



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NORTH ATLANTIC DIVISION
302 JOHN WARREN AVENUE
BROOKLYN NY 11252-9529

April 6, 2026

The Honorable Charuni Patibanda-Sanchez
Chair, Diamond State Port Corporation
P.O. Box 8600
Wilmington, DE 19899

Dear Madam Patibanda-Sanchez:

In 2020, Diamond State Port Corporation (DSPC) submitted a Section 408 request to alter the Delaware River, Philadelphia to the Sea Federal Navigation Project (Philadelphia to the Sea Project) by deepening an area directly adjacent to the federal navigation channel to provide vessel access to a proposed landside port facility. The U.S. Army Corps of Engineers (USACE) granted that request in 2022. In October 2024, the U.S. District Court for the Eastern District of Pennsylvania vacated the Section 408 Permission and directed USACE to “reevaluate DSPC’s applications” consistent with its opinion and address (1) the scope of the Corps’ review under the Clean Water Act and the Rivers and Harbors Act; (2) the need for reconsideration of navigation and safety issues; and, (3) the Corps’ obligation to ensure DSPC obtains a Statement of No Objection from the Philadelphia Port Authority...”. DSPC provided supplemental information relevant to the Court’s opinion to USACE and requested that USACE reevaluate its Section 408 Request. The scope of the proposed alteration has not changed.

USACE has completed its reevaluation of Diamond State Port Corporation’s (DSPC) (Section 408 Requester) 408 request (Section 408 Request Number: 408-NAP-2025-0019). DSPC is seeking permission to alter the Philadelphia to the Sea Project by deepening an area directly adjacent to, but outside of, the federal navigation channel which will provide access to a port facility they propose to construct in Edgemoor, Delaware. The area will be dredged to a depth of 45 feet to match the depth of the federal navigation channel. A turning basin will be located partly in the access channel and partly in the federal navigation channel. No modifications are proposed to the federal navigation channel itself – vessels transiting upriver from the Delaware Bay will turn in the channel as it exists and is maintained by USACE to access the new port facility.

Pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408), this reevaluation was performed to identify and assess elements of the proposed work located directly adjacent to the boundaries of a USACE Project, in this case the Philadelphia to the Sea Project, and based upon supplemental information relevant to the court’s opinion provided by DSPC to USACE-Philadelphia District. The reevaluation

was performed in accordance with Engineer Circular (EC) 1165-2-220, and to address the U.S. District Court for the Eastern District of Pennsylvania's opinion.

It is USACE's finding that the proposed alteration will not impair the purpose and function of the Philadelphia to the Sea Project and will not create a navigation safety risk.

To address the Court's opinion regarding the Statement of No Objection, the USACE previously granted your exception request on 7 January 2026 (Attachment 1).

Based on this re-evaluation and exception determination, the Division is granting permission to alter the Philadelphia to the Sea Project by deepening an area directly adjacent to the federal navigation channel to a depth of 45 feet to provide vessel access to a proposed landside port facility located in Edgemoor, Delaware subject to compliance with the terms and conditions in Attachment 2.

For any questions regarding your Section 408 permission decision, please contact the Philadelphia District, Section 408 Coordinator, Mr. Juan Carlos Corona, at (215) 656-6670 or JuanCarlos.Corona@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "J.T. Curry". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jesse T. Curry
Colonel, U.S. Army
Commander

ENCLS:

Attachment 1 – SONO Exception

Attachment 2 – Terms and Conditions

ATTACHMENT 1



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT
1650 ARCH STREET
PHILADELPHIA PA 19103-2004

January 7th, 2026

SUBJECT: Diamond State Port Corporation - Port of Wilmington, Edgemoor
Expansion Project, New Castle County, Delaware
Section 408 Request Number: 408-NAP-2025-19

The Honorable Charuni Patibanda-Sanchez
Chair, Diamond State Port Corporation
P.O. Box 8600
Wilmington, DE 19899

Dear Madam Patibanda-Sanchez:

The Philadelphia District of the U.S. Army Corps of Engineers (USACE) has received Diamond State Port Corporation's ("DSPC") request under Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408) to construct an access channel connecting a new containerized cargo port on the Delaware River shoreline in the unincorporated Edgemoor section of New Castle County, Delaware ("Edgemoor Project") to the Delaware River - Philadelphia to the Sea Federal Navigation Project ("FNP"), which is operated and maintained by USACE.

USACE has also received DSPC's request to apply the exception that a Statement of No Objection (SONO) is not required from the non-federal sponsor [Paragraph 11.a of the Section 408 Engineer Circular (EC) 1165-2-220] if USACE has all operation and maintenance responsibilities for the portion of the USACE project proposed to be altered. USACE has also been copied on subsequent correspondence between DSPC and PhilaPort (the non-federal sponsor for the FNP) regarding the SONO.

Consistent with EC 1165-2-220, USACE has reviewed your Section 408 submittal as well as your request to apply the exception to the SONO requirement. Since the FNP is less than 50 feet deep, it is operated and maintained at 100% Federal expense [33 U.S.C. 2211(b)(1)]. Dredged material from maintenance of the FNP is placed in the Pedricktown Complex of dredged material placement facilities (DMPFs) in New Jersey, which were acquired, constructed, and are maintained at 100% Federal expense. Given that USACE retains all operation and maintenance responsibilities for the FNP, as per Section 11.a(2) of EC 1165-2-220, USACE will apply the exception to the SONO requirement.

