

IN THE  
Supreme Court of the United States

STATE OF NEW JERSEY,  
*Plaintiff,*

v.

STATE OF DELAWARE,  
*Defendant.*

---

**DELAWARE'S APPENDIX  
ON CROSS-MOTIONS FOR SUMMARY JUDGMENT**

**VOLUME 5 (Pages 3173 – 3784)**

---

CARL C. DANBERG  
*Attorney General*  
KEVIN P. MALONEY  
*Deputy Attorney General*  
DELAWARE DEPARTMENT  
OF JUSTICE  
Carvel State Office Building  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8338

COLLINS J. SEITZ, JR.  
MATTHEW F. BOYER  
KEVIN F. BRADY  
MAX B. WALTON  
CONNOLLY BOVE LODGE  
& HUTZ LLP  
The Nemours Building  
1007 N. Orange Street  
Wilmington, DE 19801  
(302) 658-9141  
*Special Counsel to the  
State of Delaware*

DAVID C. FREDERICK  
*Counsel of Record*  
SCOTT H. ANGSTREICH  
SCOTT K. ATTAWAY  
KELLOGG, HUBER, HANSEN,  
TODD, EVANS & FIGEL, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
(202) 326-7900  
*Special Counsel to the  
State of Delaware*

December 22, 2006

---

**TABLE OF CONTENTS**  
**VOLUME 5**

	<b>PAGE</b>
<b>Memorandum of Agreement Documents</b>	
Draft Memorandum of Agreement between NJDEP and Delaware Department of Natural Resources and Environmental Control ("DNREC") (Oct. 18, 1993) .....	3173
Draft Memorandum of Agreement between NJDEP and DNREC (Oct. 28, 1993) .....	3179
Draft Memorandum of Agreement between NJDEP and DNREC (Nov. 5, 1993) .....	3187
Draft Memorandum of Agreement between NJDEP and DNREC (June 16, 1994).....	3201
Inter-Office Memorandum and attachments from Lawrence J. Baier to Steven C. Whitney, NJDEP (Oct. 29, 1991) .....	3207
Inter-Office Memorandum and attachments from Rick Sinding to Management Team, NJDEP (Nov. 1, 1991).....	3229
Inter-Office Memorandum and attachments, from Steven Whitney to Management Team, NJDEP (July 7, 1994) .....	3237
Handwritten Notes and attached Oct. 28, 1993 Draft Memorandum of Agreement between NJDEP and DNREC (Undated) .....	3249
Handwritten Notes and attached Oct. 28, 1993 Draft Memorandum of Agreement between NJDEP and DNREC (Undated) .....	3257
Inter-Office Memorandum and attachment, from Terry Fowler to Steven Whitney NJDEP (Aug. 3, 1993).....	3265
Handwritten Note and attachment to Steven Whitney, NJDEP (Oct. 28, 1991) .....	3277
Email from Ruth Ehinger to Dorina Frizzera (July 18, 1994) .....	3281
Email from Terry Fowler to Ruth Ehinger (July 19, 1994).....	3283
Email from JoAnn Cubberly to Steven Whitney (July 20, 1994).....	3285
Letter from Helen C. P. Grady, NOAA, to Dorina Frizzera, NJDEP (July 17, 1996).....	3287
Handwritten Notes (Undated) .....	3295
Handwritten Notes (May 26, 1994) .....	3301

Email from Terry Fowler to Ruth Ehinger (July 19, 1994).....3303

Handwritten Notes (Jan. 12, 1994).....3305

Email to Steven Whitney (Nov. 5, 1993).....3307

Memorandum of Agreement between NJDEP and DNREC, Division of Coastal Resources  
and the New Jersey Pinelands Commission (Feb. 8, 1988).....3309

Handwritten Notes (Undated).....3313

Email from Steven Whitney to Ruth Ehinger (May 7, 1993).....3315

Email from Ruth Ehinger to Dorina Frizzera (July 18, 1994) .....3317

**Permit-Related Documents**

**Pipelines**

Twenty-year Subaqueous Lands Lease between the State of Delaware and  
SunOlin Chemical Company (Jan. 11, 1962) .....3319

Ten-year Subaqueous Lands Lease between the State of Delaware and Colonial  
Pipeline Company (Oct. 9, 1963) .....3323

Renewal of Subaqueous Lands Lease (SL-0508/81) issued to SunOlin Chemical  
Company (Nov. 14, 1981) .....3331

DNREC Subaqueous Lands Lease (SL-0203/87) issued to Colonial Pipeline  
Company (1987) .....3337

Burlco Engineering Associates Application for a Request For A Coastal Zone  
Status Decision for Colonial Pipeline Company to DNREC (Jan. 8, 1987).....3345

Letter from William F. Moyer, DNREC, to T. H. Norris, Colonial Pipeline Co. DNREC  
(July 21, 1987) .....3349

DNREC Subaqueous Lands Lease (SL-0204/87) issued to Columbia Gas Transmission  
Corporation (July 28, 1987).....3351

DNREC Subaqueous Lands Lease (SL-0203/87) issued to Colonial Pipeline  
Company (Aug. 3, 1987) .....3357

Memorandum from Charles A. Lesser, DNREC, to Bill Moyer, DNREC (Aug. 11, 1987) ....3363

Memorandum from Charles A. Lesser, DNREC, to Bill Moyer, DNREC (Sept. 17, 1987).....3365

Letter from William F. Moyer, DNREC, to J. R. Arnold, Colonial Pipeline Company (Sept. 24, 1987).....	3367
Letter from William F. Moyer, DNREC, to J. R. Arnold, Colonial Pipeline Company (Mar. 8, 1988).....	3369
Renewal of Subaqueous Lands Lease (SL-1203/91) issued to Sun Refining and Marketing Company (Oct. 15, 1991).....	3371
DNREC Subaqueous Lands Lease (SL-1310/94) issued to Colonial Pipeline Company (Oct. 9, 1994).....	3375
Letter from James Chaconas, DNREC, to Colonial Pipeline (Dec. 23, 1994).....	3381
DNREC amended water allocation permit issued to Logan Generating Company, L.P. (No. 91-0012M2) (Jan. 13, 1995).....	3383
Letter from Jennifer Cross, DNREC, to Paul Wagner, P.E., U.S. Generating Company (Jan. 21, 1998).....	3387
Renewal of Subaqueous Land Lease (SL-404/01, a renewal of SL-1203/91) to Sunoco Inc. (May 15, 2002).....	3389
<b>DuPont</b>	
Letter from B.E. Lane, DNREC, to P.H. Collins, DuPont (Jan. 29, 1971).....	3395
Letter from B.E. Lane, DNREC, to Col. Carroll D. Strider, U.S. Army Corps of Engineers (Jan. 29, 1971).....	3397
Letter from John C. Bryson, DNREC, to Laird Stabler, Attorney General of Delaware (Feb. 19, 1971).....	3399
Letter from B.E. Lane, DNREC, to James Kelly, U.S. Army Corps of Engineers (Apr. 5, 1971).....	3401
Delaware Subaqueous Lands Lease (SL-558/1971) issued to DuPont (Sept. 29, 1971).....	3403
Letter from George Cassidy, DuPont, to James Johnson, NJDEP (July 13, 1977).....	3409
Application Form for Stream Encroachment Permit from DuPont to NJ Div. of Water Resources (Oct. 11, 1977).....	3413
Letter Receipt of Stream Encroachment Permit Application Form from NJDEP to DuPont (Oct. 25, 1977).....	3427

Letter of Authorization from William F. Moyer, DNREC, to Lewis A. Caccese, P.E., S. T. Hudson Engineers, Inc. (Mar. 18, 1982).....	3429
Letter from William F. Moyer, DNREC, to J. Curry, DuPont (Oct. 15, 1982).....	3431
Letter of Authorization from William F. Moyer, DNREC, to William N. Malin, S. T. Hudson Engineers, Inc. (Jan. 5, 1987).....	3433
Letter from William F. Moyer, DNREC to Reinhold Betschel, DuPont (Feb. 9, 1988).....	3435
DNREC Subaqueous Lands Permit (SP-071/01) issued to DuPont (May 4, 2001).....	3439
Technical Briefing Meeting Agenda, Treatment and Disposal of Neutralized VX at DuPont Chambers Works (Mar. 10, 2004).....	3445
Letter from Ruth Ann Minner, Governor of Delaware and James E. McGreevey, Governor of New Jersey, to Les Brownlee, Secretary of the Army (Apr. 7, 2004).....	3447
Letter from John A. Hughes, DNREC to Jesse L. Barber, Colonel, Newport Chemical Stockpile Outreach Office (Apr. 19, 2004).....	3449
Letter from Kevin Donnelly, DNREC, to Bernard Reilly, DuPont (May 19, 2004).....	3453
DNREC Subaqueous Lands Permit issued to DuPont to dredge at the Chamber Works Facility (Mar. 7, 2006).....	3455
Letter from John Hughes, DNREC, to Alan Muller, Green Delaware (Mar. 29, 2006).....	3461
<b>El Paso</b>	
Letter from El Paso Eastern Company to David R. Keifer, Director of Delaware State Planning Commission (Dec. 21, 1971).....	3469
Letter from David Keifer, Director of Delaware State Planning Commission, to W. Laird Stabler, Attorney General of Delaware (Dec. 29, 1971).....	3473
Letter from David Keifer, Director of Delaware State Planning Commission, to Barry Huntsinger, El Paso Eastern Company (Dec. 29, 1971).....	3475
Letter from W. Laird Stabler, Attorney General of Delaware, to David Keifer, Director of Delaware State Planning (Jan. 20, 1972).....	3477
Memo from David Keifer, Director of Delaware State Planning Commission, to Russell Peterson, Governor of Delaware (Feb. 16, 1972).....	3479

Letter from David Keifer, Director of Delaware State Planning Commission, to Richard Sullivan, Commissioner of NJDEP (Feb. 17, 1972).....3481

Letter from David Keifer, Director of Delaware State Planning Commission, to Barry Huntsinger, El Paso Eastern Company (Feb. 23, 1972) .....3483

Letter from Richard Sullivan, Commissioner, NJDEP, to David Keifer, Director of Delaware State Planning Commission (Mar. 2, 1972) .....3485

Letter from Barry Hunsaker, El Paso Eastern Company, to David Keifer, Director of Delaware State Planning Commission (Mar. 3, 1972) .....3487

Letter from David Keifer, Director of Delaware State Planning Commission, to Barry Hunsaker, El Paso Eastern Company (Mar. 17, 1972) .....3489

Report on Coastal Zone Act Administration, June 28, 1971 - June 30, 1977, DE State Coastal Zone Industrial Control Board (Nov. 1977) .....3491

**Keystone**

Letter from John A. Hughes, DNREC to George Franklin, Sun Refining and Marketing Co. (Undated).....3503

Letter from Edward H. Clark, DNREC, to Richard V. Ciliberti, Keystone Cogeneration Systems, Inc. (Nov. 19, 1990).....3505

DNREC Coastal Zone Status Decision, CZA Project No. 2375D (Nov. 19, 1990).....3507

Letter from Steven Whitney, NJDEP, to Anthony P. Pratt, DNREC (Mar. 14, 1991).....3511

Letter from James Johnson, NJDEP, to Richard Long, S. T. Hudson Engineers, Inc. (Aug. 1, 1991).....3513

NJDEP Memorandum from Robert Tudor to James Johnson (Aug. 28, 1991).....3515

NJDEP Summary Analysis of Keystone waterfront development permit application (Sept. 24, 1991).....3517

NJDEP permit to Keystone for waterfront development (Sept. 24, 1991) .....3549

DNREC Subaqueous Lands Lease and attached application form issued to Keystone Cogeneration Systems, Inc. (Sept. 30, 1991).....3557

Application Form of Keystone Cogeneration Systems, Inc. for Subaqueous Lands Permit (Sept. 30, 1991) .....3563

Letter from Tracy Skrabal, DNREC, to Keystone Cogeneration Systems (Oct. 7, 1991).....	3601
DNREC Industrial Water Allocation Permit issued to Keystone Cogeneration Systems, Inc. (No. 91-0012) (Oct. 17, 1991) .....	3603
DNREC Coastal Zone Permit issued to Keystone Cogeneration Systems, Inc. (Dec. 13, 1991) .....	3607
DNREC Supplemental Lease Approval granted to Keystone Energy Service Company, L.P. (Apr. 6, 1992).....	3609
DNREC Supplemental Lease Approval granted to Keystone Energy Service Company, L.P. (May 28, 1993).....	3611
Letter from Robert J. Taggert, DNREC, to R. V. Ciliberti, Keystone Energy Service Company (Sept. 2, 1994) .....	3613
DNREC Notice of Authorization issued to Keystone Energy Service Company, L.P. (Sept. 30, 1994) .....	3615
DNREC Supplemental Lease Approval granted to Keystone Energy Service Company, L.P. (Jan. 6, 1995).....	3617
Letter from James T. Chaconas and William F. Moyer, DNREC, to Janine Kelly, Logan Generating Company, L.P. (Mar. 15, 1995) .....	3619
Letter from William F. Moyer and Laura M. Herr, DNREC, to Logan Generating Company, L.P. (Keystone) (Nov. 12, 1997).....	3621
DNREC Subaqueous Lands Lease and attached application form issued to Logan Generating Company, L.P. (Nov. 9, 2001) .....	3623
Letter from Sarah W. Cooksey, DNREC, to Thomas W. Fromm, PG&E National Energy Group (Mar. 14, 2002) .....	3629
<b>Fort Mott</b>	
NJDEP Division of Parks and Forestry Land Use Regulation Program Application JDEP for Fort Mott Pier renovation (Sept. 19, 1995).....	3631
Map of proposed Fort Mott Pier renovation (Sept. 13, 1995) .....	3649
DNREC Subaqueous Lands Lease Application and Letter of Authorization Request to NJDEP for Fort Mott Pier Rehabilitation Project (Sept. 20, 1995) .....	3651
Letter from Faye L. Stocum, DNREC, to Frank J. Cianfrani, U.S. Army Corps of Engineers	

(Nov. 14, 1995) .....	3709
Letter from Sarah W. Cooksey, DNREC, to Lawrence R. Horan, S. T. Hudson Engineers, Inc. (Dec. 15, 1995) .....	3711
Letter from William F. Moyer, DNREC, to NJDEP, Dept. of Parks and Forestry (Jan. 4, 1996).....	3713
DNREC Subaqueous Lands Lease (SL-1110/95) issued to the State of New Jersey Department of Environmental Protection Division of Parks and Forestry (Feb. 7, 1996).....	3715
NJDEP Permit issued to NJDEP Div. of Parks and Forestry (Jan. 24, 1996) .....	3723
Letter from Mark R. Chura, DNREC, to Carl Nordstrom, NJDEP (Apr. 4, 1996) .....	3727
Letter from Carl Nordstrom, NJDEP Division of Parks and Forestry, to David Hazelton, Delaware River & Bay Authority (Mar. 6, 1997) .....	3729
New Jersey State Park Service Subaqueous Lands Lease Renewal Application (Aug. 16, 2006).....	3731
DNREC Memorandum from Wetlands and Subaqueous Lands Section to DNREC Distribution List (Dec. 13, 2006).....	3735
<b>Delmarva Power</b>	
Letter from William Moyer, DNREC, to Moira Donoghue, Delmarva Power & Light Co. (Apr. 6, 1987).....	3739
Joint application of Delmarva Power & Light Co. to DNREC for subaqueous lands, wetlands, and marina projects (May 17, 1997).....	3741
DNREC Subaqueous Lands Lease (SL-0109/97) issued to Delmarva Power & Light Co. (Dec. 9, 1997) .....	3755
Letter from Sarah W. Cooksey, DNREC, to Juan S. Crofton, Crofton Diving Corp. (Feb. 24, 1998) .....	3761
DNREC Supplemental Lease Approval granted to Conectiv Communications, Inc. (Mar. 11, 2002) .....	3763
<b>Salem River</b>	
Letter from William Moyer, DNREC, to Roy Denmark, U.S. Army Corps of Engineers (Apr. 12, 1991).....	3765



Letter from William Moyer and Tracy Skrabal, DNREC, to H. Ronald Kreh, U.S. Army Corps of Engineers (Apr. 7, 1992).....	3767
Letter from William Moyer to H. Ronald Kreh, U.S. Army Corps of Engineers (Apr. 27, 1992).....	3769
Letter from Robert Callegari, U.S. Army Corps of Engineers, to David Carter, DNREC (Mar. 10, 1994) .....	3771
Letter from William Moyer, DNREC, to U.S. Army Corp of Engineers (Dec. 15, 1994).....	3773
Letter from William Moyer and James Chaconas, DNREC, to U.S. Army Corps of Engineers (Dec. 15, 1994) .....	3775
Letter from Sarah Cooksey, DNREC, to U.S. Army Corps of Engineers (Jan. 10, 1995) .....	3777
<b>Marcus Hook</b>	
Letter from Sarah Cooksey, DNREC, to Thomas McVeigh, Roy F. Weston, Inc. (Mar. 7, 2001) .....	3779
Letter from Sarah Cooksey, DNREC, to Thomas McVeigh, Roy F. Weston, Inc. (Mar, 7, 2001) .....	3781
Letter from Sarah Cooksey, DNREC, to Sonny Rutkowski, Weston Solutions, Inc. (July 30, 2003) .....	3783

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and Energy  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control is intended to formalize a framework for coordinating the policies and activities of the New Jersey Coastal Management Program (program rules and decisionmaking process) and the Delaware Coastal Management Program in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline. This memorandum applies to those portions of the Delaware River and Delaware Bay which are transected by the common state boundary.

The New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.

## Points of Agreement

### Regulatory Consistency/Inconsistency

1. The New Jersey Department of Environmental Protection and Energy (DEPE) and the Delaware Department of Natural Resources and Environmental Control (DNREC) agree that the New Jersey and Delaware Coastal Management Programs are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

**(identify points of inconsistency and how will resolve)**

### Sharing of Development Applications

2. Within the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, both DEPE and DNREC shall administer their respective statutorily mandated permit and review functions. DEPE shall, within five working days of receipt of a completed application proposing waterfront development in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing development in the water area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DEPE

of the application for development by sending a copy of the application to DEPE for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations.

**(This doesn't really solve the problem - just leaves it the same. Inconsistent regs, applicants faced w/two sets of regs & two application processes, each State hassling w/ 1/2 a project, doesn't address secondary impacts which are out-of-state.)**

#### Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will consult with the other to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
  
4. Where inconsistencies are identified between those portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEPE and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and

comment procedures, designated representatives of the DEPE and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A report of each meeting shall be prepared for review by the appropriate administrators of DEPE and DNREC.

Sharing of Data

5. DEPE and DNREC recognize similarity in their data bases and needs, and agree to share data whenever possible.
6. The appropriate administrators of DEPE and DNREC may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.
7. This MOA shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

---

Acting Commissioner  
New Jersey Department of  
Environmental Protection and Energy

\_\_\_\_\_  
Date

\_\_\_\_\_  
**XXXXXXXXXXXXXXXXXX**  
Delaware Department of Natural  
Resources and Environmental Control

\_\_\_\_\_  
Date

Approved as to form only by:

\_\_\_\_\_  
Deputy Attorney General  
State of New Jersey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy Attorney General  
State of Delaware

\_\_\_\_\_  
Date



Draft 10/28/93

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and Energy  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control is intended to formalize a framework for coordinating the policies and activities of the New Jersey Coastal Management Program (program rules and decisionmaking process) and the Delaware Coastal Management Program in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline. This memorandum applies to those portions of the Delaware River and Delaware Bay which are transected by the common state boundary.

The New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.



Points of Agreement

Regulatory Consistency/Inconsistency

1. The New Jersey Department of Environmental Protection and Energy (DEPE) and the Delaware Department of Natural Resources and Environmental Control (DNREC) agree that the New Jersey and Delaware Coastal Management Programs are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

A comparison of New Jersey's and Delaware's Coastal Zone Management Program policies and water quality criteria is located in Attachment A. **(Perhaps this shouldn't be in an MOU because it refers to a point in time and the MOU is indefinite.)**

Agreed upon methods of resolving current and future inconsistencies between the above referenced policies and criteria include the following:

**(Work on the following list. Need to address inconsistent regs, applicants faced w/two sets of regs & two application processes, each State hassling w/ 1/2 a project, secondary impacts which are out-of-state.)**

- a. Sharing of development applications
- b. Sharing of rulemaking process.

- c. Sharing of data
- d. Joint review of applications
- e. Binding Federal Consistency Review  
(40 CFR 122.4: No permit may be issued when the imposition of conditions cannot ensure compliance with applicable water quality requirements of all affected states.  
40 CFR 123.24: No waiver of [EPA] review [of NPDES Permits] may be granted for discharges which may affect the waters of a state other than the one in which the discharge originates.)
- f. Sharing of other Coastal Zone Management activities  
(public access, water quality, wetlands mitigation)
- g.

Sharing of Development Applications

- 2. Within the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, both DEPE and DNREC shall administer their respective statutorily mandated permit and review functions. DEPE shall, within five working days of receipt of a completed application proposing waterfront development in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing development in the water

area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DEPE of the application for development by sending a copy of the application to DEPE for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations.

#### Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will consult with the other to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
  
4. Where inconsistencies are identified between those portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEPE and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEPE and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A

report of each meeting shall be prepared for review by the appropriate administrators of DEPE and DNREC.

Sharing of Data

5. DEPE and DNREC recognize similarity in their data bases and needs, and agree to share data whenever possible.
6. The appropriate administrators of DEPE and DNREC may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.
7. This MOA shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

\_\_\_\_\_  
Acting Commissioner  
New Jersey Department of  
Environmental Protection and Energy

\_\_\_\_\_  
Date

XXXXXXXXXXXXXXXXXX  
Delaware Department of Natural  
Resources and Environmental Control

\_\_\_\_\_  
Date

Approved as to form only by:

\_\_\_\_\_  
Deputy Attorney General  
State of New Jersey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy Attorney General  
State of Delaware

\_\_\_\_\_  
Date

D

Am





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY  
P.O. BOX 1401  
DOVER, DELAWARE 19903

OFFICE OF THE  
DIRECTOR

TELEPHONE: (302) 739 - 4411

May 9, 1994

Ms. Terri Fowler, Planner NJDEP  
Office of Land and Water Protection  
CN 423  
Trenton, NJ 08628

Re: MOA NJ/DE Permit Coordination

Dear Ms. Fowler:

As we discussed earlier on the phone, I have read the Draft MOA and have comments. Once these comments have been incorporated into another draft, I will circulate that draft to other members of DNREC for comments.

My comments are as follows:

1. Was this MOA meant to affect all activities along the state boundary or just the section of the Delaware River next to New Jersey's land? I think we should have the MOA affect activities along the entire state boundary. Although there may not be as many state decisions concerning activities in the Delaware River, they may be important and we may want/need to coordinate.
2. Whatever the answer is to the above, perhaps we should reference a legal description of this boundary.
3. Would you consider setting up the MOA in this fashion:
  - a. Keep the Purpose and Applicability section.
  - b. Include section that starts off with -- It is mutually agreed by the parties that:

*Delaware's good nature depends on you!*



Ms. Terri Fowler  
May 9, 1994  
Page 2

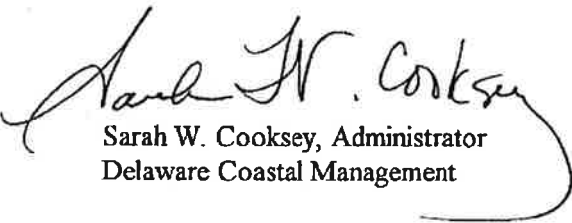
Followed by the specific things Delaware will do and the specific things New Jersey will do. This could include the comparison on water quality standards/criteria and CMP policies (this is work that needs to be done right)?

4. I think that we should list the permits we know we want to be involved with (i.e., NPDES). Then we can flag these somehow.
5. New Jersey is probably interested in reviewing the following types of Delaware permits/activities:
  - a. NPDES Permits
  - b. Delaware Coastal Zone Permits
  - c. Air Permits
  - d. Wetland Mitigation
  - e. Hazard Mitigation Plans
  - f. Solid Waste/Hazardous Waste Plans
  - g. DCMP Federal Consistency Reviews
6. Please put "Secretary" below the signature line, and above the Delaware Department of Natural ..... line.
7. I hate to say this, but do we have to have the AG's sign this? I am afraid it will never be signed if they have to sign it too.

Please make any changes you see fit, and send me another copy when you have finished. I will return it quickly back to you, and then send it out for others to review.

I apologize for the time it took me to respond. We finally finished our Threshold Review Document so now I can return to my normally busy schedule/workload.

Sincerely,

  
Sarah W. Cooksey, Administrator  
Delaware Coastal Management

Draft 11/5/93

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and Energy  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control establishes a framework for coordinating the policies and activities of each state's Coastal Management Program in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline. This memorandum applies to all portions of the Delaware River shared by New Jersey and Delaware. **(Need to decide on specific area and be consistent)**

The New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.

Points of Agreement

Regulatory Consistency/Inconsistency

1. The New Jersey Department of Environmental Protection and Energy (DEPE) and the Delaware Department of Natural Resources and Environmental Control (DNREC) agree that the New Jersey and Delaware Coastal Management Programs are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

A comparison of New Jersey's and Delaware's Coastal Zone Management Program policies and water quality criteria is contained in Attachment A.

Agreed upon methods of resolving current and future inconsistencies <sup>with SWQS & CMPS</sup> ~~between the above referenced policies and criteria include the following:~~

- Del & NJ agree to share applications under the following program activities:*
- a. Sharing of permit applications for regulated activities

Applicable New Jersey Laws and Programs

NJDEPE:

Waterfront Development Law Permit

Coastal Area Facility Review Act Permit

Wetlands Act Permit

Tidelands Management ~~Conveyance Application~~

Green Acres Funding ✓

~~Shore Protection~~

~~(Energy?)~~

Coastal Program Funding

NJPDES Permits

~~Areawide Water Quality Management Plans~~

Wastewater Treatment Facilities: Regulation & Funding

Stream Encroachment and Flood Hazards

~~Wild and Scenic Rivers~~

~~Regulation of State Owned Lands~~

Air Quality Regulation *permits*

~~Solid Waste~~

~~b. Sharing of proposed rules~~

~~c. Sharing of data~~

~~d. Sharing of other Coastal Zone Management activities~~

~~(public access, water quality, wetlands mitigation)~~

~~DNREC~~

Sharing of Development Applications

2. Within the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, both DEPE and DNREC shall administer their respective statutorily mandated permit and review functions. DEPE shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the mainstem of the Delaware River in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the mainstem of the Delaware River in the water area at which the common state

boundary is defined by the mean low water line of the New Jersey shoreline, notify DEPE of the application for development by sending a copy of the application to DEPE for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations.

#### Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will share the proposed amendment(s) with the other agency to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
  
4. Where inconsistencies are identified between those portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEPE and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEPE and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review

coordination and specific policies and their interpretation. A report of each meeting shall be prepared for review by the appropriate administrators of DEPE and DNREC.

Sharing of Data

5. DEPE and DNREC recognize similarity in their data bases and needs, and agree to share data whenever possible.

Sharing of Other Coastal Zone Management Activities

- 6.
- 6 8. The appropriate administrators of DEPE and DNREC may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.
- 7 8. This MOA shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

---

Acting Commissioner  
New Jersey Department of  
Environmental Protection and Energy

---

Date

XXXXXXXXXXXXXXXXXX

Delaware Department of Natural  
Resources and Environmental Control

Date

Approved as to form only by:

Deputy Attorney General  
State of New Jersey

Date

Deputy Attorney General  
State of Delaware

Date

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and Energy  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control establishes a framework for coordinating the policies and activities of each state's Coastal Management Program <sup>along the states' common</sup> in the area at <sup>to boundary</sup> which the common state boundary is defined by the mean low water line of the New Jersey shoreline. This memorandum applies to all portions of the Delaware River shared by New Jersey and Delaware. **(Need to decide on specific area and be consistent)** *cite S.C. case*

The New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.

Points of Agreement

Regulatory Consistency/Inconsistency



1. The New Jersey Department of Environmental Protection and Energy (DEPE) and the Delaware Department of Natural Resources and Environmental Control (DNREC) agree that the New Jersey and Delaware Coastal Management Programs are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

A comparison of New Jersey's and Delaware's Coastal Zone Management Program policies and water quality criteria

~~contained in Attachment A.~~ *Will be*  
*NJ + Del agree to mutually compare their CZM policies + wqc on a biannual basis.*

Agreed upon methods of resolving current and future inconsistencies between the above referenced policies and criteria include the following:

- a. Sharing of permit applications for regulated activities

Applicable New Jersey Laws and Programs

Waterfront Development Law

Coastal Area Facility Review Act

Wetlands Act

Tidelands Management *Conveyance*

Green Acres Funding

~~Shore Protection~~

~~(Energy?)~~

~~Coastal Program Funding~~

NJPDES Permits

~~Areawide Water Quality Management Plans~~

~~Wastewater Treatment Facilities, <sup>TWA</sup> Regulation & Funding~~

~~Stream Encroachment and Flood Hazards~~

~~Wild and Scenic Rivers~~

~~Regulation of State Owned Lands~~

~~Air Quality Regulation~~ *Permits*

~~Solid Waste~~

- b. ~~Sharing of proposed rules~~
- c. ~~Sharing of data~~
- d. ~~Sharing of other Coastal Zone Management activities  
(public access, water quality, wetlands mitigation)~~

Sharing of Development Applications

2. Within the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, both DEPE and DNREC shall administer their respective statutorily mandated permit and review functions. DEPE shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the mainstem of the Delaware River in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the mainstem of the Delaware River in the water area at which the common state

boundary is defined by the mean low water line of the New Jersey shoreline, notify DEPE of the application for development by sending a copy of the application to DEPE for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations.

#### Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will share the proposed amendment(s) with the other agency to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
  
4. Where inconsistencies are identified between those portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEPE and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEPE and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review

coordination and specific policies and their interpretation. A report of each meeting shall be prepared for review by the appropriate administrators of DEPE and DNREC.

Sharing of Data

5. DEPE and DNREC recognize similarity in their data bases and needs, and agree to share data whenever possible.

Sharing of Other Coastal Zone Management Activities

6. Coastal Nonpoint Pollution Program authorized under C - Z - A - R - A -

6. The appropriate administrators of DEPE and DNREC may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.
7. This MOA shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

---

Acting Commissioner  
New Jersey Department of  
Environmental Protection and Energy

---

Date

~~XXXXXXXXXXXXXXXXXXXX~~ Secretary  
Delaware Department of Natural  
Resources and Environmental Control

Date

Approved as to form only by:

Deputy Attorney General  
State of New Jersey

Date

Deputy Attorney General  
State of Delaware

Date



State of New Jersey  
Department of Environmental Protection and Energy

Robert C. Shinn, Jr.  
Commissioner

MEMORANDUM

TO: Distribution  
FROM: Steven Whitney, Manager *Steven*  
DATE: July 7, 1994  
RE: New Jersey/Delaware Memorandum of Agreement

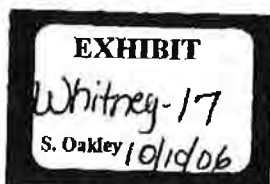
Attached please find a draft Memorandum of Agreement (MOA) between the New Jersey Department of Environmental Protection (NJDEP) and Delaware Department of Natural Resources and Environmental Control (DNREC). The purpose of this MOA is to establish a framework within which NJDEP and DNREC share relevant information regarding certain regulatory programs and actions along the states' common boundary. This boundary is somewhat unusual; a large stretch of it is demarcated by the mean low water line on the New Jersey side. As a result, activities within one state can have a significant impact on the other and an MOA is necessitated.

A few representatives of NJDEP and DNREC have reviewed previous drafts. I would appreciate it if you would now provide us with your comments and suggestions. I would like to come to agreement and formalize the content of the MOA by August 15, 1994.

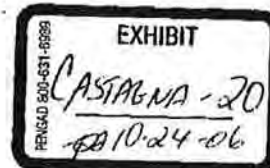
Thank you for your attention to this matter.

Distribution:

Sarah Cooksey, DNREC  
Robert Tudor, USEPA  
John Weingart, NJDEP  
Martin Bierbaum, NJDEP  
Ernest Hahn, NJDEP  
Ruth Ehinger, NJDEP  
Theresa Fowler, NJDEP  
Dennis Hart, NJDEP  
Bill O'Sullivan, NJDEP  
Tom Wells, NJDEP  
JoAnne Cubberly, NJDEP



New Jersey is an Equal Opportunity Employer  
Recycled Paper



DE27930

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection (DEP) and the Delaware Department of Natural Resources and Environmental Control (DNREC) establishes a framework for coordinating the policies and activities of each state's Coastal Management Program in the area of the Delaware River and Delaware Bay transected by the common state boundary [as defined in State of New Jersey v State of Delaware 295 US 694(1934)].

DEP and DNREC agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.

Points of Agreement

It is mutually agreed by the above parties that:

Regulatory Consistency/Inconsistency

1. The New Jersey and Delaware Coastal Management Programs

are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

New Jersey and Delaware will mutually compare their coastal zone management policies and water quality standards on a biannual basis.

Sharing of Development Applications

2. DEP and DNREC shall administer their respective statutorily mandated permit and review functions. DEP shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the area of the Delaware River and Delaware Bay transected by the common state boundary, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the area of the Delaware River and Delaware Bay transected by the common state boundary, notify DEP of the application for development by sending a copy of the application to DEP for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations. DEP and DNREC will share applications under the following authorities:

New Jersey Department of Environmental Protection



Waterfront Development Permits  
Coastal Area Facility Review Act Permits  
Wetlands Permits  
Tidelands Conveyances  
Green Acres Funding  
NJPDES Permits  
Treatment Works Approvals  
Stream Encroachment Permits  
Air Quality Permits

Delaware Department of Natural Resources and Environmental  
Control

NPDES Permits  
Delaware Coastal Zone Permits  
Air Permits  
Wetland Mitigation  
DCMP Federal Consistency Reviews

Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will share the proposed amendment(s) with the other agency to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
  
4. Where inconsistencies are identified between those

portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEP and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEP and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A report of each meeting shall be prepared for review by the appropriate administrators of DEP and DNREC.

Sharing of Data

5. DEP and DNREC recognize similarity in their data bases and needs, and will share data whenever possible.

Sharing of Other Coastal Zone Management Activities

6. DEP and DNREC will share, when requested, information relevant to each state's Coastal Nonpoint Pollution Program authorized by the federal Coastal Zone Act Reauthorization Amendments.
7. The appropriate administrators of DEP and DNREC may

jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.

8. This Memorandum of Agreement shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

\_\_\_\_\_  
Commissioner  
New Jersey Department of  
Environmental Protection


\_\_\_\_\_  
Secretary  
Delaware Department of  
Natural Resources and  
Environmental Control

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## MEMORANDUM

**To:** Steven C. Whitney, Assistant Director  
Office of Regulatory Policy

**From:** Lawrence J. Baier, Principal Planner   
Office of Regulatory Policy

**Subject:** Delaware - New Jersey Coastal Zone Management Plans

**Date:** October 29, 1991

I have completed a review of the information forwarded by Mr. Anthony Pratt concerning Delaware's coastal zone management program. I have attached a synopsis of the Delaware program for your information.

In general, the Delaware program is consistent with New Jersey's coastal zone management program. I have not detected any major policies or regulations of the Delaware program that would be in direct conflict with New Jersey's CMP or vice versa. However, there are several minor policy differences which need to be resolved.

Some of these differences include: benthic resources, prop wash dredging, use of creosote timbers, sediment quality, dredging for private docks, and minimum frontage for private docks. I have prepared the attached program comparison to assist in identifying policy differences. Also, both states' coastal management programs reference surface water quality standards. Therefore, I have also prepared and attached a comparison of the two states' water quality standards. These documents should be reviewed by yourself and Mr. Pratt for accuracy and also information deficiencies. After review, these comparisons should form the basis for a discussion of potential solutions to the minor program differences.

Options to improve consistency between the states include: a memorandum of agreement between the states to effect a joint review of those projects which affect both states; rule refinement and refinement of water quality standards by the two states to make the programs consistent; and including the Delaware River and Bay as a Special Area, similar to the Pinelands, requiring that projects also demonstrate consistency with Delaware's coastal management program.

I have drafted the attached letter for your signature, addressed to Mr. Andrew T. Manus asking him to review the synopsis of Delaware's CMP, the Policy comparison, and the water quality standard comparison for accuracy. I have also attached a synopsis of New Jersey's CMP for his information.

Please do not hesitate to contact me if you have any questions in this regard, or any suggested changes to the attached documents.



**State of New Jersey**  
**Department of Environmental Protection and Energy**

Environmental Regulation  
Office of Regulatory Policy  
CN 401  
Trenton, NJ 08625-0401

Scott A. Weiner  
*Commissioner*

Martin A. Bierbaum  
*Director*

November 8, 1991

Mr. Anthony T. Manus, Deputy Director  
Dept. of Natural Resources and Environmental Control  
Division of Soil and Water Conservation  
89 Kings Highway, P.O. Box 1401  
Dover, Delaware 19903

Re: N.J. - Del. section 309 Program Consistency Grant

Dear Mr. Manus:

As you are aware, the State of New Jersey received a grant from NOAA, pursuant to section 309 of the federal Coastal Zone Management Act, to assess the compatibility of our respective states' coastal management programs as they affect the shared boundary of the states in the Delaware River and Bay. Once areas of inconsistency have been identified, we are to formulate a mechanism for interstate coordination and conflict resolution.

New Jersey has completed an initial assessment of the compatibility of our coastal programs, with the possible exception of Delaware's coastal act addressing industrial development. Our preliminary analysis of the two programs finds that they are generally consistent concerning major policy areas. However, there are some differences between the information requirements of each program and the specific regulations used to evaluate development proposals. For example, New Jersey routinely requires sediment quality testing prior to dredging, Delaware apparently does not. Delaware routinely requires an assessment of the benthic community prior to dredging, New Jersey does not. Both states' coastal programs reference the water quality standards in their regulations; therefore, a comparison of the two states' water quality standards has also been performed. Also I suspect that many of Delaware's policies may be subject to interpretation, as New Jersey's are.

Copies of the following draft documents are enclosed for your review and comment: a synopsis of Delaware's coastal management program, a synopsis of New Jersey's coastal management program, a comparison of the two states' coastal regulations, and a comparison of the two states' water quality standards. These documents, once finalized, should identify consistencies and inconsistencies between our programs, and form the basis for discussing potential mechanisms for coordinating program activities and resolving conflicts. These documents could also be valuable for presentation to the public at the required hearings.

I would like to meet with you later this month, or in early December, to discuss the differences in our programs and to begin to develop a procedure for their resolution. I will call you in a couple of weeks to arrange that meeting.

Please feel free to contact me, at (609) 984-0058 if you have any questions in this regard, or if you have revisions to the enclosed documents.

Thank you for your time and assistance.

Sincerely,

Steven C. Whitney, Assistant Director  
Office of Regulatory Policy

## **SYNOPSIS of DELAWARE'S COASTAL PROGRAM**

### Delaware Beach Preservation Act, ( Chapter 69, Title 7 )

This Act provides for the regulation of development along Delaware's beaches. Beaches are defined by the Act as all that area along the Atlantic Ocean and Delaware Bay shores within 1000 feet inshore and 2500 feet outshore of the mean high water line. The Act also provides for the regulation of an area 200 feet landward and 300 feet bayward of the mean high water line of Rehoboth, Indian River, Little Assawoman, and Assawoman Bays excluding their tributaries. The Act directs the Department of Natural Resources and Environmental Control, (DNREC) to promulgate a building line, seaward of which construction would be prohibited unless approved by DNREC. Other interesting aspects of this Act are : DNREC may remove any violations at the expense of the property owner, and the Act makes private beach owners liable for any expenses associated with mitigating shoreline erosion.

The Regulations Governing Beach Protection and the Use of Beaches redefine the landward boundary of a beach as extending 1000 feet from the mean high water line or to the first public street whichever is closer. The regulations require a permit for any construction seaward of the building line. Generally a permit to build seaward of the building line will be issued for any lot in existence on the date the law was enacted, ( 8/13/81 ) if no opportunity exists to move the structure landward of the building line. Parcels subdivided after 8/13/81 will not receive approval for construction seaward of the building line. The regulations also allow DNREC to require mitigation including beach nourishment, dune construction or dune maintenance as a condition of approval for construction seaward of the building line. DNREC also requires that construction landward of the building line but, within the beach area receive a letter of approval. The criteria for permit decisions include: comments received; the effect of the proposal on beach erosion, flooding, and the potential for damage to the property or adjacent properties; feasibility of alternative protection from storm damage; historical rate of shoreline change; design modifications that may reduce the impact of the structure on the part of the beach seaward of the building line; and any other information DNREC determines to be relevant.



### Submerged Lands Act, ( Chapter 72, Title 7 )

The Submerged Lands Act gives DNREC exclusive jurisdiction over all ungranted subaqueous lands , except that in the case of a proposed commercial use the Governor of the State of Delaware shares that authority. No appeal of the decision of a denial of permission to use these lands is possible under the Act. The Act also requires that private owners of granted subaqueous lands obtain a permit from DNREC before undertaking any activity which would contribute to the pollution of public waters, infringe on the rights of the public or other private owners, or make connection to public subaqueous lands. Subaqueous Lands are defined as all lands lying below mean high water together with the beds of non-tidal navigable rivers, lakes and streams.

The regulations implementing the Subaqueous Lands Act are broken into two sets: Marina Regulations and the Regulations Governing the Use of Subaqueous Lands. The Marina Regulations apply to any facility with 5 or more boat slips. The regulations include siting criteria which require that the permit applicant explore alternatives which utilize dry storage of boats. Wet slips for boat storage are considered to be non-water dependent uses under these regulations. The siting criteria also address issues such as shellfish resources, wetlands, submerged aquatic vegetation, critical habitats and benthic communities. The marina regulations also require an assessment of the water quality impacts of the proposal singularly and cumulatively. The primary parameters for water quality assessments are fecal coliform and dissolved oxygen. The regulations prohibit the construction of marinas if designated uses or numeric criteria in the State's surface water quality standards are contravened, if the marina would necessitate the closure of shellfish grounds not already closed or closed areas that may be opened in the future due to point and non-point pollution control, if construction would destroy more than 1 acre of wetlands, if the marina would shade SAV, if the marina is located in a critical habitat, or if the benthic community diversity and abundance is rated greater than a 3 on a scale of 0-8 ( Luchenbach, Diaz and Schaffner, Virginia , 1989 ). The Marina Regulations also contain planning and design requirements such as: prohibiting the use of creosoted timbers, requiring adequate dredged spoil disposal capacity for 30 years, basin depths, shore protection alternatives, waste water facilities including pumpout and restroom facilities, stormwater management, fuel storage and boat maintenance.

The Regulations Governing the Use of Subaqueous Lands apply to all activities over or upon subaqueous lands except marinas. These regulations prohibit structures constructed over water for non-water dependent uses, gazebos over water and dockminiums. The regulations exempt drainage ditches, reconstruction of currently serviceable structures, the anchoring of

not more than 2 boats by a waterfront property owner. These regulations also provide standards for dock construction for private use, dredging, and shore protection structures. The regulations prohibit dredging for a private boat docking facility and prohibit prop wash dredging. The regulations also require that a lot have at least 40 feet of frontage on subaqueous lands in order to qualify for a boat dock. The dredging regulations also prohibit any project which would contravene Delaware's water quality standards excluding whatever temporary and minimal turbidity is unavoidable using sound dredging practices. Applications for approval under these regulations are evaluated for two types of impacts; public use impacts and environmental impacts.

#### The Wetlands Act. ( Chapter 66, Title 7 )

Delaware's Wetlands Act is very similar to New Jersey's Wetlands Act of 1970. Wetlands are defined by the Act as all lands above the mean low water elevation including any bank, marsh, flat, etc. subject to tidal action up to an elevation of 2 feet above local mean high water which may grow or are capable of growing any of the hydrophytic plants listed in the Act. The Act also regulates nontidal wetland areas containing 400 or more contiguous acres excluding narrow stream valleys. Wetlands were delineated on maps and officially promulgated after public hearings. Only mosquito control, aids to navigation, duck blinds, foot bridges, hunting, fishing, trapping, hay harvesting and livestock grazing activities are exempt from regulation by the Act.

The Wetlands Regulations provide for type I permits for projects with minimal impacts, and type II permits for projects with more substantial impacts. Applications for permits are evaluated in terms of the project's effects on the following wetland values and functions: Tidal ebb and flow values, (nutrient cycling, food chain production, storm protection); Habitat values, (rare and endangered plants and animals, fur-bearers, migratory birds, finfish and shellfish); Aesthetic values; Impact of supporting facilities; Effects on neighboring land uses; Consistency with planning; Economic impacts; and Alternatives to the proposal.

#### The Coastal Zone Act. ( Chapter . Title )

Delaware's Coastal Zone Act describes the State's coastal zone as an area approximately two miles wide along the State's shoreline. The Act authorizes direct State control over land use in this area. However, the Act prohibits all new heavy industry within this area. Heavy industry is defined by the Act as a use characteristically involving more than 20 acres of land and employing smokestacks, tanks, distillation or reaction columns, chemical processing, or waste lagoons. These uses include oil refining, steel mills,

paper mills and chemical plants. Manufacturing facilities, such as garment factories and automobile assembly lines are not included in this definition. The Act also prohibits offshore bulk product transfer facilities except those which are ofr a single industrial or manufacturing facility. The Port of Wilmington is exempt from the Act.

## **SYNOPSIS of NEW JERSEY'S COASTAL PROGRAM**

### New Jersey Coastal Area Facility Review Act. ( N.J.S.A. 13:19-1 et seq. )

The Coastal Area Facility Review Act, ( CAFRA ), provides for the regulation of all major development proposals in the coastal area. The coastal area, as defined by CAFRA, extends from the confluence of Cheesequake Creek and the Raritan Bay along the Raritan and Sandy Hook Bay shores, down the state's Atlantic Ocean coast around Cape May and up the Delaware Bay shore to Pennsville. The seaward boundary of the coastal area extends to the state's territorial jurisdiction. The landward boundary generally includes the tidal portions of the streams and rivers in the geographic area previously described. The exact inland boundary is defined by identifiable public roads and railroads in section 4 of the Act. Regulated activities in the coastal area include all types of industrial facilities, public infrastructure, and new housing developments of 25 or more dwelling units. CAFRA requires that a permit be issued only for those facilities which demonstrate: compliance with all air and water quality standards; provides for the disposal of refuse in a manner which minimizes adverse impacts; results in minimal impairment to aquifer recharge and ground and surface water supplies; causes minimal interference with natural plant, animal, fish and human life processes; does not endanger human life or property; and results in the minimum practical degradation of scenic, aesthetic, historic or natural attributes.

Two sets of regulations govern all coastal permit programs: the Coastal Permit Program Rules, ( NJAC 7:7-1 et seq. ), and the Rules on Coastal Zone Management, ( NJAC 7:7E- 1 et seq. ). The Coastal Permit Program Rules provide clarification of the regulatory jurisdiction exercised under the three acts that make up New Jersey's coastal management program. For example, these rules clarify that any facility providing 300 or more parking spaces or paving an area of 3 acres or more is regulated under CAFRA. These rules also specify time frames and procedures for application review and the appeal of decisions

The Rules on Coastal Zone Management are the policies used to evaluate applications under any of the three acts. A project's consistency or inconsistency with these policies forms the basis for the decision to approve or deny an application. These policies address Special Areas such as Wetlands, Submerge Aquatic Vegetation, Shellfish, Dunes, Beaches and Farmland; General Water Areas such as Rivers, Lakes, Streams, Open Bays and Back Bays, and allowable uses such as dredging, and docks; General Land Areas which ascribe

an acceptable intensity of development to a site based upon available infrastructure, natural resources, and surrounding land uses; Use Policies which assess the suitability of a site for a particular use such as Housing, Resort/Recreation, Commercial and Industrial Uses; and lastly Resource Policies which specify project design standards necessary to minimize any impacts on adjacent sites and natural resources such as Stormwater Management, Buffers, Vegetation and Public Access.

Waterfront and Harbor Facilities Act. ( R.S. 12:5-1 et seq. )

The Waterfront and Harbor Facilities Act was enacted in 1914 is also referred to as the Waterfront Development Statutes. The act requires all plans for the development of any water-front of any navigable water or stream involving the construction or modification of a dock, pier , wharf, bulkhead, bridge, cable or other similar or dissimilar development be submitted to the Department of Environmental Protection for approval prior to construction. This act is found in the navigation statutes, but has been subject to interpretation, which has broadened the scope of review to include environmental considerations for projects regulated under the act. Conveyances of tidelands and submerged lands are authorized under a separate statute at R.S. 12:3-1 et seq.

Currently, the geographic jurisdiction exercised under the Waterfront Development statutes differs in the coastal area defined by CAFRA and in the balance of the state's tidal waterways. In the coastal area, a Waterfront Development Permit is only required for those activities proposed outshore of the mean high water line. Along tidal waters not in the coastal area, the NJ DEPE regulates an adjacent upland area that extends between 100 and 500 feet inland from the mean high water line in addition to the area outshore of the mean high water line. All construction and grading within this area is regulated, unlike the 25 unit jurisdictional threshold that exists under CAFRA. All Waterfront Development applications are evaluated in terms of the Rules on Coastal Zone Management described above.

Wetlands Act of 1970. ( N.J.S.A. 13:9A- 1 et seq. )

Wetlands are defined by the Act as any bank, marsh, swamp, flat etc. subject to tidal action, along the Delaware River and Bay, the Atlantic coast and the Sandy Hook and Raritan Bays up to an elevation of 1 foot above local extreme high water and which is capable of growing hydrophytic vegetation. Regulated wetlands were required to be delineated on officially promulgated maps. Only the continuance of commercial salt and hay or other agricultural production and mosquito control activities are exempt from regulation by the

Act. In 1987 the Freshwater Wetlands Protection Act was enacted in New Jersey, ( see N.J.S.A. 13:9B-1 et seq. ).

The Coastal Permit Program Rules provide for type A permits for projects which have a minor impact on wetlands. Projects qualifying for these expedited permits include: new agriculture, an individual mooring slip, maintenance of public infrastructure, and the construction of docks and footbridges. Type B permits are required for projects with more extensive wetland impacts. Only projects which are water dependent or water oriented, which have no feasible or prudent alternative on a non-wetland site, and result in the minimum feasible alteration to the natural circulation and vegetation are permissible under the Rules on Coastal Zone Management.

**Delaware - New Jersey CZMP  
Policy Comparison**

<b>POLICY</b>	<b>DELAWARE</b>	<b>NEW JERSEY</b>
<b>MARINAS</b>	wet slips not considered to be water dependent - must evaluate upland alts.	wet slips are water dependent
	water quality assessment required including flushing rates, dissolved oxygen, & fecal coliform. Violation of WQ standards prohibited	water quality assessments are not required for marinas but development violating WQ standards is prohibited
	benthic resources must be sampled - marinas cannot be constructed on site with high diversity / abundance of benthos	no benthic sampling required
	pumpout facilities required at all marinas that dock type III MSD vessel.	pumpout required at all marinas with 25 or more slips.
	adequate restrooms must be provided - peak wait of not less than 5 minutes	restroom facilities required no standards promulgated
	has specific sections dealing with boat maintenance areas, fueling facilities, and parking (.5 spaces per slip)	general references to adequate upland areas for parking, boat storage and maintenance
	required operation and maintenance plan and spill contingency plan	no required operation and maintenance or spill contingency plan

DREDGING

marina basin depth shall not exceed adjacent channel

marina basin depth shall not exceed adjacent channel

dredge area shall be limited to the minimum needed

dredge area shall be limited to the minimum needed

Delaware surface water quality standards must not be exceeded, excluding minimal unavoidable turbidity

NJ surface water quality standards must not be exceeded without exception

prop wash dredging prohibited

prop wash dredging discouraged but allowed where no alternative is feasible

may seasonally restrict to protect aquatic life

may seasonally restrict to protect aquatic life

not permitted in areas requiring frequent ( 4 yrs ) maintenance dredging

maintenance frequency is not considered

dredge disposal site must have capacity for 30 year project life

disposal site evaluated for capacity for current dredging project only

no requirement for sediment quality testing

may require sediment quality testing

dredging for a private residential boat docking facility is prohibited - extend dock to reach deeper water

private residential slip dredging is not prohibited dock extension must be considered as an alternative

dredging dead end lagoons 3L:1W is prohibited

dredging new dead end lagoons discouraged



SHORE  
PROTECTION

structural shore protection  
not allowed where erosion  
is minimal or wetlands  
exist

structural shore protection  
only allowed to protect  
water dependent uses or  
threatened structures

nonstructural measures  
preferred over structural  
measures

nonstructural measures  
preferred over structural  
measures

sloped rip-rap revetments  
preferred over vertical  
structures

sloped rip-rap revetments  
preferred over vertical  
structures

shore protection structures  
must not adversely affect  
down drift areas

shore protection structures  
must not adversely affect  
down drift areas

no criteria for replacement  
of structures

replacement bulkheads must  
be within 18 inches of the  
original structure

FILLING  
WATER AREAS

no specific policy, but  
must be designed to  
maintain or improve aquatic  
environment

only allowable for water  
dependent use with no alt.  
filled area must be  
mitigated

DOCKS &  
PIERS

only water dependent  
structures allowable -  
no restaurants, decks or  
appurtenances allowed

no explicit prohibition  
of structures, but they  
must meet size limits for  
docks and piers

no private docking  
facility allowed in a  
development with a  
community marina

no prohibition on private  
facilities, but must  
demonstrate need for the  
facility

underwater portions of  
structures cannot be  
creosoted

no prohibition of  
creosoted timbers

DOCKS &  
PIERS  
( cont. )

where adequate draft exists  
dock shall not extend more  
than 10% across waterway -  
in no case shall docks extend  
more than 20% of the width  
or more than 250 feet -  
generally docks may not  
extend beyond adjacent  
structures or further than  
necessary to attain depth  
for a boat suited to the  
waterway

docks shall not extend more  
than 20% across lagoons -  
docks shall not interfere  
with navigation

minimum of 40 feet frontage  
on subaqueous lands to  
qualify for dock - must  
also meet all zoning  
requirements

no minimum frontage  
requirement

no specific design criteria  
must minimize impacts -  
shading of SAV to be  
avoided, minimize shading  
of other vegetation

spacing between planks  
required 3/8" to 1" for 4"  
to 12" planks - maximum  
width of 8' unless  
commercial, 6' over wetland  
- width shall not exceed  
2X the height unless  
floating - must be at least  
4' high over wetlands

SHELLFISH

prohibit marinas where  
closure area (NSSP) would  
intersect open shellfish  
grounds or grounds that are  
reasonably expected to be  
opened in the future -  
shellfish grounds are  
submerged lands that are  
capable of sustaining  
shellfish.

any development that would  
contaminate or result in the  
condemnation of shellfish  
beds is prohibited -  
shellfish beds are tidelands  
that are productive for  
bivalve mollusks

SHELLFISH  
( cont. )

dredging is prohibited in  
shellfish beds

new dredging in shellfish  
beds is prohibited -  
maintenance dredging in  
shellfish beds is  
conditionally acceptable

SUBMERGED  
AQUATIC  
VEGETATION

destruction for a marina  
must be mitigated

destruction of SAV beds is  
prohibited - mitigation  
required for upland  
developments that increase  
erosion and turbidity

shading of SAV shall be  
avoided

no specific shading policy  
exists

WETLANDS

prohibits all activities  
unless water dependent and  
no alternative upland site  
exists

prohibits all activities  
unless water dependent and  
no alternative upland site  
exists - mitigation required  
at a ratio of 2:1

exempts mosquito control,  
agriculture, and fish and  
wildlife projects

exempts mosquito control  
and agriculture projects

two types of permits -  
type I for projects with  
less than 1 acre of wetland  
disturbance or maintenance  
of public infrastructure -  
type II permits for any  
project over 1 acre of  
wetlands or involving a  
structure

two types of permits -  
type A for minor impacts  
1 boat slip and maintenance  
of public infrastructure -  
type B for all other  
activities

marinas are allowable in  
low value wetlands if no  
alternatives exist,  
disturbance is less than  
1 acre, and 2:1 mitigation  
is offered

new marinas are prohibited  
in wetlands unless the  
disturbance is minimal  
and mitigation is required

CRITICAL  
HABITATS

marinas are prohibited in  
recognized critical habitats

development that adversely  
effects endangered or  
threatened species is  
prohibited - development  
that would adversely effect  
critical habitats is  
discouraged

STORMWATER  
MANAGEMENT

detain the first 1/2 inch  
of runoff and release over  
a 24 hour period

detain 1 and 1/4 inch 2 hour  
rainfall runoff and release  
over 36 hours

preferred method of runoff  
treatment is artificial  
wetlands - infiltration is  
acceptable if created  
wetland is not feasible

infiltration of the 1 inch  
storm is acceptable alt.  
to detention - infiltration  
is encouraged at  
appropriate sites

other methods of water  
quality treatment which  
remove 80% of suspended  
solids may be considered

INDUSTRIAL  
USES

new heavy industry is  
prohibited within 2 miles  
of the shoreline - heavy  
industry is defined as  
20 acres or more and  
involves smokestacks,  
tanks, chemicals, waste  
lagoons

all industry in the coastal  
area is regulated, but not  
necessarily prohibited

manufacturing plants are  
not considered heavy  
industry.

offshore bulk product  
transfer facilities are  
prohibited except in the  
Port of Wilmington and  
docks for a single  
industrial facility

all port facilities are  
regulated, but not  
necessarily prohibited.

**Comparison of Water Quality Standards  
New Jersey & Delaware**

**Designated Uses**

<u>Reach</u>	<u>Delaware</u>	<u>New Jersey</u>
Delaware River river mile 78.8-48.2	Industrial Water Supply	Industrial Water Supply After Reasonable Treatment
	Fish, Aquatic Life, and Wildlife	Wildlife Migration of Anadromous Fish Maintenance of Resident Fish and Other Aquatic Biota Propagation of Resident Fish from RM 70.0 to 48.2
	Primary Contact Recreation	Primary Contact Recreation from RM 59.5 to 48.2
	Secondary Contact Recreation	Secondary Contact Recreation
		Navigation
DELAWARE BAY river mile 48.2-0.0	Industrial Water Supply	Industrial Water Supply After Reasonable Treatment
	Fish, Aquatic Life and Wildlife	Wildlife Maintenance and Propagation of Resident Fish, Shellfish and Other Aquatic Biota Migration of Anadromous Fish
	Primary Contact Recreation	Primary Contact Recreation
	Secondary Contact Recreation	Secondary Contact Recreation

<u>Reach</u>	<u>Delaware</u>	<u>New Jersey</u>
Delaware Bay	Exceptional Recreational or Ecological Significance  Harvestable Shellfish Waters	Category One   Navigation

### Water Quality Criteria

<u>Parameter</u>	<u>Delaware</u>	<u>New Jersey</u>
Enterococcus	10/100ml	none
Fecal coliform	see use designation	14/100ml - shellfish 200/100ml - all other
Dissolved oxygen	daily mean 6 mg/l minimum 5 mg/l RM 59.5 - 0.0	daily mean 6 mg/l minimum 5 mg/l RM 48.2 - 0.0  daily mean 3.5 mg/l RM 78.0 - 70.0 daily mean 4.5 mg/l RM 70.0 - 59.5 daily mean 6.0 mg/l RM 59.5 - 48.2 between 4/1 - 6/15 and 9/16 - 12/31 seasonal mean 6.5 mg/l
Temperature	max increase 4°F between 10/1 - 5/31 max daily mean 84°F max daily temp 86°F	max increase 4°F between 9/1 - 5/31 max increase 1.5°F between 6/1 - 8/31 max temp 86°F RM 78.8 - 48.2 max temp 85°F RM 48.2 - 0.0

<u>Parameter</u>	<u>Delaware</u>	<u>New Jersey</u>
Detergents		max 30 day avg 1 mg/l
pH		between 6.5 - 8.5
Phenols		max .01 mg/l
Radioactivity		Alpha max 3 pc/l Beta max 1000 pc/l
Total Solids Dissolved		not to exceed 133% of background
Threshold Odor Number		24 at 60°F
Turbidity		30 day avg 40 NTU max 150 NTU at any time

**CRITERIA for TOXICS ( a = acute; c = chronic) mg/l**

<u>Substance</u>	<u>Delaware</u>	<u>New Jersey</u>
General	Waters shall not be acutely or chronically toxic to aquatic life except in mixing zones	Toxics shall not exceed values in the US Public Health Service Drinking Water Standards
Arsenic	.069 a; .036 c	.05
Barium		1
Cadmium	.043 a; .0093 c	.01
Chlordane	.00009 a; .000004 c	
Chromium	1.1 a; .05 c	.05
Copper	.0029 a	
Cyanide	.001 a	

<b>Substance</b>	<b>Delaware</b>	<b>New Jersey</b>
Lead	.140 a; .0056 c	.05
Malathion	.0001 c	
Mercury	.0021 a; .000025 c	.005
Nickel	.075 a; .0083 c	
Selenium	.300 a; .071 c	.01
Silver	.0023 a	.05

( note: additional toxic substance criteria are found in the Delaware Surface Water Quality Standards. Those standards also provide human health criteria for fish and shellfish consumption. The New Jersey criteria listed here are from the Delaware River Basin Commission Basin Regulations - Water Quality. New Jersey is currently working toward proposed criteria for additional substances anticipated to be released for comment in December 1991. For those substances which no criteria have been adopted, New Jersey may use the best available scientific information in establishing effluent limitations)





MEMORANDUM

TO: Management Team  
 FROM: Rick Sinding  
 RE: Meeting with Delaware Officials  
 DATE: November 1, 1991

In preparation for the meeting with environmental officials from the State of Delaware on Friday, November 15, here is a list of agenda items submitted by Delaware. I have indicated in parentheses the Management Team/staff member responsible for the preparation of briefing materials on each item.

- Ramsar designation for Delaware Bay [John Keith/Mary Gastrich]
- Delaware Estuary Program [John Keith/Mary Gastrich]
- Weakfish & other fisheries management in Delaware Bay [Jim Hall/Bob McDowell]
- Cooperative enforcement in Delaware Bay [Jim Hall/Bob McDowell; Ed Neafsey/Jim Hamilton]
- Joint proposals for use of Delaware River and Bay Authority funds [Jim White/Ron Tuminski; John Keith/Mary Gastrich]
- Impingement and entrainment policies [John Weingart/Dennis Hart]
- Oil spill contingency/response activities [John Keith; Lance Miller]
- Delaware permitting of facilities on New Jersey Shore [John Weingart/Steve Whitney]
- PCB's in Delaware Bay fish [Jim Hall/Bob McDowell; John Keith/Bob Tucker]
- Waste transportation issues [John Keith/Steve Gabel; John Weingart/Frank Coolick]
- 45-foot channel [John Weingart/Steve Whitney; John Keith/Bob Tucker]
- Joint Coastal Zone Consistency Reviews [John Weingart/Steve Whitney]

If there are additional topics that you feel should be discussed at this meeting that do not appear on this list, please let me know as soon as possible. All briefing documents must be in my hands by Tuesday, November 12. There will be a pre-meeting briefing for the Commissioner on November 14.

## Delaware Estuary Toxics Management Program

### Objective

To develop policies and procedures to control the discharge of substances toxic to humans and aquatic biota from point sources discharging to the tidal portions of the Delaware River from the tide at Trenton, NJ to Liston Point, DE.

### Historical Background

The Estuary Toxics Management Subcommittee was established in 1989 to jointly review water quality criteria for toxic pollutants for the Estuary, and develop the policies and procedures including a water quality model for implementation of the recommended criteria. It was agreed that all three states each would need to contribute its fair share based on a formula to the program.

### Major Issues

A subcommittee report entitled "Recommended Water Quality Criteria for Toxic Pollutants for The Delaware River Estuary" has been completed for review. Development of water quality models for implementation are being undertaken by NJDEPE. Request for additional funding from the states for the third and fourth year budget will be forthcoming. NJ intends to supplement in-kind services (modeling) as part of its share.

### New Jersey's Position

Due to the administrative delays, cash contribution from NJ for the first and second years is still in process. Schedule of NJDEPE's in-kind services contribution has been affected by the delay of the monitoring program to be conducted in the summer time. An internal meeting (NJDEPE) to examine concerns regarding NJ's funding to the program has been scheduled for Nov. 18, 1991

### Next Steps

- (1) The recommended criteria resulting from the two-year work need to be reviewed by the Water Quality Advisory Committee.
- (2) Monitoring program for the summer time needs to be conducted in 1992.
- (3) Issues related to funding from three states to the program need to be resolved soon.
- (4) Criteria, policies and procedures, permit requirements and toxic models needs to be established in a coordinated manner through the subcommittee.

## IMPINGEMENT AND ENTRAINMENT

Impingement is the dashing (or trapping) of aquatic organisms upon barriers (e.g., trash racks and/or screens associated with cooling water intakes).

Entrainment is the transport of aquatic organisms through an intake or cooling water system.

Subsection 316(b) of the Federal Clean Water Act provides:

(b) Any standard established pursuant to section 301 or section 306 of this Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

### Federal Regulations Under Section 316(b)

EPA promulgated Section 316(b) regulations at 40 CFR 402.10 to 402.12. These regulations provided that, in determining the best technology available for a given permitted intake, the "information in the Development Document shall be considered." In November 1977 the cooling water intake regulations were remanded to EPA (Appalachian Power Co. v. Train, 566 F. 2d 451 [4th Cir., 1977])[10 ERC 1965]). The Court, in this case, found that the Development Document was not published in the Federal Register, and nor was the "information" in it; and that the 316(b) regulations, therefore, violated the Federal Administrative Procedure Act, 5 U.S.C. 552.

Because EPA has not acted to re-promulgate such regulations, technology based limitations implementing 316(b) are supposed to be established on a case by case basis when NJPDES permits are issued for discharges from facilities with cooling water intakes.

### New Jersey Section 316(b) Experience

NJDEP staff working on Section 316 consists of a single full-time permanent professional.

Section 316 Demonstrations have been submitted for approximately a dozen facilities. These Demonstrations are both complex and lengthy.

New Jersey efforts in regard to thermal discharges have been centered around the review of the Section 316 Demonstrations for the Salem Nuclear Generating Station, the Oyster Creek Nuclear Generating Station, and 3 fossil fueled stations on the Hackensack. The Department of the Treasury was requested to extend our Term Contract with Versar, Inc., Thus far, contract review costs have been billed to utilities pursuant to a Stipulation of Dismissal, which provides that applicants for 316 variances will be assessed

individually and will not be included in NJPDES thermal fee schedules.)

Facilities on the Delaware

The Salem Nuclear Generating Station (operated by Public Service Electric and Gas Company) withdraws an average of more than 2 Billion Gallons per Day from the Delaware Estuary, heats this water by 27.5 degrees F, and discharges the heated effluent to the Delaware. The Draft NJPDES Permit for this facility, issued last year, addressed the issue of impingement and entrainment at Salem. The Draft Permit contained limitations achievable with a recirculating cooling tower. The Draft Permit was based on staff recommendations that large losses of aquatic organisms (i.e., fish) from this facility were not consistent with the statutory intent of protecting balanced, indigenous populations and the recirculating cooling towers clearly constituted an available technology which would significantly reduce adverse effects upon the beneficial uses (fishing) of the receiving waters.

The cumulative impacts of impingement and entrainment from other sources (including fossil fueled generating stations located inside and outside the State of New Jersey) have not been assessed. We would recommend that the Delaware River Basin Commission or the Federal Government have a lead role in assessing such impacts and in coordinating the efforts of all Basin States in controlling such impacts.

## Hazardous Waste Transportation Issues

Delaware and NJ are in the 12 state Northeast region for capacity assurance planning, which supposedly was to be the vehicle to eliminate waste transportation issues. Since the existing CAP process is flawed, and since one of the core issues is equity, not capacity, the process has not produced the desired result.

We believe the existing law requiring the CAP processes should not be enforced. We are supportive of differential fees (as long as they are not so great as to equal a ban) as the mechanism for dealing with the equity issue.

The northeast is continuing to plod ahead with the CAP and we presently are settling on a position that has the region focusing on waste minimization, looking at what an open siting and/or permitting process should entail, but not taking significant steps to proactively site new facilities.

**PROGRAM NARRATIVE  
STATE OF DELAWARE AND STATE OF NEW JERSEY  
SECTION 309 FEDERAL GRANT**

**INTRODUCTION:**

The State of Delaware and the State of New Jersey share over 75 miles of Delaware River and Delaware Bay. About 25 miles of this common boundary from the northern boundary of Delaware where it intersects the Delaware River down river to Alloway Creek near Artificial Island, New Jersey is the New Jersey shoreline at mean low water mark (see map 1).

The New Jersey shore is lined with various land uses including industrial, residential and recreational development that may, due to the proximate boundary, have a direct and significant affect on the State of Delaware's coastal zone (i.e. I.E. Dupont operates a large chemical facility that is served by waterborne vessels and discharges waste in the adjacent waters). Conversely, the State of Delaware's coastal management program may directly and significantly affect activities within New Jersey that are inconsistent with New Jersey's coastal management program.

The State of New Jersey and State of Delaware received a federal grant in the amount of \$10,000 to review the the two state coastal management programs to determine whether the programs are compatable in managing overlapping coastal uses and coastal resources.

**TASK DESCRIPTION:**

It is in the best interests of each state that the agencies responsible for the coastal management programs set up a series of inhouse workshops to:

1. Assess the compatabilities of the two programs and identify areas of compatability and incompatibility of the two programs. (NEW JERSEY TASK)
2. Convene State interagency workshops to review plans.  
State of Delaware:  
Department of Natural Resources and Environmental

## Delaware Estuary Combined Sewer Overflow Management

### Objective

The major objective is to develop a comprehensive CSO Assessment and Control Strategy for the entire Delaware Estuary.

### Historical Background

Combined Sewer Overflows (CSOs) discharging from major cities in the Delaware Estuary watershed (Pennsylvania: 201, NJ: 36, and Delaware: 30 points) are considered significant sources of bacteria and other pollutants during both wet-weather and dry-weather periods. Recently, DRBC has been granted \$525,000 from EPA III for developing an effective control strategy to abate the CSOs impact.

### Major Issues

The pollution caused by CSO discharges in Delaware Estuary has been a concern for the public health threat via primary contact recreation. In order to achieve stated objectives a comprehensive CSO program will be developed for the Estuary complex.

### New Jersey's Position

The Delaware Estuary Combined Sewer Overflow Management Subcommittee was formed as part of the DRBC Water Quality Advisory Committee. Through this subcommittee, all three estuary states will be working together with EPA and DRBC to ensure program consistency. NJDEPE is being considered for possible lead role in water quality assessment and modeling.

### Next Steps

- (1) The decision as to whether NJDEPE or an outside consultant will be contracted to perform the technical work.
- (2) Determination of CSO impacts.
- (3) Development of control strategies.
- (4) Developing CSO permit conditions.







State of New Jersey  
Department of Environmental Protection and Energy

Robert C. Shinn, Jr.  
Commissioner

7/188  
w/s  
see comments.  
7/12  
see your  
THA  
w/s  
w/s  
w/s

2/23  
Steve Whitney  
What's the likely  
# of new plants per year?  
If large, can we  
set up criteria? What  
is covered by the?  
Bill O'Sullivan  
Distribution  
Steven Whitney, Manager Steven  
DATE: July 7, 1994  
RE: New Jersey/Delaware Memorandum of Agreement

Attached please find a draft Memorandum of the New Jersey Department of Environmental Protection and Department of Natural Resources and Environmental purpose of this MOA is to establish a framework with DNREC share relevant information regarding certain actions along the states' common boundary. This boundary is unusual; a large stretch of it is demarcated by the mountain ridge on the New Jersey side. As a result, activities within one state can have a significant impact on the other and an MOA is necessitated.

A few representatives of NJDEP and DNREC have reviewed the draft. I would appreciate it if you would now provide your suggestions. I would like to come to agreement and sign the MOA by August 15, 1994.

Thank you for your attention to this matter.

- Distribution:
- Sarah Cooksey, DNREC
  - Robert Tudor, USEPA
  - John Weingart, NJDEP
  - Martin Bierbaum, NJDEP
  - Ernest Hahn, NJDEP
  - Ruth Ehinger, NJDEP
  - Theresa Fowler, NJDEP
  - Dennis Hart, NJDEP
  - Bill O'Sullivan, NJDEP
  - Tom Wells, NJDEP
  - JoAnne Cubberly, NJDEP

Terry  
Bill has some  
good questions about  
boundary.  
Steve

copy of  
boundary map?  
also covered?  
or not a hill?

Draft 6/16/94

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection (DEP) and the Delaware Department of Natural Resources and Environmental Control (DNREC) establishes a framework for coordinating the policies and activities of each state's Coastal Management Program in the area of the Delaware River and Delaware Bay transected by the common state boundary [as defined in *State of New Jersey v State of Delaware* 295 US 694(1934)].

DEP and DNREC agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.

Points of Agreement

It is mutually agreed by the above parties that:

Regulatory Consistency/Inconsistency

1. The New Jersey and Delaware Coastal Management Programs

are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

New Jersey and Delaware will mutually compare their coastal zone management policies and water quality standards on a biannual basis. ~~sc~~

#### Sharing of Development Applications

2. DEP and DNREC shall administer their respective statutorily mandated permit and review functions. DEP shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the area of the Delaware River and Delaware Bay transected by the common state boundary, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within (five) working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the area of the Delaware River and Delaware Bay transected by the common state boundary, notify DEP of the application for development by sending a copy of the application to DEP for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations. DEP and DNREC will share applications under the following authorities:

New Jersey Department of Environmental Protection

Waterfront Development Permits  
 Coastal Area Facility Review Act Permits  
 Wetlands Permits  
 Tidelands Conveyances  
 Green Acres Funding  
 NJPDES Permits  
 Treatment Works Approvals  
 Stream Encroachment Permits

Air Quality Permits

Delaware Department of Natural Resources and Environmental

Control

NPDES Permits  
 Delaware Coastal Zone Permits  
 Air Permits  
 Wetland Mitigation  
 DCMP Federal Consistency Reviews

Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will share the proposed amendment(s) with the other agency to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
4. Where inconsistencies are identified between those

*Certain other criteria should be included so that we do not*

*omit every application in their jurisdiction! size of facility new/existing facility major road to facility*

*J.F.*

portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEP and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEP and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A report of each meeting shall be prepared for review by the appropriate administrators of DEP and DNREC.

#### Sharing of Data

5. DEP and DNREC recognize similarity in their data bases and needs, and will share data whenever possible.

#### Sharing of Other Coastal Zone Management Activities

6. DEP and DNREC will share, when requested, information relevant to each state's Coastal Nonpoint Pollution Program authorized by the federal Coastal Zone Act Reauthorization Amendments.
7. The appropriate administrators of DEP and DNREC may

jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.

8. This Memorandum of Agreement shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

\_\_\_\_\_  
Commissioner  
New Jersey Department of  
Environmental Protection

\_\_\_\_\_  
Secretary  
Delaware Department of  
Natural Resources and  
Environmental Control

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



State of New Jersey  
Department of Environmental Protection and Energy

Robert C. Shinn, Jr.  
Commissioner

MEMORANDUM

TO: Distribution

FROM: Steven Whitney, Manager *Steven*

DATE: July 7, 1994

RE: New Jersey/Delaware Memorandum of Agreement

Attached please find a draft Memorandum of Agreement (MOA) between the New Jersey Department of Environmental Protection (NJDEP) and Delaware Department of Natural Resources and Environmental Control (DNREC). The purpose of this MOA is to establish a framework within which NJDEP and DNREC share relevant information regarding certain regulatory programs and actions along the states' common boundary. This boundary is somewhat unusual; a large stretch of it is demarcated by the mean low water line on the New Jersey side. As a result, activities within one state can have a significant impact on the other and an MOA is necessitated.

A few representatives of NJDEP and DNREC have reviewed previous drafts. I would appreciate it if you would now provide us with your comments and suggestions. I would like to come to agreement and formalize the content of the MOA by August 15, 1994.

Thank you for your attention to this matter.

Distribution:

Sarah Cooksey, DNREC  
Robert Tudor, USEPA  
John Weingart, NJDEP  
Martin Bierbaum, NJDEP  
Ernest Hahn, NJDEP  
Ruth Ehinger, NJDEP  
Theresa Fowler, NJDEP  
Dennis Hart, NJDEP  
Bill O'Sullivan, NJDEP  
Tom Wells, NJDEP  
JoAnne Cubberly, NJDEP



Draft 6/16/94

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection (DEP) and the Delaware Department of Natural Resources and Environmental Control (DNREC) establishes a framework for coordinating the policies and activities of each state's Coastal Management Program in the area of the Delaware River and Delaware Bay transected by the common state boundary [as defined in *State of New Jersey v State of Delaware* 295 US 694(1934)].

DEP and DNREC agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.

Points of Agreement

It is mutually agreed by the above parties that:

Regulatory Consistency/Inconsistency

1. The New Jersey and Delaware Coastal Management Programs

are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

New Jersey and Delaware will mutually compare their coastal zone management policies and water quality standards on a biannual basis.

#### Sharing of Development Applications

2. DEP and DNREC shall administer their respective statutorily mandated permit and review functions. DEP shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the area of the Delaware River and Delaware Bay transected by the common state boundary, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing a regulated activity which would extend into or discharge into the area of the Delaware River and Delaware Bay transected by the common state boundary, notify DEP of the application for development by sending a copy of the application to DEP for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations. DEP and DNREC will share applications under the following authorities:

New Jersey Department of Environmental Protection

Waterfront Development Permits  
Coastal Area Facility Review Act Permits  
Wetlands Permits  
Tidelands Conveyances  
Green Acres Funding  
NJPDES Permits  
Treatment Works Approvals  
Stream Encroachment Permits  
Air Quality Permits

Delaware Department of Natural Resources and Environmental  
Control

NPDES Permits  
Delaware Coastal Zone Permits  
Air Permits  
Wetland Mitigation  
DCMP Federal Consistency Reviews

Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will share the proposed amendment(s) with the other agency to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
  
4. Where inconsistencies are identified between those

portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEP and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEP and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A report of each meeting shall be prepared for review by the appropriate administrators of DEP and DNREC.

#### Sharing of Data

5. DEP and DNREC recognize similarity in their data bases and needs, and will share data whenever possible.

#### Sharing of Other Coastal Zone Management Activities

6. DEP and DNREC will share, when requested, information relevant to each state's Coastal Nonpoint Pollution Program authorized by the federal Coastal Zone Act Reauthorization Amendments.
7. The appropriate administrators of DEP and DNREC may

jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.

8. This Memorandum of Agreement shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

---

Commissioner  
New Jersey Department of  
Environmental Protection

---

Secretary  
Delaware Department of  
Natural Resources and  
Environmental Control

---

Date

---

Date

Activities in the area which require Waterfront  
Dev't ~~area~~ Permit

shared boundary on Delaware River

Share permit applications - comment,  
not veto power

all activities which would extend into or  
discharge ~~flow~~ into mainstem of Delaware River

NJPDES  
Wetlands  
WDev't  
Fed Cons Review

} Include

list all of them from Coastal Mgmt  
Program

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and Energy  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control <sup>establishes</sup> is ~~intended~~ to formalize a framework for coordinating the policies and activities of <sup>each state's</sup> ~~the~~ New Jersey Coastal Management Program (program rules and decisionmaking process) and the Delaware Coastal Management Program in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline. This memorandum applies to <sup>the</sup> ~~these~~ portions of the Delaware River and Delaware Bay which are transected by the <sup>shared by NJ & Del.</sup> ~~common state boundary~~.

r pole  
the cm  
by  
vision  
possible  
the  
mit  
vision  
ex view  
2.1. WQ  
2.

The New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.

Points of Agreement

Regulatory Consistency/Inconsistency

1. The New Jersey Department of Environmental Protection and Energy (DEPE) and the Delaware Department of Natural Resources and Environmental Control (DNREC) agree that the New Jersey and Delaware Coastal Management Programs are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

A comparison of New Jersey's and Delaware's Coastal Zone Management Program policies and water quality criteria is contained located in Attachment A. (Perhaps this shouldn't be in an MOU because it refers to a point in time and the MOU is indefinite.)

Agreed upon methods of resolving current and future inconsistencies between the above referenced policies and criteria include the following:

(Work on the following list. Need to address inconsistent regs, applicants faced w/two sets of - regs & two application processes, each State hassling w/ 1/2 a project, secondary impacts which are out-of-state.)

*will agree to share and work towards consistency*

*will repair*

- a. Sharing of ~~development applications~~ *permit applications w/ required activities* - *list from Coastal Mgmt Program*
- b. Sharing of rulemaking process - *shared proposed rule*



- c. Sharing of data
- d. ~~Joint review of applications~~
- e. Binding Federal Consistency Review  
 (40 CFR 122.4: No permit may be issued when the imposition of conditions cannot ensure compliance with applicable water quality requirements of all affected states.  
 40 CFR 123.24: No waiver of [EPA] review [of NPDES Permits] may be granted for discharges which may affect the waters of a state other than the one in which the discharge originates.)
- f. Sharing of other Coastal Zone Management activities (public access, water quality, wetlands mitigation)
- g.

Sharing of Development Applications

- 2. Within the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, both DEPE and DNREC shall administer their respective statutorily mandated permit and review functions. DEPE shall, within five working days of receipt of a completed application proposing regulated activities <sup>(NPDES??)</sup> waterfront development in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing development in the water

*all or CZM*  
*it would end into or charge into the process of Delaware for more of process push ahead*

area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DEPE of the application for development by sending a copy of the application to DEPE for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations.

### Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will <sup>share proposed amendments</sup> consult with <sup>notify</sup> the other to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.

4. Where inconsistencies are identified between those portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEPE and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEPE and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A

report of each meeting shall be prepared for review by the appropriate administrators of DEPE and DNREC.

Sharing of Data

5. DEPE and DNREC recognize similarity in their data bases and needs, and agree to share data whenever possible.
6. The appropriate administrators of DEPE and DNREC may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.
7. This MOA shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

\_\_\_\_\_  
Acting Commissioner  
New Jersey Department of  
Environmental Protection and Energy

\_\_\_\_\_  
Date

XXXXXXXXXXXXXXXXXX

Delaware Department of Natural  
Resources and Environmental Control

\_\_\_\_\_  
Date

Approved as to form only by:

\_\_\_\_\_  
Deputy Attorney General  
State of New Jersey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy Attorney General  
State of Delaware

\_\_\_\_\_  
Date



Activities in the area which require Waterfront  
Dev't ~~the~~ Permit

shared boundary on Delaware River

Share permit applications - comment,  
not veto power

all activities which would extend into or  
discharge ~~from~~ into mainstem of Delaware River

NJPDES

Wetlands

WDev't

Fed Cons Review

} Include

list all of these from Coastal Mgmt  
Program

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and Energy  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control <sup>establishes</sup> ~~is intended to formalize~~ a framework for coordinating the policies and activities of <sup>each state's</sup> ~~the New Jersey Coastal Management Program (program rules and decisionmaking process) and the Delaware Coastal Management Program~~ in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline. This memorandum applies to <sup>the</sup> ~~these~~ portions of the Delaware River <sup>shared by NJ & Del.</sup> and Delaware Bay which ~~are transected by the common state boundary.~~

*for policy  
state  
policy  
decision  
comparable  
or  
state  
environment  
decision  
revisions  
not state  
etc. wq  
etc.*

The New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, limit, or bind their existing statutory powers in any way.

Points of Agreement

Regulatory Consistency/Inconsistency

1. The New Jersey Department of Environmental Protection and Energy (DEPE) and the Delaware Department of Natural Resources and Environmental Control (DNREC) agree that the New Jersey and Delaware Coastal Management Programs are generally consistent with respect to the area of the Delaware River and Delaware Bay transected by the common state boundary.

A comparison of New Jersey's and Delaware's Coastal Zone Management Program policies and water quality criteria is ~~contained~~ located in Attachment A. ~~(Perhaps this shouldn't be in an MOU because it refers to a point in time and the MOU is indefinite.)~~

Agreed upon methods of resolving current and future inconsistencies between the above referenced policies and criteria include the following:

(Work on the following list. Need to address inconsistent regs, applicants faced w/two sets of - regs & two application processes, each State hassling w/ 1/2 a project, secondary impacts which are out-of-state.)

*will agree to share and avoid and consistency*  
*will repair*

- a. Sharing of ~~development applications~~ *permit applications w/ requirements* - *list from Coastal Mgmt Program*
- b. Sharing of rulemaking process - *shared proposed rule*



- c. Sharing of data
- d. ~~Joint review of applications~~
- e. Binding Federal Consistency Review  
 (40 CFR 122.4: No permit may be issued when the imposition of conditions cannot ensure compliance with applicable water quality requirements of all affected states.  
 40 CFR 123.24: No waiver of [EPA] review [of NPDES Permits] may be granted for discharges which may affect the waters of a state other than the one in which the discharge originates.)
- f. Sharing of other Coastal Zone Management activities (public access, water quality, wetlands mitigation)
- g.

Sharing of Development Applications

- 2. Within the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, both DEPE and DNREC shall administer their respective statutorily mandated permit and review functions. DEPE shall, within five working days of receipt of a completed application proposing waterfront development in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing development in the water

*del or CZM*  
*high would send into or charge into DNREC and DEPE*  
*more of process must meet*

*regulated activities, NPDES??*

area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DEPE of the application for development by sending a copy of the application to DEPE for comment. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations.

#### Sharing of Rulemaking Process

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will consult with <sup>share proposed and</sup> ~~the~~ <sup>notify?</sup> the other to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
  
4. Where inconsistencies are identified between those portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined, DEPE and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEPE and DNREC staffs shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A

report of each meeting shall be prepared for review by the appropriate administrators of DEPE and DNREC.

Sharing of Data

5. DEPE and DNREC recognize similarity in their data bases and needs, and agree to share data whenever possible.
6. The appropriate administrators of DEPE and DNREC may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.
7. This MOA shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

\_\_\_\_\_  
Acting Commissioner  
New Jersey Department of  
Environmental Protection and Energy

\_\_\_\_\_  
Date

XXXXXXXXXXXXXXXXXX  
Delaware Department of Natural  
Resources and Environmental Control

\_\_\_\_\_  
Date

Approved as to form only by:

\_\_\_\_\_  
Deputy Attorney General  
State of New Jersey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy Attorney General  
State of Delaware

\_\_\_\_\_  
Date





State of New Jersey  
Department of Environmental Protection and Energy

Environmental Regulation  
Office of Land and Water Planning  
CN 423  
Trenton, NJ 08625-0423

Jeanne M. Fox  
Acting Commissioner

Martin A. Bierbaum  
Administrator

MEMORANDUM

TO: Steve Whitney, Manager  
FROM: Terry Fowler, CZIS1 *TF*  
DATE: August 3, 1993  
RE: DE/NJ Regulatory Comparison

Attached please find a very rough first draft of an MOA between NJ and Delaware. Basically, I mimicked portions of the Pinelands MOA which seemed applicable. However, because we are dealing with adjacent jurisdictions, rather than overlapping ones, as in the Pinelands, it leaves a number of issues unresolved. (See bold type.) It seems to me that these questions would be good agenda material for a meeting between the two states. When you give the go-ahead, I'll call Delaware and find out who should attend.

*Regulatory.*

*Share wet development review process/share applications.  
Jointly review applications  
Be bound by more stringent review standard - i.e. Federal  
Consistency Review.  
Jointly share and amend <sup>CZM</sup> rules  
Jointly share other CZM activities - public access, water quality  
wetlands mitigation.*

*Talk w/ Ruth E. for other options*

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and Energy  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control is intended to formalize a framework for coordinating the policies and activities of the New Jersey Coastal Management Program <sup>[Program Rules, Process & Decision-making]</sup> ~~(N.J.A.C. 7:27E 1.1 et seq.)~~ and the Delaware Coastal Management Program ~~(XXXXXXXXXXXXXXXXXXXX)~~ in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline. [This memorandum applies <sup>only</sup> to the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline.] [This memorandum applies to the Delaware River and Delaware Bay <sup>transcended by the shared common state boundary.</sup>

The New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand, <sup>or bind</sup> limit their existing statutory powers in any way.

Points of Agreement

1. The New Jersey Department of Environmental Protection and Energy (DEPE) and the Delaware Department of Natural Resources and Environmental Control (DNREC) agree that the New Jersey and Delaware Coastal Management Programs are generally consistent with respect to the area at which the common state boundary <sup>as described in section X</sup> is defined by the mean low water line ~~of the New Jersey shoreline.~~

(identify points of inconsistency and how will resolve)

More stringent rule applies within state boundary with more stringent rule or within other state.

*Joint Sharing & Review Process - Sharing of Development Applications*

2. Within the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, both DEPE and DNREC shall administer their respective statutorily mandated permit and review functions. DEPE shall, within five working days of receipt of a completed application proposing waterfront development in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing development in the water area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DEPE of the application for development by sending a copy of the application to DEPE for comment. Both agencies recognize that



each agency has the independent authority to approve or deny applications pursuant to its own regulations.

(This doesn't really solve the problem - just leaves it the same. Inconsistent regs, applicants faced w/two sets of regs & two application processes, each State hassling w/ 1/2 a project, doesn't address secondary impacts which are out-of-state.)

*handing of  
a Rule Making Process*

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will consult with the other to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.

4. <sup>Where</sup> ~~Should~~ further inconsistencies <sup>and</sup> be identified between those portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined ~~by the mean low water line of the New Jersey shoreline,~~ DEPE and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEPE and DNREC staffs shall meet periodically at a time and

location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A report of each meeting shall be prepared for review by the appropriate administrators of DEPE and DNREC.

*Sharing of Data*

5. DEPE and DNREC recognize similarity in their data bases and needs, and agree to share data whenever possible.
6. The appropriate administrators of DEPE and DNREC may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.
7. This MOA shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

\_\_\_\_\_  
Acting Commissioner  
New Jersey Department of  
Environmental Protection and Energy

\_\_\_\_\_  
Date

XXXXXXXXXXXXXXXXXX  
Delaware Department of Natural  
Resources and Environmental Control

\_\_\_\_\_  
Date

Approved as to form only by:

\_\_\_\_\_  
Deputy Attorney General  
State of New Jersey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy Attorney General  
State of Delaware

\_\_\_\_\_  
Date



**State of New Jersey**  
**Department of Environmental Protection and Energy**  
Environmental Regulation  
Office of Land and Water Planning  
CN 423  
Trenton, NJ 08625-0423

Jeanne M. Fox  
*Acting Commissioner*

Martin A. Bierbaum  
*Administrator*

MEMORANDUM

TO: Steve Whitney, Manager

FROM: Terry Fowler, CZIS1 *TF*

DATE: August 3, 1993

RE: DE/NJ Regulatory Comparison

Attached please find a very rough first draft of an MOA between NJ and Delaware. Basically, I mimicked portions of the Pinelands MOA which seemed applicable. However, because we are dealing with adjacent jurisdictions, rather than overlapping ones, as in the Pinelands, it leaves a number of issues unresolved. (See bold type.) It seems to me that these questions would be good agenda material for a meeting between the two states. When you give the go-ahead, I'll call Delaware and find out who should attend.

*Dave Carter, DENRC*

**Memorandum of Agreement  
Between  
New Jersey Department of Environmental Protection  
and Energy  
and  
Delaware Department of Natural Resources and  
Environmental Control**

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control is intended to formalize a framework for coordinating the policies and activities of the New Jersey Coastal Management Program (N.J.A.C. 7:7E-1.1 <sup>citation?</sup> et seq.) and the Delaware Coastal Management Program (<sup>citation?</sup> XXXXXXXXXXXXXXXXXXXX) in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline. This memorandum applies only to the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline.

The New Jersey Department of Environmental Protection and Energy and the Delaware Department of Natural Resources and Environmental Control agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand or limit their existing statutory powers in any way.

Points of Agreement

1. The New Jersey Department of Environmental Protection and Energy (DEPE) and the Delaware Department of Natural Resources and Environmental Control (DNREC) agree that the New Jersey and Delaware Coastal Management Programs are generally consistent with respect to the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline.

**(identify points of inconsistency and how will resolve)**

2. Within the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, both DEPE and DNREC shall administer their respective statutorily mandated permit and review functions. DEPE shall, within five working days of receipt of a completed application proposing waterfront development in the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DNREC of the application for development by sending a copy of the application to DNREC for comment. DNREC shall, within five working days of receipt of a completed application proposing development in the water area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, notify DEPE of the application for development by sending a copy of the application to DEPE for comment. Both agencies recognize that

each agency has the independent authority to approve or deny applications pursuant to its own regulations.

**(This doesn't really solve the problem - just leaves it the same. Inconsistent regs, applicants faced w/two sets of regs & two application processes, each State hassling w/ 1/2 a project, doesn't address secondary impacts which are out-of-state.)**

3. In the event that one or both agencies propose to amend their adopted coastal regulations or policies, they will consult with the other to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action.
  
4. Should further inconsistencies be identified between those portions of the New Jersey and Delaware Coastal Zone Programs which apply to the area at which the common state boundary is defined by the mean low water line of the New Jersey shoreline, DEPE and DNREC shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEPE and DNREC staffs shall meet periodically at a time and

location to be mutually agreed upon, to discuss permit review coordination and specific policies and their interpretation. A report of each meeting shall be prepared for review by the appropriate administrators of DEPE and DNREC.

5. DEPE and DNREC recognize similarity in their data bases and needs, and agree to share data whenever possible.
6. The appropriate administrators of DEPE and DNREC may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.
7. This MOA shall take effect upon signing by both parties and subsequent to the Governors' review for a period of ten business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

\_\_\_\_\_  
Acting Commissioner  
New Jersey Department of  
Environmental Protection and Energy

\_\_\_\_\_  
Date



XXXXXXXXXXXXXXXXXX  
Delaware Department of Natural  
Resources and Environmental Control

\_\_\_\_\_  
Date

Approved as to form only by:

\_\_\_\_\_  
Deputy Attorney General  
State of New Jersey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy Attorney General  
State of Delaware

\_\_\_\_\_  
Date

10-28-91

Steve Whitney -

Please attend the  
attached as per

JWungait. 11/15  
at 10:00 in Comm ofc.

Thanks -

Trudie

11/15  
10:00

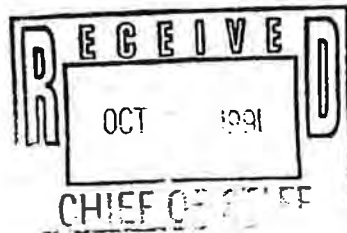
ISSUES - DELAWARE/NEW JERSEY

- ✓ 1 Ramsar designation for Delaware Bay
- ✓ 2 Delaware Estuary Program
- ✓ 3 Weakfish & other fisheries management in Delaware Bay
- ✓ 4 Cooperative enforcement in Bay
- ✓ 5 Joint proposals for use of River and Bay Authority funds
- ✓ 6 Impingement and entrainment policies
- ✓ 7 Oil spill contingency/response activities
- ✓ 8 Delaware permitting of facilities on New Jersey Shore
- ✓ 9 PCB's in Delaware Bay fish
- 10 Waste transportation issues
- 11 45' Channel
- 12 Joint Coastal Zone Consistency Reviews

STAFF ATTENDING FROM DELAWARE

Edwin H. Clark, II, Secretary  
 Mark Chura, Executive Assistant  
 Gerard Esposito, Director, Division of Water Resources  
 Andrew Manus, Deputy Director,  
 Division of Soil & Water Conservation  
 Division of Air & Waste Management representative  
 William Wagner, Director  
 Division of Fish & Wildlife  
 Robert Zimmerman, Environmental Program Administrator  
 Division of Water Resources

*Sec Toby Clark of Delaware*  
*Carol Brown*  
*Commissioner*  
*Steve Whitney*  
*in Comm. ofc.*



11/10  
10:00am

Issues identified by Commissioner Toby Clark of Delaware as topics they would like to see discussed at a meeting between our respective staffs. These issues should be circulated to the management team and Rick should be coordinating the preparation of a single comprehensive briefing dealing with these issues. (Needless to say, the management team should also be invited to indicate any additional issues they would like to discuss with the State of Delaware.)



VS OFFICE

Monday 07/18/94 11:54 am

To: Dorina Frizzera 401 4W  
From: Ruth Ehinger Security: General  
Subject: t. fowler - marinas Date Received: 07/18/94

---

roxanne sachleben 4-0921 knows about ordering the signs. she can give you the specifics. they are made by the state prison. regarding the nj/delaware moa, i wanted to talke to you about limiting the number of applications which we send to delaware to larger applications. it doesn't make sense to me to send all small docks for example

---

Original Memo

To: Ruth Ehinger From: Dorina Frizzera  
Subject: t. fowler - marinas Date Sent: 07/12/94

Ruth, Terry Fowler here. I don't know whether JRW told you, but he decided that my application for marina pumpout \$ should say that priority would be given to marinas which charge renters their pumpout fee as part of their slip fee. We'll see what comes of that.

New issue: do you know who orders the blue beach access and fishing access signs? I'm going to need to order pumpout signs and have no clue who to contact. I figured your sign orderer could point me in the right direction. Thanks. Terry



Intended For:

This Item is In Progress

Author: Dorina Frizzera

Subject: DE/NJ Comp

---

Ruth, Before I talk w/Steve about which permit applications should get shared w/Delaware, it would be helpful to know what you and Ernie think the threshold should be. What're your thoughts? Thanks. Terry Fowler





VS OFFICE

Thursday 07/21/94 10:13 am

To: Steven Whitney 401 4W  
From: JoAnn Cubberley Security: General  
Subject: Draft MOA/NJ & DE Date Received: 07/20/94

---

I have no problem with sending applications to DNREC in this area - but it would be helpful to know exactly what the boundaries of "the area" are and to whom the applications should be sent, once this agreement is in effect.

*Terry*  
*I told JoAnn that these are*  
*good poi - B that will be*  
*added.*

*Stu.*



OPTIONAL FORM 30 (7-95)

<b>FAK TRANSMITTAL</b>		# of pages <b>7</b>
To <b>Dorina Frizzera</b>	From <b>Helen Gready</b>	
Dept./Agency <b>NJDEP/OEP</b>	Phone # <b>301-715-9105 x100</b>	
Fax # <b>609-292-4608</b>	Fax # <b>301-715-4367</b>	
NSN 7540-01-317-7808 3029-101 GENERAL SERVICES ADMINISTRATION		

**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL OCEAN SERVICE**  
**OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT**  
 Silver Spring, Maryland 20910

JUL 17 1996

Dorina Frizzera  
 Environmental Scientist  
 Office of Environmental Planning  
 New Jersey Department of Environmental Protection  
 CN 418  
 Trenton, New Jersey 08625-0418

Dear Ms. Frizzera:

The Office of Ocean and Coastal Resource Management (OCRM) received the New Jersey Department of Environmental Protection's (NJDEP) draft FY96 award application on June 24, 1996. Based on our review of the draft application, we offer the following comments.

