Delaware Department of Natural Resources and Environmental Control
Delaware Coastal Management Program

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:	Indian River Flood Shoal Dredging and Beneficial Use Project

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

Contact Name/Title: Stephen Williams, DNREC Division of Watershed Stewardship Director

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: 285 Beiser Blvd, Suite 102

City: Dover State: DE Zip Code: 19904

E-mail: Stephen.Williams@delaware.gov Telephone #: 302-739-9921

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):

DNREC is seeking EMERGENCY AUTHORIZATION to repair the North Indian River Inlet Beach (North Beach), Delaware Seashore State Park as critical infrastructure like the Charles W. Cullen Memorial (Inlet) Bridge and Delaware Route-1 are in imminent risk of failure due to erosion.

The project aims to hydraulically maintenance dredge the flood shoal near the federal navigation channel in the Indian River Inlet, and then use all dredged material as beach fill to nourish North Beach. The flood shoal would be dredged to the authorized federal channel elevation of -24 ft NAVD with 1 ft of allowable over-dredge and approximately 640 ft wide. Up to 550,000 cubic yards (cy) of mostly sandy (>90%) material is to be transported via pipeline, and then used to restore the North Beach berm and dune system for a length of approximately 5,200 linear feet beginning from the north jetty and extending northward. Dunes will be constructed with a 100 to 150 ft wide berm with an elevation of +9.0 ft NAVD. The berm will have a dune on top with an overall dune crest elevation of +16.0 ft NAVD and width of 25 ft.

The dune system at North Beach was previously rebuilt as described above by the United States Army Corps of Engineers (USACE) under an emergency action in 2013 following Hurricane Sandy. Since then, the flood shoal has recovered all of the volume previously dredged (520,000 cubic yards) within four years. See the Design Plans and Permit Supplement provided with this application.

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

North Beach has a long history of erosion due to the interruption of the northward flow of sand caused by the construction of the inlet jetties. This erosion has made critical infrastructure, such as Delaware Route-1 and the Inlet Bridge, more vulnerable to storm damages. For several years the annual pumping of the sand bypass system helped mitigate erosion at North Beach and was the primary maintenance activity; however in 2020 the system became inoperable. Since then, DNREC has judiciously added sand to North Beach via truck haul which has been ineffective for mitigating risk and can no longer keep up with the current rate of erosion. In response to the inadequate maintenance, the dune system at North Beach is severely eroded and prone to scour from direct wave energy on a regular high tide. North Beach needs to be rebuilt with a large volume of sand that is delivered rapidly.

See the Permit Supplement for additional information.

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

Policy 5.1: Wetlands Management

Not applicable

Policy 5.2: Beach Management

Dredge material consisting mainly of sand (>90%) will be placed on North Beach. Front-loaders and bulldozers will be used to spread and grade material to construct the berm and dune system per the approved design plans. No confinement will be used and dredged material will be allowed to erode and accrete under natural tidal forcing.

The purpose of the project is to preserve, protect, and enhance North Beach to mitigate erosion, maintain safe access, and protect the shoreline. Public access to North Beach will be restricted in the locations during active construction.

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

Prior to construction, results of the Sediment Chemical Evaluation of potential dredge material will be compared to Delaware risk-based criteria for the protection of aquatic life and human health. This evaluation will be provided as soon as available. A Sampling and Analysis Plan is included with the application package.

Temporary perimeter controls will be used near dredging operations and will be monitored routinely throughout construction to protect water quality. Dredging during winter months will also limit the disruption to migrating fish and aquatic species that could be adversely impacted by water column turbidity. Transport pipelines will be floated and clearly marked to avoid environmental impact. Proper construction oversite will be implemented to ensure there are no negative impacts to water quality via daily site inspections.

Policy 5.4: Subaqueous Land and Coastal Strip Management

Not applicable

Policy 5.5: Public Lands Management

The project aims to manage and preserve the integrity of the Indian River Inlet and Delaware Seashore State Parks for the scenic, historic, scientific, and wildlife values of the area.

Managing sand resources to North Beach will help maintain public access, protect infrastructure, and preserve the sensitive shoreline.

