



**US Army Corps  
of Engineers**  
Philadelphia District

Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390  
ATTN: CENAP-OP-R

# Public Notice

Public Notice No. CENAP-OP-R-2015-843	Date AUG 20 2015
Application No. CENAP-OP-R-2015-843	File No. CENAP-OP-R-2015-843-85
In Reply Refer to: REGULATORY BRANCH	

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Delaware River and Bay Authority

AGENT: S.T. Hudson Engineers, Inc.

WATERWAY: Delaware Bay

LOCATION: 43 Henlopen Drive Lewes, Sussex County, Delaware  
Tax Map Parcel 3-35-5.00-17.00  
(Lat. 38.78294°N/Long.-75.11789°W).

ACTIVITY: The applicant, Delaware River and Bay Authority, has applied for a Department of the Army permit to construct a floating dock facility at their Lewes Ferry Terminal in Lewes, Sussex County, Delaware. The proposed floating dock will consist of 4, 45 feet long by 8 feet wide sections connected to the Lay Pier via 32 feet Long gangway and secured to 11, 14 inch diameter driven concrete filled composite pipe piles. The dimensions of the structures are indicated on the attached plans identified as E-1 through E-5.

PURPOSE: The primary purpose of the proposed floating dock is to accommodate the Delaware River and Bay Authority's crew, police and spill response boats. The floating dock will provide the Delaware River and Bay Authority's staff safe watercraft access. The secondary purpose will be for the mooring of personal watercrafts that will visit the ferry visitor center during hours of operation.

#### AVOIDANCE/MINIMIZATION/COMPENSATION STATEMENT:

On April 10, 2008, the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency published a *Final Rule on Compensatory Mitigation for the Losses of Aquatic Resources* (33 CFR 325 and 332 and 40 CFR 230). The rule took effect on June 9, 2008. In accordance with 33 CFR Part 325.1(d)(7) of the rule, the applicant has stated that the proposed project has been designed to avoid and minimize adverse effects on the aquatic environment to the

maximum extent practicable, and has further documented that compensatory mitigation is not necessary. The following aspects and features of the project demonstrate the applicant's efforts in this regard.

The project cannot be avoided entirely because it is, by its nature, a water-dependent activity. The project is for the installation of a floating dock and has been designed not only to entirely avoid dredging, but minimize discharges of dredged or fill material into waters of the United States and avoid impacts to wetlands and submerged aquatic vegetation. In addition, the floating dock has been designed to the minimum sizes necessary to support the vessels which are to be moored at the facility for safe ingress and egress. Because no wetlands or other special aquatic sites would be impacted by the project, the applicant is not proposing to conduct any compensatory mitigation for the work.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that the proposed permit action is adjacent to the National Harbor of Refuge and Delaware Breakwater Historic District which is

listed on the National Register of Historic Places. Given the limited nature and scope of the action, the USACE along with the State of Delaware Historical and Cultural Affairs has determined that the proposed action will have *No Adverse Effect* to the listed historic district.

Essential Fish Habitat: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH).

Effects of the Project: The project is located in Essential Fish Habitat identified on sheet 81 of the *Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware*, dated March 1999. The following managed species of fish have been listed in the guide as occurring in the vicinity of the project: Atlantic cod (*Gadus morhua*), winter flounder (*Pleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), red hake (*Urophycis chuss*), bluefish (*Pomatomus saltatrix*), Atlantic sea herring (*Clupea harengus*), monkfish (*Lophius americanus*), Atlantic butterfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), surf clam (*Spisula solidissima*), spiny dogfish (*Squalus acanthias*), king mackerel (*Scomberomerus cavalla*), Spanish mackerel (*Scomberomerus maculatus*), cobia (*Rachycentron canadum*), sand tiger shark (*Odontaspis Taurus*), Atlantic angel shark (*Squatina dumerili*), Atlantic sharpnose shark (*Rhizopriondon terraenovae*), sandbar shark (*Carcharhinus obscurus*), dusky shark (*Carcharhinus plumbeus*) and scalloped hammerhead shark (*Sphyrna lewini*).

