



**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-2017-540	Date September 14, 2017
Application No. CENAP-OP-R-2017-540	File No. CENAP-OP-R-2017-540-85

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: Delaware Department of Natural Resources and Environmental Control
Division of Watershed Stewardship

AGENT: Delaware Department of Natural Resources and Environmental Control
Division of Watershed Stewardship

WATERWAY: Delaware Bay

LOCATION: Bayshore Drive and Mulberry Drive Frederica, Kent County, Delaware
Tax Map Parcels:
SMO1-114.16-02.00
SMO1-115.13-01.00, 03.00, 02.00, 02.01, 52.00, 54.00, 55.00, 56.00, 57.01
and 59.00
SMO1-115.17-25.00, 26.00, 37.00, 38.00, 39.00, 43.00, 44.00, 49.00 and
80.00
(Lat. 39.06243°N/Long.-75.39778°W).

ACTIVITY: The applicant has applied for a permit to nourish a severely eroded section of the Delaware Bay shoreline, via truck-fill method at Bowers Beach, Kent County, Delaware. Approximately 6,300 cubic yards of sand from an inland borrow source will be used to restore 2 areas. One section is located at the northern end of Bowers Beach and will involve the repair of a breach in the coastal dune. This area is approximately 350 feet in length and does not involve work or the discharge of fill into waters of the United States. The second location, which is the subject of this application, is at the southern end of Bowers Beach and will involve the repair of a section of shoreline used for public recreation. It is approximately 800 feet in length and will require approximately 3,500 cubic yards of fill to meet the design template. Sand will be truck hauled to the project site by dump truck and off loaded. A front-end loader will be used to place the material in off road hauling equipment on the beach where it will be transported to each project fill area and off loaded again. A bulldozer will then be used to shape the material to

design template. The dimensions of the work is indicated on the attached plans identified as E-1 through E-4.

PURPOSE: The purpose of the project is to provide erosion and storm damage protection to public streets, utilities and private and commercial structures as well as maintain beach recreation.

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. Because the project involves replenishing the beach with like-sized material within the footprint of what previously existed, 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 United States Fish and Wildlife Service 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 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.

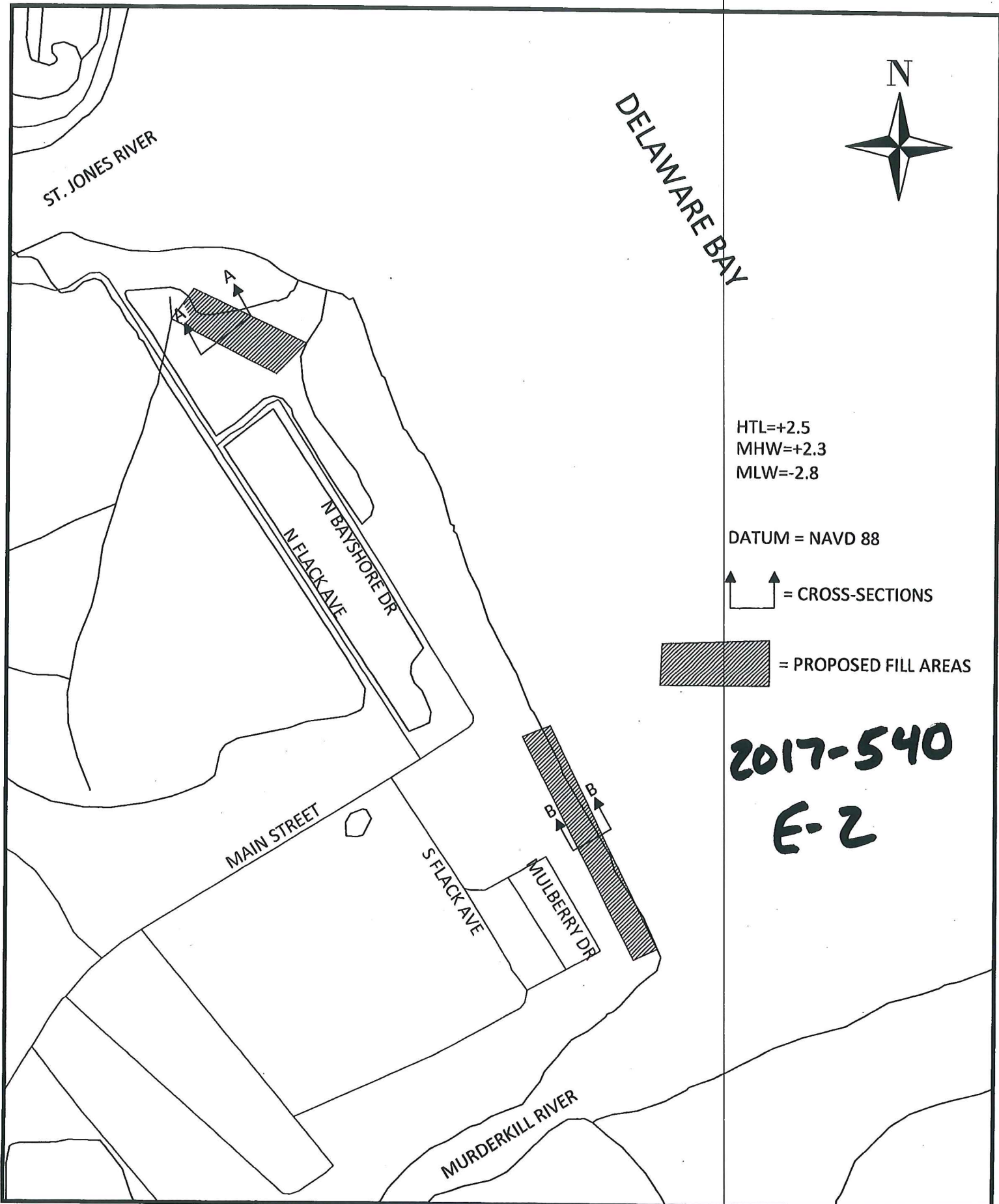
Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work. The Philadelphia District has determined that the proposed project is of such limited nature and scope that 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.

