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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 of 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

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## Office of Coastal Engineering (Toms River)

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

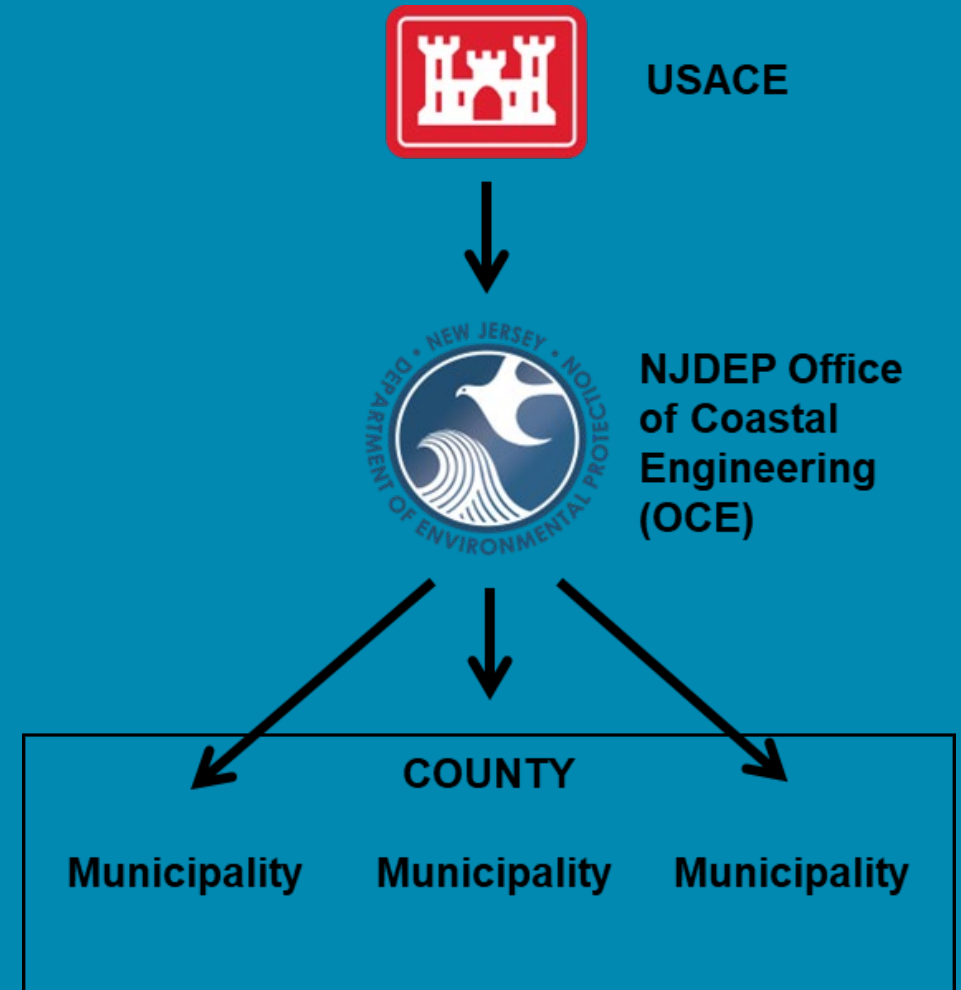
## Office of Dam Safety & Flood Engineering (Trenton)

