

Section 1: Applicant Identification

1. Applicant's Name: James O. Altrichter
 Mailing Address: 20040 Ward Road
Lewes, DE 19958

Telephone #: (302) 521-4748
 Fax #: _____
 E-mail: jaltrichter@outlook.com

2. Consultant's Name: Evelyn Maurmeyer
 Mailing Address: PO Box 674
Lewes, DE 19958

Company Name: CER, Inc.
 Telephone #: (302) 645-9610
 Fax #: (302) 645-4332
 E-mail: maurmeye@udel.edu

3. Contractor's Name: Rob Whitford
 Mailing Address: 202 Woodbridge Hills
Rehoboth Beach DE 19971

Company Name: Precision Marine
 Telephone #: (302) 227-2711
 Fax #: (302) 226-1157
 E-mail: _____

Section 2: Project Description

4. Check those that apply:
 New Project/addition to existing project? Repair/Replace existing structure? (If checked, must answer #16)

5. Project Purpose (attach additional sheets as necessary):
Applicant proposes to construct a stone rip-rap revetment along 140
l.f. of shoreline (two sections, 80 l.f. and 60 l.f.), and four
tiebacks @ 20' (total = 80') for stabilization of eroding upland bank.

6. Check each Appendix that is enclosed with this application:

<input type="checkbox"/> A. Boat Docking Facilities	<input type="checkbox"/> G. Bulkheads	<input type="checkbox"/> N. Preliminary Marina Checklist
<input type="checkbox"/> B. Boat Ramps	<input type="checkbox"/> H. Fill	<input type="checkbox"/> O. Marinas
<input type="checkbox"/> C. Road Crossings	<input checked="" type="checkbox"/> I. Rip-Rap Sills and Revetments	<input type="checkbox"/> P. Stormwater Management
<input type="checkbox"/> D. Channel Modifications/Dams	<input type="checkbox"/> J. Vegetative Stabilization	<input type="checkbox"/> Q. Ponds and Impoundments
<input type="checkbox"/> E. Utility Crossings	<input type="checkbox"/> K. Jetties, Groins, Breakwaters	<input type="checkbox"/> R. Maintenance Dredging
<input type="checkbox"/> F. Intake or Outfall Structures	<input type="checkbox"/> M. Activities in State Wetlands	<input type="checkbox"/> S. New Dredging

Section 3: Project Location

7. Project Site Address: 20040 Ward Rd.
Lewes DE 19958

County: N.C. Kent Sussex
 Site owner name (if different from applicant): same
 Address of site owner: "

8. Driving Directions: See Figures 1, 2, and 3 for maps and directions.

(Attach a vicinity map identifying road names and the project location)

9. Tax Parcel ID Number: #334-11.00-97.00, 98.00, 98.01, Subdivision Name: Lewes and Rehoboth Hundred/
Sussex County

WSLS Use Only:		Permit #s: _____							
Type	SP <input type="checkbox"/>	SL <input type="checkbox"/>	SU <input type="checkbox"/>	WE <input type="checkbox"/>	WQ <input type="checkbox"/>	LA <input type="checkbox"/>	SA <input type="checkbox"/>	MP <input type="checkbox"/>	WA <input type="checkbox"/>
Corps Permit:	SPGP 18 <input type="checkbox"/> 20 <input type="checkbox"/>		Nationwide Permit #:	_____		Individual Permit #:	_____		
Received Date:	_____		Project Scientist:	_____					
Fee Received?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Amt: \$	_____		Receipt #:	_____		
Public Notice #:	_____		Public Notice Dates:	ON	_____		OFF	_____	

Wetlands and Subaqueous Lands Section Basic Application Form

Section 3: Project Location (Continued)

10. Name of waterbody at Project Location: Love Creek waterbody is a tributary to: Rehoboth Bay

11. Is the waterbody: Tidal Non-tidal Waterbody width at mean low or ordinary high water 380' ±

12. Is the project: On public subaqueous lands? * On private subaqueous lands? *
 In State-regulated wetlands? In Federally-regulated wetlands?

* Part of structure will be channelward of MHWL; structure will not extend channelward of MLWL.
 *If the project is on private subaqueous lands, provide the name of the subaqueous lands owner: _____
 (Written permission from the private subaqueous lands owner must be included with this application)

13. Present Zoning: Agricultural Residential Commercial Industrial Other

Section 4: Miscellaneous

14. A. List the names and complete mailing addresses of the immediately adjoining property owners on all sides of the project (attach additional sheets as necessary):
See Figure 3

B. For wetlands and marina projects, list the names and complete mailing addresses of property owners within a 1,000 foot radius of the project (attach additional sheets as necessary):
n/a

15. Provide the names of DNREC and/or Army Corps of Engineers representatives whom you have discussed the project with:
None

A. Have you had a State Jurisdictional Determination performed on the property? Yes No
 B. Has the project been reviewed in a monthly Joint Permit Processing Meeting? Yes No
 *If yes, what was the date of the meeting? _____

16. Are there existing structures or fill at the project site in subaqueous lands? Yes No
 *If yes, provide the permit and/or lease number(s):
DOCK, SL-241/21

*If no, were structures and/or fill in place prior to 1969? Yes No

17. Have you applied for or obtained a Federal permit from the Army Corps of Engineers? -
 No Pending Issued Denied Date: PCN submitted 12.20/23

Type of Permit: NWP #13 Federal Permit or ID #: not yet assigned

18. Have you applied for permits from other Sections within DNREC?
 No Pending Issued Denied Date: _____ Permit or ID #: _____

Type of permit (circle all that apply): Septic Well NPDES Storm Water

Other: _____

Section 5: Signature Page**19. Agent Authorization:**

If you choose to complete this section, all future correspondence to the Department may be signed by the duly authorized agent. In addition, the agent will become the primary point of contact for all correspondence from the Department.

I do not wish to authorize an agent to act on my behalf

I wish to authorize an agent as indicated below


I, James O. Altrichter, hereby designate and authorize Evelyn Maurmeyer, CER, Inc.
 (Name of Applicant) (Name of Agent)

to act on my behalf in the processing of this application and to furnish any additional information requested by the Department.

Authorized Agent's Name: Evelyn Maurmeyer Telephone #: (302) 645-9610
 Mailing Address: CER, Inc. Fax #: (302) 645-4332
PO Box 674 E-mail: maurmeye@udel.edu
Lewes DE 19958

20. Agent's Signature:

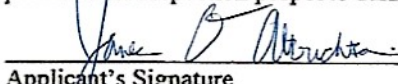
I hereby certify that the information on this form and on the attached plans are true and accurate to the best of my knowledge. I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application.


 Agent's Signature

12/20/2023
 Date

21. Applicant's Signature:

I hereby certify that the information on this form and on the attached plans are true and accurate to the best of my knowledge and that I am required to inform the Department of any changes or updates to the information provided in this application. I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application. I grant permission to authorized Department representatives to enter upon the premises for inspection purposes during working hours.


 Applicant's Signature

Dec, 12, 2023
 Date

James O. Altrichter
 Print Name

22. Contractor's Signature:

I hereby certify that the information on this form and on the attached plans are true and accurate to the best of my knowledge, and that I am required to inform the Department of any changes or updates to the information provided in this application. I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application.

Rob Whitford, Precision Marine Construction, Inc.
 Contractor's Name Date

 Print Name

Rip-Rap Sills and Revetments

Please respond to each question. Questions left blank may result in the application being returned as incomplete. In addition, the answers to all of the questions in this Appendix must correspond accurately to the information on the plan and section view drawings for the project.

1. Will the project be:

- New Construction (un-stabilized shoreline)
 - Repair or Replacement of an Existing Rip-Rap Structure or Rubble
 - Repair or Replacement of an Existing Bulkhead
- (If repair or replacement, submit photographs of the entire existing structure).

2. How many linear feet of shoreline are proposed to be stabilized? 140'

3. Is the project a: Standard rip-rap revetment Free-standing sill

4. Describe the existing shoreline:

Eroding upland bank. See photographs, Figure 9.

5. What is the total number of cubic yards of rip-rap that will be used? 70± (below plane of MHW)

6. What is the number of cubic yards of rip-rap per running foot of shoreline? 0.5± (below plane of MHW)
(See page 4 for a guide to calculating total cubic yards and cubic yards per running foot).

7. What will be the average weight of the stone used for the:

Armor stone: 50-150 lb. Core stone: 50-150 lb.

[If material other than stone, such as prefab geo-grid or other similar product is proposed, please describe here and include photographs or a brochure. The Department strongly discourages the use of broken concrete, cinderblocks or other materials that are less dense than stone, more apt to move off site due to currents or wave action, and/or are not aesthetically pleasing or in keeping with the natural environment.]

Describe:

8. For Standard Revetments answer A-F, below: (for Sill projects, skip to Question #9)

A. How many linear feet will the structure extend channelward of:

Mean High Water: 4' ± Mean Low Water: 0'

Ordinary High Water: n/a (for non-tidal waters)

B. How many square feet of the structure will be located:

Channelward of Mean High Water: 560 Channelward of Mean Low Water: 0

Channelward of Ordinary High Water: n/a (for non-tidal waters)

On vegetated wetlands: 0

C. Will the revetment be backfilled? Yes* No

If yes, complete Appendix H and include it in your application.

* Fill be in uplands, landward of MHWL (not in DNREC jurisdiction)

D. Will filter cloth be used behind the rip-rap structure? Yes No

E. What is the average slope of the existing bank? 1:1 ±

F. What is the proposed slope of the rip-rap revetment? 1:1 ±

(See page 3 for a guide to calculating slopes).

