



CAPE COD COMMISSION

3225 MAIN STREET
P.O. BOX 226
BARNSTABLE, MA 02630
(508) 362-3828
FAX (508) 362-3136
E-mail: frontdesk@capecodcommission.org

Date: March 4, 1999

Re: Application for a Modification of a Development of Regional Impact Decision, Cape Cod Commission Act, Section 12

Applicant: Towns of Dennis and Yarmouth
Department of Environmental Management

From: Cape Cod Commission

Project: Bass River Dredging, EIR#97006
Dennis and Yarmouth, MA

APPLICATION FOR MODIFICATION OF DEVELOPMENT OF REGIONAL IMPACT DECISION

In accordance with a decision of the Cape Cod Commission on March 4, 1999, the Application for a Modification of the January 15, 1998 Development of Regional Impact (DRI) Decision issued for Bass River Dredging pursuant to Section 12 of the Cape Cod Commission Act, is hereby denied.

PROJECT DESCRIPTION

The applicant proposes revisions to the dredging program in Bass River south of Route 28 to reduce dredging within mooring basins 1 and 2, as identified on the accompanying plans entitled "Proposed Dredging Plan, Sheets 3 and 4 of 8, and Proposed Cross Section View, Sheet 6 of 8." The proposal would be modified to eliminate all dredging within the Dennis portion of mooring basin 1, and dredging in mooring basin 2 would be modified to reduce impacts to shallow water shellfishery habitat. Based on this reduction in dredging, the applicant requested that the Commission rescind the requirement that a Bass River Management Plan be completed prior to dredging in mooring basins 1 and 2.

Bass River Dredging DRI EIR#97006
Modification of DRI Decision
March 4, 1999



TESTIMONY

On February 11, 1999, the subcommittee held a public hearing at the Yarmouth Senior Center at 7:30 PM. The applicant's representative, Joseph Freeman, described the proposed changes to the dredging program and requested a modification. Heather McElroy, Commission staff, presented the staff report, recommending that the Commission grant the modification request.

Armand Cloutier, David Kay, and Richard Gegenwirth spoke in favor of expediting dredging of the river, and in favor of the modification request. Maria King, Bill Henry, Norton Nickerson (Dennis Conservation Commission), Richard Staff, Jim Carlaw, David Lilly, Erin Sullivan, Jim Cunningham and Tom Broidrick (a Commission member speaking as an abutter) spoke in favor of requiring a Bass River Management Plan. Steve McKenna, MCZM, stated that he supported separating the management plan from the dredging of mooring basins 1 and 2, and supported the modification request.

The subcommittee held a subcommittee meeting following the hearing, and voted four in favor and one against to deny the modification request.

On March 4, 1999, the Commission held a public hearing at the Assembly of Delegates Chambers, First District Court House. Heather McElroy presented the subcommittee's recommendation that the modification request be denied. The applicants, Karl von Hone, Yarmouth Natural Resources, Ed Goggin, Dennis Harbormaster, and Kevin Mooney, DEM requested that the full Commission reconsider their modification request.

Several members of the public spoke in favor of a Bass River Management Plan, and in favor of denying the modification request, including: Norton Nickerson, Maria King, Jim Cunningham, Richard Staff, and David Lillie.

The Commission discussed the proposed denial decision, and voted 13 in favor and one against to deny the modification request.

MATERIALS SUBMITTED FOR THE RECORD

Materials submitted by Applicant:

- Letter and Plans to the Commission from Joseph Freeman, BSC Group, dated 11/23/98.
- Modification summary from BSC Group dated 12/14/98.

Materials submitted by Commission:

- Letter to Ed Goggin and Karl von Hone from the Commission dated 10/22/98.
- Memo to the Regulatory Committee from Commission staff dated 12/9/98.
- Staff report dated 2/5/99.

