



**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-2016-1049

Date

Application No.
CENAP-OP-R-2016-1049

File No.

CENAP-OP-R-2016-1049-23

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: Pilottown Marina, Incorporated, P.O. Box 101, Lewes, Delaware 19958

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

WATERWAY: Lewes and Rehoboth Canal

LOCATION: Tax Map Parcel 3-35-4.19-98.00, City of Lewes, Sussex County, Delaware.

ACTIVITY: The applicant, Pilottown Marina, Incorporated, has applied for a Department of the Army permit to conduct hydraulic maintenance dredging adjacent to the Lewes and Rehoboth Canal at the Pilottown Marina basin, Tax map Parcel 3-35-4.19-98.00, City of Lewes, Sussex County, Delaware.

The dredging would occur within the existing marina basin at Pilottown Road and Marina Drive. The project involves the removal, by hydraulic dredge, of approximately 4320 cubic yards of silty sediment which has accumulated within the basin. The basin (400'x 100') would be dredged to a uniform depth of -6.0 feet MLW. The dredging would be restricted to the basin and would not encroach into the buffer zone of the L&R Canal Navigation Channel.

The dredged material would be transported via pipeline to an existing upland contained disposal area located adjacent to the L&R Canal, opposite the dredging site, at Tax Map Parcel 3-35-4.19-67.00. The applicant has previously held Department of the Army Consent No. DACW -31-3-99-694 to utilize 33 acres of the disposal site (valid through November 8, 2014).

The marina has been previously dredged under Department of the Army permits CENAP-OP-R-1993-2809 (expired 1999), 1999-1680 (expired 2002), and 2003-984 (expired 2013).

This activity is currently authorized by Delaware Department of Natural Resources and Environmental Control (DDNREC) permits SP-281/16 and WE-281/16. The project has also received Coastal Zone Management Consistency Certification (FC# 2016.0109) from DDNREC.

The location and dimensions of the project are illustrated on the attached plans identified as E-1 through E-4.

PURPOSE: The purpose of the project is to maintain safe navigable depths within an existing marina basin.

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 maintenance only and has been designed to remove only sediments which have accumulated within the marina basin within the past several years. The dredging volume and depth have been minimized to the extent practicable based upon the size and drafts of the vessels berthed in the marina. The method, hydraulic dredging, would minimize turbidity in the marina and adjacent waters. The project would involve the temporary placement of a 12" diameter discharge pipeline across 120 linear feet of tidal emergent (*Spartina alterniflora*) wetlands to access the existing upland confined disposal site. The pipeline would be laid on the marsh surface. The distance to be crossed has been minimized by using the shortest route from the waterway to the disposal site. The pipeline would be removed upon completion of the project and the vegetation is expected to recover within one growing season following the dredging event. Because no wetlands or other special aquatic sites would be permanently 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. 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 effect Essential Fish Habitat (EFH).

Effects of the Project: The project is located in Essential Fish Habitat identified on sheet 81 of the Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware, dated March 1999. The following managed species of fish have been listed in the guide as occurring in the vicinity of the project: winter flounder (*Pleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), red hake (*Urophycis chuss*), bluefish (*Pomatomus saltatrix*), Atlantic sea herring (*Clupea harengus*), long finned squid (*Loligo pealei*), short finned squid (*Illex illecebrosus*), Atlantic butterfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), surf clam (*Spisula solidissima*), ocean quahog (*Artica islandica*), spiny dogfish (*Squalus acanthias*), Atlantic mackerel (*Scomber scombrus*), king mackerel (*Scomberomerus cavalla*), Spanish mackerel (*Scomberomerus maculatus*), cobia (*Rachycentron canadum*), sandbar shark (*Carcharhinus obscurus*), sand tiger shark (*Odontaspis Taurus*), and dusky shark (*Carcharhinus plumbeus*).

Analysis of the Effects: The proposed work which is the subject of this application would occur in a relatively small area of waters (100' x 400') within an active marina basin subject to regular boating activity and substantial wake energy. For these reasons the 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. In addition, the work is limited to the removal of recently accumulated sediments and would not permanently impact wetlands or aquatic vegetation. 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 maintenance 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: Because the impacts of the proposed work on EFH have been determined to be minor, the Corps of Engineers has determined that mitigative measures are not necessary.

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.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

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 John Brundage at 302-736-9763 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.

