



DREDGING – WHAT YOU SHOULD KNOW

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

The U.S. Army Corps of Engineers (USACE) regulates dredging in Lake Erie and other navigable waters under Section 10 of the Rivers and Harbors Act of 1899. Section 10, navigable waters are designated by Congress and are identified as those waters that are currently, historically and could in the future be used for interstate commerce (33 CFR 329.4). A list of navigable waters within the Ohio Lake Erie watershed can be found at

<http://www.lrb.usace.army.mil/Portals/45/docs/regulatory/Section10NavigableWaterways/waterwayOH.pdf>. Under Section 404 of the Clean Water Act (CWA), the USACE regulates the discharge of dredged or fill material into waters of the United States (WOUS), including Section 10 waters, tributaries and freshwater wetlands.

The USACE ***does not regulate*** the water level of Lake Erie. The fluctuating water levels in Lake Erie are a result of many different environmental factors including but not limited to: wind direction (seiche); precipitation (rain and snow); and ice cover. A warmer winter results in less ice cover which allows for greater evaporation of the open water into the atmosphere. A lack of ice cover combined with reduced snow melts, especially in the upper Great Lakes, leads to lower water levels within Lake Erie.

All Dredging Operations in Section 10 Navigable Waters Require a Department of the Army (DA) Permit

Department of the Army (DA) - Permitting Process

If you are considering a dredging project within a Section 10, navigable water or a tributary to Lake Erie which is below the ordinary highwater (OHW) mark of Lake Erie (573.4 International Great Lakes Datum, 1985) then you should submit a completed permit application to the USACE. The length of the permitting process will depend on the location of the project area, the material being dredged and the location of the dredge material disposal area.

A copy of the DA permit application and instructions can be found at:

<http://www.lrb.usace.army.mil/Missions/Regulatory/ApplicationForms.aspx> In addition, you will be required to submit a location map and detailed project drawings. Some sample project drawings have been attached. It should be noted that dredging projects in non-navigable waters with upland disposal typically do not require DA authorization

NOTE: Current and new DA permits will contain dates for in-water work restrictions. See further details under Agency Coordination on how this may affect your current permit or new permit requests.

Nationwide Permits (NWP)

The USACE currently has two general permits to specifically authorize dredging activities that have minimal, individual and cumulative adverse environmental effects. These general permits can be issued for a period of no more than five years.

U.S. ARMY CORPS OF ENGINEERS – BUFFALO DISTRICT

1776 NIAGARA STREET, BUFFALO, NEW YORK 14207-3199

www.lrb.usace.army.mil

- **NWP No. 19** – Minor Dredging

Authorizes the dredging of **no more than 25 cubic yards** (CY) from below the OHW of a navigable water. This NWP **does not authorize** the dredging of submerged aquatic vegetation, wetlands or the connection of canals or other artificial waterways to navigable waters.

It is recommended that you **read the entire permit all general and regional conditions** to ensure your project meets the terms and conditions of the permit. If your project meets all of the terms and conditions of the permit, you are not required to submit a preconstruction notification (PCN) to the USACE. A complete copy of NWP 19 is located at:

<http://www.lrb.usace.army.mil/Missions/Regulatory/NationwidePermits/DistrictPermitProgram/NWPOH.aspx>

If your proposed project does not meet the permit terms and conditions you must submit a permit application.

NOTE: Nationwide Permit 19 Specific Regional Condition

Dredging operations in Lake Erie, Sandusky Bay, and Maumee Bay that recover material consisting of greater than 60% sand and/or gravel shall be placed in the nearshore area either immediately waterward or downdrift of the project area. **Requires the dredged material to be sampled and tested prior to discharging in the littoral drift.**

This is a non-PCN NWP therefore the estimated length of time of the permitting process will be dependent on the length of time required by the lab to test the material to be dredged.

Also, it is the responsibility of the property owner or their agent to contact the ODNR CZM, adhere to ODNR DOW in-water work restrictions for the particular waterway and if needed coordinate with the USFWS concerning the effects on listed species.

