Coastal Zone Management Compliance Summary Table:

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7:7-9.3	Surf clam areas	NA
7:7-9.4	Prime fishing areas	NA
7:7-9.5	Finfish migratory pathways	A1
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7:7-9.19	Erosion hazard areas	NA
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NA: Policy not applicable to project.		

Compliance with Coastal Zone Management Rules N.J.A.C. 7:7

A. Subchapter 9. Special Areas

1. Finfish Migratory Pathways (N.J.A.C 7:7–9.5)

Finfish migratory pathways are waterways (rivers, streams, creeks, bays and inlets) which can be determined to serve as passageways for diadromous fish to or from seasonal spawning areas, including juvenile anadromous fish which migrate in autumn and those listed by H.E. Zich (1977) "New Jersey Anadromous Fish Inventory" New Jersey Department of Environmental Protection (NJDEP) Miscellaneous Report No.41, and including those portions of the Hudson and Delaware Rivers within the coastal zone boundary. Species of concern include: alewife or river herring (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), American shad (*Alosa sapidissima*), striped bass (*Monrone saxatilis*), Atlantic sturgeon (*Acipenser oxyrhynchus*), shortnose sturgeon (*Acipenser brevirostrum*) and American eel (*Anguilla rostrata*).

According to the NJDEP's guidance document "Locations of Anadromous American Shad and River Herring during their Spawning Period in New Jersey's Freshwaters including Known Migratory Impediments and Fish Ladders" (March 2005), American shad and river herring are confirmed to use the entire Newark Bay for spawning runs.

During construction it is expected that local shellfish, finfish, and benthic macroinvertebrates will be temporarily impacted with increased sedimentation and turbidity. However, sedimentation and turbidity will be minimized to the fullest extent possible through the implementation of best management practices (BMPs) such as staked straw bales, reinforced silt fencing, filtered sediment traps, and other approved methods. Therefore, the project is consistent with this rule.

2. Navigation Channels (N.J.A.C. 7:7-9.7)

Navigation channels are tidal water areas including the Atlantic Ocean, inlets, bays, rivers and tidal guts with sufficient depth to provide safe navigation. Navigation channels include all areas between the top of the channel slopes on either side. These navigation channels are often marked with buoys or stakes. Major navigation channels are shown on NOAA/National Ocean Service Charts.

According to this rule, development that will cause terrestrial soil and shoreline erosion and siltation in navigation channels shall utilize appropriate mitigation measures. Development that will result in loss of navigability is prohibited. Any construction which will extend into a navigation channel is prohibited. The placement of structures within 50 feet of any authorized navigation channel is discouraged, unless it can be demonstrated that the proposed structure will not hinder navigation.

The project is along the west bank of Newark Bay and according to NOAA Chart 12337, Newark Bay is used a major vessel traffic route. Restoration measures are to take place onshore and will not interfere with any recreational or commercial boat traffic. Therefore, the project is in compliance with this rule.

3. Shipwreck and Artificial Reef Habitats (N.J.A.C. 7:7-9.13)

The shipwreck and artificial reef special area includes all permanently submerged or abandoned remains of vessels and other structures, including, but not limited to, artificial reefs, anchors, quarry rocks or lost cargo, which serve as a special marine habitat or are fragile historic and cultural resources. An artificial reef is a man-made imitation of a natural reef created by placing hard structures on the sea floor for the purpose of enhancing fish habitat and fish stock. In time, an artificial reef will attain many of the biological and ecological attributes of a natural reef. Artificial reefs do not include shore protection structures, pipelines and other structures not construction for the sole purpose of fish habitat.

There are no known shipwrecks or artificial reefs within the project area; however, as part of the restoration measure proposed for the site, the project will provide 0.08 acres of oyster reef habitat. Since the purpose of constructing an oyster reef on the site is to provide habitat for fish and benthic invertebrates, the project is in direct compliance with this rule.

4. Intertidal and Subtidal Shallows (N.J.A.C. 7:7-9.15)

Intertidal and subtidal shallows are those are that are permanently or twice daily submerged from the spring high tide to a depth of four feet below mean low water.

The project is defined as a living shore as stated in N.J.A.C. 7:7-12.23. Based on this rule, the project is considered conditionally acceptable and will comply with N.J.A.C. 7:7-12.23; therefore, the project is consistent with this policy.

