

# TAX DITCH 101

## DELAWARE CENTER FOR THE INLAND BAYS

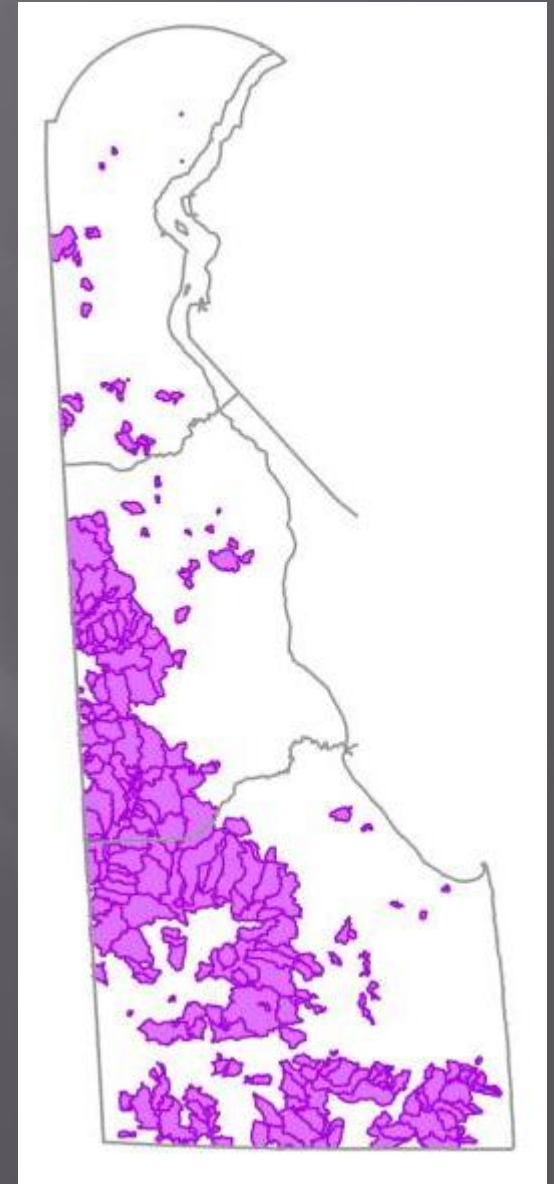
Citizens Advisory Committee

5/16/2013

6:00 p.m.

# Tax Ditch Organizations in Delaware

- ▣ Over 225 organizations in the state manage 2000+ miles of ditch
- ▣ County Breakdown:
  - New Castle County – 26
  - Kent County – 78
  - Sussex County - 143
- ▣ Formed through Superior Court



# What is a Tax Ditch?

- ▣ Governmental Subdivision of the State
  - Permanent Right of Way for Maintenance
  - Levy taxes (warrant)
  - Sue & be sued
  - Make & execute contracts
  - Borrow money
  - Receive administrative & technical assistance from DNREC, Division of Watershed Stewardship







# Tax Ditch Terminology

- ▣ Maintenance Right of Way:  
Area typically used for minor maintenance
- ▣ Construction Right of Way:  
Area typically used for construction, reconstruction, major maintenance





# Tax Ditch Terminology

- ▣ **Minor Maintenance:** controlling *woody vegetation* by mowing and/or applying herbicides
- ▣ **Major Maintenance:** activities related to the *dipout and spreading* of accumulated sediments every 10 to 20 years



# Tax Ditch Law

- ▣ Title 7, Chapter 41 of the Delaware Code passed in 1951 last revised in 2008
  - “Drainage of Lands and Management of Waters; Tax Ditches”
  - Online @: <http://www.delcode.state.de.us>
- ▣ Law Declared:
  - “... that the drainage and the prevention of flooding of lands and the management of water for resource conservation shall be considered a public benefit and conducive to the public health, safety and welfare.”

