Public Notice

U.S. Army Corps of Engineers
Baltimore District
PN 18-

In Reply to Application Number
NAB-2018-61751 (UMCES – Horn Point Campus Oyster Reefs)

Comment Period: November 19, 2018 – December 19, 2018

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

The Baltimore District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344), as described below:

APPLICANT: Mr. Jeff Miley
UMCES Horn Point
2020 Horn Point Road
Cambridge, Maryland 21613

WATERWAY AND LOCATION: All work is proposed within the upper sub-tidal and intertidal portion of the water column in Lake Cove which is located along the southern shore of the Choptank River at UMCES Horn Point Campus, Dorchester County, Maryland.

PROPOSED WORK AND PURPOSE: The applicant proposes, in accordance with the attached plans, to install one new 262.5-foot-long by 3-foot-wide breakwater oyster castle reef extending 190-feet channelward of the mean high water (MHW) shoreline; and to retrofit five existing, dilapidated infrastructures with pre-seeded oyster castles, creating five more oyster reefs. The five retrofitted structures will consist of three breakwaters of 32.8-foot-long by 3-foot-wide breakwaters (total 98.5 feet) extending a maximum of 12-feet, 103-feet and 184-feet channelward of the MHW shoreline; one 65.6-foot-long by 3-foot-wide jetty extending a maximum of 144-feet channelward of the MHW shoreline; and one 70-foot-long by 3-foot-wide revetment in the intertidal zone to stabilize the eroding marsh, extending 229.6-feet channelward of the MHW shoreline. The six oyster reefs (5 retrofitted structures and 1 new reef) will impact a total of 1,489.8 square feet of Lake Cove.

As part of the planning process for the proposed project, steps were taken to ensure avoidance and minimization of impacts to aquatic resources to the maximum extent practicable based on the existing site conditions. No compensatory mitigation is proposed since no wetland fill impacts are proposed.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced

against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

The evaluation of the impacts of the work described above on the public interest will include application of the Clean Water Act 404(b)(1) Guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

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.

Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, Attention: Marion Gall, 1631 South Atherton Street, Suite 101 State College, Pennsylvania 16801 or marion.gall@usace.army.mil, within the comment period specified above.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), 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). The project site lies in or adjacent to the Chesapeake Bay EFH as described under the MSFCMA for Juvenile and adult Red hake (*Urophycis chuss)* and Windowpane flounder (*Scopthalmus aquosus*); Adult Atlantic sea herring (*Clupea harengus*); Juvenile and adult Bluefish (*Pomatomus saltatrix*); Eggs, larvae, juvenile and adult Atlantic butterfish (*Peprilus triacanthus*); Larvae, juvenile and adult Summer flounder (*Paralicthys dentatus*); Juvenile and adult Scup (*Stenotomus chrysops*) and Red Drum (*Sciaenops occelatus*); Eggs, larvae, juveniles and adult King mackerel (*Scomberomorus cavalla*), Spanish mackerel (*Scomberomorus maculates*), Cobia (R*achycentron canadum*), Black sea bass (*Centropristus striata*) and all managed species under the MSFCMA. According to the Maryland Department of Natural Resource's Merlin on-line database, the proposed lease site has been identified as being EFH for spawning striped bass.

The project has the potential to adversely affect EFH or the species of concern by the alteration of spawning, nursery, forage and/or shelter habitat. The project may have an adverse effect on an approximate total of 0.034-acre-area of EFH as described under the MSFCMA for the species and life stages identified above. This habitat consists of a mostly sand and mud substrate which does not support submerged aquatic vegetation (SAV) within the footprint of the propose work, but SAV exist approximately 150-feet upstream of the existing jetty that will be retrofitted with oyster castles. The project area is not a Habitat Area of Particular Concern. According to the Virginia Institute of Marine Science survey maps, there was no SAV within the area. The Baltimore District has made a preliminary determination that site-specific impacts would not be substantial and an abbreviated consultation will be conducted with National Marine Fisheries Service. No mitigative measures are recommended at this time to minimize adverse effects on EFH. This preliminary determination may be modified if additional information indicates otherwise and could change the Corps' preliminary determination.

WATER QUALITY CERTIFICATION: The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Maryland Department of the Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Maryland Department of the Environment, Tidal Wetlands Division, Montgomery Park Business Center, 1800 Washington Blvd., Suite 430, Baltimore, Maryland 21230 within the comment period as specified above to receive consideration. The 401 certifying agency has a statutory limit of one year to make its decision.

