



PUBLIC NOTICE

US Army
Corps
of Engineers
Baltimore
District

In Reply to Application Number
CENAB-OP-R(BRITTINGHAM
TRUSTEES/BRITTINGHAM
CANAL/DREDGING)03-63283-1

Comment Period: May 29, 2003 to June 13, 2003

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 River and Harbor Act, as described below:

APPLICANT: *Brittingham Trustees*
c/o Bud Gorman
309 Carolyn Street
Georgetown, Delaware 19947

LOCATION: *In canal adjacent to Sinepuxent Bay, at West Ocean City, Worcester County, Maryland.*

WORK: *The applicant proposes to maintenance dredge by mechanical methods two areas within an existing man-made canal; 65 ft by 1,625 ft to a depth of -6 ft below mean low water and 30 ft by 490 ft to a depth of -4 ft below mean low water, and deposit the resulting 5000 cubic yards of material on an upland (non-wetland) disposal site located in West Ocean City, Maryland. The purpose of the work is to maintain navigable access. The applicant also requests authority to perform further periodic maintenance dredging. All work is to be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact Mr. Woody Francis, at (410) 962-5689.*

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

The project site lies in or adjacent to EFH as described under MSPCMA for *Pleuronectes americanus* (winter flounder) eggs, larvae, juvenile, and adult; *Scopthalmus aquosus* (windowpane flounder) juvenile and adult; *Pomatomus saltatrix* (blue fish) juvenile and adult; *Stenotomus chrysops* (scup) juvenile and adult; *Centropristus striata* (black sea bass) juvenile and adult; *Paralichthys dentatus* (summer flounder) juvenile and adult; *Urophycis chuss* (red hake) eggs, larvae, juvenile; *Clupea harengus* (Atlantic sea herring) juvenile and adult; *Merluccius bilinearis* (whiting) eggs, larvae, and juvenile; *Squalus acanthias* (spiny dogfish) juvenile and adult; *Odontaspis taurus* (sand tiger shark) larvae and adult; *Squatina dumerili* (Atlantic angel shark) larvae, juvenile, and adult; *Charcharinus obscurus* (dusky shark) larvae; *Charcharinus plumbeus* (sandbar shark) larvae, juvenile, and adult; *Sphyrna lewini* (scalloped hammerhead shark) juvenile; *Galeocerdo cuvieri* (tiger shark) larvae; and eggs, larvae, juvenile, and adult stages of *Sciaenops ocellatus* (red drum), *comberomorus cavalla* (king mackerel), *Scomberomorus maculatus* (spanish mackerel), and *Rachycentron canadum* (cobia), all managed species under the MSPCMA.

The project has the potential to adversely effect EFH or the species of concern by loss of spawning, nursery, forage and/or shelter habitat. The project will have an adverse effect on approximately 1.59 acres of Essential Fish Habitat as described under the Magnuson-Stevens Fishery Conservation and Management Act for the species and life stages identified above. This habitat consists of a sandy and silty sub-tidal substrate which could support SAV (eelgrass-*Zostera* and/or widgeon grass -*Ruppia*). The proposed dredging will alter the existing substrate and could include some loss of SAV. However, the proposed dredge depth will only be -4 feet MLW, a depth where SAV could persist in the vicinity of the project site. Therefore, there will be an alteration of substrate and possible associated SAV loss but the proposed dredge depths will not necessarily preclude re-colonization by SAV and the proposed depth/substrate is expected to support the same benthos and fishery that existed prior to the proposed dredging. However, the District Engineer has made a preliminary determination that site-specific impacts may be substantial given the size of the area to be dredged and the potential presence of SAV. Accordingly, the Corps of Engineers will submit an expanded EFH assessment, if necessary, to National Marine Fisheries Service, who in turn will provide conservation

recommendations to the Corps. The Corps will coordinate with the applicant regarding implementation of these recommendations. EFH consultation will be concluded prior to the final decision. This determination may be modified if additional information indicates otherwise and would change the preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the probable impact 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 reasonably 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, economics, 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, 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 are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the Maryland Coastal Zone Program. This certification statement is available for inspection in the District Office; however, public comments relating to consistency must be received by the Coastal Zone Division, 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. It should be noted that CZ Division has a statutory limit of 6 months in which to make its consistency determination.