# How a Tax Ditch Organization is Formed

- ▣ Petition (Local Landowners)
- ▣ Preliminary Report Submitted to Superior Court
- ▣ Planning Order
- ▣ Commissioner's Report
- ▣ Hearing & Referendum or 100% Agreement
- ▣ Final Order
- ▣ Modify Final Order through Court Order Change Process



# Petition

To the Superior Court of Sussex County  
through the Board of Supervisors of the Soil Conservation District  
of Sussex County:

Whereas the undersigned (is) (are) the owner (s) of certain low, wet, swampy or overflowed land or lands subject to overflow situated in Dagaboro Hundred (s) Sussex County (Counties), and the State of Delaware, said lands being more particularly described as follows, to-wit: 670 acres, more or less, situated generally West of Phillips Hill, and draining into a water course commonly known as Sunset Branch;

Whereas the draining of said lands would be a public benefit and conducive to the public health, safety and welfare; and

Whereas the undersigned desire that a Tax Ditch be formed under the provisions of Chapter as amended 151, Vol. 48, Laws of Delaware, 1951/said Tax Ditch to be known as Sunset Branch Tax Ditch;

The undersigned therefore request the Soil Conservation District of Sussex County to make the investigation required under the above cited Act and, if the findings thereon be favorable, to file this petition in the Office of the Prothonotary of Sussex County so that the Superior Court of said County may take the necessary steps required by law to issue an order establishing Sunset Branch Tax Ditch.

Dated this 29th day of December, 1960 at Millsboro, Delaware.  
date month year

Wilbur S. Shockley

Charlie H. Wilkins

George A. Mitchell

Jennie A. Wilkins

Calvin L. Baker

Cora Brittingham

Merrill J. Mitchell

W. O. Jones

Elmer L. Ward

# Tax Ditch Organization's Powers

Powers as a Governmental Subdivision of the State:

- ▣ Levy taxes (warrant)
- ▣ Make & execute contracts
- ▣ Cooperate, or enter into agreement with the state or federal government, or other agencies
- ▣ Exercise the power of eminent domain
- ▣ Transfer control of tax ditch operations to DNREC
- ▣ Receive administrative & technical assistance from Division of Watershed Stewardship

# Election of Officers

- ▣ Officers are elected at annual meetings
- ▣ Officers must be a landowner within the tax ditch boundary or a company authorized representative
- ▣ Two Managers
  - Chairman of the Managers
  - Manager
- ▣ Secretary/Treasurer



# Duties of Managers

- ▣ Determine from the taxables desired program of operations
- ▣ Determine the amount of taxes to be levied
- ▣ Execute warrants
- ▣ Present report at annual meeting
- ▣ Provide for construction work
- ▣ Provide for adequate maintenance



# Duties of Secretary-Treasurer

- ▣ Keep minutes of all meetings
- ▣ Prepare financial statement
- ▣ Have financial statement audited
- ▣ Provide for safekeeping of funds
- ▣ Attend all meetings of ditch managers & taxables
- ▣ Furnish bond in amount satisfactory to managers

# Tax Ditch Organizations Functions

- Collect Taxes sufficient enough to provide funding required for maintenance
- Maintain The Drainage System:
  - Control vegetation on ditch bottom and slopes
    - Done every 1-3 yrs
    - Mowing
    - Weed Wiper Bar
  - Dipouts: Restore channels to the designed lines and grades
  - Removal of Beavers and Beaverdams