COASTAL ZONE MANAGEMENT PROGRAM: The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the Maryland Coastal Zone Program. This certification statement is available for inspection in the District Office; however, public comments relating to consistency must be received by the Tidal Wetlands Division, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Blvd. Suite 430, Baltimore, Maryland 21230, within the comment period as specified above. It should be noted that the MDE has a statutory limit of 6 months in which to make its consistency determination.

The applicant must obtain any state or local government permits which may be required.

ENDANGERED SPECIES ACT: A preliminary review of this application indicates that the proposed work may affect, but is not likely to adversely affect, federal listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

NATIONAL HISTORIC PRESERVATION ACT: Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion therein are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. Any person who has an interest, which may be adversely affected by the issuance of this permit, may request a public hearing. The District Engineer must receive the request, which must be in writing, to the U.S. Army Corps of Engineers, Baltimore District, 1631 South Atherton Street, Suite 101 State College, Pennsylvania 16801, within the comment period as specified as above to receive consideration. Also, it must clearly state the interest that may be adversely affected by this activity and the manner in which the interest may be adversely affected.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice. If you have any questions concerning this matter, please contact Ms. Marion Gall at 814-235-1761 or marion.gall@usace.army.mil.

FOR THE DISTRICT ENGINEER:

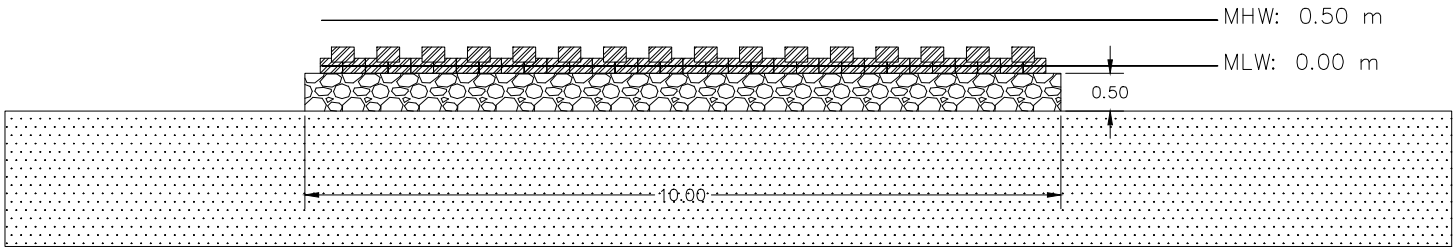
Digitally signed by
CHANDLER.WADE.B.1229060178
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=CHANDLER.WADE.B.1229060178
Date: 2018.11.19 09:59:44 -05'00'

