



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT  
1650 ARCH STREET  
PHILADELPHIA PA 19103-2004

Environmental Resources Branch

July 16, 2024

Ms. Kimberly Cole  
Delaware Coastal Program  
Department of Natural Resources  
and Environmental Control  
100 W. Water Street, Suite 7B  
Dover, DE 19904  
[Kimberly.Cole@delaware.gov](mailto:Kimberly.Cole@delaware.gov)

Dear Ms. Cole:

The purpose of this letter is to request a ten-year Federal consistency concurrence with the Delaware Coastal Management Program (DCMP) pursuant to Section 307(c) of the Coastal Zone Management Act (CZMA), as amended, for the proposed maintenance dredging of two sections of the Inland Waterway, Rehoboth Bay to Delaware Bay Shallow Draft Federal Navigation Channel, commonly referred to as the Lewes and Rehoboth (L&R) Canal. In the first phase (Phase 1) of the L&R Canal project the U.S. Army Corps of Engineers (USACE), Philadelphia District, proposes maintenance dredging within the L&R Canal channel between approximately 300 feet southeast of the Theo C. Freeman Memorial Highway (Route 9) bridge (Station 23+000) to approximately 1,300 feet southwest of the Henlopen Acres Marina (Station 46+216) for a distance of approximately 4.56-miles (Figure 1). In a subsequent phase (Phase 2), which is contingent on funding, the USACE proposes maintenance dredging within the southernmost portion of the L&R Canal navigation channel from approximately 1,300 feet southwest of the Henlopen Acres Marina (Station 46+216) to the canal terminus in Rehoboth Bay (Station 59+082). Phase 2 is approximately 3.68-miles in length (Figure 1). The latest USACE surveys depicting the depths in the L&R Canal navigation channel are provided at this link –

<https://www.nap.usace.army.mil/Portals/39/docs/Surveys/DelawareInlets/LR%20SavannahtoRehoboth/SavannahtoRehoboth.pdf?ver=1ybvtmp5iEIS6GNHY8unzg%3d%3d>.

In Phase 1, the USACE proposes to remove approximately 41,000 cubic yards (CYs) of material between October 2025 and March 2026 using a contracted hydraulic cutterhead or mechanical dredge in areas of the 50-foot wide L&R Canal channel with depths less than -6 feet mean low lower water (MLLW) with one foot of allowable overdredge to -7 feet MLLW. In Phase 2 of the maintenance dredging project, which is contingent on funding, the USACE proposes to remove approximately 49,000 CYs of material also utilizing a contracted hydraulic cutterhead or mechanical dredge in areas of the 50-foot wide L&R Canal channel with depths less than -6 feet MLLW with one foot of allowable overdredge to -7 feet MLLW.

In 2023, the USACE contracted Tetra Tech, Inc. to conduct sediment, water quality, and grain size analyses for samples obtained from shoaled areas within the canal. The chemical analyses were compared to Delaware's Department of Natural Resources and Environmental Control (DNREC) guidelines for sediment and surface water criteria. The results of the analyses indicated that the proposed maintenance dredging activities and placement of the dredge materials are not expected to cause adverse effects to aquatic life or human health. The dredged material, for both phases of the project, is proposed to be placed in the two cells which constitute the Lewes confined upland dredge material placement facility (DMPF) which is located south of Cedar Street in Lewes (see Figure 2). The USACE is currently evaluating beneficial use (BU) options for the placement of the dredge material, however if the BU options are not selected and approved by the appropriate regulatory agencies, then all dredge material for both phases of the project will be placed within the Lewes DMPF as proposed. Any BU options selected will be coordinated with DNREC's Delaware Coastal Program for CZMA compliance in a separate Federal consistency concurrence request.

The purpose of this letter is to request Federal consistency concurrence for maintenance dredging operations covering a ten-year period in anticipation that future maintenance dredging operations may be needed. The currently proposed maintenance dredging actions, as well as future maintenance activities have been evaluated for consistency with the CZMA and the CZMA Federal Consistency Form is enclosed for your review. The maintenance dredging is proposed between the months of October through March to minimize any potential adverse impacts to horseshoe crabs, migratory shorebirds, summer flounder, American eel, sandbar sharks and sand tiger sharks, and Atlantic sturgeon. After a detailed review of all applicable regulations and policies associated with the proposed maintenance dredging, it is our finding that the proposed activity complies with Delaware's approved Coastal Zone Management (CZM) program. The USACE had previously received concurrence from your office on August 15, 2022, for a 10-year Federal Consistency concurrence for the USACE's maintenance dredging of a section of the L&R Canal between the Roosevelt Inlet and the Route 9 bridge. Phase 1 of this proposed project begins where that previous project ended.

We request your concurrence with our CZM consistency determination for the proposed project and 10 future years of periodic maintenance dredging of the L&R Canal. Future maintenance dredging events are anticipated to be scheduled every four to six years, contingent on funding. In the event that significant modifications of the maintenance dredging operations are required in the future, the USACE will coordinate with your office with regard to Federal consistency, pursuant to the National Oceanic and Atmospheric Administration's regulations (15 CFR 930). We request your concurrence that the proposed maintenance dredging operations are consistent with Delaware's Federally-approved Coastal Zone Management Program by September 30, 2024.

If you have any questions regarding this project, please contact Colin Greenwood of our Environmental Resources Branch at (215) 656-2338 or via email [Colin.M.Greenwood@usace.army.mil](mailto:Colin.M.Greenwood@usace.army.mil) or Dan Kelly of our Operations Division at 215-656-6683 or via email [Daniel.J.Kelly@usace.army.mil](mailto:Daniel.J.Kelly@usace.army.mil).

Sincerely,

**LEARY.ADRIAN.**

**1384973384**

Adrian Leary  
Chief, Planning Division

Digitally signed by  
LEARY.ADRIAN.1384973384  
Date: 2024.07.18 17:34:22  
-04'00'

Enclosures

Figure 1: Project Location Map – Location of Proposed L&R Canal Maintenance Dredging



Figure 2: Lewes DMPF Location Map





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: \_\_\_\_\_

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: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

E-mail: \_\_\_\_\_ Telephone #: \_\_\_\_\_

### II. Federal Consistency Category:

Federal Activity or Development Project  
(15 C.F.R. Part 930, Subpart C)

Federal License or Permit Activity  
(15 C.F.R. Part 930, Subpart D)

Outer Continental Shelf Activity  
(15 C.F.R. Part 930, Subpart E)

Federal License or Permit Activity which occurs  
wholly in another state (interstate consistency  
activities identified in DCMP's Policy document)

Federal Financial Assistance  
(15 C.F.R. Part 930, Subpart F)

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

**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**

**Policy 5.7: Flood Hazard Areas Management**

**Policy 5.8: Port of Wilmington**

**Policy 5.9: Woodlands and Agricultural Lands Management**

**Policy 5.10: Historic and Cultural Areas Management**

**Policy 5.11: Living Resources**

**Policy 5.12 Mineral Resources Management**



**Policy 5.13: State Owned Coastal Recreation and Conservation**

**Policy 5.14: Public Trust Doctrine**

**Policy 5.15: Energy Facilities**

**Policy 5.16: Public Investment**

**Policy 5.17: Recreation and Tourism**

**Policy 5.18: National Defense and Aerospace Facilities**

**Policy 5.19: Transportation Facilities**

**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:    |  |       |  |
| Printed Name: |  | 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<br>(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<br>(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<br>(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<br>(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<br><i>[attach comments]</i> |                |
| Decision type:<br><small>(objections or conditions attach details)</small> | Decision Date: _____  |                |