

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
25 Market Street, PO Box 093
Trenton, NJ 08625-0093
By: Kevin A. Terhune (046601996)
Dianna E. Shinn (242372017)
Deputy Attorneys General
(609) 376-3375

Counsel for Plaintiff, New Jersey
Department of Environmental Protection

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY
CHANCERY DIVISION
Docket No. C-____-22

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
Plaintiff,

v.

CITY OF NORTH WILDWOOD, "XYZ
CORPORATIONS" 1-10; and "JOHN
AND/OR JANE DOES" 1-10,

Defendants.

Civil Action

VERIFIED COMPLAINT

For Temporary Restraints and
for Summary Action on
Preliminary Injunctive Relief

Plaintiffs, New Jersey Department of Environmental Protection ("DEP" or "Department"), by and through their attorney, file this Complaint against the city of North Wildwood ("NWW"), XYZ Corporations 1-10 and John/Jane Does 1-10, ("Defendants"), and allege as follows:

STATEMENT OF THE CASE

1. This is a summary action brought pursuant to R. 4:52-1 and R. 4:67-1 to restrain the Defendants from engaging in regulated but unauthorized oceanfront construction between 15th and 16th

avenues on the beachfront of North Wildwood. Specifically, in blatant disregard of the Department's written direction to refrain from installing a permanent steel bulkhead, NWW has defiantly stated in two separate letters that it intends to do so as early as December 5, 2022, without any review or statutorily required approval from the Department. Defendants have even gone so far as to order the material necessary for the illegal construction project. Making matters worse, the proposed permanent bulkhead will be constructed in the location of protected vegetated dunes and sensitive wetland areas, both of which will be destroyed causing irreparable harm to the environment if NWW is not restrained.

2. On October 5, 2022, NWW submitted a request for an Emergency Authorization ("EA") pursuant to N.J.A.C. 7:7-21.1, that claimed there was an imminent breach of the existing dune system in the area of 15th and 16th Avenues due to storm erosion following Hurricane Ian. NWW's request proposed extensive oceanfront construction including reshaping the existing dunes and installing a steel bulkhead between 15th and 16th Avenues.

3. After reviewing NWW's EA request, the DEP determined there was neither an imminent nor ongoing threat to the loss of life or severe loss of property following Hurricane Ian because a substantial dune and beach berm remained in place offering sufficient shore protection. DEP approved in part and denied in

part NWW's EA request, specifically rejecting reshaping of the existing dunes and installation of a permanent steel bulkhead.

4. Despite DEP's partial denial, NWW moved forward and excavated sand located at the 11th Avenue beach berm and graded the sand into the dunes from 14th to 16th Avenues without a required CAFRA permit and in violation of the EA. NWW also advised the DEP in multiple written communications that it has moved forward with ordering the materials for the construction of permanent steel bulkhead and that it intends to commence installation of the bulkhead when the materials arrive, without DEP's authorization and in direct contravention of DEP's statutes and regulations.

5. Restraining NWW from installing the bulkhead is necessary to prevent permanent and irreparable harm to the environment, including the vegetated dunes, exceptional freshwater wetlands, freshwater wetlands transition area, and a critical wildlife habitat with threatened or endangered species at this location. Further, because there is no emergency warranting installation of the bulkhead under an EA, an injunction will preserve the status quo by requiring NWW to provide further technical data to support a review of NWW's already existing bulkhead permit application, which has been deemed administratively deficient since 2020.

6. The Department is entitled to bring this summary action to restrain and enjoin NWW from violating its environmental

statutes and regulations, and such an action is specifically available pursuant to the Coastal Area Facilities Review Act ("CAFRA"), N.J.S.A. 13:19-18(c)(1), the Coastal Zone Management ("CZM") Rules, N.J.A.C. 7:7-29.8(a)(1), the Flood Hazard Area Control Act ("FHACA"), N.J.S.A. 58:16A-63(c)(1), and the Freshwater Wetlands Protection Act ("FWPA"), N.J.S.A. 13:9B-21(c)(1).

PARTIES

7. DEP is a principal department within the Executive Branch of the New Jersey State government vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9.

8. Defendant City of North Wildwood ("NWW") is a municipal corporation organized under the laws of the State of New Jersey, with a principal place of business at 901 Atlantic Avenue, North Wildwood, New Jersey 08260.

9. "XYZ Corporations" 1-10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Complaint, which are contractors retained by NWW to conduct future oceanfront construction including, but not limited to the installation of steel bulkhead between 15th and 16th Avenues.

10. "John and/or Jane Does" 1-10, these names being fictitious, are individuals whose identities cannot be ascertained

as of the filing of this Complaint, whom are partners, officers, directors, and/or responsible corporate officials of, or are otherwise related to, one or more of the XYZ Corporation Defendants.

JURISDICTION AND VENUE

7. The Superior Court has jurisdiction over suits by DEP for injunctive relief, penalties, recovery of costs, and for other relief arising from violations of the Coastal Zone Management Rules (N.J.A.C. 7:7-21) and the Freshwater Wetlands Regulations (N.J.A.C. 7:7A-14).

8. This summary action is authorized by Rule 4:52-1 (applications for preliminary injunctive relief), Rule 4:67-6 (actions to enforce final agency orders) and because this matter is appropriate for summary action within the court's discretion under Rule 4:67-1(b).

9. Venue is appropriate in Cape May County because this action arises out of violations that occurred in the City of North Wildwood.

FACTUAL ALLEGATIONS

NWW's 2020 Beach Front Bulkhead Project Application

10. On November 20, 2020, DEP's Division of Land Resource Protection ("DLRP") received a permit application submitted by NWW for the project known as the Beach Front Bulkhead Project, requesting a permit pursuant to the CZM Rules, the FHACA Rules,

and the FWPA Rules (hereinafter "2020 permit application"). See Certification of Colleen Keller ("Keller Certification") **Exhibit**

A.

11. The purpose of that project was for NWW to seek after-the-fact approval for the previously constructed bulkhead installed between 3rd and 5th Avenues and later extended, without approval, between 5th and 13th Avenues. The project also sought approval to install a proposed 4,658 linear foot steel bulkhead adjacent to the boardwalk between 13th and 25th Avenues.

12. This proposed steel bulkhead includes the section of bulkhead running from 15th to 16th Avenues that NWW has separately requested to install as part of its EA application from October 5, 2022. The 2020 permit application indicates that the bulkhead from 13th to 25th Avenues will disturb exceptional value wetlands between 13th and 15th Avenues. These are the freshwater wetlands located next to the Beach Patrol Building, and NWW notes that mitigation will be required since the project will disturb wetlands in excess of .1 acres.

13. On December 3, 2020, the Department sent an email to the contractor preparing the 2020 permit application for NWW indicating that the Department was in receipt of the permit application, but that the application was missing information and was, therefore, administratively incomplete. NWW did not submit the required property owner's signature of Block 290.01, Lot 1,

which is a parcel included in the project. In addition, NWW failed to submit the CAFRA newspaper notice as required. The Department provided NWW with thirty days to submit this missing information. To date, NWW has not submitted this information and, as such, the 2020 application remains administratively deficient. See Keller Certification **Exhibit B**.

14. A permit application must first be declared administratively complete before it can be assigned for technical review by the Department. During the technical review process, the Department may also request additional information from the applicant in order for the Department to render a decision on the permit application. This technical review is important to ensure that the principles of the CAFRA, the CZM Rules, and the FWPA are complied with.

Exceptional Resource Value Wetlands

15. Following NWW's 2020 submission of its CAFRA and FWPA #6 and #6a permit application to DEP, DEP reviewed the permit application to determine compliance with the FWPA Rules and analyzed the freshwater wetlands and freshwater wetlands transition area north of the Beach Patrol Building near 15th Avenue.

16. For a wetland to be designated as being of exceptional resource value it must "remain suitable for breeding, resting, or feeding by these species during the normal period these species would use the habitat." N.J.A.C. 7:7A-3.2(b)3.

17. DEP's Protocols for the Establishment of Exceptional Resource Value Wetlands provides the parameters suitable for the habitat for migratory raptors. These parameters generally include: (1) deciduous, mixed, or evergreen wetland forest; (2) deciduous, mixed, or evergreen scrub-scrub wetlands; and (3) freshwater or tidal emergent wetlands.

18. The wetlands and wetlands transition area north of the Beach Patrol Building are mapped as rank 4 (state endangered) wetlands, which includes wetland habitat for several beach associated birds and for migratory raptor concentration.

19. DEP determined that the wetland remaining between 15th and 14th Avenues includes at least four species identified as suitable for resting or feeding by songbirds upon whom migratory raptors prey and would therefore, be suitable habitat for migratory raptors. State listed species for which these habitats would be suitable include the peregrine falcon (state endangered), northern harrier (state endangered), and the American kestrel (state endangered).

20. As a result, DEP determined that pursuant to the FWPA Rules, the mapped freshwater wetlands and freshwater wetlands transition area between 14th and 15th Avenues to be of exceptional resource value. N.J.A.C. 7:7A-3.2(b)(c).

2022 EA Application

21. On October 3, 2022, Peter Lomax of Lomax Consulting emailed the Department indicating that NWW was sustaining significant beach/dune losses as a result of the remnants of Hurricane Ian. See Keller Certification **Exhibit C**.

22. That same day, DEP responded to Mr. Lomax's email indicating that any post-storm restoration or installation of any storm protection measures within regulated areas requires an EA or a permit from the Department's DLRP prior to the work. Id.

23. On the evening of October 3, 2022, DEP received an email from Mr. Lomax indicating that NWW would be submitting an EA to protect the Beach Patrol Building located at 15th Avenue. Mr. Lomax provided several photos in his email including a view of the dune scarp at 15th Avenue in front of the Beach Patrol Building and a photo of the Beach Patrol Building. Id.

24. On October 4, 2022, DEP emailed Mr. Lomax indicating that the Department would expedite review of any submitted EA request. DEP referenced the standards applicable to emergency post-storm restoration within the CZM rules, specifically, N.J.A.C. 7:7-10.3(b), which include the placement of clean fill material, alongshore transfer of sand on the beach, placement of rock, and the placement of sand filled geotextile tubes. DEP indicated that these measures should be considered before a proposed bulkhead, which could potentially increase erosion to adjacent areas. DEP reminded Mr. Lomax that no work should be

completed until the Department decides if emergency work is immediately necessary due to the threat of the loss of life or property. See Keller Certification ¶ 14.

25. An EA will only be issued where the applicant can demonstrate that a threat to life, severe loss of property, or environmental degradation exists or is imminent, and can only be prevented/ameliorated through a regulated activity and is likely to occur/persist/worsen before a permit could be issued by DEP's DLRP. N.J.A.C. 7:7-21.1.

26. On October 5, 2022, NWW submitted an EA request, which included among other relief, a request to install a bulkhead within the western dune in the area of 15th and 16th Avenues. See Moriarty Certification **Exhibit A**.

27. In its EA request, NWW claimed that following the remnants of Hurricane Ian along the shoreline, there was an absence of a defined beach berm and loss of greater than 75% of the protective dune system in front of the Beach Patrol Building/Oceanfront Safety Facility, Block 317.03, Lot 1 and that the City Engineer determined that a breach condition is imminent requiring emergency measures to re-establish reliable shore protection at this location. The EA also requested emergency relief regarding the 25th Avenue beach access, Block 289.03, Lot 1 because NWW alleged significant erosion in this area. See Moriarty Certification ¶ 6.

28. NWW included a hand drawn illustration of the location of the proposed bulkhead, which is located in the western portion of the dune from approximately 15th to 16th Avenues. The bulkhead appears to originate in the freshwater wetlands transition area to the north of the Beach Patrol Building and then is proposed extending south waterward of the Beach Patrol Building and the storage sheds with a proposed terminus near the unauthorized beach access point at 16th Avenue. This is the same location that DEP authorized the mobilization of jersey barriers on October 7, 2022, as requested by NWW in the EA. The location of the requested bulkhead is almost identical to NWW's request to install a bulkhead in this same exact area in its 2020 permit application. See Keller Certification ¶ 17.

29. Based on the photographs submitted by NWW in the EA request, the aerial photograph taken by the Department after Ian on October 6, 2022, and the photographs taken by the Department following Ian, the Department determined that NWW did not meet any of the requirements for an emergency authorization for installing a bulkhead. Id. at ¶ 18.

30. The Department determined that there is no severe threat of loss to the Beach Patrol Building or any other infrastructure in the area of 15th Avenue to warrant the installation of a permanent bulkhead via emergency authorization in lieu of NWW

fixing its deficient 2020 permit application for an identical bulkhead. Id.

31. A shore protection measure such as a permanent bulkhead when no emergency situation exists pursuant to N.J.A.C. 7:7-21.1, needs to be reviewed pursuant to a CAFRA Individual Permit, similar to the pending 2020 permit application. This ensures such a measure is consistent with the goals of the CZM Rules as outlined at N.J.A.C. 7:7-1.1, along with ensuring consistency with the coastal engineering measures outlined in N.J.A.C. 7:7-15.11. Id. at ¶ 19.

32. Accordingly, on October 12, 2022, the Department responded to NWW and denied the remaining portions of NWW's EA request to install a bulkhead, scarp reshaping of the oceanside of the dune within this area by establishing an angle of repose and "marrying" sand and structure on the landward side of the dune, and repair of the 25th Avenue vehicular access. See Moriarty Certification **Exhibit C**.

33. On October 20, 2022, DEP sent an email to NWW's counsel and the Mayor of NWW indicating that if NWW proceeds with unauthorized activities, DEP would pursue immediate enforcement, re-emphasizing that the CZM Rules, N.J.A.C. 7:7-10.3(b), only authorize certain emergency post-storm beach restoration activities that are designed to return the beach to its pre-storm conditions. Keller Certification **Exhibit D**.

34. Despite DEP's October 20, 2022 communication, NWW proceeded to excavate sand from the beach berm near 11th Street, and placed the excavated sand on the beach between 14th and 16th Streets, grading the sand toward the dune at this location. See Kropilak Certification **Exhibit B**.

35. On October 20, 2022, the Department issued NWW a Notice of Violation ("NOV") for excavating sand from the beach berm near 11th Avenue, transporting the excavated sand on the beach between 14th and 16th Avenues, and grading the excavated sand towards the dunes between 14th and 16th Avenues. See Kropilak Certification **Exhibit B**. The NOV directed NWW to immediately cease any further regulated activities and submit the appropriate complete land use permit application to the Department to legalize or obtain approval for these activities.¹

36. On October 21, 2022, the Department received a response to the October 20, 2022 NOV from Neil Yoskin, Esq., indicating that NWW had completed the reshaping and regrading of the dune remnants on October 20, 2022. The letter also states NWW's intent to continue with bulkhead construction, specifically that the

¹ It should be noted that the Department issued NWW a NOV on July 27, 2022 because its beach and dune maintenance permit expired on June 8, 2022. To date, NWW does not have a valid beach and dune maintenance permit and, as such, NWW cannot conduct any beach or dune maintenance, which includes the illegal activity outlined in the October 20, 2022 NOV. In the July 27, 2022 NOV the Department directed NWW to complete the appropriate application and obtain CAFRA permit approval prior to conducting any future beach and dune maintenance. A copy of the July 27, 2022 NOV is attached to the Kropilak Certification as **Exhibit C**.

materials for the bulkhead are not yet available but should be within 30 days. See Kropilak Certification **Exhibit E**.

37. DEP has continued in its efforts to work with NWW to address its shoreline protection concerns and on October 27, 2022, DEP sent an email to NWW's counsel requesting a meeting to discuss NWW's deficiencies in its pending 2020 permit application. See Keller Certification **Exhibit E**. To date, NWW has not responded to DEP's offer to meet and discuss these continuing deficiencies.

**Stevens Institute of Technology Report Regarding Erosion
Analysis of the Dune System at 15th Avenue in NWW**

38. DEP consults with the Stevens Institute when additional engineering analysis is required for certain proposed projects and has consulted with Jon Miller, Director of New Jersey Coastal Protection Technical Assistance Service ("NJCPTAS") and Research Associate Professor at the Stevens Institute of Technology, regarding NWW's oceanfront and its related permit applications. See Keller Certification ¶ 22.

39. While DLRP does not traditionally consult with the Stevens Institute on EA requests, the Department reached out to Mr. Miller for his opinion on the recent erosion in the area of 15th Avenue. The Department wanted to make sure that his opinions from his prior letter in July 25, 2022 regarding the status of NWW's beachfront remained the same or if his opinions may have

changed after his review of the beach/dune condition in this area following Hurricane Ian.

40. On July 25, 2022, Mr. Miller opined that NWW's shoreline from 13th to 25th Avenues remains healthy and that the dunes are well vegetated. He further opined that that the dune system in this area is adequate to protect upland infrastructure and the need for a continuous bulkhead is not apparent. He noted that the Beach Patrol Building at 15th Avenue is in a vulnerable area to erosion/breaching; however, he opined that other alternatives to a bulkhead should be considered in this area such as raising or relocating the Beach Patrol Building or filling breaks in the existing dune. See Keller Certification **Exhibit F**.

COUNT I

Violation of the Coastal Zone Management Rules, Freshwater Wetlands Rules and the Coastal Area Facilities Review Act (All Defendants)

41. Plaintiff incorporates the foregoing paragraphs as if restated here in full.

42. On October 5, 2022, NWW submitted an EA request to the Department pursuant to the CZM Rules, requesting authorization to immediately deploy jersey barriers extending from the 15th Avenue northern right-of-way limit line along the landward edge of the dune to the 16th Avenue southern right-of-way limit line; remove/relocate existing composite/timber decking walkway from in

front of the building to facilitate the jersey barrier deployment; reshape the dune remnants to protect the existing dune vegetation to the maximum extent possible, and to establish stabilized slopes secured landward by the jersey barrier wall; installation of a 404LF cantilevered bulkhead; and reconstruct/stabilize the vehicular/pedestrian access from the 16th Avenue right-of-way to the beach; and finally, immediately reconstruct the 25th Avenue beach access via grading and stabilizing fill material and reconstruct the sloped ramps and landings.

43. On October 7, 2022, the Department authorized the use of temporary jersey barriers in a 400 linear foot alignment extending from the 15th Avenue northern right-of-way limit line along the landward edge of the dune to the 16th Avenue southern right-of-way limit line and the removal of composite/timber decking walkway. This authorization pursuant to the CZMR and the FWPA Rules contained several conditions, including but not limited to no disturbance to dunes. The Department specifically directed NWW to not conduct any of the other requested emergency measures including reshaping the dunes, installation of the bulkhead, and reconstruction of the access point at 16th Avenue and 25th Avenue.

44. On October 12, 2022, the Department further responded to NWW and denied the remaining portions of NWW's EA request to install a bulkhead, scarp reshaping of the oceanside of the dune within this area by establishing an angle of repose and "marrying"

sand and structure on the landward side of the dune, and repair of the 25th Avenue vehicular access. The Department's EA determination was published in the DEP Bulletin on October 19, 2022.

45. While NWW advised DEP that it disagreed with DEP's denial of its EA, NWW has taken no formal action to object to or appeal the Department's decision on October 12, 2022.

46. Rather, NWW thereafter moved forward, without DEP authorization, to excavate sand from the beach berm near 11th Street, and placed the excavated sand on the beach between 14th and 16th Avenues grading the sand toward the dune at this location in violation of NWW's EA, and CAFRA, N.J.A.C. 7:7-2.2.

47. NWW has since notified DEP in writing on multiple occasions that it intends to continue to undertake, without any further DEP approval, additional oceanfront construction to include the installation of a steel bulkhead between 15th and 16th Avenues.

48. DEP is entitled to relief for ongoing violations of NWW's EA, the CZM Rules, FWPA Rules and CAFRA, including but not limited to:

- a. Restraining NWW from any installation of a steel bulkhead between 15th and 16th Avenues;
- b. Restraining NWW from any further unauthorized excavation, placement or regrading of sand between 14th and 16th Avenues; and

- c. Restraining any of the other oceanfront construction, reshaping any dunes, and reconstruction of the access point at 16th and 25th Avenues.

PRAYER FOR RELIEF

WHEREFORE, pursuant to Rule 4:52-1, Plaintiff respectfully requests that the Court impose the following temporary restraints on Defendants:

- a. Immediately cease operations related to the installation of a bulkhead between 15th and 16th Avenues;
- b. Immediately cease all unauthorized excavation, placement or regrading of sand between 14th and 16th Avenues; and
- c. Immediately cease any of the other oceanfront construction, reshaping any dunes and reconstruction of the access point at 16th and 25th Avenues.

WHEREFORE, Plaintiff respectfully requests that the Court issue a return date and briefing schedule for further injunctive relief requested in the summary action at the Court's earliest possible convenience.

WHEREFORE, pursuant to the CZM Rules (N.J.A.C. 7:7-21) and the FWPA Regulations (N.J.A.C. 7:7A-14), Plaintiff respectfully requests that the Court further issue an order:

- a. Preliminarily enjoining NWW from installing any bulkhead between 15th and 16th Avenues until it has received a permit authorizing the installation of same;
- b. Preliminarily enjoining NWW from engaging in any further excavation, placement, or regrading of sand between 14th and 16th Avenues until it has received a permit authorizing the installation of same; and

c. Preliminarily enjoining NWW from engaging in any other oceanfront construction, reshaping any dunes and reconstruction of the access point at 16th and 25th Avenues until it has received a permit authorizing the installation of same.

DEP reserves the right to request any other temporary restraints or other preliminary injunctive relief necessary to prevent further, unauthorized oceanfront construction.

WHEREFORE, Plaintiff respectfully requests that the Court order any additional relief that the Court may deem just and equitable.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

/s/ Kevin A. Terhune
Kevin A. Terhune
Deputy Attorney General

DATED: December 6, 2022

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Kevin A. Terhune, Deputy Attorney General, is hereby designated as trial counsel for Plaintiff in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to Plaintiff at this time, nor is any non-party known to Plaintiffs at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to Plaintiffs, an amended certification shall be filed and served on all other parties and with the Court in accordance with R. 4:5-1(b)(2).

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

/s/ Kevin A. Terhune
Kevin A. Terhune
Deputy Attorney General

DATED: December 6, 2022

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(C)

Undersigned counsel further certifies that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with R. 1.38-7(b).

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

/s/ Kevin A. Terhune
Kevin A. Terhune
Deputy Attorney General

DATED: December 6, 2022

VERIFICATION

Colleen Keller, by way of certification, states that:

1. I am the Assistant Director of the Wetlands and Coastal Resources Element within the Division of Land Resource Protection, Watershed & Land Management at the Department of Environmental Protection
2. I have read the Verified Complaint.
3. I certify that the factual allegations in paragraphs 10-14. 21-25, 28-31, 33 and 37-40 are true and correct to the best of my knowledge.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

By: /s/ Colleen Keller
Colleen Keller

DATED: December 6, 2022

VERIFICATION

Jennifer L. Moriarty, by way of certification, states that:

1. I am the Director of the Division of Land Resource Protection at the Department of Environmental Protection.
2. I have read the Verified Complaint.
3. I certify that the factual allegations in paragraphs 26, 27, and 32 are true and correct to the best of my knowledge.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

By: /s/ Jennifer L/ Moriarty
Jennifer L. Moriarty

DATED: December 6, 2022

VERIFICATION

Michele S. Kropilak, by way of certification, states that:

1. I am the Manager of the Bureau of Coastal and Land Use Compliance and Enforcement at the Department of Environmental Protection.
2. I have read the Verified Complaint.
3. I certify that the factual allegations in paragraphs 30 and 34-36 are true and correct to the best of my knowledge.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

By: /s/ Michele S. Kropilak
Michele S. Kropilak

DATED: December 6, 2022

VERIFICATION

Laurance S. Torok, by way of certification, states that:

1. I am Research Scientist within the Bureau of Watershed Management in the Division of Watershed Protection and Restoration at the Department of Environmental Protection.
2. I have read the Verified Complaint.
3. I certify that the factual allegations in paragraphs 15-20 are true and correct to the best of my knowledge.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

By: /s/ Laurance S. Torok
Laurance S. Torok

DATED: December 6, 2022

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, NJ 08625-0093
Attorney for Plaintiff State of New Jersey
Department of Environmental Protection

By: Kevin A. Terhune (046601996)
Dianna E. Shinn (242372017)
Deputy Attorney General
(609) 376-2735

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY
CHANCERY DIVISION
Docket No. C-____-22

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

CITY OF NORTH WILDWOOD, XYZ
CORPORATIONS" 1-10; and "JOHN
AND/OR JANE DOES" 1-10,

Defendants.

Civil Action

**ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINTS
PURSUANT TO RULE 4:52**

THIS MATTER being brought before the court by Matthew J. Platkin, Attorney General of New Jersey, by Kevin A. Terhune, Deputy Attorney General appearing, attorney for plaintiffs State of New Jersey, Department Of Environmental Protection ("DEP" or "Department"), seeking relief by way of temporary restraints pursuant to R. 4-52, based upon the facts set forth in the Verified Complaint filed herewith, and it appearing that defendant City of

North Wildwood has notice of this application and that immediate and irreparable damage will likely result before notice can be given and a hearing held, and for good cause being shown;

IT IS on this _____ day of _____, 2023;

ORDERED that defendant City of North Wildwood appear and show cause before the Superior Court of New Jersey, Chancery Division, Cape May County, before the Honorable James H. Pickering, Jr., J.S.C., at the Cape May County Courthouse, 9 North Main Street, Cape May, NJ 08210, on the _____ day of _____, 2022, at _____ o'clock in the _____, or as soon as counsel may be heard, why an Order should not be entered preliminarily enjoining defendant City of North Wildwood, from:

1. installing a bulkhead between 15th and 16th Avenues until it has received a permit authorizing the installation of same from the DEP;
2. engaging in any further excavation, placement or regrading of sand between 14th and 16th Avenues until it has received a permit authorizing the installation of same from the DEP;
3. engaging in any other oceanfront construction, reshaping of dunes and/or reconstruction of the access point at 16th and 25th Avenues until it has received a permit authorizing the installation of same from the DEP;

AND IT IS FURTHER ORDERED that pending the return date herein, the defendant City of North Wildwood is temporarily enjoined and restrained from:

4. installing a bulkhead between 15th and 16th Avenues until it has received a permit authorizing the installation of same from the DEP;
5. engaging in any further excavation, placement or regrading of sand between 14th and 16th Avenues until it has received a permit authorizing the installation of same from the DEP;
6. engaging in any other oceanfront construction, reshaping or dunes, and/or reconstruction of the access point at 16th and 25th Avenues until it has received a permit authorizing the installation of same from the DEP;

AND IT IS FURTHER ORDERED that:

1. The defendant may move to dissolve or modify the temporary restraints herein contained on two (2) days notice to the Plaintiff's attorney.

2. A copy of this order to show cause, verified complaint, supporting brief and supporting certification shall be served upon the defendant City of North Wildwood personally, within _____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

3. DEP must file with the court its proof of service of the pleadings on the defendant City of North Wildwood no later than three (3) days before the return date.

4. The defendant City of North Wildwood shall file a written response to the order to show cause and request for the entry of injunctive relief and proof of service by _____, 2022. The answer, answering affidavit, and/or opposition

documents, as the case may be, must be filed with the Clerk of the Superior Court in the county listed above and a copy of the papers must be sent directly to the chambers of the Honorable James H. Pickering, Jr., J.S.C., whose address is 9 North Main Street, Cape May Court House, New Jersey 08210. You must also send a copy of your opposition papers to the Plaintiff's attorney whose name and address appears above, or to the Plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$_____ and serve your opposition on your adversary, if you want the Court to hear your opposition to the injunctive relief the Plaintiff is seeking.

5. Plaintiff must file and serve any written reply to the defendant City of North Wildwood's order to show cause opposition by _____, 2022. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of the Honorable James H. Pickering, Jr., J.S.C.

6. If the defendant City of North Wildwood does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and the relief may be granted by default, provided that the Plaintiffs files its proof of service and a proposed form of order at least three (3) days prior to the return date.

7. If the Plaintiffs have not already done so, Plaintiffs shall submit a proposed form of order addressing the relief sought on the return date no later than three (3) days before the return date.

8. Defendant City of North Wildwood, take notice that the Plaintiffs have filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A directory of these offices is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf. Include a \$_____ filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to the Plaintiffs' attorney whose name and address appear above, or to the Plaintiffs, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer

and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief Plaintiffs demands.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

10. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than ____ days before the return date.

Honorable James H. Pickering, Jr., J.S.C.

ATLANTIC COUNTY

**Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401**

**LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200**

BERGEN COUNTY

**Deputy Clerk of the Superior Court
Case Processing Section, Room 119
Justice Center, 20 Main St.
Hackensack, NJ 07601-0769**

**LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166**

BURLINGTON COUNTY

**Deputy Clerk of the Superior Court
Central Processing Unit
Attn: Judicial Intake
First Fl. Courts Facility
49 Rancocas Rd.
Mt. Holly, NJ 08060**

**LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088**

CAMDEN COUNTY:

**Deputy Clerk of the Superior Court
Civil Processing Office
1st Fl., Hall of Records
101 S. Fifth St.
Camden, NJ 08103**

**LAWYER REFERRAL
(856) 964-4520
LEGAL SERVICES
(856) 964-2010**

CAPE MAY COUNTY:

**Deputy Clerk of the Superior Court
9 N. Main Street
Box DN-209
Cape May Court House, NJ 08210**

**LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001**

CUMBERLAND COUNTY:

**Deputy Clerk of the Superior Court
Civil Case Management Office
Broad & Fayette Sts., P.O. Box 615
Bridgeton, NJ 08302**

**LAWYER REFERRAL
(856) 692-6207
LEGAL SERVICES
(856) 451-0003**

ESSEX COUNTY:

**Deputy Clerk of the Superior Court
50 West Market Street
Room 131
Newark, NJ 07102**

**LAWYER REFERRAL
(973) 622-6207
LEGAL SERVICES
(973) 624-4500**

GLOUCESTER COUNTY:

**Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake
First Fl., Court House
1 North Broad Street, P.O. Box 129
Woodbury, NJ 08096**

**LAWYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360**

HUDSON COUNTY:

**Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Court House-- 1st Floor
583 Newark Ave.
Jersey City, NJ 07306**

**LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363**

HUNTERDON COUNTY:

**Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822**

**LAWYER REFERRAL
(908) 735-2611
LEGAL SERVICES
(908) 782-7979**

MERCER COUNTY:

**Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 S. Broad Street, P.O. Box 8068
Trenton, NJ 08650**

**LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249**

MIDDLESEX COUNTY

**Deputy Clerk of the Superior Court
Administration Building
Third Floor
1 Kennedy Sq. P.O. Box 2633
New Brunswick, NJ 08903-2633**

**LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600**

MONMOUTH COUNTY

**Deputy Clerk of the Superior Court
Court House
71 Monument Park
P.O. Box 1269
Freehold, NJ 07728-1269**

**LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020**

MORRIS COUNTY

**Deputy Clerk of the Superior Court
Civil Division
30 Schuyler Pl, P.O. Box 910
Morristown, NJ 07960-0910**

**LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911**

OCEAN COUNTY

**Deputy Clerk of the Superior Court
Court House, Room 119
118 Washington Street
Toms River, NJ 08754**

**LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727**

PASSAIC COUNTY

**Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton St.
Paterson, NJ 07505**

**LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 345-7171**

SALEM COUNTY

**Deputy Clerk of the Superior Court
92 Market St., P.O. Box 18
Salem, NJ 08079**

**LAWYER REFERRAL
(856) 935-5628
LEGAL SERVICES
(856) 451-0003**

SOMERSET COUNTY

**Deputy Clerk of the Superior Court
Civil Division Office
New Court House, 3rd Fl.
P.O. Box 3000
Somerville, NJ 08876**

**LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840**

SUSSEX COUNTY

**Deputy Clerk of the Superior Court
Sussex County Justice Center
43-47 High Street
Newton, NJ 07860**

**LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400**

UNION COUNTY

**Deputy Clerk of the Superior Court
1st Fl. Court House
2 Broad Street
Elizabeth, NJ 07207-6073**

**LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340**

WARREN COUNTY

**Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500**

**LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 475-2010**



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box
TRENTON, NJ 08625-0

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

MATTHEW J. PLATKIN
Attorney General

MICHAEL T.G. LONG
Director

December 6, 2022

By electronic filing and hand delivery

Honorable James H. Pickering, Jr., J.S.C.
Chancery Division
Cape May County Superior Court
9 North Main Street,
Cape May, New Jersey 08210

Re: Department of Environmental Protection v. City of North
Wildwood; "XYZ Corporations" 1-10; and "John and/or Jane Does"
1-10

Order to Show Cause for Temporary Restraints and Preliminary
Injunction and Verified Complaint for Summary Action.

Dear Judge Pickering:

The Department of Environmental Protection ("DEP") e-filed the above environmental action in the Chancery Division. With this letter, DEP is hand-delivering two courtesy copies of the filings.

DEP respectfully asks the Court to enter the enclosed Order to Show why temporary restraints and a preliminary injunction should not be entered against Defendants restraining the installation of any bulkhead between 15th and 16th Avenues until North Wildwood has received a permit authorizing the same; engaging in any further excavation, placement or regrading of sand between 14th and 16th Avenues until North Wildwood has received a permit authorizing the same, and engaging in any other oceanfront construction until North Wildwood has received a permit authorizing the same.



December 6, 2022

Page 2

DEP requests the Court to immediately enter an order on its request for temporary restraints and to schedule a hearing on its application for a preliminary injunction at the court's earliest convenience. A copy of DEP's filing is being emailed to counsel for North Wildwood concurrently with this delivery.

Sincerely yours,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Kevin Terhune
Kevin Terhune
Deputy Attorney General

Encls.

cc: Neil Yoskin, Esq. (by email)
City of North Wildwood (via hand delivery)

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY
CHANCERY DIVISION

Docket No. C-____-22

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

CITY OF NORTH WILDWOOD, "XYZ
CORPORATIONS" 1-10; and "JOHN
AND/OR JANE DOES" 1-10,

Defendants.

Civil Action

BRIEF IN SUPPORT OF PLAINTIFF'S MOTION
FOR A TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff
R.J. Hughes Justice Complex
25 Market Street, PO Box 093
Trenton, NJ 08625-0093
(609) 376-2735
Kevin.Terhune@law.njoag.gov

Kevin A. Terhune (046601996)
Dianna E. Shinn (242372017)
Deputy Attorneys General
On the Brief

TABLE OF CONTENTS

PRELIMINARY STATEMENT..... 1

STATEMENT OF FACTS..... 4

ARGUMENT..... 14

 POINT I

 NWW' S OCEANFRONT CONSTRUCTION WORK, PERFORMED
 WITHOUT DEP AUTHORIZATION, VIOLATES CAFRA 14

 POINT II

 THE DEPARTMENT IS ENTITLED TO temporary restraints and
 INJUNCTIVE RELIEF blocking any further unpermitted
 DEVELOPMENT OR construction of shore protection
 measures AND EXCAVATION, FILLING AND GRADING OF THE
 BEACH AND/OR DUNES 17

 POINT III

 THE EQUITABLE CROWE FACTORS HEAVILY SUPPORT ENTRY OF
 TEMPORARY RESTRAINTS AND INJUNCTIVE RELIEF TO STOP THE
 INSTALLATION OF THE BULKHEAD 22

CONCLUSION..... 35

TABLE OF AUTHORITIES**CASES**

<u>Crowe v. De Gioia,</u>	
90 N.J. 126 (1982)	17,23,24,32
<u>Dep't of Env'tl. Prot. v. Interstate Recycling, Inc.</u>	
267 N.J. Super. 574, 577-78 (App. Div. 1993).	30
<u>Greenwood v. State Police Training Ctr.</u>	
127 N.J. 500, 513 (1992).	25
<u>Hoffman v. Garden State Farms, Inc.</u>	
76 N.J. Super. 189, 201 (Ch. Div. 1962).	18,30
<u>Matawan Reg'l Teachers Ass'n v. Matawan-Aberdeen Reg'l Bd. of Educ.</u>	
212 N.J. Super. 328, 334-35 (Law Div. 1986).	18,31
<u>Matturi v. Bd. Of Trs. of the Judicial Ret. Sys.</u>	
173 N.J. 368, 381 (2002).	25
<u>N.J. Dep't of Env'tl. Prot. v. Boro Auto Wrecking Co.</u>	
No. A-4920-04 (App. Div. Oct. 24, 2006).	18
<u>New Jersey Dep't of Env'tl. Prot. v. Mazza & Sons, Inc.</u>	
209 N.J. Super. 13, 22-23 (App. Div. 2009)	15,24
<u>Sagi v. Sagi,</u>	
386 N.J. Super. 517, 524 (App. Div. 2006).	17
<u>State v. Wheeler</u>	
44 N.J.L. 88, 96 (Sup. Ct. 1882).	19
<u>Waste Mgmt. of New Jersey v. Union Cnty Util. Auth.</u>	
399 N.J. Super. 508, 519-20 (App. Div. 2008).	24,32
<u>Zoning Bd. Of Adjustment of Sparta Twp. v. Service Elec. Cable Television of N.J., Inc.</u>	
198 N.J. Super. 370, 379 (App. Div. 1985).	23

STATUTES

N.J.S.A. 13:9B	8,17
N.J.S.A. 13:19	8,17

N.J.S.A. 58:16A-508,17

ADMINISTRATIVE RULES

N.J.A.C. 7:7-2 ET SEQ. 10,15,20

N.J.A.C. 7:7-10.3(b) 3,4,6,7

N.J.A.C. 7:7A et seq. 10

N.J.A.C. 7:13 et seq. 32

N.J.A.C. 7:7-15.11.28

N.J.A.C. 7:7-21.1 et seq1,4,6,7,14,15,17,24,25,26,34

OTHER AUTHORITIES

42 Am. Jur. 2d Injunctions
§ 23, at 595 (2000). 18,30

PRELIMINARY STATEMENT

The City of North Wildwood ("NWW") must not be allowed to act in defiance of Department of Environmental Protection ("DEP") by beach construction work that will cause significant harm to the environment. NWW had ample opportunity to challenge DEP's decision to deny this work. Further, NWW's claimed difficulties are self-inflicted given NWW's failure to correct its deficiencies for almost two years.

NWW has notified DEP that it intends to construct an illegal bulkhead along its oceanfront beach on or about December 5, 2022. NWW's plans to proceed with its beach construction project despite DEP's recent well-reasoned denial of an Emergency Authorization ("EA") request after Hurricane Ian. Instead of challenging the DEP's decision denying the beach bulkhead project, Defendants knowingly ignored the regulatory authority of DEP, conducted regulated activities without approval, and announced their intention to conduct additional regulated activities without approval. Without a valid permit, any installation of the bulkhead is a violation of Coastal Zone Management ("CZM") Rules, Coastal Area Facilities Review Act ("CAFRA"), Freshwater Wetlands Protection Act ("FWPA"), and the Flood Hazard Area Control Act ("FHACA"). It is these regulated and unapproved activities that the DEP now seeks to restrain.

DEP denies that installation of the bulkhead is an appropriate emergency measure necessary to re-establish reliable shore protection and rejected NWW's request to install the bulkhead via the EA, filed pursuant to the CZM Rules (N.J.A.C. 7:7-21.1). After reviewing NWW's EA request, DEP determined that NWW failed to demonstrate an imminent threat to the loss of life or severe loss of property following Hurricane Ian, or an ongoing threat to the loss of life or property, as required by the CZM Rules, because a substantial dune and beach berm remains in place offering sufficient shore protection. DEP maintains that the impacts from Hurricane Ian were not extraordinary and only temporary, and that the current dune in the location of the proposed illegal bulkhead held up well to the impacts of the storm. DEP set forth these well-reasoned bases for the denial of additional shore protection measures under the EA request in a letter to NWW on October 12, 2022. There have been no appreciable storm impacts to the beach since Hurricane Ian and recent survey assessments and photos confirm that the beach appears to have stabilized.

DEP is now compelled to bring this Order to Show Cause seeking a restraining order and preliminary injunctive relief against NWW, and any of its contractors, from engaging in additional unauthorized oceanfront construction including, but not limited to installing the proposed bulkhead. Counsel for NWW has advised DEP that NWW is ignoring DEP EA denial and already ordered the bulkhead

materials and that installation of the bulkhead is expected to begin on or around December 5, 2022. Further, NWW's mayor has publicly stated that NWW will proceed with the installation of the bulkhead in defiance of DEP's prior denial of the EA and in violation of DEP's statutes and regulations.

DEP has made significant efforts to work with NWW to address NWW's shore protection concerns. DEP partially approved the EA to authorize the temporary installation of jersey barriers, but it has continued to meet with NWW to discuss less invasive measures and resources to address NWW's immediate shore protection goals. Despite these efforts, NWW still plans to move forward with the installation of the unauthorized bulkhead.

Restraining NWW from installing the bulkhead is necessary to prevent permanent and irreparable harm to the environment, including the vegetated dunes, exceptional freshwater wetlands, freshwater wetlands transition area, and a critical wildlife habitat with threatened or endangered species at this location. Further, because there is no emergency warranting installation of the bulkhead under an EA, an injunction will preserve the status quo by requiring NWW to provide further technical data to support a review of NWW's pending bulkhead permit application. If NWW proceeds with installing the illegal bulkhead and it is later removed and/or relocated, there will be further harm to the environment with the removal of the bulkhead.

The court should immediately stop all unauthorized oceanfront development or construction and order that Defendants shall not pursue any future oceanfront construction, until they obtain appropriate approval from the DEP.

STATEMENT OF FACTS

Post-Ian Emergency Authorization Request

On the evening of October 3, 2022, DEP received an email from NWW's consultant indicating that NWW would be submitting an EA request to protect the Beach Patrol Building at 15th Avenue. Certification of Colleen Keller at ¶ 13. The next day, DEP responded indicating that it would expedite review of the EA and reminded NWW of the standards applicable to post-storm restoration within the CZM Rules, N.J.A.C. 7:7-10.3(b). Id. ¶ 14. NWW submitted a request for an EA pursuant to N.J.A.C. 7:7-21.1 on October 5, 2022, that identified the impairment of the protective dune system in the area of 15th and 16th Avenues due to erosion and claimed that a "breach condition was imminent." Certification of Jennifer Moriarty at ¶ 5. The EA sought: 1) immediate installation of jersey barriers at the City's beach patrol building/oceanfront safety facility; 2) future installation of a bulkhead in the same location; 3) reshaping of the ocean side of the dune within this area; and 4) repair of the 16th Avenue right-of-way to the beach and the 25th Avenue vehicular access. Certification of Jennifer Moriarty Exhibit A.

Following the receipt of NWW's EA request, DEP promptly reviewed the information submitted in the request including the photographs submitted by NWW, an aerial photograph of this area taken on October 6, 2022 during a routine post-storm flyover by the DEP Office of Coastal Engineering ("OCE"), on the ground photographs taken by OCE of the area on October 4, 2022, and considered the likely coastal effects of the remnants of Hurricane Ian. Id. at ¶ 10. Staff from the Division of Land Resource Protection ("DLRP"), the DEP Division tasked with approving or denying the EA request, consulted with staff from the OCE who are knowledgeable and experienced with the size and shape of beach and dune systems that provide protection in towns along the State's coast. Id. Based on this material and consultation, on October 7, 2022, DEP partially granted the EA for the installation of the temporary jersey barriers and removal/relocation of composite/timber decking walkway to allow for the barriers. Id. at ¶ 8. DEP determined that the other requests: installing a bulkhead; reshaping the dune remnants; and reconstructing the 16th and 25th Avenue access points, were not needed to prevent an imminent threat. Furthermore, additional time was needed to complete its review pursuant to the provisions of the CZM Rules and Freshwater Wetlands Regulations. Id. On October 12, 2022, DEP denied these additional measures. Id. at ¶ 9. DEP's EA determination was published in the DEP Bulletin on October 19,

2022. Id. In its notification denying additional EA relief, DEP reasoned NWW was not eligible for an EA regarding requests 2), 3), and 4) above, because NWW had not demonstrated that there is an imminent threat to the loss of life or severe loss of property based on existing conditions and that an application for a technical Individual Permit needed to be submitted for review of a bulkhead. N.J.A.C. 7:7-21.1. Id. at ¶¶ 10, 12. The emergent effects of Ian had subsided and a substantial dune/beach berm remained in place that would offer shore protection during a future storm. Id. at ¶ 10; see also the Certification of Michael Lutz at ¶ 7 (finding in his October 6, 2022 site visit that Hurricane Ian caused some erosion of the beach berm, but beach berm and dune remained both to the North and South of 15th Avenue). In addition, an EA is intended for immediate action and the proposed bulkhead would not be installed immediately because NWW had not yet ordered the required materials. Id. at ¶ 11. N.J.A.C. 7:7-21.3(d)(1) provides that the regulated activities authorized under an emergency authorization shall be commenced within 30 calendar days after the Department's verbal decision to grant the emergency authorization. Id. Typically, an EA is proposed for emergency work that will be done within ten days of the issuance date for immediate protection if necessary. Certification of Colleen Keller at ¶ 16. A bulkhead would require significantly more time to plan, order and install and therefore, would not be considered

an immediate emergency response. Id. On October 20, 2022, DEP re-emphasized to NWW that the CZM Rules, N.J.A.C. 7:7-10.3(b), authorize certain emergency post-storm beach restoration activities that are designed to return the beach to its pre-storm conditions. Id. at ¶ 20.

Less invasive shore protection measures are clearly contemplated in N.J.A.C. 7:7-10.3(b). Id. at ¶ 14. These measures include the placement of clean fill material with grain size compatible (or larger than) the existing beach material; the bulldozing of sand from the lower beach profile to the upper beach profile; the alongshore transfer of sand on a beach; the placement of concrete, rubble, or rock; and the placement of sand geotextile bags or tubes. Id. at ¶¶ 14, 20. All of these measures were unpersuasively dismissed by NWW out of hand citing logistical difficulty and expense. Certification of Jennifer Moriarty ¶¶ 14-16.

DEP further explained in its October 12, 2022 correspondence that a bulkhead must be considered through a permit application under the CZM Rules because "the proposed bulkhead could increase erosion to the beach/dune system waterward of the [lifeguard station] structure, and to the north and south of the structure due to end-effect erosion, which could exacerbate, rather than alleviate, the problems faced by the City in future storms." Id. at ¶ 12.

DEP reminded NWW of its pending permit application for the proposed bulkhead (which includes the section in its EA requested location) that has been administratively deficient since 2020. Id. DEP recommended that NWW cure the known administrative deficiencies in its pending bulkhead permit application so that DEP can start its technical review and assess the environmental impact of the proposed bulkhead as required by the CZM Rules, FHCA and FWPA regulations. Id. DEP committed to expediting review once the administrative deficiencies were addressed by NWW, however, NWW has not taken the necessary steps to date. Id.; see also Certification of Colleen Keller at ¶ 21. DEP previously notified NWW of its administrative deficiencies on December 3, 2020. Certification of Colleen Keller ¶ 9. On October 27, 2022, DEP sent an email to NWW's counsel requesting a meeting to discuss the administrative deficiencies in NWW's 2020 permit application. Id. at ¶ 21. To date, no meeting has been scheduled. Id.

NWW did not agree with DEP's partial denial of its EA, and sent a letter on October 20, 2022, indicating that it was moving forward with the unauthorized dune reshaping, which commenced that morning. Certification of Jennifer L. Moriarty ¶ 17. That same day, H4 Enterprises, LLC, working for NWW completed a portion of the dune reconstruction by excavating sand located at the 11th Avenue beach berm and grading the sand into the dunes from 14th to 16th Avenues without a required Coastal Area Facilities Review Act

("CAFRA") permit and in violation of the EA. N.J.A.C. 7:7-2.2. Certification of Michele S. Kropilak ¶¶ 10-13. NWW never requested this sand excavation within the EA request and noted in its EA request that it did not have sufficient sand reserves to re-establish shore protection despite having gone ahead and excavated sand from 11th Avenue beach berm. Certification of Jennifer L. Moriarty ¶ 14. DEP issued NWW a Notice of Violation ("NOV") to NWW on October 20, 2022. On October 28, 2022, DEP issued the contractor, H4 Enterprises, LLC an NOV for completing the sand excavation and dune grading work. Certification of Michele S. Kropilak ¶¶ 10, 11. Counsel for NWW has indicated that the fabrication of the steel sheets for the bulkhead was expected to begin November 1st, with installation planned for December 5, 2022. Certification of DAG Kevin Terhune ("Terhune Certification")

Exhibit A.

On October 21, 2022, DEP received a response to the October 20, 2022 NOV issued to NWW, which stated that NWW had completed the reshaping and regrading of the dune remnants on October 20, 2022 and indicated that the materials for the bulkhead are not yet available. Id. at ¶ 12. On November 13, 2022, DEP received a response to the NOV issued to H4 Enterprises, LLC indicating that it was contacted by NWW's Engineer to perform dune sloping and sand moving and was paid \$27,400 for this work. Id. at ¶ 13.

On November 9 and 16, 2022, DEP received letters from the Mayor of NWW indicating that NWW intends to move forward with the construction of at least a 404 linear foot bulkhead in the vicinity of 15th and 16th Avenues. Certification of Jennifer Moriarty at ¶ 18.

As outlined in detail in the Certification of Michael Lutz, the Department has been actively visiting NWW's oceanfront since the EA request was filed on October 5, 2022 to document the conditions of the oceanfront and in particular the beach berm/dune in front of the Beach Patrol Building at 15th Avenue. The conditions as documented in the photographs in the Exhibits to Mr. Lutz's certification highlight that there has been some erosion, but beach berm/dune remains. DEP conducted a flyover of NWW's oceanfront on November 3, 2022 to document oceanfront conditions. Certification of Michael Lutz at ¶¶ 31-34. Mr. Lutz also collected and analyzed GPS data regarding the length of the beach berm/dune from 14th to 16th Avenues and determined that there is approximately seventy feet of beach berm and dune directly in front of the Beach Patrol Building at 15th Avenue. Id. at 28.

Designated Freshwater Wetlands and Freshwater Wetland Transition Area North of Beach Patrol Building at 15th Avenue

On July 10, 2019, DEP issued a Freshwater Wetlands Letter of Interpretation ("LOI") verifying the boundary of the freshwater wetlands located directly North of the Beach Patrol Building at

15th Avenue. Certification of Jennifer Moriarty at ¶ 19. Regulated activities proposed within a wetland, wetland transition area or water area, as defined by N.J.A.C. 7:7A-2.2 and 2.3 of the FWPA Rules, require a permit. Id. at ¶ 20. NWW has applied for a FWPA permit in its 2020 permit application to expand the bulkhead in the same proposed location of the bulkhead in the EA. Id. The proposed expanded bulkhead in the 2020 permit application will impact the freshwater wetlands transition area near the Beach Patrol Building. Id. NWW submitted a hand-drawn map of the proposed bulkhead in the EA and it is unclear to DEP if the bulkhead under the EA will impact this freshwater wetland transition area. Id. at ¶ 21.

The Department has determined that the freshwater wetlands and freshwater wetlands transition area North of the Beach Patrol Building is of exceptional resource value and provides important habitat for state endangered wetlands. Certification of Laurance S. Torok at ¶¶ 7-9.

Stevens Institute of Technology Report Regarding Erosion Analysis of the Dune System at 15th Avenue

DLRP consults with the Stevens Institute of Technology review certain shore protection projects that have been proposed within the coastal environment to provide DEP with comments regarding design and whether the project could cause additional unnecessary impact to the adjacent coastal system from a coastal engineering

perspective. Certification of Colleen Keller at ¶ 6. While DLRP does not traditionally consult with the Stevens Institute on EA requests, DLRP reached out to the Director of the Stevens Institute, Mr. Jon Miller, for his opinion on the recent erosion in the area of 15th Avenue. Id. at ¶ 22. On July 25, 2022, Mr. Miller opined that NWW's shoreline from 13th to 25th Avenues remains healthy and that the dunes are well vegetated. Id. at ¶ 23. He further opined that the dune system in this area is adequate to protect upland infrastructure and the need for a continuous bulkhead is not apparent. Id.

NWW's History of Noncompliance

Since 2012 NWW has engaged in extensive oceanfront work without the necessary DEP approvals and permits including, destroying/disturbing existing vegetated dunes, wetlands and wildlife habitat, by grading, excavating and filling these areas and constructing a lengthy bulkhead, as well as numerous other oceanfront structures and pathways. Certification of Michele Kropilak ¶ 6. NWW and its leasehold developer also constructed numerous unpermitted structures including a private swim club on the nearby Seaport Pier. Id. at ¶ 9. Most relevant, in 2020, NWW destroyed/disturbed more than 6 acres of mature, densely vegetated dunes, and installed a vinyl and/or steel bulkhead from 3rd Avenue to 13th Avenue between 2013 and 2000 without applying for or receiving the required DEP permits prior to construction. Id. at

¶¶ 7, 9. In 2020, DEP was alerted to this unauthorized activity and issued NWW and its oceanfront development contractors NOV's for these violations. Id. This area is regulated by the CAFRA, the FWPA, and its implementing regulations, and the Flood Hazard Area Control Act ("FHACA") and its implementing regulations. Id.

NWW subsequently filed a permit application in 2020, as noted above, to attempt to legalize the existing unauthorized bulkhead and other unauthorized oceanfront structures and to further expand the bulkhead south from 13th Avenue to 25th Avenue within dunes along the oceanfront. Certification of Colleen Keller ¶¶ 7-10. This permit application is presently before DEP for review.¹ Id. NWW recently requested, and was denied authorization, to install a section of the 2020 proposed steel bulkhead from 15th to 16th Avenues in its most recently filed EA as noted above. Certification of Jennifer Moriarty ¶ 9.

¹ Technical review of the 2020 permit has not commenced as of the date of this application because DEP has determined that the permit remains administratively deficient. Certification of Colleen Keller at ¶¶ 9, 10. Technical review cannot commence until the deficiencies have been addressed by NWW. Id. ¶ 10. An administrative deficiency notice was issued on December 3, 2020 for the permit application to legalize the unauthorized bulkhead that was installed from 7th Ave to 13th Ave and the proposed expansion of the bulkhead. Id. at 9. This administrative deficiency was issued for missing, but required, property owner signatures and the initial newspaper ad as required by CAFRA. Id.

ARGUMENT

POINT I

**NWW'S OCEANFRONT CONSTRUCTION WORK, PERFORMED WITHOUT
DEP AUTHORIZATION, VIOLATES CAFRA.**

NWW failed to seek administrative or appellate review of the EA, now a final agency order. Instead, NWW has chosen to ignore DEP's denial of the EA and proceed with DEP regulated oceanfront construction. Thus, DEP seeks temporary restraints and a preliminary injunction for NWW's failure to comply with the EA. See R. 4:67-6(c)(1). Accordingly, the Court should restrain, and temporarily enjoin NWW from pursuing any future DEP regulated oceanfront construction, including installing the bulkhead, unless prior approval is first obtained from the DEP.

Permit applicants and authorization applicants have a right to an adjudicatory administrative hearing under the CZM Rules to contest any decision to issue or deny a permit made by DEP pursuant to that act. N.J.A.C. 7:7-28.1 (after an administrative hearing, "[t]he commissioner's action shall be considered the final agency action for the purposes of the 'Administrative Procedure Act,' and shall be subject only to judicial review as provided in the Rules of Court").

NWW submitted a request for an EA pursuant to N.J.A.C. 7:7-21.1 on October 5, 2022 that identified the impairment of the protective dune system in the area of 15th and 16th Avenues due to erosion and claimed that a "breach condition was imminent." DEP

promptly reviewed the EA and on October 7, 2022, DEP partially granted the EA for the installation of the temporary jersey barriers and removal/relocation of composite/timber decking walkway to allow for the barriers, which is a legal determination. DEP determined it needed additional time to review the emergency request to install the bulkhead, reshape the dune remnants, and reconstruct the 16th Avenue and 25th Avenue access points. On October 12, 2022, DEP denied these requests as not consistent with N.J.A.C. 7:7-21.1. Under N.J.A.C. 7:7-21.1, an EA applicant must demonstrate that a threat to life, severe loss of property, or environmental degradation exists or is imminent that can only be prevented or ameliorated through a regulated activity, and the threat, loss, or degradation is likely to occur, persist, or worsen before a permit can be issued by DEP. N.J.A.C. 7:7-21.1.

NWW did not agree with DEP's partial denial of its EA, and sent a letter on October 20, 2022, indicating that it was moving forward with the unauthorized dune reshaping, which commenced that morning. That same day, H4 Enterprises, LLC, working for NWW, completed a portion of the dune reshaping by excavating sand located at the 11th Avenue beach berm and transporting and grading the sand into the dunes from 14th to 16th Avenues without a required CAFRA permit. Excavating sand from the beach was never requested in the EA request and is a violation of the EA. N.J.A.C. 7:7-2.2.

DEP issued its denial of NWW's EA on October 12, 2022. The EA determination was published in DEP's Bulletin pursuant to N.J.A.C. 7:7-21.3(b) on October 19, 2022. NWW had 30 days from the publication date in DEP's Bulletin to file an administrative appeal, which NWW failed to do. N.J.A.C. 7:7-28.1(b). As such, NWW failed to timely file an administrative hearing request challenging the EA decision and as a result, the EA is now a final agency action. NWW cannot now challenge the underlying decision through this application by DEP for temporary restraints and a preliminary injunction. New Jersey Dep't of Env'tl. Prot. v. Mazza & Sons, Inc., 209 N.J. Super. 13, 22-23 (App. Div. 2009) (finding that a defendant "cannot simply disregard the final agency action, wait for the agency to bring an enforcement action under Rule 4:67-6 in a trial court, and then challenge the agency action in defense of the enforcement action"). As a result, all DEP needs to show in this application is that NWW has failed to comply with the EA.

NWW may have also attempted to seek review of the EA in the Appellate Division pursuant to R. 2:2-3(a)(2) in the interests of justice. However, the 45-day timeframe within which NWW had the right to file an as of right appeal on the EA in the interests of justice has expired. R. 2:4-1(b). As a result, there is no pending or available administrative or appellate review of the EA that would preclude DEP from seeking temporary restraints and a preliminary injunction for NWW's failure to comply with the EA.

See R. 4:67-6(c)(1). Accordingly, the Court should restrain, and temporarily enjoin NWW from pursuing any future oceanfront construction, including installing the bulkhead, unless prior approval is obtained from the DEP.

POINT II

THE DEPARTMENT IS ENTITLED TO TEMPORARY RESTRAINTS AND INJUNCTIVE RELIEF BLOCKING ANY FURTHER UNPERMITTED DEVELOPMENT OR CONSTRUCTION OF SHORE PROTECTION MEASURES AND EXCAVATION, FILLING AND GRADING OF THE BEACH AND/OR DUNES

The Court should immediately restrain NWW from conducting all unauthorized oceanfront development and construction, including the installation of a bulkhead, and any grading, excavating or filling without the required permits under CAFRA, the CZM Rules, the FHCA and the FWPA. A court's authority to grant temporary restraints and injunctive relief is generally based on the equitable factors explained in Crowe v. De Gioia, 90 N.J. 126, 132-34 (1982). Although DEP is entitled to temporary restraints and injunctive relief pursuant to Crowe, see Point III, infra - the court may also grant injunctive relief where, as is the case here, a statute specifically provides the right to enjoin noncompliance with the statute's provisions. Injunctive relief is available for violations of CAFRA, N.J.S.A. 13:19-18(c)(1), the CZM Rules, N.J.A.C. 7:7-29.8(a)(1), the FHCA, N.J.S.A. 58:16A-63(c)(1), and the FWPA, N.J.S.A. 13:9B-21(c)(1).

Rule 4:52-1 (a) provides that an application for injunctive relief can include temporary restraints or other interim relief if the defendant has either notice, whether formal or informal, of the application and an opportunity to be heard, or that plaintiff will probably suffer immediate and irreparable damage before notice can be given. See Sagi v. Sagi, 386 N.J. Super. 517, 524 (App. Div. 2006). While counsel for NWW has been provided notice of the filing of the present application, it is also clear that immediate and irreparable damage will likely result if NWW proceeds to install a bulkhead between 15th and 16th Avenues. NWW has clearly indicated that it will be moving forward with its installation of a bulkhead during the first week of December. Terhune Certification **Exhibits A and B**. As such, the need for restraining NWW from installing the bulkhead is immediate.

Where a statute has been violated, "no showing of irreparable harm need be made by the party seeking the injunction, nor must the court consider whether the injunction is in the public interest." 42 Am. Jur. 2d Injunctions § 23, at 595 (2000); see, e.g., Dep't of Env'tl. Prot. v. Interstate Recycling, Inc., 267 N.J. Super. 574, 577-78 (App. Div. 1993) (holding the Department need not show actual environmental damage for the court to enjoin repeated violation of environmental statutes) (citing Hoffman v. Garden State Farms, Inc., 76 N.J. Super. 189, 201 (Ch. Div. 1962)); Matawan Reg'l Teachers Ass'n v. Matawan-Aberdeen Reg'l Bd. of

Educ., 212 N.J. Super. 328, 334-35 (Law Div. 1986) (holding a movant does "not need to show irreparable harm to be entitled to injunctive relief. Where injunctions are creatures of statute, all that need be proven is a statutory violation.").

Further, DEP is entitled to seek such relief in a summary proceeding. See e.g., N.J. Dep't of Env'tl. Prot. v. Boro Auto Wrecking Co., No. A-4920-04 (App. Div. Oct. 24, 2006) (slip op. at 4). "Actual harm or direct injury to the public health or environment need not be shown to enjoin a violation of our environmental laws. Rather, the Legislature has fashioned an injunctive remedy designed to be 'preventive' and intended to 'restrain acts which tend to produce public injury.'" Ibid. (quoting State v. Wheeler, 44 N.J.L. 88, 96 (Sup. Ct. 1882)).

Therefore, to obtain temporary restraints and injunctive relief pursuant to the CAFRA, FWPA, the FHCA and the CZM Rules, DEP is only required to show NWW violated and continues to violate those statutes and regulations. The evidence, as outlined below, shows that NWW violated the CZM Rules when it violated the EA by excavating, filling, grading and reshaping the dune and that it intends to continue to violate the law by installing a bulkhead without a permit.

1. Violation of the EA

DEP reviewed NWW's October 6, 2022 EA and on October 7, 2022, DEP partially granted the EA for the installation of the temporary

jersey barriers and removal/relocation of the composite/timber decking walkway to allow for the barriers. DEP determined it needed additional information from NWW and time to review the emergency request to install the bulkhead, reshape the dune remnants, and reconstruct the 16th Avenue and 25th Avenue access points. On October 12, 2022, DEP denied these additional requests.

NWW did not agree with DEP's partial denial of its EA, and sent a letter on October 20, 2022, indicating that it was moving forward with the unauthorized dune reshaping, which commenced that morning. That same day, H4 Enterprises, LLC, working for NWW, completed dune reshaping by excavating sand located at the 11th Avenue beach berm and grading the sand into the dunes from 14th to 16th Avenues without a required CAFRA permit. N.J.A.C. 7:7-2.2. NWW's actions were also completed in violation of the EA and DEP's specific direction on October 7, 2022 and October 12, 2022.

2. Failure to Obtain a Permit

N.J.A.C. 7:7-2.2 requires a permit for any regulated activity on a beach or dune. In its letter to NWW on October 12, 2022, while approving NWW's temporary deployment of jersey barriers, DEP specifically denied NWW's request to reshape the dune in front of the Beach Patrol Building. Further, NWW never requested within its EA request to excavate sand from the 11th Avenue beach berm and place and grade it into the dunes at 14th to 16th Avenues. In fact, NWW emphasized that it had no available sand source for such work.

In its denial DEP was clear that any such actions would be subject to enforcement by DEP for violation of N.J.A.C. 7:7-2.2, which provides that a permit is required for any regulated activity on a beach or dune. NWW and H4 Enterprise's excavation of sand, filling and dune grading activities on October 20, 2022, were done without a permit, in violation of N.J.A.C. 7:7-2.2.

DEP issued NWW a Notice of Violation ("NOV") on October 20, 2022, and on October 28, 2022 DEP issued the contractor, H4 Enterprises, LLC a NOV as well. NWW violated CZM Rules when it proceeded on October 20, 2022 to excavate the sand at the 11th Avenue beach berm, and then filling and grading the dune between 14th and 16th Avenues after DEP's denial of its EA. Further, NWW has advised that it has ordered the materials for installation of the bulkhead and has advised that it intends to commence installation of the bulkhead once the materials are received. Terhune Certification **Exhibits A and B**. NWW has no permit approval pursuant to CAFRA or the FWPA to install a bulkhead, and its previously submitted permit application for the installation of the bulkhead has been administratively deficient since 2020. Without a valid permit, any installation of the bulkhead is a violation of CZM Rules, CAFRA, FWPA and the FHACA.

3. Immediate and Irreparable Damage Will Likely Result

Because NWW continues to violate CAFRA, FWPA, FHACA and the CZM Rules as identified above, and NWW has advised that it plans

to continue with its unpermitted bulkhead installation project in defiance of State statutes and DEP regulations, DEP requests an order restraining Defendants from installing the bulkhead and any excavation, filling and grading on the oceanfront until NWW obtains a permit to do so to maintain the status quo and protect the environment.

NWW has clearly indicated that it will be moving forward with its installation of a bulkhead during the first week of December. NWW's planned installation of the bulkhead will require the likely irreparable removal of a portion of a delineated freshwater wetlands transition area and/or dune which would degrade the environment. This area is also classified under CAFRA as critical wildlife habitat, and an exceptional resource value under the FWPA Rules, which creates a likely risk that the installation of a bulkhead inside and adjacent to such a classified area would have an irreparable impact on these species. Immediately restraining NWW from installing the bulkhead is required to preserve the status quo and prevent likely, irreparable harm to these delineated freshwater wetlands and freshwater wetlands transition areas.

POINT III

THE EQUITABLE CROWE FACTORS HEAVILY SUPPORT ENTRY OF TEMPORARY RESTRAINTS AND INJUNCTIVE RELIEF TO STOP THE INSTALLATION OF THE BULKHEAD

Defendants' anticipated installation of the bulkhead in violation of the EA and without a proper permit requires immediate

action from the Court to ensure the protection of the environment, including vegetated dunes and delineated freshwater wetlands in the area of the proposed bulkhead installation. DEP needs to properly review the proposed work via the permitting process to ensure a bulkhead is an appropriate shore protection measure and/or is properly constructed and located in compliance with and pursuant to the CZM Rules, FWPA, FHACA and coastal engineering measures. Although CAFRA, FWPA, FHACA and the CZM Rules expressly allow for the court to grant injunctive relief without undertaking the Crowe analysis, the facts nevertheless weigh in favor of granting the requested relief.

New Jersey has long recognized the power of courts to grant injunctive relief to "prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case" Zoning Bd. Of Adjustment of Sparta Twp. v. Service Elec. Cable Television of N.J., Inc., 198 N.J. Super. 370, 379 (App. Div. 1985) (internal citations omitted). This power "must be administered with sound discretion and always upon considerations of justice, equity, and morality in a given case." Ibid.

DEP satisfies the standard for a preliminary injunction set out in Crowe v. De Gioia, even though such factors are not necessary where a statute allowing for injunctive relief has been

violated. Under Crowe v. De Gioia, 90 N.J. 126 (1982), the applicant for injunctive relief must show:

(1) a reasonable probability of success on the merits based on well settled law (this factor is relaxed if the party is seeking to preserve the status quo, Crowe 90 N.J. 126, 133 (1982));

(2) that the balance of hardships favors the party seeking relief;

(3) that the party seeking relief would suffer irreparable harm in the absence of an injunction (irreparable harm is generally defined as a harm where money is inadequate to compensate for the harm, Crowe 90 N.J. 126, 133 (1982)); and

(4) that the public interest will not be harmed by the granting of the injunction. Waste Mgmt. of New Jersey v. Union Cnty Util. Auth., 399 N.J. Super. 508, 519-20 (App. Div. 2008) (citing Crowe v. De Gioia, 90 N.J. 126, 132-134 (1982)).

A. DEP is likely to prevail on the merits of the case.

DEP is likely to prevail on the merits of the case because it correctly denied NWW's request to install a bulkhead under the EA pursuant to N.J.A.C. 7:7-21.1 and because NWW needs a permit pursuant to the CAFRA, CZM Rules, and FWPA to install the bulkhead. Further, DEP correctly denied NWW's request to reshape the dune

and install the steel bulkhead in the EA. NWW failed to timely file a hearing request with DEP or file an appeal as of right to challenge the underlying basis of the EA decision, which resulted in the EA becoming a final agency action. As a result, the merits of the EA are not now reviewable by the Court in this application. Dep't of Env'tl. Protection v. Mazza & Sons, Inc., 406 N.J. Super. 13, 22-23 (App. Div. 2009).

However, if the Court does find it has jurisdiction to review the underlying EA decision, DEP should be awarded deference in its decision-making. Matturi v. Bd. Of Trs. of the Judicial Ret. Sys., 173 N.J. 368, 381 (2002) (finding that courts generally afford substantial deference to the actions of administrative agencies); see also Greenwood v. State Police Training Ctr., 127 N.J. 500, 513 (1992) (stating that deference is appropriate because of the expertise and superior knowledge of agencies in their specialized fields). DEP, and specifically, DLRP, is tasked with making the decision on NWW's EA request based on its expertise as the administrative agency responsible for the implementation of the CZM Rules. DEP made the determination based on the information provided in the EA, OCE's aerial photograph from October 6, 2022 and photographs from October 4, 2022, and upon consultation with staff in OCE who are familiar with the dune systems along the coastline, that there was sufficient dune protection left after Hurricane Ian for shore protection. Therefore, NWW failed to

demonstrate that a threat to life, severe loss of property, or environmental degradation existed or was imminent that could only be prevented through a regulated activity and is likely to occur/persist/worsen before a permit could be issued by DEP. N.J.A.C. 7:7-21.1. This decision is further bolstered by Jon Miller's report from the Stevens Institute finding that the erosion in this area currently does not warrant a bulkhead. DEP also collected GPS data regarding the length of the beach berm from 14th to 16th Avenues, which determined that there is approximately seventy feet of beach berm and dune directly in front of the Beach Patrol Building at 15th Avenue, and conducted another flyover of the NWW oceanfront on November 2, 2022. Photographs from this flyover highlight the oceanfront conditions. Finally, DEP authorized the temporary measure of installing jersey barriers which NWW has already completed.

The installation of the bulkhead does not meet the requirements of N.J.A.C. 7:7-21 because such measures are temporary in nature and regulated activities authorized under an EA must be commenced and conducted within 30 days. N.J.A.C. 7:7-21.3. NWW has admitted that the materials for the bulkhead were not readily available, would not be fabricated until November and could not be installed until December. Such regulated activity does not qualify for approval under N.J.A.C. 7:7-21.

Lastly, NWW already knows it needs permit approval for the installation of a steel bulkhead because this same section of bulkhead is already in NWW's pending 2020 permit application that remains administratively deficient. This 2020 permit has been pending for two years now, and NWW has yet to cure the administrative deficiencies.

B. The balance of equities weighs in DEP's favor.

The balance of hardships favors the State, which holds these natural features in trust for the protection of health, safety, welfare, and the environment in perpetuity. Installation of the bulkhead at this time is not an emergency, and without the appropriate technical review required by the existing permitting process it is likely that the installation will cause irreparable harm to the environment. Without a thorough review of the proposed bulkhead, including its proposed location within and adjacent to existing dunes and freshwater wetlands and transition area, via the permit process, it is believed that the installation of the bulkhead will increase erosion to the dune system north and south of the area where the bulkhead is installed and result in further loss of dune and freshwater wetlands and freshwater wetlands transition areas. DEP has stressed to NWW the importance of full permitting review as it continues to encourage NWW to address its administrative deficiencies in its 2020 CAFRA and Freshwater Wetlands permit application.

Restraining NWW from installing the bulkhead is critical to maintaining the status quo. NWW's planned installation of the bulkhead will also require the removal of a portion of a delineated freshwater wetlands transition area further degrading the environment. This area is classified under CAFRA as critical wildlife habitat, and under the FWPA Rules as having exceptional resource value, and as such the potential impacts of the bulkhead on these species must be evaluated in the permit process. Installation of a bulkhead that may later need to be removed and/or relocated via court order, will likely cause an even greater harm to the environment and wetlands. The Coastal Engineering Rule, N.J.A.C. 7:7-15.11, provides a hierarchy that requires utilization of non-structural or hybrid shore protection measures if at all feasible or practical prior to consideration of structural remedies such as bulkheads. Certification of Jennifer Moriarty at ¶ 13. This analysis is performed during technical review of an individual CARA permit application and why DEP informed NWW that a bulkhead needs to be reviewed through an individual permit application, such as its pending 2020 application. Id.

The emergent effects of Ian have subsided and a substantial dune/beach berm remains in place that would offer NWW adequate shore protection during future storms while they cure the permit application deficiencies from 2020. Additionally, less invasive shore protection measures are available to help bolster shore

protection, but were unpersuasively discounted by NWW in its EA request. These measures include the placement of clean fill material with grain size compatible (or larger than) the existing beach material; the bulldozing of sand from the lower beach profile to the upper beach profile; the alongshore transfer of sand on a beach; the placement of concrete, rubble, or rock; and the placement of sand geotextile bags or tubes. NWW has indicated that it has a problem with each of these alternatives citing the cost, delay in fulfilling the job because it would be time consuming, or impediment on future engineering options. Mr. Miller opined in his November 2022 report that other alternatives to a bulkhead should be considered in this area such as raising or relocating the Beach Patrol Building or filling breaks in the existing dune. Certification of Colleen Keller at ¶ 23.

DEP has worked closely with NWW in the past to address its shore protection and beach replenishment concerns through the issuance of backpassing permits to allow the transporting and distribution of sand from the City of Wildwood to NWW. NWW now contends that such backpassing operations would be logistically challenging due to limited access to available sand reserves and higher transportation and infrastructure costs for such work. Certification of Jennifer Moriarty at ¶ 14. NWW discounts the placement of rock, and concrete as too slow a process and insists that logistical and labor challenges facing the trucking industry

make such an option impractical. Id. at ¶ 15. Finally, NWW discounts the use of sand filled tubes as impractical based upon the claimed unavailability of sand to fill the tubes. Id.

NWW's objections to the alternatives did not challenge the adequacy of those alternative non-structural measures to address its shore protection concerns, or that such measures would not be in the public's interest, but merely stressed the cost and time required to implement them. To discount such measures now in favor of the installation of permanent bulkheading, without full permit vetting and analysis by DEP, as required by CAFRA, the CZM Rules, the FHACA and the FWPA, would produce unreasonable risk to the environment and further shift the balance of the equities in DEP's favor.

Given that the imminent threat of additional storm damage has passed with substantial dune remaining in place and that NWW has unreasonably discounted less invasive shore protection measures, the balance of the equities clearly lies in DEP's favor.

C. There is a risk of immediate and irreparable harm from Defendants' activities.

As set forth above, DEP is entitled to a temporary restraining order and preliminary injunctive relief, by virtue of NWW's violations of DEP's statutes and regulations alone. DEP is explicitly authorized to seek injunctive relief for violations of

CAFRA, the CZM rules, the FHACA and the FWPA. "In such circumstances, no showing of irreparable harm need be made by the party seeking the injunction, nor must the court consider whether the injunction is in the public interest." 42 Am. Jur. 2d Injunctions; see, e.g., Dep't of Env'tl. Prot. v. Interstate Recycling, Inc., 267 N.J. Super. 574, 577-78 (App. Div. 1993) (holding the Department need not show actual environmental damage for the court to enjoin repeated violation of environmental statutes) (citing Hoffman v. Garden State Farms, Inc., 76 N.J. Super. 189, 201 (Ch. Div. 1962)); Matawan Reg'l Teachers Ass'n v. Matawan-Aberdeen Reg'l Bd. of Educ., 212 N.J. Super. 328, 334-35 (Law Div. 1986) (holding a movant does "not need to show irreparable harm to be entitled to injunctive relief. Where injunctions are creatures of statute, all that need be proven is a statutory violation.").

Regardless, there exists a further risk of immediate irreparable harm to the environment if Defendants install a bulkhead in violation of the EA and without a permit. NNW has made it clear to DEP that it plans to move ahead with the installation of a bulkhead between 15th and 16th Avenues in the first week of December. NNW's planned installation of the bulkhead will require the removal of a portion of a delineated freshwater wetlands transition area and/or dune which would degrade the environment. This area is also classified under CAFRA as critical

wildlife habitat and, as such, the potential impacts of the bulkhead on these species should be evaluated in the permit process. Seeking to restrain NWW from installing the bulkhead is also critical to maintaining the status quo. Installation of the bulkhead that may later need to be removed and/or relocated may result in additional irreparable harm. Certification of Jennifer Moriarty at ¶ 13.

D. Enjoining Defendants' unpermitted activities will not harm the public interest.

Enjoining Defendants' unpermitted activities lies squarely in the public interest. Crowe, 90 N.J. at 132-34; see also Waste Mgmt. of N.J. v. Union Cty. Util. Auth., 399 N.J. Super. 508, 519-20 (App. Div. 2008). Restraining NWW serves the public's interest by ensuring compliance with environmental statutes and regulations by entities whose unregulated activities would otherwise pose a risk of harm to the State's natural resources, and the environment. Through CAFRA, (N.J.S.A. 13:19-1 to -51), and the FWPA, (N.J.S.A. 13:9B-1 to -20), the Legislature has made clear the public's overriding interest in protecting the exceptional, unique, irreplaceable and delicately balanced natural environmental resources in freshwater wetlands and the coastal area in general. There is no current threat to public safety justifying Defendant's proposed unlawful actions because the emergent effects of Ian have

subsided and a substantial dune/beach berm remained in place that would offer shore protection during a future storm.

As noted above, NNW has a history of importing sand from the City of Wildwood and has obtained permits in the past for the depositing and grading of this sand (backpassing) to restore past erosion and address seasonal storm damage over the past several years. See Certification of Colleen Keller at ¶ 19. NNW also acknowledged in its EA request that other options in lieu of installing a permanent bulkhead exist. These include deposition of clean fill material (backpassing), placement of rock, or placement of sand-filled geotextile tubes. NNW has indicated that it has a problem with each of these alternatives citing only the cost, delay in fulfilling the job because it would be time consuming, or impediment on future engineering options. NNW discounts the placement of rock, and concrete as too slow a process and insists that logistical and labor challenges facing the trucking industry make such an option impractical. Finally, NNW discounts the use of sand filled tubes as impractical based upon the claimed unavailability of sand to fill the tubes.

NNW's objections to the alternatives do not challenge the adequacy of those alternative non-structural measures to address the shore protection concerns, or that such measures would not be in the public's interest, but rather stress the cost and time required to implement same. It would certainly not be over

burdensome and contrary to the public's interest for the City to have explored and implemented these reasonable alternative measures prior to seeking the installation of a permanent structure in such an environmentally sensitive location.

It is further in the public interest for NWW to comply with DEP rules and regulations. When a CAFRA Individual Permit application is filed and reviewed by DEP in its proper course, the review includes a process for public comment. See N.J.A.C. 7:7-26.4. This opportunity for public scrutiny and comment furthers the public's interest. Public input will be silenced if NWW is allowed to act outside of the permitting process.

NWW should not be allowed to act in defiance of DEP and act without the appropriate approvals when there is no emergency situation. Further, NWW's claimed difficulties are self-inflicted given NWW's failure to correct its deficient permit application since December of 2020, almost two years ago. The public interest favors preserving the status quo and giving DEP the opportunity, as required by CAFRA, to conduct its review of the impacts of the bulkhead on the environment and future erosion to protect the public. As such, the public interest would benefit from the issuance of injunctive relief.

CONCLUSION

For the foregoing reasons the Court should immediately restrain, and later preliminarily enjoin, Defendants from pursuing any future oceanfront construction, including installing the bulkhead, unless prior approval is first obtained from the DEP. The Court should also set a schedule for summary action on the remaining counts of DEP's Verified Complaint.

Respectfully submitted,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Kevin A. Terhune

Kevin A. Terhune
Deputy Attorney General

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Dianna E. Shinn

Dianna E. Shinn
Deputy Attorney General

December 6, 2022

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 093
Trenton, NJ 08625-0093
Attorney for Plaintiff State of New Jersey
Department of Environmental Protection

By: Dianna E. Shinn (242372017)
Deputy Attorney General
(609) 376-2789

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY
CHANCERY DIVISION
Docket No. * _____-22

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
Plaintiff,

v.

CITY OF NORTH WILDWOOD, "XYZ
CONTRACTORS" 1-10, "JOHN
AND/OR JANE DOES" 1-10,
Defendants.

Civil Action

**CERTIFICATION OF
JENNIFER L. MORIARTY IN
SUPPORT OF PLAINTIFF NEW
JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION'S
ORDER TO SHOW CAUSE FOR
PRELIMINARY INJUNCTION &
TEMPORARY RESTRAINTS**

I, JENNIFER L. MORIARTY, of full age, certify and say:

1. I am the Director of the Division of Land Resource Protection ("DLRP") at the Department of Environmental Protection ("DEP"). I have been in this position since March 2021. My duties include providing direction to the Division regarding, among other things, policies and procedures to be followed when making permitting decisions under the Coastal Zone Management Rules, N.J.A.C. 7:7-1.1 to -29.10 ("CZM Rules"). This includes reviewing decision-making where appropriate

related to permitting decisions, including emergency authorization requests pursuant to N.J.A.C. 7:7-21. In addition, I am responsible for providing direction to the Division on policies and procedures to be followed when pursuing enforcement actions related to violations of the CZM Rules.

2. I graduated from the University of Delaware and received a legal degree from Temple University. Before joining DEP, I worked as Deputy Attorney General in the New Jersey Division of Law.

3. Since I started as the Director of DLRP, I have become familiar with NWW's unauthorized regulated activities along its oceanfront beaches. These include the installation of a lengthy bulkhead from 3rd Avenue to 13th Avenue without the proper permit approval and the destruction of dunes, wetlands and wildlife habitat in violation of the CZM Rules, the Coastal Area Facility Review Act ("CAFRA"), and the Freshwater Wetlands Protection Act ("FWPA").

4. I make this certification in support of the Department's Order to Show Cause requesting a preliminary injunction and temporary restraints to stop NWW from installing a bulkhead as previously denied by the Department on October 12, 2022 and in violation of CAFRA, the CZM Rules, and the FWPA. This certification outlines NWW's Emergency Authorization request and the Department's responses to the request, justification for why

the Department determined no emergency conditions existed or currently exist for the installation of a bulkhead under an emergency authorization and without proper permit approval, why the permit approval process is critical for evaluating the bulkhead proposal and determining potential alternatives to a bulkhead under the Coastal Engineering Rule, and potential irreparable harm to the freshwater wetland transition area behind the Beach Patrol Building if the bulkhead is installed as such impacts have not been adequately addressed in the permitting process.

NWW's Post-Ian Emergency Authorization Request

5. On October 5, 2022, NWW submitted an Emergency Authorization ("EA") application to the Department pursuant to the CZM Rules. Attached to this certification as **Exhibit A** is NWW's EA application.

6. Following the remnants of Hurricane Ian along the shoreline, NWW claimed there was an absence of a defined beach berm and loss of greater than 75% of the protective dune system in front of the Beach Patrol Building/Oceanfront Safety Facility, Block 317.03, Lot 1 (generally the area between 15th and 16th Avenues), and that the City Engineer determined that a breach condition is imminent requiring emergency measures to re-establish reliable shore protection at this location. The EA also requested emergency relief regarding the 25th Avenue beach access, Block

289.03, Lot 1 because NWW alleged significant erosion in this area.

7. NWW specifically requested authorization to immediately deploy jersey barriers extending from the 15th Avenue northern right-of-way limit line along the landward edge of the dune to the 16th Avenue southern right-of-way limit line; remove/relocate existing composite/timber decking walkway from in front of the building to facilitate the jersey barrier deployment; reshape the dune remnants to protect the existing dune vegetation to the maximum extent possible, and to establish stabilized slopes secured landward by the jersey barrier wall; installation of a 404LF cantilevered bulkhead; and reconstruct/stabilize the vehicular/pedestrian access from the 16th Avenue right-of-way to the beach; and finally, immediately reconstruct the 25th Avenue beach access via grading and stabilizing fill material and reconstruct the sloped ramps and landings.

8. The Department quickly responded to NWW's EA, immediately granting partial approval. On October 7, 2022, the Department authorized the use of temporary jersey barriers in a 400 linear foot alignment extending from the 15th Avenue northern right-of-way limit line along the landward edge of dune to the 16th Avenue southern right-of-way limit line and the removal of composite/timber decking walkway. This authorization pursuant to the CZM Rules (N.J.A.C. 7:7-21) and the Freshwater Wetlands

Regulations (N.J.A.C. 7:7A-14) contained several conditions, including but not limited to no disturbance to dunes. The Department specifically directed NWW to not conduct any of the other requested emergency measures including reshaping the dunes, installation of the bulkhead, and reconstruction of the access point at 16th Avenue and 25th Avenue. Those activities were not authorized by the Department on October 7, 2022 as the Department needed additional time to further evaluate those measures under the emergency authorization provisions of the CZM Rules and the Freshwater Wetlands Regulations. Attached to this certification as **Exhibit B** is my October 7, 2022 email to Mr. Long.

9. On October 12, 2022, the Department responded to NWW and denied the remaining portions of NWW's EA request to install a bulkhead, scarp reshaping of the oceanside of the dune within this area by establishing an angle of repose and "marrying" sand and structure on the landward side of the dune, and repair of the 25th Avenue vehicular access. The Department denied this requested emergency relief for the reasons expressed below.

Attached to this certification as **Exhibit C** is the Department's October 12, 2022 response. The Department's EA determination was published in the DEP Bulletin on October 19, 2022.

10. An Emergency Authorization will only be issued where the applicant can demonstrate that a threat to life, severe loss of

property, or environmental degradation exists or is imminent, and can only be prevented/ameliorated through a regulated activity and is likely to occur/persist/worsen before a permit could be issued by DLRP. N.J.A.C. 7:7-21.1. Unlike Individual Permits which take 3 or more months to review and result in detailed authorizations containing robust environmental/engineering reports, DLRP must issue determinations on EA applications within a matter of days. By their nature, these applications do not often contain in-depth technical information and analyses. Thus, DLRP quickly reviews the information presented by the applicant, and expedites its consultations with any subject-matter experts, typically through conversations and without preparation of reports or other written evaluations. Following the receipt of NWW's EA request, the Department reviewed the application, an aerial photograph of the area from October 6, 2022 taken by the Office of Coastal Engineering ("OCE"), photographs taken by NWW of the beach patrol property near 15th Avenue on October 6, 2022, on the ground photographs taken by OCE near 15th Avenue on October 4, 2022, and considered the likely coastal effects of the remnants of Hurricane Ian that might impact the area.¹ DLRP also

¹ See the certification of Erick Doyle, from the OCE, which provides a detailed analysis of the aerial photograph from October 6, 2022, the photographs taken on October 4, 2022, and a detailed overview of the remnants of the coastal effects from Hurricane Ian in this area on October 6, 2022,

consulted with OCE regarding OCE's opinion as to whether a threat to life, severe loss of property, or environmental degradation existed or was imminent. Attached to this certification as **Exhibit D** are the aerial photographs by the OCE from October 6, 2022 and the on the ground photographs taken on October 4, 2022 by OCE. DLRP determined after reviewing this material and discussion with OCE that there was not an imminent threat of the loss of life or property based on the existing conditions. The October 6, 2022 photographs show that after the coastal effects of Hurricane Ian subsided, a dune/beach berm still was in place waterward of the beach patrol building offering adequate shore protection during a future storm. This determination was also informed by the experience of DLRP and OCE staff who are familiar with the size and shape of beach and dune systems that provide protection in towns along New Jersey's coast. As such, dune reshaping and a permanent bulkhead were not necessary to protect the beach patrol building as asserted in NWW's EA request pursuant to N.J.A.C. 7:7-21.1(a).

11. DLRP also denied the EA request because EA measures are only for immediate action and the bulkhead installation could not be conducted immediately as the materials still needed to be ordered. N.J.A.C. 7:7-21.3(d)(1) provides that the regulated

which supports the Department's determination that an emergency situation did not exist warranting dune reshaping or the installation of a bulkhead.

activities authorized under an emergency authorization shall be commenced within 30 calendar days after the Department's verbal decision to grant the emergency authorization. There is no way that NWW could have met this 30-day deadline of November 11, 2022 to commence building the bulkhead when NWW did not even have the materials for the bulkhead on hand when it sought emergency authorization approval on October 5, 2022. Pursuant to N.J.A.C. 7:7-21.3(d)(1), the emergency authorization is void as of the 30th calendar day after the verbal approval. NWW also indicated in its EA application that "the lack of sand reserves in the lower beach profile also makes it impossible to bulldoze sand to the upper beach profile as an alternative means of re-establishing shore protection." NWW's statement that there was a lack of sand reserves in the lower beach profile raised further concern for DLRP that use of that sand to "reshape" the dune would compromise the lower beach profile. NWW also did not specifically request in the EA to move sand from any other location to reshape the dune near 15th Avenue and DLRP did not believe additional disturbance to the dune was prudent without the necessary detail from NWW as to how exactly that we wanted to complete the dune reshaping. As a result, DLRP denied the EA request for dune reshaping.

12. The Department further explained in its October 12, 2022 response to NWW that the installation of a bulkhead may increase

erosion of the dune system waterward of the structure and to the north and south of the potential bulkhead and could exacerbate erosion in future storms. As such, a permanent bulkhead needs to be reviewed via an Individual Permit application which allows for a more thorough technical review. The Department reminded NWW that NWW has a permit application for a bulkhead in this location that has been pending with the Department that has been administratively deficient since 2020. The Department encouraged NWW to cure the administrative deficiencies in the pending bulkhead permit application so that the Department can proceed with its technical review of the application pursuant to the CZM Rules, the Flood Hazard Area Control Act, and the FWPA regulations, and noted that it is committed to expediting review of the permit once the administrative deficiencies are addressed by NWW.

13. Although the Department has been unable to assign a staff person to perform an official technical review of the bulkhead individual permit application due to the administrative deficiencies, DLRP management has read through the pending permit application and it does not contain the required analysis of alternative shore protection measures under the Coastal Engineering Rule, N.J.A.C. 7:7-15.11. The alternatives analysis follows the rule's hierarchy that requires utilization of non-structural or hybrid shore protection measures if at all

feasible or practicable prior to consideration of structural remedies such as bulkheads. One purpose of this hierarchy is to prevent structural measures like bulkheads from being implemented in locations where they may cause serious erosion, which is why the alternatives analysis is so important in the technical permit review process. This analysis is performed during the technical review of an individual CAFRA permit application and that is why the Department informed NWW that a bulkhead needs to be reviewed through an individual permit application. Installation of the bulkhead without this analysis in a permit application may result in additional irreparable harm in the future if NWW proceeds with its pending permit application for the bulkhead in the same location and the Department determines that a bulkhead is not appropriate and should be removed. Removal of the bulkhead may cause additional harm to the surrounding environment, including delineated freshwater wetlands as discussed further below. This is why it is so critical that NWW continue with its 2020 permit application instead of installing the bulkhead without authorization in violation of the EA and in violation of CAFRA, the CZM Rules, and the Freshwater Wetlands Protection Act.

14. NWW did however conduct an alternatives analysis in its EA application pursuant to the N.J.A.C. 7:7-10.3. DLRP, in consultation with OCE, determined that NWW's dismissal of other

means of shore protection was inadequate. First, NWW considered "backpassing," which is the movement of sand from one area of the beach to another and grading the sand into the dune/berm. This alternative would be preferred by DLRP since it is a non-structural shore protection measure, but NWW indicated that there is a lack of sand reserves in the lower beach profile making it impossible to bulldoze sand to the upper beach profile. NWW however did just this when it moved sand from 11th Avenue to 15th and 16th Avenues and then graded this sand landward into the dune. This was in direct violation of the EA and in violation of CAFRA as NWW does not have a current dune maintenance permit to perform such work.

