

MEMORANDUM FOR RECORD

18 JUL 2013

SUBJECT: U.S. Army Corps of Engineers, Jacksonville District, Setback Guidance for Structures along Certain Federal Channels

1. PURPOSE: This memorandum updates the U.S. Army Corps of Engineers, Jacksonville District, (Corps) policy regarding setback guidance (Guidance) for structures along the Federal channels noted in Section 3 which was established by memorandum dated 23 November 1998. In accordance with Section 10 of the Rivers and Harbors Act of 1899 (R&HA Section 10), the Corps has the authority to regulate any obstruction not affirmatively authorized by Congress to the navigable capacity of waters of the United States. The purpose of this Guidance is to advise the public and Jacksonville District personnel of the manner in which Jacksonville District intends to exercise its authority under R&HA Section 10 to maintain the navigable capacity of the waterways listed in Section 3 by minimizing potential hazards to navigation and impediments to maintenance dredging created by structures located along the edges of the Federal navigation channel. It is the Corps' intent to equitably manage the construction of structures along the Federal channels so that, to the extent practicable, property owners achieve some form of structural access while ensuring the Government's ability to maintain such waterways and the public's rights to safe navigation.
2. DEFINITIONS: The following terms are defined for the purpose of this memorandum. See Appendix B for diagrams depicting some of the following terms.
  - a. channel – Those areas within the waterways listed in Section 3 of this Guidance that are part of a Congressionally authorized federal navigation project. This refers to the area located between the design edges.
  - b. currently serviceable – A structure is considered to be currently serviceable if it is usable as is but not so degraded or damaged as to essentially require reconstruction.
  - c. design depth – The depth to which the Corps has been authorized to maintain the Federal channel by the enabling legislation for that Federal project. This defines the depth parameter of the area between the design edges of the Federal channel with respect to mean lower low water elevations.
  - d. design edge – The surveyed edges of a Federal channel which the Corps has been authorized to maintain by the enabling legislation for that Federal project. The distance between the design edges defines the width of the Federal channel.

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e. hydrographic survey – A professionally developed survey designed to present an accurate, measurable description of the submerged terrain. The survey must clearly describe the water depth at specific locations with respect to mean lower low water elevation. See Appendix A for more information on this requirement.

f. mean lower low water (MLLW) – The average of the lower low water height of each tidal day observed over the National Tidal Datum Epoch (NTDE). The NTDE is actively considered for revision every 20 to 25 years and the present NTDE is 1983 through 2001.

g. most waterward – This is considered to be that portion of a structure which lies closest to the near design edge of the federally authorized navigational channel. For purposes of measuring the setback of a structure, this point could be, but is not limited to, mooring pilings, decking, boat hoist/lifts or the roof line.

h. near design edge - The design edge of the federally authorized navigational channel which is closest to the work/site.

i. riprap – For this document, riprap is considered to be a type of revetment. Revetments are generally sloping structures placed along a shoreline in such a way as to absorb the energy of incoming waves. A riprap revetment is generally constructed of concrete or stone rubble of varying sizes.

j. setback – A distance measured horizontally from the established near design edge of the channel to the most waterward point of any proposed or existing structure.

k. side slope – The inclined area located adjacent to and outside of the established design edges of the Federal channel going from the design depth at the near design edge to the top edge of slope.

l. structures – Any pier, boat dock, boat ramp, floating dock, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, mooring pile, aid to navigation, davit, or any other obstacle or obstruction.

m. submerged bulkhead – Any structure constructed such that it extends into the bottom contour (natural or dredged) of the waterbody and is partially or completely submerged at mean low water, which is designed to stop/reduce shoaling within the boat mooring area. Submerged bulkheads are not considered to be essential to support the integrity of the associated dock structure.

