

Navigating the Permitting Process

Greg Weykamp, ASLA, LEED AP BD+C
Jack Cox, PE, D.CE, D.PE, D. NE
Edgewater Resources, LLC

OVERVIEW

Permit Types

Federal

State

Local

Process

Issues

Strategies



FEDERAL PERMITS US ARMY CORPS OF ENGINEERS (USACE)

Types

- Nationwide Permit

- Individual Permit

Jurisdiction

- Section 10 Waters of the United States

- Ordinary High Water Mark

- Contiguous Wetlands

JURISDICTIONAL BOUNDARIES

Section 10 Waters of the United States

Below Ordinary High Water Mark (OHWM)

Contiguous Wetlands

Federal Navigation Channel

SECTION 404 PERMIT

Section 404 of the Clean Water Act requires authorization from the Secretary of the Army, acting through the Corps of Engineers, for the discharge of dredged or fill material into all waters of the United States, including wetlands.

OTHER FEDERAL AGENCIES

Environmental Protection Agency

United States Coast Guard

Department of Justice - ADA

United States Fish & Wildlife Service

STATE PERMITS

EGLE, DEC, WDNR, FDEP, TPW, ETC

Types

- Minor Permit

- Major Permit

- New York State Environmental Quality Review (SEQR)

- California Environmental Quality Act (CEQA)

Jurisdiction

- Ordinary High Water Mark

- Wetlands

EXAMPLE STATE AGENCIES

Illinois Environmental Protection Agency

Michigan Department of Environment, Great Lakes, & Energy

Florida Department of Environmental Protection

State Historic Preservation Office

Texas General Land Office

New York Department of Environmental Conservation

New York Office of Government Services

New York Department of State

PORT OF ROCHESTER MARINA



LOCAL PERMITS COUNTY, CITY, TOWNSHIP

Flood Plain

Zoning

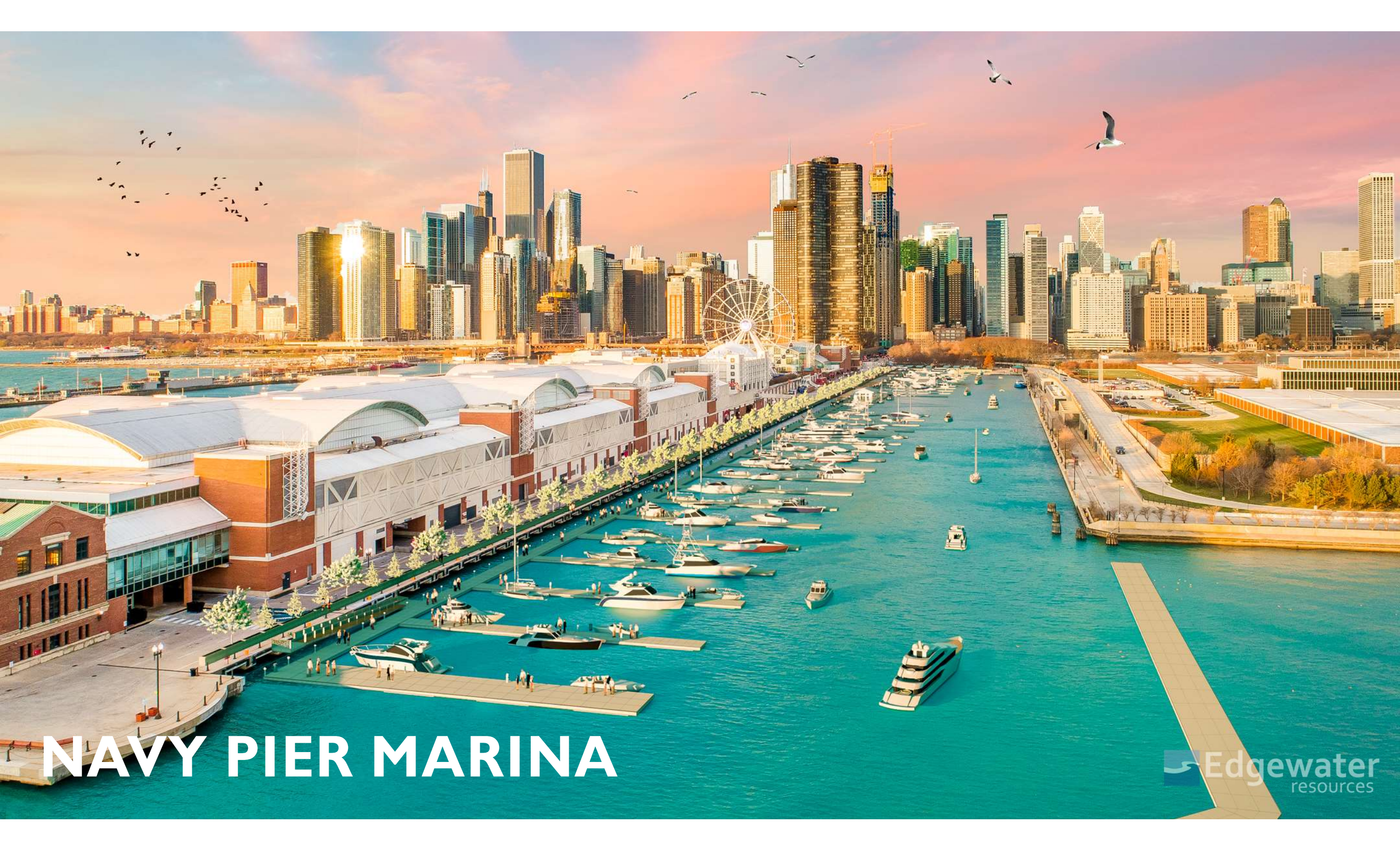
Building Codes

International Building Code

National Fire Protection

National Electric Code





NAVY PIER MARINA

ONE 15 BROOKLYN MARINA

Coverage / Shading

Water Dependent
Uses

FEMA Flood
Elevations

Public Access



ONE 15 BROOKLYN MARINA

Leverage Public
Uses

Generate
Community
Support

ADA



LOCAL PERMITS PRIVATE RESERVOIRS

Lake of the Ozarks – Ameren

Tellico Lake – Tellico Reservoir Development Agency

Dillon Reservoir – Denver Water

Bois d’Arc Lake – North Texas Municipal Water District

PERMIT APPLICATION PROCESS

Build Relationships With the Permitting Agencies Early

Request Preliminary Application Meeting Very Early

Preferably On Site, with Both USACE and State Agencies
Before Any Significant Engineering is Begun

