



Evelyn Maurmeyer <maurmeye@udel.edu>

NAP-2024-00784-92 (Henderson Mercer Ave Millsboro SX)

4 messages

Colligan, James A CIV USARMY CENAP (USA) <James.A.Colligan@usace.army.mil>
To: "akhenderson@comcast.net" <akhenderson@comcast.net>, Evelyn Maurmeyer <maurmeye@udel.edu>

Fri, Feb 7, 2025 at 12:25 PM

Hello,

My name is Jamie Colligan and I've been assigned the above permit for processing. From looking at the project, an LOP (Letter of Permission) can be used to verify the pier and proposed boat lift. I will need the following information for the application to be complete:

USFWS IPaC review

DNREC F&W Species Conservation Research Program review

Delaware Coastal Zone Management authorization

Delaware SHPO review

Links to complete the above coordination can be found on our website under the document 'Delaware 2021 Nationwide Permit Regional Conditions' (note: this will not be a Nationwide Permit, but all of the above coordination links are within this document) <https://www.nap.usace.army.mil/Missions/Regulatory/Permits/NWP.aspx> Evelyn is familiar with this process.

Let me know when you initiate coordination with the above agencies for tracking purposes.

Please submit the project plans with a different title. The plans that I have are entitled for the DNREC Subaqueous Lands permit.

If you have any questions feel free to reach out. Next week I will be away at a training but will be checking my email periodically.

Best,

Jamie

James A. Colligan

U.S. Army Corps of Engineers, Philadelphia District

Regulatory Branch

Application Section I, Biologist

1203 College Park Drive

Suite 103

Dover, Delaware 19904

Office: (302) 736-9763

Cell: (302) 518-9480

Angela Henderson and Kathleen Kissinger
2876 Fagleysville Road
Gilbertsville, PA 19525

February 18, 2025

Property Address:
33256 Mercer Avenue
Millsboro, DE 19966

Tax Map Parcels #2-34-35.05-132.00, 166.00

NAP-2024-00784-92

Ms Sarah Carr,

We are working with the Army Corps of Engineers to obtain a Letter of Permission that can be used to verify the pier and proposed boat lift. The Army Corps is requesting a Delaware SHPO review as part of the process.

The summary of the project is as follows:

We are seeking authorization of an existing pier, inner section is 104' long x 5.5' wide. Outer section is 104' long x 6.5' wide.

We are also seeking a proposed new 4-piling boat lift (12'6" c/c pilings) to be installed along the outer right side of the existing pier.

I am looking for your help with the SHPO review.

I have included site maps and drawings of current pier and proposed boat lift.

Please let me know if you have any additional questions.

Thank you,



Angela Henderson
484-614-9758
akhenderson@comcast.net



Kathleen Kissinger



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL

DIVISION OF FISH & WILDLIFE
RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

DIRECTOR'S
OFFICE

PHONE
(302) 739-9910

February 27, 2025

Angela Henderson
Private Citizen
33256 Mercer Avenue
Millsboro, DE 19966

Re: Henderson 2025 Lease Renewal and Boat Lift Tax Parcel # 234-35.05-132.00 & 234-35.05-166.00

Dear Angela:

Thank you for contacting the Division of Fish and Wildlife (DFW) Species Conservation and Research Program about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the above referenced project.

State Natural Heritage Site

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site. As a result, at present, this project does not lie within a State Natural Heritage Site, nor does it lie within a Delaware National Estuarine Research Reserve which are two criteria used to identify "Designated Critical Resource Waters" in the U.S. Army Corps of Engineers (USACE) Nationwide Permit General Condition No. 22. A copy of this letter shall be included in any permit application or pre-construction notification submitted to the USACE for activities on this property.

Fisheries

Summer Flounder

Sampling conducted by our Division's fisheries staff revealed that Indian River Bay supports a large number of juvenile migratory fish and is thus considered an important nursery area in the Inland Bays. Several species of particular commercial and recreational importance utilize the creek and could be impacted by this project. A primary species of concern for this project is summer flounder (*Paralichthys dentatus*) which utilize the bay as a nursery area. We request that in-water work not occur from **March 1st to September 30th** to allow time for young of the year to grow large enough to be less vulnerable to habitat-altering activities and then migrate out of

the system. This window should minimize the number of young of the year flounder impacted by the boat lift installation.

