



**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-2019-870

Date
December 18, 2019

Application No.
CENAP-OP-R-2019-870

File No.
CENAP-OP-R-2019-870-85

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: Joseph Ribinsky

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

WATERWAY: Herring Creek

LOCATION: Sisters Lane, Millsboro, Sussex County, Delaware
Tax Map Parcel 2-34-18.00-51.06 (Lat. 38.654595° N/Long. 75.156768° W).

ACTIVITY: The applicant has requested a Department of the Army permit to construct a 10 slip docking facility consisting of a 120' x 4' pier, 6-24' x 2' finger piers, 2 boat lifts and 16 free standing mooring pilings in Herring Creek located at Sisters Lane on Tax Map Parcel #2-34-18.00-51.06 Millsboro, Sussex County, Delaware. All pilings associated with the project will be 8" timber pilings installed via vibratory hammer from a barge mounted excavator. The dimensions of the structures are indicated on the attached plans.

PURPOSE: The purpose of the project is to provide for a private recreational vessel docking facility for members of the family to utilize.

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 various sized vessels to be moored at the facility for safe ingress and egress and are consistent with the sizes of other navigational structures along Herring Creek. Because there is no loss of wetlands or other special aquatic sites as a result of 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 a result, consultation with NOAA Fisheries and the USFWS pursuant to Section 7 of the ESA is not necessary. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the NOAA Fisheries on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary review of this application indicates that EFH is present within the project area. The Philadelphia District will evaluate the potential effects of the proposed actions on EFH and will consult with NOAA Fisheries as appropriate. Consultation will be concluded prior to the final decision on this permit application.

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. Furthermore, based on Tribal review preferences derived through consultation, government to government consultation is not required due to the limited scope of the project.

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.

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.



Edward E. Bonner
Chief, Regulatory Branch

PROPOSED 10-SLIP DOCKING FACILITY:
120' X 4' PIER; SIX 24' X 2' FINGER PIERS;
TWO BOAT LIFTS; 16 FREE-STANDING PILINGS
 IN: Herring Creek
 AT: Tax Map Parcel #2-34-18.00-51.06,
 Sisters Lane, Millsboro, Sussex Co., DE 19966
 APPLICANT: Joseph A. Ribinsky
 DATE: July 17, 2019

