



Cullen and Dykman LLP
 Continental Plaza
 433 Hackensack Avenue
 Hackensack, NJ 07601
 T: 201.488.1300
 F: 201.488.6541

ANTHONY S. BOCCHI
 PARTNER
abocchi@cullenllp.com

January 5, 2023

Via JEDS

Hon. Michael J. Blee, A.J.S.C.
 Superior Court of New Jersey
 Cape May County Courthouse
 9 North Main Street
 Cape May, New Jersey 08210

RE: New Jersey Department of Environmental Protection v. City of North Wildwood, et al.
Docket No. CPM-C-55-22

Dear Judge Blee:

As you know, I serve as counsel to the City of North Wildwood (“North Wildwood”) in this matter. Yesterday our office filed papers in opposition to Plaintiff the New Jersey Department of Environmental Protection’s (“NJDEP”) application for preliminary injunctive relief and in support of North Wildwood’s application for injunctive relief. By this letter, we respectfully request that North Wildwood’s opposition be supplemented as set forth herein.

Today my office was provided a slide presentation prepared by the New Jersey Department of Environmental Protection’s Division of Resilience Engineering and Construction in connection with the Rutgers University Superstorm Sandy 10-year Anniversary Coastal Resiliency Conference (the “NJDEP Presentation”). The conference took place on October 6, 2022, the day after the subject Emergency Authorization was submitted by North Wildwood. The NJDEP Presentation is attached hereto at Exhibit A.

The NJDEP Presentation establishes the following:

- Page 6 of NJDEP’s Presentation shows a graphic image that illustrates that the Cape May to Hereford Inlet Reach is the *only* reach along the 127 miles of oceanfront to have not been constructed;
- Page 8 of the NJDEP Presentation sets forth that for Post Sandy USACE projects a total of \$595,700,000 has been funded for USACE/NJDEP projects. North Wildwood received \$1,800,000 in funding for the Hereford Sea wall FCCE Repair project, which was last completed in 2014. This represents .3% of all funding for all USACE/NJDEP funding in the last 10 years. This .3% figure is now even lower because since the



Hon. Michael J. Blee, A.J.S.C.

January 5, 2023

Page 2

NJDEP Presentation over \$40,000,000 in funding was approved for the Avalon/Stone Harbor beach-fill.

- Page 8 of the NJDEP Presentation demonstrates that the “Hereford Inlet to Cape May Inlet; Wildwood Beachfill Initial Construction” project is the only project within the Philly District that is still in the “design” stage. Every other project in the Philly District has been completed.

We respectfully request that Your Honor consider the attached NJDEP Presentation in connection with the pending application for preliminary injunctive relief scheduled for January 17, 2023.

We wanted to provide the NJDEP Presentation to the court as quickly as possibly so that counsel for NJDEP has ample opportunity to respond to same by January 11, 2023, the deadline set forth in the court’s Order dated December 8, 2022.

We thank Your Honor for the court’s consideration of this request.

Respectfully submitted,

CULLEN AND DYKMAN LLP

A handwritten signature in blue ink, appearing to read 'ASB', written over the printed name 'ANTHONY S. BOCCHI'.

ANTHONY S. BOCCHI

ASB/rc

cc: Kevin H. Terhune, D.A.G. (via JEDS)

EXHIBIT A



Division of Resilience Engineering & Construction: Post-Sandy Efforts in New Jersey

Chris Constantino & Erick Doyle | Oct 6, 2022



Watershed & Land Management

“...WLM works to preserve, protect, and improve the integrity of New Jersey’s water and natural resources, while protecting life and property from environmental threats.”

Assistant Commissioner: Vince Mazzei



WLM Divisions

Division of
Land Resource
Protection

Director: Jennifer
Moriarty

Division of
Watershed
Protection &
Restoration

Director: Anika
Andrews

Division of
Resilience
Engineering &
Construction

Director: Dennis
Reinknecht

DREC Offices

Office of Coastal Engineering (Toms River)

- Bureau of Construction & Engineering
- Bureau of Operation & Maintenance

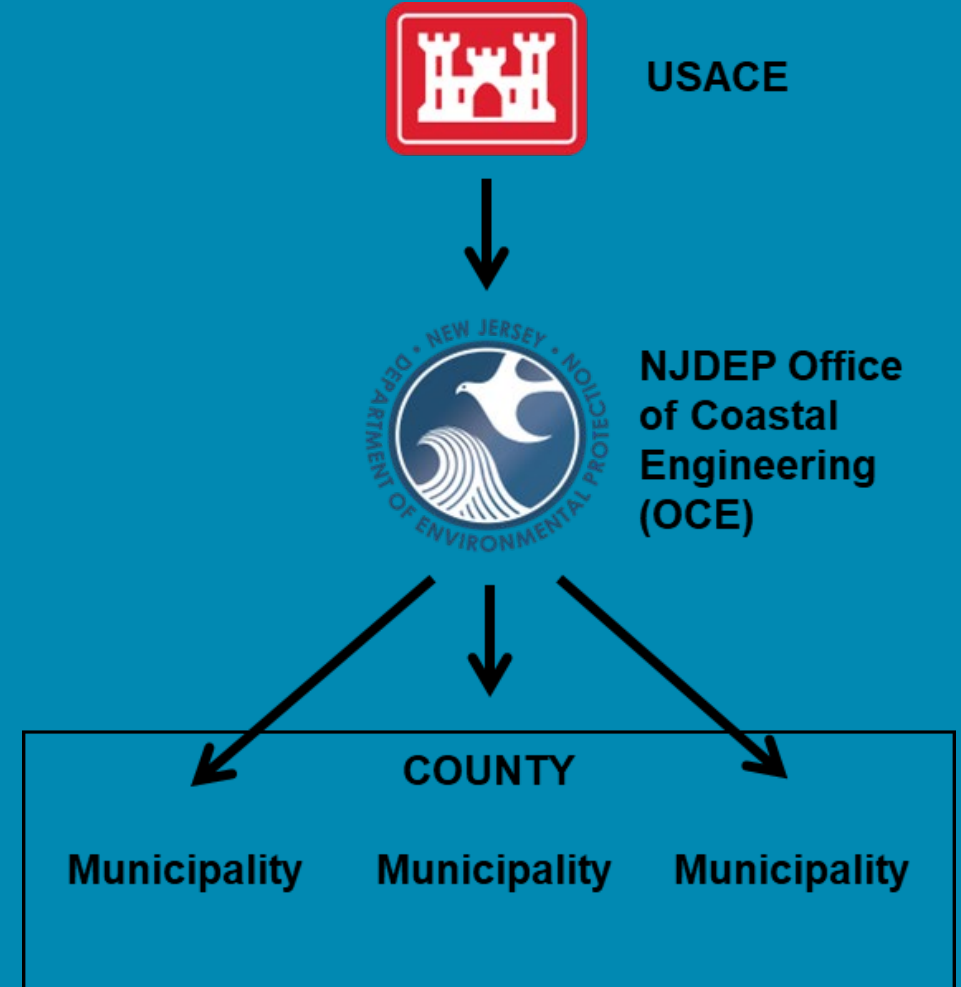
Office of Dam Safety & Flood Engineering (Trenton)

