



JOINT PUBLIC NOTICE

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

State of Connecticut
Department of Environmental Protection
79 Elm Street
Hartford, Connecticut 01606-5127

US Army of Engineers
New England District
696 Virginia Road
Attn: Ms. Diane M. Ray
Concord, MA 01742-2751

In replying refer to:

Public Notice Number: NAN-2007-275-WSC
Issue Date: August 27, 2008
Expiration Date: September 26, 2008

To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT: Commander Terminals, LLC
1 Commander Square
Oyster Bay, NY 11771

ACTIVITY: Maintenance dredge with disposal of the dredged material in the Central Long Island Sound Disposal Site with capping. Barge overflow at the dredging site is not proposed.

WATERWAY: Oyster Bay Harbor

LOCATION: Village of Oyster Bay, Nassau County, New York.

Independent evaluations of various aspects of the proposed project will be performed by the US Army Corps of Engineers, New York District, US Army Corps of Engineers, New England District, the State of Connecticut, and the State of New York in accordance with applicable federal and state laws.

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

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, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

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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.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE; otherwise, it will be presumed that there are no objections to the activity.

Any person may request, by writing to the District Engineer before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267) (16 U.S.C. 1801 et seq.), requires federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH).

The dredging portion of this project will impact approximately 16,650 square feet of Essential Fish Habitat (EFH) for the species and their life stages as shown in the attached table. Habitat at this site can be described as sand and silt. Loss of this habitat may adversely affect those species listed in the attached table. 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.

The dredged material disposal is proposed for the Central Long Island Sound Disposal Site. This is an open water site, which provides Essential Fish Habitat for the attached table of species and life stages. Habitat at this site can be described as sand and silt. Loss of this habitat may adversely affect those species listed on the attached table. 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.

Our preliminary determination is that the dredging and disposal of dredged material for which authorization is sought herein is not likely to affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archaeological, scientific, prehistorical or historical data may be lost by work accomplished under the required permit.

Reviews of activities pursuant to Section 404 of the Clean Water Act 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 and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in

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accordance with Section 401 of the Clean Water Act prior to a permit decision.

Pursuant to Section 307(c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456(c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. By this public notice, we are requesting the state's concurrence with, objection to, or waiver of the applicant's certification. No permit decision will be made until one of these actions occur.

For activities within the coastal zone of New York State, the applicant's certification and accompanying information is available from the Consistency Coordinator, New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, Coastal Zone Management Program, 41 State Street, Albany, New York 12231, Telephone (518) 474-6000. Comments regarding the applicant's certification, and copies of any letters to this office commenting upon this proposal, should be so addressed.

The Connecticut Department of Environmental Protection, Office of Long Island Sound Programs will review the applicant's dredged material disposal proposal for consistency with Connecticut's water quality standards. Subsequent issuance of the Section 401 Water Quality Certificate from the state agency will indicate concurrence with the coastal area management plan.

Barge overflow of dredged material will not occur during the dredging of this proposed project, therefore, the only Section 404 activity involved in this application is the disposal of the dredged material at one of the designated disposal sites in Long Island Sound.

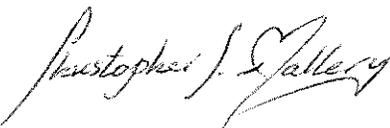
Comments related to water quality issues should be submitted both to this office and to the Connecticut Department of Environmental Protection, Office of Long Island Sound Programs, 79 Elm Street, Hartford, Connecticut 06106-5127. For more information about the water quality certification, please contact Connecticut's Office of Long Island Sound Programs at (860) 424-3034.

In addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorization for the activity under consideration:

Navigable Waters Permit from New York State Department of Environmental Conservation.