9. Sill Projects: Not applicable

A. What is the base width of the proposed structure: _____

B. What is the top width of the proposed structure: _____

C. How many square feet of the structure will be located:

Channelward of Mean High Water: _____ Channelward of Mean Low Water: _____

Channelward of Ordinary High Water: _____ (for non-tidal waters)

On vegetated wetlands: _____

D. What will be the average height of the structure: _____

E. How much of the structure (in inches) will extend vertically above:

Mean High Water: _____ Ordinary High Water: _____ (for non-tidal waters)

F. Are breaks or notches proposed in the sill to allow for greater flushing? Yes No

G. Will fill material be placed behind the sill? Yes No If yes, complete appropriate appendix.

H. Will wetland vegetation be planted behind the sill? Yes No

If yes, complete Appendix H and include it in your application.

10. Construction Techniques (Complete for both Revetment and Sill Projects):

A. Will any dredging be required? Yes No

If yes, please include appropriate dredging Appendix with your application).

B. Please describe the sequence of construction and any techniques that will be utilized to minimize adverse impacts on the aquatic environment, and to preserve existing vegetation (particularly woody vegetation) along the shoreline:

Project has been designed to preserve trees. All work will be conducted from land. Filter cloth to be placed; 50-150# stone to be placed using an excavator. Backfill to be placed as necessary in uplands, landward of structure (landward of MHWL, out of DNREC jurisdiction).

CALCULATIONS

RUN = Base width of the structure (in feet) RISE = Vertical height of the structure (in feet)

I. How to calculate total cubic yards:

$$0.5 * RUN * RISE * \text{Linear feet of shoreline stabilized} / 27 = \text{Total Cubic Yards}$$

II. How to calculate cubic yards per running foot of shoreline:

$$\text{Total \# Cubic Yards} / \text{Linear feet of shoreline} = \text{Cubic yards per running foot}$$

III. How to calculate slope: Slope = RUN/RISE

EXAMPLE:

If we propose to stabilize 100 linear feet of shoreline with a rip-rap revetment that has a basewidth of 6 feet and a height of 3 feet:

$$0.5 * 6 * 3 * 100 / 27 = 33.33 \text{ Total Cubic Yards}$$

$$\text{II. } 33.33 / 100 = 0.333 \text{ Cubic Yards per running foot}$$

$$\text{III. } 6/3 = \text{Slope of 2}$$

TM #: 3-34-11.00-98.00

PREPARED BY & RETURN TO:

The Smith Firm, LLC

8866 Riverside Dr.

Seaford, DE 19973

File No. C21-33/

This Deed, made this 25th day of April, 2021,

- BETWEEN -

CAROL MILLER, SUCCESSOR TRUSTEE OF THE LULA E. FISHER TESTAMENTARY TRUST, party of the first part,

- AND -

JAMES O. ALTRICHTER, TRUSTEE OF THE JAMES O. ALTRICHTER 2014 REVOCABLE TRUST U/A/D FEBRUARY 27, 2014 and CAROL J. ALTRICHTER, TRUSTEE OF THE CAROL J. ALTRICHTER 2014 REVOCABLE TRUST U/A/D FEBRUARY 27, 2014, of 609 Fraim Circle, Newark, DE 19711, as joint tenants unto the survivor of them, their heirs and assigns and not as tenants in common, parties of the second part.

WITNESSETH: That the said party of the first part, for and in consideration of the sum of **Three Hundred Eighty-Eight Thousand and 00/100 Dollars (\$388,000.00)**, lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the parties of the second part, and their heirs and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

ALL that certain lot, piece and parcel of land, situate, lying and being in Lewes and Rehoboth Hundred, Sussex County and State of Delaware, and being more particularly described as follows, to wit:

BEGINNING at a threaded pipe found lying on the northeasterly right of way of Ward Road, said threaded pipe being a common corner for these lands and lands now or formerly of Robert W. Brownlowe and Ralph L. Brownlowe, Jr.; thence running along these lands by and with Ward Road, South 42 degrees 36 minutes 13 seconds West 130.40 feet to a threaded pipe found; thence continuing along these lands by and with Ward Road, South 58 degrees 33 minutes 08 seconds West 161.77 feet to a point, said point being a corner for these lands; thence turning and running along these lands, North 15 degrees 35 minutes 22 seconds West 150.96 feet to a point, said point being a corner for these lands; thence

turning and running along these lands, North 46 degrees 52 minutes 59 seconds East 103.77 feet to a threaded pipe found; thence continuing along these lands, North 46 degrees 39 minutes 06 seconds East 109.02 feet to a threaded pipe found, said threaded pipe being a corner for these lands; thence turning and running along these lands, South 44 degrees 12 minutes 37 seconds East 99.29 feet to a fence post; thence continuing along these lands, South 47 degrees 04 minutes 20 seconds East 58.16 feet to the point and place of beginning, said to contain 39,578 square feet (0.9086 acre) of land, more or less, as shown on a survey entitled "Boundary Survey Plan of the Lands Now or Formerly of Robert Taylor, Lula Taylor and James Taylor", prepared by Alan O Kent Land Surveying, LLC, dated March 23, 2021.

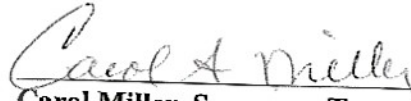
BEING the same lands conveyed to Lula E. Fisher from William J. Elliott, by Deed dated June 2, 1948, recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware, on June 2, 1948, in Deed Book 378, Page 561. The said Lula E. Fisher departed this life, testate, on or about December 2, 1982, and pursuant Item 1(c) of her Last Will and Testament devised these lands unto Edith O. Ward and Frederick Slater, in a Testamentary Trust, nevertheless, for the use and benefit of Robert Taylor, Lula Taylor, James Taylor, Virginia Taylor, Nettie Taylor and Edgar Taylor, for their lifetimes. Upon the death of the last surviving life tenant the real estate is to be sold by the said Trustees. The said Frederick Slater predeceased Lula E. Fisher on or about October 18, 1977, leaving Edith O. Ward, sole Trustee. The said Edith O. Ward departed this life, testate, on or about December 25, 1990, leaving Robert Taylor, Lula Taylor, James Taylor, Virginia Taylor, Nettie Taylor and Edgar Taylor, owners for their lifetime. The said Robert Taylor departed this life on or about August 11, 1986. The said Virginia Taylor departed this life on or about September 12, 1998. The said Nettie Taylor departed this life on or about May 4, 1991. The said Lula Taylor departed this life on or about December 26, 1996. The said James Taylor departed this life on or about January 28, 2002. The said Edgar Taylor departed this life on or about April 20, 2020.

All named Trustees and life tenants are deceased, leaving no remaining Trustee to sell the Trust property. Pursuant to an Order of the Court of Chancery of the State of Delaware, IN RE: The Estate of Lula E. Fisher, C.A. NO.: 2021-0014-PWG, dated January 13, 2021, the Court appointed Carol Miller, Successor Trustee. A copy of said order is attached hereto as Exhibit A.

SUBJECT TO ALL covenants, conditions, restrictions and easements of record, this reference to which shall not be construed to reimpose the same.

IN WITNESS WHEREOF, the party of the first part has hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered
in the presence of:

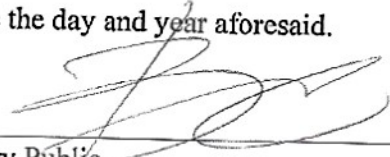
 (SEAL)
**Carol Miller, Successor Trustee of the Lula E.
Fisher Testamentary Trust**

STATE OF DELAWARE, COUNTY OF SUSSEX: to-wit

BE IT REMEMBERED, that on April 28, 2021, personally came before me, the subscriber, Carol Miller, Successor Trustee, party of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed.

GIVEN under my Hand and Seal of Office the day and year aforesaid.

BLAKE W. CAREY
Attorney - Bar #5145
Admitted to Delaware Bar: 12/11/2008
Notary
Uniform Law on Notarial Acts
Pursuant to 29 Del. C., Sec 4323(3)



Notary Public

My Commission Expires: _____

Document # 2022000019253 BK. 5683 PG. 233
On 4/18/2022 at 12:28:10 PM
RECORDER OF DEEDS Scott Dailey
Sussex County, DE
Consideration: \$200,000.00 County/Town: \$3,000.00
State: \$5,000.00 Total: \$8,000.00 Doc Surcharge Paid

TM #3-34-11.00-97.00 & 98.01
PREPARED BY & RETURN TO:
The Smith Firm, LLC
8866 Riverside Dr
Seaford, DE 19973
File No. C22-11/

This Deed, made this 24th day of March, 2022,

- BETWEEN -

ROBERT D. STEVENSON, JR. and ESTATE OF DAVID W. STEVENSON, BY ROBERT DALE STEVENSON, ADMINISTRATOR, of 32956 Misty Lane, Lewes, DE 19958, parties of the first part,

- AND -

JAMES O. ALTRICHTER, TRUSTEE OF THE JAMES O. ALTRICHTER 2014 REVOCABLE TRUST U/A/D FEBRUARY 27, 2014 and CAROL J. ALTRICHTER, TRUSTEE OF THE CAROL J. ALTRICHTER 2014 REVOCABLE TRUST U/A/D FEBRUARY 27, 2014, as joint tenants and not as tenants in common, of 609 Fraim Circle, Newark, DE 19711, parties of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of **One and 00/100 Dollars (\$1.00)**, lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the parties of the second part, and their heirs and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

