

From: Pongratz, Jennifer L. (DNREC) Jennifer.Pongratz@delaware.gov
Subject: Relevant Public Comments to Heffernan Application
Date: May 8, 2026 at 12:45 PM
To: Smith, Theresa L (DNREC) Theresa.L.Smith@delaware.gov

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Theresa,

Attached, please find the first violation letter that was sent to the property owner of the concrete structure in question. It explains why we do not allow concrete seaward of the DNREC Building Line.

I reviewed the public comments again and there were a few valid points to consider other than the opposition to the structure in general:

- The fact that this property is a rental and having the concrete structure may benefit the owner financially – the opposite of a hardship 5.3.2.4 of the regulations
- Bringing up that driving on the beach has caused damage to horseshoe crabs on the beach in the past
- That concrete is not necessary to create a handicap accessible beach access. (None of the ADA accessible crossovers on Delaware's public beaches are made of concrete.)
- That the activities surrounding the concrete structure could disrupt beach nesting birds so close to the Prime Hook Wildlife Refuge
- That emergency responders have responded to emergencies prior to the construction of the concrete structure and were still able to assist those in need.

When referencing Section 3.1.1.4 of the Regulations in the denial, we regarded the concrete structure as a driveway, which is specifically mentioned as a type of structure that shall not be considered as being the type of structure that must be located seaward of the DNREC Building Line to achieve its intended purpose. Even though boat ramps are considered such a structure to be allowed seaward of the DNREC Building Line, we did not consider this structure a boat ramp because it did not lead from land into water, but stopped short of the waterline of the Delaware Bay.

Also, the property falls within the mapped Delaware Ecological Network, which would prompt us to reach out to Fish and Wildlife if they did not respond to the public notice for consultation regarding vulnerable species.

Please let me know, if you have any other questions or need anything else from me. Thanks!



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