

DNREC Environmental Overview



Port of Wilmington Expansion Task Force
September 30, 2015

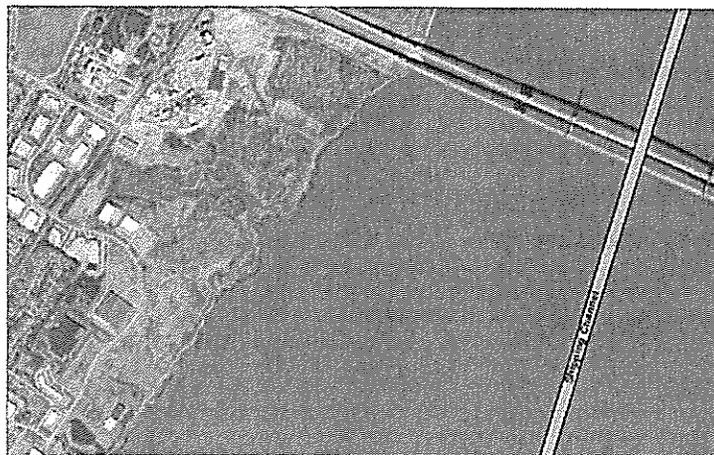
Preliminary Environmental and Permitting Overview

- ▶ Program areas
 - ▶ Wetlands
 - ▶ Subaqueous Lands
 - ▶ Brownfield/Site contamination and cleanup
 - ▶ Coastal Zone Act
 - ▶ Coastal Management Consistency
 - ▶ Stormwater

Other Potential Agency Oversight

- ▶ Corps of Engineers
- ▶ EPA
- ▶ US Fish and Wildlife Service
- ▶ Coast Guard
- ▶ National Oceanographic and Atmospheric Administration – National Marine Fisheries Service
- ▶ State Historic Preservation Office
- ▶ DOT (Transit, rail, maritime)

Lukens Drive Site



Lukens Drive Site Wetlands/Subaqueous Lands

- ▶ Wetlands – minimal acreage subject to federal or state jurisdiction
- ▶ Subaqueous lands – Lease required for construction of structures (piling, piers, shoreline stabilization) that impact subaqueous lands and for use
- ▶ State and Federal Permits also required for dredging access to Port from main channel (distance) Substantial quantity with need for disposal site
- ▶ Permitting process – application, public notice, public hearing

Lukens Drive Brownfields/Site Cleanup

- ▶ Due diligence -- Perform Phase I and II assessment to evaluate whether there is contamination that poses risk to health or environment
- ▶ If risk is identified and property meets definition of Brownfield, port developer enters agreement with DNREC prior to taking title
- ▶ Brownfield Investigation conducted to further evaluate condition
- ▶ DNREC issues Proposed/final plan for cleanup for comment. Once cleanup completed, certificate issued. Developer (if not-for-profit) eligible up to \$625,000; for profit up to \$200,000
- ▶ DNREC has no documentation of contamination on site

Claymont Properties



Claymont Properties Wetlands/Subaqueous Lands

- ▶ No State jurisdictional wetlands identified
- ▶ Subaqueous lands – Lease required for construction of structures (piling, piers, shoreline stabilization) that impact subaqueous lands and for use
- ▶ State and Federal permits also required for dredging access to Port from main channel (distance) Site very close to main channel – still may need dredge spoil area
- ▶ Permitting process – application, public notice, public hearing

Claymont Properties – Brownfields/Site Cleanup

- ▶ Entered Voluntary Cleanup Program agreement – not yet started investigation in area adjacent to river
- ▶ Once investigation completed, cleanup plan is noticed for public comment. After comments addressed, developer completes cleanup and DNREC issues certificate
- ▶ Under VCP same steps for cleanup are followed but no state funds are used for investigation/cleanup

Port of Wilmington



Port of Wilmington – Wetlands/Subaqueous Lands

- ▶ Wetlands – Some state/federal wetlands associated with dredge disposal area
- ▶ Subaqueous lands – Lease required for construction of structures (piling, piers, shoreline stabilization) that impact subaqueous lands and for use
- ▶ State and Federal Permits also required for dredging access to Port from main channel. Site adjacent to main channel – minimal impact
- ▶ Permitting process – application, public notice, public hearing

