



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No. NAP-2018-00045-85	Date October 4, 2022
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Application No. <u>NAP-2018-00045-85</u>	File No. <u>NAP-2018-00045-85</u>
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In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Janice Erich, Cape Shores Homeowners Association

AGENT: Terry Deputy, DDNREC Division of Watershed Stewardship

WATERWAY: Delaware Bay at Breakwater Harbor

LOCATION: Cape Shores coastline, Tax Map Parcel 3-35-5.00-240.00 Lewes, Sussex County, Delaware (38.784215°N, 75.108676°W).

ACTIVITY: The Cape Shores Homeowners Association has applied for a Department of the Army permit to conduct beach nourishment activities in the Breakwater Harbor/Delaware Bay, at the Cape Shores residential community, Tax Map Parcel 3-35-5.00-240.00, Lewes, Sussex County, Delaware. The applicant proposes to discharge approximately 31,500 cubic yards of sand from an upland borrow site onto the shoreline to replenish 2,915 linear feet of beach and dune. From 1998 to 2022, beach nourishment activities at this location have taken place approximately 12 times with the placement of anywhere from 4,300 cubic yards of sandy material to 30,900 cubic yards of sandy material. The dimensions of the project are indicated on the attached plans.

PURPOSE: The purpose of the project is to provide protection for waterfront homes during coastal storms and to restore a recreational beach for the residents of the Cape Shores and the public.

A preliminary review of this application indicates that the proposed work would not affect listed species listed or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect

the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The comment period is open for 15 days from the date of this announcement. Comments on the proposed work should be submitted via email to the District Engineer, USACE, Philadelphia District at PhiladelphiaDistrictRegulatory@usace.army.mil. If it is necessary to provide a paper copy, comments can be mailed to the U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390, Attn: CENAP-OPR.

The USACE Cultural Resource Specialist is currently reviewing the proposed permit action for potential impacts to Historic Properties eligible for or listed on the National Register of Historic Places. A determination of effects will be coordinated with the State Historic Preservation Office, the Tribes and other consulting parties.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the NOAA Fisheries on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary review of this application indicates that EFH is present within the project area. The Philadelphia District will evaluate the potential effects of the proposed actions on EFH and will consult with NOAA Fisheries as appropriate. Consultation will be concluded prior to the final decision on this permit application.

Compensatory mitigation: The project cannot be avoided entirely because it is, by its nature, a water-dependent activity. Absent the proposed beach replenishment, the residents of the Cape Shores and their homes would be placed in jeopardy by future storms and seasonal erosion. The project would occur within the intertidal zone of the shoreline, an area of shallow sandy substrate which does not support wetlands or other special aquatic sites. Because no wetlands or other special aquatic sites would be impacted by the project, the applicant is not proposing to conduct any compensatory mitigation for the work.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a

State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

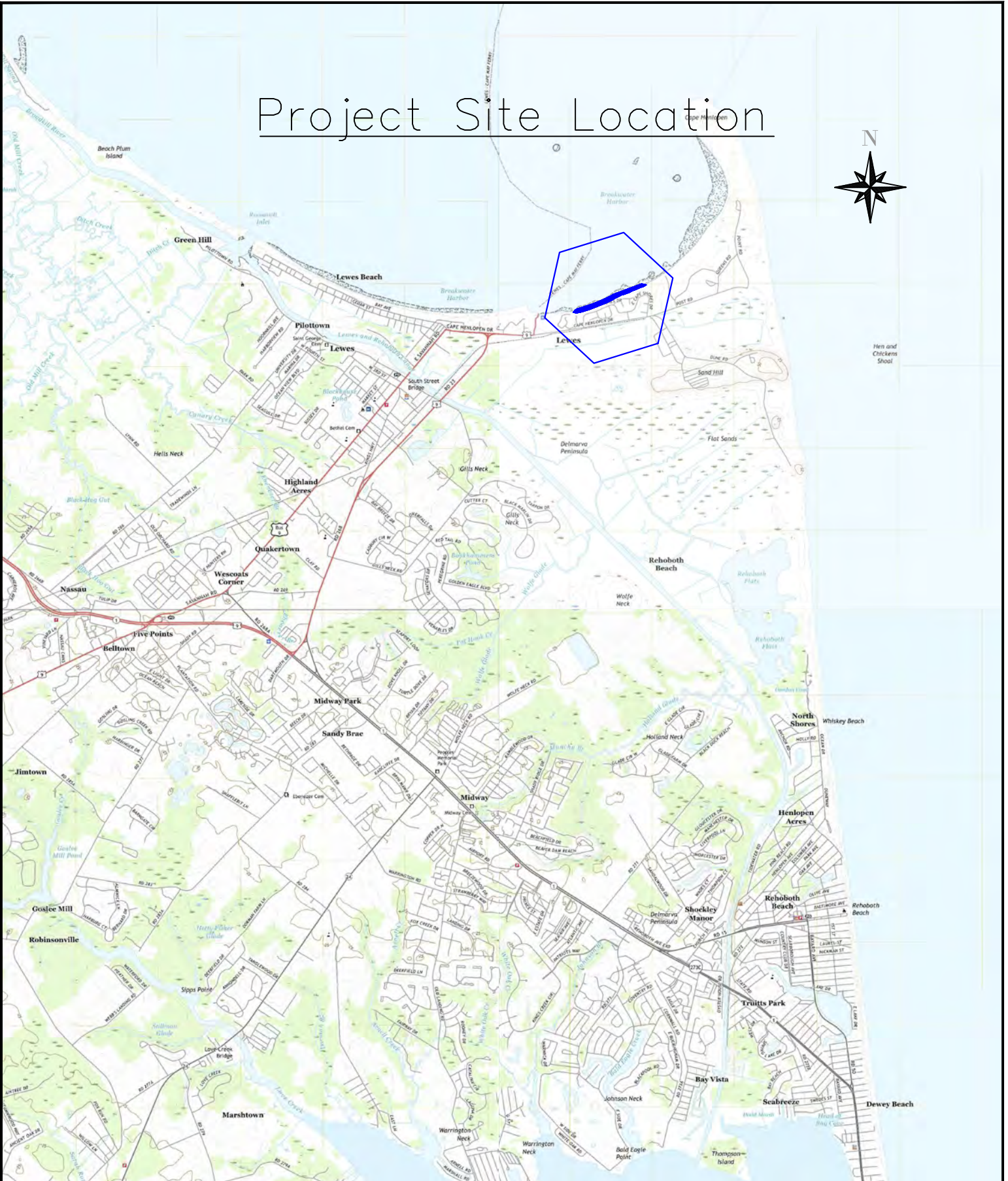
The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling (267) 240-5278 at Michael D. Yost, via email at michael.d.yost@usace.army.mil, or writing this office at the above address.