TM #3-34-11.00-97.00

ALL that certain lot, piece and parcel of land situate, lying and being in Lewes & Rehoboth Hundred, Sussex County, State of Delaware, being more particularly described as follows, to wit:

BEGINNING at a point 107.50 feet from the southerly right way of Misty Lane (private lane) running along a common boundary line for lands now or formerly of Robert D. Stevenson, Jr. and lands now or formerly of Michael Stephen & Giorgia Natalia Kompare, said point being a common corner for these lands and lands now or formerly of said Robert D. Stevenson, Jr.; thence running along these lands South $48^{\circ}18'48''$ East 40.21 feet to a point, said point being a common corner for these lands and lands now or formerly of Robert D. Stevenson, Jr.; thence turning and running along these lands South $35^{\circ}13'18''$ West 102.38 feet to a point lying on the shoreline of Love Creek, said point being a corner for these lands; thence turning and running along these lands by and with the shoreline of aforesaid Love Creek North $66^{\circ}56'44''$ West 40.41 feet (line is approximate shoreline) to a point, said point being a corner for these lands; thence turning and running along these lands North $34^{\circ}59'40''$ East 115.42 feet to a point, said point being the place of beginning. Said parcel to contain 4,327 square feet of land, more or less, as will more fully and largely appear upon reference to a BOUNDARY SURVEY PLAN PREPARED FOR JAMES O. ALTRICHTER prepared by Scaled Engineering Inc. dated March 8, 2022.

TM #3-34-11.00-98.01

ALL that certain lot, piece and parcel of land situate, lying and being in Lewes & Rehoboth Hundred, Sussex County, State of Delaware, being more particularly described as follows, to wit:

BEGINNING at an iron pipe found 109.02 feet from the southerly right way of Misty Lane (private lane) running along a common boundary line for lands now or formerly of Robert D. Stevenson, Jr. and lands now or formerly of James O. Altrichter and Carol L. Altrichter, Trustees; said iron pipe being a common corner for these lands, lands now or formerly of Robert D. Stevenson, Jr. and James O. Altrichter and Carol L. Altrichter, Trustees; thence running along these lands South $35^{\circ}13'18''$ West 103.77 feet to a point lying on the shoreline of Love Creek, said point being a corner for these lands; thence turning and running along these lands by and with the shoreline of aforesaid Love Creek North $55^{\circ}31'47''$ West 63.00 feet to a point, said point being a corner for these lands; thence turning and running along these lands North $35^{\circ}13'16''$ East 103.38 feet to a point, said point being a corner for these lands; thence turning and running along these lands South $55^{\circ}53'07''$ East 63.00 feet to an iron pipe found, said iron pipe being the place of beginning. Said parcel to contain 6,524 square feet of land, more or less, as will more fully and largely appear upon reference to a BOUNDARY SURVEY PLAN PREPARED FOR JAMES O. ALTRICHTER prepared by Scaled Engineering Inc. dated March 8, 2022.

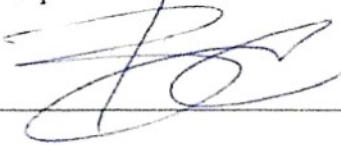
BEING a portion of the same lands conveyed to Robert Dale Stevenson and Nellie Pauline Stevenson from Charles H. Bush, by Deed recorded in the Office of the Recorder of Deeds in

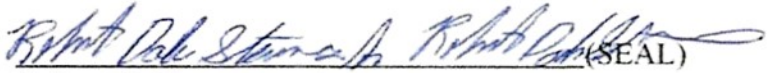
and for Sussex County, Delaware in Deed Book 611, page 447. The said Robert Dale Stevenson departed this life March 18, 2008 leaving Nellie Pauline Stevenson the sole owner of these lands. The said Nellie Pauline Stevenson departed this life, intestate, on or about June 18, 2017 and pursuant to the intestate laws of the State of Delaware, her interest in these lands passed to her children, David W. Stevenson and Robert Stevenson (aka Robert Dale Stevenson, Jr., a/k/a Robert D. Stevenson, Jr.). The said David W. Stevenson departed this life, intestate, leaving no issue, therefore by operation of law, these lands passed to his brother, Robert Dale Stevenson, Grantor herein.

SUBJECT TO ALL covenants, conditions, restrictions and easements of record, this reference to which shall not be construed to reimpose the same.

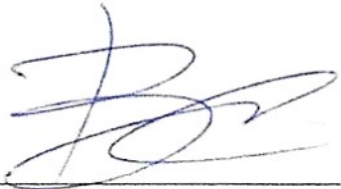
IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered
in the presence of:





Robert D. Stevenson, Jr.
aka Robert Dale Stevenson a/k/a Robert Dale
Stevenson, Jr. a/k/a Robert Stevenson





**Estate of David W. Stevenson, by Robert Dale
Stevenson, Administrator**

STATE OF DELAWARE, COUNTY OF SUSSEX: to-wit

BE IT REMEMBERED, that on March 24, 2022, personally came before me, the subscriber, Robert D. Stevenson, Jr., individually and as Administrator, parties of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be their act and deed.

GIVEN under my Hand and Seal of Office the day and year aforesaid.

BLAKE W. CAREY
Attorney - Bar #5145
Admitted to Delaware Bar: 12/11/2006
Notary
Uniform Law on Notarial Acts
Pursuant to 29 Del. C., Sec 4323(3)



Notary Public

My Commission Expires: _____



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: THE ESTATE OF
LULA E. FISHER

* C. A. NO. 2021-0014-PWG
*

ORDER

WHEREAS, the Last Will and Testament of Lula E. Fisher (“Fisher”) devised Fisher’s residuary estate to Edith Ward and Frederick Slater, in trust, for the use and benefit of Robert Taylor, Lula Taylor, James Taylor, Virginia Taylor, Nettie Taylor and Edgar Taylor during their lifetimes. The Lula E. Fisher Testamentary Trust (“Trust”) provides that, upon the death of the last surviving life tenant, “the real estate is to be sold by the said Trustees, at public or private sale to the highest and best bidder or bidders therefor, and the net funds shall be equally distributed among the surviving children of Frederick Slater [“Frederick”] and Blanche Slater [“Blanche”], to be theirs absolutely;”¹

WHEREAS, all named trustees and life tenants have died, with the last surviving life tenant dying on April 20, 2020, and there is no trustee remaining to sell the trust property and divide the proceeds consistent with the terms of the Trust;

WHEREAS, Petitioner Carol Miller (“Miller”), a remainder beneficiary and one of three surviving children of Frederick and Blanche, filed a petition (“Petition”) with the Court on January 7, 2021, seeking her appointment as successor trustee of

¹ Docket Item (“D.I.”) 2, Ex. A, §(c). I use first names in pursuit of clarity and intend no familiarity or disrespect.

the Trust and for instruction “whether or not the surviving children are determined upon the date of death of the last life tenant on April 20, 2020 or upon the sale of the real property at some indeterminate date in the future;”²

WHEREAS, the other remainder beneficiaries, Deborah Heffentrager (“Heffentrager”) and Frederick Slater (“Slater”), have waived notice concerning the Petition and consented to Miller’s appointment as successor trustee;³

WHEREAS, “[t]he Court of Chancery possesses undoubted authority to appoint a trustee if the trust instrument fails to do so.”⁴ Since the Trust failed to name, or to designate a method for naming, a successor trustee, the Court has the authority to appoint an appropriate successor trustee to carry out the provisions of the Trust. The Trust specifies the trustee’s remaining duties – to sell the real estate at public or private sale to the highest and best bidder(s) and distribute the sale proceeds equally to Frederick and Blanche’s surviving children. Given the limited nature of those duties, it is appropriate to appoint Miller as successor trustee, after taking into consideration that Heffentrager and Slater have consented to her appointment;

² D.I. 1, ¶ 17.

³ D.I. 2, Ex. D; D.I. 3.

⁴ *McNeil v. McNeil*, 798 A.2d 503, 513 (Del. 2002).

WHEREAS, Miller also asks whether the remainder beneficiaries' interests vested on April 20, 2020 – at the death of the last surviving life tenant, or whether any vesting of the remainder beneficiaries' vesting is deferred until after the sale of the real property. “In Delaware, the settlor’s intent controls.”⁵ Here, the contingent beneficiaries' interests vested at the last surviving life tenant’s death because, at that point, their interest in the “share of the fund to be created by the sale of the land was absolutely free from any element of uncertainty.”⁶ Prior to that point, their interest was contingent since it was uncertain whether they would survive the last living life tenant, which was a condition precedent to their interest vesting. However, their interest does not take effect until after the sale of the property, which is the method by which the real property is converted into money to be distributed to Fisher’s remainder beneficiaries.

“It is well settled in Delaware that the title to real estate descends to the heirs or vests in the devisees immediately upon the death of the testator.”⁷ The transfer of the interest in the property to the remainder beneficiary directly at the death of the previous beneficiary is consistent with that principle. Otherwise, the result would be a gap between successive beneficiaries' interests. There is no indication that

⁵ *In re Tr. Under Will of Flint for the Benefit of Shaddek*, 118 A.3d 182, 194 (Del. Ch. 2015).

⁶ *In re Journey's Estate*, 44 A. 795, 797 (Del. Ch. 1892).

