



# PUBLIC NOTICE

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

In replying refer to:  
Public Notice Number: **NAN-2021-00860-EMI**  
Issue Date: **October 22, 2021**  
Expiration Date: **November 22, 2021**

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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 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT: Town of Hempstead  
40 Hanse Avenue  
Freeport, New York 11520

ACTIVITY: Ten-Year Maintenance Dredging with Beach Placement and Return Flow to the Waterway

WATERWAY: Higby Creek, a tributary of Hewlett Bay

LOCATION: Dredge Location: Higby Creek, East Rockaway, Town of Hempstead, Nassau County, New York

Dredge Material Placement Location: Hewlett Point Park, Town of Hempstead, Nassau County, New York

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.

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 preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments

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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 EMAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. Comments provided will become part of the public record for this permit application. All written comments, including contact information, will be made a part of the administrative record, available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any person may request, in writing, 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 email is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination is that the activity 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.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act (Public Law 104-267), requires all Federal agencies to consult with the National Oceanic and Atmospheric Administration Fisheries Service (NOAA/FS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed work, fully described in the attached work description, could cause the disruption of habitat for various lifestages of some EFH-designated species as a result of a temporary increase in turbidity during construction. However, the New York District has made the preliminary determination that the site-specific adverse effects are not likely to be substantial because it is expected that fish populations would avoid the small area of disturbance. Further consultation with NOAA/FS regarding EFH impacts and conservation recommendations is being conducted and will be concluded prior to the final decision.

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 archeological, 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 the applicant has obtained a Water Quality Certification from the New York State Department of Environmental Conservation (NYSDEC), Permit Number 1-2820-02517/00010, on August 4, 2021.

Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C.

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1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management (CZM) 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. The applicant received a CZM General Concurrence, F-2021-0692, from the New York State Department of State (NYSDOS) on August 5, 2021.

In addition to the above mentioned water quality certificate and coastal zone management program concurrence, the applicant has obtained the following permits from the NYSDEC:

- Tidal Wetlands –1-2820-02517/00009
- Excavation & Fill in Navigable Waters – 1-2829-02517/00011

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. Please send all comments and questions concerning this application to [Christopher.W.Minck@usace.army.mil](mailto:Christopher.W.Minck@usace.army.mil).

In order for us to better serve you, please complete our Customer Service Survey located at <http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>.

For more information on New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>.

**FOR AND IN BEHALF OF**  
Stephan A. Ryba  
Chief, Regulatory Branch

Enclosures

**WORK DESCRIPTION**

The permit applicant, Town of Hempstead, has requested Department of the Army (DA) authorization to conduct dredging, with ten-years maintenance with placement of all resultant dredged material as beach nourishment. The project is located at Higby Creek, a tributary of Hewlett Bay in the Town of Hempstead, Nassau County, New York.

The proposed work would involve the following:

Maintenance dredge with ten-years maintenance, by mechanical dredge, approximately 859 cubic yards (CY) of shoaled material from an approximately 6,188 square foot (0.14 acres) irregularly shaped area along the existing western bulkhead in Higby Creek to a depth of four feet below the plane of Mean Low Water (MLW). The dredged material would be placed behind the western bulkhead in an approximately 8,950 square foot designated dewatering area at Hewlett Point Park. Following dewatering the material would be spread across the beach at Hewlett Point Park over approximately 112,488 square feet (2.58 acres) of which approximately 86 cubic yards of material would be placed below the plane of Spring High Water over approximately 11,434 square feet.

The applicant plans to conduct three (3) additional dredging events within the ten-year maintenance dredging period removing a maximum of approximately 430 CY from within the same dredging area with the same placement, dewatering, and nourishment areas at Hewlett Point Park.

The applicant has stated that they have avoided, minimized, and mitigated for potential impacts proposed to the maximum extent practicable by limiting the dredged area to the minimum area required for safe and reasonable navigation of Higby Creek. Any potential impacts would be temporary and would be offset by implementing best management practices such as using staked silt fencing around the dewatering area and using a turbidity curtain during dredging.

The stated purpose of this project is to maintain safe navigable depths for vessel use in the waterway.



