STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF WATER
RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

WETLANDS & WATERWAYS SECTION

PHONE
(302) 739-9943

Lawton Family
c/o: Joseph Ribinsky
33805 Lawton Lane
Millsboro, DE 19966
Tax Parcel: 2-34-18.00-51.06

Marina Permit: MP-475/19
Associated O&M Plan: OM-475/19
Associated Subaqueous Lease: SL-475/19
Date of Issuance:
Amended Date: N/A

MARINA PERMIT

GRANTED TO:

Lawton Family

TO OPERATE AN EIGHT (8) SLIP MARINA CONSISTING OF THE FOLLOWING FACILITY STRUCTURES:

- **A 4 foot wide by 120 foot long pier,**
- **Six (6) 2 foot wide by 24 foot long finger piers,**
- **Two (2) boat lifts with 4 associated pilings each**
- **Ten (10) free standing mooring pilings**
- **A 16 foot wide by 10 foot long concrete boat ramp**

LOCATED ON PUBLIC SUBAQUEOUS LANDS:

In Herring Creek,
Lawton Family Marina,
Northwest of the terminus of Sisters Lane,
Millsboro, Sussex County, Delaware

Pursuant to the provisions of 7 Del. C., Chapter 72, the Subaqueous Lands Act and the "Delaware Marina Regulations" and "Regulations Governing the Use of Subaqueous Lands" permission is hereby granted on this _____ day of _____ A.D. 2023, to operate the above-referenced marina in accordance with the approved plans (7 sheets) as approved on _____ as authorized by Secretary's Order No. _____, and the application dated December 23, 2019, and received by this Department on December 30, 2019 with subsequent information received on November 5, 2020, December 30, 2020, December 30, 2021 and March 31, 2023.

WHEREAS, Lawton Family, has applied for permission to utilize the indicated structures for private use for the property owner(s); and;

WHEREAS, pursuant to the provisions of 7 Del. C., , Chapter 72, the Subaqueous Lands Act, and the "Delaware Marina Regulations" and "Regulations Governing the Use of Subaqueous Lands", the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

NOW THEREFORE, this Permit is issued subject to the attached Subaqueous Permit General Conditions and the following Management Requirements and Special Conditions:

A. MANAGEMENT REQUIREMENTS

1. Changes of Permit Terms or Conditions

A report must be submitted to the Department describing any anticipated marina facility changes or expansions that would require modification of the terms and conditions of this Permit. The Department must approve changes prior to implementation.

2. Noncompliance Notification

In the case of noncompliance with State regulations and Permit conditions, the permittee shall report to the Department:

Orally **within twenty-four (24) hours** from the time the permittee became aware of any noncompliance which may endanger public health or the environment at (302) 739-9943 during normal working hours, or (800) 662-8802 after normal working hours, and in writing, as soon as possible, and within five (5) days of the date the permittee knows or should know of any noncompliance, unless this period is extended by the Department. This written notification shall contain:

i. A description of the condition of noncompliance and its cause, and

ii. The period of noncompliance, including exact dates and times, or if not yet corrected, the anticipated time the noncompliance is expected to continue and the steps being taken to reduce, eliminate and prevent recurrence of the non-complying condition.

3. Facilities Operation

The permittee shall at all times maintain in good working order, and operate as efficiently as possible, all systems and equipment used for construction activities or to achieve compliance with the terms and conditions of this Permit. The facility shall be operated in accordance with the approved Marina's Operations and Maintenance Plan (O&M Plan). The approved O&M Plan shall be distributed to all marina tenants (and full time slip renters) and shall be posted in the harbormaster's office or other prominent place within the marina.

4. Pre-Operation Notification:

The permittee shall notify the Department, in writing, **at least fifteen (15) working days prior** to the date that the marina becomes operational. The permittee shall not commence operation of the new marina sections until a pre-startup inspection has been conducted by Department personnel to verify that all construction has been performed in accordance with this Permit and associated authorizations. Based upon the results of the pre-startup inspection, the Department will either:

i. Grant written approval of the marina facility as constructed, so that marina operations can commence, or

ii. Require the permittee to perform additional construction and modification of marina facilities to bring them into compliance with the plans and specifications presented in the permit application. The permittee must complete any additional work that may be required prior to seeking approval to commence operations.