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

If you have any questions concerning this application, you may contact this office at (917) 790-8417 and ask for Steven A. Schumach. For more information on New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>


for Richard L. Tomer
Chief, Regulatory Branch

Attachments

DESCRIPTION OF WORK

The applicant, Commander Terminals, LLC, has requested Department of the Army authorization to maintenance dredge at its existing pier located in Oyster Bay Harbor in the Village of Oyster Bay, Nassau County, New York. The applicant would maintenance dredge approximately 3,517 cubic yards of dredged material to a depth of 14 feet below the plane of mean low water with no overdredge allowance, as follows:

West Side of the Existing Pier: Approximately 1,317 cubic yards of dredged material would be removed from a rectangular area of approximately 65 feet wide by 160 feet long of approximately 10,400 square feet.

East side of the Existing Pier: Approximately 2,200 cubic yards of dredged material would be removed from an irregular shaped area of approximately 50 feet wide by 125 feet long with an area of approximately 6,250 square feet.

The dredged material would be placed at the Central Long Island Sound Disposal Site (CLIS) with capping. It is estimated that the dredging would take one to two weeks to perform. The stated purpose of the proposed maintenance dredging is to provide adequate depth for safe navigation at the applicant's existing pier for the mooring of barges.

Sampling and Testing:

The applicant has sampled and tested the area to be dredged. Based on an evaluation of the data that characterize the material proposed to be dredged (see enclosed table), the Corps of Engineers finds that the data provided sufficient information to satisfy the evaluation and testing requirements of the appropriate regulations. The Corps finds that disposal at CLIS would be suitable with capping. The applicant will be required to develop an appropriate capping plan that is subject to Corps of Engineers review and approval.

The Central Long Island Sound Disposal Site is frequently used for disposal of bottom sediments from various harbors along the eastern New York, northern Long Island, and central and western Connecticut coasts. An average of approximately 400,000 cubic yards of suitable sediments (suitability determined through case-by-case analyses) have been deposited at this site annually. The site has been monitored through the Corps' Disposal Area Monitoring System (DAMOS) program. DAMOS studies show that the site is a low energy environment such that sediment deposited at this location will remain within the site's boundaries. Levels of metals and organics in the sediments within the disposal site are generally above background levels, indicative of the industrial nature of the areas dredged that utilize the site. Areas outside the disposal site have not been found to be affected by sediment deposited within the site.

The dredged material has undergone physical and chemical analysis and has satisfied Part 227.13(b) of exclusionary criteria of the Ocean Dumping Act regulations regarding biological testing. It is our preliminary determination that the material is acceptable for disposal at this disposal site.

Summary of Essential Fish Habitat (EFH) Designation

10' x 10' Square Coordinates: Dredge Site

Boundary	North	East	South	West
Coordinate	41° 00.0' N	73° 3.0' W	40° 50.0' N	73° 40.0' W

Square Description (i.e. habitat, landmarks, coastline markers): The waters within the square within the Hudson River estuary on the north shore of Long Island, affecting the following: north of Manhasset Neck, Port Washington, NY., Berker Pt., Sands Pt., and Mott Pt., the tip of Hewlett Pt. on the north of Great Neck, north of Manhasset, NY., and Douglastown, NY. Also, the waters within Long Island Sound south of mainland New York from Port Chester, NY., and Rye, NY., to Westchester, NY., on East Chester Bay, along with south of the following: Harrison, NY., Mamaroneck, NY., Larchmont, NY., Pelham, NY., New Rochelle, NY., Pelham Manor, NY., and East Chester, NY. Also, around the following islands and features: Hart, City, Davids, Pea, Hen, Glen, Hunter and Huckleberry, the Scotch Caps, Middle Gorund, Execution Rocks, Gangway Rocks, Porgy Shoal and Hen and Chickens Rocks, along with the Hutchinson River, Mamaroneck Harbor, Milton Harbor, and Larchmont Harbor.