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n. top edge of slope – This is a reference point determined by multiplying the design depth of the channel by the ratio of the slope. For this document the slope ratio is considered to be 3:1. The resulting value is the distance from the design edge of the channel to a point considered to be the top of the side slope for that channel. For example, if the design depth of a channel is 10 feet, then the top edge of slope is considered to be 30 feet landward of design edge.

o. terminal platform - A terminal platform is that part of a structure located at or near the waterward terminus of the structure which is designed to secure and load or unload a vessel or conduct other water dependent activities but which may also be used for other non-water dependent activities.

p. wave break - Wave Breaks are defined as boards, sheet piling or any materials that are constructed as part of docks, boat and anchoring locations, walkways, and fishing piers that are not necessary for the integrity of the structure. The purpose of these structures is to stop/reduce shoaling within the boat mooring area and minimize wave damage.

q. X&Y State Plane Coordinates (X&Ys) - A set of two coordinates which describe a unique point. The X&Ys refer to unique points which are used to describe the most waterward corners of a structure, proposed or existing. These coordinate points are entered into a specialized computer program, which determines the horizontal distance from those points to the near design edge of the Federal channel. See Section 4.b. (page 4) and Appendix A for more information X&Ys as they pertain to this Guidance.

### 3. APPLICABILITY:

a. This Guidance supersedes all previous structure setback guidance issued by the Corps' Jacksonville District and will be applicable to those structures located within the setback (as defined in Section 5 below) along the following Federal navigation project waterways:

**Atlantic Intracoastal Waterway** from the Florida State line south to the St. Johns River, **Intracoastal Waterway** on the east coast of Florida, from the St. Johns River south to Miami,

**Intracoastal Waterway** on the west coast of Florida, from the Caloosahatchee River north to the Anclote River,

**Okeechobee Waterway**, those portions not covered by Regional General Permit number 67. This would include the waterway from the W.P. Franklin Lock and Control Structure west to Punta Rassa and from the St. Lucie Lock and Dam east to its intersection with the east coast Intracoastal Waterway.

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- b. This Guidance may be modified as necessary to ensure the navigable capacity of the above-listed waterways.
- c. This Guidance does not create any rights or obligations.
- d. Nothing in this Guidance shall limit the ability of the Corps to issue, modify, suspend, revoke, or deny any individual permit or general permit nor shall this Guidance limit the Corps' ability to exercise its enforcement authority under the Rivers and Harbors Act of 1899.

4. GENERAL INFORMATION:

- a. All applications seeking authorization for the construction of structures at or within the setback (as defined in Section 5 below) of a Federal channel will indicate the mooring locations of vessels expected to use the structure. If mooring to the waterward side of the terminus of the structure is proposed and no mooring pilings are included in the application, a minimum vessel beam width of 10 feet will be applied to establish the setback distance of the structure. A larger beam width may be utilized if information is provided or obtained which indicates larger vessels will be docked at the structure.
- b. All applications seeking authorization for the construction of structures to be located at or within the setback (as defined in Section 5 below) of a Federal channel will be required to supply X&Ys for the most waterward points of the structure. As of the date of this document the Corps is requiring that the X&Ys be determined utilizing the High Accuracy Reference Network upgrade of the North American Datum of 1983 (NAD83(HARN)). However, the Corps may change this policy in the future to require a more updated Datum. Any modification to this policy will be noticed to the public as appropriate. Additionally, all approved projects will be required to submit as-built X&Ys upon completion of the work for review and approval by the Corps' Regulatory Division. See Appendix A for further information regarding the requirements associated with the submittal of X&Y State Plane Coordinates.
- c. All applications seeking authorization for the construction of structures to be located at or within the setback (as defined in Section 5 below) of a Federal channel will be required to supply a hydrographic survey of the location of the structure. The survey must show actual water depths referenced to MLLW and clearly identify the 3-foot depth contour. See Appendix A for further information regarding the requirements associated with a hydrographic survey.

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5. SETBACK GUIDANCE: The setback for all structures constructed along the channel of the Federal navigation project waterways identified in Section 3 is 100 feet from the near design edge of the channel. Variances to the 100-foot setback distance may be allowed as noted in Section 6. All permit applications seeking authorization for the construction of structures within 100 feet of the near design edge of the Federal channel will be reviewed by the Corps and are subject to review by the non-Federal, local sponsor of the affected portion of the Federal channel. During the review and evaluation of all applications seeking authorization for the construction of structures within the setback, every effort will be made to locate any structure authorized as far from the near design edge of the channel as practicable.

