



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

August 5, 2025

Rachel Owrutsky  
Century Engineering, LLC, A Kleinfelder Company  
550 Bay Road  
Dover, DE 19901

**RE: Delaware Coastal Management Program — Federal Consistency Certification Conditional Concurrence for Dobbinsville Fishing Pier and Parking Improvements (FC 2025.0016)**

Dear Rachel Owrutsky,

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 February 6, 2025.

**PROPOSED ACTION**

DNREC Division of Fish and Wildlife (DFW) proposes to utilize a U.S. Army Corps of Engineers (USACE) Individual Permit to construct a fishing pier, a trail, and parking lot improvements at Deemers Beach in the Dobbinsville area of New Castle, New Castle County, Delaware. The existing gravel parking lot will be expanded and improved with defined parking areas, ADA compliant spaces, provisions for drainage, and asphalt cover. The T-shaped pier will extend approximately 284 ft riverward from the mean high-water line, including a 12 ft by 262 ft section perpendicular to the shoreline and a 42 ft by 22 ft section parallel to the shoreline. Thirty-seven steel piles will be used to support the pier, installed from a barge using a vibratory hammer or diesel impact hammer. “Soft start” procedures will be implemented during pile driving.

The following time of year restrictions will be followed, to avoid sensitive wildlife:

- To avoid disturbance to Northern Long-Eared and Tricolored Bats, tree clearing will not occur from April 1 to November 15;
- To avoid marsh nesting birds, construction will not occur from April 1 to July 31; and,
- To avoid anadromous fish (Sturgeon, Striped Bass, Shad), in-water construction will not occur from March 15 to June 30.

**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 Dobbinsville Pier and Parking Improvements project. Public notice of this proposed action was published on March 9, 2025, in the Daily State News and The News Journal. Additionally, the notification was posted in English and Spanish in the New Castle County Library, the Route 9 Library and Innovation Center in New Castle County, Delaware, and on the DNREC public notices website. 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
- DNREC, Division of Water
- 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 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.

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), 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), and Excessive Idling of Heavy-Duty Vehicles (7 DE Admin. Code 1145).

The Division of Fish and Wildlife (DFW) requires that no construction occur in marsh habitats from April 1 to July 31 to protect marsh nesting birds, and that no in water work be undertaken between March 15 to June 30, to

protect anadromous fish species (Atlantic Sturgeon, striped bass, American shad). Soft start pile driving is also recommended. According to the review submission, the proposed construction timeline and procedures are congruent with DFW comments.

## CONDITIONAL CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP conditionally concurs that the Dobbinsville Fishing Pier and Parking Improvements project 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 it relates to enforceable policies 5.3 and 5.4:

The applicant shall obtain all necessary state permits/authorizations/leases related to wetlands and subaqueous lands impacts as regulated by the State of Delaware. 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, DNREC DFW 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 \(Aug 5, 2025 16:16:18 EDT\)](#)

Jesse Hayden, Administrator  
Delaware Coastal Management Program

JH/sz

cc: File FC 2025.0016  
Jeremy Ashe, DFW  
James Colligan, USACE  
Missy Kalb, Kleinfelder  
Tina Merrill, DAQ  
Faith Garcia, DFW  
Matt Jones, DW  
Elaine Webb, DWS