



## SHORELINE AND WATERWAY MANAGEMENT SECTION Coastal Construction Application

Public Notice No. WSS20260221 Date: 06/17/2026

Application Submitted: **06/05/2026**

To install two new electrical conduits in the dune and under the existing pier using horizontal directional drill and to abandon the existing electrical conduit

**Cape Henlopen, in Sussex County, Delaware**

Tax Map # **Work occurring on land with no tax parcel ID.**

### Applicant Information

Name: Brian Brian Marinaro

Property Type: Non-Residential: Municipal

### Activities:

- Community infrastructure
  - Utility poles : Both

### Dune Preservation Information:

What mitigating measures will be taken to prevent disturbance and damage to the dune during construction?

**Sand/silt Fence marking the location of the Building Line**

Other measure(s) description:

### Wetlands:

Will any work be occurring on regulated wetlands located on this lot?

**Yes**

### Septic:

Is there a septic system on the lot?

**No**

What is the Septic Permit # of the system (optional)?

## **Wetlands Attachment**

**Division of Water - Wetlands and  
Subaqueous Lands**



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

**PLANNING,  
PRESERVATION AND  
DEVELOPMENT**

PHONE  
(302) 739-9220

October 8, 2025

Ms. Suzanne Savery  
State Historic Preservation Officer  
Division of Historical and Cultural Affairs  
29 N. State St.  
Dover, DE 19901

**Cape Henlopen Fishing Pier Conduit Replacement, Cape Henlopen State Park**

Dear Ms. Savery,

I am writing to inform you that the Delaware Department of Natural Resources and Environmental Control, Division of Parks and Recreation (DNREC, Parks), on behalf of SPI Pharma, Inc., is proposing to conduct an undertaking subject to compliance with Section 106 of the National Historic Preservation Act, and its implementing regulations, 36 CFR Part 800. This letter serves to initiate consultation with the Delaware State Historic Preservation Office (SHPO) on this matter (800.3(c)). The project will require a United State Army Corps of Engineers permit.

This proposed undertaking consists of the replacement of electrical conduit and conductors that run from SPI Pharma's Electrical MCC (in the shoreline dune) to the end of the Fishing Pier, historically referred to as the mine wharf and boathouse, at Cape Henlopen State Park. The conduit runs underground in the dune area and underneath the decking of the Fishing Pier. The MCC is approximately 150 ft. north of the Fishing Pier on a concrete pad that it shares with two of the Park's electrical transformers. The Overflow Parking Lot adjacent to the Fishing Pier will be used as a staging area for the lengths of conduit and other materials. A DNREC Joint Permit Processing (JPP) meeting was held on 9/18 with consulting parties to review the project.

It is the responsibility of the US Army Corps of Engineers to consult with the federally recognized tribes (Delaware Nation and Delaware Tribe of Indians) regarding this project. We are not aware of other individuals and/or organizations that have a demonstrated interest in the undertaking due to their legal or economic relation to the undertaking or affected properties.

Based on the nature and extent of the undertaking, we define the Area of Potential Effect (APE) as the limits of construction as outlined in the attached documents. Per the National Register of Historic Places Fort Miles Historic District registration and background research conducted by the Division of Parks and Recreation, the historic mine wharf and boathouse were destroyed by a fire, with the current fishing pier rebuilt in 1979 at the original location. Therefore, the fishing pier is not eligible for the National Register of Historic Places.

As a result, the DNREC, Division of Parks and Recreation Cultural Resources Unit **finds there to be no adverse effect to above ground resources from the proposed undertaking.** Should changes be made to the scope of work that would expand the limits of disturbance for the project, updates will be provided to the Delaware SHPO.

Please review the information we have provided on this undertaking and contact us should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Taylor Reynolds".

Taylor Reynolds  
Chief of Cultural Resources  
Delaware State Parks

Attn: DNREC JPP Meeting Request  
Form, Electrical Conduit  
Replacement Project Overview  
Photos



DELAWARE DEPARTMENT OF  
**NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**

## Joint Permit Processing (JPP) Meeting Request Form

**Contact Name:** Brian Marinaro

**Telephone No.:** 302-360-7273

**Mailing Address:** SPI Pharma, Inc.  
40 Cape Henlopen Drive, Lewes, DE 19958

**Email:** bmarinaro@spipharma.com

**Project Site Address:** Cape Henlopen State Park  
15099 Cape Henlopen Drive, Lewes, DE 19958

**Tax Parcel No.:** 335-5.00-9.00

Attach Vicinity Map.

### Is the JPP meeting intended as a pre-filing meeting for Water Quality Certification?

As the Certifying Authority, the request for water quality certification must be in accordance with the DNREC, Wetlands and Waterways' applicable submission procedures.

Yes

No

---

**Are you requesting agency representatives at the meeting that are not currently on the JPP committee? If known, provide the names and emails of those agency representatives.**

Madden, Jayce E (DNREC) <Jayce.Madden@delaware.gov>

Melville, Grant (DNREC) <Grant.Melville@delaware.gov>

Cahall, Brooks P. (DNREC) <Brooks.Cahall@delaware.gov>

Seneus, Julio (DNREC) <Julio.Seneus@delaware.gov>

Any other relevant persons that have some jurisdiction at the Cape Henlopen State Park

**Include a brief description of the proposed project and purpose. Attach preliminary project plans and/or materials to be presented. Note, supplemental information provided in advance allows for the responsible agencies to review the proposal to provide detailed guidance.**

The project involves replacing electrical conduit and conductors that run from SPI Pharma's Electrical MCC (in the shoreline dune) to the end of the Fishing Pier at the Cape Henlopen State Park. The conduit runs underground in the dune area and underneath the decking of the Fishing Pier. The MCC is approximately 150 ft. north of the Fishing Pier on a concrete pad that it shares with two of the Park's electrical transformers. See attached photos for a pictorial representation of the area. We request the use of the Overflow Parking Lot as a staging area for the lengths of conduit and other materials (or another suggested nearby location).

Scope:

1. Directionally bore underground two 4" PVC conduits from the MCC to the closest point beneath the pier.
2. Run two 4" conduits beneath pier and within approximately 50 ft. of the end of the pier
3. Pull electrical conductors through the conduit along their entire length
4. Provide new electrical service to SPI Pharma's existing pumps that are underneath the pier.
5. Demolish the existing two runs of 2" electrical conduit beneath the pier.
6. Abandon the existing underground 2" conduits from the MCC to the pier in order to minimize the disturbance of the dune environment.
7. Replant dune grass (per DNREC approval) on any disturbed areas

Project Duration:

4-8 weeks, depending upon weather

**What is the anticipated timeline for construction and operation?**

Depending upon permit requirements, we would like to complete the project in 3-9 months.

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**1. Is this pre-application meeting associated with a marina? If no, complete the form with your signature.**

Yes

No

**2. Are you proposing?**

The construction of a new marina

An activity associated with an existing marina

**3. If you selected an activity associated with an existing marina, the appropriate permitting path is determined by the history of the marina. If known, describe a brief synopsis of the history of the marina and list previous authorization nos. associated with the marina.**

N/A

**4. Has a market study been completed for the proposed marina project?**

Yes, attach the market study report.

No, briefly describe the intended marina market anticipated to use the facility.

N/A

**5. Provide evidence of consistency with local zoning approval for the proposed marina project.**

**6. Marina Type:** (check all that apply)

Commercial

Head boat / Charters

Mooring Field

Private Recreational

Port

Public or Commercial Boat Ramp only

Public Government Owned Marina

Residential Community

Research / Emergency Operations

Vessel Repair / Maintenance Yard only

Water Sports Club

Other \_\_\_\_\_

**7. Marina Services and Amenities:** (check all that apply)

- Boat Ramp
- Charters
- Concession / Restaurant
- Convenience Dock (crabbing/fishing/kayak launching)
- Dry Stack / Winter Storage
- Fueling Station
- Mooring Field
- Pumpout Facility / Dump Station
- Sale of Supplies (Bait/ Tackle)
- Transient Mooring
- Travel Lift
- Vessel Rentals
- Vessel Repair / Maintenance
- Water Taxi
- Other\_\_\_\_\_
- Other\_\_\_\_\_

**8. Indicate the number of slips.**

**Wet Slips:**

Existing \_\_\_\_\_  
Proposed/Additional \_\_\_\_\_

**Dry Stack Storage Slips:**

Existing \_\_\_\_\_  
Proposed/Additional \_\_\_\_\_

**9. What is the approximate mean low water depth within the mooring areas of the marina?**

At the time of application submittal, a bathymetric survey by a signed and sealed professional engineer or land surveyor is required.

Existing depth \_\_\_\_\_ MLW

**10. Will the proposed project include dredging?**

- No Dredging Proposed       Maintenance Dredging       New Dredging

Proposed depth \_\_\_\_\_ MLW

Controlling water depth in the adjacent waterbody \_\_\_\_\_ MLW

**11. Will the proposed project require the use of any State-regulated wetlands?**

Yes  No

If yes, describe how the wetlands will be impacted.

**12. Shellfish Resources: Is the proposed marina located in the tidal waters of Delaware Bay, Indian River Bay, Rehoboth Bay, Little Assawoman Bay or Assawoman Bay?**

Tidal marine waters are classified as Approved, Conditionally/Seasonally Approved, or Prohibited for shellfish harvest. Please familiarize yourself with the shellfish growing area classifications on the interactive DNREC Delaware Bivalve Shellfish Harvest Map. <https://bit.ly/DelawareBivalveShellfishHarvest> The proposed marina address can be typed into the search bar to assess its proximity to shellfish growing areas. Complications can occur if the proposed marina is too close to an Approved or Conditionally/Seasonally Approved shellfish growing area. Note that all tidal marine waters are considered classified. Please contact the Shellfish Program at (302) 739-9939 with any questions about shellfish growing area classification.

Yes  No

If yes, how is the area currently classified?

- Prohibited
- Prohibited / SAV Bed
- Approved
- Seasonally Approved

**13. Critical Habitats: Is the marina located within or adjacent to an area classified as a critical habitat?**

Critical habitat areas are those that are included in the Natural Areas Inventory, or that provide habitat for species included in the State Endangered Species Act, a State Natural Heritage Site, or a Delaware National Estuarine Research Reserve. To obtain feedback on these areas, request an environmental review by the DNREC Species Conservation and Research Program.

<https://dnrec.delaware.gov/fish-wildlife/conservation/reviews/>

Yes  No

**14. Are you interested in information regarding pre-approved blanket activities within a marina?**

If yes, you will receive an email with instructions on how specified blanket activities are pre-approved for expedited permitting for in-slip structure.

Yes  No

Signature: Brian R Marinaro

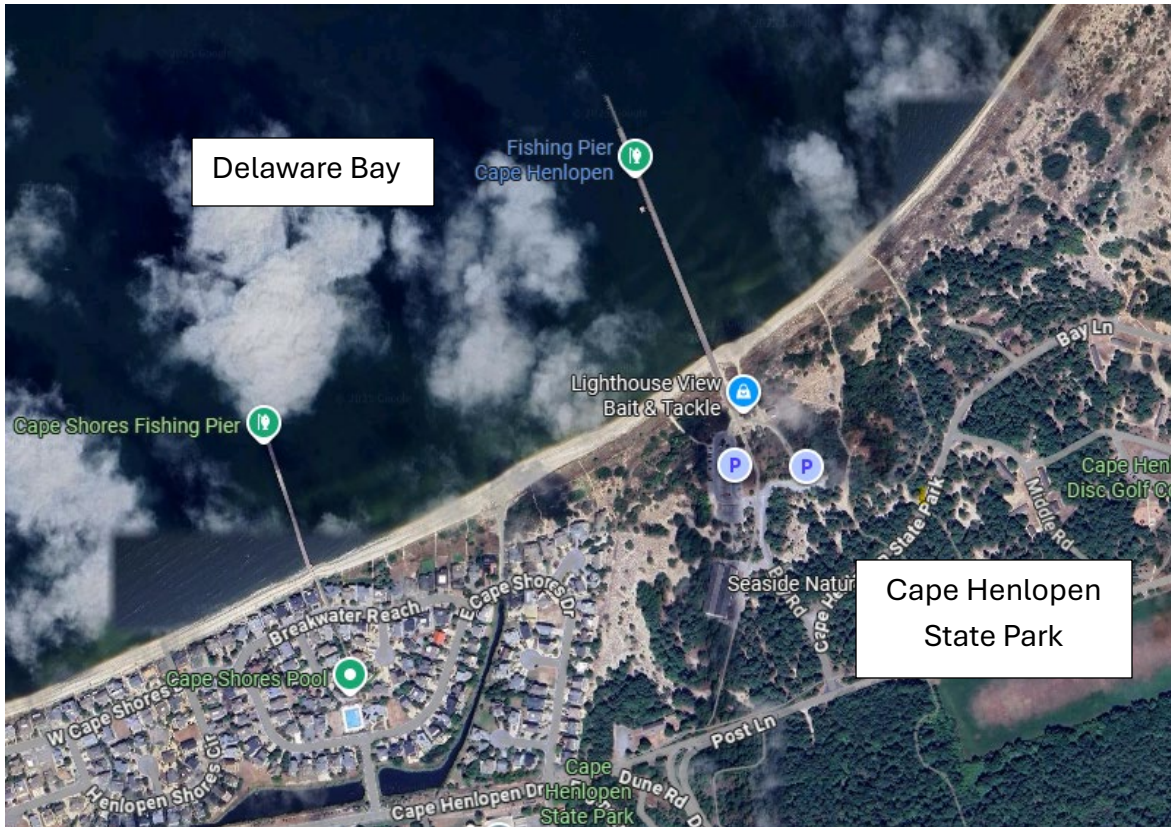
Date of Submission: September 9, 2025

Requested Meeting Date: September 18, 2025

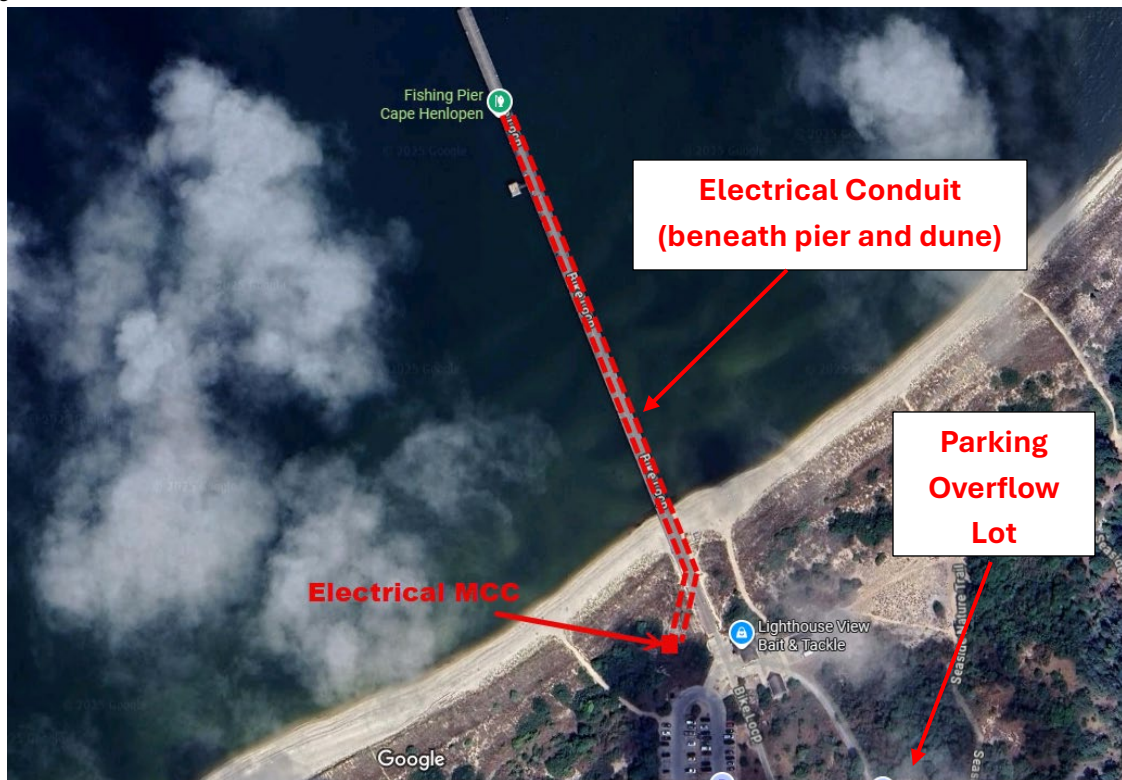
(Please note, JPP meetings are scheduled every third Thursday of the month.)

# Electrical Conduit Replacement – Cape Henlopen State Park

## 1. Vacinity Map



## 2. Project Location



### 3. Current Installation (constructed in 2009)



View of MCC to Pier October 2009



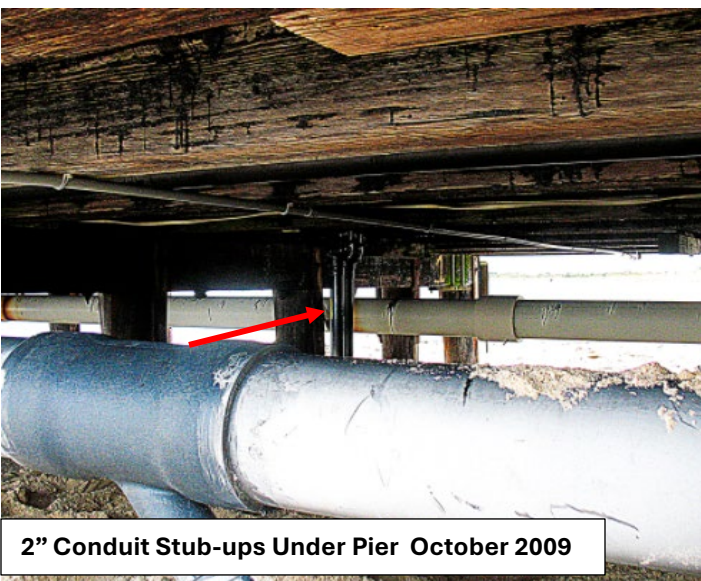
View of MCC to Pier September 2025



View of MCC from Pier October 2009



View of MCC from Pier September 2025



2" Conduit Stub-ups Under Pier October 2009




Conduit Under Pier September 2025

**Topographic survey and design  
document**



Structure located off of Fishing Pier

 Subject Property Boundary

**DISCLAIMER:** Verdantas LLC has furnished this map to the Client for its sole and exclusive use as a preliminary planning and screening tool. This map is reproduced from geospatial information compiled from third-party sources which may change over time and are not accurate as to mapping, surveying or engineering standards. Verdantas LLC makes no representation or warranty as to the content, accuracy, timeliness or completeness of any information. In no event will Verdantas LLC, its owners, officers, employees or agents, be liable for damages of any kind arising out of the use of this map by Client or any other party.



