



**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-2015-1105

Date
DEC 04 2015

Application No.
CENAP-OP-R-2015-1105

File No.
CENAP-OP-R-2015-1105-85

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 Department of Natural Resources and Environmental Control,
Division of Watershed Stewardship

AGENT: Andrews, Miller & Associates

WATERWAY: Indian River Bay

LOCATION: Holts Landing State Park, Dagsboro, Sussex County, Delaware
Tax Map Parcels 134-4.00-1.00 and 134-3.00-6.00
(Lat. 38.59195°N/Long. -75.12828°W).

ACTIVITY: The applicant, Delaware Department of Natural Resources and Environmental Control, Division of Watershed Stewardship, has applied for a 10-year maintenance dredging permit. The applicant proposes to conduct hydraulic maintenance dredging of the channel to/from the Holts Landing State Park boat ramp to a depth of -4' MLW measuring approximately 66,420 square feet at Holts Landing State Park in the Indian River Bay, Dagsboro, Sussex County, Delaware. The dredged material will be hydraulically pumped 1,200 linear feet west of the boat ramp and will be utilized to create approximately 55,615 square feet of beach to protect an eroding shoreline. The dimensions of the structures are indicated on the attached plans identified as E-1 through E-4.

PURPOSE: The purpose of the hydraulic maintenance dredging is to maintain navigable depths for safe access to/from the boat ramp, while the dredge spoils to be used as beach nourishment will provide shoreline protection, habitat for spawning horseshoe crabs and improve recreational opportunities for park users.

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 maintenance dredging will provide safe and adequate access to/from the State Park boat ramp. The dredged material will be hydraulically pumped to an eroding shoreline 1,200 linear feet west of the boat ramp to provide shoreline protection, habitat for spawning horseshoe crabs and improve recreational opportunities for park users. Because dredging will be performed hydraulically during times of no anadromous fish migration and the dredged material will be used to eliminate an eroding shoreline, the applicant is not proposing to conduct any compensatory mitigation for the work.

A chemical analysis of sediment samples collected on September 10, 2015 from the proposed dredging site indicates that neither surface nor subsurface samples analyzed for PCBs, PAHs, pesticides, metals and mercury pose a risk to the aquatic environment. A benthic macroinvertebrate survey completed on June 19, 2015 identified no state-rare or federally listed benthic macroinvertebrate species at the project site. Furthermore, a submerged aquatic vegetation survey and water quality data was collected on June 19 and 22, 2015 and August 10, 2015. Submerged aquatic vegetation was not identified at the project site and water quality results were within The State of Delaware Surface Water Quality Standards.

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 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*), red hake (*Urophycis chuss*), winter flounder (*Pleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), Atlantic sea herring (*Clupea harengus*), monkfish (*Lophius americanus*), bluefish (*Pomatomus saltatrix*), Atlantic butterfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), 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*), dusky shark (*Carcharhinus plumbeus*), sandbar shark (*Carcharhinus obscurus*), scalloped hammerhead shark (*Sphyrna lewini*), and tiger shark (*Galeocerdo cuvieri*).

Analysis of the Effects: The proposed hydraulic dredging would occur in a small area of waters within an active navigational channel subject to regular boating activity. The use of the dredge spoils for beach nourishment will provide shoreline protection, thereby eliminating a source of pollution, create habitat for spawning horseshoe crabs and improve recreational opportunities for park users in an area that's exposed to substantial wake energy and 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. 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. All activities will not occur during times of anadromous fish migration.

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.