# Maintenance Activities





# Weed Wiper Bar

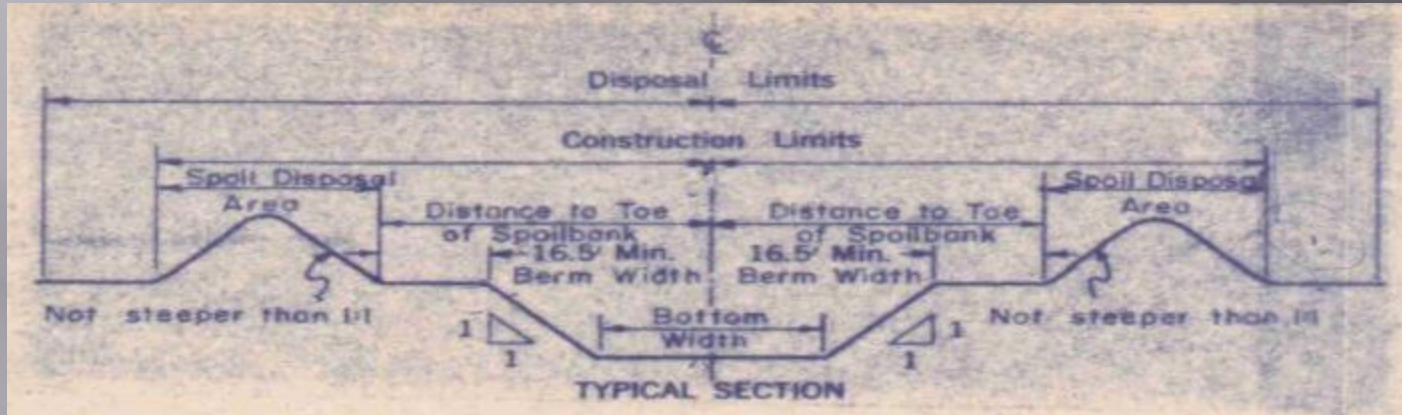




# Tax Ditch Dipout



# Tax Ditch Rights-of-Way



- ❑ ROWS provide the area necessary for the Construction and maintenance of ditches
- ❑ The widths of the ROWS are highly variable.
  - By Type
  - By Watershed
  - Within the Watershed
- ❑ Construction and Major Maintenance Right-of-Way
  - Construction/reconstruction of the tax ditch, to allow for the piling of debris and to allow spoil to be leveled as part of the construction operations and major maintenance activities
- ❑ Minor Maintenance Right-of-Way
  - Inspection, mowing, use of specialized equipment for vegetative management (i.e. herbicide applications), removal of debris and obstructions, pipe repairs and installation of crossings for access



# Tax Ditch Rights-of-Way

- ▣ Filed in Prothonotary Office since 1951
- ▣ Filed in Recorder of Deeds Office since 2006

STATIONS	Construction (ROW)		Maintenance (ROW)	
	Left	Right	Left	Right
MAIN				
0+00 - 24+10	83	83	53	53
24+10 - 24+60	Rd. 213			
24+60 - 25+60	83	83	53	53
25+60 - 26+60	Rd. 113			
26+60 - 32+90	83	83	53	53
32+90 - 35+00	83	53	53	30
35+00 - 62+30	83	83	53	53
62+30 - 62+80	R.R.			
62+80 - 64+80	83	83	53	53
64+80 - 68+80	52	72	29	52
68+80 - 75+00	82	52	52	29
75+00 - 80+00	81	51	51	28
80+00 - 91+ 40	81	81	51	51
91+ 40 - 91+90	Rd. 238			
91+90 - 99+90	51	81	28	51
99+90 - 126+90	81	51	51	28
126+90 - 150+80	81	81	51	51
150+80 - 162+80	51	81	28	51
162+80	Rd.238	Terminus		

# Tax Ditch Right-of-Way Inquires

- ▣ Fax or Email property information to:
  - Fax: (302) 677-7059
  - Email: [DNREC\\_soil\\_taxditch@state.de.us](mailto:DNREC_soil_taxditch@state.de.us)
- ▣ Required Property Information
  - Parcel Number \ Tax ID number
  - Landowner of Record
  - Acres
  - Your Contact Information



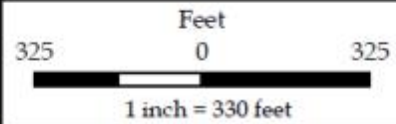




Ward-Cordrey Tax Ditch  
 532-14.00-159.00  
 Sussex County, Delaware

This map was compiled by the DNREC, Division of Watershed Stewardship, Drainage Program. Ditch locations and all features are approximate and based on field information, other agency layers and original tax ditch maps. This map does not replace legal tax ditch instruments on file at the county geospatial office.

