



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

Environmental Resources Branch

September 23, 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

Dear Ms. Cole:

The purpose of this letter is to request 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 use of the existing Federally owned and maintained Delaware City Dredged Material Placement Facility (DMPF) in Delaware City, New Castle County, Delaware (Figure 1). The Philadelphia District - U.S. Army Corps (USACE) proposes to place approximately 900,000 to one million cubic yards of dredged materials from maintenance of the Delaware River Philadelphia to Sea (DPS) federal navigation channel (FNC), and future maintenance dredging of the Chesapeake and Delaware Canal.

In accordance with Section 102 of the National Environmental Policy Act, enclosed for your review and comment and to facilitate your review under Section 307(c) of the CZMA, is a draft Environmental Assessment (EA) titled: *Delaware City Dredged Material Placement Facility New Castle County, Delaware*. The EA evaluates the existing environmental, cultural, and socio-economic conditions at the proposed project site within the Delaware City DMPF. The EA also evaluates the effects of not placing dredged material within the Delaware City DMPF (No Action Alternative).

The USACE conducts routine maintenance dredging of the Delaware River, Philadelphia to Sea (DPS) Federal Navigation Channel (FNC) to maintain the 45-foot-deep navigation channel in the waterway. The USACE also conducts maintenance dredging of the Federally authorized 35-foot-deep Chesapeake and Delaware (C&D) Canal. Maintaining the DPS FNC supports the efficient transportation of containerized, dry and liquid bulk, break bulk, roll-on/roll-off, and project cargoes to and from the Delaware River ports. The C&D Canal navigation channel connects the Delaware River to the Chesapeake Bay and provides a continuous sea level channel connecting the Port of Baltimore to the ports of Wilmington, Philadelphia, and the northern trade routes. Conducting maintenance dredging removes critical shoaling to maintain safe navigation within the Federal navigation channels.

The primary objective of this project is to provide a long-term, safe, placement facility for dredged materials related to the DPS navigation maintenance project and the C&D Canal navigation maintenance project. The proposed placement of DPS FNC maintenance dredging material includes the Deepwater Point, Bulkhead Bar, and New Castle Ranges and from within the C&D Canal. The Delaware City DMPF project meets the need of providing the USACE with a long-term disposal site within pumping distance range (approximately five to six miles) from the locations identified above. The project as proposed involves the initial placement of approximately 900,000 to one million cubic yards of dredged materials from the DPS FNC to be placed within the Delaware City DMPF and subsequent placements of dredged material from future maintenance dredging, as needed. Placement of maintenance dredged materials is expected to occur as early as the winter of 2025. The Delaware City DMPF drains from a sluice box into an existing manmade ditch which discharges into the C&D Canal waterway via three adjacent corrugated outfall pipes as depicted in Figure 2.

The Delaware City DMPF was last used as a placement facility in the 1970s. Since then, the site has not been utilized for the placement of dredged material but continues to be maintained by the USACE as a DMPF. Recently, increased shoaling in the DPS FNC has resulted in the increased use of the Reedy North and Reedy South DMPFs, which are located just east of the Delaware City DMPF. Both the Reedy Point North and Reedy Point South DMPFs do not have adequate capacity as currently constructed and maintained. Additionally, the Killcohook DMPF located on the New Jersey side of the Delaware River is undergoing maintenance work that precludes that area from being available for dredged material placement within the next few years. The Delaware City DMPF was identified as a suitable facility for the placement of the maintenance dredging materials because of three factors: location, current condition, and available capacity. For all alternatives, the potential effects were evaluated, as appropriate.

In addition to a “No Action” alternative, five (5) other alternatives were evaluated. Those alternatives include the Reedy Island North and South DMPFs, the Governor Bacon DMPF, the Biddles Point DMPF, the Killcohook DMPF, and the beneficial use of dredged material.