Species	Eggs	Larvae	Juveniles	Adults
Atlantic cod (<i>Gadus morhua</i>)			X	X
pollock (<i>Pollachius virens</i>)			X	X
red hake (<i>Urophycis chuss</i>)	X	X	X	X
winter flounder (<i>Pleuronectes americanus</i>)	X	X	X	X
windowpane flounder (<i>Scopthalmus aquosus</i>)	X	X	X	X
Atlantic sea herring (<i>Clupea harengus</i>)		X	X	X
bluefish (<i>Pomatomus saltatrix</i>)			X	X
Atlantic butterfish (<i>Peprilus triacanthus</i>)		X	X	X
Atlantic mackerel (<i>Scomber scombrus</i>)	X	X	X	X
summer flounder (<i>Paralichthys dentatus</i>)		X	X	X
scup (<i>Stenotomus chrysops</i>)	X	X	X	X
black sea bass (<i>Centropristus striata</i>)			X	X

king mackerel (<i>Scomberomorus cavalla</i>)	X	X	X	X
Spanish mackerel (<i>Scomberomorus maculatus</i>)	X	X	X	X
cobia (<i>Rachycentron canadum</i>)	X	X	X	X
sand tiger shark (<i>Odontaspis taurus</i>)		X		

Summary of Essential Fish Habitat (EFH) Designation

10' x 10' Square Coordinates: Central Long Island Sound Disposal Site

Boundary	North	East	South	West
Coordinate	41° 10.0' N	72° 50.0 W	41° 00.0' N	73° 00.0 W

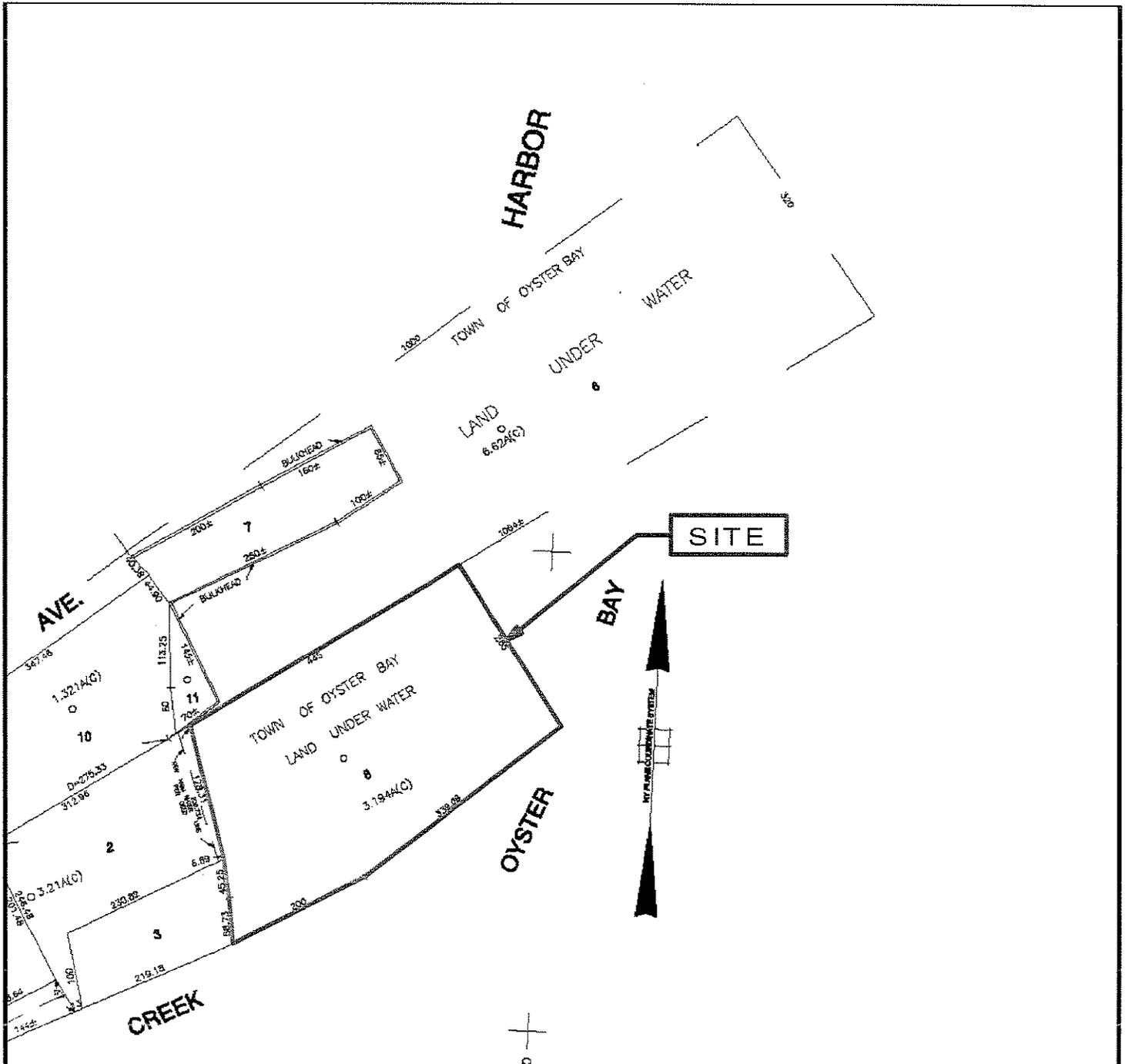
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Square Description (i.e. habitat, landmarks, coastline markers): Atlantic Ocean waters within the square within Long Island Sound affecting the following: one square south of the waters within the square south of New Haven, CT. In this square there is a dumping ground on the northeast corner.
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Species	Eggs	Larvae	Juveniles	Adults
Atlantic salmon (<i>Salmo salar</i>)			X	X
pollock (<i>Pollachius virens</i>)			X	X
whiting (<i>Merluccius bilinearis</i>)				X
red hake (<i>Urophycis chuss</i>)	X	X	X	X
winter flounder (<i>Pleuronectes americanus</i>)	X	X	X	X
windowpane flounder (<i>Scopthalmus aquosus</i>)	X	X	X	X

