

**10951. RESOLUTION 15-13 – DECLARATION OF RESTRICTION TO CREATE
A CONSERVATION AREA**

WHEREAS, the Delaware River and Bay Authority (the “Authority”) is the fee simple owner of certain tracts of land located in the City of North Cape May, County of Cape May, New Jersey, designated as Lots 1.04 and 1.06, Block 740, on the official Tax Map of the City of North Cape May and

WHEREAS, the United States Department of the Army, Corps of Engineers, Philadelphia District (hereinafter “USACOE”), has required the Authority to enter into a Declaration of Restrictions as a condition of Department of the Army Permit Number CENAP-OP-R-2007-704-45; and

WHEREAS, said Property contains existing waters and wetlands worthy of conservation protection, referred to as the “Conservation Area” and

WHEREAS, the Authority intends that the Conservation Area of the Property shall be preserved and maintained in its natural condition in perpetuity; and

WHEREAS, the Authority expressly agrees that the following activities shall not be permitted on the Conservation Area of the Property:

- A) No signs, billboards or outdoor advertising structures shall be placed or maintained on the Conservation Area; except for a reasonable number of signs for resource protection safety, boundary identification, and identification of the owner.
- B) No improvements, including, but not limited to, buildings, asphalt or concrete pavement, communication towers or antennas, utility lines or conduit, or any other temporary or permanent structure or facility shall be constructed, placed, repaired, reconstructed, or maintained on, under or above the Conservation Area.
- C) No storage, dumping, depositing, abandoning, discharging or releasing of any gaseous, liquid, solid or hazardous waste substance, materials or debris of whatever nature on, in, over or under the ground or into surface or ground water shall occur.
- D) No loam, peat, gravel, soil, rock, sand or dredged and/or fill materials shall be placed, moved, or discharged within the Conservation Area, nor shall there be made any changes in the topography of the land.
- E) There shall be no land clearing, redirection of surface water or groundwater, ditching, extraction, drilling, driving of piles, mining,

excavation or removal of loam, peat, gravel, soil, rock, sand, mineral or similar material, nor any change in the topography of the land.

- F) There shall be no alteration, removal or destruction of plants, trees, shrubs, wildflowers or other vegetation living or dead, or animal species except for control of diseases, pests, non-native species, and noxious weeds. Vegetation within the Conservation Area shall be allowed to grow and regrow to maturity and to remain in such state in perpetuity.
- G) Intentional introduction of non-native, non-indigenous plant and animal species is prohibited.
- H) There shall be no collecting of plant material, animal, minerals, or artifacts, except for scientific and nature study and in accordance with applicable State and Federal laws.
- I) There shall be no use of pesticides, herbicides, insecticides or other chemicals, except as may be necessary to control invasive species that threaten the natural character of the Conservation Area.
- J) No other acts, uses or discharges shall be allowed which adversely affect fish or wildlife habitat or the preservation of land, wetlands, or water areas within the Conservation Area.

NOW, THEREFORE, BE IT RESOLVED, that the Declaration of Restrictions shall be executed by the Chairperson, Vice Chairperson, and the Executive Director and filed with the Office of the Recorder of Deeds in Cape May County, New Jersey.

A motion to approve Resolution 15-13 was made by Commissioner Wilson and seconded by Commissioner Murphy. Resolution 15-13 was approved by a roll call vote of 10-0.

Resolution 15-13 Executive Summary Sheet

Resolution: **DECLARATION OF RESTRICTION TO CREATE A CONSERVATION AREA**

Committee: Projects

Committee Date: April 21, 2015

Board Date: April 2015

Purpose and Background for Resolution:

The Authority applied for an After the Fact permit from the Army Corps of Engineers (ACOE) to authorize and legalize existing structures, work, discharge and fill associated with the construction of Slips 5 and 6 and Bank Stabilization. The After the Fact permit consists of remediation and on-site mitigation. In order to grant the permit, the ACOE requires that the mitigation work be protected in a deed-restricted Conservation Area.