The recommended plan will result in unavoidable adverse impacts to approximately 108-acres of freshwater, impounded aquatic habitat that includes about 16 separate freshwater ponded areas, with the largest being approximately 85-acres and the smallest is approximately 690 square feet (0.016-acres) in size. The open water aquatic habitat areas are not jurisdictional Waters of the United States regulated under Section 404 of the Clean Water Act, nor are they wetlands regulated pursuant to Title 7 of the Delaware Code (§7212) and Section 6607 of the Wetlands Act of 1973 (Title 7 Delaware Code Ch. 66).

The USACE is requesting a Federal consistency concurrence for maintenance

dredging placement operations in anticipation that future placement events may occur within the Delaware City DMPF. The proposed maintenance dredging placement has been evaluated for consistency with the Rules on Coastal Zone Management and this assessment is enclosed for your review.

Based on a review of all applicable regulations and policies in the document “*Federal Consistency Policy and Procedures – Comprehensive Update and Routine Implementation- November 20, 2018*”, and the completed *Coastal Zone Management Act Federal Consistency Form* (in Appendix D of the EA), it is USACE’s finding that the proposed action, as described in the document, complies with Delaware’s approved coastal management program and will be conducted in a manner consistent with the program. We request your concurrence with our consistency determination pursuant to Delaware’s Coastal Zone Management Program within 60 days. If significant modifications of the maintenance dredging placement 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 use and placement of dredged material into the Delaware City DMPF is consistent with Delaware’s Federally-approved Coastal Zone Management Program.

If you have any questions regarding this Federal action, please contact Steven Allen of our Environmental Resources Branch at (215) 656- 6559 or via email Steven.D.Allen@usace.army.mil or Michael Hart of our Operations Division at 215-656-6513 or via email Michael.F.Hart@usace.army.mil.

Sincerely,

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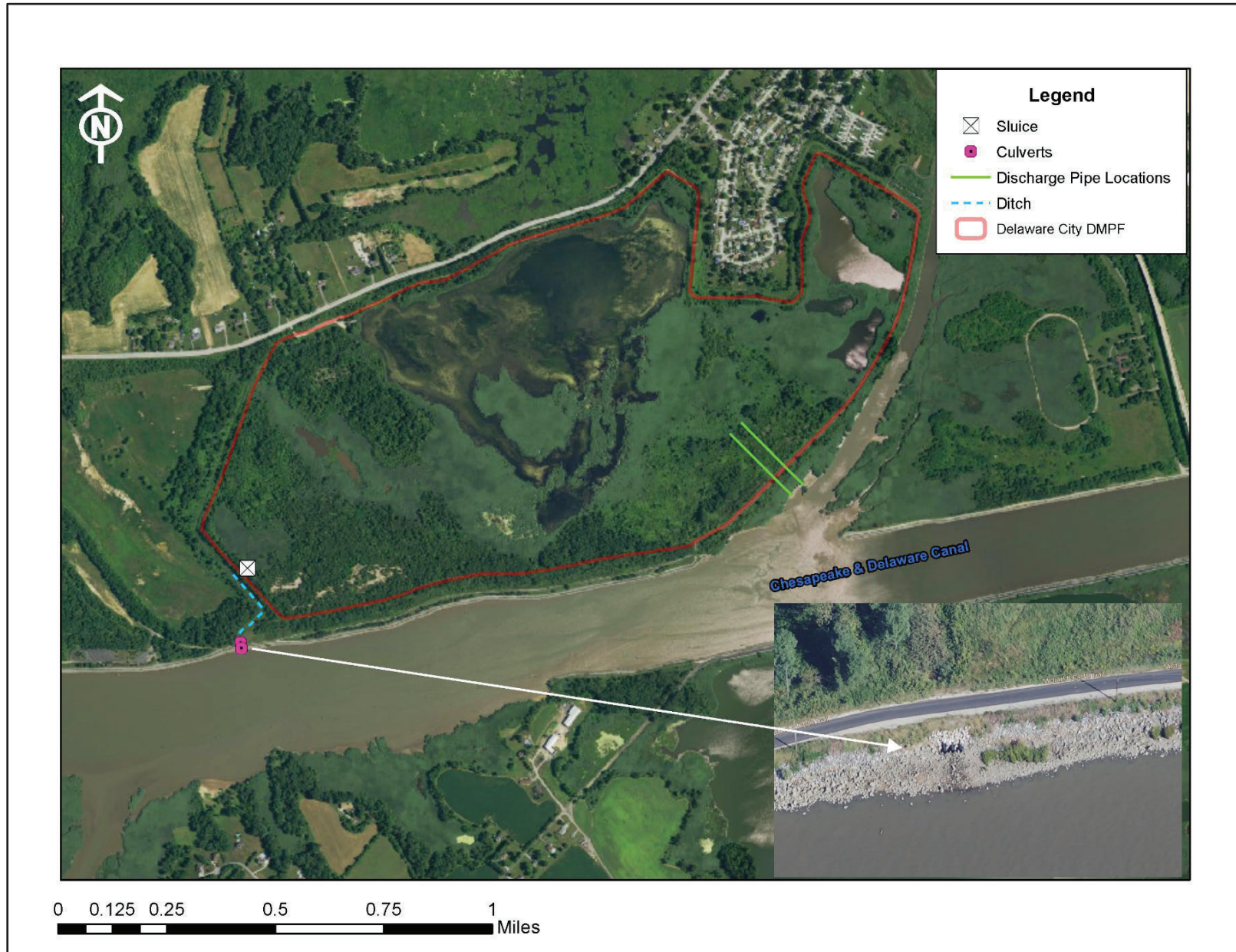
Adrian Leary
Chief, Planning Division

