



**US Army Corps
of Engineers®**
New England District

PUBLIC NOTICE

696 Virginia Road
Concord, MA 01742-2751

Date: October 23, 2007
Comment Period Ends: November 23, 2007
File Number: NAE-2004-4187
In Reply Refer To: Kevin R. Kotelly, P.E.
Or by e-mail: kevin.r.kotelly@usace.army.mil

The District Engineer has received a permit application from the applicant below to **conduct work in waters of the United States** as described below. The Corps is soliciting comments on both the project itself and the range of issues to be addressed in the environmental documentation.

APPLICANT

The Town of Barnstable, Massachusetts
Department of Public Works

ACTIVITY

The work includes work in navigable waters and the discharge of dredged or fill material to dredge an approximately 182,000 square-foot (SF) area to a depth of 6 feet (FT) below mean low water (MLW) at Maraspin Creek/Barnstable Harbor in Barnstable, Massachusetts. Approximately 20,000 cubic yards (CY) of sandy material will be removed by hydraulic means, dewatered above the high tide line (HTL) at the nearby Millway Beach, and disposed of below the HTL as beach and dune nourishment at Sandy Neck Cottage Area and Sandy Neck Lighthouse Area and above the HTL at Sandy Neck Public Beach. The project will be performed in two phases.

Disposal below the HTL at the Sandy Neck Cottage Area includes the filling of approximately 3,550 SF of saltmarsh as part of the restoration of a degraded coastal dune in that area. The applicant stated that the depressional area where the fill will be placed was created approximately 20 years ago through the mechanical removal of material from the coastal dune during the construction of a culvert and berm for storm protection in that area. The applicant also stated that the mechanical excavation of the coastal dune altered the natural hydrology of the area and created conditions such that this area is now below the HTL, when it was historically above the HTL. As such, this degraded coastal dune area is now subjected to flooding during high storm tides, cutting off access to several structures and creating a safety hazard.

The Sandy Neck Cottage Area coastal dune, which was previously excavated in the 1980's, is primarily unvegetated, although several small clumps of *Spartina patens* and *Salicornia* species exist around the perimeter and within the southeastern section of the depression. Collectively, these salt-tolerant plants growing below the HTL, vegetate approximately 3,550 SF within the degraded dune area and are regulated as saltmarsh.

As part of Phase 2 of the dredging of the Barnstable Harbor Entrance Channel, the Town proposes to restore the dune at the Sandy Neck Cottage Area by placing clean dredge material into the excavated area, thereby restoring the natural elevations, hydrology and functions of the dune. The volume of material required for Coastal Dune restoration within this area is approximately 7,500 CY, filling an area of approximately 82,300 SF below the HTL. The material used for dune restoration will consist of both sand and silty sand sediments, as

appropriate for dune restoration. Following the placement of sediments, the area will be vegetated with American Beach Grass (*Ammophila breviligulata*) to the extent recommended and agreed upon by both the Natural Heritage and Endangered Species Program (NHESP) and the U.S. Fish and Wildlife Service. The access route that currently exists through the depression will be discontinued and vehicular traffic will be required to be re-routed through access areas to be determined by the Town, the Sandy Neck Park Manager, and the Massachusetts Department of Conservation and Recreation (DCR) Area of Critical Environmental Concern (ACEC) Program.

The work is described on the enclosed plans entitled, "Application By: The Town of Barnstable, 367 Main Street, Hyannis, Massachusetts," with various subtitles on eight sheets, and dated, "October 11, 2006."

WATERWAY AND LOCATION OF THE PROPOSED WORK

This work is proposed in Maraspin Creek/Barnstable Harbor and Sandy Neck in Barnstable, Massachusetts. The proposed location on the USGS Barnstable quadrangle sheet is at UTM coordinates 41.71 N and 70.30 W.

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 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.

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).

This project will impact approximately 6.1 acres of Essential Fish Habitat (EFH) for Atlantic cod (all life stages), haddock (eggs and larvae), pollock (all life stages except eggs), whiting (all life stages), red hake (all life stages), white hake (all life stages), winter flounder (all life stages), yellowtail flounder (all life stages), windowpane flounder (all life stages), American plaice (all life stages), ocean pout (all life stages), Atlantic halibut (all life stages), Atlantic sea scallops (all life stages), Atlantic sea herring (all life stages), bluefish (juveniles and adults), long finned squid (juveniles and adults), short finned squid (juveniles and adults), Atlantic butterfish (all life stages), Atlantic mackerel (all life stages), summer flounder (adults only), scup (juveniles and adults), black sea bass (juveniles and adults), spiny dogfish (juveniles and adults) and bluefin tuna (juveniles and adults). This habitat consists of intertidal and subtidal sandy substrate and saltmarsh. Loss of this habitat may adversely affect the species listed above.

The applicant stated that the 3,550 SF of saltmarsh at the Sandy Neck Cottage Area were created after the Town mechanically excavated the dune at this location in the 1980's. The applicant also stated that the saltmarsh clusters at this location are inundated only during storm tides and are not underlain by peat, thereby preventing them from being significant exporters of organic material and minimizing their ability to remove large amounts of excess nutrients and/or heavy metals. The restoration of this area back to its original coastal dune formation is intended to restore the natural functions of this ecosystem and provide a much higher degree of storm damage prevention and other functions associated with coastal dunes.

The District Engineer has made a preliminary determination that the site-specific adverse effects to EFH 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.

SECTION 106 COORDINATION

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties with cultural or Native American significance, or listed in, or eligible for listing in, the National Register of Historic Places. Therefore, no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. Coordination with the State Historic Preservation Officer and/or Tribal Historic Preservation

Officers.

Pursuant to the **Endangered Species Act**, the District Engineer is hereby requesting that the appropriate Federal Agency provide comments regarding the presence of and potential impacts to listed species or its critical habitat.