- Bureau of Dam Safety
- Bureau of Flood Engineering & Climate Resilience Design



Office of Coastal Engineering's Role w/ USACE

- All USACE projects and studies require a non-federal sponsor
- OCE is non-fed sponsor on all major USACE Coastal Storm Risk Management (CSR) construction projects and feasibility studies in NJ, along with respective partners at the county and municipal level.
- Most USACE projects and studies span multiple municipalities; OCE serves as the liaison between USACE and the municipalities



USACE Projects

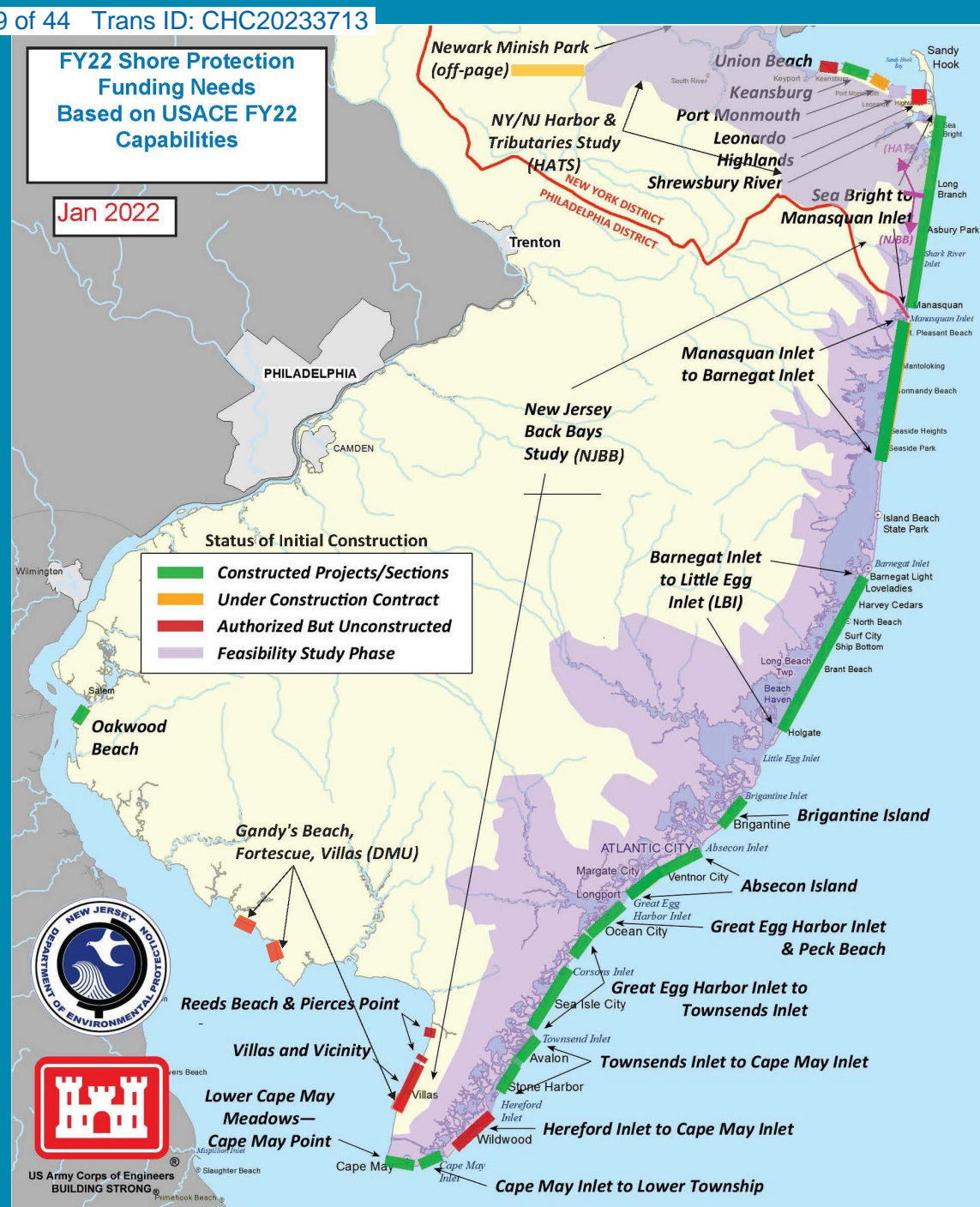
2012

- ~ 50% of the developed Atlantic facing coast was part of a USACE CSRMM project

2022

- ~90% of the developed Atlantic facing coast was part of a USACE CSRMM project

80% INCREASE!



Post-Sandy USACE Projects (NY District)



Project Name (North to South)	Cost	Status
Minish Park Bulkhead Initial Construction	\$56M	Ongoing
Union Beach Beachfill, Tide Gate, Levees, Floodwalls, Road Raising Initial Construction	\$289M	Ongoing
Keansburg FCCE Beachfill and Levee Repair	\$40M	Completed 2014
Port Monmouth Beachfill, Tide Gate, Levees, Floodwalls, Road Raising Initial Construction	\$115M	Ongoing
Sea Bright to Manasquan FCCE Beachfill (Sea Bright-Long Branch, Asbury Park to Avon-by-the-Sea, Belmar to Manasquan)	\$109M	Completed 2014
Sea Bright to Manasquan (Initial Construction of Elberon to Loch Arbour)	\$125M	Completed 2016
TOTAL	\$734M	

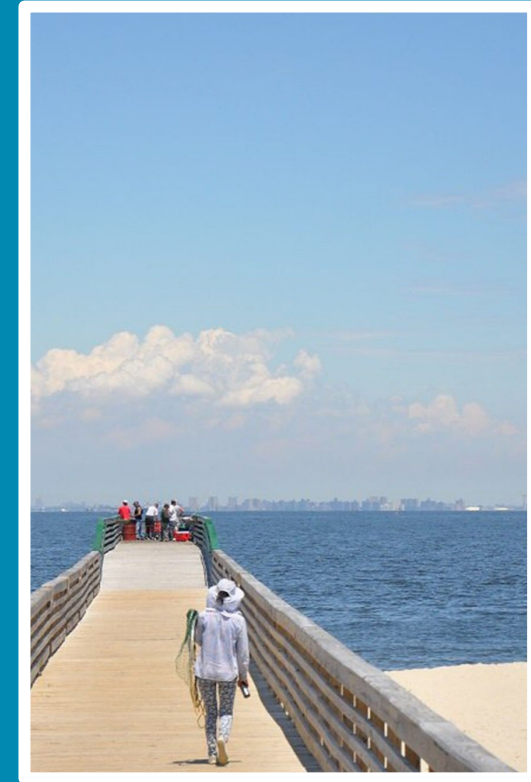
Post-Sandy USACE Projects (Philly District)