Analysis of the Effects: The proposed work which is the subject of this application would occur in a small area of waters within an active navigational area subject to regular boating activity and substantial wake energy and potential erosion. For these reasons the proposed work area is an unlikely spawning or nursery area for the managed species. Consequently, concentrations of the sessile life stages (eggs and larva) of the listed species are not expected to be within the area under review. In addition, the work is limited to the installation of concrete pilings to secure a floating dock only and does not involve any dredging in waters of the US, nor does the work impact wetlands or aquatic vegetation. The pelagic adults and juveniles of the listed species are highly mobile and capable of avoiding such impacts as may be associated with the work.

Corps of Engineers View: Based upon the above analysis, the Corps of Engineers has determined that the proposed project would not have substantial direct, indirect, site-specific, or habitat-wide impacts on EFH, or upon the managed species and their life stages listed in the above referenced EFH guide, either individually, cumulatively or synergistically. The proposed project would not eliminate, diminish, nor disrupt the functions of EFH.

Proposed Mitigation: Special conditions, such as time of year restrictions, may be imposed as to not degrade water quality during times of anadromous fish migration and/or spawning pending comments from State and other Federal agencies.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone

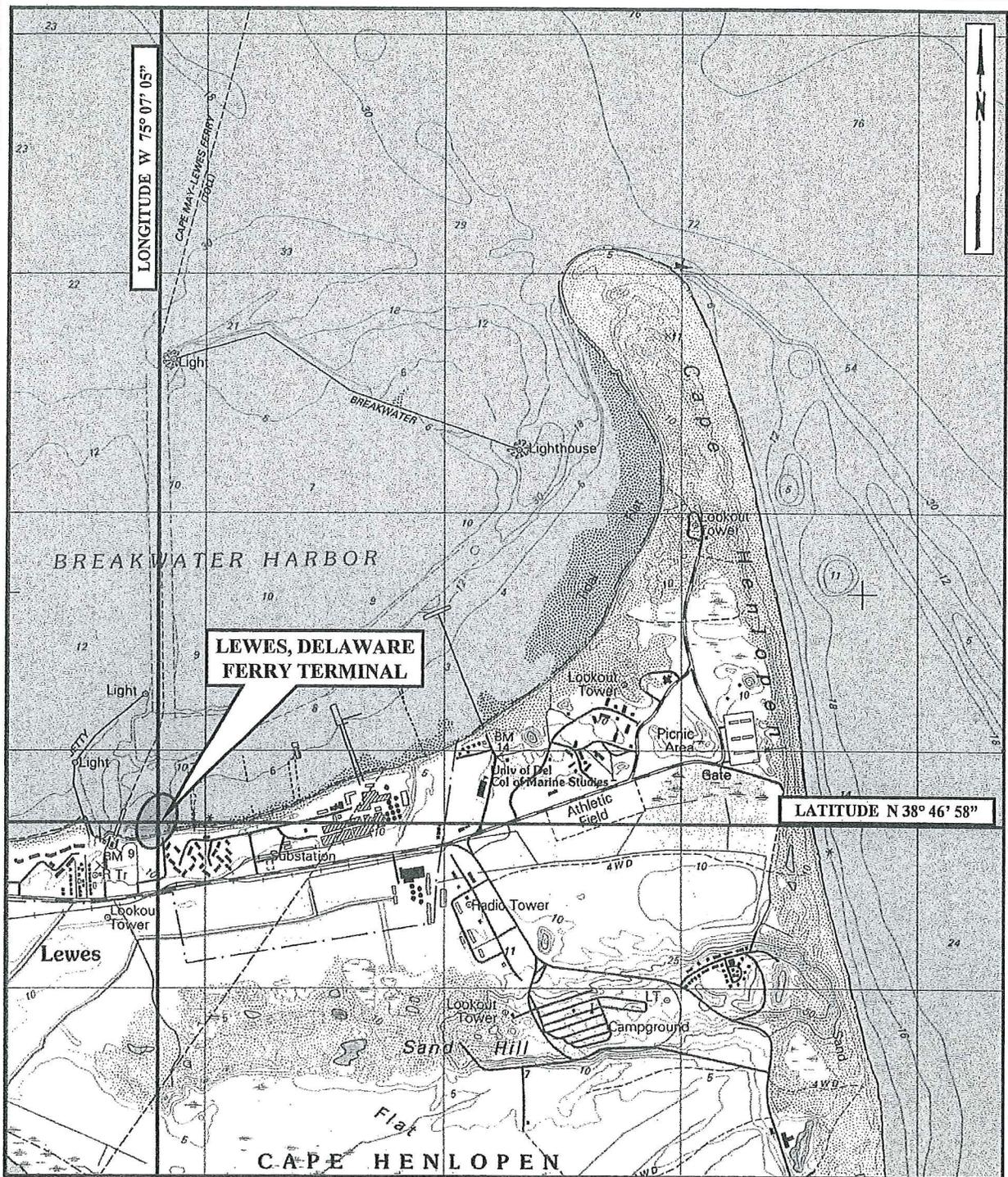
Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Michael Yost at 302-736-9763, by email at michael.d.yost@usace.army.mil, or by writing this office at the above address.



