



**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-2018-596**

Date  
**August 6, 2018**

Application No.  
**CENAP-OP-R-2018-596**

File No.  
**CENAP-OP-R-2015-596-85**

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:** Robert Reed

**AGENT:** Evelyn M. Maurmeyer, Ph.D., Coastal and Estuarine Research, Inc.

**WATERWAY:** Lewes and Rehoboth Canal

**LOCATION:** 57 Tidewaters, Henlopen Acres, Sussex County, Delaware  
Tax Map Parcel 3-34-14.09-6.00 (Lat.38.725431° N/Long.-75.088588° W).

**ACTIVITY:** The applicant has requested a Department of the Army permit to remove the existing 5' x 40' dock, construct a 4' x 15' pier extension and construct a 5' x 30' dock on the Lewes and Rehoboth Canal at 57 Tidewaters, Tax Map Parcel #3-34-14.09-6.00 in Henlopen Acres, Sussex County, Delaware. The dimensions of the structures are indicated on the attached plans identified as E-1 through E-4.

**PURPOSE:** The purpose of the project is to provide adequate mooring depths for the homeowner's recreational vessels.

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 project is for the installation of structures only and has been designed not only to entirely avoid dredging and discharges of dredged or fill material into waters of the United States, but also has been designed to avoid impacts to wetlands and submerged aquatic vegetation. In

addition, the structures have been designed to the minimum sizes necessary to support the vessels to be moored at the facility for safe mooring and are consistent with the sizes of other navigational structures within the L&R Canal. 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.

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.

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 the United States Fish and Wildlife Service and NOAA Fisheries 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 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.

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

Edward E. Bonner  
Chief, Regulatory Branch



E-1

**REMOVAL OF EXISTING DOCK, AND  
CONSTRUCTION OF 15' X 4' PIER  
EXTENSION AND NEW 5' X 30' DOCK**

IN: Lewes and Rehoboth Canal  
AT: 57 Tidewaters, Henlopen Acres  
Sussex County, DE 19971  
Tax Map Parcel #3-34-14.09-6.00  
APPLICANT: Robert M. Reed  
DATE: July 11, 2018