Wade B. Chandler
Chief, Pennsylvania Section

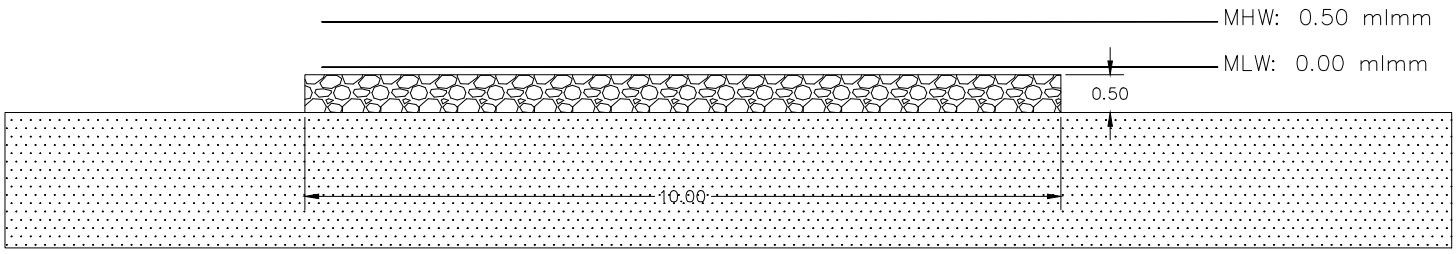
Breakwaters profile

Legend
new blocks existing blocks ground
scale 1cm:100cm

Proposed improvements



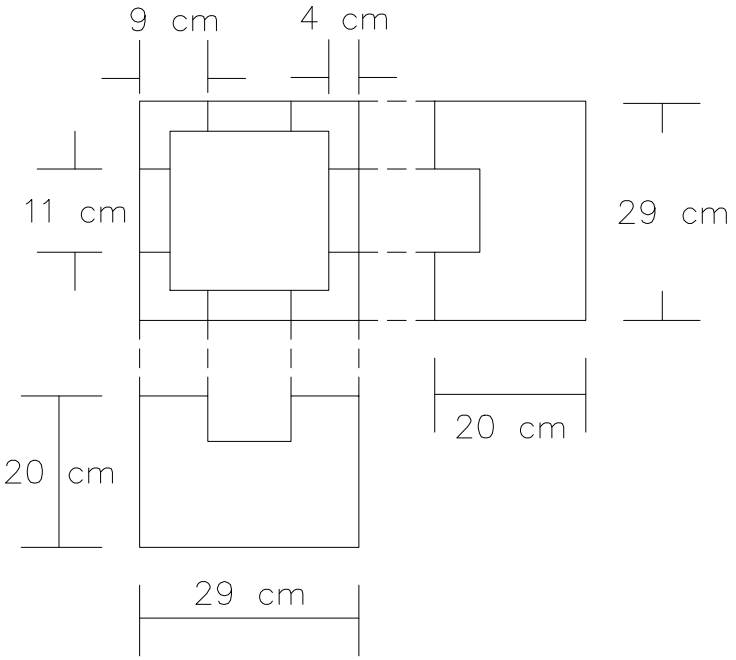
Existing conditions



Blocks Details, Scale 1 cm : 10 cm

Profile View

Top View

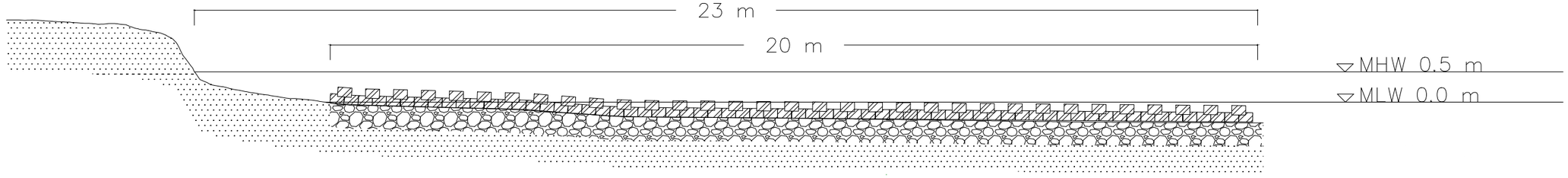


Proposed improvements

Legend
- new blocks
- existing blocks
- ground

Jetty design

scale: 1cm:100cm

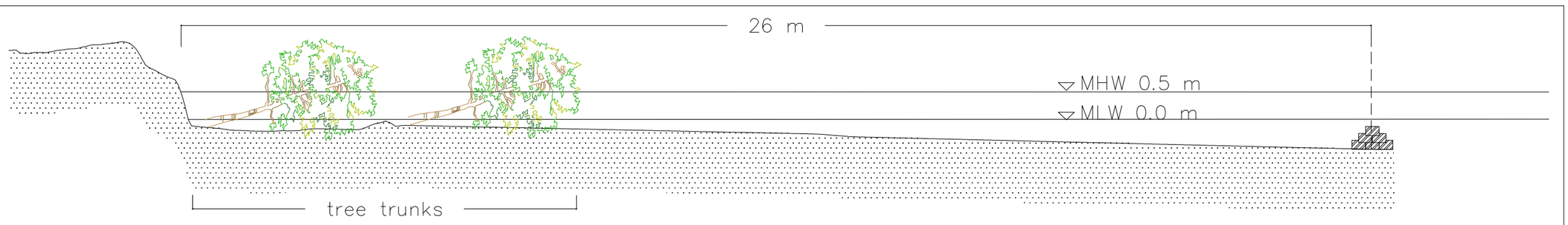


Ground Elevation [m]	1.70	0.64	0.04	-0.10	-0.20	-0.32	-0.34	-0.37	-0.40	-0.43	-0.44
Partial distances [m]	2.50	2.50	5.00	2.50	2.50	5.00	2.50	3.00			