American Eel

Indian River Bay is used by large numbers of American eel (*Anguilla rostrata*). We request that in-stream work not take place from **March 1st to May 15th** to allow upstream passage of elvers (young eels).

Anadromous Species

Indian River Bay is utilized by American shad (*Alosa sapidissima*), blueback herring (*Alosa aestivalis*), alewife (*Alosa pseudoharengus*), and striped bass (*Morone saxatilis*) for spawning, nursery, and adult habitats. Alewife and blueback herring, also known as 'river herring', are listed by the National Marine Fisheries Service as a Species of Concern. These species are important to both commercial and recreational fisheries and support a critical forage base for other fish, mammal, and bird species. The protection of spawning and nursery habitats and migratory corridors during the spawning season is important in maintaining these fisheries resources. We request a time of year restriction on in-water work activities from **March 15th – June 30th** to avoid impacts to these species during the spawning season.

We are continually updating our records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Please feel free to contact me with any questions or if you require additional information.

Sincerely,



Matthew Young
Environmental Review Coordinator
Phone: (302) 735-8677
Email: matthew.young@dclaware.gov
6180 Hay Point Landing Road
Smyrna, DE 19977

(See invoice on next page)



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To:
Project code: 2025-0057245
Project Name: Pier and Boat Lift @ 33256 Mercer Avenue

02/17/2025 01:48:37 UTC

Federal Nexus: no
Federal Action Agency (if applicable):

Subject: Record of project representative's no effect determination for 'Pier and Boat Lift @ 33256 Mercer Avenue'

Dear Angela Henderson:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on February 17, 2025, for 'Pier and Boat Lift @ 33256 Mercer Avenue' (here forward, Project). This project has been assigned Project Code 2025-0057245 and all future correspondence should clearly reference this number. **Please carefully review this letter.**

Ensuring Accurate Determinations When Using IPaC

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into IPaC must accurately represent the full scope and details of the Project.

Failure to accurately represent or implement the Project as detailed in IPaC or the **Northern Long-eared Bat and Tricolored Bat Range-wide Determination Key (Dkey)**, invalidates this letter. *Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid.*

Determination for the Northern Long-Eared Bat and/or Tricolored Bat

Based upon your IPaC submission and a standing analysis, your project has reached the following effect determinations:

Species	Listing Status	Determination
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Tricolored Bat (*Perimyotis subflavus*)Proposed
Endangered

No effect

Federal agencies must consult with U.S. Fish and Wildlife Service under section 7(a)(2) of the Endangered Species Act (ESA) when an action *may affect* a listed species. Tricolored bat is proposed for listing as endangered under the ESA, but not yet listed. For actions that may affect a proposed species, agencies cannot consult, but they can *confer* under the authority of section 7(a)(4) of the ESA. Such conferences can follow the procedures for a consultation and be adopted as such if and when the proposed species is listed. Should the tricolored bat be listed, agencies must review projects that are not yet complete, or projects with ongoing effects within the tricolored bat range that previously received a NE or NLAA determination from the key to confirm that the determination is still accurate.

To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative), to a federally listed species or designated critical habitat. Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17).

Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no consultation with the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required except when the Service concurs, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13].

Other Species and Critical Habitat that May be Present in the Action Area

The IPaC-assisted determination key for the northern long-eared bat and tricolored bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Monarch Butterfly *Danaus plexippus* Proposed Threatened

You may coordinate with our Office to determine whether the Action may affect the animal species listed above and, if so, how they may be affected.

Next Steps

If there are no updates on listed species, no further consultation/coordination for this project is required with respect to the species covered by this key. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions

occurs, additional coordination with the Service should take place to ensure compliance with the Act.

If you have any questions regarding this letter or need further assistance, please contact the Chesapeake Bay Ecological Services Field Office and reference Project Code 2025-0057245 associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

Pier and Boat Lift @ 33256 Mercer Avenue

2. Description

The following description was provided for the project 'Pier and Boat Lift @ 33256 Mercer Avenue':

Existing pier, inner section is 104' long x 5.5' wide. Outer section is 104' long x 6.5' wide. Proposed new 4-piling boat lift (12'6" c/c pilings) to be installed along the outer right side of existing pier.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.598140799999996,-75.1694923760846,14z>

