



**US Army Corps
of Engineers**®
New England District
**696 Virginia Road
Concord, MA 01742-2751**

PUBLIC NOTICE

Comment Period Begins: October 10, 2017
Comment Period Ends: November 9, 2017
File Number: NAE-2016-02036
In Reply Refer To: Josh Helms
Phone: (978) 318-8211
E-mail: Joshua.M.Helms@usace.army.mil

The District Engineer has received a permit application to conduct work and place fill in waters of the United States from Bret Stearns, Director of the Natural Resource Department of the Wampanoag Tribe of Gay Head (Aquinnah), on behalf of the Wampanoag Tribe of Gay Head (Aquinnah), 20 Black Brook Road, Aquinnah, Massachusetts. The work is proposed on and adjacent Tribal Trust Land off of State Road, Aquinnah, Massachusetts (Map 11 Parcels 45 & 46) and throughout the entirety of the waters of Herring Creek from Menemsha Pond to Squibnocket Pond in Aquinnah, Massachusetts. The site coordinates approximately begin at Latitude 41.32721°N, Longitude -70.78624° E and end at 41.33101°N, -70.783892° E.

The work involves the dredging of Herring Creek to depths between -1.5 and -2 MLLW in the stream and -7 MLLW in the pools from the existing grades which range from 0.5' to 2' MLLW in the stream and -3.5 MLLW within the pools. The tribe will hydraulically dredge approximately 1,300 cubic yards from a 20,000 square foot area within Herring Creek from Menemsha Pond to Squibnocket Pond. Side slopes are to be dredged to slopes of 3:1 or less. The Creek is approximately 1,800 feet long with widths ranging from 5-130 feet.

The dredged material will be dewatered on site in an approximately 1,200 square foot upland area allowing excess water to flow back into Herring Creek and then transported to uplands on tribal property. The Wampanoag Tribe of Gay Head (Aquinnah) has fishing treaty rights to Herring Creek, which include the ability to manage the Creek for fisheries purposes. The purpose of this project is to maintain fisheries resources by dredging material that has accreted within the channel in order to re-establish a channel and increase flow through the Creek.

Additional work to limit erosion of the channel and maintain the fishway include stabilizing three areas of the bank, placing approximately 580 SF of fill below the high tide line. The first is approximately 56 linear feet of bank adjacent to and beneath the existing dock encompassing approximately 295 SF and the other two locations are to the north and south of the box culvert. These two sections are 28 linear feet (approximately 130 SF) and 31 linear feet (approximately 155 SF), respectively. All bank stabilization will be constructed using rock toe protection, anchored pre-vegetated coconut fiber rolls, natural fiber erosion control blanket, and live fascines.

The project also includes a proposal by the Wampanoag Tribe of Gay Head (Aquinnah) to retain and reconstruct fishing structures within the waterway. These structures are used to impound waters for fishing purposes. Work includes replacing an existing 3.75' x 3.75' culvert structure with a 4.5' x 4' culvert structure, and retaining a fishing weir and multiple platforms. The culvert and associated features extend from bank to the opposite bank. The east and west platforms extend approximately 23 feet from MHW and 14 feet from MHW, respectively.

CENAE-R
FILE NO. NAE-2016-02036

The west platform consists of a trapezoidal 68 SF lower platform and a 335 SF upper platform that consists of two sections. The weir and east platform on the opposite bank are approximately 15' x 6' (90 SF) and are accessed by a 10' x 6' gangway (60 SF). The entire structure from east to west bank is supported by 16 12-inch diameter timber piles. The structures also have a timber fence that stretches the length of the structures, approximately 42 feet bank to bank, minus the fish weir which is approximately 4.5 feet wide.

The work is shown on the attached plans entitled "Plans Accompanying Petition of the Wampanoag Tribe of Gay Head (Aquinnah) to Authorize and Maintain a Concrete Box Culvert, Shoreline Stabilization, Channel Dredging, and Previously Unlicensed Dock for Fishing in Herring Creek, State Road, Aquinnah, Massachusetts," on 16 sheets, and dated "November 3, 2016" and revised on "September 29, 2017".

The Wampanoag Tribe of Gay Head (Aquinnah) has worked with the regulatory agencies to avoid, minimize, and mitigate project impacts through implementing design changes to their project which include the following:

- Limiting turbidity by employing turbidity curtains at both mouths of the creek. Turbidity curtains will span the width of the creek (approx. 30 LF at Menemsha Pond and approx. 20 LF at Squibnocket Pond), with a minimum of 12" of clearance between the bottom of the curtain and the creek bottom.
- Reducing hard stabilization and implementing soft stabilization techniques
- Increasing water flow by increasing the culvert size
- Establishing a true channel to limit erosion of the banks
- Reducing erosion by employing BMPs including erosion control and hydraulic dredging
- Avoiding fisheries impacts by utilizing a time-of-year restriction for in-water or silt producing work, from February 15th to June 30th and from September 1st to November 15th.

The applicant states that additional project benefits include:

- Removal of accumulated sediment
- Increased tidal flushing which will improve water quality.
- Deepening of the Creek to promote the fish run/passage of for Alewife (*Alosa pseudoharengus*), Blueback herring (*Alosa aestivalis*), American eel (*Anguilla rostrata*), white perch (*Morone americana*), and Atlantic tomcod (*Microgadus tomcod*).
- Stabilize eroding banks of the creek to reduce future sediment backfilling.
- Ensure that the Tribe is able to continue to harvest river herring from Herring Creek, which is an important cultural practice for the Tribe.

AUTHORITY

Permits are required pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899
- Section 404 of the Clean Water Act
- Section 103 of the Marine Protection, Research and Sanctuaries Act.

The decision whether to issue a permit will be based on an evaluation of the probable impact 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 may reasonably 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 value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers, New England District (Corps), 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. The Corps will consider all comments received 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.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also 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, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972, as amended.

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 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 affect Essential Fish Habitat (EFH). Essential Fish Habitat describes waters and substrate necessary for fish for spawning, breeding, feeding or growth to maturity.

The dredging portion of this project will impact approximately 20,000 SF of EFH. Placing a turbidity curtain will temporarily impact approximately 4.1 acres of EFH. Habitat at this site can be described as fine to coarse sand and gravel with some areas of mucky organic material. Loss of this habitat may adversely affect species that use these waters and substrate. However the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

This bank stabilization, culvert, and existing fish pier will impact approximately 1150 SF of Essential Fish Habitat (EFH). This habitat consists of fine to coarse sand and gravel with some areas of mucky organic material. Loss of this habitat may adversely affect species that use these waters and substrate. However, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

NATIONAL HISTORIC PRESERVATION ACT

Based on his initial review, the Department of the Interior, federal lead agency, has determined that the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfil requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

ENDANGERED SPECIES CONSULTATION

The Department of the Interior is reviewing the application for the potential impact on Federally-listed threatened or endangered species and their designated critical habitat pursuant to section 7 of the Endangered Species Act as amended. Our review will be concluded prior to the final decision.

