DEPARTMENT OF THE ARMY
PHILADELPHIA DISTRICT, CORPS OF ENGINEERS
100 PENN SQUARE EAST, 7th FLOOR WANAMAKER BUILDING
PHILADELPHIA, PENNSYLVANIA 19107-3390

May 20, 2022

Environmental Resources Branch

Laura Mensch
Federal Consistency Coordinator
Delaware Coastal Program
Department of Natural Resources
and Environmental Control
100 W. Water Street, Suite 7B
Dover, DE 19904
laura.mensch@delaware.gov

Dear Ms. Mensch:

The purpose of this letter is to request a ten-year Federal consistency concurrence with the Delaware Coastal Management Program (DCMP) pursuant to Section 307 (c) of the Coastal Zone Management Act, as amended, for maintenance dredging in the Lewes and Rehoboth (L&R) Canal, Sussex County. The Philadelphia District U.S. Army Corps (USACE) proposes to dredge the canal from Roosevelt Inlet to approximately 1000 feet southeast of the Rt 9 fixed bridge over the canal in 2022/2023, dependent on contractor availability and anticipated environmental seasonal restrictions.

Approximately 75,000 cubic yards (cy) will be removed from areas within the canal channel with depths less than -10 feet MLLW between Roosevelt Inlet and the Savannah Road Bridge and -6 feet MLLW from the Savannah Road Bridge to a distance approximately 1000 feet southeast of the Rt 9 bridge. The USACE has contracted Tetra Tech, Inc. to conduct sediment and water quality analyses for samples obtained from shoaled areas within the canal. A draft chemical analyses report will be provided to you for review once it is available. The dredged material will be placed in one, or both of, the confined upland disposal facilities (CDFs) located in the City of Lewes along Cedar St, just southeast of Roosevelt Inlet.

The USACE is requesting a Federal consistency concurrence for maintenance dredging operations covering a ten-year period in anticipation that future maintenance dredging operations may be needed. The proposed maintenance dredging action has been evaluated for consistency with the Rules on Coastal Zone Management and this assessment is enclosed for your review.

By conducting maintenance dredging operations offseason (October through March), any potential adverse impacts to horseshoe crabs, migratory shorebirds, summer

flounder, American eel, sandbar sharks and sand tiger sharks will be minimized. After a detailed review of all applicable regulations and policies associated with the proposed maintenance dredging, it is our finding that the proposed activity complies with Delaware's approved Coastal Zone Management (CZM) program.

We request your concurrence with our CZM consistency determination for ten future years of periodic maintenance dredging at the L&R Canal. The Federal project was last dredged in 2001. Future maintenance dredging events are anticipated to be scheduled every 4-6 years. If significant modifications of the maintenance dredging operation are required in the future, the USACE will coordinate with your office with regard to Federal consistency, pursuant to the National Oceanic and Atmospheric Administration's regulations (15 CFR 930). We request your concurrence that the proposed maintenance dredging operation is consistent with Delaware's Federally-approved Coastal Zone Management Program by 30 July 2022.

If you have any questions regarding this project, please contact Ms. Barbara Conlin of our Environmental Resources Branch at 215-656-6557 or via email Barbara.E.Conlin@usace.army.mil or Mr. Dan Kelly of our Operations Division at 215-656-6683 or via email Daniel.J.Kelly@usace.army.mil.

Sincerely,

LEARY.ADRIAN.1384973384 Digitally signed by LEARY.ADRIAN.1384973384
Date: 2022.05.22 21:47:56 -04'00'

FOR Peter R. Blum, P.E.
Chief, Planning Division

Enclosures

Delaware Department of Natural Resources and Environmental Control
Delaware Coastal Management Program

Initial Review: _____
Updated On: _____
Complete: _____
Official Use Only

Coastal Zone Management Act Federal Consistency Form

This document provides the Delaware Coastal Management Program (DCMP) with a Federal Consistency Determination or Certification for activities regulated under the Coastal Zone Management Act of 1972, as amended, and NOAA's Federal Consistency Regulations, 15 C.F.R. Part 930. Federal agencies and other applicants for federal consistency are not required to use this form; it is provided to applicants to facilitate the submission of a Consistency Determination or Consistency Certification. In addition, federal agencies and applicants are only required to provide the information required by NOAA's Federal Consistency Regulations.

