

**Environmental Review for
Activity/Project that is Categorically Excluded Subject to Section 58.5
Pursuant to 24 CFR 58.35(a)**

Responsible Entity: New Jersey Department of Community Affairs, Richard Constable III, Commissioner

Applicant Name: _____ (First) _____ (Last)
C-Lyn, LLC. (Business/Corporate Name)

Project Location: 226 Q Avenue (Street Address)
West Wildwood Borough (Municipality) Cape May (County) NJ (State) 08260
100.03 (Block) 3.022 (Lot)

FINDING:

- This categorically excluded activity/project converts to **EXEMPT** per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license; **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR
- This categorically excluded activity/project cannot convert to Exempt status because one or more statutes or authorities listed at Section 58.5 requires formal consultation or mitigation. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain "Authority to Use Grant Funds"** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR
- This project is not categorically excluded OR, if originally categorically excluded, is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

CERTIFICATIONS:

<u>Laura Sliker, LBG</u> Preparer Name and Agency	 Preparer Signature	<u>6/26/2014</u> Preparer Completion Date
_____ RE Certifying Officer Name	_____ RE Certifying Officer Signature	_____ RE CO Signature Date

Funding Information:

Grant Number	HUD Program	Funding Amount
B-13-DS-34-0001	SBL	\$314,180

Estimated Total HUD Funded Amount: \$314,180

Estimated Total Project Cost [24 CFR 58.32(d)]: (HUD and non-HUD funds): \$1,003,228

Statement of Purpose and Need for the Proposal [40 CFR 1508.9(b)]:

The purpose of this project is to construct new equipment and make necessary repairs in order to maintain the operation of this public access marina.

Description of the Proposed Project [24 CFR 50.12 & 58.32, 40 CFR 1508.25]:

The marina consists of forty-two (42) floating docks with 6’ x 20’ mains and 3’ x 20’ piers. In addition, there are twenty (20) Jet Ski ramps.

Rehabilitation will include removal of all floatation that is in need of replacement and/or repairs. Restoration included in the construction is damaged and broken pilings and ramps, and repairs to the bulkhead due to erosion. A retaining wall in the parking lot collapsed, dock mains and finger piers were completely dismantled from their moorings, and other physical damages will all be repaired or replaced. Trash, debris and other damaged docks will be removed from site as well as general cleanup of the waterway around the marina. The parking area is in need of grading, weed matting and stoning with the addition of concrete vehicle stops.

STATUTORY CHECKLIST [24 CFR 50.4, 24 CFR 58.5]

DIRECTIONS – For each authority, check either Box “A” or “B” under “Status.”

“A box” The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to WHY the authority is not implicated, or HOW compliance is met; OR

“B box” The project requires an additional compliance step or action, including, but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

IMPORTANT: Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order, Regulation, or Policy cited at 24 CFR §50.4 & 58.5	STATUS		Compliance Documentation
	A	B	
<p>1. Air Quality [Clean Air Act, as amended, particularly sections 176(c) & (d), and 40 CFR 6, 51, 93]</p>	A		<p>The proposed project is located in Cape May County with the following air quality status: Nonattainment for ozone (1997 and 2008), Maintenance for CO, and Maintenance for PM2.5 (1997 and 2006 standards).</p> <p>See <i>SBL38840_AirQualityMap.pdf</i> Source: http://www.epa.gov/airquality/greenbk/</p> <p>The NJDEP Division of Air Quality has issued a Memorandum stating that the activities under the CDBG-DR Program are below the Federal General Conformity regulation’s de minimis thresholds and are presumed to conform to the SIP. See <i>SBL38840_AirQualityGenConfMemo_SBL_TO1012.pdf</i>.</p>
<p>2. Airport Hazards (Clear Zones and Accident Potential Zones) [24 CFR 51D]</p>	A		<p>The proposed project is not located within 15,000 feet of a military airport or 2,500 feet of a civilian airport. The following distances apply from the project site:</p> <p>Atlantic City International Airport is approximately 33.43 miles from the site; Lakehurst Naval Air Station is approximately 73 miles; and Newark Liberty International Airport is approximately 120 miles from the project site.</p> <p>See <i>SBL38840_AirportHazardsMap.pdf</i> Source: NJDEP HUD Environmental Review GIS Tool 2.1</p>