- **NWP No. 35** – Maintenance Dredging of Existing Basins

Authorizes the excavation and removal of accumulated sediment for maintenance of existing marina basins, access channels to marinas or boat slips, and boat slips to **previously authorized depths or controlling depths for ingress/egress**, whichever is less, provided the dredged material is deposited in an area that is not a WOUS (no tributaries or wetland) and proper siltation controls are used. This NWP requires the submittal of a PCN (permit application).

A complete copy of NWP 35 is located at:

<http://www.lrb.usace.army.mil/Missions/Regulatory/NationwidePermits/DistrictPermitProgram/NWPOH.aspx>

NOTE: Upland disposal site must be clearly mapped and if necessary verified by the USACE.

Estimated length of the permitting process – Approximately 60 days or less from the time a complete permit application is received by the USACE. Controversial projects may take longer than 60 days.

Letters of Permission (LOPs)

If your project does not meet the terms and conditions of the two NWP's, you must submit a permit application for project review under an LOP. An **LOP** is a type of individual permit issued through an abbreviated permitting process that does not require the issuing of a public notice. In those cases in which there is a discharge into a WOUS the Corps through consultation with Federal and state agencies has developed a list of categories of activities which can be authorized under an LOP. As part of the LOP process the USACE is required to conduct a 15 day coordination process with Federal and State agencies and adjoining property owners. Following the coordination process the applicant must address any pertinent concerns which are received.

Estimated length of the LOP permitting process – Approximately 120 days or less from the time a completed permit application is received by the USACE. Controversial projects may take longer than 120 days.

In the state of Ohio there are 3 LOPs which can authorize dredging projects.

Section 10 LOP – Can be used to authorize the dredging of a navigable water with strictly upland disposal (**No discharge into a WOUS**).

OEPA has issued blanket water quality certifications for two LOPs with in-water disposal.

- **LOP I** – Discharge of dredge material into USACE approved open lake placement areas in Lake Erie within the State of Ohio.

This LOP authorizes the discharge of dredged material into designated open lake placement areas within the State of Ohio. The discharge of dredge material into a designated open lake placement area is limited to a maximum of 10,000 CY per 12 month period per applicant if the following conditions are met:

- a. Sediment samples are collected as close to the dredging date as possible
- b. Samples for dredged material proposed for discharge must be collected and analyzed in accordance with the USEPA/USACE Great Lakes Dredged Material Testing and Evaluation manual (1998) - www.epa.gov/glnpo/sediment/gitem/404main.pdf
- c. Only dredged material that is less than 60% sand and is below the 75th percentile of the surficial background sediment contamination concentrations of the basin proposed for disposal may be placed in the designated open lake placement area. Attached is a map showing the approximate open lake placement areas in Ohio.

Under LOP 1 dredged materials from the Toledo Harbor and the Maumee River, Lorain Harbor and the Black River, Cleveland Harbor and the Cuyahoga River, Ashtabula Harbor and the Ashtabula River ARE NOT AUTHORIZED TO BE DISCHARGED IN THE OPEN LAKE.

- **LOP II – Discharge of predominantly granular dredged material into nearshore areas of Lake Erie in the State of Ohio**

Under this LOP dredged material with greater than 60% sand (0.063 mm grain size) and/or gravel as determined by grain size and contains less than 5 grams/kilograms of total organic carbon (TOC) may be returned to the littoral drift of Lake Erie.

If the proposed discharge site is within 3000 feet of a potable water intake, coordination of the Letter of Permission should include the local water authority.

Disposal into a Confined Disposal Facility (CDF)

If the dredged material is not suitable for open lake placement and upland disposal is not a viable option it may be possible to discharge the dredged material into a USACE CDF if the material is determined to be suitable.

- The USACE may permit the use of any dredged material disposal facility managed by the Secretary of the Army by a non-Federal interest if such use will not reduce the availability of the facility for project purposes and may impose fees to recover capital, operation and maintenance costs associated with such use.
- In addition to obtaining all required USACE and State regulatory permits, non-Federal interests must enter into a Memorandum of Agreement (MOA) with the Buffalo District to pay the capital costs associated with the capacity to be used and pay all operations and maintenance costs associated with their use of the facility.