15. NWW also considered transporting material from sand and gravel mines, but determined that it was too expensive, unfeasible due to a trucking shortage and could damage municipal infrastructure, and would be too time consuming. NWW also considered dredging beach fill from sand reserves nearshore or offshore. NWW found this alternative to be too expensive and time consuming. NWW considered the placement of rock, rubble or concrete as an alternative but found that such an option was also too time consuming and could restrict future engineering options. Finally, NWW considered the placement of sand-filled geotextile tubes. However, NWW again asserted that it did not have an adequate source of beach sand material despite having

ultimately gone ahead and moved sand from 11th Avenue to 15th and 16th Avenues.²

16. DLRP, in consultation with OCE, determined the alternatives analysis did not substantiate NWW's assertions about costs or sand availability, and did not establish that a trucking shortage exists that would prevent rock or sediment from being delivered within the same 30-day timeframe as the bulkhead materials. Because the bulkhead could not be implemented immediately, even if DLRP had determined an emergency did exist, the lead-time to install a bulkhead versus the other, less structural options, would have been similar and thus a bulkhead still would not have been appropriate without individual permit review.

17. On October 20, 2022, the Department received a letter from Neil Yoskin, Esq., counsel for NWW, which put the Department on notice that NWW was moving ahead with certain immediate actions starting on October 20, 2022 to alleviate a public emergency. Attached as **Exhibit E** is the October 20, 2022 letter. This letter stated that NWW disagreed with the Department's determination to deny the EA for the dune reshaping and bulkhead because NWW alleged an "imminent threat" exists. The letter

²Over the last few years, NWW has typically conducted sand backpassing during the winter months to replenish the beachfront. However, it is notable that NWW now contends in its alternatives analysis that such a measure is too costly and could damage infrastructure.

raised a concern that members of the public could walk on the dune scarp and be injured. This was not part of the justification provided by NWW in its EA request. However, the public should not be permitted to walk on dunes at any time, so this would not be a basis to allow dune disturbance. Instead, NWW could have prevented the public from accessing the scarp through less impactful measures to block access, and utilizing local law enforcement. NWW also does not have a current permit to conduct sand transfers to move sand to the face of the dune to establish a gentler slope and such relief was not specifically requested in the EA. The letter ends by stating NWW "will leave the State to its legal remedies in this regard." As such, the Department has been forced to bring this action to stop NWW from continuing to violate the EA along with Department statutes and rules designed to ensure safe and appropriate shore protection measures.

18. The Mayor of NWW sent a letter to DEP on November 9, 2022 and November 16, 2022 indicating that NWW intends to move forward with construction of at least a 404 linear foot bulkhead in the vicinity of 15th and 16th Avenues. Attached as **Exhibit F** are both letters.

**Potential Irreparable Harm to Designated Freshwater
Wetlands and Habitat**

19. The Department is the lead agency for establishing the extent of State and Federally regulated wetlands and waters. The Department issued NWW a Freshwater Wetlands Letter of Interpretation ("LOI") on July 10, 2019 verifying the boundary of the freshwater wetlands on Block 317.03, Lot 1, which is located directly north of the Beach Patrol Building at 15th Avenue. Attached as **Exhibit G** is the LOI from July 10, 2019 that includes a map of the designated freshwater wetland transition area and the freshwater wetland boundary.

20. Regulated activities proposed within a wetland, wetland transition area or water area, as defined by N.J.A.C. 7:7A-2.2 and 2.3 of the FWPA Rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.4. NWW has applied for a FWPA permit #6 and #6a in its 2020 bulkhead permit application because it states that the proposed bulkhead in this area will impact the freshwater wetlands transition area near the Beach Patrol Building.


21. The EA stated that the proposed location of the bulkhead is designed to avoid previously delineated interdunal freshwater wetlands in the back dune north of the project area limit, which is near the Beach Patrol Building and it will also avoid associated freshwater wetland transition area. NWW submitted a hand-drawn map outlining the proposed location of the bulkhead and the boundary line abuts the delineated freshwater wetland

transition line. It is unclear to the Department based off of this hand-drawn map if the bulkhead and work associated with installation will impact the freshwater wetland transition area. This is exactly why NWW needs to complete the permitting process for the bulkhead so that potential impacts to the freshwater transition area are clearly understood and analyzed by the Department and NWW receives any required permits to engage in such disturbance if authorized.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

Dated:

12/1/22



Jennifer L. Moriarty
Director Division of Land Resource
Protection

MORIARTY EXHIBIT A



P. O. BOX 9 (MAILING)
1435 ROUTE 9 NORTH (DELIVERY)
CAPE MAY COURT HOUSE, NJ 08210, USA

609-465-9857 (P)
609-465-2449 (F)
WWW.LOMAXCONSULTING.COM

Peter L. Lomax, Managing Principal
(609) 465-6700 ext. 13
plomax@lomaxconsulting.com

October 5, 2022
Via email

New Jersey Department of Environmental Protection
Division of Land Resource Protection
501 East State Street, Second Floor
Trenton, NJ 08625
ATTN: Ms. Colleen Keller and Ms. Janet Stewart

RE: Coastal Program Emergency Authorization – Shore Protection Measures
25th Avenue Beach Access and Beach Patrol Building/Oceanfront Safety Facility
Block 289.03, Lot 1 (portion thereof) and Block 317.03, Lot 1 (portion thereof)
City of North Wildwood, Cape May County, NJ
TLCG File No.: 22-1093.2

Dear Ms. Keller and Ms. Stewart,

On behalf of the City of North Wildwood (hereafter “City” or “Applicant”), please accept this request for an Emergency Authorization pursuant to the Coastal Zone Management Rules (CZMR) (*N.J.A.C. 7:7 et seq.*) under the authority of the NJ Department of Environmental Protection (NJDEP). This request follows our previous email exchanges in this regard over the past few days during which the low pressure system remnants of Hurricane Ian stalled off the mid-Atlantic coast causing a sustained multi-day period of significant coastal flooding throughout the region and, more specifically, potentially catastrophic beach and dune erosion to the City of North Wildwood oceanfront. Given the absence of a defined beach berm and loss of greater than 75% of the protective dune system in front of the Beach Patrol Building/Oceanfront Safety Facility, Block 317.03, Lot 1 (portion thereof), the City Engineer has determined that a breach condition is imminent requiring that emergency measures be implemented to re-establish reliable shore protection at this location. Additionally, the 25th Avenue beach access, Block 289.03, Lot 1 (portion thereof), continues to sustain significant erosion which has undermined this vehicular beach access and exposed adjoining shore protection structure to further scour and scarping. These emergent conditions were first observed during the weekend (October 1, 2022) and exacerbated through the following days (*see attached photo pages*).

Please note that, consistent with previous collaborative discussions with the NJDEP and direction to keep all parties informed, this submission will be transmitted to the Bureau of Coastal and Land Use Compliance and Enforcement staff to ensure that they too are properly informed of the imminent threat and the Applicant’s intent to implement emergency shore protections measures in the wake of this most recent coastal storm.

Applicant:
City of North Wildwood
901 Atlantic Avenue
North Wildwood, NJ 08260
Attn: Nicholas Long, City Administrator
609-522-6464
nlong@northwildwood.com



OCTOBER 5, 2022

ATTN: MS. COLLEEN KELLER AND MS. JANET STEWART

PAGE 2 OF 5

It should be noted that, despite the City's \$3.7 million investment in 2022 beach renourishment in advance of the summer season via the NJDEP and USACE-approved sand backpassing project, residual sand reserves were sufficiently depleted by the end of the season that little remained to withstand a single coastal storm event. Sand volume placed as part of the backpassing project was shaped into a dune ridge and dry beach area along the oceanfront consistent with the approved design template. *"The final tally of sand moved from Wildwood beaches to the beaches of North Wildwood was provided by the municipal engineer at 361,221 cubic yards making this season's transfer the largest thus far in this "in house" effort to restore a recreational and storm protection shoreline during this period of extensive oceanfront beach erosion manifesting itself in North Wildwood since the late 1990's."* (2022 Spring Report to the City of North Wildwood on the Condition of City Beaches, Stockton University Coastal Research Center, July 25, 2022). The prior season, 357,000 cubic yards of sand was backpassed by the City for renourishment, also at exceptional expense borne by the City. In total, approximately 1,611,372 cubic yards of sand has been backpassed to renourish the City's eroding beaches since 2016. However, due to prevailing coastal processes, these reserves have been lost in quantity from the beach-dune complex annually and have now settled into offshore deposits.

As a result of this most recent coastal storm event and in light of the depleted sand reserves whereby a dune breach is imminent, the City, as owner of the subject properties and steward of the municipal transportation, utility and public safety infrastructure, has given its permission to pursue the prescribed emergency measures below and is hereby seeking an Emergency Authorization for the following activities:

15th – 16th Avenues waterward of the Beach Patrol Building (Block 317.03, Lot 1 (portion thereof))

- 1) Immediate deployment of Jersey barriers (20' segments) in a 400LF alignment extending from the 15th Avenue northern right-of-way limit line along the landward edge of dune to the 16th Avenue southern right-of-way limit line
- 2) Remove/relocate existing composite/timber decking walkway from in front of the building to facilitate Jersey barrier deployment
- 3) Reshape dune remnants, protecting existing dune vegetation to the maximum extent possible, to establish stabilized slopes secured landward by the Jersey barrier wall
- 4) Installation of 404LF cantilevered steel bulkhead (coated) with timber cap
- 5) Reconstruct/stabilize vehicular/pedestrian access from 16th Avenue right-of-way to the beach

The above activities are depicted on a hand sketch prepared by Jim Verna III, P.E. of Van Note-Harvey Associates Inc., dated October 4, 2022, as well as separate hand-annotated detail sheets, each dated October 4, 2022, and a cut sheet for Meever USA sheet piles (*attached*). A line drawing of these proposed measures is in progress and will be transmitted under separate cover for reference, once completed. Please note that the topographic contours on the hand sketch are vestigial to conditions in 2020 and the aerial image is from February 2022; hence, these do not reflect existing conditions. The proposed activities are designed to avoid previously delineated interdunal freshwater wetlands in the back dune north of the project area limit, as well as its associated transition area. Items 1-3 will commence immediately and are expected to be completed over a one-day period. Items 4 and 5 will commence upon receipt of the bulkhead materials delivery and mobilization and are expected to require several weeks to complete this installation and



OCTOBER 5, 2022

ATTN: MS. COLLEEN KELLER AND MS. JANET STEWART

PAGE 3 OF 5

associated restorative actions. The project area limits for this activity are depicted on Figure 1 (*attached*) at the terminus of 15th and 16th Avenues, area delineated by a red boundary.

Before specifying the above emergency mitigative actions, an assessment of alternative measures was completed by the City Engineer. Specifically, the standards applicable to emergency post-storm beach restoration under *N.J.A.C. 7:7-10.3* were evaluated, including NJDEP-preferred options under (*b*), for feasibility. The following is a summary of that alternatives analysis.

Deposition of clean fill material consistent with grain size compatible with that of the existing beach material proved to be problematic in terms of sourcing, logistics, and secondary impacts. The current oceanfront conditions and profile have, at least for now, severed the route for on-beach access to sand reserves further south of the project area limits. Beach berm erosion has extended a significant portion of the tide cycle to the waterward extent of both the 24th and 26th Avenue piers precluding effective transport of sand which could be harvested from Wildwood beaches (*see attached photo pages*). Moreover, the existing conditions of the profile at Poplar Avenue have exposed the City of Wildwood's stormwater outfall at this location also precluding a southerly truck route. Because these locations are inundated daily by the tidal cycle, the deposition of sand in these areas to re-establish a trucking route for alongshore transfer of sand is infeasible, at least until the beach profile re-forms through accretion (*see attached photo pages*). The lack of sand reserves in the lower beach profile also makes it impossible to bulldoze sand to the upper beach profile as an alternative means of re-establishing shore protection. Transport of material from sand and gravel mines was assessed, and it was determined that there are several impediments to pursuing this option. The sand composition available from the proximate mines, as compared to that of the *in situ* beach material, was found to be inconsistent. Additionally, the logistics of pursuing this option were not feasible due to existing trucking shortages as compared to the volume of sand required to address this recurrent erosion. Further, offshore sources will require the City's contractor to complete an intermediate sand transfer from street-legal tri-axle dump trucks to the heavy duty off-highway articulated dump trucks necessary to transit the existing oceanfront conditions. Pursuing this option would require duplicative handling of the fill material, if even suitable material could eventually be sourced within a reasonable proximity. Given the emergent nature of this matter, there is insufficient time to pursue an option that is, at best, inefficient, slow and expensive, but also risks secondary damage to municipal infrastructure, including City streets that were not designed for the volume and frequency of heavy transport that would be required for this option.

While hydraulic beach fill/renourishment could access sand reserves in nearshore or offshore waters, where prior backpassed sand has settled and which are unattainable via typical trucking/backpassing, these dredging projects require scheduling years in advance, and the City does not have ready access to or control the availability a dredge for this purpose. The timeline for such a process does not reconcile with the current situation faced by the City, nor does the City have the funds to pursue such a project without significant State and/or Federal participation.

The placement of rock, rubble or concrete is a very slow process, which again relies upon a trucking industry facing existing labor shortages, as well as the challenges of sourcing these materials locally and the secondary impacts to municipal infrastructure, including City streets that were not designed for the volume and frequency of heavy transport that would be required for this option. Additional design concerns were expressed upon evaluating this option in that the placement of these materials restricts future engineering options, including facilitation of public access. The inability to drive piles for future timber walkover/ADA ramp structures would create challenges to efficient and effective public and Beach Patrol staff access to/from the beach. In addition to ready access of the Beach Patrol building by its staff, this oceanfront safety facility also provides



OCTOBER 5, 2022

ATTN: MS. COLLEEN KELLER AND MS. JANET STEWART

PAGE 4 OF 5

beachgoers with public restrooms, a first aid station, showers/footwash amenities, and shelter via the existing dune walkover/ramp structure at the 15th Avenue right-of-way alignment (*see attached photo pages*). A breach will destroy this access and the placement of rock, rubble or concrete will complicate or even preclude the replacement of such a facility.

The placement of sand-filled geotextile tubes requires a source for beach sand material, which is not available from the existing beach conditions and is challenging to acquire from offshore sources as was previously described in detail above. To fill these tubes *in situ* would further deplete the City's oceanfront of sand resources, especially given that the prevailing coastal processes trend is one of erosion in this location. While geotextile tubes could serve as a protective measure and means to rebuild the dune features, these applications are only effective when combined with a robust, large-scale hydraulic beach fill project whereby the tube would remain covered for an extended period of time. At present, the State and Federal authorities have not advanced a beach nourishment program of this type in partnership with the City, and it remains unclear if/when the State/Federal Island-wide Dune Construction Project may be implemented from Hereford Inlet south to Cape May Inlet to serve as hurricane and storm damage reduction, including its associated planned cyclical renourishments.

In contrast, a bulkhead, when deployed under certain oceanfront conditions where beach renourishment proves to be unreliable and challenging, has proven to be the more efficient and effective means of sustainable shore protection measures. These installations can be implemented rapidly and have longer useful life options where the cost-benefit ratio can be justified and effective shore protection realized. Additionally, the footprint of disturbance for these installations can be minimized to reduce secondary impacts and avoid sensitive areas where sloped angles of repose would otherwise encroach. This option minimizes the number of truck trips required to implement shore protection thereby reducing secondary impacts to the municipal infrastructure. Further, given the minimal footprint, future site improvements, including public accessways and dune construction, can be effectuated over top of and/or on either side of the bulkhead.

25th Avenue Beach Access (Block 289.03, Lot 1 (portion thereof))

- 1) Immediately reconstruct the beach access via profile grading and deposition of stabilizing material within the residual upper beach berm and back beach limits; relatively minimal volumes of fill material are required to accomplish the necessary grading and restoration
- 2) Reconstruct the sloped ramps and landings within the access to restore the vehicular and pedestrian use, including pedestrian public access from the boardwalk and the adjoining 26th Avenue pier

The above activities are depicted on a line drawing titled, "25th Ave and the Beach Adjacent to Amusement Pier, North Wildwood Beach, City of North Wildwood, Cape May County, NJ", prepared by Van Note-Harvey Associates Inc., dated October 5, 2022 (attached). Please note that these proposed activities are designed to avoid previously delineated interdunal freshwater wetlands in the back dune north of the project area limit. While the activities are located within the associated transition area, these restorative measures do not extend beyond the pre-existing footprint of disturbance and therefore will not result in adverse impacts to regulated areas (*see attached photo pages*). Items 1 and 2 will commence immediately upon receipt of Emergency Authorization from NJDEP and are expected to be completed over a one to two-day period. The project area limits for this activity are depicted on Figure 1 (attached) at the terminus of 25th Avenue, area delineated by a red boundary.



OCTOBER 5, 2022
 ATTN: MS. COLLEEN KELLER AND MS. JANET STEWART
 PAGE 5 OF 5

Enclosed for review and reference please find the following: 1) a site location map ("*Figure 1 Site Location on Aerial Photographs Depicting the Project Area Limits*," prepared by The Lomax Consulting Group, dated October 4, 2022); 2) existing conditions photographs depicting post-storm damage and impacted areas; 3) hand sketch prepared by Jim Verna III, P.E. of Van Note-Harvey Associates Inc., dated October 4, 2022, as well as separate hand-annotated detail sheets, each dated October 4, 2022, and a cut sheet for Meever USA sheet piles; and 4) a line drawing titled, "*25th Ave and the Beach Adjacent to Amusement Pier, North Wildwood Beach, City of North Wildwood, Cape May County, NJ*", prepared by Van Note-Harvey Associates Inc., dated October 5, 2022.

If you have any questions or require additional information, please do not hesitate to contact me. Thank you for your prompt attention to this matter.

Sincerely,
 THE LOMAX CONSULTING GROUP, LLC

Peter L. Lomax
 Managing Principal

Enclosures

ec: Jennifer Moriarty, Director NJDEP DLRP (w/enclosures)
 Becky Mazzei, NJDEP DLRP (w/enclosures)
 Kimberly Cahall, Chief Enforcement Officer NJDEP CLUE (w/enclosures)
 Michelle Kropilak, Manager NJDEP CLUE (w/enclosures)
 Michael Lutz, NJDEP CLUE (w/enclosures)
 Mayor Patrick Rosenello, City of North Wildwood (w/enclosures)
 Nicholas Long, City Administrator, City of North Wildwood (w/enclosures)
 Jim Verna III, PE, Van Note-Harvey Associates, Inc. (w/enclosures)
 Neil Yoskin, Esq., Cullen & Dykman LLP (w/enclosures)

BLOCK 289.03, LOT 1 (P/O); BLOCK 317.03, LOT 1 (P/O)
 CITY OF NORTH WILDWOOD, CAPE MAY COUNTY, NEW JERSEY

22-1093.2



FIGURE 1: SITE LOCATION ON AERIAL PHOTOGRAPHS DEPICTING THE PROJECT AREAS LIMITS SOURCE: GIS DATA PROVIDED BY THE NJDEP, BING NEARMAP AND THE COUNTY PLANNING DEPARTMENT		DATE: 2022-10-04	DRAWN BY: EJM	
		SCALE: AS NOTED		

SITE PHOTOGRAPHS



PHOTOGRAPH 1. View north of the dune scarp (right) eroded to a point landward of the pre-existing dune crest between 15th and 16th Avenues in front of the City of North Wildwood Beach Patrol headquarters (left) and upper landing of dune walkover railing (background)

PHOTOGRAPH 2. View west of the eroded and scoured public accessway at the 25th Avenue beach access terminus.





PHOTOGRAPH 3. View north of the 24th Avenue pier terminus and absence of beach berm waterward of the pier end, which precludes the sand backpassing truck route.

PHOTOGRAPH 4. View south of the City of Wildwood exposed stormwater outfall at the Poplar Avenue right-of-way alignment, which precludes the sand backpassing route.





PHOTOGRAPH 5. View of the City of North Wildwood Beach Patrol headquarters which serves as a critical oceanfront safety facility with public access amenities. Note: eroded dune scarp is located at the right edge behind the dune fencing.

PHOTOGRAPH 6. View of the dune walkover and ADA access ramp in front of the City of North Wildwood Beach Patrol headquarters. Note: eroded dune scarp is located immediately behind the upper staircase landing.



JV3
10.04.2022

- NOTE:
- ① TPO PERFORMED 7/20/20 & 8/25/20
 - ② AERIAL = FEB. 2022 NAK MAP
 - ③ 1 & 2 ABOVE DO NOT REPRESENT CURRENT CONDITIONS.

SCALE: 1" = 50'

RECONSTRUCT VEHICLE/PEDSITIAN ACCESS OVER NEW BULKHEAD.

11,987 SQ.FT. (0.275 ACRES) OF DISTURBANCE TO FRESHWATER WETLANDS TRANSITION AREA PROPOSED UNDER AN ACCESS WAIVER FOR THE PROPOSED BULKHEAD

PERMANENT ACTION:

- CONSTRUCT 404 LF² - CANTILEVERED STEEL BULKHEAD (COATED) w/ TIMBER CAP (GREENHART FRAMING, MICRONIZED COPPER AZOLE SUPP. TIMBER DECKING & TYPE 316 STAINLESS STEEL HARDWARE.

LOT 1

TEMPORARY IMMEDIATE ACTION = PLACE JERSEY BARRIERS IN SAME/SIMILAR ALIGNMENT & RE-SHAPE REMNANTS OF DUNE.

PROTECT VEGETATION WHERE POSSIBLE

⊠ = LIMIT OF DISTURBANCE

COMPOSITE/TIMBER WALKWAYS TO BE REMOVED AS NECESSARY

BLOCK 317.02
LOT 2

400²-LF

30°
(USE 22 1/2)

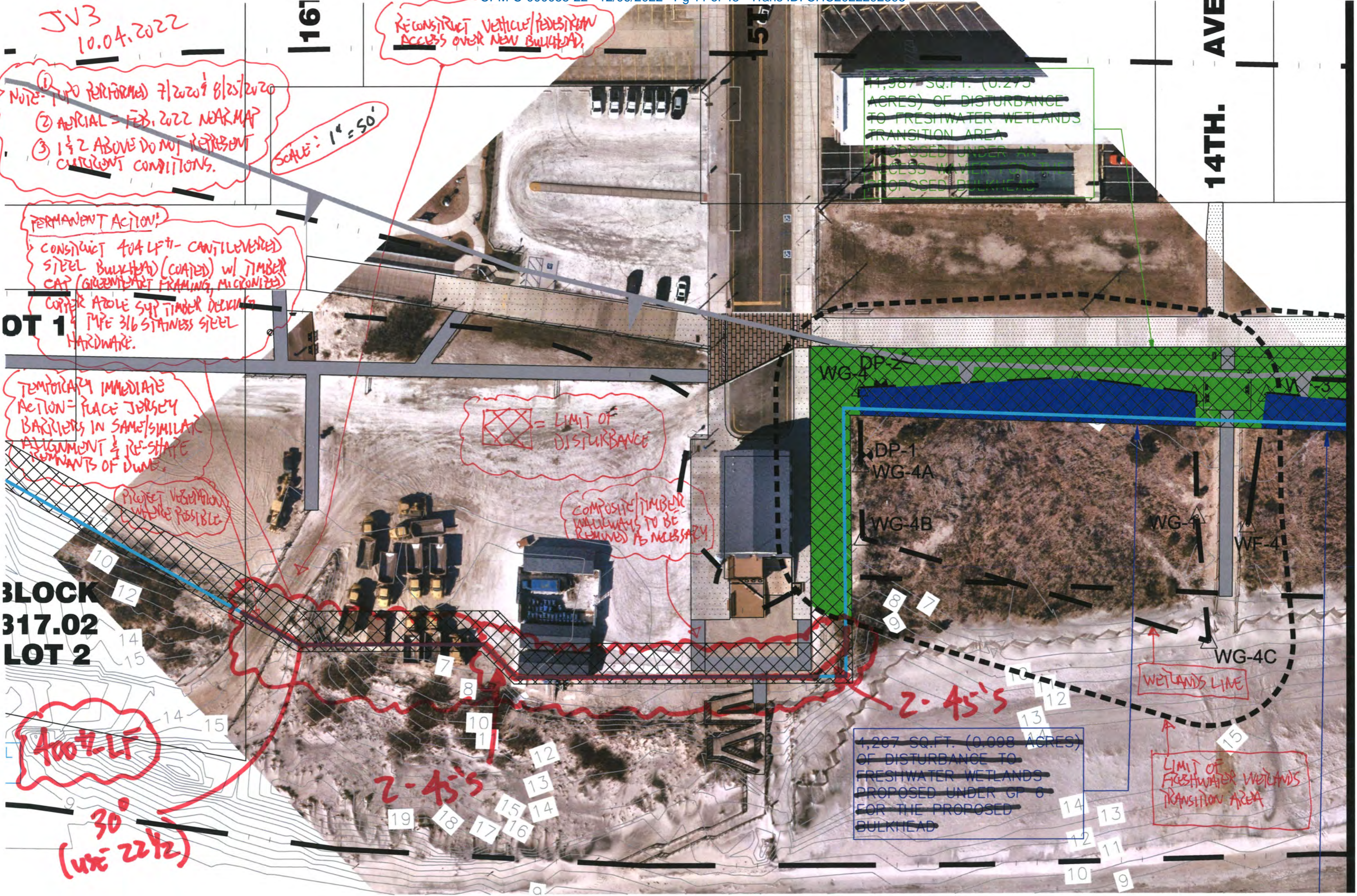
2-45's

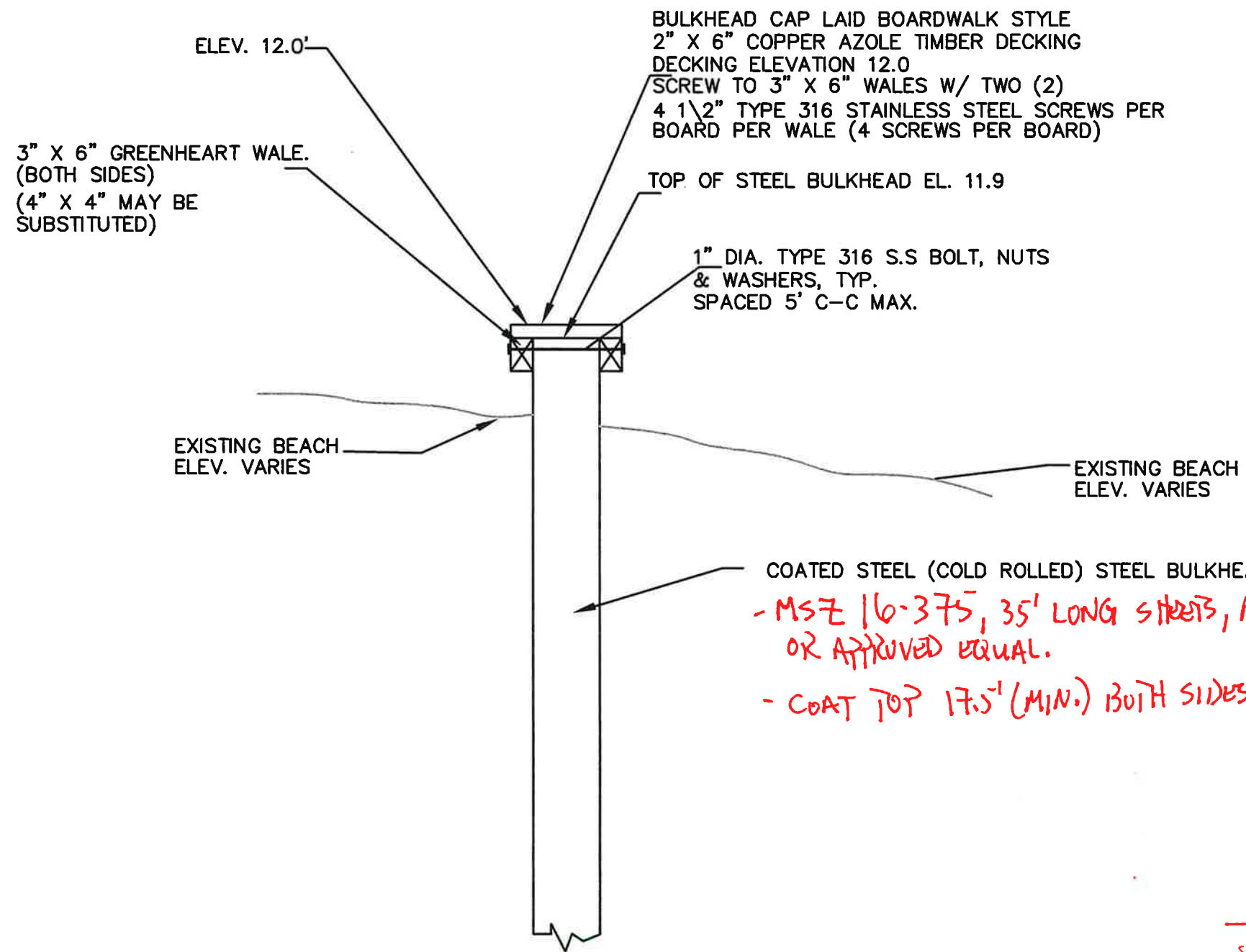
4,267 SQ.FT. (0.098 ACRES) OF DISTURBANCE TO FRESHWATER WETLANDS PROPOSED UNDER GP 6 FOR THE PROPOSED BULKHEAD

LIMIT OF FRESHWATER WETLANDS TRANSITION AREA

14TH. AVE

MATCH LINE SHEET 5



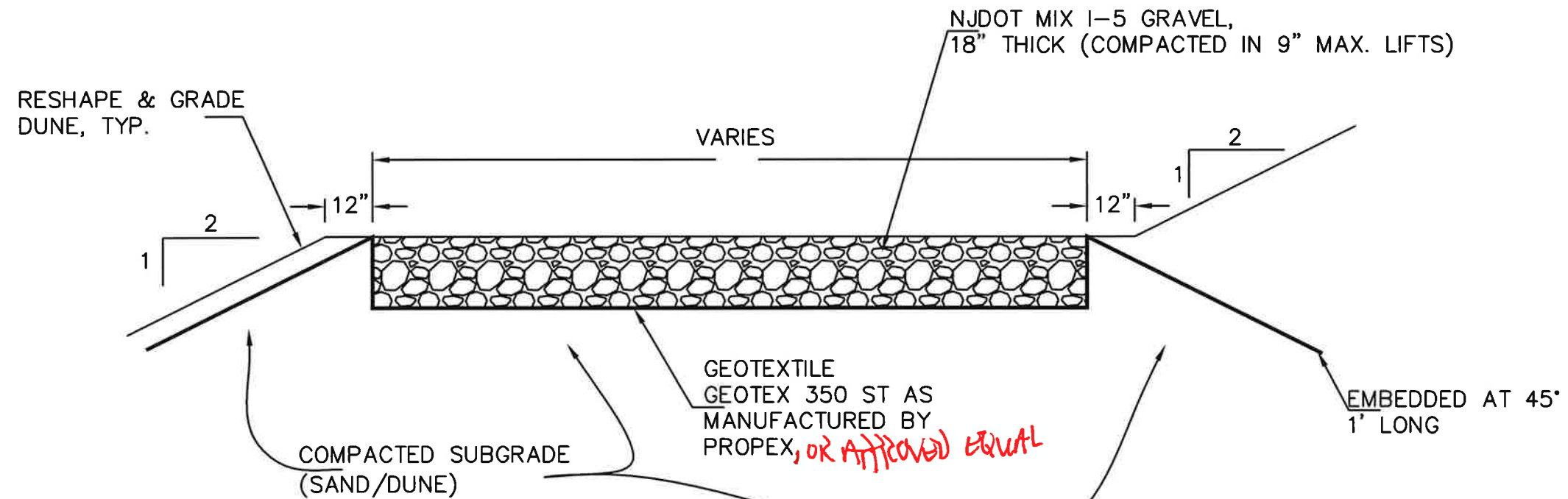


- MS7 16-375, 35' LONG SHEETS, AS MANUFACTURED BY MEYER USA,
OR APPROVED EQUAL.

- COAT TOP 17.5' (MIN.) BOTH SIDES W/ 16 MILS BLACK COAL TAR EPOXY

JVB
10.04.2022

TYPICAL BULKHEAD DETAIL
N.T.S.
NOTE: CANTILEVERED (NO TIE-BACK SYSTEM)



NOTE:

- 1. GEOTEXTILE SECTIONS MUST OVERLAP MINIMUM OF 5', TYP.

2. SLOPE: 1V:12H MAX.

PROPOSED VEHICLE ACCESS DETAIL

FOR 16TH AVE.

NOT TO SCALE

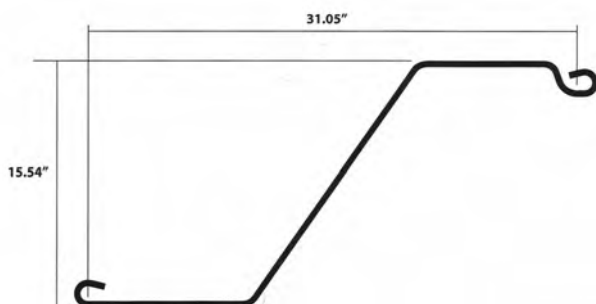
JV3
10.04.2022



MEEVER USA

T +1 (866) 313-8770 | E info@meever.us | I www.meever.us

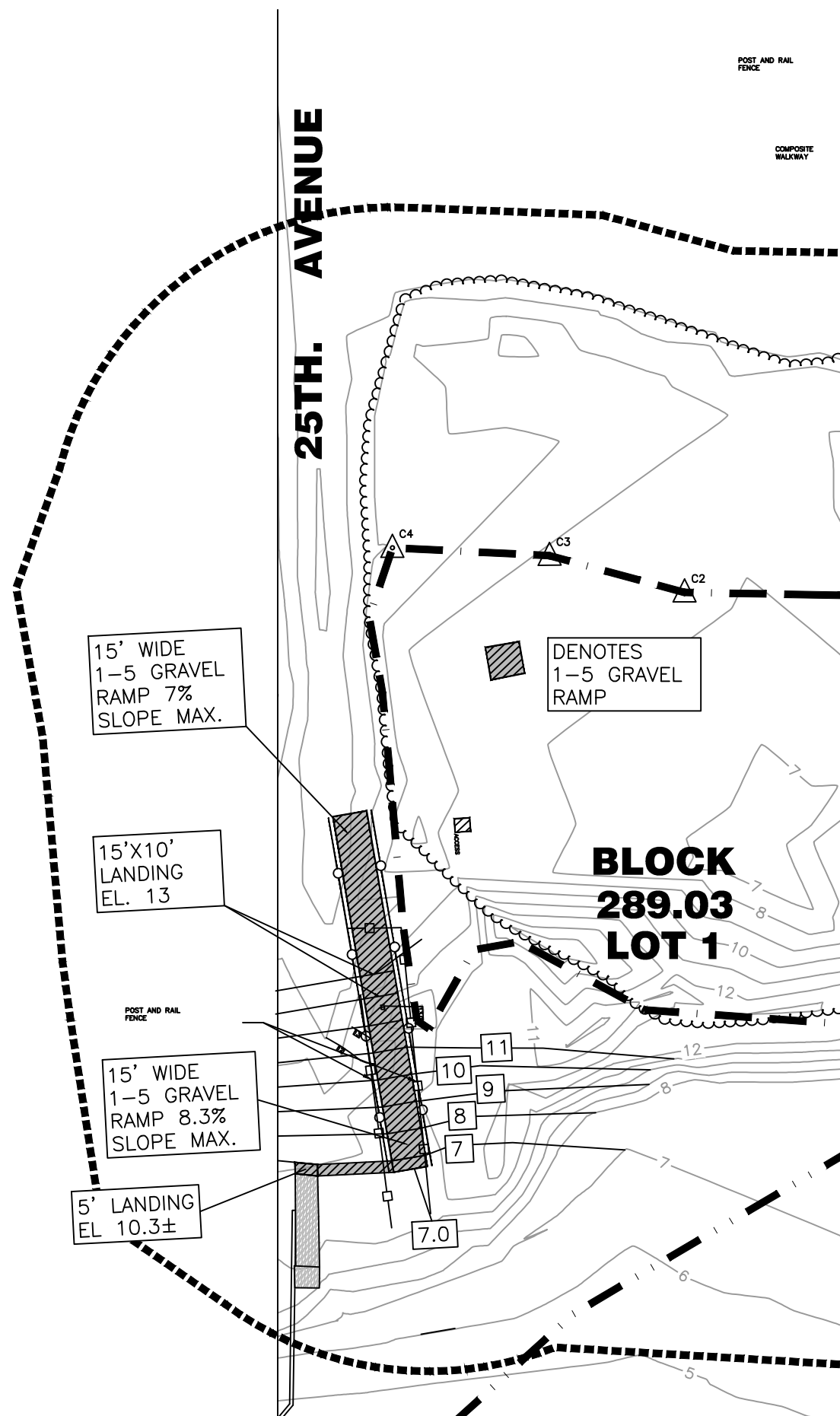
MSZ 16-375 (Cold rolled sheet piles)



Section description	Product group	Shape	Section Modulus	Moment of Inertia	Width	Height	Thickness flange	Thickness web	Weight single	Weight	Coating 2 sides	Coating area
			in ³ /ft cm ³ /m	in ⁴ /ft cm ⁴ /m	inch mm	inch mm	inch mm	inch mm	lbs/ft kg/m	lbs/ft ² kg/m ²	ft ² /ft m ² /m	ft ² /ft m ² /m
MSZ 16-375	Cold rolled sheet piles	Z	34.0	267.9	31.05	15.54	0.375	0.375	59.7	23.06	7.54	1.43
			1,825	36,580	789	395	9.5	9.5	88.79	34.31	2.30	1.43

Production acc. ASTM standards in A572 GR50 or A328
available from inventory and production
Origin: USA

**BLOCK
288.02
LOT 1**



**BLOCK
289.03
LOT 1**

NOTES:

1. TOPOGRAPHY TAKEN FROM DECEMBER 2021
2. IAN STORM HAS SEVERELY ERODED THE AREA DAMAGING DUNE, BERM, AND BEACH ACCESS

RELEASE 10/05/2022

van note-harvey associates, inc.
consulting engineers, planners & land surveyors

103 College Road East • Princeton, NJ 08540 • 609-987-2323
211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-465-2600
www.vannoteharvey.com Certificate of Authorization
No. 24GA28271300



SKETCH SHOWING PROPOSED BEACH ACCES
**25TH AVE AND THE BEACH
ADJACENT TO AMUSEMENT PIER
NORTH WILDWOOD BEACH
CITY OF NORTH WILDWOOD**
CAPE MAY COUNTY, N.J.

DRAWN BY BMP	FIELD BK PAGE	ORDER No. 46006 400-21	FILE No.	SHEET No. 1
CHECKED BY RP/JV				

MORIARTY EXHIBIT B

From: Moriarty, Jennifer [DEP]
Sent: Friday, October 7, 2022 11:38 AM
To: nlong@northwildwood.com; 'Peter Lomax'; Patrick Rosenello
Cc: Cahall, Kimberly [DEP]; Kropilak, Michele [DEP]; Keller, Colleen [DEP]; Stewart, Janet [DEP]; Reinknecht, Dennis [DEP]; Mazzei, Vincent [DEP]; Cobb, Jessica [DEP]
Subject: NWW Emergency Authorization
Attachments: DEP WLM response to 10-03-2022 Mayor Rosenello NWW letter.pdf

Dear Mr. Long:

The Division has reviewed your request to conduct emergency shore protection measures as outlined in your agent Mr. Peter Lomax's letter of October 5, 2022. Given the threat to severe loss of property and the emergent nature of the work at the Beach Patrol Building, the Division is authorizing specific shore protection measures in this Emergency Authorization ("EA") while continuing to review your request to reshape the dune remnants, install 404LF of bulkhead, and reconstruct access at 16th Avenue and 25th Avenue. **Those activities are not authorized by this EA and the City is not authorized to conduct those activities at this time.** The Division anticipates responding to those requests next week and has been in touch with Mr. Lomax about additional information required for our evaluation. As stated in the attached letter issued by WLM earlier today, the Division is concerned that installation of a bulkhead, as opposed to measures that absorb wave energy, will increase erosion. The Division will continue to work with Mr. Lomax to further evaluate.

For the activities specified below, this is your Emergency Authorization; no other documentation will follow. Michele Kropilak, the Division's Enforcement Bureau Chief, and Kimberly Cahall, the Department's Chief Enforcement Officer, are copied on this e-mail. I've also attached a copy of the letter issued by WLM earlier today for ease of reference.

This authorization allows the following activities:

1. 15th – 16th Avenues waterward of the Beach Patrol Building (Block 317.03, portion of Lot 1)
 - Immediate deployment of Jersey barriers (20' segments) in a 400 linear foot alignment extending from the 15th Avenue northern right-of-way limit line along the landward edge of dune to the 16th Avenue southern right-of-way limit line
 - Remove/relocate existing composite/timber decking walkway from in front of the building to facilitate Jersey barrier deployment

This emergency authorization is granted in accordance with the provisions of the Coastal Zone Management Rules (N.J.A.C. 7:7-21) and the Freshwater Wetlands Regulations (N.J.A.C. 7:7A-14), and is further subject to the following conditions:

1. The Permittee shall commence the approved emergency activities within 30 calendar days after this authorization of the emergency permit, unless specifically extended by this office. If the emergency activities are not commenced within 30 calendar days of this authorization, this emergency permit is void.
2. No disturbance to dunes is authorized by this emergency authorization.

3. Once commenced, all regulated activities authorized under this emergency permit shall be completed, and this emergency permit shall expire, within 60 calendar days of the Department's approval, unless extended by the Department. If the regulated activities authorized under this emergency permit are not completed by the expiration date, these regulated activities shall cease until the appropriate individual permits or another emergency permit is obtained from the Department for the regulated activities.
3. This Authorization does not alleviate your responsibility to obtain any other local, State, or other Federal authorizations required by law.
4. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of this authorization is at the project site throughout the period the work is underway and available for review by any person.
5. The Permittee shall submit to the Department a complete application for a CAFRA Individual Permit and a Freshwater Wetlands Permit for the completed activities within 90 calendar days of the Department's authorization of the emergency permit. The application shall include the following:
 - a. A demonstration that the regulated activities comply with the Coastal Zone Management Rules at N.J.A.C. 7:7 and the Freshwater Wetlands Regulations at N.J.A.C. 7:7A; and
 - b. "As-built" drawings, signed and sealed by an engineer, land surveyor or architect, as appropriate, showing the regulated activities that were conducted under the emergency permit.

Should you have any questions, please do not hesitate to contact me.

Jennifer Moriarty (she/her), Director
Division of Land Resource Protection
NJ Department of Environmental Protection
Mail Code 501-02A
501 East State Street
Trenton, NJ 08625-420
Email: jennifer.moriarty@dep.nj.gov
P: (609) 984-3444

Note: This E-mail is protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521. This E-Mail and its contents, may be Privileged & Confidential due to the Attorney-Client Privilege, Attorney Work Product, and Deliberative Process or under the New Jersey Open Public Records Act. If you are not the intended recipient of this e-mail, please notify the sender, delete it and do not read, act upon, print, disclose, copy, retain or redistribute it.

MORIARTY EXHIBIT C

From: Moriarty, Jennifer [DEP]
Sent: Wednesday, October 12, 2022 3:47 PM
To: Peter Lomax; nlong@northwildwood.com
Cc: Patrick Rosenello; Cahall, Kimberly [DEP]; Kropilak, Michele [DEP]; Keller, Colleen [DEP]; Stewart, Janet [DEP]; Reinknecht, Dennis [DEP]; Mazzei, Vincent [DEP]; Cobb, Jessica [DEP]; Jim Verna; Heck, Kelley [DEP]
Subject: RE: NWW Emergency Authorization
Attachments: NWW aerial photo October 6, 2022 taken by OCE.png

Dear Mr. Long:

The City of North Wildwood submitted a request for an Emergency Authorization (EA) in the evening hours of October 5, 2022 which identified the emergency as “absence of a defined beach berm and loss of greater than 75% of the protective dune system” due to erosion from coastal effects caused by an offshore storm system (Hurricane Ian) and that a “breach condition was imminent.”

The EA seeks 1) immediate installation of jersey barriers at the City’s beach patrol building/oceanfront safety facility located along the western dune toe within the area of 15th and 16th Avenues; 2) future installation of a bulkhead in the same location; 3) scarp reshaping of the oceanside of the dune within this area by establishing an angle of repose and “marrying” sand and structure on the landward side; and 4) repair of the 25th Avenue vehicular access, which the City states “continues to sustain significant erosion which has undermined this vehicular beach access and exposed adjoining shore protection structure to further scour and scarping.”

For the Division of Land Resource Protection (DLRP) to issue an Emergency Authorization, the applicant must demonstrate that a threat to life, severe loss of property, or environmental degradation exists or is imminent, and can only be prevented/ameliorated through a regulated activity and is likely to occur/persist/worsen before a permit could be issued by DLRP. N.J.A.C. 7:7-21.1.

Upon receipt of the EA, DLRP immediately reviewed the submitted information, aeriels of the area in question and photos taken by the Office of Coastal Engineering of the beach patrol property on Thursday, October 6th, the day after the request and after the remnants of any coastal effects of Hurricane Ian had subsided. DLRP immediately issued authorization for the installation of the jersey barriers, which are a temporary in nature.

After a full review of the information submitted and the condition of the subject area prior to, and after the remnants of Hurricane Ian, DLRP has determined the request for the installation of a bulkhead and “reshaping of the dune” to provide an angle of repose to the bulkhead, are not eligible for an Emergency Authorization because it has not been demonstrated that there is an imminent threat to the loss of life or property based on existing conditions. DLRP has an obligation to review the City’s request for a bulkhead via a technical Individual Permit review because the bulkhead could increase erosion to the beach/dune system waterward of the structure, and to the north and south of the structure due to end-effect erosion, which could exacerbate, rather than alleviate, the problems faced by the City in future storms. Further, based on the attached aerial, taken on October 6, 2022 after any coastal effects from Ian had subsided, a dune/beach berm still are in place waterward of the beach patrol buildings and would offer shore protection during a storm. Finally, EA are intended for immediate action, and based on the submitted request, the proposed bulkhead installation will not be conducted immediately, but

after ordering and receipt of materials. Thus, the request to install a bulkhead and reshape the dune via EA is denied because the standards under N.J.A.C. 7:7-21.1(a) have not been demonstrated.

In this regard, however, the City has a pending permit application for a proposed bulkhead in this location which has been administratively deficient since 2020. A complete technical review of potential alternative shore protection measures, including backpassing for which the City holds a valid permit, must be conducted to determine the necessity of the proposed structure and to determine which solution would have the least coastal impact on the adjacent system (sand volume/transport) as required by the Coastal Zone Management rules and would be conducted during the review of this application. It is DLRP's recommendation that the City cure the administrative deficiencies in its currently pending bulkhead application, so that DLRP can begin the technical review of this proposal. DLRP commits to expediting review of the application once the deficiencies are addressed.

Regarding the City's request to repair the 25th Avenue vehicular access, DLRP also reviewed submitted information and aerials which show that this vehicular access was constructed sometime between 2013 and 2014 without required DLRP authorization. Legalization of this accessway is not available to the City under an EA and the City has not provided information to show that repairing the access is necessary to prevent an imminent threat to life and safety. It appears that there are other vehicular accessways immediately adjacent to the area at 24th Avenue (some that were also constructed without prior DLRP authorization). Thus, DLRP denies the City's request for an EA to reconstruct the accessway.

If the City proceeds with bulkhead installation, any dune disturbance including the requested "reshaping," or proceeds with reconstruction of the 25th Avenue accessway without DLRP authorization, it will be subject to enforcement action including Civil Administrative Penalties.

It should also be noted that, among other items, the beach patrol structures to the south of 15th Avenue were constructed without the required DLRP permits and are included in the Notice of Violation issued to the City in June of 2020.

Should you have any questions, please do not hesitate to contact me.

Thank you,

Jennifer Moriarty (she/her), Director
Division of Land Resource Protection
NJ Department of Environmental Protection
Mail Code 501-02A
501 East State Street
Trenton, NJ 08625-420
Email: jennifer.moriarty@dep.nj.gov
P: (609) 984-3444

Note: This E-mail is protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521. This E-Mail and its contents, may be Privileged & Confidential due to the Attorney-Client Privilege, Attorney Work Product, and Deliberative Process or under the New Jersey Open Public Records Act. If you are not the intended recipient of this e-mail, please notify the sender, delete it and do not read, act upon, print, disclose, copy, retain or redistribute it.

From: Moriarty, Jennifer [DEP]
Sent: Friday, October 7, 2022 12:12 PM
To: Peter Lomax <plomax@lomaxconsulting.com>
Cc: nlong@northwildwood.com; Patrick Rosenello <Prosenello@northwildwood.com>; Cahall, Kimberly [DEP] <Kimberly.Cahall@dep.nj.gov>; Kropilak, Michele [DEP] <Michele.Kropilak@dep.nj.gov>; Keller, Colleen [DEP] <Colleen.Keller@dep.nj.gov>; Stewart, Janet [DEP] <Janet.Stewart@dep.nj.gov>; Reinknecht, Dennis [DEP] <Dennis.Reinknecht@dep.nj.gov>; Mazzei, Vincent [DEP] <Vincent.Mazzei@dep.nj.gov>; Cobb, Jessica [DEP] <Jessica.Cobb@dep.nj.gov>; Jim Verna <jverna@vannoteharvey.com>
Subject: RE: NWW Emergency Authorization

Thank you, Peter. We, in coordination with OCE, are reviewing the information submitted yesterday and will have further feedback early next week.

From: Peter Lomax <plomax@lomaxconsulting.com>
Sent: Friday, October 7, 2022 12:03 PM
To: Moriarty, Jennifer [DEP] <Jennifer.Moriarty@dep.nj.gov>
Cc: nlong@northwildwood.com; Patrick Rosenello <Prosenello@northwildwood.com>; Cahall, Kimberly [DEP] <Kimberly.Cahall@dep.nj.gov>; Kropilak, Michele [DEP] <Michele.Kropilak@dep.nj.gov>; Keller, Colleen [DEP] <Colleen.Keller@dep.nj.gov>; Stewart, Janet [DEP] <Janet.Stewart@dep.nj.gov>; Reinknecht, Dennis [DEP] <Dennis.Reinknecht@dep.nj.gov>; Mazzei, Vincent [DEP] <Vincent.Mazzei@dep.nj.gov>; Cobb, Jessica [DEP] <Jessica.Cobb@dep.nj.gov>; Jim Verna <jverna@vannoteharvey.com>
Subject: [EXTERNAL] Re: NWW Emergency Authorization

Ms. Moriarty,

Thank you for your response. Please be advised that I responded (yesterday via email...see attached) to Ms. Stewart's direct email request to me for additional clarification. I am not aware of any other requests since that time. If any additional information is required, we stand ready to respond in order to advance a workable solution that will provide adequate, functional protection to the City, its private and public properties and critical infrastructure which remain under threat due to sustained storm damage and future risk from inadequate remaining sand reserves in this oceanfront extent.

Thank you for your assistance in this matter.

Regards,
Peter

P. Lomax
The Lomax Consulting Group
Sent from my iPhone

On Oct 7, 2022, at 11:38, Moriarty, Jennifer [DEP] <Jennifer.Moriarty@dep.nj.gov> wrote:

Dear Mr. Long:

The Division has reviewed your request to conduct emergency shore protection measures as outlined in your agent Mr. Peter Lomax's letter of October 5, 2022. Given the threat to severe loss of property and the emergent nature of the work at the Beach Patrol Building, the Division is authorizing specific shore protection measures in this Emergency Authorization ("EA") while continuing to review your request to reshape the dune remnants, install 404LF of bulkhead, and reconstruct access at 16th Avenue and 25th Avenue. **Those activities are not authorized by this EA and the City is not authorized to conduct those activities at this time.** The Division anticipates responding to those requests next week and has been in touch with Mr. Lomax about additional information required for our evaluation. As stated in the attached letter issued by WLM earlier today, the Division is concerned that installation of a bulkhead, as opposed to measures that absorb wave energy, will increase erosion. The Division will continue to work with Mr. Lomax to further evaluate.

For the activities specified below, this is your Emergency Authorization; no other documentation will follow. Michele Kropilak, the Division's Enforcement Bureau Chief, and Kimberly Cahall, the Department's Chief Enforcement Officer, are copied on this e-mail. I've also attached a copy of the letter issued by WLM earlier today for ease of reference.

This authorization allows the following activities:

1. 15th – 16th Avenues waterward of the Beach Patrol Building (Block 317.03, portion of Lot 1)
 - Immediate deployment of Jersey barriers (20' segments) in a 400 linear foot alignment extending from the 15th Avenue northern right-of-way limit line along the landward edge of dune to the 16th Avenue southern right-of-way limit line
 - Remove/relocate existing composite/timber decking walkway from in front of the building to facilitate Jersey barrier deployment

This emergency authorization is granted in accordance with the provisions of the Coastal Zone Management Rules (N.J.A.C. 7:7-21) and the Freshwater Wetlands Regulations (N.J.A.C. 7:7A-14), and is further subject to the following conditions:

1. The Permittee shall commence the approved emergency activities within 30 calendar days after this authorization of the emergency permit, unless specifically extended by this office. If the emergency activities are not commenced within 30 calendar days of this authorization, this emergency permit is void.
1. No disturbance to dunes is authorized by this emergency authorization.

1. Once commenced, all regulated activities authorized under this emergency permit shall be completed, and this emergency permit shall expire, within 60 calendar days of the Department's approval, unless extended by the Department. If the regulated activities authorized under this emergency permit are not completed by the expiration date, these regulated activities shall cease until the appropriate individual permits or another emergency permit is obtained from the Department for the regulated activities.

1. This Authorization does not alleviate your responsibility to obtain any other local, State, or other Federal authorizations required by law.

1. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of this authorization is at the project site throughout the period the work is underway and available for review by any person.

1. The Permittee shall submit to the Department a complete application for a CAFRA Individual Permit and a Freshwater Wetlands Permit for the completed activities within 90 calendar days of the Department's authorization of the emergency permit. The application shall include the following:
 - a. A demonstration that the regulated activities comply with the Coastal Zone Management Rules at N.J.A.C. 7:7 and the Freshwater Wetlands Regulations at N.J.A.C. 7:7A; and
 - b. "As-built" drawings, signed and sealed by an engineer, land surveyor or architect, as appropriate, showing the regulated activities that were conducted under the emergency permit.

Should you have any questions, please do not hesitate to contact me.

Jennifer Moriarty (she/her), Director
Division of Land Resource Protection

NJ Department of Environmental Protection

Mail Code 501-02A

501 East State Street

Trenton, NJ 08625-420

Email: jennifer.moriarty@dep.nj.gov

P: (609) 984-3444

Note: This E-mail is protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521. This E-Mail and its contents, may be Privileged & Confidential due to the Attorney-Client Privilege, Attorney Work Product, and Deliberative Process or under the New Jersey Open Public Records Act. If you are not the intended recipient of this e-mail, please notify the sender, delete it and do not read, act upon, print, disclose, copy, retain or redistribute it.

MORIARTY EXHIBIT D









MORIARTY EXHIBIT E



Cullen and Dykman LLP
229 Nassau Street
Princeton, NJ 08542
T: 609.279.0900
F: 609.497.2377

NEIL YOSKIN
PARTNER
NYoskin@cullenllp.com

October 20, 2022

Via e-mail (Shawn.LaTourette@dep.nj.gov)

Shawn M. LaTourette, Commissioner
New Jersey DEP
Mail Code 401-07
401 East State Street
PO Box 402
Trenton, NJ 08625-0420

RE: City of North Wildwood, Cape May County
Shore Protection Emergency

Dear Commissioner LaTourette:

This office represents the City of North Wildwood. The purpose of this letter is to put the Department on notice that it intends to undertake certain immediate actions beginning today to alleviate a public emergency, the details of which are described below.

As you know from recent correspondence from North Wildwood Mayor Patrick Rosenello, the remnants of Hurricane Ian caused severe damage to critical ocean front shore protection structures in the City. This most recent coastal storm perpetuates long standing emergent conditions that have resulted from the failure of the State and Federal Governments to implement a beach replenishment project which was first committed to in 2013.

The matter of most immediate concern is a large cliff, or scarp, that exists on the dune face between 13th and 16th Avenues. This is without a doubt a public safety hazard. Even though the City has blocked off access from the street, people continue to intrude into the area, and numerous people have been observed scaling the scarp.

On October 5, 2022, the City submitted a request for an Emergency Authorization (EA) to the Department pursuant to N.J.A.C. 7:7-21.2, seeking approval to deploy Jersey barriers



Sean LaTourette
Page 2
October 20, 2022

extending from the 15th Avenue northern right-of-way limit to the 16th Avenue southern right-of-way limit, to remove and relocate an existing walkway in front of the Public Safety Building to facilitate deployment of the Jersey Barriers, to reshape and regrade the remnant dunes, to install 404 linear feet of bulkhead and to reconstruct access at 16th and 25th Avenues.

By e-mail dated October 7, the Department approved the deployment of the Jersey barriers and relocation of the walkway, while indicating that the request to reshape the remnant dunes and to install the protective bulkhead were still under consideration. Then, by e-mail dated October 12, 2022 the Department denied the request to regrade and reshape the dunes and to install the emergency bulkhead. The e-mail that communicated that decision indicated that the EA was being denied “because it has not been demonstrated that there is an imminent threat to the loss of life or property based on the existing condition.”

The City, needless to say, disagrees with this determination and to what appears to be the Department’s indifference to the reasonable requirements of protecting public safety, property and infrastructure. The Department’s basis for determining whether an “imminent threat” threat exists, which is the threshold measurement by which an EA is issued, seems to mean that a catastrophe must essentially be ready to occur. This standard seems to be acceptable to the Department. It is impossible, however, to predict the precise moment at which a threat ceases being imminent and becomes something more dire. So while reasonable minds may differ, common sense dictates that protective measures should be taken before additional damage or the potential loss of life or property occurs. It is for this reason that the City Council adopted a Resolution on October 18 declaring the matter a public emergency.

The Department’s October 12, 2022 e-mail, in denying the requested EA for the bulkhead construction, takes note of the fact that a bulkhead might increase the potential for erosion to the beach/dune system waterward of the structure, and to the north and south of the structure due to end-effect erosion, which could exacerbate rather than alleviate the problem faced by the City in



Sean LaTourette
Page 3
October 20, 2022

future storms. The City is well aware of this possibility, but in the absence of a meaningful beach replenishment program, it faces little choice. If and when the Federal government and the State government carry out their responsibility to restore the City's beach and dune system, then any short term impacts associated with a bulkhead will simply go away, as the bulkhead will be buried within the newly constructed beach/dune system. But until that occurs, the City must take the steps necessary to protect the lives and property of its residents.¹

The City does not come to this decision lightly, but in light of the urgent and immediate threat posed by the conditions on the beach, this is to notify you that contracts have been let for the regrading and reshaping of the dunes and for construction of the bulkhead. That work will commence this morning and will continue until completed, regardless of whether or not the Department issues the requested Emergency Authorization. We will leave the State to its legal remedies in this regard.

Sincerely,
CULLEN AND DYKMAN LLP

A handwritten signature in blue ink that reads 'Neil Yoskin'.

Neil Yoskin

NY/cl

cc (via e-mail):

Mayor and Council, City of North Wildwood
Nick Long, City of North Wildwood
Michael Donahue, Esq.
James Verna, PE
Peter Lomax
Jennifer Moriarty, NJDEP
Dennis Reinknecht, NJDEP

Seal north wildwood state insurance commissioner dep 10-20-22 re N/W

¹ It is worth pointing out that dunes are protected resources under the Coastal Zone Management Rules. Allowing the scarp to remain as is not only puts the public at risk, but also puts the remnants of the dune system in further jeopardy. The lack of stabilization risks further material losses, which lessens the protective capacity of this remaining sand volume, and additional dune vegetation losses, which translates into diminished root stabilization of the dune and loss of protection habitat.

MORIARTY EXHIBIT F



CITY OF NORTH WILDWOOD

**901 Atlantic Avenue
North Wildwood, NJ 08260-5778
(609) 522-2030**

**Patrick T. Rosenello
Mayor**

**Nicholas Long
City Administrator**

November 9, 2022

Via e-mail (Shawn.LaTourette@dep.nj.gov)

Shawn M. LaTourette, Commissioner
New Jersey DEP
Mail Code 401-07
401 East State Street
PO Box 402
Trenton, NJ 08625-0420

RE: City of North Wildwood Shore Protection Emergency

Dear Commissioner LaTourette:

This is in furtherance of our recent and ongoing communications regarding the above-referenced matter. As you know from those communications, the City still plans to move forward with construction of at least a 404 linear foot bulkhead in the vicinity of 15th and 16th Avenues. As you also know, the shore protection project authorized by Congress for North Wildwood has yet to be implemented. It was as a direct consequence of that inaction that the City has been forced to take the actions necessary to protect its shorefront.

We believe there is a ready solution to this problem. That solution involves the use of the Hereford Inlet Borrow Area. The Borrow Area, which is only a short distance from North Wildwood's beaches, has upwards of 3 million cubic yards of sand available for use. While federal funds currently cannot be employed for the use of the Borrow Area (due to a prohibition under the Federal Coastal Barrier Resources Act), there is no similar state prohibition. It is our understanding that the Department's current shore protection priority list reserves the use of state shore protection funds for only those projects that also involve Federal funding, but it is also our understanding that there is nothing that prevents the State from changing these priorities. In fact, the Borrow Area was used for emergency shore protection in North Wildwood in 2013 and again for periodic shore protection in 2019, when the State re-allocated \$5 million to make up for the

Shawn LaTourette
Page 2
November 9, 2022

Federal funding shortfall that resulted from a change in the interpretation of the Coastal Barrier Resources Act.

The Hereford Inlet Borrow Area is one of the most closely studied water areas along the entire Jersey coast. Stockton University has been monitoring it annually for more than a decade, and has confirmed not only the enormous volume of sand that is present there, but has also confirmed that its use will have no adverse environmental impacts. It is for that reason that DEP approved its use on three separate occasions under the Federal consistency provisions of Section 307 of the Coastal Zone Management Act.

In addition, most of the cost of mobilization has been federally funded as part of the upcoming Avalon/Stone Harbor project this Winter, significantly reducing the cost of a State/local beach fill project for North Wildwood. Therefore, the City of North Wildwood is formally requesting that the NJDEP enter into a State Aid Agreement with the City of North Wildwood and add the City of North Wildwood to the proposed Avalon/Stone Harbor project.

I write this letter with the hope and expectation that you will agree with me both as to the urgency of this matter and as to the appropriateness of using the Hereford Inlet Borrow Area. I look forward to hearing from you in that regard.

Sincerely,



Patrick Rosenello, Mayor
City of North Wildwood

cc (via e-mail): Governor Phil Murphy



CITY OF NORTH WILDWOOD

**901 Atlantic Avenue
North Wildwood, NJ 08260-5778
(609) 522-2030**

**Patrick T. Rosenello
Mayor**

**Nicholas Long
City Administrator**

November 17, 2022

Via e-mail (Shawn.LaTourette@dep.nj.gov)

Shawn M. LaTourette, Commissioner
New Jersey DEP
Mail Code 401-07
401 East State Street
PO Box 402
Trenton, NJ 08625-0420

RE: City of North Wildwood Shore Protection Emergency

Dear Commissioner LaTourette:

This is in furtherance of my most recent letter regarding the above-referenced matter, to which I have not received a response. As you know, the City still plans to move forward with construction of at least a 404 linear foot bulkhead in the vicinity of 15th and 16th Avenues. As you also know, the shore protection project authorized by Congress for North Wildwood has yet to be implemented. It was as a direct consequence of that inaction that the City has been forced to take the actions necessary to protect its shorefront.

It is to our understanding that other nearby municipalities, notably Ocean City, have been approved for State Funded Shore Protection projects, and that a dredge has recently arrived to begin a hydraulic beach fill. While Ocean City is deserving of the project, their immediate need is not as dire as is North Wildwood's. Ocean City suffered storm damage from the remnants of Hurricane Ian, including sloped erosion of up to 50 feet and the scarping of dunes up to 6 feet. Avalon and Stone Harbor faced sloped erosion of up to 60 feet and dune scarping from 10-14 feet. North Wildwood saw the brunt of the storm damage, with our sloped erosion reaching levels of 80 feet and dune scarping up to 14 feet. The erosion from the October storm, merged with the constant deterioration with the beaches, is why we are requesting a new and immediate solution to this ongoing issue.

Shawn LaTourette
Page 2
November 17, 2022

We believe there is a ready solution to this problem. That solution involves the use of the Hereford Inlet Borrow Area. The Borrow Area, which is only a short distance from North Wildwood's beaches, has upwards of 3 million cubic yards of sand available for use. While federal funds currently cannot be employed for the use of the Borrow Area (due to a prohibition under the Federal Coastal Barrier Resources Act), there is no similar state prohibition. It is our understanding that the Department's current shore protection priority list reserves the use of state shore protection funds for only those projects that also involve Federal funding, but it is also our understanding that there is nothing that prevents the State from changing these priorities. In fact, the Borrow Area was used for emergency shore protection in North Wildwood in 2013 and again for periodic shore protection in 2019, when the State re-allocated \$5 million to make up for the Federal funding shortfall that resulted from a change in the interpretation of the Coastal Barrier Resources Act.

The Hereford Inlet Borrow Area is one of the most closely studied water areas along the entire Jersey coast. Stockton University has been monitoring it annually for more than a decade, and has confirmed not only the enormous volume of sand that is present there, but has also confirmed that its use will have no adverse environmental impacts. It is for that reason that DEP approved its use on three separate occasions under the Federal consistency provisions of Section 307 of the Coastal Zone Management Act.

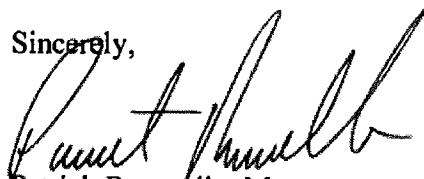
The Coastal Facility Review Act's Shore Protection Fund provisions, at NJSA 13:19-16.1, gives the Commissioner the authority to fund shore protection projects that are not listed in the annual priority list that are "of an emergency nature, in the event of storm, stress or weather or similar act of god". Certainly this is the case with North Wildwood, which continues to suffer from the lack of an actual beach replenishment project. In addition, most of the cost of mobilization has been federally funded as part of the upcoming Avalon/Stone Harbor project this Winter, significantly reducing the cost of a State/local beach fill project for North Wildwood. Therefore, the City of North Wildwood is formally requesting that the NJDEP enter into a State Aid

Shawn LaTourette
Page 3
November 17, 2022

Agreement with the City of North Wildwood and add the City of North Wildwood to the proposed Avalon/Stone Harbor project.

I write this letter with the hope and expectation that you will agree with me both as to the urgency of this matter and as to the appropriateness of using the Hereford Inlet Borrow Area. I look forward to hearing from you in that regard.

Sincerely,



Patrick Rosenello, Mayor
City of North Wildwood

cc (via e-mail): Governor Phil Murphy

MORIARTY EXHIBIT G



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625-0420
www.nj.gov/dep/landuse

CATHERINE R. McCABE
Commissioner

July 10, 2019

City of North Wildwood
c/o Mr. Ronald Simone, City Administrator
901 Atlantic Avenue
North Wildwood, NJ 08260

RE: Freshwater Wetlands Letter of Interpretation: Line Verification – Portion of a Property
LUR File No.: 0507-03-0009.2
Activity Number: FWW 180001
Applicant: City of North Wildwood
Portion of Block and Lot: 317.03, 1
City of North Wildwood, Cape May County

Dear Mr. Simone:

This letter is in response to your request for a Letter of Interpretation to have Division of Land Use Regulation (Division) staff verify the boundary of the freshwater wetlands and/or State open waters on a portion of the referenced property.

In accordance with agreements between the State of New Jersey Department of Environmental Protection (NJDEP), the U.S. Army Corps of Engineers (USACE) Philadelphia and New York Districts, and the U.S. Environmental Protection Agency (USEPA), the NJDEP is the lead agency for establishing the extent of State and Federally regulated wetlands and waters. The USEPA and/or USACE retain the right to reevaluate and modify the jurisdictional determination at any time should the information prove to be incomplete or inaccurate.

Based upon the information submitted, and upon a site inspection conducted by Division staff on February 27, 2019 and March 11, 2019, the Division has determined that the wetlands and waters boundary line(s) as shown on two (2) sheets entitled: "PLAN SHOWING FRESHWATER WETLANDS AND/OR STATE OPEN WATER, PORTION OF BLOCK 317.03 LOT 1, CITY OF NORTH WILDWOOD, CAPE MAY COUNTY, N.J." dated October 2, 2018 and prepared by Van Note-Harvey Associates.

1. "NORTH WILDWOOD LIFEGUARD STATION" (Sheet 1 of 1), unrevised; and
2. "LOU BOOTH AMPHITHEATRE AT HEREFORD INLET PARK" (Sheet 1), last revised on May 31, 2019.

The freshwater wetlands and waters boundary line(s), as determined in this letter, must be shown on any future site development plans. The line(s) should be labeled with the above file number and the following note: "Freshwater Wetlands/Waters Boundary Line as verified by NJDEP"

LUR File No.: 0507-03-0009.2; FWW 180001
Applicant: City of N. Wildwood
Page 2 of 3

Wetlands Resource Value Classification ("RVC")

The Division has determined that the resource value and the standard transition area or buffer required adjacent to the delineated wetlands are as follows:

Intermediate: WH-1 thru MH-13 and WG-1 thru WG-4C. [50 foot wetland buffer]

The Department has determined that the wetlands labeled as WH-1 thru MH-13 on the provided plan are isolated. RVC may affect requirements for wetland and/or transition area permitting. This classification may affect the requirements for an Individual Wetlands Permit (see N.J.A.C. 7:7A-9 and 10), the types of Statewide General Permits available for the property (see N.J.A.C. 7:7A-5 and 7) and any modification available through a transition area waiver (see N.J.A.C. 7:7A-8). Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules for additional information.

Wetlands resource value classification is based on the best information available to the Division. The classification is subject to reevaluation at any time if additional or updated information is made available, including, but not limited to, information supplied by the applicant.

General Information

Pursuant to the Freshwater Wetlands Protection Act Rules, you are entitled to rely upon this jurisdictional determination for a period of five years from the date of this letter unless it is determined that the letter is based on inaccurate or incomplete information. Should additional information be disclosed or discovered, the Division reserves the right to void the original letter of interpretation and issue a revised letter of interpretation.

Regulated activities proposed within a wetland, wetland transition area or water area, as defined by N.J.A.C. 7:7A-2.2 and 2.3 of the Freshwater Wetlands Protection Act rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.4. The approved plan and supporting jurisdictional limit information are now part of the Division's public records.

Please be advised that any surface water features on the site or adjacent to the site may possess flood hazard areas and/or riparian zones and development within these areas may be subject to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13. The Division can verify the extent of flood hazard areas and/or riparian zones through a flood hazard area verification under the application procedures set forth at N.J.A.C. 7:13-5.1.

This letter in no way legalizes any fill which may have been placed, or other regulated activities which may have occurred on-site. This determination of jurisdiction extent or presence does not make a finding that wetlands or water areas are "isolated" or part of a surface water tributary system unless specifically called out in this letter as such. Furthermore, obtaining this determination does not affect your responsibility to obtain any local, State, or Federal permits which may be required.

Recording

Within 90 calendar days of the date of this letter, the applicant shall submit the following information to the clerk of each county in which the site is located, and shall send proof to the Division that this information is recorded on the deed of each lot referenced in the letter of interpretation:

1. The Department file number for the letter of interpretation;

LUR File No.: 0507-03-0009.2; FWW 180001
Applicant: City of N. Wildwood
Page 3 of 3

2. The approval and expiration date of the letter of interpretation;
3. A metes and bounds description of the wetland boundary approved under the letter of interpretation;
4. The width and location of any transition area approved under the letter of interpretation; and
5. The following statement: "The State of New Jersey has determined that all or a portion of this lot lies in a freshwater wetland and/or transition area. Certain activities in wetlands and transition areas are regulated by the New Jersey Department of Environmental Protection and some activities may be prohibited on this site or may first require a freshwater wetland permit. Contact the Division of Land Use Regulation at (609) 292-0060 or <http://www.nj.gov/dep/landuse> for more information prior to any construction onsite."


Failure to have this information recorded in the deed of each lot and/or to submit proof of recording to the Division constitutes a violation of the Freshwater Wetlands Protection Act rules and may result in suspension or termination of the letter of interpretation and/or subject the applicant to enforcement action pursuant to N.J.A.C. 7:7A-22.

Appeal Process

In accordance with N.J.A.C. 7:7A-21, any person who is aggrieved by this decision may request a hearing within 30 days of the date the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at www.state.nj.us/dep/landuse/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at www.state.nj.us/dep/bulletin. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website www.nj.gov/dep/odr for more information on this process.

Please contact Natalie Young of our staff by e-mail at Natalie.Young@dep.nj.gov or by phone at (609) 777-0454 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,



Joslin C. Tamagno,
Environmental Supervisor, ES 4
Bureau of Urban Growth and Redevelopment
Division of Land Use Regulation

c: City of North Wildwood Construction Official
Mr. Ralph Petrella, Jr., Van Note-Harvey Associates, Agent (original)

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 093
Trenton, NJ 08625-0093
Attorney for Plaintiff State of New Jersey
Department of Environmental Protection

By: Dianna E. Shinn (242372017)
Deputy Attorney General
(609) 376-2789

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY
CHANCERY DIVISION
Docket No. * _____-22

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
Plaintiff,

v.

CITY OF NORTH WILDWOOD, "XYZ
CONTRACTORS" 1-10, "JOHN
AND/OR JANE DOES" 1-10,
Defendants.

Civil Action

**CERTIFICATION OF
COLLEEN KELLER IN SUPPORT OF
PLAINTIFF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL
PROTECTION'S ORDER TO SHOW
CAUSE FOR PRELIMINARY
INJUNCTION & TEMPORARY
RESTRAINTS**

I, COLLEEN KELLER, of full age, certify and say:

1. I am the Assistant Director of the Wetlands and Coastal Resources Element within the Division of Land Resource Protection, Watershed & Land Management at the Department of Environmental Protection ("DEP"). I started my recent position in 2017 and my duties include, but are not limited to managing the two permitting Bureaus within the Division of Land Resource Protection ("DLRP"), specifically the Bureau of Coastal Permitting and the

Bureau of Freshwater Wetlands and Highlands Permitting. My primary responsibilities are to manage staff in the implementation of, and compliance with, the relevant State statutes and rules for the oversight/regulation of the State's wetlands and flood hazard areas, the Coastal Zone and Highlands. I am also the Federal Consistency Coordinator for New Jersey's Coastal Zone Management Program, coordinating and confirming coastal consistency reviews and decisions regarding consistency with the Coastal Zone Management rules ("CZM Rules").

2. Before I began this position in 2017, I was the Bureau Manager of the Bureau of Coastal Permitting. In this Bureau Manager position, I managed staff in the implementation of, and compliance with applicable statutes and rules for the protection of New Jersey's coastal environment. Specifically, I was responsible for oversight of staff's review and decisions regarding proposed project permit applications for Coastal Area Facility Review Act ("CAFRA") Individual/General permits, Freshwater wetland permits, jurisdictional determinations and Federal Consistency requests.
3. I have worked for DEP for 24 years, after graduating from the University of Rhode Island with a Bachelor Arts in

- Marine Affairs, and a Master's of Science from Antioch University in Resource Management and Administration.
4. I make this certification in support of the Department's request for a preliminary injunction and temporary restraints to halt North Wildwood ("NWW") from moving forward with installing a bulkhead as recently denied by the Department on October 12, 2022 in NWW's Emergency Authorization ("EA") application following the remnants of Hurricane Ian and in violation of numerous Department statutes as NWW does not have an approved permit to conduct such regulated activity.
 5. This certification outlines NWW's pending 2020 bulkhead permit application and the deficiency correspondence from the Department to NWW regarding that pending permit application. It also describes the permitting process and why the technical review for a permit authorization is so critical under the Coastal Zone Management Rules ("CZM Rules"). It also describes the DLRP's response to NWW's October 5, 2022 EA request and my communications with NWW surrounding the EA request.
 6. Attached to my certification is also a report from Jon Miller, Director of the New Jersey Coastal Protection Technical Assistance Service ("NJCPAS") and Research Associate of the Stevens Institute of Technology. DLRP

consults with the Steven's Institute to review certain shore protection projects that have been proposed within the coastal environment to receive comment regarding the design, and if it that could cause additional unnecessary impact to the adjacent coastal system from a coastal engineering perspective. The Steven's Institute may provide input, suggested revisions based on the current site characteristics, and technology for potential alternative strategies for coastal defense.

NWW's 2020 Beach Front Bulkhead Project Application

7. On November 20, 2020, the Division of Land Resource Protection's Application Support Unit received a permit application submitted by NWW for the project known as the Beach Front Bulkhead Project to the Department requesting a permit pursuant to the CZM Rules, the Flood Hazard Area Control Act Rules, and the Freshwater Wetlands Protection Act Rules (hereinafter "2020 permit application").

Attached as **Exhibit A** is the November 17, 2020 permit application. The purpose of this project is for NWW to legalize the previously constructed bulkhead installed between 3rd and 5th Avenues and later extended between 5th and 13th Avenues. The project also seeks approval to install a proposed 4,658 linear foot steel bulkhead adjacent to the boardwalk between 13th and 25th Avenues.

This proposed steel bulkhead is part of the same area that NWW requested to install the bulkhead from 15th to 16th Avenues in the EA application from October 5, 2022. The 2020 permit application also indicates that the bulkhead from 13th to 25th Avenues will disturb wetlands between 13th and 15th Avenues. These are the freshwater wetlands located next to the Beach Patrol Building and NWW notes that mitigation will be required since the project will disturb wetlands in excess of .1 acres.

8. In the 2020 permit application, NWW notes that the construction of the 6,902 linear feet of steel bulkhead between 3rd and 25th Avenues is needed to protect NWW's infrastructure and private properties, and to prevent destruction of recreational land including wetlands and dunes as well as protect the beach from erosion. NWW also notes that the project "could be considered necessary to protect public health and safety." See page 9 of the 2020 permit application.
9. On December 3, 2020, the Department sent an email to the contractor preparing the 2020 permit application for NWW indicating that the Department is in receipt of the permit application. However, the application was missing information and was therefore, determined to be administratively incomplete. NWW did not submit the

required property owner's signature of Block 290.01, Lot 1, which is a parcel included in the project. In addition, NWW failed to submit the CAFRA newspaper notice as required. The Department provided NWW with thirty days to submit this missing information. To date, NWW has not submitted this information and as such the 2020 application remains administratively deficient. Attached as **Exhibit B** is a copy of the Department's deficiency notice sent on December 3, 2020.

10. A permit application must first be declared administratively complete before it can be assigned for technical review by the Department. During the technical review process, the Department may also request additional information from the applicant in order for the Department to render a decision on the permit application. This technical review is important to ensure that the principles of the CAFRA, the CZM Rules, and the Freshwater Wetlands Protection Act are complied with.

2022 EA Application

11. Around noon, on October 3, 2022, Peter Lomax of Lomax Consulting emailed the Department indicating that NWW was sustaining significant beach/dune losses as a result of the remnants of Hurricane Ian. Attached as **Exhibit C** is an email chain of correspondence from October 3 through

October 5, 2022 between DEP and Mr. Lomax regarding the storm damage in NWW following Ian, including Mr. Lomax's noon October 3, 2022 email.

12. That same day, I responded to Mr. Lomax's email indicating that any post-storm restoration or installation of any storm protection measures within regulated areas requires an Emergency Authorization ("EA") or a permit from the Department's Division of Land Resource Protection prior to the work. See **Exhibit C.**
13. On the evening of October 3, 2022, I received an email from Mr. Lomax indicating that NWW would be submitting an EA to protect the Beach Patrol Building located at 15th Avenue. Mr. Lomax provided several photos in his email including a view of the dune scarp at 15th Avenue in front of the Beach Patrol Building and a photo of the Beach Patrol Building. See **Exhibit C.**
14. The next day, October 4, 2022, I emailed Mr. Lomax indicating that the Department would expedite review of any submitted EA request. I also referenced the standards applicable to emergency post-storm restoration within the CZM rules, specifically, N.J.A.C. 7:7-10.3(b), which include the placement of clean fill material, alongshore transfer of sand on the beach, placement of rock, and the placement of sand-filled geotextile tubes.

I indicated that these measures should be considered before a proposed bulkhead, which could potentially increase erosion to adjacent areas. I reminded Mr. Lomax that no work should be completed until the Department decides if emergency work is immediately necessary due to the threat of the loss of life or property. See **Exhibit C**.

15. Then in the late evening on October 5, 2022, NWW submitted an EA request, which included among other relief, a request to install a bulkhead within the western dune in the area of 15th and 16th Avenues. I assisted my supervisor, Jennifer Moriarty, in making DEP's decision on NWW's EA application. See **Exhibit A** to the Certification of Jennifer Moriarty for the EA request, which is also been attached as **Exhibit C-1**. I have assisted with the review of EA requests within New Jersey's coastal region for the last 22 of my 24 years at DLRP. To my knowledge, NWW was the only coastal town that requested a bulkhead in an EA request following the remnants of Ian.

16. Immediately upon DEP's receipt of the EA application, I reviewed the submitted information from NWW including the photographs of the area of 15th Avenue. In the first photograph, you can see the dune in front of the Beach

Patrol Building. While there is some erosion of the dune and scarp, the Department determined, and I agree, that this erosion did not present an immediate threat to the loss of life or property, and therefore did not rise to an emergency situation warranting the installation of a bulkhead as proposed by NWW. There was still a significant amount of dune remaining as illustrated in this photograph offering protection to the Beach Patrol Building and the storage sheds in case of any future storms. Photograph 5 in the EA request, is a photograph of the Beach Patrol Building. NWW indicates that there is eroded dune scarp to the right edge behind the dune fencing in this area. However, this is not shown in this photograph and it is the Department's position that this photograph does not show an emergency situation threatening property or life that warrants the installation of a bulkhead pursuant to an EA authorization. Typically, an EA is proposed for emergency work that will be done within 10 days of the issuance date for immediate protection if necessary. A bulkhead would require significantly more time to plan, order and install and therefore, would not be considered an immediate emergency response. Nevertheless, despite determining that a significant amount of dune remained

and that an emergency situation had not been demonstrated, out of an abundance of caution, DLRP approved the placement of jersey barriers as requested in the EA as a supplementary shore protection measure in an October 7, 2022 response to the EA application.

17. In the EA application, NWW included a hand drawn illustration of the location of the proposed bulkhead, which is located in the western portion of the dune from approximately 15th to 16th Avenues. The bulkhead appears to originate in the freshwater wetlands transition area to the north of the Beach Patrol Building and then is proposed extending south waterward of the Beach Patrol Building and the storage sheds with a proposed terminus near the unauthorized beach access point at 16th Avenue. This is the same location that DEP authorized the mobilization of jersey barriers on October 7, 2022, as requested by NWW in the EA. The location of the requested bulkhead is almost identical to NWW's request to install a bulkhead in this same exact area in its 2020 permit application.

18. When making decisions on an EA request, DEP needs to determine if there is a threat to life, severe loss of property, or environmental degradation exists or is imminent, and can only be prevented/ameliorated through a

regulated activity and is likely to occur/persist/worsen before a permit could be issued by the Department.

N.J.A.C. 7:7-21.1. Based on the photographs submitted by NWW in the EA request, the aerial photograph taken by the Department after Ian, and the photographs taken by OCE following Ian, the Department determined that NWW did not meet any of the requirements for an emergency authorization for installing a bulkhead. See

Certification of Erick Doyle. While NWW only focused on severe loss to property in its EA request, the Department does not believe that at the time of the EA request or currently that there is a severe threat of loss to the Beach Patrol Building or any other infrastructure in the area of 15th Avenue to warrant the installation of a bulkhead via emergency authorization in lieu of NWW fixing its deficient 2020 permit application for an identical bulkhead. The Department is committed to reviewing the 2020 permit application expeditiously if it is fixed by NWW. Additionally, the Department found that there was no threat to life or environmental degradation at the time of EA request or currently. While there was some scarp on the dune following Ian, no one should be walking on the dune and NWW has the responsibility of ensuring the same. Additionally, while Ian caused some

erosion to the dune, the dune in this area actually held up well to the storm. As noted in my email from October 4, 2022 to Mr. Lomax the installation of a bulkhead may cause erosion to adjacent areas of the proposed bulkhead. This is why the Department stated in its October 12, 2022 denial of the bulkhead in the EA request that a complete technical review of the potential alternative shore protection measures must be conducted to determine if the proposed bulkhead is the solution that would have the least coastal impact on the adjacent system as required by the CZM rules, and that analysis is conducted in the review of NWW's 2020 permit application. The Department cannot proceed to that analysis until NWW fixes its administrative deficiencies in the pending 2020 permit application.

19. A shore protection measure such as a permanent bulkhead when no emergency situation exists pursuant to N.J.A.C. 7:7-21.1 needs to be reviewed pursuant to a CAFRA Individual Permit, similar to the pending 2020 permit application. This ensures such a measure is consistent with the goals of the CZM Rules as outlined at N.J.A.C. 7:7-1.1, along with ensuring consistency with the coastal engineering measures outlined in N.J.A.C. 7:7-15.11. This is why the Department later recommended

to NWW that it should cure its administrative deficiencies in the 2020 permit application so technical review could proceed, which has not happened to date. DEP DLRP and OCE have worked closely with NWW in the past to address its shore protection and beach replenishment concerns through the issuance of backpassing permits to allow the transporting and distribution of sand from the City of Wildwood to NWW. NWW has successfully conducted this backpassing activity for the last few years. NWW has not submitted significant information within the permit application to demonstrate why this is not a suitable alternative to the installation of a bulkhead. Hence, the need for NWW to submit additional information for the full technical review of the pending permit application.

20. On October 20, 2022, I sent an email to NWW's counsel and the Mayor of NWW indicating that if NWW proceeds with unauthorized activities, DEP would pursue immediate enforcement. Attached as **Exhibit D** is my October 20, 2022 email. I re-emphasized that the CZM Rules, N.J.A.C. 7:7-10.3(b), authorize certain emergency post-storm beach restoration activities that are designed to return the beach to its pre-storm conditions. Moreover, N.J.A.C. 7:7-10.3(b) does not contemplate hardening measures, such as the placement of a bulkhead. I also emphasized that

the public should not be accessing or walking in protected dune areas. Additionally, I reminded NWW that it does not have a current beach and dune maintenance permit to conduct post-storm maintenance. See also Exhibit C to the certification of Michele Kropilak.

21. On October 27, 2022, I sent an email to NWW's counsel requesting a meeting to discuss NWW's deficiencies in its pending 2020 permit application. I also requested that NWW prepare an alternatives analysis to the proposed bulkhead in the 2020 permit application because such an analysis is required by the CZM Rules, N.J.A.C. 7:7-15.11, and is missing in the 2020 permit application. Such an analysis will need to be considered by the Department during its technical review of the 2020 permit application. The Department thought requesting this analysis now would assist with speeding up NWW's 2020 permit application. However, to date, NWW has not responded to my email and no meeting has been set up to discuss these deficiencies. Attached as **Exhibit E** is my October 27, 2022 email.

Steven's Institute of Technology Report Regarding Erosion

Analysis of the Dune System at 15th Avenue in NWW

22. Attached as **Exhibit F** is a report from Jon Miller, Director of NJCPTAS and Research Associate Professor at

the Stevens Institute of Technology. As described above, DEP consults with the Steven's Institute when additional engineering analysis is required for proposed projects. While DLRP does not traditionally consult with the Steven's Institute on EA requests, the Department reached out to Mr. Miller for his opinion on the recent erosion in the area of 15th Avenue. The Department wanted to make sure that his opinions from his prior letter in July 25, 2022 regarding the status of NWW's beachfront remained the same or if his opinions may have changed after his review of the beach/dune condition in this area following Hurricane Ian.

23. On July 25, 2022, Mr. Miller opined that NWW's shoreline from 13th to 25th Avenues remains healthy and that the dunes are well vegetated. He further opined that that the dune system in this area is adequate to protect upland infrastructure and the need for a continuous bulkhead is not apparent. He noted that the Beach Patrol Building at 15th Avenue is in a vulnerable area to erosion/breaching; however, he opined that other alternatives to a bulkhead should be considered in this area such as raising or relocating the Beach Patrol Building or filling breaks in the existing dune.

24. Following Ian, Mr. Miller's opinion is that Ian was a low-moderate level coastal storm. There were significant dune impacts due to the low nature of the beaches in NWW and the extended duration of the storm. Mr. Miller continues to support his prior opinion that the beaches between 13th and 25th Avenues remain robust enough to withstand immediate threats. Mr. Miller finds that two of the garage structures staged at 15th Avenue are at an increased risk of being undermined with only 72 feet of dune remaining.¹ This failure may be likely over the accumulation of impacts from a series of smaller storms. However, the Beach Patrol Building itself and the other landward garage structures are located landward of the equilibrium of the dune. Therefore, once the dune line straightens the rate of erosion will slow. The Beach Patrol Building is approximately 150 feet from the edge of the scarp of the dune. Mr. Miller finds that, "Although the building may eventually be threatened by an accumulation of storms, the fact that the building is set back 150 feet from the current edge and roughly 75 feet from the equilibrium dune line defining the accelerated erosion regime suggested that failure is not imminent."

¹ The garage storage sheds staged at 15th Avenue are illegally located and not approved. NWW has previously been notified to this effect by the Department. See Certification of Michele Kropilak.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

Dated: 12/1/22



Digitally signed by Colleen Keller
Date: 2022.12.01 12:50:14 -05'00'

Colleen Keller
Assistant Director
Division of Land Resource
Protection
Watershed & Land Management

van note - harvey
associates, inc.

103 College Road East
Princeton, New Jersey 08540
609-987-2323 Fax: 609-987-0005
NJ Authorization #24GA28271300

www.vannoteharvey.com



**UPLOADED TO NJDEP
ONLINE PORTAL**

November 20, 2020

New Jersey Department of Environmental Protection
Division of Land Resource Protection
501 East State Street, 2nd Floor
Trenton, New Jersey 08625
Attn: Application Support

**RE: New Jersey Department of Environmental Protection (NJDEP)
Coastal Area Facilities Review Act (CAFRA) Individual Permit (IP) and Freshwater
Wetlands (FWW) General Permits 6 (GP6) and 6A (GP6A)**
Project: Beach Front Bulkhead
Applicant: City of North Wildwood
c/o Mr. Ronald Simone, City Administrator
901 Atlantic Avenue
North Wildwood, New Jersey 08260
Property Owner: Same
Portions of Block 289.03, Lot 1; Block 290.01, Lot 1; Block 291.01, Lot 1, Block
315.02, Lot 1; Block 316.02, Lot 1; Block 317.02, Lots 1 and 2; and Block 317.03, Lot 1
City of North Wildwood, Cape May County, New Jersey
VNHA #44693-400-21

Dear Application Support:

On behalf of the City of North Wildwood, Van Note-Harvey Associates (VNHA) hereby submits a combined application for a CAFRA IP, and FWW GP6 and GP6A for the above referenced project. This submission will also address some of the comments made in the Notice of Violation letters dated June 6, 2020 and September 17, 2020.

In support of the application and in accordance with the Coastal Zone Management Rules (N.J.A.C. 7:7) and Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A), please find enclosed for your review (1) copy of a document, entitled "Combined CAFRA Individual Permit, and Freshwater Wetlands General Permits 6 and 6A Application," containing the following:

1. One (1) copy each of the NJDEP application checklists;
2. A completed Property Owner Certification form (Note minimal work is proposed on the Sportland Investments parcel on Block 290.01, Lot 1. A portion of the project is subject to a notice of violation. The form has been provided to Sportland Investments for endorsement, however it has not been returned. Due to the urgency of submitting this application to address the notice of violation, the application form is being submitted with only the City of North Wildwood's signature. We will provide a copy of the fully executed form when received from Sportland Investment.);

Application Support

Page 2

November 20, 2020

3. Verification of Public Notice, which includes the following:
 - One (1) completed Public Notice Form;
 - One (1) copy of the Clerk Notice Letter;
 - One (1) copy of a General Notice Letter;
 - One (1) copy of a certified list of property owners, including easements, within 200 feet of any proposed above ground structure that is part of the proposed development;
 - As the newspaper notice is being published on November 20, 2020, proof of publication will be provided under separate cover;
 - One (1) copy of the certified mail receipts as proof that the following individuals and/or government officials have been notified of this submission: City of North Wildwood Clerk, City of North Wildwood Environmental Commission, City of North Wildwood Construction Official, City of North Wildwood Planning Board, Cape May County Planning Board, Cape Atlantic Soil Conservation District, and all property owners, including easements, within 200 feet within 200 feet of proposed above ground structures;
4. One (1) copy of the City of North Wildwood tax maps, sheets numbered 17, 23, 61, 62, and 63 showing the approximate project location;
5. One (1) copy of portions of the United States Geological Survey (USGS) 2019 Quad Maps of Wildwood and Stone Harbor, New Jersey, showing the approximate project site and State Plane Coordinates;

6. One (1) copy of a Site Location Street Map, showing the approximate project site;
7. One (1) copy of each of the FEMA Flood Insurance Rate Maps (Map Nos. 34009C0306F, Effective 34009C0243F, both with the Effective Date of October 5, 2017) showing the approximate project site;
8. One (1) copy of a set of photographs and associated photo key maps of the project site;
9. One (1) copy of a NJDEP Office of Natural Lands Management Natural Heritage Database submission and subsequent correspondence (once the report is received it will be submitted to you);
10. One (1) copy of construction drawings showing existing conditions at the time of bulkhead construction for the portion of the project seeking after-the-fact approval;
11. One (1) copy of a report entitled: "City of North Wildwood Beach Management Plan for the Protection of Federally and State-Listed Species," dated December 2018;
12. One (1) copy of each of the NJDEP Notice of Violation letters dated June 6, 2020 and September 17, 2020.