**Figure 1: Site Location Map**

Higby Creek | East Rockaway, Town of Hempstead, New York



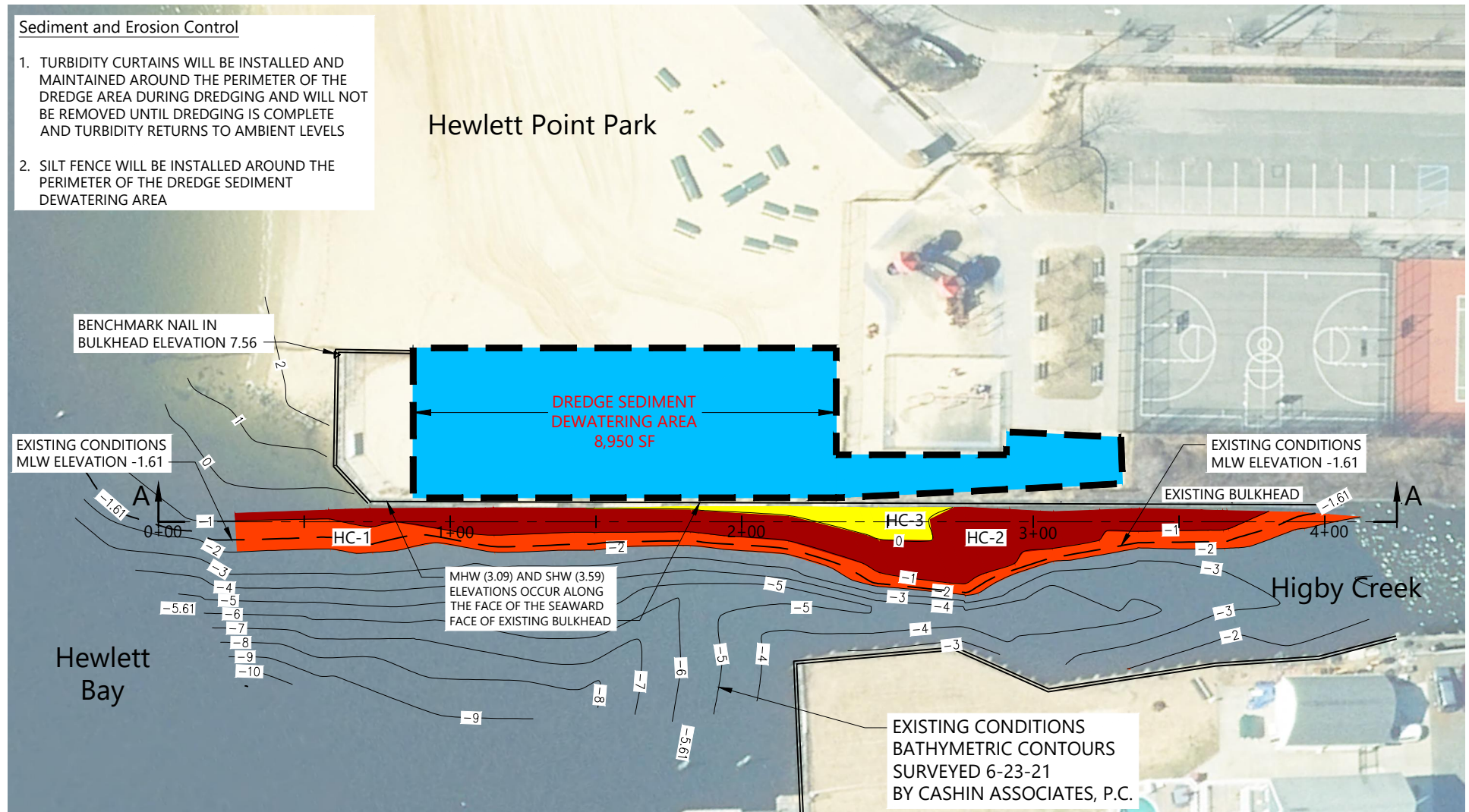
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Source: New York State Ortho Imagery (2016)



