



**US Army Corps  
of Engineers**  
Philadelphia District

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

# Public Notice

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Public Notice No.	Date
<b>CENAP-OP-R-2014-0280-83</b>	

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Application No.	File No.
<b>CENAP-OP-R-2014-0280-83</b>	

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In Reply Refer to:  
**REGULATORY BRANCH**

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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 Waterfront Corporation (DRWC)  
121 N. Columbus Boulevard  
Philadelphia, PA 19106

**WATERWAY:** Delaware River

**LOCATION:** The Spring Garden and Festival Piers (piers 27 through 35) include approximately 16 acres of property on the west bank of the Delaware River (RM 100.5) at the intersection of Delaware Avenue and Spring Garden Streets, located within the City of Philadelphia.

**ACTIVITY:** The Delaware River Waterfront Corporation (DRWC) is seeking Department of the Army authorization to conduct site remediation by means of bulkhead encapsulation for two (2) existing PADEP Act 2 Contaminated Waste areas (Piers 27N to 30N and Piers 31N to 35N). The DRWC is also seeking approval to cover additional onsite improvements following site remediation (see attached plans). The property consists of approximately 1.6 acres of circa 1890 bulk-headed land along Delaware Avenue and about 14.4 acres of submerged lands controlled by the Commonwealth of Pennsylvania. A former city owned Municipal Refuse/Trash Incinerator was previously located on site (piers 31N through 35N). Piers 27N through 30N were a series of railroad piers and then used as a vehicle salvage and impound lot. The current use of the project location now includes parking lots, a concert venue, and vacant lots.

The Spring Garden and Festival Piers (Piers 27N through 35N) include approximately 16 acres of property on the Delaware River at the intersection of Delaware Avenue and Spring Garden Streets. Of those 16 acres, 14.4 acres are considered Commonwealth of Pennsylvania controlled submerged lands running between the bulkhead line and the former Pierhead Line which was established in 1891. These waters are currently occupied by previously authorized and licensed piers and historic fills which include river sediments that have accumulated along and within the piers over the past century. Early development at the site included the construction of low-deck

structures for Piers 27N, 33N & 34N (see Sheet 2 of 8 of attached plans). The original Piers 29N, 30N, 31N, & 32N were timber and rock crib piers that only extended a few hundred feet into the river. The in-shore portions of the area between Piers 27N and 35N were filled over a period of time prior to 1963. Between 1963 and 1968 three high deck structures were added to the Pier 31N-35N area to enable the construction of a Municipal Refuse/Trash Incinerator. In the 1980s, the area between Piers 27N and 31N was filled during construction of Interstate I-95 and are/were utilized as parking/impound lots. The Incinerator was operated until 2000 and was subsequently demolished down to the upper surface of the piers.

As a former municipal refuse/trash incinerator site and vehicle impound lot, the two sites were contaminated by various chemicals, primarily lead compounds. As a result of this prior contamination, the Delaware River Waterfront Corporation sought protection under the Pennsylvania Land Recycling and Environmental Remediation Standards Act (Act 2) so that it would not be held liable for any of the existing contamination of the sites. In 2016 the PADEP approved a cleanup plan and site management plan that included the encapsulation of the sites by use of a sheet pile bulkhead encapsulation system long the water edge of the current piers and capping the site with an impervious cover.

In developing the plans for the encapsulation bulkhead, the DRWC has stated that they looked at various alternatives to minimize the amount of fill in the river and create a site that had both commercial and public value as a redevelopment site. The proposed encapsulation bulkhead has received approval from the Commonwealth of Pennsylvania in the form of a Submerged Lands Lease and by the City of Philadelphia as both a lease and approval of a Conceptual Storm-water Management Plan to control site runoff. Those approvals include conceptual plans for future redevelopment that includes the creation of public open space along the river and mixed use development.

#### *PADEP Act 2 (Piers 31N-35N)*

The Delaware River Waterfront Corporation (DRWC) took control of the site in 1999 and began a remediation cleanup plan of Piers 31N-35N (location of the former Incinerator) under Act 2's Special Industrial Area designation. In April 2002, PADEP granted liability protection under Act 2's Special Industrial Area designation. DWRC subsequently conducted additional site characterization activities and submitted a Final Report to PADEP in September 2015 (with addendum in July 2016). The Final Report documented the additional soil and groundwater characterization activities at Piers 31N-35N and formally requested release of liability via the PADEP Site Specific Standard. The Piers 31N-35N Final Report and Remediation Plan was reviewed by PADEP and approved on August 29, 2016. The cleanup liability protection provided by Act 2 applies to the current and future owner or any other person who participated in the remediation; a person who develops or occupies the property; or a successor or assign of any person to whom liability protection applies. Pathway elimination via site development (building construction, parking areas, and environmental covenant) is a requirement of PADEP.

