



**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.  
**CENAP-OP-R-2016-1041**

Date

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Application No.  
**CENAP-OP-R-2016-1041**

File No.

**CENAP-OP-R-2016-1041-85**

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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:** Angola by the Bay Homeowners Association

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

**WATERWAY:** Lewes and Rehoboth Canal

**LOCATION:** Angola by the Bay, Marina Drive, Lewes, Sussex County, Delaware  
Tax Map Parcels 2-34-17.08-91.00  
(Lat. 38.66452°N/Long.-75.17706°W).

**ACTIVITY:** The applicant has applied for a Department of the Army permit to conduct hydraulic dredging of 0.27 acre of waters of the United States to a depth of -4' MLW for a proposed 24 slip docking facility. The dredged material will be hydraulically pumped to an existing confined upland disposal area located on site. The proposed docking facility will consist of a 20' x 5' fixed pier, a 12' x 4' aluminum gangway, a 132' x 5' floating main pier, (10) 16' x 4' floating finger piers and (2) 20' x 4' floating finger piers. The applicant expects dredging to occur in 6 year intervals, as such, the applicant is requesting a 10 year maintenance permit for hydraulic dredging. The dimensions of the dredging area, disposal site and structures are indicated on the attached plans identified as E-1 through E-6.

**PURPOSE:** The purpose of the hydraulic maintenance dredging is to provide navigable depths within the docking facility. The purpose of the docking facility is to provide additional boat slips for the residents of the Angola by the Bay community.

#### 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 hydraulic dredging will provide safe and adequate access for the proposed 24 boat slips to serve the community of Angola by the Bay. The dredged material will be hydraulically pumped to an existing confined upland disposal site located within the community. 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.

All waters along the Mid-Atlantic region, including tidal rivers and streams and coastal estuaries have been identified by the National Marine Fisheries Service as being within the estimated range of the five distinct population segments of the Atlantic Sturgeon, which are listed as threatened or endangered pursuant to the Endangered Species Act. Based upon the existing conditions, this area is not expected to be utilized by the Atlantic Sturgeon or any other threatened or endangered species under the responsibility of the National Marine Fisheries Service. Furthermore, the Delaware Division of Fish and Wildlife has conducted trawl surveys from April through October at 12 sample stations within the Indian River, Indian River Bay, and the Rehoboth Bay since 1986 without a sturgeon ever being recorded. In addition, seasonal restrictions would be implemented to avoid and minimize effects to the Indian River Bay. The coastal waters of Delaware are also utilized by marine mammals and sea turtles. The water depths and conditions within the project site are considered too shallow and disturbed for utilization by any federally listed marine mammals. Further, these waterways would offer little or no foraging value for any federally listed sea turtles. 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 an 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 as identified in the 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 butterfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), 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*), scalloped hammerhead shark (*Sphyrna lewini*), and tiger shark (*Galeocerdo cuvieri*).

Analysis of the Effects: The proposed work which is the subject of this application would occur in a small area of waters within an existing marina located in Burton Prong that is 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 D. 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

2016-1041

E-1

CONSTRUCTION OF A 24-SLIP DOCKING FACILITY  
(20' X 5' FIXED PIER; 12' X 4' GANGWAY; 132' X 5'  
FLOATING MAIN PIER; TEN 16' X 4' AND TWO 20' X 4'  
FLOATING FINGER PIERS), AND HYDRAULIC MAINTENANCE  
DREDGING (800± C.Y. TO -4' MLW), WITH UPLAND DISPOSAL

IN: Burton Prong, Herring Creek

AT: Marina Drive, Angola by the Bay

Lewes, Sussex Co., DE 19958

Tax Map Parcel #2-34-17.08-91.00

APPLICANT: Angola by the Bay Property Owners Assoc.