<p>3. Coastal Zone Management [Coastal Zone Management Act sections 307(c) & (d)]</p>		<p>The proposed project is located within the boundaries of the NJ Coastal Area Facility Review Act (CAFRA) Zone and within 150 feet of the mean high water line. The site is not within the boundaries of the Upland Waterfront Development Zone, or the Hackensack Meadowlands, as defined by the State's Coastal Zone Management Program.</p> <p>B Per the Coastal Jurisdictional Determination issued by the NJDEP Division of Land Use Regulation (see <i>SBL38840_CoastalJD_SBL_TO1012.pdf</i>), the proposed project will require Waterfront Development Permits as the existing waterfront structures were not constructed in compliance with permits on record. Copies of the existing Waterfront Development Permit and the Coastal Permit Modifications that are on record are included with the Jurisdictional Determination.</p> <p>See <i>SBL38840_CoastalZoneManagementActMapCAFRA.pdf</i> Source: NJDEP HUD Environmental Review GIS Tool 2.1</p>
<p>4. Contamination and Toxic Substances [24 CFR 50.3(i) & 58.5(i)(2)]</p>	<p>A</p>	<p>Upon desktop review, the parcel was not found to be within the 3,000 ft. radius of hazardous sites of concern.</p> <p>The parcel may be within the 3,000 foot radius of additional Hazardous Waste cleanup sites, Landfills, solid waste cleanup sites or Hazardous Waste facilities that handle hazardous materials or toxic substances, however, all sites that were determined by NJDEP to be “non-threatening” to the potential HUD project are not depicted on the map.</p> <p>See <i>SBL38840_ToxicHazardousRadioactiveSubstancesMap.pdf</i> Source: NJDEP HUD Environmental Review GIS Tool 2.1</p> <p><u>Radon:</u> The property is in a municipality designated as a Tier 3 municipality for radon potential. No further action required, provided the applicant complies with DCA construction codes.</p> <p>See <i>SBL38840_RadonTier_SBL_TO1012.pdf</i>. Source: http://www.nj.gov/dep/rpp/radon/ctytiera.htm#01</p> <p><u>Lead and Asbestos:</u> HUD lead-based paint poisoning prevention rules do not apply as the proposed activity includes rehabilitation of non-residential property per 24 CFR 35.115(a)(7). OSHA regulations presume that surfacing materials used in buildings constructed prior to 1980 contain potential asbestos-containing materials (ACMs). As no rehabilitation of buildings is proposed as part of this project, no further action is required.</p>

