

**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-2017-241	Date June 23, 2017
Application No. CENAP-OP-R-2017-241	File No. CENAP-OP-R-2017-241-85
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: Hometown Angola Beach, LLC

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

WATERWAY: Burton Prong

LOCATION: Angola Beach and Estates, West Branch Drive, Lewes, Sussex County, Delaware
Tax Map Parcels 2-34-18.00-1.00
(Lat. 38.66502°N/Long.-75.17645°W).

ACTIVITY: The applicant has applied for a Department of the Army permit to conduct hydraulic dredging of 8,500 cubic yards of accumulated sediment in 2.5 acres of waters of the United States to a depth of -4' MLW for the Angola Beach and Estates Marina. The dredged material will be hydraulically pumped to an existing confined disposal site located in Angola by the Bay. The applicant is requesting a 10 year maintenance permit for hydraulic dredging. Furthermore, the applicant is proposing to expand the marina from 72 slips to 120 slips. The existing marina was constructed approximately 30 years ago and underserves the Angola Beach and Estates community. The applicant proposes to remove the existing floating pier and floating dock structures, as well as their pilings to complete the dredging. Once dredging is complete, the new marina structures will be placed. The new marina will consist of a main floating dock approximately 318' x 5', 5 floating piers approximately 140' x 5' each and 60 new finger piers approximately 16' x 4' each. The locations and dimensions of the dredging area, disposal site and structures are indicated on the attached plans identified as E-1 through E-5.

PURPOSE: The purpose of the hydraulic maintenance dredging is to provide safe navigable depths within the marina. The purpose of the marina expansion is to provide additional boat slips for the underserved residents of the Angola Beach and Estates 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 depths within the marina. The dredged material will be hydraulically pumped to an existing confined upland disposal site located within the community. The proposed dredging depth has been minimized to -4 MLW, which is the minimum necessary for navigational access and also corresponds to the depths in the natural channel. The marina structures will be floating and the dredging depth will provide sufficient space to keep the floating structures from laying on the substrate at low tide. 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.

An initial review for the potential of federally threatened or endangered species within the action area was completed using the United States Fish and Wildlife Service Information for Planning and Consultation website. The official species list generated by the website indicates that swamp pink (*Helonias bullata*) may occur in the action area. Given that the dredging and marina expansion occurs in open water and disposal takes place in an existing confined disposal site, swamp pink is not expected to occur within the action area. 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. Impacts would be primarily temporary in nature, during the actual dredging period and for a short duration afterward. Substrate conditions typically return to preconstruction conditions and the benthic community recovers through recolonization. Furthermore, the proposed dredging would occur in the winter months as to not degrade water quality during times of anadromous fish migration and/or spawning.

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.

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

2017-241 E-1

PROPOSED 8,500 C.Y. HYDRAULIC DREDGING TO
-4' MLW; ADDITION OF 48 NEW SLIPS TO EXISTING
72-SLIP COMMUNITY MARINA
IN: Burton Prong, Herring Creek
AT: West Beach Drive, Angola Beach and Estates
Lewes, Sussex Co., DE 19958
Tax Map Parcel #2-34-18.00-1.00
APPLICANT: Hometown Angola Beach, LLC
DATE: April, 2017

