WETLANDS AND SUBAQUEOUS LANDS SECTION PERMIT APPLICATION FORM

For Subaqueous Lands, Wetlands, Marina and 401 Water Quality Certification Projects

State of Delaware
Department of Natural Resources and Environmental Control
Division of Water

Wetlands and Subaqueous Lands Section

APPLICATION FOR APPROVAL OF
SUBAQUEOUS LANDS, WETLANDS, MARINA
AND WATER QUALITY CERTIFICATION PROJECTS

Last Revised on: March 28, 2017

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY

Application Instructions:

1. Complete each section of this basic application and appropriate appendices as thoroughly and accurately as possible. Incomplete or inaccurate applications will be returned.

2. All applications must be accompanied by a scaled plan view and cross-section view plans that show the location and design details for the proposed project. Full construction plans must be submitted for major projects.

3. All applications must have an original signature page and proof of ownership or permitted land use agreement.

4. Submit an original and two (2) additional copies of the application (total of 3) with the appropriate application fee and public notice fee* (prepared in separate checks) to:

Department of Natural Resources and Environmental Control
Wetlands and Subaqueous Lands Section
89 Kings Highway
Dover, Delaware 19901

*Application and public notice fees are non-refundable regardless of the Permit decision or application status.

5. No construction may begin at the project site before written approval has been received from this office.

Helpful Information:

1.	Tax Parcel Information:	New Castle County	(302) 395-5400
		Kent County	(302) 736-2010
		Sussex County	(302) 855-7878
2.	Recorder of Deeds:	New Castle County	(302) 571-7550
		Kent County	(302) 744-2314
		Sussex County	(302) 855-7785

3. A separate application and/or approval may be required through the Army Corps of Engineers. Applicants are strongly encouraged to contact the Corps for a determination of their permitting requirements. For more information, contact the Philadelphia District Regulator of the Day at (215) 656-6728 or visit their website at: http://www.nap.usace.army.mil/Missions/Regulatory.aspx.

4. For questions about this application or the Wetlands and Subaqueous Lands Section, contact us at (302) 739-9943 or visit our website at: http://www.dnrec.delaware.gov/wr/Services/Pages/WetlandsAndSubaqueousLands.aspx. Office hours are Monday through Friday 8:00 AM to 4:30 PM, except on State Holidays.

APPLICANT'S REVIEW BEFORE MAILING

DID YOU COMPLETE THE FOLLOWING?

X	Yes	BASIC APPLICATION
X	Yes	SIGNATURE PAGE (Page 3)
X	Yes	APPLICABLE APPENDICES
X	Yes	SCALED PLAN VIEW
X	Yes	SCALED CROSS-SECTION OR ELEVATION VIEW PLANS
X	Yes	VICINITY MAP
X	Yes	COPY OF THE PROPERTY DEED & SURVEY
N/A	Yes	THREE (3) COMPLETE COPIES OF THE APPLICATION PACKET
N/A	Yes	APPROPRIATE APPLICATION FEE & PUBLIC NOTICE FEE (Separate checks made payable to the State of Delaware)

Submit 3 complete copies of the application packet to:

Department of Natural Resources and Environmental Control
Wetlands and Subaqueous Lands Section
89 Kings Highway
Dover, Delaware 19901

Before signing and mailing your application packet, please read the following:

The Department requests that the contractor or party who will perform the construction of your proposed project, if other than the applicant, sign the application signature page along with the applicant in the spaces provided. When the application is signed by the contractor as well as the applicant, the Department will issue the Permit to both parties. For Leases, the contractor will receive a separate construction authorization that will make them subject to all of the terms and conditions of the Lease relating to the construction

Section 1: Applicant Identification

1. Applicant's Name: Cape Shores Homeowners Association
   Mailing Address: c/o: Richard Zuidema
   400 E. Cape Shores Drive
   Lewes, DE 19958
   Telephone #: _____
   Fax #: _____
   E-mail: rwzuidema@gmail.com

2. Consultant's Name: David Small
   Mailing Address: 1060 S. Governors Avenue
   Dover, DE 19904
   Company Name: Verdantas LLC
   Telephone #: 302-674-9280
   Fax #: _____
   E-mail: dsmall@verdantas.com

3. Contractor's Name: _____
   Mailing Address: _____
   Company Name: _____
   Telephone #: _____
   Fax #: _____
   E-mail: _____

Section 2: Project Description

4. Check those that apply:
☐ New Project/addition to existing project? X Repair/Replace existing structure? (If checked, must answer #16)

5. Project Purpose (attach additional sheets as necessary):
Cape Shores Homeowners Association (CSHOA) has historically undertaken beach replenishment projects to maintain the public beach and dunes that provide protection to the homes and infrastructure in the community and also provide a public recreational area. Joint projects with DNREC have occurred every 5 years. CSHOA is having to conduct projects annually to CSHOA is proposing to place up to 33,251.19 CY of material for beach replenishment.

6. Check each Appendix that is enclosed with this application:

	A. Boat Docking Facilities		G. Bulkheads		N. Preliminary Marina Checklist
	B. Boat Ramps	X	H. Fill		O. Marinas
	C. Road Crossings		I. Rip-Rap Sills and Revetments		P. Stormwater Management
	D. Channel Modifications/Dams		J. Vegetative Stabilization		Q. Ponds and Impoundments
	E. Utility Crossings		K. Jetties, Groins, Breakwaters		R. Maintenance Dredging
	F. Intake or Outfall Structures		M. Activities in State Wetlands		S. New Dredging

Section 3: Project Location

7. Project Site Address: _____
   400 E Cape Shores Drive
   Lewes, DE 19958
   County: ☐ N.C. ☐ Kent X Sussex
   Site owner name (if different from applicant): _____
   Address of site owner: _____

8. Driving Directions: Heading south on Coastal Hwy (Route 1) follow US-9 BUS N/Savannah Rd and Clay Rd to US-9E, turn left onto US-9 BUS N/Savannah Rd, take a slight right into Cape Henlopen Dr, turn left onto S. Cape Shores Dr.
(Attach a vicinity map identifying road names and the project location)

9. Tax Parcel ID Number: 335-5.00-240.00 Subdivision Name: Cape Shores

WSLS Use Only: **Permit #s:** _____ _____ _____ _____

Type **SP** ☐ **SL** ☐ **SU** ☐ **WE** ☐ **WQ** ☐ **LA** ☐ **SA** ☐ **MP** ☐ **WA** ☐

Corps Permit: SPGP 18 ☐ **20** ☐ **Nationwide Permit #:** _____ **Individual Permit #**_____
Received Date: _____ **Project Scientist:** _____
Fee Received? Yes ☐ **No** ☐ **Amt: $**_____ **Receipt #:** _____
Public Notice #: _____ **Public Notice Dates: ON** _____ **OFF**_____

Section 3: Project Location (Continued)

10. Name of waterbody at Project Location: Delaware Bay waterbody is a tributary to: Atlantic Ocean

11. Is the waterbody: X Tidal ☐ Non-tidal Waterbody width at mean low or ordinary high water approx. 13.4mi

12. Is the project: X On public subaqueous lands? ☐ On private subaqueous lands?*
☐ In State-regulated wetlands? ☐ In Federally-regulated wetlands?

*If the project is on private subaqueous lands, provide the name of the subaqueous lands owner:

(Written permission from the private subaqueous lands owner must be included with this application)

13. Present Zoning: ☐ Agricultural X Residential ☐ Commercial ☐ Industrial ☐ Other

Section 4: Miscellaneous

14. A. List the names and complete mailing addresses of the immediately adjoining property owners on all sides of the project (attach additional sheets as necessary):

See Attached.

B. For wetlands and marina projects, list the names and complete mailing addresses of property owners within a 1,000 foot radius of the project (attach additional sheets as necessary):

Not Applicable

15. Provide the names of DNREC and/or Army Corps of Engineers representatives whom you have discussed the project with:

Joseph Faries (DNREC) Sean Bennett (DNREC)

A. Have you had a State Jurisdictional Determination performed on the property? ☐ Yes X No
B. Has the project been reviewed in a monthly Joint Permit Processing Meeting? ☐ Yes X No
*If yes, what was the date of the meeting? _____

16. Are there existing structures or fill at the project site in subaqueous lands? X Yes ☐ No
*If yes, provide the permit and/or lease number(s):
NAP-2018-00045-85 (USACE 2023) SP-208/22 (DNREC 2023) WQ-208/22 (DNREC 2023)

*If no, were structures and/or fill in place prior to 1969? ☐ Yes ☐ No

17. Have you applied for or obtained a Federal permit from the Army Corps of Engineers?
☐ No X Pending ☐ Issued ☐ Denied Date: _____

Type of Permit: Individual Federal Permit or ID #: _____

18. Have you applied for permits from other Sections within DNREC?
☐ No X Pending ☐ Issued ☐ Denied Date: _____ Permit or ID #: _____

Type of permit (circle all that apply): Septic Well NPDES Storm Water

Other: Division of Watershed Stewardship - Beach Construction (submitted October 2025)

Section 5: Signature Page

19. Agent Authorization:

If you choose to complete this section, all future correspondence to the Department may be signed by the duly authorized agent. In addition, the agent will become the primary point of contact for all correspondence from the Department.

I do not wish to authorize an agent to act on my behalf ☐

I wish to authorize an agent as indicated below ☐

I, Richard Zuidema (Name of Applicant), hereby designate and authorize David Small (Name of Agent) to act on my behalf in the processing of this application and to furnish any additional information requested by the Department.

Authorized Agent's Name: David Small
Mailing Address: 1060 S. Governors Avenue
Dover, DE 19904
Telephone #: 302-674-9280
Fax #:
E-mail: dsmall@verdantas.com

20. Agent's Signature:

I hereby certify that the information on this form and on the attached plans are true and accurate to the best of my knowledge. I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application.

Agent's Signature — Date: 11-11-2025

21. Applicant's Signature:

I hereby certify that the information on this form and on the attached plans are true and accurate to the best of my knowledge and that I am required to inform the Department of any changes or updates to the information provided in this application. I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application. I grant permission to authorized Department representatives to enter upon the premises for inspection purposes during working hours.

Applicant's Signature — Date: 11/11/2025

Richard Zuidema
Print Name

22. Contractor's Signature:

I hereby certify that the information on this form and on the attached plans are true and accurate to the best of my knowledge, and that I am required to inform the Department of any changes or updates to the information provided in this application. I further understand that the Department may request information in addition to that set forth herein if deemed necessary to appropriately consider this application.

Contractor's Name — Date

Print Name

verdantas

Cape Shores Beach Renourishment – Project Description

Since 2000, the Cape Shores Homeowner's Association (CSHOA), separately and jointly with the Department of Natural Resources and Environmental Control (DNREC), has placed supplemental sand on the Delaware Bay Beach through numerous truck fill renourishment projects. The area requires regular beach fill projects in order to maintain a sufficiently wide recreational beach for the Cape Shores residents and the public and to provide protection for the homes and infrastructure of the Cape Shores community. The proposed renourishment project is consistent with recommendations in the report "Beach Nourishment Evaluation at Cape Shores, Delaware prepared by Aptim Coastal Planning and Engineering, Inc. (September 2017).

The project will place up to approximately 33,251.19 cubic yards of material on the beach which has suffered significant erosion due to recent storms, including Fall 2025. The previous fill event was conducted under the following permits: DNREC SP-208/22 and WQC-208/22 and USACE CENAP-OP-R-2018-45-85.

Sand will be hauled to the site located on Cape Henlopen Drive, Lewes, via truck from a to be determined facility. Sand will be transported onto the beach using the western beach crossing access area within the community that has historically been used for fill projects. Sand will then be transported to the construction location by equipment. Grading and dune construction will be performed by bulldozer and other appropriate equipment. Road approval is not necessary.

14A. List the names and complete mailing address of the immediately adjoining property owners on all sides of the project.
Project Site: The beach at Cape Shores Homeowners Association, Tax Map Parcel #335-5.00-240.00

Tax Parcel	Owner	Owner 2	Address	Address 2	City	State	Zip Code
335-5.00-113.00	B.J.A.C.K. Properties LLC		8 David Court		Wilmington	DE	19803
335-5.00-112.00	Safa Rajab Muhtaseb	Sireen Abdellatif Muhtaseb	1201 Kinterra Court		West Chester	PA	19382
335-5.00-111.00	Martin Friedman	Dina Friedman	9990 Blackberry Lane		Great Falls	VA	22066
335-5.00-110.00	Dolores Ann Stafford TTEE		118 West Cape Shores Drive		Lewes	DE	19958
335-5.00-109.00	Joseph S. Hall	Sameena S. Majeed	3647 North Harrison Street		Arlington	VA	22207
335-5.00-108.00	Eric T. Schwartz TTEE REV TR		122 West Cape Shores Drive		Lewes	DE	19958
335-5.00-107.00	Kathleen F. Fina	Joan E. Fina	124 West Cape Shores Drive		Lewes	DE	19958
335-5.00-106.00	Marie L. Barnett Trustee		90 Wimbledon Drive		Dover	DE	19904
335-5.00-105.00	80 West Cape Shores Drive LLC		900 Hillside Road		Wilmington	DE	19807
335-5.00-104.00	John & Gloria Sweeney		511 Eagle Creek Drive		Naples	FL	34113
335-5.00-103.00	John W. Rudibaugh TTEE PR TR	Dorris I. Rudibaugh TTEE PR TR	1304 Birmingham Road		West Chester	PA	19382
335-5.00-102.00	Robert A. Chlopak	Ellen L. Globokar	4919 Dorset Avenue		Chevy Chase	MD	20815
335-5.00-101.00	Shirley A. Klassman TTEE REV TR		200 Maris Grove Way		Glen Mills	PA	19342
335-5.00-100.00	Linda N. Rocca		5 Timber Lane		Wilmington	DE	19803
335-5.00-99.00	Melinda L Carter TTEE	Vickie Binder TTEE Michelle Thomas T	123 Dales Way Drive		Pasadena	MD	21122
335-5.00-98.00	James R. Weigand	Ashley N. Weigand	4307 Pyles Ford Road		Greenville	DE	19807
335-5.00-97.00	Joseph G. Syage	Melissa L. Syage	539 Juniper Lane		Bridgewater	NJ	8807
335-5.00-96.00	William B. Davis SR. TTEE	Maryann P. Davis TTEE LIV TR	15 North Valentine Drive		Garnet Valley	PA	19060
335-5.00-95.00	Theresa W. Rossi TTEE	Salvatore J. Rossi Jr. IRR TR	4 Hearth Lane		Wilmington	DE	19807
335-5.00-94.00	Coastal Landings LLC		112 Woodbridge Drive		Kennett Square	PA	19348
335-5.00-93.00	John P. Baykin TTEE REV TR		1221 Old Wilmington Road		Hockessin	DE	19707
335-5.00-92.00	Joseph A. Gensbigler TTEE	Lizzie N. Gensbigler TTEE of LIV TR	670 Saint Johns Drive		Camp Hill	PA	17011
335-5.00-91.00	Michael L. Csuy	Linda A. Bronson	4 Apple Row		Kennett Square	PA	19348
335-5.00-90.00	Stephen F. Mohr	Carolyn N. Mohr	106 Breakwater Reach		Lewes	DE	19958
335-5.00-89.00	Jeffrey E. Banning TTEE	FAM TR	22726 Haven Way		Laurel	DE	19956
335-5.00-88.00	Joshua Berman	Amy Berman	7111 45th Street		Chevy Chase	MD	20815
335-5.00-87.00	112 Breakwater LLC		360 Red Coat Lane		Wayne	PA	19087
335-5.00-86.00	Randall E. Robbins	Tucker B. Robbins	2 Gale Lane		Wilmington	DE	19807
335-5.00-85.00	Helen M. Matarese Trustee		116 Breakwater Reach		Lewes	DE	19958
335-5.00-84.00	Richard W. Zuidema TTEE REV TR		650 Collany Road	Unit 401	Tierra Verde	FL	33715
335-5.00-83.00	Mark. B Denbo	Amanda Laforge	3915 Woodbine Street		Chevy Chase	MD	20815
335-5.00-82.00	Patrick A. Ede	Megan W. Ede	1607 N Bancroft Parkway		Wilmington	DE	19806
335-5.00-81.00	Luigi & Linda Imperia		5032 Castlerock Way		Naple	FL	34112
335-5.00-80.00	Howard T. Parks TTEE REV TR	Jo P. Parks TTEE REV TR	126 Breakwater Reach		Lewes	DE	19971
335-5.00-79.00	Glenn D. Clark Jr.	Louisa M. Clark	1511 Ridge Road		Lancaster	PA	17603
335-5.00-78.00	William James Huntley	Maria Elena Huntley	130 Breakwater Reach		Lewes	DE	19958
335-5.00-77.00	Lee Ann Wilkinson Trustee		16698 Kings Highway		Lewes	DE	19958
335-5.00-76.00	James D. Margolis TTEE of REV TR	Vicki Seyfert-Margolis	4825 Essex Avenue		Chevy Chase	MD	20815
335-5.00-75.00	Linda M. Fischer		504 East Cape Shores Drive		Lewes	DE	19958
335-5.00-74.00	Richard S. Fischer Trustee		506 East Cape Shores Drive		Lewes	DE	19958
335-5.00-73.00	Linda D. Rapp Trustee	Casey Roth	1486 Coolidge Avenue		Pasadena	CA	91104
335-5.00-72.00	Donna C. Julian TTEE	Eugene M. Julian TTEE	4031 Kennett Pike	#20	Wilmington	DE	19807
335-5.00-71.00	Gregory D. Harris Trustee	Catherine Harris Trustee	5 North Bay Court		Lewes	DE	19958
335-5.00-70.00	Barry S Denenberg TTEE	Carol Denenberg TTEE of REV TR	7 North Bay Court		Lewes	DE	19958
335-5.00-9.00	State of Delaware	Office Management and Budget	122 Martin Luther King Jr. Boulevard South		Dover	DE	19901

FILL

Please make sure answers to all of the questions in this appendix correspond to information on the application drawings.

