

April 15, 2024

ERI Project No: 004-0502

Kimberly B. Cole, Administrator
Delaware Coastal Management Program
Department of Natural Resources & Environmental Control
100 W. Water Street, Suite 7B
Dover, Delaware 19904

RE: HDD Installation 4-inch HDPE Gas Main – Canary Creek / New Road Lewes, DE
Delaware Coastal Zone Consistency Determination
Coastal Management Program
ACOE Nationwide Permit No. 12 (Oil or Natural Gas Pipeline Activity)
Tax Map Parcel 335-4.00-13.02, 14.01 & 17.00
Lewes Rehoboth Hundred, Sussex County, Delaware

Dear Ms. Cole,

Environmental Resource Insights (ERI) is writing on behalf of Chesapeake Utilities Corporation to provide you with the Department of the Army Permit Application and plans for the proposed installation of a 4-inch diameter HDPE natural gas main line which is needed for improvements within Chesapeake's Lewes Rehoboth service area. The gas main will be installed beneath Canary Creek and its adjacent tidal and non-tidal wetlands. No waters or wetlands will be disturbed. Exit and entry pits are located in uplands within developed rights of ways.

The gas main will cross under Canary Creek 57 feet below mean high water lines at a minimum depth of 10 feet below the channel bottom. Total distance under tidal and non-tidal wetlands is 788 feet. The total length of the drill is 2,343 feet. The Corps of Engineers advised me that a Coastal Zone Consistency Determination from your Program is required for this part of the project. The project description and a response to applicable Coastal Zone Management Program Policies is provided in the attached Coastal Zone Management Act Federal Consistency Form. Chesapeake Utility Corporation requests the issuance of a Coastal Zone Consistency Determination from your program. Upon your review of this information, I am available at your convenience should you have any additional questions.

Sincerely,

ENVIRONMENTAL RESOURCE INSIGHTS



Edward M. Lannay
Senior Professional Wetland Scientist No. 875, Society of Wetland Scientists

Enclosures: ACOE NWP 12 Pre-Construction Notice
8 ½" x 11" Project Plans
CZMA Federal Consistency Form

Cc: Garth Jones, Chesapeake Utility Corporation
Mike Yost, ACOE



Initial Review: _____
Updated On: _____
Complete: _____
Official Use Only

Coastal Zone Management Act Federal Consistency Form

This document provides the Delaware Coastal Management Program (DCMP) with a Federal Consistency Determination or Certification for activities regulated under the Coastal Zone Management Act of 1972, as amended, and NOAA's Federal Consistency Regulations, 15 C.F.R. Part 930. Federal agencies and other applicants for federal consistency are not required to use this form; it is provided to applicants to facilitate the submission of a Consistency Determination or Consistency Certification. In addition, federal agencies and applicants are only required to provide the information required by NOAA's Federal Consistency Regulations.

Project/Activity Name:	HDD Installation of 4 inch diameter gas main under Canary Creek
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I. Federal Agency or Non-Federal Applicant Contact Information:

Contact Name/Title: Chesapeake Utilities Corporation, Attn: Garth Jones, Engineering Manager

Federal Agency Contractor Name (if applicable): _____

Federal Agency: _____
(either the federal agency proposing an action or the federal agency issuing a federal license/permit or financial assistance to a non-federal applicant)

Mailing Address: 500 Energy Lane

City: Dover State: DE Zip Code: 19901

E-mail: gjones@chpk.com Telephone #: 302-213-7455

II. Federal Consistency Category:

- Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)
- Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)
- Federal Financial Assistance (15 C.F.R. Part 930, Subpart F)
- Federal License or Permit Activity (15 C.F.R. Part 930, Subpart D)
- Federal License or Permit Activity which occurs wholly in another state (interstate consistency activities identified in DCMP's Policy document)

III. Detailed Project Description (attach additional sheets if necessary):

See attached sheet.

Item 3. Detailed Project Description

The project involves a 4-inch diameter HDPE gas main installation under Canary Creek and its adjacent wetlands. The utility line will be located approximately 53 feet southeast of the center of the New Road highway bridge in Lewes, Sussex County, Delaware. The project location is 38.770193 N Latitude and -75.162120 W Longitude.

The proposed gas main will provide improved & dependable customer service capacity within the Lewes Rehoboth Hundred service area. Chesapeake Utilities Corporation (Chesapeake) proposes installation of a 4-inch diameter HDPE gas main under Canary Creek and its adjacent wetlands. Canary Creek is a tidal navigable water which drains to the Delaware Bay via the Broadkill River and Roosevelt Inlet. Navigation is limited due to the existing low deck highway bridge at New Road just downstream of the utility crossing site.

In order to avoid all impacts to the waters of Canary Creek, its adjacent tidal and non-tidal wetlands and existing infrastructure along the New Road corridor, the installation of this utility line will be done by horizontal directional drilling (HDD) technology which is also known as directional drilling methodology.

The 4-inch diameter HDPE gas main will be installed a minimum of 10.0 feet below the bottom of Canary Creek. Entry and access pits associated with the HDD utility installation are in upland locations distant from any wetland area. They lie within areas of developed rights of way. The total length of the proposed HDD installation is 2,343 feet. Of that amount 57 linear feet lies beneath the mean high-water lines of Canary Creek and an additional 788 linear feet lies below its adjacent tidal and other non-tidal wetlands.

The HDD installation will be conducted in accordance with best operational practices and a Frac-Out Contingency Plan. The date of installation will be guided by the receipt of required federal permits and leases, however, work is expected to occur in fall of 2024.

IV. General Analysis of Coastal Effects (attach additional sheets if necessary):

The proposed installation of a gas line under Canary Creek and adjacent tidal and non-tidal wetlands by trenching methods is a temporary impact and it has no effect on Coastal Resources or Delawares Coastal Zone. Gas line installation impacts will be done in accordance with best management practices and a frac-out contingency plan. No public subaqueous lands are involved with the project. The project is an infrastructure improvement for Chesapeake's existing Lewes and Rehoboth service area.

V. Detailed Analysis of Consistency with DCMP Enforceable Policies (attach additional sheets if necessary):

Policy 5.1: Wetlands Management

The project does not impact any wetlands.

Policy 5.2: Beach Management

The project does not involve any beach areas.

Policy 5.3: Coastal Waters Management (includes wells, water supply, and stormwater management. Attach additional sheets if necessary)

The project involves a utility installation by HDD methods under a tidal creek and adjacent to tidal and non-tidal wetlands. Coastal waters are not impacted as entry and exit pits are located on uplands.

Policy 5.4: Subaqueous Land and Coastal Strip Management

The gas main crosses under private subaqueous lands. No disturbance of subaqueous land will occur due to installation methods. A DNREC WSLs Subaqueous Land Permit is not required.

Policy 5.5: Public Lands Management

Project has no impacts on public lands as it is located under privately held lands and rights of ways.

Policy 5.6: Natural Lands Management

Entry and exit pits are in uplands and the gas main serves developed communities. No natural lands will be impacted.

Policy 5.7: Flood Hazard Areas Management

The project does not impact the 100-year floodplain.

Policy 5.8: Port of Wilmington

The project is located in the City of Lewes metropolitan area.

Policy 5.9: Woodlands and Agricultural Lands Management

No woodlands or agricultural land will be impacted by the project.

Policy 5.10: Historic and Cultural Areas Management

Entry and exit pits lie within areas of already developed rights of way. No woodlands or agricultural land will be impacted. No known historic or cultural resources exist within the project footprint.

Policy 5.11: Living Resources

Entry and exit pits lie within areas of already developed rights of way. No woodlands or agricultural land will be impacted. No woodlands, wetlands or waters are impacted.

Policy 5.12 Mineral Resources Management

No mineral extraction is proposed.

Policy 5.13: State Owned Coastal Recreation and Conservation

No impact.

Policy 5.14: Public Trust Doctrine

The project does not involve the use of public lands and no public lands will be impacted. The proposed use is consistent with local zoning.

Policy 5.15: Energy Facilities

The project does not involve or impact any energy facility.

Policy 5.16: Public Investment

The project does not involve or require public investment.

Policy 5.17: Recreation and Tourism

No impact.

Policy 5.18: National Defense and Aerospace Facilities

No impact.

Policy 5.19: Transportation Facilities

The project does not involve transportation facilities or impacts to state roads.

Policy 5.20: Air Quality Management

The project has no impact on air quality.

Policy 5.21: Water Supply Management

The project has no impact on, nor is it related to a water supply facility.

Policy 5.22: Waste Disposal Management

The proposed facility served by the gas main needed to provide efficient gas availability to Chesapeake's Lewes Rehoboth service area.

Policy 5.23: Development

The proposed facility served by the gas main needed to provide efficient gas availability to Chesapeake's Lewes Rehoboth service area. The project is an infrastructure improvement.

Policy 5.24: Pollution Prevention

The gas main will be HDD installed using best management practices following a frac-out contingency plan.

Policy 5.25: Coastal Management Coordination

The project is limited to infrastructure improvement servicing existing communities.

VI. JPP and RAS Review (Check all that apply):

Has the project been reviewed in a monthly Joint Permit Processing and/or Regulatory Advisory Service meeting?

- JPP RAS None

*If yes, provide the date of the meeting(s): _____

VII. Statement of Certification/Determination and Signature (Check one and sign below):

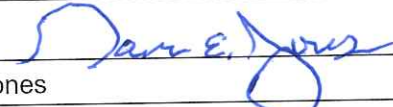
FEDERAL AGENCY CONSISTENCY DETERMINATION. Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity is consistent to the maximum extent practicable with the enforceable policies of the Delaware Coastal Management Program.

OR

FEDERAL AGENCY NEGATIVE DETERMINATION. Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity will not have any reasonably foreseeable effects on Delaware's coastal uses or resources (Negative Determination) and is therefore consistent with the enforceable policies of the Delaware Coastal Management Program.

OR

NON-FEDERAL APPLICANT'S CONSISTENCY CERTIFICATION. Based upon the information, data, and analysis included herein, the non-federal applicant for a federal license or permit, or state or local government agency applying for federal funding, listed in (I) above, finds that this proposed activity complies with the enforceable policies of the Delaware Coastal Management Program and will be conducted in a manner consistent with such program.

Signature:		04.12.24
Printed Name:	Garth Jones	Date:

Pursuant to 15 C.F.R. Part 930, the Delaware Coastal Management Program must provide its concurrence with or objection to this consistency determination or consistency certification in accordance with the deadlines listed below. Concurrence will be presumed if the state's response is not received within the allowable timeframe.