Agency Coordination

The permitting process may require the USACE to coordinate with other agencies including but not limited to the Ohio Department of Natural Resources (ODNR) Coastal Zone Management (CZM) Office, the ODNR Division of Wildlife (DOW), the Ohio Environmental Protection Agency (OEPA), United States Fish and Wildlife Service (USFWS), and the United States Environmental Protection Agency (USEPA).

ODNR CZM

Those projects located within the Coastal Zone of Lake Erie may require coordination with the ODNR CZM (<http://www.dnr.state.oh.us/Default.aspx?alias=www.dnr.state.oh.us/coastal>). Please note the ODNR CZM has up to 6 months from the time they start their review process to grant consistency certification.

ODNR in-water work restrictions

The ODNR DOW has established statewide in-water work exclusion dates which vary across the Lake Erie watershed dependent on the spawning habitats of each waterway. **Any work associated with a Corps permit cannot take place during the restricted period unless the applicant notifies the Corps in writing and the Corps approves the waiver. When requesting a waiver the applicant must include a statement regarding why a waiver is needed, specific dates during which the dredging would be performed, the method in which the dredging is to occur, the total material to**

be removed, amount of material that remains to be removed, location of the dredge material disposal site, a statement if there has been a previous request for a waiver and, if so, indicate when and why and whether it was granted

USFWS

Due to the potential presence of federally threatened or endangered species or their habitats, it may be necessary to contact the USFWS in accordance with the Endangered Species Act (ESA) to determine if there could be an effect on a listed species. If the USFWS determines a listed species is likely present, the applicant may be responsible conducting surveys, adhering to restricted time periods in which the project can occur or modifying their project.

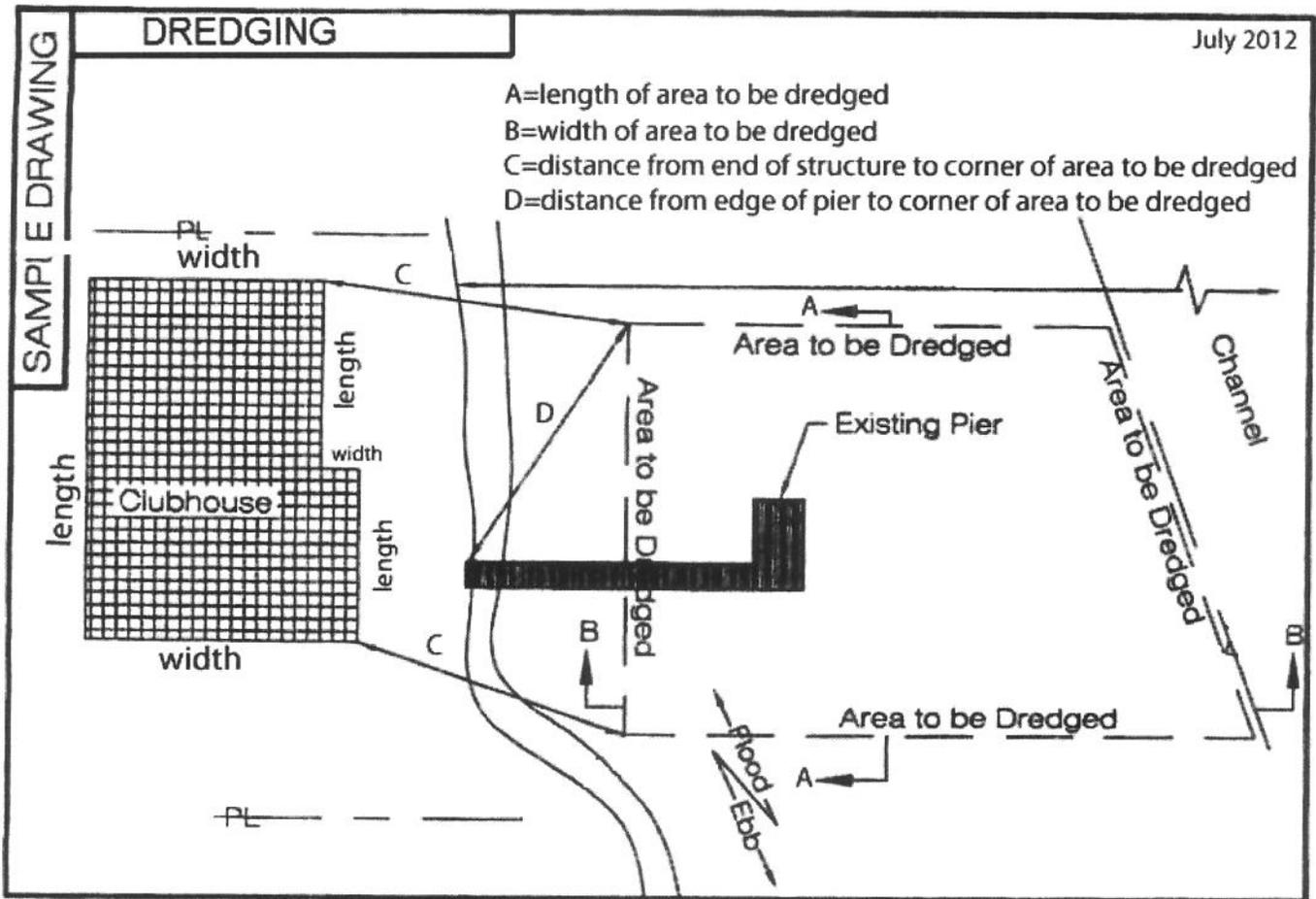
Questions should be directed to the USACE Buffalo District at either:

Buffalo District Office
1776 Niagara Street
Buffalo, New York
(716) 879-4330

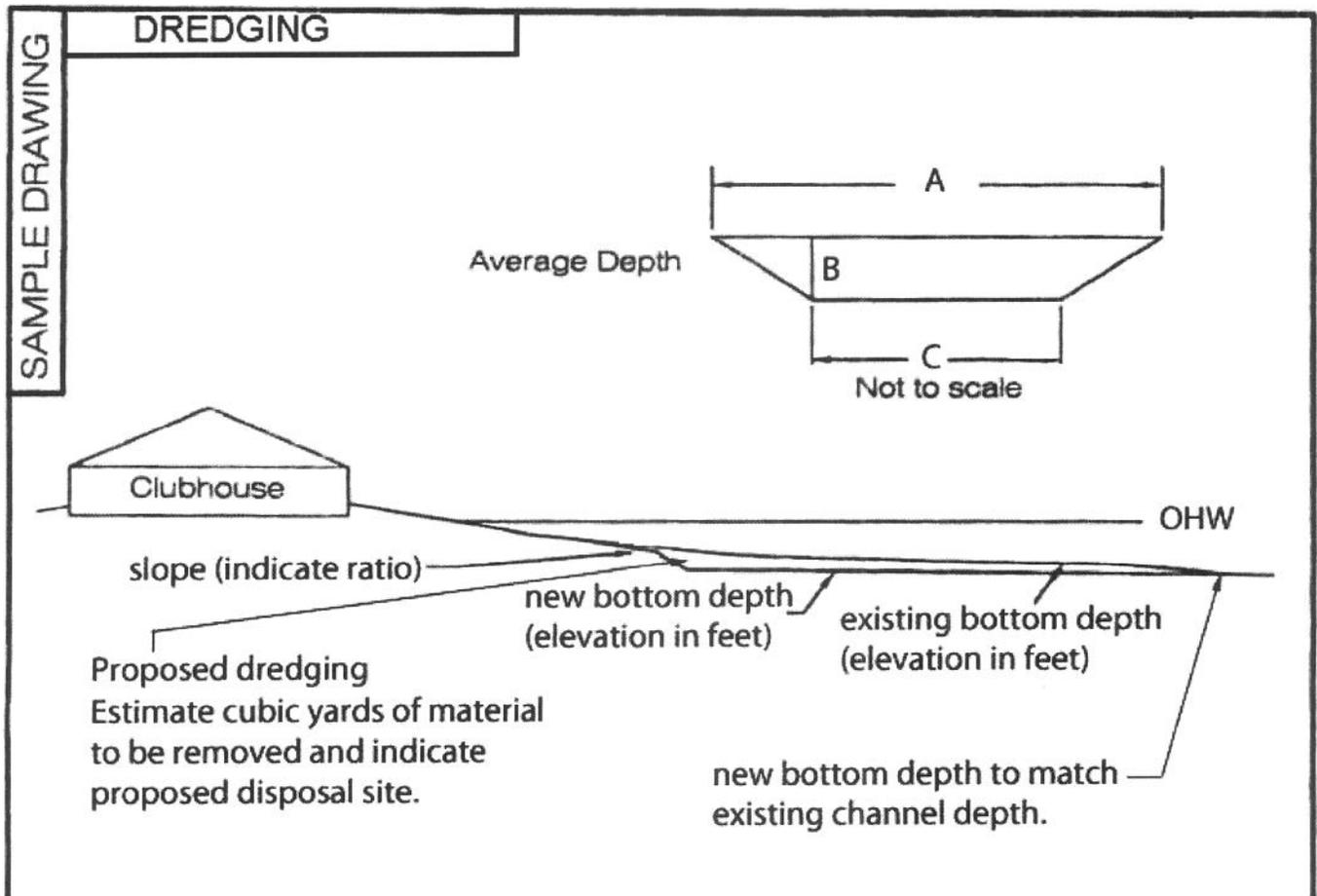
Oak Harbor Field Office
240 Lake St, Unit D
Oak Harbor, OH 43449
(419) 898-3491