#### *PADEP Act 2 (Piers 27N-30N)*

DRWC has subsequently evaluated the soil and groundwater media at Piers 27N to 30N. The consulting firm Pennoni Associates, Inc., on behalf of DRWC, prepared an Act 2 Combined Remedial Investigation and Cleanup Plan Report. The report was submitted to the PADEP in

October 2016 for review. The results are similar to those identified in the Piers 31N-35N investigation described above. The applicant has stated that it is expected the site will be remediated via the PADEP Site Specific Standards and require the same pathway elimination engineering controls (building construction, paved parking). The proposed sheet pile encapsulation bulkhead would eliminate the horizontal movement of contamination and the impervious surface cover would eliminate the vertical movement of contamination. An institutional control in the form of an environmental covenant will also be prepared documenting the locations where compounds were detected, the means of pathway elimination, and the maintenance of the engineering controls.

### *Redevelopment Phase*

The project site lies within the Central Delaware Riverfront Overlay District (Section 14-507 of the Philadelphia City Code) which establishes a development framework to foster the growth of a cohesive, vibrant, mixed use waterfront community in keeping with the Master Plan for the Central Delaware. This overlay governs several aspects of waterfront development which include, allowable uses, open space requirements, and as well as a 100 foot height limit. The conceptual plan developed for the site incorporates the following requirements set forth in the Master Plan for the Central Delaware and the Central Delaware Overlay District:

- Continuation of the Spring Garden Street view corridor through the development to the Delaware River.
- A public waterfront promenade.
- Integration of compelling public spaces and amenities creating a vibrant public destination.
- Extension of the Multi-Use Recreational Trail along the Delaware River.
- Active ground-floor retail and dining that faces a public plaza and Spring Garden Street View Corridor to support the public space.

Upon completion of the required onsite remediation/encapsulation, the proposed redevelopment phase of the project will ultimately include the development of 576 apartments, approximately 36,000 square feet of retail space on street level, parking and two interconnected areas of open space along the waterfront (see Sheet 3 of 8 of attached plans). The applicant has stated that the open public areas were established to comply with the requirements of the Overlay District and will ultimately provide more than 4 acres of public waterfront access with river overlooks, a splash pool and large gathering spaces, as proposed. This concept design also incorporates the most recent 2015 FEMA 100 year flood elevation (11ft NAVD 88), where all retail and parking will be at or above 11 feet (Ft) NAVD and all residential areas will be at or above 12.5 feet (Ft) NAVD88. In addition to these onsite improvements, the applicant is also proposing the addition of (2) two decks water-ward of the containment bulkhead/wall to provide access to river taxi service.

### *Stormwater, Erosion and Sedimentation Controls*

The applicant has stated as designed, the new sheet pile encapsulation bulkhead will contain the existing contaminated materials while the future redevelopment project will provide the required capping of the surface with an impervious surface. Once the new sheet pile containment bulkhead/wall has been constructed around the work area, this wall will serve to both

encapsulate the existing site and as a permanent barrier to prevent the release of remaining soils and sediments from entering the Delaware River. The at-grade surface treatments and building roofs will serve as the cap to prevent the migration of soils from the site. As a result of this required capping of the site, three (3) new 36 inch (in) storm-water outfalls are being proposed to collect and discharge the site's runoff which is currently being discharged directly into the Delaware River through the contaminated materials without treatment. The discharges from these new outfalls must comply with the Philadelphia Water Department's Design Standards that were established as a result of a US Environmental Protection Agency Consent Order and Agreement to address the City's Combined Sewer Discharge issues. These standards require that all new stormwater discharges meet Water Quality Requirements by incorporating green site designs or by providing end-of-pipe treatment for the removal of Total Dissolved Solids, floatables and other pollutants. In addition to the newly proposed outfalls, three existing City of Philadelphia stormwater discharges crossing the site will be extended through the face of the new bulkhead. One of these City outfalls is an existing 3 ft x 11 ft combined sewer which runs under Pier 35N that currently discharges to the interstitial mudflat area between Piers 35N and 35 1/2N. The applicant believes that by extending the existing outfalls further out into the river to allow for better mixing and with the addition of the new outfalls, that this project will result in a significant improvement to Water Quality by first encapsulating two known contaminated sites and by meeting the City's Water Quality Requirements as part of the USEPA/PADEP and PWD's CSO Consent order.