- 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

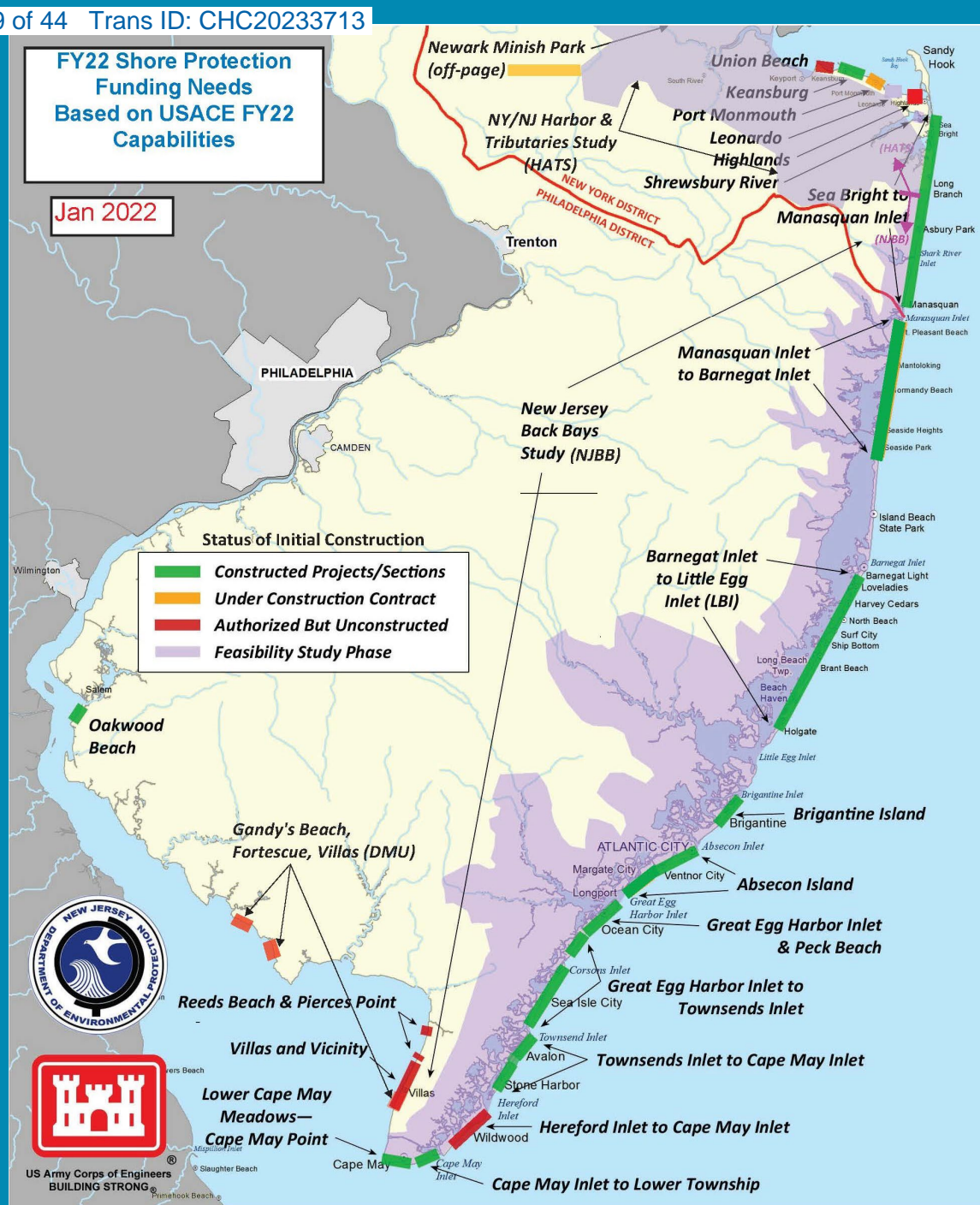
## 2012

- ~ 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 |
| <b>TOTAL</b>   | <b>\$734M</b> |                |

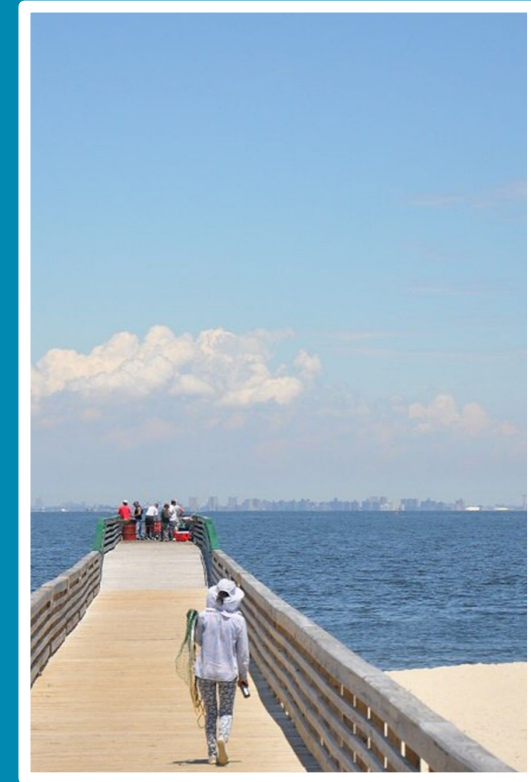
# Post-Sandy USACE Projects (Philly District)



| 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 |
| <b>TOTAL</b>   | <b>\$595.7M</b> |                |