Edward E. Bonner
Chief, Regulatory Branch

**PROPOSED HYDRAULIC MAINTENANCE
DREDGING (4,320 C.Y.) TO -6' MLW**

IN: Pilottown Marina, adjacent to
Lewes and Rehoboth Canal

AT: Pilottown Road at Marina Drive
Lewes, Sussex County, DE 19958
Tax Map Parcel #3-35-4.19-98.00

APPLICANT: Pilottown Marina, Inc.

DATE: July 7, 2016

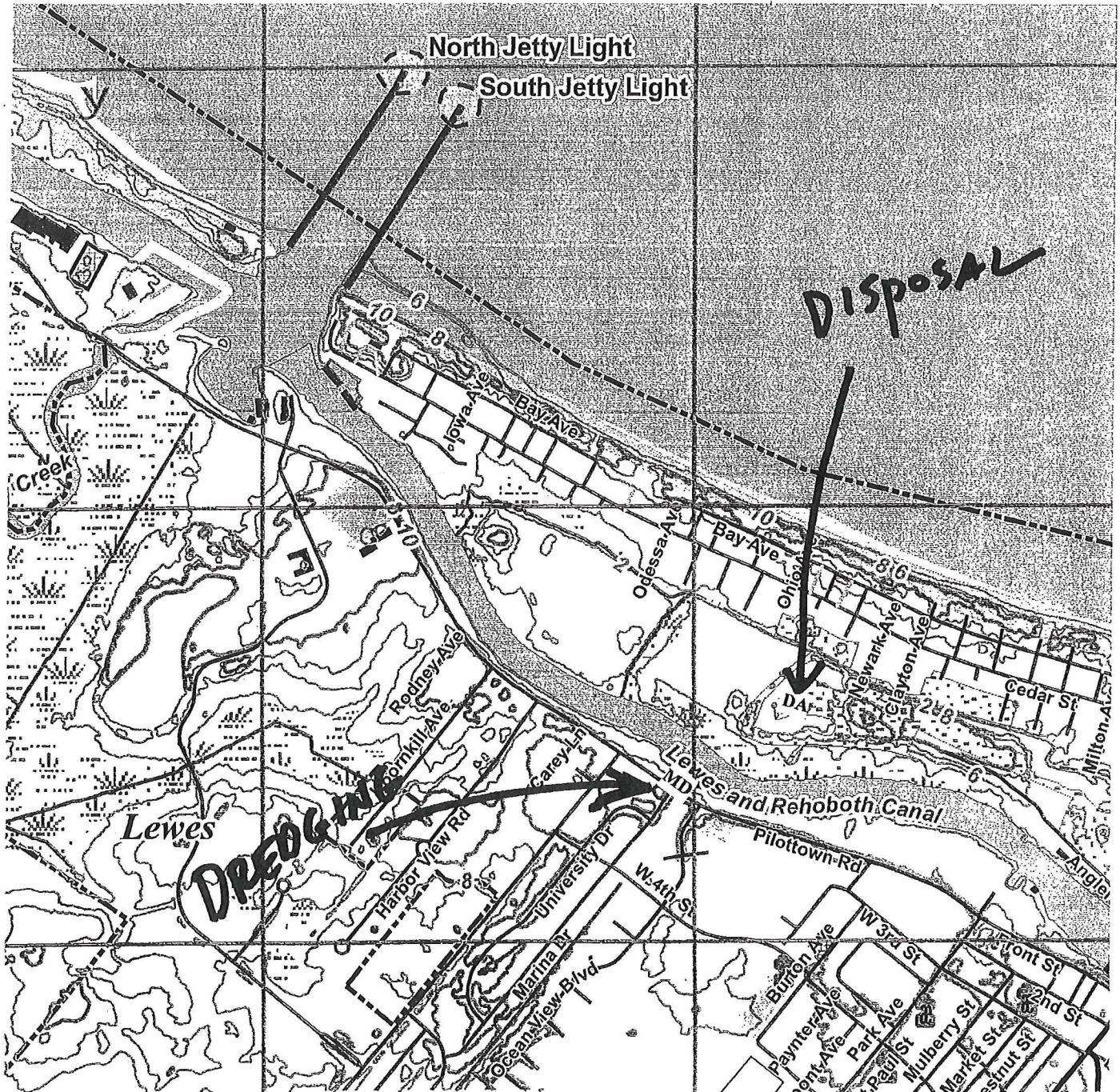
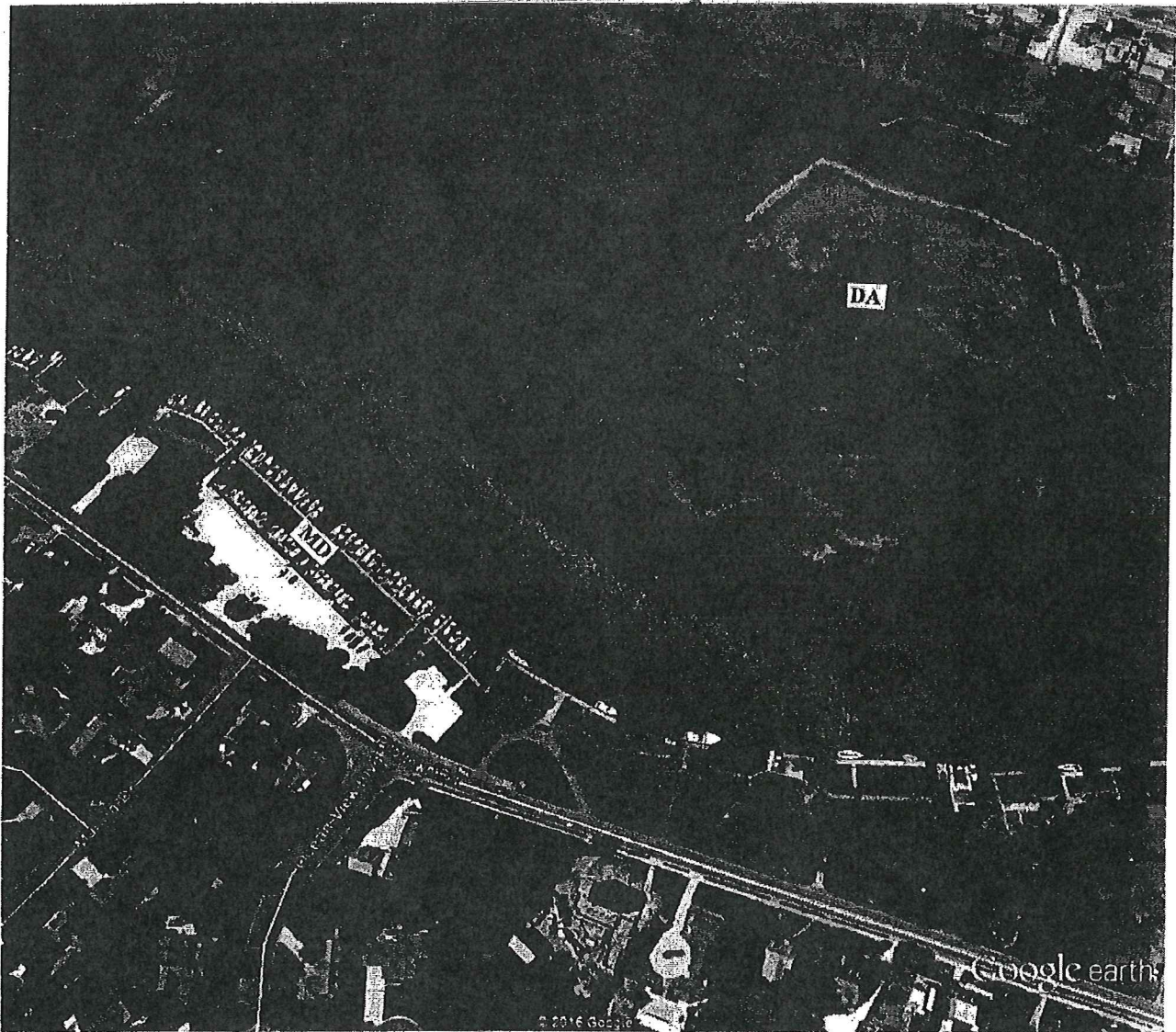