**Sources:**  
 Aerial Imagery: Esri Imagery Web Service dated 2023.  
 Topographic Map: National Geographic Society Web Service.  
 Quadrangle: Cape Henlopen, Delaware

40 Cape Henlopen Drive  
 Lewes, Delaware 19958

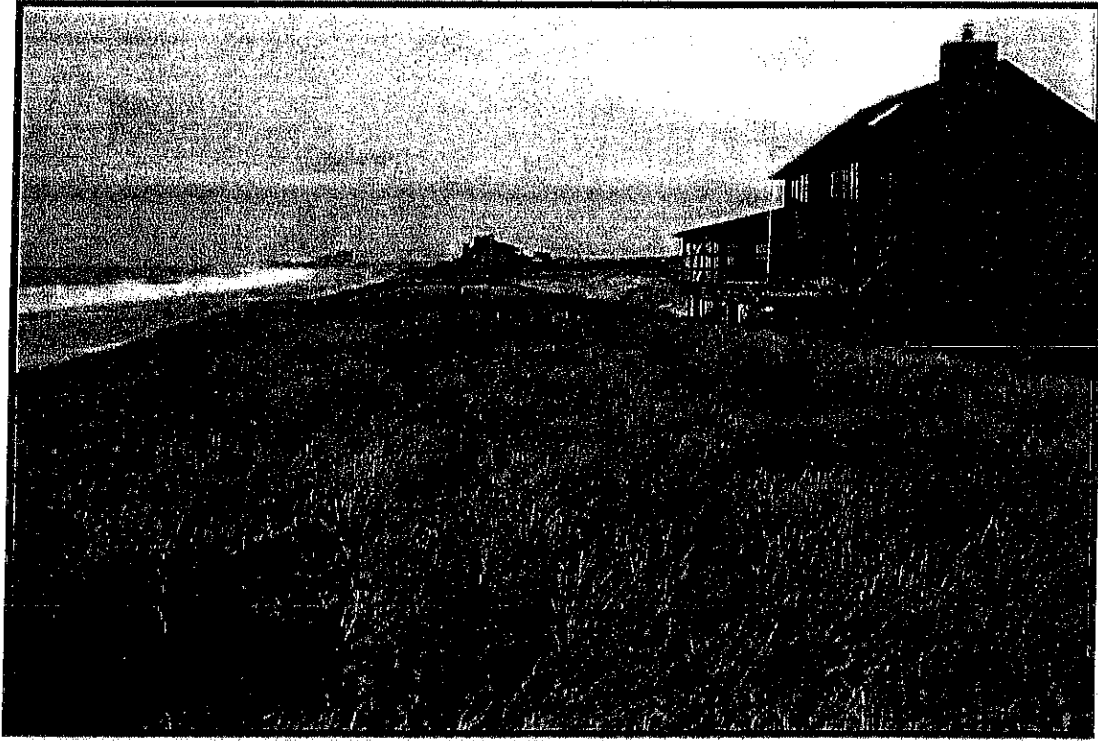
**Project Area Location Map**

Permitting Support - Concrete Platform Removal  
 SPI Pharma

Project Number	18168
Date	10/2024
Author	TSantangelo
Scale	1 in = 800 ft
Figure	<b>1</b>

## **Foundation Pile/Layout Plan**

APPLICATION  
FOR  
CONSTRUCTION LETTER OF APPROVAL



DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL

DIVISION OF SOIL AND WATER CONSERVATION

SHORELINE AND WATERWAY MANAGEMENT SECTION



STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
 DIVISION OF SOIL AND WATER CONSERVATION  
 88 KINGS HIGHWAY  
 DOVER, DELAWARE 19901

OFFICE OF THE  
 DIRECTOR

TELEPHONE: (302) 739-9921  
 FAX: (302) 739-6724

APPLICATION FOR CONSTRUCTION LETTER OF APPROVAL

This application form is provided for construction activities within the defined beach area and landward of the DNREC Building Line as shown on maps prepared by the Shoreline & Waterway Management Section, and for construction activities requiring a Letter of Approval, as outlined in Part 4 of the Regulations Governing Beach Protection and the Use of Beaches. Copies of individual Building Line Maps are available for planning by request to the Shoreline & Waterway Management Section.

Please answer all questions thoroughly and provide the applicable drawings on 11" x 17" or smaller paper. Incomplete applications will be returned.

Name of Property Owner: DNREC DIVISION OF PARKS & RECREATION  
 Mailing Address: CAPE HENLOPEN STATE PARK (C/O PAUL FAIRCLOTH)  
42 CAPE HENLOPEN DRIVE, LEWES, DE 19958  
 E-Mail Address: PAUL.FAIRCLOTH@STATE.DE.US  
 Telephone Numbers: A/C ( ) N/A Residence A/C (302) 645-8983 Office  
 Name of Authorized Agent: SPI PHARMA, INC. (C/O TED FARRER)  
 Mailing Address: 40 CAPE HENLOPEN DRIVE  
LEWES, DE 19958  
 E-Mail Address: tfarrmen@spipharma.com  
 Telephone Numbers: A/C ( ) N/A Residence A/C (302) 360-7241 Office

Location of proposed work:

Lot(s) Number: N/A Block Number: N/A  
 Street address: 42 CAPE HENLOPEN DRIVE  
 Subdivision/Community: CAPE HENLOPEN STATE PARK  
 Tax Map #: 335-5.00-9.00

*It's good being first.*

**Type of work proposed:** (i.e., Construction of a dwelling, commercial building, subdivision, addition, deck, dune crossover, septic system, shore protection structure, storage facility, placement of utilities, placement of fill or hardscaping (placement of a driveway, retaining wall, pavers, fence) etc.)

INSTALL ELECTRICAL CONTROL PANELS ON EXISTING CONCRETE PAD ABOUT

74' SEAWARD OF BUILDING LINE. EXCAVATE 125' L X 4' W TRENCH IN DUNE. INSTALL CONDUIT IN TRENCH AND BACKFILL WITH EXCAVATED SAND. PLANT BEACH GRASS IN EXCAVATED AREA ALONG WITH OTHER FLORA PER DIRECTION  
Please submit the following information with the application of PARK.



**Surveys must be originals signed and sealed by a professional surveyor licensed in the State of Delaware**

- 1) Copy of deed, lease, sales contract or County certificate showing ownership or legal interest in the property.
- 2) Four copies of a Topographic Survey of the lot (at one foot intervals) which includes the following information:
  - a. The location and dimensions of the proposed structure, modifications and/or additions drawn to scale, including but not limited to: the dwelling, decks, porches, stairs, septic systems and tanks, roof lines, heat/air condition systems, walkways and driveways.
  - b. Distance to the DNREC Building Line and the DNREC Easement Line (if applicable) from the landward property boundary.
  - c. Setback distances from front, back and side lot boundaries required by local municipalities, subdivisions or the County.
  - d. The area of disturbance. This area must be limited to the area located landward of the DNREC Building Line and/or landward of the DNREC Easement Line (if applicable).
  - e. The location of existing and proposed septic systems including seepage bed, tanks and dosing chamber. New construction must meet all the isolation distances from the septic system required by the Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems.
  - f. A **profile view** of the proposed construction (include area below first living floor) showing proposed foundation, Base Flood Elevation existing and proposed grade, first floor elevation, elevation of lowest horizontal member, roof line, and all amenities including showers, heat pumps, steps, fences, walkways, etc.

- 3) Applications for construction of a cantilevered deck which extends seaward of the DNREC Building Line must include the following information on the survey:
- a. The location of the building or deck of a similar nature on the adjacent property to which the deck is being cantilevered out to must be located on the survey. The distance from the landward property boundary of the adjacent deck must be clearly indicated on the survey.
  - b. Deck construction plans certified by an Architect or Engineer registered in the State of Delaware. All structural support for the cantilevered deck must be above Base Flood Elevation if located seaward of the DNREC Building Line and all space below the deck must remain open and free of obstruction.

**Please address all questions**

**Site Work:** Placement or Removal of sand from the site is prohibited without prior approval

Will there be any lot clearing or excavation at the site? YES, 125' L x 4' W x 4' D TRENCH IN DUNE  
 If so, will any sand be removed from the site? NO, EXCAVATED SAND WILL BE USED TO BACKFILL  
 Where will the sand be taken? N/A

Will sand or fill be added to the site? NO How much? N/A  
 What will be the source of the material? N/A

**Indicate on the plans where the fill will be placed.**

Will there be any landscaping? NO If so, will you be bringing in top soil? NO  
 Are there any structures included in your landscape design? NO

**Please indicate their location on the plans.**

Are all of the plants native to the beach and dune environment? YES

**Activities Seaward of the Building Line are restricted**

Placement of construction equipment or materials or disturbance of the area seaward of the DNREC Building Line is prohibited. The Building Line must be staked prior to initiation of construction. Erection of sand fencing will be required to mark the Building Line to prevent disturbance and damage to the dune or vegetation during construction.

**Flood Zone Requirement/Construction Below Base Flood Elevation:**

**Construction Seaward of the Building Line must be located above Base Flood Elevation.**

What NFIP Flood Zone is the property located in (e.g. V, A, B, etc.)? N/A  
What is the Base Flood Elevation (NAVD88)? N/A

**This information can be obtained from the applicable Town or County.**

**Please verify that all local Flood Zone requirements and ordinances are being met.**

**Flood Zone Requirement/Construction Below Base Flood Elevation (continued):**

Will any enclosures, such as entrances, storage areas, elevators, showers, skirting, utilities etc., be constructed below the first living floor? N/A If so, indicate their location on the plans. **These structures must be located landward of the Building Line or elevated above Base Flood Elevation.**

Will any concrete, brick or asphalt be used for flooring, driveways, side walks, etc.? N/A  
**Indicate their location on the plans. These structures must be located landward of the Building Line.**

**Additional Information:**

Are there any wetlands on this lot? NO Please indicate their location on the plans. If you propose to construct in wetlands, please include copies of written approvals from the Division of Water Resources - Subaqueous Lands Section and/or the U. S. Army Corps of Engineers.

Is there an existing septic system on the lot? NO Please indicate the location of the septic tank, dosing chamber and drain field on the plans. If you are connecting to an existing system, please provide written approval from the Division of Water Resources. New construction must meet all the isolation distances from the septic system required by the Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems.

**ATTACHED:**

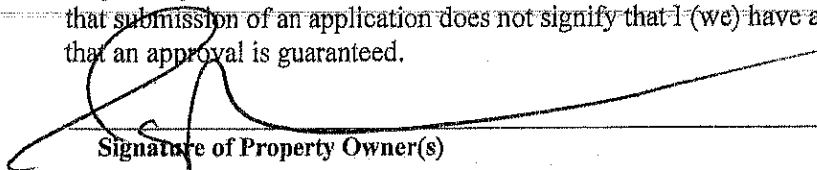
1. LETTER FROM PAUL NICHOLSON (6/2/09)
2. EMAIL FROM FRANK YOUNG (5/18/09)
3. DWG. 1500 51001 (REV:4), SEAWATER PEPING SYSTEM SH.1
4. MAGNIFIED VIEW OF CONCRETE PAD, DWG. 1500 51001 (REV:4)
5. TYPICAL ELECTRICAL MCC PANEL DRAWING

(4)

3/08

**SIGNATURE PAGE**

As legal property owner, I (we) accept the legally binding nature of the Construction Letter of Approval application and enclosed plans for construction and acknowledge the ultimate responsibility of the owner in executing the conditions of the approval. I (we) also understand that any unauthorized additions or modifications of the final approved construction plans will be considered a violation of the Construction Letter of Approval and the Regulations and are therefore subject to penalties found in the Beach Preservation Act and the Regulations. I (we) also understand that submission of an application does not signify that I (we) have approval to begin construction or that an approval is guaranteed.

  
Signature of Property Owner(s) 6/24/09  
Date

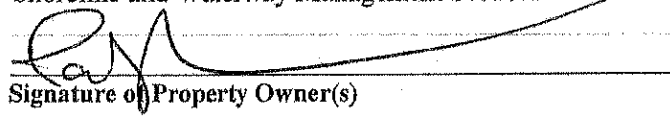
\_\_\_\_\_  
Signature of Property Owner(s) Date

**Statement of Agent Authorization**

I hereby designate and authorize SPI PHARMA, INC.  
to act in my behalf as my agent in the processing of this Construction Letter of Approval application and to furnish, as requested, supplemental in support of this application.

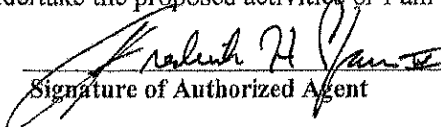
As legal property owner, I (we) accept the legally binding nature of this Construction Letter of Approval application and enclosed plans for construction and acknowledge the ultimate responsibility of the owner in executing the conditions of the approval. I also understand that this authorization does not transfer ultimate responsibility for this approval to the agent

Major modifications or subsequent additions involving horizontal or vertical expansion of the initial construction must be entered as a new application subject to conditions for construction outlined in the Regulations. Copies of the Regulations are available upon request from the Shoreline and Waterway Management Section.

  
Signature of Property Owner(s) 6/24/09  
Date

\_\_\_\_\_  
Signature of Property Owner(s) Date

Application is hereby made for a beach construction Letter of Approval in the State of Delaware. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge; such information is correct and complete. I further certify that I am authorized to undertake the proposed activities or I am acting as the duly authorized agent for the applicant.

  
Signature of Authorized Agent 6/16/09  
Date



State of Delaware  
Department of Natural Resources and Environmental Control  
Delaware Division of Parks and Recreation  
89 Kings Highway  
Dover, Delaware 19901

6-2-09

Dear Ted,

I am responding to your e-mail requesting changes to be made on your facilities on and adjacent to the Cape Henlopen pier (formerly Ft. Miles). I will address each of the four items separately.

- 1) Relocation of the effluent outfall piping and diffuser. As a result of the shortening of the pier support structure this pipe will need to be shortened. The Division of Parks supports this relocation.
- 2) Much like the Division's pier this platform's pilings are in need of replacement/repair in order to maintain its integrity. Although this is not this Division's responsibility the Division supports the repairs.
- 3) The Division supports the replacement and possible upgrades to the electrical conduits that run under and are attached to the pier cross beams. There are no objections for in kind replacement. If additional and or larger conduit is to be installed the Division will require specifics so that our engineers can determine any load requirements to the pier. Any disturbance to the dune area through excavation will need approval by The DNREC Division of Soil and Water.
- 4) The Division has no objections to relocating the main feed electrical panels in item 3 or 4. Once again approval by the Division of Soil and Water is required for any disturbance to the dune area.

Ted, please provide the Division with copies of all approvals prior to your commencement of any site work.

Sincerely Yours,

A handwritten signature in cursive script that reads "Paul Nicholson".

Paul Nicholson  
Park Operations Administrator

**From:** <fyoung@bakeringram.com>  
**To:** "Ted Pfarrer" <TPFARRER@spipharma.com>  
**Date:** 5/18/2009 10:46:25 AM  
**Subject:** RE: electrical conduit replacement

Ted-  
Based on the description of what you are proposing, we do not have significant concerns with the replacement of the conduit, or the addition of a couple of small conduits.  
Frank

**BAKER, INGRAM & ASSOCIATES  
STRUCTURAL ENGINEERS**

Frank M. Young, P.E.  
1050 South State Street, Dover, DE, 19901  
phone 302.734.7400 fax 302.734.7592  
fyoung@bakeringram.com  
www.bakeringram.com

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-----Original Message-----

From: Ted Pfarrer [mailto:TPFARRER@spipharma.com]  
Sent: Friday, May 15, 2009 10:50 AM  
To: fyoung@bakeringram.com  
Cc: Paul.Faircloth@state.de.us; Paul.Nicholson@state.de.us  
Subject: electrical conduit replacement

Frank,

Several people from DNREC and I met at the pier yesterday to discuss the various projects that we are anticipating. In addition to the concrete platform repairs that involves B&I, we are also looking to replace the 3" main electrical conduit underneath the pier. In the attached photo, this conduit is small black pipe on the upper left side of the photo resting on top of the wooden beams.

We are currently looking at two scenarios to replace this conduit. One, we can replace it outright with a similar 3" conduit located in this exact location (to supply our 225A main electrical service). Second, we could possibly replace this conduit with two or three 3" pipes. The second scenario would occur if we decide to run individual electrical wires (20A services) to each of our 17 pumps instead of having a single set of large wires (225A single service) as our main feed.

Paul Nicholson thought I should touch base with you to see if you had any

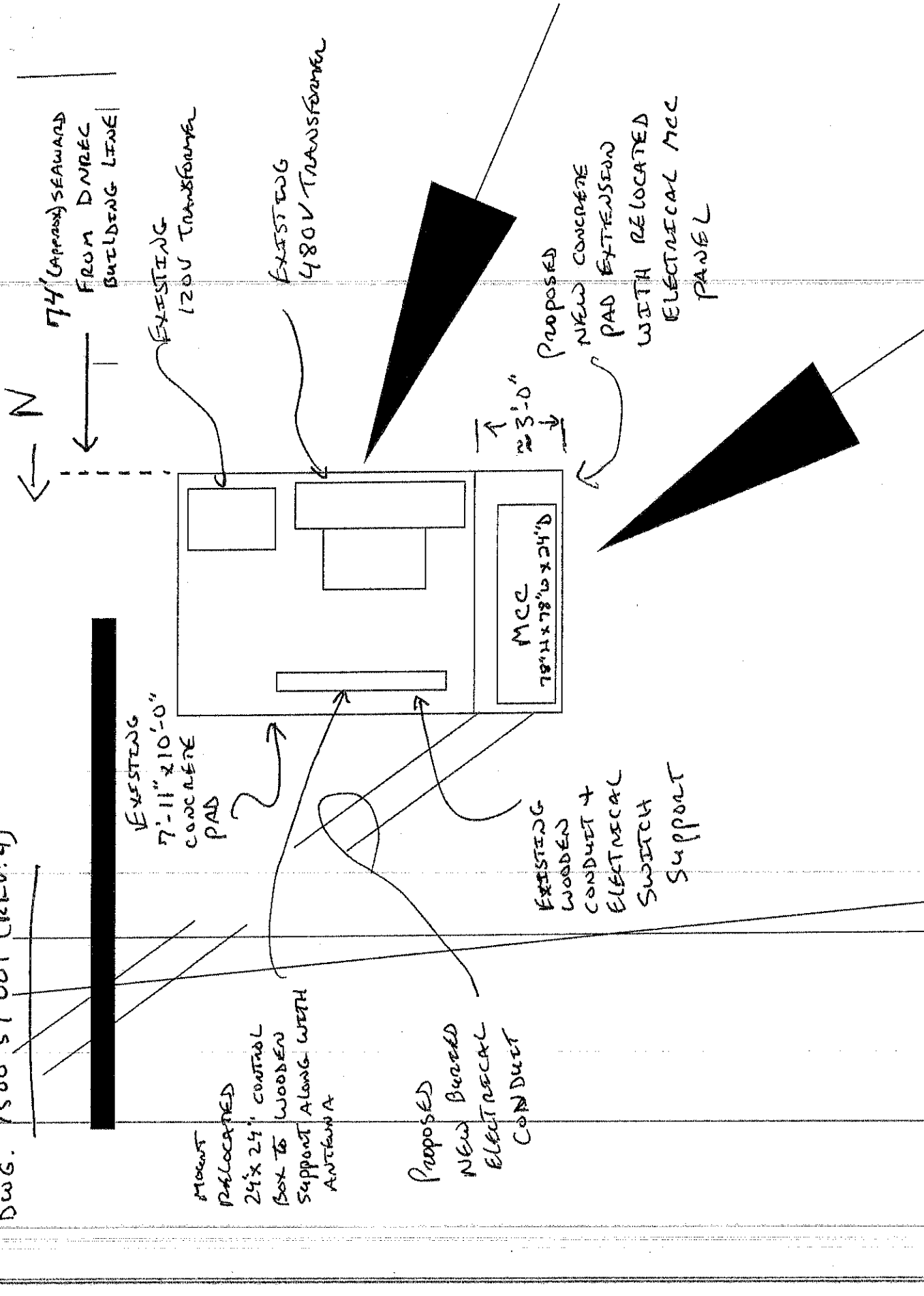
structural concerns about running two or three conduits underneath the pier.

