



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

March 5, 2025

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

RE: Delaware Coastal Management Program — Federal Consistency Conditional Concurrence for Meoli Boat Docking Facility (FC 2024.0045)

Dear Ed Launay,

The Delaware Department of Natural Resources and Environmental Control (DNREC) Coastal Management Program (DCMP) has completed its review of the above referenced project. This letter is in response to the federal consistency certification dated and received July 14, 2024, submitted by you on behalf of Michael Meoli (Meoli). On January 10, 2025, in accordance with 15 CFR 930.60(b), the DCMP and the applicant mutually agreed to stay the six-month review period until March 10, 2025. On March 5, 2025, the DCMP and the applicant mutually agreed to end the stay period and resume the active review period.

PROPOSED ACTION

Meoli proposes to utilize a U.S. Army Corps of Engineers Individual Permit for the construction of a 4-foot by 28-foot pier, 6-foot by 48-foot dock, and a boat lift mounted on 4 pilings in the Lewes and Rehoboth Canal, as well as a 24-foot vinyl retaining wall landward of the mean-high water line at 50 Thompson Court, Rehoboth Beach, Sussex County, Delaware. In-water work will not occur between March 1 and June 30 to minimize impact to migrating anadromous fish.

FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT

Pursuant to the Coastal Zone Management Act (CZMA) of 1972, 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 approved program and that such activity will be conducted in a manner consistent with the program. The National Oceanic and Atmospheric Administration (NOAA) is required to review and approve a proposed state management program for it to become effective. 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.

During the period when the state agency is reviewing the consistency certification, the applicant and the state agency should attempt, if necessary, to agree upon conditions, which, if met by the applicant, would permit state agency concurrence.

PUBLIC PARTICIPATION

In accordance with 15 CFR §930.61, the public was invited to participate in the review of the Meoli Boat Docking Facility. Public notice of this proposed action was published in the Delaware State News, The News Journal, and DNREC public notices list service on July 28, 2024. The public was given 30 days to comment on this notice. A second notice of this proposed action was published on February 2, 2025. The public was given an additional 30 days to comment. No public comments were received in response to either 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:

Delaware DNREC, Division of Air Quality
Delaware DNREC, Division of Fish and Wildlife
Delaware DNREC, Division of Water
Delaware DNREC, Division of Watershed Stewardship

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 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).

Please be advised that the forest on this property is mapped as Key Wildlife Habitat (KWH) in the Delaware Wildlife Action Plan (DEWAP) because it is part of a large forest block that can support an array of plant and animal species across the landscape. Although designation as KWH is non-regulatory, these maps are intended to help guide site-specific conservation planning efforts. Impacts to KWH should be minimized to the greatest extent practicable. To reduce impacts to nesting birds and other wildlife species that utilize forests for breeding, the DNREC Division of Fish and Wildlife recommends that clearing not occur between April 1st to July 31st. This clearing recommendation would only protect those species during one breeding season, because once trees are cleared the result is an overall loss of habitat.

CONDITIONAL CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP conditionally concurs that Meoli Boat Docking Facility as proposed above is consistent with the policies of the DCMP.

To be consistent with the DCMP's enforceable policies, the following condition must be satisfied as they relate to enforceable policies 5.3, 5.4, and 5.20:

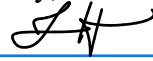
- The applicant shall obtain all necessary state permits/authorizations/leases regarding but not limited to the following: wetlands, subaqueous lands, and/or air quality as regulated by the State of Delaware or its delegated authorities. State permits/authorizations/leases are included in the DCMP enforceable policies and must be obtained to be consistent with these policies.

Failure to comply with 15 CFR §930.4 as it relates to the condition above will result in this conditional concurrence being considered an objection. Under this scenario, the applicant is advised that pursuant to 15 CFR part 930, subpart H, and within 30 days from receipt of this letter, a request may be submitted to the Secretary of Commerce to override the objection. In order to grant an override request, the Secretary must find that the activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security. A copy of the request and supporting information must be sent to the DCMP and the federal permitting or licensing agency. The Secretary may collect fees for administering and processing your request.

Pursuant to 15 CFR 930.66, the DCMP shall be notified 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 Meoli Boat Docking Facility federal consistency certification. If you have any questions, please contact me or Mike Snyder of my staff at (302) 739-9283.

Sincerely,



[Jesse Hayden \(Mar 5, 2025 17:18 EST\)](#)

Jesse Hayden, Administrator

Delaware Coastal Management Program

JH/mts

cc: FC File 2024.0045

Mike Yost, USACE

Tina Merrill, DNREC DAQ

Matt Young, DNREC DFW

Matt Jones, DNREC DW

Elaine Webb, DWS