



**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-2015-164**

Date  
**APR 17 2015**

Application No.  
**CENAP-OP-R-2015-164**

File No.  
**CENAP-OP-R-2015-164-85**

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:** Perdue Agribusiness, LLC.

**AGENT:** Gahagan and Bryant Associates, Inc.

**WATERWAY:** Nanticoke River

**LOCATION:** 1001 Nanticoke Avenue Seaford, Sussex County, Delaware  
Tax Map Parcel 5-31-13-33.00 (Lat. 38.63085/Long. -75.61939).

**ACTIVITY:** The applicant, Perdue Agribusiness, has applied for a 10-year maintenance dredging permit. Perdue Agribusiness proposes to conduct hydraulic dredging of a portion of the Nanticoke River that was recently dredged in 2011, in order to develop a barge loading/unloading facility in Seaford, Sussex County, Delaware.

The project involves the hydraulic removal of approximately 7,800 cubic yards of sand and clay to a depth of -14' MLLW and pumping the dredged material into geotubes located on Perdue Agribusiness property adjacent to the dredge site for dewatering purposes. The dredged material would be utilized at other Perdue facilities in Delaware and Maryland. The project location is indicated on the attached plans identified as Exhibit 1 through Exhibit 4.

**PURPOSE:** The purpose of the project is to provide adequate and safe vessel access to develop a commercial barge loading/unloading facility.

**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 proposed dredging will provide safe and adequate access for commercial barge loading/unloading. The dredged material will be hydraulically pumped into geotubes located on the adjacent uplands for dewatering within the Perdue property. To further minimize discharges associated with the project, the applicant will utilize silt fence around the dewatering area. It should also be noted that the applicant has provided a detailed chemical composition analysis of the sediment to be dredged. Sediment samples were analyzed for phosphorus, nitrogen, semivolatile organic compounds, metals, oil and grease, herbicides, phenols, and pesticides/PCBs. The chemical analysis of bulk sediment and toxicity characteristic leaching procedure (TCLP) results indicate non-detects for analytes tested, therefore, adverse affects on water quality should be minimal. Additionally, no leachates are expected to be produced from the dredged material dewatering procedure. 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 no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work. The Philadelphia District has determined that the proposed project is of such limited nature and scope that little likelihood exists for the proposed action to impact an historic property. The District has determined that the project will have no effect on properties eligible for or listed in the National Register of Historic Places.

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 effect Essential Fish Habitat (EFH). A preliminary assessment indicates that the project is not located in Essential Fish Habitat, identified in the Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware, dated March 1999.

Corps of Engineers View: The Nanticoke River stock of shad is considered depleted and is undergoing a long-term restoration program. Pending comments from State and other Federal agencies, time of year restriction may be imposed.

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.