Figure 4. USGS topographic map, Lewes, Delaware, showing locations of maintenance dredging (MD) site and disposal area (DA), adjacent to Lewes and Rehoboth Canal, Lewes, Delaware. Scale: 1" = 2,000'.

E-1

**PROPOSED HYDRAULIC MAINTENANCE
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Google earth

feet 700
meters 200



Figure 6. GoogleEarth 2015 GoogleEarth® aerial photograph showing Pilottown Marina (maintenance dredging site, MD), adjacent to Lewes and Rehoboth Canal; and disposal area (DA).

E-2

PROPOSED HYDRAULIC MAINTENANCE.
DREDGING (4,320 C.Y.) TO -6' MLW

IN: Pilotown Marina adjacent to

Lewes and Robert G.

AT: Pilottown Road at Main. D:

Lewes, Sussex County, DE 19958

Tax Map Parcel #3-35-4.19-98.00

APPLICANT: Pilottown Marina, Inc.

DATE: July 7, 2016

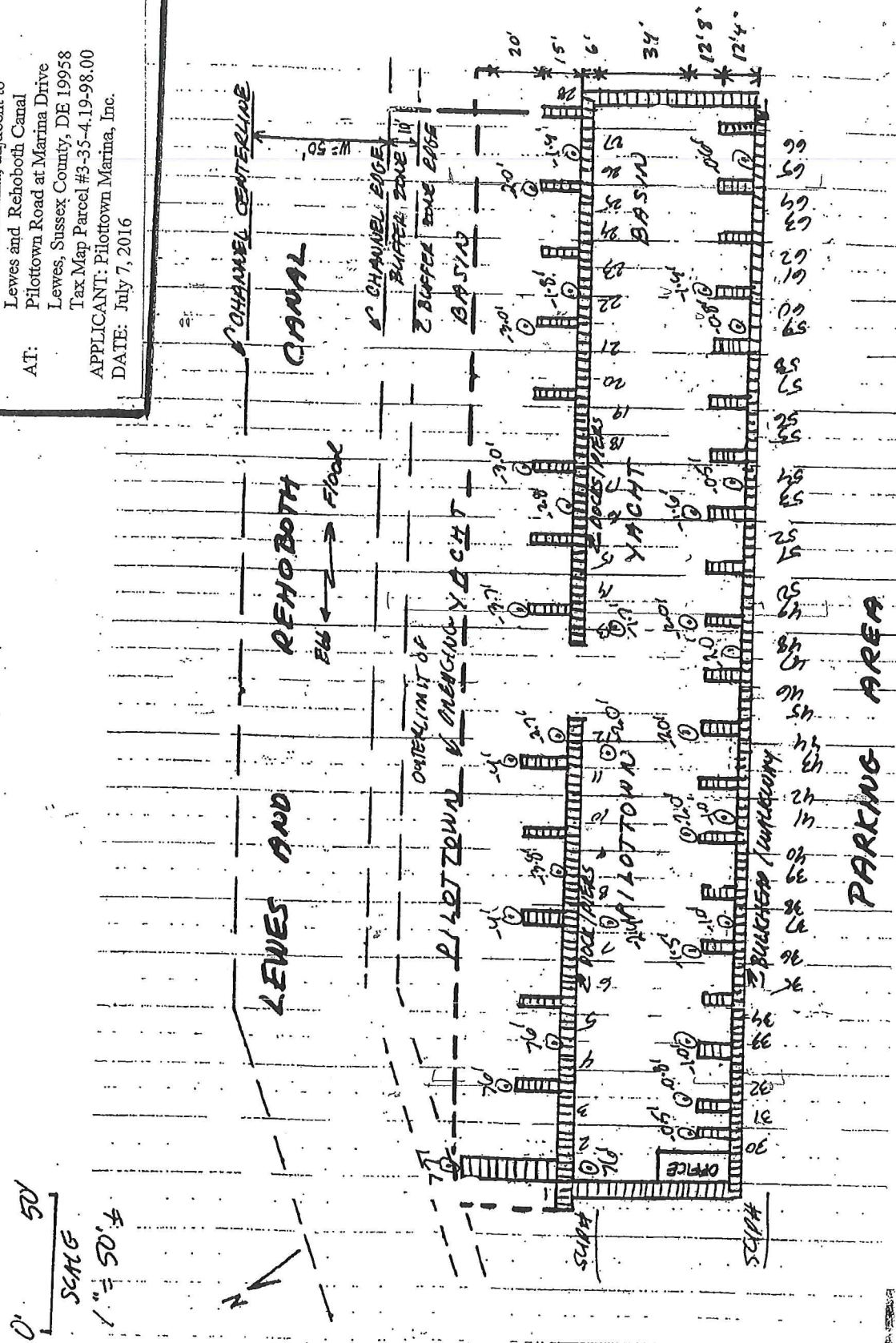


Figure 9. Plan view sketch of Pilottown Marina showing area to be dredged, and representative existing mean low water (MLW) depths as measured on site, June 30, 2016 and adjusted to MLW. See Figure 10 for cross-sections.