Property lines are approximate and may have changed since the date this map was made.  
 Map Created by: Heather Hitchens  
 Map Created on: 4/4/2013 at 2:48:26 PM



# Assistance from DNREC

- ▣ Inspection
- ▣ Right of Way  
Obstruction Issues
- ▣ Attend Annual  
Meetings
- ▣ Audit Financial Records
- ▣ Jump Start Inactive  
Organizations
- ▣ Environmental  
Permitting
- ▣ Tax Ditch Planning





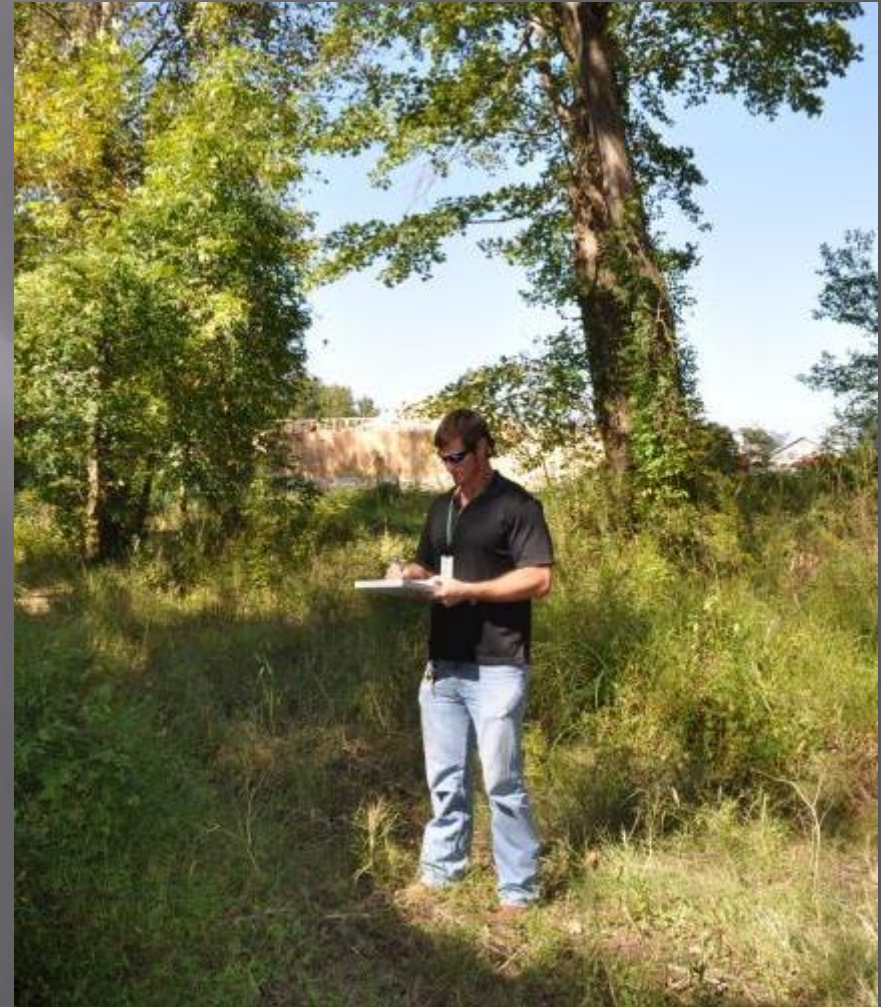
# Inspection





# Environmental Permitting

- ▣ Provide both Federal and DNREC Permitting Assistance
  - Tax Ditch Dipouts
  - Culvert Pipes
  - Bank Stabilization
- ▣ Invasive Species



# What are permanent obstructions?

- ▣ Houses, Decks, Porches
- ▣ Stormwater Management Ponds
- ▣ Sheds
- ▣ Wells
- ▣ Septic Systems
- ▣ Fences
- ▣ Swimming Pools
- ▣ Telephone, Electric, and Cable boxes
- ▣ Anything else that will prevent equipment from using the ROW





# Removal of Beavers & Beaver Dams





# Documents

- ▣ We will provide tax ditch managers with documents to help them conduct their business
  - Maps
    - ▣ Managers Maps - including Property Codes
    - ▣ Mowers Maps - Ditch alignments and right of way sides
  - Assessment Lists
  - Mailing Labels