Materials submitted by the Public:

- Letter to the Commission from the South Yarmouth Association dated 2/11/99.
- Letter to the Commission from Kate Grinberg dated 2/7/99.
- Letter to the Commission from Anne B. Seeley dated 2/9/99.
- Email to the Commission from Maria King dated 2/9/99.
- Email to the Commission from Robert Savage dated 2/9/99.
- Letter to the Commission from Yarmouth Citizens for Responsible Development dated 2/5/99.
- Letter to the Commission from Maria King dated 1/15/99.
- Letter to the Commission from Maria King dated 2/19/99.
- Email to the Commission from Richard McCarthy dated 3/2/99.
- Email to the Commission from John and Jean Smith dated 3/2/99.
- Fax to the Commission from the South Yarmouth Association and Yarmouth Citizens for Responsible Development dated 3/2/99.
- Letter to the Commission from S.H. and Edna Maynard dated 3/3/99.
- Letter to the Commission from Charlotte and Gabriele Ramsauer dated 3/4/99.
- Letter to the Commission from Norton Nickerson dated 3/4/99.
- Email to the Commission from Milo Webster dated 3/4/99.
- Editorial from the Dennis/Yarmouth Register submitted by Jim Cunningham dated 2/25/99.

The application and notice of the public hearing relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and meetings and all submissions received in the course of the proceedings, including materials submitted on file #EIR97006 are incorporated into the record by reference.