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

Edward E. Bonner
Chief, Regulatory Branch



HTL=+2.5
 MHW=+2.3
 MLW=-2.8

DATUM = NAVD 88

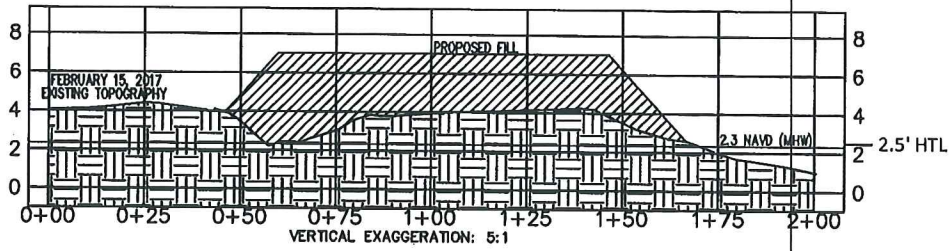
 = CROSS-SECTIONS

 = PROPOSED FILL AREAS

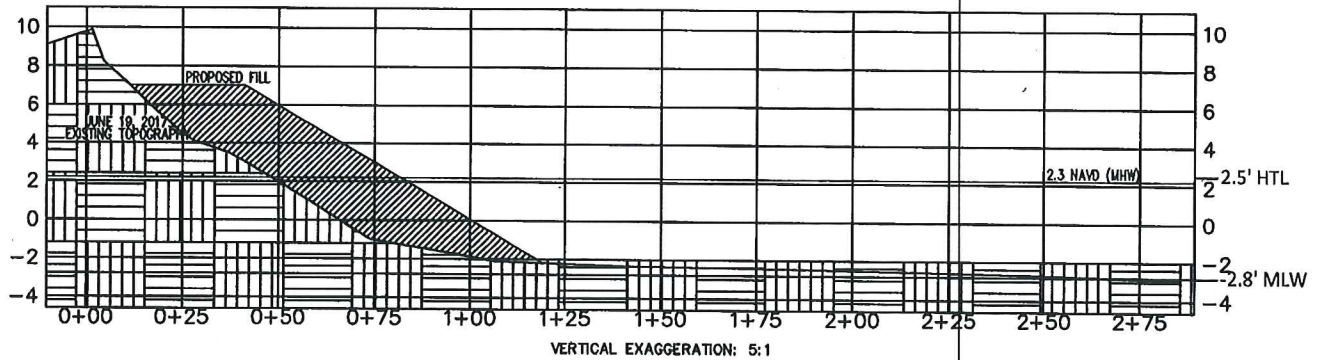
2017-540
E-2

**BOWERS BEACH NOURISHMENT TRUCK FILL PROJECT
 PROJECT PLAN VIEW**

SCALE: 1" = 400'



