



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

October 31, 2024

Colin Greenwood
U.S. Army Corps of Engineers
1650 Arch Street
Philadelphia, PA 19103

**RE: Delaware Coastal Management Program — Federal Consistency Determination
Concurrence for USACE L&R Canal Maintenance Dredging (FC 2024.0048)**

Dear Mr. Greenwood,

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, dated and received by this office on July 19, 2024. The review request was submitted on behalf of the U.S. Army Corps of Engineers (USACE). On September 17, 2024, pursuant to 15 CFR 930.41(b), the DCMP extended its review period of the project by 15 days. On September 25, 2024, the DCMP and USACE mutually agreed to extend the review period deadline to October 31, 2024.

PROPOSED ACTION

USACE proposes to maintenance dredge two sections of the Lewes and Rehoboth Canal in Sussex County, Delaware in two phases. Phase one involves the removal of approximately 41,000 cubic yards of material from a 4.56-mile stretch between 300 feet southeast of the Route 9 bridge to 1,300 feet southwest of the Henlopen Acres Marina. Phase two involves the removal of approximately 49,000 cubic yards of material from a 3.68-mile stretch between the Henlopen Acres Marina to the canal terminus in Rehoboth Bay. The dredged material will be placed in the Lewes confined upland dredge material placement facility located south of Cedar Street in Lewes, Sussex County, Delaware. USACE is seeking a federal consistency concurrence for maintenance dredging operations covering a ten-year period in anticipation that future dredging may be needed.

Operations will be limited to October 1 through March 31 to avoid adverse impacts to aquatic and avian species. The disposal areas will be subject to a confined disposal facility (CDF) management plan, which will be required to meet USACE effluent sampling and testing specifications. Quality assurance and quality control practices include monitoring and reporting total suspended solids as

readings approach 3 g/L in order to make appropriate changes to the operation to ensure the threshold of 4 g/L is not exceeded.

FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT

Pursuant to the Coastal Zone Management Act (CZMA) of 1972, as amended, each federal agency activity within or outside the coastal zone that can have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs. 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 C, federal agencies are advised to provide state agencies with a consistency determination at the earliest practicable time in the planning or reassessment of an activity, and also before the federal agency reaches a significant point of decision-making in its review process. The term “consistent to the maximum extent practicable” in 15 CFR 930.32 means fully consistent with the enforceable policies of a management program unless full consistency is prohibited by existing law applicable to the federal agency.

PUBLIC PARTICIPATION

In accordance with 15 CFR §930.42, the public was invited to participate in the review of the USACE L&R Canal Maintenance Dredging. Public notice of this proposed action was published in the Delaware State News, The News Journal, and DNREC public notices list service on August 14, 2024. The public was given 20 days to comment on this notice. Four (4) 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 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. The following agencies participated in this review:

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

Please be advised that the DNREC Division of Air Quality (DAQ) recommends that project managers seek out and comply with all Delaware Air Quality Regulations to not exceed air quality emission thresholds during various phases of construction. To reduce emissions associated with the construction phase of the project, for example, DAQ recommends that retrofitted on road and non-road diesel engines be used. 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 that project managers encourage minimizing air emissions from engines and power equipment, by avoiding unnecessary engine idling as well as using proper fuels that meet fuel quality standards. USACE is encouraged to make every reasonable effort to construct all work in a manner that avoids and minimizes any adverse impacts on existing air quality. DAQ encourages project managers to comply with all current Delaware regulations during the ten-year general permit timeline.

CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP concurs that the USACE L&R Canal Maintenance Dredging project as proposed is consistent to the maximum extent practicable.

Pursuant to 15 CFR 930.46, USACE 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 evaluate this federal activity. If you have any questions, please contact me or Mike Snyder of my staff at (302) 739-9283.

Sincerely,



Jesse Hayden, Administrator
Delaware Coastal Management Program

KBC/mts

cc: File FC 2024.0048
Danielle Minter, DFW
Matt Jones, DW
Tina Merrill, DAQ
Daniel Kelly, USACE