# 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

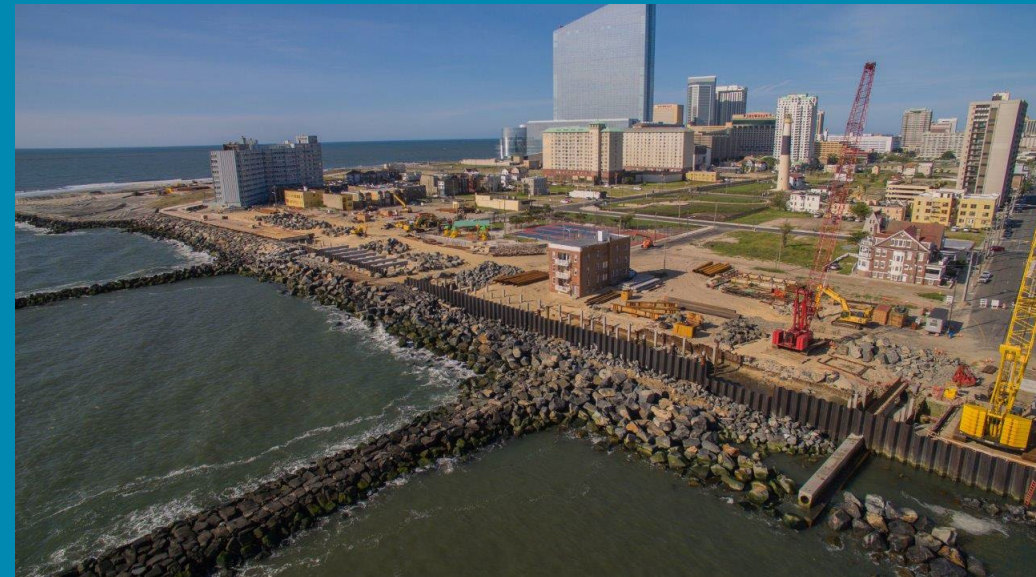
- Contract: Initial Construction of entire project (1 contract)
- Description: Beach and dune system to reduce damages to oceanfront homes, businesses, and infrastructure
- Status: Complete
- Date Completed: July 2019
- Total Cost: \$123 M
- Cost Share: 65% Fed / 35% non-fed





# Absecon Island

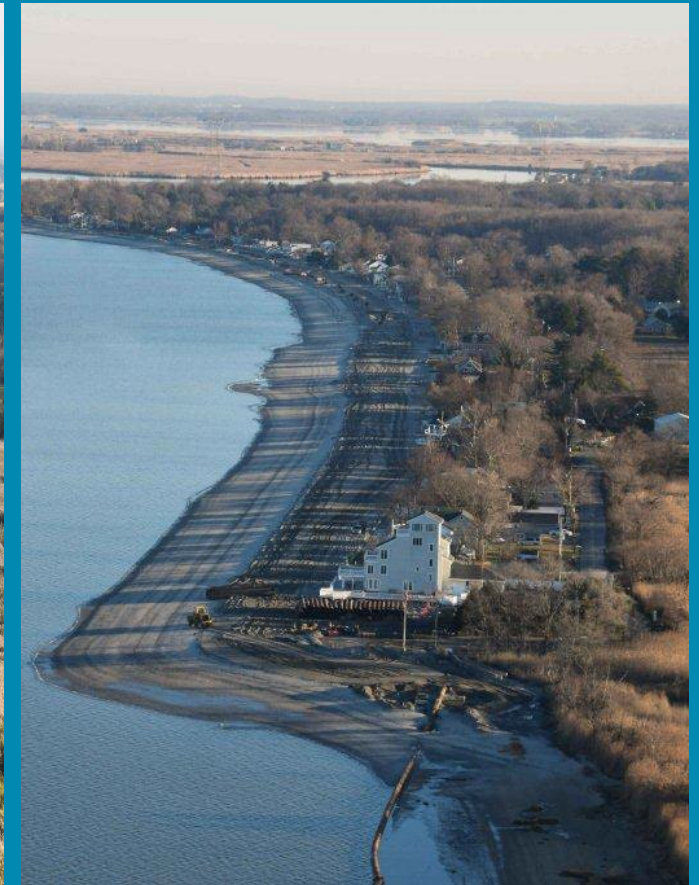
- **Contract:** 3<sup>rd</sup>/4<sup>th</sup> renourishments, partial initial construction (beachfill), and initial construction of seawall (3 contracts)
- **Description:** Beach and dune system w/ stone seawall at north end of Atlantic City to reduce damages to oceanfront homes, businesses, and infrastructure
- **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