Outline the Broad Vision

Ask About Key Issues of Concern

Ask About Their Goals and Programs For the Area

Define Permit Type – Individual or Nationwide, Major or Minor

SOUTH PADRE ISLAND



LOW COST PUBLIC ACCESS



NATIONWIDE / MINOR PERMIT APPLICATION PROCESS

Define the Relevant Nationwide Permit Category

Commence Preliminary Engineering Sufficient to Document
Compliance With Category Requirements

Submit Letter of Request

INDIVIDUAL / MAJOR PERMIT APPLICATION PROCESS

Complete Preliminary Engineering to Approximate 30% Level

Submit Joint Package to Both USACE and Lead State Agency

Internal Circulation to Relevant Agencies for Review

Public Comment Period

Special Studies

Reconciliation

Approval

PROCESS FROM REGULATOR PERSPECTIVE

Avoid

Minimize

Mitigate

Reduce

Reuse

Recycle



IMPACT ON ADJACENT PROPERTIES

Whether Your Project Might:

Change Water Quality

Cause Erosion or Sedimentation

Increases Traffic Congestion

Compromise Navigation Safety

You Must Consider Both Immediate Adjacent and Distant Impacts

BE PREPARED TO DOCUMENT ALTERNATIVES (SHOW YOUR WORK)

We Need to Show That We Have Considered Multiple
Alternative Configurations, and Even Project Locations

Selecting Brownfield Sites over Greenfield Sites If Possible

Prove Why Our Option is the Most Prudent and Feasible
Alternative

Cost is Part of “Most Prudent and Feasible”, But Still Be
Prepared to Later “Give a Little”

MARINA SLIP SUMMARY	
20'	6
30'	44
35'	61
38'	1
40'	69
45'	2
46'	2
48'	2
50'	56
55'	2
60'	4
70'	4
BROADSIDE MOORING	20
TOTAL SLIPS	273

PROPOSED CONCRETE WALKWAY ON
BREAKWATER CREST FOR
PUBLIC FISHING ACCESS (TYP.)
(AREA = 5,760 SF)
(955'x6')

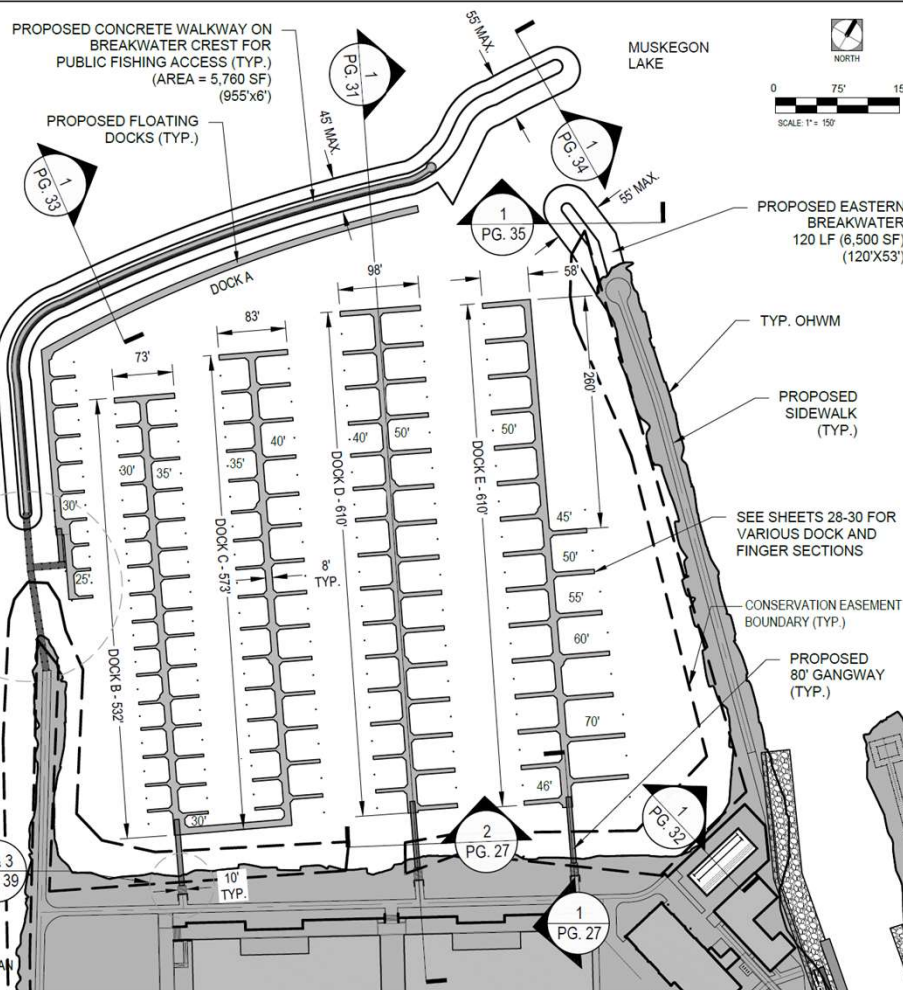
PROPOSED FLOATING
DOCKS (TYP.)


PROPOSED ARMOR
STONE BREAKWATER
FOR PUBLIC FISHING
ACCESS 1,000 LF
(44,621 SF) (1000'x45' AVG.)