OTHER GOVERNMENT AUTHORIZATIONS

The states of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable, the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:

- (x) Permit, license or assent from State.
- (x) Permit from local wetland agency or conservation commission.
- (x) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

COMMENTS

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date. If you have any questions, please contact Josh Helms at (978) 318-8211, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



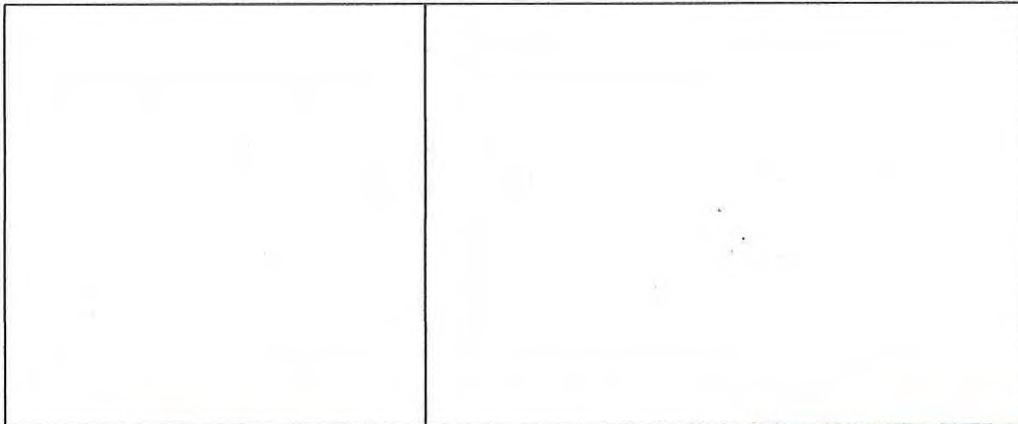
**Barbara Newman
Chief, Permits and Enforcement Branch
Regulatory Division**

If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____

ADDRESS: _____

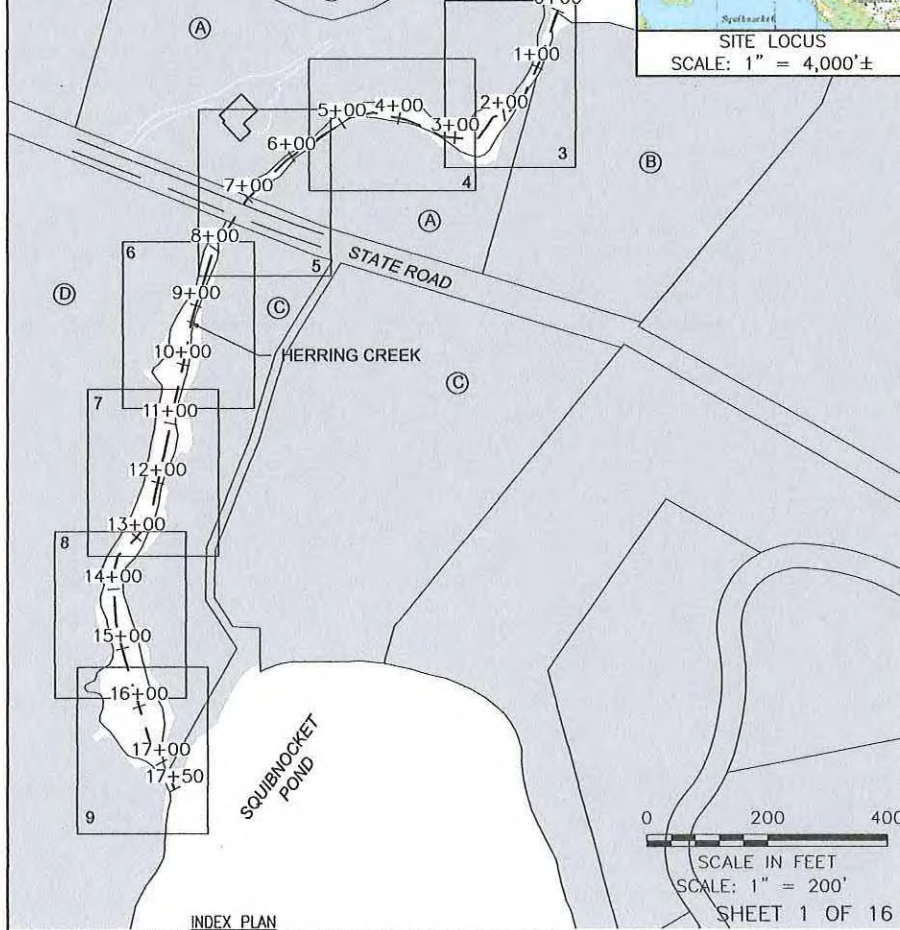
PHONE: _____



EBB
FLOOD
MENEMSHA POND



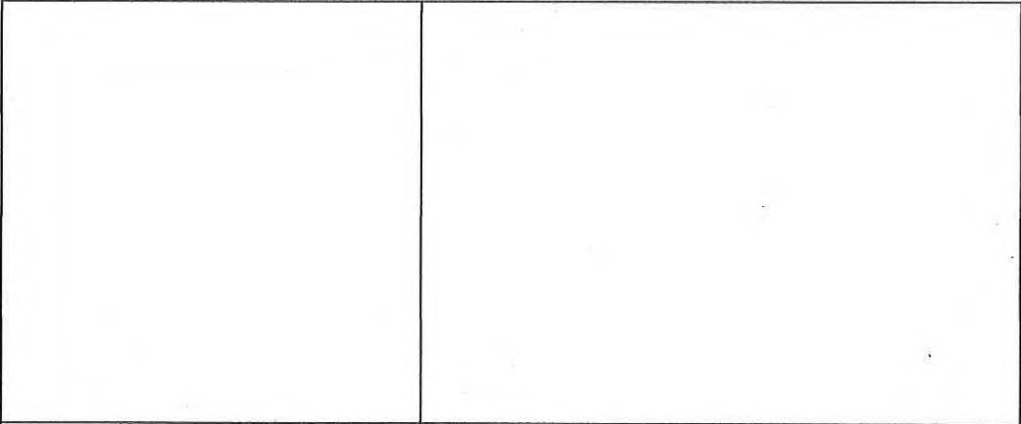
SITE LOCUS
SCALE: 1" = 4,000'±



INDEX PLAN

PLANS ACCOMPANYING PETITION OF THE WAMPANOAG TRIBE OF GAYHEAD (AQUINNAH) TO AUTHORIZE AND MAINTAIN A CONCRETE BOX CULVERT, SHORELINE STABILIZATION, CHANNEL DREDGING, AND PREVIOUSLY UNLICENSED DOCK FOR FISHING IN HERRING CREEK, STATE ROAD, AQUINNAH, MASSACHUSETTS
PREPARED BY: ESS GROUP, INC.
NOVEMBER 3, 2016
REVISED: SEPTEMBER 29, 2017
SUBMITTED TO THE U.S. ARMY CORPS OF ENGINEERS
THIS PLAN IS FOR PERMITTING PURPOSES ONLY.

SCALE IN FEET
SCALE: 1" = 200'
SHEET 1 OF 16



NOTES:

1. Survey prepared for ESS Group, Inc. by Design Professionals, Inc. on Apr. 6, 2016
2. Horizontal datum shown hereon is North American Datum of 1983 (NAD-83) Mass. State Plane Coordinate System, Island Zone, Feet.
3. Vertical datum references approximated Mean Lower Low Water (MLLW) based on NOAA Tidal Benchmark 8448725 unless otherwise noted.
4. Estimated tidal range (MHW-MLW) at Menemsha Harbor is 2.76 feet (Source: NOAA Tidal Benchmark 8448725).
5. Herring Creek soundings obtained by ESS Group, Inc. on Mar. 10, 2016 and can only be considered as indicating conditions existing at that time.
6. Contours are in feet and were generated using AutoCAD Civil 3D.
7. Proposed dredge contours shown are approximate. Project objective is to dredge a channel at least 4 feet wide to at least -2 feet Mean Lower Low Water with a maximum dredge volume of 2,000 CY.
8. Source of flood hazard lines: MassGIS and FEMA (FIRM NO. 25007C0158J, Effective date: July 20, 2016)
9. Source of property lines: MassGIS Level 3 Assessor's Parcel Mapping, 2013.
10. Work occurring on land not owned by the Wampanoag Tribe is strictly in-water, dredging work.
11. Public access exists along the waterways and will not be impacted or impeded by this Project.
12. Total water displacement volume for structures between MHW & MLW = 51.5 cubic feet.
13. Approximate High Tide Line (HTL) is 4.2 feet MLLW. HTL determined based on NOAA Annual Prediction Tide Table for Menemsha Harbor (Tidal Benchmark 8448725).