Application Support

Page 3

November 20, 2020

13. One (1) copy of a NJDEP Letter of Interpretation for a portion of the Site.
14. One (1) copy of a combined Environmental Impact Statement and CAFRA/FWW Compliance Statement);
15. One (1) set of the plans prepared by VNHA, entitled:
 - “Plan of Proposed and Existing Beach Front Bulkhead,” dated November 17, 2020, Sheet Nos. 1 through 3
 - “N.J.A.C. 7:7 and N.J.A.C. 7:7A Permit Plan of Beach Front Bulkhead,” dated November 17, 2020, Sheet Nos. 4 and 5
16. One (1) copy of a Property Detail Report for each parcel showing property ownership; and
17. Qualifications of those who prepared this application.

Enclosed with the above-referenced documents, please find a Municipal Voucher in the amount of **\$32,000.00** calculated as follows:

- CAFRA IP Review Fee: $\$3,000.00 \times >110 \text{ acres} = \$30,000.00$ (maximum fee for CAFRA IP)
- FWW GP 6 and 6A: $\$1,000.00 \times 2 = \$2,000.00$

Please note that although the project is a major development as it will result in greater than 1 acre of land disturbance, we are requesting a waiver of stormwater review fees because the project is exempt from groundwater recharge, runoff quantity and water quality as the project is within an Urban Redevelopment area, located in a tidal flood hazard area and will result in less than ¼ acre of impervious surface, respectively.

Please return the completed Municipal Voucher to:

Van Note-Harvey Associates
Attn: Jim Verna, III
211 Bayberry Drive, Suite 2E
Cape May Court House, New Jersey 08210

This application was prepared by Erin Conversano and Sarah Wueschinski of VNHA in accordance with N.J.A.C. 7:7 and N.J.A.C. 7:7A.

Application Support
Page 4
November 20, 2020

Should you have any questions/comments or require additional information, please do not hesitate to contact this office.

Very truly yours,



John C. Ryder, P.E., P.W.S.
Vice President

EMC/tes

Y:\VNHADATA\PROJECTS\44693\PERMITS\NJDEP\CAFRA_WF\SUBMISSION DRAFT\NJDEP COVER LETTER.DOC

Enclosures

ec w/encl: Ron Simone, City Administrator, City of North Wildwood
(rsimone@northwildwood.com)
Neil Yoskin, Cullen and Dykman LLP (nyoskin@cullenllp.com)
Michele Kropilak, NJDEP (Michele.Kropilak@dep.nj.gov)
Kevin A. Terhune, DAG (Kevin.Terhune@law.njoag.gov)
Elizabeth Dragon, NJDEP (Elizabeth.Dragon@dep.nj.gov)
Danielle Campanella, NJDEP (danielle.campanella@dep.nj.gov)
Christopher Constantino, NJDEP (Christopher.Constantino@dep.nj.gov)
Christopher Jones, NJDEP (Christopher.Jones@dep.nj.gov)
Richard Paull, NJDEP (Rich.Paull@dep.nj.gov)
David Rosenblatt, NJDEP (Dave.Rosenblatt@dep.nj.gov)
Kerry Pflugh, NJDEP (Kerry.Pflugh@dep.nj.gov)
JV / SLW / EMC



- Since 1894 -

van note - harvey
associates

COMBINED ENVIRONMENTAL IMPACT
STATEMENT AND COMPLIANCE
STATEMENT
PURSUANT TO N.J.A.C. 7:7 AND 7:7A

Beach Front Bulkhead Project
City of North Wildwood
Cape May County, New Jersey

Prepared For:
City of North Wildwood
901 Atlantic Avenue
North Wildwood 08260

VNHA #44693-400-21
November 17, 2020

103 COLLEGE ROAD EAST, 3rd Floor, Princeton, NJ 08540
(609) 987-2323 • Fax (609) 987-0005
www.vannoteharvey.com

ENGINEERS • ENVIRONMENTAL CONSULTANTS • SURVEYORS

Engineering for a Better Environment

INTRODUCTION

I. SITE SUMMARY 3

A. Project Location / Site Description..... 3

B. Vegetation 4

C. Wildlife..... 4

D. Soils 5

E. Hydrology..... 5

F. Geology 5

G. Water Quality 5

H. Aquatic Species 5

I. Size, Nature, and Location of Proposed Development..... 6

J. Additional Approvals Required/Received..... 6

II. PROJECT DESCRIPTION 6

A. Description of Development..... 6

B. Discussion of Project Alternatives 10

III. DISCUSSION OF SPECIAL AREAS 11

A. N.J.A.C. 7:7-9.2 – Shellfish Habitat..... 11

B. N.J.A.C. 7:7-9.3 – Surf Clam Areas..... 11

C. N.J.A.C. 7:7-9.4 – Prime Fishing Areas..... 11

D. N.J.A.C. 7:7-9.5 – Finfish Migratory Pathways..... 11

E. N.J.A.C. 7:7-9.6 – Submerged Vegetation Habitat 12

F. N.J.A.C. 7:7-9.7 – Navigation Channels 12

G. N.J.A.C. 7:7-9.8 – Canals..... 12

H. N.J.A.C. 7:7-9.9 – Inlets..... 12

I. N.J.A.C. 7:7-9.12 – Submerged Infrastructure Routes..... 12

J. N.J.A.C. 7:7-9.15 – Intertidal and Subtidal Shallows 12

K. N.J.A.C. 7:7-9.16 – Dunes 12

L. N.J.A.C. 7:7-9.17 - Overwash Areas..... 13

M. N.J.A.C. 7:7-9.18 - Coastal High Hazard Areas 13

N. N.J.A.C. 7:7-9.19 – Erosion Hazard Areas 14

O. N.J.A.C. 7:7-9.20 - Barrier Island Corridor 15

P. N.J.A.C. 7:7-9.22 - Beaches 15

Q. N.J.A.C. 7:7-9.25 - Flood Hazard Areas 15

R. N.J.A.C. 7:7-9.26 - Riparian Zones..... 20

S. N.J.A.C. 7:7-9.27 - Wetlands and N.J.A.C. 7:7-9.28 - Wetlands Buffers..... 20

T. N.J.A.C. 7:7-9.34 - Historic and Archeological Resources..... 29

U. N.J.A.C. 7:7-9.36 - Endangered or Threatened Wildlife or Plant Species Habitats..... 29

V. N.J.A.C. 7:7-9.37 - Critical Wildlife Habitats..... 32

W. N.J.A.C. 9:7-9.38 – Public Open Space 32

X. N.J.A.C. 7:7-9.39 – Special Hazard Areas 33

Y. N.J.A.C. 7:7-9.48 – Lands and Waters Subject to Public Trust Rights..... 33

IV. DISCUSSION OF STANDARDS FOR BEACH AND DUNE ACTIVITIES AT N.J.A.C. 7:7-10..... 33

V. DISCUSSION OF GENERAL WATER AREAS AT N.J.A.C. 7:7-12 33

VI. DISCUSSION OF REQUIREMENTS FOR IMPERVIOUS COVER AND VEGETATIVE COVER FOR GENERAL LAND AREAS AND CERTAIN SPECIAL AREAS AT N.J.A.C. 7:7-13..... 33

VII. DISCUSSION OF GENERAL LOCATION RULES AT N.J.A.C. 7:7-14 33

 A. N.J.A.C. 7:7-14.1 – Rule on Location of Linear Development..... 33

 B. N.J.A.C. 7:7-14.2 - Basic Location Rule..... 34

 C. N.J.A.C. 7:7-14.3 Secondary Impacts 34

VIII. DISCUSSION OF USE RULES AT N.J.A.C. 7:7-15 35

 A. N.J.A.C. 7:7-15.3 Resort/Recreational Use..... 35

 B. N.J.A.C. 7:7-15.11 Coastal Engineering 35

IX. DISCUSSION OF RESOURCE RULES AT N.J.A.C. 7:7-16 35

 A. N.J.A.C. 7:7-16.2 – Marine Fish and Fisheries 35

 B. N.J.A.C. 7:7-16.3 – Water Quality 35

 C. N.J.A.C. 7:7-16.6 – Stormwater Management 36

 D. N.J.A.C. 7:7-16.7 Vegetation 36

 E. N.J.A.C. 7:7-16.9 – Public Access 36

 F. N.J.A.C. 7:7-16.10 Scenic Resources and Design 36

X. DISCUSSION OF MITIGATION AT N.J.A.C. 7:7-17 37

XI. COMPLIANCE WITH CAFRA RULES AT N.J.S.A. 13:19-10 37

 A. N.J.S.A. 13:19-10a 37

 B. N.J.S.A. 13:19-10b 37

 C. N.J.S.A. 13:19-10c 37

 D. N.J.S.A. 13:19-10d 37

 E. N.J.S.A. 13:19-10e 38

 F. N.J.S.A. 13:19-10f 38

 G. N.J.S.A. 13:19-10g 38

XII. CONCLUSION 38

INTRODUCTION

This Environmental Impact Statement was prepared by Van Note-Harvey Associates (VNHA), on behalf of the City of North Wildwood (the City), in accordance with the requirements of N.J.A.C. 7:7, Coastal Zone Management (the CZM) Rules, N.J.A.C. 7:13, Flood Hazard Area (FHA) Control Act Rules, and N.J.A.C. 7:7A, Freshwater Wetlands (FWW) Protection Act Rules. Contained herein is a detailed discussion of compliance with CZM, FHA and FWW rules that pertain to the proposed activities. The intent of this application is to obtain approval from the New Jersey Department of Environmental Protection (NJDEP) for the project known as the Beach Front Bulkhead Project (the Project).

The purpose of the Project is to legalize a previously constructed vinyl bulkhead adjacent to JFK Boulevard Beach Drive between 3rd and 5th Avenues and steel bulkhead between 5th and 13th Avenues; and, obtain approvals for a proposed steel bulkhead adjacent to the boardwalk between 13th and 25th Avenues.

Stormwater management addressing groundwater recharge, runoff quantity and water quality is not required per:

- N.J.A.C. 7:8-5.4 (a)2ii groundwater recharge requirement does not apply to projects within the "urban redevelopment area." The Project is located within a designated regional center per NJ GeoWeb and the Policy Map of the State Development and Redevelopment Plan.
- N.J.A.C. 7:8-5.4(a)3iv stormwater runoff quantity in tidal flood hazard areas, is not required as the increased volume of stormwater runoff will not increase flood damages below the point of discharge.
- N.J.A.C. 7:8-5.5 stormwater management measures will not be required for water quality control since the Project will not result in an additional one-quarter acre of impervious surface.

All project components will occur landward of the mean high water line.

The format of this report was prepared in accordance with the NJDEP Coastal Zone Management Rules at N.J.A.C. 7:7. The order of information provided herein is as required by N.J.A.C. 7:7. The below narrative addresses the requirements of a Coastal Area Facility Review Act (CAFRA) Individual Permit (IP). As impact to Flood Hazard Areas (FHA), Riparian Zone, Wetlands and Wetland buffers is required to be addressed under Subchapter 9 – Special Areas, compliance to N.J.A.C 7:13 and N.J.A.C. 7:7A is addressed below under Sections III.Q, R, and S, respectively. The project will also result in disturbance to wetlands and wetland transition areas, therefore a compliance statement addressing the requirements of Freshwater Wetland General Permit 6 and 6A is included below.

I. SITE SUMMARY

A. Project Location / Site Description

The location of the project is depicted on the USGS Site Location Map, Street Map and Tax Maps provided under Attachment 4.

The Project spans across the following parcels (the Site), of which a portion of has already been constructed, and a portion proposed:

Previously constructed bulkhead seeking after-the-fact approval from 3rd Avenue to 13th Avenue

- Block 317.03, Lot 1

Proposed bulkhead from 13th Avenue to 25th Avenue

- Block 289.03, Lot 1
- Block 290.01, Lot 1
- Block 291.01, Lot 1
- Block 315.02, Lot 1
- Block 316.02, Lot 1
- Block 317.02, Lot 1
- Block 317.02, Lot 2
- Block 317.03, Lot 1

The project is located adjacent to JFK Boulevard Beach Drive or the boardwalk and generally runs in the northeast/southwest direction. The Atlantic Ocean and beaches are located east and south of the Site. JFK Boulevard Beach Drive and the boardwalk is located west and north of the Site, followed by hotels, motels, commercial development and residential properties.

According to N.J.A.C. 7:7-1.5 the project is considered a “Linear development” and per N.J.A.C 7:8-1.2 the project is located within an “Urban Redevelopment Area” as the project area is identified as a Designated Center and a portion of it is within an Urban Enterprise Zone as depicted on NJ-GeoWeb and the Policy Map of the State Development and Redevelopment Plan dated August 8, 2019.

Site photographs and a photo key map for the Project are provided under Attachment 5.

B. Vegetation

The vegetation that exists within the project area consists of vegetated wetlands comprised of scrub/shrub and herbaceous species, and vegetated dunes. The location of the existing bulkheads and the location of the proposed bulkhead was/is proposed to minimize disturbance to vegetation to the greatest extent practicable, while also minimizing the disturbance to other environmentally sensitive areas. The majority of the Project is proposed adjacent to actively disturbed areas including the boardwalk and JFK Boulevard Beach Drive.

Any temporary disturbance to vegetation for proposed bulkhead will be restored upon the completion of the Project. The Project will also be restoring dunes and freshwater wetlands with plantings that were disturbed under the after-the-fact permitting.

C. Wildlife

The surrounding scrub/shrub and herbaceous vegetation, freshwater wetland communities, beach and Atlantic Ocean are areas that provide habitat and foraging opportunities for waterfowl, migrating birds, mammals and crustaceans. Additionally, these communities may serve as nesting, feeding, and/or resting locations for resident

birds. For further discussion of threatened and endangered species, see below Section III.U.

Construction of the Project is located adjacent to JFK Boulevard Beach Drive, the boardwalk and the beach which at times are heavily used by the local and visiting community. For this reason, the permanent or temporary impacts of the construction activities are unlikely to negatively impact wildlife and/or their associated habitat. Although the adjacent freshwater wetlands, beach and dunes may provide habitat for wildlife, any species that may use these habitats will temporarily relocate to surrounding habitat and will return upon completion of the project.

D. Soils

According to the U.S. Department of Agriculture and Natural Resources Conservation Service, Custom Soil Research Report for Cape May County, approximately 81% of the Project is underlain by Hooksan Sand, beaches, 2 to 15 percent slopes, very frequently flooded (HorDr). The remaining 19% of the Project is underlain by Urban land-Psamments, wet substratum complex, 0 to 2 percent slopes, rarely flooded (USPSBR); and Beaches, 0 to 15 percent slopes, very frequently flooded (BEADV).

The Custom Soil Resource Report for the Project area is provided under Attachment 6 of this application.

E. Hydrology

The Site is relatively flat and ultimately drains to the Atlantic Ocean. Project improvements will help maintain current conditions in the long term by preventing erosion of the beach and infrastructure of the City.

F. Geology

Per the NJDEP online resource NJ-GeoWeb, the Site is underlain by the Unnamed Formation at Cape May (Tc) consisting of interbedded gravel, sand and clay, located within the Coastal Plain Physiographic Province. The bedrock aquifer of the Site is the Holly Beach water-bearing zone.

G. Water Quality

Water quality related to the project area can be described as consistent with that of a developed, mature coastal resort town. Per our knowledge of the project area and information listed on NJ-GeoWeb/NJDEP DataMiner, the Site and any properties immediately adjacent to the Site are not identified as containing historic fill and are not within the NJDEP Site Remediation Program.

H. Aquatic Species

Portions of the project area exist as freshwater wetlands and may contain aquatic species. The project is designed to minimize disturbance to freshwater wetlands and reduce the impact to aquatic species to the greatest extent possible. The project will ultimately prevent further erosion and destruction of the existing wetlands and beach.

I. Size, Nature, and Location of Proposed Development

The City proposes the construction of 496 linear feet of vinyl bulkhead and 6,902 linear feet of steel bulkhead generally between 3rd and 25th Avenues (the Project).

Construction of the bulkheads is required to protect City infrastructure and private properties, and aid in preventing the destruction of recreational land including wetlands, dunes and the beach from continued erosion.

The Project will result in approximately 189,563 square feet (4.352 acres) of land disturbance and 749 square feet (0.0172 acres) of impervious surface. Specific details of the Project are shown on the drawings contained in Attachment 13 and discussed in further detail below in Section II.A.

J. Additional Approvals Required/Received

Construction of the Project will require approvals from various State and County agencies. The list below outlines the anticipated land development approvals required:

- NJDEP CAFRA Individual Permit;
- FWW General Permits 6 and 6A;
- NJDEP Stormwater General Permits; and
- Cape-Atlantic Soil Conservation District Soil Erosion and Sediment Control Plan Certification.

II. PROJECT DESCRIPTION**A. Description of Development**

The Project as described in Section I.I above involves the construction of 496 linear feet of vinyl bulkhead and 6,902 linear feet of steel bulkhead. A portion of the Project has already been constructed and seeks after-the-fact approval for the existing bulkhead, and the rest will be for proposed work for a future bulkhead. A detailed description of the Project components is discussed below:

1. Previous Constructed Bulkhead Seeking After-the-Fact Approval**a) Vinyl bulkhead from 3rd to 4th Avenues**

- The approximate 229 linear foot vinyl bulkhead between 3rd and 4th Avenues was installed in 2012, waterward of the existing timber bulkhead.
- The vinyl bulkhead was constructed upland of the mean high water line (MHWL) at elevation 1.99 feet.
- The bulkhead was constructed as a linear expansion to the existing timber bulkhead located from 2nd to 3rd Avenue.
- The bulkhead was topped with 2" x 6" timber decking laid boardwalk style.

- The vinyl sheet piles are 16' long.
- A 8" x 8" greenheart wale was installed to the waterward side of bulkhead.
- The elevation of the vinyl bulkhead is +11.7 feet at the top of the timber decking.
- Additional improvements include the construction of an approximate, the removal of the existing ramp and steps, and filling of void between this bulkhead and existing bulkhead with concrete.

b) Vinyl bulkhead from 4th to 5th Avenues

- The approximate 267 linear foot vinyl bulkhead between 4th and 5th Avenues was installed in 2017-2018, waterward of the existing timber bulkhead.
- The vinyl bulkhead is located upland of the MHWL.
- The bulkhead was capped with 2" x 6" copper azole timber decking.
- The vinyl sheet piles are 20' long.
- A 8" x 8" greenheart wale was installed to waterward side of bulkhead.
- The bulkhead was connected to the existing vinyl bulkhead from 3rd to 4th Avenue.
- An 8" x 8" greenheart wale was constructed from 3rd to 5th Avenue, and is discussed above
- The elevation of this bulkhead is +12 feet at the top of the timber decking.
- Beach was restored to existing conditions after construction.

c) Steel bulkhead from 5th to 7th Avenues

- The approximate 630 linear foot steel bulkhead 5th and 7th Avenues was installed in 2017-2018 upland of the MHWL.
- The bulkhead was capped with 2" x 6" copper azole timber decking.
- The steel sheet piles are 35' long.
- The bulkhead was installed within two prior dune areas, one at 5th Avenue and one at 7th Avenue. Dune was restored to existing conditions.

- The elevation of this bulkhead is +12' at the top of the timber decking.

d) Steel bulkhead from 7th to 13th Avenues

- The approximate 1,614 linear foot steel bulkhead between 7th and 13th Avenues was installed in late 2019 to March 2020, along the oceanfront within areas of beach, dune, freshwater wetlands and wetland buffer areas.
- All work associated with installation of the steel bulkhead was done upland of the MHWL.
- Work completed near 7th Avenue was done in the dune area.
- The bulkhead between 8th and 10th Avenues was constructed within wetland buffers to minimize disturbance to wetlands.
- The bulkhead between 10th to 13th Avenues was generally constructed within wetlands with the exception of wetland buffer at the beach access points.
- Beach was restored to existing conditions following construction of bulkheads.
- Bulkhead was constructed of coated steel and consisted of 35' long sheets piles.
- Bulkhead was capped with 2" x 6" copper azole timber decking laid boardwalk style.
- The elevation of this bulkhead is +12 feet at the top of the timber decking.

A copy of the construction drawing showing existing conditions at the time of construction are provided under Attachment 8.

2. Proposed Bulkhead Construction

a) Steel bulkhead from 13th to 25th Avenues

- An approximate 4,658 linear foot steel bulkhead from 13th Avenue to 25th Avenue through/adjacent to the dunes is proposed upland of the MHWL.
- An 8 foot wide timber/composite walkway is proposed parallel to the boardwalk on the landward side of the bulkhead between 22nd and 23rd Avenue, connecting existing composite decks with foot showers.
- Improvements include removal and replacement of ADA compliant beach access walkways at 23rd and 24th Avenues.

- The proposed bulkhead at 13th Avenue will connect to an existing bulkhead and will result in disturbance to wetlands between 13th to 15th Avenues, with the exception of wetland buffer at the beach access points.

The purpose of the Project is to protect the infrastructure of the City, including the roads, walkways, utilities and private property, in addition to preventing further destruction of the beaches, dune system and wetlands from the severe erosion. The Project could be considered necessary to protect public health and safety. An eroding beach is a hazard for walking and can cause people to trip and sustain injuries. Further, if unmitigated erosion continues over a period of time, the street could be impacted. Exposed pipes and jagged concrete would be a health and safety concern, as they could cause injury and exposed pipes could cause damage to infrastructure.

Permanent disturbance is very minimal for installation of the bulkhead while other disturbances are temporary in nature and only during construction of the bulkhead.

Per N.J.A.C. 7:8-5.4 and 5.5 stormwater management is not required since the Project is within an urban redevelopment area, tidal flood hazard area that will not increase flood damages below the point of discharge and proposes less than ¼ acre of impervious surface.

The previously constructed and proposed bulkheads are designed close to JFK Boulevard Beach Drive and the boardwalk to minimize disturbance to environmentally sensitive areas to the greatest extent practicable. There are no prudent or feasible alternatives to the existing bulkheads that would have caused any less disturbance, nor are there any prudent or feasible alternatives to the proposed bulkhead that would cause any less disturbance. An alternative analysis is discussed below under Section II.B. The Project does not propose disturbance to any unique or irreplaceable areas.

The location of the bulkhead at and around 5th Avenue was selected to protect the existing bike path and storm drain infrastructure from the severe vibration and subsequent adverse effects from driving the sheet piling, and also to keep the bulkhead far enough away from the impacts of wave splash over. Waves splashing over the bulkhead cause severe scouring and washout. Such conditions would destroy the bike path and could damage the storm drainage system if the scouring and washout occurs adjacent thereto.

The alignment of the bulkhead at 5th Avenue also took into consideration a proposed extension of the seawall from 3rd to 5th Avenues. The proposed extended seawall will provide coastal protection including but not limited to de-energizing waves.

These same factors were also taken into consideration for the balance of the bulkhead. The bulkhead was constructed as close to the bike path and storm drainage system as possible, without destroying the same during construction, and while providing adequate space and separation should waves come in direct contact with the bulkhead.

Project disturbance to freshwater wetlands, wetland transition area and CAFRA is summarized in the below table and is depicted on the permit plans provided under Attachment 13:

TABLE OF PROPOSED NJDEP REGULATED DISTURBANCES	PROPOSED BULKHEAD	PREVIOUSLY CONSTRUCTED/ EXISTING BULKHEAD	TOTAL
DISTURBANCE TO FRESHWATER WETLANDS UNDER GP 6	9,553 SQ.FT. (0.219 ACRES)	8,498 SQ.FT. (0.195 ACRES)	18051 SQ.FT. (0.414 ACRES)
DISTURBANCE TO FRESHWATER WETLANDS TRANSITION AREAS UNDER GP 6A	847 SQ.FT. (0.019 ACRES)	19,639 SQ.FT. (0.451 ACRES)	20,485 SQ.FT. (0.470 ACRES)
DISTURBANCE TO FRESHWATER WETLAND TRANSITION AREA PROPOSED UNDER AN ACCESS WAIVER	36,843 SQ.FT. (0.846 ACRES)	18,199 SQ.FT. (0.416 ACRES)	55,042 SQ.FT. (1.264 ACRES)
DISTURBANCE TO DAFRA AREA UNDER INDIVIDUAL PERMIT	111,679 SQ.FT. (2.674 ACRES)	77,884 SQ.FT. (1.79 ACRES)	189,563 SQ.FT. (4.352 ACRES)

B. Discussion of Project Alternatives

The following discussion addresses possible alternatives to the Project and addresses their feasibility.

Following is a discussion of alternatives for the Project.

Alternatives include:

1. Placing the bulkhead in a different location

The Project is designed to mainly run adjacent to JFK Boulevard Beach Drive and the boardwalk, only excluding areas where that is impossible due to existing structures, in which case the Project wraps around these structures. It is not possible to construct the Project landward of its proposed location without negatively impacting existing roads, paths, sidewalks, utilities, and private property. If the Project was constructed waterward of the proposed location, it would cause a significant amount of disturbance to the beach, dune and wetland habitats. The current location of the Project is designed to avoid disturbance to these environmentally sensitive areas to the greatest practicable extent. Therefore, construction of the bulkhead at a different location is not a feasible alternative.

2. Constructing bulkhead with fewer linear feet

Creating a shorter bulkhead is not feasible because it would not properly protect the City's infrastructure and private properties, and prevent further destruction of the beach, dunes and/or wetlands from erosion. Therefore, construction of a shorter bulkhead is not a feasible alternative.

3. No build alternative

If the bulkheads were not constructed, the City infrastructure and upland private properties would be left vulnerable to the effects of erosion that has been ongoing for years. The severe erosion has left hazardous conditions behind, creating unsafe conditions to the local and visiting community. For this reason, some of the bulkhead has already been constructed on an emergency need.

The no-build alternative is considered appropriate only when severe environmental impacts will result from a project. The only significant

environmental impact that will result from the project is the disturbance to 0.414 acres of freshwater wetlands under FWW GP6, 0.470 acres of wetland transition area under FWW GP6A and 1.264 acres of wetland transition area under an access waiver. All disturbance is located immediately adjacent to JFK Boulevard Beach Drive and the boardwalk in a heavily used area of the City. Disturbance to freshwater wetlands will be mitigated for. Therefore, the no-build alternative preventing construction of the remaining section of the bulkhead is not a feasible alternative.

III. DISCUSSION OF SPECIAL AREAS

The following discussion addresses the Special Areas that are applicable to the Project.

A. N.J.A.C. 7:7-9.2 – Shellfish Habitat

According to Distribution of Shellfish Resources in Relation to the New Jersey Intracoastal Waterway, Longport to Cape May map, dated January 1963, the Project area is mapped as hard clam high value commercial. According to NJDEP NJ-GeoWeb, waters located southeast of the Project area are classified as “Prohibited” (shellfish harvesting not allowed). These waters are identified as having water quality that is impaired due to various non-point sources of pollutants and are not considered ideal shellfish habitat. No in-water work is proposed under other than during storm conditions, as the Project is located landward of the spring high water line (SHWL) and MHWL. The Project was designed to be adjacent to the boardwalk to the greatest extent practicable. For these reasons, the Project is unlikely to have a negative impact on shellfish habitat.

B. N.J.A.C. 7:7-9.3 – Surf Clam Areas

According to NJDEP NJ-GeoWeb, the Project is not located within a coastal water. According to N.J.A.C. 7:7-9.3, surf clam areas are coastal waters which can be demonstrated to support significant commercially harvestable quantities of surf clams (*Spisula solidissima*), or areas important for recruitment of surf clam stocks, including areas where fishing is prohibited for research sanctuary or conservation purposes. Thus, the Project will not have a negative impact on any surf clam areas.

C. N.J.A.C. 7:7-9.4 – Prime Fishing Areas

According to NJDEP Specific Sport Ocean Fishing Grounds Map, the Project is not within a prime fishing area. Therefore, the Project activities will not negatively impact recreational or commercial fishing.

Furthermore, the alignment of the previously constructed bulkhead at and around 5th Avenue was selected in order to protect the existing bicycle path and storm drainage infrastructure, and took into consideration the proposed extension of the seawall south to 5th Avenue. As a byproduct of constructing at this location, another public water front activity, fishing, is created during high tide conditions. Refer to Photo #6 provided under Attachment 5 showing the local community fishing at this location,

D. N.J.A.C. 7:7-9.5 – Finfish Migratory Pathways

According the New Jersey Anadromous Fish Inventory, dated January 6, 1977, Mill Creek at the Magnolia dam is a confirmed alewife (*Alosa pseudoharengus*) spawning run which is approximately 14 miles northeast of the Project site at its closest point. According to the Estimated Range of Atlantic Sturgeon (*Acipenser oxyrinchus*) map

provided on the NOAA Fisheries Greater Atlantic Region website, the project area is identified as being an accessible waterway for the Atlantic Sturgeon. As the Project is located above the MHWL, no impact to finfish migratory pathways is anticipated.

E. N.J.A.C. 7:7-9.6 – Submerged Vegetation Habitat

Per The New Jersey Submerged Aquatic Vegetation Distribution Atlas Final Report, dated December 15, 1979, from Cape May north to Great Bay, where marshes generally extend all the way to the barrier islands, only the algal species, almost exclusively, *Ullva lactuca*, are found in the shallows of the myriad of bays, sounds, and channels. However, the extensive protected shallows behind the barrier beaches provide an ideal environment for vast Submerged Aquatic Vegetation (SAV) beds. New Jersey SAV is characterized by less diversity of vascular species than that found in the less saline Maryland regions of the Chesapeake Bay.

According to the New Jersey Submersed Aquatic Vegetation Distribution – 1979 map for Wildwood published by the NJDEP, no SAV beds are located in the area of the proposed Project and therefore no adverse impact to SAVs is proposed.

F. N.J.A.C. 7:7-9.7 – Navigation Channels

The Site is located on the Atlantic side of North Wildwood. The Project does not propose any work that would affect a navigation channel and will have no adverse effects to navigation channels.

G. N.J.A.C. 7:7-9.8 – Canals

The Project does not propose any activities within a canal.

H. N.J.A.C. 7:7-9.9 – Inlets

Hereford Inlet is located approximately 0.25 miles northeast of the Site at its closest point. Therefore, the Project does not propose any disturbance to Hereford Inlet.

I. N.J.A.C. 7:7-9.12 – Submerged Infrastructure Routes

There is no proposed disturbance to any submerged infrastructure routes for the proposed bulkhead construction, although there may be some modification to utilities during construction of the Project. Specifically, at the Sportland Pier (Block 290.01, Lot 1), the existing utilities will need to be cut off going into the pier, the bulkhead installed, core the bulkhead at select locations and reinstall the utilities.

J. N.J.A.C. 7:7-9.15 – Intertidal and Subtidal Shallows

The intertidal and subtidal shallows zone is the area from the spring high water line to a depth of 4 feet below the mean low water line. The spring high water and mean low water at the Site are approximately 2.43 feet above sea level and -2.86 feet below sea level, respectively. As the Project is upland of elevation 2.43, the Project will not be within the intertidal and subtidal shallows zone.

K. N.J.A.C. 7:7-9.16 – Dunes

The previously constructed steel bulkhead from 5th to 7th Avenue was installed within a prior beach and dune area, and the previously constructed steel bulkhead from 7th to 13th Avenue was installed within a prior dune and freshwater wetlands area. Per N.J.A.C. 7:7-

9.16, an acceptable activity includes shore protection structures which meet the coastal engineering rule at N.J.A.C. 7:7-15.11. The Project is designed to be in compliance with N.J.A.C. 7:7-15.11, which is discussed in Section VIII.B below. Furthermore, the Project is designed to reduce its impact on dunes, as well as other environmentally sensitive areas. As discussed above in Section II.B, there is no feasible alternative that would result in less disturbance to beach, dune and/or freshwater wetland habitat. The current location of the Project is designed to avoid disturbance to the greatest practicable extent.

L. N.J.A.C. 7:7-9.17 - Overwash Areas

An overwash area is an area subject to accumulation of sediment that is deposited landward of the beach or dune by the rush of water over the crest of the beach berm or dune. As the City's Atlantic coastline has been experiencing severe erosion since at least 1991 to present day, the overwash areas have been encroaching closer to the City's roads and recreational amenities generally from 3rd to 13th Avenues.

The location of the previously constructed bulkhead at 5th Avenue was selected in order to project the existing bicycle path and storm drainage infrastructure from the severe vibration and subsequent adverse effects from driving the sheet piling during construction and also to keep the bulkhead far enough away from the infrastructure that it is protected during storm events from wave splash over. Waves splashing over the bulkhead cause severe scouring and washout. Such conditions would destroy the bike path and could damage the storm drainage system if the scouring and washout occurs adjacent thereto. The alignment of the bulkhead also took into consideration the proposed extension of the seawall south to 5th Ave. Seawalls are intended to provide coastal protection including but not limited to de-energizing waves (knocking the waves down before they crash into a vertical wall resulting in splash over and severe scouring and washout). Since the seawall was proposed to 5th Avenue, adequate space between the bulkhead and the critical infrastructure is required since it was extremely probable waves would be crashing directly into the new bulkhead.

Portions of the Project exist within overwash areas. As discussed under Section II.B above there is no feasible alternative to the Project in an area other than the overwash area at 5th Avenue while taking into account the location of existing dunes, wetlands and/or the proposed seawall, and the severe erosion the City's coastline was experiencing. Although the location of the bulkhead will disturb the beach and dune systems, it is minimized to the greatest extent practicable. The City will be restoring the beach/dune systems under a separate project, therefore significant adverse long-term impacts on the natural functioning of the beach and dune system is not anticipated.

Since the Project is a shore protection structure, it is an acceptable activity as long as the coastal engineering rule at N.J.A.C. 7:7-15.11(g) is met. See Section VIII.B below for compliance to Coastal Engineering.

M. N.J.A.C. 7:7-9.18 - Coastal High Hazard Areas

Coastal high hazard areas are flood prone areas subject to high velocity waters (V zones) as delineated on the FEMA FIRM Flood Insurance Rate Map numbers 34009C0243F and 34009C0306F, effective date October 5, 2017. The Project is located in the following zones:

- From 3rd to 5th Avenues, the Project is located within flood zone AE, elevation 10 with the exception of a small area at 3rd Avenue which is within flood zone VE, elevation 11.
- From 5th to 7th Avenues, the Project is located within flood zone VE, elevation 11.
- From 7th to 13th Avenues, the Project is located within flood zone AE, elevation 10.
- From 13th to 15th Avenues, the Project is located within flood zone AE, elevation 11.
- From 15th to 25th Avenue, the Project is located within zone VE, elevation 12.

The majority of the Project is located within FEMA flood zone VE, elevations 11 and 12 feet. The limit of moderate wave action generally runs along JFK Boulevard Beach Drive from 3rd to 15th Avenues and then west of the boardwalk from 16th Avenue to the Project terminus.

As the area directly waterward of the boardwalk from 15th to 25th Avenues, and the area directly waterward of the current elevated beach area from 5th to 7th Avenues, are within flood zone VE, the proposed Project had/has to be constructed within a coastal high hazard area otherwise it will not serve the purpose of protecting the upland improvements include the boardwalk, commercial and private properties, utilities, etc. The Project is not a residential development or commercial development but rather public development since the activities are located on a beach or dune. The Project is located within a highly developed portion of the City, and the purpose of the Project is to protect the beach and city infrastructure from erosion, thus protecting people and property from the negative impacts of flooding and coastal storms.

A FEMA FIRM map for the Project area is provided under Attachment 4 and is depicted on the plans provided under Attachment 13.

N. N.J.A.C. 7:7-9.19 – Erosion Hazard Areas

Erosion hazard areas are shoreline areas that are eroding and/or have a history of erosion, causing them to be highly susceptible to further erosion, and damage from storms. The Atlantic coastline of the City has been experiencing severe erosion since at least 1991, therefore, the Project is located within an Erosion hazard area. The City is experiencing lack of beaches, lack of beaches at high tide, narrow beaches, foreshore extended under the boardwalk, low dunes or no dunes, escarped foredunes, exposed bulkheads and high long-term erosion rates. The purpose of the Project is to protect the City's infrastructure and the surrounding commercial and private properties from the impacts of the continued erosion. As the Project complies with the location on linear development rule and coastal engineering rule for shore protection structures, it is an acceptable activity. See Sections VII.A and VIII.B below for compliance to location of linear development and coastal engineering, respectively.

O. N.J.A.C. 7:7-9.20 - Barrier Island Corridor

All Project components are located on the oceanfront barrier island corridor. All work is related to the construction of the bulkheads to protect the barrier island corridor from further erosion and destruction. All work is proposed adjacent to JFK Boulevard Beach Drive and the boardwalk to the greatest extent possible. As the Project complies with the requirements for impervious cover and vegetative cover, it is an acceptable activity. See Section VI below.

P. N.J.A.C. 7:7-9.22 - Beaches

The previously constructed bulkhead from 3rd to 7th Avenues was constructed within a prior beach and/or dune area, the previously constructed bulkhead from 7th to 13th Avenue was constructed within a prior freshwater wetland/wetland buffer and/or beach areas and the proposed bulkhead will be constructed within beaches, wetland buffers and/or adjacent to dunes. As the Project has no prudent or feasible alternative in an area other than a beach, will not cause significant adverse long term impacts to the natural functioning of the beach and dune system, is a shore protection structure and is a linear development, it is an acceptable activity. See Section II.B above for an analysis of project alternatives, and Sections VII.A and VIII.B below for compliance to location of linear development and coastal engineering, respectively.

The alignment of the bulkhead was chosen to minimize disturbance to the beach to the greatest extent practicable.

Q. N.J.A.C. 7:7-9.25 - Flood Hazard Areas

The FEMA Flood Insurance Rate Map (FIRM) mapping identifies the Site predominated within FEMA flood zone AE, elevations 10 and 11 feet, with the exception of the stretch of proposed bulkhead from 15th to 25th Avenues, which is located within the FEMA flood zone VE, elevation 12 feet.

The Project will not prevent or restrict potential water-dependent use in the FHA within 100 feet from the Hereford Inlet as the Project is located 0.25 miles away from the inlet, and is therefore allowed under N.J.A.C. 7:7-9.25(e).

N.J.A.C. 7:7-9.25(f) requires that development in flood hazard areas shall conform with the applicable design and construction standards of The Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., implementing rules at N.J.A.C. 7:13, except in lands regulated under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq., pursuant to N.J.S.A. 58:16A-60; the Uniform Construction Code, N.J.A.C. 5:23; and the Federal flood reduction standards, 44 C.F.R. Part 60.

N.J.A.C. 7:7-9.25(h), compliance with endangered or threatened wildlife or plant species habitats requirements is addressed below in Section III.U below.

The overall Project will result in an increase in site impervious coverage of approximately 0.0172 acres and site disturbance of approximately 4.352 acres.

No activities are proposed in a channel, in the riparian zone, or in a floodway.

1. Project Design and Construction Techniques

a) Design Techniques

See Section II.A above for a description of existing and proposed design techniques for the Project.

b) Construction Techniques

Construction techniques for the existing and proposed construction are governed by a Soil Erosion and Sediment Control (SESC) Plan developed in accordance with “Standards for Soil Erosion and Sediment Control in New Jersey” and approved by the Cape Atlantic Conservation District. SESC measures will include:

- Removal of vegetation will be the minimum practicable to achieve the approved project design.
- Proper land grading techniques will be conducted to protect against soil loss from erosion, enhance establishment of permanent vegetative cover and help properly manage stormwater runoff, all of which will reduce site discharge of pollutants.
- A stabilized construction access point will be established.
- For proposed construction at both piers at 22nd Avenue and 23rd to 24th Avenues, a section of the pier will be removed, then all utilities to the piers will be cut. Bulkhead will then be cored to reinstall/reconnect the utilities, then section of the pier removed adjacent to the boardwalk will be replaced/reconstructed.
- For proposed construction at both piers, crane will be situated on the beach on each side of the pier to drive the sheet piling. This is the reason the LOD for the Project is larger near the piers.
- For installation of the existing bulkhead between 3rd and 5th Avenues, the crane operated from the street.

2. Riparian Zone Disturbance and Compliance with N.J.A.C. 7:13-11.2 (Reference FHA IP Checklist, Item 8iii)

The Project is not located within a riparian zone, see Section III.R below. No riparian zone disturbance is proposed for the Project.

3. Analysis of Potential Temporary and/or Permanent Adverse Environmental Impacts (Onsite or Offsite) on Regulated Waters, Channels, Riparian Zones, Fishery Resources, and Threatened & Endangered Species and their Habitat

- a) **A justification for the proposed regulated activity or project, including an explanation of why any proposed regulated activity or project and its location is the most appropriate for the site, and how the proposed location and design minimizes adverse environmental impact(s) to the resources.**

See Section II.A above providing a description of development.

- b) **An analysis of alternatives to the proposed regulated activity or project, including a no-build alternative.**

See Section II.B above for a discussion of project alternatives.

- c) **A description of all measures to be taken to reduce any potential adverse environmental impact(s) to the resources.**

See Sections II.A and B. above justifying the Project location and how it minimized impact to environmentally sensitive areas.

- d) **A plan to mitigate the effects of all adverse environmental impacts.**

A restoration/mitigation plan will be provided under separate cover for disturbance to wetlands, dunes and/or beach as required.

- e) **Any monitoring or reporting methods that will be used.**

Monitoring or reporting methods for any restoration/mitigation will be provided under separate cover. However, no mitigation is anticipated for disturbance to FHA.

4. Mitigation

Per N.J.A.C. 7:13-13, FHA mitigation compensates for the loss or disturbance of riparian zones. The Project does not propose loss or disturbance of riparian zones. Therefore, mitigation is not required for FHA compliance.

5. Area Specific Requirement for Individual Permits, Requirements for a Regulated Activity in a Channel at N.J.A.C. 7:13-11.1

The Project is not located within a channel.

6. Area Specific Requirement for Individual Permits, Requirements for a Regulated Activity in a Riparian Zone at N.J.A.C. 7:13-11.2

The Project is not located in a Riparian Zone.

7. Area Specific Requirement for Individual Permits, Requirements for a Regulated Activity in a Floodway at N.J.A.C. 7:13-11.3

Per N.J.A.C. 7:13-2.3, the Atlantic Ocean and other non-linear tidal waters such as bays and inlets do not have a floodway. Thus, the Project is not located in a floodway.

8. Area Specific Requirement for Individual Permits, Requirements for a Regulated Activity in a Flood Fringe at N.J.A.C. 7:13-11.4

Per N.J.A.C. 7:13-2.3, the Atlantic Ocean and other non-linear tidal waters such as bays and inlets do not have a floodway. Therefore, the entire flood hazard area along these tidal waters is considered to be a flood fringe.

As the Project is located in a tidal FHA, the Project is not subject to the flood storage volume displacement limits of N.J.A.C. 7:13-11.4.

9. Area Specific Requirement for Individual Permits, Requirements for a Regulated Activity in or Along a Regulated Water with Fishery Resources at N.J.A.C. 7:13-11.5

The Project is not located within a channel and/or riparian zone of a regulated water containing fishery resources, and the Project does not propose construction of a bridge or culvert in or along waters with fishery resources. Therefore, requirements for a regulated activity in or along a regulated water with fishery resources do not apply. See Section IX.A below for a discussion on impact to marine fish and fisheries.

10. Area Specific Requirement for Individual Permits, Requirements for a Regulated Activity in or Affecting a present or Documented Habitat for Threatened or Endangered Species at N.J.A.C. 7:13-11.6

The Project will not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species, and will not jeopardize the continued existence of any local population of a threatened or endangered species. See Sections III.U and V below for a discussion of Endangered or Threatened Wildlife or Plant Species Habitats and Critical Wildlife Habitats.

11. Area Specific Requirement for Individual Permits, Requirements for Stormwater Management at N.J.A.C. 7:13-12.2

Stormwater management addressing groundwater recharge, runoff quantity and water quality is not required per:

- N.J.A.C. 7:8-5.4 (a)2ii groundwater recharge requirement does not apply to projects within the "urban redevelopment area." The Project is located within a designated regional center per the Policy Map of the State Development and Redevelopment Plan.
- N.J.A.C. 7:8-5.4(a)3iv stormwater runoff quantity in tidal flood hazard areas, is not required as the increased volume of stormwater runoff will not increase flood damages below the point of discharge.
- N.J.A.C. 7:8-5.5 stormwater management measures will not be required for water quality control since the Project will not result in an additional one-quarter acre of impervious surface.

All Project components will occur landward of the mean high water line. Therefore, the applicant is not required to address stormwater management and the requirements at N.J.A.C. 7:8 are satisfied.

12. Area Specific Requirement for Individual Permits, Requirements for Excavation, Fill and Grading Activities at N.J.A.C. 7:13-12.3

Excavation, fill and grading will be required to construct the Project. The Project complies with requirements of N.J.A.C. 7:13-12.3 as follows:

- The overland flow of stormwater will not be impeded and floodwaters can freely enter and exit the disturbance area.
- There are no slopes greater than 50%.
- The excavation, fill and/or grading will not endanger the integrity of any existing structure.
- All excavated material will be lawfully disposed of.

13. Area Specific Requirement for Individual Permits, Requirements for a Structure at N.J.A.C. 7:13-12.4

The Project proposes the construction of a bulkhead within the FHA. The Project complies with requirements of N.J.A.C. 7:13-12.4 as follows:

- The structures will resist impact from water and debris during the flood hazard area design flood.
- The structures will resist uplift, floatation, collapse and displacement due to hydrostatic and hydrodynamic forces resulting from the flood hazard area design flood.
- The structures will resist overturning and sliding pressure, as well as pressure from the freeze/thaw cycle of the soil; and,
- The structures are not located adjacent to a channel.

The Project is located primarily within the Zone AE and partially within the VE flood plain. The existing and proposed bulkheads are located primarily below ground; however, a portion does extend above ground as discussed in more detail in Section IX.F below. Also, see Section III.M above for a discussion of coastal high hazard areas.

14. Area Specific Requirement for Individual Permits, Requirements for Retaining Walls and Bulkheads at N.J.A.C. 7:13-12.13

The bulkhead will extend above ground as discussed in Section IX.F below and as depicted on Sheet 3 of the plans.

- The bulkhead consists of vinyl or steel sheeting, and is anchored with greenheart wales as depicted on the plans.
- The bulkhead is designed to withstand displacement, overturning, and failure due to undermining and/or pressure from soil, water, and frost.

- The Project is not located within a regulated water or within 25 feet of any top of bank. Furthermore, the retaining bulkhead is designed to be resistant to erosion as well as the possibility of a shifting bed and/or bank over time.

Refer to the permit plans provided under Attachment 13 providing an engineering certification the above requirements are satisfied.

R. N.J.A.C. 7:7-9.26 - Riparian Zones

The Project runs parallel to the Atlantic Ocean and the next closest body of water is Hereford Inlet, which is located 0.25 miles away from the Project at its closest point. Per N.J.A.C. 7:7-9.26(b)1, there is no riparian zone along the Atlantic Ocean. Therefore, the Project will have no impact on riparian zones.

S. N.J.A.C. 7:7-9.27 - Wetlands and N.J.A.C. 7:7-9.28 - Wetlands Buffers

The previously constructed steel bulkhead from 8th to 13th Avenues was installed along the oceanfront within a prior freshwater wetlands and wetland transition areas. The proposed bulkhead from 13th to 15th, from 20th to 22nd, and at 25th Avenues will disturb wetlands and wetland transition area.

Per NJ GeoWeb 1970 Black and White Imagery, the Project is not within coastal wetlands. Note the portion between 3rd and 21st Avenue there is no 1970 black and white imagery map. Based on this and prior conversations with NJDEP, any wetlands not located within a 1970 black and white imagery map are to be identified as FWW.

Installation of the bulkheads is in compliance with N.J.A.C. 7:7-9.27 because of the following:

- The use of the bulkhead is water dependent;
- The Project has no prudent or feasible alternative on a non-wetland site, see Section II.B above for discussion of possible alternatives;
- The Project will result in minimum feasible alteration or impairment of natural tidal circulation; and
- The Project will result in minimum feasible alteration or impairment of natural contour or natural vegetation of the wetlands.

Freshwater Wetland Compliance Statement Pursuant to 7:7A

This statement addresses compliance with the permitting requirements outlined in the applicable Freshwater Wetlands General Permit (FWWGP) checklists and follows the requirements set forth in the Freshwater Wetland Protection Act Rules (N.J.A.C. 7:7A).

An intermediate resource value, isolated freshwater wetland exists on a portion of the Site adjacent to the Beach Patrol Building at 15th Avenue verified under NJDEP File No. 0507-03-0009.2 FWW 180001. Additionally, the wetland at the Lou Booth Amphitheatre site was also verified as intermediate resource value and isolated. Upon review of NJ-GeoWeb Landscape Project Version 3.3, the T&E species identified within the wetlands

subject of this application are similar to those at the location of the Beach Patrol Building and Lou Booth Amphitheatre.

Also, based on the T&E species and their associated habitats identified in the “City of North Wildwood Beach Management Plan For the Protection of Federally and State-Listed Species” discussed above under Section III.U below, it is our opinion these T&E species are not wetland dependent species.

Therefore, for the above reasons, we believe the wetlands between 8th and 25th Avenues as depicted on the plans provided under Attachment 13 are of intermediate resource value.

A copy of the NJDEP Letter of Interpretation for the Beach Patrol Building and Lou Booth Amphitheatre are provided under Attachment 11.

Please also note that the wetlands generally between 8th and 13th Avenues no longer exist under current conditions due to the severe erosion occurring along the coastline.

1. A Description of The Characteristics of The Site and The Location of All Proposed Regulated Activities, Potential Impacts from The Construction Process, And, As Applicable, Any Monitoring or Reporting Methods That Will Be Used

a) Site and Project Description

See Introduction above for Site and Project introduction.

b) Potential Impacts from the Construction Process

See Section III.Q.1.b above for construction techniques.

c) Monitoring and Reporting Methods

Monitoring and/or reporting methods for any restoration/mitigation required for disturbance to freshwater wetlands will be provided under separate cover.

2. The Total Area, In Acres, Of Wetlands and State Open Waters on The Site Before the Regulated Activity Is Performed, And the Total Area, In Acres, Of Wetlands and State Open Waters (Sow), On the Site That Will Remain After the Regulated Activity Is Performed

As freshwater wetlands on the Site have only been partially delineated, this is not possible.

However, the Project will result in a total disturbance of approximately 0.414 acres to FWW under GP6. Refer to the Permit Plans provided under Attachment 13 for a breakdown of disturbance to freshwater wetlands for the installation of the previously constructed and proposed bulkhead. The Project will not disturb SOW.

3. Statement of Compliance with General Permit 6 (Non-Tributary Wetlands) At N.J.A.C. 7:7A-7.6

- a) **General Permit No. 6 authorizes regulated activities in freshwater wetlands and/or State open waters, if the freshwater wetlands and/or State open waters are not part of a surface water tributary system discharging into an inland lake or pond, or a river or stream, provided all applicable requirements at N.J.A.C. 7:7A-5.7 and 20.3 are met.**

The regulated activities are proposed in freshwater wetlands that are not part of a surface water tributary system discharging into an inland lake, pond or river/stream. Note that the wetlands adjacent to the Beach Patrol Building at 15th Avenue have already been verified as non-tributary.

Note that any disturbance to the wetland transition area for disturbance to wetlands subject of GP6 is allowed under an access transition area waiver, and is therefore not included under GP6A.

- b) **The activities shall disturb no more than one acre of a freshwater wetland and/ or State open water, which is not a water of the United States.**

The Project will result in approximately 0.414 acres of freshwater wetland disturbance that is not a water of the U.S. and no disturbance to SOW is proposed.

- c) **The activities shall disturb no more than one-half acre of a freshwater wetland and/ or State open water that is a water of the United States. Mitigation shall be performed for all permanent loss and/or disturbance to wetlands and/or State open water that are waters of the United States.**

The Project will result in approximately 0.414 acres of freshwater wetlands disturbance that is not a water of the U.S. No disturbance to SOW is proposed.

- d) **Activities under General Permit No. 6 will not take place in the following:**

i. **Exceptional Resource Value wetlands:**

As stated above, based on available information, we believe the wetlands subject of this application are of intermediate resource value. Therefore, the proposed activities will not take place in exceptional resource value wetlands.

ii. **State open water that is a special aquatic site;**

The Project does not propose any activities within SOW.

iii. **USEPA priority wetlands; or**

Per Priority Wetlands List for the State of New Jersey dated May 1989, no activities are proposed within USEPA priority wetlands.

iv. A State open water that is larger than one acre.

The Project does not propose any activities within SOW.

- e) Mitigation shall be performed for all permanent loss and/or disturbance of 0.1 acres or greater of freshwater wetlands or State open waters that are also waters of the United States. Mitigation shall be performed for permanent loss and/or disturbance of less than 0.1 acres of freshwater wetlands or State open waters that are also waters of the United States unless the applicant demonstrates to the Department that all activities have been designed to avoid and minimize impacts to wetlands.**

Mitigation will be required as the Project will disturb wetlands in excess of 0.1 acres. A proposal for restoration/mitigation will be provided under separate cover.

4. Statement of Compliance with General Permit (GP) No. 6a (Transition Areas Adjacent To Non-Tributary Wetlands) At N.J.A.C. 7:7A-7.6a

- a) General permit 6A authorizes regulated activities in transition areas adjacent to freshwater wetlands, if the freshwater wetlands are not part of a surface water tributary system discharging into an inland lake or pond, or a river or stream, provided all applicable requirements at N.J.A.C. 7:7A-5.7 and 20.3 are met.**

The regulated activities are proposed in freshwater wetlands that are not part of a surface water tributary system discharging into an inland lake, pond or river/stream.

- b) The activities disturb no more than one-half acre of a transition area. If the activity authorized under general permit 6 eliminates a wetland in its entirety, authorization under general permit 6A is not required for activities in the associated transition area.**

The total amount of wetland transition area disturbed by the Project is 0.470 acres. The Project does not propose eliminating a wetland in its entirety under GP6.

- c) Activities do not take place in a transition area adjacent to the following.**
- i. An exceptional resource value wetland, as described at N.J.A.C. 7:7A-3.2.**

Based on available information, it is our opinion the wetlands of the subject application are of intermediate resource value.

Therefore, no activities are proposed within a transition area adjacent to an exception resource value wetland.

ii. USEPA priority wetlands.

Per Priority Wetlands List for the State of New Jersey dated May 1989, no activities are proposed within a wetland transition area adjacent to a USEPA priority wetland.

5. Listing of And Statement of Compliance with Conditions That Apply to All General Permits at N.J.A.C. 7:7A-5.7

a) The activities proposed under GPs comply with the following:

i. The conditions set forth in General Permit No. 6 and 6A.

See Sections S.3 and 4 above for compliance to the conditions set forth in GP6 and GP6A respectively.

ii. The standard conditions set forth for all general permits.

See Section S.5.b below for compliance to the conditions for all general permits.

iii. The conditions for all general permits at N.J.A.C. 7:7A-20.2.

The Applicant understands the standard conditions for all general permits.

iv. The limits pursuant to the use of multiple general permits in N.J.A.C. 7:7A-5.4.

The Project complies with the limits on the use of multiple general permits.

v. If required under a particular general permit, mitigation pursuant to N.J.A.C. 7:7A-11.

Mitigation will be required and will be addressed under separate cover.

vi. Any additional conditions imposed under N.J.A.C. 7:7A-5.7(f).

It is understood that the Department may establish additional conditions on a case-by-case basis.

b) Explanation of how the Proposed Activities Comply with the Conditions that Apply to all General Permits:

Activities under a general permit shall be associated with a proposed project. The Department shall not authorize activities under a general permit for eliminating a natural resource in order to avoid regulation.

- i. The proposed activities are not for the purpose of eliminating a natural resource in order to avoid regulation.**

The regulated activity shall not occur in the proximity of a public water supply intake.

- ii. According to NJ-GeoWeb well head protection areas (community) layer, the nearest public water supply is located approximately 5.7 miles southwest of the Project at its closest location.**

The activities shall not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species; and shall not jeopardize the continued existence of any local population of a threatened or endangered species.

See Section III.U above for a discussion on Project impact to T&E species and/or habitat. The Project will not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species.

- iii. The activity will not occur in a component of either the Federal or State Wild and Scenic River System; nor in a river officially designated by Congress or the State Legislature as a “study river” for possible inclusion in either system while in the river is in an official study status; except that the activity may occur in these waters if approved by the National Park service in accordance with 40 CFR 233.**

The Site is not within a component of either the Federal or State Wild and Scenic River System; nor in a river officially designated by Congress or the State Legislature as a “study river.”

- iv. The activity shall not adversely affect properties which are listed or are eligible for listing on the New Jersey or National Register of Historic Places.**

See Section III.T above for a discussion on Project impact to historic and archaeological resources. The Project will not adversely affect properties which are listed or are eligible for listing on the New Jersey or National Register of Historic Places. If any are encountered, the NJDEP shall be immediately notified.

- v. Any discharge of dredged or fill material shall consist of clean, suitable material free from toxic pollutants (see 40 CFR 401) in toxic amounts, and shall comply with all applicable Department rules regarding use of dredged or fill material.**

Discharge of dredged material is not proposed for the Project. Fill material will consist of clean, suitable material free from toxic pollutants in toxic amounts, and will comply with all applicable Department rules regarding use of fill material.

- vi. **Any structure or fill authorized shall be maintained as specified in the construction plans.**

The proposed structures and fill will be maintained as specified in the plans accompanying this application.

- vii. **The activity will not result in a violation of the FHA Control Act, N.J.S.A. 58:16A-50 or implementing rules at N.J.A.C. 7:13.**

Compliance to the FHA is addressed above under Section III.Q Accordingly, the Project will not result in a violation of the FHA Control Act Rules.

- viii. **If activities under the general permit meet the definition of “major development” at N.J.A.C. 7:8-1.2, then the project of which the activities are a part shall comply in its entirety with the Stormwater Management Rules at N.J.A.C. 7:8.**

Compliance to Stormwater Management is addressed below under Section IX.C. The Project has been designed in accordance with the requirements of N.J.A.C. 7:8.

- ix. **If activities under the general permit involve excavation or dredging, the applicant shall use an acceptable disposal site for the excavated or dredged material. No material shall be deposited or dewatered in freshwater wetlands, transition areas, State open waters or other environmentally sensitive areas.**

Dredging is not proposed. Any excess excavated material will be disposed of in accordance with applicable regulations. No material will be deposited or dewatered in wetlands, transition areas, SOW, or other environmentally sensitive areas.

- x. **The amount of rip-rap or other energy dissipating material shall not exceed the minimum necessary to prevent erosion, as calculated under the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90.**

Rip-rap or other energy dissipating materials are not proposed under this Project.

- xi. **Best Management Practices, as defined at N.J.A.C. 7:7A-1.3, shall be followed whenever applicable.**

Where applicable, Best Management Practices shall be implemented and followed in accordance with the “Standards for Soil Erosion and Sediment Control in New Jersey,” the Cape Atlantic Soil Conservation District, Freshwater Wetland Protection Act Rules and the Flood Hazard Area Control Act Rules.

- xii. If the general permit activities are subject to the Department’s Water Quality Management Planning rules at N.J.A.C. 7:15, the activities shall be consistent with those rules and with the applicable approved Water Quality Management Plan (208 Plan) adopted under the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1, et seq.**

The Project is not subject to the Department’s Water Quality Management Planning Rules.

- xiii. The timing requirements at C below shall be met.**

The timing requirements are not applicable as no disturbance within a stream channel is proposed.

- xiv. With the exception of activities associated with general permits 1, 6, 6A, and 16, activities authorized under a general permit shall not take place in a vernal habitat, as defined at N.J.A.C. 7:7A-1.3, or in a transition area adjacent to a vernal habitat.**

The Project does not propose activities within vernal habitat.

- xv. In order to protect the fishery resources and/or the spawning of the fish population, any activity which may introduce sediment into a stream or cause a stream to become turbid shall not be performed during the time periods listed in Table 5.7.**

The Project does not propose any work in a stream.

- xvi. The Department may reduce, extend, or otherwise modify the timing requirements listed if one or more requirements at N.J.A.C. 7:7A-5.7(d) are satisfied.**

The applicant does not wish to reduce, extend or otherwise modify the time requirements for fishery resources should they apply to the Project.

- xvii. If any activity will take place in a non-delegable water, as defined at N.J.A.C. 7:7A-1.3, and the activity requires approval from the USACE under the Federal 404 program, the activities authorized under the general permit shall not begin until the permittee obtains the required Federal 404 program approval.**

No activities are proposed in non-delegable waters.

- xviii. **In addition to the conditions that apply to every authorization pursuant to a general permit, the Department shall establish additional conditions in a specific authorization pursuant to a general permit, on a case by case basis in accordance with N.J.A.C. 7:7A-20.3.**

It is understood that the Department may establish additional conditions on a case-by-case basis.

6. Statement Regarding Contaminated or Toxic Substances on The Site

To the best of the applicant's knowledge, the location of regulated activities is not contaminated with toxic substances.

7. Documentation of The Creation of The Property

To the best of our knowledge no part of the Site is not part of a subdivision.

8. Ownership History of The Property from June 30, 1988 (Provided without the benefit of a Title Search):

To the best of our knowledge the City of North Wildwood has owned its properties since 1988 and Sportland Investments has owned Block 290.01, Lot 1 since September 24, 1984. Refer to Attachment 14 for property detail report showing property ownership information.

9. Listing of Contiguous Lots in Common Ownership with The Site and Ownership History of Said Lots from June 30, 1988 (Provided without the benefit of a Title Search)

The lots associated with this application, excluding Block 290.01, Lot 1 are owned by The City of North Wildwood, the Applicant. Contiguous lots adjacent to the Project that are owned by the Applicant include Block 288.02, Lot 1. Sportland Investments owns Block 290.01, Lot 1. Sportland Investments does not own any contiguous lots. Refer to Attachment 14 for property detail report showing property ownership information.

10. Statement Regarding Existence of Swamp Pink in The Municipality Which the Site Is Located

The City of North Wildwood is not a known location for Swamp Pink.

11. Statement Regarding Existence of The Bog Turtle in The Municipality Which the Site Is Located

The City of North Wildwood is not listed as a known location for Bog Turtles.

12. Statement Regarding Wild and Scenic River Designation

The Site is not within an area designated a Wild and Scenic River; nor in a river officially designated by Congress or the State Legislature as a "study river."

T. N.J.A.C. 7:7-9.34 - Historic and Archeological Resources

The boardwalk adjacent to the Project from 16th Avenue to 25th Avenue is identified as a historic property per NJ-GeoWeb. Buccaneer Motel, designated as an Eligible Individual historic property, is located approximately 150 feet west of the Project at its closest point. An archaeological site grid, designated as Identified, is located approximately 0.43 miles southwest of the Project at its closest point. The Project's location is not identified as a historic property, within a historic district or within an archeological site grid per NJ-GeoWeb or the New Jersey Department of Environmental Protection Historic Preservation Office, New Jersey and National Register of Historic Places, last updated September 30, 2020. Based on this information, the Project will not negatively impact historical resources but rather protect the historic boardwalk. If any historical resources are encountered, the NJDEP will be immediately notified.

U. N.J.A.C. 7:7-9.36 - Endangered or Threatened Wildlife or Plant Species Habitats

To determine the presence of threatened and endangered (T&E) wildlife species located on or adjacent to the Site, VNHA reviewed NJDEP NJ-GeoWeb online mapping application, containing Landscape Project Version 3.3 data, which identifies species based on habitat patches connected to rare wildlife throughout the State of New Jersey. In addition, VNHA requested a NJDEP Natural Heritage Program (NHP) Report for the Project area, see Attachment 7. The NJDEP Landscape Project and the NJDEP Natural Heritage Program identified Rank 3, 4 or 5 species in the immediate vicinity, or within one (1) mile of the Project Area, as shown below on Table 1.

VNHA also reviewed the NJDEP NJ-GeoWeb online mapping application, containing the Natural Heritage Grid Map, which provides a general portrayal of the geographic location of rare plant species and rare ecological communities throughout New Jersey. Two species were identified in the Natural Heritage Grid ID 6,811.00 within the portion of the Project between 3rd and 5th Avenues for both known location within 1.5 miles and at a precise location, as shown below on Table 2. No natural heritage priority sites, vernal pools or vernal pool habitat were identified as being on the Project Site, in the immediate vicinity or within one (1) mile of the Project Site.

Table 1			
Species Identified Onsite or within the Immediate Vicinity			
Species	Scientific Name	Rank	Feature Type
Black Skimmer	<i>Rynchops niger</i>	4	Foraging
Least Tern	<i>Sternula antillarum</i>	4	Foraging
Least Tern	<i>Sternula antillarum</i>	4	Nesting Colony
Migratory Raptor Concentration Site	--	4	Concentration Site
Piping Plover	<i>Charadrius melodus</i>	5	Nesting Area
Red Knot	<i>Calidris canutus</i>	4	Non-breeding Sighting
Species Identified within One (1) Mile			
Black Skimmer	<i>Rynchops niger</i>	4	Foraging
Black-crowned Night-heron	<i>Nycticorax nycticorax</i>	3	Foraging
Cattle Egret	<i>Bubulcus ibis</i>	3	Foraging
Least Tern	<i>Sternula antillarum</i>	4	Foraging
Least Tern	<i>Sternula antillarum</i>	4	Nesting Colony
Migratory Raptor Concentration Site	--	4	Concentration Site
Osprey	<i>Pandion haliaetus</i>	3	Foraging
Osprey	<i>Pandion haliaetus</i>	3	Nest
Piping Plover	<i>Charadrius melodus</i>	5	Nesting Area
Piping Plover	<i>Charadrius melodus</i>	5	Non-breeding Sighting
Red Knot	<i>Calidris canutus</i>	4	Non-breeding Sighting
Yellow-crowned Night-heron	<i>Nyctanassa violacea</i>	3	Foraging
Yellow-crowned Night-heron	<i>Nyctanassa violacea</i>	3	Nesting Colony
Atlantic Sturgeon	<i>Acipenser oxyrinchus</i>	5	Migration Corridor – Adult Sighting

The portion of the Project between 3rd and 5th Avenues is within the natural heritage grid map for species within 1.5 miles and location known precisely.

Table 2		
Rare Plant Species and Rare Ecological Communities within the Immediate Vicinity		
Species	Scientific Name	Status
Spurred Butterfly-pea	<i>Centrosema virginianum</i>	State Endangered
Sea-beach Evening-primrose	<i>Oenothera humifusa</i>	State Endangered

Based on NJ-GeoWeb, potential threatened and endangered species/habitats, rare plant species and rare ecological communities were identified within the Project area and immediate vicinity. As noted in the “City of North Wildwood Beach Management Plan”, dated December 2018 piping plover, least tern, black skimmer, American oystercatcher and the red knot are known species to occur on the City’s beaches. Seabeach amaranth, Seabeach knotweed, Seabeach sandwort, Seabeach evening primrose and Seabeach purslane are species that may occur on the City’s beaches. A copy of the plan is provided under Attachment 9.

Piping plovers are small, territorial shorebirds present on the New Jersey shore between March and August. Nests consist of a shallow scrape in the sand located above the high tide line. Historically, from 1988-1996 between one (1) and five (5) pairs of piping plovers nested on the City’s oceanfront beach. Nesting began on the City’s Inlet Beach in 2002, with an average of one (1) to four (4) pairs per season. Plovers last nested on the Inlet Beach in 2015.

Least terns are small, colonial beach-nesting sea birds, present on the New Jersey shore between April and September. Nests consist of a shallow scrape in the sand located above the high tide line. Historically, from 1988-1995 least terns nested on the City’s oceanfront beach, ranging from 60 to 200 individuals. Since 2002, terns have nested on the City’s Inlet Beach, with a high of 490 individuals. Least terns last nested in the City in 2015.

Black skimmers are colonial beach-nesting sea birds that may potentially nest on the City’s beaches. Historically, “Champagne Island”, within the Hereford Inlet System, and northwest of the City’s “Protected Zone” hosted a significant colony of nesting skimmers until 2008. The City’s beaches have also been used as an important staging area for black skimmers during fall migration (September through October).

American oystercatchers are territorial shorebirds, nesting on New Jersey beaches from April through August. They make their nests on beaches by scraping a shallow depression in the sand just above the high tide line, but also nest on back-bay islands. Since 2002, one (1) to three (3) pairs of oystercatchers have regularly nested on the City’s Inlet Beach. One pair last nested in 2017.

Red knots are long distance migrants that breed in the Arctic and winter as far south as Tierra del Fuego at the southern tip of South America. While small numbers of red knots may be present in New Jersey year-round, most are seasonal visitors to New Jersey beaches, stopping during spring (mid-May through early June) and fall (late-July through November) migration periods to rest and refuel. Currently, the City is identified as an important migratory staging area for the red knot for feeding and roosting activities.

Seabeach Amaranth is an annual plant, visible on New Jersey’s Atlantic coastal beaches between May and November. Seabeach amaranth is usually found growing in nearly pure sand. The species requires sparsely vegetated upper beach habitat that is not flooded during the growing season.

Seabeach Knotweed is an annual plant of sandy beaches.

Seabeach Sandwort is a perennial plant of beach and salt marsh habitats.

Seabeach Evening Primrose is a perennial plant of beach and dune habitats.

Seabeach Purslane is an annual plant of beach habitats.

The Project consists of a linear bulkhead that did not and will not result in a significant increase in impervious surfaces or permanent land disturbance. Any disturbance for construction of the bulkheads will be temporary in nature, minimized to the greatest extent practicable and conditions will be restored upon Project completion.

Construction of the Project is mainly located adjacent to JFK Boulevard Beach Drive, the boardwalk and the beach which at times are heavily used by the local and visiting community. Based on the desired habitat of the T&E species, and the Project location permanent and/or temporary impacts of the construction activities are unlikely to negatively impact the T&E species listed above and/or their associated habitat. In addition, any species using such habitat are likely to be temporary relocated to surrounding habit and will return upon completion of the Project. However, any timing restrictions set forth by the reviewing agencies to protect T&E species will be followed, as required.

V. N.J.A.C. 7:7-9.37 - Critical Wildlife Habitats

Critical wildlife habitats are special areas known to serve an essential role in maintaining wildlife, particularly in wintering, breeding and migrating. A portion of the Project area is identified as a migratory raptor concentration site. According to NJ-GeoWeb Landscape Project Version 3.3 the migratory raptor concentration site is associated with land use identified as recreational land and herbaceous wetlands. This land area generally runs adjacent to JFK Boulevard Beach Drive from 3rd to 15th Avenues and generally within the dune and wetland complexes from 15th to 23rd Avenues. Project activities will result in minimal permanent disturbance for the bulkhead itself and may result in temporary disturbance during construction to potential habitat from 3rd to 21st Avenues and will occur only during the raptor migration period. If during raptor migration, it is likely the species will relocate to nearby areas. No disturbance to the seawall is proposed for the Project.

Although the Project may have some impact, it is unlikely that it will result in permanent adverse impacts to migrating raptors.

W. N.J.A.C. 9:7-9.38 – Public Open Space

Public open space constitutes land areas owned or maintained by State, Federal, county and municipal agencies or private groups (such as conservation organizations and homeowner's associations) and used for or dedicated to conservation of natural resources, public recreation, visual or physical public access or, wildlife protection or management. As the Project is proposed mostly on lands owned by the City and exists as beach, dunes, wetlands or wetland buffer, public open space will be impacted for construction of the bulkhead. The only permanent impact to the public open space is for the actual bulkhead itself which is approximately 0.0172 acres. During construction beach access and the beach will be temporarily closed generally within 200 feet of the active work area each day. As portions of the Project are completed, the area will reopen to the public.

Public open space is not anticipated to be adversely impacted by the Project. Construction of the Project will benefit the public's safety, health and welfare as it will alleviate erosion of the beach and protect flora and fauna species and their habitat. The Project will also facilitate continuous use or access of these lands.

X. N.J.A.C. 7:7-9.39 – Special Hazard Areas

As discussed above under Section II.A there are no known actual or potential hazards to public health and welfare, or to public or private property.

Y. N.J.A.C. 7:7-9.48 – Lands and Waters Subject to Public Trust Rights

According to NJ-GeoWeb Tidelands region Atlantic South map number 056-1962, the Project area is not within lands and waters subject to public trust rights as the Project is not within an area now or formerly below the mean high water line. Thus, the Project does not impact lands and waters subject to public trust rights.

IV. DISCUSSION OF STANDARDS FOR BEACH AND DUNE ACTIVITIES AT N.J.A.C. 7:7-10

As the Project does not propose routine beach maintenance, emergency post-storm restoration, dune creation and maintenance, and/or construction of a boardwalk, these standards do not apply.

If required, the dunes will be restored per the standards at N.J.A.C. 7:7-10.4.

V. DISCUSSION OF GENERAL WATER AREAS AT N.J.A.C. 7:7-12

General Water Areas are not applicable to the Project, as it is located entirely above the spring high water line.

VI. DISCUSSION OF REQUIREMENTS FOR IMPERVIOUS COVER AND VEGETATIVE COVER FOR GENERAL LAND AREAS AND CERTAIN SPECIAL AREAS AT N.J.A.C. 7:7-13

Per N.J.A.C. 7:7-13.1(d), the impervious cover and vegetative cover rules do not apply to a linear development, which is a development with the basic function of connecting two points, such as a road, drive, public walkway, railroad, sewerage pipe, stormwater management pipe, gas pipeline, water pipeline, or electric, telephone or other transmission line. As the Project meets the definition of a linear development, the Project is not subject to the impervious cover and vegetative cover limits.

VII. DISCUSSION OF GENERAL LOCATION RULES AT N.J.A.C. 7:7-14

The following discussion addresses the General Location Rules that are applicable to the Project.

A. N.J.A.C. 7:7-14.1 – Rule on Location of Linear Development

The Project proposes the construction of a bulkhead generally adjacent to JFK Boulevard Beach Drive and the boardwalk.

The Project complies with Requirements for the location of linear development as follows:

- There is no prudent or feasible alternative alignment/location for the Project components which would have less impact on sensitive areas and marine fish or fisheries. The Project is designed to be outside of environmentally sensitive

areas to the greatest extent practicable. The Project is not anticipated to negatively impact marine fish or fisheries.

- The Project is not within a unique or irreplaceable area, therefore, the Project will not result in permanent or long-term loss to these areas.
- The Project was designed to minimize adverse environmental impacts to the maximum extent practicable by avoiding disturbance to dunes, wetlands, wetland buffers and the beach to the greatest extent practicable. Permanent disturbance to wetlands, dunes and/or beaches will be restored/mitigated for as required. See Section X below for a discussion on mitigation. All temporary disturbances to dunes, wetlands, wetland buffers and the beach will be restored upon the Project's completion. Beach and dune areas as well as vegetation were destroyed by erosion. Any naturally destroyed areas will not be restored, as these areas are impossible to exist due to natural conditions. Any restoration could be limited to the landward side of the bulkhead. The purpose of the Project is to protect further damage and destruction due to erosion.
- The Project was designed to generally run adjacent to JFK Boulevard and Beach Drive and the boardwalk with the exception of segments that went around existing structures such as piers. Thus, the alignment is located on or in existing transportation corridors and alignments, to the maximum extent practicable.

B. N.J.A.C. 7:7-14.2 - Basic Location Rule

The Project complies with requirements for the basic location rule as follows:

- The City's Atlantic coastline has been undergoing severe erosion since at least 1991 creating unsafe conditions on the beach. An eroding beach is a hazard for walking and can cause people to trip and sustain injuries. Further, if unmitigated erosion continues over a period of time, the street could be impacted. Exposed pipes and jagged concrete would be a health and safety concern, as they could cause injury and exposed pipes could cause damage to infrastructure. Since the purpose of the Project is to prevent erosion damage, the Project could be considered necessary to protect public health and infrastructure. The Project will promote the public health, safety, and welfare to the community.
- The Project will result in conditions that will protect both public and private property, wildlife and marine fisheries.
- The Project has been designed to preserve, protect and enhance the natural environment to the extent practicable.

C. N.J.A.C. 7:7-14.3 Secondary Impacts

No negative secondary impacts are anticipated from construction of the Project. The purpose of the Project is to protect the City's infrastructure, commercial and private properties and prevent further erosion of the beach, dunes and/or wetlands. With this Project the City will be providing and maintaining safe conditions for both the local and visiting community.

VIII. DISCUSSION OF USE RULES AT N.J.A.C. 7:7-15

The following discussion addresses the Use Rules that are applicable to the Project.

A. N.J.A.C. 7:7-15.3 Resort/Recreational Use

As the Project area is located adjacent to the beach, boardwalk, sidewalks and/or paths and traverse natural habitats, it may provide recreational opportunities to its users. As discussed above under Section II.A the Project resulted or will result in permanent disturbance for construction of the bulkhead. Any restriction of public access is temporary. Construction of the bulkhead only restricted or will restrict public access to these potential recreational areas within a 200 foot radius of construction each day. Limits of closure change by day as construction of the bulkhead progressed or progresses. Therefore, there will be no long-term impacts on the recreational use of the area. The proposed improvements will improve recreational access and uses in the City by preventing continued erosion of the beach and protecting city infrastructure including the boardwalk, paths and sidewalks.

B. N.J.A.C. 7:7-15.11 Coastal Engineering

Coastal engineering measures include structural shore protection and storm damage reduction measures to manage water areas and protect the shoreline from the effects of erosion, storms, and sediment and sand movement, which is the Project. The purpose of the Project is to protect the City's infrastructure and prevent the beach and shoreline from the effects of further erosion. As a portion of the bulkhead was constructed based on emergency needs, non-structural shore protection and/or storm reduction measures were not sufficient and are not sufficient for protection the City's coastline from the continued erosion.

A portion of the bulkhead is located in a V zone and thus is subject to wave runup forces. Both the previously constructed and proposed portions of the bulkhead were/are designed and certified by a professional engineer to withstand the forces of wave runup as depicted on the plans provided under Attachment 13.

IX. DISCUSSION OF RESOURCE RULES AT N.J.A.C. 7:7-16

The following discussion addresses the Resource Rules that are applicable to the Project.

A. N.J.A.C. 7:7-16.2 – Marine Fish and Fisheries

As the Project is proposed upland of the MHWL no impact to marine fish and fisheries is anticipated. See Section III.D above for additional discussion on impacts to alewife and Atlantic sturgeon migratory pathways.

B. N.J.A.C. 7:7-16.3 – Water Quality

Per N.J.A.C. 7:8-5.5 stormwater management measures will not be required for water quality control since the Project will not result in an additional one-quarter acre of impervious surface. Additionally, per N.J.A.C. 7:8-5.2, linear development projects are exempt from stormwater runoff quality requirements. Therefore, the applicant is not required to address water quality for the construction of the Project.

C. N.J.A.C. 7:7-16.6 – Stormwater Management

Although the Project meets the definition of a “major development” at N.J.A.C. 7:8, stormwater management is not required for the Project per:

- N.J.A.C. 7:8-5.4 (a)2ii groundwater recharge requirement does not apply to projects within the "urban redevelopment area." The Project is located within a designated regional center per the Policy Map of the State Development and Redevelopment Plan.
- N.J.A.C. 7:8-5.4(a)3iv stormwater runoff quantity in tidal flood hazard areas, is not required as the increased volume of stormwater runoff will not increase flood damages below the point of discharge.
- N.J.A.C. 7:8-5.5 stormwater management measures will not be required for water quality control since the Project will not result in an additional one-quarter acre of impervious surface.

D. N.J.A.C. 7:7-16.7 Vegetation

As discussed above under Sections I and II.A a portion of the Project area exists as vegetated wetlands and dunes. The location of the Project was selected adjacent to JFK Boulevard Beach Drive and the boardwalk to preserve this vegetation to the maximum extent possible. Any areas of temporary disturbance will be restored upon the Project’s completion with native coastal species.

E. N.J.A.C. 7:7-16.9 – Public Access

As discussed above under Section III.W Public Open Space and VIII.A Resort/Recreational Use the Project is located mainly adjacent to JFK Boulevard Beach Drive and the boardwalk on land owned by the City. Any restriction to public access will occur within 200 feet of active construction and is temporary. Limits of closure change by day as construction of the bulkhead progresses. As the Project does not propose any change to the existing public access points to the beach there will be no long-term impacts to public access.

In fact, the Project will promote unhindered access to the waterfront and other public areas by protecting the existing roads, boardwalks and path that provide access to/from the beach. The Project will also aid in preventing further erosion and destruction of the beach, dunes and/or wetlands which ultimately enhances the public’s health, safety, and welfare.

F. N.J.A.C. 7:7-16.10 Scenic Resources and Design

The elevation of the timber decking of the bulkhead from 3rd to 4th Avenues is 11.7± feet, from 4th to 5th Avenues is 12± feet and from 5th to 25th Avenues is 12.0± feet. The bulkhead extends approximately 2 to 6 feet above ground surface throughout the Project length which is below the allowed 15 feet maximum. Note the dune system generally from 12th to 25th Avenues exceeds the height of the bulkhead. The color of the timber decking was chosen to help make the bulkhead visually compatible with its surroundings. Therefore, the bulkhead will not drastically change the scenic view of the surrounding area. The existence of the bulkhead will actually increase the scenic value of the

surrounding area, as the Project will protect further erosion and destruction of the beach, dunes and/or wetlands.

X. DISCUSSION OF MITIGATION AT N.J.A.C. 7:7-17

Construction of the Project will result in 0.394 acres of disturbance to freshwater wetlands. No disturbance to coastal wetlands, shellfish habitat, submerged vegetation habitat, intertidal and subtidal shallows and tidal waters, or riparian zone is proposed, therefore mitigation for these areas is not required. A mitigation proposal for disturbance to freshwater wetlands will be provided under separate cover.

XI. COMPLIANCE WITH CAFRA RULES AT N.J.S.A. 13:19-10

The Project has been reviewed and found to be in compliance with Section 10 of CAFRA as follows:

A. N.J.S.A. 13:19-10a

Conforms to all applicable air, water, and radiation emission and effluent standards and all applicable water quality criteria and air quality standards.

The Project will conform to all applicable air, water and radiation standards. The impacts to air and water will be minimized, during construction activities, by using properly maintained and operated equipment. These impacts will also be maintained through implementation of an approved Soil Erosion and Sediment Control plan. At the completion of the Project, no unusual or significant impacts to air quality or water quality are anticipated over that which currently exists. Impacts to air quality are in keeping with the impacts expected for activities approved under the City Zoning Ordinance.

B. N.J.S.A. 13:19-10b

Prevents air emissions and water effluents in excess of the existing dilution, assimilative, and recovery capacities of the air and water environments at the site and within the surrounding region.

As discussed above, the Project will prevent air emission and water effluents in excess of the existing dilution, assimilative and recovery capacities at and in the vicinity of the Site.

C. N.J.S.A. 13:19-10c

Provides for the collection and disposal of litter, recyclable material and solid waste in such a manner as to minimize adverse environmental effects and the threat to the public health, safety, and welfare.

Any collection and disposal of litter, recyclable material and solid waste encountered during construction will be handled in a manner as such to minimize adverse environmental effects. The Project will help to reduce negative environmental impacts, and will aid in the protection of public health, safety, and welfare.

D. N.J.S.A. 13:19-10d

Would result in minimal feasible impairment of the regenerative capacity of water aquifers or other ground or surface water supplies.

The Project does not propose the use of or impact to water aquifers, and does not demand the use of ground/surface water supplies.

E. N.J.S.A. 13:19-10e

Would cause minimal feasible interference with the natural functioning of plant, animal, fish, and human life processes at the site and within the surrounding region.

The Project site is mainly adjacent to an intensely developed portion of the City to the greatest extent practicable. The majority of the disturbance will be temporary in nature and will be restored upon completion of the Project.

The purpose of the Project is to protect the City's infrastructure and protect the dunes, beach and freshwater wetlands from further erosion and destruction, thus protecting the natural functioning of plant, animal, fish, and human life processes at the site and within the surrounding region.

Therefore, the Project has been designed to minimize any interference with the natural function of plant, animal, fish and human life processes at the site and within the surrounding region to the greatest extent practicable.

Refer to Section III.U and V for a discussion of Threatened and Endangered Species and Critical Wildlife Habitat, respectively.

F. N.J.S.A. 13:19-10f

Is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare.

The Project is located adjacent to existing structures and within a busy area of the City consisting of private properties and commercial development. The Project is proposed to improve the quality of public health, safety, and welfare through the protection of City infrastructure and private properties and will prevent further erosion of the beach, dunes and wetlands. Construction activities will be conducted in accordance with all governing requirements, such as Cape Atlantic Soil Conservation District and the NJDEP.

G. N.J.S.A. 13:19-10g

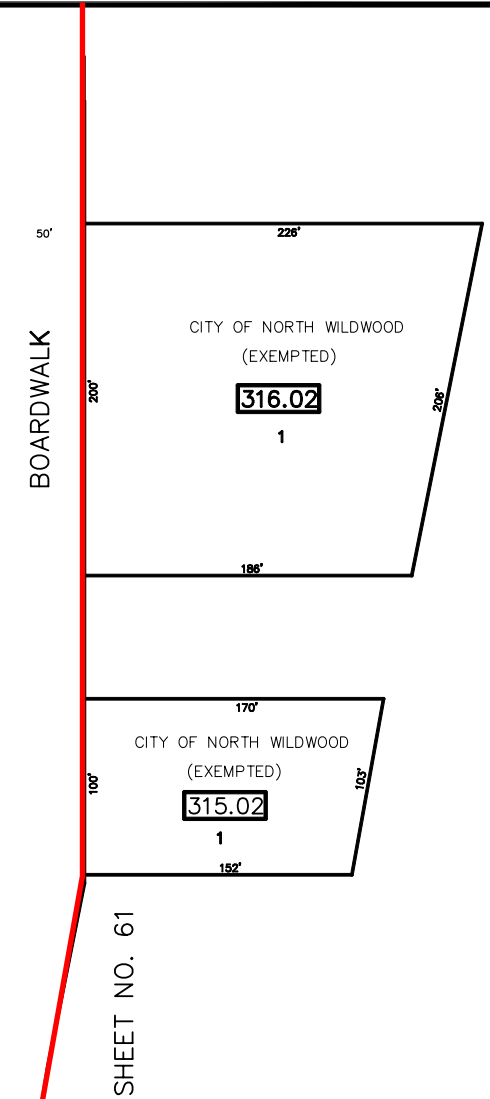
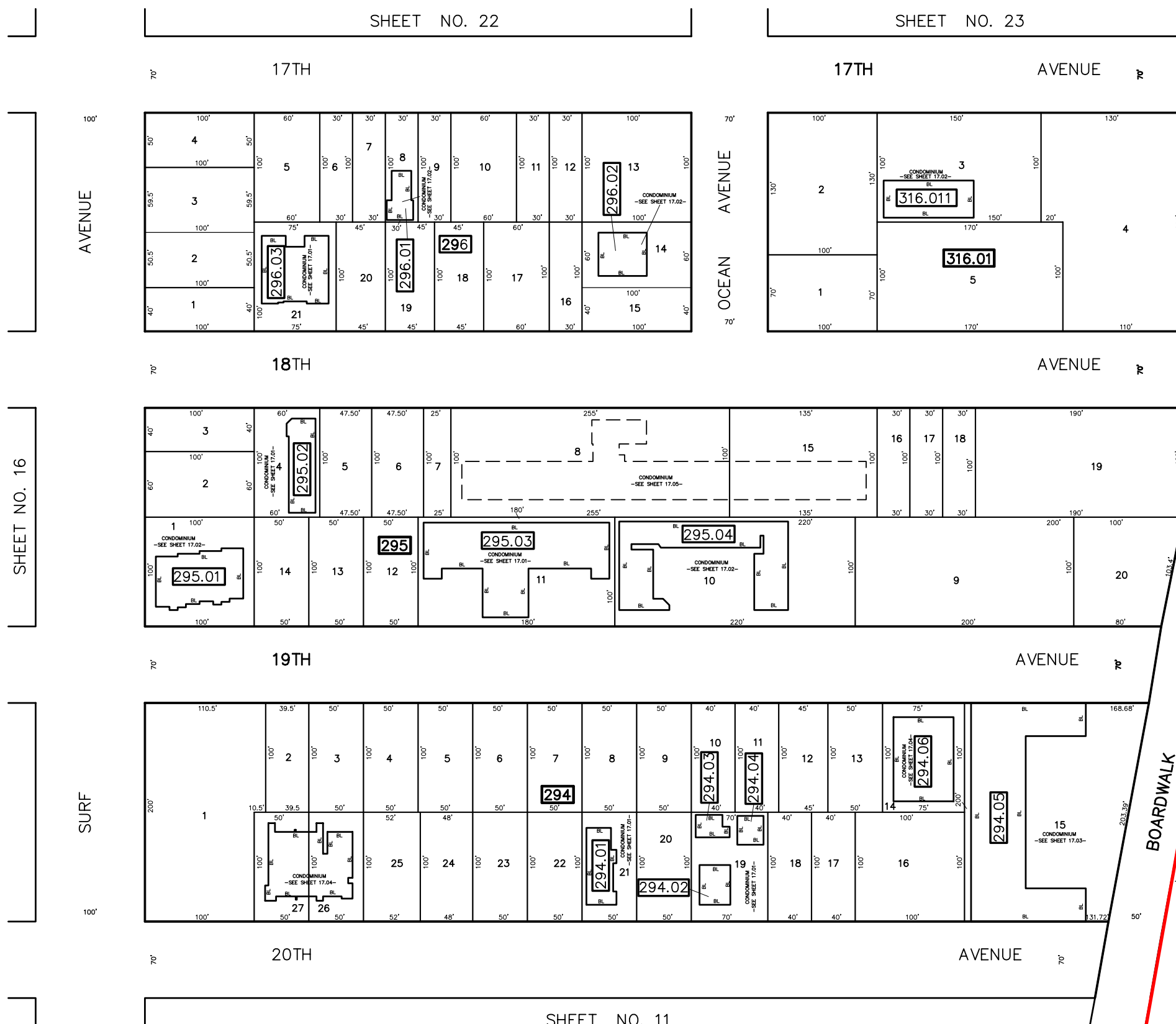
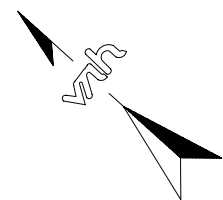
Would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding region.

The Project is not proposed within an area containing unique or irreplaceable land types or any known historical or archeological areas, and will not impact the existing public scenic attributes. A majority of the Project is located adjacent to the JFK Boulevard Beach Drive and the boardwalk. See Section IX.F above for a discussion on the impact to Scenic Resources. Overall, the Project is not anticipated to adversely impact any unique, historic, or scenic attributes.

