



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

July 5, 2024

Edward Launay
Environmental Resource Insights
38173 DuPont Blvd.
Selbyville, DE 19975

**RE: Delaware Coastal Management Program — Federal Consistency Certification
Concurrence for Chesapeake Utilities Canary Creek (FC 2024.0027)**

Dear Mr. Launay,

The Delaware Coastal Management Program (DCMP) of the Delaware Department of Natural Resources and Environmental Control (DNREC) has completed its review of the above referenced project. This letter is in response to the federal consistency certification, dated and received on April 16, 2024, submitted by you on behalf of Chesapeake Utilities Corporation (Chesapeake).

PROPOSED ACTION

Chesapeake proposes to utilize a U.S. Army Corps of Engineers Nationwide Permit 12 for the installation of a 4-inch gas main under Canary Creek on the south side of New Road in Lewes, DE, via hydraulic directional drilling. The gas main will be installed using best management practices following a frac-out contingency plan.

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 Chesapeake Utilities Canary Creek. Public notice of this proposed action was published in the Delaware State News, The Wilmington News Journal, and DNREC public notices list service on May 1, 2024. The public was given 30 days to comment on this notice. No public comments were received in response to this notice.

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 Fish and Wildlife
DNREC, Division of Air Quality

The proposed activity is to be implemented in a manner consistent with the enforceable policies of the DCMP under 7 DE Admin. Code 2201, Section 5.0.

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 project 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 recommends the use of dust suppressants and measures to prevent the transport of dust off-site from material stockpile, material movement, and use of unpaved roads.

Please note that the following Delaware air quality regulations may apply: Particulate Emissions from Construction and Materials Handling (7 DE Admin. Code 1106) and Excessive Idling of Heavy-Duty Vehicles (7 DE Admin. Code 1145).

CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP concurs that Chesapeake Utilities Canary Creek as proposed above is consistent with the policies of the DCMP.

Pursuant to 15 CFR 930.66, Chesapeake 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.

Thank you for the opportunity to review and respond to the Chesapeake Utilities Canary Creek federal consistency certification. If you have any questions, please contact me or Mike Snyder of my staff at (302) 739-9283.

Sincerely,



Kimberly B. Cole, Administrator
Delaware Coastal Management Program

KBC/mts

cc: FC File 2024.0027
Danielle Minter, DFW
James Coverdale, DAQ
Mike Yost, USACE