⁷ *In re Estate of Hart*, 1993 WL 1501284, at *2 (Del. Ch. Nov. 22, 1993) (citing *In re Harris' Estate*, 44 A.2d 18, 19 (Del. Ch. 1945)).

Fisher, the settlor, intended that. This is evidenced by the Trust's provision that the property "shall be used as a home for the [life tenants] until the last one is deceased." Since any possible use as a home would cease at the last life tenants' death, Fisher's intention that interests in the property transfer to the successive beneficiaries at that time is clear;

NOW, THEREFORE, having considered the petition to appoint successor trustee for purposes of selling real property and for instructions, on this 13th day of January, 2021, IT IS ORDERED THAT:

1. The Petition is GRANTED and Carol Miller is appointed Successor Trustee of the Lula E. Fisher Testamentary Trust for purposes of selling the real property.

2. Pursuant to the terms of the Trust, the real property may be sold at public or private sale to the highest and best bidders, without further order of the Court.

3. The net proceeds of such sale shall be distributed equally to the children of Frederick and Blanche Slater surviving as of April 20, 2020.

4. Petitioner is authorized to pay reasonable attorneys' fees and costs to Sergovic Carmean Weidman McCartney & Owens, P.A., attorney for the Petitioners, for their services in preparing, filing, and presenting the Petition and related papers, and for costs advanced by them in connection with the Petition, based

on a fee affidavit, containing details as to services performed, to be filed with the Court, for review and approval. Interested parties will have fourteen (14) days from the date that the notice was sent to them to file written objections with the Court concerning those fees and costs. If no objections are filed within the specified timeframe, the Court will consider the requested attorneys' fees and costs to be unopposed.

5. Petitioner's counsel shall serve a copy of this Order and the affidavit of fees upon all interested parties and file proof of service with the Court.

IT IS SO ORDERED, this 13th day of January, 2021.

/s/ Patricia W. Griffin
Master Patricia W. Griffin



Schedule A

ALTA COMMITMENT

File No.: C22-11

Commitment No.: C22-11

1. Commitment Date: **3/2/22**

2. Policy or Policies to be issued:

(a) ALTA® Owner's Policy (06-17-06)

Proposed Insured: **James O. Altrichter, Trustee of the James O. Altrichter 2014 Revocable Trust U/A/D February 27, 2014 and Carol J. Altrichter, Trustee of the Carol J. Altrichter 2014 Revocable Trust U/A/D February 27, 2014**

Proposed Policy Amount: **\$200,000.00**

(b)

Proposed Insured:

Proposed Policy Amount: \$

3. The estate or interest in the Land described or referred to in this Commitment is **Fee Simple**

4. Title to the estate or interest in the Land is at the Commitment Date vested in:

Robert Dale Stevenson and Nellie Pauline Stevenson

BEING a portion of the same lands conveyed to Robert Dale Stevenson and Nellie Pauline Stevenson from Charles H. Bush, by Deed recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Deed Book 611, page 447. The said Robert Dale Stevenson departed this life March 18, 2008 leaving Nellie Pauline Stevenson the sole owner of these lands. The said Nellie Pauline Stevenson departed this life, intestate, on or about June 18, 2017 and pursuant to the intestate laws of the State of Delaware, her interest in these lands passed to her children, David W. Stevenson and Robert Stevenson (aka Robert Dale Stevenson, Jr., a/k/a Robert D. Stevenson, Jr.). The said David W. Stevenson departed this life, intestate, leaving no issue, therefore by operation of law, these lands passed to his brother, Robert Dale Stevenson, Grantor herein.

5. The Land is described as follows:

For informational purposes only:
32958 Misty Lane, Lewes, DE 19958

This page is only a part of a 2016 ALTA Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I – Requirements; and Schedule B, Part II – Exceptions.

THE SMITH FIRM, LLC

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

*A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55407
(612) 371-1111*

Authorized Officer or Agent

ORT Form 4690 DE A 8-1-16

Schedule A

ALTA Commitment for Title Insurance

Old Republic National Title Insurance Company

By C. Monroe President

Attest David Wald Secretary

Schedule B-I

ALTA COMMITMENT

File No. C22-11

Commitment No. C22-11

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
DEED: from Robert D. Stevenson, Jr. and Estate of David W. Stevenson, by Robert Dale Stevenson, Administrator to James O. Altrichter, Trustee of the James O. Altrichter 2014 Revocable Trust U/A/D February 27, 2014 and Carol J. Altrichter, Trustee of the Carol J. Altrichter 2014 Revocable Trust U/A/D February 27, 2014.
5. Proof that there are no agreement(s) of sale other than the one under which the present conveyance is being made.
6. Execution of Company's affidavit of title and two forms of identification (one of which must be photo-identification) to be provided by parties to the transaction.
7. Proof of payment of real estate taxes and municipal charges (including water, sewer, trash or other services provided by the municipality) for three years preceding the current year and current year, if due.
8. Proof that no Municipal or Authority improvements have been made or ordered to be made abutting or fronting on premises covered by this commitment.
9. If a policy other than 2006 ALTA Owner's Policy of Title Insurance, 2006 ALTA Loan Policy of Title Insurance or 2006 ALTA Short Form Residential Loan Policy is ultimately issued, the provision of the information section of this Commitment relating or arbitration are not applicable.
10. Pay all taxes, charges, assessments, levied and assessed against premises, which are due and payable.

The following items are to be satisfied and/or released of record:

11. Mortgage from David W. Stevenson and Nellie Stevenson aka Nellie P. Stevenson dated December 31, 2013, and recorded January 17, 2014, in Book 14147, Page 3, in the Office of the Recorder of Deeds of Sussex County, Delaware, to The Huntington National Bank securing repayment of an indebtedness in the original principal amount of \$105,050.00. TO BE PAID AND RELEASED OF RECORD AS TO PROPERTY DESCRIBED IN SCHEDULE A HEREOF.

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Schedule B-II

ALTA COMMITMENT

File No. C22-11

Commitment No. C22-11

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.
2. Any Lien, or right to a lien for services, labor, or material heretofore or hereafter furnished, imposed by law, and not shown by the public records.
3. Rights or claims of parties in possession not shown by the public record.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, easements or claims of easements, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. Covenants, conditions, restrictions, easements, right of ways or servitudes, if any, appearing in the public record, but omitting and covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that the covenant, condition, restriction (a) is exempt under Title 42 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.
6. Possible additional tax assessment for new construction and/or major improvements, not yet due and payable.
7. Taxes for the year 2022 and subsequent years, a lien not yet due and payable.
8. Riparian Rights of the United States of America, the State of Delaware, the Public and other riparian owners between the high and low water marks of Love Creek.
9. Subject to the laws and authority of the Federal and State Governments, their political subdivisions and agencies, to regulate commerce and navigation over that part of the premises extending beyond the high water mark of the Love Creek.
10. Title to the area lying beyond the original low water mark is not insured.
11. Notes, Easements and Restrictions on plot as filed for record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware in Plot Book 31, page 139.

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SCHEDULE C

LEGAL DESCRIPTION

The land referred to in the Commitment is described as follows:

TM #3-34-11.00-97.00

ALL that certain lot, piece and parcel of land situate, lying and being in Lewes & Rehoboth Hundred, Sussex County, State of Delaware, being more particularly described as follows, to wit:

BEGINNING at a point 107.50 feet from the southerly right way of Misty Lane (private lane) running along a common boundary line for lands now or formerly of Robert D. Stevenson, Jr. and lands now or formerly of Michael Stephen & Giorgia Natalia Kompare, said point being a common corner for these lands and lands now or formerly of said Robert D. Stevenson, Jr.; thence running along these lands South 48°18'48" East 40.21 feet to a point, said point being a common corner for these lands and lands now or formerly of Robert D. Stevenson, Jr.; thence turning and running along these lands South 35°13'18" West 102.38 feet to a point lying on the shoreline of Love Creek, said point being a corner for these lands; thence turning and running along these lands by and with the shoreline of aforesaid Love Creek North 66°56'44" West 40.41 feet (line is approximate shoreline) to a point, said point being a corner for these lands; thence turning and running along these lands North 34°59'40" East 115.42 feet to a point, said point being the place of beginning. Said parcel to contain 4,327 square feet of land, more or less, as will more fully and largely appear upon reference to a BOUNDARY SURVEY PLAN PREPARED FOR JAMES O. ALTRICHTER prepared by Scaled Engineering Inc. dated March 8, 2022.

TM #3-34-11.00-98.01

ALL that certain lot, piece and parcel of land situate, lying and being in Lewes & Rehoboth Hundred, Sussex County, State of Delaware, being more particularly described as follows, to wit:

BEGINNING at an iron pipe found 109.02 feet from the southerly right way of Misty Lane (private lane) running along a common boundary line for lands now or formerly of Robert D. Stevenson, Jr. and lands now or formerly of James O. Altrichter and Carol L. Altrichter, Trustees; said iron pipe being a common corner for these lands, lands now or formerly of Robert D. Stevenson, Jr. and James O. Altrichter and Carol L. Altrichter, Trustees; thence running along these lands South 35°13'18" West 103.77 feet to a point lying on the shoreline of Love Creek, said point being a corner for these lands; thence turning and running along these lands by and with the shoreline of aforesaid Love Creek North 55°31'47" West 63.00 feet to a point, said point being a corner for these lands; thence turning and running along these lands North 35°13'16" East 103.38 feet to a point, said point being a corner for these lands; thence turning and running along these lands South 55°53'07" East 63.00 feet to an iron pipe found, said iron pipe being the place of beginning. Said parcel to contain 6,524 square feet of land, more or less, as will more fully and largely appear upon reference to a BOUNDARY SURVEY PLAN PREPARED FOR JAMES O. ALTRICHTER prepared by Scaled Engineering Inc. dated March 8, 2022.