Thanks

Ted Pfarrer  
Senior Engineer  
SPI Pharma, Inc.  
40 Cape Henlopen Dr.  
Lewes, DE 19958  
Phone: 302-360-7241  
Cell: 302-339-6121  
Fax: 302-360-7290  
tpfarrer@spipharma.com

CC: <Paul.Faircloth@state.de.us>, <Paul.Nicholson@state.de.us>

MAGNETIC VIEW OF CONCRETE PAD  
DWG. 1500 51 001 (REV: 4)



74' (APPROX) SEAWARD  
FROM DNREC  
BUILDING LINE

EXISTING  
120V TRANSFORMER

EXISTING  
480V TRANSFORMER

PROPOSED  
NEW CONCRETE  
PAD EXTENSION  
WITH RELOCATED  
ELECTRICAL  
PANEL

↑  
≈ 3'-0"  
↓

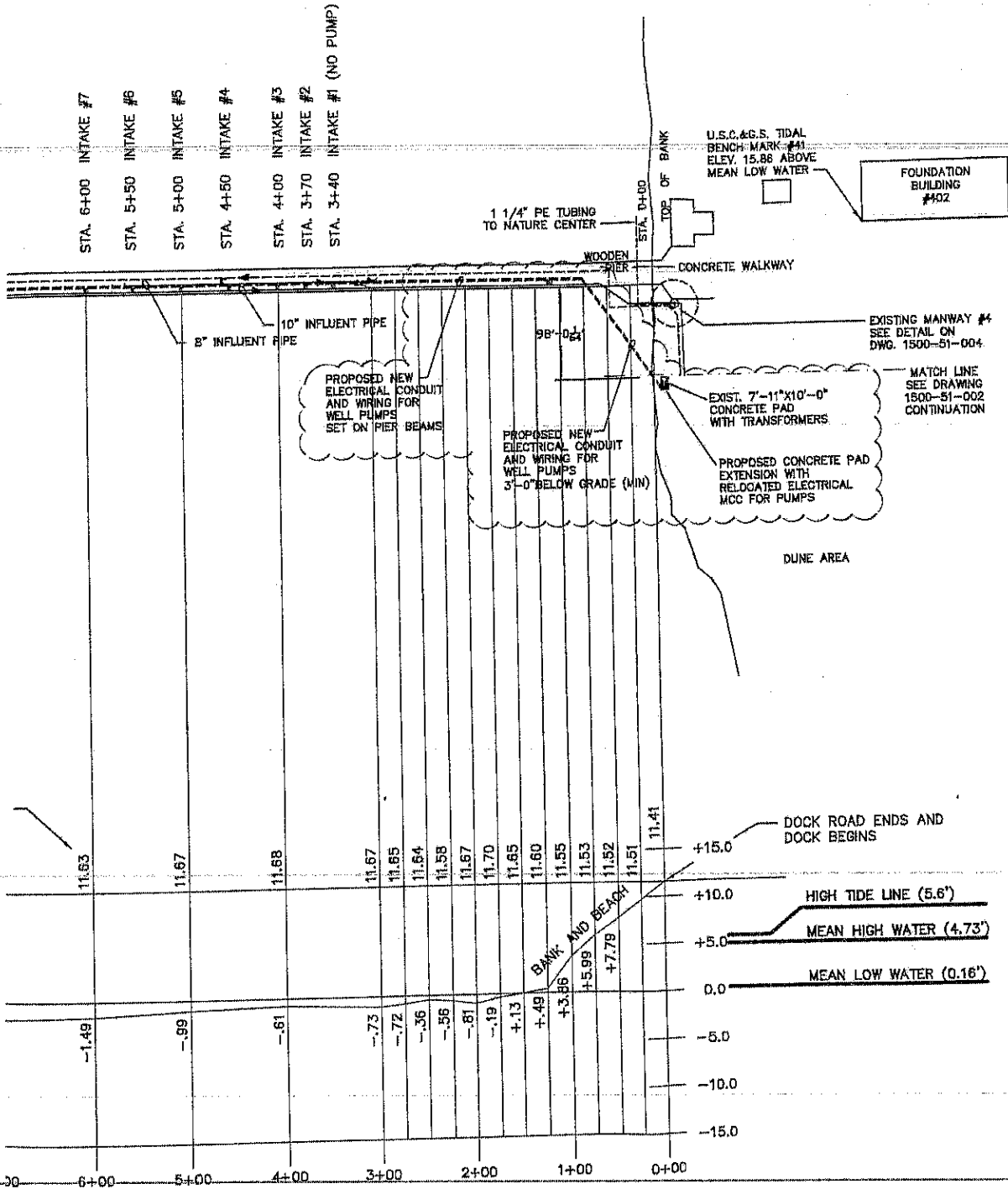
EXISTING  
7'-11" x 10'-0"  
CONCRETE  
PAD

EXISTING  
WOODEN  
CONDUIT &  
ELECTRICAL  
SWITCH  
SUPPORT

MOUNT  
RELOCATED  
24" x 24" CONTROL  
BOX TO WOODEN  
SUPPORT ALONG WITH  
ANTENNA A

PROPOSED  
NEW BURIED  
ELECTRICAL  
CONDUIT



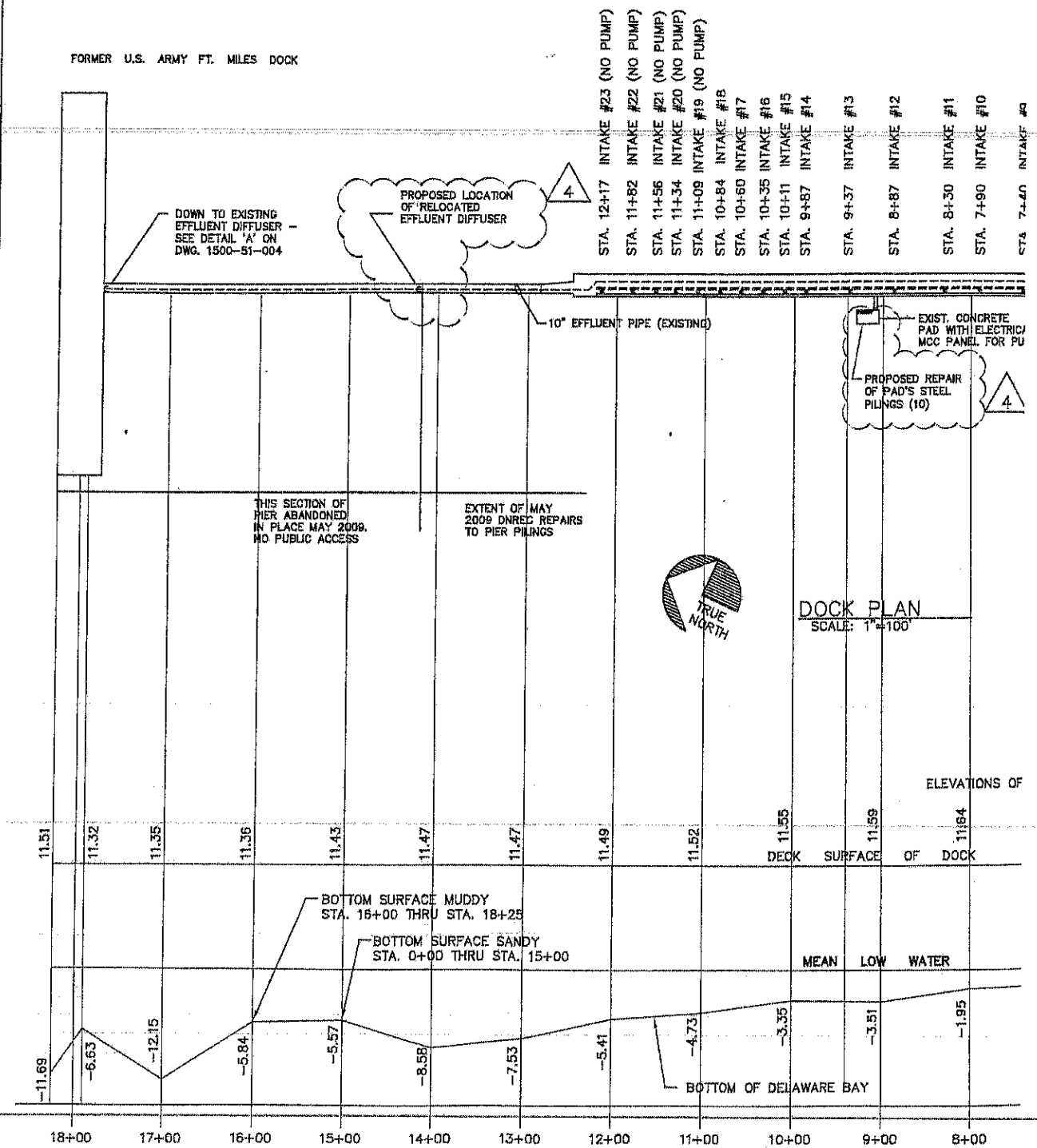


SEE DWG. 1500-51-004 FOR SECTIONS & DETAILS FILE NAME: 15001101.dwg

PROPRIETARY STATEMENT				ORIGINAL ISSUE APPROVALS				TITLE		
1	THIS DESIGN IS THE PROPERTY OF SPI. THE INFORMATION AND DOCUMENT HEREIN MAY NOT BE LOANED, REPRODUCED, COPIED, OR IN ANY MANNER DISCLOSED TO ANY OTHER PARTY WITHOUT THE WRITTEN PERMISSION OF SPI. ANY REPRODUCTION OR TRANSMISSION IN ANY FORM OR BY ANY MEANS WITHOUT SPI'S WRITTEN PERMISSION IS STRICTLY PROHIBITED.	SCALE	AS NOTED	APP.	FOR NUMBER	APP.	MAGNESIUM & ALUMINUM HYDROXIDE PROCESS SEAWATER PIPING SYSTEM SH.1			
2		DATE	11/21/01	APP.		APP.	EQUIPMENT & PIPING ARRANGEMENT			
3		BY	LEWIS	APP.		APP.	SIZE	DRAWING NUMBER	REV.	
4	STANDARDS AND SPECIFICATIONS	CHARGE		APP.		APP.	E	1500 51 001	4	
		PROJECT		APP.		APP.				

**SPI Pharma**  
 40 Cape Henlopen Drive, Lewes, DE 19956

FORMER U.S. ARMY FT. MILES DOCK





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

TELEPHONE: (302) 739-9921  
FAX: (302) 739-6724

OFFICE OF THE  
DIRECTOR

July 1, 2009

Division of Parks and Recreation  
C/o Mr. Paul Faircloth  
42 Cape Henlopen Drive  
Lewes, DE 19958

Dear Mr. Faircloth:

Enclosed, please find the Letter of Approval BP4215 – To construct a 3' x 7'11" extension to an existing concrete platform, install an electric control panel on the concrete platform, and to excavate a 125' x 4' trench to install electrical conduit north of the fishing pier in Cape Henlopen State Park, Sussex County, Delaware.

Please note the following conditions present within the Letter of Approval:

- 1. Disturbance of the excavated areas must be kept to a minimum and all excavations must be restored to the original grade prior to leaving the site.**
- 2. The excavated trench area must be restored to the original grade and revegetated with native vegetation per the direction of the Park within 30 days of completion of the project.**

As stated in the Letter of Approval: You or your agent are required to notify the Division of Soil and Water Conservation at (302) 739-9921 at least one week prior to the initiation of on-site construction. You are also required to notify the Division when construction is completed.

Please be sure to read your approval thoroughly and understand the terms contained within it. If you should have any questions please do not hesitate to contact me at (302) 739-9921 or email [david.warga@state.de.us](mailto:david.warga@state.de.us) .

Sincerely,

David J. Warga  
Environmental Scientist  
Shoreline and Waterway  
Management Section

*ORIGINAL: FILE  
CC: TKS*

*It's good being first.*



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

OFFICE OF THE  
DIRECTOR

TELEPHONE: (302) 739-9921  
FAX: (302) 739-6724

July 1, 2009

Division of Parks and Recreation  
C/o Mr. Paul Faircloth  
42 Cape Henlopen Drive  
Lewes, DE 19958

Dear Mr. Faircloth

**Re: Application No. BP4215 – To construct a 3' x 7'11" extension to an existing concrete platform, install an electric control panel on the concrete platform, and to excavate a 125' x 4' trench to install electrical conduit north of the fishing pier in Cape Henlopen State Park, Sussex County, Delaware.**

This is to advise you that this Division has reviewed your plans for coastal construction work with regard to its material physical effects on coastal conditions and natural shore processes with particular reference to the extent that it may induce or aggravate beach erosion, storm damage, flooding, etc., or may otherwise have a detrimental effect on the shore or adjacent property.

By this letter, please be informed that the aforementioned work, as shown upon the plans submitted by you, or on your behalf, through application received on July 1, 2009, has been approved with the following conditions:

- 1. Disturbance of the excavated areas must be kept to a minimum and all excavations must be restored to the original grade prior to leaving the site.**
- 2. The excavated trench area must be restored to the original grade and revegetated with native vegetation per the direction of the Park within 30 days of completion of the project.**

This letter of approval pertains only to compliance with the "Regulations Governing Beach Protection and the Use of Beaches" (effective December 27, 1983) and is not to be construed as an all-inclusive approval for any other activities or requirements of the Department of Natural Resources and Environmental Control or any other governmental agency which may pertain to this site, including local flood hazard zoning ordinances.

Any unauthorized additions or modifications of the final permitted construction plans will be considered a violation of this letter of approval and the Regulations and are therefore subject to penalties provided in the Beach Preservation Act and the Regulations. Major modifications or subsequent additions involving horizontal expansion of the initial construction must be entered as a new application subject to conditions for construction outlined in the Regulations Governing Beach Protection and the Use of Beaches. Copies of the Regulations are available upon request from the Shoreline and Waterway Management Section.

*It's good being first.*

Division of Parks and Recreation  
BP4215  
Page Two  
July 1, 2009

Structures prohibited seaward of the Building Line include: hard landscaping such as railroad ties, flower boxes, brick and cement patio blocks, fences other than sand/snow fencing, retaining walls, and other modifications that impede the natural function and flexibility of the dune and have been found to cause considerable damage to properties during storm events.

Absolutely no quantity of sand or sedimentary material may be removed from the site which is the subject of this approval without prior inspection by a Shoreline and Waterway Management Section representative. Any quantity of material that is to be removed from the site and is suitable beach material as determined by the Section representative shall be placed on the beach at the nearest suitable location.

This approval is void if on-site construction has not been initiated on or before one year and completed on or before two years from the date of this approval.

This approval in no way affects, or rules upon, ownership of the subject lands.

You are required to notify the Division of Soil and Water Conservation at (302)739-9921 at least one week prior to the initiation of on-site construction and when it is completed.

If you should have any questions concerning this approval, please do not hesitate to contact the Shoreline and Waterway Management Section of this Division at (302) 739-9921.