1. How many linear feet will the fill extend channelward of the:
   a. Tidal waters: mean high water line? 4.07 ft.
      mean low water line? 0 ft.
   b. Non-tidal waters: ordinary high water line? N/A ft.

2. What is the area of fill that will be located:
   a. on subaqueous land (channelward of mean high water) 3,416.29 sq. ft.
   b. on vegetated wetlands? N/A sq. ft.

3. What is the source of the fill?
   X Hauled in from upland sources: What is the source company/location/parcel number?
   _____ Obtained from dredged material: Complete Dredging Appendix.

   Proposed fill source is to be determined. Previously, Melvin L. Joseph Construction Co. sand and gravel operation located on S. DuPont Hwy, Georgetown, DE.

4. What is the total volume of fill? 33,251.19 cubic yards
   a. What is the total fill per running foot of shoreline? 10.98 cubic yards

5. What method will be used to place the fill?

Sand will be hauled to the site located on Cape Henlopen Drive, Lewes, via truck from a to be determined facility. Sand will be transported on to the beach using the western beach crossing access area within the community that has historically been used for fill projects. Sand will then be transported to the construction location by equipment. Grading and dune construction will be performed by bulldozer and other appropriate equipment. Road approval is not necessary.

6. State the type and composition percentage of the fill material (e.g. sand 80%, silt 5%, clay 15%, etc.)

   Fill material has not yet been sourced. An aggregate test will be performed in accodance with AASHTO T11/ AASHTO T27 prior to the placement of fill on the beach. Testing results will be shared with DNREC.

7. How will the fill be retained? Complete appropriate appendix.

   No additional retention for fill material is proposed for this project.

8. What type of vegetation or ground cover will be provided for the filled area(s) to prevent soil erosion and help keep sediment from reaching State waters?

   Beach grass is expected to be planted on the dune in Spring 2026.

9. Describe the type(s) of structure(s) to be erected on the filled area (if any). Complete appropriate appendix.

   No structures will be erected at the site as part of this project.

WATER QUALITY CERTIFICATION

Applicants must complete this appendix in addition to the basic application when submitting a water quality certification request in accordance with the Clean Water Act Section 401 Certification Rule. Please note, this water quality certification request must be simultaneously submitted to the U. S. Army Corps of Engineers at the time of submittal of this application.

Please make sure answers to all of the questions in this appendix and that the information corresponds to information on the application drawings.

1. Include a list of all other federal, interstate, tribe, state, territorial, or local agency authorizations required for the proposed project (in addition to those already provided on the basic application). Attach all approvals or denials already received.

   A USACE Individual Permit, DNREC Wetlands and Subaqueous Lands Permit, DNREC Beach Construction Permit, and DNREC Water Quality Certification are being obtained for the proposed project.
   The USFWS, DNREC SCRP, and State of Delaware DHCA were consulted regarding impacts to natural and historic and cultural resources. Their approval letters are attached.

2. Identify the location and nature of any potential discharge or fill that may result from the proposed project and the location of receiving waters. Attach additional sheets as necessary. Complete additional appendices that relate to this project e.g. H. Fill, S. New Dredging, etc.

   The proposed project includes the use of fill to reconstruct the Cape Shores beach. Appendix H - Fill has been completed and included in this application package.

3. Is the project located with waters of exceptional recreational or ecological significance (ERES) as designated by the 7 Del. Admin. Code §7401 Surface Water Quality Standards?

   ◯ Yes ◉ No

4. Include a description of any methods and means proposed to monitor the discharge or fill and the equipment or measures planned to treat, control, or manage the discharge or fill. Attach additional sheets as necessary.

The composition of the sand fill desposited on the Cape Shores beach will consist of clean sand material consistent with native beach material and will be free of debris, trash, oils, grease, asphalt, other contaminants, and unsuitable materials.

5. Please provide information demonstrating that the proposed discharge of dredge or fill material will not result in a statistically significant reduction, accounting for natural variations, in biological, chemical, or habitat quality as measured or predicted using appropriate assessment protocols. Attach additional sheets as necessary.

When the source of the sand material has been confirmed, aggregate testing in accordance with AASHTO T11/AASHTO T27 will be performed on the material. The results of the aggregate testing will be reviewed and shared with DNREC prior to placement of material.

By signing below, you hereby agree to the following statements as the applicant or on behalf of the applicant:

The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief; and

The project proponent hereby requests that the certifying authority hereby review and take action on this Clean Water Act 401 certification within the applicable reasonable period of time.

Signature: _____ Date: 11/11/2025

Printed Name: Richard Zuidema Relation to applicant: Applicant

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

October 10, 2025

Savannah Budka
Verdantas, LLC
5400 Limestone Road
Wilmington, DE 19808

Re: VERD 2025 Cape Shores Beach Replenishment Tax Parcel # 335-5.00-240.00

Dear Savannah:

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.

Migratory Shorebirds (incl. Red Knot)
Slaughter Beach provides critically important habitat for migratory shorebirds, including the federally-listed threatened red knot (*Calidris canutus rufa*). Red knot and other migrating shorebirds stop in Delaware to acquire food resources, including horseshoe crab eggs, and gain weight to optimize their body condition before completing their migration to Arctic nesting grounds. To avoid interrupting red knot activity during this critical stage of their migration, we recommend a time of year restriction of project activities between **April 15th to June 7th**. Note that because federally-listed threatened red knots may be affected, Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) may be necessary. For more information, please contact our Coastal Waterbird Biologist, Kat Christie (Katherine.Christie@delaware.gov, 302-735-3612).

Beach Nesting Birds (incl. Piping Plover)
Currently, there are no records of state-rare or federally-listed plants, animals or natural communities at this project site. A cursory visit of the site was conducted, and no beach nesting birds were noted as there seems to be very little suitable habitat at present. However, this project may create suitable habitat for beach nesting birds, including the federally-listed piping plover (*Charadrius melodus*). Considering that this site connects to Cape Henlopen State Park where this species and others nest, it is possible that this new beach area would be attractive for nesting as well.

The local breeding population of piping plovers in Delaware has increased in recent years. This increase in local breeding pairs suggests prospecting piping plovers, such as young birds, may be seeking previously unoccupied novel breeding habitat. Thus, a time of year restriction from **March 15th to September 15th** shall be implemented for piping plover and other beach nesting species.

If potentially suitable habitat is created, we will likely survey for beach nesting birds for several years following the completion of this project. Not only will this survey allow the detection and subsequent protection of any nests that are found, but it will also provide data regarding beach nourishment projects and the potential to create suitable nesting habitat. If piping plover nest within the project site, the applicant will need to coordinate and cooperate with Federal and State Agencies on the protection and management of this new nesting habitat. For more information, please contact our Coastal Waterbird Biologist, Kat Christie (Katherine.Christie@delaware.gov, 302-735-3612).

Pinnipeds
Four different species of seals are known to occupy the Lewes Harbor area in the winter months. These species include the harbor seal (*Phoca vitulina*), harp seal (*Pagophilus (Phoca) groenlandicus*), gray seal (*Halichoerus grypus*), and hooded seal (*Cystophora cristata*). Marine mammals such as harbor seals are protected under the Marine Mammal Protection Act of 1972 (MMPA) which prohibits the "take" of all marine mammal species. Under the MMPA, the term "take" is defined as "harass, hunt, capture, kill, or attempt to harass, hunt, capture, or kill any marine mammal." Furthermore, "harassment" is defined as "any act of pursuit, torment, or annoyance which (*i*) has the potential to injure a marine mammal or marine mammal stock in the wild, or (*ii*) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering". If any seals are encountered on the beach during sand replenishment, NOAA recommends that people remain at least 50 yards away from them to comply with the MMPA.

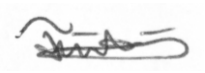
Fisheries
Horseshoe Crab
The project site is a known high-density spawning area for horseshoe crabs. Work should not be conducted from **April 15th to August 30th** to ensure that this species is not impacted. We further encourage beach renourishment be performed in a manner that maintains the existing slope to that which naturally exists, as well as the use of sand of similar grain size to that which naturally exists. The fisheries management plan for horseshoe crab also recommends that borrow

areas for beach nourishment be located such that they avoid adverse impacts to essential juvenile habitat (nearshore, shallow water, subtidal flats).

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,



Faith Garcia
Environmental Review Coordinator
Phone: (302) 735-8665
Cell: (302) 443-3812
Email: christinefaith.garcia@delaware.gov
89 Kings Highway
Dover, DE 19901

(See invoice on next page)

INVOICE - PAYMENT DUE

It is our policy to charge a fee for this environmental review service. This letter constitutes an invoice for $35.00 ($35.00/hour for a minimum of one hour). Please make your check payable to "Delaware Division of Fish and Wildlife" and submit to:

DE Division of Fish and Wildlife
97 Commerce Way, Suite 106
Dover, DE 19904
ATTN: DFW Fiscal

In order for us to properly process your payment, you must reference "VERD 2025 Cape Shores Beach Replenishment**" on your check.**

cc: DFW Fiscal; Code to 72900

verdantas

1060 S. Governors Avenue
Suite 101
Dover, DE 19904

September 12, 2025

US Fish & Wildlife Service
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401
cbfoprojectreview@fws.gov

Re: USFWS Endangered and Threatened Species Review –
Cape Shores Beach Replenishment
Verdantas Project No. 32189

To Whom It May Concern:

Our client, Cape Shores Homeowners' Association (CSHOA), is proposing to place fill on the Delaware Bay Beach in Lewes, Delaware. Approval and the appropriate permits are being obtained from the United States Army Corps of Engineers (USACE) and the State of Delaware Department of Natural Resources and Environmental Control (DNREC). Permitting for the project requires notifications to resource agencies, including the U.S. Fish and Wildlife Service (USFWS), seeking input on potential impacts to natural resources.

With this email, we are requesting input from the USFWS on this project: Cape Shores Beach Replenishment.

PROJECT DETAILS

Since the 2000's, the CSHOA, separately and jointly with DNREC, has placed supplemental sand on the Delaware Bay Beach through numerous truck fill renourishment projects. The area requires regular beach fill projects in order to maintain a sufficiently wide recreational beach for the Cape Shores residents and the public and to provide protection for the homes and infrastructure of the Cape Shores community. The proposed renourishment project is consistent with recommendations in the report titled "Beach Nourishment Evaluation at Cape Shores, Delaware" prepared by Aptim Coastal Planning and Engineering, Inc. (September 2017). The project will replenish the Cape Shores beach which has suffered significant erosion due to storms that occurred in early January 2022. The previous fill event was conducted under the following permits: DNREC SP-208/22, WQC-208/22, and USACE CENAP-OP-R-2018-45-85.

The project will place up to approximately 8,500 cubic yards of material on the beach. A survey was recently completed for the project area to determine an exact volume of material required to replenish the beach. Results of the survey are pending and expected to be available by September 19, 2025.

An aerial depicting the approximate project area location has been attached to this request letter (**Attachment 1**).

IPAC RESULTS

The project has been assigned the Project Code: 2025-0148592.

According to the species list generated by the USFWS IPaC search, the following species are potentially affected by the proposed project:

- Tricolored Bat;
- Rufa Red Knot;
- Monarch Butterfly; and
- Seabeach Amaranth.

According to the generated IPaC resource list **(Attachment 2)**, the project area does not overlap the critical habitat designated for the Rufa Red Knot or Monarch Butterfly. Additionally, no refuge lands or fisheries were identified in the project area.

Based on the conclusions of the Northern Long-eared Bat and Tricolored Bat Range-wide Determination Key, a no effect determination was made for the Tricolored Bat. The Technical Assistance Letter is provided as **Attachment 3**.

Conversely, a "may affect" determination was concluded for the Rufa Red Knot and the Seabeach Amaranth. The Technical Assistance Letter is provided as **Attachment 3**.

We are currently in the process of contacting the DNREC's Species Conservation and Research Program (SCRP) to initiate an environmental review of the project area. We would be happy to share their response with you once it is available. In the meantime, please let me know if there is any further information I can provide.

Thank you,

VERDANTAS LLC

Savannah Budka, E.I.
Environmental Engineer II
sbudka@verdantas.com
(302) 489-2203

David Small
Senior Consultant
dsmall@verdantas.com
(302) 674-9280

Enclosures: Attachment 1 – Project Area Location Map
Attachment 2 – IpaC Resource List
Attachment 3 – Technical Assistance Letters

Attachment 1

PROJECT AREA LOCATION MAP

Cape Shores Survey Limit

Legend

Cape Shores Survey

E Cape Shores Dr

Breakwater Reach

W Cape Shores Dr

W Cape Shores Dr

Henlopen Shores Cir

Cape Henlopen Dr

Cape Henlopen Dr

Port Lewes Ct

Google Earth

Image © 2025 Airbus

N

700 ft

Attachment 2

IPAC RESOURCE LIST

IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Sussex County, Delaware



Local office

Chesapeake Bay Ecological Services Field Office

(410) 573-4599
(410) 266-9127

177 Admiral Cochrane Drive
Annapolis, MD 21401-7307

NOT FOR CONSULTATION

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species[1] and their critical habitats are managed by the Ecological Services Program of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries[2]).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact NOAA Fisheries for species under their jurisdiction.

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the listing status page for more information. IPaC only shows species that are regulated by USFWS (see FAQ).
2. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME	STATUS
Tricolored Bat Perimyotis subflavus Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

Birds

NAME	STATUS
Rufa Red Knot Calidris canutus rufa Wherever found There is **proposed** critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/1864	Threatened

Insects

NAME	STATUS
Monarch Butterfly Danaus plexippus Wherever found There is **proposed** critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/9743	Proposed Threatened

NOT FOR CONSULTATION

Flowering Plants

NAME	STATUS
Seabeach Amaranth Amaranthus pumilus Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/8549	Threatened

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.

You are still required to determine if your project(s) may have effects on all above listed species.

Bald & Golden Eagles

Bald and Golden Eagles are protected under the Bald and Golden Eagle Protection Act [2] and the Migratory Bird Treaty Act (MBTA) [1]. Any person or organization who plans or conducts activities that may result in impacts to Bald or Golden Eagles, or their nests, should follow appropriate regulations and implement required avoidance and minimization measures, as described in the various links on this page.

The data in this location indicates that no eagles have been observed in this area. This does not mean eagles are not present in your project area, especially if the area is difficult to survey. Please review the 'Steps to Take When No Results Are Returned' section of the Supplemental Information on Migratory Birds and Eagles document to determine if your project is in a poorly surveyed area. If it is, you may need to rely on other resources to determine if eagles may be present (e.g. your local FWS field office, state surveys, your own surveys).

Additional information can be found using the following links:

- Eagle Management https://www.fws.gov/program/eagle-management
- Measures for avoiding and minimizing impacts to birds https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds
- Nationwide avoidance and minimization measures for birds https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf
- Supplemental Information for Migratory Birds and Eagles in IPaC https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action

Bald and Golden Eagle information is not available at this time

Bald & Golden Eagles FAQs

What does IPaC use to generate the potential presence of bald and golden eagles in my specified location?

The potential for eagle presence is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are an eagle (Bald and Golden Eagle Protection Act requirements may apply).

Proper interpretation and use of your eagle report

NOT FOR CONSULTATION

On the graphs provided, please look carefully at the survey effort (indicated by the black vertical line) and for the existence of the "no data" indicator (a red horizontal line). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort line or no data line (red horizontal) means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list and associated information help you know what to look for to confirm presence and helps guide you in knowing when to implement avoidance and minimization measures to eliminate or reduce potential impacts from your project activities or get the appropriate permits should presence be confirmed.