<p>5. Endangered Species [Endangered Species Act of 1973, particularly section 7; 50 CFR 402]</p>	<p>A</p>	<p><u>No Effect determination</u> According to the NJDEP HUD Environmental Review GIS Tool 2.1, the entirety of the proposed project site was identified as potential habitat for the Northern Long-Eared Bat, see <i>SBL38840_EndangeredSpeciesMap.pdf</i>. Following their review of the project site, the NJDEP Endangered and Nongame Species Program has made the determination that the proposed project will not affect Northern Long-Eared Bat, see <i>SBL38840_ENSPDetermination_SBL_TO1012.pdf</i>. Further review of the proposed project and its potential effect on the common tern nesting colony in the vicinity of the project site indicated that no impacts from the proposed project to the colony are expected. See <i>SBL38840_ENSPCommonTern_SBL_TO1012.pdf</i> and <i>SBL38840_ENSPApplicantCorrespondence_SBL_TO1012.pdf</i>.</p> <p>In addition, several species habitats were shown to be present on the site on the Landscape Project Map. See <i>SBL38840_LandscapeProjectMap.pdf</i>. A Natural Heritage Database (NHD) search identified species based patches on the project site and within one mile of the site. See response letter from Natural Heritage Program, <i>SBL38840_NHDResponse_SBL_TO1012.pdf</i>.</p> <p>As this site requires waterfront development permits, per ENSP, a review and final determination regarding the endangered and threatened animal species identified in the Natural Heritage Database search and the Landscape Project search is addressed in accordance with the Division of Land Use Regulation review process.</p>									
<p>6. Environmental Justice [Executive Order 12898]</p>	<p>A</p>	<p>The proposed project is located in an area where there is a higher percentage of those living below the poverty level when compared to the County. However, the proposed project involves the repair of a local business and does not create adverse environmental impacts.</p> <table border="1" data-bbox="760 1434 1523 1654"> <thead> <tr> <th>Geography</th> <th>Percent Minority (by blockgroup)</th> <th>Percent Below Poverty (by tract)</th> </tr> </thead> <tbody> <tr> <td>226 Q Ave, West Wildwood, NJ</td> <td>1.913%</td> <td>29.322%</td> </tr> <tr> <td>Cape May County, NJ</td> <td>12.527%</td> <td>9.172%</td> </tr> </tbody> </table> <p>See <i>SBL38840_EJChecklist_SBL_TO1012.pdf</i> and associated documentation. Source: EPA EJView, Demographics (ACS) 2010</p>	Geography	Percent Minority (by blockgroup)	Percent Below Poverty (by tract)	226 Q Ave, West Wildwood, NJ	1.913%	29.322%	Cape May County, NJ	12.527%	9.172%
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<p>7. Explosive and Flammable Operations [24 CFR 51C]</p>	<p>A</p>	<p>The project does not include any of the following activities: development, construction, rehabilitation that will increase residential densities, or conversion. No further analysis is required. https://www.onecpd.info/environmental-review/explosive-and-flammable-facilities</p>
<p>8. Farmland Protection [Farmland Protection Policy Act of 1981, particularly sections 1504(b) & 1541; 7 CFR 658]</p>	<p>A</p>	<p>The property for the proposed project is not located upon farmland of statewide importance or prime farmland. See <i>SBL38840_FarmlandProtectionMap.pdf</i> Source: NJDEP HUD Environmental Review GIS Tool 2.1</p>
<p>9. Floodplain Management [24 CFR 55; Executive Order 11988, particularly section 2(a)]</p>	<p>A</p>	<p>The proposed project is located in the Special Flood Hazard Area (100-year floodplain Zone AE10) but not within a floodway (see <i>SBL38840_FloodplainMgmtFloodInsuranceMap.pdf</i>) Source: NJDEP HUD Environmental Review GIS Tool 2.1 As confirmed by the Division of Land Use Regulation, this project does not require a Flood Hazard Area Permit. See <i>SBL38840_DLURFloodplainDetermination_SBL_TO1012.pdf</i>. The proposed project was evaluated using the 8 decision-making steps detailed in 24 CFR 55.2(b). A “Notice for Early Public Review of a Proposed Activity in a 100-Year Floodplain” was published in Spanish in Reporte Hispano on April 10, 2014 and in English in The Press of Atlantic City on April 11, 2014. The notices had a comment period of 15 days. Two comments concerning the program were received in response to the early notice; however, these comments were program-related. No practicable alternatives were identified. The 8-step analysis, public notifications, and the associated documentation are included as <i>SBL38840_Floodplain8Step_SBL_TO1012.pdf</i>.</p>
<p>10. Historic Preservation [National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR 800]</p>	<p>A</p>	<p>The project is not located within the Historic Property Exemption Zone; further review determined that the proposed project is not 48 years of age, not located within or near a National Register of Historic Places, is not a building per the FEMA definition, and is located on a barrier island. A Form 1 (No Historic Properties Affected) was prepared and the NJ State Historic Preservation Office (SHPO) has concurred that there are no historic properties affected within the proposed project’s area of potential effects. See <i>SBL38840_HistoricPreservationExemptionZoneMap.pdf</i> and signed Form 1, <i>SBL38840_SHPO_SBL_TO1012.pdf</i> Source: NJDEP HUD Environmental Review GIS Tool 2.1</p>