Stow Field Office
1100 Graham Rd Circle
Stow, OH 44224
(330) 923-8197

Orwell Field Office
33 Grand Valley Ave
Orwell, Ohio 44076
(440) 437-8970

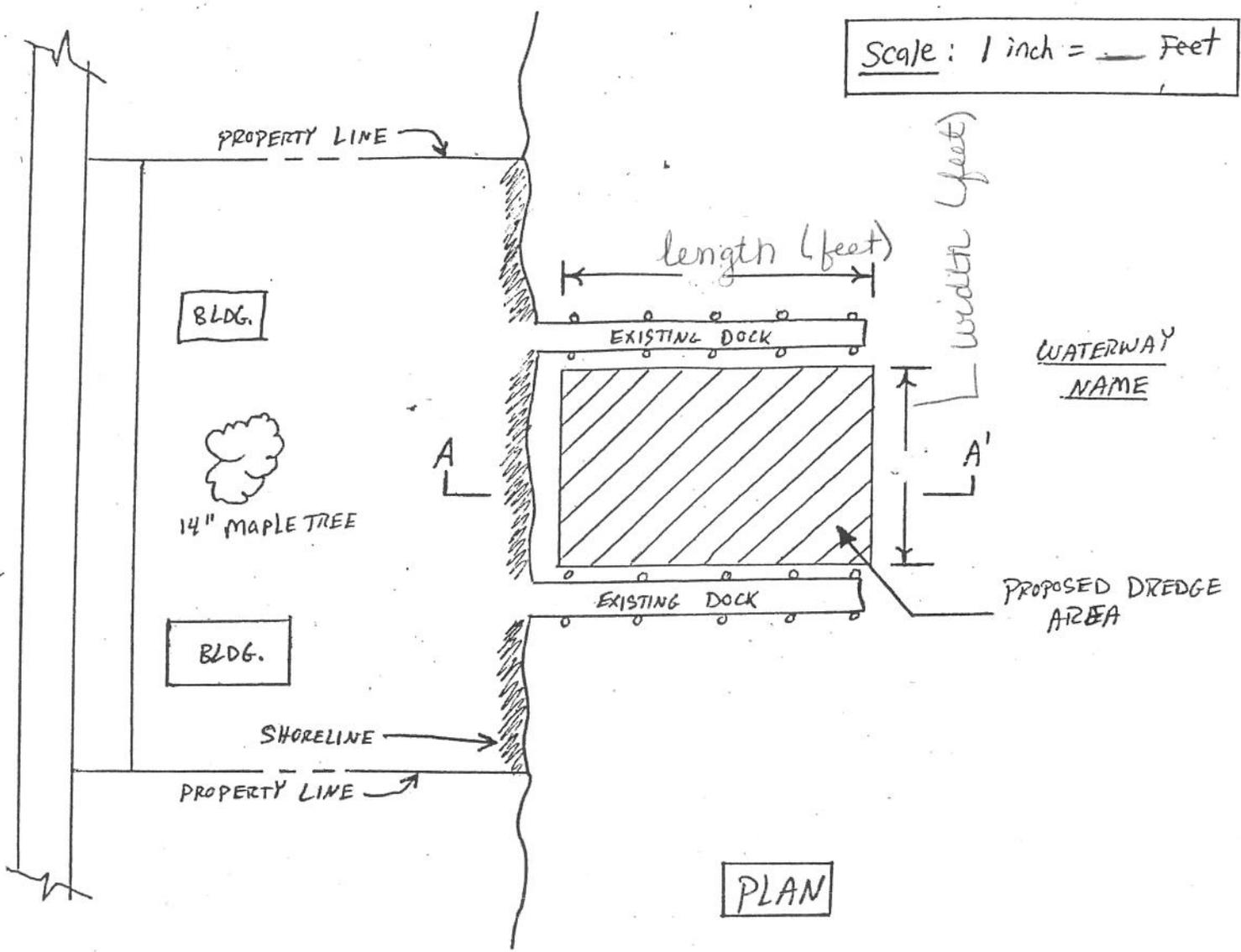


