



01/14/2024

**Ms. Kimberly Cole**  
**Department of Natural Resource and Environmental Control**  
Delaware Coastal Management Program  
89 Kings Highway  
Dover, DE 19901

**SUBJECT: Replacement of BR 3-437 on SR 54 Lighthouse Rd  
Request for Delaware Coastal Management Program Federal Consistency Certification**

Dear Ms. Cole:

On behalf of Delaware Department of Transportation (DelDOT), Century Engineering Inc. (Century) has prepared a determination for Coastal Zone Management Act (CZMA) Federal Consistency Certification as it applies to the Replacement of BR 3-437 on SR 54 Lighthouse Rd (Project) located in Selbyville, Sussex County, Delaware. The Project is located within the Delaware Coastal Zone (38.452538, -75.064034). A CZMA Federal Consistency determination is required for the Project in concurrence with a U.S. Coast Guard Bridge Permit.

The Project entails complete replacement of BR 3-437 over the waterway known as "The Ditch" on SR 54. The existing structure was originally built in 1957 and was later rehabilitated in 1980. A bridge inspection completed in September of 2019 identified deterioration in voided slabs including spalled concrete and section loss in steel strands, deterioration in concrete abutments, cracking and spalls in piers and corroded pile casings, and pile jackets in poor condition. Due to the nature of the structural deficiencies, a full replacement of the bridge is required. The new structure proposes six 80-foot spans for a total structure length of 480 feet and an out-to-out width of 59'-2". The new structure will consist of two 11' travel lanes, a center lane to accommodate turn lanes on the approaches, a 6' shoulder/bicycle lane, and a 5'-9" sidewalk on each side of the structure. The proposed bridge will have an increased profile of approximately two feet due to the increase in span lengths from 40-foot to 80-foot, which require deeper beams to support the proposed bridge and an increase of the roadway profile to accommodate the increased structure depth. In addition, replacement of the bridge will require the removal of 4 (four) existing, privately owned structures (docks and finger piers) over public subaqueous lands. Following construction of the new bridge, DelDOT is proposing replacement of the removed structures.

DelDOT is applying for authorization under a United States Coast Guard Bridge Permit and United States Army Corps of Engineers (USACE) Nationwide Permits (NWP) 3 and NWP 23 (requiring Pre-Construction Notice) for impacts to existing wetlands and Waters of the United States resulting from this project. The Project is currently submitted to the Philadelphia USACE-Dover Field Office and is awaiting review. Impacts to State regulated wetlands/subaqueous lands will be permitted by a Department of Natural Resources and Environmental Control (DNREC) Wetlands and Subaqueous Lands permit. Water Quality

Certification is issued under NWP 3 and 23. Replacement of the private structures will be authorized by a DNREC Letter of Authorization.

DNREC Division of Fish and Wildlife Species Conservation and Research Program (SCRP) was queried for their knowledge on rare, threatened, and/or endangered species in the project area in September 2023. SCRCP requested that work not be performed in wetlands from April 1st to July 31st to protect marsh nesting birds and their young. In addition, SCRCP noted that if work is conducted during the breeding season of migratory birds (April 15th to August 1st), a survey will need to be completed prior to the start of work to see if any nests are present, with additional actions taken if necessary. SCRCP comments regarding fisheries recommended that no in-water work occur from March 1st to September 30th to allow time for the young of the year to grow large enough to be less vulnerable to habitat-altering activities and to migrate out of the system.

The United States Fish and Wildlife Service (USFWS) was queried for their knowledge on federally rare, threatened, and/or endangered species in the project area in February 2024. The eastern black rail (*Laterallus jamaicensis ssp. jamaicensis*), a threatened species under the federal Endangered Species Act (ESA), and the monarch butterfly (*Danaus plexippus*), a candidate species under the federal ESA, were identified on the USFWS Species List. According to a response from USFWS received on March 28, 2024, the proposed project is not likely to adversely affect the eastern black rail. As a candidate species, there are generally no ESA Section 7 requirements for the monarch butterfly.

National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS), Greater Atlantic Regional Fisheries Office (GARFO), Protected Resources Division (PRD) concurs with the Federal Highway Administration/DeIDOT determination that the Project action is not likely to adversely affect listed species or critical habitat per the justifications and/or special conditions provided in the verification form. NOAA NMFS Habitat and Ecosystem Services Division (HESD) reviewed consultation information provided by DeIDOT and recommended Essential Fish Habitat (EFH) conservation recommendations be incorporated into the project to minimize adverse effects on EFH and federally managed species.

The project will adhere to all guidance provided by RTE agencies (USFWS, DNREC-SCRCP, NOAA National Marine Fisheries Service – Habitat Ecosystem Service and Protected Resource Divisions). All coordination documents are included as supporting information with this application. DeIDOT has coordinated with DNREC Division of Fish and Wildlife (DFW) regarding potential need for a TOYR (time of year restriction) waiver during some portions of the construction. NOAA has indicated they will support a DNREC DFW TOYR waiver if issued.

Coordination with Delaware State Historic Preservation Office (SHPO) determined that no historic or archaeological properties will be affected by the proposed action. There are no historic standing structures within or adjacent to the area of potential effect (APE) nor are there recorded archaeological sites within or in the immediate vicinity of the project.

