

**Ohio Lakefront Group
Annual Meeting
Catawba Island Club
Port Clinton, Ohio
May 30, 2019**



Ohio Lakefront Group

www.ohiolakefrontgroup.com

What is the Ohio Lakefront Group

- Non-Profit and non-partisan
- Incorporated in 1999
- Shoreline property owners
- Grassroots volunteer organization --Board Members are NOT paid or reimbursed
- At present there are over 7,000 members
- There are 14,000 - 15,000 parcels along Lake Erie in Ohio



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Purpose

- Prevent taking of shoreline property by governmental entities
- Protect the use of Lake Erie and the environment
- We are NOT anti-environment, **we just want our deeds honored!**



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Nominees for Board of Directors for a 3-year term

Baeppler, Greg

Bay Village

Bunsey, Bob

Huron

Cyvas, Vitas

Willowick



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Treasurer's Report

Jan. 1, 2018 Balance	\$664,558.56
Member Support	\$10,378.00
Total Assets	\$674,936.56
Expenses	\$41,376.27
Dec. 31, 2018 Balance	\$633,560.29



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History

- We filed our lawsuit in **2004**.
- The case was settled in **2016**.
- We won in Federal Court once
- We won in the Trial Court 2 times
- We won in the Appeals Court 2 times
- We won in the Ohio Supreme Court 2 times



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Judge Lucci's Decision

- Voided Leases on private/deeded property.
- Artificial fill is allowed to “reclaim land lost by avulsion.” (Page 34)
- Simply, the Public Trust is essentially “where beachcombers may walk...where the walker’s feet would be wet.” (Page 34)



Water Levels

Lauren Schifferle

Water Management Branch

Buffalo Office

Army Corps of Engineers



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Permitting and Structures

Keith Sendziak
Regulatory Branch
Ohio Permit Evaluation
Buffalo Office
Army Corps of Engineers



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U.S. Army Corps of Engineers Regulatory Program: Coastal Applications

- Keith Sendziak
- Biologist
- Army Corps of Engineers, Buffalo District
- Date: 30 May 2019



US Army Corps
of Engineers®

USACE Regulatory Program Goals

- To provide strong protection of the Nation's aquatic environment, including wetlands.
- To enhance the efficiency of the Corps' administration of its regulatory program.
- To ensure that the Corps provides the regulated public with fair and reasonable decisions.



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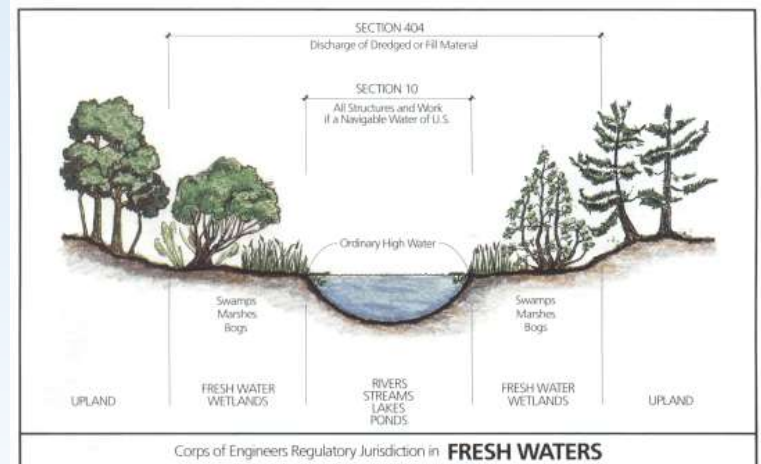
Section 10 of the Rivers and Harbors Act of 1899

- Prohibits the unauthorized obstruction or alteration of any **navigable water** of the United States
- Under Section 10, the Corps of Engineers regulates all activities, work, and structures within, above, or beneath navigable waters



Lake Erie Limits of Jurisdiction

- Ordinary High Water Mark (OHWM): defining element for identifying the lateral limits of non-wetland waters
- Lake Erie has an established OHWM of 573.4 feet International Great Lakes Datum, 1985.



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Section 404 of the Clean Water Act of 1977

- Under Section 404, the Corps of Engineers regulates activities which involve a discharge of dredged or fill material into a water of the United States



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Jurisdiction examples



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PERMIT APPLICATION REQUIRED MATERIALS

- Applicant name, address, and contact information
- Location of proposed work
- Applicant (agent) signature
- Project Purpose
- Amount of material below ordinary high water
- Location Map
- Drawings (plan view (i.e. top view) and cross section (i.e. side view))



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- Photographs Not Required but helpful

PERMIT APPLICATION

<https://www.lrb.usace.army.mil/Missions/Regulatory/OH-PERMIT-INFO/>



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Cohen et al. 2002

7.0. DISCHARGE TO FILL SITE		
8. Nature of Activity (Description of project, location, etc.)		
9. Project Purpose (Describe the nature or purpose of the project, how it will help)		
10. DISCHARGE BASED ON OBSERVED AND/OR FILL MATERIAL IS TO BE DISCHARGED		
11. Discharge Permit Number		
12. Type of Material Being Discharged and its Amount, by Type in Cubic Yards		
Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards
13. Station Area (Name of location, or GPS coordinates, plus a map showing location)		
14. Date		
15. Description of Activities, Mitigation, and Compensation (see below)		

OHIO FORM 4345, OCT 2012

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24. Is Any Portion of the Work Already Completed? ☐ Yes ☐ No If Yes, Describe the COMPLETED WORK:

25. List the Address(es) Regarding Property Classes, Taxation, etc. (Where Property Applies the Work) (Only if we are seeking review, then list a representative):

a. Address:

City: State: Zip:

b. Address:

City: State: Zip:

c. Address:

City: State: Zip:

d. Address:

City: State: Zip:

e. Address:

City: State: Zip:

26. List of Other State(s) or Agency(ies) Reviewed from Other Federal, State, or Local Agency as for W-8, Attached in the Application:

AGENCY	TYPE APPROVAL*	INTERIM/PROPOSED REVIEW	DATE RECEIVED	DATE APPROVED	DATE DENIED

* Would include (a) not restricted to zoning, building, and land placement b.

