



United States Department of the Interior

U.S. Fish & Wildlife Service
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401
410/573 4575



Online Certification Letter

Today's date: November 5, 2019

Project: Proposed Edgemoor Container Port Project
Edgemoor, New Castle County, Delaware

Dear Applicant for online certification:

Thank you for using the U.S. Fish and Wildlife Service (Service) Chesapeake Bay Field Office online project review process. By printing this letter in conjunction with your project review package, you are certifying that you have completed the online project review process for the referenced project in accordance with all instructions provided, using the best available information to reach your conclusions. This letter, and the enclosed project review package, completes the review of your project in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended (ESA). This letter also provides information for your project review under the National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. 4321-4347, 83 Stat. 852), as amended. A copy of this letter and the project review package must be submitted to this office for this certification to be valid. This letter and the project review package will be maintained in our records.

Based on this information and in accordance with section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), we certify that except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project area. Therefore, no Biological Assessment or further section 7 consultation with the U.S. Fish and Wildlife Service is required. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

This response relates only to federally protected threatened or endangered species under our jurisdiction. For additional information on threatened or endangered species in Maryland, you should contact the Maryland Wildlife and Heritage Division at (410) 260-8573. For information in Delaware you should contact the Delaware Division of Fish and Wildlife, Wildlife Species Conservation and Research Program at (302) 735-8658. For information in the District of Columbia, you should contact the National Park Service at (202) 339-8309.

The U.S. Fish and Wildlife Service also works with other Federal agencies and states to minimize loss of wetlands, reduce impacts to fish and migratory birds, including bald eagles, and restore habitat for wildlife. Information on these conservation issues and how development projects can avoid affecting these resources can be found on our website (www.fws.gov/chesapeakebay)

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact Chesapeake Bay Field Office Threatened and Endangered Species program at (410) 573-4527.

Sincerely,

Genevieve LaRouche
Field Supervisor



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
Phone: (410) 573-4599 Fax: (410) 266-9127

<http://www.fws.gov/chesapeakebay/>
<http://www.fws.gov/chesapeakebay/endsppweb/ProjectReview/Index.html>

In Reply Refer To:

October 22, 2019

Consultation Code: 05E2CB00-2019-SLI-1374

Event Code: 05E2CB00-2020-E-00243

Project Name: Proposed Edgemoor Container Port Project - Edgemoor, New Castle County, Delaware

Subject: Updated list of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered

species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Chesapeake Bay Ecological Services Field Office

177 Admiral Cochrane Drive

Annapolis, MD 21401-7307

(410) 573-4599

Project Summary

Consultation Code: 05E2CB00-2019-SLI-1374

Event Code: 05E2CB00-2020-E-00243

Project Name: Proposed Edgemoor Container Port Project - Edgemoor, New Castle County, Delaware

Project Type: DREDGE / EXCAVATION

Project Description: The proposed dredging project is located on the Delaware River in the southern portion of Reach B at the intersection of the Cherry Island and Bellevue Ranges, approximately 2 miles north of the Port of Wilmington. The adjacent uplands ("Edgemoor Site") consist of previously developed lands with existing infrastructure, formerly occupied by the Chemours (DuPont) Edgemoor plant, but currently unoccupied with little to no vegetation. The existing in-water structures at the site, which include but may not be limited to, water intake structures, wastewater discharge structures and piers will be demolished as part of the project. Nearly all of the former buildings and upland structures located at the Edgemoor site have already been demolished and cleared. The Diamond State Port Corporation, hereafter referred to as "the Applicant", intends to apply to the Corps for a Clean Water Act Section 404 permit, and a Rivers and Harbors Act Section 10 permit for dredging related to the construction of a primary harbor entrance channel and ship berth development at the Applicant's Edgemoor property located in Edgemoor, New Castle County, Delaware.

The Edgemoor site was purchased by the Applicant in 2017 with the intention to expand port operations to this site and acquire a portion of the projected increases in containerized cargo market demand. The project is anticipated to attract new containerized shipping commerce to the region rather than displace existing container operations, resulting in economic expansion and an employment boost for Delaware. The approach channel and berth for the new port will be on State of Delaware subaqueous lands located offshore of the Applicant's property. The Applicant proposes to deepen portions of the Delaware River adjacent to the Federal navigation channel to create a primary access channel that will serve the proposed berth construction at the site. The proposed dredging project is intended to support the redevelopment of the former industrial site into a multi-user containerized cargo port.

The proposed new entrance channel and berth area (~ 85 acres) would be constructed by excavating the riverbank between the existing shore and

the existing Federal navigation channel in the Delaware River. The excavated materials, currently estimated to be 3.4 million cubic yards, will be placed into the Corps' Wilmington Harbor South upland confined storage facility (CSF), if approved under 33 U.S.C.408, or at other CSFs provided by the Applicant.

The Applicant is currently evaluating a range of proposed dredging depths from 38 MLLW to 45 feet MLLW. The maintained depth of the Federal navigation channel is 45 feet MLLW. The approximately 2,600 foot wharf along the shoreline would be constructed to support large container cranes. Upland areas of the site would be graded to facilitate storage and land-based transport of cargo containers. Initial plans for the proposed port facility include the capability to berth two New Panamax container ships simultaneously. While initial construction of the port and maintenance dredging of the berth would be performed by the Applicant, maintenance of the approach channel could potentially be performed by the Corps if approved by the Assistant Secretary of the Army - Civil Works (ASA-CW).

Based on a 2018 wetland delineation, no Federal or State of Delaware jurisdictional wetlands are located at the proposed project site. Based on a 2018 historical and cultural resource assessment conducted by the Applicant at the project site, no submerged historic or cultural resources are believed to be present within the project area.

For additional details, please refer to the Corps' NEPA scoping letter, dated December 17, 2018, and addressed to Ms. Genevieve LaRouche of your office.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/39.74760257838804N75.50182311383386W>



Counties: New Castle, DE

Endangered Species Act Species

There is a total of 1 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none">▪ Projects with a federal nexus that have tree clearing = to or > 15 acres: 1. REQUEST A SPECIES LIST 2. NEXT STEP: EVALUATE DETERMINATION KEYS 3. SELECT EVALUATE under the Northern Long-Eared Bat (NLEB) Consultation and 4(d) Rule Consistency key Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

ESTUARINE AND MARINE DEEPWATER

- [E1UBL](#)

FRESHWATER POND

- [PUBHx](#)

RIVERINE

- [R2UBH](#)