XII. CONCLUSION

Salient points to consider when reviewing this application:

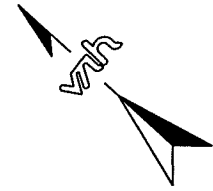
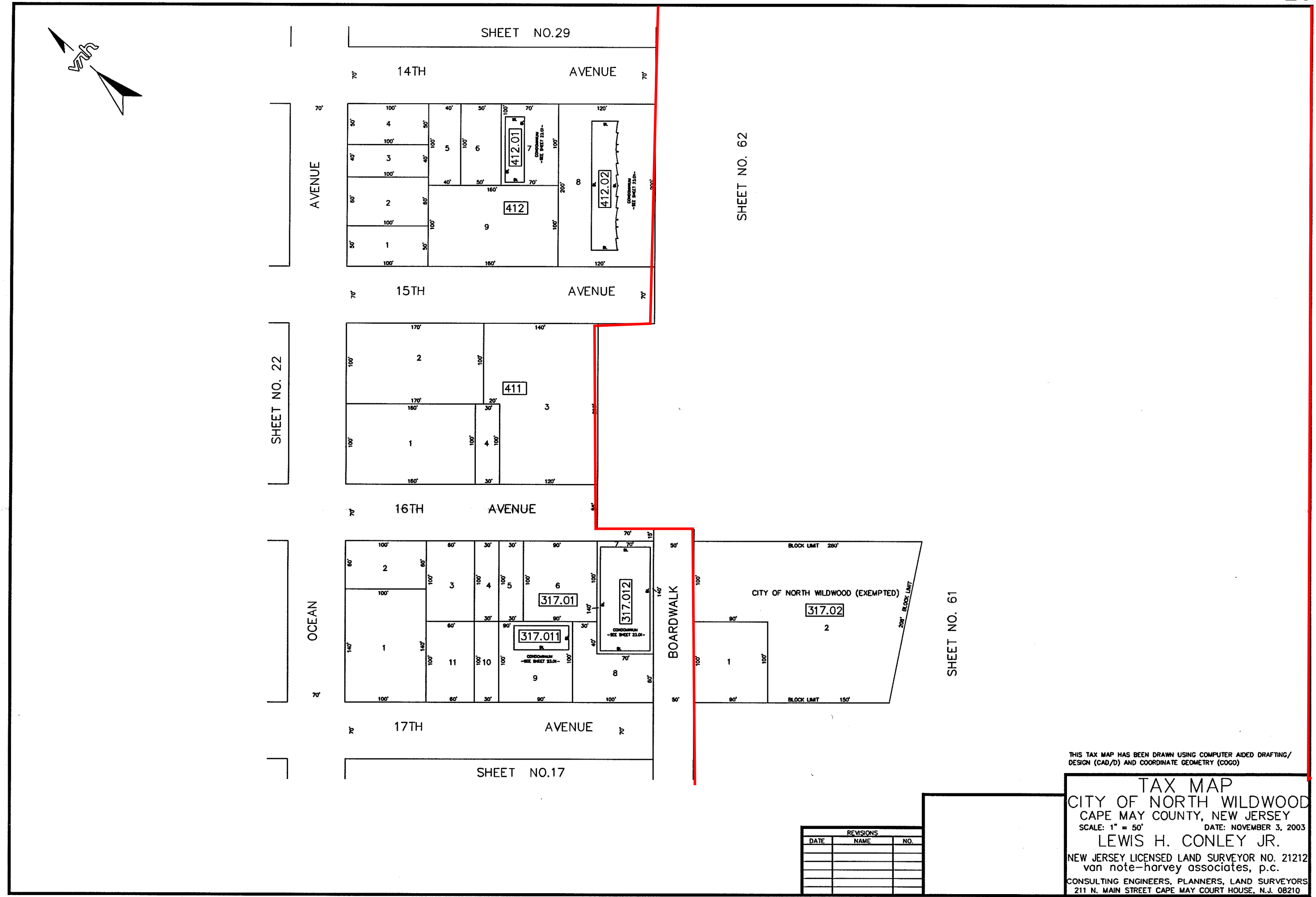
- Proposed is a linear project to protect City infrastructure and prevent the further erosion of the beach, dunes and wetlands by reconstructing and extending the bulkhead from 3rd to 25th Avenues.
- Extensive erosion over time can lead to exposed utilities and jagged asphalt/concrete, resulting in unsafe and hazardous conditions to the community. The Project will prevent the creation of such conditions, thus improving the health and welfare of the general public.
- Project improvements will result in minimal adverse impacts to sensitive environmental resources. Restoration/mitigation will be provided for these disturbances as required.
- The Project has been designed to comply with the requirements of N.J.A.C. 7:7, N.J.A.C. 7A, N.J.A.C. 7:8, and N.J.A.C. 7:13 to the greatest extent practicable.
- The Project has been designed to minimize the amount of new impervious surfaces to the greatest extent practicable. Of the 4.352 acres of land disturbance required to complete the Project, only approximately 749 square feet of new impervious will result.
- Alternatives to the Project are not feasible or reasonable as the purpose of the Project.



THIS TAX MAP HAS BEEN DRAWN USING COMPUTER AIDED DRAFTING/ DESIGN (CAD/D) AND COORDINATE GEOMETRY (COGO)

TAX MAP
CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, NEW JERSEY
 SCALE: 1" = 50' DATE: NOVEMBER 3, 2003
LEWIS H. CONLEY JR.
 NEW JERSEY LICENSED LAND SURVEYOR NO. 21212
 van note-harvey associates, p.c.
 CONSULTING ENGINEERS, PLANNERS, LAND SURVEYORS
 211 N. MAIN STREET CAPE MAY COURT HOUSE, N.J. 08210

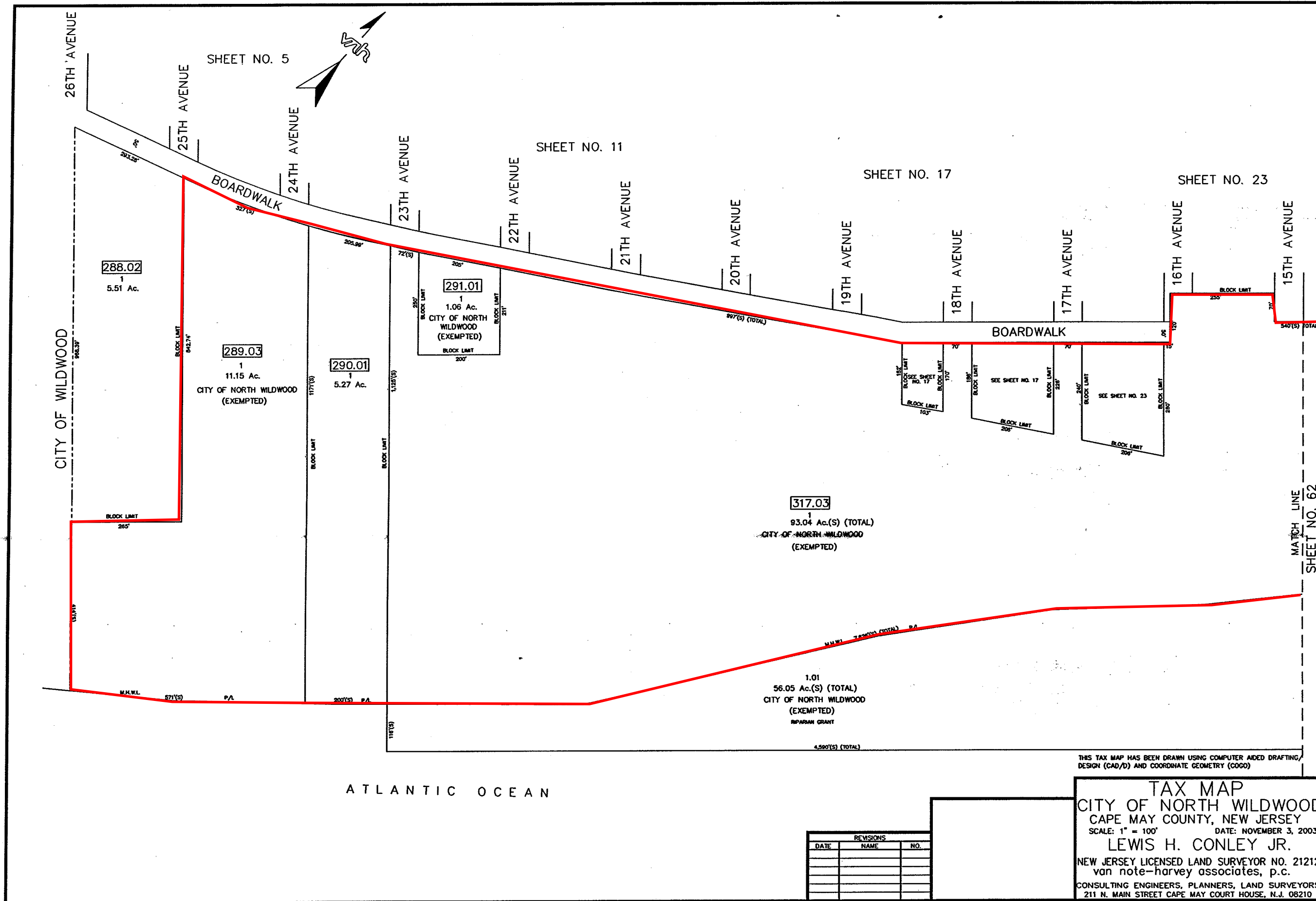
REVISIONS		
DATE	NAME	NO.
NOV. 2008	LEWIS H. CONLEY JR.	21212



THIS TAX MAP HAS BEEN DRAWN USING COMPUTER AIDED DRAFTING/
DESIGN (CAD/D) AND COORDINATE GEOMETRY (COGO)

TAX MAP
CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, NEW JERSEY
 SCALE: 1" = 50' DATE: NOVEMBER 3, 2003
LEWIS H. CONLEY JR.
 NEW JERSEY LICENSED LAND SURVEYOR NO. 21212
 van note-harvey associates, p.c.
 CONSULTING ENGINEERS, PLANNERS, LAND SURVEYORS
 211 N. MAIN STREET CAPE MAY COURT HOUSE, N.J. 08210

REVISIONS		
DATE	NAME	NO.

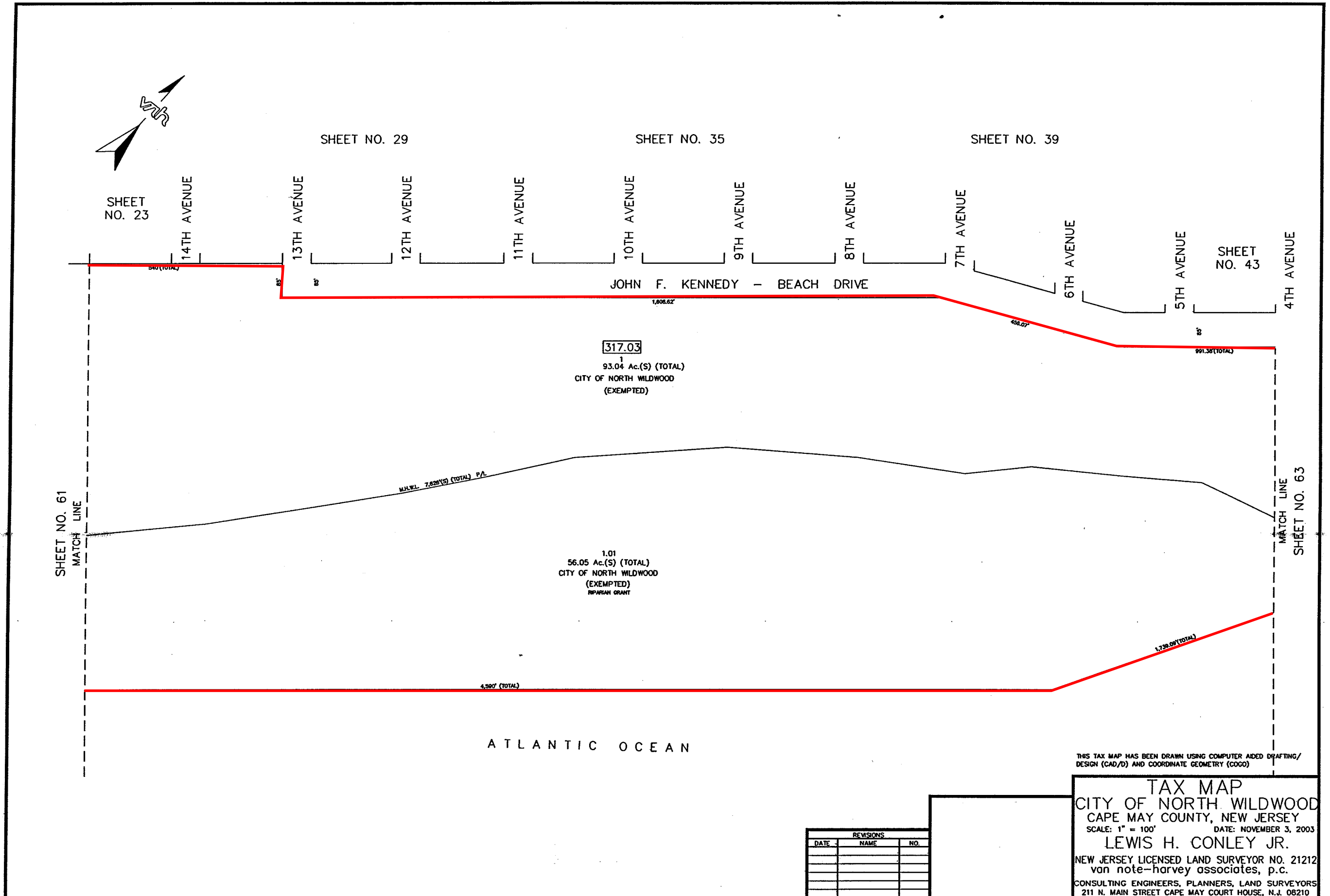


ATLANTIC OCEAN

THIS TAX MAP HAS BEEN DRAWN USING COMPUTER AIDED DRAFTING/ DESIGN (CAD/D) AND COORDINATE GEOMETRY (COGO)

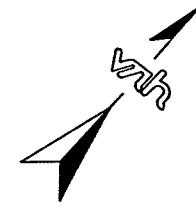
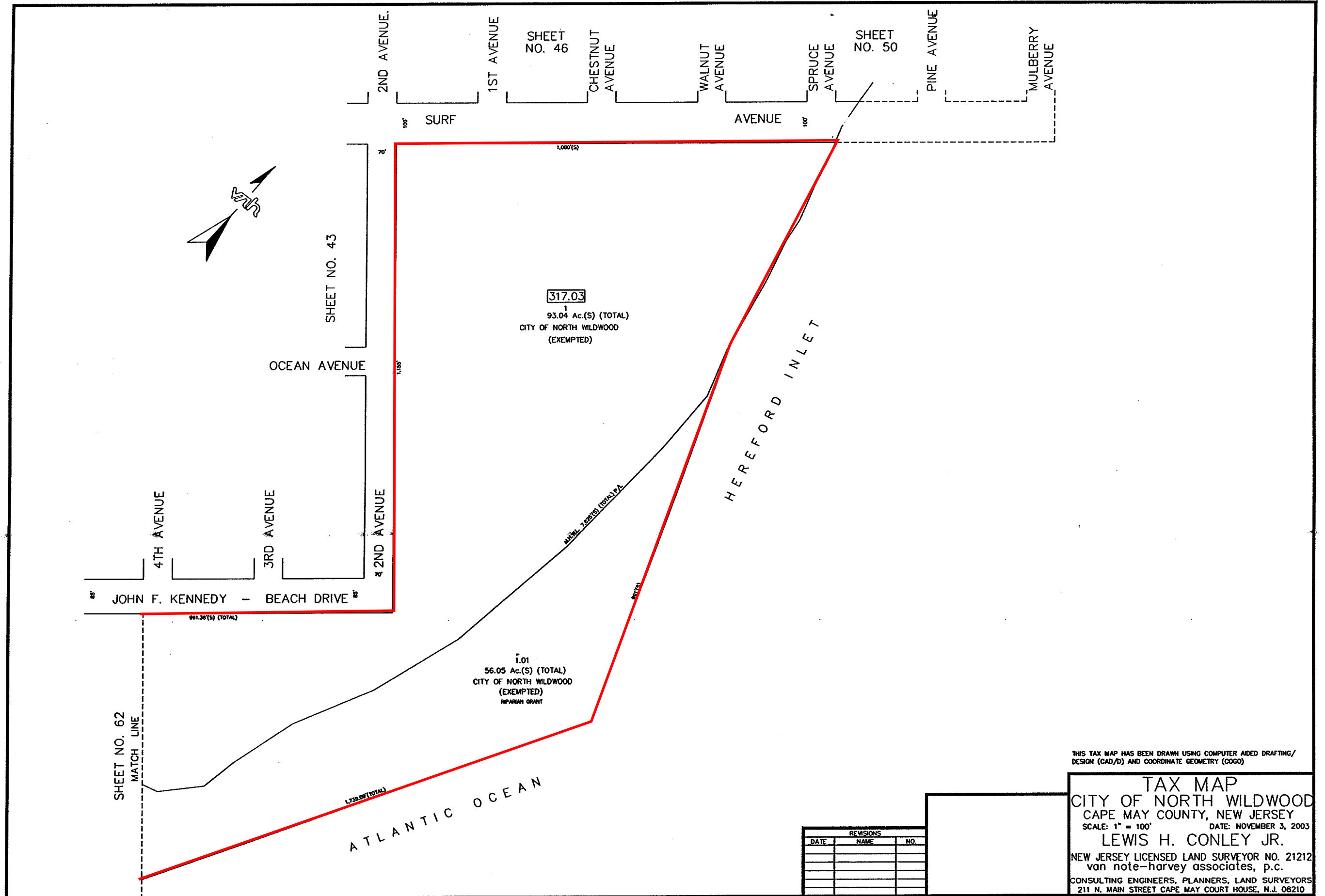
REVISIONS		
DATE	NAME	NO.

TAX MAP
 CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, NEW JERSEY
 SCALE: 1" = 100' DATE: NOVEMBER 3, 2003
LEWIS H. CONLEY JR.
 NEW JERSEY LICENSED LAND SURVEYOR NO. 21212
 van note-harvey associates, p.c.
 CONSULTING ENGINEERS, PLANNERS, LAND SURVEYORS
 211 N. MAIN STREET CAPE MAY COURT HOUSE, N.J. 08210



REVISIONS		
DATE	NAME	NO.

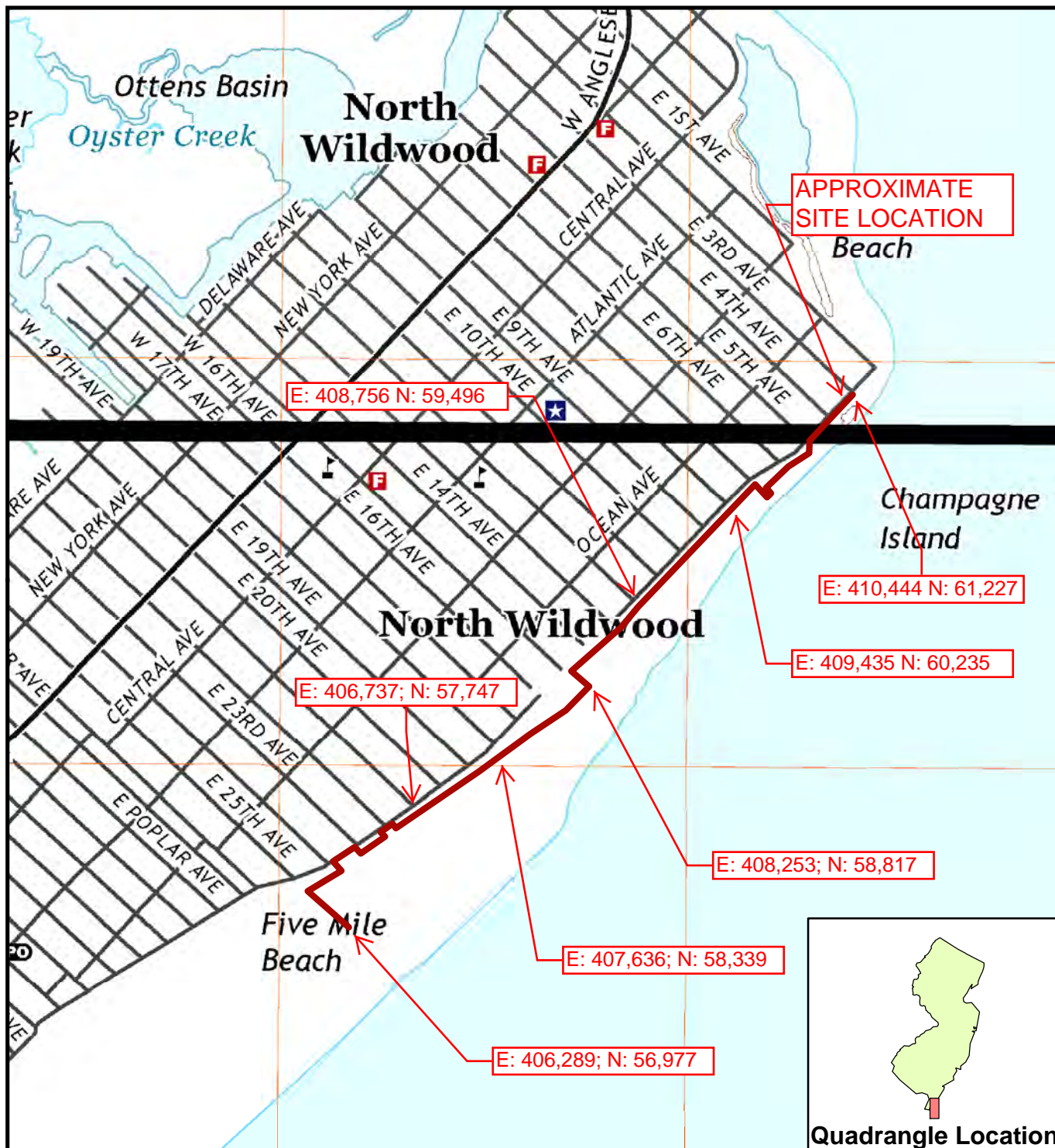
TAX MAP
 CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, NEW JERSEY
 SCALE: 1" = 100' DATE: NOVEMBER 3, 2003
LEWIS H. CONLEY JR.
 NEW JERSEY LICENSED LAND SURVEYOR NO. 21212
 van note-harvey associates, p.c.
 CONSULTING ENGINEERS, PLANNERS, LAND SURVEYORS
 211 N. MAIN STREET CAPE MAY COURT HOUSE, N.J. 08210



THIS TAX MAP HAS BEEN DRAWN USING COMPUTER AIDED DRAFTING/ DESIGN (CAD/D) AND COORDINATE GEOMETRY (COGO)

TAX MAP
 CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, NEW JERSEY
 SCALE: 1" = 100' DATE: NOVEMBER 3, 2003
LEWIS H. CONLEY JR.
 NEW JERSEY LICENSED LAND SURVEYOR NO. 21212
 van note-harvey associates, p.c.
 CONSULTING ENGINEERS, PLANNERS, LAND SURVEYORS
 211 N. MAIN STREET CAPE MAY COURT HOUSE, N.J. 08210

REVISIONS		
DATE	NAME	NO.



T:\Projects\44693\USGS_map_1.mxd

USGS 2019 QUAD MAP - WILDWOOD & STONE HARBOR, NJ
BEACH FRONT BULKHEAD
 Prepared for
THE CITY OF NORTH WILDWOOD

CITY OF NORTH WILDWOOD CAPE MAY COUNTY, NJ

0 750 1,500 3,000
 Feet



van note-harvey
 associates, inc.

Since 1894

consulting engineers, planners & land surveyors
 103 College Road East • Princeton, NJ 08540 • 609-987-2323
 211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-465-2600

Certificate of Authorization
 No. 24GA28271300


www.vannoteharvey.com

November 19, 2020
 VNHA PROJECT #: 44693-400-21



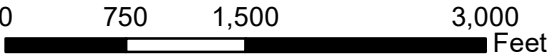
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

T:\Projects\44693\street_map_1.mxd



STREET MAP
of
BEACH FRONT BULKHEAD
Prepared for
THE CITY OF NORTH WILDWOOD

CITY OF NORTH WILDWOOD CAPE MAY COUNTY, NJ



0 750 1,500 3,000
Feet



van note-harvey
associates, inc.

Since 1894

consulting engineers, planners & land surveyors
103 College Road East • Princeton, NJ 08540 • 609-987-2323
211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-465-2600

Certificate of Authorization
No. 24GA28271300

November 19, 2020
VNHA PROJECT #: 44693-400-21

NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The community map repository should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where **Base Flood Elevations (BFEs)** and/or **floodways** have been determined, users are encouraged to consult the Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations tables contained within the Flood Insurance Study (FIS) report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent rounded whole-foot elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

Coastal Base Flood Elevations shown on this map apply only landward of 0.0' North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations tables in the Flood Insurance Study report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations tables should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Boundaries of the **floodways** were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the Flood Insurance Study report for this jurisdiction.

Certain areas not in Special Flood Hazard Areas may be protected by **flood control structures**. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study report for information on flood control structures for this jurisdiction.

The **projection** used in the preparation of this map was New Jersey State Plane (FIPS 2900) zone. The **horizontal datum** was NAD 83, GRS80 spheroid. Differences in datum, spheroid, projection or State Plane zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same vertical datum. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov> or contact the National Geodetic Survey at the following address:

NGS Information Services
NOAA, N/INGS12
National Geodetic Survey
SSM-C-3, 49202
1315 East-West Highway
Silver Spring, Maryland 20910-3282
(301) 713-3242

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the Information Services Branch of the National Geodetic Survey at (301) 713-3242, or visit its website at <http://www.ngs.noaa.gov>.

Base map information shown on this FIRM was developed from high-resolution orthophotography provided by the State of New Jersey. This information was derived from digital orthophotos produced at a scale of 1:2400 with a 1-foot pixel resolution from photography dated 2012.

Based on updated topographic information, this map reflects more detailed and up-to-date **stream channel configurations and floodplain delineations** than those shown on the previous FIRM for this jurisdiction. As a result, the Flood Profiles and Floodway Data tables in the Flood Insurance Study Report (which contains authoritative hydraulic data) may reflect stream channel distances that differ from what is shown on this map. Also, the road to floodplain relationships for unreviewed streams may differ from what is shown on previous maps.

Corporate limits shown on this map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels; community map repository addresses; and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

For information on available products associated with this FIRM visit the **Map Service Center (MSC)** website at <http://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the MSC website.

If you have **questions about this map**, how to order products or the National Flood Insurance Program in general, please call the FEMA Map Information eXchange (FMIX) at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA website at <http://www.fema.gov/national-flood-insurance-program>.



LEGEND

- SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD**
- The 1% annual flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.
- ZONE A** No Base Flood Elevations determined.
 - ZONE AE** Base Flood Elevations determined.
 - ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
 - ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
 - ZONE AR** Special Flood Hazard Area formerly protected from the 1% annual chance flood by a flood control system that was subsequently derelict. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
 - ZONE A99** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
 - ZONE V** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
 - ZONE VE** Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.
- FLOODWAY AREAS IN ZONE AE**
- The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.
- OTHER FLOOD AREAS**
- ZONE X** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
- OTHER AREAS**
- ZONE X** Areas determined to be outside the 0.2% annual chance floodplain.
 - ZONE D** Areas in which flood hazards are undetermined, but possible.
- COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS**
- OTHERWISE PROTECTED AREAS (OPAs)**
- CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.
- 1% annual chance floodplain boundary
 - 0.2% annual chance floodplain boundary
 - Floodway boundary
 - Zone D boundary
 - CBRS and OPA boundary
 - Boundary dividing Special Flood Hazard Area Zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths or flood velocities.
 - Limit of Moderate Wave Action
 - Base Flood Elevation line and value; elevation in feet*
 - (EL 987)
 - Base Flood Elevation value where uniform within zone; elevation in feet*
- * Referenced to the North American Vertical Datum of 1988
- Cross section line
 - Transect line
 - Culvert, Flume, Penstock or Aqueduct
 - Road or Railroad Bridge
 - Footbridge
 - Geographic coordinates referenced to the North American Datum of 1983 (NAD 83), Western Hemisphere
 - 1000-meter Universal Transverse Mercator grid values, zone 18
 - 5000-foot grid values: New Jersey State Plane coordinate system (FIPSZONE 2900), Transverse Mercator projection
 - Bench mark (see explanation in Notes to Users section of this FIRM panel)
 - M1.5
 - River Mile

MAP REPOSITORY
Refer to listing of Map Repositories on Map Index

EFFECTIVE DATE OF COUNTYWIDE FLOOD INSURANCE RATE MAP
October 5, 2017

EFFECTIVE DATE(S) OF REVISION(S) TO THIS PANEL

For community map revision history prior to countywide mapping, refer to the Community Map History table located in the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your Insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

MAP SCALE 1" = 500'

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0306F

FIRM
FLOOD INSURANCE RATE MAP

CAPE MAY COUNTY, NEW JERSEY (ALL JURISDICTIONS)

PANEL 306 OF 311
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

COMMUNITY	NUMBER	PANEL	SUFFIX
NORTH WILDWOOD, CITY OF	345308	0306	F
WILDWOOD, CITY OF	345329	0306	F

Notes to User: The Map Number shown below should be used when placing map orders, the Community Number shown above should be used on insurance applications for the subject community.

MAP NUMBER
34009C0306F

EFFECTIVE DATE
OCTOBER 5, 2017

Federal Emergency Management Agency

NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The community map repository should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where **Base Flood Elevations (BFEs)** and/or **floodways** have been determined, users are encouraged to consult the Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations tables contained within the Flood Insurance Study (FIS) report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent rounded whole-foot elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

Coastal Base Flood Elevations shown on this map apply only landward of 0.0' North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations tables in the Flood Insurance Study report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations tables should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Boundaries of the **floodways** were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the Flood Insurance Study report for this jurisdiction.

Certain areas not in Special Flood Hazard Areas may be protected by **flood control structures**. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study report for information on flood control structures for this jurisdiction.

The **projection** used in the preparation of this map was New Jersey State Plane (FIPS 2900) zone. The **horizontal datum** was NAD 83, GRS80 spheroid. Differences in datum, spheroid, projection or State Plane zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same vertical datum. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov> or contact the National Geodetic Survey at the following address:

NGS Information Services
NOAA, NNGS12
National Geodetic Survey
SSMC-3, #9202
1315 East-West Highway
Silver Spring, Maryland 20910-3282
(301) 713-3242

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the Information Services Branch of the National Geodetic Survey at (301) 713-3242, or visit its website at <http://www.ngs.noaa.gov>.

Base map information shown on this FIRM was developed from high-resolution orthophotography provided by the State of New Jersey. This information was derived from digital orthophotos produced at a scale of 1:2400 with a 1-foot pixel resolution from photography dated 2012.

Based on updated topographic information, this map reflects more detailed and up-to-date **stream channel configurations and floodplain delineations** than those shown on the previous FIRM for this jurisdiction. As a result, the Flood Profiles and Floodway Data tables in the Flood Insurance Study Report (which contains authoritative hydraulic data) may reflect stream channel distances that differ from what is shown on this map. Also, the road to floodplain relationships for unvisited streams may differ from what is shown on previous maps.

Corporate limits shown on this map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels; community map repository addresses; and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

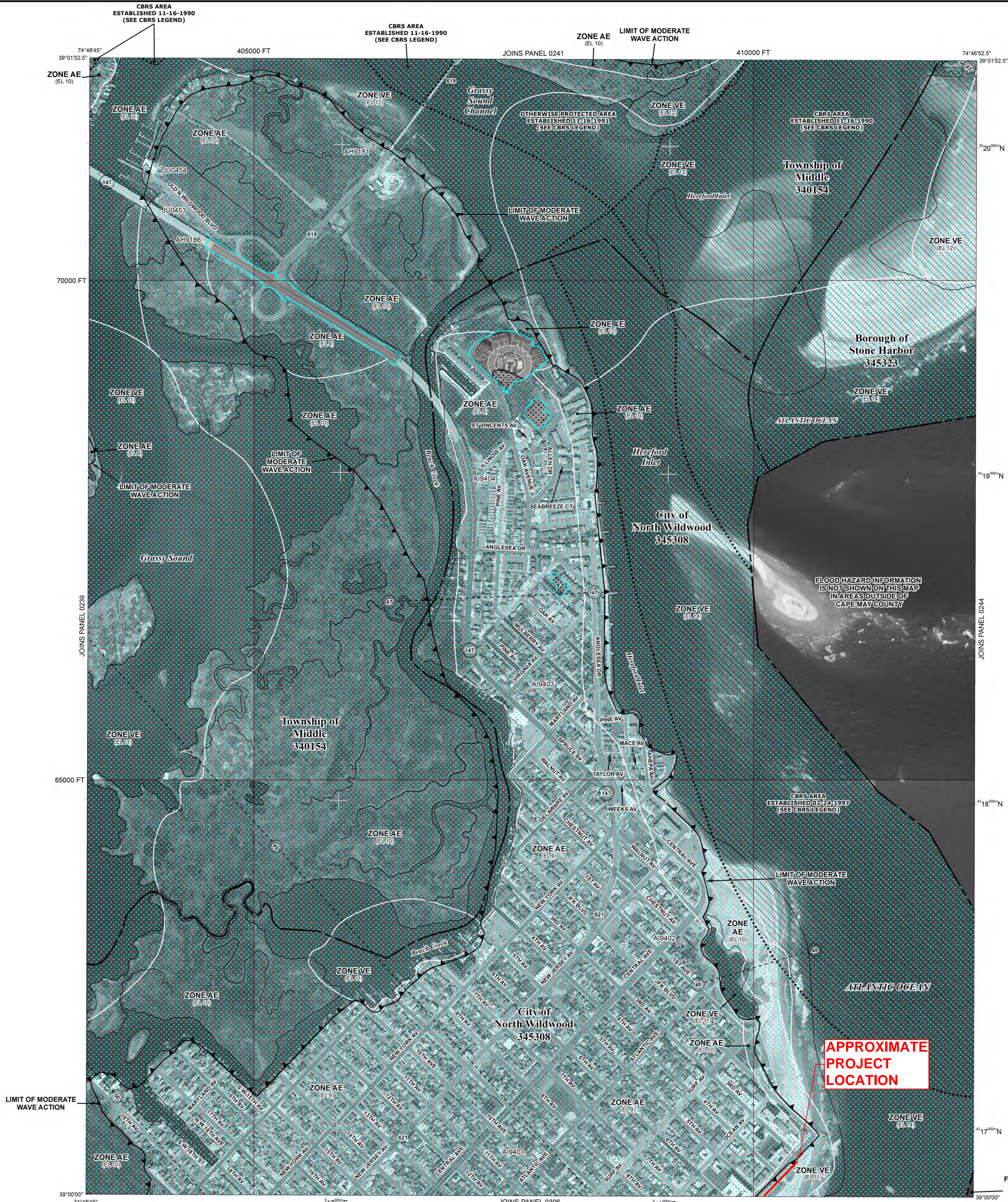
For information on available products associated with this FIRM visit the **Map Service Center (MSC)** website at <http://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the MSC website.

If you have **questions about this map**, how to order products or the National Flood Insurance Program in general, please call the FEMA Map Information eXchange (FMIX) at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA website at <http://www.fema.gov/national-flood-insurance-program>.

COASTAL BARRIER RESOURCES SYSTEM (CBRS) LEGEND

- 11-16-1990 CBRS Area**
FLOOD INSURANCE NOT AVAILABLE FOR STRUCTURES NEWLY BUILT OR SUBSTANTIALLY IMPROVED ON OR AFTER NOVEMBER 16, 1990, IN DESIGNATED CBRS AREAS.
- 2-24-1997 CBRS Area**
FLOOD INSURANCE NOT AVAILABLE FOR STRUCTURES NEWLY BUILT OR SUBSTANTIALLY IMPROVED ON OR AFTER FEBRUARY 24, 1997, IN DESIGNATED CBRS AREAS.
- 11-16-1991 Otherwise Protected Area (OPA)**
FLOOD INSURANCE NOT AVAILABLE FOR STRUCTURES NEWLY BUILT OR SUBSTANTIALLY IMPROVED ON OR AFTER NOVEMBER 16, 1991, IN DESIGNATED OPAs WITHIN THE CBRS.

Boundaries of the John H. Chafee Coastal Barrier Resources System (CBRS) shown on this FIRM were transferred from the official CBRS source map(s) for this area and are depicted on this FIRM for informational purposes only. The official CBRS maps are enacted by Congress via the Coastal Barrier Resources Act, as amended, and maintained by the U.S. Fish and Wildlife Service (FWS). The official CBRS maps used to determine whether or not an area is located within the CBRS are available for download at <http://www.fws.gov>. For an official determination of whether or not an area is located within the CBRS, or for any questions regarding the CBRS, please contact the FWS field office for this area at 609-646-9310.



LEGEND

- SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD**
The 1% annual flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.
- ZONE A**
No Base Flood Elevations determined.
- ZONE AE**
Base Flood Elevations determined.
- ZONE AH**
Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
- ZONE AO**
Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
- ZONE AR**
Special Flood Hazard Area formerly protected from the 1% annual chance flood by a flood control system that was subsequently dewatered. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
- ZONE A99**
Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
- ZONE V**
Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
- ZONE VE**
Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.
- FLOODWAY AREAS IN ZONE AE**
The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.
- OTHER FLOOD AREAS**
ZONE X
Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
- OTHER AREAS**
ZONE X
Areas determined to be outside the 0.2% annual chance floodplain.
- ZONE D**
Areas in which flood hazards are undetermined, but possible.
- COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS**
OTHERWISE PROTECTED AREAS (OPAs)
CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.
- 1% annual chance floodplain boundary
- 0.2% annual chance floodplain boundary
- Floodway boundary
- Zone D boundary
- CBRS and OPA boundary
- Boundary dividing Special Flood Hazard Area Zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths or flood velocities
- Limit of Moderate Wave Action
- Base Flood Elevation line and value; elevation in feet*
- Base Flood Elevation value where uniform within zone; elevation in feet*

* Referenced to the North American Vertical Datum of 1988

- Cross section line
- Transect line
- Culvert, Flume, Penstock or Aqueduct
- Road or Railroad Bridge
- Footbridge

87°07'45", 32°22'30"

Geographic coordinates referenced to the North American Datum of 1983 (NAD 83), Western Hemisphere

1000-meter Universal Transverse Mercator grid values, zone 18

600000 FT

5000-foot grid values: New Jersey State Plane coordinate system (FIPSZONE 2900), Transverse Mercator projection

Bench mark (see explanation in Notes to Users section of this FIRM panel)

DX5510 x

M1.5

River Mile

MAP REPOSITORY
Refer to listing of Map Repositories on Map Index

EFFECTIVE DATE OF COUNTYWIDE FLOOD INSURANCE RATE MAP
October 5, 2017

EFFECTIVE DATE(S) OF REVISION(S) TO THIS PANEL

For community map revision history prior to countywide mapping, refer to the Community Map History table located in the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your Insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

MAP SCALE 1" = 500'

250 0 500 1000 FEET

150 0 150 300 METERS

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0243F

FIRM FLOOD INSURANCE RATE MAP

CAPE MAY COUNTY, NEW JERSEY (ALL JURISDICTIONS)

PANEL 243 OF 311
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

COMMUNITY	NUMBER	PANEL	SUFFIX
MIDDLE, TOWNSHIP OF	340154	0243	F
NORTH WILDWOOD, CITY OF	345308	0243	F
STONE HARBOR, BOROUGH OF	345323	0243	F

NOTES:
THIS MAP INCLUDES BOUNDARIES OF THE COASTAL BARRIER RESOURCES SYSTEM ESTABLISHED UNDER THE COASTAL BARRIER RESOURCES ACT OF 1982 AND/OR SUBSEQUENT ENABLING LEGISLATION.
Notes to Users: The Map Number shown below should be used when placing map orders, the Community Number shown above should be used on insurance applications for the subject community.

MAP NUMBER 34009C0243F

EFFECTIVE DATE OCTOBER 5, 2017

Federal Emergency Management Agency

FLOOD HAZARD INFORMATION IS NOT SHOWN ON THIS MAP IN AREAS OUTSIDE OF CAPE MAY COUNTY

APPROXIMATE PROJECT LOCATION



NearMap aerial imagery dated March 2020.

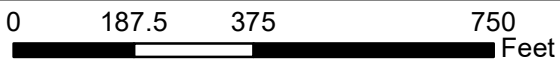
T:\Projects\44693\photo_key_map_1.mxd



PHOTOGRAPH KEY MAP 1
of
BEACH FRONT BULKHEAD
Prepared for
THE CITY OF NORTH WILDWOOD

CITY OF NORTH WILDWOOD

CAPE MAY COUNTY, NJ



van note-harvey
associates, inc.

Since 1894

consulting engineers, planners & land surveyors

103 College Road East • Princeton, NJ 08540 • 609-987-2323
211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-465-2600

www.vannoteharvey.com

Certificate of Authorization
No. 24GA28271300

November 19, 2020
VNHA PROJECT #: 44693-400-21



NearMap aerial imagery dated March 2020.

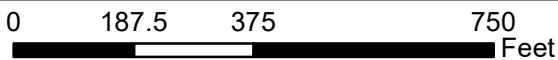
T:\Projects\44693\photo_key_map_1.mxd



PHOTOGRAPH KEY MAP 2
of
BEACH FRONT BULKHEAD
Prepared for
THE CITY OF NORTH WILDWOOD

CITY OF NORTH WILDWOOD

CAPE MAY COUNTY, NJ



van note-harvey
associates, inc.

Since 1894

consulting engineers, planners & land surveyors

103 College Road East • Princeton, NJ 08540 • 609-987-2323
211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-465-2600

www.vannoteharvey.com

Certificate of Authorization
No. 24GA28271300

November 19, 2020
VNHA PROJECT #: 44693-400-21



NearMap aerial imagery dated March 2020.

T:\Projects\44693\photo_key_map_1.mxd



PHOTOGRAPH KEY MAP 3
of
BEACH FRONT BULKHEAD
Prepared for
THE CITY OF NORTH WILDWOOD

CITY OF NORTH WILDWOOD

CAPE MAY COUNTY, NJ

0 187.5 375 750
Feet



van note-harvey
associates, inc.

Since 1894

consulting engineers, planners & land surveyors

103 College Road East • Princeton, NJ 08540 • 609-987-2323
211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-465-2600

www.vannoteharvey.com

Certificate of Authorization
No. 24GA28271300

November 19, 2020
VNHA PROJECT #: 44693-400-21

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #1 – View of landward side of vinyl bulkhead at 3rd Avenue looking southwest.

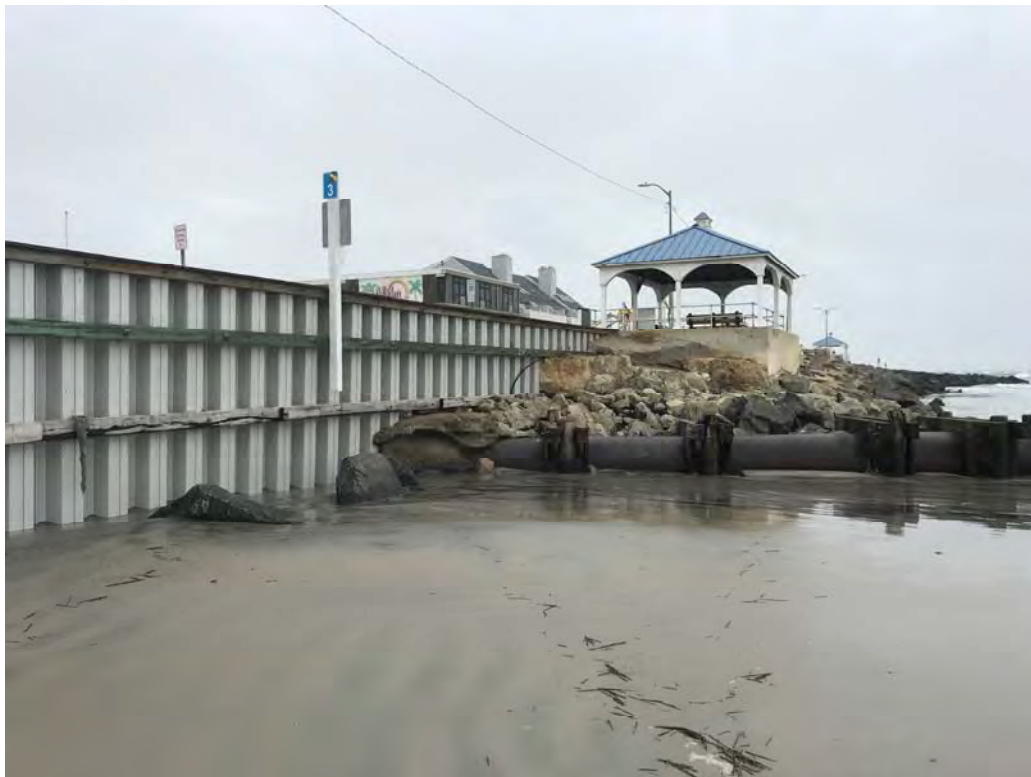


Photo # 2 – View of waterward side of vinyl bulkhead at 3rd Avenue looking northeast.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey

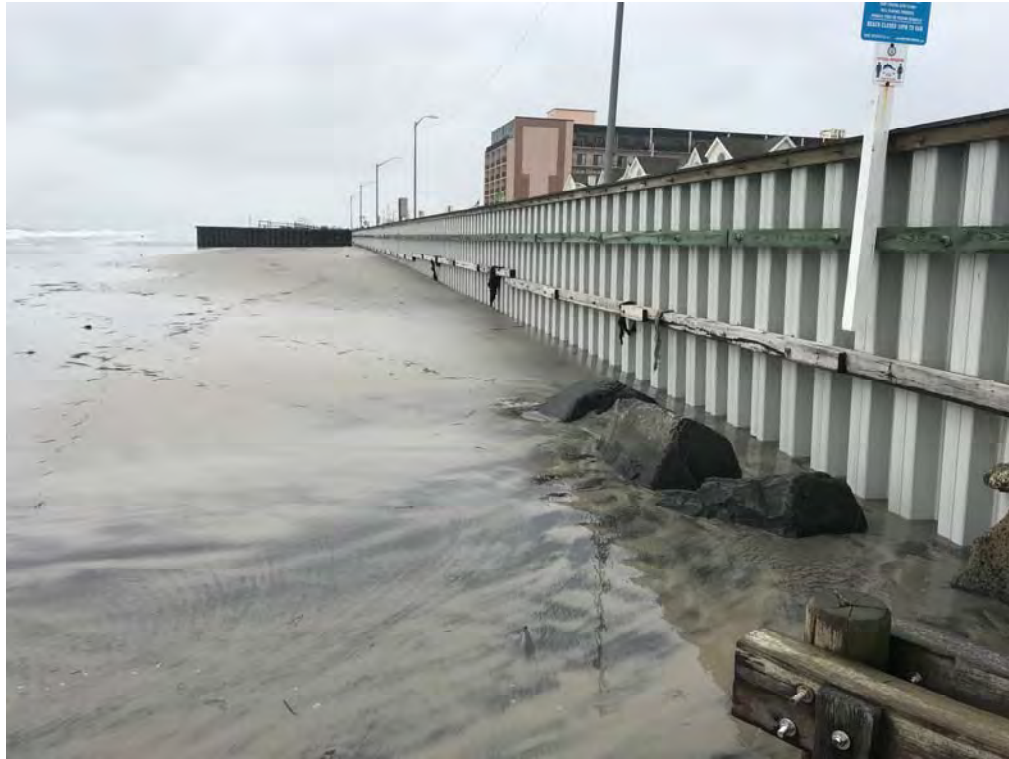


Photo #3 – View of waterward side of vinyl bulkhead at 3rd Avenue looking southwest.



Photo #4 – View of waterward side of vinyl bulkhead and steel bulkhead, and former dune area at 4th Avenue looking southwest.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #5 – View of beach access at the 5th Avenue.



Photo #6 – View of the local community fishing at the steel bulkhead at 5th Avenue at the location of the former beach.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo # 7 – View of timber cap and steel bulkhead at 6th Avenue looking southwest.



Photo #8 - View of steel bulkhead at 7th Avenue looking northeast showing erosion and flooding on landward side of the bulkhead.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #9 – View of timber cap and steel bulkhead looking southwest toward 7th Avenue.



Photo #10 – View of timber cap and steel bulkhead at 7th Avenue looking southwest.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #11 – View of waterward side of steel bulkhead at 7th Avenue looking northeast.

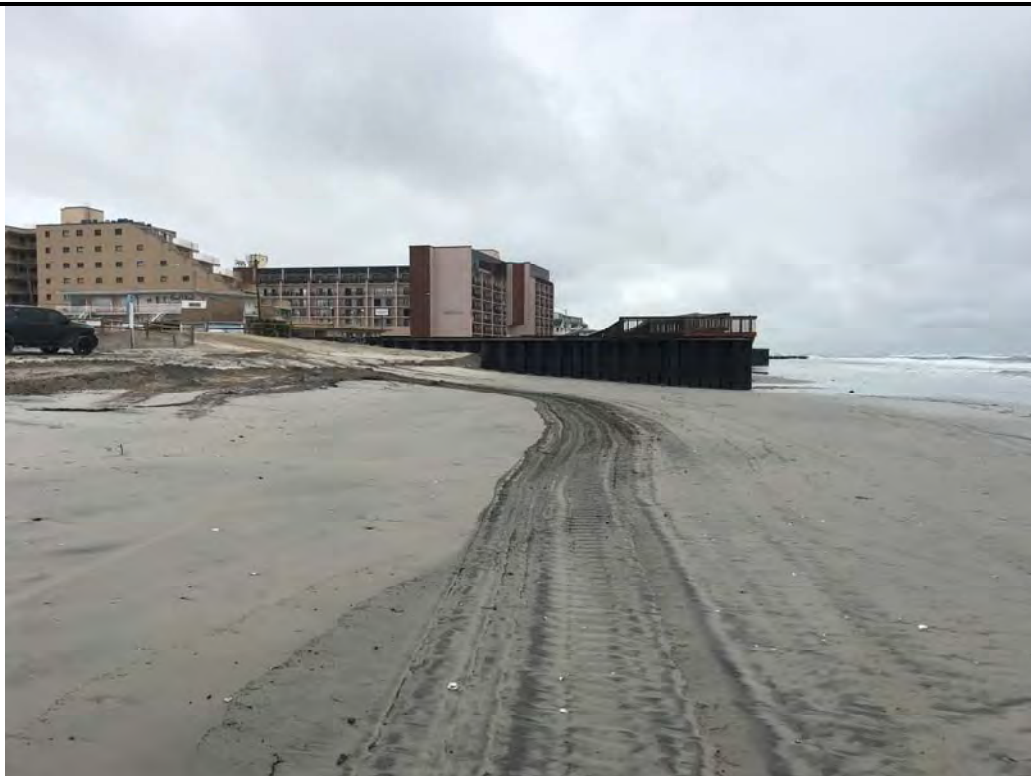


Photo #12 – View of steel bulkhead at 8th Avenue looking northeast.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #13 – View of timber cap and steel bulkhead at 9th Avenue looking northeast showing location of former wetlands/dune.



Photo #14 – View of typical beach access over steel bulkhead at 10th Avenue looking southwest.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey

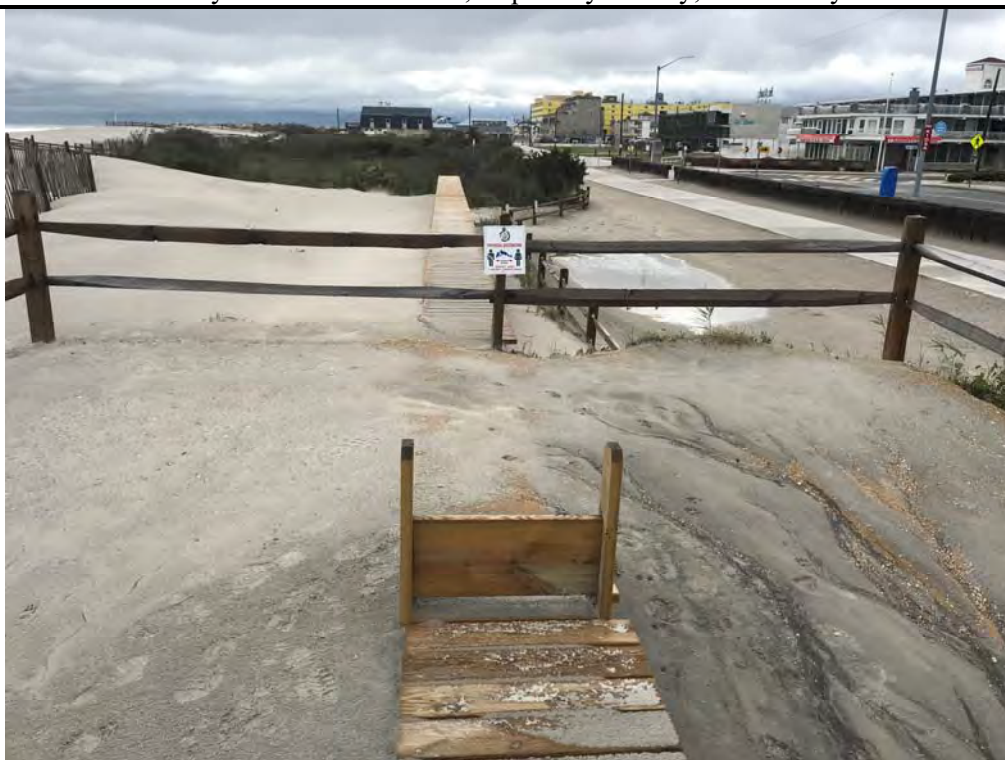


Photo #15 – View of timber cap and steel bulkhead at 12th Avenue looking southwest.



Photo #16 – View of steel bulkhead and location of former wetland at 13th Avenue looking northeast.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #17 – View of proposed location for steel bulkhead at 15th Avenue looking southwest near the Beach Patrol Building.



Photo #18 – View of typical beach and dune erosion at 15th Avenue looking southwest.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #19 – View of proposed bulkhead location at 16th Avenue looking northeast at the Beach Patrol Building.



Photo #20 – View proposed bulkhead location at 19th Avenue looking southwest towards the Seaport Pier.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #21 – View of typical beach and dunes at 19th Avenue looking northeast.



Photo #22 – View of proposed bulkhead location at 24th Avenue looking southeast.

Beach Front Bulkhead Project
City of North Wildwood, Cape May County, New Jersey



Photo #23 – View of proposed steel bulkhead location at 24th Avenue looking southwest.

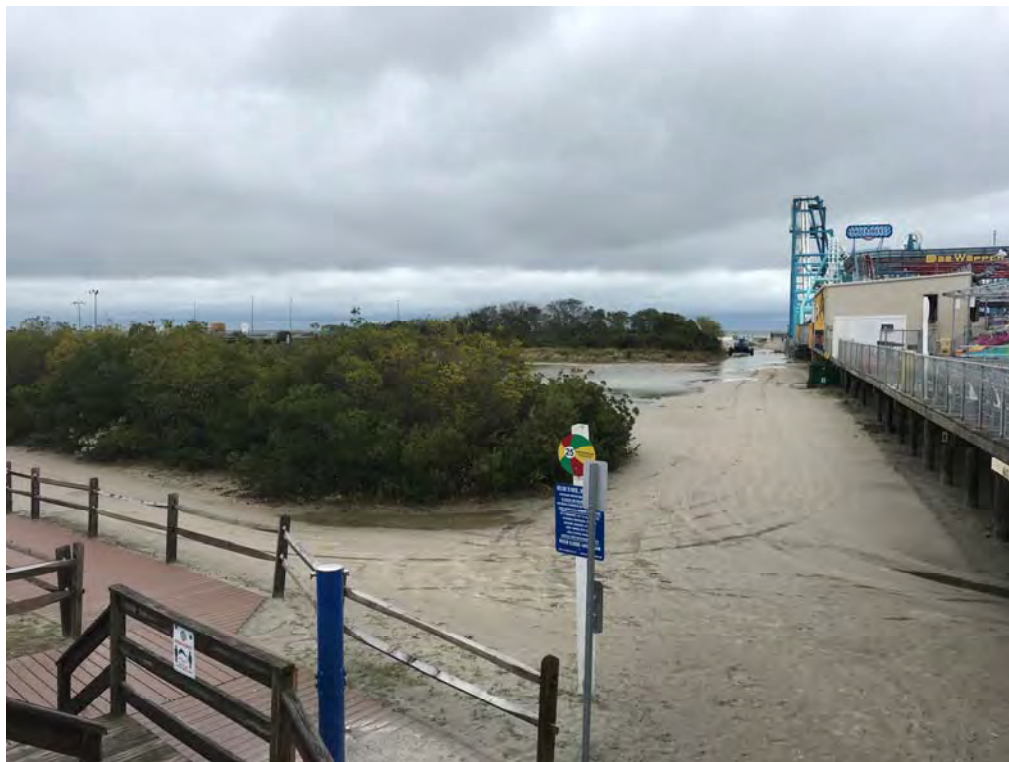
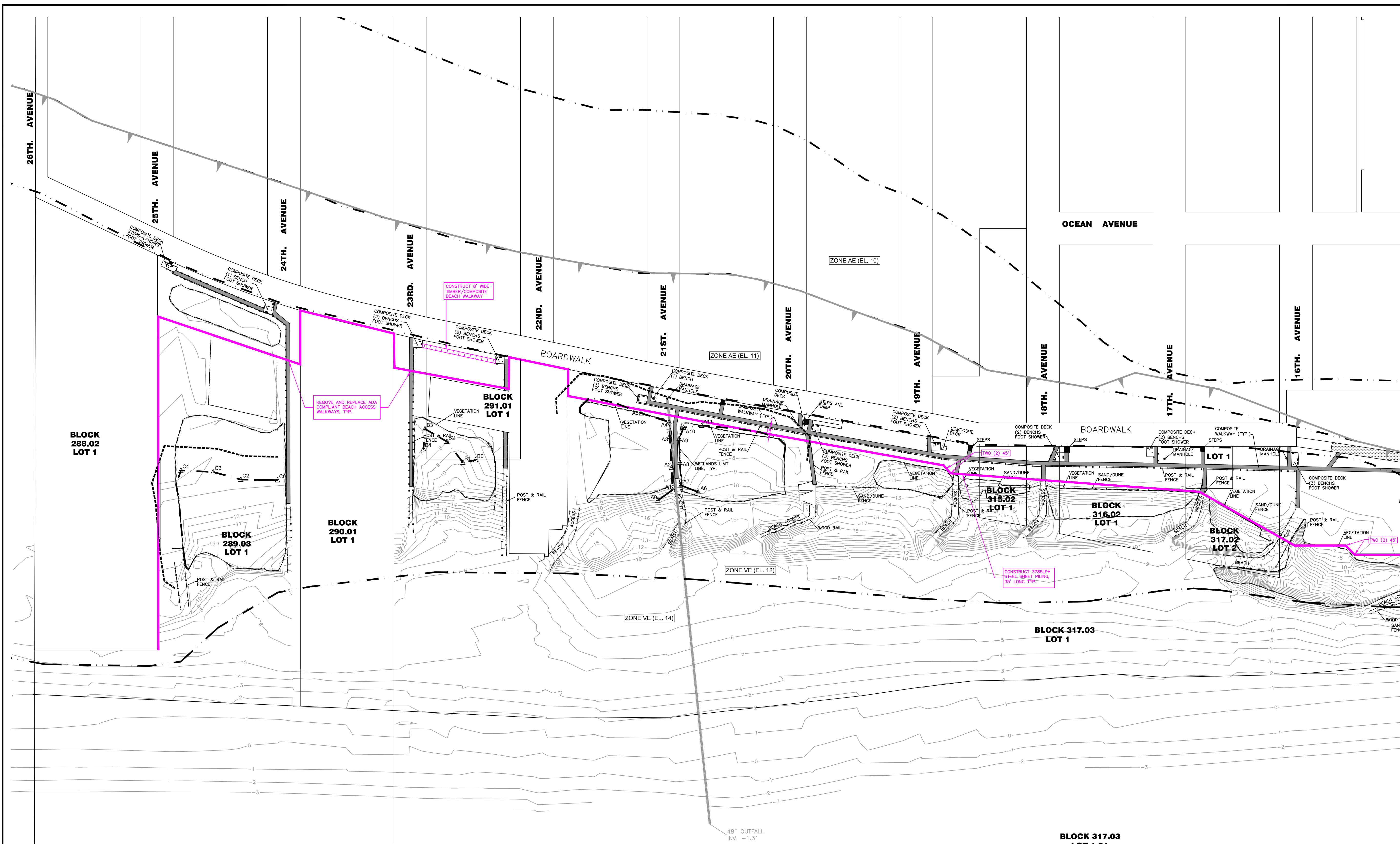
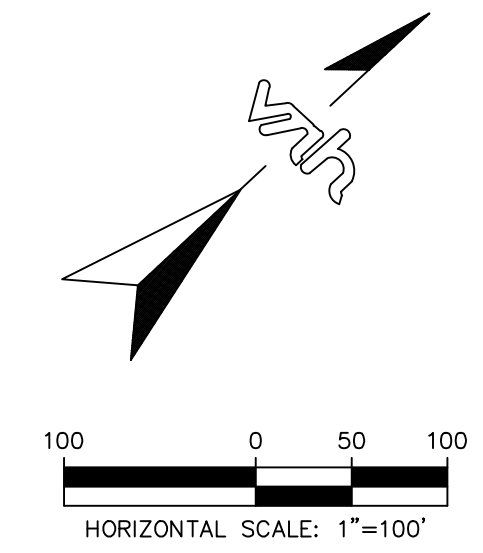


Photo #24 – View of proposed steel bulkhead location at 25th Avenue looking southeast.



MATCH LINE SHEET 2

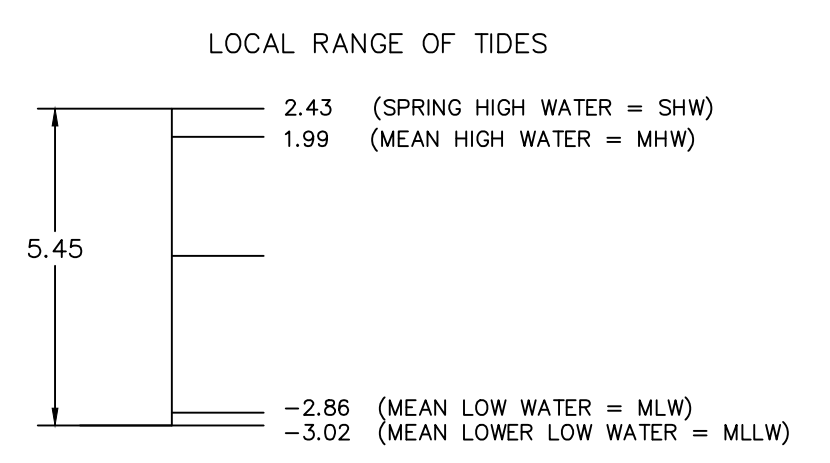
LEGEND

- WETLANDS LINE
- LIMIT OF WETLANDS TRANSITION
- WETLANDS POINT ID
- DATA POINTS
- F.I.R.M. ZONE
- LIMWA LINE
- F.I.R.M. ZONE LIMIT LINE

NOTES:

- 1 LOCATIONS AND ELEVATIONS SHOWN HEREON WERE TAKEN FROM GPS OBSERVATIONS PERFORMED 07/2020 & 08/25/2020 REFERENCING NATIONAL GEODETIC SURVEY CONTINUOUSLY OPERATING REFERENCE STATION (NCSORS) CORS ID NJCM PID D13828. VERTICAL DATUM IS NATIONAL GEODETIC VERTICAL DATUM OF 1988 (NAVD88). (GEOID12B)
- 2 WETLANDS POINTS: POINTS: WG-1 THRU WG-4, WF-1 THRU WF-4, WE-1 THRU WE-4, WD-1 THRU WD-4 WC-1 THRU WC-4, WB-1 THRU WB-4, AND WA-1 THRU WA-4 WERE FIELD DELINEATED AND LOCATED OCTOBER 2013 BY VANNOTE HARVEY ASSOCIATES. WETLAND BOUNDARY LINE "C" AND LINE "A" WERE ESTABLISHED USING TOPOGRAPHY PER NOTE NO. 1 (AND NEAR MAP AERIAL IMAGERY DATED MARCH 2020)
- POINTS: WG-4A THRU WA-4-C, WA-1A, AND WA-1B WERE FIELD DELINEATED AND LOCATED AUGUST 2018 BY VAN NOTE HARVEY ASSOCIATES
- 3 REFER TO FEMA FLOOD INSURANCE RATE MAP(S) (F.I.R.M.) NUMBER 34009C0306F EFFECTIVE DATE OCTOBER 5, 2017 AND MAP NUMBER 34009C0243F EFFECTIVE DATE OCTOBER 5, 2017 FOR F.I.R.M. LIMIT LINES, ZONES AND LIMIT OF MODERATED WAVE ACTION LINE (LIMWA).

4 TAX MAP INFORMATION
 BLOCK 317.03 LOTS 1, 1.01
 BLOCK 289.03 LOT 1
 BLOCK 290.01 LOT 1
 BLOCK 291.01 LOT 1
 BLOCK 315.02 LOT 1
 BLOCK 316.02 LOT 1
 BLOCK 317.02 LOT 1
 SHEETS 17, 23, 62 AND 63



TIDAL INFORMATION U.S. DEPT. OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (N.O.A.A.) NATIONAL OCEAN SERVICE TIDAL STATION ID#8536110 CAPE MAY NEW JERSEY. TIDAL EPOCH DATED JANUARY 1983 - DECEMBER 2001

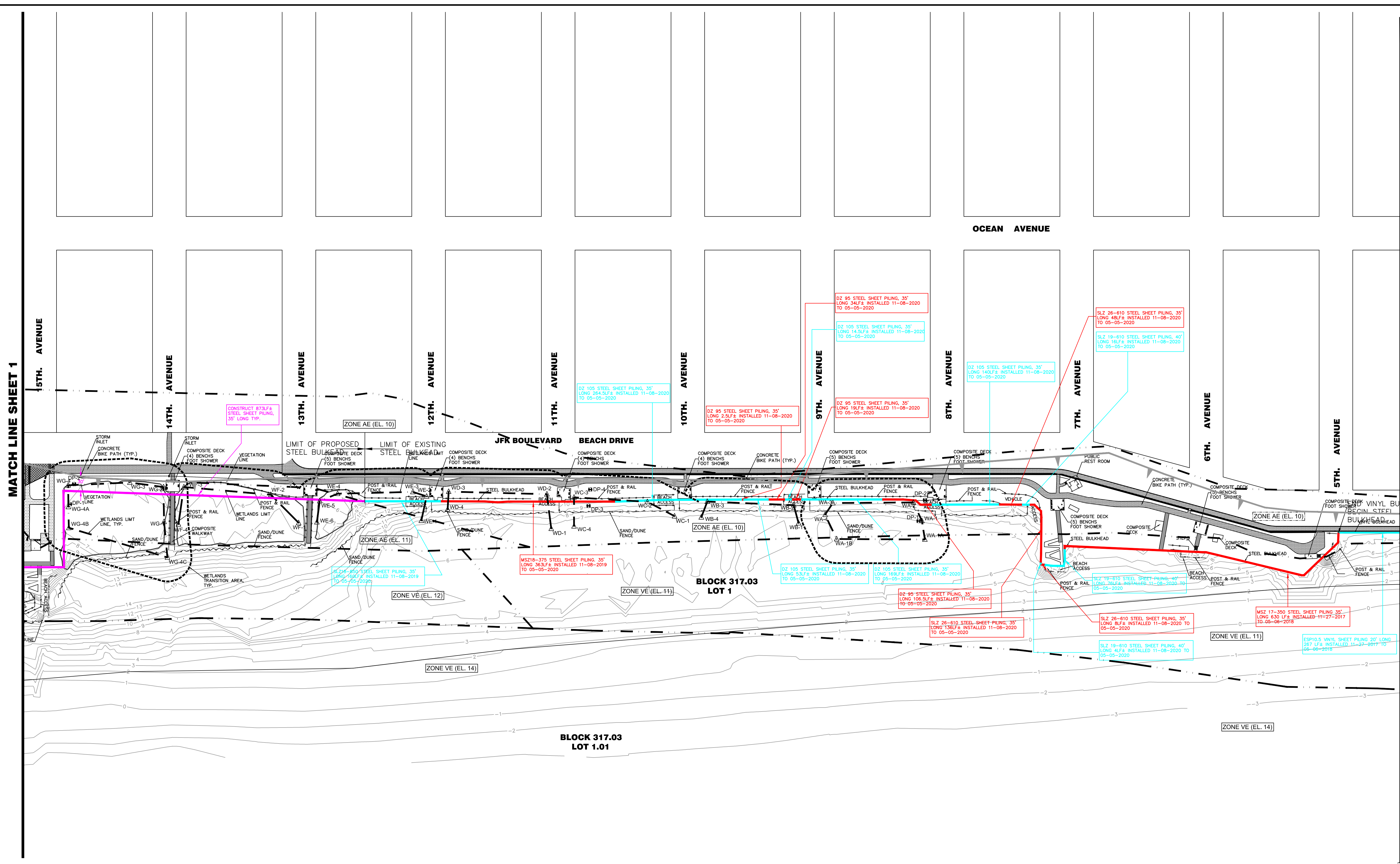
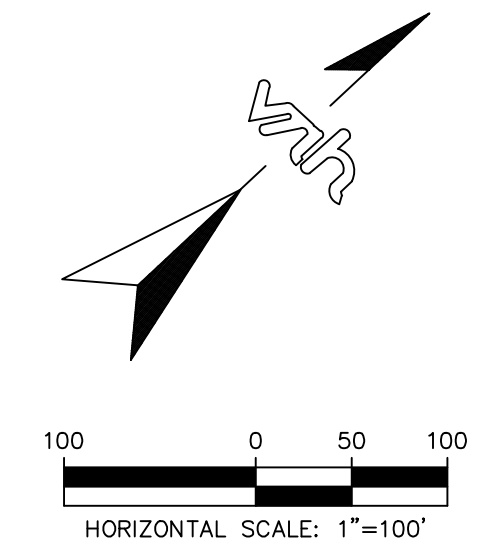
<p style="text-align: right;"><i>Ralph Petrella Jr.</i> RALPH PETRELLA JR. N.J. PROFESSIONAL ENGINEER & LAND SURVEYOR LIC. NO. GB 23226</p>	<p style="text-align: right;">11/17/2020 DATE OF SIGN.</p>										
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>REV.</th> <th>DESCRIPTION</th> <th>DATE</th> <th>DFT. BY</th> <th>CKD. BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		REV.	DESCRIPTION	DATE	DFT. BY	CKD. BY					
REV.	DESCRIPTION	DATE	DFT. BY	CKD. BY							

van note-harvey associates, inc.
 consulting engineers, planners & land surveyors

103 College Road East • Princeton, NJ 08540 • 609-987-2323
 211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-485-2600
www.vannoteharvey.com Certificate of Authorization No. 246A29271300

PLAN OF PROPOSED AND EXISTING
BEACH FRONT BULKHEAD
 15TH AVE TO 26TH AVE
CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, N.J.

DRAWN BY	BMP	FIELD BK	ORDER No.	FILE No.	SHEET No.
CHECKED BY	RP/JWW	PAGE	444693-400-21		1



LEGEND

- WETLANDS LINE
- WETLANDS TRANSITION AREA (50')
- △ WE-1 WETLANDS POINT ID
- DP-1 DATA POINTS
- ZONE VE (EL. 11) F.I.R.M. ZONE
- LIMWA LINE
- F.I.R.M. ZONE LIMIT LINE

NOTES:

1 LOCATIONS AND ELEVATIONS SHOWN HEREON WERE TAKEN FROM GPS OBSERVATIONS PERFORMED 07/2020 & 08/25/2020 REFERENCING NATIONAL GEODETIC SURVEY CONTINUOUSLY OPERATING REFERENCE STATION (NGSCORS) CORS ID NJCM PID D13828. VERTICAL DATUM IS NATIONAL GEODETIC VERTICAL DATUM OF 1988 (NAVD88) (GEOID12B)

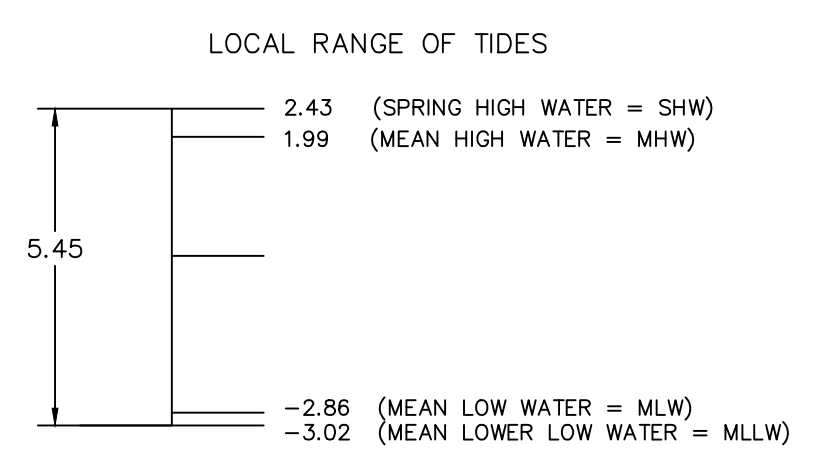
2 WETLANDS POINTS:

WE-1 THRU WE-4, WF-1 THRU WF-4, WE-1 THRU WE-4, WD-1 THRU WD-4
 WC-1 THRU WC-4, WB-1 THRU WB-4, AND WA-1 THRU WA-4
 WERE FIELD DELINEATED AND LOCATED OCTOBER 2013 BY VANNOTE HARVEY ASSOCIATES.
 WETLAND BOUNDARY LINE "C" AND LINE "A" WERE ESTABLISHED USING TOPOGRAPHY PER NOTE NO. 1 (AND NEAR MAP AERIAL IMAGERY DATED MARCH 2020)

POINTS:
 WG-4A THRU WG-4-C, WA-1A, AND WA-1B
 WERE FIELD DELINEATED AND LOCATED AUGUST 2018 BY VAN NOTE HARVEY ASSOCIATES

3 REFER TO FEMA FLOOD INSURANCE RATE MAP(S) (F.I.R.M.) NUMBER 34009C036F EFFECTIVE DATE OCTOBER 5, 2017 AND MAP NUMBER 34009C0243F EFFECTIVE DATE OCTOBER 5, 2017 FOR F.I.R.M. LIMIT LINES, ZONES AND LIMIT OF MODERATED WAVE ACTION LINE (LIMWA).

4 TAX MAP INFORMATION
 BLOCK 317.03 LOTS 1, 1.01
 BLOCK 290.03 LOT 1
 BLOCK 291.01 LOT 1
 BLOCK 315.02 LOT 1
 BLOCK 316.02 LOT 1
 BLOCK 317.02 LOT 1
 SHEETS 17, 23, 62 AND 63



TIDAL INFORMATION U.S. DEPT. OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (N.O.A.A.) NATIONAL OCEAN SERVICE TIDAL STATION ID#8536110 CAPE MAY NEW JERSEY. TIDAL EPOCH DATED JANUARY 1983 - DECEMBER 2001

REV.	DESCRIPTION	DATE	DFT. BY	CKD. BY

Ralph Petrella Jr. 11/17/2020
 DATE OF SIGN.

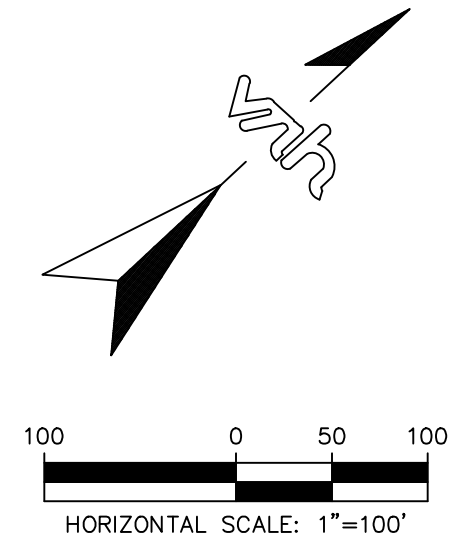
RALPH PETRELLA JR.
 N.J. PROFESSIONAL ENGINEER & LAND SURVEYOR LIC. NO. GB 23226

van note-harvey associates, inc.
 consulting engineers, planners & land surveyors

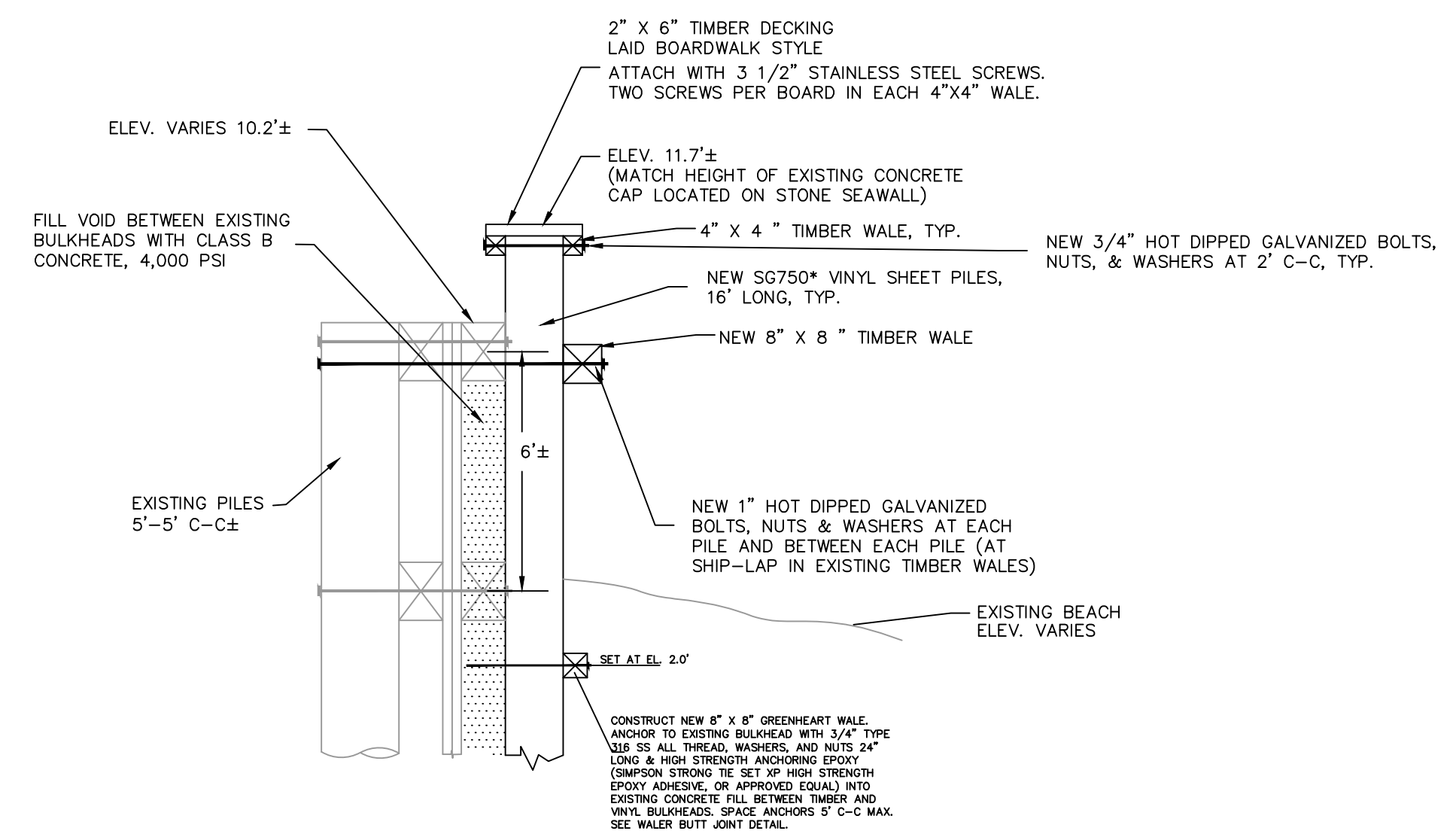
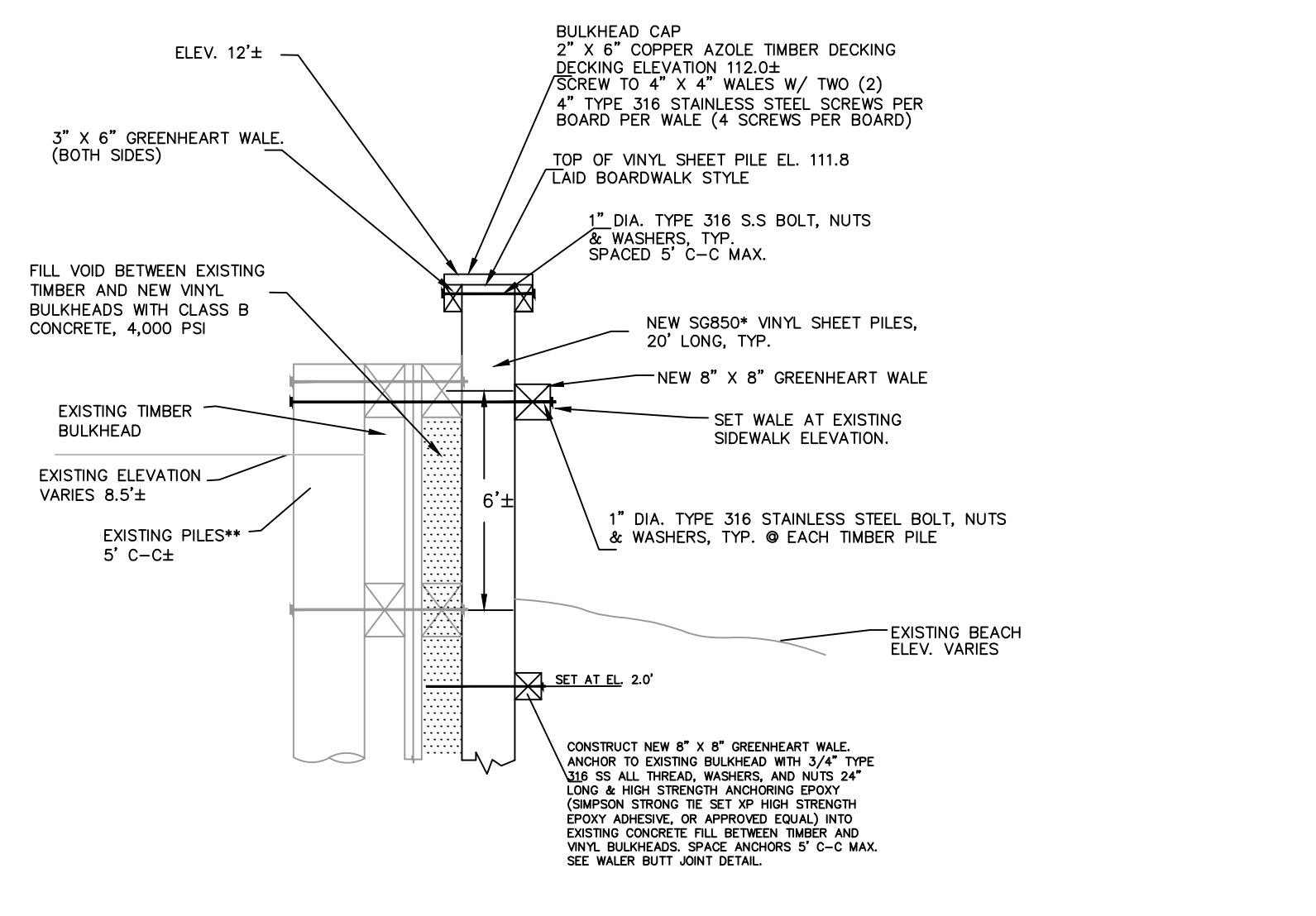
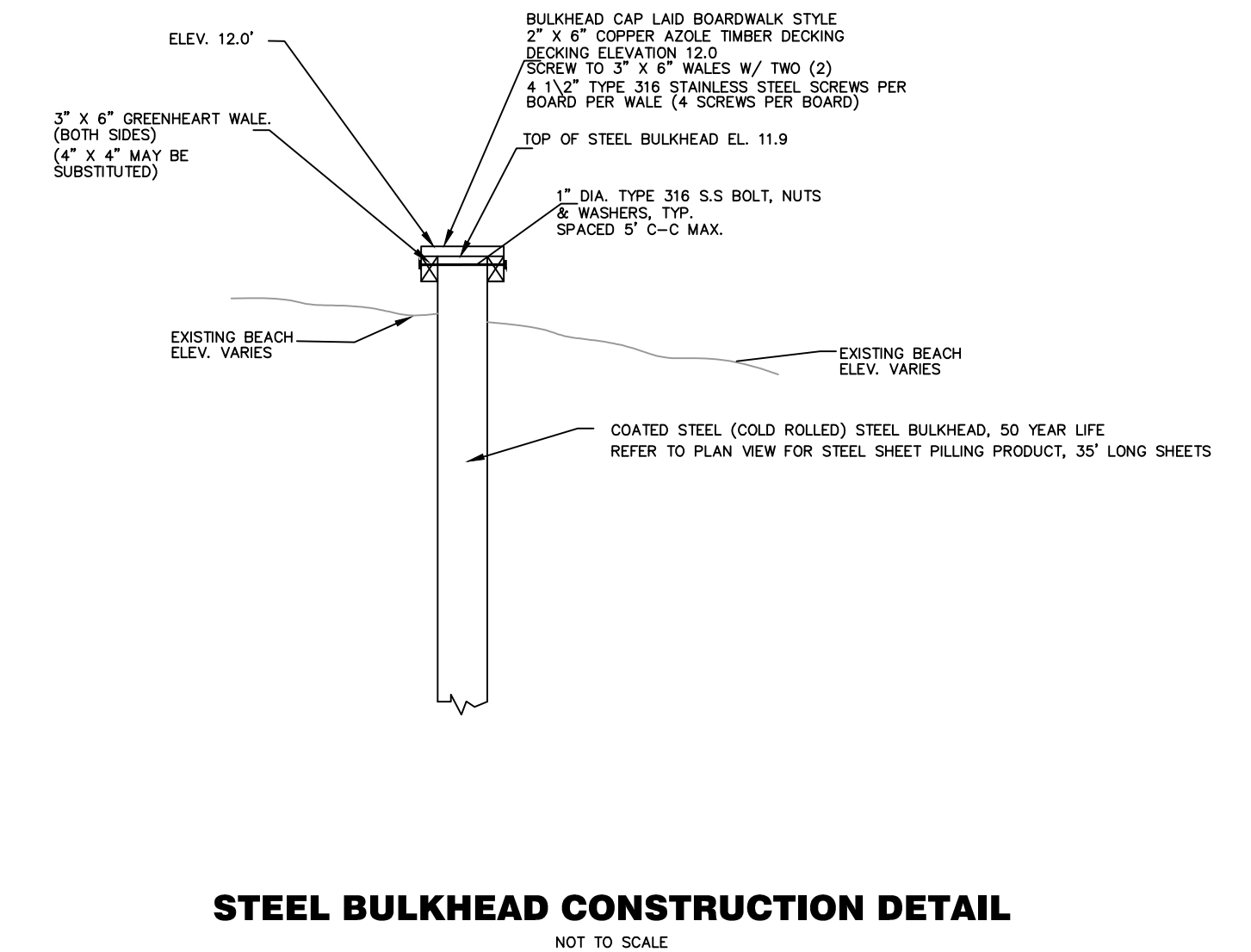
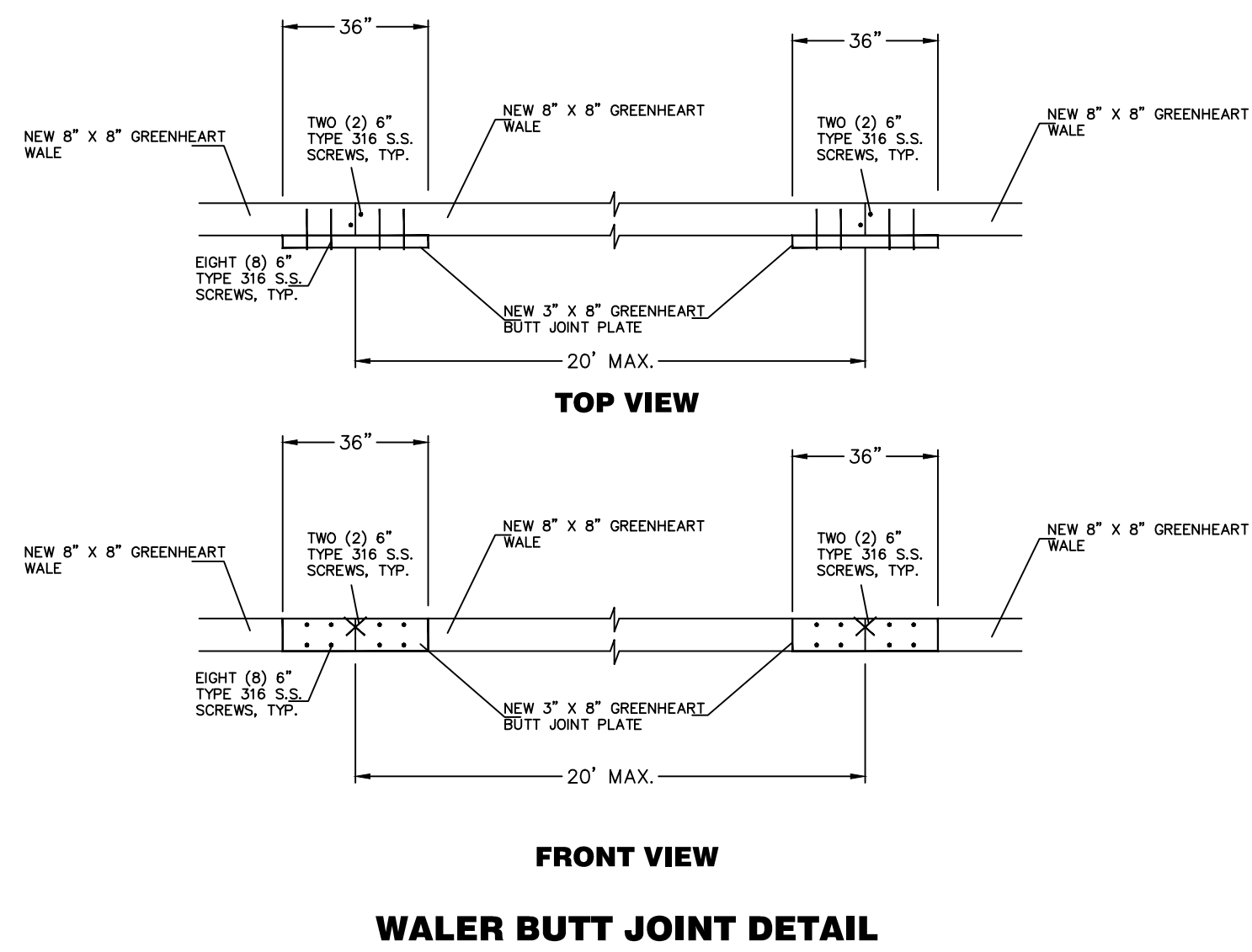
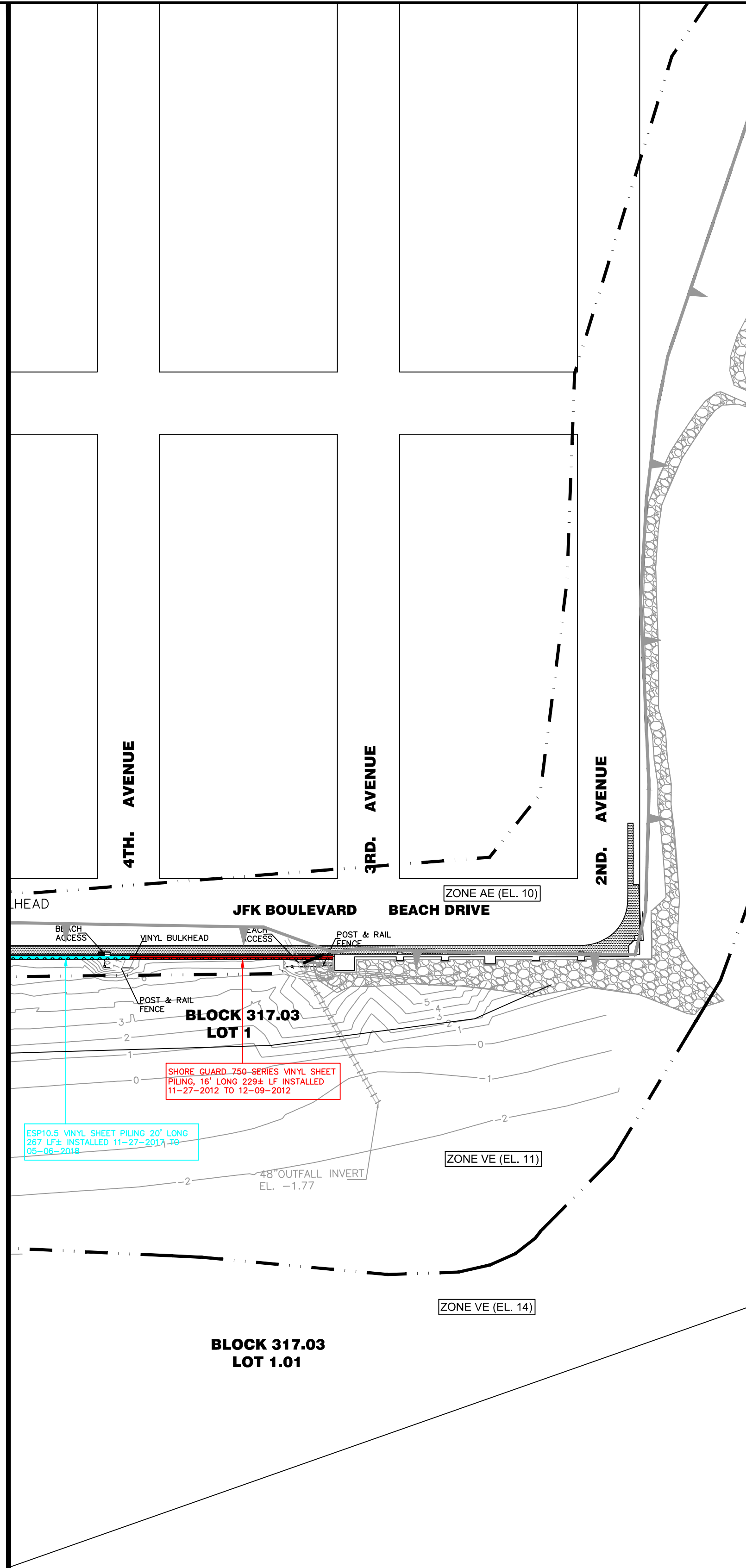
103 College Road East • Princeton, NJ 08540 • 609-987-2323
 211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-485-2600
 www.vannoteharvey.com Certificate of Authorization No. 246A29271300

PLAN OF PROPOSED AND EXISTING
BEACH FRONT BULKHEAD
MID BLOCK 14TH AND 5TH AVE TO 15TH AVE
CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, N.J.