27. Application is being made for permit or permission with the work described in this application. I certify that the information has been applied for to complete and accurate. I have not had it reviewed by the authority that would be used to review the work described in the application and the local agent of the applicant.

SIGNATURE OF APPLICANT: DATE: SIGNATURE OF AGENT: DATE:

The Application must be signed by the person who claims to undertake the proposed activity (applicant) and may be signed by a duly authorized agent. If the statement of above has been filled out and signed.

NOTICE: However, I DO hereby declare that, however, in any manner within the jurisdiction of any department or agency of the United States, knowing and with full intent, conceal, or covers up any false, fictitious, or illegitimate statement, or knowingly makes any false, fictitious, or fraudulent statement or representation or makes or causes any false, fictitious, or fraudulent statement or representation to be made or caused to be made, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

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Department of the Army Permits Include:

Individual Permits

- Letter of Permission (LOP)
- Standard Permit (SP)

General Permits

- Nationwide Permits (NWP)



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Nationwide Permits (NWP)

- A type of general permit used to authorize specific types of activities (i.e. bank stabilization, housing, road crossing)
- Minimal impact to aquatic environment
- Expedited permit review process (45 days from complete application)
- Additional information may be required (Corps makes request within 30 days of receiving application)
- Mitigation may be required (avoid, minimize, compensate)
- Requires each District to include regional conditions to ensure impacts are minimal both individually and cumulatively



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Commonly Used Nationwide Permits on lake erie

3. Maintenance

7. Outfall and Associated Intake Structures

10. Mooring Buoys

11. Temporary Recreational Structures

13. Bank Stabilization

28. Modifications to Existing Marinas

35. Maintenance Dredging of Existing Basins

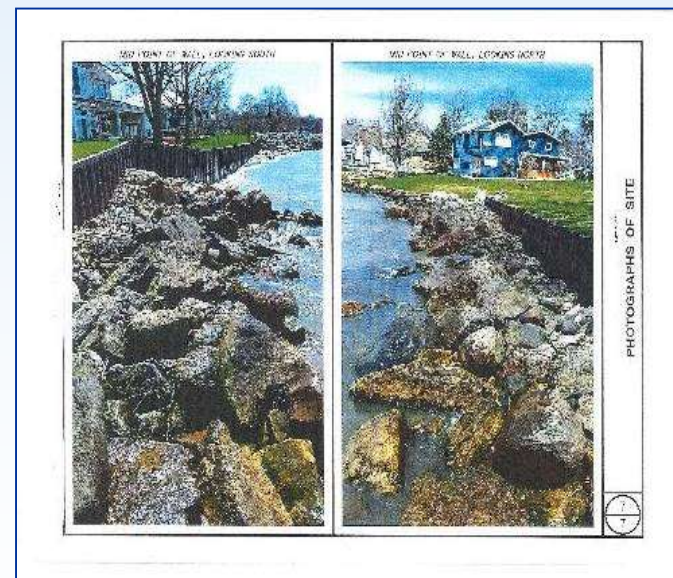
36. Boat Ramps



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Nationwide Permit 3 (Maintenance)

- Repair, rehabilitation, or replacement
- Previously authorized, currently serviceable structure or fill
- Not to be put to different use
- Minor deviations are authorized
- No more than 1 foot waterward for sheetpile



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Nationwide Permit 13 (Bank Stabilization)

- Necessary for erosion control or prevention
- Minimum necessary for erosion protection
- No more than 500 feet (waiver can be obtained)
- No more than 1 cubic yard of material below ordinary high water elevation per running foot (waiver can be obtained)
- Sand prefill 2 cubic yards (CY) of sand per linear foot (LF) of shoreline stabilized (i.e. 100 LF revetment = 200 CY sand) (waiver can be obtained)



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Nationwide Permits 3 and 13

- Must submit application and receive affirmation before starting work
- Coastal Consistency from ODNR required
- Sand below fill must be relocated and placed nearshore
- Must comply with other laws (Endangered species, Historic Preservation, etc)



STANDARD PERMITS – OFFSHORE BREAKWATERS & GROINS

- More than minimal impact to aquatic environment
- Longer permit review process
- Adjacent property owners contacted
- Public notice (30 days) to solicit comments
- 120 days to complete
- Requires OEPA permit (180 days to complete)
- Mitigation may be required (avoid, minimize, compensate)