Tax Map and Parcel #: 3-34-11.00-97.00 & 98.01

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PROPOSED 140 L.F. RIP-RAP REVETMENT BANK STABILIZATION (WITH 80 L.F. TIEBACKS TO GRADE)

IN: Love Creek (tributary of Rehoboth Bay)

AT: 20040 Ward Road, Lewes, Sussex County, DE 19958

Tax Map Parcels #334-11.00-97.00, 98.00 & 98.01

APPLICANT: James O. Altrichter

DATE: December 20, 2023

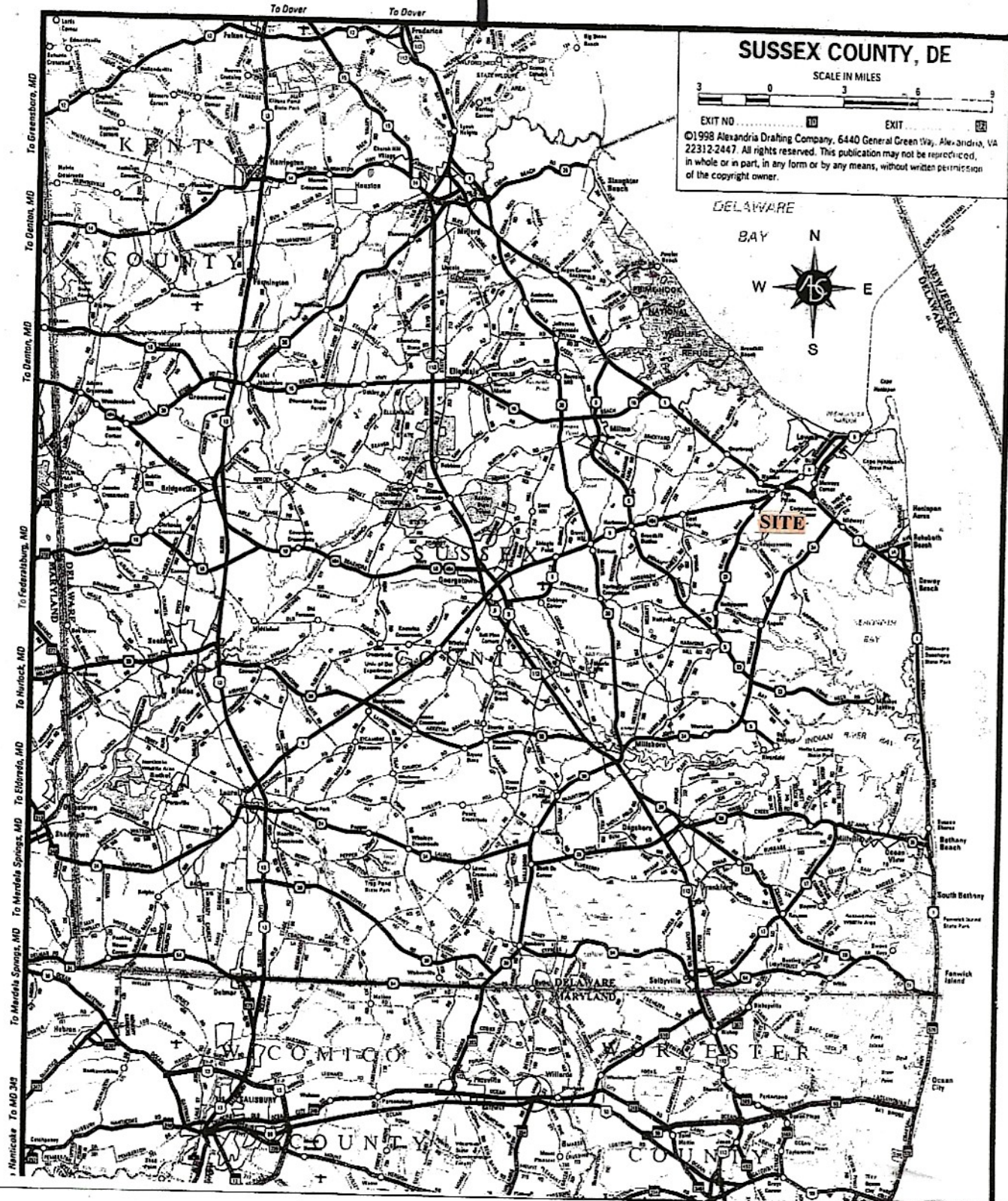


Figure 1. Map of Sussex County, Delaware, showing site location, Lewes.

**PROPOSED 140 L.F. RIP-RAP REVETMENT BANK
STABILIZATION (WITH 80 L.F. TIEBACKS TO GRADE)**
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 Tax Map Parcels #334-11.00-97.00, 98.00 & 98.01
 APPLICANT: James O. Altrichter
 DATE: December 20, 2023

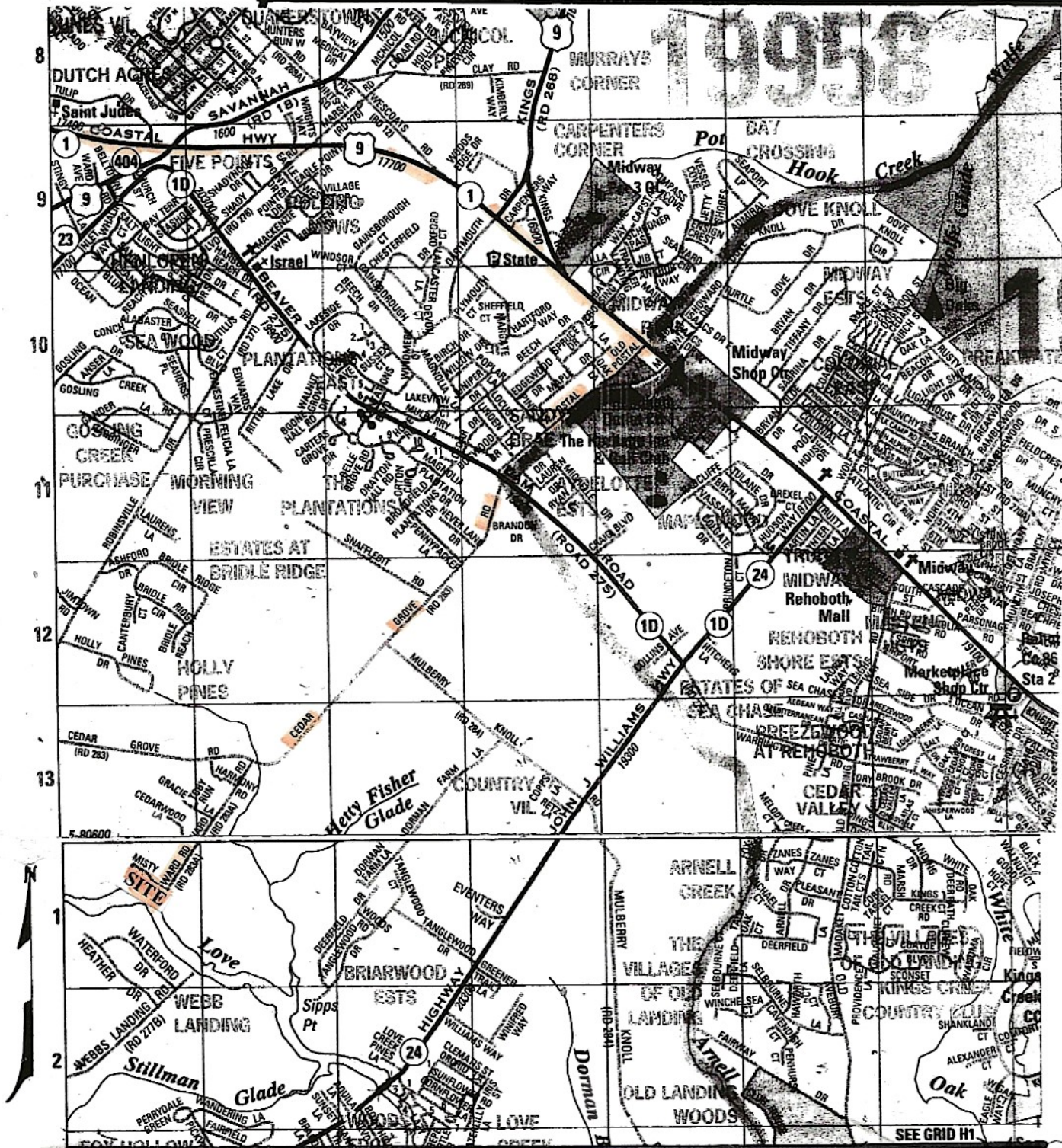


Figure 2. Map of Lewes area showing project site, 20040 Ward Road. Directions to site (from Dover, DE): SR-1 southbound to Midway area/Lewes; right onto Postal Lane; continue on Postal Lane to traffic light; continue straight (road becomes Cedar Grove Road); left onto Ward Road to end, site is Love Creek shoreline by house on right, 20040 Ward Road. Also see Figure 3.