CENAE-R
FILE NO. NAE-2004-4187

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.

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 Kevin Kotelly at (978) 318-8703, (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.

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

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



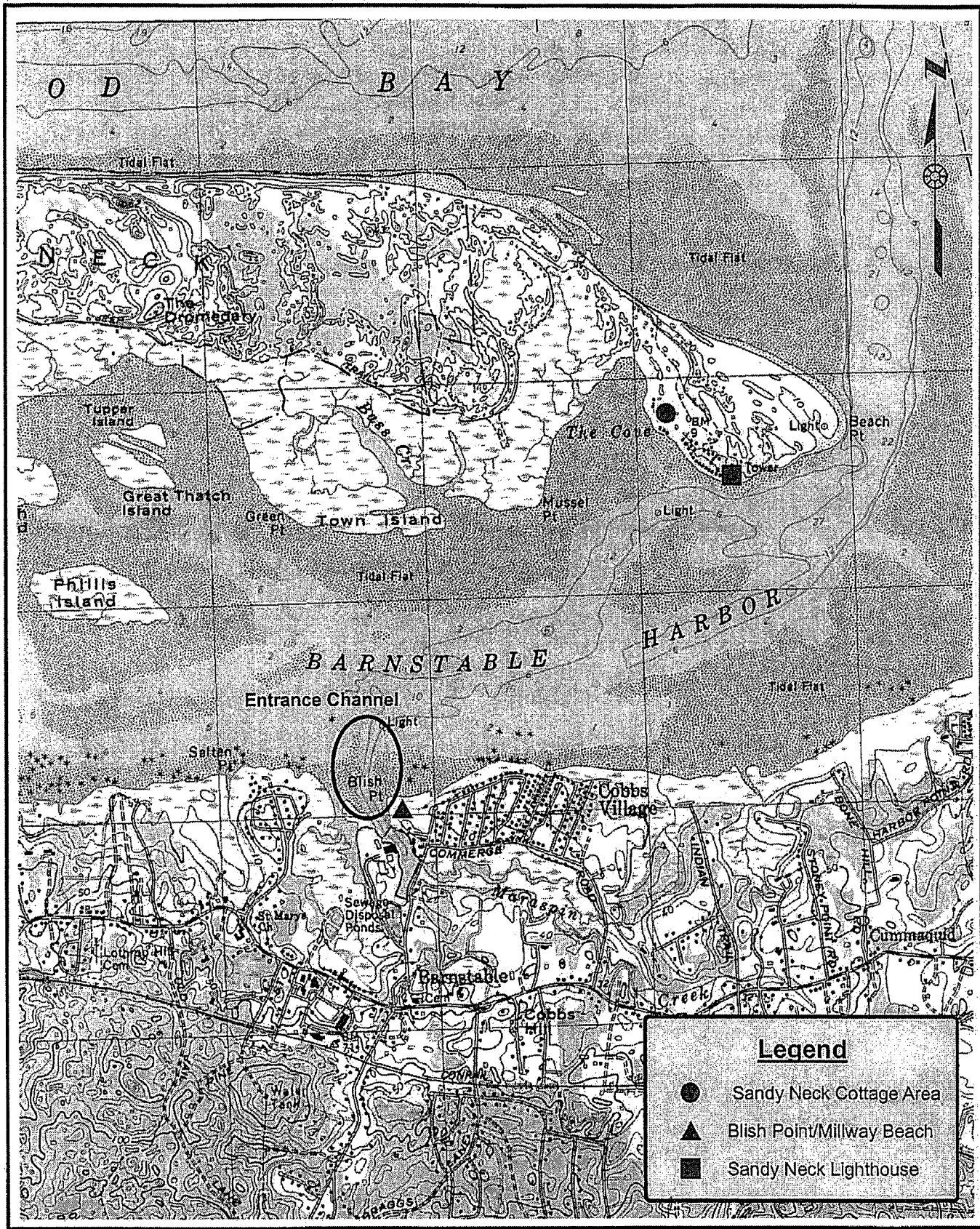
Karen K. Adams
Chief, Permits and Enforcement Branch
Regulatory Division

