

**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-2016-0250-1** Date

Application No. File No.

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 Department of Natural Resources and Environmental Control,  
Division of Parks and Recreation

**AGENT:** Delaware Department of Natural Resources and Environmental Control,  
Division of Watershed Stewardship, 89 Kings Highway, Dover, Delaware 19901

**WATERWAY:** Indian River Inlet

**LOCATION:** The project site is located at the Indian River Inlet Marina within the Delaware Seashore State Park near Rehoboth Beach, Sussex County, Delaware. The coordinates for the site are Latitude 38.612710<sup>0</sup>N and Longitude 75.073650<sup>0</sup>W.

**ACTIVITY:** The applicant is proposing to conduct maintenance dredging within the existing marina basin, which is also known as Balders Pond. The dredging would be conducted via hydraulic method to a depth of 7 feet below mean low water. The current dredging work is expected to generate approximately 15,000 cubic yards of material consisting primarily of silt and clay with smaller amounts of sand. The dredged material would be discharged into an adjacent enclosed embayment known as Bottom Hills Drain. Turbidity curtains would be installed across two shallow tidal channels connecting to Bottom Hills Drain to minimize any turbidity increases in adjacent waterways. The discharge pipe into Bottom Hills Drain would be suspended from a floating platform with a deflector plate to generate a wider distribution of the dredged material across the substrate. Bottom Hills Drain has been historically used as a borrow site for sand in conjunction with previous beach replenishment activities along the Atlantic Ocean beach near Indian River Inlet. Those previous borrow activities have generated water depths within Bottom Hills Drain substantially deeper than the neighboring waterways which has resulted in inadequate tidal flushing and poor water quality conditions within the deeper portions of Bottom Hills Drain. The proposal to utilize Bottom Hills Drain as the dredged material disposal location would ultimately raise the bottom elevations within Bottom Hills Drain improving the water quality conditions within this area. A previous Department of the Army

permit CENAP-OP-R-2003-0725-1 authorizing maintenance dredging at the marina site with disposal of the dredged material in Bottom Hills Drain expired on December 31, 2013. Plans for the proposed work are attached to this public notice.

**PURPOSE:** The purpose of the project is to maintain navigable water depths with the existing marina facility and to ultimately improve water quality conditions within Bottom Hills Drain.

All waters along the Mid-Atlantic region, including tidal rivers and streams and coastal estuaries have been identified by the National Marine Fisheries Service as being within the estimated range of the five distinct population segments of the Atlantic Sturgeon, which are listed as threatened or endangered pursuant to the Endangered Species Act. Based upon the existing conditions and marina facilities within Balders Pond and the poor water quality conditions within the dredged material disposal area in Bottom Hills Drain, these two areas are not expected to be utilized by the Atlantic Sturgeon or any other threatened or endangered species under the responsibility of the National Marine Fisheries Service. In addition, turbidity controls and seasonal restrictions would be implemented to avoid and minimize effects to other waters within the Indian River Bay system. The coastal waters of Delaware are also utilized by marine mammals and sea turtles. The water depths and conditions within Balders Pond and Bottom Hills Drain are considered too shallow, confined, and disturbed for utilization by any federally listed marine mammals. Further, these waterways would offer little or no foraging value for any federally listed sea turtles. It has been determined that the proposed work is not likely to adversely affect any federally listed threatened or endangered species. As the evaluation of this application and coordination with the National Marine Fisheries Service 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 30 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 no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work. It is also noted that the project site has been substantially altered by previous construction, dredging and filling activities at both the dredging and disposal locations.

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). A preliminary assessment of the species listed in the "Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware", dated March 1999, specifically page 90, as well as other unpublished fisheries resource information has been prepared. This EFH assessment has determined that the project site may contain habitat for the following managed species: windowpane flounder, bluefish, summer flounder, black sea bass, sandbar shark, clearnose skate, winter skate, and little skate. However, the proposed dredging would not permanently alter any existing habitats within the marina basin. The disturbance to the benthic communities would be temporary and would re-establish after completion of the dredging activities. In addition, the species listed above could easily avoid the dredging operation. Similarly, the disturbance at the disposal site would be temporary. However, it is noted that the ultimate alteration to Bottom Hills Drain to raise the bottom elevation to depths more conducive to utilization by these species could be considered beneficial. Further, the use of turbidity controls around the dredged material disposal site and the implementation of a seasonal restriction to prohibit any dredging activities during the summer months when these species normally occur in the project vicinity would further minimize any adverse effects to these resource values. Based upon a review of the available information and the requirement of a seasonal restriction for the dredging activities, this office has determined the proposed project would not have substantial direct, indirect, site-specific, or habitat-wide impacts on EFH, or upon the managed species and their various life stages, either individually, cumulatively or synergistically. Other than the temporary disturbances during the actual dredging operations, the proposed project would not eliminate, diminish, or disrupt the functions of EFH.

Compensatory mitigation: The proposed project will not involve any discharges of dredged or fill material into any special aquatic or the loss of any aquatic resources. Impacts to aquatic resources resulting from the proposed dredging activities are expected to be temporary. As such, no compensatory mitigation has been proposed.

