



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

2/26/2025

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

**RE: Delaware Coastal Management Program — Federal Consistency Determination
Concurrence for USACE Delaware City Dredged Material Placement Facility (2024.0063)**

Dear Mr. Greenwood,

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 review dated September 23, 2024, and received September 26, 2024, submitted by you on behalf of the U.S. Army Corps of Engineers (USACE). The USACE and DMCP mutually agreed upon a review due date of February 28, 2025.

PROPOSED ACTION

The USACE is proposing to use the Delaware City Dredge Material Placement Facility (DMPF) for future maintenance dredging projects. The primary objective of this project is to provide a long-term, safe, placement facility for dredged materials related to the Delaware River Philadelphia to Sea navigation maintenance project and the Chesapeake and Delaware (C&D) Canal navigation maintenance project. The federally owned Delaware City DMPF is located north of the C&D Canal in New Castle County, Delaware. The DMPF was last used as a placement facility in the 1970s. Since then, the site has not been utilized for the placement of dredged material but continues to be maintained by the USACE as a DMPF.

As part of the proposed action, the site will require preparation by the clearing and removal of woody vegetation, the installation of drainage channels to de-water standing water, maintenance of the containment dikes to ensure their integrity, installation of new drainage pipeline and maintenance of the sluice/weir system. The use of the DMPF would result in the permanent loss of approximately 108 acres of open water aquatic habitat and 28 acres of wooded habitat. This includes 16 separate freshwater ponded areas, the largest being approximately 85 acres. The USACE will not conduct construction activities between April 1 to July 31 to the maximum extent practicable to minimize impacts on marsh and nesting birds.

Additionally, the USACE is working with a private fisheries contractor and DNREC to plan and receive regulatory approvals for the capture and relocation of fish from the approximately 85-acre open water area. Prior to the capture of the fish, the open water area will be dewatered to a suitable size (approximately one-acre) for electrofishing and/or seine netting.

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 930.32, the public notice of this proposed action was published in the Delaware State News, The News Journal, and DNREC public notices list service on Wednesday, October 16, 2024. The public was given 20 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 Air Quality
DNREC, Division of Fish and Wildlife
DNREC, Division of Watershed Stewardship
Department of State, State Historic Preservation Office

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), Open Burning (7 DE Admin. Code

1113), Emissions Standards for Hazardous Air Pollutants (7 DE Admin. Code 1121), 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), Excessive Idling of Heavy-Duty Vehicles (7 DE Admin. Code 1145), and Regulations Regarding the Control of Noise 7 DE Admin. Code 1149).

The Division of Fish and Wildlife (DFW) recommends that the USACE identify and consider opportunities to make open water wetland improvements elsewhere along the Canal to mitigate the loss of the current existing wetland habitats impacted by this operation. The DFW also recommends a time of year restriction from **April 1st to July 31st** for any construction activity associated with this project, including vegetation clearing and water draining to minimize impacts on marsh and nesting birds.

Additionally, the DFW acknowledges that the project would require the temporary closure of the Michael Castle Recreational trail, and requests that the USACE take all necessary steps to minimize any damage to the existing trail surface and the surrounding grounds during the installation and removal of the dredge pipes and during active use. The DFW also requests that the USACE return the trail and surrounding grounds to, at a minimum, the pre-existing conditions located on site prior to deployment of the pipes and initiation of the work.

CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP concurs that the USACE Delaware City Dredged Material Placement Facility as proposed above is consistent to the maximum extent practicable with the policies of the DCMP.

Pursuant to 15 CFR 930.46, the 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 any future proposed dredging activities are outside of the scope of this review and will require a separate consistency determination. Additionally, this federal consistency review does not negate the need for other authorizations that may be required.

Thank you for the opportunity to review this federal activity. If you have any questions, please contact Eddie Meade of my staff at (302) 739-9283.

Sincerely,



Jesse Hayden, Administrator
Delaware Coastal Management Program

JH/EM

cc: FC File 2024.0063
Tina Merrill, DAQ
Danielle Minter, DFW
John Cargill, DWS
Sarah Carr, SHPO