5. Filled Water's Edge (N.J.A.C. 7:7- 9.23)

Filled water's edge areas are existing filled water, wetland, or upland areas lying between wetlands or water areas, and either the upland limit of fill or the first paved public road or railroad landward of the adjacent water area, whichever is closer to the water.

The project site is located in an area with historic fill. The project will restore wetlands and tidal channels at the Oak Island Yard and is in direct accordance with this rule's intentions of preserving the water's edge along New Jersey's shore, bays and rivers. Therefore, the project is consistent with this policy.

6. Flood Hazard Area (N.J.A.C. 7:7 9.25)

Flood hazard areas are areas subject to flooding from the flood hazard area design flood, as defined by NJDEP under the Flood Hazard Area Control Act rules at N.J.A.C. 7:13. Flood hazard areas include those areas mapped as such by the NJDEP, areas defined or delineated as an A or a V zone by the Federal Emergency Management Agency (FEMA), and any unmapped areas subject to flooding by the flood hazard area design flood.

Per the FEMA Flood Insurance Rate Map for the City of Newark (34013C0178F), the project is located in Flood Zone AE. According to this rule, dedication of flood hazard

areas for purpose of public open space is encouraged. The project will restore wetlands and tidal channels within Oak Island Yard, with the purpose of preserving open space and promoting access for recreational opportunities. The project will be designed to meet the applicable sections of the Flood Hazard Control Act Rules (N.J.A.C. 7:13); therefore, the project complies with this policy.

7. Riparian Zones (N.J.A.C. 7:7 9.26)

A riparian zone exists along every regulated water body, except there is no riparian zone along the Atlantic Ocean or along any manmade lagoon, stormwater management basin, or oceanfront barrier island, spit, or peninsula.

Within the vicinity of the project, riparian zones exist within 150-foot offset from Newark Bay. The project will comply with the applicable section of the Flood Hazard Act Rules (N.J.A.C. 7:13); therefore, the project is consistent with this policy.

8. Wetlands (N.J.A.C. 7:7 - 9.27)

Wetlands or wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

The purpose of this project is to restore coastal wetlands and habitat within Oak Island Yards. This rule states that the establishment of a living shoreline in wetlands to address the loss of vegetated shorelines and habitat in the littoral zone is conditionally acceptable. In accordance with this rule, the project constitutes a living shoreline project and will comply with N.J.A.C. 7:7-12.23; therefore, the project is consistent with this rule.

9. Wetland Buffers (N.J.A.C. 7:7 – 9:28)

Wetland buffers or transition area means an area of land adjacent to a wetland which minimizes adverse impacts on the wetlands or serves as an integral component of the wetland ecosystem.

The project will not cause significant adverse impacts to wetland transition areas. Instead, will restore wetlands and wetland transition areas; therefore, the project is in compliance with this rule.

10. Intermittent Stream Corridors (N.J.A.C. 7:7-9.30)

Intermittent stream corridors are areas including and surrounding surface water drainage channels in which there is not a permanent flow of water and which contain an area or areas with a seasonal high water table equal to or less than one foot. The inland extent of these corridors is either the inland limit of soils with a seasonal high water table depth equal to, or less than one foot, or a disturbance of 25 feet measured from the top of the channel banks, whichever is greater.

The purpose of this project is to restore coastal wetlands and wildlife habitat, which is directly aligned with the intentions of this rule. During construction of restoration measures, BMPs will be implemented to limit surface water runoff and erosion in accordance with "The Standards for Soil Erosion and Sediment Control in New Jersey". Therefore, the project is consistent with this policy.

11. Historical and archeological resources (N.J.A.C. 7:7- 9.34)

Historic and archeological resources include objects, structures, shipwrecks, buildings and other items that either are on or are eligible for inclusion on the New Jersey or National Register of Historic Places.

Phase 1A Cultural Resource surveys will be completed for the site to identify potentially significant cultural resources in the project area. Further testing and surveys will be conducted in the Plans and Specifications Phase of the project and will be completed prior to construction. The United States Army Corps of Engineers will consult with the New Jersey Historic Preservation Office (NJHPO). Ongoing work will be coordinated with the NJHPO, Advisory Council on Historic Preservation, the Delaware Nation, the Delaware Tribe of Indians, and the Shawnee Tribe of Oklahoma.