DRAWN BY DMH	FIELD BK	ORDER No. 44693-400-21	FILE No.	SHEET No. 2
CHECKED BY RP/JWW	PAGE			



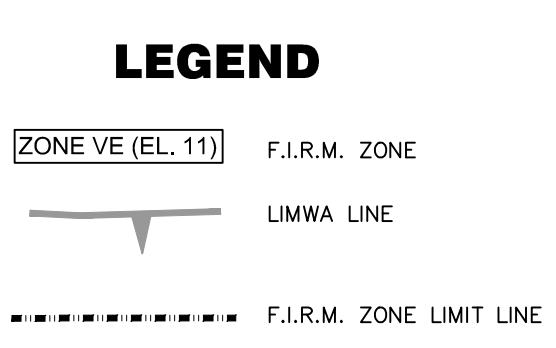
MATCH LINE SHEET 2



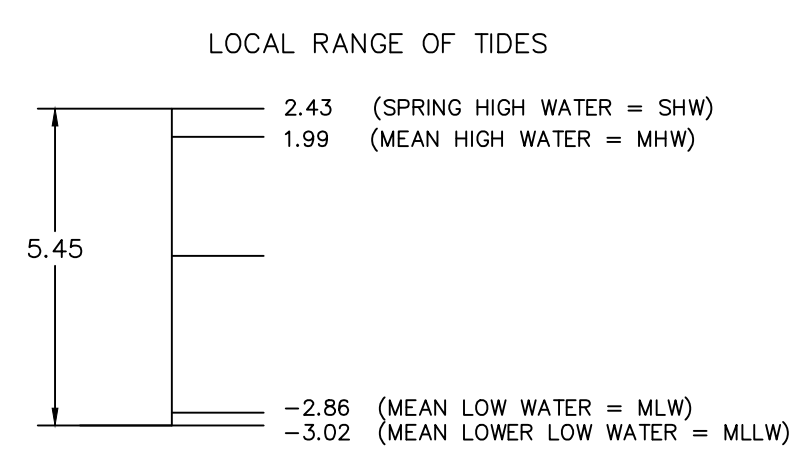
4TH AVENUE TO 5TH AVENUE VINYL BULKHEAD CONSTRUCTION DETAIL
NOT TO SCALE

3RD AVENUE TO 4TH AVENUE BULKHEAD CONSTRUCTION DETAIL
NOT TO SCALE

NOTES:
* SHORE GUARD 850 SERIES AS MANUFACTURED BY CRANE MATERIALS INTERNATIONAL, OR APPROVED EQUAL

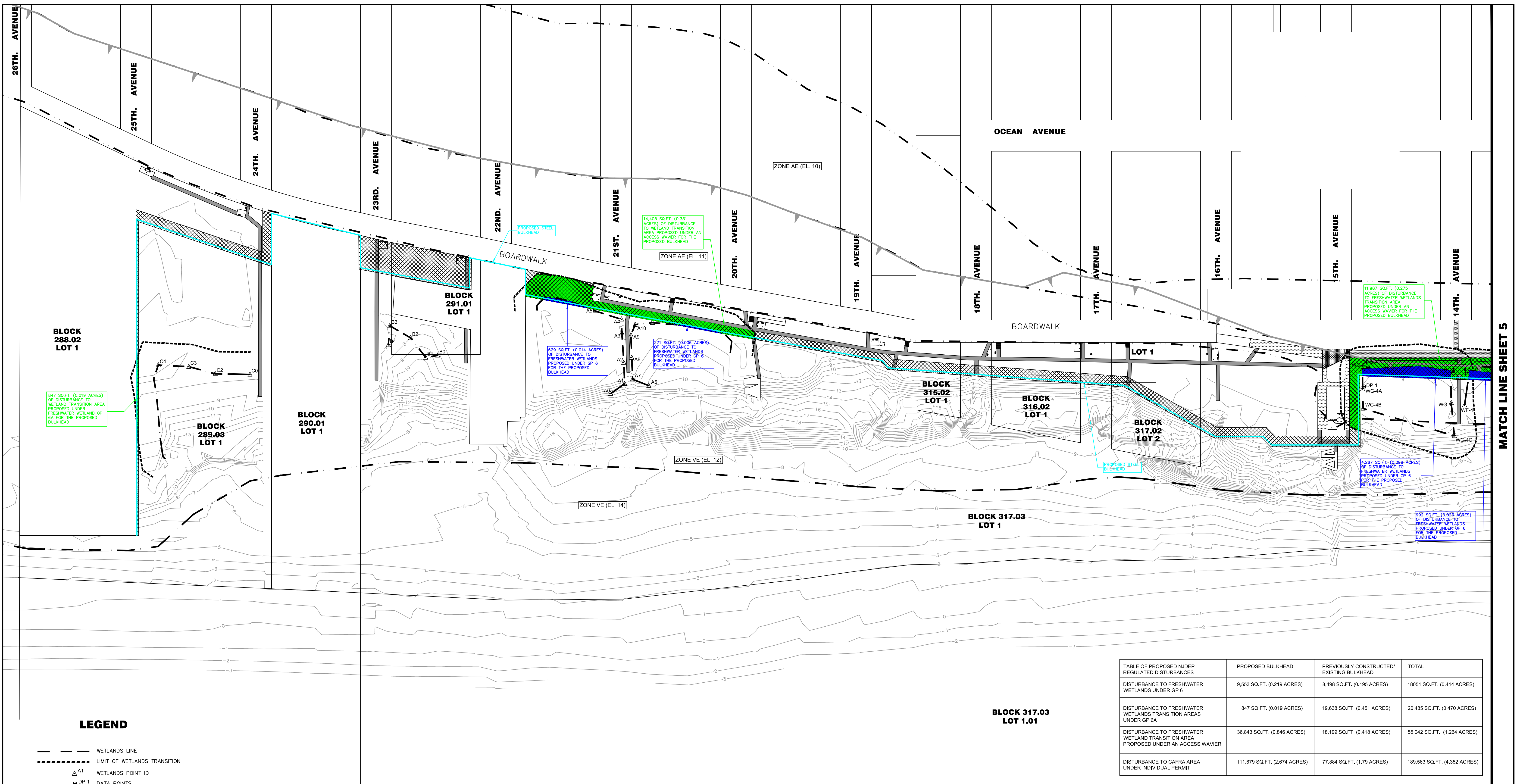


NOTES:
1 LOCATIONS AND ELEVATIONS SHOWN HEREON WERE TAKEN FROM GPS OBSERVATIONS PERFORMED 07/2020 & 08/25/2020 REFERENCING NATIONAL GEODETIC SURVEY CONTINUOUSLY OPERATING REFERENCE STATION (NOSORS) CORS ID NJCM PID D13828. VERTICAL DATUM IS NATIONAL GEODETIC VERTICAL DATUM OF 1988 (NAVD88) (GEOID12B)
2 REFER TO FEMA FLOOD INSURANCE RATE MAP(S) (F.I.R.M.) NUMBER 34009C0306F EFFECTIVE DATE OCTOBER 5, 2017 AND MAP NUMBER 34009C0243F EFFECTIVE DATE OCTOBER 5, 2017 FOR F.I.R.M. LIMIT LINES, ZONES AND LIMIT OF MODERATED WAVE ACTION LINE (LIMWA).
3 TAX MAP INFORMATION
BLOCK 317.03 LOTS 1, 1.01
BLOCK 289.03 LOT 1
BLOCK 290.01 LOT 1
BLOCK 291.01 LOT 1
BLOCK 315.02 LOT 1
BLOCK 316.02 LOT 1
BLOCK 317.02 LOT 1
SHEETS 17, 23, 62 AND 63



TIDAL INFORMATION U.S. DEPT. OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (N.O.A.A.) NATIONAL OCEAN SERVICE TIDAL STATION ID#8536110 CAPE MAY NEW JERSEY. TIDAL EPOCH DATED JANUARY 1983 - DECEMBER 2001

		van note-harvey associates, inc. consulting engineers, planners & land surveyors 103 College Road East • Princeton, NJ 08540 • 609-987-2323 211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-485-2600 www.vannoteharvey.com Certificate of Authorization No. 246A9271300	
PLAN OF PROPOSED AND EXISTING BEACH FRONT BULKHEAD 2ND AVE TO MID BLOCK 4TH AND 5TH AVE CITY OF NORTH WILDWOOD CAPE MAY COUNTY, N.J.			
REV.	DESCRIPTION	DATE	CHK. BY
DRAWN BY DMH CHECKED BY RP/JWW		FIELD BK PAGE ORDER No. 444693-400-21	FILE No. 3 SHEET No. 3
RALPH PETRELLA JR. N.J. PROFESSIONAL ENGINEER & LAND SURVEYOR LIC. NO. GB 23226		11/17/2020 DATE OF SIGN.	

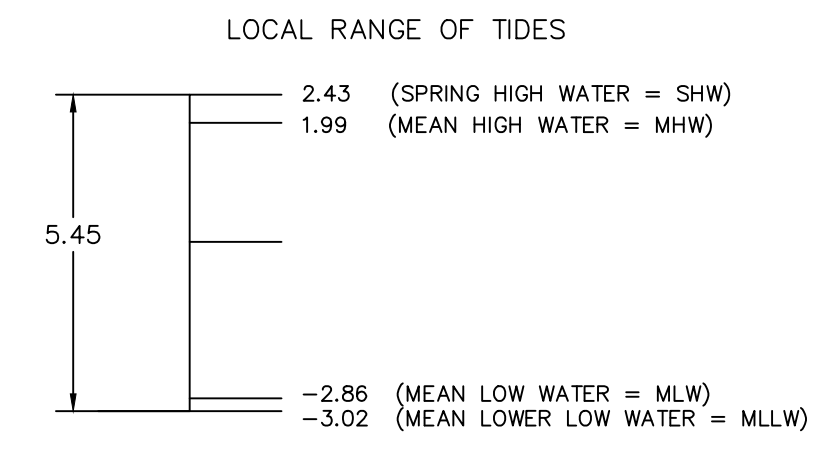


LEGEND

- WETLANDS LINE
- - - - - LIMIT OF WETLANDS TRANSITION
- ▲ A1 WETLANDS POINT ID
- DP-1 DATA POINTS
- ▨ LIMIT OF DISTURBANCE
- ▨ AREA OF IMPACTED WETLANDS TRANSITION
- ▨ AREA OF IMPACTED WETLANDS
- BULKHEAD (EXISTING AND PROPOSED)
SEE SHEETS 1 THRU 3
- ZONE VE (EL. 11) F.I.R.M. ZONE
- LIMWA LINE
- F.I.R.M. ZONE LIMIT LINE

NOTES:
 1 LOCATIONS AND ELEVATIONS SHOWN HEREON WERE TAKEN FROM GPS OBSERVATIONS PERFORMED 07/2020 & 08/25/2020 REFERENCING NATIONAL GEODETIC SURVEY CONTINUOUSLY OPERATING REFERENCE STATION (NOSORS) CORS ID NJCM PID D13828, VERTICAL DATUM IS NATIONAL GEODETIC VERTICAL DATUM OF 1988 (NAVD88) (GEOID12B)
 2 WETLANDS POINTS:
 POINTS:
 WG-1 THRU WG-4, WF-1 THRU WF-4, WE-1 THRU WE-4, WD-1 THRU WD-4
 WC-1 THRU WC-4, WB-1 THRU WB-4, AND WA-1 THRU WA-4
 WERE FILED DELINEATED AND LOCATED OCTOBER 2013 BY VANNOTE HARVEY ASSOCIATES.
 WETLAND BOUNDARY LINE "C" AND LINE "A" WERE ESTABLISHED USING TOPOGRAPHY PER NOTE NO. 1 (AND NEARMAP AERIAL IMAGERY DATED MARCH 2020)
 POINTS:
 WG-4A THRU WA-4-C, WA-1A, AND WA-1B
 WERE FIELD DELINEATED AND LOCATED AUGUST 2018 BY VAN NOTE HARVEY ASSOCIATES
 3 REFER TO FEMA FLOOD INSURANCE RATE MAP(S) (F.I.R.M.) NUMBER 34090C036F EFFECTIVE DATE, OCTOBER 5, 2017 AND MAP NUMBER 34090C0243F EFFECTIVE DATE OCTOBER 5, 2017 FOR F.I.R.M. LIMIT LINES, ZONES AND LIMIT OF MODERATED WAVE ACTION LINE (LIMWA).

4 TAX MAP INFORMATION
 BLOCK 317.03 LOTS 1, 1.01
 BLOCK 289.03 LOT 1
 BLOCK 290.01 LOT 1
 BLOCK 291.01 LOT 1
 BLOCK 315.02 LOT 1
 BLOCK 316.02 LOT 1
 BLOCK 317.02 LOT 1
 SHEETS 17, 23, 62 AND 63



TIDAL INFORMATION U.S. DEPT. OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (N.O.A.A.) NATIONAL OCEAN SERVICE TIDAL STATION ID#8536110 CAPE MAY NEW JERSEY, TIDAL EPOCH DATED JANUARY 1983 - DECEMBER 2001

TABLE OF PROPOSED NJDEP REGULATED DISTURBANCES	PROPOSED BULKHEAD	PREVIOUSLY CONSTRUCTED/ EXISTING BULKHEAD	TOTAL
DISTURBANCE TO FRESHWATER WETLANDS UNDER GP 6	9,553 SQ.FT. (0.219 ACRES)	8,498 SQ.FT. (0.195 ACRES)	18,051 SQ.FT. (0.414 ACRES)
DISTURBANCE TO FRESHWATER WETLANDS TRANSITION AREAS UNDER GP 6A	847 SQ.FT. (0.019 ACRES)	19,638 SQ.FT. (0.451 ACRES)	20,485 SQ.FT. (0.470 ACRES)
DISTURBANCE TO FRESHWATER WETLAND TRANSITION AREA PROPOSED UNDER AN ACCESS WAIVER	36,843 SQ.FT. (0.846 ACRES)	18,199 SQ.FT. (0.418 ACRES)	55,042 SQ.FT. (1.264 ACRES)
DISTURBANCE TO CAFRA AREA UNDER INDIVIDUAL PERMIT	111,679 SQ.FT. (2.674 ACRES)	77,884 SQ.FT. (1.79 ACRES)	189,563 SQ.FT. (4.332 ACRES)

van note-harvey associates, inc.
 consulting engineers, planners & land surveyors
 103 College Road East • Princeton, NJ 08540 • 609-987-2323
 211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-485-2600
 www.vannoteharvey.com Certificate of Authorization No. 246A29271300 - Since 1984 -

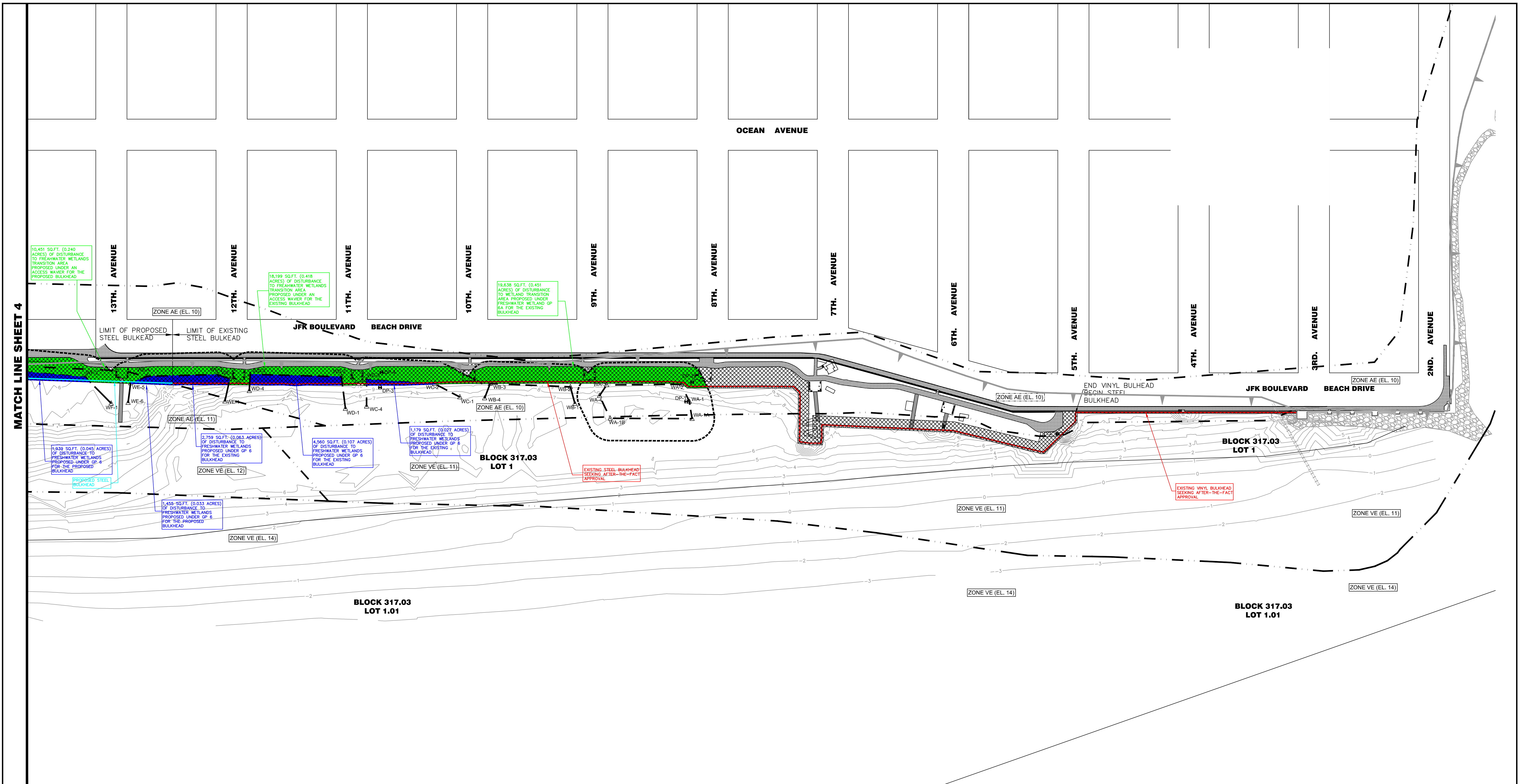
N.J.A.C. 7:7 AND N.J.A.C. 7:7A PERMIT PLAN OF
BEACH FRONT BULKHEAD
CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, N.J.

REV.	DESCRIPTION	DATE	DFT. BY	CKD. BY

Ralph Petrella Jr. 11/17/2020
 DATE OF SIGN.

RALPH PETRELLA JR.
 N.J. PROFESSIONAL ENGINEER & LAND SURVEYOR LIC. NO. GB 23226

DRAWN BY DMH	FIELD BK	ORDER No. 44693-400-21	FILE No.	SHEET No. 4
CHECKED BY RP/JWW	PAGE			



MATCH LINE SHEET 4

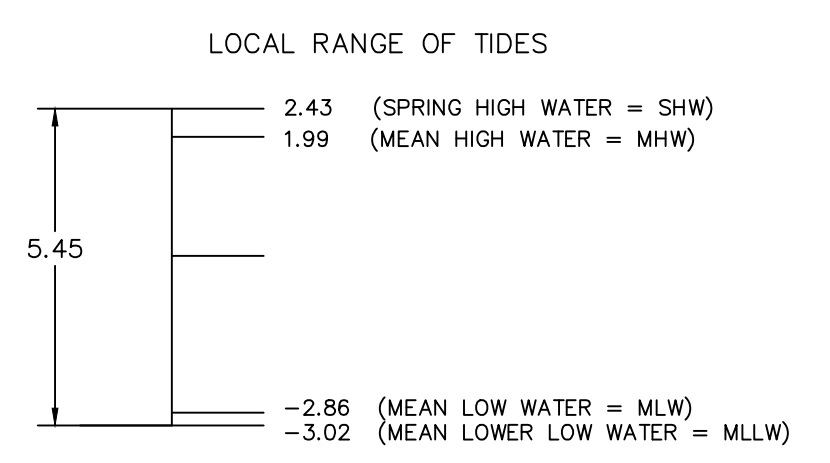
LEGEND

- WETLANDS LINE
- LIMIT OF WETLANDS TRANSITION
- WETLANDS POINT ID
- DATA POINTS
- LIMIT OF DISTURBANCE
- AREA OF IMPACTED WETLANDS TRANSITION
- AREA OF IMPACTED WETLANDS
- F.I.R.M. ZONE
- LIMWA LINE
- F.I.R.M. ZONE LIMIT LINE

NOTES:

- 1 LOCATIONS AND ELEVATIONS SHOWN HEREON WERE TAKEN FROM GPS OBSERVATIONS PERFORMED 07/2020 & 08/25/2020 REFERENCING NATIONAL GEODETIC SURVEY CONTINUOUSLY OPERATING REFERENCE STATION (NGSCORS) CORS ID NJCM PID D13828. VERTICAL DATUM IS NATIONAL GEODETIC VERTICAL DATUM OF 1988 (NAVD88) (GEOID12B)
- 2 WETLANDS POINTS:
 - WC-1 THRU WC-4, WF-1 THRU WF-4, WE-1 THRU WE-4, WD-1 THRU WD-4
 - WC-1 THRU WC-4, WB-1 THRU WB-4, AND WA-1 THRU WA-4 WERE FIELD DELINEATED AND LOCATED OCTOBER 2013 BY VANNOTE HARVEY ASSOCIATES.
 - WETLAND BOUNDARY LINE "C" AND LINE "A" WERE ESTABLISHED USING TOPOGRAPHY PER NOTE NO. 1 (AND NEAR MAP AERIAL IMAGERY DATED MARCH 2020)
- POINTS:
 - WG-4A THRU WA-4-C, WA-1A, AND WA-1B WERE FIELD DELINEATED AND LOCATED AUGUST 2018 BY VAN NOTE HARVEY ASSOCIATES
- 3 REFER TO FEMA FLOOD INSURANCE RATE MAP(S) (F.I.R.M.) NUMBER 34009C0306F EFFECTIVE DATE OCTOBER 5, 2017 AND MAP NUMBER 34009C0243F EFFECTIVE DATE OCTOBER 5, 2017 FOR F.I.R.M. LIMIT LINES, ZONES AND LIMIT OF MODERATED WAVE ACTION LINE (LIMWA).

4 TAX MAP INFORMATION
 BLOCK 317.03 LOTS 1, 1.01
 BLOCK 289.03 LOT 1
 BLOCK 290.01 LOT 1
 BLOCK 291.01 LOT 1
 BLOCK 315.02 LOT 1
 BLOCK 316.02 LOT 1
 BLOCK 317.02 LOT 1
 SHEETS 17, 23, 62 AND 63



TIDAL INFORMATION U.S. DEPT. OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (N.O.A.A.) NATIONAL OCEAN SERVICE TIDAL STATION ID#8536110 CAPE MAY NEW JERSEY. TIDAL EPOCH DATED JANUARY 1983 - DECEMBER 2001

<p style="text-align: right;"><i>Ralph Petrella Jr.</i> RALPH PETRELLA JR. N.J. PROFESSIONAL ENGINEER & LAND SURVEYOR LIC. NO. GB 23226</p>	<p style="text-align: right;">11/17/2020 DATE OF SIGN.</p>																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>REV.</th> <th>DESCRIPTION</th> <th>DATE</th> <th>DFT. BY</th> <th>CKD. BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REV.	DESCRIPTION	DATE	DFT. BY	CKD. BY						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">DRAWN BY DMH</td> <td style="width: 25%;">FIELD BK</td> <td style="width: 25%;">ORDER No. 44693-400-21</td> <td style="width: 25%;">FILE No.</td> </tr> <tr> <td>CHECKED BY RP/JWW</td> <td>PAGE</td> <td></td> <td>SHEET No. 5</td> </tr> </table>	DRAWN BY DMH	FIELD BK	ORDER No. 44693-400-21	FILE No.	CHECKED BY RP/JWW	PAGE		SHEET No. 5
REV.	DESCRIPTION	DATE	DFT. BY	CKD. BY															
DRAWN BY DMH	FIELD BK	ORDER No. 44693-400-21	FILE No.																
CHECKED BY RP/JWW	PAGE		SHEET No. 5																

van note-harvey associates, inc.
 consulting engineers, planners & land surveyors

 103 College Road East • Princeton, NJ 08540 • 609-987-2323
 211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-485-2600
www.vannoteharvey.com Certificate of Authorization No. 246A29271300 - Since 1954 -

N.J.A.C. 7:7 AND N.J.A.C. 7:7A PERMIT PLAN OF

BEACH FRONT BULKHEAD

CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, N.J.



New Jersey Department of Environmental Protection
Land Use Management Program
 Division of Land Use Regulation
PROPERTY OWNER CERTIFICATION

INSTRUCTIONS: All applicants are required to complete Sections A and B of this form. Applicants who are individual owners of record of the property upon which the activities will occur must also complete Section C.

All other persons who are required to certify to this application in accordance with N.J.A.C. 7:7-23.2(d), N.J.A.C. 7:7A-16.2(d), and N.J.A.C. 7:13-18.2(d) must complete Sections A and C.

Separate forms may be submitted for each signatory, or a single form may be submitted with all required signatures.

SECTION A. SITE INFORMATION (required)

Project Name: Beach Front Bulkhead
 Applicant's Name: City of North Wildwood c/o Mr. Ronald Simone, City Administrator
 Street Address: 901 Atlantic Avenue
 Municipality: North Wildwood County: Cape May Zip Code: 08260
 Blocks and Lots: Blocks: 289.03 / 290.01 / 291.01 / 315.02 / 316.02 / 317.02 / 317.03; Lots: 1 / 1 / 1 / 1 / 1 & 2 / 1

SECTION B. SIGNATURE OF APPLICANT

The undersigned applicant hereby certifies that he/she is one of the following: 1) an owner of the site on which the activity is proposed or conducted; 2) an agent designated by the site owner(s) to obtain the permit, verification, or letter of interpretation on the owner's behalf; 3) a representative of a public entity proposing an activity within a right-of-way or easement that is held or controlled by that entity or that will be appropriated by the entity under the power of eminent domain; OR 4) a person with the legal authority to perform the proposed activities.

The undersigned applicant also certifies to the following:

1. Does the application include any activities within an easement or right-of-way? Yes No
 If "Yes," has written consent from all easement or right-of-way holders in accordance with N.J.A.C. 7:7-23.2(g), 7:7A-16.2(g), and 7:13-18.2(g) been attached to this form? Yes No
2. Will any part of the project be located within property belonging to the State of New Jersey? Yes No
3. Does the application include activities on any property owned by any public agency that would be encumbered by Green Acres? Yes No
4. Does this project require a Section 106 (National Register of Historic Places) Determination as part of a federal approval? Yes No

Applicant's Name: City of North Wildwood c/o Mr. Ronald Simone, City Administrator

Date: 11/16/2020

Applicant's Signature: *[Handwritten Signature]*

Applicant's Name: _____

Date: _____

Applicant's Signature: _____

Applicant's Name: _____

Date: _____

Applicant's Signature: _____

Applicant's Name: _____

Date: _____

Applicant's Signature: _____

SECTION C. PROPERTY OWNER'S CERTIFICATION

All individual owners of record of the property upon which the activities will occur must certify to this application unless the applicant is a corporation, partnership, sole proprietorship, municipality, or State, Federal, or other public entity. If the applicant is a corporation, a principal executive officer of at least the level of vice president must certify below. In the case of partnerships and sole proprietorships, a general partner or the proprietor, respectively, is required to certify. For a municipality or for a State, Federal, or other public entity, the certification must be provided by either a principal executive officer or ranking elected official.

A duly authorized representative may sign this application on behalf of any individual who is required to certify provided that the authorization is made in writing and is submitted as part of this application. Please note that in lieu of a property owner's signature, a legal agreement with the current property owner may be attached to this form. Acceptable legal agreements include, but are not limited to, certificates of eminent domain and certificates of inverse condemnation. **Please note that contracts of sale are not considered an acceptable substitute for a property owner's signature.**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining and preparing the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment. I hereby grant permission for the conduct of the proposed activities and consent to allow access to the site by representatives or agents of the Department for the purpose of conducting a site inspection(s) of the property in question.

Name of Owner/Easement Holder: City of North Wildwood c/o Mr. Ronald Simone Date: 11/16/2020
 Signature: [Handwritten Signature]
 Specific Block(s) and Lot(s) Owned: Blocks: 289.03/291.01/315.02/316.02/317.02/317.03; Lots: 1/1/1/1/1&2/1

Name of Owner/Easement Holder: Sportland Investments Date: _____
 Signature: _____
 Specific Block(s) and Lot(s) Owned: Block 290.01, Lot 1

Name of Owner/Easement Holder: _____ Date: _____
 Signature: _____
 Specific Block(s) and Lot(s) Owned: _____

Name of Owner/Easement Holder: _____ Date: _____
 Signature: _____
 Specific Block(s) and Lot(s) Owned: _____

Name of Owner/Easement Holder: _____ Date: _____
 Signature: _____
 Specific Block(s) and Lot(s) Owned: _____

Name of Owner/Easement Holder: _____ Date: _____
 Signature: _____
 Specific Block(s) and Lot(s) Owned: _____



New Jersey Department of Environmental Protection
 Land Use Management Program
 Division of Land Use Regulation
PUBLIC NOTICE

SECTION A. SITE INFORMATION

Applicant's Name: City of North Wildwood c/o Mr. Ronald Simone, City Administrator

Street Address: 901 Atlantic Avenue

Municipality: North Wildwood County: Cape May Zip Code: 08260

Blocks and Lots: Blocks: 289.03 / 290.01 / 291.01 / 315.02 / 316.02 / 317.02 / 317.03; Lots: 1 / 1 / 1 / 1 / 1 / 1 & 2 / 1

SECTION B. STANDARD NOTICE REQUIREMENTS

Except as provided at item 6 below, public notice of the application shall be provided no more than 30 calendar days prior to submitting the application and no later than the date the application is submitted to the Department.

1. Public notice is required for all of the following (*check all that apply*):

- A flood hazard area general permit authorization (except general permit 1)
- A flood hazard area individual permit
- A flood hazard area verification
- A coastal general permit authorization
- A CAFRA individual permit
- An in-water waterfront development individual permit
- An upland waterfront development individual permit
- A coastal wetlands individual permit
- A freshwater wetlands individual permit
- A freshwater wetlands transition area waiver
- A freshwater wetlands general permit authorization (except general permit 15)
- A freshwater wetlands general permit 15 (**please skip to [Section C](#)**)

2. Has a copy of the entire application been sent to the municipal clerk of each municipality in which the proposed activity or project is located?..... Yes No

Note: For electronic submissions, the application consists of a description of the project, which must include the lot and block, municipality, and county, the specific permit(s)/authorization(s) being sought, and all items that will be uploaded to the submission service, including all required items on the applicable application checklist(s).

If "**Yes**," did you attach a copy of the certified United States Postal Service white mailing receipt, or other written receipt, and a copy of any letter sent with the application to this form?..... Yes No

3. Have both a notice letter, including a brief description of the proposed activity or project, and a legible copy of the site plans been sent to the all following applicable agencies? Yes No

- The construction official of each municipality in which the site is located
- The environmental commission, or other government agency with similar responsibilities, of each municipality in which the site is located
- The planning board of each municipality in which the site is located
- The planning board of each county in which the site is located

If "**Yes**," did you attach **both** of the following to this form?..... Yes No

- A copy of the certified United States Postal Service white mailing receipt or other written receipt
- A copy of the notice letter

4. Is the application for a coastal permit for an activity within the 12-mile circle with Delaware, as described at N.J.A.C. 7:7-1.2(c), or within 200 feet of the 12-mile circle? Yes No

If **"Yes,"** have both a notice letter, including a brief description of the proposed activity or project, and a legible copy of the site plans been sent to the State of Delaware, Department of Natural Resources & Environmental Control, Delaware Coastal Management Program, 89 Kings Highway, Dover, DE 19901?..... Yes No

If **"Yes,"** did you attach **both** of the following to this form?..... Yes No

- A copy of the certified United States Postal Service white mailing receipt or other written receipt
- A copy of the notice letter

5. Is the application for a waterfront development individual permit to install a submarine cable in the ocean or to perform sand mining in the ocean? Yes No

If **"Yes,"** have you submitted a description of the project, the specific permit(s)/authorization(s) being sought, and a copy of the NOAA nautical chart showing the proposed cable route or the limits of the proposed sand mining area to **all** of the following entities?..... Yes No

- Garden State Seafood Association
- National Fisheries Institute
- North Atlantic Clam Association
- Rutgers Cooperative Extension
- New Jersey Shellfisheries Council
- New Jersey Marine Fisheries Council

6. Does the application include a CAFRA individual permit? Yes No

If **"No,"** skip to Question 7.

If **"Yes,"** has newspaper notice, consisting of a legal notice or display advertisement, been published in the official newspaper of the municipality in which the site is located or a newspaper of general circulation in the municipality? Yes No

If **"Yes,"** did you attach a copy of the published newspaper notice, the date of publication, and the name of the newspaper to this form? Yes No

If **"No,"** did you verify that a newspaper notice, consisting of a legal notice or display advertisement, will be published in the official newspaper of the municipality in which the site is located or a newspaper of general circulation in the municipality no more than **10 calendar days** after the application is submitted to the Department?..... Yes No

Note: A copy of the published newspaper notice, the date of publication, and the name of the newspaper must be submitted to the Department within this timeframe.

7. Does the application include one or more of the activities listed below (**other than those proposed in a freshwater wetlands individual permit application**)? Yes No

- A delineation of one-half mile or longer of a regulated water
- A mosquito control activity subject to flood hazard general permit 2
- A linear project of one-half mile or longer
- A shore protection development, including beach nourishment, beach and dune maintenance, or dune creation of one-half mile or longer
- A public development on a site of 50 acres or more
- An industrial or commercial development on a site of 100 acres or more
- A project to remove sediment or debris from a channel of one-half mile or longer
- Maintenance dredging of a State navigation channel of one-half mile or longer
- A trail or boardwalk of one-half mile or longer subject to a freshwater wetlands general permit or transition area waiver

If you answered "No," to question 7:

Have both a notice letter, including a brief description of the proposed activity or project, and a legible copy of the site plans been sent to all owners of real property, including easements, located **within 200 feet of the property boundary of the site?** Yes No

If "Yes," did you attach **all** of the following to this form? Yes No

- A copy of the certified United States Postal Service white mailing receipt or other written receipt
- A copy of the notice letter
- A certified list of all owners of real property, including easements, within 200 feet of the property boundary, prepared by the municipality with a date of certification no earlier than one year prior to the date of the application

If you answered "Yes," to question 7, answer questions I. and II. below:

I. Have both a notice letter, including a brief description of the proposed activity or project, and a legible copy of the site plans been sent to all owners of property, including easements, **within 200 feet of any proposed above-ground structure?** Yes No

If "Yes," did you attach **all** of the following to this form? Yes No

- A copy of the certified United States Postal Service white mailing receipt or other written receipt
- A copy of the notice letter
- A certified list of all owners of real property, including easements, within 200 feet of the property boundary, prepared by the municipality with a date of certification no earlier than one year prior to the date of the application

II. For all applications, **except CAFRA individual permits**, has newspaper notice, consisting of a legal notice or display advertisement been published in the official newspaper of the municipality in which the site is located or a newspaper of general circulation in the municipality? Yes No

If "Yes," did you attach a copy of the published newspaper notice, the date of publication, and the name of the newspaper to this form? Yes No

8. Will the proposed activity or project disturb 5,000 square feet of land or more? Yes No

If "Yes," have both a notice letter, including a brief description of the proposed activity or project, and a legible copy of the site plans been sent to the local Soil Conservation District? Yes No

If "Yes," did you attach a copy of the certified United States Postal Service white mailing receipt or other written receipt **and** a copy of the notice letter to this form? Yes No

9. Is the proposed activity or project located within the Pinelands Area as designated under the Pinelands Protection Act at N.J.S.A. 13:18A-11(a)? Yes No

If "Yes," you are also required to complete [Section D](#) of this form.

10. Does the application include a freshwater wetlands individual permit application? Yes No

If "No," skip to Question 11.

If "Yes," does the proposed project involve more than 10 acres of fill? Yes No

If "Yes," has newspaper notice been published in a newspaper with regional circulation in the region in which the site is located? Yes No

If "Yes," did you attach a copy of the published newspaper notice, the date of publication, and the name of the newspaper to this form? Yes No

If "No," has newspaper notice consisting of a legal notice or display advertisement been published in the official newspaper of the municipality in which the site is located or a newspaper of general circulation in the municipality? Yes No

If "Yes," did you attach a copy of the published newspaper notice, the date of publication, and the name of the newspaper to this form? Yes No

11. Does the application include a flood hazard individual permit based on a hardship exception? Yes No
 If "Yes," do all notice letters and published newspaper notices attached to this form (under questions 3, 4, 7, and 8 above, as applicable) include a description of the nature of the hardship as well as the citation and subject matter of each requirement for which the hardship exception is being requested? Yes No

SECTION C. FRESHWATER WETLANDS GENERAL PERMIT 15 N/A

This section only applies to applications that include a freshwater wetlands general permit 15.

1. Is the applicant a Federal agency conducting activities on Federal land? Yes No
If "Yes," public notice is not required for this activity.

2. Has a display advertisement describing the proposed activities, at least four column inches in size, been published in a newspaper with local circulation (including the municipality) and in a newspaper with regional circulation (including the county)? Yes No
 If "Yes," did you attach a copy of the published newspaper notices, the dates of publication, and the names of the newspapers to this form? Yes No

SECTION D. PINELANDS N/A

This section only applies to applications where the proposed activity or project is located within the Pinelands Area as designated under the Pinelands Protection Act at N.J.S.A. 13:18A-11.a.

1. Does the application include a flood hazard general permit or individual permit? Yes No
 If "Yes," has a description of the project, including the lot and block, municipality, county, and specific permit(s)/authorization(s) being sought, been sent to the New Jersey Pinelands Commission? Yes No
 If "Yes," did you attach a copy of the certified United States Postal Service white mailing receipt or other written receipt and a copy of any letter provided with the project description to this form? Yes No

2. Does the application include a coastal general permit or individual permit? Yes No
 If "Yes," has a copy of the entire application been sent to the New Jersey Pinelands Commission? Yes No
Note: For electronic submissions, the application consists of a description of the project, which must include the lot and block, municipality, and county, the specific permit(s)/authorization(s) being sought, and all items that will be uploaded to the submission service, including all required items on the applicable application checklist(s).
 If "Yes," did you attach a copy of the certified United States Postal Service white mailing receipt or other written receipt and a copy of any letter provided with the application to this form? Yes No

3. Is the application solely for a freshwater wetlands general permit(s)? Yes No
If "Yes," do not submit the application to the Department. Submit the application to the New Jersey Pinelands Commission.

van note - harvey

associates, inc.

103 College Road East
Princeton, New Jersey 08540
609-987-2323 Fax: 609-987-0005
NJ Authorization #24GA28271300

www.vannoteharvey.com



Since 1894

CERTIFIED MAIL - RRR

November 20, 2020

Mr. W. Scott Jett, R.M.C., C.M.R.
City Clerk
City of North Wildwood
901 Atlantic Avenue
North Wildwood, NJ 08260

RE: NOTICE OF SUBMISSION

Coastal Area Facilities Review Act (CAFRA) Individual Permit (IP) and Freshwater Wetlands (FWW) General Permits 6 (GP6) and 6A (GP6A)

Project: Beach Front Bulkhead

Applicant: City of North Wildwood

**c/o Mr. Ronald Simone, City Administrator
901 Atlantic Avenue
North Wildwood, New Jersey 08260**

Property Owner: Same

Portions of Block 289.03, Lot 1; Block 290.01, Lot 1; Block 291.01, Lot 1, Block

315.02, Lot 1; Block 316.02, Lot 1; Block 317.02, Lots 1 and 2; and Block 317.03, Lot 1

City of North Wildwood, Cape May County, New Jersey

VNHA #44693-400-21

Dear Mr. Jett:

On behalf of the City of North Wildwood, Van Note-Harvey Associates (VNHA) is submitting a combined application for a CAFRA IP, and FWW GP6 and GP6A to the New Jersey Department of Environmental Protection (NJDEP) for the above referenced project. In accordance with N.J.A.C. 7:7 and N.J.A.C. 7:7A, we are required to file a complete copy of the application with your office.

Accordingly, please find enclosed one (1) copy of the combined application, prepared by VNHA, entitled: "Combined CAFRA Individual Permit, and Freshwater Wetlands General Permits 6 and 6A Application," containing the following:

1. One (1) copy each of the NJDEP application checklists;
2. A completed Property Owner Certification form (Note minimal work is proposed on the Sportland Investments parcel on Block 290.01, Lot 1. A portion of the project is subject to a notice of violation. The form has been provided to Sportland Investments for endorsement, however it has not been returned. Due to the urgency of submitting this application to address the notice of violation, the application form is being submitted with only the City of North Wildwood's signature. We will provide a copy of the fully executed form to NJDEP when received from Sportland Investment.);

Mr. W. Scott Jett, R.M.C., C.M.R., City Clerk

November 20, 2020

Page 2

3. Verification of Public Notice, which includes the following:
 - a. One (1) completed Public Notice Form;
 - b. One (1) copy of a General Notice Letter;
 - c. One (1) copy of a certified list of property owners, including easements, within 200 feet of any proposed above ground structure that is part of the proposed development;
 - d. As the newspaper notice is being published on November 20, 2020, proof of publication will be provided to NJDEP under separate cover;
 - e. One (1) copy of the certified mail receipts as proof that the following individuals and/or government officials have been notified of this submission: City of North Wildwood Clerk, City of North Wildwood Environmental Commission, City of North Wildwood Construction Official, City of North Wildwood Planning Board, Cape May County Planning Board, Cape Atlantic Soil Conservation District, and all property owners, including easements, within 200 feet within 200 feet of proposed above ground structures;
4. One (1) copy of the City of North Wildwood tax maps, sheets numbered 17, 23, 61, 62, and 63 showing the approximate project location;
5. One (1) copy of portions of the United States Geological Survey (USGS) 2019 Quad Maps of Wildwood and Stone Harbor, New Jersey, showing the approximate project site and State Plane Coordinates;
6. One (1) copy of a Site Location Street Map, showing the approximate project site;
7. One (1) copy of each of the FEMA Flood Insurance Rate Maps (Map Nos. 34009C0306F, Effective 34009C0243F, both with the Effective Date of October 5, 2017) showing the approximate project site;
8. One (1) copy of a set of photographs and associated photo key maps of the project site;
9. One (1) copy of a NJDEP Office of Natural Lands Management Natural Heritage Database submission and subsequent correspondence (once the report is received it will be submitted to you);
10. One (1) copy of construction drawings showing existing conditions at the time of bulkhead construction for the portion of the project seeking after-the-fact approval;
11. One (1) copy of a report entitled: "City of North Wildwood Beach Management Plan for the Protection of Federally and State-Listed Species," dated December 2018;
12. One (1) copy of each of the NJDEP Notice of Violation letters dated June 6, 2020 and September 17, 2020.
13. One (1) copy of a NJDEP Letter of Interpretation for a portion of the Site.

Mr. W. Scott Jett, R.M.C., C.M.R., City Clerk

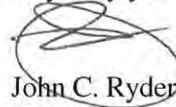
November 20, 2020

Page 3

14. One (1) copy of a combined Environmental Impact Statement and CAFRA/FWW Compliance Statement);
15. One (1) set of the plans prepared by VNHA, entitled:
 - “Plan of Proposed and Existing Beach Front Bulkhead,” dated November 17, 2020, Sheet Nos. 1 through 3
 - “N.J.A.C. 7:7 and N.J.A.C. 7:7A Permit Plan of Beach Front Bulkhead,” dated November 17, 2020, Sheet Nos. 4 and 5
16. One (1) copy of a Property Detail Report for each parcel showing property ownership; and
17. Qualifications of those who prepared this application.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Very truly yours,



John C. Ryder, P.E., P.W.S.
Vice President

EMC/tes

Y:\VN\HADATA\PROJECTS\44693\PERMITS\NJDEP\CAFRA_WF\SUBMISSION DRAFT\ATTACHMENT 3 - PUBLIC NOTICE\CLKLETTER.DOC

Enclosures

ec: JV / SLW / EMC

van note - harvey
associates, inc.

103 College Road East
Princeton, New Jersey 08540
609-987-2323 Fax: 609-987-0005
NJ Authorization #24GA28271300

www.vannoteharvey.com



Since 1894

VIA CERTIFIED MAIL - RRR

November 19, 2020

To: Cape May County Planning Board
Administration Building
4 Moore Road
Cape May Court House, NJ 08210

Environmental Commission
City of North Wildwood
901 Atlantic Avenue
North Wildwood, NJ 08620

Planning Board
City of North Wildwood
901 Atlantic Avenue
North Wildwood, NJ 08260

Construction Official
City of North Wildwood
901 Atlantic Avenue
North Wildwood, NJ 08260

Cape Atlantic SCD
6260 Old Harding Highway
Mays Landing, NJ 08330

All owners of real property, including easements,
within 200 feet of proposed above ground structures

RE: Notice of NJDEP Submission
Coastal Area Facilities Review Act (CAFRA) Individual Permit (IP) and Freshwater
Wetlands (FWW) General Permits 6 (GP6) and 6A (GP6A)
Project: Beach Front Bulkhead
Applicant: City of North Wildwood
c/o Mr. Ronald Simone, City Administrator
901 Atlantic Avenue
North Wildwood, New Jersey 08260
Property Owner: Same
Portions of Block 289.03, Lot 1; Block 290.01, Lot 1; Block 291.01, Lot 1, Block
315.02, Lot 1; Block 316.02, Lot 1; Block 317.02, Lot 1 and Lot 2; and Block 317.03,
Lot 1
City of North Wildwood, Cape May County, New Jersey
VNHA #44693-400-21

Dear Interested Party:

This letter is to provide you with legal notification that a combined application for a CAFRA IP and FWW GP6 and GP6A will be submitted to the New Jersey Department of Environmental Protection (NJDEP), Division of Land Resource Protection for the development shown on the enclosed plans.

The City of North Wildwood (the City) is proposing the construction of a new steel bulkhead adjacent to JFK Boulevard Beach Drive and the boardwalk generally between 13th and 25th Avenues. The City is also seeking approval for a previously constructed vinyl bulkhead adjacent to JFK Boulevard Beach Drive between 3rd and 5th Avenues, and a steel bulkhead generally between 5th and 13th Avenues. Note that during review of the application, NJDEP may determine the freshwater wetlands are of exceptional resource value classification. If that occurs, supplemental documentation and updated plans will be provided to NJDEP to convert the application to a FWW IP.

A complete application package can be reviewed at the municipal clerk's office in the municipality in which the site subject to the application is located or by appointment at the Department's Trenton Office.

Page 2
November 19, 2020

In addition, an electronic copy of the initial application can be provided via an OPRA request by contacting <https://www.nj.gov/dep/opra/opraform.html> from the Department's Trenton Office.

Either a 60-day public comment period or public hearing will be held on the application in the future. The Department of Environmental Protection welcomes comments and any information that you may provide concerning the proposed development and site. Written comments shall be sent to the Department at the below address within 45 calendar days of receiving this letter. Individuals may request a public hearing on the application within 45 calendar days of the date of receiving this letter. Requests for a public hearing shall be sent to the Department at the address below and shall state the specific nature of the issues to be raised at the hearing.

New Jersey Department of Environmental Protection
Division of Land Resource Protection
P.O. Box 420, Code 501-02A
501 East State Street
Trenton, New Jersey 08625
Attn: North Wildwood Supervisor

In accordance with the public notice requirements, please find enclosed one (1) copy of each of the following reduced plans prepared by VNHA, entitled: "N.J.A.C. 7:7 and N.J.A.C. 7:7A Permit Plan of Beach Front Bulkhead," dated November 17, 2020, Sheets Nos. 4 and 5.

Should you have any questions, please do not hesitate to contact this office.

Sincerely,



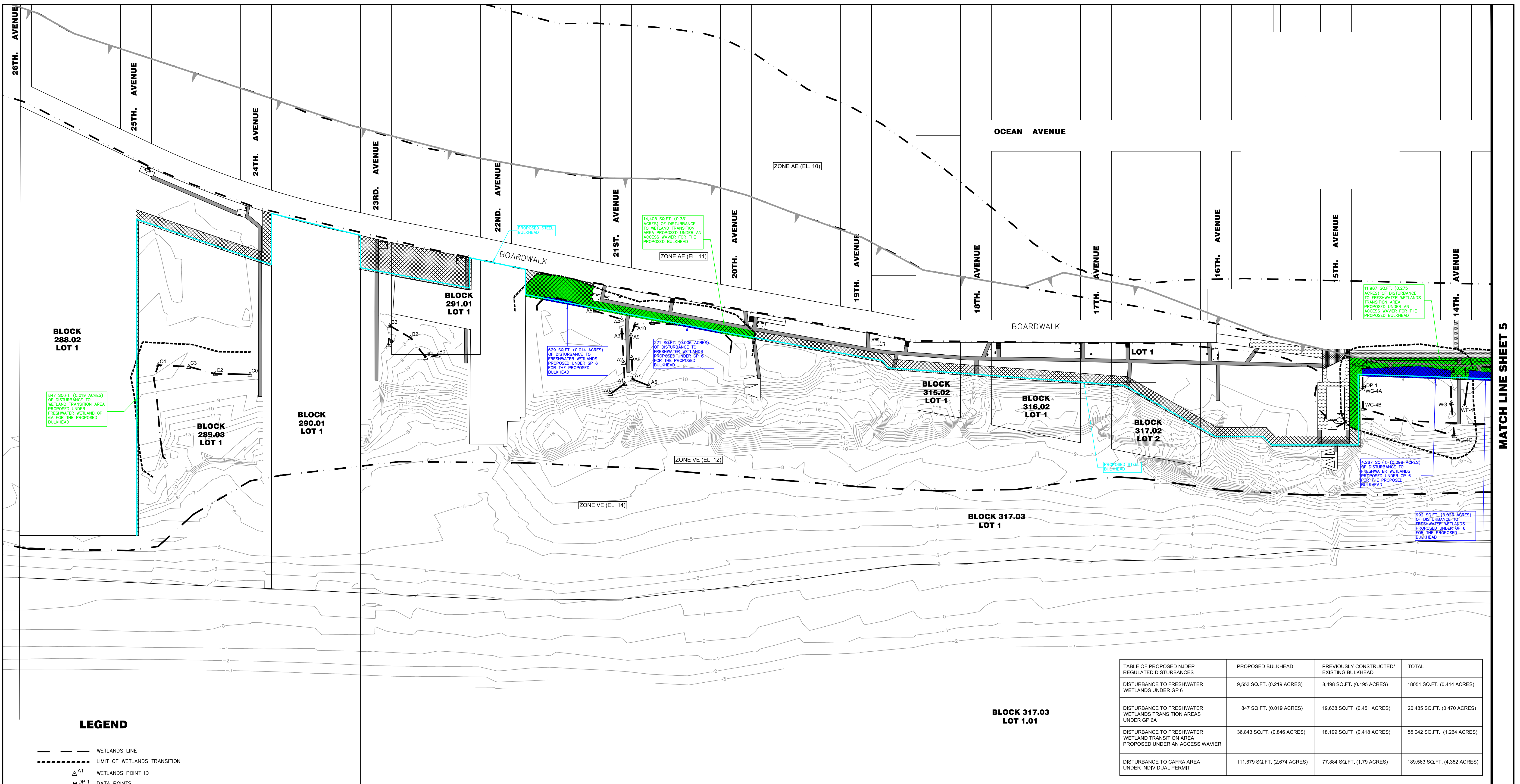
John C. Ryder, P.E., P.W.S.
Vice President

EMC/tes

Y:\VNHADATA\PROJECTS\44693\PERMITS\NJDEP\CAFRA_WF\DISUBMISSION DRAFT\ATTACHMENT 3 - PUBLIC NOTICE\GENERAL NOTICE LETTER.DOCX

Enclosures

ec w encl: JV / RPJr / SLW / EMC

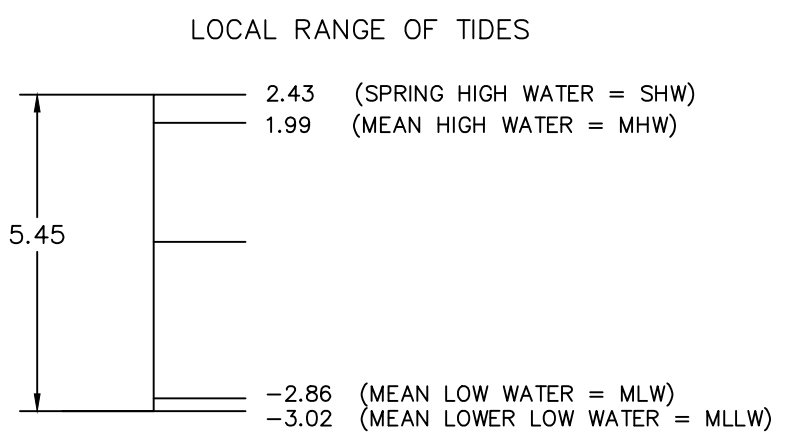


LEGEND

- WETLANDS LINE
- - - - - LIMIT OF WETLANDS TRANSITION
- ▲ A1 WETLANDS POINT ID
- DP-1 DATA POINTS
- ▨ LIMIT OF DISTURBANCE
- ▨ AREA OF IMPACTED WETLANDS TRANSITION
- ▨ AREA OF IMPACTED WETLANDS
- BULKHEAD (EXISTING AND PROPOSED)
SEE SHEETS 1 THRU 3
- ZONE VE (EL. 11) F.I.R.M. ZONE
- LIMWA LINE
- F.I.R.M. ZONE LIMIT LINE

NOTES:
 1 LOCATIONS AND ELEVATIONS SHOWN HEREON WERE TAKEN FROM GPS OBSERVATIONS PERFORMED 07/2020 & 08/25/2020 REFERENCING NATIONAL GEODETIC SURVEY CONTINUOUSLY OPERATING REFERENCE STATION (NOSORS) CORS ID NJCM PID D13828, VERTICAL DATUM IS NATIONAL GEODETIC VERTICAL DATUM OF 1988 (NAVD88) (GEOID12B)
 2 WETLANDS POINTS:
 POINTS:
 WG-1 THRU WG-4, WF-1 THRU WF-4, WE-1 THRU WE-4, WD-1 THRU WD-4
 WC-1 THRU WC-4, WB-1 THRU WB-4, AND WA-1 THRU WA-4
 WERE FILED DELINEATED AND LOCATED OCTOBER 2013 BY VANNOTE HARVEY ASSOCIATES.
 WETLAND BOUNDARY LINE "C" AND LINE "A" WERE ESTABLISHED USING TOPOGRAPHY PER NOTE NO. 1 (AND NEARMAP AERIAL IMAGERY DATED MARCH 2020)
 POINTS:
 WG-4A THRU WA-4-C, WA-1A, AND WA-1B
 WERE FIELD DELINEATED AND LOCATED AUGUST 2018 BY VAN NOTE HARVEY ASSOCIATES
 3 REFER TO FEMA FLOOD INSURANCE RATE MAP(S) (F.I.R.M.) NUMBER 34009C036F EFFECTIVE DATE, OCTOBER 5, 2017 AND MAP NUMBER 34009C0243F EFFECTIVE DATE OCTOBER 5, 2017 FOR F.I.R.M. LIMIT LINES, ZONES AND LIMIT OF MODERATED WAVE ACTION LINE (LIMWA).

4 TAX MAP INFORMATION
 BLOCK 317.03 LOTS 1, 1.01
 BLOCK 289.03 LOT 1
 BLOCK 290.01 LOT 1
 BLOCK 291.01 LOT 1
 BLOCK 315.02 LOT 1
 BLOCK 316.02 LOT 1
 BLOCK 317.02 LOT 1
 SHEETS 17, 23, 62 AND 63



TIDAL INFORMATION U.S. DEPT. OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (N.O.A.A.) NATIONAL OCEAN SERVICE TIDAL STATION ID#8536110 CAPE MAY NEW JERSEY, TIDAL EPOCH DATED JANUARY 1983 - DECEMBER 2001

TABLE OF PROPOSED NJDEP REGULATED DISTURBANCES	PROPOSED BULKHEAD	PREVIOUSLY CONSTRUCTED/ EXISTING BULKHEAD	TOTAL
DISTURBANCE TO FRESHWATER WETLANDS UNDER GP 6	9,553 SQ.FT. (0.219 ACRES)	8,498 SQ.FT. (0.195 ACRES)	18,051 SQ.FT. (0.414 ACRES)
DISTURBANCE TO FRESHWATER WETLANDS TRANSITION AREAS UNDER GP 6A	847 SQ.FT. (0.019 ACRES)	19,638 SQ.FT. (0.451 ACRES)	20,485 SQ.FT. (0.470 ACRES)
DISTURBANCE TO FRESHWATER WETLAND TRANSITION AREA PROPOSED UNDER AN ACCESS WAVIER	36,843 SQ.FT. (0.846 ACRES)	18,199 SQ.FT. (0.418 ACRES)	55,042 SQ.FT. (1.264 ACRES)
DISTURBANCE TO CAFRA AREA UNDER INDIVIDUAL PERMIT	111,679 SQ.FT. (2.674 ACRES)	77,884 SQ.FT. (1.79 ACRES)	189,563 SQ.FT. (4.332 ACRES)

van note-harvey associates, inc.
 consulting engineers, planners & land surveyors
 103 College Road East • Princeton, NJ 08540 • 609-987-2323
 211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-485-2600
 www.vannoteharvey.com Certificate of Authorization No. 246A29271300 Since 1954

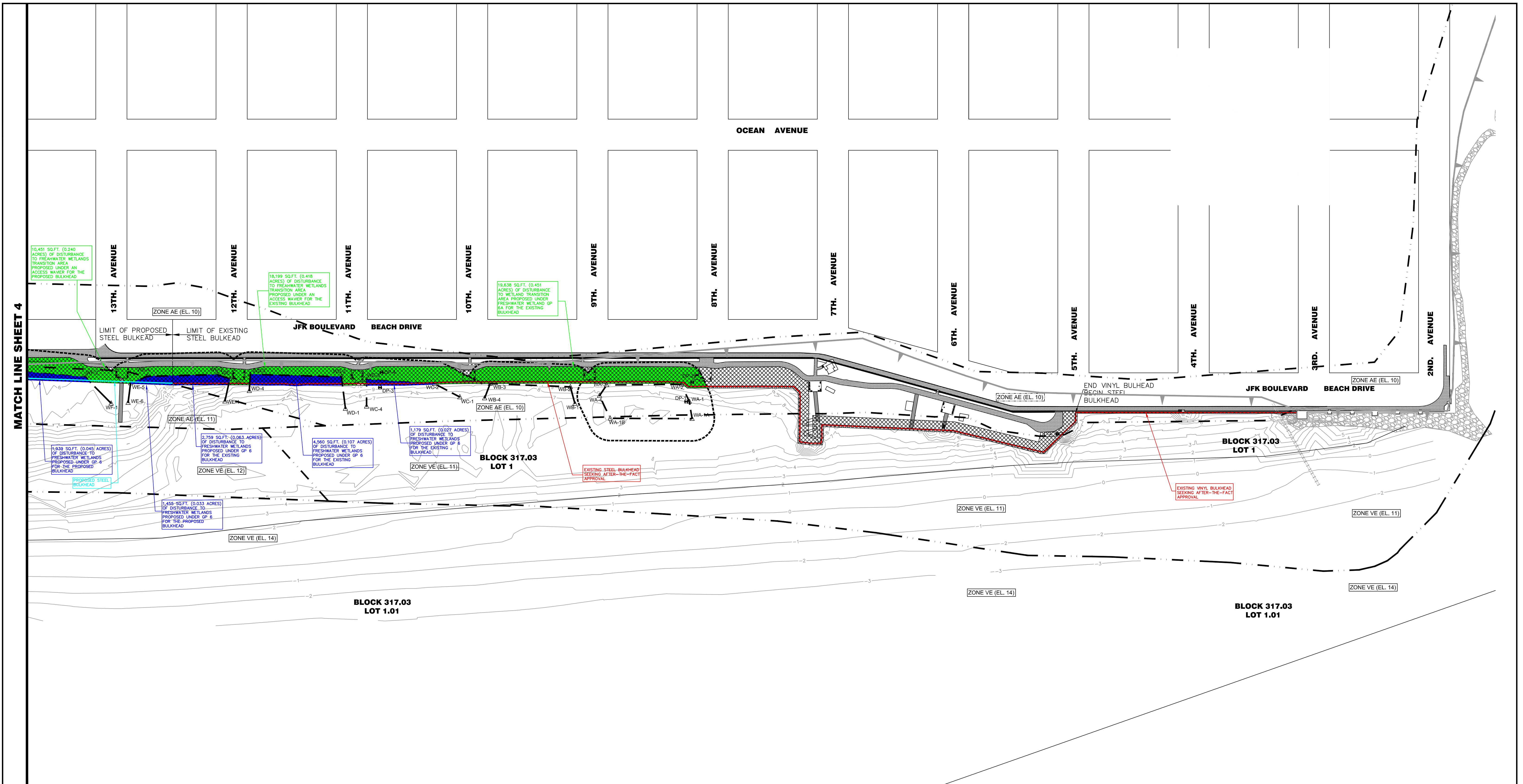
N.J.A.C. 7:7 AND N.J.A.C. 7:7A PERMIT PLAN OF
BEACH FRONT BULKHEAD
CITY OF NORTH WILDWOOD
 CAPE MAY COUNTY, N.J.

REV. DESCRIPTION DATE DFT. BY CKD. BY

Ralph Petrella Jr. 11/17/2020 DATE OF SIGN.

RALPH PETRELLA JR.
 N.J. PROFESSIONAL ENGINEER & LAND SURVEYOR LIC. NO. GB 23226

DRAWN BY DMH	FIELD BK	ORDER No. 44693-400-21	FILE No.	SHEET No. 4
CHECKED BY RP/JWW	PAGE			



MATCH LINE SHEET 4

LEGEND

- WETLANDS LINE
- - - - - LIMIT OF WETLANDS TRANSITION
- △ A1 WETLANDS POINT ID
- DP-1 DATA POINTS
- ▨ LIMIT OF DISTURBANCE
- ▨ AREA OF IMPACTED WETLANDS TRANSITION
- ▨ AREA OF IMPACTED WETLANDS
- ZONE VE (EL. 11) F.I.R.M. ZONE
- LIMWA LINE
- F.I.R.M. ZONE LIMIT LINE

NOTES:

1 LOCATIONS AND ELEVATIONS SHOWN HEREON WERE TAKEN FROM GPS OBSERVATIONS PERFORMED 07/2020 & 08/25/2020 REFERENCING NATIONAL GEODETIC SURVEY CONTINUOUSLY OPERATING REFERENCE STATION (NGSCORS) CORS ID NJCM PID D13828. VERTICAL DATUM IS NATIONAL GEODETIC VERTICAL DATUM OF 1988 (NAVD88) (GEOID12B)

2 WETLANDS POINTS:

POINTS:

WG-1 THRU WG-4, WF-1 THRU WF-4, WE-1 THRU WE-4, WD-1 THRU WD-4
 WC-1 THRU WC-4, WB-1 THRU WB-4, AND WA-1 THRU WA-4
 WERE FIELD DELINEATED AND LOCATED OCTOBER 2013 BY VANNOTE HARVEY ASSOCIATES.

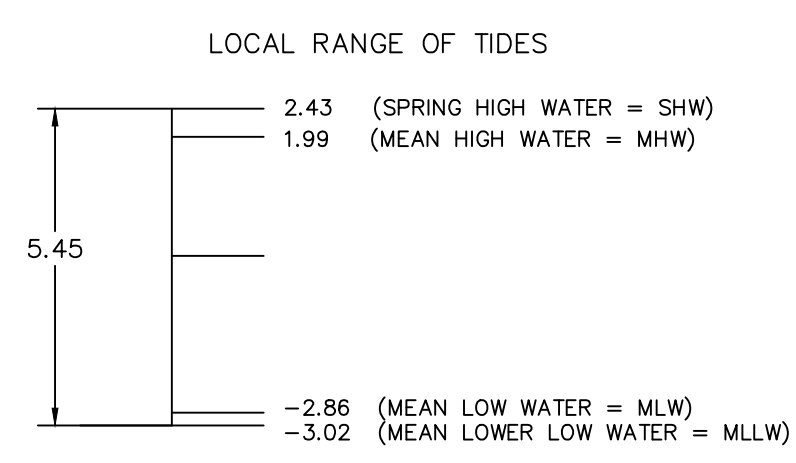
WETLAND BOUNDARY LINE "C" AND LINE "A" WERE ESTABLISHED USING TOPOGRAPHY PER NOTE NO. 1 (AND NEAR MAP AERIAL IMAGERY DATED MARCH 2020)

POINTS:

WG-4A THRU WA-4-C, WA-1A, AND WA-1B
 WERE FIELD DELINEATED AND LOCATED AUGUST 2018 BY VAN NOTE HARVEY ASSOCIATES

3 REFER TO FEMA FLOOD INSURANCE RATE MAP(S) (F.I.R.M.) NUMBER 34009C0306F EFFECTIVE DATE OCTOBER 5, 2017 AND MAP NUMBER 34009C0243F EFFECTIVE DATE OCTOBER 5, 2017 FOR F.I.R.M. LIMIT LINES, ZONES AND LIMIT OF MODERATED WAVE ACTION LINE (LIMWA).

4 TAX MAP INFORMATION
 BLOCK 317.03 LOTS 1, 1.01
 BLOCK 289.03 LOT 1
 BLOCK 290.01 LOT 1
 BLOCK 291.01 LOT 1
 BLOCK 315.02 LOT 1
 BLOCK 316.02 LOT 1
 BLOCK 317.02 LOT 1
 SHEETS 17, 23, 62 AND 63



TIDAL INFORMATION U.S. DEPT. OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (N.O.A.A.) NATIONAL OCEAN SERVICE TIDAL STATION ID#8536110 CAPE MAY NEW JERSEY. TIDAL EPOCH DATED JANUARY 1983 - DECEMBER 2001

van note-harvey associates, inc. consulting engineers, planners & land surveyors 103 College Road East • Princeton, NJ 08540 • 609-987-2323 211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-485-2600 www.vannoteharvey.com Certificate of Authorization No. 246A29271300 - Since 1954 -				
N.J.A.C. 7:7 AND N.J.A.C. 7:7A PERMIT PLAN OF BEACH FRONT BULKHEAD CITY OF NORTH WILDWOOD CAPE MAY COUNTY, N.J.				
REV.	DESCRIPTION	DATE	DFT. BY	CKD. BY
11/17/2020 DATE OF SIGN.				
RALPH PETRELLA JR. N.J. PROFESSIONAL ENGINEER & LAND SURVEYOR LIC. NO. GB 23226				
DRAWN BY DMH	FIELD BK	ORDER No. 44693-400-21	FILE No.	SHEET No. 5
CHECKED BY RP/JWW	PAGE			



CITY of NORTH WILDWOOD

901 Atlantic Avenue,
North Wildwood, NJ 08260
(609) 522-2030 / Fax (609) 846-9995

Jason W. Hesley, CTA
Tax Assessor

November 18, 2020

James Verna
Van Note Harvey
211 Bayberry Drive 2E
Cape May Court House, NJ 08210

Subject: 200 foot search

Beach & Bulkhead – North Wildwood

Mr. Verna:

Per your request, please find the list of properties within 200 ft. of the above-mentioned property.

This is a certified list as of November 20, 2020

Fee paid to City of North Wildwood for 200 Ft. Search List \$ N/A

Taxes Current: N/A

Any contact information that we have regarding condominium associations appearing on the list will be so noted.

Yours truly,

Jason W. Hesley, CTA
City Tax Assessor

BLOCK	LOT	QUALIFIER	OWNER NAME	MAILING ADDRESS	CITY, STATE	ZIP CODE	NOTES/CONDO NAME	PROPERTY LOCATION
290	5	C000A	SPORT WEST, INC C/O KANTZIOS	PO BOX 37	NORTH WILDWOOD, NJ	08260	2300 BOARDWALK CONDO	2300 BOARDWALK
290	5	C000B	SPORT WEST, INC C/O KANTZIOS	PO BOX 37	NORTH WILDWOOD, NJ	08260	2300 BOARDWALK CONDO	2300 BOARDWALK
290	5	C000C	SPORT WEST, INC C/O KANTZIOS	PO BOX 37	NORTH WILDWOOD, NJ	08260	2300 BOARDWALK CONDO	2300 BOARDWALK
290	5	C000D	KOUTSIMIRIS, ANTONIOS & ELENI	319 E 6TH AVE	NORTH WILDWOOD, NJ	08260	2300 BOARDWALK CONDO	2300 BOARDWALK
290	5	C000E	SPORT WEST INC C/O KANTZIOS	PO BOX 37	WILDWOOD, NJ	08260	2300 BOARDWALK CONDO	2300 BOARDWALK
290	5	C000F	SPORT WEST, INC C/O KANTZIOS	PO BOX 37	NORTH WILDWOOD, NJ	08260	2300 BOARDWALK CONDO	2300 BOARDWALK
290	55.02	C0451	CORRENTI, DOROTHY & MILLER, LANCE R	451 E 24TH AVE	NORTH WILDWOOD, NJ	08260	24TH & BW WEST CONDO	451 E 24TH AVE
290	55.02	C0453	JOHN, ROBERT M & MARYANN K TRUSTEES	224 FOX HOLLOW DR	LANGHORNE, PA	19053	24TH & BW WEST CONDO	453 E 24TH AVE
290	55.02	C0455	WUNSCH, ROBERT & DIANE	2464 GREENSWARD S	WARRINGTON, PA	18976	24TH & BW WEST CONDO	455 E 24TH AVE
290	55.01	C0461	INGERSOLL, THOMAS C & KELLIE A	461 E 24TH AVE	NORTH WILDWOOD, NJ	08260	24TH & BW EAST CONDO	461 E 24TH AVE
290	55.01	C0463	GRANICK, JOSEPH & ARLETTE A	2 STILES LN	FRANKLIN PARK, NJ	08823	24TH & BW EAST CONDO	463 E 24TH AVE
290	55.01	C0465	FOLEY, DENISE & KEVIN	465 E 24TH AVE	NORTH WILDWOOD, NJ	08260	24TH & BW EAST CONDO	465 E 24TH AVE
293	16	C0001	POHLMAN, EDWARD G	PO BOX 389	WILDWOOD, NJ	08260	2000 BOARDWALK CONDO	2002-04 BOARDWALK
293	16	C0003	VAN ARSDALE, JAMES R	108 ZION RD	EGG HARBOR TWSP, NJ	08234	2000 BOARDWALK CONDO	2010-12 BOARDWALK
293	16	C0004	D R F ENTERPRISES @ DOMINCS PIZZA	1768 S LINCOLN AVE	VINELAND, NJ	08360	2000 BOARDWALK CONDO	2014-16 BOARDWALK
293	16	C0005	C&M SALEEB REAL ESTATE, LLC	2022 BOARDWALK	NORTH WILDWOOD, NJ	08260	2000 BOARDWALK CONDO	2018-20 BOARDWALK
293	16	C0006	C & M SALEEB REAL ESTATE, LLC	2022 BOARDWALK	NORTH WILDWOOD, NJ	08260	2000 BOARDWALK CONDO	2022-24 BOARDWALK
293	16	C002A	PRY ENTERPRISES, LLC	258 S HAVILAND AVE	AUDUBON, NJ	08106	2000 BOARDWALK CONDO	2006 BOARDWALK
293	16	C002B	HIGGINSON, WILLIAM C & NOEL A	130 HESS RD	COLLEGEVILLE, PA	19426	2000 BOARDWALK CONDO	2008 BOARDWALK
294	14	C0100	BARBIERI, MICHAEL J	476 LYNBROOKE RD	SPRINGFIELD, PA	19064	506 E 19TH AVE CONDO	506 E 19TH AVE #100
294	14	C0101	DIRESO, ROBERT & LINDA	3699 MIDVALE AVE	PHILADELPHIA, PA	19129	506 E 19TH AVE CONDO	506 E 19TH AVE #101
294	14	C0200	CARROLL, ROBERT J	4910 TOWNSHIP LINE RD	DREXEL HILL, PA	19026	506 E 19TH AVE CONDO	506 E 19TH AVE #200
294	14	C0201	GONTZ, GERARD E	3818 PATRICIAN DR	PHILADELPHIA, PA	19154	506 E 19TH AVE CONDO	506 E 19TH AVE #201
294	14	C0300	506, LLC	630 W SPRUCE AVE	NORTH WILDWOOD, NJ	08260	506 E 19TH AVE CONDO	506 E 19TH AVE #300
315.01	6	C0101	ROMANY AND SONS, LLC	2 IRETON KEY	COLTS NECK, NJ	07722	THE VIEW ON 18TH	CON1806 BOARDWALK #101
315.01	6	C0102	ROMANY AND SONS, LLC	2 IRETON KEY	COLTS NECK, NJ	07722	THE VIEW ON 18TH	CON1806 BOARDWALK #102
315.01	6	C0103	ROMANY AND SONS, LLC	2 IRETON KEY	COLTS NECK, NJ	07722	THE VIEW ON 18TH	CON1806 BOARDWALK #103
315.01	6	C0104	ROMANY AND SONS, LLC	2 IRETON KEY	COLTS NECK, NJ	07722	THE VIEW ON 18TH	CON1806 BOARDWALK #104
315.01	6	C0201	FEINGOLD, JOEL M & BARBARA C	2150 ESTEN RD	QUAKERTOWN, PA	18951	THE VIEW ON 18TH	CON1806 BOARDWALK #201
315.01	6	C0202	SALVATORE, ANTHONY & SUE ANN	12 SOUTH MAPLE AVE #107	MARLTON, NJ	08053	THE VIEW ON 18TH	CON1806 BOARDWALK #202
315.01	6	C0203	D'ALONZO, ALBERT & PATRICIA	935 SAINT JAMES DR	LANGHORNE, PA	19047	THE VIEW ON 18TH	CON1806 BOARDWALK #203
315.01	6	C0204	JOHNSON, JEFFREY D & SARAH	5 TOWNE LN	VOORHEES, NJ	08043	THE VIEW ON 18TH	CON1806 BOARDWALK #204
422	5	C0001	FORJOHN, DONALD J & PAULA	1 SCOUT DR	MEDFORD, NJ	08055	516 E 4TH AVE CONDO	516 E 4TH AVE
422	5	C0002	BUZOGANY,ALEXANDER JR & DONNA C	1442 SOCIETY HILL DR	BENSALEM, PA	19020	516 E 4TH AVE CONDO	516 E 4TH AVE
422	5	C0003	O'CONNOR, GERARD & DENISE	3057 WINCHESTER AVE	PHILADELPHIA, PA	19136	516 E 4TH AVE CONDO	516 E 4TH AVE
422	6	C0001	OLWELL, EDWARD & NEVIN,ROBERTA D	400 KENNEDY DR	NORTH WILDWOOD, NJ	08260	400 KENNEDY DR CONDO	400 KENNEDY DR
422	6	C0002	RONNERMANN, DREW P	4008 TRILLIUM WAY	CHESTER SPRINGS, PA	19425	400 KENNEDY DR CONDO	400 KENNEDY DR
422	6	C0003	REIFSNYDER,JOSEPH R & BRADLEY,MARY	230 WINTHROP LN	WAYNE, PA	19087	400 KENNEDY DR CONDO	400 KENNEDY DR
422	7	C0001	MCMULLEN, JAMES J & CYNTHIA A	153 CEDAR RD	MULLICA HILL, NJ	08062	402 KENNEDY DR CONDO	402 KENNEDY DR
422	7	C0002	MANZI, JOSEPH W & FAYE C	200 FOXCATCHER LN	MEDIA, PA	19063	402 KENNEDY DR CONDO	402 KENNEDY DR
422	8	C0001	EMMI, MARY ANN	2902 CENTURY LN	CHADDS FORD, PA	19317	404 KENNEDY DR CONDO	404 KENNEDY DR
422	8	C0002	RICCI JR, ANTHONY D & HELEN M	110 MORNING GLORY WAY	HUNTINGDON VALLEY, PA	19006	404 KENNEDY DR CONDO	404 KENNEDY DR
422	8	C0003	ARCHIBALD, WILLIAM & KLYMKOWSKI M H	3401 N RANDOLPH ST	ARLINGTON, VA	22207	404 KENNEDY DR CONDO	404 KENNEDY DR
422	9	C0001	HOLLYWOOD, MICHAEL J & AMY M	118 B DOCK ST	BENSALEM, PA	19020	519 E 5TH AVE CONDO	519 E 5TH AVE
422	9	C0002	MC LAUGHLIN SONIA E, ETAL	169 HART AVE	DOYLESTOWN, PA	18901	519 E 5TH AVE CONDO	519 E 5TH AVE
422	9	C0003	STEFANELLI, ALEXANDER P & MARY A	532 DRAYTON RD	ORELAND, PA	19075	519 E 5TH AVE CONDO	519 E 5TH AVE

BLOCK	LOT	QUALIFIER	OWNER NAME	MAILING ADDRESS	CITY, STATE	ZIP CODE	NOTES/CONDO NAME	PROPERTY LOCATION
288.01	6		W & E ENTERPRISES INC @ WEINER	PO BOX 1649	WILDWOOD, NJ	08260		422 E 25TH AVE
288.01	7		W & E ENTERPRISE INC@ M WEINER	PO BOX 1649	WILDWOOD, NJ	08260		2500 BOARDWALK
288.01	8		W & E ENTERPRISES INC @M WEINER	PO BOX 1649	WILDWOOD, NJ	08260		435 E 26TH AVE
288.01	9		THE FOUR W'S, LLC	P O BOX 1649	WILDWOOD, NJ	08260		431 E 26TH AVE
288.02	1		THE MOREY ORG.	3501 BOARDWALK	WILDWOOD, NJ	08260		2501 BOARDWALK
289	7		2400 BOARDWALK, LLC ETAL	650 NEW RD, STE #B	LINWOOD, NJ	08221		2400-24 BOARDWALK
289	8		MANAGEMENT CONSORTIUM, LLC	P O BOX 1649	WILDWOOD, NJ	08260		431 E 25TH AVE
289.03	1		CITY OF NORTH WILDWOOD	901 ATLANTIC AVE	NORTH WILDWOOD, NJ	08260	BOARDWALK GAME	2401 BOARDWALK
290	56.02		MANNING, MICHAEL C & KELLY Q	1520 STATE HILL RD	CAMP HILL, PA	17011		452 E 23RD AVE
290	56.03		MANNING, MICHAEL C	1520 STATE HILL RD	CAMP HILL, PA	17011		454 E 23RD AVE
290.01	1		SPORTLAND INVESTMENTS	205 ANDY WARHOL WAY	MARLTON, NJ	08053		2301 BOARDWALK
291	10		THE FOUR W'S, LLC	PO BOX 1649	WILDWOOD, NJ	08260		428 E 22ND AVE
291	11		THE FOUR W'S, LLC	PO BOX 1649	WILDWOOD, NJ	08260		2200-10 BOARDWALK
291	12		RHR WILDWOOD 423, LLC	1600 MATSO DR	TOMS RIVER, NJ	08753	L9 QUALITY INN M	423 E 23RD AVE
291.01	1		CITY OF NORTH WILDWOOD	901 ATLANTIC AVE	NORTH WILDWOOD, NJ	08260	SEAPORT PIER	2201 BOARDWALK
292	8		2100 BOARDWALK HOLDING, LLC	2022 BOARDWALK	NORTH WILDWOOD, NJ	08260		2100 BOARDWALK
293	15		KNOLL, ROBT F & MARY P	105 E TOLEDO AVE	WILDWOOD CREST, NJ	08260		430 E 20TH AVE
294	15		OVPH, LLC	230 S BROAD ST #304	PHILADELPHIA, PA	19102		1900 BOARDWALK
317.03	1		CITY OF NORTH WILDWOOD	901 ATLANTIC AVE	NORTH WILDWOOD, NJ	08260		BEACH
411	3		MATADOR MOTEL INC	511 E 16TH AVE	NORTH WILDWOOD, NJ	08260	MATADOR MOTEL INC	511 E 16TH AVE
315.01	5		CW MOTEL, LLC	515 E 8TH AVE	NORTH WILDWOOD, NJ	08260	SAHARA MOTEL	510 E 18TH AVE
315.02	1		CITY OF NORTH WILDWOOD	901 ATLANTIC AVE	NORTH WILDWOOD, NJ	08260		1801 BOARDWALK
316.01	4		YOUSCHAK PROPERTIES, LLC	1710 BOARDWALK	NORTH WILDWOOD, NJ	08260	1,2,5 MONTEGO BA'	1700-1710 BOARDWALK
316.02	1		CITY OF NORTH WILDWOOD	901 ATLANTIC AVE	NORTH WILDWOOD, NJ	08260		1701 BEACH
317.01	8		1610 BOARDWALK, LLC	312 HELMS AVE	SWEDESBORO, NJ	08085		1610 BOARDWALK
317.02	1		CITY OF NORTH WILDWOOD	901 ATLANTIC AVE	NORTH WILDWOOD, NJ	08260		1600 BEACH
317.02	2		CITY OF NORTH WILDWOOD	901 ATLANTIC AVE	NORTH WILDWOOD, NJ	08260		1601 BOARDWALK
413	5		D'ANDREA, ROCCO J & HANNALORE TRUST	PO BOX 470	WILDWOOD, NJ	08260		508 E 13TH AVE
413	6		NORTH POINT DEVELOPERS, LLC	510 E 13TH AVE	NORTH WILDWOOD, NJ	08260	AMERICAN INN	510 E 13TH AVE
419	6		WISCH, MARGUERITE	515 E 8TH AVE	NORTH WILDWOOD, NJ	08260	ALANTE MOTEL	515 E 8TH AVE
423	5		WYOMING PROPERTIES, INC	300 KENNEDY DR	NORTH WILDWOOD, NJ	08260	ACROPOLIS MOTEL	300 KENNEDY DR
424	5		CATANZARO, JOAN	210 KENNEDY DR	NORTH WILDWOOD, NJ	08260	ALOHA MOTEL	210 KENNEDY DR

<u>BLOCK</u>	<u>LOT QUALIFIER</u>	<u>OWNER NAME</u>	<u>MAILING ADDRESS</u>	<u>CITY, STATE</u>	<u>ZIP CODE</u>	<u>NOTES/CONDO NAME</u>	<u>PROPERTY LOCATION</u>
289	4	SHERMAN, GLENN	23 MEADOW RUN RD	BORDENTOWN, NJ	08505	OCEAN HAVEN CONDO	434 E 24TH AVE
289	6	MCLAUGHLIN, SEAN P & DONNA M	326 BRANDWINE DR	MARLTON, NJ	08053	440 E 24TH AVE CONDO	440 E 24TH AVE
292	7	MYERS, NICOLE L	235 CEDARVIEW DR	PERKASIE, PA	18944	LAMPOST CONDO	442 E 21ST AVE
294	15	COLLEEN AHLUM	3314 PACIFIC AVE	WILDWOOD, NJ	08260	1900 BOARDWALK CONDO	1900 BOARDWALK
294	16	BARBIERI, EUGENE	49 STEPHEN DR	GLEN MILLS, PA	19342	BEACH COVE CONDO	425 E 20TH AVE
295	9	DILELLA, ARDIA A	666 W GERMANTOWN PK,#1803	PLYMOUTH MEETING, PA	19462	BUCCANEER CONDO	503 E 19TH AVE
316.01	2	DEFEO, ROBERT L & ELLEN	5460 DREXEL AVE	PENNSAUKEN, NJ	08109	TIDES OCEAN VW CONDO	504 E 17TH AVE
317.01	6	YONSON, JOSEPH & ELIZABETH	2454 N GREENSWARD RD	WARRINGTON, PA	18976	TIKI CONDO	514 E 16TH AVE
317.01	7	DIDONATO, ALBA	1600 BOARDWALK #301	NORTH WILDWOOD, NJ	08260	1600 BOARDWALK CONDO	1600 BOARDWALK
317.01	9	KILLE, EDWARD & SUSAN	38 BIRCH LN	PILES GROVE, NJ	08098	OUTRIGGER CONDO	513-15 E 17TH AVE
412	7	MICHAUD, ROBERT L & MARTHA K	14 CHATHAM RD	LITTLE EGG HARBOR, NJ	08087	SKYLINE CONDOS	506 E 14TH AVE
412	8	HILL, JEFFREY H	189 JONESTOWN RD	OXFORD, NJ	07863	LE BOOT CONDOS	510 E 14TH AVE
412	9	SMITH, THERESA C	120 BROOKSIDE DR	HOLLAND, PA	18966	SEA EDGE CONDO	505 E 15TH AVE
413	7	BRADY, KEVIN	513 E 14TH AVE	NORTH WILDWOOD, NJ	08260	14TH & BEACH CONDO	505 E 14TH AVE
414	6	RANSLEY, AMELIA	290 YARDLEY AVE	FALLSINGTON, PA	19054	TRYLON CONDOS	1200 KENNEDY DR
415	7	SUSAN WOJDULA	958 SPRING CITY RD	PHOENIXVILLE, PA	19460	MAUNALOA BEACH CLUB	1100 KENNEDY DR
416	4	SHORE RESORT PROPERTY MGMT	5406 NEW JERSEY AVE	WILDWOOD CREST, NJ	08260	ROMAN HOLIDAY CONDO	1000 KENNEDY DR
416	5	GALLAGHER, JOYCE	43 ARABIAN WAY	HOLLAND, PA	18966	EAST ISLAND BEACH	515 E 11TH AVE
417	8	D'AMICO, LINDA	15 S HILLTOP AVE	SOMERDALE, NJ	08083	OLYMPIC GARDENS	900 KENNEDY DR
418	6	CUDDY, LORRAINE	19 CEPP RD	PERKIOMENVILLE, PA	18074	LE SABRE CONDOS	510 E 8TH AVE
419	5	DE LUCA, JOYCE	107 N OAKHILL RD	PITTSBURGH, PA	15238	KENNEDY DRIVE CONDOS	514 E 7TH AVE
420	6	SHORE RESORT PROPERTY MGMT	5406 NEW JERSEY AVE	WILDWOOD CREST, NJ	08260	SEACREST TOWERS	600 KENNEDY DR
420	7	DAVIS, EUGENE M & LAURA	215 DRAKE LN	NORTH WALES, PA	19454	CORAL REEF CONDO	513 E 7TH AVE
421	1	BILL PFAFF	500 KENNEDY DR	NORTH WILDWOOD, NJ	08260	REGENCY TOWER CONDOS	500 KENNEDY DR
424	4	BENEVENGA, GINO & ELMA	16 TARA LN	MONTVILLE, NJ	07045	HORIZON CONDOS	514 E 2ND AVE

PUBLIC NOTICE

Take Notice that a combined application will be submitted to the New Jersey Department of Environmental Protection (NJDEP), Division of Land Resource Protection for a CAFRA Individual Permit (IP), and Freshwater Wetlands (FWW) General Permits 6 (GP6) and 6A (GP6A) for the development described below. Note that during review of the application, NJDEP may determine the freshwater wetlands are of exceptional resource value classification. If that occurs, supplemental documentation and updated plans will be provided to NJDEP to convert the application to a FWW IP.

APPLICANT: City of North Wildwood

901 Atlantic Avenue, North Wildwood, NJ 08260

PROJECT NAME: Beach Front Bulkhead

PROJECT DESCRIPTION: The City of North Wildwood (the City) is proposing the construction of a new steel bulkhead adjacent to JFK Boulevard Beach Drive and the boardwalk generally between 13th and 25th Avenues. The City is also seeking approval for a previously constructed vinyl bulkhead adjacent to JFK Boulevard Beach Drive between 3rd and 5th Avenues, and a steel bulkhead generally between 5th and 13th Avenues.

PROJECT STREET ADDRESS: JFK Boulevard Beach Drive between 3rd and 26th Avenues.

BLOCK, LOT: Portions of Block 289.03, Lot 1; Block 290.01, Lot 1; Block 291.01, Lot 1, Block 315.02, Lot 1; Block 316.02, Lot 1; Block 317.02, Lot 1 and Lot 2; and Block 317.03, Lot 1

MUNICIPALITY: City of North Wildwood

COUNTY: Cape May County

The complete permit application package can be reviewed at the municipal clerk's office in the municipality in which the site subject to the application is located or by appointment at the Department's Trenton Office. In addition, an electronic copy of the initial application can be provided via an OPRA request by contacting <https://www.nj.gov/dep/opra/opraform.html> from the Department's Trenton Office. Either a 60-day public comment period or public hearing will be held on the application in the future. The Department of Environmental Protection welcomes comments and any information that you may provide concerning the proposed development and site. Written comments shall be sent to the Department at the below address within 45 calendar days of receiving this notice. Individuals may request a public hearing on the application within 45 calendar days of the date of receiving this notice. Requests for a public hearing shall be sent to the Department at the address below and shall state the specific nature of the issues to be raised at the hearing.