In general, this year's award application is very similar to the FY95 application, with the exception of considerable additional costs and person months for certain tasks and object class categories. Many of the specific comments made below will request that the NJDEP provide an explanation for the added costs, either through additional detail on work products and benchmarks for proposed activities, or in the justification statements for certain object class categories.

**I. OBJECT CLASS CATEGORIES**

**1. Travel.**

a. NJDEP is proposing a \$25,000 increase in section 306 travel costs from FY95. The justification should explain this increase, e.g., what additional trips are being planned, etc. → check

b. The "Transportation Out-of-State" justification should continue to explain how the expenses are estimated. OK

c. \$10,000, or an estimated 20 out-of-state trips have been identified under section 309 funding. Based on the section 309 task descriptions, it is not clear what out-of-state travel is associated with these activities. An explanation of travel costs should be provided under the appropriate section 309 task description(s). → check  
 \$ should be  
 in state-travel  
 to do OCEAN  
 COST TO  
 GO TO COST  
 (ON)

d. Please specifically identify travel for two staff to attend the annual Program Manager's Meeting held in Washington, D.C. OK

**2. Supplies.** There have been considerable increases in the cost of various supplies from previous years awards. The following increases should be explained in the justification section:



11  
 P-15K  
 1 - 5K  
 ul "  
 2 - 10K

2 # to  
 4 1 →  
 OAKS CSO  
 TM-  
 11/97

+ way to meet \$ in 309

306 309

2

LEP 3000 -> 4000  
CEP 1000 -> 2400

7,343 - more

a. Office supplies - section 306 and 309

b. Xerox reproduction expenses - section 309

-> 8,000 -> share copies maps

c. Printing - the \$25,000 in section 309 printing expenses must be explained.

Printing Access Quid

13K 306 25K 309 - COASTAL HAZARD

3. Contractual.

a. The cost of court reporters has doubled from last year's cost of \$2,200. Please explain what activities are anticipated for the coming year that would increase the cost to this extent.

RP -> .00 -> 4,500  
P  
100 -> 1000

b. The pass-through grants are currently listed on page 14 under section 306A funding. As we have discussed, the appropriate category for the pass-through grants is section 306.

306

Public meetings

4. Other.

a. The Office of the Inspector General has recently begun increasing its review and denial of expenditure of federal funds on lobbying organizations. Since the Coastal States Organization conducts lobbying in Congress, according to federal guidelines, federal funds cannot be specifically expended for these membership dues.

ATTN THRU OR CONSULTANT SERVICES

subject to collect

b. The following cost categories have increased substantially and require further explanation:

(1) Staff training - section 306 and 309. NJDEP has only specified \$5,000 of staff training activities, which leaves \$20,000 unidentified. Additional detail is required since this is a substantial increase over last year's funding request. In addition, in order to include staff training requirements under section 309, specific discussion on how the staff training under the proposed task(s) will contribute to development of a program change is required.

2/6  
2/7 20,000  
2/8 5,000  
2/9 5,000  
2/10  
2/11  
2/12  
2/13  
2/14  
2/15  
2/16  
2/17  
2/18  
2/19  
2/20  
2/21  
2/22  
2/23  
2/24  
2/25  
2/26  
2/27  
2/28  
2/29  
2/30

TRAINING 6 RS

(2) Advertising for public meetings

(3) Telephone expenses -> VANN, Internet

306 309  
LEP 1000  
CEP 5000

5000 - Public Access

II. SPECIFIC TASK COMMENTS

1. Task 1.1, Administer Coastal Permit Program. 6217

a. One of the new expected products for this activity is proposing rules to clarify jurisdictional issues in municipalities known as "Qualifying Municipalities" that receive urban aid. Further information on qualifying municipalities, the project's relationship to coastal zone management, and the law which is being used as the source for these rules is required. As you are aware, NJDEP can not expend coastal zone management funds on developing rules for, and implementation of laws which have not been incorporated into the State's coastal zone management program, nor in areas outside of the designated coastal zone.

LEP

b. The Wetlands Mitigation Tracking Database (WETMIT) used for monitoring wetland mitigation projects was not included in this year's award application. NOAA has been providing funding to NJDEP for several years to develop and update the database. Please either include the planned activities for WETMIT this year, or provide an explanation regarding why this activity will no longer be pursued. In the FY91 award, NJDEP provided a report to the Governor evaluating state-of-the-art wetlands mitigation in New Jersey. NJDEP may want to consider using FY96 funds to update this information and determine the level and success of wetlands mitigation over the last five years.

} not back in

2. Task 1.2. Administer Appeals. Since the NJDEP is proposing an additional \$26,500 in federal/state funds for this task, we request that information on the activities associated with these additional costs be identified. It appears that part of the additional effort will involve updating the appeals tracking system and developing an alternative dispute resolution form and written procedures and guidance. Please provide more specific benchmarks for these activities.

} LURP

3. Task 2.1. Permit Monitoring and Compliance. We would again note that the WETMIT activity conducted by the Bureau of Coastal and Land Use Enforcement has not been included in this year's award application. Please see the comments at 1.b. above.

} NOT NOT DO

4. Task 3.1. Policy Refinement.

a. The award application lists several new focus areas for policy issues, including urban redevelopment, special urban areas, traffic, and making permit decisions more efficiently by revising procedures. NJDEP's proposed activities that will focus on these policy issues should be described in more detail, i.e., the activities the State will be conducting, their specific relationship to coastal zone management, and proposed benchmarks and products for these activities. For example, it would be useful to identify NJDEP's overall plan, goals and steps for integrating land and water issues through watershed management.

} BOB

b. Please revise the second expected product to read "Submission of a request for approval for Program Changes..."

} ✓ LURP

5. Task 3.2. Technical Assistance.

a. Another seven person months and \$20,000 have been added over last year's task costs. Please identify the activities associated with these additions. Also, please include the \$250,000 in contractual costs in the "Federal Cost" of the project on page 32.

} CAN DO ✓

b. As part of the background section, please identify what activities conducted in previous years in delegating permitting programs to local levels of government. Is this an activity that

} CONNECT

NJDEP will continue pursuing this year? If not, please explain why.

c. Please define what activities are included in "providing technical assistance to local governments and interested citizens." We would also note that providing technical assistance on the State Plan consistency effort is redundant with activities proposed in Task 3.4, State Plan Consistency.

Think

d. Further detail should be provided on the local coastal planning grants. For example, if NJDEP anticipates allocating these awards to "two or three" specific geographic areas, the State should identify which areas it is targeting, and what will be required of the applicants. Guidelines and benchmarks for issuing the awards should be included in the award application. Also, while the task description discusses making local coastal planning grants available primarily for watershed management plans, under "activities" watershed management is not mentioned. Providing the additional detail on these activities should address this issue.

THINK TO GO

6. Task 3.3, Public Participation and Education.

a. Please describe in greater detail the specific activities that will increase the total cost of this project by an additional \$43,000 and 6 person months over last year's budget. Identify any specific benchmarks and work products.

Must be Internet - will provide other task in copy of above.

b. It is our understanding that since Barnegat Bay has been approved as a National Estuary Program (NEP), activities associated with the NEP will be funded by the U.S. Environmental Protection Agency. Please revisit the language in this task, and in tasks 3.2, and 3.5.

2  
3  
4

7. Task 3.4, State Plan Consistency.

a. Additional detail should be provided for this task. While this is an excellent activity, the plan for revising local master plan and ordinances to reflect the State Plan should be better defined. For example, in the task description, the State should specify the number of pilot projects and the names of the municipalities. Activities and benchmarks should focus on how the State will conduct the task, e.g., dates by which municipalities will be selected; how, when, and what guidance and technical assistance will be provided; dates for accomplishing steps in developing municipal reports and draft ordinances, etc.

PLAN ?

b. Two of the expected products, public meetings throughout the grant year to evaluate the implementation of the rule amendments and coordinated efforts with the Office of State Planning to ensure that the coastal rules are implemented in accordance with the State Plan were listed as activities for FY95. Are these products still associated with specific FY96 activities?

ONGOING ?

8. Task 3.5, Intra-State Coordination. The cost of this task in FY96 has increased by a total of approximately \$28,500 and 4 person months, while the actual description and listed activities have remained virtually the same. The background section should identify progress that has been made in the last year under this task, and identify the next steps for continuing these initiatives in FY96. For example, it would be helpful to describe what has been accomplished through coordination on estuary studies and water quality monitoring, and what follow-up is proposed this year. What results have been achieved through cooperation between NJDEP agencies on developing a protocol for review of dredging applications? Please identify specific activities that will be pursued in FY96 that necessitate the added cost in funds and personnel. The listed activities and expected products should more closely reflect the various efforts identified in the task description.

*SHARLET WENT US*

9. Task 3.6, Inter-State Coordination. Additional information is required under the task description and activities to reflect why there is a proposed increase in this task of almost \$80,000 and 10 person months. For example, NJDEP may want to describe what specific activities it is proposing in FY96 to continue improving the working relationship between New Jersey and its bordering states.

*for hold SHARP  
NJDEP*

10. Task 3.7, Federal Consistency. Please explain why the total cost for this standard activity is expected to increase by \$41,000 and six person months over last year's federal consistency task. Are there particular issues the State anticipates focussing on that require additional staff time and funds? If so, please describe.

*LUKE*

11. Task 4.1 and 4.2, Grants Management and Performance/Financial and other Reporting. While the actual proposed activities under these tasks have not changed from previous years, the cost has increased considerably over the FY95 award by \$45,296 and \$21,464, respectively. Please provide an explanation and a description of the new activities and expected products associated with the increase in costs and person months.

*ELECTRONIC*

12. Section 309 Tasks. OCRM received New Jersey's revised section 309 Strategy on July 12, 1996, and has not yet had the opportunity to review it. Therefore, please be advised that any comments made in this letter as well as approval of the proposed tasks are ultimately contingent upon approval of the revised Strategy, as well as NJDEP's response to the comments listed below.

*✓*

a. Task 5.1, Coastal Hazards - Identification of Jurisdictional Inland Dune Line. Please place the proposed activities in bullets and identify benchmarks/a schedule for when they will be completed.

*✓  
Picky - Picky  
Picky*



DONE

b. Task 5.2, Cumulative and Secondary Impacts.

(1) We recommend narrowing the scope of the proposed activity in order to meet section 309 requirements. As written, the proposed task and activities do not result in a clearly defined section 309 "program change." In order to receive further consideration, the project should identify specific program changes that will result from the collection and mapping of data. Only those guidelines, procedures and policy documents which are enforceable through New Jersey's Coastal Zone Management Program are eligible for section 309 funding.

(2) The activities leading up to the program change should be clearly identified and be associated with benchmarks throughout the award year.

(3) In the current list of activities, NJDEP lists convening workshops and meeting with various agencies and local governments to implement best management practices to minimize loadings. Please be advised that workshops and public education must serve as a tool in developing the program change, and can not be conducted to implement or explain the proposed changes after they have been adopted.

(4) We would note that under "Expected Products," the digital and mapped products showing phosphorous and nitrogen loadings is currently scheduled for completion in the third quarter. This conflicts with the State's intention to prioritize the watersheds by phosphorous and nitrogen impacts, currently scheduled for the first quarter.

} NO LMR 00

} shell program  
AS

} The prioritization  
was done based  
on 11.41 vide/com  
Part N + pos devi

c. Task 5.3, Public Access.

(1) Similar to tasks 5.1 and 5.2 above, please revise the activities schedule to identify the steps NJDEP will follow to develop new guidelines, procedures and policies. ✓

(2) Please clarify what is meant by "the following activities will be incorporated into the plan." It appears that the State is proposing new guidelines and procedures, rather than a "plan." language

(3) The current purpose for the workshops is to introduce municipal and county governments and not-for-profit organizations and the public to the coastal public access guidance document. Since this is the ultimate product, as indicated for Task 5.2, workshops and public education/outreach are fundable under 309 only for the purpose of developing the program change, not implementing it. }

✓ (4) Please remove the language in the last paragraph of page 56 referring to "in the guise of" providing new guidelines. ✓

7

- (5) Under "Expected Products," please identify in advance which policies and procedures will be amended to incorporate the standards and guidance. This information should be included in the application.
- (6) The task activities and expected products indicate that a tracking system for public access will be secured through the regulatory process. Please provide additional information on this. How does it contribute to the program change? What will be involved in developing the tracking system? How will it be used?

*BU NY*

*TAKE OUT*

We hope these comments are helpful as you continue to develop your final award application. Please be advised that the National Oceanic and Atmospheric Administration's Grants Management Division may provide additional comments once they have completed their review of the draft application. Please do not hesitate to contact me at (301) 713-3105, extension 150 if you have any questions or if you would like to discuss our comments further.

Sincerely,

*Helen C P Grady*

Helen C. P. Grady  
Coastal Program Specialist



CHAPTER 69 TITLE 7 BEACH PRESERVATION ACT.  
DELAWARE'S CONSERVATION AND PRESERVATION COMMISSION Act  
of 1978

Atlantic & Delaware

Beach = 1,000' inland of MHW and  
2,500' offshore of MHW.

Day shores = 200' inland and 300' seaward of MHW

Building line = regulatory line → DNREC may remove violating

DNREC shall prevent and repair damage from erosion  
public beaches

Private beach owners are liable for expenses

### Rules.

Beach = 1,000' or first road for automobile  
Reconstruction seaward of the building line requires  
permit. → must be beyond building line if  
possible or as far landward as possible

Building seaward of the building line is  
allowable if the portion of the lot  
landward of the line is too small  
to accommodate the building or must be  
so placed to accomplish ~~to~~ the  
structure's intent.

No building seaward of line if parcel was subdivided  
after 8/13/81;

DNREC may require mitigation including  
beach nourishment, dune construction or maintenance

Letter of approval required for construction  
landward of building setback but within  
the beach area

## Chapter 72 Title 7 -> Subaqueous Lands <

Must have permit, lease or letter of approval before occupation of tidelands and submerged lands

Board to make decisions on Commercial projects. -> and Secretary.

Denial is not appealable.

### - Marina Regulations. -

Regulations apply to any facility w/ 5 or more slips

New marinas siting criteria -> Siting + Design Study

- Must explore combinations of wet & dry boat storage

Permit only for the least damaging alternative

\* - Boat storage (wet slips) presumed to be non-water dependent

- Permit only if water used are maintained in + outside of

the basin -> Minimum assessment of fecal coliform

and D.O. including modeling; monitoring of

flushing rates, extent of shellfish closure, avg D.O. & the

and minimum D.O. 1.0.

- Cumulative impact consideration

- Less than 1 acre wetland disturbance

- No marinas where closure goes into shellfish grounds not already prohibited or restricted -> or if those areas may be opened in future due to non point and point source controls.

- SPA must be compensated for - 110 Shading Allowed.
- Benthic Community ~~and~~ diversity and abundance must be evaluated - only 0-3 on a 0-8 scale may be used for marinas.
- Prohibited in critical areas.

### Marinas - Planning + Design Requirements.

No creosoted timber underwater.

### Regulations Governing Subaqueous Land Uses.

All streams or waterways having a defined bank and navigable to the approximate line of mean high water.

#### Prohibits

- No overwater structure non water dependent.
- No gazebos.
- No dockominiums

#### Exempts

- drainage ditches
- reconstruction -> serviceable w/in past 6 mos
- 2 moorings

docks 20% of the width  
 250 feet maximum

Dredging to obtain depth for a private facility is prohibited

Chapter 66 Title 7 Delaware Wetlands  
Above mean low water to 2ft. above MHW

Must receive municipal approval first.

Exempt: mosquito control, navigation aids,  
duck blinds, foot bridges, grazing, haying,  
hunting, fishing, trapping  
↳ Cules ←

No permit to dredge deeper than adjoining  
channel.

No channels w/ only one outlet unless  
equipped w/ aerators.

Side slopes must be 1V:3H

Must be water dependent + no alternative  
on adjoining islands in common  
ownership

No bulkhead above spring ground.

Type I permits (abbreviated)

- less than 1 acre + no structure
- maintenance of public facilities
- maintenance dredging w/ no spoil in wetlands
- wildlife mgmt. maintenance

Type II permits

> 1 acre, involves structure, const. of access roads, water govt. <sup>capital</sup>



Crossed timbers prohibited  
Minimum frontage for boat dock 40'

No structural shore protection where wetlands exist unless a permit will not harm the adjacent environment

§ Dredging must not contravene Delaware's water quality standards - numeric or designated uses.

Prohibit dredging new lagoons w length in width, 3:1 or greater

§ Prohibits prop wash dredging.

Zone 5 + G

Liston St.

↳ = C1

5/20/94 mtg w/steve

- 1) meant to cover bay + river
- 2) cite Supreme Court case
- 3) MOA say that we will compare regs/standards every ~~2~~ years - not include comparison as appendix - or as part of MOA
- 4) remove DAG's signature lines
- 5) don't want DE Plans - Solid + Hazardous Waste



Intended For:  
Author: Dorina Frizzera  
Subject: DE/NJ Comp

This Item is In Progress

---

CC: Dorina Frizzera  
Subject: DE/NJ Comp

From: Dorina Frizzera  
Date Sent: 07/19/94

Ruth, Before I talk w/Steve about which permit applications should get shared w/Delaware, it would be helpful to know what you and Ernie think the threshold should be. What're your thoughts? Thanks. Terry Fowler

---

Reply

Ruth, any ideas? Thanks. Terry Fowler



mtg - Steve + Terry

1/12/94

\* Responses to Ruth E.'s comments

DE isn't giving permits for projects starting in NJ

\* (Sarah Coksey - DE Mgmt Program)

\* We need to consider water quality issues & habitat issues, not just construction

\* We should share info w/DE when we deem it appropriate, not just when they ask for it

\* Send DE <sup>proposed</sup> rules + regs that could in any way affect their waters - not just coastal rules

\* be aware of R E's comments - don't include at this time  
bring to TRW's attention, when appropriate

[ Feb 2 interstate mtg w/ PA & DE Re: 6217 - Sarah maybe coming ]

\* Steve will call to set up mtg w/ DE

\* re type standards - new H<sub>2</sub>O quality standards

Commissioner - NJ

Secy - DE



To:

*Whitney*

Subject: DE/NJ comparison

Distribution:

None, this item is In Progress

---

I met w/ Ruth Ehinger on 11/5/93. We discussed the latest draft of the MOA between Delaware and New Jersey. Her comments were as follows:

- 1) We should change the rules so that the applicant sends copies of information to DE. It would be too cumbersome to have staff do it.
- 2) She doesn't want to look at DE's applications, except for activities in the waterway on NJ side of centerline and large scale projects
- 3) We should tell DE what we want from them and let them tell us what they want from us, rather than defining now what we'll give to them
- 4) We could condition our permits on people getting applicable DE permits
- 5) Does DE presently get permits for development starting in NJ?
- 6) We should say that we'll share data when DE asks for it
- 7) With regard to proposed rule changes, if we're only going to refer to coastal ones, then we could send the proposals to them. If we're going to include other programs, we should send them the NJ Register.





EXAMPLE

Memorandum of Agreement  
Between  
The New Jersey Department of Environmental Protection,  
Division of Coastal Resources  
and the  
New Jersey Pinelands Commission

Purpose and Applicability

This Memorandum of Agreement between the New Jersey Division of Coastal Resources and the New Jersey Pinelands Commission is intended to formalize a framework for coordinating the policies and activities of the Coastal Management Program (N.J.A.C. 7:7E-1.1 et seq.) and the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-1 et seq.) in those portions of the Pinelands National Reserve which lie within the coastal zone. This memorandum applies only to those portions of the coastal zone within the Pinelands National Reserve.

The Pinelands Commission and Department of Environmental Protection, Division of Coastal Resources agree to the principles, procedures, and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this memorandum of agreement to expand or limit their existing statutory powers in any way.

Points of Agreement

1. The Pinelands Commission and the Department of Environmental Protection, Division of Coastal Resources (DEP-DCR) agree that the Pinelands Comprehensive Management Plan and the Coastal Management Program are generally consistent with respect to those portions of the Pinelands National Reserve which lie within the coastal zone as defined in New Jersey's Coastal Management Program.
2. The Department of Environmental Protection, Division of Coastal Resources (DEP-DCR), agrees to implement the Pinelands Comprehensive Management Plan within the coastal zone to the extent of its statutory authority, and in accordance with DEP-DCR's Special Area Policy which states that coastal development "shall be consistent with the intent, policies, and objectives" of both Federal and State Pinelands legislation (N.J.A.C. 7:7E-3.42). In carrying out this agreement, DEP-DCR shall refer to the Pinelands Land Capability Map, relevant standards contained in the Pinelands Comprehensive Management Plan, and review comments submitted by the Pinelands Commission on applications for development within the Pinelands National Reserve.

3. The Department of Environmental Protection, Division of Coastal Resources (DEP-DCR) will consider the Pinelands Commission to be a reviewing agency for any CAFRA permit applications. affecting the Pinelands National Reserve. The DEP-DCR shall also transmit for Commission review, certifications pursuant to Section 307 of the Coastal Zone Management Act of 1972, and Wetlands and Waterfront Development permit applications in the Pinelands National Reserve, where such applications involve major development as defined in the Pinelands Comprehensive Management Plan, and all applications in the Pinelands Area except for those activities specified in N.J.A.C. 7:50-4.1.
4. Where the DCR is reviewing a permit application involving land in the Pinelands National Reserve, the DCR shall ensure an opportunity for the Commission as well as the municipality in which the project is located to comment on the manner in which Pinelands standards apply to the subject application. Prior to any application being declared complete for filing, the DCR shall transmit to the Commission a copy of the application, site plans and environmental impact statement, if required, and request comments on the application which will be considered in the Division's decision on the application.
5. Within the portion of the State Pinelands Area which lies within the coastal zone, both DEP-DCR and the Pinelands Commission shall administer their respective statutorily mandated permit and review functions. The Pinelands Commission shall, within five working days of receipt of a completed application proposing development in the coastal zone, notify DEP-DCR of the application for development by sending a copy of the application to DEP-DCR for comment. DEP-DCR, prior to accepting a CAFRA, Waterfront Development, or Wetlands application for filing, shall require the applicant to furnish either a Certificate of Compliance, or a Certificate or Notice of Filing issued by the Pinelands Commission, whichever is appropriate. Both agencies recognize that each agency has the independent authority to approve or deny applications pursuant to its own regulations.
6. In the event that one or both agencies propose to amend their adopted regulations or policies, they will consult with the other to determine how the amendments will affect the administration of their respective programs, and will attempt to resolve any differences prior to taking action. In particular, the Commissioner of the Department of Environmental Protection signed Executive Order No. 70 on September 18, 1987, designating DEP-DCR

as the agency responsible for implementation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.). DEP-DCR will consult with the Pinelands Commission, first to evaluate the level of consistency between the Pinelands Comprehensive Management Plan and the rules and standards of the Flood Hazard Area Control Act, second, to coordinate in the development of rules and standards to implement the Freshwater Wetlands Protection Act, and third, to develop specific recommendations and an implementation agenda for improving, where possible, the level of consistency throughout the entire Pinelands National Reserve and Pinelands Area where the regulatory jurisdictions of these statutes overlap.

7. Should inconsistencies between the Pinelands Comprehensive Management Plan and DEP's Rules on Coastal Resources and Development Policies be identified, the Pinelands Commission and DEP-DCR shall work together to make the two sets of policies more complementary, including, if necessary, eliminating inconsistencies through amendments to either or both sets of policies. In order to identify, discuss, and resolve policy and interpretation inconsistencies, and to ensure success of the cooperative application review and comment procedures, designated representatives of the DEP-DCR and Pinelands Commission staff shall meet periodically at a time and location to be mutually agreed upon, to discuss permit review coordination, specific policies and their interpretation, and growth area designation inconsistencies. A report of each meeting shall be prepared for review by the Director of the Division of Coastal Resources and the Executive Director of the Pinelands Commission.
8. DEP-DCR and the Pinelands Commission recognize similarity in their data bases and needs, and agree to share data whenever possible. To streamline the process, the Pinelands Commission and DEP-DCR will cooperatively work to standardize their respective data bases. In addition, the two agencies will work together in the development of a State Geographic Information System, and will coordinate long range planning and research agendas involving federal grant programs.
9. The Executive Director of the Pinelands Commission and the Director of the Division of Coastal Resources may jointly propose revisions to the terms and procedures of this Memorandum of Agreement from time to time.

10. This MOA shall take effect upon signing by both parties and subsequent to the Governor's review for a period of ten (10) business days. This agreement may be terminated by either party by providing notice of termination on the other party sixty (60) days prior to termination.

[Signature]  
Commissioner  
Department of Environmental Protection

1/8/88  
Date

[Signature]  
Executive Director  
Pinelands Commission

2/3/88  
Date

Approved as to form only by:

[Signature]  
Deputy Attorney General  
State of New Jersey

Dec. 28, 1987  
Date

what about H<sub>2</sub>O quality?

projects extend from one state to another - different  
from Pinelands/CAFERA

- not overlapping.

Old 309 - Interstate grants

\$14,000 to NJ + Del

Purpose: review cost of programs

compare to determine if compatible

do we need MOA to review projects  
common to both states

State boundary of DE goes to MCLW in NJ  
to Salem NG Station

We have allowed projects to proceed  
which reach into PE

L. Bauer did comparison  
Sent to Andy Marcus

Similar to Ireland's MOA

Define how would go about dealing w/ inconsistencies  
spell out a review procedure  
non share info  
binding or nonbinding

contact Sarah Cooksey for mtg

NPS mtg Dec 4

[Redacted]



VS OFFICE Electronic Mail

Friday

05/07/93 04:19 pm

CC: Steven Whitney  
From: Steven Whitney  
Subject: Navy Dredging/Salem Nuc.

401 4W  
Date: 05/07/93

Terry  
FYI re:  
Delaware  
Project.  
Stu

Distribution:

Not Requested

Ruth, I attended the annual coastal program manager's meeting this week and have a few questions for you that were asked of me. Laurie McGilvery asked about the status of the Navy dredging proposal. Apparently she knows something about the meetings DEPE is holding with the Navy. Laurie would like our preliminary views about the proposal and ongoing process. Is this something you are at liberty/comfortable at providing? Secondly, David Carter from the Delaware Department of Natural Resources and Environmental Control mentioned that PSE&G is meeting with DNREC today about the proposed Salem Cooling Tower. David wanted to know our position about the tower and who is NJ's contact. I suggested that you may be the contact but wanted to check with you before confirming with him. I am preparing a summary of the coastal program managers meeting and will send to you a copy. Thanks.





VS OFFICE

Monday 07/18/94 11:54 am

To: Dorina Frizzera 401 4W  
From: Ruth Ehinger Security: General  
Subject: t. fowler - marinas Date Received: 07/18/94

---

roxanne sachleben 4-0921 knows about ordering the signs. she can give you the specifics. they are made by the state prison. regarding the nj/delaware moa, i wanted to talke to you about limiting the number of applications which we send to delaware to larger applications. it doesn't make sense to me to send all small docks for example

---

Original Memo

To: Ruth Ehinger From: Dorina Frizzera  
Subject: t. fowler - marinas Date Sent: 07/12/94

Ruth, Terry Fowler here. I don't know whether JRW told you, but he decided that my application for marina pumpout \$ should say that priority would be given to marinas which charge renters their pumpout fee as part of their slip fee. We'll see what comes of that.

New issue: do you know who orders the blue beach access and fishing access signs? I'm going to need to order pumpout signs and have no clue who to contact. I figured your sign orderer could point me in the right direction. Thanks. Terry



W-68 508

DEED

THIS DEED, made this 11<sup>th</sup> day of January  
<sup>1962</sup>  
A. D. 1961, between THE STATE OF DELAWARE (herein referred to as  
"Grantor"), and SUNOLIN CHEMICAL COMPANY, a Delaware corporation  
(herein referred to as "Grantee").

Whereas, the Grantor is the owner of certain sub-  
aqueous lands lying beneath the waters of the Delaware River,  
off-shore from the Sunolin Chemical Company property, situate  
in Brandywine Hundred, New Castle County, Delaware, at a point  
immediately South of the Delaware-Pennsylvania boundary line;  
and

Whereas, the Grantee is the owner of 13.2 acres of  
land of which approximately 10.63 acres constituted the fore-  
shore property of the Grantee, as it existed in 1952 and prior  
thereto; and

Whereas, the Grantee has filed a petition in accordance  
with the provisions of Title 7 Delaware Code § 4520 in which it asks  
that a quitclaim deed be executed and delivered to the aforesaid  
13.2 acres of land of any proprietary interest, right or claim  
which the State of Delaware may have and of any rights which  
the public may have in fishing and navigation, appurtenant to  
the aforesaid 13.2 acres and has also requested a conveyance in  
fee simple by the State of Delaware of 0.44 acres of subaqueous  
land adjacent to the above tract, for the purpose of straighten-  
ing the frontage owned by the Grantee on the Delaware River; and

Whereas, under the provisions of Title 7 Delaware

Code, 1953, § 4520, a Special Commission has found it to be in the public interest to grant such request of the Grantee.

NOW, THEREFORE, BE IT WITNESSETH AS FOLLOWS:

That the Grantor, in accordance with the provisions of Title 7 Delaware Code, 1953, § 4520, and for and in consideration of the sum of SEVEN THOUSAND ONE HUNDRED DOLLARS (\$7,100.00) lawful money of the United States of America, the receipt whereof is hereby acknowledged, does hereby grant, convey, release and forever quitclaim unto the Grantee, its successors and assigns, all of its proprietary interests, rights or claims together with all rights of the public for purposes of fishing or navigation, in and to

ALL that certain piece and parcel of land, situate in Brandywine Hundred, New Castle County, Delaware, being in large portion the foreshore of the property of SunOlin Chemical Company abutting the Delaware River as the same existed in 1952 and prior thereto and now high land having been filled in by the SunOlin Chemical Company's predecessor in title, and more particularly bounded and described as follows:

BEGINNING at a point in the division line between the property of SunOlin Chemical Company and Allied Chemical & Dye Corporation (said point being South 32 degrees, 0 minutes, 27 seconds East 125 feet distant from a permanent monument in said division line, said permanent monument being North 32 degrees, 0 minutes, 27 seconds West 523 feet, more or less, from the corner of a wooden bulkhead of Allied Chemical & Dye Corporation), thence from said Beginning point North 60 degrees, 19 minutes, 36.2 seconds East 1050 feet, more or less, to a point in the division line between the property of SunOlin Chemical Company and Sun Oil Company; thence South 31 degrees, 22 minutes, 41 seconds East 530 feet, more or less, to a point in the Pennsylvania bulkhead line as extended; thence along the said extended bulkhead line South 60 degrees, 19 minutes, 36.2 seconds West 1043.66 feet, more or less, to a point; thence North 32 degrees, 0 minutes, 27 seconds West 528.79 feet, more or less, along the division line between said property of SunOlin Chemical Company and Allied Chemical & Dye Corporation to the point and place of Beginning.

To have and to hold the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise appertaining thereunto including all littoral, riparian and shore rights, liberties and privileges whatsoever; and all the estate, right, title, interest and claim whatever of the Grantor, or the public, either in law or in equity, to the only proper use, benefit and behoof of the Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, The State of Delaware has caused its name by Elbert N. Carvel, the Governor of the State of Delaware, to be hereunto set and the seal of The State of Delaware to be hereunto affixed, duly attested by the Secretary of State of The State of Delaware, the day and year first above written.

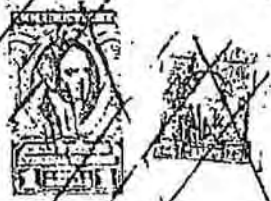
Sealed and Delivered in the presence of:

*Josephine K. Moore*

THE STATE OF DELAWARE

By *Elbert N. Carvel*  
Governor

Attest:  
*Elmer P. Ripston*  
Secretary of State



STATE OF DELAWARE )  
KENT COUNTY ) SS.

BE IT REMEMBERED that on this 11<sup>th</sup> day of January  
1962 A. D. 1962, personally came before me, the undersigned, a Notary  
Public of the State of Delaware, ALBERT M. CARVEL, Governor of  
The State of Delaware, known to me personally to be such, and  
acknowledged this Indenture to be his act and deed and the act  
and deed of The State of Delaware, that the signature of the  
Governor thereon is his own proper handwriting and the seal  
affixed is the Seal of The State of Delaware, and that his act  
of sealing, executing, acknowledging and delivering said In-  
denture has been duly authorized under the provisions of Title  
7, Delaware Code, 1953 § 4520.

GIVEN under my Hand and Seal of office the day and  
year aforesaid.

Albert M. Carvel  
Notary Public

RECORDED FOR RECORD Jan 18 10:21 A BY RECORDER

AGREEMENT OF LEASE

between

THE STATE OF DELAWARE

and

COLONIAL PIPELINE COMPANY



THIS AGREEMENT OF LEASE made in duplicate this *Ninth* day of *October* A.D. 1963, by and between the STATE OF DELAWARE, party of the first part,

- A N D -

COLONIAL PIPELINE COMPANY, a Delaware corporation, party of the second part.

WHEREAS the State of Delaware is the proprietary owner of certain subaqueous public lands lying beneath the mean low water lines of the waters of the Delaware River;

WHEREAS the Colonial Pipeline Company has made application, pursuant to Title 7 of the Delaware Code, Section 4520, to use a part of those subaqueous public lands for the purposes of constructing, maintaining, inspecting, operating, protecting, renewing, replacing, repairing, improving and removing a submarine pipe line for the transportation of refined petroleum products;

WHEREAS in the opinion of the Governor of the State of Delaware it is in the public interest for Colonial Pipeline Company to use a part of the subaqueous public lands beneath the waters of the Delaware River for the said pipe line; and

WHEREAS, pursuant to Title 7 of the Delaware Code, Section 4520, the Governor has appointed a special commission which has determined and recommended in writing to the Governor that the subaqueous public lands beneath the waters of the Delaware River as hereinafter described, be leased to Colonial Pipeline Company for said pipe line on the terms and conditions herein set forth; and that the said lands are not

WITNESSETH:

1. The State of Delaware by the Governor of the State of Delaware, pursuant to Title 7 of the Delaware Code, Section 4520, hereby leases to Colonial Pipeline Company all that certain piece or parcel of subaqueous public land, lying in the bed of the Delaware River, situate in the State of Delaware, from the vicinity of Claymont, New Castle County, Delaware to the vicinity of Oldmans Creek, Logan Township, Gloucester County, State of New Jersey, being 25 feet on either side of a center line 5,921 feet in length, by reference to a survey furnished by American Dredging Company, Philadelphia, Pennsylvania, and information appearing on United States Army Corps of Engineers, Delaware River Datum Map 25602, Sheet No. 6, being more particularly described as follows, to-wit:

From a point known as Pipeline Station 70 + 40.7 situate on the West bank of the Delaware River, said point being a set 2 x 2 hub at coordinates N. 489,304.8 E. 124,153.4 a distance of 2,816.52 feet on azimuth bearing 128° 21' 14" from the southeast chimney of Phoenix Steel Corporation, said chimney being at coordinates N. 491,052.5 E. 121,944.7; thence from said point N. 23° 32' 52" West, 283.2 feet to a point known as Pipeline Station 67 + 57.5; thence from said point N. 43° 40' 55" West, 437.5 feet to a point in mean low water elevation on the West bank of the Delaware River, being Pipeline Station 63 + 20 and the point and place of BEGINNING: thence from said point of Beginning, continuing N. 43° 40' 55" West, and along the imaginary centerline of said 50 foot wide right of way, 5,921 feet to a point in mean low water elevation on the East bank of said River, being Pipeline Station 3 + 99, said point also being situate on the boundary line between the States of Delaware and New Jersey.

2. Colonial Pipeline Company shall pay annually as rent for the premises leased herein the sum of Two Thousand Nine Hundred Sixty Dollars and Fifty Cents, (\$2,960.50) in lawful money of the United States of America. Colonial Pipeline Company shall make the first annual payment to the Treasurer of the State of Delaware, Dover, Delaware, upon the execution of this lease, and like payment shall be so made on the anniversary date of such payment during the term of this lease or any extension thereof.

3. The term of this lease shall be for twenty (20) years, commencing on the 9th day of October, A. D. 1963, and terminating on the 9th day of October, A. D. 1983, provided, however, that this lease shall automatically be extended for succeeding periods of ten (10) years each, unless one (1) year prior to the date of termination of the original twenty (20) year term or any ten (10) year extension thereof, either party gives to the other notice in writing that this lease shall not be extended.

4. The State of Delaware agrees to deliver possession of the premises to Colonial Pipeline Company as soon as Colonial Pipeline Company has made payment to the Treasurer of the State of Delaware.

5. Colonial Pipeline Company agrees to take actual possession of the premises and to use the premises for the purposes of constructing, maintaining, inspecting, operating, protecting, renewing, replacing, repairing, improving and removing a submarine pipe line for the transportation of refined petroleum products.

6. If the use of the lease for the purposes herein stated shall be abandoned for a period of six (6) months, Colonial

---

Pipeline Company, (if demand is made upon it by the State of Delaware to do so), will remove the pipe line or such portion thereof as may be considered to be an obstruction either to navigation or to the free use of the Delaware River, within six months from the date of demand.

7. Colonial Pipeline Company will maintain the pipe line in a good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damages caused by reason of such pipe line and/or its maintenance.

8. Upon failure or refusal to comply with the demand by the State of Delaware to remove the pipe line should Colonial Pipeline Company abandon the pipe line as set forth in paragraph 6 above or upon the failure of Colonial Pipeline Company to maintain the pipe line in a safe condition as set forth in paragraph 7 above, this lease shall immediately terminate and all the rights and privileges therein shall thereupon revert to the State of Delaware. In that event, Colonial Pipeline Company will promptly quit, surrender and vacate the premises and should it neglect or fail to remove such obstructions as may exist, the State of Delaware may remove or cause to be removed the obstructions at the expense and cost of Colonial Pipeline Company, which hereby agrees to reimburse the State of Delaware for the full amount of the expense incurred in causing such removal.

9. Colonial Pipeline Company shall at all times comply with such rules and regulations relating to navigation as may from time to time be promulgated by the United States Corps of Engineers as the same may affect such pipe line. It is understood that failure to comply shall constitute a breach of this lease agreement which, at the option of the State of Delaware, may cause a termination of this lease.

10. The terms, covenants and provisions of this lease shall extend and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF the State of Delaware has caused its name by Elbert N. Carvel, the Governor of the State of Delaware, to be hereunto set, and the seal of the State of Delaware to be hereunto affixed, duly attested by the Secretary of State of the State of Delaware, and Colonial Pipeline Company, a Delaware Corporation, has caused its name by *K.T. Feldman* its ~~Executive Vice~~ president, to be hereunto set and its corporate seal to be hereunto affixed, duly attested by the secretary of the corporation the day and year first above written.

Sealed and delivered  
in the presence of:

*Charles H. Keil*

THE STATE OF DELAWARE

By *Elbert N. Carvel*  
Elbert N. Carvel,  
Governor

Attest *Elisha C. Dukes*  
Elisha C. Dukes,  
Secretary of State

COLONIAL PIPELINE COMPANY

*Charles E. Graham*

By *K. T. Feldman*  
K. T. Feldman  
EXECUTIVE VICE PRESIDENT

Attest *Howard O. McCloud*  
Howard O. McCloud  
Secretary



- 5 -

STATE OF DELAWARE )  
NEW CASTLE COUNTY )

SS.

BE IT REMEMBERED, That on this *Ninth* day of  
*October* in the year of our LORD one thousand nine  
hundred and sixty-three personally came before me, the  
Subscriber, a Notary Public for the State of Delaware, ELBERT  
N. CARVEL, Governor of the State of Delaware, party to this  
Agreement of Lease, known to me personally to be such, and  
acknowledged this Agreement of Lease to be his act and deed  
and the act and deed of the State of Delaware, that the sig-  
nature of the Governor thereto is in his own proper handwriting  
and the seal affixed is the seal of the State of Delaware,  
and that his act of sealing, executing, acknowledging and  
delivering this Agreement of Lease is duly authorized by  
virtue of the provisions of Title 7 of the Delaware Code,  
Section 4520.

GIVEN under my Hand and Seal of Office  
the day and year aforesaid.

*Elmer A. Biddle*  
Notary Public

STATE OF GEORGIA )  
                  ) SS.  
COUNTY OF Fulton )

BE IT REMEMBERED, that on this 15<sup>th</sup> day of  
October in the year of our LORD one thousand nine hundred  
and sixty-three personally came before me, the Subscriber,  
a Notary Public for the State and County aforesaid, I. I. FELDMAN

EXECUTIVE VICE President of Colonial Pipeline  
Company, a corporation existing under the laws of the State  
of Delaware, party to this Agreement of Lease, known to  
me personally to be such, and acknowledged this Agreement  
of Lease to be his act and deed and the act and deed of  
said corporation, that the signature of the president there-  
to is in his own proper handwriting and the seal affixed  
is the common and corporate seal of said corporation, and  
that his act of sealing, executing and acknowledging said

## SUBAQUEOUS LANDS LEASE

GRANTED TO

SUNOLIN CHEMICAL COMPANY

FOR

REISSUANCE OF A SUBAQUEOUS LANDS LEASE ISSUED  
OCTOBER 10, 1961AND NOW, to-wit this 14th day of NOVEMBER

A.D. 1981, the State of Delaware does hereby accept the Nov. 10  
approval by the Secretary of the Department of Natural Resources and Environmental Control upon the application of SunOlin Chemical Company, submitted to the Department of Natural Resources and Environmental Control and dated July 30, 1981, copy of which is attached hereto and made a part hereof.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River; and

WHEREAS, SunOlin Chemical Company, owner of certain adjoining lands to the Delaware River, has applied for the reissuance of a Subaqueous Lands Lease to maintain eight (8) submarine pipelines for the transportation of petroleum products in accordance with the terms of that lease; and

WHEREAS, pursuant to the provisions of Title 7, Section 6151, Delaware Code, the Secretary of the Department of Natural Resources and Environmental Control finds that it is not contrary to the public interest if this lease is reissued subject to the terms and conditions herein set forth.

NOW, THEREFORE, the State of Delaware hereby leases to SunOlin Chemical Company and SunOlin Chemical Company hereby leases from the State of Delaware,

All that certain piece or parcel of subaqueous land, lying in the bed of the Delaware River, situate in Brandywine Hundred, New Castle County, State of Delaware, adjoining lands of SunOlin Chemical Company, near the Delaware-Pennsylvania boundary line, more particularly bounded and described as follows: Being a strip of underwater land in said River twenty-five (25) feet on each side of a line, said line beginning at a point on the property of the SunOlin Chemical Company, Claymont, New Castle County, Delaware, having the U.S. Army Corps of Engineers coordinates 490075.7 north and 127323.9 east, said point being identified as SUNOLIN No. 2 on SunOlin Chemical Company Drawing No. SC2-101, revision 2, and further located as being S 76°, 14', 46" E 27.93' and N 63°,



38', 57" E 10,602.96' from U.S. Army Corps of Engineers monument "RUINS," coordinates 485376.0 north and 117795.6 east; thence extending across the Delaware River S 22°, 50', 09" E 6100.87' to a point identified as JERSEY No. 3 on said plan, having U.S. Army Corps of Engineers coordinates 484453.0 north and 129691.8 east, said point in Gloucester County, New Jersey, being N 65°, 45', 53" E 3138.71' from the U.S. Army Corps of Engineers monument "MALLOW SIXTANT," coordinates 483164.7 north and 126829.8 east. The lease of the aforesaid premises is not intended to include any rights in the upland and is issued subject to the approval of the Department of the Army.

This lease shall be continued for a period of ten (10) years or so long as the conditions attached to the lease are adhered to, whichever is the shorter in time. Upon the expiration of the ten-year term, this lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

1. Change of Location or Abandonment. This Agreement of Lease is granted upon the further conditions:

- (a) That if, in the opinion of the Governor of the State of Delaware, or of the governing body of such agency of the State of Delaware, it shall be necessary in the public interest to require a change in the location of said pipelines, SunOlin Chemical Company shall promptly, at its own expense, lower or otherwise move said pipelines to such new location as is or may be determined or indicated by the State of Delaware or with the approval of the Department of the Army;
- (b) That SunOlin Chemical Company will maintain said pipelines in a good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said pipelines and/or their maintenance;
- (c) That if the use of such pipeline facilities shall be abandoned, or shall remain abandoned for a period of one year, SunOlin Chemical Company will remove the aforesaid pipelines or such portion thereof as may be considered to be an obstruction, either to navigation or the free use of the Delaware River, if demand is made upon it by the State of Delaware to so do;

(d) Upon failure or refusal to comply with the demand to lower or otherwise move the pipelines, as set forth in sub-paragraph (a) above, or upon failure to maintain the pipelines in safe condition, as prescribed in sub-paragraph (b) above, or upon abandonment, as provided in sub-paragraph (c) above, this lease shall immediately cease, terminate and come to an end, and this instrument shall become void and all the rights and privileges herein shall thereupon revert to the State of Delaware. In the event of such termination, SunOlin Chemical Company will promptly quit, surrender and vacate the premises and should it neglect or fail to remove such obstructions as may exist, the State of Delaware may remove, or cause the same to be removed, at the expense and cost of SunOlin Chemical Company, which hereby agrees to reimburse the State of Delaware for the full amount of the expenses incurred in causing such removal.

2. During the term of this lease, SunOlin Chemical Company agrees to pay the State of Delaware the sum of \$22,518.60 per year for a period of ten years commencing on the 15<sup>th</sup> day of October, 1981 and a payment of the same amount on the same day every year thereafter until a formal termination hereof.

3. This lease does not authorize modifications or additions to any structure(s) located on subaqueous lands. An application for supplemental approval to this lease must be submitted for any modification or addition.

4. This lease does not cover the structural stability of the project units.

5. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.

6. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.

7. The lessee shall at all times comply with such rules and regulations relating to navigation as may from time to time be promulgated by the United States Corps of Engineers as the same may affect such structures.
8. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
9. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
10. This lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.
11. Nothing contained herein shall in any manner affect the rights of any riparian land owner now existing under the laws of the State of Delaware.
12. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.
13. This lease will be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, WE, SunOlin Chemical Company, have caused this instrument to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

By: James P. Hagan  
Applicant

SWORN and subscribed before me on this 27th day of October, 1981.

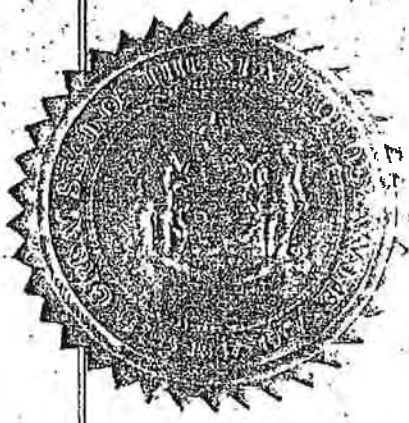
John E. Wilson, III  
Notary Public

IN WITNESS WHEREOF, I, John E. Wilson, III, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

John E. Wilson, III  
By Secretary of the Department of Natural Resources and Environmental Control

IN WITNESS WHEREOF, I, Pierre S. du Pont, IV, Governor of the State of Delaware, have hereunto set my hand and the Great Seal of the State of Delaware has been hereunto affixed by the Secretary of State; at Dover, on this 14th day of November, 1981, in the year of our Lord One Thousand Nine Hundred and Eighty-one.

P. S. du Pont  
By the Governor  
James C. King  
By the Secretary of State





## SUBAQUEOUS LANDS LEASE

GRANTED TO

COLONIAL PIPELINE COMPANY

TO

CONSTRUCT A 30" SUBMERGED PETROLEUM PRODUCTS PIPELINE ACROSS THE DELAWARE RIVER  
 AND NOW, to-wit this \_\_\_\_\_ day of \_\_\_\_\_, A. D.  
 1987, the State of Delaware does hereby accept the \_\_\_\_\_ approval  
 by the Secretary of the Department of Natural Resources and Environmental Control  
 upon the application of Colonial Pipeline Company, submitted to the  
 Department of Natural Resources and Environmental Control (hereinafter "the  
 Department") and dated January 26, 1987, a copy of which is attached hereto and  
 made a part hereof.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands  
 lying beneath the waters of the Delaware River; and

WHEREAS, Colonial Pipeline Company, has applied for permission to construct  
 a 30" submerged petroleum products pipeline across the Delaware River; and

WHEREAS, the State of Delaware, by and through the Department certifies that  
 the permitted activity will be conducted in a manner which will not violate  
 the applicable water quality standards of the State of Delaware; and

WHEREAS, pursuant to the provisions of 7 Del. C., §7203, the Secretary of  
 the Department of Natural Resources and Environmental Control (hereinafter "the  
 Secretary") finds that it is not contrary to the public interest if this project  
 is approved subject to the terms and conditions herein set forth.

NOW, therefore, the State of Delaware hereby permits Colonial Pipeline  
 Company to construct a 30" submerged petroleum products pipeline across the  
 Delaware River.

This lease shall be continued for a period of ten (10) years or so long as  
 the conditions attached to the lease are adhered to, whichever is the shorter in  
 time. Upon the expiration of the ten-year term, this lease shall expire and  
 become null and void, unless prior thereto the lessee shall have applied for and

received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

THIS lease shall be subject to the following conditions:

1. During the term of this lease, Colonial Pipeline Company agrees to pay the State of Delaware the sum of \$5,023.50 per annum commencing on the \_\_\_\_\_ day of \_\_\_\_\_ and a payment of the same amount on the same day of each and every year thereafter until a formal termination hereof. This annual fee is subject to change at such time as the State of Delaware duly adopts amendments to its fee schedule for public subaqueous lands.
2. Colonial Pipeline Company agrees to pay the State of Delaware the sum of \$75,000 per 100,000 cubic yards of material to be dredged from the public subaqueous lands of the Delaware River. This lease shall not become effective until this payment has been made and acknowledged in writing by the State of Delaware. The number of cubic yards of material actually removed shall be verified by documents that the Department may require.
3. All excavated material not suitable for the backfilling of the trench shall be placed in scows and transported to the approved American Dredging Company dredged material disposal area in Logan, New Jersey.
4. Prior to the use of explosives for trench excavation a written description of the procedures to be utilized must be submitted and approved in writing by the Secretary before blasting can begin.
5. There shall be no excavation or use of explosives between the months of April and June in order to minimize the impact on anadromous fish passage.
6. The pipeline shall be built in accordance with the requirements of the federal "Hazardous Liquid Pipeline Safety Act" as amended.

7. The conditions contained herein shall be included in the construction contract and other documents.
8. Sediment and erosion controls shall be implemented so as not to violate the "State of Delaware Water Quality Standards for Streams" adopted December 23, 1985.
9. The project is to be undertaken in accordance with the plans and specifications submitted to include the following:
  - a. Application dated January 26, 1987, drawings with revised Sheet 1 of 2 and Sheet 2 of 2 dated April 21, 1987 and Sheet 3 of 3 dated January 22, 1987 with attached project statement dated February, 1987;
  - b. "Agreement and Technical Specifications for constructing a 30" OD Pipeline across the Delaware River AFE7385;"
  - c. Drawing "proposed 30" spare mainline Delaware River crossing" Sheet 1; BEA-CP-0001 dated April 30, 1987;
  - d. Three aerial photographs: "Proposed 30" spare mainline Delaware River crossing" Sheet 1, 8-DWR-SK3 date April 7, 1987; "Delaware River crossing north bank" Sheet 1, 8-DWR-SK1 dated April 7, 1987; "Delaware River crossing south bank" Sheet 1, 8-DWR-SK2 dated April 7, 1987.
  - e. Colonial Pipeline Company, Woodbury Area, "Emergency Directory Index," dated 5/85.
  - f. Letter to the Department's Division of Water Resources from Burlco Engineering Associates dated May 7, 1987 regarding clarification of specifications.
10. A copy of this lease must be available on site during all phases of construction activity, and the Department's Notice of Authorization displayed in a highly visible location at all times.



- revised plans must be supplemental approval issued prior to actual construction.
12. Representatives of the Department may inspect such work at any time and may collect any samples or conduct any tests that are deemed necessary.
  13. This lease does not cover the structural stability of the project units.
  14. Prior to the expiration of this lease, the lessee shall remove all structures covered under this lease unless the lease has been renewed in accordance with the terms.

15. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public or as are specified by regulation shall constitute reason for the revocation of the permit and discontinuance and/or removal of said action, operation or installation.
16. The lessee shall notify the Department of the date work will be commenced and completed in advance of the time of commencement and completion within the period the Department specifies in writing
17. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
18. The lessee shall at all times comply with such rules and regulations relating to navigation as may from time to time be promulgated by the United States Corps of Engineers as the same may affect such structures.

19. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
20. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
21. This lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.
22. Nothing contained herein shall in any manner affect the rights of any riparian land owner now existing under the laws of the State of Delaware.
23. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.
24. This lease is void if the project has not been completed within three (3) years from the date of issuance.
25. If the lessee considers three (3) years insufficient for completion of the project, the lessee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.
26. All representations, promises, specifications conditions or other statements made by or on behalf of lessee or submitted in connections with lessee's application for this lease are expressly incorporated herein by reference and compliance therewith or satisfaction thereof are warranted to be true and connect and are made a condition of this lease. It is agreed that lessee's representations, promises, specifications or

conditions will be fully complied within the completion of the project described herein.

27. Violation of any of the above conditions is grounds for revocation of this lease.

IN WITNESS WHEREOF, I, Roy Hanson, have caused this instrument to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 1987.

By: \_\_\_\_\_  
Applicant

SWORN and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 1987.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, I, John E. Wilson, III, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1987.

\_\_\_\_\_  
By Secretary of the Department of Natural Resources and Environmental Control



DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

JAN 8 1987

Date Received  
(for Secretary's use)

207

Project Number  
(for Secretary's use)

REQUEST FOR A COASTAL ZONE STATUS DECISION

Identification of the Applicant:

Name (Agent) BURLCO ENGINEERING ASSOCIATES  
 Address P. O. Box 2, Riverton, NJ 08077  
 Telephone (609) 795-2651  
 Signature *Henry R. Spies*  
 Henry R. Spies

If the applicant is not the project owner but is authorized to act for the owner, state that below and give the owner's name and address

(Owner) COLONIAL PIPELINE COMPANY

3990 Peach Tree Road, Lennox Towers, P.O. Box 18855, Atlanta, GA 30326

Project Identification and Description		<u>Yes</u>	<u>No</u>
1. a.	Is the project entirely or partly a new or improved or extended pier or other ship docking facility?	—	<u>X</u>
b.	If yes, will the pier or docking facility extend beyond mean low water?	—	<u>X</u>
c.	If yes, will it be used for bulk cargo transfers <u>solely</u> by the applicant company?	—	<u>X</u>
2. a.	Is this project <u>entirely</u> for pollution control purposes?	—	<u>X</u>
b.	If yes, briefly describe, and attach a copy of any order, notice, or regulation <u>if</u> the Delaware Department of Natural Resources and Environmental Control or (federal) Environmental Protection Agency has required this pollution control measure.	—	<u>X</u>
3. a.	Will the plant or project meet the following definition of <u>Manufacturing</u> in the Coastal Zone Act: "Manufacturing means the mechanical or chemical transformation of organic or inorganic substances into new products, characteristically using power driven machines and materials handling equipment, and including establishments engaged in assembling component parts of manufactured products, provided the new product is not a structure or other fixed improvement".	—	<u>X</u>
b.	If no to question 3.a., briefly explain what kind of activity will be carried on at the project site.	—	—
4. a.	If yes to Question 3.a., will the plant have the following equipment?	—	—
	smoke stacks	—	—
	tanks	—	—
	distillation or reaction columns	—	—
	chemical processing equipment	—	—
	scrubbing towers	—	—
	pickling equipment	—	—
	waste treatment lagoons	—	—
b.	Will the project site use twenty acres or more?	—	—



	<u>YES</u>	<u>NO</u>
10. Will this project produce any of the following environmental effects noticeable beyond the plant property lines:		
noise	---	<u>X</u>
vibration	---	<u>X</u>
radiation	---	<u>X</u>
electromagnetic interference	---	<u>X</u>
glare	---	<u>X</u>
heat	---	<u>X</u>
obnoxious odors	---	<u>X</u>

11. If the answer is yes to any parts of Questions 9 or 10, briefly explain the process, equipment, and the environmental impacts involved (use quantitative terms where possible).

12. Please attach a concise but complete description of the proposed project, and indicate how it is related to existing manufacturing operations and facilities (if it is not an entirely new manufacturing plant). Explain what effects there will be on land use acreage, manufacturing production capacity, and environmental effects.





W. Fees  
Sent  
Fed Express



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

SURFACE WATER MANAGEMENT  
SECTION

TELEPHONE (302) 736-5731

July 21, 1987

Mr. T. H. Norris  
Vice President of Operations  
Colonial Pipeline Company  
3390 Peachtree Road, N.E.  
Lenox Towers, P.O. Box 18855  
Atlanta, Georgia 30326

RE: Subaqueous Lands Lease  
SL-0203/87

Dear Mr. Norris:

Enclosed please find amended pages 2 and 3 for the above referenced lease. Two changes have been made. Condition 1 has been changed to reflect this Division's revised fee schedule (enclosed) that became effective July 15, 1987.

Condition 2 has been changed to charge a fee for material that is dredged for the area to be occupied by the pipeline.

Please insert these revised pages in the lease forwarded to you under my cover letter of June 23, 1987. The lease should be executed and notarized and returned to this office with the appropriate fees as soon as possible.

Sincerely yours,

A handwritten signature in cursive script that reads "William F. Moyer".

William F. Moyer  
Supervisor  
Wetlands and Underwater Lands  
Branch  
(302) 736-4691

cc: R. Wayne Ashbee



## SUBAQUEOUS LANDS LEASE

GRANTED TO

COLUMBIA GAS TRANSMISSION CORPORATION

TO

CONSTRUCT A 20" SUBMERGED NATURAL GAS PIPELINE ACROSS THE DELAWARE RIVER, NEW CASTLE COUNTY, DELAWARE

AND NOW, to-wit this 28<sup>th</sup> day of July, A. D. 1987, the State of Delaware does hereby accept the July 27 approval by the Secretary of the Department of Natural Resources and Environmental Control upon the application of Columbia Gas Transmission Corporation, submitted to the Department of Natural Resources and Environmental Control (hereinafter "the Department") and dated March 18, 1987, a copy of which is attached hereto and made a part hereof.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River; and

WHEREAS, Columbia Gas Transmission Corporation, has applied for permission to construct a 20" submerged natural gas pipeline; and

WHEREAS, the State of Delaware, by and through the Department certifies that the permitted activity will be conducted in a manner which will not violate the applicable water quality standards of the State of Delaware; and

WHEREAS, pursuant to the provisions of 7 Del. C., §7203, the Secretary of the Department of Natural Resources and Environmental Control (hereinafter "the Secretary") through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

NOW, therefore, the State of Delaware hereby permits Columbia Gas Transmission Corporation to construct 6,810 feet of a 20 inch submerged natural gas pipeline across the Delaware River, New Castle County, Delaware.

This lease shall be continued for a period of ten (10) years or so long as the conditions attached to the lease are adhered to, whichever is the shorter in

time. Upon the expiration of the ten-year term, this lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

THIS lease shall be subject to the following conditions:

1. During the term of this lease, Columbia Gas Transmission Corporation agrees to pay the State of Delaware the sum of \$5,107.50 per annum commencing on the 15<sup>th</sup> day of September and a payment of the same amount on the same day of each and every year thereafter until a formal termination hereof. This annual fee is subject to change at such time as the State of Delaware duly adopts amendments to its fee schedule for public subaqueous lands.
2. Columbia Gas Transmission Corporation agrees to pay the State of Delaware the sum of \$552.00 for the 552 cubic yards of material to be dredged from the public subaqueous lands of the Delaware River to be occupied by the pipeline. This lease shall not become effective until this payment has been made and acknowledged in writing by the State of Delaware. The number of cubic yards of material actually removed shall be verified by documents that the Department may require.
3. All excavated material not suitable for the backfilling of the trench shall be placed in scows and transported to the approved American Dredging Company dredged material disposal area in Logan, New Jersey.
4. Prior to the use of explosives for trench excavation a written description of the procedures to be utilized must be submitted and approved in writing by the Secretary before blasting can begin.

5. There shall be no excavation or use of explosives between the months of April and June in order to minimize the impact on anadromous fish passage.
6. The project is to be undertaken in accordance with the plans and specifications submitted to include the following:
  - a. Application dated March 18, 1987, with drawing dated February 19, 1987, Sheet 1 of 1 undated and Sheet 2 of 2 undated attached to the application.
  - b. Application of Columbia Gas Transmission Corporation to the Federal Energy Regulatory Commission dated December 4, 1986.
  - c. "Environmental Assessment: Delaware - South Jersey Pipeline Project" prepared by the Federal Energy Regulatory Commission dated June, 1987.
  - d. Letter dated April 14, 1987, to the Department's Division of Water Resources from Dr. Donald Gartman regarding disposal of excavated material removed from the Delaware River.
  - e. Letter dated May 20, 1987 to the Department's Division of Water Resources from Dr. Donald Gartman regarding cubic yards of material to be removed from the Delaware River for upland disposal.
7. The conditions contained herein shall be included in the construction contract and other documents.
8. Sediment and erosion controls shall be implemented so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Water Quality Standards for Streams" dated December 23, 1985.

9. A copy of this lease must be available on-site during all phases of construction activity, and the Department's Notice of Authorization displayed in a highly visible location at all times.
10. All representations, promises, specifications, conditions or other statements made by or on behalf of lessee or submitted in connections with lessee's application for this lease are expressly incorporated herein by reference and compliance therewith or satisfaction thereof are warranted to be true and correct and are made a condition of this lease. It is agreed that lessee's representations, promises, specifications or conditions will be fully complied within the completion of the project described herein.
11. The project is to be undertaken in accordance with the plans submitted. If changes are necessary, revised plans must be submitted and a supplemental approval issued prior to actual construction.
12. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phases of the construction.
13. This lease does not cover the structural stability of the project units.
14. Prior to the expiration of this lease, the lessee shall remove all structures covered under this lease unless the lease has been renewed in accordance with its terms.
15. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.

16. The lessee shall notify the Department of Natural Resources and Environmental Control as to the date work will be commenced, as far in advance of the time of commencement as the Department may specify, and the completion date.
17. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
18. The lessee shall at all times comply with such rules and regulations relating to navigation as may from time to time be promulgated by the United States Corps of Engineers as the same may affect such structures.
19. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
20. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
21. This lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.
22. Nothing contained herein shall in any manner affect the rights of any riparian land owner now existing under the laws of the State of Delaware.
23. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.



- 24. This lease is void if the project has not been completed within three (3) years from the date of issuance.
- 25. If the lessee considers three (3) years insufficient for completion of the project, the lessee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.
- 26. This lease will be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, I, Edward B. Calland, have caused this instrument to be executed on this 17<sup>th</sup> day of July, 1987.  
 Columbia Gas Transmission Corporation  
 By: [Signature]  
 Applicant  
 Its Vice President

SWORN and subscribed before me on this 17<sup>th</sup> day of July, 1987.  
[Signature]  
 Notary Public

IN WITNESS WHEREOF, I, John E. Wilson, III, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 27<sup>th</sup> day of July, 1987.

Witness: [Signature]  
 By [Signature]  
 Secretary of the Department of Natural Resources and Environmental Control

SUBAQUEOUS LANDS LEASE

GRANTED TO

COLONIAL PIPELINE COMPANY

TO

CONSTRUCT A 30" SUBMERGED PETROLEUM PRODUCTS PIPELINE ACROSS THE DELAWARE RIVER

AND NOW, to-wit this 3<sup>rd</sup> day of August, A. D. 1987, the State of Delaware does hereby accept the July 30, 1987 approval by the Secretary of the Department of Natural Resources and Environmental Control upon the application of Colonial Pipeline Company, submitted to the Department of Natural Resources and Environmental Control (hereinafter "the Department") and dated January 26, 1987, a copy of which is attached hereto and made a part hereof.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River; and

WHEREAS, Colonial Pipeline Company, has applied for permission to construct a 30" submerged petroleum products pipeline across the Delaware River; and

WHEREAS, the State of Delaware, by and through the Department certifies that the permitted activity will be conducted in a manner which will not violate the applicable water quality standards of the State of Delaware; and

WHEREAS, pursuant to the provisions of 7 Del. C., §7203, the Secretary of the Department of Natural Resources and Environmental Control (hereinafter "the Secretary") finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

NOW, therefore, the State of Delaware hereby permits Colonial Pipeline Company to construct a 30" submerged petroleum products pipeline across the Delaware River.

This lease shall be continued for a period of ten (10) years or so long as the conditions attached to the lease are adhered to, whichever is the shorter in time. Upon the expiration of the ten-year term, this lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and

received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

THIS lease shall be subject to the following conditions:

1. During the term of this lease, Colonial Pipeline Company agrees to pay the State of Delaware the sum of \$8,372.50 per annum commencing on the 15<sup>th</sup> day of September and a payment of the same amount on the same day of each and every year thereafter until a formal termination hereof. This annual fee is subject to change at such time as the State of Delaware duly adopts amendments to its fee schedule for public subaqueous lands.
2. Colonial Pipeline Company agrees to pay the State of Delaware the sum of \$1,217.00 for the 1,217 cubic yards of material to be dredged from the public subaqueous lands of the Delaware River to be occupied by the pipeline. This lease shall not become effective until this payment has been made and acknowledged in writing by the State of Delaware. The number of cubic yards of material actually removed shall be verified by documents that the Department may require.
3. All excavated material not suitable for the backfilling of the trench shall be placed in scows and transported to the approved American Dredging Company dredged material disposal area in Logan, New Jersey.
4. Prior to the use of explosives for trench excavation a written description of the procedures to be utilized must be submitted and approved in writing by the Secretary before blasting can begin.
5. There shall be no excavation or use of explosives between the months of April and June in order to minimize the impact on anadromous fish passage.

6. The pipeline shall be built in accordance with the requirements of the federal "Hazardous Liquid Pipeline Safety Act" as amended.
7. The conditions contained herein shall be included in the construction contract and other documents.
8. Sediment and erosion controls shall be implemented so as not to violate the "State of Delaware Water Quality Standards for Streams" adopted December 23, 1985.
9. The project is to be undertaken in accordance with the plans and specifications submitted to include the following:
  - a. Application dated January 26, 1987, drawings with revised Sheet 1 of 2 and Sheet 2 of 2 dated April 21, 1987 with attached project statement dated February, 1987;
  - b. "Agreement and Technical Specifications for constructing a 30" OD Pipeline across the Delaware River AFE7385;"
  - c. Drawing "proposed 30" spare mainline Delaware River crossing" Sheet 1; BEA-CP-0001 dated April 30, 1987;
  - d. Three aerial photographs: "Proposed 30" spare mainline Delaware River crossing" Sheet 1, 8-DWR-SK3 date April 7, 1987; "Delaware River crossing north bank" Sheet 1, 8-DWR-SK1 dated April 7, 1987; "Delaware River crossing south bank" Sheet 1, 8-DWR-SK2 dated April 7, 1987.
  - e. Colonial Pipeline Company, Woodbury Area, "Emergency Directory Index," dated 5/85.
  - f. Letter to the Department's Division of Water Resources from Burlco Engineering Associates dated May 7, 1987 regarding clarification of specifications.
10. A copy of this lease must be available on site during all phases of construction activity, and the Department's Notice of Authorization displayed in a highly visible location at all times.

11. The project shall be undertaken in accordance with the plans submitted. If changes are necessary, revised plans must be submitted and a supplemental approval issued prior to actual construction.
12. Representatives of the Department may inspect such work at any time and may collect any samples or conduct any tests that are deemed necessary.
13. This lease does not cover the structural stability of the project units.
14. Prior to the expiration of this lease, the lessee shall remove all structures covered under this lease unless the lease has been renewed in accordance with its terms.
15. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public or as are specified by regulation shall constitute reason for the revocation of the permit and discontinuance and/or removal of said action, operation or installation.
16. The lessee shall notify the Department of the date work will be commenced and completed in advance of the time of commencement and completion within the period the Department specifies in writing
17. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
18. The lessee shall at all times comply with such rules and regulations relating to navigation as may from time to time be promulgated by the United States Corps of Engineers as the same may affect such structures.

IN WITNESS WHEREOF, I, T. H. Norris, have caused this instrument to be executed on this 22nd day of July, 1987.

By: T.H. Norris  
Applicant

T. H. Norris, Vice President-Operations  
Colonial Pipeline Company

SWORN and subscribed before me on this 22nd day of July, 1987.

Doethea E. Murphy  
Notary Public  
Notary Public, Georgia, State at Large  
My Commission Expires June 3, 1988

IN WITNESS WHEREOF, I, John E. Wilson, III, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 30th day of July, 1987.

John E. Wilson, III  
By Secretary of the Department of  
Natural Resources and Environmental  
Control



DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF FISH AND WILDLIFE

*File  
Columbia Press*

MEMORANDUM

August 11, 1987

TO: William F. Moyer

FROM: Charles A. Lesser                      VIA: William C. Wagner II

RE:     Blasting Plan of Operations, Columbia's 20" pipeline

---

The Division of Fish and Wildlife has reviewed the Blasting Plan of Operations for the placing of a 20" natural gas pipeline by Columbia Gas across the Delaware River in the vicinity of Naaman's Creek. We suggest additional conditions be considered to lessen the impact on fishes.

The following species of fishes can be present in the Naaman's Creek area of the Delaware River throughout the remainder for 1987; blueback herring, alewife, American shad, channel catfish, white perch, striped bass, weakfish, spot, Atlantic croaker and menhaden. No blasting should take place after October 1 to minimize losses of juvenile American shad which will be migrating down the Delaware River after October. This is a species of considerable concern to the Mid-Atlantic Region. Striped bass also is a species in need of added protection.

The employment of an air curtain around each blast evidently decreases the concussion of the blast on fishes. The air curtain was successful for the DP&L blasting program just completed in the Delaware River. DP&L also used side scan sonar to detect any large concentrations of fish in a blast area. Blasting was delayed until "scare charges" caused any large concentrations of fishes to leave the immediate area as verified by sonar.

Recovery crews should be on hand to pick up all dead and stunned fish in order to allow any larger fish such as channel catfish to recover without being subjected to sea gull predation. It is also good public relations to recover any dead fish.



We feel the precautions taken by DP&L to protect spawning striped bass and migrating shad when they blasted in the Delaware River in May of 1987 were effective. Similar precautions could be taken by Columbia Gas prior to October 1. If blasting is to take place after October 1, then the program should be approved with the conditions of using an air curtain, side scan sonar, scare charges and recover crews.

CAL:ef



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF FISH AND WILPLIFE  
89 KINGS HIGHWAY  
P.O. BOX 1401  
DOVER, DELAWARE 19903

RECEIVED

SEP 22 1987

WETLANDS AND UNDERWATER LANDS  
BRANCH

OFFICE OF THE  
DIRECTOR

M E M O R A N D U M

TO : Bill Moyer  
FROM : Charles A. Lesser *CM*  
SUBJECT : Colonial Pipeline Company (Supplemental Blasting Plan)  
DATE : September 17, 1987

The supplemental blasting plan for the Colonial Pipeline crossing of the Delaware River still requires some additions to provide more safeguards for fishes.

We request that in addition to a recovery vessel to pick up dead and stunned fish, the crew should have a qualified fisheries biologist to identify and count all dead and dying fish. If any dead juvenile American shad are encountered, all blasting should cease until all juvenile shad have emigrated past the area and out of the Delaware River.

All fish killed should be reported back to DNREC-Division of Fish and Wildlife. If any significant number of Striped bass are killed, appropriate mitigation shall be in order since Striped bass are in the recovery stage of a decimated population in the Delaware River.

The Division of Fish and Wildlife should be notified at least 24 hours before any blasting occurs so that a Division of Fish and Wildlife biologist can randomly field check the effects of blasting on fishes.

It is highly probable that high numbers of juvenile American shad could be effected by blasting in October-November. Blasting should be curtailed unless absolutely necessary.

CAL:b





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
69 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

SURFACE WATER MANAGEMENT  
SECTION

TELEPHONE: (302) 736-5731

September 24, 1987

Mr. J. R. Arnold  
Colonial Pipeline Company  
3390 Peachtree Road N.E.  
Lenox Towers  
Atlanta, Georgia 30326

RE: Subaqueous Lands Lease SL-0203/87

Dear Mr. Arnold:

The supplemental blasting plan described in your letter of September 8, 1987 has been reviewed and has been approved subject to the following conditions:

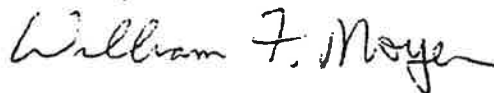
1. In addition to the recovery vessel for picking up dead and stunned fish, a qualified fisheries biologist should identify and count all dead and dying fish. During October and November the result of these counts should be submitted on a weekly basis to Mr. Roy Miller of the Division of Fish and Wildlife.
2. If any dead juvenile American shad are encountered, all blasting shall cease until all juvenile shad have emigrated past the area.
3. The Division of Fish and Wildlife shall be notified at least 24 hours before any blasting occurs or a schedule shall be submitted for our records prior to the blasting (Telephone 302-736-3441).
4. All blasting shall cease if high numbers of juvenile American shad are in the area as indicated by sonar, fish affected by blasting or reports received by the Division of Fish and Wildlife. The Division reserves the right to order all blasting stopped if there is a threat to the shad migration. Permission to resume blasting will be given by the Division of Fish and Wildlife.

Mr. J. R. Arnold  
September 24, 1987  
Page Two

5. There shall be mitigation if any significant number of Striped bass are killed since Striped bass are in the recovery stage of a decimated population in the Delaware River.

If you have any questions, please feel free to contact this office.

Sincerely,



William F. Moyer  
Supervisor  
Wetlands and Underwater Lands Branch  
(302) 736-4691

cc: Mr. Charles Lesser

WFM/klb



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

SURFACE WATER MANAGEMENT  
SECTION

TELEPHONE: (302) 736-5731

March 8, 1988

Mr. J. R. Arnold  
Colonial Pipeline Company  
3390 Peachtree Road N.E.  
Lenox Towers P. O. Box 18855  
Atlanta, Georgia 30326

Re: Subaqueous Lands Lease SL-0203/87  
Pipeline Construction Permit WPCG 3023/87

Dear Mr. Arnold:

On March 4, 1988 a meeting was convened in the District Offices of the Corps of Engineers in order to discuss your request for an extension of time to conduct pipeline construction activity in the Delaware River under the above referenced permits. These permits restrict dredging and use of explosives during the months of April, May and June.

After a review and discussion of the methods available for predicting the movement of shad up the Delaware River and after consultation with experts in the field of shad migration it was agreed that the permits could be modified in accordance with the following conditions and still minimize any adverse impacts on the fishery:

1. Beginning immediately daily river water temperatures shall be taken and submitted to this office. When the river water temperature at the Delaware Memorial Bridge reaches 9°C at mid-depth, all dredging, filling and blasting shall cease immediately until May 16, 1988.
2. In the event that shad sampling in the vicinity of Pea Patch Island indicates that shad have begun their migration, Colonial will cease all dredging, filling and blasting upon verbal notification from the Department of Natural Resources and Environmental Control until May 16, 1988. This condition shall preclude condition #1 above if the temperature has not reached 9°C.

Page Two

All other terms and conditions of the above permits remain in place. If you have any questions, please feel free to call. Please indicate your acceptance of this plan by signing in the below designated space and returning this letter to this office.

Sincerely,



William F. Moyer

cc: Frank Cianfrani  
Brad Smith  
Roy Miller  
Gerard Esposito

---

J. R. Arnold  
Assistant Manager - Engineering



NOV 19 2001

STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19803

SURFACEWATER MANAGEMENT SECTION  
WATERSHED ASSESSMENT BRANCH  
POLLUTION CONTROL BRANCH  
FACILITY SUPPORT BRANCH  
WETLANDS & AQUATIC PROTECTION BRANCH

(302) 739-5726  
(302) 739-4590  
(302) 739-5731  
(302) 739-5081  
(302) 739-4691

Subaqueous Lands Lease: SL-1203/91  
Effective Date: 10/15/91  
Construction Expiration Date: 10/15/94  
Amended Date:

RENEWAL OF SUBAQUEOUS LANDS LEASE 0508/B1  
GRANTED TO SUN REFINING AND MARKETING COMPANY  
TO MAINTAIN 8 PETROLEUM PIPELINES 6,100 FEET ACROSS  
THE DELAWARE RIVER SOUTHEAST OF U.S. ROUTE 13 AND  
DELAWARE ROUTE 92, CLAYMONT, NEW CASTLE COUNTY, DELAWARE

Sun Refining and Marketing Company  
1801 Market Street  
Philadelphia, PA 19103-1699

Pursuant to the provisions of 7 Del. C. §7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 15 day of OCTOBER A.D. 1991, to Sun Refining and Marketing Company to maintain 8 petroleum pipelines 6,100 feet across the Delaware River southeast of U. S. Route 13 and Delaware Route 92, Claymont, New Castle County, Delaware in accordance with plans titled "Proposed Submarine Pipeline", dated 11/9/60, and received by this Division on 3/4/91, and application received 3/4/91.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River; and

WHEREAS, Sun Refining and Marketing Company, owner of certain adjoining lands to the Delaware River has applied for permission to maintain a petroleum pipeline; and

WHEREAS, the State of Delaware, by and through the Department of Natural Resources and Environmental Control, certifies that the permitted activity will be conducted in manner which will not violate the applicable water quality standards of the State of Delaware; and

WHEREAS, pursuant to the provisions of 7 Del. C., §7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

*Delaware's good nature depends on you!*



This approval is in accordance with plans and application submitted to Department of Natural Resources and Environmental Control, a copy of which is attached hereto, and made a part hereof.

This lease shall be continued for a period of ten (10) years or so long as the conditions attached to the lease are adhered to, whichever is the shorter in time. Upon the expiration of the ten-year term, this lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

THIS lease is issued subject to the following conditions:

SPECIAL CONDITIONS

1. The conditions contained herein shall be included in the construction contract and other ancillary documents associated with earth disturbance and construction activities which may impact subaqueous lands associated with this project.
2. Construction shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Surface Water Quality Standards" dated February 2, 1990.
3. The pipeline shall be constructed in a manner so as not to impair water access to the adjoining property and a minimum of five (5) feet from the adjacent properties.
4. A copy of this lease must be available on-site during all phases of construction activity.
5. The structure on subaqueous lands shall be for the explicit purpose of transporting petroleum products as stated in Section (6) six of the application.
6. All construction debris, excavated material, brush, rocks and refuse incidental to such work shall be placed above the influence of surface waters.
7. The pipeline shall at no time impair navigability in the Delaware River during the term of this lease.
8. During the term of this lease (the Lessee) agrees to pay the State of Delaware the sum of \$36,600.00 per annum for a total of \$366,000.00 for the 48,800 linear feet of public subaqueous lands utilized commencing on the 15 day of October of 1991, and a payment of the same amount on the same day of each and every year thereafter for the term of this lease. This annual fee is subject to change at such time as the State of Delaware duly adopts amendments to its fee schedule for public subaqueous lands.

NOV 19 2001

GENERAL CONDITIONS

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. If changes are necessary, revised plans must be submitted and a supplemental approval issued prior to actual construction.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phases of the construction and may collect any samples or conduct any tests that are deemed necessary.
3. This lease does not cover the structural stability of the project units.
4. Prior to the expiration of this lease, the lessee shall remove all structures covered under this lease unless the lease has been renewed in accordance with its terms.
5. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
6. The lessee shall notify the Department of Natural Resources and Environmental Control within ten (10) days of the date work will be commenced.
7. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
8. The lessee shall at all times comply with such rules and regulations which are promulgated by the United States Corps of Engineers.
9. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
10. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
11. This lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the state or any political subdivision, board, commission or agency of the state in the vicinity of the leased premises.
12. Nothing contained herein shall in any manner affect the rights now existing of any riparian land owner under the laws of the State of Delaware.
13. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.

APPLICATION MASTER FILE  
WETLANDS BRANCH

03/20/01  
PAGE 145

NUMBER: SL-1203/91

APPLICANT -> SUN REFINING & MARKETING CO.

ADDRESS MANAGER, REAL ESTATE 1801 MARKET STREET  
CITY/STATE/ZIP PHILADELPHIA PA 19103-1699

PROPERTY OWNER -> H. S. ROE PRESIDENT

CONTRACTOR -> E.E. BAILEY,

DESCRIPTION:

NCC, CLAYMONT, DELAWARE RIVER SE U.S. RT. 13 & DELAWARE RT. 92  
RENEWAL-MAINTAIN 8 PETROLEUM PIPELINES 6,100 FT ACROSS  
\$36,600.00 ANNUM DUE 10/15/91

APPLICATION RECEIVED: 03/04/91  
DATE SITE INSPECTED: 04/12/91

BY WHOM? MB

SUP APPROVAL?:

SUP APPROVAL DATE: / /

CORPS PERMIT: CONDITIONS:

COND DATE: / /

CURRENT STATUS: A

DATE ISSUED: 05/23/91

MENTS:

TIME IN DAYS: 57

*lease fee?*



STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY, P.O. BOX 1401  
 DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS  
 LANDS SECTION

TELEPHONE (302) 739-4691  
 FACSIMILE (302) 739-3491

Subaqueous Lands Lease: SL-1310/94  
 Date of Issuance: 10/9/94  
 Expiration Date: *N/A*

**SUBAQUEOUS LANDS LEASE  
 GRANTED TO COLONIAL PIPELINE  
 TO RENEW A LEASE TO MAINTAIN 8000 FEET OF 30 INCH  
 DIAMETER PIPELINE ACROSS THE DELAWARE RIVER AT  
 MARCUS HOOK, NEW CASTLE COUNTY, DE**

Colonial Pipeline Company  
 945 East of Paces Ferry Road  
 Atlanta, GA 30326-1125

Pursuant to the provisions of 7 Del. C. 7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this *20th* day of *January* A.D. 199*4* to construct the above-referenced project in accordance with plans titled "Delaware River Crossing", dated 8/31/65, and received by this Division on 9/26/94; and application dated 8/31/94, and received by this Division on 9/26/94.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of Delaware River; and

WHEREAS, Colonial Pipeline, owner of certain adjoining lands to Delaware River has applied for permission to maintain a lease for a pipeline; and

WHEREAS, pursuant to the provisions of 7 Del. C., 7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

*Delaware's good nature depends on you!*

This approval is in accordance with plans and application submitted to Department of Natural Resources and Environmental Control, a copy of which is attached hereto and made a part hereof.

This lease shall be continued for a period of ten (10) years or so long as the conditions attached to the lease are adhered to, whichever is the shorter in time. Upon the expiration of the ten-year term, this lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

THIS lease is issued subject to the following conditions:

#### SPECIAL CONDITIONS

1. The conditions contained herein shall be included as part of the main body of the construction contract and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction which may impact subaqueous lands associated with this project. The permittee is responsible for ensuring that the contractor and/or workers executing the activities authorized by this permit have full knowledge of the terms and conditions of this permit.
2. Construction shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Surface Water Quality Standards" dated February 26, 1993.
3. The pipeline shall be constructed in a manner so as not to impair water access to the adjoining property and a minimum of ten (10) feet from the adjacent properties.
4. There shall be no alteration or addition made to the permitted structure without prior approval from the Department.
5. The structure on/or adjacent to subaqueous lands shall be for the explicit purpose of petroleum transport as stated in the lease renewal application.
6. Removal of wetlands and/or aquatic vegetation adjacent to the permitted construction by burning, cutting, herbicide treatments or other methods is prohibited. Removal of wetlands and/or aquatic vegetation in the path of construction shall be minimized.
7. All construction debris, excavated material, brush, rocks and refuse incidental to such work shall be placed above the influence of surface waters.

SL-1310/94

8. **During the ten-year term of this lease the lessee shall agree to pay the State of Delaware the sum of \$16,000 per annum for a total of \$160,000 for the 8000 linear feet of public subaqueous lands utilized for the above-referenced project. The first payment of this lease shall be \$16,000 for the remainder of this billing term (through September).**

#### **GENERAL CONDITIONS**

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. Any activities not specifically authorized herein may require a supplemental approval from this office prior to the initiation of construction. A determination on the need for a supplemental approval will be made by this office pursuant to the permittee submitting written notification and revised plans indicating project changes to this office.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phases of the construction and may collect any samples or conduct any tests that are deemed necessary.
3. This lease does not cover the structural stability of the project units.
4. Prior to the expiration of this lease, the lessee shall remove all structures covered under this lease unless the lease has been renewed in accordance with its terms.
5. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
6. The lessee shall notify the Department of Natural Resources and Environmental Control within ten (10) days of the date work will be commenced.
7. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
8. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
9. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.

SL-1310/94

10. This lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.
11. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.
12. This lease shall expire if the project has not been completed within three (3) years from the date of issuance.
13. If the lessee considers three (3) years insufficient for completion of the project, the lessee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.
14. This lease is not assignable or transferable without the prior written consent of the Department. Prior to the transfer of the property, it is the responsibility of the lessee to provide the new owner with a copy of the lease or to remove all structures. Prior to property conveyance, the lessee must also notify the Department of the change in ownership.
15. The lessee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
16. The issuance of this lease does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.
17. This lease will be revoked upon violation of any of the above conditions.
18. Application for renewal must be submitted six (6) months prior to the expiration date of this lease.

SI-1310/94

IN WITNESS WHEREOF, We , Colonial Pipeline, have caused this instrument to be executed on this 20 day of January, 1995

By: [Signature]  
Applicant

APPROVED:  
Description &  
Terms...  
Form...  
[Signature]

SWORN and subscribed before me on this 20 day of Jan., 1995.

[Signature]  
Notary Public  
Notary Public, Fulton County, Georgia  
My Commission Expires January 11, 1998

IN WITNESS WHEREOF, I, Christophe A.G. Tulou, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 26 day of January, 1994-95

[Signature]

By Secretary of the Department of  
Natural Resources and  
Environmental Control







STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS  
LANDS SECTION

TELEPHONE (302) 739-4691  
FACSIMILE (302) 739-3491S

December 23, 1994

*Colonial Pipeline Company  
945 East of Paces Ferry Road  
Atlanta, GA 30326-1125*

*Dear Sir/Madam:*

*Enclosed is the subaqueous lands lease which has been prepared in accordance with the recommendations of the Secretary of the Department of Natural Resources and Environmental Control.*

*Please sign and have notarized the three originals on the lines indicated on the last page of the leases and return the entire package to this office within thirty (30) days.*

*Unless this office is notified, leases not returned to this office within thirty (30) days will be invalidated and the application returned to the applicant. Please sign the last pages only. Be sure to return all copies of the lease. You will receive the original after it has been fully executed.*

*If you have any questions, please feel free to call this office.*

*Sincerely,*

*James T. Chaconas  
Program Manager  
Wetlands & Subaqueous  
Lands Section*

*JTC/fr  
Enclosure*

*Delaware's ...*





STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY, P.O. BOX 1401  
 DOVER, DELAWARE 19903

**INDUSTRIAL WATER ALLOCATION**

**ALLOCATION NO:** 91-0012M2  
**EFFECTIVE DATE:** October 17, 1991  
**EXPIRATION DATE:** October 17, 2021  
**MODIFICATION DATE:** January 13, 1995

Pursuant to the provisions of 6010f, 7 Del. C., an allocation of water is hereby granted to:

**LOGAN GENERATING COMPANY, L.P.**  
**BOX 169-C RT 130 SOUTH**  
**SWEDESBORO, NJ 08085-9300**

for the withdrawal and use of water from the following water facility:

INTAKE	LOCATION	STREAM	LATITUDE	LONGITUDE	CAP.
AM-P001A	R.M. 78.8	Delaware River	38°47'50"	75°24'53"	3000 gpm
AM-P001B	R.M. 78.8	Delaware River	38°47'50"	75°24'53"	3000 gpm

**OTHER APPROVALS**

1. This approval is subject to review every five years from effective date by the Division of Water Resources.
2. Approval for discharge of this water must be obtained from the Division of Water Resources.
3. This approval is subject to all appropriate regulations and approvals of the Delaware River Basin Commission (DRBC)
4. Approval for use for this water for human consumption must be obtained from the Bureau of Environmental Health.

**EQUIPMENT REQUIREMENTS**

1. Each of these intakes must be equipped with either flow integrators, or, where feasible, flow meters, to compute withdrawal rates and cumulative volume of pumpage to a design

*Delaware's good nature depends on you!*

precision of  $\pm 5\%$ .

REPORTING REQUIREMENTS

1. For each of these wells: readings of pumping rates and cumulative volume of pumpage must be made and recorded at least daily. Readings of pumping water-levels must be made and recorded at least weekly. This and other relevant information, such as water purchases and sales is to be recorded on a form provided by the Division of Water Resources and submitted by the permit holder to the Division annually by January 31 or more frequently if requested

ALLOCATION

1. In any twenty-four (24) hour period: Total combined pumpage from these intakes must not exceed 4,320,000 gallons.
2. In any thirty (30) day period: Total combined pumpage from these intakes must not exceed 105,00,000 gallons.
3. In any twelve (12) month period: Total pumpage from these intakes must not exceed 990,000,000 gallons.
4. Withdrawals for the sources listed below shall not exceed the following limits:

INTAKE NO.	DNREC ID NO.	PUMPING RATE (GPD)
AM-P001A	8236	4,320,000
AM-P001B	8237	4,320,000

5. These intakes may be used only for the purpose of industrial supply and related uses. Any change in the intended use, or in the physical characteristics of the above facilities must receive prior approval from the Division of Water Resources.
6. All laws and regulations governing the construction, operation, maintenance, and repair of water supply facilities in the State of Delaware must be obeyed.
7. Representatives of the Division of Water Resources, Delaware Geological Survey and the U.S. Geological Survey may inspect these facilities, conduct any tests, and collect any samples at any time deemed necessary.
8. This allocation is specifically subject to the requirements of 7 Del. C. §6031.
9. If the withdrawal of water pursuant to this permit has significant adverse affects

including, but not limited to, reduction of streamflows, lowering of water levels, migration of pollutants, or encroachment of salt water, the Division of Water Resources may require action to rectify the problem.

10. This permit is transferable only if the requirements of the Regulations Governing the Allocation of Water are met and, written approval is obtained from the Division.
11. Violations of conditions of this permit are subject to penalties provided in 7 Del. C., Chapter 60.


WATER CONSERVATION MEASURES

This approval is contingent on practice by the permit holder of reasonable efforts to minimize the unnecessary use and/or waste of water. The permit holder must:

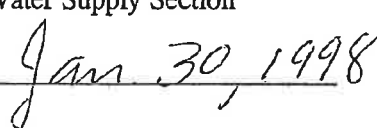
- A. Establish a program of periodic monitoring and evaluation of water usage,
- B. Establish a systematic leak detection and control program which is responsive to high unaccounted for water usage rates, routine maintenance, or discovery of leaks,
- C. Use the best practical methods and devices to conserve water,
- D. Alert employees of the need to conserve water and reduce wasteful usage, including posting conservation suggestions, and
- E. Develop a contingency plan to be implemented in the event of water shortage emergencies. This plan should include:
  1. Identification of emergency water sources,
  2. Priorities of water usage, and
  3. Emergency measures to curtail water usage.

The permittee must demonstrate compliance with these conditions upon request by the Division of Water Resources.

Signed: \_\_\_\_\_

  
Stewart Lovell, P.G.  
Manager  
Water Supply Section

Date: \_\_\_\_\_



c: U.S. Geological Survey  
Delaware River Basin Commission





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

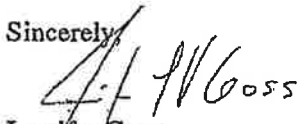
Paul Wagner, P.E.  
U.S. Generating Company  
Box 169 C, Route 130 South  
Swedesboro, NJ 08085-9300

January 21, 1998

Dear Mr. Wagner,

Please find enclosed the modified allocation permit reflecting your change in name/ownership. In reference to our conversation upon your visit to our office, it has been decided by our office that both inlets at your facility will remain permitted as two surface water intakes, permit numbers 8237 and 8236. Because they are considered individual intakes, our office requires that they be reported on annual water use reports separately and referred to on the reports by their intake permit numbers. Their individual pumpage totals should then be combined to determine the annual system summary. If you have any questions concerning this matter please do not hesitate to call my office (302) 739-4793.

Sincerely,

  
Jennifer Cross  
Environmental Scientist  
Water Allocations  
Water Supply

*Delaware's good nature depends on you!*







STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES &  
 ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES

WETLANDS & SUBAQUEOUS  
 LANDS SECTION

89 KINGS HIGHWAY  
 DOVER, DELAWARE 19901

TELEPHONE (302) 739-4691  
 FACSIMILE (302) 739-6304

Subaqueous Lands Lease No.: SL-404/01  
 Renewal of Subaqueous Lands Lease No.: SL-1203/91  
 Date of Issuance: 5/15/02  
 Lease Expiration Date: October 15, 2021  
 Amended Date:

**SUBAQUEOUS LANDS LEASE  
 GRANTED TO SUNOCO INC. R & M TO MAINTAIN EIGHT 6100 LINEAR  
 FOOT PIPELINES, WITH DIAMETERS BETWEEN 6 INCHES AND 12  
 INCHES, BENEATH THE DELAWARE RIVER NEAR NEW CASTLE,  
 NEW CASTLE COUNTY, DELAWARE**

Joel H. Maness  
 Sunoco Inc. R & M  
 1800 Market Street  
 Philadelphia, PA 19103-1699

Pursuant to the provisions of 7 Del. C. 7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 15th day of May A.D. 2002, to maintain the above-referenced project in accordance with the approved plans for this lease (2 sheets), as approved on 4/19/02, and received by this Division on 11/19/01; and application dated 11/13/01, and received by this Division on 11/19/01.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River; and

WHEREAS, Sunoco, Inc. R & M, has applied for permission to maintain a submarine pipelines under the Delaware River; and

WHEREAS, pursuant to the provisions of 7 Del. C., 7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

*Delaware's good nature depends on you!*

This approval is in accordance with plans and application submitted to Department of Natural Resources and Environmental Control, a copy of which is attached hereto and made a part hereof.

This Lease shall be continued for a period of twenty (20) years or so long as the conditions attached to the Lease are adhered to, whichever is the shorter in time. Upon the expiration of the twenty-year term, this Lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this Lease. A renewal may be denied if the State determines that the Lease is no longer in the public interest.

THIS Lease is issued subject to the following conditions:

#### SPECIAL CONDITIONS

1. The conditions contained herein shall be included as part of the main body of the construction contract and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction or maintenance which may impact subaqueous lands associated with this project.
2. This Lease authorizes the lessee to maintain the approved structures on public subaqueous land from October 16, 2001 through October 15, 2021.
3. The approved submarine pipelines include 37,760 linear feet on public subaqueous lands. During the twenty-year term of this lease, the lessee shall agree to pay the State of Delaware the sum of \$75,520.00 per annum, for a total of \$1,510,400.00 for the 37,760 linear feet of public subaqueous lands utilized for the above-referenced project. Annual billing will continue with the adjusted fee.
4. This Lease represents a renewal of Subaqueous Lands Lease No. SL-1203/91 granted to the Sun Refining and Marketing Company. All special and general conditions contained in this Lease shall supersede conditions set forth in Subaqueous Lands Lease No. SL-1203/91, which shall become null and void.
5. Maintenance shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control's "Surface Water Quality Standards," as amended August 11, 1999.
6. The leased structure shall be maintained in a manner so as not to impair water access.
7. This Lease does not authorize any repairs, additions, or modifications to the existing structures authorized herein. Such activities require separate written authorization from the Department of Natural Resources and Environmental Control.

8. The structures on subaqueous lands shall be for the explicit purpose of conveyance of chemicals.

~~9. All debris, excavated material, brush, rocks, and refuse incidental to maintenance of the leased structure shall be placed above the influence of surface waters.~~

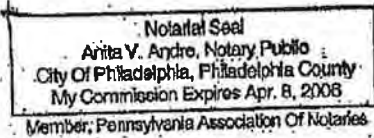
### GENERAL CONDITIONS

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. Any activities not specifically authorized herein may require a supplemental approval from this office prior to the initiation of construction. A determination on the need for a supplemental approval will be made by this office pursuant to the lessee submitting written notification and revised plans indicating project changes to this office.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect the leased structure and may collect any samples or conduct any tests that are deemed necessary.
3. This Lease does not cover the structural stability of the project units.
4. Prior to the expiration of this Lease, the lessee shall remove all structures covered under this Lease unless the Lease has been renewed in accordance with its terms.
5. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
6. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
7. The issuance of this Lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
8. This Lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
9. This Lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.

10. This Lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this Lease being revoked.
11. This Lease is personal and may not be transferred without the prior written consent of the Department. Prior to the transfer of the utility line, the lessee shall obtain the written consent of the Department to transfer this Lease to the new utility line owner. Failure to obtain such written consent may result in the revocation of this Lease and the removal of all structures authorized by this Lease at the expense of the lessee.
12. The lessee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
13. The issuance of this Lease does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.
14. Application for renewal must be submitted six (6) months prior to the expiration date of this Lease.
15. This Lease may be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, I, Joel H. Maness, Senior Vice-president of Refining and Supply, Sunoco Inc. R & M, have caused this instrument to be executed on this 2nd day of May, 2002.

By: [Signature]  
Applicant



(Notary Seal)

Arita V. Andre  
Notary  
My commission expires: April 8, 2006

By the authority invested in me under 7 Del.C. §7203(a), I hereby grant this Lease for the use of the State owned subaqueous lands to the Lessee(s) by setting my hand on this 15th day of May, 2002.

Nicholas A. DiPasquale  
Nicholas A. DiPasquale  
Secretary, Department of Natural Resources  
and Environmental Control





STATE OF DELAWARE

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Dover, Delaware 19901

January 29, 1971

Austin N. Heller,  
*Secretary*

Division of Environmental Control

Mr. P. H. Collins  
Engineering Site Division  
E. I. duPont de Nemours & Company  
Chambers Works  
Deepwater, New Jersey 08023

Dear Mr. Collins:

Please note the attached copy of a letter to Colonel Strider, U. S. Army Corps of Engineers, regarding your company's application for an Army permit to construct an oil storage tank in the Delaware River at your Chambers Works facility. The Department of Natural Resources and Environmental Control has taken this action because of the necessity for your company to first obtain a permit from the State of Delaware and also to obtain a waiver of the moratorium on such projects in the Delaware River and Bay.