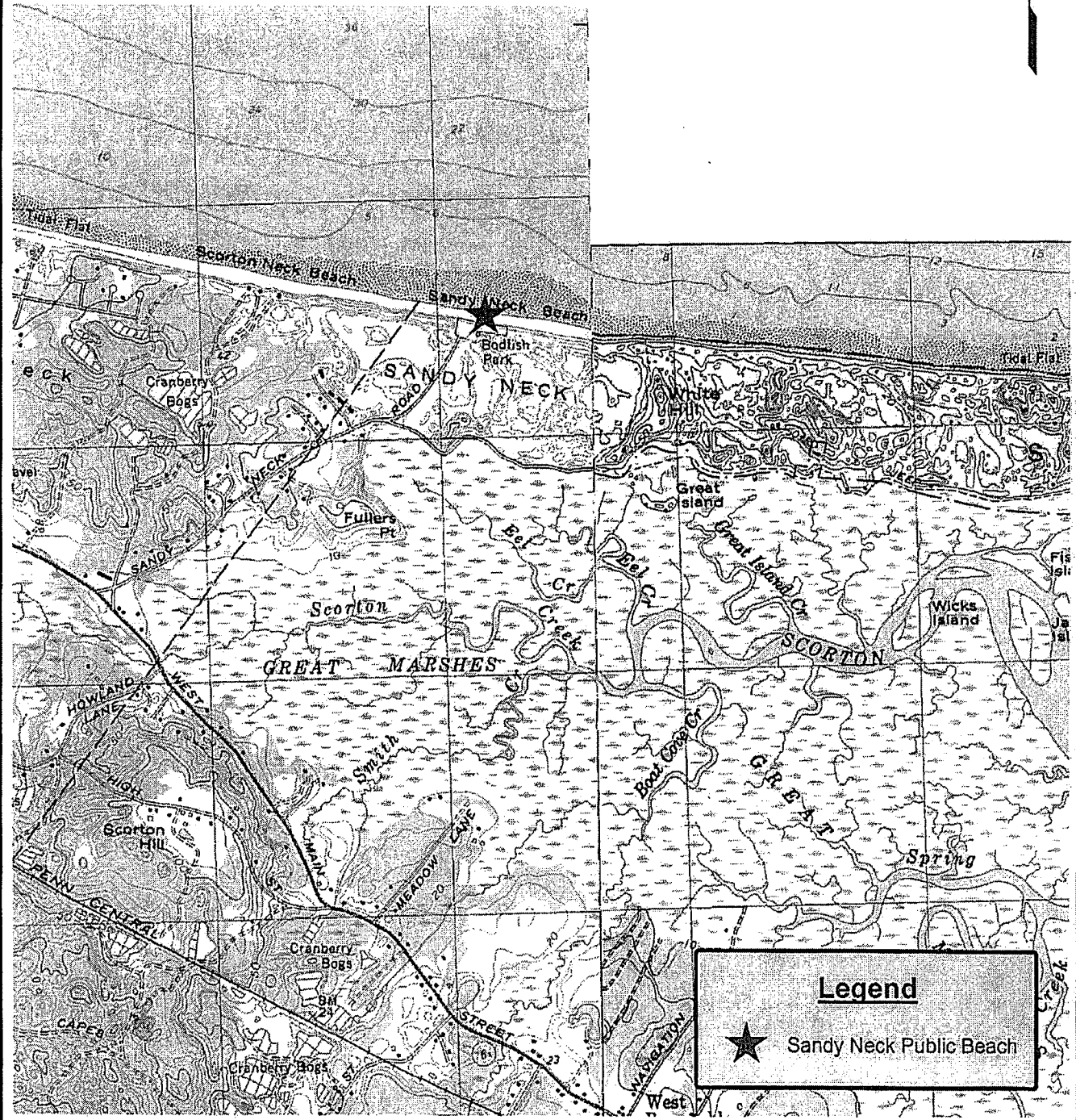
CENAE-R
FILE NO. NAE-2004-4187

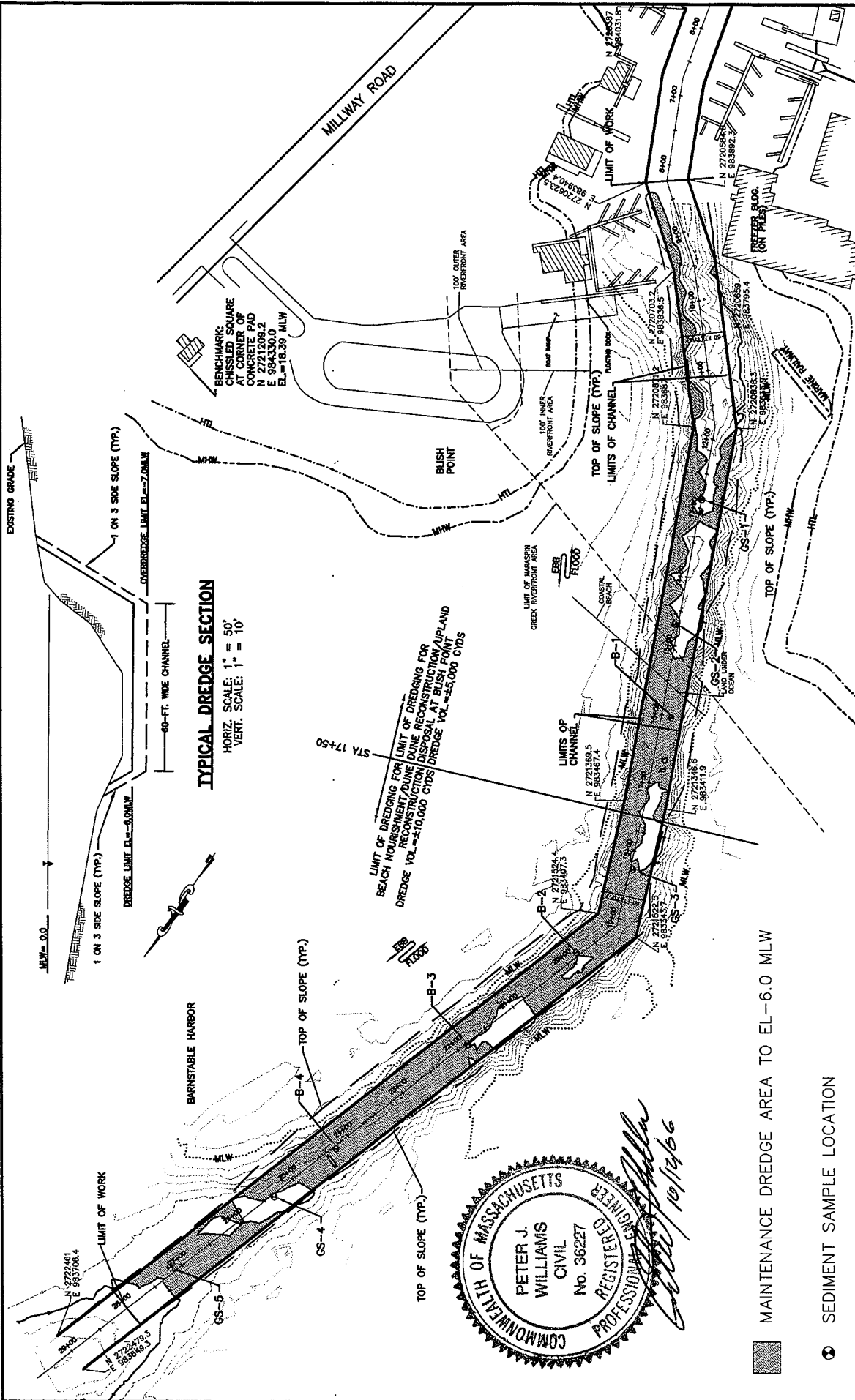
If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers,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