Enclosures

Figure 1: Project Location Map – Delaware City DMPF



Figure 2: Delaware City DMPF 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: Delaware City Dredge Management Placement Facility (DMPF)

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

Contact Name/Title: Steven D. Allen

Federal Agency Contractor Name (if applicable): _____

Federal Agency: U.S. Army Corps of Engineers, Philadelphia District
(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: 1650 Arch Street

City: Philadelphia State: PA Zip Code: 19106-3400

E-mail: Steven.D.Allen@usace.army.mil Telephone #: (215) 656-6559

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):

To maintain the authorized Delaware River Philadelphia to Sea (DPS) Federal Navigation Channel (FNC), the U.S. Army Corps of Engineers performs maintenance dredging to the authorized depth of 45 feet. The project as proposed involves the initial placement of approximately 900,000 to one million cubic yards of dredged materials from the DPS FNC within the Delaware City Dredged Material Placement Facility (DMPF) and subsequent placements of dredged material from future maintenance dredging, as needed. Placement of maintenance dredged material is expected to occur as early as the winter of 2025. The Federally owned Delaware City DMPF is located north of the Chesapeake and Delaware (C&D) Canal in New Castle County, Delaware. This proposed Federal action is described in the 2024 Draft Environmental Assessment (EA).

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

The USACE Philadelphia District is responsible for maintenance of federal navigation channels to the authorized depths. Maintaining the authorized 45-foot-deep DPS FNC and 35-foot-deep C&D Canal navigation channel is critical to sustaining economic activity in the region. Recently, increased shoaling in the DPS FNC has resulted in the increased use of the existing upland DMPFs along the Delaware River. The proposed initial placement of between approximately 900,000 to one million cubic yards of dredged sediments will be within the existing Delaware City DMPF, a federally owned and maintained placement facility, which has adequate capacity to accept the dredged material. The DMPF discharges to the C&D Canal via a sluice box which discharges to a manmade ditch that discharges to the C&D Canal. The USACE will be conducting sediment testing of the DPS FNC sediments which will be dredged from the DPS FNC. The results of the testing will be provided to DNREC upon receipt. Additionally, the USACE will be conducting geotechnical borings to determine the depth and extent of the confining layers above the regional groundwater table and will be installing groundwater monitoring wells within the DMPF for observation and testing. The discharge of effluent from the Delaware City DMPF will be controlled via the sluice to ensure that state and Federal water quality parameters are met. As such, it is anticipated that the proposed Federal Action will not cause adverse impacts to aquatic resources or human health.