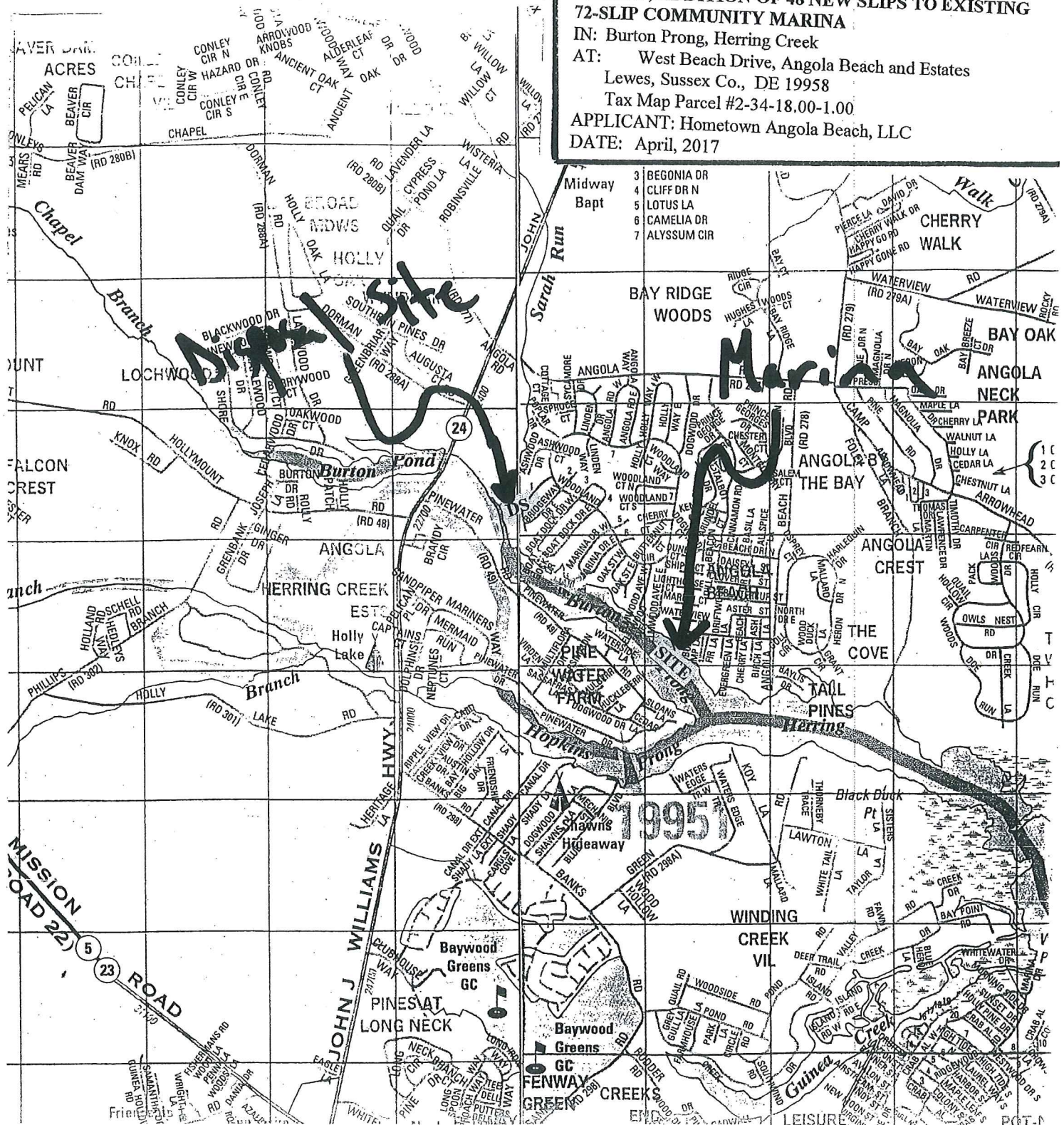


Figure 2. Map of Angola area, Lewes, Delaware showing site location, Angola Beach and Estates, Lewes. Directions from Dover: SR-1 southbound toward beaches; Route 24 (John J. Williams Highway) westbound to Angola Road (Road 277); left onto Angola Road (at traffic light); right at Angola Beach Road (second entrance to Angola Beach and Estates); right onto N. Beach Drive; continue around curve to left onto West Beach Drive; continue to end at marina parking lot. Also see Figures 3 and 4. Proposed disposal site (DS) is located at neighboring community, Angola by the Bay.

2017-241

E-2

**PROPOSED 8,500 C.Y. HYDRAULIC DREDGING TO
-4' MLW; ADDITION OF 48 NEW SLIPS TO EXISTING
72-SLIP COMMUNITY MARINA**

IN: Burton Prong, Herring Creek

AT: West Beach Drive, Angola Beach and Estates

Lewes, Sussex Co., DE 19958

Tax Map Parcel #2-34-18.00-1.00

APPLICANT: Hometown Angola Beach, LLC

DATE: April, 2017


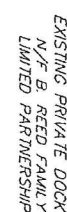


Google Earth

feet 700
meters 200



Figure 5. GoogleEarth® 2015 aerial photograph showing project site, Angola Beach and Estates, Lewes, Sussex County, Delaware, adjacent to Burton Prong, Herring Creek showing existing 72-slip community marina.



