



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: _____

I. Federal Agency or Non-Federal Applicant Contact Information:

Contact Name/Title: Evelyn Maurmeyer, CER, Inc. (applicant's agent)

Federal Agency Contractor Name (if applicable): n/a

Federal Agency: IP application submitted to US Army Corps of Engineers
 (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: PO Box 674

City: Lewes State: DE Zip Code: 19958

E-mail: maurmeye@udel.edu Telephone #: (302) 645-9610

II. Federal Consistency Category:

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

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

See attached sheets

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

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

Policy 5.1: Wetlands Management

Policy 5.2: Beach Management

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

Policy 5.4: Subaqueous Land and Coastal Strip Management

Policy 5.5: Public Lands Management

Policy 5.6: Natural Lands Management

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Policy 5.7: Flood Hazard Areas Management

[Empty rectangular box for Policy 5.7 content]

Policy 5.8: Port of Wilmington

[Empty rectangular box for Policy 5.8 content]

Policy 5.9: Woodlands and Agricultural Lands Management

[Empty rectangular box for Policy 5.9 content]

Policy 5.10: Historic and Cultural Areas Management

[Empty rectangular box for Policy 5.10 content]

Policy 5.11: Living Resources

[Empty rectangular box for Policy 5.11 content]

Policy 5.12 Mineral Resources Management

[Empty rectangular box for Policy 5.12 content]

Policy 5.13: State Owned Coastal Recreation and Conservation

[Empty rectangular box for content]

Policy 5.14: Public Trust Doctrine

[Empty rectangular box for content]

Policy 5.15: Energy Facilities

[Empty rectangular box for content]

Policy 5.16: Public Investment

[Empty rectangular box for content]

Policy 5.17: Recreation and Tourism

[Empty rectangular box for content]

Policy 5.18: National Defense and Aerospace Facilities

[Empty rectangular box for content]

Policy 5.19: Transportation Facilities

[Empty rectangular box for content]

Policy 5.20: Air Quality Management

Policy 5.21: Water Supply Management

Policy 5.22: Waste Disposal Management

Policy 5.23: Development

Policy 5.24: Pollution Prevention

Policy 5.25: Coastal Management Coordination

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:	<i>Evelyn M. Maurmeyer</i>		
Printed Name:	Evelyn M. Maurmeyer, CER, Inc.	Date:	6/21/2024

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 checked="" type="checkbox"/> YES <i>[attach comments]</i>	
Decision type: <small>(objections or conditions attach details)</small>	Decision Date: _____	



COASTAL & ESTUARINE RESEARCH, INC.

Marine Studies Complex
P.O. Box 674
Lewes, Delaware 19958
302-645-9610

June, 2024

**DELAWARE COASTAL MANAGEMENT PROGRAM
FEDERAL CONSISTENCY CERTIFICATION**

Applicants

Dr. Blair and Melissa Jones
73 Tidewaters
Henlopen Acres, DE 19971

III. Detailed Project Description

Site Location

The proposed project site is 73 Tidewater Road, Henlopen Acres, Sussex County, Delaware (Tax Map Parcel #334-13.12-2.01). See Figures 1, 2, 3 and 4 for location maps and directions to site. The site location is depicted on USGS topographic map, Rehoboth Beach, Delaware quadrangle (Figure 5), and is adjacent to the Lewes and Rehoboth Canal. Width of waterway at project site = 120'±. The site location is depicted on State of Delaware DNREC Wetland Map #DNR035, 1988 photobase (Figure 6), and is mapped O (other, uplands or non-tidal wetlands less than 400 acres), adjacent to W (Water). See Figure 7 for aerial photograph, and Figure 8 for ground-level photograph of site.

Existing Structures

The following existing structures are present on site:

- 20 l.f. stone rip-rap bank stabilization
- Access steps from upland bank (steps are landward of MHW).
- 20' long x 4' wide pier
- 5' wide x 40' long fixed dock

The structures were authorized by SL-351/04 and CENAP-OP-R-200601253-23, and approved by Delaware Coastal Management Federal Consistency Certification FC 05.013.

Proposed Project

The applicant proposes the following activities (see Figures 8 and 9 for plan view and cross-sections):

- Repair/replace existing access steps (landward of MHW)
- Repair/replacement of existing 20' long x 4' wide pier.
- Repair/replacement/enlargement of existing 40' long x 5' wide dock to 50' long x 5' wide (to accommodate proposed boat lift)
- Installation of new 10K side-mount boat lift
- Installation of new 12' long x 6' wide floating kayak dock with fixed ladder.