Provide dimensions for all structures (length, width, height), water depth where appropriate and North arrow.

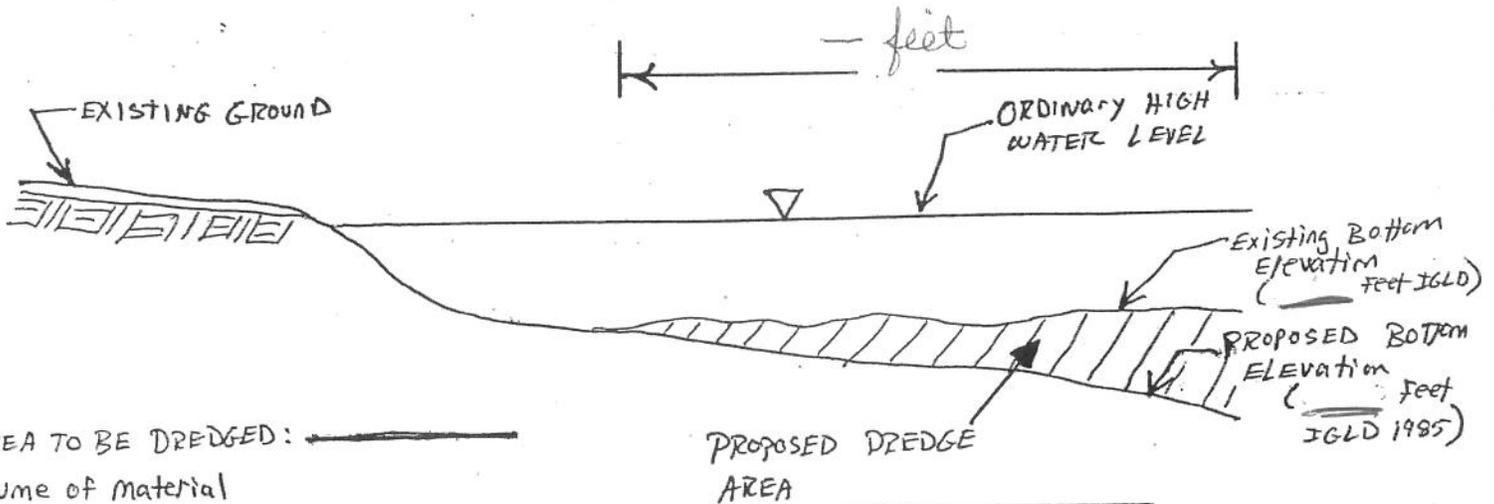


(DREDGING)