6. VARIANCES TO SETBACK:

a. All applicants requesting a variance to the 100-foot setback must provide justification for allowance of a potential impact to both the navigable capacity of the channel and the Federal Government's ability to maintain the channel. The information supplied to provide justification may include, but is not limited to, the actual water depth at MLLW, the presence of submerged vegetation or shoreline vegetation (i.e. sea grasses or mangrove fringe), public health and safety issues, and the proposed use of the structure. All of the information supplied to justify authorization of the structure will be used during the review and evaluation of the work proposal.

b. If the applicant is seeking authorization to place a structure such that any portion of it will be located within 62.5 feet of the near design edge of the channel and the justification provided is inadequate water depth, the applicant must show that dredging an access channel to allow placement of the structure more than 62.5 feet from the near design edge of the channel has been denied by a local, state or federal agency with the authority to regulate the dredging activity.

c. In no case will any structure be allowed to be constructed such that any portion of it, or any vessel utilizing it, is located closer to the near design edge of the Federal channel than the top edge of the slope associated with that channel plus 2 feet. (See definitions for "near design edge", "structure" and "top edge of slope" at in Section 2. - Definitions.) For example, if the top edge of slope is located 30 feet from the near design edge of the federal channel, no structure will be authorized such that any portion of that structure is located closer than 32 feet (30 feet + 2 feet) from the near design edge of the channel. The following table provides information on the design depth and minimum clearance requirements for each of the Federal Channels listed in Section 3.a.

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<b>Federal Channel</b>	<b>Limits</b>	<b>Design Depth</b>	<b>Minimum Clearance Requirement ((Design DepthX3) + 2)</b>
<b>Atlantic Intracoastal Waterway</b>	Florida State line to St. Johns River	12	38
<b>Intracoastal Waterway</b>	St. Johns River to Ft. Pierce.	12	38
<b>Intracoastal Waterway</b>	Ft. Pierce to Miami	10	32
<b>Okeechobee Waterway</b>	IWW (at St. Lucie Inlet) to St. Lucie Lock and Dam	8	26
<b>Okeechobee Waterway</b>	W.P. Franklin Lock and Dam to RR Bridge at Tice	8	26
<b>Okeechobee Waterway</b>	RR Bridge at Tice to Punta Rassa	10	32
<b>Intracoastal Waterway</b>	Caloosahatchee River to Anclote River (including Sunshine Skyway Channel)	9	29
<b>Intracoastal Waterway</b>	Cats Point Channel (eastern side of Ciega Bay)	6	20

**7. RESTRICTIONS ASSOCIATED WITH VARIANCES TO SETBACK:**

Applications for structures which are seeking authorization to be located closer than 62.5 feet from the near design edge of the Federal channel will be required, to the maximum extent practicable, to adhere to the design guidance provided below to reduce their potential impact to both the navigable capacity of the channel and the Federal Government’s ability to maintain the channel. Site specific information will be reviewed when determining if there is a need to deviate from the design guidance provided below. See Appendix C for more information on these design restrictions.

- a. The width of the structure may not exceed 1/3 of the width of the waterward edge of the lot, up to a maximum width of 40 feet. The width of the structure will be determined by including any hoist, lift, mooring piling, roof overhang or any other structure used in conjunction with the mooring structure. Additionally, the terminal platform portion of the structure must be centered on the waterward edge of the lot. The access pier may be located at any point along the landward side of the terminal platform.

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b. Where local restrictions require that two adjacent lots share an access pier, the width restriction noted in Section 7.a. will apply to each half of the structure. In no case will the total width of the shared structure be allowed to exceed 80 feet. The access pier must be centered on the shared property line.

c. A submerged bulkhead or wave break may not be allowed to be constructed such that any portion of the structure is located closer than 62.5 feet from the near design edge of the channel.

d. Generally, riprap may not be allowed as a shoreline stabilization method when it is to be located closer than 62.5 feet from the near design edge of the channel.

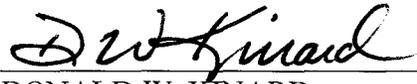
8. Existing Structures: Previously authorized, currently serviceable structures may be repaired or rehabilitated, in accordance with their Department of the Army authorization, such that they maintain the authorized footprint and do not extend beyond their authorized distance from the near design edge of the Federal channel provided that the structure is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. The Corps will make the determination of whether an existing structure is currently serviceable.

In the event that a previously authorized, currently serviceable structure is destroyed by an act of nature or other event, a new application will be required which will be reviewed pursuant to the setback guidance in effect at the time of the request. It is possible that any authorized reconstruction will not be the same size or design as the original structure.