New Jersey Department of Environmental Protection
 Division of Land Resource Protection
 P.O. Box 420, Code 501-02A
 501 East State Street
 Trenton, New Jersey 08625
 Attn: North Wildwood Supervisor

Printer Fee: \$49.14

Pub Date: November 20, 2020

Order #: 0000156079

U.S. Postal Service
Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9402 7118 9956 4143 8159 31

RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4143 8159 78

FEES

Postage per piece	\$8.440
Certified Fee	\$3.550
Return Receipt Fee	\$2.850
Total Postage & Fees:	\$14.840

ARTICLE ADDRESS TO:

Mr. W. Scott Jett, R.M.C., C.M.R.
City of North Wildwood
Municipal Clerk
901 Atlantic Avenue
North Wildwood NJ 08260-5778

Postmark
Here



U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 1730 44
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 ROBERT L & ELLEN DEFEO
 5460 DREXEL AVE
 PENNSAUKEN NJ 08109-1012

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6786 55
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 ROBERT M JOHN & MARYANN K TRUSTEES
 224 FOX HOLLOW DR
 LANGHORNE PA 19053-2477

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6732 23
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 ROBERT & DIANE WUNSCH
 2464 GREENSWARD S
 WARRINGTON PA 18976-2060

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6470 03
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 MS. AMELIA RANSLEY
 290 YARLEY AVE
 FALLSINGTON PA 19054-1121

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6798 74
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 PRY ENTERPRISES, LLC
 258 S HAVILAND AVE
 AUDUBON NJ 08106-1126

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6470 57
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 WYOMING PROPERTIES, INC
 300 John F KENNEDY Blvd
 NORTH WILDWOOD NJ 08260-5946

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6469 75
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 MS. MARY ANN EMMI
 2902 CENTURY LN
 CHADDS FORD PA 19317-8973

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6998 89
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 SPORTLAND INVESTMENTS
 205 ANDY WARHOL WAY
 MARLTON NJ 08053-7236

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6424 89
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 SEAN P & DONNA M MCLAUGHLIN
 326 Brandwine DR
 MARLTON NJ 08053-1041

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6734 76
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 JOSEPH & ELIZABETH YONSON
 2454 GREENSWARD N
 WARRINGTON PA 18976-2064

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6458 79
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 MS. COLLEEN AHLVM
 3314 PACIFIC AVE
 WILDWOOD NJ 08260-4824

Postmark Here

U.S. Postal Service
OUTBOUND TRACKING NUMBER
 9414 7118 9956 4142 6745 58
POSTAGE PER PIECE \$1,200
CERTIFIED FEE \$3,550
RETURN RECEIPT FEE \$2,850
TOTAL POSTAGE & FEES: \$7,600

ARTICLE ADDRESS TO:
 MS. NICOLE L MYERS
 235 CEDARVIEW DR
 PERKASIE PA 18944-2359

Postmark Here

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

U.S. Postal Service
 Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6232 59
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6232 60

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
MC LAUGHLIN SONIA E, ETAL
169 HART AVE
DOYLESTOWN PA 18901-5723



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6917 22
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6917 02

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
YOUSCHAK PROPERTIES, LLC
1710 BOARDWALK
NORTH WILDWOOD NJ 08260



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6968 71
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6967 14

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
D R F ENTERPRISES @ DOMINCS PIZZA
1768 S LINCOLN AVE
VINELAND NJ 08361-6643



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6987 78
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6989 18

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
MS. LORRAINE CUDDY
19 CEPP RD
PERKIOMENVILLE PA 18074-9742



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6908 85
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6909 34

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
ROMANY AND SONS, LLC
2 IRETON KEY
COLTS NECK NJ 07722-1778



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6987 53
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6989 64

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
MR. JEFFREY H HILL
189 JONESTOWN RD
OXFORD NJ 07863-3122



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6926 75
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6927 12

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
JOSEPH & ARLETTE A GRANICK
2 STILES LN
FRANKLIN PARK NJ 08823-1749



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6950 65
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6950 21

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
JOSEPH W & FAYE C MANZI
200 FOXCATCHER LN
MEDIA PA 19063-1106



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6937 57
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6937 68

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
C & M SALEEB REAL ESTATE, LLC
2022 BOARDWALK
NORTH WILDWOOD NJ 08260



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6717 55
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6717 66

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
MS. JOAN CATANZARO
210 John F KENNEDY BVD
NORTH WILDWOOD NJ 08260-5958



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6779 79
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6779 14

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
JOEL M & BARBARA C FEINGOLD
2150 ESTEN RD
QUAKERTOWN PA 18951-2245



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6942 80
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6942 39

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
2100 BOARDWALK HOLDING, LLC
2022 BOARDWALK
NORTH WILDWOOD NJ 08260



U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6525 77
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6542 19

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
WILLIAM C & NOEL A HIGGINSON
130 HESS RD
COLLEGEVILLE PA 19426-2820



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6697 76
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6696 11

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

DONALD J & PAULA FORJOHN
1 SCOUT DR
MEDFORD NJ 08055-8142



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6522 35
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6522 77

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

ANTHONY & SUE ANN SALVATORE
12 SOUTH MAPLE AVE Apt 107
MARLTON NJ 08053-2211



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6520 73
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6524 11

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MS. JOYCE DE LUCA
107 N Oak Hill RD
PITTSBURGH PA 15238-3019



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6527 18
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6527 50

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

ANTHONY D & HELEN M RICCI
110 MORNING GLORY WAY
HUNTINGDON VALLEY PA 19006-5457



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6248 43
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6248 85

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

RHR WILDWOOD 423, LLC
1600 MATSO DR
TOMS RIVER NJ 08753-4686



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6532 12
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6552 54

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MS. THERESA C SMITH
120 BROOKSIDE DR
HOLLAND PA 18966-2256



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6502 31
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6502 73

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MICHAEL J & AMY M HOLLYWOOD
118b DOCK ST
BENSALEM PA 19020-8756



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6649 17
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6649 99

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

ROBT F & MARY P KNOLL
105 E TOLEDO AVE
WILDWOOD CREST NJ 08260-3662



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6578 81
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6578 30

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MR. JAMES R VAN ARSDALE
108 ZION RD
EGG HARBOR Twp NJ 08234-7000



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6207 46
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6207 88

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

JAMES J & CYNTHIA A MCMULLEN
153 CEDAR RD
MULLICA HILL NJ 08062-2501



OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6258 57
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6258 88

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MS. ALBA DIDONATO
1600 BOARDWALK Apt 301
NORTH WILDWOOD NJ 08260-5467



U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1229 12
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1229 54

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MR. GERARD E GONTZ
3818 PATRICIAN DR
PHILADELPHIA PA 19154-3412



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1225 85
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1225 34

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

EDWARD & SUSAN KILLE
38 BIRCH LN
PILES GROVE NJ 08098-2418



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1278 94
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1278 43

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

WILLIAM & KLYMKOWSKI ARCHIBALD
3401 N RANDOLPH ST
ARLINGTON VA 22207-4439



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1161 71
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1163 11

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

2400 BOARDWALK, LLC ETAL
650 NEW RD, STE #B
LINWOOD NJ 08221-1252



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6354 67
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6354 23

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

ROCCO J DANDREA & HANNALORE TRUST
PO BOX 470
WILDWOOD NJ 08260-0470



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6789 27
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6789 07

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

EUGENE M & LAURA DAVIS
215 DRAKE LN
NORTH WALES PA 19454-1650



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 6433 56
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 6433 67

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

NORTH POINT DEVELOPERS, LLC
510 E 13TH AVE
NORTH WILDWOOD NJ 08260-5628



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1253 71
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1250 16

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

EDWARD OLWEL & ROBERTA D NEVIN
400 John F KENNEDY Blvd
NORTH WILDWOOD NJ 08260-5109



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1900 27
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1900 07

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MR. ROBERT J CARROLL
4910 TOWNSHIP LINE RD
DREXEL HILL PA 19026-4235



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1924 35
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1924 77

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MR. BILL PFAFF
REGENCY TOWERS
500 John F KENNEDY Blvd
NORTH WILDWOOD NJ 08260-5894



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1965 24
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1965 04

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

DENISE & KEVIN FOLEY
465 E 24TH AVE
NORTH WILDWOOD NJ 08260-5207



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER
9414 7118 9956 4142 1920 14
RETURN RECEIPT TRACKING NUMBER
9490 9118 9956 4142 1920 56

FEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

JEFFREY D & SARAH JOHNSON
5 TOWNE LN
VOORHEES NJ 08043-4813



OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1188 47
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1188 89

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 ALBERT & PATRICIA DALONZO
 935 SAINT JAMES DR
 LANGHORNE PA 19047-1624


Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6721 02
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6721 99

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 JOSEPH R REIFSNYDER & MARY BRADLEY
 230 WINTHROP LN
 WAYNE PA 19087-2152

Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1174 51
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1174 89

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 CITY OF NORTH WILDWOOD
 901 ATLANTIC AVE
 NORTH WILDWOOD NJ 08260-5778


Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6721 98
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6721 45

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 OVPH, LLC
 230 S BROAD ST Ste 304
 PHILADELPHIA PA 19102-4109

Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1174 51
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1174 62

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 MS. ARDIAA DILELLA
 666 W GERMAN TOWN Pike Apt 1803
 PLYMOUTH MEETING PA 19462-1017

Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6709 49
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6709 81

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 MR. GLENN SHERMAN
 23 MEADOW RUN RD
 BORDENTOWN NJ 08505-4728

Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6223 05
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6223 92

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 506, LLC
 630 W SPRUCE AVE
 NORTH WILDWOOD NJ 08260-3032


Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1936 08
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1936 95

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 MATADOR MOTEL INC
 511 E 16TH AVE
 NORTH WILDWOOD NJ 08260-5516

Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1203 83
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1203 32

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 ROBERT & LINDA DIRESO
 3699 MIDVALE AVE
 PHILADELPHIA PA 19129-1712


Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6494 40
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6494 82

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 MR. KEVIN BRADY
 513 E 14TH AVE
 NORTH WILDWOOD NJ 08260-6127

Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1289 07
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1289 94

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 THE MOREY ORG
 3501 BOARDWALK
 WILDWOOD NJ 08260-5427

Postmark Here


U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6449 40
 RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6449 82

FEES
 Postage per piece \$1,200
 Certified Fee \$3,550
 Return Receipt Fee \$2,850
 Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:
 MR. EUGENE BARBIERI
 49 STEPHEN DR
 GLEN MILLS PA 19342-8814

Postmark Here


U.S. Postal Service Certified Mail Receipt

U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6400 65
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6400 21
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

ANTONION & ELENI KOUTSMIRIS
319 E 6TH AVE
NORTH WILDWOOD NJ 08260-5825



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1755 12
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1755 54
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

CW MOTEL, LLC
515 E 8TH AVE
NORTH WILDWOOD NJ 08260-5709



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1757 58
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1757 69
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

ALEXANDER P & MARY A STEFANELLI
532 DRAYTON RD
ORELAND PA 19075-2024



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1974 91
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1974 40
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MR. MICHAEL J BARBIERI
476 LYNBROOKE RD
SPRINGFIELD PA 19064-3535



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1241 45
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1241 87
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MR. DREW P RONNERMANN
4008 TRILLIUM WAY
CHESTER SPRINGS PA 19425-3887



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1109 26
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1109 06
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MS. SUSAN WOULDLA
958 SPRING CITY RD
PHOENIXVILLE PA 19460-1881



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1234 45
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1234 87
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MS. JOYCE GALLAGHER
43 ARABIAN WAY
HOLLAND PA 18966-5303



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1142 69
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1142 25
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

SPORT WEST, INC
PO BOX 37
NORTH WILDWOOD NJ 08260-0037



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1232 78
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1238 14
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

DOROTHY CORRENTI & LANCE R MILLER
451 E 24TH AVE
NORTH WILDWOOD NJ 08260-5207



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1153 72
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1151 08
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

MANAGEMENT CONSORTIUM, LLC
PO BOX 1649
WILDWOOD NJ 08260-7649



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1298 98
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1298 47
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

THOMAS C & KELLIE A INGERSOLL
461 E 24TH AVE
NORTH WILDWOOD NJ 08260-5207



U.S. Postal Service Certified Mail Receipt

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1153 72
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1151 07
FEEES
Postage per piece \$1,200
Certified Fee \$3,550
Return Receipt Fee \$2,850
Total Postage & Fees: \$7,600

ARTICLE ADDRESS TO:

THE FOUR W/S, LLC
PO BOX 1649
WILDWOOD NJ 08260-7649



**U.S. Postal Service
Certified Mail Receipt**

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1143 75
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1140 10

ARTICLE ADDRESS TO:
W & ENTERPRISES INC @M WEINER
PO BOX 1649
WILDWOOD NJ 08260-7649

Postmark Here
PLAINSBORO POST OFFICE PLAIN NJ 08536 USPS
NOV 20 2020

FEES
OUTBOUND TRACKING NUMBER \$1,200
RETURN RECEIPT TRACKING NUMBER \$3,550
Certified Fee \$2,850
Return Receipt Fee
Postage per piece \$7,600
Total Postage & Fees:

**U.S. Postal Service
Certified Mail Receipt**

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6472 82
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6472 28

ARTICLE ADDRESS TO:
GERARD & DENISE O'CONNOR
3057 WINCHESTER AVE
PHILADELPHIA PA 19136-1805

Postmark Here
PLAINSBORO POST OFFICE PLAIN NJ 08536 USPS
NOV 20 2020

FEES
OUTBOUND TRACKING NUMBER \$1,200
RETURN RECEIPT TRACKING NUMBER \$3,550
Certified Fee \$2,850
Return Receipt Fee
Postage per piece \$7,600
Total Postage & Fees:

**U.S. Postal Service
Certified Mail Receipt**

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1142 69
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1142 25

ARTICLE ADDRESS TO:
SPORT WEST, INC
PO BOX 37
NORTH WILDWOOD NJ 08260-0037

Postmark Here
PLAINSBORO POST OFFICE PLAIN NJ 08536 USPS
NOV 20 2020

FEES
OUTBOUND TRACKING NUMBER \$1,200
RETURN RECEIPT TRACKING NUMBER \$3,550
Certified Fee \$2,850
Return Receipt Fee
Postage per piece \$7,600
Total Postage & Fees:

**U.S. Postal Service
Certified Mail Receipt**

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 6489 86
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 6489 35

ARTICLE ADDRESS TO:
1610 BOARDWALK, LLC
312 HELMS AVE
SWEDESBORO NJ 08085-1018

Postmark Here
PLAINSBORO POST OFFICE PLAIN NJ 08536 USPS
NOV 20 2020

FEES
OUTBOUND TRACKING NUMBER \$1,200
RETURN RECEIPT TRACKING NUMBER \$3,550
Certified Fee \$2,850
Return Receipt Fee
Postage per piece \$7,600
Total Postage & Fees:

**U.S. Postal Service
Certified Mail Receipt**

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1318 91
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1318 40

ARTICLE ADDRESS TO:
MR. EDWARD G POHLMAN
PO BOX 389
WILDWOOD NJ 08260-0389

Postmark Here
PLAINSBORO POST OFFICE PLAIN NJ 08536 USPS
NOV 20 2020

FEES
OUTBOUND TRACKING NUMBER \$1,200
RETURN RECEIPT TRACKING NUMBER \$3,550
Certified Fee \$2,850
Return Receipt Fee
Postage per piece \$7,600
Total Postage & Fees:

**U.S. Postal Service
Certified Mail Receipt**

OUTBOUND TRACKING NUMBER 9414 7118 9956 4142 1723 82
RETURN RECEIPT TRACKING NUMBER 9490 9118 9956 4142 1723 31

ARTICLE ADDRESS TO:
MS. MARGUERITE WISCH
515 E 8TH AVE
NORTH WILDWOOD NJ 08260-5709

Postmark Here
PLAINSBORO POST OFFICE PLAIN NJ 08536 USPS
NOV 20 2020

FEES
OUTBOUND TRACKING NUMBER \$1,200
RETURN RECEIPT TRACKING NUMBER \$3,550
Certified Fee \$2,850
Return Receipt Fee
Postage per piece \$7,600
Total Postage & Fees:

KELLER EXHIBIT B

From: [Cluelow, Patricia](#)
To: [Ryder, John](#)
Bcc: [Cobb, Jessica](#); [Dow, Diane](#); [Torok, Larry](#)
Subject: DLUR File #0507-20-0006.1 - North Wildwood City Bulkhead
Date: Thursday, December 3, 2020 3:41:00 PM

Mr. Ryder:

The Department is in receipt of the above referenced combination application which was assigned file #0507-20-0006.1 LUP200001 and includes a CAFRA individual permit, a Freshwater Wetlands general permit #6 and #6A. Upon review of the application materials it has been determined that additional information is required before the combination application can be declared “administratively complete”.

The property owner’s certification lists “Sportland Investments” as the owner of Block 290.01, Lot 1 which is a parcel included in the project. A signature from an authorized representative for “Sportland Investments” was not provided on the property owner’s certification. Prior to this combination application being declared “administratively complete”, you must submit a revised property owner’s certification that bears the signature of an authorized representative of “Sportland Investments”. In lieu of such signature, you may provide documentation that Block 290.01, Lot 1 is now owned by that City of North Wildwood.

In addition, please submit the CAFRA newspaper notice that is required as part of the application.

Upon submittal of the revised property owner’s certification and the newspaper notice, the Division will declare the above applications “administratively complete” and assign the applications to the appropriate project manager for technical review. Please submit the required information within 30 days of this e-mail in order for these applications to be declared “administratively complete”. Please submit the additional information by e-mail and include a copy of this e-mail so that the information may be properly directed.

Best Regards,
Patti Cluelow

Supervisor, ASU

NJDEP – DLUR

P.O. Box 420, Code 501-02A

Trenton, NJ 08625-0420

KELLER EXHIBIT C

Kathi Cooley

Subject: FW: City of North Wildwood: Emergency Storm Damage Notice and Mitigation Efforts
Attachments: 2022-10-05 Lt Lomax to Keller Stewart re Emerg Auth Req Subm.pdf
Importance: High

From: Peter Lomax <plomax@lomaxconsulting.com>
Sent: Wednesday, October 5, 2022 10:26 PM
To: Keller, Colleen [DEP] <Colleen.Keller@dep.nj.gov>; Stewart, Janet [DEP] <Janet.Stewart@dep.nj.gov>
Cc: Moriarty, Jennifer [DEP] <Jennifer.Moriarty@dep.nj.gov>; Cahall, Kimberly [DEP] <Kimberly.Cahall@dep.nj.gov>; Mazzei, Becky [DEP] <Becky.Mazzei@dep.nj.gov>; Cobb, Jessica [DEP] <Jessica.Cobb@dep.nj.gov>; Kropilak, Michele [DEP] <Michele.Kropilak@dep.nj.gov>; Lutz, Michael [DEP] <Michael.Lutz@dep.nj.gov>; Patrick Rosenello <prosenello@northwildwood.com>; nlong@northwildwood.com; jverna@vannoteharvey.com; Yoskin, Neil <nyoskin@cullenllp.com>
Subject: [EXTERNAL] RE: City of North Wildwood: Emergency Storm Damage Notice and Mitigation Efforts
Importance: High

Colleen/Janet,

Attached for your reference and review, please find the Emergency Authorization request submission package on behalf of the City of North Wildwood, which includes the information specified in *N.J.A.C. 7: 7-27.2* and specifically addresses the considerations you highlighted in your email yesterday (below). Thank you, in advance, for your assistance and consideration in this regard.

Sincerely,
Peter

Peter L. Lomax
President



The Lomax Consulting Group
P.O. Box 9 (mail)
1435 Route 9 North (delivery)
Cape May Court House, NJ 08210
609-465-6700 (o)
609-465-2449 (f)
plomax@lomaxconsulting.com
www.lomaxconsulting.com

From: Keller, Colleen [DEP] <Colleen.Keller@dep.nj.gov>
Sent: Tuesday, October 4, 2022 3:16 PM
To: Peter Lomax <plomax@lomaxconsulting.com>

Cc: Moriarty, Jennifer [DEP] <Jennifer.Moriarty@dep.nj.gov>; Cahall, Kimberly [DEP] <Kimberly.Cahall@dep.nj.gov>; Stewart, Janet [DEP] <Janet.Stewart@dep.nj.gov>; Kropilak, Michele [DEP] <Michele.Kropilak@dep.nj.gov>; Lutz, Michael [DEP] <Michael.Lutz@dep.nj.gov>; Patrick Rosenello <prosenello@northwildwood.com>; nlong@northwildwood.com; jverna@vannoteharvey.com; Cobb, Jessica [DEP] <Jessica.Cobb@dep.nj.gov>; Edward McLaughlin <emclaughlin@lomaxconsulting.com>

Subject: RE: City of North Wildwood: Emergency Storm Damage Notice and Mitigation Efforts

Pete, DLRP will expedite review/response for any submitted Emergency Authorization (EA) request. Please email me and Janet Stewart the EA request, reach out to me or Janet Stewart if necessary to discuss via phone at (609) 633-2289, or if after hours, call on my work cell at (609) 775-7913. I note that, as per the Standards Applicable to Emergency Post-Storm Restoration within the CZM rules, specifically NJAC 7:7-10.3(b), emergency beach restoration activities as part of an emergency post-storm recovery include the placement of clean fill material (compatible to the existing beach), alongshore transfer of sand on the beach, placement of rock and the placement of sand filled geotextile tubes. These activities should be considered prior to a proposed placement of a bulkhead, which could potentially increase erosion to adjacent areas. NWW should not conduct any work that is requested through an Emergency Authorization, until DLRP has reviewed to determine that the emergency work is immediately necessary due to the threat of the loss of life or property, and if so, until DLRP has issued a verbal or written Emergency Authorization response. Any questions, let me know.

From: Peter Lomax <plomax@lomaxconsulting.com>

Sent: Monday, October 3, 2022 5:48 PM

To: Keller, Colleen [DEP] <Colleen.Keller@dep.nj.gov>

Cc: Moriarty, Jennifer [DEP] <Jennifer.Moriarty@dep.nj.gov>; Cahall, Kimberly [DEP] <Kimberly.Cahall@dep.nj.gov>; Stewart, Janet [DEP] <Janet.Stewart@dep.nj.gov>; Kropilak, Michele [DEP] <Michele.Kropilak@dep.nj.gov>; Lutz, Michael [DEP] <Michael.Lutz@dep.nj.gov>; Patrick Rosenello <prosenello@northwildwood.com>; nlong@northwildwood.com; jverna@vannoteharvey.com; Mazzei, Becky [DEP] <Becky.Mazzei@dep.nj.gov>; Cobb, Jessica [DEP] <Jessica.Cobb@dep.nj.gov>; Edward McLaughlin <emclaughlin@lomaxconsulting.com>

Subject: [EXTERNAL] RE: City of North Wildwood: Emergency Storm Damage Notice and Mitigation Efforts

Importance: High

Colleen,

Thank you for your prompt reply. Having spent the better part of the afternoon inspecting the site conditions and meeting with the City team, it appears that we will be needing an Emergency Authorization. For exactly what and where, those details are being worked out presently by the City Engineer which will carry into this evening, and we will put together as complete a package as is possible for the staff's review. This is a very fluid situation (no pun intended), and we are working very hard to determine the best means of mitigating damage in the most effective means possible. Based on an assessment by the City Engineer this afternoon, 30' of dune was lost in the last 24 hours and it is suspected that this rate of loss will continue for at least the next 24 hours, which will essentially breach the dune at 15th/16th Avenues in front of the Beach Patrol headquarters. This is a critical facility in the City, and we must do everything possible to protect it from the onslaught of these storm-driven waves.

Given that time will be absolutely critical, what is your counsel in terms of being able to "hold the line" against this storm vs. awaiting NJDEP Emergency Authorization review? I am providing a small selection of representative photos taken by me this afternoon for your reference.

View at 2nd Avenue/JFK Avenue Seawall this afternoon



View at 3rd Avenue/JFK Avenue seawall/stormwater outfall vent this afternoon



View at 15th Avenue dune scarp ($\pm 10'$) in front of Beach Patrol headquarters



View of Beach Patrol headquarters, right side of photos is the remaining 30' wide dune as of this afternoon which terminates at a $\pm 10'$ scarp dropping into the Atlantic Ocean



I will circle back to you and the DLRP/Enforcement staff tomorrow with a game plan and submission for review/authorization. Again, thank you for your prompt attention, and let's hope for calming seas before irreparable damage to the City of North Wildwood occurs.

Regards,
Peter

Peter L. Lomax
President



The Lomax Consulting Group
P.O. Box 9 (mail)
1435 Route 9 North (delivery)
Cape May Court House, NJ 08210
609-465-6700 (o)
609-465-2449 (f)
plomax@lomaxconsulting.com
www.lomaxconsulting.com

From: Keller, Colleen [DEP] <Colleen.Keller@dep.nj.gov>

Sent: Monday, October 3, 2022 4:00 PM

To: Peter Lomax <plomax@lomaxconsulting.com>

Cc: Moriarty, Jennifer [DEP] <Jennifer.Moriarty@dep.nj.gov>; Cahall, Kimberly [DEP] <Kimberly.Cahall@dep.nj.gov>; Stewart, Janet [DEP] <Janet.Stewart@dep.nj.gov>; Kropilak, Michele [DEP] <Michele.Kropilak@dep.nj.gov>; Lutz, Michael [DEP] <Michael.Lutz@dep.nj.gov>; Patrick Rosenello <prosenello@northwildwood.com>; nlong@northwildwood.com; jverna@vannoteharvey.com; Edward McLaughlin <emclaughlin@lomaxconsulting.com>; Mazzei, Becky [DEP] <Becky.Mazzei@dep.nj.gov>; Cobb, Jessica [DEP] <Jessica.Cobb@dep.nj.gov>

Subject: RE: City of North Wildwood: Emergency Storm Damage Notice and Mitigation Efforts

Pete, thanks for reaching out regarding the City of North Wildwood's storm response. As you are likely aware, any post-storm restoration or installation of any storm protection measures (i.e., bulkhead or other mitigative measures) within

regulated areas will likely require authorization (Emergency Authorization (EA) or permit) from the NJDEP Division of Land Resource Protection prior to conducting the work. If it is determined that emergency work is necessary due to an immediate threat to life or property, DLRP can quickly issue an EA prior to the work, with permit follow up after the storm threat has passed. The information that is necessary to request an Emergency Authorization is attached. We are always available to answer any questions that you may have with regard to regulated activities in response to the storm.



Colleen Keller (she/her), Assistant Director

NJDEP Division of Land Resource Protection
Watershed & Land Management
501 East State Street, Trenton, NJ 08625
Mail Code 501-02A
T (609) 633-2289 | F (609) 633-3656
colleen.keller@dep.nj.gov

Note: This E-mail is protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521. This E-Mail and its contents, may be Privileged & Confidential due to the Attorney-Client Privilege, Attorney Work Product, and Deliberative Process or under the New Jersey Open Public Records Act. If you are not the intended recipient of this e-mail, please notify the sender, delete it and do not read, act upon, print, disclose, copy, retain or redistribute it.

From: Peter Lomax <plomax@lomaxconsulting.com>

Sent: Monday, October 3, 2022 12:21 PM

To: Stewart, Janet [DEP] <Janet.Stewart@dep.nj.gov>; Mazzei, Becky [DEP] <Becky.Mazzei@dep.nj.gov>

Cc: Keller, Colleen [DEP] <Colleen.Keller@dep.nj.gov>; Cahall, Kimberly [DEP] <Kimberly.Cahall@dep.nj.gov>; Kropilak, Michele [DEP] <Michele.Kropilak@dep.nj.gov>; Lutz, Michael [DEP] <Michael.Lutz@dep.nj.gov>; Patrick Rosenello <prosenello@northwildwood.com>; nlong@northwildwood.com; jverna@vannoteharvey.com; Edward McLaughlin <emclaughlin@lomaxconsulting.com>

Subject: [EXTERNAL] City of North Wildwood: Emergency Storm Damage Notice and Mitigation Efforts

Importance: High

Janet/Becky,

Please be advised that the City of North Wildwood is sustaining significant beach/dune losses and storm damage as part of the current coastal low/Hurricane Ian remnants. Losses became pronounced and threatening to health, safety and welfare over the weekend, and these impacts are expected to continue through the next few days, particularly during elevated tidal cycles. Significant coastal flooding is occurring throughout the County's coastal areas, impacting transportation corridors and operating schedules for public facilities, including schools. Despite these dynamic conditions, we are currently in the process of inventorying the threats and mitigative measures necessary to the protect private and public property and critical City infrastructure.

Later today, I will forward photos for your reference and review. Once we have a better sense of the damage, I will follow-up with more details on action(s) required and whether an emergency permit authorization will be necessary.

Thank you for your consideration and attention in this regard,
Peter

Peter L. Lomax
President



The Lomax Consulting Group
P.O. Box 9 (mail)
1435 Route 9 North (delivery)
Cape May Court House, NJ 08210
609-465-6700 (o)
609-465-2449 (f)
plomax@lomaxconsulting.com
www.lomaxconsulting.com

KELLER

EXHIBIT C-1



P. O. BOX 9 (MAILING)
1435 ROUTE 9 NORTH (DELIVERY)
CAPE MAY COURT HOUSE, NJ 08210, USA

609-465-9857 (P)
609-465-2449 (F)
WWW.LOMAXCONSULTING.COM

Peter L. Lomax, Managing Principal
(609) 465-6700 ext. 13
plomax@lomaxconsulting.com

October 5, 2022
Via email

New Jersey Department of Environmental Protection
Division of Land Resource Protection
501 East State Street, Second Floor
Trenton, NJ 08625
ATTN: Ms. Colleen Keller and Ms. Janet Stewart

RE: Coastal Program Emergency Authorization – Shore Protection Measures
25th Avenue Beach Access and Beach Patrol Building/Oceanfront Safety Facility
Block 289.03, Lot 1 (portion thereof) and Block 317.03, Lot 1 (portion thereof)
City of North Wildwood, Cape May County, NJ
TLCG File No.: 22-1093.2

Dear Ms. Keller and Ms. Stewart,

On behalf of the City of North Wildwood (hereafter “City” or “Applicant”), please accept this request for an Emergency Authorization pursuant to the Coastal Zone Management Rules (CZMR) (*N.J.A.C. 7:7 et seq.*) under the authority of the NJ Department of Environmental Protection (NJDEP). This request follows our previous email exchanges in this regard over the past few days during which the low pressure system remnants of Hurricane Ian stalled off the mid-Atlantic coast causing a sustained multi-day period of significant coastal flooding throughout the region and, more specifically, potentially catastrophic beach and dune erosion to the City of North Wildwood oceanfront. Given the absence of a defined beach berm and loss of greater than 75% of the protective dune system in front of the Beach Patrol Building/Oceanfront Safety Facility, Block 317.03, Lot 1 (portion thereof), the City Engineer has determined that a breach condition is imminent requiring that emergency measures be implemented to re-establish reliable shore protection at this location. Additionally, the 25th Avenue beach access, Block 289.03, Lot 1 (portion thereof), continues to sustain significant erosion which has undermined this vehicular beach access and exposed adjoining shore protection structure to further scour and scarping. These emergent conditions were first observed during the weekend (October 1, 2022) and exacerbated through the following days (*see attached photo pages*).

Please note that, consistent with previous collaborative discussions with the NJDEP and direction to keep all parties informed, this submission will be transmitted to the Bureau of Coastal and Land Use Compliance and Enforcement staff to ensure that they too are properly informed of the imminent threat and the Applicant’s intent to implement emergency shore protections measures in the wake of this most recent coastal storm.

Applicant:
City of North Wildwood
901 Atlantic Avenue
North Wildwood, NJ 08260
Attn: Nicholas Long, City Administrator
609-522-6464
nlong@northwildwood.com



OCTOBER 5, 2022

ATTN: MS. COLLEEN KELLER AND MS. JANET STEWART

PAGE 2 OF 5

It should be noted that, despite the City's \$3.7 million investment in 2022 beach renourishment in advance of the summer season via the NJDEP and USACE-approved sand backpassing project, residual sand reserves were sufficiently depleted by the end of the season that little remained to withstand a single coastal storm event. Sand volume placed as part of the backpassing project was shaped into a dune ridge and dry beach area along the oceanfront consistent with the approved design template. *"The final tally of sand moved from Wildwood beaches to the beaches of North Wildwood was provided by the municipal engineer at 361,221 cubic yards making this season's transfer the largest thus far in this "in house" effort to restore a recreational and storm protection shoreline during this period of extensive oceanfront beach erosion manifesting itself in North Wildwood since the late 1990's."* (2022 Spring Report to the City of North Wildwood on the Condition of City Beaches, Stockton University Coastal Research Center, July 25, 2022). The prior season, 357,000 cubic yards of sand was backpassed by the City for renourishment, also at exceptional expense borne by the City. In total, approximately 1,611,372 cubic yards of sand has been backpassed to renourish the City's eroding beaches since 2016. However, due to prevailing coastal processes, these reserves have been lost in quantity from the beach-dune complex annually and have now settled into offshore deposits.

As a result of this most recent coastal storm event and in light of the depleted sand reserves whereby a dune breach is imminent, the City, as owner of the subject properties and steward of the municipal transportation, utility and public safety infrastructure, has given its permission to pursue the prescribed emergency measures below and is hereby seeking an Emergency Authorization for the following activities:

15th – 16th Avenues waterward of the Beach Patrol Building (Block 317.03, Lot 1 (portion thereof))

- 1) Immediate deployment of Jersey barriers (20' segments) in a 400LF alignment extending from the 15th Avenue northern right-of-way limit line along the landward edge of dune to the 16th Avenue southern right-of-way limit line
- 2) Remove/relocate existing composite/timber decking walkway from in front of the building to facilitate Jersey barrier deployment
- 3) Reshape dune remnants, protecting existing dune vegetation to the maximum extent possible, to establish stabilized slopes secured landward by the Jersey barrier wall
- 4) Installation of 404LF cantilevered steel bulkhead (coated) with timber cap
- 5) Reconstruct/stabilize vehicular/pedestrian access from 16th Avenue right-of-way to the beach

The above activities are depicted on a hand sketch prepared by Jim Verna III, P.E. of Van Note-Harvey Associates Inc., dated October 4, 2022, as well as separate hand-annotated detail sheets, each dated October 4, 2022, and a cut sheet for Meever USA sheet piles (*attached*). A line drawing of these proposed measures is in progress and will be transmitted under separate cover for reference, once completed. Please note that the topographic contours on the hand sketch are vestigial to conditions in 2020 and the aerial image is from February 2022; hence, these do not reflect existing conditions. The proposed activities are designed to avoid previously delineated interdunal freshwater wetlands in the back dune north of the project area limit, as well as its associated transition area. Items 1-3 will commence immediately and are expected to be completed over a one-day period. Items 4 and 5 will commence upon receipt of the bulkhead materials delivery and mobilization and are expected to require several weeks to complete this installation and



OCTOBER 5, 2022

ATTN: MS. COLLEEN KELLER AND MS. JANET STEWART

PAGE 3 OF 5

associated restorative actions. The project area limits for this activity are depicted on Figure 1 (*attached*) at the terminus of 15th and 16th Avenues, area delineated by a red boundary.

Before specifying the above emergency mitigative actions, an assessment of alternative measures was completed by the City Engineer. Specifically, the standards applicable to emergency post-storm beach restoration under *N.J.A.C. 7:7-10.3* were evaluated, including NJDEP-preferred options under (*b*), for feasibility. The following is a summary of that alternatives analysis.

Deposition of clean fill material consistent with grain size compatible with that of the existing beach material proved to be problematic in terms of sourcing, logistics, and secondary impacts. The current oceanfront conditions and profile have, at least for now, severed the route for on-beach access to sand reserves further south of the project area limits. Beach berm erosion has extended a significant portion of the tide cycle to the waterward extent of both the 24th and 26th Avenue piers precluding effective transport of sand which could be harvested from Wildwood beaches (*see attached photo pages*). Moreover, the existing conditions of the profile at Poplar Avenue have exposed the City of Wildwood's stormwater outfall at this location also precluding a southerly truck route. Because these locations are inundated daily by the tidal cycle, the deposition of sand in these areas to re-establish a trucking route for alongshore transfer of sand is infeasible, at least until the beach profile re-forms through accretion (*see attached photo pages*). The lack of sand reserves in the lower beach profile also makes it impossible to bulldoze sand to the upper beach profile as an alternative means of re-establishing shore protection. Transport of material from sand and gravel mines was assessed, and it was determined that there are several impediments to pursuing this option. The sand composition available from the proximate mines, as compared to that of the *in situ* beach material, was found to be inconsistent. Additionally, the logistics of pursuing this option were not feasible due to existing trucking shortages as compared to the volume of sand required to address this recurrent erosion. Further, offshore sources will require the City's contractor to complete an intermediate sand transfer from street-legal tri-axle dump trucks to the heavy duty off-highway articulated dump trucks necessary to transit the existing oceanfront conditions. Pursuing this option would require duplicative handling of the fill material, if even suitable material could eventually be sourced within a reasonable proximity. Given the emergent nature of this matter, there is insufficient time to pursue an option that is, at best, inefficient, slow and expensive, but also risks secondary damage to municipal infrastructure, including City streets that were not designed for the volume and frequency of heavy transport that would be required for this option.

While hydraulic beach fill/renourishment could access sand reserves in nearshore or offshore waters, where prior backpassed sand has settled and which are unattainable via typical trucking/backpassing, these dredging projects require scheduling years in advance, and the City does not have ready access to or control the availability a dredge for this purpose. The timeline for such a process does not reconcile with the current situation faced by the City, nor does the City have the funds to pursue such a project without significant State and/or Federal participation.

The placement of rock, rubble or concrete is a very slow process, which again relies upon a trucking industry facing existing labor shortages, as well as the challenges of sourcing these materials locally and the secondary impacts to municipal infrastructure, including City streets that were not designed for the volume and frequency of heavy transport that would be required for this option. Additional design concerns were expressed upon evaluating this option in that the placement of these materials restricts future engineering options, including facilitation of public access. The inability to drive piles for future timber walkover/ADA ramp structures would create challenges to efficient and effective public and Beach Patrol staff access to/from the beach. In addition to ready access of the Beach Patrol building by its staff, this oceanfront safety facility also provides



OCTOBER 5, 2022

ATTN: MS. COLLEEN KELLER AND MS. JANET STEWART

PAGE 4 OF 5

beachgoers with public restrooms, a first aid station, showers/footwash amenities, and shelter via the existing dune walkover/ramp structure at the 15th Avenue right-of-way alignment (*see attached photo pages*). A breach will destroy this access and the placement of rock, rubble or concrete will complicate or even preclude the replacement of such a facility.

The placement of sand-filled geotextile tubes requires a source for beach sand material, which is not available from the existing beach conditions and is challenging to acquire from offshore sources as was previously described in detail above. To fill these tubes *in situ* would further deplete the City's oceanfront of sand resources, especially given that the prevailing coastal processes trend is one of erosion in this location. While geotextile tubes could serve as a protective measure and means to rebuild the dune features, these applications are only effective when combined with a robust, large-scale hydraulic beach fill project whereby the tube would remain covered for an extended period of time. At present, the State and Federal authorities have not advanced a beach nourishment program of this type in partnership with the City, and it remains unclear if/when the State/Federal Island-wide Dune Construction Project may be implemented from Hereford Inlet south to Cape May Inlet to serve as hurricane and storm damage reduction, including its associated planned cyclical renourishments.

In contrast, a bulkhead, when deployed under certain oceanfront conditions where beach renourishment proves to be unreliable and challenging, has proven to be the more efficient and effective means of sustainable shore protection measures. These installations can be implemented rapidly and have longer useful life options where the cost-benefit ratio can be justified and effective shore protection realized. Additionally, the footprint of disturbance for these installations can be minimized to reduce secondary impacts and avoid sensitive areas where sloped angles of repose would otherwise encroach. This option minimizes the number of truck trips required to implement shore protection thereby reducing secondary impacts to the municipal infrastructure. Further, given the minimal footprint, future site improvements, including public accessways and dune construction, can be effectuated over top of and/or on either side of the bulkhead.

25th Avenue Beach Access (Block 289.03, Lot 1 (portion thereof))

- 1) Immediately reconstruct the beach access via profile grading and deposition of stabilizing material within the residual upper beach berm and back beach limits; relatively minimal volumes of fill material are required to accomplish the necessary grading and restoration
- 2) Reconstruct the sloped ramps and landings within the access to restore the vehicular and pedestrian use, including pedestrian public access from the boardwalk and the adjoining 26th Avenue pier

The above activities are depicted on a line drawing titled, "25th Ave and the Beach Adjacent to Amusement Pier, North Wildwood Beach, City of North Wildwood, Cape May County, NJ", prepared by Van Note-Harvey Associates Inc., dated October 5, 2022 (attached). Please note that these proposed activities are designed to avoid previously delineated interdunal freshwater wetlands in the back dune north of the project area limit. While the activities are located within the associated transition area, these restorative measures do not extend beyond the pre-existing footprint of disturbance and therefore will not result in adverse impacts to regulated areas (*see attached photo pages*). Items 1 and 2 will commence immediately upon receipt of Emergency Authorization from NJDEP and are expected to be completed over a one to two-day period. The project area limits for this activity are depicted on Figure 1 (attached) at the terminus of 25th Avenue, area delineated by a red boundary.



OCTOBER 5, 2022
 ATTN: MS. COLLEEN KELLER AND MS. JANET STEWART
 PAGE 5 OF 5

Enclosed for review and reference please find the following: 1) a site location map ("*Figure 1 Site Location on Aerial Photographs Depicting the Project Area Limits*," prepared by The Lomax Consulting Group, dated October 4, 2022); 2) existing conditions photographs depicting post-storm damage and impacted areas; 3) hand sketch prepared by Jim Verna III, P.E. of Van Note-Harvey Associates Inc., dated October 4, 2022, as well as separate hand-annotated detail sheets, each dated October 4, 2022, and a cut sheet for Meever USA sheet piles; and 4) a line drawing titled, "*25th Ave and the Beach Adjacent to Amusement Pier, North Wildwood Beach, City of North Wildwood, Cape May County, NJ*", prepared by Van Note-Harvey Associates Inc., dated October 5, 2022.

If you have any questions or require additional information, please do not hesitate to contact me. Thank you for your prompt attention to this matter.

Sincerely,
 THE LOMAX CONSULTING GROUP, LLC

Peter L. Lomax
 Managing Principal

Enclosures

ec: Jennifer Moriarty, Director NJDEP DLRP (w/enclosures)
 Becky Mazzei, NJDEP DLRP (w/enclosures)
 Kimberly Cahall, Chief Enforcement Officer NJDEP CLUE (w/enclosures)
 Michelle Kropilak, Manager NJDEP CLUE (w/enclosures)
 Michael Lutz, NJDEP CLUE (w/enclosures)
 Mayor Patrick Rosenello, City of North Wildwood (w/enclosures)
 Nicholas Long, City Administrator, City of North Wildwood (w/enclosures)
 Jim Verna III, PE, Van Note-Harvey Associates, Inc. (w/enclosures)
 Neil Yoskin, Esq., Cullen & Dykman LLP (w/enclosures)

BLOCK 289.03, LOT 1 (P/O); BLOCK 317.03, LOT 1 (P/O)
 CITY OF NORTH WILDWOOD, CAPE MAY COUNTY, NEW JERSEY

22-1093.2



FIGURE 1: SITE LOCATION ON AERIAL PHOTOGRAPHS
 DEPICTING THE PROJECT AREAS LIMITS

SOURCE: GIS DATA PROVIDED BY THE NJDEP, BING
 NEARMAP AND THE COUNTY PLANNING
 DEPARTMENT



DATE: 2022-10-04
 DRAWN BY: EJM

SCALE: AS NOTED



SITE PHOTOGRAPHS



PHOTOGRAPH 1. View north of the dune scarp (right) eroded to a point landward of the pre-existing dune crest between 15th and 16th Avenues in front of the City of North Wildwood Beach Patrol headquarters (left) and upper landing of dune walkover railing (background)

PHOTOGRAPH 2. View west of the eroded and scoured public accessway at the 25th Avenue beach access terminus.





PHOTOGRAPH 3. View north of the 24th Avenue pier terminus and absence of beach berm waterward of the pier end, which precludes the sand backpassing truck route.

PHOTOGRAPH 4. View south of the City of Wildwood exposed stormwater outfall at the Poplar Avenue right-of-way alignment, which precludes the sand backpassing route.





PHOTOGRAPH 5. View of the City of North Wildwood Beach Patrol headquarters which serves as a critical oceanfront safety facility with public access amenities. Note: eroded dune scarp is located at the right edge behind the dune fencing.

PHOTOGRAPH 6. View of the dune walkover and ADA access ramp in front of the City of North Wildwood Beach Patrol headquarters. Note: eroded dune scarp is located immediately behind the upper staircase landing.



JV3
10.04.2022

RECONSTRUCT VEHICLE/PEDESTRIAN
ACCESS OVER NEW BULKHEAD.

- NOTE:
- ① TPO PERFORMED 7/20/20 & 8/25/20
 - ② AERIAL = FEB. 2022 NEAR MAP
 - ③ 1 & 2 ABOVE DO NOT REPRESENT CURRENT CONDITIONS.

SCALE: 1" = 50'

~~11,987 SQ.FT. (0.275 ACRES) OF DISTURBANCE TO FRESHWATER WETLANDS TRANSITION AREA PROPOSED UNDER AN ACCESS WAIVER FOR THE PROPOSED BULKHEAD~~

PERMANENT ACTION:

- CONSTRUCT 404 LF² - CANTILEVERED STEEL BULKHEAD (COATED) w/ TIMBER CAP (GREENHART FRAMING, MICRONIZED COPPER AZOLE SUPP. TIMBER DECKING & TYPE 316 STAINLESS STEEL HARDWARE.

TEMPORARY IMMEDIATE ACTION = PLACE JERSEY BARRIERS IN SAME/SIMILAR ALIGNMENT & RE-SHAPE REMNANTS OF DUNE.

PROTECT VEGETATION WHERE POSSIBLE

⊠ = LIMIT OF DISTURBANCE

COMPOSITE/TIMBER WALKWAYS TO BE REMOVED AS NECESSARY

BLOCK 317.02
LOT 2

400²-LF

30°
(USE 22 1/2)

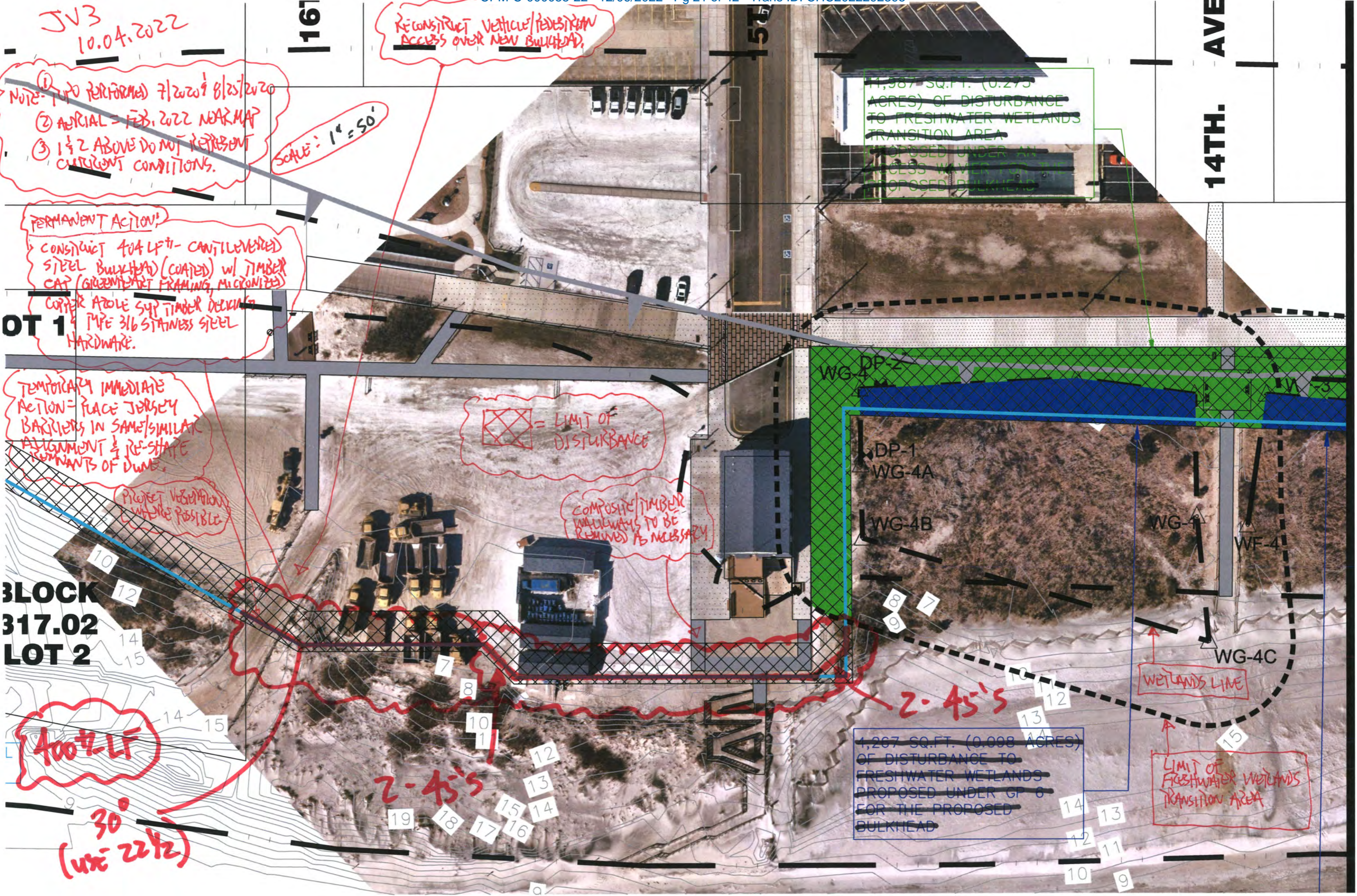
2-45's

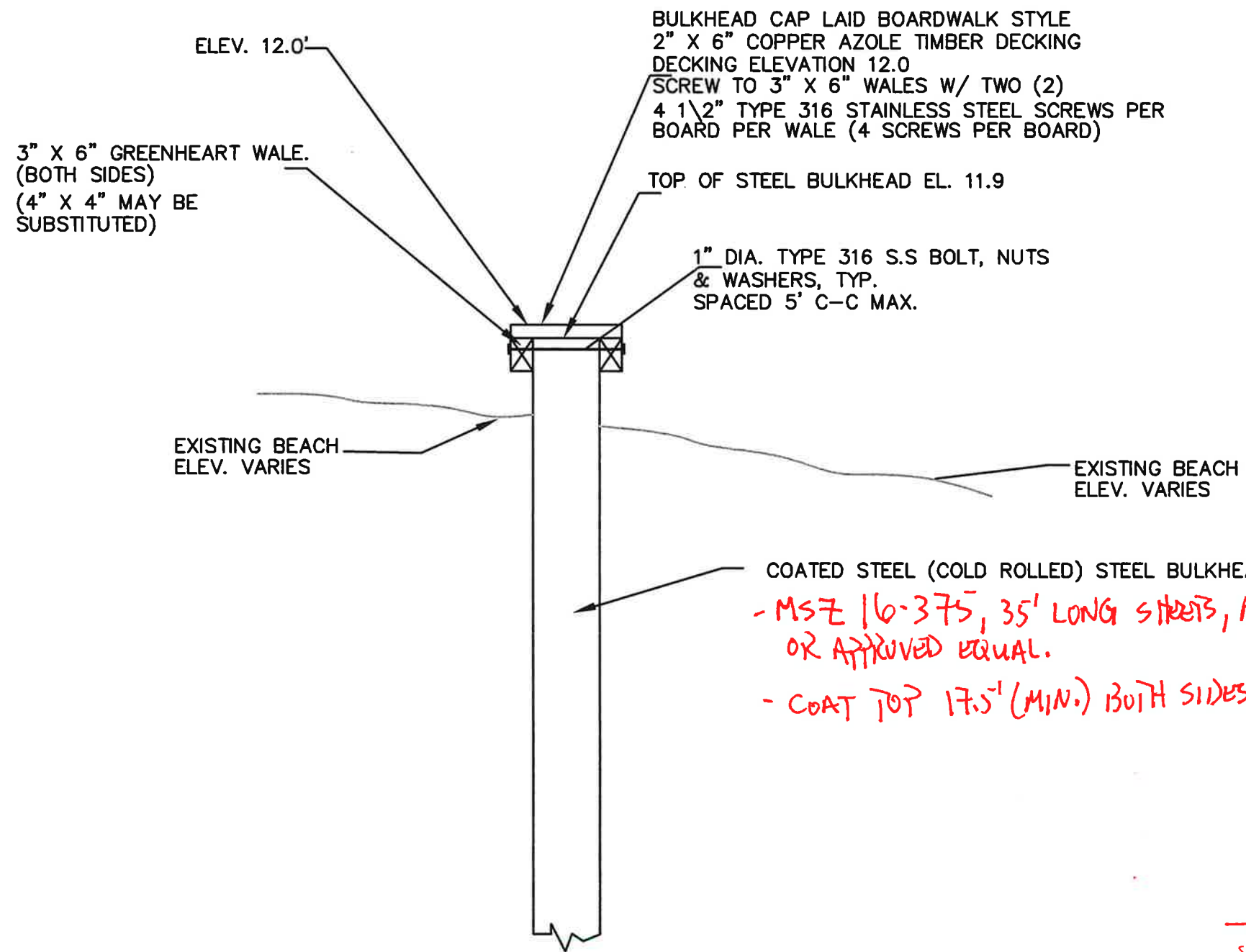
~~4,267 SQ.FT. (0.098 ACRES) OF DISTURBANCE TO FRESHWATER WETLANDS PROPOSED UNDER GP 6 FOR THE PROPOSED BULKHEAD~~

LIMIT OF FRESHWATER WETLANDS TRANSITION AREA

14TH. AVE

MATCH LINE SHEET 5





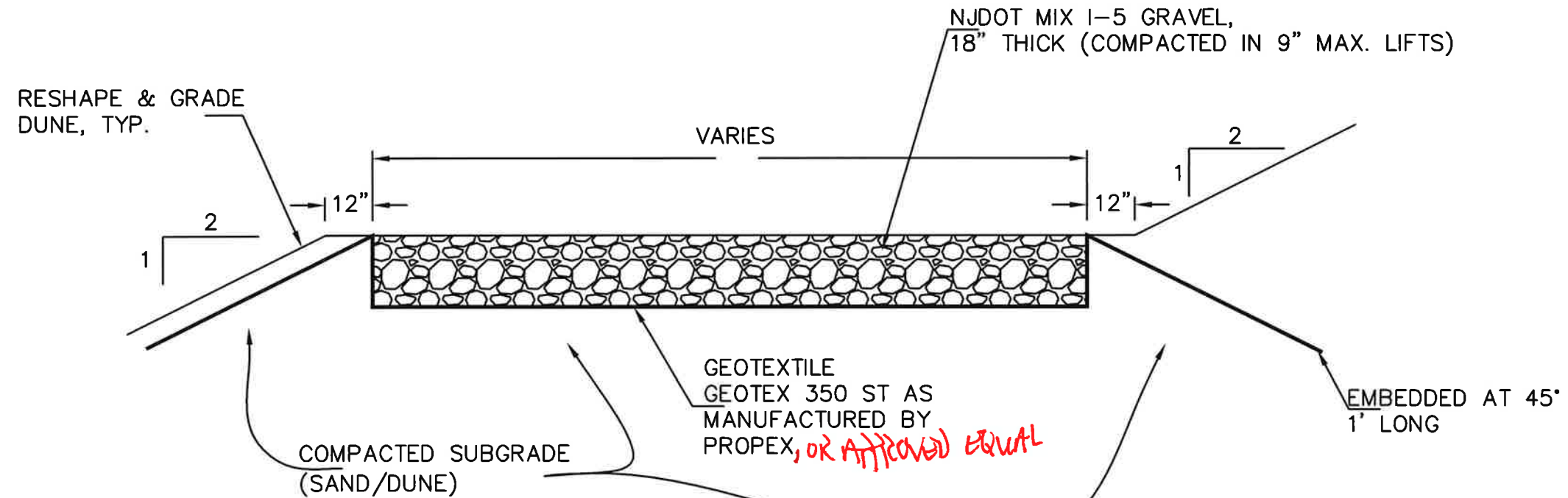
- MS7 16-375, 35' LONG SHEETS, AS MANUFACTURED BY MEYER USA,
OR APPROVED EQUAL.
- COAT TOP 17.5' (MIN.) BOTH SIDES W/ 16 MILS BLACK COAL TAR EPOXY

JVB
10.04.2022

TYPICAL BULKHEAD DETAIL

N.T.S.

NOTE: CANTILEVERED (NO TIE-BACK SYSTEM)



NOTE:

- 1. GEOTEXTILE SECTIONS MUST OVERLAP
MINIMUM OF 5', TYP.

2. SLOPE: 1V:12H MAX.

PROPOSED VEHICLE ACCESS DETAIL

FOR 16TH AVE.

NOT TO SCALE

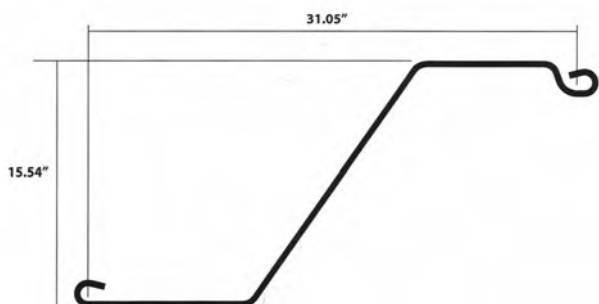
JV3
10.04.2022



MEEVER USA

T +1 (866) 313-8770 | E info@meever.us | I www.meever.us

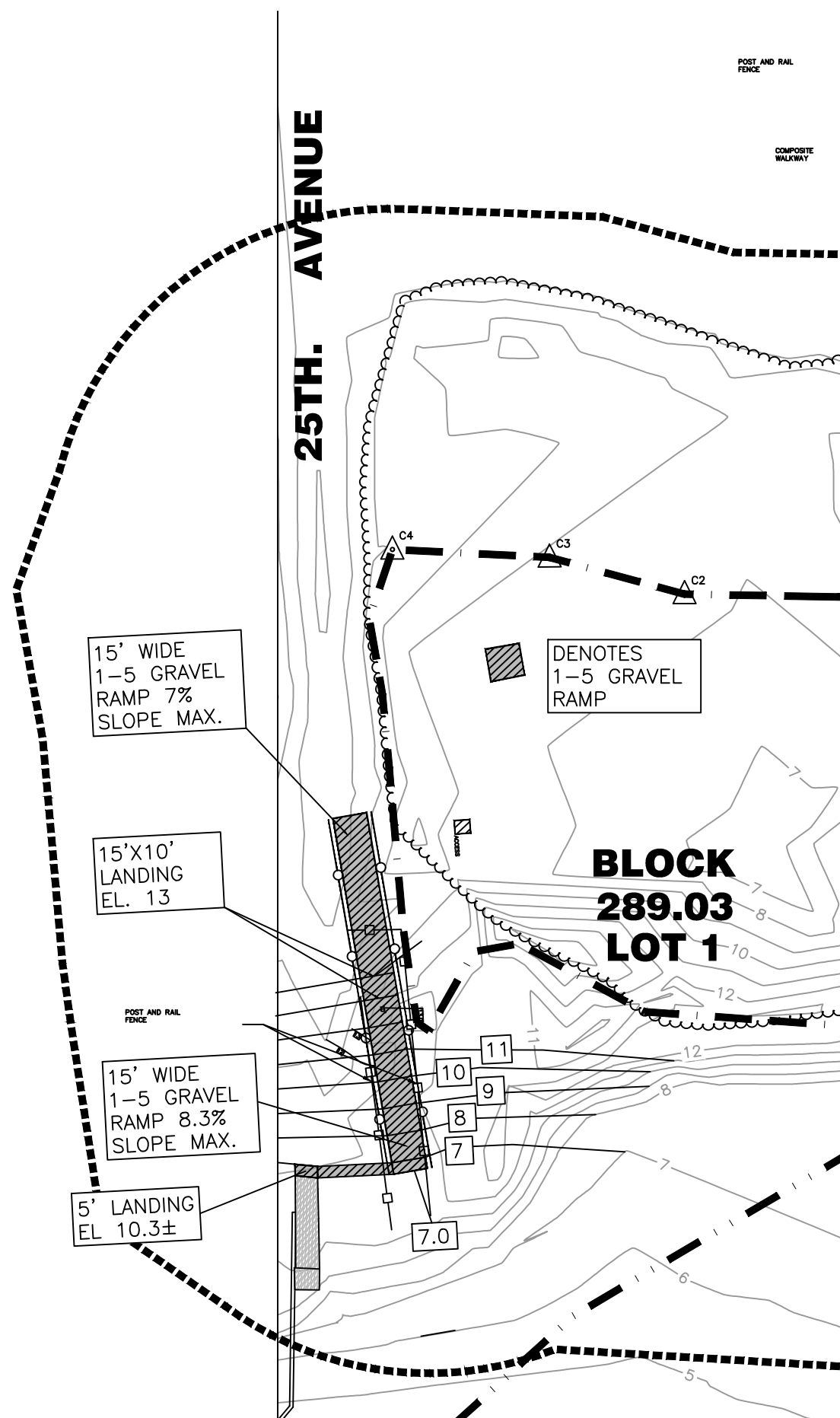
MSZ 16-375 (Cold rolled sheet piles)



Section description	Product group	Shape	Section Modulus	Moment of Inertia	Width	Height	Thickness flange	Thickness web	Weight single	Weight	Coating 2 sides	Coating area
			in ³ /ft cm ³ /m	in ⁴ /ft cm ⁴ /m	inch mm	inch mm	inch mm	inch mm	lbs/ft kg/m	lbs/ft ² kg/m ²	ft ² /ft m ² /m	ft ² /ft m ² /m
MSZ 16-375	Cold rolled sheet piles	Z	34.0	267.9	31.05	15.54	0.375	0.375	59.7	23.06	7.54	1.43
			1,825	36,580	789	395	9.5	9.5	88.79	34.31	2.30	1.43

Production acc. ASTM standards in A572 GR50 or A328
 available from inventory and production
 Origin: USA

**BLOCK
288.02
LOT 1**



**BLOCK
289.03
LOT 1**

NOTES:

1. TOPOGRAPHY TAKEN FROM DECEMBER 2021
2. IAN STORM HAS SEVERELY ERODED THE AREA DAMAGING DUNE, BERM, AND BEACH ACCESS

RELEASE 10/05/2022

van note-harvey associates, inc.
consulting engineers, planners & land surveyors

103 College Road East • Princeton, NJ 08540 • 609-987-2323
211 Bayberry Drive • Cape May Court House, NJ 08210 • 609-465-2600
www.vannoteharvey.com Certificate of Authorization
No. 24GA28271300



SKETCH SHOWING PROPOSED BEACH ACCES
**25TH AVE AND THE BEACH
ADJACENT TO AMUSEMENT PIER
NORTH WILDWOOD BEACH
CITY OF NORTH WILDWOOD**
CAPE MAY COUNTY, N.J.

DRAWN BY BMP	FIELD BK PAGE	ORDER No. 46006 400-21	FILE No.	SHEET No. 1
CHECKED BY RP/JV				

KELLER EXHIBIT D

From: [Keller, Colleen \[DEP\]](#)
To: [Yoskin, Neil](#); [Patrick Rosenello](#); nlong@northwildwood.com
Cc: [Vincent Mazzei \(DEP\)](#); [Katrina Angarone \(DEP\)](#); [Jane Rosenblatt \(DEP\)](#); [Jennifer Moriarty \(DEP\)](#); [Kimberly Cahall \(DEP\)](#); [Dennis Reinknecht \(DEP\)](#); [Lomax, Peter](#); [Janet Stewart \(DEP\)](#); [Michele Kropilak \(DEP\)](#)
Subject: Response to October 20, 2022 Correspondence - NWW
Attachments: [image001.png](#)

If the City of North Wildwood (NWW) proceeds with the unauthorized activities, DEP will pursue immediate enforcement action for both past and current violations, including the assessment of substantial penalties for intentional violations. DEP enforcement staff are on-site in NWW to observe and document any unauthorized activity. DEP's Coastal Zone Management Rules at N.J.A.C. 7:7-10.3(b) authorize certain emergency post-storm beach restoration activities designed to return the beach to its pre-storm conditions. This provision does not contemplate hardening measures, such as the placement of a bulkhead. As acknowledged by NWW, a bulkhead has the potential to increase erosion to adjacent areas. DEP can only approve such measures where the City has demonstrated that these alternative measures are not feasible. Reshaping/regrading the dunes for the installation of a bulkhead was also not authorized.

In addition, Mr. Yoskin's correspondence expresses public safety concerns about people scaling the dune scarp. Public safety is of the highest concern to the Department, and the public should not be accessing or walking in protected dune areas. NWW did not request post-storm maintenance of all legally existing accessways in the previous Emergency Authorization (EA) requests. DEP would typically allow this maintenance under a simple beach and dune maintenance permit; however, NWW does not have a valid permit for this activity. If requested by NWW, DEP could issue an EA for post-storm maintenance of the legally existing accessways for safe access.

DEP is preparing a more formal response to Mr. Yoskin's letter. In the meantime, we strongly urge NWW to refrain from proceeding with the unauthorized activities.

DEP remains committed to ensuring public health and safety by maintaining proper coastal protection measures, including emergency beach restoration efforts.



Colleen Keller (she/her), Assistant Director

NJDEP Division of Land Resource Protection
Watershed & Land Management

501 East State Street, Trenton, NJ 08625

Mail Code 501-02A

T (609) 633-2289 | F (609) 633-3656

colleen.keller@dep.nj.gov

Note: This E-mail is protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521. This E-Mail and its contents, may be Privileged & Confidential due to the Attorney-Client Privilege, Attorney Work Product, and Deliberative Process or under the New Jersey Open Public Records Act. If you are not the intended recipient of this e-mail, please notify the sender, delete it and do not read, act upon, print, disclose, copy, retain or redistribute it.

KELLER EXHIBIT E

From: [Keller, Colleen \[DEP\]](#)
To: [Yoskin, Neil](#)
Cc: [Mayor Rosenello](#); [Nicholas Long \(Nlong@northwildwood.com\)](#); [Michael J. Donohue, Esq. \(mike@blaneydonohue.com\)](#); [James Verna \(jverna@vannoteharvey.com\)](#); [plomax@lomaxconsulting.com](#); [Jennifer Moriarty \(DEP\)](#); [Janet Stewart \(DEP\)](#); [Michael Lutz \(DEP\)](#); [Robert Clark \(DEP\)](#); [LaPenna, Cynthia](#); [Dennis Reinknecht \(DEP\)](#); [Kimberly Cahall \(DEP\)](#); [Kimberly Cahall \(DEP\)](#); [Kevin Terhune](#); [Michele Kropilak \(DEP\)](#); [Kelly Guire \(DEP\)](#); [Joslin Tamagno \(DEP\)](#); [Jessica Cobb \(DEP\)](#)
Subject: City of North Wildwood, Shore Protection Emergency
Attachments: [image001.png](#)
[NWWW Colleen Keller and Michele Kropilak 10-21-22 re City of North Wildwood.pdf](#)

Good afternoon. In response to the attached October 21, 2022 correspondence, I would like to provide clarification regarding your statement that the City has made every effort to comply with the Department's continued requests for information for the bulkhead permit application. The permit application that was submitted in November 2022 which requested the legalization of the unauthorized oceanfront bulkhead, with proposed bulkhead installation extending to 25th Ave, was immediately made administratively deficient on December 3, 2020. This deficiency was for required property owner signatures and for the initial newspaper ad. To my knowledge, there has not been any response from the City to this request that was made two years ago, and there have not been any additional requests for information regarding this application since that time from the NJDEP Division of Land Resource Protection (DLRP).

In an effort to move this forward, DLRP would like to offer a meeting to answer any questions regarding what is necessary to address the administrative deficiencies, and in order to start discussing some technical review items (which will be requested once the administrative deficiencies are corrected), request a more robust alternatives analysis to the proposed bulkhead legalization/new extension. Please provide some available dates/times (preferably for next week) to Kelly Guire (cc'd) for scheduling purposes, and the alternatives analysis prior to the meeting, once scheduled. Please don't hesitate to reach out if you have questions. Thanks.



Colleen Keller (she/her), Assistant Director

NJDEP Division of Land Resource Protection
Watershed & Land Management

501 East State Street, Trenton, NJ 08625

Mail Code 501-02A

T (609) 633-2289 | F (609) 633-3656

colleen.keller@dep.nj.gov

Note: This E-mail is protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521. This E-Mail and its contents, may be Privileged & Confidential due to the Attorney-Client Privilege, Attorney Work Product, and Deliberative Process or under the New Jersey Open Public Records Act. If you are not the intended recipient of this e-mail, please notify the sender, delete it and do not read, act upon, print, disclose, copy, retain or redistribute it.

From: LaPenna, Cynthia <clapenna@cullenllp.com>
Sent: Friday, October 21, 2022 10:57 AM
To: Keller, Colleen [DEP] <Colleen.Keller@dep.nj.gov>; Kropilak, Michele [DEP] <Michele.Kropilak@dep.nj.gov>
Cc: Mayor Rosenello <prosenello@northwildwood.com>; Nicholas Long (Nlong@northwildwood.com) <Nlong@northwildwood.com>; Michael J. Donohue, Esq. (mike@blaneydonohue.com) <mike@blaneydonohue.com>; James Verna (jverna@vannoteharvey.com) <jverna@vannoteharvey.com>; plomax@lomaxconsulting.com; Moriarty, Jennifer [DEP] <Jennifer.Moriarty@dep.nj.gov>; Stewart, Janet [DEP] <Janet.Stewart@dep.nj.gov>; Lutz, Michael [DEP] <Michael.Lutz@dep.nj.gov>; Clark, Robert [DEP] <Robert.Clark@dep.nj.gov>; Reinknecht, Dennis [DEP] <Dennis.Reinknecht@dep.nj.gov>; Cahall, Kimberly [DEP] <Kimberly.Cahall@dep.nj.gov>; Dr. Stewart Farrell <Stewart.Farrell@stockton.edu>; Yoskin, Neil <nyoskin@cullenllp.com>
Subject: [EXTERNAL] City of North Wildwood, Shore Protection Emergency

Good Morning Ms. Keller and Ms. Kropilak,
Please see Mr. Yoskin's correspondence attached.
Thank you and have a nice day, Cyndi

Cyndi LaPenna

Office Manager

Cullen and Dykman LLP

229 Nassau Street

Princeton, New Jersey 08542

T: 609.279.0900 | F: 609.497.2377

E: clapenna@cullenllp.com

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - DO NOT FORWARD OR COPY - CONFIDENTIALITY NOTICE: The contents of this e-mail message and any attachments are intended solely for the personal and confidential use of the recipient(s) named above. This communication is intended to be and to remain confidential and may be subject to applicable attorney/client and/or work product privileges. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message and its attachments.



Cullen and Dykman LLP
229 Nassau Street
Princeton, NJ 08542
T: 609.279.0900
F: 609.497.2377

NEIL YOSKIN
PARTNER
NYoskin@cullenllp.com

October 21, 2022
Via e-mail

Colleen Keller, Ass't. Director (colleen.keller@dep.nj.gov)
Division of Land Resource Protection
New Jersey DEP
501 E State Street, Mail Code 501-02A
Trenton, NJ 08625

Michele Kropilak, Manager (Michele.Kropilak@dep.nj.gov)
Bureau of Coastal and Land Use Compliance
and Enforcement
New Jersey DEP
1510 Hooper Avenue; Suite 140
Toms River, NJ 08753

RE: City of North Wildwood, Cape May County
Shore Protection Emergency

Dear Ms. Keller and Ms. Kropilak:

This will acknowledge receipt of the Department's October 20, 2022 Notice of Violation (NOV). Please be advised that the reshaping and regrading of the dune remnants was completed yesterday, October 20, thereby eliminating for the moment the hazardous conditions that were present. Because of supply chain issues, the materials required for the proposed emergency construction of the bulkhead are not yet available. The City anticipates a 30 day period of time in which the matter of the bulkhead can be discussed further.

One additional matter that is ancillary to the immediate emergency requires a response. Several of the Department's communications have made reference to the City's prior construction of a protective bulkhead and to the fact that the application to legalize it remains administratively incomplete, and suggests that this is the City's fault. The City does not agree. The Department's review of the application has been ongoing, and the City has made every effort to comply with the Department's continued requests for additional information.



Cullen | Dykman

Colleen Keller/Michele Kropilak

Page 2

October 21, 2022

The same communications have repeatedly made reference to the Department's claims that the City disturbed upwards of 12 acres of dunes and wetlands in the course of building that bulkhead. That is highly inaccurate. The City has documented the fact that almost the entirety of the dune field was lost to natural erosional processes, and that the area of disturbed wetlands is in the range of 9000 s.f. It is misleading and unfair of the Department to state otherwise.

North Wildwood has always indicated its willingness to restore the wetland conditions and the dunes in question once the Corps and DEP meet their obligations to implement the shore protection project authorized by Congress in 2016. But until that occurs, restoration is impossible,

One final note. The City has now received communication from five different individuals in the Department, so please designate one single contact going forward.

Sincerely,

CULLEN AND DYKMAN LLP

Neil Yoskin

NY/cl

cc (via e-mail):

Patrick Rosenello, Mayor, City of North Wildwood

Nick Long, City of North Wildwood

Michael Donohue, Esq.

James Verna, PE

Peter Lomax

Jennifer Moriarty, NJDEP

Janet Stewart, NJDEP

Michael Lutz, NJDEP

Robert Clark, NJDEP

Dennis Reinknecht, NJDEP

Kimberly Cahall, NJDEP

Dr. Stewart Farrell

KELLER EXHIBIT F



Davidson Laboratory

◆ Department of Civil, Environmental and Ocean
Engineering

1 Castle Point Terrace

November 15, 2022

Ms. Colleen Keller
New Jersey Department of Environmental Protection
Division of Land Use Regulation
501 East State Street
Trenton, NJ 08609
Re: North Wildwood Beach Patrol Headquarters Erosion

Ms. Keller,

At the request of your office, Stevens, through the New Jersey Coastal Protection Technical Assistance Service (NJCPAS) has reviewed the recent erosion in the vicinity of the North Wildwood Beach Patrol Headquarters at East 15th Avenue in North Wildwood. The opinions expressed in this letter are based upon a review of:

1. The Initial Coastal Storm Survey and Damage Assessment prepared by NJDEP after Hurricane Ian;
2. Google Earth imagery;
3. Aerial imagery documenting the condition of the beach after the passage of Hurricane Ian;
4. New Jersey Beach Profile Network reports compiled by Stockton University's Coastal Research Center.

The opinions expressed in this letter supplement and where necessary supersede those presented in a previous letter dated July 25, 2022, which addressed the entire northern North Wildwood shoreline. As noted in the previous letter, the North Wildwood shoreline is extremely dynamic and largely controlled by long-term changes in the Hereford Inlet shoal system. For simplicity the opinions expressed previously pertaining to the shoreline segment containing the Beach Patrol Headquarters is repeated below, followed by a more focused discussion of the recent erosion directly in front of the Beach Patrol Headquarters.

The following opinion was provided previously (July 25th, 2022) for Shoreline Segment 3 (13th to 25th Avenue):



The beach and dune system within Segment 3 remains healthy. Although this section of beach is also subject to natural variability, most beaches and dunes within Segment 3 are greater than 100 feet wide (Figure 3). In addition, the majority of the dunes are well vegetated. The beach/dune system in this area is adequate to provide protection to upland infrastructure and the need for a continuous bulkhead/seawall in Segment 3 is not apparent. The only exceptions are in the vicinity of the beach patrol headquarters (15th Avenue) and at the Seaport (22nd Avenue) and Sportland (23rd/24th Avenue) amusement piers. The beach patrol headquarters is constructed on the crest of the existing dune. To protect the structure the dune line has been pushed seaward, which compromises the beach in front of the building. Without a natural beach to sustain the artificial dune, it will be perpetually vulnerable to erosion/breaching. At the two piers, the lack of an adequate, well vegetated dune leaves upland infrastructure vulnerable to storm damage. Although an argument could be made for constructing a bulkhead in these select areas, other alternatives such as raising or relocating the beach patrol headquarters, and/or filling in the breaks within the existing dune system may provide similar benefits.

As described in the original letter, the siting of the Beach Patrol Headquarters (and its ancillary structures) within the primary dune presents a problem. As a result of their location within the natural dune, an artificial dune line has been created in a seaward, more exposed location. As the beach fronting this seaward shifted dune has eroded the toe has become exposed in advance of the natural dunes to the north and south. This became evident as the remnants of Tropical Storm Ian passed offshore of New Jersey between September 29th and October 5th, 2022.

NJDEP Post-storm Inspection Report

While erosion was widespread in North Wildwood, the exposed dune fronting the Beach Patrol Headquarters was hit particularly hard. In their post-storm inspection report, NJDEP described the erosion between 8th and 16th Avenue as follows:

Up to 80' of sloped erosion, up to 4' in height with vertical dune scarps, up to 14' in height and up to 35' in width (mostly between 13th Ave. and 16th Ave.) Wave runoff/tide to the upper beach/dune with some runoff into the dunes. Most access impacted or closed and damaged between 2nd and 7th Ave. and between 13th Ave. and 16th Ave.

The erosion is more precisely documented in Figure 1, which was prepared by the NJDEP. The figure highlights the dramatic difference between the width of the remaining dunes north (over 200 ft) and south (over 125 ft) of the Beach Patrol Headquarters complex as compared to that immediately in front of it (70-80 ft).



City of North Wildwood, February 19, 2022 Near Map Imagery Depicting the GPS Data Collected by the NJDEP on November 1, 2022 & Approximate Width of the Site's Beach Berm/Dune



Figure 1: Figure prepared by NJDEP documenting the erosion in the vicinity of the North Wildwood Beach Patrol Headquarters.

Google Earth Imagery

A comparison of the two most recent satellite images contained in the Google Earth repository is shown below in Figure 2. The exact date of the most recent image is not specified, but it is believed to have been taken in the Fall of 2021. The previous image was taken in October 2019. A comparison of the two images reveals significant dune erosion (on the order of 50 ft) between 2019 and 2021. Although the instantaneous shoreline position is much more dynamic, the most recent picture also contains evidence of dramatic shoreline recession. It should be noted that these pictures do not reflect the most recent beach/dune erosion; however, they do provide context into the scale of the changes occurring at the site.

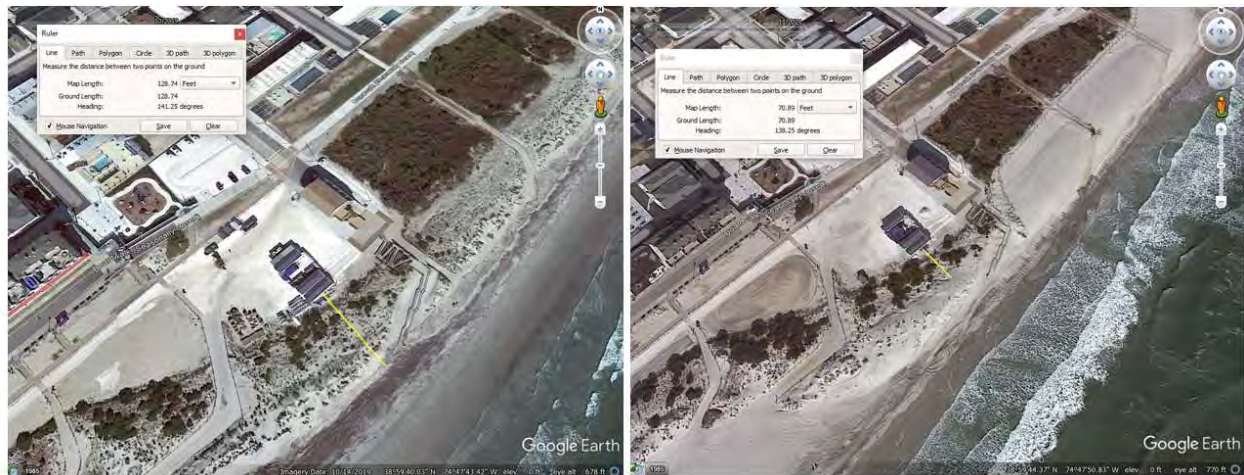


Figure 2: Comparison of the two most recent Google Earth images of the North Wildwood Beach Patrol Headquarters.

Recent Aerial Imagery

Several recent aerial photographs of the beach in the vicinity of the North Wildwood Beach Patrol Headquarters are presented below in Figures 3-5. Figure 3 is a view looking south, taken on November 3, 2022, approximately one month after the passage of Ian. The image illustrates the dramatic seaward displacement of the dune fronting the Beach Patrol Headquarters as compared to the adjacent beaches. As discussed in the previous letter, this seaward displacement makes the dune system inherently more vulnerable in this area. Figure 4 is a photograph taken at ground level looking north towards the Beach Patrol Headquarters, immediately after the passage of Ian. Noticeable in the picture is the low relief of the beach compared to the dune scarp and the width of the remaining dune compared to the access ramp. The remaining dune is roughly 2.5-3 times the width of the access ramp, or approximately 50-60 ft. This is consistent with the dimensions provided in Figure 1. The low relief of the beach fronting the dune makes the remaining dune inherently more vulnerable to erosion during small to moderate level storms. Figure 5 is an aerial view which highlights and confirms the vertical dimension of the erosion (12-15 ft).



Figure 3: Aerial photograph looking south depicting the beach in the vicinity of the North Wildwood Beach Patrol Headquarters after the passage of Hurricane Ian.



Figure 4: Ground level view looking north at the North Wildwood Beach Patrol Headquarters after the passage of Hurricane Ian.



Figure 5: Drone photo depicting the erosion in the vicinity of the North Wildwood Beach Patrol Headquarters after the passage of Hurricane Ian.

NJBPN Reports

Stockton University's Coastal Research Center has been collecting and compiling data on New Jersey's beaches since 1986. In 2011, they completed a report which summarized 25 years of beach profile changes. Figure 6 summarizes the changes through 2011 at profile number 111 which is located at 15th Avenue in North Wildwood. Although the figure does not include the most recent changes, it does highlight the dynamic nature of the beaches in North Wildwood, which Stockton identified as the most erosional in the state. The data illustrate a long-term erosional trend, with shoreline recessions of between 50 and 100 ft/yr, and volume losses of 50 to 100 cy/ft/yr relatively common.



25-Year Coastal Changes at Site 111, 15th Avenue, North Wildwood, Cape May Co.

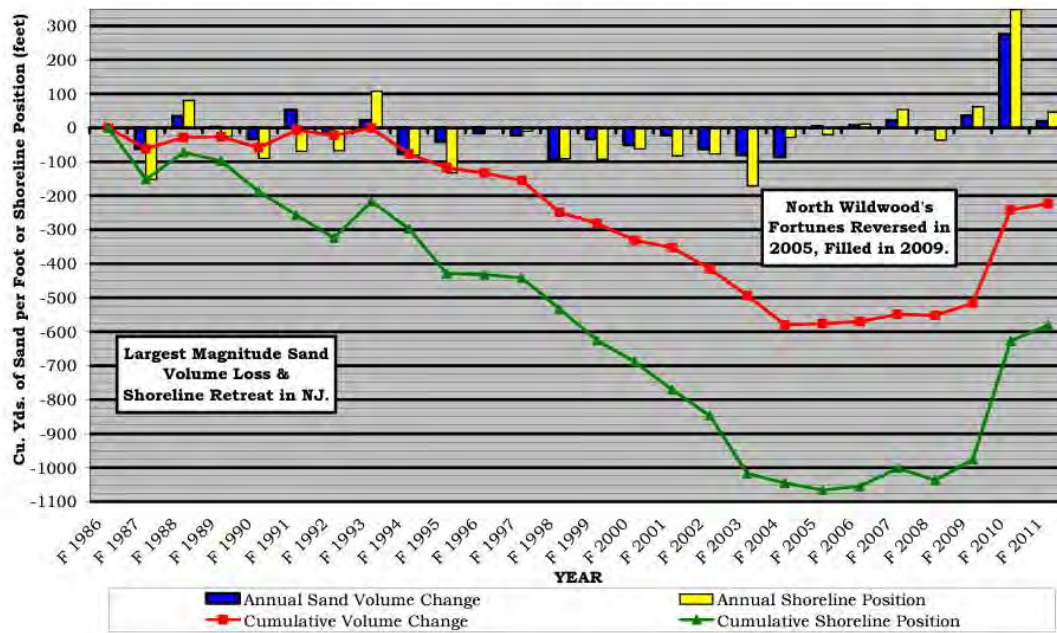


Figure 6: Summary of the changes at NJBPN profile 111 (15th Ave North Wildwood).

Opinion

As the remnants of Hurricane Ian skirted the New Jersey Coast in early October, it created what can be classified as a low-moderate level coastal storm. The low/narrow nature of the beaches in North Wildwood at the time, combined with the extended duration of the storm conditions, resulted in significant dune impacts. Assessment reports compiled by the NJDEP in the wake of the storm documented increased erosion between 13th and 16th Avenue. This increased erosion is attributed to the seaward displacement of the dune in this area. It is expected that as long as this portion of the dune remains displaced, the dune and any structures located on it will be more susceptible to damage during future storms. The approximate “stable” dune position can be identified by connecting the stable linear dune sections to the north and south. This is shown in Figure 7.



Figure 7: Figure illustrating the likely "stable" dune position (yellow line).

Consistent with the comments provided in our previous letter, we believe that the majority of the beaches between 13th and 25th Avenue remain robust enough to withstand immediate threats. With regards to the seaward displaced portion of the dune and the structures built on top of it, two categories can be defined based on location with respect to the equilibrium dune position. The portion of the dune located seaward of the equilibrium position is inherently less stable and will erode faster. Referring to Figure 7, this implies that the two seaward most garage structures face an increased risk of undermining. With only 72 feet of dune (according to the dimensions provided in Figure 1) separating the seaward most structure from the current dune scarp, it is conceivable, although not likely, that a single large storm could erode the remaining dune and threaten the structure. A far more likely mode of failure would be the accumulation of impacts from a series of smaller storms. The Beach Patrol Headquarters itself, along with the landward most garage structure are located landward of the equilibrium dune position. It is anticipated that once the shore/dune line straighten, the rate of erosion will slow. Currently the



Beach Patrol Headquarters building (not including the deck) is located approximately 150 ft from the edge of the scarp. Given the amount of sediment remaining in the dune system, it is considered extremely unlikely that a single storm will undermine the Beach Patrol Headquarters building. Although the building may eventually be threatened by an accumulation of storms, the fact that the building is set back 150 ft from the current edge and roughly 75 ft from the equilibrium dune line defining the accelerated erosion regime suggests that failure is not imminent.

It should be noted that due to the time-sensitive nature of the request, the opinions provided above are only based upon an analysis of readily available data sources which are assumed to accurately represent and effectively characterize the “current” site conditions in the vicinity of the Beach Patrol Headquarters in North Wildwood, NJ. Every effort has been made to thoughtfully consider the available information and render a sound engineering judgement; however, beaches are inherently dynamic, and storms are intrinsically unpredictable and it is possible that outcomes could differ from those expected.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon K. Miller". The signature is written in a cursive style and is positioned above a horizontal dashed line.

Jon K. Miller
Director NJCPTAS
Research Associate Professor
Stevens Institute of Technology

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 093
Trenton, NJ 08625-0093
Attorney for Plaintiff State of New Jersey
Department of Environmental Protection

By: Dianna E. Shinn (242372017)
Deputy Attorney General
(609) 376-2789

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY
CHANCERY DIVISION
Docket No. * _____-22

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
Plaintiff,

v.

CITY OF NORTH WILDWOOD, "XYZ
CONTRACTORS" 1-10, "JOHN
AND/OR JANE DOES" 1-10,
Defendants.

Civil Action

**CERTIFICATION OF
ERICK M. DOYLE IN SUPPORT OF
PLAINTIFF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL
PROTECTION'S ORDER TO SHOW
CAUSE FOR PRELIMINARY
INJUNCTION & TEMPORARY
RESTRAINTS**

I, ERICK M. DOYLE, of full age, certify and say:

1. I am the Bureau Chief within the Division of Resilience Engineering and Construction, Office of Coastal Engineering ("OCE") at the Department of Environmental Protection ("DEP"). I started my recent position in 2017 and my duties include, but are not limited to providing storm damage reduction, coastal resilience, and public access to coastal waterways for the coastal communities along the ocean, bays, and tidal rivers of New Jersey. My

- primary responsibilities are to provide engineering and construction expertise for shore protection and coastal resilience projects, prepare, bid, and manage the construction of state and local shore protection and coastal resilience projects, oversee the Office's role as liaison between local municipalities and the federal government as the non-federal sponsor on United States Army Corps of Engineers ("USACE") Storm Damage Reduction and Coastal Storm Erosion Control projects, manage the inspection and compilation of post-storm initial storm beach damage assessments (storm surveys), identify damages requiring state and/or federal intervention for repairs (through NJOEM, USACE, FEMA, etc.) and oversee the marking and maintaining of buoys, channel markers, and slow speed buoys on state navigation channels.
2. Before I began this position in 2017, I was the Supervising Environmental Engineer for OCE responsible for implementing all of Coastal Engineering's state and local shore protection projects including the direct preparation, bidding, and construction management of said projects. This work included review of engineering plans and specifications, coordination with environmental staff on permit plan requirements, providing municipal engineers with detailed lists of required plan changes,

- and writing and executing State Aid Agreements outlining the roles and responsibilities between the state and municipalities engaging in the projects.
3. I have worked for DEP for 18 years, after graduating from The College of New Jersey with a Bachelor of Science in Mechanical Engineering.
 4. I make this certification in support of the Department's request for a preliminary injunction and temporary restraints to halt North Wildwood ("NWW") from moving forward with installing a bulkhead as recently denied by the Department on October 12, 2022 in NWW's Emergency Authorization ("EA") application following the remnants of Hurricane Ian and in violation of numerous Department statutes as NWW does not have an approved permit to conduct such regulated activity.
 5. The Office of Coastal Engineering is responsible for conducting storm surveys and beach damage assessments. Following the remnants of Hurricane Ian in early October 2022, OCE conducted a routine post-storm survey along portions of the State's 127-mile coastline. This routinely includes conducting on the ground inspections and taking photographs to document post-storm conditions and occasionally conducting a flyover of the shoreline and taking aerial photographs of the coastline.

Post-Ian Storm Surveying

6. On October 4, 2022, OCE staff conducted post-storm surveying along the shorelines of the New Jersey coast. For the past several years, OCE staff has inspected 81 sites (or reaches) as part of this post-storm survey assessment process. NWW has two of these reaches that are used to help define the preliminary impacts from a storm in NWW; one is along the inlet and the other is along the oceanfront. The site at 15th Ave. historically has been one of the locations used to help assess the stretch between 8th Avenue and 16th Avenue due to several factors. These factors include: ease of access (4WD vehicular access), being located along the approximate center of NWW's oceanfront beaches while being at the northern end of the boardwalk, and the location of the beach patrol building, which is further out into the beach and dune system than most development in NWW. Attached as **Exhibit A** are the photographs taken in the area of 15th Avenue in NWW from OCE's post-storm survey. These photographs were used in OCE's assessment of the dune system.
7. On October 6, 2022, to supplement the ground inspection and photo-documentation, OCE conducted a post-storm flyover of the State's coastline. During this flyover,

- OCE took an aerial photograph of the area of 15th Avenue in NWW. This photograph was used in DEP's decision regarding NWW's EA request. Attached as **Exhibit B** is the aerial photograph taken on October 6, 2022.
8. Following notable coastal storms, OCE conducts a written post-storm survey. The written post-storm survey for Ian was published on October 12, 2022. Attached as **Exhibit C** is the October 12, 2022 post-Ian written survey. This written survey provides an overview of the impacts of Ian along the shoreline and identifies where serious erosion occurred. DEP determined that the area of 15th Avenue in NWW experienced major erosion. This written survey was not used by OCE or DLRP in rendering DEP's decision on NWW's EA request because the written report was not ready to be published until October 12, 2022, the same day DEP denied the remainder of NWW's EA request. However, DLRP consulted with OCE in responding to NWW's EA request to determine whether a threat to life, severe loss of property, or environmental degradation existed or was imminent in the area of 15th Avenue following Ian.
9. When necessary, DLRP will consult with OCE regarding an EA request to assist with determining the potential impacts to an OCE project. In this instance, OCE agreed with DLRP that despite the erosion from Ian,

approximately 50-60% of the dune remained seaward of the Beach Patrol Building in NWW at 15th Avenue, offering shore protection. DLRP's consultation with OCE was based on OCE's familiarity with the size and shape of the beach and dune systems that provide shore protection along the State's coast and familiarity with this specific area on NWW's beachfront. This consultation aided DLRP in determining the immediate installation of a permanent bulkhead was not warranted under the CZM Rules at this time.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

Dated: 12-2-22

Erick Doyle
Erick M. Doyle

DOYLE EXHIBIT A















DOYLE

EXHIBIT B



DOYLE EXHIBIT C



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Watershed and Land Management

Division of Resilience Engineering & Construction

Office of Coastal Engineering

1510 Hooper Ave., Suite 140

Toms River, N. J. 08753

Telephone: 732-255-0767 Fax: 732-255-0774

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SHAWN M. LATOURETTE
Commissioner

MEMORANDUM

TO: Vince Mazzei, Assistant Commissioner
Dennis Reinknecht, Director

FROM: *CC* Chris Constantino through Erick Doyle, Bureau Chief (Bureau of Construction)
and Kelley Staffieri, Bureau Chief (Bureau of Operations)

DATE: October 12, 2022

SUBJECT: Initial Coastal Storm Survey & Damage Assessment
Atlantic Ocean, Delaware Bay, and Raritan Bay shorelines
September 29, 2022 – October 5, 2022 – Hurricane Ian/Remnant Coastal Low

Despite the early start of tropical cyclone activity in late May, surf heights and coastal storm activity have been relatively calm since the May 6th to May 11th, 2022 coastal low that plagued the coast of New Jersey. However, during this period of calm storm activity, a nearly two-month period of persistent southerly and southwesterly winds induced localized impacts which included large beach cusps and pronounced scarping, especially on the downdrift side of groins and jetties. Despite these impacts from the coastal dynamics related to this longer-term weather pattern, natural recovery of the beach and dune systems was noted up and down the coast in the lead up to event of September 29th – October 5th. During this period, several typical ‘hot spots’ experienced less notable recovery and more notable erosion than much of the coast, often due to changing inlet dynamics and localized wave patterns.