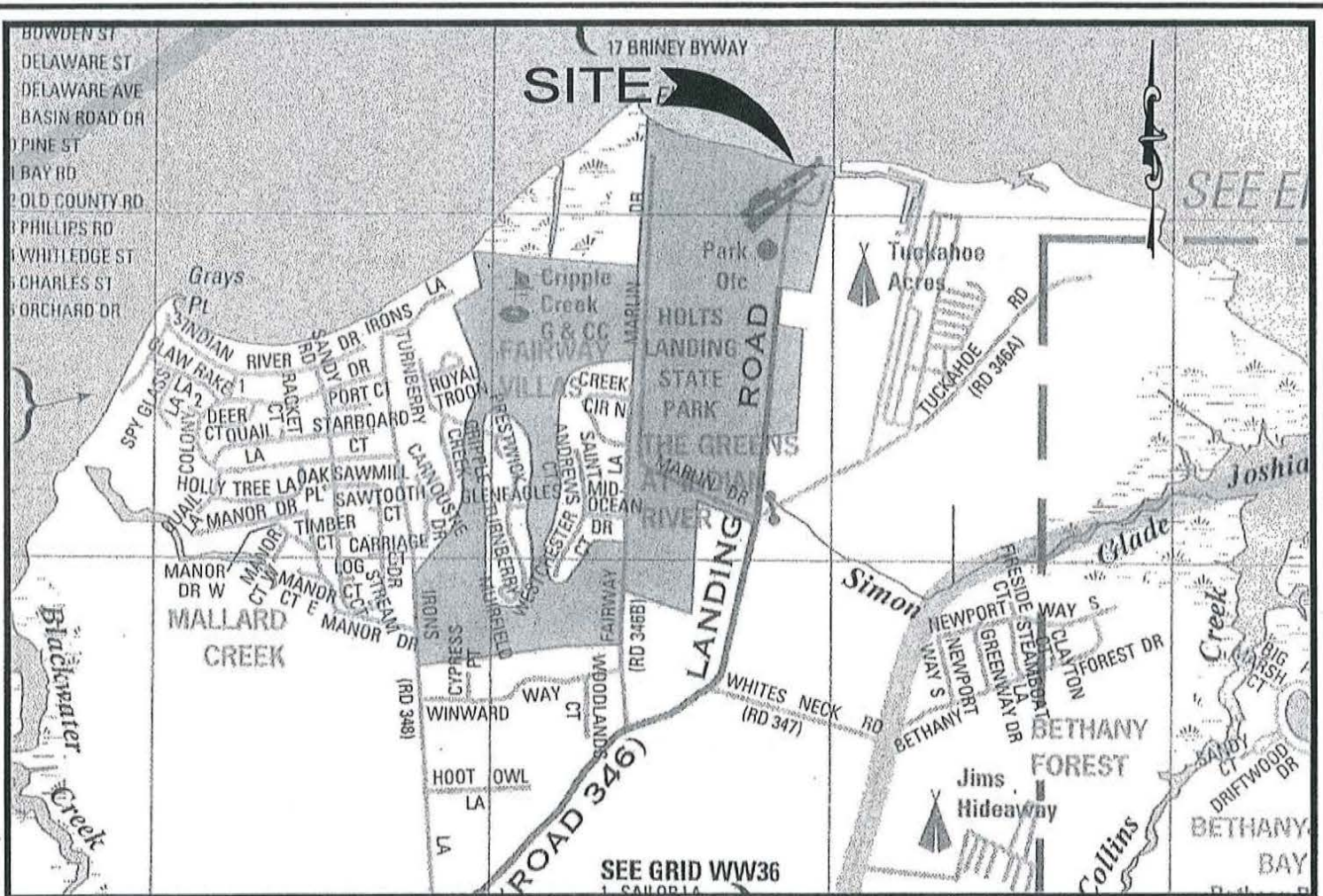
Additional information concerning this permit application may be obtained by calling Michael Yost at 302-736-9763, by email at michael.d.yost@usace.army.mil, or by writing this office at the above address.



Frank J. Cianfrani, Chief
Regulatory Branch

2015-1105

E-1



Vicinity Map

SCALE : 1" = 2000'



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SCOPE OF WORK

Dredging: 60' wide x 1107' long (1.75 ac.)

Depth to -4.0' MLW

Max from MLW = 1160'

Max from MHW = 1195'

Quantity w/ 6" overdredge: ±3,780 cy

Disposal Area: ±150' wide x 300' long (1.31 ac)

Max from MLW = 150' (1.05 ac)

Max from MHW = 155' (0.23 ac)

Quantity: ±3,960 cy

INDEX OF DRAWINGS

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| 3 - - - - - | DREDGING SITE PLAN
& SECTION |
| 4 - - - - - | BEACH NOURISHMENT
SITE PLAN & SECTION |

ADJOINING PROPERTY OWNERS

TAX MAP 134-4.00-4.00:
INDIAN RIVERVIEW, LP
30138 WHITES NECK ROAD
DAGSBORO, DE 19939

TAX MAP 134-3.00-4.00:
CENTEX HOMES
Ellis Point Ph. 2 & 3
219 W. 9th STREET
WILMINGTON, DE 19801

NOTES:

1. PUBLISHED MEAN TIDAL RANGE IS 1.9 FEET. SOUNDINGS ARE IN FEET AND REFER TO MLW.
2. PROPERTY LINES SHOWN WERE PROVIDED BY DNREC AND ARE APPROXIMATE ONLY.
3. APPROX. 3,780 CU. YDS. OF SAND TO BE HYDRAULICALLY DREDGED TO -4.0' MLW AND PLACED ON DISPOSAL AREA.
4. THESE DRAWINGS ARE FOR PERMIT PURPOSES ONLY. DESIGN DRAWINGS ARE TO BE PROVIDED SEPARATELY.