How do I know if eagles are breeding, wintering, or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating, or resident), you may query your location using the RAIL Tool and view the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If an eagle on your IPaC migratory bird species list has a breeding season associated with it (indicated by yellow vertical bars on the phenology graph in your "IPaC PROBABILITY OF PRESENCE SUMMARY" at the top of your results list), there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

Interpreting the Probability of Presence Graphs

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. A taller bar indicates a higher probability of species presence. The survey effort can be used to establish a level of confidence in the presence score.

How is the probability of presence score calculated? The calculation is done in three steps:
The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.

To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is 0.25/0.25 = 1; at week 20 it is 0.05/0.25 = 0.2.

The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season ()
Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort ()
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data ()
A week is marked as having no data if there were no survey events for that week.

Survey Timeframe
Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

NOT FOR CONSULTATION

Migratory birds

The Migratory Bird Treaty Act (MBTA) [1] prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service (FWS).

1. The Migratory Birds Treaty Act of 1918.
2. The Bald and Golden Eagle Protection Act of 1940.

Additional information can be found using the following links:

- Eagle Management https://www.fws.gov/program/eagle-management
- Measures for avoiding and minimizing impacts to birds https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds
- Nationwide avoidance and minimization measures for birds
- Supplemental Information for Migratory Birds and Eagles in IPaC https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action

Migratory bird information is not available at this time

Migratory Bird FAQs

Tell me more about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds.

Nationwide Avoidance & Minimization Measures for Birds describes measures that can help avoid and minimize impacts to all birds at any location year-round. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is one of the most effective ways to minimize impacts. To see when birds are most likely to occur and breed in your project area, view the Probability of Presence Summary. Additional measures or permits may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of Birds of Conservation Concern (BCC) and other species that may warrant special attention in your project location, such as those listed under the Endangered Species Act or the Bald and Golden Eagle Protection Act and those species marked as "Vulnerable". See the FAQ "What are the levels of concern for migratory birds?" for more information on the levels of concern covered in the IPaC migratory bird species list.

The migratory bird list generated for your project is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) with which your project intersects. These species have been identified as warranting special attention because they are BCC species in that area, an eagle (Bald and Golden Eagle Protection Act requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, and to verify survey effort when no results present, please visit the Rapid Avian Information Locator (RAIL) Tool.

Why are subspecies showing up on my list?

Subspecies profiles are included on the list of species present in your project area because observations in the AKN for **the species** are being detected. If the species are present, that means that the subspecies may also be present. If a subspecies shows up on your list, you may need to rely on other resources to determine if that subspecies may be present (e.g. your local FWS field office, state surveys, your own surveys).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the Avian Knowledge Network (AKN). This data is derived from a growing collection of survey, banding, and citizen science datasets.

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating, or resident), you may query your location using the RAIL Tool and view the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your IPaC migratory bird species list has a breeding season associated with it (indicated by yellow vertical bars on the phenology graph in your "IPaC PROBABILITY OF PRESENCE SUMMARY" at the top of your results list), there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are Birds of Conservation Concern (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the Bald and Golden Eagle Protection Act requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially BCC species. For more information on avoidance and minimization measures you can implement to help avoid and minimize migratory bird impacts, please see the FAQ "Tell me more about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds".

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the Northeast Ocean Data Portal. The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf project webpage.

Proper interpretation and use of your migratory bird report

NOT FOR CONSULTATION

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please look carefully at the survey effort (indicated by the black vertical line) and for the existence of the "no data" indicator (a red horizontal line). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list does not represent all birds present in your project area. It is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list and associated information help you know what to look for to confirm presence and helps guide implementation of avoidance and minimization measures to eliminate or reduce potential impacts from your project activities, should presence be confirmed. To learn more about avoidance and minimization measures, visit the FAQ "Tell me about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds".

Interpreting the Probability of Presence Graphs
Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. A taller bar indicates a higher probability of species presence. The survey effort can be used to establish a level of confidence in the presence score.

How is the probability of presence score calculated? The calculation is done in three steps:
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To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is 0.25/0.25 = 1; at week 20 it is 0.05/0.25 = 0.2.

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No Data ()
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Survey Timeframe
Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

NOT FOR CONSULTATION

Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the National Wildlife Refuge system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

There are no refuge lands at this location.

Fish hatcheries

There are no fish hatcheries at this location.

Wetlands in the National Wetlands Inventory (NWI)

Impacts to NWI wetlands and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local U.S. Army Corps of Engineers District.

Wetland information is not available at this time

This can happen when the National Wetlands Inventory (NWI) map service is unavailable, or for very large projects that intersect many wetland areas. Try again, or visit the NWI map to view wetlands at this location.

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tuberficid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate Federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION

Attachment 3

TECHNICAL ASSISTANCE LETTERS

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: 09/12/2025 13:41:14 UTC
Project code: 2025-0148592
Project Name: Cape Shores Beach Replenishment

Federal Nexus: yes
Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Record of project representative's no effect determination for 'Cape Shores Beach Replenishment'

Dear Savannah Budka:

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 September 12, 2025, for 'Cape Shores Beach Replenishment' (here forward, Project). This project has been assigned Project Code 2025-0148592 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

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
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Seabeach Amaranth *Amaranthus pumilus* 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 2025-0148592 associated with this Project.

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

1. Name

Cape Shores Beach Replenishment

2. Description

The following description was provided for the project 'Cape Shores Beach Replenishment':

> Since the 2000, the Cape Shores Homeowner’s Association (CSHOA), separately and jointly with the Department of Natural Resources and Environmental Control (DNREC), has placed supplemental sand on the Delaware Bay Beach through numerous truck fill renourishment projects. The area requires regular beach fill projects in order to maintain a sufficiently wide recreational beach for the Cape Shores residents and the public and to provide protection for the homes and infrastructure of the Cape Shores community. The proposed renourishment project is consistent with recommendations in the report “Beach Nourishment Evaluation at Cape Shores, Delaware prepared by Aptim Coastal Planning and Engineering, Inc. (September 2017). The project will replenish the Cape Shores beach which has suffered significant erosion due to storms that occurred in early January 2022. The previous fill event was conducted under the following permits: DNREC SP-208/22 and WQC-208/22 and USACE CENAP-OP-R-2018-45-85. New permits are being sought with DNREC and USACE.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@38.7841429,-75.10866786342042,14z



DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the species covered by this determination key. Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for those species.

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed bats or any other listed species?

   Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

   No

2. Is the action area wholly within Zone 2 of the year-round active area for northern long-eared bat and/or tricolored bat?

   Automatically answered
   No

3. Does the action area intersect Zone 1 of the year-round active area for northern long-eared bat and/or tricolored bat?

   Automatically answered
   No

4. Does any component of the action involve leasing, construction or operation of wind turbines? Answer 'yes' if the activities considered are conducted with the intention of gathering survey information to inform the leasing, construction, or operation of wind turbines.

   No

5. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

   Note for projects in Pennsylvania: Projects requiring authorization under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act would be considered as having a federal nexus. Since the U.S. Army Corps of Engineers (Corps) has issued the Pennsylvania State Programmatic General Permit (PASPGP), which may be verified by the PA Department of Environmental Protection or certain Conservation Districts, the need to receive a Corps authorization to perform the work under the PASPGP serves as a federal nexus. As such, if proposing to use the PASPGP, you would answer ‘yes’ to this question.

   Yes

6. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) funding or authorizing the proposed action, in whole or in part?

   No

7. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

   Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

   No

8. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

   No

9. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

10. [Semantic] Is the action area located within 0.5 miles of a known bat hibernaculum or winter roost? Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state wildlife agency.

    Automatically answered

    No

11. Does the action area contain any winter roosts or caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating bats?

    No

12. Will the action cause effects to a bridge?

    Note: Covered bridges should be considered as bridges in this question.

    No

13. Will the action result in effects to a culvert or tunnel at any time of year?

    No

14. Are trees present within 1000 feet of the action area?

    Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    Yes

15. Does the action include the intentional exclusion of bats from a building or building-like structure? **Note:** Exclusion is conducted to deny bats' entry or reentry into a building. To be effective and to avoid harming bats, it should be done according to established standards. If your action includes bat exclusion and you are unsure whether northern long-eared bats or tricolored bats are present, answer "Yes." Answer "No" if there are no signs of bat use in the building/structure. If unsure, contact your local Ecological Services Field Office to help assess whether northern long-eared bats or tricolored bats may be present. Contact a Nuisance Wildlife Control Operator (NWCO) for help in how to exclude bats from a structure safely without causing harm to the bats (to find a NWCO certified in bat standards, search the Internet using the search term "National Wildlife Control Operators Association bats"). Also see the White-Nose Syndrome Response Team's guide for bat control in structures.

    No

16. Does the action involve removal, modification, or maintenance of a human-made building-like structure (barn, house, or other building) **known or suspected to contain roosting bats?**

    No

17. Will the action cause construction of one or more new roads open to the public?

    For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

    No

18. Will the action include or cause any construction or other activity that is reasonably certain to increase average night-time traffic permanently or temporarily on one or more existing roads? **Note:** For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.). .

    No

19. Will the action include or cause any construction or other activity that is reasonably certain to increase the number of travel lanes on an existing thoroughfare?

    For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

    No

20. Will the proposed Action involve the creation of a new water-borne contaminant source (e.g., leachate pond, pits containing chemicals that are not NSF/ANSI 60 compliant)?

    Note: For information regarding NSF/ANSI 60 please visit https://www.nsf.org/knowledge-library/nsf-ansi-standard-60-drinking-water-treatment-chemicals-health-effects

    No

21. Will the proposed action involve the creation of a new point source discharge from a facility other than a water treatment plant or storm water system?

    No

22. Will the action include drilling or blasting?

    No

23. Will the action involve military training (e.g., smoke operations, obscurant operations, exploding munitions, artillery fire, range use, helicopter or fixed wing aircraft use at night)?

    No

24. Will the proposed action involve the use of herbicides or pesticides (e.g., fungicides, insecticides, or rodenticides)?

    No

25. Will the action include or cause activities that are reasonably certain to cause chronic or intense nighttime noise (above current levels of ambient noise in the area) in suitable summer habitat for the northern long-eared bat or tricolored bat during the active season?

    Chronic noise is noise that is continuous or occurs repeatedly again and again for a long time. Sources of chronic or intense noise that could cause adverse effects to bats may include, but are not limited to: road traffic; trains; aircraft; industrial activities; gas compressor stations; loud music; crowds; oil and gas extraction; construction; and mining.

    Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    No

26. Does the action include, or is it reasonably certain to cause, the use of permanent or temporary artificial lighting within 1000 feet of suitable northern long-eared bat or tricolored bat roosting habitat?

    Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    No

27. Will the action include tree cutting or other means of knocking down or bringing down trees, tree topping, or tree trimming?

    No

28. Will the proposed action result in the use of prescribed fire?

    Note: If the prescribed fire action includes other activities than application of fire (e.g., tree cutting, fire line preparation) please consider impacts from those activities within the previous representative questions in the key. This set of questions only considers impacts from flame and smoke.

    No

29. Does the action area intersect the tricolored bat species list area?

    Automatically answered
    Yes

30. Is the action area located within 0.5-mile of radius of an entrance/opening to any known tricolored bat hibernacula or winter roost?

    Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state wildlife agency.

    Automatically answered
    No

31. [Semantic] Is the action area located within 0.25 miles of a culvert that is known to be occupied by northern long-eared or tricolored bats? **Note:** The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

    Automatically answered
    No

32. Has a presence/probable absence bat survey targeting the tricolored bat and following the Service's Range-wide Indiana Bat and Northern Long-Eared Bat Survey Guidelines been conducted within the project area?

    No

33. Is suitable summer habitat for the tricolored bat present within 1000 feet of project activities?
    (If unsure, answer ""Yes."")

    Note: If there are trees within the action area that may provide potential roosts for tricolored bats (e.g., clusters of leaves in live and dead deciduous trees, Spanish moss (Tillandsia usneoides), clusters of dead pine needles of large live pines) answer ""Yes."" For a complete definition of suitable summer habitat for the tricolored bat, please see Appendix A in the Service's Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines.

    Yes

34. Do you have any documents that you want to include with this submission?

    No

PROJECT QUESTIONNAIRE

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Savannah Budka
Address: 5400 Limestone Road
City: Wilmington
State: DE
Zip: 19808
Email sbudka@verdantas.com
Phone: 3024892203

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers

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: 09/12/2025 13:51:28 UTC
Project code: 2025-0148592
Project Name: Cape Shores Beach Replenishment

Federal Nexus: yes
Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Technical assistance for 'Cape Shores Beach Replenishment'

Dear Savannah Budka:

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 September 12, 2025, for “Cape Shores Beach Replenishment” (here forward, Project). This project has been assigned Project Code 2025-0148592 and all future correspondence should clearly reference this number.

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 the 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 Northeast 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.***

To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), 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 further consultation with, or concurrence from, 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 (NLAA)" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Rufa Red Knot (*Calidris canutus rufa*)	Threatened	May affect
Seabeach Amaranth (*Amaranthus pumilus*)	Threatened	May affect

Consultation with the Service is not complete. Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of "May Affect". Please contact our Chesapeake Bay Ecological Services Field Office to discuss methods to avoid or minimize potential adverse effects to those species or designated critical habitats.

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

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Proposed Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or PermitsR5MB@fws.gov, with any questions regarding potential impacts to Eagles.

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

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

1. Name

Cape Shores Beach Replenishment

2. Description

The following description was provided for the project 'Cape Shores Beach Replenishment':

> Since the 2000, the Cape Shores Homeowner’s Association (CSHOA), separately and jointly with the Department of Natural Resources and Environmental Control (DNREC), has placed supplemental sand on the Delaware Bay Beach through numerous truck fill renourishment projects. The area requires regular beach fill projects in order to maintain a sufficiently wide recreational beach for the Cape Shores residents and the public and to provide protection for the homes and infrastructure of the Cape Shores community. The proposed renourishment project is consistent with recommendations in the report “Beach Nourishment Evaluation at Cape Shores, Delaware prepared by Aptim Coastal Planning and Engineering, Inc. (September 2017). The project will replenish the Cape Shores beach which has suffered significant erosion due to storms that occurred in early January 2022. The previous fill event was conducted under the following permits: DNREC SP-208/22 and WQC-208/22 and USACE CENAP-OP-R-2018-45-85. New permits are being sought with DNREC and USACE.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@38.7841429,-75.10866786342042,14z



QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

   Yes

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

   Note: This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

   No

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

   Note: for projects in Pennsylvania: Projects requiring authorization under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act would be considered as having a federal nexus. Since the U.S. Army Corps of Engineers (Corps) has issued the Pennsylvania State Programmatic General Permit (PASPGP), which may be verified by the PA Department of Environmental Protection or certain Conservation Districts, the need to receive a Corps authorization to perform the work under the PASPGP serves as a federal nexus. As such, if proposing to use the PASPGP, you would answer ‘yes’ to this question.

   Yes

4. Are you including in this analysis all impacts to federally listed species that may result from the entirety of the project (not just the activities under federal jurisdiction)?

   Note: If there are project activities that will impact listed species that are considered to be outside of the jurisdiction of the federal action agency submitting this key, contact your local Ecological Services Field Office to determine whether it is appropriate to use this key. If your Ecological Services Field Office agrees that impacts to listed species that are outside the federal action agency's jurisdiction will be addressed through a separate process, you can answer yes to this question and continue through the key.

   Yes

5. Are you the lead federal action agency or designated non-federal representative requesting concurrence on behalf of the lead Federal Action Agency?

   No

6. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)?

   No

7. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

8. Is the lead federal action agency the Natural Resources Conservation Service?

   No

9. Will the proposed project involve the use or storage of herbicide?

   No

10. Will the proposed project involve herbaceous native vegetation removal (including prescribed fire that would result in burning of plants) or mowing?

    No

11. Will all activities occur within an area that is currently paved, graveled, routinely maintained lawn, and/or inside a structure?

    No

12. Will the proposed project involve demolition, rehabilitation, property elevation, renovation, and/or rebuilding of one or more existing buildings (e.g., residential, commercial and industrial buildings, or utilities)? Note: if project activities include modification of bridges and/or culverts, answer this question "No".

    No

13. Does the project area intersect the boundary of VAFO?

    Automatically answered
    No

14. Does any component of the project associated with this action include activities or structures that may pose a collision risk to **birds** (e.g., plane-based surveys, land-based or offshore wind turbines, new or enlarged communication towers or broadcast towers, high voltage transmission lines, any type of towers with or without guy wires)?

    No

15. Will the proposed project involve earth moving or other ground disturbance that could cause erosion and sedimentation, and/or contamination within 300 feet of a freshwater wetland or along a stream?

    Note: Answer "Yes" to this question if erosion and sediment control measures will be used.

    No

16. Will the proposed project impact streams or tributaries of streams where listed species may be present through activities such as, but not limited to, valley fills, large-scale vegetation removal that could result in ground destabilization, and/or change in site topography?