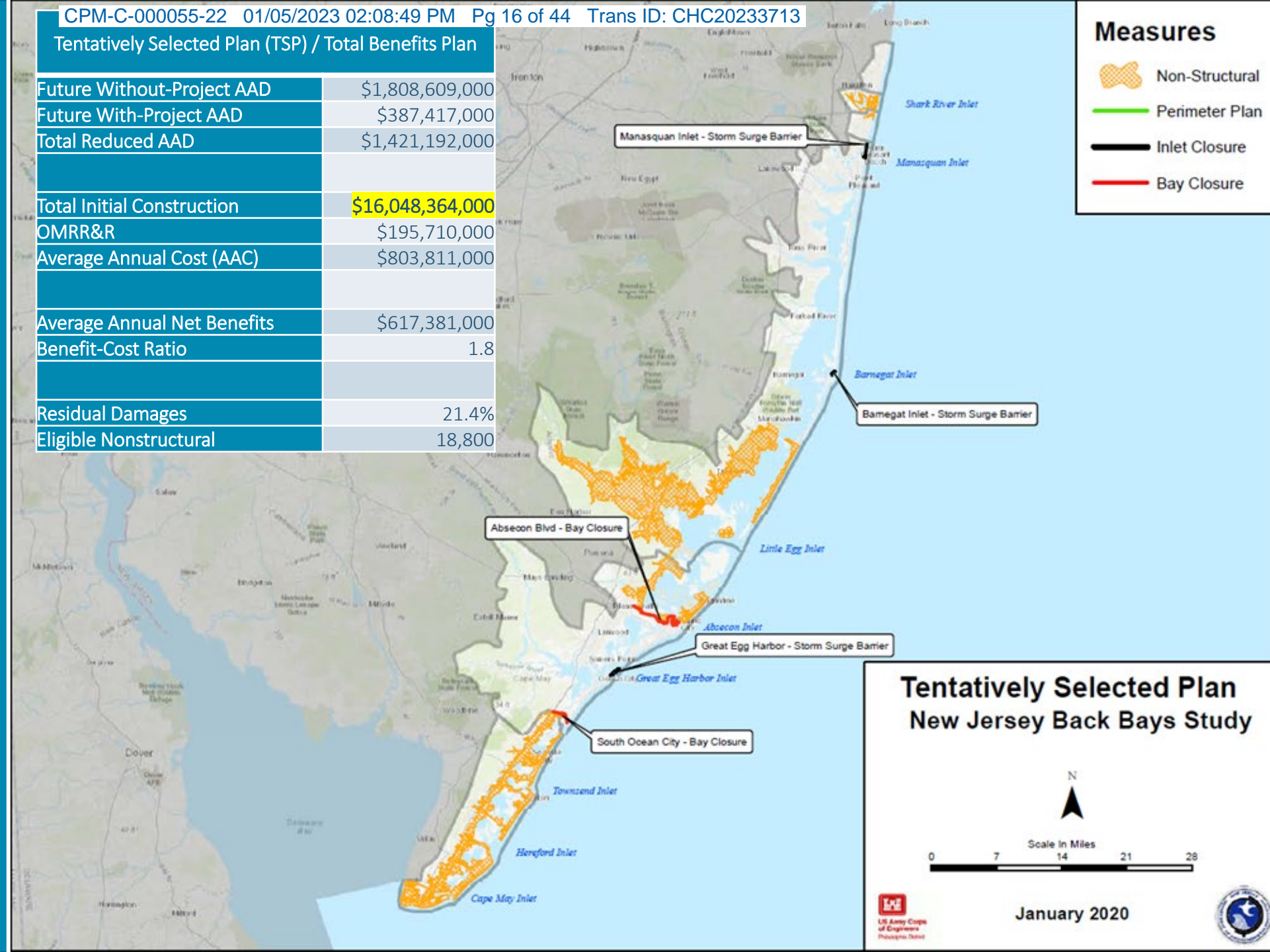




# New Jersey Back Bays Study

## 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         |
| <b>Total Initial Construction</b>  | <b>\$16,048,364,000</b> |
| OMRR&R                             | \$195,710,000           |
| Average Annual Cost (AAC)          | \$803,811,000           |
| <b>Average Annual Net Benefits</b> | <b>\$617,381,000</b>    |
| <b>Benefit-Cost Ratio</b>          | <b>1.8</b>              |
| 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