Project Purpose

Purpose of repair/replacement is to remove the existing, deteriorating structures (see photograph, Figure 8) and to install safe new structures. Purpose of the boat lift is to keep the applicant's boat out of the water when not in use; secondary purpose is to prevent the boat from resting on the bottom at extreme low tides. Purpose of the dock enlargement is to accommodate the proposed boat lift. Purpose of the floating kayak dock is to provide a launching facility for the applicants' kayaks. Purpose of the ladder is to provide access from the fixed dock to the floating kayak dock.

IV. General Analysis of Coastal Effects.

The proposed structures will be constructed using materials approved for use in marine/estuarine waters (salt-treated wood, galvanized hardware; aluminum/steel lift; poly-encapsulated floating dock with composite decking). The docking facility will not extend more than 20% of the width of the waterway, nor will it extend into the Corps' buffer zone. The proposed project will assure continued availability of the waterway (Lewes and Rehoboth Canal) for public recreational purposes. The proposed project is consistent with enforceable policies of the Delaware Coastal Management Program, as described in greater detail in the ensuing sections.

V. Detailed Analysis of Consistence with DCMP Enforceable Policies

Policy 5.1: Wetlands Management. No DNREC-regulated wetlands are mapped at the site (see Figure 6).

Policy 5.2: Beach Management. The project site is not within the area of DNREC-regulated beaches.

Policy 5.3: Coastal Waters Management. The proposed project will assure continued availability of the waterway (Lewes and Rehoboth Canal) for public recreational purposes. The project will maintain beneficial uses of the waterway for the public (including secondary contact recreation such as boating and fishing). The waterway is not designated for use as a public water supply. The project will not result in pollution which may threaten the safety and health of the public. Approved materials will be utilized for construction (see IV, above). No creosote-treated timber or other harmful materials will be utilized. It is not anticipated that the proposed project will degrade the waterway.

Policy 5.4: Subaqueous Land and Coastal Strip Development. The proposed project does not involve industrial nor manufacturing facilities. There is no deposition of material (filling) nor extraction of materials (dredging) associated with the proposed project in subaqueous lands. The coastal strip will continue to be protected for public use for recreation, fishing, and crabbing; the proposed project will not impact these activities. No additional supporting facilities will be required for the project.

Policy 5.5: Public Lands Management. The applicant has submitted a permit application to the Wetlands and Waterways Section, DNREC, for which Supplemental Approval for Subaqueous Lands Lease SL-351/04 is anticipated.

Policy 5.6: Natural Lands Management. The project site does not lie within a State Natural Heritage site nor within a Delaware National Estuarine Research Reserve.

Policy 5.7: Flood Hazard Areas Management. The proposed project is not anticipated to contribute to increased flood hazards.

Policy 5.8: Port of Wilmington. The project site is not located in the Port of Wilmington.

Policy 5.9: Woodlands and Agricultural Lands Management. The project site is located in Henlopen Acres, a residential community, not in woodlands nor agricultural lands.

Policy 5.10: Historic and Cultural Areas Management. The US Army Corps of Engineers application for the existing structures was submitted in 2004. A review by the Delaware State Historic Preservation Office (now Division of Historical and Cultural Affairs) stated that “no historic properties, eligible for or listed in the National Register of Historic Places, will be affected by this project” (see Attachment 1). It is anticipated that the same conclusion will be reached during review of this application.

Policy 5.11: Living Resources. The US Army Corps of Engineers application for the existing structures was submitted in 2004. The Corps’ Public Notice (CENAP-OP-R-200601253-23, dated Oct. 26, 2006) stated that “the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended.” With regard to Essential Fish Habitat there are a number of managed species of fish that have been listed as occurring in the vicinity of the project. The Corps’ analysis of the effects stated that “the proposed work would occur in a small area of waters within a narrow artificial navigation canal, an area which is subject to regular boating activity and expected to have relatively poor water quality” and determined that “the proposed project would not have a substantial direct, indirect, site-specific, or habitat-wide impacts on EFH.” It is anticipated that the same conclusion will be reached during review of this application.

Policy 5.12: Mineral Resource Management. No mineral extraction proposed.

Policy 5.13: State-Owned Coastal Recreation and Conservation. The site is not State-owned. However, public recreational opportunities in the Lewes and Rehoboth Canal will be maintained.

Policy 5.14: Public Trust Doctrine. The public’s right to navigation will not be impeded by the proposed project.

Policy 5.15: Energy Facilities. The proposed project does not involve energy facilities.

Policy 5.16: Public Investment. The project is entirely private; no public investment involved.

