



United States
Department of
Agriculture

Farm
Production
and
Conservation

Farm
Service
Agency

New Castle County FSA Office
2430 Old County Rd
Newark, DE 19702
Phone: 302-832-3100

March 17, 2021

Kimberly B. Cole
Program Administrator
Delaware Coastal Management Program
100 W. Water St., Suite 7B
Dover, DE 19904

Ref: Federal Consistency Determination

The USDA, Farm Service Agency (FSA) is completing an environmental review of a site to construct a Grain Storage Bin. In doing the review it was determined that ground disturbance below the plow zone will be needed to pour a concrete foundation. The property is currently a farm-yard area with barns & existing grain facility and is located at 1634 Fast Landing Rd, Dover, De 19901.

As part of our environmental review, FSA is requesting a federal consistency determination from your department.

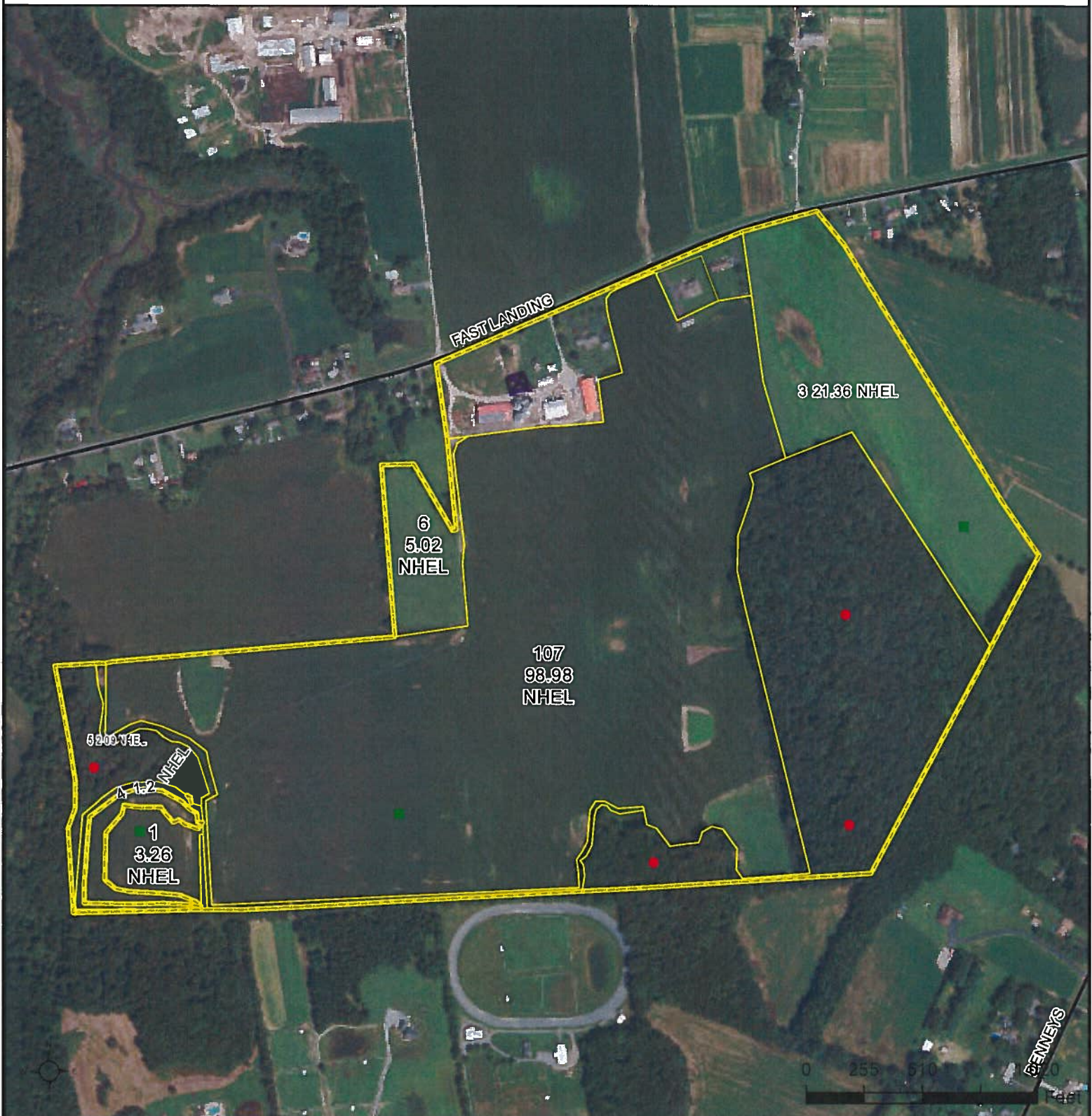
We request a response within sixty (60) days from receipt of this letter. Thank you for your time and attention to this issue of mutual concern. If you have any questions or concerns in regard to this project, please be assured of our cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Maryann Reed". The signature is written in a cursive, flowing style.