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American plaice (<i>Hippoglossoides platessoides</i>)			X	X
Atlantic sea herring (<i>Clupea harengus</i>)			X	X
bluefish (<i>Pomatomus saltatrix</i>)			X	X
Atlantic mackerel (<i>Scomber scombrus</i>)	X	X	X	X
summer flounder (<i>Paralichthys dentatus</i>)			X	
scup (<i>Stenotomus chrysops</i>)	X	X	X	X
black sea bass (<i>Centropristus striata</i>)	n/a		X	
king mackerel (<i>Scomberomorus cavalla</i>)	X	X	X	X
Spanish mackerel (<i>Scomberomorus maculatus</i>)	X	X	X	X
cobia (<i>Rachycentron canadum</i>)	X	X	X	X
sand tiger shark (<i>Odontaspis taurus</i>)		X		

Normalized Pollutant Concentrations		Project: Coastline-Commander Terminals Survey : Commander Terminals				USACE Permit/Contract Number: 2007-833			
Analyte	WJIS	#20080377 Core 1	#20080379 Core 2	Normalized	Comparison	Raw Data	Qualifier	Normalized	Comparison
Metals (ppm)	mean + 2sd	Raw Data	Qualifier	Normalized	Comparison	Raw Data	Qualifier	Normalized	Comparison
Arsenic	10.1	5.74			OK	3.44			OK
Cadmium	1.16	0.858			OK	0.621			OK
Chromium	67.4	33.6			OK	23.8			OK
Copper	91.1	62.1			OK	40.1			OK
Lead	72.6	85.1			1.17	68.5			OK
Mercury	0.39	0.177			OK	0.124			OK
Nickel	37.5	15.2			OK	11.8			OK
Zinc	197	158			OK	99.1			OK
% fines									
PAHs (ppb)									
Acenaphthene	13	128		128	9.85	94.2		94.2	7.25
Acenaphthylene	46	24.7		24.7	OK	18.3		18.3	OK
Anthracene	43	147		147	3.42	88.8		88.8	2.07
Fluorene	20	108		108	5.4	64.2		64.2	3.21
Naphthalene	59	56.6		56.6	OK	68.8		68.8	1.17
Phenanthrene	132	753		753	5.7	295		295	2.23
Benzo(a)anthracene	147	784		784	5.33	385		385	2.62
Benzo(a)pyrene	356	737		737	2.07	362		362	1.02
Benzo(g,h,i)perylene	147	610		610	4.15	302		302	2.05
Chrysene	207	946		946	4.57	453		453	2.19
Dibenzo(a,h)anthracene	42	201		201	4.79	76.7		76.7	1.83
Fluoranthene	213	2060		2060	9.67	954		954	4.48
Indeno(1,2,3-cd)pyrene	179	562		562	3.14	278		278	1.55
Pyrene	517	83		83	OK	775		775	1.5
Total Benzofluoranthenes	590	240		480	OK	1092		2184	3.7
TOC		1				1			
Sum of PAHs		7440.3		7680.3		5307		6399	
Pesticides (ppb)									
4,4'-DDD	-999	13			No Ref	11.3			No Ref
4,4'-DDE	-999	9.991			No Ref	6.561			No Ref