    No

17. Will the proposed project involve vegetation removal within 300 feet of a perennial stream bank where aquatic listed species may be present?

    No

18. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project?

    Note: If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

    Yes

19. Is the project being funded, lead, or managed in whole or in part by U.S Fish and Wildlife Restoration and Recovery Program (e.g., Partners, Coastal, Fisheries, Wildlife and Sport Fish Restoration, Refuges)?

    No

20. Will the proposed project result in changes to beach dynamics that may modify formation of habitat over time? **Note:** Examples of projects that result in changes to beach dynamics include 1) construction of offshore breakwaters, bulkheads, revetments, and groins; 2) mining of sand from an updrift ebb tidal delta; 3) removing or adding beach sands; and 4) projects that stabilize dunes (including placement of sand fences or planting vegetation).

    Yes

21. Will the proposed project involve dredging within 0.5 mile of the Mean Lower Low Water line?

    No

22. Will the proposed project involve oil, gas and other energy development, production, or large-scale transport or storage of petroleum products and/or spill response planning?

    No

23. [Hidden Semantic] Is the project area located within the red knot species list area?

    Automatically answered
    Yes

24. Does the project include any activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or sparsely vegetated intertidal habitat of any kind (e.g., beach "swash" zone, sand flat, mud flat, algal flat, shoal, sand spot, islet, peat bank, tidal marsh blowout/ pan)?

    Yes

25. Will the proposed project include only the creation of new shorebird habitat (e.g., by nourishing severely eroded shorelines) where no shorebird habitat currently exists (in any part of the action area)?

    Yes

26. [Hidden Semantic] Is the action area located within the seabeach amaranth species list area?

    Automatically answered
    Yes

27. Does the project include activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or the upper portion of an intertidal habitat (e.g., beach "swash" zone or sand flat)?

    Yes

28. Did a qualified surveyor conduct a survey within the time frame when seabeach amaranth would be expected to be present and identifiable?

    Note: The following date ranges are the accepted survey times by State:
    Maryland - July 1 through September 30
    New York - May 1 through November 1
    New Jersey - May 15 through November 30

    No

29. Will the project involve direct impacts (crushing, burying, and/or digging, including placement of fill on sandy beaches where seabeach amaranth plants and/or seeds may be present) to seabeach amaranth plants or potential removal/burial of seeds?

    Yes

30. Do you have any other documents that you want to include with this submission?

    No

PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?

   0

2. Approximately how many total acres of disturbance are within the disturbance/ construction limits of the proposed project?

   4.7

3. Briefly describe the habitat within the construction/disturbance limits of the project site.

   Habitat consists of a sand beach

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Savannah Budka
Address: 5400 Limestone Road
City: Wilmington
State: DE
Zip: 19808
Email sbudka@verdantas.com
Phone: 3024892203

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers

Cape Shores Survey Limit

Legend

Cape Shores Survey

E Cape Shores Dr

Breakwater Reach

W Cape Shores Dr

W Cape Shores Dr

Henlopen Shores Cir

Cape Henlopen Dr

Cape Henlopen Dr

Port Lewes Ct

Google Earth

Image © 2025 Airbus

N

700 ft

IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Sussex County, Delaware



Local office

Chesapeake Bay Ecological Services Field Office

(410) 573-4599
(410) 266-9127

177 Admiral Cochrane Drive
Annapolis, MD 21401-7307

NOT FOR CONSULTATION

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species[1] and their critical habitats are managed by the Ecological Services Program of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries[2]).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact NOAA Fisheries for species under their jurisdiction.

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the listing status page for more information. IPaC only shows species that are regulated by USFWS (see FAQ).
2. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME	STATUS
Tricolored Bat Perimyotis subflavus Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

Birds

NAME	STATUS
Rufa Red Knot Calidris canutus rufa Wherever found There is **proposed** critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/1864	Threatened

Insects

NAME	STATUS
Monarch Butterfly Danaus plexippus Wherever found There is **proposed** critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/9743	Proposed Threatened

NOT FOR CONSULTATION

Flowering Plants

NAME	STATUS
Seabeach Amaranth Amaranthus pumilus Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/8549	Threatened

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.

You are still required to determine if your project(s) may have effects on all above listed species.

Bald & Golden Eagles

Bald and Golden Eagles are protected under the Bald and Golden Eagle Protection Act [2] and the Migratory Bird Treaty Act (MBTA) [1]. Any person or organization who plans or conducts activities that may result in impacts to Bald or Golden Eagles, or their nests, should follow appropriate regulations and implement required avoidance and minimization measures, as described in the various links on this page.

The data in this location indicates that no eagles have been observed in this area. This does not mean eagles are not present in your project area, especially if the area is difficult to survey. Please review the 'Steps to Take When No Results Are Returned' section of the Supplemental Information on Migratory Birds and Eagles document to determine if your project is in a poorly surveyed area. If it is, you may need to rely on other resources to determine if eagles may be present (e.g. your local FWS field office, state surveys, your own surveys).

Additional information can be found using the following links:

- Eagle Management https://www.fws.gov/program/eagle-management
- Measures for avoiding and minimizing impacts to birds https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds
- Nationwide avoidance and minimization measures for birds https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf
- Supplemental Information for Migratory Birds and Eagles in IPaC https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action

Bald and Golden Eagle information is not available at this time

Bald & Golden Eagles FAQs

What does IPaC use to generate the potential presence of bald and golden eagles in my specified location?

The potential for eagle presence is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are an eagle (Bald and Golden Eagle Protection Act requirements may apply).

Proper interpretation and use of your eagle report

NOT FOR CONSULTATION

On the graphs provided, please look carefully at the survey effort (indicated by the black vertical line) and for the existence of the "no data" indicator (a red horizontal line). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort line or no data line (red horizontal) means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list and associated information help you know what to look for to confirm presence and helps guide you in knowing when to implement avoidance and minimization measures to eliminate or reduce potential impacts from your project activities or get the appropriate permits should presence be confirmed.

How do I know if eagles are breeding, wintering, or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating, or resident), you may query your location using the RAIL Tool and view the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If an eagle on your IPaC migratory bird species list has a breeding season associated with it (indicated by yellow vertical bars on the phenology graph in your "IPaC PROBABILITY OF PRESENCE SUMMARY" at the top of your results list), there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

Interpreting the Probability of Presence Graphs

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. A taller bar indicates a higher probability of species presence. The survey effort can be used to establish a level of confidence in the presence score.

How is the probability of presence score calculated? The calculation is done in three steps:
The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.

To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is 0.25/0.25 = 1; at week 20 it is 0.05/0.25 = 0.2.

The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season ()
Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort ()
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data ()
A week is marked as having no data if there were no survey events for that week.

Survey Timeframe
Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

NOT FOR CONSULTATION

Migratory birds

The Migratory Bird Treaty Act (MBTA) [1] prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service (FWS).

1. The Migratory Birds Treaty Act of 1918.
2. The Bald and Golden Eagle Protection Act of 1940.

Additional information can be found using the following links:

- Eagle Management https://www.fws.gov/program/eagle-management
- Measures for avoiding and minimizing impacts to birds https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds
- Nationwide avoidance and minimization measures for birds
- Supplemental Information for Migratory Birds and Eagles in IPaC https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action

Migratory bird information is not available at this time

Migratory Bird FAQs

Tell me more about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds.

Nationwide Avoidance & Minimization Measures for Birds describes measures that can help avoid and minimize impacts to all birds at any location year-round. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is one of the most effective ways to minimize impacts. To see when birds are most likely to occur and breed in your project area, view the Probability of Presence Summary. Additional measures or permits may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of Birds of Conservation Concern (BCC) and other species that may warrant special attention in your project location, such as those listed under the Endangered Species Act or the Bald and Golden Eagle Protection Act and those species marked as "Vulnerable". See the FAQ "What are the levels of concern for migratory birds?" for more information on the levels of concern covered in the IPaC migratory bird species list.

The migratory bird list generated for your project is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) with which your project intersects. These species have been identified as warranting special attention because they are BCC species in that area, an eagle (Bald and Golden Eagle Protection Act requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, and to verify survey effort when no results present, please visit the Rapid Avian Information Locator (RAIL) Tool.

Why are subspecies showing up on my list?

Subspecies profiles are included on the list of species present in your project area because observations in the AKN for **the species** are being detected. If the species are present, that means that the subspecies may also be present. If a subspecies shows up on your list, you may need to rely on other resources to determine if that subspecies may be present (e.g. your local FWS field office, state surveys, your own surveys).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the Avian Knowledge Network (AKN). This data is derived from a growing collection of survey, banding, and citizen science datasets.

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating, or resident), you may query your location using the RAIL Tool and view the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your IPaC migratory bird species list has a breeding season associated with it (indicated by yellow vertical bars on the phenology graph in your "IPaC PROBABILITY OF PRESENCE SUMMARY" at the top of your results list), there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are Birds of Conservation Concern (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the Bald and Golden Eagle Protection Act requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially BCC species. For more information on avoidance and minimization measures you can implement to help avoid and minimize migratory bird impacts, please see the FAQ "Tell me more about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds".

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the Northeast Ocean Data Portal. The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf project webpage.

Proper interpretation and use of your migratory bird report

NOT FOR CONSULTATION

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please look carefully at the survey effort (indicated by the black vertical line) and for the existence of the "no data" indicator (a red horizontal line). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list does not represent all birds present in your project area. It is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list and associated information help you know what to look for to confirm presence and helps guide implementation of avoidance and minimization measures to eliminate or reduce potential impacts from your project activities, should presence be confirmed. To learn more about avoidance and minimization measures, visit the FAQ "Tell me about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds".

Interpreting the Probability of Presence Graphs
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To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is 0.25/0.25 = 1; at week 20 it is 0.05/0.25 = 0.2.

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Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the National Wildlife Refuge system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

There are no refuge lands at this location.

Fish hatcheries

There are no fish hatcheries at this location.

Wetlands in the National Wetlands Inventory (NWI)

Impacts to NWI wetlands and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local U.S. Army Corps of Engineers District.

Wetland information is not available at this time

This can happen when the National Wetlands Inventory (NWI) map service is unavailable, or for very large projects that intersect many wetland areas. Try again, or visit the NWI map to view wetlands at this location.

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tuberficid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate Federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION

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: 09/12/2025 13:41:14 UTC
Project code: 2025-0148592
Project Name: Cape Shores Beach Replenishment

Federal Nexus: yes
Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Record of project representative's no effect determination for 'Cape Shores Beach Replenishment'

Dear Savannah Budka:

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 September 12, 2025, for 'Cape Shores Beach Replenishment' (here forward, Project). This project has been assigned Project Code 2025-0148592 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

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
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Seabeach Amaranth *Amaranthus pumilus* 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 2025-0148592 associated with this Project.

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

1. Name

Cape Shores Beach Replenishment

2. Description

The following description was provided for the project 'Cape Shores Beach Replenishment':

> Since the 2000, the Cape Shores Homeowner’s Association (CSHOA), separately and jointly with the Department of Natural Resources and Environmental Control (DNREC), has placed supplemental sand on the Delaware Bay Beach through numerous truck fill renourishment projects. The area requires regular beach fill projects in order to maintain a sufficiently wide recreational beach for the Cape Shores residents and the public and to provide protection for the homes and infrastructure of the Cape Shores community. The proposed renourishment project is consistent with recommendations in the report “Beach Nourishment Evaluation at Cape Shores, Delaware prepared by Aptim Coastal Planning and Engineering, Inc. (September 2017). The project will replenish the Cape Shores beach which has suffered significant erosion due to storms that occurred in early January 2022. The previous fill event was conducted under the following permits: DNREC SP-208/22 and WQC-208/22 and USACE CENAP-OP-R-2018-45-85. New permits are being sought with DNREC and USACE.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@38.7841429,-75.10866786342042,14z



DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the species covered by this determination key. Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for those species.

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed bats or any other listed species?

   Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

   No

2. Is the action area wholly within Zone 2 of the year-round active area for northern long-eared bat and/or tricolored bat?

   Automatically answered
   No

3. Does the action area intersect Zone 1 of the year-round active area for northern long-eared bat and/or tricolored bat?

   Automatically answered
   No

4. Does any component of the action involve leasing, construction or operation of wind turbines? Answer 'yes' if the activities considered are conducted with the intention of gathering survey information to inform the leasing, construction, or operation of wind turbines.

   No

5. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

   Note for projects in Pennsylvania: Projects requiring authorization under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act would be considered as having a federal nexus. Since the U.S. Army Corps of Engineers (Corps) has issued the Pennsylvania State Programmatic General Permit (PASPGP), which may be verified by the PA Department of Environmental Protection or certain Conservation Districts, the need to receive a Corps authorization to perform the work under the PASPGP serves as a federal nexus. As such, if proposing to use the PASPGP, you would answer ‘yes’ to this question.

   Yes

6. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) funding or authorizing the proposed action, in whole or in part?

   No

7. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

   Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

   No

8. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

   No

9. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

10. [Semantic] Is the action area located within 0.5 miles of a known bat hibernaculum or winter roost? Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state wildlife agency.

    Automatically answered

    No

11. Does the action area contain any winter roosts or caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating bats?

    No

12. Will the action cause effects to a bridge?

    Note: Covered bridges should be considered as bridges in this question.

    No

13. Will the action result in effects to a culvert or tunnel at any time of year?

    No

14. Are trees present within 1000 feet of the action area?

    Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    Yes

15. Does the action include the intentional exclusion of bats from a building or building-like structure? **Note:** Exclusion is conducted to deny bats' entry or reentry into a building. To be effective and to avoid harming bats, it should be done according to established standards. If your action includes bat exclusion and you are unsure whether northern long-eared bats or tricolored bats are present, answer "Yes." Answer "No" if there are no signs of bat use in the building/structure. If unsure, contact your local Ecological Services Field Office to help assess whether northern long-eared bats or tricolored bats may be present. Contact a Nuisance Wildlife Control Operator (NWCO) for help in how to exclude bats from a structure safely without causing harm to the bats (to find a NWCO certified in bat standards, search the Internet using the search term "National Wildlife Control Operators Association bats"). Also see the White-Nose Syndrome Response Team's guide for bat control in structures.

    No

16. Does the action involve removal, modification, or maintenance of a human-made building-like structure (barn, house, or other building) **known or suspected to contain roosting bats?**

    No

17. Will the action cause construction of one or more new roads open to the public?

    For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

    No

18. Will the action include or cause any construction or other activity that is reasonably certain to increase average night-time traffic permanently or temporarily on one or more existing roads? **Note:** For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.). .

    No

19. Will the action include or cause any construction or other activity that is reasonably certain to increase the number of travel lanes on an existing thoroughfare?

    For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

    No

20. Will the proposed Action involve the creation of a new water-borne contaminant source (e.g., leachate pond, pits containing chemicals that are not NSF/ANSI 60 compliant)?

    Note: For information regarding NSF/ANSI 60 please visit https://www.nsf.org/knowledge-library/nsf-ansi-standard-60-drinking-water-treatment-chemicals-health-effects

    No

21. Will the proposed action involve the creation of a new point source discharge from a facility other than a water treatment plant or storm water system?

    No

22. Will the action include drilling or blasting?

    No

23. Will the action involve military training (e.g., smoke operations, obscurant operations, exploding munitions, artillery fire, range use, helicopter or fixed wing aircraft use at night)?

    No

24. Will the proposed action involve the use of herbicides or pesticides (e.g., fungicides, insecticides, or rodenticides)?

    No

25. Will the action include or cause activities that are reasonably certain to cause chronic or intense nighttime noise (above current levels of ambient noise in the area) in suitable summer habitat for the northern long-eared bat or tricolored bat during the active season?

    Chronic noise is noise that is continuous or occurs repeatedly again and again for a long time. Sources of chronic or intense noise that could cause adverse effects to bats may include, but are not limited to: road traffic; trains; aircraft; industrial activities; gas compressor stations; loud music; crowds; oil and gas extraction; construction; and mining.

    Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    No

26. Does the action include, or is it reasonably certain to cause, the use of permanent or temporary artificial lighting within 1000 feet of suitable northern long-eared bat or tricolored bat roosting habitat?

    Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    No

27. Will the action include tree cutting or other means of knocking down or bringing down trees, tree topping, or tree trimming?

    No

28. Will the proposed action result in the use of prescribed fire?

    Note: If the prescribed fire action includes other activities than application of fire (e.g., tree cutting, fire line preparation) please consider impacts from those activities within the previous representative questions in the key. This set of questions only considers impacts from flame and smoke.

    No

29. Does the action area intersect the tricolored bat species list area?

    Automatically answered
    Yes

30. Is the action area located within 0.5-mile of radius of an entrance/opening to any known tricolored bat hibernacula or winter roost?

    Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state wildlife agency.