PROPERTY INFORMATION:

- A. LICENSEE: WAMPANOAG TRIBE OF GAY HEAD (AQUINNAH)
345 STATE ROAD
(PARCEL NO. 11-45 & 11-46)
- B. N/F UMA BANK NA TRUSTEE
BENTON JESSIE
315 STATE ROAD
(PARCEL NO. 11-47)
- C. N/F SHERIFFS MEADOW FOUNDATION
320 STATE ROAD
(PARCEL NO. 11-48)
- D. N/F RED GATE FARM LLC
ESI DESIGN - SCHLOSSBERG
414 STATE ROAD
(PARCEL NO. 11-35)

NOTES & BUTTER INFORMATION

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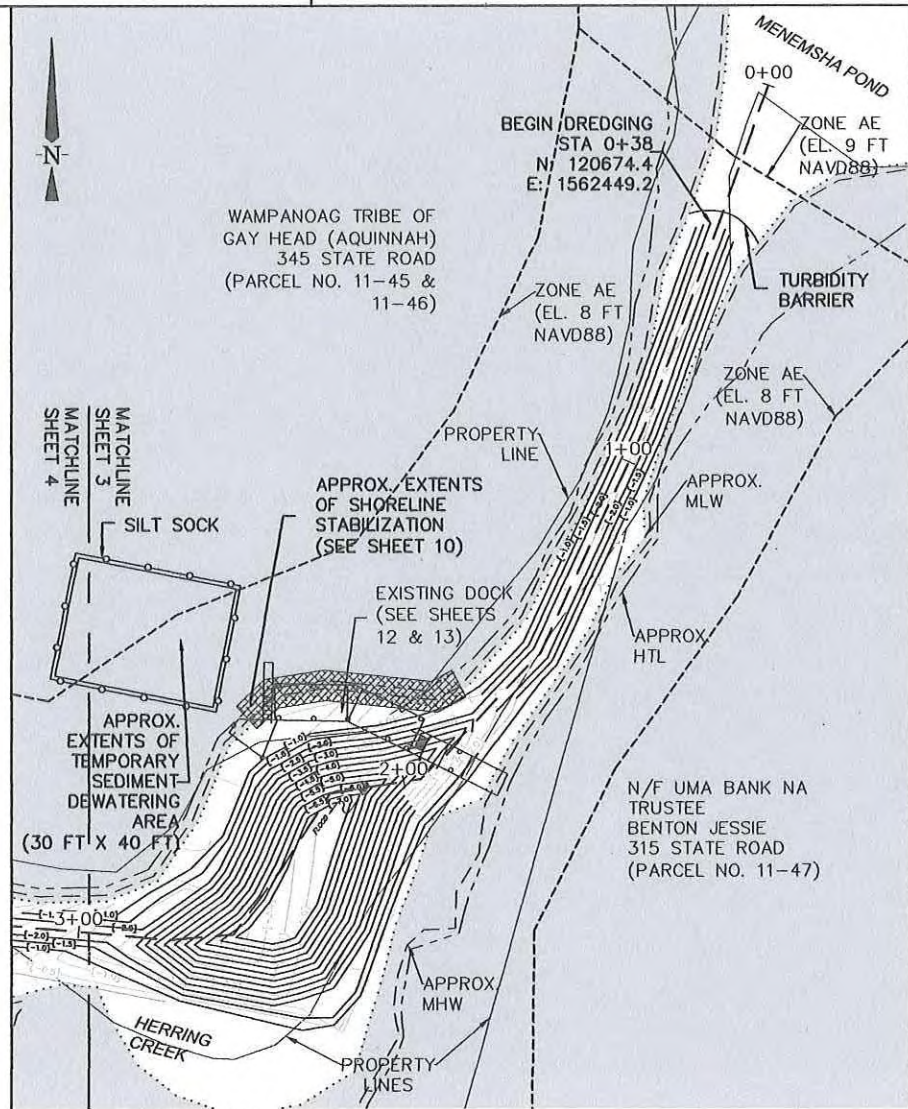
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NOVEMBER 3, 2016

REVISED: SEPTEMBER 29, 2017

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WAMPANOAG TRIBE OF
GAY HEAD (AQUINNAH)
345 STATE ROAD
(PARCEL NO. 11-45 &
11-46)

BEGIN DREDGING
STA 0+38
N: 120674.4
E: 1562449.2

MENEMSHA POND

ZONE AE
(EL. 9 FT
NAVD88)

ZONE AE
(EL. 8 FT
NAVD88)

TURBIDITY
BARRIER

ZONE AE
(EL. 8 FT
NAVD88)

MATCHLINE
SHEET 3
MATCHLINE
SHEET 4

SILT SOCK

APPROX. EXTENTS
OF SHORELINE
STABILIZATION
(SEE SHEET 10)

PROPERTY LINE

APPROX.
MLW

EXISTING DOCK
(SEE SHEETS
12 & 13)

APPROX.
HTL

APPROX.
EXTENTS OF
TEMPORARY
SEDIMENT
DEWATERING
AREA
(30 FT X 40 FT)

N/F UMA BANK NA
TRUSTEE
BENTON JESSIE
315 STATE ROAD
(PARCEL NO. 11-47)

APPROX
MHW

HERRING
CREEK

PROPERTY
LINES

PROPOSED CONDITIONS PLAN

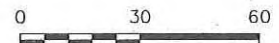
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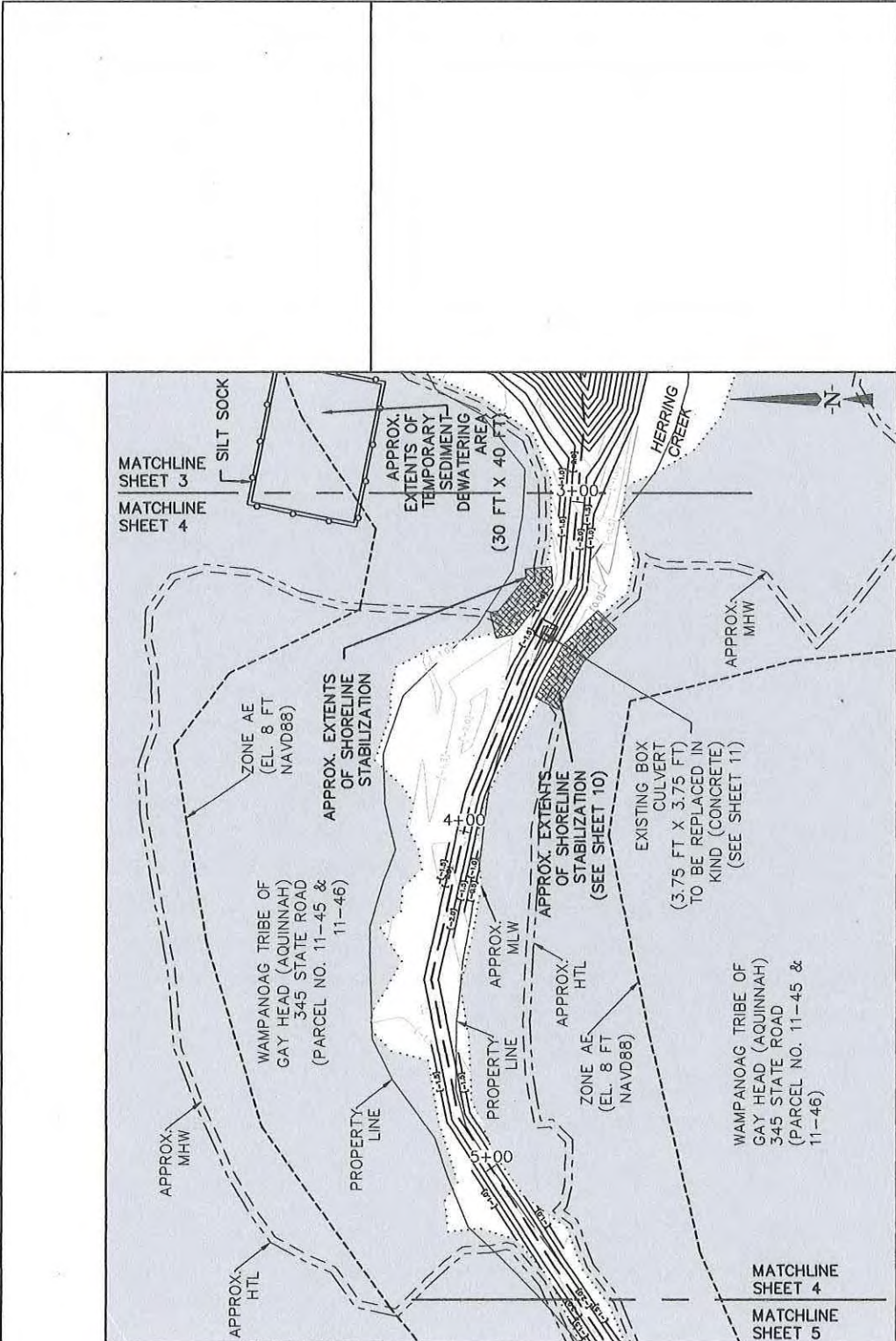
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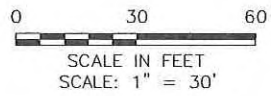
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SCALE IN FEET
SCALE: 1" = 30'