For your information and use, I am enclosing a copy of the declaration of the moratorium and also an application form for State approval of subaqueous lands projects. Please submit complete engineering plans for the proposed project with the application.

If you have any questions regarding this matter, please feel free to contact this office.

Sincerely,

*B. Lane*

B. E. Lane, Staff Geohydrologist  
Water Resources & Subaqueous Lands

BEL:gr

cc: The Honorable Austin N. Heller  
Corps of Engineers

Enclosures





January 29, 1971

Colonel Carroll D. Strider  
District Engineer  
Department of the Army  
Philadelphia District  
Corps of Engineers  
Custom House  
2nd and Chestnut Streets  
Philadelphia, Pennsylvania 19106

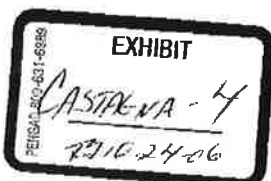
RE: WAPOP-N-154, Public Notice dated 8 January 1971.

Dear Colonel Strider:

This letter is in reference to the application submitted by E. I. duPont de Nemours & Company, for a Department of the Army permit to construct a bulkhead, to fill, and to construct a fuel oil storage tank in the Delaware River at the Company's Chambers Works facility, Deepwater, New Jersey.

With this letter the Department of Natural Resources and Environmental Control requests that a permit for this project be withheld, for the following reasons:

1. A permit must first be obtained from the State of Delaware. As of this date, no application has been submitted to this Department.
2. This proposal falls under the jurisdiction of the moratorium that was placed on subaqueous lands projects in the Delaware River and Bay by the Delaware Legislature (see attached copy). This moratorium must be waived before a permit can be issued.



28

DE19301

Colonel Carroll D. Strider  
Page 2  
January 29, 1971

We are writing a letter to Mr. P. H. Collins at Chambers Works to inform the Company of our action in this matter. We will provide State application forms and a copy of the moratorium, in order that the Company may submit an application to this Department.

If you have any questions regarding this matter, please feel free to contact this office.

Sincerely,

B. E. Lane, Staff Geohydrologist  
Water Resources & Subaqueous Lands

BEL:gr

cc: The Honorable Austin N. Heller  
Mr. P. H. Collins, Chambers Works ✓

DE19302

February 19, 1971

The Honorable Laird Stabler  
Attorney General  
Department of Justice  
Dover, Delaware 19901

RE: E. I. duPont de Nemours & Company, Chambers Works, Deepwater,  
New Jersey, application for Corps of Engineers permit to construct  
fuel oil storage tank on underwater lands within the State of Delaware  
at Deepwater Point, New Jersey.

Dear Mr. Stabler:

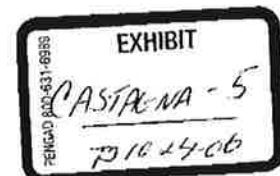
In reference to the above project, I am enclosing the following material:

1. Public Notice, dated 8 January 1971, from Corps of Engineers containing a description and general plans of the project proposed by the duPont Company at its Chambers Works facility in New Jersey.
2. Letter dated 10 February 1971 addressed to Mr. John C. Bryson, Director of the Division of Environmental Control, by Mr. Alan Skinner, of the duPont Legal Department, and including seven letters attached thereto.
3. Copy of the Delaware River and Bay moratorium.

In response to the receipt of the Public Notice, the Department of Natural Resources and Environmental Control, on behalf of the State of Delaware, requested that the Corps of Engineers withhold a permit until the duPont Company shall have received approval of the project from the State of Delaware, in accordance with Sections 6451 and 6452 of the Water and Air Resources Act of 1966, Title 7, Part VII, Delaware Code, and the moratorium that was declared by the Delaware Legislature.

Mr. Skinner has stated that the duPont Company need only receive permission from the State of New Jersey and the Corps of Engineers.

34



DE19304

The Honorable Laird Stabler  
Page 2  
February 19, 1971

Please note on the plans that area I have marked in red. This area lies below the mean low water (MLW) line, which places approximately one-half of the project into Delaware waters.

It is our position that if we are to discharge our duties as they are mandated in Sections 6451 and 6452 of the Delaware Code, then it will be necessary for the duPont Company to submit an application and receive Delaware's approval of this project. However, if the legal language of the 1905 Treaty and the Supreme Court decision of 1939 negates or supersedes the provisions of the Water and Air Resources Act of 1966, then it is not our intent to unnecessarily delay this project.

It is respectfully requested, therefore, that you review this matter to determine whether the State of Delaware has any jurisdiction over projects of this nature that involve underwater lands at or below the MLW line on the New Jersey side of the Delaware River within the 12-mile arc.

If you have any further questions, I would be pleased to answer them.

Respectfully yours,

John C. Bryson, Director  
Division of Environmental Control

JCB:BEL:gr

Enclosures

cc: The Honorable Austin W. Heller

DE19305

April 5, 1971

Mr. James Kelly  
Department of the Army  
Philadelphia District  
Corps of Engineers  
Custom House  
2nd and Chestnut Streets  
Philadelphia, Pennsylvania 19106

Dear Mr. Kelly:

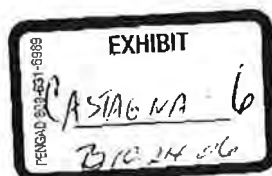
This letter is to inform you of the status of the following two projects that are being proposed for construction on the New Jersey side of the Delaware River.

1. E. I. duPont Company, Chambers Works, New Jersey - construction of an oil storage tank in the Delaware River, re: public notice NAPOP-N-184, 8 January 1971. The company's attorney requested that we obtain an opinion of Delaware's Attorney General. In that opinion, the Attorney General stated that Delaware has no jurisdiction between the mean high and mean low water marks on the New Jersey shore and that the moratorium declared by the Delaware Legislature does not apply to the New Jersey shore.

However, any proposed work in the Delaware River which will extend below the mean low water mark is within Delaware waters and will require a permit from the State of Delaware.

The Company's attorney has been notified of this decision and they were again notified that the Company would have to make application to this Department.

2. Liquefied natural gas terminal near Oldmans Creek, New Jersey - this is a proposal to perform test borings in the Delaware River for a proposed pier facility to serve the LPG plant, which will be located wholly within New Jersey.



DE19309

Mr. James Kelly  
Page 2  
April 5, 1971

Naturally, Delaware does not have jurisdiction over the LPG plant but, as in Project #1, above, any work within Delaware waters will require a permit from Delaware. I have enclosed a copy of the letter sent to the Company's attorney.

If you have any questions regarding this information, please feel free to contact this office.

Sincerely,

B. E. Lane, Staff Geohydrologist  
Water Resources and Subaqueous Lands

BEL:gr

Enclosure

DE19310

SL-558/1971

LEASE GRANTED TO  
E. I. DU PONT DE NEMOURS AND COMPANY

TO

DREDGE, CONSTRUCT A BULKHEAD, FILL BEHIND SAID  
BULKHEAD, CONSTRUCT A DOCK, AND CONSTRUCT A  
FUEL OIL STORAGE TANK AT ITS "CHAMBERS  
WORKS" FACILITY ALONG THE DELAWARE RIVER

AND NOW, to wit, this \_\_\_\_\_ day of \_\_\_\_\_,

A.D. 1971, the State of Delaware (hereinafter referred to as  
Lessor) does hereby accept the June 21, 1971, resolution of the  
Water and Air Resources Commission approving the application of  
E. I. du Pont de Nemours and Company (hereinafter referred to as  
Lessee) submitted to the Water and Air Resources Commission and  
dated June 7, 1971, a copy of which is attached hereto and made a  
part hereof; and

WHEREAS, Lessor claims title to certain subaqueous lands  
lying beneath the waters of the Delaware River, the subject matter  
of this lease; and

WHEREAS, Lessee also claims title to the same subaqueous  
lands;

WHEREAS, the granting of this lease is necessary for the  
construction of certain storage facilities which are necessary for  
the use of low sulphur fuel, an environmentally desirable goal;

It is understood by both parties to this agreement that  
both the application for this lease and the granting of this lease  
are filed and granted without prejudice to the title claim of  
either party; and

WHEREAS, Lessee, owner of certain lands referred to as  
the "Chambers Works" and adjacent to the Delaware River, has ap-  
plied for permission to dredge, construct a bulkhead, fill behind



said bulkhead, construct a dock, and construct a fuel oil storage tank on the subaqueous lands adjacent to the "Chambers Works"; and

WHEREAS, pursuant to the provisions of Title 7, Part VII, Section 6451, Delaware Code, the Water and Air Resources Commission finds that it is not contrary to the public interest, and that the granting of this lease is hereby approved subject to the terms and conditions herein set forth.

NOW, THEREFORE, Lessor hereby grants permission to the Lessee to dredge from the Delaware River approximately sixty thousand (60,000) cubic yards of subaqueous material;

AND, to construct approximately nine hundred (900) feet of bulkhead;

AND, to fill approximately thirty thousand six hundred forty-seven (30,647) square feet of subaqueous land behind said bulkhead;

AND, to construct a six (6) foot by ten (10) foot dock;

AND, to construct a two hundred thousand (200,000) barrel fuel oil storage tank, part of which will be constructed on the aforementioned subaqueous lands, all in accordance with the plans submitted, drawings DWM-1655, DW-22779, DW-22780, and DW-23045, copies of which are attached hereto and become a part hereof;

AND, hereby leases to Lessee the approximately thirty thousand six hundred forty-seven (30,647) square feet of subaqueous land to be filled and the approximately sixty (60) square feet of subaqueous land upon which the six (6) foot by ten (10) foot dock is to be constructed.

THIS lease and authorization shall be continued for a period of ten (10) years beginning the \_\_\_\_\_ day of

\_\_\_\_\_, 1971, or so long as the conditions attached to the lease are adhered to, whichever is the shorter in time. Upon the expiration of the ten-year term, this lease shall expire and become null and void, unless prior thereto Lessee shall have applied for and received a renewal of this lease. A renewal may be denied if Lessor determines that the lease is no longer in the public interest.

THIS lease shall be subject to the following conditions:

1. The Lessee agrees to pay the Lessor, subject to the terms of paragraph 1(a) below, thirty thousand dollars (\$30,000.00) for the approximately sixty thousand (60,000) cubic yards of subaqueous material to be dredged, thirty thousand six hundred forty-seven dollars (\$30,647.00) for a ten-year lease for the approximately thirty thousand six hundred forty-seven (30,647) square feet of subaqueous land to be filled, and an annual rental charge of sixty dollars (\$60.00) for a ten-year lease for the approximately sixty (60) square feet of subaqueous land upon which a six (6) foot by ten (10) foot dock is to be constructed.

1(a) Lessee agrees to pay Lessor the amounts, with 6% annual interest from the date of this agreement, as scheduled in the preceding paragraph in the event that the disputed title to the subaqueous lands in question is resolved in favor of Lessor at some future date under a final judgment of a federal court of competent authority. Lessor agrees to defer the collection of the fees, herein referred to, until the title question is resolved as herein agreed.

2. The bulkhead is to be completed prior to any filling of lands contained by said bulkhead.
3. The project is to be undertaken in accordance with the plans submitted. If changes are necessary, revised plans must be submitted and a supplemental approval issued prior to actual construction.
4. Representatives of the Water and Air Resources Commission may inspect such work during the term of this lease, including construction and may collect any samples or conduct any tests that are deemed necessary.
5. This instrument does not purport to constitute an approval of the design or structural stability and safety of the proposed installation and Lessee agrees to save harmless Lessor in the event of design or structural failures which cause injury to person(s) or property.
6. Lessee shall maintain any structures on subaqueous lands in a good and safe condition and will protect and save Lessor harmless from any loss, cost or damage by reason of said structural condition.
7. All construction debris, excavated material, brush, rocks, and refuse incidental to such work shall be placed either on shore above the influence of flood waters or on some suitable and approved dumping ground.
8. Any actions, operations or installations associated with the subject matter of this instrument, which are considered by the Water and Air Resources Commission to be contrary to the best interests of the public shall constitute reason for the discontinuance of, and/or

- removal of, said action, operation or installation.
9. Approval from the Corps of Engineers, where its jurisdiction is in effect, shall be obtained within one (1) year of the date of execution of this lease.
  10. Lessee shall at all times comply with such rules and regulations relating to navigation as may from time to time be promulgated by the United States Corps of Engineers as the same may affect such structures and the activity related to said structures.
  11. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project which Lessee may be contemplating.
  12. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over the aforementioned subaqueous lands (the subject matter of this lease) other than that of a tenant.
  13. Lessee hereby agrees to waive and to release forever any increased claim to title and/or jurisdiction over the lands presently lying below the mean low water line which, because of the rights granted by this instrument, will be raised above the mean low water line.
  14. This lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State to any person(s), political subdivision, Board, Commission or Agency of the State in the vicinity of the leased premises.
  15. This lease and authorization are granted solely for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.

16. This lease is void if the project has not been initiated by one (1) year from the date of issuance.

17. This lease will be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, E. I. du Pont de Nemours and Company has caused this instrument to be executed and its corporate seal affixed by its respective proper officers thereunto duly authorized on this the day and year first above written.

E. I. DU PONT DE NEMOURS AND COMPANY  
By [Signature]  
Principal Secretary

ATTEST:  
[Signature]  
Assistant Secretary

NOV 2 1971  
RECEIVED  
STATE DEPT.  
DIVISION OF  
STATE AFFAIRS  
DOVER, DEL.

IN WITNESS WHEREOF, I [Signature]

Chairman of the Delaware Water and Air Resources Commission have hereunto set my hand and seal this 17th day of September, 1971.

(SEAL)  
By Chairman of Delaware Water and Air Resources Commission

IN WITNESS WHEREOF, I, RUSSELL W. PETERSON, Governor of the State of Delaware, have hereunto set my hand and the Great Seal of the State of Delaware has been hereunto affixed by the Secretary of State, at Dover, on this 29th day of September in the year of Our Lord One Thousand Nine Hundred and Seventy-one.

[Signature]  
By The Governor  
[Signature]  
By the Secretary of State

DUP0000776 cc: Jean A. McDonough  
Municipal Clerk  
90 North Broadway  
Municipal Bldg.  
Pennsville, N. J. 08070

TELEPHONE  
AREA CODE 609-298-6000



I. I. DU PONT DE NEMOURS & COMPANY

CHAMBERS WORKS

WATER, NEW JERSEY 08022

July 13, 1977

cc: P. F. Brown, N-10404  
C. E. Lorenz, N-10404  
P.M. Humanick/R.A. Shim/D.F. Gilbert  
W. F. Lippincott, Admin. Bldg.  
E. T. Fogg, Admin. Bldg.  
J. Curry, 1094 Building  
H. W. Heath, 1094 Bldg.  
D. S. Dunagan, 1094 Bldg.

James R. Johnson, Superintendent  
Office of Riparian Lands Management  
Division of Marine Services  
Department of Environmental Protection  
P. O. Box 1889  
Trenton, New Jersey 08625

Dear Mr. Johnson:

We would like to request approval of a revision to our Ice Repair Permit No. T-25 for our waste water outfall line in the Delaware River.

The ice-damaged portion of the line has now been dismantled and removed. The design for the repair of the line has been completed. In order to avoid future ice damage, the above-water portion of the line which was damaged will not be replaced. Instead, a transition section will be installed to carry the discharge under the water to four 30" diameter steel lines to disperse the waste water into the river (see attached Figures 1 & 2).

Since our new Waste Water Treatment facilities are now operating satisfactorily, the quality of the wastewater has improved to attain the limits established by our NPDES Permit No. NJ-0005100. Thus, the original problems of acidity, color and foam which required dispersion further out in the river no longer exist.

This repair work can be accomplished within our existing riparian rights and the total cost will be the same as originally estimated, \$500,000. The shorter above-water portion of the outfall line will also reduce the navigational hazard in the river.

The construction of the new section, which will require two months, is expected to start in July, 1977 and can be completed by October 1, 1977. We would appreciate your expediting the approval of this permit revision so that construction can proceed on schedule to insure completion before the coming winter.

Very truly yours,

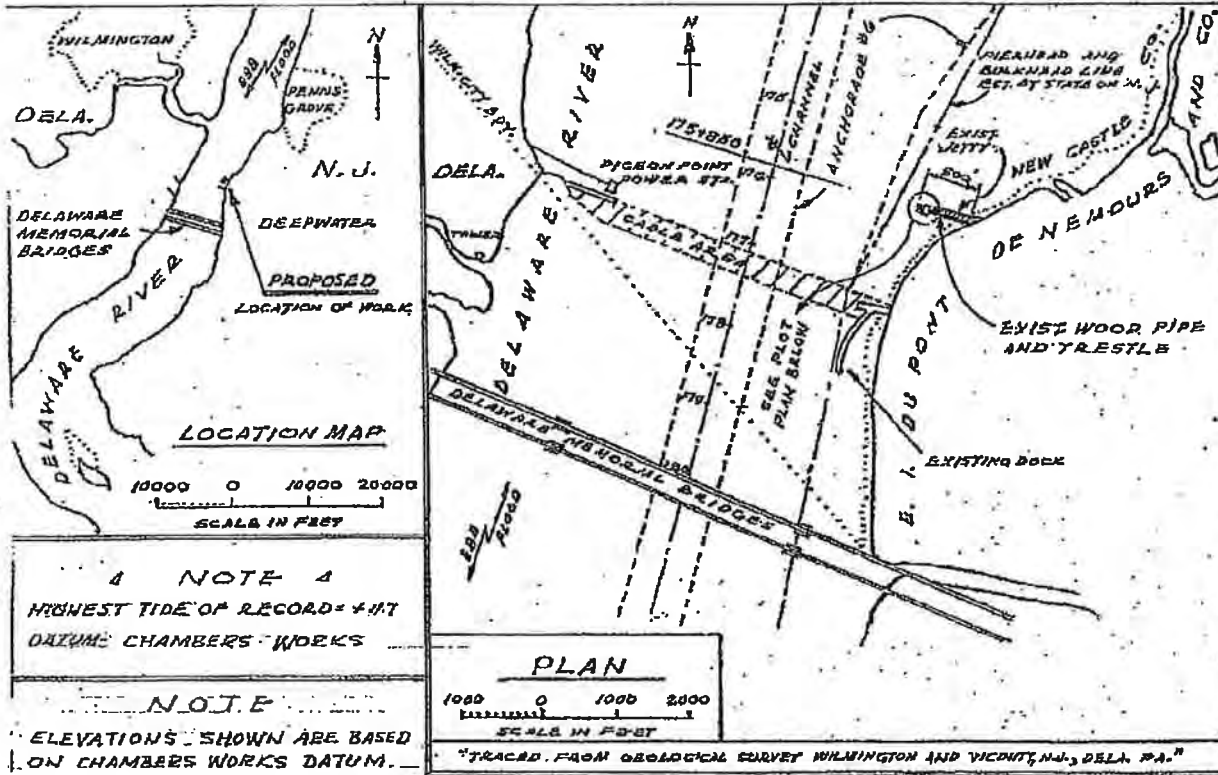
*George H. Cassedy*  
George H. Cassedy, Superintendent  
Environmental Control Division

bjs

BETTER THINGS FOR BETTER LIVING ... THROUGH CHEMISTRY

THIS PAPER IS COLORED WITH DU PONT DYES

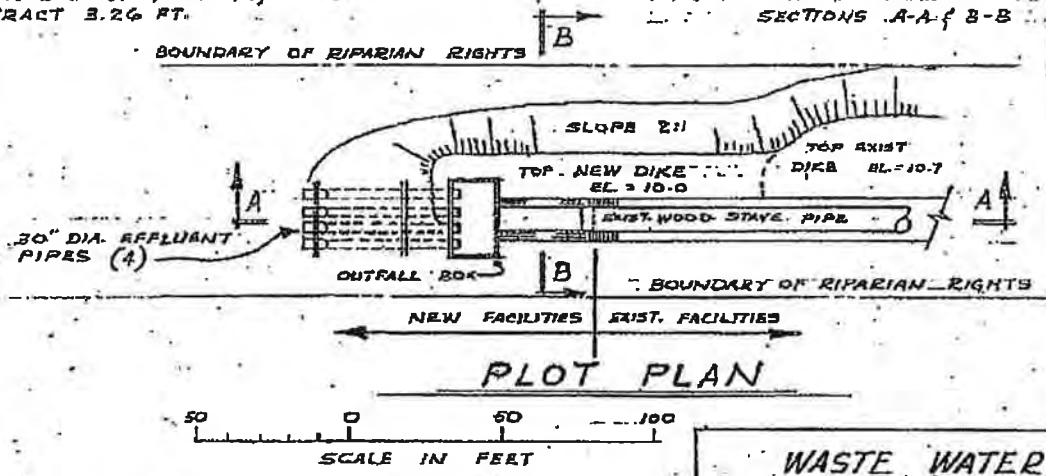
DUP0000776



**NOTE 1**  
 HIGHEST TIDE OF RECORD = +117  
 DATUM: CHAMBERS WORKS

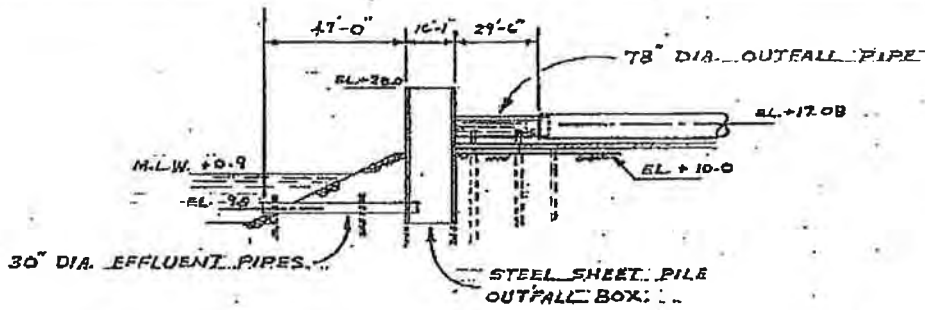
**NOTE 2**  
 ELEVATIONS SHOWN ARE BASED  
 ON CHAMBERS WORKS DATUM.  
 TO CONVERT TO N.J. GEODETIC  
 CONTROL SURVEY DATUM,  
 SUBTRACT 3.26 FT.

NOTE: SEE SHT. # 2 FOR  
 SECTIONS A-A & B-B

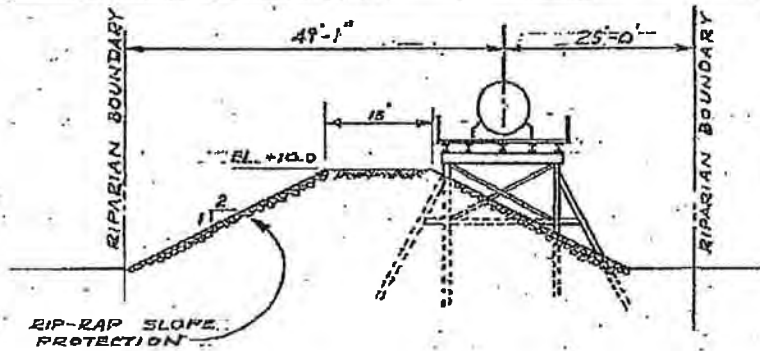


I HEREBY CERTIFY TO THE  
 ACCURACY OF THE DATA SHOWN  
 ON THIS DRAWING, WHICH WAS MADE  
 UNDER MY DIRECTION & SUPERVISION.  
*William F. Lippincott P.E.* # 11228  
 WM. F. LIPPINCOTT, P.E. N.J. LIC. # 11228

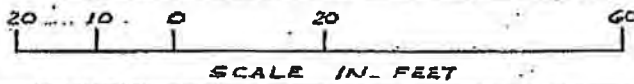
WASTE WATER  
 FLUME & PIER  
 IN DELAWARE RIVER  
 AT CHAMBERS WORKS  
 DEEPWATER, N.J.  
 APPLICATION BY  
 E. I. DU PONT DE NEMOURS & CO.  
 JULY 1977 SHEET 1 OF 2



SECTION A-A



SECTION B-B



**\* NOTE \***

ELEVATIONS SHOWN ARE BASED ON CHAMBERS WORKS DATUM. TO CONVERT TO N.J. GEODETIC CONTROL SURVEY DATUM, SUBTRACT 3.26 FT.

**WASTE WATER  
FLUME & PIER  
IN DELAWARE RIVER  
AT CHAMBERS WORKS  
DEEPWATER, N.J.**

APPLICATION BY  
E. I. DUPONT DE-NEMOURS & CO.  
JULY 1977 SHEET 2 OF 2

*William F. Lippert PE #11228*



(2/77)

Sent James R. Johnson, Sup V.  
Office of Riparian Lands Management  
P.O. Box 1889 - Trenton, N.J. 08625

DUP0000779

OFFICE USE ONLY

FILE NO.  
DATE FILED:

APPLICATION FOR REVOCABLE PERMIT  
(ICE DAMAGE REPAIRS)

2/18/77

P.F. Brown N-10404

bcc J.C. Breckenridge, N-10404

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF MARINE SERVICES  
OFFICE OF RIPARIAN LANDS MANAGEMENT  
P. O. BOX 1809  
TRENTON, NEW JERSEY 08625

P.M. Humanick/R.A. Shinn/D.F. Gilbert  
W.F. Lippincott, Ad. Bldg.  
G.L. Porter, Ad. Bldg.  
E. T. Fogg, Ad. Bldg.  
ECD File -13.04

Gentlemen:

JC  
DSD

DATE: 2/18/77

Application is hereby made for issuance of a revocable permit to carry out the following work.

1. APPLICANT/OWNER (NAME) E. I. DU PONT DE NEMOURS & CO., INC.  
(ADDRESS) CHAMBERS WORKS, DEEPWATER, N.J. 08023
2. LOCATION OF WORK:  
(CITY/TOWNSHIP) PENNSVILLE TOWNSHIP (COUNTY) SALEM  
(NAME OF WATERWAY) DELAWARE RIVER  
(LOT & BLOCK NUMBER) LOT NO. 1, BLOCK NO. 1 (STREET ADDRESS) CHAMBERS WORKS
3. GENERAL DESCRIPTION OF REPAIR & REPLACEMENT WORK CONTEMPLATED: DISMANTLING AND REMOVAL OF ICE DAMAGED PORTION OF WASTEWATER OUTFALL LINE (001) AND REPAIR<sup>(1)</sup> OR REPLACEMENT<sup>(2)</sup> OF THE LINE FOR WHICH DESIGN IS BEING DEVELOPED.

4. ESTIMATED COST OF REPAIR OR REPLACEMENT: \$500,000<sup>(1)</sup> TO \$1,500,000<sup>(2)</sup>
5. Attached hereto is a survey or sketch showing structure to be repaired or replaced
6. Attached is a picture of structure to be repaired or replaced.

NOTICE: IT IS HEREBY UNDERSTOOD AND AGREED UPON BY THE APPLICANT OR OWNER THAT IF THE STRUCTURE TO BE REPAIRED OR REPLACED, UNDER THIS PERMIT, IS FOUND TO BE A TRESPASS ON RIPARIAN LANDS, I WILL AGREE TO FILE A COMPLAINT APPLICATION WITH RIPARIAN STATUTES.

(1) Assumes repair of existing line

(2) Assumes complete replacement

Respectfully yours,

*James R. Johnson*

DUP0000779



ESTABLISHED 1802

**E. I. DU PONT DE NEMOURS & COMPANY**  
INCORPORATED

**CHAMBERS WORKS**  
DEERWATER, NEW JERSEY 08023

TELEPHONE  
AREA CODE 609-299-5000

October 11, 1977

Mr. William Rogers  
Division of Water Resources  
P.O. Box 2809  
Trenton, New Jersey 08625

Dear Mr. Rogers:

As requested, we are submitting the application forms for a stream encroachment permit for the repair of our ice damaged waste water outfall line. This will supplement the construction permit we submitted to the Office of Riparian Lands Management on August 26, 1977.

We would appreciate prompt approval so that the work can be completed before the remaining portion of the outfall line is further damaged by ice this winter. Could we have your acquiescence to begin the work by November 1, 1977, pending final issuance of the permit?

Very truly yours,

G. H. Cassedy, Sup't.  
Environmental Control Div.

JC:gt

attachments

cc James R. Johnson, Sup'v.  
Office of Riparian Lands Management  
Division of Marine Services  
Department of Environmental Protection  
P.O. Box 1889  
Trenton, N.J. 08625

bcc J. Curry  
D. S. Dunagan  
G. L. Porter  
J. R. McGraw/W.F. Lippincott  
R.A. Shinn/TCKuchler/PMHumanick  
E. T. Fogg  
E. C. Nelson  
ECD File ~~2-0463~~ 13.04

2.0421

BETTER THINGS FOR BETTER LIVING . . . THROUGH CHEMISTRY

APPLICATION FORM FOR PERMIT

OFFICE USE ONLY

State of New Jersey  
 Department of Environmental Protection  
 (See Instructions for Appropriate Address)  
 Division of Water Resources  
 P.O. Box 2809  
 Trenton, New Jersey 08625

Agency Project No. \_\_\_\_\_  
 Date Assigned \_\_\_\_\_  
 Application Fee \$ \_\_\_\_\_  
 Date Supplemental \_\_\_\_\_  
 Information Filed \_\_\_\_\_

PLEASE TYPE OR PRINT

1. Applicant E. I. du Pont de Nemours & Co., Inc. Telephone No. (609) 299-5000, Ext. 445

Address G. H. Cassedy, Superintendent, ECD, 1094 Bldg., Chambers Works  
 Permanent Legal Address

Municipality Deepwater State New Jersey Zip Code 08023

2. Type of Permit Applied For: (Check only one block - Separate application form and fee is required for each permit.)

Attached is a complete stream encroachment permit application.

	Check One	All Other Permits	Status or Project Number
Sanitary Sewer Facility			
Stream Encroachment	X		
Riparian		revocable construction	77-0356-1
Wetlands			
Coastal Area Facility (CAFRA)			
Other State Permits		Ice Repair	T-25

3. Location of Work:

Street Chambers Works

Lot No. 1 Block No. 1

Municipality Pennsville County Salem

Stream or Waterway (if applicable) Delaware River

4. Fee: (Basis for Fee submitted - See Section 5 of Rules and Regulations) Indicate how calculated.

\$ 50.00 - fee for minor project

5. Has an application for this site been submitted before?  YES  NO

6. If yes, (A) Enter previous Agency Project Number. Ice Repair T-25  
 (B) Previous decision. Approved

7. I have included certifications of all public notifications.  YES  NO

8. Engineer's Name William F. Lippincott

Address Chambers Works

Municipality Pennsville County Salem State N.J. Zip Code 08070

9. Brief Description of Proposed Project and the Intended Use: The effluent from the Wastewater Treatment Plant was conducted through an outfall line on a pier into the Delaware River and discharged below the surface. The river end of this line and pier was damaged on February 9, 1977, and was removed under Ice Permit I-25. Design has now been completed to provide a transition section with under water discharge pipes at the river end of the remaining line and pier. The existing dike on the north side of the pier will be extended for future ice protection, all as shown on the attached sketches. The quality of the effluent wastewater meets the requirements of NPDES Permit No. NJ 0005100.

10. I hereby authorize:

Name Same as applicant Telephone No. \_\_\_\_\_

Street \_\_\_\_\_

Municipality \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

to act as my agent or representative in all matters pertaining to my application.

I hereby certify that the information furnished on this application and the attachments are true and have been offered in order to induce the Department to issue the permit which is the subject of same. I am aware that false swearing is a crime in this State and subject to prosecution.

*George H. Cassidy*  
Signature of Applicant


Sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_  
197 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

I agree to serve as agent for the above-named applicant.


\_\_\_\_\_  
Signature of Agent

No. 554641  
 RECEIPT FOR CERTIFIED MAIL  
 NO INSURANCE COVERAGE PROVIDED—  
 NOT FOR INTERNATIONAL MAIL  
 (See Reverse)

SENT TO <i>U.S. District Engineer</i>	
STREET AND NO. <i>101 x 10th St</i>	
P.O. BOX AND ZIP CODE <i>Phila, Pa 191</i>	
POSTAGE	\$2.4
CLASS OF FEE	60¢
OPTIONAL SERVICES	
RETURN RECEIPT SERVICE	
SPECIAL DELIVERY	¢
RESTRICTED DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED	25¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	\$1.09
POSTMARK OR DATE 	


PS Form 3800, Apr. 1976

No. 554632  
 RECEIPT FOR CERTIFIED MAIL  
 NO INSURANCE COVERAGE PROVIDED—  
 NOT FOR INTERNATIONAL MAIL  
 (See Reverse)

SENT TO <i>Ms. Sheila Johnson</i>	
STREET AND NO. <i>Box 1889</i>	
P.O. BOX AND ZIP CODE <i>Camden, N.J. 08503</i>	
POSTAGE	\$1.23
CLASS OF FEE	60¢
OPTIONAL SERVICES	
RETURN RECEIPT SERVICE	
SPECIAL DELIVERY	¢
RESTRICTED DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED	25¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	\$2.08
POSTMARK OR DATE 	


PS Form 3800, Apr. 1976

No. 554402  
 RECEIPT FOR CERTIFIED MAIL  
 NO INSURANCE COVERAGE PROVIDED—  
 NOT FOR INTERNATIONAL MAIL  
 (See Reverse)

SENT TO <i>Ms. Charles F. Ball</i>	
STREET AND NO. <i>County Planning Bureau</i>	
P.O. BOX AND ZIP CODE <i>Camden, N.J. 08503</i>	
POSTAGE	\$2.4
CLASS OF FEE	60¢
OPTIONAL SERVICES	
RETURN RECEIPT SERVICE	
SPECIAL DELIVERY	25¢
RESTRICTED DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	\$1.09
POSTMARK OR DATE 	

PS Form 3800, Apr. 1976

No. 554401  
 RECEIPT FOR CERTIFIED MAIL  
 NO INSURANCE COVERAGE PROVIDED—  
 NOT FOR INTERNATIONAL MAIL  
 (See Reverse)

SENT TO <i>G. A. McPherson</i>	
STREET AND NO. <i>10 N. Broadway</i>	
P.O. BOX AND ZIP CODE <i>Lawrenceville, N.J. 08542</i>	
POSTAGE	\$2.4
CLASS OF FEE	60¢
OPTIONAL SERVICES	
RETURN RECEIPT SERVICE	
SPECIAL DELIVERY	25¢
RESTRICTED DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	\$1.09
POSTMARK OR DATE 	

PS Form 3800, Apr. 1976

DUP0000820

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATER RESOURCES

Trenton, New Jersey 08625

APPLICATION FOR PERMIT FOR STREAM ENCROACHMENT

To the Division of Water Resources

Gentlemen:

In compliance with the provisions of Title 58:1-26 of the Revised Statutes, applica-  
tion is hereby made by E. I. du Pont de Nemours & Company, Inc.

(Applicant's Name & Permanent Legal Address)  
Chambers Works, Deepwater, New Jersey 08023

for approval of plans and the issuance of a permit for repairing ice damaged outfall line  
and extending existing dike to protect from future ice damage.

(Description of Encroachment)

in, along, across or under Delaware River

(Name of Stream or Other Body of Water)

at a point Pennsville Twp., Salem County, about 1 mile north of Delaware Memorial Bridge.

(Give Location by County, Municipality and Nearest Street or Highway)

This application must be accompanied by appropriate drawings, specifications and data  
which should be prepared by a New Jersey licensed engineer or land surveyor (as provided  
by law).

I hereby certify that E. I. du Pont de Nemours & Co., Inc.

(Owner of Property)

is the owner of the property upon which the proposed work is to be done. (If work is to  
be done within an easement, this should be indicated). Please certify whether any part  
of the entire project (i.e. pipeline, roadway, cable, transmission line, etc.) will be  
located within property belonging to the State of New Jersey. Yes  No

G. H. Cassedy, Superintendent, Env. Con. Div.  
Name of Owner (To Be Typed)

[Signature]  
Signature of Owner

Deepwater, New Jersey, 08023  
Permanent Legal Address (To Be Typed)

Area Code (609) 299-5000 Ext. 445  
Telephone Number

DATE 10/12, 19 77

(This application, with signed and sealed drawings and data filed in connection there-  
with will remain on file in the office of the Division of Water Resources).

STREAM ENCROACHMENT APPLICATION  
ENGINEERING DATA SHEET

This sheet must be completed by the Engineer and be attached to the application.

**Note:** ONE APPLICATION FORM REQUIRED and the following DATA and SIGNED AND SEALED DRAWINGS MUST BE FILED with the application unless specifically waived. Failure to furnish complete information will result in the application being returned and no review will be made.

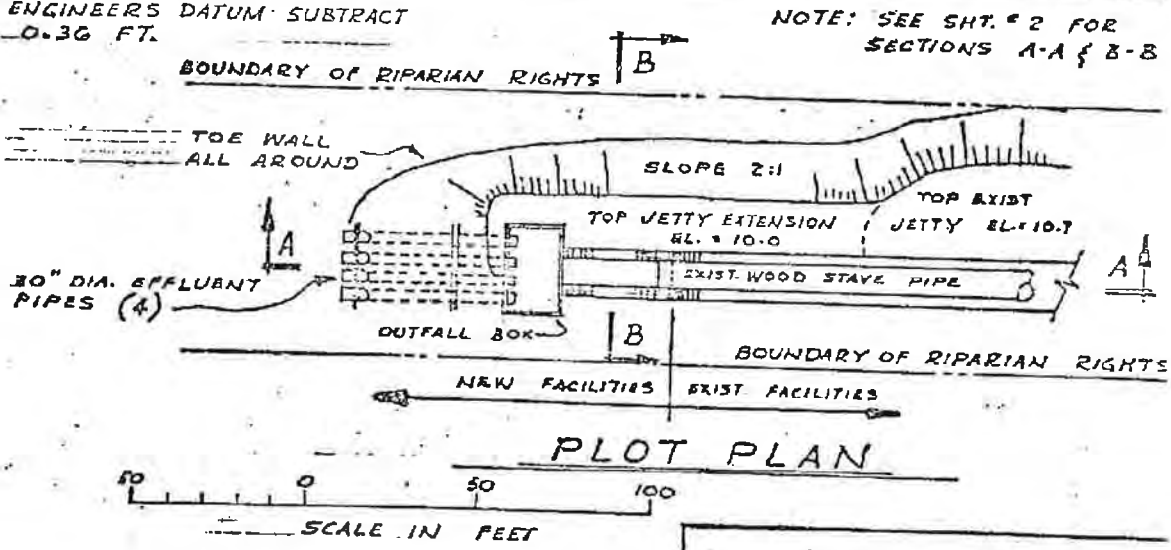
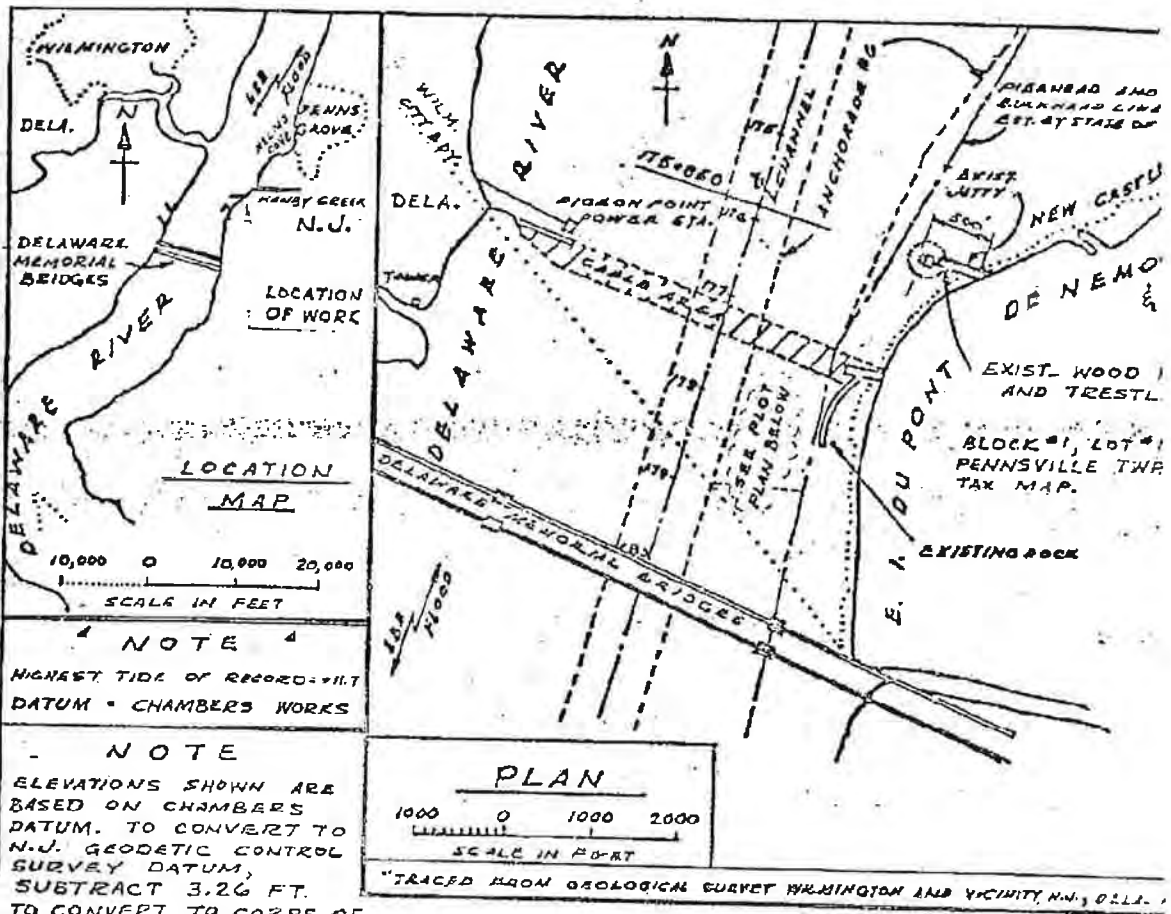
- (a) Key map showing location of proposed work. USGS Quadrangle map required. See Sheet #1 attached.
- (b) Five (5) sets of drawings (maximum sheet size 24" x 36") scale of plans must be appropriate and small scale drawings are discouraged. Minimum scales for cross-sections to be 1"=10' horizontal and 1"=5' vertical. Smaller scales will not be accepted. See Sheet #2 attached.
- (c) Drawings must be folded with title block showing. Maximum size 8½" x 14".
- (d) All drawings must have title block and be signed, sealed and dated.
- (e) All property lines must be clearly shown and owners identified.
- (f) Plan, profile and cross-sections of stream within the limits of the proposed work and for a minimum of 500 feet both upstream and downstream from the limits of the proposed work. Ref: U.S. C.&GS Chart #294
1. Stream bottom elevations must be shown on the stream profile. See Sheet #2 attached.
  2. Cross-sections of the stream must show invert, bottom of bank and top of bank elevations. Cross-sections must be submitted at 100 foot stations and extend so as to include the entire normal channel and primary flood plain but no less than 50 feet beyond top of bank on each side of stream and be on cross-section paper to a minimum scale of 1"=10' horizontal and 1"=5' vertical. Where grade changes or fill is involved, proposed sections should be super-imposed on existing sections. Small scale drawings are unacceptable.
- (g) Contour map of area along stream is required and where fill is involved, proposed and existing contours and grades must be shown. Where a subdivision is involved the drawings must also show the lot layout and indicate finish grade at all structures, basement and first floor elevation and minimum opening elevations. Lowest floor including basement must be at least one (1) foot above 100 year flood level and be noted as "lowest floor or basement" on drawings. Not Applicable
- (h) All fill and other earth work must be stabilized according to "Standards for Soil Erosion and Sediment Control in New Jersey" and details must be shown on drawings together with a schedule for construction and removal.

Calculations must also be supplied. A letter from the local Soil Conservation Service office indicating their acceptance of proposed soil erosion methods may be substituted. See Item (e) under Pipelines/Cables.

Not Applicable.

- (i) Encroachment lines must be described by metes and bounds, labeled and described on the drawings. See Sheet #3 attached.
- (j) Where riprap is to be used, a detail drawing must indicate specifications of stone. Riprap on slopes must have a 3' x 3' toe wall and 3' x 3' cutoff walls on both upstream and downstream ends. If channel bottom is to be riprapped 3' x 3' cutoff walls are required on both upstream and downstream ends. UngROUTED riprap must be on a slope of 2 horizontal to 1 vertical or flatter. See Sheet #2 attached.
- (k) Profile of road where a new or replacement bridge or culvert is involved. Not Applicable.
1. Existing span= \_\_\_\_\_ Rise= \_\_\_\_\_ Underclearance elevation= \_\_\_\_\_
2. Replacement = \_\_\_\_\_ Rise= \_\_\_\_\_ Underclearance elevation= \_\_\_\_\_
- (l) Pertinent details of all proposed work. (Note that top of footings for bridges and walls must be minimum of 3 feet below streambed except where stub abutments are used with appropriate slope protection).
- (m) Walls - Stability analysis must be submitted. Not Applicable.
- (n) ELEVATIONS based on the New Jersey Geodetic Control Survey datum. Use of any other datum must be supported by an explanatory statement and an equation to N.J.G.C.S. datum.
- (o) Drainage area to a Point in Question= Main Stream of Delaware River.
- (p) Cost of that portion of project that constitutes the encroachment \$275,000.
- (q) Hydrology - Attached form must be completed. Not Applicable.
- (r) Dimensions of waterway opening of nearest bridges upstream and downstream of the proposed project. Span should be measured normal to stream flow and should not be skew distance. Not Applicable.
1. Upstream Distance= \_\_\_\_\_ Span= \_\_\_\_\_ Rise= \_\_\_\_\_ Underclearance Ele.= \_\_\_\_\_
2. Downstream Distance= \_\_\_\_\_ Span= \_\_\_\_\_ Rise= \_\_\_\_\_ Underclearance Ele.= \_\_\_\_\_
- (s) Photographs looking upstream and downstream from proposed project. See Sheet #4 Attached.
- (t) Is structure new or replacement of an existing encroachment? Replacement - repair of ice damaged outfall line.
- (u) Channel relocation and major fill projects require that two (2) copies of an Environmental Impact Statement be submitted with application. Not Applicable.





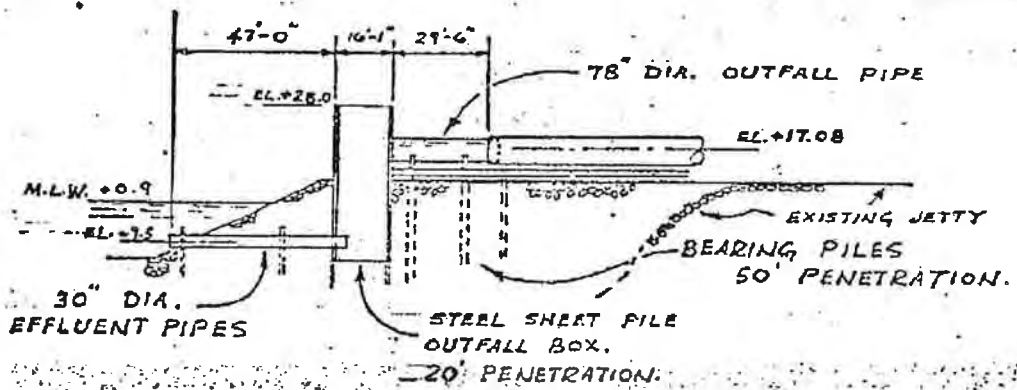
I HEREBY CERTIFY TO THE ACCURACY OF THE DATA SHOWN ON THIS DRAWING, WHICH WAS MADE UNDER MY DIRECTION & SUPERVISION.

*William F. Lippincott*

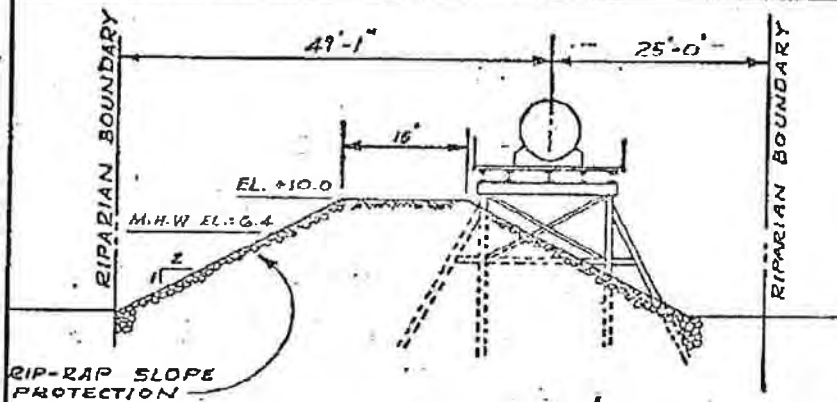
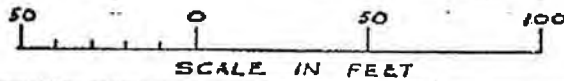
WM. F. LIPPINCOTT, P.E. N.J. LIC. # 11228

WASTE WATER FLUME & PIER IN DELAWARE RIVER AT CHAMBERS WORKS DEEPWATER, N.J.

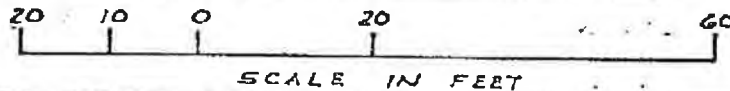
APPLICATION BY E.I. DUPONT DE NEMOURS & CO. JULY 1977 SHEET 1 OF 2



SECTION A-A



SECTION B-B



\* NOTE \*

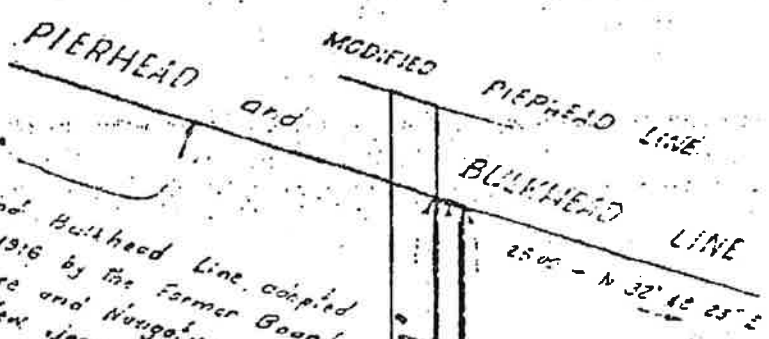
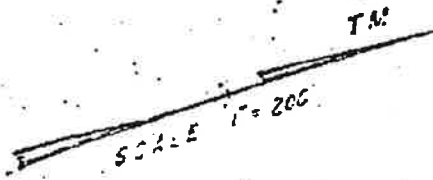
ELEVATIONS SHOWN ARE BASED ON CHAMBERS WORKS DATUM. TO CONVERT TO N.J. GEODETIC CONTROL SURVEY DATUM, SUBTRACT 3.26 FT.

TO CONVERT TO CORPS OF ENGINEERS DATUM SUBTRACT 0.36 FT.

WASTE WATER FLUME & PIER IN DELAWARE RIVER AT CHAMBERS WORKS DEEPWATER, N.J.

APPLICATION BY E. I. DUPONT DE NEMOURS & CO. JULY 1977 SHEET 2 OF 2

# DELAWARE RIVER



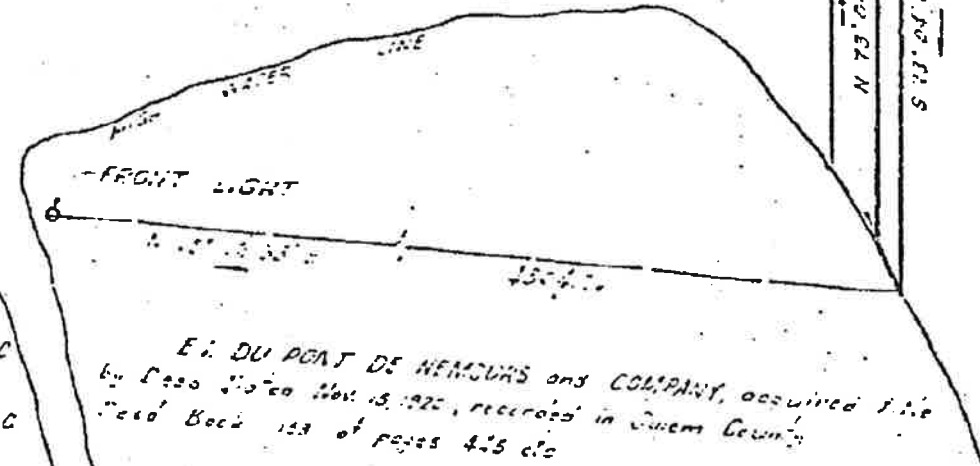
**NOTE:**  
 Pierhead and Bulkhead Line, adopted August 2, 1916 by the former Board of Commerce and Navigation of the State of New Jersey

**NOTE 'A'**  
 Granted to E.I. DU PONT DE NEMOURS and COMPANY, dated March 31, 1922 and recorded in Bureau of Navigation in Liber J-6 of Folio 127 etc

SEE NOTE 'A'

00° 51' 11\"/>

N 79° 24' 33\"/>



E.I. DU PONT DE NEMOURS and COMPANY, acquired title by Deed dated Nov. 13, 1922, recorded in Queen County Deed Book 123 of pages 425 etc

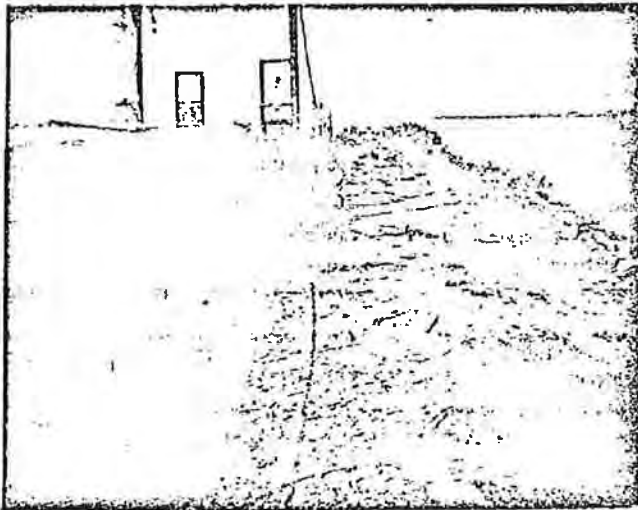
ATLANTIC CITY ELECTRIC CO.

STATE OF NEW JERSEY

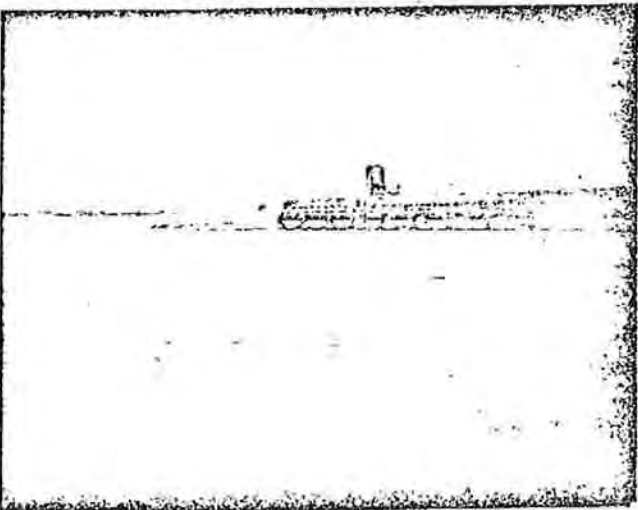
PHOTOGRAPHS OF OUTFALL LINE



Chambers Works outfall line  
Looking down river from  
New Jersey side toward  
Delaware Memorial Bridge



Upstream, north, side of  
outfall line showing 500'  
long dike to protect from  
ice damage



Downstream, south side of  
outfall line

ORGANIC CHEMICALS DEPT., CHAMBERS WORKS, DEEPWATER, N.J. 08023  
ALWAYS REFER TO OUR CHECK NUMBER IN YOUR CORRESPONDENCE

OUR NO.	VENDOR'S NO.	VENDOR'S DATE MO.   DAY   YR.	AMOUNT	DISCOUNT	FREIGHT	NET AMOUNT
		10   12   77	50.00			50.00
Fee for stream encroachment permit to repair ice damaged Outfall Line Prob. No. 7126 Proj. No. M-4971-2 Outfall Line Building 1110						

**E. I. Du Pont de Nemours & Company** No. 241-02218  
INCORPORATED

B-26  
430

DEEPWATER, N.J. October 12, 1977

To the order of
Pay \$\*\*50.00\*\*

TO
NOT GOOD FOR MORE THAN \$3000.00  
E. I. DU PONT DE NEMOURS & COMPANY -  
CASHIER ACCOUNT NO. 241

\*\*TREASURER STATE OF NEW JERSEY\*\*  
 Environmental Services Fund  
 Division of Water Resources  
 Department of Environmental Protection  
 P.O. Box 2809  
 Trenton, New Jersey - 08625  
 MELLON BANK N.A.  
 PITTSBURGH, PENNSYLVANIA
 

*John C. Harrington*

BETTER THINGS FOR BETTER LIVING... THROUGH CHEMISTRY

⑆24102218⑆ ⑆0430⑆0026⑆ 127⑆8098⑆



8-153 REV. 9-68

# E. I. DU PONT DE NEMOURS & COMPANY

INCORPORATED

DU PONT  
S.V. NO.

RECEIPTED EXPENSE BILL  
MUST ACCOMPANY ALL CHARGES  
FOR TRANSPORTATION

ORCHEM 50 - Chambers Works

DU PONT  
ORDER NO.

October 10, 1977

SHIPPED VIA \_\_\_\_\_

SELLER'S INVOICE NO. \_\_\_\_\_ DATE \_\_\_\_\_

SHIPPING WEIGHT \_\_\_\_\_

BOUGHT OF \_\_\_\_\_

F. O. B. \_\_\_\_\_

STREET AND NO. \_\_\_\_\_

TERMS

CITY AND STATE \_\_\_\_\_

PER CENT \_\_\_\_\_ DAYS \_\_\_\_\_ DAYS NET \_\_\_\_\_

Treasurer State of New Jersey  
Environmental Services Fund  
Division of Water Resources  
Department of Environmental Protection  
P.O. Box 2809  
Trenton, New Jersey 08625

QUANTITY	DESCRIPTION	AMOUNT	
	Fee for stream encroachment permit to repair ice damaged outfall line	50	00
	Problem No. 7126		
	Project No. M-4971-2		
	Outfall Line Building #1110		

CHARGE

8003-01-4605

MATERIAL OR  
SERVICES  
RECD BY

PAID

AMOUNT  
OF  
BILL

50 00

CHECKED  
BY

DATE 10-12-77

DISCOUNT

APPROVED  
BY

CHECK  
NO. 02-218

NET

RECEIVED OF

E. I. DU PONT DE NEMOURS & Co.

DOLLAR

DATE

SIGNATURE  
OF PAYEE





File - 2.0421

13.04

a. NFL

State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATER RESOURCES  
POST OFFICE BOX 2809  
TRENTON, NEW JERSEY 08625

STREAM ENCROACHMENT APPLICATION NO. 7949  
STREAM ENCROACHMENT YEAR NO. 77-585

An application has been received by this office for approval of a project along a stream as follows:

APPLICANT: E. I. du Pont de Nemours & Co., Inc.  
ADDRESS: 1094 Bldg., Chambers Works, Deepwater, N.J. 08023  
PROJECT: water pump and pier  
STREAM: Delaware River  
LOCATION: Along stream on Chambers Works  
MUNICIPALITY: Pennsville  
COUNTY: Salem

The application will be reviewed by the engineering staff as soon as the workload permits. All inquiries should be addressed to Bill Weaver, the engineer assigned to this project. Reference should always be made to Application No. 7949 and year No. 77-585 so as to facilitate locating the file and obtaining a proper answer.

Very truly yours,

*William F. Rogers*

William F. Rogers  
Acting Supervising Engineer  
Stream Encroachment Section  
Bureau of Flood Plain Management  
Telephone (609) 292-2402

WFR/JRM:mc

DATE 10-25-77







STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF ENVIRONMENTAL CONTROL  
 WETLANDS SECTION  
 BLUE HEN MALL  
 ROOM 203  
 DOVER, DELAWARE 19901

*W. J. R. McGraw / E. O. W.*  
*R. A. Gagnon / L. A. Allen*  
*Frank Cianfrani / Kurt Cassady*

ECOFile  
 620100

Original in 6221500  
 TELEPHONE (302) 736-4691

March 18, 1982

LETTER OF AUTHORIZATION

Lewis A. Caccese, P.E.  
 Vice President  
 S. T. Hudson Engineers, Inc.  
 Widener Bldg.  
 1339 Chestnut St.  
 Phila., PA 19107

RE: Repair and replace existing 36-pile cluster with a filled steel sheet structure (20-foot diameter), E. I. du Pont DeNemours Co., Inc., Deepwater, New Jersey.

Dear Mr. Caccese:

Please be advised that the Department of Natural Resources and Environmental Control hereby authorizes the reconstruction of the above-referenced subaqueous lands structure to the extent that the dimensions or intended use are not changed. Changes in either the dimensions or use shall require a permit pursuant to 7 Del. C. Chapter 61, Section 2.01 of Delaware's Regulations Governing the Use of Water Resources and Public Subaqueous Lands.

You may still need a permit from the U.S. Army Corps of Engineers. For information, please contact Mr. Frank Cianfrani, Permit Branch, Philadelphia District.

If you have any questions, please feel free to contact this office.

Sincerely,

*William F. Moyer*  
 William F. Moyer  
 Manager

WFM:CNM:jb

cc: Mr. Frank Cianfrani  
 Mr. Curry  
 Mr. Charles McNally





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF ENVIRONMENTAL CONTROL  
WETLANDS SECTION  
BLUE HEN MALL  
ROOM 203  
DOVER, DELAWARE 19901

TELEPHONE (302) 736-4691

October 15, 1982

E.I. DuPont de Nemours & Co.  
c/o J. Curry Environmental Control Div.  
Chambers Works  
Deepwater, New Jersey 08023

RE: Maintenance dredging of  
85,000 square yards of  
material from Delaware River  
at Deepwater, New Jersey

Dear Sirs:

Your October 12, 1982 request to conduct the above-referenced maintenance dredging of the material from the Delaware River has been reviewed by the Department of Natural Resources and Environmental Control. The Department hereby authorizes the maintenance dredging in accordance with the plans submitted subject to the following conditions:

1. Sediment and erosion controls shall be implemented so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, Water Quality Standards for Streams dated March 25, 1979.
2. No dredge spoils shall be placed on tidal wetlands at any time.
3. This Section shall be notified 24 hours prior to any dredging.

If you have any further questions, please feel free to call this office.

Sincerely,

William F. Moyer  
Manager

WEM:CNM:dml  
cc: Charles Campbell  
Charles McNally



DUP0001021





STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY, P.O. BOX 1401  
 DOVER, DELAWARE 19903

SURFACE WATER MANAGEMENT  
 SECTION

TELEPHONE (302) 736-5131

January 5, 1987

Mr. William N. Malin, Engineer  
 S. T. Hudson Engineers, Inc.  
 Widener Building  
 139 Chestnut Street  
 Philadelphia, Pennsylvania 19107

RE: Repair and Replace timber docking  
 and stringers on approachway  
 of [REDACTED]  
 Chambers Works, Delaware  
 River, Deepwater, New Jersey

Dear Mr. Malin:

Please be advised that the Department of Natural Resources and Environmental Control hereby authorizes the reconstruction of the above-referenced subaqueous lands structure to the extent that the dimensions or intended use are not changed. Changes in either the dimensions or use shall require a permit pursuant to 7 Del. C., Chapter 72, and Section 2.01 of Delaware's Regulations Governing the Use of Water Resources and Public Subaqueous Lands.

1. Sediment and erosion controls shall be implemented so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, Water Quality Standards for Streams dated December 23, 1985.
2. This authorization shall be valid for a period of one (1) year beyond this letter date.
3. A copy of this Repair and Replace must be available on-site during all phases of construction activity.

If you have any questions regarding this authorization, please feel free to contact this office.

Sincerely,

*William F. Moyer*

William F. Moyer  
 Supervisor  
 Wetlands and Underwater Lands Branch  
 (302) 736-4691

cc: Frank Cianfrani  
 Charles McNally





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
88 KING'S HIGHWAY, P.O. BOX 1-801  
DOVER, DELAWARE 19903

MD-0002/88

SURFACE WATER MANAGEMENT  
SECTION

TELEPHONE (302) 738-5731

February 9, 1988

Reinhold Betschel  
Area Consultant/Environmental Affairs  
~~E. J. de Nevers & Company, Inc.~~  
Chambers Works  
Deepwater, NJ 08023

RE: Maintenance dredging of 80,000  
cubic yards of material from the  
Delaware River at the Chambers  
Works, Deepwater, New Jersey

Dear Mr. Betschel,

Your January 21, 1988 request to conduct the above-referenced maintenance dredging of the material from the Delaware River has been reviewed by the Department of Natural Resources and Environmental Control. The Department hereby authorizes the maintenance dredging in accordance with the plans submitted subject to the following conditions:

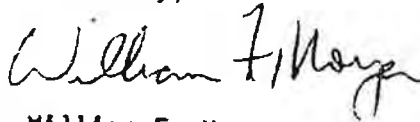
1. Sediment and erosion controls shall be implemented so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, Water Quality Standards for Streams dated December 23, 1985.
2. No dredge spoils shall be placed on tidal wetlands at any time.
3. This Section shall be notified 24 hours prior to any dredging.



Be advised that this letter of Authorization for maintenance dredging of a previously dredged site is a one time authorization for the above work only. Any subsequent maintenance dredging at this site will require a new letter of Authorization.

Please call me if you have any questions or if I can be of any further help.

Sincerely,



William F. Moyer  
Supervisor  
Wetlands and Underwater  
Lands Branch  
Telephone (302) 736-4691

WFM:gg

cc: Dick Hassel  
Charles McNally

SKETCH 1



LOCATION OF EXISTING CHAMBERS WORKS SEE SKETCH 2

EXISTING AREA SEE SKETCH 2

LOCATION PLAN

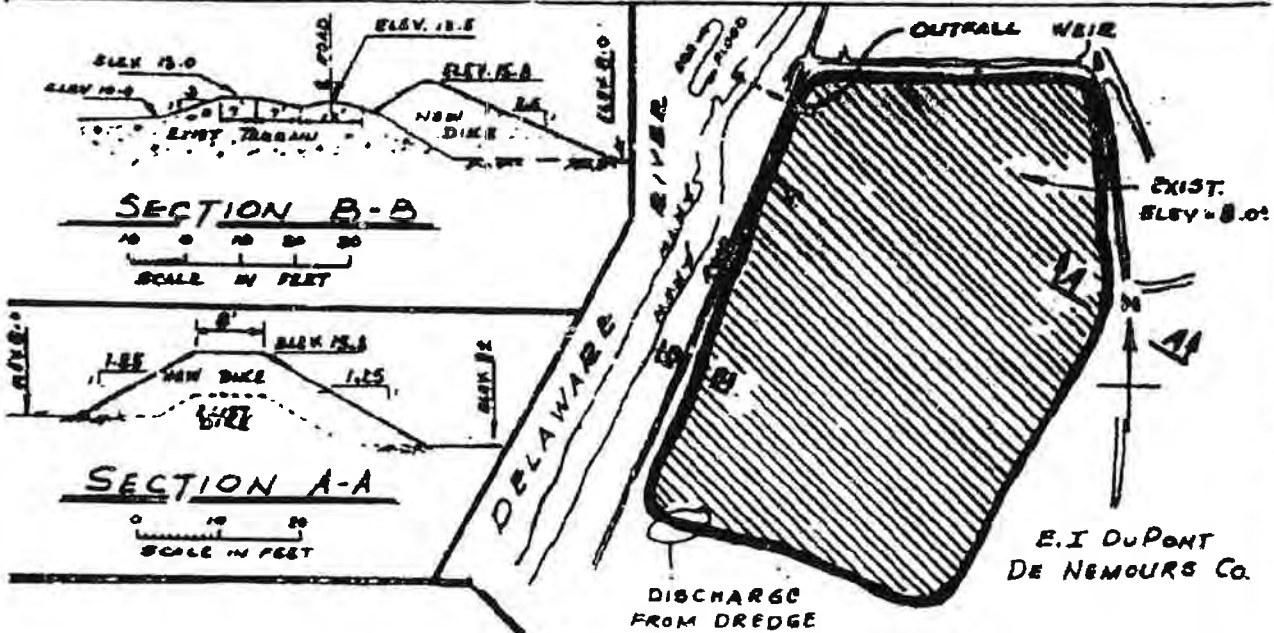
SCALE 1" = 100' HORIZ.  
 1" = 20' VERT.  
 TAKEN FROM C. 145-294

WILLIAM F. LIPPINCOTT P.E.  
 LICENSE NO 11229  
 SIGNATURE *William F. Lippincott*  
 DATE 4/16/87

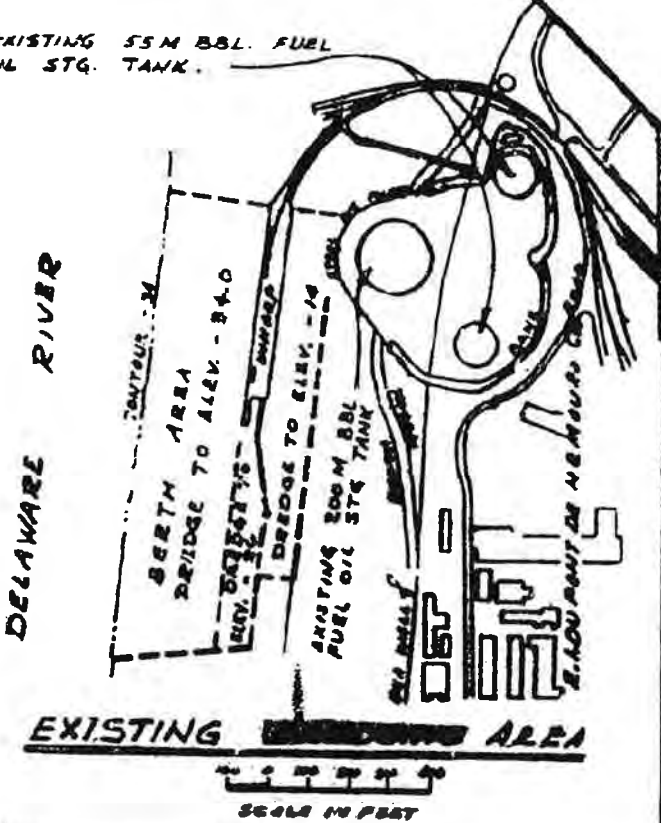
"HYDRAULIC DREDGING"  
 EXISTING WHARF BERTH AREA  
 IN DELAWARE RIVER  
 AT CHAMBERS WORKS  
 E.I. DUPONT DENEMOURS & CO., INC.  
 DEEPWATER, N.J.

DEC. 5, 1979 REV. 7-16-82

SKETCH 2



EXISTING 55M BBL. FUEL OIL STG. TANK.



EXISTING ~~WHARF~~ AREA

100 200 300 400  
SCALE IN FEET

DATUM = CORPS OF ENGINEERS  
HIGHEST TIDE OF RECORD = +10.3'  
MLW = +10.0' — MHW = +10.5'

WILLIAM F. LIPPINCOTT P.E.

LICENSE NO. 11229  
SIGNATURE *William F. Lippincott*

DATE 4/16/87

"HYDRAULIC DREDGING"  
EXISTING WHARF BERTH AREA

IN DELAWARE RIVER  
AT CHAMBERS WORKS  
E. I. DUPONT DE NEMOURS & CO., INC.  
DEEPWATER, N. C.

JULY 10, 1978  
REV. 4/15/87  
REV. 12-5-79



STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES &  
 ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY  
 DOVER, DELAWARE 19901

WETLANDS & SUBAQUEOUS  
 LAND SECTION

TELEPHONE (302) 739-4691  
 FACSIMILE (302) 739-6304

Subaqueous Lands Permit: SP-071/01  
 Date of Issuance: 5-4-01  
 Construction Expiration Date: 5-4-04  
 Amended Date:

**SUBAQUEOUS LANDS PERMIT  
 GRANTED TO DUPONT CHAMBERS WORKS  
 TO DREDGE APPROXIMATELY 4,650 CUBIC YARDS OF MATERIAL AND TO  
 BACKFILL TO EXISTING ELEVATIONS IN A 0.71 ACRE SITE IN THE DELAWARE  
 RIVER; AND TO INSTALL A TEMPORARY SHEET PILE WALL SURROUNDING THE  
 EXCAVATION IN THE DELAWARE RIVER, NEAR DEEPWATER, NEW JERSEY,  
 IN NEW CASTLE COUNTY, DELAWARE**

Mr. Norman Merkosky  
 DuPont Chambers Works  
 Route 130  
 Deepwater, N.J. 08023

Pursuant to the provisions of 7 Del. C. 7203 and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 4th day of May A.D. 2001, to construct the above-referenced project in accordance with the approved plan for this permit (1 Sheet), as approved on May 2, 2001, and titled "Final Grading Plan Sheet 1 of 2, DuPont Chambers Works Solid Waste Management, Units 5 & 43," Drawing No. 5, dated October 2000; and application dated February 8, 2001 and received by this Division on February 14, 2001.

WHEREAS, pursuant to the provisions of 7 Del. C. 7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

This permit is issued subject to the following conditions:

*Delaware's good nature depends on you!*



DE19645

### SPECIAL CONDITIONS

1. The conditions contained herein shall be incorporated into any and all construction contracts and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction which may impact subaqueous lands associated with this project. The permittee and contractor are responsible to ensure that the workers executing the activities authorized by this Permit have full knowledge of, and abide by, the terms and conditions of this Permit.
2. The construction schedule for this project shall be arranged so as to minimize the impact on anadromous fish passage. Specifically, the authorized activities shall not be undertaken between March 15 and June 1 annually.
3. Construction shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Surface Water Quality Standards," as amended August 11, 1999.
4. The work authorized by this permit is part of a larger contaminated materials clean-up for the site, most of which is being undertaken in the State of New Jersey. The work in the State of Delaware subaqueous lands is authorized for the explicit purpose of removing contaminated material as stated in the permit application.
5. In order to contain the dredged material and to minimize the turbidity from the excavation and fill operation, a steel sheet pile wall shall be constructed in the Delaware River around the excavation site prior to the start of the excavation activities. The sheet pile wall shall be removed after the restored riverbed is stabilized.
6. Turbidity shall be monitored in the Delaware River during excavation and restoration. Details of the proposed turbidity monitoring program shall be submitted to this office for approval within 10 days of the issuance of this Permit.
7. All dredged materials shall be de-watered and then disposed on-site at the A-Basin Vault, a NJDEP approved disposal facility. The disposal area shall be contained in a manner that prevents the release of the contaminants into the environment.
8. Water shall be collected during de-watering of the contaminants and shall be treated at the DuPont Chambers Works Waste Water Treatment Plant.
9. The dredged area shall be returned to pre-dredging conditions, including streambed elevations and substrate. A post-dredging bathymetry survey of the disturbed area shall be submitted within 90 days of completion of the restoration.
10. All dredging and filling is to be conducted in a manner consistent with sound conservation and water pollution control practices.

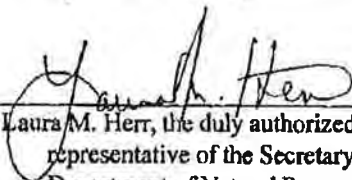
11. There shall be no movement of equipment within state regulated subaqueous lands not specifically authorized by this permit.
12. All construction debris and refuse incidental to this activity shall be appropriately contained at all times to prevent its entry into surface waters or wetlands.
13. All fill material associated with the proposed project and included in the above-referenced plans shall be clean and free from oils, grease, asphalt and other contaminants.
14. A copy of this permit must be available on-site during all phases of construction activity.

#### **GENERAL CONDITIONS**

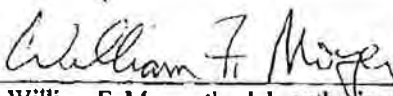
1. The project is to be undertaken in accordance with the plans submitted and attached hereto. Any activities not specifically authorized herein may require a supplemental approval from this office prior to the initiation of construction. A determination on the need for a supplemental approval will be made by this office pursuant to the permittee submitting written notification and revised plans indicating project changes to this office.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phase of the construction and may collect any samples or conduct any tests that are deemed necessary.
3. This permit does not cover the structural stability of the project units.
4. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
5. The issuance of this permit does not imply approval of any other part, phase, or portion of any overall project the permittee may be contemplating.
6. This permit is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the project.
7. This permit and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this permit being revoked.
8. This permit shall expire if the project has not been completed within three (3) years from the date of issuance.

9. If the permittee considers three (3) years insufficient for completion of the project, the permittee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.
10. The permittee shall notify the Department of Natural Resources and Environmental Control within ten (10) days of the date work will be commenced.
11. The permittee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
12. This Permit is personal and may not be transferred without the prior written consent of the Department. Prior to the transfer of the adjacent upland property, the permittee shall obtain the written consent of the Department to transfer this Permit to the new upland property owner. Failure to obtain such written consent may result in the revocation of this Permit and the removal of all structures authorized by this Permit at the expense of the permittee.
13. The issuance of this permit does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.
14. This permit may be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, I, Laura M. Herr, the duly authorized representative of Nicholas A. DiPasquale, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 4th day of May, 2001.

  
By Laura M. Herr, the duly authorized  
representative of the Secretary of the  
Department of Natural Resources and  
Environmental Control

IN WITNESS WHEREOF, I, William F. Moyer, the duly authorized representative of Nicholas A. DiPasquale, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 4th day of May, 2001.

  
By William F. Moyer, the duly authorized  
representative of the Secretary of the



**DEPARTMENT OF NATURAL RESOURCES  
AND  
ENVIRONMENTAL CONTROL**

**NOTICE OF AUTHORIZATION**

**Permit/Lease No. and Description:** SP-071/01 To dredge approximately 4,650 cubic yards of material and to backfill to existing elevations in a 0.71 acre site in the Delaware River; and to install a temporary sheet pile wall surrounding the excavation in the Delaware River, near Deepwater, New Jersey, in New Castle County, Delaware

**Issued to:** DuPont Chambers Works  
**Location of Work:** Same as above

**Date of Expiration:** May 4, 2004

**DISPLAY THIS CERTIFICATE IN A  
HIGHLY VISIBLE LOCATION ON THE JOB SITE.**

  
**William F. Moyer, Section Manager  
Wetlands & Subaqueous Lands Section**





# AGENDA

## Technical Briefing Meeting

Treatment and Disposal of Neutralized VX at DuPont Chambers Works

Location: Delaware DNREC Office, 391 Lukens Drive, New Castle, DE

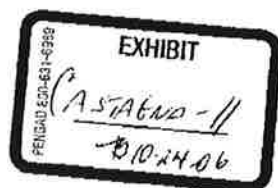
Date: March 10, 2004

Time: 9:30 a.m. – 1:00 p.m.

**Purpose:** To discuss the results of the treatability studies, toxicity assessment, and fate and effects evaluation for the Delaware River

**Expected Attendance:** Technical staff from EPA, DRBC, NJDEP, DE DNREC, the U.S. Army, and the DuPont Co.

- Welcome and Introductions DE DNREC
- Overview U.S. Army
- Results of Treatability Studies DuPont
- Toxicity of Treated Wastewater DuPont
- Fate and Transport in the Delaware River DuPont
- Questions and Answers All
- Follow-up Actions
- Adjourn



DE25974

3/10/04

Technical Meeting

<u>NAME</u>	<u>Affiliation</u>	<u>Phone</u>	<u>EMAIL</u>
KEVIN DONNELLY	DNREC	739-4860	LEVIN.DONNELLY@state.de.
Rick Greene	DNREC	(302) 739-4590	richard.greene@state.de.
THOMAS FIKELIN	ORPC	(609) 882-7500 X252	thomas.fikelin@state.nj.
Bob Tudor	DRBC	883-9500 X228	robert.tudor@state.nj.
Bill Muszynski	DRBC	609 883 9500 X221	William.Muszynski@drbc.
SAM WOLFE	NJDEP	609 292-2795	SAMUEL.WOLFE@dep.state.nj.us
Susan Rosenwinkel	NJDEP	609-292-4860	susan.rosenwinkel@dep.state.nj.us
PILAR PATTERSON	NJDEP	609-292-4860	Pilar.Patterson@dep.state.nj.
PHILIP CABAUD	DE Gov's OFFICE	302 744-4101	Philip.Cabaud@state.de.us
Andrea Kreiner	DE Gov's Office	302 744-4101	andrea.kreiner@state.de.us
ELLAN WHARETA	DuPont	202-728-3601	ellan.k.whareta@usa.dupont.co
Bob Reich	DuPont	302-774-8022	robert.a.reich@usa.dupont.
Jim Pesek	DuPont	302-492-3774	jim.e.pesek@usa.dupont
MIKE MCCABE	DuPont CONSULTANT	610-588-9625	wmichaelmccabe@earthlink.net
MARIA ANGELO	DUPONT	(856) 540-3012	maria.s.angelo@usa.dupont.co
Rick Vickery	DuPont	(856) 540-3285	richard.s.vickery-1@usa.dupont.co
Robert Hoke	DuPont	302-451-4566	robert.w.hoke@usa.dupont.co
Bernie Reilly	DuPont	302-774-5445	bernard.j.keilly@usa.dupont.
SCOTT ROWDEN	Systems Contractor Newport Chemical Agent Disposal Facility	765-245-5811	SCOTT.ROWDEN@Parsons.COM
PAM MEITNER	DUPONT	302-774-8720	PAMEL R. MEITNER@usa.dupont.
Gary Jepson	DuPont	302-451-0010	gary.w.jepson@usa.dupont.
Jesse Barber	U.S. ARMY, PMATA	410-436-1438	jesse.barber@us.army.mil
KURT REUTHER	DNREC	302-739-5071	KURT.REUTHER@STATE.DE.US.
Shawn M. Garvin	EPA, Region III	215-814-2998	garvin.shawn@epa.gov
Richard Ward	Army (PMATA)	410 436 6597	rick.ward@us.army.mil
William G. Kavanagh	ARMY (SATC)	443-402-9065	william.g.kavanagh@SATC.com
Ciara O'Connell	DUPONT CONSULTANT	302-984-0681	cmoconnell@comcast.net



STATE OF DELAWARE  
Office of the Governor  
Carvel State Office Bldg.  
820 N. French Street, 12th Fl.  
Wilmington, DE 19801  
(302) 744-4101

Ruth Ann Minner,  
Governor



STATE OF NEW JERSEY  
Office of the Governor  
P.O. Box 001  
125 West State Street  
Trenton, NJ 08625  
(609) 292-6000

James E. McGreevey,  
Governor

April 7, 2004

The Honorable Les Brownlee  
Acting Secretary of the Army  
The Department of Defense  
The Pentagon  
Washington, DC 20310

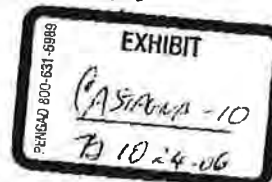
Dear Secretary Brownlee:

As Governors of states having vital military facilities, we recognize the importance of meeting the United States' commitment to eliminate stockpiles of the nerve agent VX now stored at Newport, Indiana. This commitment must be met, however, in a manner that comports with current law and with full protection of human health and the environment.

As Governors, we share a responsibility for stewardship of the natural resources of the Delaware River, as well as for the public health and safety of the communities in our two states potentially affected by the shipment and treatment of this waste. As Governors, we share the responsibility for the protection and health of the Delaware Estuary. Our citizens swim and fish in it, our businesses conduct commerce in it. The Delaware River and Bay combine to form the Delaware Estuary, which is a part of the national estuary program. This program, and the pertinent requirements of the federal Clean Water Act, direct our states to reduce, not increase, the amounts and types of pollutants discharged into the Delaware River and Delaware Bay. Due to a coordinated effort by our two states, we can report that Delaware Bay is an estuary on the road to recovery.

It is from these perspectives that we must share our concerns and questions about the proposal, as written, to transport and dispose of neutralized VX nerve agent from the United States Army's Newport, Indiana depot at the DuPont's Chambers Works Secure Environmental Treatment Plant. Scientists and engineers from Delaware, New Jersey and the Delaware River Basin Commission have spent the last month reviewing the technical information provided by the Army and DuPont on March 5, 2004. Our state experts have met and discussed the proposed project with the technical experts from the Army and DuPont. Numerous related reports and technical information, provided in some cases by the Army, have been evaluated.

As proposed, the discharge will include ethyl-methyl phosphonic acid (EMPA) and methyl phosphonic acid (MPA), which have been identified in the Chemical Weapons Convention as posing significant risk. We are concerned that DuPont's treatability report indicates an inappropriate method of handling these phosphorus-based acids. If approved, this proposal would result in the discharge of 2.3 tons per day of EMPA and MPA into the Delaware River. DuPont's treatment process dilutes, but does not substantially treat, the levels of EMPA and MPA that arrive by tanker truck from Indiana. There is little, if any, published information about



DE25932

the environmental effects of these organic acids and we are concerned about using the Delaware River and Bay as the testing grounds.

The treatability report failed to take into account the proximity of United Water Delaware's drinking water intake to the Chambers Works discharge. This facility provides drinking water to over 100,000 customers per day and it is located within the periphery of the 12 mile daily tidal movement in this region of the river.

We are concerned that this proposal, if approved, is projected to increase substantially the concentration of phosphorus in portions of the Delaware Estuary. DuPont's treatability report has failed, in our opinion, to characterize correctly the downstream effects of this plant nutrient. There has been no evaluation of the potential for the phosphorus discharged from Chambers Works to stimulate algal blooms in the phosphorus-limited reaches of the Delaware Bay. Such blooms diminish dissolved oxygen levels in the water and therefore may affect fish and other aquatic organisms.

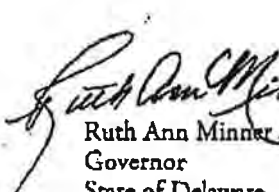
In addition, the Army has failed to provide adequate assurances regarding the levels of residual VX in the waste stream that will be transported to Chambers Works. This is of concern because the discharge is projected to contain VX at levels at or near the detection limit, a level at which lethal effects in striped bass have been identified. There is a major juvenile striped bass breeding area in the Cherry Islands Flats area of the Delaware River and we cannot expose this recovering and sensitive fishery to the potential risks associated with this discharge.

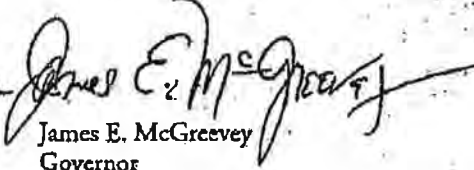
Finally, given the absence of any technical basis on which to conclude that the Chambers Works facility offers treatment capacity that is unique or particularly suited to this material, we question the safety and wisdom of transporting this material, which will require daily shipments of several thousand gallons of waste for up to two years, from Indiana to Chambers Works. The attendant risks, and the impacts to roads and communities, simply have not been justified.

We believe that the Department of the Army and its contractors should reconsider their proposed plan to neutralize 1,269 tons of the VX nerve agent stored in Newport, Indiana and truck it to DuPont's Chambers Works wastewater plant. We believe that it is in the best interests of the citizens and natural resources of the States of Delaware and New Jersey that the ultimate compliance with the requirements of the Chemical Weapons Convention takes place in close proximity to the Newport, Indiana depot. The assessment of the potential impacts of a discharge to the Delaware Estuary is, in our opinion, neither complete in its execution nor conservative in its assumptions. We are concerned that if this project goes forward it would result in additional toxicity, nutrients, salt, and metals being added to the Delaware Estuary. Consistent with the goal of our state water quality regulations, as well as the requirements of the federal Clean Water Act, we want to reduce rather than increase the levels of pollutants being discharged into the Delaware River and Bay.

Thank you for this opportunity to comment on this very important project.

Sincerely,

  
Ruth Ann Minner  
Governor  
State of Delaware

  
James E. McGreevey  
Governor  
State of New Jersey

cc: The Honorable Bradley M. Campbell  
The Honorable John A. Hughes  
Delaware Congressional Delegation  
New Jersey Congressional Delegation

DE25933



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

OFFICE OF THE  
SECRETARY

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

PHONE: (302) 739-4403  
FAX: (302) 739-6242

April 19, 2004

Colonel Jesse L. Barber c/o  
Newport Chemical Stockpile Outreach Office  
P.O. Box 279  
Newport, Indiana 47966-0517

Dear Colonel Barber:

This letter is in response to the U.S. Army Chemical Materials Agency's (Army) proposal to ship wastewater (Vx hydrolysate) resulting from the destruction of Vx nerve agent from its Newport, Indiana Chemical Depot to the DuPont Secure Environmental Treatment Facility (SET) at the Chambers Works site in Deepwater, New Jersey.

This letter is also in response to the draft Environmental Assessment Statement (EAS) and Finding of No Significant Impact (FONSI) issued in support of the proposal. The Delaware Department of Natural Resources and Environmental Control has worked closely with the New Jersey Department of Environmental Protection (NJDEP) and the Delaware River Basin Commission (DRBC) to review and assess the technical data and information forwarded to us by the Army and DuPont. Based upon this review, we conclude that the information presented does not support a "Finding of No Significant Impact".

Our basis for this conclusion is based on the following:

- The failure to provide any technical justification for transporting several thousands of gallons of hydrolysate waste every day for up to two years from Indiana to New Jersey.
- An unacceptably low level of treatment (overall reduction of EMPA plus MPA) of only 21.4% by the DuPont's Chambers Works Secure Environmental Treatment facility.
- The unknown environmental effects of discharging 2.3 tons per day of EMPA and MPA into the Delaware River for as long as two years.
- The treatability study conducted by DuPont focused exclusively on ethylmethylphosphonic acid (EMPA), methylphosphonic acid (MPA), Total Organic Carbon (TOC) and oxygen demand while failing to quantify the numerous other compounds, metals and elements in the hydrolysate.
- No documentation or analysis to support the claims that the level of Vx residual in the hydrolysate will be at or below 20 parts per billion. We are concerned about the possible effects of a discharge containing residual amounts of Vx on the area of the Delaware River known as Cherry Island Flats; the "Flats" is considered to be an important striped bass spawning area.
- The Army and DuPont failed to assess the possible impact of the proposal on the public water supply intake owned and operated by United Water Delaware.
- The information provided by the Army and DuPont failed to assess the effects of discharging 1,316 pounds of phosphorus per day into the Delaware River and Bay during seasonal low flow

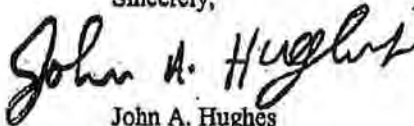
*Delaware's Good Nature depends on you!*

conditions. This loading represents a 42% increase in the concentration of Total Phosphorus during critical summer conditions and we believe it will result in algal blooms and disruption of the normal oxygen balance downstream of the discharge.

- The information provided by the Army and DuPont failed to assess the effects of the brine discharge on the ion balance in the Delaware River.
- The proposal is inconsistent with the DuPont's Delaware River Basin Commission's Docket No. 88-85 which does not provide for the acceptance of materials for treatment and disposal from the Department of Army weapons destruction operations.
- The proposal should demonstrate the ability to comply with the NJDEP National Pollutant Discharge Elimination System (NPDES) permit that will be in effect when the operations are proposed rather than with the existing expired, but administratively extended permit.
- The DRBC has determined that the acute toxicity tests conducted by DuPont's consultants to evaluate the toxicity of the final effluent during hydrolysate treatment were not performed in accordance with U.U. EPA guidelines, NELAC 1999 standards, and NJDEP testing requirements for whole effluent toxicity testing. DRBC's analysis suggests that the final effluent will not meet the current NJDEP permit limit on an LC50 greater than 50% effluent by volume.
- No documentation in the treatability study that the proposed project will break the carbon-phosphorus bonds in the EMPA and MPA leading us to question if the project, as proposed, is in compliance with the requirements of the Chemical Weapons Convention.

Finally, attached is the letter to Acting Secretary of the Army Les Brownlee signed by the Governors of New Jersey and Delaware. This letter states their concerns with and opposition to, many aspects of the proposal, identifies its shortcomings, and concludes by stating that the Governors' "believe that it is in the best interests of the citizens and natural resources of the States of Delaware and New Jersey that the ultimate compliance with the requirements of the Chemical Weapons Convention takes place in close proximity to the Newport, Indiana depot." The Chambers Works facility is not "in close proximity" to the Newport depot.

Sincerely,



John A. Hughes  
Secretary

Attachments

pc: Governor Ruth Ann Minner  
Bradley M. Campbell, Commissioner, NJ DEP  
Carol R. Collier, Executive Director, DRBC  
Delaware Congressional Delegation

## Discussion Points

- The failure to provide any technical justification for transporting several thousands of gallons of hydrolysate waste every day for up to two years from Indiana to New Jersey.
- An unacceptably low level of treatment (overall reduction of EMPA plus MPA) of only 21.4% by the DuPont's Chambers Works Secure Environmental Treatment facility.
- The unknown environmental effects of discharging 2.3 tons per day of EMPA and MPA into the Delaware River for as long as two years.
- The treatability study conducted by DuPont focused exclusively on ethylmethylphosphonic acid (EMPA), methylphosphonic acid (MPA), Total Organic Carbon (TOC) and oxygen demand while failing to quantify the numerous other compounds, metals and elements in the hydrolysate.
- No documentation or analysis to support the claims that the level of Vx residual in the hydrolysate will be at or below 20 parts per billion. We are concerned about the possible effects of a discharge containing residual amounts of Vx on the area of the Delaware River known as Cherry Island Flats; the "Flats" is considered to be an important striped bass spawning area.
- The Army and DuPont failed to assess the possible impact of the proposal on the public water supply intake owned and operated by United Water Delaware.
- The information provided by the Army and DuPont failed to assess the effects of discharging 1,316 pounds of phosphorus per day into the Delaware River and Bay during seasonal low flow conditions. This loading represents a 42% increase in the concentration of Total Phosphorus during critical summer conditions and we believe it will result in algal blooms and disruption of the normal oxygen balance downstream of the discharge.
- The information provided by the Army and DuPont failed to assess the effects of the brine discharge on the ion balance in the Delaware River.
- The proposal is inconsistent with the DuPont's Delaware River Basin Commission's Docket No. 88-85 which does not provide for the acceptance of materials for treatment and disposal from the Department of Army weapons destruction operations.
- The proposal should demonstrate the ability to comply with the NJDEP National Pollutant Discharge Elimination System (NPDES) permit that will be in effect when the operations are proposed rather than with the existing expired, but administratively extended permit.
- The DRBC has determined that the acute toxicity tests conducted by DuPont's consultants to evaluate the toxicity of the final effluent during hydrolysate treatment were not performed in accordance with U.S. EPA guidelines, NELAC 1999 standards, and NJDEP testing requirements for whole effluent toxicity testing. DRBC's analysis suggests that the final effluent will not meet the current NJDEP permit limit on an LC50 greater than 50% effluent by volume.
- No documentation in the treatability study that the proposed project will break the carbon-phosphorus bonds in the EMPA and MPA leading us to question if the project, as proposed, is in compliance with the requirements of the Chemical Weapons Convention.







STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY,  
DOVER, DELAWARE 19903

OFFICE OF THE  
DIRECTOR

PHONE: (302) 739-4860  
FAX: (302) 739-7864

May 19, 2004

Mr. Bernard J. Reilly, Corporate Counsel  
E. I. DuPont de Nemours and Company  
Legal Environmental Group, D-7082A  
1007 Market Street  
Wilmington, DE 19808

RECEIVED  
MAY 20 2004  
LEGAL

RE: Chambers Works S.E.T. Outfall Structure

Dear Mr. Reilly:

This letter is in response to your, April 19, 2004 request regarding Delaware's Subaqueous Lands Act (SLA) requirements for the Chambers Works Secure Environmental Treatment outfall structure.

Your assessment that the construction of the outfall in 1958 below the mean low water (MLW) line of the Delaware River precluded the enactment of the 1969 SLA is correct. However, the extensive documentation which you provided to me on April 20<sup>th</sup> leads my staff and me to believe that the 1977 repairs to the outfall structure that included the removal of the original outfall pipe and the installation of new one required a lease from the State of Delaware for that portion of the outfall located below MLW. I am enclosing an application for a lease which should be submitted to the Wetlands and Subaqueous Lands Section of the Division of Water Resources.

If you have any further questions regarding this matter, please feel free to call me or William Moyer, manager of the Wetlands and Subaqueous Lands Section at 739-4691.

Sincerely,

Kevin C. Donnelly  
Director of Water Resources

Enclosures

cc: William Moyer w/o Enclosures

REDACTED

*Delaware's good nature depends on you!*





STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES &  
 ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY  
 DOVER, DELAWARE 19901

WETLANDS & SUBAQUEOUS  
 LANDS SECTION

TELEPHONE (302) 739-9943  
 FACSIMILE (302) 739-6304

March 1, 2006

Mr. John D. Strait  
 E.I. DuPont de Nemours and Company  
 Route 130 and Canal Road  
 Deepwater, NJ 08023

Mr. Albert Boettler  
 E.I. DuPont de Nemours and Company  
 4417 Lancaster Pike, BMP-19 Room 1166  
 Wilmington, DE 19805

MAR 7 2006

Dear Sirs:

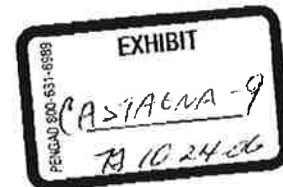
Enclosed is the Subaqueous Lands Permit granted by the State of Delaware. Please read carefully all Special and General Permit Conditions. The Permit holder is responsible to ensure that all conditions, responsibilities and requirements are strictly adhered to.

A copy of this approval and letter will be forwarded to the Army Corps of Engineers. If you have any questions, please feel free to contact this office.