### *Impacts*

To prevent contaminants from migrating from the project site 2000 linear feet (L.F.) of steel sheet piling will be installed to serve as the encapsulation containment bulkhead/wall. Of those 2000 L.F., 1600 L.F. of steel sheet piling will be installed along and/or within federally regulated water. As proposed, this project will result in approximately 2.72 acres of fill to be installed water-ward of Federal jurisdiction in order to facilitate the encapsulation and capping of the site to prevent contaminants from further migrating into the Delaware River. As part of the site remediation, the applicant is also proposing to remove a combination of 1.09 acres of previously installed high and low deck structures and 0.73 acres of previously placed fill.

In addition to the containment bulkhead, 45 cubic yards (CY) of outlet protection will be placed at the base for each of the six (6) outfall locations resulting in 0.01 acres of total coverage. The existing 3 ft x 11 ft combined sewer will be replaced with a 6 ft x 9 ft combined sewer which will extend 30 L.F. past the containment bulkhead resulting in 450 square feet (sf) of in-water disturbance. The two additional existing City of Philadelphia stormwater discharges that cross the site will be extended 3 L.F. through the face of the new bulkhead resulting in 75 sf of in-water disturbance combined. An additional 7000 sf of total above water surface coverage will result during the redevelopment phase associated with the construction of the three decks/platforms. Individual coverage for each of those proposed structures are 1350 sf, 2250 sf, and 3400 sf for the observation platform, respectively. A total of (50) fifty 12 in diameter hollow steel piles will be needed to support those structures. No structures or fill, to include the encapsulation phase, will be placed channel-ward of the Pierhead Line established on January 20, 1891 by the Secretary of War.

**PURPOSE:** The applicant's stated purpose is to provide bulkhead encapsulation of two existing PADEP Act 2 Contaminated Waste areas (Piers 27N to 30N and Piers 31N to 35N) while also providing a stabilized and safe site that can be redeveloped for a combination of public uses and commercial and residential development to attract the public to enjoy a fresh and clean waterfront experience.

**COMPENSATORY MITIGATION:** In accordance with Sections 33 CFR 325.1(d)(7) and 33 CFR 332.4 (b)(1), applicants wishing to discharge fill material into waters of the U.S. must include a statement on how impacts to waters of the United States are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts. The applicant has stated that during the development of the encapsulation bulkhead plans, efforts to minimize the amount of new fill were evaluated. The initial concept was to place the bulkhead along the current 1940 pierhead line so that it would completely encapsulate the entire length of Piers 27N and 33N/34N resulting in over 5.98 acres of new fill. The No Action alternative was ruled out as the existing piers would continue to deteriorate releasing contaminated materials into the Delaware River. The applicant believes that the proposed layout plan for the encapsulation bulkhead minimizes the fill area, maximizes the public use area and provides the best arrangement for a future mixed use facility. The current plans minimize the filling of interstitial areas while providing a site for the disposal of structures and contaminated materials being removed from the river. Although the project includes 2.72 acres of fill, only 0.95 acres is currently open water. As part of the site remediation, the applicant is proposing to remove a combination of 1.09 acres of previously installed high and low deck structures and 0.73 acres of previously installed fill thus creating 0.87 acres of new open intertidal waters. The new sheet pile encapsulation bulkhead will contain the existing contaminated materials while the future redevelopment project will provide the required capping of the surface. The applicant also believes that due to the low habitat functions currently being provided in the areas covered by the existing structures, the removal of existing structures and in conjunction with the expected improvements to water quality by first encapsulating two known contaminated sites and by meeting the City's Water Quality Requirements, that this project is self-mitigating as proposed. Therefore, it is the opinion of the applicant that no additional compensatory mitigation should be required.

A preliminary review of this application indicates that the proposed work is likely to affect threatened and endangered species under NMFS jurisdiction. Within the Delaware River, the two species of fish that occur or have the potential to occur within the action area include the shortnose sturgeon (Acipenser brevirostrum) and Atlantic sturgeon (Acipenser oxyrinchus). Pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended, this office will coordinate with the National Marine Fisheries Service to ensure impacts to these species will be minimal and the proposed action will not result in the destruction or adverse modification of their critical habitat. Proposed critical habitat has been designated for the Atlantic sturgeon within the project's action area. No critical habitat has been designated for shortnose sturgeon.

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.

A Cultural Resources Review was prepared for this project by RGA Cultural Resources Consultants. A preliminary review of that report and the National Register of Historic Places indicates that historic resources may be present within or near the project area. The U.S. Army Corps of Engineers will be coordinating with the SHPO and the Tribes to ensure that any action taken by this office will not adversely affect any historic property or archaeological resource if present.

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, indicates that the project may adversely affect EFH. In order to avoid or minimize impacts to EFH species and their habitats, the use of seasonal restrictions and additional conservation recommendations may be incorporated into this permit decision. The U.S. Army Corps of Engineers will be coordinating with the National Marine Fisheries Service to ensure that any action taken by this office will not have a substantial affect to EFH species, their prey species, and/or their habitats.