Legend
- new blocks
- existing blocks
- ground

Section A design

scale: 1cm:100cm

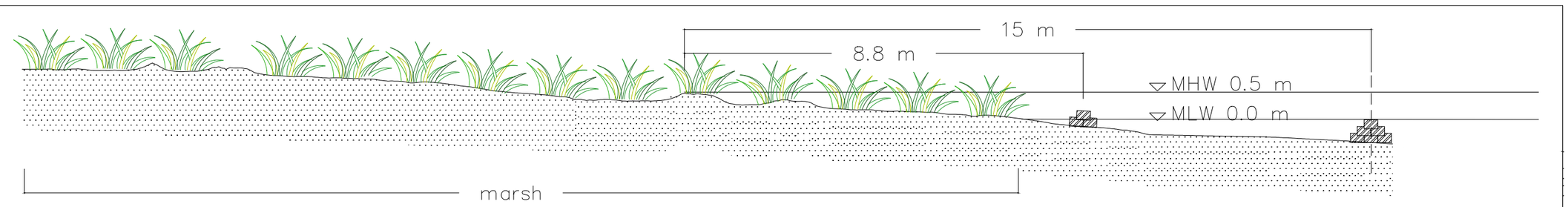


Ground Elevation [m]	1.60	-0.17	-0.21	-0.15	-0.20	-0.25	-0.30	-0.40	-0.46	-0.52	-0.58	-0.65	-0.60
Partial distances [m]	5.00	2.50	2.50	5.00	2.50	2.50	5.00	2.50	1.30				