5. Vessel Sewage Discharge:

Any marina providing other than transient berthing for any vessel containing a Type III marine sanitation device shall provide convenient access to an approved, fully operable and well maintained pumpout facility to receive wastes from vessel holding tanks or portable marine toilets (porta-pottees).

The marina shall place signs, clearly visible to resident and transient vessels, to indicate the location and availability of the pumpout station and shall not preclude the use of the pumpout station by transient vessels. If the marina is not required to provide a pumpout facility, signage shall be posted to identify the location of the nearest facility.

The O&M Plan shall include the following information regarding vessel sewage in the boater rules and regulations section:

i. Any discharge, by any means, of untreated or inadequately treated vessel sewage into or upon the waters of any marina, boat docking facility or tidal waters of the State is prohibited;

ii. All vessels while on waters of the State shall comply with 33 U.S.C. §1322, Marine Sanitation Devices, as amended February 4, 1987.

6. Reporting a Discharge

Any person who causes or contributes to the discharge of a pollutant into State waters (particularly any oil or fuel spills), whether in excess of any conditions specified in this Permit or in the absence of a specific permit condition, shall report such an incident to the Department as required under 7 Del. C., §6028.

7. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to the surface or ground waters of the State resulting from the activities regulated by this Permit. Additional or accelerated monitoring may be required if the potential for adverse impact is noted.

8. Right of Entry

The permittee shall allow the Secretary of the Department of Natural Resources and Environmental Control, or his authorized representatives, upon presentation of credentials, to:

i. Enter upon the permittee's premises for inspection of any construction activities, run-off control devices, monitoring methods or equipment required in this Permit, or other structures or facilities necessary for compliance with the terms and conditions of this Permit, or to sample any discharge of pollutants; and

ii. Have access to any records required to be kept under the terms and conditions of this Permit, for inspection and/or copying.

9. Transferability

This Permit may not be transferred without the prior written consent of the Department. Prior to the transfer of the property, the permittee shall obtain the written consent of the Department to transfer this Permit to the new property owner. Failure to obtain such written consent may result in the revocation of this Permit which would require the removal of all structures authorized by this Permit at the expense of the permittee.

This Permit may be transferable upon Department review and approval of the stated intentions, provided that a letter explaining the intention to transfer, accompanied by a copy of the Permit, is provided to the Department and signed by both the transferor and the transferee at least ten (10) days prior to the actual transfer. A new, updated Operations and Maintenance Plan must be submitted for Department review and approval whenever the marina ownership changes.

10. Information Requirements

The permittee shall furnish to the Department within a reasonable time, any information requested, including copies of records, which may be used by the Secretary to determine compliance with this Permit or the Marina Regulations. Knowingly making any false statement or supplying false information may result in the imposition of criminal penalties as provided for in 7 Del. C., §6015.

11. Permit Modification, Suspension or Revocation

This Permit may be modified, suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

i. Violation of any terms or conditions of this Permit;

ii. Obtaining this Permit by misrepresentation or failure to disclose fully all relevant facts, or if information and data provided by the applicant in good faith proves to be false;

iii. Information that the permitted activity poses a threat to human health or welfare;

iv. Failure by the permittee to obtain all other applicable Federal, State or local permits or approvals which may be required or failure to comply with such permits or approvals.

12. Liability Clause

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under any State law or regulation.

13. Property Rights

The issuance of this Permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

14. Severability

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this Permit, shall not be affected thereby.

B. SPECIAL CONDITIONS

1. Purpose:

This Marina Permit approval is granted for the explicit purpose of operating an eight (8) slip recreational private marina for the exclusive use of the property owner(s) of tax parcel no. 2-34-18.00-51.06, as indicated on the approved plans. Any other use without prior approval shall constitute reason for this Permit being revoked.

2. Associated Authorizations:

The Marina shall be constructed and operated in accordance with the terms and conditions of the following associated authorization: Subaqueous Land Lease No. SL-475/19.

The Marina Permit shall not be considered valid until the associated Subaqueous Lands Lease No. SL-475/19 has been duly recorded in the office for the Recorder of Deeds in and for the appropriate County and a copy of the recorded Lease is returned to, and has been received by, the Department.

3. Approved Plans:

This Approval is in accordance with the plans and application submitted to the Department of Natural Resources and Environmental Control, a copy of which is attached hereto and made a part hereof.