12. Endangered or threatened wildlife or plant species habitats (N.J.A.C. 7:7 – 9.36)

Endangered or threatened wildlife or plant species habitats are terrestrial and aquatic (marine, estuarine, or freshwater) areas known to be inhabited on a seasonal or permanent basis by or to be critical at any stage in the life cycle of any wildlife or plant identified as "endangered" or "threatened" species on official federal or state lists of endangered or threatened species, or under active consideration for state or federal listing. The definition of endangered or threatened wildlife or plant species habitats includes a sufficient buffer area to ensure continued survival of the population of the species as well as areas that serve an essential role as corridors for movement of endangered or threatened wildlife. Absence of such a buffer area does not preclude an area from being endangered or threatened wildlife or plant species habitat.

The project's restoration plans have been carefully mapped so as to avoid areas where state-listed species were found during surveys, however prior to construction; a final survey of the restoration site will be completed to ensure that impacts to rare plants or animals will be avoided. If plants are found within the restoration site, BMPs will be utilized. If listed animals are found, plans will be made to avoid disturbances through construction windows and other BMPs.

13. Critical Wildlife Habitat (N.J.A.C. 7:7 – 9.37)

Critical wildlife habitats are specific areas known to serve an essential role in maintaining wildlife, particularly in wintering, breeding, and migrating. Definitions and maps of critical wildlife habitats are currently available only for colonial waterbird habitat in the 1979 Aerial Colony Nesting Waterbird Survey for New Jersey. Other sites are considered on a case-by-case basis by the New Jersey Division of Fish and Wildlife.

The purpose of this project is to expand threatened and endangered species habitat and stabilize ecological significant urban wetlands/riparian areas. Therefore, the project is in direct accordance with the policy goals.

14. Public Open Space (N.J.A.C 7:7 – 9.38)

Public open space refers to lands owned or maintained by federal, state, or local agencies and which are dedicated to the conservation of public recreation, natural resources, visual, or physical public access, and/or the protection of management of wildlife.

The project will not adversely affect existing open space, but will instead restore natural habitat and open spaces while enhancing scenic resources within the area; therefore, the project is in compliance with this rule.

15. Special Urban Areas (N.J.A.C. 7:7-9.41)

Special urban areas are those municipalities defined in urban aid legislation (N.J.S.A.52:27D178) qualified to receive state aid to enable them to maintain and upgrade municipal services and offset local property taxes.

The project site is located within a special urban area. The project is not a development and will not adversely impact the economic and social viability of the special urban area; therefore, the project is in compliance with this rule.

16. Lands and waters subject to public trust rights (N.J.A.C. 7:7-9.48)

Lands and waters subject to public trust rights are tidal waterways and their shores, including both lands now or formerly below the mean high water line, and shores above the mean high water line. Tidal waterways and their shores are subject to the Public Trust Doctrine and are held in trust by the State for the benefit of all the people, allowing the public to fully enjoy these lands and waters for a variety of public uses. Public trust rights include public access which is the ability of the public to pass physically and visually to, from, and along the ocean shore and other waterfronts subject to public trust rights and to use these lands and waters for activities such as navigation, fishing and recreation activities including, but not limited to, swimming, sunbathing, surfing, sport diving, bird watching, walking, and boating. Public trust rights also include the right to perpendicular and linear access.

The project will improve public access to the waterway and increase opportunities at the waterfront for boating, hiking, education, and passive reaction by upgrading existing pedestrian pathways, replacing portions of the path with pier deck systems on the southern perimeter of the property, and construction an overlook pier and dock for kayak and canoe launch. Since the project will increase recreational opportunities, it is in compliance with this rule.

B. Subchapter 11. Standards for conducting and reporting the results of an endangered or threatened wildlife or plant species habitat impact assessment and/or endangered or threatened wildlife species habitat evaluation.

See Section A, item 8.

C. Subchapter 12. General Water Areas

1. Living Shorelines (N.J.A.C. 7:7-12.23)

Living shorelines are shoreline management practices that address the loss of vegetated shorelines and habitat in the littoral zone by providing for the protection, restoration, or enhancement of these habitats. This is accomplished through the strategic placement of vegetation, sand or other structural and organic material.