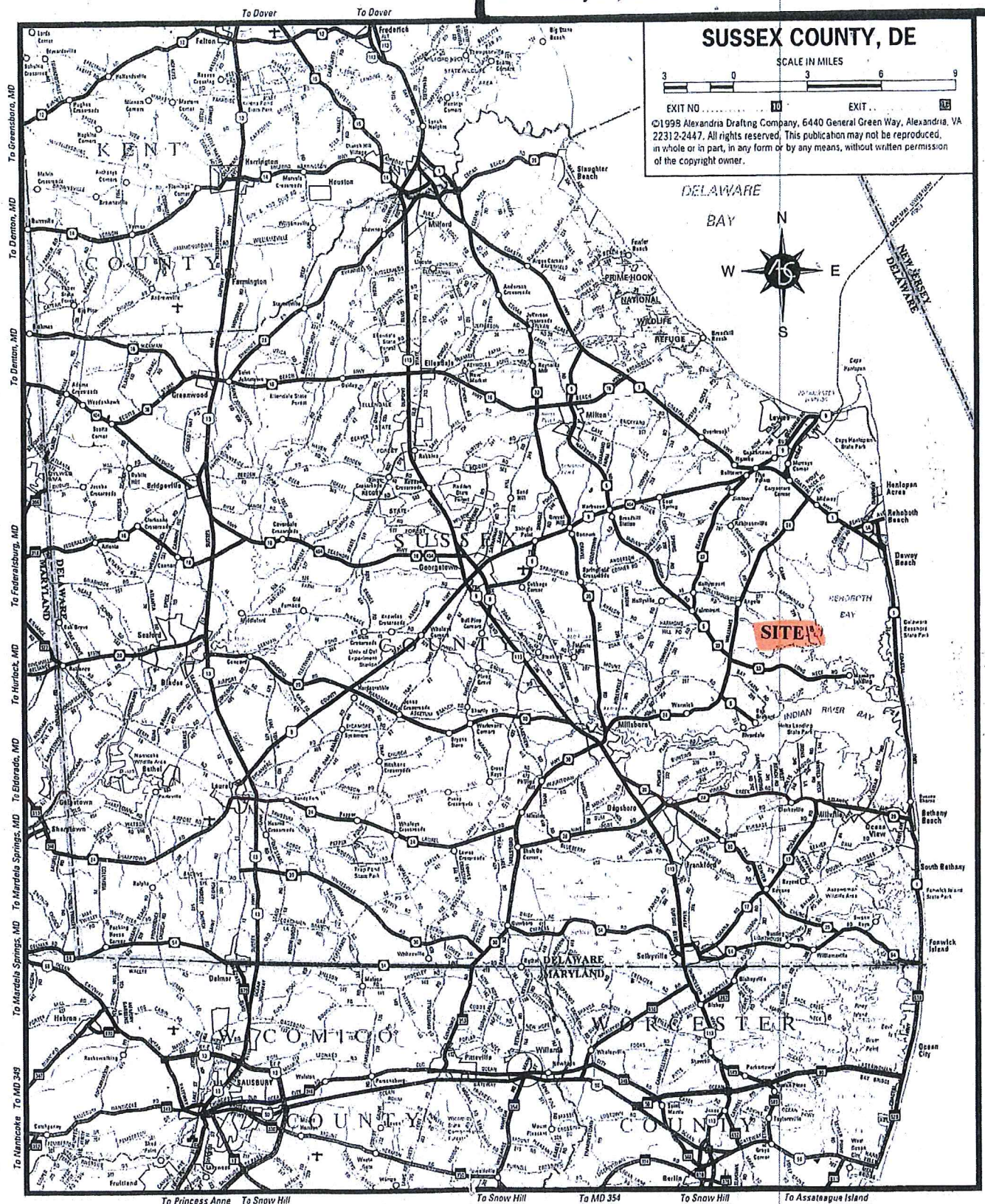


Figure 1. Map of Sussex County, Delaware showing site location, Millsboro area, Sussex County, Delaware. Scale as shown.