Federal Consistency Review Deadlines:

Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)	60 days with option to extend an additional 15 days or stay review (15 C.F.R. § 930.41)
Federal License or Permit (15 C.F.R. Part 930, Subpart D)	Six months, with a status letter at three months. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.63)
Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)	Six months, with a status letter at three months. If three month status letter not issued, then concurrence presumed. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.78)
Federal Financial Assistance to State or Local Governments (15 C.F.R. Part 930, Subpart F)	State Clearinghouse schedule

OFFICIAL USE ONLY:

Reviewed By:	Fed Con ID:	Date Received:
Public notice dates: _____ to _____	Comments Received: <input type="checkbox"/> NO <input type="checkbox"/> YES <i>[attach comments]</i>	
Decision type: <small>(objections or conditions attach details)</small>	Decision Date:	

April 11, 2024

ERI Project No: 0400-0502

Mr. Todd Schaible, Chief
Regulatory Branch, Philadelphia District
U.S. Army Corps of Engineers
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390

Attn: Mr. Michael Yost

**Re: Preconstruction Notification
Nationwide Permit No. 12 – Oil & Gas Pipeline Activities
Proposed 4-inch diameter HDPE gas main
under the Canary Creek, Lewes, Sussex County, Delaware
Applicant: Chesapeake Utilities Corporation**

Dear Mr. Schaible,

Environmental Resource Insights (ERI) is writing you on behalf of the Chesapeake Utilities Corporation (Chesapeake) regarding the proposed installation of a 4-inch diameter HDPE gas main using horizontal directional boring (HDD) methods under Canary Creek and it's adjacent wetlands. The project will improve the customer service within Chesapeake's Lewes-Rehoboth service area.

In order to avoid all impacts to the waters of Canary Creek, it's adjacent tidal and non-tidal wetlands and existing infrastructure along the New Road corridor, the installation of this utility line will be done by horizontal directional drilling (HDD) technology which is also known as directional drilling methodology.

The 4 inch diameter HDPE gas main will be installed a minimum of 10.0 feet below the bottom of Canary Creek. Entry and access pits associated with the HDD utility installation are in uplands within developed rights of way. The total length of the gas main is 2,343 feet. Of that amount 57 linear feet lies beneath the mean high water lines of Canary Creek and an additional 788 linear feet lies below it's adjacent tidal and non-tidal wetlands.

The HDD installation will be conducted in accordance with best operational practices and a Frac-Out Contingency Plan. The date of installation will be guided by the receipt of required federal permits, however, work is expected to occur in fall of 2024.

A complete set of 8 1/2" x 11" project plans, project description and notifications to resource agencies are provided with this preconstruction notice. A recent determination from the U.S. Fish & Wildlife Service that no threatened or endangered species will be impacted is enclosed. Access pits are outside any area of concern. A frac-out contingency plan is also enclosed.

Thank you in advance for your attention to this matter. If you have any questions or comments regarding this project, I am available at your convenience.

Sincerely,

ENVIRONMENTAL RESOURCE INSIGHTS

Edward M. Launay



Cc: Garth Jones, PE Chesapeake Utilities Corporation

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY			
13. NAME OF WATERBODY, IF KNOWN <i>(if applicable)</i> Canary Creek		14. PROPOSED ACTIVITY STREET ADDRESS <i>(if applicable)</i> northeast of 15842 New Road	
15. LOCATION OF PROPOSED ACTIVITY <i>(see instructions)</i> Latitude °N 38.770193 Longitude °W75.162120		City: Lewes	State: Zip: DE 19958
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN <i>(see instructions)</i> State Tax Parcel ID335-4.00-13.02, 14.01 & 17.00 Municipality Lewes Rehoboth Hundred			
Section	Township	Range	
17. DIRECTIONS TO THE SITE. From the intersection of Piletown Road and New Road, Lewes, DE, Canary Creek is 4,825 feet southwest of the intersection on the southeast side of New Road. Gas main is approximately 53 feet from centerline of New Road.			
18. IDENTIFY THE SPECIFIC NATIONWIDE PERMIT(S) YOU PROPOSE TO USE: Nationwide Permit No. 12 - Oil or Natural Gas Pipeline Activities			
19. DESCRIPTION OF PROPOSED NATIONWIDE PERMIT ACTIVITY <i>(see instructions)</i> Install a 4 inch HDPE gas main beneath Canary Creek, a tidal waterbody using directional boring HDD methods. No waters or wetlands will be disturbed. Exit and entry pits located in uplands. The gas main will cross under Canary Creek 57 feet between mean high water lines at a minimum depth of 10 feet below creek bottom. The total distance under non tidal and tidal wetlands is 788 feet. Total drill length is 2,343 feet.			
20. DESCRIPTION OF PROPOSED MITIGATION MEASURES <i>(see instructions)</i> Not Applicable. No wetland or waters disturbance.			
21. PURPOSE OF NATIONWIDE PERMIT ACTIVITY <i>(Describe the reason or purpose of the project, see instructions)</i> Improve ability of Chesapeake Gas to provide reliable service to customers within the Lewes Rehoboth Hundred.			
22. Quantity of Wetlands, Streams, or Other Types of Waters Directly Affected by Proposed Nationwide Permit Activity <i>(see instructions)</i>			
Acres	Linear Feet	Cubic Yards Dredged or Discharged	
0.006	845	0	
Each PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site.			
23. List any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project on any related activity <i>(see instructions)</i> DNREC Coastal Program Federal Consistency Program			
24. If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and requires pre-construction notification, explain how the compensatory mitigation requirement in paragraph (c) of general condition 23 will be satisfied, or explain why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required for the proposed activity. Not Applicable. No wetland or waters disturbance.			

25. Is Any Portion of the Nationwide Permit Activity Already Complete? Yes No If Yes, describe the completed work:

26. List the name(s) of any species listed as endangered or threatened under the Endangered Species Act that might be affected by the proposed NWP activity or utilize the designated critical habitat that might be affected by the proposed NWP activity. (see instructions)
None.

27. List any historic properties that have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic property or properties. (see instructions)
None. Directional boring used and exit and entry pits are within already developed rights of ways.

28. For a proposed NWP activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, identify the Wild and Scenic River or the "study river":
Not Applicable.

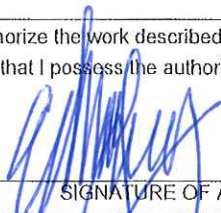
29. If the proposed NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, have you submitted a written request for section 408 permission from the Corps district having jurisdiction over that project? Yes No
If "yes", please provide the date your request was submitted to the Corps District:

30. If the terms of the NWP(s) you want to use require additional information to be included in the PCN, please include that information in this space or provide it on an additional sheet of paper marked Block 30. (see instructions)
See attached detailed project description.

31. Pre-construction notification is hereby made for one or more nationwide permit(s) to authorize the work described in this notification. I certify that this information in this pre-construction notification is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.


SIGNATURE OF APPLICANT

04.12.24
DATE


SIGNATURE OF AGENT

4/14/2024
DATE

The Pre-Construction Notification must be signed by the person who desires to undertake the proposed activity (applicant) and, if the statement in block 11 has been filled out and signed, the authorized agent.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

**Instructions for Preparing a
Department of the Army
Nationwide Permit (NWP) Pre-Construction Notification (PCN)**

Blocks 1 through 4. To be completed by the Corps of Engineers.

Block 5. Applicant' Name. Enter the name and the e-mail address of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer and title. If more than one party is associated with the preconstruction notification, please attach a sheet of paper with the necessary information marked Block 5.

Block 6. Address of Applicant. Please provide the full address of the party or parties responsible for the PCN. If more space is needed, attach an extra sheet of paper marked Block 6.

Block 7. Applicant Telephone Number(s). Please provide the telephone number where you can usually be reached during normal business hours.

Blocks 8 through 11. To be completed, if you choose to have an agent.

Block 8. Authorized Agent's Name and Title. Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer, consultant, or any other person or organization. Note: An agent is not required.

Blocks 9 and 10. Agent's Address and Telephone Number. Please provide the complete mailing address of the agent, along with the telephone number where he / she can be reached during normal business hours.

Block 11. Statement of Authorization. To be completed by the applicant, if an agent is to be employed.

Block 12. Proposed Nationwide Permit Activity Name or Title. Please provide a name identifying the proposed NWP activity, e.g., Windward Marina, Rolling Hills Subdivision, or Smith Commercial Center.

Block 13. Name of Waterbody. Please provide the name (if it has a name) of any stream, lake, marsh, or other waterway to be directly impacted by the NWP activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

Block 14. Proposed Activity Street Address. If the proposed NWP activity is located at a site having a street address (not a box number), please enter it in Block 14.

Block 15. Location of Proposed Activity. Enter the latitude and longitude of where the proposed NWP activity is located. Indicate whether the project location provided is the center of the project or whether the project location is provided as the latitude and longitude for each of the "corners" of the project area requiring evaluation. If there are multiple sites, please list the latitude and longitude of each site (center or corners) on a separate sheet of paper and mark as Block 15.

Block 16. Other Location Descriptions. If available, provide the Tax Parcel Identification number of the site, Section, Township, and Range of the site (if known), and / or local Municipality where the site is located.

Block 17. Directions to the Site. Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site. You may also provide a description of the location of the proposed NWP activity, such as lot numbers, tract numbers, or you may choose to locate the proposed NWP activity site from a known point (such as the right descending bank of Smith Creek, one mile downstream from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed NWP activity site if known. If there are multiple locations, please indicate directions to each location on a separate sheet of paper and mark as Block 17.

Block 18. Identify the Specific Nationwide Permit(s) You Propose to Use. List the number(s) of the Nationwide Permit(s) you want to use to authorize the proposed activity (e.g., NWP 29).

Block 19. Description of the Proposed Nationwide Permit Activity. Describe the proposed NWP activity, including the direct and indirect adverse environmental effects the activity would cause. The description of the proposed activity should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal. Identify the materials to be used in construction, as well as the methods by which the work is to be done.

Provide sketches when necessary to show that the proposed NWP activity complies with the terms of the applicable NWP(s). Sketches usually clarify the activity and result in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed NWP activity (e.g., a conceptual plan), but do not need to be detailed engineering plans.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 19.

Block 20. Description of Proposed Mitigation Measures. Describe any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed NWP activity. The description of any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or additional mitigation measures.