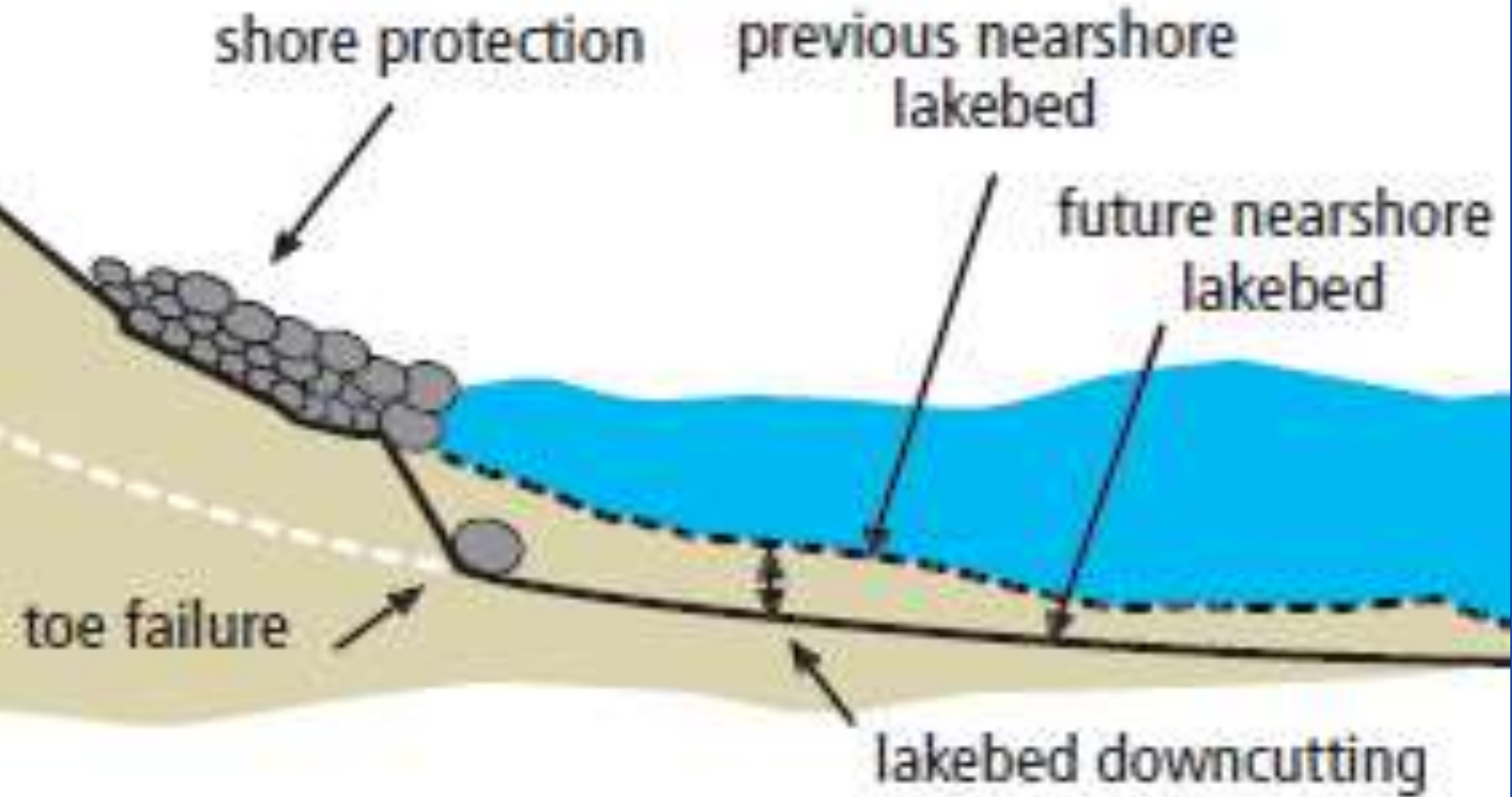


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Permit Conditions

- In-water work restriction April 15 – June 30 (waiver can be obtained)
- Suitable material / appropriately sized armor stone (experience has shown at least 3 feet or greater) – no exposed concrete, asphalt, metal, wood, other debris
- Toe stone embedded in lake bottom to increase stability
- Sand relocation with nearshore placement
- Sand prefill – 2 cubic yards / linear foot shoreline stabilized for Nationwide Permit 13 (waiver can be obtained)