Project Name (North to South)	Cost	Status
Manasquan Inlet to Barnegat Inlet Beachfill Initial Construction	\$123M	Completed 2019
Barnegat Inlet to Little Egg Inlet (LBI) - Harvey Cedars, Surf City, Brant Beach FCCE Beachfill	\$31M	Completed 2013
Barnegat Inlet to Little Egg Inlet (LBI) - Ship Bottom, Beach Haven, Surf City, Long Beach Twp Initial Construction	\$143M	Completed 2016
Brigantine Island Periodic Nourishment	\$13.7M	Completed 2013
Absecon Island Renourishment + FCCE Beachfill	\$23M	Completed 2013
Absecon Inlet Seawall	\$32.5M	Completed 2018
Absecon Island Renourishment (AC + Ventnor) + Initial Construction (Margate + Longport)	\$76M	Completed 2018
Great Egg Harbor Inlet & Peck Beach Periodic Nourishment (Northern Ocean City)	\$17M	Completed 2013
Great Egg Harbor Inlet to Townsends Inlet Initial Construction + FCCE Beachfill (Southern Ocean City, Strathmere, Sea Isle City)	\$92M	Completed 2016
Townsends Inlet to Cape May Inlet, Hereford Seawall FCCE Repair	\$1.8M	Completed 2014
Hereford Inlet to Cape May Inlet (Wildwoods) Beachfill Initial Construction	\$21.6M	Design
Cape May Inlet to Lower Twp Periodic Nourishment (FCCE)	\$9.7M	Completed 2014
Delaware Bay Coastline, Oakwood Beach Beachfill Initial Construction	\$11.4M	Completed 2014
	TOTAL	\$595.7M

Port Monmouth

- Contract: Initial construction of entire project (7 contracts)
- Description: Beach berm and system of levees, floodwalls, road raising, and tide gate to reduce flood risk
- Status: 4 out of 7 contracts completed
- Date Completed: 2025?
- Total Cost: \$115 M
- Cost Share: 100% Fed / 0% non-fed





Manasquan Inlet to Barnegat Inlet

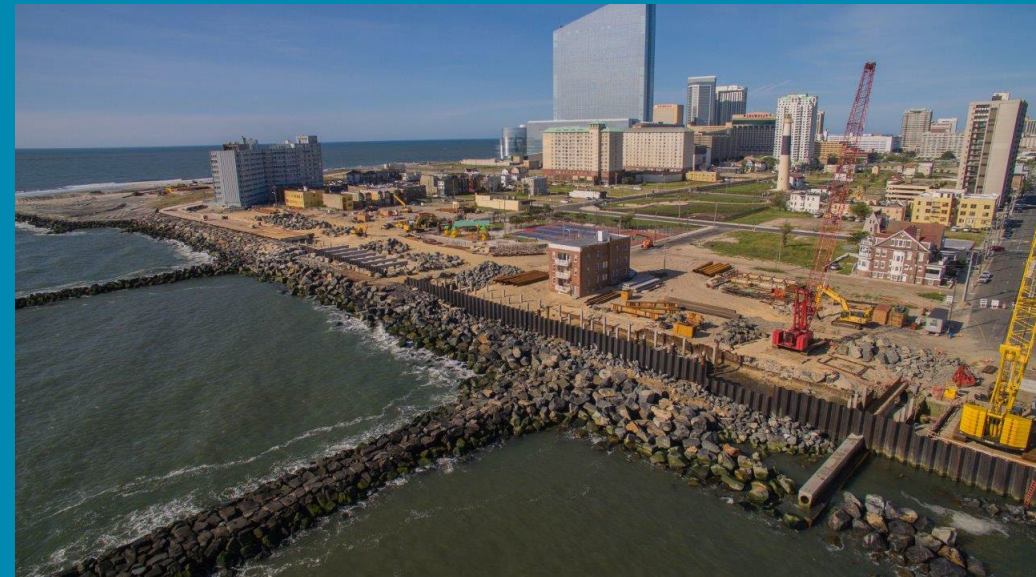
- Contract: Initial Construction of entire project (1 contract)
- Description: Beach and dune system to reduce damages to oceanfront homes, businesses, and infrastructure
- Status: Complete
- Date Completed: July 2019
- Total Cost: \$123 M
- Cost Share: 65% Fed / 35% non-fed





Absecon Island

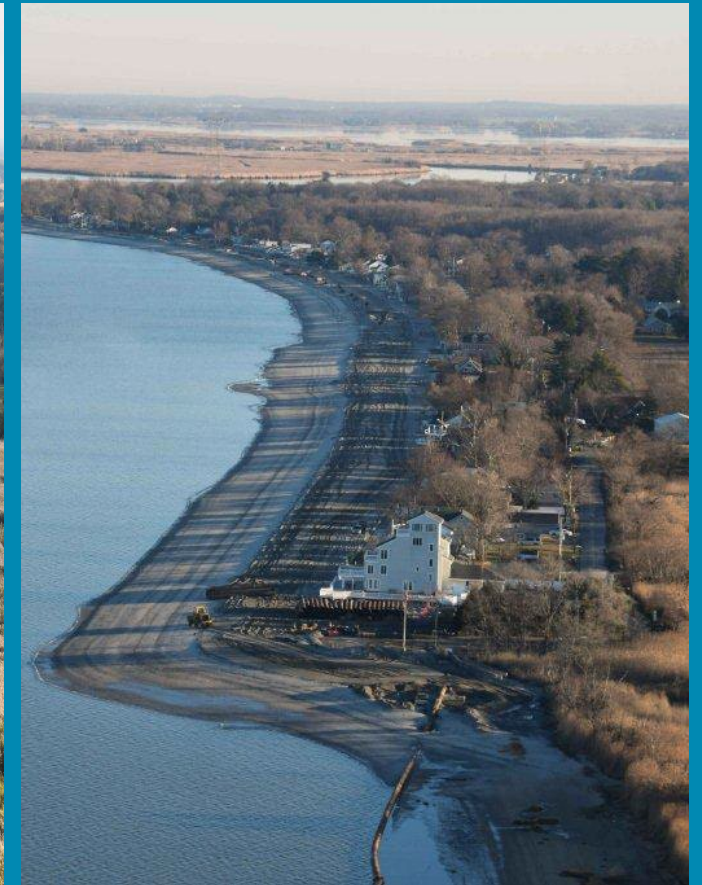
- **Contract:** 3rd/4th renourishments, partial initial construction (beachfill), and initial construction of seawall (3 contracts)
- **Description:** Beach and dune system w/ stone seawall at north end of Atlantic City to reduce damages to oceanfront homes, businesses, and infrastructure
- **Status:** Complete
- **Date Completed:** 2018
- **Total Cost:** \$132 M
- **Cost Share:** 65% Fed / 35% non-fed for periodic nourishments, 100% fed for emergency beachfill and seawall





Oakwood Beach

- **Contract:** Initial construction of entire project
- **Description:** Beach berm to reduce damages to bayfront homes, businesses, and infrastructure
- **Status:** Complete
- **Date Completed:** 2014
- **Total Cost:** \$11.4 M
- **Cost Share:** 65% Fed / 35% non-fed