TYPICAL CROSS SECTION A-A
DUNE REPAIR

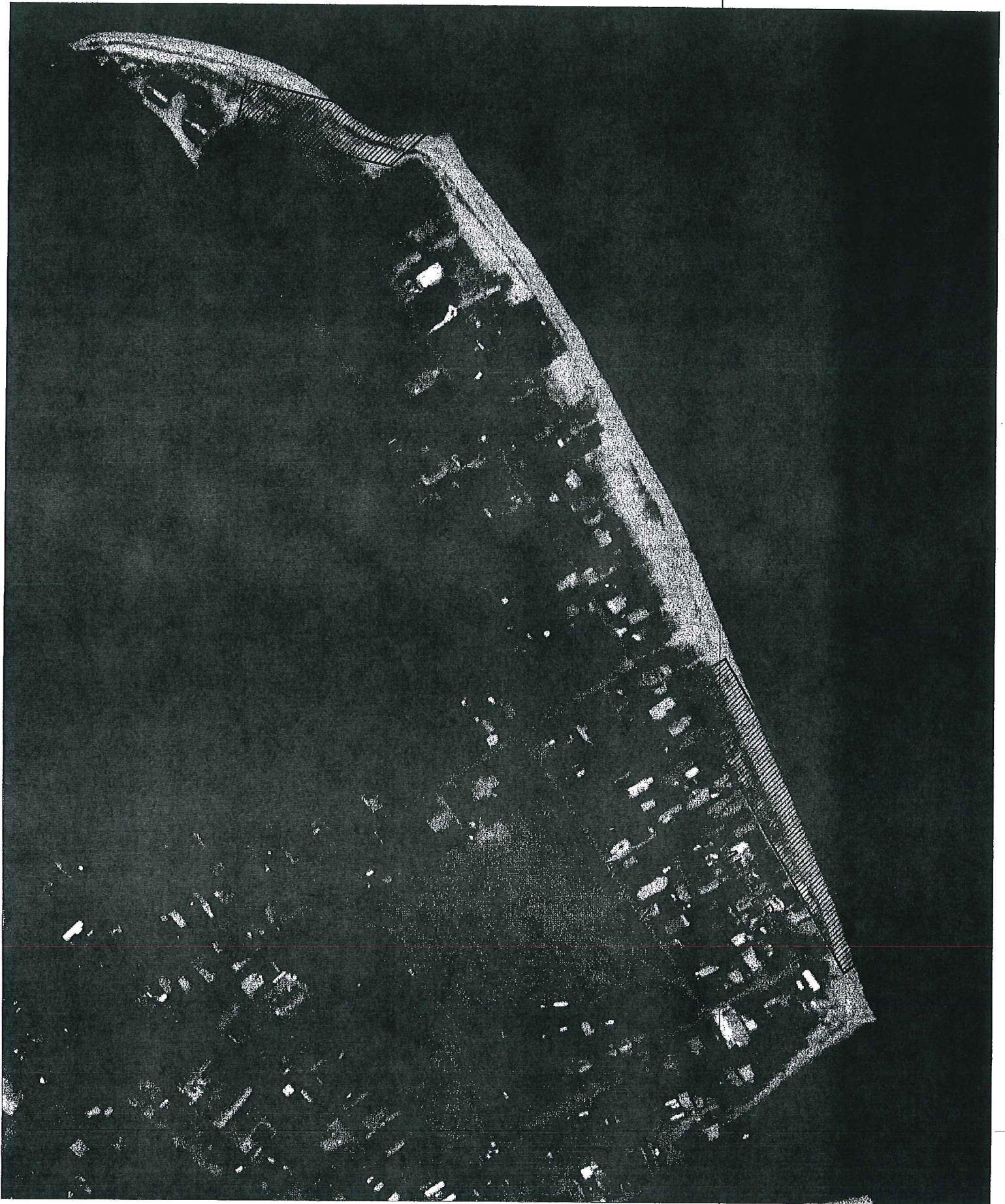


TYPICAL CROSS SECTION B-B
BEACH NOURISHMENT

207-540
E-3

BOWERS BEACH NOURISHMENT TRUCK FILL PROJECT
CROSS SECTIONS

SCALE: 1" = 50'



BOWERS BEACH NOURISHMENT TRUCK FILL PROJECT
AERIAL LOCATION MAP