Project/Activity Name:	Lewes and Rehoboth Canal Federally-Authorized Navigation Channel

I. Federal Agency or Non-Federal Applicant Contact Information:

Contact Name/Title: Barbara E. Conlin, Marine Ecologist

Federal Agency Contractor Name (if applicable): U.S. Army Corps of Engineers, Philadelphia

Federal Agency:
(either the federal agency proposing an action or the federal agency issuing the federal license or permit to a non-federal applicant)

Mailing Address: Environmental Resources, Planning Division, 100 Penn Square East

City Philadelphia State: PA Zip Code: 19107

E-mail: Barbara.E.Conlin@usace.army.mil Telephone #: 215-656-6557

II. Federal Consistency Category:

☐ Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)

☐ Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)

☒ Federal License or Permit Activity (15 C.F.R. Part 930, Subpart D)

☐ Federal License or Permit activity occurs wholly in another state (interstate consistency activities identified in DCMP's Policy document)

III. Detailed Project Description (attach additional sheets if necessary):

The Philadelphia District U.S. Army Corps (USACE) proposes to dredge the Federally-authorized Lewes and Rehoboth (L&R) Canal navigation channel in 2022/2023: between Roosevelt Inlet and the Savannah Road Bridge to -10 feet MLLW and from to -6 feet MLLW from Savannah Road to a distance approximately1000 feet southeast of the Rt 9 bridge.

The dredged material will be placed in a one or both upland confined disposal facilities (CDFs) located within the city of Lewes on Cedar Street just southeast of Roosevelt Inlet (aerial figure enclosed). Surveys (enclosed) indicate that approximately 75,000 cubic yards (cy) of dredged material will be removed from spot shoals to maintain authorized channel depths through the canal.

The Federal project has not been dredged since 2001. For future years' maintenance dredging operations, USACE may periodically dredge (approximately every 4-6 years) to maintain authorized depths between the offseason months of October and March to avoid adverse effects to horseshoe crabs, migratory shorebirds, summer flounder, American eel, sandbar sharks, sand tiger sharks, and Atlantic sturgeon that may travel in the near vicinity into Roosevelt Inlet and the canal.

IV. Detailed Analysis of Consistency with DCMP Enforceable Policies (attach additional sheets if necessary):

Policy 5.1: Wetlands Management

N/A

Policy 5.2: Beach Management

No construction will occur on the beach. All dredging will occur in-water with dredged material placement in an inland upland CDF.

Policy 5.3: Coastal Waters Management (please be advised that this category contains many policies; additional sheet(s) may be needed

Water resources in the project area will be protected from pollution. The project, as proposed, was determined to have temporary minor adverse impacts to water quality by locally increasing turbidity during dredging in the canal. No impacts to coastal waters will result from placement of dredged materials within the upland CDF. State Water Quality Standards would not be exceeded during and after project construction. Therefore, no significant water quality impacts are expected as a result from implementation of the proposed project.

Policy 5.4: Subaqueous Land and Coastal Strip Management

The project would be constructed in a manner that would protect the continued existence of natural resources. The proposed dredging and placement operation would not result in any avoidable pollution or avoidable contamination of the canal waters. The construction activities would require authorization from DNREC for CZM Programs approval as well as CWA Section 401 Water Quality Certification prior to commencement of the Federal action. It is expected that disturbances of benthic organisms would not be lasting or long-term, based on the ability of these areas to become recolonized in time. In addition, the project will actually improve waterway navigation through the L and R Canal. All dredging practices associated with this project will be in compliance with CZM regulations.

Policy 5.5: Public Lands Management

All state public lands will remain protected for conservation and preservation of natural resources.

Policy 5.6: Natural Lands Management

The proposed Federal action will not impact the natural lands interest and beauty.

Policy 5.7: Flood Hazard Areas Management

The proposed Federal action will not impact area programs that are administered to achieve flood protection.

Policy 5.8: Port of Wilmington

N/A.

Policy 5.9: Woodlands and Agricultural Lands Management

The proposed Federal action will not result in destruction or damage to woodlands. Dredging will occur in-water and placement operations will occur in an existing upland CDF owned by the city of Lewes.