For: Todd A. Schaible,
Chief, Regulatory Branch


Project Site Location



Scale: 1" = 5000'	Date: 04/07/22
Designed by:	N/A
Drawn by:	J. Faries, P.E.
Checked by:	A. Norton
Sheet No.	1 of 4

**Cape Shores Truck Fill
Permit Plans**

 COASTAL
 SUSSEX COUNTY, DELAWARE



DELAWARE DEPARTMENT OF
**NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

Division of Watershed Stewardship
Shoreline and Waterway Section

Dover Office
 285 Beiser Blvd.
 Dover DE, 19904
 Phone: (302) 739 - 9921


 Lewes Office
 901 Pilottown Rd
 Lewes DE, 19958
 Phone: (302) 855 - 7290



Scale: 1" = 500'	Date: 04/07/22
Designed by: Others	
Drawn by: J. Faries, P.E.	
Checked by: A. Norton	
Sheet No. 2 of 4	

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Designed by:	Others
Drawn by:	J. Faries, P.E.
Checked by:	A. Norton
Sheet No.	3 of 4

Cape Shores Truck Fill Permit Plans

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SUSSEX COUNTY, DELAWARE



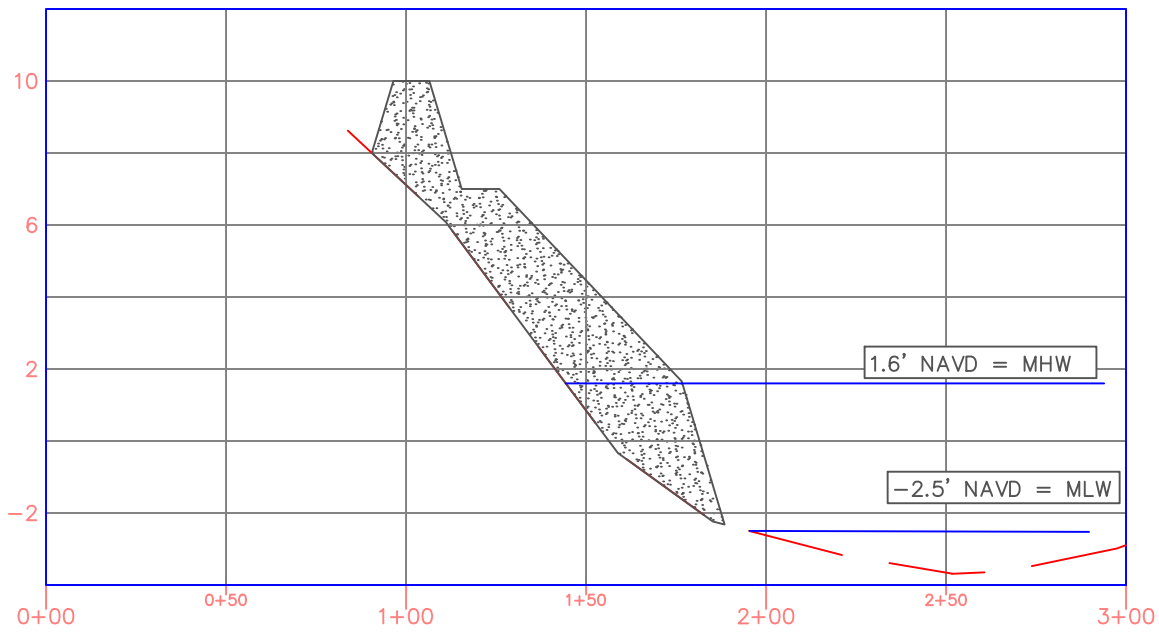
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CS - LRP21+90



SCALE: H: 1" = 50'
 V: 1" = 5'

Scale: As Shown Date: 04/07/22

Designed by: Others

Drawn by: J. Faries, P.E.

Checked by: A. Norton

Sheet No. 4 of 4

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