ALPHA-QUICK LIST FOR KENT CARY BRANCH TAX DITCH		11/12/08	page 1	
		Acres in Watershed	Cost/acre	Amount
151	6-00-199.00-01-28.00-000			
	CLOSSER, DOROTHY			
	ACREAGE = 39.50	34.55	33.00	1140.15
151A	6-00-199.00-01-29.00-000			
	ISAACS, L. EMERSON			
	ACREAGE = 79.50	7.23	33.00	238.59
152	6-00-198.00-01-50.00-000			
	HIMATOLE, JERRIL B.			
	ACREAGE = 82.00	82.00	33.00	2706.00
153	6-00-198.00-01-49.00-000			
	LARIMORE, SHANE B.			
	ACREAGE = 1.90	1.90	33.00	62.70
154	6-00-198.00-01-43.00-000			
	ISAACS, L. EMERSON			
	ACREAGE = 68.70	63.77	33.00	2104.41
154A	6-00-198.00-01-43.01-000			
	MILLER, MARTIN M. JR.			
	ACREAGE = 6.90	5.39	33.00	177.87
155	6-00-198.00-01-42.00-000			
	TAYLOR, ARLEY F.			
	ACREAGE = 32.00	14.00	33.00	462.00
156	6-00-198.00-01-48.00-000			
	WYATT, GARY L.			

HOUSTON  
EMS  
FIRE COMPANY



# Tax Ditch Planning

- ▣ Long Process
  - Petition Received from Landowners
  - Preliminary Report/Investigation
  - Planning Order Received
  - Planning/Engineering Begins
  - Tax Ditch Commissioners
  - Report to Superior Court
  - Hearing/Referendum/100% Agreement
  - Final Order Granted
  - Organizational Meeting Held
  - Construction









# Bridgeville Branch Tax Ditch Restoration Project



# Bridgeville Branch Tax Ditch Restoration Project

- ▣ Planning
- ▣ Modifications to original court order
- ▣ Engineering
- ▣ Permitting
- ▣ Utility Conflicts