N

Scale in Miles





0 7 14 21 28

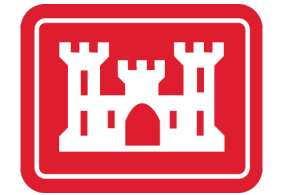
January 2020



# 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 |
|  | <b>TOTAL</b> | <b>\$60.1M</b> |



# 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



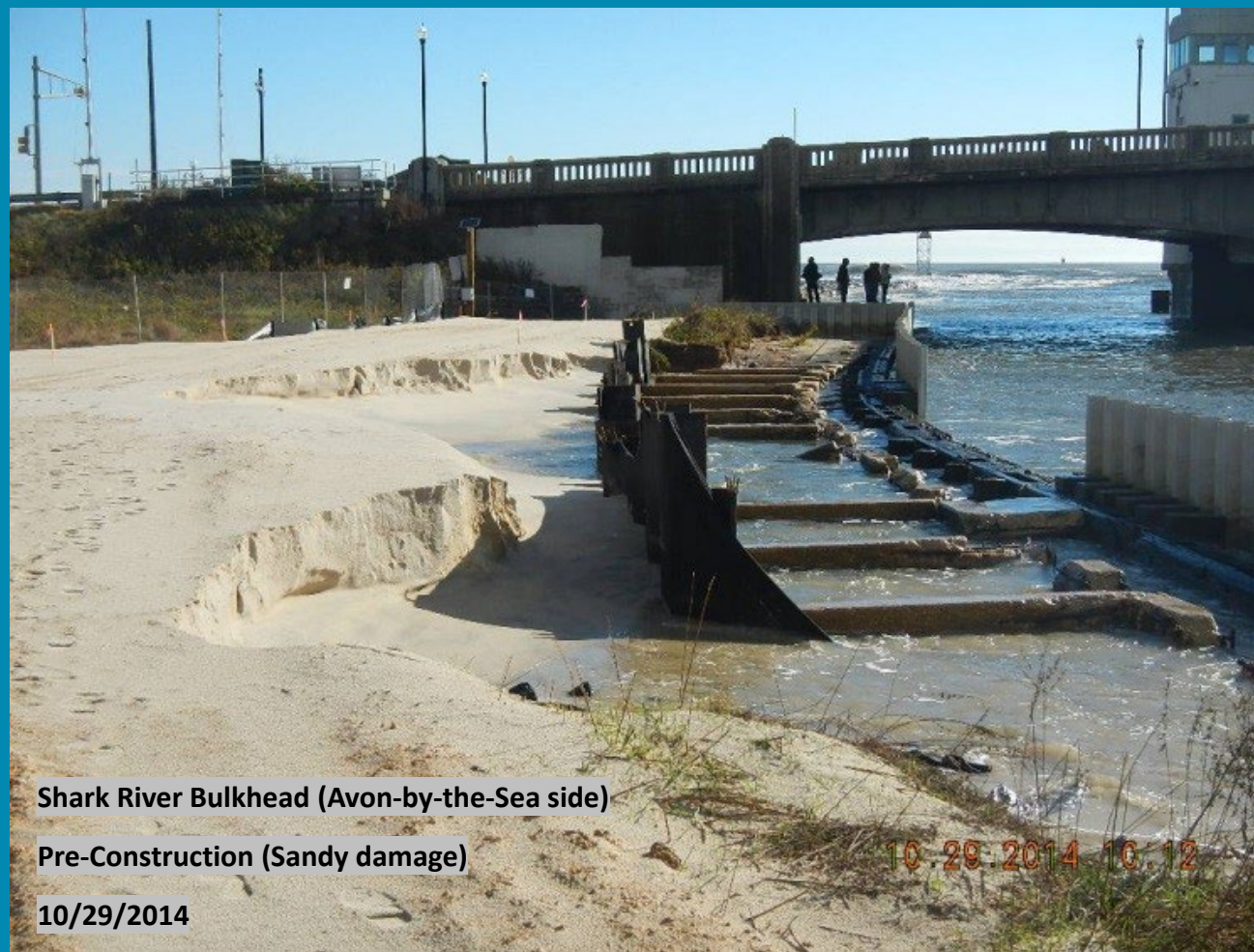
# Shark River Bulkhead Replacement

- 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



