Public Notice

U.S. Army Corps of Engineers Baltimore District

In Reply to Application Number
CENAB-OP-RMS (CHESAPEAKE MARSHLANDS NWR COMPLEX/ FOG POINT) 2014-61926

PN 15-20 **Comment Period: March 18, 2015 to April 8, 2015**

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

The Baltimore District has received an application for a Department of the Army Permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344), as described below:

APPLICANT: United States Fish and Wildlife Service
c/o: Ms. Suzanna Baird
Chesapeake Marshlands National Wildlife Refuge Complex
2145 Key Wallace Drive
Cambridge, Maryland, 21613

LOCATION: At the U.S. Fish and Wildlife Service's Glenn Martin National Wildlife Refuge (Martin NWR) extending from Silver Island north to Fog Point, then east to Fishing Point in the Chesapeake Bay and Tangier Sound, located on the northern end of Smith Island, Somerset County, Maryland.

DESCRIPTION OF WORK: To stabilize and reduce further habitat loss along an approximately 21,000 linear foot section of estuarine shoreline using a living shoreline technique by emplacing 8,920 linear feet of stone armoring (248,900 square feet), sand nourishment (449,347 square feet), and to create 8 acres of low marsh (263,961 square feet) and transitional high marsh (87,410 square feet) and backshore dune habitat. The total shoreline stabilization and habitat restoration project is within an approximately 16-acre impact area and divided into six (6) shoreline reaches at the marsh-open water interface as follows:

Reach A. No work is proposed.

Reach B. (4.20 acres): To construct seven (7) shore connected stone breakwaters 25-feet wide at the base by 170-feet to 340-feet (38,000 square feet) in length along 1,620 linear feet of shoreline, create six (6) tidal embayment habitat areas (27,200 square feet), emplace 6,748 cubic yards of sloped, clean select sand fill (117,885 square feet) and stabilize with approximately 33,991 square feet *Spartina alterniflora* (Smooth Cordgrass), 77,691 square feet of *S. patens* (Saltmeadow cordgrass) wetland plantings and *Ammophila breviligulata* (American beach grass) at frontal sand dune, all to extend no more than 230 feet channelward of the approximate mean high water (MHW) shoreline.

Reach C. (4.58 acres): To construct one (1) continuous stone sill 28-feet wide at the base along 2,280 linear feet of shoreline (63,840 square feet), emplace 8,818 cubic yards of sloped, clean select sand fill (136,055 square feet) and stabilize with approximately 104,082 square feet *S. alterniflora* wetland plantings, all to extend no more than 185 feet channelward of the approximate MHW shoreline.

Reach D: (2.21 acres): To construct five (5) shore connected stone breakwaters 30-feet wide at the base by 175-feet to 340-feet (40,500 square feet) in length along 1,350 linear feet of shoreline, emplace 3,213 cubic yards of sloped, clean select sand fill (55,891 square feet) and stabilize with approximately 36,051 square feet *S. alterniflora*, wetland plantings, all to extend no more than 120 feet channelward of the approximate MHW shoreline.

Reach E. (1.31 acres): To construct four (4) shore connected stone breakwaters 30-feet wide at the base by 150-feet to 270-feet (24,760 square feet) in length along 890 linear feet of shoreline, emplace 1,949 cubic yards of sloped, clean select sand fill (32,682 square feet) and stabilize with approximately 20,820 square feet *S. alterniflora*, wetland plantings, all to extend no more than 100 feet channelward of the approximate MHW shoreline.

Reach F. (3.67 acres): To construct six (6) shore connected stone breakwaters 30-feet wide at the base varying by 160-feet to 440-feet (53,300 square feet) in length along 1,830 linear feet of shoreline, to construct (2) continuous stone sills, one 30-feet wide at the base along 950 linear feet of shoreline and one 20-feet wide at the base by 160-feet long, to emplace 4,154 cubic yards of sloped, clean select sand fill (106,634 square feet) and stabilize with approximately 69,019 square feet *S. alterniflora* and 9,720 square feet *S. patens* wetland plantings, all to extend no more than 150 feet channelward of the approximate MHW shoreline.

All work will be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact Mr. Jason R. Peters of this office at 410-962-5676 or by email Jason.Peters@usace.army.mil.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonable may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economic, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership and in general, the needs and welfare of the people.

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 provided will become part of the public record for this action. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District within the comment period specified above.

The purpose of this project is to reduce shoreline erosion with the goal of protecting habitat and human interests on the island, while maintaining the ecological integrity of the approximately 4,423 acre refuge. The U.S. Fish and Wildlife Service (USFWS) completed a Draft Environmental Assessment entitled "Fog Point Living Shoreline Project" dated February 19, 2015. The document concluded that in the absence of the project, the shoreline retreat on the order of 10 or more feet per year would occur resulting in the loss of nearly 3.3 acres of prime fish and wildlife habitat annually.

As part of the planning process for the proposed project, steps were taken to ensure avoidance and minimization of impacts to all waters of the United States to the maximum extent practicable. The applicant has stated the project as currently designed seeks to avoid and minimize impacts to regulated resources onsite. The combined restoration project would maintain the natural functions of the aquatic ecosystem; add estuarine wetland and dune habitat; and eliminate the erosion occurring along the shoreline.

The applicant has not proposed compensatory mitigation to offset unavoidable losses to aquatic resources. Approximately 1,450 square feet of temporary marsh impacts are proposed due to construction matting and would be revegetated as necessary.

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH).

The project site lies in or adjacent to EFH as described under Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) for *Urophycis chuss* (red hack) juvenile and adult; *Scopthalmus aquosos* (windowpane flounder) juvenile and adult; *Clupea harengus* (Atlantic sea herring) adult; *Pomatomus saltatrix* (blue fish) juvenile and adult; *Peprilus triacanthus* (Atlantic butterfish) eggs, larvae, juvenile, and adult; *Paralicthys dentatus* (summer flounder) larvae, juvenile and adult; *Stenotomus chrysops* (scup) juvenile and adult; *Centropristus striata* (black sea bass) juvenile and adult; and eggs, larvae, juvenile, and adult stages of *Sciaenops ocellatus* (red drum), *Scomberomorus cavalla* (king mackerel), *Scomberomorus maculatus* (spanish mackerel), and *Rachycentron canadum* (cobia), all managed species under the MSFCMA.

The project has the potential to adversely affect EFH or the species of concern by alteration of spawning, nursery, forage and/or shelter habitat. The project may have an adverse effect on an approximate by emplacing 8,920 linear feet of stone armoring (248,900 square feet), sand nourishment (449,347 square feet) within an approximately 16 acre area of EFH as described under the MSFCMA for the species and life stages identified above. This habitat consists of intertidal and tidal nearshore shallow water habitat which does support SAV. SAV occurrence was documented to have occurred between 2009 to 2013 at the project site, however only in discrete locations at the refuge. No SAV is proposed within the project footprint area.. There is SAV in the vicinity of the proposed project impacts, but not where the headland controls structures and beach nourishment, and wetland creation is proposed. To avoid impacts to dense submerged aquatic vegetation (SAV) between Swan Island and the southern end of Silver Island, no work is proposed. The Baltimore District has made a preliminary determination that site-specific impacts would not be substantial and an abbreviated consultation will be conducted with NMFS. The proposed work will alter the existing bottom substrate, by filling, shading or disturbances from other construction related activities. No mitigative measures are recommended at this time to minimize adverse effects on EFH. This preliminary determination may be modified if additional information indicates otherwise and could change the Corps' preliminary determination.

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Maryland Department of the Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Wetlands and Waterways Program, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230-1708 within the comment period as specified above to receive consideration. The Section 401 certifying agency has a statutory limit of one year from the date of this public notice to make its decision.

Where applicable, the applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the approved Coastal Zone Management (CZM) Program. By this public notice, we are requesting the State concurrence or objection to the applicant's consistency statement. It should be noted that the CZM Program has a statutory limit of 6 months to make its consistency determination.

The applicant must obtain any State or local government permits which may be required.

A preliminary review of this application indicates that the proposed work will not affect Federal listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. The project location and vicinity is not mapped as critical habitat for any known Federally-listed threatened or endangered species; however, the waterway is known to be utilized by transient individuals of the following species: *Caretta caretta* (Loggerhead sea turtles); *Lepidochelys kempii* (Kemp's Ridley sea turtles); *Dermochelys coriacea* (Leatherback sea turtles); *Chelonia mydas* (Green sea turtles); *Acipenser brevirostrum (Shortnose sturgeon)*; and *Acipenser oxyrinchus* (Atlantic sturgeon). Although a few transient threatened and endangered species are known to visit Martin NWR, no impacts are expected under the proposed action. The sea turtle species are found occasionally in the waters surrounding Smith Island. These instances are rare and the sightings are transient individuals, rather than resident populations. None of the sea turtles species listed nest on the refuge. Both Atlantic and shortnose sturgeon have been recorded in the deeper waters adjacent to Martin NWR and are unlikely to be found in the shallow water areas where the proposed project would be constructed. The proposed action would protect valuable nesting and foraging habitat for bald eagles and northern harriers, both state rare species found on the refuge. If the proposed action is not conducted, the island would continue to erode, losing valuable habitat for bald eagles and northern harriers. The Baltimore District will initiate informal consultation under Section 7(a)(2) of the ESA. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

Review of the latest published version of the National Register of Historic Places indicates that there are known registered properties listed as eligible for inclusion, therein, are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the request permit. The Maryland Historic Trust (MHT) records nine (9) known archeological sites along the shoreline between Swan Island and Fishing Point. The sites include seven (7) scatters of historic artifacts dating from the 19th and 20th centuries, and the remains of two late 19th or 20th century wharves. The significance and condition of these sites is currently under investigation and the U.S. Fish and Wildlife Service conducted a Phase 1 Cultural Resource Survey as of December 2014 and a report is to be submitted to the State Historic Preservation Office (SHPO). The Service will work with the Maryland Historic Trust and appropriate Tribes to ensure any significant sites are not impacted. Generally speaking, shoreline protection measures will serve to protect the island's cultural resources, as well as valuable habitats, from loss to erosion.