V. Detailed Analysis of Consistency with DCMP Enforceable Policies (attach additional sheets if necessary):**Policy 5.1: Wetlands Management**

Based on a review of the State of Delaware Regulated Wetland Map Index (Map Numbers 344, 374, and 453), the Delaware City DMPF is mapped as "O" which refers to "Other (Upland or Non-tidal wetlands less than 400-acres). The dredge discharge pipeline is anticipated to temporarily impact approximately 1,275 feet (175 linear feet x two separate 3 foot diameter pipelines) of Delaware regulated wetlands identified as "Marsh" on DNREC Map No. DNR453. The temporary impacts will be minor and no long term impacts to the wetlands will occur as a result of the Federal action.

Policy 5.2: Beach Management

N/A. There will be no disturbance or construction activities within or along a beach.

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

No impacts to coastal waters will result from placement of dredged materials within the Delaware City DMPF and State and Federal water quality standards will not be exceeded during and after construction. Therefore, no significant water quality impacts are expected as a result from implementation of the Federal action.

Policy 5.4: Subaqueous Land and Coastal Strip Management

The proposed maintenance dredging of the DPS FNC and C&D Canal navigation channel are not included as part of this Federal Consistency Form as it only covers the disposal of dredge material into the Delaware City DMPF. The disposal of the maintenance dredge materials into the DMPF will not impact any subaqueous lands nor any areas within the coastal strip which are located outside of the DMPF. As previously stated, the chemical quality of the effluent and associated suspended sediments discharging from the DMPF weir will be monitored during dredge disposal operations to ensure the return water meets all State and Federal water quality parameters. The placement of dredge materials will be performed in accordance with the guidelines outlined in 5.4.25.

Policy 5.5: Public Lands Management

The Delaware City DMPF is located within the C&D Canal Conservation Area which consists of nearly 5,000 acres of lands along the north and south shores of the Delaware portion of the C&D Canal. The C&D Canal Conservation Area, while managed by DNREC Division of Fish and Wildlife, is owned by the USACE for the purpose of dredge material placement. As such, the Federal action will not be conducted on Delaware owned public lands.

Policy 5.6: Natural Lands Management

The proposed Federal action will abide by requirements in accordance with Del. Admin. Code 7401 Surface Water Quality Standards, 7 Del. Admin. Code 7201 Surface Water Discharge Regulations, and §§ 301, 302, 303, 306, and 307 of the federal Clean Water Act. Section 401 and will not impact natural lands.

Policy 5.7: Flood Hazard Areas Management

The Delaware City DMPF is located outside of Federal Emergency Management Agency (FEMA) mapped flood hazard areas and therefore, the proposed Federal action will not impact flood hazard areas or programs that are administered to achieve flood protection.

Policy 5.8: Port of Wilmington

N/A, the Federal action will not be located in the Port of Wilmington nor impact any operations within the port facility.

Policy 5.9: Woodlands and Agricultural Lands Management

There are approximately 28 acres of wooded land within the Delaware City DMPF which are anticipated to be impacted by the proposed Federal action due to the additional material being placed in the DMPF. The impacted tree species include black locust, silver maples, black cherry, sweetgum, red maple, gray birch, big-tooth aspen, and black willow.

Policy 5.10: Historic and Cultural Areas Management

N/A. It is not anticipated that the Federal action will impact cultural resources.

Policy 5.11: Living Resources

The Federal action will permanently impact freshwater fish habitat within the Delaware City DMPF through the draining and filling of the open water areas with maintenance dredge materials. The facility has historically been utilized as a dredge material placement site and was last utilized in the 1970's and has since been maintained for the purpose of dredge material placement. The DMPF also includes habitat for waterfowl, migratory birds, and other wildlife species. As part of the Federal Action, the USACE is proposing to capture and transport fish located within the DMPF open water areas to suitable waterways on public lands. While there will be loss of wildlife and bird habitat, suitable habitat for species exists in close proximity to the DMPF including Lums Pond State Park and the Augustine Wildlife Management Area.

Policy 5.12 Mineral Resources Management

N.A. The Federal action does not include the extraction and production of mineral resources.