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WAMPANOAG TRIBE OF
GAY HEAD (AQUINNAH)
345 STATE ROAD
(PARCEL NO. 11-45 &
11-46)

ZONE AE
(EL. 8 FT
NAVD88)

APPROX.
MHW

APPROX.
MLW

APPROX.
HTL

HERRING
CREEK

6+00

ZONE AE
(EL. 8 FT
NAVD88)

MATCHLINE
SHEET 4
MATCHLINE
SHEET 5

END DREDGING
STA 6+93

7+00

ALIGN CHANNEL
WITH CULVERT

PROPERTY
LINES

WAMPANOAG TRIBE OF
GAY HEAD (AQUINNAH)
345 STATE ROAD
(PARCEL NO. 11-45 &
11-46)

N/F RED
GATE FARM LLC
ESI DESIGN -
SCHLOSSBERG
414 STATE
ROAD
(PARCEL NO.
11-35)

ZONE AE
(EL. 7 FT
NAVD88)

STATE ROAD

STATE
LAYOUT

PROPERTY
LINES

8+00

BEGIN
DREDGING
STA 8+15

MATCHLINE
SHEET 5
MATCHLINE
SHEET 6

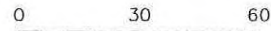
N/F SHERIFFS MEADOW
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320 STATE ROAD
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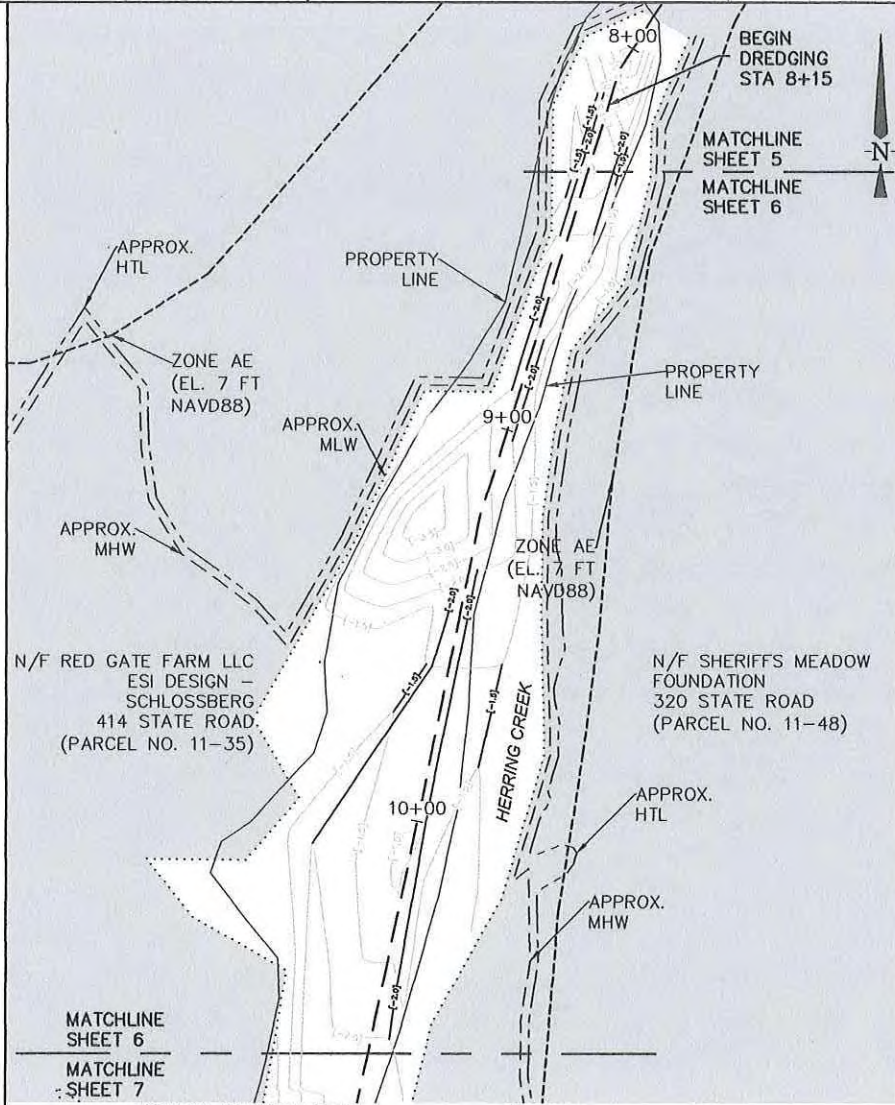
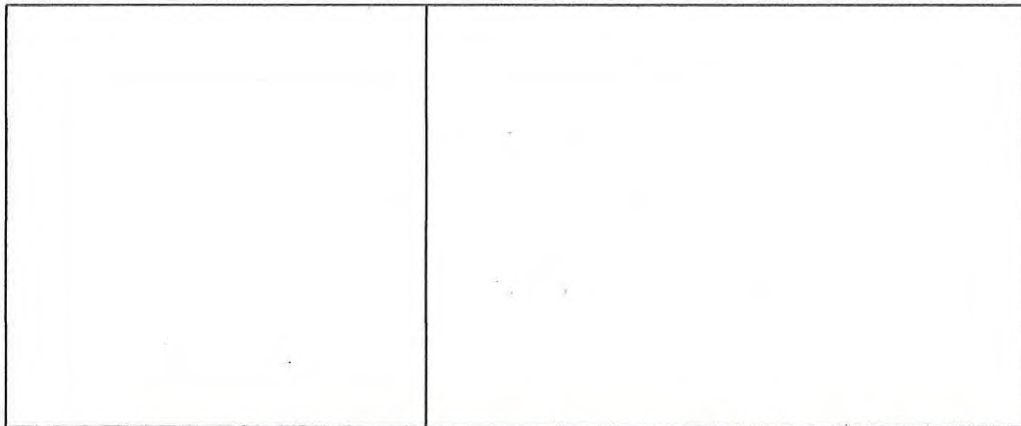
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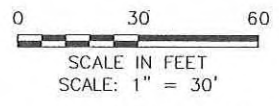
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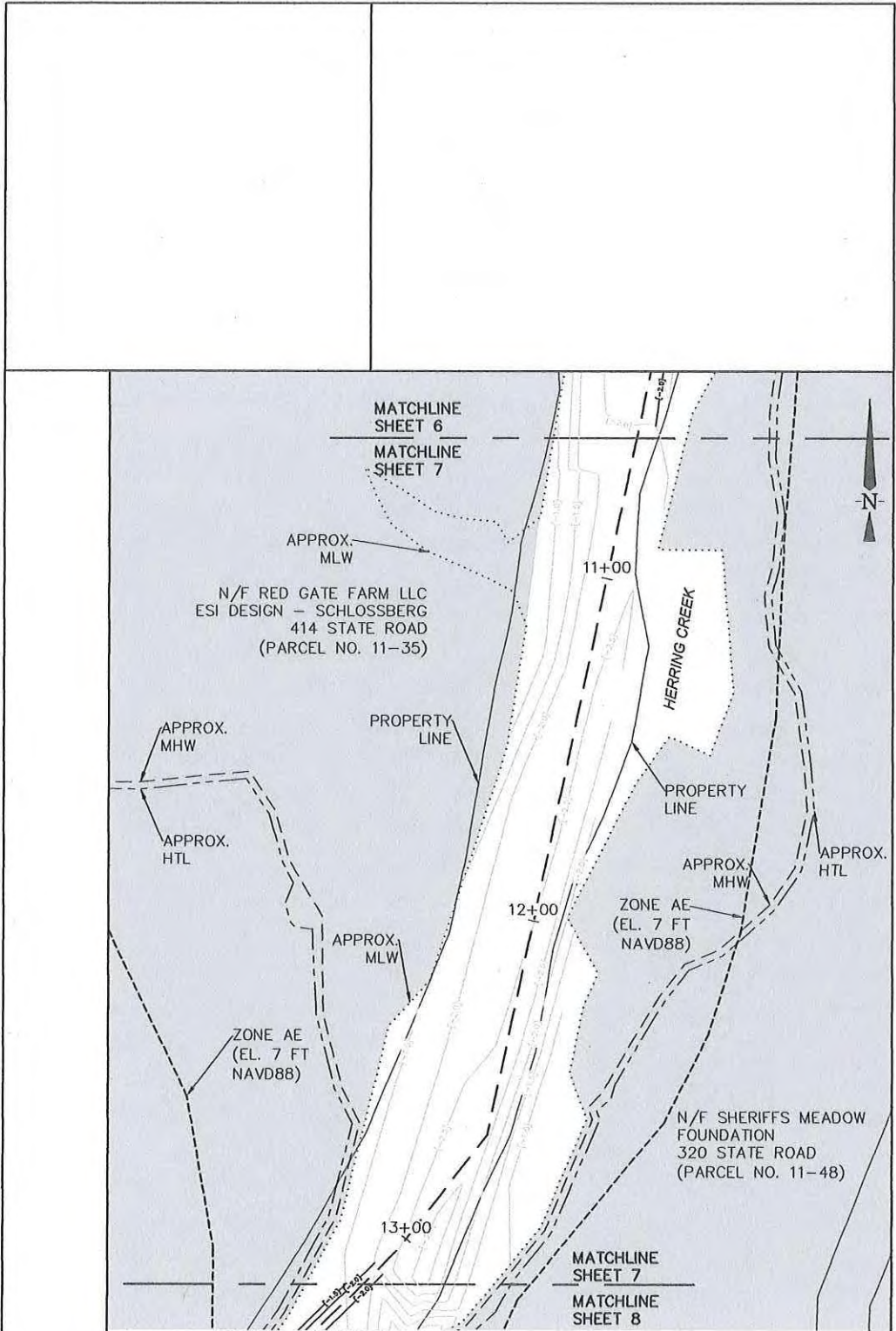