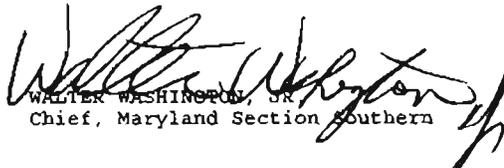
The applicant must obtain any State or local government permits which may be required.

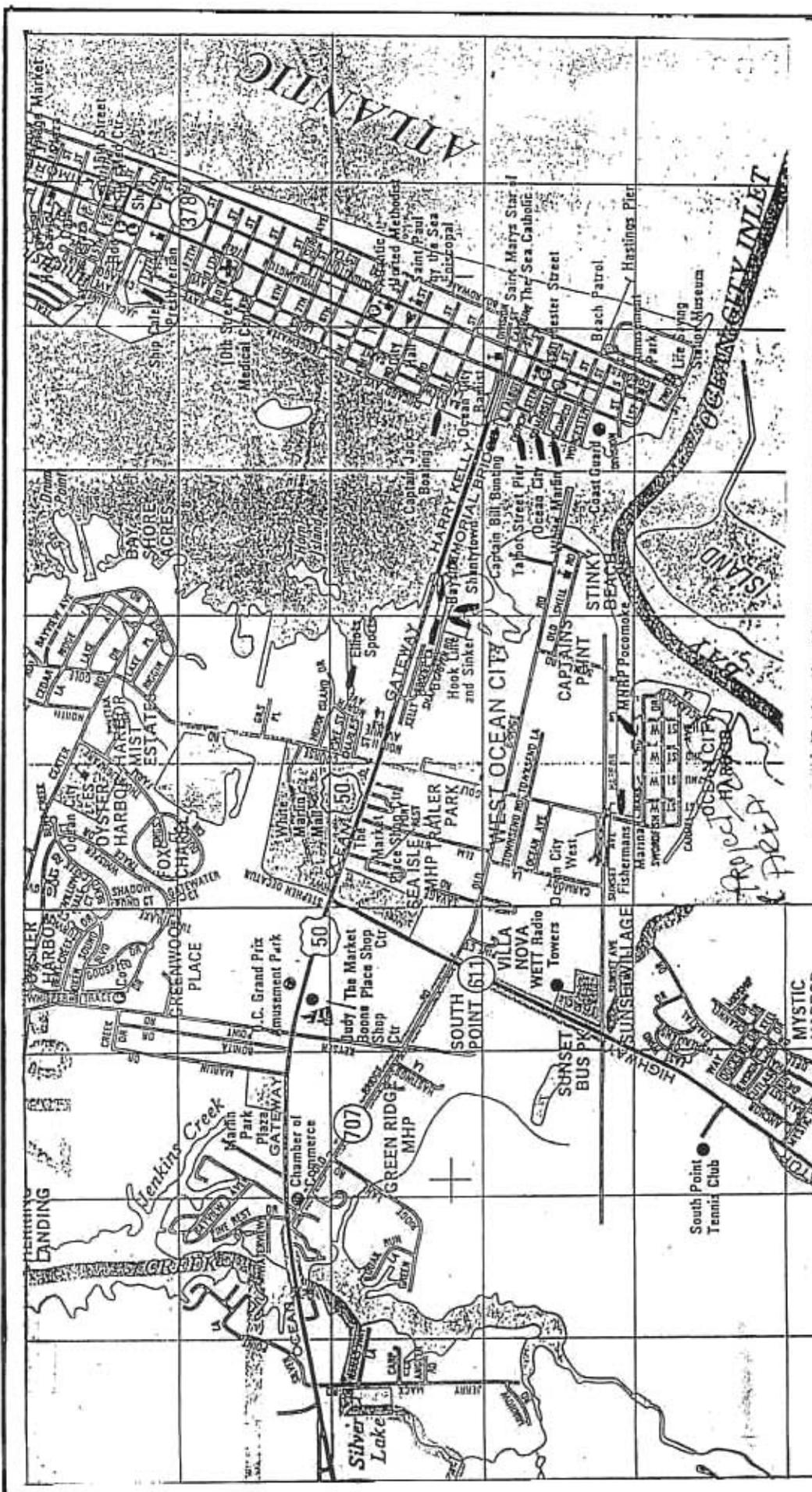
A preliminary review of this application indicates that the proposed work will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

Review of the latest published version of the National Register of Historic Places indicates that no 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 requested permit.