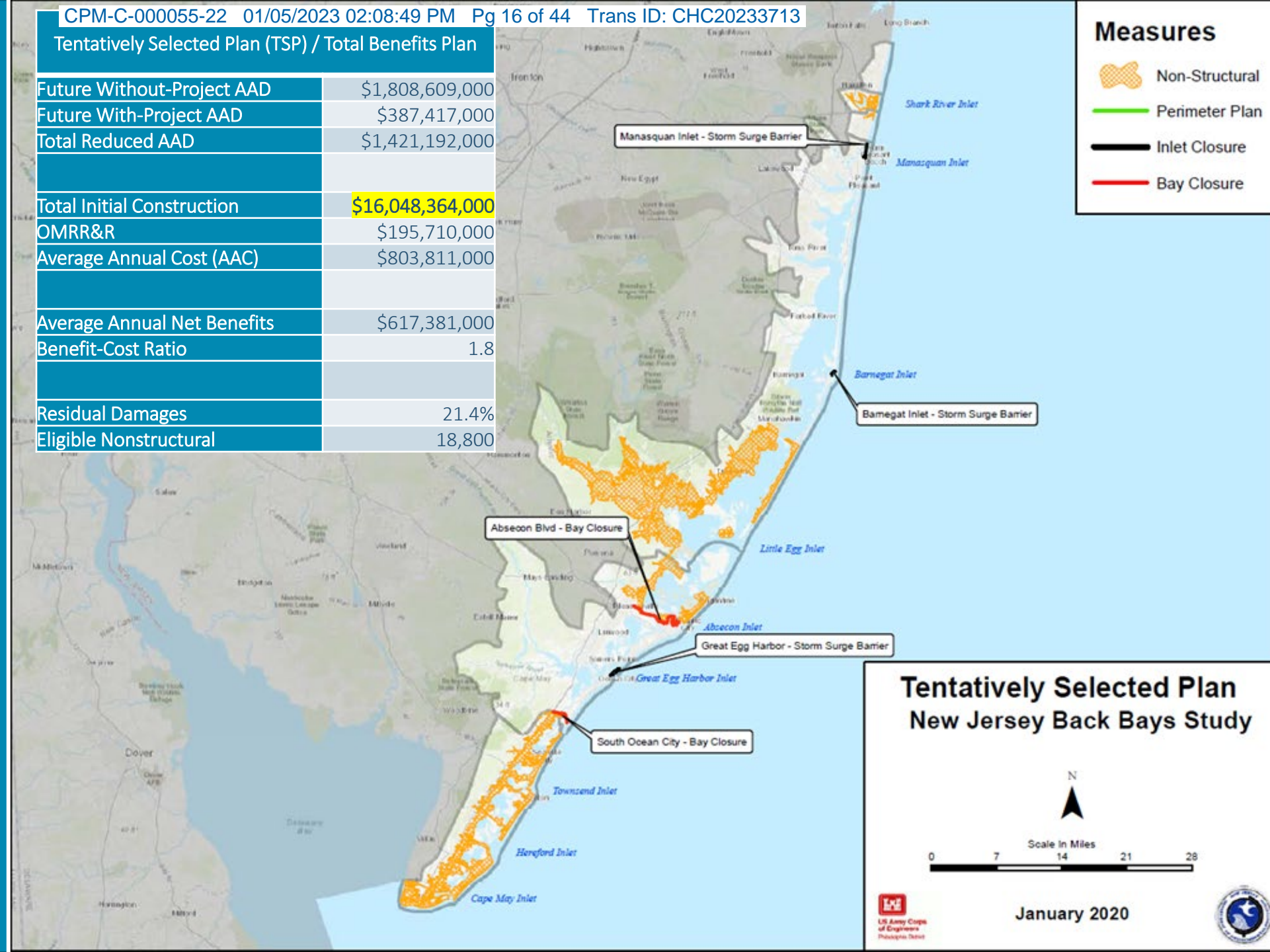




New Jersey Back Bays Study

Tentatively Selected Plan (TSP) / Total Benefits Plan

Future Without-Project AAD	\$1,808,609,000
Future With-Project AAD	\$387,417,000
Total Reduced AAD	\$1,421,192,000
Total Initial Construction	\$16,048,364,000
OMRR&R	\$195,710,000
Average Annual Cost (AAC)	\$803,811,000
Average Annual Net Benefits	\$617,381,000
Benefit-Cost Ratio	1.8
Residual Damages	21.4%
Eligible Nonstructural	18,800



Measures

- Non-Structural
- Perimeter Plan
- Inlet Closure
- Bay Closure





Tentatively Selected Plan New Jersey Back Bays Study

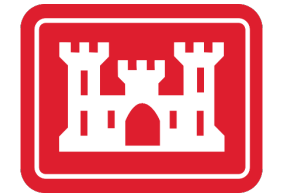
Scale in Miles: 0, 7, 14, 21, 28

January 2020

NJ& NY Harbor Area & Tributaries Study "HATS"



- Legend** Scale 1:3,000,000
-  NY/NJ Harbor & Tributaries Study Area
 -  0.1 Annual Exceedance Probability (10-year storm event)
 -  0.01 Annual Exceedance Probability (100-year storm event) & 3 Feet
 -  0.001 Annual Exceedance Probability (1000-year storm event)





Post-Sandy State/Local Projects

Project Name (North to South)	Cost	Status
FEMA Sea Bright/Monmouth Beach Seawall Repair	\$28.3M	Completed 2019
FEMA Avon Shark River Bulkhead	\$1.4M	Completed 2016
FEMA Absecon Inlet Jetty Repair	\$3M	Completed 2020
FEMA Longport Revetment Reconstruction	\$2.7M	Completed 2017
FHWA Brick/Mantoloking Rt. 35 Steel Sheetpile Wall	\$23.4M	Completed 2015
FEMA Heislerville Dike Repair	\$449k	Completed 2013
FEMA/Blue Acres Money Island Shoreline Restoration	\$957k	Completed 2022
	TOTAL	\$60.1M



FEMA



U.S. Department
of Transportation

**Federal Highway
Administration**





Sea Bright/Monmouth Beach Seawall

- **Description:** Repair/reconstruction of 7 sections of previously built seawall (3,000 LF) and construction of new seawall to fill approximately 1,000 LF in gaps.
- **Status:** Complete
- **Date Completed:** 2019
- **Total Cost:** \$28.3 M
- **Cost Share:** 100% Fed (90% FEMA, 10% HUD-CDBG)