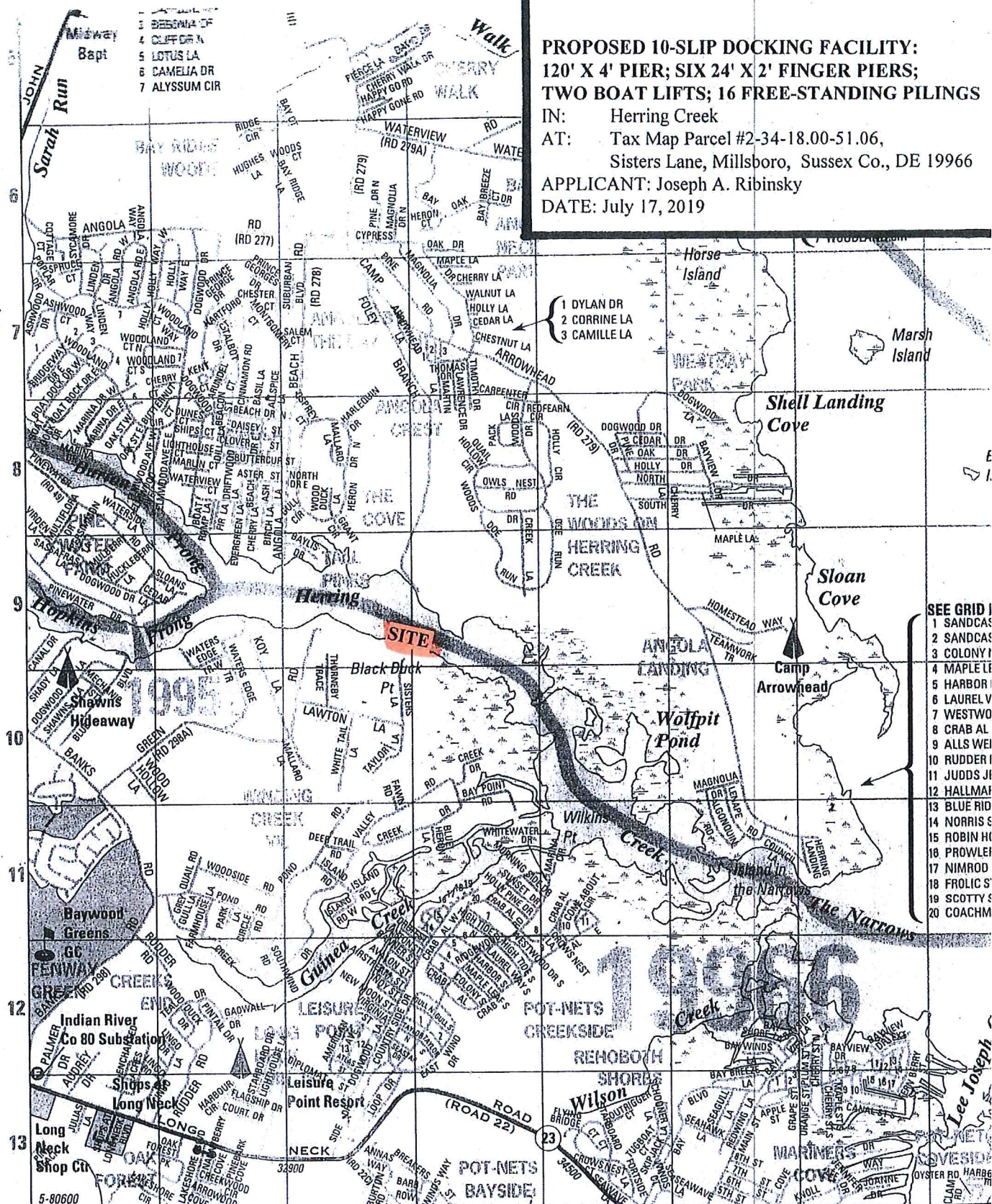


Figure 2. Map showing location of project site, Tax Map Parcel #2-34-18.00-51.06, Sisters Lane, Millsboro, Sussex County, Delaware. Directions from Dover, DE: SR-1 southbound toward beaches; right onto Route 24 westbound (John J. Williams Highway); left onto Banks Road; left onto Green Road; right onto Lawton Lane to end; left onto Sisters Lane (dirt road) to end at Herring Creek. Also see Figure 3.

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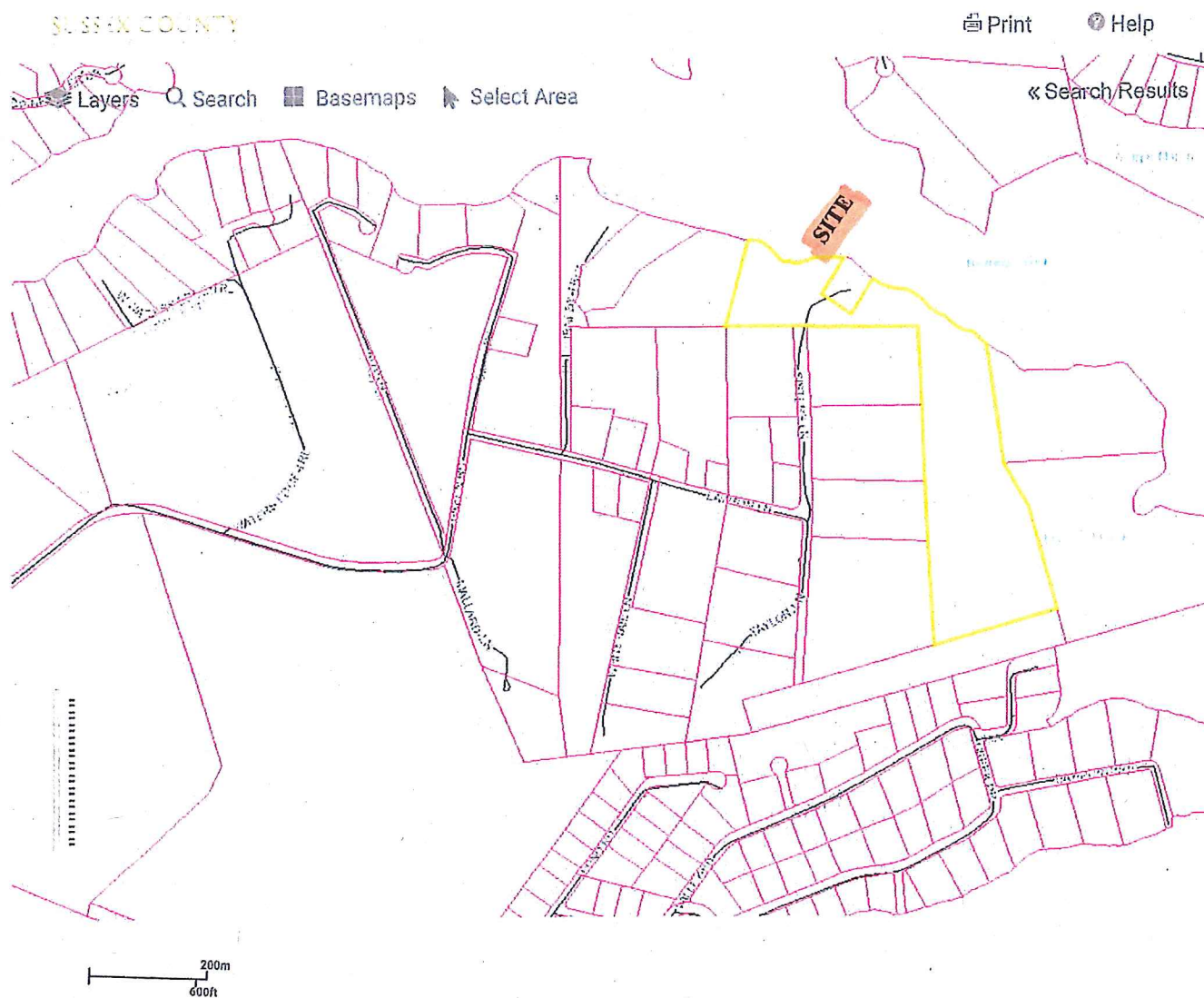


