DEPARTMENT OF THE ARMY
PHILADELPHIA DISTRICT CORPS OF ENGINEERS
WANAMAKER BUILDING, 100 PENN SQUARE EAST
PHILADELPHIA, PENNSYLVANIA 19107-3390

Regulatory Branch
Application Section I

April 16, 2020

SUBJECT: CENAP-OP-R-2019-870-85 (Initial Proffered IP)
Project Name: Lawton Family Marina Herring Creek SX
Location: Lat. 38.654595°N/Long. 75.156768°W

Evelyn M. Maurmeyer, Ph.D.
Coastal and Estuarine Research, Incorporated
Post Office Box 674
Lewes, Delaware 19958

Dear Dr. Maurmeyer:

Enclosed is an Initial Proffered "PROVISIONAL PERMIT" (Enclosure 1) which will authorize Joseph Ribinsky to construct a 10 slip docking facility consisting of a 120' x 4' pier, 6-24' x 2' finger piers, 2 boat lifts and 16 free standing mooring pilings in Herring Creek located at Sisters Lane on Tax Map Parcel #2-34-18.00-51.06, Millsboro, Sussex County, Delaware. The provisional permit is NOT VALID and does not authorize you to perform work. The provisional permit describes the work that will be authorized, and the General and Special Conditions that will be placed on your final Department of the Army (DA) permit if the Delaware Coastal Zone Management (CZM) consistency requirements are satisfied as described below. No work shall be performed within the area of Federal jurisdiction until you have received a validated copy of the DA permit.

By Federal law a DA permit cannot be issued until a State Section 401 WQC has been issued or waived, and/or the State has concurred with a permit applicant's CZM consistency certification or concurrence has been presumed. Since the proposed project does not include any discharges of dredged or fill materials requiring a Section 401 Water Quality Certification, this provisional Department of the Army authorization is only subject to the requirements of the Delaware CZM program. As of this date, the Delaware Department of Natural Resources and Environmental Control (DDNREC) has not concurred with your CZM consistency certification. If the State fails to concur or object to your certification statement within 180 days of the Agency's receipt of a complete application, then concurrence with your CZM consistency certification will be presumed.

Conditions of the State CZM concurrence will become conditions to the final DA permit. Should the State's action on the required concurrence preclude validation of the provisional permit in its current form, a modification to the provisional permit may be required and you will be notified as appropriate. Substantial changes may require a new permit evaluation process, including issuing a new public notice.

Once the State has concurred with your CZM consistency certification, or the above referenced waiver time periods have elapsed, you should review all conditions contained in the provisional permit and, if they are acceptable to you, sign the permit and return with the project plans to this office along with a check in the amount of $10.00 made payable to FAO, USAED, Philadelphia District. All checks received from the public must have either the person's driver's license or Social Security Number written on the front of the check, at the top. If the payer is a business, a Social Security Number or the company's Federal Tax Identification Number should be used. For administrative purposes, it is requested that your check include the application number shown above.

Furthermore, if the State has concurred with your CZM consistency certification, you must provide a copy to this office with the signed DA permit. In order for a waiver of CZM to transpire, you must provide this office with verification from the State indicating the date of their receipt of a complete application.

This letter contains an initial proffered permit for your activity. If you object to this permit decision because of certain terms and conditions therein, you may request that the permit be modified accordingly under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) and Request for Appeal (RFA) form (Enclosure 2). If you object to this permit decision, you must submit a completed RFA form to the Philadelphia District Office via email at philadelphiadistrictregulatory@usace.army.mil.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the District Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above email address by **June 16, 2020**.

It is not necessary to submit an RFA form to the District Office if you do not object to the permit decision in this letter.

Your DA permit will not be valid until we have returned a copy to you bearing both your signature and the signature of the appropriate Corps official. You will be furnished with the original copy of the permit after it is validated. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be submitted to philadelphiadistrictregulatory@usace.army.mil. You may forward your comments along with the signed initial proffered permit.

If the State does not concur with your CZM consistency Certification, you should notify this office immediately. If the State denies any of these approvals, your DA permit would be denied without prejudice. If you should subsequently obtain a CZM consistency certification concurrence, you should contact this office to determine how to proceed with your permit application. If you have any questions concerning your State CZM consistency certification, please contact the DDNREC.

Additional information concerning this permit may be obtained by calling Michael D. Yost at (267) 240-5278 or by email at michael.d.yost@usace.army.mil.

Sincerely,

BONNER.EDWARD.E.1229023744 Digitally signed by BONNER.EDWARD.E.1229023744 Date: 2020.04.16 10:07:56 -04'00'

Edward E. Bonner
Chief, Regulatory Branch

Enclosures

Copies Furnished:
DDNREC, CZM
DDNREC, Wetlands and Subaqueous Lands (Dover, DE)
CENAP-OP-RD (Yost)
Joseph Ribinsky
33805 Lawton Lane
Millsboro, Delaware 19966