NAME: _____

ADDRESS: _____







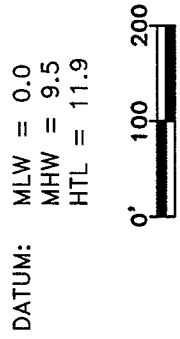
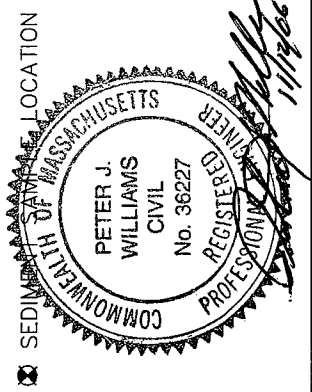
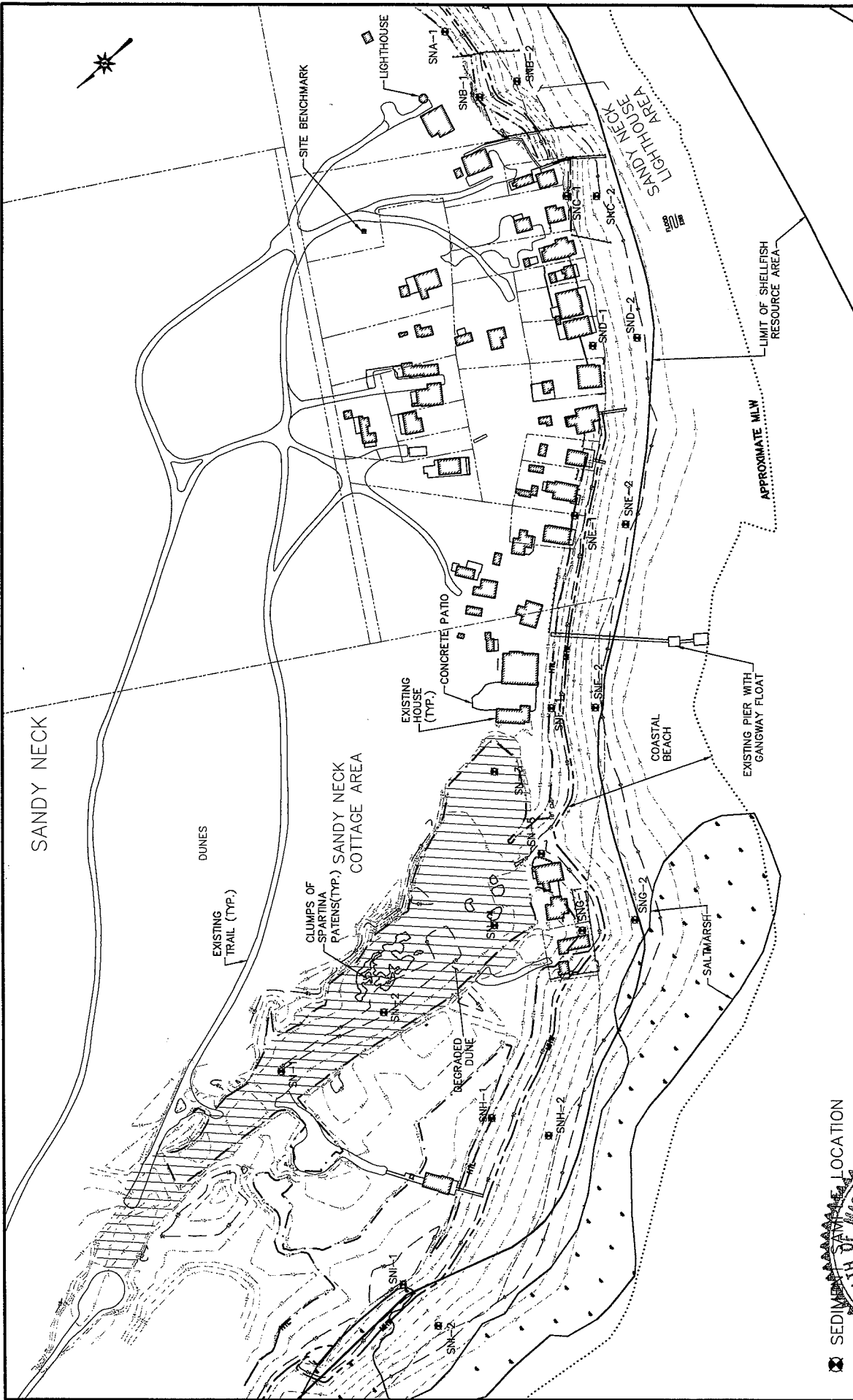
AT: MARASPIN CREEK
 CAPE COD BAY
 COUNTY: BARNSTABLE
 APPLICATION BY:
 THE TOWN OF BARNSTABLE
 367 MAIN STREET
 HYANNIS, MASSACHUSETTS

DREDGING PLAN

DATUM:

MLW = 0.0
MHW = 9.5
HTL = 11.9

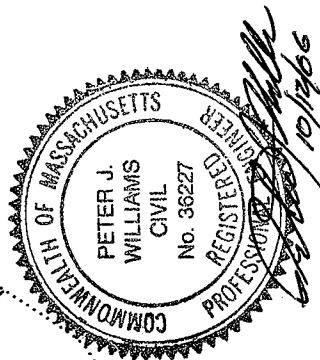
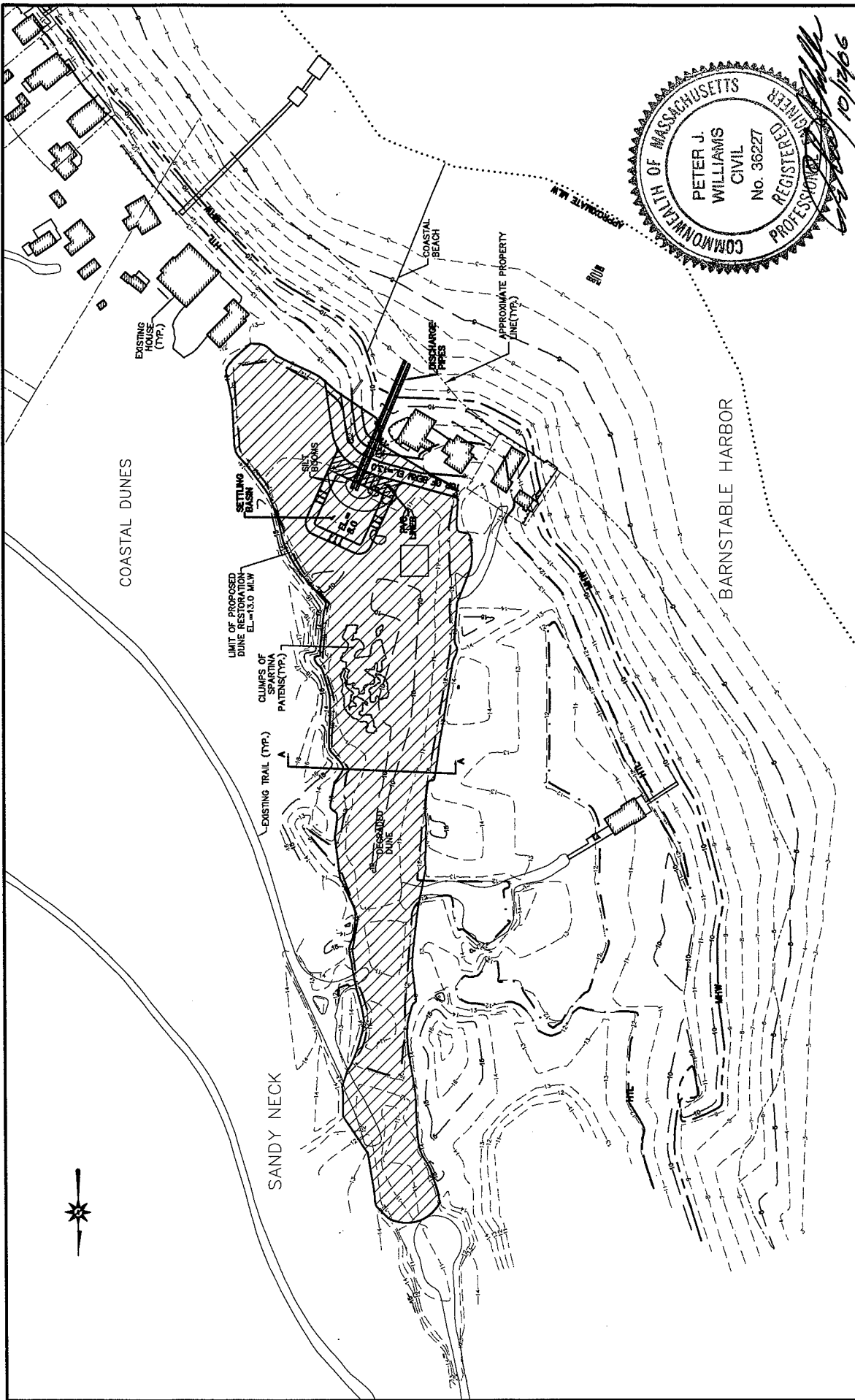
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DATUM: MLW = 0.0
 MHW = 9.5
 HTL = 11.9

EXISTING CONDITIONS PLAN
SANDY NECK

AT: SANDY NECK
 CAPE COD BAY
 COUNTY: BARNSTABLE
 APPLICATION BY:
 THE TOWN OF BARNSTABLE
 367 MAIN STREET
 HYANNIS, MASSACHUSETTS



AT: SANDY NECK
 CAPE COD BAY
 COUNTY: BARNSTABLE
 APPLICATION BY:
 THE TOWN OF BARNSTABLE
 367 MAIN STREET
 HYANNIS, MASSACHUSETTS