TRANSIENT DOCK ACCESS
AND CIRCULATION
OPENING ENLARGEMENT

TYPICAL GANGWAY
ABUTMENT AND PLATFORM
AT LAND CONNECTION (3)

NOTE: INDIVIDUAL DOCK SLIP BREAKDOWN CAN BE SEEN ON SHEETS 22-25





Edgewater


resources

518 BROAD STREET, SUITE 200
 P.O. BOX 141
 MUSKEGON, MI 49865
 P: 269.352.4500
edgewaterresources.com

APPLICANT: ADELAIDE POINTE/CITY OF MUSKEGON
 WATERWAY: MUSKEGON LAKE
 CITY: MUSKEGON, MI
 PROJECT: MUSKEGON
 DATE: 08/22/22
 DATUM: IGLD85




PROPOSED CENTRAL BASIN

0' 0" 0.5' 1.0'



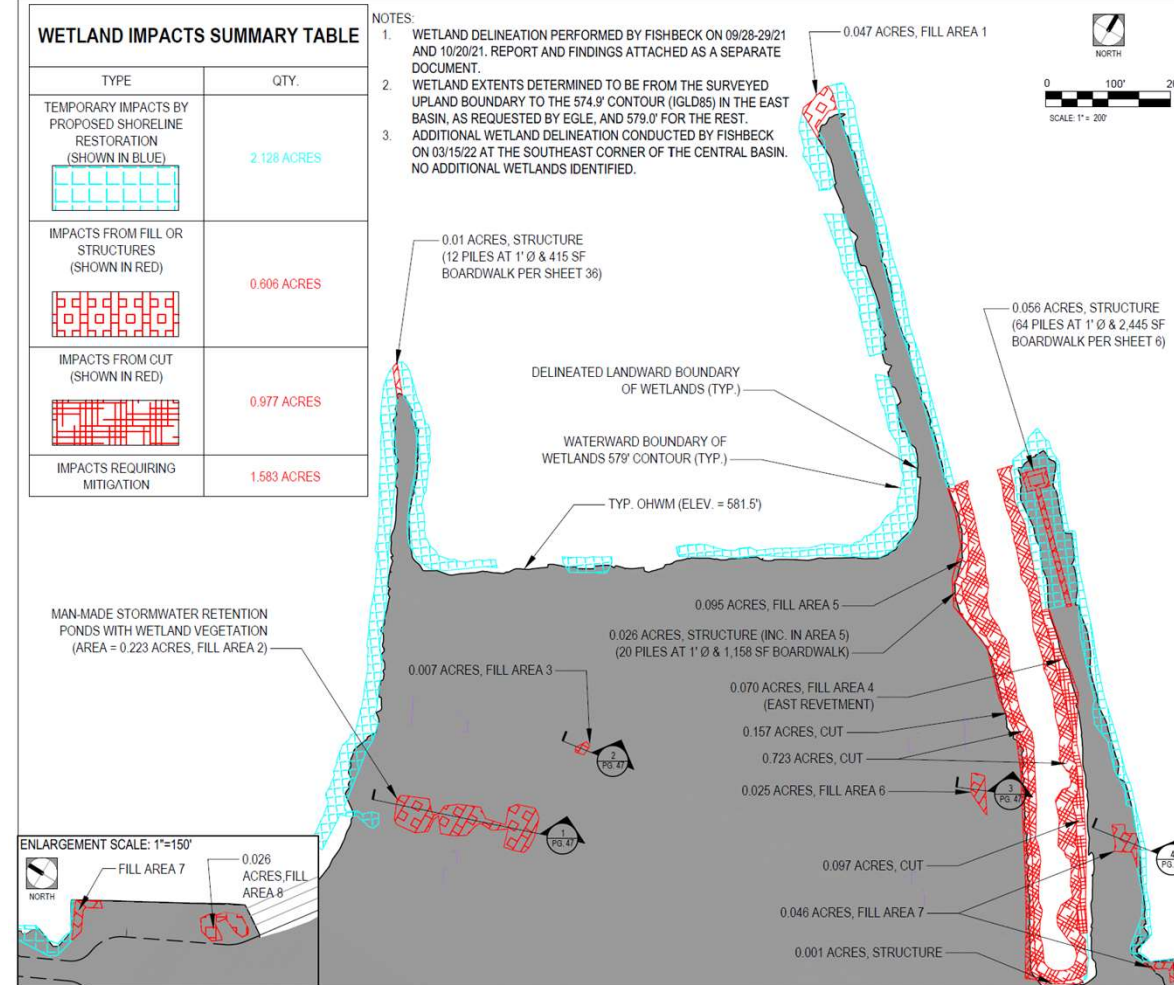
SCALE: VARIES AS SHOWN ON SHEET


SHEET: 20 OF 59

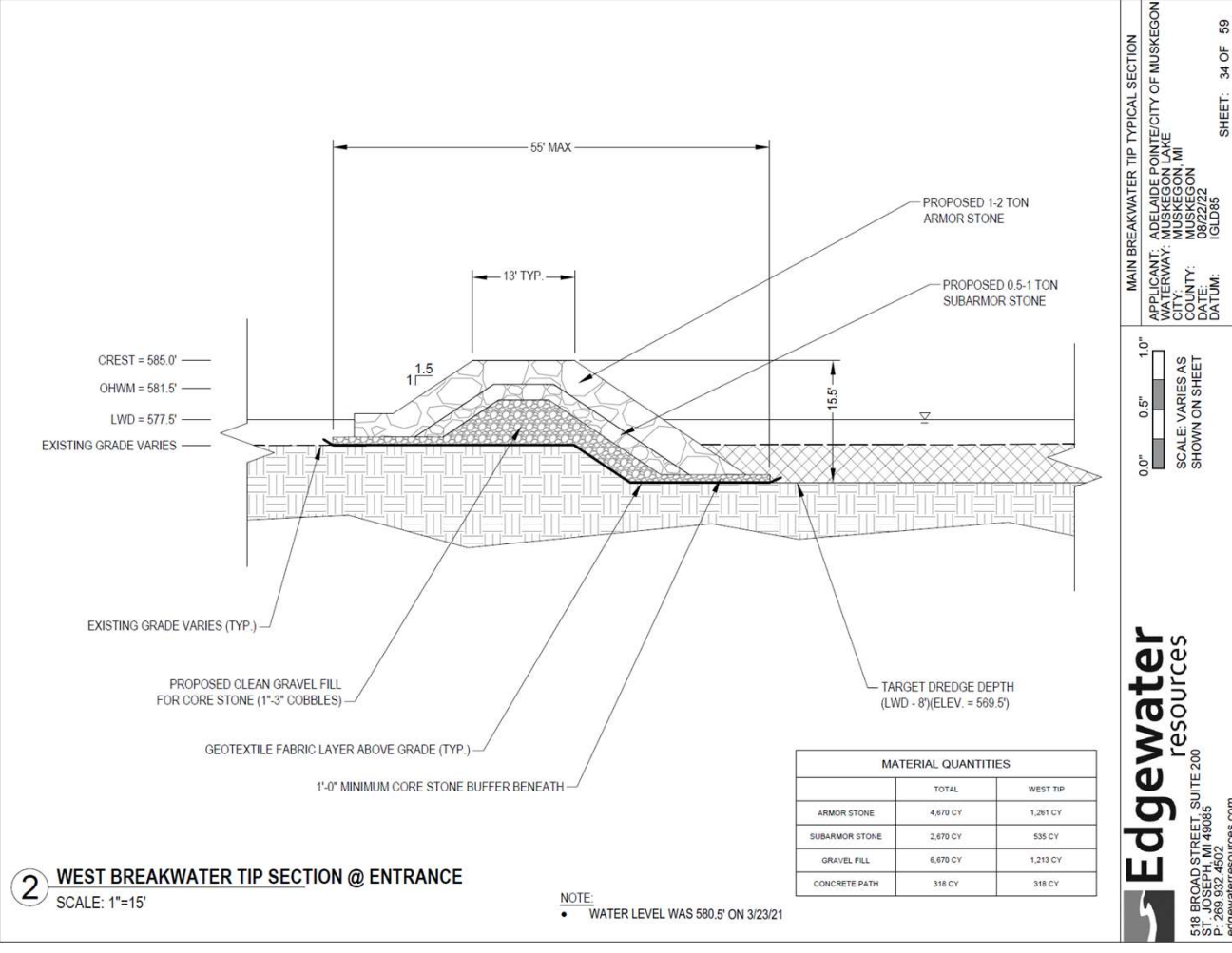
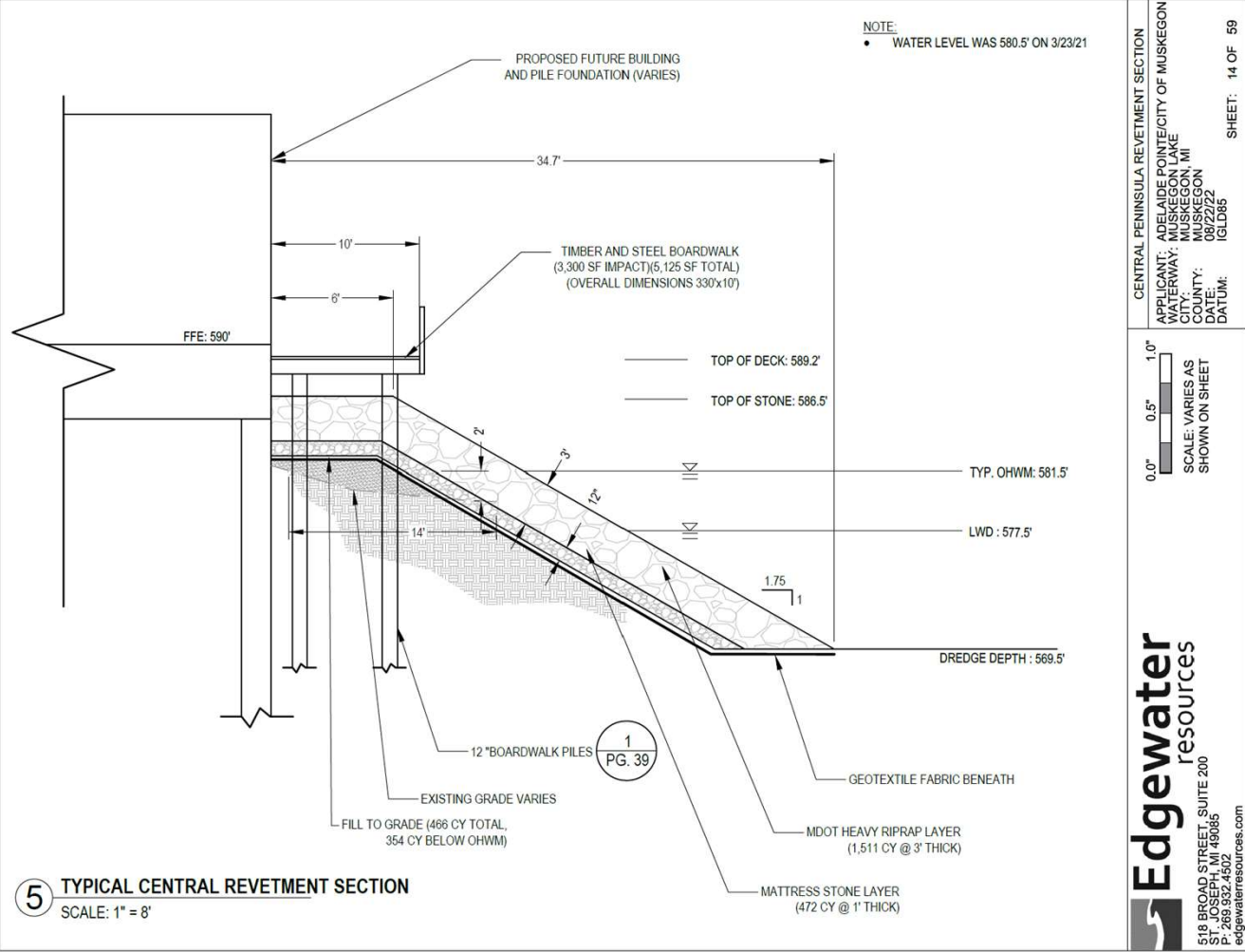
TYPE	QTY.
TEMPORARY IMPACTS BY PROPOSED SHORELINE RESTORATION (SHOWN IN BLUE) 	2.128 ACRES
IMPACTS FROM FILL OR STRUCTURES (SHOWN IN RED) 	0.006 ACRES
IMPACTS FROM CUT (SHOWN IN RED) 	0.977 ACRES
IMPACTS REQUIRING MITIGATION	1.583 ACRES

NOTES:

1. WETLAND DELINEATION PERFORMED BY FISHBECK ON 09/28/2021 AND 10/20/2021. REPORT AND FINDINGS ATTACHED AS A SEPARATE DOCUMENT.
2. WETLAND EXTENTS DETERMINED TO BE FROM THE SURVEYED UPLAND BOUNDARY TO THE 574.9' CONTOUR (IGLDB5) IN THE EAST BASIN, AS REQUESTED BY EGLE, AND 579.0' FOR THE REST.
3. ADDITIONAL WETLAND DELINEATION CONDUCTED BY FISHBECK ON 03/15/22 AT THE SOUTHEAST CORNER OF THE CENTRAL BASIN. NO ADDITIONAL WETLANDS IDENTIFIED.