### Sediment and Erosion Control

1. TURBIDITY CURTAINS WILL BE INSTALLED AND MAINTAINED AROUND THE PERIMETER OF THE DREDGE AREA DURING DREDGING AND WILL NOT BE REMOVED UNTIL DREDGING IS COMPLETE AND TURBIDITY RETURNS TO AMBIENT LEVELS
2. SILT FENCE WILL BE INSTALLED AROUND THE PERIMETER OF THE DREDGE SEDIMENT DEWATERING AREA



### DREDGE TABLE

Area	Volume	Area	Color
HC-1	345 CY	2,475 SF	Orange
HC-2	473 CY	3,218 SF	Red
HC-3	41 CY	495 SF	Yellow
TOTAL	859 CY	6,188 SF	

### NOTES:

1. DATUM IS NGVD29 BASED ON SURVEY FROM JOHN PETITO DATED 2001
2. MLW ELEVATION = -1.61
3. DREDGE DEPTH TO 4 FEET BELOW MLW
4. TOTAL DREDGE VOLUME = 859 CY PER CASHIN ASSOCIATES, P.C.
5. FOLLOWING DEWATERING, THE DREDGE SEDIMENTS WILL BE USED ONSITE AT HEWLETT POINT PARK FOR BEACH REPLENISHMENT.
6. DREDGING WILL BE ACCOMPLISHED WITH A BARGE-MOUNTED CLAMSHELL DREDGE AND THE DREDGE SEDIMENTS WILL BE DEPOSITED DIRECTLY FROM THE CLAMSHELL BUCKET TO THE DREDGE SEDIMENT DEWATERING AREA
7. FOLLOWING DEWATERING, THE DREDGE SEDIMENTS WILL BE USED ONSITE AT HEWLETT POINT PARK FOR BEACH REPLENISHMENT.

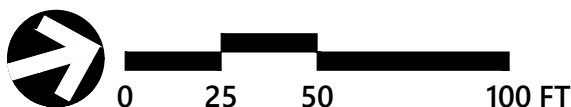


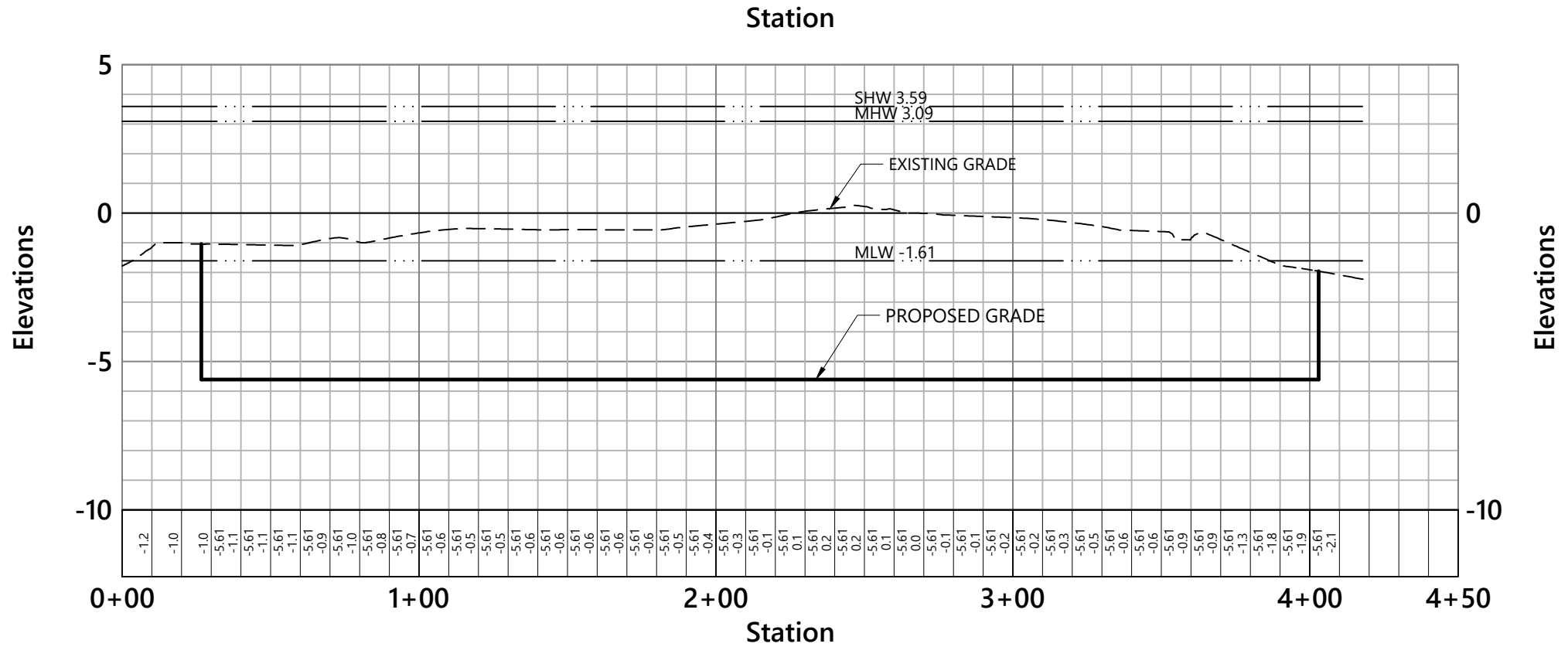
Higby Creek, East Rockaway,  
Town of Hempstead,  
Nassau County, New York  
PROPOSED DREDGING PLAN