MILL
BROOK
ENGINEERING, LLC

SCALE: 1" = 60'

MARINA EXPANSION TO CONSISTS OF:
 MAJOR ALTERATION (48 NEW SLIPS) OF AN EXISTING 72-SLIP MARINA,
 (EXISTING SLIPS TO BE REMOVED AND REPLACED). 313' X 5' FLOATING MAIN PIER;
 TWELVE 16' X 4' FLOATING FINGER PIERS (FOR TWO 5' WIDE FLOATING DOCKS)
 AND HYDRAULIC MAINTENANCE AND EXPANDED DREDGING (8,500 C.Y. TO -4' MLW),
 WITH UPLAND DISPOSAL. DREDGED MATERIAL ANTICIPATED TO BE PUMPED TO AN
 EXISTING, PREVIOUSLY AUTHORIZED CONFINED UPLAND DISPOSAL AREA AT
 ANGOLA BY THE BAY (ADJACENT COMMUNITY).

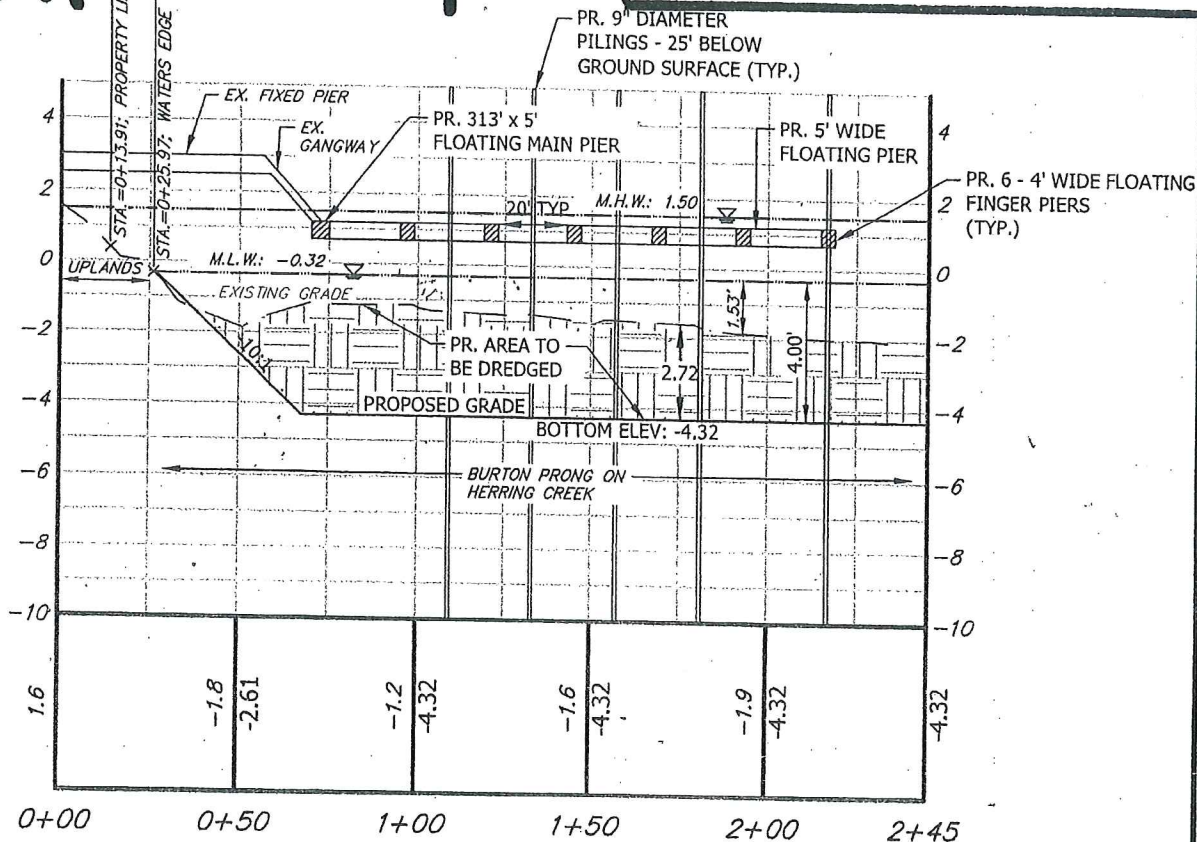
**PROPOSED 8,500 C.Y. HYDRAULIC DREDGING TO
 -4' MLW; ADDITION OF 48 NEW SLIPS TO EXISTING
 72-SLIP COMMUNITY MARINA**

IN: Burton Prong, Herring Creek
 AT: West Beach Drive, Angola Beach and Estates
 Lewes, Sussex Co., DE 19958
 Tax Map Parcel #2:34-18.00-1.00

APPLICANT: Hometown Angola Beach, LLC
 DATE: April, 2017

2017-241

E-4



PROFILE VIEW: MARINA

HORZ. SCALE: 1"=50'