FEMA



# 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**

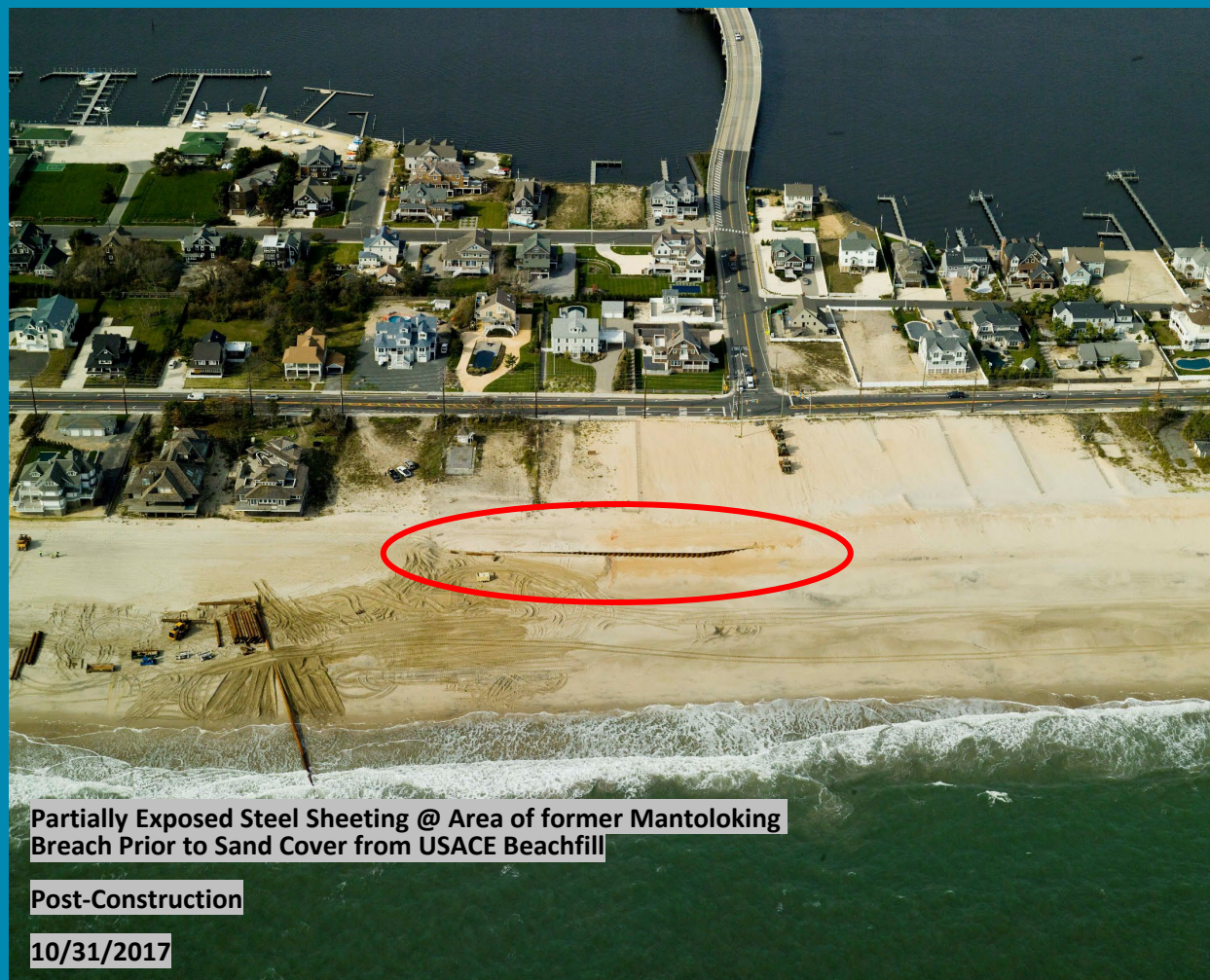


U.S. Department  
of Transportation

**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

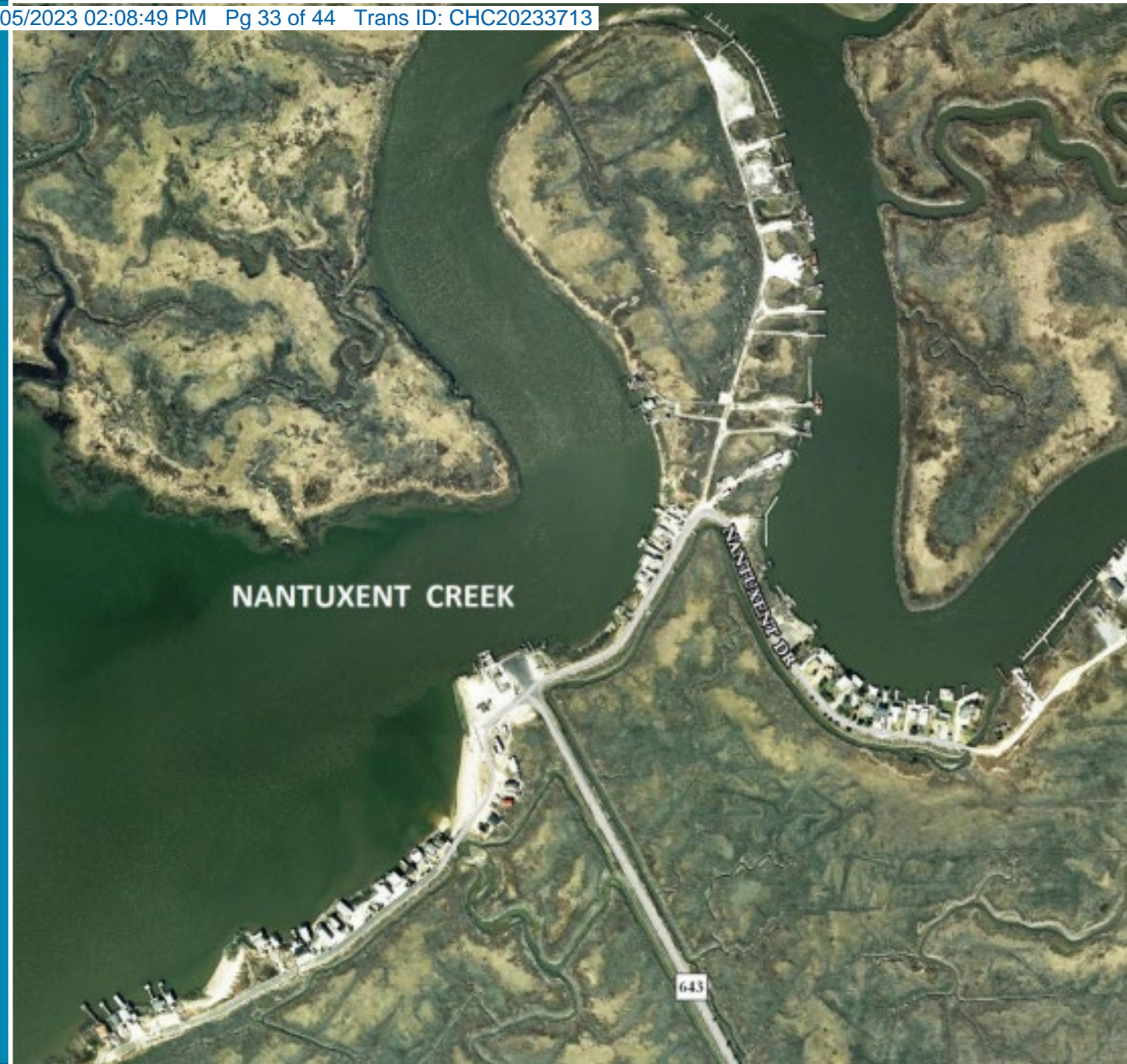
06/27/2013





# 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

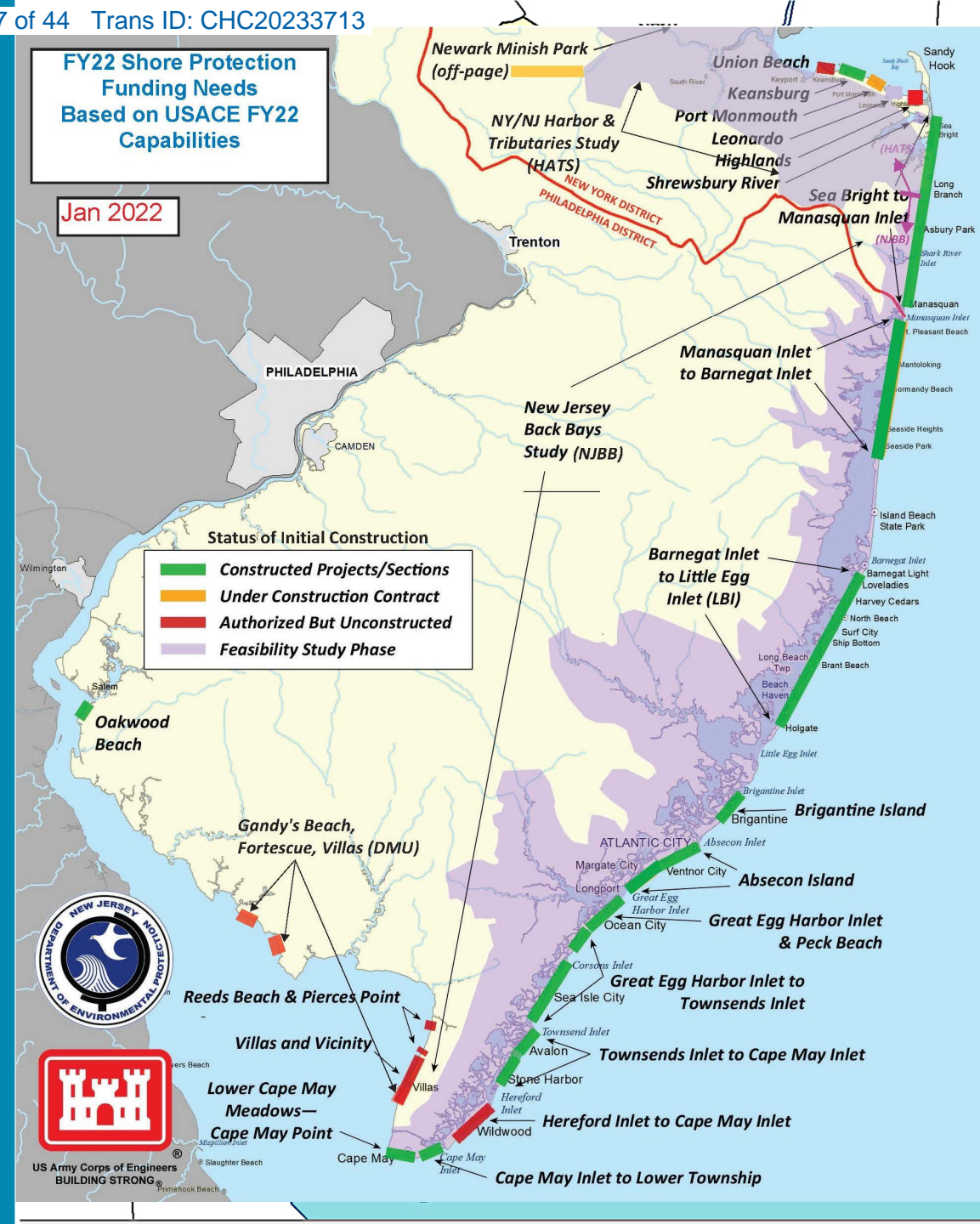