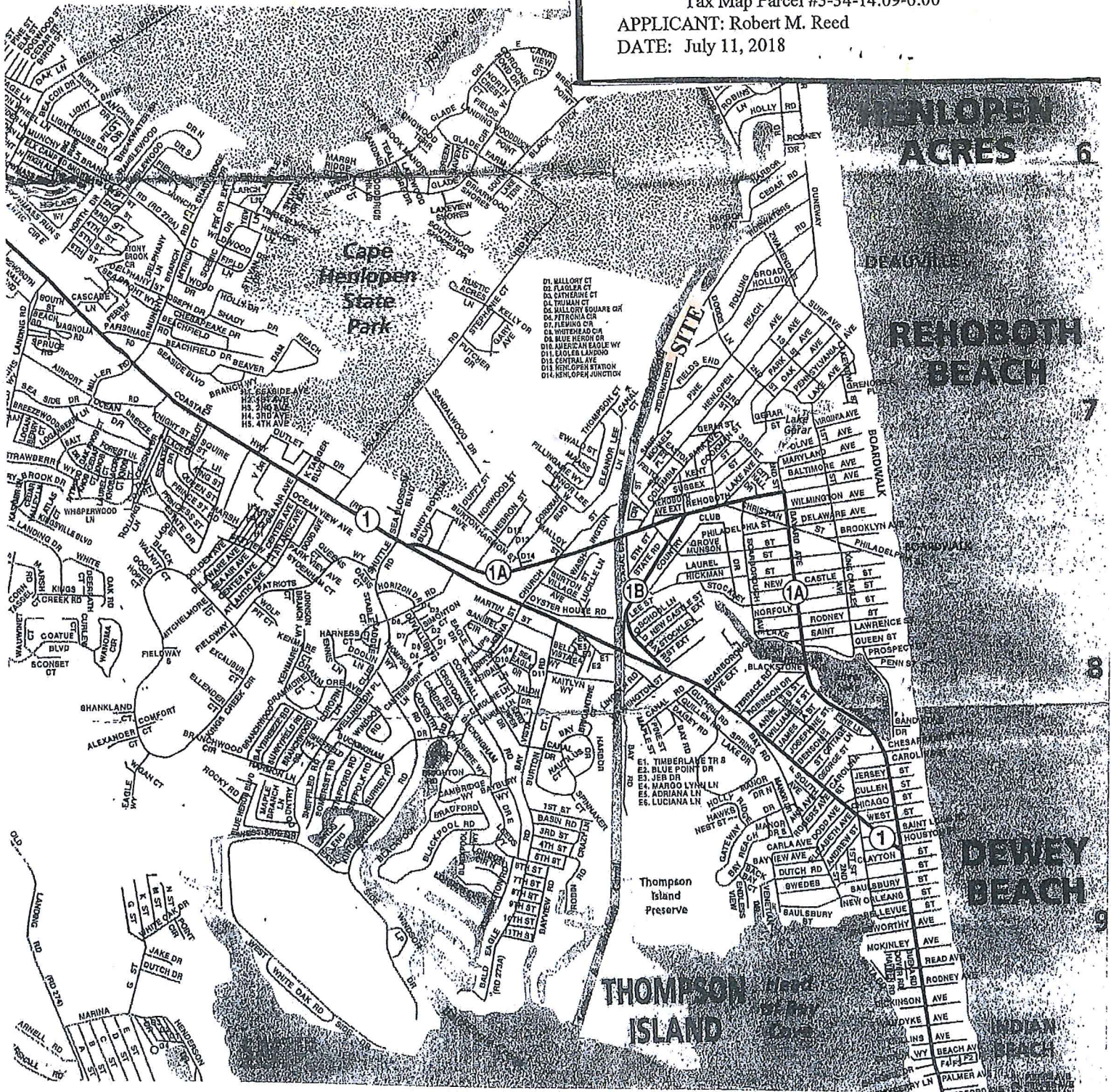


Figure 2. Street map of Rehoboth Beach and Henlopen Acres showing site location, 57 Tidewaters, Henlopen Acres. Directions to project site (from Dover, DE): SR-1 southbound to Rehoboth Beach; left at traffic signal onto Route 1A (Rehoboth Avenue extended) into Rehoboth Beach; 270° around traffic circle onto Columbia Avenue; left onto 2nd Street; enter Henlopen Acres (Dodds Lane); Dodds Lane to Tidewaters; left onto Tidewaters, site is 57 Tidewaters, house under construction on right. (Also see Fig. 1)