Block 21. Purpose of Nationwide Permit Activity. Describe the purpose and need for the proposed NWP activity. What will it be used for and why? Also include a brief description of any related activities associated with the proposed project. Provide the approximate dates you plan to begin and complete all work.

Block 22. Quantity of Wetlands, Streams, or Other Types of Waters Directly Affected by the Proposed Nationwide Permit Activity. For discharges of dredged or fill material into waters of the United States, provide the amount of wetlands, streams, or other types of waters filled, flooded, excavated, or drained by the proposed NWP activity. For structures or work in navigable waters of the United States subject to Section 10 of the Rivers and Harbors Act of 1899, provide the amount of navigable waters filled, dredged, occupied by one or more structures (e.g., aids to navigation, mooring buoys) by the proposed NWP activity.

For multiple NWPs, or for separate and distant crossings of waters of the United States authorized by NWPs 12 or 14, attach an extra sheet of paper marked Block 21 to provide the quantities of wetlands, streams, or other types of waters filled, flooded, excavated, or drained (or dredged or occupied by structures, if in waters subject to Section 10 of the Rivers and Harbors Act of 1899) for each NWP. For NWPs 12 and 14, include the amount of wetlands, streams, or other types of waters filled, flooded, excavated, or drained for each separate and distant crossing of waters or wetlands. If more space is needed, attach an extra sheet of paper marked Block 21.

Block 23. Identify Any Other Nationwide Permit(s), Regional General Permit(s), or Individual Permit(s) Used to Authorize Any Part of Proposed Activity or Any Related Activity. List any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. For linear projects, list other separate and distant crossings of waters and wetlands authorized by NWPs 12 or 14 that do not require PCNs. If more space is needed, attach an extra sheet of paper marked Block 22.

Block 24. Compensatory Mitigation Statement for Losses of Greater Than 1/10-Acre of Wetlands When Pre-Construction Notification Is Required. Paragraph (c) of NWP general condition 23 requires compensatory mitigation at a minimum one-for-one replacement ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation is more environmentally appropriate or the adverse environmental effects of the proposed NWP activity are no more than minimal without compensatory mitigation, and provides an activity-specific waiver of this requirement. Describe the proposed compensatory mitigation for wetland losses greater than 1/10 acre, or provide an explanation of why the district engineer should not require wetland compensatory mitigation for the proposed NWP activity. If more space is needed, attach an extra sheet of paper marked Block 23.

Block 25. Is Any Portion of the Nationwide Permit Activity Already Complete? Describe any work that has already been completed for the NWP activity.

Block 26. List the Name(s) of Any Species Listed As Endangered or Threatened under the Endangered Species Act that Might be Affected by the Nationwide Permit Activity. If you are not a federal agency, and if any listed species or designated critical habitat might be affected or is in the vicinity of the proposed NWP activity, or if the proposed NWP activity is located in designated critical habitat, list the name(s) of those endangered or threatened species that might be affected by the proposed NWP activity or utilize the designated critical habitat that might be affected by the proposed NWP activity. If you are a Federal agency, and the proposed NWP activity requires a PCN, you must provide documentation demonstrating compliance with Section 7 of the Endangered Species Act.

Block 27. List Any Historic Properties that Have the Potential to be Affected by the Nationwide Permit Activity. If you are not a federal agency, and if any historic properties have the potential to be affected by the proposed NWP activity, list the name(s) of those historic properties that have the potential to be affected by the proposed NWP activity. If you are a Federal agency, and the proposed NWP activity requires a PCN, you must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

Block 28. List the Wild and Scenic River or Congressionally Designated Study River if the Nationwide Permit Activity Would Occur in such a River. If the proposed NWP activity will occur in a river in the National Wild and Scenic River System or in a river officially designated by Congress as a "study river" under the Wild and Scenic Rivers Act, provide the name of the river. For a list of Wild and Scenic Rivers and study rivers, please visit <http://www.rivers.gov/>

Block 29. Nationwide Permit Activities that also Require Permission from the Corps Under 33 U.S.C. 408. If the proposed NWP activity also requires permission from the Corps under 33 U.S.C. 408 because it will temporarily or permanently alter, occupy, or use a Corps federal authorized civil works project, indicate whether you have submitted a written request for section 408 permission from the Corps district having jurisdiction over that project.

Block 30. Other Information Required For Nationwide Permit Pre-Construction Notifications. The terms of some of the Nationwide Permits include additional information requirements for preconstruction notifications:

- * NWP 3, Maintenance –Information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals.
- * NWP 31, Maintenance of Existing Flood Control Facilities –a description of the maintenance baseline and the dredged material disposal site.
- * NWP 33, Temporary Construction, Access, and Dewatering –a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.
- * NWP 44, Mining Activities –if reclamation is required by other statutes, then a copy of the final reclamation plan must be submitted with the pre-construction notification.
- * NWP 45, Repair of Uplands Damaged by Discrete Events –documentation, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration.
- * NWP 48, Commercial Shellfish Aquaculture Activities –(1) a map showing the boundaries of the project area, with latitude and longitude coordinates for each corner of the project area; (2) the name(s) of the species that will be cultivated during the period this NWP is in effect; (3) whether canopy predator nets will be used; (4) whether suspended cultivation techniques will be used; and (5) general water depths in the project area (a detailed survey is not required).
- * NWP 49, Coal Remining Activities –a document describing how the overall mining plan will result in a net increase in aquatic resource functions to the district engineer and receive written authorization prior to commencing the activity.
- * NWP 50, Underground Coal Mining Activities –if reclamation is required by other statutes, then a copy of the reclamation plan must be submitted with the pre-construction notification.

If more space is needed, attach an extra sheet of paper marked Block 29.

Blocks 31 and 32. For bank stabilization activities, we are collecting information on the use of living shorelines in coastal waters and lakes to inform future NWP rulemaking efforts. If the PCN is for a proposed NWP 13 activity, and it is located in coastal waters or a lake, please check the appropriate box in block 31 to indicate whether you considered the use of a living shoreline to protect your property from erosion. If the PCN is for a proposed NWP 13 activity, and it is located in coastal waters or a lake, please check the appropriate box in block 32 to indicate whether there are contractors in your area that construct living shorelines.

Block 33. Signature of Applicant or Agent. The PCN must be signed by the person proposing to undertake the NWP activity, and if applicable, the authorized party (agent) that prepared the PCN. The signature of the person proposing to undertake the NWP activity shall be an affirmation that the party submitting the PCN possesses the requisite property rights to undertake the NWP activity (including compliance with special conditions, mitigation, etc.).

DELINEATION OF WETLANDS, OTHER SPECIAL AQUATIC SITES, AND OTHER WATERS

Each PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current wetland delineation manual and regional supplement published by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. The 45 day PCN review period will not start until the delineation is submitted or has been completed by the Corps.

DRAWINGS AND ILLUSTRATIONS

General Information.

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number. For linear projects (e.g. roads, subsurface utility lines, etc.) gradient drawings should also be included. Please submit one original, or good quality copy, of all drawings on 8½x11 inch plain white paper (electronic media may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section). While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.

ADDITIONAL INFORMATION AND REQUIREMENTS

For proposed NWP activities that involve discharges into waters of the United States, water quality certification from the State, Tribe, or EPA must be obtained or waived (see NWP general condition 25). Some States, Tribes, or EPA have issued water quality certification for one or more NWPs. Please check the appropriate Corps district web site to see if water quality certification has already been issued for the NWP(s) you wish to use. For proposed NWP activities in coastal states, state Coastal Zone Management Act consistency concurrence must be obtained, or a presumption of concurrence must occur (see NWP general condition 26). Some States have issued Coastal Zone Management Act consistency concurrences for one or more NWPs. Please check the appropriate Corps district web site to see if Coastal Zone Management Act consistency concurrence has already been issued for the NWP(s) you wish to use.

ACOE - Preconstruction Notification
Nationwide Permit No. 12 – Oil & Natural Gas Pipeline Activities
HDD Installation of 4 inch diameter HDPE gas main under Canary Creek
Lewes, Sussex County, Delaware
Applicant: Chesapeake Utilities Corporation

Applicant: Chesapeake Utilities Corporation
500 Energy Lane, Suite 100
Dover, Delaware 19901

Attn: Mr. Garth E. Jones
P: (302) 213-7455

Agent: Environmental Resources, Inc.
38173 Dupont Blvd.
Post Office Box 169
Selbyville, Delaware 19975

Attn: Mr. Edward M. Launay
P: (302) 436-9637
F: (302) 436-9639
elaunay@ericonsultants.com

Project Location

The project involves a 4 inch diameter HDPE gas main installation under Canary Creek and its adjacent wetlands. The utility line will be located approximately 53 feet southeast of the center of the New Road highway bridge in Lewes, Sussex County, Delaware. The project location is 38.770193 N Latitude and -75.162120 W Longitude.

Project Purpose

The proposed gas main will provide improved & dependable customer service capacity within the Lewes Rehoboth Hundred service area.

Project Description

In order to improve delivery of electric and telecommunications within it's service area, the Chesapeake Utilities Corporation (Chesapeake) proposes installation of a 4 inch diameter HDPE gas main under Canary Creek and it's adjacent wetlands. Canary Creek is a tidal navigable water which drains to the Delaware Bay via the Broadkill River and Roosevelt Inlet. Navigation is limited due to the existing low deck highway bridge at New Road just downstream of the utility crossing site.

In order to avoid all impacts to the waters of Canary Creek, it's adjacent tidal and non-tidal wetlands and existing infrastructure along the New Road corridor, the installation of this utility line will be done by horizontal directional drilling (HDD) technology which is also known as directional drilling methodology.

The 4 inch diameter HDPE gas main will both be installed a minimum 10.0 feet below the bottom of Canary Creek. Entry and access pits associated with the HDD utility installation are in upland locations distant from any wetland area. They lie within areas of developed rights of way. The total length of the proposed HDD installation is 2,343 feet. Of that amount 57 linear feet lies beneath the mean high water lines of Canary Creek and an additional 788 linear feet lies below it's adjacent tidal and other non-tidal wetlands.

The HDD installation will be conducted in accordance with best operational practices and a Frac-Out Contingency Plan. The date of installation will be guided by the receipt of required federal permits and leases, however, work is expected to occur in fall of 2024.