DATE: November 21, 2016

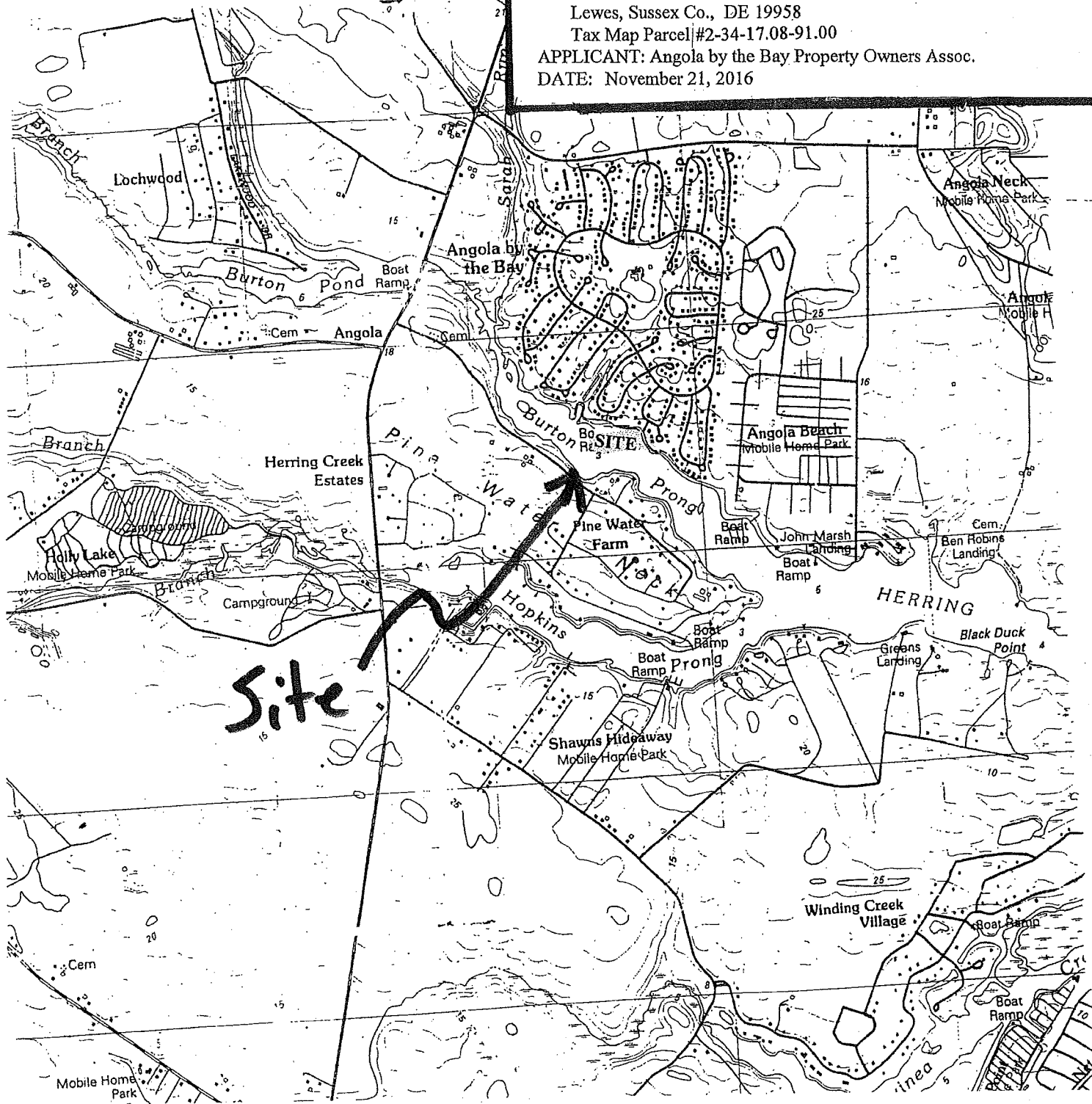


Figure 4. Site location on USGS topographic map, Fairmount, Delaware quadrangle. Site is adjacent to Burton Prong, Herring Creek (tributary of Rehoboth Bay). Scale: 1" = 2,000'.