Figure 3. Map of project site, Tax Map Parcel #2-34-18.00-51.06 (29.80 acre, family-owned vacant parcel), Sisters Lane, Millsboro, Sussex County, Delaware.

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Figure 4. Site location on U.S.G.S. topographic map, Fairmount, Delaware quadrangle, showing site location, adjacent to Herring Creek (tributary of Rehoboth Bay). Scale: 1" = 2,000'.

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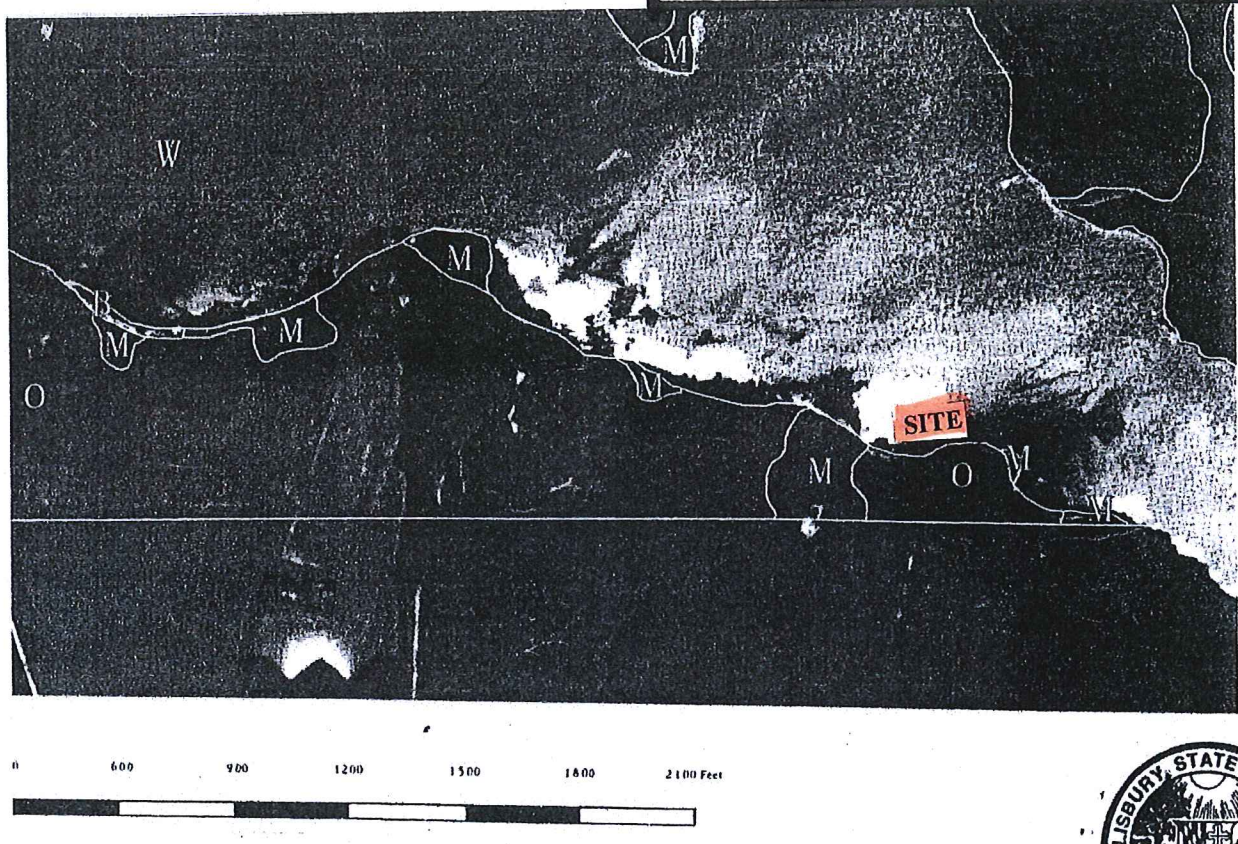