According to this rule, the project is defined as a living shoreline and is conditionally acceptable as part of a plan for restoration, creation and enhancement of habitat and water quality functions and values of wetlands, wetland buffers, and open water areas. The project will comply with the requirements of the Wetlands Act of 1970, the Waterfront Development Law, Coastal Area Facility Review Act, and the rules of this chapter; therefore, the project is in compliance.

D. Subchapter 13. Requirements for impervious cover and vegetative cover for general land areas and certain special areas

This subchapter sets forth requirements applicable in general land areas and certain special areas for impervious cover and vegetative cover on sites in the upland waterfront development area and in the CAFRA area.

These requirements will be addressed in subsequent phases of the project.

E. Subchapter 14. General Location Rules

1. Basic Location Rule (N.J.A.C. 7:7 – 14.2)
   a. A location may be acceptable for development under N.J.A.C. 7:7-9, 12, 13, and 14, but the NJDEP may reject or conditionally approve the proposed development of the location as reasonably necessary to:
      i. Promote the public health, safety, and welfare;
      ii. Protect public and private property, wildlife, and marine fisheries; and
      iii. Preserve, protect, and enhance the natural environment.

   The project is intended to protect, preserve and restore wildlife habitat and the natural environment and is therefore in compliance with this policy.

F. Subchapter 16. Resource Rules

1. Marine Fish and Fisheries (N.J.A.C. 7:7-16.2)

Coastal actions that result in minimal feasible interference of the natural functioning of marine fish and fisheries, including the reproductive and migratory patterns of estuarine and marine estuarine dependent species of finfish and shellfish, are conditionally acceptable. The finfish and shellfish resources of New Jersey provide valuable

recreational experiences for residents and interstate visitors. The recreational and commercial landings of these species also contribute substantially to the state's economy.

Local shellfish, finfish, and benthic macroinvertebrate population will be temporarily impacted during construction, principally through increase in sedimentation and turbidity. However, sedimentation and turbidity from wetland and upland restoration would be minimized to the fullest extent possible through the implementation of BMPs such as staked straw bales, reinforced silt fencing, filtered sediment traps, and other approved methods. Therefore, the project is consistent with this policy.

2. Water Quality (N.J.A.C. 7:7-16.3)

As required by Section 307(f) of the Federal Coastal Zone Management Act, 16 U.S.C.§§ 1451 et seq., federal, state, and local water quality requirements established under the Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq., shall be the water resource standards of the coastal management program. These requirements include not only the minimum requirements imposed under the Clean Water Act, but also the additional requirements adopted by states, localities, and interstate agencies pursuant to Section 510 of the Clean Water Act and such statutes as the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

Standard construction stormwater BMPs will be implemented to protect water quality of surrounding water resources. The following BMPs will be used:

- Minimize area of ground disturbance and vegetation clearing.
- Use the site's natural contours to minimize run-off and erosion.
- Do not expose the entire site at one time; avoid bare soils during rainy months.
- Stabilize erodible surfaces with mulch, compost, seeding, or sod.
- Use features such as silt fences, gravel filter berms, silt dikes, check dams, and gravel bags for interception and dissipation of turbid runoff water.
- Use silt or turbidity curtains during in-water construction to contain and control dissolved sediments.
- Use wetland mats for construction access within wetland areas to prevent soil compaction.
- Use vehicles with high flotation tires within wetland areas to prevent rutting and soil compaction.
- Complete in-water work during periods of low tide.
- Install cofferdams or stream diversions to isolate in-water construction areas.
- Use stabilized construction entrances for all ingress and egress points.

3. Surface Water Use (N.J.A.C. 7:7 – 16.4)

Surface water is the water in lakes, ponds, streams, rivers, bogs, wetlands, bays, and ocean that is visible on land. Coastal development shall conform to all applicable NJDEP requirements for surface water diversion.

The project will not cause adverse impacts to surface waters and will comply with all applicable Department requirements for surface water diversion. The wetland restoration measures proposed will contribute to water quality by reducing nutrient inputs and increasing nutrient uptake through native plantings, which in turn will result in fewer low

dissolved oxygen events, increased water transparency, and reduction in the frequency and duration of algal blooms. The project is aligned with the intentions and policies of this rule and is therefore in compliance.

4. Stormwater Management (N.J.A.C. 7:7-16.6)

If the project or activity meets the definitely of "major development" at N.J.A.C 7:8-1.2, then the project or activity shall comply with the Stormwater Management rules at N.J.A.C. 7:8.