Sincerely,

Laura M. Herr  
 Section Manager  
 Wetlands & Subaqueous  
 Lands Section

*Delaware's good nature depends on you!*



DUP0001339



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES &  
ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES

WETLANDS & SUBAQUEOUS  
LANDS SECTION

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

TELEPHONE (302) 739-9943  
FACSIMILE (302) 739-6304

Subaqueous Lands Permit: SP-458/05

Date of Issuance: 3/7/06

Expiration Date: 3/7/07

Amended Date:

Tax Parcel No.: Block 185 Lot 1

**SUBAQUEOUS LANDS PERMIT**

**GRANTED TO E.I. DUPONT DE NEMOURS AND COMPANY, INC., TO DREDGE 1,800 CUBIC YARDS OF MATERIAL, DREDGING TO A MAXIMUM DEPTH OF 3 FEET BELOW MEAN LOW WATER, IMPACTING 4,356 SQUARE FEET OF SUBAQUEOUS LANDS BEYOND THE MEAN LOW WATERLINE WITHIN THE STATE OF DELAWARE, IN THE DELAWARE RIVER ADJACENT TO DUPONT CHAMBERS WORKS, BLOCK 185, LOT 1 SHELL ROAD, CARNEY'S POINT, SALEM COUNTY, NEW JERSEY**

Mr. John D. Strait  
E.I. DuPont de Nemours and Company  
Route 130 and Canal Road  
Deepwater, NJ 08023

Mr. Albert Boettler  
E.I. DuPont de Nemours and Company  
4417 Lancaster Pike, BMP-19 Room 1166  
Wilmington, DE 19805

Pursuant to the provisions of 7 Del. C. 7203 and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 7<sup>th</sup> day of March A.D. 2006 to perform the above referenced project in accordance with the approved plans for this Permit (9 Sheets), as approved on February 24, 2006; and the application dated December 2, 2005 and received by this Division on December 15, 2005, with additional information received on December 27, 2005.

Whereas, pursuant to the provisions of 7 Del. C. 7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

This Permit is issued subject to the following conditions:

*Delaware's good nature depends on you!*

DUP0001340

**SPECIAL CONDITIONS**

1. The conditions contained herein shall be incorporated into any and all construction contracts and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction which may impact subaqueous lands associated with this project. The permittee and contractor are responsible to ensure that the workers executing the activities authorized by this Permit have full knowledge of, and abide by, the terms and conditions of this Permit.
2. Dredging shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control Surface Water Quality Standards, as amended July 11, 2004.
3. The dredging shall be scheduled so as to minimize the impact to anadromous fish species. *Dredging shall not be undertaken between the period of March 1 to June 30, 2006.* In-water activities shall be conducted to minimize impacts during the fall migratory period between September 1 to November 30, 2006.
4. The dredged materials shall be contained, transported and disposed of as described in the permit application. The agglomerated material will be removed and disposed of at an approved off-site Transfer, Storage and Disposal Facility; and the remaining contaminated material/soils will be disposed of at the designated A-Basin Vault on the adjacent upland facility owned by the permittee.
5. There shall be no excavation channelward of the permitted alignment either before, during or after the installation of the 207 square feet of rip-rap beyond the mean high waterline.
6. In accordance with the attached fee sheet, an additional payment of \$2,700, payable to the State of Delaware for dredging public subaqueous lands, shall be submitted to the Wetlands and Subaqueous Lands Section prior to the commencement of dredging.
7. All dredging and filling is to be conducted in a manner consistent with sound conservation and water pollution control practices. Spoils and fill areas are to be contained in a manner that prevents the entrance of the dredged material into any surface water or wetland.
8. This Permit does not authorize the movement of equipment or placement of structures in tidal wetlands.
9. There shall be no movement of equipment within State subaqueous lands not specifically authorized by this Permit.
10. Disturbance of wetlands and/or aquatic vegetation adjacent to the permitted construction by burning, cutting, herbicide treatment, mechanical impacts or other methods is prohibited.
11. No dredged materials shall be deposited on wetlands or waters.

12. All construction debris, excavated material, brush, rocks and refuse incidental to such work shall be placed above the influence of surface waters, so that such material does not enter into surface waters or subaqueous lands.
13. The permittee shall employ measures during dredging and construction activities to prevent spill of fuels or lubricants. If spill should occur, efforts shall be taken to prevent its entry into wetlands and aquatic areas. Any spills entering wetlands and aquatic areas shall be removed immediately. This office shall be notified of any spill(s) within six hours of their occurrence. This office will determine the effectiveness of spill and contamination removal and specify remediation efforts as necessary.
14. Erosion and sediment control measures shall be implemented in accordance with the specifications and criteria in the current Delaware Erosion and Sediment Control Handbook, so as to minimize entry and dispersal of sediment and other contaminants in surface waters.
15. The authorized activity in subaqueous lands shall be for the explicit purpose of environmental remediation of contaminated materials/soils as indicated in the permit application.
16. This Permit shall be valid for a one (1) year period. One dredging event is authorized during that period.
17. A copy of this Permit must be available on site during all phases of dredging activity.
18. The permittee must obtain appropriate permits from the Army Corps of Engineers prior to commencement of dredging at the locations authorized by this Permit.

#### GENERAL CONDITIONS

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. Any activities not specifically authorized herein may require a supplemental approval from this office prior to the initiation of dredging and construction. A determination on the need for a supplemental approval will be made by this office pursuant to the permittee submitting written notification and revised plans indicating project changes to this office.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phase of the dredging and construction and may collect any samples or conduct any tests that are deemed necessary.
3. This Permit does not cover the structural stability of the project units.
4. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.

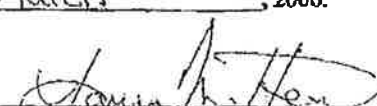
E.I. DuPont de Nemours and Co., Inc.

SP-458/05

Page 4 of 4

5. The issuance of this Permit does not imply approval of any other part, phase, or portion of any overall project the permittee may be contemplating.
6. This Permit is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the project.
7. This Permit and authorization are granted for the purposes as stated herein. Any other use without prior approval may constitute reason for this Permit being revoked.
8. The permittee shall notify the Department of Natural Resources and Environmental Control within ten (10) days of the date work will be commenced.
9. This Permit shall expire if the project has not been completed within one (1) year from the date of issuance.
10. If the permittee considers one (1) year insufficient for completion of the project, the permittee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.
11. The permittee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
12. The issuance of this Permit does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.
13. This Permit is personal and may not be transferred without the prior written consent of the Department. Prior to the transfer of the adjacent upland property, the permittee shall obtain the written consent of the Department to transfer this Permit to the new upland property owner. Failure to obtain such written consent may result in the revocation of this Permit and the removal of all structures authorized by this Permit at the expense of the permittee.
14. This Permit may be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, I, Laura M. Herr, the duly authorized representative of John A. Hughes, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand this 7<sup>th</sup> day of March, 2006.

  
By Laura M. Herr, the duly authorized  
Representative of the Secretary of the  
Department of Natural Resources and  
Environmental Control

DUP0001343

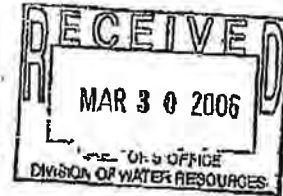






STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
89 KING'S HIGHWAY  
DOVER, DELAWARE 19901

OFFICE OF THE  
SECRETARY



PHONE (302) 739-3000  
FAX (302) 789-6242

March 29, 2006

Mr. Alan Muller  
Executive Director, Green Delaware  
P. O. Box 69  
Port Penn, DE 19731

Dear Mr. Muller:

RE: DRBC Docket No. D-88-85-2, E. I. du Pont de Nemours and Co.  
DuPont Chambers Works' Industrial Waste Water Treatment Plant

Thank you for your continuing interest in improving the environment in Delaware as well as in the actions taken by the Delaware River Basin Commission (DRBC). The following responds to your extensive comments and questions which are indicated by italics and are printed as received by us, including minor typographical errors:

*"We have been looking at the decision of the Delaware River Basin Commission on March 1, 2006, in the above matter. (All the following quotes are from the DRBC document.) It is frustrating that we were not made aware of it in time to comment to the Commission."*

**ANSWER:**

- The DRBC has consistently noticed its Commission meetings in the Delaware Register of Regulations, New Jersey Register, New York Register, Pennsylvania Code and Bulletin, and Federal Register for more than a decade. Please refer to the Delaware Register of Regulations <http://www.delregs.state.de.us/html/register.html>. With respect to the specific docket that interests you, the meeting was noticed in the Delaware Register of Regulations 2 (8) 1117 (02-01-06) and Delaware Register of Regulations 2 (8) 1282 (02-01-06). You can review DRBC dockets at the web site <http://www.state.nj.us/drbc> under "What's New?" in advance of each Commission meeting.

*"It appears that DuPont seeks to extend its outfall (discharge pipe) from approximately 50 feet offshore to 1800 feet offshore and install a diffuser. This outfall is used to dump about 15 million gallons per day of industrial effluent into the already-impaired Delaware River. The actual permitted flow limit is much higher yet."*

**ANSWER:** *Delaware's Good Nature depends on you!*

DE29858

Letter to Mr. Muller  
March 29, 2006  
Page 2

- Actual flows have been decreasing from DuPont Chambers Works (DPCW) steadily over the years.
- The Chambers Works Industrial Waste Water Treatment Plant (IWTP) is designed for a 47.5 mgd discharge and is currently discharging between 9 and 11 mgd. NJPDES Permit No. NJ0005100 and DRBC Docket No. D-88-85-2 are based on an average flow of 17 mgd rather than the design flow of 47.5 mgd. Generally, the allowable effluent limits are based on 17 mgd. DuPont also has approximately 25 mgd of non-contact cooling water that merges with the effluent from the Chambers Works IWTP. The combined flows are discharged through the current outfall, DSN001, which may be extended at some point and modified by the addition of a diffuser. DNREC has not received an application from DuPont to date to extend the outfall pipe or add a diffuser.
- Zone 5 of the Delaware River is currently listed as impaired for PCBs. DuPont continues to be an active participant on both the DRBC Toxics Advisory Committee, which advised the Commission on the development of the December 15, 2003 TMDL for PCBs in the Estuary ("TMDL"), and the Implementation Advisory Committee, which is developing recommendations for implementing the TMDL. Chambers Works is designated a Category 1 PCB discharger by the TMDL. As a consequence, in the latest NJPDES permit, it is required to develop and implement a Pollutant Minimization Plan (PMP) for PCBs in accordance with Section 4.30.9 of DRBC's Water Quality Regulations.
- The Delaware Estuary (Zones 2-5) is currently being studied to determine whether it is impaired for chronic toxicity. The Chambers Works facility, along with 45 other dischargers (30 in NJ, 12 in PA, and 3 in DE), is participating in an effluent monitoring study for chronic toxicity. Depending on the outcome of the study, recommendations to the Commission may be made for chronic toxicity wasteload allocations for discharges to the Estuary.

*"Since all this construction would be (and all the discharge is and would continue to be) into Delaware waters it appears to us that a subaqueous lands permit should be required under Delaware law."*

**ANSWER:**

- There has been no construction to date on an extension to the outfall pipe or the diffuser. We agree that DuPont will need to apply for and obtain all relevant and appropriate permits and approvals from DNREC should it decide to modify its outfall pipe. The Docket explicitly does not exempt DuPont from obtaining all State and local approvals, including those required by Delaware. Condition C.II.o in the Decision section of the Docket reads: "Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project."
- Moreover Condition C.II.i of the docket provides: "Prior to the initiation of construction of the outfall extension and diffuser, the final plans for construction, confirming that such plans are consistent with the approved criteria, will be submitted to DRBC for review by the Executive Director. The Executive Director will review the plans promptly and furnish

DE29859

Letter to Mr. Muller  
 March 29, 2006  
 Page 3

an approval or list of concerns to DuPont in writing." For your information, a preliminary public hearing is not required in the case of an action by the Executive Director; however actions of the Executive Director are subject to appeal in accordance with the Commission's Rules of Practice and Procedure.

*"Since the new outfall would be 36 times as long as the original, it would not seem to be reasonably "grandfathered," regardless of the date of original construction. Please inform us of the Department's view of this matter."*

**ANSWER:**

- The DRBC regulations contain no "grandfathering" provisions applicable to the DuPont discharge, and the docket reflects no allowance for grandfathering. The docket does not exempt DuPont from obtaining all State and local approvals, including those required by DNREC.

*Is it stated that "The added depth and diffuser ports will increase the rate of diffusion and mixing of the effluent with the waters of the Delaware River." Doubtless so, but there is no statement as to why this is considered necessary at this time. What is the view of the Department of this matter?"*

**ANSWER:**

- As indicated in the docket, an extended outfall and new diffuser are expected to increase the rate of diffusion and mixing of the effluent with the waters of the Delaware River. This will enable DuPont to achieve the water quality based effluent limitations (WQBELs) for copper, cyanide and zinc at DSN001A that are required to be met in accordance with the 59-month schedule of compliance contained in the NJPDES permit and incorporated into the DRBC docket by reference. The NJDEP would consider removing or modifying the effluent limitations for copper, cyanide and zinc if DuPont submitted any or all of the following information for review and consideration:
  - i. Additional effluent data using an approved quantification level equal to or better than the Department's Recommended Quantification Level (RQL)
  - ii. Acceptable site specific ambient data (e.g. hardness) collected in accordance with a NJDEP approved work plan.
  - iii. Acceptable site specific criteria or translators developed in accordance with a NJDEP approved work plan.
  - iv. Updated 1Q10, 7Q10, 75<sup>th</sup> percentile, and/or other appropriate stream flow values where applicable.
  - v. Updated regulatory mixing zone dilution factors where applicable.

*"Further, the Docket mentions a mechanism for the establishment of alternate effluent limitations for certain parameters calculated as a result of the operation of these new facilities. This appears to be a reference to authorization of additional discharges by the State of New Jersey contingent upon improvements in dilution."*

**ANSWER:**

- Condition C.II.k of the docket reads: "The Executive Director is authorized to approve revised effluent limitations that reflect the installation of the extension and diffuser

Letter to Mr. Muller  
March 29, 2006  
Page 4

consistent with the Commission's Water Quality Regulations." This authority is intended to allow for effluent limit adjustments that may be made to copper, cyanide and zinc limits by NJDEP, consistent with the terms of the NJPDES permit. The docket limits the Executive Director's authority to adjustments to the effluent limitations that would be consistent with the Commission's Water Quality Regulations (WQR). Thus, it explicitly precludes the Executive Director from making any adjustment that would result in a violation of the WQR.

*"We are not fans of the "dilution is the solution to [water] pollution" theory."*

**ANSWER:**

- We agree; however, DRBC's Water Quality Regulations (WQR) contain mixing zone provisions that allow exceedances of stream quality objectives established for the protection of aquatic life from acute effects in small areas near outfall structures, provided that certain criteria are met. The resulting mixing zone is generally referred to as an Acute Mixing Zone (AMZ). The existing outfall has four discharge pipe outlets, and the current effluent dilution factor is a minimum of 2.61 to 1. The proposed outfall diffuser is projected to produce an effluent dilution factor of greater than 17 to 1. In general, this will result in a smaller AMZ, which will benefit the Delaware River. DNREC and NJDEP have similar requirements and defer to DRBC to define the AMZ in shared waters.

*"Considering the magnitude of present discharges from Chambers Works (approximating one million pounds per year of 'TRI' toxins and many millions of pounds per year of other harmful pollutants) and the level of public concern about these discharges, we doubt that the Department should take any actions facilitating additional discharges."*

**ANSWER:**

- Effluent limitations in the previous docket were based on an average discharge from the IWTP facility of 34 mgd, whereas the current docket effluent limitations are based on an average discharge of 17 mgd. The total discharge from the plant measured in pounds will continue to vary from day to day and year to year. However, the discharge is at all times required to comply with the effluent limitations contained in the permit and the docket. The overall effects of the new permit and docket are to reduce the discharge of pollutants.
- Docket No. D-1985-85-2 also contains requirements for TSS and BOD5 at DSN662A, an internal outfall at the conclusion of the Chambers Works treatment process but which is situated prior to the addition of millions of gallons of non-contact cooling water that dilute the plant's effluent before it is discharged to the river. The previous docket did not contain requirements for the listed parameters at the internal effluent monitoring location (DSN662A). In these respects, the docket again represents an updated and improved regulatory vehicle for controlling discharges from the Chambers Works facility.

*"Most of these pollutants are known to be harmful, and DuPont Chambers Works is known to be one of the largest point sources of water pollutants in the US if not the world. Please advise us as to the Department's view on the above, particularly as to what additional discharges might*

Letter to Mr. Muller  
 March 29, 2006  
 Page 5

*result from the implementation of "alternate effluent limitations. We are concerned that DuPont apparently plans to begin treating approximately 2.75 million gallons per day of sanitary sewage from Penns Grove and Carneys Point. This plant was not designed to treat sanitary (domestic) sewage, and we are concerned about the possible interactions of the constituents of this sewage with the industrial (chemical) effluents now being treated, as well as possible industrial discharges into the Penns Grove and Carneys Point collection systems. Has the Department evaluated this situation? If so, what conclusions have been reached?"*

**ANSWER:**

- Upon the construction of a new pump station by Penns Grove, wastewater will be conveyed to the Carneys Point wastewater treatment plant, where it will be combined with the wastewater from the Carneys Point collection system. The combined wastewater streams will receive primary treatment at the Carneys Point wastewater plant, and will then be conveyed via a pumping station and force main to the Chambers Works IWTP for secondary and tertiary (or further) treatment and discharge.
- The Chambers Works facility is designed to remove BOD, TSS, etc. at a higher percent removal than the municipal plants and should therefore result in less loading to the river. The Chambers Works facility will not receive any additional loading allocation if it accepts the flows from these plants. That is, the wasteload allocations currently assigned to the municipal plants will not be transferred to Chambers Works. Rather, effluent from the plants will consume a portion of the Chambers Works IWTP's approved allocation. Thus, overall permitted and docketed loadings to the river will actually be reduced.
- Chambers Works operates as a Centralized Waste Treatment (CWT) facility, as defined and certified by EPA. Chambers Works accepts wastes in three CWT subcategories: metals, oils and organics. Included in the organics subcategory is non-hazardous organic wastewater. This type of wastewater is introduced into the head of the Chambers Works primary treatment system. Chambers Works has effectively treated varying quantities of on-site (e.g., employee-generated) sanitary sewage for several decades.
- Penns Grove and Carneys Point will still be required to maintain their Significant Industrial User Pretreatment programs. If the Penns Grove and Carneys Point municipal treatment wastes are sent to DuPont's Chambers Works for treatment and discharge, the wastes will receive primary treatment at the Carneys Point plant and then will be introduced into the Chambers Works treatment system after the primary treatment tanks.

*"We are also concerned that "DuPont currently receives approximately 100,000 gpd [gallons per day] of out-of-basin commercial waste." DuPont is effectively using the Delaware River as a sewer for waste waters from all over the continent. (Aside from DuPont's relentless campaign to dump VX nerve poison residues into the Delaware....) What is the Department's view of this situation?"*

**ANSWER:**

- The Commission generally discourages the importation of out-of-Basin wasteloads. Accordingly, it assigns no allocation for out-of-Basin wasteloads where it has established assimilative capacity limitations. The docket holder is required to indicate compliance

Letter to Mr. Muller  
March 29, 2006  
Page 6

with its DRBC wasteload allocation for BOD5 by demonstrating that 100 percent of the pollutant load attributable to out-of-Basin wastes has been removed (see Condition II.d. in the Decision section).

- In accordance with DRBC Resolution No. 91-9, codified at Section 2.3.5A.18 of the Commission's Rules of Practice and Procedure, the docket holder must comply with its DRBC wasteload allocation for BOD5 by demonstrating that 100 percent of the BOD5 load attributable to out-of-Basin wastes and similar wastes from in-Basin sources (which have been removed by treatment processes regulated by discharge permits at other wastewater treatment plants prior to transfer to the DuPont Chambers Works facility for treatment and discharge) have been removed by applying the following formula: Calculate the total BOD5 removal across the IWTP and the weighted average BOD5 removal requirement based on the waste source (87.5% for in-Basin and 100% for out-of-Basin). The docket holder shall then confirm that 100 percent removal of the BOD5 from out-of-Basin waste is achieved, reflecting the total BOD5 loading directly attributable to out-of-Basin sources and the specified percent removal requirements. The docket holder shall maintain records demonstrating compliance with its DRBC-issued BOD5 wasteload allocation and the percent removal for the project discharge and shall produce such records upon the request of the Executive Director.

*"We are concerned that the Department apparently did not make any attempt to advise the people of Delaware that this action was in progress. While we understand that this was a DRBC action, not a DNREC action, yet we receive from DNREC announcements of many events of lesser importance such as fishing contests and political events supporting the Governor. Given the Department's expenditures for 'information and education' we think it could and should be doing better in keeping the public informed about the full range of developments impacting Delaware's environment."*

**ANSWER:**

- We try very hard to inform people but it is impossible for DNREC to publish every single action in the Delaware River Basin that may be of interest to Delaware citizens. We have been advised that NJDEP received no requests for a public hearing when it advertised the current NJPDES permit for the Chambers Works facility. The public is able to review the schedule of DRBC meetings and dockets at the Commission's web site <http://www.state.nj.us/drbc> under "What's New?" in advance of each Commission meeting. All meetings of the Commission are posted in the Delaware Register of Regulations <http://www.delregs.state.de.us/html/register.html>.
- Be advised that DRBC has added your organization to the "Interested Parties List" for the Dupont Chambers Work IWTP docket. In the future, you will receive notices associated with any Commission actions related to Docket No. D-1985-085-2 directly from the DRBC.

*"Finally, we are concerned by reports that Delaware's representative to the DRBC failed to vote, against or at all, on the approval of this docket."*

**ANSWER:**

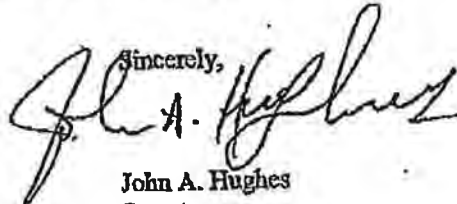
Letter to Mr. Muller  
March 29, 2006  
Page 7

- DNREC's representative Kevin Donnelly voted to abstain on the docket in response to concerns raised at the docket hearing by John Flaherty, Maryann McGonegal, and the Delaware River Keeper Network's representative Mary Ellen Noble. Mr. Donnelly's comments are a part of the hearing record for this Docket. DNREC's Wetlands and Subaqueous Lands Section has not received an application for installation of the outfall extension with the new diffuser referenced in DRBC Docket No. D-1985-085-2. It is the Department's position that DuPont must apply for and obtain a Wetlands and Subaqueous permit before the installation of a new outfall and/or diffuse would be allowed to proceed. Also, please recognize that the existing outfall at the DuPont Chambers Works facility consists of a 78-inch diameter barrel stave pipe extending 50 feet out into the Delaware River. This existing outfall was constructed prior to enactment of Delaware's Subaqueous Lands Law and is "grandfathered" in its present dimensions under the current permit system.

For your information DRBC Docket No. D-1985-085-2, Condition C.II.v., specifically states, "This docket does not authorize the acceptance of VX Hydrolysate for treatment and discharge at the DuPont Chambers Works Facility."

If there are any specific questions regarding the NJPDES permit, you may want to contact Susan Rosenwinkle at 609-292-4860 at the New Jersey Department of Environmental Protection.

Sincerely,



John A. Hughes  
Secretary

pc: Aldona Shankie  
NCC Civic League

c: ✓ Kevin C. Donnelly, DNREC  
Harry Otto, DNREC  
Carol Collier, DRBC  
Pamela Bush, DRBC  
William Muszynski, DRBC

DE29864





DEC 28 1971

EL PASO EASTERN COMPANY

2727 ALLEN PARKWAY  
HOUSTON, TEXAS 77019

December 21, 1971

Mr. David R. Keifer  
Director of State Planning  
Thomas Collins Building  
Dover, Delaware

Dear Mr. Keifer:

The continued growth of U.S. population and industry is imposing increasing demands on the need for energy. Concerned representatives of government and industry know that an adequate supply of energy, particularly clean energy, is necessary to achieve the national goals of healthy economic growth and continued improvement in the quality of life. During the next 15-year period, U.S. energy consumption will probably grow at a rate of about 1.5 percent per year. This means that by 1985 we will be consuming almost 86 percent more energy than in 1970. These increasing needs are already exceeding the ability of the U.S. sources of supply to meet them and this is true for oil and natural gas supplies. The desire of both public and private sectors to improve air quality is creating a need for additional supplies of natural gas at a time when current discovery rates are less than half of that required to maintain reserve capacity at current rates of use. Even with increased exploration and development, it will take years to develop and deliver gas from new U.S. sources and even so, all experts agree we will still have to import huge quantities of natural gas.

In an effort to improve the natural gas supply, our affiliate, El Paso Algeria Corporation, in 1969 reached an agreement with Sonatrach, the Algerian oil and gas company, on a project to import to the East Coast of the United States a billion cubic feet per day of natural gas in liquid form over a 25-year period. This new and important source of supply will help toward meeting the growing requirements for this premium fuel. Even this project will not provide enough gas for the growing requirements of the eastern United States. El Paso Algeria Corporation has purchased additional supplies of gas in liquid form to be delivered to the East Coast in an effort to supply additional premium fuel for United States East Coast consumers.

A typical liquefied natural gas (LNG) project requires an adequate source of gas and, depending upon the location of the gas field, a gas transmission pipeline and liquefaction plant with storage and loading facilities for the liquefied natural gas. The liquefied natural gas is then loaded upon LNG tankers for transportation to a terminal located in the market area. At the terminal, the LNG is unloaded and stored in insulated cryogenic storage tanks.

As needed, the LNG is withdrawn from storage by pumps and transferred to vaporizers where it is regasified and delivered to the gas pipeline transmission facilities and ultimately to the gas consumers.

The terminal and its location are vital and important segments of the LNG project as the project cannot go forward without the assurance of a suitable terminal location. The terminal must be located at a site where LNG tankers can be readily received, berthed, unloaded, serviced and disembarked. The terminal must be within reasonable pipeline distance of major gas transmission facilities so that the gas can be delivered at the lowest cost possible to the United States consumer.

El Paso Eastern Company has plans to locate such a terminal in the Delaware River area. The terminal site which we are considering has adequate water depth for the tankers, is adjacent to major pipeline transportation facilities and has adequate surface for the storage area.

As indicated on the attached map, the location of this terminal would be in the State of New Jersey. The site is near other heavy industrial locations and itself is zoned for heavy industry. However, since the site is located at a place where Delaware's jurisdiction extends to the low water mark on the New Jersey side of the river, the pier facilities would extend into waters controlled by the State of Delaware. The terminal would be located near an area which is dredged and maintained as an anchorage by the Corps of Engineers. In addition to the pier, the berthing facilities would require that the river be dredged in an area about 600-800 yards off the main channel, which would in effect be an extension of the area now maintained by the Corps of Engineers.

El Paso Eastern Company is aware of the Coastal Zone Zoning Act and the moratorium imposed on dredging activities by the State of Delaware. It has been brought to our attention that the purpose of the Act is to control the land use in the State of Delaware and, secondly, to maintain control on the environmental aspects of the use of the land. El Paso Eastern Company will, therefore, seek approval for the installation and operation of the terminal from the States of Delaware and New Jersey.

The LNG terminal will be constructed in such a manner as to meet all state requirements for both states. The operation of the LNG terminal can be characterized as an extremely clean industry where no waste materials are created. The LNG tankers are designed so that no discharge of waste or other material will be made while the tankers are in port. The operation of the LNG terminal will create no water or air pollution problems; no smoke, steam or obnoxious fumes will be given off and the operation will not generate loud noises. The plant will be constructed so that a clean, pleasant appearing site can be maintained.

Mr. David R. Keffer

December 21, 1974

Page 3

Certain approvals are also required from other agencies of the United States Government such as the U.S. Coast Guard and Corps of Engineers, and it would be expected that El Paso Eastern Company would meet the requirements for these approvals. The liquefied natural gas will be transported from Angola to the United States under long-term contracts of commitment for the full cargo capacity of each transporting vessel. Accordingly, all transportation will be performed by contract carriers and none will be performed by common carriers. Since on-shore facilities of the project will be used in connection with the transportation or sale of gas in interstate commerce, all such facilities, and services performed thereon, will be subject to regulation by the Federal Power Commission under the Natural Gas Act.

Because the importation of liquefied natural gas will provide an important source of clean energy for consumers on the U.S. East Coast and because the impact on the environment will be highly positive, El Paso Eastern Company will request favorable consideration from the State Planning Board, State of Delaware.

You have suggested that we write you concerning the project so that you can consider it and comment thereon in the context of the Coastal Zone Zoning Act. If we can supply any additional information which would be helpful to you in this regard, please advise us.

Very truly yours,

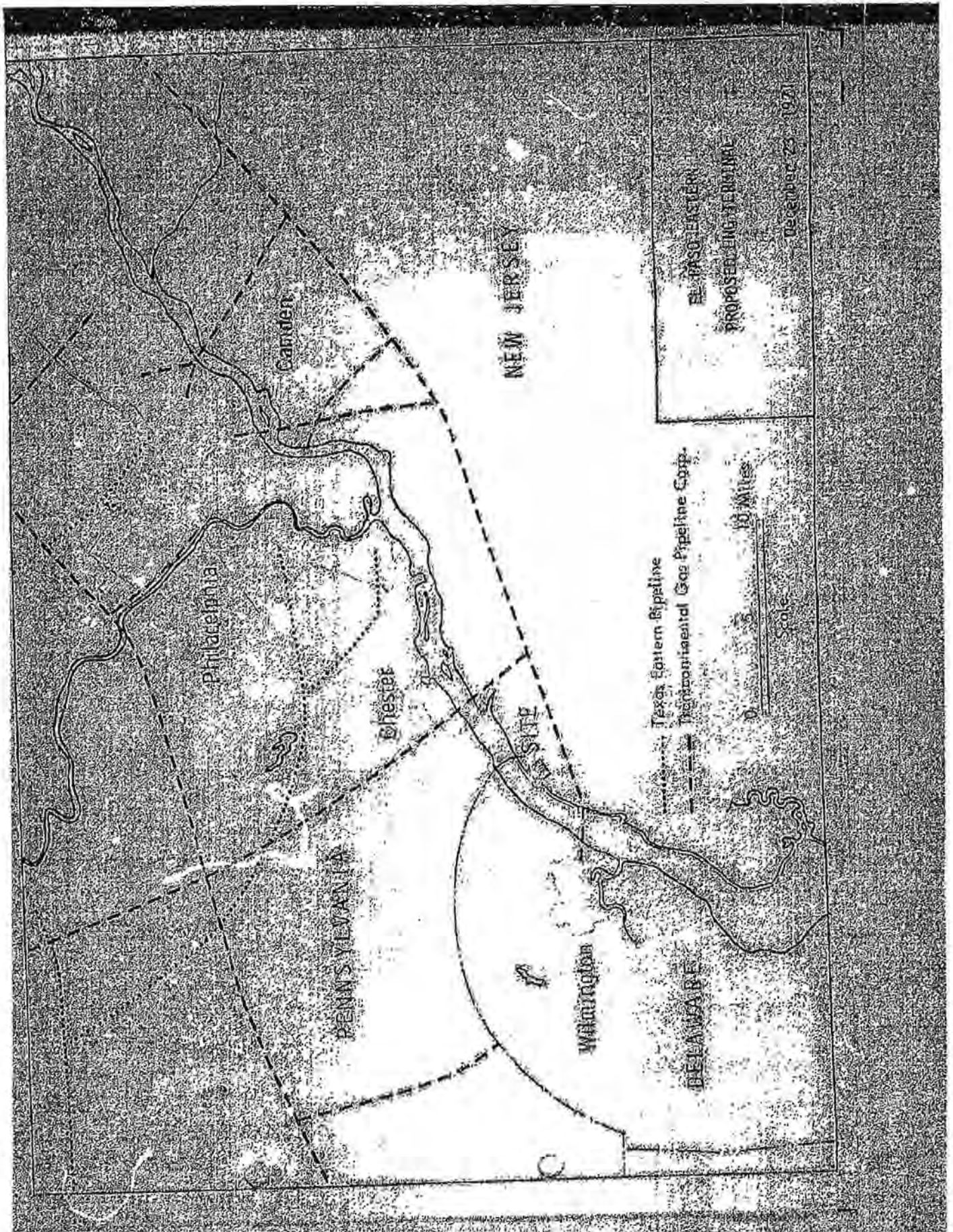


BH:jfb

Attachment

cc: Mr. Robert Halbrook  
Secretary of Commerce  
State of Delaware  
The Green  
Dover, Delaware

Mr. Ronald Reymann  
Commissioner of Labor and Industry  
Labor and Industry Building  
Trenton, New Jersey



October 29,  
1971

The Hon. W. Laird Stabler  
Attorney General  
State of Delaware  
P. O. Box 1708  
Public Building  
Wilmington, Delaware 19801

Dear Laird:

RE: Coastal Zone Act -- Bulk Product Transfer Facility  
El Paso Eastern Company

Attached please find a copy of a letter that I received today from the El Paso Eastern Company outlining the scope of a project they propose to carry out in northern Delaware. Very briefly, they propose to construct a terminal for liquefied natural gas in New Jersey across the river from Claymont. In order to make this terminal viable they must construct an offshore bulk product transfer facility in Delaware water. Since our territory in that area extends into the low water mark in the Jersey shore, in my judgement, the proposed project is an offshore bulk product transfer facility prohibited by the Coastal Zone Act.

They are attempting to contend that they are not prohibited because of the sentence in Section 7002(F) that says "not included in this definition is a docking facility or pier for a single industrial or manufacturing facility for which a permit is granted of which is a non-commercial use." That is why they mention in their letter (Page 3) that the facility will not be used by common carriers but by contract transportation. It would seem to me that their statement that the onshore facilities will be used "in connection with the transportation or sale of gas in interstate commerce" indicates some common carrier or at least other than single industry utilization of the facility.

Hon. W. Laird Stabile

-2-

December 29, 1974

In any event, I would appreciate receiving your thoughts on this before I render my status decision under the Coastal Zone Act.

Sincerely,

David B. Keenan  
Director

Enclosure

Distances

December 29, 1971

Mr. Barry Huntsinger  
El Paso Eastern Co.  
2727 Allan Parkway  
Houston, Texas 77019

Dear Mr. Huntsinger:

This is to acknowledge receipt of your letter concerning your proposed (Liquefied Natural Gas Terminal). We will review this as quickly as possible relative to the Coastal Zone Act.

Sincerely,

David R. Koffen  
Director

DRK:ans





JAN 25 1972

STATE OF DELAWARE  
DEPARTMENT OF JUSTICE  
Wilmington, Delaware

W. LAIRD STABLES, JR.  
ATTORNEY GENERAL

January 20, 1972

Mr. David R. Keifer, Director  
Planning Office  
Executive Department  
State of Delaware  
Dover, Delaware 19901

Re: Coastal Zone Act - Bulk  
Transfer Facility  
(El Paso Eastern Company)

Dear Dave:

I have reviewed the material submitted to you with regard to the liquid natural gas (LNG) terminal which El Paso Eastern Company proposes to built in New Jersey with docking facilities extending into the Delaware River. I agree with your determination that this facility is an offshore bulk product transfer facility as that term is defined by the Coastal Zone Act. However, there may be some question as to whether or not the terminal is excepted from 7 Del. C. §7002(f) by virtue of the fact that it is "a docking facility or pier for a single industrial or manufacturing facility for which a permit is granted".

It is my opinion that the El Paso Eastern terminal does not fit within the "single industrial or manufacturing facility" exception. The Delaware courts have uniformly held that the meaning of a statute depends on the intent of the legislature and that such intent must be ascertained from an interpretation of the act as a whole. The facts contained in the letter from the El Paso Eastern Company indicate that the LNG terminal in question is merely a way station in the natural gas transportation system which El Paso Eastern is endeavoring to develop. It is quite clear that the legislative intent was to permit docking facilities where such facilities would benefit such industries as would be granted permits to operate in the Coastal Zone. Here the situation is reversed. The terminal will only exist as an adjunct to the docking facility. In other words, the important part of the project to El Paso Eastern is not the "industrial facility" but the docking facility. Further, I assume that the facility proposed by El Paso Eastern is not the type of "single industrial or manufacturing facility" for which your office would grant a permit under 7 Del. C. §7004. The statute specifically mandates that such approval is necessary.

Mr. David R. Keifer  
Page 2  
January 20, 1972

With specific reference to situations similar to the one here in issue, it is my recommendation that your office more clearly define "single industrial or manufacturing facility". The definition should explicit the legislative intent to allow an exception for docking or pier facilities only where the facilities are to be used in conjunction with industries of the type permitted under 7 Del. C. §7003. The definition I envision will permit your office to evaluate applications for construction on the New Jersey shore as if they were applications for construction on the Delaware shore. Such a standard would negate claims that applications which require the approval of more than one governmental agency are acted upon by Delaware in an arbitrary or capricious manner. However, it must be clear that Delaware is not attempting to regulate development beyond the state boundary. Therefore, any reference to potential development in New Jersey should be avoided.

If you should wish to discuss this matter further, please do not hesitate to contact me. Also at this time I would like to stress that this is an informal advisory opinion. Please advise me if a formal opinion becomes necessary.

Sincerely,



W. Laird Stabler, Jr.  
Attorney General

WLSJr:ls



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
PLANNING OFFICE  
DOVER

RUSSELL W. PETERSON  
GOVERNOR

DAVID R. KEFFER  
DIRECTOR

MEMORANDUM TO: The Honorable Russell W. Peterson

FROM: David R. Keffer

SUBJECT: Coastal Zone El Paso Eastern Company

A matter has come up recently with regard to coastal zoning administration which affects the interests of both New Jersey and Delaware and the relationship between these states at the highest level.

In brief, the matter concerns a plan of the El Paso Eastern Company of Houston, Texas to construct a terminal for the off-loading and storage of liquefied natural gas imported from North Africa and the conversion of the gas from a liquefied to a gaseous state for transport through pipeline to gas customers. The terminal plant would be located in New Jersey approximately 4.5 miles north of Penns Grove (opposite Claymont). The terminal pier, however, would be in Delaware territory since Delaware's boundary is the mean low water mark on the New Jersey side of the Delaware River at this point.

An official of the El Paso Eastern Company has written to me regarding status of the terminal pier under the Coastal Zone Act. I have requested an opinion from Attorney General Stabler concerning whether or not the pier would be an "offshore bulk product transfer facility" prohibited by the Act.

Before making a coastal zoning status decision on this project, I think that it is important to contact Governor Cahill to find out whether or not he is familiar with the project, how he feels about it, and what decisions have been made about it, if any. It would also be useful to identify a New Jersey official who would be the contact person for the State Planning Office to work with.

The importance of this matter as it affects good political relationships between the two States and a coordinated policy for development along the Delaware River, I believe, calls for personal contact between yourself and Governor Cahill. This is the first project under our coastal zoning law of record involving interstate interests. The establishment of a friendly and coordinated working relationship between New Jersey and Delaware officials at this point would be of great value to resolving future matters of this sort in a mutually-satisfactory way.

DRK:JH  
Enclosures

10/11/68  
10/11/68  
10/11/68  
10/11/68  
10/11/68



February 17, 1972

Hon. Richard Sullivan  
Commissioner  
Dept. of Environmental Protection  
P. O. Box 1390  
Trenton, N. J. 08625

Dear Mr. Sullivan:

RE: El Paso Eastern Company

Please find a letter that we received from the subject firm for a status decision under our Coastal Zone Act. Before I render a decision telling them whether they are prohibited or need a permit or do not fall within the scope of the Act, I would like to have your reaction to their proposal. In general terms, do you control projects of this type under New Jersey law at this time. If so, have you approved the project or will you?

I would like to receive New Jersey's views on the project since a part of the project would be located in New Jersey but the pier which is necessary for the project to be undertaken is located in Delaware. In addition to getting your reaction to the subject project, I think it would be helpful if we could establish a system of communications for other projects of this type that will undoubtedly develop.

If you have any questions or would like to discuss the project, please call me.

Sincerely,

David R. Keffer  
Director

DRK:ans

Encl:





STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
PLANNING OFFICE  
DOVER

RUSSELL W. PETERSON  
GOVERNOR

DAVID R. KEIFER  
DIRECTOR

February 23, 1972

Mr. Barry Huntsinger  
El Paso Eastern Company  
2727 Allen Parkway  
Houston, Texas 77019

Dear Mr. Huntsinger:

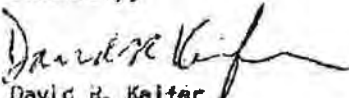
This is to inform you of my status decision regarding the El Paso Eastern Company proposed project for a pier within Delaware's jurisdiction in the Delaware River to serve as a tanker berthing facility in connection with a liquified natural gas terminal near Penns Grove, New Jersey.

The status of the pier facility for this El Paso Eastern Company project is that it is an offshore bulk product transfer facility which is prohibited in the Delaware coastal zone by the terms of Section 7003 of the Coastal Zone Act (Chapter 70, Title 7, Delaware Code). No coastal zone permit may be issued for such a use. This opinion is based on the advice of Attorney General Stabler and my examination of the descriptive material provided in your letter of December 21, 1971.

If you wish to file an appeal from this decision it should be filed within fourteen (14) days of your receipt of this notice on the appeal form provided herein. Items A, B, and E on the appeal form should be filled in, as well as the date of the appeal application. At this time there is no appeal fee required. The appeal should be sent to the State Coastal Zone Industrial Control Board at the address shown on the appeal application form.

If you have any questions, please contact me.

Sincerely,

  
David R. Keifer  
Director

DRK/daf

Enclosure

CC: Secretary Austin N. Heller  
Commissioner Richard Sullivan







1972

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Trenton, New Jersey

OFFICE OF THE COMMISSIONER

March 27, 1972

Mr. David R. Keifer  
Director of State Planning  
Thomas Corbins Building  
Dover, Delaware

Dear Mr. Keifer:

Under the riparian laws of New Jersey, anyone proposing to alter or build upon lands below mean high tide must have the necessary approval from this Department. It is our policy to consider applications with respect to the degree of true public interest to be served and to the degree of environmental damage to be rendered.

On major proposals such as that apparently contemplated by El Paso Eastern Company we would require a complete environmental impact statement including base line studies before any decision is made. This would apply not only to that part of the proposal situated below mean high tide, but to the entire project.

In this case it is difficult to be more specific as to the status of the case and the probability of our decision, since El Paso has not made any application to this Department and we have no specific knowledge of their proposal.

I agree it would be useful to communicate on matters of joint interest. You can expect to hear from Richard D. Goodenough, Director of the Division of Marine Services whenever an application appears to effect the statutes of both of our States.

Very truly yours,

Richard J. Sullivan  
Commissioner



MAR 8 1972

El Paso Eastern Company

222 Allen Parkway  
Houston, Texas 77002

BARRY HUNNABY  
DIRECTOR

BARRY HUNNABY  
DIRECTOR

March 3, 1972

Mr. David R. Keifer  
Director of State Planning  
Thomas Collins Building  
Dover, Delaware

Dear Mr. Keifer:

Thank you for your letter of February 23, 1972 rendering your status opinion that the pier facility of the LNG plant which El Paso Eastern Company had proposed is prohibited by the Delaware Coastal Zoning Act.

Your letter was presumably written in response to our letter dated December 21, 1971. We did not intend our letter to be a formal application for a permit under the Coastal Zoning Act. Rather, we merely sought your preliminary advice concerning the applicability of the Act to the project in order to assist us in deciding what course of action we should take.

A few days before your letter of February 23, 1972, was received, a decision was made by El Paso to abandon the project. Consequently, we will not be making a formal application under the Coastal Zoning Act and the matter will not be before you for decision.

Under the circumstances, we respectfully request that you withdraw your decision on the project in order to eliminate any contention that we have acquiesced in your decision by our failure to appeal.

We regret the misunderstanding and very much appreciate the assistance you have given us.

Very truly yours,  
*Barry Hunnaby*

BH:kg

- cc: Mr. James P. Lister
- Mr. David T. Dutton
- Mr. Kenneth G. Johnson
- Mr. Dickinson R. Debevoise



CERTIFIED MAIL No. 507820

March 12, 1972

Mr. Garry Hultaker  
Vice President  
E.I. DuPont de Nemours and Company  
2727 Allison Parkway  
Houston, Texas 77019

Dear Mr. Hultaker:

This is in reply to your letter of March 3, 1972, on the subject of the offer for your proposed liquefied natural gas terminal and your request regarding my letter of February 25, 1972, regarding a decision on that project proposal under the Coastal Zone Act.

Following our meeting where you outlined the project, in your letter of December 21, 1971, you stated that E.I. DuPont de Nemours and Company will file and seek approval for the installation and operation of the terminal from the states of Delaware and New Jersey. In that letter you also stated that I had suggested that you write to me concerning the project so that I could comment on and comment on it in the context of the Coastal Zone Act. My comment on the project was the status decision in my letter of February 25, 1972.

In your letter of March 3, 1972, you state that it was decided a few days prior to receiving my letter of February 25, 1972, to abandon the project. Certainly you have the right to abandon the project. However, I do not feel that I can withdraw my status decision. Since, as you say, the decision to abandon this project was made prior to your having any knowledge of my status decision, the reason for abandoning the project cannot be my decision. It would seem to be illogical to expect an appeal from a decision on a project which had previously been voluntarily abandoned. Your failure to appeal my status decision is understandable in the light of the situation, rather than an acquiescence to the decision.

Mr. Barry Hunsaker

April 17, 1972

If I should not withdraw my objection and you decide at some time to go ahead with this project, you would already know my status, denial and void. Therefore, have more than the time specified by the Act and more time than allowed to all other applicants to prepare your appeal.

The Coastal Zone Act provides that a final decision of the State Planner can be appealed. A status decision that a project is prohibited in the coastal zone is a final decision. Otherwise, it could not be appealed. My decision in this letter denying your request to withdraw the status decision of February 22, 1972, is not covered by appeal provisions of the law. It follows that my decision here is proper under terms of the Coastal Zone Act.

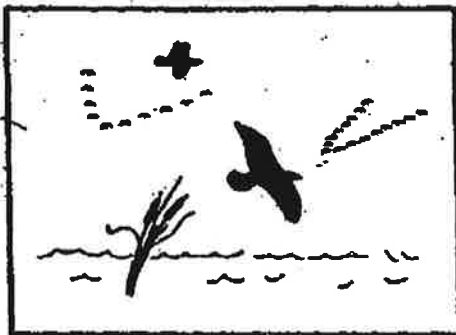
Sincerely,

David R. Keller  
Director

DJK:ans

**COASTAL ZONE ACT ADMINISTRATION**

**JUNE 28, 1971 - JUNE 30, 1977**



**STATE COASTAL ZONE INDUSTRIAL CONTROL BOARD  
AND  
OFFICE OF MANAGEMENT BUDGET AND PLANNING  
FORMERLY DELAWARE STATE  
PLANNING OFFICE**

**NOVEMBER , 1977**



Project Number 5 - El Paso Eastern Company

In a letter to the State Planner, December 21, 1971, the vice-president of the El Paso Eastern Company described a project for a liquified natural gas (LNG) terminal in New Jersey opposite Claymont involving a pier extending into Delaware waters beyond mean low water on the New Jersey side of the Delaware River. The project involved importation of North African liquified natural gas by tanker, storage and regassification at this terminal, and shipment by pipeline to customers in the Northeast. The letter suggested that the State Planner examine the project in the context of the Coastal Zone Act.

Prior to his status decision, the State Planner sought the Attorney General's legal advice on this project. On January 20, 1972, the Attorney General advised that the pier would be a (prohibited) off-shore bulk product transfer facility and that it was not exempt from prohibition by reason of the clause in Section 7002(f) of the Law providing for piers or docking facilities to be used solely by a single industrial or manufacturing user. (See Appendix 3.)

On February 23, 1972, the State Planner informed the vice-president of El Paso Eastern Company that the pier for the LNG terminal would be a prohibited off-shore bulk product transfer facility. On March 3, 1972, the Company vice-president replied that El Paso had abandoned the project a few days prior to the State Planner's decision and requested a withdrawal of the status decision saying that he had merely sought information advice on the status of the project. The State Planner refused to withdraw his status decision on March 17, 1972. No appeal was filed, and since the project had apparently previously been dropped by the Company, no appeal could logically have been expected.

Project Number 6 - Sun Olin Chemical Company

This project consisted of construction of a Stretford Sulfur Recovery Unit at the Sun Olin Chemical Plant in Claymont. This unit would remove hydrogen sulfide from a by-product stream and convert it to elemental sulfur thus removing sulfur dioxide as an emission to the atmosphere. Sun Olin was under orders by the Department of Natural Resources and Environmental Control to remove sulfur dioxide emissions in order to meet State air quality requirements by January 1973.

The status decision request was received on January 26, 1972, and the decision was made on March 9, 1972; the decision was that as expansion or extension of a non-conforming use, this project did not require a coastal zone permit because it had no significant effect on land use area, plant production, or (negative) environmental impact. There was no appeal.

1. Deny a request by the Defense Fuel Supply Center to withdraw its status decision application; and
2. Approve a request to withdraw the appeal application.

There was no further appeal or other action on this project. The proposed facility off Pickering Beach was not built.

#### Project Number 69 - Feralloy Corporation

On April 3, 1975, Feralloy Corporation asked the State Planner if a coastal zone permit would be required for a 40,000 square foot addition to its sheet steel cutting plant in the New Castle Industrial Park near Pigeon Point. Prior to this a coastal zone permit had been granted to construct the original 80,000 square foot plant. The State Planner informed the company on April 4, 1975, that a coastal zone permit would be required for this major plant expansion. On April 14 the permit application was filed.

After the required public hearing the State Planner granted the coastal zone permit on May 12, 1975.

No appeal was filed.

#### Project Number 70 - Townsend's Inc.

Townsend's Inc. requested a status decision on a proposed structure alteration from 80' x 62' to 96' x 62' at its soybean processing plant near Millsboro. The State Planner's decision of April 23, 1975, stipulated that the project was not a significant expansion; that it was not prohibited; and that it needed no coastal zone permit.

No appeal was received on this decision.

#### Project Number 71 - Captain Gray Smith

Application for a status decision was made on May 8, 1975 by Captain Gray Smith for a project to manufacture a fish product at an existing facility on the banks of the Lewes-Rehoboth Canal in Rehoboth Beach west of Route 14. The buildings had formerly been occupied by an oyster shucking operation.

Specifically, the applicant proposed to bring fresh fish by truck to the plant and to wash and box some of the fish and ship it out and to wash, filet, and ship out the remainder of the fish. Fish byproducts would be resold for pet food and fertilizer.

The State Planner on May 9 decided that this would be a new manufacturing use requiring a coastal zone permit because some of the fish would be processed in a way that met the definition of "manufacturing" in the law.

Captain Gray Smith never applied for a coastal zone permit and did not appeal this decision.

Project Number 72 - Standard Chlorine of Delaware, Inc.

A status decision application was filed on September 10, 1975, by Standard Chlorine of Delaware, Inc. for a project involving modification of its distillation system for production of benzenes at its Delaware City plant by inserting a continuous crystallization train system within the production process. Also involved was the construction of six storage tanks, a benzene tank, and a cooling tower. The project would improve production of certain benzene products and decrease the quantity of fuel oil used. The State Planner decided that a permit would be required and on September 30, 1975, a permit application was filed.

After a public hearing, the State Planner granted the coastal zone permit on October 29, 1975.

There was no appeal.

Project Number 73 - Amoco Chemicals Corporation

On October 22, 1975, Amoco Chemicals Corporation requested a status decision on a proposed project to recover vent gas then flared to the atmosphere and to separate the gas into hexane for use in the manufacturing process and utilize the remainder as a boiler fuel at its plant south of New Castle. Atmospheric emissions would be reduced due to burning sulfur-free flare gas in lieu of fuel oil and less potential for unburned hydrocarbon emissions.

After checking with the Department of Natural Resources and Environmental Control, the State Planner decided on October 27 that the project was not regulated by the Coastal Zone Act, that it was not an expansion or extension of a nonconforming use due to its not being significant in terms of negative environmental impacts, land use impact, or effect on production capacity.

No appeal was filed.

Project Number 74 - Energy Transporters, Inc.

Energy Transporters, Inc. on January 12, 1976 applied for a status decision on a proposal to install a ten inch petroleum pipeline from the Wilmington Marine Terminal petroleum dock to the nearby oil tank farm of Energy Transporters. The project was a modification of Project Number 23 previously given a status decision that was appealed and then decided by mutual agreement between the parties involved.

The State Planner's status decision was that the new pipeline was not regulated by the Coastal Zone Act. The pipeline was neither a heavy industry use or manufacturing use and the docking facilities at the Marine Terminal were exempt from regulation by Section 7002(f) of the Act.

No appeal was made.

Project Number 75 - Air Products and Chemicals Company

New facilities for the manufacture of medical nitrous oxide were proposed by Air Products and Chemicals Company at its Delaware City plant in a status decision application of February 10, 1976.

The status decision of February 12, 1976, required application for a coastal zone permit for new manufacturing. On April 14, 1976, the permit application was made.

The Division of Environmental Control advised that environmental impacts would not be significant.

A coastal zone permit was granted on May 7, 1976.

There was no appeal.

On August 2, 1977, this new nitrous oxide facility was destroyed by an explosion.

Project Number 76 - Diamond Shamrock Chemical Company

A status decision application was filed on June 28, 1976, by Diamond Shamrock for expansion of its PVC (polyvinyl chloride) paste production facilities near Delaware City.

Environmental impacts involved vinyl chloride monomer emissions to the air, a small amount of additional PVC solid waste, and increased wastewater flow. New pollution control equipment would reduce emissions from previous levels, the solid wastes would go to a licensed solid waste landfill, and the wastewater increase was minor according to the advice of the Division of Environmental Control.

The State Planner's status decision of July 15, 1976, was that this was not new manufacturing, and that it was not a regulated expansion or extension of a nonconforming use due to the insignificant land use, environmental, and production capacity effects. No coastal zone permit was required and the project was not prohibited.

No appeal was filed.

Project Number 77 - Delaware Terminal Company

On September 17, 1976, Delaware Terminal Company filed an application for a coastal zone status decision on a project involving a new railroad loading rack and petroleum storage tank and pipeline between the two at a petroleum tank farm adjacent to the Wilmington Marine Terminal. Port facilities of the Marine Terminal were not involved.

The status decision of September 22 was that this project was not regulated by the Coastal Zone Act.

There was no appeal.

Project Number 78 - Hoover Ball and Bearing Company

Hoover Ball and Bearing Company applied for a status decision on October 28, 1976, to move into the former American Can Company plant in southwest New Castle, install new plastic melting and bottle forming machinery, and produce plastic bottles.

Between 1966 and March 1976 American Can had produced plastic bottles there. From March 1976 to October 1976 the plant had been idle. Hoover planned to buy the 46 acre site from American Can.

The State Planner's status decision of October 29, 1976, was that a coastal zone permit for a new manufacturing use would be required. The fact that American Can manufactured plastic bottles at the site prior to and on the date of enactment of the coastal zone law did not carry forward its legal nonconforming status to the new Hoover operation.

On November 8, 1976, Hoover Ball and Bearing Company applied for a permit and on December 6, after a public hearing, was granted the permit.

No appeal was filed.

Project Number 79 - DelVal Asphalt Corporation

DelVal Asphalt applied for a status decision on December 15, 1976, for a project at its Edgemoor asphalt tile plant to improve materials handling equipment, build a new warehouse to increase indoor storage capacity, and improve lighting and fencing for 24-hour-a-day operations. Asphalt roofing production capacity would not increase, but actual production would increase because of the change from one shift to three daily shifts. The company would comply with all area air quality regulations.

The status decision of January 6, 1977, was that this project did not require a coastal zone permit and was not prohibited.

No one filed an appeal.

✓ Project Number 80 - Airco Inc., Industrial Gas Division

On December 10, 1976, Airco Inc. requested a status decision on a project to erect a liquid carbon dioxide (CO<sub>2</sub>) plant at the Sun Olin Chemical refinery in Claymont to take CO<sub>2</sub> vented to the atmosphere by Sun Olin, liquify it and ship it as chemical feedstock by tank truck and railroad tank car.

The status decision of December 13, 1976, was that this would be a new manufacturing use requiring a coastal zone permit.

There was no appeal and nothing further was heard from Airco Inc.

Project Number 81 - Getty Oil Company

Getty Oil Company on December 20, 1976, requested the State Planner's advisory opinion on a project at its Delaware City refinery to modify a production unit so as to produce high purity benzene. Overall refinery production capacity would not increase.

The State Planner advised on December 23 that the project would not be regulated by the Coastal Zone Act. Getty had not made a formal application, so no formal decision was made and no legal notice was published.

Project Number 82 - Standard Chlorine of Delaware, Inc.

Modification and expansion of waste water treatment facilities to improve water pollution control at the Delaware City plant of Standard Chlorine of Delaware, Inc. was the subject of a status decision on January 31, 1977.

The March 3 status decision was that the project was not regulated by the Coastal Zone Act, plant production capacity was not involved and the project was solely for pollution control purposes to meet State and federal requirements.

No appeal was filed.

Project Number 83 - E.I. duPont deNemours and Company, Inc.

The status decision application of February 1, 1977, was for a project at duPont's Edgemoor titanium dioxide plant to remove carbon monoxide oxidation units from the chloride plant tail gas system. No significant adverse air quality effects would result.

The March 3 status decision was that this project was not regulated by the Coastal Zone Act.

There was no appeal.

Project Number 84 - Diamond Shamrock Corporation

Diamond Shamrock Corporation on February 18, 1977, applied for a status decision on a project at its plant near Delaware City to increase PVC (polyvinyl chloride) production by more than 100%. This project was a change of plans from Project Number 76 given a status decision in July 1976 by increasing the proposed PVC production expansion. The previous project was not required to obtain a permit. New controls over VCM (vinyl chloride monomer) emissions would be part of Project Number 84.

Air emissions and wastewater flow would not be significant, but PVC solid waste disposal would be environmentally significant. Two types of PVC solid wastes - grits and sludge - would result from this project.

A status decision of April 25, 1977, stated that a coastal zone permit would be required due to the significance of the amount of PVC production capacity increase and the potential for significant adverse environmental impact from PVC solid waste disposal and the lack of a company plan for disposal of the time of this decision.

At Diamond Shamrock's request the State Planner agreed on April 28 to reconsider this status decision if: (1) a complete description of alternatives for disposal of PVC solid wastes with a schedule for implementation was provided; (2) assurance that PVC wastes would be disposed of out-of-State if there was no feasible Delaware alternative; and (3) if additional information on new PVC Plant facilities was provided.

On May 9, 1977, Diamond Shamrock and the State Planner reached a legal agreement to the effect that:

1. All new PVC solid wastes would be disposed of at an out-of-state landfill pending the Company's decision on alternative disposal methods;
2. Prior to choosing any alternative disposal methods or sites in Delaware, Diamond Shamrock would notify the State Planner of the alternative chosen and would request the Department of Natural Resources and Environmental Control (DNREC) approval;
3. The State Planner would have the right of approval of any disposal site in the coastal zone that was not a DNREC approved landfill; and
4. Diamond Shamrock would not dispute in legal proceedings of the State Planner's right to approve any disposal site in the coastal zone per terms of this agreement.

As part of the agreement Diamond Shamrock provided additional information on equipment changes due to the change of PVC expansion plans since Project Number 76.

On May 17 a reconsidered status decision, subject to the above agreement, was issued. No coastal zone permit was required.

There was no appeal.

Diamond Shamrock on August 12 notified the State Planner that the PVC solid waste would be disposed of within the coastal zone at one of the two DNREC approved landfill sites.

#### Project Number 85 - Ludwig Honold Manufacturing Company

A status decision application was made by Ludwig Honold Manufacturing Company for transfer of metalworking operations from its Folcroft, Pennsylvania plant to its plant at Edgemoor and for renovation and repair of buildings at the Edgemoor site to be used for the transferred operations.

The principal products made by the Company are large covers for turbines and bus-like vehicles called Plane Mates for transporting passengers from airline terminals to parked aircraft. At Folcroft, Pennsylvania

metal cutting and fabricating operations were conducted, while assembly of metal panels and welding or riveting was carried on at Edgemoor. The applicant proposed to move its Folcroft operations to Edgemoor so that all Ludwig Honold metalwork would be done at one site. No overall production capacity increase would result from the move.

The applicant also proposed to construct a new pier on the Delaware River for occasional barge shipping of finished turbine covers and Plane Mates and for docking of hydrofoil boats at some future time if these were produced by Ludwig Honold Manufacturing as planned.

The status decision of June 29, 1977, was that this transfer of operations would be a new manufacturing use in Delaware's coastal zone requiring application for a coastal zone permit.

Ludwig Honold Manufacturing applied for a permit which was granted on July 27 after the required public hearing. A condition of the permit was that the pier would be used exclusively by Ludwig Honold Manufacturing for its own purposes in accordance with applicable provisions of the Coastal Zone Act. This was expressed in the property deed agreed to by Ludwig Honold Manufacturing. In this way the pier could be allowed under the single user exemption in Section 7002(f) of the Act avoiding the prohibition of an offshore bulk product transfer facility in Section 7003 of the Coastal Zone Act.

No appeal was filed.

✓ Project Number 86 - Carbonaire Company, Inc.

In a status decision application of April 29, 1977, Carbonaire Company proposed to lease a small site from Sun Olin Chemical Company at its Claymont plant and install machinery to purify, compress and refrigerate carbon dioxide (CO<sub>2</sub>) gas and to liquefy it for shipment to industrial customers. Carbon dioxide gas is vented to the atmosphere from Sun Olin chemical plant operations. Carbonaire would capture this gas for processing and commercial sale. The nature and site of this project was the same as the Airco proposal in Project Number 80, which apparently was never carried out.

The status decision of May 26, 1977, was that a permit would be required for this new manufacturing use in the coastal zone.

A permit application was filed on May 26, 1977.

No negative environmental effects were anticipated from the project by the Division of Environmental Control; in fact, carbon dioxide emissions in the Claymont area would be considerably reduced.

On July 7 a coastal zone permit was granted to Carbonaire Company, Inc.

There was no appeal.



### Project Number 87 - Allied Chemical Corporation

The Industrial Chemicals Division of Allied Chemical Corporation applied on April 27, 1977, for a status decision on a project at its Claymont plant to produce a small amount of electrical energy for in-plant use by means of a Rankine Cycle low level waste heat recovery system. That is, waste heat lost from operations of the sulfuric acid plant would be captured to produce electrical energy.

No production capacity increase was involved, the land area involved was small, and negative environmental effects were not expected.

As of the end of the period covered by this report, no status decision had been made on this application.

### Project Number 88 - Allied Chemical Corporation

On May 2, 1977, Allied Chemical Corporation, Industrial Chemicals Division, applied for a coastal zone status decision to relocate an aqueous hydrofluoric acid operation within its Claymont plant site for the purpose of more efficient operation. There would be no change of aqueous hydrofluoric acid production capacity, no negative environmental impact - in fact, reduced emissions - and an insignificant land use impact.

The May 23 status decision was that this project was not regulated by the Coastal Zone Act, based on the definition of expansion or extension of a nonconforming use.

### Project Number 89 - Townsends, Inc.

Townsends proposed to construct two large silos for soybean meal storage at its soybean plant near Millsboro. The silos would increase storage capacity and allow the soybean processing plant to operate continuously without shutdowns during the eleven month operating season. Insufficient on-site soybean meal storage capacity had required some plant shutdowns that were costly to Townsends.

Capacity of equipment to process soybeans would not be increased due to these two new storage silos. Environmental impacts were insignificant. The silos would be built well within the present plant operating area.

The status decision of June 20, 1977, was that this project was not regulated by the Coastal Zone Act; it was not an expansion or extension of a nonconforming use as defined.

There was no appeal.

JAN 25 1972

STATE OF DELAWARE  
DEPARTMENT OF JUSTICE  
Wilmington, Delaware

ALAN STABLEN, JR.  
ATTORNEY GENERAL

January 20, 1972

Mr. David R. Keifer, Director  
Planning Office  
Executive Department  
State of Delaware  
Dover, Delaware 19901

Re: Coastal Zone Act - Bulk  
Transfer Facility  
(El Paso Eastern Company)

Dear Dave:

I have reviewed the material submitted to you with regard to the liquid natural gas (LNG) terminal which El Paso Eastern Company proposes to built in New Jersey with docking facilities extending into the Delaware River. I agree with your determination that this facility is an offshore bulk product transfer facility as that term is defined by the Coastal Zone Act. However, there may be some question as to whether or not the terminal is excepted from 7 Del. C. §7002(f) by virtue of the fact that it is "a docking facility or pier for a single industrial or manufacturing facility for which a permit is granted".

It is my opinion that the El Paso Eastern terminal does not fit within the "single industrial or manufacturing facility" exception. The Delaware courts have uniformly held that the meaning of a statute depends on the intent of the legislature and that such intent must be ascertained from an interpretation of the act as a whole. The facts contained in the letter from the El Paso Eastern Company indicate that the LNG terminal in question is merely a way station in the natural gas transportation system which El Paso Eastern is endeavoring to develop. It is quite clear that the legislative intent was to permit docking facilities where such facilities would benefit such industries as would be granted permits to operate in the Coastal Zone. Here the situation is reversed. The terminal will only exist as an adjunct to the docking facility. In other words, the important part of the project to El Paso Eastern is not the "industrial facility" but the docking facility. Further, I assume that the facility proposed by El Paso Eastern is not the type of "single industrial or manufacturing facility" for which your office would grant a permit under 7 Del. C. §7004. The statute specifically mandates that such approval is necessary.

Mr. David R. Keifer  
Page 2  
January 20, 1972

With specific reference to situations similar to the one here in issue, it is my recommendation that your office more clearly define "single industrial or manufacturing facility". The definition should explicate the legislative intent to allow an exception for docking or pier facilities only where the facilities are to be used in conjunction with industries of the type permitted under 7 Del. C. §7003. The definition I envision will permit your office to evaluate applications for construction on the New Jersey shore as if they were applications for construction on the Delaware shore. Such a standard would negate claims that applications which require the approval of more than one governmental agency are acted upon by Delaware in an arbitrary or capricious manner. However, it must be clear that Delaware is not attempting to regulate development beyond the state boundary. Therefore, any reference to potential development in New Jersey should be avoided.

If you should wish to discuss this matter further, please do not hesitate to contact me. Also at this time I would like to stress that this is an informal advisory opinion. Please advise me if a formal opinion becomes necessary.

Sincerely,



W. Laird Stabler, Jr.  
Attorney General

WLSJr:ls.



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL

89 KINGS HIGHWAY  
P.O. Box 1401  
DOVER, DELAWARE 19903

OFFICE OF THE  
SECRETARY

TELEPHONE: (302) 736-4403

George Franklin  
Sr. Real Estate Representative  
Sun Refining and Marketing Company  
1801 Market Street  
Philadelphia, PA 19103

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Dear Mr. Franklin:

My decision on your Coastal Zone Status Decision application of December 15, 1989 to construct and use a pier from the New Jersey shoreline into the Delaware River is that the proposed use is a prohibited Offshore Bulk Product Transfer Facility in accordance with 7 Del. Code 7003.

The proposed pier cannot be considered as "a docking facility or pier for a single industrial or manufacturing facility for which a permit is granted or which is a nonconforming use," and, therefore, exempted from the definition of Bulk Product Transfer Facility (7002F), because the industrial or manufacturing facility (which the pier will serve) is not a facility "for which a permit is granted or which is a nonconforming use" (second phrase of the 7002(f) exemption clause). Inasmuch as the industrial or manufacturing facility is in the State of New Jersey and not Delaware, it can never meet those conditions. Therefore, your proposed pier does not fit either condition for exemption and must be considered as a prohibited bulk product transfer facility.

You have the right to appeal this decision to the state's Coastal Zone Industrial Control Board within fourteen (14) days following the date of the legal notice.

There will be a newspaper legal notice of this decision within a few days of this letter. If no appeal is received within fourteen (14) days following the date of the legal notice, this decision becomes final and you will receive a notice to that effect. Your company will be billed for the legal notice.

If you have any questions about this decision or the appeal process, please call Dennis Brown at 736-5409.

Sincerely,

John A. Hughes  
Acting Secretary





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL

89 KINGS HIGHWAY  
P.O. BOX 1401  
DOVER, DELAWARE 19903

TELEPHONE: (302) 736-4403

OFFICE OF THE  
SECRETARY

November 19, 1990

Richard V. Giliberti, Vice President  
Keystone Cogeneration Systems Inc.  
313 Chestnut Street  
Philadelphia, PA 19106

Dear Mr. Giliberti:

Please find enclosed my decision on your Coastal Zone Act ~~status decision~~ application of July 13, 1990.

My decision is that the proposed pier is not a prohibited offshore bulk product transfer facility provided a Coastal Zone Act permit is granted for the Cogeneration plant (including the intake and outfall). Obtaining such a permit is necessary for the pier to qualify for the single industrial use exemption found in the Delaware Coastal Zone Act's definition of bulk product transfer facility.

You have the right to appeal this decision to the state's Coastal Zone Industrial Control Board within fourteen (14) days following the date of the legal notice.

There will be a newspaper legal notice of this decision within a few days of this letter. If no appeal is received within fourteen (14) days following the date of the legal notice, this decision becomes final and you will receive a notice to that effect. Your company will be billed for the legal notice.

If you have any questions about this decision or the appeal process, please call Dennis Brown at 739-5409.

Sincerely,

Edwin H. Clark, II  
Secretary

EHG:RHM:bh

EXHIBIT

Whitney-8  
S. Oalvey 10/10/06

DE02180



Coastal Zone Status Decision  
CZA Project No. 2375D

**THE PROJECT**

1. The proposed project is an adjunct to a power generation facility to be constructed in New Jersey. Keystone Cogeneration Systems, Inc., proposes to construct a 200 megawatt coal fueled cogeneration facility in Logan Township, Gloucester County, New Jersey, and an 1100 foot pier in the Delaware River. Electric power will be sold to Atlantic City Electric Co. and steam will be sold to neighboring Monsanto Chemical Company (Delaware River Plant).

2. The power generation plant facilities are those normally associated with power plants such as a turbine building, a boiler building, an administration facility, maintenance shop and warehouse building, water treatment building, transformers, cooling tower, pumphouse, tanks, pumps, flue gas desulfurization systems, chimney or stack fly ash silo, switchyard, wastewater systems, and lime and coal storage, and handling systems.

3. The status decision application seeks a ruling on (1) a pier which will extend into the Delaware River, (2) a raw water intake system, consisting of two vertical turbine pumps located on this pier platform, and (3) one wastewater outfall located in the pier area for the discharge of stormwater runoff, treated wastewater, and cooling tower blowdowns.

4. The pier will be owned and used by the applicant for the single purpose of offloading coal and lime from vessels docked at the pier and for onloading ash. The applicant acknowledges that no other entity will use the pier for the offloading/onloading of any bulk product and that the coal, lime and ash will be utilized/generated solely by the power plant.

**PROJECT HISTORY**

5. On December 15, 1988, Sun Refining and Marketing Company applied for a Coastal Zone Act status decision to determine, prior to final sale, whether or not a pier extending from the New Jersey shoreline into the Delaware River beyond the mean low water mark, is regulated by the act.

6. Acting Secretary Hughes' May 5, 1989, status decision stated that the proposed pier is a prohibited offshore bulk product transfer facility in accordance with Section 7003 of the act.

7. On May 17, 1989, the applicant appealed the decision, and a hearing before the Coastal Zone Industrial Control Board was scheduled for June 27, 1989. By stipulation of the parties, dated June 15, 1989, the Secretary's decision was withdrawn and vacated, the hearing was canceled, the applicant withdrew his appeal, and the status decision application was remanded to the Secretary for further consideration of additional information to be provided by the applicant. On September 13, 1990, the applicant supplemented its application with additional information, and the review process was reinstated.



LEGAL FINDINGS

8. The pier constitutes a prohibited bulk product transfer facility, unless it will serve a single industrial or manufacturing facility for which a permit is granted by the Department.

9. The plant, including the intake and the outfalls, is a manufacturing facility which could receive a coastal zone permit from the Department if it satisfies the requirements of 7 Del. C. Section 7004.

ORDER

10. The Department hereby grants applicant a conditional coastal zone status decision that the pier does not constitute a prohibited bulk product transfer facility.

11. This status decision is expressly conditioned on the applicant eventually receiving a coastal zone permit for the plant. The failure to procure such permit for the plant will render applicant's conditional coastal zone status decision null and void.

12. The Department has the further understanding regarding the Department's future coastal zone permit decision for the plant:

(a) That any Department permit encompasses the entirety of the plant, not only the coastal zone components; and

(b) That the Department will consider the plant's impact on the coastal zone only for the purposes of rendering its coastal zone permit decision.

  
Edwin H. Clark, II  
Secretary

Date:

Legal Notice Concerning  
Coastal Zone Act Status Decision

Under authority of the Regulations adopted pursuant to the Coastal Zone Act (Title 7, Chapter 70, Delaware Code), the Secretary of the Department of Natural Resources and Environmental Control has made a status decision on an application from Keystone Cogeneration Systems Inc.

The status decision application seeks a ruling on (1) a pier which will extend into the Delaware River, (2) a raw water intake system, consisting of two vertical turbine pumps located on the pier platform, and (3) one wastewater outfall located in the pier area for the discharge of stormwater runoff, treated wastewater, and cooling tower blowdown.

The pier will be owned and used by the applicant for the single purpose of offloading coal and lime from vessels docked at the pier and for onloading ash. The applicant acknowledges that no other entity will use the pier for the offloading/onloading of any bulk product and that the coal, lime and ash will be utilized/generated solely by the power plant.

The Secretary has determined that:

- a. The pier constitutes a prohibited bulk product transfer facility, unless it will serve a single industrial or manufacturing facility for which a Coastal Zone Act permit is granted by the Department.
- b. The plant, including the intake and the outfalls, is a manufacturing facility which could receive a coastal zone permit from the Department if it satisfies the requirements of 7 Del. C. §7004.

DECISION ORDER

The Secretary hereby grants applicant a conditional Coastal Zone status decision that the pier does not constitute a prohibited bulk product transfer facility. The status decision is expressly conditioned on the applicant eventually receiving a coastal zone permit for the plant. The failure to procure such permit for the plant will render applicant's conditional coastal zone status decision null and void.

The Department has the further understanding regarding the Department's future Coastal Zone permit decision for the plant:

- (1) That any Department permit encompass the entirety of the plant, not only the coastal zone components; and
- (2) That the Department will consider the plant's impact on the Coastal Zone only for the purposes of rendering its Coastal Zone permit decision.

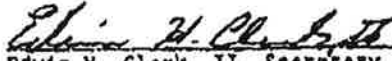
Copies of this Status Decision and application are available for public inspection at the New Castle County Department of Planning located in the County Engineering Building on Capitol Trail and at the offices of the Department of Natural Resources and Environmental Control in Dover and near New Castle at 715 Grantham Lane.

11-19-90 MON 14:29

DNREC-Planning & Support

FAX NO. 3027358140

Anyone wishing to appeal this decision to the State Coastal Zone Industrial Control Board must do so within fourteen (14) days following the date of this legal notice. Appeal application forms are available by calling the Department of Natural Resources and Environmental Control at 739-5609. There is a one hundred dollar (\$100.00) appeal application fee. If no appeal is received within the allowed time, this Status Decision will become final.

  
Edwin H. Clark, II, Secretary  
Department of Natural Resources  
and Environmental Control

Instructions:

1. Please publish in Wilmington Morning News on November 21, 1990.
2. Send bill to: Richard V. Ciliberti, Vice President  
Keystone Cogeneration Systems Inc.  
311 Chestnut Street  
Philadelphia, PA 19106
3. Send affidavit, with clipped legal notice, to:  
Dennis Brown  
DNREC  
Division of Water Resources  
Planning & Support Section  
89 Kings Hwy., P. O. Box 1401,  
Dover, DE 19901



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
TRENTON

Division of Coastal Resources

March 14, 1991

Please address reply to:  
CN 401  
Trenton, N.J. 08625-0401

Anthony P. Pratt - (302) 739-4411  
Division of Soil and Water Conservation  
Department of Natural Resources and Environmental Control  
89 Kings Highway  
Dover, Delaware 19903

RE: **Joint Review of Project within the States of Delaware and New Jersey  
Keystone Cogeneration Systems**

Dear Tony:

The Division of Coastal Resources recently received an application for several coastal permits for a coal fired cogeneration facility with a coal handling pier. This mooring and offloading pier is shown in the application to be located in the State of Delaware.

Considering our federal Coastal Zone Management Grant task to produce a better coordination effort for development of this kind, I am forwarding to you this application for your review. This application might be a good prototype for us to scope out some the details we will need to address.

The Division project reviewer is Dave Fanz. He can be reached at the above address or (609) 984-0266. He can provide you with details of this particular application. Any matters related to coordination should be addressed through me for the time being while we proceed with the CZM grant task.

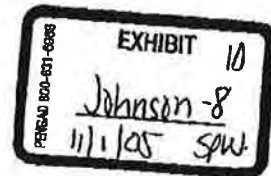
*Delaware Contact  
Dennis Brown: Coastal Zone Coordinator  
(302) 739-5409*

Sincerely,

*Steven*

Steven Whitney  
Assistant Director

c: ~~Dave Fanz~~



New Jersey is an Equal Opportunity Employer  
Recycled Paper



NJ07744



Dave



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
TRENTON

Division of Coastal Resources

Please address reply to:  
CN 401  
Trenton, N.J. 08625-0401

August 1, 1991

Mr. Richard A. Long  
Manager, Environmental Services  
S. T. Hudson Engineers, Inc.  
800 Cooper Street  
Camden NJ 08102

RE: ~~KEYSTONE~~ KEYSTONE COGENERATION SYSTEMS,  
INC., Long-Term Lease and In-  
terim License, Delaware River,  
Block 1, Lots 2.0 and 2.1, Logan  
Township, Gloucester County

Permits 0809-91-0010.1, - .2, - .3 & - .4

FILE: 91-0190-T

Dear Mr. Long:

Receipt of your letter of July 30, 1991, enclosing  
revised documents to allow Keystone Cogeneration Systems,  
Inc., to be the applicant in place of Sun Refining and  
Marketing Company.

Sincerely,

ORIGINAL SIGNED BY  
/S/ JAMES R. JOHNSON

James R. Johnson  
Assistant Director, Tidelands  
Division of Coastal Resources

/jec

cc: BU OF REVENUE  
~~BU~~ OF REGULATIONS - Kevin Broderick



NJ07742



New Jersey is an Equal Opportunity Employer  
Recycled Paper



MEMORANDUM

August 28, 1991

*Tidelands  
Letters*

To: James Johnson

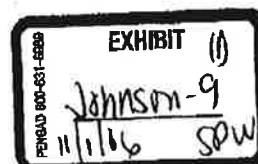
From: Robert Tudor

Subject: Keystone Cogeneration Facility  
Logan Township, Gloucester County  
File #0809-91-0010.1

Please find attached a copy of the Staff Preliminary Analysis for this project that was prepared by my staff. That document recommends approval of the Keystone facility pending the resolution of several issues. As of this date the applicant has satisfied a majority of those issues and a permit for this facility will be issued within the statutory requirement of 90 days (September 23, 1991). Those items that are not completely satisfied will become a condition to the permit.

The applicant has indicated that due to the nature of the facility it is not feasible to fully comply with the policy on Public Access to the Waterfront. As you are aware the Division has attempted to create "linear walkways" along certain waterfronts (Hudson River). I would like to suggest that you attempt to incorporate a deed restriction into the tidelands instrument that would allow for a 50 foot public access right-of-way adjacent to the Delaware River. That deed restriction would allow future public access should site conditions change.

If you should have any questions regarding the permit application please contact David Fanz of my staff at 984-0266.



NJ07741





STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY  
LAND USE REGULATION ELEMENT  
BUREAU OF COASTAL REGULATION

Summary Analysis

September 24, 1991

Keystone Cogeneration Systems, Inc.  
901 Market Street, Suite 721  
Wilmington, Delaware 19801

Waterfront Development Permit Application  
0809-91-0010.1

Wetlands Permit "Type A"  
0809-91-0010.2

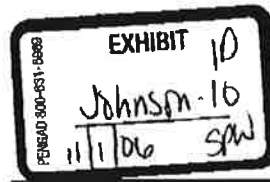
Individual Freshwater Wetlands Permit Application  
0809-91-0010.3

Stream Encroachment Permit Application  
0809-91-0010.6

Decision of the Administrator conditionally approving a Waterfront Development Permit, a Wetlands Type A Permit, a Stream Encroachment Permit, an Individual Freshwater Wetlands Permit and a Water Quality Certificate.

Based upon the analysis which follows and subject to the conditions expressed herein, the Administrator is able to make the positive findings required by the Waterfront Development Law as embodied by the Rules on Coastal Zone Management. This project also satisfies the requirements of the Freshwater Wetlands Protection Act and the Flood Hazard Area Control Act. The permit is expressly contingent upon compliance with all permit conditions and failure to comply with any or all of the permit conditions may result in appropriate enforcement actions, or suspension or revocation of the permits.

This permit includes conditions to ensure compliance with the following policies; Intertidal and Subtidal Shallows (7:7E-3.16), Wetlands (7:7E-3.27), Historic and Archaeological Resources (7:7E-3.36), Endangered or Threatened Wildlife or Vegetation Species Habitats (7:7E-



NJ07709

3.38), Acceptability Conditions for Uses (7:7E-4.11), Dredge Spoil Disposal on Land (7:7E-7.11), Water Quality (7:7E-8.4) and Public Access to the Waterfront (7:7E-8.11).

#### I. INTRODUCTION

The Waterfront Development Law of 1914 (N.J.S.A. 12:5-3), the Freshwater Wetlands Protection Act of 1987 (N.J.S.A. 13:9B-1 et seq.), the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) and the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50); require that a permit be obtained from the Department of Environmental Protection and Energy-Land Use Regulation Element for: the filling or dredging of, or placement or construction of, structures, pilings or other obstructions in any tidal waterway, or in certain upland areas adjacent to tidal waterways and, the alteration or disturbance in and around freshwater wetland areas and the discharge of dredged or fill material into State open waters within the State of New Jersey.

Section 401 of the Federal Clean Water Act (33 U.S.C. 1251 et seq.) requires that a Water Quality Certificate be obtained from the State of New Jersey for all projects which require a federal permit or license and which propose to discharge fill or dredge material into Waters of the United States. The purpose of the certification is to insure that all such activities are consistent with New Jersey Water Quality Standards (N.J.A.C. 7:9-4.1 et seq.), and the Federal Clean Water Act. The Land Use Regulation Element is the agency of the State of New Jersey responsible for the issuance of Water Quality Certificates.

#### II. SUMMARY ANALYSIS

Based upon the analysis that follows the Administrator is able to make a positive finding as required pursuant to the Rules on Coastal Zone Management. However this approval is contingent upon the permittee satisfying the conditions of the attached permit.

The Administrator is also able to make a positive finding as required by the Freshwater Wetlands Protection Act Rules, the Flood Hazard Area Control Act and the Wetlands Act of 1970 subject to the conditions contained herewith. Furthermore, the Department, acting under Section 307 of the Federal Coastal Zone Management Act (P.L. 92-583) as amended, certifies that this project is consistent with the approved New Jersey Coastal Management Program.

#### III. ADMINISTRATIVE HISTORY

On March 20, 1990 the Element received a Letter of Interpretation request from Keystone Shipping Company to

NJ07710

verify a wetland line on the subject property. The site was inspected on three separate occasions and after several revisions the wetland line was approved via letter dated October 17, 1990.

The Element received applications from Keystone Cogeneration Systems on February 28, 1991 for the proposed coal fired cogeneration facility and related structures. The applications submitted included an Individual Freshwater Wetlands Permit, a Waterfront Development Permit and a Wetlands Type A Permit.

On March 27, 1991 the Element requested additional information. The requested information was received on May 1, 1991 and the applications were determined complete for filing. A fact-finding Waterfront Development public hearing was held on June 26, 1991 at 7:00 p.m. at the Bridgeport Fire Hall, Steelman Avenue, Bridgeport New Jersey.

As specified under Section 7:7E-4.6(c) of the Coastal Permit Program Regulations, for non-CAFRA permit applications on which public hearings are held, the permit application is declared complete for review effective the day of the hearing. Accordingly, the statutory 90-day deadline for this permit application is September 24, 1991.

Keystone Cogeneration Systems also applied for a Stream Encroachment Permit on February 28, 1991. To facilitate a consistent review for the project, the Division suggested to the applicant that it may be prudent to withdraw the Stream Encroachment Permit application and to resubmit that application on the date of the public hearing. Consequently on May 22, 1991, Richard Ciliberti (Vice President, Keystone Cogeneration Systems) requested that the Stream Encroachment Permit application be withdrawn without prejudice. That withdrawal request was accepted by the Element. On June 26, 1991 that application was re-submitted to the Department.

The proposed cogeneration facility includes a barge delivery system that encroaches into the jurisdictions of both the State of New Jersey and the State of Delaware. In 1905 the State's of New Jersey and Delaware entered into a compact regarding riparian jurisdiction for this type of situation. Article VII of that compact authorizes each State, on its own side of the Delaware River to exercise riparian jurisdiction of every kind and nature, and to make grants, leases and conveyances of riparian lands and rights under the laws of the respective states.

As a result of that compact, the State of New Jersey required Keystone Cogeneration Systems to obtain a riparian instrument for the barge unloading facility. An interim license and long term lease was issued on September 9, 1991 (File #91-0190-T). The State of Delaware has also assumed

NJ07711

jurisdiction and required a Coastal Zone Permit and a Subaqueous Lands Permit. Those permits were issued on September 13, 1991.

#### IV. PROJECT AND SITE DESCRIPTION

Keystone Cogeneration Systems proposes to construct a pulverized coal-fired cogeneration facility that will produce electrical energy for sale to Atlantic Electric Company and thermal energy for sale to Monsanto Company.

The Keystone Cogeneration Project (KCP) will occupy a 105-acre site between Oldmans and Raccoon Creeks in Logan Township, Gloucester County, New Jersey. This site is situated at Delaware River Mile 78.8, about 3 miles downstream of the Commodore Barry Bridge. It extends from U.S. Route 130 to the Delaware River. It's easterly boundary is occupied by a Monsanto chemical plant.

The project site is basically composed of an assemblage of six agricultural fields separated by various drainage ditches, farm roads, and hedgerows. The site was once a dredge spoil disposal area and only the two fields (approximately 34 acres) closest to U.S. Route 130 remain in a natural condition.

##### Project Overview

Steam and electricity will be produced, or cogenerated, at the proposed plant. The maximum steam production rate will be 1,575,000 pounds per hour (pph), with up to 50,000 pph exported to Monsanto Company. The electrical output of the generator (224 MW gross, 202 MW) will be sold to Monsanto and Atlantic Electric.

The cogeneration facility will require approximately 2,000 tons of eastern bituminous coal per day (sulfur content reported to be 1.5% or less). Coal will be delivered to the facility via barge. The offshore pier will be equipped with a fixed clamshell unloader and conveyor system used to unload and convey the coal from the barge to the upland coal storage building. As fuel is required, the coal will be reclaimed from the enclosed storage pile, conveyed to an enclosed crusher, pulverized and transported to the boiler.

The burned coal gases and ash will be filtered before discharging to the atmosphere through a 430 foot stack. Ash will be collected and pneumatically and mechanically conveyed to silos for storage. At intervals the accumulated ash will be removed by truck and returned to spent coal mines in Pennsylvania for use as reclamation.

Makeup water for both process and cooling at the plant will be withdrawn from the Delaware River via an offshore intake structure suspended from the pier. Water will be withdrawn through one of two water pumps, which will be

5  
töne Cogeneration Facility

housed at the outshore end of the pier. Water withdrawals will range from 5 to 11.2 cubic feet per second (cfs) and average 7 cfs (5,000 gallons per minute).

Following the publication of the Preliminary Staff Analysis (June 26, 1991), the facility was redesigned to incorporate a "Zero Discharge Treatment System". This system will continue to draw water from the Delaware River for processes in the plant but will not discharge any water back into the river other than stormwater runoff. All wastewater streams generated at the facility (including filter backwashes, softener blowdown, demineralizer regeneration wastes, reverse osmosis, brine, cooling tower blowdown, and floor drains), along with runoff from the emergency (inactive) coal pile will be treated and recycled within the facility.

Plant Facility

The major plant facilities will consist of one pulverized coal-fired boiler, a steam turbine, material handling systems, pollution, stormwater, wastewater and sewage treatment control systems and related facilities.

Pier

Coal will be delivered by barge from the Delaware River and unloaded on a pile supported coal handling barge facility consisting of a 1600' long, 22'-6" wide approachway, a 130'x75' platform, four (4) mono-pole breasting dolphins, two (2) mooring dolphins and a water intake. The majority of this structure is located in the State of Delaware.

Dredging

Approximately 40,000 cubic yards of dredge material will be removed from the 910'x150' barge berth. This material will be disposed of on land at an approved upland dredge spoil site in Logan Township. The 1600 foot long pier does not require dredging.

Wetland Impacts

The proposed project requires permanently disturbing approximately 1.6 acres of wetlands regulated pursuant to the Freshwater Wetlands Protection Act. No permanent impact to wetlands regulated pursuant to the Wetlands Act of 1970 is proposed.

V. ANALYSIS

Analysis of these pending permit applications is based upon the Rules on Coastal Zone Management (N.J.A.C. 7:7E-1.1 et seq.) adopted September 29, 1978 as amended to August 20, 1990 and the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A) as amended July 17, 1989. This analysis

refers to applicable policies by administrative code section.

Location Policies (7:7E-2.0)

Location Policies classify all land and water locations into a General Area and some into one or more Special Areas. Special Areas are areas that constitute a highly valued resource, serve important purposes of human use, or form a significant natural hazard. The Special Areas policies supplement other Location Policies and take precedence in case of policy conflict.

Subchapter 3 - Special Areas

Special Areas are so naturally valuable, or so important for human use, or so hazardous, or so sensitive to impact, or so particular in their planning requirements, as to merit focused attention. This project involves the following Special Areas:

Prime Fishing Areas (7:7E-3.4)

Prime fishing areas include tidal water areas and water's edge areas which have a demonstrable history of supporting a significant local quantity of recreational or commercial fishing activity. Prohibited uses include sand or gravel submarine mining which would alter existing bathymetry to a significant degree so as to reduce the high fishery productivity of these areas.

The applicant has indicated that during the sampling periods of the river, it was not unusual to observe several recreational fishermen in boats at the project site or in the vicinity. It was also noted that a small eel commercial fishing operation exists on the Delaware River. Due to the extensive mud flats at low tide (over 1000') there does not appear to be any significant use of the shoreline for recreational fishing. The Division of Fish, Game and Wildlife (NJDEPE), in their comments to the Element, did not express any concern to indicate that this section of the Delaware River was considered to be a prime fishing area or that the proposed project would have any impact on fishing opportunities at all.

As the pier facility does not appear to significantly impact fishing from boats, either recreational or commercial and there does not appear to be substantial use (or any use) of the shoreline for recreational fishing, the project is in compliance with this policy.

Finfish Migratory Pathways (7:7E-3.5)

Finfish migratory pathways are waterways (rivers, streams, creeks, bays, inlets) which can be demonstrated to serve as passageways for diadromous fish to or from seasonal spawning areas, including juvenile anadromous fish which migrate in autumn and those listed by H.E. Zich (1977) "New Jersey Anadromous Fish Inventory" NJDEP Miscellaneous Report No. 41, and including those portions of the Hudson and Delaware Rivers within the coastal zone boundary are defined as Finfish Migratory Pathways.

Species of concern include river herring (Alosa pseudoharengus), blueback herring (Alosa aestivalis), American shad (Alosa sapidissima), striped bass (Morone saxatilis), Atlantic sturgeon (Acipenser oxyrhynchus), Shortnose sturgeon (Acipenser brevirostrum) and American eel (Anguilla rostrata).

The applicant has documented the occurrence of most species of concern in the vicinity of the project, particularly striped bass. The intent of this policy is to protect migratory fishery resources from activities including dams, dikes, intake pipes and from activities that would lower water quality to the extent that it would interfere with the movement of fish along finfish migratory pathways.

The KCP has the potential to impact migratory fisheries of the Delaware River in several ways:

1. The coal loading facility and pier has the potential to affect the route of migrating fish;
2. The intake system will cause entrainment and impingement of juvenile fish, fish larvae and fish eggs (Entrainment is the passage of small pelagic organisms such as fish eggs and larval through the water intake screen and impingement refers to the capture of aquatic organisms on the surfaces of the water intake screens);
3. Dredging associated with creating the barge berth has the potential to impact the fisheries resource by creating a localized plume of turbidity. This resuspension of sediments could also release toxicants into the water column should they be present (metallic and/or organic).

#### Impact 1. Migratory Fish Route

The Delaware River is approximately 4000 feet wide at the location of the proposed cogeneration facility. The proposed coal unloading facility and the approachway pier have a combined length of approximately 1700 feet. The approachway pier will not impede migrating fish as it is constructed on piles and will not act as a barrier. Given



the width of the river it is unlikely that the structures will impede or restrict the movement of migratory fishes.

Impact 2. Intake Structure

The project has an inherent need for large quantities of water for both processing and cooling purposes. To satisfy this demand it was necessary to site the KCP as close as possible to a large source of water. The applicant considered several alternatives for supplying water to the facility and decided on a system that utilized an offshore screened pump intake that would divert water to the facility via an elevated pipeline suspended from the pier.

To minimize impingement and entrainment the intakes will be fitted with 1 millimeter wedge-wire screens considered to be "state of the art". The intake velocity will not exceed 0.5 feet per second and intakes will be oriented parallel to the flow of the Delaware River. A parallel orientation to the river current, which averages 1.3 to 1.5 fps, reduces the pressure gradient across the screen and further reduces impingement. These design criteria were recommended by the U. S. Fish and Wildlife Service and the New Jersey Division of Fish, Game and Wildlife who have found this design acceptable.

Item 3. Dredging

The National Marine Fisheries Service, the United States Fish and Wildlife Service and the New Jersey Division of Fish, Game and Wildlife have all expressed the concern that the proposed dredging of the barge berth has the potential to impact migrating fishes. All three agencies mutually agreed that dredging could be authorized if the permit were conditioned to allow dredging only during specific "windows". Therefore this permit will be conditioned as recommended by the NJDEPE, Division of Fish, Game and Wildlife to prohibit bucket dredging between the dates of March 15 and November 30 and hydraulic dredging between the dates of April 15 and June 30.

The Bureau of Monitoring Management (NJDEPE) has reviewed the Dredge Spoil Analysis prepared by EMA laboratories and has concluded that there is no need for additional sampling nor does there appear to be any threat of the release of toxicants (metallic and/or organic) into the water column during dredging.

The permit is conditioned to prohibit bucket dredging between the dates of March 15 and November 30 and hydraulic dredging between the dates of April 15 and June 30. Provided the permitted maintains compliance with the above referenced condition, the project is in compliance with this policy.

NJ07716

Navigation Channels (7:7E-3.7)

Navigation channels include water areas in tidal rivers and bays presently maintained by NJDEPE or the Army Corps of Engineers and marked by the U.S. Coast Guard with bouys or stakes as shown on NOAA/National Ocean Survey Charts. Navigation channels also include channels marked with buoys, dolphins, and stakes, and maintained by the State of New Jersey, and access channels and anchorages. New or maintenance dredging of existing navigation channels is conditionally acceptable providing that the condition under the new or maintenance dredging policy is met. Development which would cause terrestrial soil and shoreline erosion and siltation in navigation channels shall utilize appropriate mitigative measures. Development which would result in loss of navigability is prohibited.

The applicant has maintained that the dredging of the 910 foot by 150 foot barge berth will not affect the navigation channel of the Delaware River. The coal unloading pier is approximately 2300 feet from the shipping channel of the river and 150 feet from the the Marcus Hook Authorized Anchorage Line.

The permittee has received a U.S. Army Corps of Engineers permit for the KCP (CENAP-OP-R-91-0347-11). That approval required the permittee to notify the Philadelphia Captain of the Port with the dates of commencement and estimated completion of the authorized work. It also required the permittee to submit information of all proposed activities that could affect navigation to the United States Coast Guard at least two (2) weeks prior to commencement of such activities.

As the U.S. Army Corps of Engineers has issued a permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), and that permit specifically approved the navigational aspects of this project, and no activity is within a channel or anchorage, the applicant has demonstrated compliance with this policy.

Submerged Infrastructure Routes (7:7E-3.12)

A submerged infrastructure route is the corridor in which a pipe or cable runs on or below a submerged land surface. Any activity which would increase the likelihood of infrastructure damage or breakage, or interfere with maintenance operations is prohibited.

The applicant has indicated that seven underground pipelines transect the project site and that no aspect of the project other than the proposed cleaning of a tidal ditch has the potential to impact those lines. To demonstrate compliance with this policy the applicant

supplied plans of the proposed ditch cleaning that depicted the location and elevations of the underground pipelines as well as the final elevation of the ditch following dredging. The proposed ditch cleaning will not interfere with the pipelines therefore the project is in compliance with this policy.

Intertidal and Subtidal Shallows (7:7E-3.15)

Intertidal and subtidal shallows means all permanently or twice-daily submerged areas extending from the mean high water line to a depth of 4 feet below mean low water.

Intertidal and subtidal shallows play a critical role in estuarine ecosystems. They are a land-water ecotone, or ecological edge where many material and energy exchanges between land and water take place. They are critical habitats for many benthic organisms and are critical forage areas for fishes and many migrant waterfowl.

Development, filling, new dredging or other disturbance is generally discouraged but may be permitted in accordance with the Use Policy for the applicable water body type. New dredging is conditionally acceptable for the Delaware River which is defined as a large river. If destruction of intertidal and subtidal shallows takes place, mitigation shall be carried out at a ratio of one acre created to one acre lost. Mitigation sites shall be located within the same estuary. Dredging does not require mitigation.

The intertidal area of the KCP site is part of a continuous flat located between the mouths of Raccoon and Oldmans Creeks. At the KCP site the intertidal area is some 1,200 feet wide. This expansive intertidal area is the justification for the 1600 foot approachway pier. The subtidal areas occur immediately offshore of the intertidal area (mean low water line) to a depth of -4.0 feet. Within the project area this includes a band generally ranging from 150 to 400 feet wide.

The total area of intertidal and subtidal habitats permanently destroyed by the installation of the steel pipe piles supporting the approachway pier and by the widening of the present access road is 0.139 acres. Approximately 0.1 acres of subtidal area will require dredging in order to accommodate the barge berth.

As previously stated, the Use Policy for Large Rivers (N.J.A.C. 7:7E-4), conditionally allows new dredging and the placement of piles provided any permanent disturbance to intertidal or subtidal areas (In this case the .139 acres of fill) are mitigated for. The applicant has developed an acceptable draft mitigation proposal for the loss of the

.139 acres and, as a condition to the permit, will be required to have a final mitigation plan approved prior to construction.

Provided the permittee maintain's compliance with the above noted condition the project is in compliance with this policy.