Tropical activity in the Atlantic Basin began to ramp back up in late August after a 60-day hiatus. Some of this activity introduced periods of increased surf heights to New Jersey, mostly in the form of long period swells. While long period swells tend to be less destructive, especially when coupled with smaller wave heights, ‘hot spots’ tend to be impacted more significantly. Following two periods of long period swell reaching moderate size from offshore Hurricanes Earl and Fiona in early and mid-September, a new tropical cyclone began to take shape east of the Windward Islands – little did we know that the impacts would be as destructive and as wide reaching as Hurricane Ian, which included portions of the New Jersey’s coast. The impacts from Ian (and its remnants) were felt from September 21st through October 5th from the Caribbean all the way to the Mid-Atlantic coast, despite officially dissipating on October 1st.



After significantly impacting a large portion of Florida and the southeast coast, Ian tracked inland towards Virginia where its energy eventually transferred off the southern Mid-Atlantic coast; the effects from this developing coastal low began in New Jersey on Thursday September 29th. A coastal low-pressure system meandered in between the southern Mid-Atlantic coast and the coast of New Jersey through late Wednesday, October 5th. The strength and position of this system plagued New Jersey with a prolonged period of onshore winds that created several days of rough seas and elevated surf conditions and persistent rainfall. The roughest of surf conditions persisted through Wednesday, October 5th, with the heights peaking in the 5- to 9-foot range.

Off the New Jersey coast, buoys recorded wind gusts near 60 mph. Inland reporting stations also recorded gusts near 60 mph during the peak of the event, with the strongest periods occurring between October 2nd and October 3rd. During this storm, nearby buoys recorded peak wave heights between 11 and 22 feet. All oceanfront and back bay locations reached minor flood stage levels during several tide cycles, with several locations approaching moderate flood stage; the peak of the flooding for most locations was on Monday, October 3rd. These elevated tides were a product of several days of moderate to strong onshore winds and the proximity of the storm system center relative the coast.

A full post-storm assessment for the September 29, 2022 – October 5, 2022 – Hurricane Ian/Remnant Coastal Low was conducted on Thursday, October 6th; the results of this assessment are contained in this report. During the compilation of this report, the surf conditions were in the 2- to 4-foot range with offshore winds under 15 mph. As a general note about this assessment, many sites were plagued with wind-blown sand as well as the varying types of debris on the beaches. A detailed summary listed by municipality from north to south is enclosed.

Of the 81 sites surveyed, 63 had minor beach or dune erosion, 6 had moderate beach or dune erosion and 12 had major beach or dune erosion. Criteria for determining damage levels is listed at the end of this summary.

Please note that the storm damage assessments found herein were conducted in a rapid time interval with pre-storm and post-storm observations being made immediately before and after the event in question. Please note that the changes documented in this report are from this event; pre-existing conditions (i.e. scarps in dunes prior to the event) and what caused these conditions are not always reported herein. It is often the Division's experience that much of the material eroded from the "dry" beach area has not been lost, but rather redistributed within the beach profile system, such as creation or enlargement of offshore sand bars. Our expectation is that much of this material will return to the "dry" beach in time following the storm; this time frame may vary based on several contributing factors such as storm frequency and duration.

*** Damage Levels:**

Major erosion – consists of significant or total beach berm loss and/or significant erosion and scarping of the dunes, in portions or all of the reach assessed.

Moderate erosion – consists of significant beach scarping and/or significant sloped erosion of beach berm and/or minor erosion of the dunes, in portions or all of the reach assessed.

Minor erosion – consists of redistribution of sand within the beach profile or loss of sand without significant scarping or significant sloped erosion, in portions or all of the reach assessed.

LOCATION	INSPECTION NOTES	DAMAGE LEVEL*
PERTH AMBOY	Minor sloped erosion and redistribution of sand. No major incidents or damage observed or reported. Wave runup/tide to the upper beach.	Minor
SOUTH AMBOY	Minor sloped erosion and redistribution of sand. No major incidents or damage observed or reported. Wave runup/tide to the upper beach.	Minor
OLD BRIDGE	Minor sloped erosion (under 20 feet in width) and redistribution of sand. Pre-existing scarp remains the same. No major incidents or damage observed or reported. Wave runup/tide to the upper beach. Debris noted on the beach.	Minor
ABERDEEN	No major incidents or damage observed or reported.	Minor
ABERDEEN CLIFFWOOD BEACH	Minor sloped erosion (under 20 feet in width) and redistribution of sand. Wave runup/tide to the upper beach. Windblown sand along Lakeshore Dr. and Ocean Blvd. Pre-existing scarps to the dune remain. No major incidents or damage observed or reported.	Minor
KEYPORT	Minor sloped erosion (under 10 feet in width) and redistribution of sand. No major incidents or damage observed or reported. Wave runup/tide to the upper beach. Debris noted on the beach.	Minor
UNION BEACH	Minor sloped erosion (under 10 feet in width) and redistribution of sand. Wave runup/tide to the upper beach. No major incidents or damage observed or reported. Debris noted on the beach.	Minor
KEANSBURG – BAYSHORE FLOODGATE	Minor sloped erosion and redistribution of sand. No major incidents or damage reported. Gate was closed consistent with the Operations Manual. Notable shoaling adjacent to the terminal groin on the east side of the creek mouth.	Minor
KEANSBURG	<p>Floodgate Facility to Point Comfort: Up to 25' of sloped erosion. Some wave runup/tide to the upper beach/dune. Additional erosion to the pre-existing 5' high vertical beach scarps; up to 300 linear feet.</p> <p>Point Comfort to Ideal Beach: Up to 25' of sloped erosion. Some wave runup/tide to the upper beach/dune. Additional erosion to the pre-existing 4' high vertical beach scarping near Point Comfort; up to 150 linear feet. No major incidents or damage observed or reported.</p> <p>Ideal Beach to Pews Creek: Minor sloped erosion (under 10 feet) and redistribution of sand. Some wave runup/tide to the upper beach/dune. No major incidents or damage observed or reported. Maintenance dredging of Pews Creek; dredged material being deposited on the beach to the west of the Creek.</p>	Minor
MIDDLETOWN	<p>Pews Creek Pump Station: Gate was closed consistent with the Operations Manual.</p> <p>Port Monmouth: Minor to moderate sloped erosion and redistribution of sand. Some wave runup/tide to the upper beach/dune. No major incidents or damage observed or reported. Remnant timber groins exposed east of the Bayshore Waterfront Park pier.</p>	Minor

	Belford: Some additional erosion to the existing scarp along the dike at the ferry terminal. No major incidents or damage observed or reported. County stabilizing the CDF dike.	Minor
	Leonardo: Minor sloped erosion (under 10 feet) and redistribution of sand. Some wave runup/tide to the upper beach/dune. No major incidents or damage observed or reported. Debris noted on the beaches.	Minor
ATLANTIC HIGHLANDS	Minor sloped erosion (under 10 feet) and redistribution of sand. Additional vertical dune scarping (up 3' in height.) Some wave runup/tide to the upper beach. No major incidents or damage observed or reported. Debris noted on the beaches.	Minor
HIGHLANDS	Minor sloped erosion (under 10 feet) and redistribution of sand. Some wave runup/tide to the upper beach/dune. No major incidents or damage observed or reported.	Minor
SEA BRIGHT	Up to 50' of sloped erosion with some wave runup/tide to the upper beach/dunes/seawall with some runup into the dunes. Some minor scarping of the beach and the dunes. Several sinkholes along the seaward toe of the seawall near and north of Center St. No major incidents or damage observed or reported.	Moderate
MONMOUTH BEACH	Riverview Road to Beach Rd.: Up to 25' of sloped erosion. Wave runup/tide to the upper beach/dunes with some runup into the dunes. No major incidents or damage observed or reported.	Minor
	Beach Rd. to South end of Borough: Up to 70' of sloped erosion, with up to 150 linear feet of vertical beach scarping, near remnant steel groin. Approximately 80' of dilapidated bulkhead exposed, up to 4 feet in height. Wave runup/tide to the upper beach/dunes/seawall. No major incidents or damage observed or reported.	Moderate
LONG BRANCH	Seven Presidents to Seaview Ave.: Up to 40' of sloped erosion. Some wave runup/tide to the upper beach/bulkhead. No major incidents or damage observed or reported.	Minor
	Seaview Ave. to Cottage Pl.: Up to 60' of sloped erosion. Wave runup/tide to the upper beach/dune/bulkhead. No major incidents or damage observed or reported.	Minor
	Cottage Pl. to south end of City: Up to 55' of sloped erosion. Little to no beach from south of Lake Takanassee to approximately 1,000 linear south of Pullman Ave. Wave runup/tide to the upper beach/bulkhead, especially south of Lake Takanassee. Increased exposure of groins and outfalls. Bulkhead overtopped by wave runup during this event near Pullman Ave, causing additional sinkholes.	Moderate
DEAL	Up to 100' of sloped erosion with various sections of vertical beach scarping, up to 3' in height. Wave runup/tide to the upper beach. No major incidents or damage observed or reported.	Minor

ALLENHURST	Up to 50' of sloped erosion. Wave runup/tide to the upper beach. No major incidents or damage observed or reported.	Minor
LOCH ARBOUR	Up to 40' of sloped erosion and redistribution of sand. Wave runup/tide to the upper beach. Some localized beach scarping up to 2' in height. No major incidents or damage observed or reported.	Minor
ASBURY PARK	Up to 80' of sloped erosion and redistribution of sand. Wave runup/tide to the upper beach. No major incidents or damage observed or reported.	Minor
NEPTUNE OCEAN GROVE	Up to 90' of sloped erosion and redistribution of sand. No major incidents or damage observed or reported.	Minor
BRADLEY BEACH	Up to 60' sloped erosion and redistribution of sand. Wave runup/tide to the upper beach. No major incidents or damage observed or reported.	Minor
AVON	Up to 40' sloped erosion and redistribution of sand. Wave runup/tide to the upper beach. Windblown sand to boardwalk. No major incidents or damage observed or reported.	Minor
BELMAR	Up to 60' of sloped erosion and redistribution of sand. Windblown sand to boardwalk and some public access points. Wave runup/tide to the upper beach. No major incidents or damage observed or reported.	Minor
SPRING LAKE	Up to 70' of sloped erosion and redistribution of sand with minor localized scarping. Windblown sand partially covering access points along boardwalk. Wave runup/tide to the upper beach. Minor dune fence damage.	Minor
SEA GIRT	Up to 35' of sloped erosion and redistribution of sand. Wave runup/tide to the upper beach/dune. No major incidents or damage observed or reported.	Minor
MANASQUAN	Up to 40' of sloped erosion and redistribution of sand. Wave runup/tide to the upper beach. No major incidents or damage observed or reported.	Minor
POINT PLEASANT BEACH	Up to 70' of sloped erosion, up to 8' in height with some redistribution of sand. Wave runup/tide to the upper beach/dune.	Minor
BAY HEAD	Up to 60' of sloped erosion, up to 6' in height with vertical dune scarping up to 8' in height. Several sections have notable portions of the USACE engineered dune missing. Wave runup/tide to the upper beach/dune with some runup into the dune. Damage to crossovers especially along the northern ½ of the Borough's beaches.	Major
MANTOLOKING	Up to 20' of sloped erosion, up to 6' in height and redistribution of sand. Wave runup/tide to the upper beach/dune with some runup into the dune.	Minor
BRICK	Up to 20' of sloped erosion, up to 4' in height and redistribution of sand. Wave runup/tide to the upper beach/dune.	Minor
TOMS RIVER NORMANDY BEACH through MONTEREY BEACH	Up to 25' of sloped erosion, up to 6' in height and redistribution of sand. Wave runup/tide to the upper beach/dune with some runup into the dune.	Minor

LAVALLETTE	Up to 30' of sloped erosion, up to 6' in height and redistribution of sand. Wave runup/tide to the upper beach/dune.	Minor
TOMS RIVER ORTLEY BEACH	Up to 25' of sloped erosion, up to 6' in height with vertical dunes scarping up to 10' in height. Several sections with notable portions of the USACE engineered dune missing. Damage to crossovers and all the seaward dune fencing missing between 4 th and 8 th Avenues. Wave runup/tide to the upper beach/dune with some runup into the dune.	Major
SEASIDE HEIGHTS	Up to 80' of sloped erosion, up to 6' in height and redistribution of sand. Wave runup/tide to the upper beach/dune.	Minor
SEASIDE PARK	Up to 40' of sloped erosion, up to 6' in height and redistribution of sand. Wave runup/tide to the upper beach/dune with some runup into the dune. Windblown sand covering crossovers preventing access at certain locations.	Minor
BERKELEY TWP. S. SEASIDE PARK	Up to 25' of sloped erosion, up to 6' in height and redistribution of sand. Wave runup/tide to the upper beach/dune. Windblown sand covering crossovers preventing access at certain locations.	Minor
ISLAND BEACH STATE PARK	Minor to moderate sloped erosion and redistribution of sand. No major incidents or damage observed or reported as of report time. Wave runup/tide to the upper beach/dune. Some windblown sand covering crossovers temporarily impacting access at certain locations.	Minor
BARNEGAT LIGHT	Moderate sloped erosion and redistribution of sand. No major incidents or damage observed or reported.	Minor
LONG BEACH TWP. LOVELADIES	Up to 80' of sloped erosion, up to 4' in height and redistribution of sand. Approximately 1,000 linear feet of vertical dune scarping, up to 8' in height and 20' in depth. Wave runup/tide to the upper beach/dune with some runup into the dune. Damage to vehicular and ADA access crossovers.	Moderate
HARVEY CEDARS	Up to 80' of sloped erosion, up 4' in height. 5,000 linear feet of vertical dune scarping, up to 14' in height and up to 25' in depth, much of which is to the USACE engineered dune. Wave runup/tide to the upper beach/dune with some runup into the dune. Damage to ADA, vehicular and pedestrian crossovers.	Major
LONG BEACH TWP. NORTH BEACH	Up to 60' of sloped erosion, approximately 4' in height and redistribution of sand. Wave runup/tide to the upper beach/dune.	Minor
SURF CITY	Up to 60' of sloped erosion, up to 4' in height with some accretion of sand noted at the north end of the Borough. Wave runup/tide to the upper beach/dune.	Minor
SHIP BOTTOM	Up to 60' of sloped erosion, up to 4' in height and redistribution of sand. Wave runup/tide to the upper beach.	Minor
LONG BEACH TWP. BRANT BEACH through N. BEACH HAVEN	Up to 60' of sloped erosion, up to 4' in height in height. 2,000 linear feet of scarping up to 8' in height and 12' in depth (1,000 feet near 46 th St. and 1,000 feet near north 13 th St.) Wave runup/tide to the upper beach/dune with some runup into the dunes.	Major

BEACH HAVEN	Up to 80' of sloped erosion, up to 4' in height. Approximately 6,200 linear feet of vertical scarping at various section, up to 14' in height and up to 15' in depth. Several sections with nearly 50% of the USACE engineered dune missing. Wave runup/tide to the upper beach/dune with some runup into the dunes. Windblown sand on crossovers and others significantly damaged. Some new nearshore accretion noted at a few locations.	Major
LONG BEACH TWP. HOLGATE	Up to 60' of sloped erosion, up to 4' in height. Approximately 3,200 linear of vertical dune scarping up to 16' in height and 20' in depth. Several sections with nearly 50% of the USACE engineered dune missing. Wave runup/tide to the upper beach/dune with some runup into the dunes. Multiple crossovers damaged or destroyed.	Major
BRIGANTINE	Up to 70' of sloped erosion, up to 3' in height throughout the City. Wave runup/tide to the upper beach/dunes/revetment with some runup into the dunes. Some ponding noted on upper beach. 15 th St. N. to 5 th St. N. continues to experience more enhanced erosion; vertical dune scarp, up 6' in height near and north of 15 th St. N. and from 6 th St. N. through Roosevelt Blvd. Some minor vertical dune scarping from Roosevelt Blvd through 7 th St. S.	Moderate
ATLANTIC CITY	<u>Inlet Seawall and Terminal Jetty area:</u> No incidents or damage observed or reported.	Minor
	<u>Inlet Jetty to Ventnor Border:</u> Up to 50' of sloped erosion throughout the City with a few isolated sections of low vertical dune scarping north of North Carolina Ave. Some wave runup/tide to the upper beach/dunes with some runup into the dunes.	Minor
VENTNOR	Up to 50' of sloped erosion and redistribution of sand throughout the City. Some wave runup/tide to the upper beach/dunes with some wave runup into the dune.	Minor
MARGATE	Minor sloped erosion and redistribution of sand throughout the City. Some wave runup/tide to the upper beach/dunes.	Minor
LONGPORT	Up to 25' of sloped erosion and redistribution of sand throughout the Borough. Some wave runup/tide to the upper beach/dunes with some runup into the dunes.	Minor
OCEAN CITY	Up to 50' of sloped erosion up to 2' in height throughout the City. Various sections of vertical dune scarps, ranging from to 2' to 6' in height north of the 12th St. with total dune loss from south of 5 th St. through near 7 th St. Some wave runup/tide to the upper beach/dunes with some runup into the dunes.	Major

UPPER TWP. STRATHMERE	Up to 50' of sloped erosion, up to 3' in height, with sections of vertical dune scarping up to 14' in height and up to 20' in width from Seaview Ave. south through Whale Beach. 50% or more of the USACE engineered dune is missing north of Winthrop Ave. (3 blocks) with almost no dune left at Seaview Ave. Wave runup/tide to the upper beach/dune with some runup into the dunes. Several access points impacted or closed north of Williams Ave.	Major
SEA ISLE CITY	Whale Beach to Townsend Inlet Waterfront Park: Up to 75' of sloped erosion, up to 4' in height with vertical dune scarping up to 14' in height and up to 15' in width, with the focus near JFK Blvd. and south of 88 th St; much of which is to the USACE engineered dune. Wave runup/tide to the upper beach/dune with some runup into the dunes. Some access impacted near JFK Blvd. And most access impacted or closed south of 84 th St.	Major
AVALON	Up to 50' of sloped erosion, up to 4' in height with vertical dune scarping up to 14' in height and up to 30' in width (between 11 th St. and 23 rd St.), some of which may be to the USACE engineered dune. Wave runup/tide to the upper beach/dune. Multiple beach access points closed and damaged between 12 th St. and 23 rd St. Wave runup/tide to the upper beach/dune with some runup into the dunes.	Major
STONE HARBOR	Up to 60' of sloped erosion, up to 4' in height. Vertical dune scarping, throughout the Borough, up to 10' in height and up to 15' in width, some of which may be the USACE engineered dune. Wave runup/tide to the upper beach/dune with some runup into the dunes. Many access points closed and damaged.	Major
NORTH WILDWOOD	Hereford Inlet & Surf Ave: Up to 50' of sloped erosion, up to 3' in height. Wave runup/tide to the upper beach/dune/seawall with some runup into the dunes. No major incidents or damage observed or reported to the inlet beach and inlet seawall.	Minor
	2nd Ave. to 8th Ave.: Up to 75' of sloped erosion, up to 4' in height. Wave runup/tide to the upper beach/revetment/bulkhead. Accessways closed. 8th Ave to 16th Ave.: Up to 80' of sloped erosion, up to 4' in height with vertical dune scarps, up to 14' in height and up to 35' in width (mostly between 13 th Ave. and 16 th Ave.) Wave runup/tide to the upper beach/dune with some runup into the dunes. Most access impacted or closed and damaged between 2 nd and 7 th Ave. and between 13 th Ave. and 16 th Ave. 16th Ave. to Wildwood border: Up to 80 feet of sloped erosion, up to 3' in height. Wave runup/tide to the upper beach/dune with some runup into the dunes and in-between the southern piers.	Major
WILDWOOD CITY	Up to 250' of sloped erosion, up to 3' in height and redistribution of sand. Wave runup/tide to the upper beach. Evidence of berm top ponding. No major incidents or damage observed or reported	Minor

WILDWOOD CREST	Up to 225' of sloped erosion, up to 3' in height and redistribution of sand. Wave runup/tide to the upper beach/dune. Evidence of berm top ponding. No major incidents or damage observed or reported	Minor
LOWER TWP. DIAMOND BEACH	Up to 200' of sloped erosion, up to 3' in height and redistribution of sand. Wave runup/tide to the upper beach. Evidence of berm top ponding. No major incidents or damage observed or reported	Minor
CAPE MAY CITY	Up to 15' of sloped erosion, up to 2' in height and redistribution of sand. Wave runup/tide to the upper beach/dune with some runup into the dunes. Evidence of berm top ponding at the Cove Beach.	Minor
LOWER TWP./WEST CAPE MAY	Minor sloped erosion and redistribution of sand. Wave runup/tide to the upper beach/dune. No major incidents or damage observed or reported. Evidence of berm top ponding.	Minor
CAPE MAY POINT	Minor sloped erosion and redistribution of sand. Wave runup/tide to the upper beach/dune. No major incidents or damage observed or reported.	Minor
LOWER DELAWARE BAY	North Cape May/Villas: Up to 20' of sloped erosion up to 2' in height with isolated vertical dune scarps up to 3' in height and 5' in width. Wave runup/tide to the upper beach/dune with some runup into the dunes and upland areas. No major incidents or damage observed or reported.	Minor
	Del Haven/Pierces Point/Reeds Beach: Up to 20' of sloped erosion up to 2' in height. Wave runup/tide to the upper beach with some runup into the dunes and upland areas. No major incidents or damage observed or reported.	Minor
DELAWARE BAY/RIVER	East Point: Minor sloped erosion and redistribution of sand with a small section of minor vertical scarping noted. Wave runup/tide to the upper beach with some runup onto the tubes and into areas upland of the beach. No major incidents or damage observed or reported.	Minor
	Heislerville Dike: Some sinkholes forming and increasing in size. New erosion noted near some drainage pipes. Some impacts to drainage may be occurring as a result.	Moderate
	Bivalve (Commercial): Some new erosion noted. Evidence of higher tidal elevations; may not be from this event. No major incidents or damage reported.	Minor
	Fortescue: Minor to moderate sloped erosion (up to 5' in height) and redistribution of sand. Wave runup/tide to the upper beach/dune. No major incidents or damages reported.	Minor
	Downe Township: Gandy's Beach: Minor sloped erosion and redistribution of sand. Wave runup/tide to the upper beach/dune. Wind-blown sand noted. No major incidents or damages reported. Money Island: Minor sloped erosion and redistribution of sand. Some minor additional scarping of the western end of the dune. Wave runup/tide to the upper beach/dune with some runup into the dunes. No major incidents or damages reported.	Minor

	<u>Lawrence Twp. - (Bay Point):</u> No major incidents or damage reported.	Minor
	<u>Fairfield Twp. (Sea Breeze):</u> Minor to moderate sloped erosion and redistribution of sand. Debris noted on entire beach. Little to no beach remains. Wave runup/tide to the upper beach with some runup to the dunes and upland areas.	Minor
	<u>Oakwood Beach:</u> Minor sloped erosion and redistribution of sand. Debris noted on entire beach. Little to no beach remains and some overtopping possible at the southern end. Wave runup/tide to the upper beach.	Minor

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 093
Trenton, NJ 08625-0093
Attorney for Plaintiff State of New Jersey
Department of Environmental Protection

By: Dianna E. Shinn (242372017)
Deputy Attorney General
(609) 376-2789

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY
CHANCERY DIVISION
Docket No. * _____-22

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

CITY OF NORTH WILDWOOD, "XYZ
CONTRACTORS" 1-10, "JOHN
AND/OR JANE DOES" 1-10,

Defendants.

Civil Action

**CERTIFICATION OF
MICHELE S. KROPILAK IN SUPPORT
OF PLAINTIFF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL
PROTECTION'S ORDER TO SHOW
CAUSE FOR PRELIMINARY
INJUNCTION & TEMPORARY
RESTRAINTS**

I, MICHELE S. KROPILAK, of full age, certify and say:

1. I am the Manager of the Bureau of Coastal and Land Use Compliance and Enforcement ("CLUE") at the Department of Environmental Protection ("DEP").

2. I have worked for DEP for more than 33 years, starting in July, 1989. I graduated from Drew University in May, 1989, with a Bachelor's degree in Biology.

3. Before I began this position in January, 2021, I was CLUE's Toms River field office Region Supervisor, a position held since 2012. I managed a staff of 10 whose responsibilities included ensuring compliance with and the enforcement of the DEP's land use regulations primarily along NJ's eastern coastline, from Monmouth County south to Cape May County. These laws/regulations include the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.) and the regulations (N.J.A.C. 7:13-1.1 et seq.), the Waterfront Development Act (N.J.S.A. 12:5-1) and the regulations (N.J.A.C. 7:7-1 et seq.), and the Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.), the Freshwater Wetland Protection Act (N.J.S.A. 13:9B-1 et seq.) and the regulations (N.J.A.C. 7:7A-1 et seq.), and the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.). All these laws/regulations provide authority for the DEP to regulate development, including clearing of vegetation/grading and filling, within environmentally sensitive areas such as, but not limited to, beaches, dunes, wetlands and floodplains.

4. I started my recent position in January 2021, and my duties include, but are not limited to, managing a CLUE staff of 23 whose responsibilities include ensuring compliance with and enforcement of the DEP's land use regulations throughout New Jersey. These statutes/regulations include the Flood Hazard Area

Control Act ("FHCA", N.J.S.A. 58:16A-50 et seq.) and the regulations (N.J.A.C. 7:13-1.1 et seq.), the Waterfront Development Act ("WDA", N.J.S.A. 12:5-1) and the regulations (N.J.A.C. 7:7-1 et seq.), and the Coastal Area Facilities Review Act ("CAFRA", N.J.S.A. 13:19-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.), the Freshwater Wetland Protection Act ("FWPA", N.J.S.A. 13:9B-1 et seq.) the regulations (N.J.A.C. 7:7A-1 et seq.), and the Wetlands Act of 1970 ("WA", N.J.S.A. 13:9A-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.) and the Highlands Water Protection and Planning Act ("HPPA" N.J.S.A. 13:20 et seq.) and the regulations (N.J.A.C. 7:38 et seq.).

5. I make this certification in support of the DEP's request for a preliminary injunction and temporary restraints to halt North Wildwood ("NWW") from commencing with installation of any future bulkhead, including beach and dune disturbance, without DEP permit authorization.

6. I am familiar with North Wildwood's ("NWW") unauthorized DEP regulated activities along its oceanfront that came to the DEP's attention in 2020 and have continued to present. As outlined in further detail below, the DEP has issued NWW and its various contractors numerous Notices of Violation since 2020 for unauthorized regulated activities conducted along its oceanfront without DEP permit approval. These unauthorized activities include the installation of a steel and/or vinyl bulkhead from 3rd to 13th

Avenues on the oceanfront (approximately 2,729 linear feet in total), construction or placement of numerous unauthorized regulated structures on the oceanfront, and bulldozing, grading, excavation, clearing and removal of vegetated dunes, wetlands and critical wildlife habitat, as well as conducting beach and dune maintenance activities within the regulated oceanfront beach and dune areas throughout the City limits absent required DEP permits. On June 6, 2020, September 17, 2020 and October 5, 2020, Notices of Violation were issued by DEP to NWW for the installation of bulkhead and multiple structures and pathways, removal of vegetated dunes and wetlands, and excavation, filling and grading without DEP approval. On June 25, 2020, and September 17, 2020, Notices of Violation were issued by DEP to NWW's contractors, R.A. Walters & Sons Inc. and C. Abbonizio Contractors Inc for continuing unauthorized regulated activities without permit approval. In July, 2022, the DEP issued NWW a Notice of Violation as its beach and dune maintenance permit had expired in June 2022, and the City is not authorized to continue beach and dune maintenance without the required DEP permit approval. The DEP has again been forced to issue additional Notices of Violation to NWW on October 20, 2022, and to its contractor, H4 Enterprises, LLC, on October 28, 2022, for continuing to undertake unauthorized DEP regulated activities following Hurricane Ian that were specifically never requested by

NWW in its emergency authorization application and were in part denied DEP Emergency Authorization "EA" on October 12, 2022.

2020 Violations for Similar Illegal Activity

7. Attached to this certification as **Exhibit A** are two Notices of Violation ("NOV") the Department issued NWW on June 6, 2020. The first NOV, issued only to NWW, addresses NWW's installation (from 2012 to 2020) of a vinyl and steel bulkhead from 3rd to 13th Avenues without DEP permit approval. The NOV informed NWW that a permit is required for this work. NWW applied to legalize the installed bulkhead on November 20, 2020, however, the application was declared deficient on December 3, 2020, due to lack of property owner signatures and public newspaper notice, and NWW has not cured the permit application deficiencies since 2020 and it remains deficient at this time. The installation of the bulkhead without the required permits is a violation of the CAFRA, the FWPA, and the FHACA.

8. The June 6, 2020 NOV also includes violations for numerous other structures on the NWW oceanfront, including the construction of approximately 4, 216 square feet of concrete walkway and composite walkway at the Beach Patrol Building at 15th Avenue. NWW was issued a DEP jurisdictional determination on August 14, 2019, that specifically identified these walkways as requiring a CAFRA permit prior to construction, however, no permit has been obtained to date. In addition, approximately 4, 691 square

feet of storage sheds have been placed at the Beach Patrol Building, and these 3 storage sheds are still located at the site without DEP approval. NWW also illegally placed approximately 44,981 square feet of crushed clam fill material for the creation of a walkway between 15th and 21st along the oceanfront and constructed a composite bike path between 15th and 21st Avenues along the oceanfront. All are regulated activities that require a coastal permit pursuant to CAFRA, N.J.A.C. 7:7-2.2.

9. The June 6, 2020 NOV outlines that the DEP has determined that in early 2020, NWW and its contractor(s) removed over six acres of dunes, wetland, and critical wildlife habitat from 7th to 13th Avenues oceanfront in violation of the CAFRA, the FHCA and the FWPA. All the violations noted in the 2020 & 2022 NOVs to NWW and its contractors remain open and unresolved; however, the Department is not seeking to enforce these violations in this application, but merely highlight these existing violations to demonstrate NWW's continued repeated egregious behavior of engaging in DEP regulated activity on its beachfront without the required emergency approval(s) or permit(s). The second NOV issued to NWW and BG Capital LLC, outlines violations for the unauthorized and unpermitted construction on Seaport Pier, including the construction of a swim up bar and bathrooms at the pool club, a pool storage building, and other restaurant, bar and concert stage structures on the main pier.

Post-Ian Violations of the Emergency Authorization and CAFRA

10. On October 20, 2022, the Department issued NWW an NOV for excavating sand from the beach berm near 11th Avenue and transporting and placing the excavated sand on the beach between 14th and 16th Avenues. This regulated activity of excavating sand from 11th Avenue was never part of any request from NWW to the DEP for emergency authorization post Ian. Attached to this certification as **Exhibit B** is the October 20, 2022 NOV issued to NWW. The NOV states that the excavated sand is being graded towards the dunes between 14th and 16th Avenues. This regulated activity is a violation of CAFRA, N.J.A.C. 7:7-2.2. The NOV directs NWW to immediately cease any further regulated activities and submit the appropriate complete land use permit application to the Department to legalize or obtain approval for these activities.¹

11. On October 28, 2022, the Department issued H4 Enterprises, LLC an NOV for performing unauthorized regulated activities within a CAFRA area without Department authorization. Attached to this certification as **Exhibit D** is the October 28,

¹ It should be noted that the Department issued NWW a NOV on July 27, 2022 because its beach and dune maintenance permit expired on June 8, 2022. To date, NWW does not have a valid beach and dune maintenance permit and as such, NWW cannot conduct any beach or dune maintenance, which includes the illegal activity outlined in the October 20, 2022 NOV. In the July 27, 2022 NOV the Department directed NWW to complete the appropriate application and obtain CAFRA permit approval prior to conducting any future beach and dune maintenance. Attached as **Exhibit C** is the July 27, 2022 NOV.

2022 NOV issued to H4 Enterprises, LLC. H4 Enterprises, LLC, "H4", is the contractor that performed the excavation of the sand from the beach berm located at and near 11th Avenue in NWW. H4 then placed this excavated sand waterward of the dune area between 14th and 16th Avenues in NWW and graded this sand landward towards the existing dune. As noted in the NOV, NWW did not submit any emergency request to excavate sand from 11th Avenue and relocate it to the area between 14th and 16th Avenues, and thus, the DEP did not approve this work. Additionally, NWW has no current beach and dune maintenance permit approval to conduct such regulated activities and NWW's EA application stated that there was no available sand source in the area for such work. This regulated activity is not only a violation of NWW's EA but also, CAFRA, N.J.A.C. 7:7-2.2 because NWW does not have a valid coastal permit for such activity.

12. On October 21, 2022, the Department received a response to the October 20, 2022 NOV from Neil Yoskin, Esq., counsel for NWW. Attached to this certification as **Exhibit E** is the October 21, 2022 letter from Neil Yoskin, Esq. to the Department. This letter indicates that NWW had completed the reshaping and regrading of the dune remnants on October 20, 2022. The letter also states NWW's intent to continue with bulkhead construction, specifically that the materials for the bulkhead are not yet available but should be within 30 days.

13. On November 13, 2022, I received a response to the NOV issued to H4 Enterprises, LLC. Attached as **Exhibit F**, is a copy of this response. In the response, H4 indicates that it was contacted by Jim Verna, City of North Wildwood Engineer, to perform the work conducted on October 20, 2022. H4 did not have any workplans or surveys for this work and completed the work on October 20, 2022. The invoice for this work indicated "dune sloping and sand moving - 16th to 13th Street, North Wildwood." H4 charged NWW \$27,400.00 for this work.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.



Dated: 11/30/2022

Michele S. Kropilak
Manager Bureau of Coastal and Land
Use Compliance and Enforcement

KROPILAK EXHIBIT A



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF COASTAL AND LAND USE COMPLIANCE AND ENFORCEMENT

Toms River Office

1510 Hooper Avenue, Suite 140

Toms River, New Jersey 08753

Telephone: (732) 255-0787 Fax: (732) 255-0877

www.nj.gov/dep

June 6, 2020

PHILIP D. MURPHY

Governor

SHEILA Y. OLIVER

Lt. Governor

CATHERINE R. McCABE

Commissioner

Via email & CERTIFIED MAIL/RRR
7019 2280 0001 6928 4759

The Honorable Patrick Rosenello
City of North Wildwood
901 Atlantic Avenue
North Wildwood, New Jersey 08260

RE: Notice of Violation
NJDEP File #: PEA200001 - 0507-03-0009.3
Block 291.01, Lot 1; Block 315.02, Lot 1;
Block 316.02, Lot 1; Block 317.02, Lots: 1 & 2;
Block 317.03, Lot 1
North Wildwood City, Cape May County, New Jersey

Dear Mayor Rosenello:

Enclosed for service upon you is a Notice of Violation issued by the Department.

If you have any questions concerning the enclosed Notice of Violation you may contact Danielle Campanella, Environmental Specialist, of my staff at Danielle.Campanella@dep.nj.gov, or at the address or telephone number above.

Sincerely,

(For)

Michele Kropilak, Region Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement

Enclosure

c: Christopher Jones, NJDEP, DLUR
Judeth Yeany, NJDEP, Green Acres
Bill Dixon, NJDEP, Coastal Engineering



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF COASTAL AND LAND USE COMPLIANCE AND ENFORCEMENT

PHILIP D. MURPHY
Governor

Toms River Office
1510 Hooper Avenue, Suite 140
Toms River, New Jersey 08753

CATHERINE R. McCABE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

Telephone: (732) 255-0787 Fax: (732) 255-0877

www.nj.gov/dep

Via email & CERTIFIED MAIL/RRR

7019 2280 0001 6928 4759

NOTICE OF VIOLATION

Responsible Entity: City of North Wildwood
NJDEP File #: PEA200001 - 0507-03-0009.3
Site Location: Waterfront area, Surf Ave & 2nd Ave-22nd Ave
North Wildwood, New Jersey 08260
Block and Lots: Block 291.01, Lot 1; Block 315.02, Lot 1
Block 316.02, Lot 1; Block 317.02, Lots: 1 & 2;
Block 317.03, Lot 1

You are hereby notified that the City of North Wildwood (City) is currently in violation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and the regulations (N.J.A.C. 7:7A-1 et seq.), the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.) and the regulations (N.J.A.C. 7:13-1.1 et seq.), and the Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.), and the Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the regulations (N.J.A.C. 7:15-1 et seq.).

During compliance evaluations at the above location on April 28, 2020 and May 26, 2020, the New Jersey Department of Environmental Protection (Department) observed egregious and potentially knowing violations of the above-referenced laws, which exist to ensure the protection of public safety and the environment. As outlined further below, the City's unauthorized and unpermitted destruction of more than eight (8) acres of mature, densely vegetated natural dunes, including destruction of critical wildlife habitat, freshwater wetlands, unpermitted construction of more than 2,234 linear feet of bulkhead, unpermitted installation and construction of structures and walkways, and continued failure to comply with permit conditions through continued beach grading without proper regulatory oversight is detrimental to the environment and may have created conditions that threaten public safety. If immediate corrective action in accordance with this Notice is not completed, the Department may be required to take further enforcement action.

1. **Requirement:** Pursuant to N.J.A.C. 7:7-2.2, no person shall engage in a regulated activity within a CAFRA area without a coastal permit.

Description of Noncompliance: The performance of unauthorized regulated activities within a CAFRA area. More specifically, the following activities have occurred without permit authorization from the Department's Division of Land Use Regulation:

- A. The construction of approximately 617 linear feet of steel bulkhead from 5th to 7th Avenue, within a prior beach and dune area.
- B. The removal of vegetation, filling and grading of the (now bulkheaded) beach and dune area (approx. 0.58 acres) from 5th to 7th Avenue, to create a park with playground, walkways and other amenities.
- C. The construction of approximately 1,617 linear feet of steel bulkhead from 7th Ave to 13th Avenue along the oceanfront, within prior dune and freshwater wetland areas.
- D. The placement of crushed clam fill material for the creation of a path through approx. 8,565 square feet of beach/dune/CAFRA area from Surf Ave to the Lou Booth Amphitheater.
- E. The placement of an approx. 96 square foot concrete landing/flagpole adjacent to the Lou Booth Amphitheater.
- F. The 1,084 square foot expansion of concrete sidewalk at Surf Avenue leading to the path through the dune that leads to the Lou Booth Amphitheater.
- G. The placement of an approximately 165 square foot shed within a CAFRA Area at the beginning of the path on Surf Ave leading to the Lou Booth Amphitheater.
- H. The placement of a 470 square of concrete path in a CAFRA area near the intersection of 2nd & Ocean. (adjacent to amphitheater)
- I. The removal of vegetation, grading, and filling of a beach/dune/CAFRA area at the intersection of 1st & Surf: specifically, the placement of concrete & gravel for pathways and a bike rack area within a 4,234 square foot area.
- J. The clearing of vegetation and grading of a beach/dune at the intersection of 1st & Surf: Specifically, the placement of an approx. 230 square foot platform with benches.
- K. The construction of a 598 square foot gazebo at 1st & Surf.
- L. The construction of a 357 square foot roof covered gazebo structure at the intersection of 2nd and JFK Blvd.
- M. The construction of approx. 4,216 square feet of concrete walkway and composite walkway at the Beach Patrol building at 15th Avenue.
- N. The placement/construction of approx. 4,691 square feet of storage sheds at the Beach Patrol building at 15th Avenue.
- O. The placement/construction of an approx. 1,638' x 8' composite bike path between 15th & 21st along the oceanfront.
- P. The placement of approx. 44,981 square feet of crushed clam fill material for the creation of a walkway between 15th and 21st along the oceanfront.

- Q. The construction of 24,264 square feet of composite walkways/ shower platforms/ bench platforms etc. along the oceanfront at multiple street end entrances to the beach. The showers have been constructed outside of the sewer service area. (Also in violation of N.J.S.A. 58:10A-1 et seq. & N.J.A.C. 7:14 et. seq.)
- R. The construction of approx. 495 linear feet of vinyl bulkhead along the oceanfront from 3rd to 5th Avenues along, water ward of the existing timber bulkhead.

2. **Requirement:** Pursuant to N.J.A.C. 7:7A-2.2(a), the following activities are regulated when performed in a freshwater wetland and State open waters and require prior permit approval from the Department: the removal, excavation, disturbance or dredging of soil, sand, gravel, or aggregate material of any kind; the drainage or disturbance of the water level or water table so as to alter the existing elevation of groundwater or surface water, regardless of the duration of such alteration; the dumping, discharging, or filling with any material; the driving of pilings; the placing of obstructions, including depositing, constructing, installing or otherwise situating any obstacle which will affect the values or functions of a freshwater wetland; or the destruction of plant life which would alter the character of a freshwater wetlands, including killing vegetation by applying herbicides or by other means, the physical removal of wetland vegetation, and/or the cutting of trees; and the placement of any portion of a residential development project as defined at N.J.A.C. 7:7A-1.4.

Description of Noncompliance: The performance of unauthorized regulated activities within a freshwater wetland area. More specifically, the following activities have occurred without authorization from the Department's Division of Land Use Regulation:

The vegetation removal, clearing, excavation, grading, removal of existing dunes, and stockpiling of sand has occurred within an approximately 6.7 acres area of prior beach/dune that also included areas of freshwater wetlands between 7th and 13th Avenue.

These dunes, freshwater wetlands, and freshwater wetlands transition area were previously identified and delineated under permit #:0507-03-0009.2 CAF140001 & FWW140001 & FWW140002, including Special condition #4, which stated, "Any additional unpermitted disturbance of freshwater wetlands, state open waters and/or transition areas besides that shown on the approved plans shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the proposed disturbance.", and Special condition #6, which stated, "The construction activities shall not cause any change in pre-construction elevation of freshwater wetlands, transition areas, or state open waters." As stated above, these areas have been removed and filled, thus changing the elevation. All freshwater wetlands and transition areas have been disturbed/filled/removed.

3. **Requirement:** Pursuant to N.J.A.C. 7:7A-2.3(a), the removal, excavation or disturbance of the soil; dumping or filling with any material; erection of structures; placement of pavements; destruction of plant life which would alter the existing pattern of vegetation; and placement of any portion of a residential development project as defined at N.J.A.C. 7:7A-1.4 within a freshwater wetland transition area are regulated activities which require prior permit approval from the Department.

Description of Noncompliance: The performance of unauthorized regulated activities within a freshwater wetland transition area. More specifically, the following activities have occurred without authorization from the Department's Division of Land Use Regulation:

The vegetation removal, clearing, excavation, grading, removal of existing dunes, and stockpiling of sand has occurred within an approximately 6.7 acres area of prior beach/dune that also included freshwater wetland transition areas between 7th and 13th Avenue.

These dunes, freshwater wetlands, and freshwater wetlands transition area were previously identified and delineated under permit #:0507-03-0009.2 CAF140001 & FWW140001 & FWW140002, including Special condition #4, which stated, "Any additional unpermitted disturbance of freshwater wetlands, state open waters and/or transition areas besides that shown on the approved plans shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the proposed disturbance.", and Special condition #6, which stated, "The construction activities shall not cause any change in pre-construction elevation of freshwater wetlands, transition areas, or state open waters." As stated above, these areas have been removed and filled, thus changing the elevation. All freshwater wetlands and transition areas have been disturbed/filled/removed.

4. **Requirement:** Pursuant to N.J.A.C. 7:13- 2.1(a), no person shall engage in a regulated activity in a regulated area without a flood hazard area permit as required by this chapter, or a coastal permit as required by N.J.A.C. 7:7.

Description of Noncompliance: The performance of unauthorized regulated activities within a regulated flood hazard area without the required permit authorization. More specifically, the following flood hazard regulated activities have occurred without authorization from the Department's Division of Land Use Regulation:

- A. The construction of 617 linear feet of steel bulkhead between 5th & 7th Ave to create a park with playground/walkways /other amenities.
 - B. The construction of 1,617 linear feet of steel bulkhead between 7th &13th Avenue.
 - C. The placement of approx. 4,691 square feet of storage sheds at the Beach Patrol building at 15th Avenue.
5. **Requirement:** Pursuant to N.J.A.C. 7:7-27.2(c) 8, failure to comply with the conditions of a CAFRA permit is a violation of the Coastal Zone Management Rules and is grounds for enforcement action under N.J.A.C. 7:7-29.

Description of Noncompliance: Failure to comply with the approved beach and dune maintenance permit and special conditions #'s 4, 10, and 13 of CAFRA Permit #: 0507-03-0009.3 CZM170001 (PERMIT 1).

Special condition #4 states, "The proposed activities must be conducted in accordance with Best Management Practices as defined by the Department in the Rules on Coastal Zone Management in Standards applicable to routine beach maintenance (N.J.A.C. 7:7-10.2), Standards applicable

to emergency post-storm beach restoration (N.J.A.C. 7:7-10.3) and Standards applicable to dune creation and maintenance (N.J.A.C. 7:7-10.4). Activities other than those outlined in these subchapters shall require additional authorization from the Program. Failure to receive such authorization prior to activities may warrant enforcement action by the Bureau of Coastal and Land Use Enforcement."

Special condition #10 states, "Bulldozing, excavation, grading, vegetation removal, or clearing and relocation of existing dunes, whether existing or constructed in conjunction with this permit are not authorized under this general permit."

Special condition #13 states, "Sand transfers to or from wetland areas that may exist on the beach are not authorized by this permit."

Per N.J.A.C. 7:7-10.2/10.3/10.4 -Standards for beach and dune activities: Bulldozing, excavation, grading, vegetation removal or clearing, and the relocation of the existing dunes is not authorized, and there shall be no disturbance to existing dunes.

The April 28, 2020 site inspection confirmed the following beach/dune activities are not in compliance with PERMIT 1 or the Coastal Zone Management rules:

- A. The removal of vegetation, grading and filling, of 0.58 acres of prior beach/dune area between 5th and 7th Avenue for the installation of a bulkhead and creation of a park.
- B. The vegetation removal, clearing, excavation, grading, removal of existing dunes, and stockpiling of sand has occurred within an approximately 6.7 acres area of prior beach/dune that also included areas of freshwater wetlands and freshwater wetland transition areas between 7th and 13th Avenue.
- C. The removal of vegetation, filling, and grading of an approx. 0.57 acres beach/dune area adjacent to Seaport Pier.

The disturbed dune areas were previously identified under permit #: 0507-03-0009.2 CAF140001 & FWW140001 & FWW140002, which contained Special condition #1, which states, "This permit does not authorize any disturbance to the adjacent dune." As stated above, the dunes have been graded, excavated, and vegetation has been removed.

6. **Requirement:** Pursuant to N.J.A.C. 7:7-27.2(c)8, failure to comply with the conditions of a CAFRA permit is a violation of the Coastal Zone Management Rules and is grounds for enforcement action under N.J.A.C. 7:7-29.

Description of Noncompliance: Failure to comply with the approved sand harvesting/sand transfer/beach fill permit and standard condition #12 of Permit #: 0500-07-0006.3 CAF180001 & WFD180001 (PERMIT 2), which authorizes the harvesting of sand from Wildwood, and transferring the sand to North Wildwood to be deposited along the beaches and dunes between 26th Avenue and 2nd Avenue, as beach fill.

PERMIT 2 states that the project does not propose disturbance within freshwater wetlands, and Standard condition #12 states, "The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action under, as well as, in the appropriate case, suspension and/or termination of the permit."

On April 28, 2020, the following unauthorized activities were observed. These activities are not in compliance with the permit and approved plans, which do not authorize the disturbance of freshwater wetlands or existing dunes.

- A. Sand has been transported between 7th Avenue & 13th Avenue and placed within an approx. 290,971 square foot (6.68 acres) vegetated dune area. The dunes included areas of freshwater wetlands and freshwater wetlands transition areas, which were critical wildlife habitat. The freshwater wetlands and prior existing densely vegetated dunes are no longer visible on site and have been removed.
- B. Sand has been stockpiled within an approx. 24,971 square foot (0.57 acres) area of dune adjacent to Seaport Pier, which is outside of the approved areas depicted on the approved plans.

7. Requirement: Pursuant to N.J.A.C. 7:7A-20.2(c) 8, any noncompliance with a permit, constitutes a violation of this chapter and is grounds for enforcement action under N.J.A.C 7:7A-22.

Description of Noncompliance: Failure to comply with the Bike Path, Sidewalk & Utility Reconstruction permit, approved plans, and pre-construction condition #2 of the CAFRA and Freshwater Wetlands Permit #:0507-03-0009.2 CAF140001& FWW140001 & FWW140002 (PERMIT4).

Pre-construction condition #2 states, "Prior to site preparation, the permittee shall complete a transition area and adjacent freshwater wetland area conservation restriction and file the completed restriction with the Office of the Cape May County Clerk."

This conservation restriction was required to preserve and document the location of freshwater wetlands and transition areas within the oceanfront existing dunes. Review of the Cape May County Clerk's Website found no record of the required freshwater wetland and transition area conservation restriction having been recorded.

ALL UNAUTHORIZED ACTIVITIES MUST CEASE IMMEDIATELY.

Corrective Actions:

- a. Do not conduct any further regulated activities, except in compliance with a valid land use permit and approved plan(s) or Department approved restoration plan.
- b. Within 10 days of receipt of this Notice of Violation, contact the Bureau with a proposal to address the above referenced violations and all information requested herein.

- c. The proposal must address all conditions outlined herein, including the submission of complete application(s) to the Department's Division of Land Use Regulation for the appropriate CAFRA, Freshwater Wetlands and/or Flood Hazard permit(s) to attempt to authorize all unpermitted construction, grading, filling, excavation, and dune and freshwater wetlands and transition area removal, and/or submission of a restoration plan to the Department for review and approval to remove all unauthorized construction and restore the waterfront areas from Surf Ave, and 2nd Ave – 23rd Avenues to their pre disturbance condition.
- d. Any activity and/or structure that does not receive permit approval must be removed and the area restored to its pre disturbance condition in accordance with the following:
 1. The restoration of 6.68 acres of critical wildlife habitat dune, including areas of freshwater wetlands and freshwater wetlands transition area, between 7th and 13th Avenue. Such restoration of the dune and freshwater wetlands/transition area shall be to its original topography and include planting with appropriate native vegetation.
 2. The restoration of an approximately 0.58 acres of beach and dune area from 5th to 7th Avenues through the removal of approximately 617 linear feet of steel bulkhead, playground equipment, walkways and other amenities and restoration of the beach/dune area to its original topography, as well as the planting of the dune with native vegetation.
 3. The removal of the approximately 1,617 linear feet of steel bulkhead from 7th Ave to 13th Avenue along the oceanfront, within prior dune and freshwater wetland/transition areas.
 4. The removal of the approximately 495 linear feet of vinyl bulkhead from 3rd to 5th Avenues, that has been constructed water ward of the existing timber bulkhead.
 5. The restoration of 0.57 acres of the beach/dune area adjacent to Seaport Pier through the restoration of the dune to its original topography and planting the restored area with native vegetation.
 6. The removal of crushed clam fill material from within the 8,565 square feet of beach/dune/CAFRA area from Surf Ave to the Lou Booth Amphitheater, and replant the area with native vegetation.
 7. The removal of the approx. 96 square foot concrete landing/flagpole adjacent to the Lou Booth Amphitheater.
 8. The removal of the 1,084 square foot expansion of concrete sidewalk at Surf Avenue leading to the path through the dune that leads to the Lou Booth Amphitheater.
 9. The removal of the approx. 165 square foot shed within a CAFRA Area at the beginning of the path on Surf Ave leading to the Lou Booth Amphitheater.

10. The removal of the 470 square feet of concrete path in a CAFRA area near the intersection of 2nd & Ocean. (adjacent to amphitheater)
11. The restoration of the approximately 4,234 square foot of a beach/dune/CAFRA area at the intersection of 1st & Surf through the removal of concrete, gravel, pathways, and bike rack area, and replant with native vegetation.
12. The restoration of the approx. 230 square foot beach/dune area at the intersection of 1st & Surf through the removal of the platform and benches and replant with native vegetation.
13. The removal of the 598 square foot gazebo at 1st & Surf Avenue.
14. The removal of the 357 square foot roof covered gazebo structure at the intersection of 2nd and JFK Blvd.
15. The removal of the approximately 4,216 square feet of concrete walkway and composite walkway at the Beach Patrol building at 15th Avenue.
16. The removal of the approx. 4,691 square feet of storage sheds at the Beach Patrol building at 15th Avenue.
17. The removal of the approximately 1,638' x 8' composite bike path between 15th & 21st along the oceanfront.
18. The removal of the approx. 44,981 square feet of crushed clam fill material for the creation of a walkway between 15th and 21st Avenues along the oceanfront and replant with native vegetation.
19. The removal of 24,264 Square feet of composite walkways/ shower platforms/ bench platforms etc. along the oceanfront at multiple street end entrances to the beach.

For more information and guidance on preparing a restoration plan go to: <http://www.nj.gov/dep/enforcement/clue-resources.html>.

- e. The pre-construction condition #2 of the CAFRA and Freshwater Wetlands Permit #: 0507-03-0009.2 CAF140001 & FWW140001 & FWW140002 cannot be satisfied at this time, as the freshwater wetlands and freshwater wetlands transition areas have been destroyed within the dunes. Upon restoration of the impacted freshwater wetlands and freshwater wetlands transition areas, a conservation restriction shall be submitted to the Department for review and approval, and upon approval, the conservation restriction shall be recorded with the Cape May County Clerk's Office. If the freshwater wetlands and transition areas are not restored within the dunes, mitigation shall be required to compensate for the loss. Any mitigation required for the loss of freshwater wetlands and freshwater wetlands transition area will require the City to file a conservation restriction for the mitigation area.

In addition, please provide the Bureau:

- 1) Copies of all site/work plans, as built surveys, planning board and other local/county/state and federal approvals, associated with all of the unauthorized construction and activity outlined above, and
- 2) A list of all contractors with contact information/address, copies of all contracts, and specifically which project(s) the contractor completed for the City, for all of the work outlined above.

This **Notice of Violation** serves as notice that the Department's Bureau of Coastal and Land Use Compliance and Enforcement has determined that a violation has occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You may appeal or contest such formal actions. Penalties may be assessed daily for each violation.



Issued by: _____ (For)

Date: June 6, 2020

Michele Kropilak, Region Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF COASTAL AND LAND USE COMPLIANCE AND ENFORCEMENT

Toms River Office

1510 Hooper Avenue, Suite 140

Toms River, New Jersey 08753

Telephone: (732) 255-0787 Fax: (732) 255-0877

www.nj.gov/dep

PHILIP D. MURPHY
Governor

CATHERINE R. McCABE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

June 6, 2020

Via email & CERTIFIED MAIL/RRR
7019 2280 0001 6928 4766

CERTIFIED MAIL/RRR
7019 2280 0001 6928 4473

The Honorable Patrick Rosenello
City of North Wildwood
901 Atlantic Avenue
North Wildwood, New Jersey 08260

Joseph Byrne & Daniel Govberg
BG Capital LLC
9310 Keystone Street
Philadelphia, Pennsylvania 19114

RE: Seaport Pier Notice of Violation
NJDEP File #: PEA200001 - 0507-03-0009.4
Block 291.01, Lot 1; Block 317.03, Lot 1
North Wildwood City, Cape May County, New Jersey

Dear Mayor Rosenello, Messrs. Byrne and Govberg:

Enclosed for service upon you is a Notice of Violation issued by the Department.

If you have any questions concerning the enclosed Notice of Violation you may contact Danielle Campanella, Environmental Specialist, of my staff at Danielle.Campanella@dep.nj.gov, or at the address or telephone number above.

Sincerely,

(For)

Michele Kropilak, Region Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement

Enclosure

c: Christopher Jones, NJDEP, DLUR
Judeth Yeany, NJDEP, Green Acres



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF COASTAL AND LAND USE COMPLIANCE AND ENFORCEMENT

Toms River Office

1510 Hooper Avenue, Suite 140

Toms River, New Jersey 08753

Telephone: (732) 255-0787 Fax: (732) 255-0877

www.nj.gov/dep

PHILIP D. MURPHY

Governor

CATHERINE R. McCABE

Commissioner

SHEILA Y. OLIVER

Lt. Governor

CERTIFIED MAIL/RRR

7019 2280 0001 6928 4766

CERTIFIED MAIL/RRR

7019 2280 0001 6928 4773

NOTICE OF VIOLATION

Responsible Entities: City of North Wildwood & BG Capital LLC
 NJDEP File #: PEA200001 - 0507-03-0009.4
 Site Location: Seaport Pier at East 22nd Ave.
 North Wildwood, New Jersey 08260
 Block and Lots: Block 291.01, Lot 1; Block 317.03, Lot 1

You are hereby notified that the City of Wildwood and BG Capital LLC are in violation of the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.) and the regulations (N.J.A.C. 7:13-1.1 et seq.), the Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.), and the Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the regulations (N.J.A.C. 7:15-1 et seq.).

During compliance evaluations at the above location on April 28, 2020 and May 26, 2020, the New Jersey Department of Environmental Protection (Department) observed egregious and potentially knowing violations of the above-referenced laws, which exist to ensure protection of public safety, public access and the environment. As outlined further below, BG Capital's and the City's unauthorized and unpermitted construction on Seaport Pier, including all the structures located on the main pier, and the unauthorized construction at the members only Starboard Swim Club, including a restaurant/bar/bathrooms/food trailer outside of a sewer service area and pool storage building, is detrimental to the environment and may have created conditions that threaten the public safety and reduce public access. If immediate corrective action in accordance with this Notice is not completed, the Department may be required to take further enforcement action.

- Requirement:** Pursuant to N.J.A.C. 7:7-2.2, no person shall engage in a regulated activity within a CAFRA area without a coastal permit.

Description of Noncompliance: The performance of unauthorized regulated activities within a CAFRA area. More specifically, the following activities have occurred without permit authorization from the Department's Division of Land Use Regulation:

The construction of a 23,136 square foot restaurant and bar building w/ bathrooms, a concert stage, additional storage building, and a tiki bar on the main Seaport Pier.

2. **Requirement:** Pursuant to N.J.A.C. 7:13- 2.1(a), no person shall engage in a regulated activity in a regulated area without a flood hazard area permit as required by this chapter, or a coastal permit as required by N.J.A.C. 7:7.

Description of Noncompliance: The performance of unauthorized regulated activities within a regulated flood hazard area without the required permit authorization. More specifically, the following flood hazard regulated activities have occurred without authorization from the Department's Division of Land Use Regulation:

The construction of a 23,136 square foot restaurant and bar building, stage, tiki bar, and storage building on Seaport Pier and a pool equipment storage building & food trailer connected to the sewer on the Seaport Pier extension.

3. **Requirement:** Pursuant to N.J.A.C. 7:7-27.2(c)8, failure to comply with the conditions of a CAFRA permit is a violation of the Coastal Zone Management Rules and is grounds for enforcement action under N.J.A.C. 7:7-29.

Description of Noncompliance: Failure to comply with the Seaport Pier expansion permit, permit modification and special conditions #'s 1 & 11 of permit #: 0507-03-0009.4 CZM170001.

Special condition #1 states, "There shall be no construction of any sewage generating structures such as bathrooms and/or showers within the expanded pier on the beach within Block 291.01 Lot 1."

Special condition #11 states, "The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action."

The site inspection conducted on April 28, 2020 determined the following unauthorized activities/noncompliance have occurred within the Seaport Pier expansion:

- A. The construction of a 1,404 square foot, members only swim club with swim up bar/restaurant, including bathrooms & sinks, and food trailer has been constructed outside of the sewer service area. This building was authorized as a storage building only, with no utilities. (This is also in violation of N.J.S.A. 58:10A-1 et seq. & N.J.A.C. 7:15 et. seq.)
- B. The construction of a 202 square foot pool equipment/storage building adjacent to the pool.

ALL UNAUTHORIZED ACTIVITIES MUST CEASE IMMEDIATELY.

Corrective Actions:

- a. Do not conduct any further regulated activities, except in compliance with a valid land use permit and approved plan(s) or Department approved restoration plan.

- b. Within **10** days of receipt of this Notice of Violation, contact the Bureau with a proposal to address the above referenced violations and all information requested herein.
- c. The proposal must address all conditions outlined herein, including the submission of complete application(s) to the Department's Division of Land Use Regulation for the appropriate CAFRA and Flood Hazard permit(s) to attempt to authorize all unpermitted construction, and/or submission of a restoration plan to the Department for review and approval to remove all unauthorized construction and restore the pier to its pre disturbance condition.
- d. Any activity and/or structure that does not receive permit approval must be removed and the area restored to its pre disturbance condition in accordance with the following:
 1. The removal of the 1,404 square foot, members only swim club building with swim up bar/restaurant with bathrooms & sinks, and food truck located outside of the sewer service area. This building was authorized as a storage building only with no utilities.
 2. The removal of the 202 square foot pool equipment storage building adjacent to the pool on the Seaport Pier expansion.
 3. The removal of all structures on the main Seaport Pier, including the approximately 23,136 square foot restaurant and bar building w/ bathrooms, a concert stage, a tiki bar, and additional storage building.

For more information and guidance on preparing a restoration plan go to: <http://www.nj.gov/dep/enforcement/clue-resources.html>.

In addition, please provide the Bureau:

- 1) Copies of all site/work plans, as built surveys, planning board and other local/county/state and federal approvals, associated with all of the unauthorized construction outlined above, and
- 2) A list of all contractors with contact information/address, copies of all contracts, and specifically which project(s) the contractor completed for BG Capital LLC & the City, for all of the work outlined above.

This **Notice of Violation** serves as notice that the NJDEP's Bureau of Coastal and Land Use Compliance and Enforcement has determined that a violation has occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You may appeal or contest such formal actions. Penalties may be assessed daily for each violation.



Issued by: _____ (For)

Michele Kropilak, Region Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement

Date: June 6, 2020

KROPILAK EXHIBIT B



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF COASTAL AND LAND USE COMPLIANCE AND ENFORCEMENT

PHILIP D. MURPHY

Governor

SHEILA Y. OLIVER

Lt. Governor

Toms River Office

1510 Hooper Avenue, Suite 140

Toms River, New Jersey 08753

Telephone: (732) 255-0787 Fax: (732) 255-0877

www.nj.gov/dep

SHAWN M. LATOURETTE

Commissioner

October 20, 2022

Via email only

The Honorable Patrick Rosenello
City of North Wildwood
901 Atlantic Avenue
North Wildwood, New Jersey 08260

RE: Notice of Violation
NJDEP File #: PEA220002 - 0507-03-0009.3
Oceanfront Beach
Block 317.03, Lot 1
North Wildwood City, Cape May County, New Jersey

Dear Mayor Rosenello:

Enclosed for service upon you is a Notice of Violation issued by the NJ Department of Environmental Protection. A written response is required immediately.

To respond to this Notice of Violation you may contact Michael Lutz, Environmental Specialist, at michael.lutz@dep.nj.gov, or at the address indicated at the top of this Notice.

Sincerely,

Michele Kropilak, Manager
Bureau of Coastal and Land Use Compliance and Enforcement

Enclosure

c: Neil Yoskin, Cullen & Dykman
Colleen Keller, DEP, DLRP
Jennifer Moriarty, DEP, DLRP
Kimberly Cahall, DEP, OEP
Janet Stewart, DEP, DLRP, Coastal Permitting



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF COASTAL AND LAND USE COMPLIANCE AND ENFORCEMENT

Toms River Office

1510 Hooper Avenue, Suite 140

Toms River, New Jersey 08753

Telephone: (732) 255-0787 Fax: (732) 255-0877

www.nj.gov/dep

PHILIP D. MURPHY

Governor

SHEILA Y. OLIVER

Lt. Governor

SHAWN M. LATOURETTE

Commissioner

October 20, 2022

Via Email

The Honorable Patrick Rosenello
City of North Wildwood
901 Atlantic Avenue
North Wildwood, New Jersey 08260

NOTICE OF VIOLATION

Responsible Entity: City of North Wildwood
Site Location: Oceanfront Beach
North Wildwood City, New Jersey 08260
Block 317.03, Lot 1
NJDEP File #: PEA220002 - 0507-03-0009.3

You are hereby notified that during a compliance evaluation at the above location on October 20, 2022, the Division of Land Resource Protection's Bureau of Coastal and Land Use Compliance and Enforcement ("Division") observed violations of the Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.) and the Coastal Zone Management regulations (N.J.A.C. 7:7-1 et seq.). In the days prior to these violations, the Division was in contact with the City regarding post-storm restoration. Specifically, the City requested an Emergency Authorization ("EA") on October 5, 2022, seeking deployment of jersey barriers and associated removal of decking, reshaping of dune remnants, and installation of 404LF of bulkhead, all located between 15th and 16th Avenues, as well as reconstruction of accessways at 16th Avenue and 25th Avenue. By e-mail correspondence dated October 7th and October 12th, 2022, which are attached for reference, the Division approved deployment of jersey barriers and associated removal of decking but denied the remainder of the proposed activities due to lack of emergency conditions and concerns that the activities would exacerbate erosion. **The denial specifically stated that dune disturbance or reshaping was not authorized and, if undertaken, would warrant enforcement action.**

On October 20, 2022, the Division received a letter from the City's counsel advising that the City was beginning regrading and reshaping of the dunes and bulkhead construction, notwithstanding the Division's denial of the EA request. Division staff immediately inspected the site. The following violations were observed:

CAFRA AREA

Requirement: A CAFRA permit is required for any regulated activity on a beach or a dune. [N.J.A.C. 7: 7- 2.2]

Description of Noncompliance: North Wildwood has commenced the excavation of sand from the beach berm at and near 11th Street and is transporting and placing the excavated sand on the beach between 14th and 16th Streets. The sand is currently being graded towards the dunes located between 14th and 16th Streets. North Wildwood did not seek or obtain NJDEP approval to excavate sand from 11th Street, and the request to grade the sand to “reshape” the dune remnants was specifically denied by the Division on October 12, 2022.

ALL UNAUTHORIZED ACTIVITIES MUST CEASE IMMEDIATELY

CORRECTIVE ACTION(S) REQUIRED:

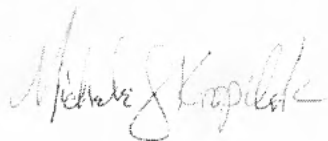
Immediately cease any further regulated activities and submit the appropriate complete land use permit application(s) or emergency authorization request to the Department’s Division of Land Resource Protection (DLRP) to attempt to legalize/obtain approval for the activities identified in this Notice.

Permit review may result in approval, partial approval, withdrawal or denial. Any regulated activity that does not receive permit approval must be restored. Information on DLRP permit application(s) and emergency authorizations can be found at www.nj.gov/dep/landuse/.

REQUIRED WRITTEN RESPONSE TO THIS NOTICE:

Immediately upon receipt of this Notice of Violation, submit **in writing** to Michael Lutz an explanation of the corrective actions you have taken or will take to achieve compliance in this matter. The response to this Notice of Violation may be submitted via email at michael.lutz@dep.nj.gov.

This **Notice of Violation** serves as notice that the NJDEP’s Bureau of Coastal and Land Use Compliance and Enforcement has determined that a violation has occurred. It does not constitute a final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You may appeal or contest such formal actions. Penalties may be assessed on a daily basis for each violation.



Issued by:

Michele Kropilak, Manager
Bureau of Coastal and Land Use Compliance and Enforcement

Date: 10/20/2022

KROPILAK EXHIBIT C



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF COASTAL AND LAND USE COMPLIANCE AND ENFORCEMENT

PHILIP D. MURPHY

Governor

SHEILA Y. OLIVER

Lt. Governor

Toms River Office

510 Hooper Ave. Suite 140

Toms River, New Jersey 08753

Telephone: (732) 255-0787

www.nj.gov/dep

SHAWN M. LATOURETTE

Commissioner

July 27, 2022

Via email

Mayor Patrick Rosenello
City of North Wildwood
901 Atlantic Ave
North Wildwood, New Jersey 08260

RE: Notice of Violation Oceanfront Beach Maintenance
NJDEP File #: PEA220001 - 0507-03-0009.3
North Wildwood City, Cape May County, New Jersey

Dear Mayor Rosenello:

Enclosed for service upon you is a Notice of Violation issued by the NJ Department of Environmental Protection for your records.

Please note that an email response has already been received on July 27, 2022, from your environmental consultant, Peter Lomax, to this Notice of Violation (NOV), that he is currently preparing the required CAFRA permit application to address this matter.

If you have any additional questions, you may contact Michael Lutz, Environmental Specialist 3, at Michael.Lutz@dep.nj.gov, or at the address indicated at the top of this Notice.

Sincerely,

A handwritten signature in blue ink, appearing to read "R.H. Clark", written over a horizontal line.

Robert H. Clark, Region Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement

c: Ronald Simone, North Wildwood
Peter Lomax, Lomax Consulting Group
Wendy Walsh, USFWS, New Jersey Office
Todd Pover, Conserve Wildlife NJ
Kimberly Cahall, NJDEP, OEP
Colleen Keller, NJDEP, DLRP
Janet Stewart, NJDEP, DLRP
Becky Mazzei, NJDEP, DLRP



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF COASTAL AND LAND USE COMPLIANCE AND ENFORCEMENT

PHILIP D. MURPHY
Governor

Toms River Office

SHAWN M. LATOURETTE
Commissioner

510 Hooper Ave. Suite 140

Toms River, New Jersey 08753

Telephone: (732) 255-0787

SHEILA Y. OLIVER
Lt. Governor

www.nj.gov/dep

Via email

NOTICE OF VIOLATION

Responsible Entity: City of North Wildwood

Site Location: Oceanfront Beach
North Wildwood City, NJ 08260

Block 223, Lot 1; Block 224, Lot 1; Block 251, Lot 1; Block 252, Lot 1; Block 253, Lot 1; Block 254, Lot 1; Block 282, Lot 1; Block 283, Lot 1; Block 284, Lot 1; Block 285, Lot 1; Block 287, Lot 1; Block 290.01, Lot 1; Block 315.02, Lot 1; Block 316.02, Lot 1; Block 317.02, Lot 1; Block 317.03, Lot 1; Block 425, Lot 1; Block 426, Lot 1;

NJDEP File #: PEA220001 - 0507-03-0009.3

You are hereby notified that during a compliance evaluation at the above location on 07/20/2022, the following violation(s) of the Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.) were observed.

CAFRA AREA

Requirement: Pursuant to N.J.A.C. 7:7-2.2, no person shall engage in a regulated activity within a CAFRA area without a coastal permit.

Description of Noncompliance: the performance of unauthorized regulated activities within a CAFRA area. The activities involve performing beach and dune maintenance without permit authorization from the Department.

A prior beach and dune maintenance permit expired on June 8, 2022, therefore no beach or dune maintenance is authorized at this time.

Upon CAFRA permit approval, please coordinate with the NJDEP and USFWS staff to ensure compliance with the City of North Wildwood's Beach Management Plan for the Protection of State and Federally listed species, dated December 2018, as raking and driving has occurred in 2022 within plant protection designated areas within the recreational beach zone.

ALL UNAUTHORIZED ACTIVITIES SHOULD CEASE IMMEDIATELY

CORRECTIVE ACTION(S) REQUIRED:

Upon receipt of this Notice of Violation:

Submit the appropriate complete permit application to the Department's Division of Land Resource Protection (DLRP) to address the activities identified in this Notice and obtain CAFRA permit approval prior to conducting any future beach and dune maintenance.

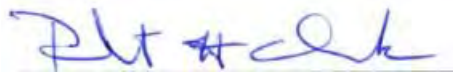
Ensure compliance with the CAFRA permit as well as the City of North Wildwood's Beach Management Plan for the Protection of State and Federally Listed Species, dated December 2018.

REQUIRED WRITTEN RESPONSE TO THIS NOTICE:

Within **5 calendar days** of receipt of this Notice of Violation submit **in writing** to Michael Lutz, an explanation of the corrective actions you have taken or will take to achieve compliance in this matter. The response to this Notice of Violation may be submitted via email at michael.lutz@dep.nj.gov.

This **Notice of Violation** serves as notice that the NJDEP's Bureau of Coastal and Land Use Compliance and Enforcement has determined that a violation has occurred. It does not constitute a final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You may appeal or contest such formal actions. Penalties may be assessed on a daily basis for each violation.

Issued by:



Robert H. Clark, Region Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement

Date: July 27, 2022

KROPILAK EXHIBIT D



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF COASTAL AND LAND USE COMPLIANCE & ENFORCEMENT

SHAWN M. LATOURETTE
Commissioner

PHILIP D. MURPHY
Governor

Toms River Office
1510 Hooper Avenue, Suite 140
Toms River, New Jersey 08755
Tel. (732) 255-0787

SHEILA Y. OLIVER
Lt. Governor

October 28, 2022

via CERTIFIED MAIL/RRR & email
7017 2620 0000 1757 9736

Victoria Heun Pierson
H4 Enterprises, LLC
PO Box 638
Cape May Court House, New Jersey 08210

RE: Notice of Violation
NJDEP File #: PEA220003 - 0507-03-0009.3
Oceanfront Beach Block 317.02, Lot 1
North Wildwood City, Cape May County, New Jersey

Dear Ms. Pierson:

Enclosed for service upon you is a Notice of Violation issued by the NJ Department of Environmental Protection. A written response is required within 5 days.

To respond to this Notice of Violation please contact Michael Lutz, Environmental Specialist, at michael.lutz@dep.nj.gov, or at the address indicated at the top of this Notice.

Sincerely,

Michele Kropilak, Manager
Bureau of Coastal and Land Use Compliance and Enforcement

c: Neil Yoskin, Cullen & Dykman
Jennifer Moriarty, DEP, DLRP
Kimberly Cahall, DEP, OEP
Kevin Terhune, AG's Office, Div. of Law, EEEJ



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF COASTAL AND LAND USE COMPLIANCE & ENFORCEMENT

Toms River Office

1510 Hooper Avenue, Suite 140

Toms River, New Jersey 08755

Tel. (732) 255-0787

PHILIP D. MURPHY

Governor

SHAWN M. LATOURETTE

Commissioner

SHEILA Y. OLIVER

Lt. Governor

via CERTIFIED MAIL/RRR & email

7017 2620 0000 1757 9736

NOTICE OF VIOLATION

Responsible Entity: H4 Enterprises, LLC
 Site Location: Oceanfront Beach -Block 317.03, Lot 1;
 North Wildwood City, New Jersey 08260

NJDEP File #: PEA220003 - 0507-03-0009.3

You are hereby notified that during a compliance evaluation at the above location on October 20, 2022, the Division of Land Resource Protection's Bureau of Coastal & Land Use Compliance & Enforcement staff observed H4 Enterprises LLC conducting violation(s) of the Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq).

In the days prior to these violations, the Division was in contact with North Wildwood City ("City") regarding post-storm restoration. Specifically, the City requested an Emergency Authorization ("EA") on October 5, 2022, seeking deployment of jersey barriers and associated removal of decking, reshaping of dunes, and installation of 404LF of bulkhead, all located between 15th and 16th Avenues, as well as reconstruction of accessways at 16th Avenue and 25th Avenue at the oceanfront. The City **did not** request emergency approval to excavate the sand from the beach berm at 11th Street and truck the sand to 14th – 16th Streets to grade into the existing dune and there is no current permit approval to conduct such regulated activities at the site which would lower the elevation of the beach berm at 11th Street. In fact, the City's emergency authorization request stated that there was no available sand source in the area.

The Division approved deployment of jersey barriers and associated removal of decking as a temporary action but denied the remainder of the City's proposed activities due to lack of emergency conditions and concerns that the activities requested would exacerbate erosion and because the proposed bulkhead was not an emergency remedy/not proposed to be immediately implemented. The Division's denial specifically stated that dune disturbance or reshaping was not authorized and, if undertaken, would warrant enforcement action.

On October 20, 2022, the Division received a letter from the City's counsel advising that the City has let contracts for the regrading and reshaping of the dunes and bulkhead construction, notwithstanding the Division's denial of the EA request, and that the regrading and reshaping of dunes would commence that day and will continue until completed. Division staff immediately inspected the site, and observed H4 Enterprises LLC conducting the following unauthorized CAFRA regulated activities:

CAFRA AREA

Requirement: Pursuant to N.J.A.C. 7:7-2.2, no person shall engage in a regulated activity within a CAFRA area without a coastal permit.

Description of Noncompliance: H4 Enterprises LLC's performance of unauthorized regulated activities within a CAFRA area without NJDEP authorization. The activities involve:

- 1) Excavation of sand from the beach berm located at and near 11th Street in North Wildwood
- 2) Placement of excavated sand waterward of the dune area between 14th and 16th Street in North Wildwood, and grading of this sand landward towards the existing dunes.

ALL UNAUTHORIZED ACTIVITIES MUST CEASE IMMEDIATELY

CORRECTIVE ACTION(S) REQUIRED:

1. Immediately cease all unauthorized NJDEP regulated activities.
2. Do not conduct any future NJDEP regulated activities at the site, including, but not limited to, bulkhead installation, except in compliance with a valid NJDEP Division of Land Resource Protection permit and approved plan(s).
3. Within 5 days, provide the Division copies of all site/work plans, before and after photographs, and as built surveys associated with H4 Enterprises, LLC's unauthorized excavation of sand from the 11th Street North Wildwood beach berm as well as the placement and grading of this excavated sand between 14th Street and 16th Street in North Wildwood. In addition, provide all correspondence, contracts, invoices, payment receipts and all records of communication, including emails and phone logs, between H4 Enterprises LLC and North Wildwood and/or any of its contracted engineering staff from Van-Note Harvey Associates related to the unauthorized work cited within this NOV.
4. Within 5 days, provide the Division with any/all information on H4 Enterprises LLC's point of contact(s) with the City of North Wildwood and all others for the work cited within this NOV, including specifically, who directed the work to be completed by H4 Enterprises, LLC, who inspected the work, and who authorized payment for said work. In addition, please provide a list of all H4 Enterprises LLC employees and their contact information, including address, phone number and email address who have knowledge of or performed the unauthorized work cited in this NOV.

REQUIRED WRITTEN RESPONSE TO THIS NOTICE:

Within **5 calendar days** of receipt of this Notice of Violation submit **in writing** to Michael Lutz an explanation of the corrective actions you have taken or will take to achieve compliance in this matter. The response to this Notice of Violation may be submitted via email at michael.lutz@dep.nj.gov.

This **Notice of Violation** serves as notice that the NJDEP's Division of Land Resource Protection has determined that a violation has occurred. It does not constitute a final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (**including assessment of penalties**), with respect to the violations listed above or for any other violations. You may appeal or contest such formal actions. Penalties may be assessed on a daily basis for each violation.

Issued by:


Michele Kropilak, Manager
Bureau of Coastal and Land Use Compliance and Enforcement

Date: 10/28/2022

KROPILAK EXHIBIT E



Cullen and Dykman LLP
229 Nassau Street
Princeton, NJ 08542
T: 609.279.0900
F: 609.497.2377

NEIL YOSKIN
PARTNER
NYoskin@cullenllp.com

October 21, 2022
Via e-mail

Colleen Keller, Ass't. Director (colleen.keller@dep.nj.gov)
Division of Land Resource Protection
New Jersey DEP
501 E State Street, Mail Code 501-02A
Trenton, NJ 08625

Michele Kropilak, Manager (Michele.Kropilak@dep.nj.gov)
Bureau of Coastal and Land Use Compliance
and Enforcement
New Jersey DEP
1510 Hooper Avenue; Suite 140
Toms River, NJ 08753

RE: City of North Wildwood, Cape May County
Shore Protection Emergency

Dear Ms. Keller and Ms. Kropilak:

This will acknowledge receipt of the Department's October 20, 2022 Notice of Violation (NOV). Please be advised that the reshaping and regrading of the dune remnants was completed yesterday, October 20, thereby eliminating for the moment the hazardous conditions that were present. Because of supply chain issues, the materials required for the proposed emergency construction of the bulkhead are not yet available. The City anticipates a 30 day period of time in which the matter of the bulkhead can be discussed further.

One additional matter that is ancillary to the immediate emergency requires a response. Several of the Department's communications have made reference to the City's prior construction of a protective bulkhead and to the fact that the application to legalize it remains administratively incomplete, and suggests that this is the City's fault. The City does not agree. The Department's review of the application has been ongoing, and the City has made every effort to comply with the Department's continued requests for additional information.



Cullen | Dykman

Colleen Keller/Michele Kropilak

Page 2

October 21, 2022

The same communications have repeatedly made reference to the Department's claims that the City disturbed upwards of 12 acres of dunes and wetlands in the course of building that bulkhead. That is highly inaccurate. The City has documented the fact that almost the entirety of the dune field was lost to natural erosional processes, and that the area of disturbed wetlands is in the range of 9000 s.f. It is misleading and unfair of the Department to state otherwise.

North Wildwood has always indicated its willingness to restore the wetland conditions and the dunes in question once the Corps and DEP meet their obligations to implement the shore protection project authorized by Congress in 2016. But until that occurs, restoration is impossible,

One final note. The City has now received communication from five different individuals in the Department, so please designate one single contact going forward.

Sincerely,

CULLEN AND DYKMAN LLP

Neil Yoskin

NY/cl

cc (via e-mail):

Patrick Rosenello, Mayor, City of North Wildwood

Nick Long, City of North Wildwood

Michael Donohue, Esq.

James Verna, PE

Peter Lomax

Jennifer Moriarty, NJDEP

Janet Stewart, NJDEP

Michael Lutz, NJDEP

Robert Clark, NJDEP

Dennis Reinknecht, NJDEP

Kimberly Cahall, NJDEP

Dr. Stewart Farrell

KROPILAK EXHIBIT F

**Enterprises, llc**

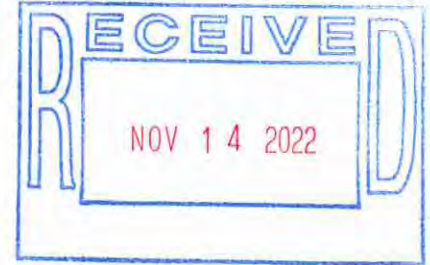
DBE, WBE, SBE

P.O. Box 638
Cape May Court House
New Jersey 08210

Phone: (609) 536-2776

Fax: (609) 536-8468

November 3, 2022



State of New Jersey
Department of Environmental Protection
Bureau of Coastal and Land Use Compliance & Enforcement
Toms River Office
Atten: Michele Kropilak, Manager
1510 Hooper Avenue, Suite 140
Toms River, NJ 08755

RE: Notice of Violation
NJDEP File #: PEA220003 – 0507 – 03 – 0009.3
Oceanfront Beach Block 317.02, Lot 1
North Wildwood City, Cape May County, New Jersey

Dear Ms. Kropilak,

I am in receipt of the Notice of Violation referenced above. H4 Enterprises LLC was contacted by Jim Verna, City of North Wildwood Engineer, concerning an emergency situation on the beach due to severe erosion. Phil Heun Jr. and Christopher Heun of H4 Enterprises LLC met with Jim Verna on site. Mr. Verna explained the work he would like completed. H4 Enterprises LLC provided a price and we were instructed by Mr. Verna to start work on October 20, 2022.

H4 Enterprises LLC was only on site for 1 day, October 20, 2022. There has been no other activity performed by H4 Enterprises LLC at this site. H4 Enterprises LLC does not have any site / work plans, before or after photographs, or as built surveys for this work. I did include an email with Price for this work, invoice, voucher, etc.

Point of Contact for City of North Wildwood – James Verna, City Engineer
Directed, Inspected and Authorized Payment for said work – James Verna, City Engineer

H4 Enterprises LLC
State of New Jersey DEP
November 3, 2022
Page #2

H4 Enterprises LLC Owners on Site –

Philip G. Heun III – P.O. Box 638, Cape May Court House, NJ 08210
(609) 374-7430 pgheunjr@aol.com

Christopher D. Heun – P.O. Box 638, Cape May Court House, NJ 08210
(609) 374-2995 heun13@hotmail.com

I am sending this response by certified mail and will email it to Michael Lutz at
michael.lutz@dep.nj.gov.

Yours truly,



Victoria Heun Pierson

Enclosures

Dune Sloping and Sand Moving - 16th to 13th Street, North Wildwood

Vicki Heun Pierson <Vicki@h4enterprisesllc.com>

Wed 10/19/2022 8:36 AM

To: jverna@vannoteharvey.com <jverna@vannoteharvey.com>

Cc: Phil Heun Jr <pgheunjr@aol.com>

Good Morning Jim,

13th to 16th Street, North Wildwood, NJ

Dune Sloping and Sand Moving as discussed

Price

\$27,400.00

Please let us know if you have any questions.

Thanks,

Vicki

H4 Enterprises LLC

H4 Enterprises LLC

P.O. Box 638
 Cape May Court House, NJ 08210
 Unites States

INVOICE

Invoice Number: 2356
 Invoice Date: Oct 26, 2022
 Page: 1

Voice: 609-374-7431
 Fax: 609-463-1878

Duplicate

Bill To:
City of North Wildwood 901 Atlantic Avenue North Wildwood, NJ 08260

Ship to:
City of North Wildwood 901 Atlantic Avenue North Wildwood, NJ 08260

Customer ID	Customer PO	Payment Terms	
North Wildwood		Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
			11/25/22

Quantity	Item	Description	Unit Price	Amount
		Dune Sloping and Sand Moving 13th to 16th Street, North Wildwood		27,400.00
Subtotal				27,400.00
Sales Tax				
Total Invoice Amount				27,400.00
Payment/Credit Applied				
TOTAL				27,400.00

Check/Credit Memo No:

Notice- Regular meetings are held on the first and third Tuesdays of each month. Bills to be considered for Payment must be presented to the Clerk properly signed and certified on this form before Thursday preceding the regular meeting day.

October 27, 2022

CITY OF NORTH WILDWOOD

CAPE MAY COUNTY, NEW JERSEY

To H4 Enterprises, LLC

Dr.

Address PO Box 638, Cape May Court House, NJ 08210

10/27/22	Payment for the Emergency Dune Sloping and Sand Transfer between 12th and 16th Avenues, as per the attached Invoice #2356..... PO #22-02558 (46006-400-21)				\$27,400.00
					\$27,400.00

STATE OF NEW JERSEY, CAPE MAY COUNTY, S.S.

Delivery slips received and checked

(Date) (Signature)

OFFICER'S CERTIFICATION

I, having knowledge of the facts, certify that the materials and supplies have been received or the services rendered; said certification being based on signed delivery slips or other reasonable procedures.

(Signature) **City Engineer**
(Title)

CLAIMANT'S CERTIFICATION & DECLARATION

I do solemnly declare and certify under the penalties of the Law that the within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any person or persons within the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.

10/27/22 *[Signature]* CHECK NO _____
(Date) (Signature)
(Official Position) *Managing Member*

APPROPRIATIONS OR ACCOUNTS CHARGED		

APPROVED FOR PAYMENT
Finance Committee

CITY OF NORTH WILDWOOD
 901 Atlantic ave
 North Wildwood, NJ 08260
 Phone: (609)522-2030



Purchase Order

THIS NUMBER MUST APPEAR ON ALL INVOICES,
 PACKING LISTS, CORRESPONDENCE, ETC.

NO. 22-02558

SHIP TO

NORTH WILDWOOD CITY HALL
 901 ATLANTIC AVE
 NORTH WILDWOOD, NJ 08260

VENDOR Vendor #: 08934

H4 ENTERPRISES LLC
 PO BOX 638
 638 Court House S. Dennis Rd
 Cape May Court House, NJ 08210

ORDER DATE: 10/19/22
 DELIVERY DATE:
 STATE CONTRACT:
 REQUISITION NO:
 VENDOR ACCT NUM:
 VENDOR PHONE #:
 VENDOR FAX #:

PAYMENT RECORD

CHECK NO.
 DATE PAID

NOTICE: TAX EXEMPT - TAX ID: 21-6000944

QUANTITY	DESCRIPTION	ACCOUNT NO	UNIT PRICE	TOTAL
1.00	Reshaping Dunes 13th-16th Ave	C-04-55-863-010	27,400.0000	27,400.00
		ORD 1863- BUILDINGS, GROUNDS, BEACH		
			TOTAL	27,400.00

CLAIMANT'S CERTIFICATION & DECLARATION	OFFICER'S CERTIFICATION	APPROVAL TO PURCHASE
<p>I do solemnly declare and certify under penalties; of the law that the within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any; person or persons within the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.. All shipping terms for merchandise will be F.O.B. destination</p> <p><i>[Signature]</i> _____ VENDOR SIGN HERE</p> <p>Managing Member 10/27/22 _____ OFFICIAL POSITION DATE 21-3033069 TAX ID NO. OR SOCIAL SECURITY NO.</p>	<p>I, having knowledge of the facts, certify that the materials and supplies have been received or the services rendered; said certification being based on signed delivery slips or other reasonable procedures.</p> <p>_____ DEPT. HEAD DATE</p> <p>VENDOR MUST SIGN CERTIFICATION STATEMENT ON THIS VOUCHER. MAIL VOUCHER & ITEMIZED BILLS TO: CITY OF NORTH WILDWOOD 901 Atlantic ave North Wildwood, NJ 08260</p>	<p>DO NOT ACCEPT THIS ORDER UNLESS IT IS SIGNED BELOW</p> <p><i>[Signature: Todd N Burkey]</i> _____ Todd N Burkey, CFO</p>

BUSINESS ENTITY DISCLOSURE CERTIFICATION
FOR NON-FAIR AND OPEN CONTRACTS
 Required Pursuant To N.J.S.A. 19:44A-20.8
CITY OF NORTH WILDWOOD

Part I – Vendor Affirmation

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that the <name of business entity> *H4 Enterprises LLC* has not made and will not make any reportable contributions pursuant to N.J.S.A. 19:44A-1 et seq. that, pursuant to P.L. 2004, c. 19 would bar the award of this contract in the one year period preceding (date of award scheduled for approval of the contract by the governing body) to any of the following named candidate committee, joint candidates committee; or political party committee representing the elected officials of the City of North Wildwood as defined pursuant to N.J.S.A. 19:44A-3(p), (q) and (r).

Mayor Patrick Rosenello	Councilman David Del Conte
Council President Zampirri	Councilman Joseph Rullo
Councilman Edwin Koehler	
Councilwoman Margaret Bishop	
Councilwoman Kellyann Tolomeo	
Councilman James Kane	

Part II – Ownership Disclosure Certification

I certify that the list below contains the names and home addresses of all owners holding 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business entity:

- Partnership
 Corporation
 Sole Proprietorship
 Subchapter S Corporation
 Limited Partnership
 Limited Liability Corporation
 Limited Liability Partnership

Name of Stock or Shareholder	Home Address
<i>Victoria Heun Pierson</i>	<i>200 Williamson Lane, Mullica Hill, NJ 08062</i>
<i>Phillip G. Heun III</i>	<i>479 Petersburg Road, Woodbine, NJ 08270</i>
<i>Christopher D. Heun</i>	<i>397 Court House S. Dennis Rd, Cape May Ct. Hse, NJ 08210</i>

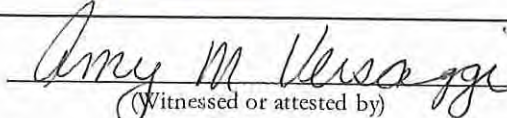
Part 3 – Signature and Attestation:

The undersigned is fully aware that if I have misrepresented in whole or part this affirmation and certification, I and/or the business entity, will be liable for any penalty permitted under law.