Policy 5.10: Historic and Cultural Areas Management

N/A. It is not anticipated that this project will impact cultural resources.

Policy 5.11: Living Resources

The proposed Federal project will be undertaken in consultation with DNREC, NMFS, and the USFWS. There will be minor temporary impacts to the marine environment due to a temporary elevation of turbidity during the construction period and no permanent impacts to the environment. There will be no impacts to rare or endangered species, migratory birds, nesting or foraging areas during the proposed construction period. No impacts will result to horseshoe crabs, sharks, sea turtles or marine mammals as the work will be completed during the offseason when species are not present in the project area. Sea turtles and marine mammals are expected to leave the area in the fall and would not likely occur in the project area during dredging. Atlantic sturgeon are not expected to occur in the dredging area.

Policy 5.12 Mineral Resources Management

N/A.

Policy 5.13: State Owned Coastal Recreation and Conservation

The proposed action is expected to positively affect the area by improving navigation for numerous maritime businesses and recreational users within the L and R Canal.

Policy 5.14: Public Trust Doctrine

The proposed action will have a positive affect on navigation by improving safe transit in and out of Roosevelt inlet through the L and R Canal.

Policy 5.15: Energy Facilities

N/A.

Policy 5.16: Public Investment

The L and R Canal connects Roosevelt Inlet at the Delaware Bay to Rehoboth Bay. It provides sufficient depths for commercial and recreational vessels in the city of Lewes with access to the Delaware Bay and the nearby Atlantic Ocean. Failure to perform maintenance dredging will result in hazardous navigating conditions, damage to commercial, charter and recreational vessels.

Policy 5.17: Recreation and Tourism

The proposed Federal project encourages recreation and tourism through maintenance dredging of the Federally-authorized navigation channel in and out of Roosevelt Inlet.

Policy 5.18: National Defense and Aerospace Facilities

Failure to perform maintenance dredging will result in hazardous navigating conditions due to shoaling, restricting or delaying U.S. Coast Guard national security vessel movements.

Policy 5.19: Transportation Facilities

The proposed project is consistent with this policy by conducting maintenance dredging of a navigation channel in an environmentally sound manner.

Policy 5.20: Air Quality Management

Based on the use of a small dredge and no land-based heavy construction equipment, it is expected that the dredging and upland CDF material placement operations would have temporary minor and/or negligible effects on air quality. Ambient air quality standards are not expected to be exceeded during construction.

Policy 5.21: Water Supply Management

N/A. The proposed project will have no impact on surface water levels, ground water, aquifers or water supplies and will not interfere with unrelated permitted withdrawals in the area.

Policy 5.22: Waste Disposal Management

The proposed project does not entail impacts to any sewage disposal systems. The proposed operation will not cause pollution of public waters or create a public health hazard.

Policy 5.23: Development

N/A. The proposed project will not impact or encourage development.

Policy 5.24:Pollution Prevention

N/A. No land-based pollution will be generated. Minor and temporary impacts to air quality will occur as a result of emissions from the vessel (dredge). Prevailing coastal winds dissipate air emissions immediately.

Policy 5.25: Coastal Management Coordination

The proposed Federal action is consistent with this policy. USACE provides DNREC and relevant Federal agencies the opportunity to review and comment on the proposed action. USACE is requesting a 10-year Section 401 Water Quality Certification (Div. of Water), pursuant to the Clean Water Act and a 10-year consistency concurrence with DCMP pursuant to the Coastal Zone Management Act. In the event that modifications to either the maintenance dredging or placement operations is required for any future maintenance dredging cycle, USACE will re-initiate coordination with your office.

VI. Statement of Certification/Determination and Signature (Check one and sign below):

☒ **FEDERAL AGENCY CONSISTENCY DETERMINATION.** Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity is consistent to the maximum extent practicable with the enforceable policies of the Delaware Coastal Management Program.

OR

☐ **FEDERAL AGENCY NEGATIVE DETERMINATION.** Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity will not have any reasonably foreseeable effects on Delaware's coastal uses or resources (Negative Determination) and is therefore consistent with the enforceable policies of the Delaware Coastal Management Program.