E-2

**REMOVAL OF EXISTING DOCK, AND  
CONSTRUCTION OF 15' X 4' PIER  
EXTENSION AND NEW 5' X 30' DOCK**

IN: Lewes and Rehoboth Canal

AT: 57 Tidewaters, Henlopen Acres

Sussex County, DE 19971

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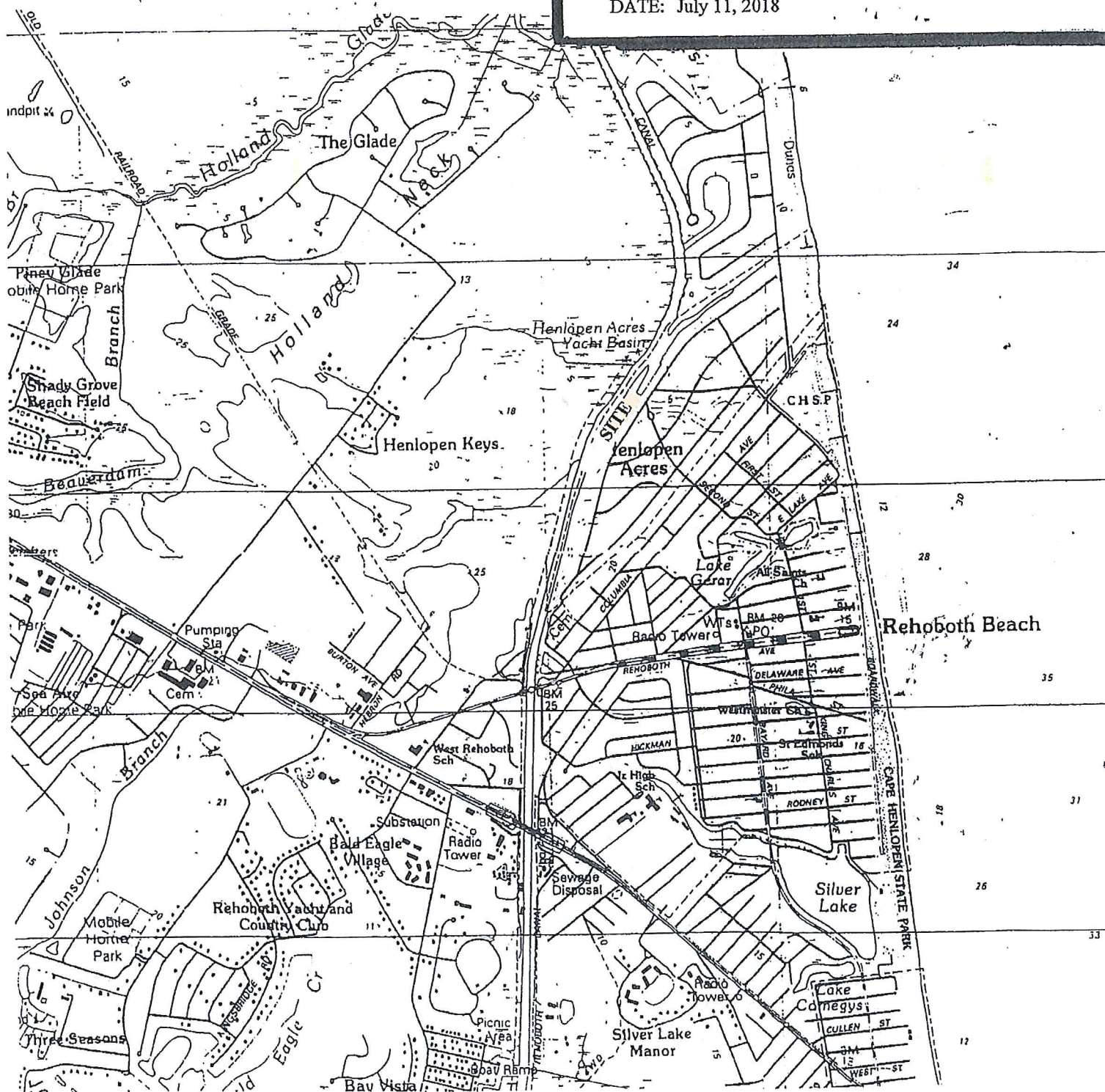


Figure 4. Site location on U.S.G.S. topographic map, Rehoboth Beach, Delaware quadrangle. Site is adjacent to Lewes and Rehoboth Canal. Scale: 1" = 2,000'.



E-3

**REMOVAL OF EXISTING DOCK, AND  
CONSTRUCTION OF 15' X 4' PIER  
EXTENSION AND NEW 5' X 30' DOCK**

IN: Lewes and Rehoboth Canal

AT: 57 Tidewaters, Henlopen Acres

Sussex County, DE 19971

Tax Map Parcel #3-34-14.09-6.00

APPLICANT: Robert M. Reed -

DATE: July 11, 2018



Google Earth Pro

feet 200  
meters 80



Figure 6. GoogleEarth© 2017 aerial photograph of site and vicinity, 57 Tidewaters, Henlopen Acres, Sussex County, Delaware, adjacent to Lewes and Rehoboth Canal, showing existing walkway and dock authorized by SP-395/03 (Harold Bennett, permittee). Width of waterway = 175'. Walkway to remain unchanged. Applicant proposes to remove existing dock, and to construct a 15' x 4' pier extension and a 5' x 30' dock. Structure will not extend any farther channelward than neighboring structures. See Figure 8 for plan view and cross-section diagrams of proposed project.