NOTES:

- 1) THESE APPLICATION DRAWINGS ARE FOR PLANNING AND PERMITTING PURPOSES ONLY, NOT FOR BID DOCUMENTS OR CONSTRUCTION.
- 2) THE EXISTING SITE CONDITIONS ARE APPROXIMATE AND ARE BASED UPON NASSAU COUNTY ASSESSOR MAP SECTION #27 BLOCK 16 AND OBSERVATIONS MADE IN THE FIELD.

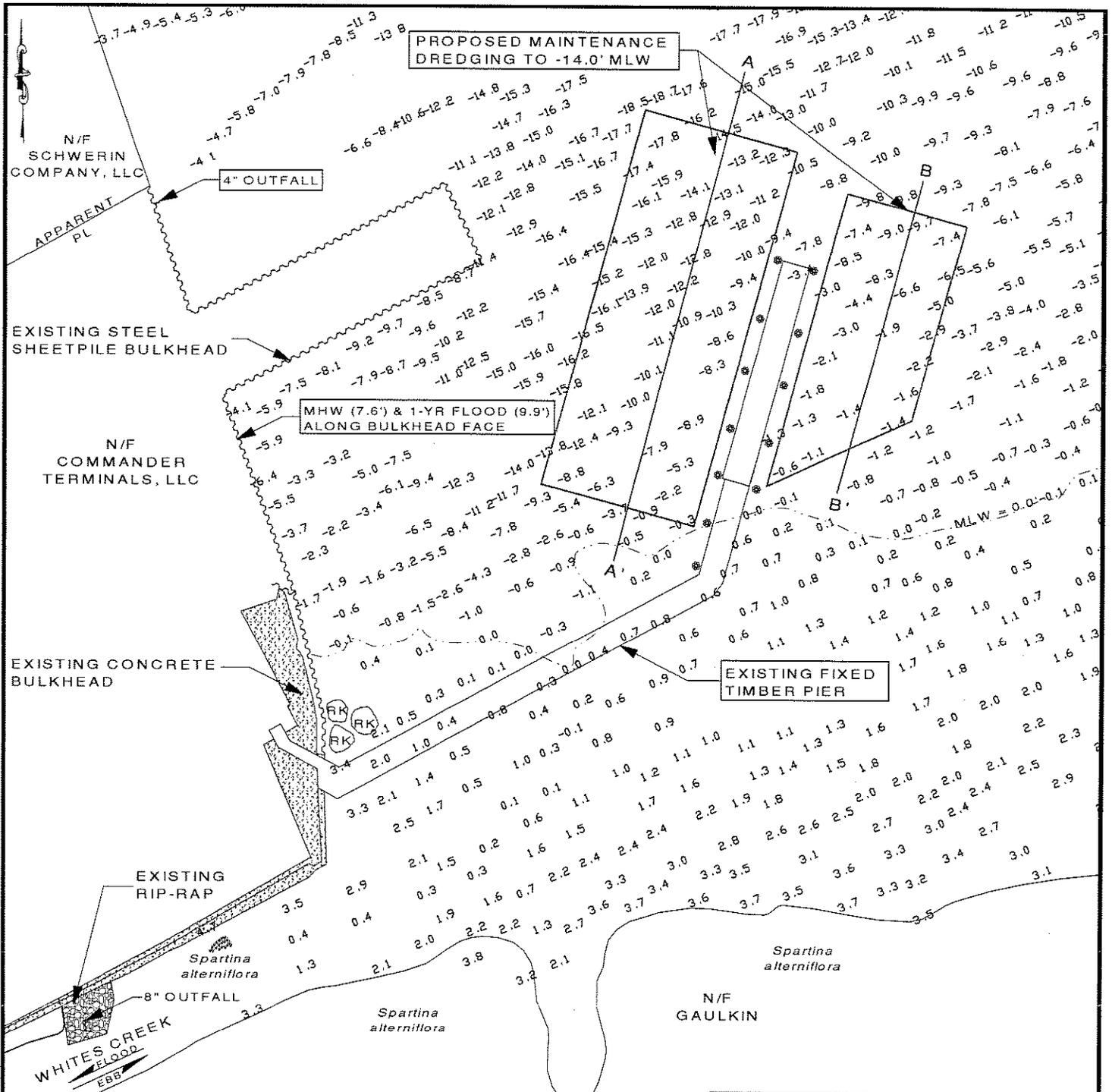
Coastline Consulting, LLC
 5-B Old Post Road, Madison, CT 06443
 (203) 245-8138