Policy 5.6: Natural Lands Management

The beneficial use of dredged material will enhance natural lands by restoring over 5,000 linear feet of coastal habitat.

Policy 5.7: Flood Hazard Areas Management

DNREC is seeking EMERGENCY AUTHORIZATION to restore the berm and dune system at North Beach as critical infrastructure like Delaware Route-1 and the Charles W. Cullen Memorial (Inlet) Bridge are in imminent risk of flooding and subsequently failure. Conditions at North Beach have been severely deteriorating overtime and adding sand via truck haul can no longer overcome the current rate of erosion. North Beach needs to be rebuilt with a large volume of sand that is delivered rapidly. The intention is to maintenance dredge the Inlet flood shoal and place up to 550,000 cubic yards (cy) of dredged material onto North Beach to rebuild over 5,200 linear feet of coastline to protect critical infrastructure and habitat.

Policy 5.8: Port of Wilmington

Not applicable

Policy 5.9: Woodlands and Agricultural Lands Management

Not applicable

Policy 5.10: Historic and Cultural Areas Management

There are no known archaeological sites or historic properties within the area of potential effect.

The Delaware Division of Historical and Cultural Affairs, State Historic Preservation Office (SHPO) has been consulted on this project. Please see a letter from SHPO attached.

Policy 5.11: Living Resources

The project area does not contain critical habitats.

The project site contains essential fish habitat (EFH) for local and migratory species. Dredging will be performed to comply with time of year restrictions that generally limit in-water work between October and March to protect the American horseshoe crab, a NOAA Trust Resource, and diadromous fish migrations and spawning that could be effected by water column turbidity. See the EFH Worksheet provided with the Permit Application Package.

Policy 5.12 Mineral Resources Management

Not applicable

Policy 5.13: State Owned Coastal Recreation and Conservation

The project aims to restore the North Beach berm and dune system for a length of approximately 5,200 linear feet beginning from the north jetty and extending northward, which will enhance the coastal habitat to maintain safe recreation and wildlife areas.

Policy 5.14: Public Trust Doctrine

The proposed project will improve navigability in the Indian River Inlet consistent with public trust provisions to support the right of the public to navigation and fishery on all streams where the tide ebbs and flows.

Policy 5.15: Energy Facilities

Not applicable

Policy 5.16: Public Investment

Not applicable

Policy 5.17: Recreation and Tourism

The Project will enhance navigation within the Indian River Inlet and replenish the dune system at North Beach, which will support recreation and tourism.

Policy 5.18: National Defense and Aerospace Facilities

Not applicable

Policy 5.19: Transportation Facilities

Not applicable

Policy 5.20: Air Quality Management

Not applicable

Policy 5.21: Water Supply Management

Not applicable

Policy 5.22: Waste Disposal Management

Not applicable

Policy 5.23: Development

Not applicable

Policy 5.24: Pollution Prevention

Dredging will be performed in a manner to minimize water column turbidity. Temporary perimeter controls will be placed near dredging operations and monitored routinely throughout construction. Dredging during winter months will limit the disruption to migrating fish and aquatic species that could be impacted by water column turbidity. Turbidity is expected to be negligible, localized, and short-term during dredging operations. In addition, transport pipelines will be kept in good condition at all times and there will be no discharge of pollutants or solid waste. Construction oversight will be implemented to ensure there are no impacts to water quality during dredging activities via daily oversite. See the Permit Supplement for more information.

Policy 5.25: Coastal Management Coordination

The applicant has coordinated with state and federal agencies to review the proposed project. An Emergency Waiver (WA-134/24) of the Subaqueous Lands Act was granted for DNREC to conduct renourishment at North Beach (See Attached). A 401 Water Quality Certification is in process that will provide a review period and the opportunity for the public to comment on the project. The US Army Corps of Engineers also approved a request for special permitting procedures in this emergency situation (see attached).

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): 6/20/2024

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:	Stephen Williams		
Printed Name:	Stephen Williams	Date:	8-26-2024

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: ☐ NO ☐ YES *[attach comments]*	
Decision type: *(objections or conditions attach details)*	Decision Date:	