



**US Army Corps  
of Engineers**  
Philadelphia District

Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390  
ATTN: CENAP-OP-R

# Public Notice

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Public Notice No. <b>NAP-2022-01011-85</b>	Date <b>October 4, 2022</b>
Application No. <b>NAP-2022-01011-85</b>	File No. <b>NAP-2022-01011-85</b>

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In Reply Refer to:  
**REGULATORY BRANCH**

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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:** Terry Deputy, Delaware Department of Natural Resources and Environmental Control

**AGENT:** Peter Kotulak, Moffatt & Nichol

**WATERWAY:** Delaware Bay

**LOCATION:** South Bowers Beach, Frederica, Kent County, Delaware  
(Lat. 39.05619°N/Long. 75.393978°W).

**ACTIVITY:** The applicant has requested a Department of the Army permit to conduct beach nourishment along the South Bowers Beach shoreline in Frederica, Kent County, Delaware. This beach has previously been nourished utilizing dredged material from the Murderkill River Federal Navigation Channel. The applicant proposes to discharge approximately 28,000 cubic yards of sand from an upland borrow site onto the shoreline to replenish approximately 1,700 linear feet of beach and dune. The dimensions of the project are indicated on the attached plans.

**PURPOSE:** The purpose of the project is to provide protection for waterfront homes during coastal storms and to maintain the recreational beach for the community.

A preliminary review of this application indicates that species listed under the Endangered Species Act or their critical habitat pursuant to Section 7 of the ESA as amended, may be present in the action area. The ACOE will forward this PN to the US Fish and Wildlife Service and/or the National Marine Fisheries Service with a request for technical assistance on whether any ESA listed species or their critical habitat may be present in the area which would be affected by the proposed activity. The Philadelphia District will evaluate the potential effects of the proposed actions on ESA listed species or their critical habitat and will consult with the USFWS and/or NOAA Fisheries as

appropriate. ESA Section 7 consultation will be concluded prior to the final decision on this permit application.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the NOAA Fisheries 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 USACE Cultural Resource Specialist is currently reviewing the proposed permit action for potential impacts to Historic Properties eligible for or listed on the National Register of Historic Places. A determination of effects will be coordinated with the State Historic Preservation Office, the Tribes and other consulting parties.

Compensatory mitigation: The project cannot be avoided entirely because it is, by its nature, a water-dependent activity. Absent the proposed beach replenishment, the residents of South Bowers Beach and their homes would be placed in jeopardy by future storms and seasonal erosion. The project would occur within the intertidal zone of the shoreline, an area of shallow sandy substrate which does not support wetlands or other special aquatic sites. 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.

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.

The comment period is open for 15 days from the date of this announcement. Comments on the proposed work should be submitted via email to the District Engineer, USACE, Philadelphia District at PhiladelphiaDistrictRegulatory@usace.army.mil. If it is necessary to provide a paper copy, comments can be mailed to the U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390, Attn: CENAP-OPR.

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.

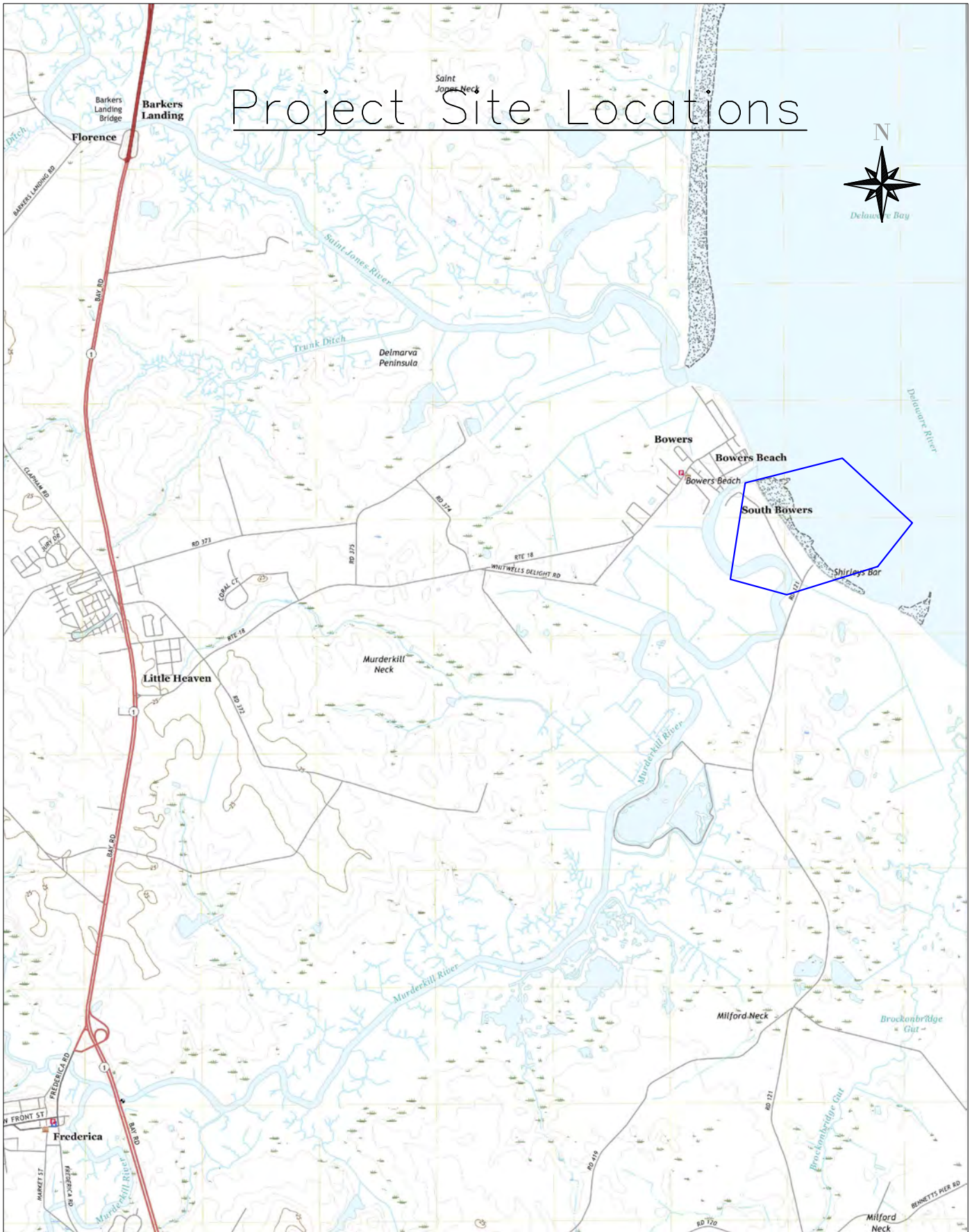
In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