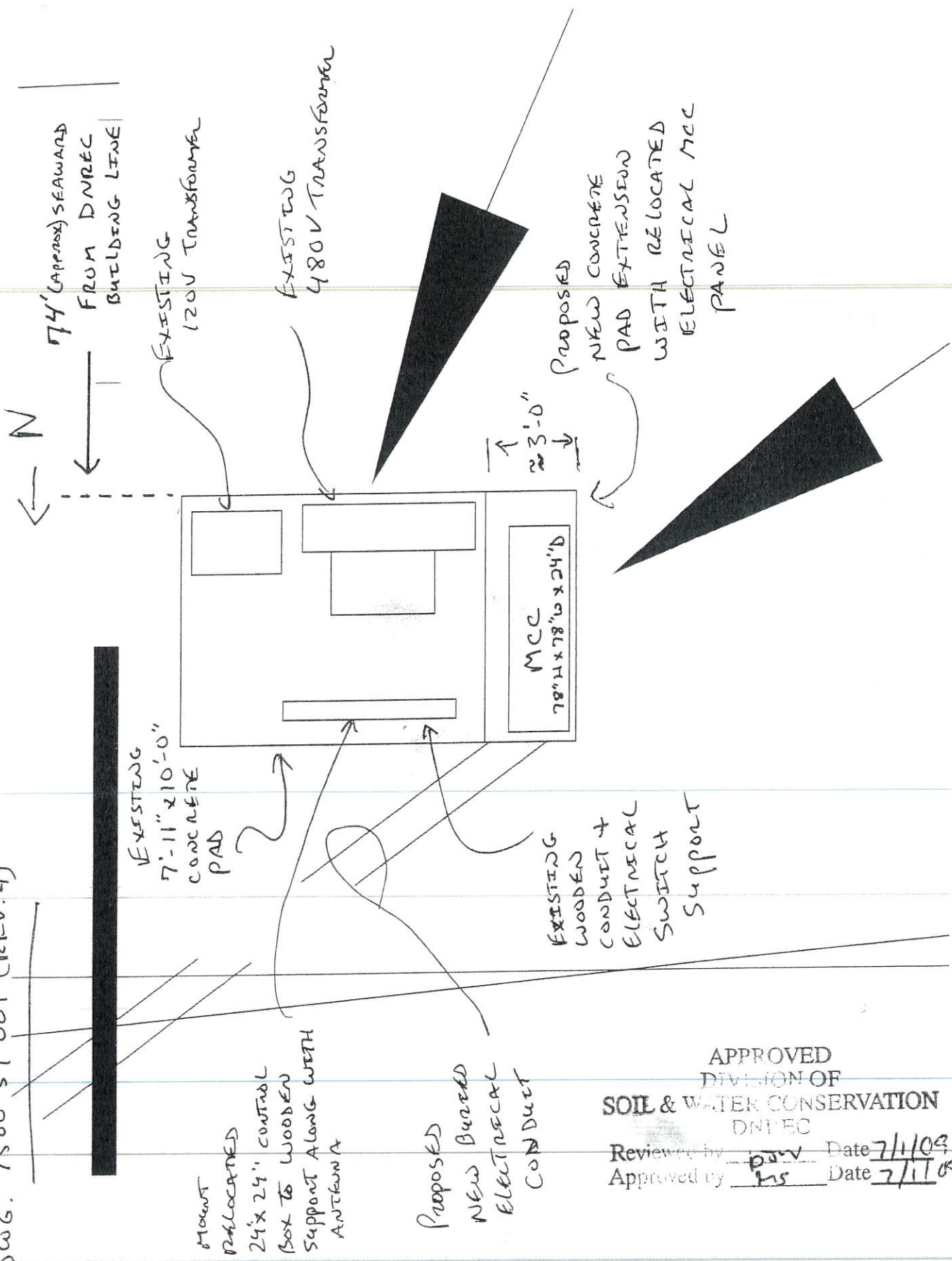
Sincerely,



Daniel J. Brower  
Program Manager  
Shoreline and Waterway  
Management Section

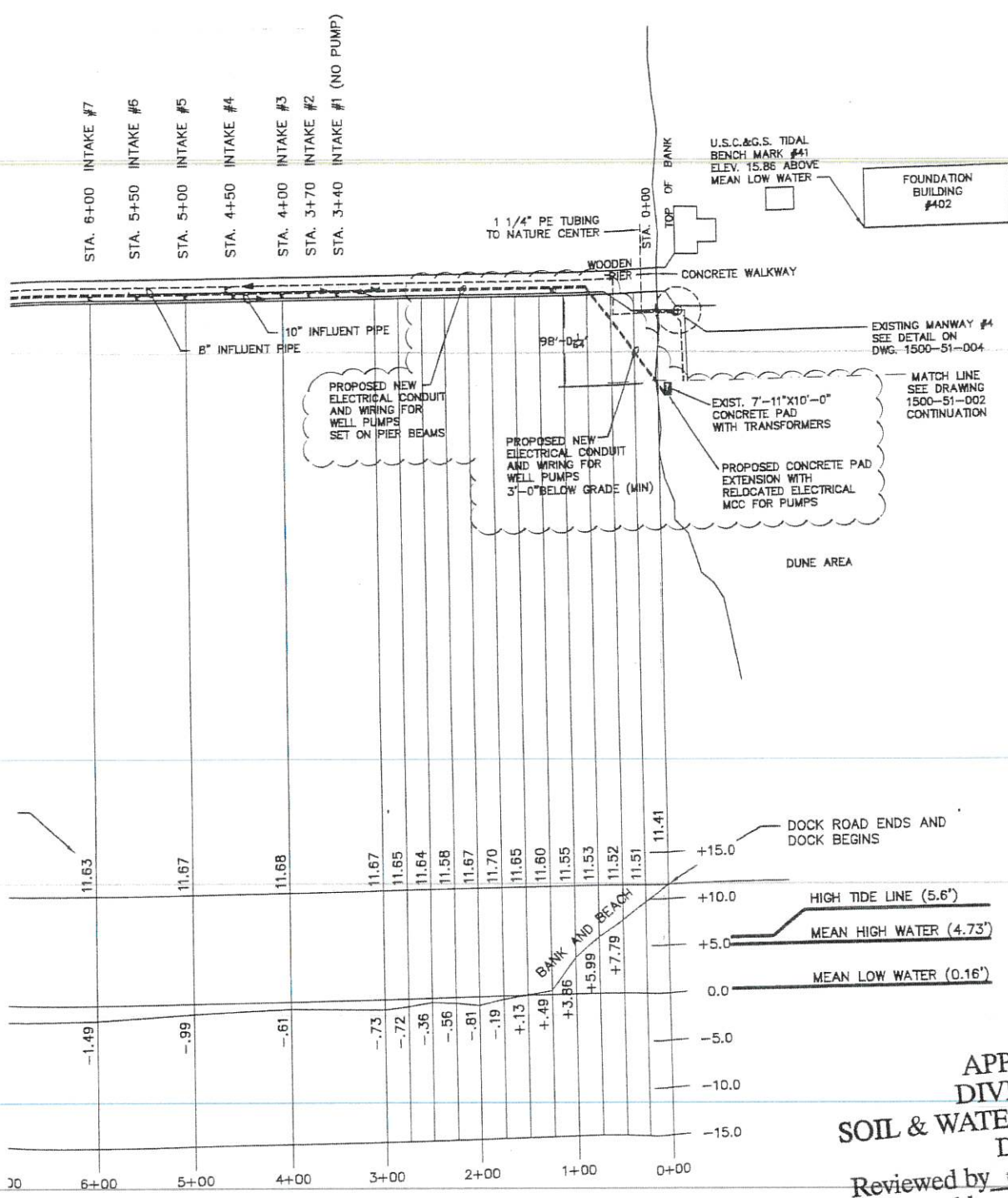
Cf.: Mr. Ted Pfarrer, Spi Pharma, Inc.

MAGNETIC VIEW OF CONCRETE PAD  
 DWG. 1500 51 001 (REV:4)



APPROVED  
 DIVISION OF  
 SOIL & WATER CONSERVATION  
 DNREC

Reviewed by psv Date 7/1/09  
 Approved by hs Date 7/1/09



**APPROVED**  
**DIVISION OF**  
**SOIL & WATER CONSERVATION**  
**DNREC**  
 Reviewed by DJW Date 7/1/05  
 Approved by MJS Date 7/1/05

SEE DWG. 1500-51-004 FOR SECTIONS & DETAILS FILE NAME: 150051001.dwg

PROPRIETARY STATEMENT		ORIGINAL ISSUE APPROVALS				TITLE			
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2		DATE	11/21/01	APP.		APP.	EQUIPMENT & PIPING ARRANGEMENT		
3		BY	SPM	APP.		APP.	SIZE	DRAWING NUMBER	REV.
4	STANDARDS AND SPECIFICATIONS	SITE	LEWIS	APP.		APP.	E	1500 51 001	4
1		BLDG.		APP.		APP.			
		CHARGE		APP.		APP.			
		PROJECT		APP.		APP.			

**SPI Pharma**<sup>TH</sup>  
 Lewis Site  
 SPI Pharma, Inc.  
 40 Cape Henlopen Drive, Lewes, DE 19956

June 16, 2009

Wetlands & Subaqueous Lands  
Permit Application Form

Section 2: Project Description

5. Project Purpose:

The scope of work contained in this construction application consists of three small projects that are related to our seawater intake and effluent outfall piping systems at the Fort Miles Pier in Cape Henlopen State Park.

1. *Relocate 10" effluent outfall piping and diffuser.* This project involves moving our discharge piping south about 325 feet. Currently the discharge piping and its underwater diffuser are located about 1750 feet offshore. We will want to relocate this piping to where the pier construction stops (around 1425 feet offshore). This work is necessary because the Park has made any part of the pier past the new construction inaccessible due to poor structural integrity. The depth of the water at the new location is very close to that of the current location of the diffuser. The diffuser will remain about 2' off the bottom of the bay floor as it is currently installed. The remaining 325' of piping will be removed.

2. *Repair concrete platform pilings.* Electrical equipment are currently set on this platform. The platform is not used as a boat dock. This project involves welding 14" diameter steel pipe halves onto each of the ten 12" diameter steel pilings. The new 14" piling jackets will extend from the underside of the concrete platform to a depth of up to 1 foot below the seabed. The existing 12" diameter steel pilings will first be cleaned (removal of scale, flora, and fauna) with high pressure water and/or a mechanical scraper. The existing pilings are bare steel and not contaminated with any material foreign to the bay, so we do not believe that a turbidity curtain will be necessary. However, one will be provided if required. A small area around the base of each piling will be excavated with a vacuum water lift in order to allow the new 14" pipe jacket to be welded 1 foot below the seabed. The excavated sand material will be placed in the same general area of the pilings. We are also considering an option of encasing these pilings in fiberglass instead of the 14" diameter steel pipe jacket, just like the recent installation on the Fort Miles Pier. The pilings, in this case, would also have to be cleaned as specified above. This type of installation consists of a 16" diameter fiberglass jacket with an epoxy grouted 2" annular space between the jacket and steel 12" piling. The materials are specified for marine environment installations. After the fiberglass jacket is installed around the piling, sand and water are pumped out of the annular space. The epoxy grout is poured or pumped into the space.

3. *Relocate the electrical panels on the concrete platform to the dune.* This project involves moving our main electrical panel and its smaller instrument panel to the area on the dune where the current transformers are located. We will pour a small extension (2'-3') onto the transformers' existing concrete pad to accommodate the large electrical panel. In addition, we will have to run two new electrical conduits (2" or 3" diameter) from the dune to our well pumps. These conduits would be buried in the dune area then installed across the pier's support beams just like the existing 3" conduit. We plan to remove the existing 3" electrical conduit underneath the pier because it is severely corroded. This conduit will be demolished from the pier back to the dune. We will replant dune grass after the construction. The project work in the dune area will require approval from the Division of Soil & Water Conservation.



Lewes Site

40 Cape Henlopen Dr.  
Lewes, DE 19958  
Phone: 302-360-7200  
Fax: 302-360-7290

August 26, 2010

Mr. Glenn Davis  
DNREC  
Division of Water Resources  
Surface Water Discharges Section  
89 Kings Highway  
Dover, DE 19901

RE: Outfall Piping Relocation Project  
State Permit WPCC3119F/74, NPDES Permit DE 0000060, Discharge 001

Mr. Davis,

On July 16, 2009 we received an approval letter from Mr. Peder Hansen to relocate our effluent outfall piping (at the Fort Miles Pier in Cape Henlopen State Park) approximately 300 ft. inboard. This relocation was necessary due to the Park's construction determination that the outer section of the pier, where the termination point of the piping was located, is structurally unsound. The Park has since closed off the outer section of the pier to the public.

In April of this year we completed the relocation of our outfall piping. Mr. Hansen asked that I notify your department so that minor changes could be made to our NPDES Permit. Attached are drawings which identify the location and details of the outfall piping. Please keep them for your records..

Please do not hesitate to contact me (302-360-7241) if you would like to discuss this project in further detail. We look forward to seeing the revised NPDES Permit.

Sincerely,

Frederick H. Pfarrer  
Senior Engineer

Attachments:

1. Dwg. 1500 51 001 (Rev: 6), Seawater Piping System Sh. 1
2. Dwg. 1500 51 004 (Rev: 1), Seawater Piping System Sh. 4

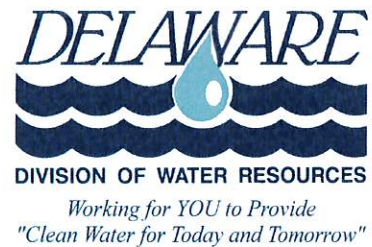
CC: Ted Pfarrer  
File

# Wetlands and Subaqueous Lands Section

## PERMIT APPLICATION FORM

For Subaqueous Lands, Wetlands, Marina and 401 Water  
Quality Certification Projects

State of Delaware  
Department of Natural Resources and Environmental  
Control  
Division of Water Resources  
Wetlands and Subaqueous Lands Section



APPLICATION FOR APPROVAL OF

# SUBAQUEOUS LANDS, WETLANDS, MARINA AND WATER QUALITY CERTIFICATION PROJECTS

*PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY*

## **Application Instructions:**

1. Complete each section of this basic application and appropriate appendix as thoroughly and accurately as possible. Incomplete or inaccurate applications will be returned. For projects involving docks, piers or wetland walkways, please refer to the Guidance Document for Boat Docking Facilities and Wetland Walkways.
2. All applications must be accompanied by scaled site plans and cross-section plans that show the location and design details of the proposed project. Full construction plans should be submitted for major projects.
3. All applications must have an original signature page and proof of ownership or permitted land use agreement.
4. Submit an original and two (2) additional completed copies of the application (total of 3) with the appropriate application fee\* to: **Wetlands and Subaqueous Lands Section**

**DNREC  
89 Kings Highway  
Dover, Delaware 19901**

*\*Application fees are non-refundable regardless of the permit decision or application status.*

5. No construction may begin at the project site before written approval has been received from this office.

## **Additional Information:**

1. For Tax Parcel Information: New Castle County 395-5400  
Kent County 736-2010  
Sussex County 855-7878
2. Recorder of Deeds: New Castle County 571-7550  
Kent County 744-2314  
Sussex County 855-7785
3. Approval may also be required from the Corps of Engineers for projects contained in a completed state application form. Applicants are strongly urged to contact the Corps for a determination of their permitting requirements. The contact number for the Regulator of the Day is (215) 656-6728.
4. For additional permit information, contact the Wetlands and Subaqueous Lands Section at (302)739-9943.

## APPLICANT'S REVIEW BEFORE MAILING

DID YOU COMPLETE THE FOLLOWING?

- |       |     |  |
|-------|-----|--|
| _____ | Yes | BASIC APPLICATION  |
| _____ | Yes | APPENDICES   |
| _____ | Yes | VICINITY MAP   |
| _____ | Yes | PLAN VIEW  |
| _____ | Yes | ELEVATION OR SECTION VIEW  |
| _____ | Yes | SIGNATURE PAGE (Page 3) with Agent Authorization if appropriate                        |
| _____ | Yes | COPY OF PROPERTY DEED & SURVEY   |
| _____ | Yes | THREE (3) COMPLETE COPIES  |
| _____ | Yes | LIST OF ADJACENT PROPERTY OWNERS (as per item #14A & B of this basic application form) |
| _____ | Yes | APPROPRIATE APPLICATION FEE (Checks should be made payable to the State of Delaware)   |

Mail 3 complete copies of the application, with drawings to:

Department of Natural Resources and Environmental Control  
Division of Water Resources  
Wetlands and Subaqueous Lands Section  
89 Kings Highway, Dover, DE 19901  
(302) 739-9943

## Wetlands and Subaqueous Lands Section Basic Application Form

### Section 1: Applicant Identification

- |   |   |
|---|---|
| 1. Applicant's Name: _____<br>Mailing Address: _____<br>_____<br>_____  | Telephone#: _____<br>Fax #: _____<br>E-mail: _____  |
| 2. Consultant's Name: _____<br>Mailing Address: _____<br>_____<br>_____ | Telephone#: _____<br>Fax #: _____<br>E-mail: _____  |
| 3. Contractor's Name: _____<br>Mailing Address: _____<br>_____<br>_____ | Telephone #: _____<br>Fax #: _____<br>E:mail: _____ |

### Section 2: Project Description

4. Check those that apply:    New Project/addition to existing project?   
    Repair/Replace of existing structure?     (if checked must answer #19)
5. Project Purpose (Attach additional sheets as necessary): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
6. Check each Appendix that is enclosed with this application:
- |  |  |  |
|--|--|--|
| <input type="checkbox"/> A. Boat Docking Facilities      | <input type="checkbox"/> G. Bulkheads                    | <input type="checkbox"/> N. Preliminary Marina Checklist |
| <input type="checkbox"/> B. Boat Ramps                   | <input type="checkbox"/> H. Fill                         | <input type="checkbox"/> O. Marinas                      |
| <input type="checkbox"/> C. Road Crossings               | <input type="checkbox"/> I. Rip-Rap                      | <input type="checkbox"/> P. Stormwater Management        |
| <input type="checkbox"/> D. Channel Modifications/Dams   | <input type="checkbox"/> J. Vegetative Stabilization     | <input type="checkbox"/> Q. Ponds and Impoundments       |
| <input type="checkbox"/> E. Utility Crossings            | <input type="checkbox"/> K. Jetties, Groins, Breakwaters | <input type="checkbox"/> R. Maintenance Dredging         |
| <input type="checkbox"/> F. Intake or Outfall Structures | <input type="checkbox"/> M. Projects in Wetlands         | <input type="checkbox"/> S. New Dredging                 |

### Section 3: Project Location

7. Project Site Address: \_\_\_\_\_                      Name of site owner: \_\_\_\_\_  
    \_\_\_\_\_                      (if other than applicant)  
    \_\_\_\_\_                      County:    N.C.                       Kent                       Sussex
8. Driving directions: \_\_\_\_\_  
 \_\_\_\_\_  
 (Attach a location road map with the site indicated on the map).
9. Tax Parcel Number: \_\_\_\_\_                      Subdivision Name: \_\_\_\_\_

**WSLS Use Only:**  
 Type of Auth: SP  SL  WE  WQ  SA  SU  LA  MP  WA  EX   
 Permit #s: \_\_\_\_\_  
 SPGP: 18  20                       Individual Permit:                       Nationwide Permit #: \_\_\_\_\_  
 Received Date: \_\_\_\_\_                      Project Scientist: \_\_\_\_\_  
 Fee Received?    Yes  No                       Amt: \$\$ \_\_\_\_\_                      Receipt #: \_\_\_\_\_  
 Public Notice #: \_\_\_\_\_                      Public Notice Dates: ON \_\_\_\_\_ OFF \_\_\_\_\_

### Section 3: Project Location (Continued)

10. Name of Waterbody at Project Location: \_\_\_\_\_ Waterbody is a Tributary to: \_\_\_\_\_

11. Is the waterbody: Tidal  Non-tidal

12. Is the project:  
On public subaqueous lands?  On private subaqueous lands?  In wetlands?

If the project is on private subaqueous lands, indicate the name of the subaqueous lands owner:

\_\_\_\_\_  
(Written permission of the private subaqueous lands owner must be included with this application).

13. Present Zoning: Agricultural  Residential  Commercial  Industrial  Other

**Section 4: Miscellaneous**

14. A. List the name and complete mailing address of the immediately adjoining property owners on all sides of the project. (Attach additional sheets as necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. For wetlands and marina projects, list the name and complete mailing address of each property owner within a 1000 foot radius of the project. (Attach additional sheets as necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Indicate the names of all representatives from DNREC and the Army Corps of Engineers who you have discussed the project with:

\_\_\_\_\_  
\_\_\_\_\_

A. Have you had a State Jurisdictional Determination performed on the property? Yes  No

B. Has the project been reviewed in a monthly Joint Permit Processing Meeting? Yes  No

If yes, what was the date of the meeting? \_\_\_\_\_

16. If there is any existing fill or structures in subaqueous lands at the project site, were the structures constructed or fill placed prior to 1969?  Yes  No - If no, provide a copy of any prior and/or current authorization(s) for projects at this site. If a copy is not available, provide the permit or lease number(s) if known.