    Automatically answered
    No

31. [Semantic] Is the action area located within 0.25 miles of a culvert that is known to be occupied by northern long-eared or tricolored bats? **Note:** The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

    Automatically answered
    No

32. Has a presence/probable absence bat survey targeting the tricolored bat and following the Service's Range-wide Indiana Bat and Northern Long-Eared Bat Survey Guidelines been conducted within the project area?

    No

33. Is suitable summer habitat for the tricolored bat present within 1000 feet of project activities?
    (If unsure, answer ""Yes."")

    Note: If there are trees within the action area that may provide potential roosts for tricolored bats (e.g., clusters of leaves in live and dead deciduous trees, Spanish moss (Tillandsia usneoides), clusters of dead pine needles of large live pines) answer ""Yes."" For a complete definition of suitable summer habitat for the tricolored bat, please see Appendix A in the Service's Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines.

    Yes

34. Do you have any documents that you want to include with this submission?

    No

PROJECT QUESTIONNAIRE

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Savannah Budka
Address: 5400 Limestone Road
City: Wilmington
State: DE
Zip: 19808
Email sbudka@verdantas.com
Phone: 3024892203

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers

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: 09/12/2025 13:51:28 UTC
Project code: 2025-0148592
Project Name: Cape Shores Beach Replenishment

Federal Nexus: yes
Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Technical assistance for 'Cape Shores Beach Replenishment'

Dear Savannah Budka:

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 September 12, 2025, for “Cape Shores Beach Replenishment” (here forward, Project). This project has been assigned Project Code 2025-0148592 and all future correspondence should clearly reference this number.

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 the 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 Northeast 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.***

To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), 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 further consultation with, or concurrence from, 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 (NLAA)" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Rufa Red Knot (*Calidris canutus rufa*)	Threatened	May affect
Seabeach Amaranth (*Amaranthus pumilus*)	Threatened	May affect

Consultation with the Service is not complete. Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of "May Affect". Please contact our Chesapeake Bay Ecological Services Field Office to discuss methods to avoid or minimize potential adverse effects to those species or designated critical habitats.

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

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Proposed Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or PermitsR5MB@fws.gov, with any questions regarding potential impacts to Eagles.

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

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

1. Name

Cape Shores Beach Replenishment

2. Description

The following description was provided for the project 'Cape Shores Beach Replenishment':

> Since the 2000, the Cape Shores Homeowner’s Association (CSHOA), separately and jointly with the Department of Natural Resources and Environmental Control (DNREC), has placed supplemental sand on the Delaware Bay Beach through numerous truck fill renourishment projects. The area requires regular beach fill projects in order to maintain a sufficiently wide recreational beach for the Cape Shores residents and the public and to provide protection for the homes and infrastructure of the Cape Shores community. The proposed renourishment project is consistent with recommendations in the report “Beach Nourishment Evaluation at Cape Shores, Delaware prepared by Aptim Coastal Planning and Engineering, Inc. (September 2017). The project will replenish the Cape Shores beach which has suffered significant erosion due to storms that occurred in early January 2022. The previous fill event was conducted under the following permits: DNREC SP-208/22 and WQC-208/22 and USACE CENAP-OP-R-2018-45-85. New permits are being sought with DNREC and USACE.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@38.7841429,-75.10866786342042,14z



QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

   Yes

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

   Note: This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

   No

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

   Note: for projects in Pennsylvania: Projects requiring authorization under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act would be considered as having a federal nexus. Since the U.S. Army Corps of Engineers (Corps) has issued the Pennsylvania State Programmatic General Permit (PASPGP), which may be verified by the PA Department of Environmental Protection or certain Conservation Districts, the need to receive a Corps authorization to perform the work under the PASPGP serves as a federal nexus. As such, if proposing to use the PASPGP, you would answer ‘yes’ to this question.

   Yes

4. Are you including in this analysis all impacts to federally listed species that may result from the entirety of the project (not just the activities under federal jurisdiction)?

   Note: If there are project activities that will impact listed species that are considered to be outside of the jurisdiction of the federal action agency submitting this key, contact your local Ecological Services Field Office to determine whether it is appropriate to use this key. If your Ecological Services Field Office agrees that impacts to listed species that are outside the federal action agency's jurisdiction will be addressed through a separate process, you can answer yes to this question and continue through the key.

   Yes

5. Are you the lead federal action agency or designated non-federal representative requesting concurrence on behalf of the lead Federal Action Agency?

   No

6. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)?

   No

7. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

8. Is the lead federal action agency the Natural Resources Conservation Service?

   No

9. Will the proposed project involve the use or storage of herbicide?

   No

10. Will the proposed project involve herbaceous native vegetation removal (including prescribed fire that would result in burning of plants) or mowing?

    No

11. Will all activities occur within an area that is currently paved, graveled, routinely maintained lawn, and/or inside a structure?

    No

12. Will the proposed project involve demolition, rehabilitation, property elevation, renovation, and/or rebuilding of one or more existing buildings (e.g., residential, commercial and industrial buildings, or utilities)? Note: if project activities include modification of bridges and/or culverts, answer this question "No".

    No

13. Does the project area intersect the boundary of VAFO?

    Automatically answered
    No

14. Does any component of the project associated with this action include activities or structures that may pose a collision risk to **birds** (e.g., plane-based surveys, land-based or offshore wind turbines, new or enlarged communication towers or broadcast towers, high voltage transmission lines, any type of towers with or without guy wires)?

    No

15. Will the proposed project involve earth moving or other ground disturbance that could cause erosion and sedimentation, and/or contamination within 300 feet of a freshwater wetland or along a stream?

    Note: Answer "Yes" to this question if erosion and sediment control measures will be used.

    No

16. Will the proposed project impact streams or tributaries of streams where listed species may be present through activities such as, but not limited to, valley fills, large-scale vegetation removal that could result in ground destabilization, and/or change in site topography?

    No

17. Will the proposed project involve vegetation removal within 300 feet of a perennial stream bank where aquatic listed species may be present?

    No

18. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project?

    Note: If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

    Yes

19. Is the project being funded, lead, or managed in whole or in part by U.S Fish and Wildlife Restoration and Recovery Program (e.g., Partners, Coastal, Fisheries, Wildlife and Sport Fish Restoration, Refuges)?

    No

20. Will the proposed project result in changes to beach dynamics that may modify formation of habitat over time? **Note:** Examples of projects that result in changes to beach dynamics include 1) construction of offshore breakwaters, bulkheads, revetments, and groins; 2) mining of sand from an updrift ebb tidal delta; 3) removing or adding beach sands; and 4) projects that stabilize dunes (including placement of sand fences or planting vegetation).

    Yes

21. Will the proposed project involve dredging within 0.5 mile of the Mean Lower Low Water line?

    No

22. Will the proposed project involve oil, gas and other energy development, production, or large-scale transport or storage of petroleum products and/or spill response planning?

    No

23. [Hidden Semantic] Is the project area located within the red knot species list area?

    Automatically answered
    Yes

24. Does the project include any activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or sparsely vegetated intertidal habitat of any kind (e.g., beach "swash" zone, sand flat, mud flat, algal flat, shoal, sand spot, islet, peat bank, tidal marsh blowout/ pan)?

    Yes

25. Will the proposed project include only the creation of new shorebird habitat (e.g., by nourishing severely eroded shorelines) where no shorebird habitat currently exists (in any part of the action area)?

    Yes

26. [Hidden Semantic] Is the action area located within the seabeach amaranth species list area?

    Automatically answered
    Yes

27. Does the project include activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or the upper portion of an intertidal habitat (e.g., beach "swash" zone or sand flat)?

    Yes

28. Did a qualified surveyor conduct a survey within the time frame when seabeach amaranth would be expected to be present and identifiable?

    Note: The following date ranges are the accepted survey times by State:
    Maryland - July 1 through September 30
    New York - May 1 through November 1
    New Jersey - May 15 through November 30

    No

29. Will the project involve direct impacts (crushing, burying, and/or digging, including placement of fill on sandy beaches where seabeach amaranth plants and/or seeds may be present) to seabeach amaranth plants or potential removal/burial of seeds?

    Yes

30. Do you have any other documents that you want to include with this submission?

    No

PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?

   0

2. Approximately how many total acres of disturbance are within the disturbance/ construction limits of the proposed project?

   4.7

3. Briefly describe the habitat within the construction/disturbance limits of the project site.

   Habitat consists of a sand beach

IPAC USER CONTACT INFORMATION

Agency: Private Entity
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City: Wilmington
State: DE
Zip: 19808
Email sbudka@verdantas.com
Phone: 3024892203

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers

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: 09/12/2025 13:41:14 UTC
Project code: 2025-0148592
Project Name: Cape Shores Beach Replenishment

Federal Nexus: yes
Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Record of project representative's no effect determination for 'Cape Shores Beach Replenishment'

Dear Savannah Budka:

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 September 12, 2025, for 'Cape Shores Beach Replenishment' (here forward, Project). This project has been assigned Project Code 2025-0148592 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

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
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Seabeach Amaranth *Amaranthus pumilus* 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 2025-0148592 associated with this Project.

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

1. Name

Cape Shores Beach Replenishment

2. Description

The following description was provided for the project 'Cape Shores Beach Replenishment':

> Since the 2000, the Cape Shores Homeowner’s Association (CSHOA), separately and jointly with the Department of Natural Resources and Environmental Control (DNREC), has placed supplemental sand on the Delaware Bay Beach through numerous truck fill renourishment projects. The area requires regular beach fill projects in order to maintain a sufficiently wide recreational beach for the Cape Shores residents and the public and to provide protection for the homes and infrastructure of the Cape Shores community. The proposed renourishment project is consistent with recommendations in the report “Beach Nourishment Evaluation at Cape Shores, Delaware prepared by Aptim Coastal Planning and Engineering, Inc. (September 2017). The project will replenish the Cape Shores beach which has suffered significant erosion due to storms that occurred in early January 2022. The previous fill event was conducted under the following permits: DNREC SP-208/22 and WQC-208/22 and USACE CENAP-OP-R-2018-45-85. New permits are being sought with DNREC and USACE.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@38.7841429,-75.10866786342042,14z



DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the species covered by this determination key. Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for those species.

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed bats or any other listed species?

   Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

   No

2. Is the action area wholly within Zone 2 of the year-round active area for northern long-eared bat and/or tricolored bat?

   Automatically answered
   No

3. Does the action area intersect Zone 1 of the year-round active area for northern long-eared bat and/or tricolored bat?

   Automatically answered
   No

4. Does any component of the action involve leasing, construction or operation of wind turbines? Answer 'yes' if the activities considered are conducted with the intention of gathering survey information to inform the leasing, construction, or operation of wind turbines.

   No

5. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

   Note for projects in Pennsylvania: Projects requiring authorization under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act would be considered as having a federal nexus. Since the U.S. Army Corps of Engineers (Corps) has issued the Pennsylvania State Programmatic General Permit (PASPGP), which may be verified by the PA Department of Environmental Protection or certain Conservation Districts, the need to receive a Corps authorization to perform the work under the PASPGP serves as a federal nexus. As such, if proposing to use the PASPGP, you would answer ‘yes’ to this question.

   Yes

6. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) funding or authorizing the proposed action, in whole or in part?

   No

7. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

   Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

   No

8. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

   No

9. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

10. [Semantic] Is the action area located within 0.5 miles of a known bat hibernaculum or winter roost? Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state wildlife agency.

    Automatically answered

    No

11. Does the action area contain any winter roosts or caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating bats?

    No

12. Will the action cause effects to a bridge?

    Note: Covered bridges should be considered as bridges in this question.

    No

13. Will the action result in effects to a culvert or tunnel at any time of year?

    No

14. Are trees present within 1000 feet of the action area?

    Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    Yes

15. Does the action include the intentional exclusion of bats from a building or building-like structure? **Note:** Exclusion is conducted to deny bats' entry or reentry into a building. To be effective and to avoid harming bats, it should be done according to established standards. If your action includes bat exclusion and you are unsure whether northern long-eared bats or tricolored bats are present, answer "Yes." Answer "No" if there are no signs of bat use in the building/structure. If unsure, contact your local Ecological Services Field Office to help assess whether northern long-eared bats or tricolored bats may be present. Contact a Nuisance Wildlife Control Operator (NWCO) for help in how to exclude bats from a structure safely without causing harm to the bats (to find a NWCO certified in bat standards, search the Internet using the search term "National Wildlife Control Operators Association bats"). Also see the White-Nose Syndrome Response Team's guide for bat control in structures.

    No

16. Does the action involve removal, modification, or maintenance of a human-made building-like structure (barn, house, or other building) **known or suspected to contain roosting bats?**

    No

17. Will the action cause construction of one or more new roads open to the public?

    For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

    No

18. Will the action include or cause any construction or other activity that is reasonably certain to increase average night-time traffic permanently or temporarily on one or more existing roads? **Note:** For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.). .

    No

19. Will the action include or cause any construction or other activity that is reasonably certain to increase the number of travel lanes on an existing thoroughfare?

    For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

    No

20. Will the proposed Action involve the creation of a new water-borne contaminant source (e.g., leachate pond, pits containing chemicals that are not NSF/ANSI 60 compliant)?

    Note: For information regarding NSF/ANSI 60 please visit https://www.nsf.org/knowledge-library/nsf-ansi-standard-60-drinking-water-treatment-chemicals-health-effects

    No

21. Will the proposed action involve the creation of a new point source discharge from a facility other than a water treatment plant or storm water system?

    No

22. Will the action include drilling or blasting?

    No

23. Will the action involve military training (e.g., smoke operations, obscurant operations, exploding munitions, artillery fire, range use, helicopter or fixed wing aircraft use at night)?

    No

24. Will the proposed action involve the use of herbicides or pesticides (e.g., fungicides, insecticides, or rodenticides)?

    No

25. Will the action include or cause activities that are reasonably certain to cause chronic or intense nighttime noise (above current levels of ambient noise in the area) in suitable summer habitat for the northern long-eared bat or tricolored bat during the active season?

    Chronic noise is noise that is continuous or occurs repeatedly again and again for a long time. Sources of chronic or intense noise that could cause adverse effects to bats may include, but are not limited to: road traffic; trains; aircraft; industrial activities; gas compressor stations; loud music; crowds; oil and gas extraction; construction; and mining.

    Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    No

26. Does the action include, or is it reasonably certain to cause, the use of permanent or temporary artificial lighting within 1000 feet of suitable northern long-eared bat or tricolored bat roosting habitat?

    Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines.

    No

27. Will the action include tree cutting or other means of knocking down or bringing down trees, tree topping, or tree trimming?

    No

28. Will the proposed action result in the use of prescribed fire?

    Note: If the prescribed fire action includes other activities than application of fire (e.g., tree cutting, fire line preparation) please consider impacts from those activities within the previous representative questions in the key. This set of questions only considers impacts from flame and smoke.

    No

29. Does the action area intersect the tricolored bat species list area?

    Automatically answered
    Yes

30. Is the action area located within 0.5-mile of radius of an entrance/opening to any known tricolored bat hibernacula or winter roost?

    Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state wildlife agency.

    Automatically answered
    No

31. [Semantic] Is the action area located within 0.25 miles of a culvert that is known to be occupied by northern long-eared or tricolored bats? **Note:** The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

    Automatically answered
    No

32. Has a presence/probable absence bat survey targeting the tricolored bat and following the Service's Range-wide Indiana Bat and Northern Long-Eared Bat Survey Guidelines been conducted within the project area?

    No

33. Is suitable summer habitat for the tricolored bat present within 1000 feet of project activities?
    (If unsure, answer ""Yes."")

    Note: If there are trees within the action area that may provide potential roosts for tricolored bats (e.g., clusters of leaves in live and dead deciduous trees, Spanish moss (Tillandsia usneoides), clusters of dead pine needles of large live pines) answer ""Yes."" For a complete definition of suitable summer habitat for the tricolored bat, please see Appendix A in the Service's Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines.

    Yes

34. Do you have any documents that you want to include with this submission?

    No

PROJECT QUESTIONNAIRE

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Savannah Budka
Address: 5400 Limestone Road
City: Wilmington
State: DE
Zip: 19808
Email sbudka@verdantas.com
Phone: 3024892203

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers

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: 09/12/2025 13:51:28 UTC
Project code: 2025-0148592
Project Name: Cape Shores Beach Replenishment

Federal Nexus: yes
Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Technical assistance for 'Cape Shores Beach Replenishment'

Dear Savannah Budka:

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 September 12, 2025, for “Cape Shores Beach Replenishment” (here forward, Project). This project has been assigned Project Code 2025-0148592 and all future correspondence should clearly reference this number.

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 the 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 Northeast 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.***

To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), 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 further consultation with, or concurrence from, 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 (NLAA)" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Rufa Red Knot (*Calidris canutus rufa*)	Threatened	May affect
Seabeach Amaranth (*Amaranthus pumilus*)	Threatened	May affect

Consultation with the Service is not complete. Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of "May Affect". Please contact our Chesapeake Bay Ecological Services Field Office to discuss methods to avoid or minimize potential adverse effects to those species or designated critical habitats.