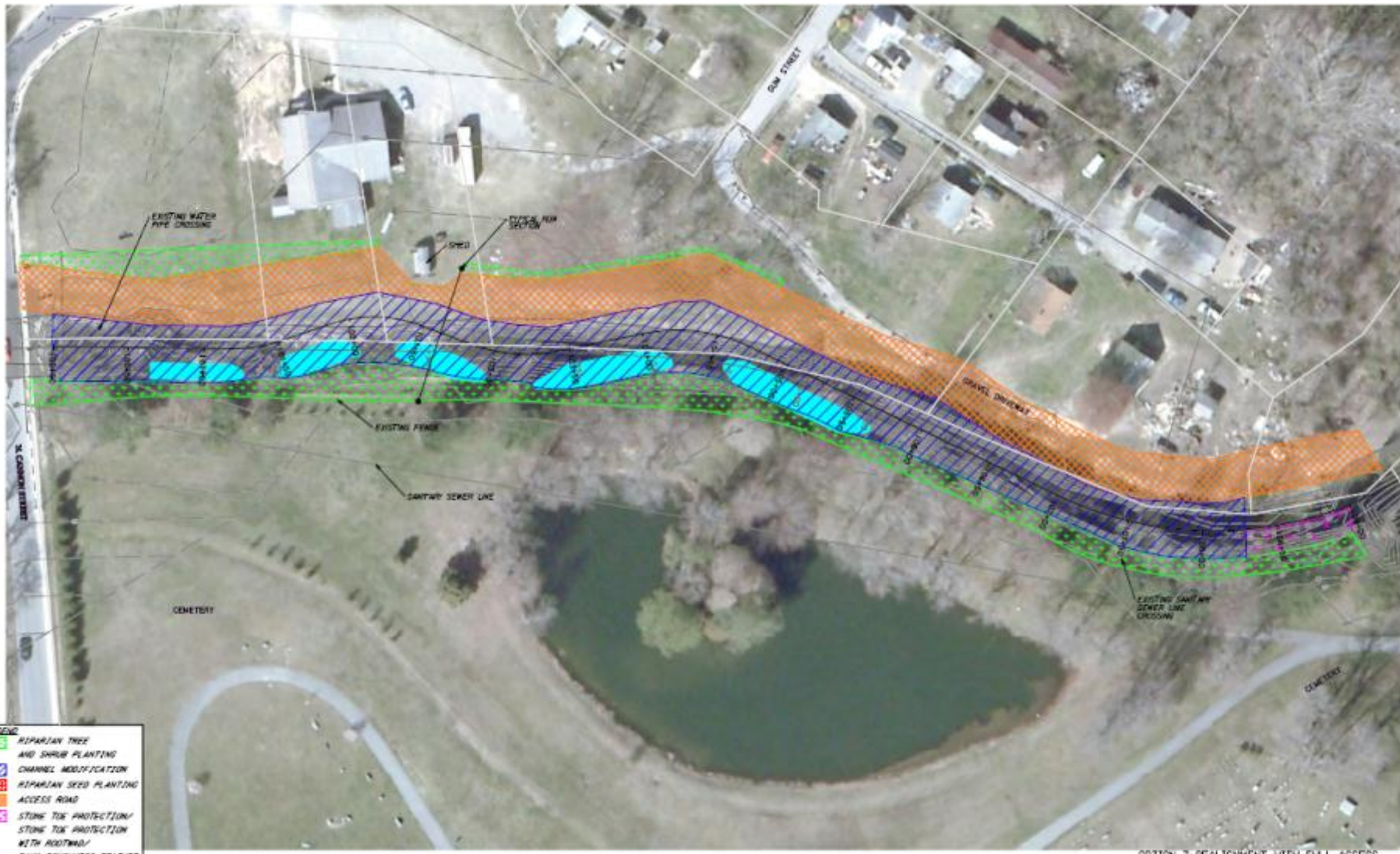












- LEGEND**
- RIPARIAN TREE AND SHRUB PLANTING
  - CHANNEL MODIFICATION
  - RIPARIAN SEED PLANTING
  - ACCESS ROAD
  - STONE TOK PROTECTION/ STONE TOK PROTECTION WITH ROOTWALL
  - BANK ROUGHNESS FEATURE INLET BENCH