It is requested that you communicate the foregoing 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:


WALTER WASHINGTON, JR.
Chief, Maryland Section Southern



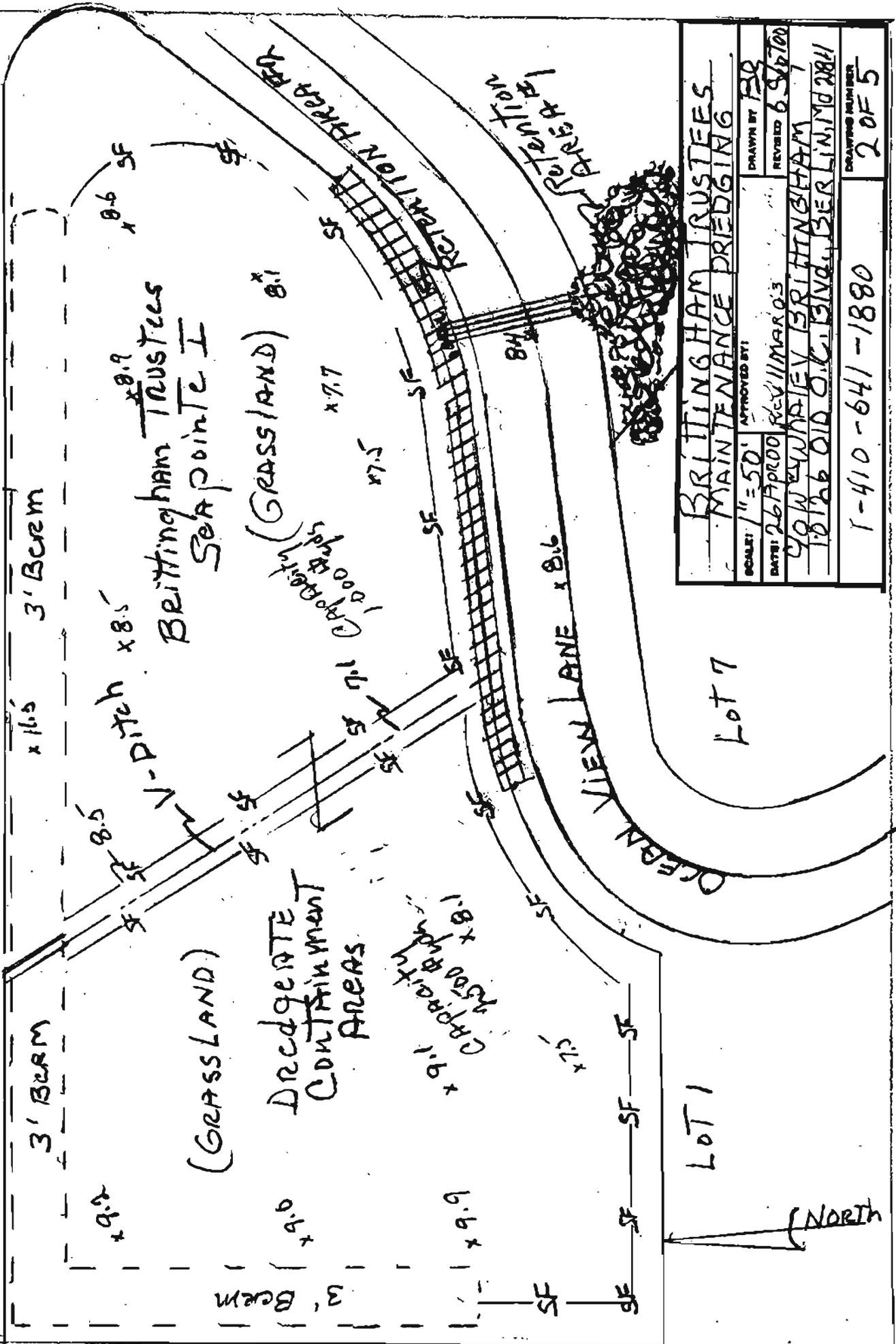
<p>BRITTINGHAM TRUSTEES MAINTENANCE DREDGING</p>		DRAWN BY	RD
		REVISED	REV. 11/11/03
SCALE:	APPROVED BY:		
DATE:	For return only		
<p>26 APR 00</p>		<p>John Whaley Brittingham - Trustee</p>	
<p>10126 Old J.C. Blvd. Berlin, Md 21811</p>		<p>DRAWING NUMBER</p>	
<p>10126-641-1830</p>		<p>10126</p>	