FEMA





Sea Bright/Monmouth Beach Seawall



Sea Bright Municipal Beach

Pre-Construction

8/4/2017



FEMA



Sea Bright/Monmouth Beach Seawall



Sea Bright Municipal Beach

During-Construction

5/14/2018



FEMA



Sea Bright/Monmouth Beach Seawall



Sea Bright Municipal Beach

Post-Construction

5/22/2019



FEMA



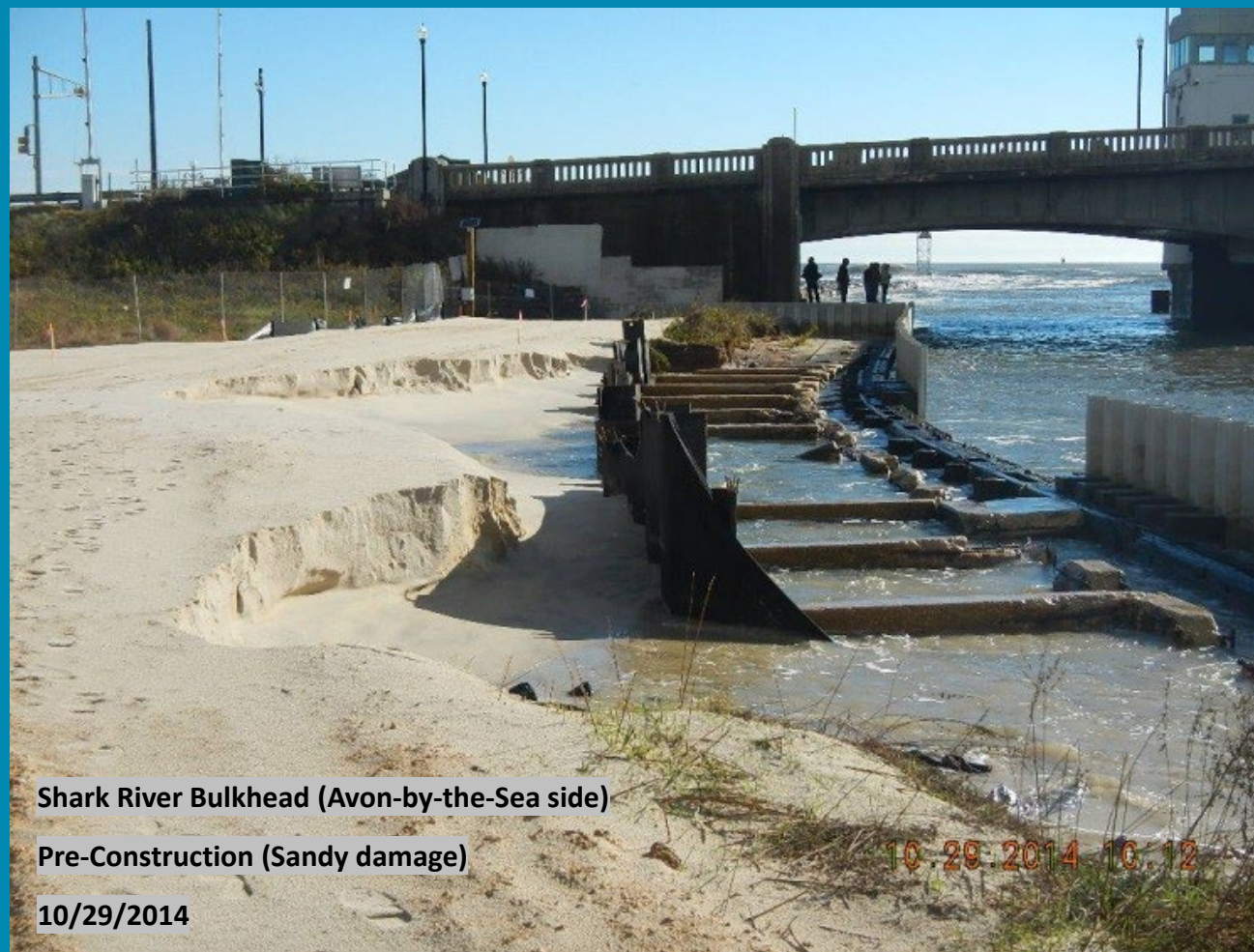
Shark River Bulkhead Replacement

- **Description**: Replace 641 LF of damaged aluminum bulkhead with steel sheetpile bulkhead
- **Status**: Complete
- **Date Completed**: 2016
- **Total Cost**: \$1.4 M
- **Cost Share**: 90% FEMA / 10% State





Shark River Bulkhead Replacement



Shark River Bulkhead (Avon-by-the-Sea side)

Pre-Construction (Sandy damage)

10/29/2014



FEMA



Shark River Bulkhead Replacement



Shark River Bulkhead (Avon-by-the-Sea side)

Post-Construction

7/2016





Brick/Mantoloking Rt. 35 Steel Sheetpile Wall

- Description:
 - 3.5 - mile oceanfront steel sheetpile bulkhead
 - Brick and Mantoloking
 - Aligned to be covered by USACE dune
 - Serves as additional line of protection for Rt. 35 coastal evacuation route
- Date Completed: 2015
- Total Cost: \$23.4 M
- Cost Share: 80% FHWA / 20% State



U.S. Department
of Transportation

**Federal Highway
Administration**



Brick/Mantoloking Rt. 35 Steel Sheetpile Wall



Mantoloking Breach

Pre-Construction (Sandy damage)

10/30/2012



U.S. Department
of Transportation

**Federal Highway
Administration**



Brick/Mantoloking Rt. 35 Steel Sheetpile Wall



Brick/Mantoloking Sheetpile Wall

During Construction

9/4/2014

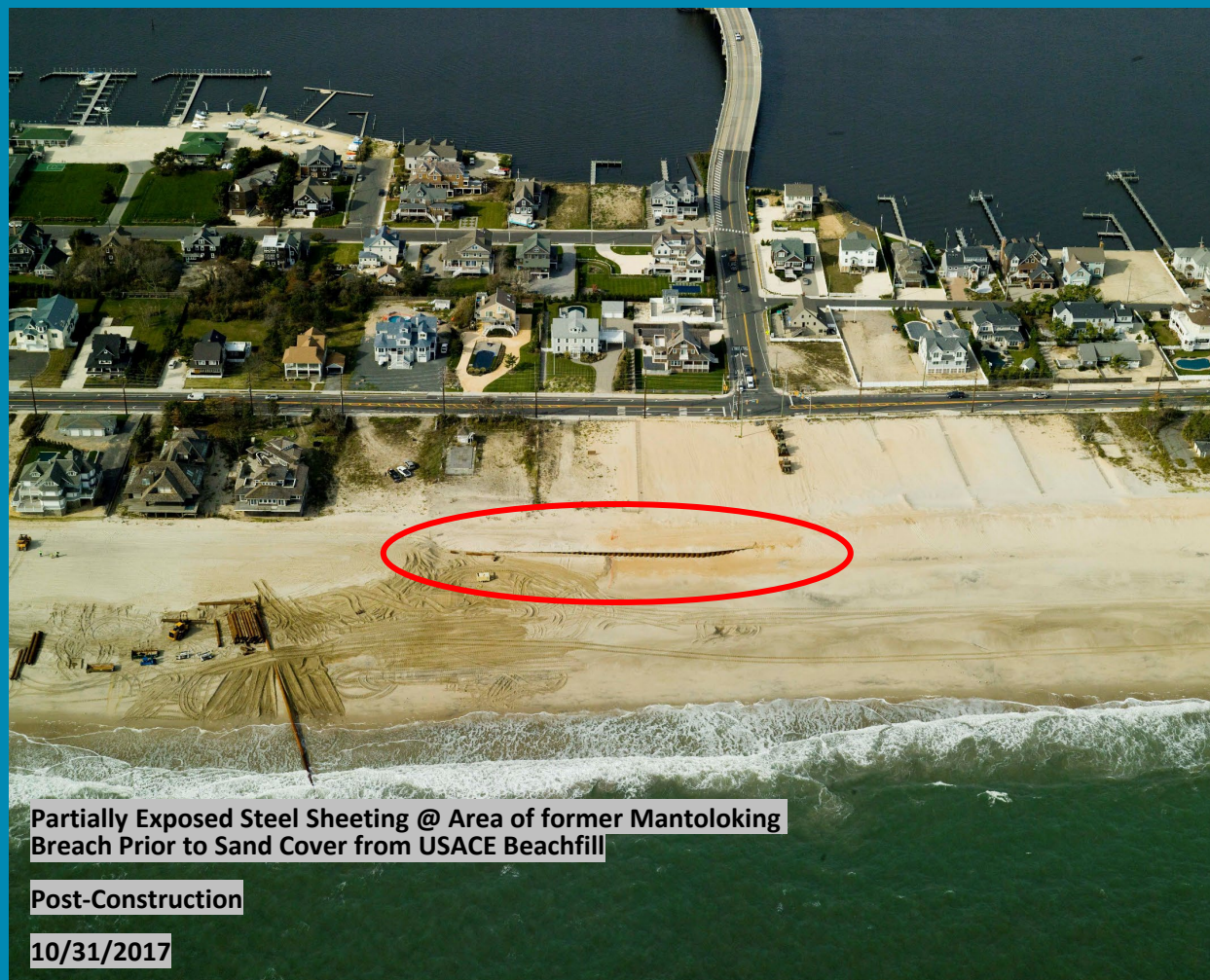


U.S. Department
of Transportation

**Federal Highway
Administration**



Brick/Mantoloking Rt. 35 Steel Sheetpile Wall



Partially Exposed Steel Sheetpile @ Area of former Mantoloking Breach Prior to Sand Cover from USACE Beachfill