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## **Appendix A – Parameters for Horizontal and Hydrographic Surveys:**

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### Horizontal Surveys:

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1. All surveys must be conducted under the direction of a registered land surveyor.
2. The survey shall include the following information:
  - The datum used to perform the survey must be clearly identified. As of the date of this document the Corps is requiring that the X&Ys be determined utilizing the High Accuracy Reference Network upgrade of the North American Datum of 1983 (NAD83(HARN)).
  - A description of the survey methodology used for the survey. This will include information pertaining to the equipment used (e.g. GPS units versus mechanical, type of GPS unit/s used, etc.) and any information which may affect the accuracy of the survey.
  - A statement of the degree of accuracy of the survey.
  - Any point provided in the survey shall be located with a minimum accuracy of +/- 1-foot horizontal.
  - A clear indication of the benchmark used to perform the survey. The benchmark must be a published National Geodetic Survey (NGS) monument and the coordinate values must be provided for the monument used.
  - A clear description of the physical location of the coordinate points. For existing structures, this needs to define where the coordinate point was determined. For proposed structures, this should reference clearly identifiable features of the proposed structure.
  - The survey must include at least two Point of Intersection (PI) points within the adjacent Federal project. The PI points should be located such that one is on either side of the proposed structure.
  - The survey must be dated and signed by the surveyor or the survey firm.

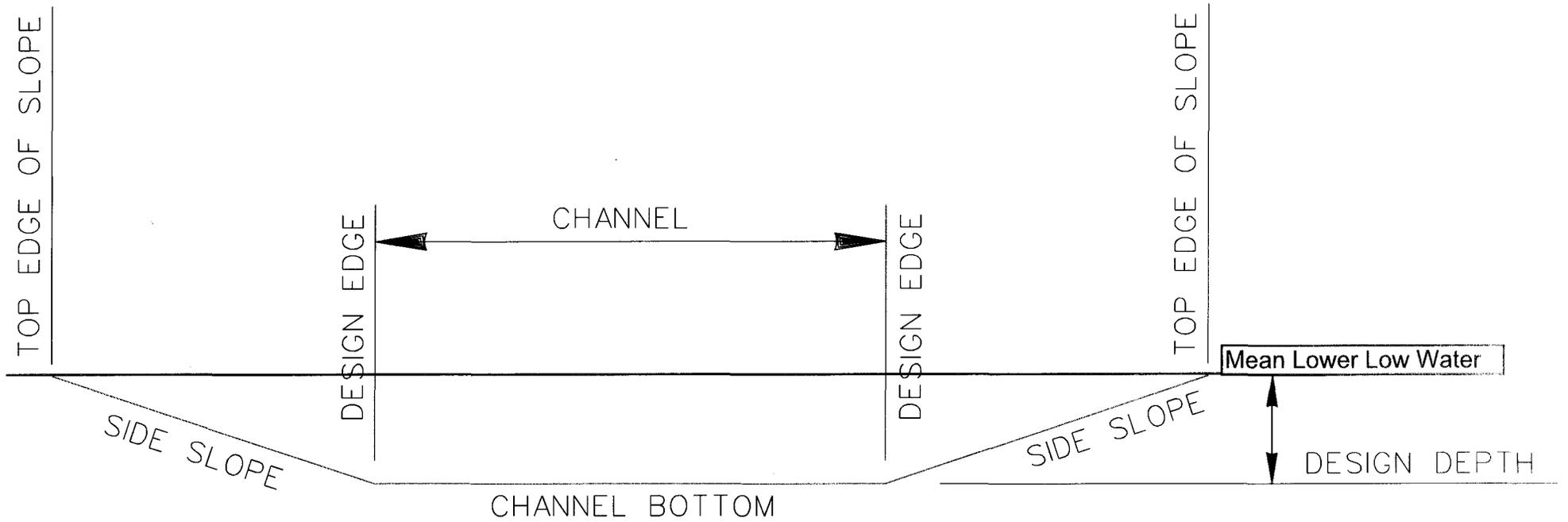
## **Appendix A – Parameters for Horizontal and Hydrographic Surveys:**