Figure 5. Site location on State of Delaware DNREC wetland map #082 (1988 photobase). Project site is mapped "W" (Water), adjacent to O (Uplands or non-tidal wetlands less than 400 acres).

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Figure 6. Aerial photograph of project site, Tax Map Parcel #2-34-18.00-51.06, Sisters Lane, Millsboro, Sussex County, Delaware, adjacent to Herring Creek (tributary of Rehoboth Bay). Width of waterway = 720'±. Applicant proposes to construct a 10-slip docking facility consisting of a 120' x 4' pier; six (6) 24' x 2' finger piers/catwalks; two boat lifts; and 16 free-standing mooring pilings. Purpose is to provide private (family) mooring facilities for ten vessels. See Figure 8 for plan view sketch, and Figure 9 for cross-section sketches.

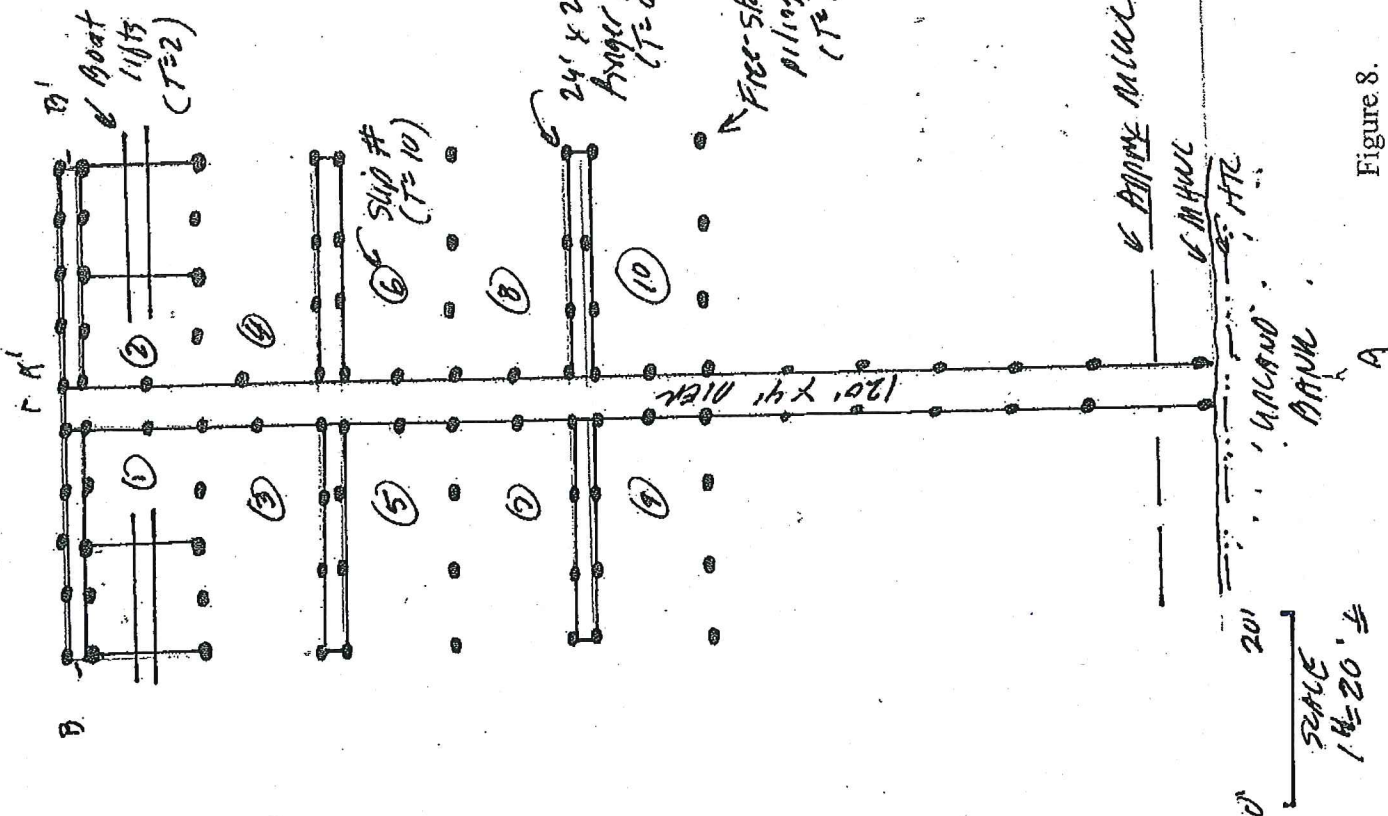
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Figure 7. Photograph of project site, Tax Map Parcel #2-34-18.00-51.06, Sisters Lane, Millsboro, Sussex County, Delaware, adjacent to Herring Creek (tributary of Rehoboth Bay). Applicant proposes to construct a 10-slip docking facility consisting of a 120' x 4' pier; six (6) 24' x 2' finger piers/catwalks; two boat lifts; and 16 free-standing mooring pilings. Purpose is to provide private (family) mooring facilities for ten vessels.