The evaluation of the impact of this project on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

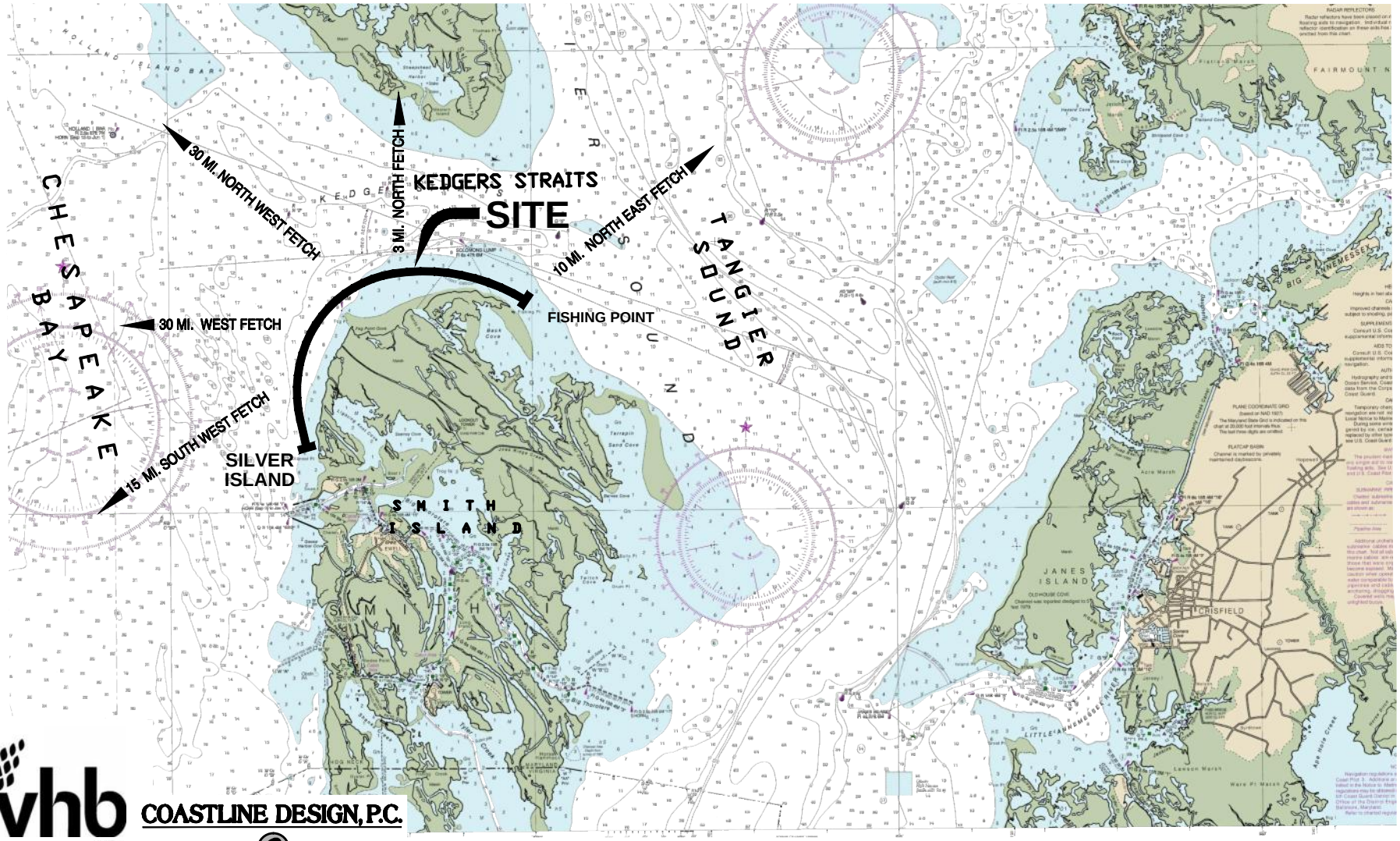
Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, 21203-1715, within the comment period as specified above to receive consideration. Also it must clearly set forth the interest which may be adversely affected by this activity and the manner in which the interest may be adversely affected.

It is requested that you communicate this information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

FOR THE DISTRICT ENGINEER:

Kathy B. Anderson

KATHY B. ANDERSON
Chief, Maryland Section Southern



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COASTAL Design & Construction, Inc.

COASTLINE DESIGN, P.C.

SUSTAINABLE SCIENCE LLC

Perini Management Services

U.S. FISH & WILDLIFE SERVICE

DATUM: MEAN LOW WATER

Hurricane Sandy Resiliency Project No. 31
Fog Point Living Shoreline Restoration

LOCATION MAP

AT: Smith Island - Martin National Wildlife Refuge

IN: Ewell, Maryland Chesapeake Bay

PURPOSE: Living Shoreline Restoration

APPLICATION BY: U.S. FISH & WILDLIFE SERVICE

DATE: DECEMBER, 2014

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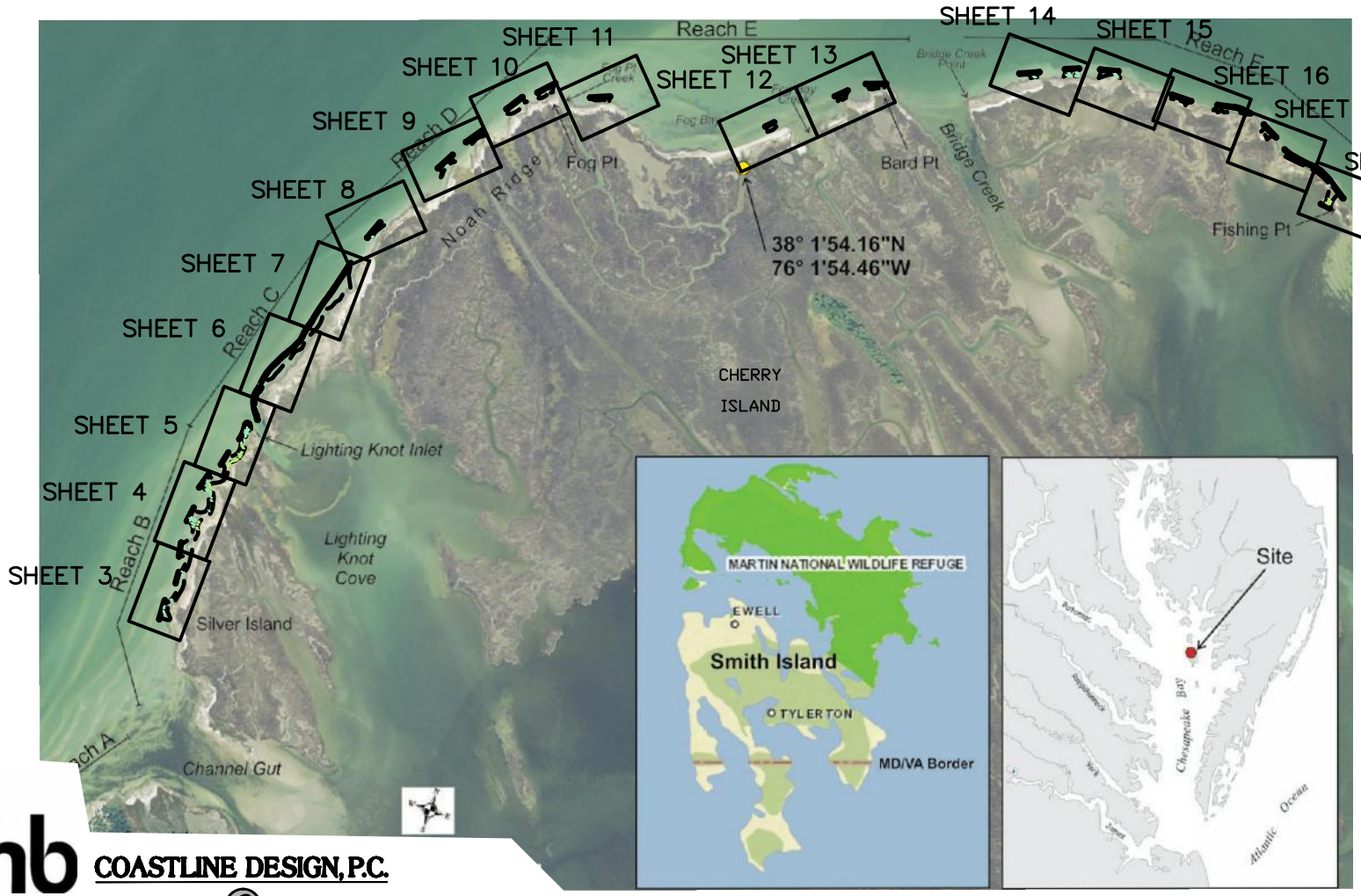

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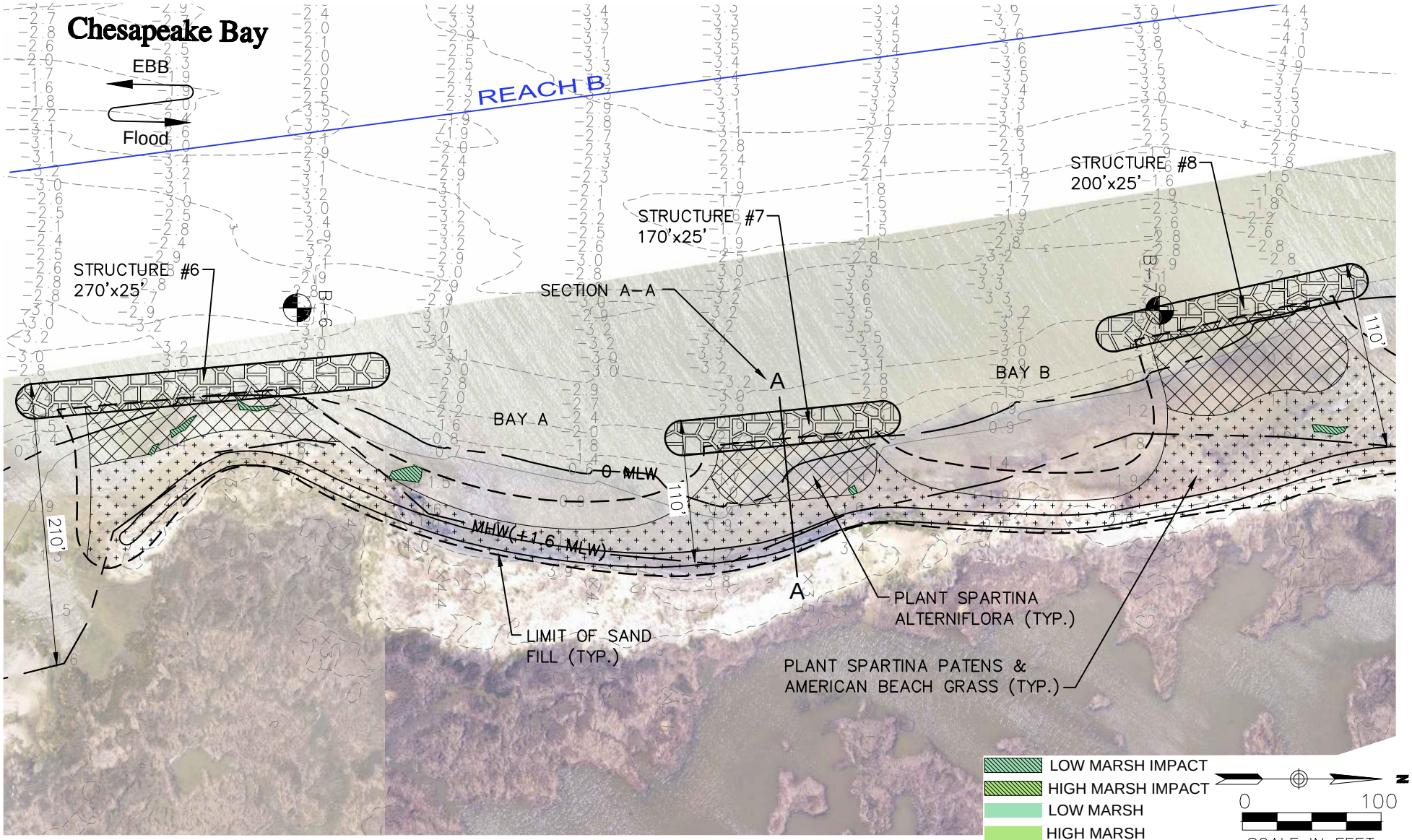