2016-1041  
E-2

**CONSTRUCTION OF A 24-SLIP DOCKING FACILITY**  
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DATE: November 21, 2016



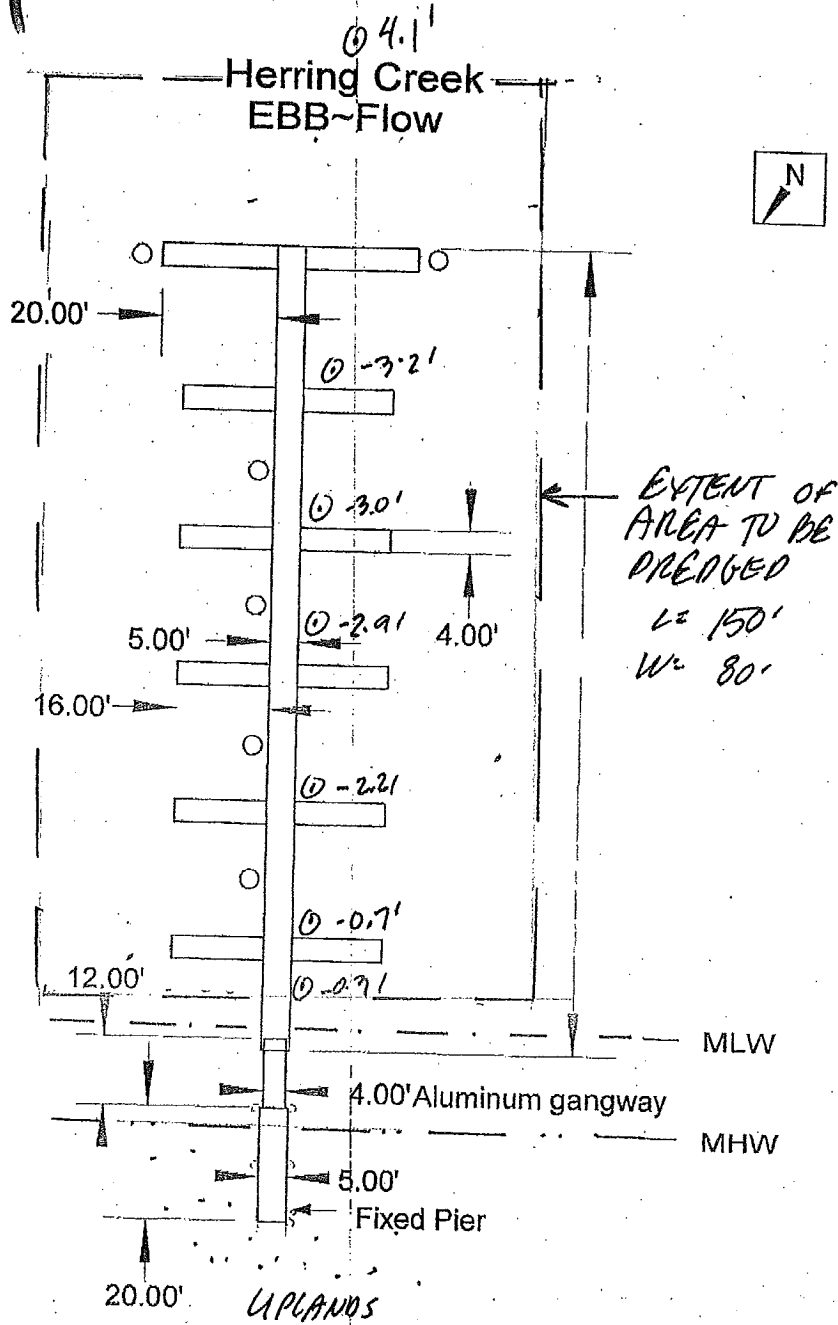
Google Earth



Figure 6. Site location on GoogleEarth® 2015 aerial photograph, adjacent to Burton Prong, Herring Creek off of Marina Drive, Angola by the Bay, Lewes, Sussex County, Delaware. Width of waterway = 660±. Applicant proposes to conduct 800± c.y. hydraulic maintenance dredging to -4' MLW; and to construct a 24-slip docking facility consisting of a 20' x 5' fixed pier, 12' x 4' aluminum gangway; 132' x 5' floating main pier; ten 16' x 4' and two 20' x 4' floating finger piers.