The following information addresses the Nationwide Permit general conditions in a consolidated format although other information is provided elsewhere in the application materials. The following conditions prevail:

- (1) The project involves the tidal waters of Canary Creek, however; impacts to navigation are avoided by utilizing directional boring for installation of the proposed gas main which will be a minimum of 10.0 feet below the bottom of Canary Creek;
- (2) All structures within or under jurisdictional waters of the U.S. will be properly maintained to ensure the protection of water resources;
- (3) The proposed project will not adversely affect water quality. Proper methods of erosion and sedimentation control will be incorporated in accordance with the Water Quality Standards for the State of Delaware. Soil Erosion & Sediment Control measures will be implemented during construction;
- (4) There will be no significant disruption of those species of aquatic life indigenous to the project area. The proposed work is limited to a gas main installed under Canary Creek and it's adjacent wetlands by directional boring methods. Any unforeseen impacts that may occur will be temporary and will be restored to their previous conditions to the maximum extent practicable;
- (5) No impacts to any area supporting submerged aquatic vegetation (SAV) are proposed;
- (6) The proposed action is consistent with all known Corps regional and case-by-case conditions;
- (7) The project is not located in a component or a designated study river in the Wild and Scenic Rivers program;
- (8) The proposed action and the project area have no encumbrances associated with tribal rights, reserved water rights or treaty fishing/hunting rights;
- (9) State Water Quality Certification for the NWP No. 12 authorization has been waived;

- (10) The project is in compliance with the State Coastal Zone Management (CZM) regulations for this NWP authorization. The Federal Consistency Determination from the Delaware CZM Program will be obtained prior to construction;
- (11) The project will not jeopardize any threatened or endangered species or proposed-to-be-listed species or any known critical habitats. Coordination with the respective agencies has been initiated with no foreseen issues of any conflicts;
- (12) The project will not affect any known historic properties listed, or projects eligible for listing, in the National Register of Historic Places;
- (13) Notification to state and federal resource agencies has been provided in accordance with the General Conditions;
- (14) A Compliance Certification will be supplied at the completion of the project as required;
- (15) NWP No. 12 (*Oil and Gas Pipeline Activities*) will be used to authorize this project. The limitation of impacts (0.5 acre) to waters of the United States authorized under NWP No. 12 are not exceeded by this project;
- (16) No public water supply intakes will be affected;
- (17) No work will occur in areas of concentrated shellfish populations. The waters of Canary Creek in the vicinity of the project are prohibited for shellfish harvesting;
- (18) Only suitable materials will be used as part of this project as described in the application. No types of undesirable material will be used. No materials that would leach any chemicals into the adjacent waterbody will be utilized;
- (19) This project will have no impacts to aquatic or wetland resources. Impacts have been planned to avoid impact to natural resources on the site. No mitigation is required;
- (20) No spawning areas will be affected by the project since Canary Creek and its adjacent wetlands will be crossed with utilities installed by directional boring techniques;
- (21) As designed, this project may receive high surface and groundwater flows during significant storm events, however the project is designed to withstand these significant events and furthermore, since the project is mainly beneath the ground surface, it will not affect downstream flow conditions nor impede the passage of normal or expected high flows given the subsurface location of the installed utilities;
- (22) This project does not create an impoundment, since the water main is located beneath the bottom of Canary Creek;
- (23) No impacts to waterfowl breeding areas will occur. Impacts to waters and wetlands have been avoided through the use of directional boring;

- (24) Temporary fills impacting waters or wetlands are not required for this project;
- (25) To the best of ERI's knowledge, the proposed utilities do not impact any Designated Critical Resource Waters;
- (26) Federal Emergency Management Agency (FEMA) regulations are addressed through state and local floodplain management requirements;
- (27) Construction equipment will only utilize upland areas. The expected construction period is fall 2024;
- (28) The project utilizes one NWP No. 12. The total impacts to waters of the U.S. for the project do not exceed 0.1 ± acre. Utilities will be installed by directional boring methods and no dredging or filling of waters or wetlands is proposed;
- (29) The activity is part of a single and complete project;
- (30) Should the project transfer owners, proper steps to transfer all applicable documentation to the proper party will be conducted;
- (31) Directional boring operations will be managed in accordance with a Frac Out Plan as required in the Regional Conditions for NWP No. 12 for Delaware.

April 15, 2024

ERI Project No: 004-0502

Kimberly B. Cole, Administrator
Delaware Coastal Management Program
Department of Natural Resources & Environmental Control
100 W. Water Street, Suite 7B
Dover, Delaware 19904

**RE: HDD Installation 4-inch HDPE Gas Main – Canary Creek / New Road Lewes, DE
Delaware Costal Zone Consistency Determination
Coastal Management Program
ACOE Nationwide Permit No. 12 (Oil or Natural Gas Pipeline Activity)
Tax Map Parcel 335-4.00-13.02, 14.01 & 17.00
Lewes Rehoboth Hundred, Sussex County, Delaware**

Dear Ms. Cole,

Environmental Resource Insights (ERI) is writing on behalf of Chesapeake Utilities Corporation to provide you with the Department of the Army Permit Application and plans for the proposed installation of a 4-inch diameter HDPE natural gas main line which is needed for improvements within Chesapeake's Lewes Rehoboth service area. The gas main will be installed beneath Canary Creek and its adjacent tidal and non-tidal wetlands. No waters or wetlands will be disturbed. Exit and entry pits are located in uplands within developed rights of ways.

The gas main will cross under Canary Creek 57 feet below mean high water lines at a minimum depth of 10 feet below the channel bottom. Total distance under tidal and non-tidal wetlands is 788 feet. The total length of the drill is 2,343 feet. The Corps of Engineers advised me that a Coastal Zone Consistency Determination from your Program is required for this part of the project. The project description and a response to applicable Coastal Zone Management Program Policies is provided in the attached Coastal Zone Management Act Federal Consistency Form. Chesapeake Utility Corporation requests the issuance of a Coastal Zone Consistency Determination from your program. Upon your review of this information, I am available at your convenience should you have any additional questions.

Sincerely,

ENVIRONMENTAL RESOURCE INSIGHTS


Edward M. Lantry
Senior Professional Wetland Scientist No. 875, Society of Wetland Scientists

Enclosures: ACOE NWP 12 Pre-Construction Notice
8 ½" x 11" Project Plans
CZMA Federal Consistency Form

Cc: Garth Jones, Chesapeake Utility Corporation
Mike Yost, ACOE

7021 2720 0002 5695 3665

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Total			\$6.00

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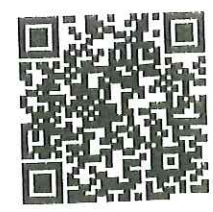
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Dover, DE 19901

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April 11, 2024

ERI Project No: 0400-0502

Ms. Gwennyth A. Davis
SHPO Division of Historical and Cultural Affairs
29 North State Street
Dover, Delaware 19901

**Re: Preconstruction Notification
Nationwide Permit No. 12 – Oil & Gas Pipeline Activities
Proposed 4-inch diameter HDPE gas main
under the Canary Creek, Lewes, Sussex County, Delaware
Applicant: Chesapeake Utilities Corporation**

Dear Ms. Davis,

Environmental Resource Insights (ERI) is writing you on behalf of the Chesapeake Utilities Corporation (Chesapeake) regarding the proposed installation of a 4-inch diameter HDPE gas main using horizontal directional boring (HDD) methods under Canary Creek and its adjacent wetlands. The project will improve the customer service within Chesapeake's Lewes-Rehoboth service area.

In order to avoid all impacts to the waters of Canary Creek, its adjacent tidal and non-tidal wetlands and existing infrastructure along the New Road corridor, the installation of this utility line will be done by horizontal directional drilling (HDD) technology which is also known as directional drilling methodology.

The 4 inch diameter HDPE gas main will be installed a minimum of 10.0 feet below the bottom of Canary Creek. Entry and access pits associated with the HDD utility installation are in uplands within developed rights of way. The total length of the gas main is 2,343 feet. Of that amount 57 linear feet lies beneath the mean high water lines of Canary Creek and an additional 788 linear feet lies below its adjacent tidal and non-tidal wetlands.

The HDD installation will be conducted in accordance with best operational practices and a Frac-Out Contingency Plan. The date of installation will be guided by the receipt of required federal permits, however, work is expected to occur in fall of 2024.

First, we would like to request that you review your records with regard to any cultural or historic resources in the permit area that might be affected by the proposed project. The second purpose of this letter is to notify your office of our client's intent to utilize NWP No. 12 to authorize the proposed work within waters and wetlands of the U.S. subject to the Army Corps of Engineers Regulatory Program. The construction details are fully explained in the enclosed pre-construction notification and plans.

Thank you in advance for your attention to this matter. If you have any questions or comments regarding the project, please feel free to contact me at (302) 436-9637.

Sincerely,

ENVIRONMENTAL RESOURCE INSIGHTS



Edward M. Launay

Enclosure: Pre-construction notification and plans

April 11, 2024

ERI Project No: 0400-0502

Species Conservation & Research Program
Division of Fish and Wildlife
Department of Natural Resources
& Environmental Control
6180 Hay Point Landing Road
Smyrna, Delaware 19977

Attn: Species Conservation & Research Program (SCRP) Biologist

**Re: Preconstruction Notification
Nationwide Permit No. 12 – Oil & Gas Pipeline Activities
Proposed 4-inch diameter HDPE gas main
under the Canary Creek, Lewes, Sussex County, Delaware
Applicant: Chesapeake Utilities Corporation**

Dear SCRCP Biologist,

Environmental Resource Insights (ERI) is writing you on behalf of the Chesapeake Utilities Corporation (Chesapeake) regarding the proposed installation of a 4-inch diameter HDPE gas main using horizontal directional boring (HDD) methods under Canary Creek and it's adjacent wetlands. The project will improve the customer service within Chesapeake's Lewes-Rehoboth service area.

In order to avoid all impacts to the waters of Canary Creek, it's adjacent tidal and non-tidal wetlands and existing infrastructure along the New Road corridor, the installation of this utility line will be done by horizontal directional drilling (HDD) technology which is also known as directional drilling methodology.

The 4 inch diameter HDPE gas main will be installed a minimum of 10.0 feet below the bottom of Canary Creek. Entry and access pits associated with the HDD utility installation are in uplands within developed rights of way. The total length of the gas main is 2,343 feet. Of that amount 57 linear feet lies beneath the mean high water lines of Canary Creek and an additional 788 linear feet lies below it's adjacent tidal and non-tidal wetlands.

The HDD installation will be conducted in accordance with best operational practices and a Frac-Out Contingency Plan. The date of installation will be guided by the receipt of required federal permits, however, work is expected to occur in fall of 2024.