Frank J. Cianfrani, Chief  
Regulatory Branch



**PROJECT SITE LOCATION MAP**

UNITED STATES GEOLOGIC SURVEY QUADRANGLE

CAPE HENLOPEN, DE

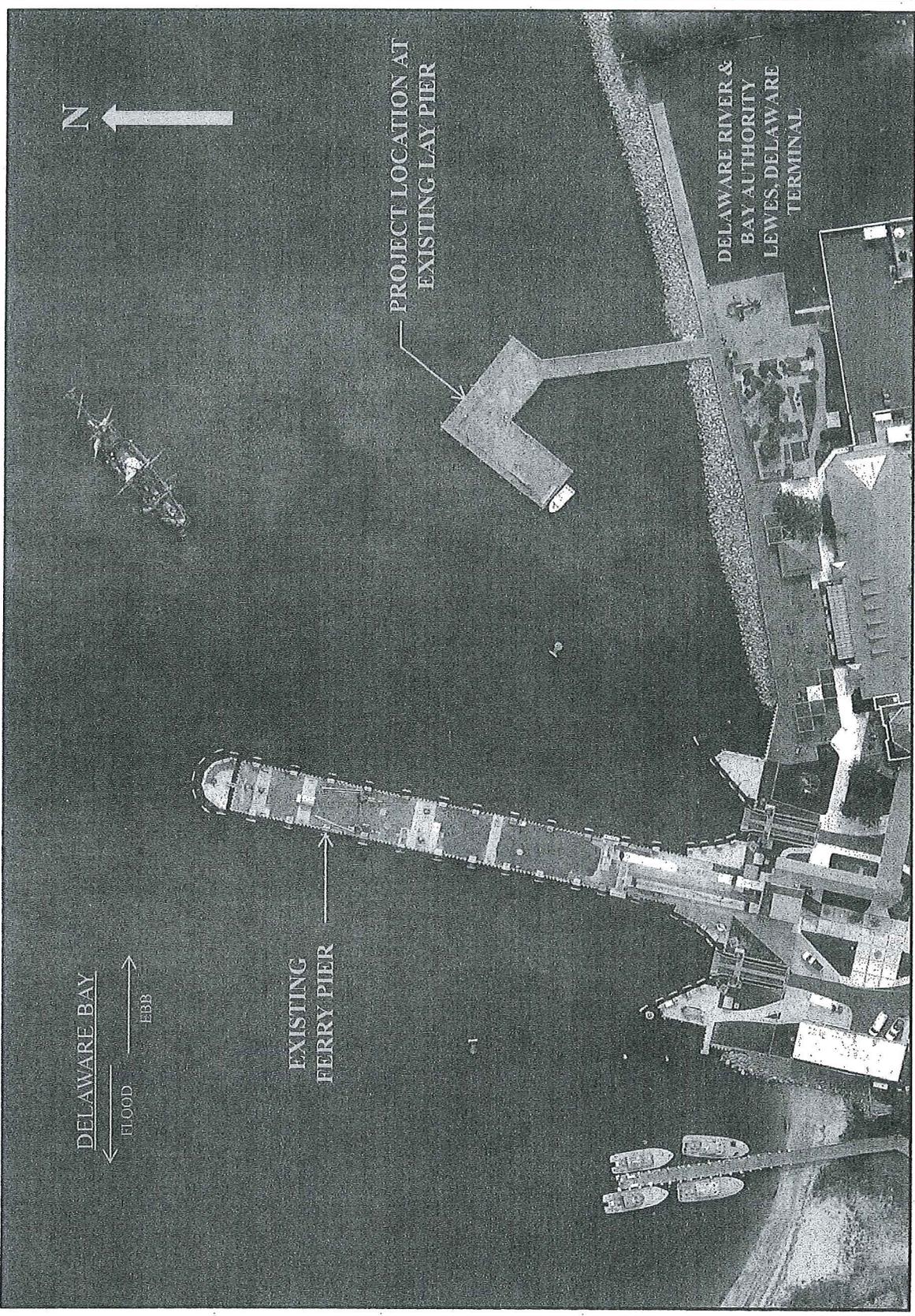
SCALE 1:24000

**E-1**  
**2015-843**

H-7155-01



S. T. HUDSON ENGINEERS, INC.



N

DELAWARE BAY  
 ← FLOOD →  
 ← EBB →

EXISTING  
 FERRY PIER

PROJECT LOCATION AT  
 EXISTING LAY PIER

DELAWARE RIVER &  
 BAY AUTHORITY  
 LEWES, DELAWARE  
 TERMINAL

SITE PHOTOGRAPH: DELAWARE RIVER & BAY AUTHORITY CAPE MAY-LEWES FERRY - LEWES FERRY TERMINAL LEWES, DE.

H-7155-01

E-2

2015-843



S. T. HUDSON ENGINEERS, INC.

# DELAWARE BAY

FLOOD EBB

### ADJACENT PROPERTY OWNERS:

1. THE PILOTS ASSOCIATION FOR THE BAY AND RIVER DELAWARE.
2. PORT LEWES CONDOMINIUM ASSOCIATION.

### NOTE:

1. THE HIGH TIDE LINE, MEAN HIGH WATER LINE, AND MEAN LOW WATER LINE ARE LOCATED ON THE FACE OF EXISTING BULKHEADS AND THE PIER.

### DATUM CHART:

HIGH TIDE LINE +4.40

MEAN HIGH WATER +4.07

MEAN LOW WATER 0.0

EXISTING STONE JETTY BREAKWATER

DISTANCE TO THE END OF THE FEDERAL SHIPPING CHANNEL 9.0 MILES

FOR PLAN / LAYOUT SEE SHEET 2 OF 3

PROPOSED NEW FLOATING DOCKS

EXISTING LAY PIER

HIGH TIDE LINE +4.40

MEAN HIGH WATER +4.07

MEAN LOW WATER 0.0

①

②

Delaware River & Bay Authority  
Lewes Ferry Terminal

E-3

2015-843

## SITE PLAN

1" = 200'-0"

200' 100' 0 200'



Scale: 1" = 200'-0"