 <p>Edgewater resources</p> <p>518 BROAD STREET, SUITE 200 MUSKOGEE, AL 36565 P. 259.332.4501 edgewaterresources.com</p>	<p>0.0" 0.5" 1.0"</p> <p>SCALE: VARIES AS SHOWN ON SHEET</p>	<p>PROPOSED WETLAND IMPACTS</p> <p>APPLICANT: ADELAND POINTE/CITY OF MUSKOGEE WATERWAY: MUSKOGEE RIVER CITY: MUSKOGEE, MI COUNTY: MUSKOGEE, MI DATE: 09/22/22 DUTY: IGLD85</p>	<p>SHEET: 45 OF 59</p>
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REGIONAL ISSUES OF CONCERN

Public Trust Doctrine

Public Access

Coverage and Shading

Sea Grass, Mangroves, and Manatees

Flood Plains

Spawning Windows

Fill in the Lake

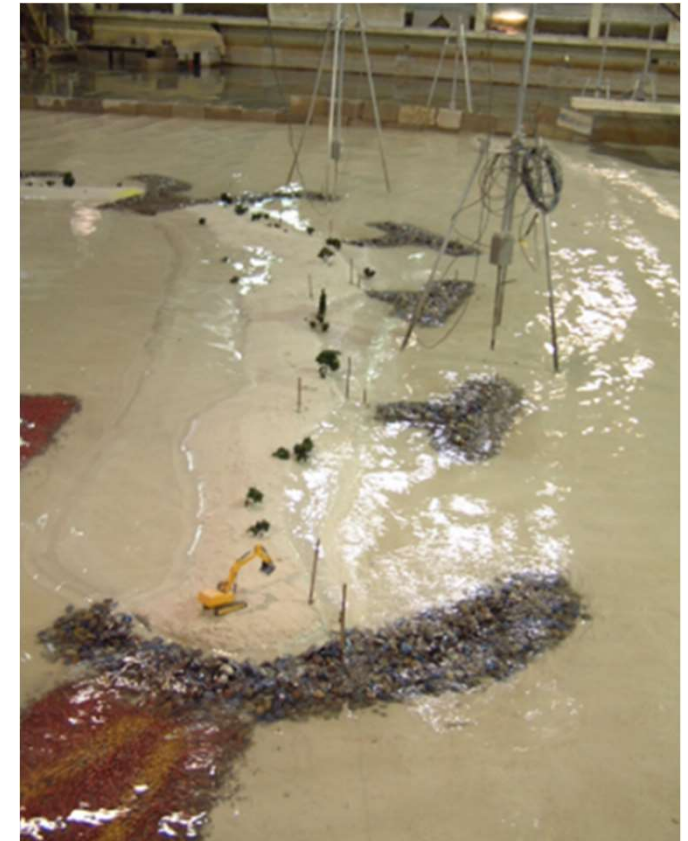
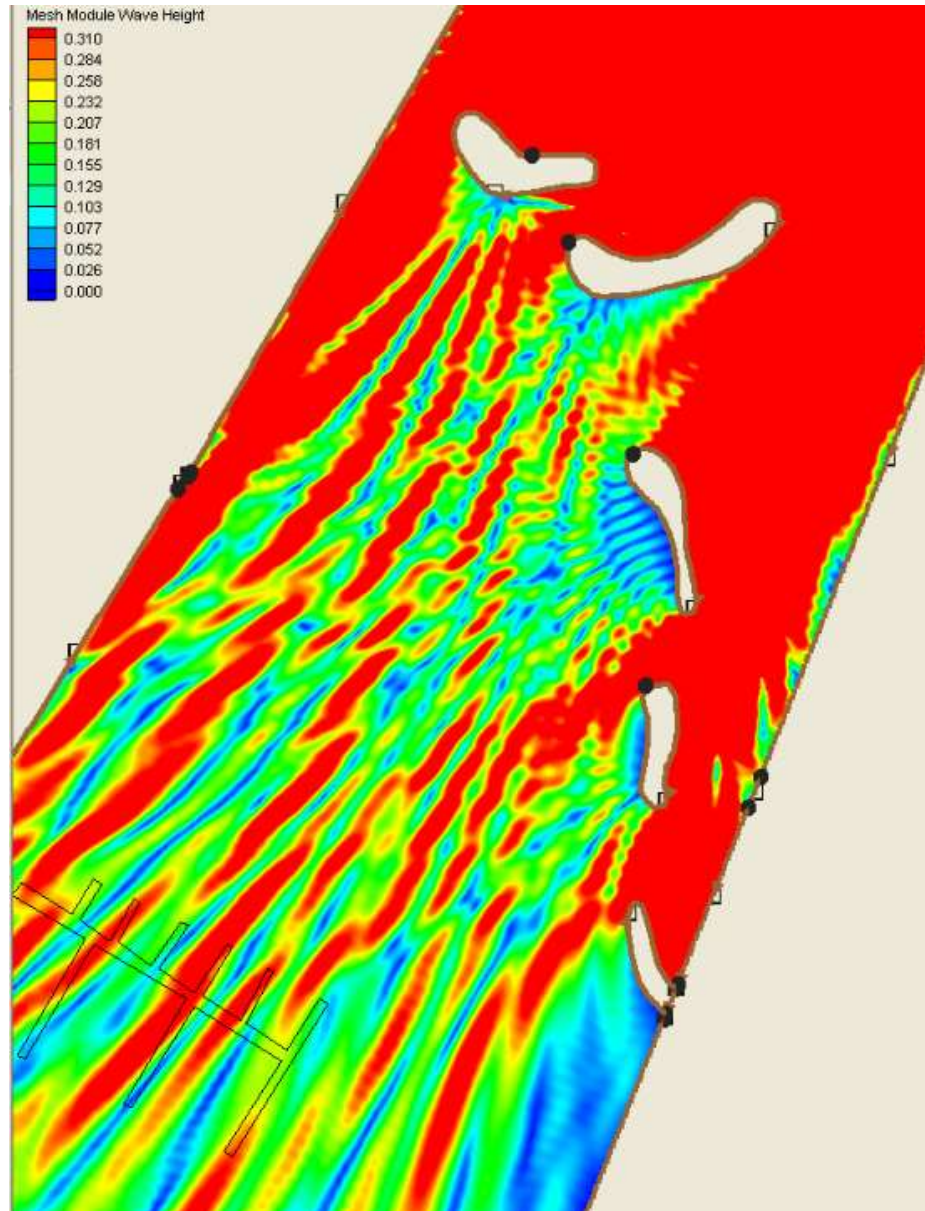
INNOVATION CUTS BOTH WAYS