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E-3

CONSTRUCTION OF A 24-SLIP DOCKING FACILITY  
(20' X 5' FIXED PIER; 12' X 4' GANGWAY; 132' X 5'  
FLOATING MAIN PIER; TEN 16' X 4' AND TWO 20' X 4'  
FLOATING FINGER PIERS), AND HYDRAULIC MAINTENANCE  
DREDGING (800± C.Y. TO -4' MLW), WITH UPLAND DISPOSAL  
IN: Burton Prong, Herring Creek  
AT: Marina Drive, Angola by the Bay  
Lewes, Sussex Co., DE 19958  
Tax Map Parcel #2-34-17.08-91.00  
APPLICANT: Angola by the Bay Property Owners Assoc.  
DATE: November 21, 2016



Proposed Floating Dock  
Phase Five ABTB Marina  
Angola By The Bay  
Lewes, DE

PRECISION MARINE CONSTRUCTION INC.  
202 Woodbridge Hills  
Rehoboth Beach, DE 19971  
Scale: 1"=30' Date: 08-25-2016 RBW

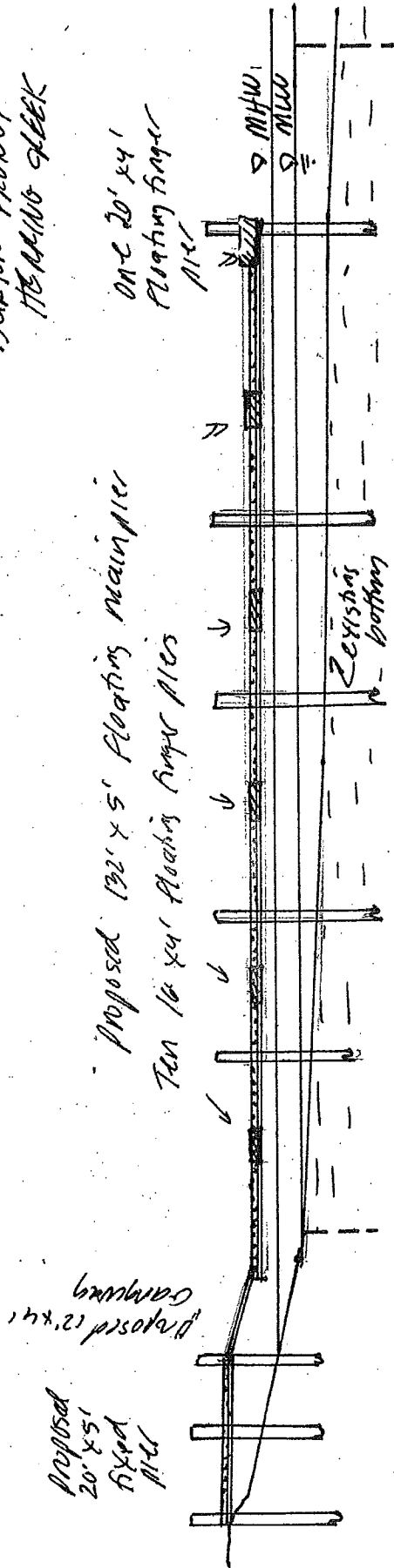
Figure 8. Plan view of proposed marina structure (prepared by Precision Marine Construction, Inc.). Existing MLW depths and area to be dredged also denoted