FIGURE 2
 SITE PLAN VIEW

COMMANDER TERMINALS, LLC
 OYSTER BAY, NEW YORK

NOVEMBER 7, 2007

SCALE: 1" = 100'



- NOTES:
- 1) THIS DRAWING IS BASED ON A HYDROGRAPHIC SURVEY CONDUCTED BY COASTLINE CONSULTING, LLC ON 1/16/07 AND A HYDROGRAPHIC SURVEY CONDUCTED BY SEAVISION MARINE SERVICES, LLC. ON 1/21/07 AND IS NOT INTENDED TO BE USED OR PERCEIVED AS A SURVEY OR MAP AS DEFINED BY THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT".
 - 2) THIS DRAWING IS FOR PLANNING PERMITTING PURPOSES ONLY, NOT FOR CONSTRUCTION OR BID DOCUMENTS.
 - 3) SOUNDINGS ARE IN FEET AND ARE REFERENCED TO THE MEAN LOW WATER (MLW) DATUM.

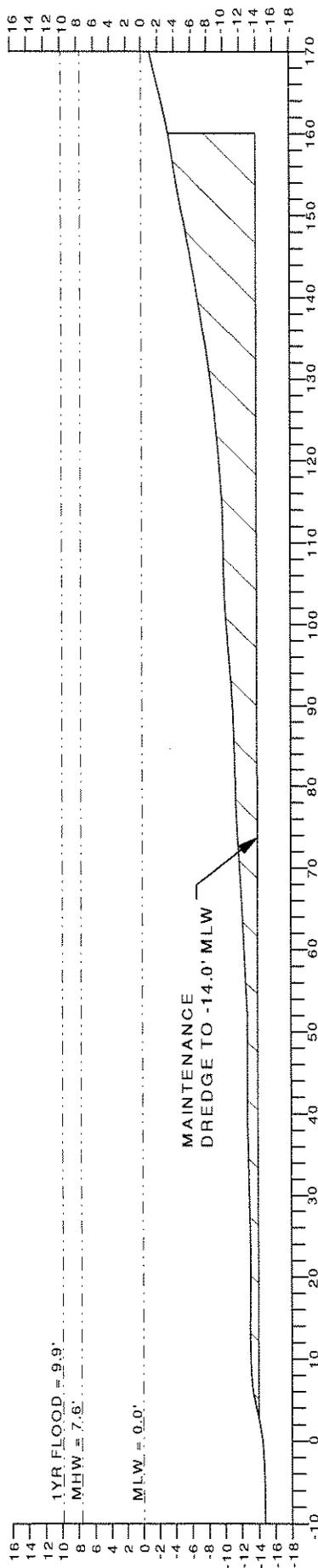
Coastline Consulting, LLC
 5-B Old Post Road, Madison, CT 06443
 (203) 245-8138