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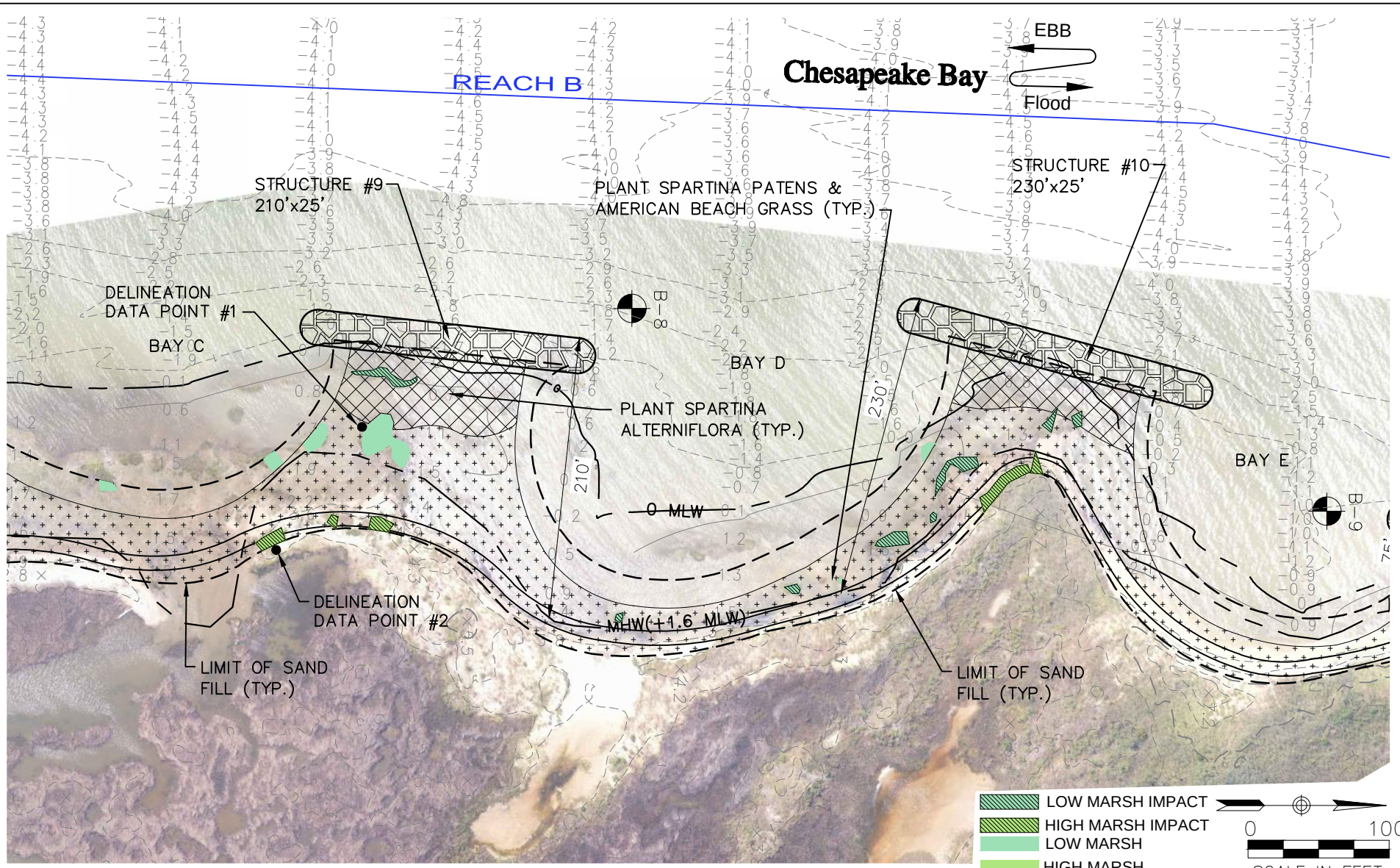

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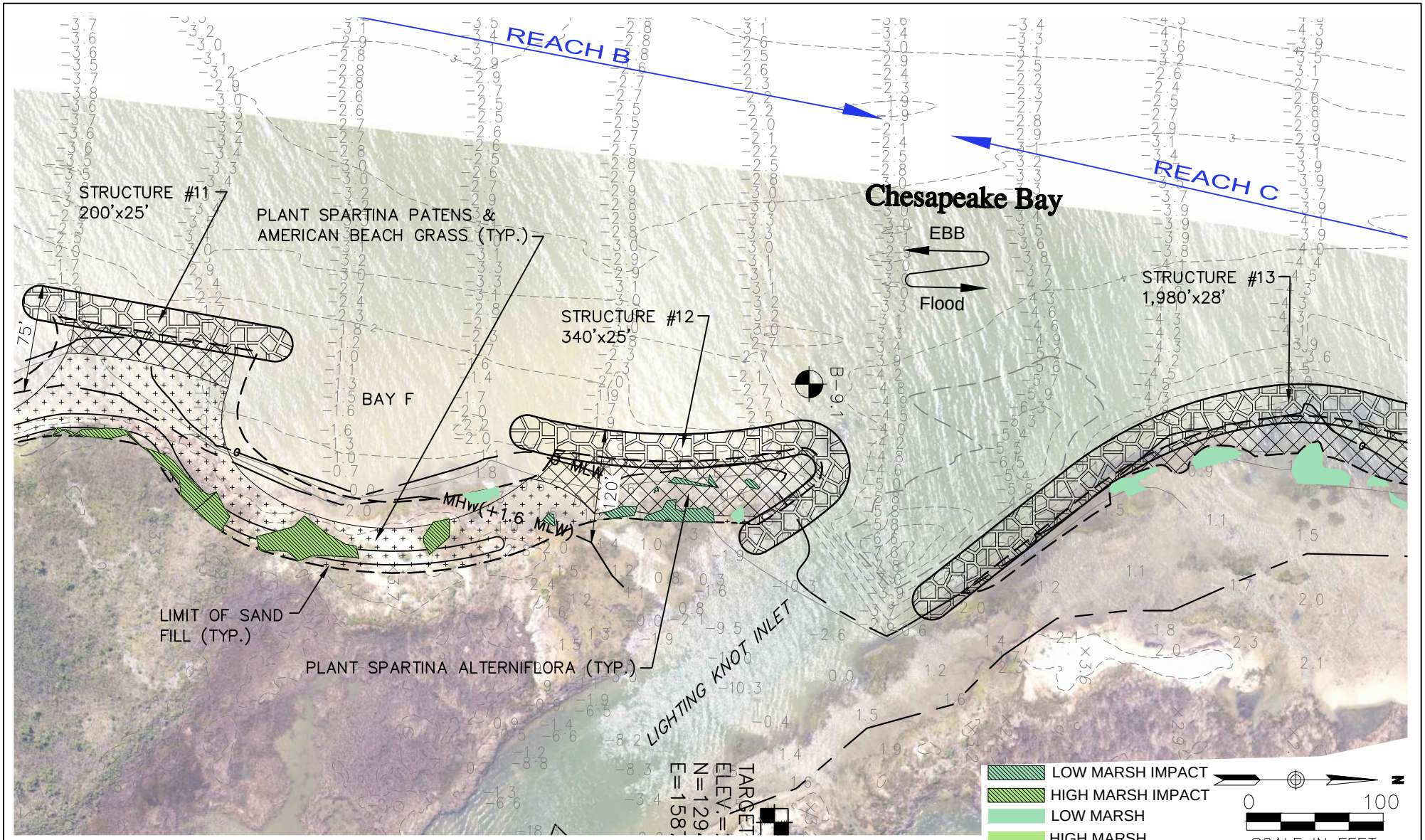

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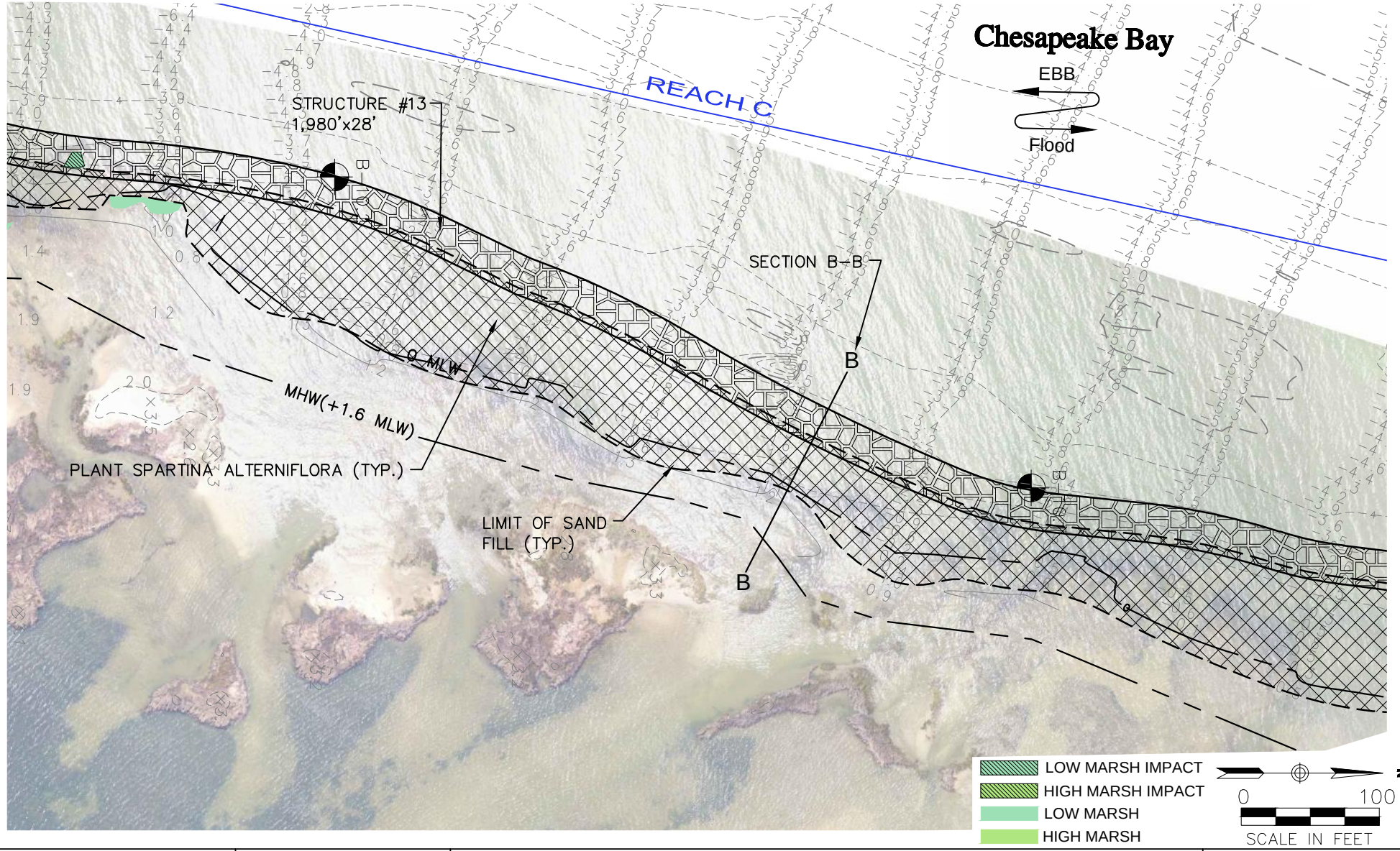