**PROPOSED 140 L.F. RIP-RAP REVETMENT BANK
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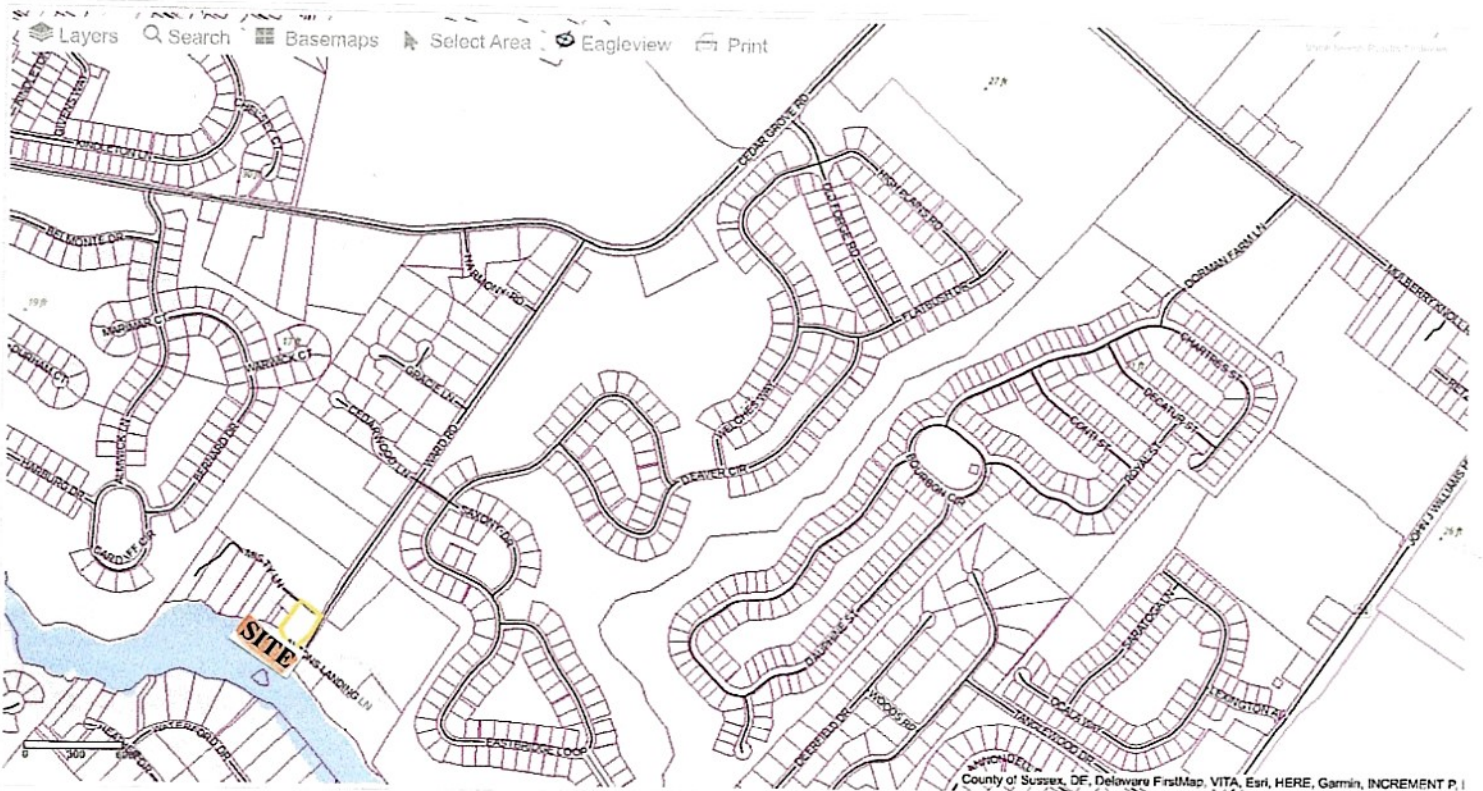


Figure 3. Site location, Tax Map Parcels #334-11.00-97.00, 98.00, and 98.01 (20040 Ward Road, Lewes, DE 19958). Names and addresses of adjacent property owners:

<u>Tax Map Parcel #</u>	<u>Name, address of owner</u>
334-11.00-95.00	Brian Cox, 32952 Misty Lane, Lewes DE 19958
334-11.00-96.00	Robert D. Stevenson, Jr., 32956 Misty Lane, Lewes DE 19958

**PROPOSED 140 L.F. RIP-RAP REVETMENT BANK
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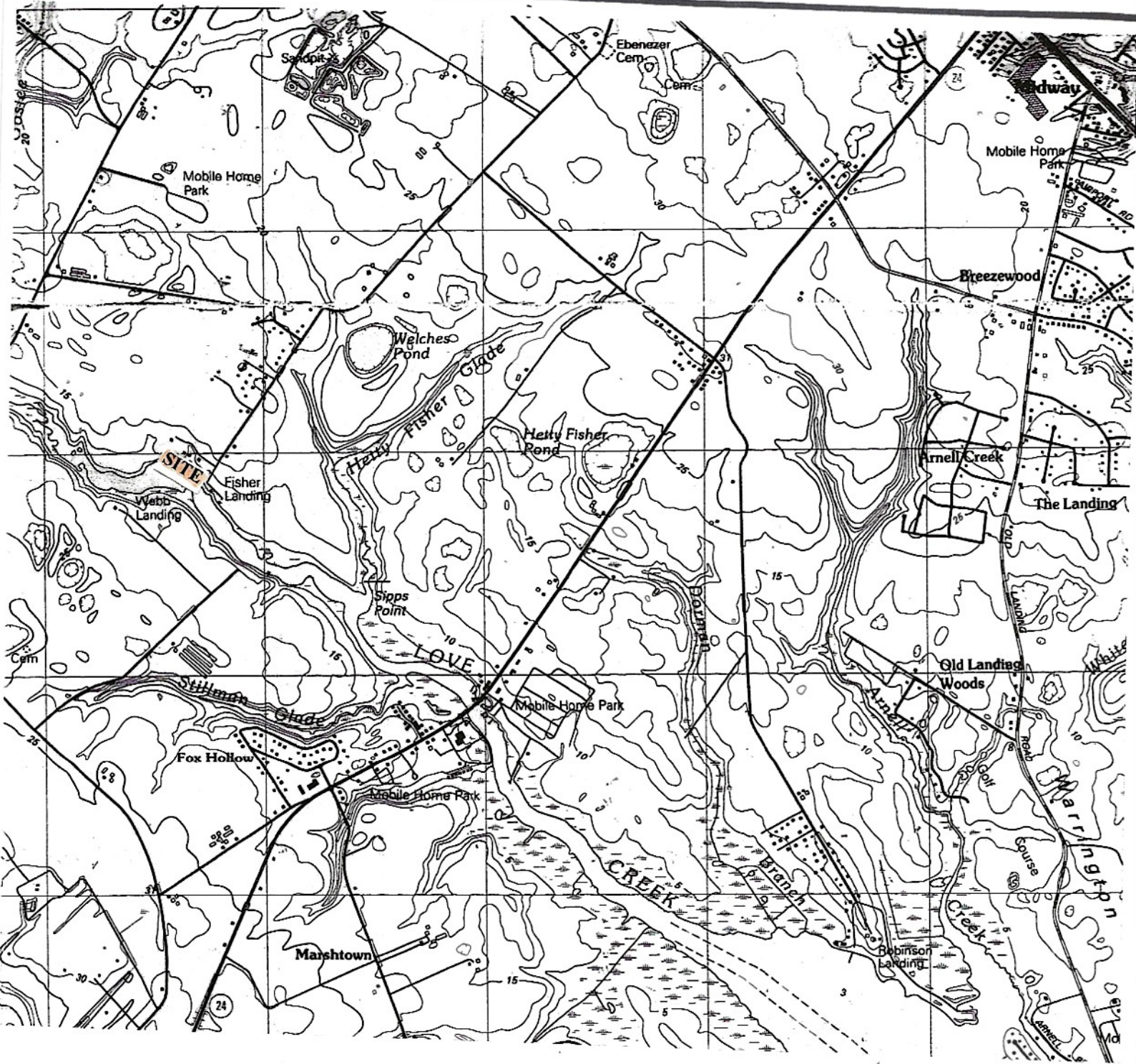


Figure 4. Site location on U.S.G.S. topographic map, Fairmount, Delaware quadrangle. Site is adjacent to Love Creek (tributary of Rehoboth Bay). Scale: 1" = 2,000'.

**PROPOSED 140 L.F. RIP-RAP REVETMENT BANK
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 Tax Map Parcels #334-11.00-97.00, 98.00 & 98.01
 APPLICANT: James O. Altrichter
 DATE: December 20, 2023

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Web Soil Survey



FOIA | Accessibility Statement | Privacy Policy | Non-Discrimination Statement | Information Quality | USA.gov | White House

Figure 5. Site location on Web Soil Survey. Soils on site are mapped **DoA** (Downer sandy loam, 0 to 2 percent slopes, Northern Tidewater Area) and **DodB** (Downer sandy loam, 2 to 5 percent slopes, Northern Tidewater Area). Love Creek is mapped **WHe1** (Herring Creek mucky silt loam, 0 to 1 meter water depth).