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

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Proposed Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or PermitsR5MB@fws.gov, with any questions regarding potential impacts to Eagles.

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

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

1. Name

Cape Shores Beach Replenishment

2. Description

The following description was provided for the project 'Cape Shores Beach Replenishment':

> Since the 2000, the Cape Shores Homeowner’s Association (CSHOA), separately and jointly with the Department of Natural Resources and Environmental Control (DNREC), has placed supplemental sand on the Delaware Bay Beach through numerous truck fill renourishment projects. The area requires regular beach fill projects in order to maintain a sufficiently wide recreational beach for the Cape Shores residents and the public and to provide protection for the homes and infrastructure of the Cape Shores community. The proposed renourishment project is consistent with recommendations in the report “Beach Nourishment Evaluation at Cape Shores, Delaware prepared by Aptim Coastal Planning and Engineering, Inc. (September 2017). The project will replenish the Cape Shores beach which has suffered significant erosion due to storms that occurred in early January 2022. The previous fill event was conducted under the following permits: DNREC SP-208/22 and WQC-208/22 and USACE CENAP-OP-R-2018-45-85. New permits are being sought with DNREC and USACE.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@38.7841429,-75.10866786342042,14z



QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

   Yes

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

   Note: This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

   No

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

   Note: for projects in Pennsylvania: Projects requiring authorization under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act would be considered as having a federal nexus. Since the U.S. Army Corps of Engineers (Corps) has issued the Pennsylvania State Programmatic General Permit (PASPGP), which may be verified by the PA Department of Environmental Protection or certain Conservation Districts, the need to receive a Corps authorization to perform the work under the PASPGP serves as a federal nexus. As such, if proposing to use the PASPGP, you would answer ‘yes’ to this question.

   Yes

4. Are you including in this analysis all impacts to federally listed species that may result from the entirety of the project (not just the activities under federal jurisdiction)?

   Note: If there are project activities that will impact listed species that are considered to be outside of the jurisdiction of the federal action agency submitting this key, contact your local Ecological Services Field Office to determine whether it is appropriate to use this key. If your Ecological Services Field Office agrees that impacts to listed species that are outside the federal action agency's jurisdiction will be addressed through a separate process, you can answer yes to this question and continue through the key.

   Yes

5. Are you the lead federal action agency or designated non-federal representative requesting concurrence on behalf of the lead Federal Action Agency?

   No

6. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)?

   No

7. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

8. Is the lead federal action agency the Natural Resources Conservation Service?

   No

9. Will the proposed project involve the use or storage of herbicide?

   No

10. Will the proposed project involve herbaceous native vegetation removal (including prescribed fire that would result in burning of plants) or mowing?

    No

11. Will all activities occur within an area that is currently paved, graveled, routinely maintained lawn, and/or inside a structure?

    No

12. Will the proposed project involve demolition, rehabilitation, property elevation, renovation, and/or rebuilding of one or more existing buildings (e.g., residential, commercial and industrial buildings, or utilities)? Note: if project activities include modification of bridges and/or culverts, answer this question "No".

    No

13. Does the project area intersect the boundary of VAFO?

    Automatically answered
    No

14. Does any component of the project associated with this action include activities or structures that may pose a collision risk to **birds** (e.g., plane-based surveys, land-based or offshore wind turbines, new or enlarged communication towers or broadcast towers, high voltage transmission lines, any type of towers with or without guy wires)?

    No

15. Will the proposed project involve earth moving or other ground disturbance that could cause erosion and sedimentation, and/or contamination within 300 feet of a freshwater wetland or along a stream?

    Note: Answer "Yes" to this question if erosion and sediment control measures will be used.

    No

16. Will the proposed project impact streams or tributaries of streams where listed species may be present through activities such as, but not limited to, valley fills, large-scale vegetation removal that could result in ground destabilization, and/or change in site topography?

    No

17. Will the proposed project involve vegetation removal within 300 feet of a perennial stream bank where aquatic listed species may be present?

    No

18. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project?

    Note: If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

    Yes

19. Is the project being funded, lead, or managed in whole or in part by U.S Fish and Wildlife Restoration and Recovery Program (e.g., Partners, Coastal, Fisheries, Wildlife and Sport Fish Restoration, Refuges)?

    No

20. Will the proposed project result in changes to beach dynamics that may modify formation of habitat over time? **Note:** Examples of projects that result in changes to beach dynamics include 1) construction of offshore breakwaters, bulkheads, revetments, and groins; 2) mining of sand from an updrift ebb tidal delta; 3) removing or adding beach sands; and 4) projects that stabilize dunes (including placement of sand fences or planting vegetation).

    Yes

21. Will the proposed project involve dredging within 0.5 mile of the Mean Lower Low Water line?

    No

22. Will the proposed project involve oil, gas and other energy development, production, or large-scale transport or storage of petroleum products and/or spill response planning?

    No

23. [Hidden Semantic] Is the project area located within the red knot species list area?

    Automatically answered
    Yes

24. Does the project include any activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or sparsely vegetated intertidal habitat of any kind (e.g., beach "swash" zone, sand flat, mud flat, algal flat, shoal, sand spot, islet, peat bank, tidal marsh blowout/ pan)?

    Yes

25. Will the proposed project include only the creation of new shorebird habitat (e.g., by nourishing severely eroded shorelines) where no shorebird habitat currently exists (in any part of the action area)?

    Yes

26. [Hidden Semantic] Is the action area located within the seabeach amaranth species list area?

    Automatically answered
    Yes

27. Does the project include activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or the upper portion of an intertidal habitat (e.g., beach "swash" zone or sand flat)?

    Yes

28. Did a qualified surveyor conduct a survey within the time frame when seabeach amaranth would be expected to be present and identifiable?

    Note: The following date ranges are the accepted survey times by State:
    Maryland - July 1 through September 30
    New York - May 1 through November 1
    New Jersey - May 15 through November 30

    No

29. Will the project involve direct impacts (crushing, burying, and/or digging, including placement of fill on sandy beaches where seabeach amaranth plants and/or seeds may be present) to seabeach amaranth plants or potential removal/burial of seeds?

    Yes

30. Do you have any other documents that you want to include with this submission?

    No

PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?

   0

2. Approximately how many total acres of disturbance are within the disturbance/ construction limits of the proposed project?

   4.7

3. Briefly describe the habitat within the construction/disturbance limits of the project site.

   Habitat consists of a sand beach

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Savannah Budka
Address: 5400 Limestone Road
City: Wilmington
State: DE
Zip: 19808
Email sbudka@verdantas.com
Phone: 3024892203

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers

From: CBFO Project Review, FW5
To: Savannah Budka
Subject: Automatic reply: [EXTERNAL] RE: USFWS Endangered and Threatened Species Review - Cape Shores Beach Replenishment
Date: Monday, October 13, 2025 2:32:06 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello, thank you for sending your project for review. Due to the lapse in government appropriations, we are unable to review projects at this time.

If you have completed a determination key and received a "no effect" or "not likely to adversely affect" result, no further Section 7 consultation is required unless the project plans change.

Below are standard conservation recommendations for species commonly seen during consultation that you may wish to take into consideration for your project:

- Projects with Northern long-eared bat: time of year restriction between April 1 – September 30 for tree clearing activities.
- Projects with Eastern black rail: time of year restriction between May 1-August 31 for projects that may impact wetland habitat where species may occur.
- Tricolored bat and monarch butterfly are proposed species, meaning that no consultation is required at this time. As a voluntary conservation measure for the tricolored bat, we recommend avoiding tree clearing from May 15 to July 31.

We will review projects as soon as we are able to return to work. Thank you for your patience.

HCA
DELAWARE HISTORICAL & CULTURAL AFFAIRS

Delaware Division of Historical & Cultural Affairs
29 N. State St., Dover, Delaware 19901
Tel. (302) 736-7400 | Fax. (302) 739-5660
history.delaware.gov

November 5, 2025

Savannah Budka
Verdantas
1060 S. Governors Avenue
Dover, DE 19904

Subject: **Cape Shores Beach Replenishment**
SHPO Project No. 2025.09.12.06

Dear Ms. Budka:

We understand from your letter that the applicant, Cape Shores Homeowners' Association (CSHOA), is seeking a permit from the US Army Corps of Engineers (USACOE) for the proposed undertaking at the Delaware Bay Beach in Lewes. The applicant is proposing to truck in fill to replenish the shoreline after recent erosion from storm events. This stretch of beach was previously replenished. Because of the need for authorization from the USACOE, the project is subject to compliance with Section 106 of the National Historic Preservation Act of 1966 (as amended).

There are no known archaeological sites or historic properties within the area of potential effect (APE). There APE is between the National Harbor of Refuge and Delaware Breakwater Harbor Historic District and the Fort Miles Historic District. Due to the limited nature of the proposed undertaking and the distance to known historic resources, there is no anticipated impact to these properties. As this is routine beach replenishment using truck fill, there is minimal potential for any intact archaeological sites within the APE. No archaeological survey is necessary.

Our Office finds there to be No Historic Properties Affected by the proposed undertaking. If there are any changes to the project plans, additional consultation may be necessary. Please feel free to contact me if you have any questions at (302) 736-7431 or sarah.carr@delaware.gov.

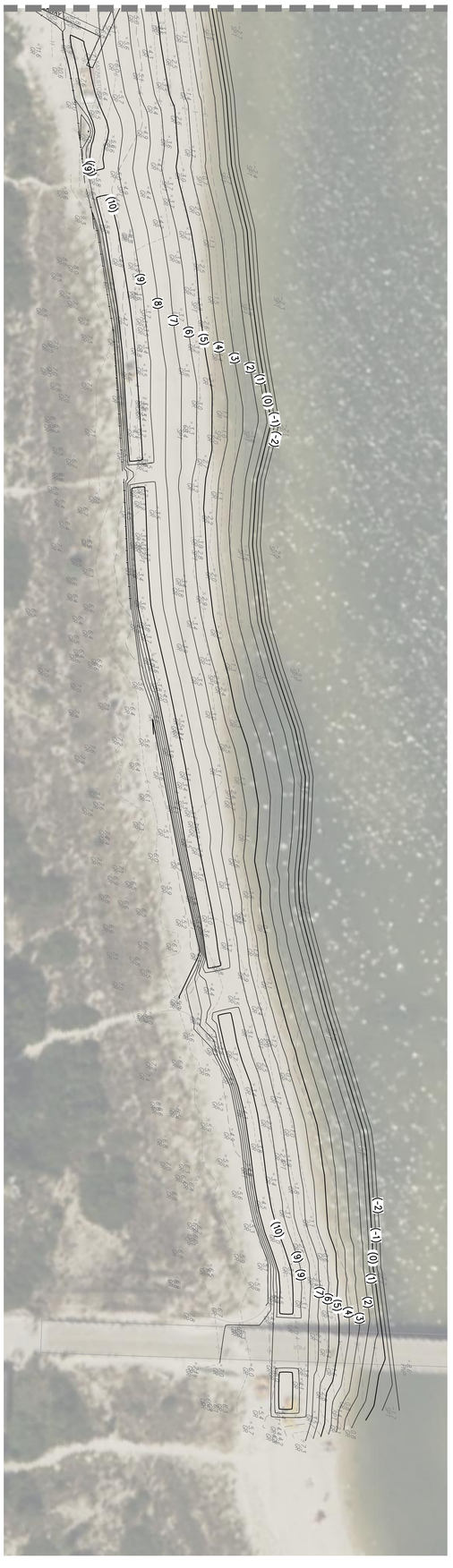
Sincerely,

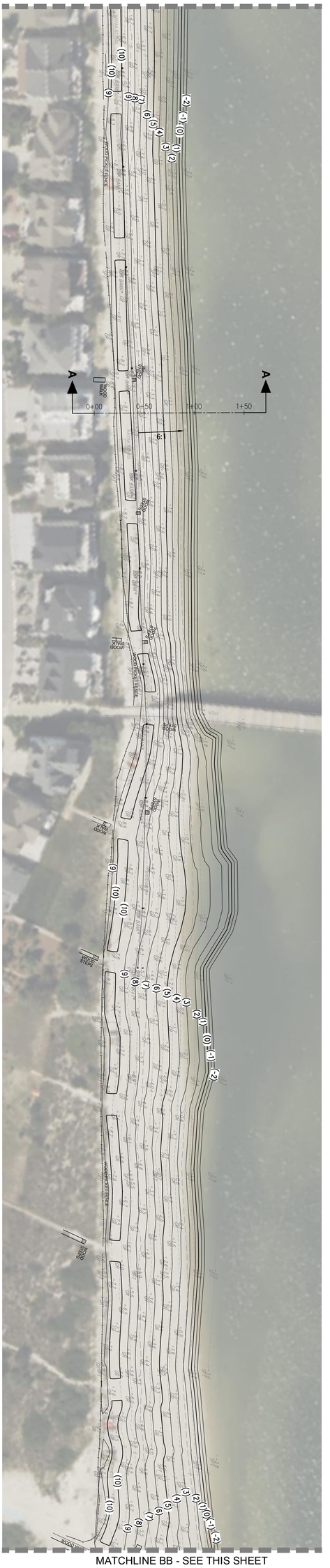
Sarah Carr
Environmental Specialist
cc: Gwen Davis, Deputy SHPO

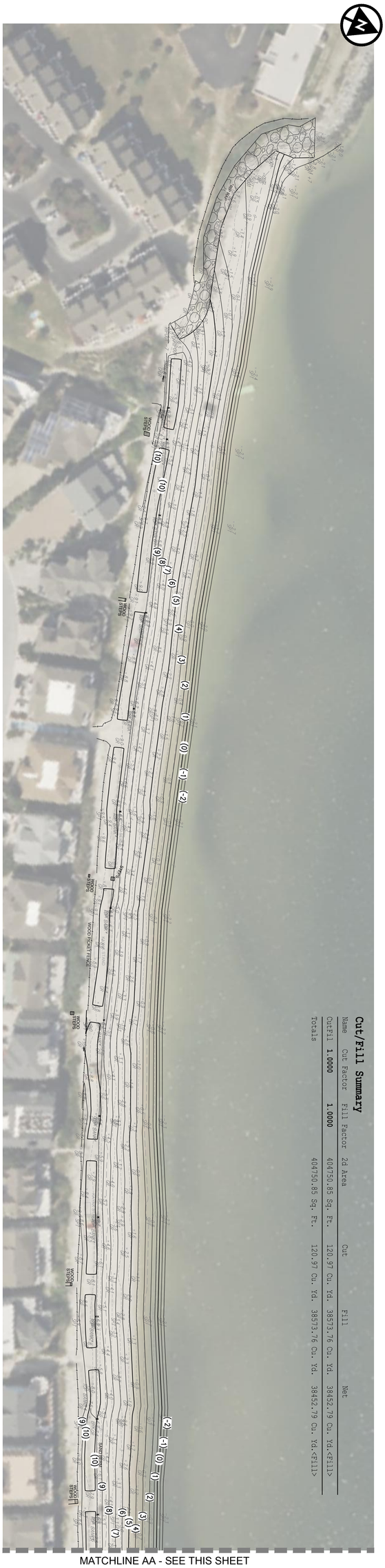
z:\project files\sa-tz\seascape\32189 - cape shores beach fill support\cad\32189 - grading exhibit.dwg 10/29/2025 4:45 PM

MATCHLINE BB - SEE THIS SHEET

MATCHLINE AA - SEE THIS SHEET

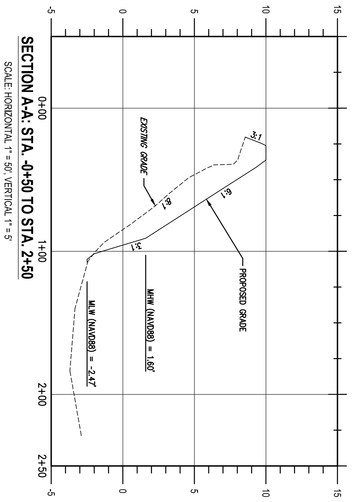






Cut/Fill Summary

Name	Cut Factor	Fill Factor	2d Area	Cut	Fill	Net
Cut-Fill	1.0000	1.0000	404750.85 Sq. Ft.	120.97 Cu. Yd.	38573.76 Cu. Yd.	38452.79 Cu. Yd.<Fill>
Totals			404750.85 Sq. Ft.	120.97 Cu. Yd.	38573.76 Cu. Yd.	38452.79 Cu. Yd.<Fill>



DRAWING SCALE
50' 0 50' 100'
1" = 50'