OR

☐ **NON-FEDERAL APPLICANT'S CONSISTENCY CERTIFICATION.** Based upon the information, data, and analysis included herein, the non-federal applicant for a federal license or permit, or state or local government agency applying for federal funding, listed in (I) above, finds that this proposed activity complies with the enforceable policies of the Delaware Coastal Management Program and will be conducted in a manner consistent with such program.

Signature:			
Printed Name:	Barbara E. Conlin	Date:	19 May 2022

Pursuant to 15 C.F.R. Part 930, the Delaware Coastal Management Program must provide its concurrence with or objection to this consistency determination or consistency certification in accordance with the deadlines listed below. Concurrence will be presumed if the state's response is not received within the allowable timeframe.

Federal Consistency Review Deadlines:

Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)	60 days with option to extend an additional 15 days or other mutually agreed-to extension (15 C.F.R. § 930.41)
Federal License or Permit (15 C.F.R. Part 930, Subpart D)	Six months, with a status letter at three months. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.63)
Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)	Six months, with a status letter at three months. If three-month status letter not issued, then concurrence presumed. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.78)
Federal Financial Assistance to State or Local Governments (15 C.F.R. Part 930, Subpart F)	State Clearinghouse schedule

OFFICIAL USE ONLY:

Reviewed By:	Fed Con ID:	Date Received:
Public notice dates: to	Comments Received: NO YES *[attach comments]*	
Decision type: *(objections or conditions attach details)*	Decision Date:	

US Army Corps of Engineers
Philadelphia District

STA. 0+000 to STA. 8+673.56 -- 09 SEP 21

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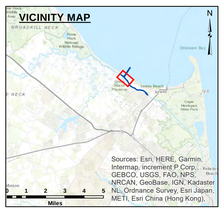
U.S. ARMY CORPS OF ENGINEERS
PHILADELPHIA DISTRICT

Surveyed By:
Plotted By: E. Anthony
Checked By:
Drawing No.
Plot Scale
Approved: _____
Chief, Survey Section

INLAND WATERWAY
REHOBOTH BAY TO DELAWARE BAY
LEWES AND REHOBOTH CANAL, DELAWARE

E-LR-01

VICINITY MAP



HORIZONTAL REFERENCE - NAD 83, DELAWARE STATE PLANE, ZONE 0700, U.S. FOOT.

VERTICAL REFERENCE – MEAN LOWER LOW WATER, WHICH IS 2.63' BELOW N.A.V.D. 88.

GEOID 12B AND NOAA TIDAL EPOCH: 1983 – 2001 WERE USED. SOUNDINGS ARE EXPRESSED IN FEET AND TENTHS AND REFER TO MEAN LOWER LOW WATER.

SOUNDINGS WERE SELECTED FOR PLOTTING PURPOSES ONLY, USING THE MINIMUM DEPTH WITHIN A 30'X30' CELL SHIFTED TO THE CELL CENTER.

CONTOURS DEPICT ACTUAL LOCATION OF BATHYMETRY AND DO NOT NECESSARILY REFLECT PLOTTED SOUNDING LOCATIONS.

CONTOURS WERE GENERATED USING THE MINIMUM DEPTH WITHIN A 3'X3' CELL.

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THE POSITIONS OF THE AIDS TO NAVIGATION ARE PROVIDED FOR INFORMATION ONLY, AND SHOULD NOT BE USED FOR NAVIGATION.

THE LIMITS OF THE FEDERAL CHANNEL DEPICT THE MOST CURRENT CHANNEL FRAMEWORK AVAILABLE WHICH CAN ALSO BE DOWNLOADED HERE:

http://navigation.usace.army.mil/Survey/Framework

BASE MAPPING LINEWORK OR ORTHOPHOTOGRAPHY HAS BEEN COMPILED FROM A VARIETY OF SOURCES AND DATES AND IS INTENDED TO PORTRAY GENERAL CHARACTERISTICS OF THE SHORELINE AND OTHER FEATURES. TEMPORAL CHANGES MAY HAVE OCCURRED SINCE THIS DATA SET WAS COLLECTED AND SOME PARTS OF THE DATA MAY NO LONGER BE AN ACCURATE REPRESENTATION OF THE SURFACE CONDITIONS.