DWG.-2

September 20, 2021

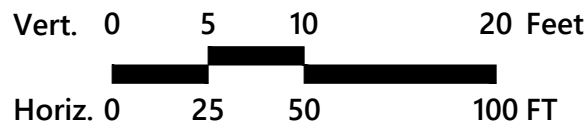
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SECTION A-A

DATUM IS NGVD29  
 MEAN LOW WATER (MLW) ELEVATION = -1.61  
 MEAN HIGH WATER (MHW) ELEVATION = 3.09  
 SPRING HIGH TIDE (SHW) ELEVATION = 3.59



Higby Creek, East Rockaway,  
 Town of Hempstead,  
 Nassau County, New York  
 SECTION A-A

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### BEACH REPLENISHMENT

- 859 CY OF DREDGE SEDIMENTS TO BE SPREAD WITHIN THE LIMITS OF BEACH REPLENISHMENT SHOWN. 773 CY (90% OF TOTAL VOLUME) TO BE SPREAD UNIFORMLY WITHIN THE 101,054 SF AREA ABOVE THE PLANE OF SHW. 86 CY (10% OF TOTAL VOLUME) TO BE SPREAD UNIFORMLY WITHIN THE 11,434 SF AREA BETWEEN SHW AND MHW.
- AREA OF REPLENISHMENT = 112,488 SF
- DEPTH OF REPLENISHMENT = 2.475" (0.20625')
- NO REPLENISHMENT BELOW MHW EL. 3.09'
- THE GRAIN SIZE DISTRIBUTION OF THE DREDGE SEDIMENTS IS > 95% SAND, WITH THE REMAINING <5% COMPRISED OF SILT/CLAY- AND GRAVEL-SIZED SEDIMENTS (SOURCE: SEDIMENT SAMPLING PLAN AND FINDINGS REPORT PREPARED BY CASHIN ASSOCIATES, JULY 27, 2021).

### NOTES:

- DATUM IS NGVD29 BASED ON SURVEY FROM JOHN PETITO DATED 2001
- EXISTING CONDITIONS SURVEYED 9-01-2021 BY VHB

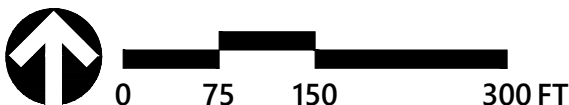


Hewlett Point Park, East Rockaway,  
Town of Hempstead,  
Nassau County, New York  
PROPOSED REPLENISHMENT PLAN