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unsuitable



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unsuitable



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unsuitable



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suitable



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REVETMENT EXAMPLE DRAWINGS



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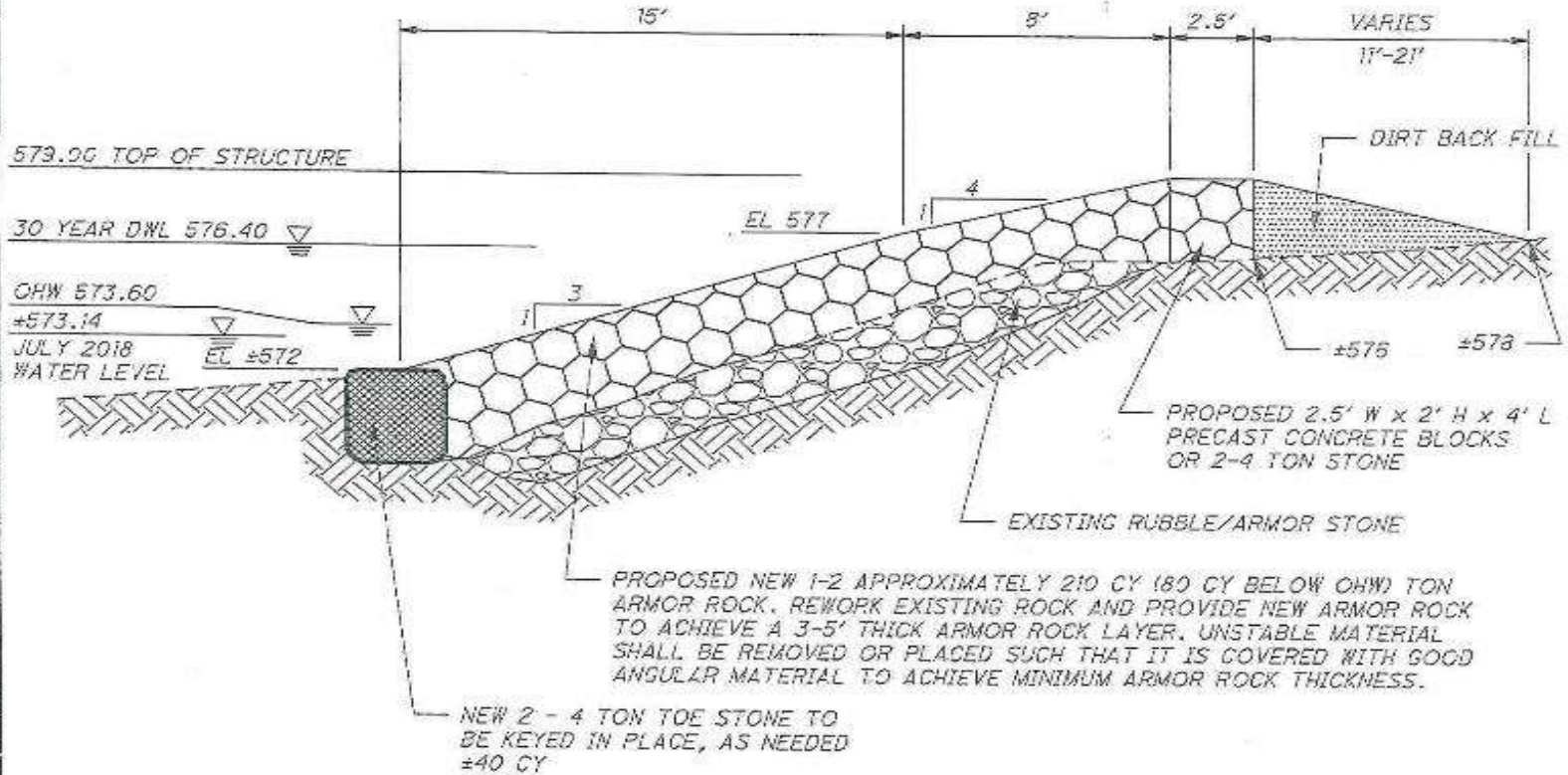
Sheet 3 of 3



NOTE:

ELEVATIONS SHOWN ARE NAVD88,
SUBTRACT 0.21' TO CONVERT TO IGD85

0 2.5 5
HORIZONTAL
SCALE IN FEET

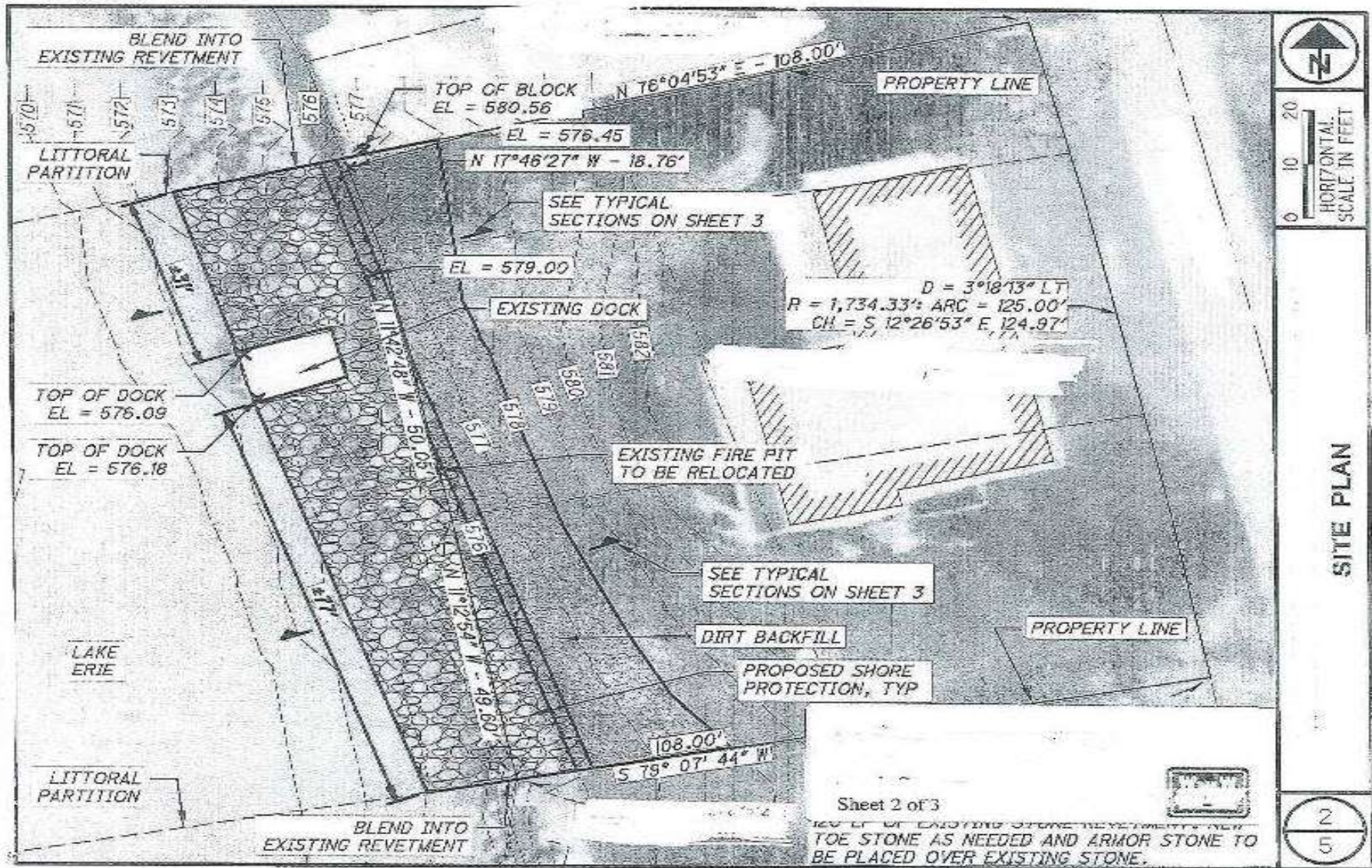


SECTIONS



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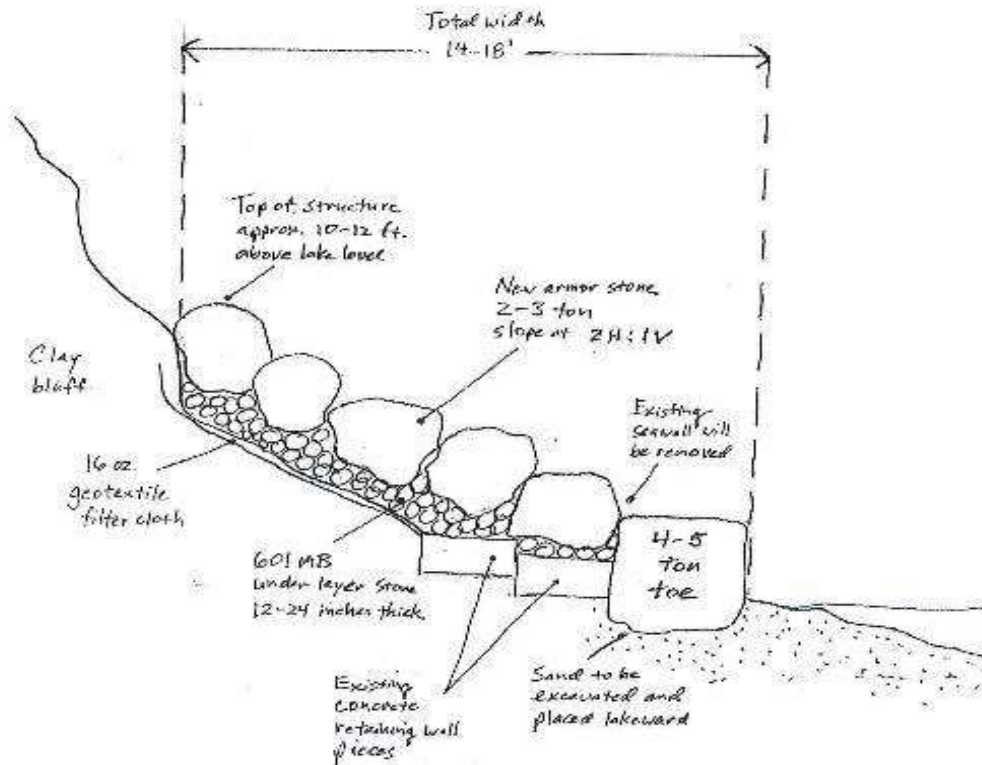
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(B)

Side View Sketch

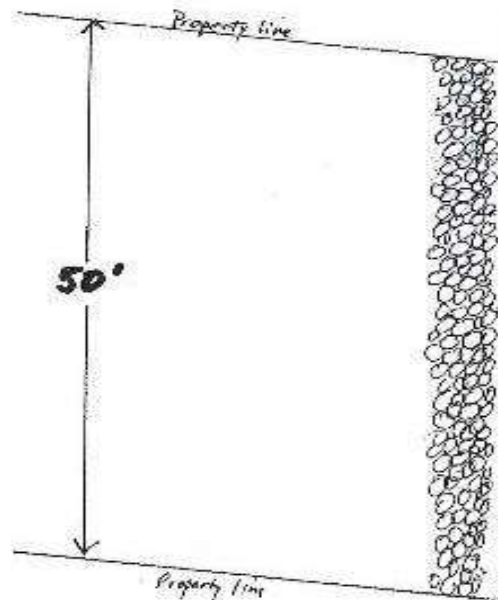
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Overhead View Sketch

Project: Repair 50 ft of shoreline.
Construct new 2-3 ton stone
revetment. Structure will extend
14 feet from the stone.