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E-4

CONSTRUCTION OF A 24-SLIP DOCKING FACILITY  
 (20' X 5' FIXED PIER; 12' X 4' GANGWAY; 132' X 5'  
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 FLOATING FINGER PIERS), AND HYDRAULIC MAINTENANCE  
 DREDGING (800± C.Y. TO -4' MLW), WITH UPLAND DISPOSAL  
 IN: Burton Prong, Herring Creek  
 AT: Marina Drive, Angola by the Bay  
 Lewes, Sussex Co., DE 19958  
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(a) DOCKING FACILITY CROSS-SECTION (1" = 20')



(b) DREDGING CROSS-SECTION (1" = 4')

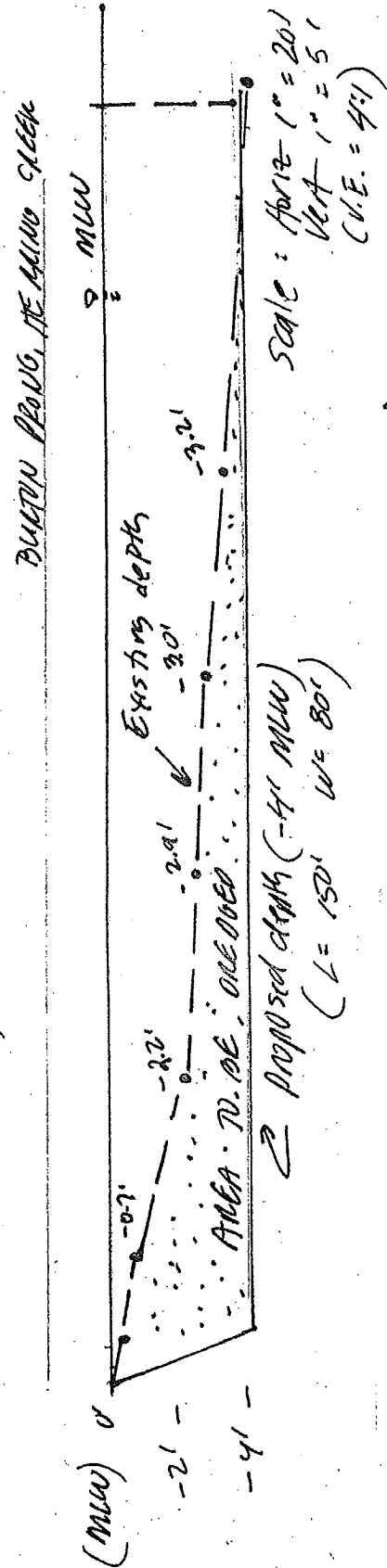


Figure 9. Cross-section sketch of proposed marina structure. Existing MLW and proposed depths also depicted.



2016-1041  
E-5

Sussex County Mapping

**CONSTRUCTION OF A 24-SLIP DOCKING FACILITY (20' X 5' FIXED PIER; 12' X 4' GANGWAY; 132' X 5' FLOATING MAIN PIER; TEN 16' X 4' AND TWO 20' X 4' FLOATING FINGER PIERS), AND HYDRAULIC MAINTENANCE DREDGING (800± C.Y. TO -4' MLW), WITH UPLAND DISPOSAL IN: Burton Prong, Herring Creek**  
 AT: Marina Drive, Angola by the Bay  
 Lewes, Sussex Co., DE 19958  
 Tax Map Parcel #2-34-17.08-91.00  
 APPLICANT: Angola by the Bay Property Owners Assoc.  
 DATE: November 21, 2016

- Layer Visibility
- Addresses/Parcels
    - 911 Addresses  Id?
    - Parcel Labels  Id?
    - Parcels  Id?
    - Annotation
  - County Districts
  - Schools/Libraries
  - Hydrology
  - Tax Index
  - Transportation
  - Statewide

Search Parcels:  
 HELP! Tax ID

Selected Features:

PIN/WASSEMENT UNIT	234-11.20-128.00
Name	ANGOLA BY THE BAY, PROPERTY OWNERS ASSOC
Mailing Address	33457 WOODLAND CIR
CITY	LEWES
STATE	DE
ZIP CODE	19958
DESCRIPTION	ANGOLA BY THE BAY
DESCRIPTION2	COMM AREA 10.86 ACS.
DESCRIPTION3	*10,850*
COUNCILMAN	4
FIRE	88

Selected Features (1)

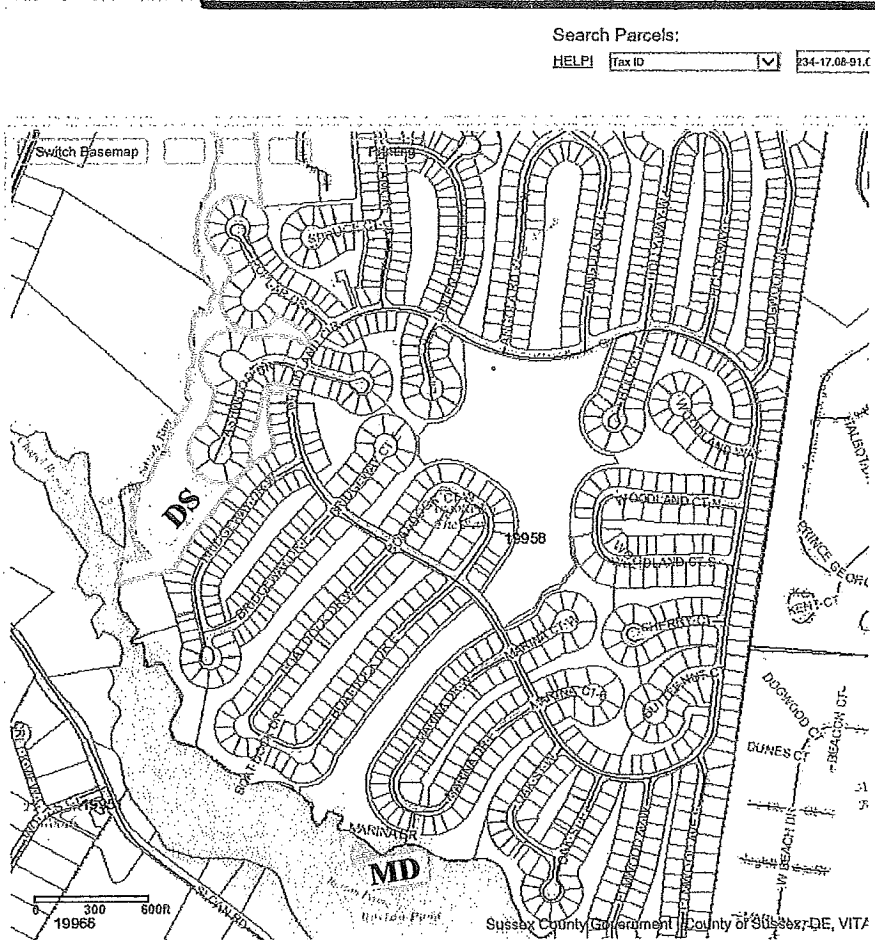


Figure 10. Disposal site location (DS), part of Tax Map Parcel #2-34-11.20-128.00 west of Bridgeway Drive West, Angola by the Bay. Maintenance dredging site (MD) also shown. Site was approved for previous dredged material disposal (SP-261/10; CENAP-OP-R-2010-850-26-NWP35).