The proposed activity complies with Delaware’s approved coastal management program and will be conducted in a manner consistent with the program. The following documentation and information are



included to support the consistency determination and demonstrate how this project complies with the Delaware Coastal Management Program:

1. Completed Delaware Federal Consistency Form v2
2. Delaware Coastal Zone Regulated Area Map (with project location)
3. Copy of USACE Nationwide Permit Application Package (includes Aerial Map, Vicinity Map, USGS Map, FIRMETTE, Consultation responses from DNREC-DFW-SCRIP, USFWS, NOAA, and SHPO), Environmental Compliance Plans, and Engineering Design Plans)
4. Copy of DNREC Wetlands and Subaqueous Lands (WLSL) Permit

We are requesting your concurrence with our determination of consistency. Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

**CENTURY ENGINEERING, LLC, A KLEINFELDER COMPANY**

A handwritten signature in black ink, appearing to read 'Missy M. Kalb'.

Missy Kalb, CE  
Senior Environmental Scientist

cc: Van Adams, DeIDOT  
Jon Eberle, AECOM  
Alex Schmidt, Century



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:**

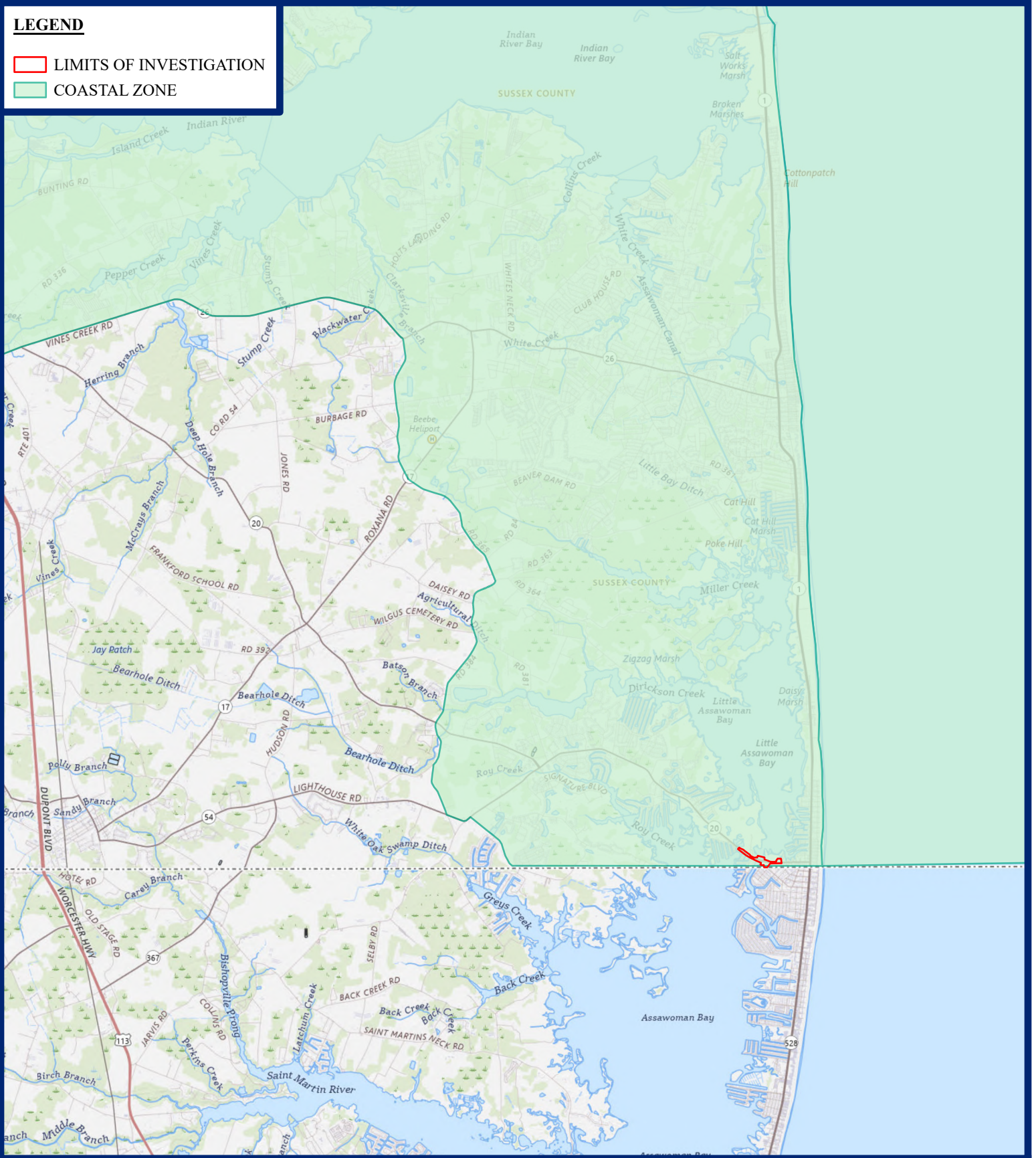
Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)	60 days with option to extend an additional 15 days or stay review (15 C.F.R. § 930.41)
Federal License or Permit (15 C.F.R. Part 930, Subpart D)	Six months, with a status letter at three months. The six month review period can be 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: _____	

**LEGEND**

-  LIMITS OF INVESTIGATION
-  COASTAL ZONE



**CENTURY**  
ENGINEERING  
A Kleinfelder Company

550 Bay Road  
Dover, DE 19901  
P: 302.734.9188

COASTAL ZONE REGULATED AREA

REPLACEMENT OF BR 3-437  
ON SR 54 LIGHTHOUSE RD

SUSSEX COUNTY, DELAWARE

USGS Basemap Source:  
ArcGIS Online



1 inch = 8,670 feet