Policy 5.17: Recreation and Tourism. The proposed project will improve recreational boating for the applicants, their family and friends, and allow increased participation in water-based recreational activities (boating, fishing, crabbing, etc.).

Policy 5.18: National Defense and Aerospace Facilities. The proposed activity does not involve national defense nor aerospace facilities.

Policy 5.19: Transportation Facilities. The proposed project does not involve commercial transportation facilities.

Policy 5.20: Air Quality Management. Air pollution resulting from the proposed project will be minimal.

Policy 5.21: Water Supply Management. The site is not located in a water supply area.

Policy 5.22: Waste Disposal Management. No waste disposal is associated with the proposed project.

Policy 5.23: Development. The proposed project is not associated with new community development.

Policy 5.24: Pollution Prevention. There will be no pollution associated with the proposed project.

Policy 5.25: Coastal Management Coordination. Coordination among State and Federal agencies will take place in review of the proposed project. The public will have the opportunity to comment on the project in response to Public Notices issued by the US Army Corps of Engineers; DNREC Wetlands and Waterways Section; and Delaware Coastal Management Program.

Based on the review outlined above, the project proposed by Dr. Blair and Melissa Jones (applicants), its associated facilities, and their effects are all consistent with the enforceable policies of the Delaware Coastal Management Program.



Delaware State Historic Preservation Office

Mailing Address: 21 The Green

Dover, DE 19901

Phone Number: (302) 739-5685

Fax Number: (302) 739-5660

E-Mail: craig.lukezic@state.de.us

FINDINGS OF NO HISTORIC PROPERTIES AFFECTED

Review Code: 2006.10.27.02

November 2, 2006

Dr. Evelyn M. Maurmeyer
Coastal and Estuarine Research, Incorporated
Marine Studies Complex
PO Box 674
Lewes, DE 19958-0674

Project: Jones Pier Permit
CENAP-OP-R-200601253-23
Rehoboth Beach, DE

The staff of the State Historic Preservation Office has reviewed the materials submitted regarding the above cited project. Based on this review, we have made the determination that no historic properties, eligible for or listed in the National Register of Historic Places, will be affected by this project.

Timothy Slavin
State Historic Preservation Officer

By: 
Craig Lukezic
Archaeologist

cc: Stephen Marz, Deputy Director, Division of Historical and Cultural Affairs



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
DIVISION OF SOIL AND WATER CONSERVATION

89 KINGS HIGHWAY
DOVER, DELAWARE 19901

DELAWARE COASTAL
MANAGEMENT PROGRAM

TELEPHONE: (302) 739 - 3451
FAX: (302) 739 - 2048

January 4, 2004

Evelyn M. Maurmeyer, PhD
Marine Studies Complex
PO Box 674
Lewes, Delaware 19958

**RE: Delaware Coastal Management Federal Consistency Certification
Jones Dock and Pier (FC 05.013)**

Dear Dr. Maurmeyer:

The Delaware Coastal Management Program (DCMP) has received and reviewed your consistency determination for the above referenced project. Based upon our review and pursuant to National Oceanic & Atmospheric Administration regulations (15 CFR 930), the DCMP concurs with your consistency determination for the construction of a 20' x 4' pier, a 5' x 40' dock and 20 linear feet of rip-rap Lewes and Rehoboth Canal at 73 Tidewaters, Henlopen Acres (Tax Map Parcel # 3-34-13.12-2.01), Sussex County, Delaware (FC .5.013).

This concurrence is conditioned upon the issuance of a Delaware Subaqueous Land permit or lease and adherence to the restrictions and/or conditions placed on any and all permits issued to you for this project.

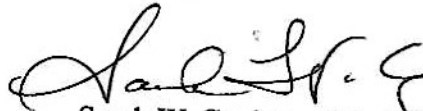
In addition, the DCMP, in conjunction with the Coastal Nonpoint Program, strongly recommends the establishment of a 25' riparian buffer along the shoreline. This vegetative stabilization will reduce shoreline erosion of the steep embankment and increased water quality control from stormwater runoff.

In order to ensure an expeditious permit approval process, you should submit project applications to the DCMP for federal consistency determination in conjunction with the project application submittal for the Delaware

Subaqueous Land permit. This will ensure that coordination between the programs may occur and may prevent delay of the consistency determination issuance.

If you have any questions regarding this determination, please contact me or Bonnie Willis of my staff at (302) 739-3451.

Sincerely,



Sarah W. Cooksey, Administrator
Delaware Coastal Management Program

SWC/bmw

CC: File 05.013

Kevin Faust - USACOE

Charles McNally - DNREC/DWR