First, we would like to request that you review your records with regard to any threatened or endangered species or their critical habitat in the permit area that might be affected by the proposed project. The second purpose of this letter is to notify your office of our client's intent to utilize NWP No. 12 to authorize the proposed work within waters and wetlands of the U.S. subject to the Corps of Engineers Regulatory Program. The construction details are fully explained in the enclosed pre-construction notification and plans.

Thank you in advance for your attention to this matter. If you have any questions or comments regarding the project, please feel free to contact me at (302) 436-9637.

Sincerely,

ENVIRONMENTAL RESOURCE INSIGHTS



Edward M. Launay

Enclosure: Pre-construction notification and plans



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

In Reply Refer To:

04/11/2024 20:45:35 UTC

Project Code: 2024-0076146

Project Name: HDD Installation of 4 inch diameter gas main under Canary Creek, Lewes De

Subject: List of threatened and endangered species that may occur in your proposed project location 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. The 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 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 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:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see <https://www.fws.gov/program/migratory-bird-permit/what-we-do>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

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 Code 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

Project Code: 2024-0076146
Project Name: HDD Installation of 4 inch diameter gas main under Canary Creek, Lewes De
Project Type: Pipeline - Onshore - New Constr - Below Ground
Project Description: Install a gas main using directional boring methods under Canary Creek and tidal and non-tidal wetlands.
Access pits are located in developed upland areas and no impacts to wetlands or waters will occur.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.771479,-75.16095286794899,14z>



Counties: Sussex County, Delaware

ENDANGERED SPECIES ACT SPECIES

There is a total of 5 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 2 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.

-
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: ▪ This species only needs to be considered if the project includes wind turbine operations. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

BIRDS

NAME	STATUS
Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ Potential habitat for Black Rail exists in this area. Species profile: https://ecos.fws.gov/ecp/species/10477	Threatened
Rufa Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

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.

FRESHWATER FORESTED/SHRUB WETLAND

- PFO1R

FRESHWATER EMERGENT WETLAND

- PEM1R

ESTUARINE AND MARINE WETLAND

- E2EM1N6

ESTUARINE AND MARINE DEEPWATER

- E1UBL

IPAC USER CONTACT INFORMATION

Agency: Environmental Resources Inc.

Name: Edward Launay

Address: PO Box 169

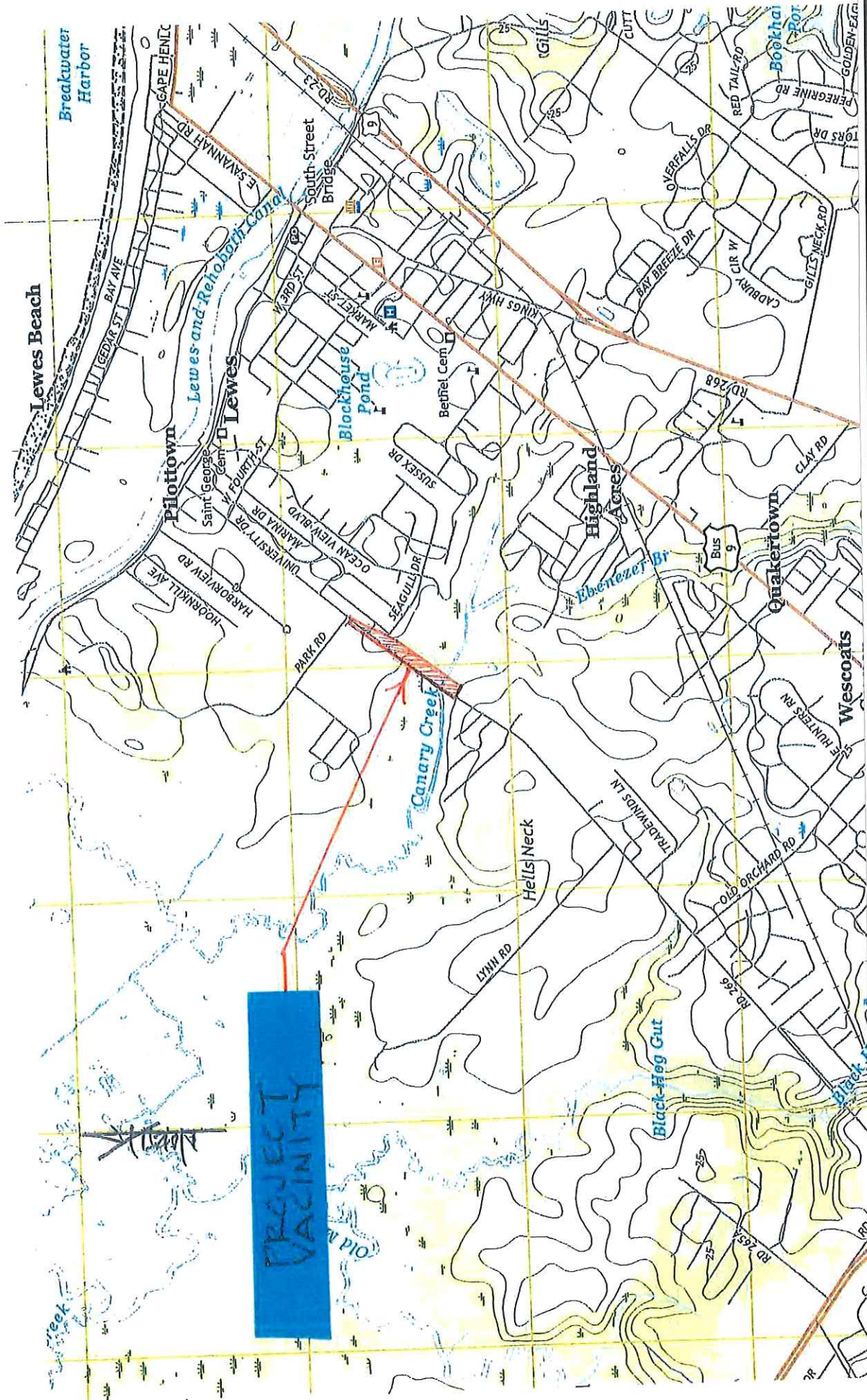
City: Selbyville

State: DE

Zip: 19975

Email: elaunay@ericonsultants.com

Phone: 3024369637

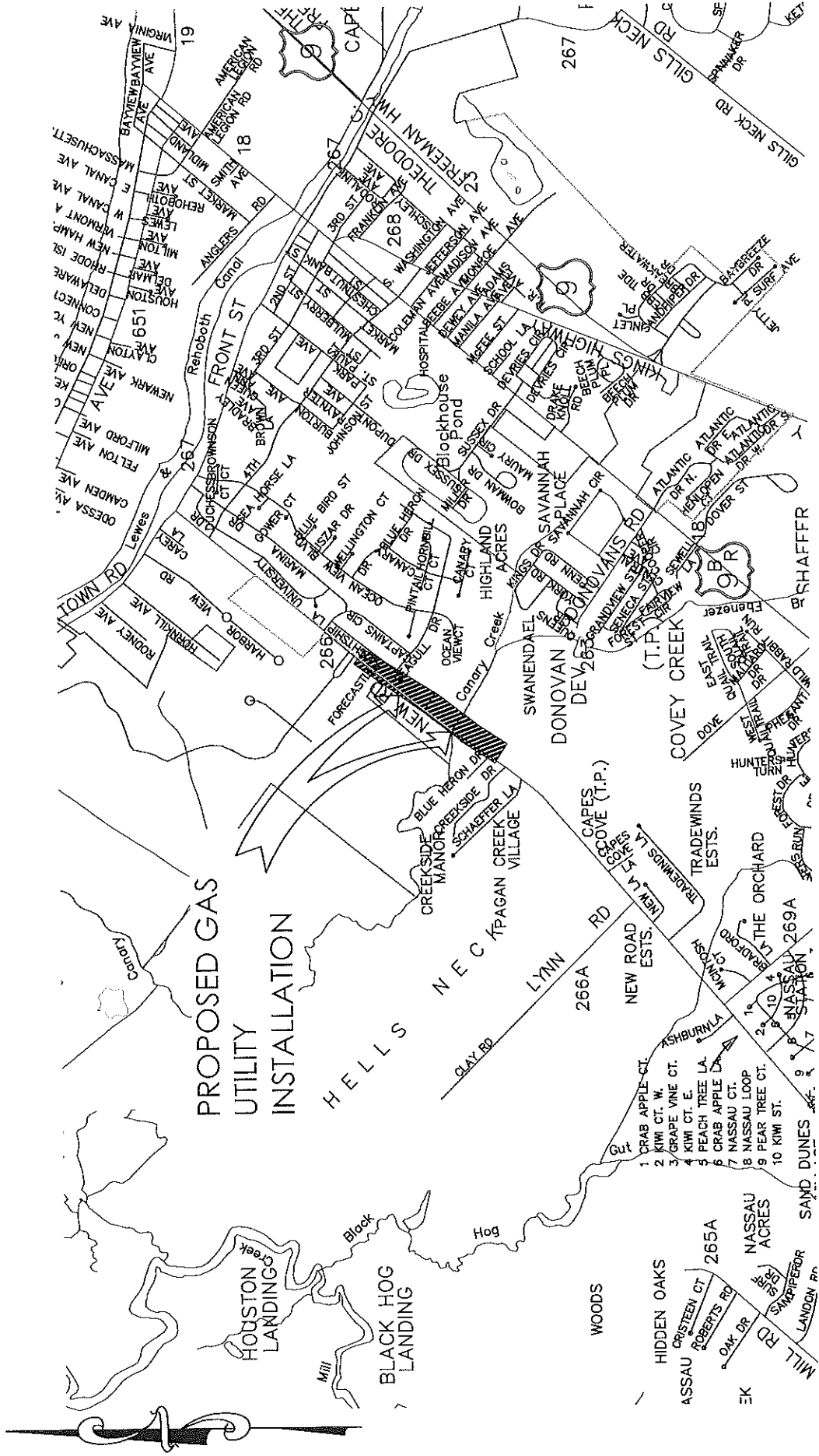


Drawn: ML
Scale: 1"=2000'
Date: 3/5/24
Job No: G24011
Sheet 1

NATIONALWIDE PERMIT NO. 12 PCN
 HDD UTILITY INSTALLATION VICINITY MAP
TAX MAP PARCELS NEW ROAD ROW,
 335-4.00-13.02, 335-8.00-14.01 & 17.00
 Lewes and Rehoboth Hundred
 Sussex County, Delaware