S.T. HUDSON ENGINEERS, INC.  
PROFESSIONAL ENGINEERS & CONSULTANTS



900 Dudley Avenue  
Cherry Hill, N.J. 08002  
Phone 856-342-6600  
Fax No. 856-342-8323

FILE No. D-2507  
CONTRACT No. H-7155-01  
DATE 6/5/2015  
SHEET No. 10F3  
REV. No. 0

PROPOSED: New Floating Dock At Lay Pier

AT: Lewes, Delaware

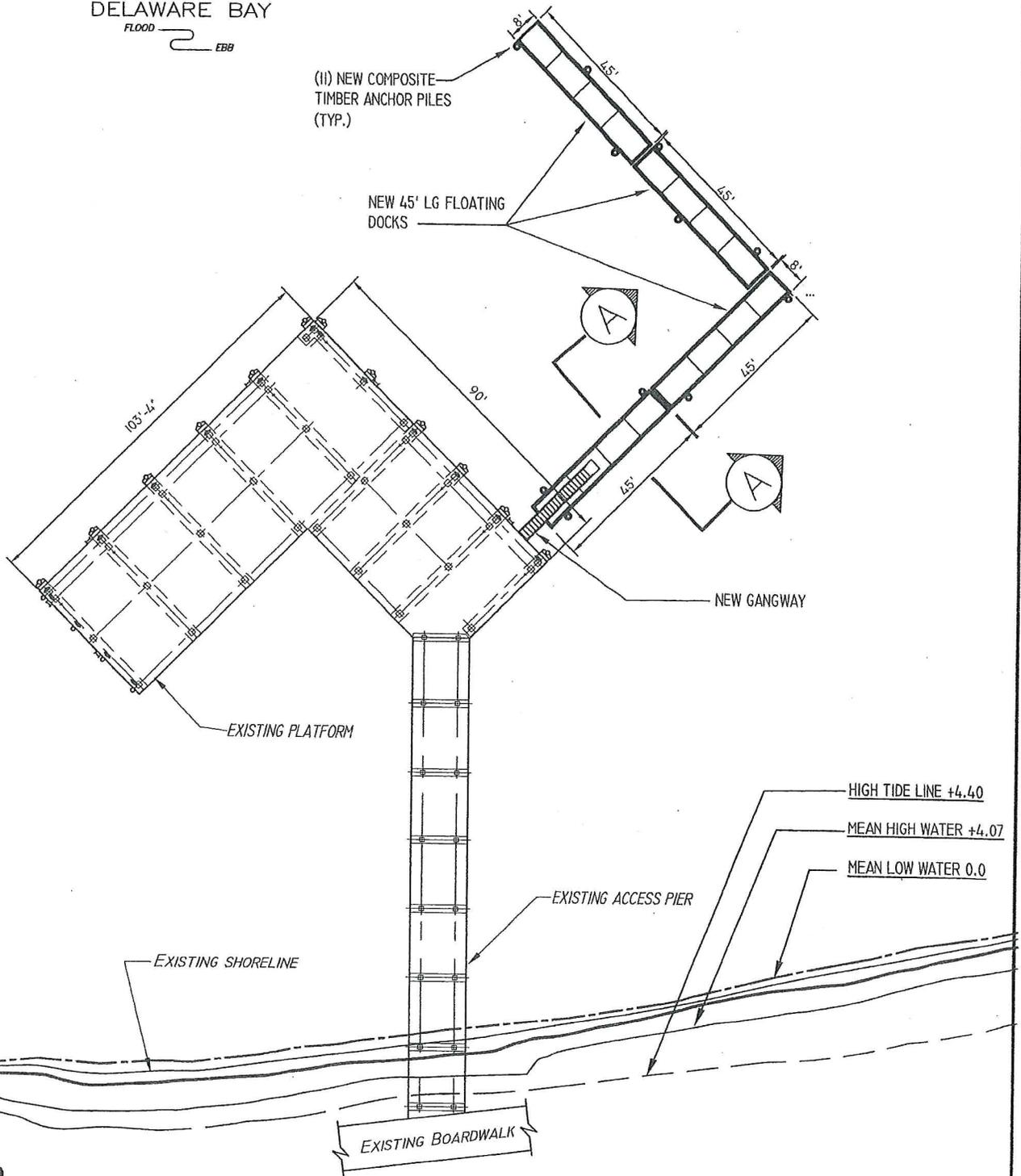
COUNTY OF: Sussex

APPLICATION BY: Delaware River & Bay Authority



DELAWARE BAY

FLOOD  
EBB



**E-4**  
**2015-843**

PLAN

SCALE: 1" = 40'-0"

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FILE No. D-2507  
CONTRACT No. H-7155-01  
DATE 6/5/2015  
SHEET No. 20F3  
REV. No. 0

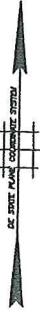
PROPOSED: New Floating Dock At Lay Pier

AT: Lewes, Delaware

COUNTY OF: Sussex

APPLICATION BY: Delaware River & Bay Authority

N



NEW COMPOSITE TIMBER ANCHOR PILES (TYP.)

NEW 45' LG FLOATING DOCKS

8'

HIGH TIDE LINE (H.T.L.) +4.40

MEAN HIGH WATER (M.H.W.) 4.07

MEAN LOW WATER (M.L.W.) 0.0

NEW FLOAT

APPROX. RIVER BOTTOM

# SECTION



SCALE: 3/16" = 1'0"

E-5

2015-843

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FILE No. D-2507  
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DATE 6/5/2015  
SHEET No. 30F3  
REV. No. 0

PROPOSED: New Floating Dock At Lay Pier

AT: Lewes, Delaware

COUNTY OF: Sussex

APPLICATION BY: Delaware River & Bay Authority