Innovative Strategies Can Create New Solutions to Old Problems

Innovation is Not Always a Faster Path To Approval, Especially if There is Not a Precedent in Your Jurisdiction or

Innovative Solutions Can Take Longer to Permit, Even if They Are Demonstrably Better

INNOVATION CUTS BOTH WAYS



SPECIAL STUDIES

Feasible and Prudent Alternatives Analysis

Wave Studies

Water Quality / Circulation Studies

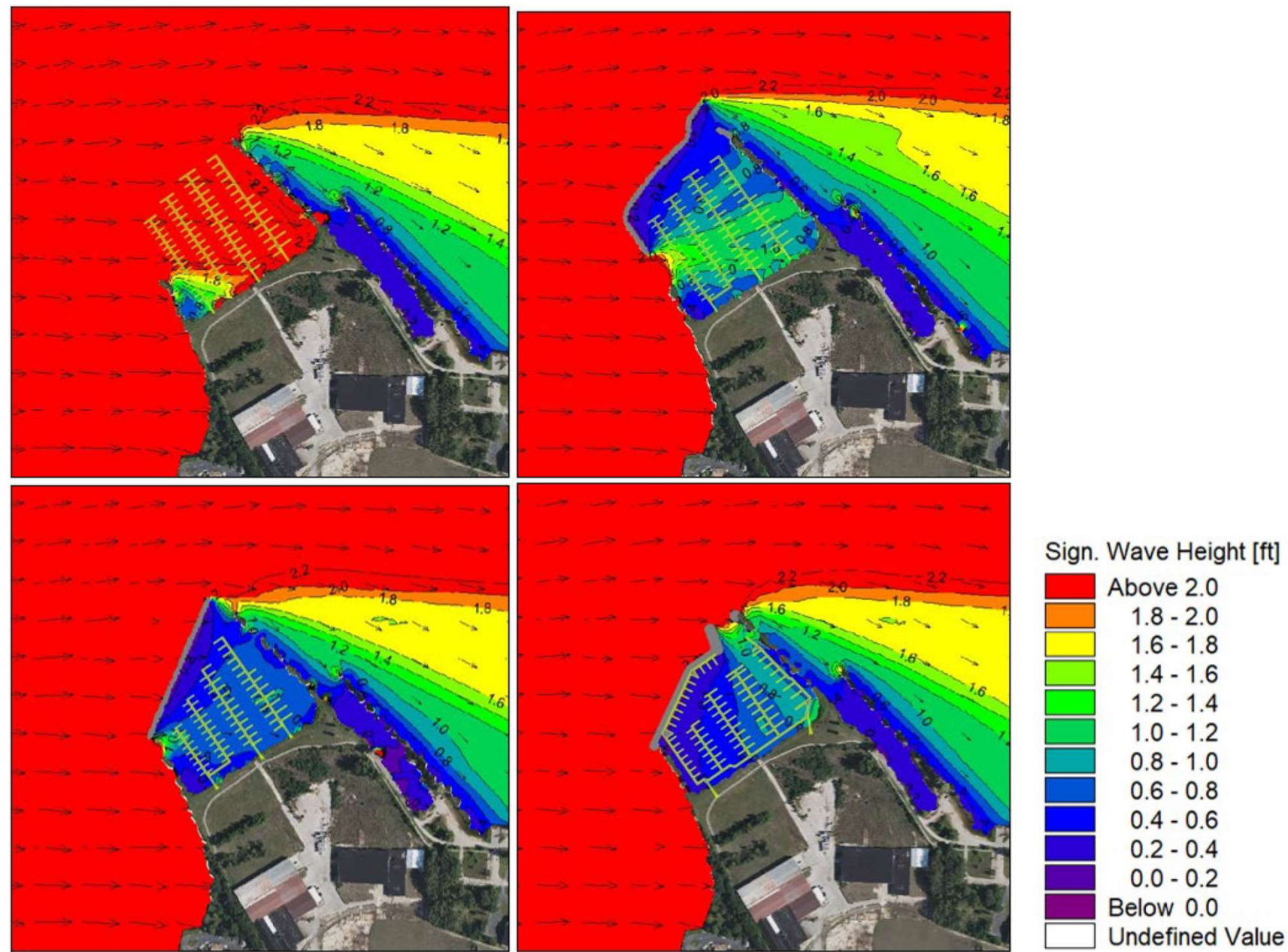
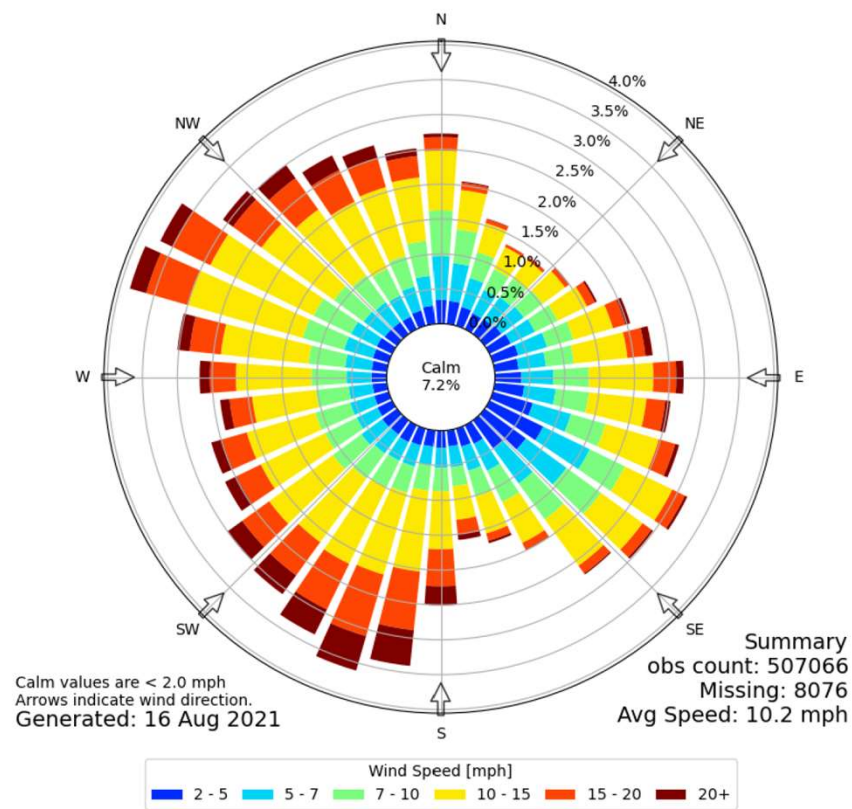
Threatened and Endangered Species Surveys