FINDINGS

1. While the changes to mooring basins 1 and 2 reduce the concerns identified in the January 15, 1998 Commission decision, including conflicting use interests and impacts to shellfish habitat, substantial concern still exists regarding ongoing human activity in Bass River, and the potential harmful environmental impacts of such activities. Substantial public support exists for the development of a Bass River Management Plan.
2. Incremental increases in human uses, i.e. improvement dredging and anchorage of boats in areas previously not designated for that purpose, and the consequent adverse impacts to Bass River may result in the future degradation of the environmental, recreational, and aesthetic interests for which Bass River is currently valued as a regional resource.
3. The Commission finds that a Bass River Management Plan would provide a valuable opportunity for planning in the Bass River area, as defined in the Bass River Dredging DRI decision dated January 15, 1998.

CONCLUSION

The Commission hereby denies the modification request, and the Bass River Dredging DRI decision stands as written.

Herbert Olsen

3/24/99

Herbert Olsen, Chair

Date

Commonwealth of Massachusetts
Barnstable, ss.

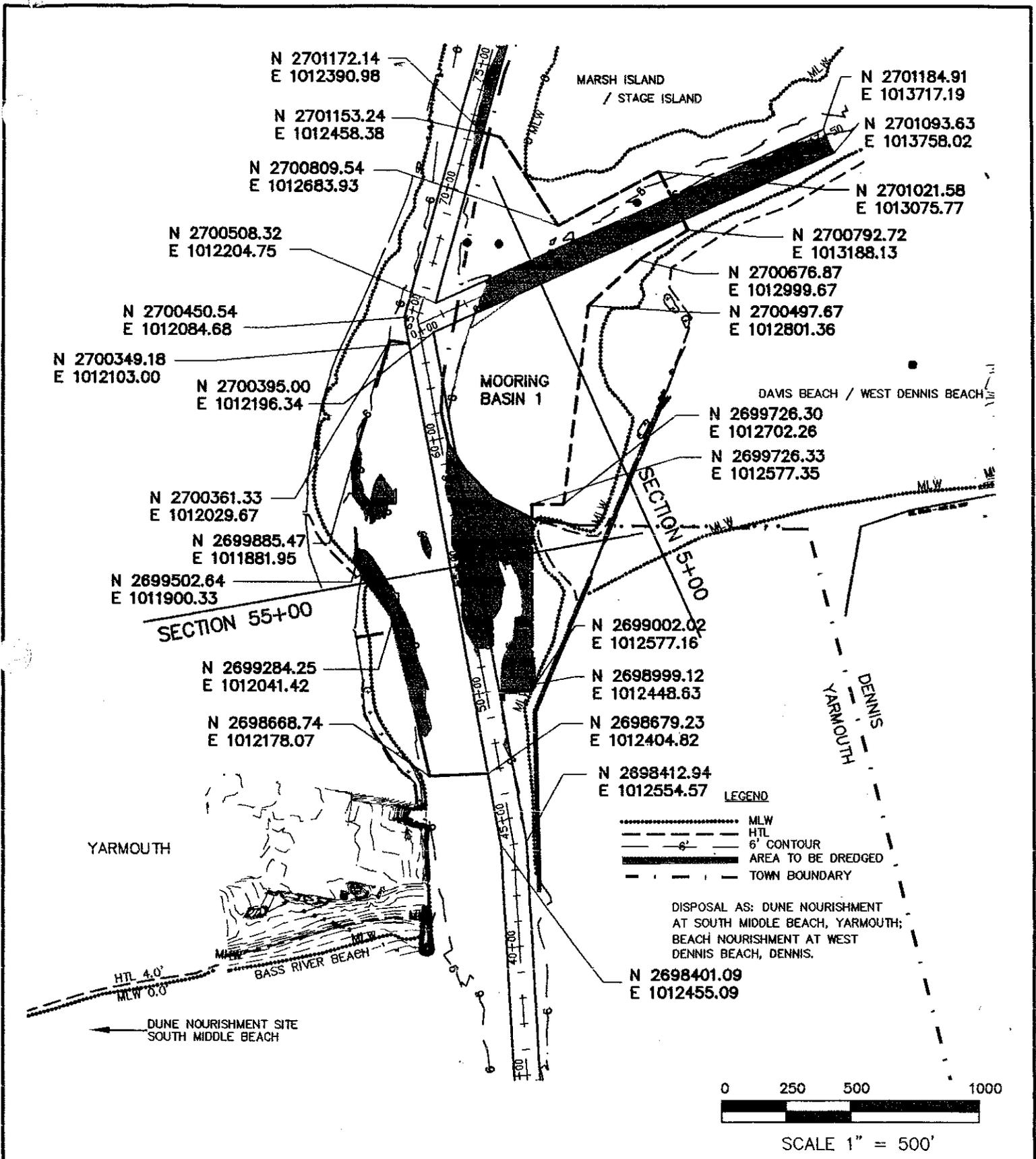
Subscribed and sworn to before me this 24th day of March 1999