4. As-Built Plans:

At the time of pre-operation notification submittal, the permittee shall submit to the Department an "as-built" set of plans for the entire marina, bearing the seal and signature of a Professional Land Surveyor registered in the State of Delaware. Exact dimensions and positions of all structural components must be clearly marked on the plans. This submission shall include a written evaluation of the "as-built" structures constructed in comparison to the approved plans. If inconsistencies with the authorizations are found, the Permittee shall perform additional construction and modification of marina facilities to bring them into compliance. The permittee must complete any additional work that may be required prior to seeking approval to commence operations.

5. Vessel Mooring Locations:

The eight (8) vessels shall only moor at the designated slips on the approved plans. Mooring of vessels at any other undesignated location is strictly prohibited.

6. Vessel Exclusion Zone:

Permanent or transient berthing of vessels shall not be permitted along the most channelward face of the docking facility, as labeled on the approved plans. Signage clearly marking the vessel exclusion zone shall be installed at the specified location. The Permittee is strictly responsible for the management of the vessel exclusion zone. Failure to maintain the vessel exclusion zone free of vessels, shall constitute reason for this Marina Permit being revoked and removal of all structures authorized herein.

7. Dredging:

There is acknowledged shallow depths in the designated mooring areas and the potential concern for the need of frequent dredging which would otherwise result in a denial of this application. Frequent dredging is deemed as dredging more often than every four years. Future new dredging of the mooring areas is subject to the appropriate permit process for new dredge projects. The authorization of the docking facility shall not be presumed as justification for future dredging applications. Future dredging for the marina in exceedance of the existing depths as established by the 2022 bathymetric survey is strictly prohibited.

8. Marina Expansion:

Any future marina facility expansion or alteration to the approved plans herein shall require a separate authorization from the DNREC, Wetlands and Waterways Section. This includes minor modifications such as boat / personal watercraft lifts, floating structures, and any other variation that would alter the footprint of the approved marina.

Note, impacts to the public's ability to harvest and consume shellfish is a consideration when reviewing new or expanded marina applications and Herring Creek has been deemed nearing the carrying capacity threshold.

9. Vessel Sewage Discharge:

The Permittee shall place signs to indicate the location of the nearest pumpout station for proper disposal of vessel sewage for users of the marina. Presently, the pumpout facilities identified are located at Indian River Marina in Bethany Beach, Delaware and the Canalfront Park Marina in Lewes, Delaware

10. Spill Containment Equipment:

The Permittee shall provide a fuel and oil spill containment kit on the adjacent uplands to support rapid response to spill control and containment in alignment with the spill contingency plan outlined in the Operations and Maintenance Plan. The spill containment kit shall contain oil-only sorbent boom (an adequate amount to fully circle one vessel), sorbent pillows, sorbent socks, sorbent pads, waste disposal bags, gloves, goggles, rags, and a spill response guide to provide basic instructions to deploy these supplies.

11. Minimize Light Pollution:

Minimal nighttime lighting may be installed at the marina to ensure safety. The marina shall be designed to reduce light pollution in order to not infringe upon the rights of the public interest on the aesthetic enjoyment of the waterbody. A variety of methods can be used such as installing reflectors instead of lights, by installing lights that illuminate toward the ground instead of upwards, or by installing opaque shields on light fixtures.

12. Operations and Maintenance Plan:

The marina shall be operated and maintained in accordance with the approved Marina Operations and Maintenance Plan OM-475/19 and approved on _____. The permittee shall submit an updated Operations & Maintenance Plan for periodic review and re-approval to the Wetlands and Subaqueous Lands Section every 4 years thereafter. Failure to maintain an approved Operations & Maintenance Plan shall constitute reason for this Marina Permit being revoked.

The approved Operations and Maintenance Plan shall be posted in a prominent place within the marina premises to be readily available for inspection at all times.

13. Future Upland Development:

When there are future plans to develop the upland waterfront property, the Permittee will need to ensure the associated upland facilities are able to continue to support the marina. This includes, but is not limited to, providing access to fuel/oil/sewage spill containment equipment, maintaining dedicated parking areas for half the number of allotted slips, posting of the approved OM Plan, posting of the nearest pumpout station and attaining an approved Sediment and Stormwater Management plan for any regulated land-disturbing activity.

14. Safety:

At the time of pre-operation notification submittal, the permittee shall submit a final Fire Protection Plan approved by the Office of the State Fire Marshal.