Port of Wilmington – Brownfields/Site Cleanup

- ▶ Pigeon Point expansion (property POW has never owned or operated)-- Perform Phase I and II assessment to evaluate whether there is contamination that poses risk to health or environment
- ▶ If risk is identified and property meets definition of Brownfield, Port developer enters agreement with DNREC prior to taking title
- ▶ Brownfield Investigation conducted to further evaluate condition depending on nature of site development
- ▶ DNREC issues Proposed/final plan for cleanup for comment. Once cleanup completed, certificate issued. Port eligible up to \$625,000

Coastal Zone Applicability to the Port of Wilmington

- ▶ The Coastal Zone act bans new heavy industry and bulk product transfer facilities from within the zone.
- ▶ The only reference to the POW in the Act itself is contained in the definitions, wherein the term "Bulk product transfer facility" is defined as:

"...means any port or dock facility, whether an artificial island or attached to shore by any means, for the transfer of bulk quantities of any substance from vessel to onshore facility or vice versa. Not included in this definition is a docking facility or pier for a single industrial or manufacturing facility for which a permit is granted or which is a nonconforming use. Likewise, docking facilities for the Port of Wilmington are not included in this definition.

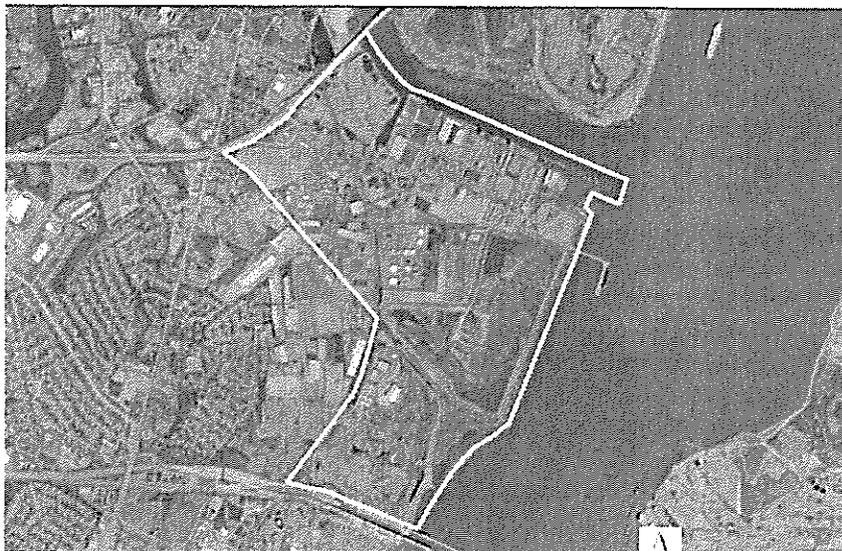
Regulatory Specificity

- ▶ In 1999, the Coastal Zone Industrial Control Board adopted regulations that gave more specificity to how the POW was to be treated. In the Regulations are found the following:
- ▶ **"Bulk Product"** means loose masses of cargo such as oil, grain, gas and minerals, which are typically stored in the hold of a vessel. Cargoes such as automobiles, machinery, bags of salt and palletized items that are individually packaged or contained are not considered bulk products in the application of this definition.

Regulatory Specificity (Con't)

- ▶ **Footprint** means the geographical extent of non-conforming uses as they existed on June 28, 1971 as depicted in Appendix B.
- ▶ **"Port of Wilmington"** means those lands contained with the footprint shown in Appendix B of these regulations.

Port of Wilmington footprint



0 0.4 0.8 Miles

Additional Regulatory Provisions

Section 5 of the Regulations includes a list of uses Not regulated, which includes:

- ▶ 5.10 Bulk product transfer operations at dock facilities owned by the Diamond State Port Corp. (DSPC), or acquired by the DSPC at any time in the future, and which are located within the Port of Wilmington as shown in Appendix B.
- ▶ 5.11 Docking facilities used as bulk product transfer facilities located on privately owned lands within the Port of Wilmington which have been granted a status decision extending the bulk product transfer exemption prior to the effective date of these regulations.
- ▶ 5.12 Docking facilities which are not used as bulk product transfer facilities.

Additional Guidance from the CZ Advisory Board concerning the POW

- ▶ All proposed manufacturing uses within the footprint of the Port of Wilmington are not in any way exempted from permitting requirements and must apply for and be issued a Coastal Zone Act permit if otherwise applicable.
- ▶ Proposed uses within the Port of Wilmington which constitute heavy industry uses are prohibited.
- ▶ The regulations do not prohibit or restrict activities involving containerized, palletized, or otherwise confined materials at any location within the Diamond State Port Corp.