Policy 5.13: State Owned Coastal Recreation and Conservation

As stated above for Policy 5.5, the Delaware City DMPF is located within the C&D Canal Conservation Area which is owned by the USACE. The Federal action will not impact any State owned lands.

Policy 5.14: Public Trust Doctrine

N/A. The Federal action will not impact any lands under the Public Trust Doctrine.

Policy 5.15: Energy Facilities

N/A. The Federal action does not include the construction or modification of an energy facility.

Policy 5.16: Public Investment

N/A. The Federal action will not impact any public investment facilities or infrastructure.

Policy 5.17: Recreation and Tourism

The proposed Federal action will impact the recreational activities within the Delaware City DMPF, which is a component of the C&D Canal Conservation Area. The existing recreational opportunities within the DMPF include bird watching, fishing, and waterfowl and upland game hunting. Additionally, a portion of the Micheal N. Castle recreational trail for bicycling and walking/running is located atop the DMPF perimeter dike. Due to potential safety concerns and the unstable nature of dredge material, the DMPF will be temporarily closed to the public during dredge placement operations. The temporary closure will include the portion of the Micheal N. Castle trail through the DMPF property, however the remaining sections of the trail will still be accessible to the public (such as from Biddles Point heading west). Due to the draining of the open water areas within the DMPF and the placement of the dredge materials, the fishing and waterfowl hunting opportunities within the DMPF will be permanently lost. The bird watching and upland game hunting will also be impacted through the loss of habitat which support avian and other wildlife species. It should be noted that there are similar areas for recreation in the surrounding region including other areas within the C&D Canal Conservation Area, the Lums Pond State Park, and the Augustine Wildlife Area. The proposed Federal action is not anticipated to impact tourism in the region.

Policy 5.18: National Defense and Aerospace Facilities

N/A. The Federal Action will not impact any national defense and aerospace facilities.

Policy 5.19: Transportation Facilities

The Federal action allows for the placement of dredged materials associated with the maintenance dredging of the DPS FNC and C&D Canal navigation channel to the Federally authorized depths. The maintenance of those channels provides the region with efficient transportation of cargo to and from area ports including those in Philadelphia, Wilmington, and Baltimore.

Policy 5.20: Air Quality Management

Based on the use of land-based heavy construction equipment and machinery within the Delaware City DMPF, it is expected that the dredge placement operations would have temporary minor and/or negligible effects on air quality. State and Federal ambient air quality standards are not expected to be exceeded during the placement operations.

Policy 5.21: Water Supply Management

The Federal action is not anticipated to impact groundwater withdrawals, water quality, aquifers, or water supplies beneath the Delaware City DMPF and the surrounding area. As previously stated, the USACE will be conducting sediment testing of the DPS FNC sediments proposed to be dredged and sediment and water quality testing of the existing conditions within the DMPF. Additionally, the USACE will be installing groundwater monitoring wells and conducting geotechnical borings to ensure sufficient confining layers are present between the surface of the DMPF and the regional groundwater table where potable water withdrawals occur.

Policy 5.22: Waste Disposal Management

N/A. The Federal action does not entail impacts to sewage disposal systems, nor will it cause pollution of public waters or create a public health hazard. The placement (disposal) of the maintenance dredge materials will be done in accordance with the policies detailed under 5.22 and 5.4.25.

Policy 5.23: Development

N/A. The Federal action will not impact or encourage development as the maintenance dredge placement will be within the existing Federally owned and maintained Delaware City DMPF.

Policy 5.24: Pollution Prevention

No land-based pollution is anticipated as a result of the proposed Federal action. Minor and temporary impacts to air quality will occur as a result of emissions from the land based construction equipment and machinery. No water-based pollution is anticipated and monitoring of the return water discharging from the Delaware City DMPF will be conducted to ensure it meets all State and Federal water quality standards.

Policy 5.25: Coastal Management Coordination

The Federal action is consistent with this policy. USACE provides DNREC and relevant Federal agencies the opportunity to review and comment on the proposed Federal action.

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): 3/21/2024

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:	ALLEN.STEVEN.D.122884306 D.1228843063		
Printed Name:	Steven D. Allen	Date:	9/26/2024

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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: _____	