Katharine L. Peters

Name, Notary Public

My commission expires:





PURPOSE: MAINTAIN AND IMPROVE NAVIGATION CHANNEL AND MOORING BASINS, BASS RIVER

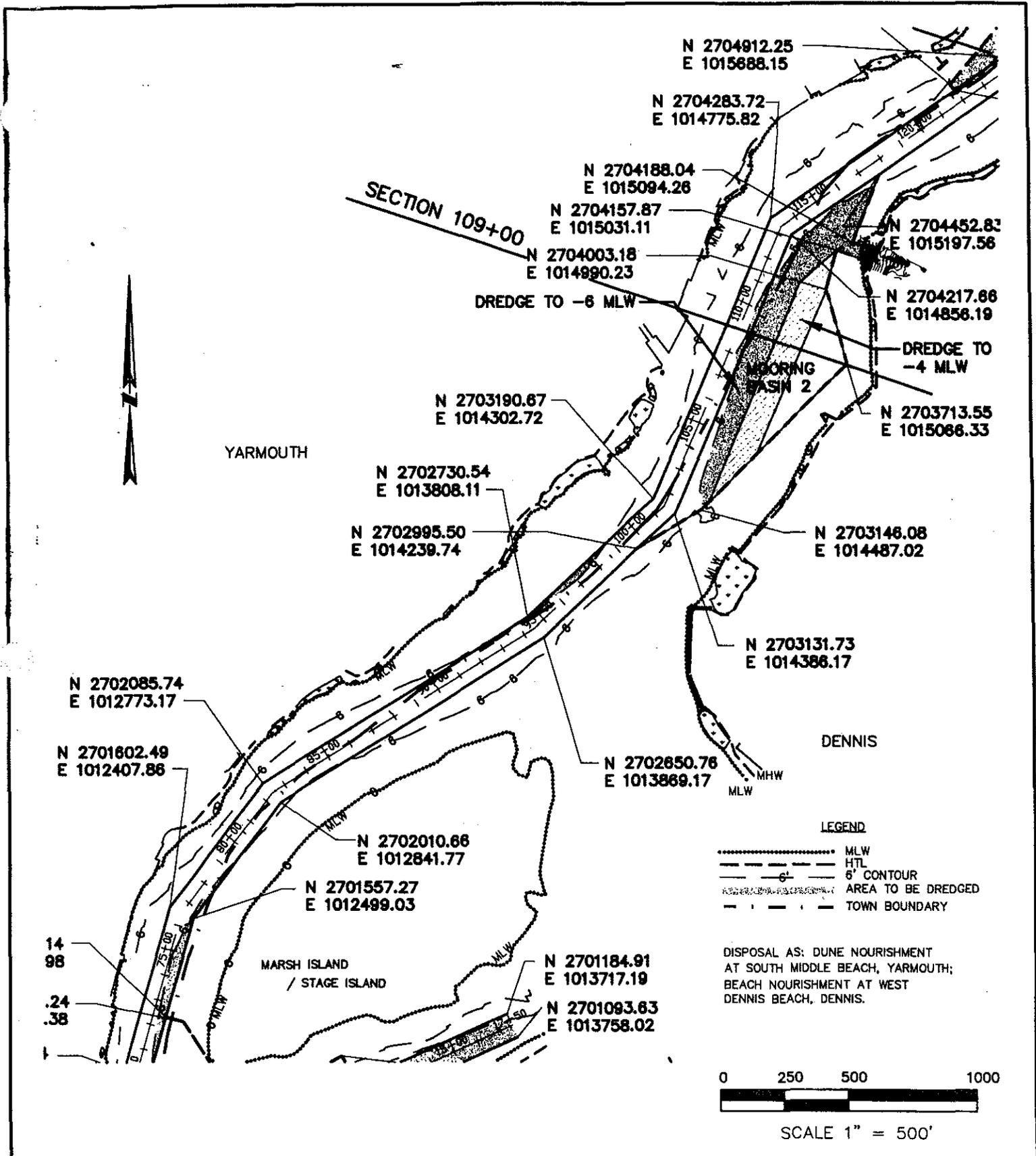
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HTL = 4.0

THE BSC GROUP, INC.
425 SUMMER STREET, BOSTON, MA 02210

PROPOSED DREDGING PLAN

PROPOSED DREDGING PLAN IN:
BASS RIVER
AT: BASS RIVER, YARMOUTH & DENNIS, MA
COUNTY OF: BARNSTABLE, MA
APPLICATION BY: MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL MANAGEMENT AND THE TOWNS OF YARMOUTH & DENNIS, MA