Critical Habitat Studies

Sea Grass Studies

Archeological Investigations

WAVE MODELING



STRATEGIES FOR SUCCESS

Build Relationships With the Permitting Staff

Keep an Open Mind, Especially Early On, and Be Flexible

You Will Probably Not Get Everything You Want

Recognize That the Reviewers May Not Really Understand What They are Reviewing

Focus On Public Benefits – Public Access, Habitat Enhancement, Community Boating, Low Cost Access, Etc

Build Community Support Early, Engage Doubters

STRATEGIES FOR SUCCESS

Going Political Can Be Tempting, But Presents Risks

Usually Slows Things Down... Agency Staff Are Very Risk Averse

Remember That Everything They Permit Sets a Precedent. They are Thinking About the Next Permit Application As Much As Yours.

Cost IS a Consideration, But Not As Much for Them As For You

Look For Old Rulings – Historic Bulkhead Lines, Consent Decrees

THE LAST RESORTS

Lawsuits Are Always an Option AFTER Permit Rejection

Keep in Mind That They are Often Bound by Statute and May Not Have the Flexibility to Change Policy – Even If They Agree

Some Things Require an Act of Congress. Literally.

- OR -

BE PREPARED TO “KOBAYASHI MARU”

Be Wary of Anyone That Guarantees You a Permit

If Permitting Rules, Site Conditions, or Objections Make the Permit Impossible to Obtain, Be Prepared to Change Your Assumptions or Approach So That the Issue is No Longer Applicable or Relevant