Scale in Feet
100 0 100 200 300

- Shoalest Sounding
- CenterLine
- ToeLine
- StationLine
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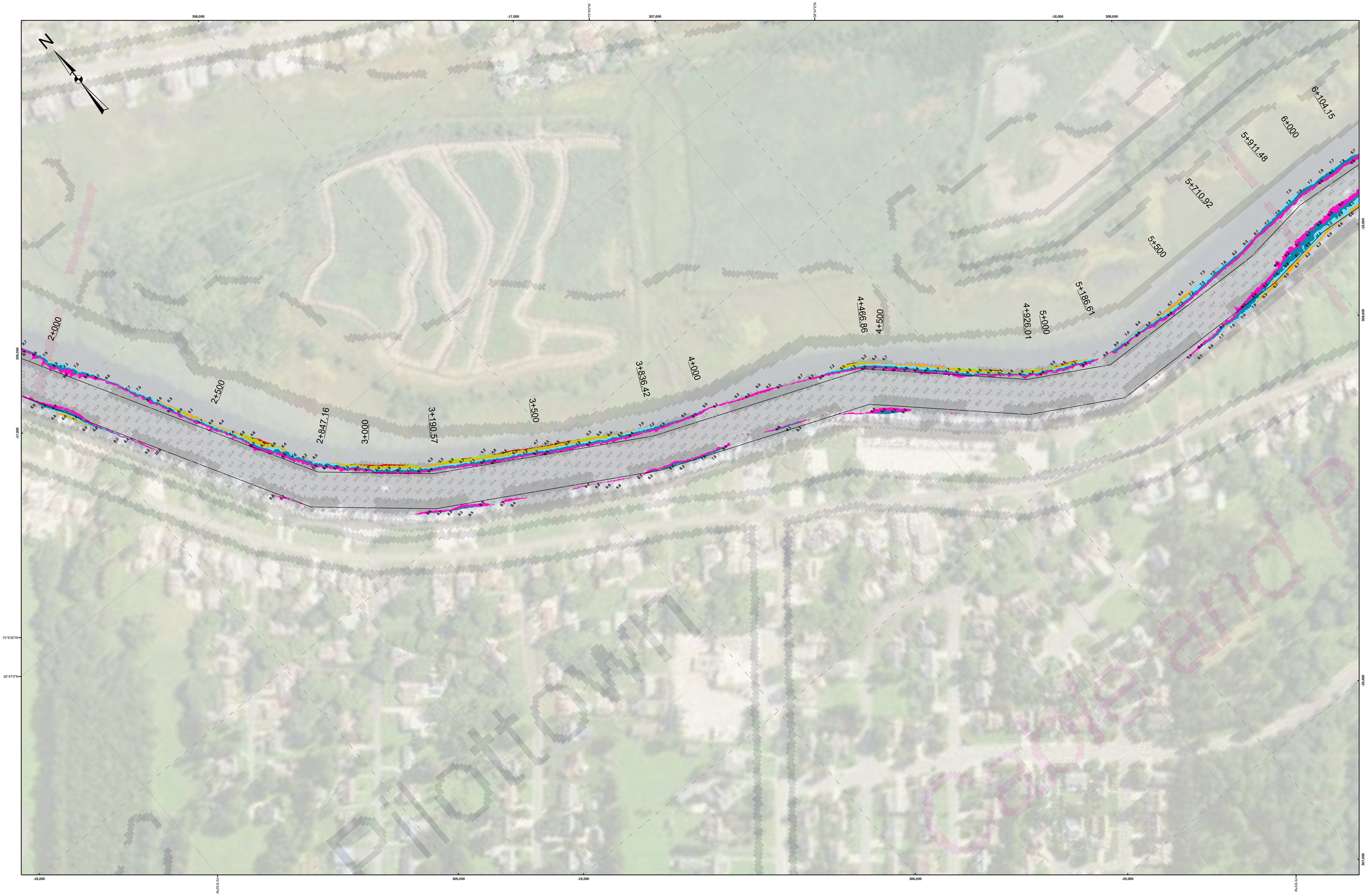
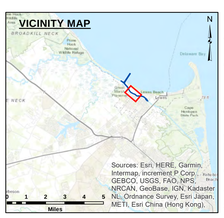
- 8 - 9
- 7 - 8
- 6 - 7
- 5 - 6
- 1.35 - 5





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US Army Corps of Engineers
Philadelphia District