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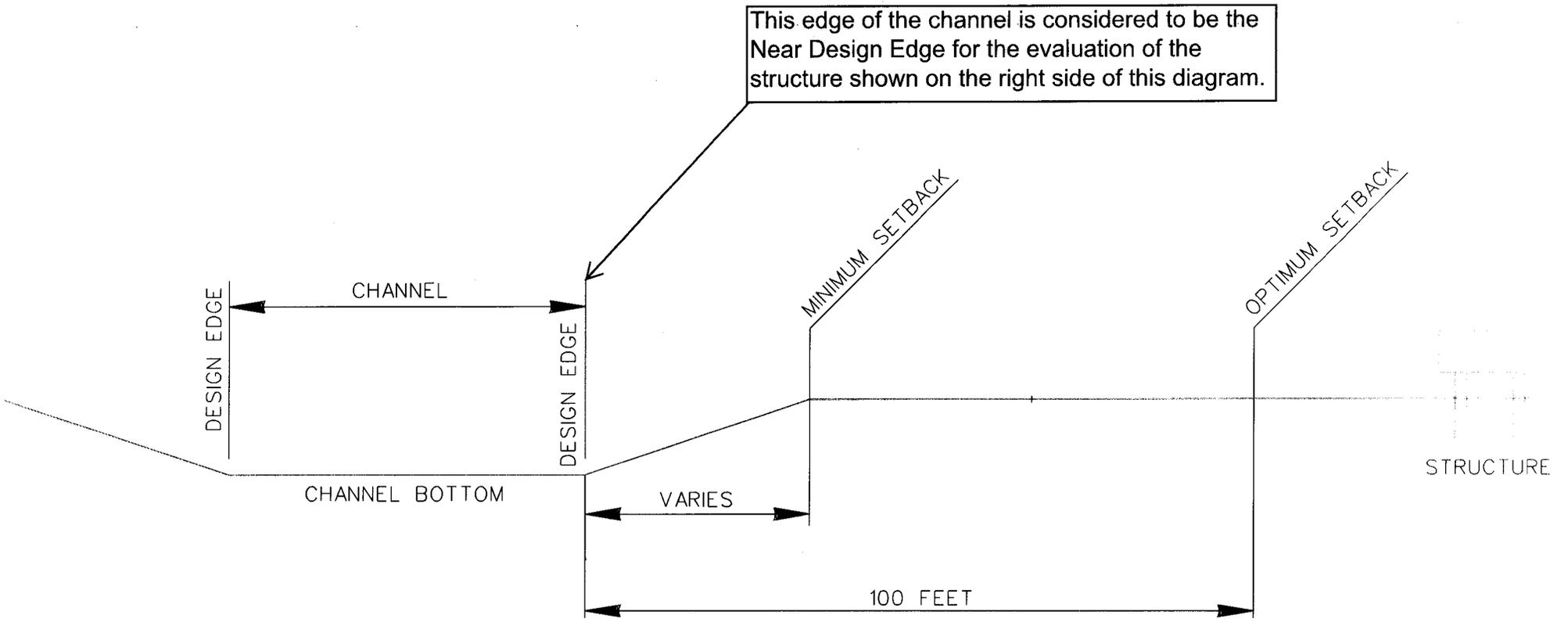
### Hydrographic Surveys:

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1. All hydrographic surveys must be conducted under the direction of a registered land surveyor.
2. The survey should be of sufficient detail to determine the landward most area where water depth would be adequate to moor a vessel.
3. Soundings shall be provided in MLLW datum and have an accuracy of  $\pm 0.5$  foot vertical. Horizontal accuracy shall be  $\pm 6$  feet.
4. Surveys should be conducted perpendicular to the near design edge of the federal channel and should cover the distance between the highwater mark and the near design edge of the federal channel.
5. Survey lines should be a minimum of 50' apart and soundings should be taken 10' apart along these survey lines. This survey should cover all areas that will be affected by new or rehabilitated structures.
6. Acoustic (fathometer) or mechanical (lead line/sounding pole) soundings will be acceptable if the accuracy requirements described above can be verified.
7. Surveyed points should be plotted in plan view.