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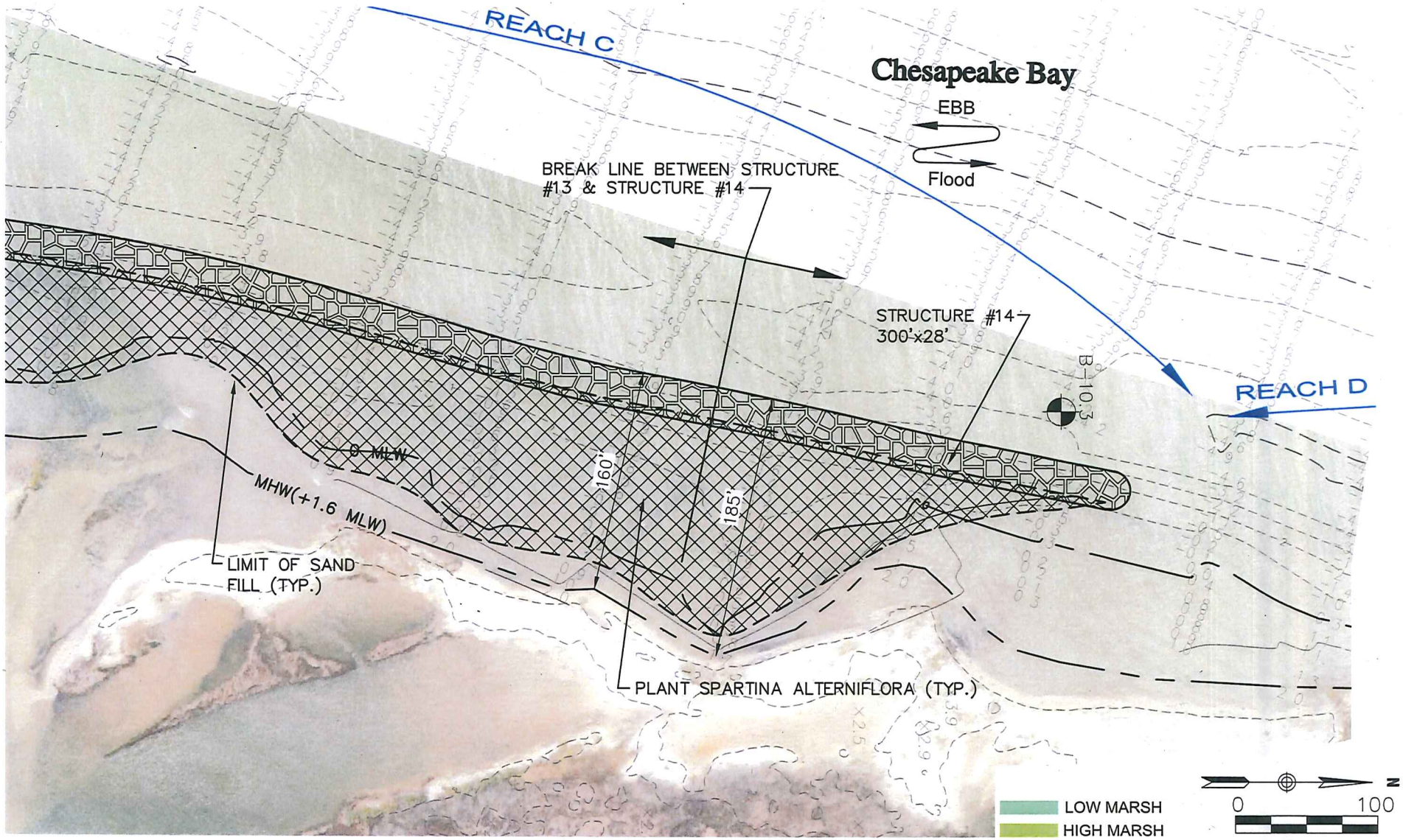

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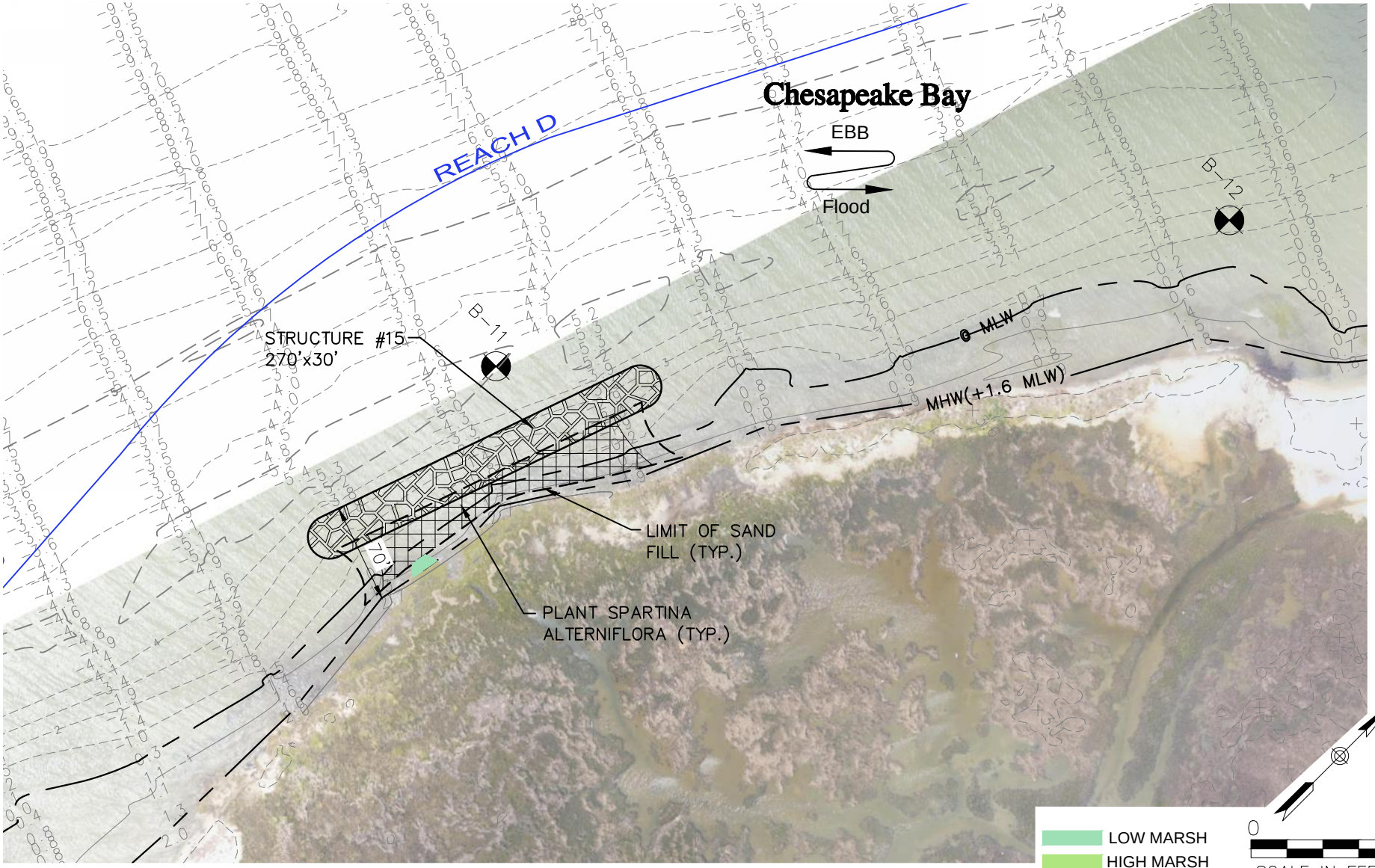

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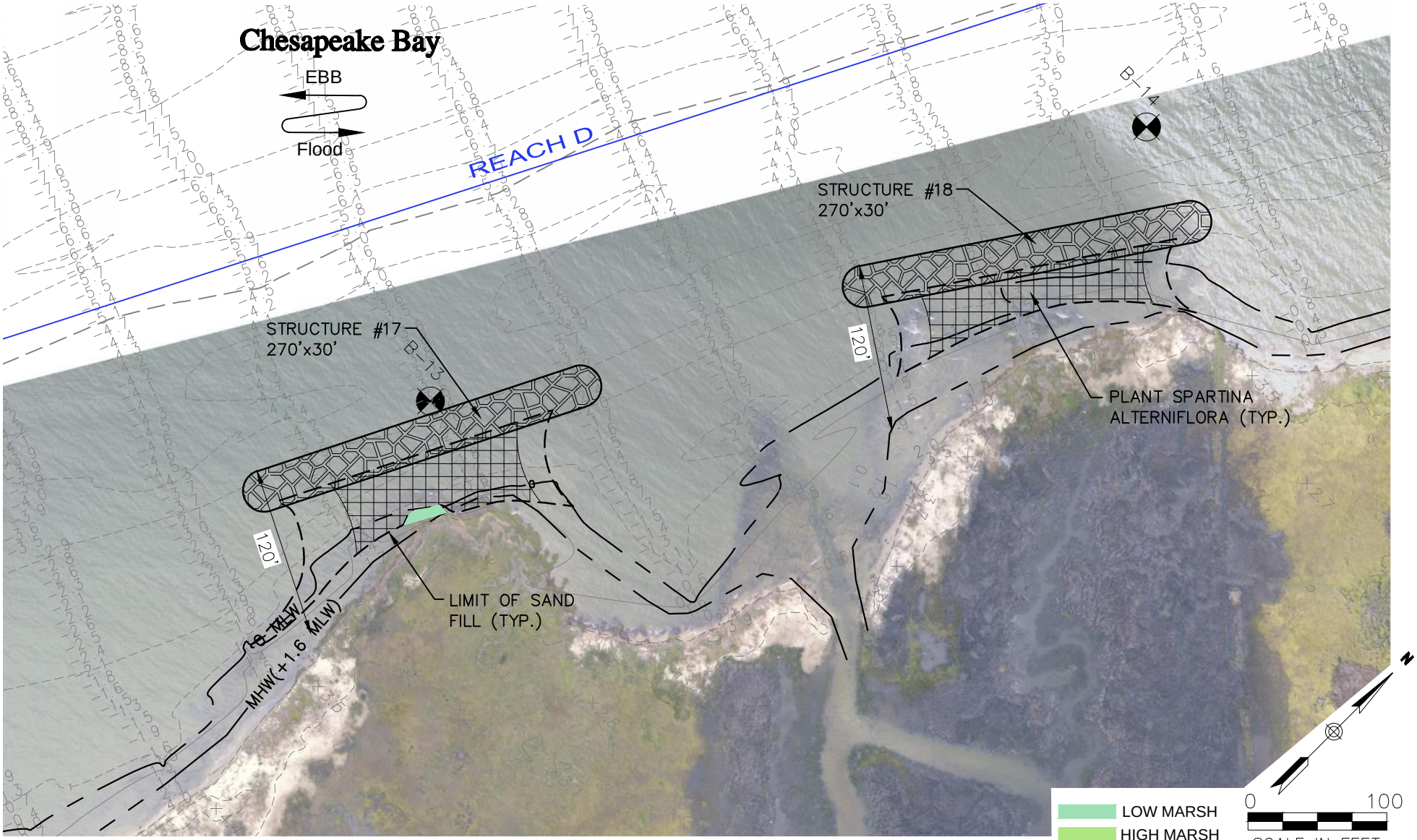