\_\_\_\_\_

17. Have you applied for or obtained a federal permit for the project from the Army Corps of Engineers?

None  Pending  Issued  Denied Date: \_\_\_\_\_

Type of permit: \_\_\_\_\_ Federal Permit or ID #: \_\_\_\_\_

18. Have you applied for permits from other Sections within DNREC?

None  Pending  Issued  Denied Date: \_\_\_\_\_ Permit or ID #: \_\_\_\_\_

Type of permit (circle all that apply) : Septic Well NPDES Storm Water

**Section 5: Signature Page**

**19. Agent Authorization:**

If you elect to complete this agent authorization section, all future correspondence to the Department may be signed by the duly authorized agent. In addition, the agent will become the primary point of contact for all correspondence from the Department.

I do not wish to authorize an agent to act on my behalf.

I wish to authorize an agent as indicated below.

I, \_\_\_\_\_, hereby designate and authorize  
Name of Applicant  
\_\_\_\_\_ to act on my behalf in the processing  
Name of Agent

of this application and to furnish any information that is requested by the Department.

Authorized Agent's Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
\_\_\_\_\_ Fax #: \_\_\_\_\_  
\_\_\_\_\_ E-mail: \_\_\_\_\_

---

**20. Agent Signature**

I hereby certify that the information on this form and on the attached plans is true and accurate to the best of my knowledge, I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application.

\_\_\_\_\_  
Agent's Signature Date

---

**21. Applicant's Signature:**

I hereby certify that the information on this form and on the attached plans is true and accurate to the best of my knowledge and that I am required to inform the Department of any changes or updates to the information provided in this application. I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application. I grant permission to authorized Department representatives to enter upon the premises for inspection purposes during working hours.

\_\_\_\_\_  
Applicant's Signature Date

\_\_\_\_\_  
Print Name

**22. Contractor's Signature:**

I hereby certify that the information on this form and on the attached plans is true and accurate to the best of my knowledge, and that I am required to inform the Department of any changes or updates to the information provided in this application. I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application.

\_\_\_\_\_  
Contractor Name Date

IMPORTANT NOTE TO APPLICANTS

***BEFORE SIGNING AND MAILING YOUR SUBAQUEOUS LANDS, WETLANDS OR MARINA PERMIT APPLICATION, PLEASE READ THE FOLLOWING:***

THE DEPARTMENT REQUESTS THAT THE CONTRACTOR OR PARTY WHO WILL PERFORM THE CONSTRUCTION OF YOUR PROPOSED PROJECT, IF OTHER THAN THE APPLICANT, SIGN THE APPLICATION SIGNATURE PAGE ALONG WITH THE APPLICANT, IN THE SPACES PROVIDED.

WHEN THE APPLICATION IS SIGNED BY THE CONTRACTOR AS WELL AS THE APPLICANT, THE DEPARTMENT WILL ISSUE THE PERMIT TO BOTH PARTIES. FOR LEASES, THE CONTRACTOR WILL RECEIVE A SEPARATE "CONSTRUCTION AUTHORIZATION" THAT WILL MAKE THEM SUBJECT TO ALL OF THE TERMS AND CONDITIONS OF THE LEASE RELATING TO CONSTRUCTION. THIS WILL ALLOW MORE FAIR AND CONSISTENT ENFORCEMENT OF THE CONDITIONS OF THE PERMIT OR LEASE BY INSURING THE PROPER LIABILITY OF THE CONTRACTOR.

IF YOU HAVE NOT YET CHOSEN A CONTACTOR BY THE TIME OF APPLICATION, YOU MAY WISH TO DO SO PRIOR TO SUBMITTING APPLICATION FOR PROCESSING.

IF YOU CHOOSE TO SUBMIT YOUR APPLICATION WITHOUT THE SIGNATURE OF YOUR CONTRACTOR, YOU WILL BE HELD SOLEY RESPONSIBLE FOR ALL OF THE TERMS AND CONDITIONS OF THE PERMIT OR LEASE, INCLUDING THOSE TERMS AND CONDITIONS RELATING TO CONSTRUCTION AND WHICH REQUIRE THAT THE PERMITTED STRUCTURE OR ACTIVITY BE INSTALLED OR CONDUCTED IN ACCORDANCE WITH THE APPROVED PLANS AND PERMIT CONDITIONS.

Please contact the Wetlands and Subaqueous Lands Section at (302) 739-9943 if you should have any questions.

**DELAWARE DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL ("DNREC")**

**ENVIRONMENTAL PERMIT APPLICATION  
BACKGROUND STATEMENT**

*Pursuant to 7 Del. C. Chapter 79*

**FILING STATUS:**

This Background Statement is being filed with DNREC because:

- 1. It is an initial application for a new permit (or permits) and the applicant company has not been issued any permits by DNREC in the previous five (5) years [See 7 Del. C. § 7902(a) and (b)];
- 2. It is required on an annual basis because the company has been designated a chronic violator pursuant to 7 Del. C. § 7904 [See 7 Del. C. § 7902(a)(7) and (b)(2)]; or
- 3. It is required on an annual basis as the applicant company has been found guilty, pled guilty or no contest to any crime involving violation of environmental standards which resulted in serious physical injury or serious harm to the environment as defined in 7 Del. C. § 7902(c) [See 7 Del. C. § 7902(a)(7) and (b)(2)].

<b>APPLICANT COMPANY'S NAME OR COMPANY'S NAME FILING STATEMENT</b>	
<b>DATE OF APPLICATION OR DATE OF STATEMENT</b>	
<b>PERMIT(S) BEING APPLIED FOR OR STATEMENT FOR FILING STATUSES 2 OR 3</b>	<input type="checkbox"/> Permit Type(s) _____  <input type="checkbox"/> Statement for filing Statuses 2 or 3—If filing under these statuses, attach a statement of the date of designation as Chronic Violator or the date of Conviction/Plea.
<b>OTHER DNREC PERMITS HELD</b>	<input type="checkbox"/> N/A – No other permits held with DNREC  <input type="checkbox"/> List of all DNREC permits currently held with dates of issuance and expiration attached.

## ENVIRONMENTAL PERMIT APPLICATION BACKGROUND STATEMENT

**Please note:** Companies filing statements pursuant to Chapter 79 have the right to identify information to be afforded confidential status pursuant to 7 Del. C. § 7903(b) and the requirements set forth in Section 6, "Requests for Confidentiality" of the DNREC *Freedom of Information Act Regulation*.

PROVIDING ALL OF THE INFORMATION REQUESTED IN THIS FORM SATISFIES THE REQUIREMENTS OF 7 DEL. C. CHAPTER 79 ("ENVIRONMENTAL PERMIT APPLICATION BACKGROUND STATEMENT") UNLESS THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL ("DNREC") OR THE DELAWARE DEPARTMENT OF JUSTICE DETERMINES THAT ADDITIONAL SUBMISSIONS ARE NECESSARY. FAILURE TO PROVIDE THE INFORMATION REQUESTED OR PROVIDING ERRONEOUS INFORMATION IS GROUNDS FOR DENYING OR REVOKING AN ENVIRONMENTAL PERMIT/APPROVAL/LICENSE, AND FOR CIVIL AND/OR CRIMINAL PENALTIES.

A. (Authority – 7 Del. C. § 7902(a)(1&2) & § 7905) Attach a complete list (full names) of all current members of the applicant company's board of directors, all current corporate officers, all persons owning more than 20% of the applicant's stock or other resources, all subsidiary/affiliated companies with type of business performed, street addresses, all parent companies with addresses, all companies with which the applicant's company shares two or more members of the board of directors, and the name(s) of the person(s) serving as the applicant's local chief operating officer(s) with respect to each facility covered by the permit in question or for the statement required for filing Statuses 2 or 3. [Note: For companies that do not have a *facility* located in Delaware, no listing for the local chief operating officer(s) is required].

- Information attached
- Information attached, except for local chief operating officer as there is no facility located in the State of Delaware.

B. (Authority - 7 Del. C. § 7905) Please check one of the following selections below, showing type of ownership for the applicant/statement company:

- Proprietorship      List the state, county, book record and page number where the certificate is found (Attach hereto).
- Partnership      List the state, county, book record and page number where the certificate is found (Attach hereto).
- Corporation  
(LLCs included)      List the city, state, date of incorporation, corporation file number, current corporate standing, registered agent, and address of the registered agent (Attach hereto).
- Municipality
- Public Institution/  
Government Agency
- Other \_\_\_\_\_

**C. (Authority - 7 Del. C. § 7902(a)(3) & § 7905)** Have any of the following been issued to or agreed to by the applicant/statement company, any employee, person, entity, or subsidiary/affiliated company, specified in response to Item A, for violation of any environmental statute, regulation, permit, license, approval, or order, regardless of the state in which it occurred, during the five years prior to the date of this application/statement

OFFENSE	YES	NO
Notice of Violation(s)		
Administrative Order(s)		
Administrative Penalty(ies)		
Civil Action(s)		
Civil Penalty(ies)		
Civil and/or Administrative Settlement Agreement(s)		
Permit/License/Approval Revocation		
Arrest(s)		
Conviction(s)		
Criminal Penalty(ies)		
Criminal Plea Bargain		

**D. (Authority - 7 Del. C. § 7902(a)(3), (a)(4) & § 7905)** If you answered “yes” to any of the actions listed in Item C above for the applicant company or any other person identified in Item A, attach a description of the incidents or events leading to the issuance of each action, regardless of the state in which it occurred, for the 5 years prior to the date of the statement, and the disposition of each action, what state the action/offense occurred in, and any actions that have been taken to correct the violations that led to such enforcement action.

- N/A
- Information attached

**E. (Authority - 7 Del. C. § 7902(a)(5) & § 7905)** Attach a description of any felony or other criminal conviction for a crime involving harm to the environment or violation of environmental standards of any person or entity identified in Item A above that resulted in a fine greater than \$1,000 or a sentence longer than 7 days, regardless of whether such fine or sentence was suspended.

- N/A
- Description attached

**F. (Authority - 7 Del. C. § 7902(a)(6) & § 7905)** Attach copies of any and all settlements of environmental claims involving the applicant, associated with actions identified in response to Item D above, whether or not such settlements were based on agreements where the applicant did not admit liability for the action.

- N/A
- Information attached

### **Items for Filing Statuses 2 or 3 Only**

**G. (Authority - 7 Del. C. § 7902(a)(7) and § 7905)** If the applicant/statement company has been found guilty, pled guilty or no contest, to any crime involving violation of environmental standards which resulted in serious physical injury or serious harm to the environment attach a summary of the events involved and a copy of the disposition of the action (*See 7 Del. C. § 7902(c) for definitions of "serious physical injury" or "serious harm to the environment" before answering this question.*)

- N/A
- Yes – Information Attached.

**H. (Authority - 7 Del. C. § 7902(a)(8))** – If the applicant/statement company has been designated a chronic violator under 7 Del. C. § 7904, a detailed written report from an independent inspector who has inspected the applicant's premises for the purpose of detecting potential safety and environmental hazards to employees and the surrounding community. The Secretary may waive the duty to submit a detailed written report upon a showing of good cause by the applicant. A showing by the applicant that the acts which caused it to be designated as a chronic violator did not jeopardize public health shall constitute "good cause" under this paragraph.

**I. (Authority - 7 Del. C. § 7902(a)(7))** – If the applicant has been designated a chronic violation under § 7904 of this Title, ***OR*** has been found guilty or pled no contest to any crime involving violation of environmental standards which resulted in serious physical injury or serious harm to the environment, a statement made under oath by the applicant's local chief operating officer with respect to the facilities covered by the permit, stating that: (a) disclosures made by the applicant/reporting company under federal and state environmental statutes and regulations during the preceding calendar year have been, to the chief operating officer's knowledge, complete and accurate, and (b) that the facility has implemented policies, programs, procedures, standards or systems reasonably designed, in light of the size, scope, and nature of facility operations to detect deter and promptly correct any noncompliance with state environmental statutes and regulations. The statement filed pursuant to this paragraph shall include an acknowledgement by the affiant that intentionally false statements submitted in compliance with this paragraph constitute criminal perjury as defined at 11 Del. C. §§1221-1222.

STATE OF DELAWARE – DEPT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
**ENVIRONMENTAL PERMIT BACKGROUND STATEMENT**  
**CERTIFICATION**

**I HEREBY CERTIFY THAT I HAVE READ THE PRECEEDING SUBMISSION, HAVE PROVIDED ALL OF THE INFORMATION REQUESTED, AND THAT ALL OF THE INFORMATION PROVIDED IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

\_\_\_\_\_  
SIGNATURE—OFFICER OF APPLICANT / STATEMENT COMPANY

DATE: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

COMPANY  
NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

REGISTERED  
AGENT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

**SWORN TO AND SUBSCRIBED**  
**BEFORE ME THIS \_\_\_\_\_ DAY OF**  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE (SEAL)

\_\_\_\_\_  
PRINTED NAME OF NOTARY PUBLIC

\_\_\_\_\_  
STATE / COUNTY

My COMMISSION EXPIRES ON: \_\_\_\_\_





Lewes Site

40 Cape Henlopen Dr.  
Lewes, DE 19958  
Phone: 302-360-7200  
Fax: 302-360-7290

June 16, 2009

Mr. Peder Hansen  
DNREC  
Division of Water Resources  
Surface Water Discharges Section  
89 Kings Highway  
Dover, DE 19901

RE: Outfall Piping Relocation Project  
State Permit WPCC3119F/74, NPDES Permit DE 0000060, Discharge 001

Mr. Hansen,

Please let this letter and its attachment serve as SPI Pharma's request to the Division of Water Resources to modify our current NPDES Permit DE 0000060, as required, pursuant to our proposed relocation of our outfall piping in the Delaware Bay. Paul Nicholson from the Division of Parks & Recreation has already recommended and approved this change. Please review the attached drawing that indicates the location of this change. We do not plan to change our down-pipe or diffuser configuration. In addition, this change will not affect our permitted effluent flowrate or emissions levels.

Our existing outfall piping currently discharges to the Delaware Bay at a location of approximately 1750 ft. from the base of the Fort Miles Pier in the Cape Henlopen State Park. This piping runs beneath the pier and is supported by the pier. The DNREC is currently in the process of completing construction activities to maintain the structural integrity of this pier. However, these construction activities only extend 1425 ft. (approx.) seaward from the base of the pier. The remaining seaward section of the pier has been made inaccessible due to its deteriorated condition. Presently, there are not any plans to refurbish this section.

SPI Pharma is submitting construction applications to the Wetlands & Subaqueous Lands Section, as well as the Army Corps of Engineers (pertaining to Nationwide Permit #3), to relocate our outfall piping to the termination point of the refurbished pier (approximately 1425 ft. from the base of the pier). Our outfall discharge point diffuser will continue to reside approximately 2 ft. above the seabed. The depth of the bay at this location is approximately the same as it is at the diffuser's current location.

According to our most recent correspondence (5/13/09 e-mail), your understanding of our project required a minor modification to our existing permit. If you approve this project, we ask that you kindly notify us formally. I plan to notify you prior to any construction activities if we receive approval of our pending construction applications. Please do not hesitate to contact me (302-360-7241) if you would like to discuss this project in further detail. We look forward to your response.

Sincerely,

Frederick H. Pfarrer  
Senior Engineer

Attachments:

1. Dwg. 1500 51 001 (Rev: 4), Seawater Piping System Sh. 1
2. Letter from Paul Nicholson (6/2/09)

CC: Ted Pfarrer  
File



Lewes Site

40 Cape Henlopen Dr.  
Lewes, DE 19958  
Phone: 302-360-7200  
Fax: 302-360-7290

June 26, 2009

Mr. William H. Jenkins  
U. S. Army Corps of Engineers  
The Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390

RE: Outfall Relocation, Piling Repairs, and Electrical Modifications at the Fort Miles Pier  
Application for Department of the Army Permit

Mr. Jenkins:

After a recent discussion of my projects with Jackie Winkler (5/15/09), SPI Pharma has decided to issue an Application for our proposed construction activities at the Fort Miles Pier in the Cape Henlopen State Park. Our understanding is that these activities likely meet the requirements of Nationwide Permit #3 and may not require a Preconstruction Notification (PCN). However, we kindly request the Army Corps to review this application and issue us verification documentation that stipulates the approval of our proposed construction pursuant to NWP #3. Attached is the Army's application along with those documents that are required in accordance with Regional General Condition – 1(G-1) of the NWP Regional Conditions for Delaware.

The proposed construction is required to support our intake and outfall structures in the Delaware Bay. For additional information on these existing structures please refer to previously issued Army Corps Permit Number: CENAP-OP-R-200200166-26 (NW07). Listed below is a brief summary of the proposed activities:

- 1. Relocate 10" effluent outfall piping and diffuser.* This project involves moving our discharge piping south about 325'. Currently the discharge piping and its underwater diffuser are located about 1750 feet offshore beneath the Fort Miles Pier. We want to relocate this piping to where the recent DNREC pier construction activity stops (approximately 1425 feet offshore). This work is necessary because the Park has made any part of the pier past the new construction inaccessible due to poor structural integrity.
- 2. Repair concrete platform pilings.* Our well pump electrical equipment are currently set on this platform. This project involves cleaning the ten existing 12" diameter steel pilings and then welding 14" diameter steel pipe halves onto each them. The existing pilings have corroded over their 40-year life. We are also considering an option of encasing each of these pilings in a 16" diameter epoxy-grouted fiberglass jacket instead of the 14" diameter steel pipe jacket. The fiberglass jacket would be similar to the recent installation on the Fort Miles Pier pilings.
- 3. Relocate the electrical panels on the concrete platform to the dune.* This project involves moving our main electrical panel and its smaller instrument panel to the area on the dune where the current transformers are located. In addition, we will have to run two new electrical conduits (2" or 3" diameter) from the dune to our well pumps beneath the Fort Miles Pier. We plan to remove the existing 3" electrical conduit underneath the pier because it is severely corroded.

Please do not hesitate to contact me (302-360-7241) if you have any questions or need additional information. We look forward to your response.

Sincerely,

Frederick H. Pfarrer

June 26, 2009

Outfall Relocation, Piling Repairs, and Electrical Modifications at the Fort Miles Pier  
Application for Department of the Army Permit

## 18. NATURE OF ACTIVITY

The scope of work contained in this construction application consists of three small projects that are related to our seawater intake and effluent outfall piping systems at the Fort Miles Pier in Cape Henlopen State Park. It is our intent to begin these activities in late Summer 2009 and complete them by the end of 2010 calendar year. The duration is based upon funding, weather, and coordination with the Park.

1. *Relocate 10" effluent outfall piping and diffuser.* This project involves moving our discharge piping south about 325 feet. Currently the discharge piping and its underwater diffuser are located about 1750 feet offshore. We will want to relocate this piping to where the recent DNREC pier construction stops (around 1425 feet offshore). The depth of the water at the new location is very close to that of the current location of the diffuser. The diffuser will remain about 2' off the bottom of the bay floor, as it is currently installed. A boat and/or scaffolding underneath the pier will be required to relocate the diffuser section and demolish the remaining 325 feet of piping.