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U.S. ARMY CORPS OF ENGINEERS
PHILADELPHIA DISTRICT

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Plotted By: E. Anthony
Checked By:
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Chief, Survey Section

INLAND WATERWAY
REHOBOTH BAY TO DELAWARE BAY
LEWES AND REHOBOTH CANAL, DELAWARE

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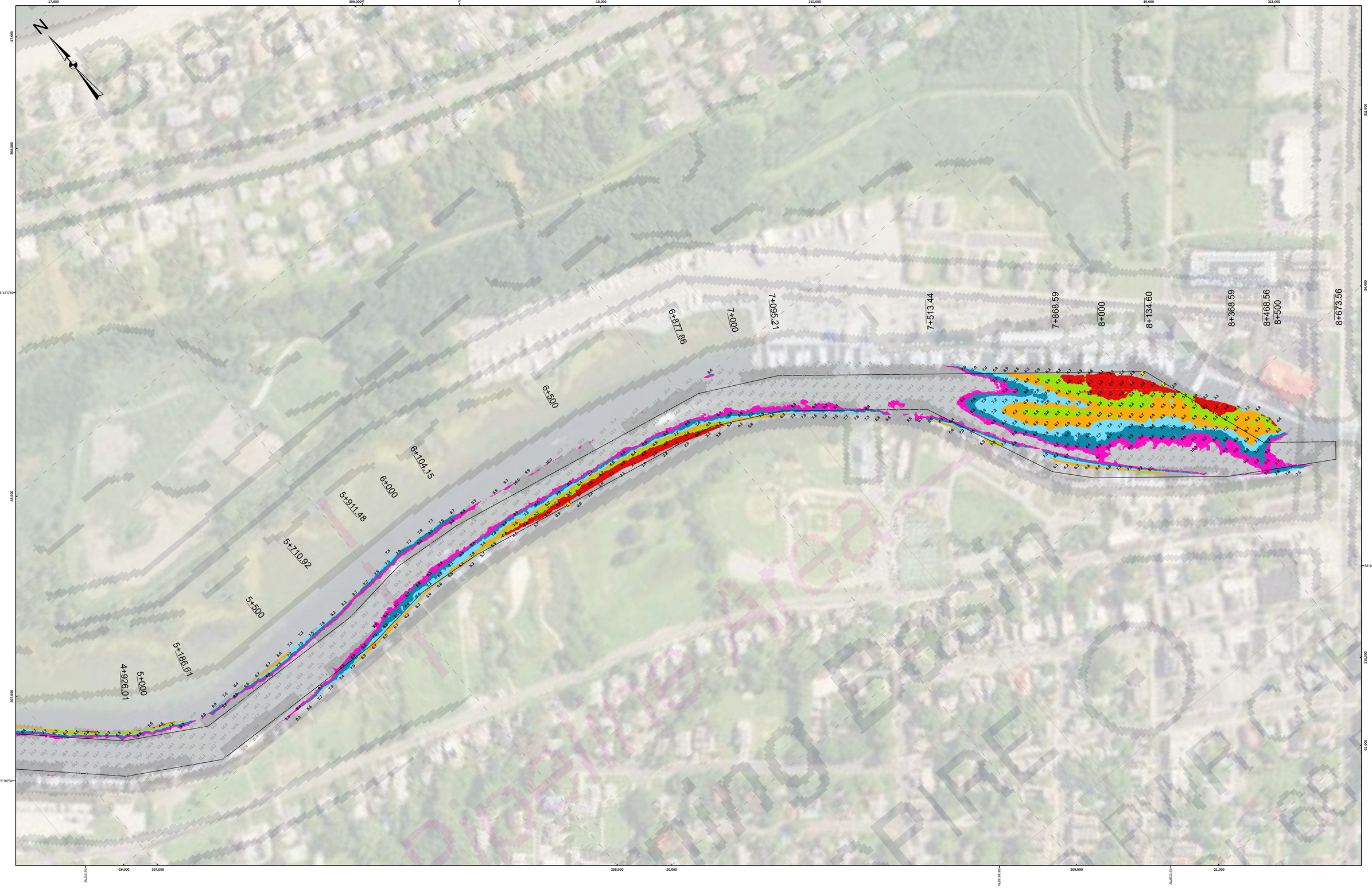