ADELAIDE POINTE



ADELAIDE POINTE KEY PERMIT ISSUES

Public Trust Impacts

Existing Conservation
Easement

Wetland Impacts

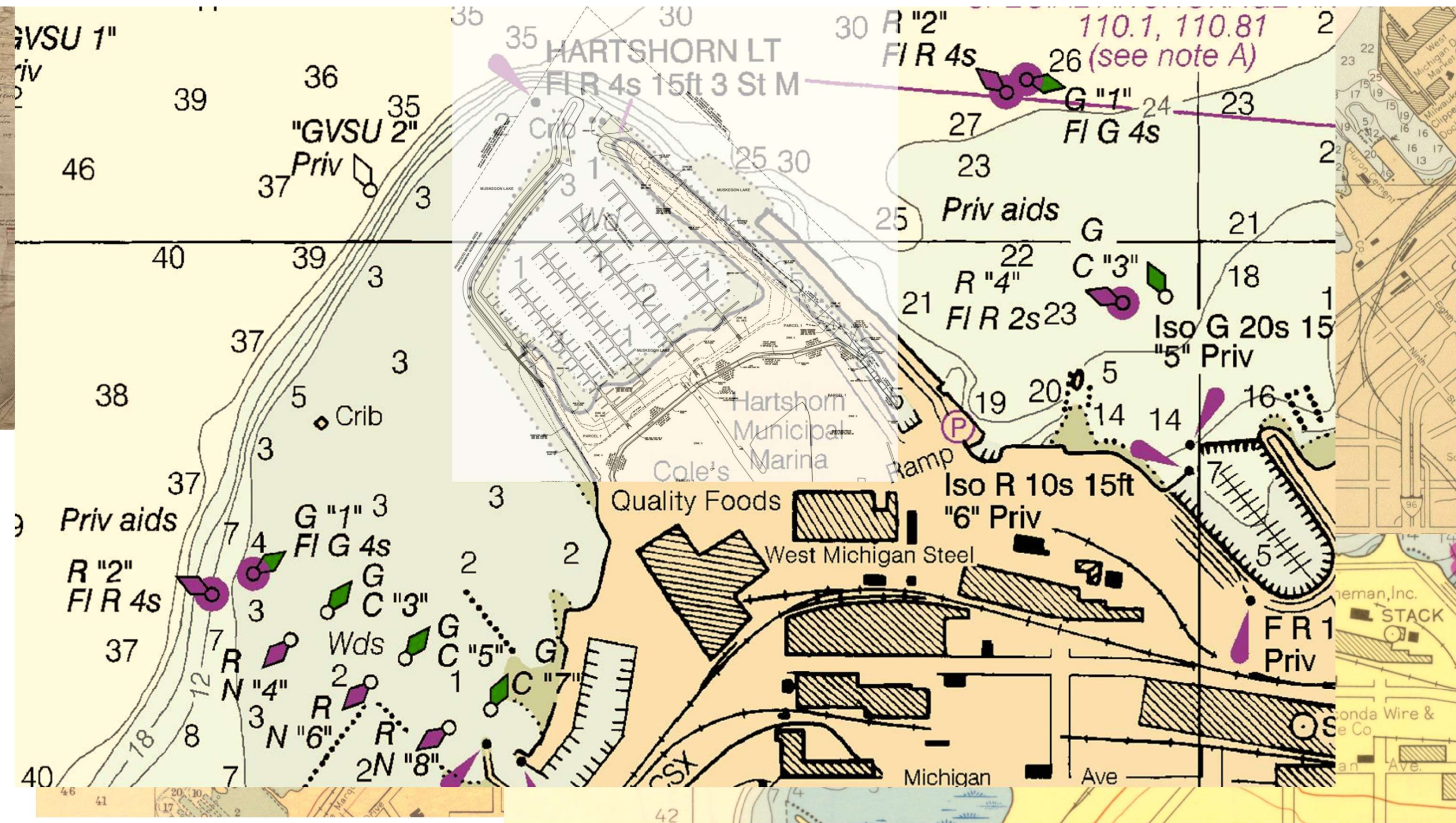
Public Access

Dredging Volumes

Wave Reflection / Navigation

Fill in the Lake





ADELAIDE POINTE BOTTOMLAND FILL ISSUES

Reduced To Bare Minimum

Best Performance for
Wave Attenuation, Ice

Shove Resistance

Utilized Michigan Field
Stone for Habitat



FLOATING WAVE ATTENUATION

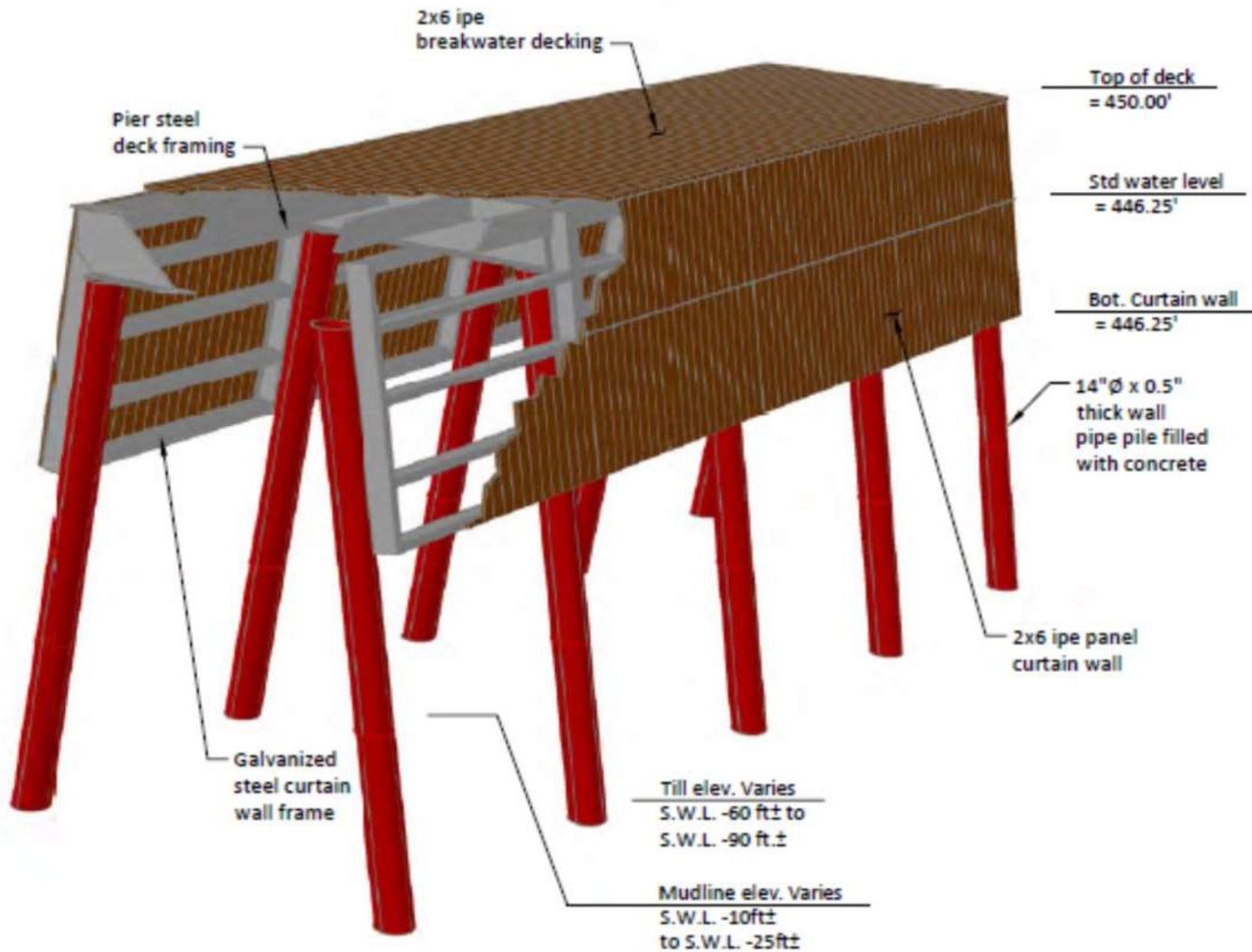




ICE SHOVE RESISTANCE



OPEN PILE WAVE FENCE STRUCTURES



ICE SHOVE RESISTANCE



SUMMARY

Engage Agencies Early

Avoid, Minimize,
Mitigate

Be Flexible

Expand Public Access

Partner to Improve
Habitat

Remember Precedent
Concerns





Greg Weykamp, ASLA, LEED AP BD+C
gweykamp@edgewaterresources.com
269 408 6562

Jack Cox, PE, D.CE, D.NE, D.PE
jcox@edgewaterresources.com
608 556 5377

 **Edgewater**
resources