# Money Island Shoreline Restoration



# 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

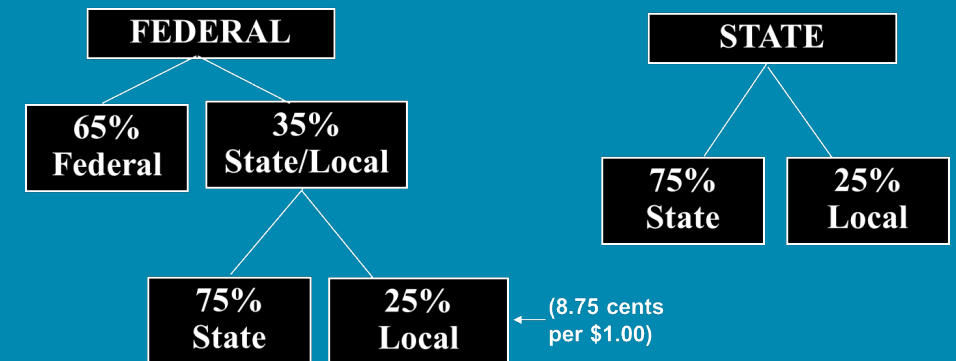




# Cost Shares on USACE Projects

- **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.”**

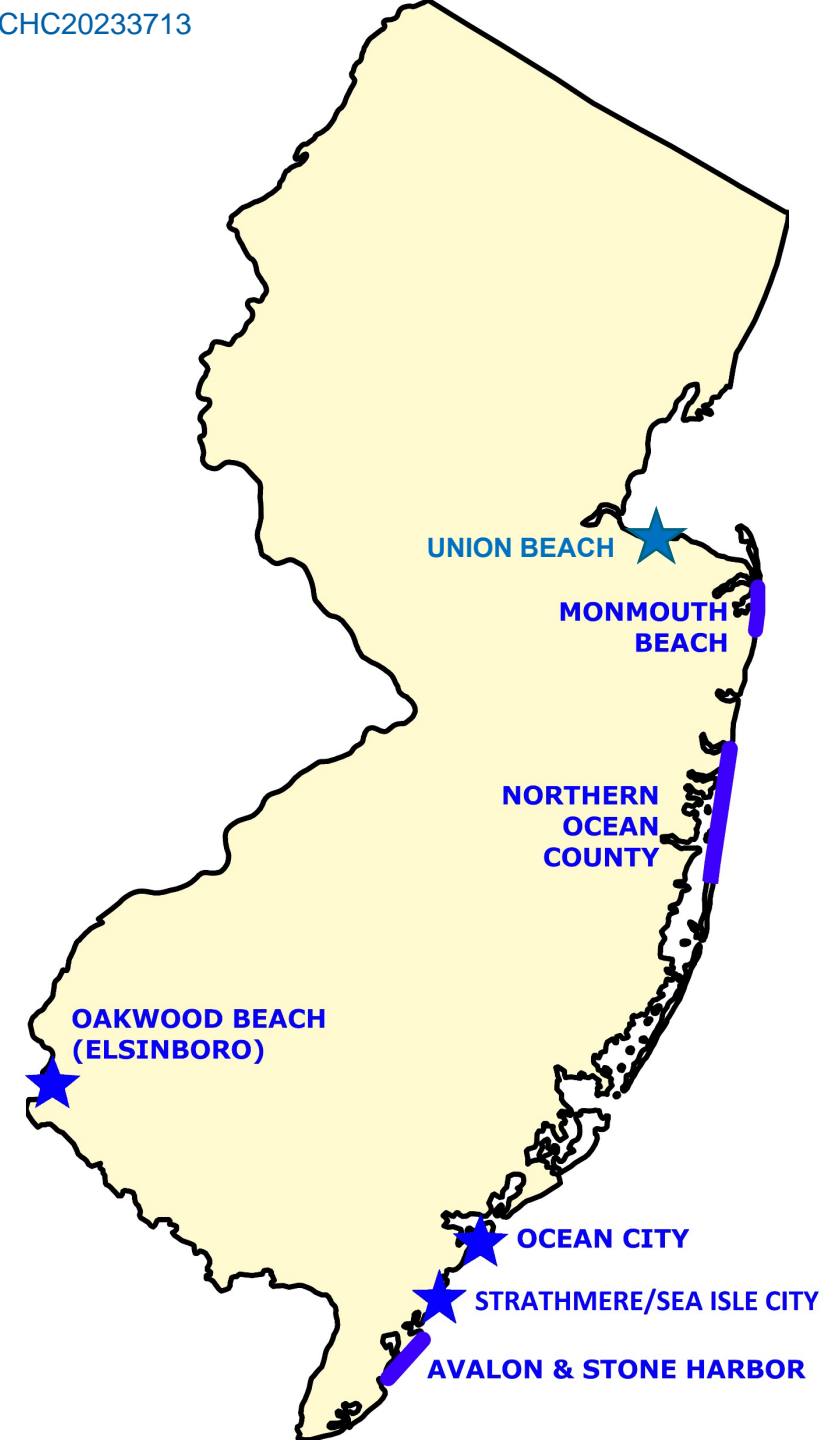
**\$25 million dedicated annually**

**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 |
| <b>TOTAL</b>  | <b>\$139.6M</b> | <b>\$72.4M</b> | <b>\$24.0M</b> | <b>\$236.0M</b> |               |



**\$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](mailto:christopher.constantino@dep.nj.gov)
- ERICK: (732) 504-0902 | [erick.doyle@dep.nj.gov](mailto:erick.doyle@dep.nj.gov)