



STATE OF DELAWARE

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

DIVISION OF CLIMATE, COASTAL AND ENERGY

STATE STREET COMMONS

100 W. WATER STREET, SUITE 7B

DOVER, DELAWARE 19904

**COASTAL  
PROGRAMS**

PHONE  
(302) 739-9283

November 4, 2025

Alex Moore  
Ten Bears Environmental Associates Co.  
606 Federal Street  
Milton, DE 19968

**RE: Delaware Coastal Management Program — Federal Consistency Certification Concurrence  
for Culvert Extension at 509 Capitol Trail (FC 2025.0041)**

Dear Alex Moore,

The Delaware Department of Natural Resources and Environmental Control (DNREC) Coastal Management Program (DCMP) has completed its review of the above referenced project, received and deemed administratively complete by this office on August 5, 2025.

**PROPOSED ACTION**

Schwab VIII, LLC, proposes to utilize a U.S. Army Corps of Engineers Nationwide Permit No. 46 to modify a drainage ditch at 509 Capitol Trail, Newark, New Castle County, Delaware. The existing man-made drainage ditch begins near the center of the subject parcel with a roadway culvert, and discharges to the north into White Clay Creek. As part of proposed redevelopment of the property into an apartment complex, the applicant proposes modifying an approximately 0.06-acre ( $\pm 2,700$  square-foot) portion of the beginning of the drainage ditch to extend and re-route the current culvert system northward to the 100-year flood plain boundary. Re-routing the culvert will lengthen and meander the flow path and reduce the slope and therefore flow velocity. Applicant will add energy-dissipating rip-rap at the discharge location. These actions will serve to mitigate scour and associated erosion currently occurring, including subsidence above/surrounding the buried portions of the piping. Redevelopment will not commence until project has obtained an approved Sediment and Stormwater Plan following Delaware Sediment and Stormwater regulations.

**FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT**

Pursuant to the Coastal Zone Management Act (CZMA) of 1972 administered by the National Oceanic and Atmospheric Administration (NOAA), as amended, any applicant for a required federal license or permit to conduct an activity, in or outside of the coastal zone, that can have reasonably foreseeable effects

on any land or water use or natural resource of the coastal zone of that state, shall provide a certification that the proposed activity complies with the enforceable policies of the state's NOAA-approved program and that such activity will be conducted in a manner consistent with the program. Under the CZMA implementing regulations, *Federal Consistency with Approved Coastal Management Programs* (15 CFR 930), subpart D, state agencies are directed to develop a list of federal license or permit activities to be included as part of the management program, with the federal license or permit activities described in terms of the specific licenses or permits involved. Any applicant for a federal license or permit selected for review by a state agency should obtain the views and assistance of the state agency regarding the means for ensuring that the proposed activity will be conducted in a manner consistent with the management program.

## **PUBLIC PARTICIPATION**

In accordance with 15 CFR 930.61, the public was invited to participate in the review of the Culvert Extension at 509 Capitol Trail project. Public notice of this proposed action was published on August 27, 2025, in the Daily State News and The News Journal. The notice was also posted in English and Spanish at the DNREC public notices website and Kirkwood Library. The public was given 30 days to comment on this notice. No public comments were received.

## **FEDERAL CONSISTENCY ANALYSIS**

The DNREC DCMP coordinates the review of consistency determinations with agencies administering the enforceable and advisory policies of the program. The following agencies participated in this review:

DNREC, Division of Air Quality  
DNREC, Division of Fish and Wildlife

The proposed activity is to be implemented in a manner consistent with the enforceable policies of the DCMP under Section 5.0 of the DCMP Federal Consistency Policy and Procedures document.

Please be advised that the Division of Air Quality (DAQ) recommends that retrofitted on-road and non-road diesel engines be used to reduce emissions associated with the construction. This includes equipment that is used on-site, as well as equipment that is used to transport materials to and from the site. DAQ also advises project managers to minimize air emissions from vessel engines and power equipment by avoiding unnecessary engine idling and ensuring the use of fuels that meet quality standards, such as ultra-low sulfur diesel, whenever possible, throughout the duration of the project.

Constructions operations for this project can emit pollutants such as volatile organic compounds (VOCs), nitrogen oxides (NO<sub>x</sub>), and fine particulate matter (PM<sub>2.5</sub>)—all of which are associated with adverse impacts to air quality that can affect human health. Delaware currently exceeds federal health-based standards for 8-hour ozone, and New Castle County remains designated as a Serious Nonattainment Area for the 8-hour ozone standard. Please note that emissions associated with federal actions in serious nonattainment areas must remain below the annual thresholds in the General Conformity Rule under the Clean Air Act (40 CFR § 93.153).

The following Delaware air quality regulations may apply: Particulate Emissions from Construction and Materials Handling (7 DE Admin. Code 1106), Open Burning (7 DE Admin. Code 1113), Conformity of General Federal Actions to the State Implementation Plan (7 DE Admin. Code 1135), Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products (7 DE Admin. Code 1141), Generators (7 DE Admin. Code 1144), Excessive Idling of Heavy-Duty Vehicles (7 DE Admin. Code 1145), and Regulations Governing the Control of Noise (7 DE Admin. Code 1149).

## CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP concurs that the Culvert Extension at 509 Capitol Trail project as proposed above is consistent with the policies of the DCMP.

Pursuant to 15 CFR 930.66, the applicant shall notify the DCMP of any proposed modifications to activities after receiving a decision from the DCMP. Modifications will be subject to supplemental federal consistency review if effects to any coastal use or resource will be substantially different than originally described.

Please be advised that this federal consistency review does not negate the need for other authorizations that may be required. If you have any questions, please contact me or Stephanie Zmina of my staff at (302) 739-9283.

Sincerely,



Jesse Hayden (Nov 4, 2025 09:52:46 EST)

Jesse Hayden, Administrator  
Delaware Coastal Management Program

JH/sz

cc: File FC 2025.0041  
Mike Yost, USACE  
Tina Merrill, DAQ  
Faith Garcia, DFW