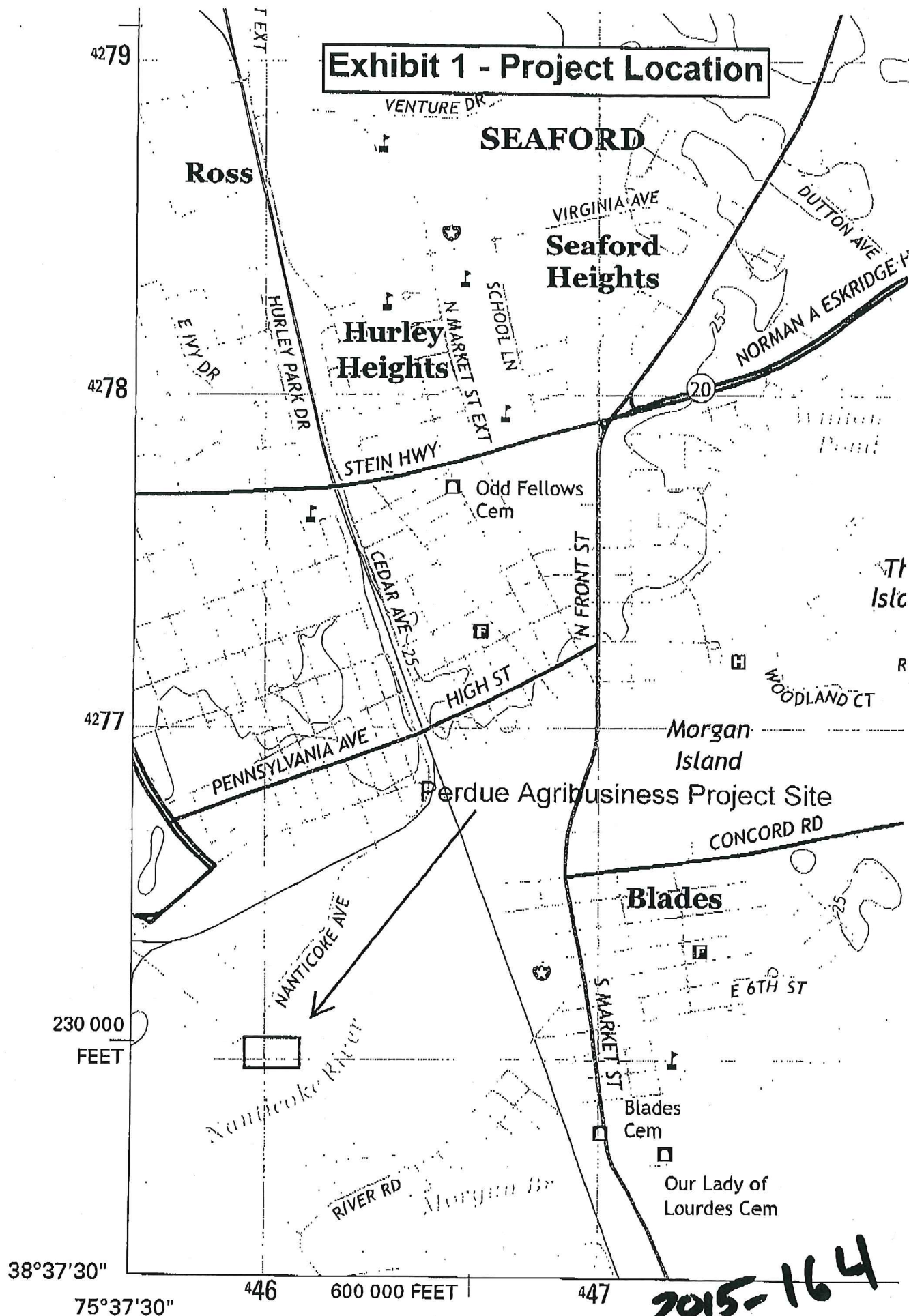
Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Michael Yost at 302-736-9763 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.