Approved
Dwight

HERRING CREEK
Flood Ebb



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INSET DETAIL:

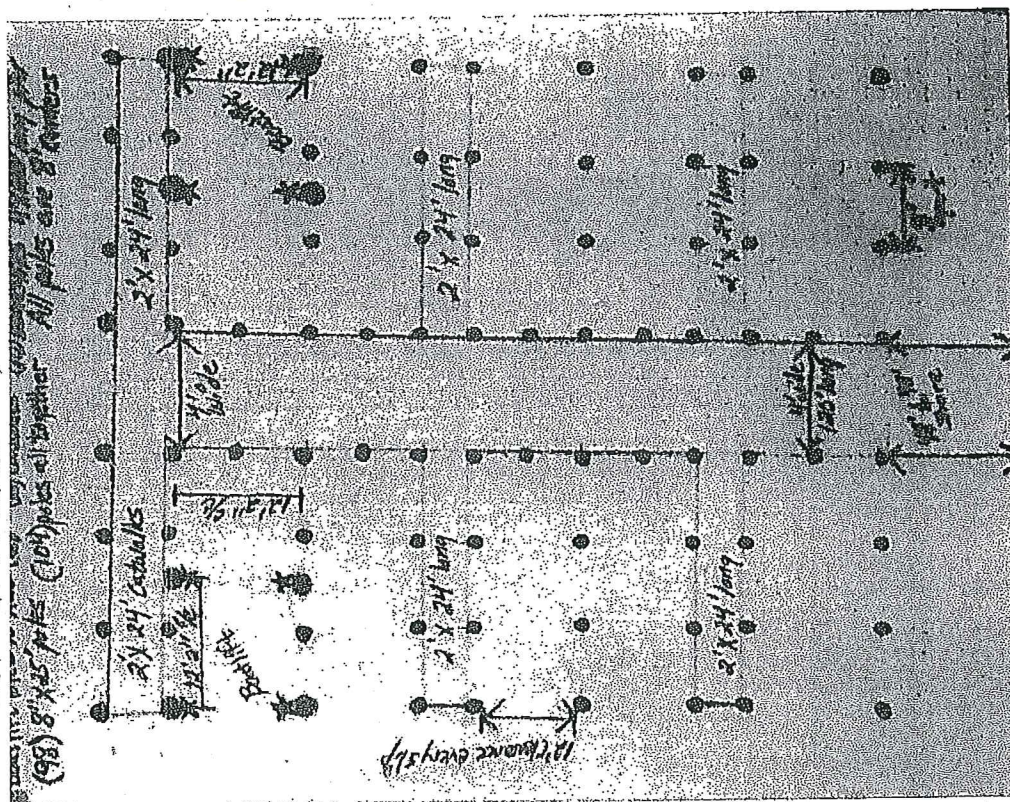
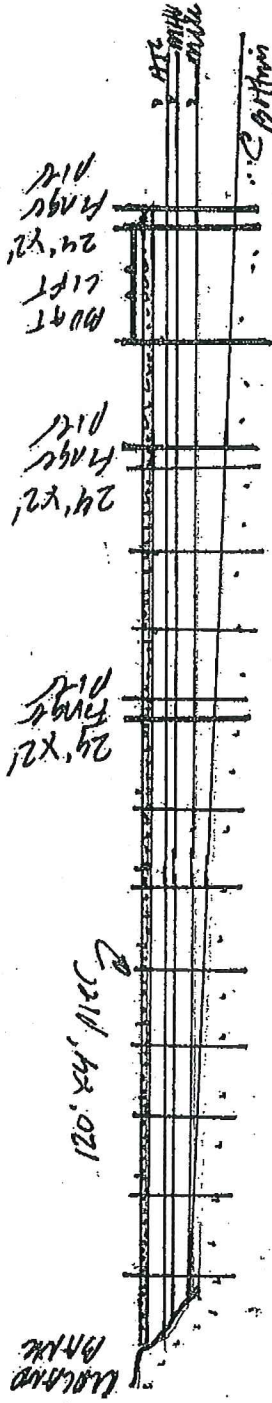