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AT: 20040 Ward Road, Lewes, Sussex County, DE 19958

Tax Map Parcels #334-11.00-97.00, 98.00 & 98.01

APPLICANT: James O. Altrichter

DATE: December 20, 2023

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National Wetlands Inventory

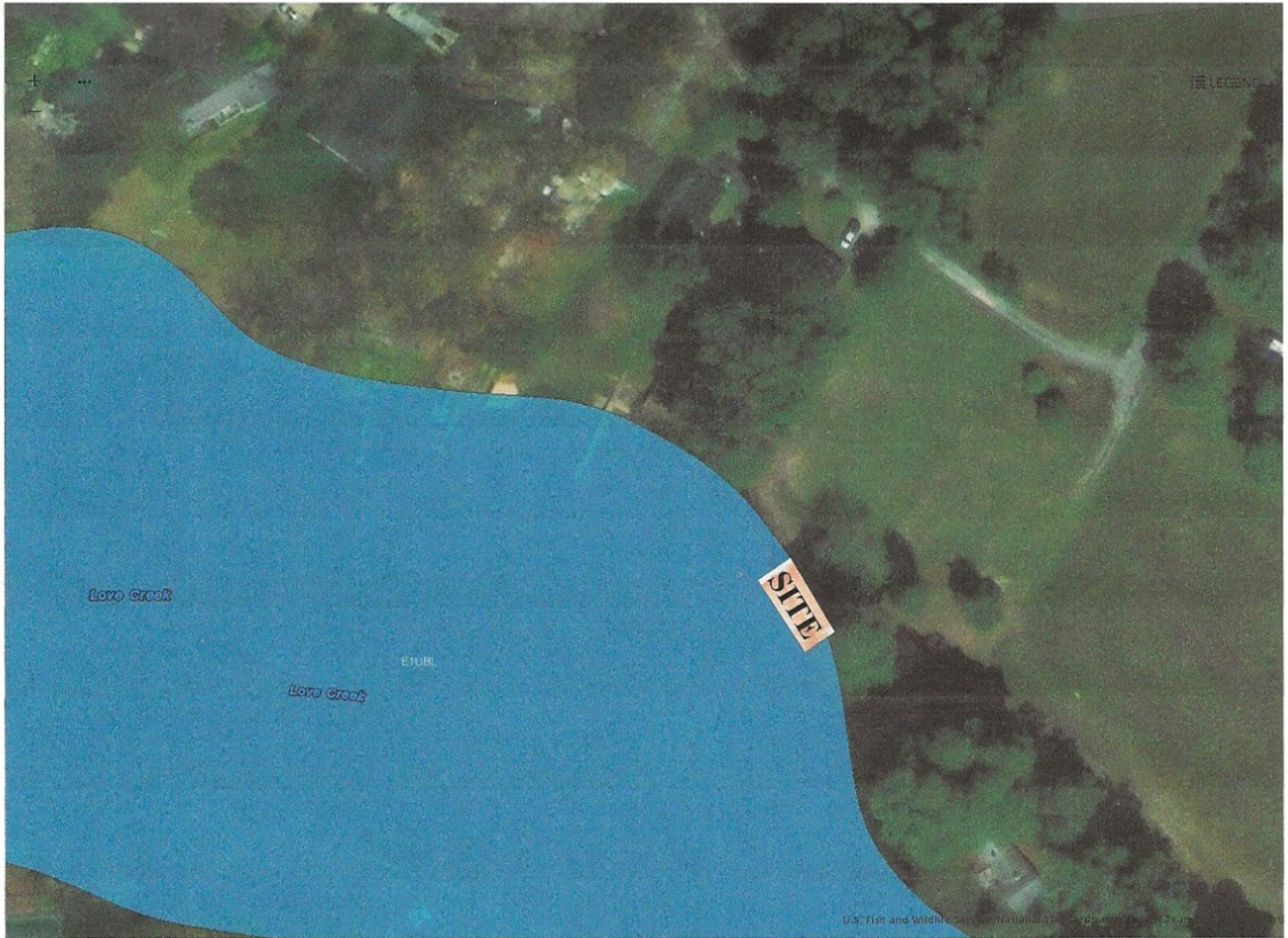


Figure 6. Site location on National Wetlands Inventory Map. Project site is mapped uplands, adjacent to Love Creek, mapped **E1UBL** (estuarine subtidal, unconsolidated bottom, saltwater tidal/subtidal).

**PROPOSED 140 L.F. RIP-RAP REVETMENT BANK
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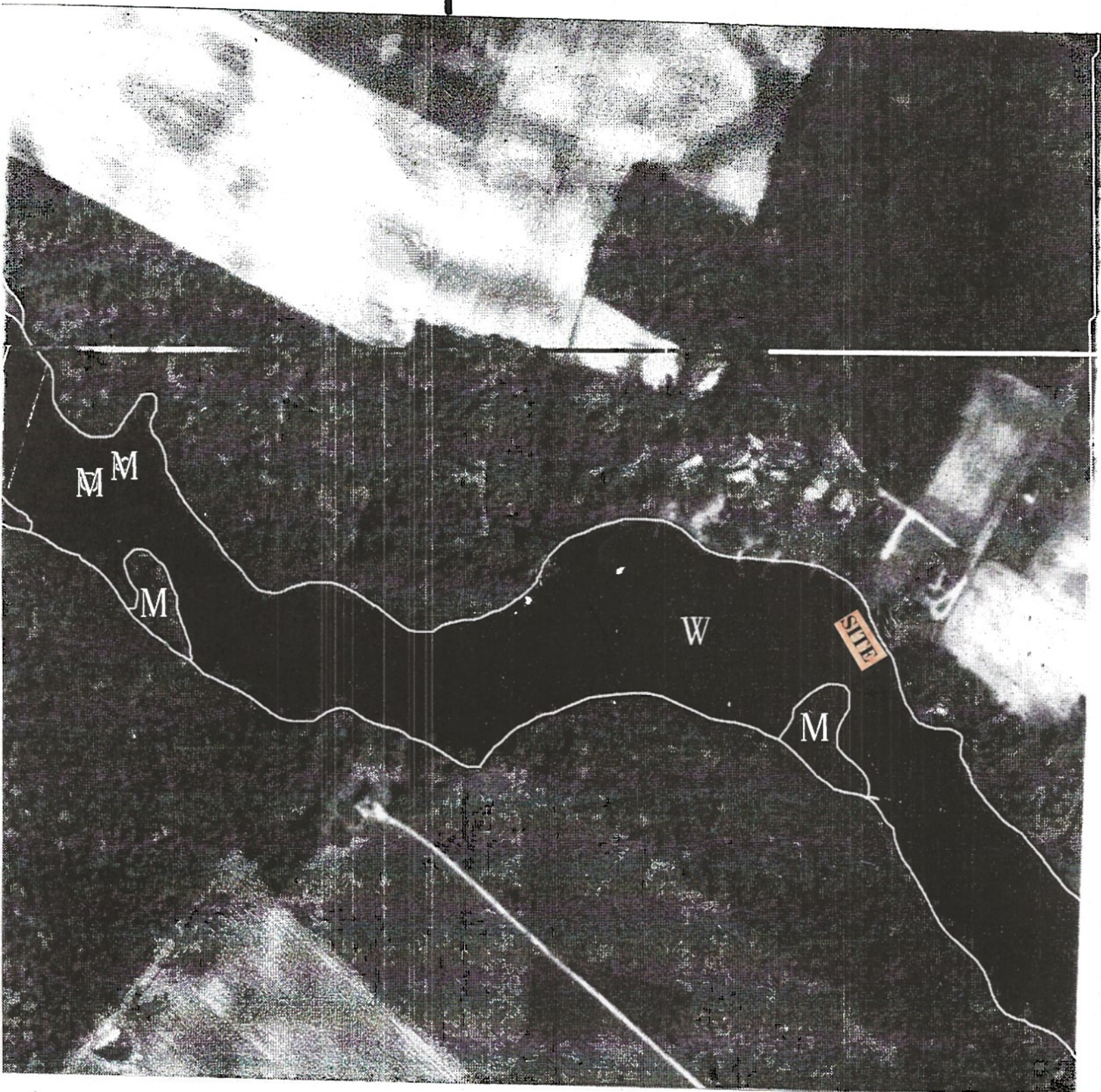


Figure 7. Site location on State of Delaware DNREC wetland Map #093. Site is mapped O (other, uplands or non-tidal wetlands less than 400 acres), adjacent to W (water). No DNREC-regulated wetlands mapped at project site. Scale: 1" = 300'.

PROPOSED 140 L.F. RIP-RAP REVETMENT BANK STABILIZATION (WITH 80 L.F. TIEBACKS TO GRADE)

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AT: 20040 Ward Road, Lewes, Sussex County, DE 19958

Tax Map Parcels #334-11.00-97.00, 98.00 & 98.01

APPLICANT: James O. Altrichter

DATE: December 20, 2023



Figure 8. Aerial photograph of project site, 20040 Ward Road, Lewes, Sussex County, Delaware (Tax Map Parcels #334-11.00-97.00, 98.00, and 98.01), adjacent to Love Creek (tributary of Rehoboth Bay). Width of waterway at project site = 380'±. Applicant proposes to construct a stone rip-rap revetment along 140 linear feet of shoreline (two sections, 80 l.f./downstream; 60 l.f./upstream), and four tiebacks @ 20' length (total = 80'). Purpose is bank stabilization. See Figure 9 for ground-level photographs, and Figures 10 and 11 for plan view and cross-sections (prepared by Precision Marine Construction, Inc.).