Name of Business Entity: *H4 Enterprises LLC*
 Signature of Affiant: *[Signature]* Title: *Managing Member*
 Printed Name of Affiant: *Victoria Heun Pierson* Date: *10/26/22*

Subscribed and sworn before me this *26* day of *October*, 20*22*

My Commission expires: *11/2/2025*


 (Witnessed or attested by)
AMY M VERSAGGI
 Notary Public
 State of New Jersey
 My commission expires November 2, 2025

BUSINESS ENTITY DISCLOSURE CERTIFICATION
FOR NON-FAIR AND OPEN CONTRACTS
 Required Pursuant To N.J.S.A. 19:44A-20.8
CITY OF NORTH WILDWOOD

The following is statutory text related to the terms and citations used in the Business Entity Disclosure Certification form.

“Local Unit Pay-To-Play Law” (P.L. 2004, c.19, as amended by P.L. 2005, c.51)

19:44A-20.6 Certain contributions deemed as contributions by business entity.

5. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

19:44A-20.7 Definitions relative to certain campaign contributions.

6. As used in sections 2 through 12 of this act:

“business entity” means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

“interest” means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate;

Temporary and Executing

12. Nothing contained in this act shall be construed as affecting the eligibility of any business entity to perform a public contract because that entity made a contribution to any committee during the one-year period immediately preceding the effective date of this act.

~~~~~

**The New Jersey Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.)**

**19:44A-3 Definitions.** In pertinent part...

p. The term "political party committee" means the State committee of a political party, as organized pursuant to R.S.19:5-4, any county committee of a political party, as organized pursuant to R.S.19:5-3, or any municipal committee of a political party, as organized pursuant to R.S.19:5-2.

q. The term "candidate committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c.83 (C.19:44A-9) for the purpose of receiving contributions and making expenditures.

r. the term "joint candidates committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c.83 (C.19:44A-9) by at least two candidates for the same elective public offices in the same election in a legislative district, county, municipality or school district, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purpose of this subsection: ...; the offices of member of the board of chosen freeholders and county executive shall be deemed to be the same elective public offices in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same elective public offices in a municipality.

**19:44A-8 and 16 Contributions, expenditures, reports, requirements.**

*While the provisions of this section are too extensive to reprint here, the following is deemed to be the pertinent part affecting amounts of contributions:*

“The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2)

Form **W-9**  
(Rev. October 2018)  
Department of the Treasury  
Internal Revenue Service

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type.  
See Specific Instructions on page 3.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.<br><b>H4 Enterprises LLC</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                            |
| <b>2</b> Business name/disregarded entity name, if different from above                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                            |
| <b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):<br><br>Exempt payee code (if any) _____<br><br>Exemption from FATCA reporting code (if any) _____<br><br><i>(Applies to accounts maintained outside the U.S.)</i> |
| <input type="checkbox"/> Individual/sole proprietor or single-member LLC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <input type="checkbox"/> C Corporation                                                                                                                                                                                                                                     |
| <input type="checkbox"/> S Corporation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <input type="checkbox"/> Partnership                                                                                                                                                                                                                                       |
| <input checked="" type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ <u>  C  </u><br>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. |                                                                                                                                                                                                                                                                            |
| <input type="checkbox"/> Other (see instructions) ▶                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                            |
| <b>5</b> Address (number, street, and apt. or suite no.) See instructions.<br><b>P.O. Box 638</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Requester's name and address (optional)<br><b>City of North Wildwood</b>                                                                                                                                                                                                   |
| <b>6</b> City, state, and ZIP code<br><b>Cape May Court House, NJ 08210</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                            |
| <b>7</b> List account number(s) here (optional)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                            |

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

|                                       |   |   |   |   |   |   |   |   |   |
|---------------------------------------|---|---|---|---|---|---|---|---|---|
| <b>Social security number</b>         |   |   |   |   |   |   |   |   |   |
|                                       |   |   |   |   |   |   |   |   |   |
| <b>or</b>                             |   |   |   |   |   |   |   |   |   |
| <b>Employer identification number</b> |   |   |   |   |   |   |   |   |   |
| 2                                     | 7 | - | 3 | 0 | 3 | 3 | 0 | 6 | 9 |

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

|                  |                            |                            |
|------------------|----------------------------|----------------------------|
| <b>Sign Here</b> | Signature of U.S. person ▶ | Date ▶ <u>  10/26/22  </u> |
|------------------|----------------------------|----------------------------|

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

#### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
  - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
  - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
  - Form 1099-S (proceeds from real estate transactions)
  - Form 1099-K (merchant card and third party network transactions)
  - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
  - Form 1099-C (canceled debt)
  - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

| IF the entity/person on line 1 is a(n) . . .                                                                                                                                                                                                                                                   | THEN check the box for . . .                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| • Corporation                                                                                                                                                                                                                                                                                  | Corporation                                                                                                                     |
| • Individual<br>• Sole proprietorship, or<br>• Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.                                                                                                                             | Individual/sole proprietor or single-member LLC                                                                                 |
| • LLC treated as a partnership for U.S. federal tax purposes,<br>• LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or<br>• LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes. | Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation) |
| • Partnership                                                                                                                                                                                                                                                                                  | Partnership                                                                                                                     |
| • Trust/estate                                                                                                                                                                                                                                                                                 | Trust/estate                                                                                                                    |

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

| IF the payment is for . . .                                                            | THEN the payment is exempt for . . .                                                                                                                                                                          |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Interest and dividend payments                                                         | All exempt payees except for 7                                                                                                                                                                                |
| Broker transactions                                                                    | Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012. |
| Barter exchange transactions and patronage dividends                                   | Exempt payees 1 through 4                                                                                                                                                                                     |
| Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup> | Generally, exempt payees 1 through 5 <sup>2</sup>                                                                                                                                                             |
| Payments made in settlement of payment card or third party network transactions        | Exempt payees 1 through 4                                                                                                                                                                                     |

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

### Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

### Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABL accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

| For this type of account:                                                                                                                                                                   | Give name and EIN of: |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity     |
| 15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))                                          | The trust             |

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

**\*Note:** The grantor also must provide a Form W-9 to trustee of trust.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

### What Name and Number To Give the Requester

| For this type of account:                                                                                                                          | Give name and SSN of:                                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 1. Individual                                                                                                                                      | The individual                                                                                          |
| 2. Two or more individuals (joint account) other than an account maintained by an FFI                                                              | The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup> |
| 3. Two or more U.S. persons (joint account maintained by an FFI)                                                                                   | Each holder of the account                                                                              |
| 4. Custodial account of a minor (Uniform Gift to Minors Act)                                                                                       | The minor <sup>2</sup>                                                                                  |
| 5. a. The usual revocable savings trust (grantor is also trustee)<br>b. So-called trust account that is not a legal or valid trust under state law | The grantor-trustee <sup>1</sup><br>The actual owner <sup>1</sup>                                       |
| 6. Sole proprietorship or disregarded entity owned by an individual                                                                                | The owner <sup>3</sup>                                                                                  |
| 7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))                                     | The grantor <sup>4</sup>                                                                                |

| For this type of account:                                                                   | Give name and EIN of:     |
|---------------------------------------------------------------------------------------------|---------------------------|
| 8. Disregarded entity not owned by an individual                                            | The owner                 |
| 9. A valid trust, estate, or pension trust                                                  | Legal entity <sup>4</sup> |
| 10. Corporation or LLC electing corporate status on Form 8832 or Form 2553                  | The corporation           |
| 11. Association, club, religious, charitable, educational, or other tax-exempt organization | The organization          |
| 12. Partnership or multi-member LLC                                                         | The partnership           |
| 13. A broker or registered nominee                                                          | The broker or nominee     |

### Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

#### Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.





MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street, P.O. Box 093  
Trenton, NJ 08625-0093  
Attorney for Plaintiff State of New Jersey  
Department of Environmental Protection

By: Dianna E. Shinn (242372017)  
Deputy Attorney General  
(609) 376-2789

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY  
CHANCERY DIVISION  
Docket No. \* \_\_\_\_\_-22

NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
Plaintiff,

v.

CITY OF NORTH WILDWOOD, "XYZ  
CONTRACTORS" 1-10, "JOHN  
AND/OR JANE DOES" 1-10,  
Defendants.

Civil Action

**CERTIFICATION OF  
MICHAEL J. LUTZ IN SUPPORT OF  
PLAINTIFF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION'S ORDER TO SHOW  
CAUSE FOR PRELIMINARY  
INJUNCTION & TEMPORARY  
RESTRAINTS**

I, MICHAEL J. LUTZ, of full age, certify and say:

1. I am employed by the New Jersey Department of Environmental Protection ("DEP") as an Environmental Specialist III. I began working for DEP in January of 2005 after graduating from Richard Stockton College in Pomona, New Jersey with a Bachelor of Science degree in Environmental Science. During my time at DEP, I have worked for the Bureau of Coastal and Land Use Compliance and Enforcement ("CLUE") for over 8 years.

2. I make this certification in support of the DEP's request for a preliminary injunction and temporary restraints to halt North Wildwood City ("NWW") from commencing with installation of any future bulkhead, including beach and dune disturbance, without DEP permit authorization.

3. I have been the inspector assigned to inspect NWW's oceanfront since September 2020. I was also previously assigned as CLUE's Inspector for NWW from April 2012 to February 2013. In addition, I was assigned as Supervisor for Danielle Campanella during the years that she was assigned as the CLUE Inspector for NWW from February 2017 to September 2020.

4. I am also familiar with NWW's previous unauthorized DEP regulated activities that came to the DEP's attention in 2020 as highlighted in further detail in the Certification of Michele Kropilak.

5. My present job duties include ensuring compliance with and enforcement of the DEP's land use regulations throughout Cape May County. These statutes/regulations include the Flood Hazard Area Control Act ("FHCA", N.J.S.A. 58:16A-50 et seq.) and the regulations (N.J.A.C. 7:13-1.1 et seq.), the Waterfront Development Act ("WDA", N.J.S.A. 12:5-1) and the regulations (N.J.A.C. 7:7-1 et seq.), the Coastal Area Facilities Review Act ("CAFRA", N.J.S.A. 13:19-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.), the Freshwater Wetland Protection Act ("FWPA",

N.J.S.A. 13:9B-1 et seq.) and the regulations (N.J.A.C. 7:7A-1 et seq.), and the Wetlands Act of 1970 ("WA", N.J.S.A. 13:9A-1 et seq.) and the regulations (N.J.A.C. 7:7-1 et seq.). All these laws/regulations provide authority for the DEP to regulate development, including clearing of vegetation, grading, and filling, within environmentally sensitive areas such as, but not limited to, beaches, dunes, wetlands and floodplains.

6. My position requires me to inspect properties in response to reports of such activities as development, vegetation removal, and filling within environmentally sensitive areas regulated by the Department, prepare detailed technical analyses and reports of my findings from inspections, and identify any violations of land use regulations present. I take photographs and collect GPS information as needed during my inspections to document current conditions and any violations that may be present. I also prepare enforcement documents for issuance by CLUE when appropriate.

#### **Inspections Following NWW's EA Application**

7. Following NWW's Emergency Authorization application ("EA") submitted to DEP on October 5, 2022, I was directed to inspect NWW's beachfront to determine if NWW started any work requested in the EA. Therefore, on the morning of October 6, 2022, I inspected all of NWW's beachfront, including 15th to 16th Avenues. Attached as **Exhibit A** are several of my photographs from

this inspection. The Beach Patrol Building at 15<sup>th</sup> Avenue is adjacent and to the west of me in photographs 18 & 19. I also took photographs looking south toward the Seaport Pier and North of 15<sup>th</sup> Avenue. In these photographs you can see previous impacts of Hurricane Ian, which caused some erosion of the beach berm. However, there was beach berm and dune remaining both to the North and South of 15<sup>th</sup> Avenue as illustrated in the photographs in **Exhibit A**. In photographs marked as 21 and 22, looking North of 18<sup>th</sup> Avenue, you can see the beach berm and dune in front of the Beach Patrol Building at 15<sup>th</sup> Avenue. During this inspection, I did not observe any regulated activity taking place.

8. On October 7, 2022, DEP authorized pursuant to the EA, the immediate placement of Jersey barriers in a 400 linear foot alignment extending from the 15<sup>th</sup> Avenue northern right-of-way limit line along the landward edge of dune to the 16<sup>th</sup> Avenue southern right-of-way limit line, and the removal and relocation of an existing composite/timber decking walkway to facilitate the Jersey barrier deployment.

9. I then went back out to conduct an inspection on October 14, 2022 to determine if NWW conducted any regulated activity in violation of the EA because on October 12, 2022, DEP denied the remainder of the NWW's EA application, which included the proposed installation of a bulkhead within the area of 15<sup>th</sup> and 16<sup>th</sup> Avenues, the scarp reshaping of the ocean side of the dune within this area,

and the repair of the 25<sup>th</sup> Avenue vehicular access point. On the morning of October 14, 2022, I conducted an inspection of NWW's beachfront including the area of 15<sup>th</sup> and 16<sup>th</sup> Avenues. Attached as **Exhibit B** are some of my photographs from my October 14, 2022 inspection. In photograph marked as Number 5 you can see the landward side of the dune at 16<sup>th</sup> Avenue. The Beach Patrol Building is located to the North at 15<sup>th</sup> Avenue. You can see that the jersey barriers had been installed pursuant to the EA authorized on October 7, 2022. I again walked out toward the beachfront at the access point on 15<sup>th</sup> Avenue and took photographs of the beach berm and dune to the North and South of 15<sup>th</sup> Avenue. The conditions of the beach berm looked substantially similar to the conditions of the beach berm from my inspection on October 6, 2022. In the photograph marked Number 8, you can see the vegetated dune with the storage sheds at 15<sup>th</sup> Avenue located behind the dune. You can also see the installation of the jersey barriers as authorized by the EA. In the photograph marked Number 9, you can see the vegetated dune to the North of 15<sup>th</sup> Avenue, which in part is previously delineated freshwater wetlands. Photograph marked number 10 provides a view of the Beach Patrol Building and the storage sheds at 15<sup>th</sup> Avenue. Here you can clearly see the jersey barriers authorized under the EA. In photographs marked 9, 12, and 14 a view of the previously delineated freshwater wetlands area located to the North of 15<sup>th</sup> Avenue is provided. You can also see

from photograph marked number 10 that there was no erosion or flooding evident to the west of the vegetated dune area at 15<sup>th</sup> Avenue. In addition, you can see that the beachfront access point has been blocked with boards. Photographs 11 and 12 show inland of the dune line North and South of 15<sup>th</sup> Avenue. South of 15<sup>th</sup> Avenue you can see the boardwalk and buildings and North of 15<sup>th</sup> Avenue you can see the pedestrian walkway and hotels. During this inspection, I did not observe any regulated activity in violation of the EA.

10. The next time I went out to conduct an inspection of NWW's beachfront was on October 20, 2022. A copy of relevant photographs from this inspection are attached as **Exhibit C**.

11. On that day, photographs marked 3 through 9 were taken on the beachfront area south of 11<sup>th</sup> Avenue. In these photographs you can see an excavator excavating sand from a beach berm area and dumping the sand into a dump truck. I then observed the dump truck take this sand and dump it on the beach berm area waterward of the dune located between 14<sup>th</sup> Avenue and 16<sup>th</sup> Avenue. This is considered excavation and filling within a beach area, a regulated activity subject to CAFRA, and NWW did not have emergency authorization approval to move this sand from 11<sup>th</sup> Avenue to the beach area between 14<sup>th</sup> Avenue and 16<sup>th</sup> Avenue.

12. I then walked on the beachfront from 11<sup>th</sup> Avenue to the area of 15<sup>th</sup> Avenue. In the photograph marked 12 you can see the

dump truck unloading the sand between 15<sup>th</sup> Avenue and 16<sup>th</sup> Avenue. A grader was located at the beach berm near 15<sup>th</sup> Avenue and I observed that piece of equipment grade sand that had been dumped from 11<sup>th</sup> Avenue within the beach berm area towards the site's dunes. This was also a regulated activity in violation of CAFRA, specifically grading within a beach area, and was not authorized by the EA previously approved by the Division of Land Resource Protection. Photograph 15 provides a clear image of the sand from 11<sup>th</sup> Avenue graded towards the dune at 15<sup>th</sup> Avenue.

13. During this inspection I observed staff from NWW's Engineering Office observing this work. As noted in the certification of my supervisor, Michele Kropilak, NWW hired H4 Enterprises, LLC to complete this work. Photograph 24 is an image of an H4 Enterprises, LLC truck that was parked at the staging area near 15<sup>th</sup> Avenue, near the Beach Patrol Building.

14. I returned the next day on October 21, 2022 to determine if any additional regulated activity was taking place on NWW's beachfront. I walked again along the beachfront from 11<sup>th</sup> Avenue to the area of 15<sup>th</sup> Avenue. Attached as **Exhibit D** are relevant photographs from my inspection. Photograph 6 is an image south of 11<sup>th</sup> Avenue where NWW excavated the sand the day prior and moved it to the area between 14<sup>th</sup> Avenue and 16<sup>th</sup> Avenue. Photographs 12 and 13 are of the area North of 16<sup>th</sup> Avenue near the Beach Patrol Building. You can see that the jersey barriers are still in place

in Photograph 13. I did not observe any new violations or regulated activity during this inspection.

15. I was then directed to collect measurements of the dune between 14<sup>th</sup> and 16<sup>th</sup> Avenues using a Trimble Geo7X Global Positioning System Unit ("GPS)". I attempted to collect this information on October 28, 2022. However, the conditions that day did not make it safe for me to collect this information as there was a Nor-Easter occurring that day. Relevant photographs from my inspection that day are attached at **Exhibit E**.

16. The photograph marked 5 was taken looking South of 11th Avenue. This is the location where NWW excavated sand, moved it to the beach area between 14<sup>th</sup> Avenue and 16<sup>th</sup> Avenue and graded the sand towards the dune area. In this photograph you can see the Nor-Easter conditions in the water. I then proceeded toward the area of 15<sup>th</sup> Avenue near the Beach patrol Building. Photographs marked 10 and 22 depict the landward side of this area and you can see the jersey barriers are still in place. I then proceeded to walk toward the beachfront and took a photograph south of 14<sup>th</sup> Avenue, which is marked as Number 24. This photograph shows the beach berm and dune in front of the Beach Patrol Building. During this inspection, I observed some erosion of the beach berm.

**Collection and Interpretation of GPS Data Regarding the**

**Length and Width of Beach Berm/Dune From 14<sup>th</sup> to 16<sup>th</sup>**

**Avenue (s)**



17. In furtherance of my duties as an Environmental Specialist, I have developed expertise in utilizing DEP's GPS Units and ArcMap Geographic Information System ("GIS") software. The utilization of these technologies is a regular part of my job duties, and I have continued to pursue additional training and professional development to support these skills, including training in "Creating Web Maps and Apps" (NJDEP: November 2019), "Overview of LRP Internal Application & Web Mapping Tools" (NJDEP: January 2022), "ArcPro GIS Training" (NJDEP: October 2019), "CLUE In-House GIS Training" (NJDEP: January 2017), and internal DEP training for utilizing Trimble GPS Units and GPS Pathfinder Office Training.

18. In 2019, CLUE purchased Trimble Geo7x handheld GPS Units. Trimble is a leading manufacturer of GPS Units, and is the preferred manufacturer of DEP's GIS Bureau, which provides technical support for DEP's data collection and management activities. CLUE purchased the Geo7x GPS Units because they are the most accurate handheld data collectors available for field use, providing reliable measurement within a meter under optimal working conditions.

19. I use the Geo7x handheld GPS Unit to determine the location and area of regulated activities, or to determine the limits of an area regulated by CLUE, including a dune or wetland area. To measure, I keep the GPS Unit on me, and walk the length

of the object, activity, or area that I am trying to measure. For example, if I want to measure the length of a fence, I walk along the fence. If it is a multi-dimensional regulated activity or area, I walk along the boundaries of the regulated activity or area. I also make sure to have two control points to ensure accuracy. The data generated from the site inspection is then uploaded to DEP's "GPS Pathfinder Office" software.

20. The GPS Pathfinder Office software refines the data from the GPS Unit through a process called "differential correction." This employs a network of independently owned and operated Continuously Operating Reference Stations ("CORS") managed by the National Oceanic and Atmospheric Administration's National Geodetic Survey. CORS are fixed at known, surveyed points, and continuously record their Global Navigation Satellite System ("GNSS") positions. By comparing the positional data from the CORS to the nearest to the raw data from the GPS data collected, differential correction resolves errors in the raw data that may be introduced from atmospheric conditions, such as overcast skies.

21. The accuracy of the differentially corrected data is then verified in a data correction log generated by the GPS Pathfinder Office.

22. The GPS data is then exported to DEP's GIS software, Esri's "ArcGIS Pro" platform. Esri is a private software development corporation that specializes in the development of GIS

software. Esri's products are among the most widely used in the environmental field, relied upon by local, state, and federal governments, environmental consultants, engineers, and others.

23. GIS software is used to create, display, analyze, and process maps, or any sort of visual data that has a geospatial component. For CLUE staff, GIS analyses commonly include review of aerial photography to determine land use change over time, a review of DEP-managed data to determine the extent of potential regulated areas (such as wetlands or beaches), and the analysis of collected GPS data.

24. DEP's GIS software uses, among other measures, the "New Jersey Plane," which, like latitude and longitude, is essentially New Jersey's own coordinate systems, and the "U.S. Survey Foot," to orient GPS data collected within GIS aerial photography. All GPS data is converted to this format to ensure that the GPS data and any pre-existing DEP data, such as aerial imagery, are referenced to the same coordinate system.

25. Therefore, the accuracy of the GPS data collected during site inspections can be assured by comparing lines and shapes generated during the site inspection with known, fixed location, such as a building corner or perimeter wall, as depicted on GIS aerial imagery. If the lines and shapes generated during the walk align with the measured objects as depicted on aerial photographs,

or other markers, then the measurements taken during the walk were accurate.

26. On November 1, 2022, I went back out to the NWW beachfront and in particular the area of 15<sup>th</sup> Avenue to collect data points to determine the approximate dimensions and limits of the site's beach berm/dune. I collected two GPS control points, which were the Northwest corner of the Beach Patrol Building and the large blue post located on the corner of 15<sup>th</sup> Avenue near the pedestrian walkway in front of the Beach Patrol Building. I then proceeded to walk the perimeter of the beach berm/dune system from 14<sup>th</sup> Avenue to 16<sup>th</sup> Avenue. This perimeter walk is highlighted in yellow on Slide 1 in the PowerPoint attached as **Exhibit F**.

27. I subsequently downloaded the GPS data collected on November 1, 2022 into GPS Pathfinder Office and conducted a differential correction of the data collected. I then exported the data to DEP's GIS software and overlaid the data points with Near Map imagery of the site taken on February 19, 2022.

28. I determined based on my data collection points collected on November 1, 2022 by way of the GPS Unit, and after overlaying these points on the most recent Near Map imagery from February 19, 2022, that there is approximately 70 feet of beach berm and dune directly in front of the Beach Patrol Building at 15<sup>th</sup> Avenue. See Slide 5 in the PowerPoint in **Exhibit F**. Immediately to the south of the storage units there is

approximately 103 feet of beach berm and dune. This determination was made utilizing the ArcMap GIS Measurement Tool to measure the width of the limits of the sites beach berm and dune system collected with the GPS Unit on November 1, 2022. I also determined that there was an approximate beach berm loss immediately south of 15<sup>th</sup> Avenue since February 19, 2022 of 30 feet, based on a comparison of the GPS data collected on November 1, 2022 and the approximate limits of the site's beach berm/dune depicted in the February 19, 2022 Near Map Imagery. This determination was made utilizing the ArcMap GIS Measurement Tool to measure the difference between the limits of the site's beach berm and dune GPS information collected on November 1, 2022 and the approximate limits of the site's beach berm/dune present on February 19, 2022. See Slides 2 through 4 in the PowerPoint in **Exhibit F**.

29. I also took photographs of the condition of the beachfront during my November 1, 2022 inspection. Relevant photographs from this inspection are attached as **Exhibit G**. In the photograph marked 6, you can see South of 11<sup>th</sup> Avenue toward the Beach Patrol Building. You can see the beach berm and dune system in front of the Beach Patrol Building. The photograph marked 14 was taken on the beachfront looking toward the beach berm and dune in front of the Beach Patrol Building. You can see the roof of the Beach Patrol Building over the dune. Photograph marked 16 provides a view of the beach berm and dune system closer to 16<sup>th</sup>

Avenue. In these photographs you can see erosion to the beach berm from the Nor-Easter. However, the recent erosion observed was limited to the bottom of the ocean-side slope of the beach berm.

30. Photographs marked 19, 20, and 22, also show the dune system directly in front of the Beach Patrol Building and the storage sheds at 15<sup>th</sup> Avenue. In these photographs you can see that the site's vegetated dune system is still in place protecting this area.

**Aerial Photographs from Fly Over of NWW Beachfront on  
November 3, 2022**

31. On the morning of November 3, 2022, I was directed by my management to take aerial photographs of the NWW beachfront and in particular the area of 15<sup>th</sup> Avenue to document current conditions. As such, I boarded a flight that morning that flew over the NWW beachfront for approximately seven minutes from 10:56 am through 11:03 am. While this was low tide, the photographs from my flight provide context of the current conditions of the site's dune and berm system and a review of the beach conditions from the authorized sand borrow area in Wildwood through the NWW oceanfront. Attached as **Exhibit H** are relevant photographs from this flight.

32. Photograph marked 33, provides an aerial view of the Beach Patrol Building and the storage units at 15<sup>th</sup> Avenue. You can see the jersey barriers are still up and directly behind the jersey barriers. In this photograph you can see that there is

substantial area behind the storage units to move those units back away from the jersey barriers and the dune system. The photograph marked 33 also shows the delineated freshwater wetlands area to the right of the Beach Patrol Building. To the right of the vegetated freshwater wetland area is the location of where NWW excavated sand and moved it and graded it towards the dune system between 16<sup>th</sup> Avenue and 14<sup>th</sup> Avenue.

33. In the photograph marked 45 and photograph marked 46, I was on the landward side of the beachfront, and you can see the Beach Patrol Building and the storage units. Behind the jersey barriers, you can see the dune system.

34. Photograph 76, is an aerial photograph covering approximately from 18<sup>th</sup> to 22<sup>nd</sup> Avenues. Photograph 79, is an aerial photograph of 15<sup>th</sup> Avenue. In this photograph you can see the jersey barriers, a portion of which are within the freshwater wetlands transition area located to the northeast of the Beach Patrol Building.

**Most Recent Inspection(s) of NWW Beachfront Shows**

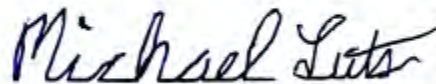
**Conditions Have Remained the Same**

33. I conducted another inspection of NWW's beachfront on November 16, 2022. Relevant photographs from this inspection are attached as **Exhibit I**. Generally, the conditions of the beach berm in the area of 15<sup>th</sup> Avenue have not changed since my last inspection. A healthy dune system still remains in front of the

Beach Patrol Building. Photograph marked 11 is of this dune system and you can see one of the storage sheds in the left corner of the photograph. I took the photograph marked 13 looking North of 16<sup>th</sup> Avenue on the oceanside of the beach berm and dune. This image provides a good idea of the condition of the beach berm and dune system in front of 15<sup>th</sup> Avenue and shows that further erosion has not occurred since my last inspection. I took photograph 20 looking South from 14<sup>th</sup> Avenue. In this photograph you can also get a good idea of the beach berm and dune system in front of 15<sup>th</sup> Avenue and you can see the storage sheds in the upper right-hand corner.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

Dated: 12/6/22



---

Michael J. Lutz  
Environmental Specialist III,  
Bureau of Coastal and Land Use  
Compliance and Enforcement



# **LUTZ**

# **EXHIBIT A**

## EXHIBIT A

North Wildwood: 10/6/2022 Site photos  
Taken between 9:10am – 10:48am  
(South Fifteenth Avenue) M. Lutz #18



## EXHIBIT A

North Wildwood: 10/6/2022 Site photos  
Taken between 9:10am – 10:48am  
(North of Fifteenth Avenue) M. Lutz #19



## EXHIBIT A

North Wildwood: 10/6/2022 Site photos  
Taken between 9:10am – 10:48am  
(North of Eighteenth Avenue) M. Lutz #21



## EXHIBIT A

North Wildwood: 10/6/2022 Site photos  
Taken between 9:10am – 10:48am  
(North of Eighteenth Avenue) M. Lutz #22



# **LUTZ**

# **EXHIBIT B**

## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(South of Fifteenth Avenue) M. Lutz #5



## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(South of Fifteenth Avenue) M. Lutz #6





## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(North of Fifteenth Avenue) M. Lutz #7



## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(South of Fifteenth Avenue) M. Lutz #8



## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(North of Fifteenth Avenue) M. Lutz #9



## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(Fifteenth Avenue) M. Lutz #10



## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(South of Fifteenth Avenue) M. Lutz #11



## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(North of Fifteenth Avenue) M. Lutz #12



## EXHIBIT B

North Wildwood: 10/14/2022 Site photos Taken  
between 8:37am – 8:51am  
(South of Twelfth Avenue) M. Lutz #14



# **LUTZ**

# **EXHIBIT C**



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Eleventh Avenue) M. Lutz #3



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Eleventh Avenue) M. Lutz #4



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Eleventh Avenue) M. Lutz #5



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Eleventh Avenue) M. Lutz #6



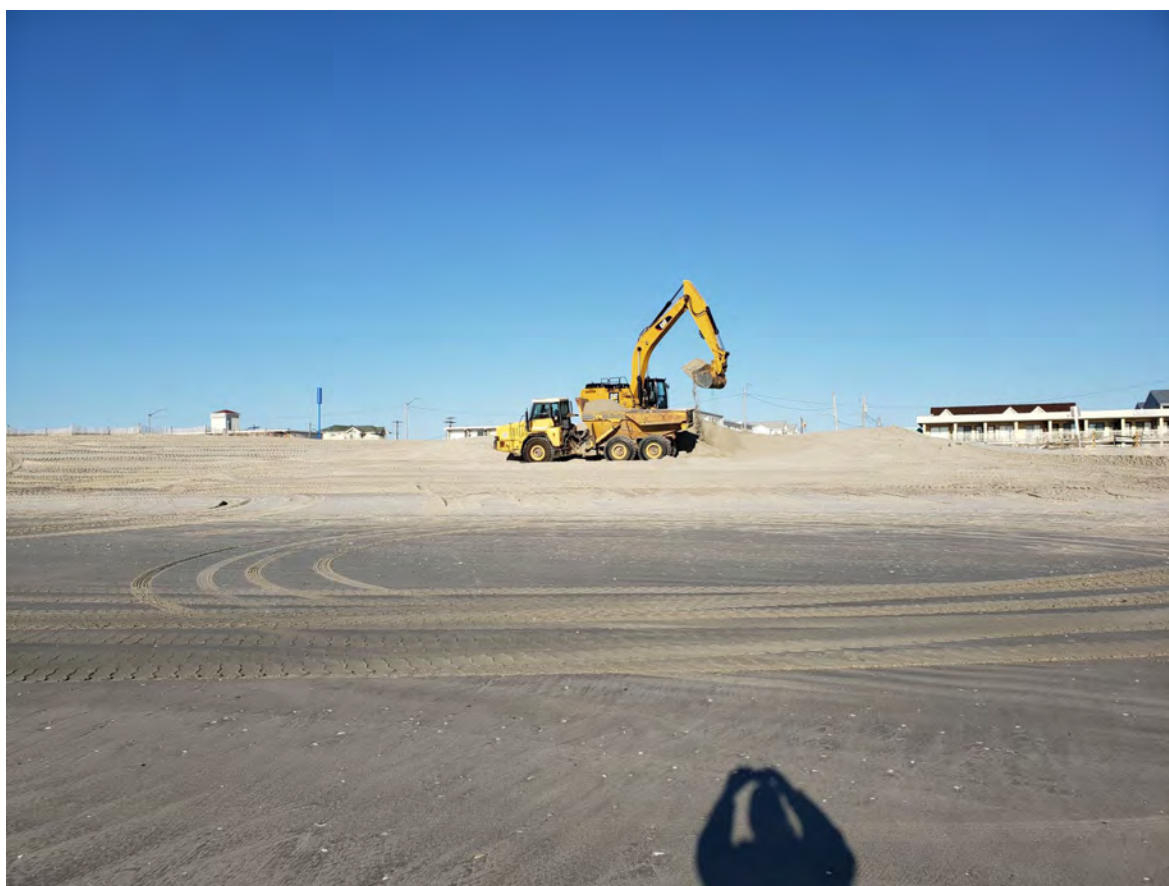
## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Eleventh Avenue) M. Lutz #7



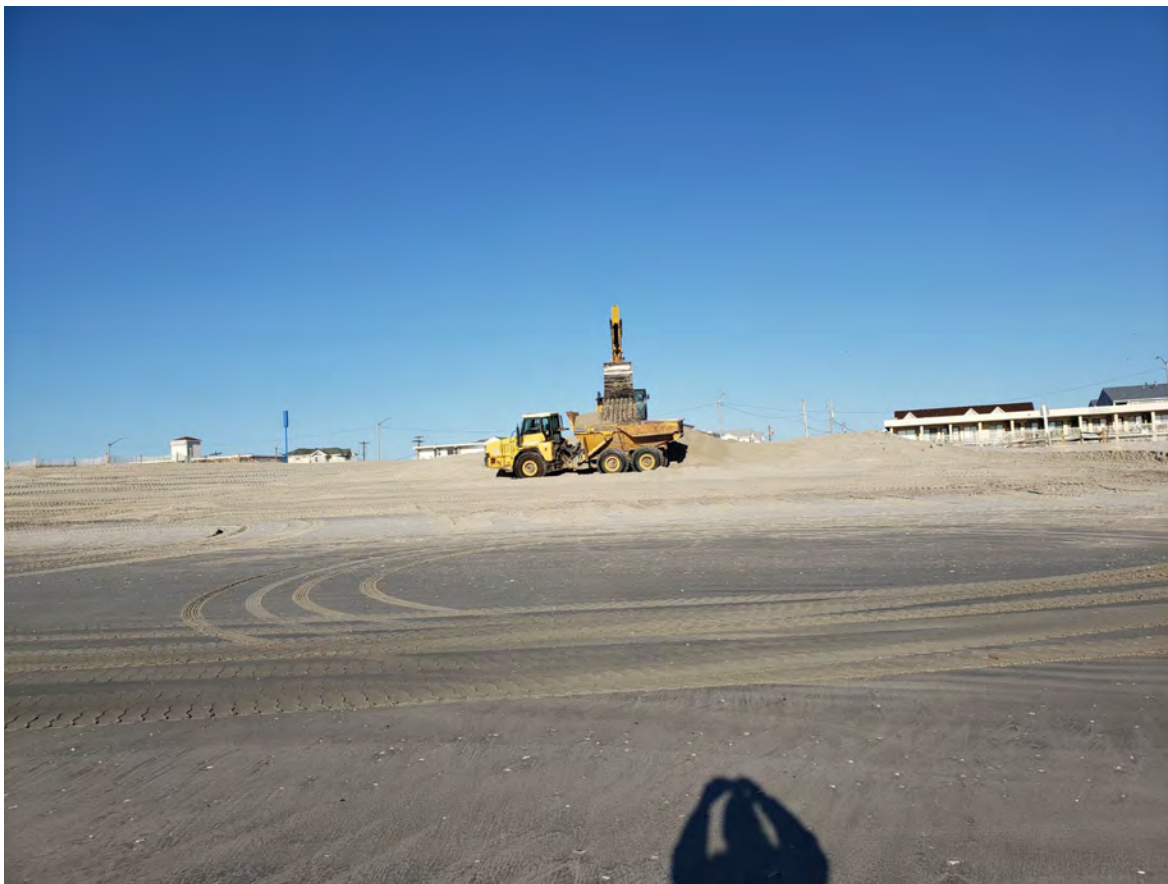
## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Eleventh Avenue) M. Lutz #8



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Eleventh Avenue) M. Lutz #9



## EXHIBIT C

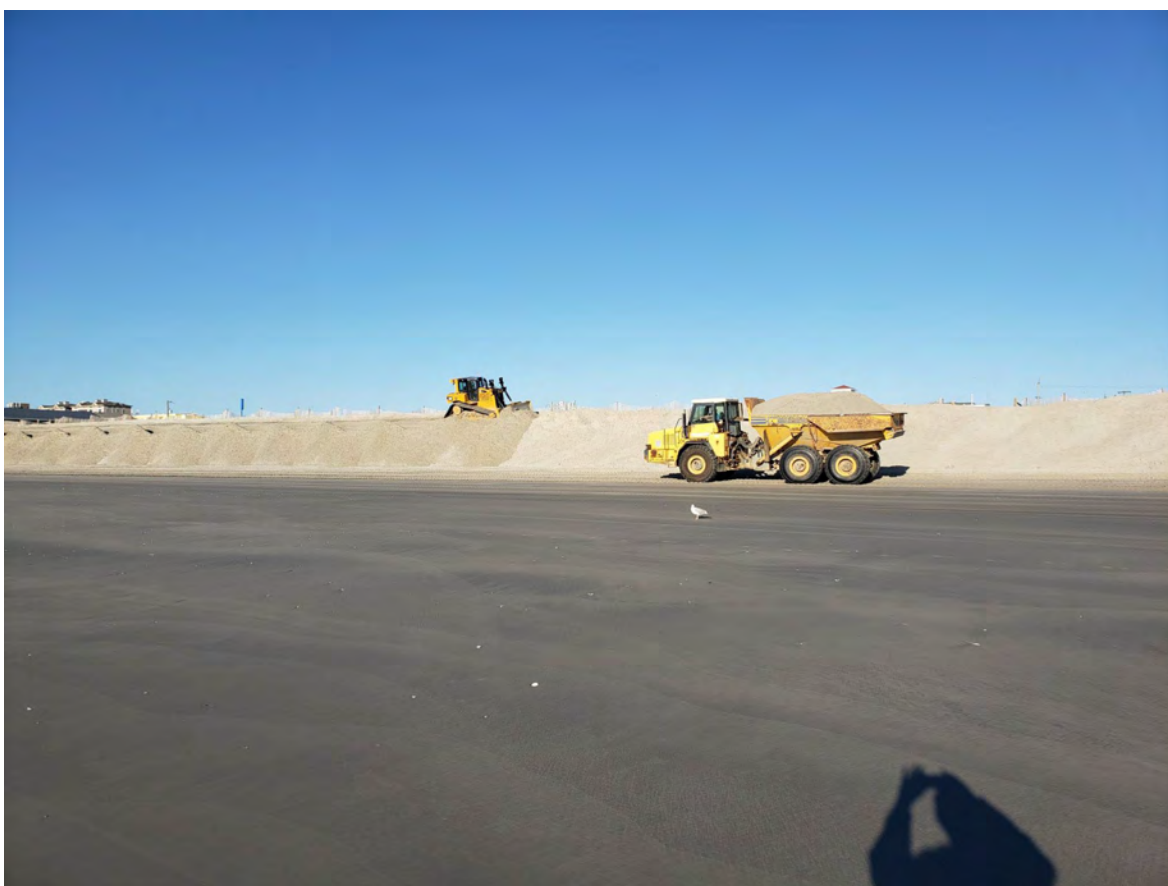
North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Twelfth Avenue) M. Lutz #10





## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(Fifteenth Avenue Area) M. Lutz #11



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(Fifteenth Avenue Area) M. Lutz #12



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(Fifteenth Avenue Area) M. Lutz #13



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(Fifteenth Avenue Area) M. Lutz #14



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(North of Sixteenth Avenue) M. Lutz #15



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Sixteenth Avenue) M. Lutz #17



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Sixteenth Avenue) M. Lutz #18



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(South of Sixteenth Avenue) M. Lutz #19





## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(North of Fifteenth Avenue) M. Lutz #21



## EXHIBIT C

North Wildwood: 10/20/2022 Site photos  
Taken between 8:52am – 9:26am  
(North of Fifteenth Avenue) M. Lutz #24



# **LUTZ EXHIBIT D**

## EXHIBIT D

North Wildwood: 10/21/2022 Site photos  
Taken between 8:46am – 9:15am  
(South of Eleventh Avenue) M. Lutz #6



## EXHIBIT D

North Wildwood: 10/21/2022 Site photos  
Taken between 8:46am – 9:15am  
(North of Sixteenth Avenue) M. Lutz #12



## EXHIBIT D

North Wildwood: 10/21/2022 Site photos  
Taken between 8:46am – 9:15am  
(North of Sixteenth Avenue) M. Lutz #13



# **LUTZ**

# **EXHIBIT E**

## EXHIBIT E

North Wildwood: 10/28/2022 Site photos  
Taken between 9:46am – 10:38am  
(South of Eleventh Avenue) M. Lutz #5





## EXHIBIT E

North Wildwood: 10/28/2022 Site photos  
Taken between 9:46am – 10:38am  
(North of Sixteenth Avenue) M. Lutz #10



## EXHIBIT E

North Wildwood: 10/28/2022 Site photos  
Taken between 9:46am – 10:38am  
(North of Sixteenth Avenue) M. Lutz #22



## EXHIBIT E

North Wildwood: 10/28/2022 Site photos  
Taken between 9:46am – 10:38am  
(South of Fourteenth Avenue) M. Lutz #24



# **LUTZ**

# **EXHIBIT F**

City of North Wildwood, February 19, 2022 Near Map Imagery Depicting the GPS Data Collected by the NJDEP on November 1, 2022 & Roads ArcMap GIS Layer



City of North Wildwood, February 19, 2022 Near Map Imagery, Depicting the GPS Data Collected by the NJDEP on November 1, 2022 & Approximate Beach Berm Oceanward Limits in Spring 2022



City of North Wildwood, February 19, 2022 Near Map Imagery Depicting the GPS Data Collected by the NJDEP on November 1, 2022 & May 18, 2021 & Approximate Area of Beach Berm/Dune Loss Since February 2022



City of North Wildwood, February 19, 2022 Near Map Imagery, Depicting the GPS Data Collected by the NJDEP on November 1, 2022 & Approximate Beach Berm Oceanward Limits in Spring 2022 & Approximate Width of Beach Berm Loss that has Occurred Since the Spring of 2022





City of North Wildwood, February 19, 2022 Near Map Imagery Depicting the GPS Data Collected by the NJDEP on November 1, 2022 & Approximate Width of the Site's Beach Berm/Dune





# **LUTZ EXHIBIT G**

## EXHIBIT G

North Wildwood: 11/01/2022 Site photos  
Taken between 8:43am – 9:51am  
(South of Eleventh Avenue) M. Lutz #6



## EXHIBIT G

North Wildwood: 11/01/2022 Site photos  
Taken between 8:43am – 9:51am  
(Fifteenth Avenue Area) M. Lutz #14



## EXHIBIT G

North Wildwood: 11/01/2022 Site photos  
Taken between 8:43am – 9:51am  
(Sixteenth Avenue Area) M. Lutz #15



## EXHIBIT G

North Wildwood: 11/01/2022 Site photos  
Taken between 8:43am – 9:51am  
(Sixteenth Avenue Area) M. Lutz #16



## EXHIBIT G

North Wildwood: 11/01/2022 Site photos  
Taken between 8:43am – 9:51am  
(North of Sixteenth Avenue) M. Lutz #19





## EXHIBIT G

North Wildwood: 11/01/2022 Site photos  
Taken between 8:43am – 9:51am  
(North of Sixteenth Avenue) M. Lutz #20



## EXHIBIT G

North Wildwood: 11/01/2022 Site photos  
Taken between 8:43am – 9:51am  
(North of Sixteenth Avenue) M. Lutz #22



# **LUTZ**

# **EXHIBIT H**

## EXHIBIT H

North Wildwood: 11/03/2022 Air Flight  
photos Taken between 10:56am – 11:03am  
(15<sup>th</sup> Avenue Area) M. Lutz #33



## EXHIBIT H

North Wildwood: 11/03/2022 Air Flight  
photos Taken between 10:56am – 11:03am  
(12<sup>th</sup> Avenue Area) M. Lutz #35



## EXHIBIT H

North Wildwood: 11/03/2022 Air Flight  
photos Taken between 10:56am – 11:03am  
(14<sup>th</sup> Avenue Area) M. Lutz #45



## EXHIBIT H

North Wildwood: 11/03/2022 Air Flight  
photos Taken between 10:56am – 11:03am  
(16th Avenue Area) M. Lutz #46



## EXHIBIT H

North Wildwood: 11/03/2022 Air Flight  
photos Taken between 10:56am – 11:03am  
(17<sup>th</sup> Avenue Area) M. Lutz #76





## EXHIBIT H

North Wildwood: 11/03/2022 Air Flight  
photos Taken between 10:56am – 11:03am  
(7<sup>th</sup> Avenue Area) M. Lutz #79



# **LUTZ**

# **EXHIBIT I**

## EXHIBIT I

North Wildwood: 11/16/2022 Site photos  
Taken between 8:37am – 9:20am  
(North of Sixteenth Avenue) M. Lutz #11



## EXHIBIT I

North Wildwood: 11/16/2022 Site photos  
Taken between 8:37am – 9:20am  
(North of Sixteenth Avenue) M. Lutz #13



## EXHIBIT I

North Wildwood: 11/16/2022 Site photos  
Taken between 8:37am – 9:20am  
(South of Fourteenth Avenue) M. Lutz #20





MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street, P.O. Box 093  
Trenton, NJ 08625-0093  
Attorney for Plaintiff State of New Jersey  
Department of Environmental Protection

By: Dianna E. Shinn (242372017)  
Deputy Attorney General  
(609) 376-2789

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY  
CHANCERY DIVISION  
Docket No. \* \_\_\_\_\_-22

NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
Plaintiff,

v.

CITY OF NORTH WILDWOOD, "XYZ  
CONTRACTORS" 1-10, "JOHN  
AND/OR JANE DOES" 1-10,  
Defendants.

Civil Action

**CERTIFICATION OF  
LAURANCE S. TOROK IN SUPPORT  
OF PLAINTIFF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION'S ORDER TO SHOW  
CAUSE FOR PRELIMINARY  
INJUNCTION & TEMPORARY  
RESTRAINTS**

I, LAURANCE S. DOYLE, of full age, certify and say:

1. I am a Research Scientist within the Bureau of Watershed Management in the Division of Watershed Protection and Restoration at the Department of Environmental Protection ("DEP"). I started my recent position in 2021 and my duties include, but are not limited to, serving as senior advisor to the Bureau's Endangered and Threatened Species Unit on regulatory issues involving endangered or threatened species rule compliance under the Freshwater Wetlands Protection Act, the Flood Hazard Control Act,

the Highlands Preservation Act, and the Coastal Zone Management Rules, acting as lead party on "legacy" projects and permits involving endangered or threatened species habitat compliance, providing expert recommendations on endangered and threatened species compliance issues for Water Quality Management Plan amendment applications, overseeing the management of federal grant funds and managing state funded contracts associated with coastal and watershed planning.

2. Before I began this position, I served as manager of the Bureau of Watershed Management/Technical services overseeing the Mitigation Unit, Endangered and Threatened Species Unit, the 319 Grant Unit, and the Administrative Support Unit for 2019 to 2021. Prior to this position, I spent 15 years supervising the operations of the Endangered and Threatened Species Unit within the Division of Land Use Regulation and was involved in all aspects of making regulatory compliance decisions for applications under the Freshwater Wetlands Protection Act, Flood Hazard Control Act, the Coastal Zone Management Rules and Highlands Preservation Act as they related to threatened and endangered species habitats. I have also worked for the NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program as an Assistant Zoologist and the NJDEP, Office of Natural Lands Management, Natural Heritage Program as a contractual employee.



3. I have worked for DEP for 35 years, after graduating from the Ohio Wesleyan University with a Bachelor of Arts in General Zoology and the State University of New York, College of Environmental Science and Forestry with a Master's degree in Forest Biology.

4. I make this certification in support of the Department's request for a preliminary injunction and temporary restraints to halt North Wildwood ("NWW") from moving forward with installing a bulkhead as recently denied by the Department on October 12, 2022 in NWW's Emergency Authorization ("EA") application following the remnants of Hurricane Ian, and in violation of numerous Department statutes as NWW does not have an approved permit to conduct such regulated activity.

5. As noted above, my job duties require that I determine the resource value classification of freshwater wetlands and subsequent establishment of freshwater wetland transition areas pursuant to Freshwater Wetlands Act Rules N.J.A.C. 7:7-1 et seq.

6. Following NWW's 2020 submission of its CAFRA and Freshwater Wetland Protection Act #6 and #6a permit application to DEP, I reviewed the permit application to determine compliance with the Freshwater Wetlands Act Rules. This certification provides my analysis of the freshwater wetlands and freshwater wetlands transition area North of the Beach Patrol Building near 15<sup>th</sup> Avenue.

7. I determined that pursuant to the Freshwater Wetlands Act Rules, the freshwater wetlands and freshwater wetlands transition area in this location are of exceptional resource value. N.J.A.C. 7:7A-3.2(b)(c). As discussed in the certification of Jennifer Moriarty, the Department previously issued a Letter of Interpretation ("LOI") in 2019 for this area determining the resource value as intermediate. However, the LOI indicates that this classification can be revisited and changed by the Department at any time.

8. Based upon the information submitted in the 2020 permit application, upon further review of DEP's Landscape Project Maps, and the Department's protocols for the establishment of exceptional resource value for wetlands, I determined the resource value is no longer intermediate, but exceptional.

9. The wetlands and wetlands transition area North of the Beach Patrol Building are mapped as rank 4 (state endangered) wetlands, which includes wetland habitat for several beach associated birds and for migratory raptor concentration. See attached Figure One as **Exhibit A**.

10. For a wetland to be designated as being of exceptional resource value it must "remain suitable for breeding, resting, or feeding by these species during the normal period these species would use the habitat." N.J.A.C. 7:7A-3.2(b)3. DEP's Protocols for the Establishment of Exceptional Resource Value Wetlands provides

the parameters suitable for the habitat for migratory raptors. These parameters generally include (1) deciduous, mixed, or evergreen wetland forest; (2) deciduous, mixed, or evergreen scrub-scrub wetlands; and (3) freshwater or tidal emergent wetlands. Attached as **Exhibit B** is DEP's Migratory Raptor Protocol. I determined that the wetlands remaining between 15<sup>th</sup> and 14<sup>th</sup> Avenues provide habitat for at least three listed species which/that is suitable for resting or feeding by songbirds upon whom migratory raptors prey upon and would therefore, be suitable resting or foraging habitat for migratory raptors. State listed species for which these habitats would be most suitable for include the peregrine falcon (state endangered), norther harrier (state endangered), and the American kestrel (state endangered). As a result, I determined that the mapped freshwater wetlands between 15<sup>th</sup> and 8<sup>th</sup> Avenues to be of exceptional resource value.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

Dated: 12/2/2022

Laurance S Torok  
Laurance S. Torok



# **TOROK EXHIBIT A**

File Edit View Bookmarks Insert Selection Geoprocessing Customize Windows Help

Hydr\_NHD\_2015\_Net Flow Analysis Find Common Ancestors

Editor DEP Data Data Layers Imagery County/Muni Selector



Identify

Identify from: <Visible layers>

- Migratory Raptor Concentration Site
- Migratory Raptor Concentration Site
- coastal\_v3\_3
  - VEGETATED DUNE COMMUNITIES
    - sptbl\_01
      - Migratory Raptor Concentration Site
      - Red Knot
      - Sanderling
      - Common Tern
      - Least Tern
      - Piping Plover
      - Least Tern
      - Gull-billed Tern
      - Semipalmated Sandpiper
      - American Oystercatcher
    - r1tbl\_01
  - HERBACEOUS WETLANDS
    - sptbl\_01
      - Yellow-crowned Night-heron
      - Common Tern
      - Migratory Raptor Concentration Site
      - Piping Plover
      - Tricolored Heron
      - Snowy Egret
      - Gull-billed Tern
      - Black-crowned Night-heron
      - American Oystercatcher
    - r1tbl\_01

Location: 407,042.250 57,813.586 Feet

| Field      | Value                               |
|------------|-------------------------------------|
| C_FED_STAT | NA                                  |
| C_LNDR     | 4                                   |
| C_NJ_STATU | NA                                  |
| CLASS      | Aves                                |
| COMNAME    | Migratory Raptor Concentration Site |
| ELEMENT_ID | 10412                               |
| EO_ID      | 6656                                |
| EO_NUM     | 1                                   |
| FEAT_DESC  | Non-breeding Concentration          |
| FED_STATUS | NA                                  |
| FID        | 32577                               |
| LAST_OBS   | 2013-??-??                          |
| LINK_ID    | 35701                               |
| LNDR       | 4                                   |
| LNDR_3_5   | yes                                 |
| LUC_DESC   | Nonbreeding                         |
| NJ_STATUS  | NA                                  |

Identified 21 features

407187.421 58073.166 Feet

# **TOROK EXHIBIT B**

PROTOCOLS FOR THE ESTABLISHMENT OF  
EXCEPTIONAL RESOURCE VALUE  
WETLANDS PURSUANT TO THE FRESHWATER  
WETLANDS PROTECTION ACT  
(N.J.S.A. 13:9B-1 ET SEQ.) BASED ON  
DOCUMENTATION OF STATE OR FEDERAL ENDANGERED OR  
THREATENED SPECIES  
JANUARY 2013

A cooperative effort of  
THE DIVISION OF LAND USE REGULATION  
  
OFFICE OF NATURAL LANDS MANAGEMENT  
DIVISION OF PARKS AND FORESTRY  
and  
THE ENDANGERED AND NONGAME SPECIES PROGRAM  
DIVISION OF FISH AND WILDLIFE  
<http://www.nj.gov/dep/landuse/>



## TABLE OF CONTENTS

|                                                                |      |
|----------------------------------------------------------------|------|
| Introduction.....                                              | i    |
| Section 1. Landscape Project Mapping.....                      | 1    |
| Section 2. Species Specific Habitat Discussions.....           | 2    |
| <b>Herptiles</b>                                               |      |
| Blue-spotted salamander ( <i>Ambystoma laterale</i> ).....     | A1-1 |
| Tiger salamander ( <i>Ambystoma trigrinum trigrinum</i> )..... | A2-1 |
| Wood turtle ( <i>Glyptemys insculpta</i> ).....                | A3-1 |
| Bog turtle ( <i>Glyptemys muhlenbergii</i> ).....              | A4-1 |
| Timber rattlesnake ( <i>Crotalus horridus</i> ).....           | A5-1 |
| Long-tailed salamander ( <i>Eurycea longicauda</i> ).....      | A6-1 |
| Pine Barrens treefrog ( <i>Hyla andersonii</i> ).....          | A7-1 |
| Southern gray treefrog ( <i>Hyla chrysoscelis</i> ).....       | A8-1 |
| Eastern mud salamander ( <i>Pseudotriton montanus</i> ).....   | A9-1 |
| <b>Birds</b>                                                   |      |
| Henslow's sparrow ( <i>Ammodramus henslowii</i> ).....         | B1-1 |
| Short-eared owl ( <i>Asio flammeus</i> ).....                  | B2-1 |
| American bittern ( <i>Botarus lentiginosus</i> ).....          | B3-1 |
| Red-shouldered hawk ( <i>Buteo lineatus</i> ).....             | B4-1 |
| Northern harrier ( <i>Circus cyaneus</i> ).....                | B5-1 |
| Sedge wren ( <i>Cistothorus platensis</i> ).....               | B6-1 |
| Bald eagle ( <i>Haliaeetus leucocephalu</i> ).....             | B7-1 |
| Black rail ( <i>Laterallus jamaicensis</i> ).....              | B8-1 |

**Birds cont.**

|                                                                  |       |
|------------------------------------------------------------------|-------|
| Pied-billed grebe ( <i>Podilymbus podiceps</i> ).....            | B9-1  |
| Golden-winged Warbler ( <i>Vermivora chrysoptera</i> ).....      | B10-1 |
| Long-eared owl ( <i>Asio otus</i> ).....                         | B11-1 |
| Bobolink ( <i>Dolichonyx oryzivorus</i> ).....                   | B12-1 |
| Cattle Egret ( <i>Bubulcus ibis</i> ).....                       | B13-1 |
| Red-headed woodpecker ( <i>Melanerpes erythrocephalus</i> )..... | B14-1 |
| Black-Crowned Night Heron ( <i>Nycticorax nycticorax</i> ).....  | B15-1 |
| Yellow-Crowned Night Heron ( <i>Nyctanassa violacea</i> ).....   | B16-1 |
| Osprey ( <i>Pandion haliaetus</i> ).....                         | B17-1 |
| Barred owl ( <i>Strix varia</i> ).....                           | B18-1 |
| Migratory raptors.....                                           | B19-1 |

**Mamals**

|                                            |      |
|--------------------------------------------|------|
| Indiana bat ( <i>Myotis sodalis</i> )..... | M1-1 |
|--------------------------------------------|------|

|                       |      |
|-----------------------|------|
| <b>Odonates</b> ..... | O1-1 |
|-----------------------|------|

**Plants**

|                                                              |      |
|--------------------------------------------------------------|------|
| Sensitive joint-vetch ( <i>Aeschynomene virginica</i> )..... | P1-1 |
|--------------------------------------------------------------|------|

|                                             |      |
|---------------------------------------------|------|
| Swamp pink ( <i>Helonias bullata</i> )..... | P2-1 |
|---------------------------------------------|------|

|                                                          |      |
|----------------------------------------------------------|------|
| Small whorled pogonia ( <i>Isotria medeoloides</i> ..... | P3-1 |
|----------------------------------------------------------|------|

|                                                                  |      |
|------------------------------------------------------------------|------|
| Knieskern's beaked-rush ( <i>Rhynchospora knieskernii</i> )..... | P4-1 |
|------------------------------------------------------------------|------|

Appendicies

Name: Migratory Raptors

Status: State Endangered

Bald Eagle (*Haliaeetus leucocephalus*) \*\*\*

Northern Harrier (*Circus cyaneus*) \*\*

Peregrine Falcon (*Falco peregrinus*)

Red-Shouldered Hawk (*Buteo lineatus*) \*\*

State Threatened

Osprey (*Pandion haliaetus*) \*\*

Long-eared owl (*Asio otus*)

American kestrel (*Falco sparvius*)

\*\* State listing for breeding status only; species breeds, migrates and/or overwinters in Cape May.

\*\*\* Breeding population endangered, wintering population threatened.

Habitat:

Types of habitat expected to be used during the migration period, from September 1 to December 1, by each of the six species identified above are described below. Unless otherwise noted, migratory raptors are associated with vegetative communities structurally similar to those used during the breeding season. Factors which affect the suitability of a habitat for breeding use are human disturbance, competition, and predation. The fore mentioned factors, however, do not have a large role in the determination of the suitability of a particular habitat for use by migrating birds.

American Kestrel

Kestrels are commonly associated with open areas with few trees containing cavities; wet meadows; forest edges; and orchards (DeGraaf and Rudis 1986). Wintering kestrels have been shown to favor disturbed grassland habitats but will also use undisturbed grassland, old fields and plowed fields in Missouri (Toland 1987). Habitat use in Kentucky followed a similar pattern with pastureland and old field being the primary habitats used (Sferra 1984). Roost locations for wintering birds in Pennsylvania included tree branches (maples, pines and oaks), tree cavities and multiple human structures (Ardia 2001).

Bald Eagle

The preferred foraging habitat of the bald eagle is open water: rivers, lakes, and estuaries (DeGraaf et al. 1980). The primary prey item for eagles is fish though they will take various species of birds, reptiles, mammals, and invertebrates (Retfalvi 1970; Dunstan and Harper 1975; DeGraaf et al. 1980; Cline and Clark 1981; Todd et al. 1982; Frenzel 1984).

Trees in proximity to water are the favored perch site for eagles (Stalmaster and Neuman 1979; Steenof et al 1980; Chester et al. 1990). Perch sites generally consist of tall (mean 21.1 m / 69 ft), large (mean 42.3 cm / 17 in) trees featuring stout, horizontal branches with at least one side facing an open area (Steenof et al. 1980).

Roosting habitat tends to be located near water and features mature living or dead hardwoods or softwoods (Steenof 1978; Keister and Anthony 1983; Stalmaster and Gessaman 1984; Keister et al. 1985; Buehler et al 1991)

### Long-eared owl

In general, long-eared owls are associated with open field or meadow habitats interspersed with hedge rows, wood lots, conifer groves or plantations for breeding and winter roosts (Bent 1938; Craig and Trost 1979; Wijnandts 1984; DeGraaf and Rudis 1986; Marks 1986; Kren 1987; Bosakowski et al. 1989a). Evergreen species are favored for roosting habitat though hardwood stands may also be used (Randle and Austing 1952; Smith 1981; Craig et al. 1985; Bosakowski et al. 1989b:). Getz (1961) found long-eared owls to feed over open field habitats because of the low amount of cover available for microtine prey. Areas less favored included bog, marsh, and several forested habitats. In Cape May, owl banding stations captured long-eared owls in various habitats, including a red cedar (*Juniperus virginiana*) grove, hay fields and brackish marsh (Duffy and Kerlinger 1993)

### Norther Harrier

Northern harriers are primarily a species of the open country; occurring in such habitats as farm fields, salt and freshwater marshes, swamps, bogs, and wet meadows (Hall 1983; Laughlin and Kibbe 1985; Serrentino 1989). Freshwater wetland vegetation occurring in northern harrier habitats include meadowsweet (*Spiraea latifolia*), red-osier dogwood (*Cornus stolonifera*), sedges (*Carex* spp.), bulrushes (*Scirpus* spp.), goldenrod (*Solidago* spp.), willow (*Salix* spp.) and wet hayfields dominated by reed canary grass (*Phalaris arundinacea*) (Serrentino 1987; Hamerstrom and Kopeny 1981; Laughlin and Kibbe 1985). Coastal habitats feature northern bayberry (*Myrica pensylvanica*), black huckleberry (*Gaylussacia baccata*), wild rose (*Rosa* spp.), common reed (*Phragmites australis*), salt hay grass (*Spartina patens*), smooth cordgrass (*S. alterniflora*), and poison ivy (*Toxicodendron radicans*) (Holt and Melvin 1986; Dunne 1984; England 1989).

### Osprey

Ospreys primarily feed upon fish and forage in estuarine, river, and lake habitats during migration. Water bodies should be free of dense emergent or subemergent vegetation as well as dense, overhanging vegetation from the banks or shore (Hynes 1970; Postupalsky and Stackpole 1974; Prevost 1977). Favored perch sites are similar to nest sites, principally being live or dead trees, but also buoys, channel markers, nest platforms, or utility poles (Berger and Mueller 1969; Wiemeyer 1971; MacCarter 1972; Prevost 1977; Rhodes 1977). Little is documented in regard to osprey roost habitat.

### Peregrine Falcon

Peregrine falcons in New Jersey feed primarily on avian prey (Steidl 1989). Foraging habitats are usually open areas such as lakes, rivers, and marshes where prey are abundant and vulnerable (Evans 1982; Palmer 1988). During migration, peregrines will use open areas (e.g. fields), forest and ecotones to forage on passerine prey (K. Clark pers. comm).

### Red-Shouldered Hawk

A review of the literature indicates that red-shouldered hawks are commonly associated with habitats varying from lowland hardwood, mixed, and conifer forests to upland mixed and conifer forests (Henny et al. 1973; Bednarz and Dinsmore 1981; Titus and Mosher 1981; Crocoll and Parker 1991). Surrounding habitats were almost always characterized by nearby waterbodies (e.g. swamps, rivers, ponds) and tracts of forest (Kimmel and Fredrickson 1981; Morris and Lemon 1983; Bosakowski et al. 1992a). In a study of southern New Jersey breeding habitats, red-shouldered hawks were commonly associated with younger wetland forests typified by Atlantic white cedar, red maple (*Acer rubrum*), black tupelo (*Nyssa sylvatica*), sassafras (*Sassafras albidum*) and sweetbay (*Magnolia virginiana*) with surrounding habitats of oak-pine forest and agricultural fields (Dowdell and Sutton 1992).

### Survey Methodologies:

Additional information regarding the techniques used for the Cape May studies cited above and their applicability to a particular site may be obtained from the:

Endangered and Nongame Species Program  
NJDEP  
Division of Fish, Game, and Wildlife  
501 East State Street, Trenton, New Jersey 08625

### Regulatory Guidelines:

1. Area of documentation: The lower 10 kilometers (6 miles) of the Cape May peninsula. Identifiable by Universal Transverse Mercator line 43.18 on U.S.G.S. survey quadrangles Rio Grande and Stone Harbor.

2. Suitable habitat: Vegetational communities featuring the following characteristics will be considered to provide habitat for one or more of the species described above.

- a. Deciduous, mixed, or evergreen wetland forest:
  - i. Mature trees of a dbh of 20 cm (8 in) or greater
  - ii. Canopy height of 6.1 m (20 ft) or greater
  - iii. Snags, dead, or down material

vi. Shrubby understory vegetation. The density of the shrub layer affects raptor foraging habitat suitability.

b. Deciduous, mixed, or evergreen scrub-shrub wetlands:

- i. Overstory height of < 6.1 m (20 ft)
- ii. Songbird food and cover plants including, but not limited to:
  - winterberry holly (*Ilex verticillata*)
  - poison ivy (*Toxicodendron radicans*)
  - elderberry (*Sambucus canadensis*)
  - willow oak (*Quercus phellos*)
  - red maple (*Acer rubrum*)
  - honeysuckle (*Lonicera* spp.)
  - red cedar (*Juniperus virginiana*)
  - Virginia creeper (*Parthenocissus quinquefolia*)
  - wild cherry (*Prunus* spp.)
  - winged sumac (*Rhus copallina*)
  - hackberry (*Celtis* spp.)
  - grape (*Vitis* spp.)
  - holly (*Ilex opaca*)
  - pokeweed (*Phytolacca americana*)
  - sourgum (*Nyssa silvatica*)
  - sassafras (*Sassafras albidum*)
  - waxmyrtle (*Myrica cerifera*)
  - goundsel tree (*Baccharis halimifolia*)

(Sutton 1989)

c. Freshwater or tidal emergent wetlands:

- i. ground cover plants such as:
  - phragmites
  - sedges
  - rushes
  - salt meadow cordgrass
  - saltmarsh cordgrass
  - tall cordgrass (*Spartina cynosuroides*)
  - cattails (*Typha* spp.)
  - hightide bush (*Iva frutescens*)
  - red cedars
  - red maple
- ii. Any of the songbird food plants described above.
- iii. Interspersed open water areas.

Wetland complexes that feature an interspersion and juxtaposition of the forementioned habitat types are of greater value than monotypic stands. Maintained areas (e.g. lawns, detention basins) will not be considered as suitable habitats.

3. Other factors affecting habitat suitability: The size of the wetland complex associated with a property and the amount of human disturbance present will impact the suitability of the site for use by migratory raptors. As a rule, isolated wetland habitats less than 0.4 ha (1 ac) in size will not be considered suitable habitat unless: (a) the wetland is a component (i.e. within 150 feet) of a larger wetland complex; (b) the wetland and entire area of the 150 buffer is a component of a larger upland forest complex (see above description) and/or (c) a listed migratory raptor is observed using the wetland for “resting or feeding” during the migratory season as defined above. For monotypic wetland communities dominated by phragmites or cattails, the structural diversity of the upland buffer community and level of development or disturbance on and adjacent to the property will affect the suitability of the wetland habitat.

Varying levels of human activity have been demonstrated to alter migratory raptor use of fields and displace prey species at Higbee Beach Wildlife Management Area (Clark and Niles 1986; Niles and Clark 1987). As a result, the intensity of human disturbance experienced by an onsite wetland and the degree of surrounding development must be evaluated, on a case-by-case basis, when determining the suitability of wetland habitats for migratory raptor use.

Rationale:

The wetlands of the Cape May peninsula have been documented as providing critical habitat for migratory raptors in studies conducted by the staff of the Cape May Bird Observatory and the Division of Fish, Game, and Wildlife (DFGW). Between 47,000 and 88,000 raptors occur on or above the peninsula during the fall migration period (Dunne and Sutton 1986). Kerlinger (1989) listed Cape May as one of the most significant locales for migratory birds in the world. At least eleven species of raptor have been documented during the migrations including both federal (peregrine falcon, bald eagle) and state (red-shouldered hawk, osprey, northern harrier) listed species. As much as 90% of these birds are immature (Niles 1989).

Research conducted by the DFGW's Endangered and Nongame Species Program has further defined the importance of wetland habitats in the lower 10 km of the Cape May peninsula. Studies conducted for a 30 kilometer portion of the peninsula and, subsequently, the lower 10 kilometers have reached the following conclusions:

1. Accipiters, falcons, and ospreys generally increase, significantly, within 10 kilometers of the point while harrier and buteo numbers are evenly distributed throughout the entire peninsula (Niles 1986);
2. A 30% increase in residential development between 1972 and 1986 has resulted in a significant loss of natural habitats available for use by migratory birds in the lower 10 kilometers (Niles 1989);
3. A statistical analysis of raptor observation data indicates that migratory raptor numbers are evenly distributed throughout the lower 10 kilometers and that species tend to be

associated with similar structural habitats as those used by breeding birds (L. Niles pers. comm.);

4. Rather than simply flying over the peninsula and continuing south across the Delaware Bay, raptor numbers concentrate in the lower 10 kilometer, generally, and along the western half of the peninsula, specifically. They forage and roost for varying periods before continuing south (Holthuijzen et al. 1982; Niles 1986).

Based on these findings, the Department has concluded that wetland habitats in the lower 10 kilometers of the Cape May peninsula are of local, statewide and regional significance to the maintenance of North American raptor populations. As a result, suitable wetland habitats within this area are determined to be of exceptional resource value.

Primary Authors:

Larry Torok, NJDEP, Division of Land Use Regulation  
Larry Niles, NJDEP, Endangered and Nongame Species Program.

DRAFT DATE: 08/08/94

UPDATE: 12/15/2012

Literature Cited:

Ardia, D.R. 2001. Winter roosting behavior of American kestrels. *J.Raptor Res.* 35(1):58-61.

Bednarz, J.C. and J.J. Dinsmore. 1981. Status, habitat use, and management of red-shouldered hawks in Iowa. *J. of Wildl. Manage.* 45:236-241.

Bent, A.C. 1938. Life histories of North American birds of prey. Part 2. *Bull.* 170. U.S. Natl. Mus. Washington D.C. pp. 153-169.

Berger, D.D. and H.C. Mueller. 1969. Ospreys in northern Wisconsin. Pages 340-341 in J.J. Hickey, ed. *Peregrine falcon populations: their biology and decline.* Univ. of Wisconsin Press., Madison, Milwaukee, and London.

Bosakowski, T. 1989. Status and management of long-eared owl in New Jersey. *Records of N.J. Birds* 15(3):42-46.

Bosakowski, T. and D. Smith. 1989. Research report: survey of the woodland raptor community in the Pequannock watershed. Unpublished report to the NJDEPE, Division of Fish, Game, and Wildlife, Endangered and Nongame Species Program. 19 pp.

\_\_\_\_\_. 1992. Comparative diets of sympatric nesting reaptors in the eastern deciduous forest biome. *Can. J. of Zoo.* 70:984-992.



- Bosakowski, T., D.G. Smith, and R. Speiser. 1992a. Status, nesting density, and macrohabitat selection of red-shouldered hawks in northern New Jersey. *Wilson Bull.* 104(3): 434-446.
- Buehler, D.A., T.J. Mersmann, J.D. Fraser and J.K.D. Seegar. 1991. Nonbreeding bald eagle communal and solitary roosting behavior and roost habitat on the northern Chesapeake Bay. *J. Wildl. Manage.* 55(2):272-281.
- Chester, D.N., D.F. Stauffer, T.J. Smith, D.R. Luukkonen and J.D. Fraser. Habitat use by nonbreeding bald eagles in North Carolina. *J. Wildl. Manage.* 54(2):223-234.
- Clark, K. and L. Niles 1986. Raptor management on Higbee Beach Wildlife Management Area, Cape May, NJ. Page 25 in Annual Meet. Raptor Res. Found., Gainesville, FL. (Abstr.)
- Cline K.W. and W.S. Clark. 1981. Chesapeake Bay bald eagle banding project. 1981 report and five year summary. *Raptor Inf. Cent., Natl. Wildl. Federation, Washington, DC.* 38 pp.
- Craig, T.H. and C.H. Trost. 1979. The biology and nesting density of breeding American kestrels and long-eared owls on the Big Lost River, Southeastern Idaho. *Wil. Bull.* 91(1):50-61.
- Craig, T.H., E.H. Craig and L.R. Powers. 1985. Food habits of long-eared owls (*Asio otus*) at a communal roost site during the nesting season. *Auk* 102(1):193-195.
- Crocoll, S. and J.S. Parker. 1989. The breeding biology of broad-winged and red-shouldered hawks in western New York. *J. Raptor Res.* 23:125-139.
- DeGraaf, R.M., G.M. Witman, J.M. Lancier, B.J. Hill and J.M. Keniston. 1980. Forest habitat for birds of the Northeast. U.S. For. Serv., Northeast For. Exp. Stn. Broomall, PA. 589 pp.
- DeGraaf, R.M. and D.D. Rudis. 1986. New England wildlife: habitat, natural history, and distribution. USDA. Forest Service. Northeast Forest Experiment Station. General Tech. Rep. NE-108. p. 226.
- Dowdell, J. and C. Sutton. 1992. The status and distribution of breeding red-shouldered hawks in southern New Jersey. Unpublished report to the New Jersey Department of Environmental Protection, Division of Fish, Game, and Wildlife, Endangered and Nongame Species Program. Herpetological Associates.
- Dunne, P. 1984. 1983 northern harrier breeding survey in coastal New Jersey. *Records of New Jersey's Birds* 10:2-5.

- Dunne, P. and C. Sutton. 1986. Population trends in coastal raptor migrations over 10 years of Cape May autumn counts. *Rec. N.J. Birds*. 12(3):39-43.
- Dunstan, T.C. and J.F. harper. 1975. Food habits of bald eagles in north-central Minnesota. *J. Wildl. Manage.* 39(1):140-143.
- England, M. 1989. The breeding biology and status of the northern harrier (*Circus cyaneus*) on Long Island, New York. M.S. thesis. Long Island Univ., Greenvale, New York. 123 pp.
- Frenzel, R.W. 1984. Environmental contaminants and ecology of bald eagles in southcentral Oregon. Ph.D. Thesis. Oregon State University, Corvallis. 143 pp.
- Frenzel, R.W. and R.G. Anthony. 1989. Relationship of diets and environmental contaminants in wintering bald eagles. *J. Wildl. Manage.* 53(3):792-802.
- Getz, L.L. 1961. Hunting areas of the long-eared owl. *Wil. Bull.* 73(1):79-82.
- Hall, G.A. 1983. West Virginia birds: distribution and ecology. *Spec. Publ. Carnegie. Mus. Nat. Hist. No.7*, Pittsburg. 180 pp.
- Hammerstrom, F. and M. Kopeny. 1981. Harrier nest-site vegetation. *Raptor Res.* 15:86-88.
- anitoba. *Wilson Bull.* 63:176-176.
- Henny, C.J., F.C. Schmid, E.M. Martin, and L.L. Hood. 1973. Territorial behavior, pesticides and the population ecology of red-shouldered hawks in central Maryland, 1943-1971. *Ecol.* 54:545-554.
- Holt, D.W. and S.M. Melvin. 1986. Population dynamics, habitat use, and management needs of the short-eared owl in Massachusetts: summary of 1985 research. Massachusetts Div. Fish, and Wildl., Natural Heritage Program, unpublished rep., Boston.
- Holthuijzen, A.M.A., L. Oosterhuis and M.R. Fuller. 1982. Habitat use of migrating immature female sharp-shinned hawks. In R.D. Chancellor, ed., *Proceedings of the World Conference on birds of prey*. Thessaloniki, Greece. International Council for Bird Preservation.
- Hynes, H.B.N. 1970. *The ecology of running waters*. Univ. of Tronto Press. Toronto, Canada. 555 pp.
- Keister, G.P. and R.G. Anthony. 1983. Characteristics of bald eagle communal roosts in the Klamath basin, Oregon and California. *J. Wildl. Manage.* 47(4):1072-1079.
- Keister, G.P., R.G. Anthony and H.R. Holbo. 1985. A model of energy consumption in bald eagles: an evaluation of night communal roosting. *Wilson Bull.* 97(2):148-160.

- Kerlinger, P. 1989. Flight strategies of migrating hawks. Univ. Chicago Press, Chicago, Ill. 390 pp.
- Kimmel, V.L. and L.H. Fredrickson. 1981. Nesting ecology of the red-shouldered hawk in southeastern Missouri. *Trans. Missouri Acad. Sci.* 15:21-27.
- Laughlin, S.B. and D.P. Kippe. 1985. The atlas of breeding birds of Vermont. Univ. Press of New England, Hanover, New Hampshire. 456 pp.
- MacCarter, D.L. 1972. Food habits of ospreys at Flatheak Lake, Montana. M.S. Thesis. California State University (Humboldt), Arcata. 80 pp.
- Marks, J.S. 1984. Feeding ecology of breeding long-eared owls in southwestern Idaho. *Can. J. Zool.* 62:1528-1533.
- Morris, M.M.J. and R.E. Lemon. 1983. Characteristics of vegetation and topography near red-shouldered hawk nests in southwestern Quebec. *J. Wildl. Manage.* 47:138-145.
- Niles, L. 1986. Raptor distribution and habitat use on the Cape May peninsula. Page 25 in *Ann. Meet. Raptor Res. Found.*, Gainesville, FL. (Abstr.)
- \_\_\_\_\_, 1989. Managing migratory raptor habitat at Higbee Beach. *The Eya* 12(2):7-8.
- Niles, L. and K. Clark. 1988. Prey management for migrating raptors. Pages 154-161 in *Proceedings of the Northeast Raptor Management Symposium and Workshop*, Syracuse, NY. National Wildl. Fed. Sci. and Tech. Ser. No. 13.
- Palmer, R.S. 1988. Peregrine falcon in *Handbook of North American birds*. Vol. 4. Yale Univ. Press, New Haven, Ct. pp. 324-338.
- Postupalsky, S. and S.M. Stackpole. 1974. Artificial nesting platforms for ospreys in Michigan. Pages 105-117 in F.N. Hammerstrom, Jr., B.E. Harrell, and R.R. Olendorff, eds. *Management of raptors*. Raptor Research Foundation, Raptor Research Rep. No. 2.
- Prevost, Y.A. 1977. Feeding ecology of ospreys in Antigonish County, Nova Scotia. M.S. Thesis. Macdonald College of McGill Univ., Montreal, Quebec, Canada. 111 pp.
- Randle, W. and R. Austing. 1952. Ecological notes on long-eared and saw-whet owls in southeastern Ohio. *Ecology* 33(3):422-426.
- Retfalvi, L. 1970. Food of nesting bald eagles on San Juan Island, Washington. *Condor* 72(3):358-361.

Rhodes, L.I. 1977. An osprey population aided by nest structures. Pages 109-113 in Trans. of the North American Osprey Research Conf., Trans. and Proc. Series No. 2. Ogden, J.C. U.S. Dep. Inter. Natl. Park Serv., Washington, D.C.

Serrentino, P. 1987. The breeding ecology and behavior of northern harriers in Coos County, New Hampshire. M.S. thesis. Univ. of Rhode Island, Kingston. 142 pp.

Sferra, N.J. 1984. Habitat selection by the American Kestrel (*Falco sparverious*) and Red-tailed Hawk (*Buteo jamaicensis*) wintering in Madison County, Kentucky. Raptor Res. 18(4):148-150.

\_\_\_\_\_, 1989. A survey of breeding northern harriers (*Circus cyaneus*) on Block Island, 1989. Rhode Island Div. Fish and Wildl., unpubl. rep., W. Kingston.

Smith, D.G. 1981. Winter roost site fidelity by long-eared owls in central Pennsylvania. Amer. Birds 35(3):339.

Speiser, R. and T. Bosakowski. 1984. History, status, and future management of goshawk nesting in New Jersey. Rec. of N.J. Birds 10(2):28-32.

\_\_\_\_\_. 1987. Nest site selection by northern goshawks in northern New Jersey and southeastern New York. Condor 89:387-394.

Stalmaster, M.V. and J.A. Gessaman. 1984. Ecological energetics and foraging behavior of overwintering bald eagles. Ecol. Mono. 54(4):407-428.

Stalmaster, M.V. and J.R. Newman. 1979. Perch-site preferences of wintering bald eagles in northwest Washington. J. of Wildl. Manage. 43(1):221-224.

Steidl, B. 1989. Peregrine falcon prey items collected in 1987 and 1988 from Tuckahoe and Sea Isle City eyries. New Jersey Division of Fish, Game, and Wildlife, Endangered and Nongame Species Program Research Report.

Steenof, K. 1978. Management of wintering bald eagles. U.S. Fish Wildl. Serv. FWS/OBS-78/79. 59 pp.

Steenof, K., S.S. Berlinger and L.H. Fredrickson. 1980. Habitat use by wintering bald eagles in South Dakota. J. Wildl. Manage. 44(4):798-805.

Storer, R.W. 1966. Sexual dimorphism and food habits in three North American accipiters in Oregon. Auk 83:423-436.

Sutton, P. 1989. Backyard habitat for birds. Published by the Cape May Bird Observatory/N.J. Audubon Society. 12 pp.

Titus, K. and J.A. Mosher. 1981. Nest-site habitat selected by woodland hawks in the central Appalachians. *Auk* 98:270-281.

Todd, C.S., L.S. Young, R.B. Owen, and F.J. Gramlich. 1982. Food habits of bald eagles in Maine. *J. Wildl. Manage.* 46(3):636-645.

Toland, B.R. 1987. The effect of vegetative cover on foraging strategies, hunting success and nesting distribution of American Kestrels in Central Missouri. *J. Raptor Res.* 21(1):14-20.

Wiemeyer, S.N. 1971. Reproductive success of Potomac River Ospreys-1970. *Chesapeake Sci.* 12(4):278-280.

Wijnandts, H. 1984. Ecological energetics of the long-eared owl (*Asio otus*). *Ardea* 72:1-92.



MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street, P.O. Box 093  
Trenton, NJ 08625-0093  
Attorney for Plaintiff State of New Jersey  
Department of Environmental Protection

By: Kevin A Terhune (046601996)  
Deputy Attorney General  
(609) 376-2735

SUPERIOR COURT OF NEW JERSEY, CAPE MAY COUNTY  
CHANCERY DIVISION  
Docket No. \* \_\_\_\_\_-22

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION,  
Plaintiff,  
  
v.  
  
CITY OF NORTH WILDWOOD, "XYZ CONTRACTORS" 1-10, "JOHN AND/OR JANE DOES" 1-10,  
Defendants.

Civil Action

CERTIFICATION OF  
KEVIN A. TERHUNE IN SUPPORT OF  
PLAINTIFF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION'S ORDER TO SHOW  
CAUSE FOR PRELIMINARY  
INJUNCTION & TEMPORARY  
RESTRAINTS

I, Kevin A. Terhune, of full age, certify and say:

1. I am employed by the New Jersey Department of Law & Public Safety, Division of Law, as a deputy attorney general and have been assigned to represent plaintiff New Jersey Department of Environmental Protection ("Plaintiff").
2. I make this certification in support of Plaintiffs' Order to Show Cause for Preliminary Injunction and Temporary Restraints.
3. Attached to this Certification as **Exhibit A** is a true and

accurate copy of an email from Neil Yoskin, Esq. to me dated October 25, 2022.

4. Attached to this Certification as **Exhibit B** are true and accurate copies of Correspondence from North Wildwood Mayor Patrick Rosenello to DEP Commissioner Shawn M. LaTourette, dated November 9, 2022 and November 17, 2022.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

Dated: December 5, 2022

  
DAG Kevin A. Terhune



# **EXHIBIT A**

**Kevin Terhune**

---

**From:** Yoskin, Neil <nyoskin@cullenllp.com>  
**Sent:** Tuesday, October 25, 2022 9:08 AM  
**To:** Kevin Terhune  
**Subject:** [EXTERNAL] City of North Wildwood

Good morning Kevin:

I am advised that the most recent construction schedule for the proposed bulkhead calls for construction to begin on or about December 5. Fabrication of the steel sheet piles is expected to begin on or about November 1.

BTW, I am assuming that because the Department is now represented by counsel, all communication should be with and through you. Please advise/confirm.

**Neil Yoskin**

Partner

**Cullen and Dykman LLP**

229 Nassau Street

Princeton, New Jersey 08542

T: 609.279.0900 | F: 609.497.2377

E: nyoskin@cullenllp.com

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - DO NOT FORWARD OR COPY - CONFIDENTIALITY NOTICE: The contents of this e-mail message and any attachments are intended solely for the personal and confidential use of the recipient(s) named above. This communication is intended to be and to remain confidential and may be subject to applicable attorney/client and/or work product privileges. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message and its attachments.

# **EXHIBIT B**



## **CITY OF NORTH WILDWOOD**

**901 Atlantic Avenue  
North Wildwood, NJ 08260-5778  
(609) 522-2030**

**Patrick T. Rosenello  
Mayor**

**Nicholas Long  
City Administrator**

November 9, 2022

*Via e-mail (Shawn.LaTourette@dep.nj.gov)*

Shawn M. LaTourette, Commissioner  
New Jersey DEP  
Mail Code 401-07  
401 East State Street  
PO Box 402  
Trenton, NJ 08625-0420

RE: City of North Wildwood Shore Protection Emergency

Dear Commissioner LaTourette:

This is in furtherance of our recent and ongoing communications regarding the above-referenced matter. As you know from those communications, the City still plans to move forward with construction of at least a 404 linear foot bulkhead in the vicinity of 15<sup>th</sup> and 16<sup>th</sup> Avenues. As you also know, the shore protection project authorized by Congress for North Wildwood has yet to be implemented. It was as a direct consequence of that inaction that the City has been forced to take the actions necessary to protect its shorefront.

We believe there is a ready solution to this problem. That solution involves the use of the Hereford Inlet Borrow Area. The Borrow Area, which is only a short distance from North Wildwood's beaches, has upwards of 3 million cubic yards of sand available for use. While federal funds currently cannot be employed for the use of the Borrow Area (due to a prohibition under the Federal Coastal Barrier Resources Act), there is no similar state prohibition. It is our understanding that the Department's current shore protection priority list reserves the use of state shore protection funds for only those projects that also involve Federal funding, but it is also our understanding that there is nothing that prevents the State from changing these priorities. In fact, the Borrow Area was used for emergency shore protection in North Wildwood in 2013 and again for periodic shore protection in 2019, when the State re-allocated \$5 million to make up for the

Shawn LaTourette  
Page 2  
November 9, 2022

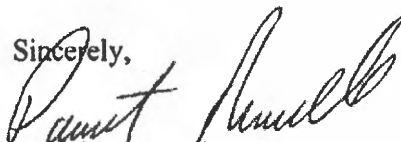
Federal funding shortfall that resulted from a change in the interpretation of the Coastal Barrier Resources Act.

The Hereford Inlet Borrow Area is one of the most closely studied water areas along the entire Jersey coast. Stockton University has been monitoring it annually for more than a decade, and has confirmed not only the enormous volume of sand that is present there, but has also confirmed that its use will have no adverse environmental impacts. It is for that reason that DEP approved its use on three separate occasions under the Federal consistency provisions of Section 307 of the Coastal Zone Management Act.

In addition, most of the cost of mobilization has been federally funded as part of the upcoming Avalon/Stone Harbor project this Winter, significantly reducing the cost of a State/local beach fill project for North Wildwood. Therefore, the City of North Wildwood is formally requesting that the NJDEP enter into a State Aid Agreement with the City of North Wildwood and add the City of North Wildwood to the proposed Avalon/Stone Harbor project.

I write this letter with the hope and expectation that you will agree with me both as to the urgency of this matter and as to the appropriateness of using the Hereford Inlet Borrow Area. I look forward to hearing from you in that regard.

Sincerely,



Patrick Rosenello, Mayor  
City of North Wildwood

cc (via e-mail): Governor Phil Murphy



## **CITY OF NORTH WILDWOOD**

**901 Atlantic Avenue  
North Wildwood, NJ 08260-5778  
(609) 522-2030**

**Patrick T. Rosenello  
Mayor**

**Nicholas Long  
City Administrator**

November 17, 2022

*Via e-mail (Shawn.LaTourette@dep.nj.gov)*

Shawn M. LaTourette, Commissioner  
New Jersey DEP  
Mail Code 401-07  
401 East State Street  
PO Box 402  
Trenton, NJ 08625-0420

RE: City of North Wildwood Shore Protection Emergency

Dear Commissioner LaTourette:

This is in furtherance of my most recent letter regarding the above-referenced matter, to which I have not received a response. As you know, the City still plans to move forward with construction of at least a 404 linear foot bulkhead in the vicinity of 15<sup>th</sup> and 16<sup>th</sup> Avenues. As you also know, the shore protection project authorized by Congress for North Wildwood has yet to be implemented. It was as a direct consequence of that inaction that the City has been forced to take the actions necessary to protect its shorefront.

It is to our understanding that other nearby municipalities, notably Ocean City, have been approved for State Funded Shore Protection projects, and that a dredge has recently arrived to begin a hydraulic beach fill. While Ocean City is deserving of the project, their immediate need is not as dire as is North Wildwood's. Ocean City suffered storm damage from the remnants of Hurricane Ian, including sloped erosion of up to 50 feet and the scarping of dunes up to 6 feet. Avalon and Stone Harbor faced sloped erosion of up to 60 feet and dune scarping from 10-14 feet. North Wildwood saw the brunt of the storm damage, with our sloped erosion reaching levels of 80 feet and dune scarping up to 14 feet. The erosion from the October storm, merged with the constant deterioration with the beaches, is why we are requesting a new and immediate solution to this ongoing issue.

Shawn LaTourette  
Page 2  
November 17, 2022

We believe there is a ready solution to this problem. That solution involves the use of the Hereford Inlet Borrow Area. The Borrow Area, which is only a short distance from North Wildwood's beaches, has upwards of 3 million cubic yards of sand available for use. While federal funds currently cannot be employed for the use of the Borrow Area (due to a prohibition under the Federal Coastal Barrier Resources Act), there is no similar state prohibition. It is our understanding that the Department's current shore protection priority list reserves the use of state shore protection funds for only those projects that also involve Federal funding, but it is also our understanding that there is nothing that prevents the State from changing these priorities. In fact, the Borrow Area was used for emergency shore protection in North Wildwood in 2013 and again for periodic shore protection in 2019, when the State re-allocated \$5 million to make up for the Federal funding shortfall that resulted from a change in the interpretation of the Coastal Barrier Resources Act.

The Hereford Inlet Borrow Area is one of the most closely studied water areas along the entire Jersey coast. Stockton University has been monitoring it annually for more than a decade, and has confirmed not only the enormous volume of sand that is present there, but has also confirmed that its use will have no adverse environmental impacts. It is for that reason that DEP approved its use on three separate occasions under the Federal consistency provisions of Section 307 of the Coastal Zone Management Act.

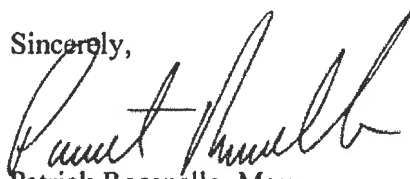
The Coastal Facility Review Act's Shore Protection Fund provisions, at NJSA 13:19-16.1, gives the Commissioner the authority to fund shore protection projects that are not listed in the annual priority list that are "of an emergency nature, in the event of storm, stress or weather or similar act of god". Certainly this is the case with North Wildwood, which continues to suffer from the lack of an actual beach replenishment project. In addition, most of the cost of mobilization has been federally funded as part of the upcoming Avalon/Stone Harbor project this Winter, significantly reducing the cost of a State/local beach fill project for North Wildwood. Therefore, the City of North Wildwood is formally requesting that the NJDEP enter into a State Aid

Shawn LaTourette  
Page 3  
November 17, 2022

Agreement with the City of North Wildwood and add the City of North Wildwood to the proposed Avalon/Stone Harbor project.

I write this letter with the hope and expectation that you will agree with me both as to the urgency of this matter and as to the appropriateness of using the Hereford Inlet Borrow Area. I look forward to hearing from you in that regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Rosenello". The signature is fluid and cursive, with a large initial "P" and "R".

Patrick Rosenello, Mayor  
City of North Wildwood

cc (via e-mail): Governor Phil Murphy