MATCHLINE BB - SEE THIS SHEET

MATCHLINE AA - SEE THIS SHEET

SHEET		APPLICATION NO.	
SCALE	1" = 50'	DATE	10/29/2025

LEWES~SUSSEX COUNTY~DELAWARE

CAPE SHORES BEACH

GRADIND EXHIBIT

No.	REVISION	CHK'D BY DATE
	PRELIMINARY NOT FOR CONSTRUCTION	
-		

DESIGNED BY	
DRAWN BY	JJL
CHECKED BY	DS, VMD
PROJECT NO.	32189

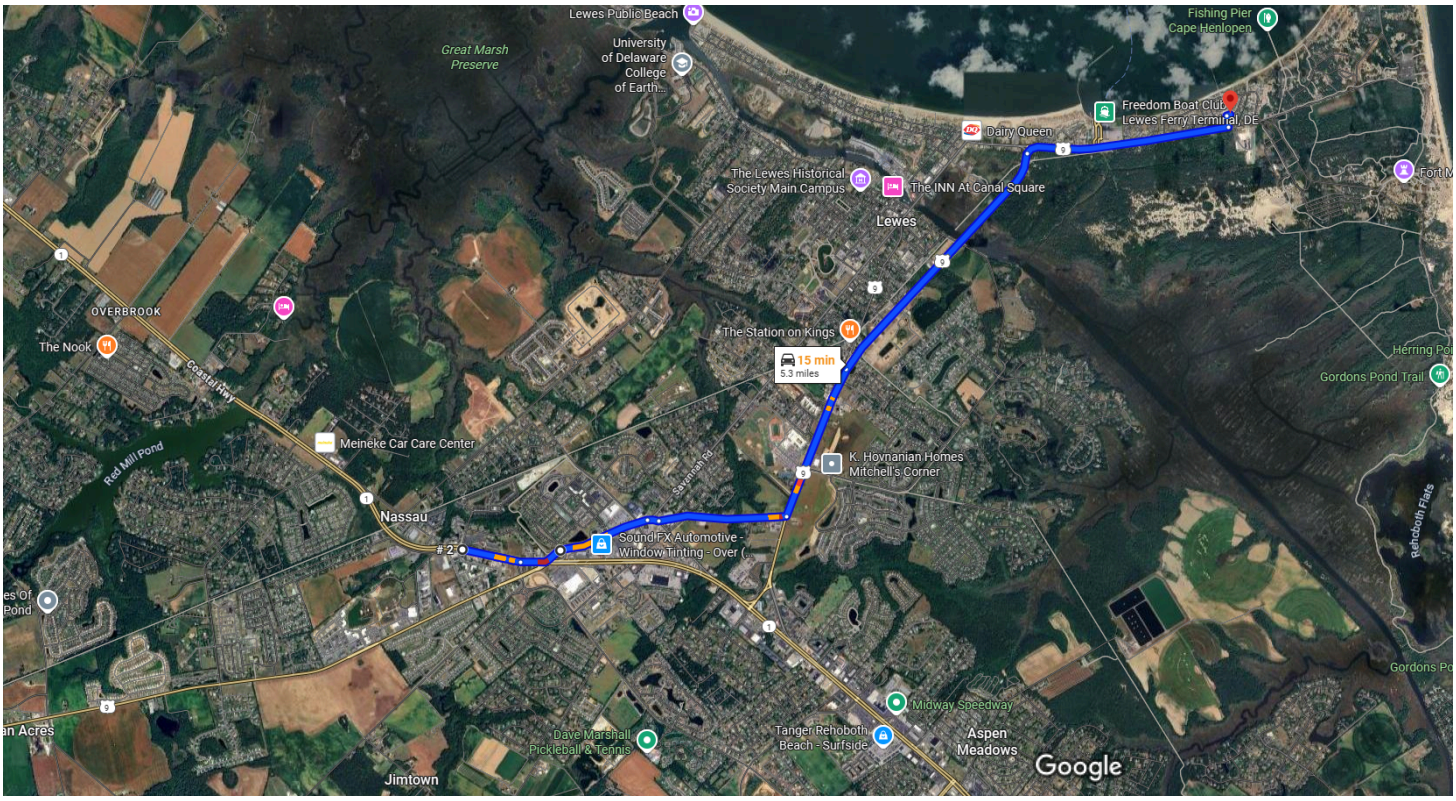
verdantas

5400 LIMESTONE ROAD
WILMINGTON, DE 19808
PHONE: 302.239.6634

Google Maps

17280 Coastal Hwy # 2, Lewes, DE 19958 to Cape Shores Home Owners Association, 400 E Cape Shores Dr, Lewes, DE 19958

Drive 5.3 miles, 15 min



Imagery ©2025 Airbus, Landsat / Copernicus, Maxar Technologies, Map data ©2025 Google 2000 ft

17280 Coastal Hwy # 2
Lewes, DE 19958

1. Head east on DE-1 S
28 sec (0.3 mi)

Follow US-9 BUS N/Savannah Rd and Clay Rd to US-9 E
5 min (1.5 mi)

2. Turn left onto US-9 BUS N/Savannah Rd
0.7 mi

3. Slight right toward Clay Rd
325 ft

4. Slight left onto Clay Rd
0.7 mi

Continue to Lewes
4 min (2.3 mi)

5. Turn left onto US-9 E
0.8 mi

6. Slight right onto US-9
1.5 mi

Follow Cape Henlopen Dr to E Cape Shores Dr
2 min (1.2 mi)

7. Turn right onto US-9 E/Cape Henlopen Dr
Continue to follow Cape Henlopen Dr
1.1 mi

8. Turn left onto S Cape Shores Dr
318 ft

9. Turn right onto E Cape Shores Dr
Destination will be on the left
102 ft

Cape Shores Home Owners Association

400 E Cape Shores Dr, Lewes, DE 19958

THIS IS AN AGREEMENT OF LEASE, made and entered into this 29 day of August, A.D., 1991, by and between THE CITY OF LEWES, a municipal corporation of the State of Delaware, party of the first part, hereinafter referred to as "Lessor."

-AND-

CAPE SHORES ASSOCIATES, a partnership of the State of Delaware, with Offices in Milford, Kent County, Delaware, party of the second part, hereinafter referred to as "Lessee."

W I T N E S S E T H:

IN CONSIDERATION of the mutual covenants hereinafter expressed, the parties hereto agree as follows:

1. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor:

> ALL those certain lots, pieces and parcels of land, situate, lying and being on Lewes Beach, Lewes and Rehoboth Hundred, Sussex County, Delaware, and more particularly described as Lots 1 through 222, inclusive, Cape Shores, as shown on a plot of lots of record in the Office of the Recorder of Deeds, in and for Sussex County, in Plot Book 43 at Page 204.

2. It is mutually agreed by the parties hereto that the term of this Lease shall be for a term of ninety-nine (99) years, commencing on the 14 day of August, A.D. 1991, terminating on the 14 day of August,

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JNNELL & RAYSOR
GEORGETOWN, DEL.

2405 111 8/30/91 CTX-EX SU .00

9687 333 8/30/91 TX-EX ST .00

A.D. 2090, provided, however, that this Lease may be renewed at the option of the Lessee for a further period of ninety-nine (99) years which option, if exercised, must be exercised by an Application in writing to the City Council of The City of Lewes, after the 1st day of May, A.D. 2090, and before the 15th day of June, A.D. 2090, and if so exercised shall convey to the Lessee for a further term of ninety-nine (99) years the right of possession of the premises herein described, said notice to be by certified mail with return receipt requested and postage prepaid addressed to Lessor, the said term to commence on the 14 day of August, A.D. 2090, and terminating on the 14 day of August, A.D. 2189.

3. Lessee agrees to pay to Lessor as annual rental, including taxes, for the term of this Lease or any renewal or extension thereof a sum not to exceed Six Percent (6%) of fair market value of the lands so leased and Two Percent (2%) of the fair market value of the improvements located on the leased land such fair market value to be determined from time to time by Lessor or such amount as may be permitted by the Charter of Lessor but in no event shall the annual rental, including taxes, be less than the amount specified herein. Lessee agrees that the land described in Paragraph 1 above shall be used solely for residential purposes for one

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EORGETOWN, DEL.

(1) single-family dwelling and for no other purpose or purposes without the express written consent of Lessor first being had and obtained. Lessee further agrees to pay to Lessor the sum of One Million Seven Hundred Twenty Thousand Five Hundred Dollars ($1,720,500.00), said sum to be paid in two hundred twenty-two (222) installments of Seven Thousand Seven Hundred Fifty Dollars ($7,750.00) each as the interest in each lot is transferred by Lessee. Upon payment of each installment, Lessor will execute and deliver to Lessee a Release releasing any claim to the sum of One Million Seven Hundred Twenty Thousand Five Hundred Dollars ($1,720,500.00) for the lot which is transferred. The Release shall be prepared and recorded at the expense of Lessee and the form of each Release shall be approved by the City Solicitor of Lessor.

4. Lessee agrees to comply with all laws, ordinances and lawful orders and regulations issued by any governmental authority which affect the said leased premises.

5. Lessee agrees to be responsible for and to pay any Delaware transfer tax or other tax imposed because of the transfer by Lessor to Lessee or because of the continuing lease between the parties hereto.

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GEORGETOWN, DEL.

6. Lessee agrees during the term of this Lease or any renewal or extension thereof, to be liable for and to discharge all charges assessed against said leased premises, including, but not limited to, real estate taxes, sewer service charges, water service charges, fuel, electricity, front footage assessment, and any other charges imposed by any public authority.

7. Lessee agrees during the term of this Lease or any renewal or extension thereof, to defend and hold Lessor harmless from any liability for damages to any person or any property in or upon the said leased premises, including the person and property of Lessee and its agents, servants or employees and all persons in and upon the said premises at the invitation of or with the consent of Lessee. It is mutually agreed by the parties hereto that during the term of this Lease or any renewal or extension thereof that all property kept, stored or maintained in or upon the said leased premises shall be so kept, stored or maintained at the sole risk of Lessee. Lessee further agrees not to suffer nor give cause for the filing of any lien against the herein leased premises by any person, firm or corporation for any reason whatsoever without the written consent of Lessor first being had and obtained, which consent shall not be unreasonably withheld.

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& RAYSOR
OWN, DEL.

8. Lessee agrees during the term of this Lease or any renewal or extension thereof, to keep in full force and effect a policy of public liability insurance with respect to the said leased premises in which both Lessor and Lessee shall be named as parties insured thereby and with such limits as shall be determined by Lessor from time to time to be adequate protection for both Lessor and Lessee. Lessee agrees to furnish Lessor with a certificate or certificates of insurance or other acceptable evidence that such insurance is in full force and effect at all times.

9. Lessee agrees that this Lease shall not be assigned nor shall any subsequent assignee of Lessee assign the Lease unless and until prior written consent shall have been received from Lessor which said consent shall be given by Lessor upon the furnishing to Lessor of the names and addresses of the new assignee.

10. Lessee agrees that if, during the term of this Lease or any renewal or extension thereof, any rental due and payable from Lessee to Lessor shall be unpaid for a period of fifteen (15) days after payment is due and payable, or if Lessee shall violate any of the other covenants, agreements, stipulations or conditions set forth herein, and if such default shall continue for a period of fifteen (15) days after written notice thereof from Lessor to Lessee and to any

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N, DEL.

mortgagee of Lessee who advised Lessor in writing that it desires a copy of said notice and to whom and what address such notice shall be sent, Lessor may, at its option, declare this Lease forfeited and the term hereof ended. If this Lease is declared forfeited and the term hereof ended, Lessee agrees to remove himself and all effect from said leased premises without damage to the freehold and further agrees that Lessor shall have the immediate right of re-entry.

11. Lessee agrees that if Lessor, during the term of this Lease or any renewal or extension thereof, waives any covenant or condition of this Lease to be kept or maintained by Lessee, such waiver shall not be construed as a waiver of any subsequent breach of the same or different covenant or condition.

12. Lessee agrees that if, during the term of this Lease or any renewal or extension thereof, all or any part of the said lease premises are taken by the exercise of eminent domain, this Lease shall terminate as of the date possession is taken by the condemnor.

13. Lessee agrees that the invalidity or unenforceablity of any provision hereunder shall not affect nor impair any other provision of this Lease.

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EORGETOWN, DEL.

14. Lessor agrees that Lessee, upon the payment of the rental reserved herein and the performing of the other covenants, conditions and terms hereof, shall and may lawfully, peacefully and quietly have, hold, use, occupy, possess and enjoy the said leased premises during the term hereof.

15. It is mutually agreed by the parties hereto that the terms "Lessor" and "Lessee" used in this Lease shall refer to and bind not only the parties hereto but also their respective heirs, executors, administrators, successors or assigns. It is further mutually agreed by the parties hereto that whenever the singular is used in this Lease, the same shall include the plural and the masculine gender when used herein shall include the feminine and the neuter genders.

IN WITNESS WHEREOF, Lessor has caused this Agreement of Lease to be executed by its proper corporate officers and its corporate seal to be hereunto affixed, and Lessee has caused this Agreement of Lease to be executed by all its General Partners by their respective corporate partners and their respective corporate seals to be hereunto affixed, the day and year first above written.

THE CITY OF LEWES

By: Alfred A Stango
Mayor

Attest: John H. Rhodes
Secretary

/ OFFICES
.L & RAYSOR
ETOWN, DEL.

CAPE SHORES ASSOCIATES

BY: FISCHER DEVELOPMENT CORPORATION
GENERAL PARTNER

By: _____
President

Attest: _____
Asst Secretary

BY: IPM PROPERTIES, INC.
GENERAL PARTNER

By: _____
President

Attest: _____
Secretary

LAW OFFICES
INNELL & RAYSOR
GEORGETOWN, DEL.

STATE OF DELAWARE :
: ss.
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 29th day of August, A.D. 1991, personally came before me, The Subscriber, a Notary Public for the State and County aforesaid, ALFRED A. STANGO, Mayor of The City of Lewes, a municipal corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed, and the act and the deed of the said municipal corporation; that the signature of the Mayor is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said municipal corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by resolution of the City Council of the said municipal corporation.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Elaine Marie Bisbee
Notary Public

ELAINE MARIE BISBEE NOTARY PUBLIC
My Commission Expires Aug. 14, 1993

STATE OF DELAWARE :
: ss.
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 28 day of August, A.D. 1991, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, RICHARD S. FISCHER, President of FISCHER DEVELOPMENT CORPORATION, a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed, and the act and the deed of the said corporation; that the signature of the President is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said Corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by resolution of the Board of Directors of the said Corporation.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

William E. Wright
Notary Public

WILLIAM E. WRIGHT
NOTARY PUBLIC DELAWARE
MY COMMISSION EXPIRES: 10-06-92

CITY OF LEWES
REALTY TRANSFER TAX
TRANSFER # 793-91
CANCELLED BY RLM
AMOUNT OF TAX exempt
DATE RECORDED 8/30/91

OFFICES
L & RAYSOR
TOWN, DEL.

STATE OF DELAWARE :
: ss.
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 28 day of August, A.D. 1991, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, PRESTON L. DYER, President of IPM PROPERTIES, INC., a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed, and the act and the deed of the said corporation; that the signature of the President is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said Corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by resolution of the Board of Directors of the said Corporation.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

William E. Wright
Notary Public

WILLIAM E. WRIGHT
NOTARY PUBLIC DELAWARE
MY COMMISSION EXPIRES: 10-06-92

DALLAS D. GREEN
DOC. SURCHARGE PAID
91 AUG 30 PM 1:09
RECORDER OF DEEDS
SUSSEX COUNTY

LAW OFFICES
INNELL & RAYSOR
GEORGETOWN, DEL.

14850

BOOK 1800 PAGE 246

THIS IS AN AGREEMENT OF LEASE, made and entered into this 29 day of August, A.D., 1991, by and between THE CITY OF LEWES, a municipal corporation of the State of Delaware, party of the first part, hereinafter referred to as "Lessor."

-AND-

CAPE SHORES ASSOCIATES, a partnership of the State of Delaware, with Offices in Milford, Kent County, Delaware, party of the second part, hereinafter referred to as "Lessee."

W I T N E S S E T H:

IN CONSIDERATION of the mutual covenants hereinafter expressed, the parties hereto agree as follows:

1. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor:

> All those certain public areas designated as P-1 through P-6, inclusive, as shown on a plot of Cape Shores, said plot being of record in the Office of the Recorder of Deeds, in and for Sussex County, in Plot Book 43, at Page 204, together with all streets located in the development known as Cape Shores and shown on a plot of Cape Shores of record as aforesaid.

2. It is mutually agreed by the parties hereto that the term of this Lease shall be for a term of ninety-nine (99) years commencing on the 14 day of August, A.D. 1991, terminating on the 14 day of August, A.D. 2090, provided, however, that this Lease may be renewed at

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EORGETOWN, DEL.