**PROPOSED 140 L.F. RIP-RAP REVETMENT BANK
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APPLICANT: James O. Altrichter
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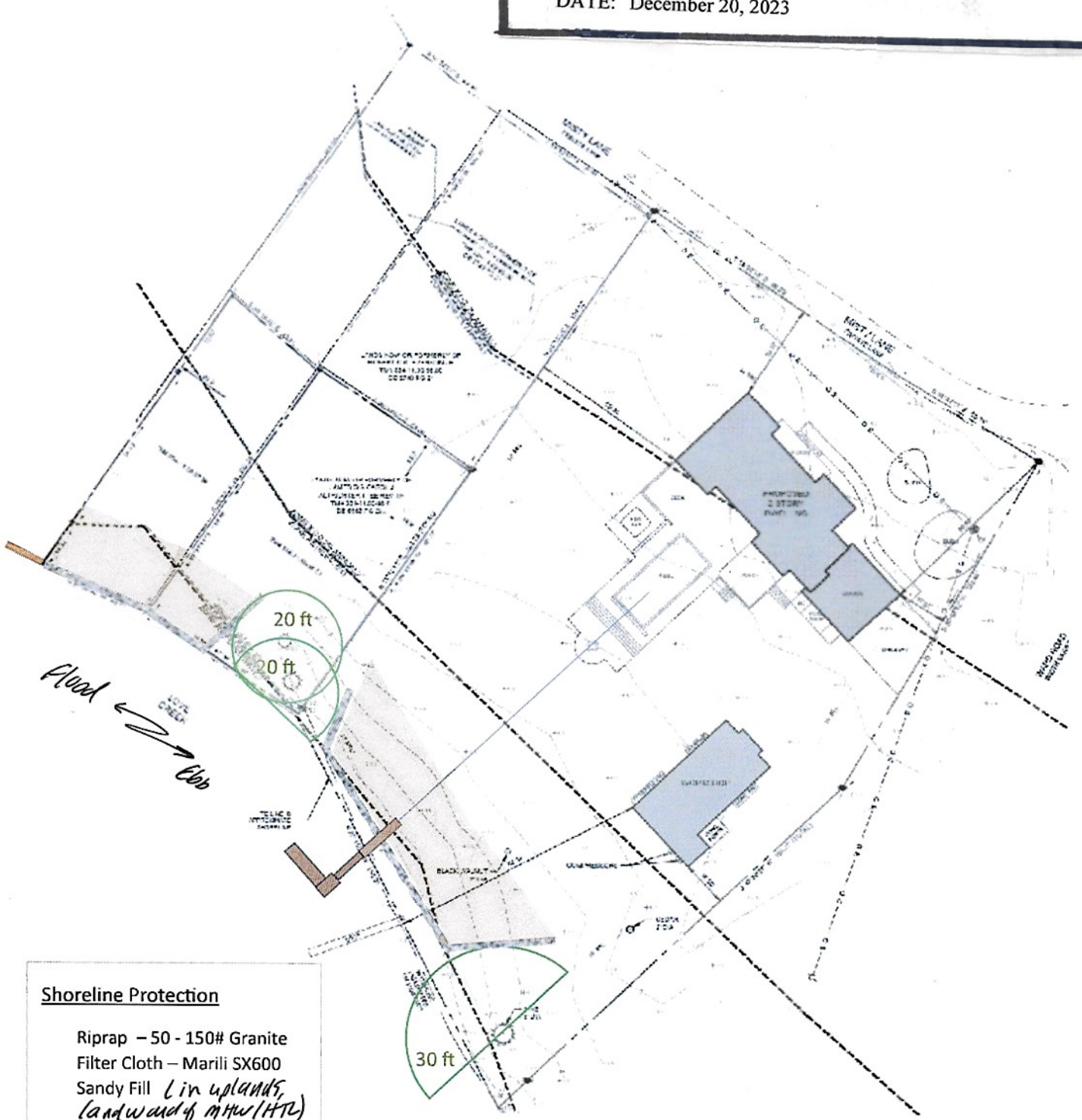


Figure 9. Ground-level photographs of project site, 20040 Ward Road, Lewes, Sussex County, Delaware (Tax Map Parcels #334-11.00-97.00, 98.00, and 98.01), adjacent to Love Creek (tributary of Rehoboth Bay). Applicant proposes to construct a stone rip-rap revetment along 140 linear feet of shoreline (two sections, 80 l.f./downstream; 60 lf./upstream), and four tiebacks @ 20' length (total = 80'). Purpose is bank stabilization. See Figure 9 for ground-level photographs, and Figures 10 and 11 for plan view and cross-sections (prepared by Precision Marine Construction, Inc.).

20040 Ward Rd – Shoreline Protection

PROPOSED 140 L.F. RIP-RAP REVETMENT BANK STABILIZATION (WITH 80 L.F. TIEBACKS TO GRADE)

IN: Love Creek (tributary of Rehoboth Bay)
 AT: 20040 Ward Road, Lewes, Sussex County, DE 19958
 Tax Map Parcels #334-11.00-97.00, 98.00 & 98.01
 APPLICANT: James O. Altrichter
 DATE: December 20, 2023



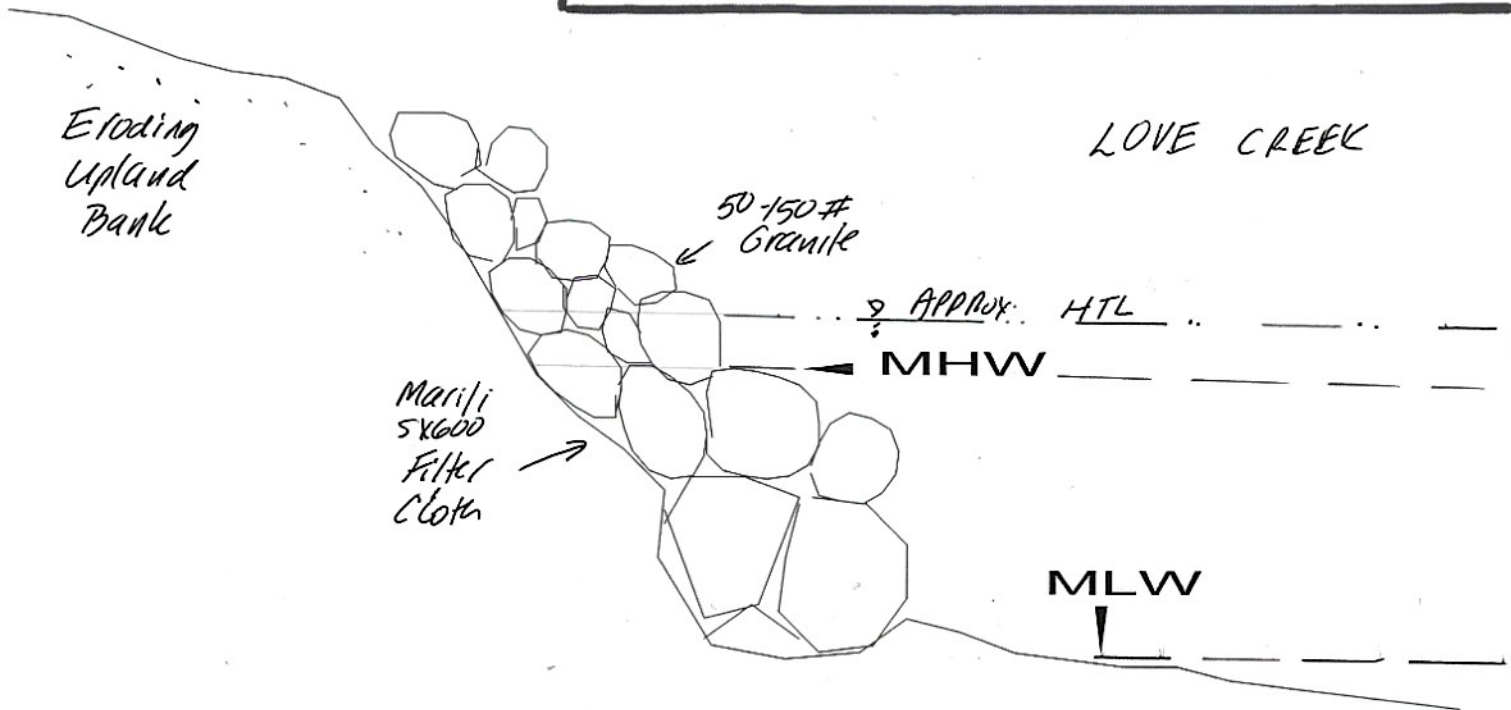
Shoreline Protection
 Riprap – 50 - 150# Granite
 Filter Cloth – Marili SX600
 Sandy Fill *in uplands, landward of MHW (HTL)*
 140' – Shoreline
 80' – Tieback to grade

Floating Dock
 As in Permit# SL-241/21

Figure 10. Plan view of proposed project (prepared by Precision Marine Construction, Inc.).

**PROPOSED 140 L.F. RIP-RAP REVETMENT BANK
STABILIZATION (WITH 80 L.F. TIEBACKS TO GRADE)**

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APPLICANT: James O. Altrichter
DATE: December 20, 2023



Typical Revetment Section

Figure 11. Cross-section of proposed project (prepared by Precision Marine Construction, Inc.).

Proposed Riprap Revetment
James Altrichter
20040 Ward Rd.
Lewes, DE 19958

PRECISION MARINE CONSTRUCTION INC.

202 Woodbridge Hills
Rehoboth Beach, DE 19971

Scale: 1" = 2' Date: 12-12-23