2. *Repair concrete platform pilings.* This project involves welding 14" diameter steel pipe halves onto each of the ten 12" diameter x 15' tall steel pilings. The new 14" piling jackets will extend from the underside of the concrete platform to a depth of up to 1 foot below the seabed. The existing 12" diameter steel pilings will first be cleaned (removal of scale, flora, and fauna) with high pressure water and/or a mechanical scraper. The existing pilings are bare steel and not contaminated with any material foreign to the bay, so we do not believe that a turbidity curtain will be necessary. However, one will be provided if required. A small area around the base of each piling will be excavated with a vacuum water lift in order to allow the new 14" pipe jacket to be welded 1 foot below the seabed. The small amount of excavated sand material will be placed in the same general area of the pilings. We are also considering an option of encasing these pilings in fiberglass instead of the 14" diameter steel pipe jacket, just like the recent installation on the Fort Miles Pier. The pilings, in this case, would also have to be cleaned as specified above. This type of installation consists of a 16" diameter fiberglass jacket with an epoxy grouted 2" annular space between the jacket and steel 12" piling. The materials are specified for marine environment installations.

3. *Relocate the electrical panels on the concrete platform to the dune.* This project involves moving our main electrical panel and its smaller instrument panel from the concrete platform to the area on the dune where the current transformers are located. We will pour a small extension (2'-3') onto the transformers' existing concrete pad to accommodate the large electrical panel. In addition, we will have to run two new electrical conduits (2" or 3" diameter) from the dune to our well pumps. These conduits would be buried in a previously excavated dune area then installed across the pier's support beams just like the existing 3" conduit. We plan to remove the existing corroded 3" electrical conduit underneath the pier. We will back fill the excavated dune area and replant dune grass after the construction.

## 19. PROJECT PURPOSE

Relocation of the outfall piping is necessary because of the deteriorated condition of the Fort Miles Pier. The DNREC does not currently have plans to refurbish the pier channelward of their most recent repairs –



Lewes Site

40 Cape Henlopen Dr.  
Lewes, DE 19958  
Phone: 302-360-7200  
Fax: 302-360-7290

greater than 1425' (approx.) from the base of the pier. Our outfall piping is at risk of collapsing along with the unrepaired section of the pier if the piping is not relocated. In addition, due to its poor structural integrity, the DNREC has made inaccessible the area of the pier channelward to the extent of the repairs.

Repairing the pilings on the concrete platform is necessary to maintain the platform's structural integrity. The pilings are approximately 40 years old and are corroded. SPI Pharma would like to keep this platform viable. Repairing the pilings should keep this structure sound for many years to come.

Relocating the electrical panels to the dune area next to the existing transformers will provide a safer and easier means to test and maintain our well-pumps (which reside underneath the Fort Miles Pier). Replacing the 3" electrical conduit underneath the pier decking is necessary because it is severely corroded and is becoming a safety risk.

25. LIST OF OTHER CERTIFICATIONS OR APPROVALS/DENIALS RECEIVED FROM OTHER FEDERAL, STATE, OR LOCAL AGENCIES FOR WORK DESCRIBED IN THIS APPLICATION

<u>Agency</u>	<u>Type Approval</u>	<u>Identification Number</u>	<u>Date Applied</u>	<u>Date Approved</u>	<u>Date Denied</u>
DNREC	Wetlands & Subaqueous Lands	Pending	6/24/09		
DNREC	Soil & Water Conservation	Pending	6/25/09		
DNREC	Surface Water Discharges *	NPDES DE 0000060	6/16/09		

\* Note: a letter was issued on 6/16/09 to the Surface Water Discharges Section to request approval of the outfall relocation and any necessary modifications to this existing permit. NPDES Permit DE 0000060 was made effective by the DNREC on July 1, 2008 and will expire June 30, 2013. The letter is pending approval.

REGIONAL CONDITION G-1 (3)

The effluent pipe relocation and electrical modifications will not have any impact on the aquatic environment. The scope of these projects does not involve any harmful materials or activities. The overwhelming majority of the work takes place above the surface of the bay waters. No subaqueous land will be disturbed on these two projects. Therefore, no measures on these two projects are necessary to avoid impacts to aquatic resources. The piling repair work does not involve any harmful materials or activities, but involves a slight disturbance of the subaqueous land around each of the ten pilings and the removal of flora, fauna, and scale from the pilings. A turbidity curtain will be used, if necessary, to contain any debris that could potentially impact aquatic resources.

All three projects do not involve the establishment or changing of any discharges into wetlands or waters of the United States.

Due to the minimal impact of these projects on wetlands or waters of the United States, no compensating measures have been developed.

April 24, 2009

Ms. Alice Guerrant  
Delaware State Historic Preservation Office  
Division of Historical & Cultural Affairs  
21 The Green  
Dover, DE 19901

Alice,

Please let this letter and its attachments serve as *SPI Pharma's* request to the Delaware State Historic Preservation Office to review the proposed construction that includes repairs to our concrete platform in the Delaware Bay.

Our concrete platform connects to the Fort Miles Pier in the Cape Henlopen State Park. The structure is 18' x 22' (approx.) and is about 1000' offshore. We have contracted Baker & Ingram to assess our platform and recommend repairs to the deteriorating pilings. B&I, as you may know, also performed the assessment of the Fort Miles Pier, which is currently being refurbished. B&I have suggested that we weld together two new 14" diameter pipe halves around each of the ten pilings (to act as a protective sleeve), provide some cross-bracing, and then coat the legs/bracing in fiberglass (similar to the repairs on the Fort Miles Pier, except that pier has wooden pilings). The pipe sleeves would be welded above the mud line as seen on the attached PDF file.

We ask that you please review this project and determine whether or not the construction is on property that is listed (or will be listed) on the National Register of Historic Places. Please do not hesitate to contact me (302-360-7241) if you would like to discuss this project in further detail. We look forward to your response.

Sincerely,

Frederick H. Pfarrer, IV  
Senior Engineer

Attachments (previously submitted via 4/7/09 e-mail to Craig Lukezic):

1. Concrete Pier IMG.JPG (picture of SPI Pharma's concrete platform)
2. Concrete Pilings IMG.JPG (picture of the platform's steel pilings)
3. Fort Miles Pier IMG.JPG (picture of entire Fort Miles Pier)
4. West of Pier2 IMG.JPG (picture of shoreline west of Fort Miles Pier)
5. 522100sk4\_1.pdf (Baker & Ingram drawing of suggested repairs)

**APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT  
(33 CFR 325)**

**OMB APPROVAL NO. 0710-003**

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, Searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-003), Washington, DC 20503. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

**PRIVACY ACT STATEMENT**

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in, or affecting, navigable waters of the United States; the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Routine uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the proposed activity. An application that is not completed in full will be returned.

**(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)**

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
--------------------	----------------------	------------------	-------------------------------

**(ITEMS BELOW TO BE FILLED BY APPLICANT)**

5. APPLICANT'S NAME	8. AUTHORIZED AGENT'S NAME & TITLE (an agent is not required)
6. APPLICANT'S ADDRESS	9. AGENT'S ADDRESS
7. APPLICANT'S PHONE NUMBERS WITH AREA CODE a. Residence b. Business	10. AGENT'S PHONE NUMBERS WITH AREA CODE a. Residence b. Business

**11. STATEMENT OF AUTHORIZATION**

I hereby authorize \_\_\_\_\_ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

\_\_\_\_\_  
APPLICANT'S SIGNATURE

\_\_\_\_\_  
DATE

**NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY**

12. PROJECT NAME OR TITLE (see instructions)	
13. NAME OF WATERBODY, IF KNOWN (if applicable)	14. PROJECT STREET ADDRESS (if applicable)
15. LOCATION OF PROJECT  COUNTY STATE	
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)	
17. DIRECTIONS TO THE SITE	

18. NATURE OF ACTIVITY (Description of project, include all features)

19. PROJECT PURPOSE (Describe the reason or purpose of the project, see instructions)

**USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED**

20. REASON(S) FOR DISCHARGE

21. TYPE(S) OF MATERIAL BEING DISCHARGED AND THE AMOUNT OF EACH TYPE IN CUBIC YARDS

22. SURFACE AREA IN ACRES OF WETLANDS OR OTHER WATERS FILLED (see instructions)

23. IS ANY PORTION OF THE WORK ALREADY COMPLETE? YES  NO  IF YES, DESCRIBE THE WORK

24. ADDRESSES OF ADJOINING PROPERTY OWNERS, LESSEES, ETC. WHOSE PROPERTY ADJOINS THE WATERBODY (If more than can be entered here, please attach a supplemental list)

25. LIST OF OTHER CERTIFICATIONS OR APPROVALS/DENIALS RECEIVED FROM OTHER FEDERAL, STATE, OR LOCAL AGENCIES FOR WORK DESCRIBED IN THIS APPLICATION

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
* Would include but is not restricted to zoning, building and flood plain permits.					

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT	DATE	SIGNATURE OF AGENT	DATE
------------------------	------	--------------------	------

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.  
18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

## **Instructions For Preparing A Department of the Army Permit Application**

**Blocks 1 thru 4** - To be completed by Corps of Engineers.

**Block 5 - APPLICANT'S NAME.** Enter the name of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked "Block 5".

**Block 6 - ADDRESS OF APPLICANT.** Please provide the full address of the party or parties responsible for the application. If more space is needed, attach an extra sheet of paper marked "Block 6".

**Block 7 - APPLICANT PHONE NUMBERS.** Please provide the number where you can usually be reached during normal business hours.

**Block 8 - AUTHORIZED AGENT'S NAME AND TITLE.** Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer or any other person or organization. Note: An agent is not required.

**Blocks 9 and 10 - AGENT'S ADDRESS AND TELEPHONE NUMBER.** Please provide the complete mailing address of the agent, along with the telephone number where he/she can be reached during normal business hours.

**Block 11 - STATEMENT OF AUTHORIZATION.** To be completed by applicant if an agent is to be employed.

**Block 12 - PROPOSED PROJECT NAME OR TITLE.** Please provide name identifying the proposed project (i.e., Landmark Plaza, Burned Hills Subdivision, or Edsall Commercial Center).

**Block 13 - NAME OF WATERBODY.** Please provide the name of any stream, lake, marsh, or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

**Block 14 - PROPOSED PROJECT STREET ADDRESS.** If the proposed project is located at a site having a street address (not a box number), please enter it here.

**Block 15 - LOCATION OF PROPOSED PROJECT.** Enter the county and state where the proposed project is located. If more space is required, please attach a sheet with the necessary information marked "Block 15".

**Block 16 - OTHER LOCATION DESCRIPTIONS.** If available, provide the Section, Township, and Range of the site and/or the latitude and longitude. You may also provide a description of the proposed project location, such as lot numbers or tract numbers. You may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile down from the Highway 14 Bridge). If a large river or stream, include the river mile of the proposed project site, if known.

**Block 17 - DIRECTIONS TO THE SITE.** Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site.

**Block 18 - NATURE OF ACTIVITY.** Describe the overall activity or project. Give approximate dimensions of structures such as wingwalls, dikes, (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles, or float-supported platforms.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked "Block 18".

**Block 19 - PROPOSED PROJECT PURPOSE.** Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work.

**Block 20 - REASONS FOR DISCHARGE.** If the activity involves the discharge of dredged and/or fill material into a wetland or other waterbody, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

## **Instructions For Preparing A Department of the Army Permit Application**

### **Block 21 - TYPES OF MATERIAL BEING DISCHARGED AND THE AMOUNT OF EACH TYPE IN CUBIC YARDS.**

Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, etc.

**Block 22 - SURFACE AREAS OF WETLANDS OR OTHER WATERS FILLED.** Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, etc.). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a waterbody. If more space is needed, attach an extra sheet of paper marked "Block 22".

**Block 23 - IS ANY PORTION OF THE WORK ALREADY COMPLETE?** Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, acres filled, if a wetland or other waterbody (in acres or square feet). If the work was done under an existing Corps permit, identify the authorization if possible.

**Block 24 - NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS, LESSEES, etc., WHOSE PROPERTY ADJOINS THE PROJECT SITE.** List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, etc., whose property adjoins the waterbody or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked "Block 24".

**Block 25 - INFORMATION ABOUT APPROVALS OR DENIALS BY OTHER AGENCIES.** You may need the approval of other Federal, State, or Local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

**Block 26 - SIGNATURE OF APPLICANT OR AGENT.** The application must be signed by the owner or other authorized party (agent). This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, etc.).

### **DRAWINGS AND ILLUSTRATIONS - GENERAL INFORMATION**

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View, or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number.

Please submit one original, or good quality copy, of all drawings on an 8.5 X 11 inch plain white paper (tracing paper or film may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations.

Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section). While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate and contain all necessary information.



Lewes Site

40 Cape Henlopen Dr.  
Lewes, DE 19958  
Phone: 302-360-7200  
Fax: 302-360-7290

December 29, 2009

Mr. David J. Warga  
DNREC  
Division of Soil & Water Conservation  
Surface Water Discharges Section  
89 Kings Highway  
Dover, DE 19901

RE: Amendment to Letter of Approval BP4215

Mr. Warga,

Please let this letter and its attachments serve as SPI Pharma's request to the Division of Soil & Water Conservation to add a 4'W x 8'L wooden deck to our current construction project near the Fort Miles Pier in the Cape Henlopen State Park per Letter of Approval BP4215.

The recently installed electrical MCC panel, due to the height of its concrete support pad, is difficult to access by our Maintenance crew. We request that you approve the installation of a removable wooden deck adjacent to the newly installed concrete pad extension in the dune area in order to allow us to better access this panel. Attached are drawings of the proposed deck.

If you approve this addition, we ask that you kindly notify us formally. Please do not hesitate to contact me (302-360-7241) if you would like to discuss this project in further detail. We look forward to your response.

Sincerely,

Frederick H. Pfarrer  
Senior Engineer

Attachments:

1. Dwg. 1500 51 001 (Rev: 5), Seawater Piping System Sh. 1
2. Dwg. 1500 51 001 (Rev: 5), Blow-up of Electrical MCC Area

CC: Mr. Paul Faircloth – DNREC Division of Parks & Recreation, Cape Henlopen State Park  
Ted Pfarrer  
File

**Deed/Lease/Sales contract**

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
DIVISION OF PARKS AND RECREATION  
AGREEMENT FOR THE USE OF PROPERTY

WHEREAS, the Division of Parks and Recreation of the Department of Natural Resources and Environmental Control of the State of Delaware (hereinafter referred to as "PARKS") and SPI Pharma, Inc. of Lewes, Delaware formerly known as the Barcroft Company (herein referred to as "SPI") have entered into previous agreements for the use of certain State of Delaware owned property at Cape Henlopen State Park dated January 1, 1969, July 1, 1979 and July 1, 2009 respectively; and

WHEREAS, the above agreement dated July 1, 2009 expired on June 30, 2014 and was extended by the parties through April 30, 2017 due to pier construction, closures and finalization of a new Land Use Agreement; and

WHEREAS, PARKS and SPI desire to enter into a new agreement for the continued use of such property,

WITNESSETH:

That PARKS, for the consideration hereinafter set forth, agrees to the continued use, by SPI subject to terms set forth in this agreement ("Agreement"), the following described property for a term of approximately ten (10) years beginning May 1, 2017 and ending April 30, 2027 with a renewal option of one (1) year through written mutual agreement, for the purpose of extracting magnesium from saltwater for the manufacturing of antacid products by maintaining water pipelines, electrical service lines and other appurtenances including use of a railroad siding area within the prescribed easement and right-of-way, a semi-detached pier and pumping station on the westerly side of the existing Cape Henlopen State Park fishing pier and seventeen (17) well pumps installed beneath the surface of the bay floor under the existing fishing pier. All lines will be sufficiently covered with sand along the beach and with compatible soils in other areas to prevent interference with normal park land usage by the park visitors.

The subject property under this Agreement the continued use of which is permitted by PARKS by conveyance dated March 26, 1979 for the term of this Agreement and under the terms more thoroughly described below:

- A. The existing 20-foot wide easement provided to the SPI to provide for the placement of subterranean piping and electric cables by PARKS by conveyance; and
- B. An additional easement and right-of-way for a 440 volt, 3 phase 60 cycle electric service line and two water pipelines, as granted by PARKS by the above-stated conveyance; and

- C. A third easement for the use of a triangular portion of property consisting of 34,641 square feet of land granted to SPI to allow access by railroad cars to the SPI plant as described in the above-stated conveyance by PARKS dated November 9, 1987; and
- D. A semi-detached pier and pumping station and seventeen (17) well pumps installed beneath the bay floor under the existing Cape Henlopen State Park Fishing Pier.

1. FEES AND CHARGES

SPI shall pay to PARKS an annual fee according to the following schedule:

Year 1	\$13,333.33	4/1/2017 – 12/31/2017
Years 2-9	\$25,000.00	1/1/2018 – 12/31/2026
Year 10	\$8,333.33	1/1/2027 – 4/30/2027

If agreement is reached to extend this Agreement beyond the initial ten (10) year period, PARKS reserves the right to negotiate pricing adjustments.

With exception of Year One (1), which is due on or before May 1, 2017, the annual fee shall be payable on or before the first day of January, of each year of this agreement, beginning January 1, 2018.

SPI shall also pay to PARKS on demand any sum which may have to be expended after the expiration or termination of this Agreement in restoring the premises to the condition required by Section 21 hereof.

Compensation shall be made payable to PARKS and forwarded by SPI direct to:

Division of Parks and Recreation  
89 Kings Highway  
Dover, Delaware 19901

Any payments which become due from SPI to PARKS and which are not paid on or before the due date shall be subject to an interest penalty of twelve (12) percent per annum until paid, computed from the due date. When a late payment is received, SPI shall be billed the amount of interest owed. This provision is in no way a waiver of the SPI's obligation to make payments when they are due.

2. FEES ADJUSTMENTS

In the event PARKS, pursuant to Section 20 hereof, terminates this Agreement or in any other manner materially reduces the area covered thereby prior to the date of expiration thereof, an equitable adjustment in the fee paid or thereafter to be paid under the Agreement,

shall be made, provided, however, that this provision shall not apply in the event of termination pursuant to Section 20 because of a breach by SPI of any of the terms and conditions of this Agreement.

3. UTILITIES

SPI shall in a timely manner pay the prevailing rates for any and all utilities and other services furnished by PARKS, Board of Public Works, Lewes, Delaware, or any other authorized utility company. Payment shall be made in the method and on or before the due dates prescribed by the above-mentioned bills as rendered.

4. FACILITY CONDITIONS

SPI has inspected and knows the condition of the herein described property, and it is understood that the same is occupied by SPI without any representation or warranty by PARKS whatsoever that the premises are safe, healthy or suitable for the purposes for which they are to be used under the terms of this Agreement and without any obligation on the part of PARKS to make any alterations, repairs, or additions thereof.

5. DAMAGED PROPERTY

Any property belonging to PARKS damaged or destroyed by SPI directly or indirectly incident to SPI's use and occupation of the said property shall be promptly repaired, replaced or reimbursed by SPI to the reasonable satisfaction of PARKS or its authorized agents.