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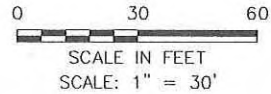


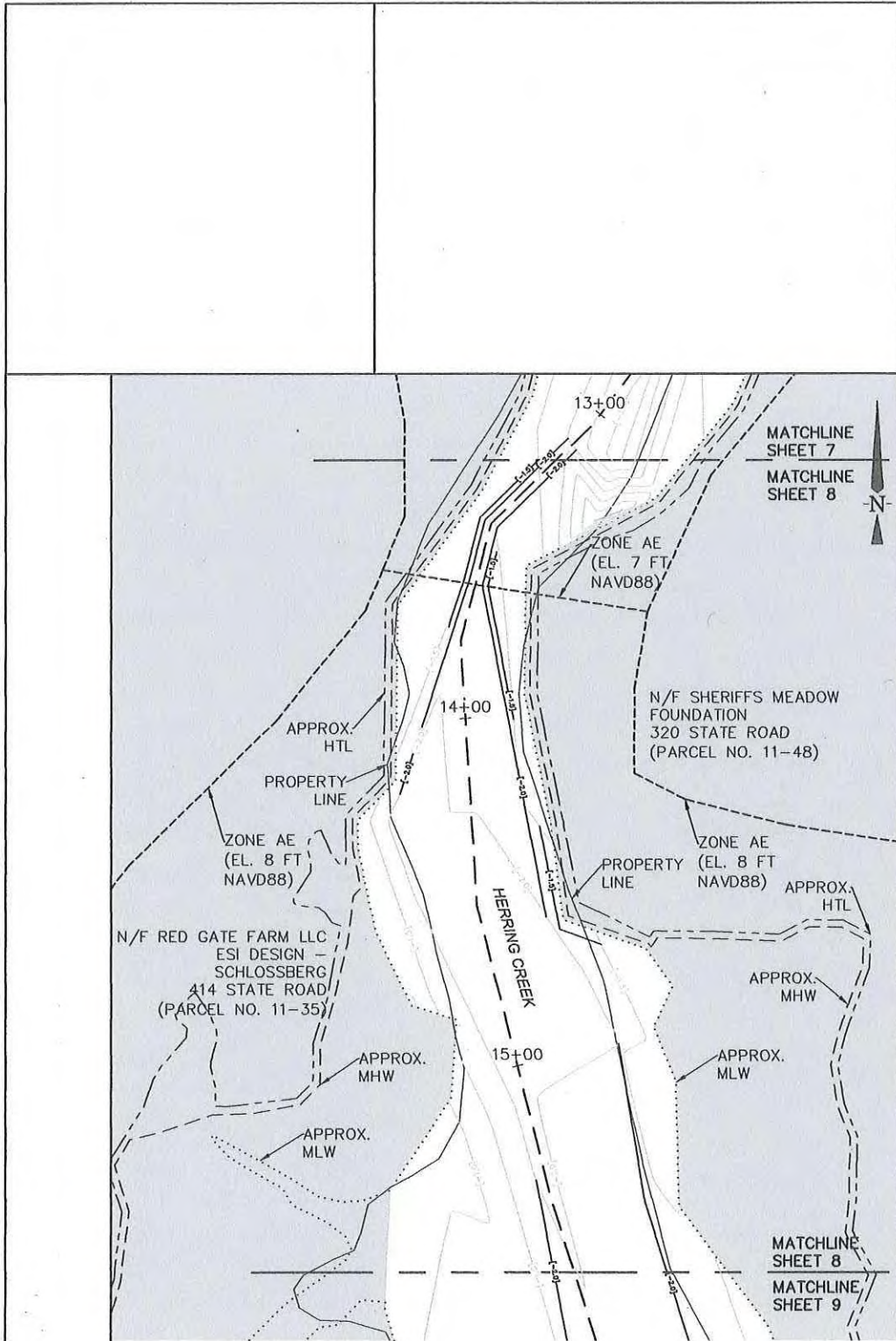
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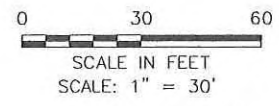


