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).

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: Timothy Fox (201 Willard Real Estate, LLC)
AGENT: Water’s Edge Environmental, LLC
WATERWAY: Strathmere Bay
LOCATION: 201 W. Willard Avenue, Upper Township, NJ 08243
ACTIVITY: Mechanical dredge approximately 1,843 cubic yards of material to a depth of -4 MLW from an approximately 17,253 square foot area (0.396 acres). The dredging consists of approximately 12,494 square feet of maintenance dredging (i.e. previously authorized on May 16, 1986 by DA Permit NAPOP-R-85-1127-3) and 4,759 square feet of new dredging. The sediment will be placed within a hopper barge, offloaded at the western terminus of Willard Avenue and trucked to Strathmere Beach for upland placement in accordance with Upper Township’s Beach Management Plan and Beach and Dune Maintenance Permit (NJDEP Permit 0511-04-0013.1 LUP190001). The dredge material composition is 93.7% sand. The applicant has stated the need for maintenance dredging every 3-5 years.

Remove and replace existing docking/mooring structures with the following: an 8-foot by 763.51-foot floating dock system, a 6-foot by 27.65-foot fixed pier extension, two (2) 3-foot by 22-foot ramps, a 3-foot by 35-foot ramp, and thirty-nine (39) 5-foot by 12.5-foot personal watercraft floats. See the attached plans, sheets 1 through 4, for additional project description.

PURPOSE: To meet the need for safe mooring and navigation of transient private pleasure craft of visitors and patrons of the Deauville Inn.
A preliminary review of this application indicates that species listed under the Endangered Species Act or their critical habitat pursuant to Section 7 of the ESA as amended, may be present in the action area. The ACOE will forward this PN to the US Fish and Wildlife Service and/or National Marine Fisheries Service with a request for technical assistance on whether any ESA listed species or their critical habitat maybe present in the area which would be affected by the proposed activity. The Philadelphia District will evaluate the potential effects of the proposed actions on ESA listed species or their critical habitat and will consult with the US Fish and Wildlife Service and/or NOAA Fisheries as appropriate. ESA Section 7 consultation will be concluded prior to the final decision on this permit application.

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 electronically within 30 days to Kendall Miller, Regulatory Project Manager, Philadelphia District U.S. Army Corps of Engineers at Kendall.L.Miller@usace.army.mil.

The USACE Cultural Resource Specialist is currently reviewing the proposed permit action for potential impacts to Historic Properties eligible for or listed on the National Register of Historic Places. A determination of effects will be coordinated with the State Historic Preservation Office, the Tribes and other consulting parties.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the NOAA Fisheries all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary review of this application indicates that EFH is present within the project area. The
Philadelphia District will evaluate the potential effects of the proposed actions on EFH and will consult with NOAA Fisheries as appropriate. Consultation will be concluded prior to the final decision on this permit application.

Compensatory mitigation: In accordance with the June 9, 2008 U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency Final Rule on Compensatory Mitigation for Losses of Aquatic Resources (33 CFR 325 and 332 and 40 CFR 230), 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. Information provided in the application and on plans indicates that there will be no placement of fill material in jurisdictional waters or wetlands and as such, compensatory mitigation is not 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 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 Kendall Miller at (215) 656-5873, via email at Kendall.L.Miller@usace.army.mil.
201 W. WILLARD AVENUE
LOTS 1, 101, 3, 3.01, 4 & 5 in BLOCK 850
UPPER TOWNSHIP, CAPE MAY COUNTY, N.J.

REFERENCE DATUM:
MEAN LOW WATER DATUM

PROPOSED SLIP COUNT
31 TRANSIENT BOAT SLIPS*
39 TRANSIENT PWC SLIPS
70 TOTAL TRANSIENT SLIPS*

*BASED on AVERAGE BOAT LENGTH of 21-FOOT