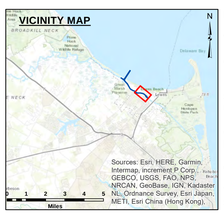

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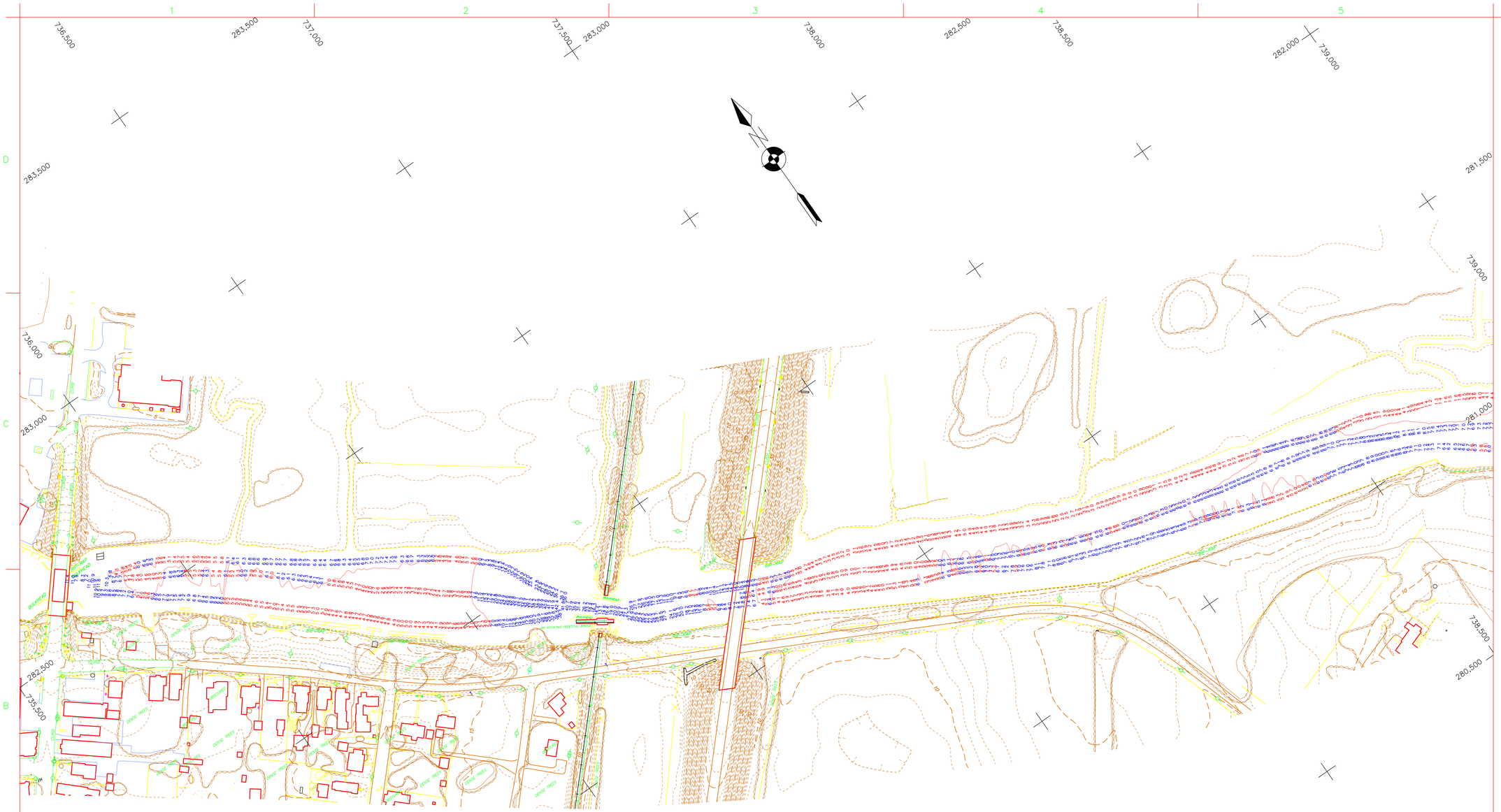
U.S. ARMY CORPS OF ENGINEERS
PHILADELPHIA DISTRICT