Filled Water's Edge (7:7E-3.16)

Filled Water's Edge areas are existing filled areas lying between Wetlands or Water Areas, and either: (1) the upland limit of fill, or (2) the first public road or railroad landward of the adjacent Water Area, whichever is closer to the water. Some existing or former dredge spoil and excavation fill areas are Filled Water's Edge. The waterfront portion is defined as a contiguous area at least equal in size to the area within 100 feet of navigable water, measured from the Mean High Water Line (MHWL). This contiguous area must be accessible to a public road and occupy at least 30 percent of the navigable water's edge.

On Filled Water's Edge sites without direct water access to navigable water, the area to be devoted to water related uses will be determined on a case-by-case basis. Along the Delaware River Region, where water dependent uses are deemed infeasible, some part of the waterfront portion of the site may be acceptable for non-water dependent development if the developed land uses closest to the water's edge are water oriented.

With the exception of the 10.8 and 23.5 acre agricultural fields closest to Route 130, the entire project site is a filled water's edge created as a result of the deposition of dredge spoil material. The filled water's edge portion of this site is bounded along its Delaware River frontage by non-tidal wetlands, tidal emergent wetlands and expansive intertidal and subtidal zones. At normal low tide flats are exposed approximately 1000 feet channelward of the mean high water line.

This site does not have direct access to navigable waters and has limited potential for waterborne commerce or recreational use due to the mudflats that are exposed at low tide. Any development of the site for such projects would require extensive new dredging, frequent maintenance dredging and the filling of wetlands. A recreational marina or a commercial port facility is not suited for this site. Water dependent uses of this site appear not feasible.

The proposed plant utilizes a barge method for coal delivery that would not be feasible were the site not located at the waters edge. This mode of delivery was chosen after residents of Logan Township expressed their concern

and opposition to rail delivery. The facility also requires a high volume source of cooling and process water that can best be satisfied by a large surface water body such as the Delaware River.

The applicant has demonstrated that the site is not suitable for water dependent uses and that aspects of the facility are water oriented. The use of a barge delivery system promotes maritime support services and was instituted because of the opposition to rail delivery by local residents. If the applicant can demonstrate compliance with all other applicable policies, the project will be in compliance with this policy.

Flood Hazard Areas (7:7E-3.25)

Flood hazard areas are the floodway and flood fringe around rivers, creeks and streams as delineated by NJDEPE under the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50), or by the Federal Emergency Management Agency (FEMA); or the flood hazard area around other coastal water bodies as defined by FEMA. They are areas subject to either tidal or fluvial flooding. Where flood hazard areas have been delineated by both DEP and FEMA, the DEP delineations shall be used. Where flood hazard areas have not been delineated by DEP or FEMA, limits of the 100 year floodplain will be established by computation on a case by case basis.

With the exception of the pier structure, 2 stormwater outfalls, the plant access road and the proposed wetland mitigation site, all development activities being part of the completed project, lie above the 100 year floodplain. The applicant withdrew the original Stream Encroachment Permit application on May 22, 1991 and submitted a revised application on June 26, 1991. The project conforms with the standards Flood Hazard Area Control Act and the Stream Encroachment Permit is hereby issued. With the issuance of a Stream Encroachment Permit the project will be in compliance this policy.

Wetlands (7:7E-3.27)

Wetlands or wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Wetlands are regulated and protected under the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) or the Freshwater Wetlands Protection Act of 1987 (N.J.S.A. 13:9B-1 et seq.).

Stone Cogeneration Facility

The construction of the approachway pier will cross in a perpendicular fashion, tidal wetlands regulated pursuant to the Wetlands Act of 1970. As a result a Wetlands "Type A" permit is required. In general, development of all kinds is prohibited in such coastal wetlands, unless the Division can find that the proposed development meets the following four conditions:

1. Requires water access or is water oriented as a central purpose of the basic function of the activity;
2. Has no prudent or feasible alternative on a non-wetland site;
3. Will result in minimum feasible alteration or impairment of natural tidal circulation or natural circulation; and
4. Will result in minimum feasible alteration or impairment of natural contour or the natural vegetation of the wetlands.

The permittee has determined that impacts to wetlands regulated pursuant to the Wetlands Act of 1970 will amount to 0.052 acres of shading due to the construction of the approachway pier. No fill is proposed within any tidal wetland. The permittee proposes to construct the approachway pier 14 feet above mean low water to minimize shading impacts. The proposed shading of 0.052 acres of wetlands for the installation of the approachway pier is in compliance with this policy.

**Freshwater Wetlands Protection Act**

Development in wetlands regulated under the Freshwater Wetlands Protection Act of 1987 is prohibited unless the development is found to be acceptable under the Freshwater Wetlands Protection Act Rules. Construction of this facility will impact approximately 1.6 acres of "freshwater wetlands". It should be noted that while the drainage channels and ditches impacted by the plant access road are tidally influenced, these areas are not shown as regulated wetlands by the New Jersey Coastal Wetlands Maps and are therefore regulated pursuant to the Freshwater Wetlands Protection Act. Those impacts are outlined below:

Freshwater Wetland Impacts

Plant Access Road

Filling of tidal agricultural drainage ditch	0.13 acre
Filling of non-tidal wetlands	0.68 acre
Excavation of relocated drainage ditch	0.23 acre

Yostone Cogeneration Facility

Vegetation disturbance	0.16 acre
Riprap for road culverts	<u>0.02 acre</u>

Wetland encroachment subtotal	1.22
acres	

Steam Pipeline and Electrical Distribution Lines

Clearing and structural support construction	0.0838
acre	

Pier

Clearing of woody vegetation	0.2336
acre	

Stormwater Outfall Culverts (2)

Clearing and riprap placement	0.089
acre	

**Total Freshwater Wetland Encroachment for project = 1.64 acres**

7:7A-3.2 Requirements for Non-water Dependent Activities

Section 3.2(c) states that it shall be a rebuttable presumption that practicable alternatives exist to any non-water dependent regulated activity which does not involve a freshwater wetland, and that such an alternative to any regulated activity would have less of an impact on the aquatic ecosystem. An alternative shall be practicable if it is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes. An alternative shall not be excluded from consideration under this provision merely because it includes or requires an area not owned by the applicant which could reasonably have been, or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

Plant Access Road

Alternative #1. This is the preferred alternative and involves widening an existing farm road from one single lane to a two lane roadway. Wetland encroachments for this alternative cannot be avoided as there are existing wetlands on either side of the road. Total wetland disturbance is 1.2 acres with the majority of this area consisting of actively farmed agricultural fields and stands of phragmites.

Alternative #2. This alternative involves constructing a new access road that would involve disturbing forested wetlands as well as agricultural fields. The permittee has

represented that this alternative would have a more significant impact to wildlife habitat than alternative #1 because of the currently undisturbed nature of the habitat.

Alternative #3. This alternative considers the construction of a 800 foot bridge to span the wetlands. Given the initial cost and maintenance of such a structure, this was never considered as a viable alternative by the permittee.

The Department recognizes the fact that in order to provide vehicular access to the site it is necessary to construct an access road. Alternative #2 involves destroying forested wetland areas and will bisect wetland areas that have been undisturbed since the area was last used for depositing dredge spoils (approximately 1969). An elevated bridge (Alternative #3) is not a viable alternative due to cost. The Department concurs with the finding that widening the existing farm road is the preferred alternative and that it will minimize wetland impacts. The wetland impacts of this alternative are limited to areas that are currently disturbed (mostly active agricultural fields).

Stormwater Outfall Channels 0.08 acres

Alternative #1. This represents the chosen alternative and involves disturbing 0.08 acres of wetlands for the installation of two stormwater outfall structures. The stormwater for KCP is managed by a series of water quality basins that have been designed to promote water quality and to reduce erosion and sedimentation.

Alternative #2. This represents the no-build alternative and is not acceptable to the Element.

The permittee has satisfied the Coastal Zone Management Policy for Stormwater (7:7E-8.7) by constructing water quality basins. Detention basins require a discharge point that generally involves filling or disturbing wetlands. As a result, to minimize surface water impacts, and to prevent erosion and sedimentation, the applicant has demonstrated that there was no feasible alternative other than disturbing the 0.08 acres of wetlands for the installation of the outfall structures.

Steam Pipeline, Electrical Distribution Line and Approachway Pier

Wetland impacts associated with these activities are linear in nature and involve clearing .31 acres. There will be no permanent disturbance to wetlands, only a change in the wetland type (i.e. forested wetland to scrub-shrub wetland). The permittee has proposed no other alternative for these activities.



The applicant has demonstrated to the satisfaction of the Element that there is no practicable alternative to these activities. If coal is to be delivered by barge it is necessary to cross the band of wetlands that are parallel to the Delaware River. The same situation applies to the steam pipeline and the electrical distribution line. As the entire northern boundary of the site is mapped as a wetland (ditch) it is impossible to provide a steam and electric connection without disturbing wetlands.

The permittee has demonstrated to the satisfaction of the Department that the wetland disturbances associated with this project have been minimized and are approvable pursuant to the Freshwater Wetlands Protection Act (Subchapter 3). Therefore as a condition to this permit and prior to the initiation of any disturbance in freshwater wetlands, the permittee is required to submit a mitigation plan to the Department for review and approval. The permittee is obligated to mitigate for all permanent wetland disturbances (1.3 acres) at a ratio of 2:1 (gained/disturbance). Wetland impacts involving a change from one wetland type to another (.3 acres) will require mitigation at a ratio of 1:1.

Wetlands Buffers (7:7E-3.28)

"Wetlands Buffer or transition area" means an area of land adjacent to a wetland which minimizes adverse impacts on the wetlands and serves as an integral component of the wetlands ecosystem.

Development is prohibited in a wetlands buffer around wetlands regulated pursuant to the Wetlands Act of 1970, unless it can be demonstrated that the proposed development will not have a significant adverse impact and will cause minimum feasible impact through the use of mitigation where appropriate on the wetlands, and the natural ecotone between the wetlands and the surrounding upland.

1. A wetlands buffer of up to 300 feet in width shall be established around wetlands regulated under the Wetlands Act of 1970.

2. A wetlands buffer or transition area of up to 150 feet in width shall be established within all wetland regulated under the Freshwater Wetlands Protection Act.

All wetlands buffers (that is, transition areas) associated with wetlands subject to the Freshwater Wetlands Protection Act shall be regulated in accordance with the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A.

In a Letter of Interpretation (File #0809-90-0008.1-LI) dated October 17, 1990, the Department classified all wetlands on this site regulated pursuant to the Freshwater

Wetlands Protection Act as intermediate resource value and imposed a buffer of 50 feet. This buffer requirement will also be applicable to wetlands regulated pursuant to the Wetlands Act of 1970.

The permittee has provided at least a 50 foot buffer from all wetlands with the exception of those areas that are the subject of the Individual Freshwater Wetlands Permit and the Coastal Wetland Type "A" permit application. The Individual Freshwater Wetlands Permit includes a transition area waiver authorizing disturbance to the transition area for access. The project is in compliance with this policy.

#### Historic and Archaeological Resources (7:7E-3.36)

"Historic and Archaeological Resources" include objects, structures, neighborhoods, districts, and other features of the landscape and seascape, including archaeological sites, which either are on, or are eligible for inclusion on the State or National Register of Historic Places.

Development that detracts from, encroaches upon, damages, or destroys the value of historic and archaeological resources is discouraged. Scientific recording and/or removal of historic and archaeological resources or other mitigation measures must take place, if the proposed development would irreversibly and/or adversely affect historic and archaeological resources."

The applicant has entered into a contract to have a Phase 1 Archeological Survey conducted at the Keystone site. That survey is being coordinated through the Office of New Jersey Heritage. As a condition to the permit and prior to the start of any construction in the waterfront area, the applicant will forward the results of the Phase 1 survey to the Element for review and comment. Depending on the conclusions of that survey, the Element may require the permittee to conduct additional analysis and incorporate mitigative measures as directed.

#### Endangered or Threatened Wildlife or Vegetation Species Habitats (7:7E-3.38)

Areas known to be inhabited on a seasonal or permanent basis by any wildlife (fauna) or vegetation (flora) identified as "endangered" or "threatened" species on official Federal or State lists of endangered or threatened species, or under active consideration for Federal or State listing, are considered Special Areas. The definition also includes a sufficient buffer area to insure continued survival of the species. NJDEPE - Division of Fish, Game and Wildlife intentionally restricts dissemination of data

## e Cogeneration Facility

showing the geographic distribution of these species habitats, in order to protect the habitats.

Development of this Special Area is prohibited unless it can be demonstrated that endangered or threatened wildlife or vegetation species habitat would not be adversely affected either directly or through secondary impacts.

The applicant has indicated that the New Jersey Natural Heritage Program has no records of any endangered or threatened vertebrate species occurring at the project site. The Element also has issued a Letter of Interpretation classifying the freshwater wetlands as Intermediate Resource Value. That classification would indicate that the Element's review of the wetlands on-site revealed no documented habitat for threatened or endangered wildlife species.

There are however three species of protected fish that are known to occur near the project site. They include American shad (*Alosa sapidissima*), Shortnose sturgeon (*Acipenser brevirostrum*) and Atlantic sturgeon (*Acipenser oxyrinchus*). The potential impacts to these species were addressed in a report prepared by T. Lloyd Associates, "Impact Assessment of the Keystone Cogeneration Project on Nearby Aquatic Resources", January 30, 1991. In that report, T. Lloyd Associates concluded that none of the above listed species are believed to spawn in the project area. Therefore any impact to eggs, larvae or juvenile fishes of these species appears to be negligible. T. Lloyd's report also indicates that shad may be sensitive to turbid water that would occur as a result of dredging.

The NJDEPE, Division of Fish, Game and Wildlife recognized the potential for this project to impact the above noted species and consequently requested the Element to impose timing restrictions on dredging. With the exception of the dredging, the permittee has demonstrated to the satisfaction of the Division that the construction and operation of the coal-fired cogeneration facility will have a minimal impact to the above noted endangered and threatened fish species. However to protect the anadromous fishes during migration, and as a condition the Waterfront Development Permit, no bucket dredging will be permitted between the dates of March 15 and November 30 and hydraulic dredging will not be permitted between the dates of April 15 and June 30. With the inclusion of the above noted dredging windows the project is in compliance with this policy.

### Subchapter 4 - General Water Areas

General Areas are first divided into Water and Land by the same definitions used for Special Areas, Section 7:7E-3.1. Water and land are further subdivided into General

Area types. The water's edge has no General Area types since all water's edge areas are one or more Special Area types. In many cases, an area already identified as a Special Area will also fall within the definition of a General Area. In these cases, both General and Special Area policies will apply. In cases of conflict between General and Special Area policies, the more specific Special Area Policy shall apply.

General Water Areas are areas which lie below either the Mean High Water Line or the normal water level of non-tidal waters. Except at time of drought or extreme low tide, these areas are permanently inundated. General Water Areas are divided by volume and flushing rate into, Oceans; Open Bays; Semi Enclosed and Back Bays; Tidal Guts; Large Rivers; Medium Rivers, Creeks and Streams; and Lakes, Ponds and Reservoirs. Some of these types are further divided for policy purposes into different depths.

#### Large Rivers (7:7E-4.7)

This channel type includes flowing waterways with watersheds greater than 1,000 square miles which means the Delaware, Hudson and Raritan Rivers. Large rivers are the principal freshwater input to the Open Bays, and the critical estuarine functions performed by these bays depends, in large part, on maintenance or improvement of water quality and flow patterns in tidal rivers.

#### Acceptability Conditions for Uses (7:7E-4.11)

(d) Docks and Piers (for Cargo and Commercial Fisheries)

#### Definition

1. Docks and piers are structures supported on pilings driven into the bottom substrate or floating on the water surface, used for loading and unloading passengers or cargos, including fluids, connected to or associated with a single industrial or manufacturing facility or to commercial fishing facilities. Docks and Piers for cargo are conditionally acceptable in most General Water Areas provided that the width and length of the piers are limited to only what is necessary, they will not pose a hazard to navigation and the associated land use meets all Coastal Zone Management Policies.

The proposed barge facility is not located within any navigational channel or anchorage in the Delaware River and will not pose a hazard to navigation. A 1600' approachway pier is required to reach deep water thereby reducing the amount of new and maintenance dredging. The project is in compliance with this policy.

(g) Dredging - New

Definition

1. New dredging is the removal of sediment from the bottom of a water body that has not been previously dredged, for the purpose of increasing water depth, or the widening or deepening of navigable channels to a newly authorized depth or width. In addition to conditions imposed by this policy, the project must also satisfy all conditions applicable under Dredging - Maintenance 7:7E-4.11(f)2 (i) through (vii).

The applicant is proposing to remove 40,000 cubic yards of material by clamshell method from the 910 foot by 150 foot berth area to a depth of 25 feet below mean low water with 3:1 side slopes. All of the dredged material would be disposed of at the American Dredging Company's approved Logan Township dredged material upland disposal site (U.S. Army Corps of Engineers permit NAPOP-N dated August 15, 1973).

The permittee has indicated that the American Dredging Company's permit for the upland dredge spoil site is currently under review by the ACOE for an extension. The ACOE authorized the dredging for this project via permit dated June 20, 1991 (CENAP-OP-R-91-0347-11) and referenced American Dredging Company's site in that permit. The Department, however, has no documentation that the 1973 ACOE permit has been extended, and what, if any, conditions are imposed on that permit. Therefore, prior to conducting any dredging, and as a condition to the permit, the permittee shall provide the Department with a copy of the referenced ACOE dredge disposal permit. The permittee will also submit to the Department the anticipated dredging schedule noting how that schedule relates to the status of the ACOE dredge permit.

The Department has also determined that this dredging complies with the Acceptability Conditions for maintenance dredging. However to protect migratory finfish from turbidity associated with dredging, the Department has imposed restrictions on when dredging is authorized to occur (Refer to page 8, Finfish Migratory Pathways).

Subchapter 5 - General Land Areas

7:7E-5.1 Definition

(a) General Land Areas include all mainland features located upland of Special Water's Edge Areas.

## Stone Cogeneration Facility

With the exception of several small nodes and islands of land located in the two agricultural fields closest to Route 130, the entire project site is composed of Special Water's Edge Areas. Therefore this policy is not applicable.

Subchapter 7 - Use Policies**7:7E-7.4 Energy Use Policies****(a) General Definition of Energy Uses**

Energy uses include facilities, plants or operations which produce, convert, distribute, or store energy.

**(b) General Energy Facility Siting Procedures**

1. The acceptability of all proposed new or expanded coastal energy facilities shall be determined by a review process that includes both the Department and the Board of Public Utilities (BPU), (N.J.S.A. 52:27F-6 and 52:27-11 et seq.) according to the procedures defined in the Memorandum of Understanding between NJDEP and the BPU on Coordination of Permit Review.

2. BPU will determine the need for future coastal energy facilities according to three basic standards. BPU will submit an Energy Report to DEP with its determination of the need for a coastal energy facility based on three required findings:

- i. The existing sources of supply will not be adequate to meet future levels of demand, including careful consideration of the potential effects of conservation;
- ii. That no better technological alternative exists to meet future levels of demand; and
- iii. That no better locational alternative to the proposed site exists.

The Public Utility Regulatory Policies Act of 1978 (PURPA) encouraged the development of cogeneration facilities which use fossil fuels more efficiently than traditional utility generating facilities. As a result, the BPU has encouraged the development of cogeneration facilities as an economic, efficient and environmentally sound alternative to traditional utility generating facilities.

In accordance with those policies, in 1987 BPU staff and Atlantic Electric entered into a stipulation which was ultimately approved by the BPU outlining the terms and conditions by which Atlantic Electric would purchase energy

from PURPA qualifying facilities. A part of the stipulation review required the BPU to consider the need for additional capacity including the potential effects of conservation. It was determined that an additional 700 MWs was needed. The stipulation also included a Standard Price Methodology that established a system for ranking projects that considered factors including location, dispatchability and whether or not the facility would use a renewable fuel. Based on this ranking, Keystone was awarded a pricing agreement and ultimately entered into a power purchase agreement with Atlantic Electric which was approved by the BPU on December 28, 1988.

With regards to site location, a cogeneration facility must be located at or near the site of its thermal user (Monsanto). This is required due to the economics related to the cost of running steam lines, and the fact that heat losses increase with the length of lines. Therefore, the site is appropriate given the location of the Monsanto facility. The proposed site is also located near both marine and rail facilities that have the potential to deliver coal.

The KCP has demonstrated conditional compliance with all applicable Coastal Zone Management policies. The BPU has documented that KCP is an approved facility and that it has been sited in an appropriate location based on transportation, energy host location and the need to satisfy regional energy and capacity requirements. Based on the above discussion the permittee has demonstrated compliance with the policy.

(r) Electric Generating Stations

New or expanded electric generating facilities and related facilities are conditionally acceptable provided:

- i. The construction and operation of the proposed facility shall comply with the Coastal Resource and Development Policies, with special reference to air and water quality standards and policies on marine resources and wildlife.
- ii. NJDEPE and BPU shall find that the proposed location and design of the electric generating facility is the most reasonable alternative for the production of electrical power that BPU has determined is needed. The finding shall be based on a comparative evaluation by the applicant of alternative sites within the coastal zone and inland, and of alternative technologies for the transportation and conversion of energy as well as the productive use of plant residuals, including thermal discharges.

The permittee has demonstrated conditional compliance with all applicable Coastal Zone Management policies. The NJDEPE, Division of Environmental Quality has issued all applicable air permits for this project. The KCP is designed to have zero discharge to the Delaware River which will eliminate the potential for any thermal plume impacts.

To meet the demand for energy in New Jersey, Atlantic Electric petitioned the BPU for additional energy producing facilities. As previously stated, the BPU, as a result of the Public Utility Regulatory Policies Act of 1979, is encouraging the use of cogeneration facilities. Cogeneration facilities are unique in that they have several operational, environmental and location requirements that must be satisfied in order for the facility to properly function. The KCP site was chosen based on those requirements which are discussed below.

The site provides a 110 acre industrial zoned location adjacent to a steam host along the Delaware River. It's remote location away from densely populated areas, provides easy access to Route 295 and Route 130. The majority of the plant will be constructed on an existing 40 acre agricultural field (dredge spoils) which reduces impacts to environmentally sensitive areas. The river location provides the plant with the water volume that is needed for operations.

Based on the above analysis the project is in compliance with this policy.

Dredge Spoil Disposal on Land (7:7E-7.12)

Dredge spoil disposal is the discharge of sediments, known as spoils removed during dredging operations. The criteria applicable to this policy govern Land and Water's Edge disposal only. The policies regulating dredge spoil disposal in Water Areas are found in N.J.A.C. 7:7E-4.11.

The dredge spoils will be disposed of at an approved upland disposal site authorized by the U.S. Army Corps of Engineers. The Bureau of Monitoring Management has determined that the Dredge Spoil Analysis prepared by EMA laboratories do not indicate any contamination. The project is in compliance with this policy. (Please refer to page 29, Acceptability for Use (7:7E-4.11(g) Dredging, New) for a discussion regarding other compliance issues associated with dredge disposal).

High Rise Structures (7:7E-7.14)

All high rise structures more than six stories or more than sixty feet from existing pre-construction ground level



## Keystone Cogeneration Facility

to the mid-point of sloped roof or top of parapet wall on flat roofs. High rise structures are encouraged to locate in an area of existing high density, high-rise and/or intense settlements.

The proposed plant facility contains one structure defined as "high rise" within the waterfront development area. The coal storage enclosure is 80 feet tall and is located 380 feet from the mean high water line. The structure is oriented so that the longest lateral dimension is perpendicular to the Delaware River and it will not block any views of the waterfront currently enjoyed by the public. The Federal Aviation Administration has indicated that no structure in the plant is a hazard to navigation. The applicant has demonstrated compliance with this policy.

SUBCHAPTER 8 - RESOURCE POLICIES

Water Quality (7:7E-8.4)

As required by Section 307(f) of the Federal Coastal Zone Management Act, federal, state and local water quality requirements established under the Clean Water Act shall be the water resource standards of the coastal management program.

Coastal development which would violate the federal Clean Water Act, or State laws, rules and regulations adopted pursuant thereto, is prohibited. In accordance with such rules as may be adopted by the Department concerning the Water Quality Management Planning and Implementation process, coastal development that is inconsistent with an approved Water Quality Management (208) Plan under the New Jersey Water Quality Planning Act (N.J.S.A. 58:11A et seq.) is prohibited.

The Keystone Cogeneration Facility requires and has applied for the following permits or approvals that are applicable to this policy:

1. New Jersey Pollution Discharge Elimination System (NJDEPE);
2. Amendment to the Areawide Water Quality Mgm. Plan (NJDEPE);
3. Delaware River Basin Commission Approval;
4. Subaqueous Land and Coastal Zone Mgmt. (Delaware);
5. Section 10, Rivers and Harbors Act (ACOE);
6. Federal Water Pollution Control Act (ACOE).

The permittee, to demonstrate compliance with this policy and as a condition to this permit, must submit copies of all the above listed permits to the Element prior to conducting any work in the regulated Waterfront Area.

During the course of the application review the design of the project was modified to incorporate zero discharge to the Delaware River. However, there has not been any formal representation to the Department that this method has been adopted, nor have the plans been modified to reflect the change. Therefore, prior to any construction in the waterfront area, and as a condition to this permit, the permittee shall formerly notify the Department of it's intended design modification. In addition, the plans referenced below must be revised to remove all reference to any discharge structures.

1 - Coal Unloading Pier, Keystone Cogeneration System Inc., Sections and Elevations, drawing 3 of 5, prepared by Alan L. Flinn, dated January 30, 1991 and last revised May 21, 1991.

2 - Coal Unloading Pier, Keystone Cogeneration System Inc., Dredging Plan, drawing 4 of 5, prepared by Alan L. Flinn, dated January 30, 1991, last revised May 24, 1991;

Surface Water Use (7:7E-8.5)

Surface water is the water in lakes, ponds, streams, rivers, bogs, wetlands, bays and ocean that is visible on land. Coastal development shall demonstrate that the anticipated surface water demand of the facility will not exceed the capacity, including phased planned increases, of the local potable water supply system or reserve capacity and that construction of the facility will not cause unacceptable surface water disturbances, such as drawdown, bottom scour, or alteration of flow patterns.

The applicant has applied for a Water Allocation (operation) permit from NJDEPE to divert a maximum of 223.2 million gallons of water during any month (mgm) at a maximum rate of 5,000 gallons per minute (gpm) from the Delaware River and from a low capacity groundwater well (2 gpm) to be screened in the Cape May formation. The surface water diversion is to be used as cooling and process water. The project also requires 3.8 Approval from the Delaware River Basin Commission (DRBC). That approval is contingent upon the applicant obtaining a NJPDES permit and the Water Allocation permit for withdrawal.

To demonstrate compliance with this policy, and as a condition to the permit, the permittee is not authorized to

begin construction within the Waterfront Area until the Water Allocation permit and the 3.8 Approval from the DRBC have been obtained and copies of those permits have been forwarded to the Element.

Groundwater Use (7:7E-8.6)

Groundwater is all water within the soil and subsurface strata that is not at the surface of the land. It includes water that is within the earth that supplies wells and springs. Coastal development shall demonstrate, to the maximum extent practicable, that the anticipated groundwater withdrawal demand of the development will not cause salinity intrusions into the groundwaters of the zone, will not degrade groundwater quality, will not significantly decrease the water table or piezometric surface, or significantly decrease the base flow of adjacent water courses. Groundwater withdrawals shall not exceed the aquifer's safe yield.

As previously stated, the permittee has applied for a Water Allocation permit for a low capacity groundwater well (2 gpm) from the NJDEPE. The permittee must provide the Element with a copy of that permit to demonstrate compliance with this policy.

Stormwater Runoff (7:7E-8.7)

Stormwater Runoff is flow on the surface of the ground, resulting from precipitation. Coastal development shall use the best available technology to minimize off-site storm water runoff, increase on-site infiltration, simulate natural drainage systems, and minimize offsite discharge of pollutants to ground or surface water and encourage natural filtration functions. Best available technology may include measures such as retention basins, recharge trenches, porous paving and piping, contour terraces, and swales provided such techniques can be demonstrated to satisfy these policies. Provisions for elimination of curbs, reduction of roadway widths, and rooftop recharge basins are strongly encouraged.-

The project has been designed to incorporate drainage system that will discharge uncontaminated stormwater to the Delaware River via two (2) water quality basins. Stormwater that has contamination potential (coal pile runoff) will be routed through the wastewater treatment plant and reused in the operation of the power plant. Nearly all stormwater runoff will pass through oil/water separating catch basins prior to entering the water quality detention basins. The project is in compliance with this policy.

Vegetation (7:7E-8.8)

## Leystone Cogeneration Facility

Vegetation is the plant life or total plant cover that is found on a specific areas, whether indigenous or introduced by humans. Coastal development shall preserve, to the maximum extent practicable, existing vegetation within a development site. Coastal development shall plant new vegetation, particularly appropriate species, to the maximum extent practicable.

The permittee has provided a satisfactory landscaping plan for the waterfront area of this project and is in compliance with this policy.

Air Quality (7:7E-8.10)

The protection of air resources refers to the protection from air contaminants that injure human health, welfare or property, and to attainment and maintenance of State and Federal air quality goals and the prevention of deterioration of current levels of air quality. Coastal development shall conform to all applicable State and Federal regulations, standards and guidelines and be consistent with the strategies of New Jersey's State Implementation Plan (SIP).

The Department (Division of Environmental Quality, Bureau of Air Quality Planning and Evaluation) issued a Federal Prevention of Significant Deterioration (PSD) permit and state Air Pollution Control permits on September 9, 1991. The project is in compliance with this policy.

Public Access to the Waterfront (7:7E-8.11)

Public access to the waterfront is the ability of all members of the community at large to pass physically and visually to, from and along the ocean shore and other waterfronts. Coastal development adjacent to all coastal water, including both natural and developed waterfront areas, shall provide perpendicular and linear access to the water front to the maximum extent practicable, including both visual and physical access. Development that limits public access and the diversity of waterfront experiences is discouraged.

The permittee has indicated that due to the nature of the facility it is not feasible to allow public access into the envelope of the site. The operation and safety plans of the proposed cogeneration facility cannot reasonably accommodate public access, restricted or otherwise, to the project location. However, the applicant has developed a plan that would allow the employees to access the waterfront via an observation deck. To demonstrate compliance with this policy, and as a condition to the permit, the permittee shall complete the observation platform prior to the plant becoming operational.

NJ07735

Buffers and Compatibility of Uses (7:7E-8.13)

Buffers are natural or man made areas, structures, or objects that serve to separate distinct uses or areas. Compatibility of uses is the ability for uses to exist together without aesthetic or functional conflicts.

Development shall be compatible with adjacent land and water uses to the maximum extent practicable. Development that is likely to adversely affect adjacent areas, particularly Special Areas (N.J.A.C. 7:7E-3.1 through 7:7E-3.48) or residential or recreational uses, is prohibited unless the impact is mitigated by an adequate buffer. The purpose, width and type of the required buffer shall vary depending upon the type and degree of impact and the type of adjacent area to be affected by the development, and shall be determined on a case-by-case basis.

The facility is located on a former dredge spoil disposal area that is zoned industrial and adjacent to the Monsanto Chemical Company. The KCP will have a 2,100 foot set back from Route 130 and will be partially obstructed by existing hedgerows and proposed plantings.

Existing forested wetlands adjacent to the Delaware River will not be disturbed except for clearing in the area of the approachway pier and installation of the outfall structures. The project will maintain at least a 50 foot set back from all freshwater wetland areas.

The proposed pier and associated barge traffic will not adversely affect the present commercial or recreational uses of the Delaware River as this section of the river is already heavily industrialized.

The permittee has demonstrated through compliance with other policies that the KCP will not adversely affect adjacent areas, particularly Special Areas. The facility is designed to maintain adequate buffers and in some areas (uplands adjacent to the Delaware River) additional vegetative plantings are proposed. The permittee has demonstrated compliance with this policy.

VI CONCLUSION

Based on information provided by the applicant, the preceding analysis, and the conditions expressed herein, the Administrator is able to make the positive findings required by the Waterfront Development Law as embodied by the Rules on Coastal Zone Management. This project also satisfies the requirements of the Freshwater Wetlands Protection Act, the Wetlands Act of 1970 and the Flood Hazard Area Control Act. The permit is expressly contingent upon compliance with all

NJ07736

## one Cogeneration Facility

permit conditions and failure to comply with any or all of the permit conditions may result in appropriate enforcement actions, or suspension or revocation of the permit.

This permit includes conditions to ensure compliance with the following policies. Intertidal and Subtidal Shallows (7:7E-3.16), Wetlands (7:7E-3.27), Historic and Archaeological Resources (7:7E-3.36), Endangered or Threatened Wildlife or Veegetation Species Habitats (7:7E-3.38), Acceptability Conditions for Uses (7:7E-4.11), Dredge Spoil Disposal on Land (7:7E-7.11), Water Quality (7:7E-8.4) and Public Access to the Waterfront (7:7E-8.11).

#### VII. Administrative Conditions

The following conditions shall be met in addition to the standard conditions found in the Coastal Permit Program Rules, dated May 7, 1989 (N.J.A.C. 7:7), the Freshwater Wetlands Protection Act Rules as amended to July 17, 1989 (N.J.A.C. 7:7A) and the Flood Hazard Area Regulations (N.J.A.C. 7:13-1.1).

This permit is issued subject to and provided the following conditions can be met to the satisfaction of the Land Use Regulation Element. All conditions must be met prior to construction unless otherwise specified. Compliance with all Administrative Conditions shall be determined once copies of all specified permits, certifications, plans agreements, etc. have been approved by the Land Use Regulation Element. All Physical Conditions are subject to on-site compliance inspection by the Bureau of Enforcement, PO Box 188, Duerer Road, Pomona, NJ 08240, in writing at least 5 days prior to commencement or site preparation.

#### ADMINISTRATIVE

1. The permittee is required to mitigate for the loss of .139 acres of intertidal area at a ratio of one to one. Prior to construction the permittee must submit a mitigation plan to the Element for review and approval pursuant to section 7:7A-14.4 of the Freshwater Wetlands Protection Act.
2. The permittee is required to mitigate for the filling and disturbance of 1.6 acres of freshwater wetlands at a ratio of 2:1 (gained:destroyed). Prior to construction, the permittee must submit to the Element, for review and approval, a wetlands mitigation plan developed pursuant to section 7:7A-14.4 of the Freshwater Wetlands Protection Act Rules.
3. Prior to the start of any construction in the waterfront area, the applicant will forward the results of the Phase 1 Archaeological survey to the Element for review and comment. Depending on the conclusions of that survey, the Element may

require the permittee to conduct additional analysis and incorporate mitigative measures as directed.

4. Prior to conducting any dredging the permittee shall provide the Department with a copy of the referenced ACOE dredge disposal permit. The permittee will also submit to the Department the anticipated dredge schedule, noting how that schedule relates to the status of the dredge permit.

5. Prior to construction the permittee must submit copies of all the permits or approvals listed below to the Element.

- a. New Jersey Pollution Discharge Elimination System (NJDEPE);
- b. Amendment to the Areawide Water Quality Mgm. Plan (NJDEPE);
- c. Delaware River Basin Commission Approval;
- d. Subaqueous Land and Coastal Zone Mgmt. (Delaware).

6. The permittee shall formally notify the Department of it's intended design modification to incorporate zero discharge. In addition, the plans referenced below must be revised to remove all reference to discharge structures;

1 - Coal Unloading Pier, Keystone Cogeneration System Inc., Sections and Elevations, drawing 3 of 5, prepared by Alan L. Flinn, dated January 30, 1991 and last revised May 21, 1991.

2 - Coal Unloading Pier, Keystone Cogeneration System Inc., Dredging Plan, drawing 4 of 5, prepared by Alan L. Flinn, dated January 30, 1991, last revised May 24, 1991;

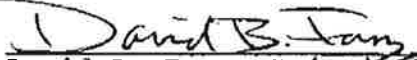
7. The applicant must deliver a copy of a Water Allocation permit to the Element prior to the start of construction.

#### PHYSICAL


1. The permittee shall complete the observation platform prior to the plant becoming operational.

2. This permit prohibits bucket dredging between the dates of March 15 and November 30 and hydraulic dredging between the dates of April 15 and June 30.

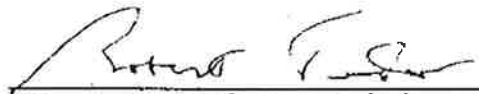
Prepared by:

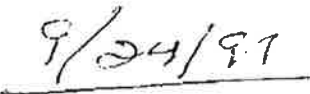
  
David B. Fanz, Principal Environmental Specialist

Approval Recommended By:

  
Ruth Ehinger, Manager  
Bureau of Coastal Regulation

Approved By:

  
Robert A. Tudor, Administrator  
Land Use Regulation Element

  
Date



rtbne Cogeneration Facility

2. This permit prohibits bucket dredging between the dates of March 15 and November 30 and hydraulic dredging between the dates of April 15 and June 30.

Prepared by:

David B. Fanz  
David B. Fanz, Principal Environmental Specialist

Approval Recommended By:

Ruth Ehinger  
Ruth Ehinger, Manager  
Bureau of Coastal Regulation

Approved By:

Robert A. Tudor  
Robert A. Tudor, Administrator  
Land Use Regulation Element

9/24/91  
Date



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
(See Issuing Division below)



**PERMIT\***

The New Jersey Department of Environmental Protection grants this permit in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to the further conditions and stipulations enumerated in the supporting documents which are agreed to by the permittee upon acceptance of the permit.

Permit No. 0809-91-0010.1 .2, .3 and .6 Application No. \_\_\_\_\_

Issuance Date SEP 24 1991 Effective Date SEP 24 1991 Expiration Date SEP 24 1996

Name and Address of Applicant <b>Keystone Cogeneration System Inc. Suite 721, Market Tower Bldg. 901 Market Street Wilmington, Delaware 19801</b>	Name and Address of Owner _____	Name and Address of Operator _____
--	------------------------------------	---------------------------------------

Location of Activity/Facility (Street Address)  Lot <u>2</u> Block <u>1</u>	Issuing Division <b>Land Use Regulation Element</b>	Statute(s) <b>NJSA 58:16A-50 12:5-3 58:10A-1 13:9B-1 13:9A-1 et.seq.</b>
---	--	---

Type of Permit Stream Encroachment, Individual Freshwater Wetlands, Wetlands Type A, Waterfront Development, Water Quality Certificate

This permit grants permission to:

- Under Flood Hazard Area Control Act (58:16A-50); establish stream encroachment lines; construct a pier and coal conveyor to perform associated dredging in the Delaware River and also to construct two stormwater outfall structures, two roadway culverts, an access roadway, a steam pipeline and trestle in the flood plain of the Delaware River at a location approximately 3500 feet westerly of the intersection of Route 130 and Center Square Road within Lot No. 2 of Block No. 1 in Logan Township, Gloucester County, New Jersey;
- Waterfront Development and Wetlands Type A Permits (12:5-3) (13:9A-1); This permit grants permission to construct a pulverized coal-fired cogeneration power plant consisting of one boiler, a stream turbine, material handling system, pollution, stormwater, wastewater and sewage treatment control systems and a pile supported coal handling barge facility to receive the coal. The barge facility will consist of a 1600 foot long by 22.5 foot wide approachway pier and a 110 foot long by 70 foot wide deck platform supporting a fixed clamshell coal unloader, 2 water intake structures, 2 barge hauling dolphins and 6 breasting dolphins connected by a 900 foot long by 4 foot wide walkway. Approximately 40,000 cubic yards of dredge material will be removed from a 910 foot by 150 foot barge berth and disposed of at a dredge spoil site owned and operated by American Dredging in Logan Township,

**EXHIBIT**  
Whitney 7  
S. Oakley 10/10/06

Approved by the Department of Environmental Protection  
Name (Print or Type) \_\_\_\_\_ Title \_\_\_\_\_  
Signature see page 6 for signature Date \_\_\_\_\_


**EXHIBIT 10**  
Johnson-11  
11/1/00 SW

3. Individual Freshwater Wetlands Permit (NJSA 13:9B-1 et. seq.); This permit grants permission to fill 1.22 acres of freshwater wetlands for the purpose of widening an access road. It also authorizes the permittee to fill 0.08 acres of wetlands to install two stormwater outfall structures and to disturbance 0.31 acres for the construction of the approachway pier and utility lines. The total wetland disturbance authorized by this permit is 1.61 acres, 1.3 acres of filling and 0.31 acres of clearing.

The Waterfront Development permit included in this approval is authorized under and in compliance with the Rules on Coastal Zone Management Policies for: (7:7E-3.4) Prime Fishing Areas, (7:7E-3.5) Finfish Migratory Pathways, (7:7E-3.7) Navigation Channels, (7:7E-3.12) Submerged Infrastructure Routes, (7:7E-3.15) Intertidal and Subtidal Shallows, (7:7E-3.23) Filled Water's Edge, (7:7E-3.25) Flood Hazard Areas, (7:7E-3.27) Wetlands, (7:7E-3.28) Wetlands Buffer, (7:7E-3.36) Historic and Archaeological Resources, (7:7E-3.38) Endangered or Threatened Wildlife or Vegetation Species Habitat, (7:7E-4.7) Large Rivers, (7:7E-4.11) Acceptability Conditions for Use (g) New Dredging, (7:7E-7.4) Energy Use Policies, (7:7E-7.13) Dredge Spoil Disposal on Land, (7:7E-8.4) Water Quality, (7:7E-8.5) Surface Water Use, (7:7E-8.7) Stormwater Runoff, (7:7E-8.8) Vegetation, (7:7E-8.10) Air Quality, (7:7E-8.11) Public Access to the Waterfront, (7:7E-8.13) Buffers and Compatibility of Uses.

Prepared by:

  
William M. Berns

  
David Fanz

## THIS PERMIT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. Any construction, grading, removal of vegetation, or other disturbance at this project site, within or affecting any regulated flood plain other than specifically approved by this permit or detailed on the approved drawings shall require additional approvals from the Land Use Regulation Element.
2. All construction and/or activities approved by this permit shall be performed under the supervision and direction of a Professional Engineer licensed in the State of New Jersey. Furthermore, all construction and/or activities on site shall be subject to inspection at any time by representatives of the Department.
3. Responsibilities of Applicant
  - a. The granting of this permit does not in any way relieve the applicant and/or its designated agents from the responsibility for damages caused by any construction or activities hereby approved; nor does the Department accept responsibility for the structural design.
  - b. This permit is NOT VALID until such time as the permit acceptance form has been signed by the applicant, accepting and agreeing to adhere to all permit conditions, and returned to the appropriate regional office within the Element. Furthermore, the Department reserves the right to declare this permit NULL and VOID should it be determined that adequate measures had not been taken by the applicant and/or its designated agents to ensure that all terms and conditions of this permit would be fulfilled or provided for at all times.
  - c. This permit, including all conditions listed herein, shall be recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages if applicable) in the county or counties wherein the lands included in the permit are located within ten (10) days after receipt of the permit by the applicant. Verified notice of this action shall be forwarded to the Land Use Regulation Element immediately thereafter.
  - d. A construction notice on a prescribed form shall be prepared by the applicant or its designated agent and submitted to the Land Use Regulation Element fourteen (14) days prior to the commencement of the regulated activities.

## TERMS AND CONDITIONS (Continued)

- e. A completion report on a prescribed form shall be prepared by a Professional Engineer licensed in the State of New Jersey and submitted to the Land Regulation Element within thirty (30) days after completion of the regulated activities.
4. All activities authorized by this permit shall be complete within five years of the issuance date; otherwise, this permit, if not previously revoked, shall automatically become null and void, and none of the activities referenced herein shall be commenced or continued until such time as this permit has been reinstated or until a new application has been submitted to and approved by the Department.
  5. Erosion Control and Maintenance of Stream Corridor
    - a. Adequate precautions shall be taken to prevent and/or minimize the discharge of sediments into all streams within or adjacent to the project area. The Department reserves the right to order the suspension of the proposed activity if unacceptable levels of turbidity result from the same.
    - b. All fill and other earth work on the lands encompassed within this permit shall be stabilized in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey" (obtainable from local Soil Conservation District Offices), or equal engineering specifications, to prevent eroded soil from entering adjacent waterways at any time during and subsequent to construction.
    - c. Where any portion of the stream corridor is altered in the course of the construction of the herein approved activities, all affected areas shall be stabilized in such a manner as to prevent erosion and the subsequent silting of the subject stream channel. Furthermore, the applicant shall maintain the stream corridor as shown on the approved drawings(s) for either such time as is required for the channel and/or banks
    - d. During the course of construction, neither the applicant nor its designated agents shall cause or permit any unreasonable interference with the free discharge of the stream by the placing or dumping of any materials, equipment, debris or structure in or about the stream corridor. Upon completion or abandonment of the work, the applicant and/or its agents shall remove and dispose of in a lawful manner all excess materials, equipment, and debris from the stream corridor and adjacent lands.

NJ04406

6. Preservation of Stream Corridor - All those lands lying between the centerline of the stream and the lines labelled Stream Encroachment Lines, as shown on the approved drawings shall be reserved for the passage of flood waters and for the preservation of near stream vegetation and wildlife. No construction, grading, removal of vegetation, or other disturbance shall be permitted within this area unless specifically approved by this permit or detailed on the approved drawings.
7. The proposed water quality measures must be adequately maintained in proper working condition at all times. The applicant must make specific arrangements to insure continuous compliance with this condition.
8. All excavated material found unsuitable as backfill and/or all dredged spoils shall be removed from the project site and disposed of outside any Flood Hazard Area, wetland, wetland transition area or open water in such a manner that it does not interfere with positive drainage of the receiving area.
9. Any activity within or adjacent to the stream channel which may introduce sediment to the stream or cause the stream to become turbid is prohibited during the period of April 1 to June 30 and September 1 to November 30 in order to protect the migratory fishery resource.
10. ADMINISTRATIVE: Waterfront and Individual Freshwater Wetlands
  - a. Prior to construction the permittee must submit to the Element for review and approval a mitigation plan to compensate for the loss of the .139 acres of intertidal area. Mitigation must be completed in accordance with the approved plans.
  - b. Prior to construction the permittee must submit to the Element for review and approval a wetlands mitigation plan developed pursuant to section 7:7A-14.4 of the Freshwater Wetlands Protection Act Rules, to compensate for the filling and disturbance to 1.6 acres of freshwater wetlands. Mitigation must be completed in accordance with the approved plan.
  - c. Prior to the start of any construction in the waterfront area, the applicant will forward the results of the Phase 1 Archaeological survey to the Element for review and comment. Depending on the conclusions of that survey, the Element may require the permittee to conduct additional analysis and incorporate mitigative measures as directed.
  - d. Prior to conducting any dredging the permittee shall provide the Department with a copy of the referenced ACOE dredge disposal permit. The permittee will also submit to the Department the anticipated dredge schedule, noting how that schedule relates to the status of the dredge permit.

## TERMS AND CONDITIONS (Continued)

- e. Prior to construction the permittee must submit copies of all the permits or approvals listed below to the Element.
1. New Jersey Pollution Discharge Elimination System (NJDEPE);
  2. Amendment to the Areawide Water Quality Mgm. Plan (NJDEPE);
  3. Delaware River Basin Commission Approval;
  4. Subaqueous Land and Coastal Zone Mgmt. (Delaware);
- f. The permittee shall formerly notify the Department of it's intended design modification to incorporate zero discharge. In addition, the plans referenced below must be revised to remove all reference to discharge structures;
- 1 - Coal Unloading Pier, Keystone Cogeneration System Inc., Sections and Elevations, drawing 3 of 5, prepared by Alan L. Flinn, dated January 30, 1991 and last revised May 21, 1991.
  - 2 - Coal Unloading Pier, Keystone Cogeneration System Inc., Dredging Plan, drawing 4 of 5, prepared by Alan L. Flinn, dated January 30, 1991, last revised May 24, 1991;
- g. The applicant must deliver a copy of a Water Allocation permit to the Element prior to the start of construction.
11. PHYSICAL: Waterfront and Individual Freshwater Wetlands
- a. The permittee shall complete the observation platform prior to the plant becoming operational.
  - b. This permit prohibits bucket dredging between the dates of March 15 and November 30 and hydraulic dredging between the dates of April 15 and June 30.
12. The drawings hereby approved are seven (7) sheets prepared by Bechtel, entitled:
- "KEYSTONE COGENERATION SYSTEMS, INC. KEYSTONE COGENERATION PROJECT LOGAN TOWNSHIP, NEW JERSEY",
- "FINISH GRADING PLAN", drawing no. COL0101, dated April 20, 1990, last revised August 7, 1991

NJ04408

TERMS AND CONDITIONS (Continued)

"ROUGH GRADING PLAN EAST OF PLANT", drawing no. COY0103, dated February 2, 1991, last revised July 29, 1991

"ROUGH GRADING DETAILS SHEET NO. 1", drawing no. COY0191, dated April 20, 1990, last revised June 28, 1991,

"ROUGH GRADING DETAILS SHEET NO. 2", drawing no. COY0192, dated June 8, 1990, last revised July 30, 1991,

"EROSION AND SEDIMENT CONTROL PLAN", drawing no. COA0003, dated June 8, 1990, last revised July 29, 1991,

"KEYSTONE COGENERATION PROJECT"

"CONSTRUCTION FACILITIES PLAN", drawing no. COA0105, dated March 12, 1990, last revised July 29, 1991,

"DETENTION/SEDIMENT BASIN CROSS SECTIONS", drawing no. COL0192, dated June 8, 1990, last revised August 7, 1991,

and four (4) sheets prepared by S.T. Hudson Engineers, Inc., entitled:

"COAL UNLOADING PIER LOGAN TOWNSHIP NEW JERSEY AND BRANDYWINE HUNDRED DELAWARE COUNTY OF: GLOUCESTER, NEW JERSEY AND NEW CASTLE, DELAWARE"

"RIPARIAN PLAN", drawing no. 2 of 5, dated January 30, 1991, last revised May 20, 1991,

"SECTIONS AND ELEVATION", drawing no. 3 of 5, dated January 30, 1991, last revised May 21, 1991,

"DREDGING PLAN", drawing no. 4 of 5, dated January 30, 1991, last revised May 24, 1991,

"SECTIONS", drawing no.5 of 5, dated January 30, 1991, unrevised.

  
\_\_\_\_\_  
Ruth Ehinger, Manager  
Bureau of Coastal Regulation

4/24/91  
Date

NJ04409







STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY P.O. Box 1401  
 DOVER, DELAWARE 19903

EXHIBIT  
 Whitney-9  
 S. Oakley 10/10/06

SURFACEWATER MANAGEMENT SECTION  
 WATERSHED ASSESSMENT BRANCH  
 POLLUTION CONTROL BRANCH  
 FACILITY SUPPORT BRANCH  
 WETLANDS & AQUATIC PROTECTION BRANCH

(302) 739-5726  
 (302) 739-4590  
 (302) 739-5731  
 (302) 739-5081  
 (302) 739-4691

Subaqueous Lands Lease: SL-0907/91  
 Date of Issuance: 9/30/91  
 Construction Expiration Date: 9/30/74  
 Amended Date:

**SUBAQUEOUS LANDS LEASE**  
**GRANTED TO KEYSTONE COGENERATION SYSTEM, INC.**  
**FOR THE CONSTRUCTION OF AN INDUSTRIAL PIER ON PUBLIC**  
**SUBAQUEOUS LANDS AND TO CONDUCT DREDGING IN THE**  
**DELAWARE RIVER AT LOGAN TOWNSHIP, GLOUCESTER COUNTY,**  
**NEW JERSEY, ROUTE 130, LOT NO. 2, BLOCK NO. 1 AND**  
**BRANDYWINE HUNDRED, NEW CASTLE COUNTY, DELAWARE**

Keystone Cogeneration Systems, Inc.  
 901 Market Street, Suite 721  
 Wilmington, DE 19801

Pursuant to the provisions of 7 Del. C. 57203, and the Department's Regulations  
Governing the Use of Subaqueous Lands, permission is hereby granted on this  
 30th day of September A.D. 1991, to Keystone Cogeneration Systems, Inc.  
 to construct a coal unloading pier consisting of the following: main pier 22  
 feet by 450 feet, loading platform 70 feet by 105 feet, corner of loading  
 platform approachway 10 feet by 10 feet, four (4) walkways 4 feet by 109 feet,  
 two (2) walkways 4 feet by 4 feet, one (1) walkway 4 feet by 105 feet, one (1)  
 walkway 4 feet by 100 feet, six (6) breasting dolphins 16 feet by 16 feet, two  
 (2) mooring dolphins 25 feet by 25 feet for a total of 22, 732 square feet and  
 to dredge 40,000 cubic yards of material from the Delaware River to create a 910  
 feet by 150 feet barge berth in accordance with plans and related documents  
 submitted by the applicant titled and dated as follows:

- Coal Unloading Pier: 1/30/91; revised 5/20/91, sheets 1 thru 9 of 11
- Coal Unloading Pier: 5/22/91; sheet 10 and 11 of 11
- Drawing A-1 Overhead View of Barge Unloading Facility: 7/10/91
- Drawing A-2 Side View of Barge Unloading Facility: 7/10/91
- Drawing A-3 Front View of Clamshell Barge Unloader Bucket: 7/10/91
- Drawing A-4 Side View of Clamshell Barge Unloader Bucket: 7/10/91
- Drawing A-5 Detailed View of Sealed-Tips of Clamshell Barge Unloader Bucket:  
7/10/91
- Drawing A-6 Side View of Barge Unloading Facility and Unloading Conveyor:  
7/10/91
- Drawing A-7 Cross Section - Unloading Conveyor: 5/30/91
- Spill Prevention, Control and Countermeasures Plan: 1/91
- Safety Plan: 1/31/91
- Section 316(a) and (b) of the Federal Water Pollution Control Act, undated  
and an application dated 3/4/91.

*Delaware's good nature depends on you!*

DE02200

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River; and

WHEREAS, Keystone Cogeneration Systems, Inc., owner of certain adjoining lands to the Delaware River has applied for permission to construct an industrial pier and to conduct dredging; and

WHEREAS, the State of Delaware, by and through the Department of Natural Resources and Environmental Control, certifies that the permitted activity will be conducted in manner which will not violate the applicable water quality standards of the State of Delaware; and

WHEREAS, pursuant to the provisions of 7 Del. C., §7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

This approval is in accordance with plans and application submitted to Department of Natural Resources and Environmental Control, a copy of which is attached hereto and made a part hereof.

This lease shall be continued for a period of ten (10) years or so long as the conditions attached to the lease are adhered to, whichever is the shorter in time. Upon the expiration of the ten-year term, this lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

THIS lease is issued subject to the following conditions:

**SPECIAL CONDITIONS**

1. The conditions contained herein shall be included in the construction contract and other ancillary documents associated with earth disturbance and construction activities which may impact subaqueous lands associated with this project.
2. The construction schedule for this project shall be arranged so as to minimize the impact on anadromous fish passage. There shall be no dredging between March 1 and May 31 and between September 1 through November 30.
3. Construction shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Surface Water Quality Standards" dated February 2, 1990.
4. The structure on subaqueous lands shall be for the explicit purpose of transferring coal as stated in Appendix A of the application.

5. All dredging and filling is to be conducted in a manner consistent with sound conservation and water pollution practices. Spoils and fill areas are to be properly diked so as to contain the dredged material and prevent its entrance into any surface water.
6. All pipelines shall be kept in good condition at all times and any leaks or breaks shall be promptly and properly repaired.
7. During the term of this lease (the lessee) agrees to pay the State of Delaware the sum of \$39,781 per annum for the 22,732 square feet of public subaqueous lands utilized commencing on the 1st day of October of 1991, and a payment of the same amount on the same day of each and every year thereafter for the term of this lease. This fee shall remain in effect for a period of five years at which time the fee shall be amended in accordance with the duly adopted fee schedule for public subaqueous lands.
8. The fee for the dredging shall be \$40,000.00 for the 40,000 cubic yards of public subaqueous lands to be dredged. This fee shall be payable by the lessee on the 1st day of October, 1991.
9. The discharge of any pollutant into the Delaware River shall be reported immediately to the Department of Natural Resources and Environmental Control in accordance with 7 Del. c. §6028.
10. There shall be mitigation for the 0.8 acres of shallow water impacted by dredging. The mitigation shall be in accordance with Section VII.c. of the Subaqueous Lands Application. Reports prepared by a qualified environmental firm with experience in wetland creation projects shall be submitted at the beginning and end of each growing season (May - June and August - September). Monitoring shall be conducted for two full growing seasons. If there has not been 80% coverage of emergent wetland zones and 70% survival of woody species after two full growing seasons monitoring shall continue until these percentages have been achieved. All reports shall be submitted to the Wetlands and Aquatic Protection Branch of the Division of Water Resources.
11. A copy of the final Spill Prevention, Control and Countermeasures Plan shall be submitted to the Wetlands and Aquatic Protection Branch of the Division of Water Resources Prior to January 1, 1992.
12. A report outlining a one-year study to be conducted to determine the number of striped bass eggs and larvae entrained during the operation of the water intake shall be submitted by January 1, 1992. The results of the study shall be submitted no later than three months after the plant has been in operation for one year. Mitigation shall be required if it is determined that there is damage to the striped bass population.

**GENERAL CONDITIONS**

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. If changes are necessary, revised plans must be submitted and a supplemental approval issued prior to actual construction.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phases of the construction and may collect any samples or conduct any tests that are deemed necessary.
3. This lease does not cover the structural stability of the project units.
4. Prior to the expiration of this lease, the lessee shall remove all structures covered under this lease unless the lease has been renewed in accordance with its terms.
5. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
6. The lessee shall notify the Department of Natural Resources and Environmental Control within ten (10) days of the date work will be commenced.
7. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
8. The lessee shall at all times comply with such rules and regulations which are promulgated by the United States Corps of Engineers.
9. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
10. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
11. This lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.

12. Nothing contained herein shall in any manner affect the rights now existing of any riparian land owner under the laws of the State of Delaware.
13. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.
14. This lease shall expire if the project has not been completed within three (3) years from the date of issuance.
15. If the lessee considers three (3) years insufficient for completion of the project, the lessee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.
16. The lessee shall remove all structures prior to the sale of the property unless the purchaser or seller of the property shall have notified the state of the sale of the property.
17. The lessee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
18. The issuance of this lease does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.
19. This lease will be revoked upon violation of any of the above conditions.
20. Application for renewal must be submitted six (6) months prior to the expiration date of this lease.

IN WITNESS WHEREOF, We, Keystone Cogeneration Systems, Inc. have caused this instrument to be executed on this 18th day of September, 1991.

KEYSTONE COGENERATION SYSTEMS, INC.

By: RD. Jivich  
Applicant

SWORN and subscribed before me on this 18th day of September 1991.

Bonnie S. Pramer  
Notary Public

IN WITNESS WHEREOF, I, Edwin H. Clark, II, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 30<sup>th</sup> day of September, 1991.

Edwin H. Clark, II  
By Secretary of the Department of  
Natural Resources and  
Environmental Control

# BASIC APPLICATION FORM

ATTACH ADDITIONAL 8 1/2" X 11" SHEETS OF PAPER AS NEEDED

Application Number: \_\_\_\_\_  
(To be assigned by agencies)

<p>1. <del>XXXXXX</del> (Property Owner) Name and complete address: _____ Sun Refining &amp; Marketing Co. 1801 Market Street Philadelphia, PA 19103</p>	<p>Telephone Number Home ( ): _____ Work ( ): 215-977-3051</p>
--	--

<p>2. Name of <del>XXXXXX</del> Applicant (if applicable) of land where project is contemplated and complete address: _____ Keystone Cogeneration Systems, Inc. 901 Market Street, Suite 721 Wilmington, DE 19801</p>	<p>Telephone Number Home ( ): _____ Work ( ): 215-928-2854</p>
---	--

<p>3. Authorized agent's name and complete address (if applicable): _____ Richard V. Ciliberti, Engineer 313 Chestnut Street Philadelphia, PA 19106</p>	<p>Telephone Number Home ( ): _____ Work ( ): 215-928-2854</p>
---	--

(Complete agent authorization statement on page 8)

4. Is this project  
 New?  Repair/Replacement?  
 Both? If "Both," please explain:  
 Supplemental Approval for an existing lease or permit?

5. Provide a brief description of the project:

<p>A. <input checked="" type="checkbox"/> Dredging Total Estimated Volume: 40,000 cu. yards</p> <p>B. <input type="checkbox"/> Filling Total Volume: _____ cubic yards Area of Fill Below Mean High Water: _____ square feet</p> <p>C. <input type="checkbox"/> Bulkheading Total Length: _____ ft.</p>	<p>D. <input type="checkbox"/> Dock(s) Total Number: _____</p> <p>E. <input checked="" type="checkbox"/> Pier(s) Total Number: 1</p> <p>F. <input type="checkbox"/> Other: Total Dimensions:</p>
---	--



ATTACHMENT A

LIST OF REQUIRED APPROVALS OR CERTIFICATIONS

- I. State of Delaware Department of Natural Resources and Environmental Control
  - A. Application for a Coastal zone Permit
  - B. Application Subaqueous Lands Permit
- II. U. S. Army Corps of Engineers
  - A. Approval under Section 10 of the River and Harbors Act of 1899
  - B. Approval under Section 404 of the Clean Water Act
- III. New Jersey Department of Environmental Protection
  - A. Division of Coastal Resources
    - 1. Waterfront Development Permit
    - 2. Stream Encroachment Permit
    - 3. Wetlands Type A Permit
    - 4. Freshwater Wetland Permit
    - 5. Water Quality certificate
  - B. Division of Water Resources
    - 1. Divert Surface Waters Permit
    - 2. Well Drilling Permit
    - 3. New Jersey Pollution Discharge Elimination System (NJPDES) Permit
  - C. Division of Solid Waste
    - 1. Solid Waste Permit (Solid Waste Facility Reg.)

D. Division of Air Quality

1. Air Quality Permit (PSD Permit)

E. Gloucester County Soil Conservation District

1. Soil Erosion and Sediment Control Plan

IV. Logan Township, New Jersey

A. Site Plan Review

10. Current land use is:

Agriculture  Wooded  Marsh/Swamp  
 Meadow  Developed

Present zoning is:

Agricultural  Commercial  Residential  Other Industrial

11. List the name and complete address of each adjacent property owner to the project. For wetlands and marina projects, include each waterfront property owner across the waterway from the project, within a 1,000 feet radius. (Attach sheets as needed)

Monsanto Company	Sun Refining & Marketing Co.	Joseph & Eleanor Borrelli
800 N. Linbirg Blvd.	1801 Market Street	P.O. Box 169, RD #2
St. Louis, MO 63167	Philadelphia, PA 19103	Swedesboro, NJ 08085

12. Will any public benefit be derived from the project?

Yes  No  Uncertain

If yes, explain below: The plant will generate 200 MW of electrical output which will be sold to Atlantic Electric Company. The steam flow of 35,000 lbs. per hour and electricity will be sold to Monsanto Corporation which is the steam host for the qualified cogeneration facility.

13. Has any work commenced or has any portion of the project for which you are seeking a permit been completed?

Yes  No

If yes, give details below. State when work was completed and who performed the work. Please indicate on attached drawings what is proposed.

14. Proposed starting date: Unknown at present time.

15. Contractor's name

and complete address: N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number:

Home ( ): \_\_\_\_\_  
Work ( ): \_\_\_\_\_

Please complete and attach all appropriate drawings and appendices to this section.

APPLICANT SIGNATURE AND/OR  
AGENT AUTHORIZATION

\* All applicants must sign this page. Please complete the Agent Authorization only if applicable.

\* If this authorization form is submitted with the application, all future correspondence may be signed by the duly authorized agent.

I, Keystone Cogeneration Systems, Inc. hereby designate and authorize Richard V. Ciliberti to act on my behalf in the processing of this application and to furnish any information that is requested.

I certify that the information on this form and the attached plans is true and accurate to the best of my knowledge.

I understand that DNREC may request information in addition to that set forth herein as may be deemed appropriate in considering this application.

I grant permission to the authorized agency representative(s) to enter upon the premises for inspection purposes during working hours.

I will abide by the conditions of this approval if issued.

I also certify that the proposed works are not inconsistent with Delaware's Coastal Zone Management Plan.

x R. P. Keever  
Applicant Signature

3/4/91  
Date

Applicant Name (Printed/Typed) Keystone Cogeneration Systems, Inc.

x R.V. Ciliberti  
Agent Signature

3-4-91  
Date

Agent Name (Printed/Typed) Richard V. Ciliberti

APPENDIX A  
BOAT DOCKING FACILITIES

\* Any boat docking facility for more than four (4) slips or which is defined as a marina facility (see definitions and explanations section) must complete Appendices N and O, and must apply to the U.S. Army Corps of Engineers for approval.

\* Please make sure answers to all of the questions in this appendix correspond to information on the application drawings.

1. What type of project do you propose? (Attach additional sheets as necessary)  
See definition section of Joint Application Form Reference Guide for clarification of "Dock" and "Pier." Please give total numbers of:

\_\_\_\_\_ Dock(s) Dimensions (Channelward of mean high water line) \_\_\_\_\_ ft. by \_\_\_\_\_ ft.  
Dimensions (Channelward of mean low water line) \_\_\_\_\_ ft. by \_\_\_\_\_ ft.

  x   Pier(s) Dimensions (Channelward of mean high water line) \_\_\_\_\_ ft. by \_\_\_\_\_ ft.  
Dimensions (Channelward of mean low water line) \_\_\_\_\_ ft. by \_\_\_\_\_ ft.  
See Attachment B

\_\_\_\_\_ Finger Pier(s): Dimensions (Channelward of mean high water line) \_\_\_\_\_ ft. by \_\_\_\_\_ ft.  
Dimensions (Channelward of mean low water line) \_\_\_\_\_ ft. by \_\_\_\_\_ ft.

\_\_\_\_\_ Buoy: What will be used for anchor(s) \_\_\_\_\_ type of device \_\_\_\_\_ weight

\_\_\_\_\_ Dry stack facilities: Total Dimensions \_\_\_\_\_  
Number of boat storage spaces \_\_\_\_\_

\_\_\_\_\_ Other: Total Dimensions (Channelward of mean high water line) \_\_\_\_\_ ft. by \_\_\_\_\_ ft.

\_\_\_\_\_ Mooring        6   Dolphin      \_\_\_\_\_ Piling      \_\_\_\_\_ Other (explain):

2. Approximately how wide is the waterway at the project site?   5,000   ft.
3. What will be the mean low water depth at the most channelward end of the mooring facility?  
  25   ft.
4. What type of material(s) will be used for construction of the mooring facility (e.g. salt treated wood, creosote pilings, Fiberglass floats, etc.)?  
Reinforced concrete deck and steel pipe piles.

ATTACHMENT B

The proposed coal handling barge facilities will consist of a 1600' long by 22'-6" wide approachway, a 130' X 75' platform, four (4) 60ø mono-pile breasting dolphins and two (2) 20' X 20' mooring dolphins. The mooring and breasting dolphins will be connected by a 3' wide pile supported walkway.

The pier facility will extend approximately 1550' from the mean high water line and approximately 550' from the mean low water line.

APPENDIX F  
INTAKE OR OUTFALL STRUCTURES

\* The appropriate Dredging and Fill appendices should also be completed if applicable.

\* Please make sure answers to all of the questions in this appendix correspond to information on the application drawings.

1. How many feet will the intake or outfall structure(s) be placed channelward of the:

- A. tidal waters: mean high water line? 1550 ft.  
mean low water line? 550 ft.  
B. non-tidal waters: ordinary high water line?        ft.

2. What type of material(s) will be used to construct the intake or outfall structure(s)?

3. What is the approximate median stream flow rate at the:

- A. intake site 11,320 cfs  
B. outfall site 11,320 cfs

(If this information is unknown check here           )

4. What will be the daily rate of withdrawal at the intake site? 7.2 mgd

5. What will be the intake velocity? 0.5 fps

6. What will be the mesh size of the screen used on the intake structure?

1 mm. squares other (explain)

7. What will be the daily rate of return at the outfall site? 3 mgd

8. Have you applied for the National Pollutant Discharge Elimination System (NPDES) permit for this project?  Yes  No NPDES

If your answer is "No", contact the Pollution Control Branch, DNREC.

9. Will a splash apron be employed at the outfall site?  Yes  No

If your answer is "Yes" complete Appendix L

If your answer is "No", explain your proposed method of preventing bank erosion.

Outfall is sited approximately 1550 feet offshore of the mean high water line; therefore, no erosion control is necessary.

## APPENDIX S NEW DREDGING PROJECTS

\* Please make sure that answers to all of the questions in this appendix correspond to the information on the application drawings.

\* See Joint Application Form Reference Guide - "How to Calculate Square Feet, Cubic Feet and Cubic Yards."

### 1. CLASSIFICATION OF CREEK TO BE DREDGED

How is the creek classified according to the State dredging program's classification system?

Is it open to dredging, open to dredging but requiring further study, or restricted due to environmental sensitivity? See example "Classification System" on page 54 of this application. For further explanation, refer to Section 2.0 of the "Goals and Objectives - Creek Evaluation Dredging Criteria" dated April, 1986.

Open to dredging.

Step One: If the creek to be dredged is "restricted", an application cannot be accepted.

Step Two: If the creek is "open" to dredging, the applicable parts of this application must be completed.

Step Three: If the creek is "open" to dredging but requiring further analysis, submit information requested as part of procedure outlined on page 4 and further explained in Section 2.4 of the Dredging Study.

### 2. SITE LOCATION OF DREDGING PROJECT

Locate the project site with respect to the county, creek, tributary (enclose 8-1/2" x 11" map). Located approximately 1550 feet outshore of the mean high water line in the Delaware River, at river mile 78.8 in New Castle County, Delaware.

### 3. DESCRIPTION OF DREDGING PROJECT

Describe the proposed project including the equipment to be used, quantity of material to be dredged, extent of area to be dredged, place and method of disposal, etc. Detail is important.

Refer to section III B.

### 4. PURPOSE OF PROPOSED DREDGING PROJECT

Define the purpose and need of the proposed dredging project. Who will benefit?

To accommodate a 10,000 ton coal barge, the berth must be dredged to 25' below mean low water. The barge berth provides the power plant with an uninterrupted supply of coal to be used for the generation of steam and electricity.

Submit color photos of the site and bordering upland with explanation of the views shown (prints only).



Appendix S, continued

**10. CHARACTERIZE THE EXISTING WATER QUALITY**

- a. Determine the classification of the stream according to state water quality criteria. Will the dredging project cause violations of the water quality criteria? Will designated water uses be affected?

Open to dredging. All State water quality standards will be complied with. No water uses will be affected.

- b. Determine levels of dissolved oxygen (D.O.) in and around the project area. Measure D.O. at the water/substrate interface during worst case conditions (i.e., summer morning).

D.O. values seldom fall below 4.0 mg/l. Mean measurements ranged from 10.0 to 5.6 mg/l, respectively, during the April through July, 1990 period (Biosystems Analysis, Inc., 1990).

**11. IMPACT TO THE BOTTOM CONTOURS OF THE BAY OR CREEK**

- a. What is proposed dredging depth in relation to surrounding bathymetry? Provide map showing surrounding depths.

Adjacent anchorage is maintained by the U. S. Army Corps of Engineers to 40' below MLW. The dredging area will be dredged to 25 feet below MLW. A sounding plan is excluded with the application.

- b. Will the project change flow or circulation patterns in the bay or creek? Will shoalings patterns be altered?

No change in flow or circulated patterns are anticipated.

**12. IMPACT TO SURROUNDING LANDS**

What is the proximity of the dredging project to the nearest creek bank or banks? What are the existing land uses along this bank(s)? What is the primary vegetation?

The dredging area is 1550 outshore of the MHWL. The bank is primarily forested wetlands.

**13. What measures will be taken during the dredging operation to minimize environmental impact?**

All dredging will be conducted so as to avoid anadromous fish migration. refer to Section VII, A for further details.



Appendix S, continued

c. Describe the proposed method of containment for the dredged material.

Earthen dikes.

d. How much acreage is required for the quantity of material being disposed of?

The approved disposal site has an extremely large holding capacity of 8 million cubic yards.

f. What measures will be taken to reduce potential environmental impact?

N/A, the disposal area is an approved site.

g. What is estimated life of the dredge spoil disposal site?

Current remaining capacity is 8 million cubic yards.

e. Provide an engineering drawing of the proposed disposal facility.

N/A, approved disposal site.

20. Has an Erosion and Sediment Control Plan been approved by the country conservation district for the project?  Yes  NO  N/A

• Approved plans must be received by this office prior to approval being issued.

**SAMPLING PLAN FOR NEW DREDGING PROJECTS**

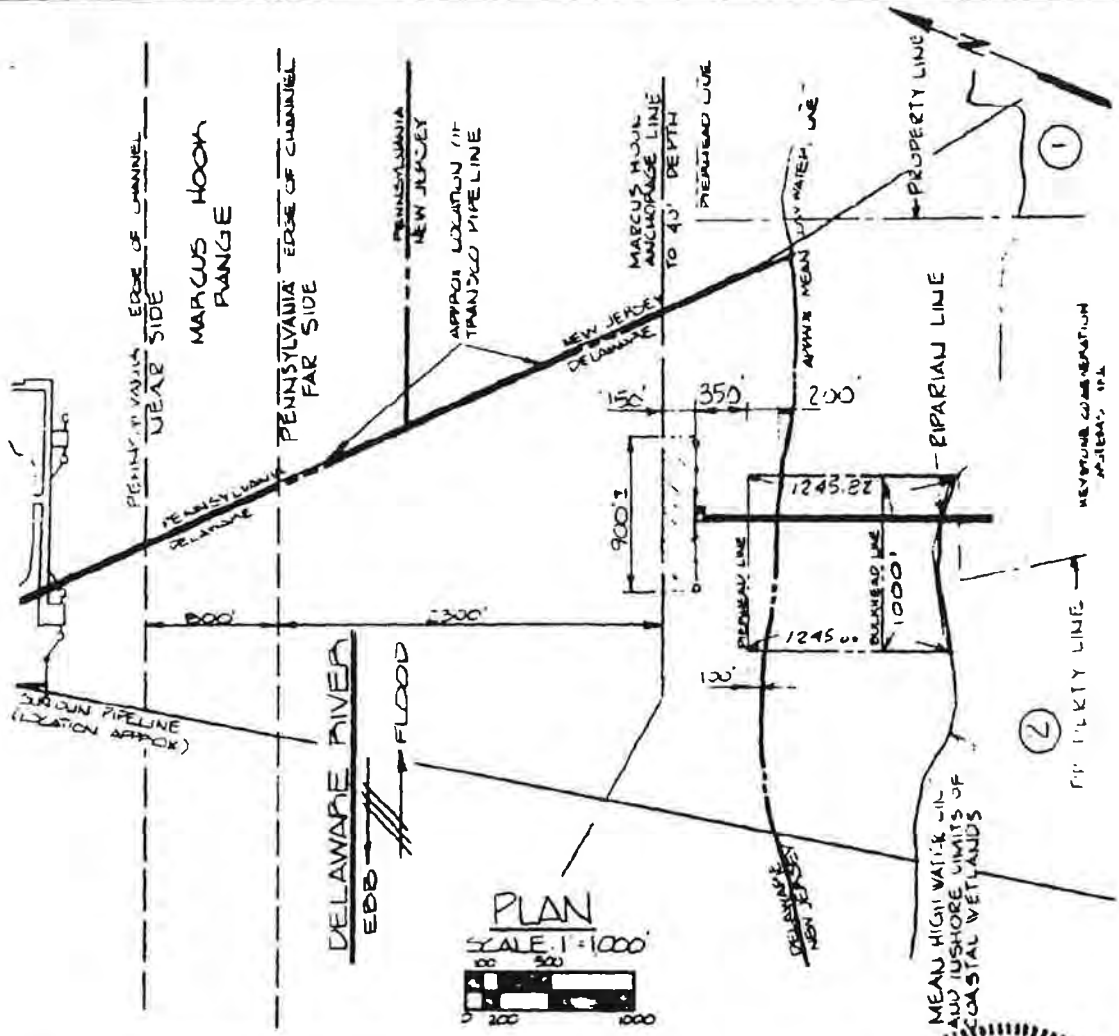
1. Physical and Chemical Analysis of Sediment See enclosed EMA Dredge Spoil Analysis Report located in the Appendix.

- a. Particle size distribution and percent solids analysis on core samples taken to depth of proposed dredging. Percentage sand, silt and clay should be given based on:  
sand: Greater than or equal to 0.0625mm  
silt: Less than 0.0625mm but greater than 0.0039mm  
clay: Less than 0.0039mm

b. Bulk sediment analysis (mg/kg) on core samples taken to depth of proposed dredging for parameters on page 55 of this application.

c. Elutriate analysis (mg/l) on core samples taken to depth of proposal dredging for parameters listed on page 55 of this application. Dredge site water should be used for the dilution water.

d. Surface water analysis (mg/l) on one composite sample from dredging area for parameters listed on Chemical Parameters, for Analysis, page 55 of this application.



**PURPOSE:** NEW COAL PIER  
**ADJACENT PROPERTY OWNERS:**  
 ① MONSANTO CHEMICAL CO  
 ② SUN REFINING AND MARKETING COMPANY  
 15/16/91 REV PER DECHTEL  
 DWG 20514 SK-NEK REV 0

**NOTE:**  
 FINAL DESIGN  
 REQUIRED FOR  
 CONSTRUCTION



Alan L. Flinn P.E. ALAN L. FLINN P.E.  
 LICENSE No. 18281 LICENSE No. 3364

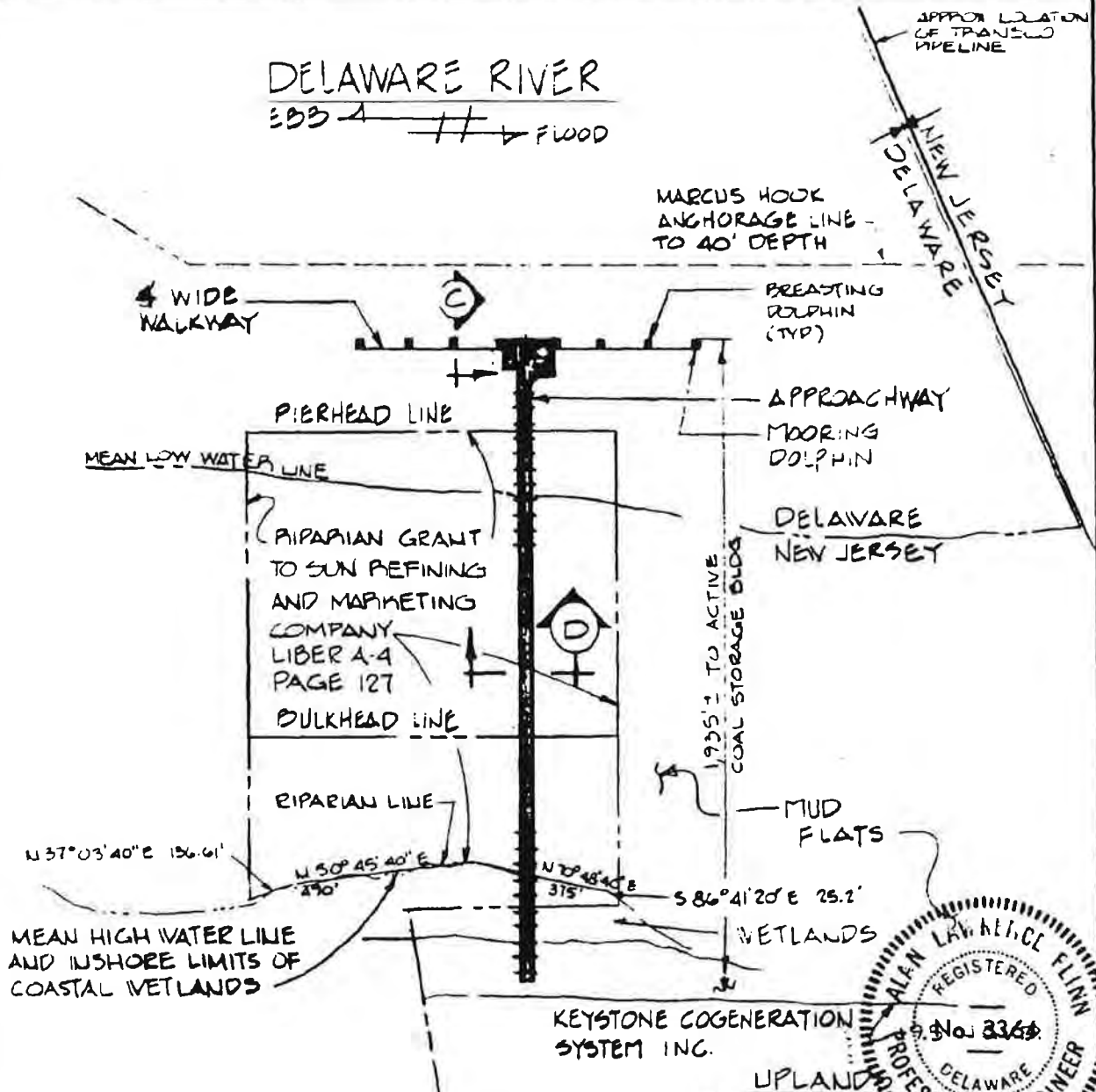
**S. T. HUDSON ENGINEERS, INC.**  
 HUDSON SQUARE  
 800 COOPER STREET  
 CAMDEN, NEW JERSEY 08102

FILE NO: K-2023  
 CONT NO: H-4103  
 SHEET: 1 OF 11  
 DATE: 1-30-91

**PROPOSED:** COAL LOADING PIER  
**AT:** LOGAN TOWNSHIP, NEW JERSEY  
 BRANDYVINE HUNDRED, DELAWARE  
**COUNTY OF:** LEWIS CASTLE, DELAWARE  
 GLOUCESTER NEW JERSEY  
**APPLICATION BY:** KEYSTONE COGENERATION SYSTEMS INC.

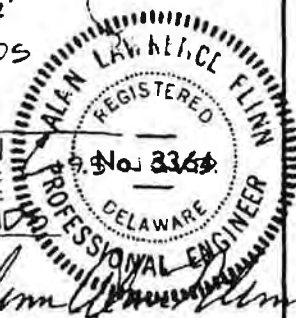
# DELAWARE RIVER

EBB  $\leftarrow$   $\rightarrow$  FLOOD



KEYSTONE COGENERATION SYSTEM INC.

UPLAND

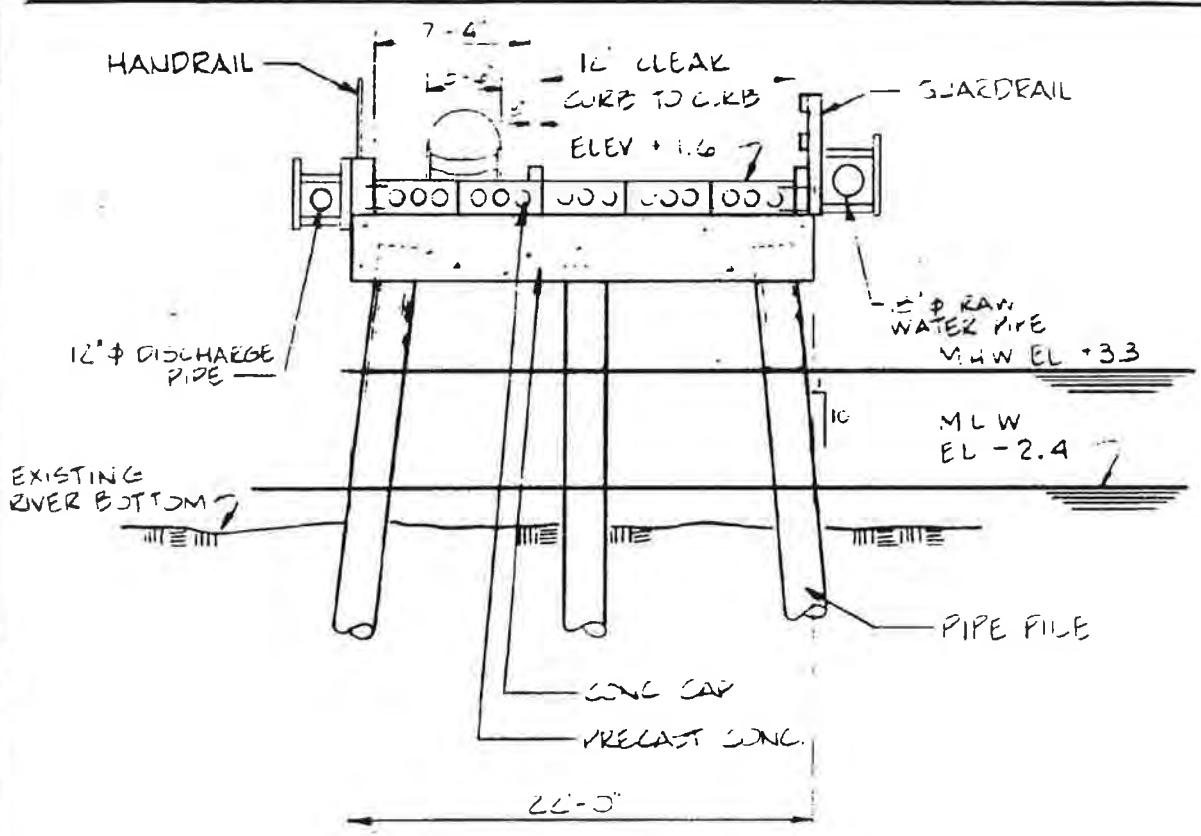


PLAN *Alan Flinn*  
SCALE: 1" = 400'

FILE NO.: K-2023  
CONT. NO.: H-4103  
SHEET: 2 of 11  
DATE: 1-30-91 AG.

ALAN L. FLINN P.E. ALAN L. FLINN P.E.  
LICENSE No. 10281 LICENSE No. 3364

Δ 512091 REV. PER TECHTEL DWG 2059- SK-PIER REV "B"		PROPOSED: COAL UNLOADING PIER AT: LOGAN TOWNSHIP NEW JERSEY COUNTY OF: NEW CASTLE DELAWARE GLOUCESTER, NEW JERSEY APPLICATION BY: KEYSTONE COGENERATION SYSTEMS INC.
S. I. HUDSON ENGINEERS, INC. HUDSON SQUARE 800 COOPER STREET CAMDEN, NEW JERSEY 08102	NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION	



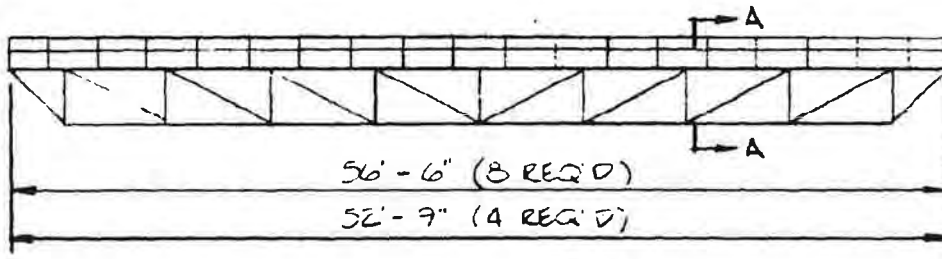
APPROACHWAY  
SECTION  
 SCALE: 1/8" = 1'-0"



*Alan L. Flinn*  
 ALAN L. FLINN P.E.  
 LICENSE No. 18251

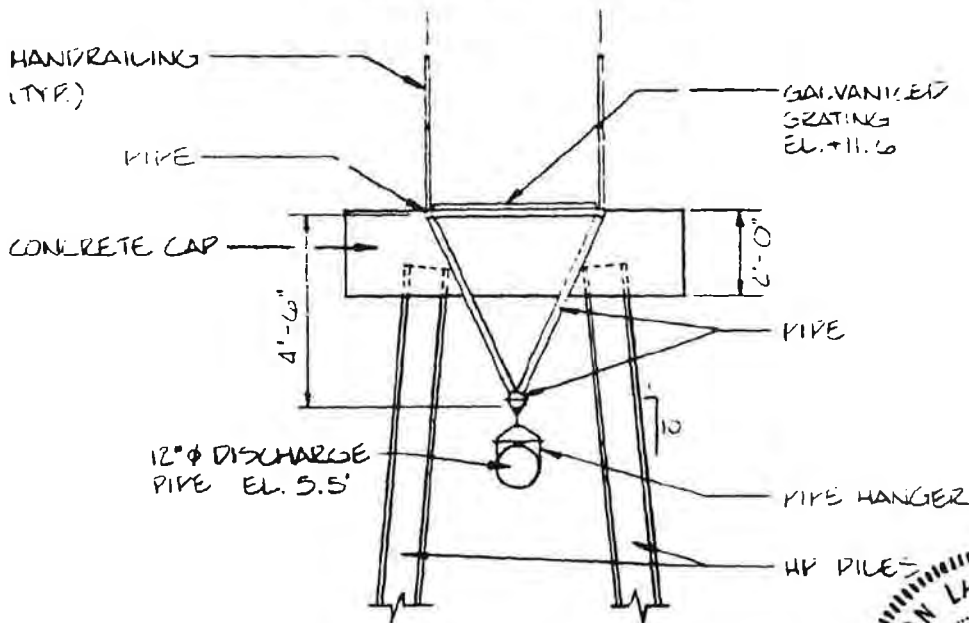
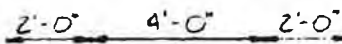
FILE NO: K-2023  
 CONT NO: 4103  
 DATE: 1-30-91  
 SHEET: 3 OF 11

1-30-91 REV PER BECHTEL DWS 20517-DK PER REV 'B'	PROPOSED: COAL UNWADING P.E.C. AT: LOGAN TOWNSHIP NEW JERSEY BRANDYWINE HUNTERDON DELAWARE COUNTY OF: NEW CASTLE DELAWARE SOUTHESTER NEW JERSEY APPLICATION BY: KEYSTONE LOGGING & SYSTEMS INC.
S. T. HUDSON ENGINEERS, INC. HUDSON SQUARE 800 COOPER STREET CAMDEN, NEW JERSEY 08102	NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION



TYPICAL CATWALK SPAN

N.T.S.



CATWALK SECTION

SCALE: 1/4" = 1'-0"



*Alan L. Flinn*

FILE NO.: K-2022  
CONT NO.: H-4103  
DATE: 1-30-91  
SHEET: 4 OF 11

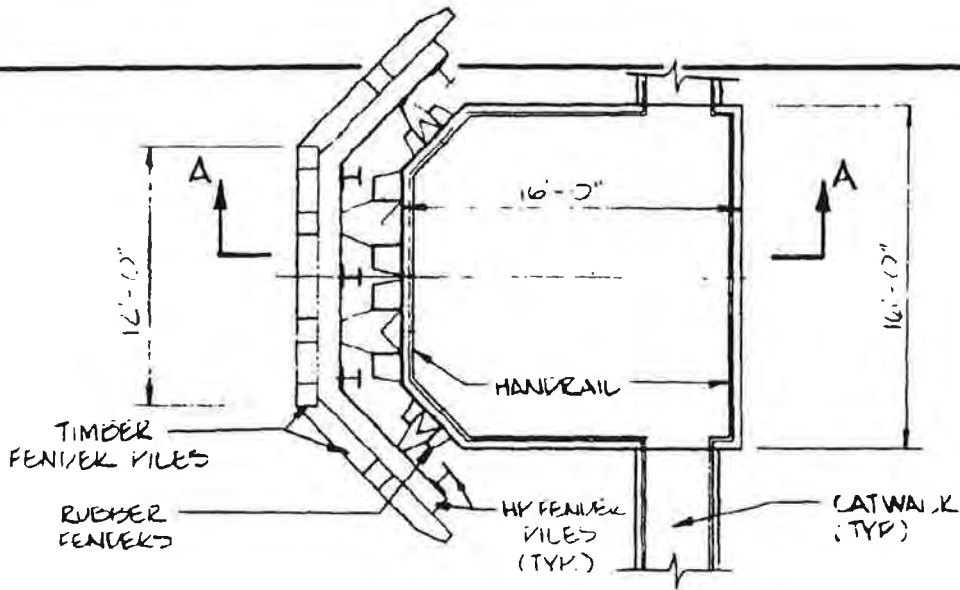
ALAN L. FLINN P.E. LICENSE No. 3364  
ALAN L. FLINN P.E. LICENSE No. 16251

KEY PER BECHTEL DWG 20519-SK-PIER REV "B"

PROPOSED: SOAL UNLOADING PIER  
AT: BRANDY WINE TOWNSHIP NEW JERSEY  
COUNTY OF: NEW CASTLE DELAWARE  
APPLICATION BY: KEYSTONE COGENERATION SYSTEMS, INC.

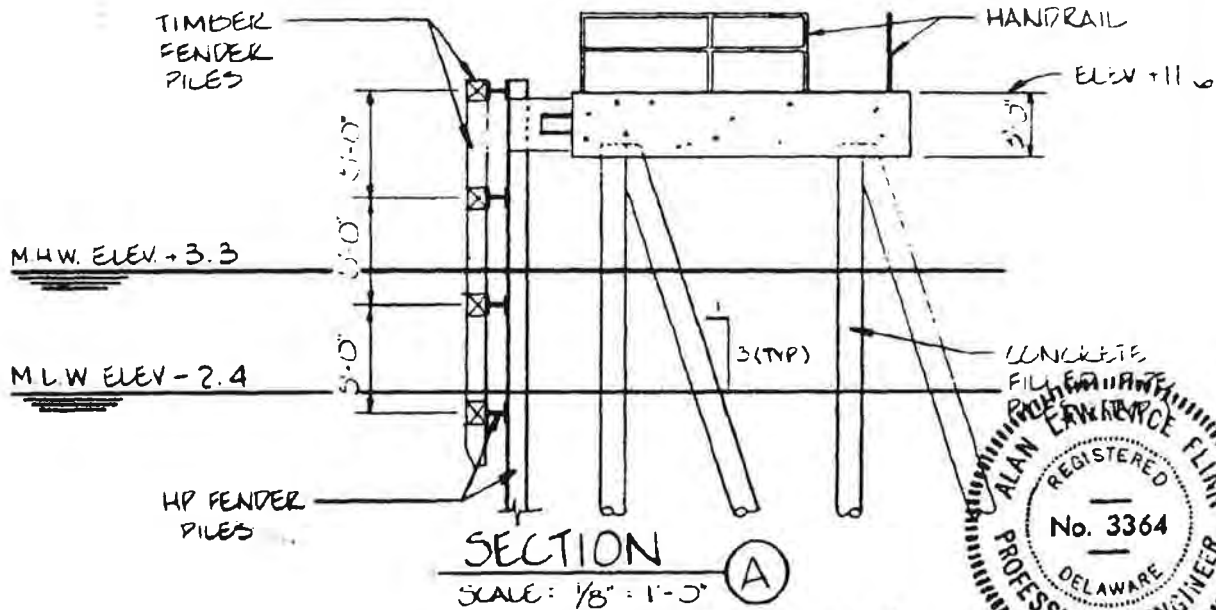
S. T. HUDSON ENGINEERS, INC.  
HUDSON SQUARE  
800 COOPER STREET  
CAMDEN, NEW JERSEY 08102

NOTE:  
FINAL DESIGN  
REQUIRED FOR  
CONSTRUCTION



**BREASTING DOLPHIN**

SCALE: 1/8" = 1'-0"



**SECTION A**  
SCALE: 1/8" = 1'-0"



FILE NO. : K-2023  
 CONT NO. : H-4103  
 DATE : 1-30-91  
 SHEET : 5 OF 11

JDS

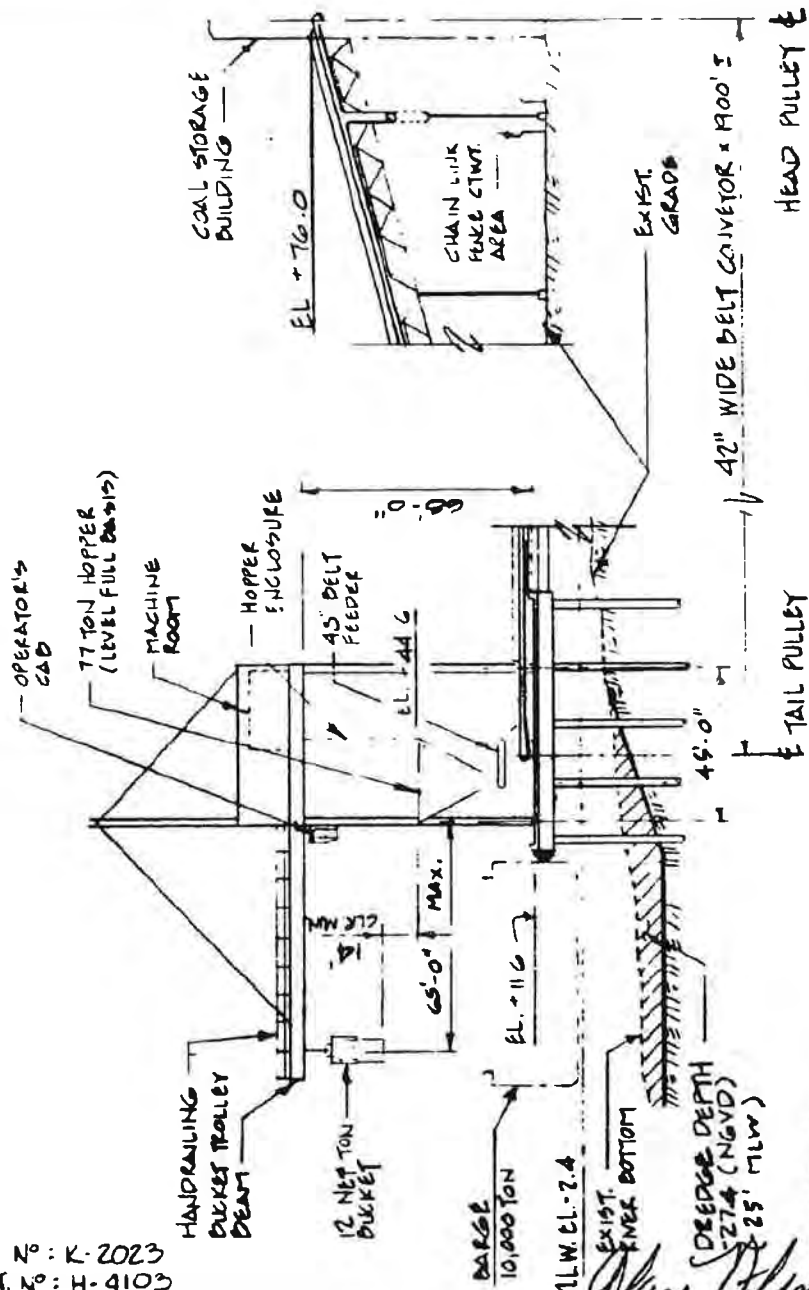
*Alan Flinn*

ALAN L. FLINN P.E.  
 LICENSE No. 3364

ALAN L. FLINN P.E.  
 LICENSE No. 18251

5/20/91 REV PER DELTEL DWG. 20519-SK-PIER REV "B" JDS		PROPOSED: COAL UNLOADING PIER AT: LOGAN TOWNSHIP, NEW JERSEY BRANDYWINE HUNDRED, DELAWARE COUNTY OF: NEW CASTLE, DELAWARE GLOUCESTER, NEW JERSEY APPLICATION BY: KEYSTONE WGENERATION SYSTEMS INC
S. T. HUDSON ENGINEERS, INC. HUDSON SQUARE 800 COOPER STREET CAMDEN, NEW JERSEY 08102	NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION	





NOTE  
ALL ELEVATIONS  
ARE NGVD DATUM

ELEVATION  
SCALE: 1" = 30'-0"

FILE NO: K-2023  
CONT. NO: H-4103  
SHEET: 7 of 11  
DATE: 1-30-91

AG

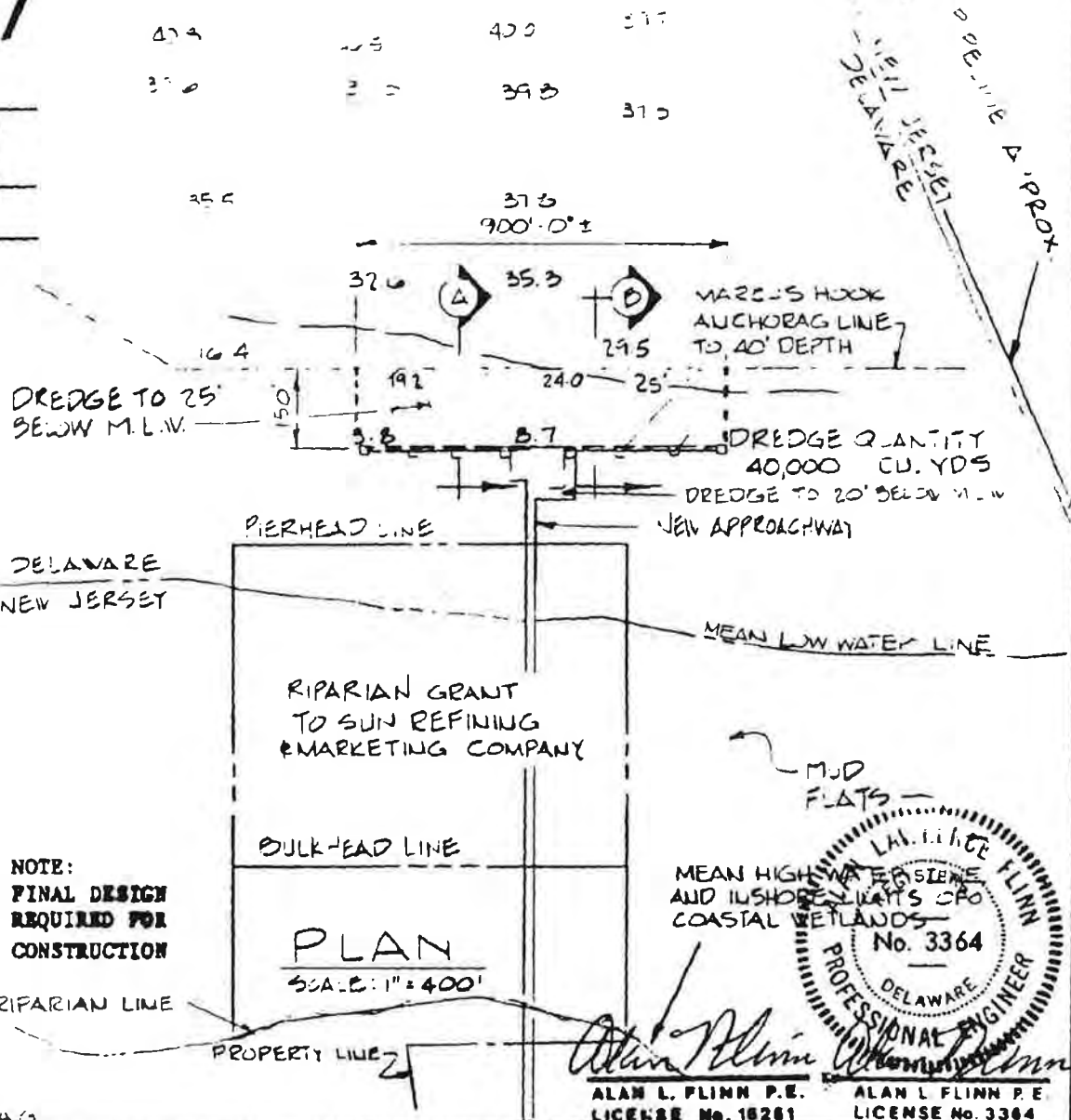
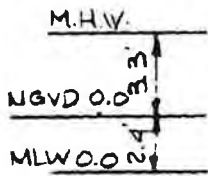
ALAN L. FLINN P.E. LICENSE No. 10281  
ALAN L. FLINN P.E. LICENSE No. 3364



5/20/91 REV. PER BECHTEL DWG E0519-S4 PIER REV "B" JBS		PROPOSED: COAL UNLOADING PIER	
S. T. HUDSON ENGINEERS, INC. HUDSON SQUARE 800 COOPER STREET CAMDEN, NEW JERSEY 08102		AT: LOGAN TOWNSHIP, NEW JERSEY BRAUDYVINE HUNDRED, DELAWARE COUNTY OF: NEW CASTLE, DELAWARE GLOUCESTER, NEW JERSEY	
NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION		APPLICATION BY: KETSON-3 COGENERATION SYSTEMS, INC.	