The project is defined as a major development and will comply with the Stormwater Management rules at N.J.A.C. 7:8. Specific engineering and stormwater plans are to be provided when the project design is finalized.

5. Vegetation (N.J.A.C. 7:7 – 16.7)

Vegetation is the plant life or total plant cover that is found on a specific area, whether indigenous or introduced by humans. Coastal development shall preserve, to the maximum extent practicable, existing vegetation within a development site. Coastal development shall plant new vegetation, particularly appropriate coastal species, native to New Jersey to the maximum extent practicable.

The project will include the removal of invasive species and will plant native herbs, shrubs, and trees to restore and create natural habitat; therefore, the project is in direct compliance with this policy.

6. Air Quality (N.J.A.C. 7:7 – 16.8)

The protection of air resources refers to protection from air contaminants that injure human health, welfare or property, and to attainment and maintenance of state and federal air quality goals and the prevention of degradation of current levels of air quality. Coastal development shall conform to all applicable state and federal regulations, standards, and guidelines and be consistent with the strategies of New Jersey's State Implementation Plan (SIP).

The proposed development will not result in any airborne emissions that will violate state or federal regulations. Emissions will be limited to exhaust from automobiles traveling to and from the site during construction and from construction equipment. The federal government regulates automobile emissions, while technological improvements in heating and cooling units have resulted in decreased emissions and increased efficiency. Minimal impacts to air quality resulting from construction equipment and airborne dust will result from construction activities, but these are considered short-term impacts and will not be present post construction. Therefore, the project complies with this rule.

7. Public Access (N.J.A.C. 7:7 – 16.9)

Public access to the waterfront is the ability of the public to pass physically and visually to, from, and along tidal waterways and their shores and to use such shores, waterfronts and waters for activities such as navigation, fishing, and recreational activities including,

but not limited to, swimming, sunbathing, surfing, sport diving, bird watching, walking, and boating.

The project is proposed to provide new opportunities for public access by creating an elevated path system through the restoration site leading to an overlook. Therefore, the project is in compliance with this rule.

8. Scenic Resources and Design (N.J.A.C. 7:7 – 16.10)

Scenic resources include the views of the natural and/or built landscape. Large-scale elements of building and site design are defined as the elements that compose the developed landscape such as size, geometry, massing, height, and bulk structures.

The project will preserve and restore existing open space by removing invasive and re-establishing native habitat. The project will enhance scenic resources within the HRE; therefore, the project is consistent with this policy.

9. Buffers and compatibility of uses (N.J.A.C. 7:7 – 16.11)

Buffers are natural or man-made areas, structures, or objects that serve to separate distinct uses or areas. Compatibility of uses is the ability for uses to exist together without aesthetic or functional conflicts. Development shall be compatible with adjacent land and water uses to the maximum extent practicable.

The project will restore wetland buffers along Newark Bay and will comply with the standards found at N.J.A.C. 7:7-9.28. Therefore, the project is in compliance with this policy.

10. Traffic (N.J.A.C. 7:7 – 16.12)

Traffic is the movement of vehicles, pedestrians, or ships along a route. Coastal development shall be designed, located, and operated in a manner to cause the least possible disturbance to traffic systems.

The project will not adversely impact traffic in the surrounding street network. The safe orderly flow of traffic will be ensured at all times and all appropriate safety procedures, uniformed traffic directors, personnel, and devices will be implemented as necessary during construction. Traffic control measures, based on local and state requirements, have been incorporated into the contract specifications.

11. Solid and Hazardous Waste (N.J.A.C. 7:7 – 16.14)

Solid waste means any garbage, refuse, sludge or other waste material, including solid, liquid, semi-solid or contained gaseous material. A material is a solid waste if it is "disposed of" by being discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground or surface waters.

The deepening and capping of contaminated sediments will be required at the site, and are being conducted as part of the EPA Superfund Program. It is assumed that post-remediation, the nature of the sediment onsite will be non-hazardous, and can be retained on-site and graded to appropriate elevations to support upland coastal habitat. Any solid waste materials resulting from the construction of the project will be disposed of according to all NJ solid waste regulations, and any recyclable materials shall be disposed of at a qualified recycling facility. No adverse impacts or threats to the environmental or public health and safety are anticipated.