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 Yost at (267) 240-5278, by email at michael.d.yost@usace.army.mil, or by writing this office at the above address.

For: Todd A. Schaible,  
Chief, Regulatory Branch



# Project Site Locations



Scale: As Shown	Date: 04/07/22
Designed by:	N/A
Drawn by:	J. Faries, P.E.
Checked by:	A. Norton
Sheet No.	1 of 4

## South Bowers Truck Fill Permit Plans

COASTAL  
KENT COUNTY, DELAWARE



DELAWARE DEPARTMENT OF  
NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL

Division of Watershed Stewardship  
Shoreline and Waterway Section

Dover Office  
285 Beiser Blvd.  
Dover DE, 19904  
Phone: (302) 739 - 9921

Lewes Office  
901 Pilottown Rd  
Lewes DE, 19958  
Phone: (302) 855 - 7290





Section

Scale: As Shown	Date: 04/07/22
Designed by:	J. Faries, P.E.
Drawn by:	J. Faries, P.E.
Checked by:	A. Norton
Sheet No.	3 of 4

## South Bowers Truck Fill Permit Plans

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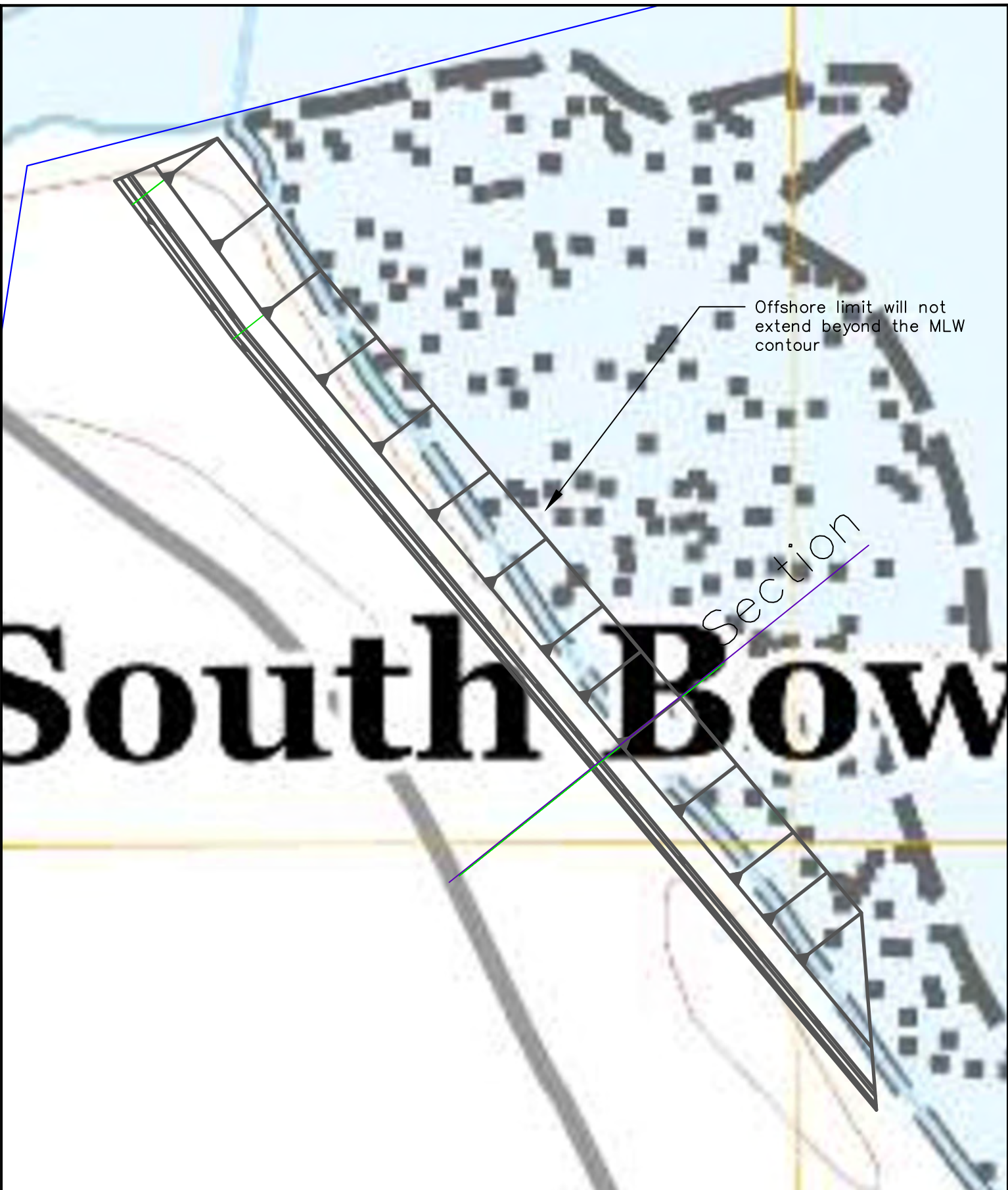


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Offshore limit will not extend beyond the MLW contour

Section

# South Bowers

Scale: As Shown	Date: 04/07/22
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Drawn by:	J. Faries, P.E.
Checked by:	A. Norton
Sheet No.	2 of 4

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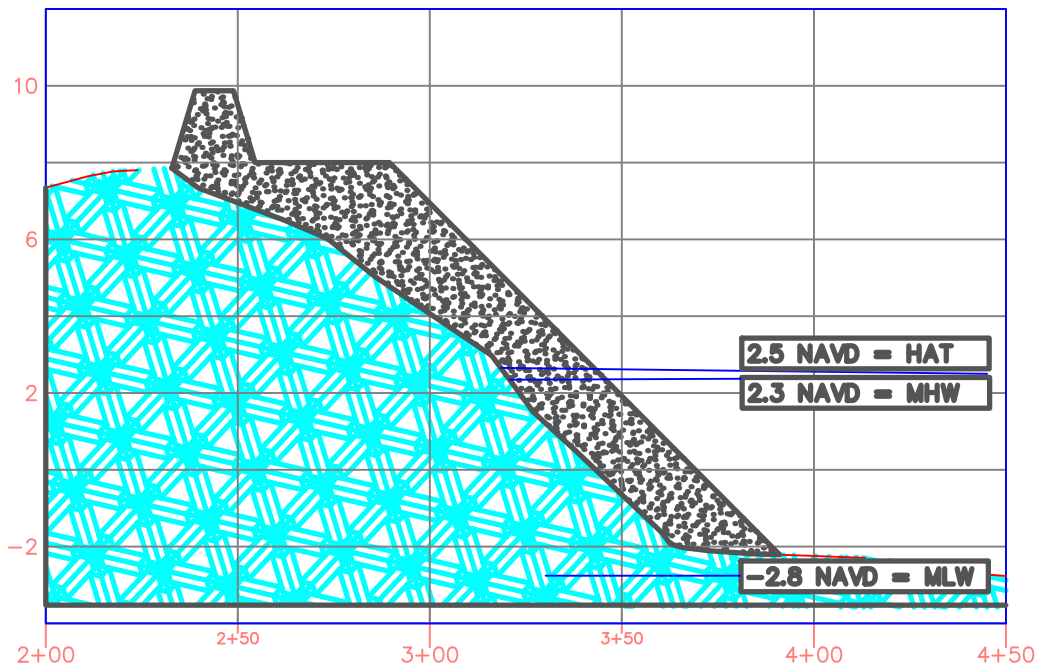
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South Bowers – STA 3+00



SCALE: H: 1" = 50'  
 V: 1" = 5'

Scale: As Shown Date: 04/07/22

Designed by: J. Faries, P.E.

Drawn by: J. Faries, P.E.

Checked by: A. Norton

Sheet No. 4 of 4

South Bowers Truck Fill  
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