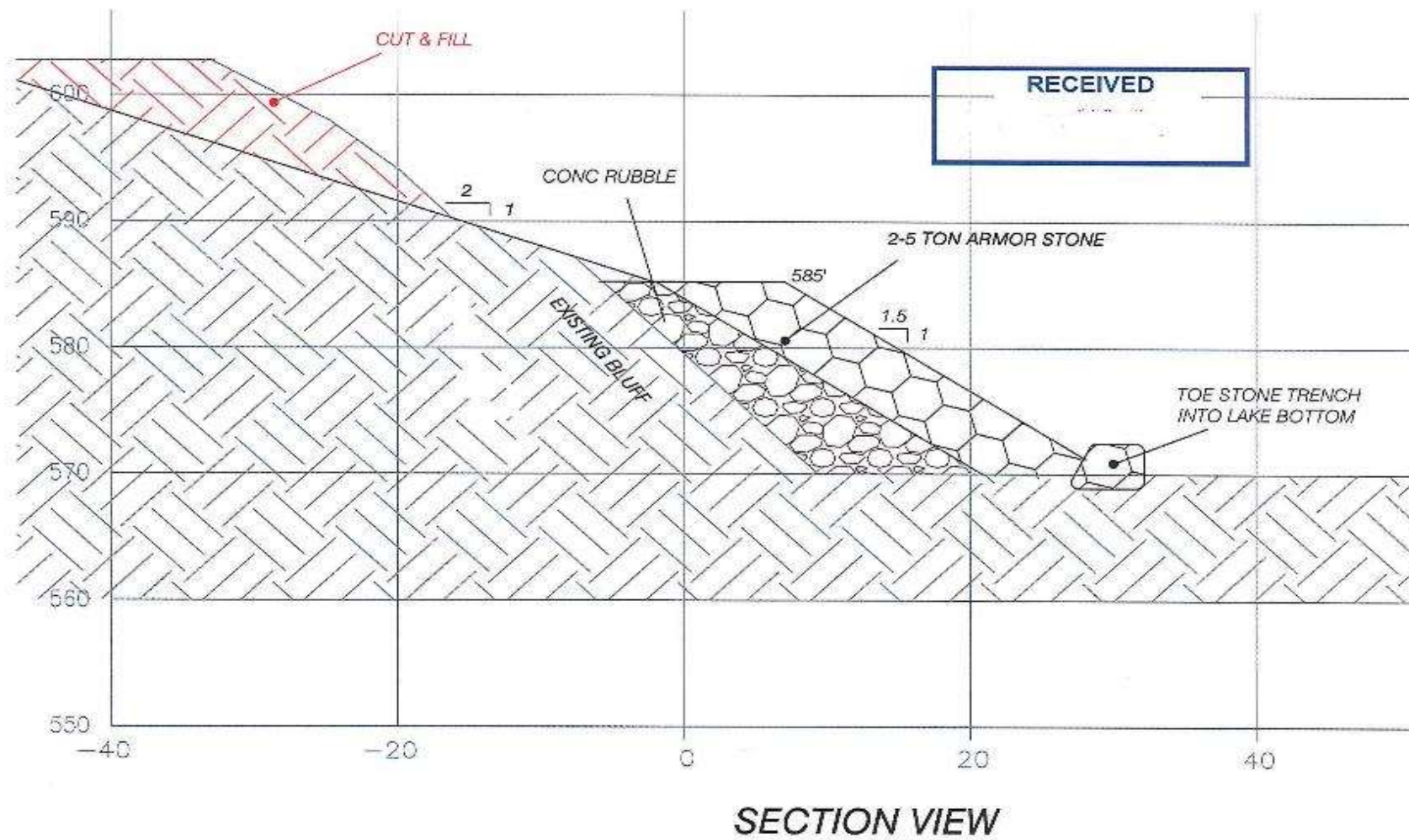
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Lake
Erie

A-TERT-11



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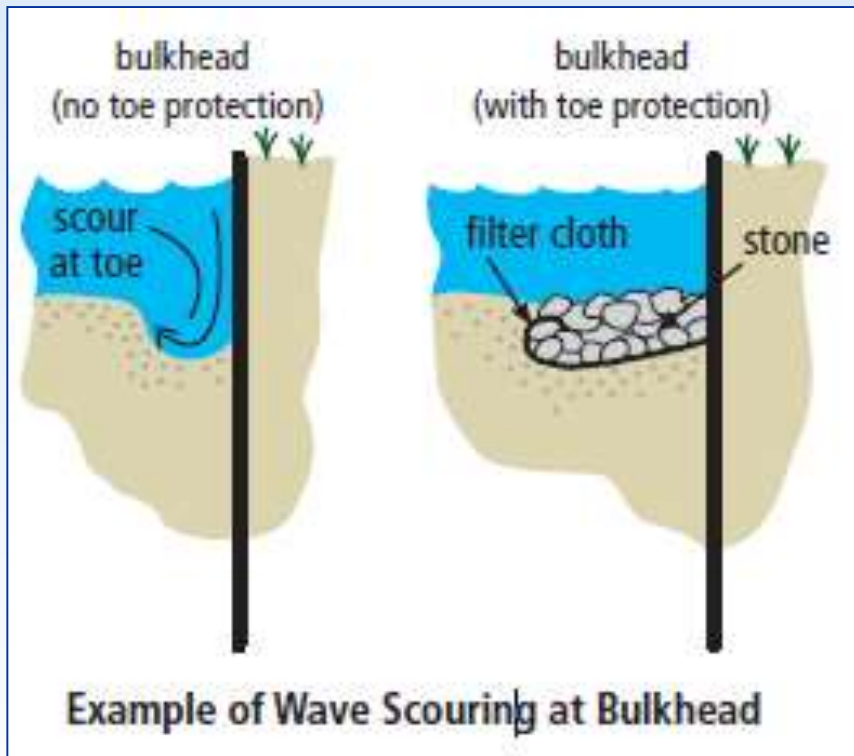
SAND PREFILL EXAMPLE