Surveyed By:
Plotted By: E. Anthony
Checked By:
Drawing No.
Plot Scale
Approved: Chief, Survey Section

INLAND WATERWAY
REHOBOTH BAY TO DELAWARE BAY
LEWES AND REHOBOTH CANAL, DELAWARE

E-LR-01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L&R FY22 Dredging

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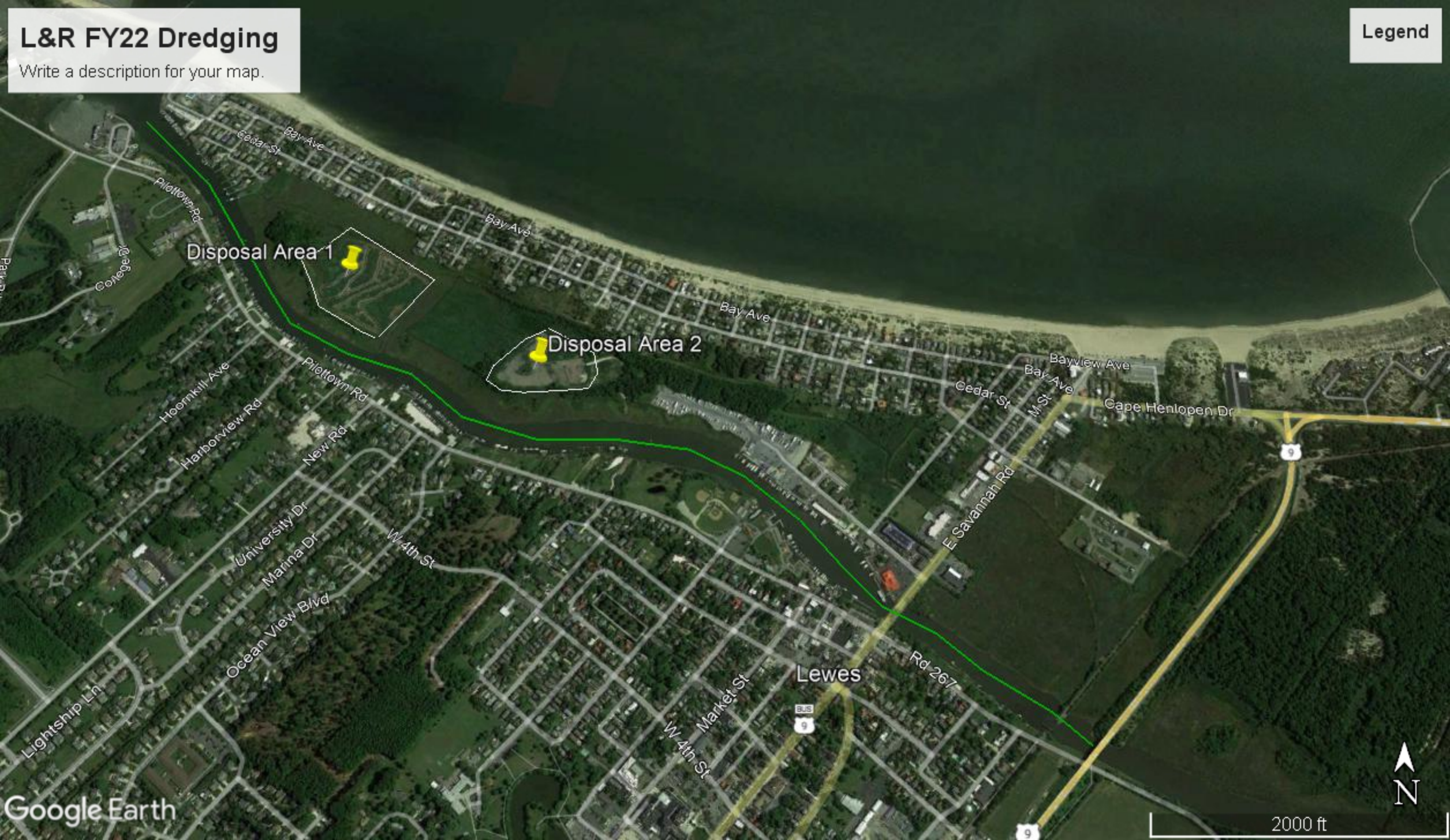
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