OPTION 7: REALIGNMENT WITH FULL ACCESS ALONG LEFT FLOODPLAIN

**DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

REVISIONS / NOTES	

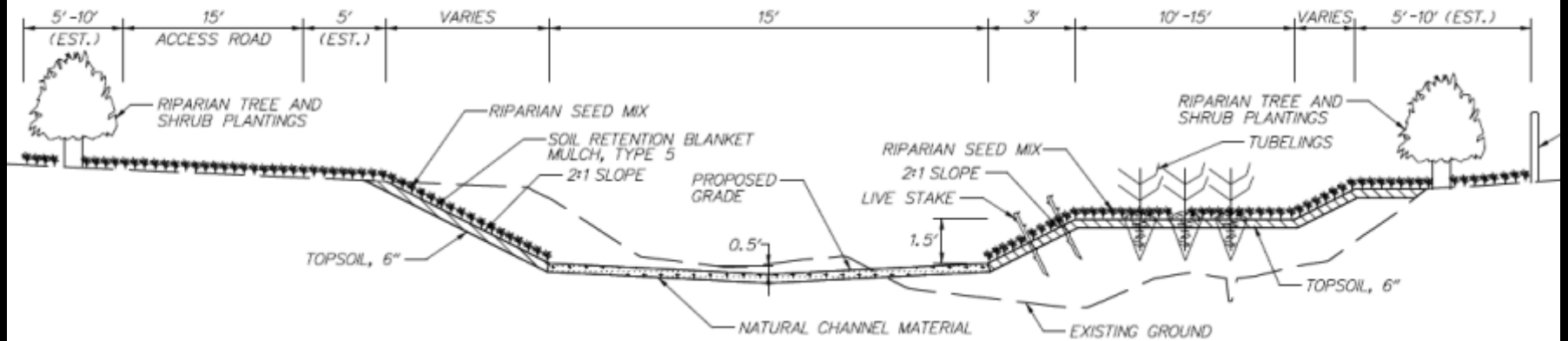


**BRIDGEVILLE BRANCH**

PROJECT	PROJECT NO.	NA
DESIGNED BY	DESIGNED BY	EAJ
CHECKED BY	CHECKED BY	EAJ
DATE	DATE	11/14/14

UPSTREAM TREATMENT AREA PLAN SHEET

SHEET NO.	28
TOTAL SHEETS	33



### TYPICAL RUN SECTION

### OPTION 7: REALIGNMENT WITH FULL ACCESS ALONG LEFT BANK



# Blackwater Tax Ditch Bank Stabilization Project



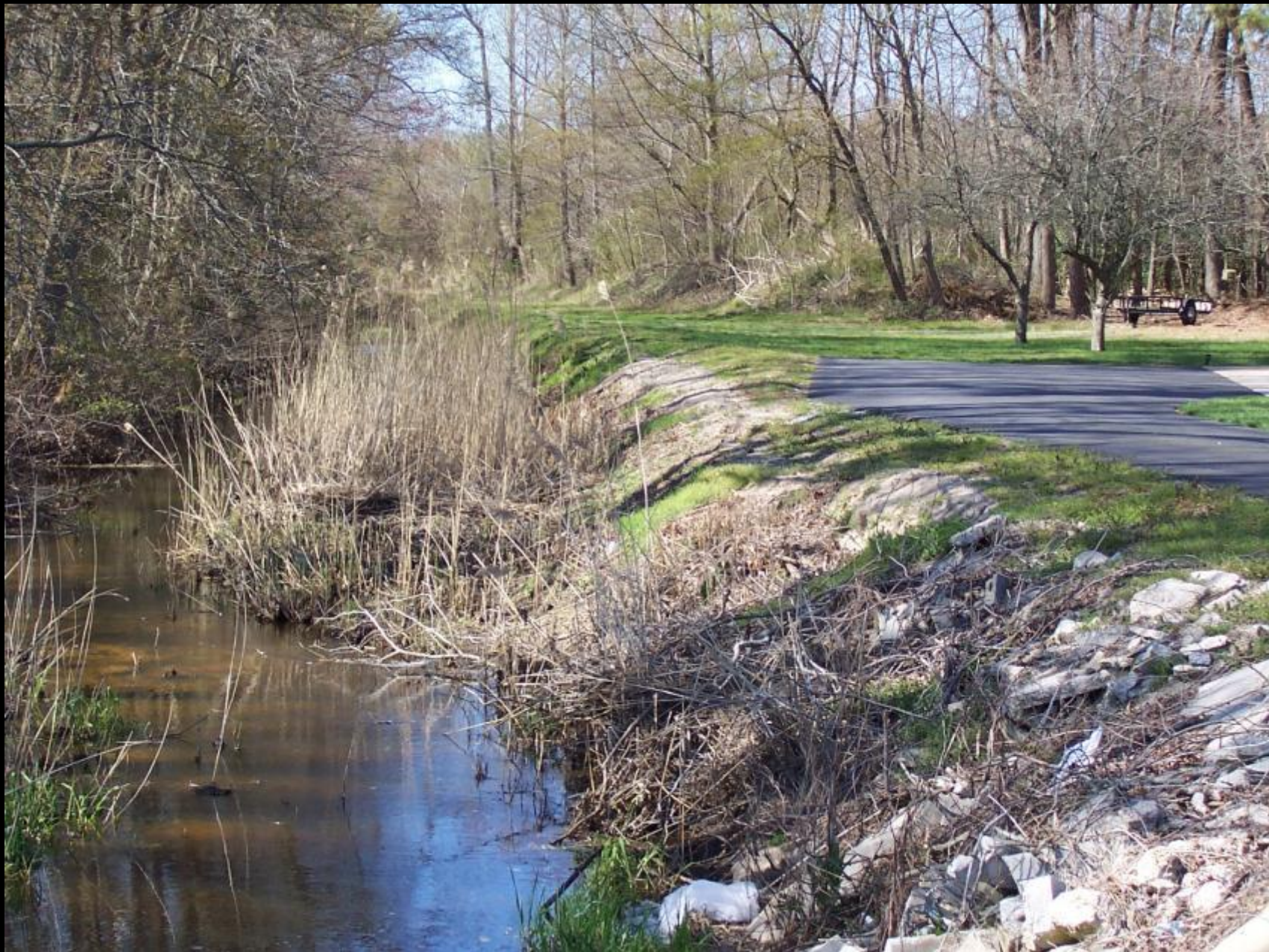


























# Questions

- ▣ Contact:

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