FIGURE 3
 PROPOSED DREDGE PLAN

COMMANDER TERMINALS, LLC
 OYSTER BAY, NEW YORK

NOVEMBER 7, 2007 SCALE: 1" = 60'

A _____ A'



Coastline Consulting, LLC
5-B Old Post Road, Madison, CT 06443
(203) 245-8138

FIGURE 4
CROSS-SECTION A-A'

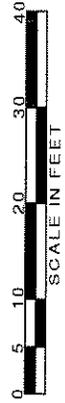
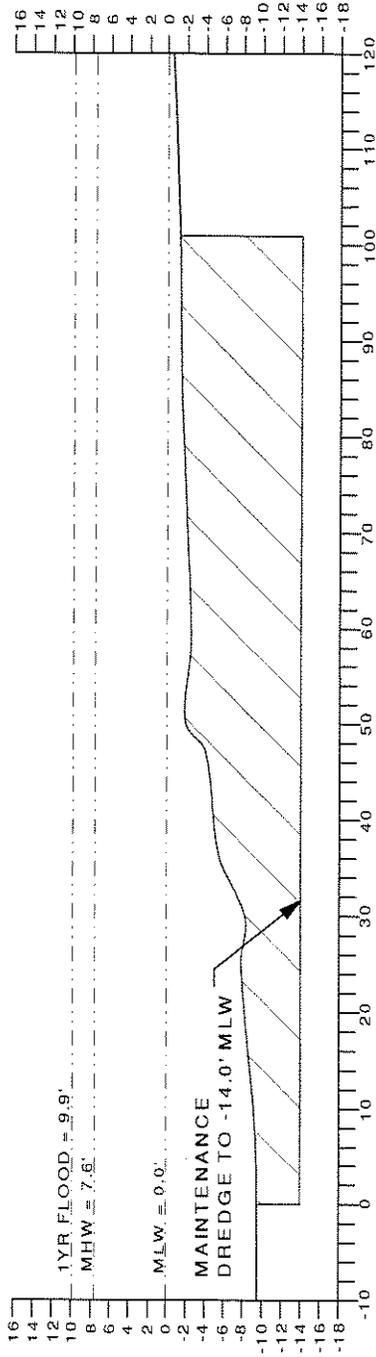
COMMANDER TERMINALS, LLC
OYSTER BAY, NEW YORK

NOVEMBER 7, 2007

SCALE: 1" = 20'

- NOTES:
- 1) THIS DRAWING IS BASED ON A HYDROGRAPHIC SURVEY CONDUCTED BY COASTLINE CONSULTING, LLC ON 1/16/07 AND A HYDROGRAPHIC SURVEY CONDUCTED BY SEAVISION MARINE SERVICES, LLC, ON 1/21/07 AND IS NOT INTENDED TO BE USED OR PERCEIVED AS A SURVEY OR MAP AS DEFINED BY THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT".
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B'