303 N. Bedford Street
 Georgetown, DE 19947
 T. 302.297.9215
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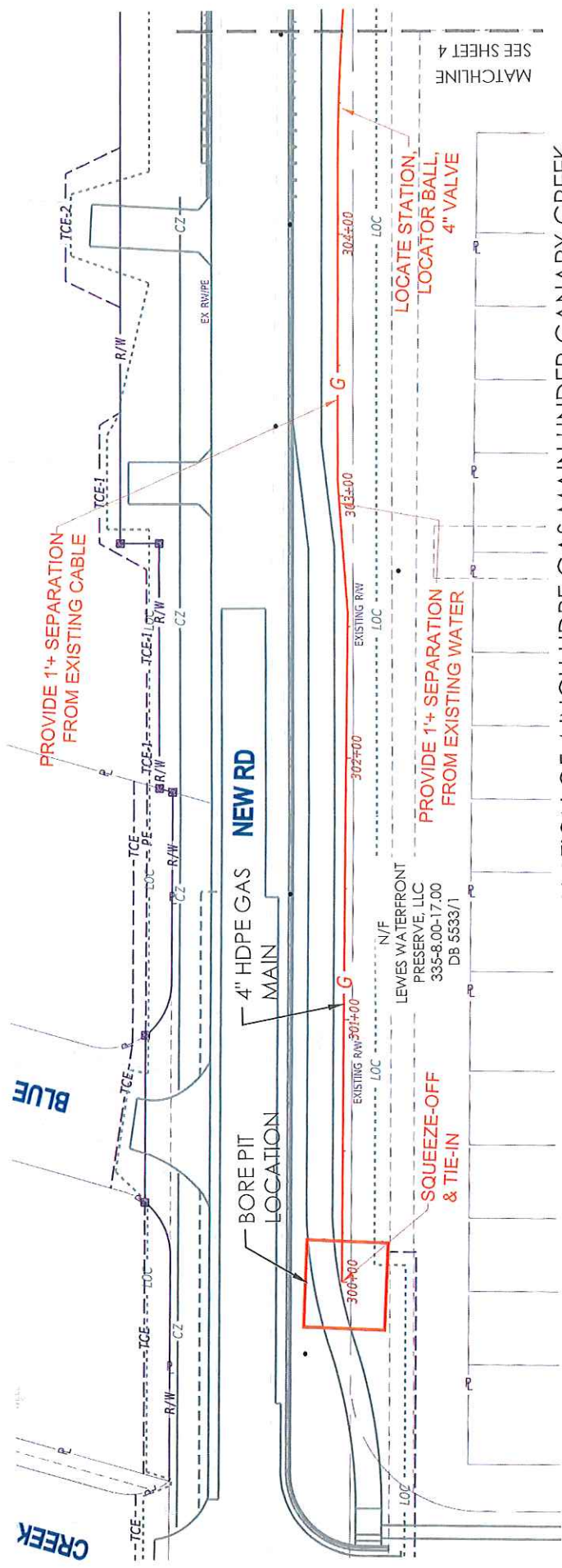
**PROPOSED GAS
UTILITY
INSTALLATION**

Drawn: ML
Scale: 1"=2000'
Date: 3/5/24
Job No: G24011
Sheet 2

NATIONALWIDE PERMIT NO. 12 PCN
HDD UTILITY INSTALLATION LOCATION & KEY
TAX MAP PARCELS NEW ROAD ROW,
335-4.00-13.02, 335-8.00-14.01 & 17.00
 Lewes and Rehoboth Hundred
 Sussex County, Delaware

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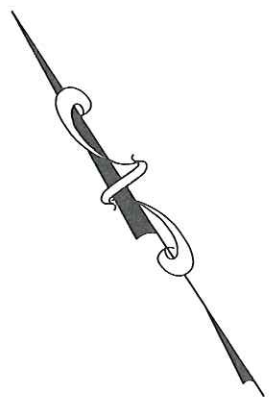




PROPOSED IMPACT TABLE FOR HDD INSTALLATION OF 4 INCH HDPE GAS MAIN UNDER CANARY CREEK

TYPE	LINEAR FEET
UPLANDS	1500.0 L.F.±
FEDERALLY REGULATED NON-TIDAL WETLANDS INCLUDES AREA SOUTHWEST OF FORECASTLE LANE	475 L.F.±
STATE (DNREC) & FEDERALLY REGULATED TIDAL WETLANDS	313 L.F.±
WATERS OF THE U.S. MHW TO MHW - CANARY CREEK	57 L.F.±

TOTAL HDD LENGTH = 2343.2 L.S.±
ENTRY TO EXIT PIT



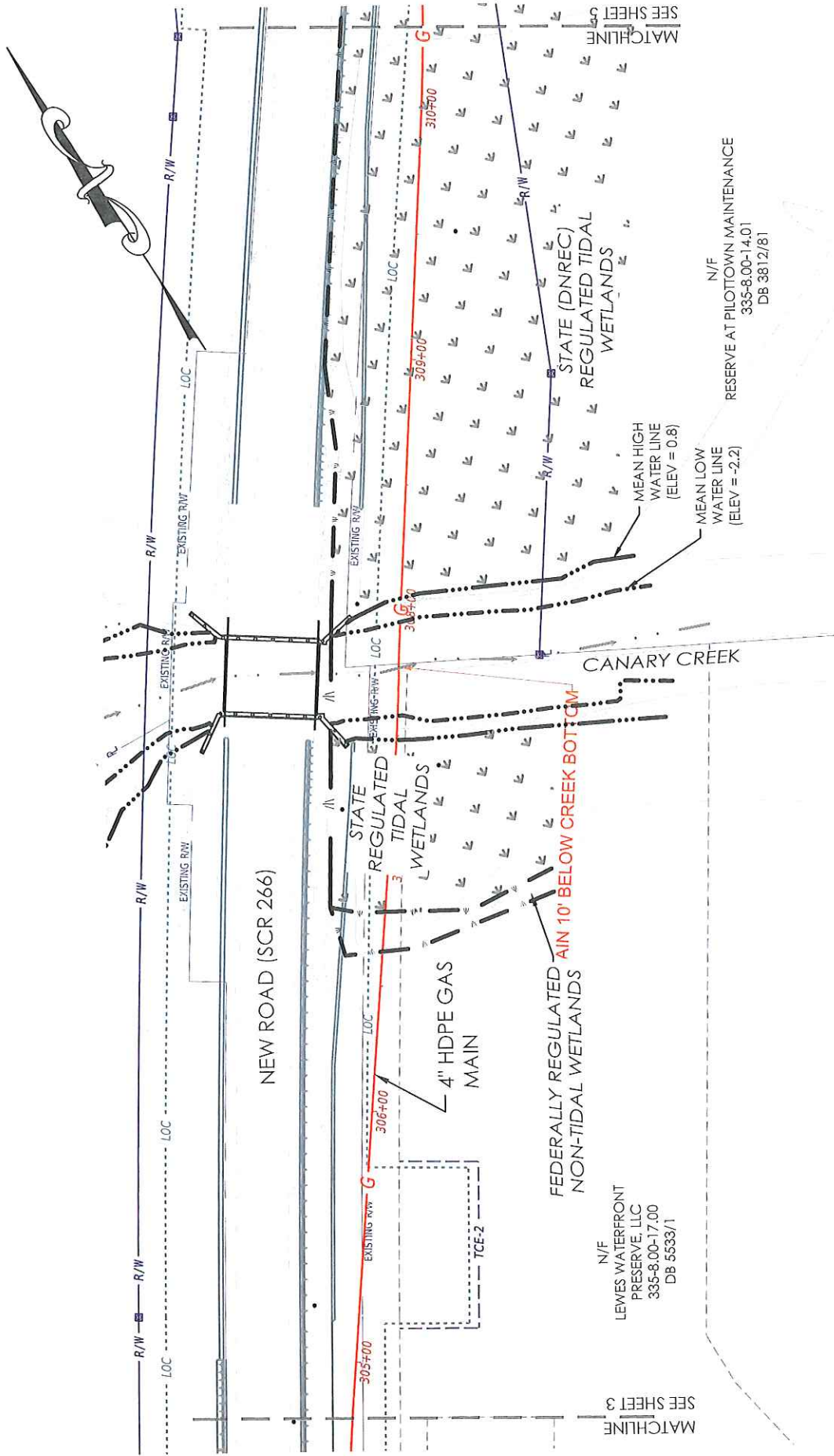


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NATIONWIDE PERMIT No. 12 PCN
HDD UTILITY INSTALLATION - SITE PLAN

TAX MAP PARCELS NEW ROAD ROW,
335-4.00-13.02, 335-8.00-14.01 & 17.00
Lewes and Rehoboth Hundred
Sussex County, Delaware