Figure 8. Plan view sketch of proposed project (inset detail prepared by contractor, Troy Messick, J.T. Rogers Marine Construction; dimensions as shown).

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CROSS-SECTION A-A' (1" = 20' ±)

HERRING CREEK



CROSS-SECTION B-B' (1" = 10' ±)

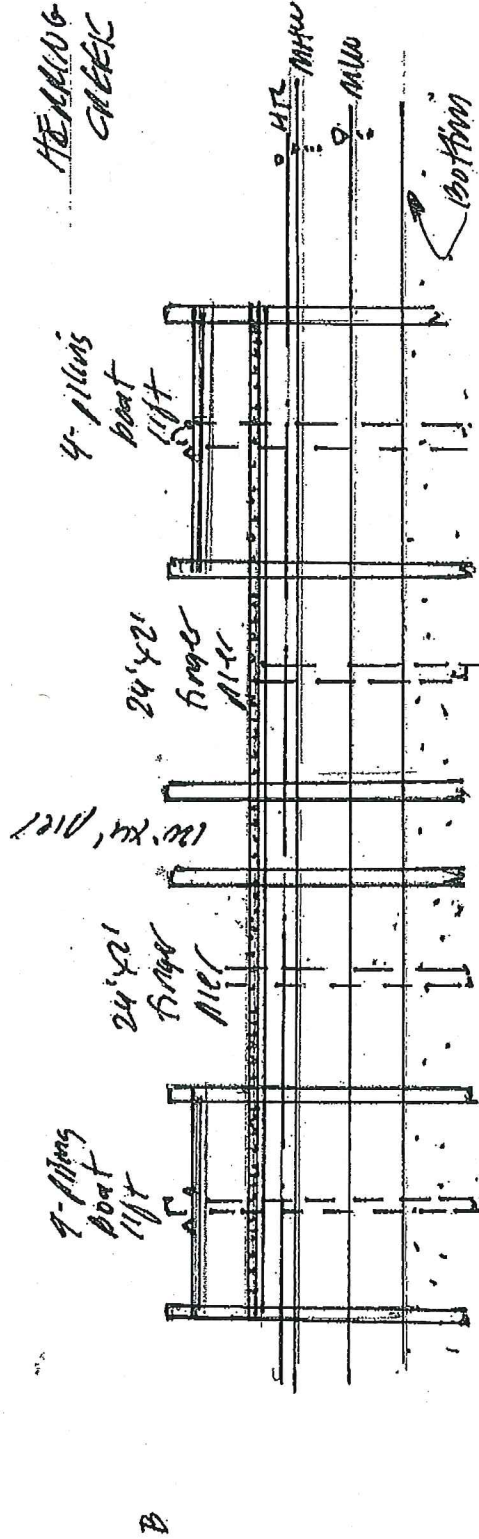


Figure 9. Cross-sections of proposed project. Sketches for permit application purposes only.