

Public Hearing Comments

DoNotReply@delaware.gov <DoNotReply@delaware.gov>

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To: HearingComments, DNREC (MailBox Resources) <DNRECHearingComments@delaware.gov>; simeon.hahn@noaa.gov <simeon.hahn@noaa.gov>

 1 attachments (1 MB)

technical review comments due Nov 1.docx;

Comments on Docket #2020-P-MULTI-0024 (Port Project)

Name: Simeon Hahn

Phone: 302-299-3935

Email Address: simeon.hahn@noaa.gov

Organization: NOAA / Urban Waters Federal Partnership

Comments:

This project has the opportunity to highlight how the region (City of Wilmington and Northern New Castle County) and the country can redevelop contaminated Brownfield sites in an urban area where historical and on going environmental justice impacts occur. This project can provide jobs and benefits to the impacted community and address environmental and environmental justice impacts in the area. Important considerations are climate resiliency and related shoreline impacts (hardening); protection/restoration of critical habitats and species from a biodiversity standpoint; "green jobs", and social equity to name a few. There will be impacts from this project. The submitted documents inadequately describe and/or quantify these impacts. Impacts can be both positive and negative; offsets and mitigation are required. A cumulative assessment needs to be conducted including other activities in the region (ex. LNG plant across the River in NJ) as well as cumulative impacts to the local communities and the City of Wilmington and Northern New Castle County. Our location/community has received more than it's fair share of environmental impacts as documented in the report. This project should provide uplift to the community and not provide further inequitable impacts.

The Diamond State Port Corporation proposal require permits from the DNREC Division of Water (subaqueous lands permit) and the Division of Waste and Hazardous Substances (corrective action permit). It will also need a Federal Consistency Certification from the Delaware Coastal Management Program. The subaqueous lands permit application and the federal consistency form submission refer to the Environmental Assessment Technical Document revised June 2020 which was provided for review and comment via the DNREC website. In the Introduction of this document it states the “In accordance with the National Environmental Policy Act (NEPA), this Environmental Assessment Technical Document (EA) has been prepared to analyze and document the potential impacts of the proposed project and reasonable alternatives to the natural and human environment and recommend a preferred alternative.”

Comment: The federal and state permitting efforts should be coordinated in order to facilitate public review, understanding, and input. The technical information and analysis have overlapping purposes thus there are multiple references to the Environmental Assessment Technical Document which appears to be the most comprehensive document.

Comment: Case studies from other urban Port expansion projects, such as Los Angeles and the Port of Virginia (Hampton Roads/Norfolk), should be reviewed for successful outcomes and lessons learned via community engagement. A successful project will require more than meeting the basic permit requirements and the Port should be a partner in addressing environmental, economic, and social challenges in the short and long term as a new member of the community.

Comments in the Environmental Assessment Technical Document are made specifically to the DNREC permits and Federal Consistency certification where there are clear connections in the report in following sections of this review.

Comment: Upon review of the information the following conclusions are reached:

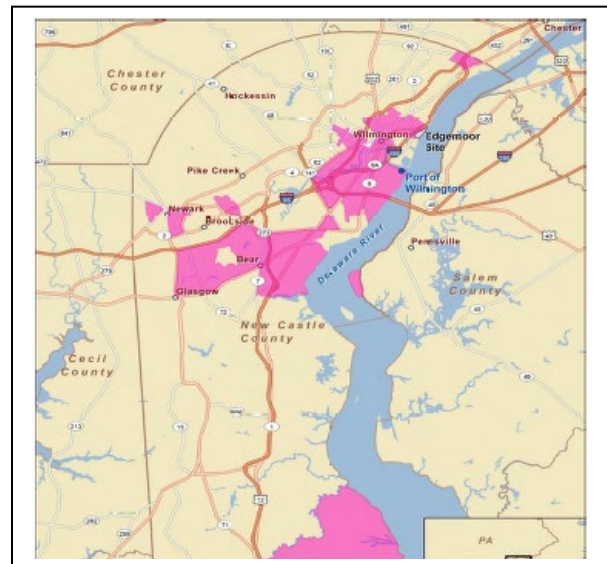
- **Environmental Justice is inadequately assessed with the potential for significant additional impacts in a major EJ community of the state**
- **Impacts to fisheries and supporting habitats are significantly underestimated**
- **Impacts to shorelines are not adequately assessed**
- **The value of shallow water habitats and adjacent shorelines are underestimated**
- **The recreational value of the River to the community including Fox Point State Park are inadequately characterized and underestimated**
- **The economic analysis is incomplete and does not include the negative impacts from environmental justice issues and/or lost resource values**
- **Impacts on traffic during construction are likely and the traffic analysis for port operation has not been conducted yet which makes the analysis of EJ incomplete**

In regards to these conclusions it is recommended that the Agencies and the Applicant work collaboratively and with the community to develop offsets for environmental justice impacts, natural resource impacts, and impacts to the community. The economic benefits to the state and potentially to the community are recognized and the project provides an opportunity through focused efforts for local job and economic uplift.

Coastal Zone Management Act Federal Consistency Form

Federal agencies are required to follow state coastal management policies when conducting projects or issuing permits for activities that have reasonably foreseeable effects on coastal uses and resources. The Delaware Coastal Management Program is reviewing this project for [Federal Consistency](#) as it requires a [U.S. Army Corps of Engineers permit](#) for dredging, disposal and bulkheading.