OCTOBER 11, 2006 SHEET 3 OF 8

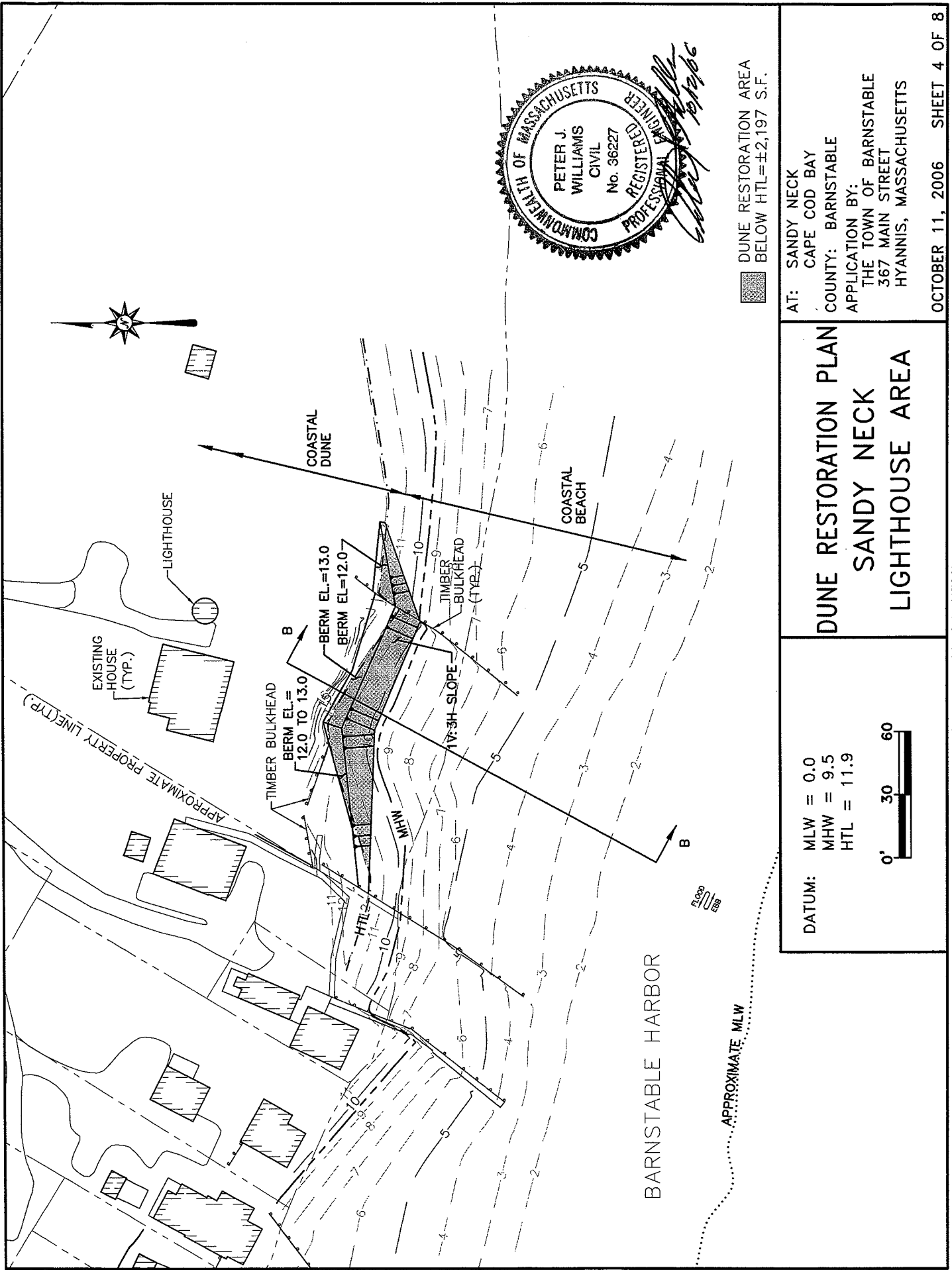
DUNE RESTORATION PLAN
SANDY NECK
COTTAGE AREA

DATUM: MLW = 0.0
 MHW = 9.5
 HTL = 11.9

0' 75 150

PROPOSED AREA FOR DUNE RESTORATION
 DUNE RESTORATION AREA BELOW HTL=±82,300 S.F.

VINE ASSOCIATES, INC. HINGHAM, MASSACHUSETTS



COMMONWEALTH OF MASSACHUSETTS
 REGISTERED PROFESSIONAL ENGINEER
 PETER J. WILLIAMS
 CIVIL
 No. 36227
 10/11/06

DUNE RESTORATION AREA
 BELOW HTL=±2,197 S.F.

AT: SANDY NECK
 CAPE COD BAY
 COUNTY: BARNSTABLE
 APPLICATION BY:
 THE TOWN OF BARNSTABLE
 367 MAIN STREET
 HYANNIS, MASSACHUSETTS

OCTOBER 11, 2006 SHEET 4 OF 8

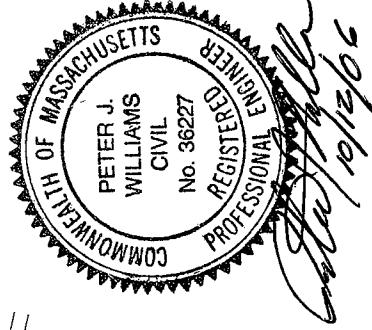
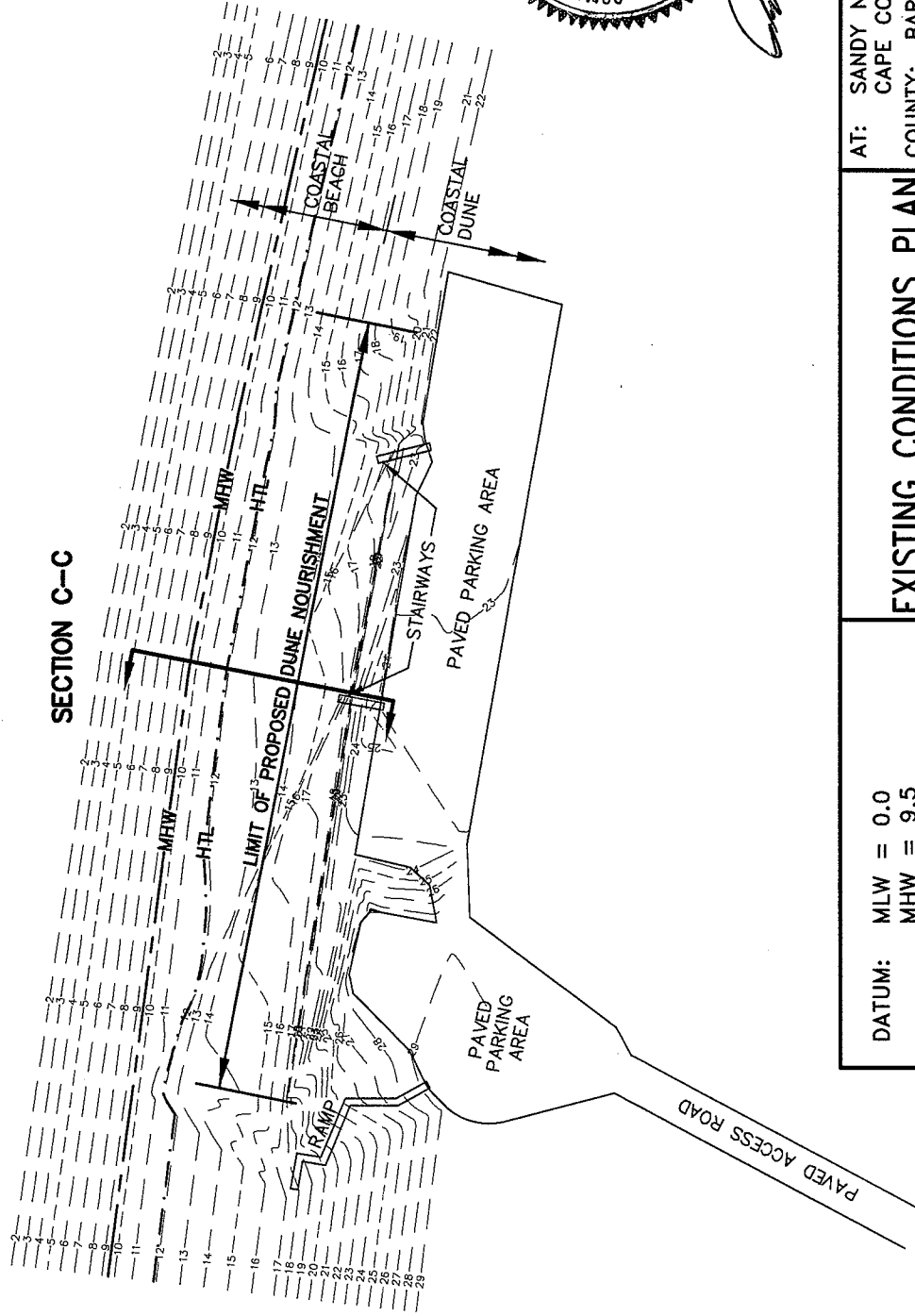
DUNE RESTORATION PLAN
SANDY NECK
LIGHTHOUSE AREA