E-4

**REMOVAL OF EXISTING DOCK, AND  
CONSTRUCTION OF 15' X 4' PIER  
EXTENSION AND NEW 5' X 30' DOCK**  
IN: Lewes and Rehoboth Canal  
AT: 57 Tidewaters, Henlopen Acres  
Sussex County, DE 19971  
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APPLICANT: Robert M. Reed  
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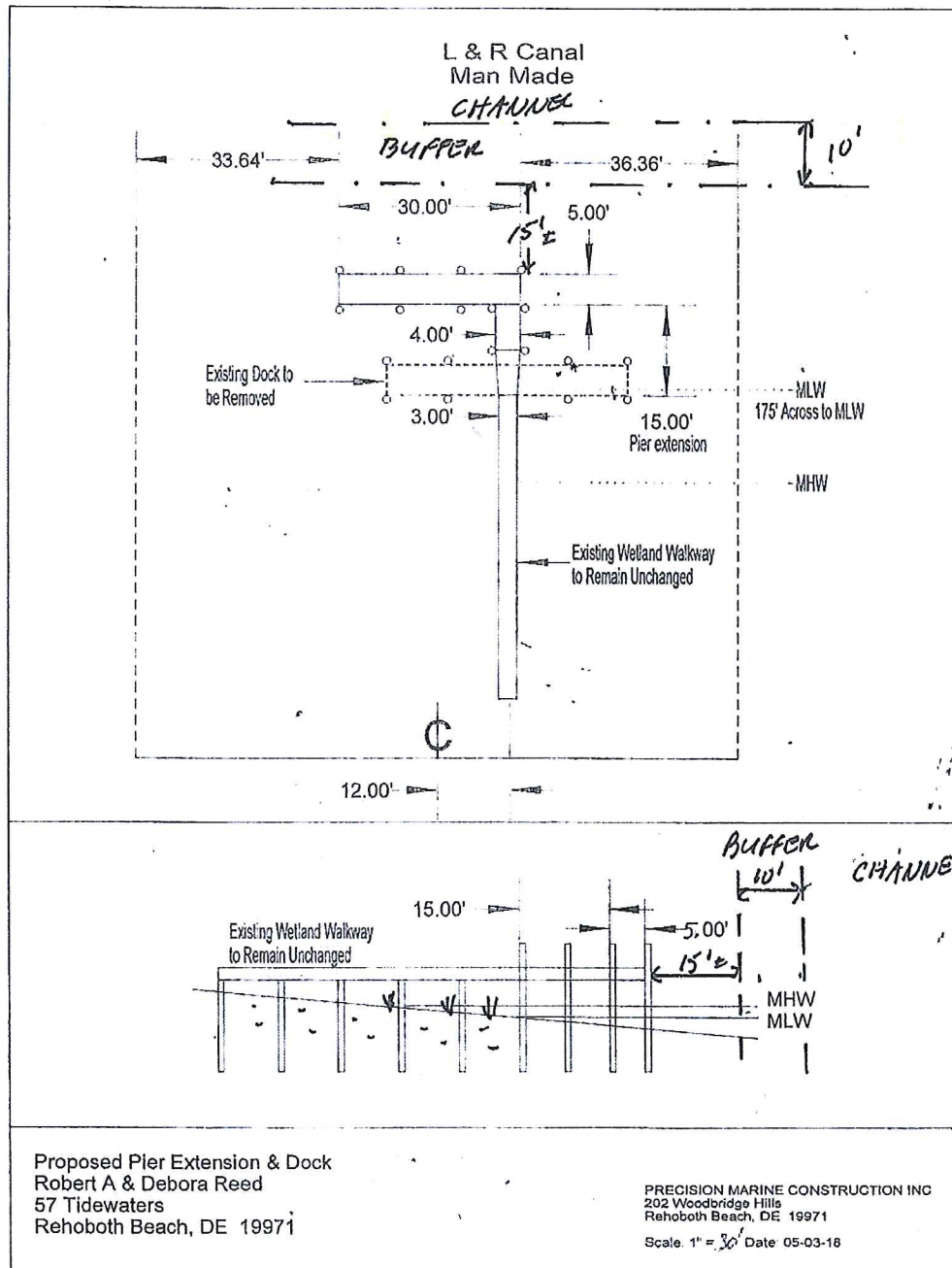


Figure 8. Plan view and cross-section diagrams of proposed project (prepared by Rob Whitford, Precision Marine Construction, Inc.)