Floatation devices shall be provided at regular intervals throughout the marina to ensure the safety of marina users.

15. Vessel Maintenance:

This Permit does not authorize any major vessel maintenance or repair activities at the marina, whether by marina personnel, subcontractors or vessel owners. Only minor maintenance, such as washing, polishing and limited inboard painting is authorized. No pressure washing, bottom or hull scraping, sanding or painting, or major engine overhauls are authorized. All vessel maintenance must be managed to prevent discharge of pollutants into the environment. All materials used in maintenance and any wastes generated from maintenance activities must be stored, handled and disposed properly, and in compliance with Department regulations. Failure to properly handle vessel maintenance material or wastes may result in the revocation of this Permit.

16. Applicable Standards and Codes:

The marina shall be operated and maintained in compliance to the applicable provisions of the most recent version in effect of the following National Fire Protection Association (NFPA) Codes: NFPA 13, Standard for the Installation of Sprinkler Systems; NFPA 30, Flammable and Combustible Liquids Code; NFPA 30A, Automotive and Marine Service Station Code; NFPA 70, National Electrical Code; NFPA 302, Fire Protection Standard for Pleasure and Commercial Craft; and NFPA 303, Fire Protection Standard for Marinas and Boatyards.

17. Dimensions of Decking:

No portion of the decking on the piers and docks authorized by this Permit shall exceed the width dimensions for those structures identified on the dimension plan of this Permit.

IN WITNESS WHEREOF, I, Matthew R. Jones, the duly authorized representative of Shawn M. Garvin, Secretary of the Department of Natural Resources and Environmental Control, have hereunto set my hand this _____ day of _____, 2023.

_____
By Matthew R. Jones, Program Manager
the duly authorized representative of the Secretary of the
Department of Natural Resources and Environmental Control

_____
Julie R. Molina, Environmental Scientist
Wetlands and Waterways Section

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DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF WATER
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DOVER, DELAWARE 19901

WETLANDS & WATERWAYS SECTION

PHONE
(302) 739-9943

MARINA PERMIT
CONTRACTOR'S COMPLETION REPORT
POST-CONSTRUCTION

Marina Permit Number: MP-475/19

Name: Lawton Family

Address: Northwest of the terminus of Sisters Lane, Millsboro, DE 19944
Parcel #: 2-34-18.00-51.06

I hereby certify that I have constructed the project authorized by the above-referenced Marina Permit in accordance with the approved plans for the project.

_____ _____
Printed Name of Contractor **Name of Company**

_____ _____
Contractor's Signature **Date**

_____
Telephone Number

Upon completion of construction, this form shall be completed, signed by the contractor, and mailed to the Wetlands and Subaqueous Lands Section at:

DNREC
Wetlands and Waterways Section
89 Kings Highway
Dover, Delaware 19901

This form must be received by the Department within ten days of the date that construction is completed.

For official use only

*Compliance inspection date*_____ *Built in accordance with plans* ☐ *Yes* ☐ *No*

Scientist: Julie R. Molina

_____

_____

_____

Affix
Proper
Postage
Here

Mail to:
DNREC – Wetlands and Waterways Section
89 Kings Highway
Dover, DE 19901

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WETLANDS AND WATERWAYS SECTION

PERMIT NO.: MP-475/19 **CONSTRUCTION EXPIRATION DATE: _____**

TO CONDUCT THE FOLLOWING ACTIVITIES:

TO OPERATE AN EIGHT (8) SLIP MARINA CONSISTING OF THE FOLLOWING FACILITY STRUCTURES:

- **A 4 foot wide by 120 foot long pier,**
- **Six (6) 2 foot wide by 24 foot long finger piers,**
- **Two (2) boat lifts with 4 associated pilings each**
- **Ten (10) free standing mooring pilings**
- **A 16 foot wide by 10 foot long concrete boat ramp**

LOCATED ON PUBLIC SUBAQUEOUS LANDS:

In Herring Creek,
Lawton Family Marina,
Northwest of the terminus of Sisters Lane,
Millsboro, Sussex County, Delaware

ISSUED TO: Lawton Family
LOCATION OF WORK: Same as above

DISPLAY THIS CERTIFICATE IN A HIGHLY VISIBLE LOCATION ON THE JOB SITE.

Authorized by:_____