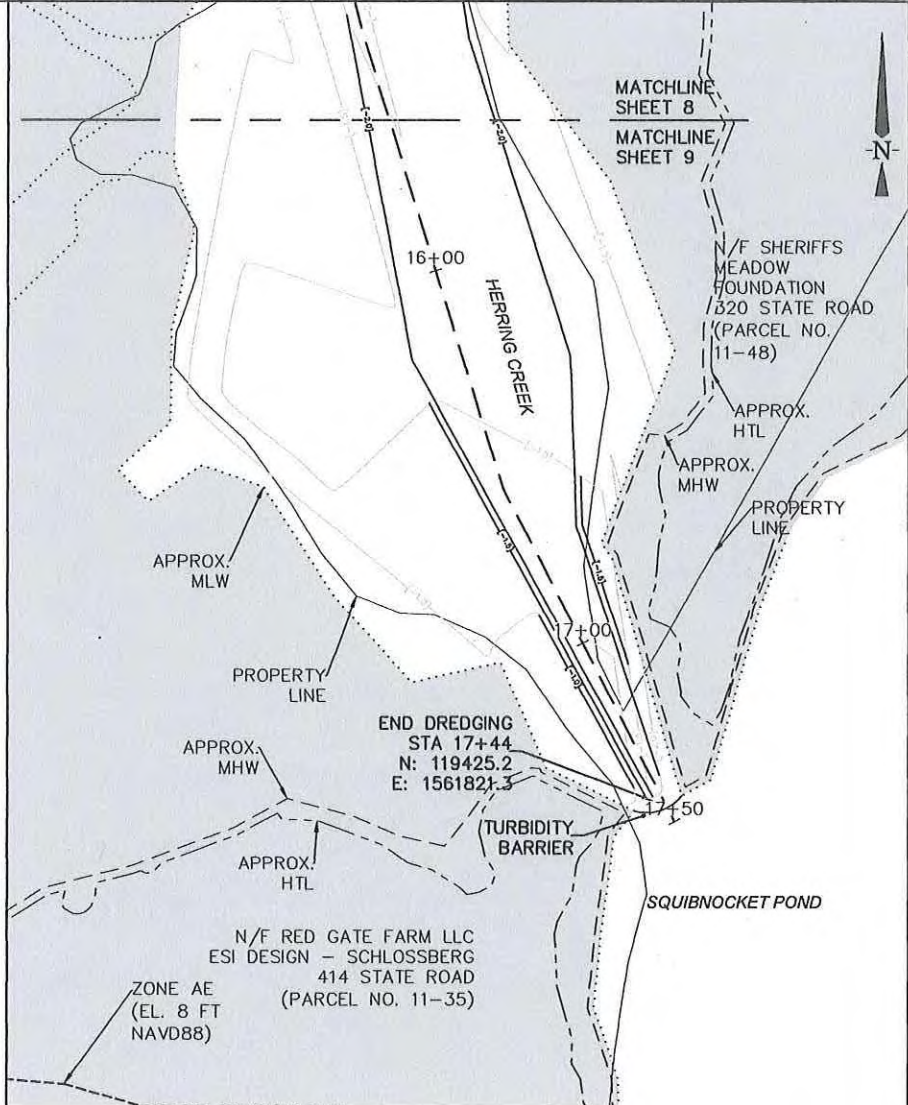
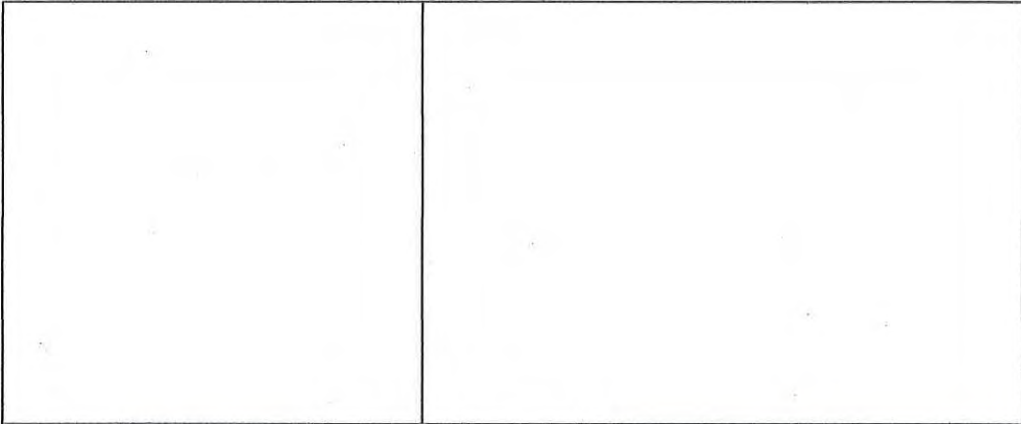
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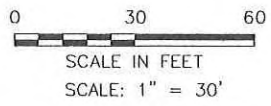


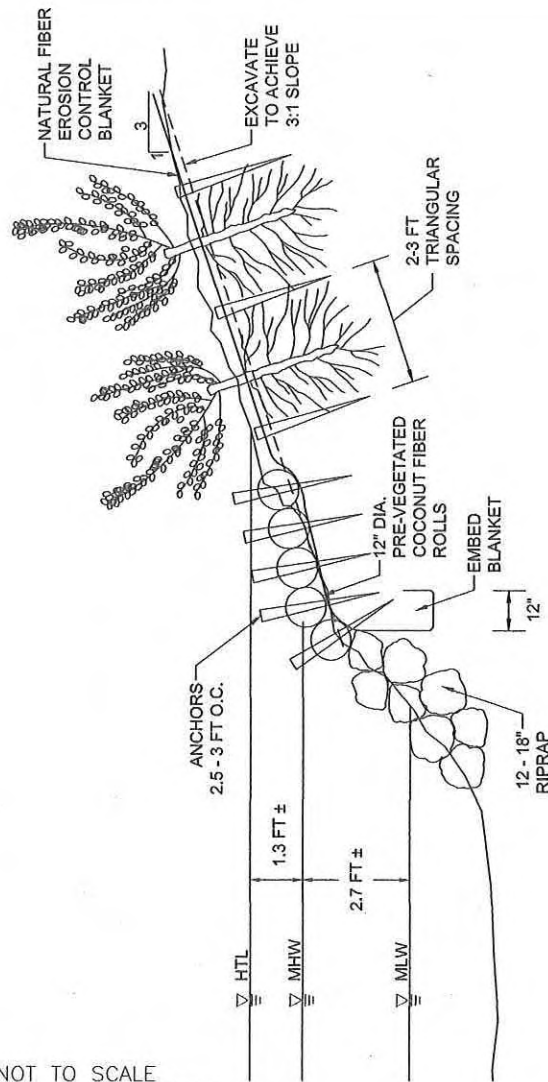
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NOTE: MAINTAIN CONTINUOUS CONTACT BETWEEN
GROUND AND EROSION CONTROL BLANKET