Drawn: ML
Scale: 1"=60'
Date: 3/5/24
Job No: G24011
Sheet 3



SEE SHEET 3

MATCHLINE

N/F
LEWES WATERFRONT
PRESERVE, LLC
335-8.00-17.00
DB 5533/1

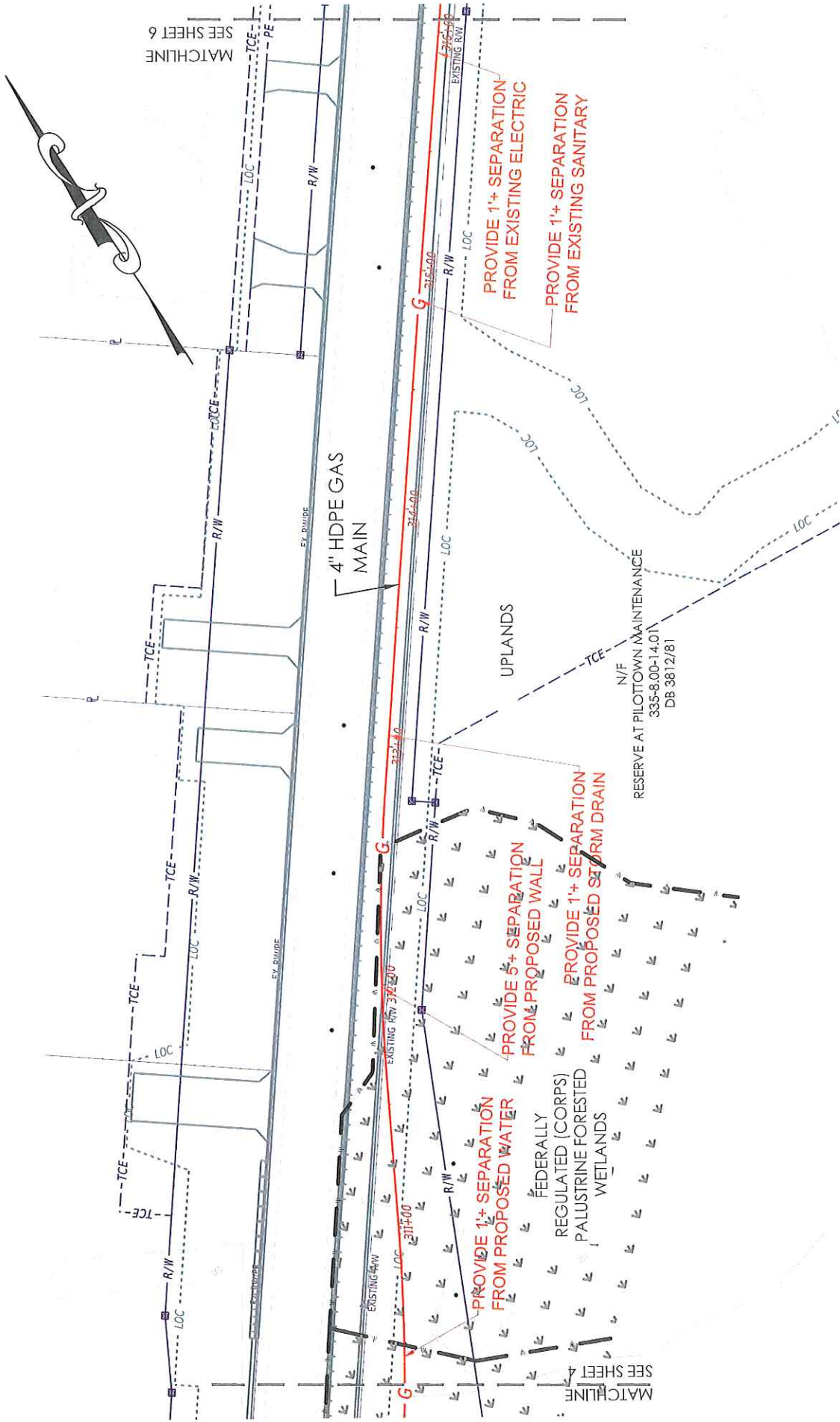
N/F
RESERVE AT PILOTOWN MAINTENANCE
335-8.00-14.01
DB 3812/81

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NATIONWIDE PERMIT NO. 12 PCN
HDD UTILITY INSTALLATION - SITE PLAN
TAX MAP PARCELS NEW ROAD ROW,
335-4.00-13.02, 335-8.00-14.01 & 17.00
Lewes and Rehoboth Hundred
Sussex County, Delaware

Drawn: ML
Scale: 1"=60'
Date: 3/5/24
Job No: G24011
Sheet 4

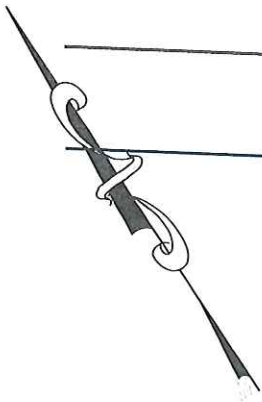


SEE SHEET 6
MATCHLINE

SEE SHEET 4
MATCHLINE

<p>NATIONWIDE PERMIT No. 12 PCN HDD UTILITY INSTALLATION - SITE PLAN</p>		<p>Drawn: ML Scale: 1"=60' Date: 3/5/24 Job No: G324011 Sheet 5</p>
<p>TAX MAP PARCELS NEW ROAD ROW, 335-4.00-13.02, 335-8.00-14.01 & 17.00 Lewes and Rehoboth Hundred Sussex County, Delaware</p>		<p>303 N. Bedford Street Georgetown, DE 19947 T. 302.297.9215 www.solutionsiperm.com</p>

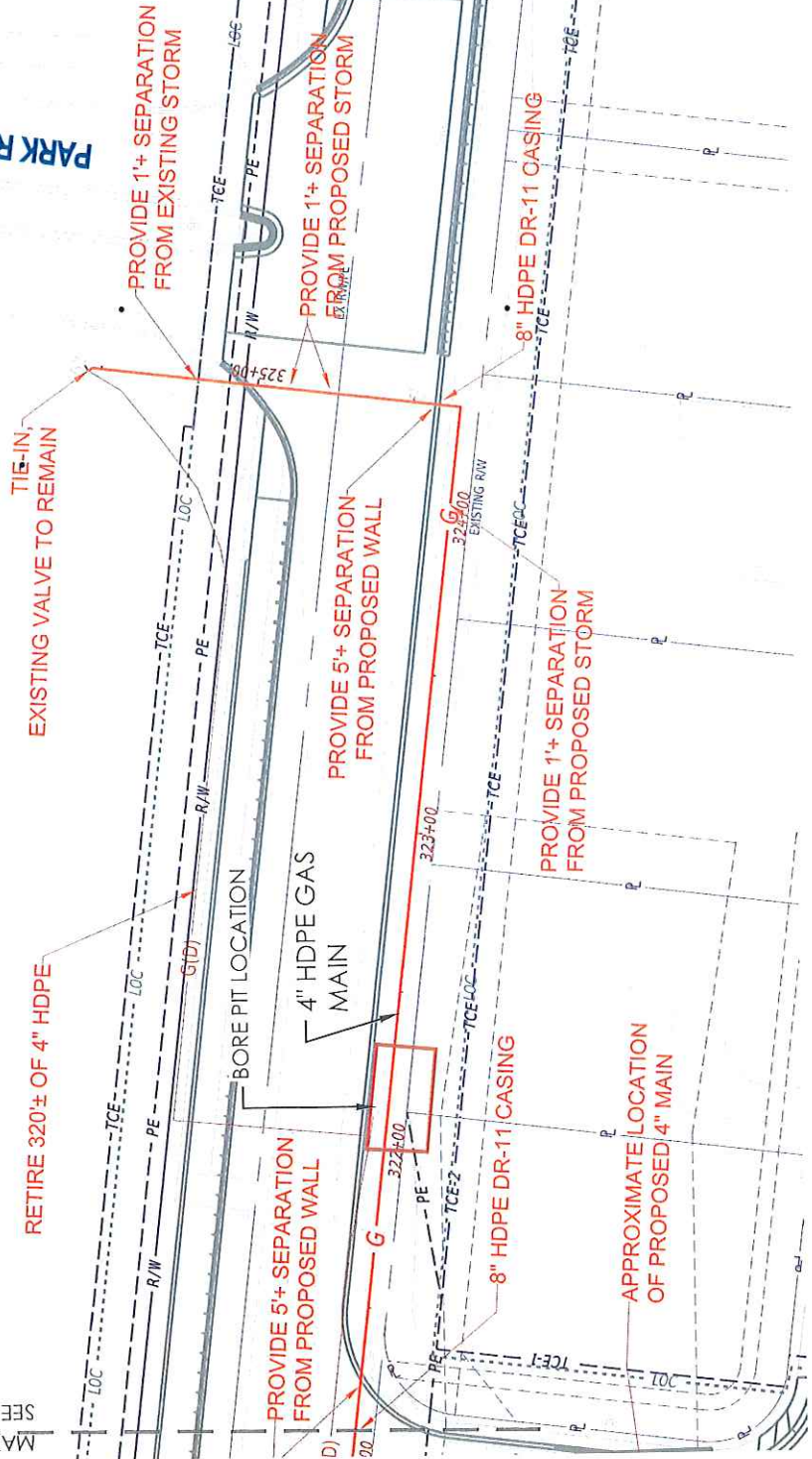
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N/F
STATE OF DELAWARE
335-4.00-13.02
DB 2734/182