LOCATION MAP
 WORCESTER CITY, MD. 10th Rep. Dist.



MARSH HARBOR CONDOMINIUM

CARMEL AVENUE



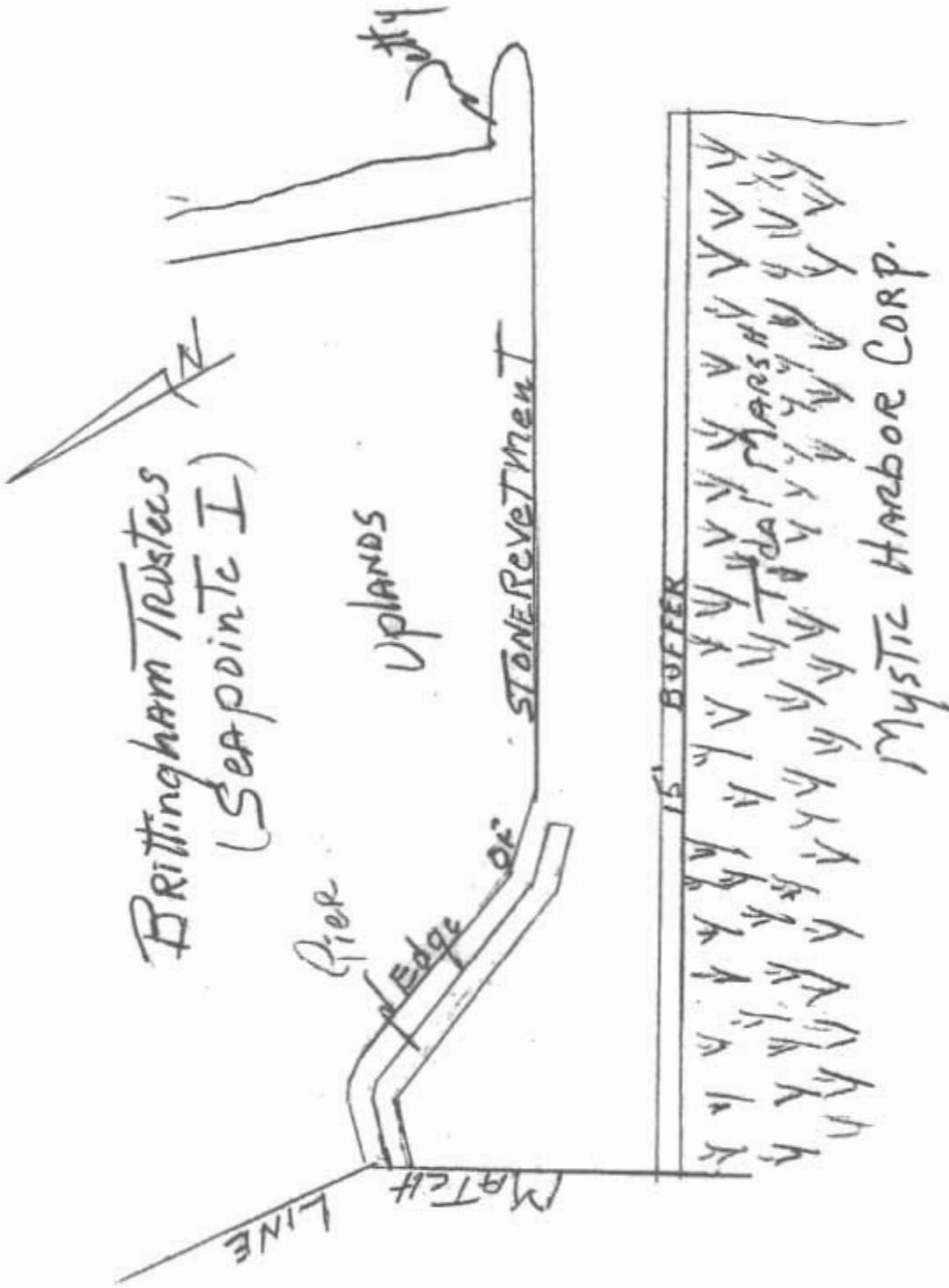
BRITTINGHAM TRUSTEES MAINTENANCE DREDGING		DRAWN BY FSD
SCALE: 1" = 50'	APPROVED BY:	REVISED 6.5.70
DATE: 26 APR 00	REV: 11 MAR 03	
YOUNG & RUBICAM BRITTINGHAM		
10126 OLD O.C. BLVD., BERLIN, MD 20841		
1-410-641-1880		DRAWING NUMBER 2 OF 5