Post-Construction

10/31/2017



U.S. Department of Transportation

Federal Highway Administration



Heislerville Dike Repair

- Description: Repair of 400' breach to dike as a result of Sandy
- Date Completed: 2013
- Total Cost: \$449k
- Cost Share: 90% FEMA / 10% State





Heislerville Dike Repair



Heislerville Dike

Pre-Construction (Sandy damage)

10/31/2012



FEMA



Heislerville Dike Repair



Heislerville Dike

Post-Construction

6/27/2013

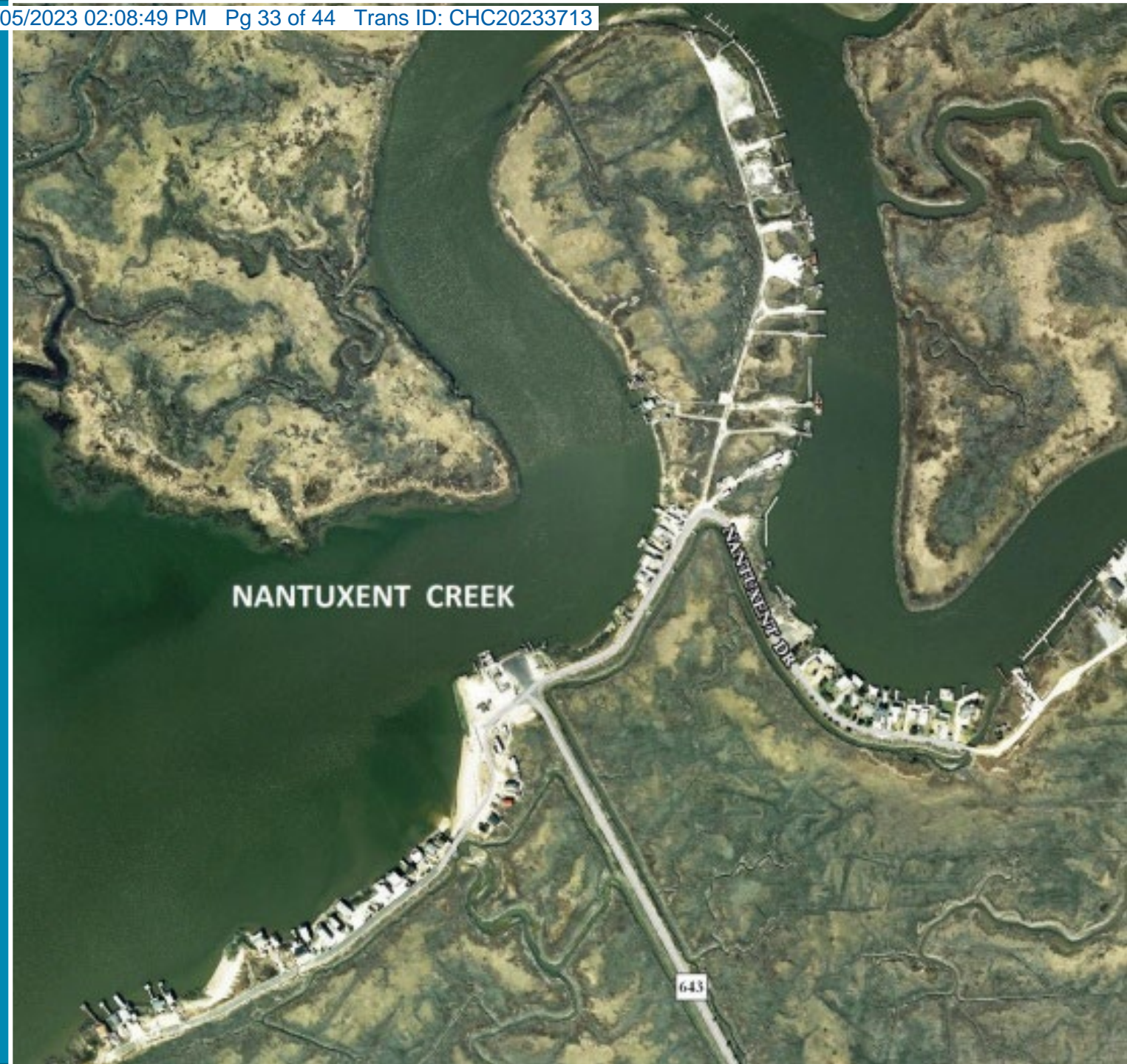
06/27/2013



FEMA

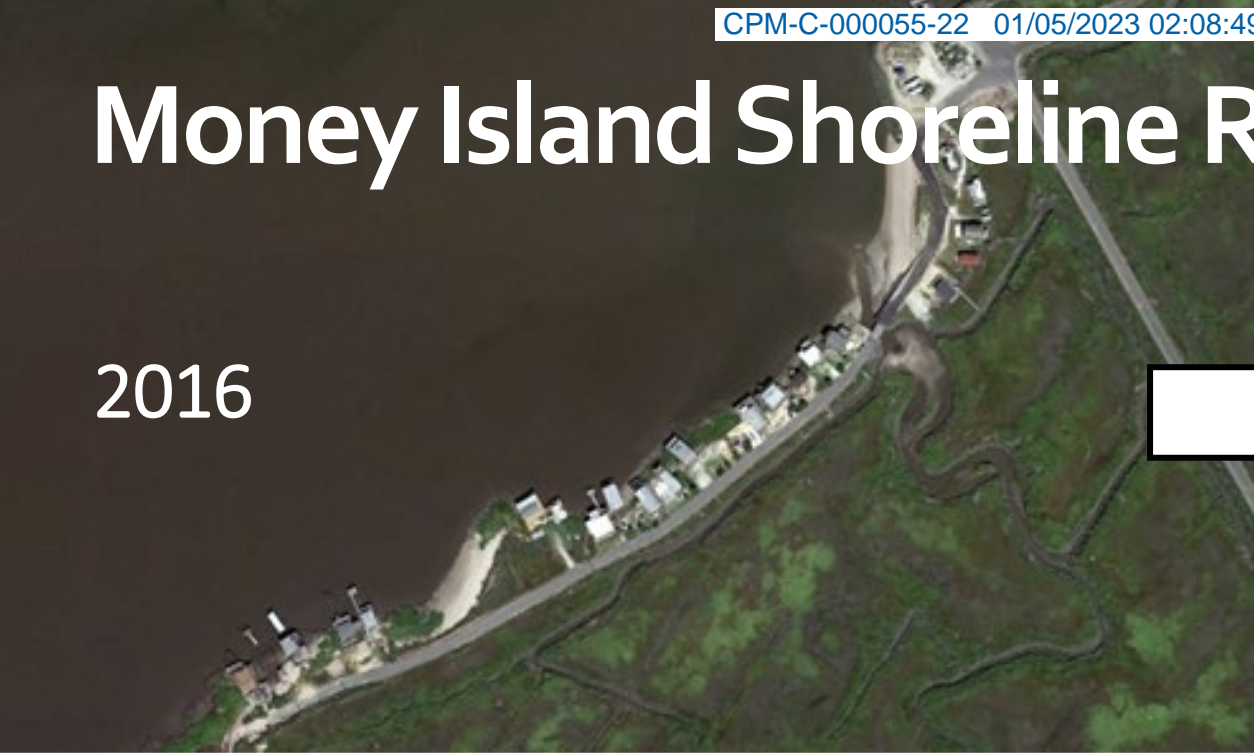
Money Island Shoreline Restoration

- Description: 1st in the nation effort utilizing FEMA HMGP funds for shoreline/habitat restoration
- Goal: Create horseshoe crab spawning and red knot foraging habitat
- Date Completed: 2022
- Total Cost: \$957k (Shoreline Restoration ONLY)
- Cost Share: 100% FEMA