- NOTES:
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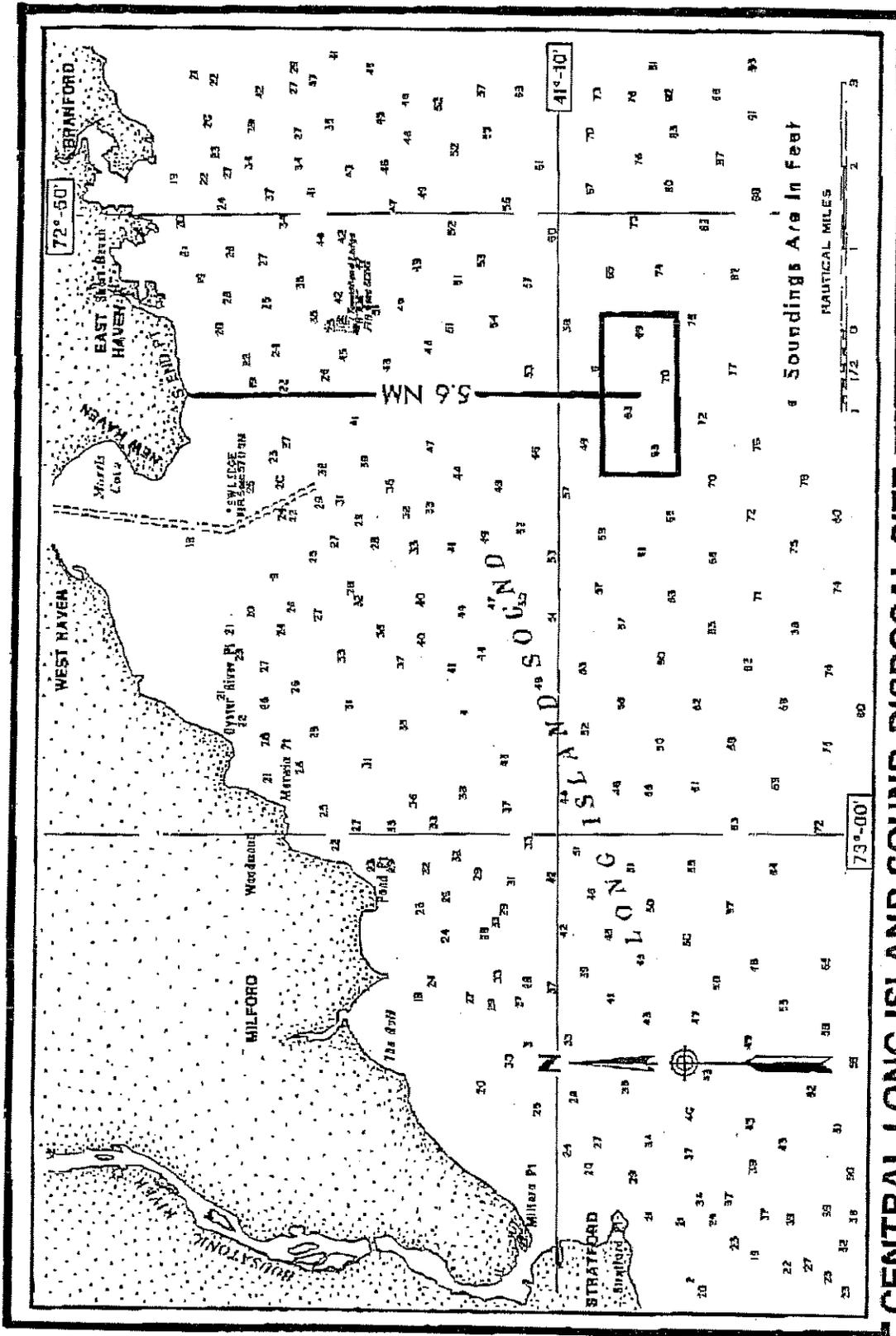
Coastline Consulting, LLC
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FIGURE 5
 CROSS-SECTION B-B'

COMMANDER TERMINALS, LLC
 OYSTER BAY, NEW YORK

NOVEMBER 7, 2007

Sheet 5 of 6



CENTRAL LONG ISLAND SOUND DISPOSAL SITE

Description: This site is a two nautical miles long by one nautical mile wide with the major axis running true east-west and center at 41°-08.95' N latitude and 72°-52.85' W longitude. From the center, Southwest Ledge Light bears true 345° at 10,750 yards and Townshend Ledge Lighted Gong Buoy No. "10-A" bears true 13° at 7,400 yards. This site is approximately 5.6 nautical miles off South End Point, East Haven. Depth Range: 49-75 feet MLW. The authorized disposal point (within the overall disposal area) is specified for each dredging project in other documents.

NOTE: The map depicts the disposal site's location in relation to landmarks. It is not intended for use in navigation.