# DELAWARE RIVER

EBB ← ||| → FLOOD



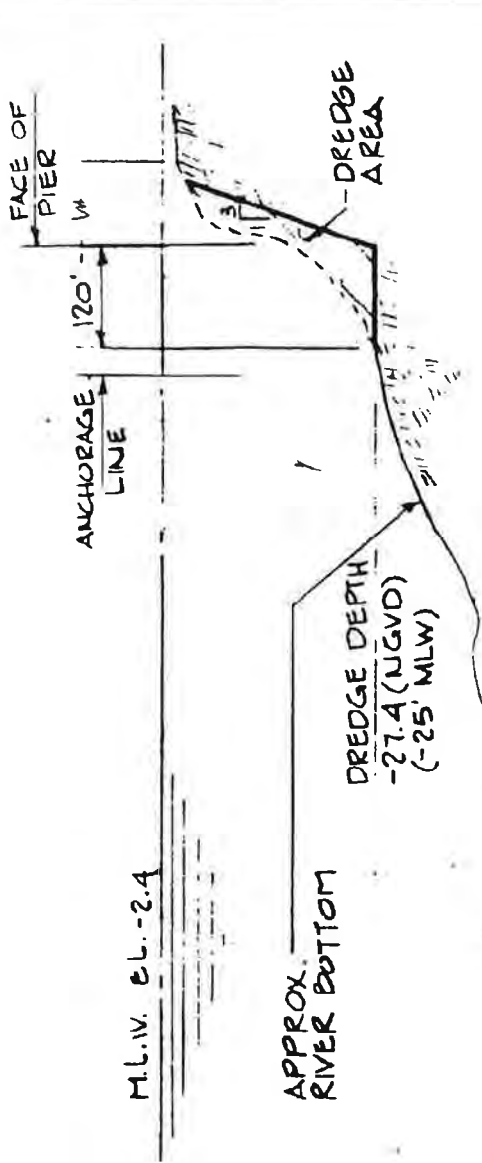
NOTE:  
FINAL DESIGN  
REQUIRED FOR  
CONSTRUCTION

**PLAN**  
SCALE: 1" = 400'

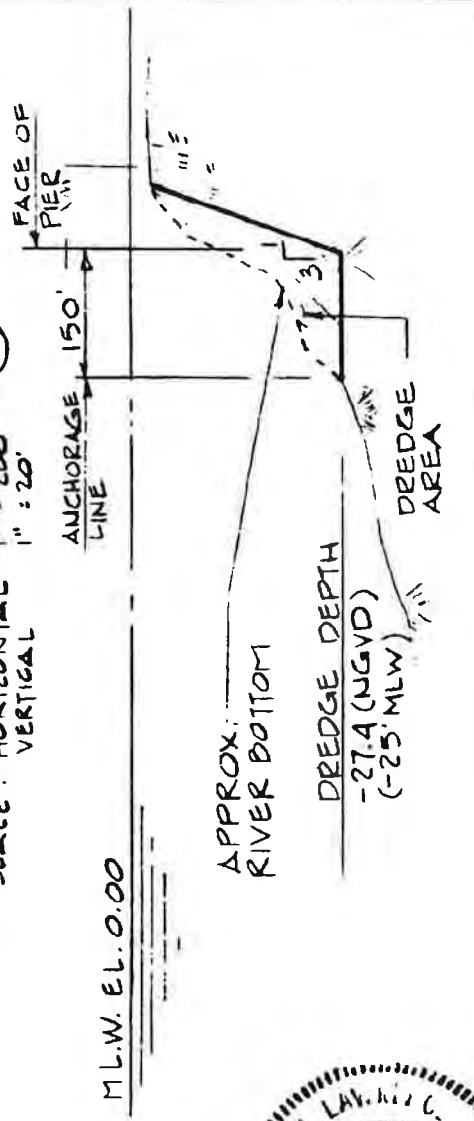
MEAN HIGH WATER SYSTEMS  
AND INSHORE WETLANDS OF  
COASTAL WETLANDS  
No. 3364  
DELAWARE  
PROFESSIONAL ENGINEER

*Alan L. Flinn*  
ALAN L. FLINN P.E. LICENSE No. 18261  
ALAN L. FLINN P.E. LICENSE No. 3364

A 512971 REV. PER BECHTEL DWG 2059-SK PER REV "B"	PROPOSED: COAL UNLOADING PIER AT: LOGAN TOWNSHIP NEW JERSEY SANDYVINE HUNDRED, DELAWARE COUNTY OF: NEW CASTLE, DELAWARE GLOUCESTER, NEW JERSEY
S. T. HUDSON ENGINEERS, INC. HUDSON SQUARE 800 COOPER STREET CAMDEN, NEW JERSEY	FILE NO.: K-2023 CONT NO.: H-4103 SHEET 5 OF 11



**SECTION B**  
 SCALE: HORIZONTAL 1" = 200'  
 VERTICAL 1" = 20'



**SECTION A**  
 SCALE: HORIZONTAL 1" = 200'  
 VERTICAL 1" = 20'

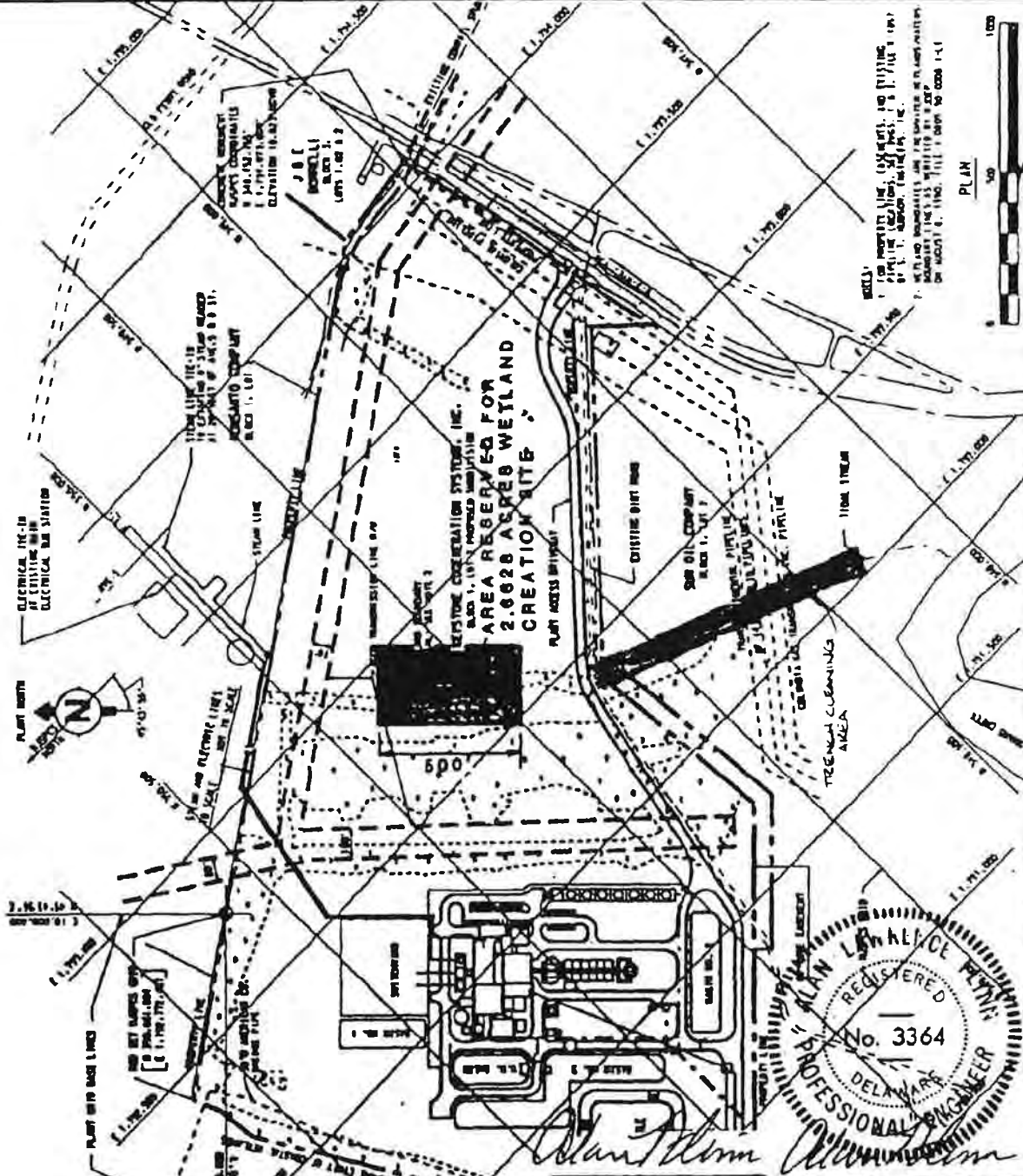


*Alan Flinn*  
 ALAN L. FLINN P.E. ALAN L. FLINN P.E.  
 LICENSE No. 78361 LICENSE No. 3364

FILE NO: K-2023  
 CONT NO: H-4103  
 SHEET: 9 of 11  
 DATE: 1-30-91

A.G.

5/20/91 REV PER BECHTEL DWG 20519-SK-PIER REV. "B"		PROPOSED: COAL UNLOADING PIER	
S. T. HUDSON ENGINEERS, INC. HUDSON SQUARE 800 COOPER STREET CAMDEN, NEW JERSEY 08102		LOGAN TOWNSHIP, NEW JERSEY AT: BRANDYWINE HUNDRED DELAWARE COUNTY OF: NEW CASTLE, DELAWARE GLOUCESTER, NEW JERSEY	
NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION		APPLICATION BY: KEYSTONE COGENERATION SYSTEMS INC.	



NOTE:  
 FINAL DESIGN SEE SHEET 11 & 11 FOR DETAIL.  
 REQUIRED FOR OF TRENCH CLEANING AND  
 CONSTRUCTION WETLAND CREATION SITE

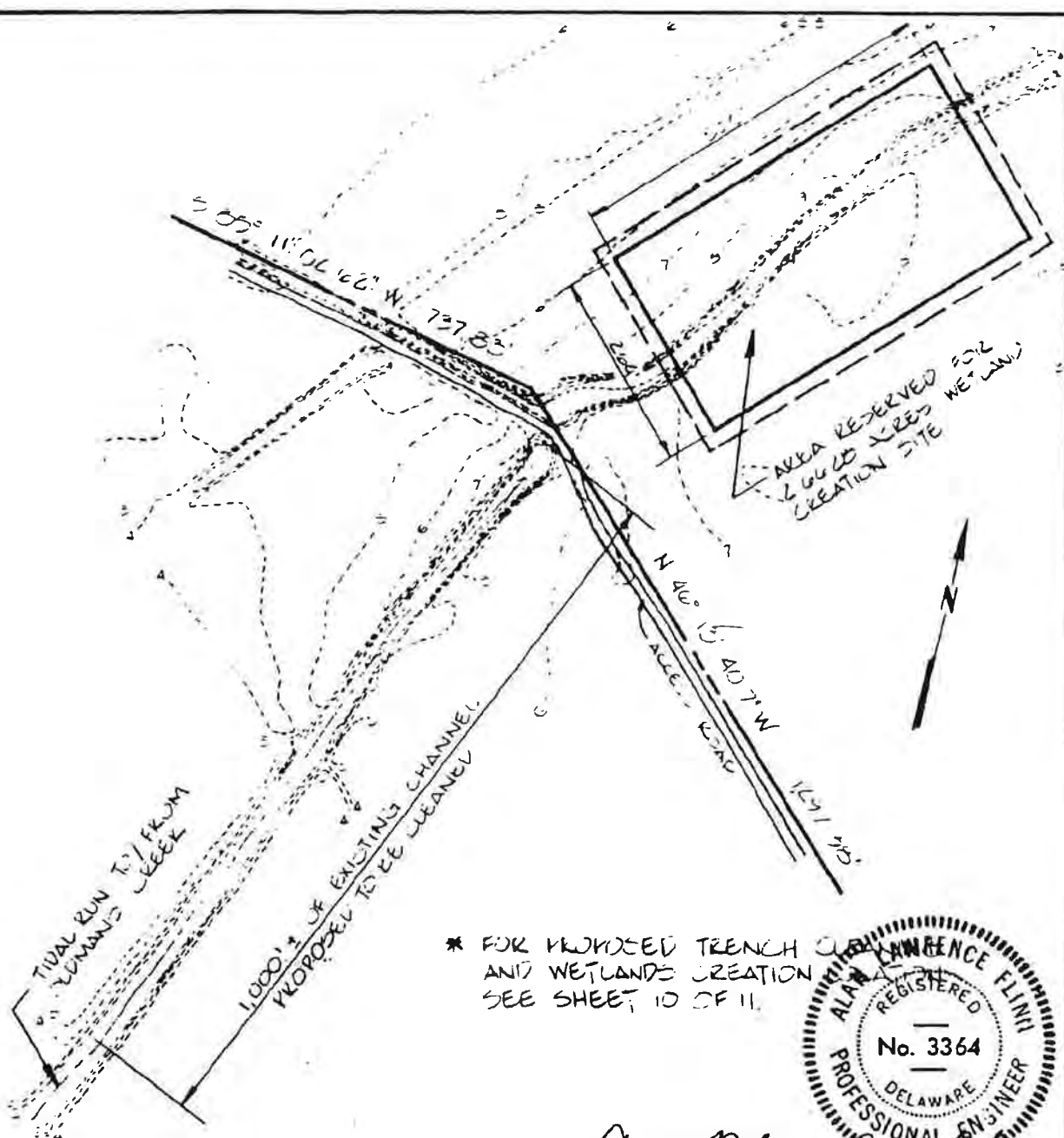
S. T. HUDSON ENGINEERS, INC.  
 HUDSON SQUARE  
 800 COOPER STREET  
 CAMDEN NEW JERSEY 08102

FILE NO: K-2023  
 CONT. NO: H-4103  
 SHEET: 10 of 11  
 DATE: 5-22-91

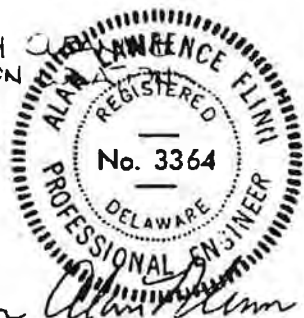
ALAN L. FLINN P.E.  
 LICENSE No. 10281

ALAN L. FLINN P.E.  
 LICENSE No. 3364

PROPOSED: COAL UNLOADING PIER  
 AT: LOGAN TOWNSHIP, NEW JERSEY  
 BRANDYWINE HUNDRED, DELAWARE  
 COUNTY OF: NEW CASTLE, DELAWARE  
 GLOUCESTER, NEW JERSEY  
 APPLICATION BY: KEYSTONE COGENERATION SYSTEMS, INC.



\* FOR PROPOSED TRENCH AND WETLANDS CREATION SEE SHEET 10 OF 11.



*Alan L. Flinn*  
 ALAN L. FLINN P.E. ALAN L. FLINN P.E.  
 LICENSE No. 16251 LICENSE No. 3364

FILE NO: K-4102  
 CONT NO: H-4102  
 SHEET: 11 OF 11  
 DATE: 5-22-91

S. T. HUDSON ENGINEERS, INC.  
 HUDSON SQUARE  
 800 COOPER STREET  
 CAMDEN, NEW JERSEY 08102

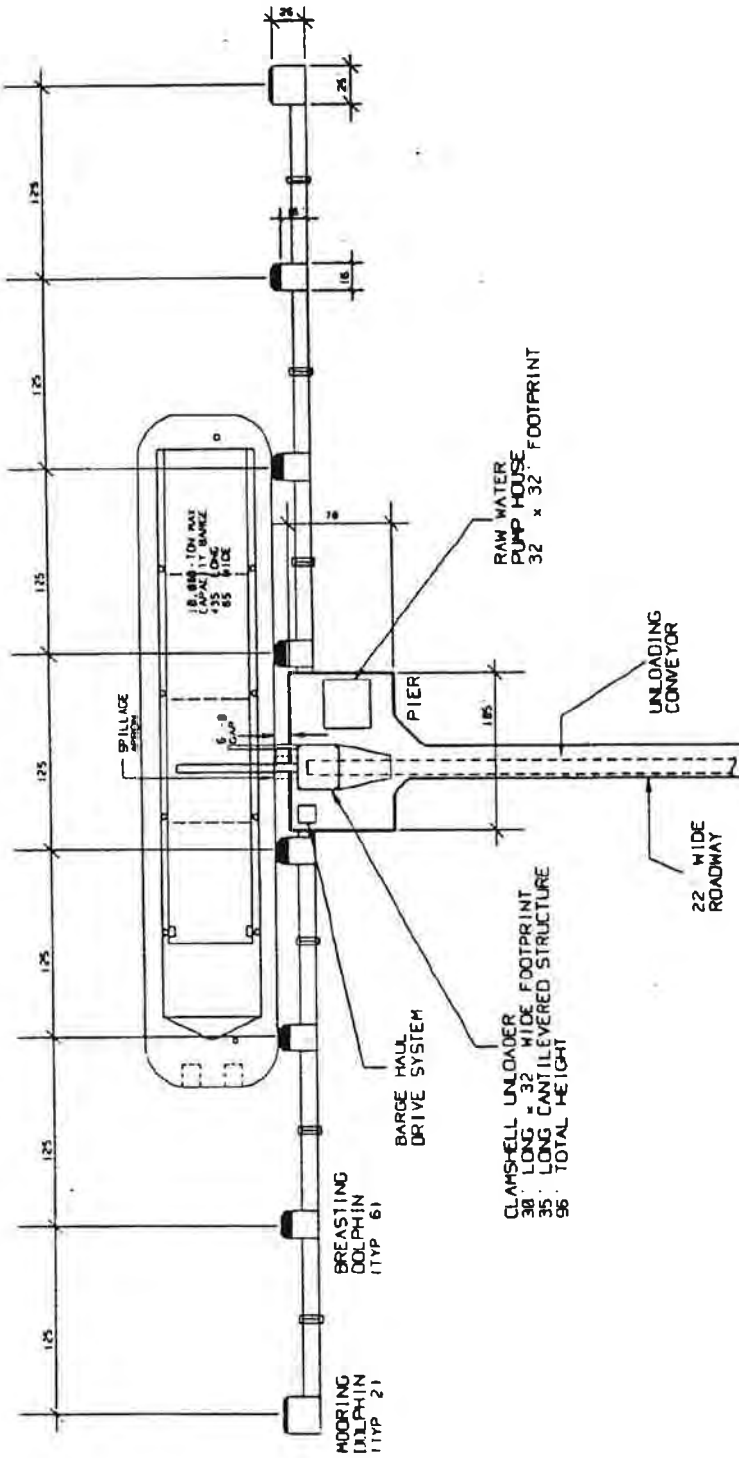
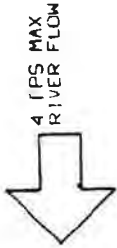
NOTE:  
 FINAL DESIGN  
 REQUIRED FOR  
 CONSTRUCTION

PROPOSED: COAL UNLOADING TIER  
 AT: LOGAN TOWNSHIP NEW JERSEY  
 DEANYSWINE HUNTERS, DELAWARE  
 COUNTY OF: NEW CASTLE DELAWARE  
 GLOUCESTER NEW JERSEY  
 APPLICATION BY: KEYSTONE CONSTRUCTION SYSTEMS INC.

**A-1**

**OVERHEAD VIEW OF BARGE  
UNLOADING FACILITY**

DELLAWARE  
RIVER



KEYSTONE COGENERATION PROJECT  
PLOT PLAN  
BARGE UNLOADING FACILITY  
M73-K-04

**A-2**

**SIDE VIEW OF BARGE  
UNLOADING FACILITY**

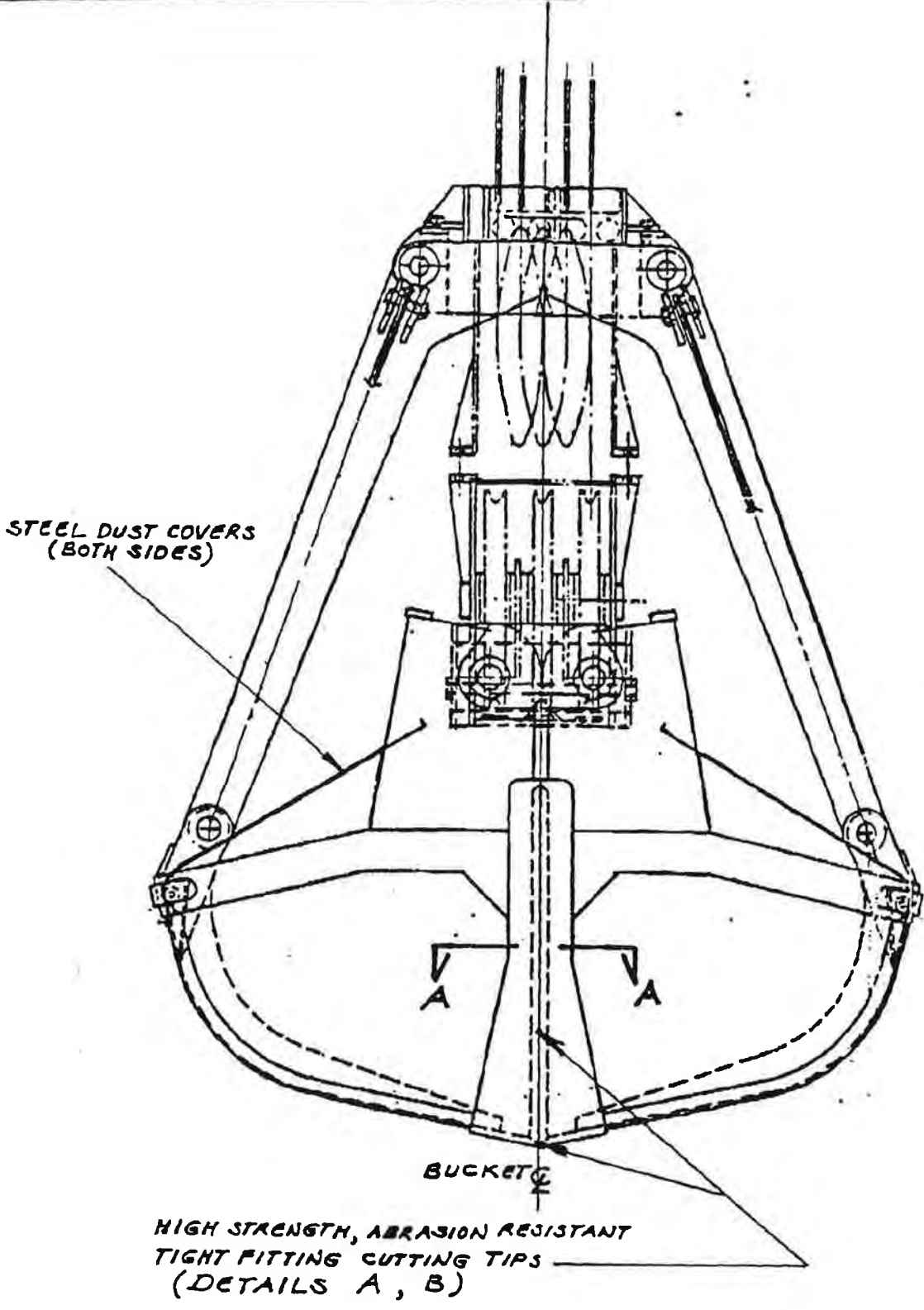




**A-3**

**FRONT VIEW OF CLAMSHELL  
BARGE UNLOADER BUCKET**

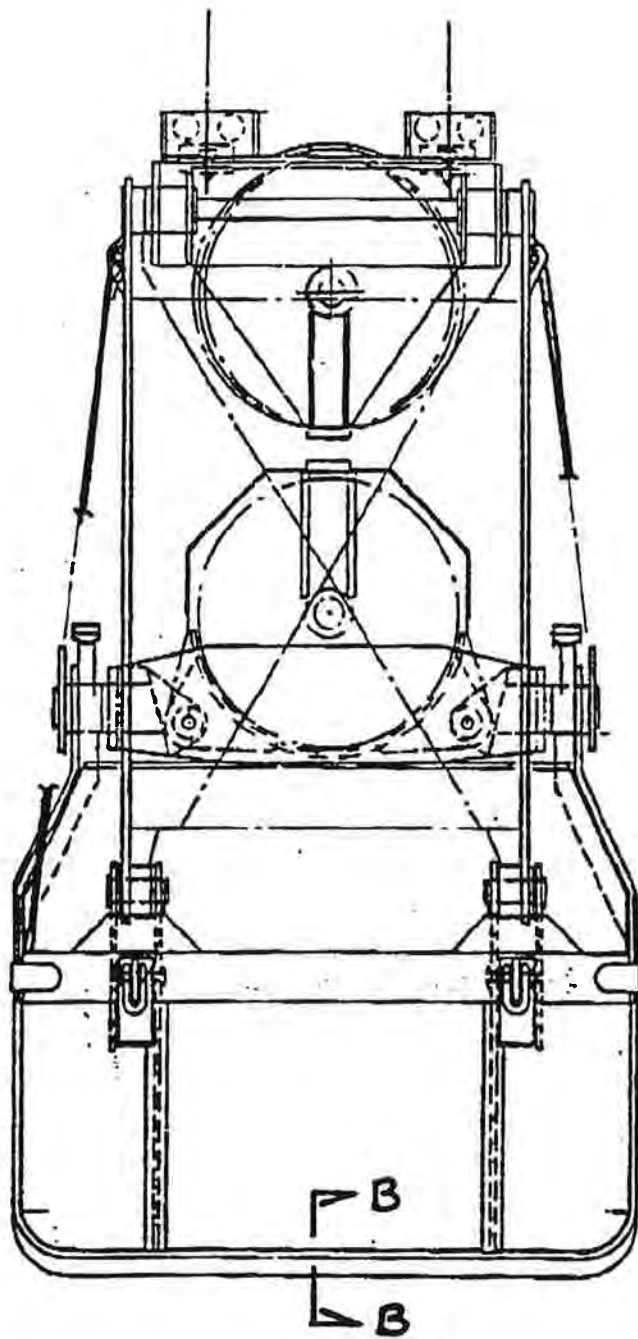
KEYSTONE COGENERATION PROJECT



CLAMSHELL BARGE UNLOADER BUCKET  
FRONT VIEW

**A-4**

**SIDE VIEW OF CLAMSHELL  
BARGE UNLOADER BUCKET**



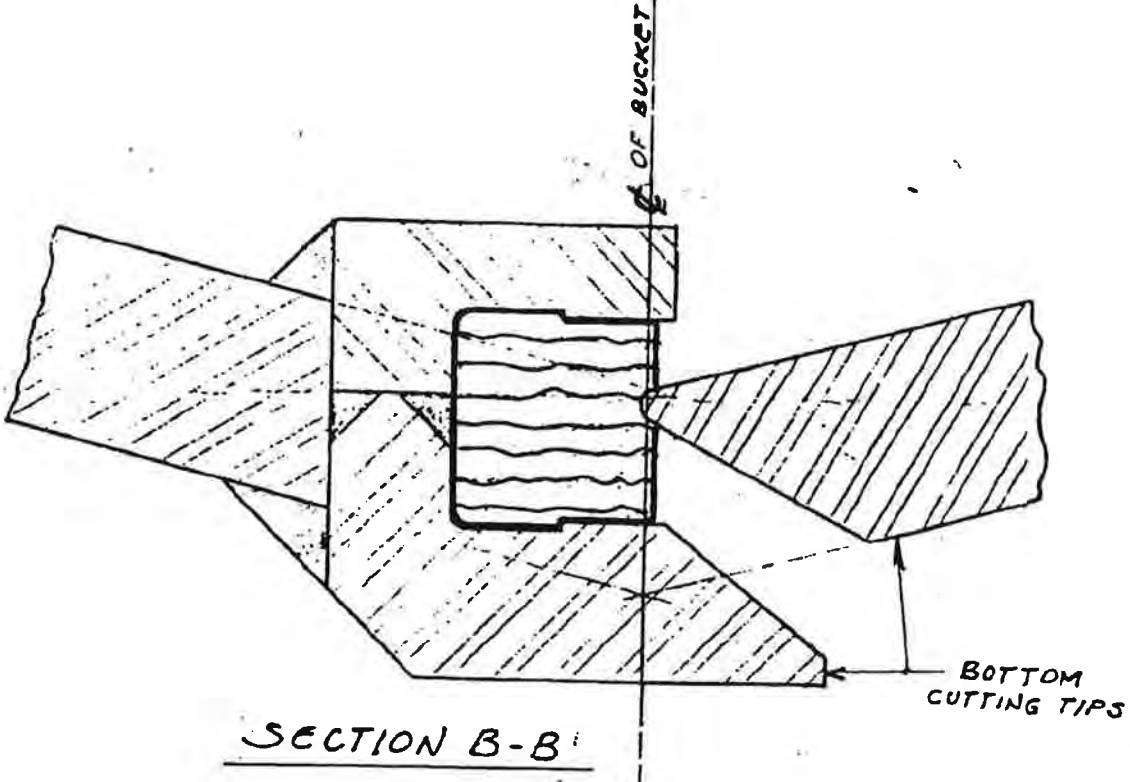
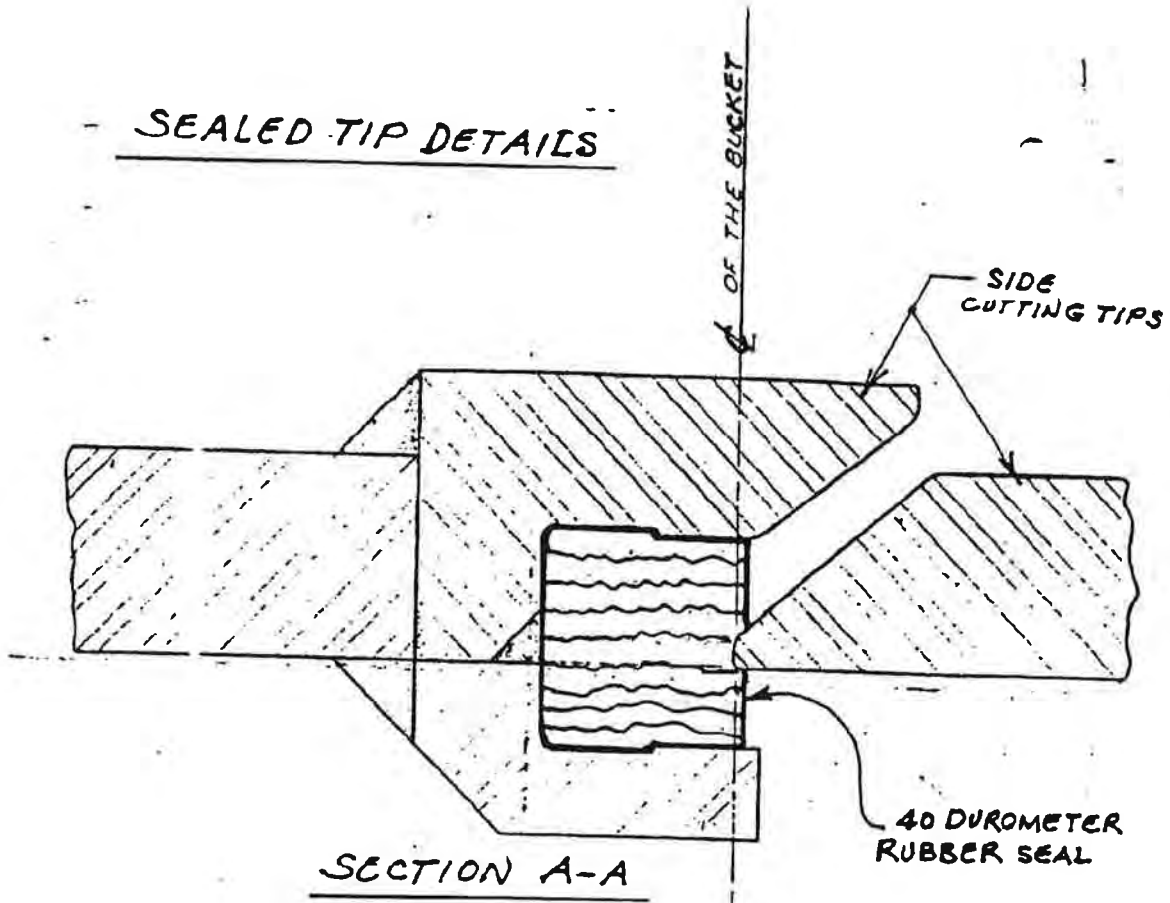
*CLAMSHELL BARGE UNLOADER BUCKET  
SIDE VIEW*

---

**A-5**

**DETAILED VIEW OF SEALED-TIPS OF  
CLAMSHELL BARGE UNLOADER BUCKET**

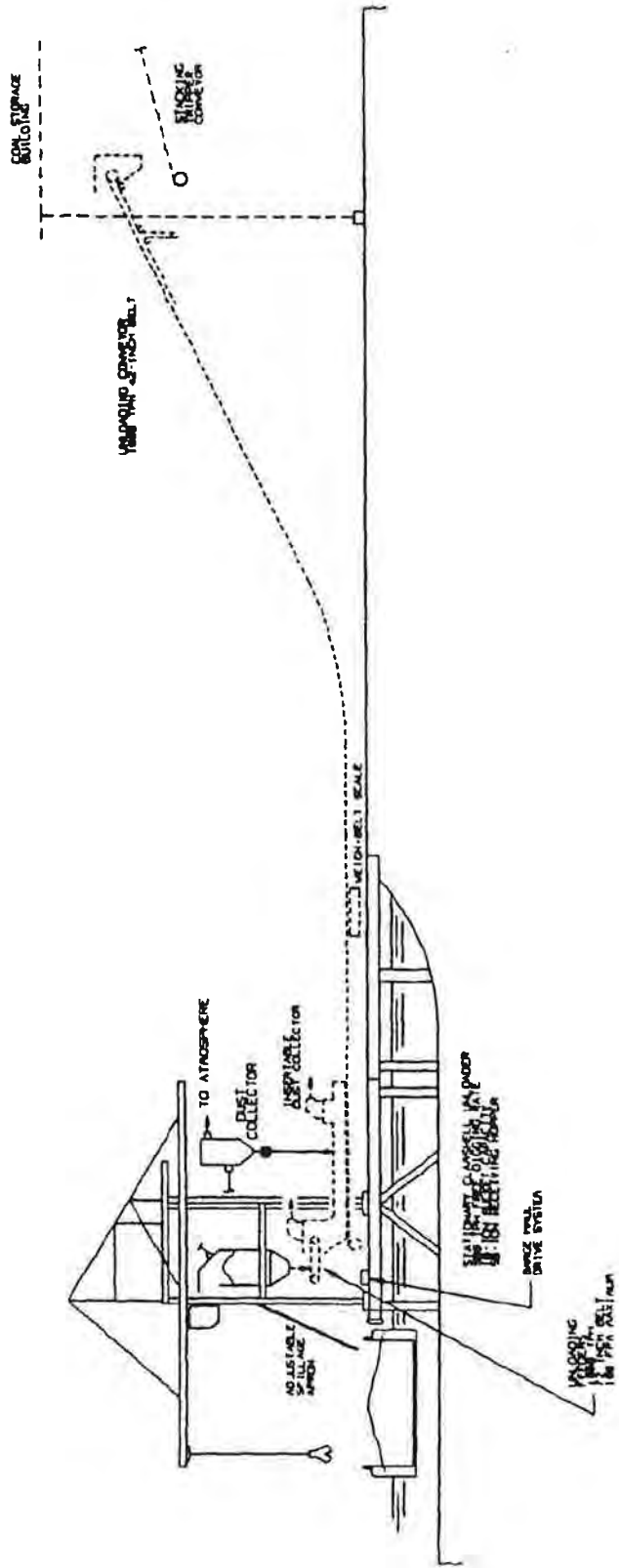
SEALED TIP DETAILS



**A-6**

**SIDE VIEW OF BARGE UNLOADING FACILITY  
AND UNLOADING CONVEYER**





KEYSTONE COGENERATION PROJECT  
 BARGE UNLOADING SYSTEM  
 FLOW DIAGRAM M73-JK03

REV. 1

**A-7**

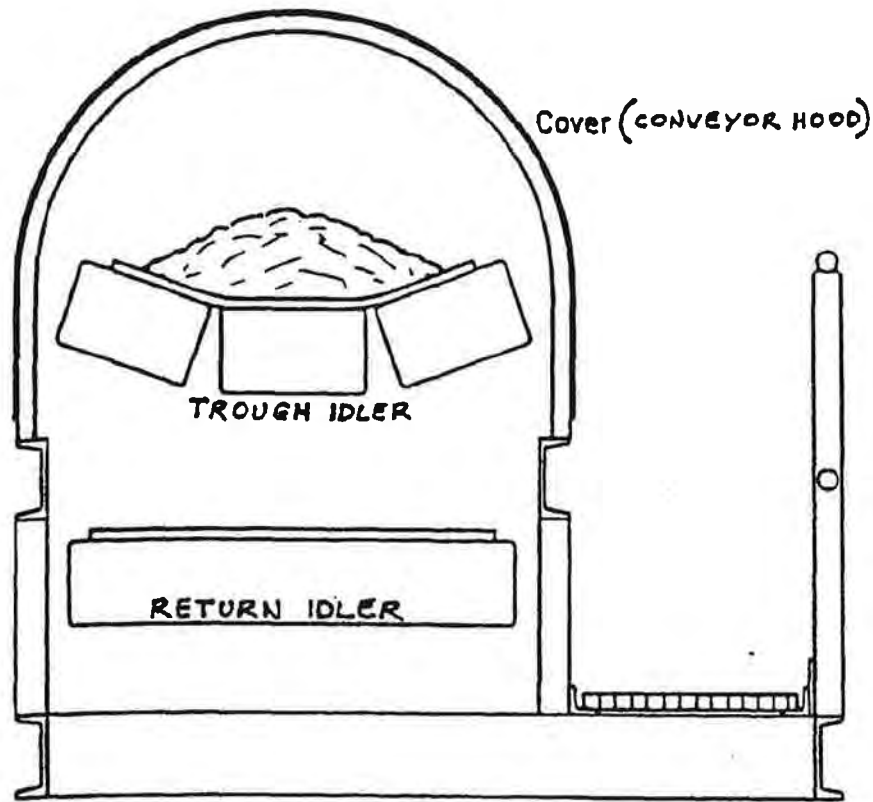
**CROSS SECTION - UNLOADING  
CONVEYOR**



# CALCULATION SHEET

JOB NO. 20519-106	CALC. NO. KEYSTONE	REV. NO. 1	SHEET NO. 1/1
ORIGINATOR GRACE A. MOORE	DATE 5-30-91	CHECKED J.S. Alindogan	DATE 6/5/91

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



UNLOADING CONVEYOR  
CROSS SECTION

NOTE :

- Primary and secondary belt cleaners will be provided for the return belt side at the conveyor head end.
- Belt plow scrapers will be provided at the take-up and tail end sections.

CA-2708-Rev 0/90



**DEPARTMENT OF NATURAL RESOURCES  
AND  
ENVIRONMENTAL CONTROL**

**NOTICE OF AUTHORIZATION**

**Permit/Lease No. and Description:** SL-0907/91 To construct an industrial pier on public subaqueous lands and to conduct dredging in the Delaware River

**Issued To:** KEYSTONE COGENERATION SYSTEMS, INC.

**Location of Work:** Logan Township, Gloucester County, New Jersey, Route 130, Lot no. 2, Block no. 1 & Brandywine Hundred, New Castle County, DE

**Date of Expiration:** September 30, 1994

**DISPLAY THIS CERTIFICATE IN A  
HIGHLY VISIBLE LOCATION ON THE  
JOB SITE.**

Doc. No. 09-08/07/08/91

*William F. Moyer*  
William F. Moyer, Supervisor  
Wetlands & Aquatic Protection Branch







STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY P.O. BOX 1401  
DOVER, DELAWARE 19903

SURFACEWATER MANAGEMENT SECTION  
WATERSHED ASSESSMENT BRANCH  
POLLUTION CONTROL BRANCH  
FACILITY SUPPORT BRANCH  
WETLANDS & AQUATIC PROTECTION BRANCH

(302) 739-5726  
(302) 739-4590  
(302) 739-5731  
(302) 739-5081  
(302) 739-4691

October 7, 1991

Keystone Cogeneration Systems, Inc.  
901 Market Street, Suite 721  
Wilmington, DE 19801

Dear Sirs:

Enclosed is the subaqueous lands lease granted by the State of Delaware.

A copy of this lease will be forwarded to the Corps of Engineers.

If you have any questions regarding this approval, feel free to contact this office

Sincerely,

Tracy E. Skrabal  
Program Manager  
Wetlands and Aquatic Protection Branch  
Telephone (302) 739-4691

TES/fr  
pc: Frank Cianfrani  
Enclosure

*Delaware's good nature depends on you!*





STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY, P.O. BOX 1401  
 DOVER, DELAWARE 19903

GROUNDWATER MANAGEMENT SECTION  
 UNDERGROUND DISCHARGES BRANCH  
 WATER SUPPLY BRANCH

(302) 739 - 4556  
 (302) 739 - 4761  
 (302) 739 - 4793

INDUSTRIAL WATER ALLOCATION

ALLOCATION NO: 91-0012  
 EFFECTIVE DATE: October 17, 1991  
 EXPIRATION DATE: October 17, 2021

Pursuant to the provisions of 6010f, 7 Del. C., an allocation of water is hereby granted to:

Keystone Cogeneration Systems, Inc.  
 Suite 721, Market Tower Building, Wilmington, Delaware 19801

for the withdrawal and use of water from the following water facilities:

<u>Intake</u>	<u>Location</u>	<u>Stream</u>	<u>NLatitude</u>	<u>WLongitude</u>	<u>Maximum Pumping Capacity (gpm)</u>
AM-P001A	R.M.78.8	Del. R.	39°47'50"	75°24'53"	3,000
AM-P001B	R.M.78.8	Del. R.	39°47'50"	75°24'53"	3,000

OTHER APPROVALS

1. This approval is subject to review every five years from effective date by the Division of Water Resources.
2. This approval is subject to all appropriate regulations and approvals of the Delaware River Basin Commission (DRBC).
3. Approval for discharge of this water must be obtained from the Division of Water Resources.

EQUIPMENT REQUIREMENTS

1. These intakes must be equipped with either flow integrators, or, where feasible, flow meters, to compute withdrawal rates and cumulative volume of pumpage to a design accuracy of ±5%.

*Delaware's good nature depends on you!*



REPORTING PROCEDURE

1. For these intakes computations of pumping rates and cumulative volume of pumpage must be made and recorded at least daily. This and other relevant information, such as water purchases and sales is to be recorded on forms provided by the Division of Water Resources and submitted by the permit holder to the Division annually by January 31st or more frequently if requested.

ALLOCATION

1. In any twenty-four (24) hour period, pumpage for these intakes must not exceed 4,320,000 gallons.
2. In any thirty (30) day period, pumpage for these intakes must not exceed 105,000,000 gallons.
3. In any twelve (12) month period, pumpage for these intakes must not exceed 990,000,000 gallons.
4. Withdrawals for the facilities listed below shall not exceed the following limits:

<u>Intake #</u>	<u>Permit #</u>	<u>Maximum Pumping Rate (gallons/day)</u>
AM-P001A	8236	4,320,000
AM-P001B	8237	4,320,000

5. These intakes may be used only for the purposes of industrial process/cooling and related uses. Any change in the intended use must receive prior approval from the Division of Water Resources.
6. All laws and regulations governing the construction, operation, maintenance and repair of water-supply facilities in the State of Delaware will be obeyed.
7. Representatives of the Division of Water Resources, Delaware Geological Survey and the U.S. Geological Survey may inspect this facility at any time and may conduct any testing and sampling deemed necessary.
8. This allocation is specifically subject to the requirements of 7 Del. C.s6031.

9. If the withdrawal of water pursuant to this allocation has significant adverse affects including, but not limited to, reduction of streamflows, lowering of water levels, migration of pollutants, or encroachment of salt water, the Division of Water Resources may require action to rectify the problem.
10. This permit is transferable only if the requirements of the Regulations Governing the Allocation of Water are met and, written approval is obtained from the Division of Water Resources.
11. Violations of conditions of this permit are subject to penalties provided in 7 Del. C., Chapter 60.

12. WATER CONSERVATION MEASURES

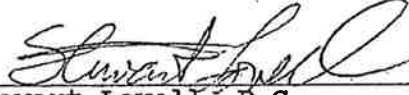
This approval is contingent on practice of the permit holder of reasonable efforts to minimize the unnecessary use and waste of water. The permit holder must:

- A. Establish a program of periodic monitoring and evaluation of water usage,
- B. Establish a systematic leak-detection and control program which is responsive to high unaccounted-for water usage rates, routine maintenance, and discovery of leaks,
- C. Use best management practices, methods, and devices to conserve water,
- D. Alert employees of the need to conserve water and reduce wasteful usage, via postings of conservation suggestions, and
- E. Develop a contingency plan to be implemented in the event of water shortage emergencies. This plan should include:
  1. Identification of emergency water sources,
  2. Priorities of water usage, and
  3. Emergency measures to curtail water usage.

Allocation No. 91-0012  
Page Four

The permittee must demonstrate compliance with these conditions upon request by the Division of Water Resources.

Signed: \_\_\_\_\_

  
Stewart Lovell, P.G.  
Supervisor  
Water Allocations

Date: \_\_\_\_\_

*October 17, 1991*

cc: Delaware River Basin Commission  
U.S. Geological Survey

DELAWARE  
COASTAL ZONE PERMIT

DATE OF ISSUANCE: 12/13/91

NUMBER: 255

ISSUED TO: Keystone Cogeneration Systems, Inc.

TO PERMIT: Construction and utilization of a 225 MW cogeneration power plant with pier for off-loading of coal and a water intake structure for the sole use of the power plant. Note page 2 (of 2) of this permit for one special condition as part of this permit.

SITE LOCATION: Logan Township, New Jersey and adjoining Delaware River.

CONDITIONS Incorporated And Made Part Of This Permit:

1. This permit is conditional upon the permittee's compliance with all other applicable permit requirements of the State of Delaware.
2. Issuance of this permit does not relieve the permittee of the legal obligation of complying with all building permit, subdivision, and other applicable code requirements of the county and municipality wherein the permitted project is located.
3. If there are significant deviations from the plan and operations approved by the Secretary the permittee shall notify the Secretary as soon as possible. This permit may be revoked and a new permit application required if the Secretary deems the deviations to substantially change the nature or scale of the project and to be of actual or probable harm to the purposes of the Coastal Zone Act.

SIGNATURE

Edwin A. Clark, II

(Secretary, Department of Natural Resources  
and Environmental Control)

**SPECIAL CONDITION**

Further data must be collected for a period of one year regarding numbers of striped bass eggs and larvae entrained during actual operation of the water intake.

Based on that data, this Department will determine whether additional measures are necessary to mitigate any potential damage to the striped bass population.

EXHIBIT  
Whitney-10  
S. Oakley 10/10/06



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
88 MINER HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

SURFACEWATER MANAGEMENT SECTION  
WATERSHED ASSESSMENT BRANCH  
POLLUTION CONTROL BRANCH  
FACILITY SUPPORT BRANCH  
WETLANDS & AQUATIC PROTECTION BRANCH

(302) 739-5728  
(302) 739-4890  
(302) 739-2731  
(302) 739-2001  
(302) 739-4881

Supplemental Lease Approval No.: SL-0907/915  
Subaqueous Lands Lease No.: SL-0907/91  
Construction Expiration Date: 9/30/94

SUPPLEMENTAL APPROVAL  
GRANTED TO KEYSTONE ENERGY SERVICE COMPANY, L.P.  
TO AMEND SUBAQUEOUS LANDS LEASE SL-0907/91 FOR THE  
CONSTRUCTION OF AN INDUSTRIAL PIER ON PUBLIC  
SUBAQUEOUS LANDS AND TO CONDUCT DREDGING IN THE  
DELAWARE RIVER AT LOGAN TOWNSHIP, GLOUCESTER COUNTY,  
NEW JERSEY, ROUTE 130, LOT NO. 2, BLOCK NO. 1,  
AND BRANDYVINE HUNDRED, NEW CASTLE COUNTY, DELAWARE

Keystone Energy Service Company, L. P.  
501 Market Street, Suite 721  
Wilmington, DE 19801

Pursuant to the provisions of 7 Del. C. §7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 16th day of April, A. D. 1992, to Keystone Energy Service Company, L. P. to amend an existing lease to construct an industrial pier on public subaqueous lands and to conduct dredging in the Delaware River at Logan Township, Gloucester County, New Jersey, Route 130, Lot No. 2, Block No. 1, and Brandyvine Hundred, New Castle County, Delaware in accordance with plans submitted by the applicant as part of the application dated 1/30/91 - 7/30/91 and received by this Division on 9/23/91.

WHEREAS, Keystone Cogeneration Systems, Inc. requested that their lease be amended to allow a change in leaseholder from Keystone Cogeneration Systems, Inc. to Keystone Energy Service Company, L. P. in accordance with the request submitted 10/28/91, a copy of which is attached and made a part hereof; and

THIS Supplemental Approval shall be amended subject to the terms and conditions herein set forth:

1. This Supplemental Approval is an addendum to Subaqueous Lands Lease No. SL-0907/91, granted to Keystone Cogeneration Systems, Inc. by the State of Delaware on 9/30/91. This supplemental approval shall be attached thereto and made a part hereof.
2. All existing conditions of Subaqueous Lands Lease No. SL-0907/91 shall remain in effect.

*Delaware's good nature depends on you!*

SL-0907/018

Page 2

IN WITNESS WHEREOF, We, Keystone Energy Service Company, L. P., have caused this instrument to be executed on this 24th day of March, 1992.

By: R.P.M. Keenan  
Applicant  
R.P. McKEEVER, MEMBER OF BOARD  
OF CONTROL AND AUTHORIZED AGENT

SWORN and subscribed before me on this 24th day on March, 1992.

Pauline G. Morris



Edwin H. Clark, II, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 6th day of April, 1992.

Edwin H. Clark, II  
By Secretary of the Department  
of Natural Resources and  
Environmental Control

EXHIBIT  
Whitney-11  
S. Oakley 10/10/06



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KING HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

SURFACE WATER MANAGEMENT SECTION  
WATERSHED ASSESSMENT BRANCH  
POLLUTION CONTROL BRANCH  
FACILITY SUPPORT BRANCH  
WETLANDS & AQUATIC PROTECTION BRANCH

(302) 739-5724  
(302) 739-4290  
(302) 739-5724  
(302) 739-5528  
(302) 739-4457

Supplemental Lease Approval No.: SL-0907/9151  
Subaqueous Lands Lease No.: SL-0907/91  
Construction Expiration Date: 9/31/94

SUPPLEMENTAL APPROVAL  
GRANTED TO KEYSTONE ENERGY SERVICE COMPANY, L.P.  
FOR THE CONSTRUCTION OF AN INDUSTRIAL PIER ON PUBLIC  
SUBAQUEOUS LANDS AND TO CONDUCT DREDGING IN THE DELAWARE RIVER  
AT LOGAN TOWNSHIP, GLOUCESTER COUNTY, NEW JERSEY, ROUTE 130,  
LOT NO. 2, BLOCK NO.1 AND BRANDYWINE HUNDRED,  
NEW CASTLE COUNTY, DELAWARE

Keystone Energy Service Company, L.P.  
901 Market Street, Suite 721  
Wilmington, DE 19801

Pursuant to the provisions of 7 Del. C., §7203, and the Department's  
Regulations Governing the Use of Subaqueous Lands, permission is hereby  
granted on this 25th day of MAY A.D. 1993, to Keystone  
Energy Service Company, L.P. to amend an existing lease to construct a coal  
unloading pier consisting of the following: main pier 22 feet by 450 feet,  
loading platform 70 feet by 105 feet, corner of loading platform  
approachway 10 feet by 10 feet, four (4) walkways 4 feet by 109 feet, two  
(2) walkways 4 feet by 4 feet, one (1) 4 feet by 105 feet, one (1) walkway  
4 feet by 100 feet, six (6) breasting dolphins 16 feet by 16 feet, two (2)  
mooring dolphins 25 feet by 25 feet for a total of 22,732 square feet and  
to dredge 40,000 cubic yards of material from the Delaware River to create  
a 910 feet by 150 feet barge berth in accordance with plans and related  
documents submitted by the applicant titled and dated as follows:

- Coal Unloading Pier: 1/30/91; revised 5/20/91, sheets 1 thru 9 of 11
- Coal Unloading Pier: 5/22/91; sheet 10 and 11 of 11
- Drawing A-1 Overhead View of Barge Unloading Facility: 7/10/91
- Drawing A-2 Side View of Barge Unloading Facility: 7/10/91
- Drawing A-3 Front View of Clamshell Barge Unloader Bucket: 7/10/91
- Drawing A-4 Side View of Clamshell Barge Unloader Bucket: 7/10/91
- Drawing A-5 Detailed View of Sealed-Tips of Clamshell Barge Unloader  
Bucket: 7/10/91
- Drawing A-6 Side View of Barge Unloading Facility and Unloading Conveyor:  
7/10/91
- Drawing A-7 Cross Section - Unloading Conveyor: 5/30/91
- Spill Prevention, Control and Countermeasures Plan: 1/91
- Safety Plan: 1/31/91
- Section 316(a) and (b) of the Federal Water Pollution Control Act, undated  
and an application dated 3/4/91.



WHEREAS, Keystone Energy Service Company, L.P. requested that their lease be amended to allow for a minor modification of pier dimensions in accordance with the revised drawings COA-6301 (Rev. 2) and COA-001 (Rev. K) dated 5/18/93, and received by this Division on 5/21/93 and Subaqueous Lands Application dated 5/19/93 and received by this Division on 5/21/93 copies of which are attached and made a part hereof; and

THIS Supplemental Approval shall be amended subject to the terms and conditions herein set forth.

- 1. This Supplemental Approval is an addendum to Subaqueous Lands Lease No.: SL-0907-91 granted to Keystone Energy Service Company, L.P. by the State of Delaware on 9/30/91. This supplemental approval shall be attached thereto and made a part hereof.
- 2. All existing conditions of Subaqueous Lands Lease No.: SL-0907/91 shall remain in effect.

IN WITNESS WHEREOF, We, Keystone Energy Service Company, L.P., have caused this instrument to be executed on this 27<sup>th</sup> day of May, 1993.

By: RF-Tulou  
Applicant

SWORN and subscribed before me on this 27<sup>th</sup> day of May, 1993.

Valerie M. Batterfield  
Notary Public  
VALERIE M. BATTERFIELD  
NOTARY PUBLIC  
MY TERM EXPIRES 2-15-95.

IN WITNESS WHEREOF, I, Christophe A.G. Tulou, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 28<sup>th</sup> day of May, 1993.

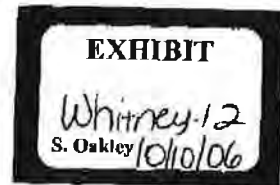
Christophe A.G. Tulou  
By Secretary of the Department of  
Natural Resources and  
Environmental Control



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF AIR & WASTE MANAGEMENT  
715 GRANTMAN LANE  
NEW CASTLE, DELAWARE 19720

AIR RESOURCES  
SECTION

TELEPHONE: (302) 323-4542  
FAX NO.: (302) 323-4561



September 2, 1994

Permit: APC-91/0802-OPERATION  
Keystone Energy Service Company, L.P.  
Coal Unloading Facility - Claymont

Keystone Energy Service Company, L.P.  
P.O. Box 169-C  
Rt. 130 South  
Swedesboro, NJ 08085-9300

ATTENTION: R. V. Ciliberti

Gentlemen:

Pursuant to the State of Delaware "Regulations Governing the Control of Air Pollution", Regulation No. 2, Section 2, approval of the Department of Natural Resources and Environmental Control is hereby granted for the operation of a Coal Unloading Facility consisting of a clamshell unloading system, an unloading hopper equipped with an air curtain, a discharge feeder, an enclosed conveyor, and fabric filter dust collectors at the Keystone Cogeneration Project Coal Pier, Claymont, Delaware, in accordance with the application submitted on Form No. AR-4 dated March 5, 1991 and cover letter dated June 12, 1991, both signed by R. V. Ciliberti, and the document dated February 8, 1991 and entitled, "Best Available Control Technology for Fugitive Particulate Emissions for the Keystone Cogeneration Project - Barge Delivery".

This permit is issued subject to the following conditions:

1. Air contaminant emission levels shall not exceed 0.066 pound per hour and 0.051 ton per year of coal dust, and those specified in the State of Delaware "Regulations Governing the Control of Air Pollution".
2. Representatives of the Department of Natural Resources and Environmental Control may, at any reasonable time, inspect this facility.
3. Emission in excess of any permit condition or emissions which create a condition of air pollution shall be reported, in person or by telephone communication, to the Department's Environmental Emergency Notification and Complaint Number immediately.

*Delaware's good nature depends on you!*

PRINTED ON  
RECYCLED PAPER

DE16855

Permit: APC-91/0602-OPERATION  
Keystone Energy Service Company, L.P.  
Coal Unloading Facility - Claymont  
September 2, 1994  
Page Two

4. The Coal Unloading Facility shall not be operated unless the corresponding unloading hopper air curtain and fabric filter dust collectors are operating properly.
5. The conveyor and conveyor covers shall be maintained and operated properly during all periods of operation.
6. The clamshell bucket shall be equipped with tips to provide a complete seal between the bucket halves while in the closed position, to prevent spillage.
7. During the coal off-loading, the clamshell bucket shall be operated in such a manner as not to cause or create a condition of air pollution and to minimize coal spillage.
8. The unloading of coal shall be the only activity carried-out at this facility.
9. The emission of visible air contaminants from this unit shall not exceed twenty percent (20%) opacity for an aggregate of more than three (3) minutes in any one (1) hour period or more than fifteen (15) minutes in any twenty-four (24) hour period.
10. Odors from this source shall not be detectable beyond the plant property line in sufficient quantities to cause or create a condition of air pollution.
11. This permit shall be available on the premises.
12. Failure to comply with the provisions of this permit may be grounds for suspension or revocation.

Sincerely,



Robert J. Taggart  
Program Manager  
Engineering & Compliance Branch

RJT:EWJ:zf  
EWJ94050

pc: Dover File



**DEPARTMENT OF NATURAL RESOURCES  
AND  
ENVIRONMENTAL CONTROL**

**NOTICE OF AUTHORIZATION**

**Permit/Lease No. and Description:** SL-0907/91S1 SUPPLEMENTAL APPROVAL for the construction of an industrial pier on Public Subaqueous Lands to conduct dredging in the Delaware River

**Issued To:** KEYSTONE ENERGY SERVICE COMPANY, L.P.

**Location of Work:** Logan Township, Gloucester County, New Jersey, Route 130, Lot No. 2, Block No. 1 & Brandywine

**Date of Expiration:** Hundred, New Castle County, DE  
September 30, 1994

**DISPLAY THIS CERTIFICATE IN A  
HIGHLY VISIBLE LOCATION ON THE  
JOB SITE.**

Doc. No. 40-06/87/08/91

  
William F. Moyer, Supervisor  
-- Wetlands & Aquatic Protection Branch





EXHIBIT  
Whitney 13  
S. Oakley 10/19/06

STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. Box 1401  
DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS  
LANDS SECTION

TELEPHONE (302) 739-4691  
FACSIMILE (302) 739-3491

Supplemental Lease Approval No.: SL-0907/91S2  
Subaqueous Lands Lease No: SL-0907/91  
Construction Expiration Date: 9/30/94

SUPPLEMENTAL APPROVAL  
GRANTED TO KEYSTONE ENERGY SERVICE COMPANY, L.P.  
TO AMEND SUBAQUEOUS LANDS LEASE SL-0907/91 FOR THE  
CONSTRUCTION OF AN INDUSTRIAL PIER ON PUBLIC  
SUBAQUEOUS LANDS AND TO CONDUCT DREDGING IN THE  
DELAWARE RIVER AT LOGAN TOWNSHIP, GLOUCESTER COUNTY,  
NEW JERSEY, ROUTE 130, LOT NO. 2, BLOCK NO. 1,  
AND BRANDYWINE HUNDRED, NEW CASTLE COUNTY, DELAWARE

Logan Generating Company, L.P.  
P.O. Box 169-C  
RT. 130 South  
Swedesboro, NJ 08085-9300

Pursuant to the provisions of 7 Del. C. §7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 16 day of November, A. D. 1995, to Keystone Energy Service Company, L.P. to amend an existing lease to construct an industrial pier on public subaqueous lands and to conduct dredging in the Delaware River at Logan Township, Gloucester County, New Jersey, Route 130, Lot No. 2, Block No. 1, Brandywine Hundred, New Castle County, Delaware.

WHEREAS, Keystone Energy Service Company, L.P. requested that their lease be amended to allow a change in name from Keystone Energy Service Company, L.P., to Logan Generating Company, L.P. in accordance with the request submitted 12/19/94:

The Subaqueous Lands Lease SL-0907/91, as amended, shall be amended subject to the terms and conditions herein set forth:

1. This Supplemental Approval is an addendum to Subaqueous Lands Lease No. SL-0907/91, as amended, granted to Keystone Cogeneration Systems, Inc. by the State of Delaware on 9/30/91. This supplemental approval shall be attached thereto and made a part thereof.

*Delaware's good nature depends on you!*

SL-0907/91S2

2. All existing conditions of Subaqueous Lands Lease No. SL-0907/91, as amended shall remain in effect.

IN WITNESS WHEREOF, Logan Generating Company, L.P., has caused this instrument to be executed on this 30<sup>th</sup> day of December, 1994.

LOGAN GENERATING COMPANY, L.P.

By: P. Chismen dibe  
Authorized Agent

SWORN and subscribed before me on this 30<sup>th</sup> day of December, 1994.

Judith A. D'Ancelet  
Notary Public

JUDITH A. D'ANDELET  
NOTARY PUBLIC  
PRINCE GEORGES CO., MD  
MY COMMISSION EXPIRES JULY 23, 1998

My Commission Expires: 7-23-98

IN WITNESS WHEREOF, I, Christophe A. G. Tulou, Secretary, Department of Natural Resources and Environmental Control have hereunto set my hand and seal this 6 day of January, 1994. 95

Christophe A. G. Tulou  
By: Secretary of the Department  
of Natural Resources and  
Environmental Control

DE02408



STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY, P.O. BOX 1401  
 DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS  
 LANDS SECTION

TELEPHONE (302) 739-4691  
 FACSIMILE (302) 739-3491

March 15, 1995

Logan Generating Company, L.P.  
 P. O. Box 169-C  
 Rt. 130 South  
 Swedesboro, N. J. 08085-9300

RE: SL-0907/91 Construct an industrial pier on public subaqueous lands and to  
 conduct dredging in the Delaware River at Logan Township, Gloucester County,  
 NJ

Dear Janine Kelly:

This letter is in response to your 3/14 /95 correspondence on the above-referenced project.  
 By this letter, the Wetlands & Subaqueous Lands Section grants a one year extension of the  
 subaqueous lands permit issued on 9/30/91, to dredge approximately 13,750 cubic yards of  
 material from the permit area previously permitted in SL-0907/91.

This letter, therefore extends your authorization to conduct maintenance dredging  
 according to the conditions in the original subaqueous lands permit through 9/29/95.

Sincerely,

James T. Chaconas  
 Program Manager  
 Wetlands & Subaqueous  
 Lands Section

Sincerely,

William F. Moyer  
 Program Manager  
 Wetlands & Subaqueous  
 Lands Section



*Delaware's good nature depends on you!*

DE02294







STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 88 KINGS HIGHWAY, P.O. BOX 1401  
 DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS  
 LANDS SECTION

TELEPHONE (302) 739-4691  
 FACSIMILE (302) 739-3491

11/12/97

Logan Generating Company L.P.  
 Box 169 C Route 130 South  
 Swedesboro, NJ 08085-9300

RE:MD-0012/97 To maintenance dredge 15,000 cubic yards of material from a barge mooring facility at the Logan Generating Company on the Delaware River, Gloucester County, New Jersey.

Dear Sirs:

Your request to conduct the above-referenced maintenance dredging has been reviewed by the Department of Natural Resources and Environmental Control. The Department hereby authorizes the dredging in accordance with the plans and specifications titled "LOGAN COGENERATION PLANT" dated 2/27/95 and received by this Division on 8/5/97 and application dated 8/1/97 and received on 8/5/97.

This letter of authorization is issued subject to the following conditions:

1. Dredging shall be conducted so as not to violate the State of Delaware, Surface Water Quality Standards dated February 26, 1993.
2. This Authorization shall not become effective until an approved Sediment and Stormwater Management Plan, when required by 7 Del. C in accordance with specifications and criteria outlined in the Delaware Erosion and Sediment Control Handbook (1989) has been obtained. Failure to comply with the provisions of the approved sediment and stormwater management plan will result in the revocation of this authorization.
3. No dredge spoils shall be deposited on tidal wetlands at any time other than what is permitted in accordance with the submitted application and plans.
4. This Authorization shall be valid for one (1) year.



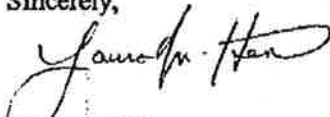
*Delaware's natural resources*

DE02308

5. A copy of this Authorization must be available on site during all phases of construction activity.
6. Water quality sampling shall be performed in accordance with the attached monitoring plan.
7. The State of Delaware hereby waives the water quality certification CENAP-OP-R- 90-2427-1 that is required in accordance with Section 401 of the Clean Water Act, for the above referenced project. This waiver satisfies the water quality certification requirements of the U.S. Army Corps of Engineers for the above referenced project.
8. This authorization will be revoked upon violation of any of the above conditions.

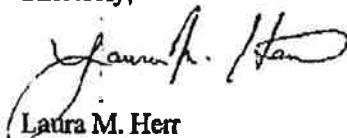
If you have any questions, please feel free to contact Ted Mercer of this office at 739-4691.

Sincerely,



*for*  
William F. Moyer  
Program Manager  
Wetlands & Aquatic Protection Branch

Sincerely,



Laura M. Herr  
Program Manager I  
Wetlands & Aquatic Protection Branch

cc: Frank Cianfrani



WETLANDS & SUBAQUEOUS  
LANDS SECTION

STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES &  
ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
88 KINGS HIGHWAY  
DOVER, DELAWARE 19901

TELEPHONE (302) 739-4691  
FACSIMILE (302) 739-4304

Subaqueous Lands Lease No.: SL-245/01  
Renewal of Subaqueous Lands Lease No.: SL-0907/91  
Date of Issuance: 11/9/01  
Lease Expiration Date: September 30, 2021  
Amended Date:  
Tax Parcel No.: Lot No. 2, Block No. 1

**SUBAQUEOUS LANDS LEASE**

**GRANTED TO LOGAN GENERATING COMPANY, L.P. TO MAINTAIN TWO 25 FOOT BY 25 FOOT MOORING DOLPHINS, SIX 16 FOOT BY 16 FOOT BREASTING DOLPHINS, A 70 FOOT BY 105 FOOT DOCK, A 22 FOOT BY 450 FOOT PIER, FOUR 4 FOOT BY 109 FOOT DOCK SECTIONS, TWO 4 FOOT BY 104.5 FOOT DOCK SECTIONS, TWO 2 FOOT BY 4 FOOT DOCK SECTIONS, AND A 10 FOOT BY 10 FOOT LOADING PLATFORM IN THE NEW CASTLE COUNTY, DELAWARE SECTION OF THE DELAWARE RIVER, ADJACENT TO LOGAN TOWNSHIP, GLOUCESTER COUNTY, NEW JERSEY**

Logan Generating Company, L.P.  
Box 169C  
Route 130 South  
Swedesboro, NJ 08085-9300

Pursuant to the provisions of 7 Del. C., 7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 9th day of November A.D. 2001, to maintain the above-referenced project in accordance with the approved plans for this lease (13 sheets), as approved on 10/20/01; and application dated 6/7/01, and received by this Division on 6/14/01.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River; and

WHEREAS, Logan Generating Company, L.P., owner of certain lands adjoining to the Delaware River has applied for permission to maintain a pier, docks, and dolphins; and

WHEREAS, pursuant to the provisions of 7 Del. C., 7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds

*Delaware's good nature depends on you!*

DE02409

that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

This approval is in accordance with plans and application submitted to Department of Natural Resources and Environmental Control, a copy of which is attached hereto and made a part hereof.

This Lease shall be continued for a period of twenty (20) years or so long as the conditions attached to the Lease are adhered to, whichever is the shorter in time. Upon the expiration of the twenty-year term, this Lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this Lease. A renewal may be denied if the State determines that the Lease is no longer in the public interest.

THIS Lease is issued subject to the following conditions:

#### **SPECIAL CONDITIONS**

- 1. This Lease shall not be considered valid until it has been duly recorded in the office for the Recorder of Deeds in and for the appropriate County, and a copy of the recorded Lease is returned to, and has been received by, the Department.**
- 2. The conditions contained herein shall be included as part of the main body of the construction contract and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction or maintenance which may impact subaqueous lands associated with this project.**
- 3. This Lease authorizes the lessee to maintain the approved structure on public subaqueous land from October 1, 2001 through September 30, 2021.**
- 4. Pending legislative action, this leased structure could be subject to a fee. In the event the General Assembly establishes lease fees for structures over public subaqueous lands a fee will be applied to this leased structure. Lease fees established by the General Assembly shall also apply to any lease that has expired until such time as the structure is removed pursuant to a denial or revocation, or until such time as a new lease has been issued. The approved pier, docks, and dolphins include 22,732 square feet on public subaqueous lands. Using the currently adopted fee schedule, your fee would be \$90,928, annually.**
- 5. This Lease represents a renewal of Subaqueous Lands Lease No. SL-0907/91 granted to Keystone Cogeneration System, Inc. All special and general conditions contained in this Lease**

shall supersede conditions set forth in Subaqueous Lands Lease No. SL-0907/91, which shall become null and void.

6. Maintenance shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control's "Surface Water Quality Standards," as amended August 11, 1999.
7. The leased structure shall be maintained in a manner so as not to impair water access.
8. This Lease does not authorize any repairs, additions, or modifications to the existing structures authorized herein. Such activities require separate written authorization from the Department of Natural Resources and Environmental Control.
9. The structures on/or adjacent to subaqueous lands shall be for the explicit purpose of vessel berthing and unloading of cargo.
10. All debris, excavated material, brush, rocks, and refuse incidental to maintenance of the leased structure shall be placed above the influence of surface waters.

#### GENERAL CONDITIONS

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. Any activities not specifically authorized herein may require a supplemental approval from this office prior to the initiation of construction. A determination on the need for a supplemental approval will be made by this office pursuant to the lessee submitting written notification and revised plans indicating project changes to this office.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect the leased structure and may collect any samples or conduct any tests that are deemed necessary.
3. This Lease does not cover the structural stability of the project units.
4. Prior to the expiration of this Lease, the lessee shall remove all structures covered under this Lease unless the Lease has been renewed in accordance with its terms.

5. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
6. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
7. The issuance of this Lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
8. This Lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
9. This Lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.
10. This Lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this Lease being revoked.
11. This Lease is personal and may not be transferred without the prior written consent of the Department. Prior to the transfer of the adjacent upland property, the lessee shall obtain the written consent of the Department to transfer this Lease to the new upland property owner. Failure to obtain such written consent may result in the revocation of this Lease and the removal of all structures authorized by this Lease at the expense of the lessee.
12. The lessee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
13. The issuance of this Lease does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.
14. Application for renewal must be submitted six (6) months prior to the expiration date of this Lease.

This Lease may be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, I, Thomas W. Fromm, have caused this instrument to be executed on this 1<sup>st</sup> day of November, 2001.

Thomas W. Fromm  
Applicant

Bette Jane Couse  
Notary  
My commission expires:

BETTE JANE COUSE  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES DEC. 5, 2004

(Notary Seal)

By the authority invested in me under 7 Del.C. §7203(a), I hereby grant this Lease for the use of the State owned subaqueous lands to the Lessee(s) by setting my hand on this 9<sup>th</sup> day of November, 2001.

Nicholas A. DiPasquale  
Nicholas A. DiPasquale  
Secretary, Department of Natural Resources  
and Environmental Control





FC 01.039



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

DELAWARE COASTAL  
MANAGEMENT PROGRAM

TELEPHONE: (302) 739 - 3451  
FAX: (302) 739 - 2048

March 14, 2002

Mr. Thomas W. Fromm  
PG&E National Energy Group  
PO Box 169-C  
Swedesboro, NJ 08085-9300

**RE: Delaware Coastal Management Federal Consistency Certification  
Logan Generating Plant Maintenance Dredging (FC# 01.039)**

Dear Mr. Fromm:

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for the above referenced project. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 CFR 930), the DCMP concurs with your consistency determination for maintenance dredging activities in the existing berthing facility in the Delaware River, adjacent to the Logan Generating Plant, Gloucester County, New Jersey. This concurrence is based upon the assumption that the necessary 401 Water Quality Certification and Subaqueous Lands permit from the State of Delaware will be obtained prior to the commencement of any dredging activity. It is further based upon compliance with all conditions placed upon the permits. If the necessary permits from the State of Delaware are not granted, this Federal Consistency Certification will be revoked.

If you have any questions regarding this determination please do not hesitate to contact me at (302) 739-3451.

Sincerely,

Sarah W. Cooksey, Administrator  
Delaware Coastal Management Program

SWC/sel

cc: Edward Bonner -- USACE

\*\*\*\*\*  
 \* P. 01 \*  
 \* TRANSACTION REPORT \*  
 \* MAR-21-2002 THU 10:44 AM \*  
 \* DATE START RECEIVER TX TIME PAGES TYPE NOTE M# DP \*  
 \* MAR-21 10:42 AM 916107015129 1'08" 2 SEND OK 904 \*  
 \* TOTAL : 1M 8S PAGES: 2 \*  
 \*\*\*\*\*

State of Delaware  
 Department of Natural Resources & Environmental Control  
 Delaware Coastal Programs  
 89 Kings Highway, Dover, DE 19901



**FAX**



Date: 3/21/02  
 Number of pages including cover sheet: 2

To: Sony Rutkowski  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: 610/701-5373  
 Fax phone: 701-5129

From: Pat  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: (302)739-3451  
 Fax phone: (302)739-2048

*dated copy of letter of concurrence  
 FC # 01.039*

State of New Jersey  
 Department of Environmental Protection  
 Land Use Regulation Program Application Form (LURP #1)



PLEASE PRINT OR TYPE THE FOLLOWING: (Complete all sections unless otherwise noted)

NOTE: If you are applying for a CAFRA Permit by Rule, you need to complete items 1 thru 6 and the signature area on page 3 only.

New Jersey Department of Environmental Protection

1. Applicant Name Division of Parks and Forestry Daytime Phone # 609-633-7588

Address 501 E. State Street, Station Plaza 5

City Trenton State NJ Zip 08625

2. Agent Name Lloyd F. Sturecon Firm S. T. Hudson Engineers, Inc.

Address 800 Hudson Square, P.O. Box 9106 Phone # 609-342-6600

City Camden State NJ Zip 08101

3. Project Location - Street Address Fort Mott State Park

Municipality Pennsville County Salcm

Block(s) 5301 Lot(s) 3

State Plane Coordinates N 281,200 feet E 1,750,000 feet

Nearest Waterway Delaware River Watershed Same

4. Total Fees \$13,600 Fees Paid \$13,600 Project Cost \$1,140,000 Check Number \_\_\_\_\_  
 (See attached for schedule)

5. Project Description: The rehabilitation of the historic Fort Mott Pier is intended specifically to replicate the appearance of the pier in 1898, during the period of its greatest historical significance. The project was designed so that the pier would be suitable as a terminus for ferry service between Fort Mott and Fort Delaware on Pea Patch Island and Fort DuPont on the Delaware shore with provisions for handicapped access and would be eligible for inclusion in the Fort Mott and Finn's Point National Cemetery Historic District, in accordance with Department of the Interior criteria.

**FOR OFFICIAL USE ONLY**

File Number:	<input type="text"/>	Permit Code:	<input type="text"/>
Date Received:	<input type="text"/>	Project Manager:	<input type="text"/>
20th Day:	<input type="text"/>	Project Engineer:	<input type="text"/>
DEP Bulletin:	<input type="text"/>	Date Entered:	<input type="text"/>
ASU Date:	<input type="text"/>	Amount Filled:	<input type="text"/>
XRef#:	<input type="text"/>		

NJ05423

6. Application(s) for: (Please check all that apply)

Stream Encroachment:	Permit _____	Waiver _____
CAFRA:	Individual Permit _____	General Permit _____
	Exemption Request _____	Permit by Rule _____
Freshwater Wetlands:	Individual Permit _____	General Permit _____
	Transition Area Waiver _____	Letter of Interpretation _____
	Exemption Request _____	Open Water Fill Permit _____
Waterfront Development:	Residential _____	Commercial <u>X</u>
Upland Waterfront Development:	Residential _____	Commercial _____
Water Quality Certificate	_____	Tidal Wetlands (1970) _____
Federal Consistency Determination	_____	Jurisdictional Determination _____

Permit Modification (specify) \_\_\_\_\_

Other (specify) State - Delaware Dept. of Natural Resources and Environmental Control (DNREC)  
Federal - U. S. Army Corps of Engineers (Corps)

7. Indicate below if any of the following approvals, denials or certifications were received for the project site or are required for the proposed project:

- In Column A, indicate application status: (P for - pending, A for - approved, D for - denied, T for - to be applied for, or O for - other (explain other).
- In Column B, indicate application, permit, or docket number.

	A	B		A	B
CAFRA Permit	_____	_____	Stream Encroachment Permit	_____	_____
CAFRA Permit Modification	_____	_____	Stream Encroachment Waiver	_____	_____
CAFRA Exemption	_____	_____	Stream Encroachment Permit Modification	_____	_____
Waterfront Development Permit	<u>P</u>	_____	Water Quality Certificate	<u>P</u>	_____
Tidal Wetlands (1970) Permit	_____	_____	Tidelands (Riparian) Conveyance	<u>P</u>	_____
Statewide General Freshwater Wetlands Permit	_____	_____	Dam Construction or Repair Permit	_____	_____
Freshwater Wetlands Letter of Interpretation	_____	_____	Tidelands Certificate of Filling	_____	_____
Freshwater Wetlands Transition Area Waiver	_____	_____	D & R Canal Commission Certificate	_____	_____
Individual Freshwater Wetlands Permit	_____	_____	Federal Permits (Specify)	<u>P</u>	<u>CORPS</u>
Freshwater Wetlands Exemption	<u>NJ05424</u>	_____	State Permits (Specify)	<u>P</u>	<u>DNREC</u>

**APPLICANT SIGNATURE**

I certify under penalty of law that the information provided in this document is true and accurate. I am aware that there are significant civil and criminal penalties for submitting false or inaccurate information. (If corporate entity, print/type the name and title of person signing on behalf of the corporate entity.)

Carl R Nordstrom  
Signature of Applicant/Owner Carl Nordstrom  
Deputy Director  
9/19/95  
Date

\_\_\_\_\_  
Signature of Applicant/Owner  
\_\_\_\_\_  
Date

**A. PROPERTY OWNER'S CERTIFICATION\***

I hereby certify that the undersigned is the owner of the property upon which the proposed work is to done. This endorsement is certification that the owner grants permission for the conduct of the proposed activity. In addition, I hereby give unconditional written consent to allow access to the site by representatives or agents of the Department for the purpose of conducting a site inspection or survey of the project site.

In addition, the undersigned property owner hereby certifies:

- 1. Whether any work is to be done within an easement - Yes \_\_\_\_\_ No X
- 2. Whether any part of the entire project (eg., pipeline, roadway, cable, transmission line, structure, etc.) will be located within property belonging to the State of New Jersey - Yes X No \_\_\_\_\_

9/19/95  
Date

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Type or Print Name and Address of Owner,  
if different from item 1 on Page 1  
Carl R Nordstrom  
Signature of Property Owner  
Carl Nordstrom  
Deputy Director

NJ05425

**B. APPLICANT'S AGENT**

State of New Jersey Department of Environmental Protection  
Division of Parks and Forestry

I Fort Mott State Park, the Applicant/Owner, authorize to act as my agent/representative in all matters pertaining to my application the following person:

Name S. T. Hudson Engineers, Inc.

Occupation/Profession Professional Consulting Engineers

  
\_\_\_\_\_  
(Signature of Applicant/Owner)

Carl Nordstrom  
Deputy Director

**AGENT'S CERTIFICATION**

Sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ 19 \_\_\_\_\_

I agree to serve as agent for the above-mentioned applicant

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Signature of Agent)  
Lloyd P. Sturgeon  
Vice President

**C. STATEMENT OF PREPARER OF PLANS, SPECIFICATIONS, SURVEYOR'S OR ENGINEER'S REPORT**

I hereby certify that the plans, specifications and engineer's report, if any, applicable to this project comply with the current rules and regulations of the New Jersey Department of Environmental Protection with the exceptions as noted.

\_\_\_\_\_  
Signature  
Lloyd F. Sturgeon  
Type: Name and Date  
Vice President  
S. T. Hudson Engineers, Inc.  
Position, Name of Firm

NJ05426

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL REGULATION  
BUREAU OF TIDELANDS MANAGEMENT  
CN 401  
TRENTON, NEW JERSEY 08625-0401

APPLICATION FOR LICENSE OR EASEMENT

DATE \_\_\_\_\_

FILE # \_\_\_\_\_

Application is hereby made, in accordance with N.J.S.A. 13:1B-13 and N.J.S.A. 12:3-10 for a revocable license to use and occupy State's lands under water; subject to such terms and conditions contained therein or as may be imposed by law.

APPLICANT New Jersey Department of Environmental Protection  
Division of Parks and Forestry

1. NAME \_\_\_\_\_

2. ADDRESS 501 E. State Street, Station Plaza 5, Trenton, NJ 08625

3. BUSINESS \_\_\_\_\_

4. PHONE # 609- 633-7588

WHERE LICENSE IS LOCATED

5. CITY OR MUNICIPALITY Pennsville

6. COUNTY Salem

7. NAME OF WATERWAY Delaware River

8. LOT & BLOCK Lot 3, Block 5301

INTENDED USE

9. Historic restoration of pier and introduction of  
ferry service between Fort Mott, Fort Delaware and  
Fort DuPont. The pier is part of the Park System  
and is for use by the general public. No fees will  
be charged.

NAME AND ADDRESS OF THE UPLAND AND ADJOINING OWNERS

10. Same as above.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NJ05427



**PERMITS REQUIRED: (11)**

NJDEP Waterfront Development - NJDEP WYC

TYPE: U.S. Army Corps of Engineers - Delaware Subaqueous Lands Permit

DATE APPLIED: \_\_\_\_\_

**GENERAL REMARKS (12)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE: IN MAKING THIS APPLICATION, APPLICANT UNDERSTANDS THAT NO WORK SHALL BE PERFORMED BY THE APPLICANT UNLESS AND UNTIL THE LICENSE IS DELIVERED, AND ALSO ONLY IF THE APPLICANT HAS OBTAINED A PERMIT TO PERFORM SAID WORK. THE ISSUANCE OF A PERMIT IS SUBJECT TO AN INDEPENDENT DETERMINATION BY THE STATE.**

(13)  
SIGNATURE X *Carl Nordstrom*

PRINT NAME Carl Nordstrom

TITLE Deputy Director

**ATTEST (14)**

*Alan J. [Signature]*

NJ05428

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL REGULATION  
BUREAU OF TIDELANDS MANAGEMENT  
CN 401  
TRENTON, NEW JERSEY 08625-0401

AGENT'S AUTHORIZATION TO ACT FOR APPLICANT

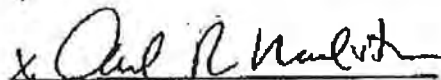
I hereby authorize:

NAME: S. T. Hudson Engineers, Inc.

ADDRESS: 800 Hudson Square, P.O. Box 9106  
Camden, NJ -08101-9106

TELEPHONE NUMBER: 609-342-6600

to act as my agent or representative in all matters pertaining to my application for a grant, lease, license or other conveyance of State lands, now or formerly below mean high water. I further understand that the Bureau of Tidelands Management will correspond directly with the above named agent and not myself.



Applicant's Signature

Carl Nordstrom  
Deputy Director

Applicant's Signature

New Jersey Department of Environmental Protection  
Division of Parks & Forestry  
501 E. State Street Station Plaza 5  
Address Trenton, NJ 08625

DATE: 9/19/95

NJ05429

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT  
(33 CFR 325)

DMS APPROVAL NO. 0710-003  
Expires October 1998

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Routine Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

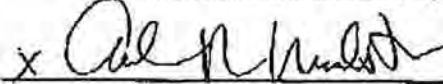
1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
--------------------	----------------------	------------------	-------------------------------

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME State of New Jersey Dept. of Environmental Protection Div. of Parks & Forestry	8. AUTHORIZED AGENT'S NAME AND TITLE (An agent is not required) Lawrence R. Horan, Environmental Specialist
6. APPLICANT'S ADDRESS 501 E. State Street Station Plaza 5 Trenton, NJ 08625	9. AGENT'S ADDRESS S. T. Hudson Engineers, Inc. 800 Hudson Square, P.O. Box 9106 Camden, NJ 08101-9106
7. APPLICANT'S PHONE NOS. W/AREA CODE a. Residence b. Business 609-633-7588	10. AGENT'S PHONE NOS. W/AREA CODE a. Residence b. Business 609-342-6600

STATEMENT OF AUTHORIZATION

I hereby authorize, S.T. Hudson Engineers, Inc. to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

x 

APPLICANT'S SIGNATURE  
Carl Nordstrom, Deputy Director

DATE 9/19/95

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions) Fort Mott Pier Rehabilitation Project	
13. NAME OF WATERBODY, IF KNOWN (if applicable) Delaware River	14. PROJECT STREET ADDRESS (if applicable) Fort Mott State Park Fort Mott Road
15. LOCATION OF PROJECT Salem COUNTY NJ STATE	
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN, (from instructions) N/A	
17. DIRECTIONS TO THE SITE Delaware River and Fort Mott Road off NJ Route 49	

NJ05430

18. Nature of Activity (Describe the reason or purpose of the project, include all features) Rehabilitation of the historic Fort Mott Pier. In addition, a 30 ft. wide x 100 ft. long floating barge will be permanently moored to two (2) 36" diameter monopiles at the outshore end of the Fort Mott Pier. This barge will be used as an intermediate floating pier to safely transfer passengers to and from the planned ferry boat, the "Dela-Fort" which now operates between Fort DuPont and Fort Delaware.

19. Project Purpose (Describe the reason or purpose of the project, see instructions) The project is intended specifically to replicate the appearance of the pier in 1898, during the period of its greatest historical significance. The project was designed so that the pier would be suitable as a terminus for ferry service between Fort Mott and Fort Delaware on Pea Patch Island, and Fort DuPont on the Delaware shore with provisions for handicapped access and would be eligible for inclusion in the Fort Mott and Finn's Point National Cemetery Historic District, in accordance with Department of the Interior criteria

**USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED**

20. Reason(s) for Discharge Once the pier is restored to its original height of 10 ft. above mean low water, the interportion of the crib, which is presently awash during high tide, will be filled with 1600 cubic yards of sand and gravel, then paved with stone and a 10 ft. wide concrete public access pathway will be installed down the center of the pier.

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards  
Sand, gravel and stone 1600 cubic yards

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)  
.25 acres of intertidal wetlands

23. Is Any Portion of the Work Already Complete? Yes  No  IF YES, DESCRIBE THE COMPLETED WORK.

24. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

See Section 4.4

25. List of Other Certifications or Approvals/Denials Received from other Federal, State or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
New Jersey DEP	Waterfront Development			Pending	
	Water Quality Certification			Pending	
Delaware Dept. of Natural Resources and Environmental Control	Subaqueous Lands Project			Pending	

\*Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

EXHIBIT INFORMATION

DATE

SIGNATURE OF AGENT

DATE

L. Horan, Environmental Specialist

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

NJ05431



DEPARTMENT OF THE ARMY  
 PHILADELPHIA DISTRICT, CORPS OF ENGINEERS  
 WANAMAKER BUILDING, 100 PENN SQUARE EAST  
 PHILADELPHIA, PENNSYLVANIA 19107-3390

FEB 14 1994

REPLY TO  
 ATTENTION

CENAP-OP-R-Coastal Zone Management (New Jersey and Pennsylvania)

PUBLIC NOTICE

**SUBJECT: "Consistency Certification" with Approved State Coastal Zone Management Program**

Federal regulations require that applicants for Department of the Army permits to perform work which falls under the jurisdiction of a State with a Coastal Zone Management (CZM) Program approved by the Secretary of Commerce, **MUST PROVIDE CONSISTENCY CERTIFICATION.** The certification statement must accompany the application for a Department of the Army permit.

On September 29, 1978 and September 29, 1980, respectively, CZM Programs were approved for the State of New Jersey and the Commonwealth of Pennsylvania by the Department of Commerce. Therefore, all applications for Department of the Army permits for work in their designated Coastal Zones must contain a consistency statement.

The statement should be as follows:

"The proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program".

Signature of Applicant  
 Carl Nordstrom, Deputy Director

Additional information concerning the approved Coastal Zone Management Programs can be obtained by contacting:

State of New Jersey

New Jersey Department of  
 Environmental Protection and Energy  
 Division of Coastal Resources  
 Bureau of Land Use Regulation  
 CN 401  
 Trenton, New Jersey 08625  
 Telephone Number - (609) 633-2289

Commonwealth of Pennsylvania

Commonwealth of Pennsylvania  
 Department of Environmental Resources  
 Coastal Zone Management Office  
 P.O. Box 8761  
 Harrisburg, Pennsylvania 17105-8761  
 Telephone Number - (717) 541-7808

Frank Cianfrani  
 Chief, Regulatory Branch

NJ05432

**BASIC APPLICATION FORM**

**ATTACH ADDITIONAL 8 1/2" X 11" SHEETS OF PAPER AS NEEDED**

Application Number \_\_\_\_\_  
(To be assigned by agencies)

<p>1. Applicant's (Property Owner) name and complete address: State of New Jersey-Dept. of Environmental Protection Division of Parks and Forestry 501 E. State Street, Station Plaza-5 Trenton, NJ 08625</p>	<p>Telephone Number Home ( ): _____ Work ( X ): 609- 633-7588</p>
---	---

<p>2. Name of Leaseholder (if applicable) of land where project is contemplated and complete address: N/A</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>Telephone Number Home ( ): _____ Work ( ): _____</p>
--	---

<p>3. Authorized agent's name and complete address ( if applicable): S. T. Hudson Engineers, Inc. 800 Hudson Square, P.O. Box 9106 Camden, NJ 08101</p>	<p>Telephone Number Home ( ): _____ Work ( X ): 609-342-6600</p>
---	--

(Complete agent authorization section at the bottom of page 8)

4. Is this project  
 New?  Repair/Replacement? See Sections 1.0, 2.0 and 3.0  
 Both? If "Both", please explain:  
 Supplemental Approval for an existing lease or permit?

5. Provide a brief description of the project: Rehabilitation of the historic Fort Mott Pier in addition to a new ferry mooring system.

<p>A. <input type="checkbox"/> Dredging Total Estimated Volume: _____ cu. yds.</p> <p>B. <input type="checkbox"/> Filling Total Volume: _____ cu. yds.</p> <p>C. <input type="checkbox"/> Shore Erosion Control Total Length: _____ ft.</p>	<p>D. <input type="checkbox"/> Dock(s) Total Number: _____</p> <p>E. <input type="checkbox"/> Pier(s)/Walkways Total Number: _____</p> <p>F. <input checked="" type="checkbox"/> Other Rehabilitation of Total Dimension: the historic Fort Mott Pier. Mooring of a 30 Ft. wide X 100 ft. long floating barge.</p>
---	--

6. Primary purpose of the project:

- |   |   |
|---|---|
| <input type="checkbox"/> Shore Erosion Control              | <input type="checkbox"/> Dam  |
| <input type="checkbox"/> Utility Installation               | <input type="checkbox"/> Road   |
| <input type="checkbox"/> Create Waterfowl Habitat           | <input type="checkbox"/> Improve Navigable Access                                 |
| <input type="checkbox"/> Temporary Construction             | <input type="checkbox"/> Improve Fish Habitat                                     |
| <input type="checkbox"/> Beach Nourishment/Fill             | <input type="checkbox"/> Stream Channelization                                    |
| <input type="checkbox"/> Residential Commercial Development | <input type="checkbox"/> Maintenance/Repair                                       |
| <input type="checkbox"/> Erosion/Sediment Control           | <input type="checkbox"/> Small Pond   |
| <input type="checkbox"/> Stormwater Management              | <input type="checkbox"/> Marina   |
| <input type="checkbox"/> Fill                               | <input type="checkbox"/> Bridge   |
| <input type="checkbox"/> Culvert                            | <input type="checkbox"/> Vessel Berthing/Launching                                |
|   | <input checked="" type="checkbox"/> Other <u>Historic restoration of Pier and</u> |

introduction of ferry service between Fort Mott and Fort Delaware and Fort DuPont.