6. PROPERTY PROTECTION

Subject to the limitations of Section 21 hereof with respect to the restoration of the property, all portions of the herein described property shall at all times be protected and maintained in good order and condition by SPI and SPI shall at its own expense at all times exercise due diligence in the protection of the herein described property against damage or destruction.

PARKS reserves the right to conduct any test or inspection it may deem necessary to ensure equipment, materials and services conform to Agreement requirements. This shall include, but is not limited to, onsite inspections for safety, cleanliness and business operations.

PARKS reserves the right to enlarge, close and/or reduce the size of any designated Park location(s) for the purposes of improvement, repair, construction or any other legitimate purpose. It is understood that any of the above actions shall not entitle SPI to any reduction or suspension of the Agreement or fees unless otherwise approved by PARKS. If the closure is anticipated to be more than two working days, Parks shall give SPI ten (10) working days' notice unless the closure is due to an imminent safety issue.

7. PROTECTION OF NATURAL FEATURES AND ALTERATION OF EXISTING STRUCTURES

SPI shall not cut or remove timber or vegetation, remove sand, gravel, or similar substances from the ground, commit no waste of any kind, or in any manner substantially change the contour or condition of the property, including the alterations of existing structures herein described, except with the written permission of PARKS.

8. ERECTION OF SIGNS, STRUCTURES, OR CONDUCTING BUSINESS

SPI shall not construct any structure on the premises which are the subject of this Agreement, nor erect any signs or conduct any business without the prior written consent of PARKS or its authorized agents, excepting safety signs when work is in progress.

SPI will not permit company or agent vehicles and/or equipment to transit the said fishing pier without first coordinating each period use and scope of the requirement with the Park Administration of Cape Henlopen State Park. Complete closure of the said fishing pier will not be permitted by SPI unless emergency conditions dictate this action consistent with public safety. If such a condition exists, the Park Administration shall be notified immediately.

Safety signing, barricades and acceptable lighting shall be in place during any construction and repairs to indicate in-progress or unfinished working areas. Any equipment or supplies left on the pier during construction and/or repairs must be approved by the Park Administrator and secured safely and out of the way of the public using the pier.

9. ALTERATIONS, MODIFICATIONS AND IMPROVEMENTS

No alterations or improvements which would expand the existing buildings or facilities further onto PARKS lands shall be undertaken without the express written permission, and other necessary approval of PARKS. Prior to any PARKS approval, SPI must obtain any applicable permits from authorizing agencies and provide copies of documentation to PARKS. SPI is responsible for costs of permitting.

SPI agrees to furnish PARKS six (6) copies of as-built detailed plans and currently corrected proposals to any changes within the easement or right-of-way areas whereby approval by PARKS must be obtained before construction commences.

10. RIGHT OF ENTRY

An unlimited right of entry is hereby reserved to PARKS or its authorized agents to enter upon the said premises at any time for the purpose of inspection and when otherwise deemed necessary for the protection of the interests of PARKS and SPI shall have no claim of any character on account hereof against PARKS or its authorized agents.

11. KNOWLEDGE OF ALL APPLICABLE LAWS, RULES AND REGULATIONS

SPI will keep themselves fully informed and comply with all laws, ordinances, rules and regulations in any manner affecting the operations under this agreement, and of all orders and decrees of bodies and tribunals having jurisdictions or authority over the same. No illegal activities shall be permitted SPI, their employees or agents. SPI will protect and indemnify PARKS and the State of Delaware against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree whether by SPI or its employees.

12. COMPLIANCE WITH RULES AND REGULATIONS

SPI shall comply with all laws, and with all rules and regulations presently, and in the future, adopted by PARKS relative to State Park operations, and the use and operations of the premises herein described shall be subjected to the general supervision and approval of the Park Administrator having immediate jurisdiction over the property. SPI agrees that it will not, without written consent of PARKS, use its lands or the fishing pier to do anything on, over or under said areas inconsistent with public safety and welfare or Parks Regulations. Furthermore, in performance of this Agreement, SPI shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. SPI shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

13. LIMITATION ON USE

SPI shall not use PARKS premises for other than that which they are presently being used as of the date of this Agreement and shall not perform or suffer any of their guests, invitee or subcontractor to perform any disorderly conduct or commit any nuisance on the premises or use the premises in any way so as to interfere with the exercise of PARKS or the public or any other lawful use of the above-described premises. In the event that SPI attempts to expand their use of PARKS property beyond its present use and purpose or if SPI performs or suffers any of their guests, invitee or subcontractor to perform any disorderly conduct or commit any nuisance on PARKS premises or use said premises in any way so as to interfere with the use of said premises by PARKS or the general public, then Section 20, "Termination of Agreement by Parks" would apply.

14. INDEMNIFICATION

SPI shall exercise the privileges hereunder at its own risk, and irrespective of any negligence of PARKS, SPI shall indemnify and hold harmless PARKS, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of SPI, its agents or employees, or (B) SPI's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) SPI shall have been notified promptly in writing by

PARKS of any notice of such claim; and (ii) SPI shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

15. INSURANCE

As a part of the Agreement requirements, SPI must obtain at its own cost and expense and keep in force and effect during the term of this Agreement, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to PARKS.

- a. Commercial General Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate,  
and
- b. Product Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate,  
and
- c. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to other,  
and
- d. SPI shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from SPI's operations under this contract. SPI is an independent contractor and is not an employee of the State of Delaware.

SPI must carry (a), (b), (c), and (d).

Before any work is done with PARKS, a Certificate of Insurance referencing the name and contract number stated herein, shall be filed with the State. The certificate holder is as follows:

**Division of Parks and Recreation  
Office of Business Services/Ref. SPI  
89 Kings Highway  
Dover, DE 19901**

**Note: The State of Delaware shall not be named as an additional insured.**

**Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.**

It is expressly agreed and recognized by SPI that PARKS does not, and will not, waive its sovereign immunity in any kind of legal action and furthermore, that none of the provisions of this Agreement constitute a waiver of any kind.

16. TAXES AND ENCUMBRANCES

SPI shall pay all taxes and assessments that may be imposed or levied on the property of SPI or anyone claiming under SPI on PARKS premises and shall keep said premises free and clear of any mechanics or material men's liens for labor performed or materials furnished at the instance or requests of SPI or anyone claiming under SPI or from any other encumbrances.

17. SUCCESSORS TO PARKS

Except as otherwise specifically provided any reference herein to "PARKS" or "Park Administration" shall include any duly appointed successors.

18. SUB-LETTING OR OTHER TRANSFER

SPI shall neither transfer nor assign nor encumber this Agreement or any property on the herein described premises, not sub-let the herein described premises or any part hereof or any property hereon, nor grant any interest, privilege, or license whatsoever in connection with this Agreement without the prior written permission of PARKS. Any attempt by SPI to assign or otherwise transfer any interest in this Agreement without the prior written consent of PARKS shall be void.

19. TERMINATION OF AGREEMENT BY SPI

This agreement may be terminated by SPI at any time by giving PARKS at least thirty (30) days notice thereof in writing; provided that, in case of such termination, no refund by PARKS of any fee theretofore due or paid shall be made.

20. TERMINATION OF AGREEMENT BY PARKS

Termination for Cause: If, for any reasons, or through any cause, SPI fails to fulfill in timely and proper manner its obligations under this Agreement, or if SPI violates any of the covenants, agreements, or stipulations of this Agreement, PARKS shall thereupon have the right to terminate this Agreement by giving written notice to SPI of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.

SPI may provide a written response and may identify a method(s) to resolve the violation(s) at any time before the effective date of such termination. SPI's response shall not affect or prevent the Agreement cancellation unless PARKS provides a written acceptance of SPI's response. If PARKS does accept SPI's method and/or action plan to correct the identified deficiencies, SPI will define the time by which SPI must fulfill its

corrective obligations. Final retraction of PARKS termination for cause will only occur after SPI successfully rectifies the original violation(s). At its discretion, PARKS may reject in writing SPI's proposed action plan and proceed with the original Agreement cancellation timeline.

In the event that SPI attempts to expand their use of PARKS property beyond its present use and purpose or if SPI performs or suffers any of their guests, invitee or subcontractor to perform any disorderly conduct or commit any nuisance on PARKS premises or use said premises in any way so as to interfere with the use of said premises by PARKS or the general public, then this Agreement would terminate immediately upon Notice from PARKS to SPI.

Termination for Non-Appropriations: In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

## 21. VACATING PREMISES BY SPI-- RESTORATION OF PROPERTY

On or before the date of expiration of this Agreement or its termination by SPI, SPI shall within ninety (90) days, vacate the herein described premises, remove all property belonging to SPI therefrom, and restore the premises to as good order and condition as that existing upon the date of commencement of the term of this Agreement, damages beyond control of SPI and due to fair wear and tear excepted. If, however, this Agreement is terminated by PARKS pursuant to No. 20, SPI shall vacate the premises, remove said property therefrom, and restore the premises to the condition aforesaid within such time as PARKS may designate. In either event, if SPI shall fail or neglect to remove said property and so restore the premises, then at the option of PARKS, said property shall either become the property of PARKS without compensation therefore, or PARKS may cause it to be removed and the premises to be restored at the expense of SPI, and no claim for damages against PARKS or its agents shall be created by or made on account of such removal and restoration work. At the time of such expiration or termination, any and all easements or rights of way heretofore granted by PARKS to SPI or its successors or assigns shall be deemed to be surrendered, terminated, and of no force or effect.

## 22. NOTIFICATION

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

TO PARKS:  
Division of Parks and Recreation  
Office of Business Services/Ref. SPI  
89 Kings Highway  
Dover, DE 19901

TO SPI:  
SPI Pharma, Inc.  
40 Cape Henlopen Drive  
Lewes, DE 19958  
Attn: Purchasing Mgr.

23. CONFIDENTIAL INFORMATION

To the extent permissible under 29 Del. C. § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

24. EMPLOYEES

Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during the Agreement term or during the twelve (12) months thereafter. For purposes of this Agreement, "Personnel" includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

25. INDEPENDENT CONTRACTOR

It is understood that in the performance of this Agreement, SPI shall be, and is, an independent contractor, and is not an agent or employee of PARKS. SPI shall be solely responsible for, and shall indemnify, defend and save PARKS harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

SPI acknowledges that SPI and any subcontractors, agents or employees employed by SPI shall not, under any circumstances, be considered employees of PARKS, and that they shall not be entitled to any of the benefits or rights afforded employees of PARKS, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. PARKS will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of PARKS or any of its officers, employees or other agents.

SPI shall be responsible for providing liability insurance for its personnel.

As an independent contractor, SPI has no authority to bind or commit PARKS. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

26. ADDITIONAL TERMS

SPI will insure and maintain a minimum of four feet of soil coverage on top of any and all pipelines and utility service lines placed within the easement right-of-way on land for the period and term of this Agreement, except those areas being determined as subaqueous areas.

SPI shall be responsible for the relocation of the easement right-of-way, pipeline, appurtenances and utilities after the expiration of the term of this Agreement or its termination, if such action is required to fulfill the needs for any developments planned by the Cape Henlopen State Park Master Plan or is otherwise in the best interest of the State of Delaware.

This Agreement does not negate SPI's responsibility to meet all DNREC regulations, programming and permitting requirements. Denial of any requirements by other DNREC regulatory agencies does not constitute a breach of contract.

27. TIME IS OF THE ESSENCE

The parties agree that time is of the essence as to all provisions hereof.

28. WRITTEN AGREEMENT AS ENTIRE UNDERSTANDING OF THE PARTIES

The making, execution and delivery of this agreement by SPI has been induced by no representation, statements, warranties or agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This agreement may be amended or modified only in writing by instrument of equal formality signed by the respective parties.

29. SEVERABILITY

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

30. FORCE MAJEURE

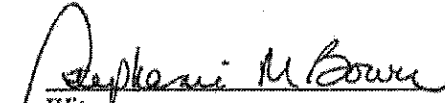
Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

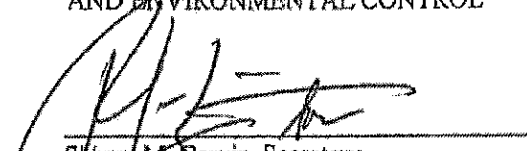
31. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Delaware.

SIGNATURE PAGE TO FOLLOW

DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

  
\_\_\_\_\_  
Stephanie M. Bower  
Witness

  
\_\_\_\_\_  
Shawn M. Garvin, Secretary

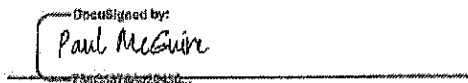
DIVISION OF PARKS & RECREATION

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Raymond E. Bivens, Director

SPI PHARMA, INC.

  
\_\_\_\_\_  
Michael O'Sonnell  
Witness

Designated by:  
  
\_\_\_\_\_  
Paul McGuire  
Signature

Paul McGuire  
\_\_\_\_\_  
Name (Print)

CFO  
\_\_\_\_\_  
Title (Print)

03-Apr-2017 | 13:09 EST

## **Structure profile view document**



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

**PLANNING,  
PRESERVATION AND  
DEVELOPMENT**

PHONE  
(302) 739-9220

October 8, 2025

Ms. Suzanne Savery  
State Historic Preservation Officer  
Division of Historical and Cultural Affairs  
29 N. State St.  
Dover, DE 19901

**Cape Henlopen Fishing Pier Conduit Replacement, Cape Henlopen State Park**

Dear Ms. Savery,

I am writing to inform you that the Delaware Department of Natural Resources and Environmental Control, Division of Parks and Recreation (DNREC, Parks), on behalf of SPI Pharma, Inc., is proposing to conduct an undertaking subject to compliance with Section 106 of the National Historic Preservation Act, and its implementing regulations, 36 CFR Part 800. This letter serves to initiate consultation with the Delaware State Historic Preservation Office (SHPO) on this matter (800.3(c)). The project will require a United State Army Corps of Engineers permit.

This proposed undertaking consists of the replacement of electrical conduit and conductors that run from SPI Pharma's Electrical MCC (in the shoreline dune) to the end of the Fishing Pier, historically referred to as the mine wharf and boathouse, at Cape Henlopen State Park. The conduit runs underground in the dune area and underneath the decking of the Fishing Pier. The MCC is approximately 150 ft. north of the Fishing Pier on a concrete pad that it shares with two of the Park's electrical transformers. The Overflow Parking Lot adjacent to the Fishing Pier will be used as a staging area for the lengths of conduit and other materials. A DNREC Joint Permit Processing (JPP) meeting was held on 9/18 with consulting parties to review the project.

It is the responsibility of the US Army Corps of Engineers to consult with the federally recognized tribes (Delaware Nation and Delaware Tribe of Indians) regarding this project. We are not aware of other individuals and/or organizations that have a demonstrated interest in the undertaking due to their legal or economic relation to the undertaking or affected properties.

Based on the nature and extent of the undertaking, we define the Area of Potential Effect (APE) as the limits of construction as outlined in the attached documents. Per the National Register of Historic Places Fort Miles Historic District registration and background research conducted by the Division of Parks and Recreation, the historic mine wharf and boathouse were destroyed by a fire, with the current fishing pier rebuilt in 1979 at the original location. Therefore, the fishing pier is not eligible for the National Register of Historic Places.

As a result, the DNREC, Division of Parks and Recreation Cultural Resources Unit **finds there to be no adverse effect to above ground resources from the proposed undertaking.** Should changes be made to the scope of work that would expand the limits of disturbance for the project, updates will be provided to the Delaware SHPO.

Please review the information we have provided on this undertaking and contact us should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Taylor Reynolds".

Taylor Reynolds  
Chief of Cultural Resources  
Delaware State Parks

Attn: DNREC JPP Meeting Request  
Form, Electrical Conduit  
Replacement Project Overview  
Photos



DELAWARE DEPARTMENT OF  
**NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**

## Joint Permit Processing (JPP) Meeting Request Form

**Contact Name:** Brian Marinaro

**Telephone No.:** 302-360-7273

**Mailing Address:** SPI Pharma, Inc.  
40 Cape Henlopen Drive, Lewes, DE 19958

**Email:** bmarinaro@spipharma.com

**Project Site Address:** Cape Henlopen State Park  
15099 Cape Henlopen Drive, Lewes, DE 19958

**Tax Parcel No.:** 335-5.00-9.00

Attach Vicinity Map.

### Is the JPP meeting intended as a pre-filing meeting for Water Quality Certification?

As the Certifying Authority, the request for water quality certification must be in accordance with the DNREC, Wetlands and Waterways' applicable submission procedures.

Yes

No

---

**Are you requesting agency representatives at the meeting that are not currently on the JPP committee? If known, provide the names and emails of those agency representatives.**

Madden, Jayce E (DNREC) <Jayce.Madden@delaware.gov>

Melville, Grant (DNREC) <Grant.Melville@delaware.gov>

Cahall, Brooks P. (DNREC) <Brooks.Cahall@delaware.gov>

Seneus, Julio (DNREC) <Julio.Seneus@delaware.gov>

Any other relevant persons that have some jurisdiction at the Cape Henlopen State Park

**Include a brief description of the proposed project and purpose. Attach preliminary project plans and/or materials to be presented. Note, supplemental information provided in advance allows for the responsible agencies to review the proposal to provide detailed guidance.**

The project involves replacing electrical conduit and conductors that run from SPI Pharma's Electrical MCC (in the shoreline dune) to the end of the Fishing Pier at the Cape Henlopen State Park. The conduit runs underground in the dune area and underneath the decking of the Fishing Pier. The MCC is approximately 150 ft. north of the Fishing Pier on a concrete pad that it shares with two of the Park's electrical transformers. See attached photos for a pictorial representation of the area. We request the use of the Overflow Parking Lot as a staging area for the lengths of conduit and other materials (or another suggested nearby location).

Scope:

1. Directionally bore underground two 4" PVC conduits from the MCC to the closest point beneath the pier.
2. Run two 4" conduits beneath pier and within approximately 50 ft. of the end of the pier
3. Pull electrical conductors through the conduit along their entire length
4. Provide new electrical service to SPI Pharma's existing pumps that are underneath the pier.
5. Demolish the existing two runs of 2" electrical conduit beneath the pier.
6. Abandon the existing underground 2" conduits from the MCC to the pier in order to minimize the disturbance of the dune environment.
7. Replant dune grass (per DNREC approval) on any disturbed areas

Project Duration:

4-8 weeks, depending upon weather

**What is the anticipated timeline for construction and operation?**

Depending upon permit requirements, we would like to complete the project in 3-9 months.

---

**1. Is this pre-application meeting associated with a marina? If no, complete the form with your signature.**

Yes

No

**2. Are you proposing?**

The construction of a new marina

An activity associated with an existing marina

**3. If you selected an activity associated with an existing marina, the appropriate permitting path is determined by the history of the marina. If known, describe a brief synopsis of the history of the marina and list previous authorization nos. associated with the marina.**

N/A

**4. Has a market study been completed for the proposed marina project?**

Yes, attach the market study report.