Horizontal scale: 1"=20'
 Vertical scale: 1"=10'
 Vertical Exaggeration = 2:1

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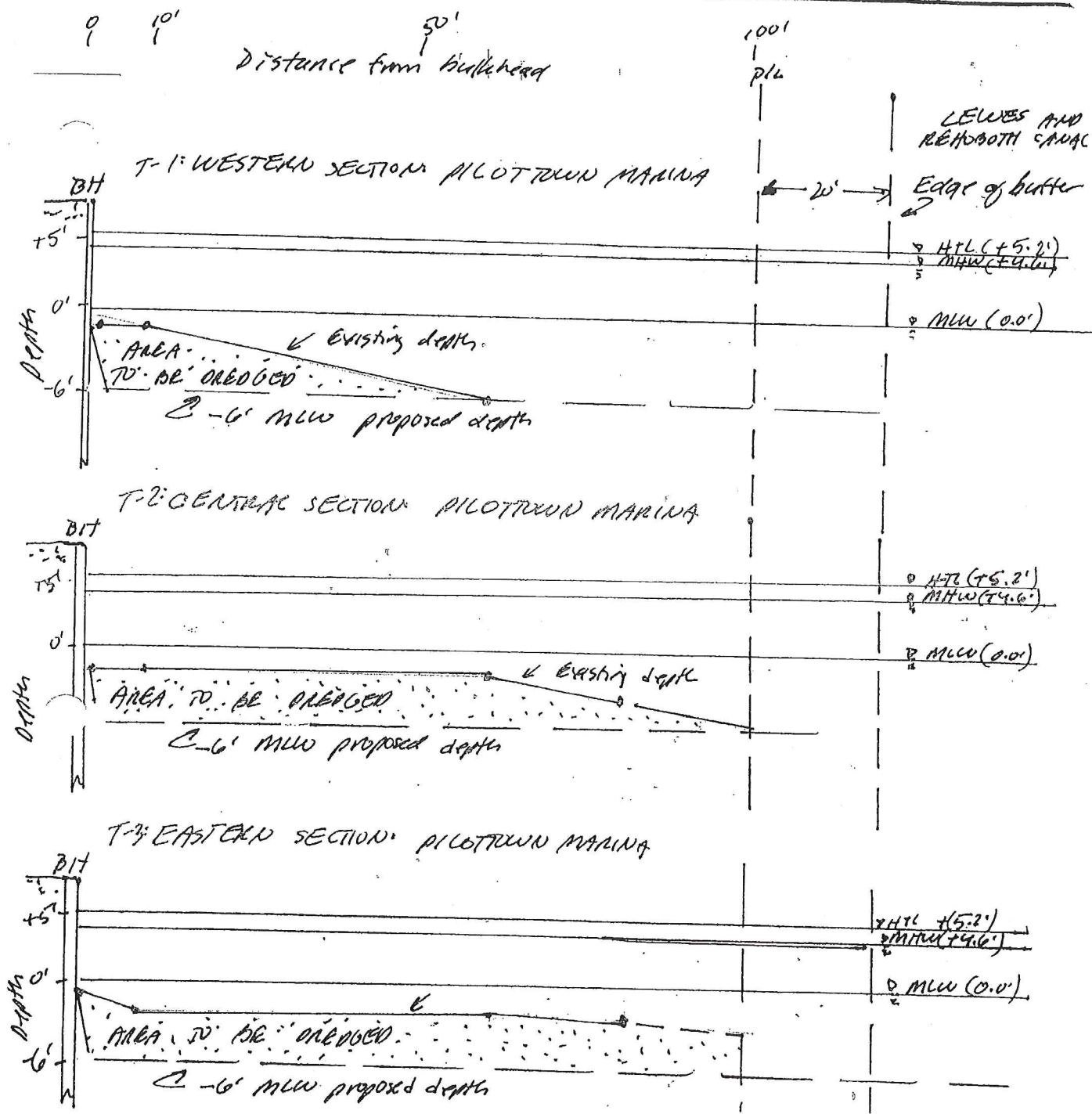


Figure 10. Cross-section sketches of Pilottown Marina showing existing and proposed mean low water (MLW) depths along various transects. See Figure 9 for locations of transects.

E-4