DATE: SEPT. 1998 SHEET: 3 OF 8



PURPOSE: MAINTAIN AND IMPROVE NAVIGATION CHANNEL AND MOORING BASINS, BASS RIVER

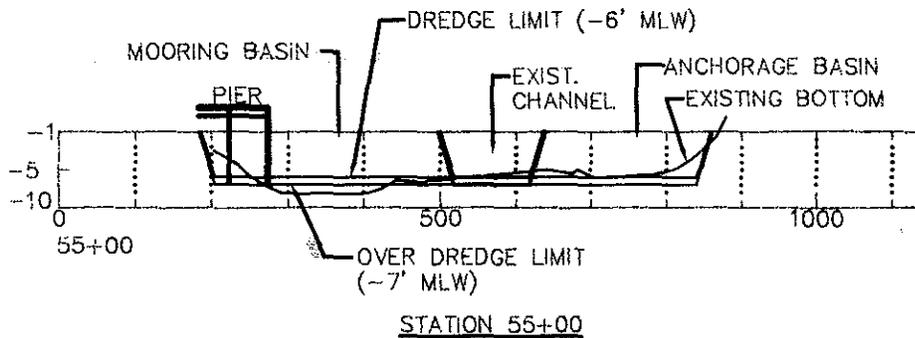
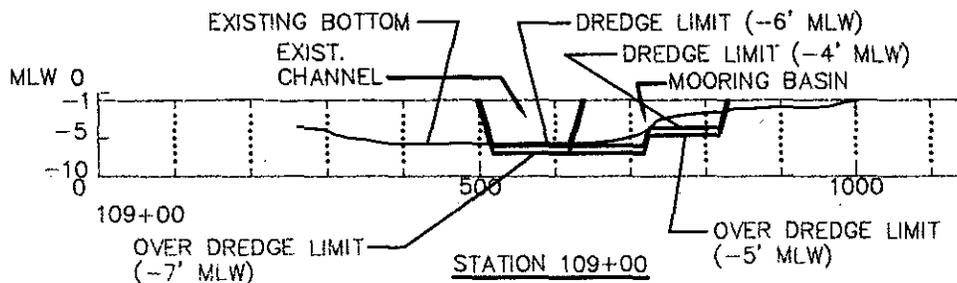
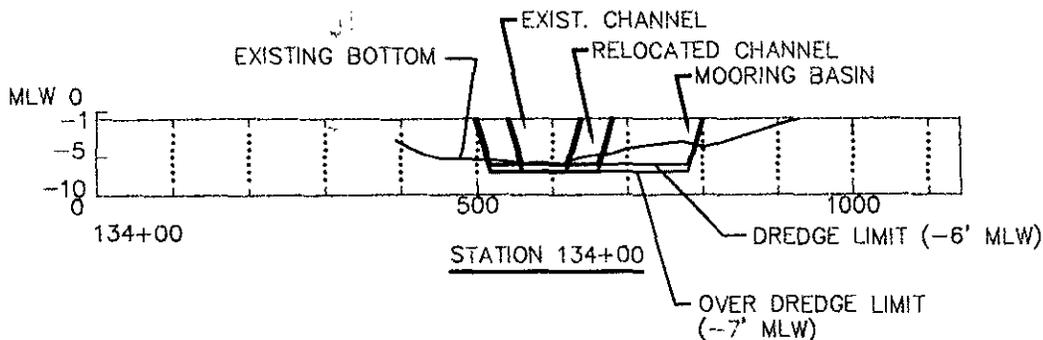
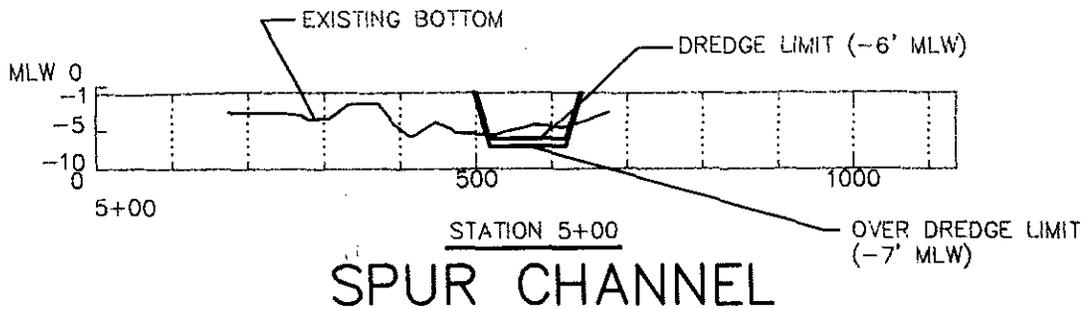
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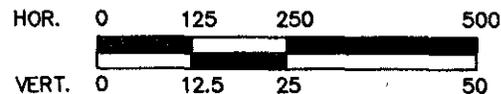
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AT: BASS RIVER, YARMOUTH & DENNIS, MA
COUNTY OF: BARNSTABLE, MA
APPLICATION BY: MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL MANAGEMENT AND THE TOWNS OF YARMOUTH & DENNIS, MA

DATE: OCT. 1998 SHEET: 4 OF 8



SCALE IN FEET



PURPOSE: MAINTAIN AND IMPROVE
NAVIGATION CHANNEL AND
MOORING BASINS, BASS RIVER

DATUM: MLW = 0.0
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PROPOSED CROSS SECTION VIEW

PROPOSED DREDGING PLAN IN
BASS RIVER

AT: BASS RIVER, YARMOUTH & DENNIS, MA
COUNTY OF: BARNSTABLE, MA
APPLICATION BY: MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT AND THE TOWNS OF
YARMOUTH & DENNIS, MA

DATE: OCT. 1998

SHEET: 6 OF 8