Money Island Shoreline Restoration

2016



2021



2020



2021



Money Island Shoreline Restoration

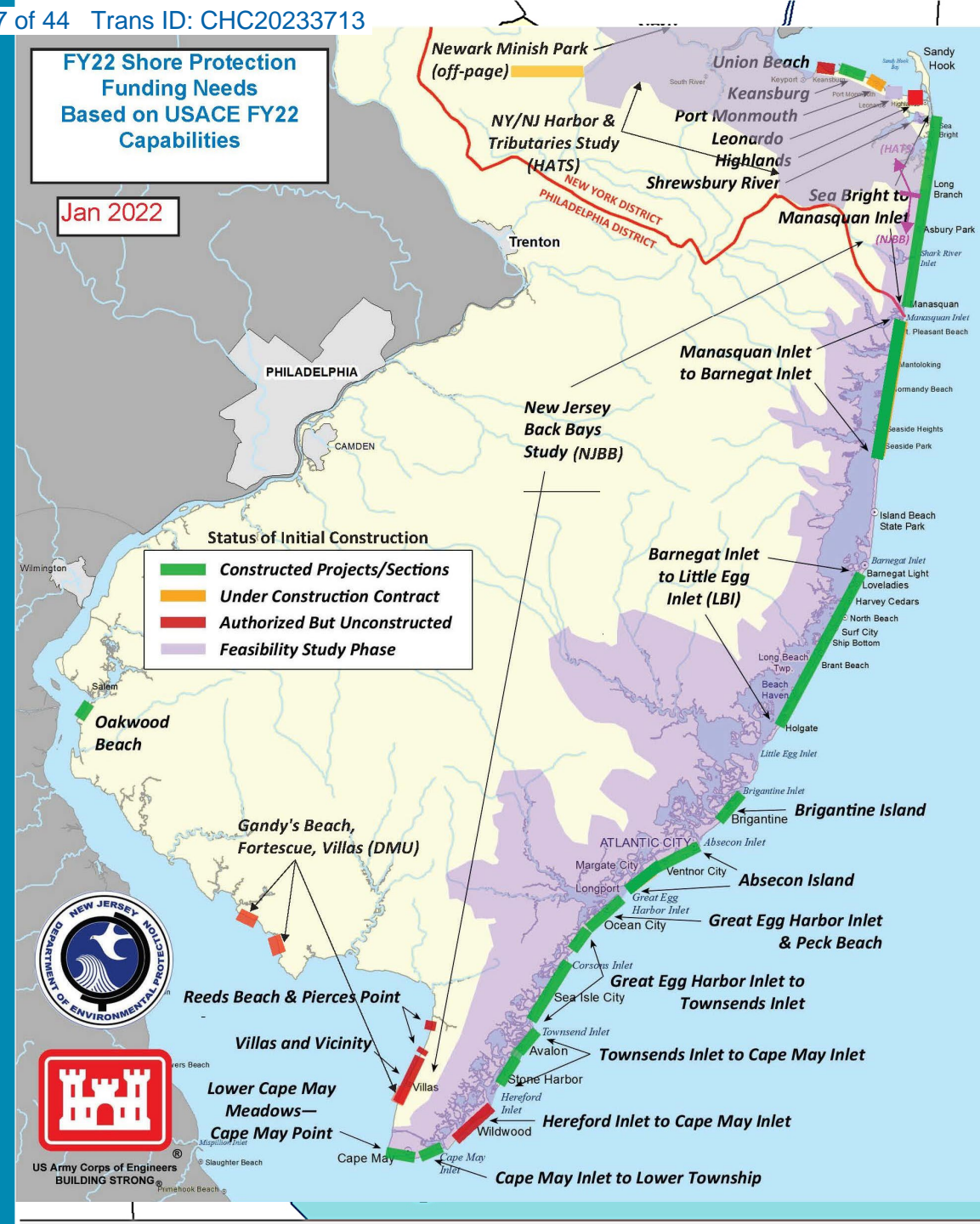


Money Island Shoreline Restoration



Project Challenges

- Permitting
- Real Estate Acquisition
- Coordination with Municipalities
- Funding



Permitting Challenges

- **USACE Projects**
 - Fed Cons
 - NEPA Coordination
- **State/Local Projects**
 - CAFRA
 - Waterfront
 - Department of Army
- **Review of Others' Permit Applications**
 - Section 408 Reviews
 - NJDEP Permits
 - Easement Holder
 - Coastal Engineering



Real Estate Challenges

- **USACE Projects**
 - **5,193 Easements Required**
 - Several hundred outstanding
 - Remaining are in varying stages
 - Port Monmouth
 - Union Beach
 - Hereford
 - **Lengthy condemnation process and legal battles**
 - **+400**



Funding Challenges

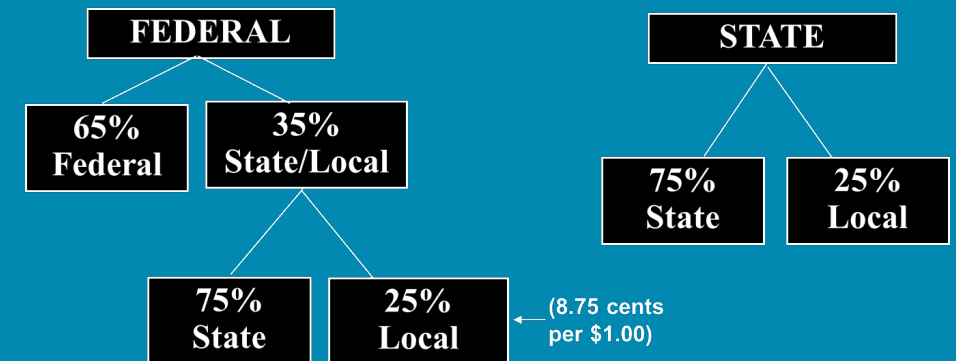
- **USACE Projects**
 - Sandy Bill - P.L. 113-2 Congress funded most of the ongoing authorized projects such as LBI in NJ at 100% federal funding
 - Others such as Manasquan Inlet to Barnegat Inlet required State and locals to meet non-federal cost share
 - State Shore Protection Funding has almost exclusively been committed to meeting non-federal cost shares on USACE projects
 - Little to no funding for State/Local projects
 - Pursued other federal funding sources, such as FEMA, to fund state/local projects due to lack of State funds



Cost Shares on USACE Projects

- **FEASIBILITY STUDIES**
 - 50/50 Fed/Non-Fed Cost Share
 - OCE funds 100% of non-fed share; no cost to municipalities
- **INITIAL CONSTRUCTION PROJECTS**
 - Typically 65/35 Fed/Non-Fed Cost Share
 - OCE contributes 75% of non-fed share; municipalities contribute 25% (8.75 cents for ever dollar)
 - Periodic Nourishment – Some 65%/35%, Some 50%/50%

OCE's non-federal cost share is funded using the state Shore Protection Fund



NJ Shore Protection Fund

- **Shore Protection Fund is Dedicated....**

“To protect existing development and infrastructure from storm surges, sea-level rise, and shoreline migration, through dune creation and maintenance, beach nourishment projects and construction and repair of shore protection structures.”