Coastal Engineering -

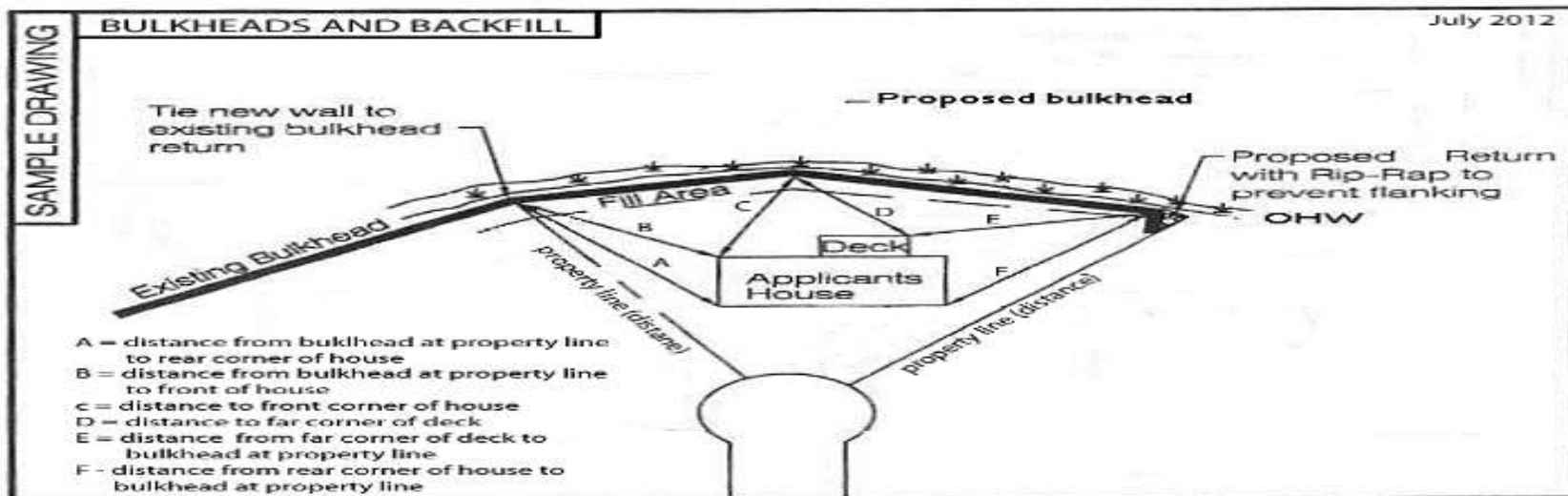


SEAWALL EXAMPLE DRAWINGS

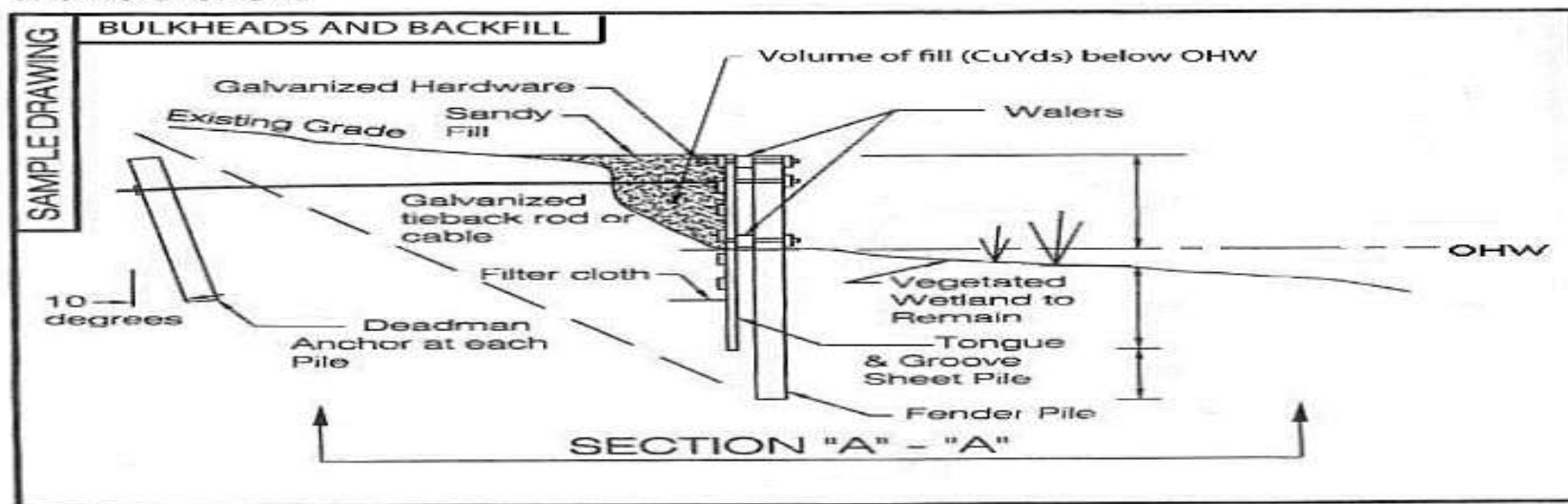


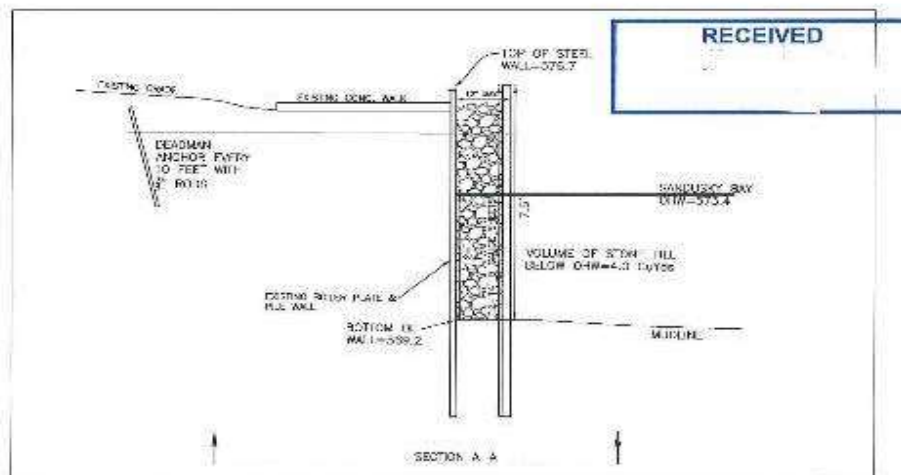
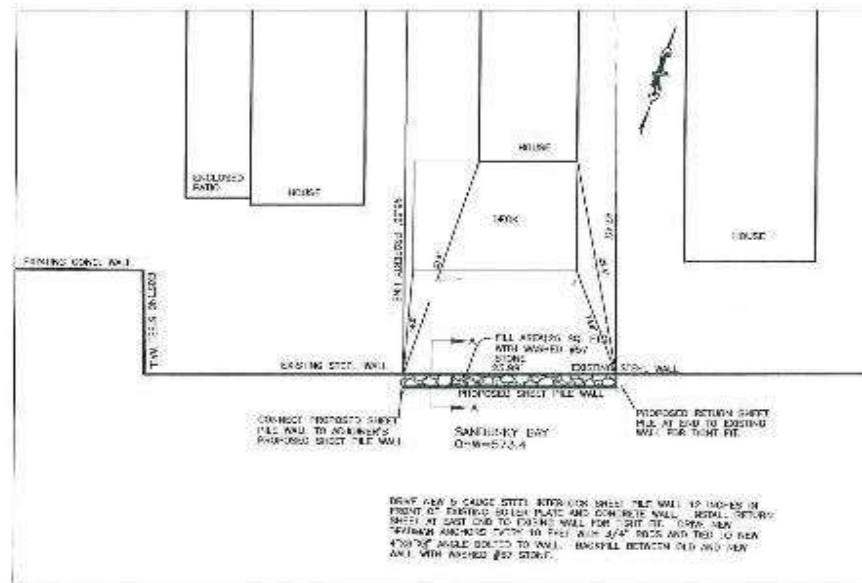
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Seawall Example drawings



Provide dimensions (length, width, height) of all structures, water depth where appropriate, and North arrow.





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How Can Government Help?

- U.S. Army Corps of Engineers Regulatory – provides permit assistance

<https://www.lrb.usace.army.mil/Missions/Regulatory.aspx>
LRB.Regulatory@usace.army.mil (716) 879-4330

- U.S. Army Corps of Engineers – Civil Works – emergency operations and technical assistance

<https://www.lrb.usace.army.mil/Missions/Civil-Works/buffalo-civilworks@usace.army.mil>

- Soil & Water Conservation District – provides technical assistance and possibly project design

<https://ofswcd.org/> (614) 784-1900

- Ohio Department of Natural Resources – Office of Coastal Management -provides permit assistance and technical reviews <http://coastal.ohiodnr.gov/> (419) 626-7980



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Green Algae

Jim Stouffer

President

Lake Erie Foundation



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What Is In The Future?

- OLG will need to continue to fight against inappropriate bureaucratic treatment.
- Need ODNR to recognize private property **based on deeds.**
- **Vigilance**
- Another lawsuit **if necessary.**



Is ODNR Changing?

**It has changed,
but not by very much.**