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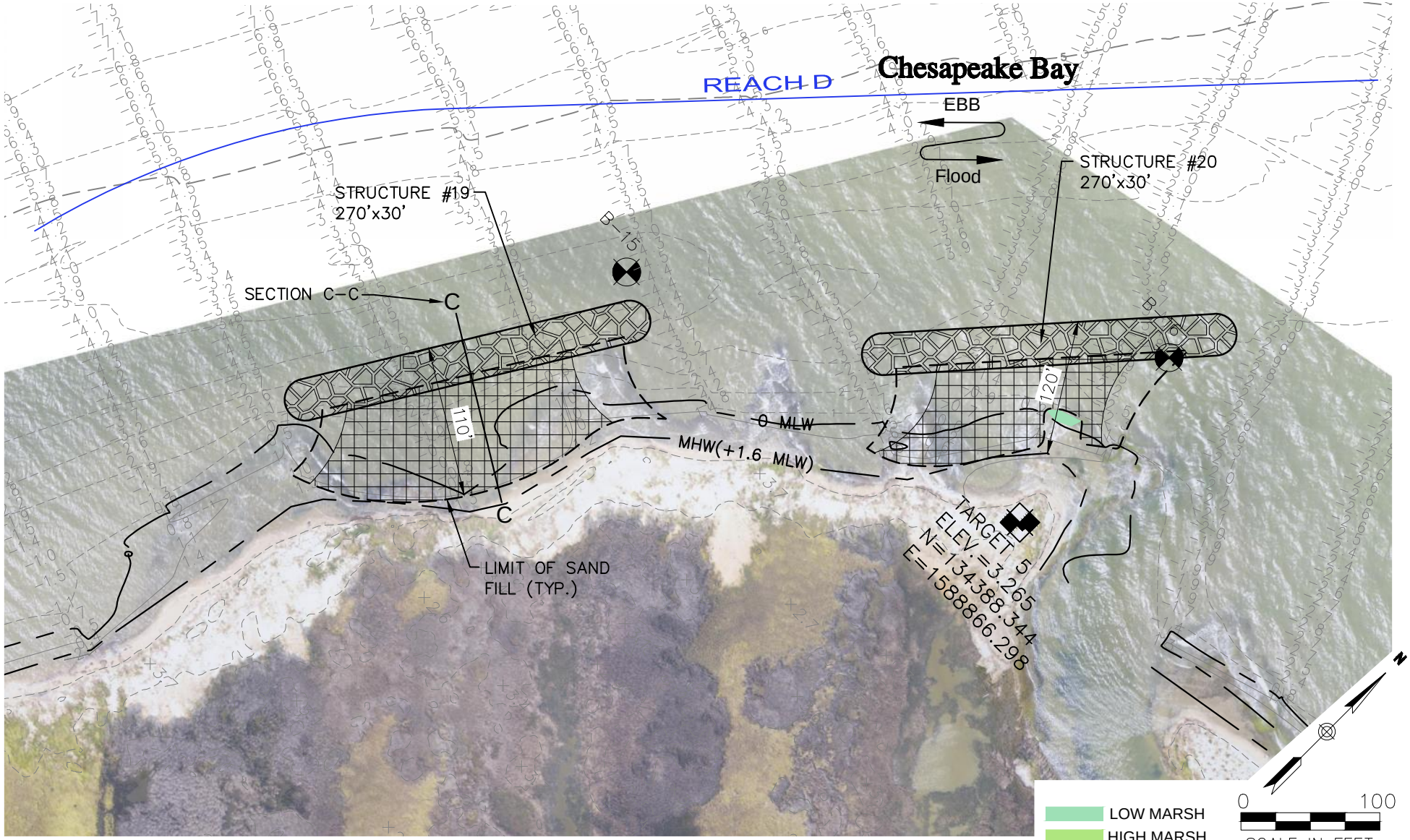

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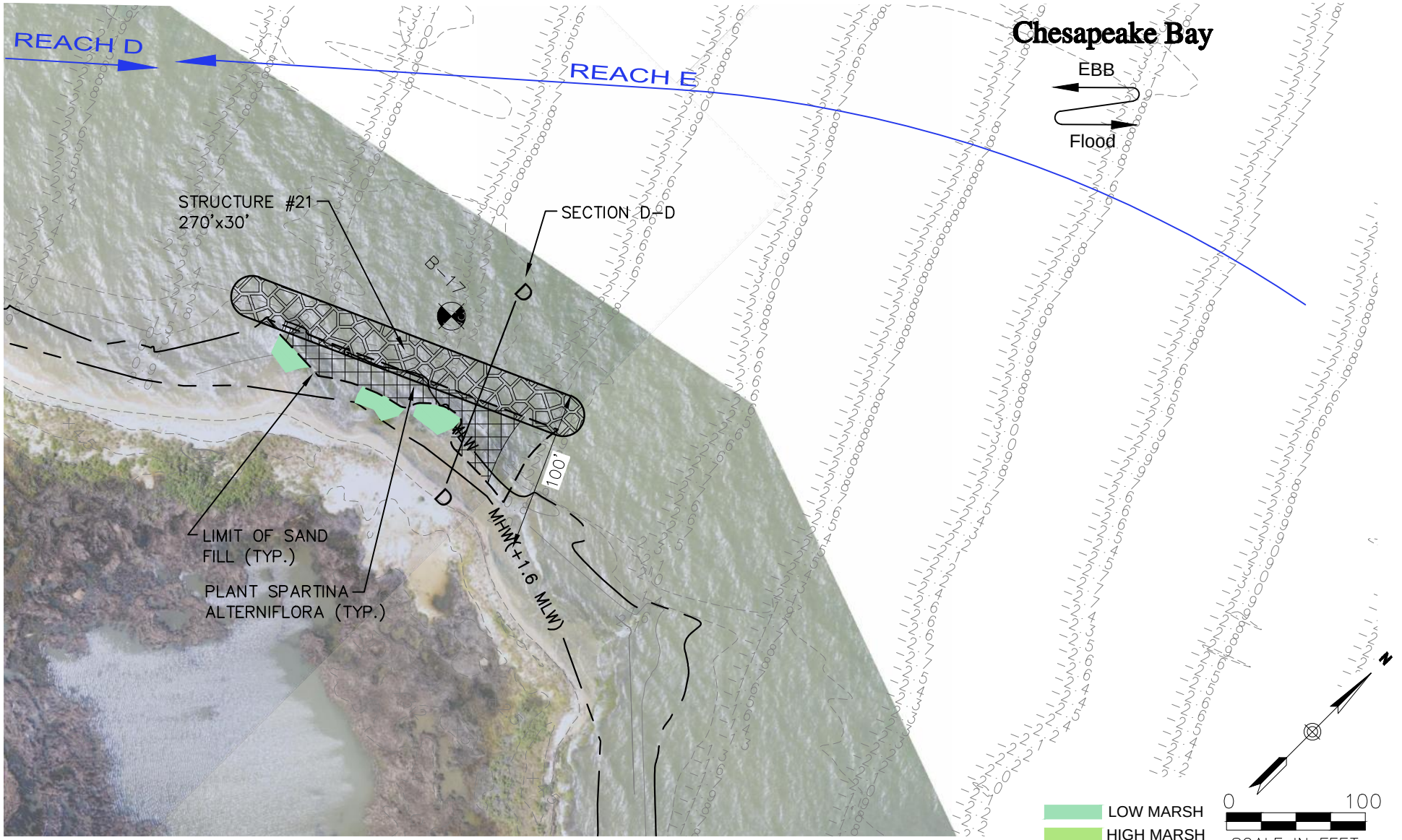

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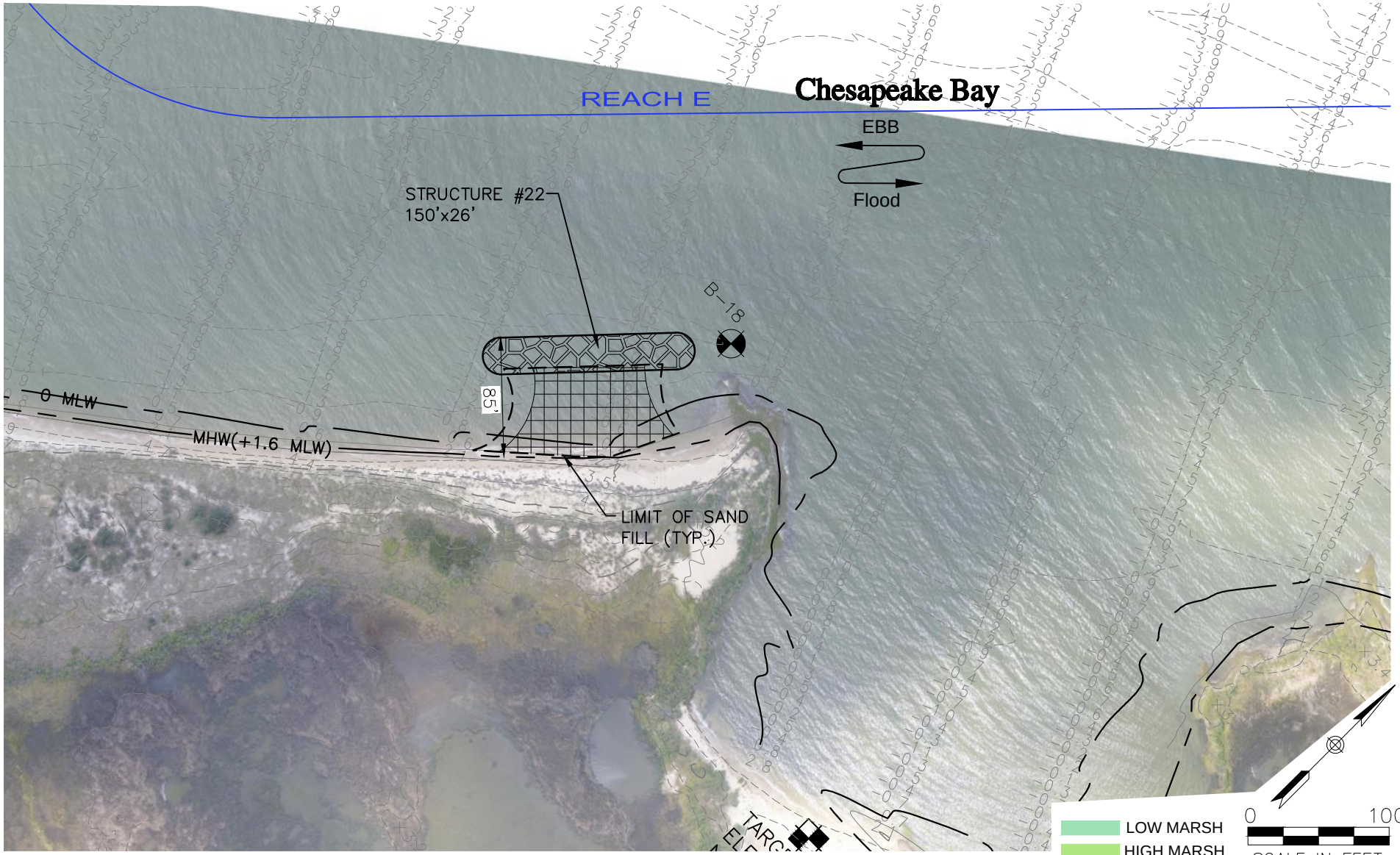