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E-6

CONSTRUCTION OF A 24-SLIP DOCKING FACILITY  
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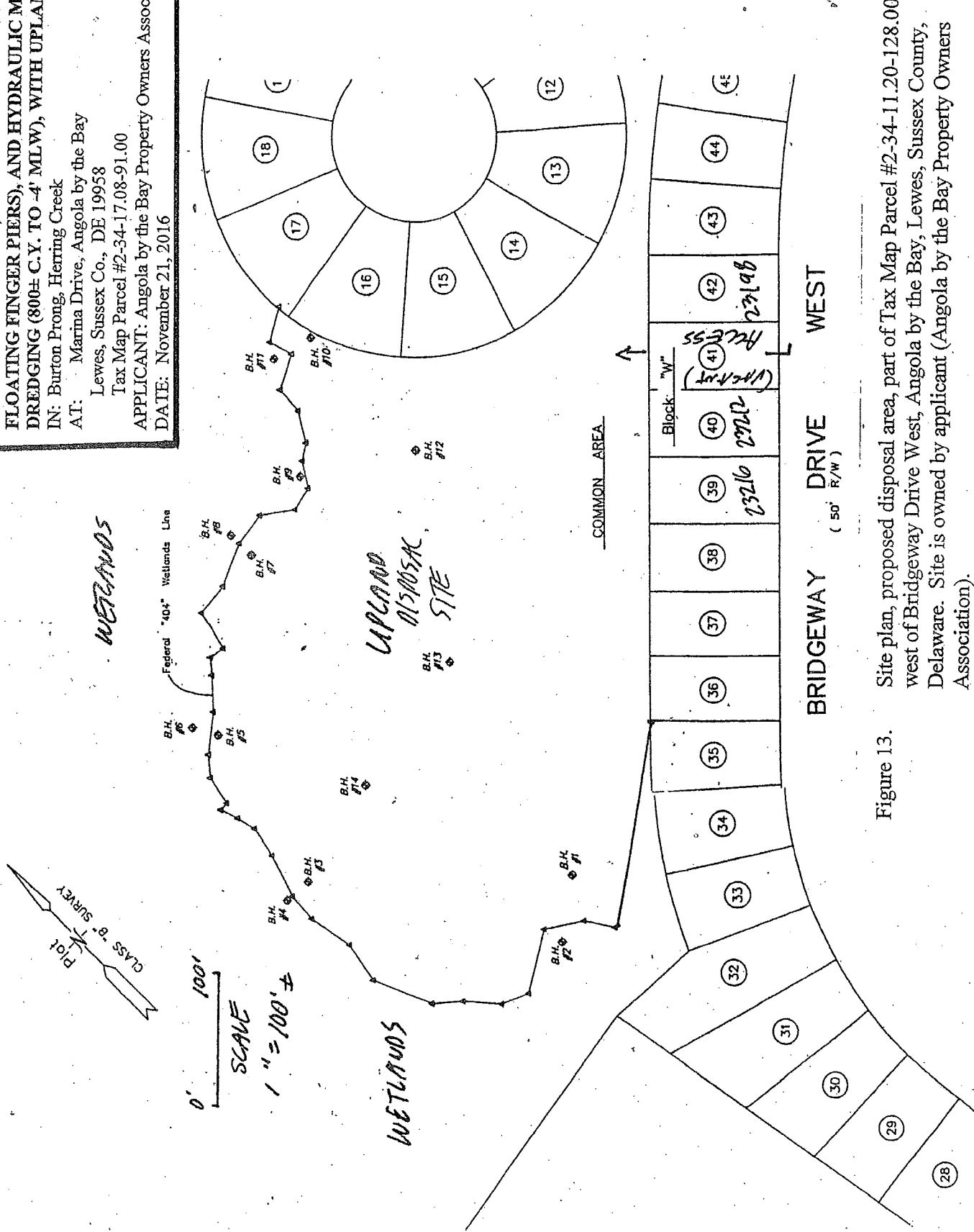


Figure 13. Site plan, proposed disposal area, part of Tax Map Parcel #2-34-11.20-128.00 west of Bridgeway Drive West, Angola by the Bay, Lewes, Sussex County, Delaware. Site is owned by applicant (Angola by the Bay Property Owners Association).