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 submitted an application to the Delaware Coastal Program for a determination of concurrence with the Delaware 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

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.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. An application has been submitted to the Delaware Department of Natural Resources and Environmental Control, Wetlands and Subaqueous Lands Section for this certification. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

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 Edward Bonner at 215-656-5932, via email at [Edward.e.bonner@usace.army.mil](mailto:Edward.e.bonner@usace.army.mil), or writing this office at the above address.

Samuel L. Reynolds  
Acting Chief, Regulatory Branch







BURTON ISLAND



B  
A  
BALDERS FOND



### LEGEND



AREA TO BE DREDGED  
(APPROX 15,000 CY)

TYPICAL CROSS SECTIONS

SHEET 2 OF 4

## INDIAN RIVER BAY

F:\SURVEY CREW\SEAN\IR MARINA 19\IR Marina Dredge Area.dwg

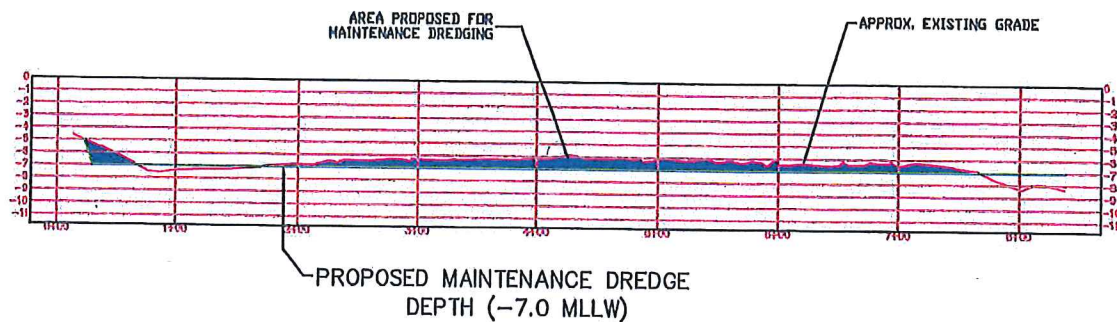
### INDIAN RIVER INLET MARINA DREDGING PROJECT

DELAWARE DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
DIVISION OF PARKS AND RECREATION

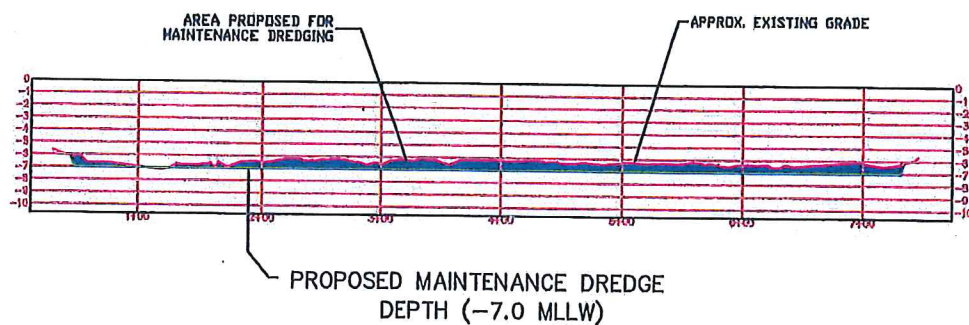
SURVEY DATE: FEBRUARY 2015  
SURVEYED BY: SAB & DGM  
DRAWN BY: SAB

CHECKED BY:  
DATE: MEAN LOWER LOW WATER





TYPICAL CROSS SECTION A-A  
(DATUM = MEAN LOWER LOW WATER)



TYPICAL CROSS SECTION B-B  
(DATUM = MEAN LOWER LOW WATER)

F:\SURVEY CREW\SEAN\IR MARINA 16\IR Marina Dredge Area.DWG

PURPOSE: MARINA REDEVELOPMENT  
DATUM: MLLW  
APPLICATION BY: DELAWARE DNREC  
DIV. OF PARKS & REC.  
USACE #  
ADJACENT PROPERTY OWNERS:  
USCG  
DATE: 02/15

