



**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-2017-628

Date
September 14, 2017

Application No.
CENAP-OP-R-2017-628

File No.
CENAP-OP-R-2017-628-85

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

AGENT: N/A

WATERWAY: Leipsic Tax Ditch

LOCATION: East of Main Street and north of Texas Lane in Leipsic, Kent County,
Delaware (Lat.39.24063° N/Long.-75.51219° W).

ACTIVITY: The applicant has requested a Department of the Army permit to remove accumulated sediment via mechanical maintenance dredging from the Leipsic Tax Ditch located in Leipsic, Kent County, Delaware. Tax ditches require the removal of accumulated sediment every 15 to 20 years. Accumulated sediment was previously removed from the Leipsic Tax Ditch in 1990. The applicant proposes to utilize a land based excavator equipped with a grading bucket as to minimize soil disturbance. The operator will remove accumulated sediment from the bottom of the tax ditch by reaching to the far side of the ditch, and in one motion, dragging the front edge of the bucket across the original bottom contour to the near side, filling the bucket to approximately 80% to 85% capacity to avoid spilling material from the bucket. The excavated material will be placed in the agriculture field behind a berm as to prevent re-deposition of the excavated sediment. The location and dimensions of the proposed work is indicated on the attached plans identified as E-1 through E-5.

PURPOSE: The purpose of the project is to improve tidal exchange within the tax ditch system.

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.

Work will be conducted during low tide/low flow conditions to minimize environmental impacts. The maintenance dredging will improve tidal exchange within the system, thereby improving aquatic resource functions within the tax ditch. Because the work will occur in a previously channelized tax ditch, the infrastructure-maintenance nature of the work and 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.

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. Prior to submittal of the application, the applicant requested a review by the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS) and the United States Fish and Wildlife Service. These agencies determined that there are no federally listed or proposed threatened or endangered species known to exist in the project site or within the vicinity of the project site. 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 NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). Prior to submittal of the application, the applicant requested a review by the NMFS. The NMFS determined that any impacts to EFH are expected to be minimal and temporary. 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.

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.

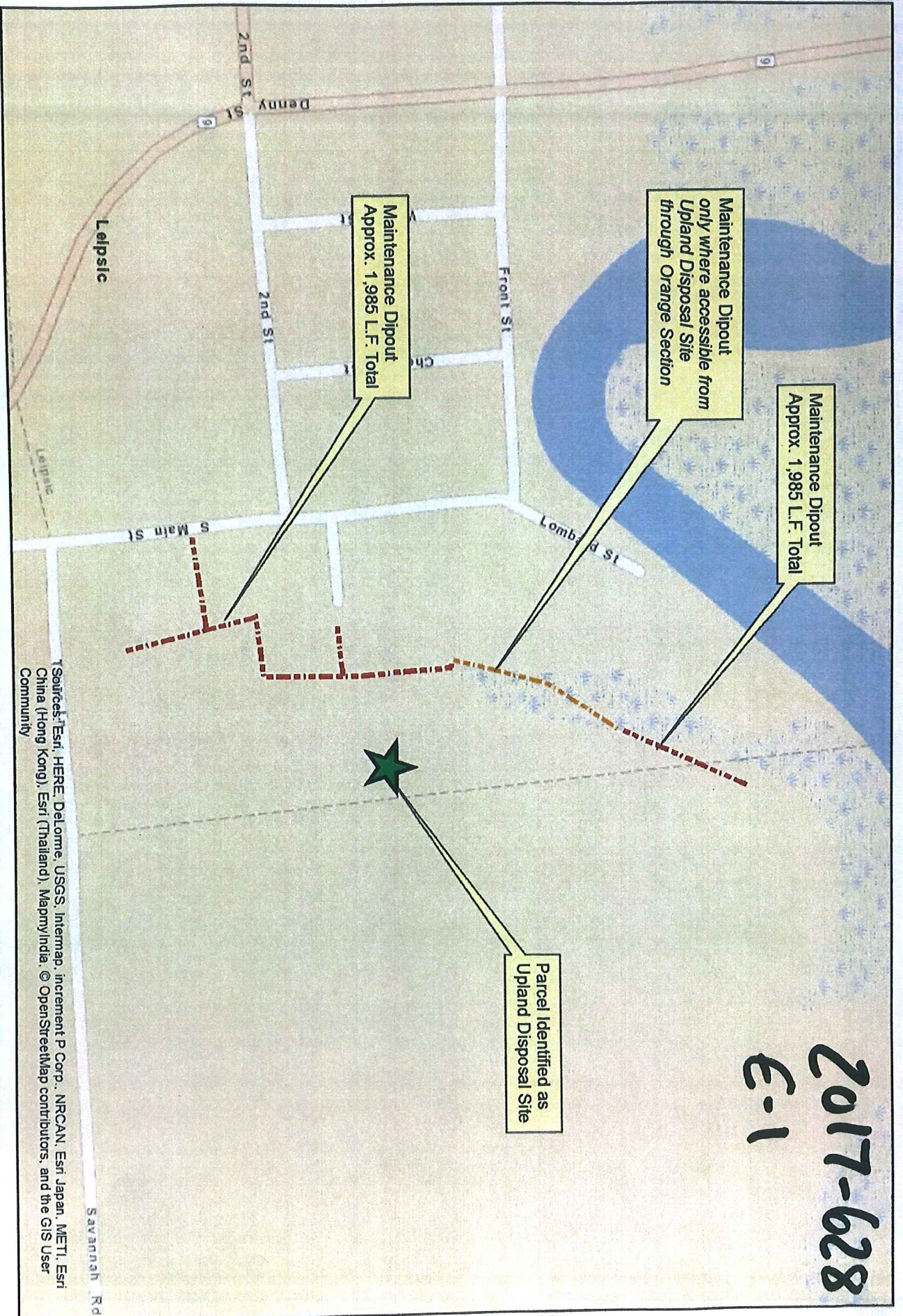
Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