Maryann Reed
County Executive Director

EN: aerial map, location map, consistency form



Common Land Unit Tract Boundary
 Non-Cropland
 Cropland

Wetland Determination Identifiers
● Restricted Use
▼ Limited Restrictions
■ Exempt from Conservation
■ Compliance Provisions

Tract Cropland Total: 131.91 acres

2021 Program Year
 Map Created September 25, 2020

Farm 429
Tract 2621

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).



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: | 1634 Fast Landing Rd, Dover, De 19901 |
|-------------------------------|---------------------------------------|

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

Contact Name/Title: Maryann Reed - COUnty Executive Director

Federal Agency Contractor Name (if applicable): _____

Federal Agency: USDA Farm Service Agency

(either the federal agency proposing an action or the federal agency issuing a federal license/permit or financial assistance to a non-federal applicant)

Mailing Address: 519 S Red Haven Ln, Suite 200

City: Dover State: DE Zip Code: 19901

E-mail: maryann.reed@usda.gov Telephone #: 302-741-2600 ext.2

II. Federal Consistency Category:

- | | |
|---|---|
| <p><input checked="" type="radio"/> Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)</p> <p><input type="radio"/> Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)</p> <p><input type="radio"/> Federal Financial Assistance (15 C.F.R. Part 930, Subpart F)</p> | <p><input type="radio"/> Federal License or Permit Activity (15 C.F.R. Part 930, Subpart D)</p> <p><input type="radio"/> Federal License or Permit Activity which occurs wholly in another state (interstate consistency activities identified in DCMP's Policy document)</p> |
|---|---|

III. Detailed Project Description (attach additional sheets if necessary):

The USDA, Farm Service Agency (FSA) has received an application to provide financing in order to construct an additional Grain Storage Bin in an existing Grain Storage Yard. In completing a previous environmental review in 2015 it was determined that the site had no environmental issues. The property is currently a farm storage yard with a residence and is located at 1634 Fast Landing Rd, Dover, DE 19901.

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

There are no anticipated effects to the coastal zone.

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

Policy 5.1: Wetlands Management

n/a

Policy 5.2: Beach Management

n/a

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

The proposed project is not within a coastal barrier in Delaware, and is more than 500 feet away from the nearest coastal barrier area. A Building Permit will be required from Kent County.

Policy 5.4: Subaqueous Land and Coastal Strip Management

n/a

Policy 5.5: Public Lands Management

n/a

Policy 5.6: Natural Lands Management

The US Department of Interior, Fish and Wildlife Service, IPaC resource list was obtained on 03/18/2021 and showed 0 threatened, endangered, or candidate species on the proposed area. The IPaC list also showed no critical habitat, refuge lands or fish hatcheries. Consultation Code: 05E2CB00-2021-SLI-0863. Event Code: 05E2CB00-2021-E-02103.

Policy 5.7: Flood Hazard Areas Management

n/a

Policy 5.8: Port of Wilmington

n/a

Policy 5.9: Woodlands and Agricultural Lands Management

n/a

Policy 5.10: Historic and Cultural Areas Management

There are no historical properties on the proposed site. Consultation letters will be sent to DE SHPO and the DE THPO.

Policy 5.11: Living Resources

The US Department of Interior, Fish and Wildlife Service, IPaC resource list was obtained on 1/16/2020 and showed 0 threatened, endangered, or candidate species on the proposed area. The IPaC list also showed no critical habitat, refuge lands or fish hatcheries. Consultation Code: 05E2CB00-2021-SLI-0863. Event Code: 05E2CB00-2021-E-02103.

Policy 5.12 Mineral Resources Management

n/a

Policy 5.13: State Owned Coastal Recreation and Conservation

n/a

Policy 5.14: Public Trust Doctrine

n/a

Policy 5.15: Energy Facilities

n/a

Policy 5.16: Public Investment

n/a

Policy 5.17: Recreation and Tourism

n/a

Policy 5.18: National Defense and Aerospace Facilities

n/a

Policy 5.19: Transportation Facilities

n/a

Policy 5.20: Air Quality Management

n/a

Policy 5.21: Water Supply Management

current well on site

Policy 5.22: Waste Disposal Management

N/A

Policy 5.23: Development

N/A

Policy 5.24: Pollution Prevention

N/A

Policy 5.25: Coastal Management Coordination

n/a

VI. JPP and RAS Review (Check all that apply):

Has the project been reviewed in a monthly Joint Permit Processing and/or Regulatory Advisory Service meeting?