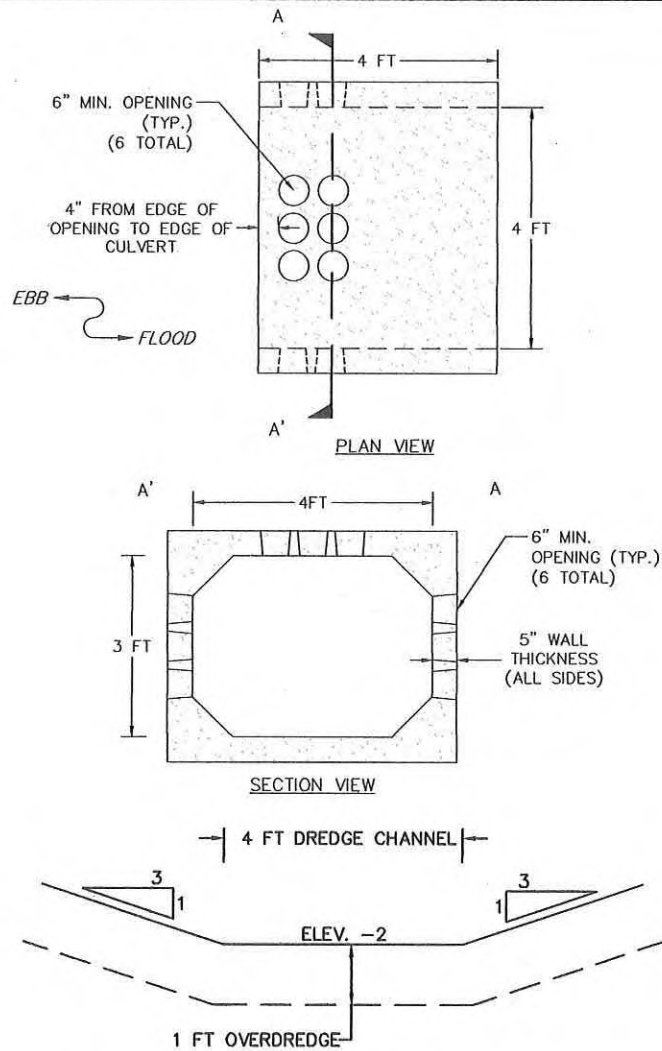
NOT TO SCALE
TYPICAL SHORELINE STABILIZATION

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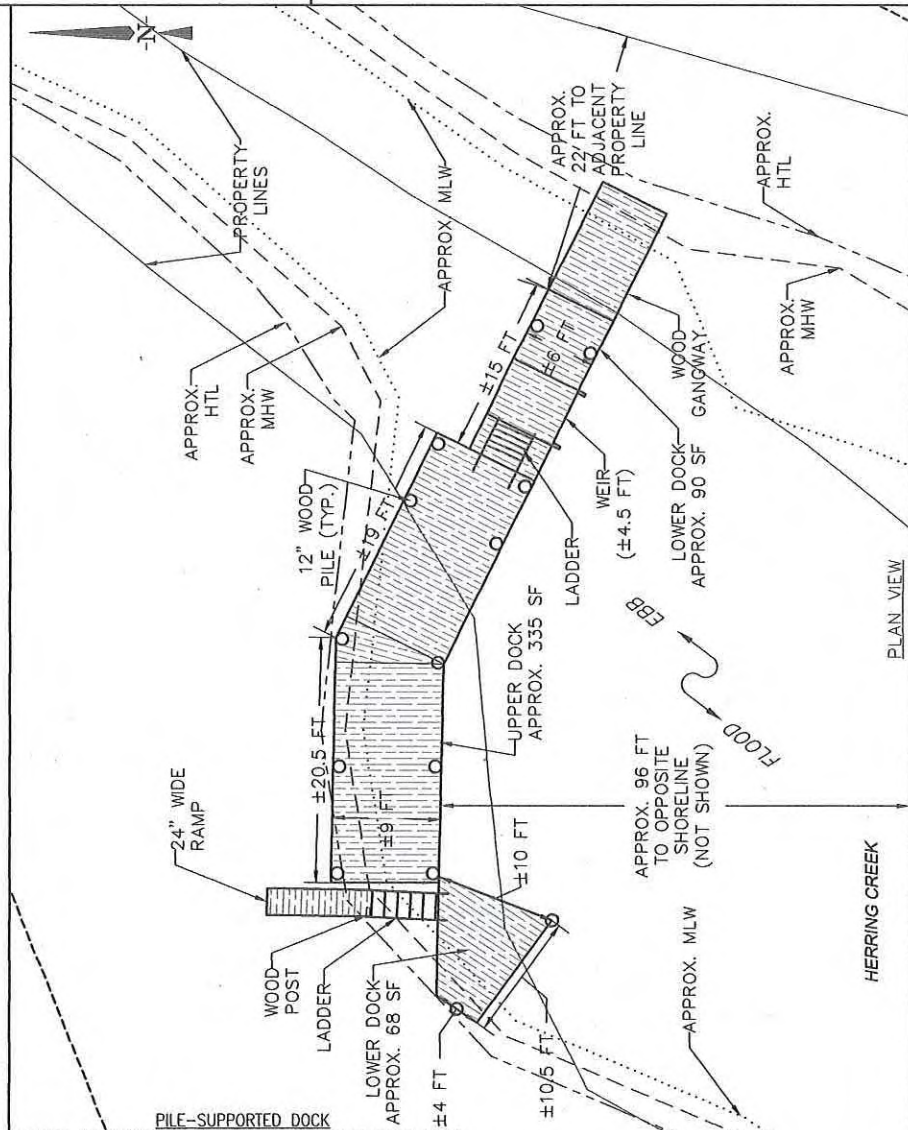
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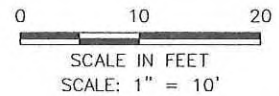


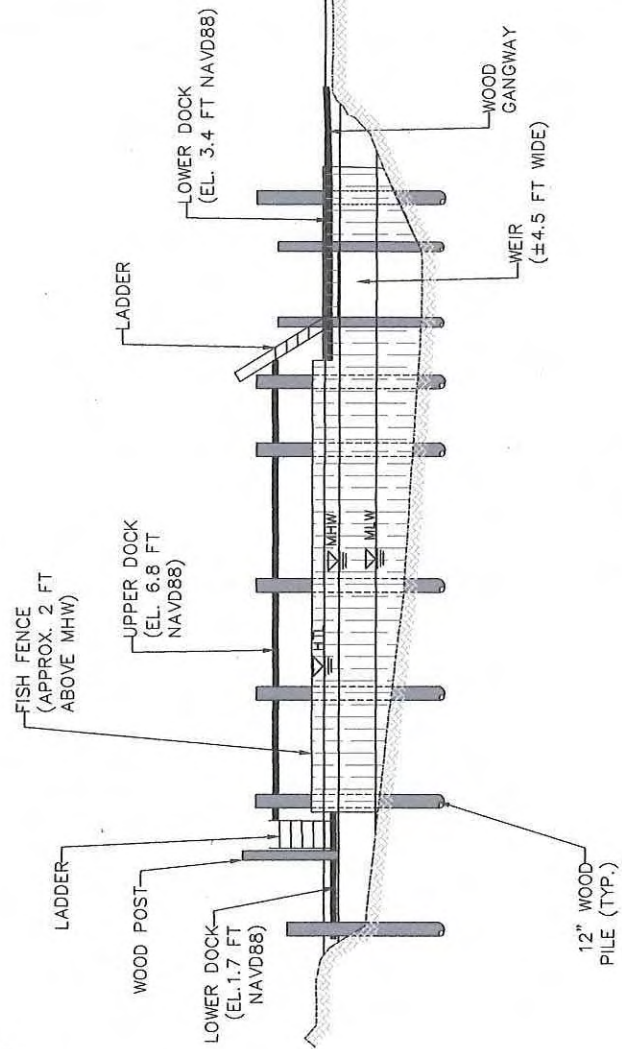
CONCRETE BOX CULVERT & TYPICAL DREDGE SECTION
 PLANS ACCOMPANYING PETITION OF THE WAMPANOAG TRIBE OF GAYHEAD (AQUINNAH) TO AUTHORIZE AND MAINTAIN A CONCRETE BOX CULVERT, SHORELINE STABILIZATION, CHANNEL DREDGING, AND PREVIOUSLY UNLICENSED DOCK FOR FISHING IN HERRING CREEK, STATE ROAD, AQUINNAH, MASSACHUSETTS
 PREPARED BY: ESS GROUP, INC.
 NOVEMBER 3, 2016
 REVISED: SEPTEMBER 29, 2017
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VERTICAL & HORIZONTAL SCALE:
 0 2 4
 SCALE IN FEET
 SCALE: 1" = 2'