SHEET 3 OF 4

PROPOSED MAINTENANCE  
DREDGE CROSS SECTIONS

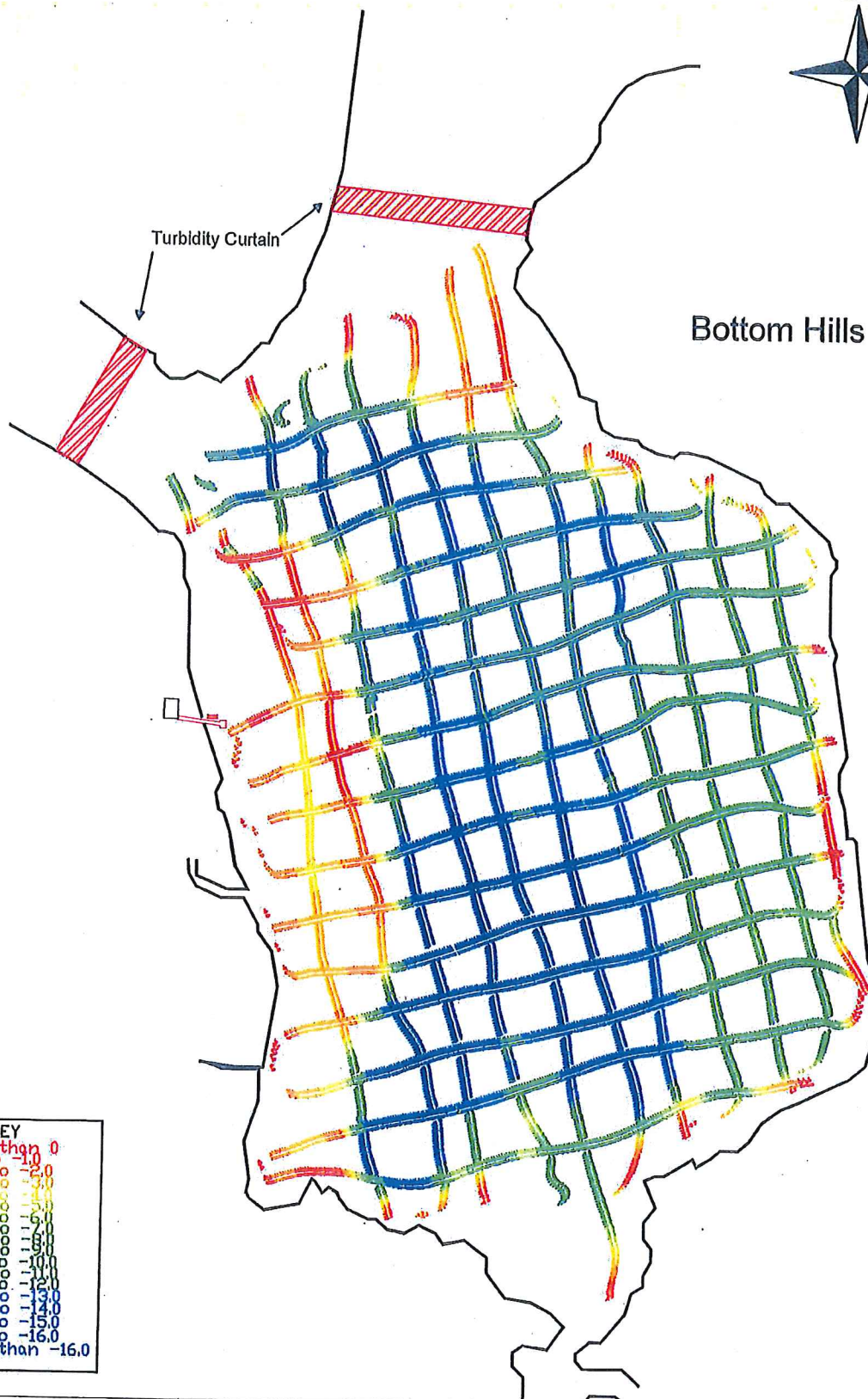
DELAWARE DNREC  
DIVISION OF PARKS AND RECREATION  
89 KINGS HIGHWAY  
DOVER, DE 19901

### INDIAN RIVER INLET MARINA DREDGING PROJECT

DELAWARE DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
DIVISION OF PARKS AND RECREATION

SURVEY DATE: FEBRUARY 2015  
SURVEYED BY: SAB & DGM  
DRAWN BY: SAB

CHECKED BY:  
DATE: MEAN LOWER LOW WATER



KEY	
Less than 0	0 to 1.0
0 to 1.0	1.0 to 2.0
1.0 to 2.0	2.0 to 3.0
2.0 to 3.0	3.0 to 4.0
3.0 to 4.0	4.0 to 5.0
4.0 to 5.0	5.0 to 6.0
5.0 to 6.0	6.0 to 7.0
6.0 to 7.0	7.0 to 8.0
7.0 to 8.0	8.0 to 9.0
8.0 to 9.0	9.0 to 10.0
9.0 to 10.0	10.0 to 11.0
10.0 to 11.0	11.0 to 12.0
11.0 to 12.0	12.0 to 13.0
12.0 to 13.0	13.0 to 14.0
13.0 to 14.0	14.0 to 15.0
14.0 to 15.0	15.0 to 16.0
15.0 to 16.0	Greater than -16.0

SHEET 4 OF 4

NOTE: MATERIAL WILL BE  
PLACED IN AREAS  
GREATER THAN  
-12.0 FEET

Scale: 1"=300'

### INDIAN RIVER INLET MARINA DREDGING PROJECT

DELAWARE DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
DIVISION OF PARKS AND RECREATION

SURVEY DATE: JUNE 2015  
SURVEYED BY: SAB & ACM  
DRAWN BY: SAB

CHECKED BY:  
DATE: MEAN LOWER LOW WATER