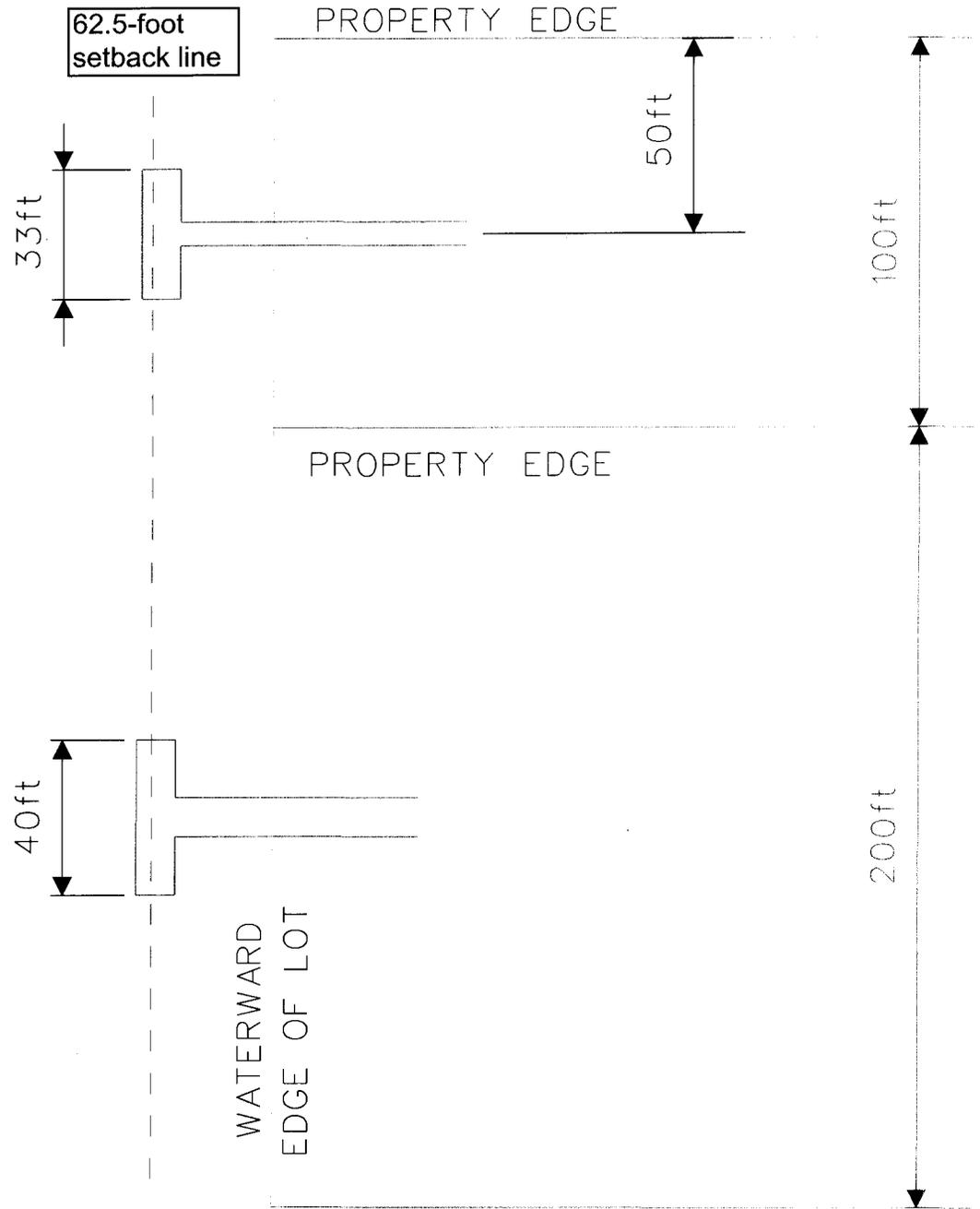
**APPENDIX B-1**  
SETBACK GUIDANCE MEMORANDUM  
DIAGRAM OF TERMS



**APPENDIX B-2**  
 SETBACK GUIDANCE MEMORANDUM  
 DIAGRAM OF TERMS

NEAR  
DESIGN  
EDGE of  
channel

TOP  
EDGE OF  
SLOPE



**APPENDIX C**

General example for structures that are to be located less than 62.5 feet from the Near Design Edge of the channel.

These structures **MUST** be centered on the property to the maximum extent practicable. The width is limited to 1/3 the property width up to a maximum of 40 feet. While these examples show the access piers centered on the dock structures, they may be offset closer to one side or the other as long as they do not extend beyond the edge of the allowed width.