DATUM: MLW = 0.0
 MHW = 9.5
 HTL = 11.9

0' 30 60



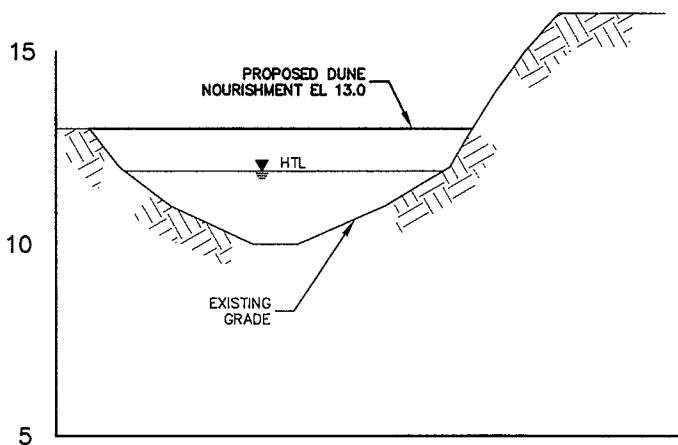
SECTION C-C



AT: SANDY NECK
 CAPE COD BAY
 COUNTY: BARNSTABLE
 APPLICATION BY:
 THE TOWN OF BARNSTABLE
 367 MAIN STREET
 HYANNIS, MASSACHUSETTS

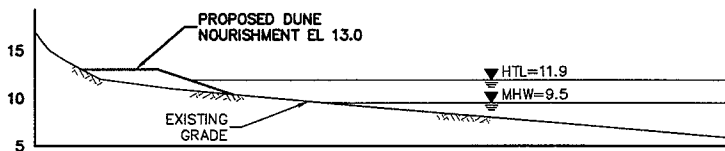
EXISTING CONDITIONS PLAN
 SANDY NECK
 PUBLIC BEACH

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 MHW = 9.5
 HTL = 11.9



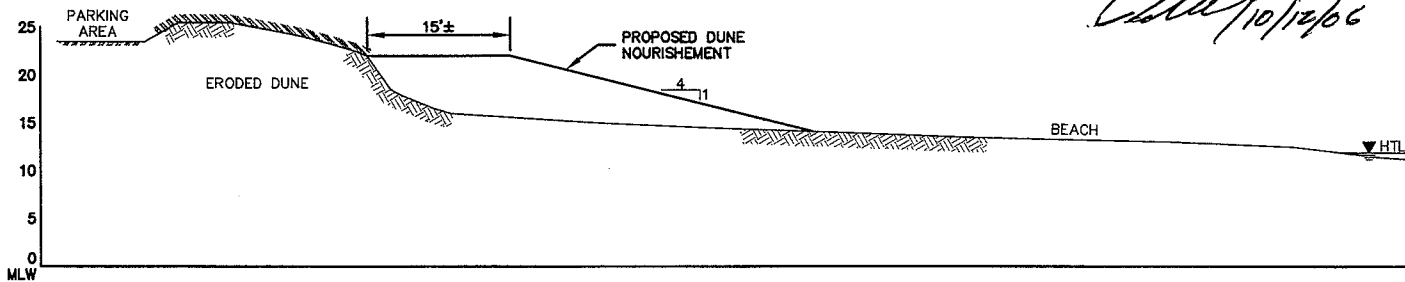
TYPICAL SECTION A-A

SCALE: VERTICAL: 1"=5'
HORIZONTAL: 1"=50'



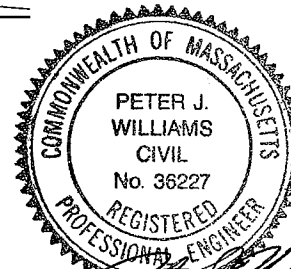
TYPICAL SECTION B-B

SCALE: 1"=20'