Scale: 1 inch = _____ Feet



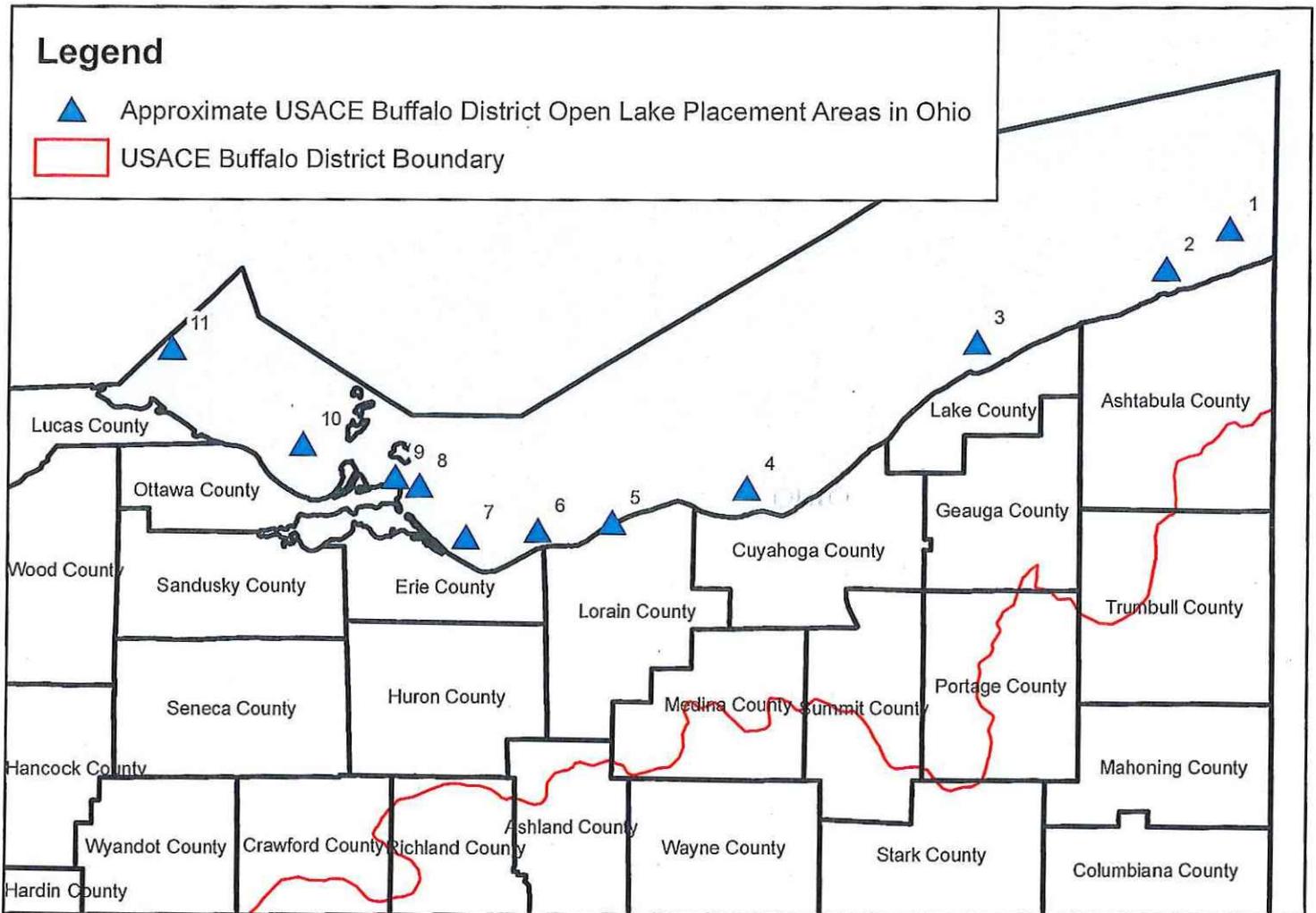
PLAN



SECTION A-A'

- AREA TO BE DREDGED: _____
- Volume of material To BE DREDGED: _____
- TYPE OF SEDIMENT: _____
- Existing Bottom condition: _____

Applicant's NAME _____
 Application Number _____
 Date of _____



1. Conneaut Harbor
2. Ashtabula Harbor
3. Fairport Harbor
4. Rocky River Harbor
5. Lorain Harbor
6. Vermillion Harbor
7. Huron Harbor
8. Sandusky Harbor
9. West Harbor
10. Toussaint Harbor
11. Toledo Harbor