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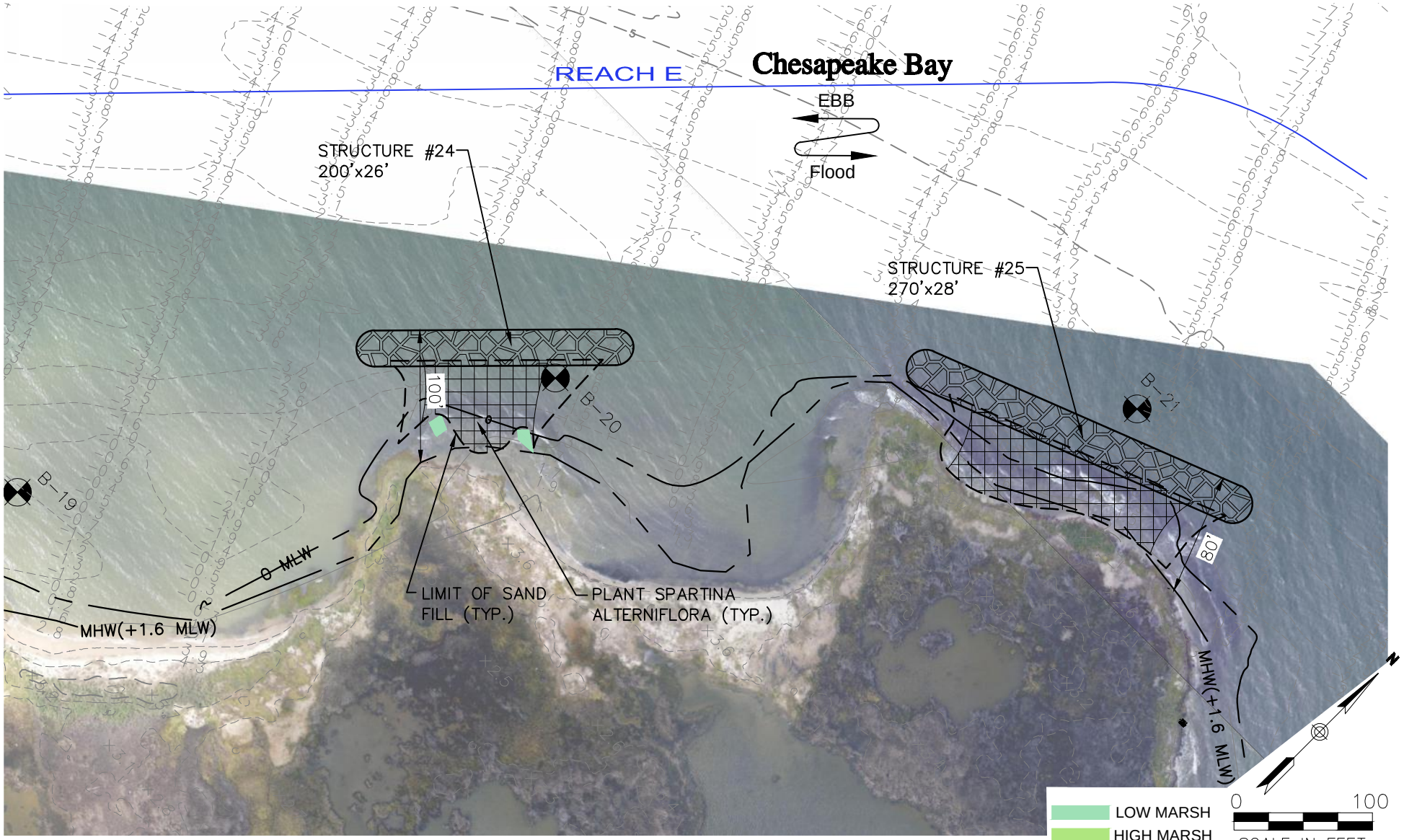

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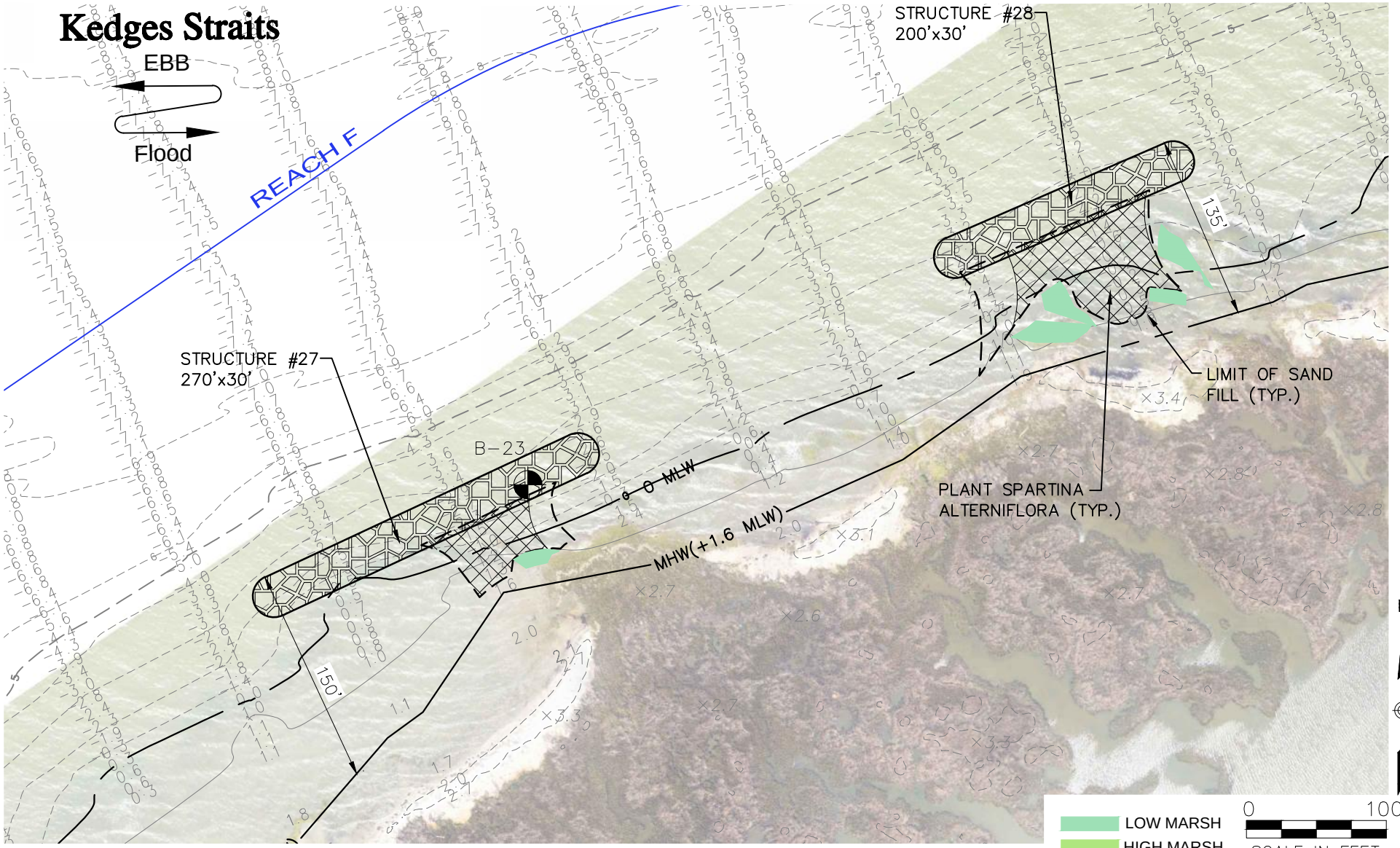

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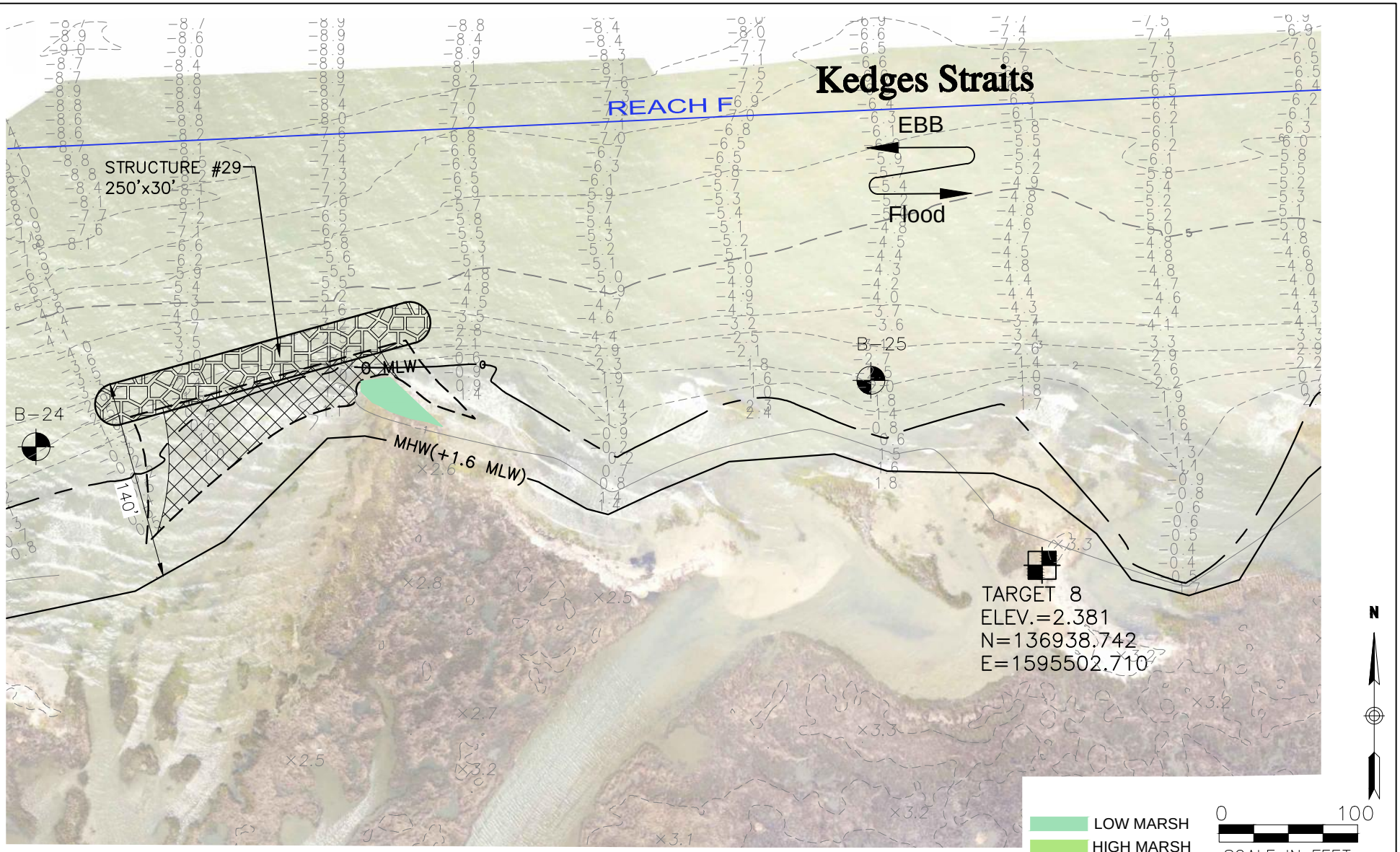