TYPICAL SECTION C-C

SCALE: 1"=20'



Peter J. Williams
10/12/06

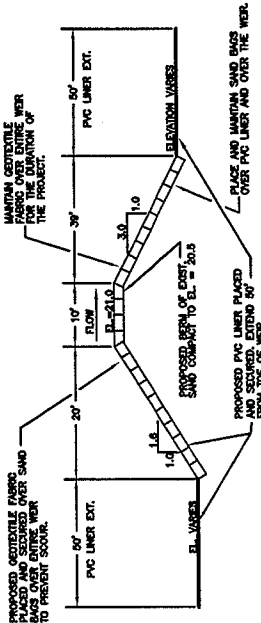
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HTL = 11.9



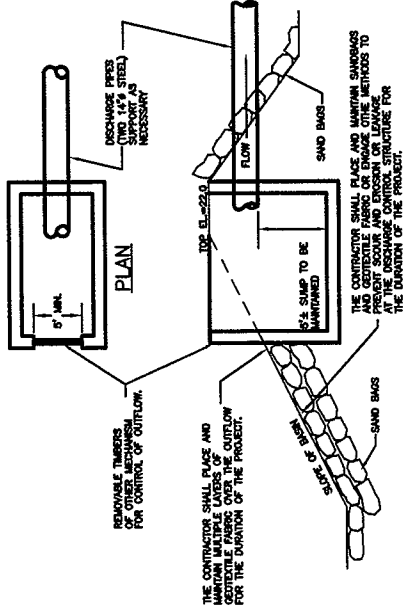
DUNE RESTORATION PLAN
TYPICAL SECTIONS
SANDY NECK

AT: SANDY NECK
CAPE COD BAY
COUNTY: BARNSTABLE
APPLICATION BY:
THE TOWN OF BARNSTABLE
361 MAIN STREET
HYANNIS, MASSACHUSETTS

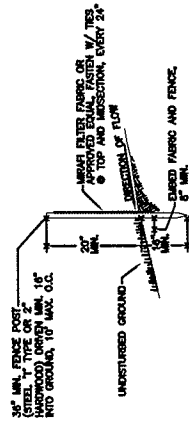
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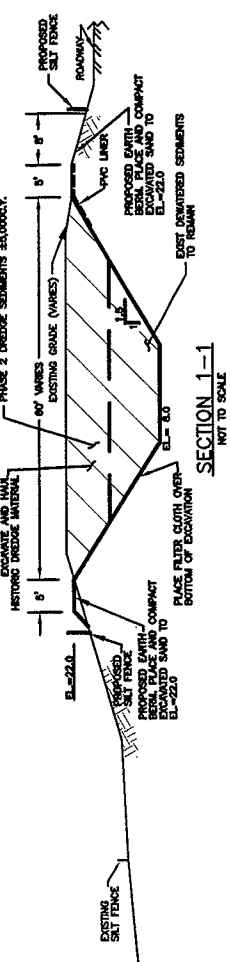
TYPICAL WEIR SECTION
NOT TO SCALE



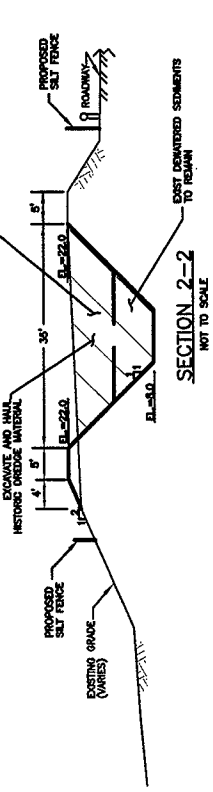
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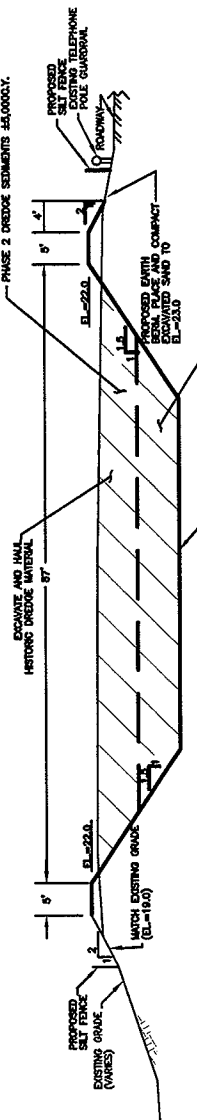
SILT FENCE
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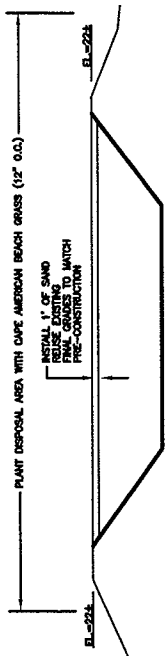
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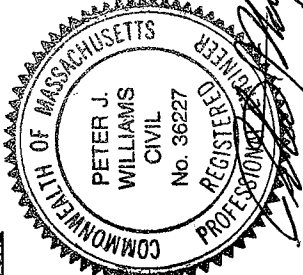
SECTION 2-2
NOT TO SCALE



SECTION 3-3
NOT TO SCALE



TYPICAL FINISHED BASIN SECTION
NOT TO SCALE



DATUM: MLW = 0.0
MHW = 9.5
HTL = 11.9



DETAILS SHEET
BLISH POINT
CONTAINMENT AREA

AT: MARASPIN CREEK
CAPE COD BAY
COUNTY: BARNSTABLE
APPLICATION BY:
THE TOWN OF BARNSTABLE
367 MAIN STREET
HYANNIS, MASSACHUSETTS