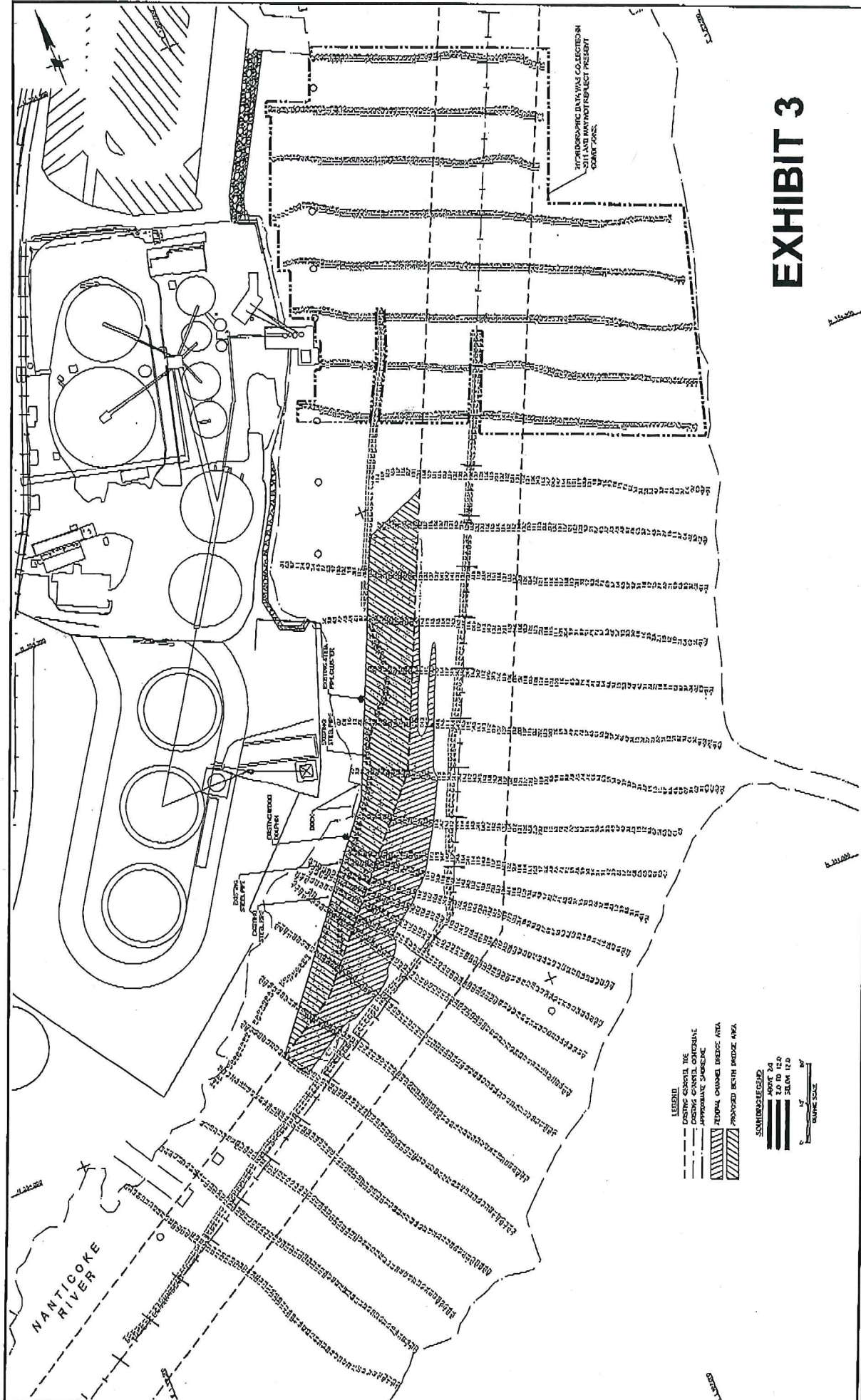


Frank J. Cianfrani, Chief  
Regulatory Branch

# Exhibit 1 - Project Location







# EXHIBIT 3

PERDUE AGRIBUSINESS PORT FACILITY  
BATHYMETRIC CONDITION SURVEY  
SEAFORD, DELAWARE

Project Name	PERDUE AGRIBUSINESS PORT FACILITY
Drawn By	A. J. JONES
Checked By	H. JONES
Project Name	PERDUE AGRIBUSINESS PORT FACILITY
Project Date	10/1/10
Drawn Date	10/1/10

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EXHIBIT 4

1 OF 2

PORT FACILITY  
PORT FACILITY  
PORT FACILITY

NAVYLAND DEVELOPMENT  
NAVYLAND DEVELOPMENT  
NAVYLAND DEVELOPMENT

STATE: AS SHOWN  
DATE: 10/10/2014  
BY: [Signature]

NO.	DESCRIPTION	DATE	BY
1	PORT FACILITY	10/10/2014	[Signature]
2	PORT FACILITY	10/10/2014	[Signature]
3	PORT FACILITY	10/10/2014	[Signature]
4	PORT FACILITY	10/10/2014	[Signature]
5	PORT FACILITY	10/10/2014	[Signature]
6	PORT FACILITY	10/10/2014	[Signature]
7	PORT FACILITY	10/10/2014	[Signature]
8	PORT FACILITY	10/10/2014	[Signature]
9	PORT FACILITY	10/10/2014	[Signature]
10	PORT FACILITY	10/10/2014	[Signature]