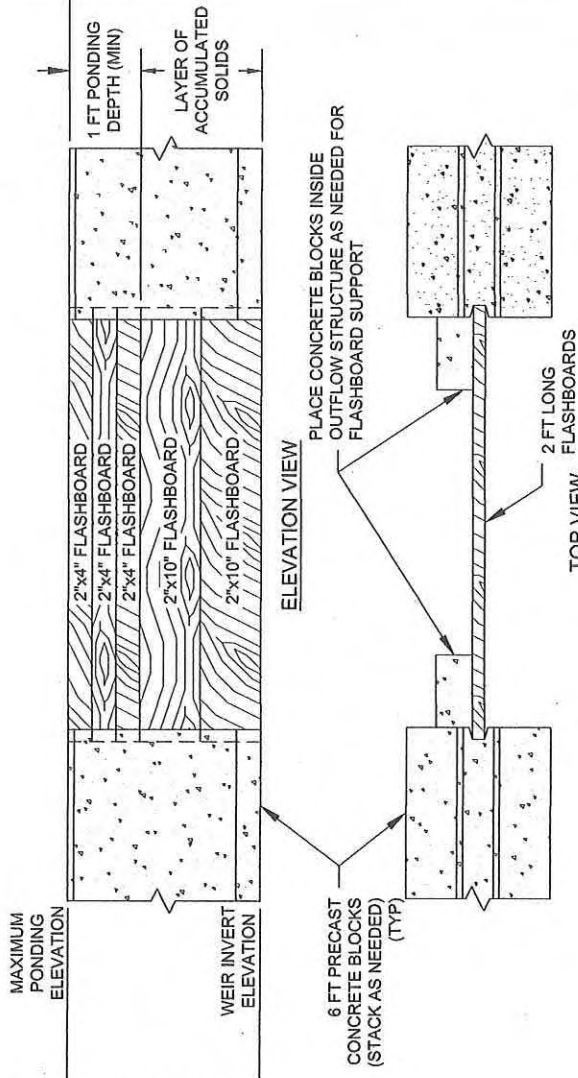
PILE-SUPPORTED DOCK
 PLANS ACCOMPANYING PETITION OF THE WAMPAOAG TRIBE OF GAYHEAD (AQUINNAH) TO AUTHORIZE AND MAINTAIN A CONCRETE BOX CULVERT, SHORELINE STABILIZATION, CHANNEL DREDGING, AND PREVIOUSLY UNLICENSED DOCK FOR FISHING IN HERRING CREEK, STATE ROAD, AQUINNAH, MASSACHUSETTS
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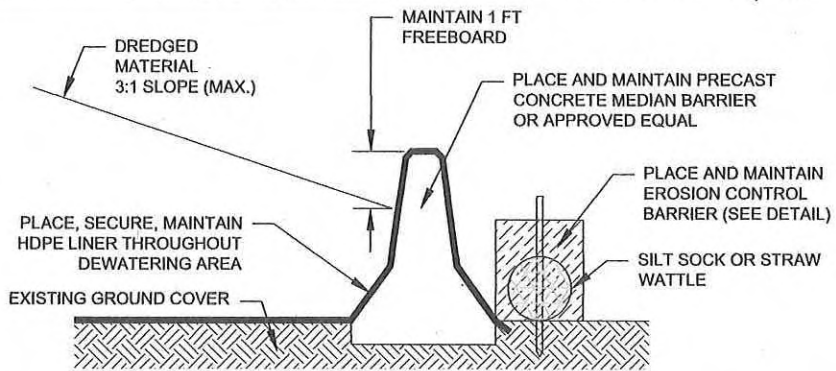
ELEVATION VIEW

NOT TO SCALE
PILE-SUPPORTED DOCK
 PLANS ACCOMPANYING PETITION OF THE WAMPANOAG TRIBE OF
 GAYHEAD (AQUINNAH) TO AUTHORIZE AND MAINTAIN A
 CONCRETE BOX CULVERT, SHORELINE STABILIZATION, CHANNEL
 DREDGING, AND PREVIOUSLY UNLICENSED DOCK FOR FISHING
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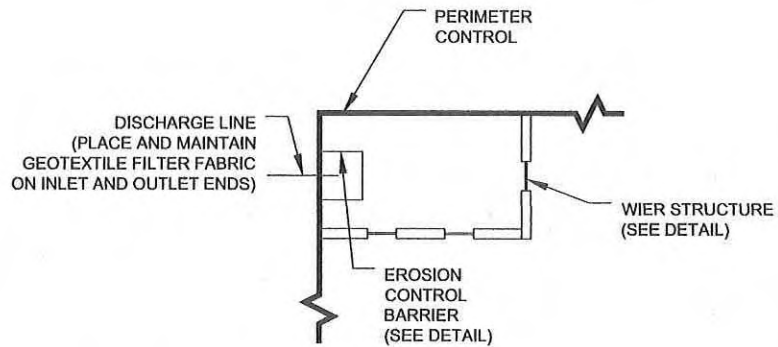


DEWATERING AREA WEIR STRUCTURE
NOT TO SCALE

DEWATERING AREA WEIR STRUCTURE
PLANS ACCOMPANYING PETITION OF THE WAMPANOAG TRIBE OF
GAYHEAD (AQUINNAH) TO AUTHORIZE AND MAINTAIN A
CONCRETE BOX CULVERT, SHORELINE STABILIZATION, CHANNEL
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DEWATERING AREA PERIMETER CONTROL
NOT TO SCALE

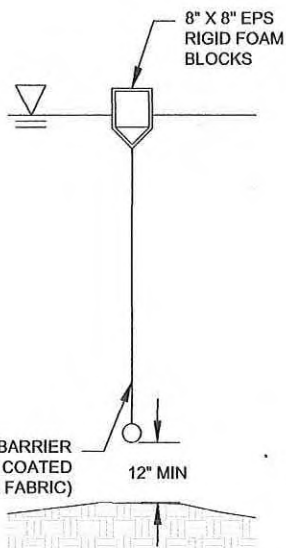


NOTE: PROVIDE MINIMUM WIER EFFECTIVE LENGTH OF 4 FT.

DEWATERING AREA OUTFLOW STRUCTURE
NOT TO SCALE

DEWATERING DETAILS

PLANS ACCOMPANYING PETITION OF THE WAMPANOAG TRIBE OF
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NOTE: TURBIDITY BARRIER AND ANCHORING SYSTEM TO BE DESIGNED FOR PROJECT SITE.

TURBIDITY BARRIER
NOT TO SCALE

TURBIDITY BARRIER DETAIL

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Photograph No.: 1

View to the southwest from the mouth of Herring Creek at Menemsha Pond.



Photograph No.: 2

View to the west of Herring Creek and adjacent salt marsh (north of State Road).



Photograph No.: 3
View to the northeast of the pile-supported wooden pier structure.



Photograph No.: 4
View to the east of the pile-supported wooden pier structure.



Photograph No.: 5
View to the southwest of the concrete box culvert.



Photograph No.: 6
View to the southeast of the concrete box culvert.



Photograph No.: 7
View to the south of Herring Creek (south of State Road).



Photograph No.: 8
View to the southeast of Herring Creek, adjacent salt marsh, and mouth on Squibnocket Pond.