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. An application has been submitted to the Pennsylvania Department of Environmental Protection (PADEP) for the necessary State approvals, which would include the required CZM consistency concurrence.

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. 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)(1) 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 Mr. Robert M. Deems at (215) 656-5733, via email at Robert.M.Deems@usace.army.mil, or writing this office at the above address.

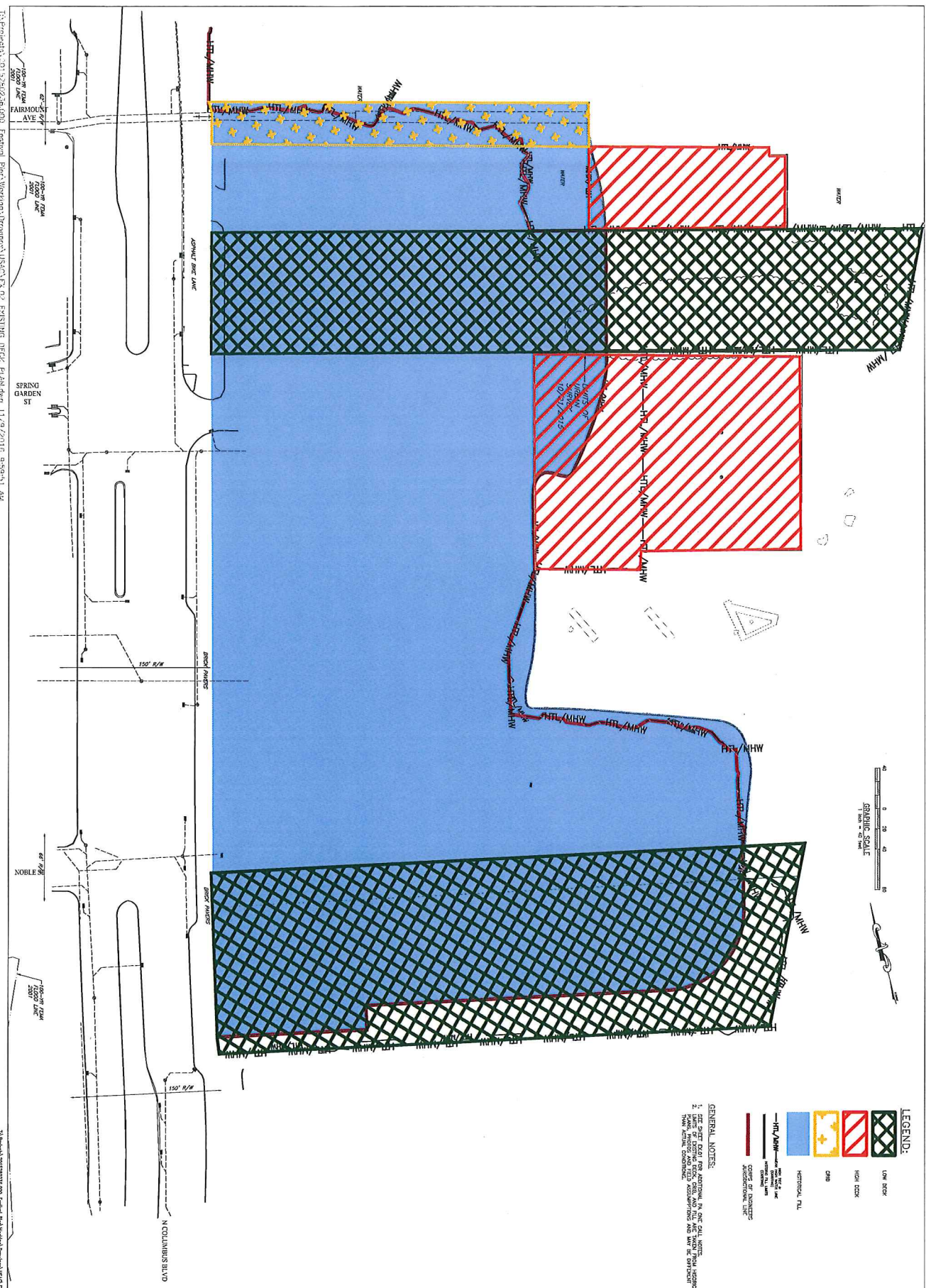
Edward E. Bonner  
Chief, Regulatory Branch

Enclosure







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PHILADELPHIA, PA

## FESTIVAL PIER

EXISTING DECK PLAN

DRWC
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DRAWN BY: FYC

DESIGNED BY: DEH

PROJECT NO:2015280236.000

APPROVED BY: DBH

DATE: 10/20/2016

EXC02



REGISTERED PROFESSIONAL ENGINEER