USACE has further determined that your Section 408 request is complete and will proceed with the Section 408 review and decision process. USACE expects to render a decision on your Section 408 request within 90 days of the date on this letter. You will be notified if additional information is needed to complete the review and decision and/or if the review and decision will exceed the 90-day timeline.

SUBJECT: Diamond State Port Corporation - Port of Wilmington, Edgemoor
Expansion Project, New Castle County, Delaware
Section 408 Request Number: 408-NAP-2025-19

For any questions regarding Section 408, please contact Dr. Juan Carlos Corona at JuanCarlos.Corona@usace.army.mil or (215) 656-6670.

Sincerely,

BAUM.RYAN.A
.1265229928

Digitally signed by
BAUM.RYAN.A.1265229928
Date: 2026.01.07 09:17:11
-05'00'

Ryan A. Baum
Lieutenant Colonel, Corps of Engineers
District Commander

Copies furnished (via email):

Brian Devine, DSPC
Jeff Theobald, PhilaPort

ATTACHMENT 2

Attachment 2 Standard and Special Conditions

1. This permission only authorizes Diamond State Port Corporation (DSPC), the requester, to undertake the activity described herein under the authority provided in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 USC 408). This permission does not obviate the need to obtain other federal, state, or local authorizations required by law. This permission does not grant any property rights or exclusive privileges, and you must have appropriate real estate instruments in place prior to construction and/or installation.
2. The time limit for completing the work authorized ends on **31 December 2036**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
3. Without prior written approval of the USACE, you must neither transfer nor assign this permission nor sublet the premises or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this permission. Failure to comply with this condition will constitute noncompliance for which the permission may be revoked immediately by USACE.
4. The requester understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or an authorized representative, said work will cause unreasonable conditions and/or obstruction of USACE project authorized design, the requester will be required upon due notice from the USACE, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim can be made against the United States on account of any such removal or alteration.
5. The United States will in no case be liable for:
 - a) any damage or injury to the structures or work authorized by this permission that may be caused or result from future operations undertaken by the United States, and no claim or right to compensation will accrue from any damage; or
 - b) damage claims associated with any future modification, suspension, or revocation of this permission.
6. The United States will not be responsible for damages or injuries which may arise from or be incident to the construction, maintenance, and use of the project requested by you, nor for damages to the property or injuries to your officers,

agents, servants, or employees, or others who may be on your premises or project work areas or the federal project(s) rights-of-way. By accepting this permission, you hereby agree to fully defend, **indemnify**, and **hold harmless** the United States and USACE from any and all such claims, subject to any limitations in law.

7. Any damage to the Federal Navigation Channel or other portions of any federal project(s) resulting from your activities must be repaired at your expense.
8. The determination that the activity authorized by this permission would not impair the usefulness of the federal project and would not be injurious to the public interest was made in reliance on the information you provided.
9. This office, at its sole discretion, may reevaluate its decision to issue this permission at any time circumstances warrant, which may result in a determination that it is appropriate or necessary to modify or revoke this permission. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a) you fail to comply with the terms and conditions of this permission;
 - b) the information provided in support of your application for permission proves to have been inaccurate or incomplete; or
 - c) significant new information surfaces which this office did not consider in reaching the original decision that the activity would not impair the usefulness of the water resources development project and would not be injurious to the public interest.
10. You are responsible for implementing any requirements for mitigation, reasonable and prudent alternatives, or other conditions or requirements imposed as a result of environmental compliance.
11. Work/usage allowed under this permission must proceed in a manner that avoids interference with the inspection, operation, and maintenance of the federal project.
12. In the event of any deficiency in the design or construction of the requested activity, you are solely responsible for taking remedial action to correct the deficiency.
13. The right is reserved to the USACE to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to operate and/or to make any other use of the lands as may be necessary in connection with government purposes, and you will have no claim for damages on account thereof against the United States or any officer, agent or employee thereof.

14. You must provide copies of pertinent design, construction, and/or usage submittals/documents. USACE may request that survey and photographic documentation of the alteration work and the impacted project area be provided before, during, and after construction and/or installation.
15. You may be required to perform an inspection of the federal project with the USACE, prior to your use of the structure, to document existing conditions.
16. USACE shall not be responsible for the technical sufficiency of the alteration design nor for the construction and/or installation work.
17. Once permission is granted, you must notify the USACE District at least 30 days before work/usage is started so that post-permission oversight can be performed by USACE.
18. You must coordinate with USACE such that proposed work will not interfere with scheduled dredging operations in the Philadelphia to Sea Federal Navigation Channel.
19. You must submit a copy of "as-built" drawings within 30 days of completion of work showing the new work as it relates to identifiable features of the federal project.
20. You shall ensure that a legible set of Project Plan drawings with details are included with the construction documents that are part of the contractor solicitation process.

Be advised that you must notify all pertinent Federal, State, and Local entities of interest of the subject action and obtain all applicable permit approvals. If for any reason, the scope of work proposed or the nature of the work changes, a separate Section 408 Review could subsequently be required, and further coordination should be conducted.

Please be advised that DSPC, as the Section 408 Requester, must obtain any and all other Federal, State and/or Local approvals prior to construction commencing. In particular, the Section 408 Requester must satisfy the requirements and conditions set forth in the Department of Army Standard Permit Number NAP-2019-00278-86 pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344) administered by the USACE-Philadelphia District's Regulatory Division.