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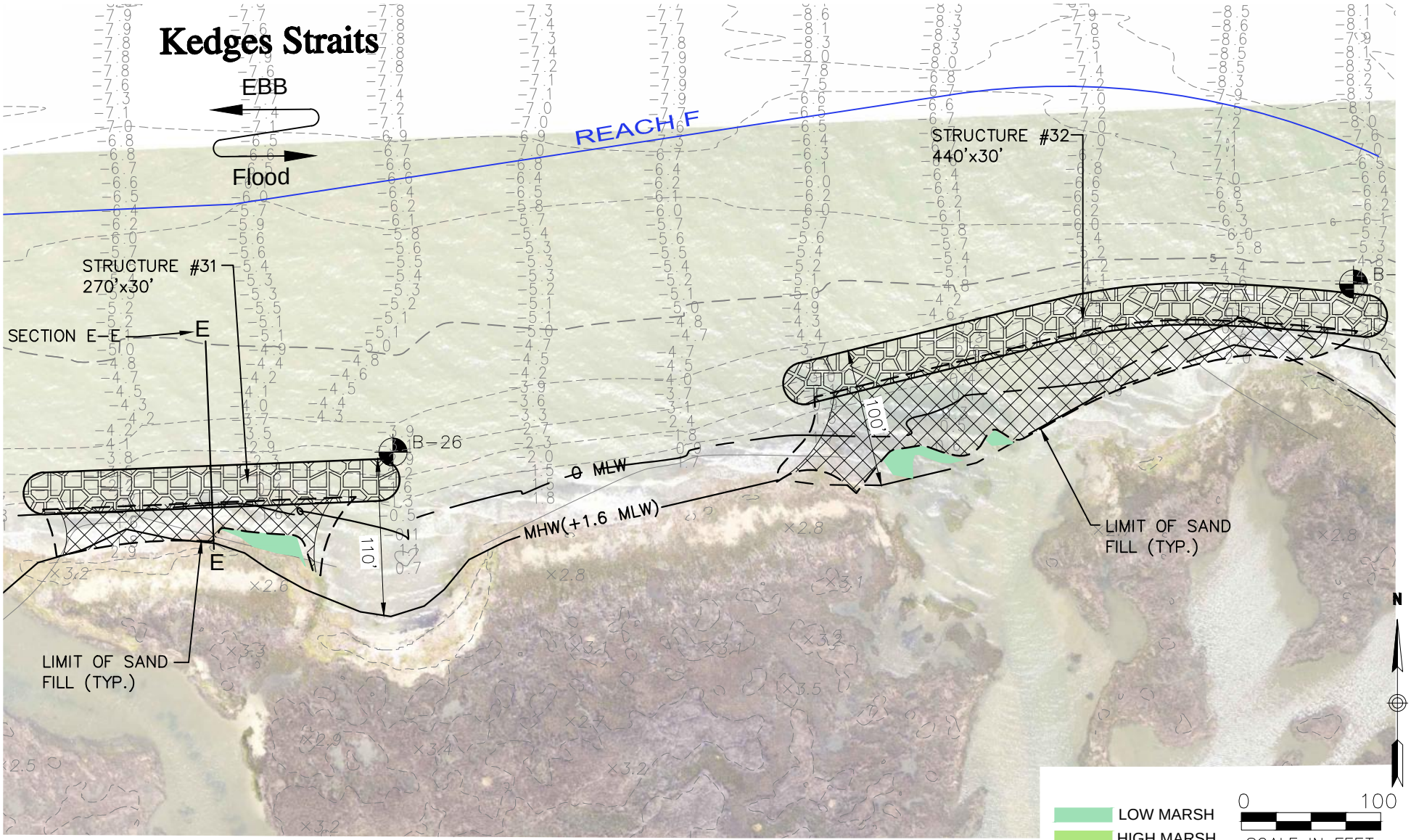

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PURPOSE: Living Shoreline Restoration

APPLICATION BY: U.S. FISH & WILDLIFE SERVICE

DATE: DECEMBER, 2014

SHEET 16 OF 21

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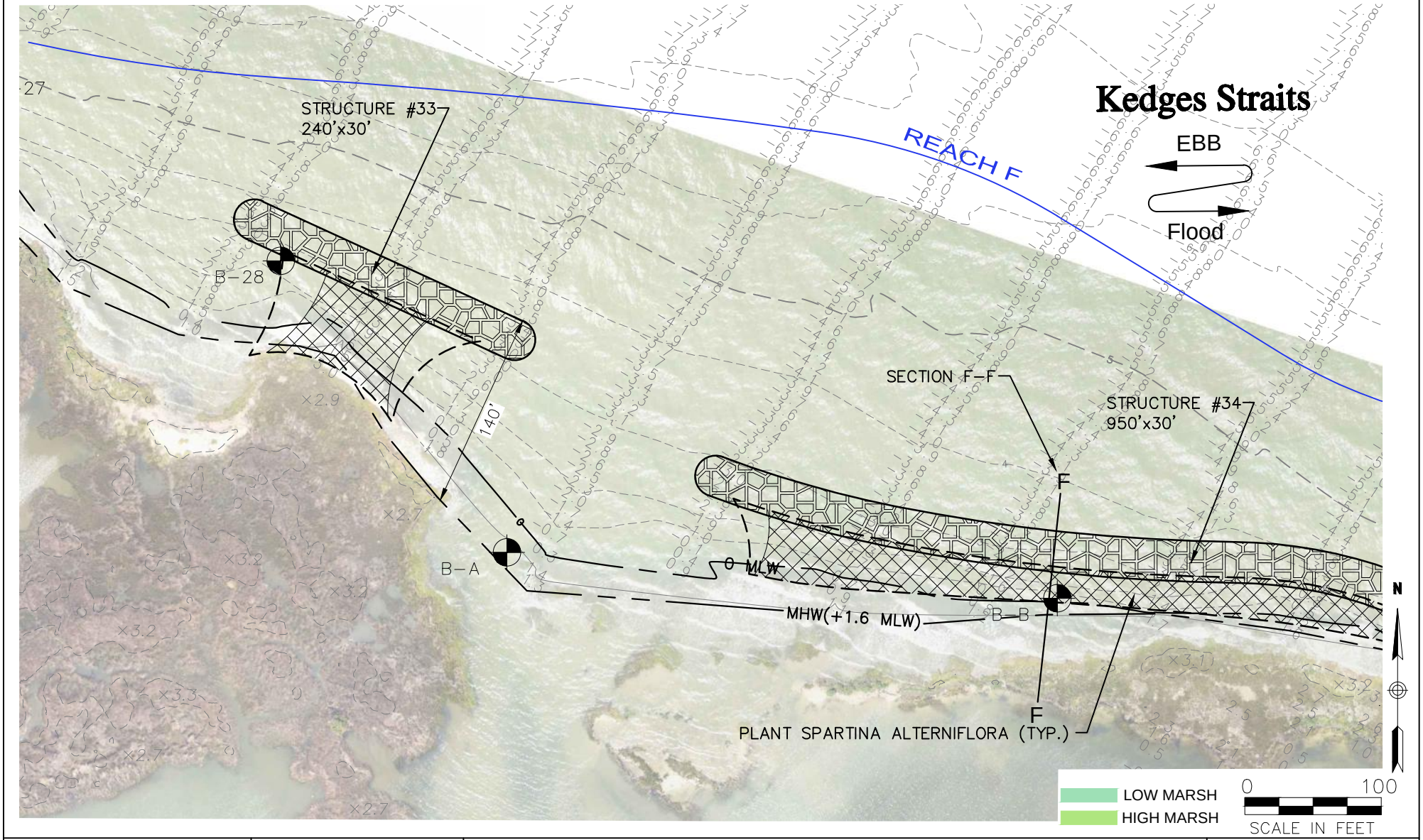

Perini Management Services

U.S. FISH & WILDLIFE SERVICE

DATUM: MEAN LOW WATER

Hurricane Sandy Resiliency Project No. 31
Fog Point Living Shoreline Restoration

PROPOSED LAYOUT

AT: Smith Island - Martin National Wildlife Refuge

IN: Ewell, Maryland Chesapeake Bay

PURPOSE: Living Shoreline Restoration

APPLICATION BY: U.S. FISH & WILDLIFE SERVICE

DATE: DECEMBER, 2014

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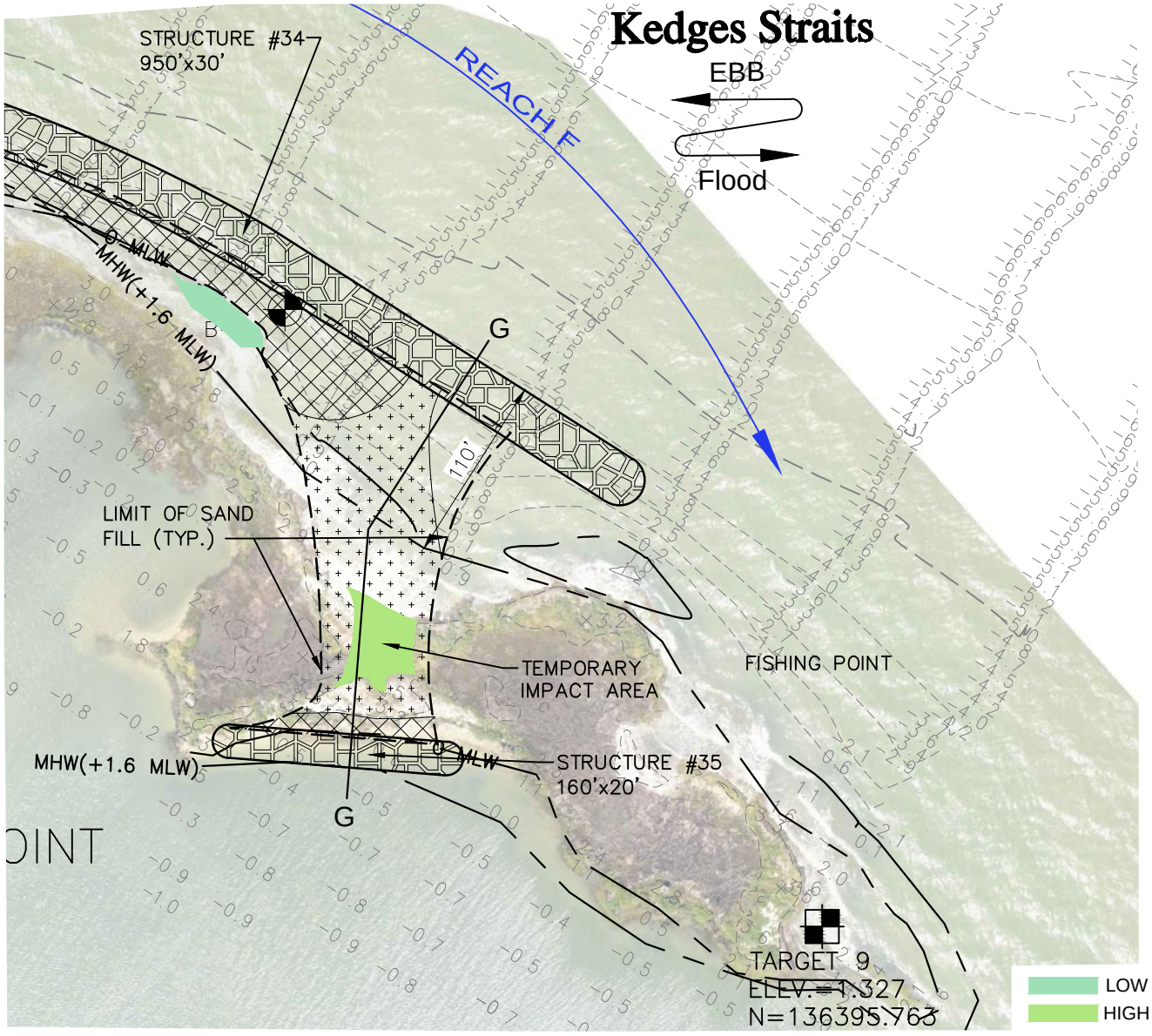