Lot 7

Lot 1

North

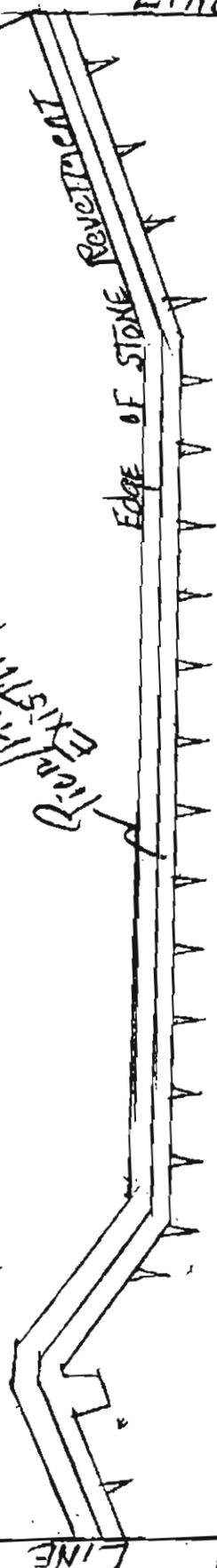
Syneuxent Bay



BRITTINGHAM TRUSTEES	
MAINTENANCE DREDGING	
SCALE 1" = 80'	APPROVED BY: [Signature]
DATE: 11/11/80	NO. 11/11/80
JO W. WHALEY BRITTINGHAM	
10126 Old O.C. Blvd., BOSTON, MA 02181	
PHONE: 1-410-641-1880	
PAGE 3 OF 5	

BRITTINGHAM TRUSTEES
(MARSH HARBOR)