JPP

RAS

None

*If yes, provide the date of the meeting(s): _____

VII. Statement of Certification/Determination and Signature (Check one and sign below):


FEDERAL AGENCY CONSISTENCY DETERMINATION. Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity is consistent to the maximum extent practicable with the enforceable policies of the Delaware Coastal Management Program.

OR

FEDERAL AGENCY NEGATIVE DETERMINATION. Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity will not have any reasonably foreseeable effects on Delaware's coastal uses or resources (Negative Determination) and is therefore consistent with the enforceable policies of the Delaware Coastal Management Program.

OR

NON-FEDERAL APPLICANT'S CONSISTENCY CERTIFICATION. Based upon the information, data, and analysis included herein, the non-federal applicant for a federal license or permit, or state or local government agency applying for federal funding, listed in (I) above, finds that this proposed activity complies with the enforceable policies of the Delaware Coastal Management Program and will be conducted in a manner consistent with such program.

| | | |
|---------------|---|------------------|
| Signature: |  | |
| Printed Name: | MARYANN REED | Date: 03/18/2021 |

Pursuant to 15 C.F.R. Part 930, the Delaware Coastal Management Program must provide its concurrence with or objection to this consistency determination or consistency certification in accordance with the deadlines listed below. Concurrence will be presumed if the state's response is not received within the allowable timeframe.

Federal Consistency Review Deadlines:

| | |
|---|---|
| Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C) | 60 days with option to extend an additional 15 days or stay review (15 C.F.R. § 930.41) |
| Federal License or Permit (15 C.F.R. Part 930, Subpart D) | Six months, with a status letter at three months. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.63) |
| Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E) | Six months, with a status letter at three months. If three month status letter not issued, then concurrence presumed. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.78) |
| Federal Financial Assistance to State or Local Governments (15 C.F.R. Part 930, Subpart F) | State Clearinghouse schedule |

OFFICIAL USE ONLY:

| | | |
|--|---|----------------|
| Reviewed By: | Fed Con ID: | Date Received: |
| Public notice dates: _____ to _____ | Comments Received: <input type="checkbox"/> NO <input type="checkbox"/> YES <i>[attach comments]</i> | |
| Decision type: <small>(objections or conditions attach details)</small> | Decision Date: _____ | |



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

<http://www.fws.gov/chesapeakebay/>

<http://www.fws.gov/chesapeakebay/endsppweb/ProjectReview/Index.html>

In Reply Refer To:

March 18, 2021

Consultation Code: 05E2CB00-2021-SLI-0863

Event Code: 05E2CB00-2021-E-02103

Project Name: DEMPSEY FARMS LLC - 2021 FSFL

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at:

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>;

<http://www.towerkill.com>; and

www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html.

<http://>

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Chesapeake Bay Ecological Services Field Office

177 Admiral Cochrane Drive

Annapolis, MD 21401-7307

(410) 573-4599

Project Summary

Consultation Code: 05E2CB00-2021-SLI-0863

Event Code: 05E2CB00-2021-E-02103

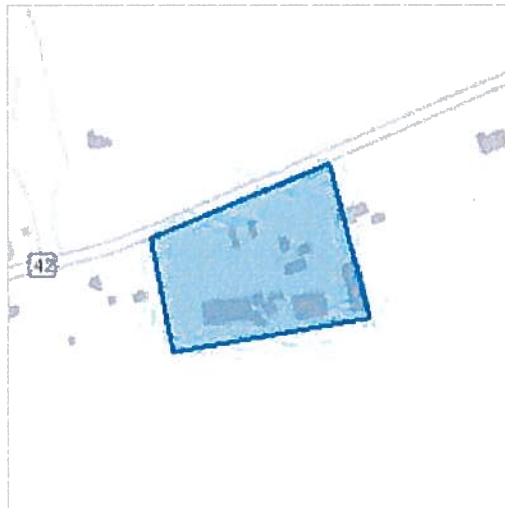
Project Name: DEMPSEY FARMS LLC - 2021 FSFL

Project Type: AGRICULTURE

Project Description: CONSTRUCT A GRAIN STORAGE BIN WITH 255,828 BUSHEL CAPACITY.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@39.2366082,-75.55289490169588,14z>



Counties: Kent County, Delaware

Endangered Species Act Species

There is a total of 0 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [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.

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

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 OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Wetlands

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](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

THERE ARE NO WETLANDS WITHIN YOUR PROJECT AREA.