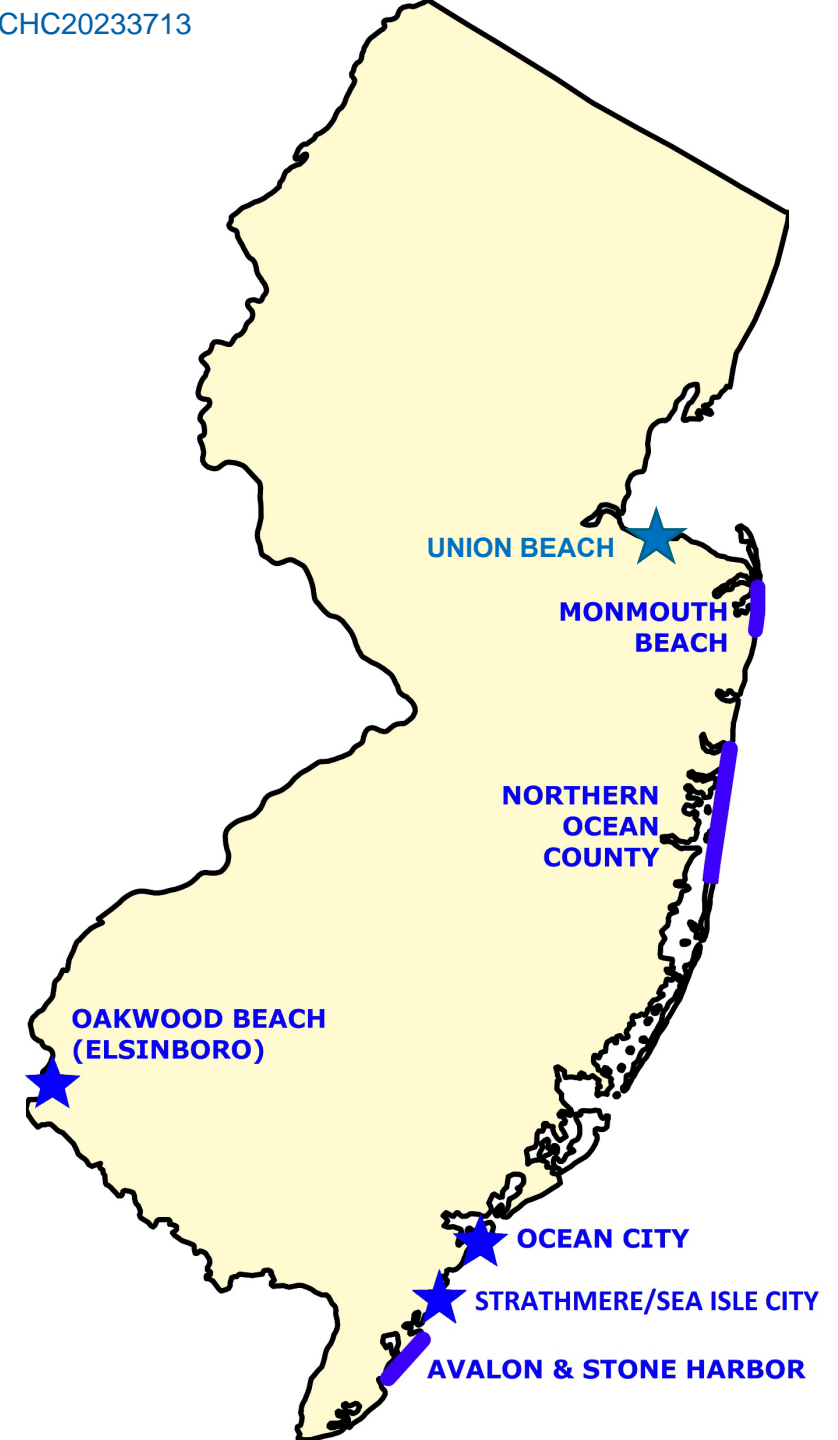
\$25 million dedicated annually

Realty Transfer Tax (N.J.S.A. C. 13:19-16.1)

- **Prior to Sandy – Sufficient to fund ongoing USACE activities and several State/Local Projects per year**
- **Currently...well, let's take a look...**

Forthcoming Beachfills

Project Name (North to South)	Fed Share	State Share	Local Share	TOTAL	Status
Union Beach Contract 1 Beachfill Initial Construction	\$32.6M	\$13.2M	\$4.4M	\$50.2M	Awarded
Sea Bright to Manasquan [Elberon (base), Monmouth Beach (option), Sea Girt (option), Manasquan (option)] Periodic Nourishment	\$21.2M	\$8.5M	\$2.9M	\$32.6M	Bids Received
Manasquan Inlet to Barnegat Inlet Periodic Nourishment	\$30.2M	\$22.7M	\$7.5M	\$60.4M	Design
Great Egg Harbor Inlet & Peck Beach (Northern Ocean City) Periodic Nourishment	\$17.7M	\$7.2M	\$2.4M	\$27.3M	Bids Received
Great Egg Harbor Inlet to Townsends Inlet (Southern Ocean City, Strathmere, SIC) Periodic Nourishment	\$15.8M	\$11.8M	\$3.9M	\$31.5M	Design
Cape May Inlet to Lower Twp (Avalon & Stone Harbor) Periodic Nourishment	\$16.5M	\$6.7M	\$2.2M	\$25.4M	Design
Delaware Bay Coastline, Oakwood Beach Periodic Nourishment	\$5.6M	\$2.3M	\$700k	\$8.6M	Bids Received
TOTAL	\$139.6M	\$72.4M	\$24.0M	\$236.0M	



\$72.4M > \$25M/yr NJ Shore Protection Fund annual appropriation!



- DREC

<https://www.nj.gov/dep/cfr/>

- Watershed & Land Management

<https://www.nj.gov/dep/wlm/>

- NJDEP Climate Change Homepage

[nj.gov/dep/climatechange](https://www.nj.gov/dep/climatechange)

- Bureau of Construction & Engineering

[nj.gov/dep/shoreprotection](https://www.nj.gov/dep/shoreprotection)

- Rebuild By Design Hudson River

[nj.gov/dep/floodresilience/rbd-hudsonriver.htm](https://www.nj.gov/dep/floodresilience/rbd-hudsonriver.htm)



Thank You

- CHRIS: (732) 504-0904 | christopher.constantino@dep.nj.gov
- ERICK: (732) 504-0902 | erick.doyle@dep.nj.gov