No, briefly describe the intended marina market anticipated to use the facility.

N/A

**5. Provide evidence of consistency with local zoning approval for the proposed marina project.**

**6. Marina Type:** (check all that apply)

Commercial

Head boat / Charters

Mooring Field

Private Recreational

Port

Public or Commercial Boat Ramp only

Public Government Owned Marina

Residential Community

Research / Emergency Operations

Vessel Repair / Maintenance Yard only

Water Sports Club

Other \_\_\_\_\_

**7. Marina Services and Amenities:** (check all that apply)

- Boat Ramp
- Charters
- Concession / Restaurant
- Convenience Dock (crabbing/fishing/kayak launching)
- Dry Stack / Winter Storage
- Fueling Station
- Mooring Field
- Pumpout Facility / Dump Station
- Sale of Supplies (Bait/ Tackle)
- Transient Mooring
- Travel Lift
- Vessel Rentals
- Vessel Repair / Maintenance
- Water Taxi
- Other\_\_\_\_\_
- Other\_\_\_\_\_

**8. Indicate the number of slips.**

**Wet Slips:**

Existing \_\_\_\_\_  
Proposed/Additional \_\_\_\_\_

**Dry Stack Storage Slips:**

Existing \_\_\_\_\_  
Proposed/Additional \_\_\_\_\_

**9. What is the approximate mean low water depth within the mooring areas of the marina?**

At the time of application submittal, a bathymetric survey by a signed and sealed professional engineer or land surveyor is required.

Existing depth \_\_\_\_\_ MLW

**10. Will the proposed project include dredging?**

- No Dredging Proposed       Maintenance Dredging       New Dredging

Proposed depth \_\_\_\_\_ MLW

Controlling water depth in the adjacent waterbody \_\_\_\_\_ MLW

**11. Will the proposed project require the use of any State-regulated wetlands?**

Yes  No

If yes, describe how the wetlands will be impacted.

**12. Shellfish Resources: Is the proposed marina located in the tidal waters of Delaware Bay, Indian River Bay, Rehoboth Bay, Little Assawoman Bay or Assawoman Bay?**

Tidal marine waters are classified as Approved, Conditionally/Seasonally Approved, or Prohibited for shellfish harvest. Please familiarize yourself with the shellfish growing area classifications on the interactive DNREC Delaware Bivalve Shellfish Harvest Map. <https://bit.ly/DelawareBivalveShellfishHarvest> The proposed marina address can be typed into the search bar to assess its proximity to shellfish growing areas. Complications can occur if the proposed marina is too close to an Approved or Conditionally/Seasonally Approved shellfish growing area. Note that all tidal marine waters are considered classified. Please contact the Shellfish Program at (302) 739-9939 with any questions about shellfish growing area classification.

Yes  No

If yes, how is the area currently classified?

Prohibited  Prohibited / SAV Bed  
 Approved  Seasonally Approved

**13. Critical Habitats: Is the marina located within or adjacent to an area classified as a critical habitat?**

Critical habitat areas are those that are included in the Natural Areas Inventory, or that provide habitat for species included in the State Endangered Species Act, a State Natural Heritage Site, or a Delaware National Estuarine Research Reserve. To obtain feedback on these areas, request an environmental review by the DNREC Species Conservation and Research Program.

<https://dnrec.delaware.gov/fish-wildlife/conservation/reviews/>

Yes  No

**14. Are you interested in information regarding pre-approved blanket activities within a marina?**

If yes, you will receive an email with instructions on how specified blanket activities are pre-approved for expedited permitting for in-slip structure.

Yes  No

Signature: Brian R Marinaro

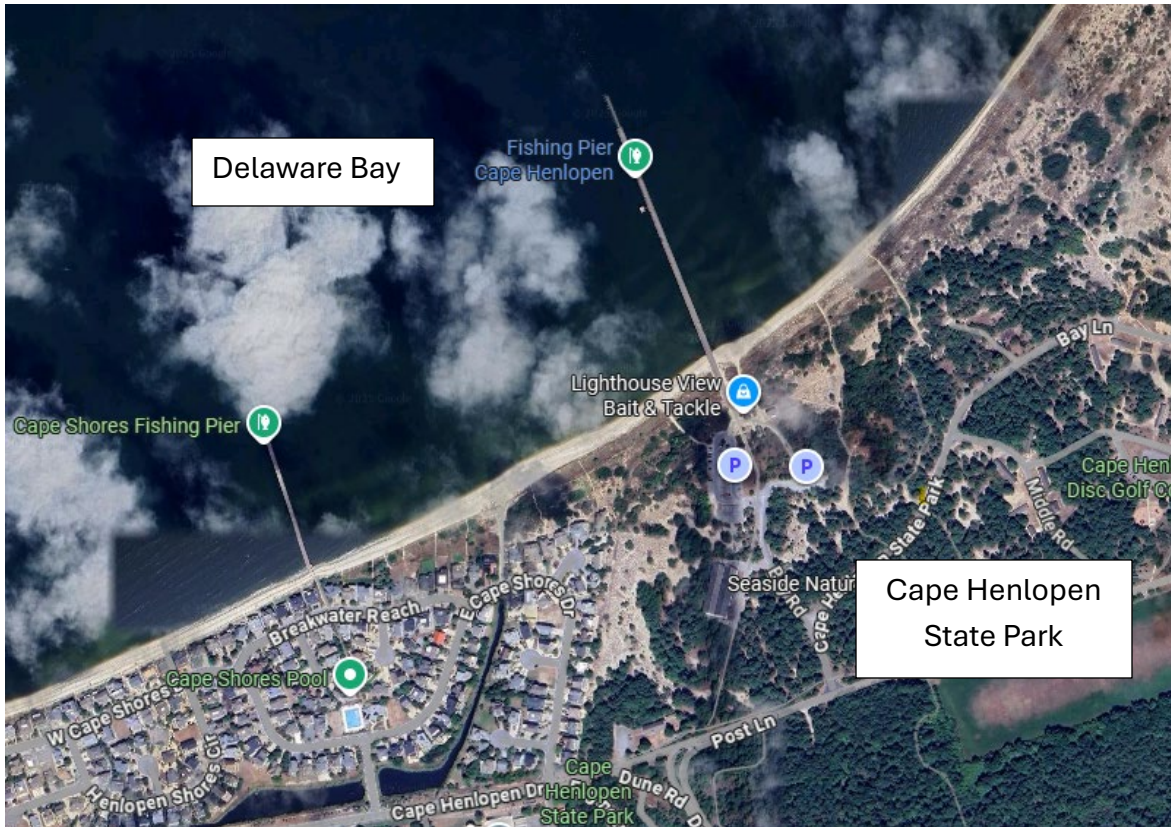
Date of Submission: September 9, 2025

Requested Meeting Date: September 18, 2025

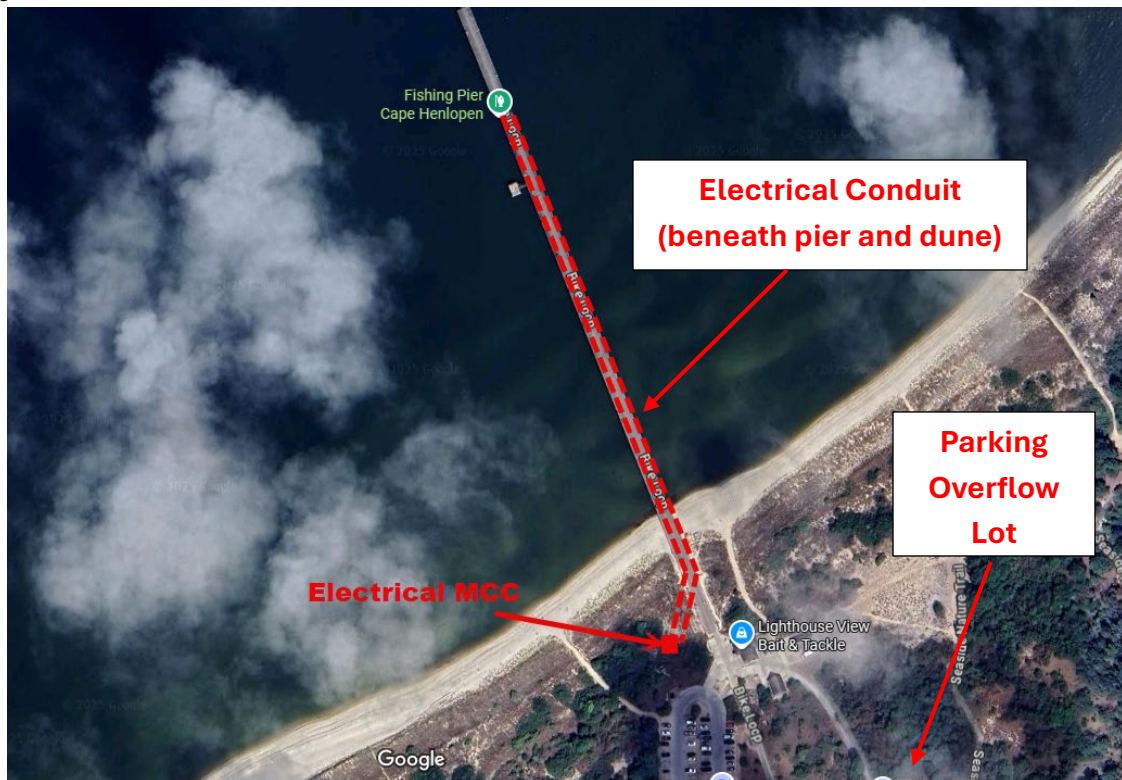
(Please note, JPP meetings are scheduled every third Thursday of the month.)

# Electrical Conduit Replacement – Cape Henlopen State Park

## 1. Vacinity Map



## 2. Project Location



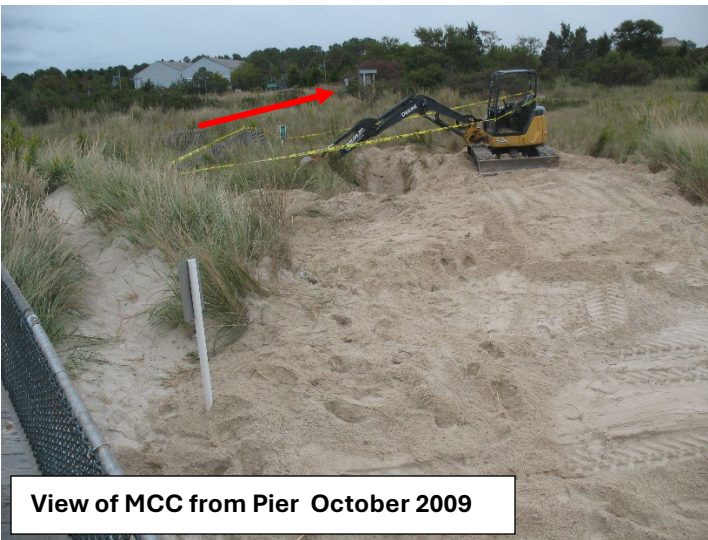
### 3. Current Installation (constructed in 2009)



View of MCC to Pier October 2009



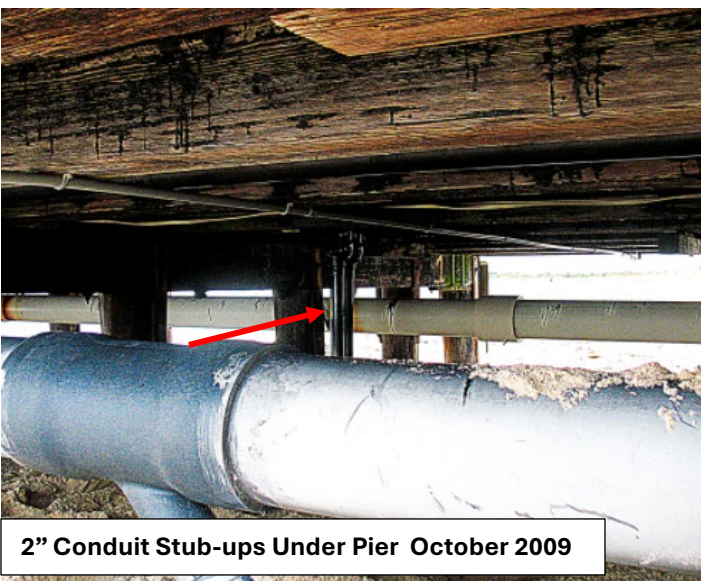
View of MCC to Pier September 2025



View of MCC from Pier October 2009



View of MCC from Pier September 2025



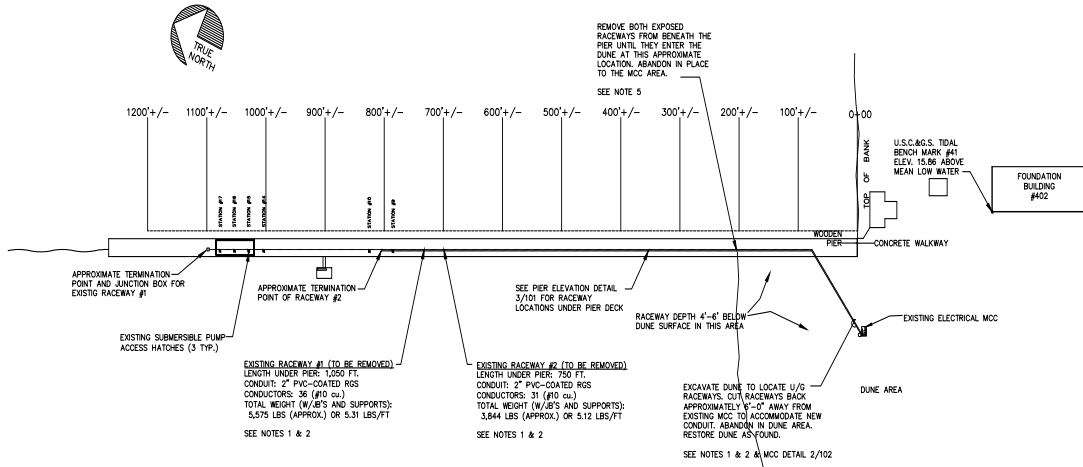
2" Conduit Stub-ups Under Pier October 2009



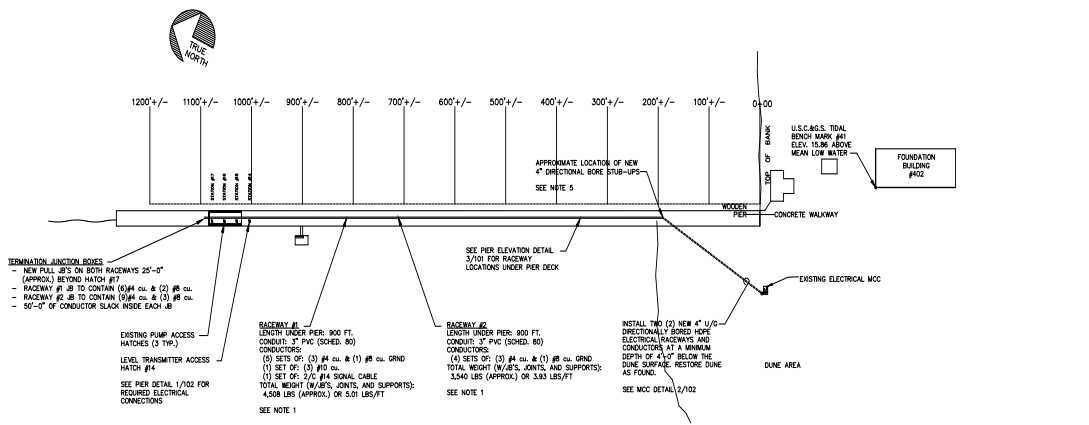
Conduit Under Pier September 2025

GENERAL DRAWING NOTES:

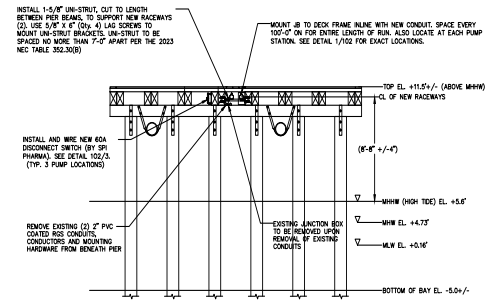
- COORDINATE WITH SPI PHARMA FOR REMOVAL OF THE EXISTING RACEWAYS AND INSTALLATION OF THE NEW RACEWAYS IN ORDER TO MINIMIZE DOWNTIME OF THE EXISTING PUMPS DURING CONSTRUCTION.
- REMOVE ALL FASTENERS, MOUNTING HARDWARE, AND CONDUCTORS WHEN REMOVING EXISTING RACEWAYS.
- ALL MOUNTING HARDWARE AND FASTENERS FOR NEW RACEWAYS, JB'S, AND OTHER NEW EQUIPMENT WILL BE T316SS
- REFER TO DWG. 1500 61 100 FOR DETAILED MATERIAL SPECIFICATIONS.
- CONTRACTOR WILL PROVIDE GEOGRAPHIC LOCATION POINTS FOR NEW HOPE RACEWAY STUB-UPS UNDER THE PIER, THE EXISTING ABANDONED CONDUIT STUB-UPS UNDER THE PIER AND THE ELECTRICAL MCC.



1 ELECTRICAL DEMOLITION - PLAN VIEW  
SCALE: NOT TO SCALE



2 ELECTRICAL NEW INSTALLATION - PLAN VIEW  
SCALE: NOT TO SCALE



3 PIER ELEVATION DETAIL  
SCALE: 1/4\"/>

NO.	DATE	BY	APP.	PROJECT	REVISION	NO.	DATE	BY	APP.	PROJECT	REVISION	REFERENCE DRAWINGS	REFERENCE DRAWINGS	PROPRIETARY STATEMENT	SCALE	AS NOTED	APP.	ORIGINAL	ISSUE	APPROVALS	TITLE	
A	10/19/24	GR			FOR REVIEW									THIS DESIGN IS THE PROPERTY OF SPI. THE INFORMATION AND KNOWLEDGE HEREON MAY NOT BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF SPI. REPRODUCTION IN WHOLE OR IN PART, INCLUDING VENDOR'S SHOP DRAWINGS, SHALL VIOLATE THIS NOTICE.		12/12/25	APP.	J.C.H. PRINER	APP.		 SPI Pharma, Inc. 40 Cape Henlopen Drive, Lewes, DE 19958	SPI PHARMA INC. - LEWES SITE SEAWATER SUPPLY PUMP ELECTRICAL DEMOLITION & INSTALLATION PLANS
													STANDARDS AND SPECIFICATIONS	BY	ET	APP.	APP.	APP.	APP.	APP.		



## **Adjacent property owners document**

Cape Henlopen State Park grounds. This is taken place on the grounds of the State Park at the fishing pier.