Legend
- new blocks
- existing blocks
- ground

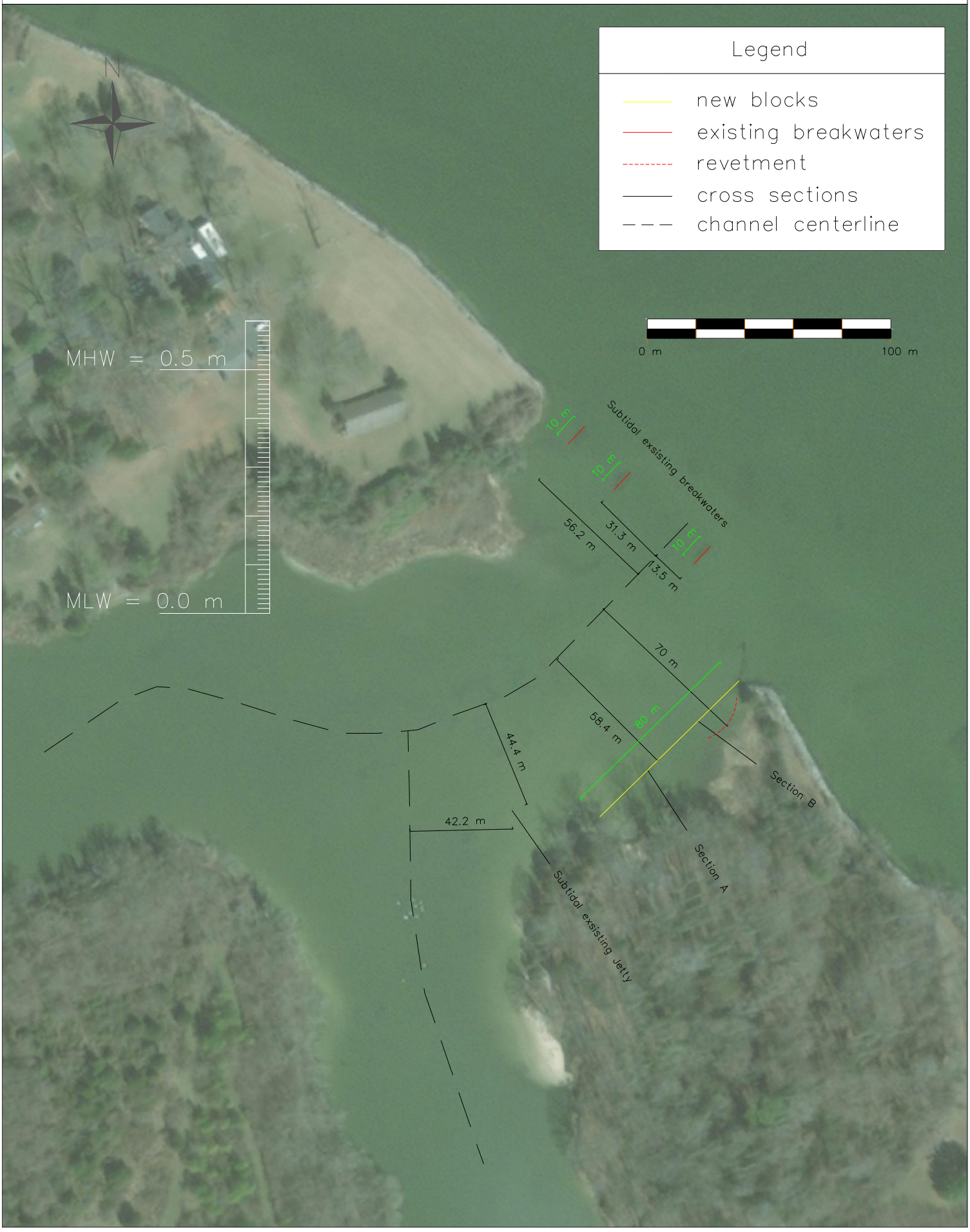
Section B design

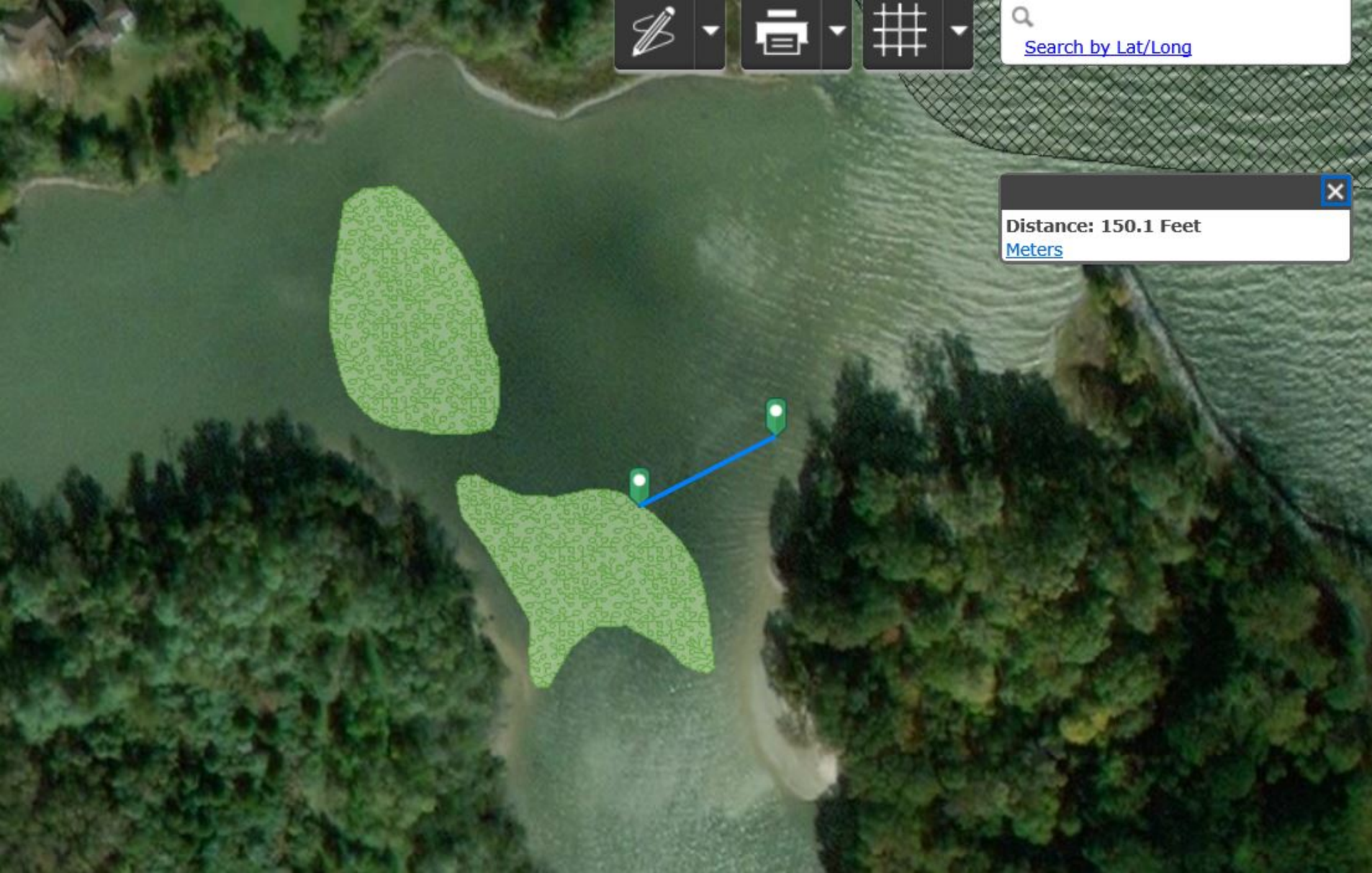
scale: 1cm:100cm



Ground Elevation [m]	1.10	1.10	0.90	0.80	0.51	0.41	0.33	0.21	0.10	-0.15	-0.35	-0.42	-0.57
Partial distances [m]	2.50	2.50	2.50	5.00	2.50	2.50	5.00	2.50	2.50	2.00			

Lake Cove, proposed improvements, scale 1 cm : 2,000 cm




Search by Lat/Long
Distance: 150.1 Feet
Meters

Horn Point Laboratory area, Cambridge (MD), scale 1 cm : 5,000 cm