Comment: Federal agencies via Executive Order are required to evaluate environmental justice impacts as part of federal actions. It is unclear how or if the state evaluates environmental justice. It is not specifically identified on the Coastal Zone Consistency Form. EJ is discussed in the Environmental Assessment Technical Document in Section 4.3.1.3. As shown on the following figures the project impacts an EJ community which already has a disproportionate impact on environmental quality from the cumulative effects of, not limited to, the Cherry Island Landfill, the wastewater treatment plant, energy production, waste disposal sites, and active asphalt shingle production (air quality). In addition the area is impacted by the environmental impacts from interstate highway traffic and rail transportation which cause air and traffic impacts and restrict access to the Delaware River over almost the complete stretch of shoreline from the Christina River up to the project site. The adjacent Fox Point State Park is the only local community access point to the Delaware River. This State Park is a state hazardous site and to date has restricted direct water access for fishing or recreational activities. DNREC is supporting restoration planning and actions at Fox Point for living shoreline, wetland restoration and recreational access including fishing.



Communities Greater Than 20% of Population is below Poverty Threshold (L) and Area of Minority Populations Greater than 50% of Total Population (R) ..from Environmental Assessment Technical Report



Figure 4.3.3.2-1 Visual Impacts Assessment: Site Location Map

Cumulative Environmental Justice sites in the Project Area

Detailed Analysis of Consistency with DCMP Enforceable Policies

(A summary of the specific findings should be presented for each policy on the form without just referring to the Environmental Assessment Technical Report). Several comments on this report made in this elsewhere in this document are also applicable to the coastal zone review (ex. living resources and impacts on associated recreation and tourism).

For many of the policies the Consistency Form refers to the site only and not the off-site and cumulative impacts in the area. Cumulative and additive effects on the coastal zone in this area should be presented. There is strong natural resource and recreational interest in this area of the coastal zone, especially to local communities, in addition to its transportation and industrial functions. The River's multi use objectives should not be dismissed nor should the current status of natural resources, which are significant and in recovery for many species and habitats, be considered the desired "baseline". The current level of recreational use, community value, and natural resource status should not be used a "baseline" when evaluating impacts. Since

this area has experienced EJ related impacts, has a high degree of conservation and restoration interest, and is in an active phase of coastal redevelopment, higher levels of recreational use and natural resource recovery are anticipated. An example is the reduced fish consumption guidelines in the Delaware River over the last few years.

5.1 Wetlands management. It is asserted that direct wetland impacts (loss of jurisdictional wetlands) will not occur. Intertidal wetlands in this area have been significantly impacted by dredging and shoreline filling/hardening and pocket wetlands have been naturally restoring in some areas where shorelines haven't been maintained and there are efforts to restore intertidal wetland fringes for resilience and habitat benefits. Additional ship wakes and shoreline hardening will have a negative cumulative effect on wetland restoration efforts in the area.

Section 5.3 Coastal Waters Management. The project has been described as it will be having a state of the art storm water management plan. This needs further clarification as infiltration at the site will be limited do to remedial constraints. Green storm water measures should be identified.

Section 5.17 Recreation and Tourism. The project will have an added cumulative impact in this area of the coastal zone on recreation and tourism impacts, including lost recreational fishing and shoreline access opportunities if there are not appropriate offsets.

Section 5.21 Surface Water withdrawals. The sediment fans are stated to require surface water withdrawals.

Section 5.24 Pollution Prevention should identify the potential for vessel oil and other spills. There have been several over the years at the Port of Wilmington.

Wetlands and Subaqueous Lands Permit

Impacts to aquatic resources are described in the letter dated Sept 28, 2020 from the National Marine Fisheries Service to the Army Corps of Engineers (attached). These impacts are of concern to the DCBAC and include alteration and degradation of important aquatic habitats in the Delaware River used by striped bass, American shad, blueback herring, and other migratory fish species. These species are prized and economically valuable recreational fishing targets and impacts have occurred in this location and area disproportionately for several decades based on contamination levels in fish and lack of waterfront access and fishing opportunities along this biologically important stretch of the River.

In addition the impacts of shoreline hardening (3200 feet) and deepening may impact adjacent areas, habitats, and shorelines via lateral transfer of wave energy and cause an edge effect. Wave attenuation and mitigation measures need further evaluation.

The characterization of the benthic habitat, fish community, and other natural resource components (shorelines) are inadequate and underestimate the ecosystem value.

If filling is approved no off site fill should be used but the sediments beneficially reused.

Division of Waste and Hazardous Substances Corrective Action Permit

The DuPont Edgemoor facility was a well documented source of contaminants, including PCBs and dioxins, through several release pathways. More specifically the DuPont Edgemoor facility was identified as a significant source of PCBs in sediments and fish tissue and had an identifiable fingerprint to distinguish from other PCB sources in the River. This was summarized in environmental sampling supporting the PCB TMDL efforts for the Delaware River lead by the Delaware River Basin Commission. Despite this DuPont was not required to do a remedial investigation of Delaware River sediments with the appropriate level of sampling and analysis under a remedial program. The current level of sediment characterization for a dredging project in a contaminated sediment area is inadequate. The benefits from removal as claimed in the Environmental Assessment Technical Report nor the impacts from dredging and resulting resuspension and exposure can be adequately assessed. Generally dredging of contaminated sediments requires better site characterization and remedial controls. Hydraulic dredging is generally not used for contaminated sediments; a hybrid approach may be necessary.

Comment: A comprehensive contaminated sediment assessment and feasibility study should be conducted to adequately characterize potential benefits and impacts from the proposed project.

Comment: Potential impacts on the adjacent Fox Point Park HSCA site shoreline should be conducted.