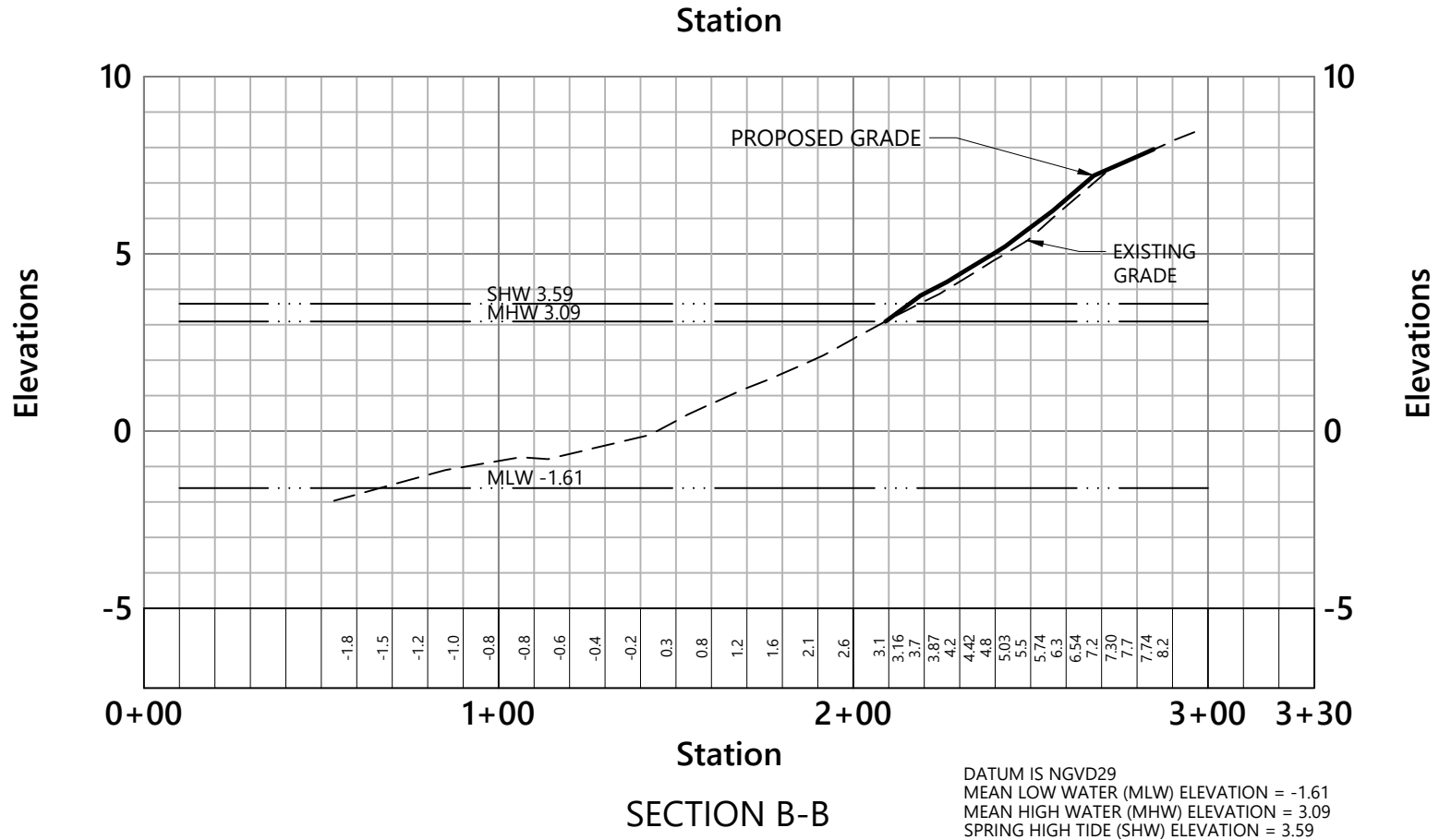
DWG.-5

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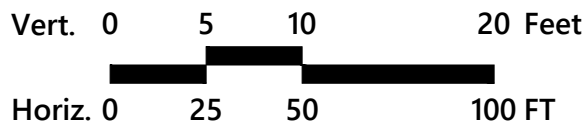






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Hewlett Point Park, East Rockaway,  
 Town of Hempstead,  
 Nassau County, New York  
 SECTION A-A

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