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

2017-628
E-1



Leipsc Maintenance Dipout Street Map

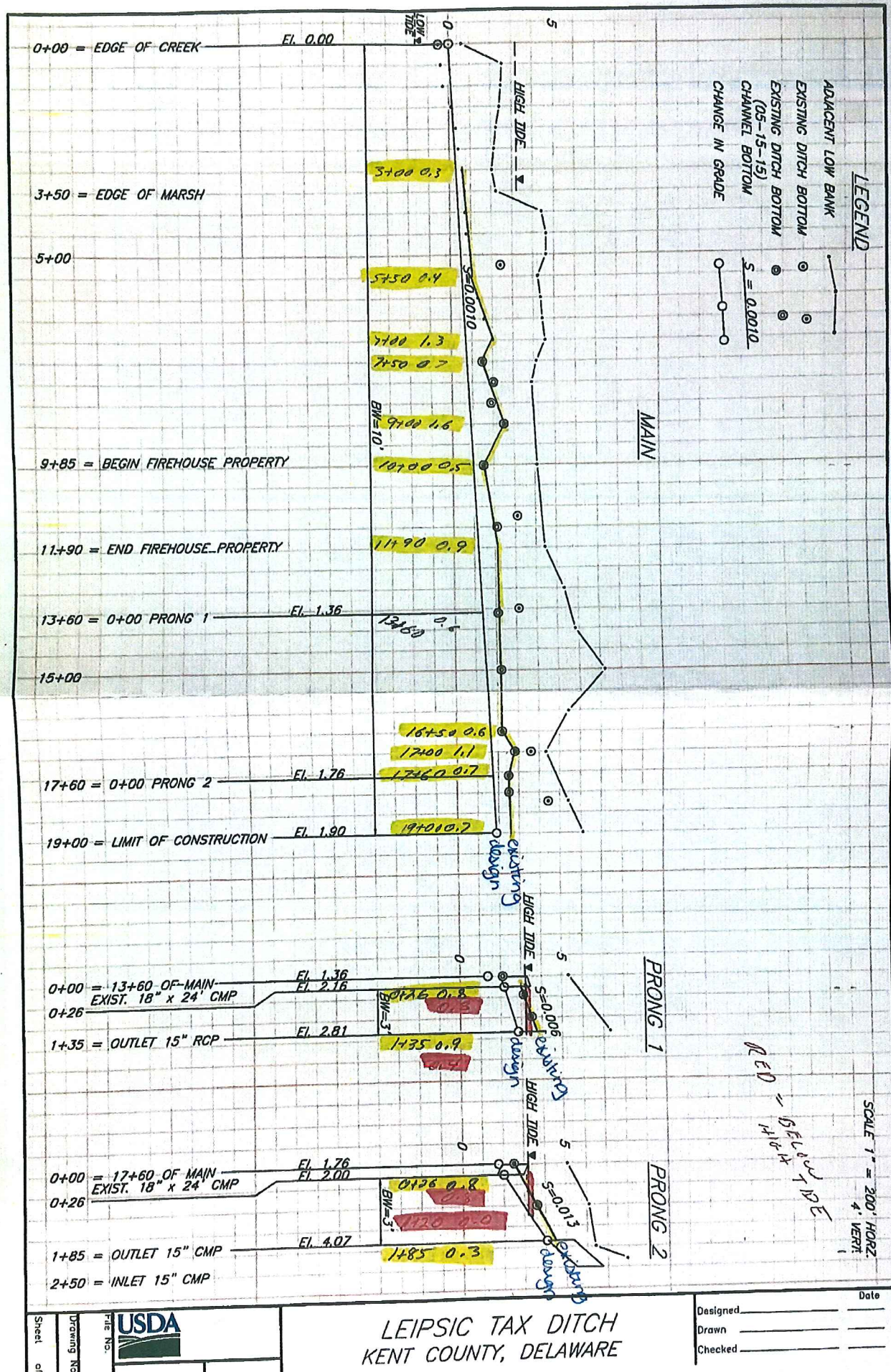
This map was compiled by the DNEC, Division of Watershed Stewardship, Drainage Program. Ditch locations and all features are approximate and based on field information, other agency layers and original tax ditch maps. This map does not replace legal tax ditch instruments on file at the county probatory office.