VERT. SCALE: 1"=5'

NOTES

1. OBSERVED WATER LEVEL LINE OF -0.32 WAS UTILIZED AS THE MLW ELEVATION.
2. ELEVATIONS BELOW MLW LINE ARE IN THE NAVD-88 DATUM CORRELATING TO THE SITE'S SURVEY. SURVEY OF BAY ELEVATIONS ARE BASED ON FIELD MEASURED DATA. AREAS BETWEEN CRABBING PIERS AND DOCKS IS INTERPOLATED.
3. CONTRACTOR SHALL FIELD VERIFY EXISTING CONDITIONS AND DIMENSIONS PRIOR TO ORDERING AND/OR FABRICATION OF ANY MATERIALS.
4. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR INITIATING, MAINTAINING, AND SUPERVISING ALL SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THE WORK. ALL CONSTRUCTION MUST BE DONE IN COMPLIANCE WITH THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 AND ALL RULES AND REGULATIONS THERETO APPURTENANT. THESE DRAWINGS DO NOT INCLUDE NECESSARY COMPONENTS FOR CONSTRUCTION SAFETY.
5. CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK. HE WILL BE SOLELY RESPONSIBLE FOR THE MEANS, METHODS, TECHNIQUES, PROCEDURES, AND SEQUENCE OF CONSTRUCTION.
6. CONTRACTOR SHALL PATCH, REPAIR, AND FINISH ALL DAMAGED SURFACES CAUSED BY THE WORK, USING THE MATERIALS OF THE SAME KIND. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPLACEMENT OF DAMAGED OR DESTROYED LANDSCAPING OR EXISTING FEATURES.
7. ALL EXCESS EXCAVATION AND ALL OLD PAVEMENT, BASE COURSE, BROKEN CONCRETE, ETC. SHALL BECOME THE PROPERTY OF THE CONTRACTOR AND SHALL BE HAULED AWAY FROM THE SITE.
8. EXISTING UTILITIES ARE SHOWN IN ACCORDANCE WITH THE BEST AVAILABLE INFORMATION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO CONTACT THE UTILITY COMPANIES INVOLVED IN ORDER TO SECURE THE MOST ACCURATE INFORMATION AVAILABLE AS TO UTILITY LOCATIONS AND ELEVATIONS.
9. NO CONSTRUCTION AROUND OR ADJACENT TO UTILITIES SHALL BEGIN WITHOUT NOTIFYING THEIR OWNERS AT LEAST 48 HOURS IN ADVANCE.
10. THE CONTRACTOR SHALL TAKE THE NECESSARY PRECAUTIONS TO PROTECT THE EXISTING UTILITIES AND MAINTAIN UNINTERRUPTED SERVICE AND ANY DAMAGE DONE TO THEM DUE TO THE CONTRACTOR'S NEGLIGENCE SHALL BE IMMEDIATELY AND COMPLETELY REPAIRED AT THE CONTRACTOR'S EXPENSE.
11. NOTIFY MISS UTILITY THREE (3) DAYS PRIOR TO COMMENCING CONSTRUCTION. 1-800-282-8555.
12. IN ALL AREAS WHERE UNSUITABLE OR UNSTABLE MATERIALS ARE ENCOUNTERED, THE CONTRACTOR SHALL FIRST NOTIFY THE OWNER AND ENGINEER. THEN REVIEW WITH THE OWNER THE POSSIBLE OPTIONS AND THEN PROCEED WITH THE MUTUALLY ACCEPTABLE CORRECTION.



MARINA PROFILE

ANGOLA BEACH & ESTATES

HOMETOWN ANGOLA BEACH, LLC

LEWES SUSSEX COUNTY DELAWARE
 T.P. 234-18.00-1.00

DATE: 04/01/17
 PROJECT #:
 M-16-ANGOLA-006

FIGURE -

ENGINEER:
 MMH

DESIGN BY:
 EMB/EMU

DRAWN BY:
 EMB/EMU

CHECKED BY:
 MMH

Figure 13. Marina profile (prepared by Mill Brook Engineering, LLC) showing existing and proposed depths and marina cross-section

E-5

DATE: April, 2017

feet
km

4000

1

Figure 14. Aerial photograph showing project site (dredging/marina expansion), Angola Beach and Estates marina, Burton Prong, Herring Creek; and disposal site, existing, previously-authorized confined upland disposal site at Angola by the Bay (adjacent community). Dredged material will be transported via hydraulic pipeline approximately one mile from dredging site to disposal area.