7. Have you discussed this project with any representative of Local, State, or Federal regulatory agency?  Yes  No

If yes, complete the information below.

Name of Representative: \_\_\_\_\_

Name of Agency: DNREC, Corps, NJ and DE SHPO

Date: \_\_\_\_\_

8. Have you applied for, or obtained a permit from any Local, State, or Federal agency for any portion of this project described in this application?  Yes  No

If yes, provide the following:

Agency: Corps NJDEP

Type of Action/Permit: Sec. 10 & 404 Waterfront Development/Water Quality ID No:

Application/Issue Date: Pending

9. Project Location: Fort Mott State Park

Site address of Location: Fort Mott Road

Pennsville Township

County/City: Salem County

Directions from nearest intersection of two state roads: Delaware River and Fort Mott Road off NJ Route 49.

Name of the waterbody at the project location: Delaware River

Is it a tributary of any other water body?  Yes  No

If yes, which waterbody? \_\_\_\_\_

The waterbody at the project location is: (check one on line A & one on line B)

A.  Natural  Man-made  Uncertain

B.  Tidal  Non-tidal  Uncertain

10. Current land use:  Agriculture  Marsh/Swamp  Park Land  
 Meadow  Wooded  Developed

Present zoning is:  Agriculture  Commercial  
 Residential  Other  New Jersey State Park

11. For marina projects or projects that include activities or construction in wetlands, list the name and complete address of the owners, as listed with the County Board of Assessment, of neighboring lands within 1,000 feet of the project (including those across the waterway if within the 1,000 foot radius) and any claimants of such ownership rights that are known to the applicant, with their last known addresses. For all other projects, list the name and complete address of the owners of the contiguous neighboring lands on all sides of the property. (Attach sheets as needed).

See adjacent property owners list - Supplement A.

12. Will any public benefit be derived from the project?  Yes  No  
 Uncertain If yes, explain below:

Refer to Sections 1.0, 2.0 and 3.0.

13. Has any work commenced or has any portion of the project for which you are seeking a permit been completed?  Yes  No If yes, give details below. State when work was completed and who performed the work. Please indicate on attached drawings what is proposed.

14. Proposed Start Date: March 1996

15. Contractor's Name and Complete Address: N/A

Telephone Number: \_\_\_\_\_

**PLEASE COMPLETE AND ATTACH ALL APPROPRIATE DRAWINGS AND APPENDICES TO THIS SECTION. INCLUDE A COPY OF THE PROPERTY DEED AND SURVEY TO SHOW ALL PROPERTY BOUNDARIES AND DIMENSIONS.**



**APPLICANT'S REVIEW BEFORE MAILING**

**DID YOU COMPLETE THE FOLLOWING?**

- Yes      **BASIC APPLICATION**
- Yes      **APPENDICES**
- Yes      **VICINITY MAP**
- Yes      **PLAN VIEW**
- Yes      **ELEVATION OR SECTION VIEW**
- Yes      **SIGNATURE PAGE (Page 8) with Agent  
Authorization if appropriate**
- Yes      **COPY OF PROPERTY DEED & SURVEY**
- Yes      **THREE (3) COMPLETE COPIES**
- Yes      **LIST OF ADJACENT PROPERTY  
OWNERS (as per item #11 of this  
basic application form).**
- Yes      **APPROPRIATE APPLICATION FEE  
(Checks should be made payable to the  
State of Delaware)**

**Mail 3 complete copies of the application, with drawing(s) to:**

**Department of Natural Resources and Environmental Control  
Division of Water Resources  
Wetlands and Subaqueous Lands Section  
89 Kings Highway, P. O. Box 1401 Dover, DE 19903  
(302) 739-4691**

**APPLICANT SIGNATURE &/OR AGENT AUTHORIZATION**

\* All applicants must sign this page. Complete the Agent Authorization Section only if applicable.

I certify that the information on this form and the attached plans is true and accurate to the best of my knowledge.

I understand that DNREC may request information in addition to that set forth herein and may be deemed appropriate in considering this application.

I grant permission to the authorized DNREC representative(s) to enter upon the premises for inspection purposes during working hours.

I will abide by the conditions of this approval if issued.

x Carl Nordstrom  
Applicant Signature

9/17/95  
Date

Applicant Name (Printed/Typed) Carl Nordstrom, Deputy Director

**Agent Authorization Section**

\* If you elect to complete this section, all future correspondence may be signed by the duly authorized agent. In addition, the agent will become the primary point of contact for all correspondence from the Department.

I, Carl Nordstrom, hereby designate and authorize

Name of applicant

S. T. Hudson Engineers, Inc. to act on my behalf in the

Name of Agent

processing of this application and to furnish any information that is requested.

x Carl Nordstrom  
Applicant Signature  
Carl Nordstrom

9/19/95  
Date

Lawrence R. Moran  
Agent Signature  
Environmental Specialist

\_\_\_\_\_  
Date

Company Name N/A

### APPLICANT BACKGROUND INFORMATION

*Pursuant to 7 Del. C., Chapter 79, the following information must be submitted along with any commercial subaqueous lands permit application. "Commercial" is defined as any activity undertaken for profit for which a fee will be charged, directly or indirectly, or which results in the generation of revenue. Please use the N/A abbreviation for any items that are not applicable to your application.*

**PROVIDING ALL THE INFORMATION REQUESTED IN THIS FORM SATISFIES THE REQUIREMENTS OF 7 DEL. C., CH. 79 UNLESS THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL OR THE DEPARTMENT OF JUSTICE DETERMINES THAT ADDITIONAL SUBMISSIONS ARE NECESSARY. FAILURE TO PROVIDE THE INFORMATION REQUESTED OR PROVIDING ERRONEOUS INFORMATION IS GROUNDS FOR DENYING OR REVOKING AN ENVIRONMENTAL PERMIT, AND FOR CIVIL OR CRIMINAL PENALTIES.**

1. \* Attach a complete list of all current members of the Board of Directors, all current corporate officers, all persons owning more than 20 percent of the applicant's stock or other resources, all subsidiary companies, all parent companies, all companies with which the applicant's company shares two or more members of the Board of Directors.
2. \* Attach a description of any felony or other criminal conviction of any person or company identified in response to Question 1 where the conviction resulted in a fine greater than \$1,000 or a sentence longer than seven days, regardless of whether any portion of such fine or sentence was suspended.
3. Have any of the following been issued to any person or entity specified in response to Question Number 1 or any violation of any environmental statute, regulation, permit, license, approval, or order, regardless of the state in which it occurred, during the five years prior to the date of the application:

Notice of Violation	(yes or no)	<u>N/A</u>
Administrative Penalties	(yes or no)	<u>N/A.</u>
Criminal Citation	(yes or no)	<u>N/A</u>
Arrests	(yes or no)	<u>N/A</u>
Convictions	(yes or no)	<u>N/A</u>
Criminal Penalties	(yes or no)	<u>N/A</u>

NJ05438

4. If you answered "Yes" to any of the items in Question 3, attach a description of the incidents or events leading to the issuance of each enforcement action, the disposition of each action, and any actions that have been taken to correct the violations that led to such enforcement action.
  
5. Attach copies of any and all settlements of the environmental claims associated with actions identified in response to Question 3 above, whether or not such settlements were based on agreements where the applicant did not admit liability for the action.

*I do hereby swear that I have read the above questions and have provided all of the information requested and that all of the information provided is true and accurate.*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature - Applicant or Corporate Agent

Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

**\* NOTE:** The applicant may claim that some or all of the information presented in response to Questions 1, 2, and 5 is confidential if such information is not already available to the public. An applicant wishing to make such a claim should write, preferably in red ink "claimed confidential information" at each point in the response where such confidentiality is claimed, and provide an explanation of why the release of such information would constitute an invasion of personal privacy or would seriously affect the applicant's business or competitive situation.

NJ05439



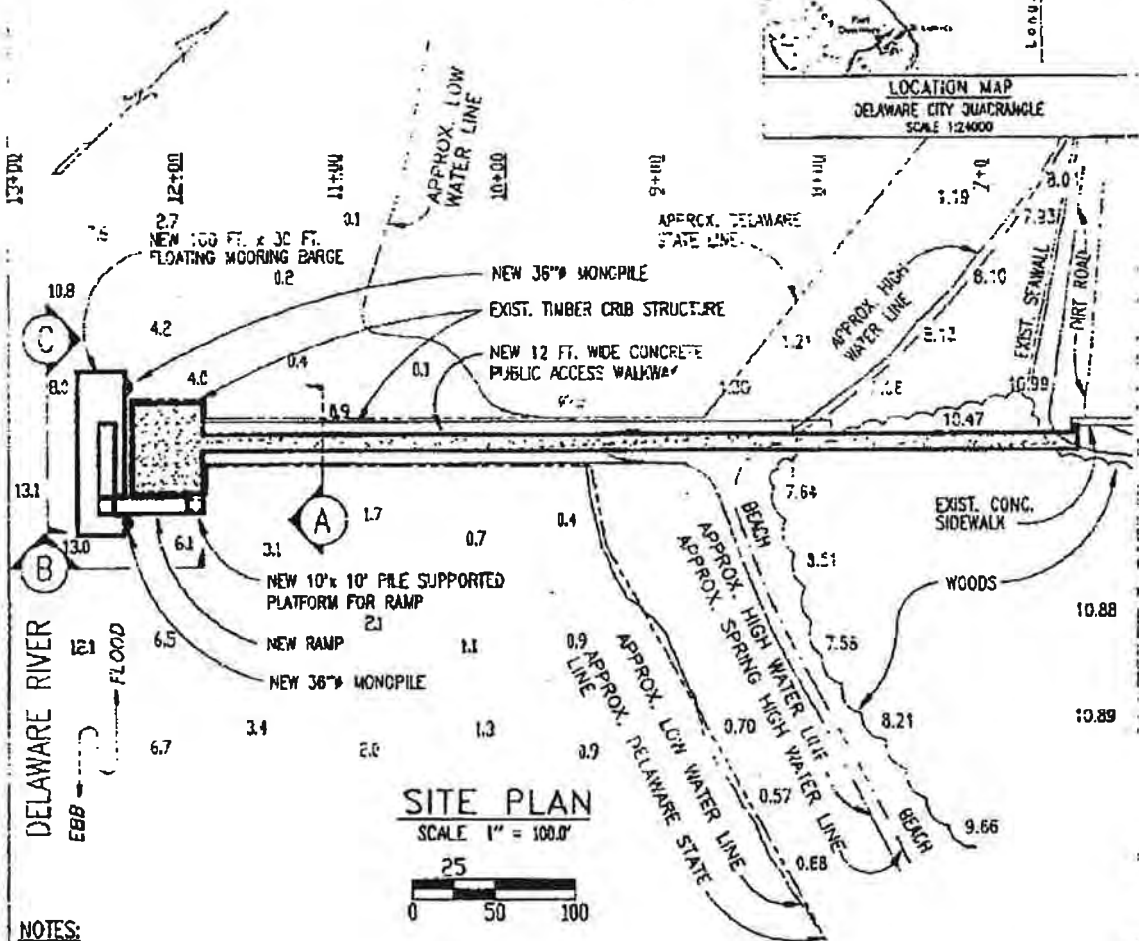
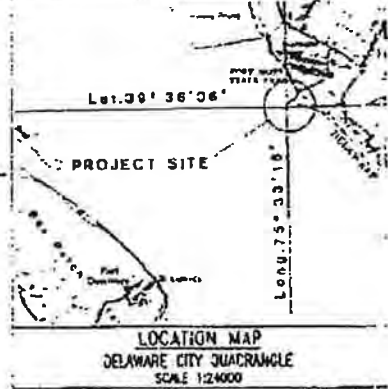
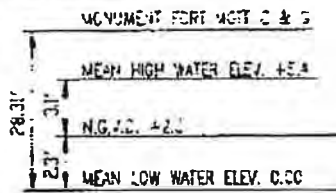
**PURPOSE:**

FORT MOTT PIER REHABILITATION  
AND NEW FLOATING FERRY DOCK.

**ADJACENT PROPERTY OWNERS:**

SEE LIST IN REPORT

**DATUM CHART**



**NOTES:**

1. TOPOGRAPHIC SURVEY EXECUTED ON OCT. 7 & 8, 1993.
2. HYDROGRAPHIC SURVEY EXECUTED ON OCT. 13, 1993.
3. SOUNDINGS ARE IN FEET AND REFER TO MEAN LOW WATER.
4. ELEVATIONS ARE IN FEET AND REFER TO MEAN LOW WATER.
5. REFERENCE ELEVATION ON MONUMENT +28.31 WAS OBTAINED FROM U.S. ARMY CORPS OF ENGINEERS

**NOTE:** FINAL DESIGN REQUIRED FOR CONSTRUCTION

FILE No. G-2096  
 CONTRACT No. H-4554  
 DATE 9/13/95  
 SHEET No. 1 of 4

LLOYD STURGEON, P.E.  
 LICENSE No. 35604

**S.T. HUDSON ENGINEERS, INC.**  
 PROFESSIONAL ENGINEERS & CONSULTANTS  
  
 800 Hudson Square  
 P.O. Box 9108  
 Camden, N.J. 08101  
 Tel. No. 856-342-8223  
 Fax No. 856-342-5803

PROPOSED: PIER REHABILITATION AND NEW FLOATING FERRY DOCK  
 AT: FORT MOTT STATE PARK, NEW JERSEY  
 COUNTY OF: SALEM, NEW JERSEY  
 APPLICATION BY: NEW JERSEY D.E.P. DIVISION OF PARKS AND FORESTRY

DE02020



**DELAWARE DEPARTMENT OF NATURAL RESOURCES**

**AND ENVIRONMENTAL CONTROL**

**SUBAQUEOUS LANDS PERMIT APPLICATION**

**AND**

**LETTER OF AUTHORIZATION REQUEST**

**FOR**

**FORT MOTT PIER REHABILITATION PROJECT**

**FORT MOTT STATE PARK**

**FOR**

**STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF PARKS AND FORESTRY  
OFFICE OF RESOURCE DEVELOPMENT  
TRENTON, NEW JERSEY**

**PREPARED BY:**



**S. T. HUDSON ENGINEERS, INC.  
800 HUDSON SQUARE  
P.O. BOX 9106  
CAMDEN, NEW JERSEY 08101**



 **S. T. HUDSON ENGINEERS, INC.**

DE01914



S. T. HUDSON ENGINEERS INC.  
PROFESSIONAL ENGINEERS AND CONSULTANTS

September 20, 1995

PHILADELPHIA, PA  
230 SOUTH BROAD STREET  
PHILADELPHIA, PA 19102  
(215) 883-1410

BALTIMORE, MD  
2700 BRADING HIGHWAY  
208 TERMINAL OFFICE BUILDING  
BALTIMORE, MD 21288  
(410) 283-7817

WILMINGTON, DE  
1035 PHILADELPHIA PIKE  
WILMINGTON, DE 19808  
(302) 788-4808

117 N. MARKET STREET  
WILMINGTON, DE 19801  
(302) 428-1240

PERTH AMBOY, N.J.  
900 STATE STREET  
P.O. BOX 1888  
PERTH AMBOY, NJ 08861  
(908) 828-9100

Delaware Department of Natural Resources  
and Environmental Control  
Division of Water Resources  
Surfacewater Management Section  
89 Kings Highway  
P.O. Box 1401  
Dover, Delaware 19903

Attention: Mr. William Moyer

Re: State of New Jersey  
Department of Environmental Protection  
Division of Parks and Forestry  
Rehabilitation of the Historic Fort Mott Pier  
Block 5301, Lot 3, Fort Mott State Park  
Pennsville Township, Salem County, NJ and  
New Castle County, Delaware

Dear Mr. Moyer:

S. T. Hudson Engineers, Inc. has been engaged by the New Jersey Department of Environmental Protection, Division of Parks and Forestry to represent them in obtaining the necessary permits for the rehabilitation of the historic Fort Mott Pier, located at Fort Mott in Pennsville Township, Salem County, New Jersey.

This project is intended specifically to replicate the appearance of the pier in 1898, during the period of the greatest historical significance. The project was designed so that the pier could be made suitable as a terminus for ferry service between Fort Mott and Fort Delaware on Pea Patch Island, and Fort DuPont on the Delaware shore with provisions for handicapped access and the rehabilitated pier would be eligible for inclusion in the Fort Mott and Finn's Point National Cemetery Historic District, in accordance with Department of the Interior criteria.

Mr. William Moyer  
Delaware Department of Natural Resources  
and Environmental Control  
September 20, 1995  
Page Two

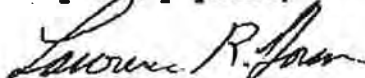
We are applying for a "Letter of Authorization" for the historic restoration of the Fort Mott Pier. This restoration is intended specifically to replicate the appearance of the pier in 1898, during the period of its greatest Historic Significance. This portion of the project will not alter the present footprint of the pier. In addition, we are seeking a Subaqueous Lands Permit for the mooring of the floating barge outshore of the Fort Mott Pier which will be used as an intermediate floating pier to safely transfer passengers to and from the planned ferryboat, the "Dela-Fort" which presently operates between Fort DuPont south of Delaware City and Fort Delaware on Pea Patch Island.

In this regard, we herewith submit three (3) copies of a complete permit application package for your review.

Concurrently with this application, we have submitted permit applications to both the U. S. Army Corps of Engineers and New Jersey Department of Environmental Protection for this project.

Please do not hesitate to contact me should you have any questions concerning this application or associated documents.

Very truly yours,



Lawrence R. Horan  
Environmental Specialist

LRH/em

Enclosures

cc: Mr. Dale B. Smith  
Mr. Indrek Ojamaa

H-4893

## **TABLE OF CONTENTS**

<b><u>SECTION</u></b>		<b><u>PAGE</u></b>
<b>1.0</b>	<b>INTRODUCTION</b>	
<b>2.0</b>	<b>SITE BACKGROUND</b>	
	<b>2.1 SITE LOCATION</b>	
	<b>2.2 GENERAL HISTORY OF THE FORT MOTT PIER</b>	
	<b>2.3 STATE BOUNDARY LINE</b>	
<b>3.0</b>	<b>DESCRIPTION OF THE PRO- POSED PROJECT WITH PHO- TOGRAPHS</b>	
	<b>3.1 PRESENT SITE CONDI- TIONS</b>	
	<b>3.2 ALTERNATIVE DESIGNS</b>	
	<b>3.3 PROJECT DESCRIPTION</b>	
<b>4.0</b>	<b>APPLICATION FOR A SUB- AQUEOUS LANDS PERMIT</b>	
	<b>4.1 BASIC APPLICATION FORM</b>	
	<b>4.2 APPENDIX A - BOAT DOCKING FACILITIES</b>	
	<b>4.3 AGENT AUTHORIZATION FORM</b>	
<b>5.0</b>	<b>PERMIT DRAWINGS AND SITE PHOTOGRAPHS</b>	
<b>6.0</b>	<b>PROPERTY DEED</b>	

**LIST OF EXHIBITS**

**EXHIBIT NO.**


- 2-1 USGS SITE LOCATION MAP**
- 2-2 U. S. ARMY CORPS OF ENGINEERS SOUNDINGS  
CHART OF THE DELAWARE RIVER, CIRCA 1943**
- 3-1 FORT MOTT FERRY PIER REHABILITATION  
OPTIONS: SUMMARY ANALYSIS**

**APPENDIX**

**APPENDIX NO.**

- 1 PIER REHABILITATION ALTERNATIVES**
- 2 "BACKGROUND HISTORICAL INVESTIGATION" OF THE FORT MOTT PIER CONDUCTED BY R. ALAN MOUNIER, INC.**
- 3 "INSHORE ARCHEOLOGICAL INVESTIGATION" CONDUCTED BY R. ALAN MOUNIER, INC.**
- 4 SUBMERGED CULTURAL RESOURCE SURVEY BY DOLAN RESEARCH, INC.**
- 5 U. S. DEPARTMENT OF THE INTERIOR "APPLICATION" FOR INCLUSION OF THE FORT MOTT PIER IN THE FORT MOTT AND FINN'S POINT NATIONAL CEMETERY HISTORIC DISTRICT**

**SECTION 1.0**  
**INTRODUCTION**

 S.T. HUDSON ENGINEERS, INC.

DE01920

## SECTION 1.0

### INTRODUCTION

S. T. Hudson Engineers, Inc. has been engaged by the New Jersey Department of Environmental Protection Division of Parks and Forestry to act as its agent in applying for permits for the rehabilitation of an historic pier at Fort Mott State Park.

An extensive study was conducted to explore and develop options for the rehabilitation. Two objectives had to be met: first, the pier had to be made suitable as a terminus for ferry service between Fort Mott and Fort Delaware on Pea Patch Island, and Fort DuPont on the Delaware shore, with provision for handicapped access; second, the rehabilitated pier had to be eligible for inclusion in the Fort Mott and Finn's Point National Cemetery Historic District, in accordance with Department of the Interior criteria.

Extensive investigative studies were performed which included:

- A "Background Historical Investigation" of the Fort Mott Pier conducted by R. Alan Mounier, Inc. Their report is included in Appendix 2.
- An "Inshore Archeological Investigation" was conducted by R. Alan Mounier, Inc. which is contained in Appendix 3.
- A Submerged Cultural Resource Survey by Dolan Research, Inc. which is contained in Appendix 4.
- Application for Inclusion in Historic District which is contained in Appendix 5.

Upon analysis of all the information and taking into account "design considerations and available funds", several alternative configurations were examined with the field narrowed down to five principal options. These five options were presented to the NJDEP, NJDEP Division of Parks and Forestry and to the Historic Preservation Offices of both New Jersey and Delaware. Their decision led to a consensus in favor of replicating the appearance of the pier as it was in 1898. This decision was partly based on the fact that this option as being least likely to affect a proposed nomination of the pier as part of the Fort Mott and Finn's Point National Cemetery Historic District.

The permit application includes copies of all studies and a discussion of all five alternative pier configurations which were examined.

**SECTION 2.0**  
**SITE BACKGROUND**

 S.T. HUDSON ENGINEERS, INC.

DE01922



## SECTION 2.0

### SITE BACKGROUND

#### 2.1 Site Location

The pier extends into the Delaware River from the New Jersey shoreline, adjacent to Fort Mott. Fort Mott is located at Finn's Point in Lower Pennsville Township, Salem County, New Jersey. Refer to Exhibits 1 and 2 contained in this Section. It is one of three forts that were planned for the defense of the lower Delaware River. The other two forts are Fort Delaware, located on Pea Patch Island in the middle of the river off Fort Mott, and Fort DuPont located on the Delaware side of the River. The three forts are situated within one and one half miles of each other.

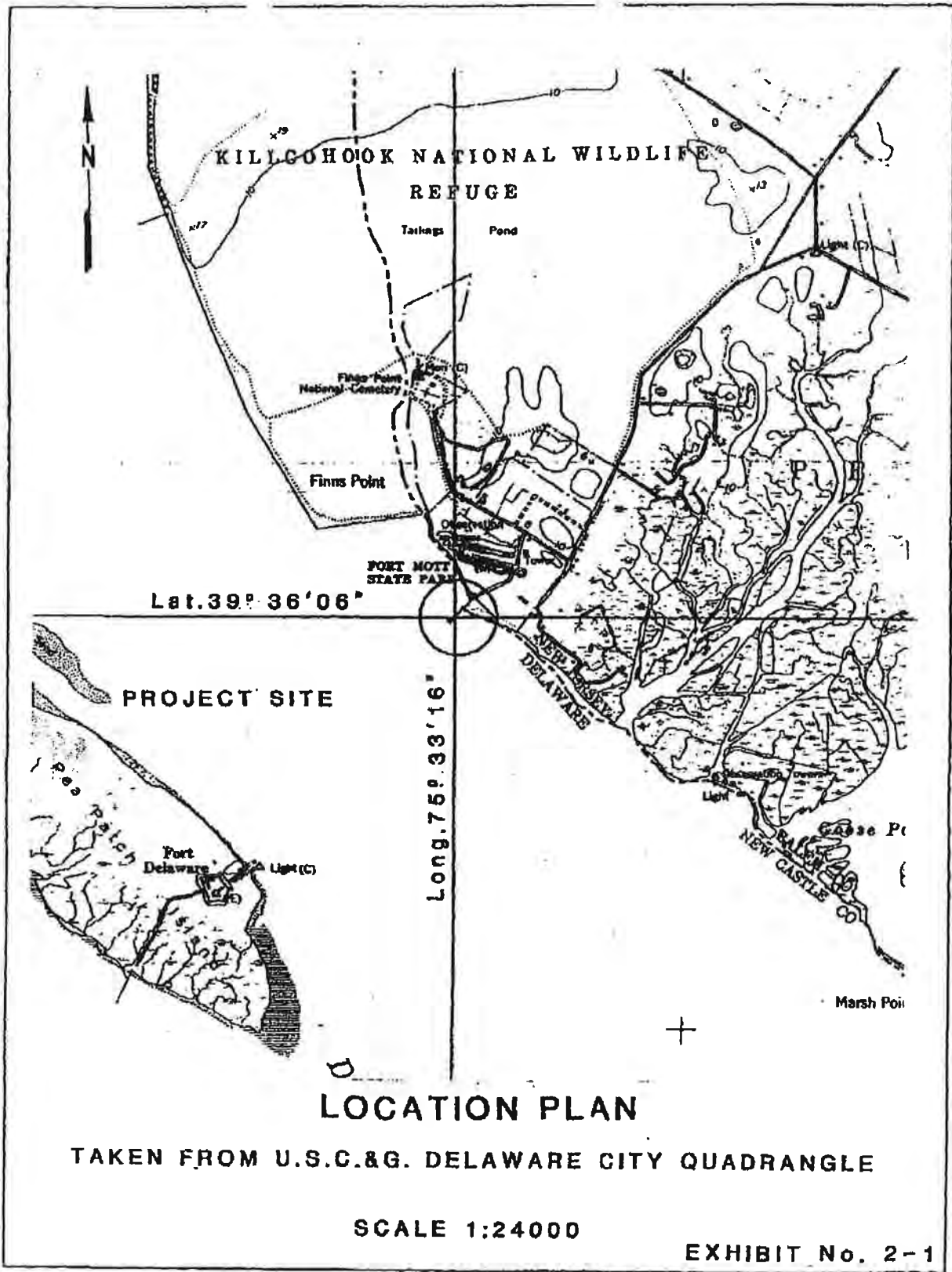
Today, Fort Mott State Park and Finn's Point are tucked between two extensive areas of artificial land (so-called "made-land") comprised of fill deposits. The one to the north is the Killcohook National Wildlife Refuge. The one to the south is known as Artificial Island, where the Salem Nuclear Plant is located. Both of these areas of made-land belong to the State of Delaware, as Delaware's State boundary is located at the low water mark along the west shore line of New Jersey at this point.

#### 2.2 General History of the Fort Mott Pier

Plans for a Fort on the New Jersey side of the river, at the site of present Fort Mott, had been suggested by Pierre L'Enfant as early as 1779. The Federal Government first acquired land at Finn's Point in 1863. However, construction of the fort was not begun until after the Civil War in 1872.

The Fort Mott Pier was built in 1873 not as a pier but as a crib structure. Cribbs were built as large closed-end boxes perhaps 25 feet wide and 50 or 60 feet long. Typically they were built on land near the point of use, then dragged into the water. They were then floated into position over a previously-prepared bottom, then by careful filling with rocks or other heavy material, sunk into position. Guide piles were sometimes used to aid this operation.

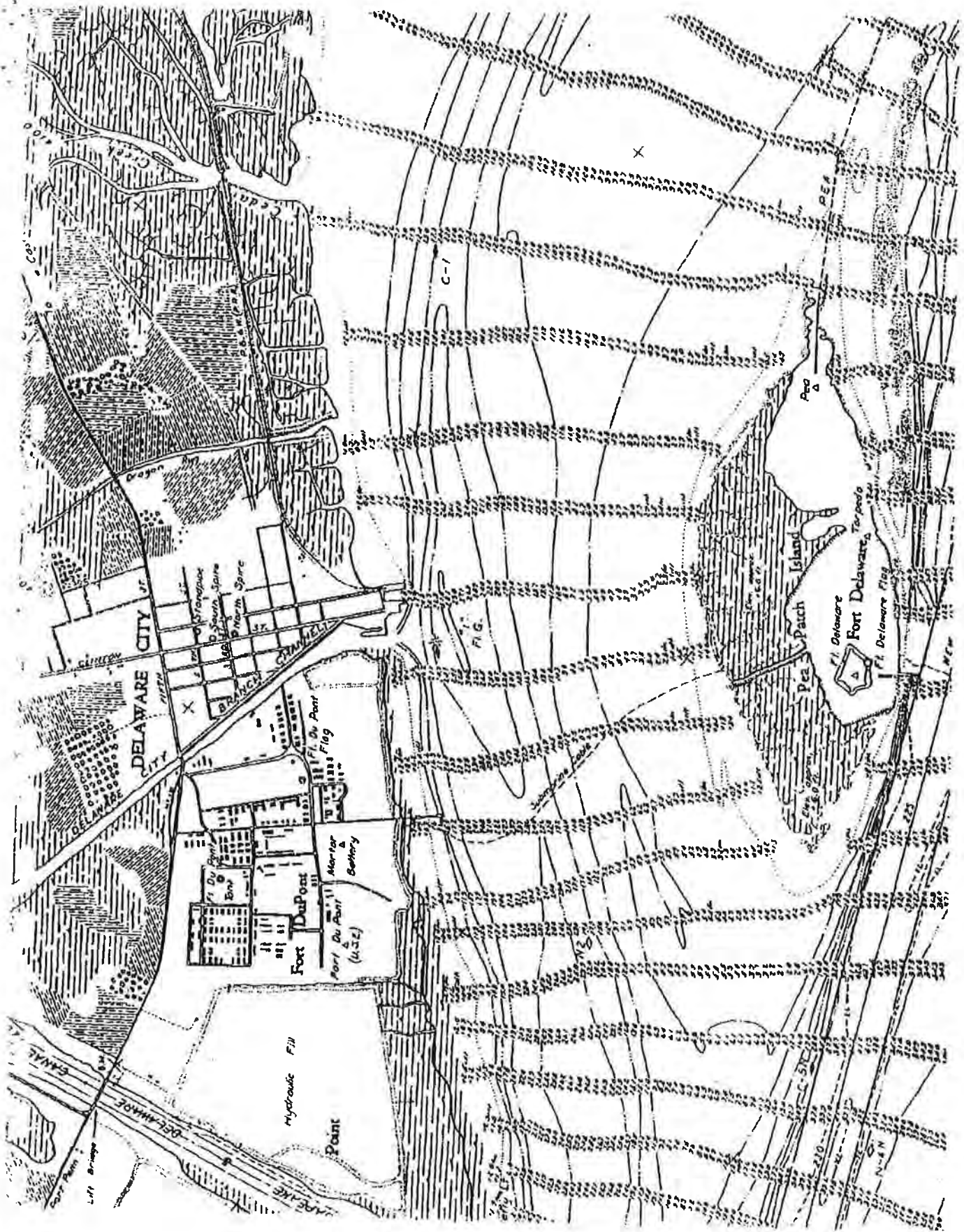
Subsequent crib boxes were added end-to-end and fastened together until the desired overall length was reached. The final top of pier elevation was attained by laying additional courses of horizontal face timbers, connected by tie logs transversely and longitudinally. The completed structure was then filled with sandy soil.



**HE** S.T. HUDSON ENGINEERS, INC.

DE01924





DE01926

Originally, the pier extended three hundred and fifty feet into the river. A length of 30 feet was added later. The water terminus is a "T" shaped head, measuring 35x48 feet. The structure rose to a height of 10± above the mean low water line.

The pier head had a derrick which unloaded materials arriving by water. Railroad cars ran along the top of the pier on narrow gauge (36") tracks. There were two such sets of tracks on the pier. One set of rails led up an inclined trestle to bins for temporary storage of small stones and sand. The other led past the end of the pier for the fort itself. This set of rails was used for all other materials arriving at the fort. The cars were moved over both tracks by means of cables which were wound on drums in an engine house located near the east end of the battery. Refer to Photograph No. 1.

After World War I, the role of Fort Mott changed rapidly and soon, along with Fort Delaware and Fort DuPont, it was supplanted as the principal defensive installation on the Delaware River with the construction of Fort Saulsbury near Milford, Delaware. The guns were all eventually dismantled and shipped to various locations. Battery Gregg's two guns and carriages were shipped to Benica Arsenal in California in 1913; the two 5-inch guns at Battery Krayenbuhl were dismantled and shipped to the Morgan Engineering Co., Alliance, Ohio, in 1917. Battery Harker's three 10-inch guns were dismantled in 1917 but were not shipped until 1941. They were sent to Canada after the War Department's Adjutant General's Office authorized the "Supply of Armament to Canada".

Troop strength at the fort was reduced during World War I, and after Fort Saulsbury opened, staff at Fort Mott was further cut back to a care-taking detachment. In 1943, the final year that the fort was maintained by the government, a staff of eleven men was stationed at the fort and only Battery Arnold was still maintained. In October of 1943, the fort was abandoned by the Army. The state of New Jersey took ownership of the military reservation after World War II. All remaining armament was scrapped before the state's appropriation of the property in 1947. Preliminary work on restoration and development of the property was initiated by the state in 1949 and the area was dedicated as a state park in June 1951.

A detailed history of both Fort Mott and the pier can be found in Appendices 2, 3, 4 and 5.

### 2.3 State Boundary Line

The project site lies within the jurisdictional limits of two states. The political boundary between Delaware and New Jersey within a circle of twelve miles about the town of New Castle is the low water mark of the Delaware River on the east or New Jersey side.

The State line, however, was in dispute for many years until the Supreme Court of the United States decision of February 5, 1934 which upheld Delaware's claim to be the owner of the entire bed of the river within the limits of this circle up to the low water mark on the east or New Jersey side. Thus the low water line as depicted on Charts Nos. 294 and 295 (published in September, 1933) and No. 1218 (published in August, 1932) of the U. S. Coast and Geodetic Survey was deemed the boundary between the two States.

Since the pier existed as essentially filled land at the time of the 1934 decision, it is our interpretation that the low water line and the State Boundary line follows the perimeter of the pier.

**SECTION 3.0**

**DESCRIPTION OF THE PROPOSED PROJECT**  
**WITH PHOTOGRAPHS**

 B.T. HUDSON ENGINEERS, INC.

DE01929

## SECTION 3.0

### PROJECT DESCRIPTION

#### 3.1 Present Site Condition

The pier extends 590 feet into the river from fast ground, or 430 feet from the line of mean high water. Elements of the original pier, including portions of its cribbing are visible at low water. The structure is overgrown with a variety of wetland reeds, grasses, and wild shrubs. Refer to Photographs 2, 3, 4 and 5 at the end of this section.

Presently, the subaerial portion of the pier is in disrepair. Remnant timbers rise from the water line to a height of 5± feet above mean low water. The structure is awash at high water. The subfluvial timbers are sound.

The project will not affect any subtidal shallows, however, the present pier is overgrown with wetland species of reeds (Phragmites) and several marsh grasses. The dominant species is Phragmites. Remnant timbers rise from the water line to a height of 5± feet above mean low water. The structure is awash at high water (Mean High Water is +5.4 feet above mean low water). The structure originally rose to a height of 10± feet above the mean low water line. In order to restore it to its original condition, approximately 0.25 acres of intertidal shallows and wetlands will be filled. As discussed in Section 3.0, several alternatives were proposed that would have avoided filling, however, due to historic issues which took precedence, both the New Jersey and Delaware State Historic Preservation Offices (SHPO) rejected the various alternatives in favor of historic restoration of the pier. Since the pier is being proposed for inclusion in the Fort Mott and Finn's Point National Cemetery Historic District, certain alternatives would have denied eligibility. The project is water dependant and because of these historic issues has no feasible alternative on a non-wetland site.

The pier is surrounded by plank sheathing, added at an unknown date, to repair or arrest decay. This work was supposedly done as a WPA Project, but there remains no confirming documentation. This sheathing, decayed at the water line rises to the same height as the other remnant timbers. The general elevation of the terrain immediately inshore of the pier is about 10 feet above mean low water.



The pier is considered to be a significant cultural resource solely by reason of its association with the construction and operation of Fort Mott during the period 1896-1943.

### 3.2 Alternative Designs

Several alternative configurations for the restoration of the pier were examined, as described herein, and the field was narrowed down to five principal options. A more detailed description of the five Pier Rehabilitation Alternatives can be found in Appendix 1.

Two of the options involved leaving the existing pier in more or less as-is condition, maximizing opportunities for studying its structure, and allowing access for future investigations. One of these options was to build a walkway parallel to the existing pier; the other was to support a walkway above it.

The two of the other options were to reconstruct the pier, or to encapsulate it in sheet piling, with timber sheathing to simulate its historic appearance.

The fifth and chosen option was developed after consultation with the NJDEP Division of Parks and Forestry, the New Jersey and Delaware State Historic and Preservation offices and Regulatory review of the first four: it was similar to the fourth option, but it involved using timber, vs. steel, sheet piling to encapsulate the pier, and is intended specifically to replicate the appearance of the pier in 1898, during the period of its greatest historical significance.

The results of comparing these five options are summarized in the Exhibit 3-1.

### 3.3 Project Description

#### 3.3.1 Pier Rehabilitation

The existing pier will be encapsulated with CCA treated timber sheet piling for stability. The 2"x10" horizontal facing timbers and 10"x10" timber strongbacks at 7.5' intervals will be used to create the external appearance of the pier as shown in the 1897 photograph.

The crib structure will then be backfilled with sand and gravel fill to restore its appearance. The pier surface design provides for a 12' wide public access concrete walkway. On each side of the walkway 4" rounded stone will be installed to make it clear that this is not an access area. The

**FORT MOTT FERRY PIER REHABILITATION OPTIONS:  
SUMMARY ANALYSIS**

OPTION	A	B	C	D	E
Configuration	Independent walkway on downriver side of existing pier.	Walkway supported above existing pier, with observation "wings" at outshore end.	Reconstruction of pier, building up crib structure from existing sound base.	Encapsulation of existing pier, using steel sheet piling - sheathing with timber for appearance - to enclose the existing structure.	Encapsulation of existing pier with timber sheet piling, with external timber sheathing and "strongbacks" to replicate appearance in 1888.
Design Considerations	Relatively straightforward; low resistance and compatible appearance will be major factors.	Somewhat more complex design than A; requires driving piles through bottom of crib structures. Must withstand ice loads at high water, and appearance should not detract from historic pier.	Significant removal of existing structure required to reach sound material. Also, remaining historic structures outside of "new" crib will give anachronistic appearance if left in place.	Will require removal of rip-rap backed against existing timber sheathing below MM; also will require removal of some external timber structure (fender piles, etc.).	Will require removal of rip-rap backed against existing timber sheathing below MM; also will require removal of some external timber structure (fender piles, etc.).
Est. cost (2001) including common items @ \$250,000 additional	\$443,000 Thus project total \$803,000	\$600,000 Thus project total \$940,000	\$879,000 Thus project total \$1,239,000	\$889,000 Thus project total \$1,288,000	\$780,000 Thus project total \$1,140,000
Environmental Permitting Considerations	Relatively straight-forward; no major problems expected.	Relatively straight-forward; no major problems expected.	Could lead to problems, as pier is now technically wetlands. Also, proposed action could be interpreted as filling river (approx. 0.25 acres).	Could lead to problems, as pier is now technically wetlands. Also, proposed action could be interpreted as filling river (approx. 0.25 acres).	Could lead to problems, as pier is now technically wetlands. Also, proposed action could be interpreted as filling river (approx. 0.25 acres).
Historical Preservation Considerations	With interpretive graphics on parallel log, enables existing pier to be viewed as historic ruin, with unique engineering features fully visible (and accessible).	With interpretive graphics on parallel walkway railing, enables existing pier to be viewed as historic ruin, with unique engineering features fully visible (and accessible). Minimal damage to historic structure.	Visible structure would only superficially resemble historic structure, parts of which must be destroyed during construction. The remainder will be rendered inaccessible to future investigation, so mitigation (archival cataloging) may be required.	Visible structure would only superficially resemble historic structure, parts of which must be destroyed during construction. The remainder will be rendered inaccessible to future investigation, so mitigation (archival cataloging) may be required.	Visible structure would only superficially resemble historic structure, parts of which must be destroyed during construction. The remainder will be rendered inaccessible to future investigation, so mitigation (archival cataloging) may be required.

EXHIBIT NO. 3 - 1

12' width will also allow for light truck maintenance access to the outshore end of the pier. The 12' wide public access concrete walkway will be extended inshore to connect with the existing concrete sidewalk.

### 3.3.2 Ferry Service

This section discusses those elements of the proposed pier structure which will be required for transferring passengers - including the handicapped - to and from the ferry boat which will ply between Ft. Mott, Ft. Delaware and Ft. DuPont.

The planned ferryboat, the "Dela Fort", which now operates between Ft. DuPont and Ft. Delaware, is about 55 ft. long, 16-1/2 ft. in beam, with a draft of about 3-1/2 ft.

In order to safely transfer passengers to and from a vessel in tidal waters, it is accepted practice to use an intermediate floating pier (barge), ballasted so that its freeboard equals that of the vessel, and accessed from a fixed shoreside structure by means of a ramp.

The ramp will be hinged at the inshore end to allow the floating pier (barge) to rise and fall with the tide. The outshore end will be fitted with rollers or slides because the horizontal projection varies with ramp angle.

We have selected a deck barge size of 100 ft. by 30 ft. as being commonly available on the used market, and of sufficient size to provide a stable landing platform under the exposed conditions at Ft. Mott. The barge will be secured in position by large (we estimate 36 inches in diameter) mooring monopiles driven up to 70 ft. into the river bottom.

The barge will be fitted with robust collars lined with a low-friction material which will allow it to move up and down the piles with the tide.

Note that the design of the mooring system is dominated by the loads generated by floating ice, beside which the effects of wind and current are almost trivial. A commonly-applied design criterion for ice loading under the effects of wind and current is to allow for a force of 2,000 lb. per linear foot at the waterline.

Access to the barge from the pier will be provided by two ramps. A hinged, variable-angle ramp will extend from the fixed pier to a platform on the floating pier. The height of the platform will be set so that the hinged ramp is horizontal at the mid-point between high and low "design tides". The length of the hinged ramp will then be set by the criterion that its upward or downward slope be equal to or less than 1 on 12 at the extremes of the design tidal range. A fixed ramp with a 1 on 12 slope will extend from the top of the platform to the deck of the floating barge.

FORT MOTT, N.J.

No. 1. February 14, 1898.



Unloading U.S. Disappearing Carriage for 12" B.L. Rifle

1. PIER, LOOKING NORTHWEST FROM DOWNRIVER SHORELINE, CIRCA 1898

**HE** S.T. HUDSON ENGINEERS, INC.

DE01935

RECEIVED

SEP 22 1995


WETLANDS & AQUATIC  
ECOSYSTEMS



2. AERIAL VIEW OF FORT MOTT PARK AND PIER LOOKING ACROSS THE RIVER INTO DELAWARE. NOTE FORT DELAWARE IN BACKGROUND.



3. AERIAL VIEW OF PIER LOOKING NORTHEAST (INSHORE).

 S.T. HUDSON ENGINEERS, INC.

DE01936

RECEIVED

SEP 22 1985

WETLANDS & AQUATIC  
PROTECTION BRANCH



4. AERIAL VIEW OF PIER LOOKING SOUTHEAST (DOWNSTREAM).



S.T. HUDSON ENGINEERS, INC.

DE01937

RECEIVED

SEP 22 1995

WETLANDS & AQUATIC  
PROTECTION BRANCH



5. VIEW OF PIER LOOKING EAST, CIRCA 1965.



S.T. HUDSON ENGINEERS, INC.

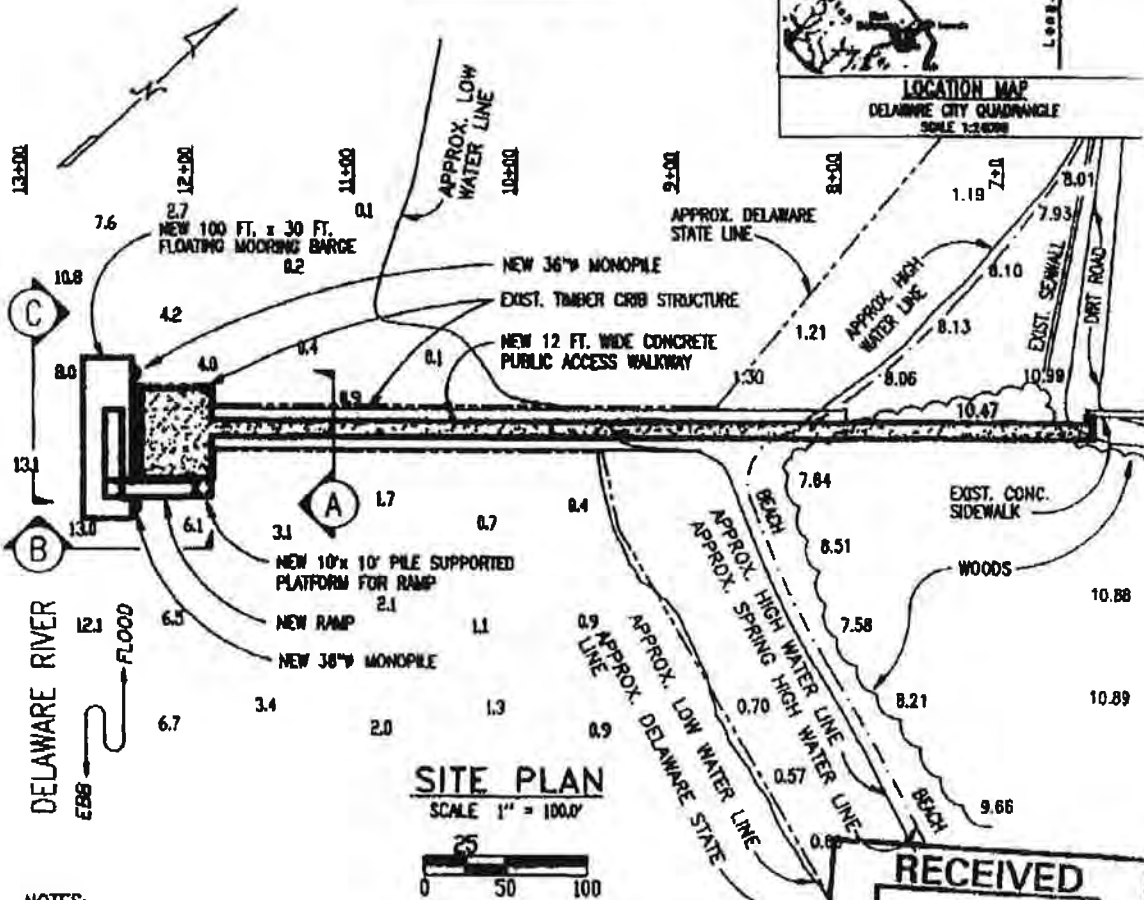
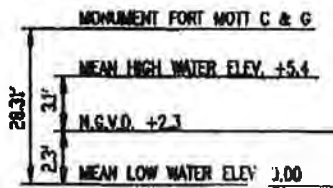
DE01938



**PURPOSE:**  
FORT MOTT PIER REHABILITATION  
AND NEW FLOATING FERRY DOCK.

**ADJACENT PROPERTY OWNERS:**  
SEE LIST IN REPORT

**DATUM CHART**



**SITE PLAN**  
SCALE 1" = 100.0'



**NOTES:**

1. TOPOGRAPHIC SURVEY EXECUTED ON OCT. 7 & 8, 1993.
2. HYDROGRAPHIC SURVEY EXECUTED ON OCT. 13, 1993.
3. SOUNDINGS ARE IN FEET AND REFER TO MEAN LOW WATER.
4. ELEVATIONS ARE IN FEET AND REFER TO MEAN LOW WATER.
5. REFERENCE ELEVATION ON MONUMENT +28.31 WAS OBTAINED FROM U.S. ARMY CORPS OF ENGINEERS.

**NOTE:** FINAL DESIGN REQUIRED FOR CONSTRUCTION

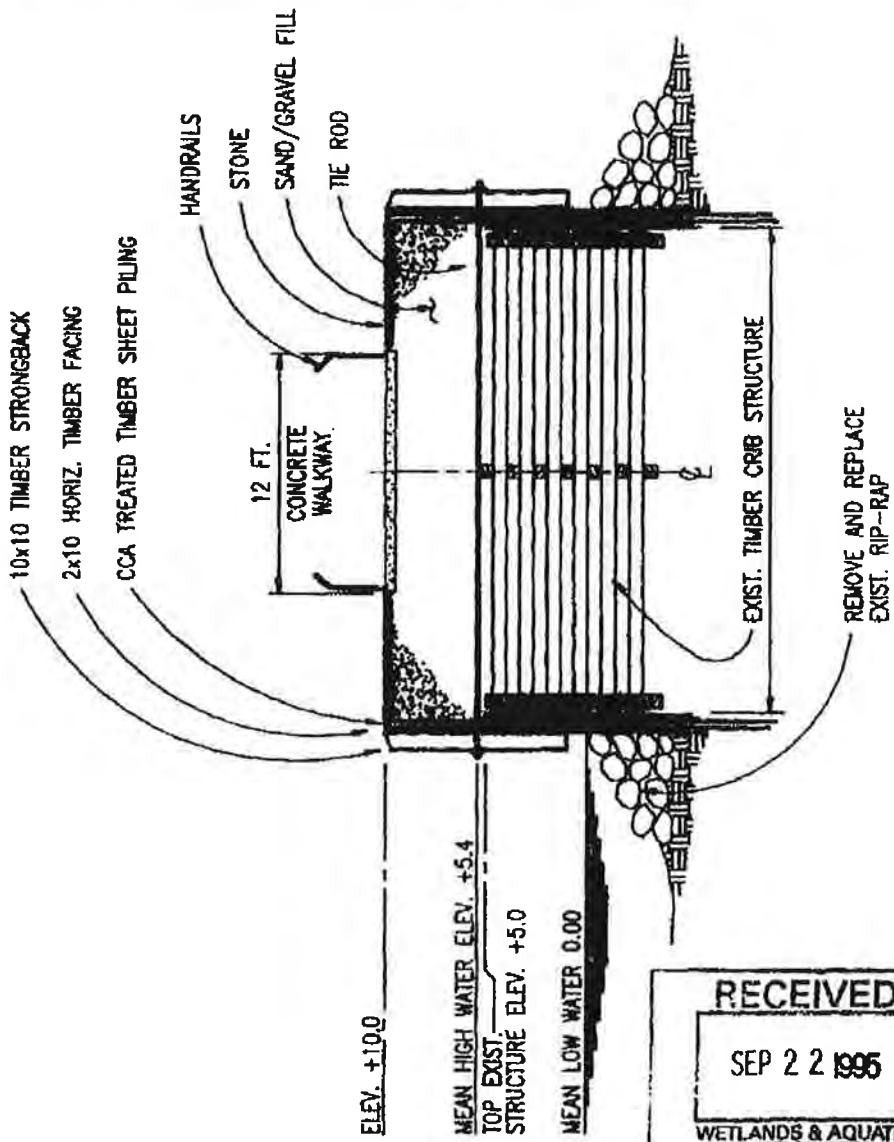
**S.T. HUDSON ENGINEERS, INC.**  
PROFESSIONAL ENGINEERS & CONSULTANTS

800 Hudson Square  
P.O. Box #108  
Camden, N.J. 08101  
Fax No. 856-342-8323

FILE No. G-2096  
CONTRACT No. H-4564  
DATE 9/13/05  
SHEET No. 1 of 4



PROPOSED:	PIER REHABILITATION AND NEW FLOATING FERRY DOCK
AT:	FORT MOTT STATE PARK, NEW JERSEY
COUNTY OF:	NEW CASTLE, DELAWARE
APPLICATION BY:	NEW JERSEY D.E.P. DIVISION OF PARKS AND FORESTRY



SECTION A  
SCALE 1/8" = 1'-0"

RECEIVED  
SEP 22 1995  
WETLANDS & AQUATIC PROTECTION BRANCH

FILE No. G-2098  
CONTRACT No. H-4554  
DATE 9/13/95  
SHEET No. 2 of 4

NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION

S.T. HUDSON ENGINEERS, INC.  
PROFESSIONAL ENGINEERS & CONSULTANTS

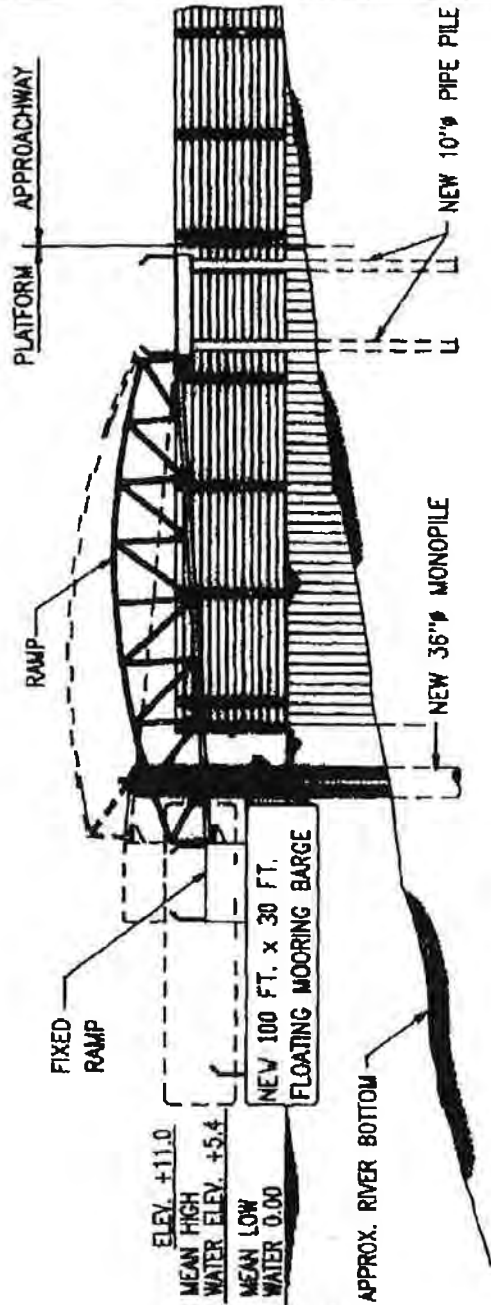


Fax No. 809-342-8323

800 Hudson Square  
P.O. Box 9108  
Camden, N.J. 08101  
809-342-880

PROPOSED:	PIER REHABILITATION AND NEW FLOATING FERRY DOCK
AT:	FORT MOTT STATE PARK, NEW JERSEY
COUNTY OF:	NEW CASTLE, DELAWARE
APPLICATION BY:	NEW JERSEY D.E.P. DIVISION OF PARKS AND FORESTRY

DE01940



**SECTION B**  
SCALE 1/16" = 1'-0"

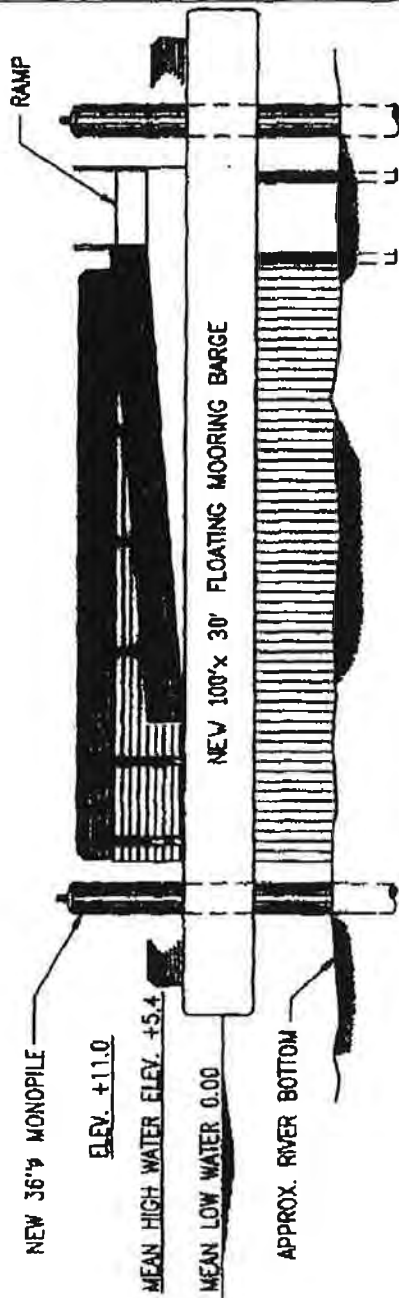
RECEIVED  
SEP 22 1995  
WETLANDS & AQUATIC PROTECTION BRANCH

NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION

**S.T. HUDSON ENGINEERS, INC.**  
PROFESSIONAL ENGINEERS & CONSULTANTS  
800 Hudson Square  
P.O. Box 9108  
Camden, N.J. 08101  
Fax No. 808-342-8323

FILE No. G-2096  
CONTRACT No. H-4554  
DATE 9/13/95  
SHEET No. 3 of 4


PROPOSED: PIER REHABILITATION AND NEW FLOATING FERRY DOCK  
AT: FORT MOTT STATE PARK, NEW JERSEY  
COUNTY OF: NEW CASTLE, DELAWARE  
APPLICATION BY: NEW JERSEY D.E.P. DIVISION OF PARKS AND FORESTRY



SECTION C  
SCALE 1/16" = 1'-0"

RECEIVED  
SEP 22 1995  
WETLANDS & AQUATIC  
PROTECTION BRANCH

NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION

S.T. HUDSON ENGINEERS, INC.  
PROFESSIONAL ENGINEERS & CONSULTANTS  
  
 600 Hudson Square  
 P.O. Box 9108  
 Camden, N.J. 08101  
 Fax No. 856-342-8323      856-342-8800

FILE No. G-2096  
 CONTRACT No. H-4554  
 DATE 9/13/95  
 SHEET No. 4 of 4

PROPOSED:	PIER REHABILITATION AND NEW FLOATING FERRY DOCK
AT:	FORT MOTT STATE PARK, NEW JERSEY
COUNTY OF:	NEW CASTLE, DELAWARE
APPLICATION BY:	NEW JERSEY D.E.P. DIVISION OF PARKS AND FORESTRY

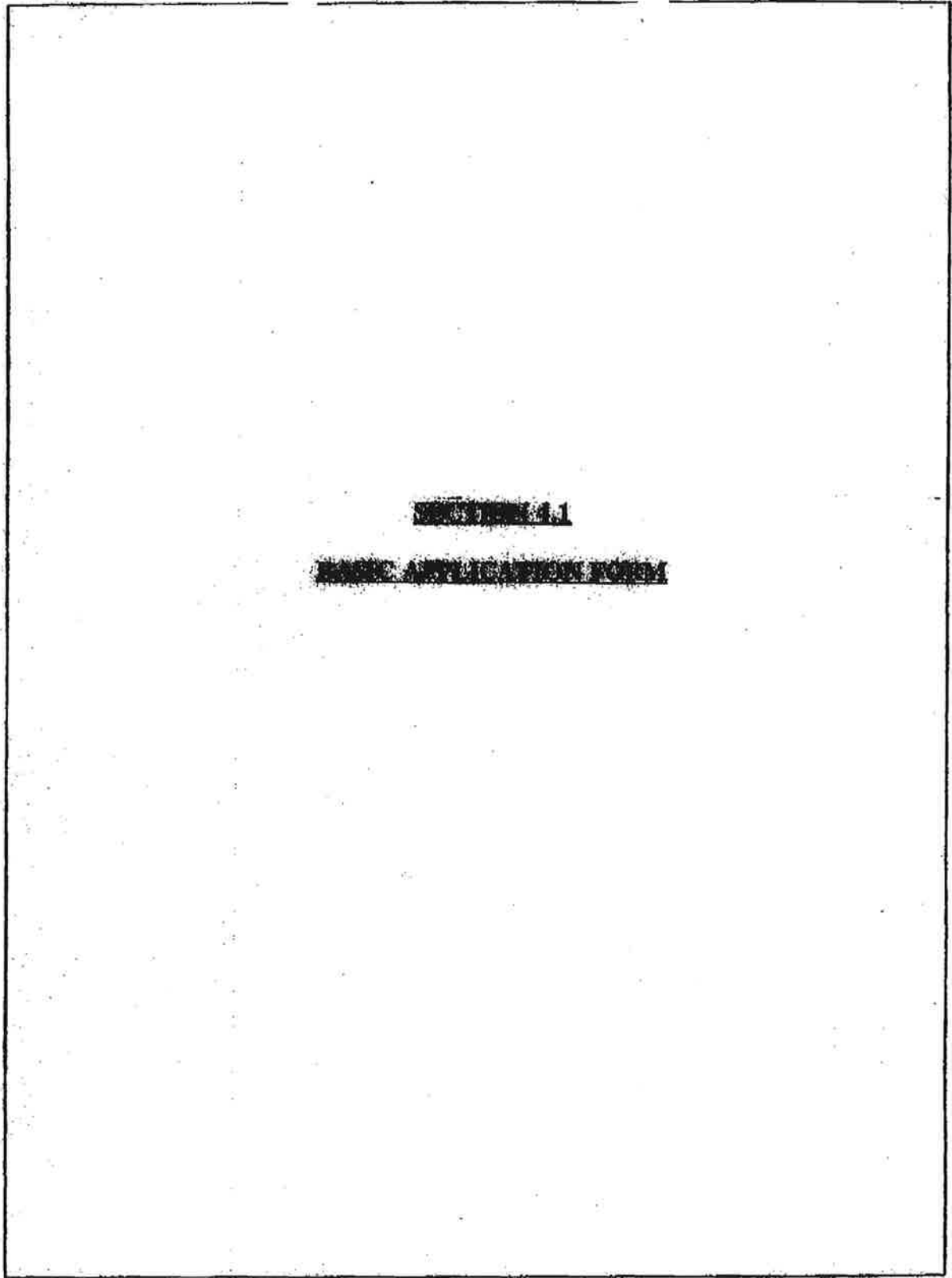
DE01942


44

[REDACTED]

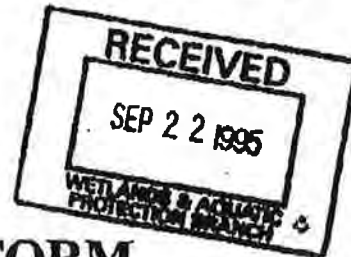
十位 S.T. HUDSON ENGINEERS, INC.

DE01943



 S.T. HUDSON ENGINEERS, INC.

DE01944

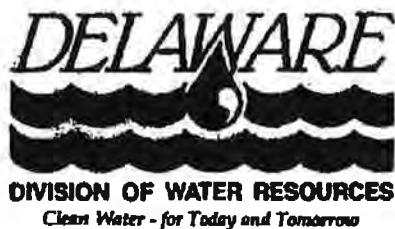


---

## JOINT APPLICATION FORM

**For Subaqueous Lands, Wetlands,  
and Marina Projects**

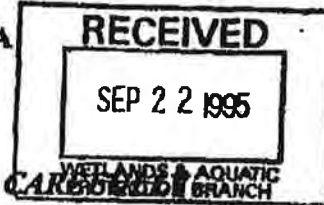
**State of Delaware  
Department of Natural Resources  
and Environmental Control  
Division of Water Resources**



---

DE01945

**APPLICATION FOR APPROVAL OF A  
SUBAQUEOUS LANDS, MARINA,  
AND/OR WETLANDS PROJECTS**



**PLEASE READ THE FOLLOWING INSTRUCTIONS**

\* Complete each section of this application as thoroughly and accurately as possible. Incomplete or inaccurate applications will be returned.

\* Depending upon the nature of the project, some appendices now require professional expertise to be properly completed. A consultants list is available by calling (302) 739-4691.

\* Proof of ownership or permitted land use agreement is mandatory and must be submitted at time of application.

\* While completing this application, please refer to the definitions and explanations provided in the Joint Permit Application Form Reference Guide.

\* All applications must be accompanied by plan drawings which show the location and design details of the proposed work. For specific requirements and typical drawings, refer to the explanation section and typical plans section of the Joint Application Form Reference Guide. 8 1/2" x 11" black and white drawings (to scale) are required for every application. Full construction plans may also be submitted for additional clarification on major projects.

\* Fee schedules are provided as an insert to this application. Application fees are non-refundable regardless of the permit decision or application status.

\* After completing the basic information section, complete the appropriate "type of project" appendix for your project. Please refer to the Joint Application Form Reference Guide if you need help.

\* All applications must be completed in ink. Submit three (3) complete copies of the application and drawings to :

Department of Natural Resources and  
Environmental Control  
Division of Water Resources  
Wetlands and Subaqueous  
Lands Section  
89 Kings Highway, P. O. Box 1401  
Dover, DE 19903

\* No construction may begin at the project site before written approval has been received for this work.

---

---

If you have any questions about this application, please call (302) 739-4691.

---

---



**TYPE OF PROJECT**  
List of Appendices

RECEIVED

SEP 22 1995

WETLANDS & AQUATIC  
PLANT LIFE BRANCH

Please complete the Basic Application Form (pages 4 through 8) for this project. Please check below only the appendices which apply to your project, complete the appropriate appendices and attach them to the Basic Application Form. (Please see definitions and explanations section of the Joint Application Form Reference Guide for further help.)

Applications must have the following applicable appendix completed upon submittal. Return only those appendices which apply to your project. Incomplete applications will be returned.

- |  |  |
|--|--|
| A. <input checked="" type="checkbox"/> Boat Docking Facilities (1-4 slips)         | K. <input type="checkbox"/> Groins, Jetties, or Breakwaters  |
| B. <input type="checkbox"/> Boat Ramps   | L. <input type="checkbox"/> Construction in State Wetlands (Type I)  |
| C. <input type="checkbox"/> Road Crossings   | M. <input type="checkbox"/> Construction in State Wetlands (Type II)   |
| D. <input type="checkbox"/> Channel Modifications or Impoundment Structures (Dams) | N. <input type="checkbox"/> Preliminary Marina Screening Checklist (See * below)   |
| E. <input type="checkbox"/> Utility Crossings                                      | O. <input type="checkbox"/> Marina (See * below)   |
| F. <input type="checkbox"/> Intake or Outfall Structures                           | P. <input type="checkbox"/> Stormwater Management  |
| G. <input type="checkbox"/> Bulkheads  | Q. <input type="checkbox"/> Ponds and Impoundments (Other than for Stormwater Management)                                  |
| H. <input type="checkbox"/> Fill   | R. <input type="checkbox"/> Dredging/Maintenance<br><input type="checkbox"/> Hydraulic <input type="checkbox"/> Mechanical |
| L. <input type="checkbox"/> Rip-Rap  | S. <input type="checkbox"/> New Dredging<br><input type="checkbox"/> Hydraulic <input type="checkbox"/> Mechanical         |
| J. <input type="checkbox"/> Vegetative Stabilization                               |  |

\*Please see following section on Marinas for a description of the requirements.

Reminder: After completing the basic application and the appendices which apply to this project, turn to the sample drawings in the Joint Application Form Reference Guide and prepare your application drawings.



## MARINA REQUIREMENTS

If your project falls into one of the categories listed below, you must obtain a Marina Permit from the Division of Water Resources in addition to your Subaqueous Lands Lease, Wetlands Permit, and any necessary approvals from the U.S. Army Corps of Engineers.

A Marina Permit is required for all new marinas as well as alterations to existing marinas (See definition in the Joint Application Form Reference Guide). For a full description of the regulatory requirements, please see the amended Marina Regulations dated February 22, 1993.

A marina includes any of the following:

- \* Commercial facilities which contain five (5) or more slips;
- \* Residential or planned community facilities which contain five (5) or more slips;
- \* Facilities with less than five (5) slips where one or more headboats are docked;
- \* Boat maintenance or repair yards that are on or adjacent to the water,
- \* Public or commercial boat ramps.

Prior to submitting the Basic Application form or any of the other appendices, it is recommended that marina applicants complete the "Preliminary Marina Screening Checklist" (Appendix N), and schedule a pre-application meeting with the Department to discuss the regulatory requirements for the project. If a pre-application meeting is desired by the applicant the screening checklist should be submitted to the Department at least one week before the pre-application meeting.

Following the pre-application meeting, the applicant should prepare and submit the Evaluation of Wet and Dry Boat Storage alternatives (See Sections II.B.3, II.C.1, and II.D.1 of the Marina Regulations), followed by the Marina Permit Application.

For a complete description of the Marina Permit Processing Procedure, see the Joint Application Form Reference Guide.

A complete Marina Permit Application shall include the following:

- I. Siting and Design Study, including:
  - a. Documentation of Environmental Impact Avoidance (areas which should be addressed include but are not limited to submerged aquatic vegetation, wetlands, shellfish resources and critical habitats).
  - b. Water Quality Assessment
  - c. Benthic Resources Assessment
- II. Basic Application form on pages 4 - 8 of this application.
- III. Appendix O from this application plus as all other applicable appendices).
- IV. Draft Operations and Maintenance Plan (See Section V of the Marina Regulations).
- V. Mitigation/Compensation Plan, as may be required (See Section II. D.10 of the Marina Regulations).

Additional guidance in preparing a Marina Permit Application can be found in the Marina Guidebook and the Joint Application Form Reference Guide.

**BASIC APPLICATION FORM**

**ATTACH ADDITIONAL 8 1/2" X 11" SHEETS OF PAPER AS  
NEEDED**



Application Number \_\_\_\_\_  
(To be assigned by agencies)

**1. Applicant's (Property Owner)**

**name and complete address:**  
State of New Jersey-Dept. of Environmental Protection  
Division of Parks and Forestry  
501 E. State Street, Station Plaza:5  
Trenton, NJ 08625

**Telephone Number**

Home ( ): \_\_\_\_\_  
Work ( X ): 609- 633-7588

**2. Name of Leaseholder (if applicable) of land where project is contemplated and complete address:**  
N/A

**Telephone Number**

Home ( ): \_\_\_\_\_  
Work ( ): \_\_\_\_\_

**3. Authorized agent's name and complete address ( if applicable):**

S. T. Hudson Engineers, Inc.  
800 Hudson Square, P.O. Box 9106  
Camden, NJ 08101

**Telephone Number**

Home ( ): \_\_\_\_\_  
Work ( X ): 609-342-6600

(Complete agent authorization section at the bottom of page 8)

**4. Is this project**

New?  Repair/Replacement? See Sections 1.0, 2.0 and 3.0  
 Both? If "Both", please explain:  
 Supplemental Approval for an existing lease or permit?

**5. Provide a brief description of the project: Rehabilitation of the historic Fort Mott Pier in addition to a new ferry mooring system.**

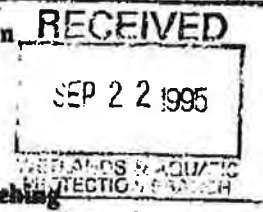
A.  Dredging  
Total Estimated Volume: \_\_\_\_\_ cu. yds.  
B.  Filling  
Total Volume: \_\_\_\_\_ cu. yds.  
C.  Shore Erosion Control  
Total Length: \_\_\_\_\_ ft.

D.  Dock(s)  
Total Number: \_\_\_\_\_  
E.  Pier(s)/Walkways  
Total Number: \_\_\_\_\_  
F.  Other Rehabilitation of  
Total Dimensions: the historic Fort Mott Pier. Mooring of a 30 Ft. wide X 100 ft. long floating barge.

Joint Application Form

6. Primary purpose of the project:

- Shore Erosion Control
- Utility Installation
- Create Waterfowl Habitat
- Temporary Construction
- Beach Nourishment/Fill
- Residential Commercial Development
- Erosion/Sediment Control
- Stormwater Management
- Fill
- Culvert
- Dam
- Road
- Improve Navigable Access
- Improve Fish Habitat
- Stream Channelization
- Maintenance/Repair
- Small Pond
- Marina
- Bridge
- Vessel Berthing/Launching
- Other Historic restoration of Pier and introduction of ferry service between Fort Mott and Fort Delaware and Fort DuPont.



7. Have you discussed this project with any representative of Local, State, or Federal regulatory agency?  Yes  No  
If yes, complete the information below.

Name of Representative: \_\_\_\_\_  
Name of Agency: DNREC, Corps, NJ and DE SHPO  
Date: \_\_\_\_\_

8. Have you applied for, or obtained a permit from any Local, State, or Federal agency for any portion of this project described in this application?  Yes  No

If yes, provide the following:  
Agency: Corps NJDEP  
Type of Action/Permit: Sec. 10 & 404 Waterfront Development/Water Quality  
ID No: \_\_\_\_\_  
Application/Issue Date: Pending

9. Project Location: Fort Mott State Park  
Site address of Location: Fort Mott Road  
Pennsville Township

County/City: Salem County  
Directions from nearest intersection of two state roads: Delaware River and Fort Mott Road off NJ Route 49.  
Name of the waterbody at the project location: Delaware River  
Is it a tributary of any other water body?  Yes  No  
If yes, which waterbody? \_\_\_\_\_

The waterbody at the project location is: (check one on line A & one on line B)

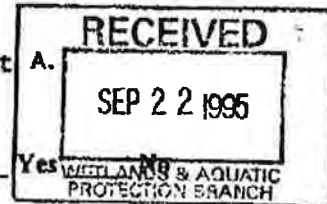
- A.  Natural  Man-made  Uncertain
- B.  Tidal  Non-tidal  Uncertain

10. Current land use:  Agriculture  Marsh/Swamp  Park Land  
 Meadow  Wooded  Developed

Present zoning is:  Agriculture  Commercial  
 Residential  Other  New Jersey State Park

11. For marina projects or projects that include activities or construction in wetlands, list the name and complete address of the owners, as listed with the County Board of Assessment, of neighboring lands within 1,000 feet of the project (including those across the waterway if within the 1,000 foot radius) and any claimants of such ownership rights that are known to the applicant, with their last known addresses. For all other projects, list the name and complete address of the owners of the contiguous neighboring lands on all sides of the property. (Attach sheets as needed).

See adjacent property owners list - Attachment A.



12. Will any public benefit be derived from the project?  Yes  No  
 Uncertain If yes, explain below:

Refer to Sections 1.0, 2.0 and 3.0.

13. Has any work commenced or has any portion of the project for which you are seeking a permit been completed?  Yes  No If yes, give details below. State when work was completed and who performed the work. Please indicate on attached drawings what is proposed.

14. Proposed Start Date: March 1996

15. Contractor's Name and Complete Address: N/A

Telephone Number: \_\_\_\_\_

**PLEASE COMPLETE AND ATTACH ALL APPROPRIATE DRAWINGS AND APPENDICES TO THIS SECTION. INCLUDE A COPY OF THE PROPERTY DEED AND SURVEY TO SHOW ALL PROPERTY BOUNDARIES AND DIMENSIONS.**

ATTACHMENT "A"

ADIACENT PROPERTY OWNERS LIST

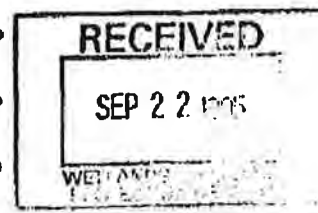
OWNER & ADDRESS REPORT

PENNSVILLE

NAREP WATERFRONT DEVELOPMENT PERMIT APPLICATION  
200 FT LISTING BLOCK 5301 LOT 3

09/13/95 Page 1

BLOCK	LOT	QUAL- IFIER	CLA	PROPERTY OWNER	PROPERTY LOCATION	Add'l Lots
5301	1		15C	UNITED STATES OF AMERICA WASHINGTON D C 00000	FORT MOTT RD	
5301	2		15E	UNITED STATES OF AMERICA WASHINGTON D C 00000	FORT MOTT RD	
5301	5		3B	DAVIS, JOHN W JR FORT MOTT RD RD#3 SALEN NJ 08079	FORT MOTT RD	4
5401	1		2	HAUG, BERNARD & PRISCILLA PO BOX 322 PENNSVILLE NJ 08070	2 ISAACS DR	
5401	2		2	MADDOCKS, JAMES H FORT MOTT RD RD 3 SALEN NJ 08079	6 ISAACS DR	
5403	1		2	BRUNHAMMER, JULIUS & MARGARET RD 3 FORT MOTT RD SALEN NJ 08079	443 FORT MOTT RD	
5403	2		2	LONG, CHARLES B & MARTHA H RD 3 441 FORT MOTT RD SALEN NJ 08079	441 FORT MOTT RD	
5403	3		2	ELLER, BERTHA RD 3 439 FORT MOTT RD SALEN NJ 08079	439 FORT MOTT RD	
5403	4		2	FINLAW, RAYMOND Z & DELORES RD 3 437 FORT MOTT RD SALEN NJ 08079	437 FORT MOTT RD	
5403	5		2	DAVIS, LEONARD L & MARION L RD 3 435 FORT MOTT RD SALEN NJ 08079	435 FORT MOTT RD	
5403	6		2	DAVIS, LEONARD L & MARION L RD 3 433 FORT MOTT RD SALEN NJ 08079	433 FORT MOTT RD	
5402	4		1	LAKOTOS, LOUIS E 165 HIGHLAND AVE PENNSVILLE NJ 08070	5 ISAACS DR	
5402	5		2	ZINNERMAN, LEWIS B JR & HELEN J RD 3 483 FORT MOTT RD SALEN NJ 08079	483 FORT MOTT RD	
5402	6		2	PONYKALA, ROBERT J & CORINNE RD3 481 FORT MOTT RD SALEN NJ 08079	481 FORT MOTT RD	
5402	7		2	COBB, CHARLES E & TERRI L RD 3 479 FORT MOTT RD SALEN NJ 08079	479 FORT MOTT RD	
5402	8		2	BLUM, GEORGE R & CAROL A RD 3 473 FORT MOTT RD SALEN NJ 08079	473 FORT MOTT RD	
5402	9		2	CHEESEMAN, WAYNE H & BRENDA L RD 3 469 FORT MOTT RD SALEN NJ 08079	469 FORT MOTT RD	





OWNER & ADDRESS REPORT

PENNSVILLE

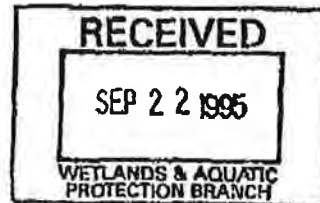
NJDEP WATERFRONT DEVELOPMENT PERMIT APPLICATION  
200 FT LISTING BLOCK 5301 LOT 3

BLOCK	LOT	QUAL-IFIER	CLA	PROPERTY OWNER	PROPERTY LOCATION	Add'l Lots
5402	10		1	ZANE, L W TTL PENNSVILLE TWP RD 3 PO BOX 551 FORT MOTT SALEM NJ 08079	FORT MOTT RD	
5402	11		15C	PENNSVILLE TOWNSHIP OF 90 NORTH BROADWAY PENNSVILLE NJ 08070	FORT MOTT RD	
5402	12		2	VETERANS ADMINISTRATION 20 WASHINGTON PLACE NEWARK NJ 07102	469 FORT MOTT RD	
5402	13		1	FITHIAN, SCOTT L & ANN M POIRIER 463 FORT MOTT RD PENNSVILLE NJ 08070	FORT MOTT RD	
5402	14		1	FITHIAN, SCOTT L & ANN M POIRIER 463 FORT MOTT RD PENNSVILLE NJ 08070	FORT MOTT RD	
5402	15		2	FITHIAN, SCOTT L & ANN M POIRIER 463 FORT MOTT RD PENNSVILLE NJ 08070	463 FORT MOTT RD	
5402	16		1	JOHNSON, BENJAMIN & ANNA 457 FORT MOTT RD RD#3 SALEM NJ 08079	FORT MOTT RD	
5402	17		2	SORRELL, WILLIAM & BARBARA RD 3 457 FORT MOTT RD SALEM NJ 08079	457 FORT MOTT RD	
5402	18		2	ROWE, ROLAND & LORRAINE 54 FRENCH ST WATERBURY CT 06702	455 FORT MOTT RD	
5402	19		2	MCINTOSH, CARRIE H PO BOX 10621 WILMINGTON DE 19850	451 FORT MOTT RD	
5402	20		2	AKHTAR, SAJJID A 31 NEWTON AVE WOODBURY NJ 08096	FORT MOTT RD	
5501	8		1	PEDRICK, HARRY JR & ERMA H RD 2 WATERWORKS RD SALEM NJ 08079	FORT MOTT RD	

**APPLICANT'S REVIEW BEFORE MAILING**

**DID YOU COMPLETE THE FOLLOWING?**

- X   Yes      **BASIC APPLICATION**
- X   Yes      **APPENDICES**
- X   Yes      **VICINITY MAP**
- X   Yes      **PLAN VIEW**
- X   Yes      **ELEVATION OR SECTION VIEW**
- X   Yes      **SIGNATURE PAGE (Page 8) with Agent  
Authorization if appropriate**
- X   Yes      **COPY OF PROPERTY DEED & SURVEY**
- X   Yes      **THREE (3) COMPLETE COPIES**
- X   Yes      **LIST OF ADJACENT PROPERTY  
OWNERS (as per item #11 of this  
basic application form)**
- N/A   Yes      **APPROPRIATE APPLICATION FEE  
(Checks should be made payable to the  
State of Delaware)**



**Mail 3 complete copies of the application, with drawing(s) to:**

**Department of Natural Resources and Environmental Control  
Division of Water Resources  
Wetlands and Subaqueous Lands Section  
89 Kings Highway, P. O. Box 1401 Dover, DE 19903  
(302) 739-4691**



**APPLICANT SIGNATURE &/OR AGENT AUTHORIZATION**

\* All applicants must sign this page. Complete the Agent Authorization Section only if applicable.

I certify that the information on this form and the attached plans is true and accurate to the best of my knowledge.

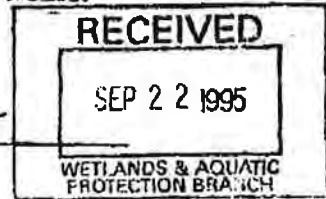
I understand that DNREC may request information in addition to that set forth herein and may be deemed appropriate in considering this application.

I grant permission to the authorized DNREC representative(s) to enter upon the premises for inspection purposes during working hours.

I will abide by the conditions of this approval if issued.

x Carl Nordstrom  
Applicant Signature

9/17/95  
Date



Applicant Name (Printed/Typed) Carl Nordstrom, Deputy Director

**Agent Authorization Section**

\* If you elect to complete this section, all future correspondence may be signed by the duly authorized agent. In addition, the agent will become the primary point of contact for all correspondence from the Department.

I, Carl Nordstrom, hereby designate and authorize  
Name of applicant  
S. T. Hudson Engineers, Inc. to act on my behalf in the  
Name of Agent  
processing of this application and to furnish any information that is requested.

x Carl Nordstrom  
Applicant Signature  
Carl Nordstrom

9/19/95  
Date

Lawrence R. Horan  
Agent Signature  
Lawrence R. Horan  
Environmental Specialist

1/20/95  
Date

Company No : N/A

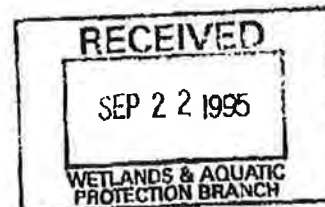
### APPLICANT BACKGROUND INFORMATION

*Pursuant to 7 Del. C., Chapter 79, the following information must be submitted along with any commercial subaqueous lands permit application. "Commercial" is defined as any activity undertaken for profit for which a fee will be charged, directly or indirectly, or which results in the generation of revenue. Please use the N/A abbreviation for any items that are not applicable to your application.*

**PROVIDING ALL THE INFORMATION REQUESTED IN THIS FORM SATISFIES THE REQUIREMENTS OF 7 DEL. C., CH. 79 UNLESS THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL OR THE DEPARTMENT OF JUSTICE DETERMINES THAT ADDITIONAL SUBMISSIONS ARE NECESSARY. FAILURE TO PROVIDE THE INFORMATION REQUESTED OR PROVIDING ERRONEOUS INFORMATION IS GROUNDS FOR DENYING OR REVOKING AN ENVIRONMENTAL PERMIT, AND FOR CIVIL OR CRIMINAL PENALTIES.**

1. \* Attach a complete list of all current members of the Board of Directors, all current corporate officers, all persons owning more than 20 percent of the applicant's stock or other resources, all subsidiary companies, all parent companies, all companies with which the applicant's company shares two or more members of the Board of Directors.
2. \* Attach a description of any felony or other criminal conviction of any person or company identified in response to Question 1 where the conviction resulted in a fine greater than \$1,000 or a sentence longer than seven days, regardless of whether any portion of such fine or sentence was suspended.
- 3 Have any of the following been issued to any person or entity specified in response to Question Number 1 or any violation of any environmental statute, regulation, permit, license, approval, or order, regardless of the state in which it occurred, during the five years prior to the date of the application:

Notice of Violation	(yes or no)	<u>N/A</u>
Administrative Penalties	(yes or no)	<u>N/A</u>
Criminal Citation	(yes or no)	<u>N/A</u>
Arrests	(yes or no)	<u>N/A</u>
Convictions	(yes or no)	<u>N/A</u>
Criminal Penalties	(yes or no)	<u>N/A</u>



DE01956

4. If you answered "Yes" to any of the items in Question 3, attach a description of the incidents or events leading to the issuance of each enforcement action, the disposition of each action, and any actions that have been taken to correct the violations that led to such enforcement action.
5. \* Attach copies of any and all settlements of the environmental claims associated with actions identified in response to Question 3 above, whether or not such settlements were based on agreements where the applicant did not admit liability for the action.

*I do hereby swear that I have read the above questions and have provided all of the information requested and that all of the information provided is true and accurate.*

\_\_\_\_\_  
Date

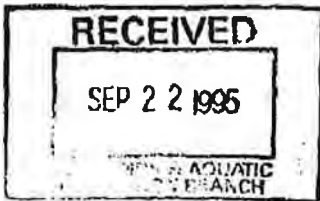
\_\_\_\_\_  
Signature - Applicant or Corporate Agent

Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_



\* NOTE: The applicant may claim that some or all of the information presented in response to Questions 1, 2, and 5 is confidential if such information is not already available to the public. An applicant wishing to make such a claim should write, preferably in red ink "claimed confidential information" at each point in the response where such confidentiality is claimed, and provide an explanation of why the release of such information would constitute an invasion of personal privacy or would seriously affect the applicant's business or competitive situation.

en:

ci

SECTION 42

ANNEX A - BENTONITE PASTES

 S.T. HUDSON ENGINEERS, INC.

DE01958

APPENDIX A  
BOAT DOCKING FACILITIES

RECEIVED

SEP 22 1968

WATERWAYS & AQUATIC PROTECTION DIVISION

- \* Any boat docking facility for more than four (4) slips or which is a marina facility (see definitions and explanations section) must complete Appendices N and O, and must apply to the U. S. Corps of Engineers for approval.
- \* Please make sure answers to all of the questions in this appendix correspond to information on the application drawings.
- 1. What type of project do you propose? (Attach additional sheets as necessary.) See definition section of Joint Application Form Reference Guide for clarification of "Dock" and "Pier". Please give total numbers of:
  - Dock(s): Dimensions (Channelward of mean high water line) 30 ft. by 100 ft.  
 Dimensions (Channelward of mean low water line) \_\_\_ ft. by \_\_\_ ft.  
 (Floating Barge)
  - \_\_\_ Pier(s): Dimensions (Channelward of mean high water line) \_\_\_ ft. by \_\_\_ ft.  
 Dimensions Channelward of mean low water line) \_\_\_ ft. by \_\_\_ ft.
  - \_\_\_ Finger Piers(s):  
 Dimensions (Channelward of mean high water line) \_\_\_ ft. by \_\_\_ ft.  
 Dimensions (Channelward of mean low water line) \_\_\_ ft. by \_\_\_ ft.
  - \_\_\_ Buoy: What will be used for anchor(s) \_\_\_ type of device \_\_\_ weight
  - \_\_\_ Dry Stack Facilities: Total Dimensions N/A  
 Number of Boat Storage Spaces \_\_\_\_\_
  - Other: 10"x10" Pile Supported Platform for Ramp  
 Total Dimensions (Channelward of mean high water line) 10 ft. by 10 ft.
  - Mooring \_\_\_ Dolphin \_\_\_ Piling \_\_\_ Other (Explain):
- 2. Approximately how wide is the waterway at this project site? \_\_\_ ft. 2.5 Miles
- 3. What will be the mean low water depth at the most channelward end of the mooring facility? 13 ft.
- 4. What type of material(s) will be used for construction of the mooring facility (e.g. salt treated wood, creosote pilings, fiberglass floats, etc.)?  
 36" steel monopiles will be used to moor the 30 ft. wide x 100 ft. long steel barge. Four (4) steel piles will be used to support the barge ramp platform

(APPENDIX A, CONTINUED)

5. Will any structure(s) be built on the boat docking facility? Yes  No  If your answer is "YES", note dimensions and location on application drawings.

6. What will be the distance from the most channelward end of the docking facility to the edge of any natural or man-made channel? 3800 ft.

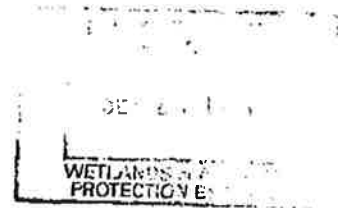
7. Give the number of each type of vessel (e.g. 3-sail, 4-power, 1-tug, etc.) projected to be docked/moored at the facility? Please draw exact boat locations on plans and drawings. The ferry transfer facility will service the "Dela-Fort" which is 55 ft. long, 16 ft. in beam with a draft of 3-1/2 feet.

8. What size vessel(s) will be moored at the facility? (Attach sheets as needed).

<u>55</u>	length	<u>16</u>	width	<u>3-1/2</u>	draft
_____	length	_____	width	_____	draft
_____	length	_____	width	_____	draft
_____	length	_____	width	_____	draft

9. Do you plan to reach the boat docking facility from your own upland property? X Yes  No If "No", explain your proposed means of access.

10. Give the number of each type of Marine Sanitation Device (e.g. MSD III, Portable toilet) that will be used on vessels to be docked at the facility. N/A



**SECTION 5.0**  
**PERMIT DRAWINGS**

 S.T. HUDSON ENGINEERS, INC.

DE01961

**SECTION 6.0**

**PROPERTY DEED**

 S.T. HUDSON ENGINEERS, INC.

DE01962



against them the said grantors, their heirs, and against all and every other person or persons whomsoever lawfully claiming or to claim the same, or any part thereof, shall and will warrant and forever defend.

In Witness Whereof, the said parties of the first part to these presents have hereunto set their hands and seals dated the day and year first above written.

Signed, Sealed and Delivered /	William Strauss (IS)
in the Presence of /	William Strauss, Jr. TYPEC
I, Harry Levin	Rosa Strauss (IS)
State of New Jersey	Rosa Strauss TYPEC
Camberland County, ss.	

Be it remembered, that on this seventh day of August in the year of our Lord one thousand nine hundred and forty-seven before me, the subscriber, A Notary Public of N. J. personally appeared William Strauss, Jr. and Rosa Strauss, his wife, who, I am satisfied are the grantors mentioned in the above deed or conveyance and I having first made known to them the contents thereof they acknowledged that they signed, sealed and delivered the same as their voluntary act and deed. All of which is hereby certified.

I, Harry Levin (Seal)  
 I, Harry Levin (Stamped)  
 Notary Public of New Jersey  
 My Commission Expires June 21, 1952

Received Sept. 3, 1947 at 9:20 A. M. and recorded.

*William Strauss*  
Clerk

United States of America, by /	This Indenture, made
Federal Farm Mortgage Corporation /	the 16th day of May 1947, between the
to /	United States of America, acting by and
The State of New Jersey /	through the Federal Farm Mortgage Corporation, with offices at 310 State Street, in the City of Springfield, County of Hampden, and Commonwealth of Massachusetts, under and pursuant to the powers and authority contained in the provisions of the Surplus Property Act of 1944 (58 Stat. 785); Regulation No. 1 of the Surplus Property Board (10 F.R. 3784); Order of the Secretary of Agriculture dated April 26, 1945 (10 F.R. 4847); and Order of the Governor of the Farm Credit Administration dated April 26, 1945 (10 F.R. 4894); party of the first part, and The State of New Jersey party of the second part,

Witnesseth: That the said party of the first part, for and in consideration of the sum of Seventeen Thousand Dollars (\$17,000.00), to it duly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has remised, released and forever quitclaimed, and by these presents does grant, remise, release and forever quitclaim unto the said party of the second part, and to its successors and assigns, forever, all the following described property situated, lying and being in the Township of Lower Penns Neck on Pinns Point, County of Salem, State of New Jersey, to wit:

Beginning at high-water mark of the Delaware River at the southeast corner of lands acquired from Edward S. Sharpe in the year 1904 for an addition to the original reservation; thence North 44° 10' East along the northwest boundary of the public highway 643 feet; thence North 44° 45' East along the northwest boundary of said highway 506 feet; thence North 32° 30'

East along said highway 1,058.3 feet to the northeast corner of said lands; thence North 48° 45' West 1,553.4 feet, to the northwest corner of said lands; thence South 82° 30' West 144.5 feet; thence South 45° 30' West 601.7 feet to the original reservation; thence along said original reservation, by the following course and distance: North 85° 00' West 374.4 feet; thence across a portion of the original reservation lands approximately South 20° 53' West 494.64 feet to a point at highwater line on the East bank of the Delaware River; thence south easterly along the top of the tide bank as the Delaware River winds and turns, to the point of beginning. Comprising about 103.60 acres of land.

Specifically Excepting and Reserving therefrom an Easement covering that strip of land at least 25 feet in width now and heretofore used as a highway and thoroughfare for ingress and egress to Pinn's Point National Cemetery. The center line of that highway strip Easement to which is hereby so excepted is described as Beginning at a point in the extreme northwest boundary of the 103.6 acres hereby conveyed and at a distance of about 402 feet on a course of about North 50° 53' East from the high water line on the east bank of the Delaware River. From the beginning point, as above described, the center line of the excepted highway strip runs first South 85° 00' East and then about South 47° 30' East to a point in the center line of that NE - SW highway which bounds the premises hereby conveyed along its southeast boundary and which leads Northeastly to the Pinn's Point Bear Light, so-called.

Being the Southeast Portion of these lands conveyed to and acquired by the United States of America for Military Purposes, in part by a deed dated July 15, 1897 from John G. Mason and Ebenezer Dunn, Executors of the Samuel Dunn Estate, to the United States of America recorded in Salem County Clerk's Office in Liber U.U. of Deeds, folio 85 etc., and in part by Condemnation Proceedings in the United States District Court, District of New Jersey from Dr. Edward S. Sharpe, final settlement therefor being in the year 1904.

The grantee certifies it is acquiring the hereinbefore described property for the purpose of an Historic Site and State Park; that it is not acquiring it for the purpose of reselling it and in no case will it resell it within three (3) years without first obtaining the written authorization of the War Assets Administration.

Together with all and singular the tenements, hereditaments, and appurtenances thereto belonging, or in anywise appertaining, and the rents, issues, and profits thereof. And also, all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in and to the above-described premises and every part and parcel thereof, with the appurtenances.

Said land was duly declared surplus and was assigned to the Federal Farm Mortgage Corporation as disposal agency pursuant to the provisions of the above-mentioned Act, Regulation and Orders.

To have and to hold, all and singular, the foregoing described premises, together with the appurtenances unto the said party of the second part, its successors and assigns, to its own use, benefit and behoof forever.

In Witness Whereof, the party of the first part has caused these presents to be executed in its name by the Federal Farm Mortgage Corporation, and the seal of the said Corporation to be hereunto affixed the day and year first above written.

Attest:

Harold F. Johnson  
Harold F. Johnson (TR) ED  
Assistant Secretary

Harold F. Johnson  
Harold F. Johnson (TR) ED  
Subscribing Witness

United States of America

by Federal Farm Mortgage Corporation

BY Carroll E. Hutchins (Corporate Seal)  
Carroll S. Hutchins  
Vice President

RECORDED  
SEP 22 1905

Commonwealth of Massachusetts  
County of Hampden, ss.

Be it Remembered, that on this 18th day of May, in the year One Thousand Nine Hundred and Forty-seven, before me, the subscriber Allen K. Talmadge personally appeared Harold F. Johnson who, being by me duly sworn on h\_ oath, doth depose and make proof to my satisfaction, that he is the Assistant Secretary of the Federal Farm Mortgage Corporation, the Grantor named in the within instrument; that Carroll B. Hutchins is the Vice President of said corporation; that the execution, as well as the making of this instrument has been duly authorized by a proper resolution of the Board of Directors of said corporation; that deponent well knows the corporate seal of said corporation; and the seal affixed to said instrument is such corporate seal and was thereto affixed and said instrument signed and delivered by said Vice President, as and for h\_ voluntary act and deed and as and for the voluntary act and deed of said corporation, in presence of deponent, who thereupon subscribed h\_ name thereto as witness. Sworn and subscribed before me

at Springfield, Massachusetts  
the date aforesaid

Harold F. Johnson  
Harold F. Johnson TYPED  
Assistant Secretary

Allen K. Talmadge (Seal)  
Allen K. Talmadge TYPED  
Notary Public

Commonwealth of Massachusetts,  
County of Hampden, ss.

I, Lewis A. Twitchell, Clerk of the Supreme Judicial Court, in and for said County, do hereby certify that said Court is a Court of Record; that Allen K. Talmadge whose name is subscribed to the Certificate or proof of acknowledgment of the annexed instrument, was at the time of taking the same, a Notary Public, in and for said County of Hampden, duly Commissioned and sworn, and qualified to act as such; that as such Notary Public, he is duly authorized by the laws of the Commonwealth of Massachusetts to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in said Commonwealth of Massachusetts; that I am well acquainted with the handwriting of said Notary Public, and verily believe his signature to the same is genuine.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at Springfield, in said County of Hampden, this 18th day of May A.D. 1947.

(Seal)

Lewis A. Twitchell, Clerk.

Fort Hess Military Reservation  
Commonwealth of Massachusetts  
County of Hampden, ss.

Carroll B. Hutchins, being duly sworn, deposes and says that he is an officer, to wit: Vice President of the Federal Farm Mortgage Corporation, a government corporation; that said Federal Farm Mortgage Corporation has been duly designated as disposal agency of the real property consisting of 103.80 acres of land known as a portion of the W. E. Military Reservation called Fort Hess on the east bank of the Delaware River near Pine's Point in the Township of Lower Penns Neck, County of Salem, State of New Jersey, and conveyed by the United States of America to the State of New Jersey by deed dated May 16, 1947 and executed in behalf of the United States of America by the Federal Farm Mortgage Corporation.