Property lines are approximate and may have changed since the date this map was made.
Map Created by: mdelalbert
Map Created on: 4/4/2017 at 10:24:54 AM

300 0 300 Feet
1 inch = 300 feet

Division of Watershed Stewardship

2017-628
E-2



2017-628
E-3

COMPUTATION SHEET

NRCS-ENG-523A Rev. 10-97

U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

STATE	DE	PROJECT	LEIPSIC TAX DITCH		
BY	MLV	DATE	12-12-16	CHECKED BY	JOB NO.
SUBJECT	EXCAVATION QUANTITIES				SHEET 1 OF 2

STATION	LENGTH L.F.	E.A. S.F.	AVG E.A. S.F.	VOL C.F.	VOL. C.Y.
MAIN BELOW HIGH TIDE					
3+00		3.09			
	250		3.63	907.5	
5+50		4.16			
	150		9.43	1414.5	
7+00		14.69			
	50		11.09	554.5	
7+50		7.49			
	150		13.03	1954.5	
9+00		18.56			
	00		11.91	1191.0	
10+00		5.25			
	190		7.53	1430.7	
11+90		9.81			
				7452.7	276.03
11+90		9.81			
	460		8.09	3721.4	
16+50		6.36			
	50		9.29	464.5	
17+00		12.21			
	60		9.85	591.0	
17+60		7.49			
	140		7.49	1048.6	
19+00		7.49			
				5825.5	215.76
3+00 - 19+00 TOTAL				13278.2	491.79

2017-628
E-4

COMPUTATION SHEET

NRCS-ENG-523A Rev. 10-97

NRCS-ENG-523A Rev. 10-97

U.S. DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

STATE	DE	PROJECT	LEIPSIC TAX DITCH		
BY	MSV	DATE	12-12-16	CHECKED BY	DATE
SUBJECT	EXCAVATION QUANTITIES				JOB NO.
					SHEET 2 OF 2

STATION	LENGTH L.F.	E.A. S.F.	AVG E.A. S.F.	VOL C.F.	VOL. C.Y.
PRONG 1 - BELOW HIGH TIDE					
0+26	109	3.04	2.20	239.8	8.88
1+35		1.36			
PRONG 1 - TOTAL					
0+26	109	3.04	3.28	357.5	13.24
1+35		3.51			
PRONG 2 - BELOW HIGH TIDE					
0+26	94	3.04	1.52	142.9	5.29
1+20		0			
PRONG 2 - TOTAL					
0+26	159	3.04	2.02	321.2	11.90
1+85		0.99			

