



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.

<b>Project/Activity Name:</b>	Basin Cove (ACOE NAP-2025-00099-103)
-------------------------------	--------------------------------------

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

Contact Name/Title: Doug Potts, Wetlands Consultant

Federal Agency Contractor Name (if applicable): \_\_\_\_\_

Federal Agency: U.S. Army Corps of Engineers, Philadelphia District Regulatory Branch  
(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: 100 South Cass Street

City: Middletown                      State: DE                      Zip Code: 19709

E-mail: dpotts@ecsi-del.com                      Telephone #: 302-378-9881 x205

**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):**

The proposed project on the Basin Cove Site will be the construction of an elevated walkway, extending 298 LF from a proposed residential home, and crossing state regulated tidal wetlands to a wood framed, observation dock. The 5' x 20' dock, to be located within private, subaqueous lands of Emily Gut, will be situated ten feet landward of the northern property line of the parcel. The dock will be framed using treated 2" x 8" lumber, covered by 2" x 6" decking, and be supported by 8" diameter treated marine grade wood pilings. The walkway, using treated 2" x 6" decking on treated 2" x 12" joist and beam framing, will be 3.0-ft in width and will be supported 3.0ft above the marsh surface by helical, metal pilings. Approximately 80-ft of the elevated walkway will be channelward of the MHWL, with 10-ft extending over private, subaqueous land to connect with the dock. The dock will be utilized for recreational purposes, providing water access for launching non-motorized, personal water craft, as well as for general wildlife observation. Application has been made for a Section 10 Letter of Permission from the U.S. Army Corps of Engineers for minor impacts associated with the dock and walkway.

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

The project will have minimal direct and/or indirect coastal effects. Tidal wetland Impacts: Approximately 80 LF of the walkway will be in state -regulated wetlands, channelward of the MHWL. The proposed route for the walkway avoids state wetlands to the extent possible. The walkway will be supported by helical anchors, instead of wood pilings, to avoid direct contact with tidal wetlands, reducing environmental disruption. Temporary impacts are expected to the marsh surface, related to placement of anchor supports. The walkway will cover existing vegetation when completed, however the structure will be built with approved materials and be within approved dimensions in an effort to minimize long term impacts to vegetation or nesting habitat of obligate marsh birds. No impacts will occur to adjacent residential parcels or wetland habitat. Approximately 10 LF of the walkway will extend over private, subaqueous land to connect to the proposed dock. Subaqueous Lands: The dock, for launching non-motorized, personal watercraft, will be constructed with pressure treated lumber and be supported ten feet above the surface using six, 8' diameter treated marine grade, wood pilings. The channelward end of the dock will be approximately 91.0 LF from the channel edge of Emily Gut, and will therefore not impede water flows or navigation within the channel during or after construction. Since the project requires water access, and no uplands exist to provide access to open water, no reasonable alternative to the proposed project exists.

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

**Policy 5.1: Wetlands Management**

The proposed project is consistent with the DCMP policies for Wetlands Management, as it incorporates wetlands management strategies to minimize environmental impacts. These measures include: Mitigation Measures - Under a preservation method, approximately 4.57 acres of tidal and intertidal wetlands will be permanently protected under restrictive deed covenants. This ensures natural resources remain undisturbed and ecological functions are maintained. Minimizing Development Impact: construction for the walkway and dock will remain within the designated Limit of Disturbance (LOD). **No dredging activities will occur. Stock piling of materials will be stored in uplands.** Elevated Structures: Under the policy for Wetland Management, activities involving elevated structures, such as installation of a walkway within wetlands, does not require approval from the CMP. The proposed boardwalk avoids direct contact with wetlands, and will be constructed following the guidelines established by DE DNREC for such structures. These measures protect wetland resources, reduce environmental impacts, and ensure sustainable development practices.

**Policy 5.2: Beach Management**

Not Applicable

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

Not Applicable

**Policy 5.4: Subaqueous Land and Coastal Strip Management** The proposed dock will be constructed in private, subaqueous lands. Impacts to this habitat will be minimal, as the dock will be of small size and will be for private use by the landowner for launching non-motorized, personal watercraft. No temporary or permanent mooring buoys or marker buoys are proposed. The dock will be landward of the main channel of Emily Gut, and will have no impact on navigation. The normal flow of water will not be impeded, and no impact to water quality, shellfish or finfish habitat, existing tidal vegetation, or to natural surface or groundwater is expected to occur during or after construction.

**Policy 5.5: Public Lands Management**

Not Applicable

**Policy 5.6: Natural Lands Management**

Not Applicable

**Policy 5.7: Flood Hazard Areas Management**

The project site is zoned for residential uses, and development activities will comply with floodplain management regulations for residential properties located within the FEMA flood zone, as established under Sussex County Code.

**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**

A review by Delaware Historic and Cultural Affairs has determined that no historic or cultural resources exist on the parcel.

**Policy 5.11: Living Resources**

The walkway and dock will not impact habitat for resident wildlife species. The structures will be constructed at the required height to allow for movement of wildlife underneath, and spacing between decking boards will be of the required width to allow for light penetration. Some waterfowl species may utilize the walkway for resting/feeding. Habitat availability for nesting will not be impacted. No plants or animals known to be rare or unique have been identified as occurring on the site. While the site consists of wetland habitat suitable for use by some species of waterfowl and wading birds, the proposed structures will not prevent these species from utilizing the existing wetlands.

**Policy 5.12 Mineral Resources Management**

Not Applicable

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

Not Applicable

**Policy 5.14: Public Trust Doctrine**

Not Applicable

**Policy 5.15: Energy Facilities**

Not Applicable

**Policy 5.16: Public Investment**

Not Applicable

**Policy 5.17: Recreation and Tourism**

Not Applicable

**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**

The proposed project is on private land, zoned for single family residential uses by Sussex County. The project parcel is within the residential subdivision of Orchard Manor, with access to public utilities and community facilities and services are already in place.

**Policy 5.24: Pollution Prevention**

Not Applicable

**Policy 5.25: Coastal Management Coordination**

Not Applicable

**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:	Doug Potts	Date: 02/10/26

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: _____	