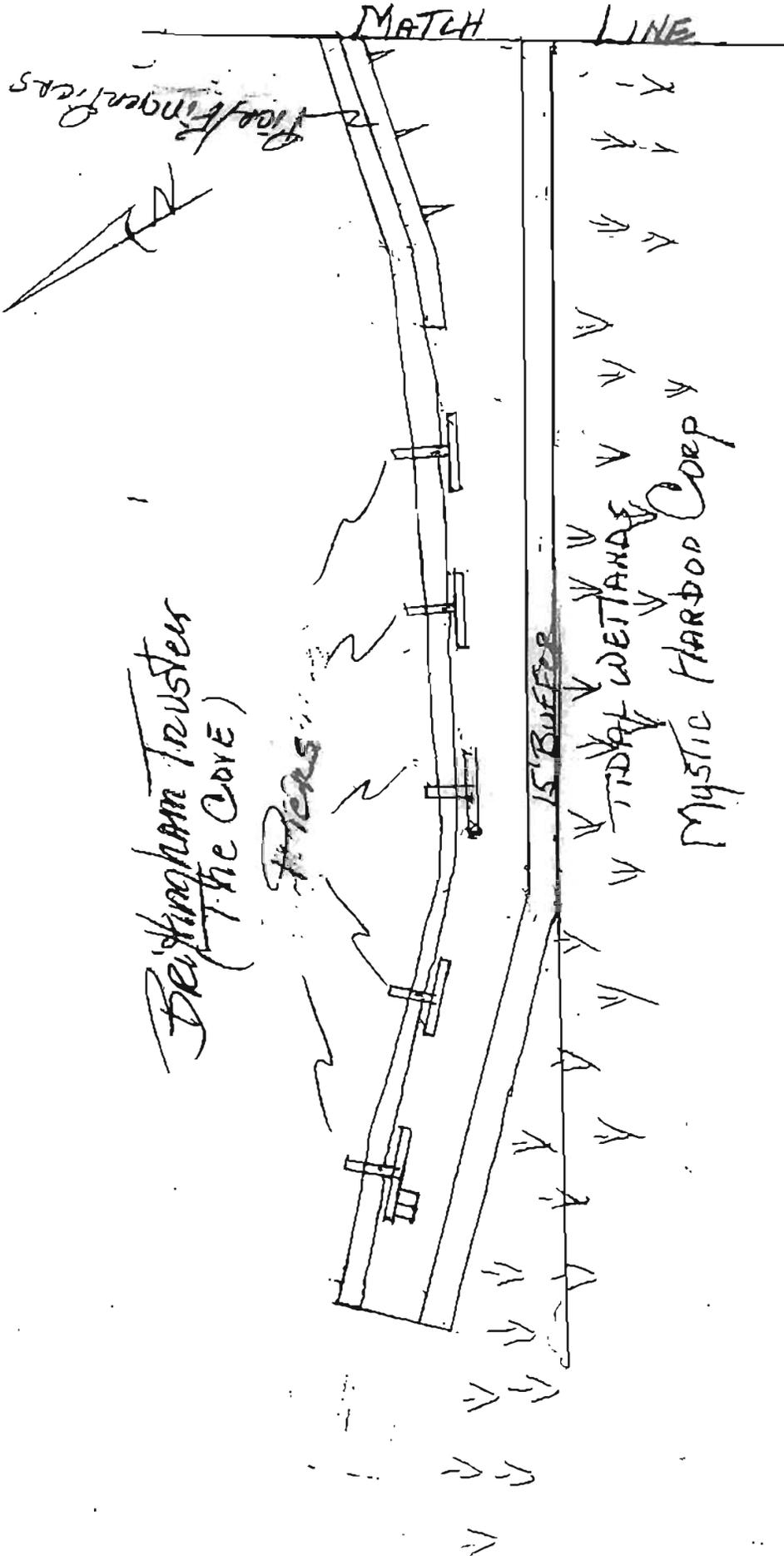
Tidal Wetlands
EXISTING



Mystic Harbor Corp

BRITTINGHAM TRUSTEES
MAINTENANCE DRESSING

SCALE: 1" = 80'	APPROVED BY:	DRAWN BY: AMARAJ
DATE: 26 APR 00		REVIEWED: AMARAJ
BY: M. W. HALEY, BRITTINGHAM TRUSTEE		
10126 OLD DUBLIN BLVD. BERTON, MD. 21811		
DRAWING NUMBER: 4 OF 5		



BIRMINGHAM TRUSTEES		DRAWN BY: [Signature]	
MAINTENANCE DREDGING		REVISED: 11/18/03	
SCALE: 1" = 80'	APPROVED BY: [Signature]	REVISION: 11/18/03	
DATE: 26 APRIL 04	BY: W. W. [Signature] - TRUSTEE		
1026 ODD C. ROAD, BIRMINGHAM, AL 35211			
1-410-641-1880		DRAWING NUMBER: 5 OF 5	