The deponent further says that to the best of his knowledge, information and belief that there have not been any conveyances, grants or encumbrances which would in any way adversely affect title to this property; that the real property conveyed to the State of New Jersey as aforesaid has been owned and occupied by the United States of America from the date of the conveyance and condemnations of said property to the said United States of America and that

RECORDED  
MAY 22 1947  
NEW JERSEY LANDS & WATER PROTECTION BOARD

such possession has been peaceable and undisturbed.

Carroll B. Hutchens  
Carroll B. Hutchins **TYPED**  
Vice President

Sworn to before me this 10th day of  
May 1947.

Allyn K. Talmadge (Seal)  
Allyn K. Talmadge **TYPED**  
Notary Public

Received Sept. 3, 1947 at 11:00 A. M.

and recorded.

*[Signature]*  
Clerk

Marion Eberle	/	This Indenture, Made
Charles R. Eberle	/	the 2nd day of July, in the year of our Lord, One
to	/	Thousand Nine Hundred and Forty-Seven. Between
Richard F. Wild	/	Marion Eberle and Charles R. Eberle, her husband, of
Josephine A. Wild	/	the Town of West New York, in the County of Hudson
		and State of New Jersey party of the first part;
		and Richard F. Wild and Josephine A. Wild, his wife, of 838 Dixie Drive, Upper Penns Neck,
		Salem County, New Jersey, party of the second part;

Witnesseth, that the said party of the first part, for and in consideration of One (\$1.00) Dollar and other good and valuable consideration, lawful money of the United States of America, to them in hand well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged and the said party of the first part being therewith fully satisfied, contented and paid, have given, granted, bargained, sold, aliened, released, unfeoffed, conveyed and confirmed, and by these presents do give, grant, bargain, sell, alien, release, unfeoff, convey and confirm, unto the said party of the second part, and to their heirs and assigns, forever, All that certain lot, tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the Township of Upper Penns Neck, in the County of Salem and State of New Jersey, more particularly described as follows: and written out on a certain map entitled "Plan of Penns Grove Homes, Borough of Penns Grove and Upper Penns Neck Township, Salem County, N.J. Scale One (1) Inch equals Fifty (50) Feet, January, 1944, formerly owned by Penns Grove Homes, Inc., Skinner & Compton Engineers," which map was filed in the Salem County Clerk's Office on March 8, 1944 as Map Folio 124, Block B, Lot 4.

Commonly known as 838 Dixie Drive, Upper Penns Neck, N. J.

Subject to restrictions, easements and reservations of record.

together with all and singular the houses, buildings, acres, ways, waters, profits, privileges, and advantages, with the appurtenances to the same belonging or in any wise appertaining;

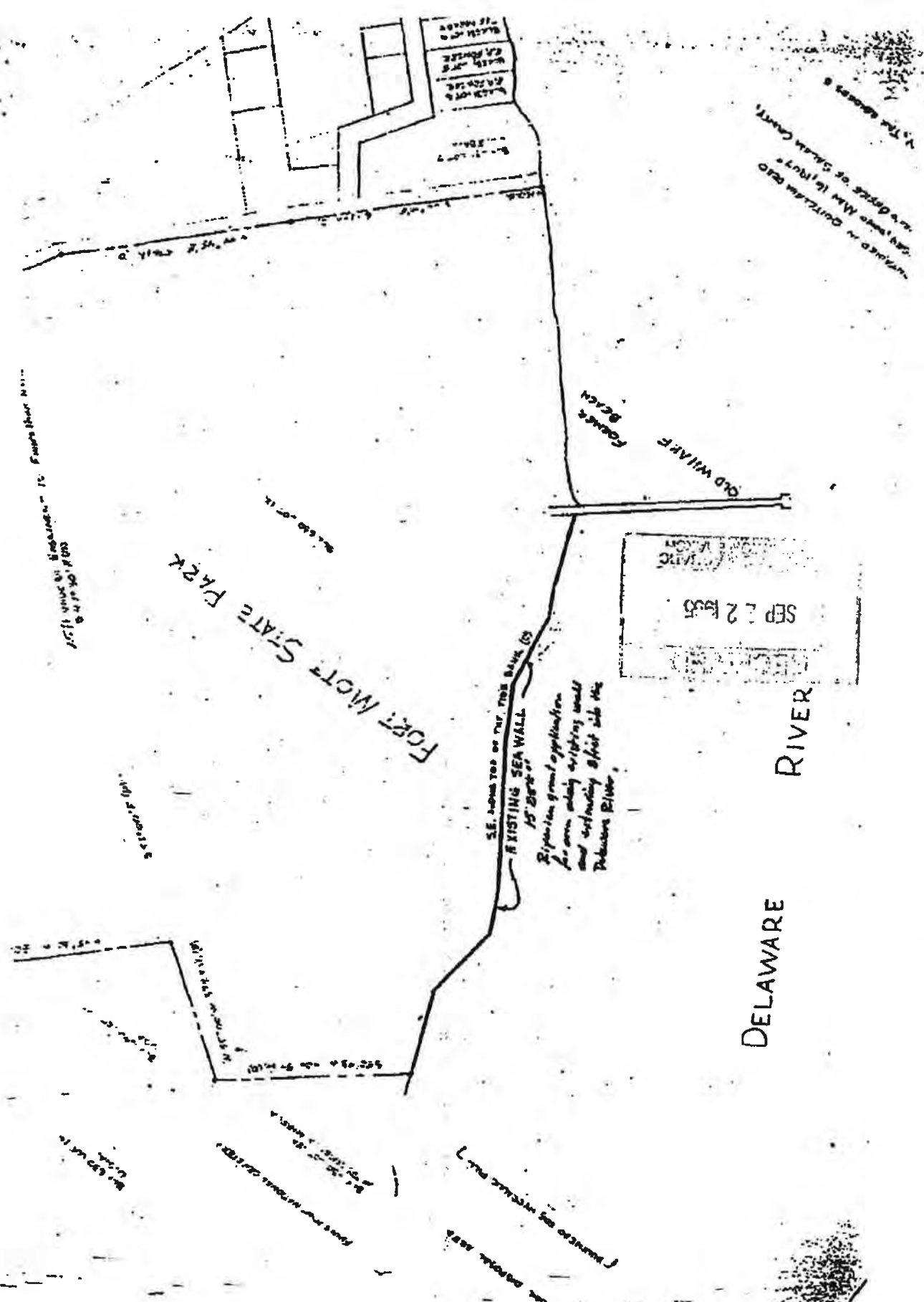
Also, all the estate, right, title, interest, property, claim and demand whatsoever; of the said party of the first part, of, in and to the same, and of, in and to every part and parcel thereof.

To have and to hold, all and singular the above described land and premises, with the appurtenances, unto the said party of the second part, their heirs and assigns, to the only proper use, benefit and behoof of the said party of the second part, their heirs and assigns forever.

SEP 22 1947

RECORDED

INDEXED



DELaware RIVER

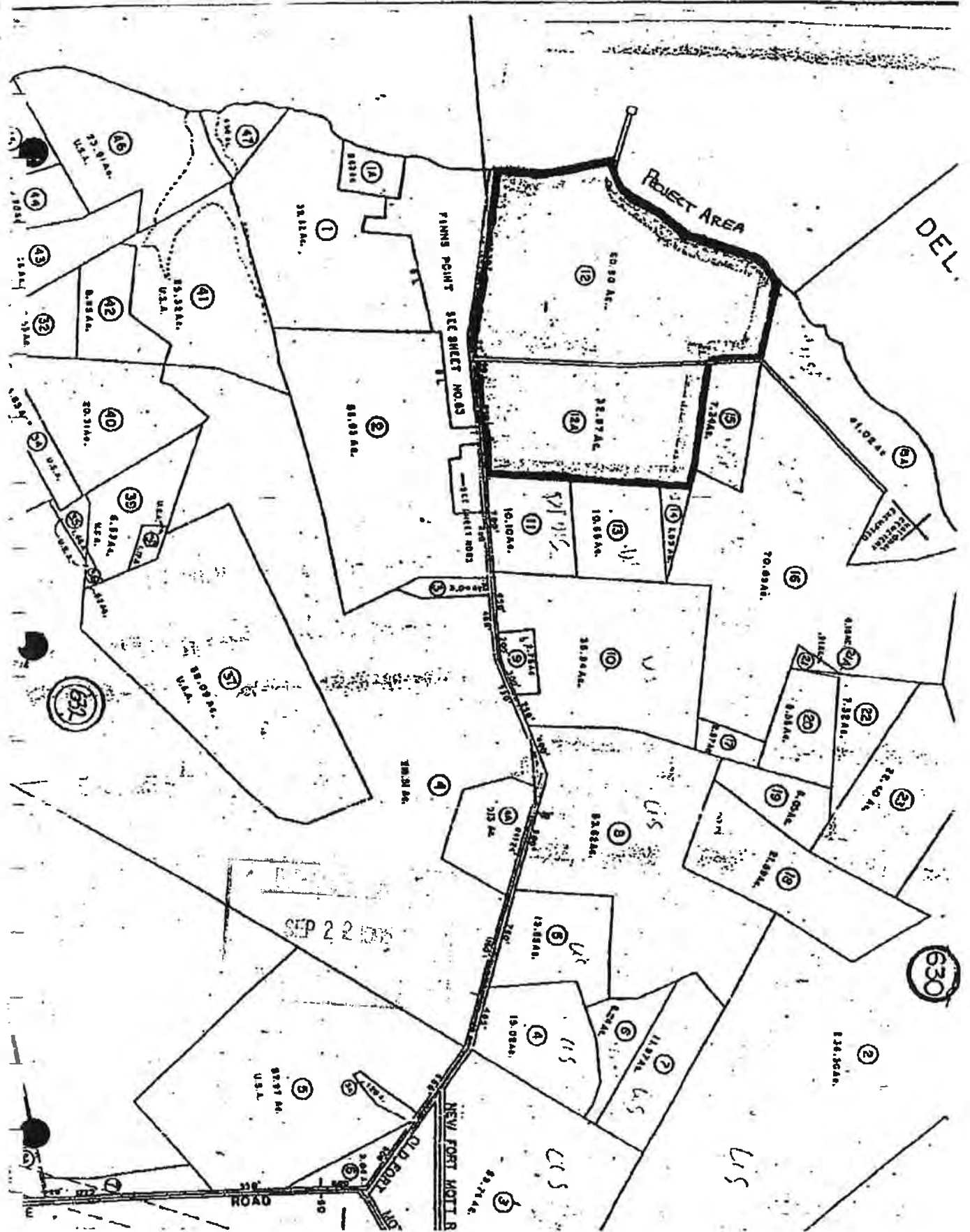
FORT MOTT STATE PARK

SE. PORTION OF THE FORT BANK IS  
15' HIGH AT  
HIGH TIDE.  
Riprap and gravel application  
for area along existing wall  
and extending spit into the  
Delaware River.

SEP 22 1955

BLACK PINE
WHITE PINE
RED CEDAR
SUGAR MAPLE

UNION IN GUILDFORD CO. 1897  
THE OFFICE OF STATE ENGINEER



DE01968

*L. Maysel*  
STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL



0000



U.S. POSTAGE  
PAID  
001580 DE  
FPM 15 05  
00094400-0  
19899

AMOUNT

\$2.67

2403  
USPS

MAX B. WALTON  
1007 NORTH ORANGE ST.  
P.O. Box 2207  
Wilmington, DE  
19899-2207

FIRST CLASS

Costal  
Zone  
Applications





DE01797



*Handwritten notes:*  
H  
file  
11/14/95

STATE OF DELAWARE  
DEPARTMENT OF STATE  
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS  
HISTORIC PRESERVATION OFFICE

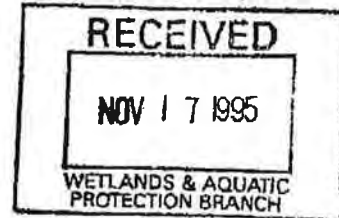
15 THE GREEN

DOVER • DE • 19901-3611

FAX: (302) 739-5660

TELEPHONE (302) 739-5685

November 14, 1995



Mr. Frank J. Cianfrani  
Chief, Regulatory Branch  
Philadelphia District, Corps of Engineers  
100 Penn Square East  
Philadelphia, PA 19107-3390

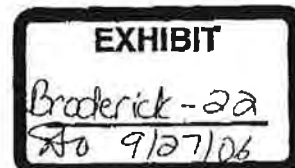
ATTN: Jim Boyer

Dear Frank:

This letter is pursuant to our receipt and review of the Public Notice (CENAP-OP-R-199101143-24) for the proposed rehabilitation of the pier at Fort Mott. As you know, the pier is part of the Fort Mott and Finn Point National Cemetery Historic District. The pier is located within the State of Delaware; hence, our participation in the Section 106 review process.

Since 1992, we have been consulting with the NJ Parks and Forestry staff, their consultant and the NJ SHPO on this project. After reviewing the initial alternatives for providing a pier to access vessels coming from Fort Delaware and Fort DuPont, we determined that there was the potential to adversely effect this historic property pursuant to 36 CFR 800.9(b)(1) of the Advisory Council on Historic Preservation's regulations. Since those initial meetings, we have determined that rehabilitation is the least damaging to the historic property while being economically practical. The rehabilitation will result in some loss of historic property; it is not a complete replication of the historic details of the pier since there were changes made to the pier during its historic use; and, additional features or elements must be added to the rehabilitation plan to accommodate new engineering and safety standards as well as the proposed modern usage of the pier. Given the nature of the proposed work, it is our opinion that the proposed rehabilitation will adversely effect this historic property; however, to satisfactorily mitigate this adverse effect, a Memorandum of Agreement is being developed which details stipulations which the applicant will carry out in order to minimize this effect.

I have forwarded a copy of the draft Memorandum of Agreement, which has been circulated to the NJ SHPO, the Applicant and their consultant, to Jim Boyer. We hope to finalize the details of this Memorandum soon and circulate it for signatures. I request that your staff review this draft document and provide



DE01797

Letter to Cianfrani  
November 14, 1995  
Page 2

comments as soon as it is convenient. In the interim, if you have any question, please do not hesitate to contact me. Thank you.

Sincerely,



Faye L. Stocum  
Archaeologist

cc: Dan Saunders, NJ SHPO  
Indrek Ojamaa, NJ Parks & Forestry  
L. Sturgeon, S.T. Hudson Engineering  
Rafston Cox, ACHP  
✓ Bill Moyer, DNREC  
Jennifer Lukens, DE CMP



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY  
P.O. BOX 1401  
DOVER, DELAWARE 19903

OFFICE OF THE  
DIRECTOR

TELEPHONE: (302) 739 - 3451

December 15, 1995

Mr. Lawrence R. Horan  
S. T. Hudson Engineers Inc.  
800 Cooper Street, Hudson Square  
Camden, NJ 08102

*RE: Federal Consistency Certification  
Rehabilitation of Historic Fort Mott Pier*

Dear Mr. Horan:

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for the above referenced project. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 CFR 930), the DCMP concurs with your consistency certification for the rehabilitation of the historic Fort Mott Pier. Our concurrence is based upon the restrictions and/or conditions placed on any and all permits issued to you for this project.

If you have any questions regarding our concurrence please do not hesitate to contact me at (302) 739-3451.

Sincerely,

Sarah W. Cooksey, Administrator  
Delaware Coastal Management Program

SWC/mal

cc: File 95.010 ✓  
Frank Cianfrani, USACE

E:\96CONSIS\FCLET95\CON95.010





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS LANDS SECTION

TELEPHONE (302) 739-4691  
FACSIMILE (302) 739-3491

January 4, 1996

NJDEP, Department of Parks and Forestry  
501 East State Street, Station Plaza 5  
Trenton, NJ 08625

RE: CENAP-OP-R-199101143-24 - Rehabilitation of the Pier at Fort Mott,  
NJ

Dear Sir or Madam:

The State of Delaware hereby waives the water quality certification that is required in accordance with Section 401 of the Clean Water Act, for the above referenced project. This waiver satisfies the water quality certification requirements of the U.S. Army Corps of Engineers for the above referenced project.

Please do not hesitate to contact this office if you have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "William F. Moyer".

William F. Moyer  
Program Manager II  
Wetlands and Subaqueous  
Lands Section

pc: Frank Cianfrani

401waiv

*Delaware's natural resources depend on you!*



DE01802



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY P.O. BOX 1401  
DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS  
LANDS SECTION

TELEPHONE (302) 739-4691  
FACSIMILE (302) 739-3491

January 12, 1996

NJDEP Dept. of Parks and Forestry  
501 East State Street, Station Plaza 5  
Trenton, New Jersey 08625

Dear Sir/Madam:

Enclosed is the subaqueous lands lease granted by the State of Delaware. Please pay special attention to General Condition No. 16, which will apply if you plan to sell the upland portion of your property. Also note Special Condition No. 10 explaining potential lease fee requirements. Although a lease fee is not currently required, a fee could be required for this structure by legislative action at a later date.

A copy of this approval and letter will be forwarded to the Corps of Engineers.

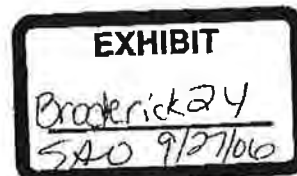
If you have any questions regarding this approval, feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura M. Herr".

Laura M. Herr  
Branch Manager  
Wetlands & Subaqueous  
Lands Section

LMH/fr  
pc: Frank Cianfrani  
Enclosure



*Delaware's good nature depends on you!*

DE01802





**DEPARTMENT OF NATURAL RESOURCES  
AND  
ENVIRONMENTAL CONTROL**

**NOTICE OF AUTHORIZATION**

**Permit/Lease No. and Description:** SL-1110/95 Re-construct a pier to include placement of a barge 30 feet by 100 feet and a pile-supported platform 10 feet by 10 feet on the Delaware River

**Issued To:** NJDEP, Department of Parks and Forestry

**Location of Work:** New Castle County, Delaware adjacent to New Jersey's Fort Mott State Park, Salem County, New Jersey

**Date of Expiration:** February 7, 1999

**DISPLAY THIS CERTIFICATE IN A  
HIGHLY VISIBLE LOCATION ON THE  
JOB SITE.**

Doc. No. 45-08/07/06/01

*William F. Moyer*  
William F. Moyer, Section Manager  
Wetlands & Simultaneous Land Section



DE01804



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS  
LANDS SECTION

TELEPHONE (302) 739-4691  
FAX (302) 739-3491

Subaqueous Lands Lease: SL-1110/95  
Date of Issuance: 2/7/96  
Construction Expiration Date: 2/2/99  
Amended Date:

**SUBAQUEOUS LANDS LEASE GRANTED TO  
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF PARKS AND FORESTRY  
FOR THE RE-CONSTRUCTION OF A PIER TO INCLUDE PLACEMENT OF A  
BARGE 30 FEET BY 100 FEET AND A PILE-SUPPORTED PLATFORM 10  
FEET BY 10 FEET ON THE DELAWARE RIVER IN NEW CASTLE COUNTY,  
DELAWARE, ADJACENT TO NEW JERSEY'S FORT MOTT STATE PARK,  
SALEM COUNTY, NEW JERSEY**

NJDEP, Dept. of Parks and Forestry  
501 East State Street, Station Plaza 5  
Trenton, NJ 08625

Pursuant to the provisions of 7 Del. C., §7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 7th day of February A.D. 1996, to construct the above-referenced project in accordance with plans titled "Pier Rehabilitation and New Floating Ferry Dock" Sheets 1 - 4, dated 9/13/95 and received by this Division on 9/22/95, and application dated 9/19/95 and received by this Division on 9/22/95.

WHEREAS; the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River; and

WHEREAS, the New Jersey Department of Environmental Protection, Department of Parks and Forestry, owner of certain adjoining lands to the Delaware River has applied for permission to construct a pier and ferry dock; and

*Delaware's good nature depends on you!*

DE01804

WHEREAS, pursuant to the provisions of 7 Del. C., §7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

This approval is in accordance with plans and application, copies of which are attached hereto and made a part hereof.

This lease shall be continued for a period of ten (10) years or so long as the conditions attached to the lease are adhered to, whichever is the shorter in time. Upon the expiration of the ten-year term, this lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

THIS lease is issued subject to the following conditions:

#### **SPECIAL CONDITIONS**

1. The conditions contained herein shall be included as part of the main body of the construction contract and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction which may impact subaqueous lands associated with this project. The lessee is responsible for ensuring that the contractor and/or workers executing the activities authorized by this lease have full knowledge of the terms and conditions of this lease.
2. The construction schedule for this project shall be arranged so as to minimize the impact on anadromous fish passage.
3. Construction shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Surface Water Quality Standards" dated February 26, 1993.
4. A copy of this lease must be available on-site during all phases of construction activity.
5. The structures on public subaqueous lands shall be for the explicit purpose of serving as a ferry terminal as stated in Section 7 of Appendix A of the application form.

6. Removal of wetlands and/or aquatic vegetation adjacent to the authorized construction by burning, cutting, herbicide treatments or other methods is prohibited. Removal of wetlands and/or aquatic vegetation in the path of construction shall be minimized.
7. All construction debris, excavated material, brush, rocks and refuse incidental to such work shall be placed above the influence of surface waters.
8. The dock and pier shall be constructed in a manner so as not to impair water access to the adjoining properties and a minimum of ten (10) feet from the adjacent properties.

#### GENERAL CONDITIONS

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. Any activities not specifically authorized herein may require a supplemental approval from this office prior to the initiation of construction. A determination of the need for a supplemental approval will be made by this office pursuant to the lessee submitting written notification and revised plans indicating project changes to this office.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phase of the construction and may collect any samples or conduct any tests that are deemed necessary.
3. This lease does not cover the structural stability of the project.
4. Prior to the expiration of this lease, the lessee shall remove all structures covered under this lease unless the lease has been renewed in accordance with its terms.
5. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
6. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
7. This lease is subject to the terms and conditions contained in any easement, license or permit that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the project.

8. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.
9. The lessee shall notify the Department of Natural Resources and Environmental Control within ten (10) days of the date work will be commenced.
10. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
11. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
12. This lease is subject to the terms and conditions contained in any easement, license or permit that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.
13. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.
14. This lease shall expire if the project has not been completed within three (3) years from the date of issuance.
15. If the lessee considers three (3) years insufficient for completion of the project, the lessee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.
16. This lease is not assignable or transferable without the prior written consent of the Department. Prior to the transfer of the property, it is the responsibility of the lessee to provide the new owner with a copy of the lease or to remove all structures. Prior to property conveyance, the lessee must also notify the Department of the change in ownership.
17. The lessee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.

SL-1110/95

Page 5

- 18. The issuance of this lease does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.
- 19. Application for renewal must be submitted six (6) months prior to the expiration date of this lease.
- 20. This lease may be revoked upon violation of any of the above conditions.

IN WITNESS WHEREOF, I, Carl Nordstrom, Deputy Director of the NJDEP's Division of Parks and Forestry, have caused this instrument to be executed on this 23rd day of January, 1996.

By: *Carl Nordstrom*  
Applicant

SWORN and subscribed before me on this 23rd day of January, 1996.

*Teresa M. Sellmeyer*  
Notary Public  
TERESA M. SELLMAYER  
A NOTARY PUBLIC OF NEW JERSEY  
*Commission Expires 7/1/99*

IN WITNESS WHEREOF, I, Christophe A.G. Tulou, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 24th day of February, 1996.

*Christophe A.G. Tulou*  
By Secretary of the Department of  
Natural Resources and  
Environmental Control





STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
(See Issuing Division below)



**PERMIT\***

The New Jersey Department of Environmental Protection grants this permit in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to the further conditions and stipulations enumerated in the supporting documents which are agreed to by the permittee upon acceptance of the permit.		
Permit No. 1708-95-0014.1	Application No. 1708-95-0014.1	
Issuance Date JAN 24 1996	Effective Date JAN 24 1996	Expiration Date JAN 24 2001
Name and Address of Applicant NJ Dept. of Env. Protection Div. of Parks & Forestry 501 E. State Street Trenton, NJ 08625	Name and Address of Owner Same as Applicant	Name and Address of Operator Same as Applicant
Location of Activity/Facility (Street Address) Fort Mott State Park Pennsville Twp., Salem Co. Lot 5301 Block 3	Issuing Division Land Use Regulation	Statute(s) 12:5-3 58:10-1 to 13
Type of Permit Waterfront Development, WQC	Maximum Approved Capacity, if applicable	
This permit grants permission to:  Reconstruct/rehabilitate the historically existing Fort Mott Pier within the dimensions of the still existing pier line and to its historic elevation of 10 feet NGVD. The structure shall be backfilled with gravel and stone and a floating 30' by 100' ferry landing shall be constructed at the terminus of the pier with pedestrian and handicap ramp access. [ferry landing to be within Delaware state waters]		
Proposed work is as shown on four plan sheets entitled "Pier Rehabilitation And New Floating Ferry Dock, Fort Mott State Park, New Jersey", dated September 13, 1995, sheets 1 and 2 revised December 22, 1995, and prepared by S. T. Hudson Engineers, Inc.		
This permit is authorized under, and in compliance with the following Rules on Coastal Zone Management (N.J.A.C. 7:7E-1.1 et seq.): Navigation Channels (7:7E-3.7), Intertidal & Subtidal Shallows (7:7E-3.15), Beaches (7:7E-3.22), Wetlands (7:7E-3.27), Historic & Archaeological Resources (7:7E-3.36), Acceptability Conditions for Miscellaneous Use [Floating ferry dock] (7:7E-4.2(s)), and Public Access to the Waterfront (7:7E-8.11).		
Prepared by: Bruce Stoneback	<div style="border: 2px solid black; padding: 5px; display: inline-block;"> <b>EXHIBIT</b> Whitney-21 S. Oakley 10/19/96         </div>	
Revised Date	Approved by the Department of Environmental Protection	
Name (Print or Type)	SEE PAGE 3	Title
Signature		Date

\* The word permit means "approval, certification, registration, etc."

(General Conditions are on the Reverse Side)



The permittee shall allow an authorized representative of the Department of Environmental Protection & Energy the right to inspect construction pursuant to N.J.A.C. 7:7-1.5(b)4.

This permit is issued subject to and provided that the following conditions can be met to the satisfaction of the Land Use Regulation Program.

#### PHYSICAL CONDITIONS

1. No work is authorized by this permit outshore of the existing crib structure facing timbers [Delaware State Waters].

#### ADMINISTRATIVE CONDITIONS:

1. Permitted activities are subject to approval of the Army Corps of Engineers.
2. The following project aspects are subject to approval of the State of Delaware: a) installation of floating ferry mooring associated pilings, and b) removal of rip-rap against the crib structure below mean low water.
3. Prior to any construction, the permittee shall submit and have approved by the Program a suitable mitigation site and mitigation plan to compensate for the loss of 0.25 acres of wetlands and intertidal shallows [0.17 acres of wetland/0.09 acres of intertidal shallow]. Wetland mitigation proposal requirements can be found within Subchapter 14.4 of the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A-1.1 et seq.).
4. Prior to or concurrent with permitted work, the permittee shall perform mitigation activities to compensate for the authorized filling of wetlands and intertidal shallows area according to the requirements of 7:7E-3.15(c) and 7:7E-3.27(h). A model deed restriction for the chosen mitigation site is included as a permit addendum.
5. Prior to initiation of any work on the crib structure the permittee shall obtain from the Tidelands Program a finalized "Management Agreement" approved by the Tidelands Resource Council. [in lieu of license]

6. This permit shall be RECORDED in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES in the applicable counties) in the county wherein the lands included in the permit are located within ten (10) days after receipt of the permit by the applicant and verified notice shall be forwarded to the Land Use Regulation Program immediately thereafter.
7. This permit is NOT VALID until the permit acceptance form has been signed by the applicant, accepting and agreeing to adhere to all permit conditions, and returned to the Land Use Regulation Program at CN 401, Trenton, NJ 08625.

DATE: Jan 24, 1996

SIGNATURE: *Ruth E. Ehinger*  
for Ruth E. Ehinger, Manager  
Bureau of Coastal Regulation





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF PARKS & RECREATION  
89 KINGS HIGHWAY  
P.O. Box 1401  
DOVER, DELAWARE 19903

April 4, 1996

Mr. Carl Nordstrom  
New Jersey Department of  
Environmental Protection  
CN 404  
Trenton, NJ 08625-0404

Dear Carl:

It is my understanding that in order to fulfill your obligations for permitting of the restored pier at Fort Mott that you are required to mitigate one acre of wetlands. After evaluating our holdings at Pea Patch Island I am pleased to inform you that we will be glad to allow that mitigation to take place on the island. Per this letter you are authorized to conduct that mitigation pending a review and approval of plans.

Please let me know when next steps are needed to move this project forward.

Sincerely,

A handwritten signature in cursive script that reads "Mark R. Chura".

Mark R. Chura, Manager  
Planning, Preservation and  
Development

MRC:dab  
cc: Charles Salkin





## State of New Jersey

Christine Todd Whitman  
Governor

Department of Environmental Protection

Robert C. Shinn, Jr.  
Commissioner

Division of Parks and Forestry

CN 404

Trenton, NJ 08625-0404

Tel. #609-292-2733

Fax #609-984-0503

March 6, 1997

David J. Hazelton, Project Assistant  
The Delaware River & Bay Authority  
PO Box 71  
New Castle, Delaware 19720

Re: Riparian/Subaqueous License/Leases - Ft. Mott Pier Project

Dear Dave:

In accordance with our conversation of March 4, 1997, I've reviewed the Delaware Subaqueous Lease and N.J. Tidelands Resource Council Licenses granted for the above noted project and we have concluded the following facts.

New Jersey Tidelands Resource License

This license was issued on July 18, 1996 and continues for two years, expiring on July 18, 1998. This interim license was issued by the Department of Environmental Protection to our Division for construction purposes and prior to its expiration, we will apply to the Tidelands Resource Council for an additional 20 years to operate the pier facility.

As long as the Division submits the annual payment for this license and operates this pier for the public good, there is no reason for the Council to deny the extension of our license.

Please note that in accordance with our proposed landing agreement, the Division is not intending to assign this license responsibility to the DRBA and we accept full responsibility to insure its renewal for the initial and renewal term of our proposed agreement.

Delaware Subaqueous Lease

This lease was issued on February 7, 1997 and expires on February 7, 2007. Once again, as long as the Division operates this pier "for the public good", there is no concern on our part that this lease won't be extended beyond 2007.

The Division also accepts full responsibility for the renewal of this lease for the initial and renewal term of our proposed agreement.

Please review and I trust the above noted clarification will resolve any questions your legal department may have. Once again, please note that the Division of Parks and Forestry hereby accepts full responsibility for the continuation of the above noted license/leases and we will insure that no interruption of the proposed ferry service or use of our docking facility will occur due to revocation of these licenses.

Sincerely,



Carl R. Nordstrom  
Deputy Director

CRN:ss

c: Assistant Commissioner Hall  
Director Marshall  
R. Barker  
J. Rozmus  
S. Mauger  
A. Payne  
I. Ojamaa

**State of Delaware**  
**Subaqueous Lands Lease Renewal Form**

In order to insure that your lease renewal application can be processed, it is important to provide a complete and accurate answer for all of the requested information. Upon being processed, your application will be placed on public notice. Please do not respond with vague answers such as "see original application" or "see enclosed plans" as these answers may be regarded as incomplete answers. Incomplete applications may be returned for additional information. If you need assistance or have questions about this application, please contact one of our representatives at (302) **RECEIVED**

**RECEIVED**  
4943  
AUG 16 2008

**1. Contact Information**

Applicant's mailing address:

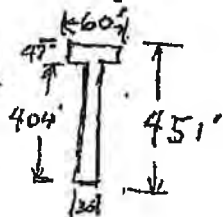
N.J. STATE PARK SERVICE **WETLANDS**  
Name of applicant (an organization or person)  
P.O. BOX 404 STATION PLAZA BLDG #5 4TH FL  
Street Address and/or P. O. Box  
TRENTON, N.J. 08625  
City State Zip Code  
Home Telephone (609) 292-2772 Work Telephone (609) 633-7576

OFFICE

2. Fill in the dimensions for all your leased structures or activities. If you leave this section blank or reference the plans (e.g. "see plans"), your application will not be accepted and will be returned to you. The dimensions listed below should be the dimensions of the structure as it exists today. If you do not have one of the structures listed, you may leave those items blank. If your structures are not covered by this list, you may list the structures in the space provided or on another page.

Use extra paper if needed.

Activity		Length	Width	Linear feet	Diameter
Pier	perpendicular to the shoreline	451'	30'	Timber Bulkhead	
Dock	parallel to the shoreline			Stone rip-rap	
Dock	parallel to the shoreline			Transmission Line	
Boat Ramp				Pipe line	
Breakwater/Groin				Fill Area :	
Stand-alone piles	No. :			Other :	



A Whitman  
SL-282106  
rec# 316081  
PN 015  
01/21/13/2  
076 PN 1/2/07



3. Please estimate the distance between the end of your structure and the nearest edge of the navigational channel. 2,500'

RECEIVED

AUG 16 2006

4. Please list the street address at project location.

454 FORT MOTT ROAD  
Street Address (Do Not use a P.O. Box or Lot number unless that number is visible somewhere at property.)

WETLANDS

PENNSVILLE, N.J. 08070  
City Zip Code

5. Please provide the directions from the nearest state or county roads (for example: 1.3 miles north of State Route 99 on County Road 999). List a permanent landmark if one is nearby. We will use this information to find the structure for a site inspection. You may provide a map in lieu of directions, however that must include State or County roads. If you do provide a map, please mark the exact location of the site on the map.

\* SEE ENCLOSED MAP OFF RT. 49

6. Please list the name and complete mailing address of the owners of the contiguous neighboring lands on all sides of the property (attach sheets as needed).

N.J. STATE PARK - FORT MOTT

\* SEE ATTACHED BROCHURE

Subaqueous Lands Lease Renewal Form - Page 2 of 4

N/A

7. Complete County Tax Map Number and Parcel Number. This information was not collected in the past. It links your leased structure to the property that it was built from. Each county has a different system for identifying property. The blocks below have been provided to help you record the complete number, from your respective county, with your application. If you do not know this number, please contact your County's Recorder of Deeds at the phone numbers provided below. You may add a "0" for every block that does not correspond to the number that identifies your property. See the example below.

Kent County: 736-2010

□□□.□□-□□-□□-□-□□.□□

←map page number→ | ←hundred→ | ←town→ | ←block→ | ←lot number→  
*required*                      *required*      *if relevant*      *required*                      *required*

RECEIVED

AUG 16 2006

WETLANDS

New Castle County: 365-5400

□□-□□□.□□-□□□.□-□□□□

←district→ | ←map page number→ | ←parcel number→ | ←subparcel→  
*required*                      *required*                      *required*                      *if relevant*

Sussex County: 855-7878

□-□□-□□.□□-□□□□.□□-□□□□

←district→ | ←map→ | ←parcel→ | ←unit→  
*required*                      *required*                      *required*                      *if relevant*

An example based on the fictitious tax parcel identification number "1-51-37-26.1" from Sussex County. "1-51" would be the district, "37" would be the map, 26.1 would be the parcel, and there would be no unit that applies to this particular tax map and parcel number. The correct way to fill out this number would be as follows:

1 - 51 - 37 . 00 - 00 26 . 01 - 0000

←district→ | ←map→ | ←parcel→ | ←unit→  
*required*                      *required*                      *required*                      *if relevant*

Return this application to: **Wetlands and Subaqueous Lands Section  
DNREC  
89 Kings Highway  
Dover, DE 19901**



**MEMORANDUM**

**PROJECT NOTICE NO. 25**  
**DATE: December 13, 2006**

**TO:**

**SECRETARY - DNREC**  
**DIRECTOR - Division of Air & Waste Management**  
**DIRECTOR - Division of Parks & Recreation**  
**DIRECTOR - Division of Fish & Wildlife**  
**MANAGERS - Fisheries, Mosquito Control & Wildlife**  
**DIRECTOR - Division of Soil & Water Conservation**  
**DIRECTOR - Division of Water Resources**  
**MANAGER - Groundwater Discharges Section - Water Resources**  
**MANAGER - Surfacewater Discharges - Water Resources**  
**MANAGER - Water Shed Assessment Branch - Water Resources**  
**GEORGETOWN OFFICE - Division of Water Resources**  
**CHIEF -- Public Affairs, DNREC**  
**DELAWARE GEOLOGICAL SURVEY**  
**NEW CASTLE, SUSSEX & KENT COUNTY PLANNING OFFICES**  
**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**GOVERNOR'S COUNCIL ON ENVIRONMENTAL CONTROL**  
**COUNCIL ON HISTORICAL & CULTURAL AFFAIRS, ARCHAEOLOGICAL OFFICE**  
**ENVIRONMENTAL PROTECTION AGENCY**  
**U. S. FISH & WILDLIFE SERVICE**  
**U. S. ARMY CORPS OF ENGINEERS**  
**NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION**  
**ADJACENT PROPERTY OWNER**  
**WETLANDS MAILING LIST**

**FROM: WETLANDS AND SUBAQUEOUS LANDS SECTION - Telephone (302) 739-9943**

**SUBJECT: PENDING APPLICATIONS FOR SUBAQUEOUS AND/OR WETLANDS PROJECTS**

Attached is a copy of a notice which appears in the News Journal and The Delaware State News on Wednesday, December 13, 2006. If you have any comments please return this memo to this office by January 2, 2007.

**PROJECT NOTICE NO. 25**

**RETURN THIS PORTION TO: Department of Natural Resources & Environmental Control -**  
**Wetlands & Subaqueous Lands Section, 89 Kings Highway, Dover, DE 19901**

- |                                |                       |
|--------------------------------|-----------------------|
| 1. Applicant Name: _____       | 5. Signed _____       |
| 2. Date Notice Received _____  | 6. Div./Address _____ |
| 3. No comments _____           | 7. Phone: _____       |
| 4. My comments are as follows: |                       |

\_\_\_\_\_

\_\_\_\_\_



LEGAL NOTICE

DNREC - Wetlands and Subaqueous Lands Section

Subaqueous Lands Applications

1. New Jersey State Park Service - To maintain a 30 foot by 255 foot pier, a 50 foot by 62 foot dock, a 10 foot by 10 foot platform with an 8 foot by 60 foot ramp connected to a 30 foot by 100 foot floating barge platform in the Delaware River at Fort Mott State Park, Pennsville, Salem County, NJ.
2. Murray and Tami Oltman - To maintain a 4 foot by 40 foot pier and a 5 foot by 15 foot dock in Dirickson Creek at 36490 Old Mill Bridge Road (Lot 4, Dirickson Landing), Frankford, Sussex County, DE.
3. Ronald Mould - To maintain a 5 foot by 25 foot dock in Roy Creek at 37908 Blue Heron Run, Keenwick Sound, Selbyville, Sussex County, DE.
4. Brent J. Collins - To construct a 4 foot by 90 foot pier, an 8 foot by 25 foot floating dock with a 4 foot by 12 foot roller gangway, and 2 mooring piling for a boat lift in Pepper Creek at 30664, Shell Road, Helms Landing, Dagsboro, Sussex County, DE.

Wetlands Applications

1. Indian River Power, LLC - To construct 10,410 linear feet of shoreline stabilization comprising of 9,303 linear feet of armor stone revetment, 382 linear feet of marsh toe sill and 225 linear feet of vegetated coconut fiber logs in wetlands adjacent to the Indian River at Burtons Island, Indian River Generating Station, Millsboro, Sussex County, DE.

Applications above are available for inspection or copies may be obtained by contacting:

Denise J. Rawding  
 Wetlands and Subaqueous Lands Section  
 89 Kings Highway  
 Dover, DE 19901  
 (302) 739-9943

A public hearing on the above applications will NOT be held unless the Secretary of DNREC determines that a hearing is in the public interest or if a written meritorious objection to the application is received within 20 days from this notice. A public hearing request shall be deemed meritorious if it exhibits a familiarity with the application and provides a reasoned statement of the action's probable impact.

PUBLICATION INSTRUCTIONS  
 PLEASE PUBLISH AS A 2-COLUMN DISPLAY AD IN THE FOLLOWING:  
 DELAWARE STATE NEWS - Wednesday, December 13, 2006  
 NEWS JOURNAL - Wednesday/December 13, 2006  
 DIRECTION INFORMATION: 03002  
 DNREC, DWR, Denise Rawding  
 89 KINGS HIGHWAY  
 DOVER, DE 19901  
 302-739-9943



**DNREC – WETLANDS AND SUBAQUEOUS LANDS SECTION**

**LEGAL NOTICE**  
**PERMIT APPLICATION/PUBLIC HEARING**

Pursuant to 7 Delaware Code, Subsection 7208, the Department of Natural Resources and Environmental Control will conduct a public hearing on Thursday, January 11, 2007, commencing at 6:00 pm at the Lewes Public Library, 111 Adams Avenue, Lewes, Delaware.

The purpose of the hearing is to solicit the views of interested parties in regards to the Division of Soil and Water Conservation's permit application to reconstruct and refurbish the north and south timber and stone groins at Herring Point by placing 17,900 square feet of stone rip-rap extending channelward a maximum of 250 feet from mean high water in the Atlantic Ocean at Cape Henlopen State Park, Lewes, Sussex County, Delaware.

The application and supporting documents may be inspected at the office of the DNREC, Division of Water Resources, Wetlands and Subaqueous Lands Section, 89 Kings Highway, Dover, Delaware, any time between 8:15 a.m. and 4:15 p.m., Monday through Friday. Comments concerning this application should be made in writing to the Division within twenty (20) days from the date of this notice. For additional information, or an appointment to inspect these documents, please call (302) 739-9943.

Statements and testimony may be presented at the public hearing either orally or in written form. Written statements may also be presented prior to the hearing and should be addressed to:

**Denise Rawding**  
**Wetlands and Subaqueous Lands Section**  
**89 Kings Highway, Dover, DE 19901**  
**(302) 739-9943**

**PUBLICATION INSTRUCTIONS:**

**PLEASE PUBLISH AS A 2-COLUMN DISPLAY AD IN THE FOLLOWING:**

**DELAWARE STATE NEWS - Wednesday, December 13, 2006**  
**NEWS JOURNAL - Wednesday, December 13, 2006**  
**BILLING INFORMATION: 060802**

**DNREC, DWR, Denise Rawding**  
**89 KINGS HIGHWAY**  
**DOVER, DE 19901**  
**302-739-9943**





STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 851 NINE HIGHWAY 100 BOX 1001  
 DOVER, DELAWARE 19901

SURFACE WATER MANAGEMENT  
 SECTION

TELEPHONE (302) 739-1111

April 6, 1987

Mr. Moura K. Donoghue  
 Manager, Real Estate  
 Delmarva Power  
 P. O. Box 2239  
 Newark, Delaware 19714

RE: Reconstruction of Delmarva Power's 500 kV Power Line Fender System and Related Electric Transmission Facilities Crossing the Delaware River

Dear Mr. Donoghue:

Please be advised that the Department of Natural Resources and Environmental Control hereby authorizes the reconstruction of the above-referenced subaqueous lands structure in accordance with the plans submitted to the extent that the dimensions or intended use are not changed. Changes in either the dimensions or use shall require a permit pursuant to 7 Del. C. Chapter 72 and Section 2.01 of Delaware's Regulations Governing the Use of Water Resources and Public Subaqueous Lands.

1. Sediment and erosion controls shall be implemented so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, Water Quality Standards for Streams dated December 23, 1985.
2. This authorization shall be valid for a period of one (1) year beyond this letter date.
3. A copy of this Repair and Replace must be available on-site during all phases of construction activity.

Regarding your request for placing a temporary line across the river using floating oil rigs or barges, this activity, which would require dredging and disposal, cannot be approved without



Mr. Moira K. Donoghue  
Page Two

submission of an application for a subaqueous lands project. After the requisite public notice period, a temporary permit would be issued to allow time for repairs to the permanent structures. I would anticipate this process taking approximately forty-five (45) days.

If you have any questions regarding this authorization, please feel free to contact this office.

Sincerely yours,



William F. Moyer  
Supervisor  
Wetlands and Underwater Lands  
Branch  
(302) 736-4694

cc: Frank Cianfrani  
Gerard Esposito  
R. Wayne Ashbee  
Charles McNally

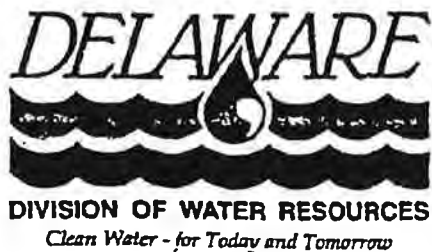
COPY

---

## JOINT APPLICATION FORM

For Subaqueous Lands, Wetlands,  
and Marina Projects

State of Delaware  
Department of Natural Resources  
and Environmental Control  
Division of Water Resources



## TYPE OF PROJECT

### List of Appendices

Please complete the Basic Application Form (pages 4 through 8) for all projects. Please check below only the appendices which apply to your project, complete the appropriate appendices and attach them to the Basic Application Form. (Please see definitions and explanations section of the Joint Application Form Reference Guide for further help.)

Applications must have the following applicable appendix completed upon submittal. Return only those appendices which apply to your project. Incomplete applications will be returned.

- |  |   |
|--|---|
| <p>A. <input type="checkbox"/> Boat Docking Facilities (1-4 slips)</p> <p>B. <input type="checkbox"/> Boat Ramps</p> <p>C. <input type="checkbox"/> Road Crossings</p> <p>D. <input type="checkbox"/> Channel Modifications or Impoundment Structures (Dams)</p> <p>E. <input checked="" type="checkbox"/> Utility Crossings</p> <p>F. <input type="checkbox"/> Intake or Outfall Structures</p> <p>G. <input type="checkbox"/> Bulkheads</p> <p>H. <input type="checkbox"/> Fill</p> <p>L. <input type="checkbox"/> Rip-Rap</p> <p>J. <input type="checkbox"/> Vegetative Stabilization</p> | <p>K. <input type="checkbox"/> Groins, Jetties, or Breakwaters</p> <p>L. <input type="checkbox"/> Construction in State Wetlands (Type I)</p> <p>M. <input type="checkbox"/> Construction in State Wetlands (Type II)</p> <p>N. <input type="checkbox"/> Preliminary Marina Screening Checklist (See * below)</p> <p>O. <input type="checkbox"/> Marina (See * below)</p> <p>P. <input type="checkbox"/> Stormwater Management</p> <p>Q. <input type="checkbox"/> Ponds and Impoundments (Other than for Stormwater Management)</p> <p>R. <input type="checkbox"/> Dredging/Maintenance<br/><input type="checkbox"/> Hydraulic <input type="checkbox"/> Mechanical</p> <p>S. <input type="checkbox"/> New Dredging<br/><input type="checkbox"/> Hydraulic <input type="checkbox"/> Mechanical</p> |
|--|---|

\*Please see following section on Marinas for a description of the requirements.

Reminder: After completing the basic application and the appendices which apply to this project, turn to the sample drawings in the Joint Application Form Reference Guide and prepare your application drawings.

\*Attachment:

Delaware State Department of Transportation  
U S Route 113  
Dover, DE 19901

(302) 739-4302

US Army Corps of Engineers  
1203 College Park Road  
Suite 103  
Dover, DE 19904

(302) 736-9763

E. I Dupont Chambers  
Deepwater, NJ 08023

(609) 299-5000

New Jersey Department of Transportation  
1035 Parkway Avenue  
Trenton, NJ 08625

(609) 530-2001

**BASIC APPLICATION FORM**

**ATTACH ADDITIONAL 8 1/2" X 11" SHEETS OF PAPER AS NEEDED**

1. Applicant's (Property Owner) name and complete address:

Delmarva Power & Light  
P.O. Box 9239  
Newark, DE 19714

Telephone Number

Home ( ): \_\_\_\_\_  
Work (302): 454-5169

2. Name of Leaseholder (if applicable) of land where project is contemplated and complete address: N/A

Telephone Number

Home ( ): \_\_\_\_\_  
Work ( ): \_\_\_\_\_

3. Authorized agent's name and complete address ( if applicable): Juan S. Crofton

16 Harper Avenue  
Portsmouth, VA 23707

Telephone Number

Home ( ): \_\_\_\_\_  
Work (757): 397-1131

(Complete agent authorization section at the botton of page 8)

4. Is this project

New?  Repair/Replacement?

Both? If "Both", please explain: Going into existing power cable easeme

Supplemental Approval for an existing lease or permit?

5. Provide a brief description of the project:

A.  Dredging

Total Estimated Volume: \_\_\_\_\_ cu. yds.

B.  Filling

Total Volume: \_\_\_\_\_ cu. yds.

C.  Shore Erosion Control

Total Length: \_\_\_\_\_ ft.

D.  Dock(s)

Total Number: \_\_\_\_\_

E.  Pier(s)/Walkways

Total Number: \_\_\_\_\_

F.  Other 3475 Lineal Feet of

Total Dimensions: Submarine Cable

6. Primary purpose of the project:

- |   |  |
|---|--|
| <input type="checkbox"/> Shore Erosion Control              | <input type="checkbox"/> Dam                       |
| <input checked="" type="checkbox"/> Utility Installation    | <input type="checkbox"/> Road                      |
| <input type="checkbox"/> Create Waterfowl Habitat           | <input type="checkbox"/> Improve Navigable Access  |
| <input type="checkbox"/> Temporary Construction             | <input type="checkbox"/> Improve Fish Habitat      |
| <input type="checkbox"/> Beach Nourishment/Fill             | <input type="checkbox"/> Stream Channelization     |
| <input type="checkbox"/> Residential Commercial Development | <input type="checkbox"/> Maintenance/Repair        |
| <input type="checkbox"/> Erosion/Sediment Control           | <input type="checkbox"/> Small Pond                |
| <input type="checkbox"/> Stormwater Management              | <input type="checkbox"/> Marina                    |
| <input type="checkbox"/> Fill                               | <input type="checkbox"/> Bridge                    |
| <input type="checkbox"/> Culvert                            | <input type="checkbox"/> Vessel Berthing/Launching |
|   | <input type="checkbox"/> Other _____               |

7. Have you discussed this project with any representative of Local, State, or Federal regulatory agency?  Yes  No

If yes, complete the information below.

Name of Representative: Chuck McNally - Ted Mercer  
 Name of Agency: Delaware DNR  
 Date: June 1997

8. Have you applied for, or obtained a permit from any Local, State, or Federal agency for any portion of this project described in this application?

Yes  No

If yes, provide the following:

Agency: \_\_\_\_\_  
 Type of Action/Permit: \_\_\_\_\_  
 ID No: \_\_\_\_\_  
 Application/Issue Date: \_\_\_\_\_

9. Project Location: Delaware River

Site address of Location: Pigeon Point, Delaware to Deepwater, NJ (Waterborne)

County/City: New Castle, Delaware

Directions from nearest intersection of two state roads: Rt. 9 N & Lambson's Road to Corps of Engineers Southeast Corner of Landfill

Name of the waterbody at the project location: Delaware River

Is it a tributary of any other water body?  Yes  No

If yes, which waterbody? \_\_\_\_\_

The waterbody at the project location is: (check one on line A & one on line B)

- A.  Natural  Man-made  Uncertain  
 B.  Tidal  Non-tidal  Uncertain

Joint Application Form

10. Current land use:  Agriculture  Marsh/Swamp  Navigational Waterway  
 Meadow  Wooded  Developed

Present zoning is:  Agriculture  Commercial  
 Residential  Other State Owned Bottom

11. a. List the name and complete address of the owners of the contiguous neighboring lands on all sides of the property. (Attach sheets as needed). Delaware State \* (See Attached Sheet for addresses)  
Army Corp of Engineers  
NJ Side - E I DuPont de Nemours and Company  
NJ DOT

b. For marina projects or projects that include activities or construction in wetlands, list the name and complete address of the owners, as listed with the County Board of Assessment, of neighboring lands within 1,000 feet of the project (including those across the waterway if within the 1,000 foot radius) and any claimants of such ownership rights that are known to the applicant, with their last known addresses.

12. Will any public benefit be derived from the project?  Yes  No  
 Uncertain If yes, explain below: Increase Communication Networking to Further Assist Public.

13. Has any work commenced or has any portion of the project for which you are seeking a permit been completed?  Yes  No If yes, give details below. State when work was completed and who performed the work. Please indicate on attached drawings what is proposed.

14. Proposed Start Date: October 1, 1997

15. Contractor's Name and Complete Address: Crofton Construction Services, Inc.  
16 Harper Avenue  
Portsmouth, VA 23707  
Telephone Number: (757) 397-1131

PLEASE COMPLETE AND ATTACH ALL APPROPRIATE DRAWINGS AND APPENDICES TO THIS SECTION. INCLUDE A COPY OF THE PROPERTY DEED AND SURVEY TO SHOW ALL PROPERTY BOUNDARIES AND DIMENSIONS.

APPLICANT SIGNATURE &/OR AGENT AUTHORIZATION

- \* All applicants must sign this page. Complete the Agent Authorization Section only if applicable.

I certify that the information on this form and the attached plans is true and accurate to the best of my knowledge.

I understand that DNREC may request information in addition to that set forth herein and may be deemed appropriate in considering this application.

I grant permission to the authorized DNREC representative(s) to enter upon the premises for inspection purposes during working hours.

I will abide by the conditions of this approval if issued.

Wayne H. Brumbley  
Applicant Signature

05 MAY 1997  
Date

Applicant Name (Printed/Typed) WAYNE H. BRUMBLEY

Agent Authorization Section

- \* If you elect to complete this section, all future correspondence may be signed by the duly authorized agent. In addition, the agent will become the primary point of contact for all correspondence from the Department.

I, WAYNE H. BRUMBLEY, hereby designate and authorize

WAY S. ROFFEN to act on my behalf in the processing of this application and to furnish any information that is requested.

Wayne H. Brumbley  
Applicant Signature

05 MAY 1997  
Date

Way S. Roffen  
Agent Signature

17 MAY 1997  
Date



4. If you answered "Yes" to any of the items in Question 3, attach a description of the incidents or events leading to the issuance of each enforcement action, the disposition of each action, and any actions that have been taken to correct the violations that led to such enforcement action.

n/a 5. \* Attach copies of any and all settlements of the environmental claims associated with actions identified in response to Question 3 above, whether or not such settlements were based on agreements where the applicant did not admit liability for the action.

*I do hereby swear that I have read the above questions and have provided all of the information requested and that all of the information provided is true and accurate.*

May 17, 1997

Date



Signature - Applicant or Corporate Agent

Name: Juan S. Crofton

Company Name: Crofton Technologies

Address: 16 Harper Avenue

Portsmouth, VA 23707

Phone: (757) 397-1131

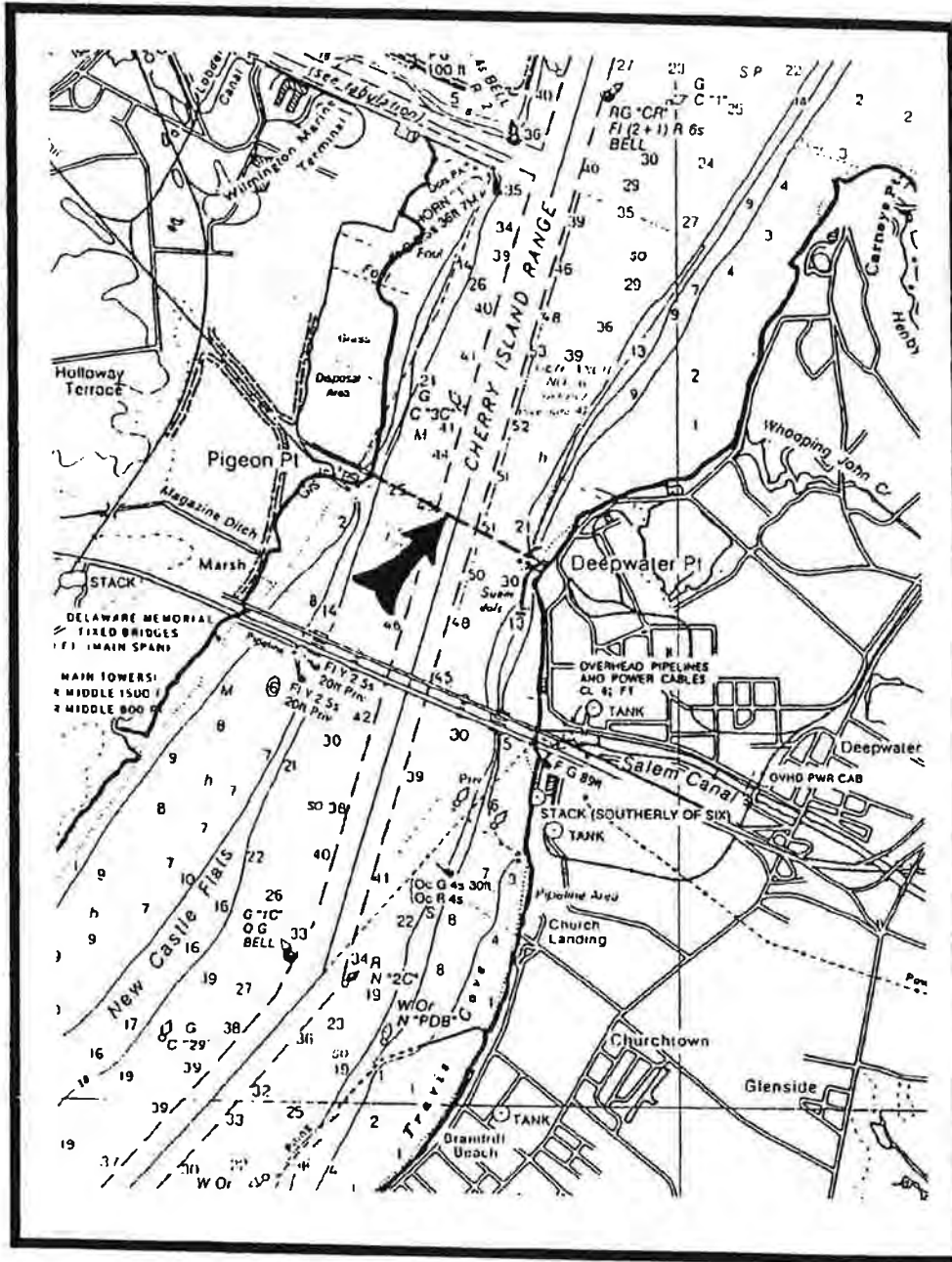
\* NOTE: The applicant may claim that some or all of the information presented in response to Questions 1, 2, and 5 is confidential if such information is not already available to the public. An applicant wishing to make such a claim should write, preferably in red ink "claimed confidential information" at each point in the response where such confidentiality is claimed, and provide an explanation of why the release of such information would constitute an invasion of personal privacy or would seriously affect the applicant's business or competitive situation.

APPENDIX E  
UTILITY CROSSINGS

\* Please make sure answers to all of the questions in this appendix correspondence to information on the application drawings.

1. How many utility crossings are proposed for this project? 1 - 1 1/4" Diameter  
Fiber Cable
2. What will be the purpose of the submarine crossing(s)? Upgrade Communication Network for DP&L and Public.
3. What is area of impact involved in crossing (channelward of mean high water) 1875 sq. ft.
4. Briefly outline the procedure(s) for placement/construction of the submarine or overhead structure(s): Direct Bury by Plow Method Into River Substrate at a Depth Sufficient to Protect the Cable and the Public.
5. Indicate the distance(s) that the submarine structure(s) will cross the water body relative to:  
  
Mean high water (for tidal areas only) 3755 ft.  
Ordinary high water (for non-tidal areas only) \_\_\_\_\_ ft.
6. Will dredging, excavating, or filling be required? \_\_\_\_\_ Yes  No  
If your answer is "yes", complete the appropriate appendices.
7. Will there be any permanent towers, poles, platforms or other structures (excluding submarine cables) on subaqueous land or wetlands? \_\_\_\_\_ Yes  No  
If your answer is "yes", give the number and the description of structures (the location of all structures must be shown on our drawings or the application cannot be processed). Number: \_\_\_\_\_ Description:
8. At what depth will the submarine crossing(s) be placed below the bottom of the water body? -3 ft. Outside of Federal Channel Limits  
-58 ft. Below MLW in Federal Channel
9. If this project will be a power line crossing, what will be the nominal system voltage of the line? n/a

# LOCATION MAP

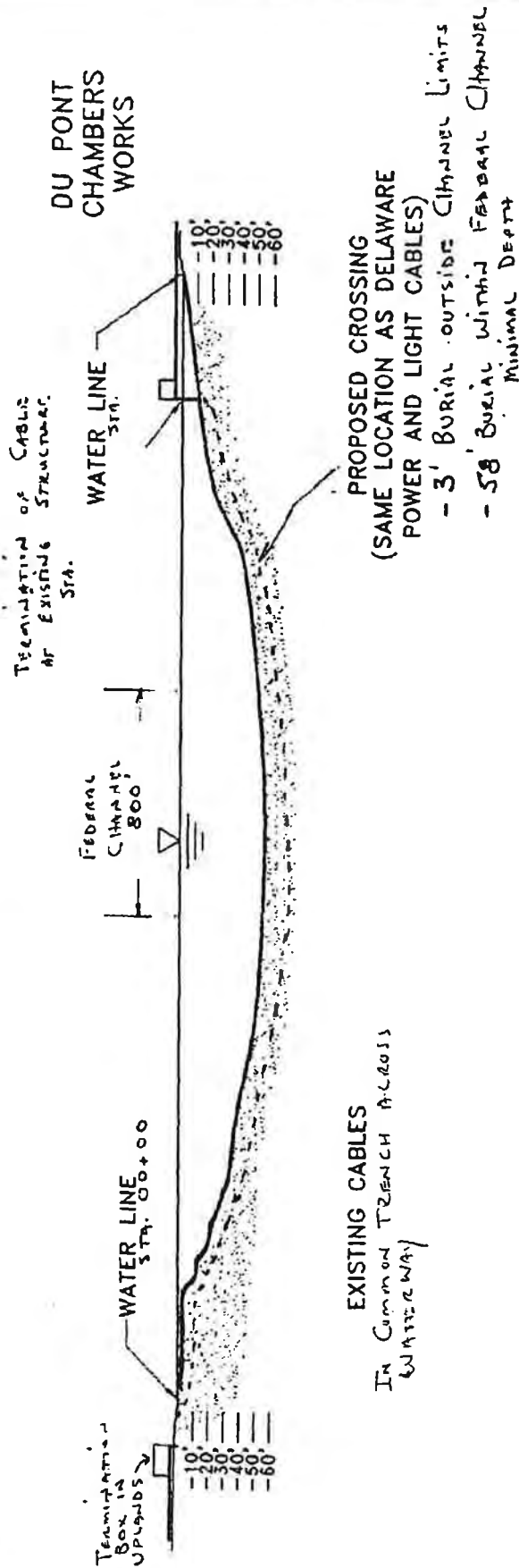


CROFTON TECHNOLOGIES PORTSMOUTH, VIRGINIA			
DELMARVA POWER & LIGHT 96 FIBER OPTIC			
ARMORED SUBMARINE CABLE CROSSING DELAWARE RIVER PIGEON POINT TO DEEPWATER POINT WILMINGTON, DELAWARE			
DATE	5/97	DRAWN	MTJ
SCALE	NONE	CHECKED	JSC
		REV	REV

# DELAWARE RIVER VIEWING NORTH

PIGEON  
POINT

DEEPWATER  
POINT

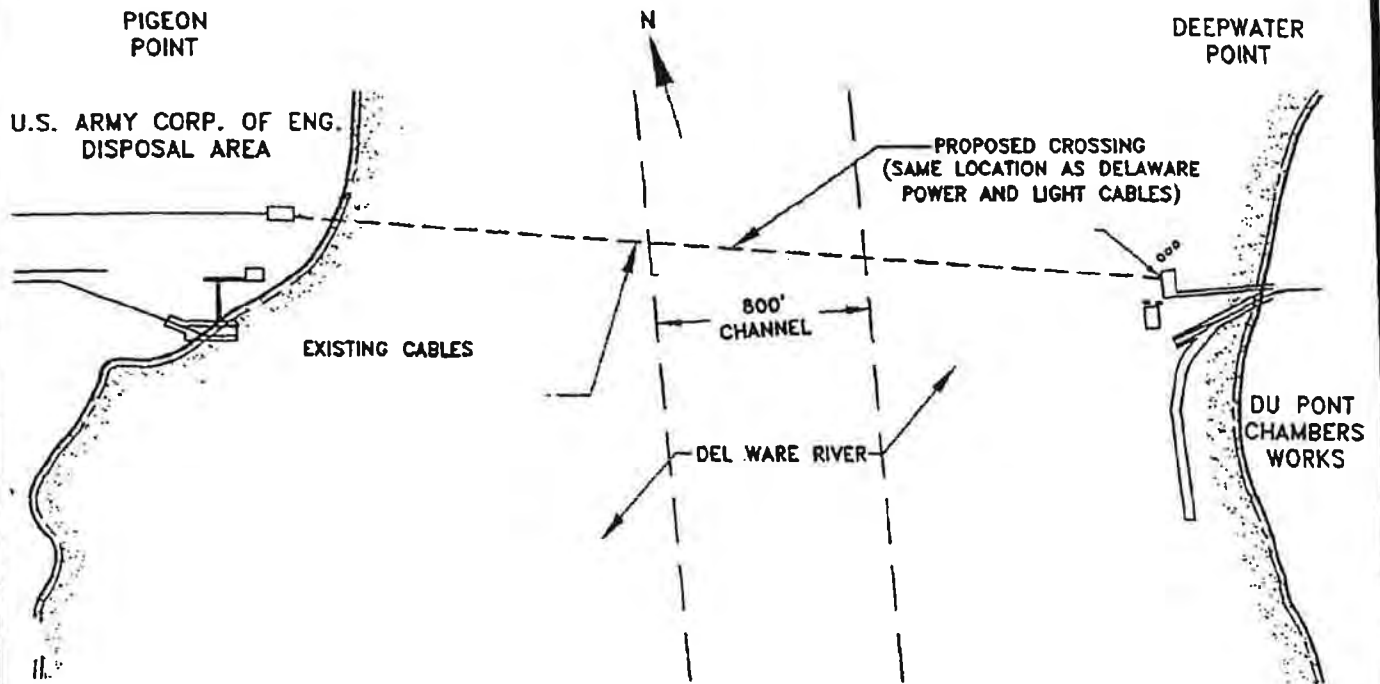


EXISTING CABLES  
IN COMMON TRENCH ACROSS  
WATERWAY

CROFTON TECHNOLOGIES			
PORTSMOUTH, VIRGINIA			
DELMARVA POWER & LIGHT			
96 FIBER OPTIC			
ARMORED SUBMARINE CABLE CROSSING DELAWARE RIVER FIBER OPTIC CABLE			
DATE	5/97	DRAWN	MTJ
SCALE	NONE	CHECKED	JSC
		REV	REV

**PROFILE**  
 VERTICAL: 1" = 10'  
 HORIZONTAL: 1" = 500'

# PHOTO LOG GUIDE



## LEGEND

② → FIELD OF VIEW

CROFTON TECHNOLOGIES PORTSMOUTH, VIRGINIA			
DELMARVA POWER & LIGHT 96 FIBER OPTIC			
ARMORED SUBMARINE CABLE CROSSING DELAWARE RIVER FIBER OPTIC CABLE			
DATE	5/97	DRAWN	MTJ
SCALE	NONE	CHECKED	JSC
		REV	REV

\*Attachment:

Delaware State Department of Transportation  
U S Route 113  
Dover, DE 19901

(302) 739-4302

US Army Corps of Engineers  
1203 College Park Road  
Suite 103  
Dover, DE 19904

(302) 736-9763

E. I Dupont Chambers  
Deepwater, NJ 08023

(609) 299-5000

New Jersey Department of Transportation  
1035 Parkway Avenue  
Trenton, NJ 08625

(609) 530-2001





STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES

WETLANDS & SUBAQUEOUS  
 LANDS SECTION

89 KINGS HIGHWAY, P.O. BOX 1401  
 DOVER, DELAWARE 19903

TELEPHONE (302) 739-4691  
 FACSIMILE (302) 739-3491

Subaqueous Lands Lease: SL-0109/97  
 Date of Issuance: 12/09/97  
 Construction Expiration Date: 12/09/2000  
 Amended Date:

**SUBAQUEOUS LANDS LEASE**  
**GRANTED TO DELMARVA POWER AND LIGHT COMPANY FOR THE**  
**INSTALLATION OF 3755 LINEAR FEET OF SUBMARINE FIBER OPTIC CABLE, IN**  
**THE DELAWARE RIVER EXTENDING FROM PIGEON POINT IN NEW CASTLE**  
**COUNTY DELAWARE, TO DEEP WATER POINT IN SUSSEX COUNTY NEW**  
**JERSEY**

Delmarva Power and Light Company  
 P.O. Box 9239  
 Newark, DE 19714

Pursuant to the provisions of 7 Del. C. 7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 9th day of December A.D. 1997, to construct the above-referenced project in accordance with plans titled "Delmarva Power and Light Company 96 Fiber Optic", dated 5/97, and received by this Division on 8/12/97 and application dated 5/5/97, and received by this Division on 8/12/97.

WHEREAS, the State of Delaware is the owner of ungranted subaqueous lands lying beneath the waters of the Delaware River.

WHEREAS, Delmarva Power and Light Company, owner of certain adjoining lands to the Delaware River, has applied for permission to install a submarine electric cable, and

WHEREAS, pursuant to the provisions of 7 Del. C., 7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

*Delaware's good nature depends on you!*



SL-0109/97

This approval is in accordance with plans and application submitted to Department of Natural Resources and Environmental Control, a copy of which is attached hereto and made a part hereof.

This lease shall be continued for a period of ten (10) years or so long as the conditions attached to the lease are adhered to, whichever is the shorter in time. Upon the expiration of the ten-year term this lease shall expire and become null and void, unless prior thereto the lessee shall have applied for and received a renewal of this lease. A renewal may be denied if the State determines that the lease is no longer in the public interest.

THIS lease is issued subject to the following conditions:

**SPECIAL CONDITION**

1. The conditions contained herein shall be included as part of the main body of the construction contract and other ancillary documents associated with earth disturbance and any other activities directly or indirectly associated with construction which may impact subaqueous lands associated with this project. The lessee is responsible for ensuring that the contractor and/or workers executing the activities authorized by this lease have full knowledge of the terms and conditions of this lease.
2. Construction shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, "Surface Water Quality Standards" dated February 26, 1993.
3. A copy of this lease must be available on-site during all phases of construction activity.
4. The structure on subaqueous lands shall be for the explicit purpose of upgrading the communication network for the public as stated in appendix E, Section 2, of the application.

SL-0109/97

5. All construction debris, excavated material, brush, rocks and refuse incidental to such work shall be placed above the influence of surface waters.
6. The excavated utility trench shall be backfilled to the waterbody preconstruction elevation.
7. During the ten-year term of this lease the lessee shall agree to pay the State of Delaware the sum of \$ 5632.00 per annum for a total of \$56320.00 for the 3755 linear feet of public subaqueous lands utilized for the above-referenced project. The first payment of this lease shall be \$5632.00 for the remainder of this billing term (through September).

#### GENERAL CONDITIONS

1. The project is to be undertaken in accordance with the plans submitted and attached hereto. Any activities not specifically authorized herein may require a supplemental approval from this office prior to the initiation of construction. A determination on the need for a supplemental approval will be made by this office pursuant to the permittee submitting written notification and revised plans indicating project changes to this office.
2. Representatives of the Department of Natural Resources and Environmental Control may inspect such work during any phases of the construction and may collect any samples or conduct any tests that are deemed necessary.
3. This lease does not cover the structural stability of the project units.
4. Prior to the expiration of this lease, the lessee shall remove all structures covered under this lease unless the lease has been renewed in accordance with its terms.
5. Any actions, operations or installations which are considered by the Department to be contrary to the best interests of the public shall constitute reason for the discontinuance and/or removal of said action, operation or installation.
6. The lessee shall notify the Department of Natural Resources and Environmental Control within ten (10) days of the date work will be commenced.

SL-0109/97

7. The lessee shall maintain any structure on public subaqueous lands in good and safe condition and will protect and save the State of Delaware harmless from any loss, cost or damage by reason of said structures.
8. The issuance of this lease does not imply approval of any other part, phase, or portion of any overall project the lessee may be contemplating.
9. This lease shall not be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the State of Delaware other than that of a tenant.
10. This lease is subject to the terms and conditions contained in any easement, license or lease that may have been granted by the State or any political subdivision, board, commission or agency of the State in the vicinity of the leased premises.
11. This lease and authorization are granted for the purposes as stated herein. Any other use without prior approval shall constitute reason for this lease being revoked.
12. This lease shall expire if the project has not been completed within three (3) years from the date of issuance.
13. If the lessee considers three (3) years insufficient for completion of the project, the lessee may submit a project time schedule for consideration by the Department. If the time schedule is approved it shall be attached hereto and made a part hereof.
14. This lease is not assignable or transferable without the prior written consent of the Department. Prior to the transfer of the property, it is the responsibility of the lessee to provide the new owner with a copy of the lease or to remove all structures. Prior to property conveyance, the lessee must also notify the Department of the change in ownership.
15. The lessee shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
16. The issuance of this lease does not constitute approval for any of the activities as may be required by any other local, state or federal governmental agency.

SL-0109/97

17. This lease will be revoked upon violation of any of the above conditions.

18. Application for renewal must be submitted six (6) months prior to the expiration date of this lease.

IN WITNESS WHEREOF, I, Wayne N. Brumbley duly authorized representative of Delmarva Power and Light Company, have caused this instrument to be executed on this 24<sup>th</sup> day of November, 1997.

By: *Wayne N. Brumbley*  
Applicant

SWORN and subscribed before me on this 24 day of November 1997.

*Nancy E. Hayes*  
Notary Public **NANCY E. HAYES**  
**NOTARY PUBLIC**  
My Commission Expires Jan. 12, 2001

IN WITNESS WHEREOF, I, Christophe A.G. Tulou, Secretary, Department of Natural Resources and Environmental Control, have hereunto set my hand and seal this 24<sup>th</sup> day of December, 1997.

*Christophe A.G. Tulou*  
By Secretary of the Department of  
Natural Resources and  
Environmental Control





85

STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

OFFICE OF THE  
DIRECTOR

89 KINGS HIGHWAY  
P.O. BOX 1401  
DOVER, DELAWARE 19903

TELEPHONE: (302) 739 - 3451

February 24, 1998

Mr. Juan S. Crofton  
Crofton Diving Corporation  
16 Harper Avenue  
P.O. Box 7756  
Portsmouth, Virginia 23707

*RE: Consistency Certification  
Delmarva Power Fiber Optic Cable Crossing of the Delaware River*

Dear Mr. Crofton:

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for the above referenced project. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 CFR 930), the DCMP concurs with your consistency determination for the fiber optic cable installation beneath the Delaware River. Our concurrence is based upon the restrictions and/or conditions placed on any and all permits issued to you for this project.

If you have any questions regarding this determination please do not hesitate to contact me at (302) 739-3451.

Sincerely,

Sarah W. Cooksey, Administrator  
Delaware Coastal Management Program

SWC/mal

cc: File 97.025 ✓  
Richard Hassel, Corps of Engineers, Philadelphia District





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES &  
ENVIRONMENTAL CONTROL

**DIVISION OF WATER RESOURCES**

WETLANDS & SUBAQUEOUS  
LANDS SECTION

89 KINGS HIGHWAY  
DOVER, DELAWARE 19801

TELEPHONE (302) 739-4691  
FACSIMILE (302) 739-3491

Supplemental Lease Approval No.: SL-0109/97S  
Subaqueous Lands Lease No.: SL-0109/97  
Date of Issuance: 3/11/02  
Amended Date:

**SUPPLEMENTAL APPROVAL  
GRANTED TO CONECTIV COMMUNICATIONS, INC. FOR THE INSTALLATION  
OF 3755 LINEAR FEET OF SUBMARINE FIBER OPTIC CABLE, IN THE  
DELAWARE RIVER EXTENDING FROM PIGEON POINT IN NEW CASTLE  
COUNTY, DELAWARE, TO DEEP WATER POINT IN SUSSEX COUNTY,  
NEW JERSEY**

Richard D. Galster, Jr.  
Right of Way Department  
Conectiv Communications, Inc  
I 95 & Route #273  
P.O. Box # 9239  
Newark, DE 19714-9239

Pursuant to the provisions of 7 Del. C. 7203, and the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 11<sup>th</sup> day of March A. D. 2002, to amend an existing lease to construct the above-referenced project in accordance with plans titled "Delmarva Power & Light Company 96 Fiber Optic," dated 5/97, and received by this Division on 8/12/97; and application dated 5/5/97, and received by this Division on 8/12/97.

WHEREAS, Conectiv Communications, Inc. has requested that the lease be amended to allow for an official change of name to Conectiv Communications, Inc., in accordance with the letter of request, submitted 10/10/01, a copy of which is attached and made a part hereof; and

*Delaware's good nature depends on you!*



SL-0109/97S

Conectiv Communications, Inc.

Page 2

THE above referenced Subaqueous Lands Lease shall be amended subject to the terms and conditions herein set forth.

- 1. This Supplemental Approval is an addendum to Subaqueous Lands Lease No. SL-0109/97, granted to Delmarva Power & Light Company by the State of Delaware on 12/9/97. This supplemental approval shall be attached thereto and made a part hereof.
- 2. This approval is in accordance with the letter submitted to and approved by the Department of Natural Resources and Environmental Control, copies of which are attached hereto and made a part hereof.

IN WITNESS WHEREOF, I, Philip S. Reese, have caused this instrument to be executed on this 4<sup>th</sup> day of March, 2002.  
 Conectiv Communications, Inc.

By: P.S. Reese  
 Philip S. Reese  
 Vice President & Treasurer

Richard D. Galster, Jr.  
 Notary  
 My commission expires: **RICHARD D. GALSTER, JR.**  
**NOTARY PUBLIC**  
**STATE OF DELAWARE**  
 My Commission Expires 6-29-2003

(Notary Seal)

By the authority invested in me under 7 Del.C. §7203 (a), I hereby grant this Lease for the use of the State owned subaqueous lands to the Lessee(s) by setting my hand on this 11<sup>th</sup> day of March, 2002.

Nicholas A. Pasquale  
 By Secretary of the Department  
 of Natural Resources and  
 Environmental Control



STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY, P.O. Box 1401  
 DOVER, DELAWARE 19903

SURFACEWATER MANAGEMENT SECTION  
 WATERSHED ASSESSMENT BRANCH  
 POLLUTION CONTROL BRANCH  
 FACILITY SUPPORT BRANCH  
 WETLANDS & AQUATIC PROTECTION BRANCH

(302) 739-5726  
 (302) 739-4590  
 (302) 739-5731  
 (302) 739-5081  
 (302) 739-4891

April 12, 1991

Mr. Roy E. Denmark, Jr. Chief  
 Environmental Resources Branch  
 Philadelphia District, Corps of Engineers  
 Custom House, 2nd and Chestnut Streets  
 Philadelphia, PA 19106

RE: Subaqueous Lands Permit  
 Salem River Dredging - Deepening and Widening - 801,600 Cubic Yards

Dear Mr. Denmark:

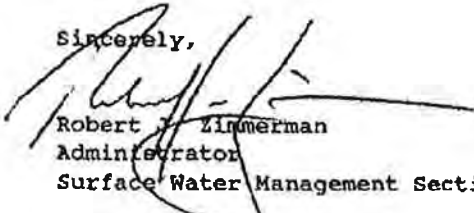
The application for the above-referenced permit was placed on public notice on February 6, 1991 for a twenty-day review period. This office has received no objections to the proposed project as a result of our public notice.

However, because we've seen problems in recently submitted monitoring data the Division of Water Resources is reassessing the impacts of dredging projects as they relate to our amended "Surface Water Quality Standards".

Based on our review we have determined that the project is consistent with the Coastal Zone Management Program and that we will subsequently issue a permit and associated Water Quality Certificate subject to the joint development of a suitable monitoring program.

If you have any further questions regarding this matter, please feel free to call this office.

Sincerely,

  
 Robert J. Zimmerman  
 Administrator  
 Surface Water Management Section

cc: William F. Moyer  
 Tracy E. Skrabal  
 John Maxted

/djr  
 wfm91018

**RECEIVED**

MAY 17 1991

Div. of Soil & Water Conservation

*Delaware's good nature depends on you!*





STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 89 KINGS HIGHWAY, P.O. BOX 1401  
 DOVER, DELAWARE 19903

SURFACEWATER MANAGEMENT SECTION  
 WATERSHED ASSESSMENT BRANCH  
 POLLUTION CONTROL BRANCH  
 FACILITY SUPPORT BRANCH  
 WETLANDS & AQUATIC PROTECTION BRANCH

April 7, 1992

(302) 739-5726  
 (302) 739-4590  
 (302) 739-5731  
 (302) 739-5081  
 (302) 739-4691

Mr. H. Ronald Kreh  
 Chief, Operations Division  
 U. S. Army, Corps of Engineers  
 Custom House  
 2nd & Chestnut Streets  
 Philadelphia, PA 19106

RE: MD-00011/92 Maintenance Dredging Salem River 100,000 cubic yards

Dear Mr. Kreh:

Your request to conduct the above-referenced maintenance dredging has been reviewed by the Department of Natural Resources and Environmental Control. The Department hereby authorizes the dredging in accordance with the plans titled Salem River, N.J. Entrance Channel Examination, Sheet 1 of 3 and Sheet 2 of 3 dated March 13, 1991 and Final Environmental Assessment dated April, 1984, and received by this Division on May 13, 1991, subject to the following conditions:

1. Dredging shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, Surface Water Quality Standards dated February 2, 1990.
2. There shall be no dredging during the months of March, April, May, June, September, October and November.
3. Monitoring to determine compliance with the State of Delaware's Surface Water Quality Standards shall be conducted in accordance with the program outlined in the attached Monitoring Schedule. All parametered levels requiring notification under the Authorization shall also apply.
4. Monitoring results shall be supplied to the Department of Natural Resources and Environmental Control within thirty (30) days of the last sampling date. Results shall be accompanied with a monitoring report. The monitoring report must include levels of compliance or non-compliance with the Delaware Surface Water Quality Standards, as well as remediation procedures for non-compliance levels. This assessment includes a calculation of the spatial extent of the mixing zone as defined in Section 6 of Delaware Standards.

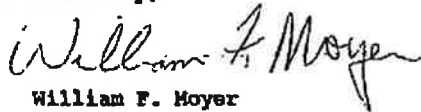
*Delaware's good nature depends on us!*

Ronald Kreh  
page 2

5. All pipelines shall be kept in good condition at all times, and any leaks or breaks shall be promptly and a properly repaired.
6. This Authorization shall be valid for one year.
7. A copy of this Authorization must be available on site during all phases of construction activity.
8. This authorization will be revoked upon violation of any of the above conditions.
9. The State of Delaware, by and through the Department of Natural Resources and Environmental Control, certifies that, with reasonable assurance the permitted activity will be conducted in a manner which will not violate the applicable water quality standards of the State of Delaware.

If you have any questions, please feel free to contact Tracy Skrabal of this office at 739-4691.

Sincerely,



William F. Moyer  
Program Manager  
Wetlands & Aquatic Protection Branch

Sincerely,



Tracy E. Skrabal  
Program Manager  
Wetlands & Aquatic Protection Branch

cc: Frank Cianfrani

WFM/TES/fr



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

SURFACEWATER MANAGEMENT SECTION  
WATERQMED ASSESSMENT BRANCH  
POLLUTION CONTROL BRANCH  
FACILITY SUPPORT BRANCH  
WETLANDS & AQUATIC PROTECTION BRANCH  
April 27, 1992

(302) 739-5726  
(302) 739-4590  
(302) 739-5731  
(302) 739-5081  
(302) 739-4691

Mr. H. Ronald Kreh  
Chief, Operations Division  
U. S. Army, Corps of Engineers  
Custom House  
2nd & Chestnut Streets  
Philadelphia, PA 19106

RE: MD-C0011/92 Maintenance Dredging Salem River 100,000 cubic yards

Dear Mr. Kreh:

Approval for the above referenced dredging was issued on April 7, 1992. After conferring with the Department's Division of Fish and Wildlife it has been agreed that condition 2 be revised to read as follows:

2. There shall be no dredging or overboard disposal during the months of March, April, May or June:

Also the following condition is to be included as a supplement to the April 7, 1992:

10. All dredging shall cease immediately when dissolved oxygen at the disposal site sampling stations falls below 4.0 mg/l and shall not resume until the levels exceed 4.0 mg/l.

If you have any questions regarding this letter, please feel free to contact this office.

Sincerely,

William F. Moyer  
Program Manager  
Wetlands & Aquatic  
Protection Branch

WFM/fr

*Delaware's good nature depends on you!*





DEPARTMENT OF THE ARMY  
PHILADELPHIA DISTRICT CORPS OF ENGINEERS  
WANAMAKER BUILDING, 100 PENN SQUARE EAST  
PHILADELPHIA, PENNSYLVANIA 19107-3381

REPLY TO  
ATTENTION OF  
Environmental Resources Branch

MAR 10 1994

Mr. David Carter  
Delaware Department of Natural Resources  
and Environmental Control  
Division of Soil and Water Conservation  
Delaware Coastal Management Program  
P.O. Box 1401  
Dover, Delaware 19903

Dear Mr. Carter:

This is in regards to the Salem River Deepening and Widening Project, Salem County, New Jersey and the associated conditional Coastal Zone Management Consistency Determination, Water Quality Certificate, and Subaqueous Lands Permit.

The Philadelphia District Corps of Engineers is proposing to widen and deepen the existing authorized channel, which is currently 150 feet wide by 12 feet deep at Salem Cove, narrowing to 100 feet wide at Sinnicksons Landing. The present project is approximately 5 miles long and stretches downstream from New Jersey Route 49 bridge at the City of Salem to Elsinboro Point at the southwest corner of Salem Cove in the Delaware River. The proposed channel widths will vary between 150 feet to 250 feet, and the channel depth will be increased to 18 feet. The proposed project will extend the Delaware River segment an additional 200 feet, from the 12-foot depth to the 18-foot depth contour. Approximately 1,033,000 cubic yards (approx. 646,600 cy in Delaware) of dredged material, including approximately 46,200 cubic yards from the 3.5 acre (495 feet wide) turning area at Salem, will be removed by hydraulic pipeline dredge. Approximately 7 acres of wetlands will be impacted, for which full mitigation will be provided. The dredged material generated from the initial construction of this project was originally proposed to be deposited at the active Killcohook Disposal Area, however, further evaluation of capacity needs has resulted in the need to utilize the Reedy Point South Dredged Material Disposal Area for this purpose.

Since the proposed project plan consists of modifications of the original plan including the proposed change in disposal areas and channel dimensions, we are seeking comments and subsequent approval for these modifications. In addition, we would like to initiate the development of a suitable water-sediment quality monitoring program as required in the permit conditions indicated in the 12 April 1991 letter (enclosed).



Please respond with written comments pursuant to the  
aforementioned permits and associated modifications within 30  
days of this letter. If you have any questions or need any  
additional information regarding this project, please contact  
Steve Allen of the Environmental Resources Branch at (215) 656-  
6559. Thank you.

Sincerely,

Robert L. Callegari  
Chief, Planning Division

Enclosure

Gen. File 94.013



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

TELEPHONE (302) 739-4691  
FACSIMILE (302) 739-3491

WETLANDS & SUBAQUEOUS  
LANDS SECTION

December 15, 1994

Philadelphia District  
Corps of Engineers  
Wanamaker Bldg.  
100 Penn Square East  
Philadelphia, PA 19107-3390

RE: Salem River Deepening  
CENAP-OP-R-N/A

Dear *Mr. Robert Callegari*:

The Delaware Department of Natural Resources and Environmental Control (the Department) has evaluated the above referenced project for compliance with the State's Surface Water Quality Standards developed pursuant to Section 303 of the federal Clean Water Act (CWA). Section 401 of the CWA requires a State water quality certification decision since a federal permit is required for this project from the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act and Section 10 of the Federal Rivers and Harbors Act.

The Department's certification decision is based on review of your information contained in your 10/13/94 Application and received 10/14/94 which included plans dated 10/14/94. The Department's role is to determine whether the discharge of fill material in surface waters, including wetlands, impairs the biological, physical, and chemical attributes which enable such waters to continue to meet the State's Surface Water Quality Standards.

DE14005

CENAP-OP-R-N/A  
MD-0023/94  
Page 2 of 2

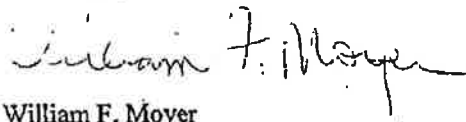
The project involves maintenance dredging of 350,000 cubic yards of material from Salem River. The applicant's stated purpose of the project is to maintain a navigational channel.

Upon evaluation of the project, as proposed in the above referenced information, the Department hereby certifies that there is reasonable assurance that the proposed activity will be conducted in a manner which will not violate Delaware's "Surface Water Quality Standards" as amended February 26, 1993, subject to the following conditions:

- 1) Activities shall be performed in accordance with the conditions of the Department maintenance dredging permit #MD-0023/94.
- 2) Erosion and sediment control measures shall be implemented in accordance with the specifications and criteria in the Delaware Erosion and Sediment Control Handbook (1989) so as to minimize dispersal of sediment and other pollutants in surface waters.
- 3) This certification will be revoked upon violation of any of the conditions contained herein.

Please feel free to contact this office at (302) 739-4691 if you should have any questions.

Sincerely,



William F. Moyer  
Section Manager  
Wetlands and Subaqueous Lands  
Section

cc: Frank Cianfrani, Corps of Engineers  
Sarah Cooksey, DCMP  
401 File  
MD-0023/94

wcq94034



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF WATER RESOURCES  
89 KINGS HIGHWAY, P.O. BOX 1401  
DOVER, DELAWARE 19903

WETLANDS & SUBAQUEOUS  
LANDS SECTION

TELEPHONE (302) 739-4691  
FACSIMILE (302) 739-3491

December 15, 1994

Philadelphia District  
Corps of Engineers  
Wanamaker Bldg.  
100 Penn Square East  
Philadelphia, PA 19107-3390

RE: MD-0023/94 Maintenance Dredge 350,000 cubic yards of material from the mouth of the Salem River and place 700,000 cubic yards of material via pipeline into the Reedy Point South Dredge Material Disposal area, Reedy Point, New Castle, DE

Dear Sirs:

Your request to conduct the above-referenced maintenance dredging has been reviewed by the Department of Natural Resources and Environmental Control. The Department hereby authorizes the dredging in accordance with the plans and specifications titled "Salem River Dredging" dated "10/4/94" and received by this Division on 10/14/94, and application received on 10/14/94.

This letter of authorization is issued subject to the following conditions:


1. Dredging shall be conducted so as not to violate the State of Delaware Department of Natural Resources and Environmental Control, Surface Water Quality Standards dated February 26, 1993.
2. This Authorization shall not become effective until an approved Sediment and Stormwater Management Plan has been issued, when required, by the local Conservation District Office.
3. No dredge spoils shall be deposited on tidal wetlands at any time other than what is permitted in accordance with the submitted application and plans.
4. This Authorization shall be valid for one (1) year.

Corps of Engineers  
MD-0023/94  
page 2


5. A copy of this Authorization must be available on site during all phases of construction activity.
6. All monitoring shall be performed in accordance with the attached Water Quality Monitoring plan.
7. Disposal area shall be visually inspected daily during dredging to prevent breaching of containment dikes and to ensure the clarity of the effluent.
8. Sluice gate walkway and riser boards must be replaced to allow safe pedestrian access to effluent sampling area and to maintain proper water depth within spoil area.
9. This authorization will be revoked upon violation of any of the above conditions.

If you have any questions, please feel free to contact Ted Mercer of this office at 739-4691.

Sincerely,

  
William F. Moyer  
Program Manager  
Wetlands & Aquatic Protection Branch

Sincerely,

  
James P. Chaconas  
Program Manager I  
Wetlands & Aquatic Protection Branch

cc: Frank Cianfrani



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

OFFICE OF THE  
DIRECTOR

89 KINGS HIGHWAY  
P.O. BOX 1401  
DOVER, DELAWARE 19903

TELEPHONE: (302) 739-3451

January 10, 1995

Ms. Beth Brandreth  
U.S. Army Corps of Engineers  
Philadelphia District  
Wanamaker Building  
100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390

*RE: Consistency Certification  
Salem River Dredging*

Dear Ms. Brandreth:

The DCMP has received and reviewed your consistency determination for the above referenced project. We have also reviewed your responses to our concerns with the use of the Reedy Point South dredged material disposal site, and have found them to be consistent with our policies. Pursuant to National Oceanic and Atmospheric Administration regulations (15 CFR-Part 930), the DCMP concurs with your consistency determination for above referenced project. Our concurrence is based upon the restrictions and/or conditions placed on any and all permits issued to you for this project and compliance with the monitoring plan that you submitted.

If you have any further questions please do not hesitate to contact me either by phone (302) 739-3451 or at the above address.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sarah W. Cooksey".

Sarah W. Cooksey, Administrator  
Delaware Coastal Management Program

SWC/jll  
cc: File 94.013





STATE OF DELAWARE  
DEPARTMENT OF NATURAL REBOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY  
DOVER, DELAWARE, 19901

TELEPHONE: (302) 739-3451

OFFICE OF THE  
DIRECTOR

March 7, 2001

**DELAWARE COASTAL ZONE FEDERAL CONSISTENCY CERTIFICATION  
SUNOCO, INC. MAINTENANCE DREDGING OF APPROXIMATELY 3,200 C.Y. OF  
SEDIMENT FROM THE MARCUS HOOK REFINERY AND TEMPORARY  
PLACEMENT OF APPROXIMATELY 11,000 FEET OF HYRRAULIC DREDGING  
PIPELEINE IN THE DELAWARE RIVER**

Mr. Thomas McVeigh  
Roy F. Weston, Inc.  
1400 Weston Way  
P.O. Box 2653  
West Chester, PA 19380

Dear Mr. McVeigh:

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for hydraulic maintenance dredging of approximately 3,200 cubic yards of material from the Delaware portion of the Marcus Hook Refinery, maintenance dredging of an associated intake structure, and temporary placement of approximately 11,000 feet of hydraulic dredging pipeline in the Delaware River. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 C.F.R. 930), the DCMP concurs with your consistency determination for this project. This concurrence is based upon the restrictions and/or conditions placed on any and all permits issued to you for this project, including the 7 special and 12 general conditions outlined in the State of Delaware Subaqueous Lands permit.

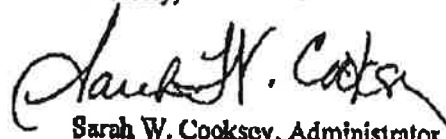
In addition to the above requirements, you must submit the following to this office:

1. Any report generated due to pipeline spillage or leakage. The report should summarize the extent of spillage, steps taken to rectify the spill and any mitigation measures.
2. A summary report of any monitoring conducted at point of dredging and at the confined disposal facility.



If you have any questions regarding this determination please do not hesitate to contact me at (302) 739-3451.

Sincerely,



Sarah W. Cooksey, Administrator  
Delaware Coastal Management Program

SWC/sel

cc: File 00.079  
Dave Kaplan -- USACE  
Laura Hurr -- DWR  
George Murphy -- Sunoco



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY  
DOVER, DELAWARE, 19901

TELEPHONE: (302) 739-3451

OFFICE OF THE  
DIRECTOR

March 7, 2001

**DELAWARE COASTAL ZONE FEDERAL CONSISTENCY CERTIFICATION  
TOSCO REFINING L.P. FOR TEMPORARY HYDRAULIC DREDGING  
PIPELINE PLACEMENT IN THE DELAWARE RIVER**

Mr. Thomas McVeigh  
Roy F. Weston, Inc.  
1400 Weston Way  
P.O. Box 2653  
West Chester, PA 19380

Dear Mr. McVeigh:

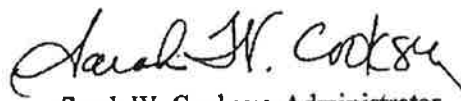
The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for the temporary placement of approximately 11,000 feet of hydraulic dredging pipeline in the Delaware River from the Trainer Refinery to the Oldmans Confined Disposal Facility. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 CFR 930), the DCMP concurs with your consistency determination for this project. This concurrence is based upon the restrictions and/or conditions placed on any and all permits issued to you for this project, including the 8 special and 12 general conditions outlined in the State of Delaware Subaqueous Lands permit.

In addition to the above requirements, you must submit the following to this office:

1. Any report generated due to pipeline spillage or leakage. The report should summarize the extent of spillage, steps taken to rectify the spill and any mitigation measures.
2. A summary report of any monitoring conducted at point of dredging and at the confined disposal facility.

If you have any questions regarding this determination please do not hesitate to contact me at (302) 739-3451.

Sincerely,



Sarah W. Cooksey, Administrator  
Delaware Coastal Management Program

SWC/sel

cc: File 00.080

✓ Jim Boyer -- USACE

✓ Laura Herr -- DWR

✓ Jim Fedena -- Tosco



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KING'S HIGHWAY  
DOVER, DELAWARE 19901

TELEPHONE: (302) 739 - 2451  
FAX: (302) 739 - 2048

DELAWARE COASTAL  
MANAGEMENT PROGRAM

July 30, 2003

Mr. Sonny Rutkowski  
Weston Solutions, Inc.  
1400 Weston Way  
PO Box 2653  
West Chester, PA 19380

**RE: Delaware Coastal Management Federal Consistency Certification  
Sunoco/Marcus Hook Refinery Maintenance Dredging of Berth 3C and RW7  
Intake (FC 03.082/CENAP-OP-R-200002407-46)**

Dear Mr. Rutkowski:

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for the above referenced project. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 CFR 930), the DCMP concurs with your consistency determination for the maintenance dredging of up to 10,000 cubic yards of sediment per event via hydraulic and/or mechanical methods at the Marcus Hook Refinery Dock 3C and Intake RW7 and temporary placement of approximately 11,000 feet of hydraulic dredging pipeline in the Delaware River. Please note that maintenance of navigational depths via obstruction leveling is not included as a part of this concurrence; use of obstruction leveling will require additional review by this office.

This concurrence is based upon adherence to the restrictions and/or conditions placed on any and all permits issued to you for this project. In addition, this office requests that a summary report of any monitoring conducted at the point of dredge or discharge be forwarded to this office, as well as any report generated due to pipeline spillage or leakage.

7/31/2003

Page 2

If you have any questions regarding this determination please do not hesitate to contact me at (302) 739-3451.

Sincerely,



Sarah W. Cooksey, Administrator  
Delaware Coastal Management Program

SWC/sel

cc: File 03.082  
David Caplan - USACE  
Jim Chaconas - DWR