<p>11. Noise Abatement and Control [Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR 51B]</p>	<p>A</p>	<p>The project is commercial in nature and is not considered noise sensitive. No further analysis is necessary.</p> <p>Source: HUD Noise Guidebook https://www.onecpd.info/onecpd/assets/File/Noise-Guidebook-Chapter-1.pdf</p>
<p>12. Sole Source Aquifers [Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR 149]</p>	<p>A</p>	<p>The project does not involve any activities beyond rehabilitation of existing structures. The SSA authority only applies to new construction and conversion activities. No further analysis is required.</p> <p>Source: https://www.onecpd.info/environmental-review/sole-source-aquifers</p>
<p>13. Wetlands Protection [24 CFR 55, Executive Order 11990, particularly sections 2 & 5]</p>	<p>A</p>	<p>The proposed project location is not located on or in proximity to freshwater or coastal wetlands.</p> <p>See <i>SBL38840_WetlandsProtectionMap.pdf</i> Source: NJDEP HUD Environmental Review GIS Tool 2.1</p>
<p>14. Wild and Scenic Rivers [Wild and Scenic Rivers Act of 1968, particularly section 7(b) & (c); 36 CFR 297]</p>	<p>A</p>	<p>The proposed project is not located within one mile of a listed wild and scenic river.</p> <p>See <i>SBL38840_WildScenicRiversMap.pdf</i> Source: NJDEP HUD Environmental Review GIS Tool 2.1</p>

24 CFR 58.6 CHECKLIST [24 CFR 50.4, 24 CFR 58.6]

1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3), D]

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

No. Cite or attach Source Documentation: NJDEP HUD Environmental Review Tool 2.1
See SBL38840 AirportHazardsMap.pdf

[Project complies with 24 CFR 51.303(a)(3).]

Yes. Notice must be provided to the buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in the ERR.

2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 USC 3501)] Is the project located in a coastal barrier resource area?

No. Cite or attach Source Documentation: NJDEP HUD Environmental Review Tool 2.1
See SBL38840 CoastalBarrierResourcesActMap.pdf

[Proceed with project.]

Yes. Federal assistance may not be used in such an area.

3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 (42 USC 4001-4128 and 42 USC 5154a)]

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

No. Cite or attach Source Documentation: _____

[Proceed with project.]

Yes. Cite or attach Source Documentation: NJDEP HUD Environmental Review Tool 2.1
See SBL38840 FloodplainMgmtFloodInsuranceMap.pdf

Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

Yes. Flood Insurance under the National Flood Insurance Program must be obtained. If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

No. Federal assistance may not be used in the Special Flood Hazard Area.

Summary of Findings and Conclusions

Field Inspection (Date and completed by): Mark Freed on 6/3/2014. No potential recognized environmental conditions (RECs) were observed during site reconnaissance.

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]:

NJ State Historic Preservation Office

Robert J. Cartica, Office of Natural Lands Management, Natural Heritage Program, NJDEP

Patrick Woerner, Division of Fish and Wildlife, Endangered and Nongame Species Program, NJDEP

Christina Davis, Division of Fish and Wildlife, Endangered and Nongame Species Program, NJDEP

Ryan Anderson, Division of Land Use Regulation, NJDEP

Colleen Keller, Division of Land Use Regulation, NJDEP

Jessica Cobb, Division of Land Use Regulation, NJDEP

Summary Statement of Findings and Conclusions:

It is the finding of this environmental review that the federal action of releasing funding to aid this project will not have a significant impact on the quality of the human environment. This project required compliance with Executive Order 11988 on Floodplain Management. Analysis of the project followed the eight-step process in 24 CFR 55.2(b). Upon completion of this environmental review, the proposed project is found to be in compliance with the Federal laws and authorities listed at 24 CFR 58.35.

Required Mitigation and Project Modification Measures: [24 CFR 58.40(d), 40 CFR 1505.2(c), 40 CFR 1508.20]

The proposed project will require Waterfront Development Permits as the existing waterfront structures were not constructed in compliance with permits on record, per the Coastal Jurisdictional Determination issued by the NJDEP Division of Land Use Regulation. See *SBL38840_CoastalJD_SBL_TO1012.pdf* for more details.

In accordance with the Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 (42 USC 4001-4128 and 42 USC 5154a), flood insurance must be maintained on insurable structures on the proposed project site for the life of the project.