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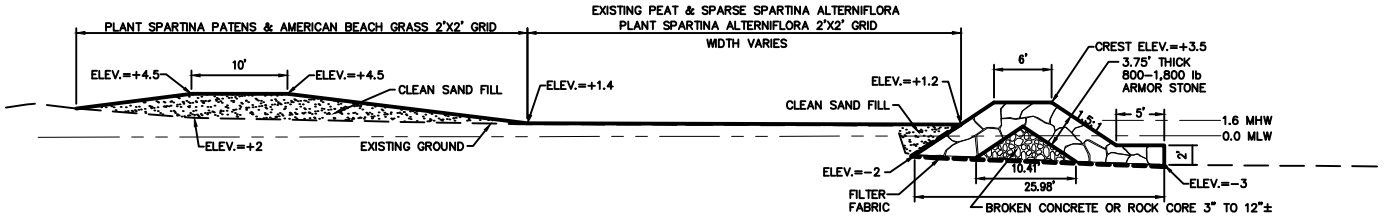
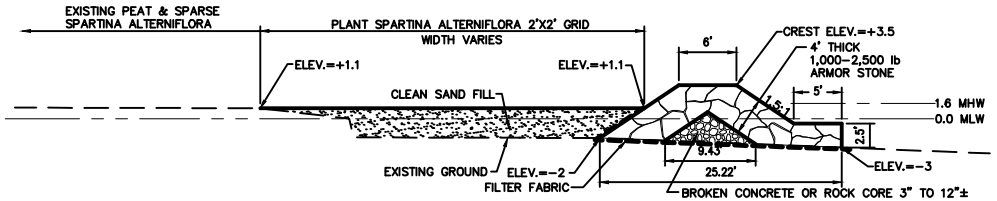
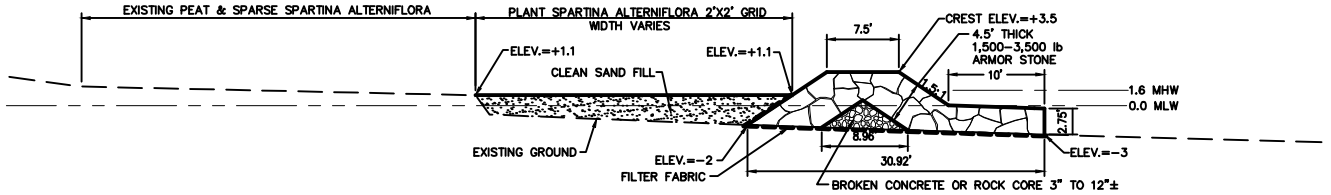


CROSS SECTION A-A (TYPICAL FOR BREAKWATERS #6 THROUGH #12)



CROSS SECTION B-B (TYPICAL FOR BREAKWATERS #13 & #14)



CROSS SECTION C-C (TYPICAL FOR BREAKWATERS #15,#17,#18,#19,#20)

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SCALE IN FEET

Perini Management Services

U.S. FISH & WILDLIFE SERVICE

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TYPICAL SECTIONS

AT: Smith Island - Martin National Wildlife Refuge

IN: Ewell, Maryland Chesapeake Bay

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DATE: DECEMBER, 2014

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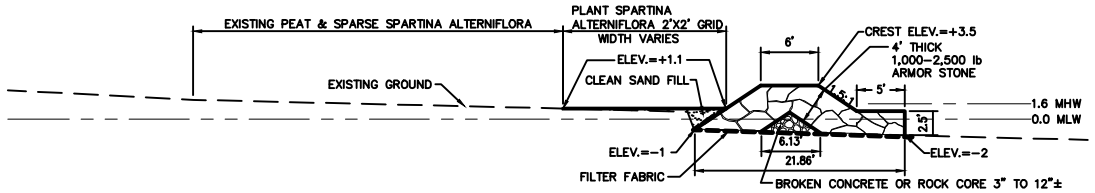
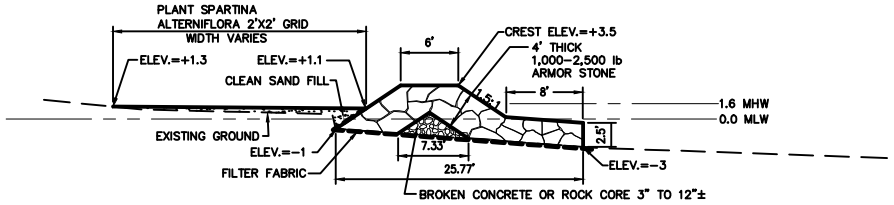
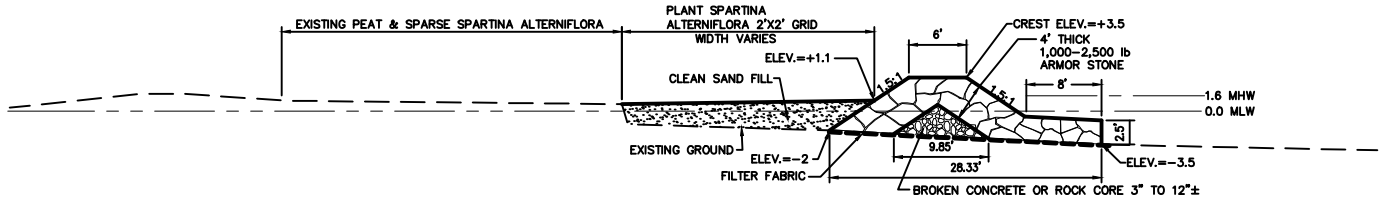


CROSS SECTION D-D (TYPICAL FOR BREAKWATERS #21,#22,#24,#25)



CROSS SECTION E-E (TYPICAL FOR BREAKWATERS #27,#28,#29,#31,#32#33)



CROSS SECTION F-F (TYPICAL FOR BREAKWATER #34)

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SCALE IN FEET

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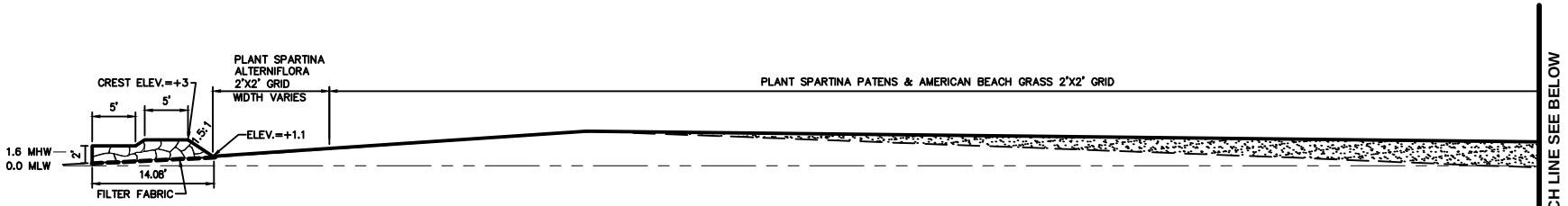

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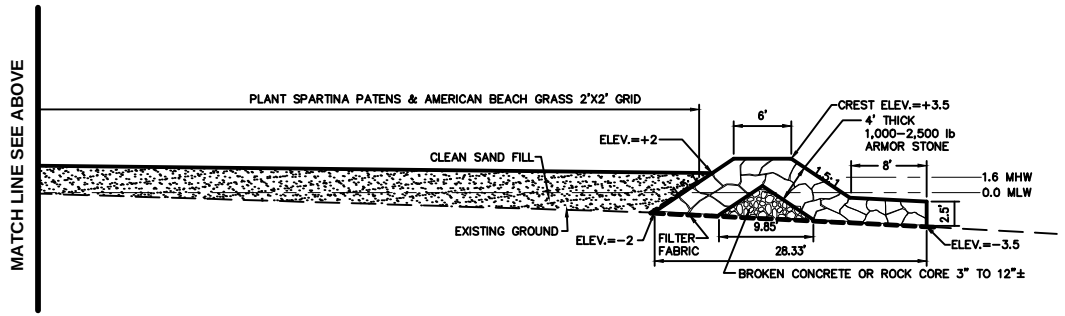

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SCALE IN FEET

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TYPICAL SECTION G-G

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Project Summary Impact/Habitat Creation Table

Structure# or Bay	Bay Width (ft)	Impacts below MHW							Potential Impacts Vegetated Wetland		Habitat Created				Sand Area > MHW (sq.ft)
		Rock				Sand					VegWetland	Sand Berm			
		StructLength (ft)	Area (sq.ft)	Volume (cy)	Encroach* (ft)	Area (sq.ft)	Volume (cy)	Encroach* (ft)	Ex. LowMarsh (sq.ft)	Ex. HighMarsh (sq.ft)	LowMarsh (sq.ft)	Area (sq.ft)	Volume (cy)	HighMarsh (sq.ft)	
6		270	6,750	1,026	210	10,300	381	115	181		4,111	9,150	678	7,778	5,963
Bay A	205					5,700	844	50	196			9,500	1,407	4,845	3,800
7		170	4,250	646	110	9,260	343	90	35		3,785	7,150	265	6,078	3,088
Bay B	150					1,800	67	35	0			7,500	278	4,675	5,700
8		200	5,000	760	110	13,400	496	110	115		7,304	11,000	815	9,350	8,924
Bay C	230					9,750	361	80	0	167		12,000	444	5,950	2,250
9		210	5,250	798	210	17,725	656	180	350	179	6,132	12,000	444	6,460	5,505
Bay D	210					8,150	302	70	257			9,000	333	4,590	850
10		230	5,750	874	230	24,100	893	205	331	385	4,578	15,787	585	9,435	8,749
Bay E	150					1,500	111	15	0			7,500	278	3,825	6,000
11		200	5,000	760	75	7,900	293	75	0	1,100	2,214	10,200	378	8,670	6,538
Bay F	170					300	10	5	0	1,534		8,000	296	4,080	8,000
12		340	6,000	1,292	120	8,000	296	100	852		5,867	2,800	104	1,955	1,000
13		1,980	55,440	7,722	160	116,855	7,574	140	200		89,394				
14		300	8,400	1,170	185	19,200	1,244	160	0		14,688				
15		270	8,100	1,215	70	7,044	391	40	0		4,602				
17		270	8,100	1,215	120	10,787	799	90	0		6,190				
18		270	8,100	1,215	120	7,887	438	85	0		4,826				
19		270	8,100	1,215	110	17,557	650	85	0		11,997				
20		270	8,100	1,215	120	12,616	935	80	0		8,436				
21		270	8,100	810	100	7,209	534	75	0		4,598				
22		150	3,900	450	85	6,933	385	65	0		4,292				
24		200	5,200	600	100	9,247	514	75	0		5,691				
25		270	7,560	810	80	9,293	516	55	0		6,239				
27		270	8,100	1,026	150	3,918	218	70	0		2,756				
28		200	6,000	760	135	11,138	619	105	0		8,521				
29		250	7,500	950	140	12,072	224	115	0		7,671				
31		270	8,100	1,026	110	6,605	122	80	0		4,406				
32		440	13,200	1,672	100	20,450	757	70	0		14,971				
33		240	7,200	912	140	7,236	536	100	0		5,103				
34		950	28,500	3,800	110	44,067	1,632	85	0		24,560				
35		160	3,200	80	20	1,348	50	5	0	**	1,031			9,720	
Total		8,920	248,900	34,019		449,347	23,193		2,517	3,365	263,961	121,587	6,305	87,410	66,367

* Maximum Encroachment

** Temporary Impacts (1,450) to be matted and re-planted if necessary