2406 111 8/30/91 CTX-EX SU .00

9688 333 8/30/91 TX-EX ST .00

the option of the Lessee for a further period of ninety-nine (99) years with option, if exercised, must be exercised by an application in writing to the City Council of The City of Lewes, after the 1st day of May, A.D. 2090, and before the 1st day of June, A.D. 2091, and if so exercised shall convey to the Lessee for a further term of ninety-nine (99) years the right of possession of the premises herein described, said notice to be certified mail with return receipt requested and postage prepaid addressed to Lessor, the said term to commence on the 14 day of August, A.D. 2090, and terminating on the 14 day of August, A.D. 2189.

3. Lessor agrees that no annual rental shall be charged to Lessee unless and until Sussex County or its successor imposes a tax upon the property, in which event Lessee agrees to pay to Lessor as annual rental, including taxes, for the term of this Lease or any renewal or extension thereof a sum not to exceed Six Percent (6%) of fair market value of the lands so leased and Two Percent (2%) of the fair market value of the improvements located on the leased land such fair market value to be determined from time to time by Lessor or such amount as may be permitted by the Charter of Lessor but in no event shall the annual rental, including taxes, be less than the amount specified herein. Lessee agrees that the land described in Paragraph 1 above shall be used solely for

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purposes as shown on the plot plan, of record as aforesaid, and for no other purpose or purposes without the express written consent of Lessor first being had and obtained.

4. Lessee agrees to comply with all laws, ordinances and lawful orders and regulations issued by any governmental authority which affect the said leased premises.

5. Lessee agrees to be responsible for and to pay any Delaware transfer tax or other tax imposed because of the transfer by Lessor to Lessee or because of the continuing lease between the parties hereto.

6. Lessee agrees during the term of this Lease or any renewal or extension thereof, to be liable for and to discharge all charges assessed against said leased premises, including but not limited to, real estate taxes, sewer service charges, water service charges, fuel, electricity, front footage assessment, and any other charges imposed by any public authority.

7. Lessee agrees during the term of this Lease or any renewal or extension thereof, to defend and hold Lessor harmless from any liability for damages to any person or any property in or upon the said leased premises, including the person and property of Lessee, and its agents, servants or employees and all persons in and upon the said premises at

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the invitation of or with the consent of Lessee. It is mutually agreed by the parties hereto that during the term of this Lease or any renewal or extension thereof that all property kept, stored, or maintained in or upon the said leased premises shall be so kept, stored or maintained at the sole risk of Lessee. Lessee further agrees not to suffer nor to give cause for the filing of any lien against the herein leased premises by any person, firm or corporation for any reason whatsoever without the written consent of Lessor first being had and obtained, which consent shall not be unreasonably withheld.

8. Lessee agrees during the term of this Lease or any renewal or extension thereof, to keep in full force and effect a policy of public liability insurance with respect to the said leased premises in which both Lessor and Lessee shall be named as parties insured thereby and with such limits as shall be determined by Lessor from time to time to be adequate protection for both Lessor and Lessee. Lessee agrees to furnish Lessor with a certificate or certificates of insurance or other acceptable evidence that such insurance is in full force and effect at all times.

9. Lessee agrees that this Lease shall not be assigned nor shall any subsequent assignee of Lessee assign the Lease unless and until prior written consent shall have been

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GEORGETOWN, DEL.

received from Lessor which said consent shall be given by Lessor upon the furnishing to Lessor of the names and addresses of the new assignee.

10. Lessee agrees that if, during the term of this Lease or any renewal or extension thereof, any rental due and payable from Lessee to Lessor shall be unpaid for a period of fifteen (15) days after payment is due and payable, or if Lessee shall violate any of the other covenants, agreements, stipulations or conditions set forth herein, and if such default shall continue for a period of fifteen (15) days after written notice thereof from Lessor to Lessee and to any mortgagee of Lessee who advises Lessor in writing that it desires a copy of said notice and to whom and what address such notice shall be sent, Lessor may, at its option, declare this Lease forfeited and the term hereof ended. If this Lease is declared forfeited and the term hereof ended, Lessee agrees to remove himself and all effects from said leased premises without damage to the freehold and further agrees that Lessor shall have the immediate right of re-entry.

11. Lessee agrees that if Lessor, during the term of this Lease or any renewal or extension thereof, waives any covenant or condition of this Lease to be kept or maintained by Lessee, such waiver shall not be construed as a waiver of any subsequent breach of the same or different covenant or condition.

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12. Lessee agrees that if, during the term of this Lease or any renewal or extension thereof, all or any part of the said leased premises are taken by the exercise of eminent domain, this Lease shall terminate as of the date possession is taken by the condemnor.

13. Lessee agrees that the invalidity or unenforceability of any provision hereunder shall not affect nor impair any other provision of this Lease.

14. Lessor agrees that Lessee, upon the payment of the rental reserved herein and the performing of the other covenants, conditions and terms hereof, shall and may lawfully, peacefully and quietly have, hold, use, occupy, possess and enjoy the said leased premises during the term hereof.

15. It is mutually agreed by the parties hereto that the terms "Lessor" and "Lessee" used in this Lease shall refer to and bind not only the parties hereto but also their respective heirs, executors, administrators, successors or assigns. It is further mutually agreed by the parties hereto that whenever the singular is used in this Lease, the same shall include the plural and the masculine gender when used herein shall include the feminine and the neuter genders.

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ORGETOWN, DEL.

IN WITNESS WHEREOF, Lessor has caused this agreement of Lease to be executed by its proper corporate officers and its corporate seal to be hereunto affixed, and Lessee has caused this Agreement of Lease to be executed by its proper corporate partners and their respective corporate seals to be hereunto affixed, the day and year first above written.

THE CITY OF LEWES

By: Alfred A. Fiango
Mayor

Attest: Jean A. Mackie
Secretary

CAPE SHORES ASSOCIATES

BY FISCHER DEVELOPMENT CORPORATION

By: Richard S. Fischer
President

Attest: Robert A. Fischer
Asst Secretary

BY IPM PROPERTIES, INC.

By: Peter A. Dy
President

Attest: Denise F. Salvato
Secretary

LAW OFFICES
INNELL & RAYSOR
GEORGETOWN, DEL.

STATE OF DELAWARE :
: ss.
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 29th day of August, A.D. 1991, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, ALFRED A. STANGO, Mayor of The City of Lewes, a municipal corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed, and the act and the deed of the said municipal corporation; that the signature of the Mayor is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said municipal corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering of said Indenture was first duly authorized by resolution of the City Council of the said municipal corporation.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Elaine Marie Bisbee
Notary Public

ELAINE MARIE BISBEE NOTARY PUBLIC
My Commission Expires Aug. 14, 1993

LAW OFFICES
INNELL & RAYSOR
GEORGETOWN, DEL.

STATE OF DELAWARE :
: ss.
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 28 day of August, A.D. 1991, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, RICHARD S. FISCHER, President of FISCHER DEVELOPMENT CORPORATION, a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed, and the act and the deed of the said corporation; that the signature of the President is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said Corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by resolution of the Board of Directors of the said Corporation.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

William E. Wright
Notary Public

WILLIAM E. WRIGHT
NOTARY PUBLIC DELAWARE
MY COMMISSION EXPIRES: 10-05-92

LAW OFFICES
ELL & RAYSOR
GETOWN, DEL.

STATE OF DELAWARE :
: ss.
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 28 day of August, A.D. 1991, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, PRESTON L. DYER, President of IPM PROPERTIES, INC., a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed, and the act and the deed of the said corporation; that the signature of the President is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said Corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by resolution of the Board of Directors of the said Corporation.

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William E. Wright
Notary Public

WILLIAM E. WRIGHT
NOTARY PUBLIC DELAWARE
MY COMMISSION EXPIRES: 10-05-92

CITY OF LEWES
REALTY TRANSFER TAX
TRANSFER # 794-91
CANCELLED BY RLM
AMOUNT OF TAX exempt
DATE RECORDED 08/30/91

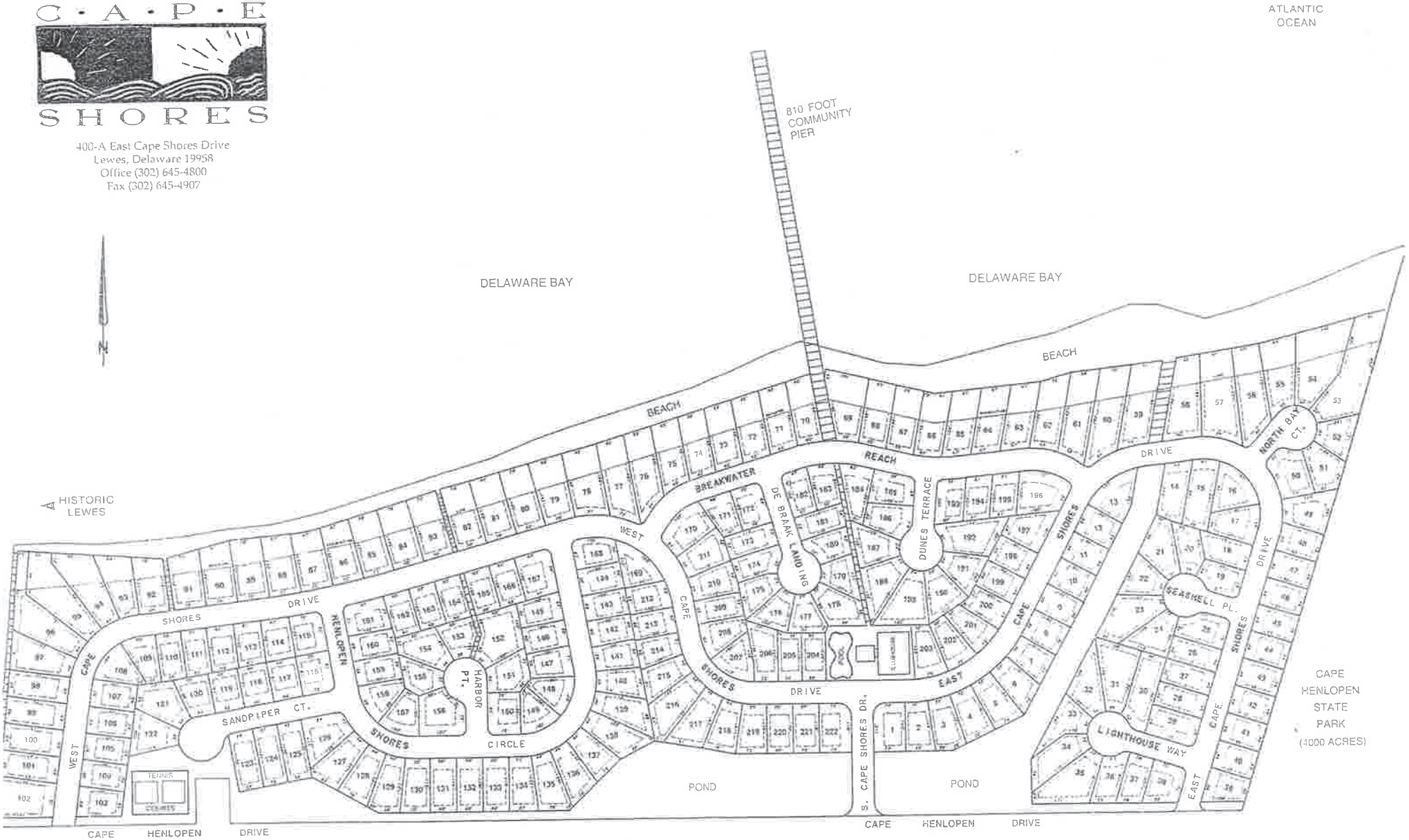
DALLAS D. GREEN
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RECORDER OF DEEDS
SUSSEX COUNTY

LAW OFFICES
INNELL & RAYSOR
GEORGETOWN, DEL.

C · A · P · E

SHORES

400-A East Cape Shores Drive
Lewes, Delaware 19958
Office (302) 645-4800
Fax (302) 645-4907



NOTE This rendering is for conceptual purposes only and is subject to change without notice at developer's discretion. This map is not to scale.

U.S. Fish and Wildlife Service

National Wetlands Inventory

Cape Shores



November 13, 2024

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

U.S. Fish and Wildlife Service

National Wetlands Inventory

Cape Shores



November 13, 2024

Wetlands

- Estuarine and Marine Deepwater
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This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

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:	Cape Shores Beach Replenishment

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

Contact Name/Title: Cape Shores Homeowners Association

Federal Agency Contractor Name (if applicable): _____

Federal Agency: United States Army Corps of Engineers
(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: 400 East Cape Shores Drive

City: Lewes State: DE Zip Code: 19958

E-mail: rwzuidema@gmail.com Telephone #:

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):

See Attached.

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

The placement of sand on the Delaware Bay Beach is not expected to have coastal effects. The material will be placed to replenish the eroded beach, rebuild the dunes, and protect the homes located in the Cape Shores community. The placement of fill for the purpose of replenishment has been conducted at this location previously.

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

Policy 5.1: Wetlands Management

Wetlands are not present within the proposed Project Area and therefore, no wetlands are expected to be affected by the placement of fill at the Delaware Bay Beach.

Policy 5.2: Beach Management

The purpose of placing fill at the Delaware Bay Beach is to renourish the beach from severe erosion due to previous storm events. Renourishment by the placement of fill will enhance the beach, protect homes, and provide adequate recreational area for the public. Proper permits and authorizations are being obtained from DNREC and USACE for this proposed project.

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

Prior to the placement of fill, material will undergo aggregate testing in accordance with AASHTO T11/AASHTO T27 to ensure coastal waters are not adversely affected. Results will be shared with DNREC prior to placement of material.

Policy 5.4: Subaqueous Land and Coastal Strip Management

Adverse effects to Delaware's Coastal Zone are not anticipated from the placement of fill at the Delaware Bay Beach. Fill has been placed at this location previously under the authorization of DNREC and the USACE to combat erosion and replenish the beach for the public's recreational use.

Policy 5.5: Public Lands Management

The proposed project is located on Sussex County tax parcel 335-5.00-240.00 and is owned by the Cape Shores Homeowners Association. No adverse effects to public lands are anticipated from the placement of fill on the Delaware Bay Beach.

Policy 5.6: Natural Lands Management

The proposed project is located on Sussex County tax parcel 335-5.00-240.00 and is owned by the Cape Shores Homeowners Association. No adverse effects to natural and protected lands are anticipated from the placement of fill on the Delaware Bay Beach.

Policy 5.7: Flood Hazard Areas Management

The placement of fill on the Delaware Bay Beach will replenish eroded areas and build up existing dunes to protect residential homes from future erosion and flooding from storm events.

Policy 5.8: Port of Wilmington

The proposed project will not hinder the economic viability and competitiveness of the Port of Wilmington.

Policy 5.9: Woodlands and Agricultural Lands Management

No woodlands or agricultural lands will be adversely affected by the placement of fill on the Delaware Bay Beach.

Policy 5.10: Historic and Cultural Areas Management

The State of Delaware Division of Historic and Cultural Affairs concluded No Historic Properties Affected by the proposed undertaking

Policy 5.11: Living Resources

The following time of year restrictions will be adhered to based on DNREC's review of the project: April 15th - June 7th (migratory shore birds), March 15th - September 15th (beach nesting birds), and April 15th - August 30th (horseshoe crabs).

Policy 5.12 Mineral Resources Management

No extraction of or production of minerals is proposed for this project.

Policy 5.13: State Owned Coastal Recreation and Conservation

The proposed project is located on privately owned land and will not adversely affect state-owned lands.

Policy 5.14: Public Trust Doctrine

The proposed project will not interfere with the Public Trust Doctrine.

Policy 5.15: Energy Facilities

Not applicable to the proposed project.

Policy 5.16: Public Investment

The proposed project will be privately funded by the Cape Shores Homeowners Association.

Policy 5.17: Recreation and Tourism

The placement of fill on the Delaware Bay Beach will replenish the beach, providing adequate recreational area for the public.

Policy 5.18: National Defense and Aerospace Facilities

Not applicable to the proposed project.

Policy 5.19: Transportation Facilities

Not applicable to the proposed project.

Policy 5.20: Air Quality Management

Minimal and negligible affects to air quality are expected from the proposed project from truck emissions during the transportation and placement of fill on the Delaware Bay Beach.

Policy 5.21: Water Supply Management

There will be no groundwater or surface water withdrawals, well installations, or groundwater injections as part of the proposed project.

Policy 5.22: Waste Disposal Management

There will be no waste generation, treatment, or disposal management as part of the proposed project.

Policy 5.23: Development

There will be no development as part of the proposed project. The existing land use will be maintained.

Policy 5.24: Pollution Prevention

No waste will be generated as part of the proposed project. Aggregate testing will be conducted on the fill material prior to placement to ensure the waters of the Delaware Bay are not adversely affected. Water Quality Certification is being sought for the project.

Policy 5.25: Coastal Management Coordination

All application materials associated with the proposed project will be available for public review and comment.

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:	R W Zuidema, PRESIDENT		
Printed Name:	Richard Zuidema	Date:	11/11/2025

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:	