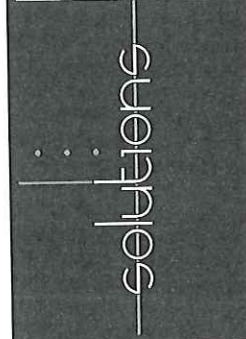
MATCHLINE
SEE SHEET 6

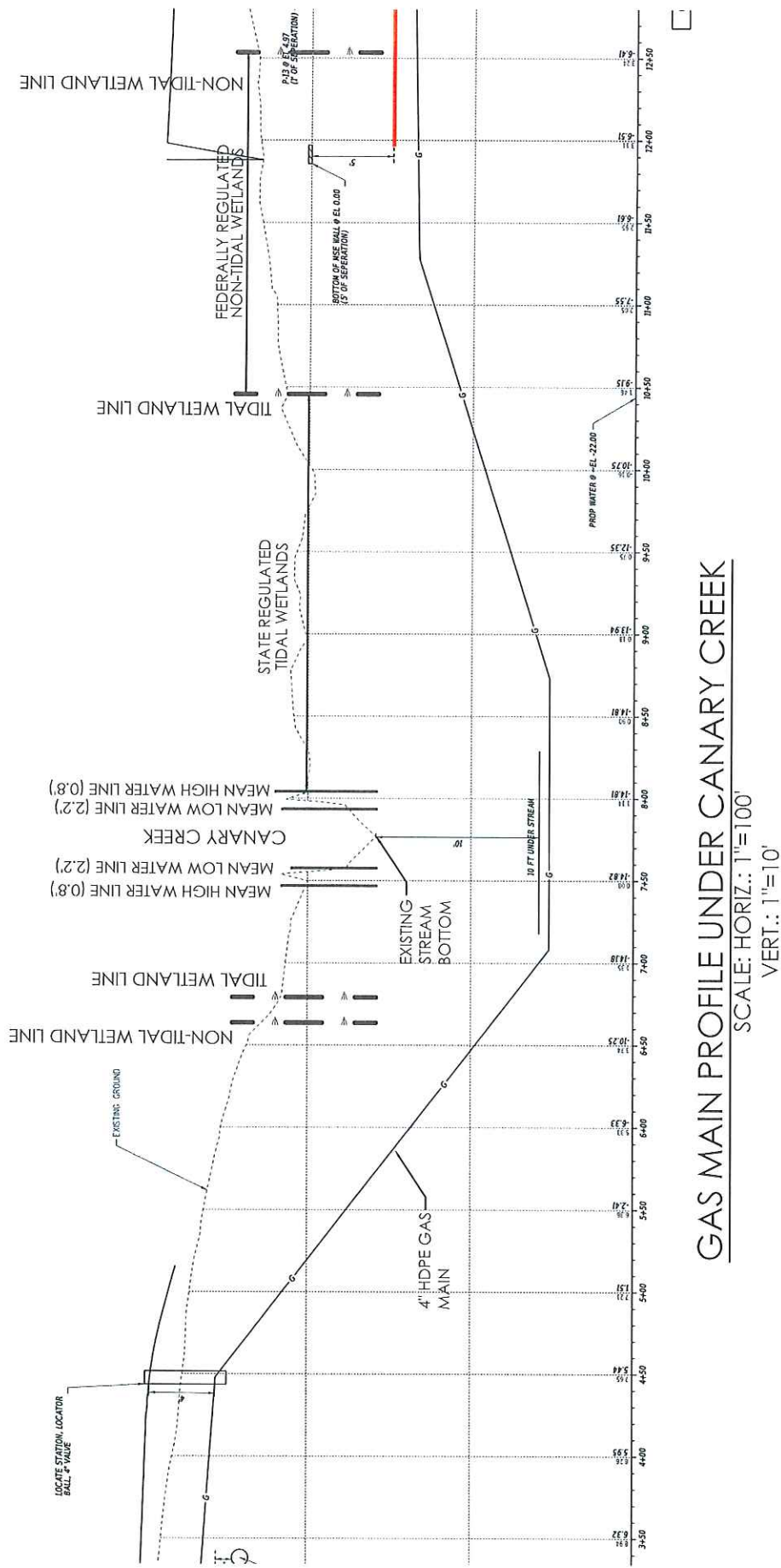
PARK RD



NATIONWIDE PERMIT NO. 12 PCN		Drawn: ML
HDD UTILITY INSTALLATION - SITE PLAN		Scale: 1"=60'
TAX MAP PARCELS NEW ROAD ROW, 335-4.00-13.02, 335-8.00-14.01 & 17.00 Lewes and Rehoboth Hundred Sussex County, Delaware		Date: 3/5/24
		Job No: G24011
		Sheet 7

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GAS MAIN PROFILE UNDER CANARY CREEK
 SCALE: HORIZ.: 1"=100'
 VERT.: 1"=10'

	303 N. Bedford Street Georgetown, DE 19947 T. 302.297.9215 www.solutionsipem.com	Drawn: ML Scale: 1"=100' Date: 3/5/24 Job No: G24011 Sheet 8
	NATIONWIDE PERMIT No. 12 PCN HDD UTILITY INSTALLATION - WATER MAIN PROFILE TAX MAP PARCELS NEW ROAD ROW, 335-4.00-13.02, 335-8.00-14.01 & 17.00 Lewes and Rehoboth Hundred Sussex County, Delaware	

**FRAC-OUT CONTINGENCY PLAN FOR PROPOSED INSTALLATION
OF 4-INCH DIAMETER HDPE GAS MAIN BY HORIZONTAL
DIRECTIONAL DRILLING BENEATH THE CANARY CANAL
APPROXIMATELY 53 FEET SOUTHEAST
OF THE NEW ROAD CENTERLINE

LEWES, SUSSEX COUNTY, DELAWARE**

ERI PROJECT NUMBER 0004#0502

Dated: April 11, 2024

1.0 INTRODUCTION

This Frac-Out Contingency Plan has been developed on behalf of the Chesapeake Utilities Corporation (permittee) to address the unlikely event of discharges of slurry or other pollutants associated with the proposed horizontal directional drilling (HDD) crossing of the Canary Creek and its adjacent wetlands approximately 53 feet southeast of the New Road centerline, Lewes, Sussex County, Delaware. Chesapeake Utilities is the engineer and project surveyor is Solutions, IPEM, LLC. Georgetown, Delaware. Mr. Edward Launay of Environmental Resources, Inc. will serve as the environmental consultant for the project. The contractor conducting the HDD crossing will be determined by Chesapeake Utilities Corporation (Chesapeake).

The proposed HDD crossings of the Canary Canal will be approximately 57 feet between the mean high water lines of Canary Creek. The 14" inch diameter HDPE gas main will be installed a minimum of 10.0 feet below the creek bottom. The total length of waters and wetlands crossed by this utility line will be 845 feet.

During construction, daily visual monitoring of the drilling route and surrounding area shall be conducted by the contractor and permittee's representatives. Should any evidence of a frac-out occur in federally or State regulated waters or wetlands, the following plan will be followed.

2.0 RESPONSE TO INADVERTENT FRAC-OUTS

In the event a frac-out is observed during the horizontal directional drilling (HDD) crossing the Canary Creek, the frac-out will be assessed to determine the amount of slurry being released and potential for the frac-out to reach the Canary Creek or nearby Delaware Bay. Response measures will vary based on the location of frac-out as described below.

A. Upland Locations

The permittee and contractor will evaluate the frac-out to determine if containment structures are warranted and if they will effectively contain the frac-out;

The permittee and contractor will promptly notify the on-site supervisor, project engineer and environmental consultant and;

- Implement appropriate containment measures as needed to contain and recover the frac-out slurry as feasible;

- If the frac-out cannot be controlled, immediately suspend the drilling operation until appropriate containment is in place;

- Depending on the volume of drilling mud lost through the frac-out, the slurry may be removed by vacuum truck, shovel or, in the case of small amounts, left in place; and

- During all drilling operations remove excess drilling mud at a rate sufficient to prevent an uncontrollable frac-out.

B. Wetland Location

Wetlands do occur in the vicinity of the HDD crossing, in the event evidence of a frac-out is observed impacting any wetlands, the permittee and contractor shall temporarily suspend forward drilling and promptly notify the on-site supervisor, project engineer and environmental consultant;

Notifications by the permittee and contractor will be made to Delaware Department of Natural Resources and Environmental Control (DNREC) and the United States Army Corps of Engineers

Philadelphia District (Corps);

- The on-site supervisor, project engineer and environmental consultant will evaluate wetland frac-outs and implement appropriate response and cleanup measures. Frac-out slurries in wetlands or within a 25-foot buffer of wetlands will be removed to the extent practical. Efforts to contain and recover slurry in wetlands may result in further disturbance by equipment and personnel, and possibly offset the benefit gained in removing the slurry. Because it is difficult to predict the effect of a frac-out and attempts to recover the slurry, frac-out within a wetland will be evaluated on a case-by-case basis in consultation with DNREC and the Corps, and an appropriate level of response will be implemented;
- If the amount of the frac-out slurry is too small to allow the practical physical collection from the affected area, it will be diluted with fresh water and/or the fluid will be allowed to dry and dissipate naturally;
- If the amount of the slurry exceeds that which can be contained with hand-placed barriers, small collection sumps (less than 5 cubic yards) may be used to remove the slurry;
- If the amount of the slurry exceeds that which can be contained and collected using small sumps, drilling operations will be suspended until the frac-out can be brought under control; and
- Removed slurry will be stored in a temporary holding tank or other suitable structure, out of the wetland area, for reuse or disposal.
- Evaluate the current drill profile (e.g., drill pressures, pump volume rates, drilling mud consistency) to identify means to prevent further frac-out events. Once evaluation and regulatory agency coordination is complete and necessary mitigation measures have been undertaken, drilling operations may be resumed; and
- The environmental consultant or project engineer will prepare a report that summarizes the incident and provide a copy of the report to DNREC and the Corps.

C. In-Waterbody Locations

The permittee and their project engineer have designed the HDD to minimize the potential for frac-out into Canary Creek. However, in the event evidence of a frac-out is observed, the permittee and contractor shall temporarily suspend forward drilling and promptly notify the on-site supervisor, project engineer and environmental consultant;

- The project supervisor or project engineer will monitor the extent of the frac-out slurry plume;
- Notifications by the permittee and contractor will be made to the DNREC and the Corps;
- Initiate containment measures and recovery of the frac-out slurry as appropriate. Containment is not always feasible for in-waterbody frac-outs. However, conditions will be assessed as to whether hand-placed containment recovery or other measures such as silt curtains and turbidity barriers would be effective and beneficial at the specific frac-out location;
- Evaluate the current drill profile (e.g., drill pressures, pump volume rates, drilling mud consistency) to identify means to prevent further frac-out events. Once evaluation and regulatory agency coordination is complete and necessary mitigation measures have been undertaken, drilling operations may be resumed; and
- The environmental consultant or project engineer will prepare a report that summarizes the incident and provide a copy of the report to DNREC and the Corps.

3.0 CONTAINMENT MATERIALS

At a minimum, the following containment, response, and clean-up equipment will be available at the HDD crossing location:

hay bales;

silt fence;

plastic sheeting;

turbidity barriers;

shovels, pails;

push brooms;
squeegees;
pumps and sufficient hose;
mud storage tanks;
boat(s);
vacuum truck on 24-hour call; and
light plant/generator.

4.0 CLEAN-UP

Site-specific clean-up measures will be developed by the on-site supervisor, project engineer, environmental consultant, DNREC and the Corps following a frac-out. The following measures are considered appropriate:

- Drilling mud will be cleaned up by hand using hand shovels, buckets and soft-bristled brooms as much as possible without causing extensive damage to existing vegetation. Fresh water washes will be employed if deemed beneficial and feasible;
- Containment structures will be pumped out and the ground surface scraped to bare topsoil without causing undue loss of topsoil or ancillary damage to existing and adjacent vegetation;
- Material will be collected in containers for temporary storage prior to removal from the site;
- Potential for secondary impact from the clean-up process is to be evaluated and clean-up activities terminated if physical damage to the site may exceed the benefits of clean-up activities; and
- The need to restore disturbances to nontidal and tidal wetlands or waters will be determined in consultation with the Corps and DNREC.

5.0 RESPONSE CLOSE-OUT PROCEDURES

When the frac-out has been contained and cleaned up, response closeout activities will be conducted at the direction of the on-site supervisor and will include the following:

- The recovered drilling fluid will be recycled or disposed of at a stable upland location or commercial disposal facility. No recovered drilling mud will be disposed of in streams, waterbodies, or storm drains;
- All containment measures (e.g., fiber rolls, straw bale) will be removed, unless otherwise specified by the project engineer, and approved by the appropriate regulatory agencies

6.0 PROJECT COMPLETION REPORTING

In the event of any frac-out occurrences at the completion of the project, the permittee or their representatives shall submit a final completion report summarizing the impacts of the HDD project, if any, to DNREC and the Corps.

EXHIBIT A