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How Has ODNR Changed?

- We have had a dialog with ODNR.
- We are not getting a sympathetic ear.
- Last year we approached ODNR management with the idea of issuing temporary permits because of high water. They have, **sort of**, enacted our recommendation.



ONDR's Temporary Permits

Good

- Do it yourself application
- Like the Army Corps Nation Wide Permit Process
- No professional engineer (cost) involved
- Approximate one week turnaround



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ONDR's Temporary Permits

Not Good

- * Requires a full Shore Structure Permit process within the next 2 years.
- * You build it now, pay all the engineering later, then face possible change orders by ODNR.
- * ODNR now has data on you.



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Temporary Permit Considerations

- If one does not trust ODNR, this looks like a very bad deal.
- Action is needed now to prevent further damage. Contractors **may** not work without a permit.
- What can ODNR do if you do not go through the full permitting process in 2 years?



What Else is OLG Doing To Work With ODNR

- **Remove Residential leasing requirement**
- **Reducing Permitting Requirements to be proportional to size of project**
- **Codify the Merrill decision**



S.B. 51

- **SID for lakefront owners are a means where long-term financing could be provided.**
- **Not a grant or zero-interest loan.**
- **Paid back through property tax assessments.**
- **Requires 100% participation of property owners for which the funds benefit.**



THANK YOU

QUESTIONS



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