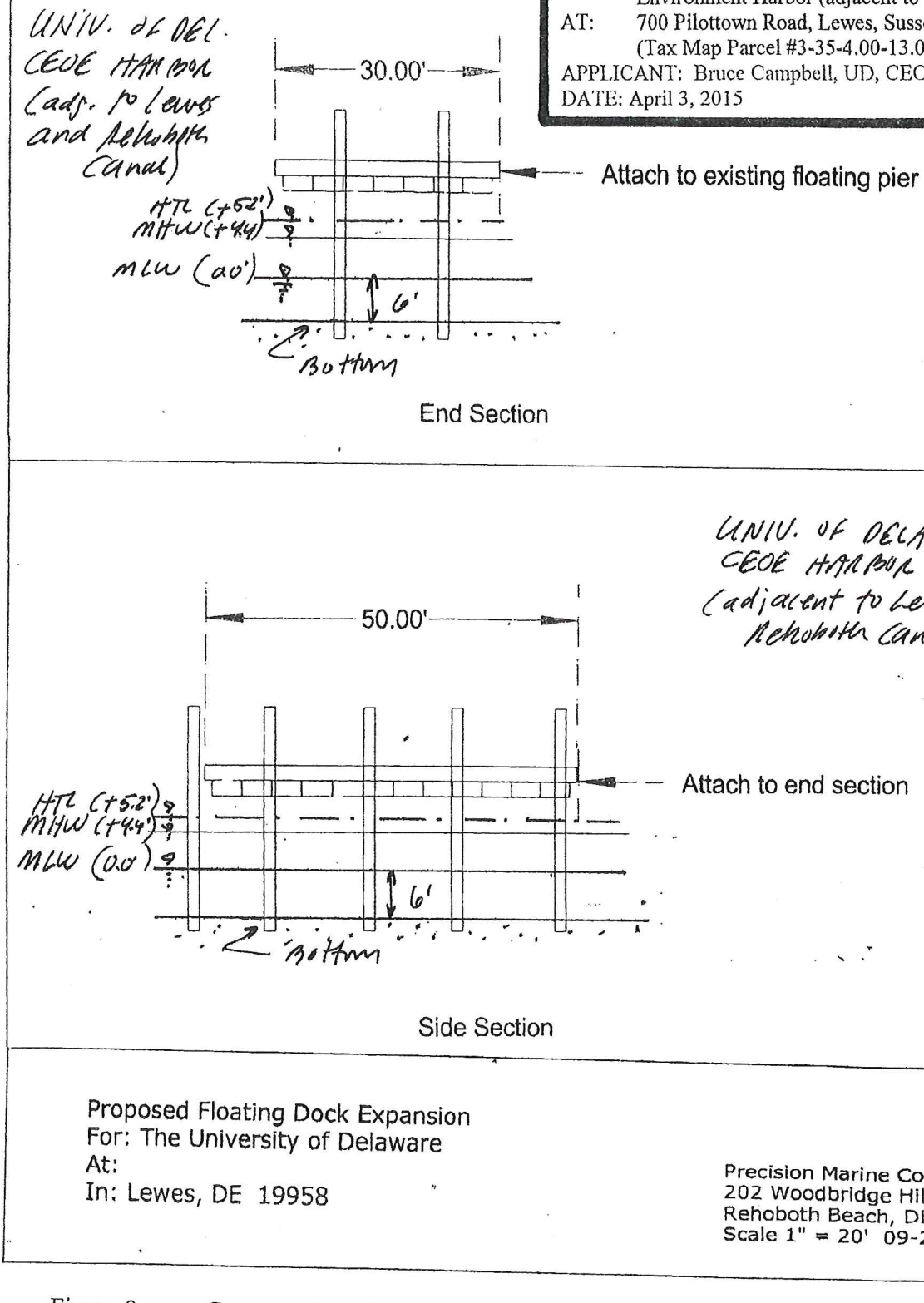

Figure 8. Cross-section of existing structure and proposed addition, 6' x 24' floating dock and 56' x 6' floating pier with seven (7) support pilings. Plans prepared by Rob Whitford, Precision Marine Construction, Inc.

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