Andrews, Miller & Associates

A Division of:



**DAVIS,
BOWEN &
FRIEDEL, INC.**

ARCHITECTS ENGINEERS SURVEYORS

EASTON, MARYLAND (410) 770-4744
SALISBURY, MARYLAND (410) 543-9001
MILFORD, DELAWARE (302) 424-1441

SHEET 1 OF 4

Proposed Dredging & Beach Nourishment

IN: INDIAN RIVER BAY

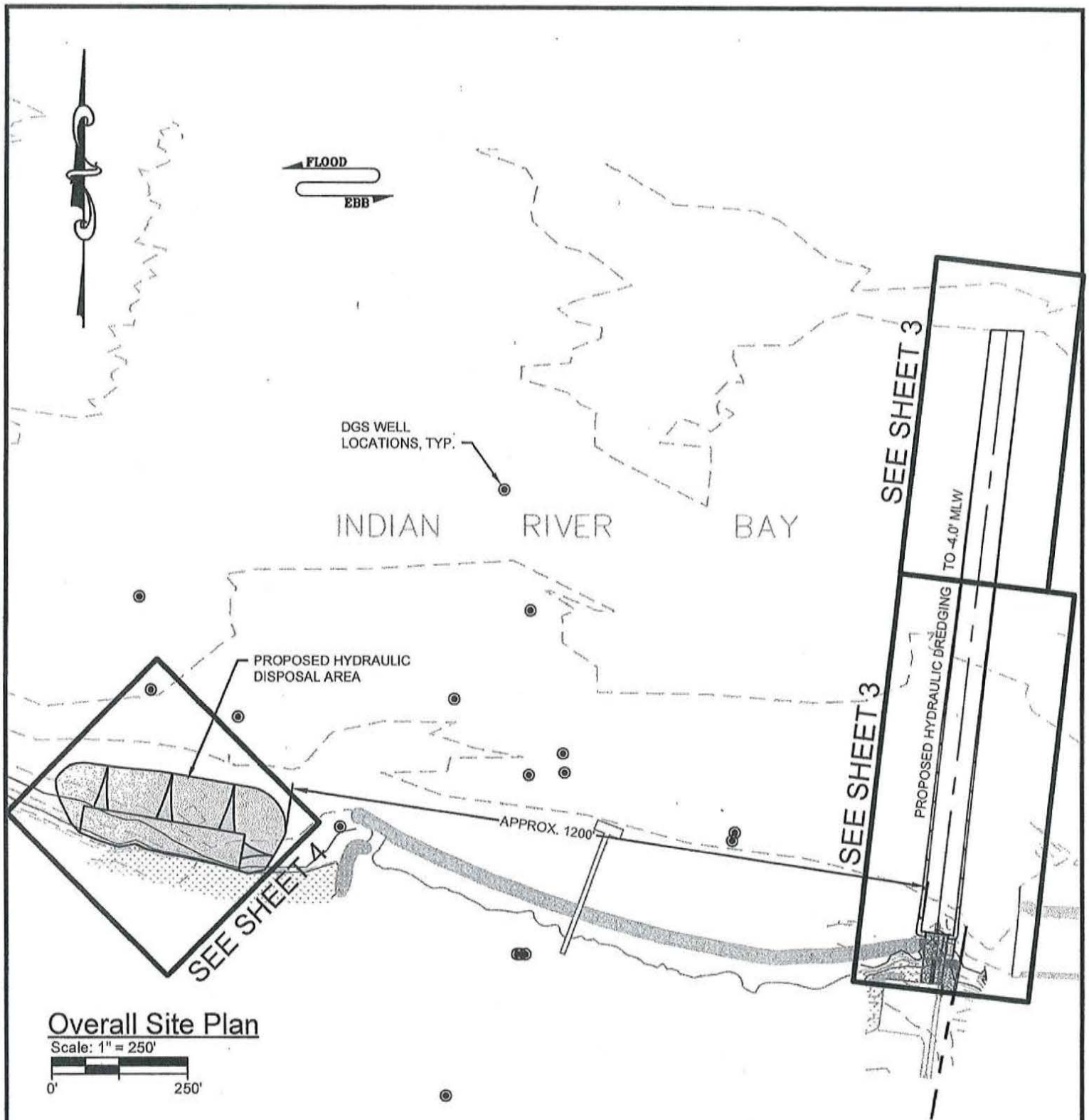
AT: HOLTS LANDING STATE PARK

SUSSEX COUNTY, DELAWARE

APPL. BY: STATE OF DE DNREC DIV.

OF WATERSHED STEWARDSHIP

DATE: OCTOBER 2015



SHEET 2 OF 4
Proposed Dredging & Beach Nourishment
 IN: INDIAN RIVER BAY
 AT: HOLTS LANDING STATE PARK
 SUSSEX COUNTY, DELAWARE
 APPL. BY: STATE OF DE DNREC DIV.
 OF WATERSHED STEWARDSHIP
 DATE: OCTOBER 2015

2015-1105

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